



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

Item No. 11.1
Halifax Regional Council
January 30, 2018
February 27, 2018

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY: _____
Councillor Tony Mancini, Chair of Harbour East-Marine Drive Community Council

DATE: January 15, 2018

SUBJECT: Case 20436: Amendments to the Dartmouth MPS & LUB, and proposed development agreement for 102 Albro Lake Road, Dartmouth

ORIGIN

January 11, 2018 meeting of the Harbour East-Marine Drive Community Council, Item No. 13.1.2.

LEGISLATIVE AUTHORITY

Section 25(c) of the Halifax Regional Municipality Charter sets out the powers and duties of Community Council to include “recommending to the Council appropriate by-laws, regulations, controls and development standards for the community”.

RECOMMENDATION

The Harbour East-Marine Drive Community Council recommends Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Dartmouth, as set out in Attachments A and B of the staff report dated November 22, 2017, to enable an automotive repair garage in an existing commercial building at 102 Albro Lake Road, Dartmouth, by development agreement, and schedule a joint public hearing; and
2. Approve the proposed amendments to the MPS and LUB for Dartmouth, as set out in Attachments A and B of the staff report dated November 22, 2017.

BACKGROUND

The Harbour East-Marine Drive Community Council received a staff report dated November 22, 2017 at their January 11, 2018 meeting pertaining to Case 20436. Due to a site-specific policy that currently applies to both 240 Victoria Road and 102 Albro Lake road, this proposal requires a change to the Dartmouth Municipal Planning Strategy (MPS) and the Dartmouth Land Use By-law (LUB).

For further information, please refer to the attached staff report dated November 22, 2017.

DISCUSSION

The Harbour East-Marine Drive Community Council considered the November 22, 2017 staff report at their January 11, 2018 meeting and forwarded the recommendation to Halifax Regional Council as outlined in this report.

Following the meeting, it was confirmed by staff that the public hearing is to be joint with the Community Council and Regional Council.

FINANCIAL IMPLICATIONS

As outlined in the attached November 22, 2017 staff report.

RISK CONSIDERATION

As outlined in the attached November 22, 2017 staff report.

COMMUNITY ENGAGEMENT

Harbour East-Marine Drive Community Council meetings are open to public attendance and members of the public are invited to address the Community Council for up to five minutes at the end of each meeting during Public Participation. The agenda, reports, and minutes of North West Community Council are posted on Halifax.ca.

ENVIRONMENTAL IMPLICATIONS

As outlined in the attached November 22, 2017 staff report.

ALTERNATIVES

Harbour East-Marine Drive Community Council did not discuss alternative recommendations.

Alterative are outlined in the attached November 22, 2017 staff report.

ATTACHMENTS

Staff recommendation report dated November 22, 2017.

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Krista Vining, Legislative Assistant, Office of the Municipal Clerk, 902-490-6519

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

Item No. 13.1.2
Harbour East-Marine Drive Community Council
January 11, 2018

TO: Chair and Members of Harbour East - Marine Drive Community Council

ORIGINAL SIGNED

SUBMITTED BY:

Kelly Denty, Acting Director, Planning and Development

DATE: November 22, 2017

SUBJECT: **Case 20436: Amendments to the Dartmouth MPS and LUB, and proposed development agreement for 102 Albro Lake Road, Dartmouth**

ORIGIN

- Application by Shelley Dickey Land Use Planning on behalf of Chad Kennedy
- August 1, 2017, Regional Council direction to continue to process the site-specific secondary municipal planning strategy amendments

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Harbour East - Marine Drive Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Dartmouth, as set out in Attachments A and B of this report, to enable an automotive repair garage in an existing commercial building at 102 Albro Lake Road, Dartmouth, by development agreement, and schedule a public hearing; and
2. Approve the proposed amendments to the MPS and LUB for Dartmouth, as set out in Attachments A and B of this report.

It is recommended that Harbour East - Marine Drive Community Council:

3. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment C of this report, to permit an automotive repair garage within an existing commercial building at 102 Albro Lake Road, Dartmouth. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.

BACKGROUND

Shelley Dickey Land Use Planning, on behalf of Chad Kennedy, has applied to move an automotive service and repair business that is currently located at 240 Victoria Road, Dartmouth to an existing commercial building on an adjacent property at 102 Albro Lake Road. Due to a site-specific policy that currently applies to both 240 Victoria Road and 102 Albro Lake Road, this proposal requires a change to the Municipal Planning Strategy for Dartmouth (MPS) and the Land Use By-law for Dartmouth (LUB).

General Location	Albro Lake Road, Victoria Road and Chappell Street, Dartmouth
Subject Site	102 Albro Lake Road, Dartmouth
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	C (Commercial) under the Municipal Planning Strategy for Dartmouth (MPS)
Zoning (Map 2)	C-1 (Local Business) Zone under the Land Use By-Law for Dartmouth (LUB)
Size of Site	2,550 m ² (27,452 sq. ft.)
Street Frontage	29.5 m (97 ft.) on Albro Lake Road, 62 m (204 ft.) on Chappell Street, and 18 m (60 ft.) on Victoria Road
Current Land Use(s)	Commercial building
Surrounding Use(s)	Petro Canada gas station, convenience store and auto service use on Victoria Road; houses on Chappell Street, multi-unit residential buildings on Albro Lake Road

Proposal Details

The applicant has applied to move an automotive service and repair business, currently located at 240 Victoria Road, to an existing commercial building on an adjacent property at 102 Albro Lake Road (the subject site). The proposal would require interior renovations and service bay installation in the commercial building.

MPS and LUB Context

The subject site is designated Commercial under the Dartmouth MPS and zoned C-1 (Local Business) under the Dartmouth LUB. The C-1 Zone permits single and two unit dwellings, townhouses, food and grocery stores, offices, personal service shops, restaurants, and veterinary clinics. The zone does not permit automotive repair or service. Generally, the Commercial designation permits consideration of rezoning to the C-2 (General Business) Zone, which permits vehicle services, including automotive service and repair.

The MPS also contains site-specific policy for the subject property. Policy C-20 specifically permits only local commercial uses permitted by the C-1 Zone at 240 Victoria Road and 102 Albro Lake Road (the subject site), except for redevelopment for a gas bar by development agreement. Policy C-20 was adopted in 1998 in response to a site-specific application for the development of a gas bar, which eventually proceeded only on the adjacent property at 240 Victoria Road (Petro Canada). The policy does not permit automotive service and repair independent of the gas bar use.

Regional Centre Plan

The Halifax Regional Municipal Planning Strategy (the "Regional Plan") identifies the Regional Centre as the area encompassing the Halifax Peninsula and Dartmouth between Halifax Harbour and the Circumferential Highway. Through the 2014 review of the Regional Plan, the adoption of a Regional Centre Plan was confirmed as a primary objective for the Municipality. The Centre Plan will include the creation of a new Secondary Municipal Planning Strategy and Land Use By-law for the Regional Centre to ensure that the vision statement and guiding principles endorsed by Regional Council are achieved.

While the Centre Plan has not yet been adopted, on June 13, 2017 Regional Council authorized the direction contained within the Centre Plan as a framework for amending existing planning documents and

developing new planning documents as may be necessary to implement this direction. Under the Urban Structure provided in that document, the subject site is located within the Victoria Road Corridor. Corridors have been identified as appropriate locations for commercial uses; however, automotive uses should be discouraged other than fully-enclosed retail and accessory services.

It is important to note that Regional Council is not bound by the contents of the Centre Plan framework and can still choose to act in a manner that does not align with this document, despite staff's recommendation to use the information contained within the document to assess the proposal.

Approval Process

The approval process for this application involves two steps:

- a) First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB; and
- b) Secondly, Harbour East - Marine Drive Community Council must consider and approve a proposed development agreement provided it reasonably carries out the intent of the MPS.

A public hearing, which is required prior to a decision on both matters, may be held at the same time for both MPS and LUB amendments and the proposed development agreement. If Regional Council approves the MPS and LUB amendments, Harbour East-Marine Drive Community Council may decide on a proposed development agreement once the amendments to the MPS and LUB have come into effect. A decision on proposed MPS and LUB amendments is not appealable to the Nova Scotia Utility and Review Board (NSUARB). However, the decision on the proposed development agreement is appealable to the NSUARB.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the alternative engagement program approved by Regional Council on August 1, 2017 for this application. The approved engagement program included a mail-out notification of the proposal sent to surrounding property owners within the notification area (Map 2) on August 3, 2017, as well as a specific web page on the Municipal website; and signage posted on the subject site. The mail-out notification and website provided the application details and contact information for Planning staff, and comments by email and telephone were welcomed.

Additionally, as this application falls within the Regional Centre, it was available for comment at a public meeting held in conjunction with 17 other plan amendment applications within the Regional Centre on December 7, 2016. Planning staff held this meeting to seek early public feedback on these proposals as part of the research and analysis for these applications, and in consideration of the ongoing Centre Plan process.

There were 22 comments received at the December 7, 2016 public meeting, and staff received two phone calls and one email following the mail-out notification. Comments were generally supportive of the application. Many comments suggested the proposal would revitalize the area, and that the changes to the building fit with the neighbourhood.

A public hearing must be held by Regional Council before they can consider approval of the proposed MPS and LUB amendments. Should Regional Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents, property owners and local businesses.

DISCUSSION

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Dartmouth. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. In this case, staff advise that the requested amendments will adjust existing site-specific policy for the subject site to permit appropriate reuse of the existing commercial building. The following paragraphs review the rationale and content of the proposed MPS and LUB amendments, as well as the associated development agreement.

Proposed MPS and LUB Amendments

Staff considered the existing MPS policy context, the principles put forward in the June 13, 2017 Centre Plan document, and appropriate development tools for the scale of development in drafting the proposed MPS and LUB amendments. Attachments A and B contain the proposed MPS and LUB amendments. A summary of the proposed amendments are as follows:

- Changes to MPS Policy C-20 to remove the reference to 102 Albro Lake Road from the original section as it is currently relevant only to the Petro Canada at 240 Victoria Road;
- Addition of Policy C-20(2), which will allow the existing building at 102 Albro Lake Road to be used for anything permitted by the zone applied to the property, and to enable its use as an automotive repair garage by development agreement; and
- Corresponding LUB amendments.

Of the matters addressed by the proposed MPS and LUB amendments, the following has been identified for detailed discussion:

Appropriateness of the automotive use

The proposed change to the MPS is appropriate given that the existing Policy C-20 is no longer relevant to 102 Albro Lake Road. Staff advise that using the existing commercial building for an automotive repair garage is appropriate given the site's location and context, the proposed access from Victoria Road and Albro Lake Road, and the building's orientation away from the residential properties on Chappell Street.

Although the June 13, 2017 Centre Plan document identifies Corridors as areas where automotive uses should be discouraged, the proposed MPS and LUB amendments are minor changes that enable appropriate reuse of an existing commercial building. Policy C-20 originally envisioned both properties at 240 Victoria Road and 102 Albro Lake Road would be developed together with a gas bar. However, 102 Albro Lake Road was never developed as a gas bar, and the applicant would like to establish an automotive repair garage within the existing building. When compared to a gas bar, this proposal is smaller in scale and generally aligns with the direction of the Centre Plan document which speaks to "fully-enclosed" automotive uses.

The proposed policy enables the proposed use by development agreement, which provides an additional level of control over the site design and conditions for the development, such as hours of operation. The policy envisions that any other uses will follow the zoning applied to the site. There is no change proposed to the development agreement criteria under existing Policy C-20, as the existing criteria remain relevant for any development on either 102 Albro Lake or 240 Victoria Road. An evaluation of the proposal against these criteria is provided in Attachment D.

Proposed Development Agreement

Attachment C 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:

- An automotive repair garage contained within the building is permitted, as well as any uses permitted by the zoning applied to the site. "Automotive repair garage" is defined so that neither auto body work nor fuel sales are permitted;

- The automotive repair garage is limited to the footprint and volume of the existing building. Service bay installation and changes to the façade of the building will be permitted, but any additions or expansions to the building will be permitted only for a use permitted by the zone applied to the site;
- Outdoor storage will require screening;
- Any non-operating vehicles that require servicing may only be kept within the parking area temporarily, and otherwise must be stored indoors;
- The driveways will be limited to the existing driveways on Albro Lake Road and Victoria Road, with no access from Chappell Street permitted; and
- Hours of operation permitted for the automotive repair garage use are 7:00 am to 8:00 pm.

Conclusion

Staff have reviewed the application and the existing policy context and advise that the MPS and LUB should be amended to enable an automotive repair garage within an existing commercial building at 102 Albro Lake Road, Dartmouth, by development agreement. As the existing site-specific policy is no longer relevant to the subject site, the proposed changes will enable appropriate reuse of the commercial building. Controlled by a development agreement, the automotive repair garage will be contained within the existing building and include appropriate screening from the adjacent residential neighbourhood.

Therefore, staff recommend that the Harbour East – Marine Drive Community Council recommend that Regional Council approve the proposed MPS and LUB amendments.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of this Development Agreement. The administration of the development agreement can be carried out within the approved 2017-18 budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those raised in this report.

ALTERNATIVES

The Harbour East - Marine Drive Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the MPS and LUB for Dartmouth, as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

2. Refuse the proposed amendments to the MPS and LUB for Dartmouth. A decision of Council to approve or refuse the proposed amendments is not 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 and Notification Area
Attachment A:	Proposed MPS Amendments
Attachment B:	Proposed LUB Amendments
Attachment C:	Proposed Development Agreement
Attachment D:	Policy Review
Attachment E:	Excerpts from the Dartmouth MPS
Attachment F:	Excerpts from the Dartmouth LUB

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Leah Perrin, Planner II, 902.490.4338

Report Approved by: ORIGINAL SIGNED


Kate Greene, Policy & Strategic Initiatives Program Manager, 902.225.6217



Map 1 - Generalized Future Land Use

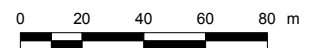
Albro Lake Road
Dartmouth

HALIFAX

 Subject Property

Designation

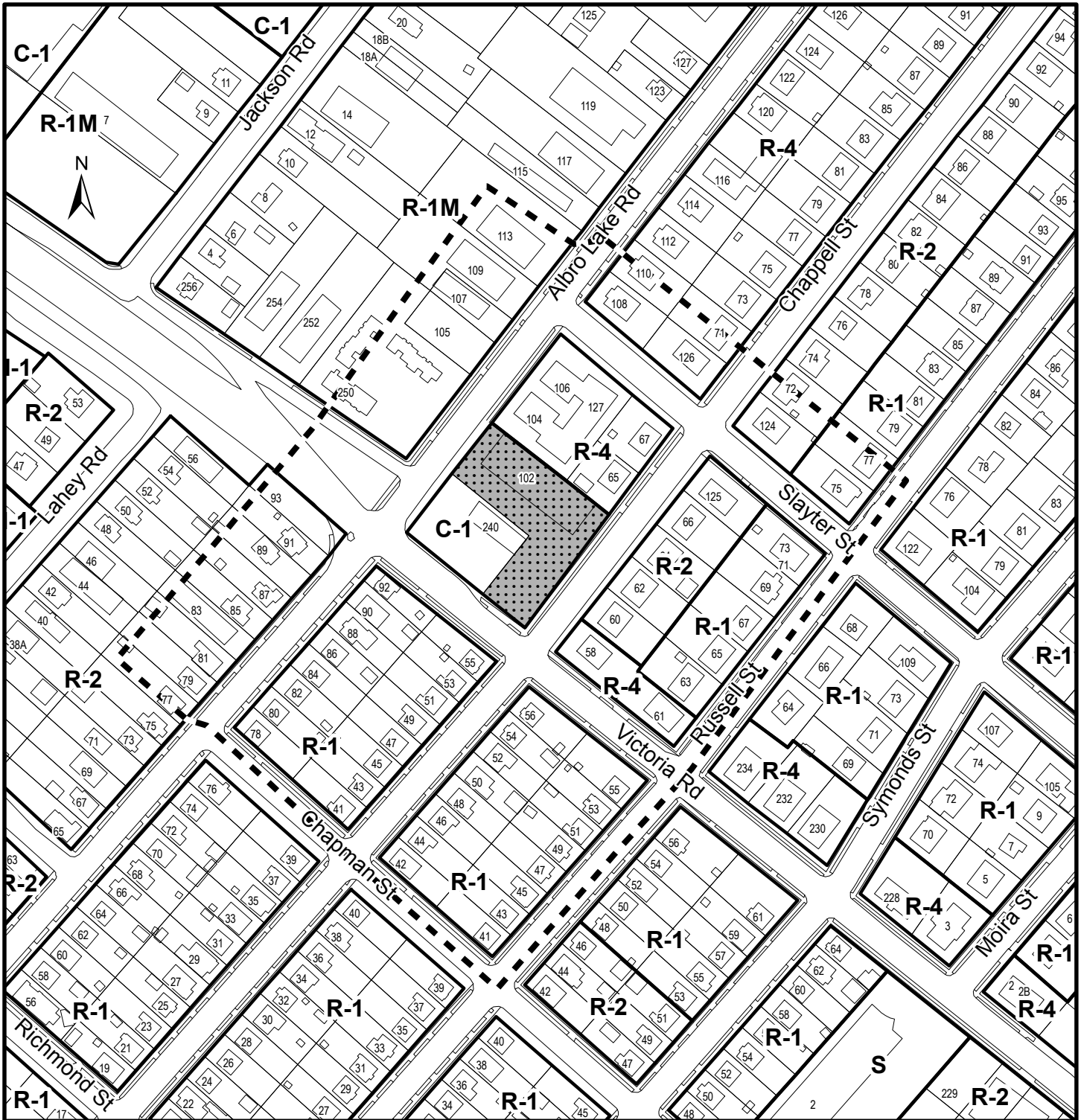
- R Residential
- C Commercial



Dartmouth
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 and Notification

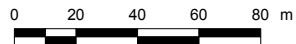
Albro Lake Road
Dartmouth

 Subject Property

 Area of Notification

Dartmouth
Land Use By-Law Area

- Zone**
- R-1 Single Family Residential
 - R-1M Single Family (Modified) Residential
 - R-2 Two Family Residential
 - R-4 Multiple Family Residential (High Density)
 - C-1 Local Business
 - S Institutional



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.

Attachment A

Amendments to the Dartmouth Municipal Planning Strategy

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Dartmouth is hereby amended as follows:

1. Policy C-20 is amended by deleting the words in ~~strikeout~~ and adding the number ~~words~~ **“(1)”** following the words “Policy C-20” as shown in bold below and adding the numbers and words following the end of Policy C-20 as shown in **bold** below:

Policy C-20 (1) It shall be the intention of Council to consider the development of a gas bar and local commercial uses, on the ~~two~~ commercially-designated parcels of land known as 240 Victoria Road and 102 Albro Lake Road, and identified by PID numbers ~~00038802 and 00038810~~, only by development agreement. Notwithstanding that major redevelopment may take place only by development agreement, renovations to the existing buildings, the construction of replacement buildings of a similar size, and changes of use may occur subject to the requirements of the C-1 Zone. ~~In considering the approval of such agreements, Council shall have regard to the following:~~

- ~~(a) the proposed uses for the site and their compatibility with nearby residential uses;~~
- ~~(b) the provision of adequate visual screening and buffering of the parking areas, traffic circulations areas, and any gas sales area from nearby residential properties;~~
- ~~(c) the location, design and adequacy of driveway access points, and that no commercial driveway access to Chappell Street shall be considered;~~
- ~~(d) the adequacy of vehicular and pedestrian circulation on the site, and parking layout;~~
- ~~(e) the hours of operation of uses on the site;~~
- ~~(f) measures to reduce the effects of noise, lighting and odours originating from the property on other nearby properties;~~
- ~~(g) the size, height, orientation, location, and design of any proposed buildings, signs, structures, parking areas and driving aisles;~~
- ~~(h) the provision of adequate landscaping for the site;~~
- ~~(i) any and all other applicable matters as set out in Policy IP-1(c).~~

Policy C-20 (2) To enable appropriate reuse of an existing commercial building on the property known as 102 Albro Lake Road and identified by PID number 00038802, Council may consider, by development agreement, an automotive repair garage contained within the building in addition to development permitted under the zone applied to the property.

Policy C-20 (3) In considering the approval of agreements pursuant to Policies C-20(1) and C-20(2) above, Council shall have regard to the following:

- (a) the proposed uses for the site and their compatibility with nearby residential uses;**
- (b) the provision of adequate visual screening and buffering of the parking areas, traffic circulation areas, and any gas sales area from nearby residential properties;**
- (c) the location, design and adequacy of driveway access points, and that no commercial driveway access to Chappell Street shall be considered;**

- (d) the adequacy of vehicular and pedestrian circulation on the site, and parking layout;**
- (e) the hours of operation of uses on the site;**
- (f) measures to reduce the effects of noise, lighting and odours originating from the property on other nearby properties;**
- (g) the size, height, orientation, location, and design of any proposed buildings, signs, structures, parking areas and driving aisles;**
- (h) the provision of adequate landscaping for the site, including trees, to define the street edge and visually screen any areas for car parking;**
- (i) any and all other applicable matters as set out in Policy IP-1(c).**

I HEREBY CERTIFY that the amendments to the Halifax Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 2017.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 2017.

Municipal Clerk

Attachment B

Amendments to the Dartmouth Land Use By-Law

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Land Use By-Law for Dartmouth is hereby amended as follows:

1. Section 18G is amended by deleting the words in ~~strikeout~~ and adding the words “not permitted by the zone applied to the Lands” following the words “any redevelopment” and before the words “may be considered” as shown in **bold** below:

18G Notwithstanding any other provisions of this By-law, on those lands known as 240 Victoria Road and 102 Albro Lake Road as identified on Schedule “R”, any redevelopment **not permitted by the zone applied to the Lands** may be considered only according to Policy C-20 of the Municipal Planning Strategy. ~~, except that renovations of the existing buildings, the replacement of the existing buildings with new ones of a similar size in the same general location, and changes of use may take place pursuant to the requirements of the C-1 Zone.~~

I HEREBY CERTIFY that the amendments to the Halifax Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 2017.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 2017.

Municipal Clerk

Attachment C

**PROPOSED
Development Agreement**

THIS AGREEMENT made this day of **[Insert Month]**, 20__,

BETWEEN:

[Insert Name of Corporation/Business LTD.]
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 102 Albro Lake Road, Dartmouth, 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 automotive repair garage in an existing commercial building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy C-20 of the Dartmouth Municipal Planning Strategy and Section 18G of the Dartmouth Land Use By-law;

AND WHEREAS the Harbour East Marine-Drive Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 20436;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 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 Dartmouth 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.

2.2 Definitions Specific to this Agreement

The following words used in this Agreement shall be defined as follows:

- (a) **Automotive Repair Garage** means premises used for the repair and servicing of motor vehicles and motor vehicle inspections, but does not include the retailing of motor vehicle fuels and lubricants.
- (b) **Outdoor Storage** means the storage of merchandise, goods, inventory, materials or equipment or other items which are not intended for immediate sale, by locating them on the Lands exterior to a building.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

- 3.1.1 The Developer shall develop 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 20436:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan and Landscaping
Schedule C	Elevations

3.2 Requirements Prior to Approval

- 3.2.1 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
 - (a) An Automotive Repair Garage contained within the building on the Lands as shown on Schedules B and C;
 - (b) Any uses permitted within the existing zone applied to the Lands subject to the provisions contained within the applicable Land Use By-law, as amended from time to time.

3.4 Siting and Architectural Requirements

- 3.4.1 The footprint of the building on the Lands to be used in whole or part as an automotive repair garage shall generally conform to Schedules B and C. The volume of the building shall not be increased.
- 3.4.2 Minor modifications to the building that do not conform to Schedules B and C but are necessary to meet Building Code requirements, or for the installation of mechanical equipment shall be permitted. Any mechanical equipment addition that is not shown on the Schedules shall be screened and located away from residential properties.
- 3.4.3 Notwithstanding subsection 3.4.1 and Schedules B and C, any addition or an expansion of the building shall be permitted only for uses permitted by the existing zone applied to the Lands, subject to the provisions contained within the applicable Land Use By-law, as amended from time to time.
- 3.4.4 Outdoor storage shall be screened by an opaque fence, and limited to the area shown on Schedule B.
- 3.4.5 Outdoor display of new tires associated with an automotive repair garage use shall be permitted on the Lands during the hours of operation described in subsection 3.11.1.
- 3.4.6 Notwithstanding subsections 3.3.1 (a) and 3.4.4, non-operating vehicles associated with the automotive repair garage may be placed in the parking area shown on Schedule B for not more than 7 days, and otherwise shall be stored interior to the building.

3.5 Parking, Circulation and Access

- 3.5.1 The parking area and parking spaces shall be sited as shown on Schedule B.
- 3.5.2 The parking area shall be asphalt or an equivalent hard surface.
- 3.5.3 The limits of the parking area shall be defined by fencing or landscaping or curb.
- 3.5.4 Driveway access shall be limited to the existing driveways on Victoria Road and Albro Lake Road. No driveway access shall be permitted from Chappell Street.
- 3.5.5 Bicycle parking shall be provided in accordance with the applicable Land Use By-law.

3.6 Outdoor Lighting

- 3.6.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged to divert the light away from streets, adjacent lots and buildings.

3.7 Landscaping

- 3.7.1 Prior to the issuance of a Development Permit, the Developer agrees to provide a Site and Landscape Plan which complies with the provisions of this section and generally conforms with the Site and Landscape Plan shown on Schedule B.

- 3.7.2 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.
- 3.7.3 Prior to issuance of an Occupancy Permit the Developer shall submit to the Development Officer evidence that the landscaping has been completed in compliance with the Site and Landscape Plan shown on Schedule B.
- 3.7.4 Notwithstanding Section 3.7.3, 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 Maintenance

- 3.8.1 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, 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 of walkways and driveways.

3.9 Signs

- 3.9.1 The sign requirements shall be in accordance with the applicable Land Use By-law as amended from time to time.

3.10 Screening

- 3.10.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

3.11 Hours of Operation

- 3.11.1 The automotive repair garage shall be permitted to operate between the hours of 7:00am and 8:00pm.
- 3.11.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 8:00pm.
- 3.11.3 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

PART 4: AMENDMENTS

4.1 Non-Substantive Amendments

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

- (a) The granting of an extension to the date of commencement of construction as identified in Section 5.3.1 of this Agreement; and
- (b) The length of time for the completion of the development as identified in Section 5.5.1 of this Agreement.

4.2 Substantive Amendments

Amendments to any matters not identified under Section 4.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

5.1 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.

5.2 Subsequent Owners

5.2.1 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.

5.2.2 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).

5.3 Commencement of Development

5.3.1 In the event that development on the Lands has not commenced within one (1) year 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 applicable Land Use By-law.

5.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Building Permit.

5.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 4.1, 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.

5.4 Completion of Development

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 applicable Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

5.5 Discharge of Agreement

5.5.1 If the Developer fails to complete the development after three (3) 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 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 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.

6.2 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 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 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: _____

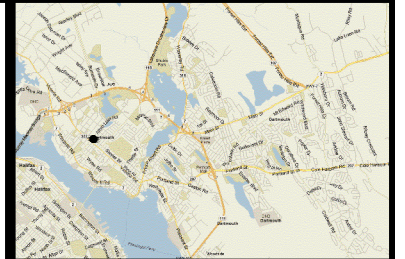
MAYOR

Witness

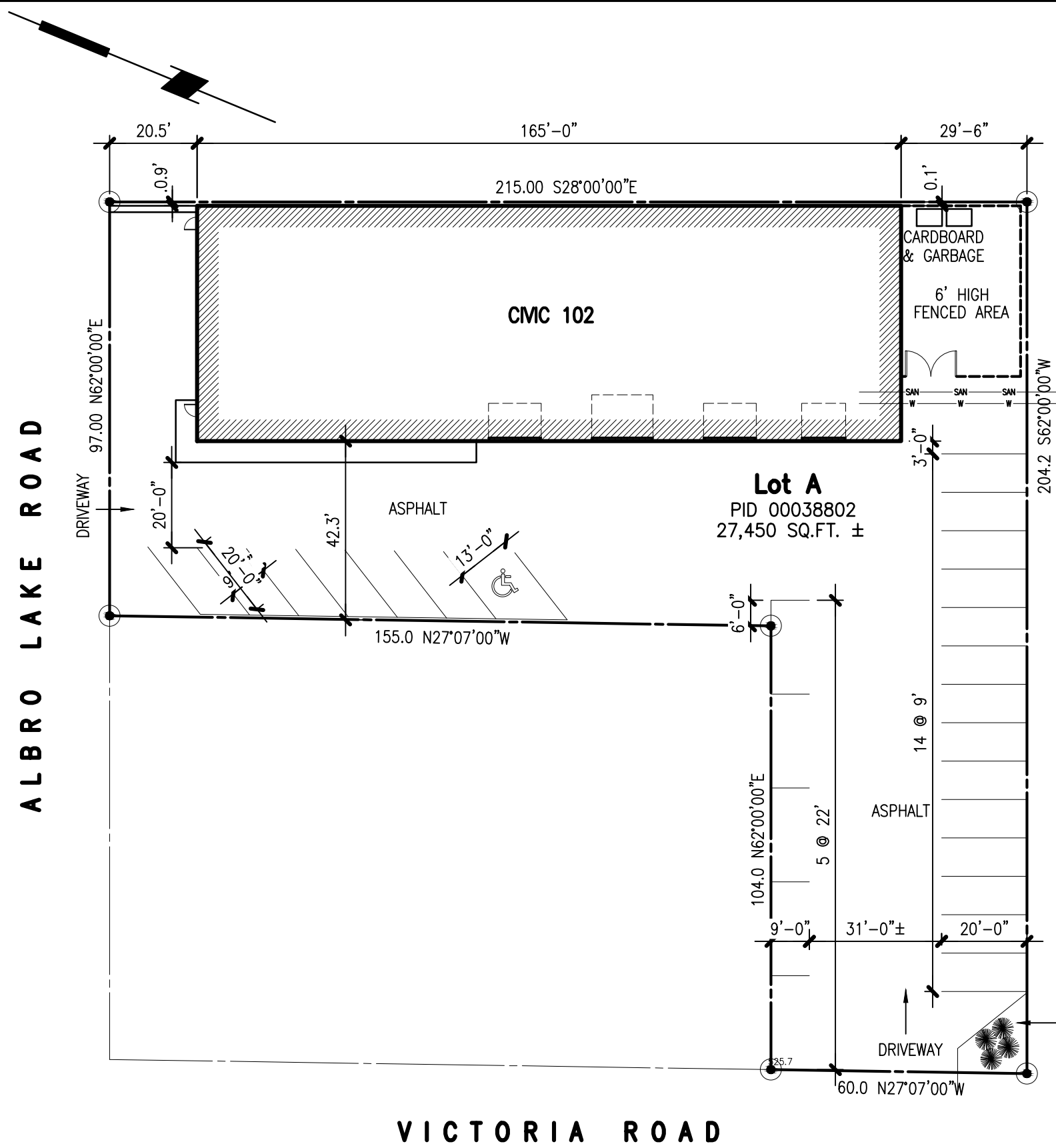
Per: _____

MUNICIPAL CLERK

SCHEDULE B: SITE PLAN AND LANDSCAPING



key plan:



Lot A
 PID 00038802
 Subdivision lands of Canadian Petrofina limited
 Civic 102, Albro Lake Road
 Dartmouth, HRM, NS

Lot A
 PID 00038802
 27,450 SQ.FT. ±

- LANDSCAPING DETAIL:**
- 8 ELIJAH BLUEGRASS
 - 3 THREADLEAFS
 - 2 FOUNTAIN GRASS
 - 1- WEEPING JAPANESE MAPLE
 - 1 MULCH BED
- LANDSCAPING

102 ALBRO LAKE ROAD DARTMOUTH. NS

project name:
PROPOSED COMMERCIAL RETROFIT

client:
CHAD KENNEDY

drawing name:
SITE PLAN

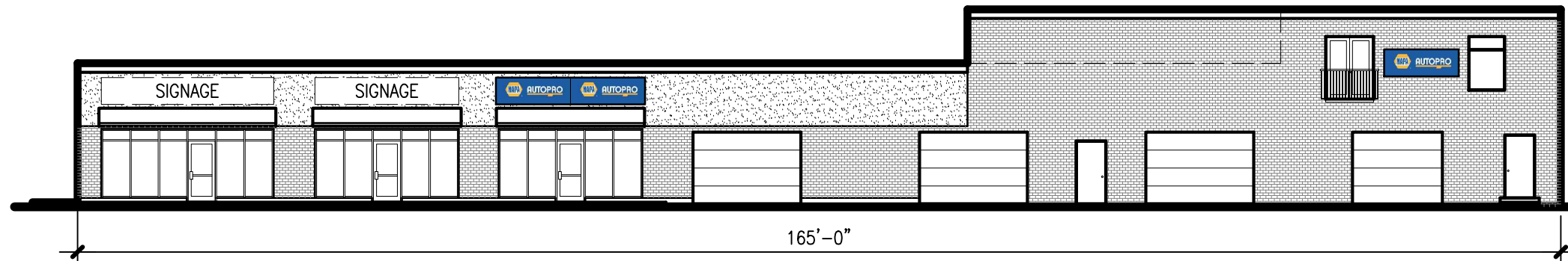
drawn by: CADtech

scale: AS NOTED

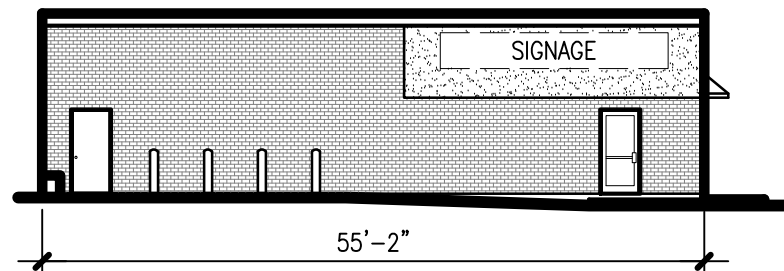
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project no. 102 ALR	drawing no. SP1
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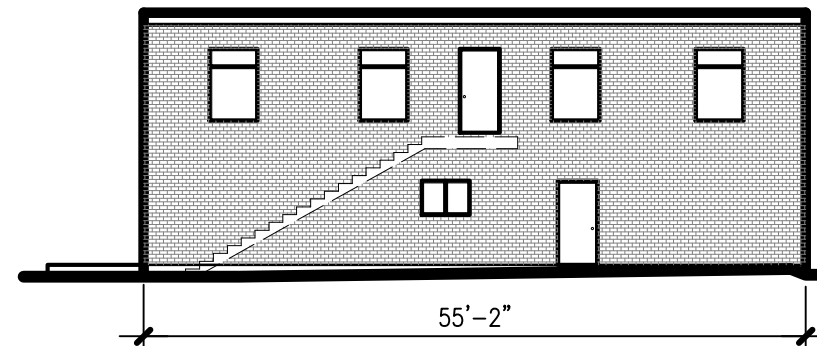
SCHEDULE C: ELEVATIONS



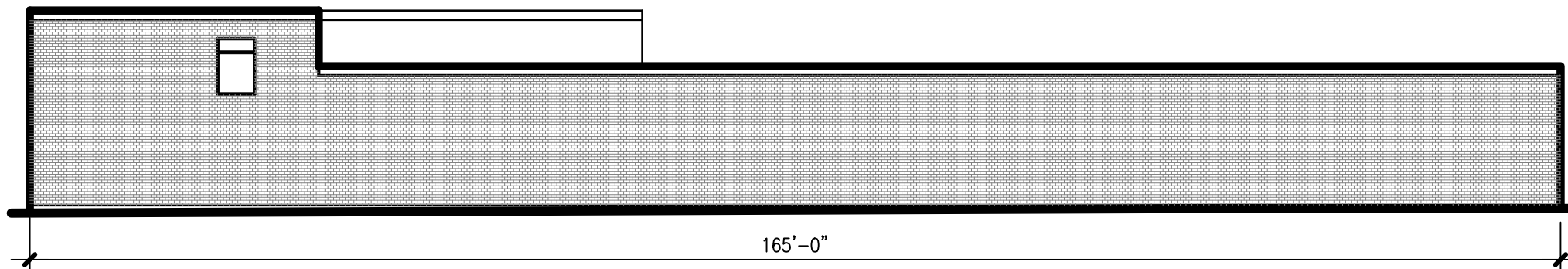

WEST ELEVATION
 SCALE: 1/16" = 1'-0"



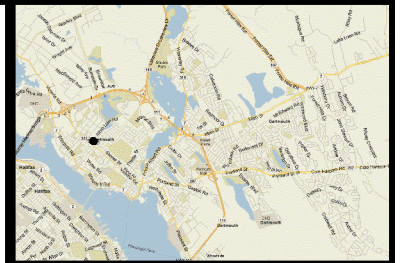

NORTH ELEVATION
 SCALE: 1/16" = 1'-0"




SOUTH ELEVATION
 SCALE: 1/16" = 1'-0"




EAST ELEVATION
 SCALE: 1/16" = 1'-0"



key plan:

**102 ALBRO
 LAKE ROAD
 DARTMOUTH. NS**

project name:
**PROPOSED COMMERCIAL
 RETROFIT**

client:
CHAD KENNEDY

drawing name:
ELEVATIONS

drawn by: CADtech

scale: AS NOTED

date: OCTOBER 30, 2017

project no.
102 ALR

drawing no.
A1

Attachment D: Policy Review

Excerpts from the Municipal Planning Strategy for Dartmouth: Policy Evaluation

<i>Policy C-20(3): In considering the approval of agreements pursuant to [Policy] C-20(2) ... Council shall have regard to the following:</i>	
Policy Criteria	Comment
<i>(a) the proposed uses for the site and their compatibility with nearby residential uses;</i>	The automotive repair garage use will be contained within the existing commercial building at 102 Albro Lake Road. The building faces away from the residential uses on Chappell Street.
<i>(b) the provision of adequate visual screening and buffering of the parking areas, traffic circulation areas, and any gas sales area from nearby residential properties;</i>	No gas sales will be permitted on this site. No significant changes to the existing parking area or traffic circulation areas are proposed.
<i>(c) the location, design and adequacy of driveway access points, and that no commercial driveway access to Chappell Street shall be considered;</i>	The driveway locations are not proposed to change from the existing condition. No driveway access from Chappell Street is permitted.
<i>(d) the adequacy of vehicular and pedestrian circulation on the site, and parking layout;</i>	No significant change from the existing condition is proposed.
<i>(e) the hours of operation of uses on the site;</i>	Hours of operation are proposed to be 7:00 am to 8:00 pm for the automotive repair garage.
<i>(f) measures to reduce the effects of noise, lighting and odours originating from the property on other nearby properties;</i>	The automotive repair garage will be enclosed within the commercial building. Any lighting shall be directed away from nearby properties.
<i>(g) the size, height, orientation, location, and design of any proposed buildings, signs, structures, parking areas and driving aisles;</i>	No major changes to the dimensions of the building are proposed, and no significant changes to the existing parking area or traffic circulation areas are proposed.
<i>(h) the provision of adequate landscaping for the site, including trees, to define the street edge and visually screen any areas for car parking;</i>	No significant change to the existing parking area is proposed. Adequate landscaping for the scale of the development is proposed, including a small landscaped area at the corner of Victoria Road and Chappell Street.
<i>(i) any and all other applicable matters as set out in Policy IP-1(c).</i>	See below.

Implementation Policies	
Policy IP-1 (c) Zoning By-law	
<i>The Zoning By-law is the principal mechanism by which land use policies shall be implemented. It shall set out zones, permitted uses and development standards which shall reflect the policies of the Municipal Development Plan as per Section 33 (3) of the Planning Act. The zoning by-law may use site plan approval as a mechanism to regulate various uses... In considering zoning amendments and contract zoning, Council shall have regard to the following:</i>	
Policy Criteria	Comment
<i>(1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan</i>	The subject site is within the Commercial designation, which envisions a range of commercial uses. Policy C-20 envisions that the

	existing commercial building may be reused as an automotive repair garage.
<i>(2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal</i>	The proposal involves a change of use in an existing commercial building. The building faces away from adjacent residential properties.
<i>(3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries</i>	The proposal involves a change of use in an existing commercial building. The building faces away from adjacent residential properties, and vehicle access is permitted only from Victoria Road and Albro Lake Road.
<i>(4) that the proposal is not premature or inappropriate by reason of:</i>	
<i>(i) the financial capability of the City is to absorb any costs relating to the development</i>	Any costs related to the development will be the responsibility of the Developer.
<i>(ii) the adequacy of sewer and water services and public utilities</i>	Adequacy of services will be demonstrated at the building permit stage.
<i>(iii) the adequacy and proximity of schools, recreation and other public facilities</i>	N/A
<i>(iv) the adequacy of transportation networks in adjacent to or leading to the development</i>	HRM Traffic Management staff have reviewed the Traffic Impact Statement prepared for this proposal and advised additional traffic generated by the change in use should be negligible.
<i>(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas</i>	N/A
<i>(vi) preventing public access to the shorelines or the waterfront</i>	N/A
<i>(vii) the presence of natural, historical features, buildings or sites</i>	N/A
<i>(viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized</i>	N/A
<i>(ix) the detrimental economic or social effect that it may have on other areas of the City.</i>	N/A
<i>(5) that the proposal is not an obnoxious use</i>	The proposed automotive repair garage will be located within an existing building and operate with limited hours of operation. It is not anticipated to be an obnoxious use.
<i>(6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with</i>	

<p><i>approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:</i></p> <p><i>(i) type of use, density, and phasing</i></p> <p><i>(ii) emissions including air, water, noise</i></p> <p><i>(iii) traffic generation, access to and egress from the site, and parking</i></p> <p><i>(iv) open storage and landscaping</i></p> <p><i>(v) provisions for pedestrian movement and safety</i></p> <p><i>(vi) management of open space, parks, walkways</i></p> <p><i>(vii) drainage both natural and sub-surface and soil-stability</i></p> <p><i>(viii) performance bonds.</i></p>	<p>N/A</p> <p>The proposed automotive repair garage will be contained within the commercial building.</p> <p>Access to the site will be limited to the existing driveways on Victoria Road and Albro Lake Road. HRM Traffic Management staff have reviewed the Traffic Impact Statement prepared for this proposal and advised additional traffic generated by the change in use should be negligible.</p> <p>No open storage will be permitted, and outdoor storage will require screening. Appropriate landscaping of the site will be required.</p> <p>Existing sidewalks around the site will be maintained.</p> <p>N/A</p> <p>N/A</p> <p>N/A</p>
<p><i>(7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors</i></p>	<p>N/A</p>
<p><i>(8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council</i></p>	<p>The engagement program approved by Regional Council for this application included a mail-out notification of the proposal sent to surrounding property owners within the notification area (Map 2) on August 3, 2017, as well as a specific web page on the Municipal website; and signage posted on the subject site. Additionally, as this application falls within the Regional Centre, it was available for comment at a public meeting held in conjunction with 17 other plan amendment applications within the Regional Centre on December 7, 2016.</p>
<p><i>(9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide: (i) Council with a clear indication of the nature of proposed development, and (ii) permit staff to assess and determine the impact such</i></p>	<p>Sufficient application material has been provided.</p>

<i>development would have on the land and the surrounding community</i>	
<i>(10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i>	N/A

Attachment E:

Excerpts from the Municipal Planning Strategy for Dartmouth

- Policy C-20 It shall be the intention of Council to consider the development of a gas bar and local commercial uses, on the two commercially-designated parcels of land known as 240 Victoria Road and 102 Albro Lake Road, and identified by PID numbers 00038802 and 00038810, only by development agreement. Notwithstanding that major redevelopment may take place only by development agreement, renovations to the existing buildings, the construction of replacement buildings of a similar size, and changes of use may occur subject to the requirements of the C-1 Zone. In considering the approval of such agreements, Council shall have regard to the following:
- (a) the proposed uses for the site and their compatibility with nearby residential uses;
 - (b) the provision of adequate visual screening and buffering of the parking areas, traffic circulations areas, and any gas sales area from nearby residential properties;
 - (c) the location, design and adequacy of driveway access points, and that no commercial driveway access to Chappell Street shall be considered;
 - (d) the adequacy of vehicular and pedestrian circulation on the site, and parking layout;
 - (e) the hours of operation of uses on the site;
 - (f) measures to reduce the effects of noise, lighting and odours originating from the property on other nearby properties;
 - (g) the size, height, orientation, location, and design of any proposed buildings, signs, structures, parking areas and driving aisles;
 - (h) the provision of adequate landscaping for the site;
 - (i) any and all other applicable matters as set out in Policy IP-1(c).

Attachment F:

Excerpts from the Land Use By-law for Dartmouth

SECTION 2: GENERAL PROVISIONS

18G Notwithstanding any other provisions of this By-law, on those lands known as 240 Victoria Road and 102 Albro Lake Road as identified on Schedule "R", any redevelopment may be considered only according to Policy C-20 of the Municipal Planning Strategy, except that renovations of the existing buildings, the replacement of the existing buildings with new ones of a similar size in the same general location, and changes of use may take place pursuant to the requirements of the C-1 Zone.

...

PART 8: C-1 (LOCAL BUSINESS) ZONE

38(1) The following uses only shall be permitted in C-1 Zone:

- (a) R-1, R-2, and TH uses are herein set out;
- (b) food and grocery stores,
- (c) local offices including offices of professional people providing personal services,
- (d) public offices,
- (e) personal service shops, (As amended by By-law C-464, Sep 26/82)**
- (f) restaurants,
- (fa) veterinary clinics without outdoor runs, (RC-Sep 8/09;E-Nov 14/09)**
- (g) uses accessory to any of the foregoing uses.

38(2) Buildings used for R-1, R-2 and TH uses in a C-1 Zone shall comply with the requirements of an R-1, R-2, TH Zone respectively.

38(3) Buildings used for C-1 uses in a C-1 Zone shall comply with the following requirements:

- (a) Lot area minimum - 5,000 square feet
- (b) Height maximum - 2 storeys
- (c) Lot coverage maximum - 50%
- (d) Floor area maximum for local offices 5,000 square feet or 25% of the total building area, the larger prevailing.
- (e) Side and rear yards shall be provided on each side and at the rear of buildings as specified in the Building By-laws of the City.

Attachment F: Excerpts from the Land Use By-law for Dartmouth

