

**THIS DEVELOPMENT AGREEMENT made this \_\_\_ day of \_\_\_\_\_, A.D., 2024,**

**BETWEEN;**

**WINCHESTER FOOD HOLDINGS LTD.  
Ralph Winchester (authorized agent)  
(herein called the “Developer”)**

**OF THE PART**

**- and -**

**The Town of Yarmouth; an incorporated Town  
(herein called the “Town”)**

**OF THE OTHER PART**

**WHEREAS** the Developer is the registered owner of lands located at 5 Adelaide Street, Yarmouth (PID# 90213034), and which said lands are more particularly described in Schedule “A” hereto (herein called the “Subject Property”).

**WHEREAS** the Developer has agreed to enter into this Development Agreement (herein called the “Agreement”) with the Town pursuant to Section 225 and Section 230 of the Municipal Government Act.

**WHEREAS** the Developer has made an application to the Town for a Development Agreement for the purpose of accommodating a new standalone accessory building / storage building intended to support the main building at 107 Main Street (PID#90197500) (herein called the “Development”).

**AND WHEREAS** the Town Council (hereinafter called “Council”) approved this request at a meeting held on [Insert – Date].

**NOW THIS AGREEMENT WITNESSETH** the parties hereto mutually covenant and agree to the development subject to the following terms and conditions.

**1. General Requirements and Administration**

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

**1.2 Applicability of Town of Yarmouth Land Use By-law:**

a. Unless otherwise provided in this Agreement, any provisions or regulations not set out or specifically mentioned in this agreement shall be governed by the provisions of the Town of Yarmouth’s Land Use By-law.

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

a. Further to Section 1.2(a), 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 Town applicable to the Subject Property (other than the Town of Yarmouth 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 Subject Property.

**1.4 Conflict:**

- a. Where the provisions of this Agreement conflict with those of any by-law of the Town applicable to the Subject Property (other than the Town of Yarmouth Land Use Bylaw to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- b. Where the written text of this Agreement conflicts with information provided in the Schedules attached, the written text of this Agreement shall prevail.

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

- a. The Developer shall be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred to satisfy the terms of this Agreement and all Federal, Provincial, and Municipal laws, by-laws, regulations, and codes applicable to the Subject Property.

**2. Use of Lands and Development Provisions**

**2.1** Design and exact location of the proposed Development shall be determined at the development permit stage to the satisfaction of the Development Officer.

**2.2** No Development Permit shall be issued by the Town unless and until the Developer has complied with all applicable provisions of this Agreement and the Town of Yarmouth Land Use By-law to the satisfaction of the Development Officer and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

**2.3 Permitted Uses**

- a. The use of the Subject Property shall be limited to any use permitted in the underlying zone as per the requirements of the Town of Yarmouth Land Use By-law, as amended from time to time, with the exception of Automobile Service Stations.
- b. For the purposes of this Agreement, the intended Development (accessory building) may include, associated mechanical equipment, or buildings necessary for the operation of the accessory building.

**2.4 Rules for Accessory Building**

- a. Unless otherwise provided in subsection b), the rules for accessory buildings identified in the Land Use Bylaw shall apply.
- b. Where an accessory building is constructed or placed on the Subject Property to service a lot at 107 Main Street it:
  - (i) does not require a main building or main use to be constructed or placed on the Subject Property;
  - (ii) does not require connections to the Town sewer and water services; and

(iii) may be located in the front yard setback as generally shown in Schedule “B” (Site Plan).

- c. A Development Permit for the intended Development shall include a written statement from the applicant confirming that the accessory building / accessory use is accessory to the main building / use at 107 Main Street.

## **2.5 Building Height**

- a. A maximum building height is 6.1 metres (20 feet).

## **2.6 Abutting Yard Set-back Shared with a Residential Zone**

- a. Unless otherwise provided in subsection b, the minimum required abutting yard set-back from a lot line shared with a Residential Zone for any main or accessory building on the Subject Property shall be 20 feet (6.1 metres).
- b. The minimum abutting yard set-back from a lot line shared with a Residential Zone for main or accessory buildings may be reduced by a maximum of 10 feet (3 metres), and where the requirements identified in section 2.9 of this Agreement are met to the satisfaction of the Development Officer.

## **2.7 Landscape Buffer Shared with a Residential Zone**

- a. Where the Developer seeks a reduction to the 20-foot Abutting Yard Setback shared with a Residential Zone, the Developer shall provide a landscaped buffer to help mitigate any potential massing, visual or noise impacts on adjacent residential uses.
- b. The landscaped buffer shall include one or more of the following:
- I. an opaque fence;
  - II. a retaining wall;
  - III. a landscape strip;
  - IV. a combination thereof; or
  - V. any other measure designed to the satisfaction of the Development Officer.
- c. The extent (length) of the landscape buffer shall be proportionate to the extent of the proposed Development to the satisfaction of the Development Officer.

## **2.8 Landscaping**

- a. The Developer shall retain any existing landscaping along the lot line shared with residential uses wherever possible.
- b. No surface stormwater runoff shall be permitted on adjacent residential lots.

## **2.9 Operations and Maintenance**

- a. Except for the main power entrance (electrical power meter), buildings and equipment associated with and necessary for the operation of the intended Development and which may generate noise or odors such as heat pumps, generators or compressors, must not be located between the Development and the lot line shared with residential uses.

- b. The Developer shall maintain the lands, proposed Development, any associated retaining structures, fences, or landscaping in a tidy and safe condition with the intent to reduce any potential impacts stemming from commercial activities on adjacent residential uses.
- c. The Developer shall be responsible for maintaining the proposed Development to comply with all Town By-laws and Provincial regulations and to ensure that any associated garbage collection and debris collection and removal are undertaken on a regular basis to ensure the site is maintained in a safe and clean condition.

### **3. Amendments to the Agreement**

#### **3.2 Non-Substantive Amendments**

- a. Amendments considered non-substantive in this Agreement include the changes to sections 2.4, 2.5, 2.6 and 4.4.

#### **3.3 Substantive Amendments**

- a. All other matters shall be considered substantial and be amended only after a Public Hearing process pursuant to Section 230 of the *Municipal Government Act*.

### **4. Registration and Effect of Conveyances**

#### **4.1 Registry of Deeds**

- a. This Agreement shall be recorded and filed by the Town in the Land Registry Office.

#### **4.2 Costs Associated with the Agreement**

- a. The Developer shall cover the cost of recording and filing all the documents in connection with this Agreement.

#### **4.3 Binding**

- a. This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees, and all subsequent owners, and shall run with the Subject Property which is the subject of this Agreement until this Agreement is discharged by the Town.

#### **4.4 Signing of Development Agreement**

- a. This Agreement shall be signed by the Developer within 120 days from the date the appeal period pursuant to Section 228 of the Municipal Government Act has elapsed and no appeal has been commenced, otherwise this Agreement shall be considered null and void and shall not be implemented.

### **5. Matters Incidental to the Agreement**

- 5.1** The Developer hereby agrees that any officer appointed by the Town 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 to allow an officer of the Town to inspect the interior of any building located on the lands during any reasonable hour upon receiving advanced written notification.

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

Attachment 1  
Proposed Development Agreement

- a. The Town 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 and defense based on the allegation that damages would be an adequate remedy;
- b. The Town may enter onto the Subject 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 Subject Property and be shown on any tax certificate issued under the Assessment Act;
- c. The Town 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 Town of Yarmouth Land Use By-law; and/or,
- d. In addition to the above remedies the Town reserves the right to pursue any other remediation under the Municipal Government Act or Common Law to ensure compliance with this Agreement.

**6. Enforcement**

- 6.1** The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not prejudice the validity or enforcement of any provisions.

**SIGNED, SEALED, AND DELIVERED**

**In the Presence of:**

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
**Witness**

**per:**

**Developer**  
\_\_\_\_\_  
**Ralph Winchester**  
**Authorized Agent for**  
**WINCHESTER FOOD HOLDINGS**  
**LTD.**

**per:**

**The Town of Yarmouth**  
\_\_\_\_\_  
**Mayor**

**per:**

\_\_\_\_\_  
**Town Clerk & Treasurer**

PROVINCE OF NOVA SCOTIA COUNTY OF YARMOUTH

ON THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2024, before me, the subscriber personally came and appeared, \_\_\_\_\_, a subscribing witness to the foregoing indenture, who, having been by me duly sworn, made an oath and said that **Ralph Winchester the Authorized Agent for WINCHESTER FOOD HOLDINGS LTD.**, one of the parties thereto, caused the same to be executed in its name and on the behalf and its corporate seal to be thereunto affixed by the hands of its proper officers in his presence.

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Commissioner of the Supreme  
Court of Nova Scotia

ON THIS \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2024, before me, the subscriber personally came and appeared, \_\_\_\_\_, a subscribing witness to the foregoing indenture, who, having been by me duly sworn, made an oath and said that the **Town of Yarmouth**, one of the parties thereto, caused the same to be executed in its name and on the behalf and its corporate seal to be thereunto affixed by the hands of its proper officers in his presence.

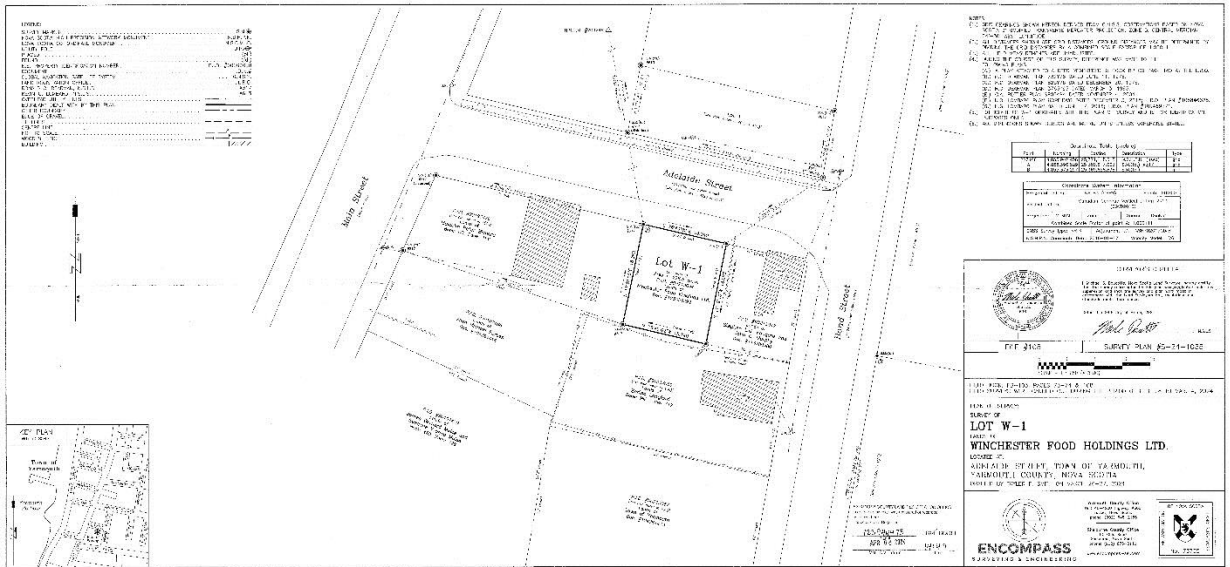
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Commissioner of the Supreme  
Court of Nova Scotia

Attachment 1  
Proposed Development Agreement

Schedule "A" - Property Description

A copy of the deed / description of the Subject Property shall be provided by the Developer prior to registration of this Agreement.





Attachment 1  
Proposed Development Agreement

Schedule "B" – Site Plan

