

North West Community Council
February 12, 2008

TO: North West Community Council

SUBMITTED BY: Gail Harnish / for
Ann Merritt, Chair
North West Planning Advisory Committee

RE: Case 01109 - Discharge of Development Agreement, 209 Sackville Drive,
Sackville

DATE: February 7, 2008

ORIGIN

North West Planning Advisory Committee meeting - February 6, 2008

RECOMMENDATION

The North West Planning Advisory Committee recommend that North West Community Council approve the discharge of the existing development agreement of May 21, 1991, between Sportwheels Limited and the former Municipality of the County of Halifax as outlined in the discharging agreement appended as Attachment A of the staff report dated January 4, 2008.

ATTACHMENTS

Staff report dated January 4, 2008

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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

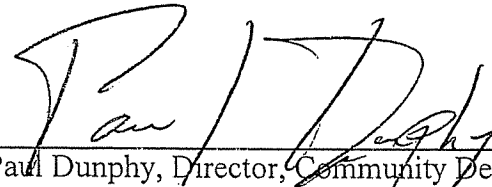


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

North West Planning Advisory Committee
February 6, 2008

TO: Chair and Members of North West Planning Advisory Committee

SUBMITTED BY:


Paul Dunphy, Director, Community Development

DATE: January 4, 2008

SUBJECT: Case 01109 - Discharge of Development Agreement, 209 Sackville Drive, Sackville

ORIGIN:

Application by Sportwheels (1996) Limited to discharge the Development Agreement for 209 Sackville Drive.

RECOMMENDATION:

It is recommended that the North West Planning Advisory Committee recommend that North West Community Council approve the discharge of the existing development agreement of May 21, 1991, between Sportwheels Limited and the former Municipality of the County of Halifax as outlined in the discharging agreement appended as Attachment A.

BACKGROUND:

Site Description and Location: The subject property is located at 209 Sackville Drive in Sackville (see Map 1).

Current Land Use: The property contains a commercial building which consists of approximately 9212 square feet of floor area over two floors. The building is occupied by Sportwheels, a sporting goods retailer.

Designation and Zoning: The property is designated Pinehill-Cobequid (Map 1) and is zoned PC (Pinehill-Cobequid) Zone (Map 2 and Attachment C) within the Sackville Drive Secondary Planning Strategy. The existing Development Agreement (Attachment B), signed May 21, 1991 (previously approved January 27, 1986) permitted an expansion of the building and parking lot.

DISCUSSION:

The existing Development Agreement limits the size of the building thus limiting the ability of the land owner to expand the current building beyond its current size. Since the negotiation of the Development Agreement in 1986, the Sackville Drive Secondary Planning Strategy has been adopted, which provides for more permissive land use regulations than were in effect in 1986. However, these regulations are overridden by the existing Development Agreement on the subject property.

The owners have requested that the Development Agreement be discharged in order to allow the PC (Pinehill -Cobequid) Zone requirements to apply to the property. This will allow the owners to apply for an addition to the building which is intended to expand their stock room and receiving area.

It is the opinion of staff that the existing Development Agreement is inconsistent with the intent of the Sackville Drive MPS and LUB. Therefore, staff recommends that the existing Development Agreement be discharged and the Pinehill-Cobequid Zone standards be applied to the subject site. A discharging agreement is provided (Attachment A) for Council's approval.

Public Information Meeting: No public information meeting was held as the *Municipal Government Act* allows Council to discharge a development agreement through a notice of motion and no public participation process is required.

BUDGET IMPLICATIONS

The HRM costs associated with processing this planning application can be accommodated within the existing budget.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Council could discharge the existing Development Agreement which would result in the property being subject to the Pinehill-Cobequid Zone standards. This is the recommended alternative.
1. Council could refuse to discharge the existing Development Agreement which would restrict the expansion of the existing building. This is not recommended for the reasons stated in this report.

ATTACHMENTS

Map 1 - Generalized Future Land Use

Map 2 - Zoning

Attachment A - Proposed Discharging Agreement

Attachment B - Existing Development Agreement

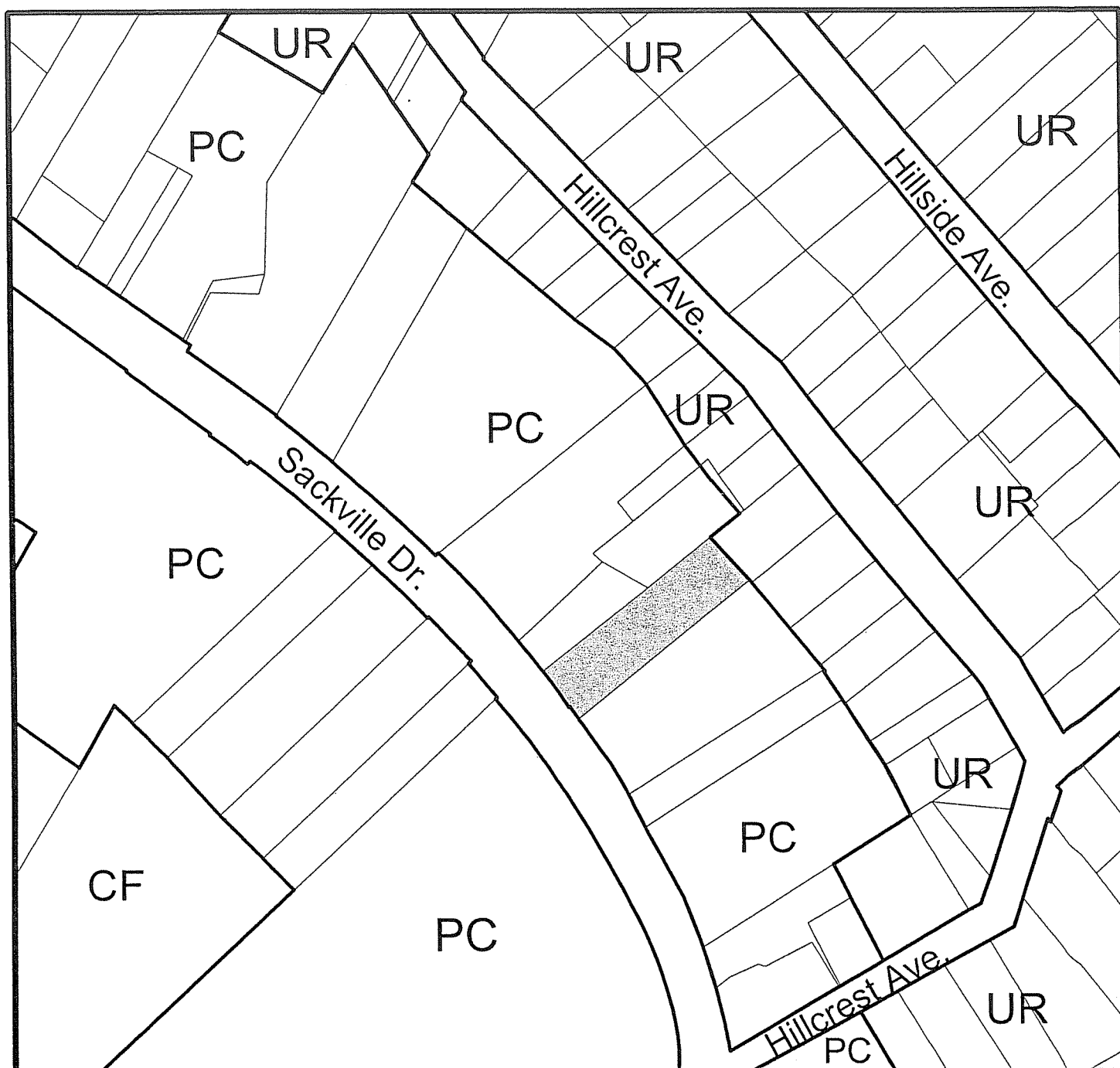
Attachment C - Pinehill Cobequid Zone Requirements

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

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



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



Map 1
Generalized Future Land Use



Subject Property

HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services

Sackville Plan Area

UR Urban Residential Designation
CF Community Facility Designation

Sackville Drive Plan Area

PC Pinehill/Cobequid Designation





Map 2 Zoning



Subject Property

HALIFAX
REGIONAL MUNICIPALITY
Community Development
Planning Services

Sackville Plan Area

- R-1 Single Unit Dwelling Zone
- P-1 Open Space Zone
- P-2 Community Facility Zone
- C-2 Community Commercial Zone

Sackville Drive Plan Area

- PC Pinehill/Cobequid Zone
- CP Community Parkland and Facilities Zone



Attachment A

THIS DISCHARGING AGREEMENT made this day of , 2008,

BETWEEN:

SPORTWHEELS PROPERTIES INCORPORATED,

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

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,

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

OF THE SECOND PART

WHEREAS Sportwheels Properties Incorporated is the registered owner of certain lands located at 209 Sackville Drive in Sackville, PID number 00364638 and which said lands are more particularly described in Schedule A attached hereto (hereinafter called the "Lands");

AND WHEREAS Sportwheels Limited entered into a development agreement with the Municipality of the County of Halifax on May 21, 1991, to allow for a building and parking lot expansion which was recorded at the Registry of Deeds in Halifax as Document 18756 in Book No. 5071, at Pages 1226 through 1233 (hereinafter called "the Agreement");

AND WHEREAS the Owner has requested that the Agreement be discharged;

AND WHEREAS in accordance with the procedures and requirements contained in the Municipal Government Act, the North West Community Council approved this request by resolution at a meeting held on , 2008, referenced as Municipal Case Number 01109;

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

1. The Agreement is hereby discharged and shall no longer have any force or effect.

2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Land Use By-law for Sackville Drive, as amended from time to time, and any future subdivision of the Lands shall conform with all applicable provisions and requirements of the subdivision by-law applicable to the area, as amended from time to time.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D. 2008.

Signed, sealed and delivered)	<u>SPORTWHEELS PROPERTIES</u>
)	<u>INCORPORATED</u>
in the presence of:)	
)	
per: _____)	per: _____
)	
)	
Sealed, Delivered and Attested)	<u>HALIFAX REGIONAL MUNICIPALITY</u>
by the proper signing officers of)	
Halifax Regional Municipality)	
duly authorized on that behalf)	per: _____
in the presence of)	MAYOR
)	
)	
_____)	per: _____
)	MUNICIPAL CLERK

Attachment B
Existing Development Agreement

18756

1226

THIS AGREEMENT MADE THIS 21st DAY OF May, A.D., 1991;

BETWEEN:

Sportwheels Limited, a body corporate, of Lower Sackville, in the County of Halifax, Province of Nova Scotia, hereinafter called the "Developers".

OF THE FIRST PART

- and -

THE MUNICIPALITY OF THE COUNTY OF HALIFAX, a body corporate, hereinafter called the "Municipality"

OF THE SECOND PART

WHEREAS the Developers have good title to lands and premises known as Lot 1-B, of the lands of William Withrow and Sportwheels Limited located on Highway No. 1 (Sackville Drive) at Lower Sackville, in the County of Halifax, Province of Nova Scotia, said lands (hereinafter called the "Property") being more particularly described in Schedule "A", of this Agreement;

AND WHEREAS at the request of the Developers that it be permitted to erect, construct, or otherwise locate a parking lot on that portion of the Property identified in Appendix "A" of this Agreement;

WITNESS that in consideration of the sum of one dollar (\$1.00) now paid by the Developers to the Municipality (the receipt of which is hereby acknowledged), the erection, construction or locating of a parking lot is agreed upon between the Developers and the Municipality pursuant to Section 3.6(d) of the Zoning By-law for Sackville and subject to the following terms and conditions:

1. That the design of the parking lot conform to the layout identified in Appendix "B" of this Agreement and be constructed in accordance with the following specifications:
 - a) the surface of the parking lot shall be paved with asphalt;
 - b) all parking spaces shall measure at least 8 feet (2.4 metres) in width by 20 feet (6.1 metres) in depth and be identified on the surface of the parking lot by painted lines;
 - c) the parking lot shall contain a single driving aisle having a width of 30 feet (9.1 metres);

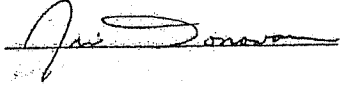
- d) lights used for illumination of the parking lot shall be arranged so as to divert the light away from adjacent properties; and.
 - e) that the minimum width of the driveway shown in Appendix B of this agreement be maintained.
2. That the "Buffer Area" identified in Appendix "B" of this agreement be cleared of debris, or fallen trees and that an adequate tree coverage be maintained to provide a visual barrier with adjacent properties.
 3. That the combined gross floor area of the existing premises plus any addition thereto shall not exceed 7,636 square feet (709.4 m²).
 4. That prior to the signing of this Agreement by the parties, the Developers shall supply to the Municipality all plans and written materials needed to accurately show and explain the manner in which stormwater is to be removed from the Property, wherein with the approval of the Municipality, the said plans and written materials shall form an appendix to this Agreement.
 5. That upon completion of the work agreed to in this Agreement, the Developers shall not alter or cause to be altered the general design or layout of the parking lot or "Buffer Area", without the mutual consent of the Municipality.
 6. That upon the signing of this Agreement by the parties, the Municipality may at the request of the Developers, amend any or all of the stated conditions by a majority vote of the whole of Municipal Council.
 7. For the purposes of this Agreement, all words shall carry their customary meaning except those defined under Part 2 of the Zoning By-law for Sackville wherein such words shall carry the meaning defined therein.
 8. Subject to the provisions of this Agreement, the Developers shall be bound by all by-laws and regulations of the Municipality as well as to any applicable statutes and regulations of the Province of Nova Scotia.
 9. Upon breach by the Developers of any of the terms or conditions of this Agreement the Municipality, may, after thirty days notice in writing to the Developers of the breach, enter and perform any of the terms and conditions of the Agreement. It is agreed that all reasonable expenses whether arising out of the entry or from the performance of the terms and conditions may be recovered from the Developers by direct suit and shall form a charge upon the Property.
 10. This Agreement shall run with the land and be binding upon the Developers' heirs, assigns, mortgagees, lessees, successors, and occupiers of the Property from time to time.
 11. This Agreement shall be filed by the Municipality in the Registry of Deeds at Halifax, Nova Scotia, and shall form a charge or encumbrance upon the property.
 12. The Developers shall pay the costs of recording and filing all documents in connection with this Agreement.
 13. The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not prejudice the validity or enforcement of any other provisions.

1228

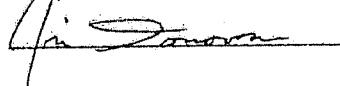
- 3 -

WITNESS that this Agreement, made in triplicate, was properly executed by the respective parties on this 21st day of May, A.D., 1991.

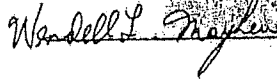
SIGNED, SEALED AND DELIVERED)
in the presence of)



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



SPORTWHEELS LIMITED



MUNICIPALITY OF THE COUNTY OF HALIFAX

WARDEN

CLERK

1229

SCHEDULE "A"

ALL that certain lot, piece or parcel of land situate at Lower Sackville, in the County of Halifax, Province of Nova Scotia, and being shown as Lot 1B on a plan of survey of Lot 1B bearing date the 28th day of February, A.D. 1985, as prepared by R.K. Carrick, N.S.L.S., said lot being more particularly bounded and described as follows:

BEGINNING at a survey marker situate on the eastern boundary of Provincial Highway No. 1, said point also marking the southwest corner of lands of Merlin and Joan Chase;

THENCE southeasterly along a right hand curve, said curve being the arc of a circle having a radius of 1,918.57 feet following the eastern margin of Highway No. 1 a distance of 60.01 feet to a survey marker;

THENCE South 51 degrees 13 minutes 15 seconds West a distance of one foot to a survey marker situate on the eastern margin of Highway No. 1;

THENCE in a southeasterly direction along a right hand curve being the arc of a circle having a radius of 1,076.28 feet a distance of 20.00 feet to a survey marker;

1230

-2-

THENCE North 51 degrees 28 minutes 25 seconds East
a distance of 312.26 feet to a survey marker situate on the
western boundary of Lot 2;

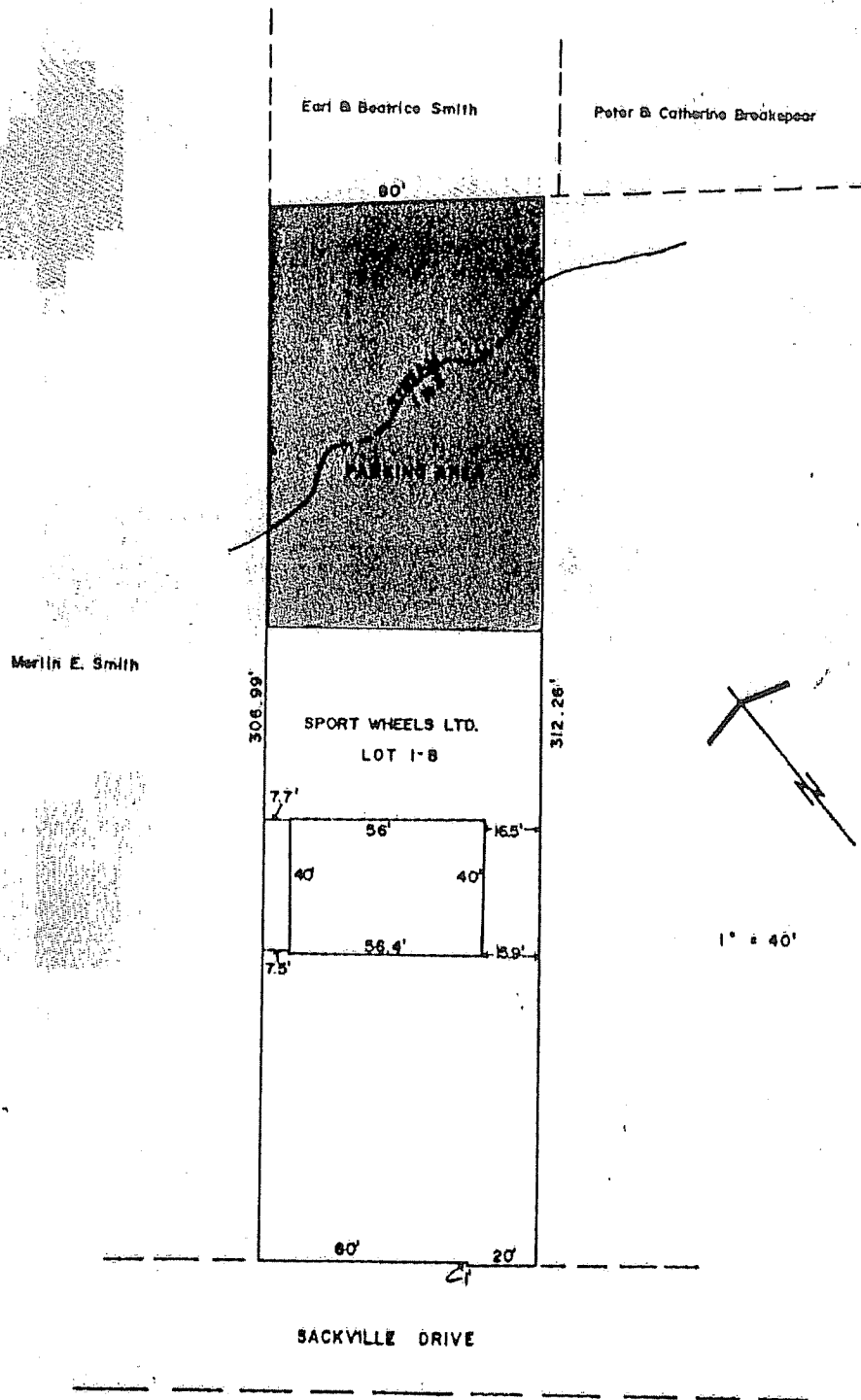
THENCE North 40 degrees 06 minutes 18 seconds West
a distance of 80.00 feet to a point;

THENCE South 51 degrees 43 minutes 07 seconds West
a distance of 157.75 feet to a survey marker;

THENCE South 51 degrees 13 minutes 15 seconds West
a distance of 149.24 feet to the point and place of
beginning.

SAID lot containing 24,837 square feet, more or
less.

1231



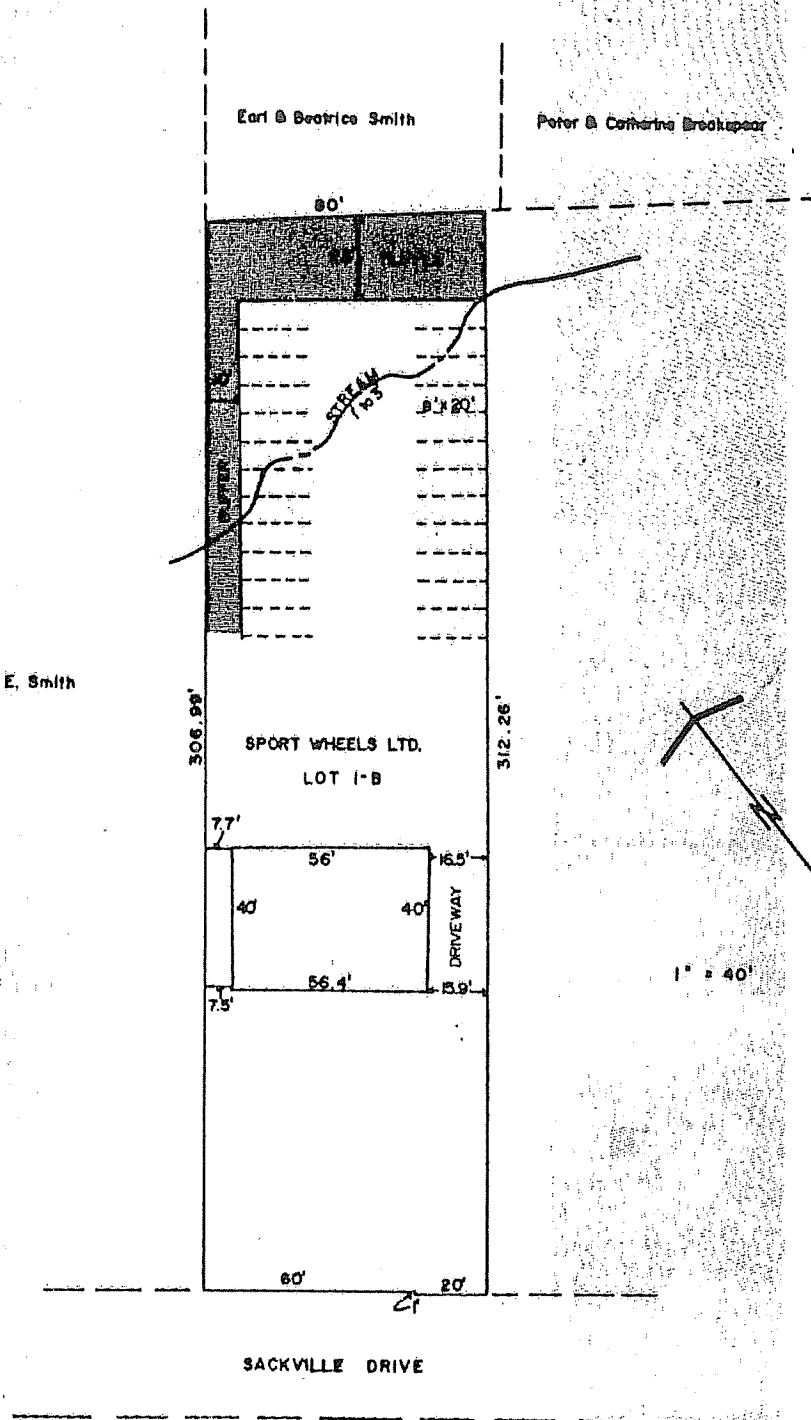
APPENDIX "B"

1232

Marlin E. Smith

Earl & Beatrice Smith

Peter & Corrina Breakpear



PROVINCE OF NOVA SCOTIA)
COUNTY OF HALIFAX SS)

ON THIS 21st day of MAY, A.D. 1991, before me, the
subscriber, personally came and appeared Jim Durston
 , a subscribing witness to the
foregoing Indenture, who having been by me duly sworn, made oath and said
that Sportwheels Limited; one of the parties thereto, caused the
same to be executed in its name and on its behalf and its corporate seal to be
thereunto affixed by the hands of Wendell L. Maxson its officer.
the proper officer duly authorized in that behalf and in his presence.

Lois J. Strimwoltz

A COMMISSIONER OF THE SUPREME

COURT OF NOVA SCOTIA

LOIS SLAUNWHITE

LOIS SEARUNWHITE
A Commissioner of the Supreme
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA)
COUNTY OF HALIFAX SS)

ON THIS 21st day of MAY, A.D. 1991, before me, the subscriber, personally came and appeared Tim Denevan, a subscribing witness to the foregoing Indenture, who having been by me duly sworn, made oath and said that MUNICIPALITY OF THE COUNTY OF HALIFAX, one of the parties thereto, caused the same to be executed in its name and on its behalf, and its corporate seal to be thereunto affixed by the hands of [Signature], its Bernardine Clark, the proper officers duly authorized in that behalf and in his presence.

Lois J. Slauswhite

A COMMISSIONER OF THE SUPREME

COURT OF NOVA SCOTIA
LOIS SLAUNWHITE

A Commissioner of the Supreme
Court of Nova Scotia

Province of Nova Scotia
County of Halifax

I hereby certify that the within Instrument
was recorded in the Registry of Deeds Office
at Halifax in the County of Halifax, N.S.

at 10:36 a'clock A.M., on the 22nd
day of May A.D., 1991 In
Book No. 5071 at Page 226-1233
as Document Number 18336

Registrar of Deeds for the Registration
District of Halifax County

Deputy

Attachment C
PC Zone Requirements

Part 14:
PINEHILL/COBEQUID (PC) ZONE

Permitted Uses

1. No development permit shall be issued in any PC (Pinehill/Cobequid) Zone except for the following:

Commercial Uses

- Retail stores
- Food stores
- Building Supply Outlets
- Personal service shops
- **Health and Wellness Centres (NWCC-May26/05;E-May28/05)**
- Offices
- Commercial schools
- Banks and financial institutions
- Restaurants (full service, take-out, drive-thru)
- Shopping Plaza/Strip Mall
- Commercial Entertainment
- **All Age/Teen Club (NWCC-May26/05;E-May28/05)**
- Motels, Hotels
- Guest Homes
- Bed and Breakfasts
- Commercial Recreation
- Automotive Service Stations
- Greenhouses and nurseries
- Garden Market in conjunction with a retail store
- Welding, plumbing and heating, electrical, automotive and other special trade contracting services and shops
- Re-cycling depots
- Automotive Repair Outlets
- Funeral Parlours and undertaker establishments
- Bakeries (including wholesale)
- Printing and publishing establishments
- Car Wash
- Service Shop
- **Outdoor Display Courts (RC-Sep5/06;E-Oct7/06)**
- Existing auto body shops

Institutional and Community Uses

- Educational Institutions (including commercial schools)
- Denominational Institutions excluding Cemeteries
- Daycare Facilities, Nursery Schools and Early Learning Centres
- Civic Buildings including but not limited to public office, post office, fire station, police station, library, museum, and gallery
- Medical, Veterinary and Health Service Clinics; outdoor kennels associated with veterinary clinics are prohibited.
- Community/Recreational Centre
- Community Parkland and Facility uses
- **Residential Care Facilities (NWCC-May24/07;E-Jun9/07)**

Residential Uses

- Existing Single Unit Dwellings
- Existing Two (detached and semi-detached) Dwellings
- Townhouses
- Multiple Unit Dwellings

Uses Permitted by Development Agreement

2. Notwithstanding the provisions of Part 14 Section 1, in any PC Zone, no development permit shall be issued for a new commercial buildings or structures with a footprint greater than 15,000 square feet (1,393.5 m²), or any expansion to a building or structure which currently exceed a footprint of 15,000 square feet (1,393.5 m²), or any proposed expansion

to an existing commercial building or structure which would result in a total building footprint greater than 15,000 square feet (1,393.5 m²) on any PC zoned lot and shall only be considered by development agreement in accordance with the provisions of the Municipal Government Act.

Lot Provisions

3. Minimum Lot Area 929 m² (10,000 ft²)
Minimum Lot Frontage 18.3 m (60 ft)
Minimum Front/Flankage Yard Setback 4.6metres (15ft) **(RC-Sep5/06;E-Oct7/06)**
Minimum Rear Yard Setback 4.6 m (15 ft)**except where building abutting any residential zone or use the setback shall be 4.6m (15ft) or ½ height building which ever is greater. (RC-Sep5/06;E-Oct7/06)**
Minimum Sideyard Setback 4.6 m (15 ft), except 6.1m (20 ft) corner vision triangle required for corner lot **and ½ height of the buildings where abutting**

any residential zone or use. Where building abutting any residential zone or use the setback shall be 4.6m (15ft) or $\frac{1}{2}$ height building which ever is greater.
(RC-Sep5/06;E-Oct7/06)

Maximum Lot Coverage 50 %
Minimum Pervious Surface Area 20 %
Number of Driveways One per lot with frontage less than 30.5 m (100 ft)

Lot Provisions for Townhouses

4. Minimum Lot Area 185.8 m² (2,000 ft²) per dwelling where each dwelling unit of a townhouse dwelling is located on a separate lot
Minimum Lot Frontage 6.1 metres (20 feet) per dwelling where each dwelling unit of a townhouse dwelling is located on a separate lot or 18.2 metres (60 feet) per lot with two (2) or more units
Minimum Front or Flankage Yard Setback 6.1 metres (20 feet)
Minimum Rear Yard Setback 2.4 metres (8 feet)
Minimum Sideyard Setback 3 metres (10 feet) or 0 meters (0 ft) from the side being common with another dwelling unit except 6.1m (20 ft) corner vision triangle required for corner lot
Maximum Lot Coverage 35 %
Minimum Width of Main Building 6.1 m (20 ft)
Minimum Pervious Surface Area 20 %
5. No Development Permit shall be issued until all provisions of this section and the provisions and guidelines of Part 6 (general provisions) and Part 7 (streetscape provisions) have been satisfied.

SPECIAL REQUIREMENTS: 30 Old Sackville Road

6. Notwithstanding Part 14 Section 3, the property identified as 30 Old Sackville Road (PID# 40010241) shall be subject a minimum lot area of 558 m² (6,000 sq ft), if subdivided, rather than required 929m² (10,000 sq ft). In addition, PID# 40010241 shall

not be subject to the minimum landscape setback requirement of 4.6 m (15ft) but shall be subject all other applicable provisions of this Bylaw. (RC-Sep5/06;E-Oct7/06)

SPECIAL REQUIREMENTS: Multiple Unit Dwellings

7. Notwithstanding the provisions of Part 14, where any multiple unit dwelling is permitted (NWCC-Sep12/06;E-Sep29/06), the following shall apply:

(1) Amenity space shall be set aside for recreational purposes such as common recreational areas, play areas, recreational rooms, roof decks, swimming pools, courtyards, gardens, patios and tennis courts and clearly identified on plans submitted for a Development Permit. The amenity space shall be provided based on the type of residential unit as follows:

- | | |
|---------------------------|--------------------------|
| (a) One Bedroom/Bachelor: | 18.6 sq m (200 sq ft) |
| (b) Two Bedroom: | 53.4 sq m (575 sq ft) |
| (c) Three Bedroom: | 88.2 sq m (950 sq ft) |
| (d) Four or more Bedroom: | 123.1 sq m (1,325 sq ft) |

For the purposes of determining amenity space, one bedroom plus den/office units shall be considered to be a two-bedroom unit, two bedroom plus den/office units shall be considered to be a three-bedroom unit and so on. (NWCC-Sep12/06;E-Sep29/06)

SITE PLAN APPROVAL: Outdoor Display Court

8. No development permit shall be issued within the Pinehill/Cobequid Zone (PC) for an outdoor display court prior to the Development Office granting Site Plan Approval. Applications for site plan approval shall be in the form specified in Appendix A. All applications shall be accompanied by a plan or sketch of sufficient detail to address all of the matters identified in this Section. (RC-Sep5/06;E-Oct7/06)
9. In addition to any other applicable requirements found elsewhere in this By-law, the following requirements shall apply to all uses subject to site plan approval:
1. **Location of Building and Structures:** Main buildings shall be positioned on the site as the primary feature and outdoor display areas and parking lots shall be secondary with the exception of the limited front yard display described below.
 2. **Location of Outdoor Display Area:** The outdoor display area shall be positioned on the site in such a way to minimize public view of the entire product on display. Front yard display shall be permitted to showcase select vehicles provided it is achieved in a creative and attractive manner.

3. **Location of Walkways and Pedestrian Access:** Walkways shall be provided along the front facade of the buildings and to the entrance of the buildings.
4. **Location of Outdoor Lighting:** Lighting shall be directed to driveways, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings. Lighting shall be permitted for the outdoor display area for the purpose of safety and security and shall not be permitted for night time display of product or merchandise.
5. **Location of Service Bays:** Service bays shall be located in such a way to ensure they are not visible from Sackville Drive for all new buildings and major renovations/additions. Features such as but not limited to architectural treatments, landscaping, and fencing may be utilized to achieve this provision.
(RC-Sep5/06;E-Oct7/06)