



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

Item No. 13.1.1
North West Community Council
May 14, 2018

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Steve Higgins, Acting Director, Planning and Development

DATE: February 16, 2018

SUBJECT: **Case 21540: Discharge of Development Agreement for 125 Sackville Drive,
Lower Sackville, NS**

ORIGIN

Application by David J. Cupido Construction Limited to discharge the existing development agreement applicable to 125 Sackville Drive, Lower Sackville.

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

David J. Cupido Construction Limited, on behalf of Arbor Memorial Inc. has applied to discharge the existing development agreement for 125 Sackville Drive, Lower Sackville.

| | |
|---|---|
| Subject Site | 125 Sackville Drive (PID #40010001) |
| Location | Sackville Drive |
| Regional Plan Designation | Urban Settlement (US) |
| Community Plan Designation (Map 1) | Pinehill-Cobequid (PC) under the Sackville Drive Secondary Planning Strategy |
| Zoning (Map 2) | Pinehill/Cobequid (PC) Zone under the Sackville Drive Land Use By-law |
| Size of Site | 6,690 square metres (72,008 square feet) |
| Street Frontage | Approximately 25 metres (82 feet) on Sackville Drive |
| Current Land Use(s) | Atlantic Funeral Home |
| Surrounding Use(s) | The surrounding area is comprised mainly of commercial, institutional, and low density residential uses. <ul style="list-style-type: none">• North - Wooded area and low-density residential development in the R-1 Zone;• South - Cemetery (i.e., Gate of Heaven Cemetery) in the CP Zone;• East - Outdoor display court (i.e., Auction Direct) in the PC Zone; and• West - Personal service shop (i.e., Cloud 9 Hair & Spa Studio) and low-density residential development in the PC Zone. |

Proposal Details

The current use of the subject property is a funeral home and development on the lot is regulated by a development agreement that was approved by Halifax County Council on September 12, 1988. That agreement limits the expansion of the funeral home to a maximum floor area of 678 square metres (7,300 square feet). The existing the funeral home has a floor area of 542 square metres (5,834 square feet) and the applicant proposes to construct an addition that would increase the floor area to approximately 913 square metres (9,827 square feet).

Subsequent to the approval of the development agreement in 1988, the Pinehill-Cobequid (PC) Zone was applied to the area in 2002 (see Attachment B). Notwithstanding the presence of the floor area restrictions in the development agreement, the PC zone would permit the proposed addition. The applicant proposes to discharge the existing development agreement and to bring standard zoning to bear on the property in order to permit the proposed addition as a by-right application.

Discharge of Development Agreement

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. A development agreement can be discharged by resolution of Community Council as per section 31 of the *Halifax Regional Municipality Charter*.

Existing MPS and LUB Provisions

In 2002, the Halifax Regional Municipality adopted the Sackville Drive Secondary Planning Strategy (SPS) and Land Use Bylaw (LUB), changing the land use framework for the Sackville Drive area. The subject site's previous land use designation and zone were replaced by the Pinehill-Cobequid (PC) Designation

and zone. This broadened as-of-right development capacity and allows commercial buildings (including funeral parlours) with a maximum building footprint of 15,000 square feet (1,393.5 square metres).

COMMUNITY ENGAGEMENT

The community engagement process on this file was 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.

DISCUSSION

The existing development agreement contains no specific provisions relating to discharge. Staff see no conflicts between the surrounding uses and the proposed addition. Should the discharge be approved by Council, the property would be regulated based on the same zoning that applies to the surrounding area.

The property owner indicates the current business remains viable and, other than the proposed addition, there are presently no intentions to change the use in the foreseeable future. Community Council should note that discharge of the development agreement and application of the PC Zone would enable a variety of land uses and the subject site's use could change in the future.

Conclusion

The proposed development agreement discharge would enable the subject property to be developed in accordance with the existing underlying Pinehill/Cobequid (PC) Zone. Staff see no conflict between the proposal and the surrounding uses and consistent application of zoning requirements in the area is supported.

Staff recommends that Community Council discharge the existing 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 discharge agreement. The administration of the proposed development agreement can be carried out within the approved 2018-2019 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 Section 244 of the *Halifax Regional Municipality Charter*. Community Council has the discretion to make decisions that are consistent with their legislative authority. Information concerning risks and other implications of adopting the proposed discharge agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.



Map 1 - Generalized Future Land Use

HALIFAX

125 Sackville Drive,
Lower Sackville

Sackville Drive Plan Designations

 Area of Existing Development Agreement to be Discharged

PC Pinehill / Cobequid



Sackville Plan Designations

UR Urban 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 Drive Plan Area &
Sackville Plan Area

Attachment A - Proposed Discharge Agreement

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

BETWEEN:

[INSERT COMPANY NAME],

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 125 Sackville Drive, Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on September 12, 1988 Halifax County Council approved an application to enter into a development agreement to allow an expansion to the existing funeral home establishment on the Lands pursuant to the provisions of the Municipal Government Act and the Sackville Municipal Planning Strategy and the Land Use By-law, referenced as Application No. DA-SA-05-88-16, and which said development agreement was registered on February 8, 1989 at the Registry of Deeds in Halifax in Book 4695 at pages 851-859 (hereinafter called the "Existing Agreement");

AND WHEREAS upon the completion of the development or portions thereof Council may review the Existing Agreement, in whole or in part, and may discharge the Existing Agreement, as per Section 244 of the *Halifax Regional Municipality Charter*;

AND WHEREAS the Developer has 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 for the Municipality approved this request by resolution at a meeting held on {INSERT DATE} referenced as Municipal Case Number 21540;

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 Drive Land Use By-law, as amended from time to time.

IN WITNESS WHEREOF 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

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 - Pinehill/Cobequid (PC) Zone - Sackville Drive Land Use Bylaw (LUB)

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-May 26/05;E-May 28/05)**
- 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-May 26/05;E-May 28/05)**
- 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-Sep 5/06;E-Oct 7/06)**
- Existing auto body shops

Institutional and Community Uses

- Educational Institutions (including commercial schools)
- Denominational Institutions excluding Cemeteries
- **Day Care Facilities (RC-Mar 3/09;E-Mar 21/09)**
- 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-May 24/07;E-Jun 9/07)**

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 whichever is greater. (RC-Sep 5/06;E-Oct 7/06)**
 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 ½ height building whichever is greater. (RC-Sep 5/06;E-Oct 7/06)**
 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-Sep 5/06;E-Oct 7/06)**

SPECIAL REQUIREMENTS: Multiple Unit Dwellings

7. Notwithstanding the provisions of Part 14, where any multiple unit dwelling is **permitted (NWCC-Sep 12/06;E-Sep 29/06)**, 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-Sep 12/06;E-Sep 29/06)

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-Sep 5/06;E-Oct 7/06)**

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-Sep 5/06;E-Oct 7/06)