



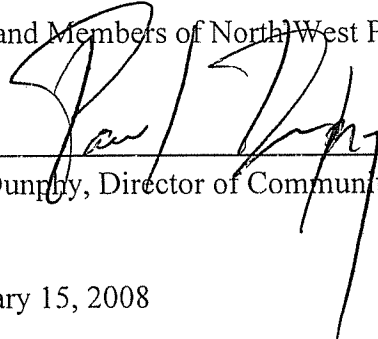
PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

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**North West Planning Advisory Committee**  
**March 5, 2008**

**TO:** Chair and Members of North West Planning Advisory Committee

**SUBMITTED BY:**

  
Paul Dunphy, Director of Community Development

**DATE:** February 15, 2008

**SUBJECT:** Case 00929: Development Agreement, Sackville Drive

**SUPPLEMENTARY REPORT**

**ORIGIN:**

An application by Keizer's Auto Body Shop Limited to amend the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Sackville to permit an auto body shop by development agreement.

A staff report on the development agreement application, dated September 17, 2007, was presented to North West Community Council. A public hearing was scheduled for December 4, 2007 but has cancelled due to the lack of a quorum. Prior to re-scheduling a new public hearing the applicant has revised their proposal.

**RECOMMENDATIONS:**

It is recommended **North West Community Council:**

1. Give Notice of Motion to consider the proposed development agreement as provided in Attachment A of this report and schedule a public hearing;
2. Approve the proposed development agreement as provided in Attachment A of this report to permit an autobody shop between 1676 and 1702 Sackville Drive, Middle Sackville; and
3. 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 agreements 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.

## **EXECUTIVE SUMMARY**

The applicant, Keizer's Auto Body Limited has requested to enter into a development agreement for an auto body shop on Sackville Drive near Lively subdivision.

A Public Meeting was held on November 20, 2006 to discuss the auto body shop proposed on the site. Many issues were raised at this meeting, and the primary concern was the compatibility of the proposal and environmental issues. The Halifax Watershed Advisory Board reviewed the proposal and made a number recommendations, many of which have been included in the draft development agreement (Attachment A). Staff are recommending the proposed development agreement be approved by North West Community Council.

## **BACKGROUND:**

### **Location, Designation, Zoning and Surrounding Land Uses:**

- The subject site is located on a 1.2 hectare (3 acre) parcel of land situated between 1702 and 1676 Sackville Drive, east of the intersection of Sackville Drive and Rosemary Drive in Middle Sackville (Map 1).
- The property is designated (Urban Residential and Rural Residential) and zoned R-6 (Rural Residential) under the Sackville MPS and LUB (Maps 1 and 2).
- The property is vacant and located adjacent several commercial uses and immediately adjacent one single family dwelling.
- In 2007, Regional Council approved MPS amendments that now permits Community Commercial (C-2) Zone uses and auto body shops by development agreement within Middle Sackville including the subject property.

### **Enabling Policy**

On December 4, 2007 Regional Council approved a MPS (Policy UR-31) amendment which now permits Council to consider Community Commercial (C-2) Zone uses and autobody shops by development agreement in Middle Sackville, including the subject property (Attachment B). Policy UR-31 addresses such things as compatibility with adjacent land uses, mitigation of negative impacts, design of the site, hours of operation and maintenance. The intent of the policy is to allow commercial uses within Middle Sackville while minimizing land use impacts on adjacent residential areas.

Initially, the MPS amendment and a draft development agreement were to be reviewed at a joint public hearing between Regional Council and North West Community Council on December 4, 2007. However, the public hearing did not include a review of the draft development agreement as there were not enough North West Community Council members present to achieve quorum. Therefore, a separate public hearing for the development agreement was required. Prior to Community Council setting a date for a new public hearing, the applicant has made changes to their proposal which impacts staff review and the draft development agreement.

### **Proposal**

Keizer's Auto Body Limited want to relocate their current autobody shop from the adjacent residential neighbourhood on Woody's Lane to the subject property which is located within a more

commercially developed section of Sackville Drive. Staff's report, dated September 17, 2007, outlines the applicant's proposal and staff review in detail.

The applicant wishes to amend their proposal by:

- (i) revising building plans;
- (ii) removing of the basement level (new storage compound);
- (iii) improving landscaping;
- (iv) adding additional parking (at grade);
- (v) expanding the issues under the non-substantive amendment section of the development agreement

### **DISCUSSION:**

Staff has reviewed the proposed amendments relative to the original proposal and have determined that the revised elements of the proposal are still consistent with the intent of the MPS and Policy UR-31. Staff review of the proposed amendments are as follows:

#### **(i) Revised Building Plans:**

The revised proposal removes the basement level and creates two mezzanine levels within the building. The revised building and floor plans maintain the same scale as previously presented and do not increase the height or footprint of the building.

#### **(ii) Removal of Basement Level:**

The removal of the basement level has necessitates the creation of an outdoor storage compound. The compound will be located behind the building and shall be surrounded by opaque fencing and extensive landscaping to minimize the impact on the surrounding community.

#### **(iii) Improved Landscaping:**

The revised development agreement includes improved landscaping clauses which will result in a significant increase in the number of new trees to be planted on the site.

#### **(iv) Additional Parking:**

The revised proposal includes more at grade parking due to the removal of the basement level. The additional parking should not negatively impact adjacent property owners due to its location and the inclusion of additional landscaping.

#### **(v) Non-Substantive Amendments:**

Parking standards, hours of operation, and signage have been added to the non-substantive amendment section of the development agreement. This amendment would allow Council to make a change to these issues by resolution of Council, not by public hearing. Staff are of the opinion that the requested amendments are minor in nature and Council should have the option to consider amendments by Resolution of Council instead of public hearing.

### **Conclusion**

Based upon staff's previous analysis contained within the September 17, 2007 staff report and the proposed amendments contained in this report, staff are of the opinion that the revised proposal is consistent with the Municipal Planning Strategy and Policy UR-31. Therefore, staff recommend that North West Community Council approve the proposed development agreement as contained in Attachment A of this report to permit an autobody shop on the property situated between 1676 and 1702 Sackville Drive, Middle Sackville.

### **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 this Agreement and the work 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 proposed development agreement. This is the recommended course of action.
2. Council may choose to approve the proposed amending development 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 development agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended as Staff are satisfied that the proposed agreement is consistent with the policies and intent of the MPS.

### **ATTACHMENTS:**

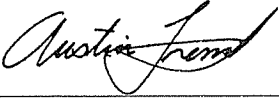
Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Attachment A	Proposed Development Agreement
Attachment B	Applicable MPS Policy

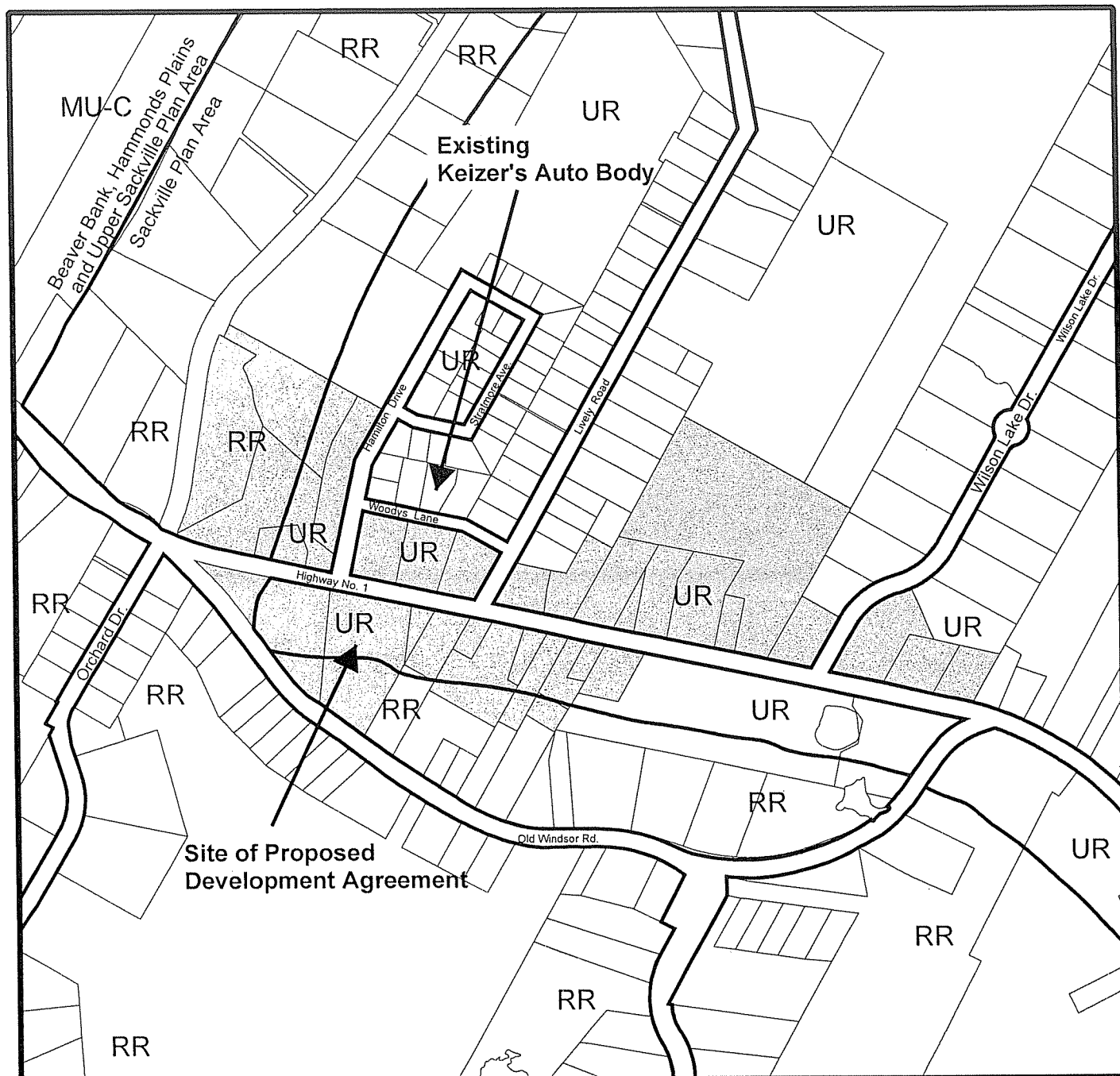
### **Available Upon Request:**

Staff Report for Case 00929 dated September 17, 2007

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: Andrew Bone, Senior Planner, 869-4226

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



Map 1  
Generalized Future Land Use

**HALIFAX**  
REGIONAL MUNICIPALITY  
Planning Services



**Sackville Plan Area Designations**

UR Urban Residential Designation  
RR Rural Residential Designation

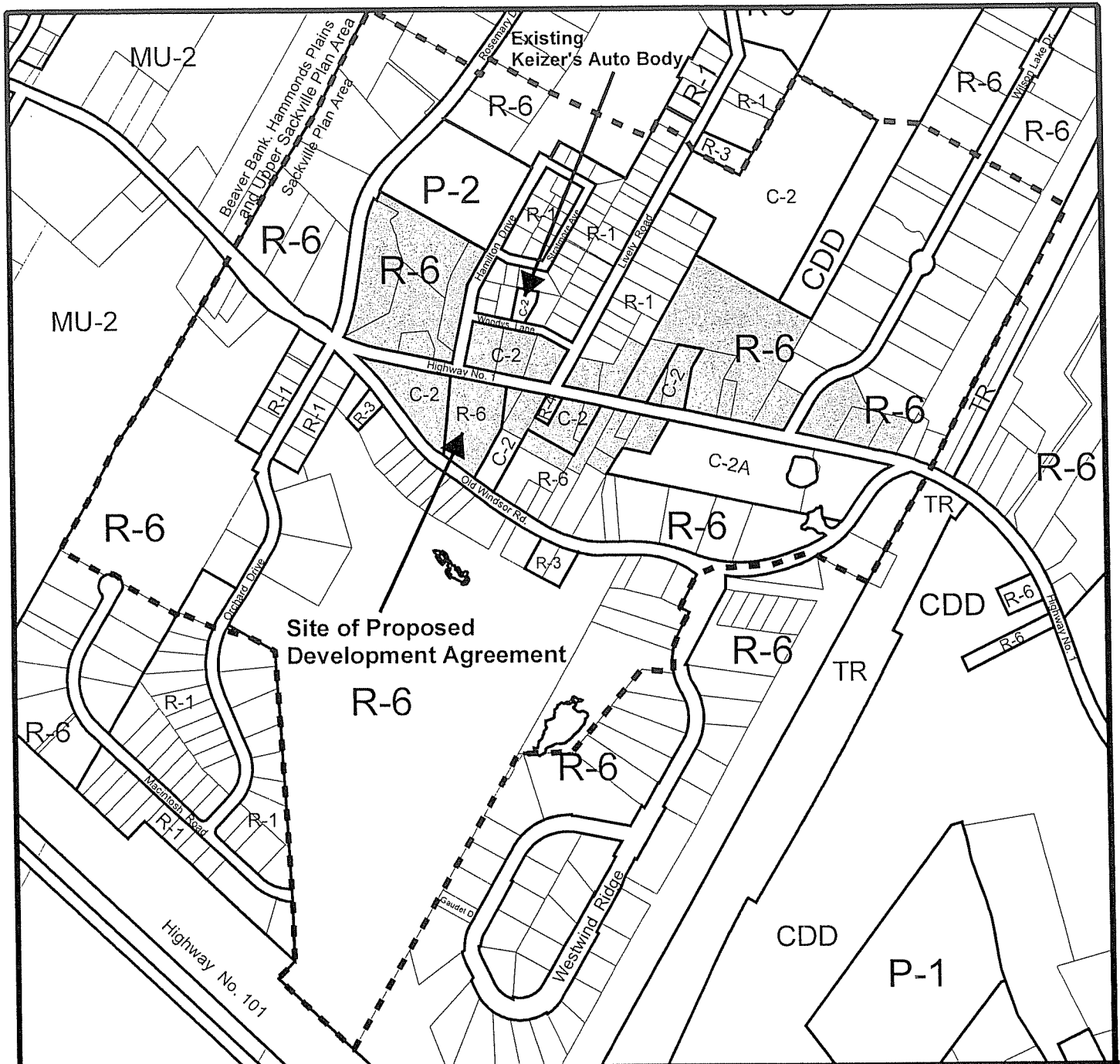
**Beaver Bank, Hammonds Plains  
and Upper Sackville Plan Area Designations**

MU-C Mixed Use C Designation



Area affected by Existing MPS Policy UR-31





## Map 2 Zoning



Area affected by Existing MPS Policy UR-31



Notification Area

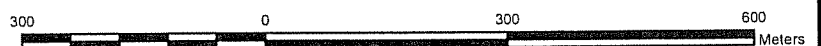
### Sackville Plan Area Zones

- R-1 Single Family Dwelling Zone
- R-3 Mobile Dwelling Zone
- R-4 Multiple Unit Dwelling Zone
- R-6 Rural Residential Zone
- TR Transportation Reserve
- C-2 Community Commercial Zone
- C-2A Minor Commercial Zone
- P-2 Community Facility Zone
- CDD Comprehensive Development District

### Beaver Bank, Hammonds Plains and Upper Sackville Plan Area Zones

- MU-2 Mixed Use 2 Zone

**HALIFAX**  
REGIONAL MUNICIPALITY  
Planning Services



**Attachment A**  
**Proposed Development Agreement**

THIS AGREEMENT made this      day of      , 2008,

BETWEEN:

**KEIZER'S AUTO BODY SHOP LIMITED,**  
a body corporate, in the Halifax Regional Municipality,  
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at PID #40608549, Sackville Drive, Middle Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for an auto body shop on the Lands pursuant to the provisions of the Municipal Government Act and pursuant to Policy UR-31 of the Sackville Municipal Planning Strategy and Section 3.6 of the Sackville Land Use By-law (hereinafter called the "Agreement");

AND WHEREAS a condition of the granting of approval of Council is that the Developer enter into an agreement with the Halifax Regional Municipality;

AND WHEREAS the North West Community Council approved this request at a meeting held on [INSERT - Date], referenced as Municipal Case Number 00929;



## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Sackville Land Use By-law and the Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer.

### **1.4 Conflict**

Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

Where the written text of this agreement conflicts with information provided in the Schedules attached to this agreement, the written text of this agreement shall prevail.

### **1.5 Costs, Expenses, Liabilities and Obligations**

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.

## **1.6 Provisions Severable**

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: DEFINITIONS**

- 2.1** All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law.

## **PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS**

### **3.1 SCHEDULES**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, generally in conformance with the Schedules attached to this Agreement and the plans filed in the Halifax Regional Municipality as Case Number 00929

The schedules are:

- A Legal Description of the Lands
- B Site / Landscaping Plan
- C Elevations
- D Floor Plan(s)
- E Lighting Guidelines

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the issuance of any municipal permits, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional/Commercial) process.
- 3.2.2 Prior to the issuance of a Grade Alteration Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
  - (a) Post securities in accordance with Section 5.4 of this Agreement;
- 3.2.3 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
  - (a) Lighting Plan in accordance with Section 3.7 of this Agreement;
  - (b) Landscaping Plan in accordance with Section 3.8 of this Agreement; and
  - (c) Streets and Services Permit for the commercial driveway access to Sackville Drive.

- 3.2.4 Prior to the issuance of a Municipal Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
- (a) Certification from a qualified professional engineer that the Developer has complied with the required Erosion and Sedimentation Control Plan as required pursuant to this Agreement;
  - (b) Certification from a qualified professional engineer indicating that the Developer has complied with the Stormwater Management Plan required pursuant to this Agreement;
  - (c) Certification from a qualified professional indicating that the Developer has complied with the Landscaping Plan required pursuant to this Agreement;
  - (d) Certification from a qualified professional indicating that the Developer has complied with the Lighting Plan required pursuant to this Agreement; and
- 3.2.5 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 Municipal 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.
- 3.2.6 Where the written text of this Agreement conflicts with information provided in the attached Schedules, the written text of this Agreement shall prevail.

### **3.3 GENERAL DESCRIPTION OF LAND USE**

The use(s) of the Lands permitted by this Agreement are the following:

- (a) Auto Body Shop and any use permitted within the Community Commercial (C-2) Zone of the Sackville Land Use By-law, as amended from time to time, subject to the terms and conditions of this Agreement.
- (b) Any use permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Sackville as amended from time to time.

### **3.4 DETAILED PROVISIONS OF LAND USE**

- 3.4.1 All auto body work shall be performed within the building.
- 3.4.2 Non-operating or derelict vehicles or vehicle parts, shall not be permitted to be stored, kept or placed on any portion of the Lands except within the building. Notwithstanding the above, the storage of scrap metal/parts shall be permitted in appropriate refuse bins.

- 3.4.3 The storage compound at the rear of the building may be used for temporary storage of repaired vehicles or vehicles waiting for repair provided auto fluids are contained within the vehicles.
- 3.4.4 All paint booths and preparation stations shall have air filtration components such as, but not limited to, a water wash system to filter odours.
- 3.4.5 Commercial use of the Lands beyond the limit of development as shown on Schedule "B" shall not be permitted. This Agreement does not grant any new rights to the existing residential lands fronting on Old Windsor Road as shown on Schedule "B".

### 3.5 SITING AND ARCHITECTURAL REQUIREMENTS

- 3.5.1 The Developer agrees that the building constructed on the Lands shall generally comply with the following as generally illustrated on Schedules "B", C and D:

#### Siting

- 3.5.2 The siting, bulk and scale of the building shall comply with the following:
  - (a) Maximum footprint of the building shall not exceed ten thousand square feet (929 m<sup>2</sup>);
  - (b) Building shall meet the minimum setback requirements of the Community Commercial ©-2) Zone of the Land Use By-law; and
  - (c) Maximum height of the building shall not exceed 25 feet (7.62 meters);

#### Architectural

- 3.5.3 The main entrance to the building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. At least one main door shall face the Sackville Drive. Service/delivery entrances shall be integrated into the design of the building and shall not be a predominate feature.
- 3.5.4 The facades facing the Sackville Drive shall be designed and detailed as primary façade. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.
- 3.5.5 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.) as identified on the Schedules.
- 3.5.6 Exterior building materials shall not include vinyl siding but may include any one or more of the following:
  - clay masonry;
  - noncombustible cladding;
  - prefabricated metal siding;

- clapboard;
- concrete split face masonry;
- cut stone masonry;
- random stone masonry; or
- acceptable equivalent in the opinion of the Development Officer.

- 3.5.7 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.5.8 All windows shall be vertical in orientation, or square. If shutters are used, they must be sized to fit the opening and must be provided for all windows. Windows shall be vertically proportioned, where possible. Windows should be framed with painted or stained wood, prefinished metal or vinyl.
- 3.5.9 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building facade.
- 3.5.10 The Developer shall be entitled to minor modifications to the architectural requirements of this section provided the changes are minor in nature, in the opinion of the Development Officer and comply with the intent to this Agreement.

### **3.6 PARKING, CIRCULATION AND ACCESS**

- 3.6.1 The internal driveway layout and the number and layout of parking spaces on the Lands shall be as generally illustrated on Schedule "B". The Developer agrees that the parking on the Lands shall comply with the following:
- (a) All parking areas, driveways, circulation aisles and pathways shall have a finished hard surface such as asphalt, concrete, paving blocks or an acceptable equivalent in the opinion of the Development Officer.
  - (b) Where parking lots are to be delineated by curbing, such curbing shall not be asphalt.
  - (c) Development Officer may approve minor changes to the parking and circulation layout as illustrated on Schedule "B".
  - (d) The limits of the parking area shall be defined by fencing and/or landscaping and/or curb.
  - (e) The Developer shall provide a minimum of thirty-six (36) parking spaces for employees, staff, and storage for the auto body repair shop. The parking shall generally comply with Schedule "B". Should the use of the building change from an auto body / repair shop or if additional uses are added to the building, the change in use or new use shall require the number of parking spaces required by the Sackville Land Use By-law for the new or changed use.

### **3.7 BUILDING AND SITE LIGHTING**

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.7.2 All lighting fixtures shall be fully shielded.
- 3.7.3 The Developer shall prepare an exterior lighting plan and submit it to the Development Officer for review to determine compliance with this Agreement. The lighting plan shall contain, but shall not be limited to, the following:
- (a) Plans indicating the location on the premises and the type of illuminating devices, fixtures, lamps, supports, other devices;
  - (b) Description of the illuminating devices, fixtures, lamps, supports and other devices. This description may include, but is not limited to, manufacturers' catalog cuts and drawings including sections where required;
  - (c) The lighting plan and description shall be sufficient to enable the Development Officer to ensure compliance with the requirements of this section will be secured. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the Developer shall submit evidence of compliance by certified test reports as performed by a recognized testing lab;
  - (d) The lighting plan and all lighting fixtures shall comply with Schedule "E" Lighting Guidelines; and
  - (e) Should the applicant desire to substitute outdoor light fixtures or lamps and install them on the Lands after a permit has been issued, the Developer shall submit all changes to the Development Officer for approval, with adequate information to assure compliance with this clause.

### **3.8 LANDSCAPING**

- 3.8.1 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.8.2 Prior to the issuance of a Construction Permit, the Developer agrees to provide a Landscaping Plan which complies with the provisions of the Agreement and generally conforms with the overall intentions of the conceptual Landscaping Plan shown on Schedule "B". The Landscaping Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects).
- 3.8.3 The Development Officer may approve minor modifications to the species, size and location of plant stock, provided such modifications, in the opinion of the Development Officer, enhance the attractiveness and visual appearance of the Lands.

- 3.8.4 Planting details for each type of plant material proposed on the Landscaping Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 3.8.5 Trees and shrubs, fifty percentage of which shall be coniferous, shall be provided adjacent the eastern and southern property lines of the Lands and as generally shown on Schedule "B" for screening purposes prior to the issuance of a Municipal Occupancy Permit. Twenty-five percent of these trees shall meet the following minimum specifications:
  - (a) Deciduous trees - a minimum of 60 mm caliper (2.4 inch diameter).
  - (b) Coniferous trees- a minimum of 1.5 m (5 ft.) high
- 3.8.6 All disturbed areas shall be reinstated to original condition or better.
- 3.8.7 The Developer shall provide a solid board wood fencing, or equivalent, a minimum of five feet in height but no greater than six feet in height between the building and the adjacent residential properties as identified on Schedule "B".
- 3.8.8 Notwithstanding Schedule "B", the chain link fencing identified around the storage compound shall be replaced with solid board wood fencing, a minimum of six feet in height.
- 3.8.9 The Developer may maintain the existing encroaching fence (constructed by others) along the eastern property line.
- 3.8.10 Notwithstanding Schedule "B", additional fencing shall be permitted.
- 3.8.11 All retaining wall systems are to be identified on the Landscaping Plan including the height and type of fencing proposed in conjunction with it. A construction detail of any fence and wall combination should be provided and certified by a professional engineer.
- 3.8.12 Prior to issuance of an Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Atlantic Provinces Association of Landscape Architects certifying that all landscaping has been completed according to the terms of this Agreement.
- 3.8.13 Notwithstanding the above the Municipal Occupancy Permit may be issued provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Municipal Occupancy Permit, the Municipality may use the deposit

to complete the landscaping as set out in Schedule "B" and the approved Landscaping Plan. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### **3.9 SIGNS**

The sign requirements shall be accordance with the Sackville Land Use By-law as amended from time to time, and the Temporary Sign By-law.

### **3.10 CONSTRUCTION TRAILER**

A temporary construction trailer shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction of the building in accordance with this Agreement. The construction trailer shall be removed from the Lands prior to the issuance of the Municipal Occupancy Permit.

### **3.11 OUTDOOR STORAGE AND DISPLAY**

3.11.1 No outdoor storage shall be permitted on the Lands.

3.11.2 Propane tanks and electrical transformers shall be located in the side or rear yard and secured in accordance with the applicable approval agencies. These facilities shall be screened by means of opaque fencing/masonry walls with suitable landscaping.

### **3.12 HOURS OF OPERATION**

3.12.1 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time and the following:

Monday through Friday	7a.m. through 8 p.m.
Saturday	8 a.m. through 6 p.m.
Sunday	Closed

3.12.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7am and 9pm inclusive.

### **3.13 MECHANICAL EQUIPMENT**

3.13.1 Mechanical equipment shall be permitted on the roof provided the equipment is screened or incorporated into the architectural treatments and roof structure and not visible from Sackville Drive or adjacent residential properties.

3.13.2 Any mechanical equipment located at grade shall be screened from view with a combination of fencing, landscaping or building elements.



- 3.13.3 All mechanical equipment shall be sited in a manner as to minimize the disturbance to adjacent residential properties. Furthermore no mechanical equipment shall be located between the commercial building and the adjacent residential properties and no exhaust fans shall be permitted to face the adjacent residential properties.

### **3.14 SOLID WASTE FACILITIES**

- 3.14.1 Appropriate refuse bin(s) for recycling/sorting shall be required. Where automotive fluids are disposed of, the disposal shall meet the requirements of the Environment Act and related regulations.
- 3.14.2 Refuse containers and waste compactors shall be confined to the loading area of the building, and shall be screened from public view where necessary by means of opaque fencing/masonry walls with suitable landscaping.
- 3.14.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from public view. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing/masonry walls with suitable landscaping.

### **3.15 MAINTENANCE**

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

### **3.16 SUBDIVISION**

The Developer shall be permitted to subdivide a single residential lot fronting on Old Windsor Road from the property as identified on Schedule "B". The lot shall meet all requirements of the Land Use By-law, Regional Subdivision By-law and any other agency as required. Land Uses permitted on this portion of the Lands shall be subject to the requirements of the Land Use By-law and this Agreement. The Developer shall request that Council discharge the residential lot from the Lands prior to permits being issued for the construction of any building or establishment of any use on the lot.

## **4.0 STREETS AND MUNICIPAL SERVICES**

- 4.1 All construction shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.

- 4.2 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, 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 Development Officer, in consultation with the Development Engineer.
- 4.3 The water distribution system shall conform with all design and construction requirements of the Halifax Regional Water Commission.
- 4.4 The sanitary sewer system shall conform with the construction standards of the Municipal Service Systems Manual, unless otherwise acceptable to the Development Engineer.
- 4.5 Occupancy for the building shall not be permitted until sewer and water services are available to the building. Installation and access to municipal water may take place when the water main on Sackville Drive is constructed, tested and taken into plant by the HRWC.

## 5.0 ENVIRONMENTAL PROTECTION MEASURES

### *Stormwater Management Plans and Erosion and Sedimentation Control Plans:*

- 5.1 The Developer shall engage a qualified professional to prepare a Stormwater Management Plan which identifies structural and vegetative stormwater management measures such as, infiltration, retention, and detentions controls, wetlands, vegetative swales, filter strips, and buffers to minimize any significant adverse impacts on receiving watercourse during and after construction. The plans shall indicate the sequence of construction, the areas to be disturbed, all proposed erosion and sedimentation control measures and stormwater management measures, including a monitoring/sampling program, which are to be in place prior to and during development of that phase.
- 5.2 The Developer agrees to have prepared by a Professional Engineer, an Erosion and Sedimentation Control Plan that complies with Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by the Nova Scotia Department of the Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.
- 5.3 The Developer agrees to have prepared by a Professional Engineer and submitted to the Municipality for review and approval by the Development Engineer a detailed Site/Grading Plan. No work is permitted on the site until the requirements of this clause have been met and implemented unless otherwise stated in this Agreement.
- 5.4 Prior to the issuance of a Topsoil Permit, the Developer shall post security in the amount of \$2500 in addition to the fees required for the Topsoil Permit, to ensure that all environmental protection measures are properly implemented and maintained. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be

returned to the Developer at the time of issuance of the final Municipal Occupancy Permit or release of Landscaping security bond whichever is later, provided all measures for environmental protection have been implemented to the satisfaction of the Development Officer, in consultation with the Development Engineer, and that all disturbed surfaces have been permanently reinstated, and that all landscaping has become established. Should the Developer fail to complete the Erosion and Sedimentation Control measures to the satisfaction of the Development Officer, in consultation with the Development Engineer shall be cashed and deposited to the Municipality.

- 5.5 The Developer agrees to construct at its own expense the Stormwater Management System pursuant to this section. The Developer shall provide certification from a Professional Engineer that the system, or any phase thereof, has been constructed in accordance with the approved design.
- 5.6 If the Developer fails at any time during any site work or construction to fully conform to the approved plans as required under Section 5, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the Erosion and Sedimentation Control Plan, Grading Plan and Stormwater Management Plan.

*Erosion Control*

- 5.7 No Municipal Occupancy Permit shall be issued unless the Lands are either fully stabilized with sod or is temporarily stabilized and maintained with a covering of plastic or other such measures as determined and approved through the requirements of Section 5. Any temporary stabilization of the Lands shall be replaced with final landscaping (top soil and sod) within six months of the issuance of the Municipal Occupancy Permit. The Developer shall be responsible for ensuring that any temporary stabilization materials are replaced and/or maintained on an as-required basis to ensure that exposed soil is adequately stabilized at all times.
- 5.8 The Developer agrees, at its own expense, to provide stormwater treatment devices where stormwater is discharged to a watercourse.
- 5.9 Prior to installing any stormwater treatment chambers or devices on the Lands, which is to be privately maintained, the Developer shall submit a schedule of future inspection and cleaning prepared by a professional engineer based on the manufacturer specifications. When approved by the Development Officer this schedule shall be undertaken for as long as this Agreement is in force.
- 5.10 All removed contaminants shall be disposed of according to all applicable guidelines and regulations of the Nova Scotia Department of Environment and Labour. The Developer shall submit to the Development Officer certification that the work has been done following each inspection/clean-out.

- 5.11 Floor drains in the building shall be diverted to an oil/water separator prior to discharge to municipal services or watercourses.
- 5.12 Vehicle washing shall only take place on an impervious surface and within the building.
- 5.13 Any fuel stored on-site for the purpose of heating the building shall have a protective catchment device.

## **6.0 AMENDMENTS**

### **6.1 Substantive Amendments**

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

### **6.2 Non-Substantive Amendments**

The following items are considered by both parties to be not substantive and may be amended by resolution of the Council.

- (a) Minor changes to Schedules B, C and D not permitted by this Agreement
- (b) Parking standards;
- (c) Hours of operation;
- (d) Signage;
- (e) The granting of an extension to the date of commencement of construction as identified in Section 8.3 of this Agreement;
- (f) The length of time for the completion of the development as identified in Section 8.4 of this Agreement; and
- (g) Discharge of this Agreement from any residential lot subdivided under the terms of this Agreement.

In considering the approval of a non-substantive amendment under Section 6.2, property owners within 500 feet of the site shall be informed by mail at least 10 days in advance of the proposed amendment being considered by Council.

## **7.0 ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **7.1 Enforcement**

The Developer agree 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 allow for such an inspection during any reasonable hour within one day of receiving such a request.

## **7.2 Failure to Comply**

If the Developer fail to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer 14 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 defense based upon the allegation that damages would be an adequate remedy;
- (b) the Municipality may enter onto the Lands 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 Lands 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.

## **7.3 Environmental Protection**

In matters concerning environmental protection and mitigation the Municipality shall be entitled to draw in whole or in part on the security as required under this Agreement and use the proceeds therefrom to ensure that the protection measures are in place as required pursuant to the terms of this Agreement.

# **8.0 REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

## **8.1 Registration**

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

## **8.2 Subsequent Owners**

- 8.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Agreement until this Agreement is discharged by the Council.
- 8.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

### **8.3 Commencement of Development**

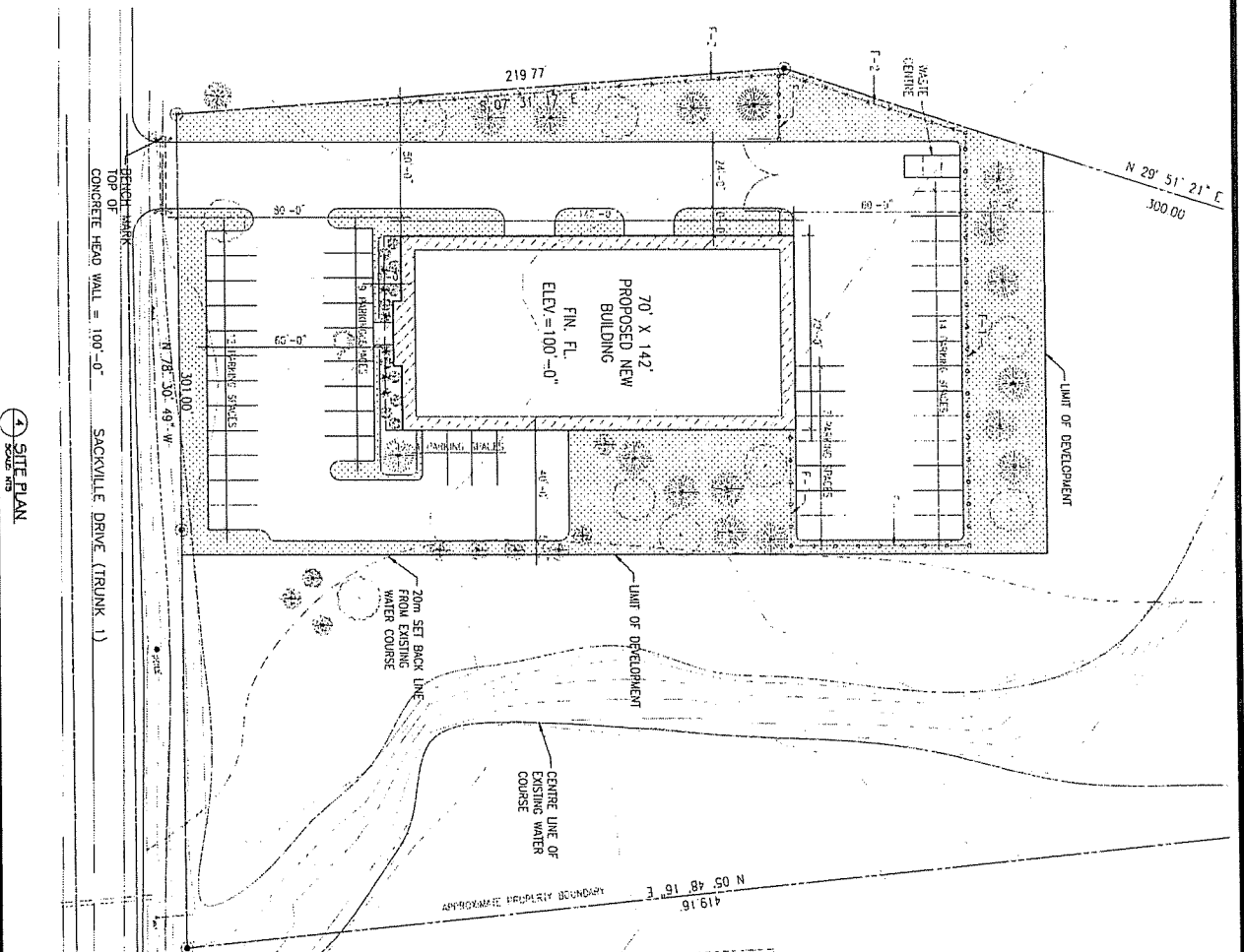
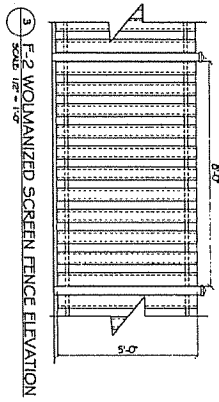
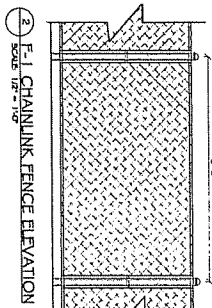
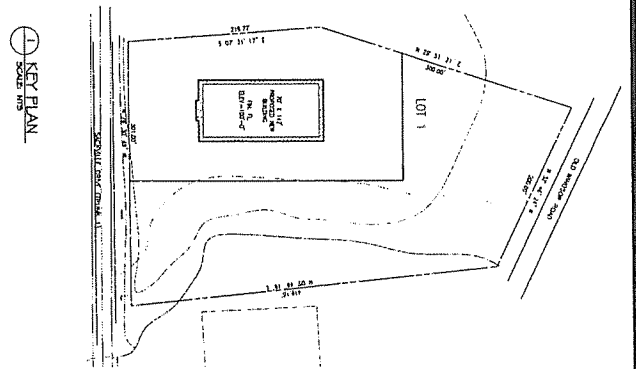
- 8.3.1 In the event that construction on (or development of) the Lands has not commenced within five years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement 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.
- 8.3.2 For the purposes of this section, commencement shall mean completion of the footings for the proposed building.
- 8.3.3 If the Developer fails to complete the development, or after seven 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; or
  - (c) discharge this Agreement.

### **8.4 Completion of development**

Upon the completion of the development or portions thereof, or within/after ten years from the date of registration of this Agreement with 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; or
- (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 for Sackville, as may be amended from time to time.





Schedule "B"  
Site Plan

Feb. 19, 2008

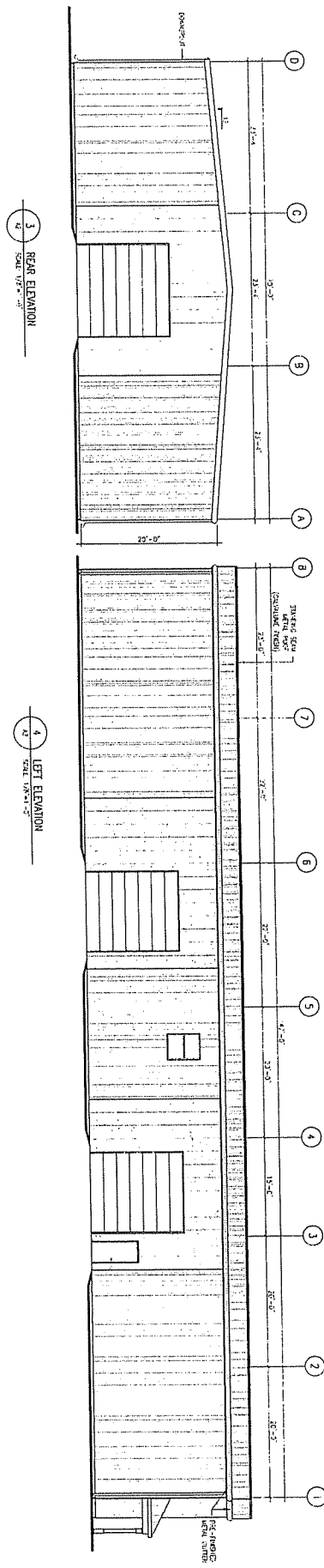
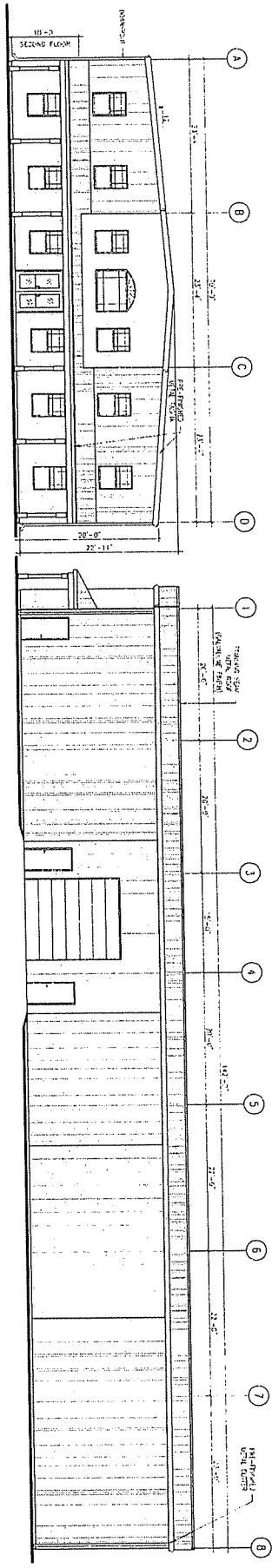
HRM does not guarantee the accuracy of any base map information on this map.

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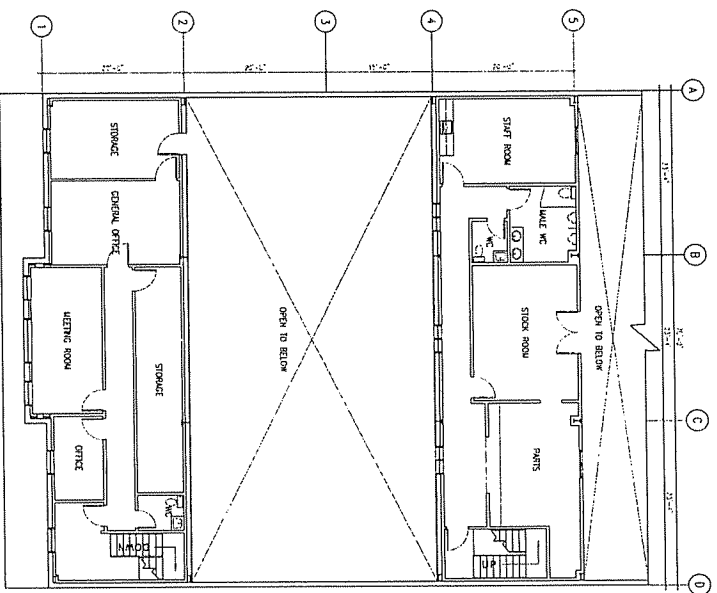
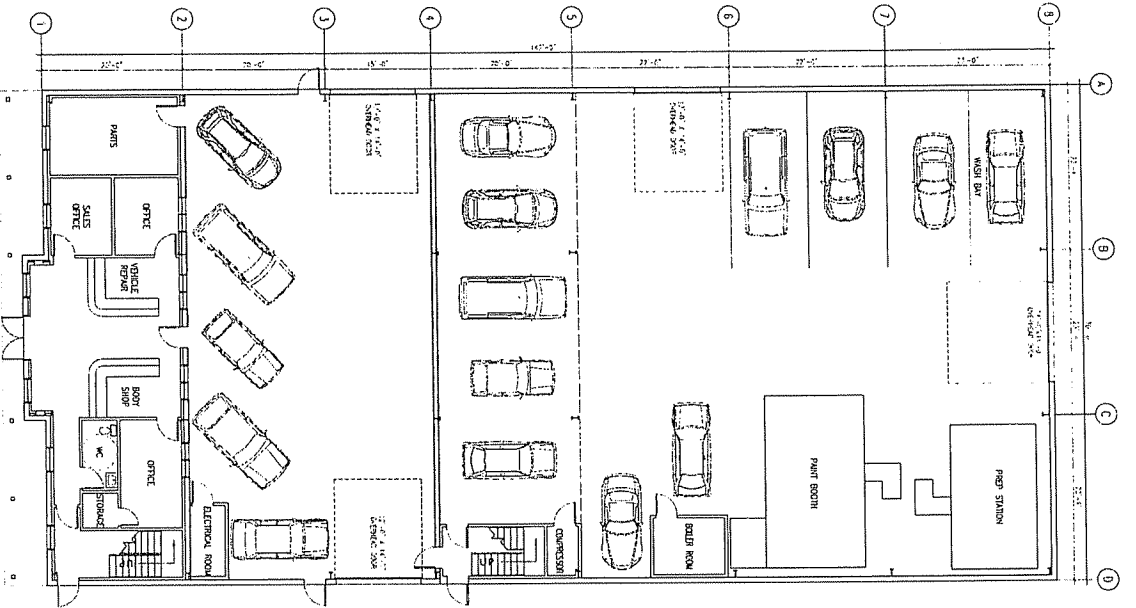
REGIONAL MUNICIPALITY  
Planning Services





# Schedule "C" Elevations

# Schedule "D" Floor Plans



Feb. 19, 2008

HRM does not guarantee the accuracy of any base map information on this map.

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## **Schedule E - Lighting Guidelines**

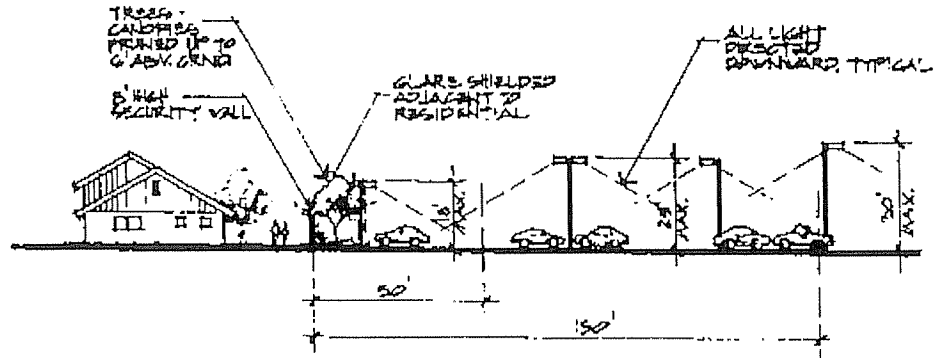
### **1. Purpose**

The intent of these guidelines are to establish lighting levels for various typical uses to promote visual surveillance, reduce the potential for criminal activity, and meet energy constraints.

### **2. Lighting Configuration**

- (a) The mounting of light fixtures shall be governed by the following:
  - (I) Building mounted light fixtures shall be attached only to walls and the top of the fixture shall not be higher than the top of the parapet or roof, whichever is greater; and
  - (ii) Freestanding light fixtures shall not exceed eighteen (18) feet in height in any residential zone or within fifty (50) feet of, any residential used or zoned property; and
  - (iii) Freestanding light fixtures shall not exceed twenty-five (25) feet in height within fifty (50) to one hundred fifty (150) feet of any residential used or zoned property; and
  - (iv) Freestanding light fixtures shall not exceed thirty (30) feet in all other locations; and
  - (v) For the purpose of this requirement, height shall be measured from the top of a light fixture to the adjacent grade at the base of the support for that light fixture.
- (b) Transitional lighting shall be incorporated in exterior areas going to and from the building(s) or use(s) within the site.
- (c) All exterior lighting shall be directed downward and away from adjoining property, with luminaires shielded to prevent unnecessary glare.
- (d) Details of exterior lighting shall be provided to ensure compliance with the minimum illumination guidelines. The details shall be shown on the landscape site plan drawn to scale. Photometric calculations shall be detailed on an exterior lighting plan. Photometric calculations should be based on the "mean" light output per the manufacturer's values of the specified lamp and luminaire photometry data formatted on Illumination Engineering Society (I.E.S.) file compiled by an approved testing laboratory. The details provided for exterior lighting should include point-to-point photometric calculations at intervals of not more than ten (10) feet, at ground level, and may also be required at six (6) feet above ground level, depending on the applicable risk factors.
- (e) Any exterior lighting device (luminaire) designed for security lighting shall be protected by weather and vandal-resistant covering, a managed light source, directed down, to minimize glare and intrusiveness.

*The following illustration demonstrates how security lighting may be configured to shield adjoining property from unnecessary glare and conform to the outdoor light control provisions.*



### **3. Minimum Illumination Guidelines**

All minimum illumination guidelines, below, should be maintained from ground level to a height of six (6) feet. The minimum-to maximum uniformity ratio may range up to 6:1 in acceptable layouts.

The lighting levels specified are the minimum levels that are typically acceptable. In some circumstances, customer convenience, closed-circuit surveillance, and customer attraction may require a higher level of lighting. In addition, demographics, the crime index and other factors particular to a certain geographic area may require a higher level of lighting than listed below.

Activity Risk and Minimum FC	Land Use
High Risk Activity 4-5 FC	<ul style="list-style-type: none"> <li>· ATM</li> <li>· Cluster Mail Boxes (minimum of 20' radius from edge of mail box)</li> <li>· Pay Phones</li> <li>· Gated Communities Entries</li> <li>· Pedestrian Tunnels and Covered Pedestrian Walkways</li> <li>· Bus/Transit Shelters</li> <li>· All exterior entrances (typically 5 FC of light will be the recommended minimum standard with a radius of 15' from the center of each door. However, each entrance will be assessed based upon use and risk)</li> </ul>
Medium High Risk Activity 3-4 FC	<ul style="list-style-type: none"> <li>· Convenience Stores</li> <li>· Covered Parking (carports)</li> <li>· Fast Food</li> <li>· Pharmacies</li> <li>· Pool Halls</li> <li>· Loading Docks/Areas</li> <li>· Grocery Stores (24 hour, immediate parking area)</li> <li>· Establishments Licensed for the Sale of Liquor</li> <li>· Parking Structures (10 FC daytime)(parking garages, multilevel)</li> </ul>
Medium Risk Activity 2-3 FC	<ul style="list-style-type: none"> <li>· Gas Stations (not convenience stores)</li> <li>· Entertainment/Amusement</li> <li>· Video Stores</li> <li>· Laundries</li> <li>· Banks</li> <li>· Restaurants (no liquor)</li> <li>· Hotels/Motels</li> <li>· Video Halls</li> <li>· Card/Telemarketing</li> <li>· Malls</li> </ul>
Medium Low Risk Activity 1-2 FC	<ul style="list-style-type: none"> <li>· Multi-Housing</li> <li>· Health Care</li> <li>· Industrial (night use)</li> <li>· Preschools</li> <li>· Worship</li> <li>· Hospital</li> <li>· General Retail</li> <li>· Dental</li> <li>· Warehouse (night use)</li> <li>· Educational</li> <li>· Storage</li> <li>· General office (night use)</li> <li>· Grocery stores (non 24 hours)</li> </ul>

Activity Risk and Minimum FC	Land Use
Low Risk Activity .50-1	<ul style="list-style-type: none"><li>· Warehouse (day use)</li><li>· Office (day use only)</li><li>· Greenbelt</li><li>· Car Dealers (after hours)</li><li>· Parks</li><li>· Industrial (day use)</li><li>· Mini-storage</li><li>· Retention areas</li><li>· Walkways in Apartment Complexes</li></ul>

#### **4. Filtering and Shielding.**

All outdoor light fixtures except those exempted shall be fully shielded and shall have glass acrylic or translucent enclosures. (Quartz glass does not meet this requirement.)

**Requirements for Shielding and Filtering**

<b>Fixture Lamp Type</b>	<b>Shielded</b>	<b>Filtered<sup>1</sup></b>
Low Pressure Sodium <sup>2</sup>	Fully	None
High Pressure Sodium	Fully	None
Metal Halide <sup>3</sup>	Fully	Yes
Fluorescent	Fully <sup>4</sup>	Yes <sup>5</sup>
Quartz <sup>6</sup>	Fully	None
Incandescent Greater than 100W	Fully	None
Incandescent 100W or Less	None	None
Mercury Vapor	Not Permitted	Not Permitted
Glass Tubes filled with Neon, Argon, Krypton	None	None

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<sup>1</sup> Most glass, acrylic or translucent enclosures satisfy these filter requirements

<sup>2</sup> This is the preferred light source to minimize undesirable light into the night sky affecting astronomical observations.

<sup>3</sup> Metal halide lamps shall be in enclosed luminaries.

<sup>4</sup> Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding.

<sup>5</sup> Warm white natural lamps are preferred to minimize detrimental effects.

<sup>6</sup> For the purposes of this article, quartz lamps shall not be considered an incandescent light source.

## **5. Definitions.**

- (a) Outdoor light fixtures shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to, search, spot or flood lights for:
  - (1) Buildings and structures, including canopies and overhangs;
  - (2) Parking lot lighting;
  - (3) Landscape lighting;
  - (4) Billboards and signs;
  - (5) Display and service areas.
- (b) Fully shielded shall mean fixtures that are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

## **6. Restrictions.**

- (a) Outdoor building, landscaping and signs. The unshielded outdoor illumination of any building or landscaping is prohibited except with incandescent fixtures with lamps of one hundred (100) watts or less. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure and shall comply with the shielding requirements. All illuminated outdoor advertising signs shall be equipped with an automatic time controller that prevents the operation of the lighting fixtures between the hours of 11:00 p.m. and sunrise.
- (b) Mercury vapor. The installation of mercury vapor fixtures is prohibited.
- (c) Construction and emergency lighting. Lighting necessary for construction or emergencies is exempt from the provisions of this article, provided said lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.



## **Attachment B**

### **Existing Municipal Planning Strategy Policy**

The Middle Sackville area has seen commercial activities established in the area adjacent the Lively subdivision. Although many properties in the area are appropriately zoned for commercial uses, many are not. With the planned connection between Highway 101 and Sackville Drive, there may be other properties in the area which are suitable for commercial development. But given the mixed use nature of the area there are concerns regarding the compatibility of commercial uses with existing residential uses.

UR-31            Notwithstanding UR-2 and RR-2, Council may consider permitting Community Commercial (C-2) Zone land uses and auto body shops on lands not currently zoned for such uses according to the development agreement provisions of the Municipal Government Act on properties in Middle Sackville located on Sackville Drive and to the east of Rosemary Drive and west and north of the Atlantic Gardens Properties (PID#40150856, 40150815). In considering such uses, Council shall have regard to the following:

- (a)    site has frontage on and direct access to Highway No. 1;
- (b)    proposed use, height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;
- (c)    site design features, including landscaping, signage, parking areas and driveways are of an adequate size and design to address potential impacts on adjacent development, and to provide for the needs of users of the developments;
- (d)    appropriate controls are established to address environmental concerns, including stormwater controls;
- (e)    site meets the minimum zone standards for the Community Commercial Zone;
- (f)    general maintenance of the development;
- (g)    hours of operation; and
- (h)    provisions of Policy IM-13.

**Revised Attachment A (Case 00929)**  
**Proposed Development Agreement**

THIS AGREEMENT made this       day of                    , 2008,

BETWEEN:

**KEIZER'S AUTO BODY SHOP LIMITED,**  
a body corporate, in the Halifax Regional Municipality,  
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at PID #40608549, Sackville Drive, Middle Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for an auto body shop on the Lands pursuant to the provisions of the Municipal Government Act and pursuant to Policy UR-31 of the Sackville Municipal Planning Strategy and Section 3.6 of the Sackville Land Use By-law (hereinafter called the “Agreement”);

AND WHEREAS a condition of the granting of approval of Council is that the Developer enter into an agreement with the Halifax Regional Municipality;

AND WHEREAS the North West Community Council approved this request at a meeting held on [INSERT - Date], referenced as Municipal Case Number 00929;

## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Sackville Land Use By-law and the Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer.

### **1.4 Conflict**

Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

Where the written text of this agreement conflicts with information provided in the Schedules attached to this agreement, the written text of this agreement shall prevail.

## **1.5 Costs, Expenses, Liabilities and Obligations**

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.

## **1.6 Provisions Severable**

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: DEFINITIONS**

**2.1** All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law.

## **PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS**

### **3.1 SCHEDULES**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, generally in conformance with the Schedules attached to this Agreement and the plans filed in the Halifax Regional Municipality as Case Number 00929

The schedules are:

- A Legal Description of the Lands
- B Site / Landscaping Plan
- C Elevations
- D Floor Plan(s)
- E Lighting Guidelines

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the issuance of any municipal permits, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional/Commercial) process.
- 3.2.2 Prior to the issuance of a Grade Alteration Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
  - (a) Post securities in accordance with Section 5.4 of this Agreement;

- 3.2.3 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
- (a) Lighting Plan in accordance with Section 3.7 of this Agreement;
  - (b) Landscaping Plan in accordance with Section 3.8 of this Agreement; and
  - (c) Streets and Services Permit for the commercial driveway access to Sackville Drive.
- 3.2.4 Prior to the issuance of a Municipal Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise stated by the Municipality:
- (a) Certification from a qualified professional engineer that the Developer has complied with the required Erosion and Sedimentation Control Plan as required pursuant to this Agreement;
  - (b) Certification from a qualified professional engineer indicating that the Developer has complied with the Stormwater Management Plan required pursuant to this Agreement;
  - (c) Certification from a qualified professional indicating that the Developer has complied with the Landscaping Plan required pursuant to this Agreement;
  - (d) Certification from a qualified professional indicating that the Developer has complied with the Lighting Plan required pursuant to this Agreement.
- 3.2.5 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 Municipal 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.
- 3.2.6 Where the written text of this Agreement conflicts with information provided in the attached Schedules, the written text of this Agreement shall prevail.

### **3.3 GENERAL DESCRIPTION OF LAND USE**

The use(s) of the Lands permitted by this Agreement are the following:

- (a) Auto Body Shop and any use permitted within the Community Commercial (C-2) Zone of the Sackville Land Use By-law, as amended from time to time, subject to the terms and conditions of this Agreement.
- (b) Any use permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Sackville as amended from time to time.

### **3.4 DETAILED PROVISIONS OF LAND USE**

- 3.4.1 All auto body work shall be performed within the building.
- 3.4.2 Non-operating or derelict vehicles or vehicle parts, shall not be permitted to be stored, kept or placed on any portion of the Lands except within the building. Notwithstanding the above, the storage of scrap metal/parts shall be permitted in appropriate refuse bins.
- 3.4.3 The storage compound at the rear of the building may be used for temporary storage of repaired vehicles or vehicles waiting for repair provided auto fluids are contained within the vehicles.
- 3.4.4 All paint booths and preparation stations shall have air filtration components such as, but not limited to, a water wash system to filter odours.
- 3.4.5 Commercial use of the Lands beyond the limit of development as shown on Schedule "B" shall not be permitted. This Agreement does not grant any new rights to the existing residential lands fronting on Old Windsor Road as shown on Schedule "B".

### **3.5 SITING AND ARCHITECTURAL REQUIREMENTS**

- 3.5.1 The Developer agrees that the building constructed on the Lands shall generally comply with the following as generally illustrated on Schedules "B", C and D:

#### Siting

- 3.5.2 The siting, bulk and scale of the building shall comply with the following:
  - (a) Maximum footprint of the building shall not exceed ten thousand square feet (929 m<sup>2</sup>);
  - (b) Building shall meet the minimum setback requirements of the Community Commercial ©-2) Zone of the Land Use By-law; and
  - (c) Maximum height of the building shall not exceed 25 feet (7.62 meters);

#### Architectural

- 3.5.3 The main entrance to the building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. At least one main door shall face the Sackville Drive. Service/delivery entrances shall be integrated into the design of the building and shall not be a predominate feature.
- 3.5.4 The facades facing the Sackville Drive shall be designed and detailed as primary façade. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.

- 3.5.5 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.) as identified on the Schedules.
- 3.5.6 Exterior building materials shall not include vinyl siding but may include any one or more of the following:
- clay masonry;
  - noncombustible cladding;
  - prefabricated metal siding;
  - clapboard;
  - concrete split face masonry;
  - cut stone masonry;
  - random stone masonry; or
  - acceptable equivalent in the opinion of the Development Officer.
- 3.5.7 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.5.8 All windows shall be vertical in orientation, or square. If shutters are used, they must be sized to fit the opening and must be provided for all windows. Windows shall be vertically proportioned, where possible. Windows should be framed with painted or stained wood, prefinished metal or vinyl.
- 3.5.9 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building facade.
- 3.5.10 The Developer shall be entitled to minor modifications to the architectural requirements of this section provided the changes are minor in nature, in the opinion of the Development Officer and comply with the intent to this Agreement.

### **3.6 PARKING, CIRCULATION AND ACCESS**

- 3.6.1 The internal driveway layout and the number and layout of parking spaces on the Lands shall be as generally illustrated on Schedule "B". The Developer agrees that the parking on the Lands shall comply with the following:
- (a) All parking areas, driveways, circulation aisles and pathways shall have a finished hard surface such as asphalt, concrete, paving blocks or an acceptable equivalent in the opinion of the Development Officer.
  - (b) Where parking lots are to be delineated by curbing, such curbing shall not be asphalt.
  - (c) Development Officer may approve minor changes to the parking and circulation layout as illustrated on Schedule "B".

- (d) The limits of the parking area shall be defined by fencing and/or landscaping and/or curb.
- (e) The Developer shall provide a minimum of thirty-six (36) parking spaces for employees, staff, and storage for the auto body repair shop. The parking shall generally comply with Schedule "B". Should the use of the building change from an auto body / repair shop or if additional uses are added to the building, the change in use or new use shall require the number of parking spaces required by the Sackville Land Use By-law for the new or changed use.

### **3.7 BUILDING AND SITE LIGHTING**

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.7.2 All lighting fixtures shall be fully shielded.
- 3.7.3 The Developer shall prepare an exterior lighting plan and submit it to the Development Officer for review to determine compliance with this Agreement. The lighting plan shall contain, but shall not be limited to, the following:
  - (a) Plans indicating the location on the premises and the type of illuminating devices, fixtures, lamps, supports, other devices;
  - (b) Description of the illuminating devices, fixtures, lamps, supports and other devices. This description may include, but is not limited to, manufacturers' catalog cuts and drawings including sections where required;
  - (c) The lighting plan and description shall be sufficient to enable the Development Officer to ensure compliance with the requirements of this section will be secured. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the Developer shall submit evidence of compliance by certified test reports as performed by a recognized testing lab;
  - (d) The lighting plan and all lighting fixtures shall comply with Schedule "E" Lighting Guidelines; and
  - (e) Should the applicant desire to substitute outdoor light fixtures or lamps and install them on the Lands after a permit has been issued, the Developer shall submit all changes to the Development Officer for approval, with adequate information to assure compliance with this clause.

### **3.8 LANDSCAPING**

- 3.8.1 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.



- 3.8.2 Prior to the issuance of a Construction Permit, the Developer agrees to provide a Landscaping Plan which complies with the provisions of the Agreement and generally conforms with the overall intentions of the conceptual Landscaping Plan shown on Schedule “B”. The Landscaping Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects).
- 3.8.3 The Development Officer may approve minor modifications to the species, size and location of plant stock, provided such modifications, in the opinion of the Development Officer, enhance the attractiveness and visual appearance of the Lands.
- 3.8.4 Planting details for each type of plant material proposed on the Landscaping Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 3.8.5 Trees and shrubs, fifty percentage of which shall be coniferous, shall be provided adjacent the eastern and southern property lines of the Lands and as generally shown on Schedule “B” for screening purposes prior to the issuance of a Municipal Occupancy Permit. Twenty-five percent of these trees shall meet the following minimum specifications:
- (a) Deciduous trees - a minimum of 60 mm caliper (2.4 inch diameter).
  - (b) Coniferous trees- a minimum of 1.5 m (5 ft.) high
- 3.8.6 All disturbed areas shall be reinstated to original condition or better.
- 3.8.7 The Developer shall provide a solid board wood fencing, or equivalent, a minimum of five feet in height but no greater than six feet in height between the building and the adjacent residential properties as identified on Schedule “B”.
- 3.8.8 Notwithstanding Schedule “B”, the chain link fencing identified around the storage compound shall be replaced with solid board wood fencing, a minimum of six feet in height.
- 3.8.9 The Developer may maintain the existing encroaching fence (constructed by others) along the eastern property line.
- 3.8.10 Notwithstanding Schedule “B”, additional fencing shall be permitted.
- 3.8.11 All retaining wall systems are to be identified on the Landscaping Plan including the height and type of fencing proposed in conjunction with it. A construction detail of any fence and wall combination should be provided and certified by a professional engineer.

3.8.12 Prior to issuance of an Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Atlantic Provinces Association of Landscape Architects certifying that all landscaping has been completed according to the terms of this Agreement.

3.8.13 Notwithstanding the above the Municipal Occupancy Permit may be issued provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Municipal Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in Schedule "B" and the approved Landscaping Plan. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### **3.9 SIGNS**

The sign requirements shall be accordance with the Sackville Land Use By-law as amended from time to time, and the Temporary Sign By-law.

### **3.10 CONSTRUCTION TRAILER**

A temporary construction trailer shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction of the building in accordance with this Agreement. The construction trailer shall be removed from the Lands prior to the issuance of the Municipal Occupancy Permit.

### **3.11 OUTDOOR STORAGE AND DISPLAY**

3.11.1 No outdoor storage shall be permitted on the Lands.

3.11.2 Propane tanks and electrical transformers shall be located in the side or rear yard and secured in accordance with the applicable approval agencies. These facilities shall be screened by means of opaque fencing/masonry walls with suitable landscaping.

### **3.12 HOURS OF OPERATION**

3.12.1 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time and the following:

Monday through Friday	7a.m. through 8 p.m.
Saturday	8 a.m. through 6 p.m.
Sunday	Closed

- 3.12.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7am and 9pm inclusive.

### **3.13 MECHANICAL EQUIPMENT**

- 3.13.1 Mechanical equipment shall be permitted on the roof provided the equipment is screened or incorporated into the architectural treatments and roof structure and not visible from Sackville Drive or adjacent residential properties.
- 3.13.2 Any mechanical equipment located at grade shall be screened from view with a combination of fencing, landscaping or building elements.
- 3.13.3 All mechanical equipment shall be sited in a manner as to minimize the disturbance to adjacent residential properties. Furthermore no mechanical equipment shall be located between the commercial building and the adjacent residential properties and no exhaust fans shall be permitted to face the adjacent residential properties.

### **3.14 SOLID WASTE FACILITIES**

- 3.14.1 Appropriate refuse bin(s) for recycling/sorting shall be required. Where automotive fluids are disposed of, the disposal shall meet the requirements of the Environment Act and related regulations.
- 3.14.2 Refuse containers and waste compactors shall be confined to the loading area of the building, and shall be screened from public view where necessary by means of opaque fencing/masonry walls with suitable landscaping.
- 3.14.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from public view. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing/masonry walls with suitable landscaping.

### **3.15 MAINTENANCE**

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

### **3.16 SUBDIVISION**

The Developer shall be permitted to subdivide a single residential lot fronting on Old Windsor Road from the property as identified on Schedule “B”. The lot shall meet all requirements of the Land Use By-law, Regional Subdivision By-law and any other agency as required. Land Uses permitted on this portion of the Lands shall be subject to the requirements of the Land Use By-law and this Agreement. The Developer shall request that Council discharge the residential lot from the Lands prior to permits being issued for the construction of any building or establishment of any use on the lot.

### **4.0 STREETS AND MUNICIPAL SERVICES**

- 4.1** All construction shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.
- 4.2** Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, 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 Development Officer, in consultation with the Development Engineer.
- 4.3** The water distribution system shall conform with all design and construction requirements of the Halifax Regional Water Commission.
- 4.4** The sanitary sewer system shall conform with the construction standards of the Municipal Service Systems Manual, unless otherwise acceptable to the Development Engineer.
- 4.5** Occupancy for the building shall not be permitted until sewer and water services are available to the building. Installation and access to municipal water may take place when the water main on Sackville Drive is constructed, tested and taken into plant by the HRWC.

### **5.0 ENVIRONMENTAL PROTECTION MEASURES**

*Stormwater Management Plans and Erosion and Sedimentation Control Plans:*

- 5.1** The Developer shall engage a qualified professional to prepare a Stormwater Management Plan which identifies structural and vegetative stormwater management measures such as, infiltration, retention, and detentions controls, wetlands, vegetative swales, filter strips, and buffers to minimize any significant adverse impacts on receiving watercourse during and after construction. The plans shall indicate the sequence of construction, the areas to be disturbed, all proposed erosion and sedimentation control measures and stormwater management measures, including a monitoring/sampling program, which are to be in place prior to and during development of that phase.

- 5.2 The Developer agrees to have prepared by a Professional Engineer, an Erosion and Sedimentation Control Plan that complies with Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by the Nova Scotia Department of the Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.
- 5.3 The Developer agrees to have prepared by a Professional Engineer and submitted to the Municipality for review and approval by the Development Engineer a detailed Site/Grading Plan. No work is permitted on the site until the requirements of this clause have been met and implemented unless otherwise stated in this Agreement.
- 5.4 Prior to the issuance of a Topsoil Permit, the Developer shall post security in the amount of **\$5000** in addition to the fees required for the Topsoil Permit, to ensure that all environmental protection measures are properly implemented and maintained. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be returned to the Developer at the time of issuance of the final Municipal Occupancy Permit or release of Landscaping security bond whichever is later, provided all measures for environmental protection have been implemented to the satisfaction of the Development Officer, in consultation with the Development Engineer, and that all disturbed surfaces have been permanently reinstated, and that all landscaping has become established. Should the Developer fail to complete the Erosion and Sedimentation Control measures to the satisfaction of the Development Officer, in consultation with the Development Engineer shall be cashed and deposited to the Municipality.
- 5.5 The Developer agrees to construct at its own expense the Stormwater Management System pursuant to this section. The Developer shall provide certification from a Professional Engineer that the system, or any phase thereof, has been constructed in accordance with the approved design.
- 5.6 If the Developer fails at any time during any site work or construction to fully conform to the approved plans as required under Section 5, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the Erosion and Sedimentation Control Plan, Grading Plan and Stormwater Management Plan.

#### *Erosion Control*

- 5.7 No Municipal Occupancy Permit shall be issued unless the Lands are either fully stabilized with sod or is temporarily stabilized and maintained with a covering of plastic or other such measures as determined and approved through the requirements of Section 5. Any temporary stabilization of the Lands shall be replaced with final landscaping (top soil and sod) within six months of the issuance of the Municipal Occupancy Permit. The Developer shall be responsible for ensuring that any temporary stabilization materials are

replaced and/or maintained on an as-required basis to ensure that exposed soil is adequately stabilized at all times.

- 5.8 The Developer agrees, at its own expense, to provide stormwater treatment (oil and grit separation) devices to treat stormwater from all hard surfaced areas of the site prior to discharge.**
- 5.9** Prior to installing any stormwater treatment chambers or devices on the Lands, which is to be privately maintained, the Developer shall submit a schedule of future inspection and cleaning prepared by a professional engineer based on the manufacturer specifications. When approved by the Development Officer this schedule shall be undertaken for as long as this Agreement is in force.
- 5.10** All removed contaminants shall be disposed of according to all applicable guidelines and regulations of the Nova Scotia Department of Environment and Labour. The Developer shall submit to the Development Officer certification that the work has been done following each inspection/clean-out.
- 5.11** Floor drains in the building shall be diverted to an oil/water separator prior to discharge to municipal services.
- 5.12** Vehicle washing shall only take place on an impervious surface and within the building.
- 5.13** Any fuel stored on-site for the purpose of heating the building shall have a protective catchment device.

## **6.0 AMENDMENTS**

### **6.1 Substantive Amendments**

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

### **6.2 Non-Substantive Amendments**

The following items are considered by both parties to be not substantive and may be amended by resolution of the Council.

- (a) Minor changes to Schedules B, C and D not permitted by this Agreement
- (b) Parking standards;
- (c) Hours of operation;
- (d) Signage;
- (e) The granting of an extension to the date of commencement of construction as identified in Section 8.3 of this Agreement;
- (f) The length of time for the completion of the development as identified in Section 8.4 of this Agreement; and

- (g) Discharge of this Agreement from any residential lot subdivided under the terms of this Agreement.

In considering the approval of a non-substantive amendment under Section 6.2, property owners within 500 feet of the site shall be informed by mail at least 10 days in advance of the proposed amendment being considered by Council.

## **7.0 ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **7.1 Enforcement**

The Developer agree 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 allow for such an inspection during any reasonable hour within one day of receiving such a request.

### **7.2 Failure to Comply**

If the Developer fail to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer 14 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 defense based upon the allegation that damages would be an adequate remedy;
- (b) the Municipality may enter onto the Lands 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 Lands 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.

### **7.3 Environmental Protection**

In matters concerning environmental protection and mitigation the Municipality shall be entitled to draw in whole or in part on the security as required under this Agreement and use the proceeds therefrom to ensure that the protection measures are in place as required pursuant to the terms of this Agreement.

## **8.0 REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **8.1 Registration**

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

### **8.2 Subsequent Owners**

8.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Agreement until this Agreement is discharged by the Council.

8.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

### **8.3 Commencement of Development**

8.3.1 In the event that construction on (or development of) the Lands has not commenced within five 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.

8.3.2 For the purposes of this section, commencement shall mean completion of the footings for the proposed building.

8.3.3 If the Developer fails to complete the development, or after seven 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; or
- (c) discharge this Agreement.

### **8.4 Completion of development**

Upon the completion of the development or portions thereof, or within/after ten years from the date of registration of this Agreement with 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; or



- WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2008.

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Per: \_\_\_\_\_

Per: \_\_\_\_\_  
MAYOR

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