



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 13.1.2**  
**North West Community Council**  
**March 27, 2017**

**TO:** Chair and Members of North West Community Council

Original Signed

**SUBMITTED BY:**

\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** January 20, 2017

**SUBJECT:** **Case 20504: Development Agreement for 387 Cobequid Road, Lower Sackville**

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**ORIGIN**

Application by Personal Care Holdings Ltd. For a development agreement to permit a landscaping business at 387 Cobequid Road, Lower Sackville.

**LEGISLATIVE AUTHORITY**

Refer to Attachment D.

**RECOMMENDATION**

It is recommended that North West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A of this report, to permit the operation of a landscaping business at 387 Cobequid Road, Lower Sackville, and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the 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**

Personal Care Holdings Ltd. is applying to permit the operation of its landscaping business at 387 Cobequid Road, Lower Sackville. The property has been used for the storage of landscaping materials and equipment related to the business, but a development agreement is required in order to permit the use.

<b>Subject Site</b>	387 Cobequid Road, Lower Sackville
<b>Location</b>	Sackville Plan Area
<b>Regional Plan Designation</b>	Rural Commuter (RC)
<b>Community Plan Designation (Map 1)</b>	Rural Residential (RR) Designation under the Sackville Municipal Planning Strategy (MPS)
<b>Zoning (Map 2)</b>	Rural Residential (RR) Zone under the Sackville Land Use By-law (LUB)
<b>Size of Site</b>	8,823 m <sup>2</sup> (94,973 sf)
<b>Street Frontage</b>	69 m (225 ft) on Cobequid Road
<b>Current Land Use(s)</b>	Single unit dwelling
<b>Surrounding Use(s)</b>	<ul style="list-style-type: none"><li>• To the north across Cobequid Road are predominantly single unit dwellings zoned R-1, with two unit dwelling properties along Judy Ann Court zoned R-2. To the northeast adjacent to the subject property are single unit dwelling properties zoned R-6.</li><li>• To the southwest adjacent to the subject property is a welding shop followed by the Sagewood long term care facility. A number of other commercial uses are located in the area along Cobequid Road, including several auto repair and auto accessory businesses.</li><li>• Many of the R-6 zoned homes on Cobequid Road contain commercial home businesses, such as Aura Salon &amp; Spa at 409 Cobequid Rd, adjacent to the northeast, and the Sackville Small Engine Centre across the road at 388 Cobequid Rd.</li></ul>

## **Proposal Details**

The applicant wishes to enter into a development agreement with the Municipality to permit a landscaping business to operate at the subject property. The major aspects of the proposal are as follows:

- The property would be used primarily for the storage of landscaping equipment and materials (such as soil) for the business, as well as for the existing single unit dwelling use. Workers typically start their work day at the job site and not at the subject property. The primary office for the business is located off-site at 7 Lake Drive, Bedford, however the proposed agreement makes provision for allowing a small office use of up to 600 square feet within the existing dwelling.
- In addition to the single unit dwelling, three sheds are located on the site and are indicated to remain as shown on the concept plan (see Schedule B of Attachment A). The concept plan indicates that material storage is to be located toward the rear of the property and depicts a 6 foot high privacy fence to be installed at the front of the property. In addition, the existing treelines are to remain as visual buffers.

### **Enabling Policy and LUB Context**

The application can be considered under Policies UR-24 and IM-13 (Attachment B) of the Sackville MPS, which allows Council to consider permitting community commercial zone (C-2) uses by development agreement within the Urban and Rural Residential Designations on properties located on Cobequid Road between First Lake Drive and Sackville Drive. The proposed landscaping business use is considered a special trade contracting service and is a permitted Community Commercial (C-2) Zone use.

### **History of Property Use**

The subject property is occupied by a single unit dwelling, and in December 2015 staff became aware that a landscaping business was also being operated on the site. It was determined that the landscaping business, which consisted of stored equipment and materials related to landscaping, is not permitted under the applied R-6 zoning. A municipal compliance case was opened that resulted in an order being issued in December 2015 requiring the landscaping business use to cease. The property has since made an application to the Municipality for a development agreement to authorize the landscaping business use.

### **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 providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public information meeting held on July 7, 2016. Attachment C contains a copy of the minutes from the meeting. Only one member of the public attended the meeting and raised concerns regarding noise, dust, hours of operation and compatibility with residential uses.

A public hearing must be held by North West Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and property owners.

### **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment B provides a broader evaluation of the proposed development agreement in relation to the relevant MPS policies.

#### **Proposed Development Agreement**

Attachment A contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement provides permission to operate a landscaping business, and addresses the following matters:

- Open storage;
- Outdoor lighting;
- Landscaping and fencing;
- Hours of operation; and
- Provision for non-substantive amendments to the landscaping or fencing provisions.

The attached development agreement will permit the operation of a landscaping business subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion.

#### *Intensity and Compatibility of Use*

Policy UR-24(c) requires compatibility of the height, bulk, lot coverage, and appearance of any buildings with adjacent land uses. A mix of residential and commercial development is within the area and the proposal would retain the existing single unit dwelling which is similar in terms of height and bulk to nearby residential dwellings. Lot coverage would remain well below the permitted 50% of the R-6 Zone. Three existing accessory buildings labelled as “sheds” on the proposed site plan would remain, while no new structures have been proposed. Therefore, the intensity and scale of the proposed use is compatible with the existing neighbourhood which consists of commercial and residential development.

Policy IM-13(c) requires that controls be placed on proposed developments so as to reduce conflict with adjacent or nearby land uses by reason of: type of use; traffic generation, access to and egress from the site, and parking; and more. The scale of the proposed landscaping use is limited by several provisions under the proposed agreement. No more than ten commercial vehicles shall be permitted on site, and stockpiling of materials shall be limited to 15 feet in height. In addition, hours of operation (except for office work) shall be limited to the hours of 7:00 am and 8:00 pm, Monday to Saturday inclusive, in accordance with Policy UR-24(g). These provisions will help to minimize any potential conflict with adjacent or nearby residential uses.

#### *Open Storage*

Policy IM-13(c)(iv) requires that controls be placed on proposed developments so as to reduce conflict with adjacent or nearby land uses by reason of open storage. The proposed controls on open storage will minimize impact and ensure compatibility with surrounding uses. Restrictions on open storage in the proposed development agreement include:

- Storage shall be generally located to the rear of the site behind the privacy fence as shown on Schedule B;
- No more than 50 percent of the lot area shall be used for the business use, including open storage;
- No more than ten commercial vehicles may be stored on site;
- Storage shall be located no closer to the front lot line than the existing single unit dwelling;
- No material storage shall exceed a height of 4.6 m (15 ft); and
- Storage of hazardous materials shall not be permitted outdoors.

#### *Buffering and Landscaping*

Policy UR-24(d) requires that adequate provision be made for buffering and screening from adjacent residential properties. Staff advise that the proposal makes reasonable provision for buffering and landscaping. Landscaping provisions under the proposed agreement include the retention of existing vegetation and the existing grassed area at the front of the property. As well, the proposed agreement requires the installation of a 6 foot high opaque fence at the front of the property to provide additional screening from the street.

#### **North West Planning Advisory Committee**

On August 3, 2016, the North West Planning Advisory Committee (PAC) recommended that the application be approved, and that the proposed development agreement include controls with respect to hours of operation, idling vehicles, the amount of vehicles/equipment to be used and/or stored on the subject property, and the tonnage of materials to be stored on site.

The above concerns are addressed in the proposed development agreement. Staff note that the idling of vehicles cannot be regulated by a municipal land use by-law nor by development agreement as per the authority of the *Halifax Regional Municipality Charter*.

*A report from the PAC to Community Council will be provided under separate cover.*

#### **Conclusion**

Staff has reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. Staff advise that provisions including those for buffering,

outdoor storage, and hours of operation satisfy the requirements of policy and the concerns brought forward by the community and by members of the Planning Advisory Committee. Therefore, staff recommends that the North West Community Council approve the proposed development agreement.

### **FINANCIAL IMPLICATIONS**

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2016/2017 budget and with existing resources.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

### **ALTERNATIVES**

1. North West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Minutes from Public Information Meeting (July 7, 2016)
Attachment D:	Legislative Authority

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Nathan Hall, Planning Intern

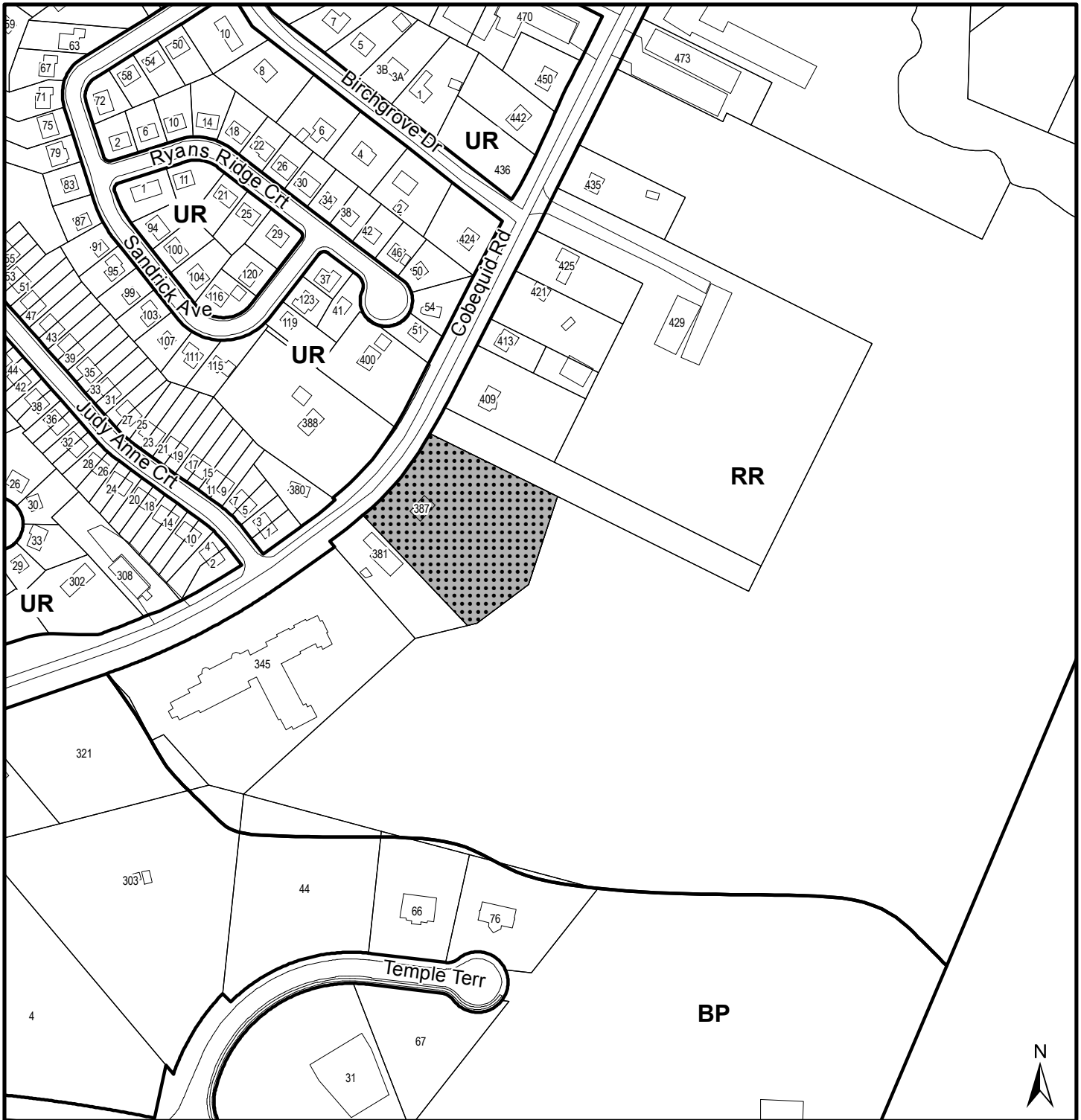
Staff Contact: Thea Langille, Principal Planner, 902.490.7066

Original Signed

Report Approved by:

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
Kelly Denty, Manager, Current Planning, 902.490.4800



**Map 1 - Generalized Future Land Use**

387 Cobequid Rd.,  
Lower Sackville

**HALIFAX**

 Area of Proposed Development Agreement

**Designation**

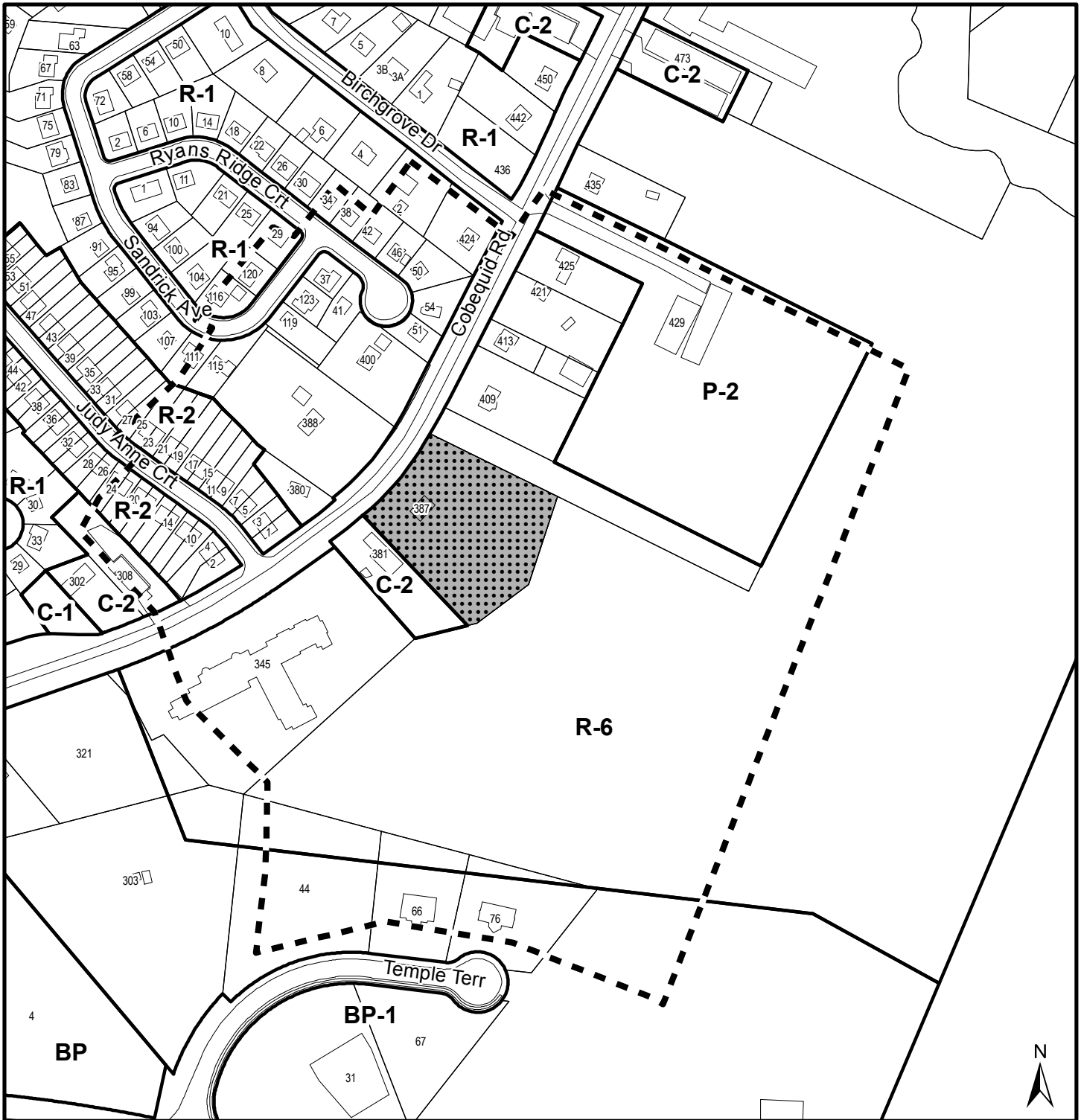
- UR Urban Residential
- RR Rural Residential
- BP Business Park



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Sackville  
Plan Area



**Map 2 - Zoning and Notification**

387 Cobequid Rd.,  
Lower Sackville



Area of Proposed Development Agreement

Area of Notification

**Zone**

- R-1 Single Family Dwelling
- R-2 Two Unit Dwelling
- R-6 Rural Residential
- C-1 Local Business
- C-2 Community Commercial
- P-2 Community Facility
- BP Business Park
- BP-1 Business Park-1



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Sackville  
Plan Area



**ATTACHMENT A**  
**PROPOSED DEVELOPMENT AGREEMENT**

THIS AGREEMENT made this      day of **[Insert Month]**, 2017,

BETWEEN:

**[INSERT PROPERTY OWNER]**

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 387 Cobequid Road, Lower 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 a landscaping operation on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy UR-24 of the Sackville Municipal Planning Strategy and Section 3.6(xiv) 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 20504;

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

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## **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, stormwater 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 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, SUBDIVISION AND DEVELOPMENT PROVISIONS**

### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms to the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 20504:

Schedule A	Legal Description of the Lands
Schedule B	Concept Plan – Plan Number 16-1410-0

### **3.2 Requirements Prior to Approval**

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) A landscaping business as defined by this agreement.
- (b) A single unit dwelling as per the R-6 Zone requirements of the Sackville Land Use By-law, as amended from time to time.
- (c) An office use in conjunction with a landscaping business, within the existing dwelling, which shall occupy no more than 600 square feet.
- (c) Any uses permitted within the existing zone applied to the Lands subject to the provisions contained within the Land Use By-law for Sackville as amended from time to time.

3.3.2 Any landscaping business permitted as per Section 3.3.1(a) shall comply with the C-2 (Community Commercial) Zone requirements of the Sackville Land Use By-law for a commercial use, as amended from time to time, except as varied by this agreement.

### **3.4 Parking, Circulation and Access**

3.4.1 Vehicle parking spaces shall be provided as per the requirements of the Sackville Land Use By-law.

- 3.4.2 In addition to the requirements of the Sackville Land Use By-law, the area devoted to the parking of vehicles and equipment shall be limited as per Section 3.5 of this agreement.

### **3.5 Open Storage and Outdoor Display**

- 3.5.1 Open storage of materials, equipment, and commercial vehicles shall be located generally as shown on Schedule B and only on those areas labelled 'landscaping material/equipment storage area', 'landscaping material storage area', or 'disturbed ground'.
- 3.5.2 Notwithstanding Section 3.5.1, any area devoted to open storage shall not exceed fifty (50) per cent of the lot area, and no more than ten (10) commercial vehicles shall be stored on the site.
- 3.5.3 Notwithstanding Section 3.5.1, material storage shall be located no closer to the front lot line than the building labelled 'Civic No. 387' on the Concept Plan (Schedule B).
- 3.5.4 No material storage shall exceed a height of fifteen (15) feet (4.6 m).
- 3.5.5 Storage of hazardous materials or chemicals shall not be permitted outdoors.
- 3.5.6 Prior to any paving of outdoor storage areas, a Stormwater Management Plan shall be submitted to and require approval by Engineering and Development Services.

### **3.6 Outdoor Lighting**

Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

### **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.
- 3.7.2 Existing trees and vegetation, as well as the landscaped buffer at the front of the property, shall be maintained as generally shown on Schedule B.
- 3.7.3 As per Section 3.7.2, all disturbed areas shall be reinstated to original condition or better, and the Developer shall replace any removed or damaged trees. Trees, when planted as per this section, shall be at least 6.56 feet (200 cm) in height. The Development Officer may permit various tree varieties.

### **3.8 Fencing**

A minimum 1.8 meter (6 foot) high fence shall be installed as shown on Schedule B. The fence shall comprise opaque material (wood, slatted chain link, or approved equivalent). Maintenance of the fence shall be the responsibility of the Developer.

### **3.9 Screening**

Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

### **3.10 Signs**

3.10.1 The sign requirements shall be in accordance with the Sackville Land Use By-law as amended from time to time.

3.10.2 No ground sign shall be less than ten (10) feet (3 m) from any street or abutting lot.

### **3.11 Hours of Operation**

3.11.1 The landscaping business and associated deliveries shall be permitted to operate between the hours of 7:00 am and 8:00 pm, Monday to Saturday inclusive.

3.11.2 The office use is not subject to the hours of operation of Section 3.11.1.

### **3.12 Maintenance**

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, 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.

### **3.13 Permitting**

The Developer shall apply for an occupancy permit for the existing land use within 90 days of the registration of this agreement at the Registry of Deeds or Land Registration Office.

## **PART 4: ENVIRONMENTAL PROTECTION MEASURES**

4.1 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.

### **Erosion and Sedimentation Control and Grading Plans**

4.2 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.

## **PART 5: AMENDMENTS**

### **5.1 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 provisions under Section 3.7; and
- (b) Changes to the fencing provisions under Section 3.8.

## **5.2 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 6: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **6.1 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.

### **6.2 Subsequent Owners**

6.2.1 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.

6.2.2 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).

### **6.3 Commencement of Development**

For the purpose of this section, commencement of development shall mean registration of this agreement at the Registry of Deeds or Land Registration office.

### **6.4 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, as may be amended from time to time.

### **6.5 Discharge of Agreement**

If the Developer fails to complete the development after one year 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 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **7.1 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.

### **7.2 Failure to Comply**

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 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.

**IN WITNESS WHEREAS** the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**[INSERT OWNER NAME]**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

**HALIFAX REGIONAL MUNICIPALITY**

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

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

MAYOR

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

MUNICIPAL CLERK





**ATTACHMENT B**  
**REVIEW OF RELEVANT MPS POLICIES**

**UR-24** Notwithstanding Policies UR-2 and RR-2, within the Urban and Rural Residential Designations, Council may consider permitting community commercial zone uses on properties along the Cobequid Road, between Sackville Drive and First Lake Drive, according to the development agreement provisions of the Planning Act. In considering such agreements, Council shall have regard to the following:

<b>UR-24 Policy Criteria</b>	<b>Comment</b>
<i>(a) that no proposal shall be considered on lands along the northwest side of Cobequid Road, south of Glendale Drive;</i>	Satisfied. The property is located on the northwest side of Cobequid Road, south of Glendale Drive.
<i>(b) that the site has frontage on and direct access to Cobequid Road;</i>	Satisfied. The property has frontage and direct access to Cobequid Road.
<i>(c) that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</i>	The proposal would retain the existing single unit dwelling which is similar in terms of height and bulk to nearby dwellings. Lot coverage would remain well below the permitted 50% of the R-6 Zone. Three existing accessory buildings labelled as "sheds" on the proposed site plan would remain, while no new structures have been proposed.
<i>(d) that adequate provision is made for buffering and screening from adjacent residential properties;</i>	The proposed agreement requires the retention of existing vegetation along the property boundaries, as well as the installation of a fence at the front of the property.
<i>(e) that site design features, including landscaping, signage, 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;</i>	Landscaping provisions under the proposed agreement include the retention of existing vegetation and of the existing grassed area at the front of the property. Signage and parking shall be consistent with the requirements of the Sackville LUB, except that no more than ten commercial vehicles shall be permitted on the site.
<i>(f) that appropriate controls are established to address environmental concerns, including stormwater runoff;</i>	The proposed agreement requires the submission of a Stormwater Management Plan prior to the paving of any outdoor areas and does not permit the storage of hazardous materials or chemicals outdoors.
<i>(g) hours of operation;</i>	Hours of operation shall be limited to the hours of 7:00 am and 8:00 pm, Monday to Saturday inclusive.
<i>(h) maintenance of the development; and</i>	The Developer shall be responsible for all normal maintenance, including maintenance of the fence, buildings, landscaping, and driveways.
<i>(i) the provisions of Policy IM-13.</i>	See below.

**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:

<b>IM-13 Policy Criteria</b>	<b>Comment</b>
<i>(a) that the proposal is in conformity with the intent</i>	Staff have reviewed the proposal in terms of all

<p><i>of this planning strategy and with the requirements of all other municipal by-laws and regulations;</i></p>	<p>relevant policy criteria and advise that the proposal is consistent with the intent of the MPS.</p>
<p><i>(b) that the proposal is not premature or inappropriate by reason of:</i></p> <p><i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i></p> <p><i>(ii) the adequacy of sewer and water services;</i></p> <p><i>(iii) the adequacy or proximity of school, recreation and other community facilities;</i></p> <p><i>(iv) the adequacy of road networks leading or adjacent to, or within the development; and</i></p> <p><i>(v) the potential for damage to or for destruction of designated historic buildings and sites.</i></p>	<p>Staff do not consider the proposal premature for any of the reasons listed.</p>
<p><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></p>	<p>The proposed development would be regulated by means of a development agreement. The agreement specifically contains stipulations concerning the following:</p>
<p><i>(i) type of use;</i></p>	<p>Uses would be limited to a landscaping business subject to the restrictions in the agreement and as enabled by Policy UR-24, in addition to those uses permitted as-of-right by the existing zoning (currently R-6).</p>
<p><i>(ii) height, bulk and lot coverage of any proposed building;</i></p>	<p>See above.</p>
<p><i>(iii) traffic generation, access to and egress from the site, and parking;</i></p>	<p>HRM Development Engineering has reviewed the Traffic Impact Statement provided with the application and deemed it acceptable. Parking must be provided as per the requirements of the Sackville LUB.</p>
<p><i>(iv) open storage;</i></p>	<p>Restrictions on open storage are provided by the proposed agreement, including:</p> <ul style="list-style-type: none"> <li>• Storage shall be generally located as shown on Schedule B;</li> <li>• No more than 50 percent of the lot area shall be used for open storage;</li> <li>• No more than ten commercial vehicles may be stored on site;</li> <li>• Storage shall be located no closer to the front lot line than the existing single unit dwelling;</li> <li>• No material storage shall exceed a height of 4.6 m (15 ft); and</li> <li>• Storage of hazardous materials shall not be permitted outdoors.</li> </ul>
<p><i>(v) signs; and</i></p>	<p>Signage shall be consistent with the requirements of the Sackville LUB, except that no ground sign shall be less than 3 m (10 ft) from any street or abutting lot.</p>

<p><i>(vi) any other relevant matter of planning concern.</i></p>	<p>No other matters have been identified.</p>
<p><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></p>	<p>The proposed site is suitable. However, HRM shall require the submission of an Erosion and Sedimentation Control Plan prior to 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.</p>
<p><i>(e) any other relevant matter of planning concern; and</i></p>	<p>No other matters have been identified.</p>
<p><b><i>(f) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.</i></b></p>	<p>NA</p>

**Attachment C  
Public Information Meeting Minutes**

**HALIFAX REGIONAL MUNICIPALITY  
Public Information Meeting  
Case 20504**

*The following does not represent a verbatim record of the proceedings of this meeting.*

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**Thursday, July 7, 2016  
7:00 p.m.  
Knights of Columbus Hall, Lower Sackville**

**STAFF IN**

**ATTENDANCE:** Nathan Hall, Planning Intern, HRM Planning and Development  
Erin MacIntyre, Planner II, HRM Planning and Development  
Laura Gillies, Planning Technician, HRM Planning and Development  
Cara McFarlane, Planning Controller, HRM Planning and Development

**ALSO IN**

**ATTENDANCE:** Councillor Steve Craig, District 15  
Sean Murphy, Personal Care Holdings Limited

**PUBLIC IN**

**ATTENDANCE:** 1

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The meeting commenced at approximately 7:12 p.m.

**1. Call to order, purpose of meeting – Nathan Hall**

Mr. Hall introduced himself as the Planner and Facilitator for the application; Sean Murphy, Personal Care Holdings Limited; Councillor Steve Craig, District 15; and Erin MacIntyre, Laura Gillies and Cara McFarlane, HRM Planning and Development.

Case 20504 - Application by Personal Care Holdings Limited to enter into a development agreement to permit a landscaping business (the storage of materials and equipment) at 387 Cobequid Road, Lower Sackville.

The purpose of the Public Information Meeting (PIM) is to: a) identify the proposal and site; and b) provide information about the proposal to the community and gather their feedback. No decisions are made at this PIM.

**2. Presentation of Proposal – Nathan Hall**

Mr. Hall presented the proposal outlining the site (2.18 acres with 225 feet of frontage on Cobequid Road) and the relevant planning policy (Policy UR-24) and designation [RR (Rural Residential)] within the Sackville Municipal Planning Strategy and zoning [R-6 (Rural Residential) Zone] within the Sackville Land Use By-law. The proposed landscaping plan was presented. Mr. Hall reviewed the planning process.

**3. Questions and Comments**

**Thane Stevens, Representing Sagewood** - asked if the existing dwelling on the property will be used as an office for the business or residential? **Mr. Murphy** said it will remain as rented residential.

**Mr. Stevens** sent an email to Mr. Hall outlining his concerns. One being dust and noise from equipment backup signals at odd hours especially for the long term care facility next door. He asked what type of privacy fence will be used. **Mr. Murphy** said it will be a wooden privacy fence. **Ms. MacIntyre** explained

that specific details will be discussed during the detailed review.

**Councillor Craig** – He would like the following considered when writing the staff report: a) hours of operation; b) frequency of use; c) the type of equipment relative to impact on traffic; d) noise and the impact on the surrounding residents; e) screening; f) debris left behind on the roadway (mulch, soils, lumber, etc.); g) safety of pedestrians as there are no sidewalks in the area; h) traffic control depending on what type of vehicles will be used at the facility. He also expressed that all residents of a building should be notified of planning applications, not just the property owner. In this case, the meeting was advertised.

**Ms. MacIntyre** – The development agreement process is somewhat of an advantage in terms of having the flexibility of arranging specific details on the property.

**Mr. Murphy** explained that the business hours are 7:30 to 5:30. The business has been operating for years but the development agreement would allow it to operate legally. He does have a warehouse in Halifax where crews meet every morning but the site does not allow for outdoor storage. The proposed location at Cobequid Road would allow for the outdoor storage and would only be accessed if extra materials were needed for a job site. This location would house some bobcats and one smaller piece of equipment but other smaller machinery would be kept at a job site until complete, then they would be stored at this location until needed again. His office is in Bedford; therefore, the existing house on the property would remain a rental house. In the distant future, he plans to downsize his landscaping business and may look at a proposal of townhouses and duplexes for this property.

**Mr. Stevens** is concerned that if the property is sold, the new owners can take it to a different level. **Mr. Hall** explained that any subsequent owners would be bound by whatever terms are put forth in the development agreement until it is discharged by Council. An amendment to the development agreement would have to go through a public process similar to this one.

#### **4. Closing Comments**

**Mr. Hall** thanked everyone for coming and expressing their comments.

#### **5. Adjournment**

The meeting adjourned at approximately 7:34 p.m.

## Attachment D – Legislative Authority

### Development Agreements By Community Council

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

*Halifax Regional Municipality Charter* (“HRM Charter”),

#### **Development agreements by community councils**

**31 (1)** This Section applies to a community council if the Council so provides in the policy establishing the community council.

**(2)** Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

**(3)** A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.

**(4)** Where a development agreement entered into by a community council purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

*HRM Charter*, Part VIII, Planning and Development, including:

#### **Development agreements**

**240 (1)** The Council may consider development by development agreement where a municipal planning strategy identifies

- (a) the developments that are subject to a development agreement;
- (b) the area or areas where the developments may be located; and
- (c) the matters that the Council must consider prior to the approval of a development agreement.

**(2)** The land-use by-law must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

#### **Content of development agreements**

**242 (1)** A development agreement may contain terms with respect to

- (a) matters that a land-use by-law may contain;
- (b) hours of operation;
- (c) maintenance of the development;
- (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, stormwater systems, wastewater facilities, water systems and other utilities;
- (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
- (f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;
- (g) the subdivision of land;
- (h) security or performance bonding.

**(2)** A development agreement may include plans or maps.

**(3)** A development agreement may

- (a) identify matters that are not substantive or, alternatively, identify matters that are substantive;
- (b) identify whether the variance provisions are to apply to the development agreement;
- (c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
- (d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;

## Attachment D – Legislative Authority

(e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by the Council without the concurrence of the property owner. 2008, c. 39, s. 242.

### **Requirements for effective development agreement**

**243 (1)** A development agreement must not be entered into until

(a) the appeal period has elapsed and no appeal has been commenced; or  
(b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.

**(2)** The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.

**(3)** A development agreement does not come into effect until

(a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;  
(b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality; and  
(c) the development agreement is filed by the Municipality in the registry.

**(4)** The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 2008, c. 39, s. 243.