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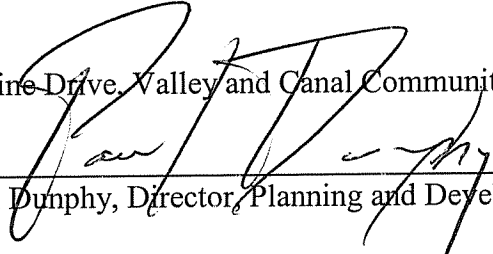


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Marine Drive, Valley and Canal Community Council

October 26, 2005
November 30, 2005-

TO: Marine Drive, Valley and Canal Community Council

SUBMITTED BY: 
Paul Dunphy, Director, Planning and Development Services

DATE: September 28, 2005

SUBJECT: Case 00505 - Triple A Convenience Store, 2652 Lawrencetown Road

ORIGIN

- August 20, 2002 - application was made to amend the Lawrencetown Land Use By-law to permit a development agreement to construct two additional commercial units to Triple A Convenience Store at 2652 Lawrencetown Road.
- September 6, 2004 - application was amended to expand the convenience store to permit a single 1,000 square foot addition that would contain a take-out Pizza Store.

RECOMMENDATION

It is recommended that Marine Drive, Valley and Canal Community Council:

1. Give First Reading to the proposed amendments to the Lawrencetown Land Use By-law as provided in Attachment A and schedule a public hearing; *October 24, 2005*
2. Approve the amendments to the Lawrencetown Land Use By-law provided in Attachment A;
3. Give Notice of Motion for the proposed development agreement, provided in Attachment B of this report, to permit the construction of a 1,000 commercial addition to Triple A Convenience Store and schedule a public hearing;
4. Approve the development agreement as detailed in Attachment B of this report;
5. Require 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 of said agreement by Council and any other bodies as necessary, whichever is later, including applicable appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND

Site Description and Location:

Triple A Convenience Store is located on Highway 207 at 2652 Lawrencetown Road. The property is approximately 30,000 square feet in size and contains a single unit dwelling of approximately 2200 square feet. The dwelling is attached to a 1420 square foot convenience store facing the Lawrencetown Road (see Map 2). The property is bounded by single detached residential homes to the south and to the west. Lands east of the site are vacant.

Zoning and Designation:

This property is located within the Lawrencetown Plan area and is within the Lawrencetown Designation under the MPS and zoned RR-1 (Rural Residential) Zone. The overall intent of the "Lawrencetown" designation is to support and protect the semi-rural environment with its mixture of residential development, home businesses, agricultural uses, small scale resource uses and existing commercial uses. Commercial uses permitted in the RR-1 zone are generally provided for on Appendix B of the Land use by-law (Attachment E).

The Proposal:

The applicant proposes to construct a 1,000 square foot addition to the convenience store to accommodate a take-out pizza store. Additional improvements to the site include the demolition of the attached residential dwelling and the renovation of the existing convenience store (Map 2). To achieve this the applicant is requesting a land use by-law amendment to remove his property from Appendix D and add it to Appendix B (see Attachment A). This enables a development agreement to accommodate the expansion and partial change of use of his existing business to be considered by Council.

Public Information Meeting

A Public Information Meeting was held on 11 April, 2005 at Ross Road Junior High School, Ross Road in Cole Harbour. Approximately 100 members of the public were in attendance. The main areas of discussion regarding the proposal related to the new building, and site design. One neighbour requested the placement of a fence on the west side of the subject property to reduce noise and dust impacts from the parking area to the residential dwelling located at 2638 Lawrencetown Road. There were no objections to the proposal. The minutes of the meeting are provided in Attachment C.

DISCUSSION

Policy Analysis

In preparing a development agreement for the subject property, Council should consider all relevant policies of the Lawrencetown Municipal Planning Strategy. The evaluation of this proposal is based on Policies P-39, P-39A, P-40 and Implementation Policy P-61 as described below (Attachment D).

- The applicant's property currently appears on the Schedule 'D' list of properties. Policy P-40 of the Lawrencetown Municipal Planning Strategy allows Council to consider an amendment to the land use by-law to delete properties from Schedule 'D' properties and to add them to Schedule 'B'.
- Policy P-39 permits Schedule B properties to expand business operations subject to RR-1 zone requirements.
- Policy P 39A permits a change of use from the convenience store operations to the pizza store operations to be considered by development agreement in accordance with Policy P-61.
- Policy P-61 sets out evaluation criteria to be considered by a development agreement.

Accordingly, this proposal is considered to be an expansion to the existing convenience store operations and a partial change of use which enables a development agreement provision to be applied to the subject property.

Development Agreement

Issues of site function that have been addressed in the development agreement include traffic access, landscaping, on-site parking and facade improvements. While some of the criteria set out in Policy P-61 are not applicable, those most relevant to this proposal are addressed in the general categories that follow.

Site & Building Design

The site for the proposed buildings has been configured to provide sufficient parking for the purposes of the commercial building units. This includes provision of 21 surface parking spaces which meets the standard requirement set out in the Lawrencetown Land Use By-law. (Schedule B)

With reference to building design, similar facades and roof lines will be used for both the existing commercial store and the new commercial addition. This is intended to achieve a level of visual continuity on the site. (Schedule C)

In addition, the applicant has agreed to construct a fence along the entire length of his property line to act as a buffer for the proposed parking lot as shown on Attachment B. The site is well treed along the property perimeter. Given the building on the site is within close proximity to the highway, there is adequate distance separation to reduce negative impacts related to noise and lack of privacy to these properties.

Traffic, Servicing & Infrastructure

The Department of Transportation and Public Works has undertaken a stopping sight distance analysis to determine if the proposed driveway access meets appropriate guidelines. The analysis has determined that with some modifications, the driveway access the site can accommodate the additional traffic needed for the proposal. These access improvements, which are subject to the approval of the Department of Transportation, are required by the proposed development agreement. In addition, the development agreement requires the applicant to provide a report/letter from the

Department of the Environment indicating that on site services are sufficient to accommodate the proposal prior to the issuance of a development permit.

Amenity Space, Parkland & Landscaping

A high calibre of landscaping in the form of tree retention will form a buffer around the property boundary. Further, the applicant will install fencing along the west boundary of the site as shown in Schedule B of the proposed development agreement (Attachment B).

Non-substantive Amendment

At some later date the applicant may choose to install an outdoor patio with a takeout window for patrons of the takeout restaurant. This feature may be considered in the development agreement as a non-substantive amendment, subject to Council approval. While there is sufficient space to alter the parking lot to accommodate space for a patio, such a change would require approval from the Department of Transportation and Public Works and the Development Officer.

According to the RR-1 Zone, commercial operations may be permitted to a maximum of 4,000 square feet of gross floor area. The total square footage of commercial space on the subject property is proposed at approximately 2420 square feet with the commercial addition. Consequently, an increase of 1,000 square feet to the maximum gross floor area of the building envelope to expand convenience store operations by non-substantial amendment to the development agreement is reasonable. This expansion would be subject to the regulations set out in the RR-1 zone of the Lawrencetown Land Use By-law and subject to any applicable provincial regulations.

Conclusion:

In conclusion, this proposal has been evaluated on the basis of the Lawrencetown Municipal Planning Strategy and is consistent with applicable policies. Staff therefore recommends approval of the proposal as presented in Attachment A and the attached development agreement provided as Attachment B.

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. Marine Drive, Valley and Canal Community Council could approve the requested by-law amendment and development agreement. This is the recommended course of action as staff feels it complies with the policies of the Lawrencetown MPS.
2. Marine Drive, Valley and Canal Community Council could refuse to approve this requested by-law amendment and development agreement. This is not a recommended course of action as staff feels it complies with the policies of the Lawrencetown MPS.
3. Marine Drive, Valley and Canal Community Council could request that staff negotiate additional amendments to the agreement. This would require consultation with the applicant, and may necessitate holding another public hearing.

ATTACHMENTS

Map 1:	Zoning, Location Map and Generalized Future Land Use Map
Map 2:	Site Plan
Attachment A:	Proposed Revisions to the Lawrencetown Land Use By-law
Attachment B:	Proposed Development Agreement
Attachment C:	Minutes of Public Information Meeting dated April 11, 2005
Attachment D:	Applicable Municipal Planning Strategy Policies
Attachment E:	Applicable Land Use By-law Provisions

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 Shayne Vipond, Planner, Planning Services, 490-4335.

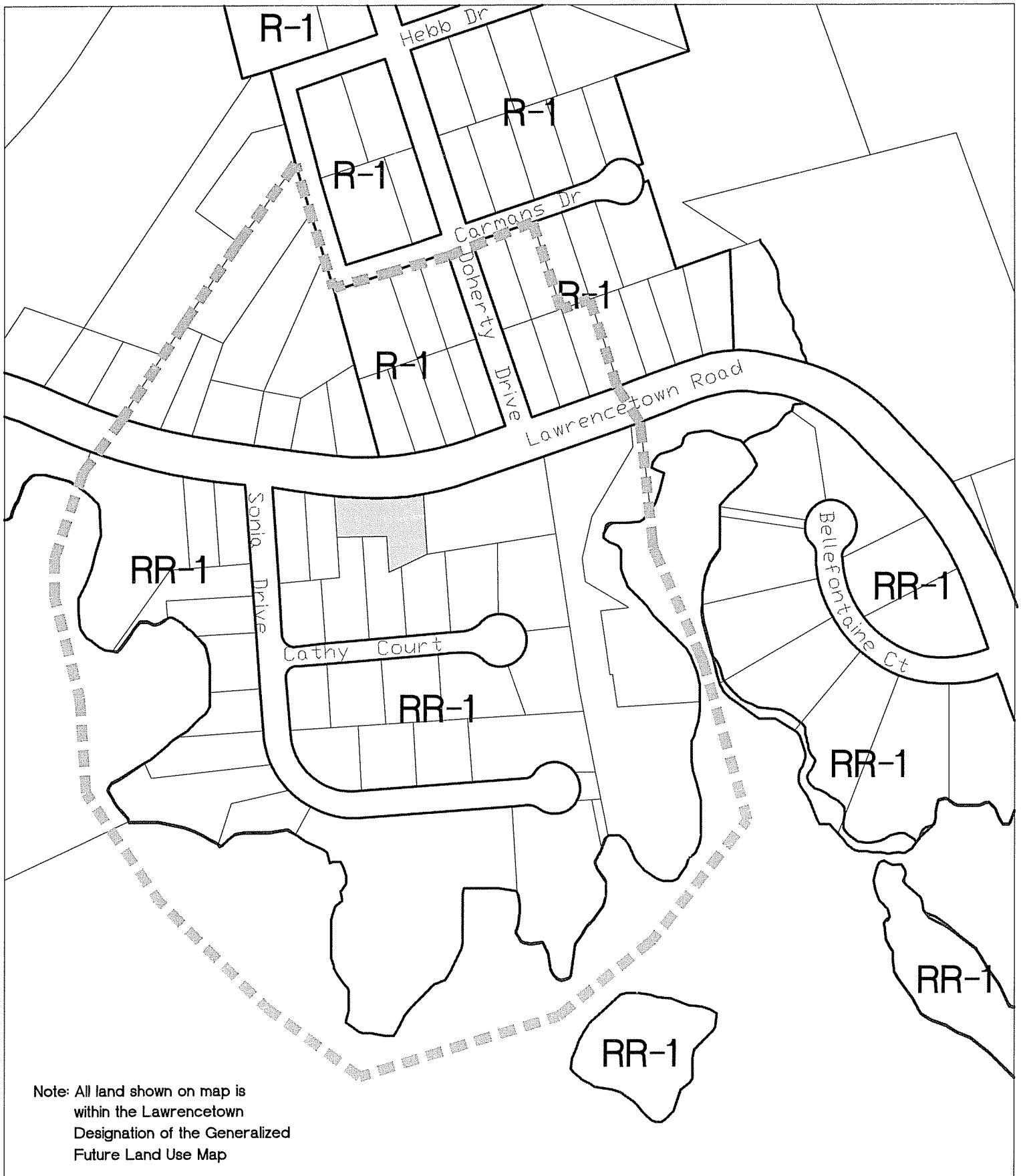
ATTACHMENT A
Proposed Amendments to the Lawrencetown Land Use By-law

That the following Name, Use and LRIS Index Number be deleted from Appendix "D",

" William & Laura Sharpe (Anthony Amyoony), Convenience Store, 460915"

and that the following Name, Use and LRIS Index Number be added to Appendix "B",

"Yori and Judy Ayoub, Convenience Store with Take Out Pizza Store, 460915".



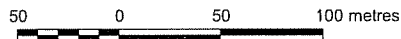
Map 1
Zoning & Location
2652 Lawrencetown Rd.

 Subject Property

 (Single Unit Dwelling) Zone

R-1 (Single Unit Dwelling) Zone

RR-1 (Rural Residential) Zone

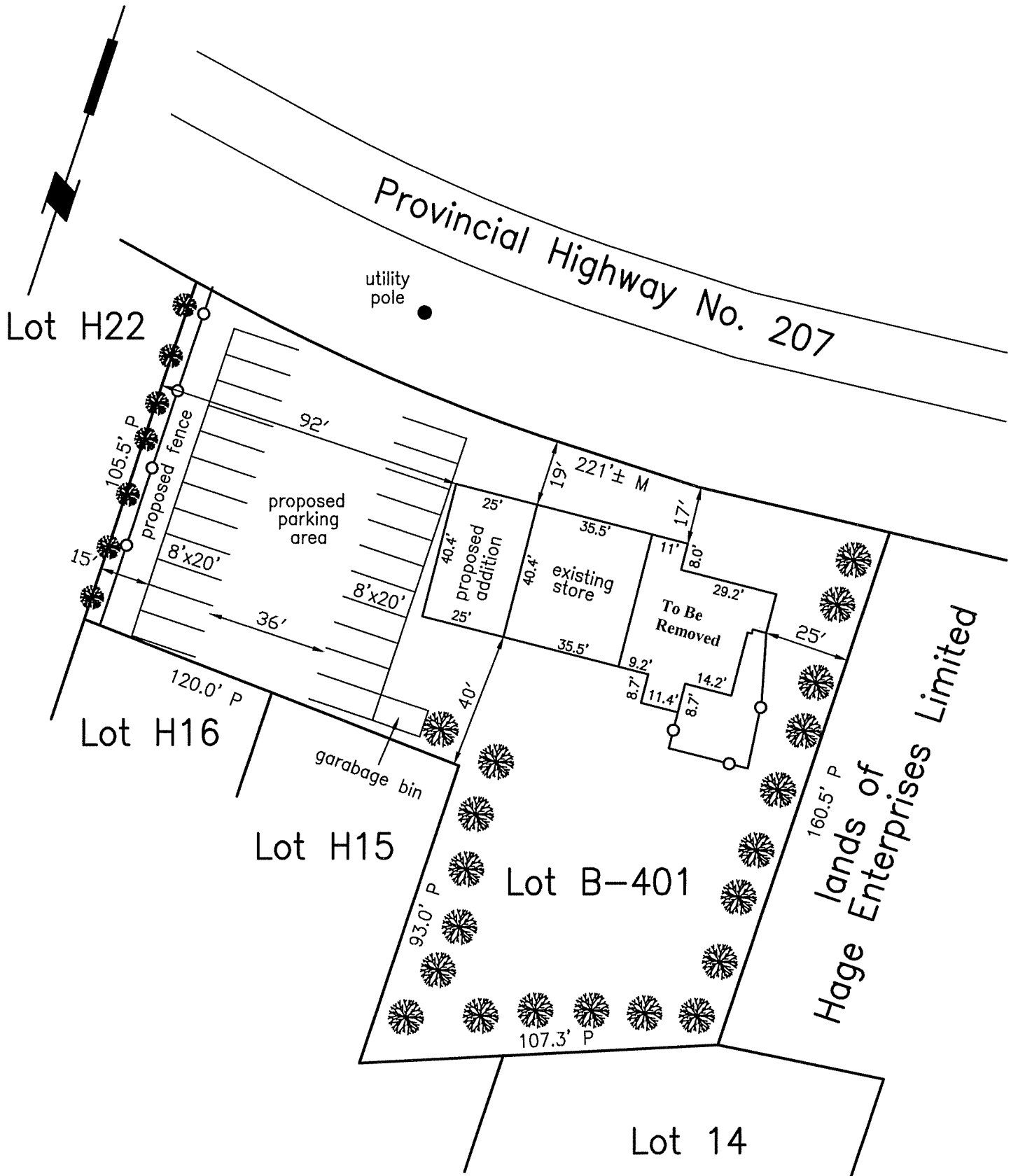


MAP 2 SITE PLAN

G.R. Myra Land Surveying Limited
11 Carmans Drive, Lawrencetown, Nova Scotia, B2Z-1C7
435-4379 (tel) 434-3529 (fax) 223-7932 (cel)

Date : January 18, 2005
Revised : April 12, 2005

Scale: 1 inch = 40 feet



ATTACHMENT B - Proposed Development Agreement

THIS AGREEMENT made this _____ day of _____, 2005,
BETWEEN:

YORI AND PATRICIA AYOUB
(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 2652 Lawrencetown Road (PID #), Lawrencetown, Nova Scotia, and 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 allow for the construction of commercial buildings on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Lawrencetown;

AND WHEREAS the Marine Drive, Valley & Canal Community Council approved this request at a meeting held on _____, 2005, referenced as Municipal Case Number 00505;

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 subdivided, 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 of Lawrencetown, as may be amended from time to time.
- 1.3 Except as otherwise provided for herein, the subdivision of the Lands shall comply with the requirements of the Subdivision By-law for the former Halifax County Municipality, as may be amended from time to time.

- 1.4 Pursuant to Section 1.2 and 1.3, 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 and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.
- 1.5 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 and Subdivision 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.
- 1.6 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 owner.
- 1.7 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 Schedules

The Developer shall develop and use the Lands in conformance with the site plans, design drawings, renderings and supporting technical documents, attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of property owned by Triple A Convenience Stores Limited, (PID 00460915), Lawrencetown
Schedule "B"	Site Plan
Schedule "C"	Front Elevation

2.2.1 Permitted Uses

2.2.2 The use of the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, are the following:

- (a) An existing commercial convenience store with a gross floor area of approximately of 1,420 square feet, and;
- (b) A newly constructed commercial addition to the convenience store to contain a takeout restaurant with a gross floor area of approximately 1000 square feet.

2.2.3 The following uses are prohibited on the Lands:

- (a) All other uses

2.3 REQUIRED APPROVALS

- 2.3.1** Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an occupancy permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.
- 2.3.2** Should an occupancy permit be requested and full stabilization, required paving and landscaping is not completed, a security of 120% of the outstanding uncompleted works as determined by the Development Officer in consultation with the Development Engineer shall be submitted to HRM to ensure completion. Notwithstanding the aforementioned the Developer is responsible to maintain appropriate erosion and sedimentation measure at all times. If the outstanding works are not completed within 8 months of the date of issuance of a Development Permit, the Municipality shall be permitted to cash the aforementioned security in order to complete any outstanding works.

2.4 Building/Architecture

- 2.4.1** The Developer shall construct the Addition to the Building on the Property, which, in the opinion of the Development Officer, is substantially in conformance with Schedules "B" and "C" attached hereto, including its location, size, height, and architectural design. The colour of exterior cladding and shingles for the Addition shall match those on the existing building.
- 2.4.2** Pursuant to Section 2.4.1, the Development Officer may approve modifications to the location, size, height, and architecture of the Building, provided such modifications are minor in nature and, in the opinion of the Development Officer, maintain or further enhance the appearance of the Building and Property and the intent of this Agreement.

2.5 Accesses and Parking

- 2.5.1** The Developer shall construct a minimum of 21 parking spaces on the lands as generally illustrated on Schedule "B". Individual parking spaces, loading spaces and driving aisles shall be provided in accordance with the requirements of the Land Use By-law unless otherwise specified in this Agreement. Parking spaces shall meet the requirements for barrier free parking under the Provincial Building Code. All parking areas, driveways and circulation aisles shall be asphalt.
- 2.5.2** The Developer shall be responsible for securing all applicable approvals from the Department of Transportation and Public Works for driveway construction and access, and all such driveways shall be designed and constructed in full compliance with the requirements of that Department.
- 2.5.3** Prior to the issuance of an Occupancy Permit for the Addition, the Developer shall provide the Development Officer with a report/letter from the Provincial Department of Transportation and Public Works indicating that suitable design and construction of access to the subject property has been completed.

2.5.4 The Development Officer, through consultation with the Provincial Department of Transportation and Public Works, may approve changes to sections 2.5.1 and 2.5.3, provided the integrity and safety of the parking area and access design is maintained or enhanced, and furthers the intent of this Agreement.

2.5.5 Pursuant to Sections 2.5.1 and 2.5.3, the Developer shall, at its own expense, construct the improvements required to Highway 7 and/or as otherwise required by the Department of Transportation and Public Works. Such work shall be complete and operational prior to the issuance of an occupancy permit for the Addition or portion thereof.

2.5.6 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Municipality or the Nova Scotia Department Of Transportation and Public Works as applicable.

2.6 On-Site Sewage Disposal System

2.6.1 Prior to the issuance of a Development Permit, the Developer shall provide the Development Officer with a report/letter from the Provincial Department of the Environment and Labour indicating that the on-site sewage disposal system is capable of handling the additional demand generated by the Convenience Store and the new Addition.

2.6.2 Notwithstanding Section 2.6.1, if the report/letter from the Department of the Environment and Labour indicates the current on-site sewage disposal system requires upgrading as result of the Addition, the design of the upgrade must be approved by Department of the Environment and Labour prior to the issuance of the Development Permit and all upgrades shall be completed prior to the issuance of an Occupancy Permit.

2.7 Landscaping

2.7.1 The Lands shall be landscaped as generally illustrated and described on Schedule "B".

2.8 Signs

2.8.1 Signage on the Lands shall be limited to that as generally illustrated on Schedule "B", plus additional minor directional ground and fascia signs as may be required for vehicular/pedestrian traffic and "way-finding" purposes.

2.8.2 No billboards shall be permitted on the Lands

2.8.3 Except as otherwise specifically provided for above, all signs shall comply with the requirements of the Land Use By-law and in accordance with Department of Transportation and Public Works' regulations.

2.8.4 Traffic control signs and pavement markings shall conform to the "Manual of Uniform Traffic Control Devices" and/or "Official Highway Signs for Nova Scotia".

2.9 Building and Site Lighting

2.9.1 Prior to installation, a detailed lighting scheme prepared shall be submitted to the Development Officer for approval. Such plans shall ensure that all lighting on the Lands, exclusive of signage lighting, shall be designed, installed and maintained to supply adequate area lighting and provide adequate security. Lighting shall be directed to all driveways, parking areas, loading areas, building entrances and walkways and away from streets and abutting properties. The maximum height of lighting fixtures shall be 40 feet above grade.

2.9.2 All lighting shall be installed prior to the issuance of an occupancy permit.

2.10 Outdoor Storage and Display

2.10.1 No outdoor storage shall be permitted.

2.10.2 Refuse containers and waste compactors shall be located in accordance with Schedule B and shall be screened from public view by opaque fencing or masonry walls.

2.10.3 Propane tanks and electrical transformers shall be located and secured in accordance with the applicable approval agencies. Where possible, these facilities shall be screened from public view as necessary by means of opaque fencing, masonry walls and/or suitable landscaping.

2.11 Hours of Operation

2.11.1 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

2.12 Environmental Matters

2.12.1 Prior to the issuance of a Development Permit, the Developer shall provide the Development Officer with a report/letter from the Provincial Department of the Environment and Labour indicating that an Erosion and Sediment Control Plan has been prepared. The plan shall comply with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by the Nova Scotia Department of Environment. Specifically, this plan should outline the temporary erosion and sedimentation control measures (vegetative and mechanical) to be used during active construction of the Property.

2.13 Maintenance

2.13.1 The Developer shall maintain and keep in good repair all portions of the development and Lands, including but not limited to, the interior and exterior of the buildings, retaining walls and fencing, lighting, walkways, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, and snow removal/salting of walkways, driveways and parking areas, clean-out of the storm water units, maintenance of the waste water management system, and maintenance of stormwater retention areas and outfalls.

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 Council:
- (a) Subject to the requirements of the RR-1 zone of the Lawrencetown Land Use By-law, the Developer may expand the existing building envelope on the Lands by an additional 1,000 square feet to a maximum of 3420 square feet of gross floor area. The additional gross floor area must be devoted entirely to convenience store operations and is subject to the approval of the Municipal Development Officer, the Department of Transportation and Public Works and the Department of Environment and Labour.
 - (b) Subject to the submission of a revised parking plan which must be approved by the Development Officer and the Department of Transportation and Public Works, the Developer may construct one outdoor patio to accommodate outdoor seating for patrons of the takeout restaurant. The applicant may be also be permitted one take-out window for the take out restaurant to open to the patio.
- 3.2** Amendments to any matters not identified by Section 3.1 or elsewhere in this Agreement 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 on the Lands has not commenced within 2 (two) years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of 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 the pouring of the footings and foundation.
- 4.4** Upon the completion of the development or portions thereof, or after 5 (five) years from the date of registration of this Agreement at the Registry of Deeds, whichever time period is less, 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 on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

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
IN THE PRESENCE OF:**

) YORI AND PATRICIA AYOUB

)

)

)

)

)

per: _____

)per: _____

per: _____

**Sealed, Delivered and Attested
by the proper signing officers of
Halifax Regional Municipality
duly authorized on that behalf
in the presence of:**

) **HALIFAX REGIONAL MUNICIPALITY**

)

)

)per: _____

MAYOR

)

)

per: _____

)per: _____

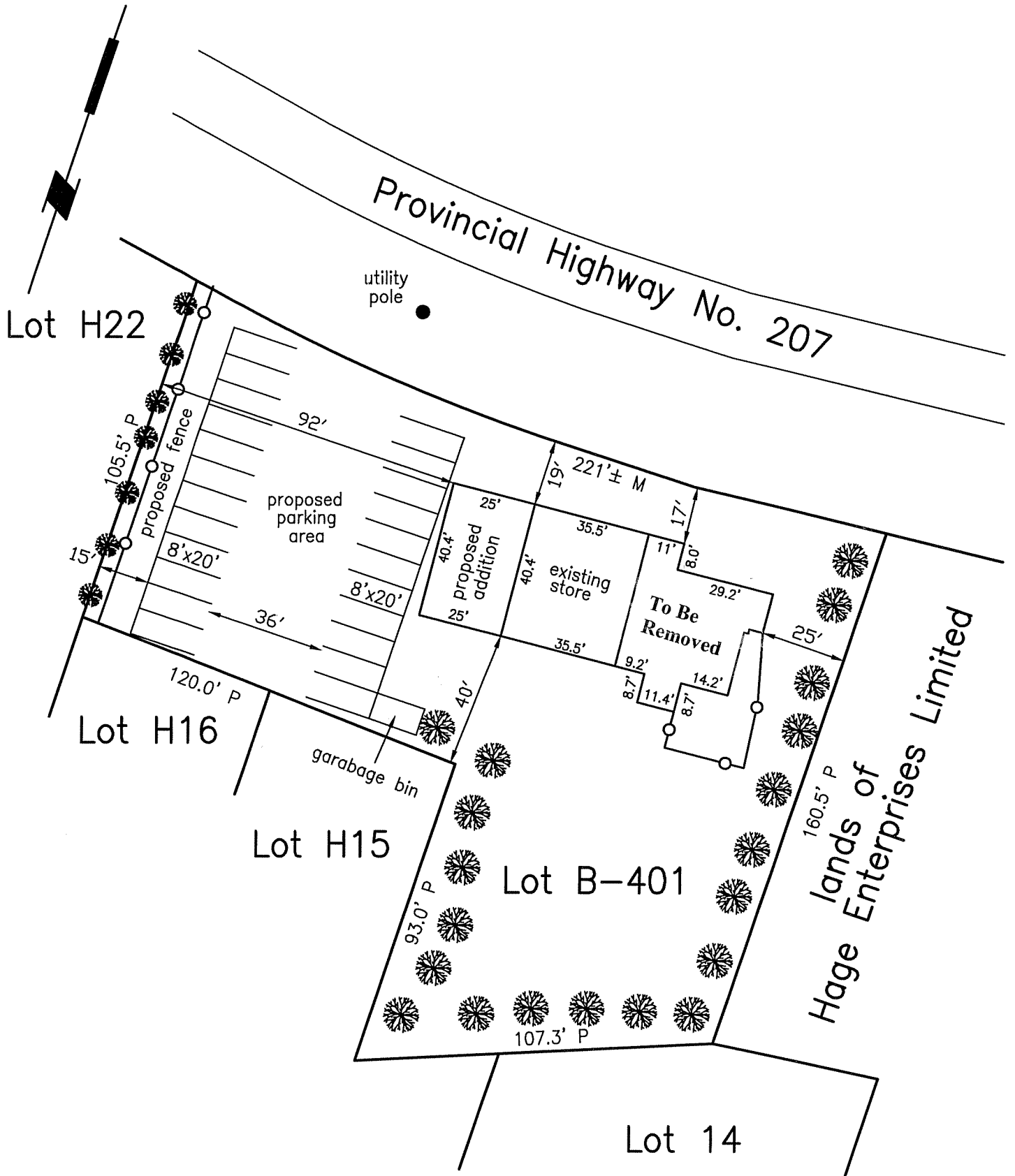
MUNICIPAL CLERK

SCHEDULE "B" SITE PLAN

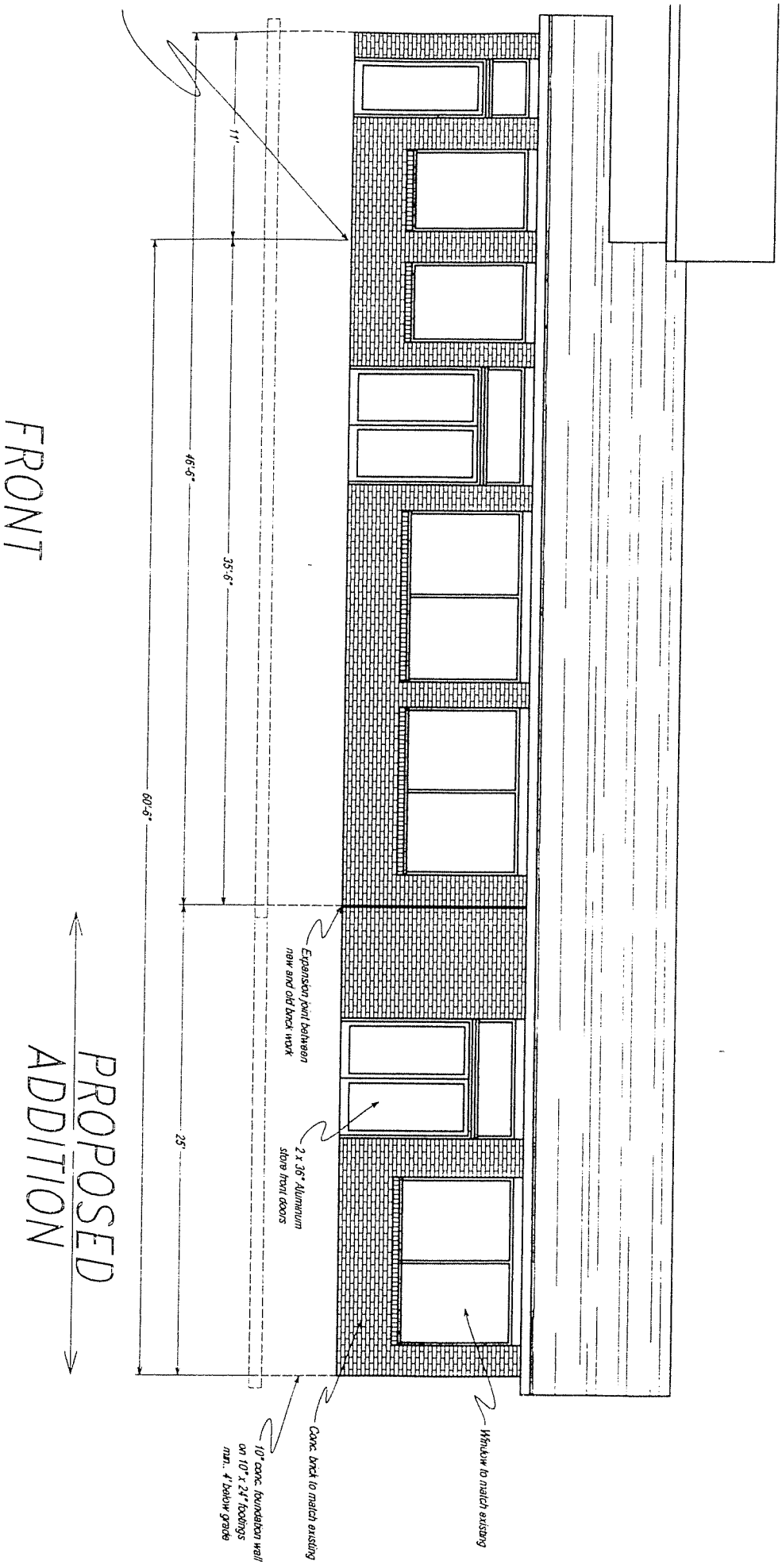
G.R. Myra Land Surveying Limited
11 Carmans Drive, Lawrencetown, Nova Scotia, B2Z-1C7
435-4379 (tel) 434-3529 (fax) 223-7932 (cel)

Date : January 18, 2005
Revised : April 12, 2005

Scale: 1 inch = 40 feet



SCHEDULE "C" FRONT ELEVATION



FRONT

PROPOSED
ADDITION

Attachment C - Public Information Meeting Minutes

**HALIFAX REGIONAL MUNICIPALITY
PLANNING SERVICES - ALDERNEY GATE OFFICE
PUBLIC INFORMATION MEETING
CASE 00505 TRIPLE A CONVENIENCE STORE - LAWRENCETOWN**

7:00 p.m.

April 11, 2005

Ross Road Elementary School, Cafeteria

STAFF: Shayne Vipond, Planner
Samantha Charron, Administrative Support

APPLICANT: Yori Ayoub, Triple A Convenience Store

OTHER: Local Councillor, David Hendsbee

**MEMBERS OF
THE PUBLIC:** approx 55 ppl

The meeting commenced at approximately 7:10 p.m.

1. INTRODUCTIONS/OPENING COMMENTS

Shayne Vipond welcomed residents to the meeting and thanked them for attending. He introduced local Councillor David Hendsbee and Yori Ayoub the applicant. He then introduced himself as the planner assigned to this case.

Councillor Hendsbee also welcomed residents and indicated he was in attendance to listen to comments and concerns residents have regarding this development. He explained there would be future consultation forums in which residents would have the opportunity to speak directly to this application.

Mr. Vipond explained the purpose of this meeting as an opportunity to discuss the application made by Mr. Ayoub in accordance with Council's public participation policy. He stated a brief overview of the application would be done by himself, following that the applicant would give a presentation of the proposed development. He informed residents when the presentation is complete there will be an opportunity for questions or concerns to be addressed.

Mr. Vipond began by explaining a development agreement (DA) to residents. He stated a DA is a contract between Halifax Regional Municipality (HRM) and the applicant which allows HRM to go into contract negotiations with an applicant to determine the location of a development on a given piece of land. It can regulate things like hours of operation, landscaping, parking, access and any physical site characteristics. He stated the planning process has many stages and suggested the public information meeting will help him to get a sense of whether or not there is a recommendation from the community for this development. He also suggested it brings to light

any reservations or issues residents have. He indicated in addition to this meeting he will be forwarding the proposed application around to various technical departments and agencies for the same type of recommendations. He stated for example that he would be looking for comments from Traffic Services, Engineering, Fire Services, Department of Environment and others. He indicated once that is complete the information will be compiled and he will write a report recommending the approval or refusal of the application. He stated the report will then be presented to Council, who has the ultimate say in the application's approval or refusal. He explained Council looks to the planner to provide technical feedback to ensure the application is appropriate. He described in detail the planning process including future opportunities for the public to speak formally to this application, at a public hearing. He then opened the floor for questions or clarification regarding the planning process.

Residents were satisfied with the explanation regarding process and procedure.

Mr. Vipond continued by giving an overview of the property with the use of a site map. He explained the developments dimensions, location, intended use and parking area lay-out. He then asked Yori Ayoub to give his presentation.

Mr. Ayoub began with a detailed description of the store at present. He then described the proposed changes including the demolition of the existing attached home and the new extension being constructed. He continued by explaining the take-out location and lay-out, and additional parking to accommodate the proposed expansion. He then asked residents if they had any questions?

2. QUESTIONS AND COMMENTS

An unknown speaker asked if there will be a fence constructed between the new parking area and the adjacent lot?

Mr. Ayoub indicated he would construct whatever is required

An unknown resident asked if the U-Haul rental would remain on Mr. Ayoub's lot?

Mr. Ayoub indicated the U-Haul would no longer be there.

Jackie Leadbetter asked if the application is approved, when would construction begin?

Mr. Ayoub suggested late fall 2005 construction could hopefully begin.

Mr. Vipond added there are a number of constraints with this application. He explained Department of Environment will have to be consulted and suggested a time line would be difficult to give at this point.

Mr. Bell stated the previous owners of this convenience store did have a take-out at one time.

Mr. Vipond suggested that would have been an illegal non-conforming use and suggested at this time Mr. Ayoub has no rights or privileges granted to him for this type of use. He thanked Mr. Bell for his comments.

A brief discussion followed regarding the requirements of the Lawrencetown Land Use By-Law.

Mr. Vipond explained the application process and suggested if the application was refused by Council there is a 14 day appeal period.

Residents requested a show of hands to gauge the level of support with residents in attendance.

Mr. Vipond asked if only residents with concerns would raise their hands and suggested this would be a better way to address any issues surrounding the application.

No one expressed concern for the application.

An unknown resident asked if there is ever 100% support for an application like this by Council?

Mr. Vipond indicated Council will decide by majority vote.

Alicia MacMillan asked if Mr. Ayoub is considering changing the hours of operation and if so, would the same process be followed?

Mr. Vipond replied the hours of operation are in negotiation as well. He suggested they form part of the agreement and will be included in the contract.

Mr. Ayoub indicated the hours of operation being considered will remain the same for opening and would be approximately 11 p.m. for closing, but he was unable to say for certain at this time.

Alicia MacMillan stated she is in support of the development application but suggested being the adjacent land owner she would like to see a buffer constructed between her property and the store.

Mr. Vipond suggested the way the development is laid out on the property it looks like there will be sufficient room to create a buffer and indicated this could be considered.

Residents questions why this application will take so long?

Mr. Vipond suggested he will do his part in the application process as quickly as possible.

Dan Micheaud asked how long the application has been in the planning process?

Mr. Vipond replied several years.

Residents questioned why a take-out approval would take so long?

Councillor Hendsbee suggested within the Land Use By-Law and Municipal Planning Strategy for Lawrencetown there are protections to reduce the amount of commercial use in this area. He stated any application would have to go through the same process.

Dan Micheaud asked if the hours of operation would be laid-out in the development agreement? He stated although Mr. Ayoub has no intention of staying open later, if the property were ever sold the hours of operation could change. He suggested this should be something that is considered when drafting the agreement.

Councillor Hendsbee agreed and stated it is something that needs to be considered.

Dan Micheaud commented he would like to see the proposed development approved, he feels Mr. Ayoub runs a good clean store now, and has no doubt his take-out would be run under the same conditions.

Danny Johnstone asked if there are future plans to have the speed limit reduced on Lawrencetown Road in the area?

Mr. Vipond replied this is an issue Department of Transportation would deal with. He stated they were included in the circulation of the application for comments and/or recommendations.

Mr. Vipond asked if there were any other questions? He then indicated there will be more public consultation before any decisions are made. He also stated residents who wish to speak to this application will have an opportunity to do so formally at the public hearing. He added residents will be notified by mail in advance of the public hearing as well as newspaper ads that run two consecutive Saturdays before the hearing will be held.

Mr. Vipond thanked everyone for their time and closed the meeting.

3. MEETING ADJOURNMENT

Meeting adjourned at approximately 7:30 p.m.

ATTACHMENT D
APPLICABLE MUNICIPAL PLANNING STRATEGY POLICIES

EXISTING USES

Prior to the adoption of this planning strategy, Lawrencetown fell under the provisions of Zoning By-law No. 24. For the most part, the area was unzoned or zoned General Building, In either instance, most uses were permitted by right. There were some exceptions to this general rule, in that campgrounds, industrial uses and salvage yards could only proceed subject to receiving the appropriate zone. There were a number of operations that did, through the public hearing process, receive a specific zone.

In addition, a portion of Upper Lawrencetown applied for and received some form of restrictive residential zoning.

However, the limited zoning controls that were in effect resulted in a mixed land use pattern, with residential, resource, and commercial uses standing side by side.

This interspersed development pattern has not caused any apparent problems, and conflicts between the various land uses have been few in number. The general feeling is that, since these uses were established according to the rules of the day and have usually caused no problems the vast majority should be recognized and permitted to continue as existing uses, with some expansion and change of use rights.

A general provision in the land use by-law will recognize those existing uses and, where appropriate, offer them some by right expansion capability based on the nature of the use.

P-39 Within the Lawrencetown Designation, it shall be the intention of Council to accommodate existing commercial and industrial uses as permitted uses and to provide for their expansion by including them in Appendix B or C of the land use by-law. Uses listed in Appendix B will be permitted to expand subject to the requirements for existing commercial uses in the Rural Residential Zone (Policy P-2).

Uses listed in Appendix "C" will be permitted to expand subject to the requirements of the appropriate zone as specified in the appendix. Council may consider amending Appendix "B" or "C" by adding additional uses in the event that an existing business use was omitted from the appropriate appendix.

P-39A With reference to Policy P-39, it shall be the intention of Council to consider a change of use of the existing uses identified in Appendices B and C of the land use by-law subject to the provisions of Sections 55, 73 and 74 of the Planning Act. In considering such development agreements Council shall have regard to the following:

- (a) that the change of use is of a similar scale to the existing use in terms of structures and outdoor storage and display areas;
- (b) the provision of adequate measures for the long term maintenance of the proposed development;

- (c) the effects of the development on the natural environment as contained in a report from the appropriate provincial or federal government authority; and
- (d) the provisions of Policy P-61.

In addition to existing uses within Lawrencetown, there are a number of proposed developments for which Building Permits have been issued but for which no use has yet been established. Such uses will be listed in Appendix "D" and permitted to develop in accordance with the proposal as contained in the Building Permit issued. In order for any expansion to be considered beyond that provided in the original Building Permit, Council may consider an amendment to the land use by-law to delete the use from Appendix D and add it to Appendix "B" or "C". Expansion will then be permitted, subject to the requirements of the appropriate zone.

P-40 Within the Lawrencetown Designation, it shall be the intention of Council to provide for the development of uses permitted by a current municipal Building Permit but which have not been established at the time of the adoption of this planning strategy, through inclusion in Appendix "D". Furthermore, once a use listed in Appendix "D" has been established, Council may consider initiating an amendment to the land use by-law to delete the use from Appendix D" and add it to either Appendix B or C , depending on the nature of the established use.

P-61 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this planning strategy, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations;
- (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;
 - (ii) the adequacy of on-site sewerage and water services;
 - (iii) the adequacy or proximity of school, recreation or other community facilities;
 - (iv) the adequacy of road networks leading or adjacent to or within the development; and
 - (v) the potential for damage to or for destruction of designated historic buildings and sites.
- (c) that in development agreements controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;

- (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern.
- (d) that the proposed site is suitable with respect to the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and
- (e) any other relevant matter of planning concern.

ATTACHMENT E

APPLICABLE LAND USE BY-LAW PROVISIONSPART 6: RR-1 (RURAL RESIDENTIAL) ZONE6.1 RR-1 USES PERMITTED

No development permit shall be issued in any RR-1 (Rural Residential) Zone except for the following:

Residential Uses

Single unit dwellings;
Mobile dwellings, skirted;
Auxiliary dwelling units;
Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings;
Bed and Breakfast establishments with not more than three (3) bedrooms and in conjunction with permitted dwellings;
Home businesses in conjunction with permitted dwellings but shall not include local business stores;
Existing two unit dwellings.

Resource Uses

Agricultural uses (non-intensive);
Forestry uses (but for the purposes of this Section shall not include permanent sawmills or industrial mills);
Fishing and fishing related uses.

Community Uses

Public and private parks and playgrounds;
Municipal facility uses.

Commercial and Industrial Uses

Existing community commercial uses identified in Appendix "B";
Existing industrial uses identified in Appendix "C".

6.2 RR-1 ZONE REQUIREMENTS

Unless otherwise noted, in any RR-1 Zone, where uses are permitted as Residential or Resource Uses, no development permit shall be issued except in conformity with the following:

Minimum lot area	20,000 square feet (1858.1 m ²)
Minimum lot area for lots any part of which is within 72.17 feet (22 m) of a watercourse	40,000 square feet (3716.1 m ²)
Minimum frontage	100 feet (30.5 m)
Minimum frontage: Highway No. 207	150 feet (45.7 m)
Minimum front or flankage yard	20 feet (6.1 m)
Minimum rear or side yard	8 feet (2.4 m)
Maximum lot coverage	35 per cent
Maximum height of buildings	35 feet (10.7 m)

6.3 RR-1 ZONE REQUIREMENTS: MUNICIPAL FACILITY USES

In any RR-1 Zone, no development permit shall be issued for municipal facility uses except in conformity with the following:

Minimum lot area	30,000 sq.ft. (2787.1 m ²)
Minimum lot area for lots any part of which is within 72.17 feet (22 m) of a watercourse	40,000 sq.ft. (3716.1 m ²)
Minimum frontage	100 feet (30.5 m)
Minimum frontage: Highway No. 207	150 feet (45.7 m)
Minimum front or flankage yard	30 feet (9.1 m)
Minimum rear or side yard	½ the height of main building
Maximum lot coverage	50 per cent
Maximum height	35 feet (10.7 m)

6.4 RR-1 ZONE REQUIREMENTS: PUBLIC AND PRIVATE PARKS AND PLAYGROUNDS

In any RR-1 Zone, where uses are permitted as public and private parks and playgrounds, no development permit shall be issued except in conformity with the following:

Minimum front or flankage yard	30 feet (9.1 m)
Minimum rear or side yard	30 feet (9.1 m)

6.5 OTHER REQUIREMENTS: HOME BUSINESS USES

Where home business uses in conjunction with dwellings are permitted in any RR-1 Zone, the following shall apply:

- (a) Any lot that is used for such purposes shall be the principal residence of the operator of the business, and no more than two (2) persons who are not residents of the dwelling shall be employed in the home business.
- (b) No materials or equipment shall be used except that which is reasonably consistent with that business and shall not be obnoxious or create a nuisance by virtue of noise, vibration, odour or glare.
- (c) One off-street parking space, other than that required for the dwelling, shall be provided for every three hundred (300) square feet (27.9 m²) of floor area devoted to any home business.
- (d) No more than one (1) sign shall be permitted on any lot and no such sign shall exceed twenty (20) square feet (1.9 m²) in area.
- (e) No more than twenty-five (25) per cent of the total gross floor area of the dwelling unit shall be devoted to home business uses within the dwelling, and in no case shall the total gross floor area of structures devoted to home business uses exceed one thousand (1,000) square feet (92.9 m²).
- (f) No outdoor storage or outdoor display shall be permitted in any yard within any RR-1 Zone where such yard abuts any residential use, except where a fence or a landscaped area providing a visual barrier and measuring at least six (6) feet (1.8 m) in height is provided.

6.6 OTHER REQUIREMENTS: DAY CARE FACILITY USES

Where day care facility uses in conjunction with dwellings are permitted in any RR-1 Zone, the following shall apply:

- (a) Any lot that is used for such purposes shall be the principal residence of the operator of the facility, and no more than two (2) persons who are not residents of the dwelling shall be employed in the day care facility.
- (b) One off-street parking space, other than that required for the dwelling shall be provided for every three hundred (300) square feet (27.9 m²) of floor area devoted to any day care facility.
- (c) No more than one (1) sign shall be permitted on any lot and no such sign shall exceed twenty (20) square feet (1.9 m²) in area.

6.7 OTHER REQUIREMENTS: BED AND BREAKFAST USES

Where bed and breakfast uses in conjunction with dwellings are permitted in any RR-1 Zone, the following shall apply:

- (a) Any dwelling which contains a bed and breakfast establishment shall be the principal residence of the operator of the establishment and not more than two (2) persons who are not residents of the dwelling shall be employed in the bed and breakfast establishment.
- (b) One (1) off-street parking space, other than that required for the dwelling, shall be provided for every bedroom devoted to any bed and breakfast establishment.
- (c) No more than one (1) sign shall be permitted on any lot and no such sign shall exceed twenty (20) square feet (1.9 m²) in area.

6.8 OTHER REQUIREMENTS: AGRICULTURAL USES

Notwithstanding the provisions of Section 6.2, where any barn, stable or other building intended for the keeping of animals or birds is to be erected in any RR-1 Zone, no structure shall:

- (a) be less than fifty (50) feet (15.2 m) from any side lot line;
- (b) be less than two hundred (200) feet (61 m) from any watercourse, water body, or potable water supply except a potable water supply on the same lot or directly related to the agricultural use; and
- (c) be less than two hundred (200) feet (61 m) from any residential dwelling except a dwelling on the same lot or directly related to the agricultural use.

6.9 OTHER REQUIREMENTS: FORESTRY USES

Where forestry uses are permitted in any RR-1 Zone, the following shall apply:

- (a) The combined area of all structures related to the forestry use shall not exceed one thousand eight hundred (1,800) square feet (167.2 m²).
- (b) Any area devoted to open storage shall not be permitted within any required front or side yard and shall not exceed twenty-five (25) per cent of the lot area.

6.10 OTHER REQUIREMENTS: AUXILIARY DWELLING UNIT

Where auxiliary dwellings are permitted in any RR-1 Zone, the following shall apply:

- (a) No more than thirty-five (35) per cent of the gross floor area of any dwelling shall be devoted to any auxiliary dwelling, and no more than one (1) auxiliary dwelling shall be permitted in any dwelling.
- (b) One off-street parking space shall be provided for any auxiliary dwelling.

6.11 OTHER REQUIREMENTS: EXISTING COMMUNITY COMMERCIAL USES IDENTIFIED IN APPENDIX B"

Where existing community commercial uses are permitted in any RR-1 Zone the following shall apply:

Minimum lot area	40,000 square feet (3716.1 m ²)
Minimum frontage	100 feet (30.5 m)
Minimum frontage: Highway No. 207	150 feet (45.7 m)
Minimum front or flankage yard	20 feet (6.1 m)
Minimum rear or side yard	20 feet (6.1 m)
Maximum lot coverage	35 per cent

6.12 OTHER REQUIREMENTS: GROSS FLOOR AREA

The gross floor area of all community commercial buildings on any lot shall not exceed four thousand (4,000) square feet (371.6 m²), including any floor area devoted to a permitted dwelling unit.

6.13 OTHER REQUIREMENTS: ENVIRONMENTAL

No materials or equipment shall be used which creates a nuisance by virtue of noise, vibration, smell or glare or which is obnoxious.

6.14 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

Where any portion of any lot used for a community commercial use, is to be used for open storage or outdoor display, the following shall apply:

- (a) No open storage shall be permitted within any front yard.
- (b) No outdoor display shall be located within ten (10) feet (3.1 m) of any front lot line.
- (c) No open storage or outdoor display shall be permitted in any yard where such yard abuts any residential use, except where a fence or a landscaped area providing a visual barrier and measuring at least six (6) feet (1.8 m²) in height is provided.

6.15 OTHER REQUIREMENTS: REDUCED FRONT YARD

Notwithstanding the provisions of Section 6.11, the minimum front yard may be reduced to fifteen (15) feet (4.6 m) where no parking or loading facilities are located within the front yard.

6.16 OTHER REQUIREMENTS: REDUCED PARKING REQUIREMENTS

Notwithstanding the provisions of Section 6.11 where the main building is constructed in accordance with the provisions of Section 6.15, the overall parking requirements for commercial uses within the structure may be reduced by a maximum of ten (10) per cent.

6.17 OTHER REQUIREMENTS: EXISTING SERVICE STATIONS

- (a) Notwithstanding the provisions of Sections 6.1 and 6.11, where an existing service station is located in any RR-1 Zone, the requirements of Part 9 shall apply, except in the case of the expansion of the existing service station, gas pumps and gas pump islands, auto parts sales operation and convenience store, in which case subsection 9.6(g) shall not apply.
- (b) Notwithstanding the provisions of Section 6.12, where an existing service station is located in any RR-1 Zone, it shall not exceed (7,000) square feet.

6.19 OTHER REQUIREMENTS: EXISTING INDUSTRIAL USES LISTED IN APPENDIX "C"

Where existing industrial uses are permitted in any RR-1 Zone, the provisions of the appropriate Industrial zone as indicated in Appendix "C" shall apply.

APPENDIX "B": EXISTING COMMUNITY COMMERCIAL USES

Notwithstanding anything else in this By-law, the following existing uses shall be permitted uses and shall be permitted to be expanded, repaired or replaced subject to the appropriate provisions of the RR-1 Zone (Sections 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17) but shall not be permitted to change to any other use other than a use permitted in the zone in which they are located.

<u>NAME</u>	<u>USE</u>	<u>LRIS INDEX NUMBER</u>
Magda Ritter (Papagayo Parrot World)	Parrot Breeding and Boarding Facilities	40314577
Airedale Investments Ltd.	Vet Clinic, Kennel, Pet Supplies	461822
Michael Smith Marlene Smith (Mikes Meats & Groceries; Lyons Take-Out)	Food and Convenience Store; Video Outlet; Take-Out Restaurant	40447138
Edward Jarvis Beverley Jarvis (Terra Marina Kennels)	Kennel	439869
Richard Hines Doris Hines (Eastern Shore Trading Post Ltd.; Art Hines Antiques)	Antiques, Used Furniture and Crafts; Machine Shop and Welding; Woodworking	441048
George Thomson Eva Thomson	Antiques	597252
N.S. Department of Lands and Forests (MacDonald House)	Craft Store; Restaurant; Bed and Breakfast; Day Care	40310948
Adriana Speelman (Atlantic Dutch Shop)	General Imported Goods; Stamp Services	40303695
Irving Oil Limited	Service Station and Auto Parts Sales Operation; Convenience Store	439356
Robert Devonport	Convenience Store	597229

<u>NAME</u>	<u>USE</u>	<u>LRIS INDEX NUMBER</u>
Elva Corkum (Calvin Sharpe Auto)	Auto Sales	40240541
John Friis	Cottages; Crafts	611319
Simon and Susan Melrose	Bed and Breakfast	482877
John James Marshall Cheryl Lynn Marshall (Marco Maintenance)	Auto Sales	40493538
Kathryn Thomas (The Craftsman's Art Supply Ltd.)	Mail Order Store	490102
Michelini Breton (Mimi's Paintings of Nova Scotia)	Arts and Crafts; Fashion Design and Productions; General Imported Goods	466052

APPENDIX "D": PROPOSED USES FOR WHICH BUILDING PERMITS HAVE BEEN ISSUED

Notwithstanding anything else in this By-law, the following uses for which Building Permits have been issued shall be permitted uses to the extent specified on the Building Permit and subject to any other requirements of any by-law in force within the Municipality or any statute or regulation of the Province of Nova Scotia.

<u>NAME</u>	<u>USE</u>	<u>LRIS INDEX NUMBER</u>
Michael Edwards	Lodge and Cottages	597062
<i><u>William & Laura Sharpe</u></i> <i><u>(Anthony Amyoony)</u></i>	<i><u>Convenience Store</u></i>	<i><u>460915</u></i>
Airedale Investment Ltd.	Offices	461822
Vantage Estates Ltd. (Vantage Services Ltd.)	Offices	490326
Brenhold Limited	Strip Mall	490409