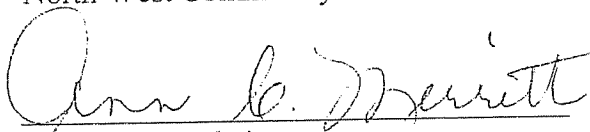


North West Community Council
June 17, 2008

TO: North West Community Council

SUBMITTED BY:



Ann Merritt, Chair
North West Planning Advisory Committee

RE: Case 01118: Sackville Drive LUB - Watercourse Setbacks

DATE: June 13, 2008

ORIGIN

North West Planning Advisory Committee meeting - June 12, 2008

RECOMMENDATION

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

1. Give First Reading to consider the proposed amendments to the Sackville Drive Land Use By-law as set out in Attachment A of the staff report dated May 20, 2008, and schedule a public hearing; and
2. Approve the proposed amendments to the Sackville Drive Land Use By-law to identify situations where the 30 metre (100 foot) setback from watercourses may be reduced as set out in Attachment A of the staff report dated May 20, 2008.

ATTACHMENTS

Staff report dated May 20, 2008

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.

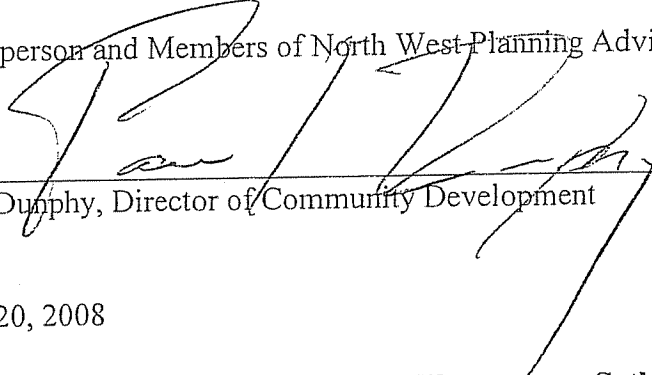
Report prepared by: Gail Hamish, Admin/PAC Coordinator, 490-4937
Report reviewed by: Ann Merritt, Chair, North West PAC



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Planning Advisory Committee
June 4, 2008

TO: Chairperson and Members of North West Planning Advisory Committee

SUBMITTED BY: 
Paul Dupphy, Director of Community Development

DATE: May 20, 2008

Subject: Case 01118: Sackville Drive LUB - Watercourse Setbacks

ORIGIN

Request by North West Community Council to review watercourse setback requirements of the Sackville Drive Land Use By-law (LUB), specifically to determine under what conditions the existing 30 metre (100 foot) buffer requirement may be reduced.

RECOMMENDATION

It is recommended that North West Community Council:

1. Give First Reading to consider the proposed amendments to the Sackville Drive Land Use By-law as set out in Attachment A, and schedule a public hearing; and
2. Approve the proposed amendments to the Sackville Drive Land Use By-law to identify situations where the 30 metre (100 foot) setback from watercourses may be reduced as set out in Attachment A.

EXECUTIVE SUMMARY

On January 24, 2008, North West Community Council initiated a process to consider amending the Sackville Drive Land Use By-law (LUB) to enable a reduction to the watercourse setback requirement. Staff proposes a reduction in the setback from a minimum 30m (100 feet) to 20m (66 feet) for properties which have been identified as “unreasonably affected” by the existing 30m (100 feet) requirement.

Staff recommends that the LUB be amended to identify in the watercourse setback regulations, the conditions under which a property owner is considered “unreasonably affected”. In such conditions, the setback may be reduced to a minimum of 20 metres (66 feet) as supported by Regional Municipal Planning Strategy (MPS) and Sackville Drive Secondary Planning Strategy (SPS).

A Public Meeting was held on February 18, 2008 to discuss the proposed amendments to watercourse setback requirements and public response was generally favourable. The Halifax Watershed Advisory Board reviewed the proposed amendments (Attachment F) and recommended maintaining the existing standard of 30 metre (100 feet) with no option for reduction.

The proposed amendments are consistent with the intent of the Regional MPS and Sackville Drive SPS. Therefore, staff recommends the proposed Land Use By-law amendments (Attachment A) be adopted by North West Community Council.

BACKGROUND

On January 24, 2008, North West Community Council passed a motion requesting staff to initiate a planning process to look at the watercourse setback requirements in the Sackville Drive Land Use By-law and ensure that they meet the requirements of the Regional Plan and the Sackville Drive Planning Strategy. Further, that staff ensure that the Land Use Bylaw regulations provide the development office flexibility (as permitted by the Sackville Planning Strategy and Regional Plan) when granting reductions to the setbacks.

Council’s motion was made in response to concerns raised regarding the lack of flexibility in the current watercourse setback regulations. These concerns were raised by the Sackville Drive Business Association and several property owners which were directly affected by the watercourse setbacks.

Existing Planning Realm

The Sackville Drive SPS and Regional MPS both provide guidance for the establishment of watercourse setback regulations. The Regional MPS requires a minimum 20 metre (66 feet) undisturbed setback around all watercourses which is implemented in the Land Use By-laws throughout the Municipality (Policy E-10, Attachment B). However, the Sackville Drive SPS requires a minimum 30 metre (100 feet) undisturbed setback around all watercourses within the plan

area (Policy LDR-2, Attachment C). This requirement was implemented when the Sackville Drive Plan was adopted in 2002.

Where there are discrepancies between the Regional MPS and another planning document (i.e. Sackville Drive SPS), the Regional Plan (Policy IM-22) requires that the more stringent apply. Therefore, a minimum 30 metre (100 feet) undisturbed setback around all watercourses within the jurisdiction of the Sackville Drive SPS is required. The Regional MPS and Sackville Drive SPS both permit consideration of a reduced setback in certain instances.

DISCUSSION

The Regional MPS and Sackville Drive SPS contemplate a reduction in setbacks in certain situations. The Sackville Drive SPS contemplates a reduction for lots in existence as of May 7, 2002 where the property is “unreasonably affected” by the setback. Based on the Regional MPS policy, staff recommend that a new reduction in the watercourse setback of 20 metres (66 feet) be established. The 20 metre setback is the same as the Regional MPS minimum watercourse setback requirement.

Staff have identified conditions under which a property owner could be considered “unreasonably affected” and may warrant a reduction of the watercourse setback:

- a) **where right-of-ways creates a hardship** - such as properties that have sewer easements, access easement and other encumbrances which in addition to the watercourse setback affect the placement of buildings.
- b) **where the configuration or shape of a lot creates a hardship** - such as existing properties which have irregular property lines that impact the placement of development on a lot compared to a regular shaped lots (square or rectangular shaped).
- c) **where the impact of the setback on a lot creates a hardship** (percentage of lot covered by setback) - such as properties that are small or have a significant amount of watercourse frontage.
- d) **where there is existing disturbance or development** - such as existing development or disturbance within the watercourse setback.

Staff have drafted proposed regulations which include provisions to deal with the above noted situations which are considered, by staff, to unreasonably affect property owners. The proposed amendments are included as Attachment A.

Public Participation

A Public Meeting was held on February 18, 2008 with approximately twelve attendees. Minutes of this meeting are included as Attachments E. Those present were generally supportive of the concept of reducing setbacks where properties were unreasonably affected.

Notification for the Public Meeting was distributed by standard mail to owners of properties shown on Map 2. The same notification area will be utilized for any future Public Hearing unless Council recommends changes to the notification area at First Reading.

Halifax Waters Advisory Committee

The proposal was presented to the Halifax Water Advisory Board (BWAB) on March 19, 2008. The Board reviewed the specifics of the proposal and offered the following draft comment:

"After much discussion, it was decided by the Board that the requirements for setbacks remain the same. The Halifax Watershed Advisory Board further advised that they require 30 metres of setback."

An outline of HWAB's draft comment is provided as Attachment F.

Flood Plains and MPS/SPS Boundaries:

During the review of the proposed amendments, that staff met with several property owners to review watercourse setback and related issues. During this process it was identified that there were issues with the existing floodplains identified in the Sackville Drive SPS and Sackville MPS and the respective LUB's. A more detailed discussion of this issue is included as Attachment G.

Summary:

Staff are of the opinion that the proposed amendments are consistent with the intent of the Regional MPS and the Sackville Drive SPS. Staff recommend that North West Community Council approve amendments to the Sackville Drive LUB as outlined in Attachment A of this report.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the approved C310 operating budget.

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 may choose to approve the proposed amendment to the Sackville Drive Land Use By-law. This is the recommended course of action.

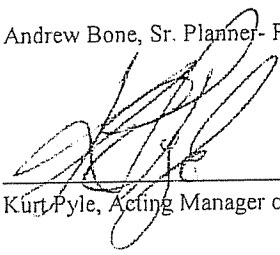
2. Council may choose to alter the proposed amendment to the Sackville Drive Land Use By-law. This may necessitate further report(s). In the event substantive revisions are requested subsequent to advertising for a public hearing, an additional public hearing may be required.
3. Council may choose to refuse the proposed amendment to the Sackville Drive Land Use By-law, and in doing so, must provide reasons based on a conflict with MPS policies. This is not the recommended action.

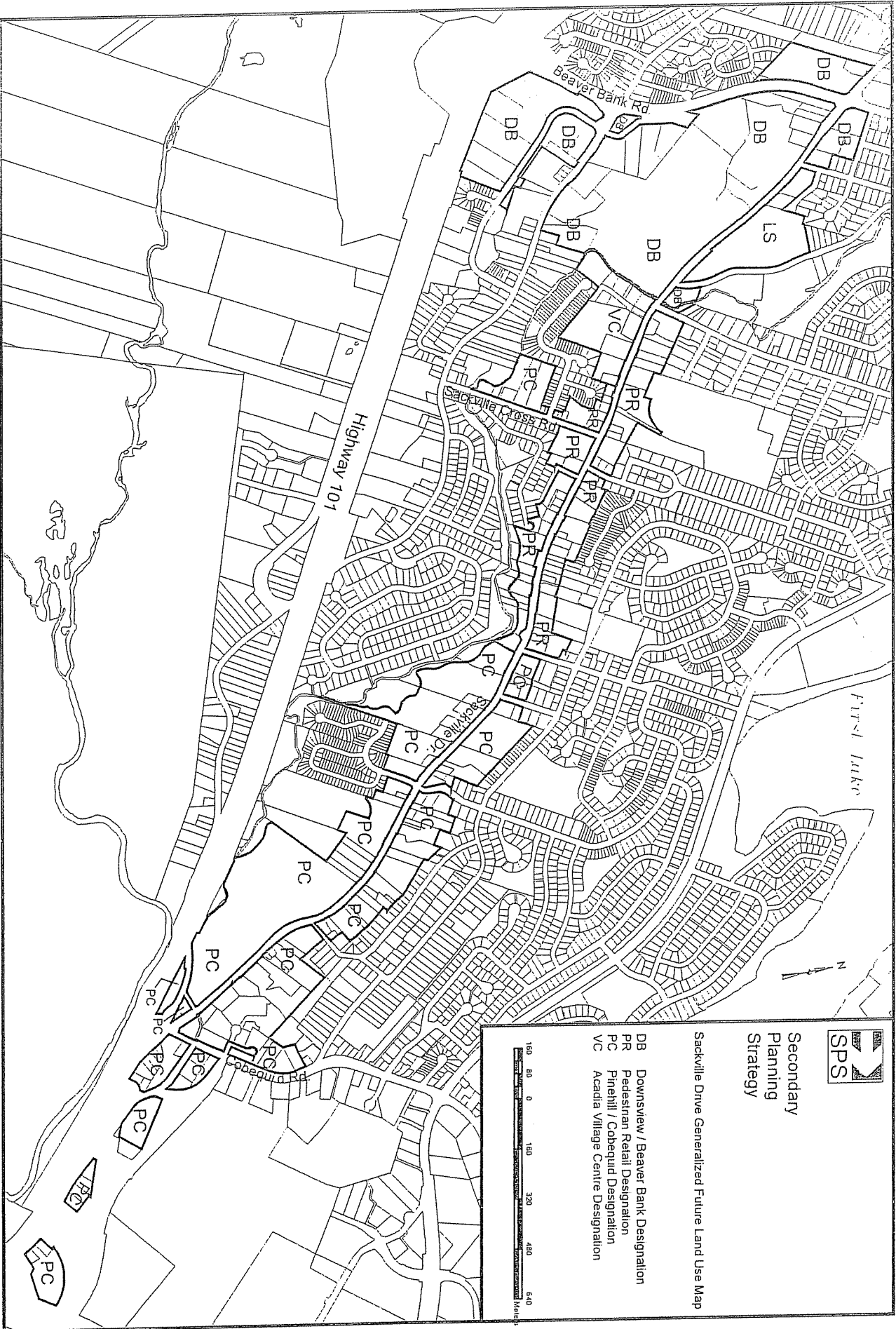
ATTACHMENTS

| | |
|--------------|--|
| Map 1 | Generalized Future Land Use Map |
| Map 2 | Zoning Map |
| Attachment A | Proposed Amendments to the Sackville Drive Land Use By-law |
| Attachment B | Regional Plan Policy - Watercourse Setbacks |
| Attachment C | Sackville Drive MPS Policy - Watercourse Setbacks |
| Attachment D | Sackville Drive Land Use By-law - Watercourse Setback Provisions |
| Attachment E | Public Information Meeting Minutes - February 18, 2008 |
| Attachment F | Halifax Waters Advisory Board - Draft Comment - March 19, 2008 |
| Attachment G | Discussion of Floodplain Issues |

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Andrew Bone, Sr. Planner- Planning Applications: Community Development 869-4226

Report Approved by: 
Kurt Pyle, Acting Manager of Planning Services, 490-7066



Secondary Planning Strategy

Sackville Drive Generalized Future Land Use Map

- DB Downsview / Beaver Bank Designation
- PR Pedestrian Retail Designation
- PC Pinehill / Cobequid Designation
- VC Acadia Village Centre Designation



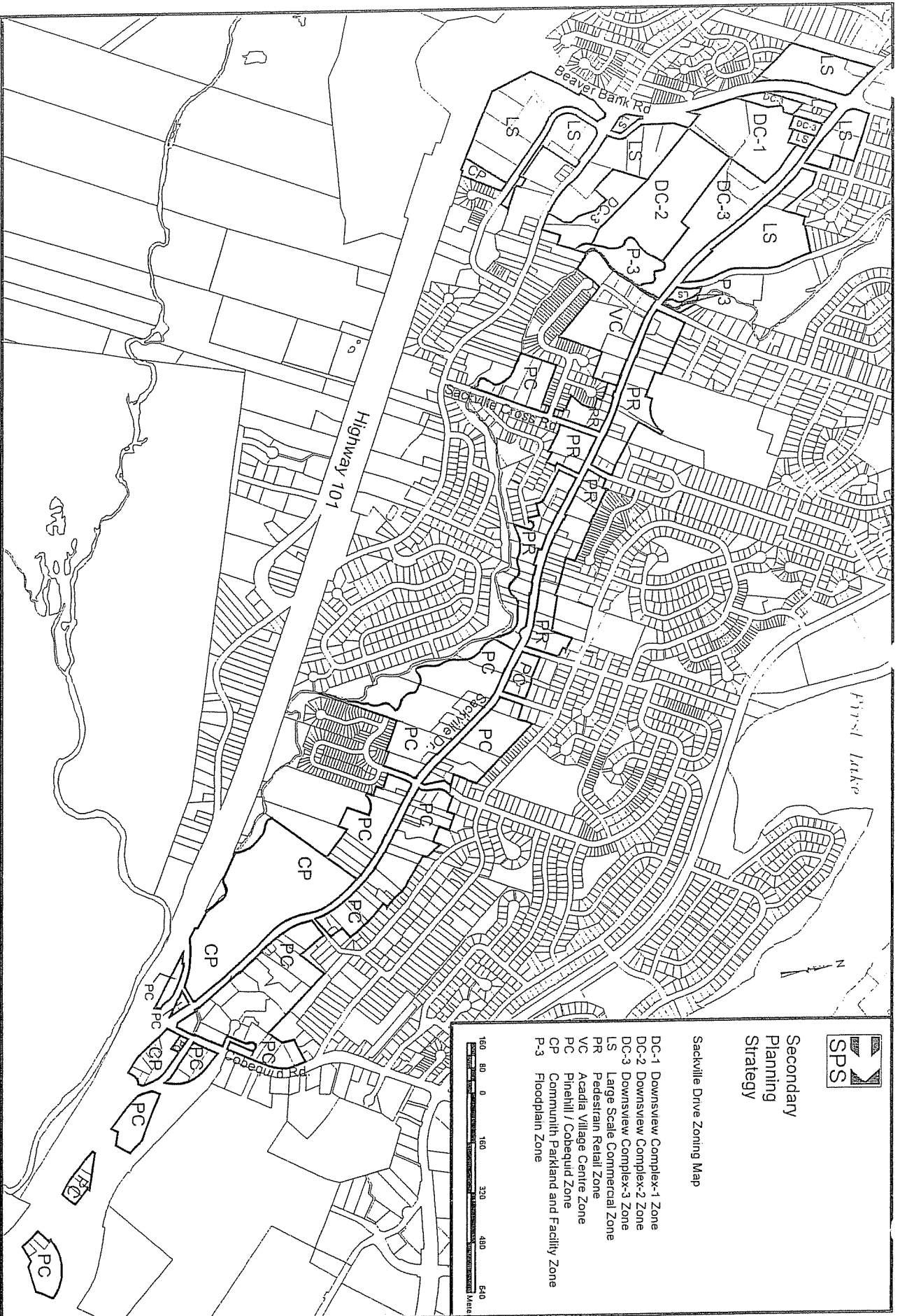
Map 1
Generalized Future Land Use

May 22, 2008

HRM does not guarantee the accuracy of any base map information on this map.

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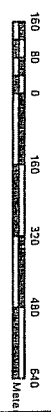




**Secondary
Planning
Strategy**

Sackville Drive Zoning Map

- DC-1 Downview Complex-1 Zone
- DC-2 Downview Complex-2 Zone
- DC-3 Downview Complex-3 Zone
- LS Large Scale Commercial Zone
- PR Pedestrian Retail Zone
- VC Acadia Village Centre Zone
- PC Pinehill / Cobeguid Zone
- CP Community Parkland and Facility Zone
- P-3 Floodplain Zone



Map 2
Zoning

May 22, 2008

HRM does not guarantee the accuracy of any base map information on this map.

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Attachment A
Proposed Amendments to the Sackville Drive Land Use By-law

BE IT ENACTED by the North West Community Council of the Halifax Regional Municipality that the Sackville Drive Secondary Land Use By-law as enacted by the former Halifax County Municipality on the 7th day of May, 2002 and approved by the Minister of Municipal Affairs on the 24th day of June, 2002 as amended, is hereby further amended as follows:

1. Part 6, Clause 6 shall be amended by adding the following text between subsection (2) and (3):
 - “(2A) Notwithstanding subsection (1)(e) and (f) the required buffer may be reduced to that indicated in subsection (1) (a) and (b) for any lot that existed on or before June 24, 2002 and if any of the following conditions are met:
 - (I) existing right-of-ways or easements located on the property further affect the placement of buildings or structures;
 - (ii) where the configuration or shape of a lot is such that the lot line intersecting the watercourse are not perpendicular to the watercourse;
 - (iii) where the portion of a lot covered by the watercourse setback is greater than or equal to twenty percent of the area of the lot;
 - (iv) where there is existing legal disturbance or development which was established on or before June 24, 2002 on the portion of property identified as within the watercourse setback.

I HEREBY CERTIFY that the amendment to the Land Use By-law for Sackville Drive as set out above, was passed by a majority vote of the North West Community Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2008

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this __ day of _____, 2008

Julia Horncastle
Acting Municipal Clerk

Attachment B
Regional MPS Policies - Watercourse Setbacks

2.2.3 Riparian Buffers

Retaining riparian buffers around watercourses and along the coastline is important for the protection of water quality, wildlife and the protection of property from natural hazards of flooding. In addition to the functions of flood regulation, riparian buffers reduce the impacts of sedimentation and erosion and nutrient loading on watercourses, regulate the temperature of adjacent watercourses, provide important wildlife habitat and add aesthetic value to HRM.

The *Water Resource Management Study*¹ recommends the adoption of riparian buffers as established by the Department of Natural Resources. These setbacks are considered adequate for stream bank stability, water temperature regulation and aesthetic value. They also provide minimal protection of wildlife and flood mitigation and partial benefits for sediment removal. They will be used as a general method of riparian buffer protection for the whole of HRM until buffers that meet the specific needs of each watershed can be determined through the watershed studies and implemented through secondary planning processes.

To maximize the protection benefits of riparian buffers, trees, shrubs, ground cover vegetation and soils must be protected. Retaining native vegetation and native soils enhances runoff storage capacity, infiltration, and nutrient recycling. The canopy should also be retained over watercourses, soil erosion should be prevented, and activities or land uses which introduce nutrients or contaminants into watercourses need to be excluded. In some cases it may also be determined that HRM should consider the ownership of riparian buffers to protect public interest and public access.

E-10 HRM shall, through the applicable land use by-law, require the retention of a minimum 20 metre wide riparian buffer along all watercourses throughout HRM to protect the chemical, physical and biological functions of marine and freshwater resources. The by-law shall generally prohibit all development within the riparian buffer but provisions shall be made to permit board walks, walkways and trails of limited width, fences, public road crossings, driveway crossings, wastewater, storm and water infrastructure, marine dependent uses, fisheries uses, boat ramps, wharfs, small-scale accessory buildings or structures and attached decks, conservation uses, parks on public lands and historical sites and monuments within the buffer. In addition, no alteration of land levels or the removal of vegetation in relation to development will be permitted.

E-13 Further to Policy E-10, HRM shall, through the applicable land use by-law, relax the riparian buffer requirement for lots in existence on the effective date of this Plan and lots shown on current tentative and final subdivision applications, where otherwise

¹ Dillon Consulting Ltd. *HRM Water Resource Management Study*. Dec. 2002. Halifax.

development would be prohibitive. No relaxation to the buffer under the by-law shall be permitted for lots created after the effective date of this Plan.

IM-22 In the event of conflict between this Plan and a Secondary Planning Strategy, the more stringent shall prevail.

Attachment C
Sackville Drive MPS Policies - Watercourse Setbacks

Policy LSR-2

Within all designations, no development (including the erection of a structure, the clearing of vegetation or the alteration of existing grades) shall be permitted within a buffer zone of undisturbed ground and vegetation that extends 100 feet from all watercourses and wetlands, including floodplain, except required stream crossings, and arcades, esplanades, board walks and opens pace and recreational uses. Provision shall be made for 50 feet buffer zones on lots in existence as of May 7, 2002, would be made unreasonably affected by the 100 feet requirement.

Attachment D
Sackville Drive Land Use By-law - Watercourse Setback Provisions

Setbacks from Watercourses

6. Watercourse Setbacks and Buffers

- (1)
 - (a) No development permit shall be issued for any development within 20m of the ordinary highwater mark of any watercourse.
 - (b) Where the average positive slopes within the 20m buffer are greater than 20%, the buffer shall be increased by 1 metre for each additional 2% of slope, to a maximum of 60m.
 - (c) Within the required buffer pursuant to clauses (a) and (b), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.
 - (d) Within the required buffer pursuant to clauses (a) and (b), activity shall be limited to the placement of one accessory structure or one attached deck not exceeding a footprint of 20 m² or a combination of an accessory structure and attached deck not exceeding 20 m², fences, boardwalks, walkways and trails not exceeding 3 metres in width, wharfs, boat ramps, marine dependent uses, fisheries uses, conservation uses, parks on public lands, historic sites and monuments, and public road crossings, driveway crossings and wastewater, storm and water infrastructure.
 - (e) Notwithstanding clause (a), the required buffer shall be 30.5m of the rim of the Sackville or Little Sackville rivers except for activities specified under clause (d).
 - (f) Notwithstanding clause (e), activity within the 30.5m buffer of the Sackville or Little Sackville rivers shall be limited to the placement of board walks, esplanades, arcades, walkways and trails, conservation uses, parks on public lands, public roads and wastewater, storm and water infrastructure.
 - (g) Notwithstanding clause (a), the required buffer for construction and demolition operations shall be as specified under the applicable CD Zone.
 - (h) Notwithstanding the required buffer under clauses (e) and (f), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.
- (2) Notwithstanding subsection (1), where an existing residential main building is located within the required buffer, accessory structures, subject to meeting other requirements of this by-law, shall be permitted provided they are located no closer to the watercourse than the existing main building.
- (3) Where the configuration of any existing lot, including lots approved as a result of completed tentative and final subdivisions applications on file prior to the effective date of the Regional Municipal Planning Strategy, is such that no main building could be located on the lot, the buffer distance shall be reduced in a manner which would provide the greatest possible separation from a watercourse having regard to other yard requirements.

- (4) Notwithstanding subsection (1), nothing in this by-law shall prohibit the removal of windblown, diseased or dead trees, deemed to be hazardous or unsafe.
 - (5) Notwithstanding subsection (1), the selective removal of vegetation to maintain the overall health of the buffer may be authorized by the Development Officer where a management plan is submitted by a qualified arborist, landscape architect, forester or forestry technician.
 - (6) Every application for a development permit for a building or structure to be erected pursuant to this section, shall be accompanied by plans drawn to an appropriate scale showing the required buffers, existing vegetation limits and contours and other information including professional opinions, as the Development Officer may require, to determine that the proposed building or structure will meet the requirements of this section. (RC-Jun27/06;E-Aug26/06)
7. Notwithstanding, the provisions of Part 6 Section 6, any existing building within the 100 ft (30.48m) wide buffer may be permitted to be enlarged, renovated or repaired subject to the provisions of this Bylaw.

Attachment E
Public Information Meeting Minutes - February 18, 2008

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 01118 - Watercourse Setbacks

7:00 p.m.
Monday, February 18, 2008
Sackville Library, Fenerty Room

STAFF IN

ATTENDANCE: Andrew Bone, Senior Planner, HRM Planning Services
Cara McFarlane, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE: Councillor Bob Harvey, District 20
Walter Regan, Member of North West Planning Advisory
Committee and Sackville River Association

PUBLIC IN

ATTENDANCE: Approximately 12

The meeting commenced at approximately 7:08 p.m.

1. Opening remarks/Introductions/Purpose of meeting - Andrew Bone

Mr. Bone introduced himself as the planner carrying this application through the planning process; Councillor Bob Harvey, District 20; and Cara McFarlane, HRM Planning Services.

For reference purposes, a copy of the current watercourse setback requirements was handed out to the public.

Council has asked staff to review the current regulations for watercourse setbacks within the Sackville Drive Secondary Planning Strategy (SPS).

The purpose of the public information meeting is to identify that HRM is looking at modifying the regulations, provide some background on the regulations, determine if the existing regulations do need to be amended, and to receive feedback on specific issues relating to the regulations for the watercourse.

The agenda was reviewed.

2. Overview of planning process - Mr. Bone

The planning process to change land use by-law regulations was reviewed. This application will go before the Halifax Watershed Advisory Board for comment.

3. Presentation of Proposal - Mr. Bone

There are two sets of watercourse policies that apply to the Little Sackville River. The first set is the Regional Plan policies that came into effect last year. These watercourse setback policies apply to all watercourses in the entirety of HRM. The watercourse setback is set at 20 metres (66 feet). There will be no disturbance or excavation within that 66 feet except for existing properties. Under planning policy for the Regional Plan, the setback can be reduced only if the setback does not allow development to happen.

The second set is the Sackville Drive SPS which has watercourse setback regulations at 30 metres (approximately 100 feet) from the high water mark of the watercourse. The Sackville Drive SPS regulations are the more stringent and in this case the more stringent of the two apply. In this case, plan policy states that the setback can be reduced to 50 feet if the setback would unreasonably affect the property. This is a bit more flexible as to when the setback can be reduced.

Mr. Bone noted that the Sackville Drive SPS cannot contradict the Regional Plan. At all times, the 66 foot setback must be maintained. Therefore, the setback on Sackville Drive can only go to 66 feet based on the two sets of policies. There is some opportunity under the Sackville Drive SPS to amend the regulations to make them possibly more flexible. As it stands, under both policies, the only way to reduce the setback is if you cannot construct a building on the lot due to the setback covering the majority of the lot .

There does not seem to be a situation on Sackville Drive where a building could not fit on a lot. Under the current situation, it looks like most property owners are not eligible for reduction.

An example was shown of the impact of some of the regulations. The shading on the example indicates the 20 metre and 30 metre setbacks. The map also showed the floodplain zones in these areas which, in some cases, extend beyond the 100 feet. This means that only certain areas are eligible under the current zoning regulations for reduction. These floodplains date from 1988. In 1998, an updated study was done and indicates that the floodplains are much closer to the river. Moving the lines closer would benefit most of the property owners along that section of Sackville Drive shown on the map.

What are the situations when we can go back from 30 metres to 20 metres? Presently, the current regulations are worded in such a manner that is stricter than policy and this allows council to consider some changes. There is an opportunity to relax some of the regulations and we need to determine in what situations should those be relaxed.

Situations which would make sense to relax these regulations are as follows: a) existing disturbance or development on the property; b) avoidance of right-of-ways; c) configuration of a lot; and d) impact of the setback on the lot (percentage of lot covered by setback).

The rules should not be relaxed when: a) the area has an extreme grade; b) when the land use involves potential petroleum products next to the river; and/or, c) the floodplain exceeds the setback.

The 100 foot setback is not a floodplain setback, but an environmental setback, to provide protections against impacts on the environment. The setback has been in place for approximately three to four years. The 66 foot setback has been in place for about one year.

4. Questions/Comments

Terri Panagiotakos, Main Avenue, Halifax, asked if the 100 foot watercourse setback is for all of HRM or just Sackville. Mr. Bone said that the 66 foot setback is all over HRM but the 100 foot setback is in the Sackville and Sackville Drive plans. There is also a 100 foot setback in portions of Bedford along the Sackville and Little Sackville Rivers.

Mr. Panagiotakos asked about the 50 foot setback set out in the Sackville Drive SPS. Mr. Bone said the 50 foot setback as implemented in that policy is contradictory to the 66 foot setback in the Regional Plan. The best that can be done is the 66 feet. The only way it can be reduced is if a building cannot fit on the property. Mr. Panagiotakos interprets the policy differently. Mr. Bone said in Mr. Panagiotakos' case, and the way the policy has been implemented, staff has identified that there is room to move. That policy allows reduction to 66 feet in more instances than it does currently.

Mr. Panagiotakos asked if there is any existing development under the 50 foot setback (he is aware of one). Mr. Bone said staff has never implemented any reduction and doesn't have an answer to that question but will look into it. Some properties may be outside the Sackville Drive plan. Anything that predates the rules coming into effect would be allowed to exist.

Paulette Shore, Hillside Avenue, Sackville, said most of the properties from her business down and up to Terri's Place along Sackville Drive are narrow and not very deep. When a 100 foot setback is taken off a 250 foot deep lot, almost ½ of the property is taken. This lowers the resale of the property and it creates quite a mess. It applies to everyone that borders the river. Mr. Bone said it certainly adds 30 metres and with some of these lots at least ⅓ of the lot is taken up by the 100 foot setback. Staff will make suggestions to Council as to what changes could be made. What is too onerous? Ms. Shore feels that 100 feet is too much as it stands. There is also a setback from the street.

Larry Bell, Old Sackville Road, Sackville, asked if Mr. Bone could show the properties on the map. Mr. Bone did not bring mapping for all of the properties affected. With the 100 foot setback, there are individual properties that have extreme issues. The dark black line on the map is the floodplain that was established in 1988 and put in place in 1994. The more recent floodplains study (1998) pulls the line quite a bit closer to the river. These have never been implemented. The planning process was

started and put off due to the Regional Plan. The discussion on this may actually reopen the project and staff could implement more accurate floodplains.

Ms. Shore doesn't feel there is a need for the 100 foot setback for properties that are situated on a higher elevation. Mr. Bone clarified that she is suggesting the height difference between the river and the actual developed area of the property to which another resident from Sackville Drive agreed. Mr. Bone explained that the floodplain levels identified in the 1998 study are more realistic as to where they are located and mapped more accurately. When the property rises very quickly, the change is quite visible in looking at the mapping for that area. Whether the grade change is adequate reason to reduce the setback from the river for environmental purposes will be subject to some investigation and research. The Sackville Drive resident thought this should be a key point when looking at a case by case scenario. There should be some flexibility for the property owners on the Sackville Drive side of the river with respect to elevation. Mr. Bone said this is something staff will look at.

One resident asked if a new development could occur on the existing footprint if he had to rebuild due to a fire. In what direction? Mr. Bone said the current regulations state regardless of the 100 foot setback, existing buildings within the 100 foot wide buffer may be permitted to enlarge, renovate, or be repaired subject to the provisions of the by-law. The building could not go closer to the river.

Mr. Panagiotakos mentioned that the residential side of the river is already developed; therefore, not many changes would happen there.

A resident from Acadia Lane mentioned that there is a sewer main running through his property as well as the river on both sides. Mr. Bone said this particular property has easements in favor of HRM and powerlines, watercourse setbacks and the river on both sides. If changes are implemented that look at the amount of coverage of the setback and issues dealing with easements, this property would qualify for a reduction.

Dave Grace, Old Sackville Road, Sackville, said that this is the first time in 20 years that the public has had a chance to address this issue. The original 100 foot buffer was set in place in 1982. Mr. Bone said in 1982 the 100 foot floodplain buffer was implemented because it was not known where the floodplains were. At that point, any development within 100 feet of the river would have to be negotiated through a legal contract with the municipality. Over time, this has evolved into an environmental setback.

Mr. Grace said in 1988, or 1989, there was a meeting and people were opposed to the floodplain issue. However, it was implemented anyway without ever coming back to the public. In 2002, public meetings were held but the river was never an issue. At some point, the 100 foot buffer was brought into play but never dealt with in a public forum or at least the people that were affected by it the most. Meetings were held after that to make some amendments to Sackville Drive but staff refused to let the public discuss the issues on the river at that meeting (Planning Advisory Committee). He would like a promise from tonight's meeting that before anything is approved that it is brought back to the people of the community so they understand exactly what is going to happen. People tend to distrust because of the way things have been implemented in the past. Planning has to build some trust in the community by keeping people informed. Mr. Bone explained that a staff report will be

prepared following this meeting. He will check with management about possibly holding a second public information meeting. Mr. Panagiotakos agrees that the public should be better informed about proposals before they go before council for approval.

Mr. Grace feels that the Sackville Drive plan should be consistent with other plan areas throughout HRM.

Michelle Champniss, Sackville Drive, asked if there was an opportunity for the 100 foot setback to be reduced, could it be reduced past the floodplain line? Mr. Bone agreed with her as the floodplain line is another barrier. The new floodplain markings actually reduce the line on one side of the river. There are very few situations in this area that would benefit from a reduction.

Mr. Bone explained that the floodplain project was put on hold because of the Regional Plan. He will talk to management about reopening that application. Ms. Champniss feels that this is a good time for that to happen. The two applications should be processed separately. Mr. Bone mentioned that if they were kept separate, this application could be processed quite quickly as it is less controversial. In the long term, if the floodplains were scaled back, it would affect many properties. Ms. Champniss asked if the public would have a chance to speak when the proposal goes before council. Mr. Bone explained the zone amendment process.

Andrew Longcoste asked why this is so selective. Mr. Bone explained that the list is selective because those are the properties that are affected by the Sackville Drive water setback regulations in regards to the Little Sackville River. Mr. Longcoste wondered if Acadia Lane was included. Why aren't the houses alongside the Sackville Legion on Bruce Drive included? Mr. Bone mentioned that those properties are located in the Sackville plan. He explained where the boundaries for Sackville Drive and Sackville run. He showed the properties that are affected by the watercourse setbacks. Staff has only been asked to look at the Sackville Drive plan. Most of the properties on Bruce Drive fall within the 100 foot setback. The properties are grandfathered by existing rights and development agreements from approximately 20 years ago. Acadia Lane is commercially zoned and is in the Sackville Drive plan. In 2002, when the Sackville Drive plan was created, the Acadia Lane area, including Acadia Hall, was chosen for commercial use to try to create some sort of centre or downtown area for Sackville.

Mr. Grace would like to see more accurate mapping as people buying homes don't realize that their houses are in floodplains. He feels people are being denied the right to do something on false information. Mr. Bone explained that the study conducted in 1998 was more accurate than that of 1988. Ten years has passed and the validity of the 1998 study becomes questionable. The information at the time was not false. Management may look at this issue and reopen the project on the floodplains.

Mr. Panagiotakos mentioned that the maps within the Sackville Drive Land Use By-law are misleading. Mr. Bone said that the map should state that anything outside of the black lines on the Sackville Drive zoning map would be within the Sackville Land Use By-law. As part of this process, some clarity will be added to the Sackville Drive Zoning Map.

Mr. Regan clarified that if the 30 metre setback is reduced, the 20 metres would still be in effect. Mr. Bone said the only situation that a further reduction would apply is if a building could not fit on the lot. Mr. Regan mentioned that in cases where the 1 in 100 year floodplain is greater than 100 feet, the 1 in 100 year floodplain takes precedence to which Mr. Bone agreed.

Mr. Regan understands that when the 1988 floodplain was published it was based on survey work done in 1986 and since 1986 huge amounts of infill have happened making the 1986 study inaccurate. Therefore, the 1988 study was carried out to reflect the infill. Mr. Bone said as the 1988 study was coming forward there were a lot of developments and infill happening along the river at the same time. Over time and the techniques of mapping the floodplain became more accurate.

Mr. Regan said the floodplains are based on a normal flood. Heavy ice flows can change the floodplains drastically. Mr. Bone said the floodplains that were calculated were based on a 1 in 20 year flood. The high end of the floodplain is based on a 1 in 100 year flood (more extreme).

Mr. Regan mentioned that the further the setback is the more protection there is for the river. If the 100 foot setback is moved, it was strongly suggested to protect the 1 in 100 year floodplain and the 20 metre setback, whichever is the greater. Mr. Bone explained that there is no way, through this process, that he could suggest anything going below 20 metres and there is no intention to go below a 1 in 100 year floodplain. In this case, there is a discrepancy between the 1988 and 1998 mapping as to which is the most accurate.

Ms. Shore wondered if global warming will affect the floodplain. Mr. Bone said the Little Sackville and Sackville Rivers were identified as two of the major rivers in Nova Scotia for flooding. Global warming will affect these floodplains but not quite sure how. As climate changes, the data will change.

One resident mentioned that the river does not have ice anymore due to the salt. These things have to be taken into consideration.

5. Closing comments

Mr. Bone thanked everyone for coming to the meeting and expressing their comments and concerns.

6. Adjournment

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

Attachment F
Halifax Waters Advisory Board - Draft Comment - March 19, 2008

8.3 CASE 01118 - APPLICATION BY HRM TO REVIEW THE WATERCOURSE SETBACK REQUIREMENTS IN THE SACKVILLE DRIVE LAND USE BY-LAW TO DETERMINE IN WHAT SITUATIONS IT IS ACCEPTABLE TO REDUCE THE 30M SETBACK TO 20M.

Andrew Bone presented Case 01118 - Application by HRM to review watercourse setbacks of te Sackville Drive Land Use By -Law , specifically to identify when setbacks can be reduced from 30m to 20 m along the Little Sackville River.

Mr. Bone identified 5 different situations where the reduction of the set back would be considered:

- i. where there is existing disturbance or development on the potion of property identified as within the setback;
- ii. where avoidance of right-of-ways creates a hardship
- iii. where the configuration of a lot creates a hardship
- iv. where the impact of the setback on a lot creates a hardship (percentage of lot covered by setback); and
- v. where a building cannot be built on a lot

There would not be setbacks where:

- there are extreme grades
- when the land use involves potential petroleum products next to the river; and/or
- the flood plain exceeds the setback

Staff answered questions and concerns of the Board.

The Halifax Watershed Advisory Board advised that they require 30 metres of setback.

After much discussion, it was decided by the Board that the requirements for setbacks remain the same. Dr. Stobo will draft the official recommendation for next month.

Attachment G
Discussion of Floodplain Issues

The floodplains in the Sackville MPS and Sackville Drive SPS date from 1988. They have been considered inaccurate since their implementation in 1994. Since this time, newer floodplains (1998) have been produced, in conjunction with the Province of Nova Scotia, which are considered more accurate. The newer floodplains have not been implemented in planning documents. Prior to the Regional Planning process, a process was started to include the latest floodplains in the Sackville and Sackville Drive planning documents, however the process was discontinued as it was anticipated the Regional Planning process may implement the revised floodplains.

The 1998 floodplains affect select properties within the Sackville Drive SPS. The impacts vary, but in the situation identified, the new floodplains were two-thirds less than the existing floodplains. Further the existing floodplain (1988) actually exceed the watercourse setback requirements. The result is that there is a restriction on development which is based on inaccurate floodplains (1988) .

Recently, the Sackville and Little Sackville River have been mapped with a radar system, known as LIDAR. This new mapping may allow for more detailed floodplain mapping to be produced. Staff have not determined the impact of this mapping on the existing or future floodplains in this area and as a result not taken any specific action to remedy this identified situation.

A resolution to this matter would involve an MPS amendment and may require further update of the 1998 floodplain data. Staff wish to identify that there is not an active case which would implement new floodplains in this area.