



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Planning Advisory Committee
January 6, 2010

TO: Chair and Members of North West Planning Advisory Committee

SUBMITTED BY:

A handwritten signature in black ink, appearing to read "Paul Dunphy".

Paul Dunphy, Director of Community Development

DATE: December 8, 2009

SUBJECT: Case 01324: Substantive DA amendment - 51 Old Beaver Bank Road, Sackville

ORIGIN

Application for the lands of Nova Scotia Housing Development Corporation for a substantive amendment to the existing development agreement for a senior citizen multiple unit dwelling at 51 Old Beaver Bank Road to permit an addition of 26 residential units.

RECOMMENDATION

It is recommended that North West Planning Advisory Committee recommend that North West Community Council:

1. Approve the proposed amending agreement as set out in Attachment A of this report to amend the existing development agreement for a senior citizen multiple unit dwelling at 51 Old Beaver Bank Road to permit an additional 26 units.
2. Require the 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, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The development of multi-unit residential buildings in most parts of the Sackville area is subject to the requirement for a development agreement as specified in the Sackville Municipal Planning Strategy (MPS).

A development agreement between the Minister of Housing and the former Municipality of the County of Halifax was signed in February of 1990. The development agreement is for a multi-unit residential building with 19 units to be located at 51 Old Beaver Bank Road in Sackville. The building is currently owned by the Nova Scotia Housing Development Corporation and managed by the Metropolitan Regional Housing Authority and is intended for seniors or the disabled. The site is 2.8 acres (1.13 ha) in size and is designated UR (Urban Residential) in the Sackville MPS (Map 1) and zoned R-1 (Single Unit Dwelling) Zone under the Sackville Land Use By-law (LUB) (Map 2). Under the Regional Plan this area is designated Urban Settlement.

Proposal

An application has been received for a substantive amendment to the existing development agreement to allow for an additional 26 units. The Province of NS has indicated that Federal money has become available to provide additional units.

The proposed units would be added to the existing building, by adding a new wing on the north side of the building. A site plan is attached as Appendix B of Attachment A.

Enabling Policy

The proposal is enabled by Policy UR-8 (Attachment B), which allows Council to consider multi-unit residential buildings greater than six units by development agreement. Part 9 of the existing agreement identifies that the proposed change (an increase of 26 units) is considered a substantial amendment and thus would require a full planning process and public hearing.

DISCUSSION

Staff have reviewed the proposed application based on all applicable policies of the Sackville Municipal Planning Strategy and Land Use By-law, which are included in Attachment B to this report. It is the opinion of staff that the proposed additional units comply with the intent of the applicable policy and the following matters have been identified for further discussion.

Environmental /Floodplains/ Riparian Buffers (FP-1 through FP-4)

The proposed amending agreement(Attachment A) will require an erosion and sedimentation control plan for the proposed development thus protecting the river from potential erosion during construction. The proposal is outside the required riparian buffer and the proposed addition is not within areas subject to flooding at or below the 1 in 100 year storm level as identified in floodplain studies for the Little Sackville River. The Basement elevation of the building is located above the 1 in 100 year flood levels.

Halifax Waters Advisory Board has made a series of recommendations relating to the proposed development (Attachment C). Staff are satisfied that where possible, these recommendations have been included in the amending agreement and agreed to by the applicant.

Compatibility (Policy UR-8)

The proposed addition of 26 units is similar in design to the existing building and is compatible in scale and architectural style. The building is setback from existing single family homes on Riverside Drive, with the closest home being at least 135 metres (445 ft) away from the structure. Further these residential homes are screened from view by an existing buffer of trees located behind the homes.

Housing goals (Policy SH1 through SH-3)

The proposed development furthers the goals of the MPS to provide an adequate supply of seniors housing. The proposed development is housing designed for senior citizens and the housing will be owned by the N.S. Housing Development Corporation¹ and operated by the Metropolitan Regional Housing Authority. Housing in this development intended for senior citizens and operated under the mandate of the Housing Authority.

Traffic (Policy UR-8)

A traffic study was completed in support of the application. No issues were identified and Municipal staff concur with the findings of the study.

Sewer Capacity (Policy E-3 / UR-8)

The Province can choose to exempt itself from Municipal land use regulations, however, it must receive approval from Halifax Water for connections to Municipal Sewer and Water.

Inflow and infiltration of storm water is known to cause the surcharging (overflow) of the sewer during peak storm events in the Sackville area. While Halifax Water is taking measures to minimize these storm flows, no immediate solution is envisioned for this problem.

Due to the overflow concern during peak events, Halifax Water and HRM staff have typically not recommended in favour of any discretionary planning approval which would seek to increase the permitted sewer flows above as-of-right levels or increased levels permitted/enabled by MPS policy. However, in this instance, there is an engineering solution which will manage the flows so that they do not exceed levels normally permitted under the existing development agreement.

Staff are recommending that this proposed expansion should be permitted if an engineered solution meets the requirements of Halifax Water. Wording is provided in the proposed

¹The Nova Scotia Housing Development Corporation and its agents perform a number of roles, including those of land owner, landlord, administrator and developer and is the largest residential landlord in the province, owning 12,000 senior and family public housing units.

amending agreement to enable an approval by Halifax Water, based on a solution which includes an engineered storage tank. While not ideal, this solution would enable the construction of the publically managed seniors apartments, a needed resource in the community.

Staff wish to note that this engineering solution is not normally considered a practical solution to sewage capacity problems. Private developers have previously proposed such solutions which have been evaluated on a case by case basis and have not received Municipal approvals. Because this will be a publicly operated facility and satisfactorily addresses all other policies and intents of the MPS, staff recommend that Council endorse the proposed engineering solution. Staff do not feel this proposal will establish a precedent.

Public Consultation/Area of Notification

A public information meeting (PIM) was not held for this proposal. The Councillor for the area waived the public information meeting due to time limitations, the limited impact of the proposal on surrounding uses, and a request from the Province of Nova Scotia. A Public Hearing will be required and nearby property owners will be individually notified, in addition to a general notification via newspaper ads. The notification area for the Public Hearing is identified on Map 2.

Halifax Waters Advisory Board reviewed the proposed development at their October 21, 2009 meeting. Their summary recommendation is attached as Attachment C.

Conclusion

Upon review of all relevant sections of the MPS, staff advises, on balance, that the proposed development satisfactorily complies with its policies and intent. More specifically, the proposal supports policies SH-1 through SH-3 (Housing for Seniors), and staff further notes the following:

- there is a shortage of seniors housing in the Sackville area;
- the establishment of these units furthers seniors housing goals in the MPS;
- these units will be subsidized by the Province and operated by the Metropolitan Regional Housing Authority;
- Federal funding has been received in order to facilitate this project; and
- the proposal furthers Provincial and Federal goals.

While the proposed development is likely to result in increased sewer flows over what would normally be considered acceptable practice, staff advises that an engineering solution has been developed. As such, given the overall positive community benefits of this proposal, its ownership and management structure, and the availability of time-sensitive funding, staff recommends North West Community Council approve the attached amending agreement as identified in the recommendation section of this report.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the proposed budget with existing resources.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

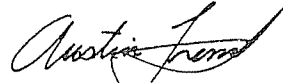
1. North West Community Council may choose to approve the amending agreement, as contained in Attachment A. This is the recommended course of action as the proposed substantive amendment meets the overall intent of the existing development agreement and the Sackville Municipal Planning Strategy.
2. North West Community Council may choose to approve the terms of the amending agreement, as contained in Attachment A, with modifications or conditions. Some modification or conditions may require additional negotiation with the developer.
3. North West Community Council may choose to refuse to amend the existing agreement. Pursuant to Section 245(6) of the *Halifax Regional Municipality Charter*, Council must provide reasons to the applicant justifying this refusal, based on policies of the MPS. This alternative is not recommended, as the existing development agreement and the Sackville Municipal Planning Strategy allow for this change.

ATTACHMENTS

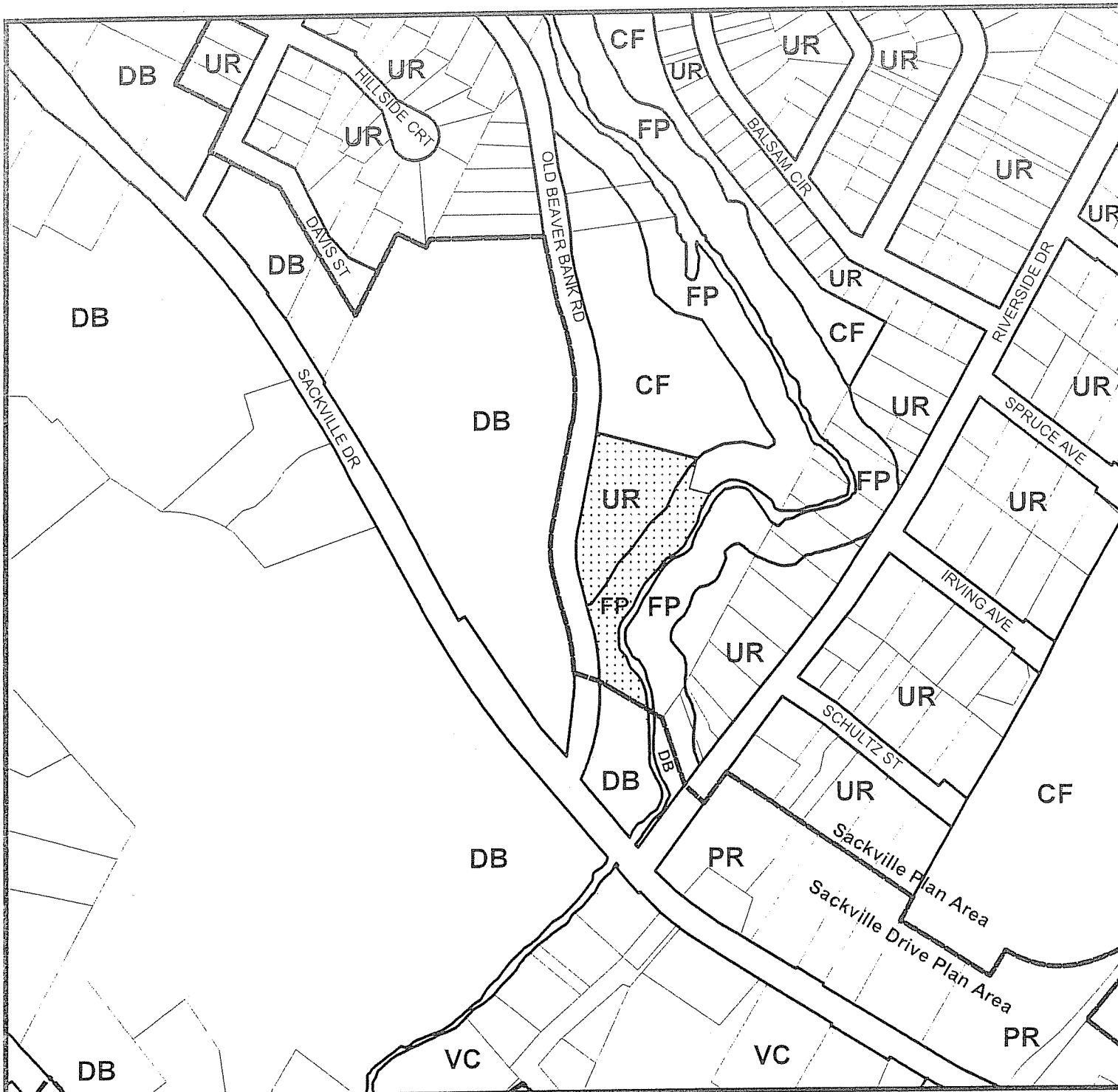
Map 1	Generalized Future Land Use
Map 2	Zoning
Attachment A	Draft Amending Agreement
Attachment B	Relevant Policies from the Sackville MPS
Attachment C	Halifax Waters Advisory Board Recommendation

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

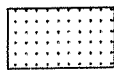
Report Prepared by : Andrew Bone, Senior Planner, Planning Applications, 869-4226



Report Approved by: _____
Austin French, Manager of Planning Services, 490-6717



Map 1
Generalized Future Land Use



Subject Property



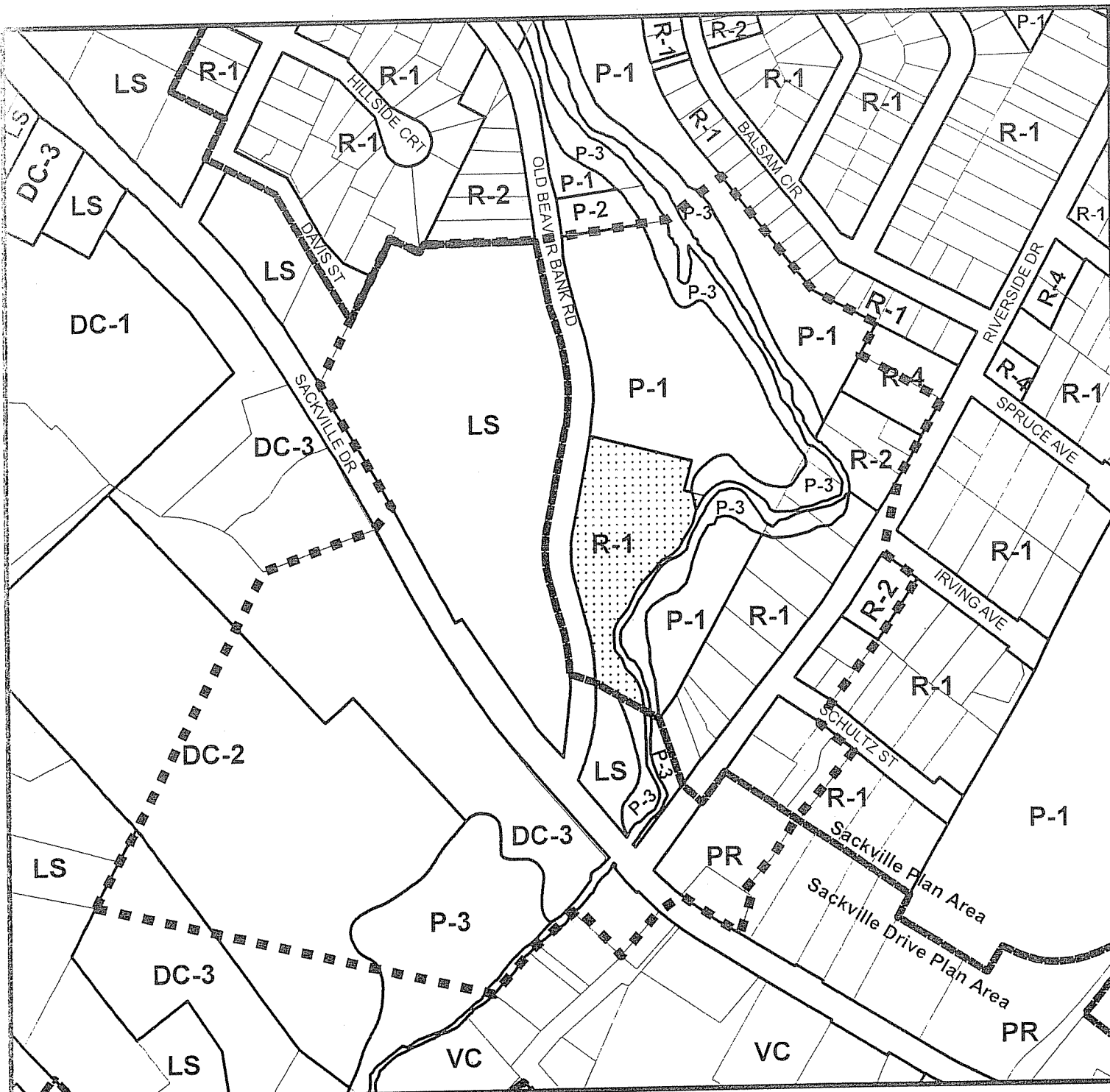
Sackville Plan Area

Sackville Drive Plan Area

- UR Urban Residential Designation
- CF Community Facility Designation
- FP Floodplain Designation

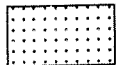
- DB Downsview / Beaver Bank Designation
- VC Acadia Village Centre Designation
- PR Pedestrian Retail Designation





Map 2
Zoning

■■■■ Notification Area



Subject Property

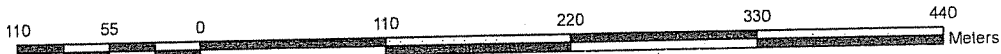


Sackville Plan Area

- R-1 Single Unit Dwelling Zone
- R-2 Two Unit Dwelling Zone
- R-4 Multiple Unit Dwelling Zone
- P-1 Open Space Zone
- P-2 Community Facility Zone
- P-3 Floodplain Zone

Sackville Drive Plan Area

- LS Large Scale Commercial Zone
- PR Pedestrian Retail Zone
- P-3 Floodplain Zone
- DC-1 Downsview Complex-1 Zone
- DC-2 Downsview Complex-2 Zone
- DC-3 Downsview Complex-3 Zone
- VC Acadia Village Centre Zone



Attachment A - Draft Amending Agreement

THIS FIRST AMENDING AGREEMENT made this ___ day of _____, 2010,

BETWEEN:

N S HOUSING DEVELOPMENT CORPORATION,

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 51 Old Beaver Bank Road, Sackville (PID# 40519530) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality of the County of Halifax approved an application by the Developer to enter into a development agreement to allow a 19 unit multiple unit residential building for senior citizens on the Lands, which said development agreement was registered at the Land Registry Office in Halifax on February 9, 1990, in Book No. 4879, Pages 236 to 246 as Document Number 7150 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Existing Agreement to permit an additional 26 residential units to be added to the building on the "Lands" pursuant to the provisions of the *Halifax Regional Municipality Charter*, (hereinafter called the "Amending Agreement");

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on [INSERT Date], referenced as Municipal Case Number 01324;

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

1. The Existing Agreement is amended by adding the following words after Part 1, Section 1.3 "Appendix "A"" :

"and Appendix "B""

2. The Existing Agreement is amended by adding the following after Clause 3.7:
- “3.8 With the expansion from nineteen (19) to forty-five (45) units, the developer shall be responsible to mitigate the impact of the increase in units on the sanitary discharge into the system. The sanitary servicing line for the building shall include 16,000 L storage tank. The design (configuration) and placement of the tank shall be indicated on the site servicing plan submitted at the building permit stage and be prepared by a Professional Engineer which is acceptable by Halifax Water.
- 3.9 Geotechnical studies shall be undertaken to access existing soil conditions prior to permitting. Confirmation shall be provided by a qualified professional to the Development Officer that such studies have been undertaken.
- 3.10 All hard surface run-off shall be treated by an oil-grit separator.
- 3.11 In addition to 3.1, the developer shall submit an E & S plan which is designed to prevent storm water from entering the LSR during construction. Further, All excavation material shall be placed in an area which is separated from the Little Sackville River and to be shown on the plan and approved by the Municipality.
- 3.12 Backflow preventers, if required by Halifax Water, shall be installed as part of the expansion from nineteen (19) to forty-five (45) units.”
3. The Existing Agreement is amended by deleting the words “nineteen (19)” from Section 5 and replacing it with the words “forty-five(45)”.
4. The Existing Agreement is amended by adding the following after Clause 6.3:
- “6.4 All residential units shall be located above the 40.37 m elevation. Should foundations be located below the 40.37 m flood elevation, an engineers design shall be submitted and approved by the Municipality to ensure appropriate flood protection measures are undertaken.”
5. The Existing Agreement is amended by adding the following after Clause 7.1:
- “7.2 Parking shall be provided at a minimum of one (1) parking space per four (4) dwelling units.
- 7.3 Further to Section 3.10, all garbage containers shall be located on a hard surface and any run off from the hard surface shall be treated by an oil-grit separator. All garbage containers shall be screened from view by a solid board wood fence.”
5. The Existing Agreement is amended by adding the following after Clause 8.1:

“8.2 Further to section 8.1, the first Occupancy Permit may be issued provided the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this Section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.”

6. The Existing Agreement is amended by adding Appendix B, attached as Schedule B.
7. All other terms and conditions of the Existing Agreement shall remain in full force and effect.
8. This First Amending 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 amending agreement until it is discharged by the Council.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2010.

SIGNED, SEALED AND DELIVERED

) N S HOUSING DEVELOPMENT
) CORPORATION

in the presence of

)
)

per: _____

) per: _____
)

per: _____

) per: _____
)

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

)
)
) HALIFAX REGIONAL MUNICIPALITY
)

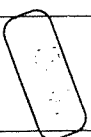
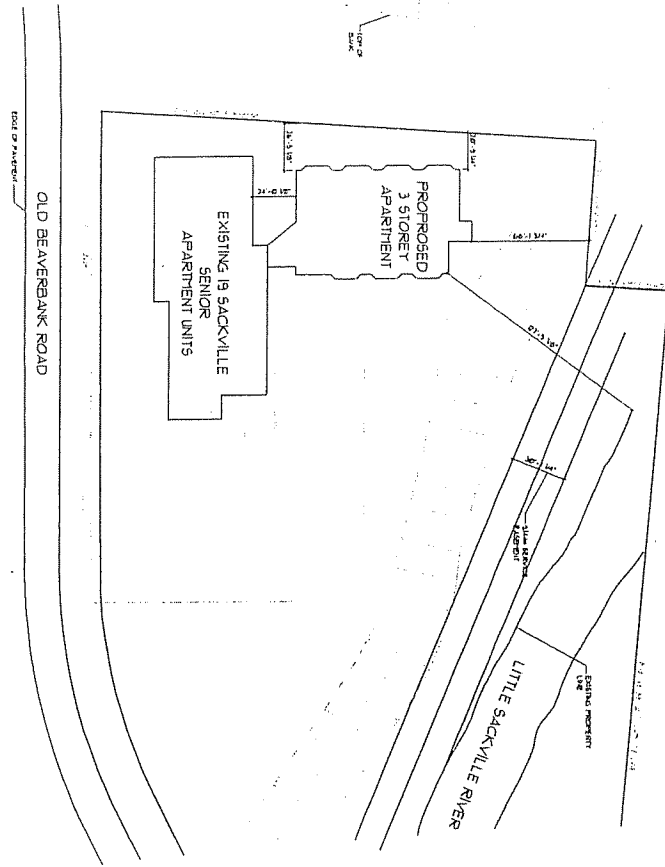
per: _____

) per: _____
) MAYOR
)

per: _____

) per: _____
) MUNICIPAL CLERK
)

SITE PLAN
5/21/10



CONNOR
ARCHITECTS & ENGINEERS
CAD
LIMITED

No.	Description	Quantity	Unit	Total
1	Site Plan	1	Sheet	1
2	Proposed Formwork	1	Sheet	1
3	Proposed Formwork	1	Sheet	1
4	Proposed Formwork	1	Sheet	1
5	Proposed Formwork	1	Sheet	1
6	Proposed Formwork	1	Sheet	1
7	Proposed Formwork	1	Sheet	1
8	Proposed Formwork	1	Sheet	1
9	Proposed Formwork	1	Sheet	1
10	Proposed Formwork	1	Sheet	1

PROPOSED FORMWORK

AX

**Attachment B
Relevant Policies from the Sackville MPS**

Relevant Policies	Evaluation
<p>E-3 It shall be the intention of Council to closely monitor all development proposals on the basis of the amount of effluent that will be generated in order to ensure that design flow levels are not exceeded.</p>	<p>The proposal has calculated the anticipated sewer flows and proposed measures to mitigate the impact. Halifax Water is satisfied with the proposal.</p>
<p>E-6 It shall be the intention of Council that the density and pace of development in Sackville be related to the capacities of future sewer and water services and pollution control facilities as determined by the standard practices of the Municipality and other government agencies.</p>	<p>The proposal meets the needs of Halifax Water as related to future sewer and water capacities. Further detail is provided in the discussion section of this report.</p>
<p>FP-1 In recognition of the need to minimize the consequences of flooding along the Sackville River and Little Sackville River and in recognition of the environmental importance of these rivers and their role in the natural storm drainage system, it shall be the intention of Council to establish a Floodplain Designation as shown on the Map 1 - Generalized Future Land Use. This Designation shall encompass the 1:20 and the 1:100 floodplains as defined through detailed floodplain mapping as well as any lands within one hundred (100) feet of the rivers which may not be included within either of these floodplains.</p>	<p>This proposal is adjacent this designation but outside the identified floodplains and Floodplain Designation. Therefore policies FP-3A, FP-3B , FP-4 are not applicable.</p>
<p>FP-2 Within the Floodplains Designation, it shall be the intention of Council to establish a floodplain zone, encompassing the undeveloped portions of the 1:20 year floodplain, in which conservation related uses, resource activities, recreation uses, and public and private parks and playgrounds shall be permitted. Notwithstanding that these uses shall be permitted, any structures intended for human habitation, whether permanent or temporary, shall be prohibited.</p>	<p>This proposal is adjacent this zone.</p>

Relevant Policies	Evaluation
SH-1 It shall be the intention of Council to investigate methods by which the Municipality can offer non-financial assistance in promoting the establishment of cooperative housing groups, funded through the CMHC non-profit housing program.	This proposal would enable this type of housing, thus meets this goal.
SH-3 It shall be the intention of Council to encourage and support the establishment of senior citizens' housing within the plan area, including the establishment of home care and group care facilities.	This proposal would enable this type of housing, thus meets this goal as the apartments are for senior citizens.

Relevant Policies	Evaluation
<p>UR-8 Notwithstanding Policies UR-2 and UR-7, within the Urban Residential Designation, it shall be the intention of Council to consider multiple unit dwellings over six (6) dwelling units, according to the development agreement provisions of the <u>Planning Act</u>. In considering such an agreement, Council shall have regard to the following:</p> <ul style="list-style-type: none"> (a) the adequacy of separation distances from low density residential developments; (b) that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses; © that site design features, including landscaping, amenity areas, parking areas and driveways, are of an adequate size and design to address potential impacts on adjacent development and to provide for the needs of residential of the development; (d) preference for a site in close proximity to community facilities such as schools, recreation areas and transit routes; (e) that municipal central services are available and capable of supporting the development; (f) that appropriate controls are established to address environmental concerns, including stormwater controls, based on a report from the appropriate Municipal, Provincial, and/or Federal Government authority; (g) that the proposed development has direct access to a local street, minor collector or major collector as defined in Map 3 - Transportation; (h) that it is not being considered on lands which are presently zoned and 	<p>The proposed development is separated from low density residential by the Little Sackville Rive and a wooded area.</p> <p>The proposal meets this criteria as the proposal is consistent with larger developments such as the Superstore and the Lions Club..</p> <p>No impacts are anticipated for surrounding development. Adequate amenity space is provided on the site.</p> <p>The site is in close proximity to Sackville Drive/ Downsview Mall an area well served by transit. There are recreation facilities adjacent the site at the Lions Club.</p> <p>Services are available and are capable of supporting the development as proposed.</p> <p>Environmental concerns have been addressed as identified in the staff report.</p> <p>The proposal has direct access to a local street.</p> <p>There are no single or two unit dwellings on this site.</p>

Relevant Policies	Evaluation
<p>IM-13 In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, the Sackville Community Council shall have appropriate regard to the following matters:</p> <ul style="list-style-type: none"> (a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations; (b) that the proposal is not premature or inappropriate by reason of: <ul style="list-style-type: none"> (I) the financial capability of the Municipality to absorb any costs relating to the development; (ii) the adequacy of sewer and water services; (iii) the adequacy or proximity of school, recreation and other community facilities; (iv) the adequacy of road networks leading or adjacent to, or within the development; and (v) the potential for damage to or for destruction of designated historic buildings and sites. (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of: <ul style="list-style-type: none"> (I) type of use; (ii) height, bulk and lot coverage of any proposed building; (iii) traffic generation, access to and egress from the site, and parking; (iv) open storage; (v) signs; and (vi) any other relevant matter of planning concern. 	<p>The proposal conforms with these policies.</p> <p>The proposal complies with this requirement.</p> <p>The proposal complies with this requirement.</p> <p>The proposal complies with this requirement. More details can be found in the staff report. See Policy UR-8(d)</p> <p>The adjacent road networks are adequate.</p> <p>This proposal does not impact historic buildings.</p> <p>Adequate control relating to this policy have been included in the original and amended agreement.</p>

Relevant Policies	Evaluation
<p>(d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding;</p> <p>(e) any other relevant matter of planning concern; and</p> <p>(f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.</p>	<p>The proposal is suitable for the site.</p> <p>No other matters were identified.</p> <p>Not applicable.</p>
<p>IM-14 In considering amendments to the land use by-law or development agreements, the Sackville Community Council shall hold a Public Hearing according to the provisions of the <u>Planning Act</u>.</p>	<p>A public hearing is required for this proposal.</p>

Attachment C
Halifax Waters Advisory Board Recommendation

Case 001324: Application by Connors Architects and Planners - Development Agreement for Additional Seniors Apartment Units at 51 Old Beaver Bank Road, Sackville

The Halifax Watershed Advisory Board recommends that the approval of the Development Agreement be made subject to the following conditions:

1. Soil disturbance be reduced to a minimum when excavating for the footings of the building.
2. A. geotechnical survey be done to ensure that the correct measures are applied to avoid settlement of the building and to address the slope stability issues (*Included in agreement*).
3. Run-off from the entire site, including the new roof and new parking lot, be directed to an oil grit separator (All parking areas directed to an oil/grit *separation(Included in agreement)*).
4. All new construction be supplied with sewage holding tanks to reduce the amount of raw sewage flowing into the river during peak stormwater events (*Included in agreement*).
5. Since 46% of this watershed (Little Sackville River) is now hard surface, a stormwater retention pond be installed onsite.
6. The building be built outside the 1/100 year flood plain (*Included in agreement*).
7. Contractor shall not to pump any construction water into the river (*Included in agreement*).
8. A major strong bond be posted for this development (*Standard bonds to apply*).
9. Proper landscaping be carried out (*Included in agreement*).
10. In order to guard against any leakage problems, the garbage bin be relocated further away from the river and on a hard surface (*Included in agreement*).
11. Use LEED certifiable water conservation appliances in the building (The Province has indicated that they will be designing to reduce environmental impact).