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Item No. 14.1.3
North West Community Council
January 9, 2017

TO: Chair and Members of North West Community Council

ORIGINAL SIGNED

SUBMITTED BY:

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: November 25, 2016

SUBJECT: **Case 20644: Discharge Agreement for 176 Bambrick Road, Middle Sackville**

ORIGIN

Application by Kenneth and Crystal James

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve, by resolution, the proposed Discharge Agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
2. Require the Discharge 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

Kenneth and Crystal James are applying to discharge the existing development agreement on lands in Middle Sackville, the location of the former A.F. MacEachern Sheet Metal Co. Ltd.

Subject Site	176 Bambrick Road, Middle Sackville (PID 00458331)
Location	Sackville plan area
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation (Map 1)	Rural Residential (RR) under the Sackville Municipal Planning Strategy (Map 1)
Zoning (Map 2)	Rural Residential (R-6) under the Sackville Land Use By-law (Map 2)
Size of Site	2,248 m ² (24,200 ft ²)
Street Frontage	23 m (75 ft) on Bambrick Road
Current Land Use(s)	Single unit dwelling with accessory buildings
Surrounding Use(s)	<ul style="list-style-type: none">• To the east and west along Bambrick Road are R-6 zoned properties occupied primarily by single unit dwellings;• To the south and west across Bambrick Road are several properties zoned R-6A, Rural Residential Single Unit Dwelling Zone;• To the south and west across Bambrick Road are two properties zoned R-3, Mobile Dwelling Zone; and• To the east and west between Sackville Drive and Bambrick Road are existing commercial businesses including an auto sales operation.

Proposal Details

The applicant wishes to discharge the existing development agreement, which had permitted an expansion of the former A.F. MacEachern Sheet Metal Co. in 1982. The sheet metal business is no longer in operation and the property owner wishes to use the site as a residence. The discharge of the agreement would allow the property to be fully regulated under the zoning of the Sackville Land Use By-law (Attachment B) and would remove the land use rights for a sheet metal shop. The zoning on the property is rural residential (R-6).

Existing Development Agreement

The existing development agreement was approved by the former Council of the Municipality of the County of Halifax on September 22, 1982. The agreement permitted the expansion of the A.F. MacEachern Sheet Metal Co., which is no longer in operation. At the same public hearing in 1982, the former council also adopted policies to enable the expansion of the use through development agreement. Policy RR-8 of the Sackville Municipal Planning Strategy enables expansion of the use through development agreement.

Staff identified that the original 1982 agreement was not registered with the Registry of Deeds, however, the original agreement was approved by the former County and remains legally binding. Discharge of the agreement is therefore necessary to return the property to its underlying zoning.

Discharge of Development Agreements

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner(s). The Charter does not require a public hearing for the discharge of an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for the discharge of a development agreement. The decision to discharge a development agreement is made by resolution of Community Council.

The proposed discharge will have no impact on local residents, property owners or other stakeholders as the existing zoning allows the existing building and land use.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS.

The proposed discharge would enable the subject property to be developed in accordance with the provisions of the existing underlying Rural Residential (R-6) Zone. Therefore, staff recommends that Community Council discharge the existing development agreement through the Discharge Agreement contained in Attachment A.

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 discharging 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 not to discharge the existing development agreement and therefore, development on the property would remain subject to the conditions of the development agreement. A decision of Council to refuse to discharge a 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

Attachment A: Proposed Discharge Agreement
Attachment B: Zone Requirements

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, 902.490.4726

ORIGINAL SIGNED

Report Approved by: _____
Kelly Denty, Manager, Current Planning, 902.490.4800



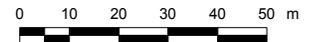
Map 1 - Generalized Future Land Use

HALIFAX

176 Bambrick Road,
Middle Sackville

 Area of Existing
Development Agreement
to be Discharged

Designation
UR Urban Residential
RR Rural Residential



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

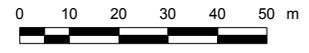


Map 2 - Zoning

176 Bambrick Road,
Middle Sackville

 Area of Existing
Development Agreement
to be Discharged

- Zone**
- R-3 Mobile Dwelling
 - R-6 Rural Residential
 - R-6A Rural Residential Single Unit Dwelling
 - C-2 Community Commercial
 - C-2A Minor Commercial



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

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Sackville Plan Area

**ATTACHMENT A
DISCHARGING DEVELOPMENT AGREEMENT**

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

[INSERT INDIVIDUAL'S NAME],

an individual, in the Halifax Regional Municipality
in the Province of Nova Scotia

- and -

[INSERT INDIVIDUAL'S NAME],

an individual, in the Halifax Regional Municipality
in the Province of Nova Scotia
(hereinafter jointly called the "Developers")

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 Developers are the registered owners of certain lands located at 176 Bambrick Road, Middle Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter jointly called the "Lands");

AND WHEREAS on September 22, 1982 the former Council of the Municipality of the County of Halifax approved an application to enter into a development agreement to allow for an expansion of the A.F. MacEachern Sheet Metal Co. on the Lands, which said development agreement was recorded with the former municipality as file number DA-SA-1 82-19 (hereinafter called the "Existing Agreement");

AND WHEREAS the Existing Agreement was not registered at the Nova Scotia Land Registry;

AND WHEREAS the Developers have requested that the Existing Agreement be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the North West Community Council of the Municipality approved this request by resolution at a meeting held on (insert date), referenced as Municipal Case Number 20644;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands 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 Sackville Land Use By-law, as amended from time to time.

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 REGISTERED OWNER NAME

Witness

Per: _____

INSERT REGISTERED OWNER NAME

Witness

Per: _____

SIGNED, 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

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

Attachment B
Zone Requirements: Sackville Land Use By-law

PART 12: R-6 (RURAL RESIDENTIAL) ZONE

NOTE: The Municipal Development Plan and Zoning By-law for Sackville approved on May 14, 1982, as amended, remains in effect for land owned by the Nova Scotia Department of Housing and Consumer Affairs shown on Map 1, Generalized Future Land Use Map in accordance with Ministerial amendments made on June 16, 1994. Any development of these lands is subject to the 1982 Plan and By-law.

12.1 R-6 USES PERMITTED

No development permit shall be issued in any R-6 (Rural Residential) Zone except for the following:

Residential Uses

Single unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Bed and breakfasts in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

Resource Uses

Agricultural uses

Forestry uses

Fishing and fishing related uses

Community Uses

Open space uses

Institutional uses except day care facilities, medical clinics and fraternal centres and halls

12.2 R-6 ZONE REQUIREMENTS: RESIDENTIAL AND RESOURCE USES

In any R-6 Zone, where uses are permitted as residential uses or Resource 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 (1858.1 m ²)
Minimum Frontage:	central services	60 feet (18.3 m)
	on-site services	100 feet (30.5 m)
Minimum Front or Flankage Yard		20 feet (6.1 m)
Minimum Rear or Side Yard		8 feet (2.4 m)
Maximum Lot Coverage		35 per cent
Maximum Height of Main Building		35 feet (10.7 m)
Minimum Width of Main Building		20 feet (6.1 m)

12.3 OTHER REQUIREMENTS: BUSINESS USES

- (a) Any business shall be wholly contained within the dwelling which is the principal residence of the operator of the business.
- (b) No more than twenty-five (25) per cent of gross floor area shall be devoted to any business use, and in no case shall any business use occupy more than three hundred (300) square feet (27.9 m²).

- (c) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which does not create a nuisance by virtue of noise, vibration, glare, odour or dust which is obnoxious.
- (d) No open storage or outdoor display of materials, goods, supplies, or equipment related to the operation of the business use shall be permitted.
- (e) No more than (1) sign shall be permitted for any business and no such sign shall exceed two (2) square feet (0.2 m²) in area.
- (f) One (1) off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m²) of floor area devoted to any business.
- (g) No exterior alterations to the dwelling related to the business use shall be permitted except to meet fire safety, structural safety, or health regulations.
- (h) No retail operation shall be permitted except where retail is accessory to a business use which involves the production of goods or crafts or the provision of a service.

12.4 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-6 Zone, the following shall apply:

- (a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling, which is the principal residence of the operator of the facility.
- (b) No open storage or outdoor display shall be permitted.
- (c) No more than one (1) sign shall be permitted for any facility and no such sign shall exceed two (2) square feet (0.2 m²) in area.
- (d) One (1) off-street parking space, other than that required for the dwelling, shall be provided.

12.5 OTHER REQUIREMENTS: AGRICULTURAL USES

Notwithstanding the provisions of Section 11.2, where any barn, stable or other building intended for the keeping of more than ten (10) animals is erected in any R-6 Zone, no such structure shall:

- (a) be less than fifty (50) feet (15.2 m) from any side lot line;
- (b) be less than one hundred (100) feet (30.5 m) from any dwelling or potable water supply except a dwelling or supply on the same lot or directly related to the agricultural use; and
- (c) be less than three hundred (300) feet (91.4 m) from any watercourse or waterbody.

12.6 OTHER REQUIREMENTS: BED AND BREAKFASTS

Where any bed and breakfasts are permitted in any R-6 Zone, the following shall apply:

- (a) Not more than three (3) rooms may be let.
- (b) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m²) in area.
- (c) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

12.7 R-6 ZONE REQUIREMENTS: COMMUNITY USES

In any R-6 Zone, where uses are permitted as community uses, no development permit shall be issued except in conformity with the provisions of Parts 19 and 20.