



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

**Item No.**  
**Halifax and West Community Council**  
**December 13, 2017**

**TO:** Chair and Members of Halifax and West Community Council

**SUBMITTED BY:** Original Signed  
Kelly Denty, Acting Director, Planning and Development

**DATE:** November 30, 2017

**SUBJECT:** Case 20725: Development Agreement for 180 Prospect Road, Halifax

**ORIGIN**

Application by Halifax Exhibition Centre Inc. for a service station, convenience store, restaurant and car wash at 180 Prospect Road.

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.*

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A of this report, to enable the development of a service station, convenience store, restaurant and car wash at 180 Prospect Road and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Halifax Exhibition Centre Inc. has applied for a development agreement to permit a service station, convenience store, restaurant and car wash at 180 Prospect Road, Halifax. The proposed development may be considered by Halifax and West Community Council (HWCC) under Policies RB-10 and IM-11 of the Municipal Planning Strategy (MPS) for Planning District 4 (Prospect) by means of a development agreement.

<b>Subject Site</b>	Consists of two properties: <ul style="list-style-type: none"> <li>• Lot A-1 (180 Prospect Road, Halifax – PID 41432642)</li> <li>• Lot A-2 (PID 41457987)</li> </ul> (See Map 1 & 2 for lot configuration)
<b>Location</b>	Within the Halifax Exhibition Centre grounds, approximately 700 meters south of the Ragged Lake Business Park
<b>Regional Plan Designation</b>	Rural Commuter
<b>Community Plan Designation (Map 1)</b>	Residential B under the Municipal Planning Strategy for Planning District 4 (Prospect)
<b>Zoning (Map 2)</b>	CR-2 (Commercial Recreation 2) Zone under the Land Use By-law (LUB) for Planning District 4 (Prospect)
<b>Size of Site</b>	The total area of the subject site is approximately 1.4 hectares (3.57 acres): <ul style="list-style-type: none"> <li>• Lot A-1 is approximately 8,296 square metres (2.05 acres)</li> <li>• Lot A-2 is approximately 6,151 square metres (1.52 acres)</li> </ul>
<b>Street Frontage</b>	The subject site has approximately 125.9 meters (413 feet) of total frontage along the Prospect Road (Route 333): <ul style="list-style-type: none"> <li>• Lot A-1 has approximately 69.8 metres (229 feet)</li> <li>• Lot A-2 has approximately 56.1 metres (184 feet)</li> </ul>
<b>Current Land Use(s)</b>	Lot A-1 is vacant, Lot A-2 contains one of the two driveways that currently serve the Exhibition Centre at 200 Prospect Road
<b>Surrounding Use(s)</b>	The Halifax Exhibition grounds surround the property on the east side of the Prospect Road. The Western Common is located across Prospect Road to the west of the site.

### **Proposal Details**

The applicant proposes to enter into a development agreement to permit a service station, convenience store, restaurant and car wash. Schedule B of Attachment A shows the proposed site plan for the development. Lot A-1 (180 Prospect Road) is where the structures and parking are to be located. Lot A-2 is the area of the subject site used for driveway access. The major aspects of the proposal are as follows:

- A 16-pump gas bar canopy located at the front of the site;
- A main building divided into two leasehold spaces totalling 409 square metres (4,400 square feet):
  - A convenience store measuring 223 square metres (2,400 square feet) in size; and
  - A restaurant use (coffee shop) with drive-thru measuring 186 square metres (2,000 square feet); and
- A car wash located at the rear of the site totalling 121 square metres (1,300 square feet).

### **Enabling Policy and LUB Context**

The subject site is situated within the Planning District 4 (Prospect) plan area. It is designated Residential B. Within this designation, the MPS recognizes that general commercial uses and service stations may be suitably located along Prospect Road with minimal impact on the surrounding community. The MPS acknowledges that these uses provide a necessary service to the existing community, as well as support the tourist industry, but may have a greater impact on the surrounding community in terms of traffic, groundwater draw, noise, litter and aesthetics. To ensure proper integration, the MPS enables HWCC to consider general commercial uses and service stations through the development agreement process.

The current CR-2 Zone applied to the site permits the following commercial recreation uses: Exhibition parks; Animal or vehicle racing tracks; Rifle ranges; Amusement parks; Drive-in theatres; Bowling allies; and uses accessory to the foregoing.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website and signage posted on the subject site.

Given the location of the subject site there were no residential properties within an appropriate notification area to notify via mailed letter. The adjoining property, the Halifax Exhibition Center at 200 Prospect Road, is under the same ownership as the subject site. The Province of Nova Scotia, which owns and manages the surrounding land to the east, is aware of this application as the NS Department of Natural Resources was included as part of the application review process.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements the HRM website will be updated accordingly.

The proposal will potentially impact the following stakeholders: local area residents, property owners, community or neighbourhood organizations, business owners, other HRM business units, and other levels of government.

### **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment B provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

#### **Proposed Development Agreement**

Attachment B contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- The number, placement, gross floor area, use, and height of buildings;
- parking, circulation and access;
- landscaping;
- signage; and
- non-substantive amendments including:
  - changes to the location of landscaped areas;
  - changes to the requirements related to signage;
  - the granting of an extension to the date of commencement of development; and
  - the length of time for the completion of the development.

The attached development agreement will permit the proposed uses subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion:

#### **Servicing**

The subject site is proposed to be serviced with municipal water services as it is within the Water Service Boundary. The site however, is not currently within the Urban Service Boundary as established under the Regional Subdivision By-law. While municipal sanitary lines exist within the Prospect Road, to serve the Exhibition Centre at 200 Prospect Road the proposed development is not currently eligible to connect to

the municipal sanitary system. This matter is being dealt with under a separate planning application (Case 20748). In the meantime, the development is proposed to be serviced with an onsite sewage disposal system. Should the Urban Service Boundary be amended, the proposed development agreement provides the flexibility for the development to be serviced with municipal sanitary sewer.

#### Land Use Compatibility

MPS policy calls for the consideration of the compatibility of architectural design and scale of new buildings relative to nearby land uses. Given that the only building within sight of the subject site is the Exhibition Centre which is located approximately 250 metres away to the southeast, no architectural provisions have been included within the proposed development agreement. Rather, the agreement requires the proposed development adhere to the standards set forth in the General Business Zone. This is to ensure that if the proposed businesses ever cease to operate, the remaining building would be in keeping with a zone, and its permitted uses, for which there is enabling policy (Policy RB-9).

MPS policy also directs consideration be given to an adequate separation distance being maintained from low density residential development. Map 3 illustrates the distance of the proposed development from the nearest residential areas, which is at minimum 1.7 kilometers. No negative impact on these residential areas is anticipated.

#### Traffic

A traffic impact study was submitted in support of this application. A full traffic study was warranted due to the specific uses being proposed and the of importance of, and high traffic volumes along, Prospect Road (Route 333). This portion of Prospect Road is owned and maintained by the Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR) who have participated in the review of this application.

The proposed development will have two access points on Prospect Road as shown on Schedule B of Attachment B. The southern access is currently in existence and is one of two access points that serve the Exhibition Centre. This existing access is proposed to continue to serve the Exhibition Centre as well as the proposed development. NSTIR has advised that a right turn lane from Prospect Road onto the subject site utilizing this access will be required should the proposed development be approved. The northern access to the proposed site, when constructed, would be the third and final access permitted by NSTIR from Prospect Road to the Exhibition Grounds. Both access points have been reviewed by NSTIR and have been deemed suitable.

With respect to pedestrian circulation, the proposed development agreement requires a dedicated pedestrian walkway be constructed from the main building southward toward the existing transit stop on the Exhibition Grounds. Where the required walkway crosses the queueing lane for the drive-thru restaurant, signage and pavement markings are required to reduce pedestrian-vehicular conflict.

#### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the MPS. MPS policies require that development of service stations must proceed through the development agreement process. Given the site can be adequately serviced with municipal water and on-site sewage disposal services, the negligible impact the proposal will have on existing residential development, and the acceptance of the traffic impact study by NSTIR, the proposed development agreement which enables the proposed development at the subject site is appropriate. Therefore, staff recommend that the Halifax and West Community Council approve the proposed development agreement.

#### **FINANCIAL IMPLICATIONS**

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement.

The administration of the proposed development agreement can be carried out within the approved 2017/18 C310 Urban and Rural Planning Applications budget and with existing resources.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **ALTERNATIVES**

1. Halifax and West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning
Map 3:	Distance to Residential Development
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Excerpts from the LUB

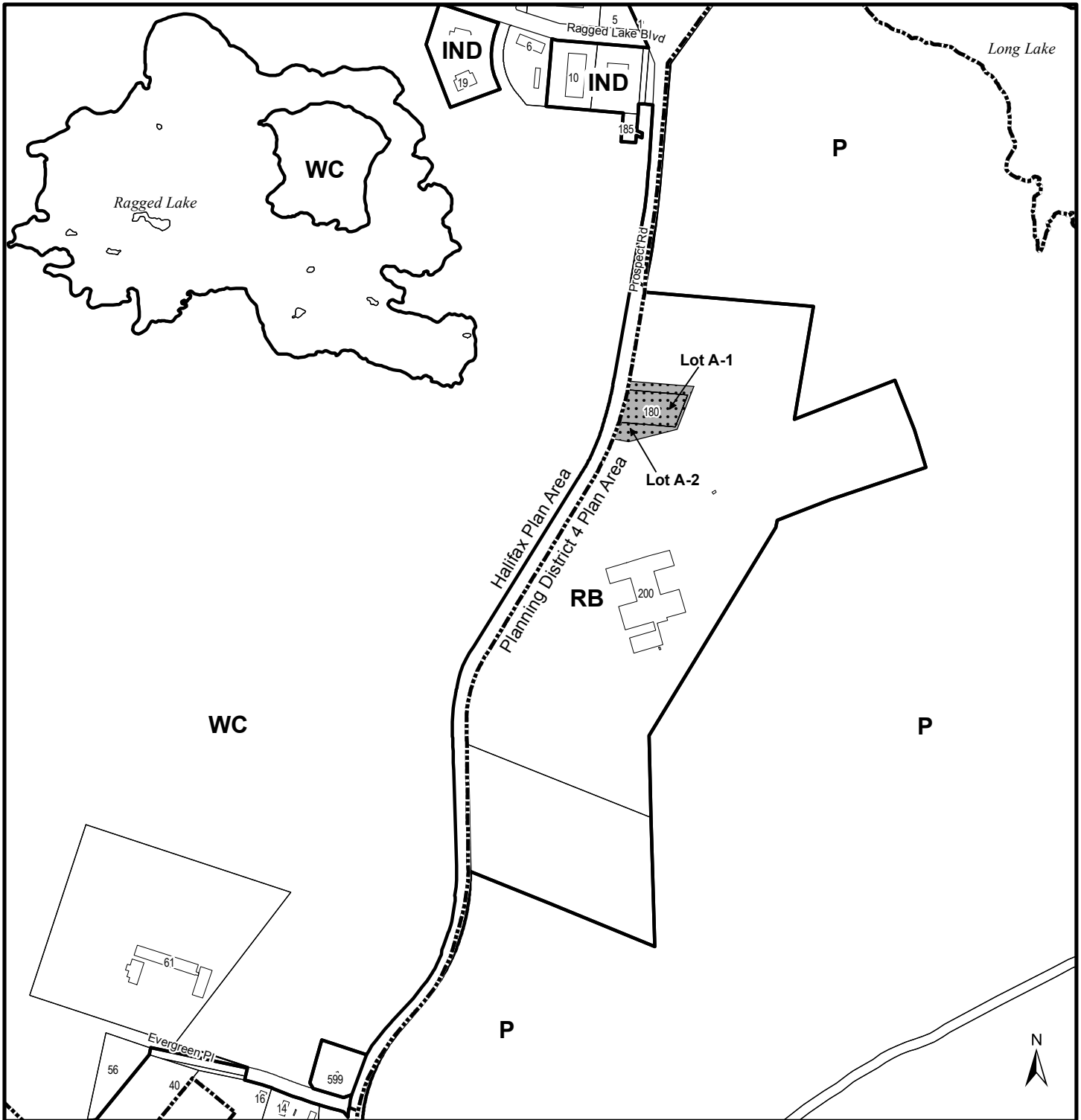
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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jacqueline Belisle, Planner II 902.490.3970

Report Approved by: Original Signed  
Carl Purvis, Planning Applications Program Manager, 902.490.4797

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**Map 1 - Generalized Future Land Use**

180 Prospect Road  
Halifax



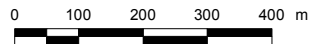
Subject Properties

**Planning District 4 Designations**

RB Residential B  
P Park

**Halifax Designations**

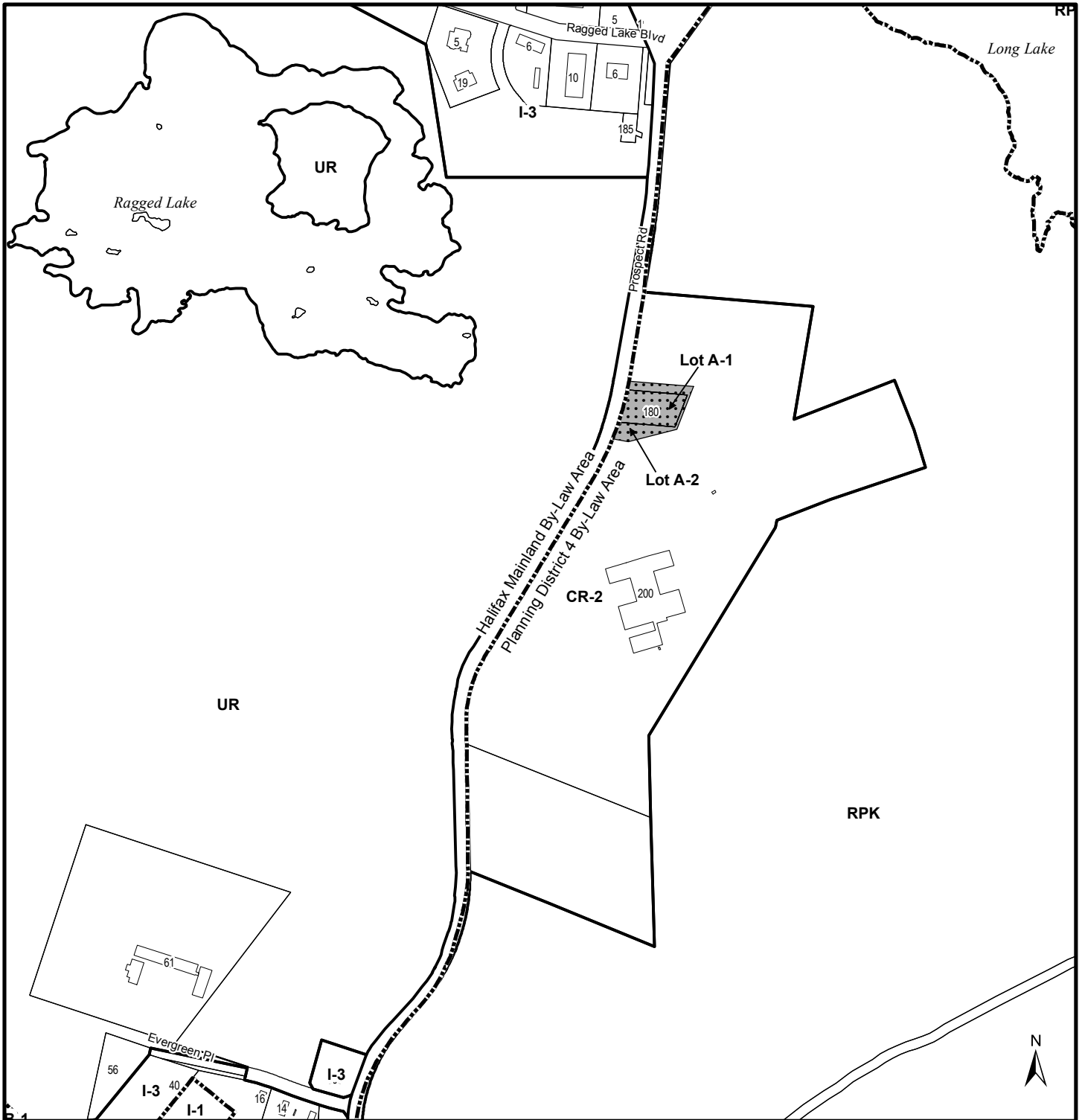
IND Industrial  
WC Western Common  
OS Major Community Open Spaces



Planning District 4  
(Prospect) Plan Area

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

The accuracy of any representation on this plan is not guaranteed.



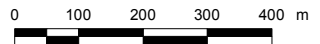
**Map 2 - Zoning**  
 180 Prospect Road  
 Halifax



Subject Properties

**Planning District 4 Zones**  
 CR-2 Commercial Recreation 2  
 RPK Regional Park

**Halifax Mainland Zones**  
 UR Urban Reserve  
 I-1 General Industrial  
 I-3 General Industrial



Planning District 4  
 Land Use By-Law Area

This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.


The accuracy of any representation on this plan is not guaranteed.

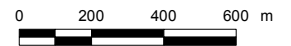


### Map 3 - Distance to Residential Development

180 Prospect Road  
Halifax

**HALIFAX**

 Subject Properties



The accuracy of any representation on this plan is not guaranteed.

Planning District 4  
Land Use By-Law Area



**Attachment A:  
Proposed Development Agreement**

THIS AGREEMENT made this      day of **[Insert Month]**, **[Year]**,

BETWEEN:

**[INSERT PROPERTY OWNER]**

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

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY**

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at Lots A-1 (180 Prospect Road) and A-2, Halifax 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 a service station and associated restaurant, retail store and car wash on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies RB-10 and IM-11 of the Municipal Planning Strategy for Planning District 4 and Section 3.16(b)(v) of the Land Use By-law Planning District 4;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[INSERT DATE]** referenced as Municipal Case Number **20725**;

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

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## **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, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Planning District 4 and the Regional Subdivision By-law, as may be amended from time to time.

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

1.3.1 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 Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 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 the Municipality 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 or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

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

1.4.2 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 laws, by-laws, regulations and codes applicable to the 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 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

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

### **3.1 Schedules**

The Developer shall develop and use the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 20725:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan

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

3.2.1 Prior to the commencement of any site work on the Lands, the Developer shall provide the following to the Development Officer:

- (a) A detailed Site Disturbance Plan prepared by a Professional Engineer in accordance with Section 5.1.1 (a) of this Agreement;
- (b) A detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Section 5.1.1 (b) of this Agreement; and
- (c) A detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer in accordance with Section 5.1.1 (c) of this Agreement.

3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer as per the terms of this Agreement:

- (a) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.7 of this Agreement;
- (b) Nova Scotia Department of Transportation and Infrastructure approval of the site access in accordance with Section 4.2 of this Agreement;
- (c) Nova Scotia Environment approval of on-site sewage treatment facilities in accordance with Section 4.3.1 of this Agreement; and

- (d) Nova Scotia Department of Transportation and Infrastructure approval of the Stormwater Management Plan in accordance with Section 5.1.1 (c) of this Agreement.
- 3.2.3 Prior to the issuance of the first Occupancy Permit, the Developer shall provide the following to the Development Officer:
- (a) Certification from a member in good standing of the Canadian Society of Landscape Architects indicating that the Developer has complied with the landscaping provisions of this Agreement, or the posting of security in accordance with Sections 3.7.6 and 3.7.7 respectively; and
  - (b) Confirmation from Nova Scotia Transportation and Infrastructure Renewal of the completion of the required upgrades to Prospect Road in accordance with Section 4.2 of this Agreement.
- 3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### **3.3 General Description of Land Use**

- 3.3.1 The uses of the Lands permitted by this Agreement are the following:
- (a) Service Station and associated restaurant, retail store and car wash on Lot A-1, and driveway access to Lot A-1 from Lot A-2 as shown on Schedule B; or
  - (b) Any uses permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Planning District 4 as amended from time to time.

### **3.4 Detailed Provisions for Land Use**

- 3.4.1 No more than one (1) main building is permitted on the Lands, not including the car wash and pump island canopy shown on Schedule B.
- 3.4.2 All buildings shall be located on the Lands as generally shown on Schedule B, and shall be sited in accordance with the requirements of the General Business Zone of the Land Use By-law for Planning District 4 as amended from time to time.
- 3.4.3 The gross floor area of all buildings shall be in accordance with the requirement of the General Business Zone of the Land Use By-law for Planning District 4 as amended from time to time.
- 3.4.4 The maximum height of all buildings shall be in accordance with the height requirement of the General Business Zone of the Land Use By-law for Planning District 4 as amended from time to time.

- 3.4.5 Further to Section 3.4.1, accessory buildings shall be permitted on the Lands and shall be developed in accordance with the requirements of the Land Use By-law for Planning District 4 as amended from time to time.

### **3.5 Architectural Requirements**

- 3.5.1 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.
- 3.5.2 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from the street or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

### **3.6 Parking, Circulation and Access**

- 3.6.1 Vehicle parking shall be provided as generally shown on Schedule B and shall have a hard finished surface such as asphalt, concrete, interlocking precast paver stones, or an acceptable equivalent in the opinion of the Development Officer.
- 3.6.2 Parking spaces, stop bars, pedestrian circulation (walkways and on-site crosswalks) and access shall be generally as shown on Schedule B.
- 3.6.3 A designated pedestrian pathway shall connect the main building to the edge of the site along the southern driveway in the direction of the existing transit stop as shown on Schedule B. The designated pedestrian walkway shall have a finished hard surface such as poured in place concrete, interlocking paving stones, or an acceptable equivalent in the opinion of the Development Officer. On-site crosswalks associated with the designated pedestrian pathway are shown as dashed lines on Schedule B and shall be demarcated with signs and pavement markings. The on-site crosswalks may be finished with an alternative hard surface, such as asphalt.
- 3.6.4 The Daylighting Triangle provisions of the Land Use By-law for Planning District 4 shall apply to all driveway accesses.

### **3.7 Landscaping**

- 3.7.1 Prior to the issuance of a Development Permit, the Developer agrees to provide a detailed Landscape Plan which shall provide details of all landscaped areas shown on Schedule B. The Developer may provide additional plantings and landscaping features than shown on Schedule B. The Landscape Plan shall be prepared by a Landscape Architect, who shall be a member in good standing with the Canadian Society of Landscape Architects, and comply with all provisions of this section.
- 3.7.2 Landscaping required by Section 3.7.1 shall include four (4) groupings of trees and shrubs generally located adjacent to the outer corners of the car wash structure and garbage

enclosure. Each grouping must contain a minimum of one (1) conifer tree (minimum of 60 mm calibre) and three (3) coniferous shrubs.

- 3.7.3 Planting details for each type of plant material proposed on the detailed Landscape Plan shall be provided, including a species list with quantities, size of material, and common and botanical names (species and variety).
- 3.7.4 Plant material shall be primarily comprised of native species and conform to the Canadian Nursery Trades Association's Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.7.5 Construction Details for all light standards and luminaries, trash receptacles, bike racks, planter seating wall, wood arbour, outdoor garbage enclosure, railings, benches, and fencing shall be provided to the Development Officer with the Landscape Plan.
- 3.7.6 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.7.7 Notwithstanding Section 3.7.6, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. 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 Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. 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.

### **3.8 Signs**

- 3.8.1 Signage shall be subject to the requirements of the Land Use By-law for Planning District 4 and the following additional ground sign requirements:
  - (a) A maximum of two (2) ground signs shall be permitted on the Lands; and
  - (b) Ground signs shall be a minimum of 50 metres (164 feet) apart;

### **3.9 Solid Waste Facilities**

- 3.9.1 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street. Further, consideration shall be given to locating all refuse and recycling material to ensure minimal effect on abutting property owners by means of opaque fencing or masonry walls or suitable landscaping.

3.9.2 Notwithstanding Section 3.9.1 of this Agreement, small waste receptacles are permitted throughout the development and are to be considered as part of the landscaping for the development.

### **3.10 Screening**

Propane tanks, natural gas service hook-ups, and electrical transformers shall be located on the Lands in such a way to ensure minimal visual impact from the public street. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing, masonry walls or suitable landscaping.

### **3.11 Outdoor Lighting**

Lighting shall be directed to driveways, parking areas, loading areas, building entrances and walkways, shall be arranged so as to divert the light away from streets, adjacent lots and buildings and shall be of a full cut-off design.

### **3.12 Temporary Construction Structure**

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

### **3.13 Maintenance**

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, 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 and ice control, salting or sanding of paved walkways and driveways.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### **4.1 General Provisions**

All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

### **4.2 Off-Site Disturbance**

Prior to the issuance of a Construction Permit, the Developer agrees to provide to the Development Officer a "Work Within Highway Right-of-Way Permit" approved by Nova Scotia Transportation and Infrastructure Renewal. 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 Nova Scotia Transportation and Infrastructure Renewal.

### **4.3 On-Site Sewage System**

4.3.1 The Lands shall be serviced through privately owned and operated sewer systems and treatment facilities. The Developer agrees to have prepared by a qualified professional and submitted to the Municipality, the Nova Scotia Environment and any other relevant agency, a design for all private sewer systems. In accordance with Section 3.2.2(c), no Development Permit shall be issued prior to the Development Officer receiving a copy of all permits, licences, and approvals required by the Nova Scotia Environment respecting the design, installation, construction of the on-site sewer system.

4.3.2 Notwithstanding Section 4.3.1 of this Agreement, nothing in this agreement shall prevent the lands from being serviced with municipal sanitary services should Council approve an extension to the Urban Service Area.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

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

5.1.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:

- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and
- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.

### **5.2 Stormwater Management System**

5.2.1 The Developer agrees to construct, at their own expense, the Stormwater Management System for the development which conforms to the design submitted to the Development Officer and reviewed by the Nova Scotia Transportation and Infrastructure Renewal. 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.

5.2.2 The Developer agrees, at its own expense, to maintain in good order all stormwater facilities on the Lands.



## **PART 6: AMENDMENTS**

### **6.1 Non-Substantive Amendments**

- 6.1.1 The following items are considered by both parties to be non-substantive and may be amended by resolution of Council.
- (a) Changes to the location of the landscaped areas which, in the opinion of the Development Officer, do not conform with Schedule B or Section 3.7 of this Agreement;
  - (b) Changes to the requirements related to signage as identified in Section 3.8.1(a) and Section 3.8.1(b) of this Agreement.
  - (c) The granting of an extension to the date of commencement of development as identified in Section 7.3 of this Agreement; and
  - (d) The length of time for the completion of the development as identified in Section 7.5 of this Agreement.

### **6.2 Substantive Amendments**

- 6.2.1 Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

## **PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **7.1 Registration**

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

### **7.2 Subsequent Owners**

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

### **7.3 Commencement of Development**

- 7.3.1 In the event that development on the Lands has not commenced within three (3) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the 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.
- 7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Building Permit.

7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

#### **7.4. Completion of Development**

7.4.1 Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Planning District 4, as may be amended from time to time.

#### **7.5 Discharge of Agreement**

7.5.1 If the Developer fails to complete the development after five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office 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.

### **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

#### **8.1 Enforcement**

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty-four hours of receiving such a request.

#### **8.2 Failure to Comply**

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;

- (b) The Municipality may enter onto the 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 Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the 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; or,
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

**IN WITNESS WHEREAS** the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**(Insert Registered Owner Name)**

\_\_\_\_\_  
 \_\_\_\_\_  
 Witness

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

**HALIFAX REGIONAL MUNICIPALITY**

**SIGNED, DELIVERED AND ATTESTED** to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

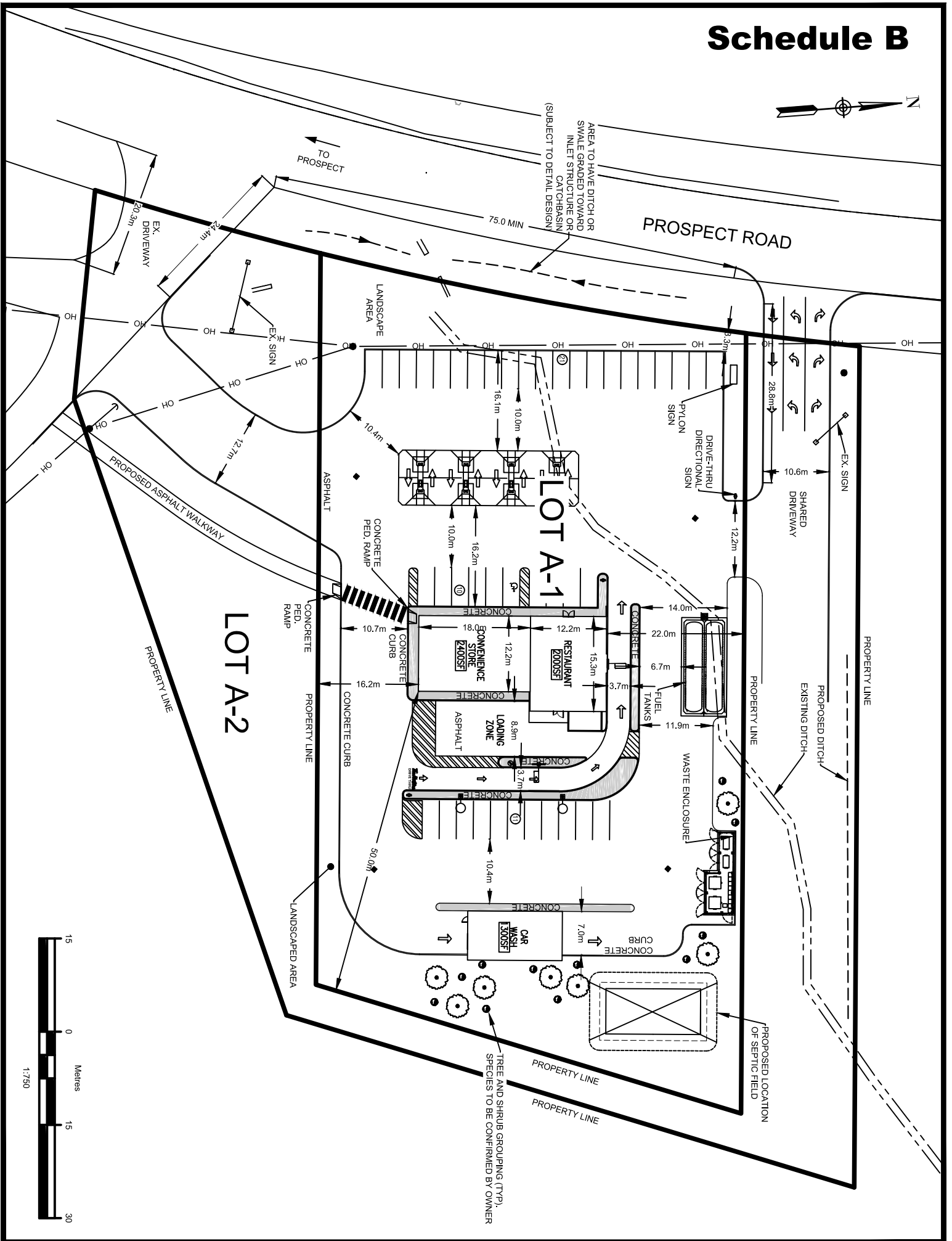
\_\_\_\_\_  
 \_\_\_\_\_  
 Witness

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

\_\_\_\_\_  
 \_\_\_\_\_  
 Witness

Per: \_\_\_\_\_  
 MUNICIPAL CLERK

# Schedule B



**Attachment B:**  
**Review of Relevant Policies from the Municipal Planning Strategy for**  
**Planning District 4**

It is also recognized that larger scale general commercial operations, service stations, motels, and commercial entertainment uses may be suitably located along Highway No. 333 with minimal impact on the surrounding community. Such operations are required to provide the necessary services to expanding communities and also contribute to the growing tourist industry which is highly valued within Planning District 4. These larger scale activities, however, will have a greater degree of impact on the surrounding area in terms of traffic generation, draw on ground water resources, noise, litter and aesthetics. In order to ensure that these uses are properly integrated within the community, commercial operations which exceed ten percent of the lot area, service stations, motels and commercial entertainment uses shall only be considered by development agreement pursuant to the Planning Act.

<i>RB-10 Notwithstanding Policy RB-2 or Policy RB-4, within the Residential B Designation, Council may consider permitting uses permitted in the general business zone, which are in excess of ten (10) percent of lot area, service stations, motels and entertainment uses in accordance with the development agreement provisions of the <u>Planning Act</u>. In considering such agreements, Council shall have regard to the following:</i>	
<b>Policy Criteria</b>	<b>Staff Comment</b>
<i>(a) that the architectural design (external appearance) and scale of any structures are compatible with nearby land uses;</i>	No architectural design provisions have been included in the proposed development agreement. The only building within sight of the subject site is the Exhibition Centre located at 200 Prospect Road. It is not anticipated that the proposed service station development would detract from the architectural integrity of the Centre.
<i>(b) that adequate separation distances are maintained from low density residential developments;</i>	There is no residential development in the vicinity.
<i>(c) the provision of landscaping and screening from any adjacent residential development;</i>	The closest dwellings are located within the Beechville Estates Subdivision which is approximately 1.7 km north-west of the subject site on the north side of Highway 103. See Map 3. Residential development on the Prospect Road begins to occur approximately 2.2 km south of the subject site in Goodwood.
<i>(d) the impact of the proposed use on the existing road network in terms of traffic generation and vehicular and pedestrian safety;</i>	A Traffic Impact Study (TIS) was submitted in support of this application. The TIS asserts that the majority of traffic using the proposed development will be traffic already using the Prospect Road (pass-by trips) and that the proposed development is not expected to cause any operation related problems on Prospect Road. Prospect Road is a provincial arterial highway which handles volumes of

	<p>approximately 940 vehicle trips in the am peek and 1,200 vehicles in the pm peek. The Nova Scotia Department of Transportation and Infrastructure Renewal (NSTIR) has reviewed the proposal and advised that the accesses to the site are suitable but require the addition of a right-in turning lane northbound on the Prospect Road. NSTIR has advised that the proposed northern driveway will be the third and final driveway permitted for the exhibition grounds. The proposed use, being an auto-centric land use is not anticipated to generate much pedestrian traffic. However, Section 3.6.3 of the proposed development agreement requires a dedicated pedestrian pathway onsite to assist pedestrians in their movements from the main building to the existing transit stop south of the proposed development.</p>
<p>(e) <i>the means by which solid and liquid waste will be treated;</i></p>	<p>While the Exhibition Centre at 200 Prospect Road is currently serviced with both municipal water and sanitary the subject site and surrounding area is only located within the municipal water service boundary and not the sanitary service boundary. Therefore at this time the subject site is proposed to be serviced with municipal water and an on-site septic system. Part 4 of the proposed development agreement provides the flexibility to connect to the municipal sanitary system should the sanitary service boundary change to include the subject site. This is the subject of a separate planning application (Case #20748).</p>
<p>(f) <i>the effects of the development on the natural environment and the means for handling stormwater runoff;</i></p>	<p>Section 5.1(c) of the proposed development agreement requires a detailed site grading and stormwater management plan be submitted prior to the commencement of any work on the site.</p>
<p>(g) <i>the general maintenance of the development;</i></p>	<p>Section 3.13 of the proposed development agreement addresses the general maintenance of the property.</p>
<p>(h) <i>the hours of operation; and</i></p>	<p>Given the large distance from residential development discussed above, no restrictions have been placed on the hours of operation of the development.</p>
<p>(i) <i>the provision of Policy IM-11.</i></p>	<p>See Table Below</p>

<p>IM-11 <i>In considering development agreements or amendments to the land use bylaw, in addition to all other criteria as set out in various policies of this Planning Strategy, Council shall have appropriate regard to the following matters:</i></p>	
<b>Policy Criteria</b>	<b>Staff Comment</b>
<p>(a) <i>that the proposal is in conformity with the intent of this Planning Strategy and with the requirements of all other municipal by-laws and regulations;</i></p>	<p>The proposal is consistent with Policy RB-10 (see above table).</p>
<p>(b) <i>that the proposal is not premature or inappropriate by reason of:</i></p>	<p>...</p>
<p>(i) <i>the financial capability of the Municipality to absorb any costs relating to the development;</i></p>	<p>The developer will be responsible for all costs associated with the development.</p>
<p>(ii) <i>the adequacy of on-site sewerage and water services;</i></p>	<p>Please see staff comment on Policy RB-10(e) above.</p>
<p>(iii) <i>the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;</i></p>	<p>This proposal would not result in an increase to school age population nor is it anticipated to affect community recreation facilities.</p>
<p>(iv) <i>the adequacy of road networks leading to or within the development; and</i></p>	<p>As discussed above under policy criteria RB-10(d) the Prospect Road is a provincial arterial highway capable of accommodating the traffic generated by the proposed development.</p>
<p>(v) <i>the potential for damage to or for destruction of designated historic buildings and sites.</i></p>	<p>No historical buildings or sites have been identified.</p>
<p>(c) <i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p>	<p>...</p>
<p>(i) <i>type of use;</i></p>	<p>The proposed development agreement enables the use of the lands for a service station and associated restaurant, retail store and car wash. No conflict is anticipated with respect to these uses and the adjacent Halifax Exhibition Centre.</p>
<p>(ii) <i>height, bulk and lot coverage of any proposed building;</i></p>	<p>The proposed development agreement requires buildings on the subject site to meet the requirements of the C-2 (General Business) zone.</p>
<p>(iii) <i>traffic generation, access to and egress from the site, and parking;</i></p>	<p>Further to policy criteria RB-10(d) discussed above, the proposed development shows 41 parking spaces. The location of parking areas</p>

	is not anticipated to cause conflict with the abutting Exhibition Park grounds.
(iv) <i>open storage;</i>	Section 3.9 of the proposed development agreement requires all refuse and recycling materials to be enclosed within a building or suitable container and screened from the street.
(v) <i>signs; and</i>	Section 3.8 of the proposed development agreement addresses the requirements for signage. Signs are to be permitted as per Part 5 of the Land Use By-law. Additionally, only two (2) ground signs permitted on the Lands and must be 50m apart.
(vi) <i>any other relevant matter of planning concern.</i>	No other planning issues have been identified.
(d) <i>that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</i>	None of these features have been identified on the subject site.
(e) <b><i>Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy IC-6”, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the “Infrastructure Charges” Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i></b>	No holding zone has been established and no additional lots are proposed in conjunction with this application



**Attachment C:**  
**Excerpts from the Land Use By-law for**  
**Planning District 4**

PART 2: DEFINITIONS

2.22 DAYLIGHTING TRIANGLE means a triangular area on a corner lot which is formed by a front lot line and flankage lot line and a straight line which intersects them twenty (20) feet (6.1 m) from the corner where they meet.

2.76 RESTAURANT

(a) Drive-In means a building or part of a building wherein food is prepared and offered for sale to the public for consumption within or outside the building. A drive-in restaurant is characterized by the provision of take-out services at a counter or from a drive through car pick up window. It does not provide the service of delivering to or waiting on tables nor is it licensed to sell alcoholic beverages.

(b) Full Service means a building or part of a building wherein food is prepared and offered for sale to the public primarily for consumption within the building and may include a take-out area which does not exceed 10% of the gross floor area of the full service restaurant. A full service restaurant is characterized by the provision of table service, including buffet service and may also be licensed to serve alcoholic beverages.

(c) Take-Out means a building or part of a building wherein food is prepared and offered for sale to the public primarily for off-premises consumption and may include a take-out window and/or seating area which does not exceed 25% of the gross floor area of the take-out restaurant. A take-out restaurant does not provide the service of delivery to or waiting on tables nor is it licensed to sell alcoholic beverages. Take-out restaurants, however, may provide a home delivery service.

2.77 RETAIL STORE means a building or part of a building in which goods, wares, merchandise, substances, articles or things are offered for sale directly to the public at retail value.

2.83 SERVICE STATION means a building or part of a building or a clearly defined space on a lot used for the retail sale of lubricating oils and gasolines and may include the sale of automotive accessories and the servicing and general repairing of motorized vehicles and may include washing establishments.

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4.20 DAYLIGHTING TRIANGLE

On a corner lot, a fence, sign, hedge, shrub, bush or tree or any other structure or vegetation shall not be erected or permitted to grow to a height more than two (2) feet (0.6 m) above grade of the streets that abut the lot within the triangular area included within the street lines for a distance of twenty (20) feet (6.1 m) from their point of intersection.

\*\*\*

PART 5: SIGNS

5.1 GENERAL

- (a) Where this part is inconsistent with the regulations respecting advertising signs on or near public highways, made or administered by the Department of Transportation, the more restrictive regulations shall apply.
- (b) No person shall erect a sign according to the provisions of Section 5. 3 except where a development permit has been issued, and no permit to erect a sign shall be issued unless all the sign provisions of this By-law are satisfied.

5.7 GROUND SIGNS

No ground sign shall:

- (a) extend beyond a property line or project over a public right-of-way, daylighting triangle, or lot line;
- (b) be located less than ten (10) feet (3.0 m) from any street line or abutting lot line;
- (c) exceed a height of twenty-five (25) feet (7.6 m); or
- (d) exceed fifty (50) square feet (4.6 m<sup>2</sup>) of sign area on a single face or one hundred (100) square feet (9.3 m<sup>2</sup>) of sign area for both faces combined.

\*\*\*

PART 26: C-2 (GENERAL BUSINESS) ZONE

26.2 C-2 ZONE REQUIREMENTS

In any C-2 Zone, where uses are permitted in accordance with Section 26.2, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858.1 m <sup>2</sup> )
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear Yard or Side Yard	15 feet (4.6 m)
Maximum Height of Main Building	35 feet (10.7 m)

26.3 OTHER REQUIREMENTS: COMMERCIAL USES

Where uses are permitted as commercial uses in a C-2 Zone, the following shall apply:

- (a) The gross floor area of the commercial use shall not exceed ten (10) percent of the lot area.
- (b) Any area devoted to open storage shall not exceed fifty (50) percent of the lot area.
- (c) No outdoor storage or display shall be permitted within any required yard except as permitted within clause (e).
- (d) Any area devoted to outdoor display shall be not exceed twenty-five (25) percent of the lot area.

- (e) That any display areas shall be set back a minimum of ten (10) feet (3.0 m) from the street line.
- (f) That all commercial refuse containers shall be located beside or behind the building which it serves, subject to servicing constraints.
- (g) That all commercial refuse containers shall be enclosed by an effective visual screen so as to not be visible from the street and/or highway and from adjacent properties.

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PART 36: CR-2 (COMMERCIAL RECREATION 2) ZONE

36.1 CR-2 USES PERMITTED

No development permit shall be issued in any CR-2 (Commercial Recreation 2) Zone except for the following:

- Exhibition parks
- Animal or vehicle racing tracks
- Rifle ranges
- Amusement parks
- Drive-in theatres
- Bowling allies
- Uses accessory to the foregoing

36.2 CR-2 (ZONE REQUIREMENTS)

In any CR-2 Zone, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	20,000 square feet (1858.1 m <sup>2</sup> )
Minimum Frontage	100 feet (30.5 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear Yard or Side Yard	30 feet (9.1 m)