

North West Community Council
April 11, 2006

TO: North West Community Council

SUBMITTED BY: Gail Harnish / for
Ann Merritt, Acting Chair
North West Planning Advisory Committee

RE: Case 00829: Development Agreement for Commercial Uses on the South Side
of Sackville Drive Between Civic 1156 and 1100, Middle Sackville

DATE: April 6, 2006

ORIGIN

North West Planning Advisory Committee meeting - April 5, 2006

RECOMMENDATION

The North West Planning Advisory Committee recommend that North West Community Council:

1. Give Notice of Motion to consider the development agreement as set out in Attachment A of the staff report dated March 22, 2006, and schedule a public hearing;
2. Approve the development agreement for commercial uses on the south side of Sackville Drive as set out in Attachment A of the staff report dated March 22, 2006, with the following amendments;
 - Include laundromats as a use not permitted in Section 4.3.1
 - Amend Section 6.11 to clarify that it is "the delineation" of the non disturbance areas that can be removed upon the issuance of an occupancy permit
3. Require the agreement be signed and delivered within 120 days, or any extension thereof granted by North West Community Council on request of the applicant, from the date of final approval of said agreement by North West Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

The requested amendments have been incorporated into the attached development agreement and are highlighted in bold.

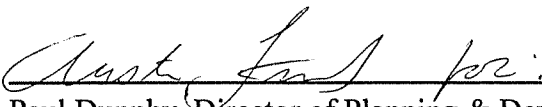
ATTACHMENTS

Staff report dated March 22, 2006

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.
Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937
Report reviewed by: Ann Merritt, Acting Chair, North West PAC

North West Planning Advisory Committee
April 5, 2006

TO: The Chair and Members of North West Planning Advisory Committee

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: March 22, 2006

SUBJECT: **Case 00829: Development Agreement for Commercial Uses on the South Side of Sackville Drive Between Civic 1156 and 1100, Middle Sackville**

ORIGIN

Application by Realco Management Limited to permit commercial uses on the south side of Sackville Drive near Millwood Drive, Middle Sackville.

RECOMMENDATION

It is recommended that North West Community Council:

- (a) Give Notice of Motion to consider the development agreement as set out in Attachment A and schedule a public hearing;**
- (b) Approve the development agreement for commercial uses on the south side of Sackville Drive as set out in Attachment A; and**
- (c) Require the agreement be signed and delivered within 120 days, or any extension thereof granted by North West Community Council on request of the applicant, from the date of final approval of said agreement by North West Community Council and any other bodies as necessary, whichever is later, including any appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.**

EXECUTIVE SUMMARY

The proposal is for four commercial buildings on the south side of Sackville Drive near Millwood Drive by way of a development agreement. The Sackville Municipal Planning Strategy and Land Use Bylaw enables consideration by Council of this proposal by Policy UR-19.

The Halifax Watershed Board reviewed the proposal indicating that they supported some of the protective measures taken to protect the Little Sackville River but felt that the proposed setback of 66 feet from the watercourse is inadequate. Staff recommends approval of the proposed development agreement.

BACKGROUND

Site Description and Proposal: This vacant property is located on the south side of Sackville Drive near the Millwood Drive intersection (see Map 1). The proposal is for four commercial buildings.

Designation and Zoning: The property is: designated Urban Residential (see Map 1) under the Sackville Municipal Planning Strategy (MPS); within the service boundary; and zoned R-6 (Rural Residential) Zone (see Map 2). Policy UR-19 allows consideration of community commercial type uses on this site (see Attachment C).

Public Information Meeting: A public information meeting was held on January 16, 2006 (see Attachment B). Should Community Council decide to proceed with a public hearing on this application, in addition to published newspaper advertisements, property owners in the immediate area will be individually notified as shown on Map 3.

Halifax Watershed Advisory Board: The Board made a number of recommendations (see Attachment D). Responses to many of their concerns are discussed later in this report.

DISCUSSION

Policy Analysis: This proposal meets the policy criteria set out in Policies UR-19 and IM-13. Concerns were raised by the public and the Halifax Watershed Board in a number of policy areas (see Attachment B). These are discussed below:

Site Design and Permitted Uses: Concern was expressed that the commercial uses would be an intrusion on the residential area. The permitted uses are listed in the proposed development agreement (see Attachment A) which includes provisions for take-out and full service restaurants. Further this list excludes certain uses such as drive-in restaurants, service stations, gas bars, car washes and automotive repair outlets, which were not considered compatible with the adjacent residential area. With the restrictions in the uses, no restrictions are suggested to be included in the development agreement for the hours of operation. The buildings are not permitted to be greater than 35 feet in height. Architectural controls are also in place in the proposed development agreement (see Attachment A). Fencing, building setbacks, and screening of any refuse containers, for example, are to lessen the impact on the adjacent residential area. In addition, the total commercial floor area for all the buildings cannot exceed 45,000 square feet.

Traffic Issues: Concern was expressed about pedestrian and automotive safety. The accepted traffic study stated that “traffic generated by the proposed commercial development is not expected to have any noticeable impact on the performance of Sackville Drive traffic.” It indicated that this site will generate a few single purpose trips and a continuous left-turn lane is adjacent to the site. All turning movements are reasonable from and to this site. The location of this site did not allow a driveway to be integrated with the Millwood and Sackville Drives intersection. The site has been limited to two driveways to lessen vehicle and pedestrian conflict.

Storm Water Management: Members of the public indicated that there were issues with storm water management for properties north of Sackville Drive as a result of flows from a property off the Old Sackville Road. There were also concerns about existing flooding downstream of this property across Sackville Drive. This development will be of some benefit in controlling the storm water. The Storm Drainage Plan (see Attachment A) proposes that the storm flows are directed to three storm treatment units which will be oversized for storage purposes during heavy rainfall events. The storm water will be discharged towards the stream, a culvert that goes under Sackville Drive, and a culvert on the same side of the road. These storm treatment units and other measures will ensure that the peak flow will be limited to a value which would be 40 percent of the uncontrolled fully developed flow for the five year event.

Bonding is also required in the proposed agreement. A swale will be constructed at the rear of the commercial buildings to assist in controlling storm water run-off from the proposed adjacent residential area. The Halifax Watershed Board agrees with these measures which are contained in the proposed development agreement (see Attachment D).

Sanitary Sewer Discharge: The discharge would be less than that for the residential dwellings that could be constructed under the existing R-6 zoning. Car washes as heavy water users have been excluded as a permitted use.

Set-Back from the Stream: The Sackville Land Use By-law requires 25 feet. The site plan (see Attachment A) shows a minimum setback of 66 feet as proposed by the Draft Regional Plan Land Use By-law of November 30, 2005. The 100 foot setback requested by the Halifax Watershed Board is not necessary given the proposed measures.

Summary: The proposal is for four commercial buildings on the south side of Sackville Drive near Millwood Drive by way of a development agreement. The Sackville MPS and LUB enables consideration by Council of this proposal by Policy UR-19. The Halifax Watershed Board reviewed the proposal indicating that they supported some of the protective measures taken to protect the Little Sackville River but felt that the proposed setback of 66 feet from the watercourse is inadequate. Staff recommends approval of the proposed development agreement.

BUDGET IMPLICATIONS

None at this time.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council could approve the development agreement. This is the recommended course of action as outlined for the reasons outlined in this report.
2. Council refuse to approve this development agreement. This is not recommended. Council is required to provide reasons for refusal.

ATTACHMENTS

Map 1: Generalized Future Land Use

Map 2: Zoning

Map 3: Notification Area

Attachment A: Proposed Development Agreement

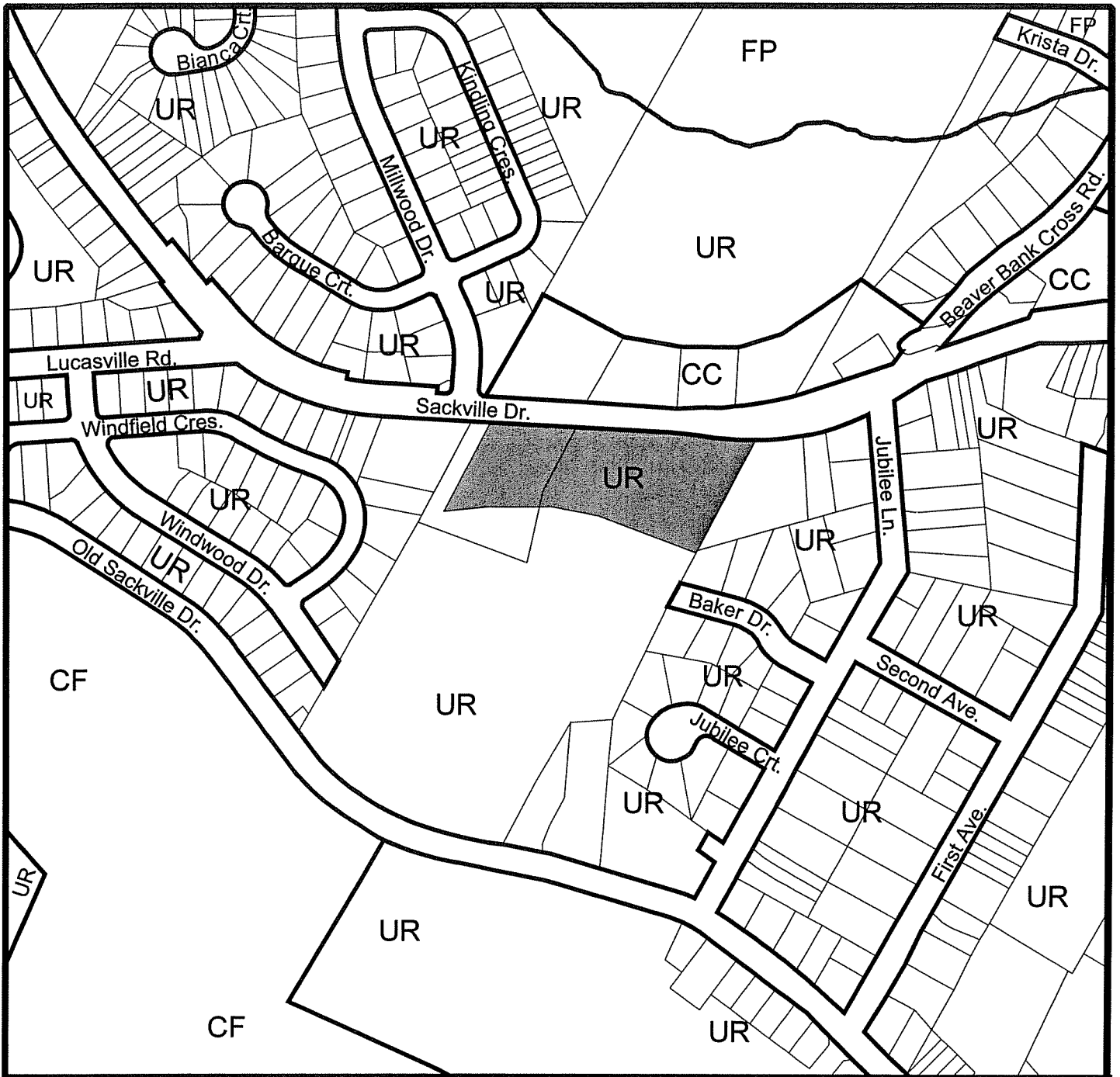
Attachment B: Notes from the Public Information Meeting of January 16, 2006

Attachment C: Extracts from the Sackville Plan and Land Use By-law

Attachment D: Report of the Halifax Watershed Advisory Board of March 1, 2006

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Angus E. Schaffenburg, Senior Planner, Development and Planning 869-4747



Map 1
Generalized Future Land Use



Subject Lands

UR Urban Residential Designation

CC Community Commercial Designation

FP Floodplain Designation

CF Community Facility Designation





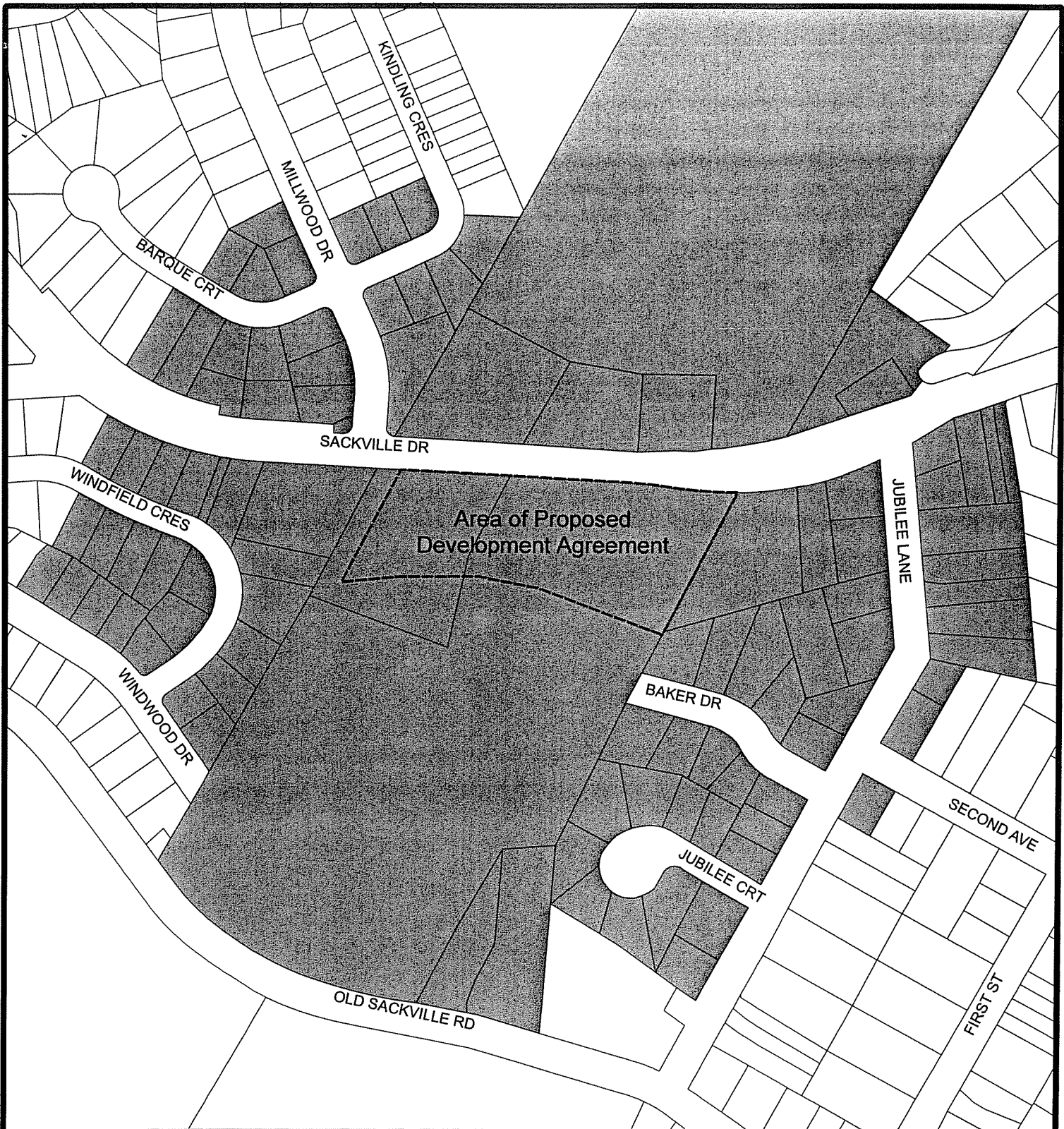
**Map 2
Zoning**

 Subject Lands



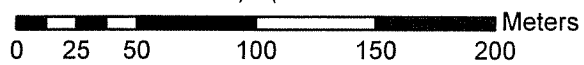
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|-----|---------------------------|-----|--------------------------|
| R-1 | Single Unit Dwelling Zone | P-1 | Open Space Zone |
| R-2 | Two Unit Dwelling Zone | P-2 | Community Facility Zone |
| R-6 | Rural Residential Zone | P-3 | Floodplain Zone |
| C-2 | Community Commercial Zone | PUD | Planned Unit Development |





Map 3
Notification

 Notification Area



2.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Sackville Land Use By-law and the Subdivision By-law, as may be amended from time to time.

2.3 Applicability of Other By-laws, Statutes and Regulations

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer.

2.4 Conflict

Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the 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.

2.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer.

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 3.0: DEFINITIONS

All words/terms unless otherwise specifically defined herein shall be as defined in the Sackville Land Use By-law and Subdivision By-law.

PART 4.0: USE OF LANDS AND DEVELOPMENT PROVISIONS

4.1 Schedules

The Developer shall develop the lands in a manner, which, in the opinion of the Development Officer, is substantially in conformance with the Schedules attached to this agreement and the plans filed with the Halifax Regional Municipality as Case 00829:

The schedules are:

- Schedule A: Legal Description of the Lands known as PID (to be added) as shown on the Plan of Subdivision (to be added).
- Schedule B: Site Plan of March 21, 2006, 2005 .
- Schedule C: Site Plan B of March 21, 2006.
- Schedule D: Storm Drainage Plan of March 21, 2006. The large scale drawing of March 21, 2006 forms part of this agreement.
- Schedule E Erosion and Sedimentation Control Plan of March 21, 2006. The large scale drawing of March 21, 2006 forms part of this agreement.

4.2 General Description of Land Use

The uses of the lands permitted by this Agreement are the following:

- 4.2.1 Shopping centre complex consisting of no more than four commercial buildings, the total gross floor area of which shall not exceed 45,000 square feet. The number of commercial buildings may be reduced to three or two without amendment to this agreement.

4.3 Detailed Provisions For Land Use

4.3.1 The use of the Lands permitted by this Agreement is:

Retail stores
Food stores
Service and personal service shops
Offices
Commercial schools
Banks and financial institutions including accessory drive-through windows
Full service restaurants and take-out restaurants. No drive-in restaurants or drive-through windows shall be permitted, although a home delivery service and take out may be provided.
Greenhouses/nurseries

Plumbing, Heating, electrical and other special trade contracting services and shops (excluding welding) where the operations are contained wholly within the building and no outdoor storage
Shopping plaza and malls
Commercial recreation uses
Veterinary hospitals and indoor kennels
Funeral parlours and undertaker establishments
Accessory uses to the foregoing

For greater clarity adult entertainment, gas bars, **laundromats**, or car wash uses shall not be permitted. A car wash means a building or part of a building or a clearly defined space on a lot where equipment is used for washing vehicles. A gas bar means one or pump islands each consisting of one or more gasoline pumps.

4.3.2 No building shall exceed 35 feet in height measured from finished grade to the top of the roof including any roof top mechanical equipment.

4.3.3 All buildings and parking areas shall be set back a minimum of 20 metres from the stream.

4.4 Architectural Requirements

4.4.1 Building Design Standards

- (a) the horizontal length of each building's façade facing Sackville Drive shall contain architectural elements that can be comprised of display windows, entry areas, awnings, arcades, trellises with vines, or alternative architectural detail
- (b) Each building shall contain at least one clearly defined, visible entrance way along the façade facing Sackville Drive. The entrance way shall include not less than three of the following elements:
 - canopies or porticos
 - overhangs
 - recesses/projections
 - arcades
 - raised corniced parapets over the door
 - peaked roof forms
 - outdoor patios
 - display windows
 - architectural details such as tile work, and moldings which are integrated into the building
 - integral planters or wind walls that incorporate landscape sitting places; and
 - or any other similar architectural treatment deemed to be an acceptable equivalent
- (c) Building lines shall be generally parallel and perpendicular to the street line.
- (d) All buildings shall consist of a pitched roof of a minimum 6/12 pitch.

- 4.4.2 Utility meters, and fuel tanks shall be located on the side or rear of the building.
- 4.4.3 Central air conditioning units and exhaust vents shall be located on the side of the buildings not adjacent to the existing or proposed residential or on the roof of the building.

4.5 Parking, Circulation And Access

- 4.5.1 The parking area shall be sited as generally shown on the Schedules. The parking area shall maintain setbacks from the existing or proposed property lines as shown on the Schedules.
- 4.5.2 The parking area shall comply with the requirements of the Land Use By-law for Sackville as amended from time to time unless this agreement has more stringent requirements.
- 4.5.3 The parking area shall be hard surfaced with asphalt, concrete, or similar surface.
- 4.5.4 The limits of the parking area shall be defined by concrete curb.
- 4.5.5 The driveway shall comply with the requirements of the Land Use By-law and By-law S 300 Respecting Streets, and any other applicable legislation.

4.6 Building And Site Lighting

- 4.6.1 All lighting on the Lands, exclusive of signage lighting, shall be designed, installed and maintained to supply adequate area lighting and provide adequate security. Lighting shall be directed to all driveways, parking areas, loading areas, building entrances and walkways and away from streets and abutting properties. All lighting shall be fully shielded.
- 4.6.2 All lighting relating to an individual building shall be installed prior to the issuance of an occupancy permit for the applicable building.

4.7 Landscaping

- 4.7.1 A detailed Landscape Plan prepared by a Landscape Architect (that is a full member, in good standing, of Canadian Society of Landscape Architects) shall be submitted with the application for Building and Development Permits in accordance with the conceptual plans shown on Schedules. The detailed landscape plan shall demonstrate the following:
- a) All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications
 - b) Construction Details or Manufacturer's Specifications for all constructed landscaping features such as fencing, retaining walls shall be provided and shall describe their design, construction, specifications, hard surface areas, materials and placement so that they will enhance the design of individual buildings and the character of the surrounding area.

- c) A grading plan with existing and proposed grades shall be provided.
 - d) Mass shrub plantings or mixed shrub and ground cover plantings are encouraged.
 - e) The plantings shall be 50 percent coniferous for year round show and screening.
 - f) Decorative plantings shall be provided at the main entrance at the street consisting of a combination of small decorative trees, shrubs and ground covers.
- 4.7.2 Fencing shall be required for the purposes of screening the development from the existing and proposed residential properties as shown on the Site Plan. The fencing shall be at least 1.8m in height and comprised of solid board or similar material and maintained by the Developer. The fencing shall be completed before the issuance of the occupancy permit for the first building.
- 4.7.3 All proposed retaining walls that are readily visible from the street shall be constructed of pre-cast concrete or stone and completed with concrete cap or equivalent.
- 4.7.4 Shrub material shall be used to screen any electrical transformers or other utility boxes.
- 4.7.5 Prior to issuance of an occupancy permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed in relation to the portion of the site affecting the building being constructed according to the terms of this Development Agreement.
- 4.7.6 Notwithstanding the above, the occupancy permit may be issued provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping relating to the respective building area. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the developer not complete the landscaping within twelve months of issuance of the occupancy permit, the Municipality may use the deposit to complete the landscaping as set out in Schedules. The developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the developer upon completion of the work and its certification.
- 4.8 Maintenance**
- 4.8.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and 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 and snow removal/salting of walkways and driveways.

4.9 Parks and Open Space

4.9.1 If applicable public open space dedication shall be 5% the value of the property.

4.10 Signs

4.10.1 Signage shall be in accordance with the requirements of the Section 5 of the Sackville Land Use By-law, as amended, or any applicable HRM Sign By-law. The Developer shall submit to the Development Officer sufficient information to ensure that no sign obstructs driver sight lines.

4.11 Outdoor Storage and Display

4.11.1 The limited outdoor display of products of no greater than 400 square feet for each building shall be permitted on the Lands. These outdoor displays shall not be located within parking areas. No other outdoor storage or display of goods shall be permitted on the Lands, except that outdoor storage in loading/unloading areas shall be limited to locations for refuse containers/waste compactor, and such facilities shall be adequately screened. Notwithstanding one seasonal greenhouse/garden centre with a gross floor area of no more than five hundred (500) square feet shall be permitted on the Lands. An outdoor display area for bedding plants, shrubs and trees shall be permitted in conjunction with the greenhouse. The display of fertilizers, pesticides, manure, mulch and topsoil shall be permitted only where these products are packaged or otherwise fully contained.

4.11.2 Propane tanks and electrical transformers shall be located in a side yard not adjacent to the residential uses and secured in accordance with the applicable approval agencies. These facilities shall be screened from public view where necessary by means of opaque fencing/masonry walls with suitable landscaping.

4.12 Hours of Operation

4.12.1 Hours of operation shall conform with the relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

PART 5.0: STREETS AND MUNICIPAL SERVICES

5.1 The Developer shall be responsible for securing all applicable approvals associated with the on site and off site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies, except as provided herein. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer, and no development permit shall be issued by the Development Officer until written approval from the Municipal Engineer and any other applicable authorities with respect to the design of all systems has been received.

- 5.2 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.
- 5.3 All secondary electrical and telecommunication services to all buildings shall be underground installation.
- 5.4 Security for the completion of outstanding on site paving (at the time of issuance of the first occupancy permit) which shall consist of a security deposit in the amount of 120 per cent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be returned to the Developer when all outstanding work is satisfactorily completed. Should the Developer not complete the work within six months, the Municipality may use the deposit to complete the work as set out in the above subsections. The developer shall be responsible for all cost in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.
- 5.5 Burning of site material such as but not limited to vegetation, brush and trees shall be prohibited.
- 5.6 A designated fire lane shall be provided.
- 5.7 The buildings shall include designated space for three stream (refuse, recycling and composting) source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer.
- 5.8 Refuse containers and waste compactors shall be confined to the loading areas of each building, and shall be screened from public view where necessary by means of opaque fencing/masonry walls with suitable landscaping.

PART 6.0: ENVIRONMENTAL PROTECTION MEASURES

- 6.1 Environmental protection measures associated with the development of the Lands, shall be undertaken in compliance with N.S. Department of Environment and Labour requirements and regulations, in addition to any Municipal requirements. The Developer agrees that the measures outlined in this Agreement are intended as general guidelines only, to guide the preparation of detailed plans.
- 6.2 Prior to the commencement of any onsite works on the Lands, including earth movement and/or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall:

- (a) submit a detailed Site Disturbance Plan, prepared by a Professional Engineer or suitable discipline licensed to practice in the Province of Nova Scotia indicating the sequence of construction, the areas to be disturbed, and all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during development; and in advance of any anticipated rainfall events;
- (b) submit a detailed final Site Grading and Stormwater Management Plan that shall include a storm water collection and treatment system that meets the following performance criteria:
 - (i) 80% of total suspended solids (TSS) to be removed and contained for all rainfall events up to and including 20% of the 2-year rainfall event based on local meteorological rainfall data.
 - (ii) 80% of total suspended solids (TSS) to be removed and contained for the total average annual precipitation based on local meteorological data. The total average annual precipitation to be used for this project is 1400 mm (55")

For uniformity in bench marking different technologies, TSS removal is to be based on the following EPA standard particle size distribution (PSD):

Particle Size (um)	Particle Type	US EPA (% by mass)
<20	Medium Silt/Coarse Silt	20
20 to 60	Coarse Silt/Fine Sand	20
60 to 130	Fine Sand	20
130 to 400	Medium Sand	20
400 to 4000	Coarse Gravel/Fine Sand	20

The specific gravity to be used for unit sizing purposes is 2.65 for all particle sizes.

The selected manufacturer shall submit design drawings and calculations to the design engineer for review and approval. In addition, the manufacturer shall provided written certification by a registered professional engineer of the unit's projected performance for this specific project.

- (c) The above management plan shall include a detailed monitoring and maintenance program;
- (d) Prior to the issuance of a Development Permit the Developer shall post security in the amount of \$5,000 to ensure that all measures outlined in the stormwater management plan and erosion and sedimentation control plan are properly

implemented and maintained. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable, automatically renewable letter of credit issued by a chartered bank. The security shall be returned to the Developer within one month of the date of issuance of any occupancy permit, provided all measures for stormwater management plan and erosion and sedimentation control plan have been implemented to the satisfaction of the Development Officer, in, and that all disturbed surfaces have been permanently reinstated, and that all landscaping has become established;

- (e) prior to issuance of an occupancy permit for the Building on the Lands, provide certification from a Professional Engineer that all disturbed surfaces have been reinstated, that vegetation growth is permanently established; and the storm water management measures have been completed and are operating in accordance with the Schedules to this Agreement.

6.3 The Developer shall prepare a detailed Monitoring and Maintenance Program for the stormwater management system. Such program shall require the approval of the Development Officer. The Monitoring and Maintenance program shall include baseline testing prior to any site works commencing. The purpose of the program shall be to determine:

- (a) whether or not stormwater leaving the Lands during all site works and construction complies with the Site Disturbance and Stormwater Management detailed in section 6.02. ; and
- (b) The post development efficiency of the storm water management system

6.4 Further to Section 6.3, the program shall indicate the frequency of testing, materials/chemicals tested, analysis methodology, inspection and maintenance schedule (clean out) for the systems, methodology for maintenance, reporting schedule (including compliance certificate) and any other related matters. The Monitoring and Maintenance Program shall be the responsibility of the Developer, and shall commence upon the installation and operation of the stormwater management facilities and shall continue for a period of two years from the permanent stabilization of the Lands. Should it be determined, at any time during this period, that the system is not performing as per design specifications or achieving the identified performance measures, the Developer shall undertake, at his expense, any and all remedial or additional measures necessary. A record of maintenance shall be provided to the Development Officer on an annual basis and the records forwarded to the Halifax Watershed Advisory Board.

6.5 The Developer agrees to provide professional site supervision during the active site work to ensure the Stormwater, Erosion and Sedimentation protection measures are properly implemented and maintained.

- 6.6 The Parties agree that the Stormwater Management Plan and Erosion and Sedimentation Control Measures listed in Schedules are to be used for the development of detailed plans. The Developer further agrees that prior to the commencement of any work on any phase of the Lands, or associated off site works, detailed plans shall be submitted to, and require the approval of the Development Officer. The plans shall indicate the sequence of construction, the areas to be disturbed, all proposed erosion and sedimentation control measures and stormwater management measures, including a monitoring/sampling program, which are to be put in place prior to and during development of that phase.
- 6.7 The Developer agrees to construct at his or her own expense the Stormwater Management System which conforms to the concept design reviewed by the Development Officer pursuant to this section and Schedules. The Developers shall provide certification from a Professional Engineer that the system, or any phase thereof, has been constructed in accordance with the approved design.
- 6.8 The Developer agrees to observe and comply with all HRM By-Laws, and further, agrees not to commence any disturbance or removal of topsoil, excavation, grading or any other site work on the Lands until a construction permit has been issued. Further, the Developers agree not to remove or disturb any trees, vegetation or soil within the non disturbance area as defined by of this agreement.
- 6.9 If the Developer fails at any time during any site work or construction to fully conform to the approved plans, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the environmental protection plans. Further, the Municipality may redeem the provided security and undertake the required measures as deemed appropriate, including but not limited to:
- (a) the installation of appropriate on site and off site erosion and sedimentation control measures and interim stormwater management measures to ensure compliance with the approved plans;
 - (b) protection and stabilization of exposed surfaces and stockpiles of materials prior to anticipated rain events; and
 - (c) the identification and remediation of any sedimentation that has occurred on the Municipality's property or within the Municipality's storm water system, and the installation of temporary measures as may be approved by the Nova Scotia Department of Environment and Labour to reduce the potential for introduction of suspended solids into any watercourse.
- 6.10 The following activities may occur within the non disturbance area provided that approval by the Development Officer has been granted:

- (a) removal of standing trees identified in writing by a qualified professional (ie. Arbourist, Urban Forester, Landscape Architect). Failing this, the Development Officer may consult the appropriate HRM Business Units to make the determination as to whether the tree(s) in question pose a hazard, and may require the property owner to cover the associated costs;
- (b) removal of fallen timber and dead debris where a fire or safety risk has been identified in writing by a qualified professional. Failing this, the Development Officer may consult the appropriate HRM Business Units to make the determination as to whether the tree(s) in question pose a hazard, and may require the property owner to cover the associated costs;
- (c) The following can occur within the non-disturbance area:
 - (i) placement of a natural based pathway (ie. mulch, wood chip or appropriate equivalents);
 - (ii) construction of fences provided the construction and placement results in minimal soil disturbance and removal of vegetation;
 - (iii) planting of vegetation
 - (iv) stormwater outfall as shown on the Storm Drainage Plan
 - (v) installation of any sanitary connections

6.11 Non disturbance areas shall be identified by the Developer (with snow fence or other appropriate continuous physical barrier or delineation and signage) in the field prior to any site preparation (ie. tree cutting, and excavation activity). The non disturbance areas shall be maintained by the Developer for the duration of the construction and **the delineation** will be removed only upon the issuance of an Occupancy Permit.

PART 7.0: AMENDMENTS

7.1 Substantive Amendments

7.1.1 Amendments to any matters not identified under Section 7.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

7.2 Non-substantive Amendments

7.2.1 The following items are considered by both parties to be not substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act.

- (a) The reduction of the number of buildings to one.
- (b) Changes in the Stormwater Management Plan.

PART 8.0: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

- 8.1 The Developers agree that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developers. The Developers further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developers agrees to allow for such an inspection during any reasonable hour within one day of receiving such a request.
- 8.2 If the Developers fail to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developers 30 days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:
- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developers from continuing such default and the Developers hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy; and/or
 - (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 breach of the development 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 Property and be shown on any tax certificate issued under the Assessment Act.
 - (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; and/or
 - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement; and/or

Environmental Protection

- 8.3 In matters concerning environmental protection and mitigation the Municipality shall be entitled to draw in whole or in part on the security as required under this Agreement and use the proceeds there from to ensure that the protection measures are in place as required pursuant to the terms of this Agreement.

PART 9.0: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

9.1 Registration

9.1.1 A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall incur all cost in recording such documents.

9.2 Subsequent Owners

9.2.1 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.

9.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

9.3 Commencement of Development

9.3.1 In the event that development of the lands has not commenced (or deemed complete) within five years from the date of registration of this Agreement at the Registry of Deeds, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement, whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction.

9.3.2 For the purposes of this section, commencement shall mean completion of the footings for the first proposed building

9.4 Completion of Development

9.4.1 Upon the completion of the development or portions thereof, or within/after 10 years from the date of registration of this Agreement with the Registry of Deeds, 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;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Sackville as may be amended from time to time.

IN WITNESS WHEREOF the parties hereto have properly executed this Agreement as of the day and year first above written.

Signed, sealed, and delivered
in the present of:

Per: _____

Sealed, Delivered and Attested
by the proper signing officers of
Halifax Regional Municipality
duly authorized on that behalf
in the presence of:

Per: _____

) **Realco Management Limited**

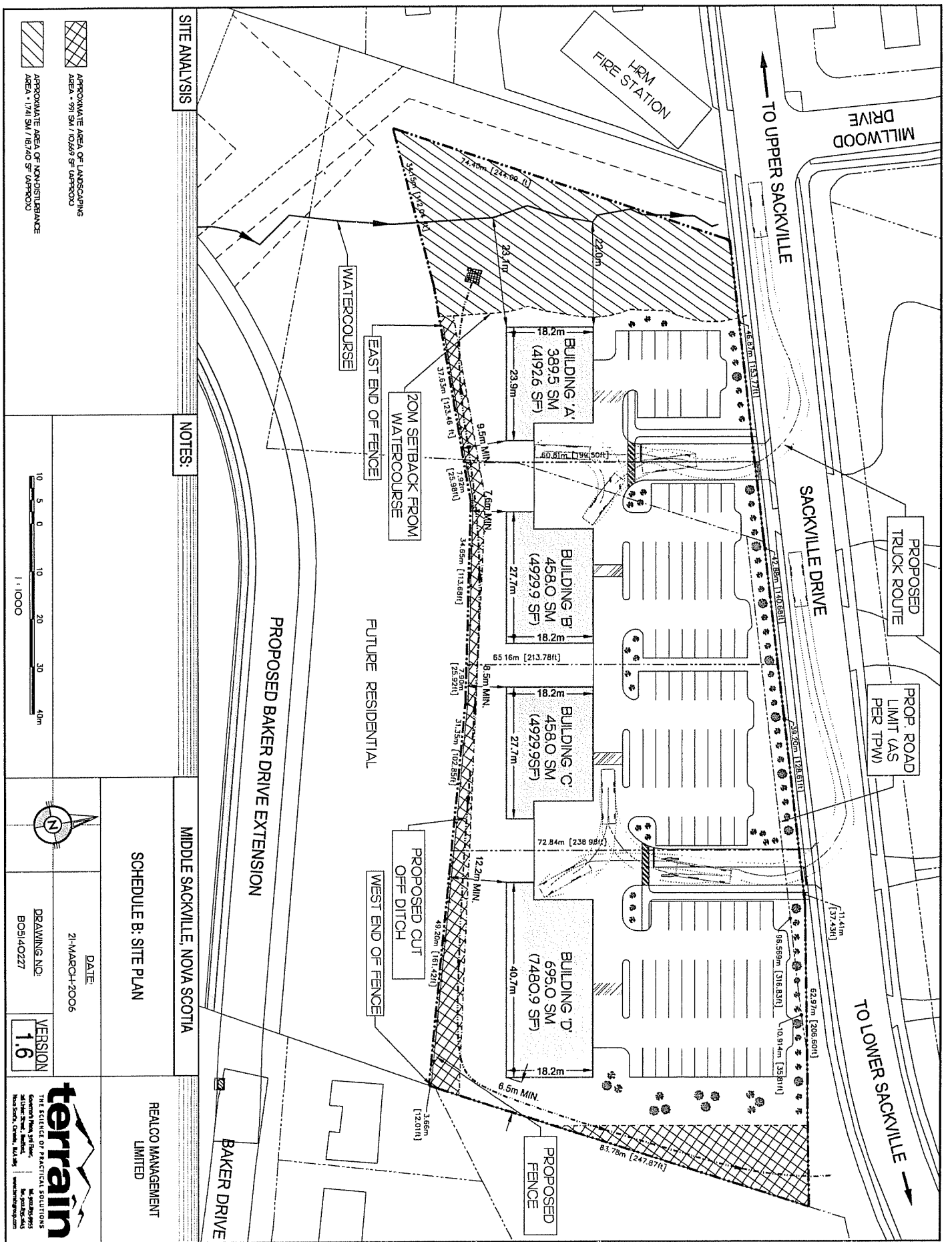
)
)
) Per: _____

) Per: _____

) **Halifax Regional Municipality**

) Per: _____
) Mayor

) Per: _____
) Municipal Clerk



SITE ANALYSIS

APPROPRIATE AREA OF LANDSCAPING
AREA = 991 SM / 10,669 SF (APPROX)

APPROPRIATE AREA OF NON-INTERFERENCE
AREA = 1,741 SM / 18,740 SF (APPROX)

NOTES:

MIDDLE SACKVILLE, NOVA SCOTIA

SCHEDULE B: SITE PLAN

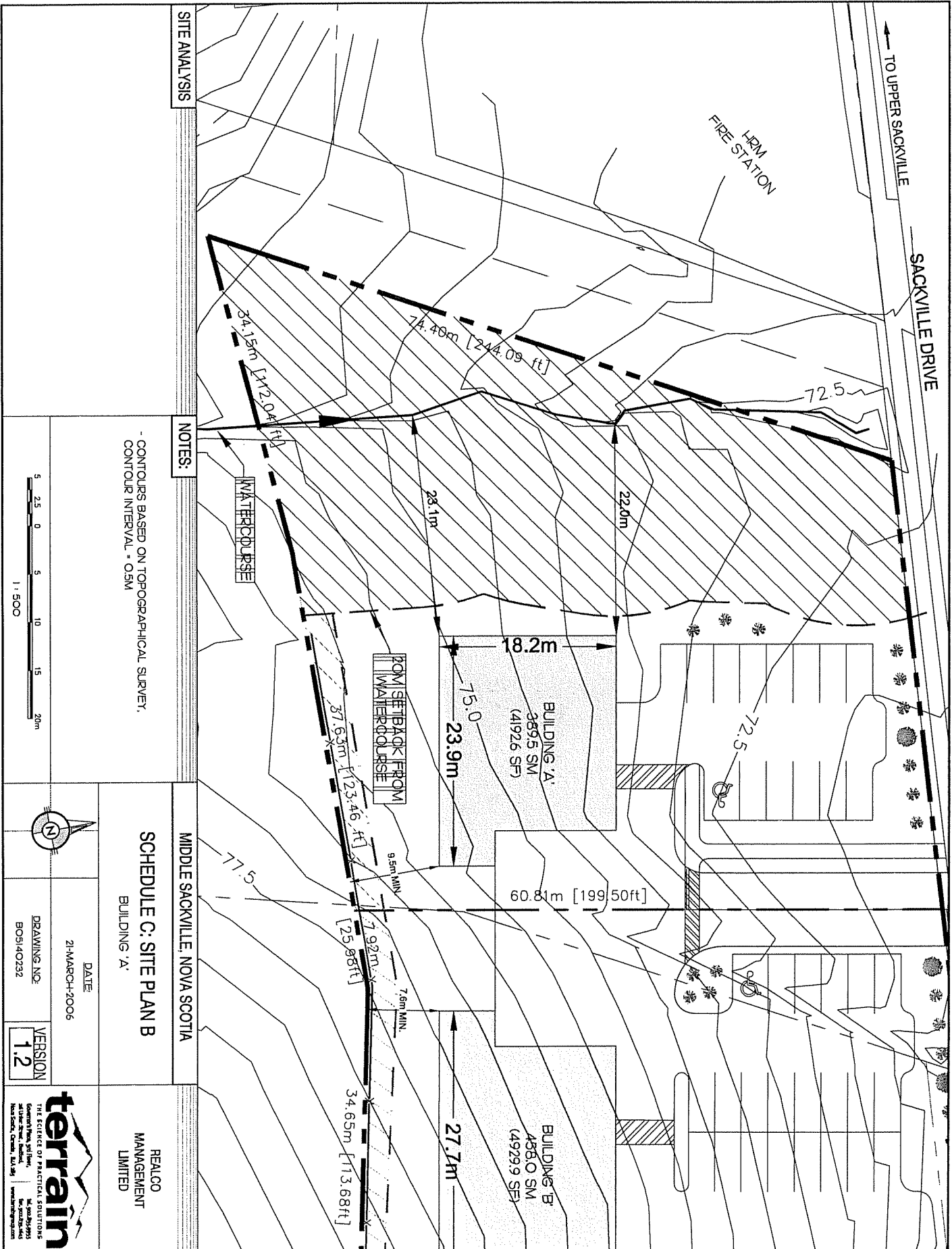
DATE:
21-MARCH-2006

DRAWING NO:
BOS140227

VERSION
1.6

REALCO MANAGEMENT LIMITED

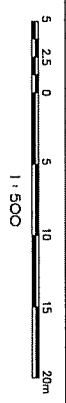




SITE ANALYSIS

NOTES:

- CONTOURS BASED ON TOPOGRAPHICAL SURVEY,
CONTOUR INTERVAL = 0.5M



MIDDLE SACKVILLE, NOVA SCOTIA
SCHEDULE C: SITE PLAN B
BUILDING 'A'

REALCO
MANAGEMENT
LIMITED



DATE:
21-MARCH-2006

DRAWING NO:
BOS/40292

VERSION
1.2



Attachment B

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 00829 - REALCO MANAGEMENT**

**7:00 P.M.
Monday, January 16, 2006
Sackville Library, Fenerty Room**

IN ATTENDANCE: Angus Schaffenburg, Senior Planner, HRM Planning Services
Cara McFarlane, Administrative Support, HRM Planning Services

ALSO PRESENT: Steven Ryan, Applicant
Nick Pryce, Terrain Group Inc.
Andrew Forsythe, Terrain Group Inc.
Councillor Brad Johns, District 19
Councillor Bob Harvey, District 20

**PUBLIC IN
ATTENDANCE:** Approximately 42

The meeting commenced at approximately 7:00 p.m.

1. Opening remarks/Introductions/Purpose of meeting - Angus Schaffenburg

Mr. Schaffenburg introduced himself as the Planner assigned to this application; Brad Johns, Councillor for District 19; Bob Harvey, Councillor for District 20; and Cara McFarlane, Administrative Support/Recording Secretary.

The shaded area that was shown on an overhead represented the subject property. The application is for a development agreement for commercial within the shaded area along Sackville Drive. This meeting is the beginning of the process. Because there is a watercourse involved, this application will be going before the Halifax Watershed Advisory Board (HWAB).

2. Overview of planning process - Angus Schaffenburg

A staff report will be prepared by Mr. Schaffenburg with the information and advice from HWAB, and the notes from tonight's meeting. The report would then be tabled with the North West Planning Advisory Committee (NWPAC) who will then make a recommendation to North West Community Council (NWCC). If NWCC chooses to go forward with the application, they must hold a public hearing. Another notice will be mailed to area residents and to people who have signed up for tonight's meeting. The public hearing will also be advertised twice in the Chronicle Herald/Mail Star before the date of the hearing.

Policy UR-19 of the Sackville Municipal Planning Strategy (MPS) allows Council to consider a development agreement for this property for commercial uses (Policy UR-19 was shown on overhead). There are a number of criteria that must be considered when looking at the commercial developments proposed for this site.

There is a subdivision application for Ellis Estates. This is an as-of-right subdivision meaning there is no public process involved. The regulations must be met in the land use by-law, subdivision by-law, engineering standards, and Provincial standards before the applicant can receive permission to subdivide the parcels of land to build the roads and things of that nature.

3. Presentation of proposal - Nick Pryce

The application is in relation to a development agreement that is being enabled by Policy UR-19.

At this stage, there is no fixed type of use that is being proposed but the intentions are commercial types of activities that are consistent with the C-2 Zone. Under the development agreement it will be specified as to what can and can't be done on the property.

A list of proposed permitted activities that are currently permitted under the C-2 Zone were shown on overhead. The other list are the current activities that are permitted under the C-2 Zone but which will not be part of the development agreement.

The applicant is also proposing some architectural design standards. These were shown on overhead. These design standards are based on what is happening in terms of the main Sackville downtown area in the by-law itself. The applicant is looking at ensuring pitched roofs so there is some residential element about the building and some break up in character in the type of buildings that will be established. The developer will have to comply with these design standards as they will be controls placed in the development agreement

The concept plan was shown on overhead. Department of Environment (DOE) defined a watercourse on the site (shown on overhead). The watercourse is dry during the summer months and wet during the winter. Under the Regional Plan, the setback from a watercourse will be 20 metres which includes parking lots and buildings.

The buildings have to be under 10 000 square feet within the C-2 Zone. Parking will be out front with landscaping proposed around the site. There is a non-disturbance area (won't be disturbed during development). There are two main accesses in and out of the site.

The types of proposed buildings for the site were shown on overhead.

Servicing to the site was shown on overhead. The idea is to have a pipe run along the front of the property with individual connections into the buildings. The pipe that runs along the property would connect to the main line in the street.

The proposed storm water management plan was shown on overhead. The release into the main water course is no greater than what the current rate is. There will be treatment systems held on site before water is discharged into the receiving environment.

4. Questions and comments

Ken Greenham, Sackville, asked what will be in the buildings. Mr. Pryce referred back to the list of permitted uses in the C-2 Zone. There are certain activities, similar to permitted uses in the C-2 Zone, that would be permitted on this site through the development agreement. He read the permitted uses they are proposing. Those uses are subject to the design; therefore, any building would have to meet the design controls as well as the landscaping provisions. The uses that are permitted under the C-2 Zone but not the development agreement for this site, were read to the public.

Roland LaVoie, Sackville, asked if this was the complete list. Mr. Schaffenburg mentioned that there are other uses that are allowed in the Sackville Land Use By-law (LUB) that are not allowed in the C-2 Zone. The proposal is that the activities that will be permitted by development agreement are the ones that were shown on overhead. For greater certainty, uses that are not wanted on that site can be indicated in the development agreement.

Paul Gaudet, Sackville, asked about the non-disturbance area as his property abuts the proposed site. Mr. Pryce explained that when the construction occurs the non-disturbance area will not be touched.

Allan Adams, Sackville, asked about the water treatment. Mr. Forsythe, Engineer with Terrain Group, said the plan is to use storm separators and oil grit separators. This will pick up oil runoff from cars. Mr. Schaffenburg mentioned that there is also the sanitary system and anything from a restaurant would go into the sanitary system.

Mr. Adams asked if copies of the permitted uses for the zone would be available. Mr. Schaffenburg explained that a proposed development agreement is attached to the staff report. The proposed development agreement will specify what uses are permitted/not permitted.

Mr. Adams asked about hours of operation for commercial in comparison to residential. An example of operation noise used were the backup signals on the snow plows and larger trucks. Mr. Schaffenburg said through the development agreement there is the ability to specify hours of operation and there is also the HRM noise by-law that would regulate other activities. He will see if there is a way to address this issue so activity is kept within reasonable hours.

Ron Lowerison, Sackville, asked if Traffic Services has approved the access to the property from Sackville Drive. There is currently a lot of traffic congestion from Lucasville Road, Millwood Drive and Beaver Bank Cross Road. Mr. Schaffenburg said they haven't been approved yet, but there has been a traffic study conducted. Mr. Pryce mentioned that there has been a traffic study done for the site and comments have been received from Traffic Services. Mr. Lowerison questions two exits as opposed to one.

Tom Raymond, Sackville, is concerned about the increased traffic and the safety for the children as there is a playground across the street from the site. Some thought needs to be put into improving the roads.

Don Beauchamp, Sackville, is concerned about the water flow. How will the storm water flow be directed up the hill toward Millwood? Mr. Pryce said the design for the storm water allows the water to eventually be released into the receiving watercourse (shown on overhead). The timing of its release will not add anymore to the existing volumes that are currently there. This is possible because of the way the release is controlled.

Bob Ellis, Sackville, is concerned about traffic and the water. There is a big ditch that comes down along side the church and runs in large volumes. He would like to talk to someone about this issue.

Cathy Thorne, is concerned about the water. If the drain across the street from her residence becomes clogged, her property floods. The water has also flooded their basement. There is a culvert at the bottom of a house up on the hill which is too small and causes the water overflow. Millwood residents had a lot damage to their backyards because of flooding. She would like to know what is being done about the drainage problem. The water problem needs to be addressed before adding more to it. Mr. Schaffenburg said the stream goes across Sackville Drive and into the Little Sackville River. He will ask engineering staff. Mr. Pryce said the setback from the watercourse is 20 metres which is quite considerable. There is a lot of non-disturbed land there if the watercourse backs up. Any quantity of storm water discharge will not be added to what exists. There is a bigger problem than just this site.

Councillor Johns asked if the water from the parking lot is being redirected to the storm drain or the watercourse. Mr. Forsythe showed on overhead to show where the water will be directed to. The runoff will increase with a paved parking lot. There will be oversized pipes that will act as underground storage containers that will reduce the peak runoff from the parking lot and the building to what it is today. In addition, there will be oil grit separators put in.

Debbie Brennan, Sackville, is concerned about the children's safety. Two more driveways coming onto Sackville Drive will make it much more dangerous. Mr. Schaffenburg said it is a standard driveway and can increase traffic.

Glen Lucas, Sackville, owns the church property, asked why there isn't a storm drain down Sackville Drive. The existing storm drain allows water to come off the highway. The paved parking lot will add to that drain. He suggested taking to storm drain down Sackville Drive next to the barn. No one would be affected by this. Mr. Schaffenburg said he would look at that and ask to see if that would be viable.

Mr. Thorne asked that the problem be corrected at the source. The source being the cemetery. Mr. Schaffenburg said the developer has to try and make sure the pre and post volumes do not exceed the pre volume and they have to in fact be less than that. The problem is not necessarily the site but it is the existing storm drainage system that has issues.

Mr. Raymond mentioned that currently it builds up just under the hill on Old Sackville Road and gushes down through the area. Some of it is being absorbed by the field that is there but once houses and buildings are constructed the problem will be compounded. Mr. Schaffenburg said Ellis Estates has a storm water management plan in place. He will talk to the engineer to see if that plan manages the storm water flow adequately.

Mr. Raymond asked if the commercial buildings will be open on Sundays. The traffic flow is incredible on Sundays as it is. Mr. Schaffenburg explained that Sunday openings are usually regulated by the Province of Nova Scotia. If regulations are met, the business is entitled to be open.

Ms. Thorne asked if the property is being rezoned from R-6 to C-2. Mr. Schaffenburg said the zoning would not change. It would remain R-6, but there would be a development agreement placed on the property to allow commercial uses on the site. The policy enables C-2 type uses on the site. The developer would like to have some of the C-2 uses but there are others they don't want. With the development agreement, uses can be specified within reason.

Pierre DeBaie, Sackville, asked if the buildings would be different in square footage. Can the developer allow any use within these buildings as long as they are permitted? Mr. Schaffenburg said as long as they meet all the land use requirements.

Mr. DeBaie likes the proposal but agrees with the water issue. He wondered if the applicant already has interested tenants.

Peter Ryan, Realco Management, explained that when the property was purchased the policies under the by-laws were taken into consideration. They wanted the front portion of Sackville Drive to potentially be commercial. There are no tenants. The development agreement process has to be completed first. The main goal was to create a community commercial environment. This would include the types of uses permitted in the C-2 Zone taking away the uses staff felt would be more of a nuisance or less attractive.

Marilyn Nelson, Sackville, would not like to see fast food restaurants on the site as it creates a hangout for teenagers. Mr. Schaffenburg mentioned that it is hard to define fast food restaurants, but he will see what he can do. Mr. Pryce explained that the design guidelines have to be met by any establishment who wishes to move into the buildings on the site. A lot of the fast food companies would have to change to meet the requirements. Ms. Nelson said that restaurants stop serving food at a certain time whereas fast food does not. Mr. Schaffenburg thought that another option may be to put in the development agreement to consider hours of operation. He will look into that issue.

Wayne Rehberg, Sackville, realizes that once the development goes in, people buying houses will have a choice to move there or not, but the people who live there now are the unfortunate ones as they don't have a choice.

Mr. Rehberg asked what the capacity of the parking lot will be. Mr. Pryce said it would be 5.5 spaces/1000 square feet (122 spaces).

Mr. Beauchamp asked why does a property have to stay R-6 when the property next to it is commercial. If the site is going to be commercial it should be zoned commercial. Mr. Schaffenburg explained that the policies in the plan do not allow the property to be zoned commercial, but the policies do allow commercial by development agreement.

In general, plans allow properties to be rezoned to a commercial zone and then the full range of uses are permitted or it can be done by development agreement. This means there is more control over the uses, the design, storm water management plans can be specified, etc.

Councillor Johns explained that commercial by development agreement is better than by-right commercial as there would not be any public input. The development agreement stays with the property even if the property owners change. Mr. Schaffenburg mentioned that anyone can apply for an amendment to the development agreement. Depending on the amendment, another public process may be necessary.

Mr. Lowerison mentioned that in 1979/80 the R-6 Zone was unserviced land. Lynngate Estates was R-6 to begin with and is now serviced through Millwood Drive. When Millwood was developed it changed from R-6 to R-1 Zone. The piece of land that is now in question is still outside the serviceable boundary. It has to be serviced through Millwood because there is a piece of unserviced land between Millwood and Beaver Bank Cross Road. Mr. Schaffenburg corrected Mr. Lowerison by saying the piece is in the serviceable boundary although services stop before the property.

Mr. Lowerison asked if he could have a copy of the lot size requirements. Mr. Schaffenburg told the residents that if they would e-mail him for that document he could e-mail the zone to them. It is also in the Sackville LUB.

Linda Rehberg, Sackville, wondered if the group's concerns would be taken into consideration. Mr. Schaffenburg will write the staff report with input from other groups within HRM. The report will be written on how this development meets those policies. Also in the report, he will try to reflect the questions and concerns people have had and try to address those as best he can and give an opinion as to how he thinks those reflect on the policy. That report and notes will go to NWPAC and NWCC. If Council does not feel that the concerns are properly addressed or this development cannot address those concerns they can request for changes.

Ms. Rehberg personally feels there doesn't need to be any commercial in that area as there are plenty commercial buildings just down the road.

Tony White, Sackville, does not believe the development will decrease the value of the homes. If anything, the value may actually increase.

Walter Regan, member of Sackville Rivers Association and NWPAC, doesn't believe more sewer should be added to the line as it already overflows into the Little Sackville River. Will the developer hold sewage holding tanks? Mr. Forsythe mentioned that under the current zoning, a residential development of ten units is permitted. With four commercial buildings, the calculations show less waste. Mr. Schaffenburg said the calculations are reasonable versus a residential.

Mr. Regan asked if right-hand turns only would apply to this development. Mr. Schaffenburg said he would look at it.

Edna Tucker, Sackville, said there may be four buildings, but there will be more than four businesses. Does the developer know how many businesses will be going on the site? She is concerned that if a high number of businesses do go in the buildings, it would result in an increase in traffic. Mr. Ryan said he does not know. Mr. Schaffenburg said traffic counts are done on square footage and type of business in terms of how many trips would be expected. Mr. Ryan said the buildings would be a combination of one and two storeys. Mr. Schaffenburg explained that probably in the development agreement the maximum either footprint or square footage of the entire site or individual sites would be regulated.

One resident asked if the applicant plans to use the second storey for apartments on top of the businesses. Mr. Ryan mentioned that businesses would be on the bottom and offices on the top.

Mr. LaVoie asked what kind of a time line is the applicant looking at. If the application is approved, Mr. Ryan said they would look for tenants and go from there. A lot depends on the market. Mr. Schaffenburg mentioned that the development agreement could include a clause that specifies the first building must be started within a certain period of time or there can be a sunset clause (10 years to complete the development).

Mr. LaVoie asked if the commercial site will go in before Ellis Estates. Mr. Schaffenburg said the subdivision is independent of the commercial development. Also, the commercial lot has to be subdivided off of the piece which will happen as part of the subdivision process.

Mr. Adams asked if there are any hard separations between the commercial site and the surrounding area. Mr. Pryce said there is a fence proposed along the rear boundary between the residential and commercial.

Mr. Adams asked if there will be any along the side of the site next to the Fire Station. Mr. Pryce said there is a buffer of 20 metres plus an easement (between 25 and 30 metres of separation). Mr. Adams is against the development but believes a fence on the side would be beneficial for noise control.

Mr. Adams also commented on the pedestrian shortcutting through his property. With the commercial property, the shortcutting will only increase.

Bill Hamilton's, Sackville, main concern is traffic and water. He wonders where the water will go. No one is addressing the problem. He feels a closer look should be taken at putting four lanes in on Sackville Drive. He would like to see some infrastructure for water and sewer to go down through Middle Sackville.

Mr. Schaffenburg said he will look at the as-of-right development in terms of the storm water management. In terms of what is being proposed for this application, there was a suggestion that maybe the storm water could be diverted. Maybe there is a storm water area that has more capacity. He will check the release rates.

One resident would like this looked into before any development is approved. Mr. Schaffenburg reminded the public that all requirements have to be met.

Hélène Adams, Sackville, asked what kind of lighting will be around the buildings. Mr. Schaffenburg explained that Crime Prevention Through Environment Design (CPTED) staff would look at the design of the property. There needs to be enough lighting to make sure the buildings and surrounding area are safe but the neighbours don't want to be lit. Usually directional lighting is used. This can be controlled in the development agreement.

Mr. Regan asked if there is any way the development can hook up into the lighted intersection at Millwood and Sackville Drive. Mr. Schaffenburg does not believe it is possible. He will check to see if it can be done.

Mr. Regan asked if there will be storage turning lanes. Mr. Schaffenburg will look at the traffic study and see what is recommended. He will also talk to the engineer.

Mr. Regan asked if there will be a tree planting plan. Mr. Schaffenburg said there will be a landscaping plan included and that would specify what types of vegetation will be planted.

Mr. Regan asked how big the setback will be between the houses and the development. Mr. Schaffenburg said between the back of the buildings and residential property would be about 10 metres.

Mr. Regan asked if the parking lots could be reduced. There is not much sense putting in hard surface without knowing what is going to occupy the buildings. Mr. Schaffenburg said he will discuss the parking ratio and see if it could change.

Mr. Regan asked if the Lot Grading By-law would apply to this development to make sure there will not be silt runoff. Mr. Schaffenburg said the applicant has submitted a storm water management plan and an erosion and sedimentation control plan to HWAB. These plans would be part of the development agreement if the application is approved; therefore, the runoff would be controlled that way.

Mr. Regan asked if there would be bonding per lot to make sure the developer follows all the regulations. Mr. Schaffenburg said that can be considered.

Mr. Regan asked if the County right of way and the setback be given back to HRM for parkland and for a trail system to hook onto Old Sackville/Sackville Drive. He would like to see the owner deed the property to HRM.

Mr. Regan feels the parking would be more attractive in the back of the building.

Mr. Regan feels there should be a water study done on the brook for flow and chemicals. If it is being surcharged now, this should be addressed before another development is added. It should be part of this development to initiate a study.

Mr. Regan asked if the entire site will be landscaped. Anything that is disturbed should be landscaped. Are there any trees on the site that can be retained?

Mr. Regan asked if all four lots will go through oil grit separators. Mr. Forsythe said they all will.

Mr. Regan asked if there is any way to decrease water runoff (hold water back longer).

Mr. Regan asked if the developed buildings will have basements. Mr. Ryan said no.

Mr. Regan would prefer to see sand used for snow/ice instead of salt.

Mr. Regan would like to see proper landscaping to control the litter included in the development agreement. Mr. Schaffenburg said probably in the development agreement the property owners will be asked to pick the litter up and maintain the site.

Mr. Regan asked if this will be rental properties or will they be sold. Mr. Schaffenburg said HRM has no control.

Mr. Regan would like to see development charges applied to every lot to help pay for infrastructure.

Mr. Regan asked if the developer will respect the requirement of no direct discharge into the watercourse. Mr. Schaffenburg said the developer will meet all of DOE's requirements with respect to that.

George Murphy, member of the NWPAC, asked where this piece of land is somewhat isolated, could the other sides be addressed in the development agreement? Would Windwood Drive be opened up? Mr. Schaffenburg mentioned that there will be a road constructed through the subdivision (shown on overhead), but there won't be any road access through the commercial to Sackville Drive. Mr. Murphy suggested covering as much as possible in the development agreement so the developer would not have to go through another public process.

5. Closing comments

Mr. Schaffenburg thanked everyone for coming.

6. Adjournment

The meeting adjourned at approximately 8:35 p.m.

Attachment C: Extract from the Sackville Plan and Land Use By-law

Sackville has not escaped the encroachment of larger scale commercial uses within residential areas. This is particularly the case along Sackville Drive between the Beaver Bank Road and the Lucasville Road where, although residential uses predominate there are a number of commercial operations. The north side of Sackville Drive in this area has been included within the Community Commercial Designation which supports future commercial development. Along the south side of Sackville Drive, however, there is greater concern with maintaining compatibility with the adjacent residential areas. Along this portion of roadway, future commercial development shall be considered by development agreement.

UR-19 Notwithstanding Policy UR-2, within the Urban Residential Designation, along the south side of Sackville Drive between the Beaver Bank Road and the Lucasville Road, it shall be the intention of Council to recognize and accommodate within the land use by-law existing larger scale commercial enterprises as well as those properties having commercial zoning at the adoption of this planning strategy. It shall further be the intention of Council to consider community commercial zone uses in this area according to the development agreement provisions of the Planning Act. In considering such agreements, Council shall have regard to the following:

- (a) that the site has frontage on and direct access to Sackville Drive;
- (b) that the height, bulk, lot coverage and architectural appearance of any building is compatible with adjacent land uses;
- (c) that adequate provision is made for buffering and screening from adjacent residential properties;
- (d) that site design features, including landscaping, signage, parking areas and driveways are of adequate size and design to address potential impacts on adjacent development, and to provide for the needs of users of the development;
- (e) hours of operation;
- (f) the provisions of Policy IM-13.

IM-10 The following uses shall only be considered subject to the entering into of a development agreement.

- (a) Within the Urban Residential Designation:
 - (i) townhouse dwellings according to Policy UR-6;
 - (ii) multiple unit dwellings according to Policy UR-8;
 - (iii) medical clinics and larger day care facilities according to Policy UR-15;
 - (iv) local commercial uses according to Policy UR-18;
 - (v) community commercial uses along the south side of Sackville Drive between the Beaver Bank Road and the Lucasville Road, according to Policy UR-19;

IM-13 In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, the

- Sackville Community Council shall have appropriate regard to the following matters:
- (a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;
 - (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;
 - (ii) the adequacy of sewer and water services;
 - (iii) the adequacy or proximity of school, recreation and other community facilities;
 - (iv) the adequacy of road networks leading or adjacent to, or within the development; and
 - (v) the potential for damage to or for destruction of designated historic buildings and sites.
 - (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern.
 - (d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding;
 - (e) any other relevant matter of planning concern; and
 - (f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.

3.6 OTHER USES CONSIDERED BY DEVELOPMENT AGREEMENT

- (a) Notwithstanding Section 3.5 above, certain uses which may not be uses permitted in any zone may be considered in accordance with the development agreement provisions of the Planning Act. As provided for by Policy IM-13 of the Municipal Planning Strategy for Sackville, such uses are as follows:

- (xiii) Commercial service uses along Sackville Drive, west of Millwood Drive, to the Plan Area boundary within the Urban and Rural Residential Designations.
- (xviii) Commercial uses or the expansion of existing uses in excess of the maximum permitted within the Community Commercial Designation.
- (xxiii) Commercial service uses along the south side of Sackville Drive between the Beaver Bank Road and the Lucasville Road within the Urban Residential Designation.

Setback Requirements from Watercourses

The setback of buildings and structures from watercourses is a necessary feature of land use management. Future development must be appropriately setback to protect structures from peak floods and to prevent siltation of waterbodies, destruction of habitat and the incidence of flooding on downstream developments. The land use by-law will, therefore, control the location of new buildings or structures relative to watercourses, except for those that require direct access to water such as boat sheds.

E-20 It shall be the intention of Council, through the land use by-law, to require all new buildings and structures, except those requiring direct access to water, to be setback a minimum of twenty-five (25) feet from watercourses and waterbodies within the Plan Area.

4.23 SETBACK FROM WATERCOURSES

- (a) Except as provided for by Subclause 4.11(a)(ii)3., no building or structure shall be located less than twenty-five (25) feet (7.6 m) from the rim of any watercourse or waterbody. Notwithstanding this, any existing main building within this separation shall be a permitted use.
- (b) Notwithstanding Subsection (a), no development shall be permitted within one hundred (100) feet (30.5 m) of the rim of the Sackville or Little Sackville Rivers except for accessory buildings in conjunction with permitted residential uses along the Little Sackville River, in which case the provisions of Subsection (a) and Section 4.11 shall apply.

PART 12: R-6 (RURAL RESIDENTIAL) ZONE

12.1 R-6 USES PERMITTED

No development permit shall be issued in any R-6 (Rural Residential) Zone except for the following:

Residential Uses

Single unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Bed and breakfasts in conjunction with permitted dwellings
Business uses in conjunction with permitted dwellings

Resource Uses

Agricultural uses
Forestry uses
Fishing and fishing related uses

Community Uses

Open space uses
Institutional uses except day care facilities, medical clinics and fraternal centres and halls

12.2 R-6 ZONE REQUIREMENTS: RESIDENTIAL AND RESOURCE USES

In any R-6 Zone, where uses are permitted as residential uses or Resource Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	central services	6,000 square feet (558 m ²)
	on-site services	20,000 square feet (1858.1 m ²)
Minimum Frontage:	central services	60 feet (18.3 m)
	on-site services	100 feet (30.5 m)
Minimum Front or	Flankage Yard	20 feet (6.1 m)
Minimum Rear or Side Yard		8 feet (2.4 m)
Maximum Lot Coverage		35 per cent
Maximum Height of Main Building		35 feet (10.7 m)
Minimum Width of Main Building		20 feet (6.1 m)

PART 15: C-2 (COMMUNITY COMMERCIAL) ZONE

15.1 C-2 USES PERMITTED

No development permit shall be issued in any C-2 (Community Commercial) Zone except for the following:

Commercial Uses

Retail stores
Food stores
Service and personal service shops
Offices
Commercial schools
Banks and financial institutions
Restaurants and drive-in and take-out restaurants
Outdoor display courts
Shopping plazas and malls
Motels and hostels
Commercial recreation uses
Service stations
Taxi and bus depots
Parking lots
Greenhouses and nurseries
Veterinary hospitals and kennels
Welding, plumbing and heating, electrical and other special trade contracting services and shops
Local fuel distribution facilities
Re-cycling depots within wholly enclosed buildings
Automotive repair outlets
Funeral parlours and undertaker establishments
Existing auto body shops
Existing transport facilities and maintenance yards
Existing construction yards and maintenance facilities

Residential Uses

Existing dwellings
Existing multiple unit dwellings
Boarding and rooming houses

Community Uses

Open space uses
Institutional uses

15.2 C-2 ZONE REQUIREMENTS: COMMERCIAL AND RESIDENTIAL USES

In any C-2 Zone, where uses are permitted as Commercial Uses or Residential Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	central services	6,000 square feet (558 m ²)
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	on-site services	20,000 square feet (1,858 m ²)
Minimum Frontage:	central services	60 feet (18.3 m)
	on-site services	100 feet (30.5 m)
Minimum Front or Flankage Yard		30 feet (9.1 m)
Minimum Rear or Side Yard		15 feet (4.6 m)
Maximum Lot Coverage		50 per cent
Maximum Height of Main Building		35 feet (10.7 m)

15.3 OTHER REQUIREMENTS: SERVICE STATIONS

Notwithstanding the provisions of Section 13.2, where any service station is erected in any C-2 Zone the following shall apply:

- (a) Minimum Lot Area 30,000 square feet (2,787 m²)
- (b) Minimum Frontage 150 feet (45.7 m)
- (c) No portion of any pump island shall be located closer than twenty (20) feet (6.1 m) from any street line.
- (d) The minimum distance between ramps or driveways shall not be less than thirty (30) feet (9.1 m).
- (e) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet (15.2 m).
- (f) The minimum angle of intersection of a ramp to a road line shall be forty-five (45) degrees.
- (g) The width of a ramp shall be a minimum of twenty (20) feet (6.1 m) and a maximum of twenty-six (26) feet (7.9 m).

15.4 OTHER REQUIREMENTS: COMMERCIAL FLOOR AREA

- (a) The gross floor area of all commercial buildings on a lot in any C-2 Zone shall not exceed ten thousand (10,000) square feet (929 m²).
- (b) Notwithstanding the provisions of Subsection 13.4(a), where welding, plumbing and heating, electrical and other special trades contracting

services and shops are permitted in any C-2 Zone, no such shop shall exceed thirty-five hundred (3,500) square feet (325 m²) of gross floor area.

- (c) Notwithstanding the provisions of Subsection 13.4(a), where offices are permitted in any C-2 Zone, no office building shall exceed five thousand (5,000) square feet (465 m²) of gross floor area.

15.5 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

Where any portion of any lot in any C-2 Zone is to be used for open storage or outdoor display, the following shall apply:

- (a) Any area devoted to open storage shall not exceed fifty (50) per cent of the lot area.
- (b) No open storage shall be permitted within any required front yard.
- (c) No outdoor display shall be located within ten (10) feet (3 m) of any front lot line.
- (d) No open storage or outdoor display shall be permitted within any yard in a C-2 Zone where such yard abuts any Residential or Community Uses Zone, except where a fence or other visual and physical barrier is provided within the abutting yard.

15.6 OTHER REQUIREMENTS: PARKING LOTS

Where parking lots are permitted in any C-2 Zone, whether in conjunction with other uses or as a separate use of land, the following shall apply:

- (a) Where any C-2 Zone abuts any Residential or Community Uses Zone, no portion of any parking space within the C-2 Zone shall be permitted within ten (10) feet (3 m) of any side or rear lot line.
- (b) No portion of any parking space within any C-2 Zone shall be located within ten (10) feet (3 m) of any front lot line.


Attachment D



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Community Council

TO: Chair and Members of North West Community Council

SUBMITTED BY: 
for Dr. Wayne Stobo, Chair, Halifax Watershed Advisory Board

DATE: March 1, 2006

SUBJECT: **HWAB Recommendations - Case 00829: Development Agreement for Commercial Uses on the South Side of Sackville Drive near Millwood Drive**

INFORMATION REPORT

ORIGIN

At the 18 January 2006 Board meeting, Mr. Angus E. Schaffenburg, Senior Planner, presented a proposal from the Terrain Group to enter into a Development Agreement to permit a commercial development on the South Side of Sackville Drive near Millwood Drive in Sackville.

The agreement calls for the construction of 4 commercial buildings (uses to be determined at a later date), one of which will be set back 20 metres from an unnamed watercourse that feeds the Little Sackville River.

RECOMMENDATIONS:

The Watershed Advisory Board appreciates this opportunity to review the Development Application and to make the following recommendations which are related specifically to the protection of the watershed and the natural environment. Related to this application, the Board's interest is related to potential impact on the Little Sackville River (LSR).

- 1) The Board is very pleased that three oil/grit separators are to be installed to process the stormwater runoff from the development. The Board recommends that the oil/grit separators be of sufficient capacity to process the stormwater runoff from the entire site. The Development Agreement (DA) should specify that the proponent is required to follow all manufacturers' recommendations for servicing, cleaning and maintenance of these oil/grit separators. Copies of the maintenance reports are to be forwarded to HRM and the Board for review.
- 2) The Board recommends that the Sackville Secondary Planning Strategy be followed for this site, especially policies LSR-4 and LSR-6:

Policy LSR-4 of the Sackville MPS states, "*HRM shall seek ways to mitigate any negative impacts of runoff and stormwater from existing development on surface water resources...*", and in section 7.1.1: Pervious Surface, it expands on this objective "*...to limit impervious surfaces to no more than 25% of the gross area of the proposed development.....efforts should be concentrated on simply reducing the existing amount of impervious surfaces*".

The Board supports this objective and recommends that as much as possible of the existing pavement be removed to allow for ground water recharge to meet the 25% limit.

Policy LSR-6, section 7.1.3: Stormwater Management, states "*...there will be a need for stormwater to be controlled to remove sediments and phosphorous.....opportunities to incorporate stormwater management techniques at the redevelopment or reconstruction phases of projects, is important.*"

Water retention and storm surge is an ongoing problem for the LSR, thus the Board recommends that a Stormwater Management Plan be developed to regulate stormwater flow rates into the LSR at pre-development levels, and storm water be treated to prevent pollution from entering the LSR (see below).

- 3) The Board recommends the proponents' plans for the water retention and sedimentation controls be included as part of the DA. These include the creation of a cut-off ditch on the south side of the property, with fabric filter fence to contain sediment during construction, the use of 'rumble rock' on the entrance road during construction to shake mud off the tires of vehicles entering and leaving the site, and the installation of permanent stormwater retention containers to ensure post-construction runoff matches pre-construction runoff.

- 4) The proponent proposes to employ a post-construction open ditch design lined with rock rubble (rather than pipe) in the north-east corner of the property to allow runoff infiltration. However the board recommends that the drainage channel should be designed to allow water infiltration and facilitate 'polishing' of runoff (such as the 'Green Gabion' technique planted with local vegetation) before release into the brook.
- 5) The Board recommends the construction of a permanent berm, or planting of a tree hedge, along Sackville Drive, to stop litter from blowing off the site and collecting in the ditches along Sackville Drive.
- 6) The Board is concerned about the current runoff into the brook from upstream development (runoff from the cemetery). The cumulative effect of that runoff, with the possible increase in runoff from this development, may damage the brook and result in increased run-off into the LSR. Water retention devices, or landscaping (such as a grassed swale) should be employed to prevent any increased runoff from above the site impacting upon the brook.
- 7) The proponent has proposed a 20 metre setback of the building from the brook on the west side of the property. The Board recommends that the setback be 30 metres, consistent with our guidelines. The Board also recommends remedial action be taken in this setback area to preserve existing trees and replant the area using native species; this area should then be protected as an undisturbed buffer zone.
- 8) The Board is concerned over the size of the impervious surface that will be developed due to the number of proposed parking spaces; any reduction would be encouraged.
- 9) The Board recommends that the DA include an environmental bond from the developer to ensure there is no silt runoff from the site, and that this bonding notice be posted on the construction site.
- 10) The Board is also concerned over the potential for an increase in sewage from this site and the effect that any increase will have on the sewer system that over-flows into LSR during major rain events. The Board recommends that the DA require that sewage release from this site be no more than the equivalent amount of R1 housing.
- 11) The Board recommends that the proponent use sand rather than salt for winter maintenance of the parking lot.

BACKGROUND:

The new development will be on the south side Sackville Drive, near Millwood, Sackville. The new development will consist of 4 new commercial buildings, one of which will be 20 metres from an unnamed feeder brook to the Little Sackville River.

The Little Sackville River is over 11 kilometres long and is the biggest tributary to the Sackville River. The LSR is the very important natural feature of Sackville and is habitat to over 13 species of fish. The LSR is prime Atlantic Salmon spawning and rearing habitat as well as other inland species habitat that are threatened by siltation, urban runoff, and loss of floodplain and riparian buffer.

The streambed has been cleaned through the use of habitat improvement devices, and spawning trout and salmon have been noted in the river annually since the late 1990's. Fish and invertebrate surveys have found young-of-the-year salmon and trout, and a diversity of insects. Water quality has improved but needs further improvement and strong mitigative action to prevent any degradation. Stormwater runoff from parking lots and roadways continues to carry litter and chemicals into the stream. Developers are being encouraged to enhance conservation of the LSR in many ways, one of which is to encourage the use of storm-drainage sediment traps to remove debris and possibly some of the chemicals before surface runoff reaches the brook. The river is showing signs of recovery with improved quality of physical and chemical parameters. This "engine" of the Sackville River will require careful management and protection.

A copy of this report can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by :

Dr. Wayne Stobo, Chair, HWAB