

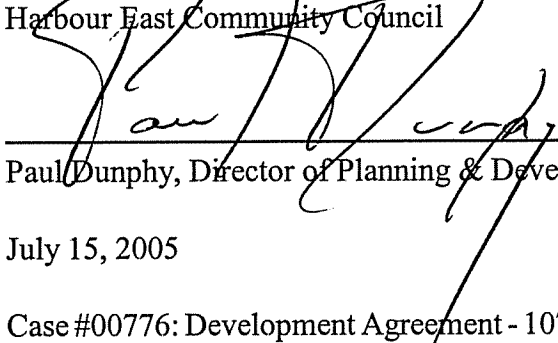
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P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
August 4, 2005

TO: Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: July 15, 2005

SUBJECT: Case #00776: Development Agreement - 107 Woodlawn Road, Dartmouth

ORIGIN

Application by Tony and Peter Diab for a Development Agreement to permit a building addition to an existing convenience store at 107 Woodlawn Road, Dartmouth.

RECOMMENDATIONS

It is recommended that Harbour East Community Council:

- 1. Give Notice of Motion to consider an application by Tony and Peter Diab to permit a building addition to an existing convenience store at 107 Woodlawn Road, Dartmouth, and to schedule a public hearing for September 01, 2005.**
- 2. Approve the development agreement, presented as Attachment B of this report, for the expansion of an existing convenience store at 107 Woodlawn Road, Dartmouth.**
- 3. Require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.**

BACKGROUND

Expressway Food and Video is located at 107 Woodlawn Road (PID 00244285) at the intersection of Day Avenue, Settle Street and Woodlawn Road, in Dartmouth (Map #1). The store has been in existence since 1965 and was built before the 1978 Dartmouth Development Plan and Land Use Bylaw came into effect.

In 1978, the property was zoned R-1 making the use legal non-conforming. Although the Municipal Government Act does not permit expansion of legal non-conforming structures, Policy C-2 of the Dartmouth Municipal Planning Strategy (Attachment A) recognizes neighbourhood convenience stores as a “very significant part of any neighbourhood way of life” and allows for their development in residential areas through the development agreement process.

The proposal by the current owner is to expand the existing store with a 30' x 35' addition to the east side of the property as shown in Schedule C of the proposed development agreement (Attachment B). A public information meeting was held on July 7, 2003 by the previous owner of the store (Danny Chedrawe) who made application for planning approval for an addition under Case #00585. Minutes of this meeting are attached to this report under Attachment C. Due to a change in ownership Mr. Chedrawe's application was cancelled. In 2005 the present owners filed a new application virtually identical to the previous one. After consultation with the local Councillor, another public information meeting was deemed unnecessary.

Should Community Council decide to proceed with this application, Map #1 illustrates the area of property owners to be notified by mail of the public hearing. In addition, area residents will be notified of the public hearing through two published newspaper advertisements.

DISCUSSION

This proposal has been evaluated according to Policy C-2 of the Municipal Planning Strategy for Dartmouth (Attachment A). In order to permit the expansion of this use, the development agreement requires certain improvements on the site in terms of access, reconfiguration of the parking lot, and landscaping. There are also some architectural controls to be placed on the appearance of the addition. These are intended to enhance the aesthetics of the property, and minimize potential conflicts with adjacent residential uses. The development agreement addresses:

- Access: One of the four driveways has poor sightlines and will be closed.
- Parking: The site plan provides 10 regular parking spaces, one wheelchair accessible space, one space for loading, plus two bicycle parking spaces. This meets the parking requirement for this type of use in the Land Use Bylaw.
- Landscaping: The development agreement requires significant removal of existing asphalt (almost 100% of the lot is now paved). These areas are to be sodded and where they abut residential property, a 6' high wood fence combined with shrub and tree planting is required. To address residents' concerns that a continuous fence would cut off access to HRM parkland, the developer will

be required to leave an opening in the fence to preserve existing pedestrian travel lines. Decorative lighting is proposed to improve visibility in the parking lot. This lighting will be directed away from neighbouring houses and will have the added benefit of improving casual surveillance opportunities at the entrance to the HRM park. The proposed lighting and landscaping support recommendations of a recent CPTED¹ audit of the park, carried out by HRM Police.

- **Architecture:** The proposed addition is compatible with the existing building: the roof pitch matches the existing building, as do the cladding materials and colours. Furthermore, the applicants have agreed to add a window to the east side of the new addition to further support the CPTED audit recommendations that more casual surveillance of the path is required.

With these measures in place, staff has determined that the proposed development agreement addresses community concerns, represents an overall improvement to the property, and adequately satisfies Policy C-2 of the MPS for Dartmouth.

BUDGET IMPLICATIONS:

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may approve the development agreement appended as Attachment B to permit the addition to 107 Woodlawn Road, Dartmouth to allow for expansion of the existing convenience store. This is the recommended course of action.
2. Council may refuse to enter into the development agreement, and in doing so, must provide reasons based on conflict with existing MPS Policy. Staff does not recommend this alternative, for reasons contained in this report.
3. Council may choose to request modifications to the development agreement. Such modifications may require further negotiations with the developer. This alternative is not recommended as the attached agreement is consistent with adopted MPS policy for the area.

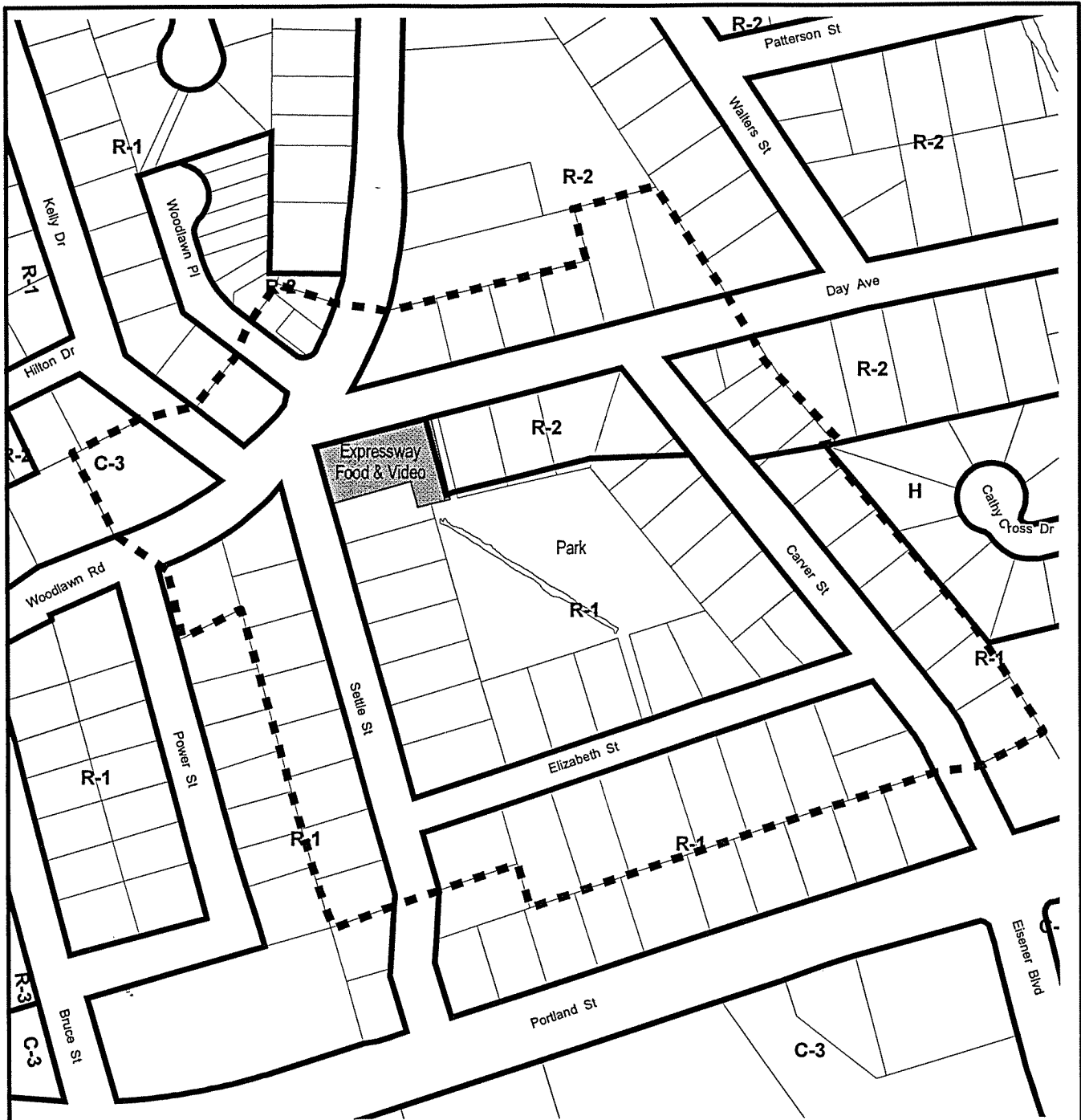
¹CPTED (Crime Prevention through Environmental Design) is a proactive crime fighting technique in which the proper design and effective use of buildings and their surroundings leads to a reduction in crime and improvement in the quality of life for citizens in the community.

ATTACHMENTS

Map 1:	Location and Notification Area for Public Hearing
Attachment A:	Policies of the Dartmouth MPS
Attachment B:	Proposed Development Agreement
Attachment C:	Minutes of Public Information Meeting, July 7, 2003

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Hanita Koblents, Planner, 490-4181



Map 1

107 Woodlawn Road

Dartmouth Land Use By-Law Area



Subject Property

Notification Area

Zone

- R-1 Single Family Residential Zone
- R-2 Two Family Residential Zone
- R-3 Multiple Family Residential Zone
- C-3 General Business Zone



HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES

50 25 0 50 100 150 200 Feet

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

HRM does not guarantee the accuracy of any representation on this plan.

Attachment A**Policies of the Dartmouth (MPS)**

- (c) **Neighbourhood Convenience Store:** This form of commercial establishment consists of outlets such as, but not necessarily limited to, grocery stores, drug stores, barber shops, TV repair shops, etc. These uses form a very significant part of any neighbourhood way of life. To date there are approximately 50 of these sorts of facilities within Dartmouth totalling approximately 25,000 square feet in floor area. There is no set criteria for the number or amount of these stores, however, their numbers are usually kept down due to the limited area they serve. There are several concerns related to these uses (location, siting) that criteria should be established for reviewing any proposal of such a use.

To enable neighbourhood convenience outlets to operate in residential areas, they should be reviewed individually on their own merits and handled through the contract zoning provisions of Section 33 (2) (b), 34 (1) of the Planning Act².

33(2)(b) Where the municipal development plan so provides, provide that the council may by resolution approve any specific development requested which would not otherwise be permitted by the by-law, but no approval shall be given inconsistent with the municipal development plan.

34(1) Approval by the council pursuant to clause (b) or (c) of subsection (2) of Section 33 shall only be granted subject to the condition that the registered owner of the land upon which the development is to occur shall enter into an agreement with the council containing such terms and conditions as the council may direct.

This process will allow for the use to occur when and where Council sees fit after the appropriate public hearings have occurred without providing a wide open zone within which a wide range of commercial uses may occur (Policy C-2).

Policy C-2: It shall be the intention of City Council to deal with neighbourhood convenience outlets through the contract zoning provisions of the Planning Act - Section 33 (2) (b)".

² The Planning Act, Chapter 16, Statutes of N.S. 1969.

Attachment B - Proposed Development Agreement

THIS AGREEMENT made this day of , 2005,

BETWEEN:

EXPRESSWAY FOOD & VIDEO INC.
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY.
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 107 Woodlawn Rd, Dartmouth, which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to permit a building addition to allow for expansion of an existing convenience store on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Dartmouth;

AND WHEREAS Harbour East Community Council approved this request at a meeting held on #DATE 2005, referenced as Municipal Case Number 00776;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

- 1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law for Dartmouth, as may be amended from time to time.

- 1.3 Pursuant to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer agrees to observe and comply with all such laws, by laws and regulations in connection with the development and use of the Lands.
- 1.4 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.5 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by laws or codes applicable to any lands owned by the Developer or lot owners.
- 1.6 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 Use

The Developer shall construct an addition to the existing building at 107 Woodlawn Road, Dartmouth which, in the opinion of the Development Officer, is substantially in conformance with Plans No.001 - 002 filed in the Halifax Regional Municipality Planning and Development Services as Case 00776 and are attached as the following Schedules to this Agreement:

Schedule "A" Legal Description of the Lands
Schedule "B" Site and Landscape Plan and Site Details
Schedule "C" Floor Plan, Loft Plan, Elevations and Section

2.2 Building Architecture

- 2.2.1 The floor plan and elevations shall substantially conform to the architectural drawings attached in Schedule "C" to this agreement.
- 2.2.2 The new addition to the building shall be predominantly clad in materials whose colour and type match the existing building.

2.2.3 The building shall comply with requirements set out in the National Building Code of Canada, for matters such as, but not limited to, egress.

2.2.4 Section 2.2.1 notwithstanding, the Development Officer may approve minor modifications to the location, size and height of the addition, as well as the architectural design of the building provided such modifications are minor in nature and in the opinion of the Development Officer, further enhance the appearance of the building.

2.3 Landscaping and Lighting

2.3.1 A detailed Landscape Plan prepared by a Landscape Architect (who is a full member in good standing with the Atlantic Provinces Association of Landscape Architects) shall be submitted with the application for Building and Development Permits. At a minimum, this plan shall include planting to enhance the aesthetics of the property and measures to provide a buffer and/or screening between the building and adjacent residential properties, as generally described in this agreement. This plan shall be submitted to the Development Officer who shall consult with Planning Services prior to approval of final plans.

2.3.2 Specific Landscaping measures shall be as generally shown on Schedule "B" and as follows:

- (a) Along Day Avenue: sod to extend from the edge of sidewalk to a minimum of 1.5m into the Lands; two (2) full size deciduous trees having a minimum caliper of 50 mm shall be placed between the sidewalk and edge of parking area. The proposed trees should be salt tolerant varieties.
- (b) A concrete walkway shall wrap around the north and east sides of the proposed addition, providing a planting bed between the facade and walkway on the north side as shown on Schedule "B". This planting shall consist of a mulched bed with a minimum of six (6) low evergreen shrubs (minimum planted size - 2 gallon pot; maximum mature height of 1.5m). Also in this area there shall be installed a bicycle rack for a minimum of two (2) bicycles.
- (c) Along the eastern property boundary towards 5 Day Avenue (Lot 49) the Developer shall construct a 1.8m high fence (opaque wood or combination wood/ lattice) with a minimum 1.5m wide landscaped buffer consisting of sod and a minimum of twenty (20) shrubs (minimum planted size - 2 gallon pot; minimum mature height of 1.5m). The shrubs shall be at least 50% coniferous for year round screening. Lights for the parking area may be located in this area. A garbage enclosure measuring no greater than 6m in length and 1.8m in height may be permitted within the landscaped buffer, as shown on Schedule "B". This enclosure may not be placed over top of the HRM sewer easement.

- (d) Proposed lighting shall be designed and installed so as to be directed onto driveways, parking areas, loading areas, building entrances and walkways; and away from streets and abutting properties.
- (e) Along the boundary with 4 Settle Street (Lot 12) the Developer shall construct a 1.8m high fence (opaque wood or combination wood/ lattice) with a sodded landscape buffer, as generally shown on Schedule "B". A minimum of 8 coniferous trees, at least 1.8m in height at time of planting shall be planted along this fence, or a minimum of 25 shrubs (minimum planted size - 2 gallon pot; minimum mature height of 1.5m). The shrubs shall be at least 50% coniferous for year round show and screening.
- (f) If the fence crosses the HRM easement it shall be constructed with removable panels and posts placed to avoid damage to the underground pipe. No trees or shrubs are to be planted in the easement. With permission of the owner of 4 Settle Street, the fence may be located along the western edge of the easement where it crosses the northeast corner of 4 Settle Street. A letter of permission shall be submitted to the Development Officer before the fence is constructed.
- (g) As shown on Schedule "B", no fence shall be permitted along the southern boundary of the property where it abuts HRM Parkland. Access to this parkland shall be preserved by a minimum 6.0m gap in the fence until such time as HRM develops a path on the future walkway connection between 107 Woodlawn and 5 Day Avenue. The developer agrees that access to this parkland shall be further preserved by not placing or storing anything (including snow) adjacent to the 6.0m parkland entrance that would obstruct access or visibility to the parkland. The developer agrees to consult with HRM Parkland Planning prior to carrying out any landscaping in this area to ensure proper correlation between such landscaping and HRM's asphalt walkway through the park.
- (h) In areas where asphalt will be removed and replaced with landscaping, reinstatement shall be carried out according to HRM Standard Specifications to ensure adequate quantities of soil and other materials to support plant life.
- (i) The development shall include designated space for a refuse container that is screened on three sides by a fence, or wholly contained within an enclosure.

2.3.3 Section 2.3.2 notwithstanding, the Development Officer may approve modifications to the specific location of required planting and lighting, and the number of lighting standards, provided such modifications are minor in nature and in the opinion of the Development Officer, further enhance the appearance of the site.

2.4 Vehicle Parking and Circulation

- 2.4.1 The Developer shall provide no fewer than 10 parking spaces including one wheelchair accessible and one space for loading as generally shown on Schedule B. All parking areas shall be hard surfaced and dimensions of parking spaces shall comply with the requirements of the Dartmouth Land Use By-law, as may be amended from time to time.
- 2.4.2 An existing driveway along Day Avenue is to be closed off as shown on Schedule B. This area is to be reinstated as generally described in 2.3.2 (a). The other existing driveway along Day Avenue may be expanded, however any modification must be carried out in accordance with Bylaw S-300 Respecting Streets, and any other applicable legislation.
- 2.4.3 Section 2.4.1 notwithstanding, the Development Officer may approve modifications to the location of required parking provided such modifications are minor in nature.

2.5 Signage

- 2.5.1 Signage for the commercial use shall be in accordance with the requirements of Bylaw S-800 of the City of Dartmouth, as may be amended from time to time. No mobile or moveable sign shall be permitted.

2.6 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of buildings, fencing, walkways, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow removal/salting of walkways and driveways.

2.7 Streets and Municipal Services

The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including sanitary sewer system, water supply system, stormwater sewer and drainage systems, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies, except as provided herein. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer.

2.8 Occupancy Permit/ Completion Certificate

- 2.8.1 No Occupancy Permit (completion certificate) shall be issued for any building constructed on the Lands until such time as the landscaping has been completed in accordance with Section 2.3 of this agreement, provided however that where such building has been completed and all other terms of this agreement have been met, an occupancy permit may be issued provided that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The security deposit shall be in the form of a certified cheque or letter of credit in a form acceptable to HRM, issued by a chartered bank to the Development Officer.
- 2.8.2 Should the Developer not complete the landscaping within six months of issuance of the occupancy permit or by September 1 of the year in which the occupancy permit was issued, whichever is earlier, the Municipality may use the deposit to complete the landscaping as set out in Section 2.3 of this agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The unused portion of the security deposit shall be returned to the Developer upon completion of the work.

PART 3: AMENDMENTS

- 3.1 The provisions of this Agreement relating to the following matters are identified as, and shall be deemed to be, not substantive and may be amended by resolution of Harbour East Community Council:
- (a) changes to the internal layout of the building;
 - (b) reduction to the size of the addition;
 - (c) changes to the design of the garbage enclosure as shown on the Section Detail, Elevation, and Plan Detail on Schedule "B";
 - (d) changes to fence design as shown in the Fence Elevation on Schedule "B";
- 3.2 Amendments to any matters not identified under Section 3.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.

- 4.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 4.3 In the event that construction of the project has not commenced within three years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Community Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean completion of the footings for the proposed building addition.
- 4.4 If the Developer fails to complete the development within five years from the date of registration of this Agreement at the Registry of Deeds, Community Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement.

PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 5.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within one day of receiving such a request.
- 5.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:
- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (b) The Municipality may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary

to correct a breach of the development agreement, whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants or remedial action, shall be a first lien on the Property and be shown on any tax certificate issued under the Assessment Act.

- (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

SIGNED, SEALED AND DELIVERED

)
) **Expressway Food & Video Inc.**

)
)
) per _____

)
) **Tony Diab**

)
) per _____
) **Peter Diab**

)
) **HALIFAX REGIONAL**
) **MUNICIPALITY**

)
)
) Per _____
) **Mayor**

)
) Per _____
) **Municipal Clerk**



SCHEDULE "B"

1	Expressway	Store
2	Expressway	Store
3	Expressway	Store
4	Expressway	Store
5	Expressway	Store
6	Expressway	Store
7	Expressway	Store
8	Expressway	Store
9	Expressway	Store
10	Expressway	Store

EXPRESSWAY
STORE

MT. ROOSEVELT ROAD
DRAINAGE

SCHEDULE B, SITE AND
SITE DETAILS

1	Expressway	Store
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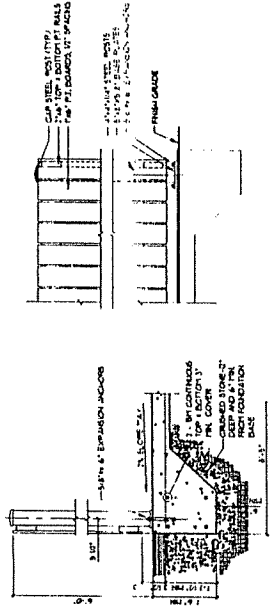
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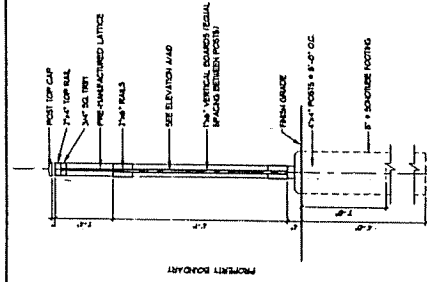
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LEGEND

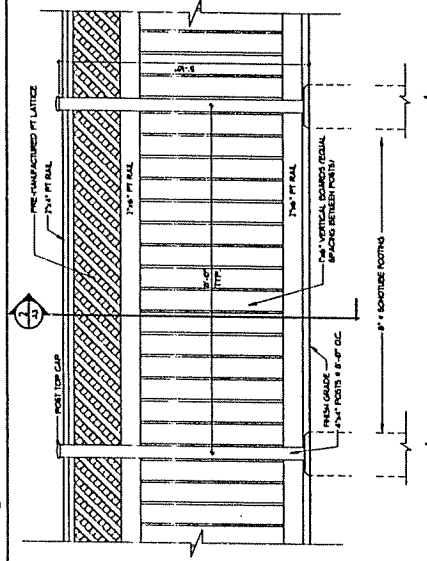
- EXISTING AREA OF GARAGE
- PROPOSED AREA
- PAVED AREA
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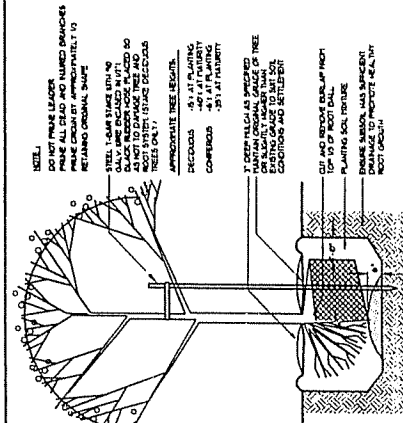
SECTION DETAIL - A GARAGE ENCLOSURE



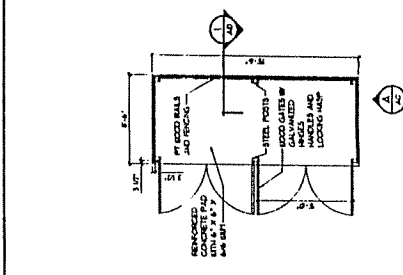
FENCE SECTION



FENCE ELEVATION

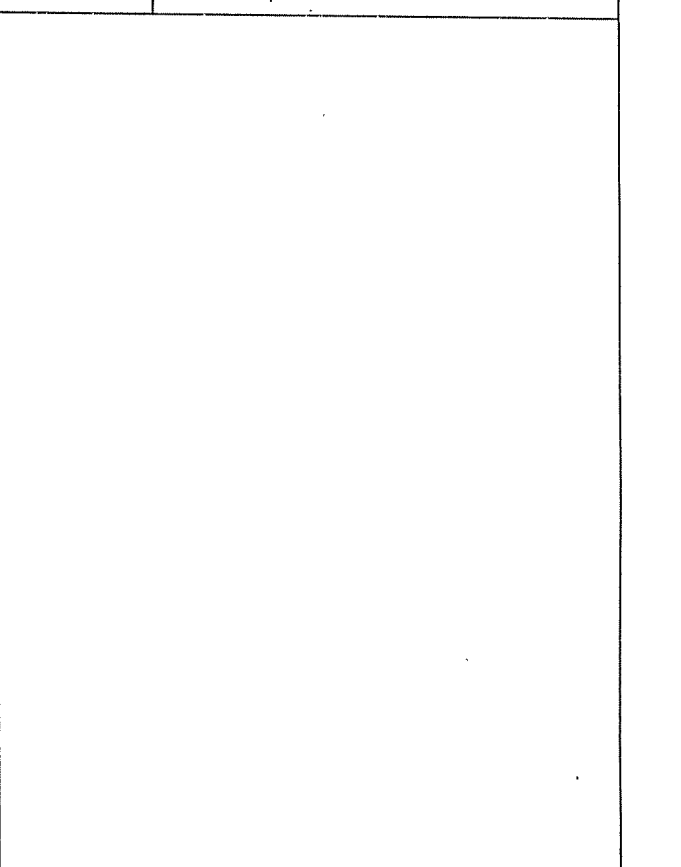
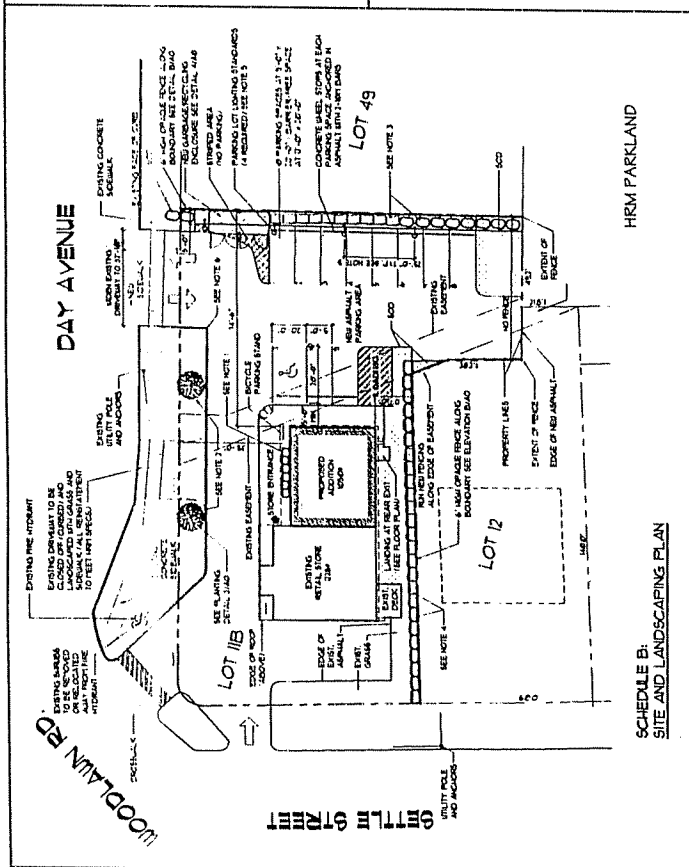


PLANTING DETAIL



PLAN DETAIL - A GARAGE ENCLOSURE

NOTES:
1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).
2. ALL MATERIALS SHALL BE OF QUALITY AND SHALL BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).
3. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).
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9. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).
10. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITION OF THE INTERNATIONAL RESIDENTIAL CODE (IRC).



Attachment C**HALIFAX REGIONAL MUNICIPALITY
PLANNING SERVICES - ALDERNEY GATE OFFICE
PUBLIC INFORMATION MEETING
CASE NO. 00585 - 107 WOODLAWN ROAD**

**7:00 p.m.
Monday, July 7, 2003
Woodlawn United Church, Dartmouth**

STAFF: Jill Justason, Planning Services, Connie Moore, Planning Services

APPLICANTS: Danny Chedrawe, Mount Cedar Developments,
Peter Habib, Expressway Food and Video

OTHER: Councillor Condo Sarto

MEMBERS OF THE PUBLIC: 15 approximately

The meeting commenced at 7:05 p.m.

1. INTRODUCTION - COUNCILLOR CONDO SARTO

Councillor Sarto introduced staff and the applicants in attendance.

2. PRESENTATION - JILL JUSTASON, PLANNING SERVICES

Jill Justason explained the application for a development agreement involves three lots cornering Day Avenue, Settle Street and Woodlawn Road. The store has been in existence since 1965 and, at that time, zoning was inactive in the City of Dartmouth. This makes the convenience store non-conforming. The Municipal Government Act does not allow for an addition to existing non-conforming structures. An overhead of existing municipal policy and zoning information was displayed for explanatory purposes. Due to the fact the store is on a corner lot, there are engineering concerns. The current access will be closed off because of the traffic artery. Landscaping in terms of hardwoods on Day Avenue will be retained and landscaping at the front of the store will be added to provided natural buffering.

A resident pointed out the fence erected several years ago was constructed by kids and is an eyesore.

Councillor Sarto requested that questions be held until after the presentations and asked that anyone wishing to speak state their name and address for the record.

Jill Justason explained the development agreement process and noted that preliminary responses have been received from Development Services and Engineering. We are currently at the public information meeting stage of the process and no decisions will be made tonight. Following this meeting, negotiations will begin with the Developer. There is a second opportunity for residents to speak at the public hearing. Since there is no Planning Advisory Committee for Dartmouth the application will proceed to Harbour East Community Council at the public hearing. If approved or rejected, a 14 day appeal period will follow. She noted that an attendance sheet has been circulated for everyone to sign which ensures that residents are added to future mailouts.

3. PROPOSED DEVELOPMENT-DANNY CHEDRAWE, MOUNT CEDAR DEVELOPMENTS

Danny Chedrawe explained he is the applicant but has made this application on behalf of Peter Gibb. The store was sold to Mr. Gibb approximately one year ago. The application is very preliminary and nothing has been negotiated with HRM to date. This session is intended to give residents an opportunity to voice concerns and all concerns will be taken seriously. We will work to try and address all of the concerns raised.

Danny Chedrawe explained he has owned the store since 1985 and sold it to Mr. Gibb in 2002. Mr. Gibb, however, has operated the store since 1999. Issues on the property are better addressed if Mr. Gibb were the property owner. The convenience store has been part of the Woodlawn community since the 1950s. It was originally owned by Mr. Brown. Bruce Dorey ran the store until 1979, at which time, it was sold to George Habib. The store is an icon and people have memories of it from years ago. The Woodlawn area is changing but the store has not changed in 12 years. We want to finish the corner. This is the busiest part of Woodlawn Road. Mr. Brown operated the store when Portland Street was still a gravel road. The store is well visited. People used to get their groceries here in the 1970s. It is now mainly used for video rentals, milk and snack purchases. Our intention is not to introduce anything new but to provide more space for the videos because of the higher demand. The plan is to take the two lots on Settle Street and Day Avenue and add a single family home. On the left side on the property, closest to the store, we plan to construct a fence. The driveway to the new home will be off of Settle Street.

4. QUESTIONS AND COMMENTS

Jill Justason indicated the single family home will be required to go through HRM's permit procedure.

Councillor Sarto pointed out there is currently an island there. He asked how do you get around it?

Jill Justason explained the decision will be made by the Development Engineer. She indicated she does not know how access will work.

A resident asked if the entrance to the store will change?

Danny Chedrawe indicated the entrance will remain the same.

A resident asked why is the civic address on Woodlawn Road?

Jill Justason explained that numbering is done by the Civic Addressing Division and that she's look into it.

Danny Chedrawe explained when Mr. Brown's store existed, it was on Woodlawn Road. The islands did not exist back then. A portion of Woodlawn Road abuts this property which is the reason it has always been addressed on Woodlawn Road.

A resident pointed out there are two access points off Woodlawn Road. Will one to cut-off?

Jill Justason responded the access will be preferably cut-off?

A resident indicated the original owner was Mr. Brown who never had an entrance to the store from Woodlawn Road? How was it addressed as 107 Woodlawn Road?

Councillor Sarto noted the majority of the store fronts on Woodlawn Road?

Jill Justason asked the resident to leave their name and number & she would follow-up on the civic addressing question.

A resident stated egress is not on Woodlawn Road. The entrance and exit is on Day Avenue.

Jill Justason explained the lesser traffic street would have the access. Preliminary comments have been received, however, stop and site requirements have not yet been done. As far as the house goes, it is a proposal only. When the application comes in for a permit, HRM will check the egress.

Danny Chedrawe indicated he will determine where the island is and will show the proposed driveway on a drawing for the next meeting.

A resident commented prior to 1965, there was an agreement for a single unit dwelling. The building is still where it was originally. He asked staff to find out what the agreement was for?

Jill Justason responded it is a legality question. In order to find out the answer, something would have to be registered with the deed. It would be difficult to find an agreement from 40 years ago. There was no zoning in the City of Dartmouth in 1965. In 1978, Dartmouth adopted a Municipal Planning Strategy and Land Use By-law and the property was zoned R-1. Because the store existed prior to the R-1 zoning, it became a non-conforming use.

Councillor Sarto clarified the issue of tonight's public information meeting is the addition to the store. The single unit dwelling can be built as-of-right because the underlying zoning is R-1.

Danny Chedrawe explained under the current plan policies, they are applying for a development agreement which is a legal contract between the property owner and the municipality. It outlines specific uses which can occur on the property such as landscaping, lighting, signage. A development agreement provides protection for the neighbourhood. It is a registered document with the Registry of Deeds.

Pam Sutherland, 8 Settle Street asked what is the size of the addition?

Danny Chedrawe responded it is 1000 square feet, 30 x 32 approximately.

Dolores Crane, 3 Settle Street stated if the existing convenience store is a non-conforming use, why are we here?

Jill Justason explained the R-1 Zone does not permit a convenience store. The Municipal Government Act does not allow for an addition to a non-conforming use. As part of our policy, we have to go by development agreement. It is a legal contract with very specific uses which is added on top of the existing zoning requirements.

Cecil Mullins, 5 Day Avenue asked if the zoning will remain R-1?

Jill Justason responded the underlying zone will be R-1. The development agreement goes with the property if it exchanges ownership and will remain on the property unless it is discharged by Council.

Cecil Mullin asked if the house proposed for Lot 12 has anything to do with this application?

Jill Justason responded it does not. There is currently one vacant lot at the rear used for parking. The intention is to use the space to construct a single unit dwelling. It will have to proceed through the regular permitting process.

Danny Chedrawe noted there is a 10' walkway between the store and Mr. Mullin's property that was never put in.

Cecil Mullin asked if the walkway were put in, could a 6 foot high fence be constructed?

Jill Justason explained if it is a city easement, we can negotiate with Public Works through the public process. If not, as part of development agreement negotiations, we can have buffering included.

Councillor Sarto asked if the walkway abuts Mr. Mullin's property?

Danny Chedrawe indicated they will probably fence in the entire property with a pressure treated fence if that is what the neighbours agree with.

Jill Justason commented if the walkway is owned by HRM, we will contact Public Works.

Danny Chedrawe explained to Mr. Mullin that he plans to fence the property. If asked Mr. Mullin if he wants any trees cut?

Cecil Mullin indicated he did not. He asked if the addition is approved, with the store be fenced off?

Jill Justason explained from HRM's point of view, we will contact you personally as to your preference. Policy criteria in our municipal planning strategy is for landscaping and buffering. If concern is to have the space open, we can look at a wooden fence with a hedge. If the walkway is owned by HRM, we will contact Public Works on your behalf.

Cecil Mullin indicated he does not care about the fence. He noted his concern about the trouble that has been hanging around. If the property is fenced, the young people will have to find a way through somehow. If the property is fenced, the walkway will exist.

Peter Habib stated if there is a fence, a gate can be left for people to gain access through.

Cecil Mullin explained he prefers not to see the walkway developed.

Danny Chedrawe commented if the decision is to fence off the property, it is going to force the walkway.

Cecil Mullin expressed his concern for people hanging around the store.

Dolores Crane asked if the proposed addition will become part of 107 Woodlawn Road? Will the other lot on Day Avenue remain as parking?

Jill Justason explained the two lots will be included in the development agreement. HRM would like to see them consolidated. The development agreement will tie in the building to a certain size and use.

Dolores Crane asked if the development agreement will be a final agreement?

Jill Justason explained the property owner usually has the ability to amend through a public process.

Danny Chedrawe stated the store will not likely ever expand past this proposal. There is a storm sewer down this property which prevents any expansion beyond a certain point.

Dolores Crane asked what will the expansion look like?

Danny Chedrawe explained it will look similar to what is there now with loading at the back.

A resident asked where will all the traffic go? The expansion will bring in more cars. He indicated he can barely turn left into his driveway.

Councillor Sarto explained there is a big problem everywhere in terms of traffic on residential streets.

A resident explained it is dangerous trying to pull out of your driveway onto Woodlawn Road. Dartmouth, prior to amalgamation, used to have the best police force. There are very seldom any police cars around to deal with speeding, etc.

Councillor Sarto stated the chiefs and inspectors have a system to track traffic on any streets - global tracking. He encouraged residents to phone in their complaints.

Harold Owns, 9 Day Avenue suggested putting in a stop sign at Day Avenue and Carver Street.

Jill Justason remarked it is an engineering question and has been noted in the minutes.

Cecil Mullin commented people are using Day Avenue and Carver Street as a shortcut from Portland Street to Woodlawn Road.

Bill Binns, 6 Day Avenue noted there was a stop sign there years ago which is why Carver Street became a one way street instead of being cut off. A three way stop was proposed years ago and the issue was dropped. The residents have tried petitions, attending meetings, etc. A stop sign is a solution because traffic is too fast. He indicated he has lived in this area for 24 years and has always been pleased with the treatment his children have received at the store. He noted his support for the expansion.

Councillor Sarto stated comments are being recorded. He asked if there is a need for a second meeting to discuss the proposed development agreement before it goes to public hearing.

Danny Chedrawe indicated he has taken a personal interest in this proposal and would be happy to come back for a second meeting. The addition is going to enhance this community.

A resident pointed out it will not enhance the community.

Councillor Sarto noted if the grounds are to become unsightly, he suggested residents call him.

Danny Chedrawe stated with regard to the present condition of the store, the onus is on Peter Habib. This development agreement will be a registered document. Garbage will be fenced and locked away at night. We are requesting an expansion for many reasons. We have tried everything to make more space out of what is existing. Extra space will make it more functional. In turn, we will enhance the look of the property.

Councillor Sarto stated enhancements will become part of the DA. Traffic will also be noted as a concern.

A resident of Settle Street noted the area is turning over with younger families. The store will cause additional traffic and the residents are going to require a sidewalk.

Councillor Sarto explained he asked the residents two years ago who wanted a sidewalk. In order to get a sidewalk, a petition will be required to take to Council indicating which side is requiring it. He asked those in attendance if anyone objects to this development agreement application.

A resident explained he will not commit himself tonight.

Councillor Sarto noted the answer will help with his decision.

Dolores Crane stated she is being buffered with commercial on all sides. She commented she does not think this community needs a larger convenience store.

Danny Chedrawe explained the intention is to improve the store with the expansion.

Dolores Crane stated the store can be improved by cleaning it up and perhaps planting some trees.

Danny Chedrawe explained the basement needs work. We need to borrow money from the bank and a development agreement makes the business legitimate. If people are concerned with the expansion, he noted he can go to the site and put in colored stakes around the perimeter of the expansion to give people a visual. People worry about change. In early September there may be a staff report and a draft agreement. We can come back at that time for a 2nd meeting.

A resident stated they are not concerned with the building but rather traffic and other issues.

Councillor Sarto explained if anyone feels the site is unsightly, they should report it to the City.

5. ADJOURNMENT

The meeting adjourned at approximately 8:15 p.m.