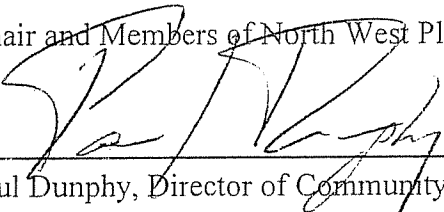




PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

North West Planning Advisory Committee  
January 6, 2010

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

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** December 17, 2009

**SUBJECT:** Case 15783: Time Extension to Development Agreement for 10  
Riverside Drive, Sackville

#### ORIGIN

Application by Paul Roma for a time extension to the development agreement for 10 Riverside Drive. The existing agreement enables the construction of a single unit dwelling and accessory buildings within 100 ft (30m) of the Little Sackville River.

#### RECOMMENDATION

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

1. By resolution, enter into the amending agreement provided in Attachment A of this report to extend the date for the commencement of construction of a single unit dwelling at 10 Riverside Drive to January 27, 2015; and
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

On January 27, 2005, North West Community Council approved an application by Paul Roma to enter into a development agreement to allow a single unit dwelling and accessory buildings within 100 ft (30m) of the Little Sackville River at 10 Riverside Drive (PID# 40014664) as identified on Map 1. The agreement contained a five year time limit for commencement of construction which expires on January 27, 2010.

## DISCUSSION

Development agreements contain an expiry date so that projects which have been approved but not constructed can be brought to a conclusion. If the applicant has not proceeded within the allotted time Council may grant an extension, at the request of the owner, in cases where it is felt that the development is still appropriate.

The existing development agreement, approved by Community Council in 2005, was enabled through the use of Policy FP-3A of the Sackville Municipal Planning Strategy (Attachment B) which states that no development except accessory buildings in conjunction with permitted residential uses shall be permitted within 100 ft (30m) of the Sackville or Little Sackville Rivers unless enabled by a development agreement. Provided an extension is granted by Community Council, the owner would retain all development rights under the existing agreement. If the request for a time extension is denied, the owner would be required to submit application for a new development agreement prior to developing the subject property. A review of Sackville Municipal Planning Policy suggests that development on the subject property is possible through the development agreement process.

The existing development agreement proposes the construction of a single unit dwelling and contains conditions that consider the scale of development and the environmental protection of the Little Sackville River with respect to proper storm drainage.

The owner has yet to proceed with the development and now intends to sell the property, with the development agreement rights attached to it, provided Community Council grants an extension. The owner has requested a 5 year extension to the date of commencement of construction. If approved, an extension to the development agreement will provide the applicant with adequate time to market the project, complete the transaction, get financing in place and commence construction.

Staff recommend that Section 4.4 of the existing development agreement be amended (Attachment A) to extend the time limit for commencement of construction from January 27, 2010 to January 27, 2010. A decision to extent the time limit does not require a Public Hearing. Staff has no objection to granting the requested time extension.

**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 approved 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**

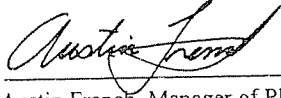
1. North West Community Council could choose to approve the proposed amending agreement thereby extending the commencement of construction to January 27, 2015. This is the recommended option for the reasons outlined above.
2. North West Community Council could choose to approve the proposed amending development agreement with different conditions respecting the construction deadline. A shorter deadline is not recommended by staff on the basis that the five year extension seems to be reasonable.
3. North West Community Council could choose to refuse to grant the time extension, in which case Council may, by resolution, discharge the agreement. This is not recommended as the circumstances under which the original development agreement was approved have not changed.

**ATTACHMENTS**

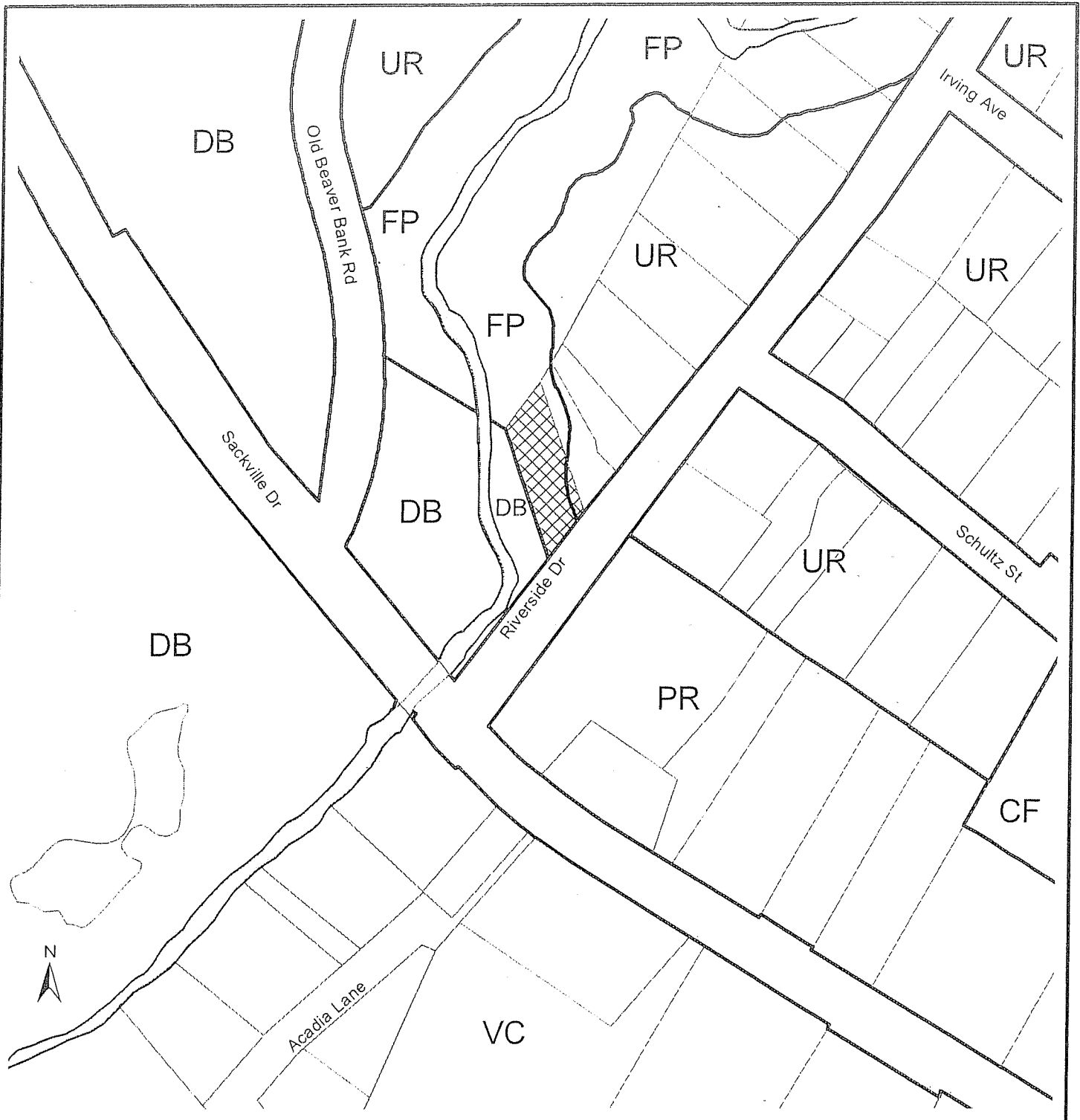
Map 1	Generalized Future Land Use
Map 2	Zoning
Attachment A	Amending Agreement - Time Extension
Attachment B	Relevant Policies from the Sackville MPS

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 : Tyson Simms, Planner, 869-4747



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



**Map 1 Generalized Future Land Use**


10 Riverside Drive

**Sackville Plan Area Designation**

- UR Urban Residential
- CF Community Facility
- FP Floodplain

**Sackville Drive Plan Area Designation**

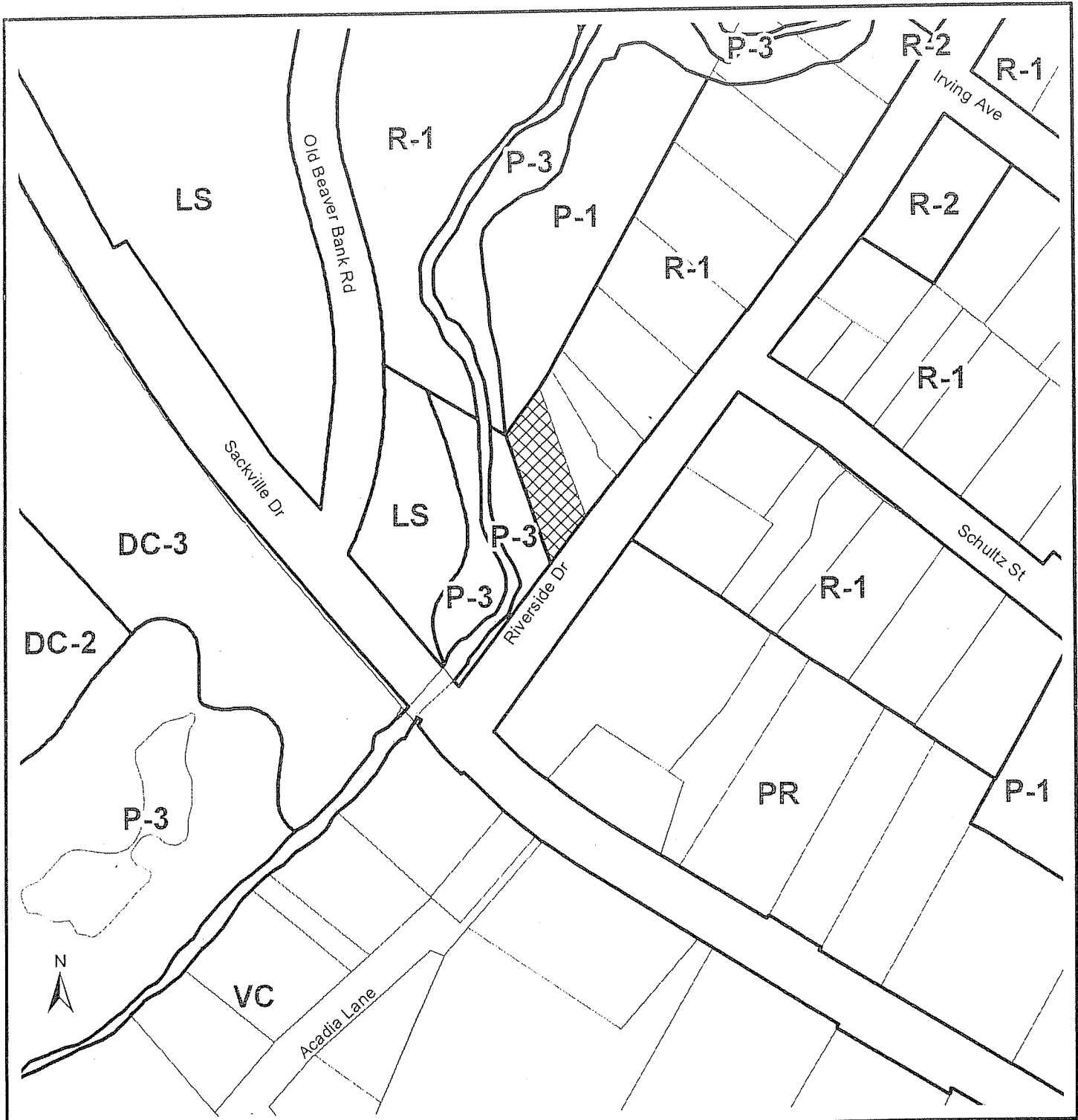
- DB Downsview/Beaver Bank
- PR Pedestrian Retail
- VC Acadia Village Centre

 Subject Property



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for Sackville Plan and Sackville Drive Plan Areas.

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




**Map 2 Zoning**

10 Riverside Drive

**Sackville Plan Area Zone**

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- P-1 Open Space
- P-3 Floodplain

 Subject Property

**Sackville Drive Plan Area Zone**

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



This map is an unofficial reproduction of a portion of the Zoning Map for the Sackville Plan and Sackville Drive Plan Areas

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

Attachment "A" -  
Proposed Amending Development Agreement

THIS AMENDING AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2010  
BETWEEN:

**PAUL ROMA,**  
of Halifax, Province of Nova Scotia  
(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 Paul Roma and Halifax Regional Municipality previously entered into an agreement to allow for development of a residential dwelling within 100 feet of the Little Sackville River at 10 Riverside Drive, Sackville (PID # 40014664), the said Agreement being recorded at the Registry of Deeds at Halifax as Document 81511264 (hereinafter called the "Existing Agreement") (referenced as Municipal Case Number 00676);

AND WHEREAS the Developer requested to amend the Existing Agreement and the Existing Agreement to permit a time extension for the commencement of construction by entering into this amending agreement (hereinafter called the First Amending Agreement) (referenced as Municipal Case Number 15783); and

AND WHEREAS the North West Community Council of Halifax Regional Municipality, at its meeting on the \_\_\_th day of \_\_\_\_\_, 2010, approved this request;

NOW THEREFORE THIS Amending Agreement WITNESSETH THAT in consideration to the granting by the Municipality of this Amending Agreement requested by the Developer, the Developer agrees as follows:

1. Clause 4.4 of the Existing Agreement be amended to read:
  - 4.4 In the event that construction of the project has not commenced by January 27, 2015, the Municipality may, by resolution of Council, upon the written request of the Developer, grant an extension to the date of commencement of construction. For the purpose of this section, commencement shall mean the issuance by the Municipality of a building permit for construction of the dwelling, site excavation and the placement of the footing

and foundation. If the development has not commenced by the applicable time, this agreement will terminate unless specifically extended upon request of the applicant and all rights shall be at an end.

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	)	<u>PAUL ROMA</u>
in the presence of:	)	
	)	
per: _____	)	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	)	MAYOR
	)	
per: _____	)	per: _____
	)	MUNICIPAL CLERK



Attachment B

**Relevant Policies from the Sackville MPS**

- FP-3A Within the Floodplain Designation, except for lands located within the P-3 Zone, it shall be the intention of Council that, notwithstanding any other development provision in this strategy, no development except accessory buildings in conjunction with permitted residential uses shall be permitted within one hundred (100) feet of the Sackville or Little Sackville Rivers. Notwithstanding that no development is permitted, Council may consider development which is consistent with that permitted by the zone on adjacent lands, according to the development agreement provisions of the Planning Act. In considering such agreements, Council shall have regard to the following:
- (a) the scale of the development;
  - (b) the environmental protection of the watercourse with respect to proper storm drainage;
  - (c) floodproofing provisions as required by the Land Use By-law; and
  - (d) the provisions of Policy IM-13.
- IM-13 In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, the Sackville Community Council shall have appropriate regard to the following matters:
- (a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;
  - (b) that the proposal is not premature or inappropriate by reason of:
    - (i) the financial capability of the Municipality to absorb any costs relating to the development;
    - (ii) the adequacy of sewer and water services;
    - (iii) the adequacy or proximity of school, recreation and other community facilities;
    - (iv) the adequacy of road networks leading or adjacent to, or within the development; and
    - (v) the potential for damage to or for destruction of designated historic buildings and sites.
  - (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
    - (i) type of use;
    - (ii) height, bulk and lot coverage of any proposed building;
    - (iii) traffic generation, access to and egress from the site, and parking;
    - (iv) open storage;
    - (v) signs; and
    - (vi) any other relevant matter of planning concern.
  - (d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding;

- (e) any other relevant matter of planning concern; and
- (f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.