


HALIFAX REGIONAL COUNCIL
MARCH 5, 2001

TO: Mayor Kelly and Members of Halifax Regional Council

FROM: 
Robert P. Harvey, Chair
North West Community Council

DATE: March 1, 2002

SUBJECT: CASE 00404 - Application by Steve Fairbairn to Amend the Municipal Planning Strategy for Beaver Bank, Hammonds Plains and Upper Sackville to Allow a Commercial Entertainment Use at 991 Beaverbank Windsor Junction Cross Road

ORIGIN:

North West Community Council meeting held on February 28, 2002.

RECOMMENDATION:

It is recommended that:

1. Regional Council give First Reading to the proposed amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law as contained in Attachment "A" of the Staff Report dated January 7, 2002 and schedule a Public Hearing for March 26, 2002.
2. Regional Council adopt the amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law as contained in Attachment "A" of the Staff Report dated January 7, 2002.
3. Regional Council and North West Community Council move Notice of Motion for the proposed Development Agreement, attached as Attachment "B" of the Staff Report dated January 7, 2002 to permit a commercial entertainment use, and schedule a Joint Public Hearing on March 26, 2002;

DISCUSSION:

Contingent upon the adoption by Regional Council of the above Municipal Planning Strategy and Land Use By-law amendments and becoming effective under the Municipal Government Act, North West Community Council will consider:

- (a) Approval of the proposed Development Agreement (staff will bring this matter back to Community Council for a decision at the appropriate time); and
- (b) Require that the Development Agreement be signed within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

ATTACHMENT:

Staff Report dated January 7, 2002

Report from North West Planning Advisory Committee dated February 6, 2002

PLEASE RETAIN REPORT FOR PUBLIC HEARING

North West Community Council
February 28, 2002

TO: North West Community Council

SUBMITTED BY: Gail Harnish
Gail Harnish, Admin\PAC Coordinator

DATE: February 14, 2002

SUBJECT: Case 00404 - Application by Steve Fairbairn to amend the Municipal Planning Strategy for Beaver Bank, Hammonds Plains and Upper Sackville to allow a Commercial Entertainment Use at 991 Beaver Bank Windsor Junction Cross Road

ORIGIN:

North West Planning Advisory Committee - February 6, 2002

RECOMMENDATION:

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

1. Recommend that Regional Council give First Reading to the proposed amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law, as contained in Attachment "A" of the staff report dated January 7, 2002, and schedule a public hearing;
2. Recommend that Regional Council adopt the amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law, as contained in Attachment "A" of the staff report dated January 7, 2002;
3. Move Notice of Motion for the proposed development agreement, attached as Attachment "B" of the staff report dated January 7, 2002, to permit a commercial entertainment use, and to schedule a joint public hearing with Regional Council;
4. Contingent upon the adoption by Regional Council of the above Municipal Planning Strategy and Land Use By-law amendments and becoming effective under the Municipal Government Act:
 - (a) approve the proposed development agreement (staff will bring this matter back to Community Council for a decision at the appropriate time); and

- (b) require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

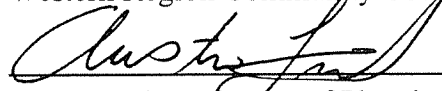
ATTACHMENTS:

Staff report dated January 7, 2002


**Heritage Advisory Committee
January 23, 2002**

TO: North West Planning Advisory Committee
Heritage Advisory Committee
Western Region Community Council

SUBMITTED BY:



Paul Dunphy, Director of Planning and Development Services



Andrew Bone, Planner, Planning & Development Services

DATE: January 7, 2002

SUBJECT: **Case 00404: Application by Steve Fairbairn to amend the Municipal Planning Strategy for Beaver Bank, Hammonds Plains and Upper Sackville to allow a Commercial Entertainment use at 991 Beaver Bank Windsor Junction Cross Road.**

ORIGIN

- May 2001 - A development agreement for a miniature golf facility was approved by North West Community Council.
- July 2001 - Occupancy permit issued for licensed restaurant.
- October 15, 2001- An application was made to amend the M.P.S. for Beaver Bank, Hammonds Plains and Upper Sackville and existing Development Agreement by Steve Fairbairn and Alison Malley to allow for the service of liquor without food at 991 Beaver Bank Windsor Junction Cross Road.
- November 6, 2001- A staff report of October 23, 2001 was presented to Regional Council, Regional Council's motion was to initiate a MPS amendment process.
- November 28, 2001- A public participation meeting was held by North West Planning Advisory Committee.

RECOMMENDATION

It is recommended that North West Community Council and Western Community Council:

1. Recommend that Regional Council give First Reading to the proposed amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law as contained in Attachment "A" and schedule a public hearing;

2. Recommend that Regional Council adopt the amendments to the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law as contained in Attachment "A"; and,

It is recommended that North West Community Council:

1. Move Notice of Motion for the proposed development agreement, attached as Attachment "B" to permit a commercial entertainment use, and to schedule a joint public hearing with Regional Council;
2. Contingent upon the adoption by Regional Council of the above Municipal Planning Strategy and Land Use By-law amendments and becoming effective under the Municipal Government Act:
 - a) approve the proposed development agreement (Staff will bring this matter back to Council for a decision at the appropriate time); and,
 - b) require that the development agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Subject Property: As shown on Map #1, the subject property (Lot K) is located at 991 Beaver Bank Windsor Junction Cross Road. The trapezoidal shaped lot contains a total area of 1.12 acres with approximately 120 feet of street frontage on Beaver Bank Road and 280 feet of frontage on Beaver Bank Windsor Junction Cross Road. The property extends approximately 280 feet south east from Beaver Bank Road and approximately 280 feet north east from the Beaver Bank Windsor Junction Cross Road. The property contains an existing two and half story building which is the only municipally registered heritage property in the Beaver Bank, Hammonds Plains and Upper Sackville plan area

Existing Development Agreement and Land Uses: The property operates under the business name "The Putting Green" and contains an 18 hole miniature golf course and a full service licensed restaurant. These land uses were established in July, 2001. The miniature golf course is permitted by an existing development agreement which was approved by North West Regional Council in May 2001. The restaurant is permitted by the existing zone, MU-1 (Mixed Use 1).

Proposal: The applicant has requested that the MPS be amended to allow the service of liquor without food at 991 Beaver Bank Windsor Junction Cross Road, Lower Sackville. In this plan area

this type of use is defined as Commercial Entertainment. Commercial Entertainment is described in the Land Use By-Law as any building or part of a building which is used for commercial entertainment, amusement or relaxation and, without limiting the generality of the foregoing may include a tavern, nightclub or other beverage room, an arcade, bingo hall, dance hall, a pool or billiard hall, or bowling alley, but shall not include theatres or cinemas. The Nova Scotia Alcohol and Gaming Authority (N.S.A.G.A.) would define the proposed use as a Lounge. For the sake of clarity, this report will refer to the proposed land use as a lounge.

The proposal is to allow a lounge within the existing building which is presently being used as a licensed restaurant. The developer wishes to establish a neighbourhood "English style" pub where the community is welcome to stop by and socialize. This proposal entails:

- combined seating of 78 for the restaurant and lounge
 - 45 on the first floor (existing restaurant area)
 - 21 on the second floor
 - 12 on an external patio).
- Limited hours of operation
- No live entertainment except as allowed by the development agreement.
- No video lottery terminals.

The N.S.A.G.A. requires that a lounge license be associated with a licensed restaurant. They require that a minimum of 25 percent of the lounge be dedicated to the restaurant where food purchase is required for the service of liquor. The restaurant must operate for a minimum of five hours a day. After 9 p.m. the restaurant may be converted to a lounge if permitted by the municipality. In this instance the proposal is to allow for the conversion to lounge after 9p.m. subject to the provisions of the proposed development agreement.

Proposed Policy: This proposed plan amendment would be a policy specific to municipally registered heritage properties which could grant owners of these properties broad land use rights through the development agreement process. This policy is intended to promote the retention of heritage properties.

On November 6, 2001, Regional Council directed staff to begin the process of reviewing the possibility of inserting Heritage Policy into the Beaver Bank, Hammonds Plains and Upper Sackville Plan which would allow Council to consider uses not permitted by the zone for a municipally registered heritage property subject to the provisions of a development agreement.

This proposed amendment goes beyond the scope of the original application made by Alison Malley and Steve Fairbairn and has implications for the entire plan area and thus Regional Council agreed to waive the fees associated with this application.

Public Participation: On November 28, 2001, a public participation meeting (see Attachment "C") was held to discuss the proposal for amending plan policy to allow for uses not permitted by the zone within a municipally registered heritage property by development agreement, and specifically as proposed, the operation of a lounge on the subject property.

Various concerns related to the specific proposal including available parking, safety of the adjacent intersection, hours of operation, distance to adjacent properties, were expressed at the meeting. Most citizens generally supported the proposed plan amendment. Concerns were not specifically related to the proposed policy amendment but more so the implementation of the policy through the development agreement process.

Proposed MPS Policies:

Halifax and Dartmouth plan areas currently have heritage policy in their planning strategies. Specific policies in these plan areas give the owners of municipally registered heritage properties special land use rights in return for maintaining the properties. Heritage properties may have higher maintenance costs and face challenges when being upgraded to meet today's standards for electrical, plumbing and structural code. In this instance, the Plan for Beaver Bank, Hammonds Plains and Upper Sackville currently does not have any policy related to heritage or registered heritage properties. Because of the existence of policy in other plan areas, staff felt it was appropriate to consider special policies for municipally registered heritage properties in this plan area. As the Downtown Dartmouth Plan policy was the most up to date, it is used as the basis for developing the policy for this plan area. Some revisions have been made to reflect the more rural nature of the plan area.

The provision of a policy giving additional land use rights to owners of municipally registered heritage properties can provide many options which may allow a registered heritage property to become revitalized by a new use. The policy has been drafted to ensure that the proposed use is compatible with the adjacent land uses and that heritage properties are not negatively affected by the uses located on them.

Attachment "A" sets out proposed policies to enable consideration of uses not permitted in the applied zone within a municipally registered heritage property. In general, the policy addresses the following key areas which council shall review when considering an application:

- suitability of buildings on the heritage property for conversion.
- protection of the building by maintaining it's registration as a heritage property.
- consistency with HRM's "Building Conservation Standards"

- compatibility with existing uses on the property and surrounding land uses.
- minimizing impacts due to traffic, noise, hours of operation, parking, etc.
- placement and design of parking, lighting, signs and landscaping is consistent with the character of building.

Staff believe that the proposed policy in conjunction with the implementation policies of the plan provide Council suitable measures to ensure the retention of municipally registered heritage properties and the protection of surrounding neighbourhoods while allowing owners of such properties additional land use rights.

Development Agreement Analysis: The following is an analysis of the proposed development agreement (attachment B) pursuant to proposed Policy P-125a, and existing Implementation Policy P-137 (see Attachment F of this report) of the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy.

P-125a **Council shall encourage the reuse, restoration and retention of municipally registered heritage properties. One means through which this will be encouraged is by allowing for an increase in development rights for municipally registered heritage properties. For municipally registered heritage properties Council may consider land uses which are not otherwise permitted in the existing zone by development agreement. In conjunction with such development agreements Council may also consider modifying the requirements of the Land Use By-Law. This policy shall be the primary policy for the review of redevelopment of heritage properties in the plan area where the proposed development is not permitted by the zone. In considering any requests for such land uses, the following criteria shall be addressed:**

- a) **that the building is suitable for conversion, in terms of building size and the nature of the proposed use;**

The building in it's current form would require very little renovation to accommodate the new land use, a lounge. The building was recently converted to a restaurant on the first floor. The second floor is primarily vacant with the exception of a small office/retail operation related to the miniature golf course. Some Building Code upgrades would be required if the new use is established as proposed on the second floor (approximately 21 seats). The internal layout of the building is generally conducive to the establishment of the proposed land use and no exterior alterations are proposed.

- b) **that adequate measures are proposed to ensure the continued protection of the building as a municipally registered heritage property, and that renovations and additions to the building are consistent with the intent of HRM's "Heritage Building Conservation Standards" as revised from time to time;**

This policy requires that the property is a Municipally Registered Heritage Property in order to be allowed the additional land use rights, the operation of a lounge. The deregistration or demolition of the property would result in the forfeiting of these additional rights under the development agreement. Additionally council has the right under the development agreement to discharge the amending agreement if the property is no longer a registered heritage property.

No external renovations or additions are planned at this time by the developer to allow the proposed land use, therefore detailed evaluation under HRM's Heritage Building Conservation Standards is not required. All exterior renovations are required to be consistent with HRM's "Heritage Building Conservation Standards" as per the requirements of designation as a heritage property.

- c) **that the proposed use(s) of the property are compatible with other uses on the property and surrounding land uses.**

The proposed land use is compatible with the existing restaurant and the adjacent miniature golf course. The surrounding land is primarily undeveloped or developed for residential uses. There is also some wood storage in association with the Barrett Lumber mill.

In general, the service of liquor without food purchase has traditionally been a concern in the community due to issues such as noise, traffic, lighting and maintenance. Staff believes with the proposed controls placed on the proposed land use, any incompatibilities are reduced to an acceptable level. A full discussion of these controls can be found below in the discussion of Policy P-137(see Attachment F).

- d) **that all additions including wheelchair ramps, fire escapes and emergency exits shall be designed to be as compatible as possible with the exterior of the building;**

There are no proposed additions to the building. All ramps, fire escapes and emergency exits are existing.

- e) **that adequate measures are proposed to minimize impacts on abutting properties and the streetscape as a whole as a result of traffic generation, noise, hours of operation, parking requirements, and such other land use impacts as may be generated as part of a development;**

A full discussion of these measures can be found under the review of Policy 137 (c) (see Attachment F).

- f) **that the placement and design of parking areas, lighting and signs, and landscaping is in keeping with the heritage character of the building;**

The placement and design of the existing parking area was reviewed by the Heritage Advisory Committee on March 28, 2001 during the review of the development agreement for the miniature golf course. The design was approved at that time and no changes are proposed to the parking area for the lounge. No new landscaping or lighting is being proposed and staff feel measures in place from the existing development agreement are adequate. As per the existing development agreement, the design of all signs must be reviewed by the Heritage Advisory Committee prior to permits being issued for their installation. The amended agreement includes a provision for a temporary sign which may be located in a location approved by the Development Officer and the Planner for the Heritage Property Program..

- g) **where applicable, the proposal should include an assessment and strategy to protect significant on-site archeological resources which may be impacted by the proposed development.**

There are no known archeological resources on the site and thus an assessment and strategy to protect such resources is not required.

- h) **the provisions of Policy P-137.**

See Attachment F.

Summary (MPS Policy)

Staff had assessed the proposed development in relation to all applicable existing and proposed policies of the Beaver Bank, Hammonds Plains and Upper Sackville MPS. A development agreement has been prepared which satisfactorily addresses existing and proposed MPS policy intent and all relevant operational aspects of the project. As such, staff recommends that North West Community Council approve the proposed development agreement (Attachment B).

BUDGET IMPLICATIONS

There are no known budget implications.

MULTI-YEAR FINANCIAL IMPLICATIONS

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

- (a) Community Council could recommend that the plan and by-law amendments or the terms of the development agreement, as presently drafted, be amended. If this option is chosen, specific direction should be given regarding the amendments sought. If the amendments are substantial, it may be necessary to defer forwarding this application to Regional Council in order to allow for further negotiations between staff and the proponent. If, however, only minor amendments are sought, it may be possible to forward the application with a commitment from staff and the applicant that the matters will be addressed in a supplementary report to Regional Council. If this application proceeds to public hearing in its present form and the plan and by-law amendments are approved, nothing would preclude the Community Council from seeking amendments to the development agreement after hearing from all interested parties.
- (b) Community Council could recommend that Regional Council reject the plan and by-law amendments which would enable this proposal to be considered. Regional Council is under no obligation to consider a request to amend the MPS and a decision not to amend the MPS can not be appealed. If this alternative is approved by Regional Council, no further consideration could be given to the development agreement application in its' present form or as otherwise modified.

ATTACHMENTS

Map 1: Generalized Future Land Use

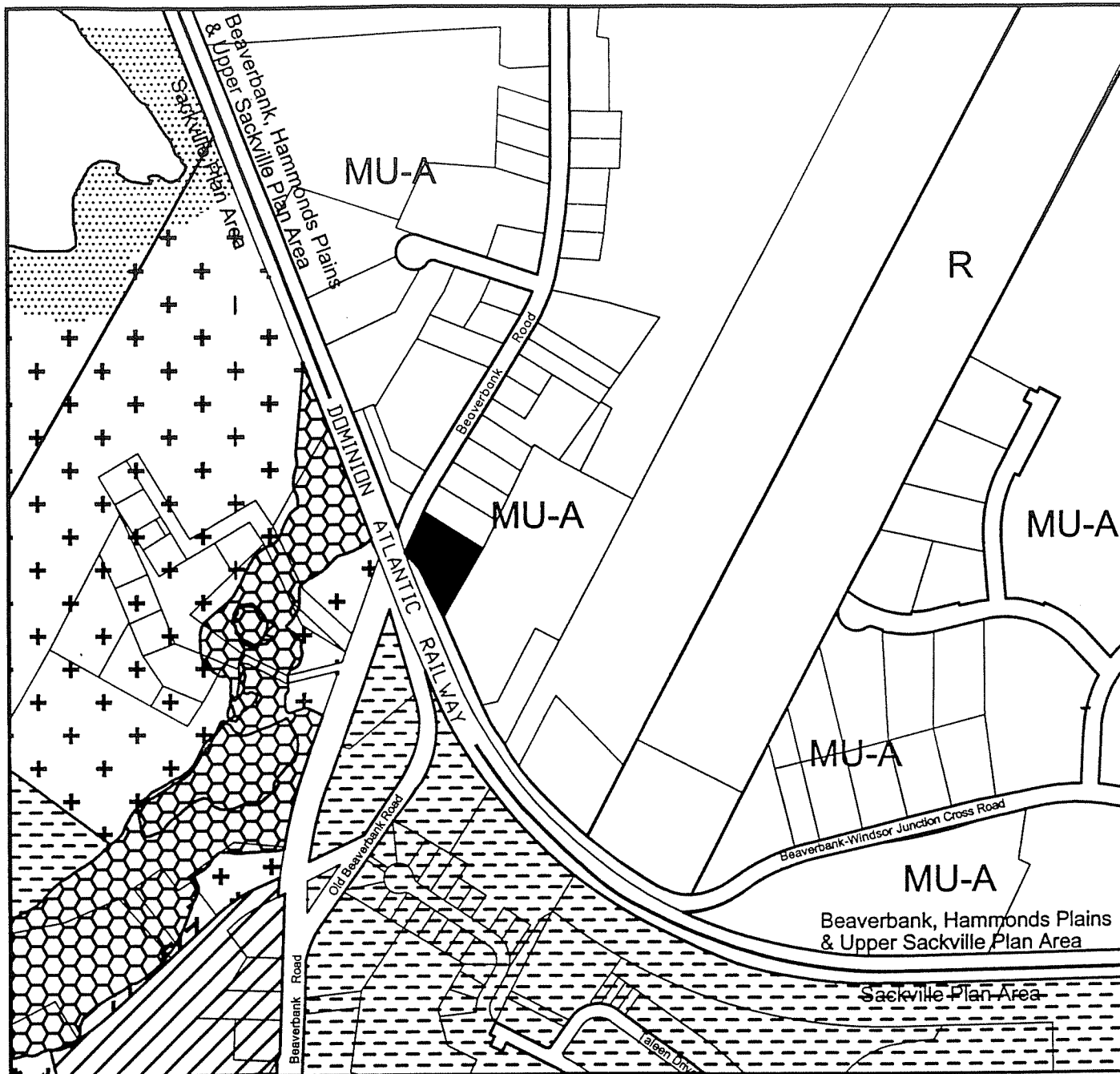
Map 2: Zoning

- | | |
|---------------|--|
| Attachment A: | Proposed amendments to the Bedford Municipal Planning Strategy and Land Use By-Law |
| Attachment B: | Proposed amendment to the existing Development Agreement |
| Attachment C: | Minutes of, November 28, 2001, public meeting |
| Attachment D: | Existing Development Agreement |

Attachment E: Alteration Guidelines, Heritage Property Program
Attachment F: Review of Policy P-137

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: Andrew Bone, Planner I, 869-4226



Map 1: Generalized Future Land Use Subject Property
 991 Beaverbank-Windsor
 Junction Cross Road



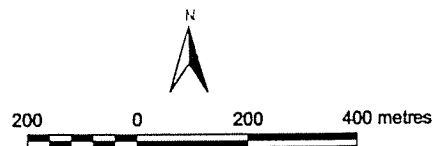
SACKVILLE PLAN AREA

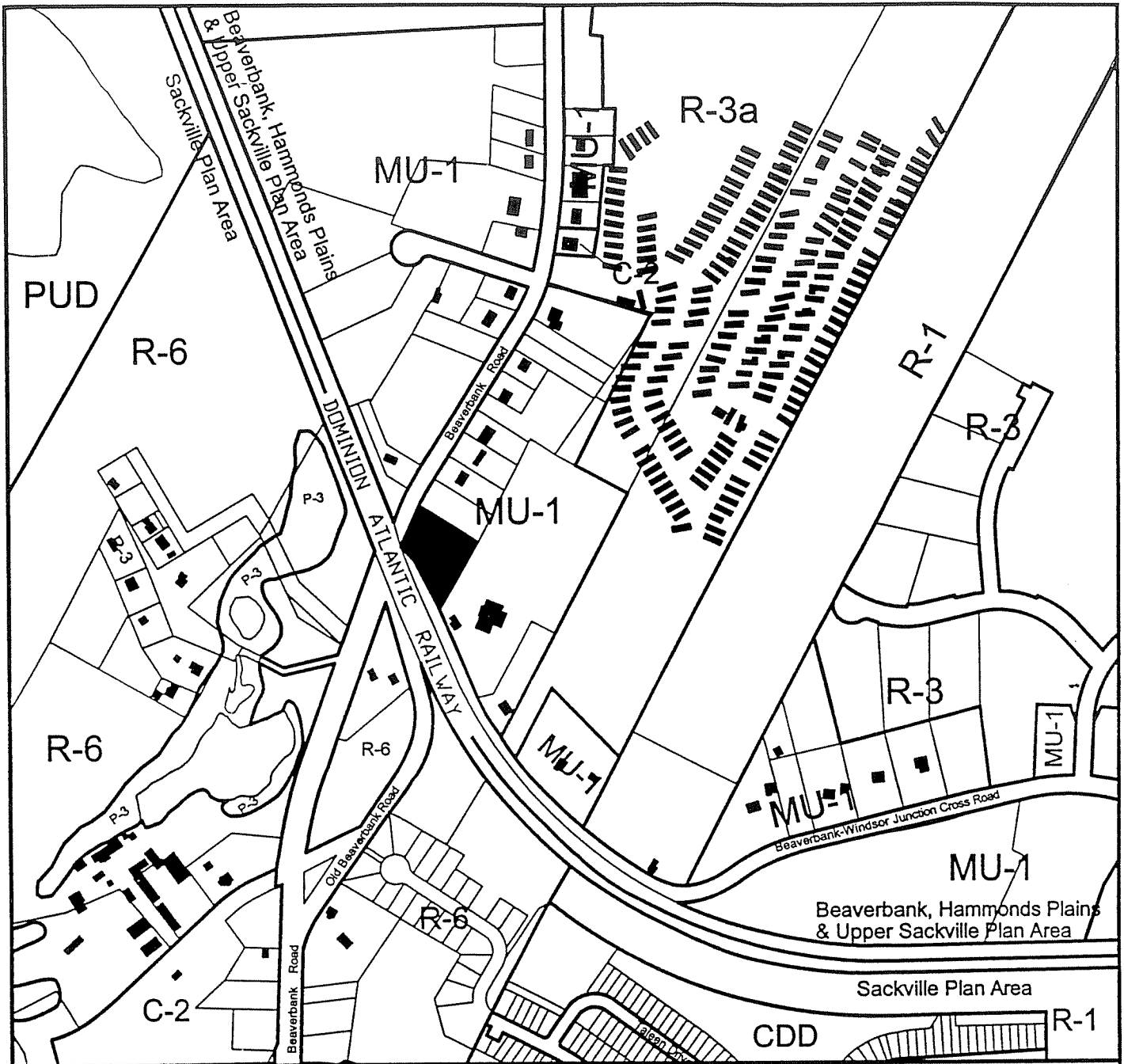
BEAVERBANK, HAMMONDS PLAINS &
 UPPER SACKVILLE PLAN AREA

- Urban Residential Designation
- Rural Residential Designation
- Floodplain Designation
- Community Commercial Designation
- Community Facility Designation


- R Residential Designation
- MU-A Mixed Use A Designation

Note: HRM does not guarantee the accuracy of any representation on this plan.





Map 2: Zoning
991 Beaverbank-Windsor
Junction Cross Road

 Subject Property



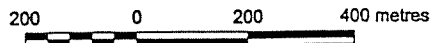
SACKVILLE PLAN AREA

- R-1 Single Unit Dwelling Zone
- R-3 Mobile Dwelling Zone
- R-3a Mobile Home Park Zone
- C-2 General Business Zone
- MU-1 Mixed Use 1 Zone

BEAVERBANK, HAMMONDS PLAINS &
UPPER SACKVILLE PLAN AREA

- R-1 Single Unit Dwelling Zone
- R-6 Rural Residential Zone
- C-2 General Business Zone
- CDD Comprehensive Development District
- P-3 Floodplain Zone
- PUD Planned Unit Development

Note: HRM does not guarantee the accuracy of any representation on this plan.



Attachment A
Proposed amendments to the Beaver Bank, Hammonds Plains and Upper Sackville
Municipal Planning Strategy and Land Use By-Law

Plan Policies

1. Add a new sub-heading and discussion and policy as listed below in Section III after the Protection Services Section. This portion of Section III of the MPS for Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy reads as follows:

Heritage

Introduction

While heritage means different things to people, it is seen to include not just historic buildings, but also traditional streetscapes, a traditional rural atmosphere based on small scale development, important public views, community culture, and natural history.

The desire to protect what is important, is balanced against the objective of encouraging new development which blends into the community. However, the physical and aesthetic condition of heritage properties is a major concern. Given that preservation of most heritage properties by the public sector is not possible, the responsibility to maintain these properties is in the public domain.

Policies

Heritage Properties

As of January 2002 there is only one registered heritage property in this plan area, the Hallisey Hotel. This property is located at 991 Beaver Bank Windsor Junction Cross Road. Formally used as an inn, church, train station and post office, the property had fallen into disrepair by the late 1990's. The property has been recently acquired and redeveloped into a full service licensed restaurant and miniature golf course putting course.

The registration of individual properties under the provincial Heritage Property Act remains as an important tool in encouraging the retention and rehabilitation of such properties. In conjunction with registration of individual properties, there is a need to develop financial or other appropriate incentives which increase the feasibility of retaining significant properties. Providing for increased re-use opportunities is one means by which this can be accomplished, provided that adjacent and nearby properties are protected from inappropriate uses or building additions or site conditions.

- P-125a Council should encourage the reuse, restoration and retention of municipally registered heritage properties. One means through which this will be encouraged is by allowing for an increase in development rights for municipally registered heritage properties. For municipally registered heritage properties Council may consider land uses which are not otherwise permitted in the existing zone by development agreement. In conjunction with such development agreements Council may also consider modifying the requirements of the Land Use By-Law. This policy shall be the primary policy for the review of redevelopment of heritage properties in the plan area where the proposed development is not permitted by the zone. In considering any requests for such land uses, the following criteria shall be addressed:
- a) that the building is suitable for conversion, in terms of building size and the nature of the proposed use;
 - b) that adequate measures are proposed to ensure the continued protection of the building as a municipally registered heritage property, and that renovations and additions to the building are consistent with the intent of HRM's "Heritage Building Conservation Standards" as revised from time to time;
 - c) that the proposed use(s) of the property are compatible with other uses on the property and surrounding land uses.
 - d) that all additions including wheelchair ramps, fire escapes and emergency exits shall be designed to be as compatible as possible with the exterior of the building;
 - e) that adequate measures are proposed to minimize impacts on abutting properties and the streetscape as a whole as a result of traffic generation, noise, hours of operation, parking requirements, and such other land use impacts as may be generated as part of a development;
 - f) that the placement and design of parking areas, lighting and signs, and landscaping is in keeping with the heritage character of the building;
 - g) where applicable, the proposal should include an assessment and strategy to protect significant on-site archeological resources which may be impacted by the proposed development.
 - h) the provisions of Policy P-137.

2. Amend Policy 135 of the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy by adding section g) which reads:
- g) Within any Designation**
- a) within the property of a municipally registered heritage property, uses not otherwise permitted in the zone according to Policy P-125a.**

Land Use By-law Amendments

2. Amend Part 3.6(a) of the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law by adding the following after it with the following which reads:
- (a) Notwithstanding Section 3.5 above, certain uses which may not be uses permitted in any zone may be considered in accordance with the Municipal Government Act. As provided for by Policies P-18, P-19, P-27, P-30, P-31, P-39, P-41, P-41a-h, P-44, P-50, P-56, P-77, P-125a and P-131 of the Municipal Planning Strategy for Beaver Bank, Hammonds Plains and Upper Sackville, such uses are as follows:
- Senior citizen multiple unit dwellings in the Residential Designation
Model homes and associated office uses in the Residential Designation
Mobile home parks and expansion of existing mobile home parks in the Mixed Use A, B and C Designations and the Upper Hammonds Plains Community Designation
Commercial recreation uses and expansion of existing commercial recreation uses in the Mixed Use A, B and C Designations and the Rural Resource Designation
Salvage Yards in the Mixed Use C Designation
Extractive facilities in the Mixed Use A, B and C Designations and the Rural Resource Designation
Buildings specified in the Floodplain Designation
Uses permitted by the zone on the abutting property within the abutting designation
Two Unit, Townhouse and Multiple Dwelling Uses within the Residential, Mixed Use B and Residential Resource Designations on the lands known as Blocks A through D of the Glen Arbour Integrated Golf Course and Residential Community.
Any use within a municipally registered heritage property.
- h) Delete Part 3.6(c) of the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-Law.

Attachment B

THIS AMENDING AGREEMENT made this ___ day of _____, 2002,
BETWEEN:

ALISON MALLEY and THOMAS MALLEY
hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the ("Municipality"))

OF THE SECOND PART

WHEREAS the Developer and Halifax Regional Municipality have previously entered into an Agreement to permit the development of a miniature golf course and associated uses on the subject property generally described as Lot K and more particularly described in Schedule "A", the said Agreement being recorded at the Registry of Deeds at Halifax County in Book 6790, beginning at Page 147 (hereinafter called the "Existing Agreement").

AND WHEREAS the Developer has requested an amendment to the existing Agreement to allow for the service of liquor without food purchase.

AND WHEREAS the North West Community Council of Halifax Regional Municipality at its meeting on ___ day of _____ 2002, approved the requested amendment.

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the parties agree as follows:

1. Clause 2.1 of the Existing Agreement be amended to add the following at the end of Section (b).
 - the service of liquor without food purchase (lounge) subject to Section 2.15 and 2.16 of this agreement.

2. Clause 2.7 (j) of the Existing Agreement be amended by adding the following after “(Schedule “E”)”
 - or as required in updated Alteration Guidelines for the Heritage Property Program.

3. Clause 2.7 of the Existing Agreement be amended to add the following at the end of Section (j).
 - k) Notwithstanding section 2.7 (a) a temporary sign may be permitted on the property in a location approved by the Development Officer and the Planner for the Heritage Property Program. The design of such a sign shall meet the Heritage Guidelines (Schedule E) or as updated from time to time and be reviewed by the Heritage Advisory Committee prior to a permit being issued. The temporary sign shall only be permitted for one calendar year

4. Clause 2.11 of the Existing Agreement be amended to add the following at the end of Section (a).
 - (b) The service of liquor without food shall be permitted to operate subject to the hours stated in Section 2.15 and 2.16.

5. Clause 2.15 be added to the Existing Agreement immediately after Clause 2.14 as follows:
 - 2.15 The service of liquor without food purchase (lounge) within the main building known as “Hallisey Hotel” subject to the following:
 - a) The hours of operation shall not exceed 10 a.m. to 12 a.m. (midnight).
 - b) No video lottery terminals or gaming devices shall be permitted.
 - c) Live entertainment shall not be permitted with the exception of unamplified acoustic music, children’s entertainment such as magicians and clowns and spoken word.
 - d) There shall be no operation of sound amplification devices other than in conformance with By-law N-200 or any other noise related by-law.
 - e) Approval of the Nova Scotia Alcohol and Gaming Authority.
 - f) Section 4.8 of the amended development agreement.

- g) The maximum seating for the entire property shall not exceed 78 seats including the restaurant.
 - h) Conversion of any component of the restaurant which is inside the building to a lounge may take place after 9 p.m.
6. Clause 2.16 be added to the Existing Agreement immediately after Clause 2.15 as follows:
- 2.16 The service of liquor without food purchase (lounge) is permitted on any outside verandah, patio and deck adjacent to the main building known as “Hallisey Hotel” subject to the following:
- a) The hours of operation shall not exceed 10 a.m. to 10 p.m.
 - b) Live entertainment shall not be permitted with the exception of unamplified acoustic music, children’s entertainment such as magicians and clowns and spoken word..
 - c) No operation of sound amplification devices shall be permitted.
 - d) Lighting used for the patios or decks must be extinguished by 10 p.m. except those required for safety and security.
 - e) Approval of the Nova Scotia Alcohol and Gaming Authority.
 - f) Section 4.8 of the amended development agreement.
 - g) the maximum seating for the entire property shall not exceed 78 seats including the restaurant.
7. Clause 4.8, 4.8.1 and 4.8.2 be added to the Existing Agreement immediately after Clause 4.7as follows:
- 4.8 Council may discharge all portions of this agreement which grant land use rights for the service of liquor without food without the consent of the developer, if the municipal heritage registration for this property is removed and any one or more of the following conditions exist or apply:
- a) the developer has demolished the building known as “Hallisey Hotel”.
 - b) seventy-five percent of the building known as “Hallisey Hotel” is destroyed by fire or any other cause and the building is rebuilt without approvals required under the Heritage Property Act.
 - c) alterations are made to the property without approvals required under the Heritage Property Act.
 - d) the developer has requested the municipal heritage registration be removed and Council has approved such a request.
 - e) a violation of any portion of this agreement which applies to the service of liquor without food.

- 4.8.1 Section 4.8 specifically references portions of Section 2.1b), Section 2.11b), 2.15 and 2.16 of this agreement.
- 4.8.2 Further, a discharge of portions of this agreement under Section 4.8 will require that the property shall comply with the Land Use Bylaw.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written.

)	
)	
Signed, sealed and delivered)	
in the presence of)	<u>ALISON MALLEY</u>
)	
Per: _____)	_____
)	
)	<u>THOMAS MALLEY</u>
Per: _____)	_____
)	
Sealed, Delivered and Attested)	Halifax Regional Municipality
by the proper signing officers of)	
Halifax Regional Municipality)	
duly authorized on that behalf)	per: _____
in the presence of)	<u>MAYOR</u>
)	
)	
_____)	per: _____
)	<u>MUNICIPAL CLERK</u>

Attachment C

NORTH WEST PLANNING ADVISORY COMMITTEE

PUBLIC MEETING

NOVEMBER 28, 2001

THOSE PRESENT: Ann Merritt, Acting Chair
George Murphy
Gloria Lowther
Jan Gerrow

Councillor Johns

ALSO PRESENT: Andrew Bone, Planner
Sandra Shute, Assistant Municipal Clerk

12 members of the public

Regrets: Delphis Roy

1. **CALL TO ORDER**

The meeting was called to order at 7:00 p.m. in the Cafeteria at Harold T. Barrett Junior High School, Beaver Bank.

Ann Merritt, Acting Chair welcomed those present and introduced the members of the Planning Advisory Committee.

2. **CASE 00404 - REQUEST TO AMEND THE BEAVER BANK, HAMMONDS PLAINS AND UPPER SACKVILLE MUNICIPAL PLANNING STRATEGY AND LAND USE BY-LAW TO PERMIT A COMMERCIAL ENTERTAINMENT USE AT 991 BEAVER BANK WINDSOR JUNCTION CROSS ROAD**

The following reports were provided to the Committee:

- Staff Report dated October 23, 2001 to Heritage Advisory Committee
- Staff Report dated October 30, 2001 to Regional Council from Heritage Advisory Committee

Presentation by Staff

Andrew Bone, Planner provided an overview of the application with the aid of overheads. During the course of his presentation, he made the following points:

- The property is currently used as a miniature golf course, full service restaurant and is a registered heritage property.
- The request is to allow the service of liquor without food.
- Special development rights are allowed in Halifax and Dartmouth plan areas for heritage properties to allow uses that are a greater economic value in order to encourage maintenance and upgrades to registered heritage properties.
- Staff looked at options of reviewing the commercial entertainment policy to see if it is appropriate to move commercial entertainment uses off Sackville Drive, whether it is appropriate to amend the policy to allow the service of liquor for commercial recreation uses or to create a site specific policy. The option to give special rights to a heritage property made the most sense.
- He reviewed a rough draft of the proposed policy which may be considered through the Development Agreement process.
- He reviewed what is being proposed on the site.
- There will be no video lottery terminals.
- Alcohol and Gaming Authority has indicated they will accommodate anything the Municipality puts in a Development Agreement, i.e. restricted hours, restrictions of where in the building liquor is served and restrictions of video lottery terminals.
- Based on the input received from the public tonight, a Staff Report will be prepared.
- Pictures of the inside of the dwelling were circulated.

Questions from Committee Members

George Murphy asked if the sale of liquor could take place outside the building. In response, Mr. Bone advised that they would like to serve liquor on the deck. Because there are adjacent residential properties, staff felt that the hours for the exterior operation should be restricted, probably to 10 p.m. After that, the sale of liquor would be internal.

Ann Merritt asked when the kitchen would shut down. In response, Mr. Bone advised that the miniature golf course is under Development Agreement which means that the land use would end at 10 p.m. There is a small retail operation selling golf balls, etc. The restaurant must meet the current Land Use By-law and the requirements of the Alcohol and Gaming Authority for the liquor licence for the restaurant.

Ann Merritt asked if the operation, outside of the golf component, would be open all year. In response, Mr. Fairbairn advised that the putting green was playable all year, depending on the weather, and the rest of the operation was open all winter.

George Murphy said it seemed there was a fair distance between the pub and other houses. In response, Mr. Bone advised that there is a vacant lot to the north and several vacant properties across the street. In the Development Agreement for the miniature golf course, there is a clause indicating that if the property next door is developed residentially, a privacy fence would have to be provided. There is a small residence associated with the church on the other side. He provided additional information from a site plan.

Councillor Johns pointed out that the golf course is not laid out like a typical miniature golf course people are used to. It is laid out like practice putting greens, right on the ground, with no shooting through the boat or windmill.

Mr. Fairbairn then provided letters in support of his application.

Mr. Bone added that with the original application there was also a Petition in support of the proposal that had over 200 names.

Questions/Comments from the Public

Ms. Shirley Campbell stated she was in favour of a liquor licence; it would not harm anybody. She understood that Lost Creek Golf Course had a liquor licence and asked what was the difference between there and the establishment in question.

In response, Mr. Bone advised that golf clubs have traditionally been permitted a special premises licence to allow the service of liquor where the sale of liquor is not one of the primary means of business, and seasonal.

Mr. David Barrett, 2 Maplewood Court raised the following points:

- The operation to date has been an asset to Beaver Bank.
- Safety of the corner.
- If approval is granted and new owners or management take over at some point in the future, they might not treat the property the same way. He gave as examples Woodbine Trailer Park and Downsview Motel.
- Possibility of rowdiness.
- Hours of operation because it is a residential area.
- Reservations with the serving of liquor without meals.

- He had no problem with the operation as it is now. They should be allowed to make it viable.

Ms. Cheryl Erickson raised the following points:

- She works at The Putting Green. It is a nice place for the locals to come and have a drink and visit. It is similar to an English pub. Staff are conscientious about drunk drivers.
- Some people come in for a drink and are not hungry. They just want to meet with people.
- By not allowing it, it will mean that people would go to Sackville Drive.
- There will not be any loud music nor dancing.
- There is no room for VLTs.

George Murphy stated he did not see Beaverbank Road becoming four lane; there would be a bypass sometime in the future. There is a sidewalk on one side but there is a large residential community with a lot of people within walking distance of The Putting Green.

Mr. Steve Fairbairn, The Putting Green, the applicant, raised the following points:

- It would be a community meeting place where people of all ages can come and chat if they do not want a meal.
- He understood fears about hours of operation, possible rowdiness, restrictions on the property but those issues would be addressed through an amendment to the existing Development Agreement.
- There will be no video lottery terminals.
- There would be restrictions on the type of entertainment allowed.
- He would be happy to put in a restriction that there will be no DJ or disco.
- Even if management were to change, the restrictions would be cast in stone.
- He acknowledged the house was not in a great location as far as traffic flow is concerned.
- He would like to replace windows and take the plastic siding off and replace the original shingles but this would cost more because it is a heritage property. It would be necessary to remain viable in order to do these things.
- He provided historical background on the property - traditionally a community meeting place.

Mr. David Barrett asked if someone could buy two or three beers just before midnight and then sit and drink them. In response, Mr. Bone stated the last time is the time you close your doors, not when you serve the last drink.

Ann Merritt added there could be a "last call" time included. Anybody caught serving liquor after closing time would be in trouble with the Liquor Licencing Board in any case.

Mr. Richard Morehouse said he wanted to make sure there were licensing laws that would take over.

Mr. Fairbairn said he would like to have the applicable hours written into the agreement.

Mr. Bone advised that the Liquor Licencing Board allows an unrestricted licence to be open until 2 a.m. He talked to the Manager of the Alcohol and Gaming Authority. Whatever restrictions the Municipality places within the Development Agreement will be conditions of the liquor licence. If a change is requested for extension of hours, it would have to come back to Community Council and the Heritage Advisory Committee. With a heritage property, there is a significant amount of red tape. This is the only registered heritage property in the Beaver Bank/Upper Sackville Plan.

Ms. Sherry Best raised the following points:

- Having a neighbourhood pub would not be any different from having people over to play cards.
- She liked the idea of being able to have a beer and walk home afterwards.
- There was no room for a band.
- She did not understand why there were stumbling blocks being put up.

Councillor Johns stated if there are new owners there should be restrictions for whoever takes over the property. Things should be done right now for future reference.

Ann Merritt pointed out that it is not allowed by right. There is the process to allow public input. A Development Agreement should protect the people who live in the area and the businessman in the way it is agreed and the way the people supported it. It may seem like a long process but it generally comes out in the end with everybody happy.

Mr. Bone said that in this instance the application needed support from Heritage Advisory Committee and Regional Council.

Councillor Johns stated that what Mr. Fairbairn is proposing has to be generally accepted and it seemed that way tonight. There have been other business people who approached him with the thought of doing something similar in the area but the community might not be supportive of something else. Going through a process ensures that the community has input and it could sometimes be a long process.

Mr. Robin Barrett, Maplewood Court raised the following points:

- If he knew that the applicants were going to be running the operation, he would not be worried. He felt it was important to have things in place.
- He gave full support to the applicants for what they have given back to the community and for their efforts.
- It was hard to keep your business going when you are fighting obstacles. He asked for support from Community Council and staff. He noted they did not get the final permit for The Putting Green until they missed most of the season.
- It was essential that there be no VLTs.
- He was not sure about appropriate hours, particularly on week nights, but he leaned towards 11:00 p.m. on week nights and midnight on the weekend.
- If it ever changes hands, there should be something to ensure that someone else cannot put in a sound system that the neighbourhood can hear.
- He saw value in having a local place where people could go to keep the community together.

The Pastor at Peace Lutheran Church, the property next door, pointed out that there could be 60 people but only 25 parking spots and he was concerned that people would use the Church's lot. There have been security issues at the Church and vandalism as well.

Mr. Bone advised that with regard to parking, the Land Use By-law requires less parking for a tavern/lounge than it does for a restaurant. The number of parking spaces required in general across the Plan area was 27 for the number of tables. Staff did a rough calculation to ensure there was adequate parking from a general perspective. They meet the requirements the Municipality has for parking for the proposed type of land use.

Mr. Tom Best advised he supported the proposal and that there are approximately 350 people living within a three-mile radius of which 228 were in support. They feel it would be an asset to the community as a small meeting place, with restrictions.

Mr. Richard Morehouse stated that he was in support and there are five churches in the Beaver Bank area and no pub whereas Sackville has six churches and 12 pubs.

3. CLOSING COMMENTS

Ann Merritt thanked those in attendance for coming and for their comments.

Mr. Bone advised it was anticipated that a Staff Report would be available within two months.

4. ADJOURNMENT

The meeting adjourned at 8:30 p.m.

Sandra M. Shute
Assistant Municipal Clerk

THIS AGREEMENT made this 12 day of June, 2001,

BETWEEN: Attachment D: Existing Development Agreement

ALISON MALLEY and THOMAS MALLEY
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY.

a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

HALIFAX COUNTY REGISTRY OF DEEDS
I certify that this document
was registered as shown here.
Arlene P. Fenn, Registrar

Document # 21847
Book 6780
Page 147

MIN 29 2001
MM DD YY
Time 9:50

167

APPROVED
AS TO FORM
M
Municipal Solicitor

WHEREAS the Developer is the registered owner of certain lands located at 991 Beaver Bank Windsor Junction Cross Road, Beaver Bank and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Property");

AND WHEREAS the Developer has requested the Municipality enter into a development agreement to permit the development of a miniature golf course and associated uses on the subject property generally described as Lot K pursuant to the provisions of the Municipal Government Act and the Beaver Bank, Hammonds Plains and Upper Sackville Municipal Planning Strategy and Land Use By-law;

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on Thursday, April 26, 2001, referenced as Municipal Case Number: 00299;

THEREFORE in consideration of the benefits accrued to each Party from the covenants herein contained, the parties agree as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

- 1.1 The Developer agrees the Property shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.
- 1.2 Except as otherwise provided herein, the development and use of the Property shall comply with the requirements of the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law (hereinafter called the "Land Use By-law"), as may be amended from time to time.
- 1.3 Pursuant to Section 1.2 nothing in this Agreement shall exempt or be taken to exempt the Developer, owner or any other person from complying with the requirements of any by-

law of the Municipality applicable to the Property (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 agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Property.

- 1.4 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Property (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.
- 1.5 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 or owner.
- 1.6 The Developer acknowledges that provisions have been made under this Agreement which require that the developer meet the requirements of the Heritage Bylaw and the Heritage Property Act.
- 1.7 Prior to undertaking any building and site alterations, the developer agrees to provide the Heritage Planner with such plans and information needed for the Heritage Planner to determine compliance with the terms of this agreement.
- 1.8 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 2: USE OF LANDS AND DEVELOPMENT PROVISIONS

2.1 PERMITTED USES

- (a) The Developer shall develop and use the Property in general conformance with the site plans and supporting documents, attached as the following Schedules to this Agreement:

Schedule "A" Legal Description of the Property of Alison and Thomas Malley located at Lot K, 991 Beaver Bank Windsor Junction Cross Road in Beaver Bank (PIM# 40116626)

Schedule "B" Site Plan

Schedule "C" NS Environmental Construction Practice Guidelines

Schedule "D" Plant List

Schedule "E" Alteration Guidelines for Signage on Heritage Properties

- (b) The permitted uses of any area on the Property shall be limited to:

- A miniature golf course, including but not limited to 18 holes of miniature golf and a practice putting green, but excludes a regulation golf course;

- Accessory uses, including but not limited to, an office (contained within the existing building), a parking area and accessory buildings.

MU-1 (Mixed Use 1) Zone uses pursuant to the Land Use By-law.

2.2. MINIATURE GOLF COURSE LAYOUT

2.2.1 MINIATURE GOLF COURSE LOCATION, SIZE AND ORIENTATION

- (a) The miniature golf course shall be located on the site as generally shown on Schedule "B".
- (b) The size of the miniature golf course shall be approximately 150 x 210 feet, as generally shown on Schedule "B".
- c. The Development Officer may consider incidental changes to the location and size provided all other clauses and intents of this agreement are met.

2.2.2 MINIATURE GOLF COURSE DESIGN

- (a) A maximum of 18 holes of miniature golf shall be permitted.
- (b) Each hole of miniature golf shall be comprised of concrete with fixed artificial turf.
- (c) Additional features of each hole shall be comprised of natural materials such as wood or landscaping as per section 2.6.

2.2.3 FUTURE EXPANSION

- (a) An expansion to a maximum of an additional 9 holes of miniature golf may be permitted, if in the opinion of the Development Officer and the Planner, the following conditions have been met:
 - i) There is adequate parking available in accordance with the Land Use By-Law.
 - ii) Additional traffic generation will not significantly impact operating level of service on the adjacent public streets.
 - iii) Privacy fencing or an appropriate landscaped buffer is provided adjacent to residential uses.
 - iv) The design of the expansion is compatible with the existing design and landscaping.
 - v) Lot grading and environmental control plans meet the requirements of the Development Engineer and enforced under Section 2.13 of this agreement.
 - vi) All other clauses and intents of this agreement are met.

2.3 ACCESSORY BUILDING LOCATION, SIZE AND HEIGHT

2.3.1 BUILDING LOCATION

- (a) Accessory building locations shall comply with the requirements of the Land Use By-law .

2.3.2 ACCESSORY BUILDING SIZE

- (a) The combined maximum gross floor area of commercial uses, including accessory buildings, shall not exceed 2,000 square feet.

2.3.3 ACCESSORY BUILDING HEIGHT

- (a) The height of any building(s) shall be a maximum of one storey (approximately 15 feet) measured from the finished grade to the top of the corner.

2.4 ACCESSORY BUILDINGS ARCHITECTURAL CONSIDERATIONS

2.4.1 COLOUR

- (a) The colour of all accessory buildings shall be identical or complimentary to the existing heritage building (main building on the property).

2.4.2 ROOF

- (a) All accessory buildings shall have a roof pitch which is similar to the existing heritage building. Roof shingles shall be of a similar material, style and colour as the existing heritage building (main building on the property).

2.4.2 MATERIALS

- (a) The siding materials for all exterior surfaces of accessory buildings shall be either wood clapboard or cedar shingles.
- (b) All trim work of accessory buildings such as fascia shall be wood.
- (c) All doors and windows of accessory buildings shall be of a design which in the opinion of the Development Officer, in consultation with the Planner, are considered compatible with the architectural design and detailing of the existing heritage building (main building on the property).

2.4.4 VARIATION

- (a) The Development Officer, in consultation with the Planner, may approve minor variations to the architectural design and detailing of any accessory building, provided such variations are considered improvements and are considered compatible with the architectural design and detailing of the existing heritage building (main building on the property).

2.5 PARKING, CIRCULATION AND ACCESS

2.5.1 PARKING AREA

- (a) The parking area shall be sited as generally shown on Schedule "B".

- (b) The parking area shall comply with the requirements of the Land Use By-law requirements or provide a minimum of 18 parking spaces, whichever is greater.
- (c) The parking lot shall be hard surfaced or graveled, and treated to prevent the rising of dust or loose particles when necessary.
- (d) The limits of the parking lot shall be defined by a combination of fencing, landscaping and/or curb.

2.5.2 ACCESS AND EGRESS

- (a) A driveway shall be sited as generally shown on Schedule "B".
- (b) The driveway shall comply with the requirements of the Land Use By-law and Bylaw S-300 Respecting Streets, and any other applicable legislation.
- (c) The original driveway located on Beaver Bank Road shall be closed. If improvements are made to the intersection of Beaver Bank Road and Beaver Bank Windsor Junction Cross Road which improve the sighting distance to acceptable levels from the original driveway which was located on Beaver Bank Road, the Development Engineer may approve a second access/egress location. The Development Engineer may place special conditions on a new access/egress location.

2.6 LANDSCAPING

- (a) All areas of the property not required for miniature golf, buildings, parking, driveways and walkways, as generally shown on Schedule "B", shall be either landscaped or retained in a natural undisturbed state.
- (b) All trees and shrubs used for landscaping shall generally comply with Schedule "D" or as approved by the Development Officer.
- (c) All existing apple trees shall be retained, maintained and replaced(if required). If replacement is required, the Development Officer may allow a new location for the replaced tree.
- (d) Prior to the issuance of any permits subject to Section 2.13, the Developer shall provide an inventory of existing apple trees to the Development Officer. Such an inventory shall be verified by the Development Officer or the Planner.
- (e) All landscaping (listed above) shall be completed within 30 months of the date of registration of this agreement with the Registry of Deeds.
- (f) The developer shall provide a wood six (6) foot privacy fence running along the north east property line (adjacent abutting properties on Beaver Bank Road) from Beaver Bank Road for a distance of approximately 175 feet if the adjacent property is developed for residential uses.
- (g) All fencing shall be constructed of wood. Fencing not required as a privacy fence shall be either of a picket or post and rail design.
- (h) All retaining walls are to be constructed so that all exposed materials are stone or a suitable equivalent.
- (i) All accessory structures, including decorative site furniture such as bridges, arbors, etc., shall be constructed of wood.

2.7 SIGNAGE

- (a) Signs identifying the business shall be limited to:
 - i. One double-faced projected sign may be located on the facade of the heritage building;
 - ii. One ground sign may be permitted on the Property;
 - iii. A changeable letter sign may be permitted where affixed to the ground sign.
- (b) The projected sign shall not exceed 20 square feet per side.
- (c) A ground sign shall not exceed a height of 6 feet from the finished grade.
- (d) A ground sign shall not exceed 24 square feet per side.
- (e) No ground sign shall obstruct the vision of drivers leaving the roadway or driveway, or detract from the visibility or effectiveness of any traffic sign or control device on public streets.
- (f) Signs may be externally illuminated only.
- (g) All signs shall be substantially constructed of natural materials such as wood or an acceptable equivalent
- (h) Mobile signs shall not be permitted.
- (i) All signs shall be reviewed by the Heritage Advisory Committee prior to a permit for a sign being issued.
- (j) All signs shall meet Heritage Guidelines (Schedule "E")

2.8 OUTDOOR LIGHTING

- (a) Lighting shall be directed to driveways, parking areas, building entrances, walkways and common areas and shall be arranged so that substantially all directly emitted light falls within the property line.
- (b) Festooned lighting (patio lanterns), naked bulb lighting and flashing bulb lighting is not permitted.
- (c) All lights not required for safety and security as provided herein, shall be extinguished within one hour after the end of the business day and remain extinguished until one hour prior to the commencement of the next business day. For reasons of security and safety, a maximum of fifty percent (50%) of the total lights may be used for illumination during such a period.
- (d) No lighting may be used in any manner that could interfere with the safe movement of motor vehicles on public streets, including:
 - (a) Any fixed light not designed for roadway illumination that produces incident or reflected light that could be disturbing to the operator of a motor vehicle;
 - (b) Any light that may be confused with or construed as a traffic control device except as authorized by the Traffic Authority.
 - (c) Any blinking, flashing, or changing intensity lights, except for temporary holiday displays.

2.9 OUTDOOR STORAGE AND DISPLAY

- (a) Open storage shall not be permitted, with the exception of mechanical equipment

used for the purpose of maintaining the miniature golf course, and such equipment shall be adequately screened or housed within an accessory building.

- (b) Refuse bin(s) for recycling/sorting shall be required.
- (c) Any commercial/industrial refuse container shall be screened with a combination of small shrubs and a four (4) foot high wooden fence around its perimeter.

2.10 MAINTENANCE

- (a) The Developer shall maintain and keep in good repair all portions of the development, including but not limited to, the miniature golf course and associated uses, the interior and exterior of the buildings, fencing, signage, parking areas and driveways, and walkways, and the maintenance of all landscaping including the replacement of dead plant stock, trimming and litter control and snow removal.

2.11 HOURS OF OPERATION

- (a) The miniature golf course shall be permitted to operate between the hours of 8:00 a.m. and 10:00 p.m. daily.

2.12 MUNICIPAL SERVICES

- (a) The design, installation and costs associated with the provision of all on-site and off-site systems, included but not limited to, water supply, sanitary sewers, storm sewer 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 Development Engineer and any other applicable authorities with respect to the design of all systems has been received.
- (b) Any disturbance to existing on and off-site infrastructure resulting from the development, including but not limited to, sidewalks, curbs, pavement 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 in consultation with the Municipal Development Engineer.

2.13 ENVIRONMENTAL PROTECTION

- (a) Prior to any clearing, excavation or the placement of fill material on the Property for the purpose of constructing the miniature golf course, the Developer shall submit a Grading and Drainage Plan indicating existing and proposed finished grades on the site and the effects of site drainage on the surface drainage of abutting properties and downstream receiving systems. The drainage plan shall receive written approval by the Municipal Development Engineer prior to commencement of the work. All costs and all work associated with the stormwater drainage system shall be the responsibility of the Developer.

- (b) Prior to any grubbing, excavation or the placement of fill materials on the Property for the purpose of constructing the miniature golf course, the Developer shall submit an Erosion and Sedimentation Control Plan which generally complies with Schedule "C". Specifically, this plan should outline the temporary erosion and sedimentation control measures (vegetative and mechanical) to be used during active construction of the miniature golf course with an emphasis on minimizing the amount of soil disturbed and the duration of exposed soil. The plan shall receive written approval by the Municipal Development Engineer prior to commencement of the work. All costs and all work associated with the implementation of the plan shall be the responsibility of the Developer.
- (c) Prior to any grubbing, excavation or the placement of fill materials on the Property for the purpose of constructing the miniature golf course, the Developer shall submit a plan which delineates a minimum 20 foot wide buffer area on the perimeter of the miniature golf course, which defines the limit of mass clearing and excavation. The area shall be temporarily marked on-site by "snow fence" or an approved equivalent and verified in the field by the Development Officer. No disturbance of existing terrain or vegetation shall be permitted within this area except otherwise stipulated by the Agreement. Should existing trees within this area be disturbed while the agreement is in force, the Developer shall, at its expense and as directed by the Development Officer, replace all such trees with native nursery stock, which shall be a minimum of 45 mm in diameter for deciduous trees and a minimum of 6 feet in height for evergreen trees.
- (d) Pursuant to Section 2.13(b), all earthworks and construction on the Property shall comply with the requirements of Schedule "C". Conformance to this Schedule shall be a condition of any development permit, and the Development Officer shall require the Developer to post security in the amount of five thousand dollars (\$5,000.00) to ensure the environmental protection measures are properly implemented and maintained according to the terms of this Agreement. The security shall be in favour of HRM and may be in a form of certified cheque or irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer upon the total completion of the development or upon issuance of the Occupancy Permit.
- (e) Any pesticides used on the site shall be handled and stored in accordance to the Nova Scotia Department of Environment Pesticide Regulations and H.R.M. By-Law P-800.
- (f) Construction materials and other wastes shall not be burned, buried, or discarded on the Property.

2.14 APPROVALS

The Developer shall not commence construction of the miniature golf course and accessory buildings on the Property until a municipal development permit has been issued by the Municipality. In addition to complying with all other terms and conditions

of this Agreement, and any applicable provisions of the Land Use By-law, issuance of a municipal development permit is conditional upon the Developer obtaining and providing to the Development Officer a copy of each of the following:

- (a) A Grade Alteration permit granted by the Municipal Development Engineer pursuant to the Topsoil By-law, in accordance with the terms and conditions of this Agreement;
- (b) An Erosion and Sediment Control Plan in compliance with the NSDOE Guidelines and Servicing and Grading Plan which have been approved by the Municipal Development Engineer for the entire Property;

PART 3: AMENDMENTS

- 3.1 Any amendments proposed to this Agreement shall be deemed substantial and may only be considered in accordance with the Municipal Government Act.

PART 4: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- 4.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.
- 4.2 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.
- 4.3 Notwithstanding any subdivision approvals granted pursuant to this Agreement or any transfer or conveyance of any lot or of all or any portion of the Property, this Agreement shall continue to apply to and bind the Developer, the Property and each lot and the Developer shall continue to be bound by all terms and conditions of this Agreement.
- 4.4 Upon the transfer of title of any lot, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.
- 4.5 Notwithstanding Section 4.4 or any transfer of title to a lot, the Developer shall continue to be responsible for the fulfilment of the Developer's covenants under this Agreement and any Subdivision Agreement entered pursuant to this Agreement.
- 4.6 In the event that construction of the project has not commenced within 2 years from the date of execution of this Agreement by the Municipality, 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. For the purposes of this agreement, commencement shall mean the securing of development and building permits for the construction of the miniature golf course.

4.7 In the event the Developer fails to complete the development or portions thereof, or within 5 years from the date of registry 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, as may be amended.

PART 5: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

5.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access on to the Property during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Property, the Developer agrees to allow for such an inspection during any reasonable hour within 7 days of receiving such a request.

5.2 If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer seven (7) days written notice of the failure or default, then in each such case, and in addition to any other rights or remedies available to the Municipality hereunder, at law or in equity:

- (a) the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the 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.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this 12 day of June, A.D., 2001.

Signed, sealed and delivered)
in the presence of)

Per: [Signature])

Per: _____)

ALISON MALLEY

[Signature]

THOMAS MALLEY

[Signature]

SEALED, DELIVERED AND)
ATTESTED to by the proper)
signing officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence)
of)

[Signature])

[Signature])

HALIFAX REGIONAL MUNICIPALITY

per: [Signature]
MAYOR

per: [Signature]
MUNICIPAL CLERK

Schedule "A" Legal Description of the Property of Alison and Thomas Malley
located at Lot "K", 991 Beaver Bank Windsor Junction Cross Road
in Beaver Bank (PIM# 40116626)

ALL that certain lot, piece or parcel of land lying and being at Beavercbank, in the County of Halifax, Province of Nova Scotia and shown as lot no. "K" on a plan showing lands of Agnes and Michael K. Kelly, and more particularly described as follows:

BEGINNING at a point being the intersection of the easterly boundary of Beavercbank Road and the Northerly boundary of the road to Windsor Junction;

THENCE North $44^{\circ} 36' 23''$ East, along the Easterly boundary of the Beavercbank Road, a distance of 121.20 feet to the Southerly boundary of lands now or formerly owned by Albert Bitar;

THENCE South $43^{\circ} 09'$ East along the Southerly boundary of the lands of Albert Bitar, a distance of 260.0 feet to the Westerly boundary of lands now or formerly of Clarence Mollison;

THENCE South $52^{\circ} 20' 26''$ West along the Westerly boundary of the land of Clarence Mollison, a distance of 295.43 feet to the Northerly boundary of the road to Windsor Junction;

THENCE North $02^{\circ} 37' 18''$ West along the Northerly boundary of the road to Windsor Junction, a distance of 181.94 feet to a point;

THENCE North $11^{\circ} 28' 12''$ West along the Northerly boundary of the road to Windsor Junction, a distance of 104.23 feet to the place of beginning.

BEING or intended to be the same lands as conveyed by Michael Karl Kelly and Agnes M. Kelly to The Director, The Veterans' Land Act by Deed dated April 17, 1975 and registered in the Halifax County Registry of Deeds on April 25, 1975 in Book 2890, Pages 790-792 as Number 15870.

Windsor Miniature Golf Development

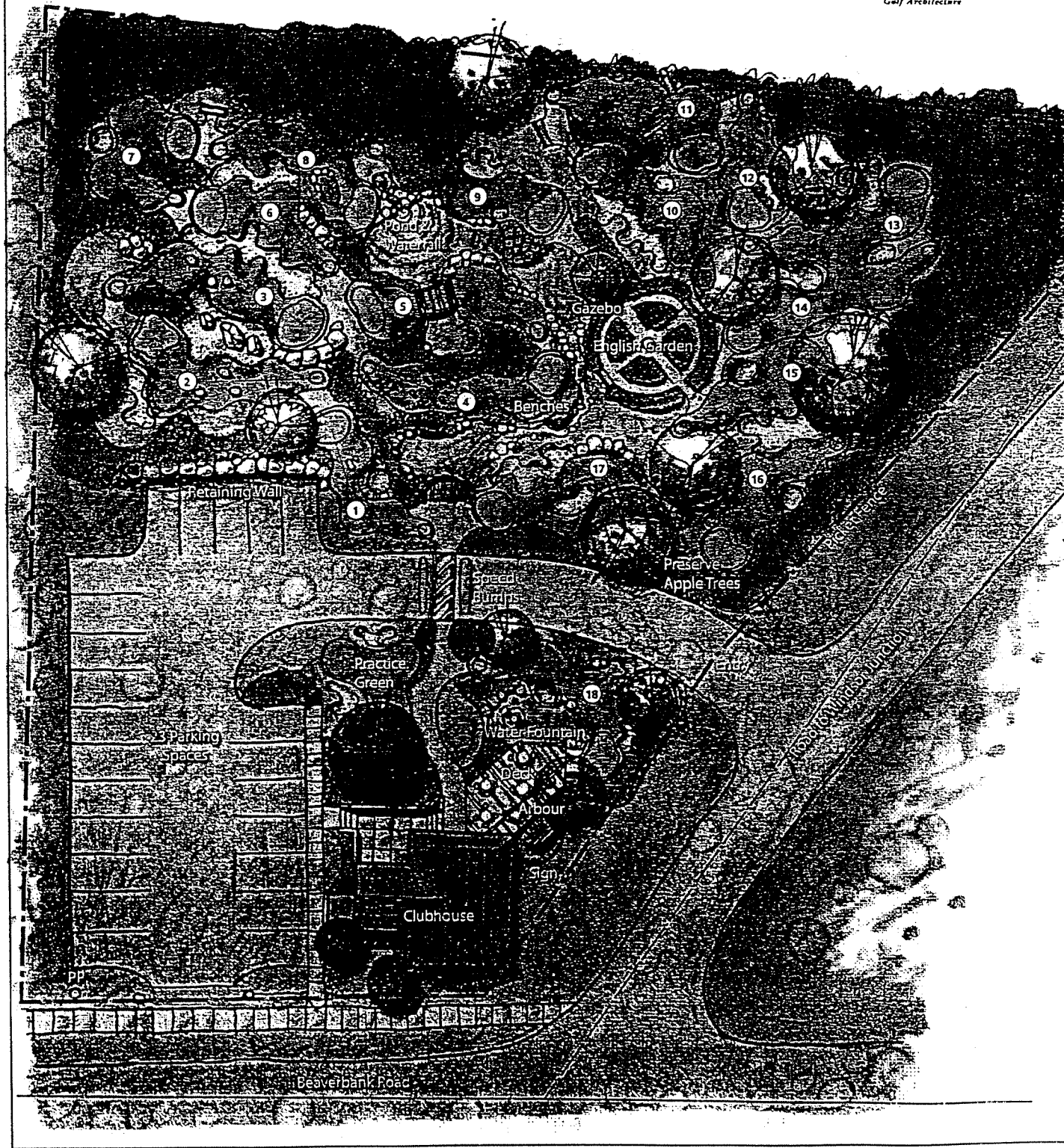
March, 2001
Scale 1" = 12'-0"

Development Concept 2

Beaverbank Road, Sackville, N.S.

Prepared by:
ekistics
planning & design

Landscape Architecture
Environmental Planning
Visual Resource Management
Golf Architecture



PART 2

EROSION AND SEDIMENTATION CONTROL ON CONSTRUCTION PROJECTS

A very important first step in reducing sedimentation of receiving water bodies is to develop a plan for controlling erosion before any earth-moving equipment disturbs a construction site. This plan is an integral part of the total site development plan and prescribes all the steps necessary, including scheduling, to assure erosion and sediment control during all phases of construction.

A knowledge of factors affecting erosion, as explained in Appendix B, provides the basis for technical erosion and sediment control principles. These principles can be utilized by the project planner in the design stage or readily implemented by a construction foreman in the field. Practical combinations of the five principles outlined on the following pages should be utilized to the maximum extent possible on all construction projects.

2.1 ACCEPTED PRINCIPLES AND PRACTICES FOR REDUCING EROSION AND SEDIMENTATION

1. FIT THE ACTIVITY TO THE TOPOGRAPHY, SOILS, WATERWAYS, AND NATURAL VEGETATION OF A SITE.

- a) Costs for erosion control and maintenance can be minimized if a site is selected for a specific activity rather than attempting to modify the site to conform to the proposed activity.
- b) Detailed planning will assure that roadways, buildings and other permanent features related to the activity conform to the natural characteristics of the site.
 - Locate large graded areas on the most level portion of the site.
 - Avoid areas subject to flooding and make every effort to preserve all features of natural channels. Note that any channel alterations require a permit from the Department of the Environment.
 - Areas of steep slopes, erodible soils and soils with severe limitations for the intended uses should not be utilized without first overcoming the limitations through sound engineering practices.
 - Limit the length and steepness of the designed slopes to reduce runoff volumes and velocities. Long, steep slopes should be broken by benching, terracing or constructing diversion structures.

2. EXPOSE THE SMALLEST PRACTICAL AREA OF LAND FOR THE SHORTEST POSSIBLE TIME.

- a) Earth changes and the removal of natural vegetation leave an area susceptible to erosion and sedimentation; the larger the disturbed area and the longer it is left unstabilized, the more serious the problem becomes.
 - Plan the phases or stages of development so that only the areas which are actively being developed are exposed. All other areas should have a good cover of temporary or permanent vegetation or mulch.
- b) Complete grading as soon as possible after it is begun. Then, immediately after grading is complete, establish permanent vegetation and surface cover such as gravel, and erosion controls in the area.
 - Revegetate the slopes as work progresses -- for example, as cut slopes are made, or as fill slopes are brought up to grade. This process is known as staged seeding.
 - Minimize grading of large or critical areas during the season of maximum erosion potential.

3. APPLY "SOIL EROSION" CONTROL PRACTICES AS A FIRST LINE OF DEFENSE AGAINST ON-SITE DAMAGE.

- a) Applying erosion control practices on a site will prevent excessive sediment from being produced.
 - Keep soil covered as much as possible with temporary or permanent vegetation or with various mulch materials. Even project materials such as brush, logs and chippings can serve as mulch and help to control erosion.
 - Use special grading methods such as roughening a slope on the contour or tracking with a cleated dozer.
 - Roll and compact soil to make it less erodible.
 - Incorporate other practices such as diversion structures to divert surface runoff from exposed soils, and grade stabilization structures to control surface water.
- b) Effective erosion control and sediment reduction depends upon judicious selection of conservation practices, adequate design, accurate installation in a timely fashion, and sufficient maintenance to ensure the intended results.
- c) Prevent "gross" erosion in the form of gullies.
- d) **When erosion is not adequately controlled, sediment control is more difficult and expensive.**

4. APPLY "SEDIMENT CONTROL" PRACTICES AS A PERIMETER PROTECTION TO PREVENT OFF-SITE DAMAGE.

- a) The second line of defence is to control runoff and prevent sediment from getting off-site. Generally, this is done by either filtering runoff as it flows through an area or impounding the sediment-laden runoff for a period of time so that the soil particles settle out.
- Berms, sedimentation basins, sediment traps, and vegetative filters are some examples of practices used to control sediment and protect watercourses.
 - Vegetative and structural sediment control measures can be classified as either temporary or permanent depending on whether or not they will remain in use after development is complete.
- b) The best way to control sediment, however, is to prevent erosion at its source.

5. IMPLEMENT A THOROUGH MAINTENANCE AND FOLLOW-UP OPERATION.

This fifth principle is vital to the success of the four others. A site cannot be effectively controlled without thorough, periodic checks of the erosion and sediment control practices. These practices must be maintained just as construction equipment must be maintained, and materials checked and inventoried.

- Start a routine "end of day check" to make sure that all control practices are working properly.
- Check the weather forecast daily and be prepared if rain is predicted.
- Throughout construction keep an adequate inventory on hand of materials such as straw bales, polyethylene, gravel, or rock riprap, and scout the area for other sources of useful materials like hay, bark or sawdust for mulching.

Usually these five principles are integrated into an overall plan of vegetative and structural measures and management techniques aimed at preventing erosion and controlling sediment, as demonstrated by the flow chart, Figure 3. In most cases, a combination of limited grading, limited time of exposure and a judicious selection of erosion control practices and sediment trapping facilities will prove to be the most practical method of controlling erosion and the associated production and transport of sediment.

PREPARE EROSION AND SEDIMENTATION CONTROL PLAN

Consists of a written document and drawings based on accepted principles and practices for reducing erosion and sedimentation.

- Carry out a thorough soils analysis
- Fit the activity to the natural site features, particularly waterways
- Include a stormwater management plan
- Expose the smallest area for the shortest practical time
- Plan for erosion control materials and the time to apply them
- Plan the location for sedimentation control measures
- Prepare for contingencies — maintenance is very important

IMPLEMENT TEMPORARY EROSION AND SEDIMENTATION CONTROLS DURING CONSTRUCTION

SURFACE STABILIZATION (TEMPORARY)		DRAINAGE CONTROL (TEMPORARY)		
VEGETATIVE (1.5) BUFFER STRIPS	NON-VEGETATIVE RIPRAP (1.1)	CHANNELS (DITCHES) (2.1)(2.2)	GRADING PRACTICES (1.0)	SEDIMENTATION PONDS (2.10) (TEMPORARY/ PERMANENT)
MULCHING	GABION BASKETS (1.2)			
HYDROSEEDING	GEOTEXTILE FILTER FABRIC (1.3)	CHECK DAMS BRUSH (2.7A)		FILTER BARRIERS STRAW (2.8)
MATTING (1.4)	MATTING (1.4)	ROCK (2.7B)		FILTER FABRIC (2.9)

IMPLEMENT MAINTENANCE PROGRAM THROUGHOUT CONSTRUCTION

DAILY ROUTINE CHECKS	REPAIRS	REPLACEMENTS	INVENTORY OF CONTROL MATERIALS
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PERMANENT EROSION CONTROL FOR FINISHED SITE

SURFACE STABILIZATION (PERMANENT)		DRAINAGE CONTROL (PERMANENT)		
VEGETATIVE (1.5) SEEDING	NON-VEGETATIVE RIPRAP (1.1)	CHANNELS (DITCHES) (2.1)(2.2)	STORM DRAIN OUTLET PROTECTION (2.4)	CHECK DAMS ROCK (2.7B) EARTH SOODED (2.7E)
SODDING	GABION BASKETS (1.2)			
MATTING (1.4)	GRAVELLING PAVING	BERMS, TERRACES, FINAL GRADING (1.0)	SEEPAGE DRAINS (2.6)	GABIONS (2.7C) WOODEN PLANKS (2.7D)
		GRASSED WATERWAYS (2.3)	CHUTES AND DOWNDRAINS (2.5)	SANDBAGS (2.7F)
		SEDIMENTATION PONDS (2.10)		

MAINTAIN PERMANENT EROSION CONTROL

MAINTENANCE PROGRAM			
ROUTINE CHECKS	REPAIRS	REPLACEMENTS	INVENTORY OF CONTROL MATERIALS

FIGURE 3
STEPS TO FOLLOW IN PREPARING AN EROSION AND SEDIMENTATION CONTROL PROGRAM FOR CONSTRUCTION PROJECTS.
NOTE: NUMBERS IN BRACKETS REFER TO FACTSHEETS, SECTION 2.3

Schedule "D" - Plant List

The Putting Green: Miniature Golf Development Plant Schedule

2-Apr-01

Key	Botanical Name	Common Name	Height	Spread	Size	Pot
Deciduous Trees						
AR	<i>Acer rubrum</i>	Red Maple	14.0m	14.0m	40 mm cal	WB
AL	<i>Alnus rugosa</i>	Speckled Alder	6.0m	5.0m		5 gal
AS	<i>Amelanchier laevis</i>	Alleghany Serviceberry	7.0m	4.0m	40 mm cal	WB
BP	<i>Betula papyrifera</i>	Paper Birch	18.0m	8.0m	40 mm cal	WB
FP	<i>Fraxinus pennsylvanica</i>	Green Ash	10.0m	7.0m	40 mm cal	WB
HV	<i>Hamamelis virginiana</i>	Witchhazel	5.0m	5.0m	100 cm	WB
MW	<i>Malus 'Winter Gold'</i>	Winter Gold Crabapple	8.0m	5.0m		7 gal
MM	<i>Malus 'McIntosh'</i>	McIntosh Apple	8.0m	5.0m		7 gal
MS	<i>Malus 'Spartan'</i>	Spartan Apple	8.0m	5.0m		7 gal
QR	<i>Quercus rubra</i>	Red Oak	20.0m	15.0m	40 mm cal	WB
TA	<i>Tilia americana</i>	Basswood	22.0m	8.0m	40 mm cal	WB
Coniferous Trees						
PG	<i>Picea glauca</i>	White Spruce	15.0m	5.0m	100 cm	FP
PS	<i>Pinus Strobus</i>	White Pine	25.0m	7.0m	100 cm	FP
Coniferous Shrubs						
TJ	<i>Tsuga canadensis 'Jeddeloh'</i>	Jeddeloh Dwarf Hemlock	1.5m	1.5m		3 gal
PM	<i>Punus mugo 'Mugo'</i>	Mugho Pine	1.5m	2.0m		2 gal
Deciduous Shrubs						
AM	<i>Aronia melanocarpa 'Autumn Magic'</i>	Autumn Magic Chokeberry	1.5m	1.0m		2 gal
CH	<i>Chaenomeles superba 'Fire Dance'</i>	Fire Dance Quince	1.0m	1.2m		2 gal
CF	<i>Cornus sericea 'Flaviramea'</i>	Yellowtwig Dogwood	2.0m	2.0m		1 gal
CA	<i>Cotoneaster apiculatus</i>	Cranberry cotoneaster	1.0m	1.5m		2 gal
EA	<i>Euonymus alata 'Compacta'</i>	Dwarf Burningbush	1.5m	1.5m		2 gal
IV	<i>Ilex verticillata 'Winter Red'</i>	Deciduous Holly	2.0m	1.25m		2 gal
KJ	<i>Kerria japonica 'Pleniflora'</i>	Japanese Kerria	1.5m	1.2m		1 gal
MP	<i>Myrica pensylvanica</i>	Bayberry	1.0m	1.0m		2 gal
PH	<i>Philadelphus virginialis</i>	Virginal Mock-orange	3.0m	2.0m		2 gal
PP	<i>Potentilla parvifolia 'Goldfinger'</i>	Goldfinger Cinquefoil	0.5m	0.5m		1 gal
RA	<i>Ribes aureum</i>	Flowering Currant	2.0m	1.25m		2 gal
SB	<i>Spiraea bumalda 'Anthony Waterer'</i>	Anthony Waterer Spirea	1.0m	0.8m		1 gal
SP	<i>Syringa prestoniae 'Nocturne'</i>	Lilac	3.0m	2.0m		5 gal
VO	<i>Viburnum opulus 'Compactum'</i>	Dwarf Highbush Cranberry	1.0m	1.0m		2 gal
Vines, Groundcovers, Perennials						
AG	<i>Achillea 'Coronation Gold'</i>	Yarrow	0.5m	0.4m		1 gal
AM	<i>Alchemilla mollis</i>	Lady's Mantle	0.4m	0.5m		1 gal
AS	<i>Alyssum saxatile</i>	Basket-of-Gold	0.2m	0.5m		1 gal
AP	<i>Aster 'Prof. Kippenburg'</i>	Michaelmas Daisy	0.5m	0.5m		1 gal
CB	<i>Campanula 'Blue Clips'</i>	Bellflower	0.2m	0.5m		1 gal
CE	<i>Celastrus scandens</i>	American Bittersweet	4.0m	2.0m		1 gal
DC	<i>Deschampsia caespitosa</i>	Tufted Hair Grass	0.8m	0.5m		1 gal
EC	<i>Erica carnea</i>	Heather	0.2m	0.6m		1 gal
FC	<i>Festuca cinerea 'Elijah'</i>	Elijah Blue Fescue	0.2m	0.2m		1 gal
HS	<i>Helictotrichon sempervirens</i>	Oat Grass	0.7m	0.5m		1 gal
HH	<i>Heliopsis helianthoides</i>	False Sunflower	1.0m	0.5m		1 gal
LM	<i>Lavandula munstead</i>	Lavender	0.5m	0.5m		1 gal
PT	<i>Pachysandra terminalis</i>	Japanese Spurge	0.2m	1.2m		1 gal
PQ	<i>Parthenocissus quinquefolia</i>	Virginia Creeper	18.0m	6.0m		1 gal
PS	<i>Phlox subulata 'Atropurpurea'</i>	Creeping Phlox	0.2m	0.5m		1 gal
RF	<i>Rudbeckia fulgida 'Goldstrum'</i>	Black-eyed-Susans	0.6m	0.4m		1 gal
SH	<i>Syphoricarpos x chenaultii 'Hancock'</i>	Hancock Coralberry	0.8m	2.0m		2 gal
VM	<i>Vinca minor</i>	Periwinkle	0.2m	0.2m		1 gal

■ SIGNAGE ON HERITAGE PROPERTIES: SIX BASIC PRINCIPLES

Introduction

Signage on registered heritage properties should be in keeping with the style, age and character of the building or streetscape. There is a special opportunity to create signs which make a positive impression for a business, and are appropriate on a historic building. Listed below are the six basic principles which will be utilized by the Heritage Advisory Committee when reviewing signage applications.

Detailed guidelines for residential, commercial and corporate signage and awnings are presently being developed. Applicants are encouraged to review these detailed guidelines before making an application for any specific situations. All applications should include drawings or sketches.

1. Design

A good sign enhances the architecture of a building. No sign should conceal or alter architectural elements. Original architectural elements are of prime importance on registered heritage properties and take precedence over the requirements of modern commercial signage. Identification, not advertising, is to be the primary reason for placing signs on heritage buildings. Corporate signage may need to be adapted to become sympathetic to a heritage building. Applicants are encouraged to consult with heritage and design professionals when planning signage.

2. Materials and Construction

Historically, appropriate materials in the Halifax Regional Municipality are typically those that were in use in the 19th century, such as wood for signs and canvas for awnings.

3. Signage

The size of signage should be scaled to the requirements of pedestrian viewers, and logos and lettering should not exceed 18" in height.

4. Colour

Colour should complement the existing colour of building materials and be suitable for the type of business it identifies. For example, the colour scheme of all signage should incorporate one or more of the colours of original building materials that can be seen on the building facade.

5. Installation

The following types of installation are generally appropriate for heritage properties:

- Wall signage fixed flat to the building
- Projecting signage
- Street numbers painted on glass transoms
- Signage painted or etched on display windows

6. Lighting

Lighting for signage on heritage buildings should be designed to complement the architectural features of the building. Accordingly, it is recommended that the following design guidelines be adhered to by applicants:

- Choose designs that are period correct
- Select incandescent bulbs
- Try to shield the bulb
- Place the light source directly above flat signs or slightly to the left or right of projecting signs

Reference

There are several excellent publications relating to signage. Please contact the Heritage Property Program staff for further information. Municipal by-laws limit such elements as the maximum size of signs, their placement above the sidewalk, and yearly fees.

Halifax Regional Municipality

**ALTERATION
GUIDELINES**

**Heritage Property Program
Planning and Development Services**

January 2001

DESIGN GUIDELINES

This Section includes the following design guidelines:

- Heritage Definitions
- Alteration Guidelines
- Submissions to Heritage Advisory Committee
- Building Conservation Standards
- Signage on Heritage Properties

If you have any questions, please contact the Heritage Property Program Staff directly or write to us at the following address:

Office Address:

Heritage Property Program
Halifax Regional Municipality
Planning and Development Services
6960 Mumford Road, Suite R19
Halifax, NS B3L 4P1

Phone: (902) 490-4436
Fax: (902) 490-4406

Mailing Address:

Heritage Property Program
Halifax Regional Municipality
c/o Planning and Development Services
6960 Mumford Road, Suite R19
P.O. Box 1749
Halifax, NS B3L 4P1 3A5

HERITAGE DEFINITIONS

Conservation is a general term used to describe any action that ensures the retention and continued use of municipally registered heritage properties.

More specific terms are defined below in an order which signifies the degree to which the existing building is changed. "Retention" means simply to protect a building from the elements. Examples of retention would be closing in window and door openings with plywood to prevent deterioration. "Reconstruction" is the other end of the conservation spectrum and involves rebuilding in whole or in part a building previously demolished.

These definitions are based on those found in the Oxford English Dictionary (1989):

- **Building Retention**
A minimum degree of exterior alteration to stabilize a building and prevent further deterioration created by weather intrusion and vandalism.
- **Building Restoration**
A moderate degree of exterior alteration, including the replacement of inappropriate or lost features to reflect the believed appearance at a particular date or period of time.
- **Building Rehabilitation**
A substantial alteration to accommodate new or combined uses, while retaining the historic exterior building appearance.
- **Building Reconstruction**
New construction to replicate an original wall or part of a property that has been removed or demolished.

ALTERATION GUIDELINES

For Municipal Registered Heritage Properties
Within Halifax Regional Municipality

(As Revised and Approved by Heritage Advisory Committee - August, 2001)

The Nova Scotia Heritage Property Act allows the Province and Municipalities to identify and protect structures of heritage significance. Within the Halifax Regional Municipality (HRM), By-Law H-200 permits the establishment of a Heritage Advisory Committee, a registry of heritage properties and a process to review any alteration to a registered building or site. The process is administered by the Heritage Property Program under HRM's Planning & Development Services Department.

All applications to alter a registered heritage property are made to Development Services. Staff will review each application and determine the level of review required based on the nature of the alteration. This process is explained in detail below. Since the review may require input from either the Heritage Advisory Committee or Regional Council, the time line to process such applications must reflect their respective schedules.

The design review process developed under the Heritage Property Program defines the specific level of review for alterations. The three levels of review are as follows;

Level One - Heritage Staff Review

All exterior alterations to a municipal registered heritage property (ranging from, but not limited to, paint color, window replacements, re-roofing, and signage) must be reviewed by the Heritage Office. Staff will review the proposed alteration considering the period of construction and style¹ of the building. Where Council-approved guidelines exist (such as the Building Conservation Standards and the Signage on Heritage Properties: Six Basic Principles)², these will also be consulted. Alterations that comply with the date of construction and style (or meet Council guidelines) will be reviewed for approval (or rejection) by heritage staff typically within 14 days.³ Where an application does not meet these criteria, it will be forwarded to the Heritage Advisory Committee for review.

Level Two - Heritage Advisory Committee Review

An application for an alteration that changes the massing of the building, or uses non-traditional material, or does not meet the Council-approved guidelines will be forwarded to the Heritage Advisory Committee for review and recommendation to staff. A decision by staff will usually be made within 30 days of receipt of a completed application.

Where the committee does not recommend approval, the application may be forwarded to Regional Council for review.

Level Three - Regional Council Review

Where an application is made for the following substantial alterations, the application will be reviewed by staff and the Heritage Advisory Committee and forwarded to Regional Council:

¹ For style identification, see **Houses of Nova Scotia** by Allen Penney.

² Both guidelines are available upon request.

³ The approval letter for each review will be copied to HAC .

- Demolition Applications
- Subdivision Applications
- Construction of New Detached Buildings
- Construction of Additions

Signage Reviews

Where a signage application is made for a heritage property, the application will be reviewed by staff based on the *Signage on Heritage Properties: Six Basic Principles*. The proposal will be reviewed and approved (or rejected) by heritage staff, typically within 14 days.⁴ Where an application does not meet these *Six Basic Principles*, it will be forwarded to the Heritage Advisory Committee for review, and should be reviewed within 30 days of the completed application.

If you have any questions, please contact the Heritage Property Program Staff directly or write to us at the following address:

Office Address:

Heritage Property Program
Halifax Regional Municipality
Planning and Development Services
6960 Mumford Road, Suite R19
Halifax, NS B3L 4P1

Phone: (902) 490-4436
Fax: (902) 490-4406

Mailing Address:

Heritage Property Program
Halifax Regional Municipality
Planning and Development Services
6960 Mumford Road, Suite R19
PO Box 1749
Halifax, NS B3J 3A5

⁴ The approval letter for each review will be copied to HAC.

SUBMISSIONS TO THE HERITAGE ADVISORY COMMITTEE

Where an application is reviewed by the Heritage Advisory Committee the following plans, drawings and photographs should be provided:

- Provide a site plan showing existing building and location of proposed building alterations (suggested scale 1" = 20').
- Provide one elevation drawing for each facade to be altered (suggested scale 1" = 4'), indicating size, type and quality of proposed materials and their colours.
- If requested, the applicant may also be asked to provide a perspective drawing.
- Provide current photographs of the building (preferably in colour) which show the area where the proposed alteration will take place.
- If available, please provide historical photographs of the building. These are often available at the Public Archives of Nova Scotia on University Avenue, Halifax.

Applicants are encouraged to give consideration to the following questions prior to submitting an application:

- Have you considered design alternatives for the current project?
- Do you have comparative cost estimates for different materials or design options?
- Do you know of any other information that would assist the committee in making their decision?

BUILDING CONSERVATION STANDARDS

The following standards will be used to assess all applications for property alteration and financial assistance. The historic character of a heritage resource is based on the assumptions that (a) the historic materials and features and their unique craftsmanship are of primary importance and that (b) in consequence, they are to be retained, and restored to the greatest extent possible, not removed and replaced with materials and features which appear to be historic, but which are in fact new.

- 1) The property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building, its site and environment.
- 2) The historic character of the property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize the property shall be avoided.
- 3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding hypothetical features or architectural elements from other buildings, shall not be undertaken.
- 4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
- 5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the property shall be preserved.
- 6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old design in colour, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- 7) The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials, shall not be used.
- 8) Significant archaeological resources affected by the project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- 9) New additions, exterior alterations, or related new construction shall not destroy materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
- 10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic

property-and its environment would be unimpaired.

The above-noted standards are based on the Conservation Standards used by the United States Secretary of the Interior (36 CFR 67) (1991). They are generally in keeping with most Conservation principles, including the Venice Charter (1964).

SIGNAGE ON HERITAGE PROPERTIES: SIX BASIC PRINCIPLES

Introduction

Signage on registered heritage properties should be in keeping with the style, age and character of the building or streetscape. There is a special opportunity to create signs which make a positive impression for a business, and are appropriate on a historic building. Listed below are the six basic principles which will be utilized by the Heritage Advisory Committee when reviewing signage applications.

Detailed guidelines for residential, commercial and corporate signage and awnings are presently being developed. Applicants are encouraged to review these detailed guidelines before making an application for any specific situations. All applications should include drawings or sketches.

1. Design

A good sign enhances the architecture of a building. No sign should conceal or alter architectural elements. Original architectural elements are of prime importance on registered heritage properties and take precedence over the requirements of modern commercial signage. Identification, not advertising, is to be the primary reason for placing signs on heritage buildings. Corporate signage may need to be adapted to become sympathetic to a heritage building. Applicants are encouraged to consult with heritage and design professionals when planning signage.

2. Materials and Construction

Historically, appropriate materials in the Halifax Regional Municipality are typically those that were in use in the 19th century, such as wood for signs and canvas for awnings.

3. Signage

The size of signage should be scaled to the requirements of pedestrian viewers, and logos and lettering should not exceed 18" in height.

4. Color

Colour should complement the existing colour of building materials and be suitable for the type of business it identifies. For example, the colour scheme of all signage should incorporate one or more of the colours of original building materials that can be seen on the building facade.

5. Installation

The following types of installation are generally appropriate for heritage properties:

- Wall signage fixed flat to the building
- Projecting signage
- Street numbers painted on glass transoms
- Signage painted or etched on display windows

6. Lighting

Lighting for signage on heritage buildings should be designed to complement the architectural features of the building. Accordingly, it is recommended that the following design guidelines be adhered to by applicants:

- Choose designs that are period correct
- Select incandescent bulbs
- Try to shield the bulb
- Place the light source directly above flat signs or slightly to the left or right of projecting signs

Reference

There are several excellent publications relating to signage. Please contact the Heritage Property Program staff for further information. Municipal by-laws limit such elements as the maximum size of signs, their placement above the sidewalk, and yearly fees.

Attachment F: Review of Policy P-137

P-137 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;**

The proposal is in conformity with the intent of the plan and the proposed amendments to the plan and with 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;

All development costs related to the project are to be borne by the developer.

- (ii) the adequacy of central or on-site sewerage and water services;**

The site is presently serviced by central water and sewer, which are capable of servicing the proposed use.

- (iii) the adequacy or proximity of school, recreation or other community facilities;**

The adequacy of schools, recreation or other community facilities will not be impacted by the proposed development. The closest school is approximately 1.1 km's measured in a straight line distance..

- (iv) the adequacy of road networks leading or adjacent to or within the development; and**

It is not anticipated that the lounge will significantly increase the amount of traffic on the adjacent road network beyond what is currently generated by the present uses on the site. Specifically traffic generation from this site would most likely take place at times when the adjacent roads are not at peak loads. Traffic and Transportation has indicated that the signalization of the intersection of Beaver Bank Road and Beaver Bank Windsor Junction Cross Road is a possibility in the future. This signalization would address many of the communities concerns relating to transportation.

- (v) the potential for damage to or for destruction of designated historic buildings and sites.**

The proposed development will help ensure the economic viability of maintaining this municipally registered heritage property and thus should not negatively impact the building or site.

(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;

The new use, the operation of a lounge, is limited to the interior of the existing building and to the adjacent patio. Restrictions have also been placed in the proposed development agreement to limit the amount of noise associated with the new use. Additionally the new land use is restricted to specific hours of operation by the agreement.

(ii) height, bulk and lot coverage of any proposed building;

Sections 2.3 and 2.4 of the existing development agreement contain specific controls relative to the design and appearance of new accessory buildings. Any new building would have to meet the height, bulk and lot coverage requirements as required in the Land Use By-law.

(iii) traffic generation, access to and egress from the site, and parking;

Section 2.5 of the existing development agreement contains specific controls relative to the design of the parking area and driveways. The existing parking area appears to accommodate the increase in parking spaces required by the Land Use By-law for the additional land use.

(iv) open storage;

Section 2.9 of the existing development agreement prohibits open storage, however, a properly screened refuse container is permitted.

(v) signs;

Section 2.7 of the existing development agreement limits the number of signs permitted and regulates the sign type, size, location and illumination. All signs must be reviewed as per the Alteration Guidelines for the Heritage Property Program (see Attachment E). Section 2.7(k) has been added to allow the developer a temporary sign which may remain for up to a year.

(vi) any other relevant matter of planning concern.

Access to alternate forms of transportation such as buses and taxis is a concern when siting a land use which involves the serving of liquor. The availability of this type of transportation provides transportation alternatives to patrons. Both taxi and bus service are available in this community during most of the operating hours proposed.

All relevant planning matters have been addressed in this report.

(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.

The proposed site is suitable in terms of the steepness of grades, soil and geological conditions. There are no watercourses on this property and no known issue with flooding.

PART 7: RA (RESIDENTIAL) ZONE

7.1 RA USES PERMITTED

No development permit shall be issued in any RA (Residential) Zone except for the following:

(a) Residential Uses

Home Businesses (MDVCCC/HECC - November 19, 2001, Effective - December 16, 2001)

- Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings
- Existing mobile dwellings
- Group care facilities
- Multi-unit dwellings containing up to four (4) dwelling units Rooming and boarding houses
- Row/townhouse dwellings containing up to four (4) dwelling units Senior citizen housing
- Single unit dwellings
- Two unit dwellings

(b) Community Uses

- Day care facilities Institutional uses
- Government offices and public works
- Recreation and open space uses

7.2 RA ZONE REQUIREMENTS: RESIDENTIAL USES

In any RA Zone, where residential uses are permitted, no development permit shall be issued except in conformity with the following requirements:

(a) Minimum Lot Area:

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|-----------------------|---|
| Single unit dwellings | 6,000 square feet (557.4 m ²) where central services are available |
| | 20,000 square feet (1858.1 m ²) where central services are not available |
| Two unit dwellings | 6,500 square feet (603.9 m ²) or 3,500 square feet (325.2 m ²) per dwelling unit where each dwelling unit is located on a separate lot and where central services are available |