



THE MUNICIPALITY OF THE DISTRICT OF EAST HANTS

Development Agreement

Between:

Tammy Ferguson and Joe Ferguson

And

**Municipal Council for the
Municipality of the District of East
Hants, Nova Scotia**

To permit an Educational Services use
on properties identified as PID
45123122 and 45123114 in Nine Mile
River.

Original agreement approved by
Municipal Council on the 24 day of
April, 2024.

Signed and entered into this ____ day
of _____, 2024.

This Agreement made this ____ day of _____, 2024.

BETWEEN:

Tammy Ferguson and Joe Ferguson of Enfield, Nova Scotia

hereinafter called the “**DEVELOPER**,”

OF THE FIRST PART;

- and -

THE MUNICIPALITY OF THE DISTRICT OF EAST HANTS, a body corporate pursuant to the *Municipal Government Act* (SNS 1998, c. 18), having its chief place of business at Elmsdale, in the District of East Hants, Nova Scotia,

hereinafter called the “**MUNICIPALITY**,”

OF THE SECOND PART.

WHEREAS the “**DEVELOPER**” has good title to lands known as PID 45123122 and 45123114 at 7224 Highway 14, hereinafter called the “**PROPERTY**”, more particularly described in Schedule “A” of this agreement;

AND WHEREAS the “**DEVELOPER**” has requested that they be permitted to develop an Educational Service use in the Two-Dwelling Unit Residential (R2) Zone on the “**PROPERTY**” by entering into a development agreement with the “**MUNICIPALITY**” pursuant to the *Municipal Government Act*, and pursuant to the *Municipality of East Hants Municipal Planning Strategy Policies OS28, IM27, and IM28* so that the “**DEVELOPER**” may develop and utilize the “**PROPERTY**” in a manner not otherwise permitted by the Land Use Bylaw.

AND WHEREAS the Council of the “**MUNICIPALITY**”, hereinafter called the “**COUNCIL**”, at its meeting held the 24 day of April, 2024, approved the “**DEVELOPER’S**” application to enter into a development agreement to permit an Educational Service use in the Two-Dwelling Unit Residential (R2) Zone, hereinafter called the “**DEVELOPMENT**,” subject to the registered owners of the “**PROPERTY**” entering into this agreement.

NOW THEREFORE, THIS AGREEMENT WITNESSETH THAT in consideration of the covenants, promises and agreements contained herein, the parties hereto agree as follows:

1 DEFINITIONS

- 1.1 All words unless otherwise specifically defined herein shall be as defined in the East Hants Land Use By-law and Subdivision By-law, as amended. If a term is not defined in this document, its customary meaning shall apply.

2 LAND USE

- 2.1 The permitted uses of the Property, subject to the terms and conditions of this agreement, shall be all those uses permitted in the Two Dwelling Unit Residential (R2) Zone as per the requirements of the East Hants Land Use Bylaw, in addition to any other uses permitted by this agreement.
- 2.2 The Developer is permitted to a new Cosmetology School, and as generally in accordance with Schedule "B".
- 2.3 Except where specifically stated otherwise in this agreement, all provisions of the Land Use Bylaw of the Municipality of the District of East Hants, approved by Municipal Council in July 2023 as amended, with specific reference to the requirements of the Two Dwelling Unit Residential (R2) Zone, shall apply to this development.

3 PLANS

- 3.1 The Property shall be developed generally in accordance with the site plan attached to this agreement as "Schedule B".
- 3.2 Accessory building setbacks shall be in accordance with Section 3.10 of the Land Use Bylaw.
- 3.3 Parking shall be in accordance with Section 3.31 of the Land Use Bylaw and access to the parking areas shall be restricted to Birch Hill Drive.
- 3.4 The Developer shall construct and maintain the parking areas as illustrated on the site plan.
- 3.5 All outdoor lighting shall be installed so as to reflect light away from adjacent properties. The Developer will use sensitive lighting which is orientated downward, is low wattage, energy efficient and minimizes glare and light spill.
- 3.6 All disturbed areas of the site shall be landscaped with grass, perennial ground cover, trees or shrubs.
- 3.7 Signage shall be in accordance with Section 4 of the Land Use Bylaw

4 DEVELOPMENT PERMIT

- 4.1 This development agreement shall be administered by the Development Officer as appointed by the Council of the Municipality of East Hants.
- 4.2 The development described in this agreement shall not be commenced until the Development Officer has issued a development permit. A development permit for the land use described in Section 1 of this agreement shall not be issued until the Development Officer is satisfied that the detailed plans are generally in conformance with the site plan attached as Schedule "B" and the requirements for the components in Schedule "B". In addition, the Development Officer shall not issue a development permit until:
- a. Payment for all required permit fees, registration of the document at the Registry of Deeds, and costs associated with advertising and processing the application have been received by the Municipality's Planning and Development Department.

5 IMPLEMENTATION

- 5.1 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
- 5.2 Except otherwise stated by this Agreement, the development of the Property shall comply with the Municipality of East Hants Land Use By-law.

- 5.3 Upon breach of this agreement, the Municipality may proceed in accordance with Section 264 of the *Municipal Government Act*.
- 5.4 Subject to the provisions of this agreement, the Developer shall be bound, unless specifically stated otherwise in this agreement, by all Bylaws and regulations of the Municipality as well as to any applicable statutes, policies, and regulations of the Province of Nova Scotia or the Government of Canada.
- 5.5 This agreement shall run with the land and be binding upon the Developer, its lessees, and the occupiers of the land.
- 5.6 This agreement shall be filed by the Municipality in the Registry of Deeds at Windsor, Nova Scotia, and shall form a charge or encumbrance upon the property as described in Schedule "A" attached hereto.
- 5.7 The costs of recording and filing all documents in connection with the agreement shall be paid by the Developer.
- 5.8 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.
- 5.9 The Developer shall at all times indemnify and save harmless the Municipality from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings by whomever made, brought or prosecuted to the extent that the foregoing are based upon, occasioned by or attributable to anything done or omitted by the Developer or his servants or his agents or his employees in the fulfillment of any of his obligations under this Agreement.
- 5.10 Upon completion of the Development, or after three (3) 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; or
 - b. discharge the Agreement on the condition that for those portions of the development that are deemed complete by the Council, the Developer's rights hereunder are preserved and Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law.

6 UNSUBSTANTIAL AMENDMENTS

- 6.1 Any amendment to this agreement, whether substantive or otherwise, must be approved by both parties in writing.
- 6.2 Any unsubstantial amendment to either the terms of this agreement or to any Schedules shall be subject to the amendment procedures set out in the *Municipal Government Act*. Amendments which are considered unsubstantial are the following:
 - a. A written request to have the time limits identified in Section 7 of this agreement extended by a period to be decided by Council.
 - b. Changes to the site plan that are necessary to accommodate features that are subject to approval or authorization by other authorities such as, but not limited to, the Nova Scotia Department of Public Works and Nova Scotia Environment.
 - c. A request to increase the footprint of the buildings by up to 5%.
 - d. Matters dealing with on-site parking

7 TIME LIMITS

- 7.1 The parties shall enter into this agreement within one (1) year of Council's approval to enter into this agreement.
- 7.2 Pursuant to the terms and conditions of this agreement, the Developer shall apply for a development permit for building within one (1) year of the parties entering into this development agreement. Once a development permit has been issued the development shall be made consistent with all terms and conditions of this agreement and all features of the site plan attached as Schedule "B" no later than two (2) years after the development permit has been issued, otherwise the development agreement may be terminated and the existing zone and all provisions of the Land Use Bylaw shall apply.

- 7.3 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 6, 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.

8 ENFORCEMENT

- 8.1 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 containing consent of the Developer

9 FAILURE TO COMPLY

- 9.1 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 Lands 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 Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands 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 Lands shall conform with the provisions of the Land Use By-law.

IN WITNESS WHEREOF the parties hereto for themselves, their successors and assigns have hereunto set their hands and seals as of the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of:

DEVELOPER

Witness

Tammy and Joe Ferguson

MUNICIPALITY OF EAST HANTS

Witness

Kim Ramsay
Chief Administrative Officer & Municipal Clerk

Province of Nova Scotia, County of Hants.

On this _____ day of _____, 2024, before me the, subscriber personally came _____ and _____ appeared _____, a subscribing witness to the foregoing agreement, who having been by me duly sworn, made oath and said that the Developer, one of the parties thereto, signed, sealed and delivered the same in his/her presence.

Province of Nova Scotia, County of Hants.

On this _____ day of _____, 2024, before me, the subscriber personally came and appeared _____, a subscribing witness to the foregoing agreement, who having been by me duly sworn, made oath and said that Kim Ramsay, CAO & Municipal Clerk, signing authority for the Municipality of East Hants, one of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme
Court of Nova Scotia

A Commissioner of the Supreme
Court of Nova Scotia

Schedule A

Parcel Description of Property

ALL THAT certain lot, piece or parcel of land situate, lying and being at Nine Mile River in the County of Hants, Province of Nova Scotia, being Lot 25 as shown on a plan certified by Kenneth V. Reardon, N.S.L.S., bearing date October 15th A.D., 1973, said plan approved March 12th A.D., 1974 as East Hants Plan No. 1743, said Lot 25 being more particularly bounded and described as follows:

BEGINNING on the Southern boundary of public highway No. 14 leading from Milford to Windsor at that point thereon where the western boundary of Lot No. 26 intersects said highway boundary;

THENCE North 74 degrees 28 minutes West along said highway boundary 100 feet to an iron pin set;

THENCE South 15 degrees West on lands of the said Grantors 300 feet to an iron pin set;

THENCE South 74 degrees 28 minutes East on lands of the said Grantors 100 feet to an iron pin set at the southwest angle of Lot No. 26;

THENCE North 15 degrees East along the Western boundary of Lot No. 26 300 feet to the place of beginning.

BEING AND INTENDED to be a portion of lands conveyed to the said Grantors by Indenture of Deed recorded at the Registry of Deeds at Windsor in Book 205 Page 449.

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

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

ALL that certain lot, piece, parcel or tract of land situate, lying and being at Nine Mile River, in the County of Hants, Province of Nova Scotia shown as Lot 26 on Plan Showing Part of Lands of Major A. Thompson prepared by Kenneth V. Reardon & Assoc. Ltd., having drawing No. H-1614, dated October 15, 1979, certified by Kenneth V. Reardon, N.S.L.S. and having East Hants Plan No. 1743, which lot is more particularly bounded and described as follows:

BEGINNING at a point situate at the intersection of the western boundary of Lot F with a Southern boundary of No. 14 Highway which point is distant 33 feet when measured at right angles from the centre line of said highway;

THENCE by magnetic bearings North 74 degrees 28 minutes West a distance of 100 feet following the Southern boundary of said No. 14 Highway to a point situate at the Northwest corner of Lot 25;

THENCE South 15 degrees West a distance of 300 feet following the Eastern boundary of said Lot 25 to a point situate on a Northern boundary of lands of Major Thompson;

THENCE South 74 degrees 28 minutes East a distance of 100 feet following a portion of a Northern boundary of lands of said Major Thompson to a point situate at the Southwest corner of the aforementioned Lot F;

THENCE North 15 degrees East a distance of 300 feet following the Western boundary of said Lot F to the place of beginning.

BEING AND INTENDED TO BE a portion of those lands devised to Carrie B. Thompson by the Last Will and Testament of Major A. Thompson recorded in the Registry of Deeds Office in Windsor on the 11th day of June A.D., 1986 in Book 522 at Page 815.

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

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

Development Agreement:
Tammy and Joe Ferguson and the
Municipality of East Hants

Schedule B

Site Plan

