

To: **Antigonish County Planning Advisory Committee**
Antigonish County Council

From: **Planning Staff (EDPC)**

Date: **March 03, 2025**

Reference: **File No. AT-DA2025-002; Application to enter into a Development Agreement to construct a Gas Station with a Convenience Store and Restaurant on Lot 9, PID 10140010, Beech Hill Road, Beech Hill, Antigonish County**

Staff Recommendation:

Staff recommend that the Antigonish County Planning Advisory Committee forward the following recommendations: That Municipal Council approve the Municipality entering into a Development Agreement to construct a Gas Station with a Convenience Store and Restaurant on Lot 9, PID 10140010, Beech Hill Road, Beech Hill, Antigonish County; and that Municipal Council give First Reading and schedule a Public Hearing.

	Description
Designation:	Commercial
Current Zoning:	General Commercial (C-2)
Heritage Property:	No
Request:	Development Agreement
Identification No:	PID 10140010
Total Lot Area:	2.30 Acres
Site Visit:	January 11 th , 2025

Background Information:

On January 1st, 2025, the Eastern District Planning Commission (EDPC) received a complete application from Island Construction and Environmental Limited seeking to enter into a Development Agreement for Lot 9, PID 10140010, Beech Hill Road to construct a gas station with a convenience store and restaurant. PID 10140010 is presently owned by Ron MacGillivray Holdings Ltd.

Currently the property is designated “Commercial” and zoned as “General Commercial (C-2)” under the West River Antigonish Harbour Plan Area in the Municipality of Antigonish County. Restaurants and Convenience Stores are permitted as of right under the General Commercial (C-2) Zone and, while Automobile Service Stations are not permitted as of right, the West River Antigonish Harbour Land Use By-law permits “*automobile sales in the local commercial zone subject to Policy L-3.10*” by development agreement under Part 5.1 (a) of the West River Antigonish Harbour Land Use Bylaws and Policy L-3.9 of the West River Antigonish Harbour Municipal Planning Strategy.

Part 5.1 of the West River Antigonish Land Use By-Law states: “*The following developments shall be permitted only by development agreement, in accordance with the Municipal Government Act*”

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and the Municipal Planning Strategy:

a. *Automobile sales in the local commercial zone subject to Policy L-3.10''*

In 2017, a Development Agreement Application by Marble Holdings Limited and John MacDonald to allow for the construction of an automatic and self-serve carwash on the subject property was made. The Development Agreement was approved by the Municipal Council but was never registered against the property.

Site Visit:

The subject property, PID 10140010, is bound by Catherine Drive, Highway 4 and Beech Hill Road (Figure 1). PID 10140010 is located immediately across from 124 Beech Hill Road (Shell Gas Station, Needs Convenience and Tim Horton's) and runs east up the grade (Figure 2).

The site has a notable western facing slope towards the east end of the property seen in Figure 3. At the bottom of the property parallel with Beech Hill Road is a large existing wetland and marsh area (Figure 3). According to the survey plan the property rises from the marsh at approximately 11.0 metres to a height of 19.0 metres.

The lot has been cleared, leveled and sloped with gravel and fill resulting in no vegetation nor natural buffering from adjacent properties. In the time that the land was originally altered, some areas of the lot have naturally grassed over especially along the back slope and is currently vacant as shown in Figure 4.

The only abutting property is also owned by Ron MacGillivray Holdings Ltd. and zoned as General Commercial (C-2). Both properties are part of the same Commercial Business Park (East Gate Ridge). All adjacent properties along Catherine Drive are also zoned as General Commercial (C-2) and part of the same East Gate Ridge Commercial Business Park. Properties across the street, directly fronting on Beech Hill Road are zoned as General Commercial (C-2) (Shell Gas Station, Needs Convenience and Tim

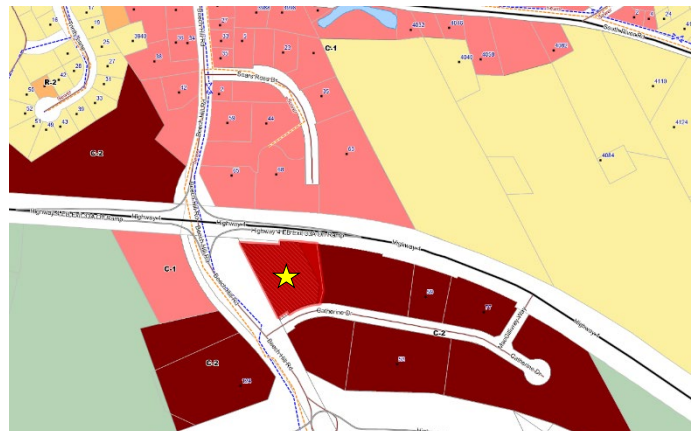


Figure 1. Context Map



Figure 2. Photo of Site from Google Streetview (May 2024)

Horton's) and Local Commercial (C-1). North of the Highway 4 and Beech Hill Road Intersection virtually all properties are zoned as Local Commercial (C-1). The zoning of these properties reflects the Generalized Future Land Use Map that this area is predominately commercial.

Some of the commercial land uses in the area include but are not limited to a pharmacy, personal service uses, professional offices, automobile sales and repair, gas station with convenience store and restaurant, and retail. Most commercial buildings in the neighbourhood are one storey. Staff are of the opinion that there will be minimal impact on abutting properties since the scale and type of developments in the area are similar.

Additionally, the proposed development is generally in line with the Statements of Provincial Interest (SPI).

Analysis:

Development Agreements allow a municipality to review and consider a development proposal for certain uses that are not otherwise permitted by the Land Use By-law. A development agreement is a legal contract that is negotiated between the Municipality and the applicant. The agreement is registered and runs with the title of the land. Subsequent owners of the property are bound by the terms of the development agreement.

Policy L-3.9 of the West River Antigonish Harbour Municipal Planning Strategy (MPS) sets out that:

“It shall be the policy of Council to consider approval of automobile sales and automobile service stations within the General Commercial (C-2) Zone according to the development agreement provisions of the Municipal Government Act. In considering such an agreement, Council shall have regard to the following: ...”

As such, the proposed use proceeds by way of the development agreement approval process.

The Developer, as per section “2.5 Cost, Expenses, Liabilities, and Obligations” of the



Figure 3. Photo of Site from Google Streetview (July 2024)



Figure 4. Photo of Site from Site Visit (Jan 11, 2025)

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Development agreement, is liable and obligated to meet all Federal, Provincial, and Municipal laws, by-laws, regulations, and codes applicable to the Property. This includes the fire protection requirements of the Municipality and the National Building Code. These requirements shall be met prior to the issuance of a building permit.

Policy L-3.9 and Policy I-1.12 of the West River Antigonish Harbour Municipal Planning Strategy set out criteria to which Council shall have regard to in its consideration of a development agreement. Please refer to Appendix A for a summary of Policy L-3.9 and Policy I-1.12.

Municipal Council is required to consider whether the proposal is premature or inappropriate by reason of Policy I-1.12 (b) i) the financial capability of the Municipality to absorb any costs relating to the development, ii) the adequacy of sewer and water services to support the proposed development, iii) the adequacy and proximity of school, recreation and other community facilities, iv) adequacy of road networks adjacent to, or leading to the development and v) the potential for the contamination of watercourses or the creation of erosion and sedimentation. Staff solicited input on the proposal for Policy I.1.12 i) the financial capability of the Municipality to absorb any costs relating to the development, ii) the adequacy of sewer and water services to support the proposed development, and iv) adequacy of road networks adjacent to, or leading to the development.

The property has frontage on “Catherine Drive” which is a municipally owned road. On January 10, 2025, Staff received comment from the Antigonish County Department of Public Works. The Municipal Department of Public Works has stated the road network adjacent to or leading to the proposed development is adequate and does not require any upgrades due to the development.

The property also has frontage on “Highway 4” and “Beech Hill Road” which are provincially owned roads. On January 20, 2025, Staff received comment from the Nova Scotia Department of Public Works. The Nova Scotia Department of Public Works has stated that they currently do not have any concerns regarding the road network adjacent to or leading to the proposed development. A Working Right-of-Way Permit will be required prior to any construction activities and at that time, the Department can offer further comments on the offset from the Beech Hill Road intersection, adequacy of proposed accessing and parking facilities.

Based on the comment(s) received, the proposal satisfies the criteria for Policy I.1.12 (b) iv) adequacy of road networks adjacent to or leading to the development.

Policy I.1.12 (b) ii) refers to the adequacy of sewer and water services to support the proposed development. Staff obtained comment on January 10, 2025, from the Antigonish County Department of Public Works. The Municipal Department of Public Works stated that municipal sewer and water services were adequate to support the proposed development and that no upgrades are required due to the development. The proposal therefore complies with Policy I.1.12 (b) ii).

On January 28, 2025, Staff received input from the Municipality of Antigonish County's Department of finance regarding Policy I-1.12 (b) i) the financial capability of the Municipality to absorb any costs relating to the development. In the official letter received, the Director of Finance confirmed that this proposal is not premature or inappropriate by reason of the financial capability of the Municipality to absorb any cost relating to the development. The proposed development meets Policy I-1.12 (b) i based on the above comment received.

Regarding Policy I-1.12 (b) iii) the adequacy and proximity of school, recreation and other community facilities, the adequacy and proximity of school(s), neither the Antigonish County Recreation Department nor the Strait Regional School Board were asked to comment on this proposal as it is a commercial development.

Policy I-1.12 (b) v) references the potential for the contamination of watercourses or the creation of erosion and sedimentation. The Developer will be required to follow the Erosion and Sedimentation Control section of the Development Agreement. In accordance with Policy I.1.12 (d) An erosion and sedimentation control plan prepared by a qualified individual or company and (e) A storm water management plan prepared by a qualified individual or company, there are provisions within the Development Agreement requiring these plans before a Development Permit can be granted. For these reasons the proposal complies with Policy I-1.12 (b) v).

Policy I.1.12 (c) Whether the development has potential for damage to or destruction of historical buildings and sites, is not applicable to this development. Since the proposal complies with all of Policy I.1.12, the proposal also meets Policy L-3.9 (e), whether the proposal is consistent with the criteria for development agreements, found in Policy I-1.12.

Policy L-3.9 states Council shall have regard that (a) the proposed use meets the C-2 Zone Requirements; (b) The height, bulk lot coverage, use, and appearance of any buildings are compatible with adjacent land uses; (c) consideration is given to building design and the provision of barriers, berms, fences and/or landscaping as part of the development to minimize effect on adjacent land uses; and (d) the parking and storage areas on each site are sufficient size to satisfy the needs of the particular development; that they are well designed and properly related to the building, landscaped areas and adjacent public streets .

The proposed development requires one (1) parking space for every 28 sq. m. (301 sq. ft.) of commercial floor area in accordance with the West River Antigonish Harbour Land Use By-law. Since the approximate commercial floor area for the development is 469 sq. m. a total of 17 parking spaces (after rounding up) are required. As shown on the site plan, the proposed development will provide thirty-six (36) parking spaces which more than meets the required amount. Two (2) of these parking spaces shall be barrier free.

Since the development provides more than four (4) parking spaces, the parking area must meet the "Parking Area Standards" laid out in the West River Antigonish Harbour Land Use By-law.

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Additionally, outdoor storage area provisions, including screening policies, are laid out in the West River Antigonish Harbour Land Use By-law as well as embedded in the Development Agreement. Staff feel that for the purposes of meeting Policy L-3.9 (d), these reasons satisfy the policy.

Policy L-3.9 (c) asks that “consideration is given to building design and the provision of barriers, berms, fences and/or landscaping as part of the development to minimize effect on adjacent land uses”. The West River Antigonish Harbour Land Use By-law lays out buffering requirements for commercial developments, particularly those abutting residential uses. The proposed Site Plan is assessed against any such policy prior to a recommendation from Staff. The proposed Site Plan meets all the applicable buffering requirements of the West River Antigonish Harbour Land Use By-law.

As noted in the Site Visit Section of this report, the only abutting property is also owned by Ron MacGillivray Holdings Ltd. with both properties not only zoned as General Commercial (C-2) but also as part of the same Commercial Business Park (East Gate Ridge). All adjacent properties in the vicinity are zoned as General Commercial (C-2) (Shell Gas Station, Needs Convenience and Tim Horton’s) and Local Commercial (C-1). The zoning of these properties reflects the Generalized Future Land Use Map that this area is predominately commercial and commercially designated. Most, if not almost all, commercial buildings in the locality are 1 story. Staff are of the opinion that there will be minimal impact on abutting properties since the scale and type of developments in the area are similar. As evidenced above, Staff believe this the proposed development constitutes considerate and well thought building/site design which satisfies Policy L-3.9 (b).

Policy L-3.9 refers to if (a) the proposed use meets the C-2 Zone Requirements. The proposed Site Plan was assessed against the C-2 Zone Requirements, and where applicable, C-2 Zone Requirements were included in the Development Agreement. Aside from the “no parking between the front façade and street” requirement, the proposal does meet the C-2 zone requirements. Development Agreements allow for the negotiation and flexibility of terms of some policies found in the Land Use By-law in exchange for concessions from the developer or in consideration of the unique circumstances of the development. In this case, both apply. For example, while Catherine Drive is considered the front lot line as per the definition of the *West River Antigonish Harbour Land Use By-law*, the property has frontage on two other roadways that have much more traffic: Highway 4 and Beech Hill Road. There are no parking spaces between the building and these roadways. Additionally, the developer has agreed to provide an EV Charging Station. As per the *West River Antigonish Harbour Municipal Planning Strategy* Section 4.4.1 Preamble: “The Antigonish County Integrated Community Sustainability Plan has as one of its objectives to “Position the community to be more economically viable and environmentally-sustainable by lowering dependence on fossil-fuel based energy.”, which this concession helps contribute to. Thus, Staff consider Policy L-3.9 (a) is satisfied.

Statements of Provincial Interest:

The purpose of the Statements of Provincial Interest (SPI) is to protect the common public interest and encourage sustainable development in municipalities. The SPI are policy statements adopted by the provincial government under the powers of the Municipal Government Act (MGA s.193). They are set out in Schedule “B” of the MGA and came into effect on April 1, 1999. Legislation requires that municipal planning documents are “reasonably consistent” with the SPI. As such, the following comments are offered with respect to consistency of the proposal with the SPI:

1. Drinking Water: The proposed development does not impact the provision of drinking water. The property is not located within a well field or an area covered by a Source Water Protection Plan.
2. Flood Risk Areas: Not in an identified flood risk area.
3. Agricultural Land: Not considered agricultural land or impacting agricultural lands.
4. Infrastructure: Makes use of existing municipal sewer service.
5. Housing: This proposed development would provide additional housing nor remove housing.

The proposed development is reasonably consistent with the Statements of Provincial Interest.

Conclusion:

Analysis of the site and proposal completed through a review of relevant policies of the Municipal Planning Strategy indicate that the draft development agreement is in keeping with the intent of policy as set by the Municipality of Antigonish County for the West River Antigonish Harbour Plan Area. After consideration, the Eastern District Planning Commission staff are advising that the Municipality enter into a development agreement to construct a Gas Station with a Convenience Store and Restaurant on Lot 9, PID 10140010, Beech Hill Road, Beech Hill, Antigonish County.

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Proposed Motions for the Planning Advisory Committee:

Based upon the staff recommendation, the proposed motions for PAC are:

- 1. That the Planning Advisory Committee recommend that Municipal Council enter into a Development Agreement to construct a Gas Station with a Convenience Store and Restaurant on Lot 9, PID 10140010, Beech Hill Road, Beech Hill, Antigonish County; and That Municipal Council give First Reading and schedule a Public Hearing.*

Proposed Motions for Council:

Based upon a positive recommendation from the PAC, the proposed motions for Council are:

FIRST READING AND SETTING A PUBLIC HEARING DATE:

DEVELOPMENT AGREEMENT:

- 1. That Municipal Council give First Reading and schedule a Public Hearing regarding entering into a Development Agreement to construct a Gas Station with a Convenience Store and Restaurant on Lot 9, PID 10140010, Beech Hill Road, Beech Hill, Antigonish County.*

SECOND READING AND APPROVAL:

- 1. That Municipal Council give Second Reading and approve entering into the Development Agreement to construct a Gas Station with a Convenience Store and Restaurant on Lot 9, PID 10140010, Beech Hill Road, Beech Hill, Antigonish County.*

Appendices:

Appendix A: Summary of Policies

Appendix B: Proposed Development Agreement

Appendix A: Summary of Policies

<p>Policy L-2.12</p> <p>It shall be the policy of Council to consider approval of automobile sales and automobile service stations within the General Commercial (C-2) Zone according to the development agreement provisions of the Municipal Government Act. In considering such an agreement, Council shall have regard to the following:</p>	
<p>(a) The proposed use meets the C-2 Zone Requirements;</p>	<p>Complies – See Staff Report</p>
<p>(b) The height, bulk lot coverage, use, and appearance of any buildings are compatible with adjacent land uses;</p>	<p>Complies – See Staff Report</p>
<p>(c) Consideration is given to building design and the provision of barriers, berms, fences and/or landscaping as part of the development to minimize effect on adjacent land uses;</p>	<p>Complies – See Staff Report</p>
<p>(d) The parking and storage areas on each site are sufficient size to satisfy the needs of the particular development; that they are well designed and properly related to the building, landscaped areas and adjacent public streets;</p>	<p>Complies – See Staff Report</p>
<p>(e) whether the proposal is consistent with the criteria for development agreements, found in Policy I-1.12.</p>	<p>Complies – See Table Below</p>

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<p>Policy I.1.12</p> <p>... In considering Development Agreements (DA), in addition to all other criteria as set out in various policies of this planning strategy, Council shall have regard to the following matters:</p>	
<p>(a) Whether the proposal is in conformance with the intent of this Strategy and with the requirements of all other applicable municipal by-laws and regulations;</p>	<p>Complies – See Staff Report</p>
<p>(b) Whether the proposal is premature or inappropriate by reason of:</p>	
<p>i) the financial capability of the Municipality to absorb any costs relating to the development;</p>	<p>Complies – See Staff Report</p>
<p>ii) the adequacy of sewer and water services to support the proposed development;</p>	<p>Complies – See Staff Report</p>
<p>iii) the adequacy and proximity of school, recreation and other community facilities;</p>	<p>N/A</p>
<p>iv) adequacy of road networks adjacent to, or leading to the development;</p>	<p>Complies – See Staff Report</p>
<p>v) the potential for the contamination of watercourses or the creation of erosion and sedimentation; and</p>	<p>Complies – See Staff Report</p>
<p>(c) Whether the development has potential for damage to or destruction of historical buildings and sites.</p>	<p>N/A</p>
<p>(d) An erosion and sedimentation control plan prepared by a qualified individual or company;</p>	<p>Complies – See Staff Report Provisions in DA</p>
<p>(e) A storm water management plan prepared by a qualified individual or company.</p>	<p>Complies – See Staff Report Provisions in DA</p>

*DA: Development Agreement

*LUB : West River Antigonish Harbour Plan Area Land Use By-law

This is to certify that the resolution to adopt this development agreement, of which this is a true copy, was passed at a duly called meeting of the Municipal Council of the Municipality of the County of Antigonish:

_____ day of _____ 2025.

Given under the hand of the Chief Administrative Officer and under the corporate seal of the Municipality this:

_____ day of _____ 2025.

Mrs. Shirlyn Donovan,
Chief Administrative Officer

THIS DEVELOPMENT AGREEMENT made this _____ day
of _____ AD 2025, BETWEEN:

Island Construction & Environmental Ltd., a body corporate, with registered offices in Halifax, the City of Halifax, Province of Nova Scotia (hereinafter called the "Developer").

OF THE FIRST PART

-and-

MUNICIPALITY OF THE COUNTY OF ANTIGONISH, a body corporate, in the County of Antigonish, Province of Nova Scotia (hereinafter call the "Municipality").

OF THE SECOND PART

WHEREAS the Developer has good title to lands known as 10140010 located on Catherine Drive, Beech Hill in the Municipality of the County of Antigonish, Nova Scotia, and which said lands (hereinafter called the "Property") are more particularly described in Schedule "A" of this Agreement; and

WHEREAS the Developer has requested permission to develop a gas station with a convenience store and restaurant by Development Agreement on the Property;

WHEREAS the Property is situated within an area designated Commercial on the Generalized Future Land Use Map of the West River Antigonish Harbour Plan Area, and General Commercial (C-2) Zone on the West River Antigonish Harbour Land Use By-law Zoning Map; and

WHEREAS Policy L-2.12 and I-1.11 (c) of the West River Antigonish Harbour Municipal Planning Strategy and Part 5.2.d. of the West River Antigonish Harbour Land Use By-law provide that the proposed use may be developed only if authorized by development agreement; and

WHEREAS the Developer has requested that the Municipality of the County of Antigonish enter into this development agreement pursuant to Section 255 of the *Municipal Government Act* so that the Developer may develop and use the Property in the manner specified;

WITNESS that in consideration of the sum of One Dollar (\$1.00) now paid by the Developer to the Municipality (the receipt of which is hereby acknowledged) the request to change the use of the Property is agreed upon by the Developer and the Municipality subject to the following:

PART 1: DEFINITIONS

1.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the *West River Antigonish Harbour Land Use By-law of the Municipality of the County of Antigonish*, as amended from time to time. If a term is not defined in this document, its customary meaning shall apply.

PART 2: GENERAL REQUIREMENTS

2.1 Applicability of Agreement

2.2.1 The Developer agrees that the area of the Property shown on Schedule B shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

2.2 Applicability of the Land Use By-law

Except as otherwise stipulated by this Agreement, the development of the Property shall comply with the West River Antigonish Harbour Land Use By-law of the Municipality of the County of Antigonish and the Land Use By-law for the Municipality of the County of Antigonish (Concerning the Regulation of Wind Turbine Development).

2.3 Applicability of Other By-laws, Statutes, and Regulations

2.3.1 Subject to the provisions of this Agreement, the Developer shall be bound by all By-laws and regulations of the Municipality as well as by any applicable statutes and regulations of the Province of Nova Scotia and the Government of Canada;

2.3.2 Further to Subsection 2.3.1, the Developer shall receive any necessary approvals from the Municipal Department of Public Works with respect to access to the site prior to any development or building permits being issued;

2.4 Conflict

2.4.1 Where the provisions of this Agreement conflict with those of any other applicable Municipal by-law (other than the *Subdivision or 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.

2.4.2 Where the written text of this Agreement conflict with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

2.5 Cost, Expenses, Liabilities, and Obligations

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

2.5.2 The Developer shall be responsible for all cost, expenses, liabilities, and obligations necessary to meet the fire protection requirements of the National Building Code.

2.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Property in a manner, which, in the opinion of the Development Officer, conforms to this agreement and the following Schedules attached to this Agreement.

Schedule A Parcel Description

Schedule B Site Plan

Schedule C Building Elevations

3.2 Future Subdivision of Land

No alterations to the Property are permitted without a substantive amendment to this Agreement except lands not occupied by uses enabled in this Agreement may be subdivided, subject to the requirements of

the Land Use By-law, the Subdivision By-law, and *Municipal Government Act* relating to the notice of intent to discharge the Agreement (for a portion of the lands).

3.3 Requirements Prior to Approval

3.3.1 No development permit shall be granted for the development unless:

- a) The Developer has provided proof that all requirements of Schedule(s) B and C were complied with, except for modifications authorized in Subsections 3.4.6;
- b) Detailed signage and lighting plans as per Section 3.5 are submitted;
- c) Erosion and sedimentation control measures as per Section 4.2 were implemented; and
- d) A copy of the 'Storm Water Management Plan' prepared by a qualified professional as per Section 4.3.1 is submitted.

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

3.4 General Description of Land Use

3.4.1 The use of the Property permitted by this Agreement shall be a gas station with a convenience store and restaurant.

3.4.2 The front lot line shall be the property line with frontage on Catherine Drive.

3.4.3 No building shall exceed a maximum of 10.7 metres or 35 feet in height.

3.4.4 The minimum setbacks from the main building to the property lines are as follows:

Front Yard Setback	12.2 m (40 ft)
Side Yard Setback	6.1 m (20 ft)
Rear Yard Setback	12.2 m (40 ft)

3.4.5 Notwithstanding the *West River Antigonish Harbour Land Use By-law* off-street parking may be located between the front façade of a building and any street line.

3.4.6 The location of Building A and driveways shall be governed by Schedule B. Minor alterations to driveways that do not result in traffic circulation outside of the area subject to the development agreement shall be accepted by the Development Officer and do not require an amendment to this Agreement.

3.5 Commercial Site Lighting, Signage, Storage, Landscaping & Fencing

3.5.1 Lighting, signage and storage shall adhere to the requirements of the *West River Antigonish Harbour Land Use By-law of the Municipality of the County of Antigonish*.

3.5.2 The type and location of all outdoor lighting shall be designed as full cut-off with no light directed at the night sky.

- 3.5.3 The Developer shall include lighting details on the detailed plans submitted for Development Permits when submitted to the Development Officer for review to determine compliance with this Agreement.
- 3.5.4 The Developer shall provide signage details on the detailed plans submitted for Development Permits when submitted to the Development Officer for review to determine compliance with this Agreement.
- 3.5.5 The Developer shall wholly screen any and all waste bins (including but not limited to garbage and recycling bins) that are stored outside with an opaque visual barrier.
- 3.5.6 The Developer shall wholly screen the outdoor storage of any and all equipment or material that is not for sale with an opaque visual barrier.
- 3.5.7 Loading spaces/facilities shall be located at the rear of the main structure and the location of a drive thru between the loading spaces/facilities and any roadway shall constitute adequate screening/buffering.

3.6 Maintenance

- 3.6.1 The Developer shall maintain and keep in good repair all portions of the development on the Property, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal, snow and ice control, and the salting of walkways and driveways.

3.7 Hours of Operation

Hours of operation shall be 24 hours a day, seven days a week.

PART 4: STREETS, MUNICIPAL SERVICES, AND ENVIRONMENTAL PROTECTION

4.1 Off-Site Disturbance

- 4.1.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to streets, sidewalks, curbs and gutters, street trees, landscaped areas, and utilities shall be the responsibility of the Developer, and shall be reinstated, removed, replaced, or relocated by the Developer as directed by the Development Officer, in consultation with the Municipal Engineer.

4.2 Erosion and Sedimentation Control

- 4.2.1 An Erosion and Sedimentation Control plan designed for the development by a professional engineer must be prepared before and implemented during construction;
 - (a) exposed soils must be stabilized by such measures as covering soil stockpiles with hay/straw, and;
 - (b) any water pumped or drained from the excavation must have a Suspended Solid (SS) concentration below 25 mg/l (ppm) before it crosses a lot line.
- 4.2.2 During the commencement of on-site works, the Developer shall comply with the *Erosion and Sedimentation Control Handbook for Construction Sites* as prepared and revised from time to time by Nova Scotia Environment.

4.3 Storm Water Management

- 4.3.1 The Developer shall prepare a 'Storm and Surface Water Management Plan' that is prepared by an adequately qualified professional.
- 4.3.2 All private storm water facilities shall be maintained in good order to maintain full storage capacity by the owner of the lot on which they are situated.
- 4.3.3 Where private storm systems cross multiple properties, the Developer shall provide easements in favour of the affected properties to permit the flow of storm water.

PART 5: AMENDMENTS

5.1 Non-Substantive Amendments

- 5.1.1 The following item is considered by both parties to be non-substantive and may be amended by resolution of Council:
 - a) The granting of an extension to the date of commencement or completion of construction as identified in Section 6.3 of this Agreement;
 - b) A change of use within the main building to a use permitted in the zone provided that no additions are made to the main building.

5.2 Substantive Amendments

Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Municipal Government Act*.

5.3 Discharge

Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council without a public hearing.

PART 6: REGISTRATION, EFFECT OF CONVEYANCES, AND DISCHARGE

6.1 Registration

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office.

6.2 Subsequent Owners

- 6.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees, and all subsequent owners, and shall run with the Property that is the subject of this Agreement until this Agreement is discharged by Council.
- 6.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

6.3 Commencement of Development

- 6.3.1 This agreement or portions of it may be discharged at the discretion of the Municipality with or without the concurrence of the property owner if construction has not commenced within two (2) years and/or construction has not been completed within five (5) years of the registration of the agreement.

6.3.2 For the purpose of this section, Council may consider granting an extension of the commencement or completion of development time period through a resolution under Section 5.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

6.4 Completion of Development

This agreement may be discharged at the discretion of the Municipality upon the completion of the project and the satisfactory fulfillment of the terms of the Agreement.

PART 7: COMPLIANCE AND RIGHTS AND REMEDIES ON DEFAULT

7.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Property during all reasonable hours without obtaining consent of the Developer.

7.2 Failure to Comply

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

- a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunction relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- b) The Municipality may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a break of the Agreement, whereupon all reasonable expenses, whether arising out of the entry onto the Property or from the performance of the covenants or remedial action, shall be a first lien on the Property and be shown on any tax certificate issued under the Assessment Act; or,
- 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 Property shall conform with the provisions of the Land Use By-law.

7.3 Municipal Responsibility

The Municipality does not make any representation to the Developer about the suitability of the Property for the development proposed by this Agreement. The Developer assumes all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the development.

7.4 Warranties by the Developer

The Developer warrants as follows:

- a) The Developer has good title in fee simple to the Property or good beneficial title subject to normal financing encumbrance or is the sole holder of a Registered Interest in the Property. No other entity has an interest in the Property which would require their signature on this Agreement to validly bind the Property or Developer has obtained the approval of every other entity which has an interest in the Property whose authorization is required for the Developers to sign the Agreement to validly bind the Property.
- b) The Developer has taken all steps necessary to, and it has full authority to, enter the

Agreement.

7.5 Onus for Compliance on Developer

Any failure of the Municipality to insist upon a strict performance of any requirements or conditions contained in the Agreement shall not be deemed a waiver of any subsequent breach or default in the conditions or requirement contained in this Agreement.

7.6 Costs

The Developer is responsible for all costs associated with recording this Agreement in the Registry of Deeds or Land Registration Office, as applicable, and all costs of advertising for and recording any amendments.

7.7 Full Agreement

The Agreement constitutes the entire agreement and contract entered into by the Municipality and the Developer. No other agreement or representation, oral or written, shall be binding.

7.8 Interpretation

- 7.8.1 Where context requires, the singular shall include the plural, and the use of words in one gender shall include the masculine, feminine, and neutral genders as circumstances warrant;
- 7.8.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.
- 7.8.3 References to particular sections of statutes and by-laws shall be deemed to the references to any successor legislation and by-laws even if the content has been amended, unless the context otherwise requires.

SCHEDULE "A"

Parcel Description

Registration County: ANTIGONISH COUNTY

Street/Place Name: CATHERINE DRIVE /BEECH HILL

Title of Plan: PLAN OF SUBDIVISION SHOWING LOT 9 BEING LANDS OF RON
MACGILLIVRAY HOLDINGS LTD. AT CATHERINE DRIVE, BEECH HILL

Designation of Parcel on Plan: LOT 9

Registration Number of Plan: 124827024

Registration Date of Plan: 2024-10-08 11:47:59

*** Municipal Government Act, Part IX Compliance ***

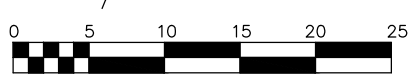
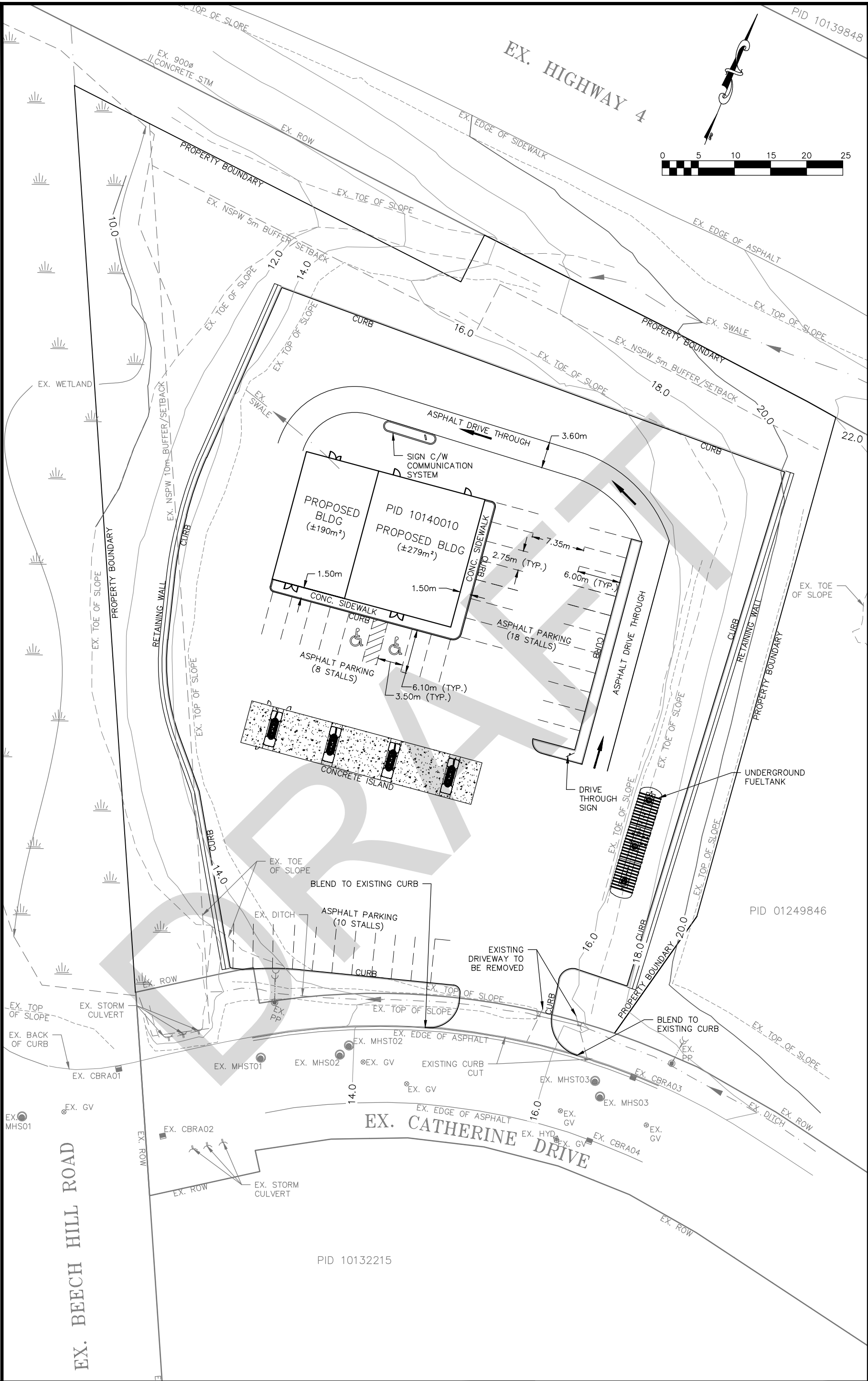
Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

Registration District: ANTIGONISH COUNTY

Registration Year: 2024

Plan or Document Number: 124827024



LOT 9 - BEECH HILL, ANTIGONISH
 PROPOSED SITE LAYOUT

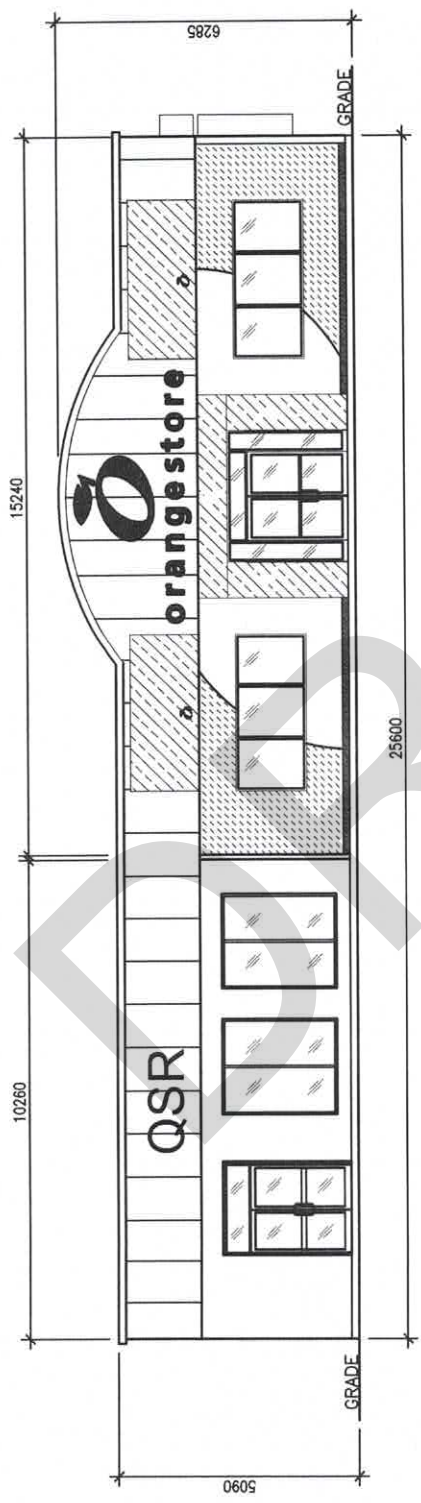
Revision			
No.	Comments	Date	By
0.	XXXXXXXX	XXXXXXXX	XXXXXXXX

NOTES:
 1. Elevations are Geodetic NAD83 MTM Zone 4 NSCM @203047 Elev = 33.163.
 2. Contours are 2.0m intervals and represent existing ground.
 3. All dimensions are in meters unless noted otherwise.

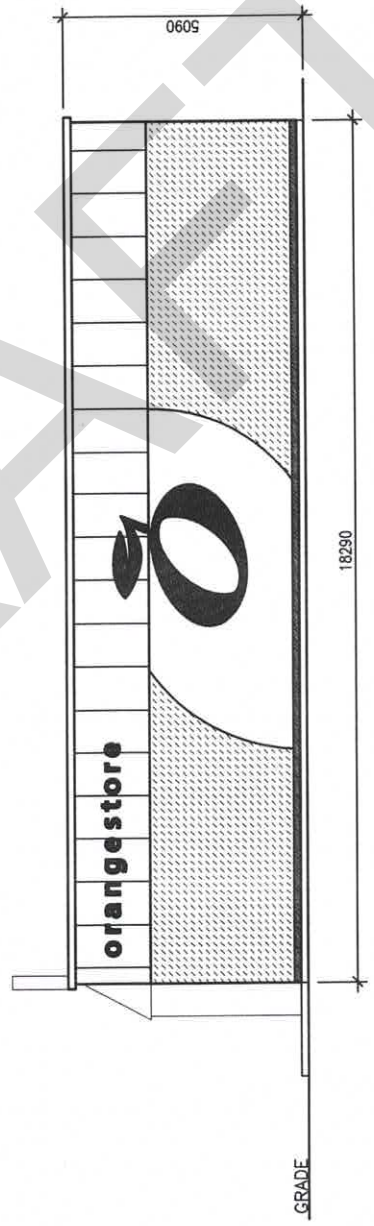
Date: XXXXXXXX
 Scale: 1:500
 Project No.: 24-10740
 Drawing No.: SK01
 This drawing was created in Mi'kma'ki; the ancestral, cultural, and spiritual lands of the Mi'kmaq People.

DRAFT
 PRINTED Dec 12-24

General Notes
 1. PRELIMINARY. NOT TO BE USED FOR CONSTRUCTION.



1 FRONT ELEVATION
 S01 1:100



2 RIGHT ELEVATION
 S01 1:100

No.	REVISION/DESCRIPTION	DATE	BY

GENERAL CONTRACTOR
ICE ENVIRONMENTAL LTD.
 18 Hudson Avenue
 Mount Pearl, NL
 A1A 2B6
 TEL: (709) 762-3888
 FAX: (709) 761-2822

CLIENT
Atlantic Planning & Management Ltd.
 St. Thomas Line
 Paradise, Newfoundland
 A1A 2B6
 TEL: (709) 761-2822

PROJECT NAME AND ADDRESS
ANTIGONISH PROPOSED EXTERIOR ELEVATIONS

Drawn By: JL	Sheet: S01
Designed By: JN	
Checked By: JL	
Approved By: RS	
Date: 2024-11-08	
Scale: 1:100	

General Notes
 1. PRELIMINARY NOT TO BE USED FOR CONSTRUCTION.

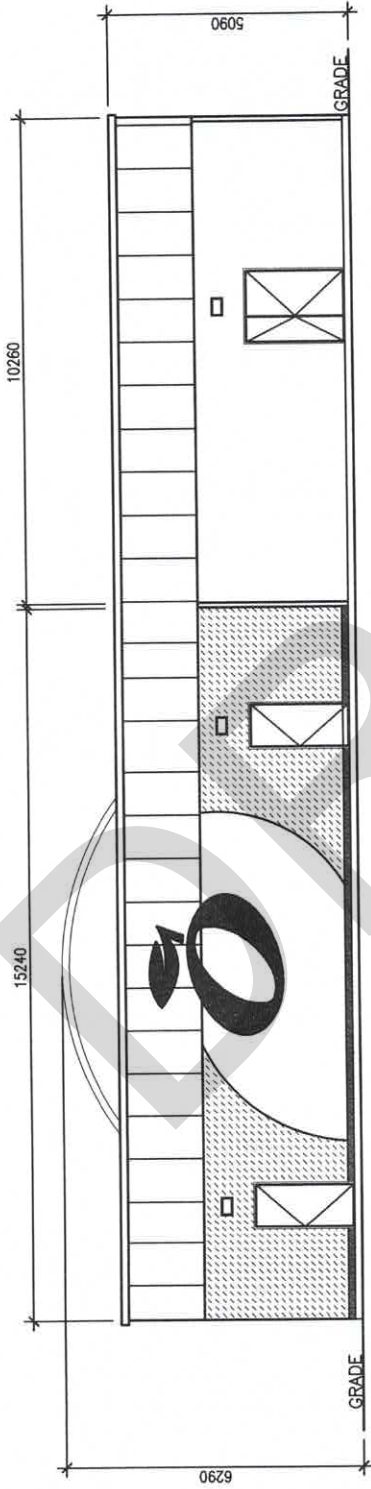
No.	Description	Date
1	ISSUED FOR PERMIT	2024-11-08
2	REVISION	

GENERAL CONTRACTOR
ACOR
 18000 Parkway
 Mount Pleasant, SC 29566
 TEL: (803) 942-2200
 FAX: (803) 942-2209

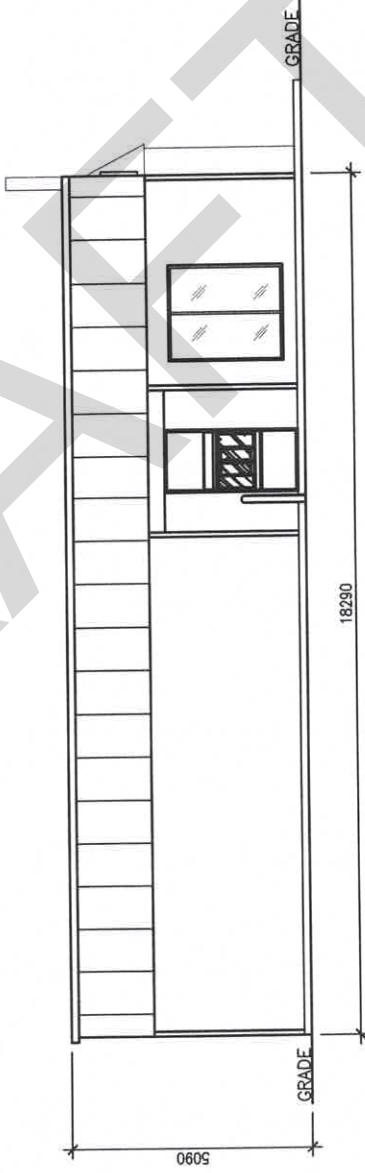
Architect
Atlantic Planning & Management Ltd.
 St. Thomas Line
 Paradise, Newfoundland
 A1C 1C9
 TEL: (709) 791-2222

Project Name and Address
ANTIGONISH PROPOSED EXTERIOR ELEVATIONS

Sheet	
Drawn By: JL	S02
Designed By: JN	
Checked By: JL	
Approved By: RS	
Date: 2024-11-08	
Scale: 1:100	



1 REAR ELEVATION
 S02 1:100



2 LEFT ELEVATION
 S02 1:100