

This Amending Development Agreement is made this ____ day of _____, 2023.

BETWEEN:

Devour! Studios (Slow Motion Food Film Fest Society) (Hereinafter called the “Developer”)

OF THE FIRST PART

- and –

TOWN OF WOLFVILLE,
A municipal body corporate,
(Hereinafter called the “Town”)

OF THE SECOND PART

WHEREAS the Developer has requested that the Town enter into a Development Agreement relating to the use and development of the Lands (PID 55278758) pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy for the Town of Wolfville;

AND WHEREAS a condition of granting approval for the development of the Lands is that the parties enter into this Development Agreement;

AND WHEREAS the Town Council of the Town, at its meeting on January 24, 2023 approved entering into this Development Agreement to permit a digital sign, subject to the Developer (registered owner and/or heirs, successors, assigns) of the Lands entering into this Development Agreement;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the covenants made in this Development Agreement and other valuable consideration the Developer and the Tenant and the Town agree to the following terms.

1. Schedules

The following schedules form part of this Second Amending Development Agreement:

- Schedule “A” – Property Description.
- Schedule “B” – Digital Marquee Signage Concepts
- Schedule “C” – Design Guidelines Areas Map

2. Definitions

2.1 In this development agreement:

“*Building By-Law*” means Chapter 65 of the By-Laws of the Town of Wolfville.

“*Developer*” means the owner(s) of the lands, their heirs, successors, assigns, and all subsequent owners of the lands.

“Development” means a digital marquee sign, generally in accordance with the concepts provided and included as Schedule B and the other provisions of this Development Agreement.

“Development Officer” means the Development Officer appointed by the Town of Wolfville under the provisions of the Municipal Government Act.

“Engineer” means the Engineer appointed by the Town of Wolfville under the provisions of the Municipal Government Act.

“Effective date” means the date on which this Development Agreement is deemed to be entered into under the terms of this Development Agreement.

“Lands” means the real property in the Town of Wolfville owned by the Developer, PID 55278758, and as described in Schedule “A”.

“Land Use By-Law” means the Land Use By-Law of the Town of Wolfville in force from time to time, adopted and amended by the Wolfville Town Council under the provisions of the Municipal Government Act. At the date of this Development Agreement, it is the Land Use By-Law as adopted by Council on June 30, 2020, effective September 3, 2020.

“Municipal Planning Strategy” means the municipal planning strategy of the Town of Wolfville in force from time to time, adopted and amended by the Wolfville Town Council under the provisions of the Municipal Government Act. At the date of this Development Agreement, it is the Municipal Planning Strategy adopted by Council as adopted by Council on June 30, 2020, effective September 3, 2020.

“MGA” means the Municipal Government Act, S.N.S. 1998, c. 18, as amended.

“Nits” means a measurement of the brightness of light.

“Planning Documents” means Land Use Bylaw, Municipal Planning Strategy, and Subdivision Bylaw.

“Sign, Digital Marquee” means any sign made as part of a marquee and designed to have changeable copy.

- 2.2** Where terms (words or phrases) are not defined in this Development Agreement, definitions in the Town’s planning documents shall apply. Where terms are not defined in the planning documents, definitions in the MGA shall apply. Where terms are not defined in the aforementioned sources, their ordinary meaning shall apply.

3. Relevance of Planning Documents and Other Regulations

- 3.1** This Development Agreement contains definitions and regulations for the Development. It complements the Town's Planning Documents. Unless specified in this Development Agreement, requirements in the Town's Planning Documents shall apply. Where there is a conflict between this Development Agreement and the Planning Documents, this Development Agreement shall prevail.
- 3.2** Regulations outside of this Development Agreement or the Town's Planning Documents may be applicable to the Development. However, the terms of this Development Agreement shall not be materially changed in order to comply with such regulations without an amendment to this Development Agreement.

4. Background

The Developer wishes to enter into a development agreement to erect and operate a digital marquee sign to promote events, activities and organizations and groups that use the Devour Studios building at 360 Main Street. Illuminated signs or reader board signs are not permitted under the land use bylaw in the Core Commercial zone, however Council may consider unique and site-specific uses in the Core Commercial (C-1) zone through Development Agreement.

5. Terms

5.1 Development Conditions

5.1.1 Permits and Approvals

- 5.1.1.1** This Development Agreement allows the Developer to obtain development permits, other permits, and permissions to allow uses permitted by this Agreement.
- 5.1.1.2** The Developer shall be responsible for obtaining all necessary permits and approvals required by law for the Development, including but not limited to development permits, building permits, and any approvals required from the Province of Nova Scotia.
- 5.1.1.3** Obligations or other requirements in this Development Agreement are those of the Developer, unless otherwise specified.

5.1.2 Land Use

- 5.1.2.1** The following uses are permitted:
- (a) A digital marquee sign subject to the requirements as laid out in this development agreement.
 - (b) Other uses in accordance with the zone standards of the Land Use By-law.

5.1.3 General Requirements

- 5.1.3.1** The Development shall conform to the zone standards of the Land Use By-law, except as otherwise established by this Agreement.
- 5.1.3.2** The Developer agrees that no scrolling, flashing or moving lights, text, images or videos may be illuminated on the signage.
- 5.1.3.3** The Developer agrees that no noise shall be produced by the signage.
- 5.1.3.4** The Developer agrees that the sign must revert to an unlit, black screen during any malfunction.
- 5.1.3.5** The Developer agrees that the sign shall not advertise or promote events or happenings that are not happening on the 360 Main Street property or as part of Devour! programming.
- 5.1.3.6** Text or graphics may only change every 2 hours.
- 5.1.3.7** The nighttime brightness of the sign must not exceed 100 Nits and may not operate between 1:00 am and 7:00 am
- 5.1.3.8** The sign must be equipped with a sensor which automatically lowers light output in accordance with atmospheric conditions and so not to exceed the maximum number of nits permitted.
- 5.1.3.9** The applicant shall submit the operational specifications at the time of Development Permit application demonstrating compliance with the requirements of this agreement.

5.1.4 Design Requirements

- 5.1.4.1** The signage shall be generally in accordance with the Design Concepts. Some combination of the packages reviewed, as shown in Schedule B, at the discretion of the Director of Planning during the Development Permit process.
- 5.1.4.2** The digital component shall only be permitted on the south side of the signage (not all 3 sides of the canopy).
- 5.1.4.3** All sides of the sign may include a static, lit element.
- 5.1.4.4** The signage shall include a fork element(s), generally in accordance with the concepts provided during design development.

5.1.5 Utility Equipment

- 5.1.5.1** Utility equipment such as mechanical and electrical equipment related to the digital sign shall be visually screened by fencing or landscaping.

5.1.6 Timing

- 5.1.6.1** This Development Agreement shall be deemed entered into on the day following the day on which the time for appeal of Town Council's approval has elapsed, or the day on which any appeals have been disposed of and the policy of the Wolfville Town Council approving this Development Agreement has been affirmed by the Nova Scotia Utilities and Review Board, under the provisions of the MGA, or other judiciary body as applicable.
- 5.1.6.2** This Development Agreement does not come into effect until the requirement of Section 228(3) of the Municipal Government Act are fulfilled and this development agreement is filed in the Registry of Deeds. All other time requirements imposed in this Development Agreement shall be calculated from that date, the effective date.
- 5.1.6.3** All Development enabled by this Agreement shall be completed within three (3) years. Upon failure to meet this timing requirement, the Town may discharge this Development Agreement without the consent of the Developer or Tenant.

5.1.7 Amendment

- 5.1.7.1** With the exception of matters which the Town and the Developer do not consider to be substantive, the amendment of any other matter in this Development Agreement can only be made under the provisions of Section 230 of the MGA, including the holding of a Public Hearing.
- 5.1.7.2** Following are matters in this Development Agreement which the Town and the Developer do not consider to be substantive:
- (a)** The requirements for completion imposed by section 5.1.6.3.
 - (b)** Design in accordance with concepts, as per 5.1.4.1 in Schedule B

5.1.8 Expenses

- 5.1.8.1** The Developer shall pay all costs and expenses incurred by the Town related to this Development Agreement.

5.1.9 Liability

- 5.1.9.1** The Developer shall be liable for any damage caused to persons or public or private property by the Developer or any contractor or other individual doing work related to the Development. The Developer shall indemnify the Town and save it harmless from any claim, cause of action, or liability in any way relating to the Development. The Developer shall obtain and maintain in force throughout the course of construction on the Development, liability insurance

coverage to ensure the responsibilities which the Developer is assuming in this section.

5.1.10 Default

5.1.10.1 If the Developer fails to comply strictly with any term of this Development Agreement or any legislation applicable to this Development Agreement, the Town may, after 30 days notice in writing to the Developer, enter the lands and perform any obligation with which the Developer has failed to comply strictly. All expenses arising out of the entry of the Lands and performance of the obligations may be recovered by the Town from the Developer by direct suit and shall form a charge upon the Lands. The Developer shall pay interest on any sum so expended by the Town at the same monthly rate charged by the Town for tax arrears on the outstanding balance from time to time. Such interest costs shall be treated as an expense.

5.1.10.2 If the Developer breaches any of the terms of this Development Agreement, the Town, at its sole option, may:
(a) Terminate this Development Agreement;
(b) Exercise its rights under paragraph 5.1.10.1 above; or,
(c) Take no action.

5.1.10.3 Any election by the Town to take no action on a breach of this Development Agreement by the Developer shall not bar the Town from exercising its rights under this Development Agreement on any other breach.

5.1.10.4 Any expenses incurred by the Town in exercising its rights under sections 5.1.10.1 and 5.1.10.2, or either of them, shall be paid by the Developer to the Town.

5.1.11 Administration

The Development Officer administers this Agreement. His/Her decision is final and binding on all parties.

6. Warranties by the Developer

6.1 Title and Authority

6.1.1 The Developer warrants as follows:

(a) The Developer has good title in fee simple to the Lands or good beneficial title subject to a normal financing encumbrance or is the sole holder of a Registered Interest in the Lands. No other entity has an interest in the Lands which would require their signature on this Development Agreement to validly bind the Lands or the Developer has obtained the approval of every other entity which has an interest

in the Lands whose authorization is required for the Developer to sign this Development Agreement to validly bind the Lands.

(b) The Developer has taken all steps necessary to, and it has full authority to, enter this Development Agreement.

7. Full Agreement

7.1 Other Agreements

7.1.1 This Development Agreement constitutes the entire agreement and contract entered into by the Town and the Developer. No other agreement or representation, whether oral or written, shall be binding.

7.1.2 This Development Agreement shall not be a precedent for any other agreement either between the Town and the Developer or between the Town and any other party.

8. Notice

Any notice to be given under this Development Agreement shall be made in writing and either served personally or forwarded by courier or by registered mail, postage prepaid, if to the Town to:

Town of Wolfville
359 Main Street
Wolfville, Nova Scotia
B4P 1A1
Attention: Development Officer

and if to the Developer:

Devour! Studios (Slow Motion Food Film Fest Society)
360 Main Street
Wolfville, NS
B4P 1E2

9. Headings

The headings used in this Second Amending Development Agreement are for convenience only. If any of the headings are inconsistent with the provisions of the development agreement which it introduces, the provisions of the development agreement shall apply.

10. Binding Effect

This Development Agreement shall ensure to the benefit of and be binding upon the parties to this Development Agreement, their respective successors, administrators, and assigns.

11. Execution

In witness of this Development Agreement the parties have signed, sealed and delivered it to each other on the date set out at the top of the first page.

SIGNED, SEALED AND DELIVERED)	
In the presence of:)	
)	
)	TOWN OF WOLFVILLE
)	
)	
)	By _____
)	MAYOR
_____)	
Witness)	
)	
)	By _____
)	TOWN CLERK
)	
)	
SIGNED, SEALED AND DELIVERED)	
In the presence of:)	
)	
)	
)	By _____
_____)	DEVOUR! STUDIOS (SLOW MOTION FILM
Witness)	FEST SOCIETY)

CANADA
PROVINCE OF NOVA SCOTIA
COUNTY OF KINGS

I certify that on _____, 2023, _____ a witness to this agreement came before me, made oath, and swore that the **Town of Wolfville**, caused the same to be executed by its proper officers who affixed its Corporate Seal and subscribed their hands in its name and in its behalf in his/her presence.

A Commissioner of the Supreme Court of Nova Scotia

CANADA
PROVINCE OF NOVA SCOTIA
COUNTY OF KINGS

I certify that on _____, 2023, _____ a witness to this agreement came before me, made oath, and swore that **DEVOUR! STUDIOS (SLOW MOTION FILM FEST SOCIETY)** caused the same to be executed by its proper officers who affixed its Corporate Seal and subscribed their hands in its name and in its behalf in his/her presence.

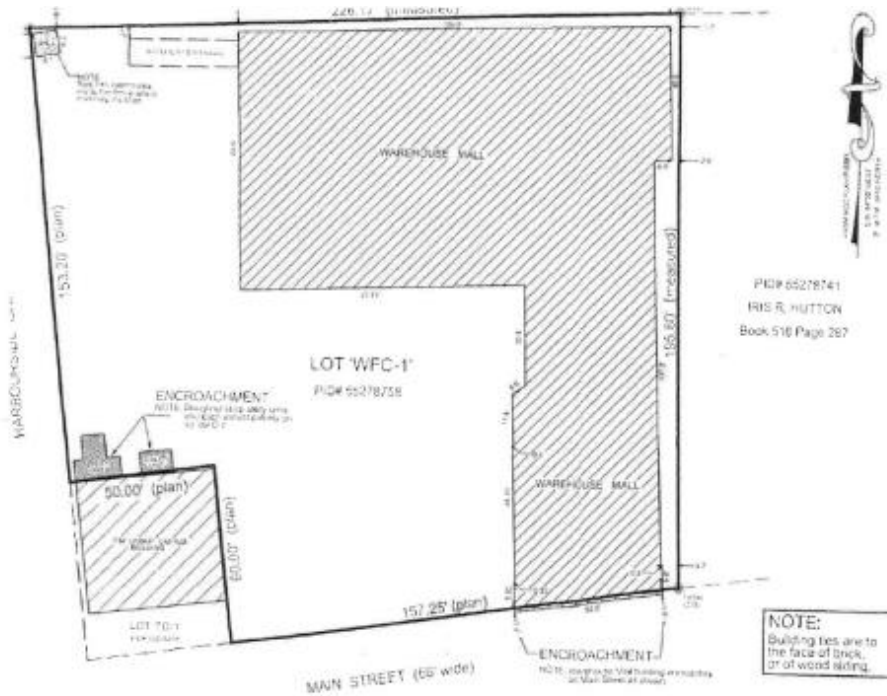
A Commissioner of the Supreme Court of Nova Scotia

SCHEDULE A – DESCRIPTION OF LANDS

Schedule "A" – Property Description

Parcel is as described as of Plan 8381, registered 1990-10-22.

Municipality/County: **Town of Wolfville**
 Designation of Parcel on Plan: **Lot WFC-1**
 Registration County: **Kings County**
 Registration Number of Plan: **P-8381**
 Registration Date of Plan: **1990-10-22**



PID# 55278741
 RIS R. HUTTON
 Book 516 Page 267

NOTE:
 Building ties are to the face of brick, or of wood siding.

I, NORSE & HERRICK, Nova Scotia Land Surveyors, certify that the Surveyor's Location Certificate is correct under the provisions and in accordance with the Nova Scotia Land Surveyors Regulations, with Section 8 of the Nova Scotia Land Surveyors Act.

Dated 28 JULY, 2005

Donald D. Haggins

This Surveyor's Location Certificate does not constitute a boundary decision or a subdivision of land or a declaration of legal occupiers.

Certified to
ALTIMAX BUILDER LIMITED
 150 Victoria Road
 Dartmouth, Nova Scotia

Regarding:
 PID# 55278758 (LOT "WFC-1")
 Warehouse Mall
 Main Street and Harbourside Drive
 Wolfville, Nova Scotia

I certify that the buildings shown hereon are shown existing within the boundaries of the subject lot(s), except that the southern extremity of the Warehouse Mall building encroaches on Main Street as shown hereon and are as defined by the boundary shown together with plan and deed information.

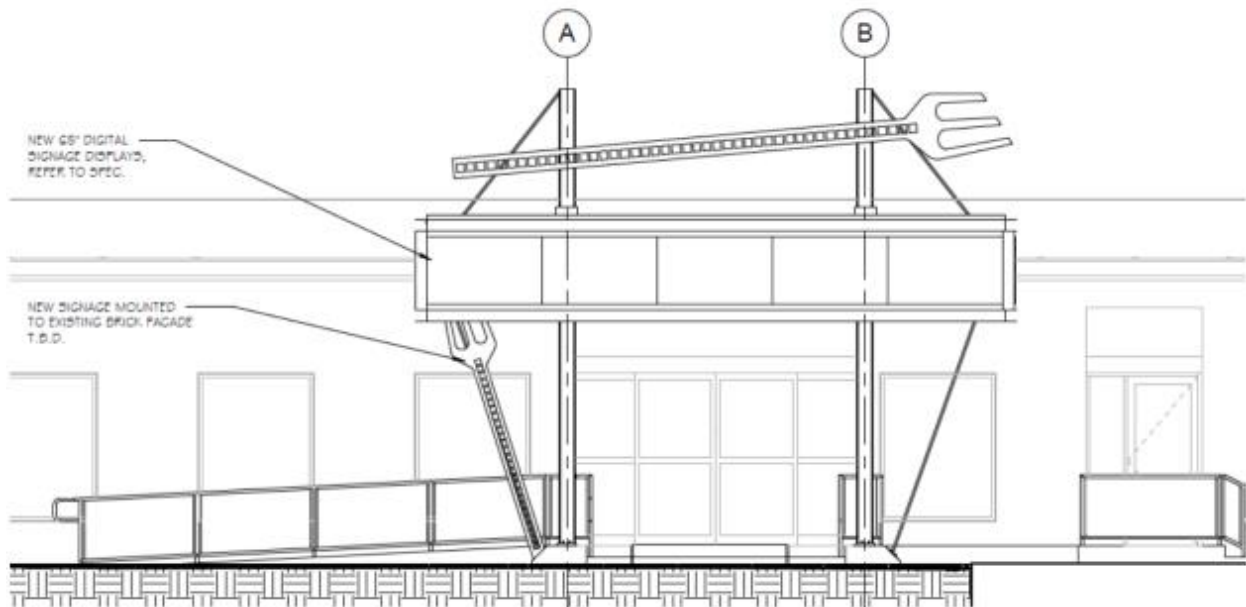
Dated hereon, this 28th day of July, 2005.
 Registry of Deeds, County of Kings

This survey was carried out on 22 July, 2005.

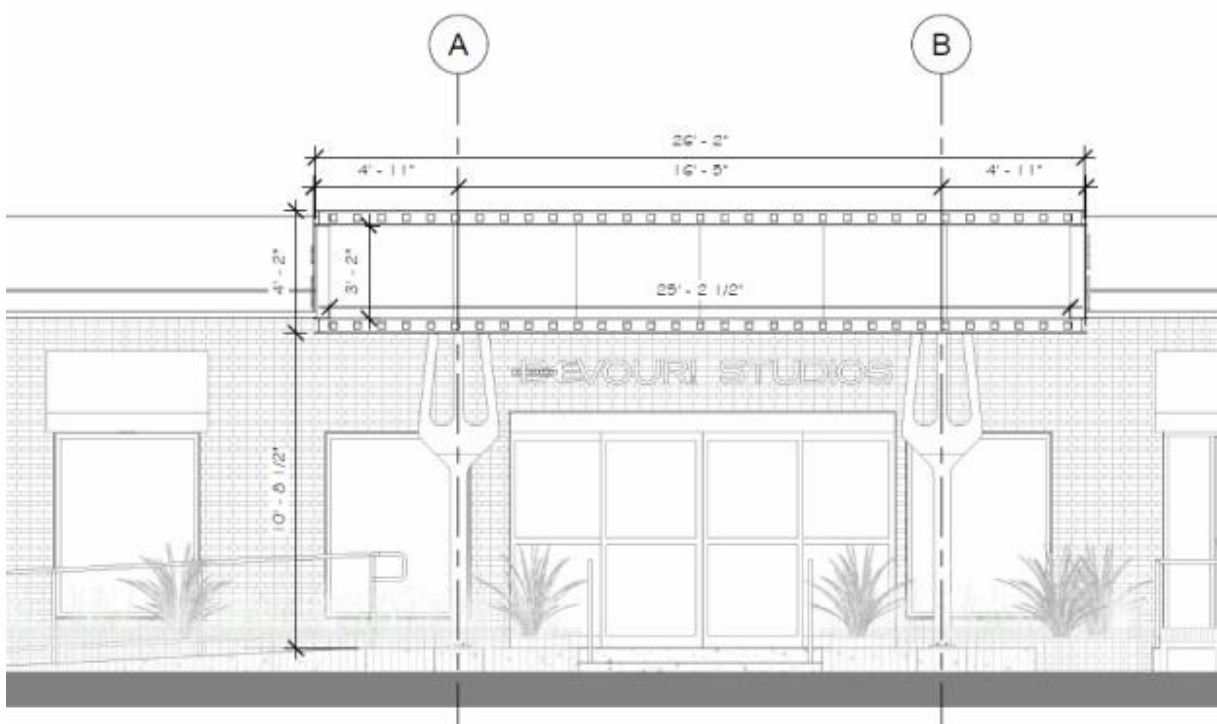
SCHEDULE "A"

Schedule B: Digital Marquee Signage Concepts

CONCEPT #1



CONCEPT #2







Schedule C: Design Guidelines Area Map

