

Form 24

Request to Revise the Registration and Certificate of Legal Effect

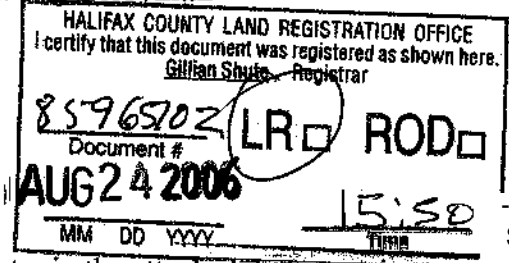
Land Registration Act, S.N.S. 2001, c.6, subsection 18(13)

Land Registration Administration Regulations, subsections 8(1), 8(2), 14(2), 15(2) and 17(4)

Registration district: **Halifax County**
 Registrant user number: **3650**
 Submitter's name/firm: **Patrick I. Cassidy / Cassidy Nearing Berryman**

In the matter of Parcel Identification Number (PID)

PID: 41096777 / 40622664



-Original Signed-

I hereby certify that:

1. The legal description of the parcel contained, or referred to, in the attached document is not identical to the legal description contained in the parcel register for the property. I undertake to the registrar to submit an amending PDCA once the revision to the registration has been effected in the parcel register.
2. The following burdens (e.g. right of way in favour of another person or parcel) are changed in the parcel's registration:

Instrument type/code	Agreement re Use of Land / 406
Expiry date (if applicable)	N/A
Interest holder and type to be removed (if applicable)	N/A
Interest holder and type to be added (if applicable) Note: include qualifier (e.g. estate of, executor, trustee, personal representative) if applicable	Halifax Regional Municipality - Party to Agreement (Burden)
Mailing address of interest holder added (if applicable)	PO Box 1749 Halifax, NS B3J 3A5
Reference to related instrument in names-based roll/parcel register (if applicable)	N/A

3. It is appropriate to revise the parcel registration for the indicated PIDs as certified in this request.

Certified at Halifax, in the County of Halifax, Province of Nova Scotia, August 24, 2006.

-Original Signed-

PATRICK I. CASSIDY

Address: 401-1741 Brunswick Street

Halifax, Nova Scotia, B3J 3X8

Phone: (902) 492-1770

Email: cassidy@cnb.ca

Fax: (902) 423-2485

- This document also affects non-land registration parcels. The original will be registered under the *Registry Act* and a certified true copy for recording under the *Land Registration Act* is attached.

THIS AGREEMENT made this 18 day of August, 2006,

BETWEEN:

APPROVED
FORM
-Original Signed-

Municipal

TREVOR BEHAN
J.J. SYER
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1434 St. Margarets Bay Road (PID No. 41096777) and 1440 St. Margarets Bay Road (PID No. 40622664), Lakeside and which said lands are more particularly described in Schedules "A" and "A-1" to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a day care to accommodate up to 70 children on the Lands pursuant to the provisions of the *Municipal Government Act* and the Municipal Planning Strategy and Land Use By-law for Timberlea, Lakeside, Beechville;

AND WHEREAS the Western Region Community Council approved this request at a meeting held on June 26, 2006, referenced as Municipal Case Number 00888;

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 of Timberlea, Lakeside, Beechville, as may be amended from time to time.

- 1.3 Pursuant 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 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 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 and each lot owner 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 attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of the Lands of Lakeside Child Care Centre Inc., identified as 1434 St. Margarets Bay Road (PID No. 41096777, Lakeside
Schedule "A-1"	Legal Description of the Lands of Lakeside Child Care Centre Inc., identified as 1440 St. Margarets Bay Road (PID No. 40622664), Lakeside
Schedule "B"	Site Plan

2.2 Permitted Uses

- 2.2.1 The Developers may develop and use the Lands at 1440 St. Margarets Bay Road as a day care for not more than 35 children and a one unit apartment, and the Lands at 1434 St. Margarets Bay Road as a day care for not more than 35 children and a one unit apartment. The day care shall be wholly contained within the buildings and outdoor play area as generally depicted on Schedule B. Notwithstanding the foregoing, nothing in this Agreement shall prevent the Lands from being used for any other purpose permitted in the C-1 (Local Business) Zone of the Land Use By-law for Timberlea, Lakeside, Beechville.

- 2.2.2 Notwithstanding the foregoing, should 1440 St. Margarets Bay Road be changed to a use other than a day care, 1434 St. Margarets Bay Road shall not be used for a day care unless it can meet all requirements for such a use as set out by the Nova Scotia Department of Community Services.
- 2.2.3 If the occupancy of either day care exceeds 40 children and staff, the Developer must install a fire alarm system per Section 3.2.4.1 (2) (f) of the 1995 National Building Code.

2.3 Detailed Provisions for Land Uses

- 2.3.1 No exterior alterations or additions to either building shall be permitted, which would, in the opinion of the Development Officer, increase the height or gross floor area of the buildings.
- 2.3.2 Parking
- 2.3.2.1 1434 St. Margarets Bay Road: Four parking spaces shall be provided at the front of the property. One parking space shall be provided at the rear of the property and shall be reserved for the tenant of the apartment.
- 2.3.2.2 1440 St. Margarets Bay Road: Eight parking spaces shall be provided at the rear of the property as shown on Schedule "B". Six of the spaces at the rear of the property shall be reserved for employee parking, while one shall be reserved for general parking and the other shall be reserved for the tenant of the apartment unit. Another five parking spaces shall be provided at the front of the property for general parking (as shown on Schedule "B").
- 2.3.3 The access and egress of the driveway and parking area shall be maintained so as to facilitate the traffic flow for parents to drop off and pick up their children and shall be provided in accordance with Schedule "B".
- 2.3.4 The Developer shall restrict access and egress to a single driveway through the use of planters or concrete barriers. The driveway shall be provided through easements across the middle property, Lot 4D, as illustrated in Schedule B. These easements shall be provided to Development Staff prior to the issuance of Municipal Permits.
- 2.3.5 The driveway shall meet all requirements of the Municipal Service Systems guidelines and Streets By-law S-300. The driveway shall be located so as to maximize available stopping sight distance.
- 2.3.6 When placing planters or other barrier devices close to the existing lot frontage of civic 1440 St. Margarets Bay Road., the Developer must ensure that the line of sight for the stopping sight distance to the proposed driveway is not blocked. Similarly, the planters or other barrier devices shall not block the line of sight for

the stopping sight distance for the property immediately west of civic 1440 St. Margarets Bay Road.

- 2.3.7 The developer shall place precast parking curbs from the west edge of the proposed driveway westerly to the property line along the frontage on St. Margarets Bay Road.
 - 2.3.8 A walkway connecting both 1440 and 1434 St. Margarets Bay Road shall be provided through easements across the middle property, Lot 40, as illustrated in Schedule B.
 - 2.3.9 The existing non-illuminated fascia sign located on the front of the building at 1440 St. Margarets Bay Road shall be permitted to be used for the day care. A non-illuminated or illuminated sign not exceeding 4 feet by 8 feet may be installed on the front of 1434 St. Margarets Bay Road for use of the property.
 - 2.3.10 The existing pylon sign located at the entrance to the Lands may continue to be used and its contents or use shall not be restricted under this agreement. Any use of this sign shall meet the requirements of the Timberlea, Lakeside, Beechville, Land Use Bylaw.
 - 2.3.11 One sign, not greater than four square feet, shall be placed on 1440 St. Margarets Bay Road, and one sign, no great than four square feet, shall be placed on 1434 St. Margarets Bay Road, on either side of the proposed walkway, as shown on Schedule B, to identify the walkway.
 - 2.3.12 The day care centers shall be permitted to operate between the hours of seven a.m. (7:00 a.m.) and six p.m. (6:00 p.m.) Monday to Friday.
 - 2.3.13 Notwithstanding Section 2.3.11, the day care centres shall be permitted to be open in the evening for day care related meetings, but shall not be operated as a day care during that time.
- 2.4 Landscaping and Open Space
- 2.4.1 The Developer shall maintain the planter boxes on the Lands.
 - 2.4.2 Flower beds shall be maintained along the western side of the building at 1434 St. Margarets Bay Road and the eastern side of the building at 1440 St. Margarets Bay Road. The beds shall include low maintenance ground cover at a minimum.
 - 2.4.3 Every effort is to be made to ensure the preservation of the existing trees on site. As a minimum, a tree retention area shall be provided at the rear of 1440 St. Margarets Bay Road, behind the designated play area, as shown on Schedule "B". Any trees to be preserved that are damaged shall be replaced, two new trees for each damaged tree, with trees of the same type and with minimum sizes of 60 mm caliper (2.4 inch diameter) for deciduous trees and coniferous trees a minimum of 1.5 m (5 ft.) high.

2.4.4 The outdoor play area shall be located within the rear yard of 1440 St. Margarets Bay Road as illustrated on Schedule "B". The Developer shall provide a minimum of 60 square feet of play area per child, subject to the requirements of the Provincial Day Care License.

2.4.5 The outdoor play area shall be enclosed by a four feet high fence installed along the property as shown on Schedule "B". Such fence shall be installed and enclosed prior to issuance of Occupancy Permits.

2.5 Municipal Services

2.5.1 All services shall be designed and constructed in accordance with the Municipal Services Systems guidelines. It is the responsibility of the owner or the owner's engineer to confirm municipal service sizes for the property.

2.5.2 The applicant shall provide certification from a Professional Engineer that the sanitary line is capable of handling flows from the day cares and the residential dwelling units.

2.6 Maintenance

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

2.6.2 The development shall include designated space for storage and collection of source-separated ICI waste, organic materials, and recyclable materials. This designated space shall be approved by the Development Officer and Building Official in consultation with HRM Solid Waste Resources. Each designated space shall:

- a) be accessible and convenient for tenants and waste haulers;
- b) contain separate bins to accommodate cardboard/paper, other recyclables, organics, and refuse;
- c) be clearly identified by signage and clearly identify the type of materials accepted therein.

PART 3: AMENDMENTS

3.1 The provisions of this Agreement relating to the following matters are identified as, and shall be deemed to be, not substantive and may be amended by resolution of the Community Council:

- a) an increase of the number of child care spaces subject to the Provincial licensing requirements and adequacy of site-specific controls to ensure compatibility.

- 3.2 Amendments to any matters not identified under Section 3.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia, and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, leasees 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 completion of the development or portions thereof, or within three years from the date of approval of this Agreement, whichever time period is less, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
 - (b) negotiate a new Agreement;
 - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 5.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within one day of receiving such a request.
- 5.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:
- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the development agreement, whereupon all

reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants or remedial action, shall be a first lien on Property and be shown on any tax certificate issued under the Assessment Act.

- (c) the Municipality may, by resolution, discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or
- (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

Signed, sealed and delivered
in the presence of:
-Original Signed-

per:

-Original Signed-

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

-Original Signed-

per:

✓ **Witness**

-Original Signed-

witness

Trevor Behan

-Original Signed-

per:

J.J. Syer

-Original
Signed-

per: _____

Halifax Regional Municipality

-Original Signed-

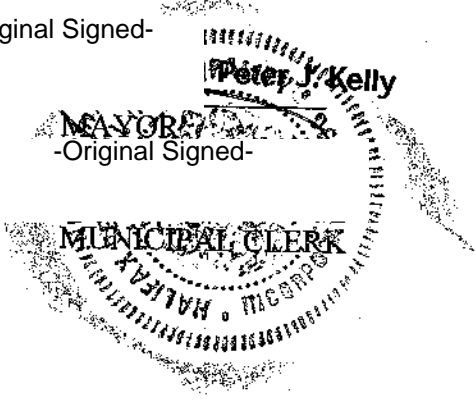
per:

per: _____

Peter J. Kelly

MAYOR
-Original Signed-

MUNICIPAL CLERK



Schedule A

LOT 4C - 1434 St. Margarets Bay Road

ST. MARGARETS BAY ROAD (ROUTE NO. 3)

LAKESIDE, HALIFAX COUNTY, NOVA SCOTIA

ALL that certain lot of land situated on the southern side of St. Margarets Bay Road (Route No. 3) in Lakeside, County of Halifax, Nova Scotia shown as Lot 4C on a Plan (Servant, Dunbrack, McKenzie & MacDonald Ltd. Plan No. 14-1102-A) of Survey of Lots 4C & 4D, Subdivision of Lot 4B-X-A-A, Lands Conveyed to Trevor Behan & J. J. Syer, signed by Robert A. Daniels, N.S.L.S., dated November 4, 2003, approved by the Development Officer for the Halifax Regional Municipality January 8, 2004, filed at the Halifax County Registry of Deeds as Plan No. 36179 in Drawer 398 and being more particularly described as follows:

BEGINNING on the southern boundary of St. Margarets Bay Road (Route No. 3) at the northwestern corner of lands conveyed to New Cap Broadcasting Limited by indenture recorded at the Registry of Deeds for the County of Halifax in Book 4883, Page 700; said point being distant 32.45 feet on a bearing of N 27 degrees 03 minutes 16 seconds W from Nova Scotia Coordinate Monument No. 28337;

THENCE S 16 degrees 28 minutes 12 seconds W, 110.70 feet along the western boundary of lands conveyed to New Cap Broadcasting Limited to the northeastern corner of Lot 4D;

THENCE N 74 degrees 37 minutes 26 seconds W, 67.90 feet along the northern boundary of Lot 4D;

THENCE N 09 degrees 59 minutes 12 seconds E, 91.08 feet along the eastern boundary of Lot 4D;

THENCE S 74 degrees 37 minutes 26 seconds E, 28.57 feet along the southern boundary of Lot 4D;

THENCE N 15 degrees 22 minutes 34 seconds E, 20.00 feet along the eastern boundary of Lot 4D to the southern boundary of St. Margarets Bay Road (Route No. 3);

THENCE S 74 degrees 37 minutes 26 seconds E, 50.00 feet along the southern boundary of St. Margarets Bay Road (Route No. 3) to the place of beginning.

CONTAINING 7,620 square feet.

ALL bearings are Nova Scotia Coordinate Survey System Grid Bearings and are referred to Central Meridian, 64 degrees 30 minutes West.

THE above described Lot 4C being a portion of Lot 4B-X-A-A, lands conveyed to Trevor Behan & J. J. Syer by Indenture recorded at the Registry of Deeds for the County of Halifax in Book 7116, Page 368.

TOGETHER with a Driveway Easement situated over a northern portion of Lot 4D, containing an area of 590 square feet and being mathematically delineated on the above referred to Plan No. 14-1102-A.

TOGETHER with a 10 foot Wide Service Easement situated over a western portion of Lot 4D, containing an area of 245 square feet and being mathematically delineated on the above referred to Plan No. 14-1102-A.

-Original Signed-

Robert A. Daniels, N.S.L.S.
Halifax, Nova Scotia
July 13, 2006

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PDCA: NOTIFICATION OF APPROVAL

This is to confirm that we have approved a Parcel Description Certification Application for the following parcel:
40622664

The Type of Application is **EXISTING PARCEL**.

The Application Number is 63973.

The User Supplied Reference is **PENTONCARRIERE**

Parcel Description:

All and singular that certain lot, piece, parcel or tract of land situate, lying and being on the southern side of Route No. 3, at Lakeside, in the County of Halifax, Province of Nova Scotia and being Lot 3B-A-X-A as shown on a plan of survey, Edna P. Cox Subdivision, Lands of Henry J. Theriault and Deborah A. Theriault, dated May 10, 1993, drawn by K.W. Robb and Associates Limited, Nova Scotia Land Surveyors, approved and endorsed by the Development Officer of the Municipality of the County of Halifax on May 21, 1993 and which lot may be more particularly described as follows:

Beginning at a survey marker set on the southern boundary of Route No. 3 and which survey marker forms the northwestern corner of Lot 4B-X-A-A, and is distant 33 feet from the centre line of Route No. 3 and forms the most northeasterly corner of Lot 3B-A-X-A herein described;

Thence to run along the western boundary of Lot 4B-X-A-A on a bearing of South 09 degrees 59 minutes 12 seconds West for a total distance of 282.36 feet to a survey marker set on the northern boundary of Lands of now Cap Broadcasting Limited, as shown on said plan;

Thence to run along a portion of the northern boundary line of Lands of the said now Cap Broadcasting Limited on a bearing of North 78 degrees 33 minutes 55 seconds West for a distance of 78.99 feet to a found survey marker marking the southeastern corner of Lot 2B of the Edna P. Cox Subdivision, being Lands of Joseph Francis Arseneault and Sharon Arseneault, as shown on said plan;

Thence to run along the eastern boundary of Lot 2B of the Edna P. Cox Subdivision, being Lands of Joseph Francis Arseneault and Sharon Arseneault on bearings and distances of North 16 degrees 28 minutes 12 seconds East, 144.90 feet to a survey marker;

Thence North 09 degrees 59 minutes 12 seconds East, 141.94 feet to a point on the southern boundary of Route No. 3 and which point is on the arc of a curve having a radius of 278.93 feet and is distant 33 feet from the centre line of Route No. 3;

Thence to the right following the arc of the said curve and running along the southern boundary of Route No. 3 for a distance of 14.13 feet to a survey marker marking the end of the said Curve;

Thence to continue along the southern boundary of Route No. 3 on a bearing of South 74 degrees 37 minutes 26 seconds East, for a distance of 48.72 feet to the place of beginning.

A Lot of Land containing 18,990.5 square feet.

The above described Lot is subject to a right of way in favour of Lot 2B for ingress and egress purposes and which easement is located at the northwestern corner of the above described Lot 3B-A-X-A and is more particularly described as follows:

Beginning at a point on the southern boundary of Route No. 3 and which point forms the northeastern corner of Lot 2B of the Edna P. Cox Subdivision, being Lands of Joseph Francis Arseneault and Sharon Arseneault and which point is on the arc of a curve having a radius of 278.93 feet and is distant 33 feet from the centre line of Route No. 3;

Thence to the right following the arc of said curve and running along the southern boundary of Route No. 3 for a distance of 14.13 feet to a survey marker marking the end of the said curve;

Thence crossing over Lot 3B-A-X-A and running on a bearing of South 61 degrees 56 minutes 29 seconds west, 17.90 feet to a witness survey marker set on the eastern boundary line of Lot 2B of the Edna P. Cox Subdivision, being Lands of Joseph Francis Arseneault and Sharon Arseneault;

Thence to run along a portion of the eastern boundary line of Lot 2B of the Edna P. Cox Subdivision, being Lands of Joseph Francis Arseneault and Sharon Arseneault on a bearing of North 09 degrees 59 minutes 12 seconds East, for a distance of 12.00 feet to the place of beginning, more particularly shown in a Deed recorded at the Halifax registry of deeds in Book 3727 Page 444.

All bearings are M.T.M. Grid and are referenced to Nova Scotia Control Monuments Numbers 28336 and 28337.
The parcel originates with an approved plan of subdivision that has been filed under the Registry Act or registered under the

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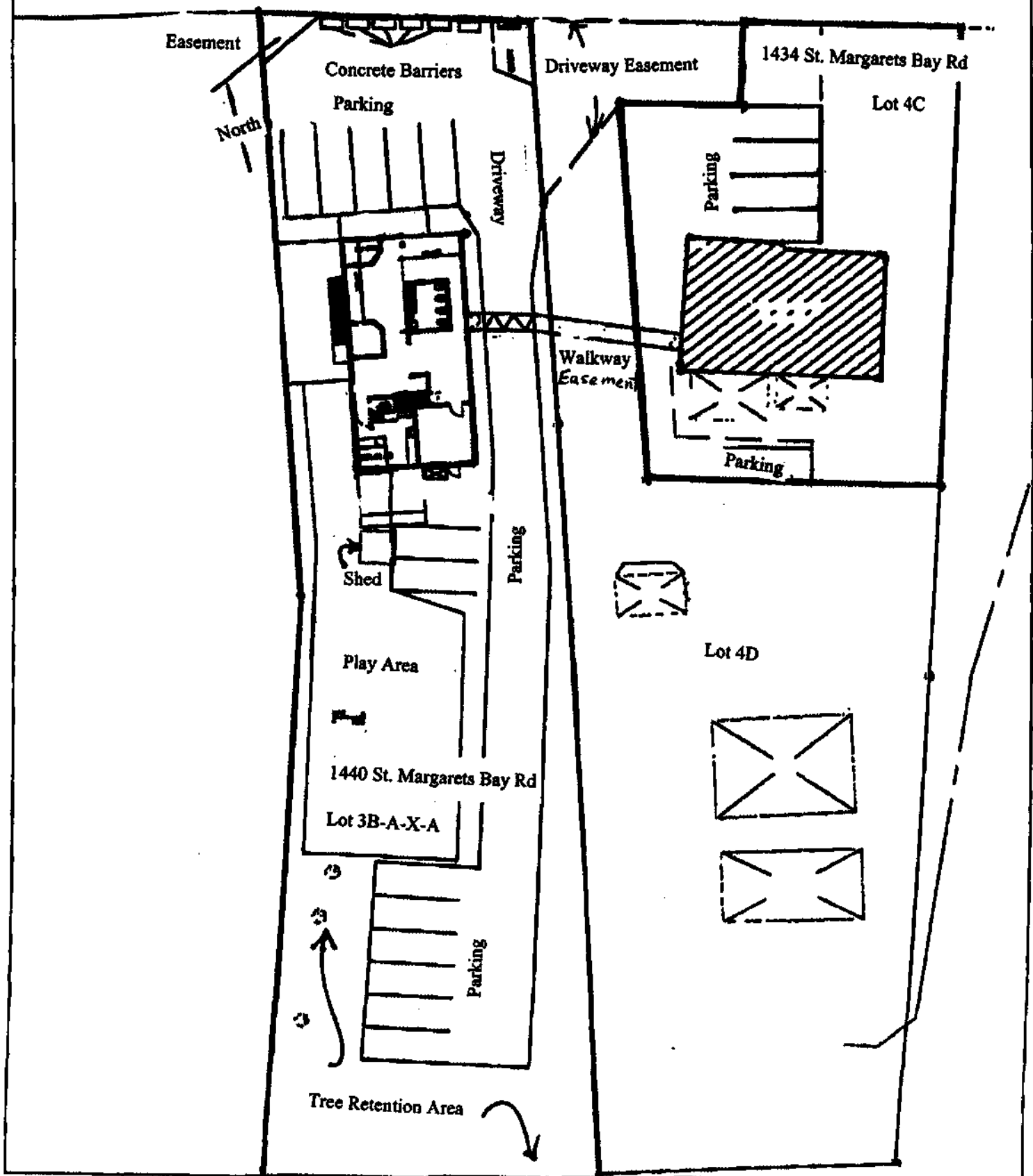
PDCA: NOTIFICATION OF APPROVAL

Land Registration Act at the Land Registration Office for the registration district of Halifax as Plan Number 29227 Drawer 310.

HALIFAX COUNTY Land Registration Office

Lakeside Child Care Centre
Case 00888
1434 and 14440 St. Margarets Bay Road

Schedule B



PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS 31 day of August, A.D., 2006, before me, the subscriber personally came and appeared PATRICK WILSON, a subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that TREVOR BEHAN AND J.J. SYER, one of the parties thereto, signed, sealed and delivered the same in his presence.

-Original Signed-

A Commissioner of the Supreme Court
of Nova Scotia

WILLIAM E. NEARING
A Barrister of the Supreme
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS 18 day of August, A.D., 2006, before me, the subscriber personally came and appeared April Bay, L. MacNamara a subscribing witness to the within and the foregoing Indenture, who, having been by me duly sworn, made oath and said that the Halifax Regional Municipality, one of the parties thereto, caused the same to be executed and its Corporate Seal to be thereunto affixed by the hands of Peter Kelly, its Mayor, and Jan Gibson, its Municipal Clerk, its duly authorized officers in his presence.

-Original Signed-

A Commissioner of the Supreme Court
of Nova Scotia

JULIA HORNCastle
A Commissioner of the
Supreme Court of Nova Scotia

PROVINCE OF ONTARIO
COUNTY OF PRINCE EDWARD

ON THIS 11th day of August, A.D., 2006, before me, the subscriber personally came and appeared SUSAN SQUIRES a subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that J.J. SYER, one of the parties thereto, signed, sealed and delivered the same in her presence.

-Original Signed-

A Commissioner for taking oaths etc.
in and for the Province of Ontario

JACK H. WARD,