

8.1.1

Harbour East Community Council
October 2, 2008

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:

Sharon Bond

Sharon Bond, Acting Director of Community Development

DATE: August 25, 2008

SUBJECT: **Case 01180: Amendment to Existing Development Agreement, 60 Baker Drive, Dartmouth**

ORIGIN

Application by Terrain Group, on behalf of O'Regans Properties LTD. to amend an existing development agreement for lands located at 60 Baker Drive (PID# 41068628), to include new lands currently located on a portion of 20 Baker Drive, (PID# 40740631), Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Move Notice of Motion to consider an amending agreement as provided in Attachment A to this report;
2. Approve the amending agreement as contained in Attachment A to this report to permit the addition of new lands to an existing development agreement at 60 Baker Drive, Dartmouth, and schedule a public hearing; and
3. Require that the amending 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

Proposal

Terrain Group, on behalf of O'Regan's Properties LTD, has applied to amend their existing development agreement for their property at 60 Baker Drive to include a portion of the property found at 20 Baker Drive, as shown on Map 1. In the northern corner of the property at 60 Baker Drive, an intermittent stream crosses the property. The applicant is proposing a twin culvert to provide access over the stream and to connect the new lands with the existing property.

The lands at 60 Baker Drive are currently used as a car dealership and the lands located at 20 Baker Drive are used as vehicle storage for a car dealership. The use of these lands is intended to remain as it currently is. The lands found at 60 Baker Drive have CDD zoning, while the lands that are to be consolidated with this property currently has C-3 zoning (Attachment C). The development agreement would provide more stringent control over the uses that are occurring on this property.

Existing Development Agreement

60 Baker Drive is currently subject to a development agreement. This agreement has been amended four times to address signage issues and to change the permitted uses to include automobile uses as well as a fast food kiosk. Due to the frequent amendments and the change of use from a home improvement store to a car dealership, there are a few irregularities still existing in the development agreement. The proposed amendments includes housekeeping amendments designed to clarify the intent of the original agreement.

Enabling Policy

Under the Commercial designation, Council can consider the proposed amending development agreement in accordance with Policy C-28, as shown in Attachment "B". The site is located within the Morris- Russell Lake Secondary Planning area and complies with the general policies.

DISCUSSION

Staff have reviewed this application relative to applicable plan policy and determined that it is consistent with the intent of the Dartmouth MPS. The following issues have been identified for more detailed discussion.

Watercourse

The site plan has identified a drainage channel on the property. Staff have confirmed that water does drain onto the site from the Circumferential Highway. The Department of the Environment has indicated that the watercourse does not meet their definition of a watercourse. Staff agree with the Department of the Environment and believe the site to be a drainage channel and not a watercourse. Due to this, the 20 metre setbacks required under the Regional Municipal Planning Strategy would not apply.

Due to the drainage that empties onto the lands, the lands appear to contain a small wetland. The proposed amendments include a 25 foot (7.62 metres) buffer from the wetland, in the form of a non-disturbance area that will be maintained in order to alleviate the potential for contaminants to enter into the storm water drainage that empties into Russell Lake. The applicant will be required to receive approval from the Department of the Environment for infilling of a wetland prior to the issuance of any development permits. Should the Department of the Environment deem that the area is not a wetland, the buffers may be reduced to 16.4 feet (5 metres).

Culvert Installation

The drainage channel is piped leading into the property and is piped again once it leaves the property. It remains piped until it eventually drains into Russell Lake. The proposed culvert would extend the piping by approximately 25 feet at which point the water would drain into the ground. The culvert installation would have to comply with the erosion and sedimentation control guidelines included as Schedule K in the amending development agreement and, as it is not a watercourse, will not require any provincial approvals for the culverted crossing.

On-site Parking

Under the existing development agreement, O'Regan's is required to provide 500 parking spaces on the property to address the outdoor display and parking demands generated by the business. Parking for the existing car dealership has become an issue as many of the required parking spaces are currently used for vehicle storage and display. Due to this, employees of O'Regan's are parking on Baker Drive and adjacent residential streets. For this reason, on street parking has become an issue in this area due to a shortage of employee parking at the car dealership. The amendments to the development agreement require that the customer and employee parking areas be clearly identified on-site as follows: 188 spaces for customer parking and 53 spaces to be used for employee parking.

Paving

In order to increase the ability of water to be absorbed into the site and to decrease run off, Dartmouth Lakes Advisory Board recommended that the new lands remain unpaved. Staff agree that this is appropriate for this area and will help to reduce the risk that contaminants will enter into Russell Lake. However, should the applicant choose to pave the lands, appropriate measures need to be in place to protect the water quality of Russell Lake. Currently, the O'Regan's lands are subject to a comprehensive stormwater management plan. Should O'Regan's choose to pave the site, the stormwater management plan will need to be updated to address these changes and to manage potential runoff. The amending agreement contains provisions that address these concerns.

Public Information Meeting

The public information meeting was waived by the local Councillor.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred in order to satisfy the terms of the Agreement. The administration of the agreement can be carried out within the approved budget with existing resources.

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 choose to approve the requested amending agreement. This is the recommended course of action for the reasons outlined above.
2. Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant and may require a second public hearing.
3. Council may choose to refuse the proposed amending agreement. Pursuant to the *Municipal Government Act*, Council is required to provide reasons to the applicant justifying this refusal, based on policies of the MPS.

ATTACHMENTS

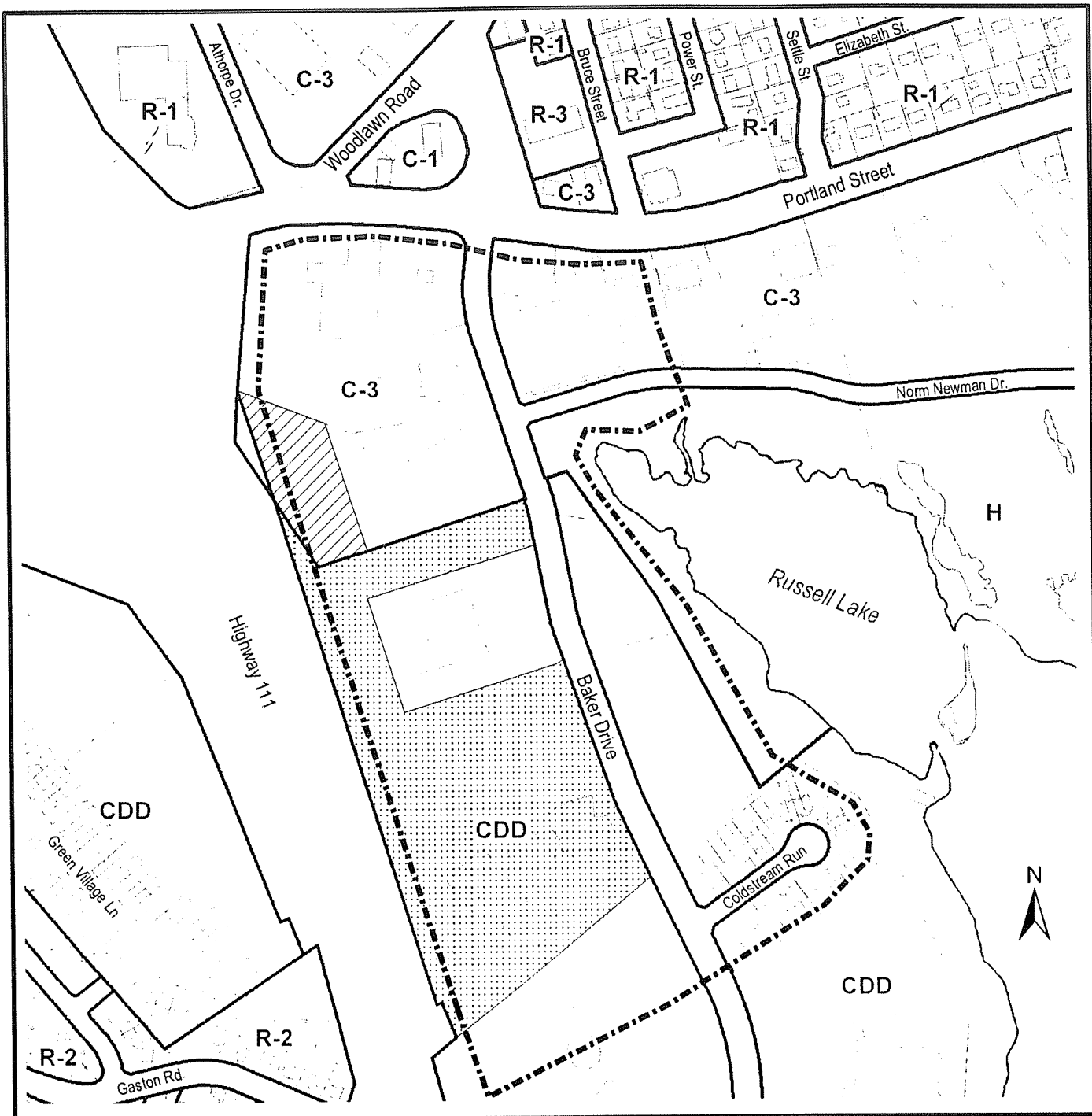
Map 1:	Zoning Map
Map 2:	GFLUM Map
Attachment A:	Amending Development Agreement
Attachment B:	Relevant Policy from the Dartmouth Municipal Planning Strategy
Attachment C:	Excerpts From The Dartmouth Land Use By-law

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Jennifer Chapman, Planner 490-3999




Report Approved by: Austin French, Manager, Planning Services, 490-6717




Map 1 Location and Zoning

60 Baker Drive

 Portion of Lands to be Included

 Subject Parcel under DA

 Notification Boundary

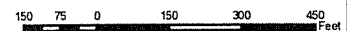
Dartmouth Plan Area

Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential
- C-1 Local Business
- C-3 General Business
- H Holding
- CDD Comprehensive Development District

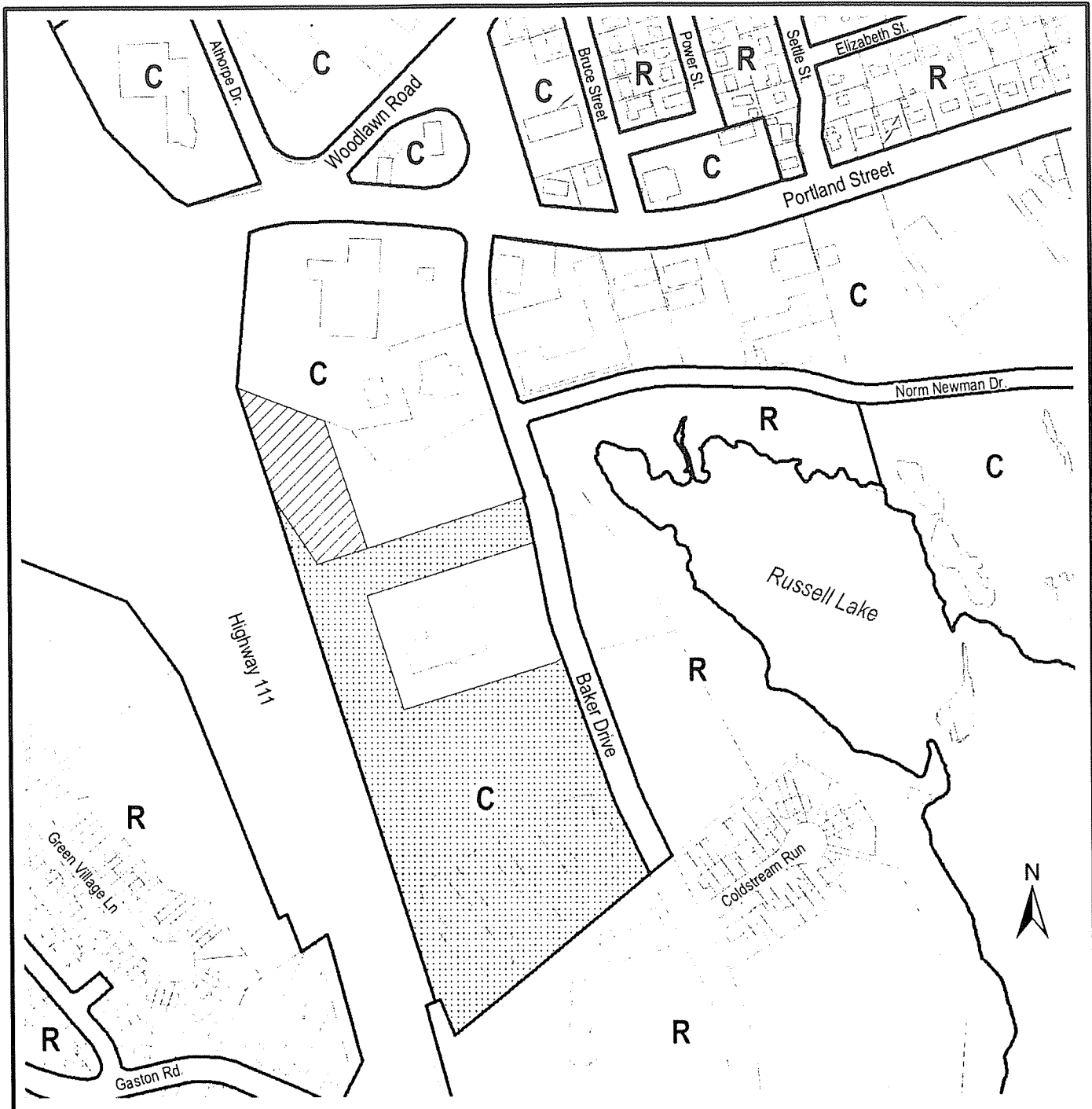


COMMUNITY DEVELOPMENT
PLANNING SERVICES





This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Land Use By-law area

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



Map 2 Generalized Future Land Use

60 Baker Drive

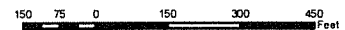
-  Subject Parcel under DA
-  Portion of Lands to be Included

Designation

- R Residential
- C Commercial

Dartmouth Plan Area

HALIFAX
REGIONAL MUNICIPALITY
 COMMUNITY DEVELOPMENT
 PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth plan area

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

**Attachment A:
Amending Agreement**

THIS FIFTH AMENDING AGREEMENT made this day of , 2008,

BETWEEN:

O'REGAN PROPERTIES LIMITED

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

FORBES LEASING LIMITED

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE SECOND PART

(O'REGAN PROPERTIES LIMITED AND FORBES LEASING
LIMITED are hereby jointly referred as the Developers)

- and -

HALIFAX REGIONAL MUNICIPALITY,

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE THIRD PART

WHEREAS the Developers are the registered owner of certain lands located at 20 and 60 Baker Drive (PID's #40740631 and 41068628), Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council of the Municipality approved an application by the Developer to enter into a Development Agreement to allow for a large retail store on the Lands, which said Development Agreement was registered at the Registry of Deeds in Halifax as Document Number 6773 in Book 6530, at Pages 1-48 (hereinafter called the "Initial Agreement");

AND WHEREAS the Harbour East Community Council of the Municipality previously amended the Existing Agreement by entering into an Amending Agreement with The Home Depot Canada on January 29, 2001, as Municipal Case Number 00276 to permit fast food kiosks, said Agreement was registered at the Registry of Deeds in Halifax as Document Number 2994 in Book 6698, at Pages 574-579 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Harbour East Community Council of the Municipality previously amended the First Amending Agreement by entering into an Amending Agreement with Home Depot Holdings Inc on April 19, 2002 as Municipal Case Number 00413 to allow automotive sales, service and signage said Agreement was registered at the Registry of Deeds Office in Halifax as Document Number 15268 in Book 7017, at Pages 1226-1231 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Harbour East Community Council of the Municipality previously amended the Second Amending Agreement by entering into an Amending Agreement with Portland Street Honda on July 15, 2004 as Municipal Case Number 00631, to an additional pylon sign, said Agreement was registered at the Registry of Deeds in Halifax as Document Number 75884636 in Book 7797, at Pages 163-170 (hereinafter called the "Third Amending Agreement");

AND WHEREAS the Harbour East Community Council of the Municipality previously amended the Third Amending Agreement by entering into an Amending Agreement with Home Depot Holdings Inc. on December 14, 2006 as Municipal Case Number 00927, to amend signage provisions, said Agreement was registered at the Land Registry Office in Halifax as Document Number 86858462 (hereinafter called the "Fourth Amending Agreement");

AND WHEREAS the Developer wishes to further amend the Fourth Amending Agreement to allow for the addition of new lands into the Initial Agreement and all Amending Agreements of the "Lands" pursuant to the provisions of the *Municipal Government Act*, (hereinafter called the "Fifth Amending Agreement");

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 01180;

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

1. To amend Section 2.1 by adding the following:
Schedule "B-4" Site Plan for O'Regan Auto Mall (Parcel 3)
Schedule "K" Erosion and Sedimentation Controls- Culvert Installation
Schedule "L" Parking Plan

2. To amend Section 2.2.1(a) by adding the following:
(viii) Car dealership with associated vehicle display court
3. To amend Subsection 2.2.1 by adding the following:
(c) **Parcel 3:** (i) vehicle storage
(ii) vehicular parking, loading and circulation areas
(iii) open space buffer areas, landscaping and walkways
4. To add Clause 2.4.1.1 after Subsection 2.4.1 as follows:
The layout of parking spaces and vehicle storage on Parcel 3 shall be as shown on Schedule "B-4". A 22 foot wide access driveway will be permitted across the Lands as shown on Schedule "B-4".
5. To add Clause 2.4.1.2 after Clause 2.4.1.1 as follows:
Parking shall comply with the parking plan shown in Schedule "L". Parking spaces shall be labelled and identified on the property as customer parking and staff parking and shall comply with the following minimum standard:
Customer parking spaces: 188
Staff parking spaces: 53
6. To add Clause 2.4.1.3 after Clause 2.4.1.2 as follows:
Notwithstanding Clause 2.4.1.2, the Development Officer may approve increases to the number of parking spaces provided.
7. To replace Subsection 2.4.5 with the following:
The Development Officer may approve changes to the parking and circulation layout as illustrated on Schedule "B-4" and Schedule "L" provided such changes further the intent of this Agreement.
8. To add Clause 2.4.2.1 after Subsection 2.4.2 as follows:
Notwithstanding Section 2.4.2, the lands shown on Schedule "B-4" as Parcel 3 and the new access driveway shall remain gravelled.
9. To add Clause 2.4.2.2 after Subsection 2.4.2.1 as follows:
Notwithstanding Section 2.4.2.1, the lands shown on Schedule "B-4" as Parcel 3 and the new access driveway may be paved, in whole or in part, provided the Developer provides the Development Officer with an updated stormwater management plan that furthers the intent of the existing stormwater management plan.
10. To add wording to Subsection 2.12.1 as follows:
Schedule "K" Erosion and Sedimentation Controls- Culvert Installation

11. To add Subsection 2.12.8 as follows:
Any alterations to the wetland surrounding the watercourse shall be approved by the Department of the Environment prior to the issuance of a development permit.
12. To add Subsection 2.12.9 as follows:
Notwithstanding Subsection 2.12.8, a development permit may be issued with written confirmation from the Department of the Environment that the Lands do not contain a wetland.
13. To add Subsection 2.12.10 as follows:
The Developer shall maintain a 25 foot (7.62 metre) buffer from the wetland as a non-disturbance area as identified on Schedule B-4 and shall be delineated on the final survey plans prior to final approval.
14. To add Subsection 2.12.11 as follows:
Notwithstanding Subsection 2.12.10 the Developer may reduce the non-disturbance area to 16.4 foot (5 metre) buffer from the drainage channel as a non-disturbance area, should the Department of the Environment provide written confirmation the Lands do not contain a wetland.
15. To add Subsection 2.12.12 as follows:
The area within the limit of non-disturbance is to be preserved including native understorey shrubs and groundcovers with the exception of any invasive plant materials identified by a Landscape Architect.
16. To add Subsection 2.12.13 as follows:
The following activities may occur within the non-disturbance areas provided that approval by the Development Officer, in consultation with the Development Engineer, has been granted:
 - (b) removal of standing hazardous or diseased trees may be permitted by the Development Officer who may require verification in writing by a qualified professional (i.e.. Arborist, Urban Forester, Landscape Architect);
 - (c) removal of fallen timber and dead debris where a fire or safety risk may be permitted by the Development Officer who may require verification in writing by a qualified professional (i.e.. Arborist, Urban Forester, Landscape Architect);
 - (d) placement of a natural based pathway (i.e.. mulch, wood chip or appropriate equivalents);
 - (e) placement of a pedestrian bridge;

- (f) construction of fences provided the construction and placement results in minimal soil disturbance and removal of vegetation;
 - (g) placement of a retaining wall for the purpose of soil stabilization which is constructed of natural or simulated natural-appearance materials; and
 - (h) municipal services, power lines or other utility or service infrastructure.
17. To add Subsection 2.12.14 as follows:
Non-disturbance areas shall be identified by the Developer with snow fence or other appropriate continuous physical barrier or delineation and signage in the field prior to any site preparation (i.e.. tree cutting, and excavation activity). The snow fence or other appropriate continuous physical barrier or delineation and signage shall be maintained by the Developer for the duration of the construction and the snow fence or other appropriate continuous physical barrier or delineation and signage in the field may be removed only upon the issuance of the Occupancy Permit.
18. To add new wording to Section 3.1 as follows:
(c) Interior vehicle storage building on Parcel 3.
19. All other terms of the Initial Agreement shall remain in full force and effect.
20. This Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.

WITNESS that this Amending Agreement, made in quadruplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2008.

SIGNED, SEALED AND DELIVERED)
)
in the presence of)
per _____) per: _____

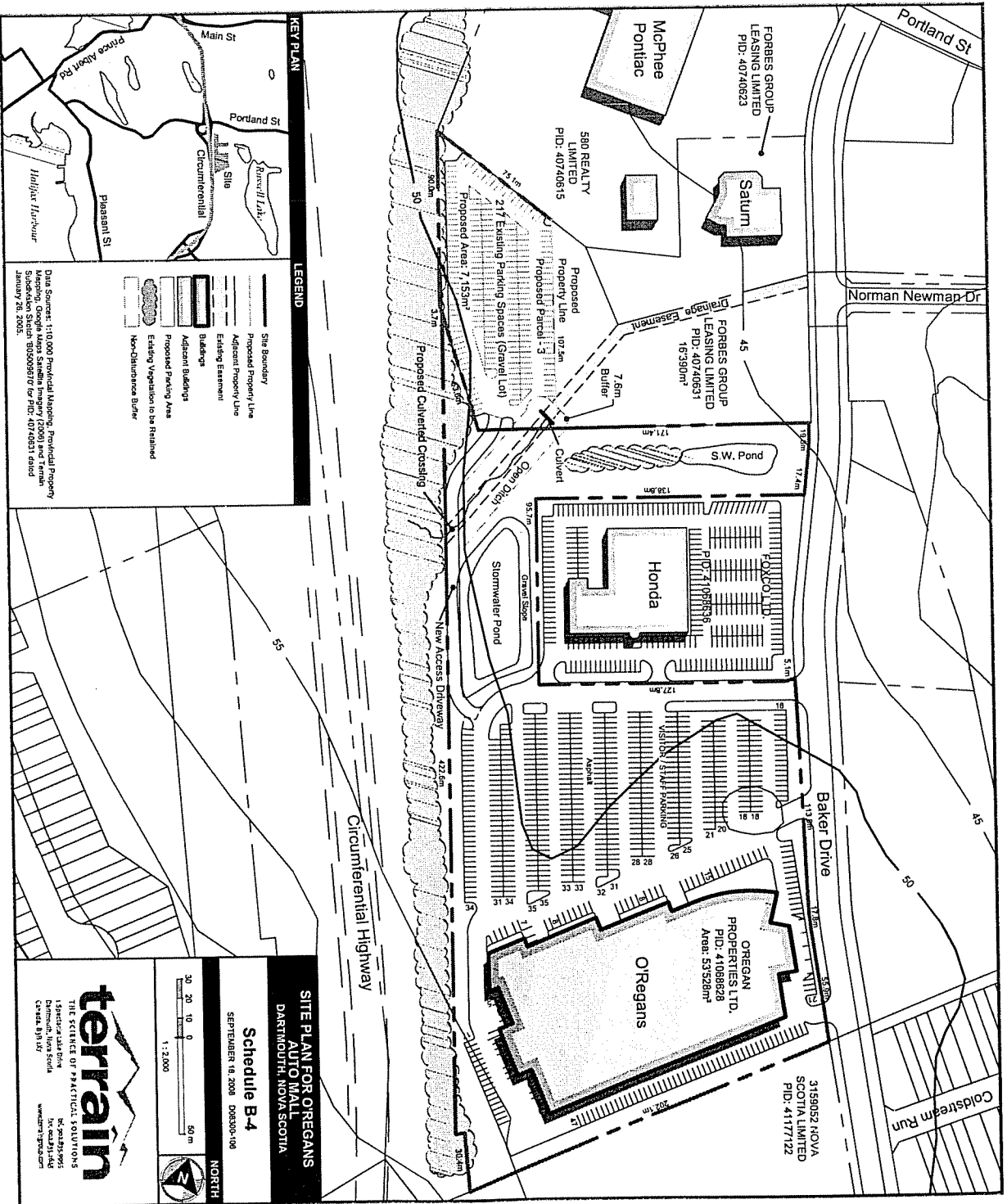
**O'REGAN PROPERTIES
LIMITED**

SIGNED, SEALED AND DELIVERED)
)
in the presence of)
per _____) per: _____

FORBES LEASING LTD

SEALED, DELIVERED AND)
ATTESTED to by the proper)
signing officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence) **HALIFAX REGIONAL MUNICIPALITY**
)
)
per _____) per: _____
) **MAYOR**
)
per _____) per: _____
) **MUNICIPAL CLERK**

NOTES / STAMPS
 * SHOULD THE NOVA SCOTIA DEPARTMENT OF ENVIRONMENT
 CONSENT THAT THE LANDS WITHIN THE NON-DISTURBANCE AREA
 ARE NOT A WETLAND, THE 7.6m BUFFER SHALL BE REDUCED TO 5m.
 * SITE SUBJECT TO SURVEY.



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

SCHEDULE "K" Erosion and Sedimentation Controls- Culvert Installation



**Jacques
Whitford**
Environmental
Engineering
Scientific
Management
Consultants

3 Spectacle Lake Drive
Dartmouth NS
Canada B3B 1W8

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CONFIDENTIAL

VIA HAND DELIVERY

Project No. 1033710.

June 13, 2008

Mr. Kevin Brooks, Planner
Terrain Group Inc.
1 Spectacle Lake Drive
Dartmouth, NS B3B 1X7

Dear Mr. Brooks:

Re: **Installation of Twin Culverts in Brook Reserve B-1
Construction of Access Road to Lot 3-A**

The following erosion and sediment controls and work procedures will be implemented for the proposed installation of twin culverts in Brook Reserve "B-1". The culverts are to be installed in conjunction with the construction of an access road to Lot-3-A (Terrain Drawing No. B05009671), lands presently owned by the Forbes Group Leasing Limited.

Based on the existing 42 "dia. twin concrete culverts in the brook reserve immediately downstream of the proposed installation site, the new culverts will remain of equivalent size. Whether the culverts are corrugated metal or concrete will depend on anticipated loading and cover considerations yet to be determined.

Nova Scotia Environment (NSE) has confirmed that the waterway to be crossed is not a watercourse by their definition as flow is intermittent and because so much of its length is within a culvert. However, the waterway is to be treated as if it was a watercourse because any siltation as a result of the culvert installation work would run directly into Russell Lake.

The following environmental controls and work procedures will be implemented during the installation of the twin culverts and associated work on the access road.

Culvert Installation

1. Work will be carried out during low flow conditions, i.e., June 1st to September 30th.
2. Crossing of the waterway with machinery will not be permitted.
3. No grubbing within 30 m on either approach to the culvert installation will be permitted until the culvert installation has been completed.



**Jacques
Whitford**

An Environment
of Exceptional
Solutions

Mr. Kevin Brooks, Planner
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4. Any bare soil conditions within the 30-m buffer due to machinery travel will be temporarily covered with straw/hay mulch.
5. There will be no refueling of machinery or storage of gas, oil or lubricants within the 30-m buffer.
6. All excavation for the culvert installation will be removed from the site or placed outside the 30-m buffer.
7. Some sections of existing vegetation and the top soil layer (of the area to be excavated for the culvert installation) will be carefully removed and stored on site. This material will be used to replace any vegetation on the waterway bottom or embankments that is destroyed during installation of the culverts.
8. All machine work for excavation will be carried out from the banks of the waterway.
9. The culverts will be installed 150 mm below the bed of the existing waterway.
10. The waterway will not be disturbed outside the area to be covered by the new culverts and the area of stabilization at the culvert inlets and outlets.

Water Control and Dewatering

1. An earth cofferdam will be installed upstream of the culvert installations and clean water will be pumped around the site during the installation of the culverts. The upstream slope of the cofferdam will be stabilized with clear stone.
2. During excavation, any sediment-laden water encountered will be pumped to the adjacent retention pond or will be pumped to a wetland filter bag that is located outside the 30-m buffer to the existing waterway.
3. Once the culvert has been installed, the earth dam will be removed and flow returned to the existing waterway.

Stabilization

1. The entire slope face at the culvert inlets and outlets will be covered with a uniformly-graded rip rap material that will have at least 70% of the rip rap between 100 mm and 200 mm (4 inches to 8 inches).
2. The immediate upstream embankments at the culvert inlets for a distance of 5 m will be covered with a uniformly-graded rip rap material that will have at least 70% of the rip rap between 100 mm and 200 mm (4 inches to 8 inches).
3. The waterway bottom at the culvert outlets and embankments for a distance of 5 m will also be covered with a uniformly-graded rip rap material that will have at least 70% of the rip rap between 100 mm and 200 mm (4 inches to 8 inches).



Mr. Kevin Brooks, Planner

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4. Sections of salvaged vegetation (and top soil layer) will be used to restore the waterway bottom and embankments between the undisturbed area and the culvert inlets:

Construction of Access Road

1. Prior to any grubbing work commencing on the access road within the 30-m buffer, a sediment control fence will be installed along both sides of the waterway at a set-back distance of 1 m.
2. Once the roadway area has been cleared and grubbed, it will be brought to final grade and covered with gravel as soon as possible. The grubbed area will be temporarily covered in straw/hay mulch if the road is not brought to final grade and covered with gravel within 5 working days.
3. Embankment slopes comprised of common material will be hydroseeded as soon as possible after the construction of the access road.

Please do not hesitate to call either Mark Bochmann or Denis Rushton of Jacques Whitford at 468-7777, if you have questions or require clarification on any issue.

Respectfully submitted,

JACQUES WHITFORD LIMITED

Denis Rushton

for Mark Bochmann, P.Eng.

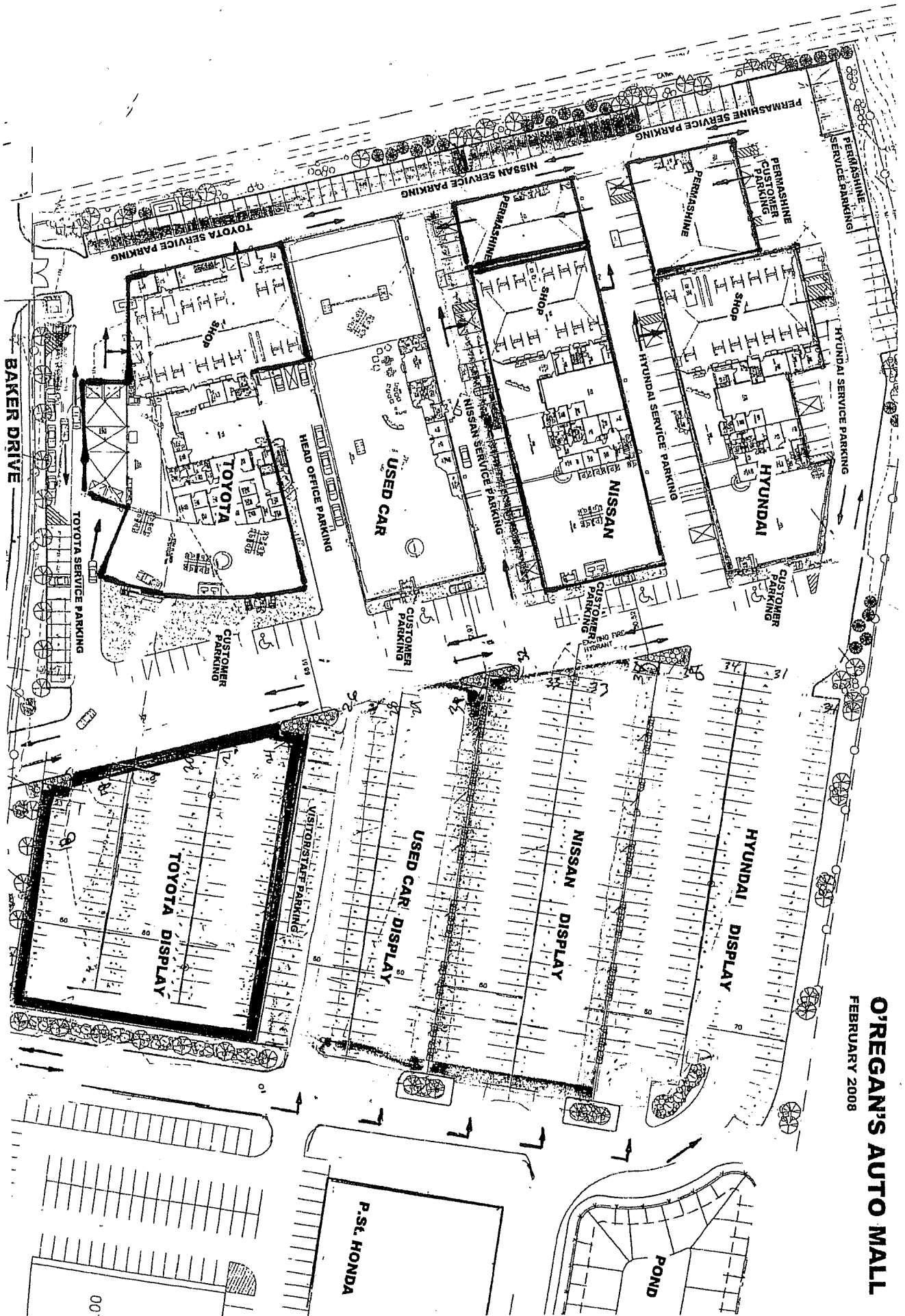
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cc: Bryce Fisher, O'Regan
Project File 1033710.

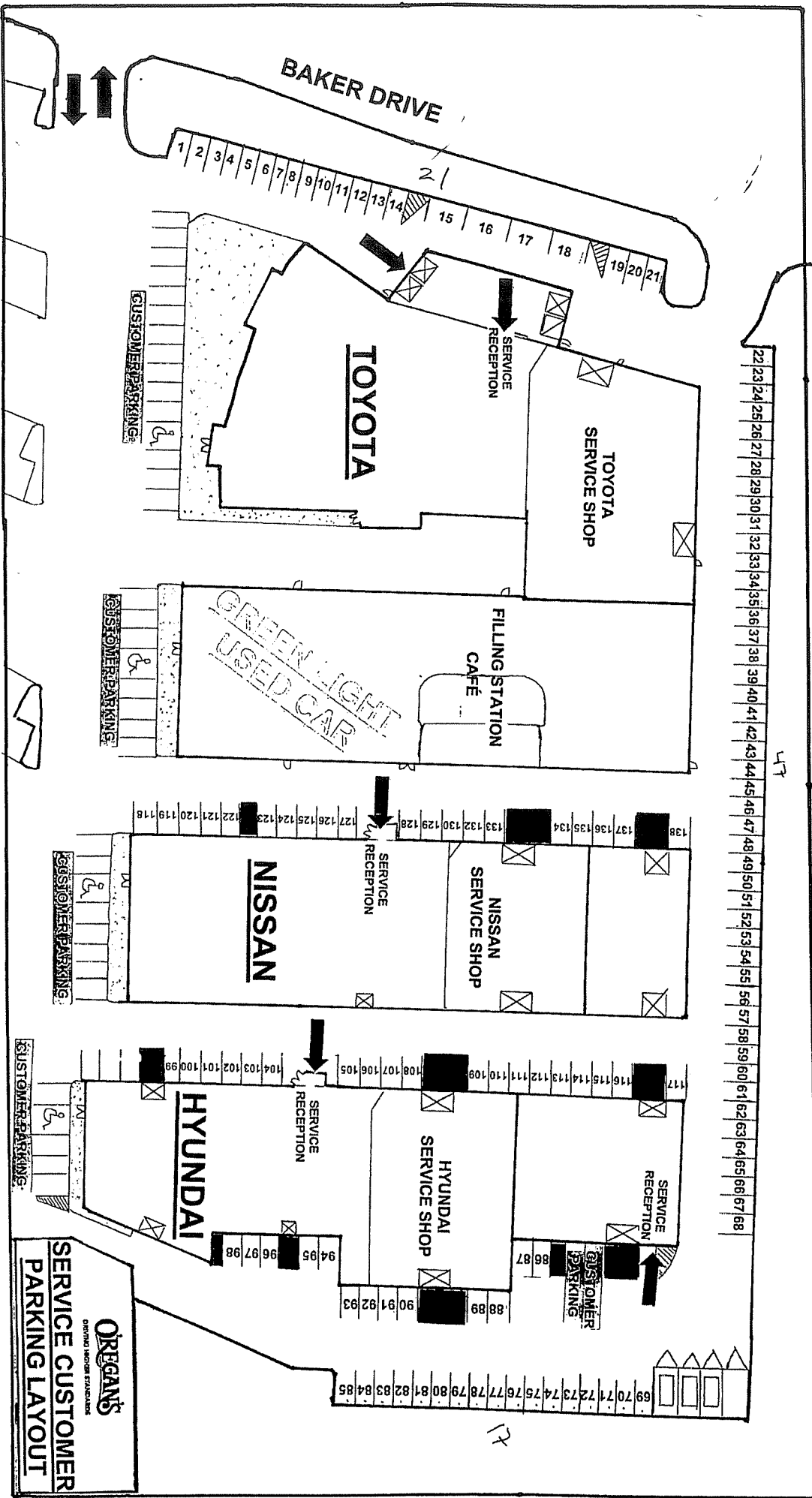
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Schedule L
Parking Plan



O'REGAN'S AUTO MALL
FEBRUARY 2008



LT

LT

Attachment B
Relevant Policy from the Dartmouth Municipal Planning Strategy

- Policy C-28 It shall be the intention of Council to consider, by development agreement, commercial development, including regional retail facilities, on those lands known as Civic Number 560 Portland Street (Baker Drive Extension) [PID # 40131419] and Civic Number 590 Portland Street (Baker Drive Extension) [PID # 40685653] and shown on Map 9q. In considering the approval of such agreements, Council shall have regard to the following:
- (i) the impacts of the development on the surrounding road network and the effectiveness of any proposed improvements to the road network to maintain or achieve a satisfactory level of traffic flow and circulation. Such improvements shall be the responsibility of the developer unless otherwise approved by Council.
 - (ii) the impacts of the development on the natural environment, particularly Russell Lake, and the effectiveness of any proposed stormwater management system and erosion and sediment control program. In this regard, the developer shall be responsible for the design and construction of an adequate detention pond/wetland stormwater management system and a monitoring program for Russell Lake to determine the effectiveness of the system. Notwithstanding the environmental protection measures contained in Policy ML-11 (e) and (f) of this Plan, any developments on the property shall adequately address all applicable criteria as contained in Policies ML-10, ML-11 and ML-12.
 - (iii) the adequacy of buffering and separation distances from abutting properties that are developed or may be developed for residential purposes.
 - (iv) the adequacy of site landscaping, including parking areas, to enhance the attractiveness of the development.
 - (iv) the adequacy of the architectural design of any building, including but not limited to exterior materials, colour, elevation detailing, in order to enhance the visual appearance of the project.
 - (v) the adequacy of controls concerning any proposed outdoor storage or display, loading/unloading facilities, solid waste facilities, lot and building lighting and signage.
 - (vi) the maintenance of the buildings and property, including matters related to environmental protection and stormwater management system.
 - (vii) hours of operation.

(viii) any and all other matters applicable to the development of the lands as set out in Policy IP-1 (c) of this Plan.

(RC-May 11/99;E-Jun 19/99)

(c) Zoning By-law

The Zoning By-law is the principal mechanism by which land use policies shall be implemented. It shall set out zones, permitted uses and development standards which shall reflect the policies of the Municipal Development Plan as per Section 33 (3) of the Planning Act.

Notwithstanding the above, it shall be the intention of Council not to pre-zone lands outside the development boundary as shown on the Generalized Land Use Plan: Map 9;

Map 9b, 9c, 9d, 9e, 9g, 9h,9i (By-law 633), 9i (By-law 724), 9j, 9q, 9m, 9o, 9p (Portland St), 9p (Craigwood) and 9r (As amended by By-law C-475, Sept. 20, 1983 and By-law C-493, Dec.9, 1983 and By-law C-511, July 6, 1984).

It shall recognize that certain areas are premature for specific zoning classifications by reason of lack of services, public facilities or other constraints. Council shall use the H-zone (Holding Zone). In the H Zone the permitted types of uses shall be limited in accordance with the Reserve classification in Table 4 (As amended by By-law C-475, Sept. 20, 1983). In this manner, Council can maintain a comparatively high degree of control, and major development proposals contemplated for such areas shall be processed as zoning amendments.

In considering zoning amendments and contract zoning, Council shall have regard to the following:

- (1) that the proposal is in conformance with the policies and intents of the Municipal Development Plan
- (2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal
- (3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries
- (4) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the City is to absorb any costs relating to the development
 - (ii) the adequacy of sewer and water services and public utilities
 - (iii) the adequacy and proximity of schools, recreation and other public facilities
 - (iv) the adequacy of transportation networks in adjacent to or leading to the development
 - (v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas
 - (vi) preventing public access to the shorelines or the waterfront

- (vii) the presence of natural, historical features, buildings or sites
 - (viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized
 - (ix) the detrimental economic or social effect that it may have on other areas of the City.
- (5) that the proposal is not an obnoxious use
- (6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:
- (i) type of use, density, and phasing
 - (ii) emissions including air, water, noise
 - (iii) traffic generation, access to and egress from the site, and parking
 - (iv) open storage and landscaping
 - (v) provisions for pedestrian movement and safety
 - (vi) management of open space, parks, walkways
 - (vii) drainage both natural and sub-surface and soil-stability
 - (viii) performance bonds.
- (7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors
- (8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council
- (9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:
- (i) Council with a clear indication of the nature of proposed development, and
 - (ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community
- (10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)

**Attachment C:
Excerpts from the Dartmouth Land Use By-law**

C-3 (GENERAL BUSINESS) ZONE

- 40(1) The following uses only shall be permitted in a C-3 Zone:
- (a) C-2 uses as herein set out, excepting therefrom any residential uses;
 - (i) *except Adult Entertainment uses (RC-Jan 31/06; E-Mar 16/06)*
 - (b) warehousing and distribution
- 40(2) Buildings used for C-3 uses in a C-3 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet
 - (b) Height maximum - 3 storeys for a building with an office function as its primary function.
 - (c) Maximum Lot coverage - 100% if the requirements for 100% lot coverage in the Building By-laws of the City of Dartmouth are met, except that a motel building or buildings shall occupy surface area of not more than one-third of the total area of the building lot.
 - (d) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City of Dartmouth.
 - (e) Additional Height Maximum - 35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC-Feb 8/05; E-Apr 23/05)

CDD (COMPREHENSIVE DEVELOPMENT DISTRICT) ZONE

- 53(A) (a) The following uses only shall be permitted in a CDD:
- (i) residential uses;
 - (ii) commercial, institutional and recreational uses.
 - (iii) All equipment, structures and buildings associated with extracting water from Morris Lake in association with an existing oil refinery operation. (RC-Mar 22/05; E-Apr 23/05)
- (b) No development permit shall be issued except in conformity with an agreement pursuant to Section 56(3) of the Planning Act.

(As amended by By-law C-698, June 18/93)