



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

**Item No. 14.1.1**  
**Harbour East-Marine Drive Community Council**  
**October 5, 2023**

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

**-Original Signed-**

**SUBMITTED BY:**

\_\_\_\_\_  
Jacqueline Hamilton, Executive Director of Planning and Development

**DATE:** September 21, 2023

**SUBJECT:** **PLANAPP 2023-00306: Substantive Amendment to Development Agreement for 14 Lake Major Road, Westphal**

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**ORIGIN**

Application by Stephen Adams Consulting Inc.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

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

1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A, to permit an automotive repair and snow removal equipment sales/installation/repair business in the existing commercial building at 14 Lake Major Road, Westphal and schedule a public hearing;
2. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the amending development 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**

Stephen Adams Consulting Inc., on behalf of MAC 007 Inc. (Michael and Melinda MacDonald), has applied to amend an existing development agreement to change the permitted commercial use at 14 Lake Major Road in Westphal. Currently, a property restoration business is permitted. The amending agreement is proposing to replace the permitted property restoration use with an automotive repair business as well as the sale, installation, and repair of snow removal equipment.

<b>Subject Site</b>	14 Lake Major Road, Westphal
<b>Location</b>	Near the intersection of Highway 7 and Lake Major Road, in the existing building
<b>Regional Plan Designation</b>	Rural Commuter
<b>Community Plan Designation (Map 1)</b>	Residential
<b>Zoning (Map 2)</b>	General Commercial (C-2)
<b>Size of Site</b>	5,501.439 m <sup>2</sup> (59,217 ft <sup>2</sup> )
<b>Street Frontage</b>	70.628 m (231.7192 ft)
<b>Current Land Use(s)</b>	Property restoration business
<b>Surrounding Use(s)</b>	Commercial (motorcycle repair), institutional (church and cemetery), low-density residential

### **Proposal Details**

The applicant proposes to use the existing ~743.22 m<sup>2</sup> (~8,000ft<sup>2</sup>) commercial building for automotive repair and the sales, installation, & repair of snow removal equipment. The major aspects of the proposal are as follows:

- Mechanical repair to occur inside of the existing building.
- No additions to the building are proposed.
- Outdoor storage will be prohibited, with the exception of a screened garbage area.

### **Existing Development Agreement**

On November 18, 1999, a development agreement was approved by Harbour East Community Council to permit an addition to the existing property restoration (Case 00131). The development agreement was amended on February 21, 2007 by to permit an addition to the existing building (Case 00978). The original development agreement and the amending agreement are included in Attachment C.

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

Section 3.1.2 of the development agreement identifies amendments deemed to be non-substantive; the proposed amendment (a change in use to allow a new automotive repair use) is not able to be considered through the non-substantive amendment process. The proposed change in use is a substantive change to the agreement, able to be considered under Policy RES-7 and section 3.17(b)(ii) of the North Preston/Lake Major/Lake Loon/Cherry Brook/East Preston Municipal Planning Strategy (MPS) and Land Use By-law (LUB). Policy RES-7 allows Council to consider a change of use or expansion of an existing commercial use in the residential designation by development agreement. Policy IM-9 of the MPS outlines the matters Council must consider when deciding whether to enter into a development agreement or amending agreement.

## **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, signage posted on the subject site, and letters mailed to property owners within the notification area. One public comment was received, expressing concern about the whether a change in use would increase the likelihood of the property not being properly maintained.

A public hearing must be held by Harbour East-Marine Drive Community Council before they can consider approval of the proposed amending agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the advertisement on the HRM webpage, 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, due to the change in commercial use and potential increase in traffic.

## **DISCUSSION**

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

### **Proposed Amending Agreement**

Attachment A contains the proposed amending agreement which allows a change in the permitted use to an automotive repair shop and the installation/repair/sales of snow removal equipment. The attached amending agreement will permit these uses and the development will be subject to all other provisions of the existing development agreement.

### **Land Use Compatibility**

Policy RES-7 (a) and (b) requires that consideration be given to ensure the change in use can be accommodated on the existing site and maintain acceptable level of compatibility. The proposal is to change the land use within the existing building from one form of commercial use (property restoration business) to another (automotive repair and the sales, installation, & repair of snow removal equipment). No building expansions are proposed at this time; the proposed land use will continue to be internal to the existing building and will be subject to the same development controls as exist today. Aspects such as parking, landscaping, signage, lighting, outdoor storage and display, hours of operation and maintenance are covered under the existing development agreement and capable of supporting the change in land use.

### **Controls Under Existing Development Agreement**

The existing development agreement places controls on the following:

- Parking – A minimum of 18 customer spaces must be provided, plus 15 employee vehicles spaces and one loading space. Parking spaces must meet minimum dimension requirements and the parking area must be maintained with a stable surface that is treated to prevent dust/loose particles from raising.
- Landscaping – The existing natural buffer area (including the terrain and the vegetation) along the north, west and south property lines must be maintained.
- Signage – Signage is limited to one ground sign and one fascia sign, subject to size restrictions. No mobile signs are permitted.
- Lighting – Parking area must be lit and lighting must be directed to driveways, parking areas, loading area, building entrances and walkways, and diverted from streets and adjacent lots and buildings.
- Outdoor Storage and Display – No outdoor storage or display is permitted. One refuse bin is permitted, but must be in the vicinity of the west property line and screened with a 1.22 m (4 ft) high wooden fence.
- Hours of Operation – Limited to 7:00 am to 6:00 pm, Mondays through Saturdays.
- Maintenance – The Developer must keep the entire development in good repair, including but not limited to the interior/exterior of the building, fencing, parking areas and driveways, the area of natural drainage, and the maintenance of all landscaping and buffer areas, including replacement of dead plants, trimming, litter control and snow removal.

### **Priorities Plans**

In accordance with Policy G-14A of the Halifax Regional Plan, this planning application was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. While these priority plans often contain policies which were originally intended to apply at a regional level and inform the development of Municipal Planning Strategy policies, there are still components of each plan which can and should be considered on a site-by-site basis. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they would be applied to a specific geographic context. In this case, there were no priorities plans policies relevant to this proposal.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The proposed change in use will occur inside of the existing building to mitigate noise and odour concerns. The change in use is not expected to generate excessive traffic levels. Given that a similar auto repair use currently exists to the north of the site, this new use is compatible with the community. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed amending agreement.

### **FINANCIAL 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 2023-2024 operating budget for Planning and Development.

### **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 amending development agreement are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **ALTERNATIVES**

1. Harbour East-Marine Drive Community Council may choose to approve the proposed amending 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 amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East-Marine Drive Community Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed amending agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending 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 and Notification Area

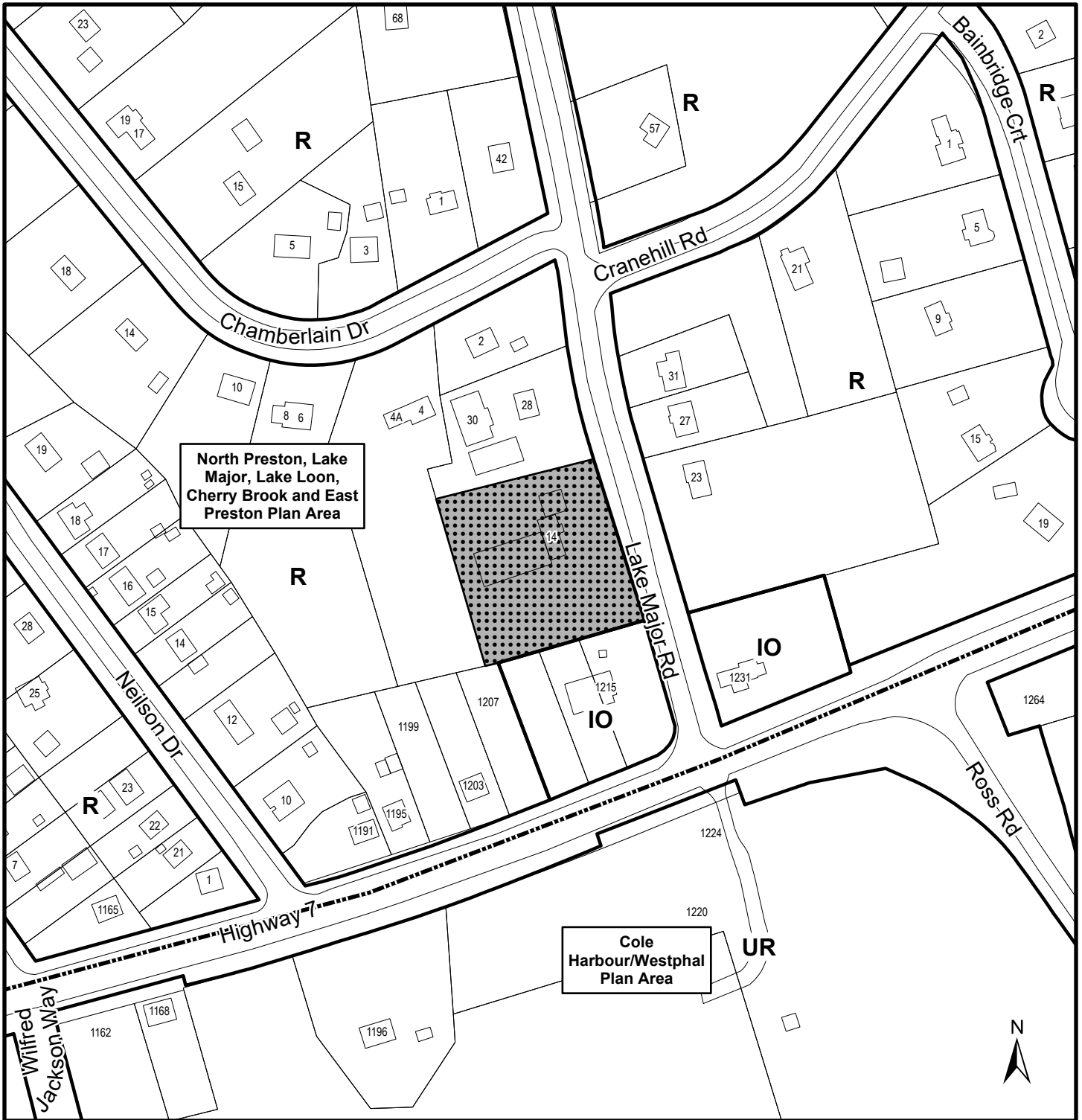
Attachment A: Proposed Amending Agreement  
Attachment B: Review of Relevant MPS Policies  
Attachment C: Existing Development Agreement (Original and Amendment)

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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: Alex Wilson, Planner II, Rural Policy & Applications, 902-719-9248


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**Map 1 - Generalized Future Land Use**

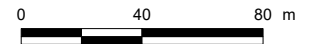
14 Lake Major Road,  
Westphal

**HALIFAX**

 Subject Property

**Designation**

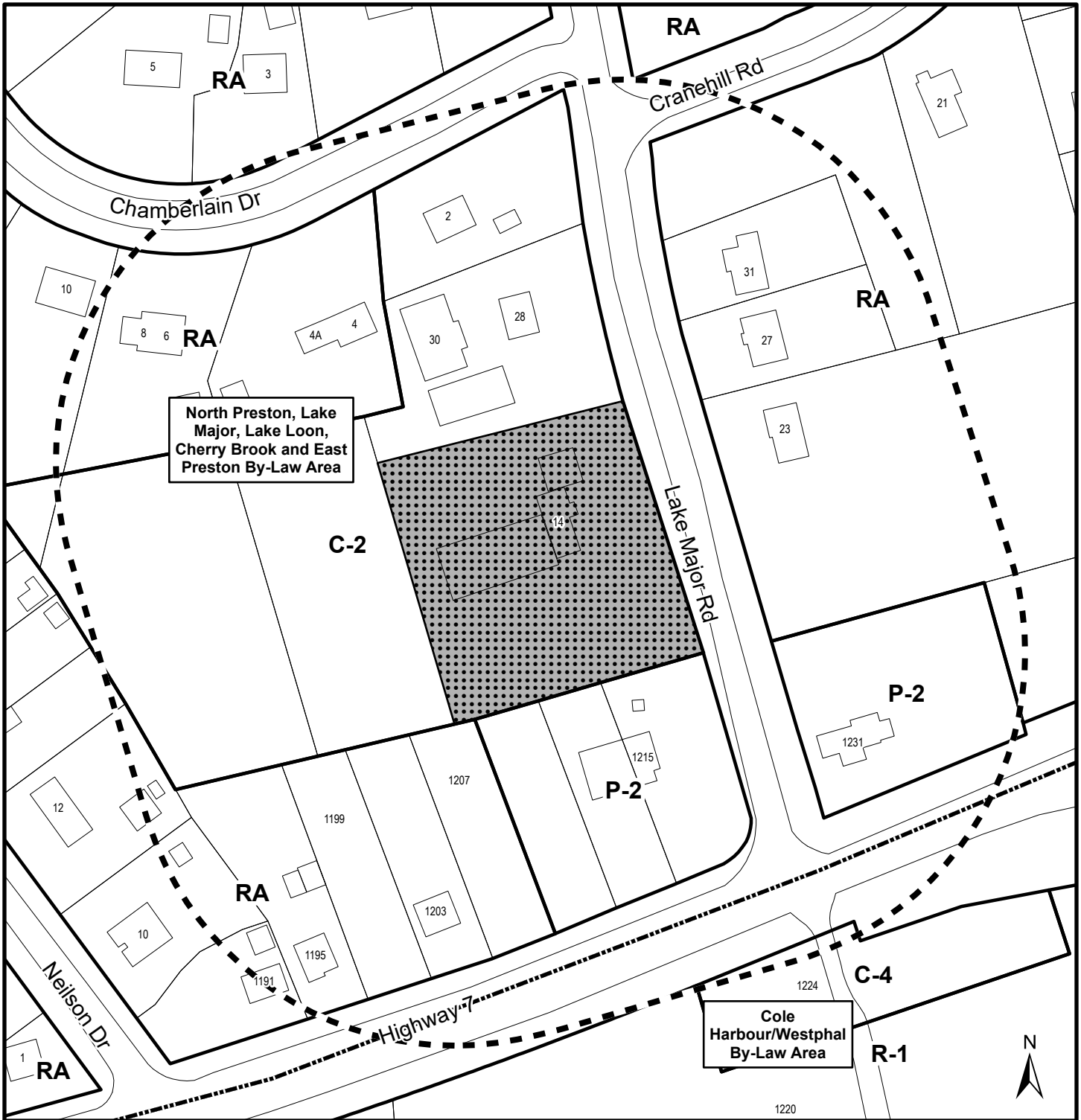
North Preston, Lake Major, Lake Loon, Cherry Brook and East Preston	R	Residential
	IO	Institutional-Open Space
Cole Harbour/Westphal	UR	Urban Residential



North Preston, Lake Major, Lake Loon,  
Cherry Brook and East Preston  
By-Law Area  
Cole Harbour/Westphal  
By-Law 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.



North Preston, Lake Major, Lake Loon, Cherry Brook and East Preston By-Law Area

Cole Harbour/Westphal By-Law Area

**Map 2 - Zoning and Notification Area**

14 Lake Major Road,  
Westphal

Subject Property

Area of Notification

North Preston, Lake Major, Lake Loon,  
Cherry Brook and East Preston  
By-Law Area  
Cole Harbour/Westphal  
By-Law Area

**Zone**

North Preston, Lake Major,  
Lake Loon, Cherry Brook  
and East Preston

Cole Harbour/Westphal

RA	Residential
P-2	Community Facility
C-2	General Commercial
R-1	Single Unit Dwelling
C-4	Highway Commercial



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 – PROPOSED 2nd AMENDING AGREEMENT

**THIS SECOND AMENDING AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 2023,

BETWEEN:

**MAC 007 INC.**

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 14 Lake Major Road, Westphal and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the Harbour East Community Council approved an application to enter into a Development Agreement to allow for a commercial building expansion on the Lands (Municipal Case Number 00131), which said Development Agreement was registered at the Land Registration Office on January 17, 2000 in Book 6508, Pages 161-174 (hereinafter called the "Original Agreement");

**AND WHEREAS** the Marine Drive, Valley & Canal Community Council approved an application to amend the Original Agreement to allow for a commercial building expansion on the Lands (Municipal Case Number 00978) which said Development Agreement was registered at the Halifax County Land Registration Office on April 29, 2007 as Document Number 87686854 (hereinafter called the "First Amending Agreement"), and which does apply to the Lands;

**AND WHEREAS** the Original Agreement and the First Amending Agreement together comprise the Existing Development Agreement (hereinafter called "the Existing Agreement");

**AND WHEREAS** the Developer has requested further amendments to the Existing Agreement to allow for a change in the type of commercial use on the Lands to automotive repair and snow removal equipment sales, installation, and repair, pursuant to the provisions of the *Halifax Regional Municipality Charter* and Policies RES-7 and IM-9 of the North Preston / Lake Major / Lake Loon / Cherry Brook / East Preston Municipal Planning Strategy and Section 3.17 of the North Preston / Lake Major / Lake Loon / Cherry Brook / East Preston Land Use By-law;

**AND WHEREAS** the Harbour East-Marine Drive Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case PLANAPP-2023-00306;



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

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1. Except where specifically varied by this Second Amending Agreement, all other conditions and provisions of the Existing Agreement as amended shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Second Amending Agreement, and the Existing Agreement.
3. Section 1.7 shall be added to the Existing Agreement as follows:
  - 1.7 Any alteration within the right-of-way shall be reinstated by the Developer to the latest version of the Municipal Design Guidelines.
4. Section 2.2(a) of the Existing Agreement shall be amended by inserting the text shown in bold and removing the text shown in ~~strikeout~~, as follows:

#### 2.2 Land Use

(a) The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, is substantially in conformance with this agreement and the Schedules attached to this agreement and the plans filed in the Halifax Regional Municipality Planning Services Department as Case 00131, and the Lands shall not be used for another use than ~~an building and insurance restoration services business~~ **automotive repair and snow removal equipment sales/installation/repair business** as provided for herein.

5. Section 2.3.3(b) of the Existing Agreement shall be amended by inserting the text shown in bold and removing text shown as ~~strikeout~~, as follows:

#### 2.3.3 Internal Features of Building

(b) The building may include an office, storage areas, a reception area, washrooms and employee lunchroom facilities, and additional facilities as required to operate ~~an fire restorage business~~ **automotive repair and snow removal equipment sales/installation/repair business** as approved by the Municipal Development Officer.

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

**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:

**MAC 007 INC.**

\_\_\_\_\_  
Witness

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

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

**HALIFAX REGIONAL MUNICIPALITY**

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

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

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, personally came and appeared \_\_\_\_\_, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that \_\_\_\_\_ of the parties thereto, signed, sealed and delivered the same in his/her presence.

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, personally came and appeared \_\_\_\_\_, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Mike Savage, Mayor and Iain MacLean Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

**ATTACHMENT B: REVIEW OF RELEVANT MPS POLICIES**

**Review of Relevant MPS Policies**

<b>North Preston/Lake Major/Lake Loon/Cherry Brook/East Preston Municipal Planning Strategy</b>	
<b>RESIDENTIAL USE</b> Change of commercial use	
<b>Policy</b>	<b>Staff Comments</b>
<p><b>RES-5</b> <i>Notwithstanding Policy RR-2, within the Residential Designation, it shall be the intention of Council to apply a general commercial zone (Policy MU-5) to existing commercially zoned properties. It shall be the intention of Council not to permit the extension of this zone to additional lands within the Residential Designation.</i></p>	<p><b>Satisfied.</b> The subject property is designated Residential and is zoned General Commercial (C-2).</p>
<p><b>RES-6</b> <i>It shall be the intention of Council to require the design of all commercial uses to be in keeping with the character of the surrounding area, with adequate provision for off-street parking, loading and unloading areas, and control of storage and display areas, signage, through specific requirements established in the land use by-law.</i></p>	<p><b>Satisfied.</b> Provisions for parking, loading and unloading areas, storage and display areas, and signage can be addressed under the existing development agreement. The proposed amendment is a change of use and all other provisions of the existing development agreement remain.</p>
<p><b>RES-7</b> <i>Notwithstanding Policy RES-2, within the Residential Designation, it shall be the intention of Council to Permit certain existing agricultural, commercial and service industrial operations, as identified in Appendix "C" of the land use by-law to the extent to which they were in existence on the effective date of this strategy. Any expansion or chance [sic] of use shall be subject to the development agreement provisions of the Planning Act. In considering such development agreements, Council shall have regard to the following:</i></p>	
<p><i>(a) that the expansion or chance [sic] of use can be accommodated on the existing site,</i></p>	<p>a) <b>Satisfied.</b> The proposal is for a change of use and no expansion to the existing building. The change in use is from a property restoration office to an automotive repair and snow removal equipment sales/installation/repair use.</p>
<p><i>(b) that the expansion or chance [sic] of use maintains an acceptable level of compatibility in terms of traffic generation, noise, outdoor storage, and the scale and intensity of the operation,</i></p>	<p>b) <b>Satisfied.</b> The operations will take place indoors, minimizing noise generation. Additional traffic generation is deemed acceptable by Development Engineering. Outdoor open storage is prohibited in the existing development agreement.</p>

<i>(c) the provision of adequate measures for the long-term maintenance of the Proposed development,</i>	c) <b>Satisfied.</b> The existing development agreement includes a maintenance clause (s. 2.6) that shall remain in the amending agreement.
<i>(d) that the proposed use is not obnoxious and does not create a nuisance for adjacent residential or community facility uses by virtue of noise, dust or smell;</i>	d) <b>Satisfied.</b> The properties to the north and west are zoned commercial, however the property to the south is zoned for a community facility (church), but no nuisance by virtue of noise, dust, or smell is anticipated.
<i>(e) the adequacy of storm drainage plans, particularly for proposals within the Lake Major Watershed;</i>	e) <b>Satisfied.</b> The subject property is located outside of the Lake Major Watershed. No addition to the building is proposed.
<i>(f) the provisions of Policy IM-9.</i>	f) <b>Satisfied.</b> Addressed below.

**IMPLEMENTATION**

**IM-9**

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

<i>(a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulation;</i>	a) <b>Satisfied.</b> There is an existing development agreement on the property. This proposal is to change the use permitted by the development agreement.
<i>(b) that the proposal is not premature or inappropriate by reason of:  (i) the financial capability of the Municipality to absorb any costs relating to the development;  (ii) the adequacy of sewer and water services;  (iii) the adequacy or proximity of school, recreation and other community facilities;  (iv) the adequacy of road networks leading or adjacent to or within the development;  (v) the potential for the contamination of watercourses, potable water supply sources such as Lake Major and Long Lake, or for the creation of erosion and sedimentation;  (vi) the potential for damage to or destruction of designated historic buildings and sites;  (vii) the provision of access to community facilities and schools.</i>	b) <b>Satisfied.</b> i. There are no financial costs to the Municipality related to the development. ii. The property contains existing water/wastewater systems. iii. N/A. iv. A traffic impact statement has deemed existing road networks to be adequate. v. N/A, the site is already developed. vi. No historic buildings on site or on adjacent properties. vii. N/A.
<i>(c) that, in development agreements, controls are placed on the proposed</i>	c) <b>Satisfied.</b> The existing development agreement on this site addresses many of these items and no

<p><i>development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> <ul style="list-style-type: none"> <li><i>(i) type of use;</i></li> <li><i>(ii) height, bulk and lot coverage of any proposed building;</i></li> <li><i>(iii) traffic generation, access to and egress from the site, and parking;</i></li> <li><i>(iv) open storage;</i></li> <li><i>(v) signs; and</i></li> <li><i>(vi) any other relevant matter of planning concern;</i></li> </ul>	<p>changes to these provisions are proposed. Building is existing and presently occupied by a commercial use. A traffic impact statement has been provided. The development agreement amendment will place controls on open storage, signs, and other planning matters of concern, if necessary, in addition to existing requirements in the zone.</p>
<p><i>(d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding; and</i></p>	<p>d) <b>Satisfied.</b> The site is relatively flat and already developed; the proposal will utilize the existing building. No watercourses on site or on adjacent properties.</p>
<p><i>(e) any other relevant matter of planning concern.</i></p>	<p>e) <b>Satisfied.</b> No other planning matters of concern identified.</p>
<p><i>(f) 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></p>	<p>f) <b>N/A.</b> Property is not located in an Infrastructure Charges zone.</p>

**Halifax Regional Municipal Planning Strategy (Regional Plan)**

**CHAPTER 9: GOVERNANCE AND IMPLEMENTATION**  
9.6.A Priorities Plans

**G-14A** *In considering development agreements or amendments to development agreements, or any proposed amendments to the Regional Plan, secondary planning strategies, or land use by-laws, in addition to the policies of this Plan, HRM shall consider the objectives, policies and actions of the priorities plans approved by Regional Council since 2014, including: (a) The Integrated Mobility Plan;*

<p><i>(a) The Integrated Mobility Plan;</i></p> <p><i>(b) Halifax Green Network Plan;</i></p> <p><i>(c) HalifACT;</i></p> <p><i>(d) Halifax's Inclusive Economic Strategy 2022-2027; and</i></p> <p><i>(e) any other priority plan approved by Regional Council while this policy is in effect.</i></p>	<p>(a) N/A (The subject property is not within the scope of the Integrated Mobility Plan).</p> <p>(b) The subject property does not intersect with an Important or Essential Wildlife Corridor, as identified on Map 5 of the Halifax Green Network Plan.</p> <p>(c) N/A (The proposed development is not within the scope of the objectives of HalifACT).</p> <p>(d) N/A (The proposed development is not within the scope of the objectives of Halifax's Inclusive Economic Strategy).</p> <p>(e) N/A (No other priority plans have been approved by Regional Council at this time).</p>
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HALIFAX COUNTY REGISTRY OF DEEDS		
I certify that this document was registered as shown here.	Document #	Book
Arlene D'Eon Registrar	1204	6508
	JAN 17 2000	161-174
	MM DD YYYY	Pages
		9:28 Am.
		Time

**THIS AGREEMENT** made this 4 day of January 2000

**BETWEEN:**

**K.B. CLARKE CONSTRUCTION LIMITED**  
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

**HALIFAX REGIONAL MUNICIPALITY**,  
a body corporate, in the County of  
Halifax, Province of Nova Scotia  
(hereinafter called the "Municipality")

OF THE SECOND PART

**APPROVED  
AS TO FORM**  
  
Municipal Solicitor

**WHEREAS** the Developer is the registered owner of certain Lands referred to as Lot E-6A, 14 Lake Major Road, Lake Major and which said Lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

**AND WHEREAS** the Developer has requested that the Municipality enter into a development agreement to allow a commercial building expansion, on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Lake Major, Lake Loon/Cherry Brook, North Preston and East Preston (hereinafter called the "Land Use By-law");

**AND WHEREAS** the Harbour East Community Council approved this request at a meeting held on November 18, 1999, referenced as Municipal Case Number 00131;

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

**PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

- 1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law, as may be amended from time to time.



- 1.3 Pursuant to Section 1.2 and 1.3, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.
- 1.4 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law and Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.5 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any Lands owned by the Developer or lot owner.
- 1.6 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

## **PART 2: USE OF Lands AND DEVELOPMENT PROVISIONS**

### **2.1 Schedules**

The Developer shall develop and use the Lands in conformance with the site plan and design drawings attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of the Lands, identified as Lot E-6A, Lake Major Road, Lake Major.
Schedule "B"	Concept Plan
Schedule "C"	Building Design Concept

### **2.2 Land Use**

- (a) The Developer shall develop the Lands in manner, which, in the opinion of the Development Officer, is substantially in conformance with this agreement and the Schedules attached to this agreement and the plans filed in the Halifax Regional Municipality Planning Services Department as

Case 00131, and the Lands shall not be used for another use than a building and insurance restoration services business as provided for herein.

### **2.3 Detailed Provisions for Land Use**

#### **2.3.1 Building Location and Design**

- (a) The location and design of the building shall be as generally illustrated on Schedule "B" and Schedule "C".

#### **2.3.2 Building Size**

- (a) The maximum floor area of the main building shall be 7,700 square feet.
- (b) Subject to Sects. 2.3.4 and 3.1.2, the building envelope of the existing building may be adjusted to match the height and south wall of the proposed addition.

#### **2.3.3 Internal Features of Building**

- (a) The business shall be conducted wholly within the building.
- (b) The building may include an office, storage areas, a reception area, washrooms and employee lunchroom facilities.

#### **2.3.4 Building Height**

- (a) The height of the building shall not exceed twenty-five (25) feet.

#### **2.3.5 Setbacks**

- (a) The setbacks from property lines for the building shall be as illustrated on Schedule "B" and shall conform to the C-2 Zone requirements of the Land Use By-law.

**2.3.6 Access and Parking**

- (a) A parking area to accommodate a minimum of ten (10) customer vehicles, ten (10) employee vehicles plus one (1) loading space shall be provided as generally illustrated on Schedule "B".
- (b) The dimensions for parking and loading spaces required under subsection 2.3.6.(a) shall meet the requirements of the Land Use By-law.
- (c) The parking area shall be maintained with a stable surface that is treated to prevent the raising of dust or loose particles and lights used for illumination of the parking area shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- (d) Driveway access to Lake Major Road shall be provided as generally illustrated on Schedule "B" and the limits of the parking area shall be defined by a fence, curb, shrubbery or other suitable obstruction to provide a neat appearance.

**2.3.7 Landscaping**

- (a) A natural buffer area of existing terrain and vegetation shall be retained along the north, west and south property boundaries of the Lands.

**2.3.8 Signage**

- (a) Signs shall be limited to signage identifying the business and limited to:
  - one facia sign, which may be located on the front facade of the main building.
  - one ground sign may be permitted on the Lands subject to this section and the requirements of the Land Use By-law.
- (b) The facia sign shall not exceed 10% of the area to which is it affixed or exceed 30 square feet in area nor extend above the top or project beyond the extremities of the wall in which it is attached. The final design and location of the sign shall be approved by the Development Officer.
- (c) A ground sign shall not exceed a height of 20 feet from the finished grade. No ground sign shall obstruct the vision of drivers leaving the roadway or driveway, or detract from the visibility or effectiveness of any traffic sign or control device on public streets. The final design and location of the sign shall be approved by the Development Officer.

- (d) No mobile or moveable sign shall be permitted, illuminated or otherwise.

### **2.3.9 Lighting**

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

### **2.3.10 Outdoor Storage and Display**

- (a) No outdoor storage or display shall not be permitted.
- (b) One refuse bin shall be provided in the vicinity of the west property boundary and shall be screened with a four (4) foot high wooden fence<sup>7</sup> around its perimeter.

### **2.3.11 Hours of Operation**

- (a) Hours of operation for the restoration business shall be limited to 7:00 am to 6:00 p.m., Mondays through Saturdays.

## **2.4 Approvals and Permits**

- (a) The Developer shall not commence construction of the building addition on the Lands until a Municipal Development Permit has been issued by the Municipality.
- (b) In addition to complying with all other terms and conditions of this Agreement, and any applicable provisions of the Land Use By-Law, issuance of a Municipal Development Permit is conditional upon the Developer obtaining and providing the Development Officer with a copy of a site grading plan approved by the Municipal Engineer indicating the manner in which the Lands will be drained and graded as part of the building construction and site development.

## **2.5 Environmental**

- (a) The building shall not be located within an area which is subject to flooding and any infilling or grading of the Lands shall not adversely impact on adjacent property.

**2.6 Maintenance**

- (a) The Developer shall maintain and keep in good repair all portions of the development, including but not limited to, the interior and exterior of the building, fencing, parking areas and driveways, the area of natural drainage, and the maintenance of all Landscape and buffer areas including the replacement of dead plant stock, trimming and litter control and snow removal.

**PART 3: AMENDMENTS**

- 3.1** Amendments to any matters not identified under Section 3.1.2 shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.
- 3.1.2** For the purpose of this Agreement, the provisions of this Agreement relating to the following matters are identified as and shall be deemed to be non substantial and may, subject to Section 3.1.3, be amended by resolution of Community Council:
  - (a) a change in use, however limited to uses permitted in accordance with the C-2 (General Commercial) Zone provisions of the Land Use By-law;
  - (b) an increase in floor area of the building to a maximum of 10,000 square feet within the same building footprint;
  - (c) an increase in the height of the building;
  - (d) an increase in the hours of operation;
  - (e) subdivision of the Lands subject to the requirements of the C-2 (General Commercial) Zone and the Subdivision By-law.
- 3.1.3** Prior to passing any resolution under the provisions of Section 3.1.2, Community Council shall send a notice in writing (by ordinary mail posted at least 10 days prior to the meeting of Council to consider the resolution) to the owners, according to the assessment records maintained by the Province of Nova Scotia, of all properties located within 500 feet (152.4 m) of the Lands, according to the records maintained by the Nova Scotia Land Registration and Information Service, notifying such owners that they shall be permitted to present written or oral submissions to Council at the meeting to consider the resolution to amend this Agreement.

**PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 4.3 Upon the transfer of title to all or any portion of the Lands, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the Lands.
- 4.4 Notwithstanding Section 4.3 or any transfer of title to the Lands, the Developer shall continue to be responsible for the fulfilment of the Developer's covenants under this Agreement.
- 4.5 In the event that construction of the project has not commenced within four (4) years from the date of approval of this Agreement by the Municipality, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect or upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purposes of this section, "commencement of construction" shall mean the concrete slab and footings (if necessary).
- 4.4 Upon the completion of the development or portions thereof, or after five years from the date of approval of this Agreement, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement
  - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

**PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

- 5.1** The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within 48 hours of receiving such a request.
- 5.2** If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:
- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
  - (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property and be shown on any tax certificate issued under the Assessment Act.
  - (c) the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
  - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.





## SCHEDULE "A"

**Sketchley A/C Refrigeration Limited Lot**

ALL that certain lot of land on the western side of Lake Major Road in the County of Halifax, Province of Nova Scotia being Lot E-6 on a plan (Servant, Dunbrack, McKenzie & MacDonald Limited Plan Number 13-364-0) of survey of Lots E-6 and E-7 Subdivision of Portion of Lands Conveyed to Nova Scotia Farm Loan Board signed by Granville Leopold, N.S.L.S. dated November 26th, 1984 and described as follows:

**BEGINNING** on the curved western boundary of Lake Major Road at the southeastern corner of Lot E-7;

**THENCE**  $S75^{\circ} 50' 38''W$ , 72.282 metres along the southern boundary of the said Lot E-7 to a point therein;

**THENCE**  $S16^{\circ} 08' 20''E$ , 90.739 metres to its intersection with the northern boundary of Lots fronting on the northern side of Route No. 7;

**THENCE**  $N78^{\circ} 30' 25''E$ , 4.845 metres along said northern boundary to an angle therein;

**THENCE**  $N75^{\circ} 27' 30''E$ , 18.387 metres along said northern boundary to an angle therein;

**THENCE**  $N73^{\circ} 41' 10''E$ , 48.691 metres along said northern boundary to its intersection with a western boundary of the aforesaid Lake Major Road;

**THENCE**  $N16^{\circ} 08' 20''W$ , 70.628 metres along said western boundary of Lake Major Road to a point of curvature;

**THENCE** northerly on a curve to the right which has a radius of 500,000 metres for a distance of 18.371 metres along the aforesaid curved western boundary of Lake Major Road to the place of beginning.

**CONTAINING** 6,491 square metres.

ALL bearings are Nova Scotia Coordinate Survey System Grid Bearings and are referred to Central Meridian,  $64^{\circ}30'W$ .

**SAVING AND EXCEPTING** all that Parcel of land known as Parcel A and being more particularly described as follows:

**ALL THAT CERTAIN** parcel of land situate, lying, and being on the southwest side of Lake Major Road, Westphal, County of Halifax, Province of Nova Scotia, said parcel of land being shown as Parcel A on a plan of subdivision of lands of Raymond and Marlene Roach and lands of Federal Business Development Bank prepared by Garry S. Parker, N.S.L.S., dated Nov. 23, 1993, Drg. No. 93146, said Parcel A being more particularly described as follows:

**BEGINNING** at a point on the southwestern boundary of Lake Major Road at the southeastern boundary of Lot E-7AB-D as shown on said plan,

**THENCE** by a bearing of two hundred and fifty-five degrees, fifty minutes, twenty seconds ( $255^{\circ} 50' 20''$ ) along the aforementioned southeastern boundary of Lot E-7AB-D and the extension thereof for a distance of two hundred and thirty-seven and fourteen hundredths feet (237.14') to a northeastern boundary of Lot E-7AB-B, lands of Lawrence Legere.

THENCE, by a bearing of one hundred and sixty-three degrees, fifty-one minutes, forty seconds (163° 51' 40") along the aforementioned northeastern boundary of Lot E-7A8-B for a distance of forty-five and three hundredths feet (45.03').

THENCE, by a bearing of seventy-five degrees, fifty minutes, twenty seconds (75° 50' 20") for a distance of two hundred and thirty-six and one tenth feet (236.10') to a point on the arc of a curve on the southwestern boundary of Lake Major Road, the bearing of the radial from the point on said arc to the center for said curve being seventy-four degrees, twenty-three minutes, forty-two seconds (74° 23' 42"), and the radius of said curve being one thousand six hundred and forty and forty-two hundredths feet (1640.42').

THENCE, northerly by the arc of said curve reflecting to the right on the southwestern boundary of Lake Major Road for a distance of forty-five feet (45.0') to the place of beginning.

PARCEL A CONTAINING AN AREA of ten thousand six hundred and forty-three square feet (10643 sq. ft.).

PARCEL A being a portion of Lot E6 as conveyed to Federal Business Development Bank by deed recorded in Book 5375, Page 116, and Lot E6 being as shown on a plan of subdivision of lands conveyed to the Nova Scotia Farm Loan Board prepared by Granville Leopold, N.S.L.S., dated Nov. 26, 1980.

ALL BEARINGS in the above description being referred to M.T.M. Grid North.

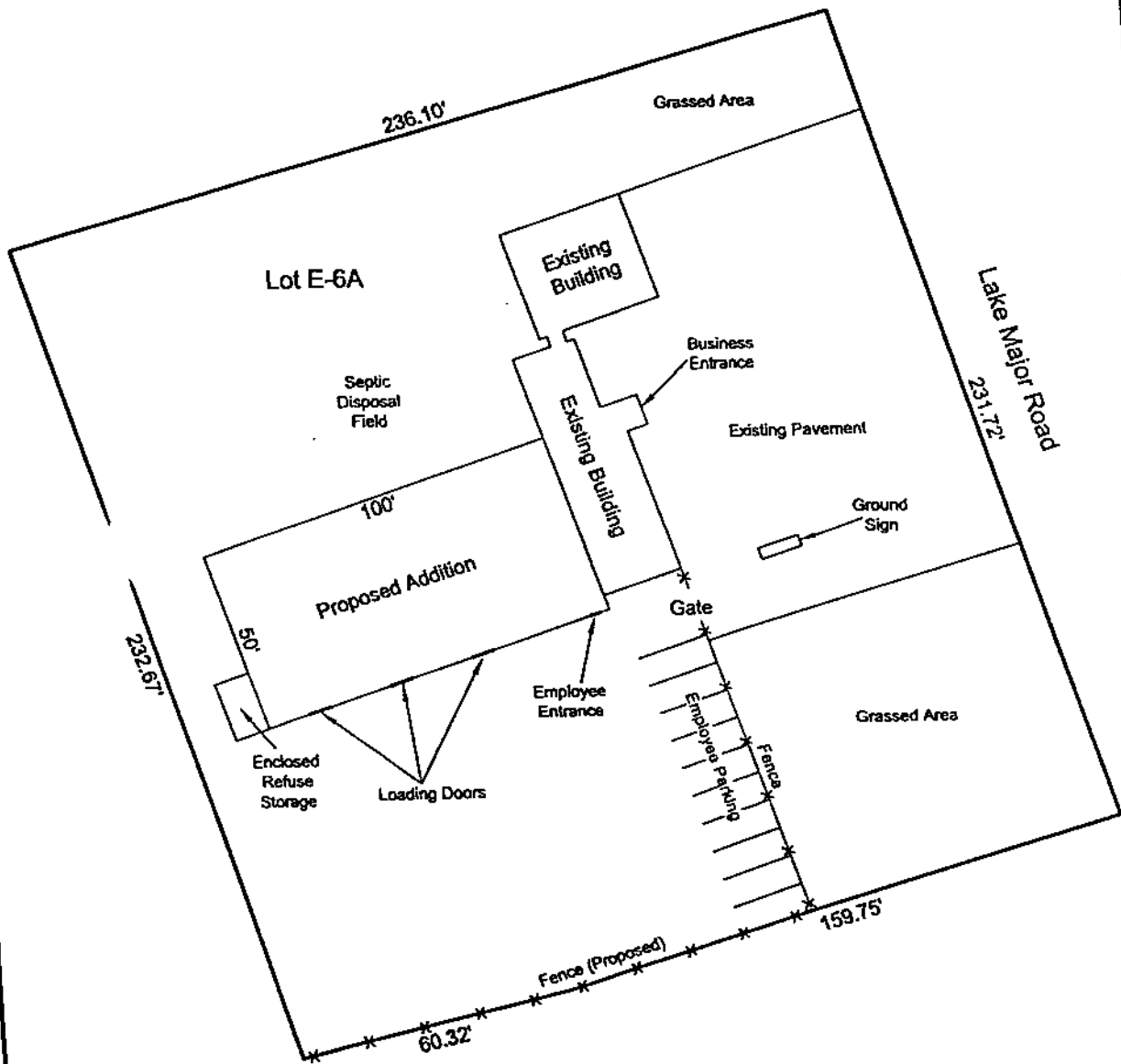
AND SUBJECT to an Easement dated December 15th, 1993 between Federal Business Development Bank and Nova Scotia Power Incorporated.

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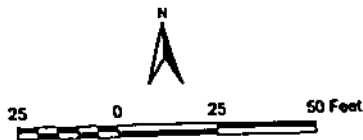
TO	FROM
DEPT	CO
FAX 434-7199	PHONE 434-7199
RE	FAX 434-7398
DATE	

490-4346

TO	Vac. C.	FROM	Kawin
DEPT	Robb	CO	KACIARUK
FAX	435 0143	PHONE	434-7199
RE	LEGAL	FAX	434-7398
	DESCRIPTION	DATE	OCT 18/99



Schedule "B"  
Site Plan  
14 Lake Major Road

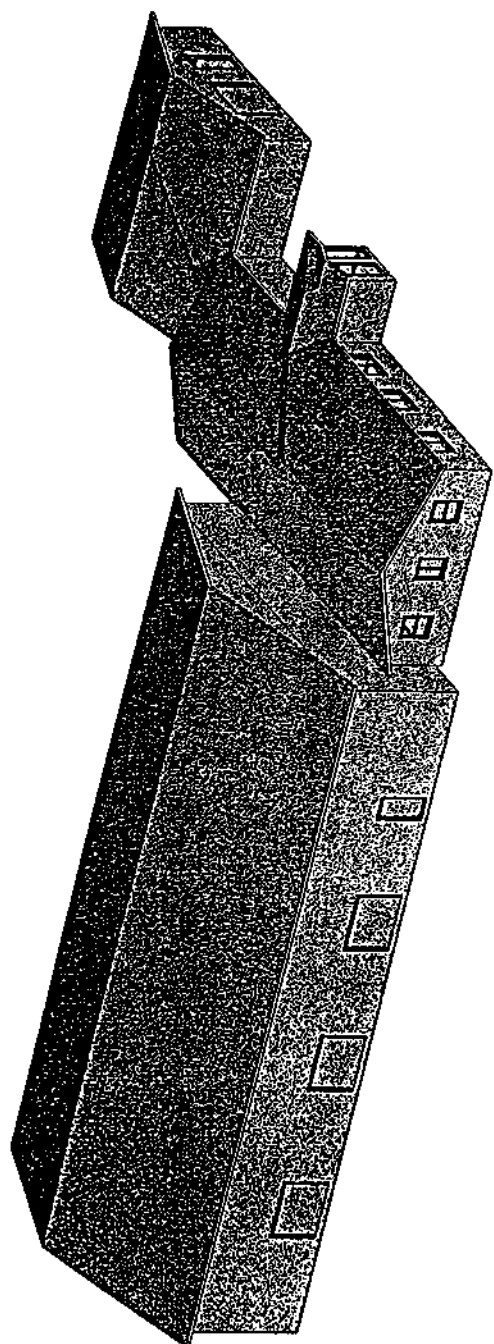


**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING SERVICES

Sept. 23 1999

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

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**HALIFAX**  
 REGIONAL MUNICIPALITY  
 PLANNING SERVICES

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**Schedule "C"  
 Design Concept**

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

Sept. 23 1988

PROVINCE OF NOVA SCOTIA  
HALIFAX REGIONAL MUNICIPALITY

ON THE 22 day of December A.D., 1999, before me, the subscriber personally came and appeared Helene Babin, a subscribing witness to the foregoing Agreement, who having been by me duly sworn, made oath and said that the Kevin Clarke, one of the parties thereto, signed, sealed and delivered the same in his/her presence.



WENDY STEWART  
Commissioner of the Supreme  
Court of Nova Scotia

A Commissioner of the Supreme  
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA  
HALIFAX REGIONAL MUNICIPALITY

ON THIS 4 day of January A.D., <sup>2000</sup>~~1999~~, personally came and appeared before me, the subscribing witness to the foregoing indenture, who having been by me duly sworn made oath and said that the Halifax Regional Municipality, by its officer, Mayor Walter Fitzgerald and Vi Carmichael, Municipal Clerk, signed, sealed and delivered the same in his/her presence.



A Commissioner of the Supreme  
Court of Nova Scotia

**BARBARA I. MOAR**  
A Commissioner of the Supreme  
Court of Nova Scotia

7

**Form 44**

**Request to the Registrar of Deeds to Register a Document**  
*Land Registration Act, S.N.S. 2001, c. 6, Sections 37 and 46*  
*Land Registration Administration Regulations, subsection 3(6)*

**Registration district:** Halifax Regional Municipality  
**Registrant user number:** 2766  
**Submitter's name/firm:** Raylene MacLellan, HRM Planning Services - Eastern Region  
**Grantor/declarant/developer re: attached document:** K.B. Clarke Holdings Limited  
**Apparent PID (if available):** PID # 40336364

**In the matter of** Section 37 or 46 of the *Land Registration Act*:

**Take notice that** the attached document relates to a parcel that is not registered under the *Land Registration Act*, and the document may be accepted for registration under the *Registry Act* because it is (*select one only*)

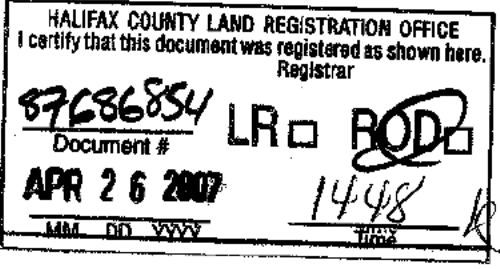
- not a transfer for valuable consideration as referred to in clause 46(1)(a) of the *Land Registration Act*.
- not a mortgage as defined in clause 2(2)(e) or security interest as defined in clause 2(2)(i) of the *Land Registration Administration Regulations*.
- a transfer of a parcel between persons married to one another.
- a transfer of a parcel between persons formerly married to one another, if the transfer is for the purpose of division of matrimonial assets.
- a transfer of a parcel between persons who are parties to a registered domestic partnership agreement.
- a transfer of a parcel acquired by Her Majesty in right of the Province or a municipality for the purpose of road widening, alignment or movement.
- a deed to a predecessor in title being registered in order to feed the estoppel or clarify title.
- a transfer of an unregistered parcel that is created for the purpose of consolidation with an abutting unregistered parcel, if the parcel being transferred/created is incapable of being approved except as an addition to another parcel.
- a transfer of a parcel from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act*.
- any other instrument not mentioned above that is not a trigger under subsections 37(2) and 37(3) of the *Land Registration Act*.

**I hereby request that this document be registered under the *Registry Act*.**

**Dated at** Dartmouth, in the County of Halifax, Province of Nova Scotia, April 24, 2007.

\_\_\_\_\_

Signature of owner/agent/transferee  
Name: Raylene MacLellan  
Address: PO Box 1749, Halifax, NS, B3J 3A5  
Phone: (902) 490-4472  
Email: maclelr@halifax.ca  
Fax: (902) 490-4346



THIS AMENDING AGREEMENT made this 28<sup>th</sup> day of March, 2007, AT

BETWEEN:

**K.B. CLARKE HOLDINGS LIMITED**  
(hereinafter called "the Developers")

OF THE FIRST PART

**HALIFAX REGIONAL MUNICIPALITY**  
a body corporate, in the County of Halifax,  
Province of Nova Scotia  
(hereinafter called the "Municipality")

OF THE SECOND PART

**WHEREAS** the Developers entered into a Development Agreement with the Municipality dated 4<sup>th</sup> Day of January 2000, and registered at the Registry of Deeds in Halifax in Book Number 6508 at Pages 161 to 174 (hereinafter called the "Existing Agreement") for 14 Lake Major Road, Westphal (PID 40336364);

**AND WHEREAS** the Developers have requested an amendment to the provisions of the Existing Agreement;

**AND WHEREAS** Marine Drive, Valley & Canal Community Council for the Municipality approved this request at a meeting held on February 21, 2007, referenced as Municipal Case 00978;

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

1. Replace Schedule B of the existing agreement with Schedule B-1 as attached.
2. Replace Schedule C of the existing agreement with Schedule C-1 as attached.
3. Replace the references to "Schedule B" and "Schedule C" in Sections 2.1, 2.3.1 of the Existing Agreement with the references "Schedule "B-1" and "Schedule C-1"".
4. Replace reference to "7700 square feet" in Section 2.3.2(a) of the Existing Agreement with "10,000 square feet".

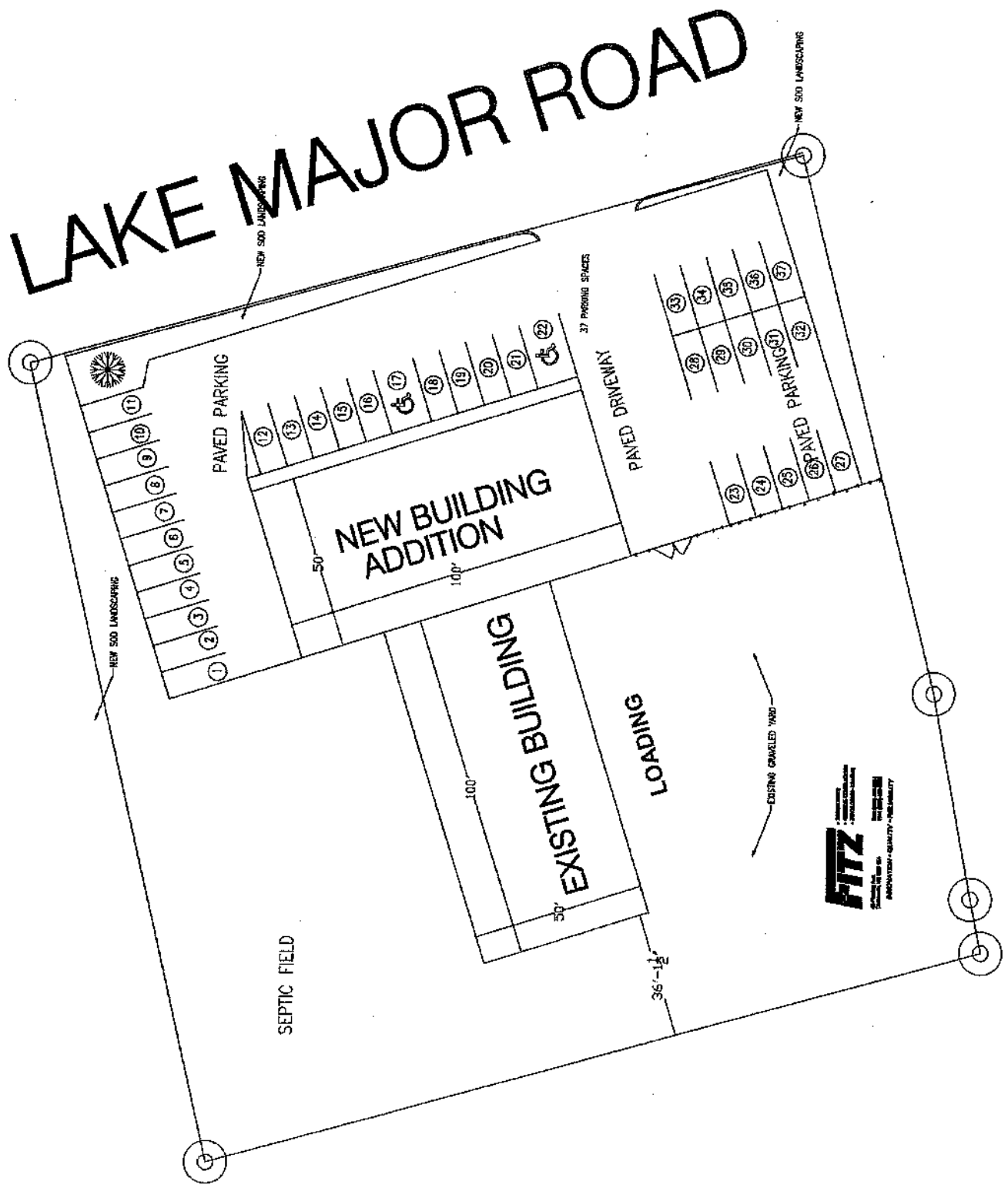
APPROVED AS TO FORM

Municipal Solicitor

5. Add after the phrase "employee lunchroom facilities" in section 2.3.3 (b) the following words:  
"and additional facilities as required to operate a fire restoration business as approved by the Municipal Development Officer".
6. Replace reference to "25 feet" in Section 2.3.4(a) of the Existing Agreement with "30 feet".
7. Replace the reference to "Schedule "B"" in Sections 2.3.5, 2.3.6(a) and 2.3.6(b) of the Existing Agreement with the reference "Schedule "B-1"".
8. Replace reference to the phrases "10 customer vehicles" and "ten (10) employee vehicles plus one loading space" in Section 2.3.6 (a) of the Existing Agreement with "a minimum of 18 customer vehicles" and "Fifteen (15) employee vehicles plus one loading space".
9. Delete reference to the words "within the same building footprint" in section 3.1.2 (b).
10. All other terms of the Existing Agreement shall remain in full force and effect.
11. This Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.



SCHEDULE B -1 - SITE PLAN





IN WITNESS WHEREOF the parties hereto have hereunto set hands and seals to this Amending Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED  
in the presence of

Per

[Redacted Signature]

) K. B. CLARKE HOLDINGS LIMITED

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

Per

[Redacted Signature]

Witness

) HALIFAX REGIONAL MUNICIPALITY

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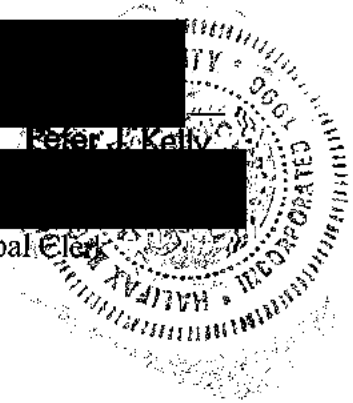
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Mayor Peter Kelly  
Municipal Clerk



PROVINCE OF NOVA SCOTIA  
HALIFAX REGIONAL MUNICIPALITY

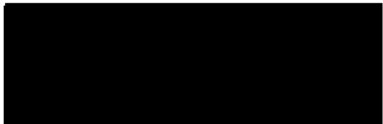
ON THIS 27<sup>th</sup> day of March A.D., 2007, before me, the subscriber personally came and appeared, Conni More (witness), a subscribing witness to the foregoing Agreement, who having been by me duly sworn, made oath and said that **K.B. CLARKE HOLDINGS LIMITED**, one of the parties thereto, signed, sealed and delivered the same in his/her presence.

**ELAINE ST. LOUIS**  
A Commissioner of The  
Supreme Court of Nova Scotia

  
A Commissioner of the Supreme  
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA  
HALIFAX REGIONAL MUNICIPALITY

ON THIS 28<sup>th</sup> day of March A.D., 2007, personally came and appeared before me, the subscribing witness to the foregoing Indenture, who having been by me duly sworn made oath and said that the Halifax Regional Municipality, by its officer, Mayor, Peter Kelly, and Jan Gibson, Municipal Clerk, signed, sealed and delivered the same in his/her presence.

  
A Commissioner of the Supreme  
Court of Nova Scotia

**JENNIFER WEAGLE**  
A Commissioner of the  
Supreme Court of Nova Scotia