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Harbour East Community Council

~~April 5, 2007~~

May 3, 2007

**TO:** Harbour East Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** March 5, 2007

**SUBJECT:** Case 00780 - Amend Development Agreement - Ochterloney Esso

**ORIGIN**

Application by Imperial Oil.

**RECOMMENDATIONS**

It is recommended that Harbour East Community Council:

1. Move Notice of Motion to consider the attached amending agreement and schedule a public hearing;
2. Approve the amending development agreement in Attachment C to this report to allow for the retention of some existing signs at the Esso Station at 174 Ochterloney Street, Dartmouth; and
3. Require that the amending 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 approval is later, including applicable appeal periods, otherwise, this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

A development agreement for the Ochterloney Street Esso Station was approved by Harbour East Community Council on June 6, 2002. This agreement permitted the replacement of a small kiosk with a larger convenience store as well as some changes to parking and signage on the property.

The development agreement contemplated the removal of eight existing signs and their replacement with a single large ground sign located between the car wash and Ochterloney Street. Even though the proposed sign exceeded size limits for Downtown Dartmouth, at the time staff felt that a single large sign would reduce the visual clutter of having many small signs on the property and could result in an overall improvement to the site.

As shown on Attachment A, Imperial Oil removed four of the existing signs, but instead of building a single large ground sign, they left the other four signs as they were. These four remaining signs include two major identification signs, one price sign, and one promotional sign.

In February of 2005, Imperial Oil made an application with HRM Development Services to re-face the two major identification signs at the Esso Station on Ochterloney Street. They were denied a permit to carry out this work because the development agreement on this property required these signs to be removed. In March of 2005, Imperial Oil made an application to amend their development agreement to permit the existing signs to remain.

## **DISCUSSION**

### *Policy and Zoning*

The site is designated Downtown Business District, and zoned the same, under the Neighbourhood Planning Strategy (NPS) and Land Use Bylaw (LUB) for Downtown Dartmouth. Even though a gas station had existed at this location since 1959, Policy B-9 of the NPS required the negotiation of a development agreement for any new construction on the block bounded by the Starr Manufacturing property, due to the historical significance of the past canal and manufacturing uses on the site (Attachment B)

Retention of the remaining signs is consistent with policy B-9 (f) which suggests that the design scheme of any proposed sign should incorporate traditional elements and materials to complement the traditional small town character of the area. The existing signs have a much more traditional feel than the large ground sign proposed by Imperial Oil in 2002.

One of the existing signs is located within an easement Esso has granted to HRM to permit the Trans Canada Trail to cross a portion of the Esso property, if necessary. Consultants hired by HRM through the Canal Greenway project confirmed that the existing signs would not impede future trail development.

### *Public Participation*

Given the relatively minor scope of the changes being proposed since the original development agreement was considered, a public information meeting was waived at the discretion of the Councillor for the area. However, a review of the minutes from a public information meeting held on April 16, 2002 for the initial application, revealed comments from several community

members who felt the proposed new sign was out of character for the downtown and expressed preference for the existing signs.

Residents will be notified of the public hearing for the proposed amendments to the development agreement via newspaper advertisements as well as by direct mail to the properties outlined within the notification area shown on Map 1.

### **BUDGET IMPLICATIONS**

There are no budget implications.

### **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 amendment to the development agreement. This is recommended.
2. Alternatively, Council may refuse to amend the development agreement. This is not recommended for the reasons outlined above.

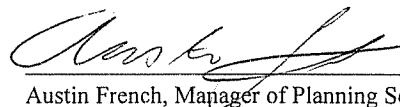
### **ATTACHMENTS**

Map 1:	Zoning and Location
Attachment A:	Site Plan
Attachment B:	Policies of the Downtown Dartmouth Neighbourhood Planning Strategy
Attachment C:	Proposed Amendment to the Development Agreement

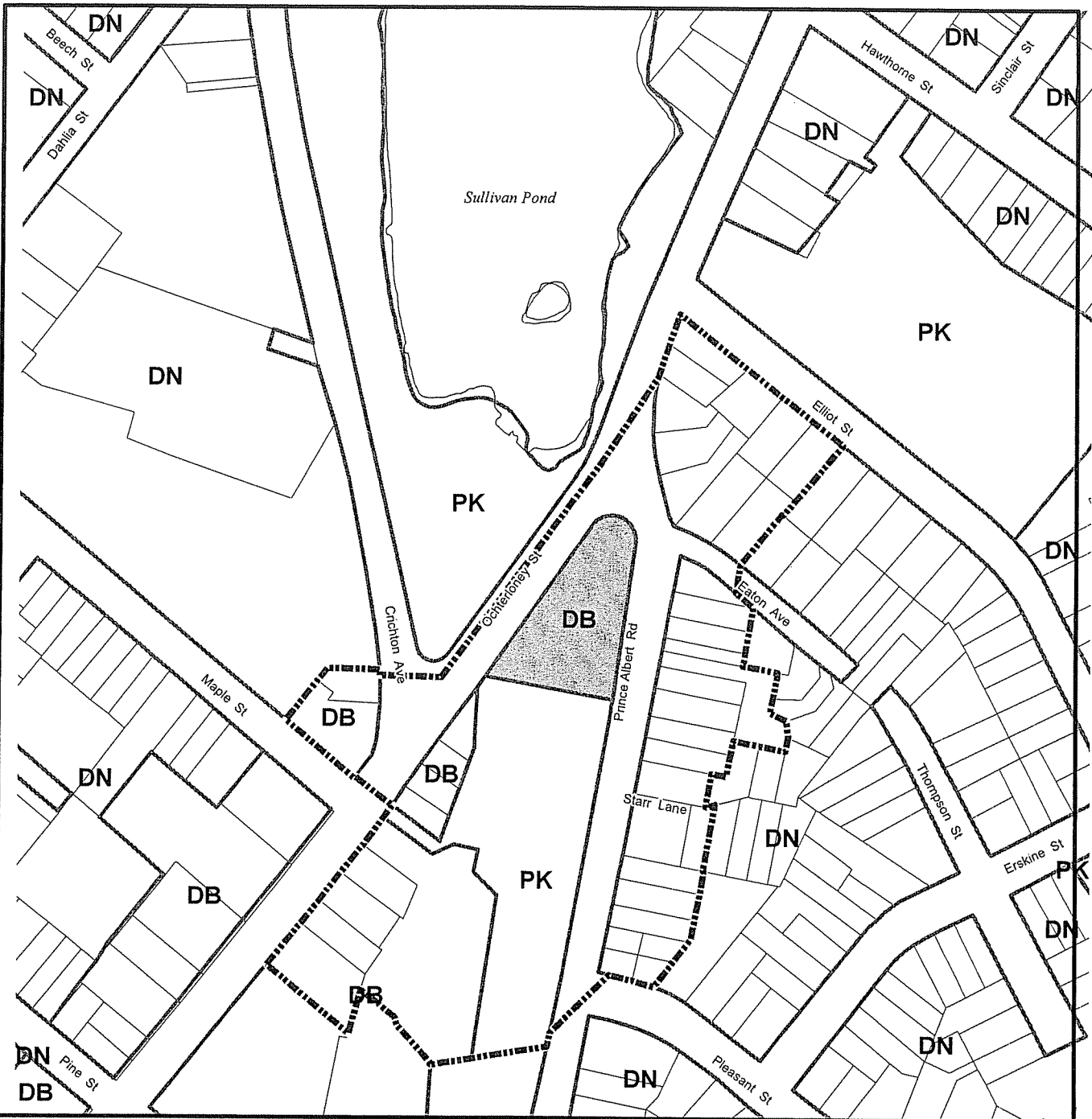
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Hanita Koblents, Planner 490-4181

Report Approved by:





Austin French, Manager of Planning Services, 490-6717



**Map 1  
Zoning and Location Map**

174 Ochterloney Street  
Esso Station

Downtown Dartmouth By-law

-  Subject Property
-  Notification Boundary

**ZONING**  
 DB - Downtown Business District  
 DN - Downtown Neighbourhood  
 PK - Park and Open Space



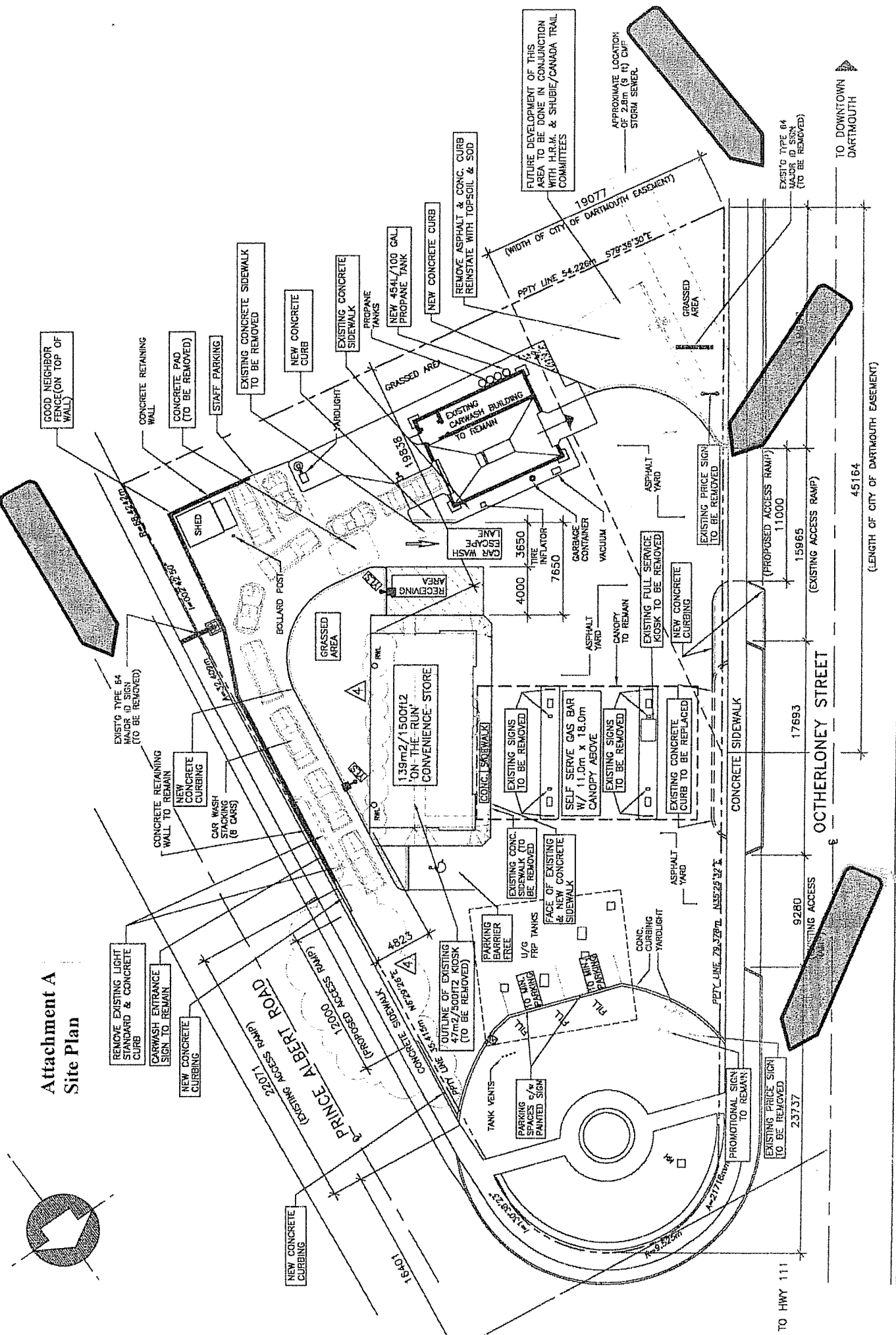
**HALIFAX**  
 REGIONAL MUNICIPALITY  
 PLANNING AND  
 DEVELOPMENT SERVICES



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

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

# Attachment A Site Plan



## ATTACHMENT B

### Policy of the Downtown Dartmouth Neighbourhood Planning Strategy

#### Policy B-9

Council recognizes the importance of the Starr Manufacturing and Greenvale School sites in the history of the Dartmouth and as a gateway to the downtown. A mixed use development will be encouraged on this block consisting of open space, heritage, and small scale commercial and residential components which blend with the character of the area. The development agreement process will be used to ensure a comprehensive approach which reflects the various community goals for the site<sup>1</sup>. In evaluating proposals for the site, council shall consider the following criteria:

- a) that the proposal is consistent with the objectives for the site which are to encourage protection and promotion of the site's heritage features, provision of a trail link and other open space opportunities, and development of small or medium scale commercial or residential components;
- b) the design of any buildings on the site reflects its role as a gateway to the downtown business district, its relationship to existing development on site and surrounding neighbourhoods, and its history as part of the Shubenacadie Canal system;
- c) the unique heritage attributes of this site including the retention and stabilization of the Greenvale School building, the protection of the underground canal features on the northern portion of the site, and if feasible, opportunities to reuse structural elements of the Starr Manufacturing building;
- d) the preservation and restoration of significant natural features on the site where feasible including mature trees, and water features related to the former stream bed running through the site;
- e) that adequate provisions are made for pedestrian and bicycle circulation on the site including an extension of the Dartmouth multi-use recreation trail (Trans Canada trail) along the length of the site;
- f) the design scheme of any proposed buildings, signs and lighting fixtures incorporates traditional design elements and materials to complement the traditional small town character of the area. (Refer to downtown urban design guidelines Policy D-1).
- g) the provision of extensive landscaping in the form of suitable trees, shrubs, grassed areas and planting beds, particularly to enhance the aesthetics of any proposed parking areas on the site;
- h) the impact of any additional traffic on existing street networks and the best means of accommodating traffic flow to, on and from the site; and any required upgrading to the existing street network;
- i) the provision of adequate municipal sewer and water services to the site, and the treatment of existing underground infrastructure; and
- j) remediation of environmental contamination on the site which meets the requirements of the Nova Scotia Department of Environment.

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<sup>1</sup>A development agreement will not be required for re-use of existing buildings within this block which are consistent with the uses permitted by the Business District Zone. Any major expansion or new development will be subject to approval of a development agreement.

**Attachment C**

**Draft Amending Agreement**

THIS FIRST AMENDING AGREEMENT made this      day of      , 2007,

BETWEEN:

**IMPERIAL OIL LIMITED**

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

OF THE FIRST PART

**HALIFAX REGIONAL MUNICIPALITY**

a municipal body corporate,  
(hereinafter called the "Municipality")

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of lands located at 174 Ochterloney Street (PID #00230912), Dartmouth, Nova Scotia, and which said lands are more particularly described in Schedule 'A' to this agreement (hereinafter called the "Lands");

**AND WHEREAS** the Harbour East Community Council of Halifax Regional Municipality approved an application by the Developer to enter into a development agreement to allow for the construction of a convenience store in conjunction with an existing retail gasoline station and car wash on the Lands (Municipal Case #00443) which said development agreement was registered at the Registry of Deeds at Halifax in Book No. 7116 at Pages 660 to 675 as Document Number 32597 (hereinafter called the "Agreement");

**AND WHEREAS** the Developer has requested an amendment to the Agreement to allow certain existing ground signs to remain on the property;

**AND WHEREAS** the Harbour East Community Council of the Municipality approved this request at a meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, referenced as Municipal Case #00780 (hereinafter called the "First Amending Agreement");

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

1. To amend the Agreement by:
  - 1.1 Deleting Schedule 'B' Site Plan and Schedule 'D' Landscaping Plan, and replacing with:
    - Schedule 'B' Site Plan 2007 (attached), and;
    - Schedule 'D' Landscaping Plan 2007 (attached)

- 2. All other terms of the Agreement shall remain in full force and effect.
- 3. This First Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2007.

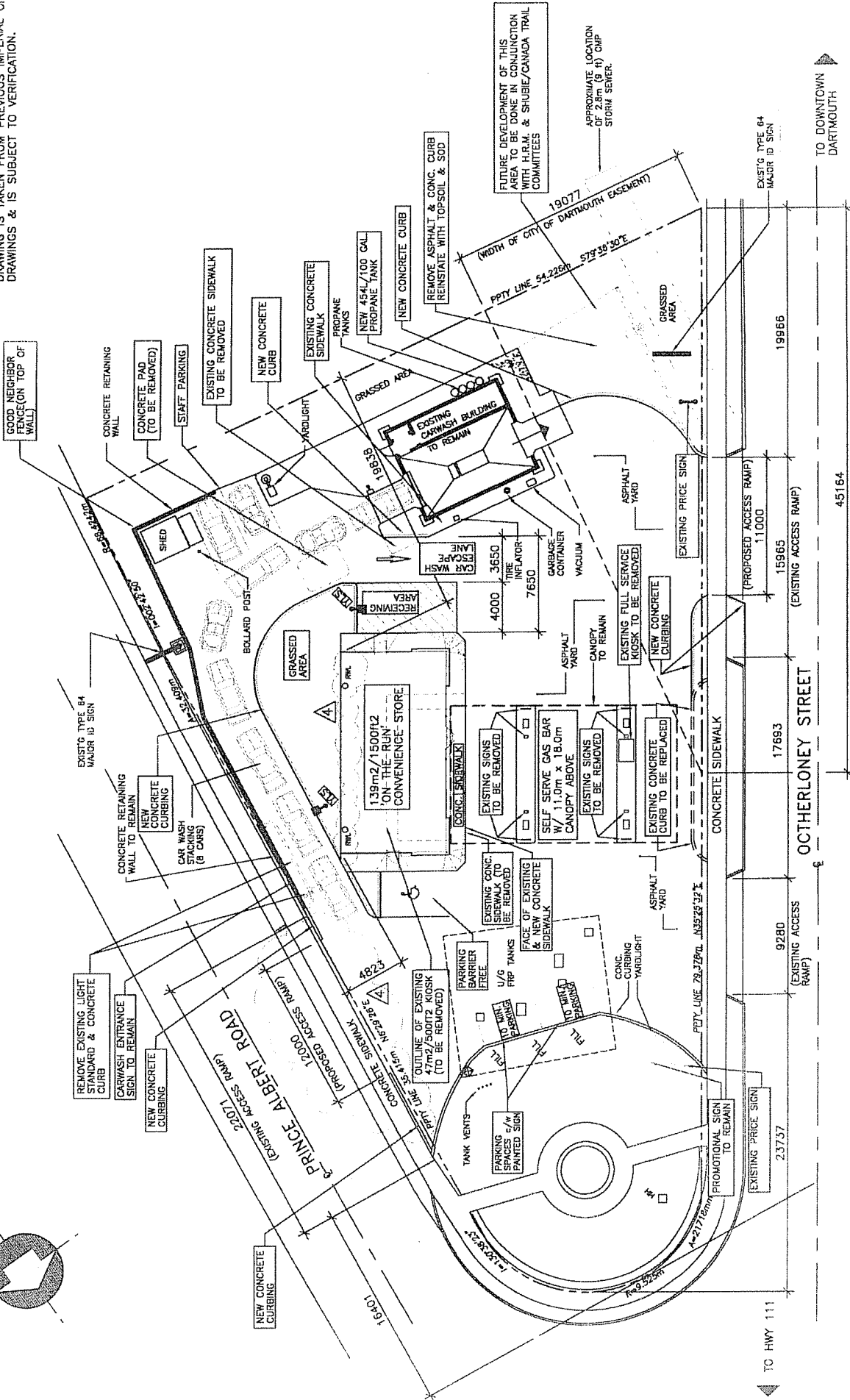
**SIGNED, SEALED AND DELIVERED** ) **IMPERIAL OIL LIMITED**  
in the presence of )  
)  
Per \_\_\_\_\_ ) Per \_\_\_\_\_  
)  
)  
) Per \_\_\_\_\_  
)

**SEALED, DELIVERED and ATTESTED** ) **HALIFAX REGIONAL MUNICIPALITY**  
to by the proper signing officers of Halifax )  
Regional Municipality duly authorized )  
in that behalf in the presence of ) Per \_\_\_\_\_  
) Mayor  
)  
Per \_\_\_\_\_ ) Per \_\_\_\_\_  
Municipal Clerk

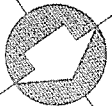


**NOTES:**

1. PROPERTY & EXISTING SITE INFORMATION NOTED ON THIS DRAWING IS TAKEN FROM PREVIOUS IMPERIAL OIL LIMITED DRAWINGS & IS SUBJECT TO VERIFICATION.

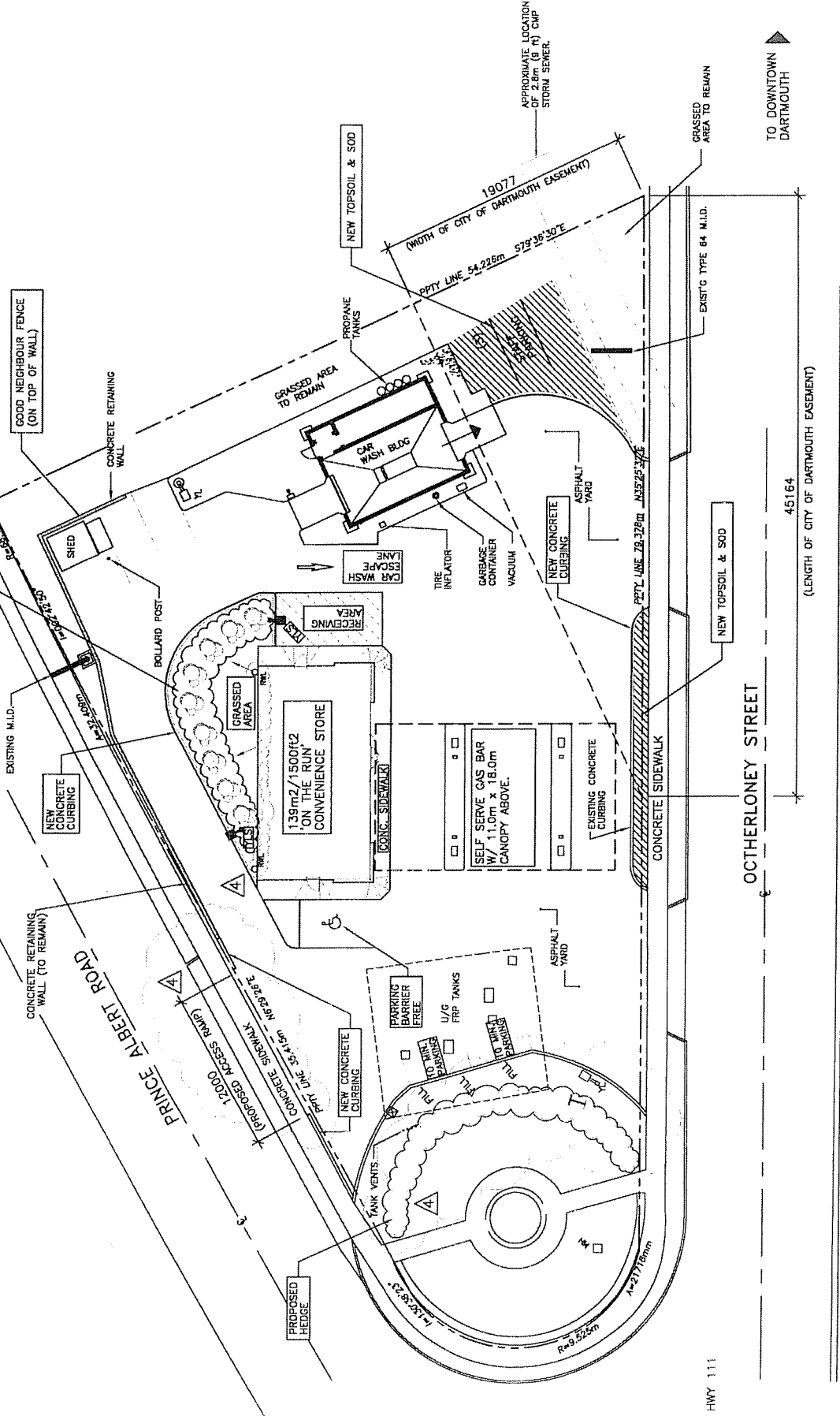


**Schedule "B"**  
**Site Plan 2007**  
 780 Ochterloney Street  
 Case 00780



**NOTES:**

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**Schedule "D"**  
**Landscaping Plan 2007**  
 780 Ochterloney Street  
 Case 00780