

REQUEST FOR DECISION

March 1, 2022

SUBJECT:

Application to discharge existing Development Agreement (Document 1135) and amendments (Documents 76244913 and 107768260), as registered on the title of 82 Main Street, Yarmouth (PID #90196759).

RECOMMENDATION:

That Planning Advisory Committee recommend that Council approve:

By resolution, the discharging Development Agreement as set out in Appendix "E" of the Planners report; and authorize the Mayor and administration to execute the Discharging Development Agreement.

BACKGROUND

Planning Staff received an application from the property owner of the subject property, 82 Main Street (PID #90196759), to request that an existing Development Agreement registered to the subject property be discharged. The applicant is proposing to construct an addition to the existing building, which operates as a restaurant. An existing Development Agreement, and two amendments are currently registered on the property and limit development on the site to the existing footprint. The initial Development Agreement was required to allow a Lounge use which is no longer in operation. The current owner is seeking to discharge the original agreement and amendments to allow for the expansion of the restaurant, which is a permitted, as-of-right use. Once the agreement is discharged, the underlying C-3 zone requirements would dictate the land use regulations pertaining to the property.

RELEVANT POLICIES, BY-LAWS, AND LEGISLATION

- The Town of Yarmouth Municipal Planning Strategy (MPS)
- The Town of Yarmouth Land Use By-law (LUB)

FINANCIAL

No direct costs to the Town.

FOLLOW-UP ACTION

That the Planning Advisory Committee recommend that Council approve, by resolution, the discharging Development Agreement and amendments, as set out in Appendix "E" of this report that would discharge the existing Development Agreement, (Document 1135) and amendments (Documents 76244913 and 107768260), as registered on the title of 82 Main Street, Yarmouth (PID 90196759) as set out in Appendix "B, C and D" of this report, and as requested by the property owner.

Background and Proposal

An application has been submitted to the Town of Yarmouth to discharge an existing Development Agreement and amendments that are registered to the subject property of 82 Main Street (PID #90196759). The applicant is proposing to construct an addition to the building but is currently restricted from doing so by the Development Agreement, which limits development on the site to the existing footprint.

The original Development Agreement was registered by a previous owner in 1995 to permit the use of a Lounge, which was only permitted through the use of a Development Agreement. The original agreement (included as Appendix B) contained restrictions on the use of the property and limited further development by preventing any additions to the building. Subsequent amendments in 2004 (Appendix C) and 2015 (Appendix D) introduced changes to some of exterior requirements within the agreement such as parking and fencing.

The Lounge use is no longer in operation on the subject property, and the current owner intends to construct an addition to the building to allow the existing restaurant to expand.



Figure 1: View of subject property and parking (Google, 2015)

Policy Analysis

According to Section 229 (2) of the Municipal Government Act, Council has the power to discharge a Development Agreement by approval:

229 (2) A council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.

Council may discharge a Development Agreement by resolution with no Public Hearing process required for approval.

Policy 5.45 of the Municipal Planning Strategy specifies uses that pertain to the Secondary Commercial designation, as the subject property is within this area. It notes that the Land Use By-law should include a Secondary Commercial Zone (C-3) which would allow several uses as-of-right, including restaurants. Policies under 5.51 note the intention to identify specific minimum requirements within the zones, and 5.52 provides an exemption for requirements to commercial parking and loading for changes of use within existing buildings.

In keeping with the designation, the underlying zone of the property is C-3. Should the existing Development Agreement be discharged, the zone standards and permitted uses of the C-3 zone would apply. As noted under 21.1, Restaurants (including drive-in or drive thru) are listed as a permitted use, with no specific requirement for a Development Agreement or other permission.

At this time, specific building plans have not yet been submitted for an addition to the existing building. However, provided that the expansion plans meet all the requirements listed under the C-3 Zone, this would be permitted as-of-right.

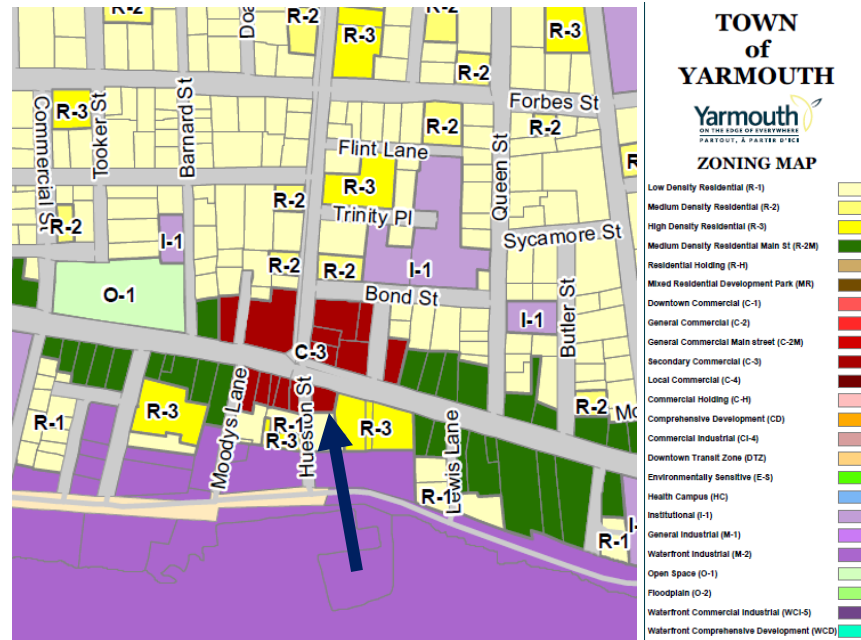


Figure 2: Subject lot zoning.

Public Participation

As per the Municipal Government Act, Council can approve to discharge a Development Agreement by resolution. A public information meeting and a Public Hearing is not required as part of the process.

Discharging a Development Agreement first requires approval from the Planning Advisory Committee (PAC). The next PAC meeting will be held on March 1st, 2022. If PAC recommend to Council that approval be given to discharge the Development Agreement, the proposal will then go to Council for final decision. Below is a step-by-step graphic of the approval process. The approval process is currently at the “Planning Advisory Committee Review and Recommendation” stage, highlighted in red:



Registry Office to be Registered and Existing Development is
Discharged.



When Registered, Applicant Can Apply for a Development Permit that
would Authorize Development.

Conclusion

Planning staff recommends that PAC and Council approve the applicant's proposal to discharge the existing Development Agreement and associated amendments (Doc #2593, #76244913 and #107768260) registered to the subject property of 82 Main Street. As the original use that was authorized through the agreement is no longer in place, the underlying zoning of C-3 would be in effect and is in keeping with the current use and future development plans for the property.

Recommendation

That Planning Advisory Committee recommend that Council approve:

By resolution, the discharging Development Agreement as set out in Appendix "E" of the Planners report; and authorize the Mayor and administration to execute the Discharging Development Agreement.

Appendix A: Enabling Policies

Policy	Comments
Municipal Government Act, Section 229 (2): A council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.	By resolution, Council is able to approve the discharging of the existing Development Agreement and approve the discharging Development Agreement (refer to Appendix "E") at a single Council meeting without a Public Hearing.
Policy 5.45 It shall be the intention of Council to include in the Land Use By-law a Secondary Commercial (C-3) Zone. This zone shall include the following and similar types of uses permitted as-of-right: retail shops; community markets; wholesale shops; convenience and grocery stores; restaurants (eat-in, drive-in or drive-thru); institutional uses; medical clinics; light service shops; light service industries within wholly enclosed buildings, personal service shops; internet web site development; places of recreation, fitness and assembly within wholly enclosed buildings; public parks; hotels, motels and hostels; automobile service stations; taxi and bus stations; parking lots and parking structures; laundromats and accessory uses excluding taverns, lounges and cabarets	Policy lists permitted uses to be within the C-3 zone. Restaurant uses are listed to be included under this zone.
Policy 5.51 It shall be the intention of Council to include in the Land Use By-law minimum requirements for lot frontage, lot area, setbacks, building height, side yards on corner lots, visibility at street intersection standards and on-site parking and loading facilities in the Secondary Commercial (C-3) Zone.	Establishes the minimum zoning standards that are to be applied within the C-3 zone.

1135

This AGREEMENT made this 10th day of APRIL, A.D., 1995.

BETWEEN:

James V. Hatfield
(herein called the "Developer")

OF THE ONE PART

- and -

OF THE OTHER PART

The Town of Yarmouth, an incorporated Town
(herein called the "Town")

WHEREAS the Developer has agreed to enter into this Agreement with the Town pursuant to Section 55 of the Planning Act, P.S.N.S. 1989, C. 346 and Policies 2.3.6(B), 6.8, 6.10, and 6.11, of the Municipal Planning Strategy,

WHEREAS the Developer is the owner of certain lands and premises in the Town of Yarmouth, said lands (herein called the "subject property"), being more particularly described in Schedule "A" of this Agreement,

WHEREAS the Developer has made application to the Town for a Municipal Development Permit for the purpose of establishing a Lounge (herein called the "Development"), which Development is more particularly described in Schedule "B" (Site Plan) and Schedule "C" (Permitted Use(s)),

AND WHEREAS Commercial Policy 2.3.6(B) of the Yarmouth Municipal Planning Strategy and Part 17.2 of the Yarmouth Land Use By-law implemented on the 30th Day of November, 1988, A.D., enables the Town to enter into an Agreement for the development.

NOW THIS AGREEMENT WITNESSETH that in consideration of the sum of \$100.00 now paid by the developer to the Town, the receipt of which is hereby acknowledged, the parties hereto mutually covenant and agree to the development subject to the following terms and conditions:

1. Restriction on use of Property

1.1 The use of the subject property shall be restricted to the list of permitted uses pursuant to Schedule "C" (Permitted Uses) of this Agreement.

1.2 The lounge area shall be restricted to five hundred (500) square feet excluding vestibules, washrooms, stairways and storage areas.

2. Size and Location of Structures

2.1 The main building and its addition shall be restricted to the building's footprint as shown on Schedule "B".

2.2 The main building and its addition shall not exceed thirty five (35) feet in height.

2.3 The main building may be reconstructed, repaired or renovated provided:

a) That the reconstruction, repair or renovation does not extend beyond the extremities of the walls of the building as shown on Schedule "B"; and,

b) That all requirements of this Development Agreement are satisfied.

3. Operation and Maintenance

3.1 The subject property shall be maintained and kept in a safe condition.

3.2 The operation shall comply with all relevant municipal, provincial and federal provisions.

4. Parking

4.1 The parking area shall be restricted to the area as shown on Schedule "B" (Site Plan).

4.2 Shall provide and maintain at least five (5) parking spaces (8'-0" * 20'-0") as shown on Schedule "B" (Site Plan).

4.3 The parking area shall be paved and be defined by a curb of concrete or rolled asphalt.

4.4 The approach to the parking area shall be defined by a curb of concrete or rolled asphalt.

4.5 Each parking space shall be demarcated and maintained as such.

4.6 Additional parking spaces may be established off-site provided the parking area be within three hundred (300) feet of the subject property and be situated within the Secondary Commercial (C-3) zone.

4.7 The lights used for illumination of the parking area shall be so arranged as to divert the light away from streets, adjacent lots and buildings.

5. Access and egress from the site.

5.1 Vehicle access and egress from the site shall be restricted to the parking area as shown on Schedule "B" (Site Plan).

6. Corner Vision Triangle

6.1 A fence, sign, hedge, shrub, bush or tree or any structure or vegetation shall not be erected or permitted to grow to a height greater than four (4) feet above grade of the street within the hatched areas as identified on Schedule "B".

7. Outdoor Storage or Displays

7.1 No open storage or outdoor displays shall be permitted except for special occasions or temporary uses.

8. Signage

8.1 All signage shall be regulated pursuant to Part 6 of the Town of Yarmouth's Land Use By-law, 1988, and any amendments thereto.

9. Screening

9.1 A six (6) foot opaque fence shall be erected along the southern and western boundary lines as identified on Schedule "B".

9.2 The fence as identified on Schedule "B" shall be kept and maintained in a safe condition.

10. Landscaping Area

10.1 The landscaping area as identified on Schedule "B" shall be landscaped and be kept and maintained in a safe condition.

11. Amendments to the Agreement

11.1 Any amendments to this Agreement which are substantial shall be made subject and pursuant to requirements set forth in Section 73 of the Planning Act.

11.2 Changes to landscaping features shall be considered not substantial.

11.3 The expansion of the Lounge area from five hundred (500) square feet to a maximum of one thousand (1,000) square feet shall be considered not substantial provided:

(a) One (1) parking space per 100 square feet of lounge area is provided and conforms with Article 4 of this Agreement; and,

(b) All other provisions of this Agreement have been satisfied.

12. Matters Incidental to Agreement

12.1 Upon breach by the Developer of any of the terms or conditions of this Agreement, the Town may, after thirty (30) days notice in writing to the Developer of the breach, enter and perform any terms and conditions of the Agreement. It is agreed that all reasonable expenses whether arising out of the entry or from the performance of these terms and conditions may be recovered from the developer.

13. Registry of Deeds

13.1 This Agreement shall be filed by the Town in the Registry of Deeds at Yarmouth, Nova Scotia.

14. Costs Associated with Agreement

14.1 The Developer shall be responsible for all the costs associated with this Agreement including the cost of recording and filing of all the documents in connection with this Agreement.

15. Enforcement

15.1 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 other provisions.

16. Land Use By-law Provisions

16.1 Any provisions or regulations not set out or specifically mentioned in this Agreement shall be governed by the provisions of the 1988 Yarmouth Land Use By-law, and in particular, the lands shall otherwise comply with the requirements of the Secondary Commercial (C-3) zone.

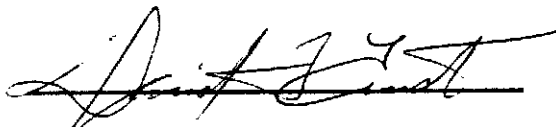
17. Compliance with other Provisions and Statutes

17.1 Where any provision of this Development Agreement conflicts with those of any other Municipal or Provincial requirements, the higher or more stringent regulations shall prevail.

18. Binding

18.1 This Agreement shall run with the land and be binding upon the Developer, its assigns, mortgages, lessees, successors and occupiers of the property from time to time.

SIGNED, SEALED AND DELIVERED
In the Presence of:


Witness


Witness

) James V. Hatfield

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SCHEDULE "A"

592
ALL THAT CERTAIN lot, piece or parcel of land situate on the Western side of Main Street, at South End, in the town of Yarmouth aforesaid, and bounded and described as follows:

BEGINNING on the Western side of Main Street, at its point of junction with the Southern side of Hueston Street;

THENCE running Southward by said Main Street, Forty-nine feet (49') to an iron bolt and land now or formerly of Abram Smofsky;

THENCE Westwardly by said land now or formerly of Abram Smofsky, Seventy feet (70') or to an iron bolt and land formerly of Henry Lewis and others, now or formerly of Robert Muise;

THENCE Northwardly by said land now or formerly of Robert Muise, Thirty-three feet (33') or to an iron bolt and said Hueston Street;

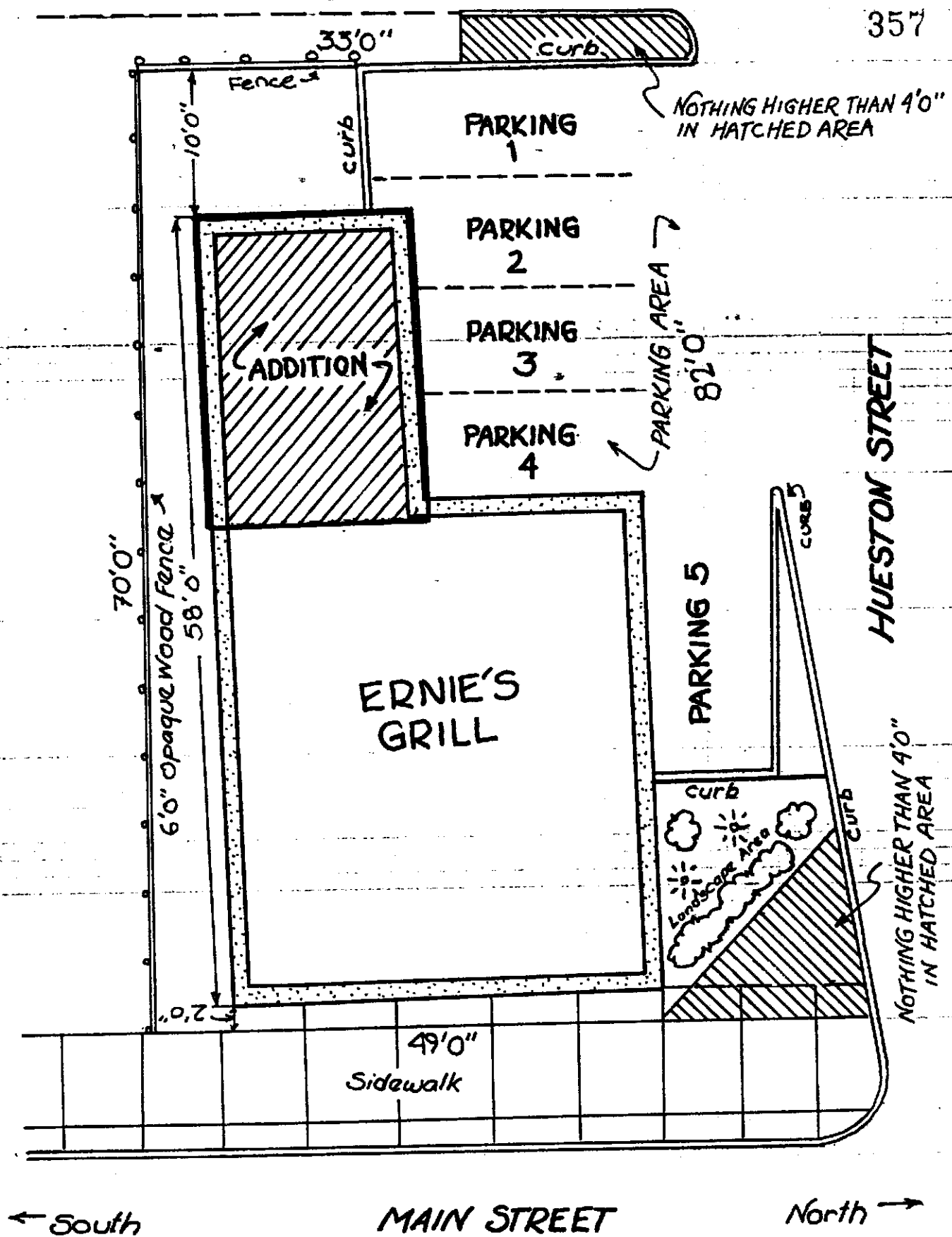
THENCE Eastwardly by said Hueston Street, Eighty-two feet (82') or to the Western side of Main Street and the place of beginning.

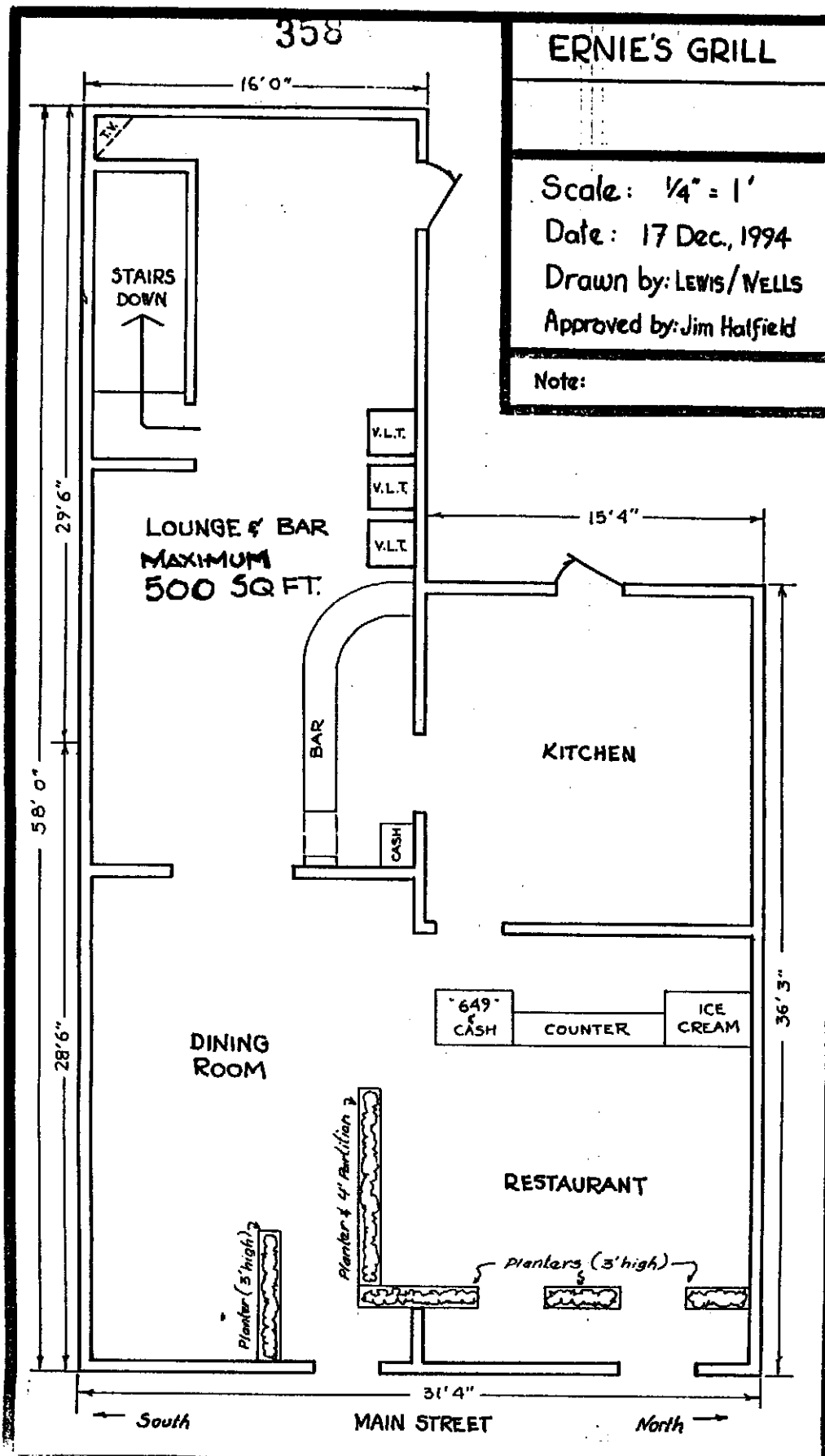
Including contents.

BEING AND INTENDED TO BE the same land conveyed to Ernest Hatfield from Hilda R. Kelley by Deed dated August 17, 1964 and recorded at the Yarmouth Registry of Deeds office on September 11, 1967, in Book GV, at Page 741.

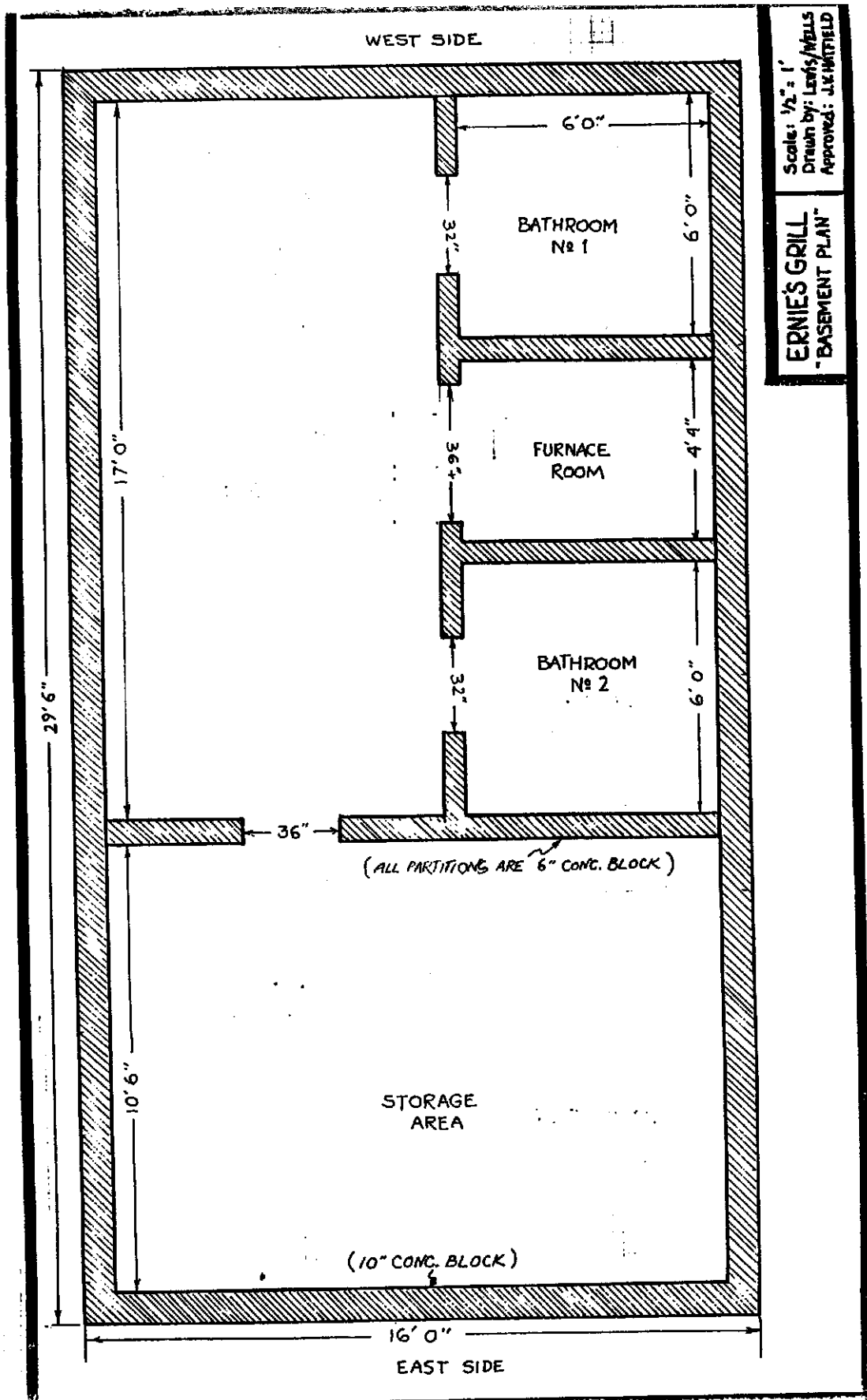
driveway

Drawn by: LEWIS/WELLS





SCHEDULE "B"



SCHEDULE "B"

SCHEDULE "C"
LIST OF PERMITTED USES

The use of the subject property pursuant to this agreement known as 82 Main Street shall be restricted to the following list of permitted uses:

- * Retail and Wholesale Shop;
- * Convenience and Grocery Store;
- * Eat-in take-out Restaurant;
- * Lounge Area with a maximum square footage of five hundred (500) square feet; and,
- * Accessory Uses.

For the purpose of this Agreement the following definition shall apply:

Accessory use means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or building and located on the same lot.

Province of Nova Scotia
County of Yarmouth

I hereby certify that the within instrument
was recorded in the Registry of Deeds Office
at Yarmouth in the County of Yarmouth, N.S.,
at 10:03 o'clock A.M., on the 11
day of April A.D., 1995 in
Book No. 530 at Pages 351-360
as Document Number 1135

Anna A. Rathier, Dep.
Registrar of Deeds for the Registration
District of Yarmouth County.

Appendix C

710

AMENDMENT TO DEVELOPMENT AGREEMENT MADE THIS 2nd DAY OF September, AD., 2004.

BETWEEN

Ernie's Bar and Grill Limited
(herein called the "Developer")

OF THE ONE PART

—and—

The Town of Yarmouth, an incorporated Town
(herein called the "Town")

OF THE OTHER PART

WHEREAS the developer has made application pursuant to Section 225 and 230 of the Municipal Government Act Chapter 18 of the Statutes of Nova Scotia, 1998 as revised, to amend the Development Agreement between James V. Hatfield and the Town signed on the 10th day of April, AD., 1995 and deposited at the Registry of Deeds on the 11th day of April, AD., 1995, in Book 530 on Pages 351 to 360 as Document Number 1135.

The Parties hereto agree to the following amendments:

1) That Article 4.3 is hereby deleted and substituted therefore by the following:

"4.3 The parking area shall be gravelled and defined through the use of landscaping features."

2) That Article 4.4 is hereby deleted and substituted therefore by the following:

"4.4 The off -set parking space as shown on Schedule "B" Site Plan, shall be gravelled and defined through the use of landscaping features."

YARMOUTH COUNTY REGISTRY OF DEEDS		<u>76244913</u>	<u>686</u>	<u>710-718</u>
		Document #	Book	Pages
I certify that this document was registered as shown here.		SEP 8 2004		<u>12:31</u>
<u>mp</u> Elaine Howatt Registrar		MM	DD	YYYY
				Time

3) That Article 4.5 is hereby deleted and substituted therefore by the following:

"4.5 The parking area and the off-set parking space as shown on Schedule "B" Site Plan, shall be maintained with a stable gravelled surface that is treated to prevent the raising of dust or loose particles."

4) That Article 5.1 is hereby deleted and substituted therefore by the following:

"5.1 Vehicle access and egress from the site shall be restricted to the parking area and off-set parking space as shown on Schedule "B" (Site Plan)."

5) That Article 10.1 is hereby deleted and substituted therefore by the following:

"10.1 Any area not occupied by a building, structure, parking area, gravelled or paved area shall be landscaped with grass or other types of vegetation and shall be kept and maintained in a safe and tidy condition."

6) That Schedule "A" is hereby deleted and substituted therefore by the enclosed Schedule "A".

7) That Schedule "B" (Site Plan) is hereby deleted and substituted therefore by the enclosed Schedule "B" (Site Plan).

These amendments shall form part of the Development Agreement signed on the 10th day of April, AD., 1995, and deposited at the Registry of Deeds on the 11th day of April, AD., 1995, in book 530 on Pages 351 to 360 as Document Number 1135 and shall run with the land and be binding upon the Developer, its assigns, mortgages, lessees, successors and occupiers of the property from time to time.

Except as set forth herein, the Development Agreement is ratified and confirmed.

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:

Kim Delaney
Witness

Joan Watson
Witness

Ernie's Bar and Grill Limited

[Signature]

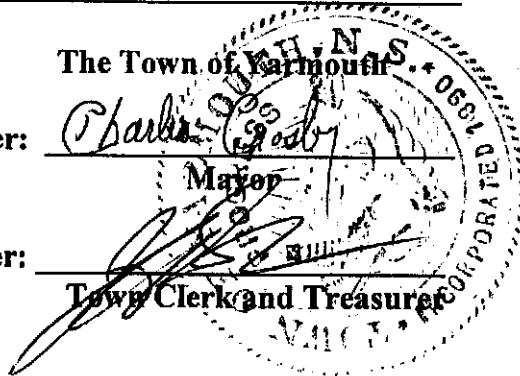
The Town of Yarmouth

)Per: *Charles [Signature]*

Mayor

)Per: *[Signature]*

Town Clerk and Treasurer



713

~~847~~

SCHEDULE "A"

LOT 3

ALL THAT CERTAIN LOT, piece or parcel of land situate, lying and being on the Southern side of Hueston Street and Western side of Main Street in the town of Yarmouth, County of Yarmouth and Province of Nova Scotia, and more particularly bounded and described as follows:

BEGINNING at a survey marker, at a point where the Southern side of Hueston Street intersects with the Western side of Main Street;

THENCE (S 22° 18' 00" W) along Main Street, eighty-one decimal zero three feet (81.03) to a survey marker and the Northeast corner bound of lands of New South Development Limited;

THENCE (N 73° 52' 42" W) along said lot, sixty-one decimal zero eight feet (61.08') to a survey marker;

THENCE (N 06° 54' 30" E) thirty-two decimal zero feet (32.0') to a survey marker;

THENCE (N 06° 34' 30" E) thirty-three decimal nine six feet (33.96') to a survey marker;

THENCE along Hueston Street, (S 84° 45' 30" E) eighty-two decimal zero three feet (82.03') to a survey marker and the place of beginning.

CONTAINING 5,161 square feet.

BEING Lot #3 in the Final Plan of Subdivision approved by the Development Officer on June 3, 2004.

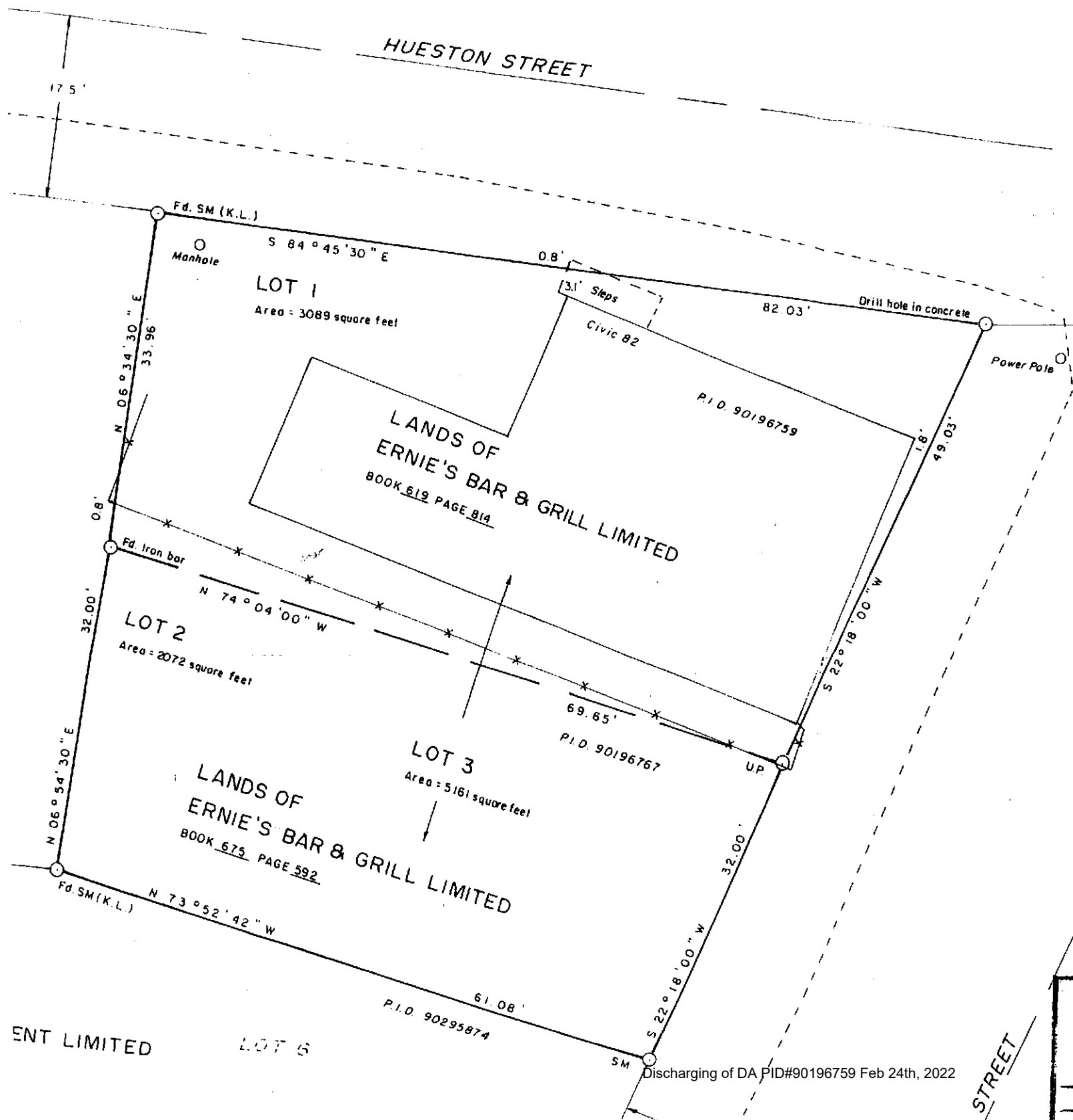
BEING AND INTENDED TO BE the same lands and premises as were conveyed by Deed recorded at the Registry of Deeds office at Yarmouth, Nova Scotia in Book 675 at Page 592 (Lot 2).

FURTHER BEING AND INTENDED TO BE the same lands conveyed by Deed and recorded at the Registry of Deeds office at Yarmouth, Nova Scotia in Book 619 at Page 814 (Lot 1).



SCHEDULE "B"
- SITE PLAN -

714



715

HUESTON STREET

CORNER
VISION
TRIANGLE
NOTHING HIGHER
THAN 4'-0"
IN HATCHED AREA.

6' HIGH
OPAQUE FENCE

OFF-SET
PARKING
SPACE

CURB
ICE
CREAM
WINDOW

LUNCH
AREA

MAIN
BUILDING

GARBAGE
CONTAINER

Fence 2

SHALL BE
KEPT CLEAN
AT ALL TIMES

PARKING AREA
FIVE (5) ON-SITE
PARKING SPACES (8'x20')
ON GRAVEL SURFACE

MAIN STREET

NORTH

RUIN

SITE PLAN
NOT TO SCALE

716

ERNIE'S GRILL

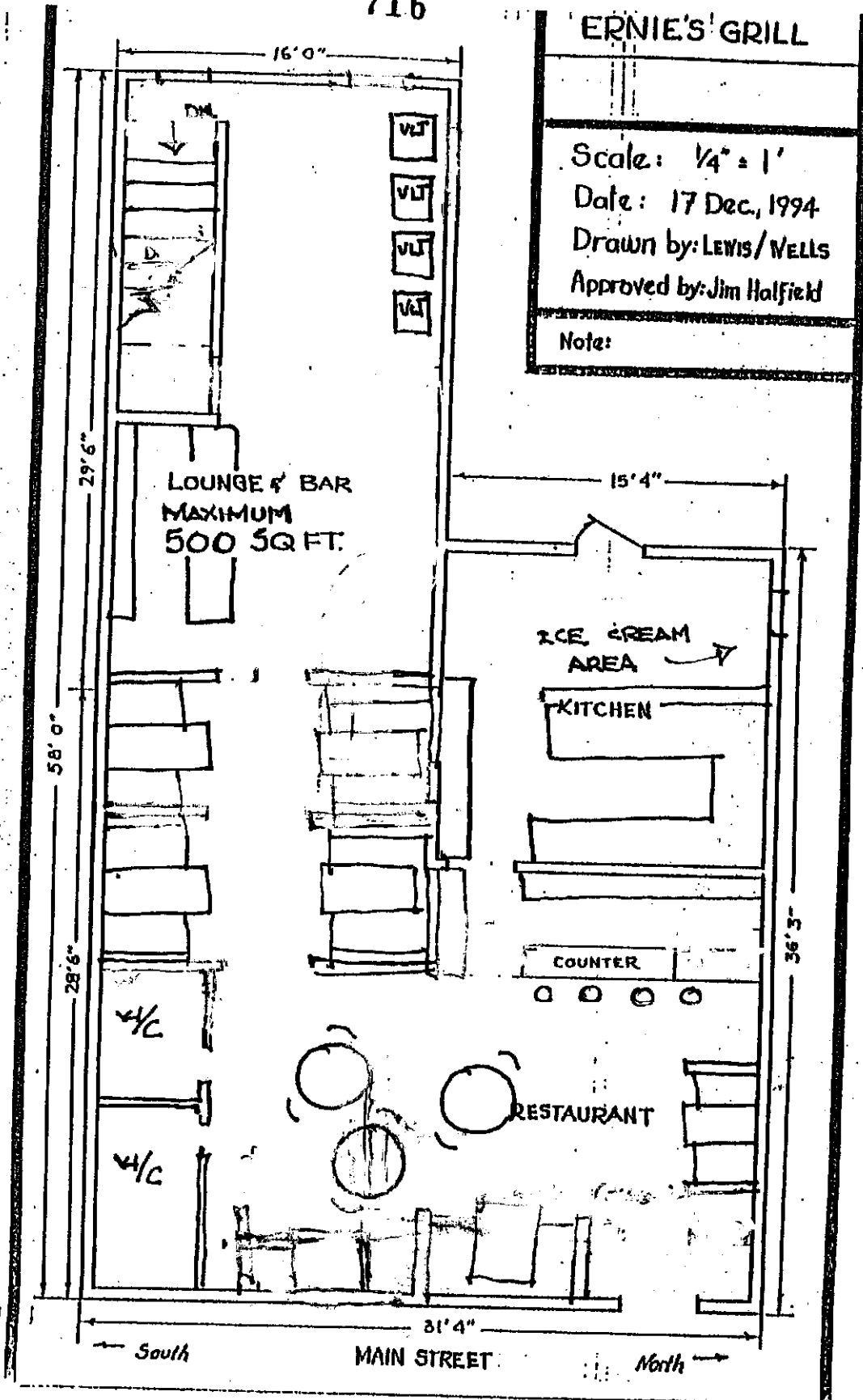
Scale: 1/4" = 1'

Date: 17 Dec, 1994

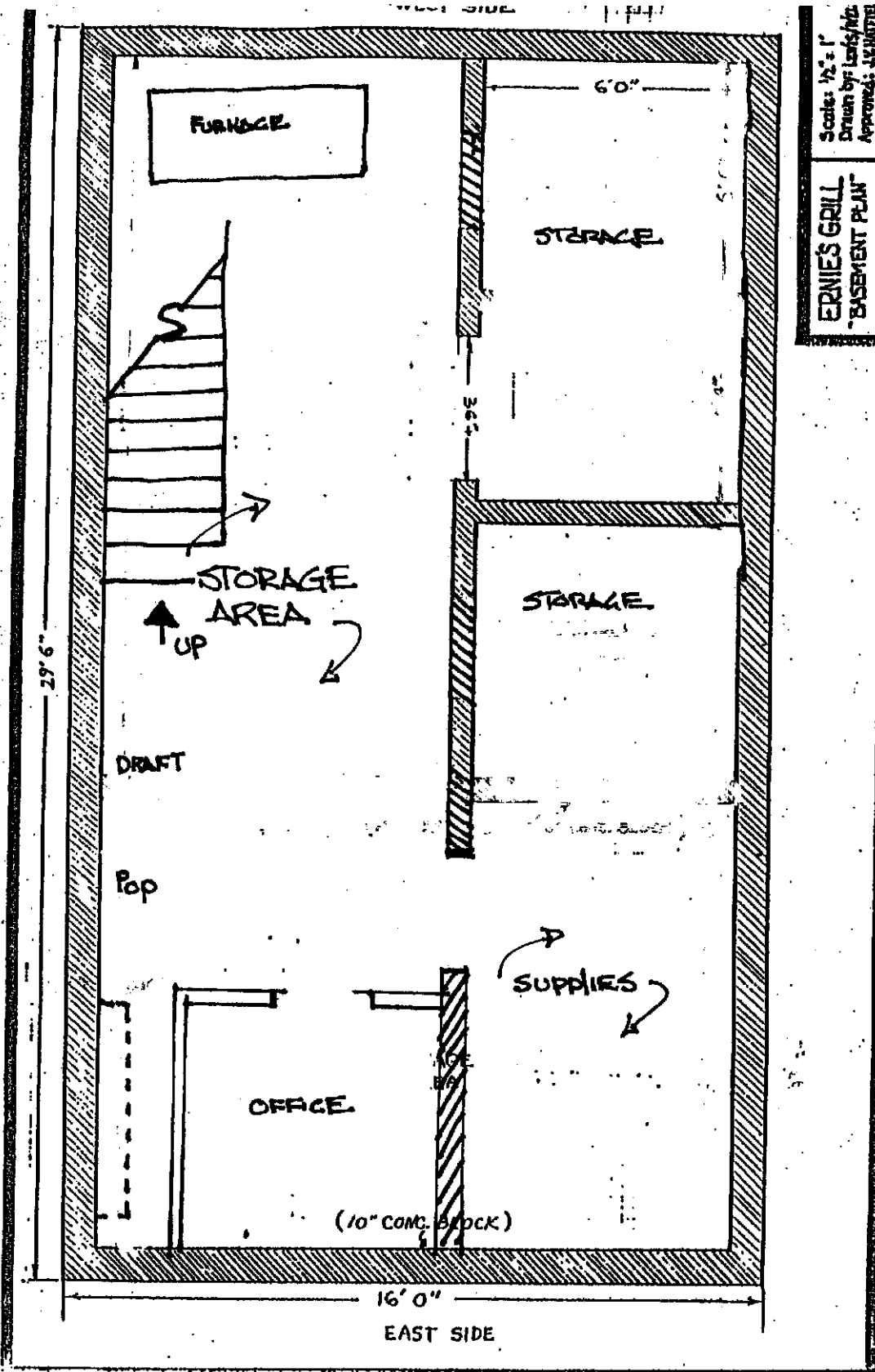
Drawn by: LEWIS/WELLS

Approved by: Jim Halfield

Note:



SCHEDULE "B"




717

SCHEDULE "B"

718

PROVINCE OF NOVA SCOTIA
COUNTY OF YARMOUTH

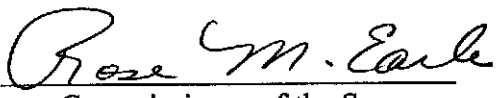
ON THIS 2nd day of September, A.D., 2004, before me, the subscriber personally came and appeared Kim DeLaney, a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **Ernie's Bar and Grill Limited**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by the hands of its proper officers in his presence.


Commissioner of the Supreme
Court of Nova Scotia

Rose M. Earle
A Commissioner of the
Supreme Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF YARMOUTH

ON THIS 2nd day of September, A.D., 2004, before me, the subscriber personally came and appeared Janet Watson, a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that the **Town of Yarmouth**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by the hands of its proper officers in his presence.


Commissioner of the Supreme
Court of Nova Scotia

Rose M. Earle
A Commissioner of the
Supreme Court of Nova Scotia

Appendix D

Amendment to the Development Agreement

AMENDMENT TO THE DEVELOPMENT AGREEMENT made this 26 day of August A.D., 2015.

BETWEEN:

Myra Ritchie
(herein called the "Developer")

OF THE ONE PART

- and -

The Town of Yarmouth, an incorporated Town
(herein called the "Town")

OF THE OTHER PART

WHEREAS the Developer is owner of certain lands and premises in the Town of Yarmouth, said lands (herein called the subject property), known as 80 Main Street (PID 90196759) as described in Schedule "A" of the original Development Agreement between James V. Hatfield and the Town signed on the 10th day of April, 1995 and deposited at the Land Registration Office in Yarmouth on the 11th day of April, 1995 as Document Number 1135;

WHEREAS the Developer has made application pursuant to Section 225 and 230 of the Municipal Government Act Chapter 18 of the Statutes of Nova Scotia, 1998 as revised, to amend the Development Agreement between James V. Hatfield and the Town signed on the 10th day of April, 1995 and deposited at the Land Registration Office in Yarmouth on the 11th day of April, 1995 as Document Number 1135;

AND WHEREAS Residential Policy 2.3(7) of the Yarmouth Municipal Planning Strategy implemented on the 10th day of January, 2008, A.D., and amendments thereto enables the Town to enter into a Development Agreement for the development.

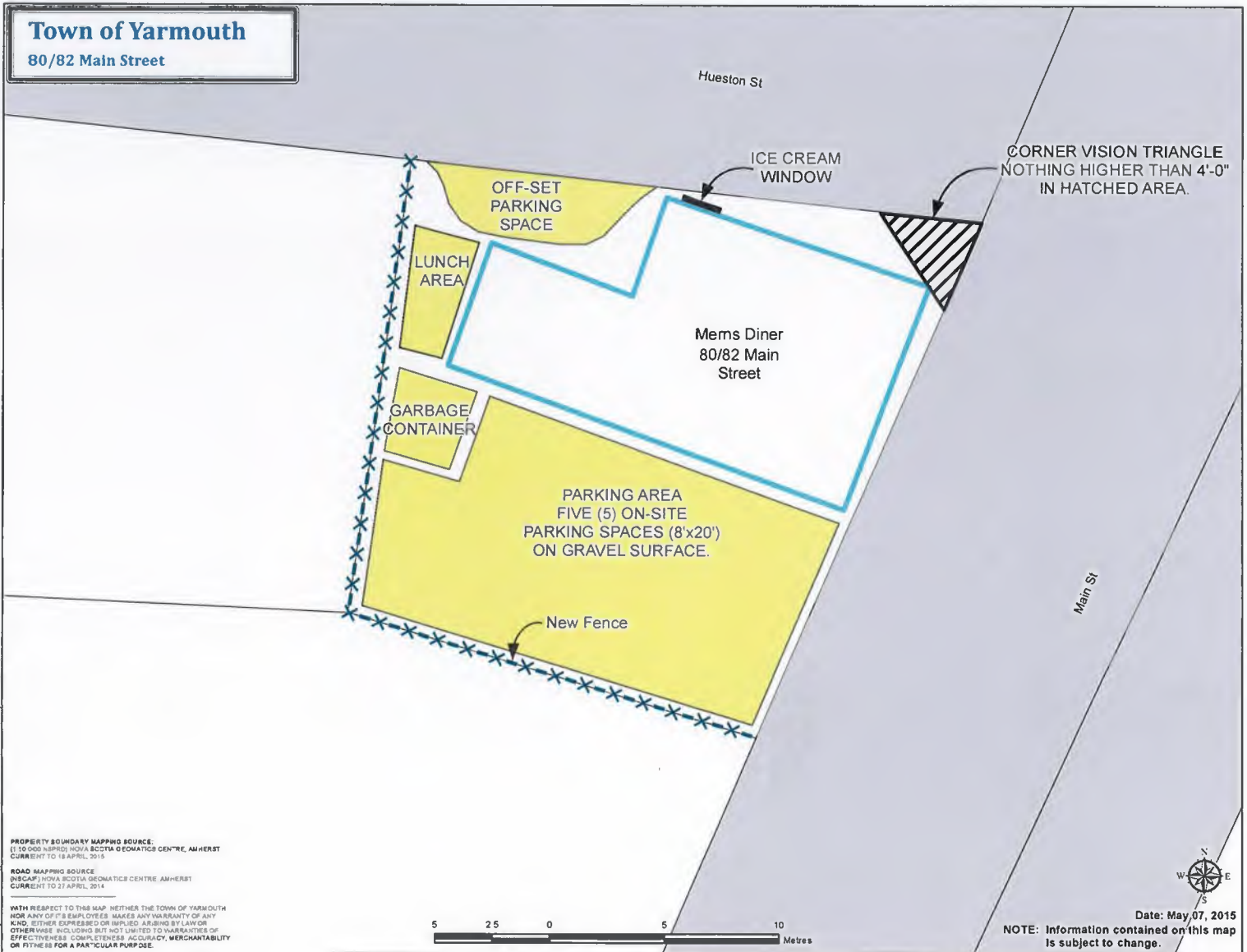
The Parties hereto agree to the following amendments:

11) That the Schedules of the Development Agreement are hereby amended by amending the location of "fence 2" as described in all site plan documents in Schedule B as attached.

These amendments shall form part of the Development Agreement signed on the 10th day of April, 1995 and deposited at the Land Registration Office in Yarmouth on the 11th day of April, 1995 as Document Number 1135 and shall run with the land and be binding upon the Developer, its assigns, mortgages, lessees, successors and occupiers of the property from time to time.

Town of Yarmouth

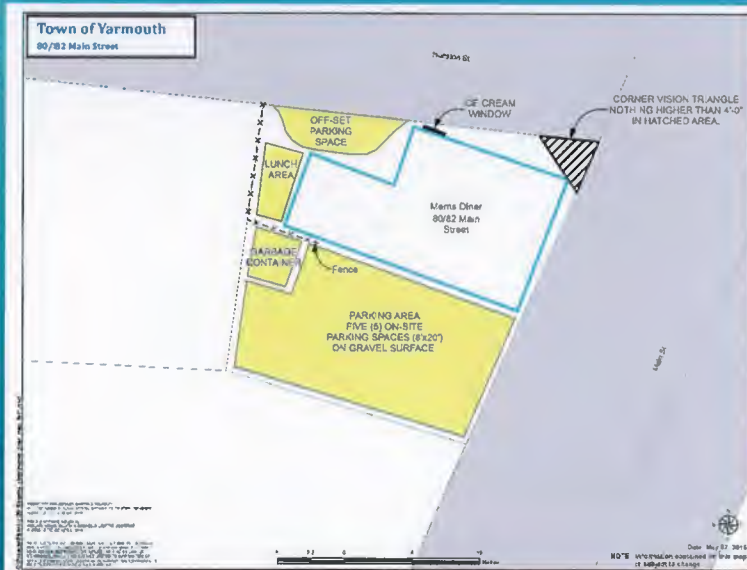
80/82 Main Street



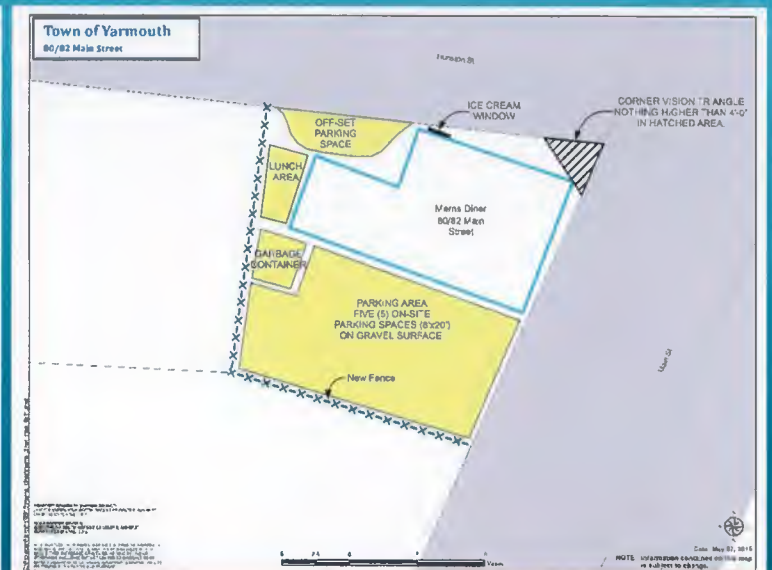
80/82 MAIN STREET (MERN'S DINER)



CURRENT

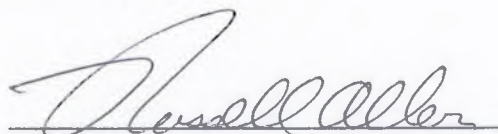


PROPOSED



PROVINCE OF NOVA SCOTIA
COUNTY OF YARMOUTH

ON THIS 26 day of August, A.D., 2015, before me, the subscriber personally came and appeared Sody Duckee, a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that **Myra Ritchie**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by the hands of its proper officers in his presence.

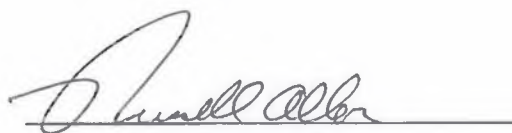


Commissioner of the Supreme

Court of Nova Scotia
Russell Allen
A Commissioner of
the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF YARMOUTH

ON THIS 4 day of Sept, A.D., 2015, before me, the subscriber personally came and appeared Caroline King, a subscribing witness to the foregoing Indenture, who, having been by me duly sworn, made oath and said that the **Town of Yarmouth**, one of the parties thereto, caused the same to be executed in its name and on its behalf and its corporate seal to be thereunto affixed by the hands of its proper officers in his presence.



Commissioner of the Supreme

Court of Nova Scotia
Russell Allen
A Commissioner of
the Supreme Court
of Nova Scotia

Appendix E

THIS DISCHARGING DEVELOPMENT AGREEMENT made this ____ day of _____, A.D., 2022.

BETWEEN:

Myra Ritchie
(herein called the "Developer")
OF THE ONE 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 certain land located at 82 Main Street (PID #90196759) in the Town of Yarmouth, being more particularly described in Schedule "A";

AND WHEREAS the Town of Yarmouth entered into a Development Agreement with the owner of the lands, said agreement being recorded at the Land Registry Office in Yarmouth as Document Number 1135 (filed April 11, 1995), and subsequent amendments known as Document Numbers 76244913 and 107768260 (filed September 8, 2004 and August 26, 2015) (hereinafter referred to as "the Agreement");

AND WHEREAS the Developer has requested that the Agreement be discharged;

AND WHEREAS in accordance with the requirements of the Municipal Government Act, Town Council approved this request by resolution at a meeting held on _____, A.D., pursuant to Section 229 (2) of the Municipal Government Act;

THEREFORE in consideration of the benefits or non-benefits accrued to each party from the covenants herein in contained as follows:

1. The Agreement is hereby discharged and shall no longer have any force or effect.
2. Any future development of the lands shall conform with all applicable provisions and requirements of the Land Use By-law of the Town of Yarmouth, as amended from time to time, and any future subdivision of the land shall conform with all applicable provisions and requirements of the Subdivision By-law of the Town of Yarmouth, as amended from time to time.

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

SIGNED, SEALED & DELIVERED

in the presence of:

)	<u>DEVELOPER</u>
)	
)	
)	
_____)	_____
Witness)	Myra Ritchie
)	
)	
)	
)	
)	The Town of Yarmouth
)	
)	Per: _____
)	Mayor
_____)	
Witness)	
)	
)	Per: _____
)	Chief Administrative Officer
)	

**PROVINCE OF NOVA SCOTIA
COUNTY OF YARMOUTH**

ON THIS ____ of _____, A.D., 2022, before me, the subscriber personally came and appeared _____, a subscribing witness to the foregoing indenture, who, having been by me duly sworn, made oath and said that **Myra Ritchie**, one of the parties hereto, signed, sealed, and delivered the same in his/her presence.

Commissioner of the Supreme Court
of Nova Scotia

**PROVINCE OF NOVA SCOTIA
COUNTY OF YARMOUTH**

ON THIS ____ of _____, A.D., 2022, before me, the subscriber personally came and appeared _____, a subscribing witness to the foregoing indenture, who, having been by me duly sworn, made oath and said that **The Town of Yarmouth**, one of the parties hereto, signed, sealed, and delivered the same in his/her presence.

Commissioner of the Supreme Court
of Nova Scotia

SCHEDULE "A"

PID 90196759

This agreement applies to property identified by PID 90196759 and further described by Deed filed at the Registry of Deeds Office for the registration district of Yarmouth in Bridgewater, Nova Scotia, registered under the Land Registration Act.