

**DEVELOPMENT AGREEMENT # 2**

**PID** \_\_\_\_\_

**AGREEMENT RE USE OF LAND: DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** made in duplicate this \_\_\_\_ day of October, 2024.

**BETWEEN:**

**SERENITY FREE WILL BAPTIST CHURCH AND MINISTRIES**, an unincorporated association having an office at 260 Serenity Lane, Fredericton, New Brunswick, E3B 7T4 hereinafter called the "Owner";

- and -

**THE CITY OF FREDERICTON**, a municipal corporation by virtue of the *Local Governance Act*, SNB 2017, c 18, located at 397 Queen Street, Fredericton, New Brunswick, E3B 1B5, hereinafter referred to as the "City"

(each a "Party", collectively the "Parties")

**BE IT RECITED AND IT IS UNDERSTOOD BY THE PARTIES THAT:**

- The Owner is the owner of the lands and premises located at 238-248 Serenity Lane, Fredericton, New Brunswick, designated as Service New Brunswick PID 75383398, described in the attached Schedule "A", and intends to subdivide such lands as shown outlined in the subdivision plan attached hereto as "SERENITY FREE WILL BAPTIST CHURCH AND MINISTRIES SUBDIVISION CREATING LOT 24-20 AND FUTURE STREET (PUBLIC)" (the "Development Property"), a copy of the said plan is attached hereto as Schedule "B".
- The Owner applied for and received a 30-metre lot frontage variance from the City. As part of the approval of the lot frontage variance, the Development Officer for the City imposed certain terms and conditions with respect to the development, one of which requires the Owner to enter into this Development Agreement with the City to acknowledge the said certain terms and conditions with respect to the development and the Development Property.
- The Owner, as a condition of the approval of the subdivision plan for the Development Property, is required to provide certain services, utilities, and facilities in order to service the Development Property and the City requires a written agreement providing for the construction and installation of such services, utilities and facilities and the observance of certain conditions with respect to the development of the Development Property.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT**, in consideration of the City having approved a 30-metre lot frontage variance, subject to terms and conditions, with respect

to the Development Property, the Owner and the City covenant, acknowledge and agree as follows:

1. No building permits shall be issued by the City for the Development Property, as shown on the Plan of Subdivision entitled "SERENITY FREE WILL BAPTIST CHURCH AND MINISTRIES SUBDIVISION CREATING LOT 24-20 AND FUTURE STREET (PUBLIC)" ("Subdivision Plan") attached hereto as Schedule "B", until the Owner prepares and submits, and the City approves, a comprehensive development plan and a rezoning application for the Development Property.
2. The Owner shall comply with all federal and provincial laws and City by-laws as well as City engineering specifications applicable to the development of the Development Property.
3. The Owner shall submit to the City a comprehensive development plan for the Development Property which will include but not be limited to outlining the final location of the "FUTURE STREET", as identified on the Subdivision Plan, and any future extension thereof, connecting the adjacent properties to the west and southwest.
4. The Owner shall be solely responsible, at its sole cost and expense, for all costs, permits, investigation, design, construction and installation of municipal services, such as, but not limited to, water, sanitary sewer, sidewalks, streets (curb, gutter and asphalt), stormwater, attenuation and culverts as applicable, and all related costs and expenses associated with the Development Property, the property labelled "FUTURE STREET" on the Subdivision Plan attached hereto as Schedule "B" and the property having PID 75383406 (hereinafter referred to as "EXISTING FUTURE STREET"), to the sole and absolute satisfaction of the Development Officer and the Director of Engineering and Operations for the City.
5. The Owner shall also be solely responsible, at its sole cost and expense, to the sole and absolute satisfaction of the Development Officer and the Director of Engineering and Operations for the City, for construction (and any associated construction or installation) of water supply and pressure, sanitary capacity and lift station requirements, an approved stormwater management plan, and watercourse crossing structure, including compliance with the Watercourse and Wetland Alteration Regulation (90-80) under the *Clean Water Act*, SNB 1989, c C-6.1, as amended. The specific details of the items listed herein will be further described and outlined in the comprehensive development plan.
6. In addition to Section 4 and Section 5, the Owner shall be responsible for the construction and maintenance of any drainage facilities, i.e. piping, ditches, swales, etc., required to be installed in any drainage easement shown on a subdivision plan or as outlined in a comprehensive development plan. Where applicable to the development, streets, ditches and driveway culverts, and all storm sewer infrastructure shall be completed to permit passenger vehicle traffic, if applicable, and to control the flow of all storm water before construction of any building or structure may commence.
7. The Owner shall contribute to the cost of municipal services in the parcel identified as "FUTURE STREET", shown on Schedule "B" attached hereto, if they wish to connect their building to municipal water and sewer services, or if they further develop the "REMNERANT" parcel as identified on the Schedule "B" Subdivision Plan, pursuant to City by-laws.

8. The Owner shall be responsible at its sole cost and expense for altering the Owner's existing parking lot and driveway connection on the "REMNANT" parcel as identified on Schedule "B" such that there is an acceptable safe separation between such parking lot and the street to be constructed on the "FUTURE STREET" lands, to the sole and absolute satisfaction of the Development Officer and the Director of Engineering and Operations for the City, and subject to City by-laws. The Owner acknowledges that any arrangement for the sharing of these costs and expenses with the purchaser of the Development Property is beyond the scope of this Development Agreement.
9. The Owner acknowledges that the City will provide a private access easement, having such terms and conditions acceptable to the City, in favour of the Owner for ingress and egress over the "FUTURE STREET" parcel shown on the Schedule "B" and the EXISTING FUTURE STREET until a future street is constructed over both parcels, and it is accepted by the City as a public street.
10. The Owner shall ensure that the City has clear title to all streets located within the subdivision and shall provide the City with a Certificate of Registered Ownership confirming clear title.
11. The Owner hereby indemnifies and saves harmless the City from all manner of claims or actions by third parties arising out of the work performed hereunder, except claims or actions resulting from the negligence of the City.
12. From the date of the Owner beginning use of the easement described in Section 9 of this Agreement, during all times of activity described in Section 8 hereof and until the acceptable completion of construction of the street over the land identified as "FUTURE STREET" and the EXISTING FUTURE STREET, the Owner shall acquire and maintain a commercial general liability insurance policy, at its own expense, with respect to its activities and the work carried on under this Development Agreement, including bodily injury, death and damage to property in the amount of at least Five Million Dollars (\$5,000,000.00). This insurance policy shall be procured from an insurance company licensed to do business in the Province of New Brunswick. In addition, the general liability insurance policy shall name "The City of Fredericton" as an additional insured and contain a provision stating that the policy will not be cancelled, materially changed or permitted to lapse unless the insurer notifies the City of Fredericton in writing at least thirty (30) days prior to the date of the cancellation, material change or lapse. The Owner shall also provide the City a certificate of insurance prior to the earlier of the use of the easement under Section 9 hereof, commencement of activities under Section 8 hereof or the commencement construction of the street over the land identified as "FUTURE STREET" and the EXISTING FUTURE STREET.
13. No blasting shall be conducted on the Development Property, the "FUTURE STREET" and EXISTING FUTURE STREET.
14. This Development Agreement shall be registered as an encumbrance against the title of the Development Property. The covenants and restrictions against the Development Property apply to any lots subdivided therefrom.
15. Nothing in this Development Agreement shall take, or be deemed to take, precedence over any provision in any City by-law.

16. This Development Agreement constitutes the entire agreement between the Owner and the City with respect to the subject matter hereof and supersedes any prior agreement as regards to the lands outlined in the subdivision plan attached hereto.
17. If at any time during the continuance of this Development Agreement the Owner or the City deem it necessary or expedient to make any alterations or additions to this Development Agreement, they may do so by means of an executed written agreement between them, which shall be supplemental to and form part of this Development Agreement.
18. If a dispute arises between the Parties arising out of or relating to this Development Agreement, the Parties shall make all reasonable efforts to resolve any dispute on a timely basis through amicable negotiations. Disputes will be referred to respective senior management representatives who have authority to resolve and settle any such dispute. If the Parties are unable to resolve the dispute in this matter within a reasonable time, then any dispute between the Parties hereto as to any matter arising under this Agreement shall be referred by the Parties to a single arbitrator to be jointly appointed by the Parties or to be selected by a Judge of the Court of King's Bench of New Brunswick on application of the Parties. Such arbitration will be conducted pursuant to the *Arbitration Act*, RSNB c. A-10.1, of New Brunswick. It is further agreed by the Parties that they shall pay their own costs of any mediation, arbitration or litigation.
19. Should any provision of this Development Agreement require judicial interpretation, mediation or arbitration, it is agreed that the court, mediator or arbitrator interpreting or construing the same shall not apply a presumption that the terms thereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agent prepared the same, it is agreed that all Parties, directly or through their agents, have participated in the preparation hereof.
20. If any provision of this Development Agreement is determined to be invalid, illegal or unenforceable, it shall be deemed to be severed and the remaining provisions shall remain in effect.
21. This Development Agreement and all terms and conditions herein contained shall enure to the benefit of and be binding upon the Owner and the City and their respective heirs, successors and assigns.
22. The Parties acknowledge, agree and understand that the City is subject to the *Right to Information and Protection of Privacy Act* (SNB 2009, c. R-10.6), as amended, as such, disclosure and confidentiality obligations are governed thereunder.
23. The Parties acknowledge and agree this Development Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the Province of New Brunswick and any federal laws of Canada applicable therein.
24. The Parties acknowledge and agree that they have had the opportunity to seek independent legal advice or to have this Development Agreement reviewed by their respective legal counsel.

**IN WITNESS WHEREOF** the Owner and the City have caused this Development Agreement to be duly executed as of the date first herein above written.

**Signed, Sealed and Delivered**

) **SERENITY FREE WILL BAPTIST CHURCH**  
) **AND MINISTRIES**  
)  
)  
)  
) \_\_\_\_\_  
) Scott Carlisle  
) Trustee Chair  
)  
)  
) \_\_\_\_\_  
) Marcel Doucette  
) Trustee  
)  
)  
) \_\_\_\_\_  
) George Barrett  
) Trustee  
)  
)  
) **THE CITY OF FREDERICTON**  
)  
)  
) \_\_\_\_\_  
) Kate Rogers  
) Mayor  
)  
)  
) \_\_\_\_\_  
) Jennifer Lawson  
) City Clerk  
)

**Schedule "A"**

PID 75383398

Place Name: Fredericton

County/Parish: York/Kingsclear

Label of Parcel on Plan: Lot 00-236

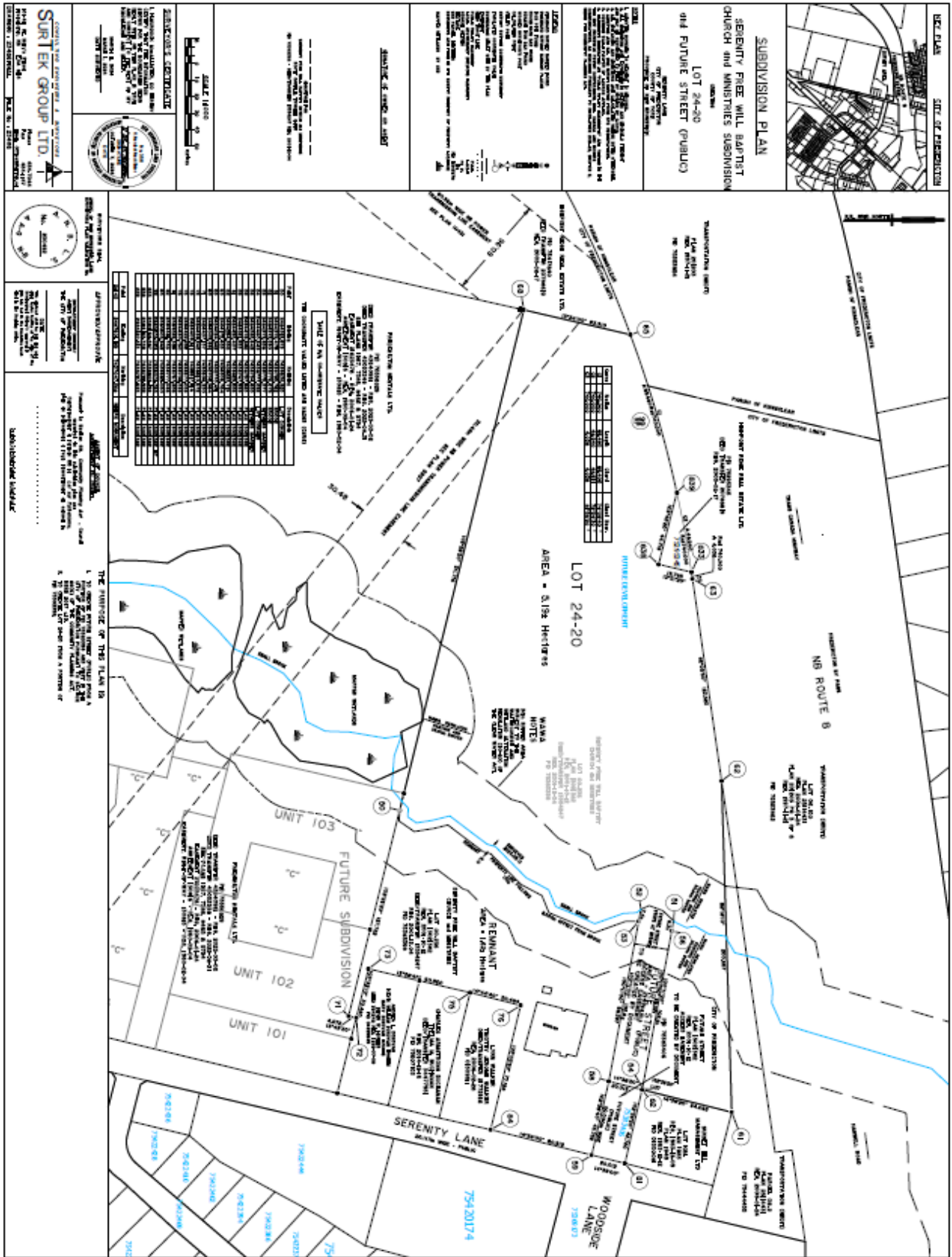
Title of Plan: West Fredericton Free Will Baptist Church Subdivision Registration

County: York

Registration Number of Plan: 13021382

Registration Date of Plan: 2001-10-12

# Schedule "B"



**Form 43.1  
AFFIDAVIT OF EXECUTION**

Signatory: Scott Carlisle

Position Held by Signatory: Trustee Chair

Other Signatories: Marcel Doucette  
George Barrett

Position Held by Other Signatories: Trustee

Organization: SERENITY FREE WILL BAPTIST CHURCH AND MINISTRIES

Place of Execution: Fredericton, New Brunswick

Date of Execution: October \_\_\_\_, 2024

I, Scott Carlisle, make oath and say:

1. That I hold the position specified above in the organization specified above and I am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to.
2. That the attached instrument was executed by me and the other signatories, as the persons authorized to execute the instrument on behalf of the organization specified above.
3. That the instrument was executed at the place and on the date specified above.

SWORN TO BEFORE ME at the City of )  
Fredericton, in the County of York and )  
Province of New Brunswick, this \_\_\_\_ )  
day of October, 2024. )

\_\_\_\_\_)  
David McMath )  
A Commissioner of Oaths )  
Being a Solicitor )

\_\_\_\_\_)  
Scott Carlisle



**Form 45**  
**AFFIDAVIT OF CORPORATE EXECUTION**

Deponent: Jennifer Lawson  
397 Queen Street  
Fredericton, NB E3B 1B5

Office Held by Deponent: City Clerk

Corporation: THE CITY OF FREDERICTON

Other Officer Who Executed the Instrument: Kate Rogers

Office Held by Other Officer Who Executed the Instrument: Mayor

Place of Execution: Fredericton, New Brunswick

Date of Execution: October \_\_\_\_, 2024

I, Jennifer Lawson, make oath and say:

1. That I hold the office specified above in the corporation specified above, and am authorized to make this affidavit and have personal knowledge of the matters hereinafter deposed to;
2. That the attached instrument was executed by me, and the other officer specified above, as the officers duly authorized to execute the instrument on behalf of the corporation;
3. That the seal of the corporation was affixed to the instrument by the order of the City Council of the City of Fredericton;
4. That the instrument was executed at the place and on the date specified above; and
5. The City of Fredericton is a municipal corporation and has no share capital.

SWORN TO BEFORE ME at the City )  
of Fredericton, in the County of York )  
and Province of New Brunswick, )  
this \_\_\_\_ day of October, 2024. )

\_\_\_\_\_)  
)  
A Commissioner of Oaths )  
Being a Solicitor )

\_\_\_\_\_  
Jennifer Lawson