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Item# **6.1**

North West Planning Advisory Committee

May 4, 2011

TO: Chair and Members of North West Planning Advisory Committee

SUBMITTED BY: 
_____ for _____
Paul Dunphy, Director, Community Development

DATE: April 18, 2011

SUBJECT: Case 16418: Development Agreement – 70 First Lake Drive, Sackville

ORIGIN

Application by W.M. Fares Group Limited to enter into a development agreement to permit new commercial development in excess of the maximum size permitted in the C2 (Community Commercial) Zone at 70 First Lake Drive, Sackville.

RECOMMENDATION

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

1. Give Notice of Motion to consider the proposed development agreement as provided in Attachment A, and schedule a public hearing;
2. Approve the proposed development agreement as set out in Attachment A of this report to permit new commercial development in excess of the maximum size permitted in the C2 (Community Commercial) Zone at 70 First Lake Drive, Sackville.
3. Require the Development Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, 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 Proposal:

W.M. Fares Group Limited has submitted an application to expand the existing commercial Town Centre property (70 First Lake Drive, Sackville). Policy CC-3 of the Sackville Municipal Planning Strategy (MPS) states that any expansion or new commercial development on the Town Centre property shall only be considered by Council through the development agreement process. As proposed, the expansion will consist of two new commercial buildings. The first building will consist of a 4866 m² (52,378 ft²) Sobeys food store. The second building will consist of a 409 m² (4,402 ft²) Needs convenience retail store with a 28 m² (300 ft²) Tim Hortons drive-in restaurant and 185 m² (2,000 ft²) of commercial lease space. A site plan and building elevations are provided as Schedules B-D of Attachment A.

Enabling Policy:

Policy CC-3 of the Sackville Municipal Planning Strategy (MPS) allows council to consider new commercial developments and expansions to the existing Town Centre property. The enabling policy (Attachment B) provides guidance as far as the scope of development that can be entertained on the subject property. Through the development agreement mechanism Council may consider a variety of items related to the proposal including: site design features such as landscaping, parking areas and driveways to address potential impacts on adjacent development; appropriate controls to address environmental concerns, and; the impact on traffic circulation, and in particular, sighting distances and entrances and exits to the site.

The Property:

The subject property is generally described as follows:

- located at 70 First Lake Drive, Sackville (Map 1 & 2);
- also known as the Town Centre property;
- measures 5.3 hectares (13.2 acres) in size;
- approximately 320 m (1,050 ft) of public road frontage along First Lake Drive;
- designated Community Commercial under the Sackville MPS (Map 1);
- designated Urban Settlement under the HRM Regional Planning Strategy;
- zoned C2 (Community Commercial) Zone under the Sackville Land Use By-law (LUB) (Map 2);
- home to an existing Staples Call Centre, Canadian Forces Depot, Needs Convenience Store and a Tim Hortons drive-in restaurant;
- lands located north, east and west of the property are zoned R1 (Single Unit Dwelling) and R2 (Two Unit Dwelling), and;
- lands located south of the property are zoned P1 (Open Space Zone) and P2 (Community Facility).

DISCUSSION

Subject to Policy CC-3, the Sackville MPS enables the consideration of new commercial development or the expansion of existing uses that exceed the maximum commercial area permitted under the C2 (Community Commercial) Zone.

It is the position of staff the development agreement provided in Attachment A satisfies the intent of relevant MPS policies (Attachment B). While the proposal is consistent with the intent of the MPS, staff have identified the following issues for specific discussion:

Uses Enabled by Development Agreement:

The development agreement provided in Attachment A permits the use of the proposed food store, convenience store (retail store), drive-in restaurant and the existing Staples Call Centre and Canadian Forces Depot (office uses). Through the development agreement process staff have determined that all C2 (Community Commercial) Zone uses are appropriate for the site with the exception of additional office uses.

While Policy CC-3 allows Council to consider development of community commercial uses, the policy states that Council should not consider a development agreement for office uses in excess of the maximum size permitted in the community commercial zone. The proposal does not include additional or new office uses. However, to ensure compliance with this policy provision the development agreement (Attachment A) states that no additions to or new office use shall be permitted on the subject property.

Effect on Sackville Drive Secondary Plan Area

Policy CC-3 states that Council shall have regard for an evaluation of the appropriateness of the proposed use in terms of its effect on the development of the Sackville Drive Secondary Plan as the major commercial focus within the plan area. In brief, the intent of this policy is to ensure that proposed development on the subject property would not result in the removal, relocation or discontinuation of similar development located within the Sackville Drive Secondary Plan Area. The applicant has provided correspondence (Attachment C) from the prospective tenant of the proposed food store. An evaluation of the correspondence provided by Sobeys Atlantic indicates that the proposed food store use is appropriate. Sobeys Atlantic has indicated there is no intention to remove, relocate or discontinue the use of the existing Sackville Drive Sobeys food store and therefore the intent of policy is met.

Site Design Features

Subject to Policy CC-3, Council shall have regard to consider site design features such as landscaping, parking areas and driveways. Staff are of the position that such features have been designed to improve existing site conditions.

Driveways

A proposed driveway located along the eastern portion of the property will serve to improve the existing slope and accessibility from First Lake Drive. Relocation of the existing eastern driveway and the adjacent Sackville Arena driveway will result in a direct alignment of the two driveways and will greatly improve stopping sight distances for commuters entering/leaving the site and travelling along First Lake Drive. Both driveway entrances/exits will be equipped with dedicated concrete pedestrian walkways and will serve to greatly improve pedestrian access to and from the site.

Landscaping

As proposed, existing vegetation located along the eastern portion of the site is to be removed to accommodate the newly proposed driveway access. Vegetation removed from this area will be reallocated to various portions of the site, specifically in areas where vegetation is limited such as the western portion of the property and parking areas. Through the development agreement process staff have required the planting of trees and shrubs along the property and additional landscaping south of the proposed retail store (identified as Building #2 on schedule B of Attachment A) and areas identified as future expansion of the proposed food store (identified as Building #1 on Schedule B of Attachment A).

Parking Areas

As proposed, parking areas are to be reconfigured to allow for the required 721 parking spaces. Existing parking areas have been re-aligned to permit additional parking and landscaped islands have been introduced where possible. Parking areas have been designed to improve on-site vehicular circulation. Further, dedicated pedestrian walkways have been introduced to improve on-site pedestrian circulation and reduce potential conflict between vehicular and pedestrian traffic.

Environmental Concerns and Controls

As per Policy CC-3, Council shall consider if appropriate controls have been established to address environmental concerns, specifically concerns related to the management and discharge of stormwater from the subject property. As part of the development agreement, the developer shall provide a stormwater management plan prepared by a professional engineer. Staff have also included a provision in the development agreement requiring that existing vegetation, located along the northern and eastern property boundaries, be retained as a non-disturbance area. This non-disturbance area will ensure a vegetative buffer is retained between the proposed development and adjacent residential properties. Combined with the proposed landscaping, these areas will encourage greater retention of stormwater on the subject property.

Conclusion:

Staff are satisfied that the proposed development agreement for a food store, retail store and drive-in restaurant satisfies the requirements of the Sackville MPS (Attachment B) and are recommending approval of the proposed development agreement (Attachment A) as indicated 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 2011/12 budget with existing resources.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting held on October 21, 2010. A public hearing has to be held by Council before they can consider approval of the proposed development agreement.

For the Public Information Meeting, notices were posted on the HRM website, in the newspaper and mailed to property owners within the notification area as shown on Map 2. Attachment D contains a copy of the minutes from the meeting. Should Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on map 2.

The proposed development agreement will potentially impact (but not limit to) the following stakeholders: local residents and property owners.

ALTERNATIVES

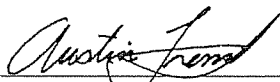
1. North West Community Council may choose to approve the agreement, as contained in Attachment A. This is the recommended course of action as the proposed development agreement meets the overall intent of the Sackville Municipal Planning Strategy.
2. Alternatively, North West Community Council may choose to approve the terms of the agreement, as contained in Attachment A, with modifications or conditions. Some modification or conditions may require additional negotiation with the developer and may require an additional public hearing.
3. North West Community Council may choose to refuse the 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 Sackville MPS. This alternative is not recommended for the reason outlined in this report.

ATTACHMENTS

Map 1: Generalized Future Land Use Map
Map 2: Zoning Map and Public Hearing Notification Area
Attachment A: Development Agreement
Attachment B: Policy Review - Sackville MPS
Attachment C: Letter from Sobeys Atlantic
Attachment D: Public Information Meeting Minutes
Attachment E: Excerpt from Sackville Drive LUB

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 1, Community Development, 869-4747

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

**Attachment A
Development Agreement**

THIS AGREEMENT made this day of , 2011,

BETWEEN:

[Insert Name of Corporation/Business LTD.]
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 70 First Lake Drive, Sackville, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for the establishment of new commercial uses in excess of the maximum size permitted in the community commercial zone on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies CC-3 and IM-13 of the Sackville Municipal Planning Strategy and Part 15 of the Sackville Land Use By-law;

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 16418;

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 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

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

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

1.3 Applicability of Other By-laws, Statutes and Regulations

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

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

1.4 Conflict

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 16418:

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan - Plan Number 16418-01
Schedule C	Building #1 Elevations – Plan Number 16418-02
Schedule D	Building #2 Elevations – Plan Number 16418-03
Schedule E	Site Plan Walkways – Plan Number 16418-04

3.2 Requirements Prior to Approval

3.2.1 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Lighting plan in accordance with Section 3.6 of this Agreement;
- (b) Landscaping Plan in accordance with Section 3.7 of this Agreement;
- (c) A letter from the Lake District Recreation Association indicating that the Association is in accordance with the proposed eastern driveway access to 70 First Lake Drive and any subsequent re-alignment of the driveway and parking area located at 91 First Lake Drive.

3.2.2 Prior to the issuance of any Municipal Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Written confirmation from a Landscape Architect which the Development Officer may accept as sufficient record of compliance with the Landscape Plan.
- (b) Written confirmation from a Professional Engineer which the Development Officer may accept as sufficient record of compliance with the Stormwater Management Plan.
- (c) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Lighting Plan;
- (d) Written confirmation from a professional engineer in accordance with Section 3.4.11 of this Agreement.

3.2.3 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) any uses permitted within the existing zone (C-2 Community Commercial Zone), as applied to the Lands subject to the provisions contained within the Land Use By-law for Sackville as amended from time to time, and;
- (b) no additional office use shall be permitted.

3.4 Siting and Architectural Requirements

Siting

3.4.1 The building's siting, bulk and scale shall comply to the following:

- (a) all buildings shall be sited as shown on Schedule B.
- (b) lot coverage shall not exceed 25%, and;
- (c) the maximum height of any building shall not exceed 10.7 m (35 feet).

3.4.2 More than one (1) main building shall be permitted on the lot.

3.4.3 A seasonal garden centre shall be sited as identified on Schedule B and shall not exceed 94 sq m (1,011 sq ft). The centre shall be for the display and sale of plants, shrubs, trees. The display and sale of fertilizers, manure, mulch and topsoil may be permitted where these products are packaged or otherwise fully contained.

3.4.4 An expansion to Building #1 shall be permitted and sited as identified on Schedule B.

Architectural Requirements

Entrances:

3.4.4 The main entrances to building #1 and building #2 as shown on Schedules C and D shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. Service entrances shall be integrated into the design of the building and shall not be a predominate feature.

Building Façades:

- 3.4.5 Architectural treatment of all facades of Buildings #1 and #2 shall be continued around all building facades.
- 3.4.6 The facade of building #2 which faces First Lake Drive shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. Service entrances shall be integrated into the design of the main building and shall not be a predominant feature.

Blank Walls:

- 3.4.7 Blank or unadorned walls shall not be permitted. The scale of blank walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, and architectural detail to create shadow lines.

Exposed Foundation

- 3.4.8 Any exposed foundation in excess of 1.8m² (5.9 ft²) in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.

Building Materials:

- 3.4.9 Exterior building materials shall not include vinyl siding but may include any one or more of the following:
- clay masonry;
 - non-combustible cladding;
 - preformed metal cladding
 - concrete split face masonry;
 - concrete tilt up panels;
 - brick masonry
 - cut stone masonry;
 - random stone masonry; or
 - acceptable equivalent in the opinion of the Development Officer.

Rooftop and Functional Elements:

- 3.4.10 Buildings shall be designed such that functional elements and mechanical systems (HVAC, exhaust fans, etc.) are not visible from First Lake Drive and adjacent properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented.
- 3.4.11 Barriers that serve to reduce noise levels associated with the operation of mechanical equipment shall be installed on all units. The design shall be prepared by a professional engineer and certification of the installation of such barriers shall be provided to the Development Officer prior to an Occupancy Permit.

- 3.4.12 Rooftop equipment, including, but not limited to, satellite and other telecommunication equipment, air handling units, cooling towers and exhaust fans shall be screened (visually) from First Lake Drive and adjacent properties. The screening shall include but not be limited to parapets and enclosures. Building screens shall be part of the architectural design with similar detailing and materials and not appear as add-ons.

Awnings:

- 3.4.13 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.

3.5 Parking, Circulation and Access

Parking Area

- 3.5.1 The parking area shall be sited as shown on Schedule B.
- 3.5.2 The parking area shall provide a minimum of 721 parking spaces.
- 3.5.3 The parking area shall be hard surfaced (included but not limited to asphalt).
- 3.5.4 The limits of the parking area shall be defined by landscaping and concrete curb.

Walkways:

- 3.5.5 Hard surfaced material walkways shall be required on the Lands as follows:
- (a) walkways shall be provided from both entrances/exits from First Lake Drive to the Existing Building A and Building #1, as shown on Schedule E, to encourage safe and comfortable pedestrian internal site movement;
 - (b) walkways shall be provided around the perimeter of Buildings, 1, 2 and Existing Buildings as shown on Schedule E, to encourage safe pedestrian movement and separation between the buildings and parking areas;
 - (c) hard surfaced materials may be composed of any combination of poured in place concrete, decorative interlocking precast concrete paver stones, or acceptable equivalent in the opinion of the Development Officer. Walkways shall not be surfaced or accentuated with asphalt or paint striping.

3.6 Outdoor Lighting

- 3.6.1 All lighting on the Lands shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert light away from streets, adjacent lots and buildings.
- 3.6.2 All lighting fixtures shall be fully shielded.
- 3.6.3 The Developer shall prepare an exterior lighting plan for all lands subject to this Agreement and submit it to the Development Officer for review to determine compliance with this Agreement. The lighting plan shall contain, but shall not be limited to, the following:
- (a) Plans indicating the location on the premises and the type of illuminating devices, fixtures, lamps, supports, other devices;

- (b) Description of the illuminating devices, fixtures, lamps supports and other devices. This description may include, but is not limited to, manufacturers' catalog cuts and drawings including sections where required;
- (c) Should the applicant desire to substitute outdoor light fixtures or lamps and install them on the Lands after a permit has been issued, the Developer shall submit all changes to the Development Officer for approval, with adequate information to assure compliance with this clause.

3.7 Landscaping

- 3.7.1 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.

Landscape Plan

- 3.7.2 Prior to the issuance of a Construction Permit, the Developer agrees to provide Landscape Plan which complies with the provisions of this section and conforms with the overall intentions of the Site Plan shown on Schedule B. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.

Landscape Plan Details

- 3.7.3 Planting details for each type of plant material proposed on the plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 3.7.4 All landscaped areas, not including areas identified as Non-Disturbance, as shown on Schedule B, shall be grassed, or alternatively, shall incorporate the use of natural ground covers such as water features, stone (washed or flat), mulch, perennials and annuals. Trees, planters, and shrubs shall be utilized and shall be planted at a rate of one (1) tree (minimum of 45 mm calibre) and three (3) shrubs per 6 m (13.1 feet) of lot frontage.

Retaining Wall Systems

- 3.7.5 All retaining wall systems are to be identified on the Landscaping Plan including the height and type of fencing proposed in conjunction with it. A construction detail of any fence and wall combination should be provided and certified by a professional engineer.
- 3.7.6 All proposed retaining walls shall be constructed of a decorative precast concrete or modular stone retaining wall system or acceptable equivalent in the opinion of the Development Officer.

Compliance with Landscaping Plan

- 3.7.7 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.

3.7.8 Notwithstanding Section 3.2.2, the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. 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.

3.8 Maintenance

3.8.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, sidewalks, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

3.8.2 The developer shall maintain and keep in good repair all fencing, including but not limited to fencing located along the western property line.

3.9 Signs

3.9.1 Signs shall be permitted as per the requirements of the Sackville Land Use By-law with the exception of:

- (a) No more than two (2) signs shall be erected on any premises. Where a multiple tenancy building is occupied by more than one business, each business shall be considered to be a separate premises;
- (b) Landscaping shall be provided at the base of any ground sign. Landscaping shall consist of either planter boxes, shrubs and/or flower beds or a combination thereof. If landscape planters are utilized, the planters shall be constructed of a natural material and shall be a minimum of 2 feet (0.6m) wide and 3 feet (0.9m) high.
- (c) One ground sign shall be permitted on the lands. The ground sign shall not:
 - (i) exceed a height of twenty (20) feet (6.1 m);
 - (ii) exceed a sign face width of eight (8) feet (2.4 m), and;
 - (iii) be internally illuminated.
- (d) No projecting sign shall project above the eaves, parapet or roof line of the buildings;

- (e) No facial sign shall have an area which exceeds ten (10) percent of the area of the wall on which it is attached.

3.10 Temporary Construction Building

A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.11 Solid Waste Facilities

3.11.1 The building shall include designated space for five stream source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.

3.11.2 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal effect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

3.12 Screening

3.12.1 Refuse containers and waste compactors shall be confined to the loading areas of Buildings 1 and 2 as shown on Schedule B, and shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

3.13 Hours of Operation

3.13.1 Uses contained in Proposed Building #1, as shown on Schedule B, shall be permitted to operate between the hours of 8:00 am and 11:00 pm Monday to Sunday.

3.13.2 The seasonal garden centre as shown on Schedule B, shall be permitted to operate between the hours of 8:00 am and 9:00 pm Monday to Sunday.

3.13.3 Uses contained in Proposed Building #2, as shown on Schedule B, shall be permitted to operate between the hours of 7:00 am and 11:00 pm Monday to Sunday.

3.13.4 Uses contained in Existing Buildings A and B shall be permitted to operate between the hours of 7:00 am and 11:00 pm.

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

3.13.6 Deliveries to any building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00 am and 9:30 pm.

PART 4: STREETS AND MUNICIPAL SERVICES

General Provisions

- 4.1 All design and construction of primary and secondary service systems shall satisfy Municipal Service Systems Specifications unless otherwise provided for in this Agreement and shall receive written approval from Halifax Regional Municipality and Halifax Water prior to undertaking the work.

Off-Site Disturbance

- 4.2 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

Underground Services

- 4.3 All secondary or primary (as applicable) electrical, telephone and cable service to all proposed buildings shall be underground installation.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

- 5.1 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

Non Disturbance Areas

- 5.2.1 Non-disturbance areas shall be provided along the eastern portion and most of the perimeter of the Lands as shown on Schedule "B".
- 5.2.2 All grading plans shall indicate areas where existing vegetation is to be maintained, areas to be protected from disturbance during the installation of services, construction of streets, construction of buildings, landscaping and any future activity on an individual lot unless otherwise specified in this Agreement. The non-disturbance areas shall be clearly delineated on the Site Plan and Grading Plan for each lot and in the field prior to and during construction.
- 5.2.3 The non-disturbance area identified on Schedule "B" shall be delineated on all final survey plans prior to final approval.

- 5.2.4 Non-disturbance areas shall be identified by the Developer with a snow fence or other appropriate continuous physical barrier or delineation and signage in the field prior to any site preparation (i.e. tree cutting and excavation activity). The snow fence or other appropriate continuous physical barrier or delineation and signage shall be maintained by the Developer for the duration of the construction of the snow fence or other appropriate continuous physical barrier or delineation and signage in the field.
- 5.2.5 If trees are removed or tree habitat damaged beyond repair in the non-disturbance areas, the Developer or the land owner shall replace the trees, two new trees of 1½ inch (38mm) clipper for every one removed or damaged, as directed by the Development Officer.
- 5.3 If the Developer fails at any time during any site work or construction to fully conform to the approval plans as required under Section 5, the Municipality shall require that the site and construction work cease, except for works which may be approved by the Development Engineer to ensure compliance with the Erosion and Sedimentation Control Plan, Grading Plan, and Storm Water Management Plan.
- 5.4 No Municipal Occupancy Permit shall be issued unless the Lands are either fully stabilized with sod or are temporarily stabilized and maintained with a covering of plastic or other such measures as determined and approved through the requirements of Section 5. Any temporary stabilization of the Lands shall be replaced with final landscaping (top soil and sod) within six months of the issuance of the Municipal Occupancy Permit. The Developer shall be responsible for ensuring that any temporary stabilization materials are replaced and/or maintained on an as-required basis to ensure that exposed soil is adequately stabilized at all times.

Erosion and Sedimentation Control and Grading Plans

- 5.5 Prior to the commencement of any onsite works on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality a detailed Erosion and Sedimentation Control Plan. The plans shall comply with the *Erosion and Sedimentation Control Handbook for Construction Sites* as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.

Stormwater Management Plans

- 5.6.1 The Developer shall engage a Professional Engineer to prepare a Stormwater Management Plan which identifies structural and vegetative stormwater management measures such as but not limited to, infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers to minimize any significant adverse impacts on receiving watercourses during and after construction. The plans shall indicate the sequence of construction, the areas to be disturbed, all proposed erosion and sedimentation and control measures and stormwater management measures which are to be in place prior to and during development of that phase. The Stormwater Management Plan shall conform with the following:

- (a) schematics and information presented on the Schedules;
- (b) requirements of the Nova Scotia Department of the Environment and the Municipal Service Systems Manual; and

5.6.2 All removed contaminants shall be disposed of according to applicable guidelines and regulations of the Nova Scotia Department of Environment and Labour.

5.6.3 The Developer agrees to construct at its own expense the Stormwater Management System pursuant to this section. The Developer shall provide certification from a qualified professional that the system, or any phase thereof, has been constructed in accordance with the approved design.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of Council.

- (a) Changes to the landscaping measures as detailed in Section 3.7.4 which, in the opinion of the Development Officer, do not conform with Schedule B;
- (b) Changes to the parking standards as detailed in Section 3.5.2 which, in the opinion of the Development Officer, do not conform with Schedule B;
- (c) Changes to the signage requirements as detailed in Section 3.9.1;
- (d) The granting of an extension to the date of commencement of development as identified in Section 7.3.1 of this Agreement, and;
- (f) The length of time for the completion of the development as identified in Section 7.5.1 of this Agreement.

6.2 Substantive Amendments

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

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

7.2 Subsequent Owners

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

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

7.3 Commencement of Development

7.3.1 In the event that development on the Lands has not commenced within five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the 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.

7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.

7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1 if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4 Completion of Development

Upon the completion of the whole development or complete phases of the development, 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; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Sackville Drive, as may be amended from time to time.

7.5 Discharge of Agreement

7.5.1 If the Developer fails to complete the development after five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office 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; or
- (c) discharge this Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the 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 Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

8.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the 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 Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands 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; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* 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 _____ day of _____, 20__.

SIGNED, SEALED AND DELIVERED
in the presence of:

[INSERT PROPERTY OWNER]

Per: _____

Per: _____

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

HALIFAX REGIONAL MUNICIPALITY

Per: _____
Mayor

Per: _____
Municipal Clerk

Attachment B
Policy Review – Sackville MPS

Policy CC-3

Notwithstanding Policy CC-2, within the Community Commercial Designation, Council may consider the expansion of existing uses and the establishment of new commercial uses in excess of the maximum size permitted in the community commercial zone, according to the development agreement provisions of the Planning Act. In considering any such development agreement, Council shall have regard to the following:

Policy Criteria	Staff Comment
(a) an evaluation of the appropriateness of the proposed use in terms of its effect on the development of the Sackville Drive Secondary Plan as the major commercial focus within the plan area; (RC-May 7, 2002; Effective-June 29, 2002)	<i>The applicant has submitted correspondence from the prospective tenant of the proposed food store indicating that the existing Sobeys food store located on Sackville Drive will remain in operation and that there are no plans for its removal or relocation. Representatives from Sobeys Atlantic also indicate that the proposed food store will compliment and serve as a release valve for customer demand at the current Sackville Drive Sobeys location. Further, representatives have submitted information related to the prospective catchment area of the proposed food store at 70 First Lake Drive.</i>
(b) that no development agreement for office uses in excess of the maximum size permitted in the community commercial zone be considered;	<i>The proposal does not include additional or new office uses. However, to ensure compliance with this policy provision the development agreement states that no additions to or new office use shall be permitted on the subject property.</i>
(c) that municipal central services are capable of supporting the development;	<i>Halifax Water has indicated that municipal central services are capable of servicing the proposed development.</i>
(d) that site design features, including landscaping,	<i>The applicant has proposed to remove</i>

<p>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 users of the development;</p>	<p><i>existing vegetative stands located along the eastern portion of the site to accommodate a new driveway entrance/exit. A large portion of the removed stands have been re-allocated along other portions of the property, including but not limited to the western portion of the property and parking areas. Further, existing vegetation located between the subject property and neighbouring properties will be retained as a Non-Disturbance Area and will continue to operate as a natural buffer between the proposed commercial uses and neighbouring properties.</i></p> <p><i>Through the Development Agreement the developer will be required to plant 1 tree and 3 shrubs for every 6 meters of public road frontage.</i></p> <p><i>As proposed, parking areas have been redesigned to accommodate the required 721 parking spaces. Portions of the parking areas will be equipped with landscaped buffers and will be designed to improve vehicular circulation. Pedestrian circulation to, from and on-site will be improved through the introduction of dedicated pedestrian walkways.</i></p>
<p>(e)that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</p>	<p><i>As proposed, the height bulk, lot coverage and appearance of the proposed buildings are compatible with uses located to the South of the subject property (i.e. Sackville Arena, bingo hall, etc.). Uses located to the north, east and west are mainly comprised of single and two unit dwellings. These uses are not compatible with the proposed uses. Although, it is important to note, while these uses are less compatible, the proposed commercial uses (Sobeys and Needs</i></p>

	<i>Convenience) will be sited south of the existing Town Centre buildings (Existing Buildings A and B) and therefore will not be generally located in any increased proximity to neighbouring properties.</i>
(f) that appropriate controls are established to address environmental concerns, including stormwater controls;	<i>As part of the development agreement provisions the developer will be required to submit a stormwater management plan. Stormwater discharged from the property will be collected in the existing stormwater collection system located along First Lake Drive. Further, existing vegetative stands retained as areas of non-disturbance combined with the proposed landscaped areas and required plantings will result in improved on site storm water retention.</i>
(g) the impact on traffic circulation and, in particular, sighting distances and entrances and exits to the site;	<i>Relocation of the existing eastern driveway entrance/exit and the adjacent arena driveway will provide increased visibility through improved sighting distances.</i> <i>As proposed, Pedestrian and vehicular access has been improved with the introduction of dedicated pedestrian walkways and curbing along both driveway entrances/exits.</i> <i>A traffic impact study was submitted as part of the application. HRM staff concur with the findings of the study.</i>
(h) general maintenance of the development;	<i>Through the Development Agreement, the developer will be required to maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, sidewalks, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or</i>

	<i>dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.</i>
(i) hours of operation; and	<p><i>Hours of operation will conform with all relevant Municipal and Provincial legislation and regulations.</i></p> <p><i>As per requirements of the development agreement the hours of operation will be as follows:</i></p> <p><i>Uses contained in Proposed Building #1, as shown on Schedule B of Attachment A, shall be permitted to operate between the hours of 8:00 am and 11:00 pm Monday to Sunday.</i></p> <p><i>The outdoor display court (seasonal garden centre) as shown on Schedule B, shall be permitted to operate between the hours of 8:00 am and 9:00 pm Monday to Sunday.</i></p> <p><i>Uses contained in Proposed Building #2, as shown on Schedule B of Attachment A, shall be permitted to operate between the hours of 7:00 am and 11:00 pm Monday to Sunday.</i></p> <p><i>Uses contained in Existing Buildings A and B as shown on Schedule B of Attachment A shall be permitted to operate between the hours of 7:00 am and 11:00 pm.</i></p> <p><i>Deliveries to any building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00 am and 9:30 pm.</i></p>
(j) the provisions of Policy IM-13.	
<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>	
(a) that the proposal is in conformity with the	<i>The proposal generally conforms with the</i>

intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;	<i>intent and requirements of the Sackville Municipal Planning Strategy and the Sackville Land Use By-law.</i>
(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.	<i>The proposal is not premature or inappropriate for any of the reasons specified in IM-13 (b).</i>
(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.	<i>Existing uses located to the north, east and west are mainly comprised of single and two unit dwellings. These uses are not compatible with the proposed uses. Although, it is important to note, while these uses are less compatible, the proposed commercial uses (Sobeys, Needs Convenience and outdoor garden centre) will be sited south of the existing Town Centre buildings (Existing Buildings A and B) and therefore will not be generally located in any increased proximity to neighbouring properties. The total number, size, height, location and illumination of signs will be subject to requirements as specified in the Development Agreement. These requirements will aid to reduce conflict with any or adjacent land use.</i>
(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;	<i>n/a</i>
(e) any other relevant matter of planning concern; and	<i>n/a</i>
(f) Within any designation, where a	<i>n/a</i>

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.

Attachment C
Letter from Sobeys Atlantic



Real Estate 1231 Lower Street, Stellarton, NS B0K 1S0 T 907 752 6211 F 902 928 1639 sobeys.ca

March 8th, 2011

Tyson Simms
Planner – Planning Service
Halifax Regional Municipality
636 Sackville Drive
Lower Sackville, Nova Scotia B4C 2S3

Subject: Case 16254: Application by W. M. Fares on behalf of First Mutual Properties Limited to enter into a development agreement to consider the establishment of a Proposed Sobeys Food Store at 70 First Lake Drive, Sackville (PID#00362442)

Dear Sir:

Further to our discussion, this letter is written at the request of Halifax Regional Municipality ("HRM"), in conjunction with the above named application.

Sobeys Group Inc. hereby confirms to HRM that the proposed 52,000 square foot Sobeys supermarket, to be located at 70 First Lake Drive, (the "New Sobeys"), would be an additional outlet by which Sobeys would provide service to its customer base within the over all Sackville market (Lower, Middle & Upper).

This new outlet will service the residential neighborhoods that are in its immediate area and will serve to take some of the pressure off of the Sobeys located at 752 Sackville Drive. The two stores, together, will allow us to get more penetration in the neighborhood core of the population (both stores), and the wider drawing trading area of a Community Shopping Centre (with the existing store), thus keeping more local consumer food dollars in the immediate area. Schedule "A" attached hereto provides an illustration of the Primary Trading Area (the "PTA") for the New Sobeys in the red dashed line, and the PTA for the Existing Sobeys is illustrated by the blue dotted line.

The PTA for the New Sobeys Store has a population base of approximately 22,500 and is expected to grow over the next decade. Statically, this PTA has higher household incomes, household size and average number of children per family than both the Greater Halifax/Dartmouth Area and Nova Scotia.

The strong sales performance of the current Sobeys indicates to us that there is a requirement for additional shopping opportunity in this market. There is a need for a second grocery option for the people of the Sackville area, one that compliments the grocery store offering currently concentrated on Sackville Drive.

The New Sobeys is located far enough away from the Sackville Drive store to provide for a convenient grocery shopping option to the families in the PTA, one that does not require them to compromise on their expectations for price, selection and service. This New Store will service the customers of the PTA better by providing them with the option and the opportunity to either shop for their groceries in their own neighborhood, or to travel to the larger commercial areas located on Sackville Drive.

In conclusion, we hereby confirm that that the proposed Sobeys at 70 First Lake drive is in addition to Sobeys overall retail offering to the Sackville Community, not a replacement of our current operation in the Downsview Mall on Sackville Drive.

If you have any other questions or concerns, please feel free to contact me at (902)752-8371 ext 8308.

Sincerely,

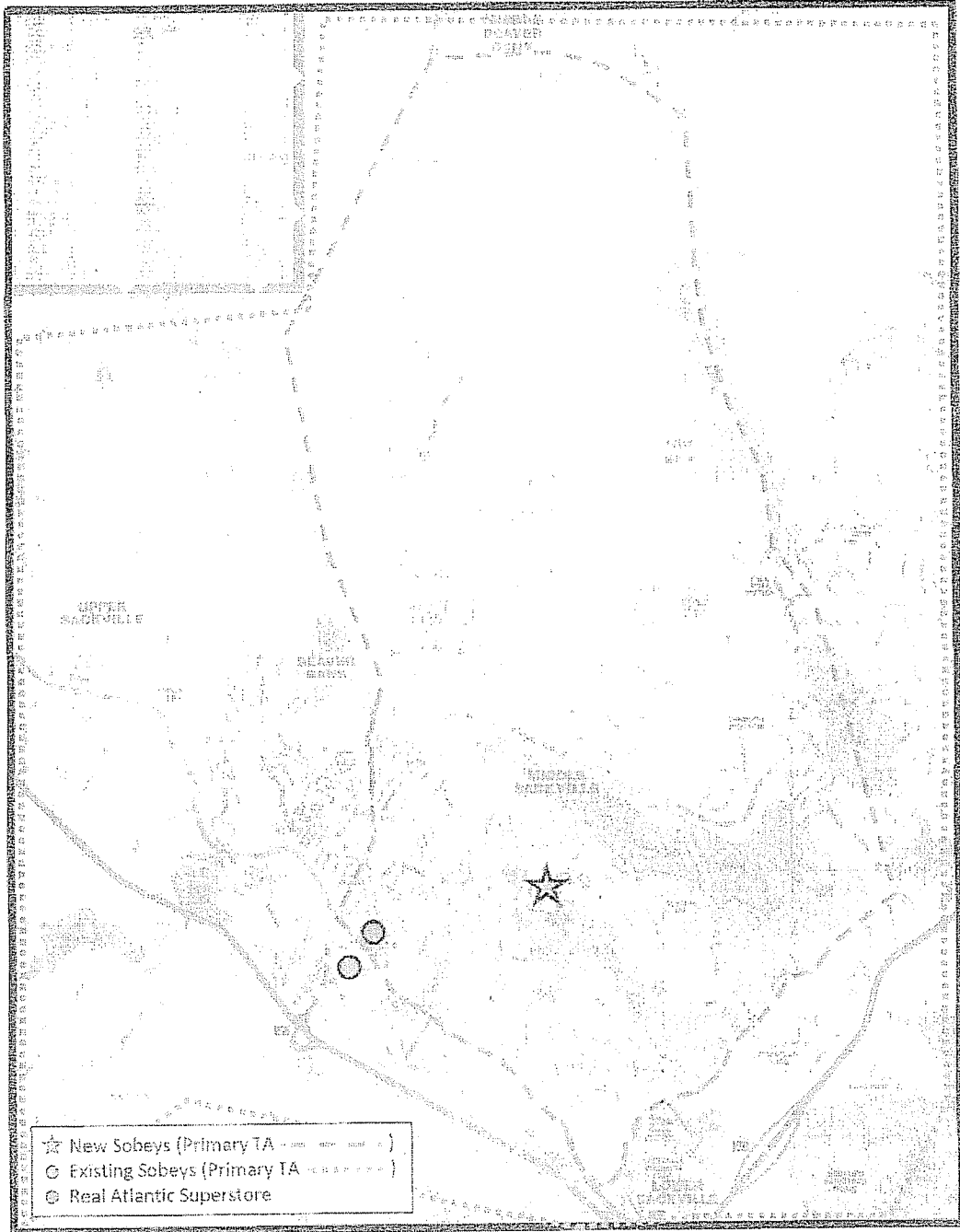


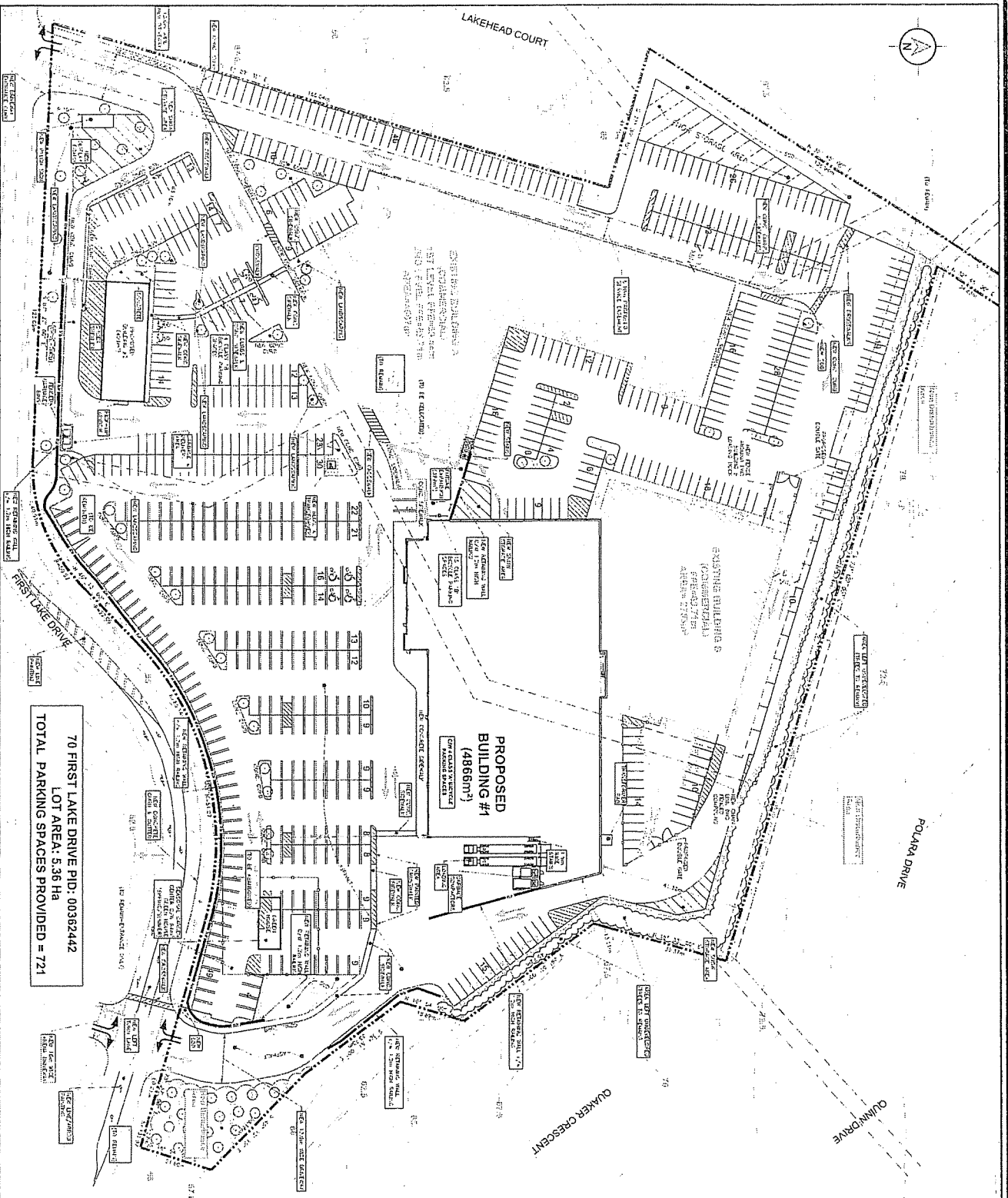
Brian Hughes
Director Real Estate
Sobeys Atlantic

Attachments: Schedule "A" – Primary Trade Area Map

Schedule "A"

New Sobeys Primary Trade Area





70 FIRST LAKE DRIVE PID: 00362442
 LOT AREA: 5.36 Ha
 TOTAL PARKING SPACES PROVIDED = 721

LEGEND: PROPERTY BOUNDARIES ADJACENT PROPERTIES CONTOUR (METERS) EXISTING BUILDINGS REPAIRING WALL 500 TIE TIE LINE PAINTED BOUNDARY FENCE																																					
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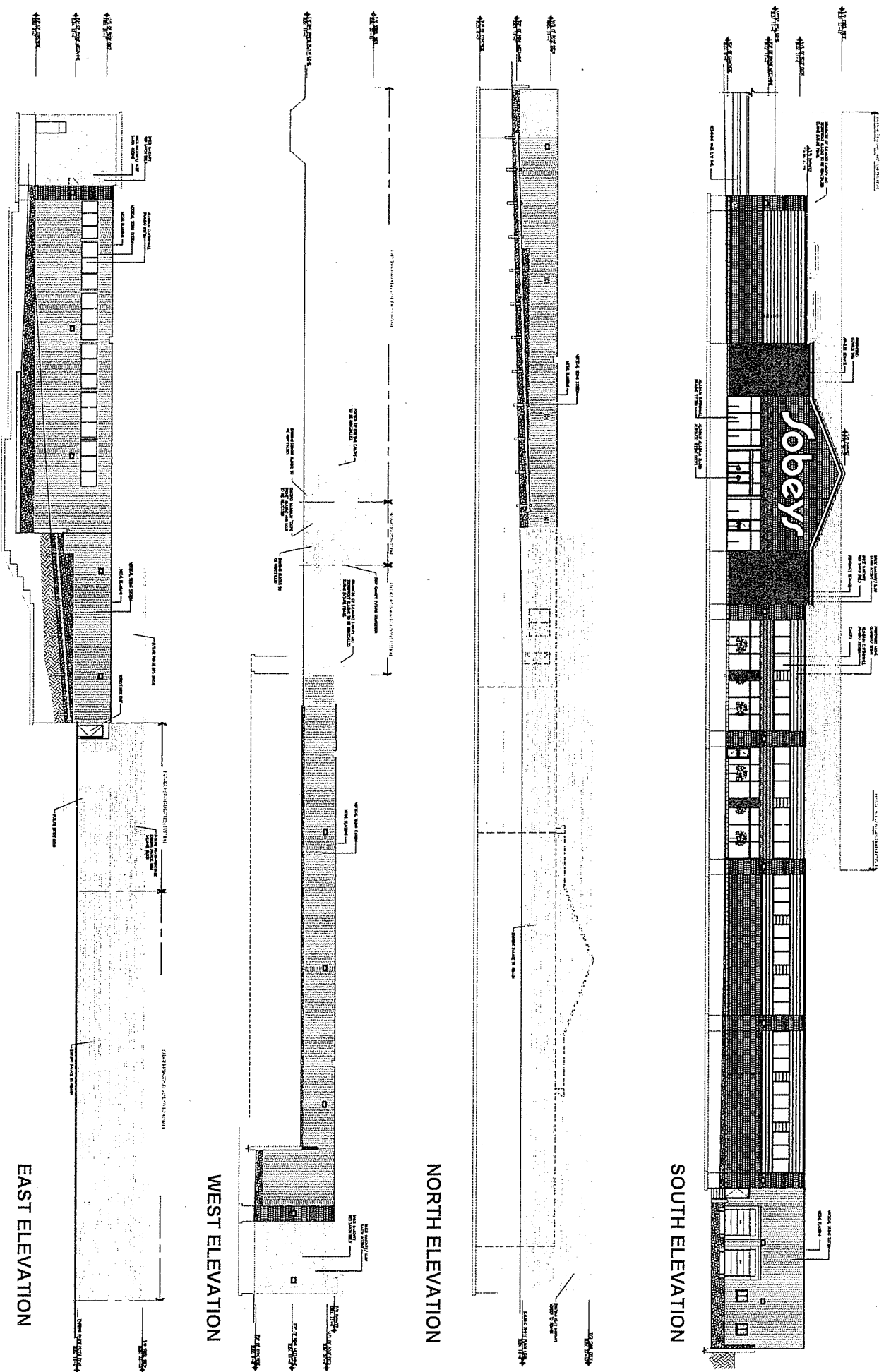
Schedule B
 Site Plan

April 18, 2011

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

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Schedule C
Building #1 Elevations

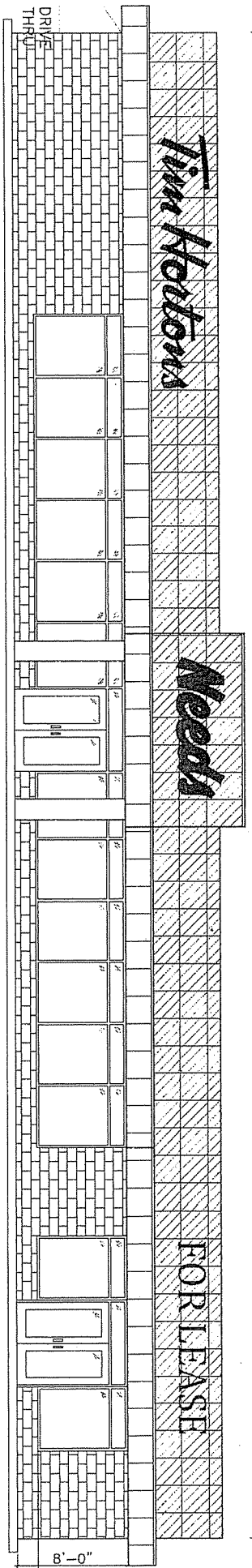
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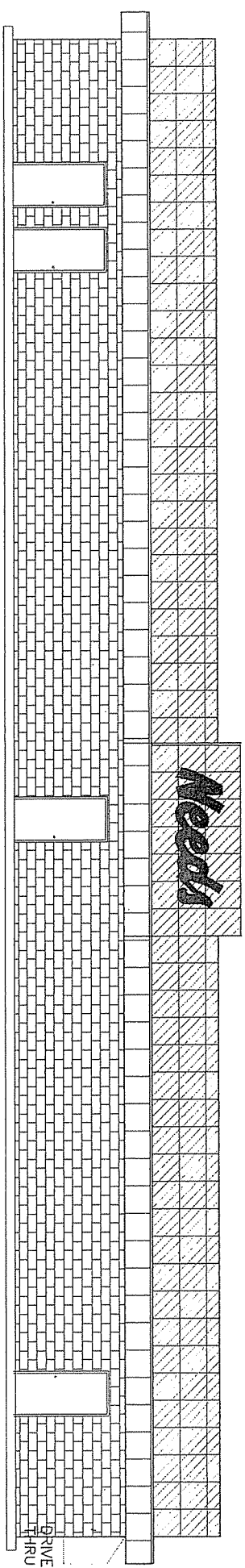
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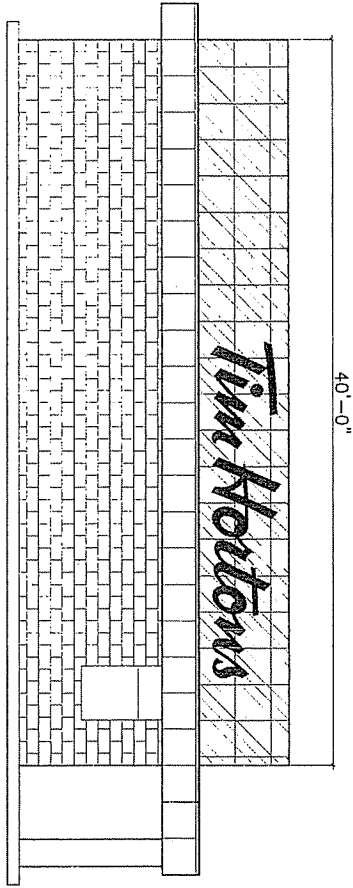
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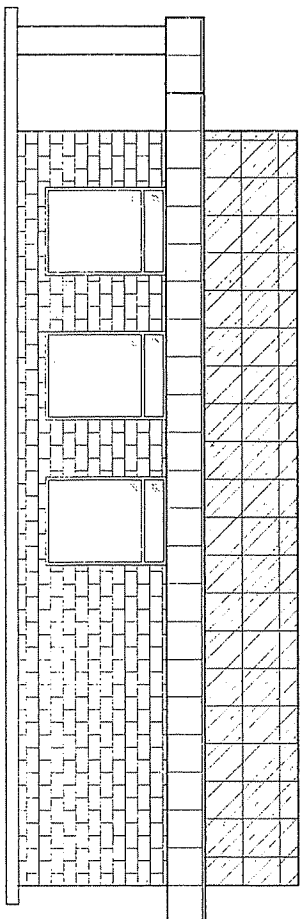
FRONT ELEVATION



REAR ELEVATION



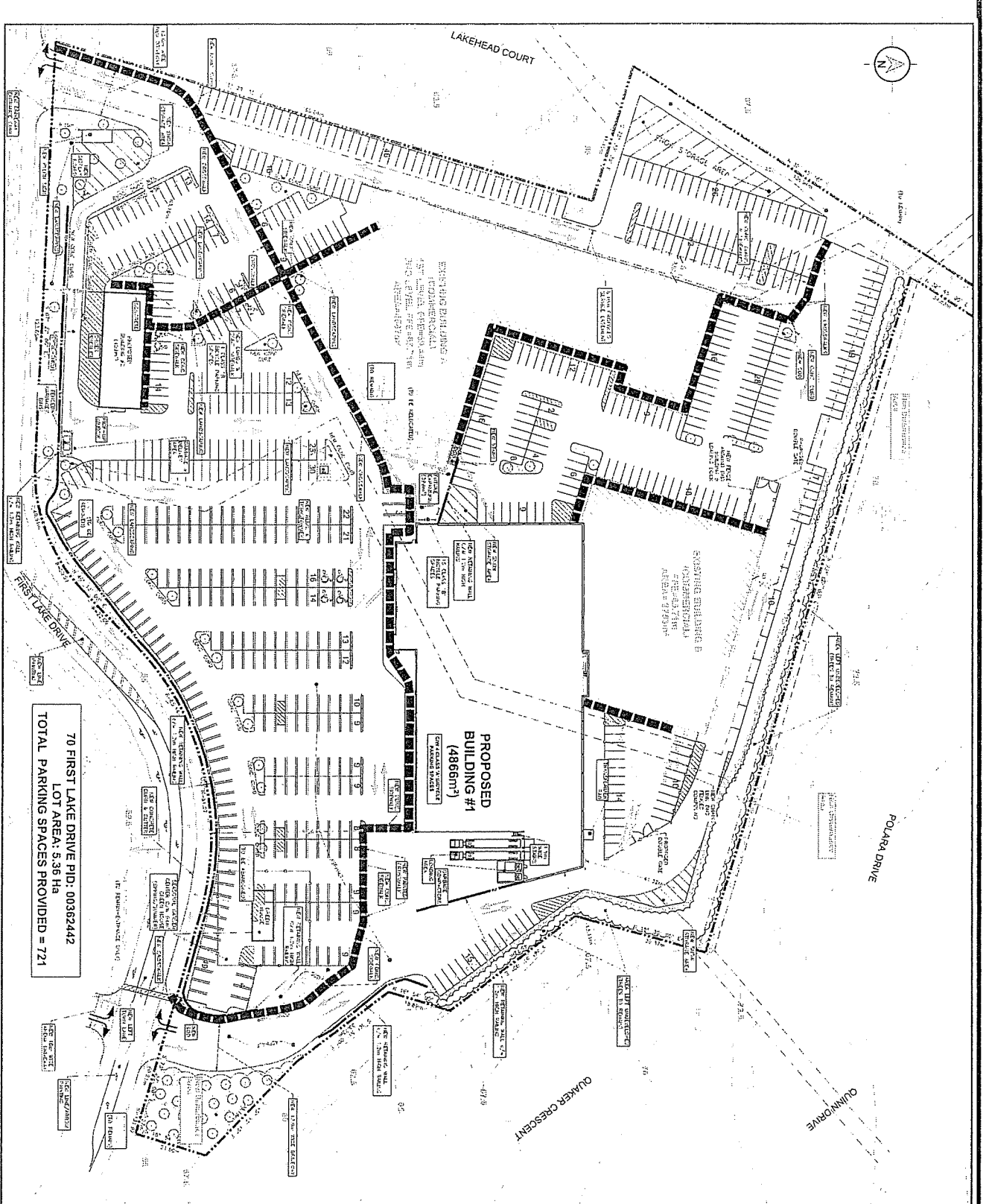
LEFT ELEVATION



RIGHT ELEVATION

Schedule D
 Building #2 Elevations





Schedule E
Site Plan Walkways

Existing and Proposed Walkways

April 18, 2011

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Attachment D
Public Information Meeting Minutes

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 16418 - 70 First Lake Drive, Sackville

7:00 p.m.
Thursday, October 21, 2010
Sackville Heights Community Centre
45 Connolly Road, Sackville

STAFF IN

ATTENDANCE: Tyson Simms, Planner, HRM Planning Services
Jacqueline Belisle, Planner, HRM Planning Services
Alden Thurston, Planning Technician, HRM Planning Services
Jennifer Weagle, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE: Deputy Mayor Brad Johns, District 19 - Middle & Upper Sackville -
Lucasville
Councillor Bob Harvey, District 20 - Lower Sackville
Cesar Saleh, WM Fares Group

PUBLIC IN

ATTENDANCE: Approximately 50

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

1. Opening Remarks/Introduction/Purpose of Meeting

Mr. Simms introduced himself as the Planner working with this application through the planning process. He also introduced Deputy Mayor Brad Johns, District 19; Councillor Bob Harvey, District 20; Cesar Saleh, representing WM Fares Group; and HRM staff: Jacqueline Belisle, Planner, Alden Thurston, Planning Technician, and Jennifer Weagle, Planning Controller.

The agenda and purpose of the meeting were reviewed.

2. Overview of Planning Process

Mr. Simms reviewed the definition of a development agreement and provided an overview of the planning process as it relates to this application.

3. Presentation of Proposal – Tyson Simms

This proposal is to construct a 47,000 square foot Sobeys food store. It is proposed that a portion of the existing “Building B” be demolished to accommodate the proposed food store. “Building A”, which is the Staples Call Centre, will maintain its original total area of 7,246 m² (78,000 ft²). The existing Needs Convenience Store and Tim Hortons Restaurant are planned to be relocated from the existing “Building B” to a newly proposed 409m² (4,402 ft²) building. If approved, the proposed building will be established near the existing First Lake Drive entrance, located along the western portion of the property.

The property is under the Sackville Municipal Plan Policy area. The land use is designated as Community Commercial and the current zoning is C-2 Community Commercial. The total lot size of the property is 13 acres.

Mr. Simms reviewed Sackville Municipal Planning Strategy policy CC-3, noting that this policy can be reviewed online. He also reviewed a site plan of the subject property.

Presentation of Proposal – Cesar Saleh, WM Fares Group

Mr. Saleh thanked everyone for attending. This proposal is for the commercial expansion of 70 First Lake Drive. Partners in this project are First Mutual Properties, Dora Construction, WHW Architects, and WM Fares Group.

Mr. Saleh reviewed an aerial image of the site, along with the site location, and site development plan. The site is 13.71 acres, currently with two buildings on it. The Needs Convenience store and Tim Hortons are proposed to be moved to the corner of the property, and to add space for another commercial leasehold.

Mr. Saleh advised that the Sobeys will be 50,000 ft². He reviewed the ground floor and mezzanine floor plans for the building. The mezzanine level will feature offices and a kitchen for staff, along with a community facility room. He reviewed renderings of the front, east, west and north (rear) elevations of the proposed Sobeys, noting that the façade will be of masonry brick and curtain wall glass. The building will have a 23 foot height, which is lower than the current building height.

Mr. Saleh reviewed the floor plan of the Needs Convenience store/Tim Hortons. The Tim Hortons would be located within the Needs. The façade would be of a composite metal, brick and glass. Mr. Saleh reviewed renderings of the building elevations.

Mr. Saleh reviewed the merits of the proposal, including: that the proposed commercial use is consistent with the existing commercial uses on the site; the building materials will be of a good quality and will require little maintenance; Sobeys is a good tenant and plays an important role in the growth of the local community. Mr. Saleh reviewed Sobeys community funding programs.

4. Questions/Comments

Mr. Simms opened the floor for comments.

Greg Publicover, Lower Sackville, commented that the parking lot is already full from the call centre employees, and inquired whether there will be additional parking spaces created. Mr. Saleh advised that the parking lot will be resurfaced and re-designed and there will be approx. 750 parking spaces for Sobeys and the existing commercial spaces. The proposed number of parking spaces allocated meets the requirements of the Land Use By-law. Mr. Simms advised that there will be an internal staff review of the proposal, which will include looking at the proposed parking.

Wade Marshall, Quaker Crescent, advised that he lives in the back of the subject property. He noted concerns with garbage attracting rats, and asked that rodent controls be put in place. There are no problems with rats currently, but there were problems when the Dominion grocery store was on the site.

Mr. Marshall also asked that limits be put in place on the running of transport truck refrigeration units overnight, due to noise concerns and asked that limits be put in place to prohibit transport trucks in operation from the hours of 8:00 p.m. to 7:00 a.m. Mr. Saleh reviewed the proposed retaining wall location on site, noting the 31 foot elevation difference.

Mr. Marshall suggested that if the retaining wall were the same height as the store, it would reduce the impact of noise from the trash compactors.

Mr. Marshall also discussed concerns with increased traffic on First Lake Drive, and the affects this would have on Quaker Crescent, Quinn Drive and Polara Drive. He asked that measures be put in place to prevent short-cutting.

Mr. Simms commented that he will review with staff whether rodent controls can be incorporated into the development agreement. This is regulated through the food enforcement division of the Provincial government. Mr. Salah advised he will raise this concern with Sobeys.

An unidentified resident inquired whether a Metro Transit stop would be put at this location.

Mr. Simms clarified that with regard to concerns with noise from transport trucks, there is a noise by-law in place that would be applicable to the site. Hours of operation can be included in the development agreement. The development engineer has requested a full study of the site for review of entrances, exits, trips generated to and from the site, etc. Metro Transit is looking to remove the stop from this site, as they are moving away from having stops in parking lots. This stop will be repositioned nearby, and he hopes to know the location by the public hearing.

Donna Gaudet, Quaker Crescent, noted concern with rat traps left unattended. Traps need to be regularly maintained. Mr. Simms advised that the onus for maintenance of traps would be on the developer and property owner.

Harry Schaffer, Quaker Crescent, inquired whether multi-level parking could be an option to incorporate more parking spaces on the site. He also inquired whether it would be possible to reopen the path from Quaker Crescent.

Mr. Saleh advised that the developer hasn't done any assessment of multi-level parking for this site. With regard to pedestrian access from Quaker Crescent, although this is a steep elevation, it is something they could look into. Mr. Simms advised that staff are reviewing existing pathways.

Rachel Mole, Lakehead Court, commented that the Tim Hortons on this site would be very busy and there is no other access in and out. She also noted concern with rodents, noise, and traffic.

Mr. Simms advised that access and traffic will be looked at closely by the development engineer, especially with a Tim Hortons drive through. Mr. Saleh noted that there is currently a Tim Hortons/Needs Convenience on the site. The relocation is intended to be an improvement to the site flow. He clarified that it will not be a full Tim Hortons, just a window/counter location within the Needs Convenience store.

Ms. Smith, Lakehead Court, commented on the long queue at the Tim Horton's drive through currently, and that there is not sufficient room for the traffic.

Keir Daborn, Lakehead Court, commented that the proposed location is the worst location the developer could have selected. He suggested that it be moved 300 m toward First Lake Drive, near the green space. There would need to be at least 1200 parking spaces for the Staples Call Centre and Sobeys. Garbage is currently not being maintained properly on the site.

Rachel Mole, Lakehead Court, commented that First Lake Drive has no room to expand. This proposal is not fair to existing residents.

Andrew Houlihan, Phoenix Crescent, noted concerns with rodents and garbage. He requested that at least the current amount of green space be kept. He noted that there is already a Sobeys on Sackville Drive.

Mr. Saleh commented that Sobeys would have already determined a need for a store in the area. Mr. Simms clarified that the Sobeys on Sackville Drive is to remain.

Mr. Houlihan also noted that the subject property is in the watershed area of First Lake, which is why it is important to maintain the green space.

Keith Burke, Quaker Crescent, noted concern with traffic at the intersection of Metropolitan Avenue and First Lake Drive. He commented that a truck would not have enough room to make a left hand turn, and traffic wouldn't be able to back up to allow a turning truck. He also noted concern for access for emergency vehicles in this area.

Donna Gaudet noted concern with traffic flow in the area, and noted concern with re-locating the Metro Transit stop to the end of Lakehead Court where children would have to cross the road. It would be a dangerous area to move a transit stop to.

Mr. Simms advised that Metro Transit will be a part of the review process.

Wayne Young, Lakehead Court, commented on the current shortage of parking. He noted that it is a busy street and it has to have better traffic flow and parking.

Curt Wentzell, Cavalier Drive, inquired as to the hours of operation. Mr. Saleh indicated that his understanding is that the Sobeys would be open until 11:00 p.m. and Mr. Simms indicated that a 24 hour operation has not been discussed with staff.

Mr. Wentzell inquired whether a liquor store was proposed to be included in the Sobeys. Mr. Saleh advised that it is not proposed for inclusion in this store. Mr. Simms advised that uses of the site can be controlled through the development agreement.

Les Boudreau, Quaker Crescent, indicated that there is no need of a Needs Convenience store on the site if there will be a Sobeys. He suggested that the Tim Hortons could be put in the Sobeys without a drive through.

Donna Gaudet inquired as to the square footage of the commercial leasehold attached to the Needs/Tim Hortons. Mr. Saleh advised that it would be 2000 ft².

Bob Pye, Phoenix Crescent, indicated that he was disappointed there was no spokesperson from Sobeys or First Mutual Properties present. He commented that residents are landlocked by this site. He inquired what is the catchment area for this new Sobeys and asked about the traffic

patterns of the Sobeys on Sackville Drive. Mr. Salah responded that Sobeys would have done a marketing study for the need of a new store and they believe there is a need for both stores.

Mr. Simms indicated that he has requested a letter from Sobeys on the future use of the Sackville Drive Sobeys. He noted that there is an effort to allocate businesses along Sackville Drive.

Rachel Mole inquired whether other areas in the community had been considered. Mr. Simms indicated that is a question for Sobeys, but the application received was for this site.

Ms. Smith, Lakehead Court, inquired whether during the planning stages Sobeys indicates their hours of operation as 7:00 a.m. to 11:00 p.m., they can change to a 24 hour operation in the future. Mr. Simms advised that hours of operation can be established in the development agreement. He noted that staff are aware that this site is adjacent to a residential area. The hours of operation will be made public when they are determined for certain.

Louise Plasse, Lakehead Court, indicated that there were never any problems when the IGA was on the site, but she is concerned about the Needs/Tim Hortons. Traffic is already heavy and the proposed location is not a suitable location for the Needs/Tim Hortons. The additional commercial space could also increase traffic. Mr. Salah indicated that they could go back and redesign the site. There is a traffic study being done, and he will be reviewing it with staff when it is complete.

An unidentified resident commented that the Kinsman Centre may use the Sobeys parking lot for overflow parking for weddings and other events.

Responding to an inquiry from an unidentified resident, Mr. Salah clarified that the green portion on the site map was a garden centre for the summer.

Bob Pye indicated concern that shopping carts would be knocked over the edge of the 30 foot embankment. He inquired whether street elevations would be shown. Mr. Salah clarified that it would not be possible for carts to be knocked from the elevation, and that the plans are with HRM Planning Services for anyone to view.

Mr. Simms indicated that staff will keep posting information and revisions to the proposal on the web, and that residents are always welcome to come to the office to review materials.

Sonja Levy, Florence Place Court, inquired whether there would be a path from the Sobeys to the call centre. Mr. Salah advised that yes, there will be a path to get through to the call centre. Mr. Simms advised that proper lighting guidelines and requirements will be enforced through CEPTED.

Ms. Levy requested clarification whether there will be 707 or 750 parking spaces. Mr. Salah advised he would have to look into the exact number of parking spaces. Mr. Levy indicated that there needs to be designated parking spaces for call centre employees so that Sobeys customers don't take up all the parking spaces.

Jim Smith, Phoenix Crescent, indicated that there is a pedestrian entrance at Polara Drive, and another at the church, which has been there since the church was built in 1979. He asked if something could be done by the developer to improve the walkway. It is owned by the church, but used by the public.

Mr. Simms advised that staff would only be able to address issues within the site, but he encouraged Mr. Salah to speak with the developer about this.

Walter Regan, Sackville Rivers Association, encouraged underground parking on the site which would preserve greenspace. He inquired whether the buildings would incorporate green roof technology. Mr. Simms advised that they have not discussed green roofs.

Mr. Regan inquired whether the buildings would be constructed to LEED standard, and whether a sidewalk would be installed along First Lake Drive. He noted that the proposal will increase traffic and suggested aligning the exits with this site and the rink and installing a traffic light to help deal with traffic. Mr. Simms advised that this has been looked at before, and that the development engineer will be addressing traffic issues in the traffic study.

Mr. Regan inquired whether there would be a Sobeys gas station in the parking lot. Mr. Simms advised that it could be incorporated into the development agreement that a gas bar would not be an appropriate use for the site.

Mr. Regan inquired whether the plan would include street trees, landscaping and raised curbs. Mr. Salah indicated that this would all be taken into consideration in the landscape design of the site.

Mr. Regan inquired whether the site has been investigated for acidic slate, and whether oil grit separators would be used on the site. He also inquired whether this proposal would be subject to a Watershed Advisory Board review. Mr. Simms advised that there is no specific water course on the site, and it would not be subject to review by the Watershed Advisory Board. Mr. Regan indicated that First Lake is only 85 metres from this site.

Mr. Regan inquired whether there would be on-site sewage overflow storage, whether a walking trail linking the site to the existing First Lake trail would be developed, and whether measures could be taken to avoid the "blank wall effect" of the three sides of the Sobeys and the retaining wall. Mr. Simms advised that staff would look into all of Mr. Regan's inquiries.

Rachel Mole inquired how extensive the traffic study is, noting that this area is frequently used by children, and that she hopes the traffic study looks at pedestrian and traffic patterns over a whole year. Mr. Simms advised that he can't comment on specifics of the traffic impact study, but that the development engineer was asked to undertake a full traffic study. The study would look at the period of a whole year and would include traffic to and from the site, number of trips, etc. Ms. Mole suggested that the RCMP should have input into the traffic study.

Anne Smith, Phoenix Crescent, inquired as to the square footage of the proposed Sobeys compared to other Sobeys stores. Mr. Saleh advised that it is consistent with other new Sobeys stores, but he is unsure as to the square footage of the Sackville Drive Sobeys. He could obtain that information.

Lil Hutchinson, Quaker Crescent, inquired as to the criteria that have to be met by developers before they make an application. Mr. Simms advised that there is a set of criteria that has to be met, and items that have to be provided for an application to be considered complete. This application in particular was subject to a pre-application, and the developer has already made some changes to the proposal.

Walter Regan suggested that to reduce car use, the walkways from neighbouring sites could be improved. He suggested that the Needs/Tim Hortons be relocated as far from the present residential housing as possible. He inquired whether a sedimentation/erosion plan would be a part of the development. Mr. Simms advised that one would be required.

Mr. Regan indicated that this would be a major demolition project, and inquired whether staff would be ensuring it was done properly. Mr. Simms advised that demolition would be carried out within demolition regulations.

Mr. Regan inquired whether air conditioners and rooftop equipment could be hidden in an artistic way to protect the views from the properties above. He noted blank walls and retaining walls attract vandalism. Mr. Simms advised that CEPTED would review this.

Mr. Regan encouraged green space and landscaping improvements to the property to reduce the "moonscape" appearance of the parking lot.

Wade Marshall indicated that salt run-off from the parking lot is a concern, and inquired how this would be managed. He indicated that the proposed buildings seem like a lot of square footage to squeeze onto the property, and noted concern with the current property maintenance of the property owner, noting issues with litter. He commented that this proposal will create problems for the neighbourhood.

Mr. Simms referred to the Sackville Municipal Planning Strategy, policy CC-3, which requires the proposal to be brought to the public for feedback, which is the reason for this meeting. He clarified that this proposal is not set in stone, that it is only in the initial stages. This is not an as-of-right development. He clarified that the minutes from this meeting will be brought forward to Council with the staff report on this matter.

Keir Daborn inquired whether staff could exclude the future incorporation of a liquor store, bars and gas stations on the property. He also inquired whether the traffic study would be made public. He suggested that a full environmental assessment on the ground water and the water table should be required for this development. Mr. Simms advised that no decisions are being made tonight, and that future uses for the site will be evaluated.

Mr. Daborn indicated that none of the residents want a bar on the site. Mr. Simms advised that the traffic study will be made public and available on the website when it is complete. He further clarified that an environmental assessment may be required by the province, which he will discuss with the development engineer.

Louise Plasse, Lakehead Court, inquired what would be done with the snow from the parking lot in the winter, noting concern with pushing snow against residents fences causing damage. Mr. Salah advised that there will be a dedicated area for snow.

An unidentified resident requested that a Sobeys representative be present for future meetings. Mr. Simms clarified that Sobeys would be a tenant, and that there is no requirement for them to be present. Mr. Salah advised he would pass on this request to Sobeys.

Andrew Houlihan inquired whether Sobeys would be making an effort to “go green” for this building, and noted disappointment that the developer will not be consulting the Watershed Advisory Board. He also noted concern with food smells coming from the store, such as the bakery.

Mr. Salah clarified that this property was owned by a different owner up until 6-8 months ago. This proposal reflects the new owners vision for the site. The proposal does not include a liquor store or a bar. If Sobeys wanted to put a gas bar on the property, they would have to go through this process again. Hours of operation, maintenance, and storm water management will all be addressed through the development agreement, which is a legal contract. This process is a collaboration between the developer and the community, and he will take the concerns voiced tonight to the developer to see how they can address these issues for the community. He noted that Dora Construction partners with Sobeys for the construction of all Sobeys and Needs Convenience stores. Any further expansions of these buildings would have to go through this same process.

5. Closing Comments

Mr. Simms reviewed the next steps of the process. He asked that residents feel free to contact him with any further questions or comments or for further information and thanked everyone for attending.

6. Adjournment

The meeting adjourned at approximately 9:00 p.m.

Attachment E
Excerpt from Sackville Drive LUB

PART 15: C-2 (COMMUNITY COMMERCIAL) ZONE

15.1 C-2 USES PERMITTED

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

Commercial Uses

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

Residential Uses

Existing dwellings
Existing multiple unit dwellings
Boarding and rooming houses

Community Uses

Open space uses
Institutional uses

15.2 C-2 ZONE REQUIREMENTS: COMMERCIAL AND RESIDENTIAL USES

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

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

15.3 OTHER REQUIREMENTS: SERVICE STATIONS

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

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

15.4 OTHER REQUIREMENTS: COMMERCIAL FLOOR AREA

- (a) The gross floor area of all commercial buildings on a lot in any C-2 Zone shall not exceed ten thousand (10,000) square feet (929 m²).
- (b) Notwithstanding the provisions of Subsection 13.4(a), where welding, plumbing and heating, electrical and other special trades contracting services and shops are permitted in any C-2 Zone, no such shop shall exceed thirty-five hundred (3,500) square feet (325 m²) of gross floor area.
- (c) Notwithstanding the provisions of Subsection 13.4(a), where offices are permitted in any C-2 Zone, no office building shall exceed five thousand (5,000) square feet (465 m²) of gross floor area.

15.5 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

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

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

15.6 OTHER REQUIREMENTS: PARKING LOTS

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

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

15.7 C-2 ZONE REQUIREMENTS: COMMUNITY USES

In any C-2 Zone, where uses are permitted as Community Uses, no development permit shall be issued except in conformity with the provisions of Part 19 and Part 20 as are applicable.

15.8 OTHER REQUIREMENTS: EXISTING USES

Existing uses which are in excess of the maximum gross floor area requirements of Section 15.4 shall be permitted as existing uses. Any expansion to such existing uses may only be considered by development agreement.

15.9 OTHER REQUIREMENTS: SACKVILLE TOWN CENTRE

Notwithstanding the provisions of Section 15.1, and 15.4, the existing Sackville Town Centre Shopping Centre, located on the lot identified by LRIS Number 362442, may be used for any **of the uses listed below**. In conformity with Section 15.8, expansion of the Shopping Centre may only be considered by development agreement. **(RC-May 7, 2002; Effective-June 29, 2002)**

Commercial Uses

Retail stores

Food stores

Service and Personal Service Uses

Offices

Commercial schools

Banks and financial institutions

Restaurants and drive-in and take-out restaurants

Outdoor display courts

Shopping plazas and malls

Theatres and cinemas

Entertainment uses

Motels, hotels and hostels

Commercial recreation uses

Service stations

Taxi and bus depots

Parking lots

Greenhouses and nurseries

Veterinary hospitals and kennels

Welding, plumbing and heating, electrical and other special trade contracting services and shops

Local fuel distribution facilities

Re-cycling depots

Automotive repair outlets

Funeral Parlours and undertaker establishments

Wholesale bakeries

Printing and publishing establishments

Existing auto body shops

Existing transport facilities and maintenance yards

Residential Uses

Up to two (2) dwelling units in conjunction with commercial uses

Existing dwellings

Boarding and rooming houses

Community Uses

Open space uses

Institutional uses (RC-May 7, 2002; Effective-June 29, 2002)