



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

Item No. 10.1.1
North West Community Council
May 16, 2016
June 13, 2016

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: April 28, 2016

SUBJECT: **Case 20290: Amending Development Agreement for Sobeys Food Store at 80 First Lake Drive, Lower Sackville**

ORIGIN

Application by W.M. Fares Group.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Give Notice of Motion to consider the proposed amending development agreement, as set out in Attachment A of this report, to permit liquor sales within the Sobeys Food Store at 80 First Lake Drive, Lower Sackville and schedule a public hearing;
2. Approve the proposed amending development agreement which shall be substantially of the same form set out in Attachment A, to permit liquor sales within the Sobeys Food Store at 80 First Lake Drive, Lower Sackville; and
3. Require the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

W.M. Fares Group, on behalf of Sobeys Food Store, is applying to amend the existing development agreement (Case 16418) to allow liquor sales within the Sobeys Food Store at 80 First Lake Drive, Lower Sackville (Maps 1 and 2).

Subject Property	80 First Lake Drive, Lower Sackville (PID 00362442)
Plan Area	Sackville
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Community Commercial (CC) Designation under the Sackville Municipal Planning Strategy (MPS)
Zoning (Map 2)	Community Commercial (C-2) Zone under the Sackville Land Use By-law (LUB)
Size of Property	Approximately 13.25 acres
Current Land Use(s)	Several business are currently located on the property including Sobeys Food Store, a Staples call centre, Needs Convenience, and Tim Hortons
Surrounding Land Uses (Maps 1 and 2)	<ul style="list-style-type: none">• To the south across First Lake Drive are several organizations including the Kinsmen Community Centre, Sackville Arena, and Taiso Gymnastics Club;• To the northwest abutting the subject property is Saint Elizabeth Seton Church;• To the west is Lakehead Court, a street of semi-detached dwellings which are zoned R-2 (Two Unit Dwelling); and• To the north and east is an established single unit dwelling neighbourhood zoned predominantly R-1 (Single Unit Dwelling) along Polara Drive, Quinn Drive, and Quaker Crescent.

Existing Agreement

A development agreement (Case 16418) was approved by North West Community Council on May 26, 2011 to allow for new C-2 Zone land uses in excess of the size permitted as-of-right (greater than 929 square metres or 10,000 square feet) in the Community Commercial Zone for Sackville. This was enabled through Policy CC-3 (Attachment D) of the MPS. As a result, the Sobeys Food Store was constructed. Through a motion of Council at the May 26, 2011 public hearing, it was decided to exclude liquor store uses from the list of permitted uses under the development agreement. This was in addition to a staff recommendation to exclude entertainment uses (i.e. a bar or lounge), which are not permitted under the development agreement.

Proposal

The applicant wishes to amend the existing development agreement to permit a liquor store in conjunction with the existing Sobeys Food Store. The proposed liquor store would occupy a total of 134.6 square metres or 1,449 square feet within the existing Sobeys building.

Enabling Policy and LUB Context

This proposal is being considered under MPS Policy CC-3, which enables Council to consider the expansion of existing uses and the establishment of new commercial uses in excess of the maximum size permitted by the community commercial zone (i.e. greater than 929 square metres or 10,000 square feet), by development agreement. Policy CC-3 requires the provisions of policy IM-13 be considered regarding the general appropriateness of the proposal. The proposed liquor store use can normally be permitted as-of-right in the C-2 Zone as a retail use. However, the development agreement placed a restriction on the

use through a specific motion of Council, therefore an amendment to Section 3.3.1 of the existing development agreement is required to permit liquor sales.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS. Attachment D provides an evaluation of the proposed amendment to the development agreement in relation to the relevant MPS policies.

Proposed Amendment

Attachment A contains the proposed amendment to the existing development agreement. The proposed amendment will remove the language in subsection 3.3.1(a) that prohibits liquor stores as a use permitted on the lands. The language in the same section that prohibits entertainment uses (such as a lounge or a bar) will remain.

Planning Policy

Policy CC-3 of the Sackville MPS enables consideration of C-2 uses in excess of 10,000 square feet through the development agreement process. This allowed for the existing development agreement (Case 16418) and the construction of the existing Sobeys Food Store. Because liquor sales fall within the definition of a retail store, a permitted C-2 use under the LUB, the use can be considered through Policy CC-3.

Policies CC-3 and IM-13 require that the application be evaluated according to a number of criteria including:

- Conformity with the intent of policy;
- General suitability of the site (in terms of municipal servicing capacity, etc.);
- Design features that address potential impacts on adjacent development;
- Design compatibility with adjacent land uses; and
- Traffic generation and access.

The minor nature of the proposal, and the fact that the renovation is to be internal, means that no significant impacts (in terms of potential impacts on adjacent development and land uses, traffic generation, etc.) are anticipated beyond the original proposal for the Sobeys Food Store.

Planning Advisory Committee

Staff presented the application to North West Planning Advisory Committee (NWPAC) on April 6, 2016. In a memo dated April 8, 2016, the committee issued a recommendation to North West Community Council to approve the application as outlined in the memorandum and attachments package dated March 15, 2016. No additional recommendations were made.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS. Given the small scale of the proposal and the fact that the renovation is to be internal to the existing grocery store, staff advise that the criteria under Policies CC-3 and IM-13 (such as those regarding appropriateness, land use compatibility, and design compatibility), have been satisfied. Therefore, staff recommends that North West Community Council approve the proposed amendments to the development agreement included as Attachment A of this report.

FINANCIAL IMPLICATIONS

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

COMMUNITY ENGAGEMENT

The community engagement process was consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting held on March 9, 2016 (Attachment E). Attendees of the meeting were in favour of the application. Notices were posted on the HRM website, and mailed to property owners within the notification area (Map 2).

A public hearing must be held by North West Community Council before they can consider approval of the Amending Development Agreement. Should North West 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 will continue to be notified (Map 2). The HRM website will also be updated to indicate notice of the public hearing.

The proposed amendments to the development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

RISK CONSIDERATION

There are no significant risks associated with the recommendation association with 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 amending 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 amending development agreement with modifications. This may necessitate further negotiation with the applicant and may require a supplementary staff report or public hearing. A decision of Council to approve this amending 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 amending development agreement, and in doing so, must provide reasons why the amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed amending development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

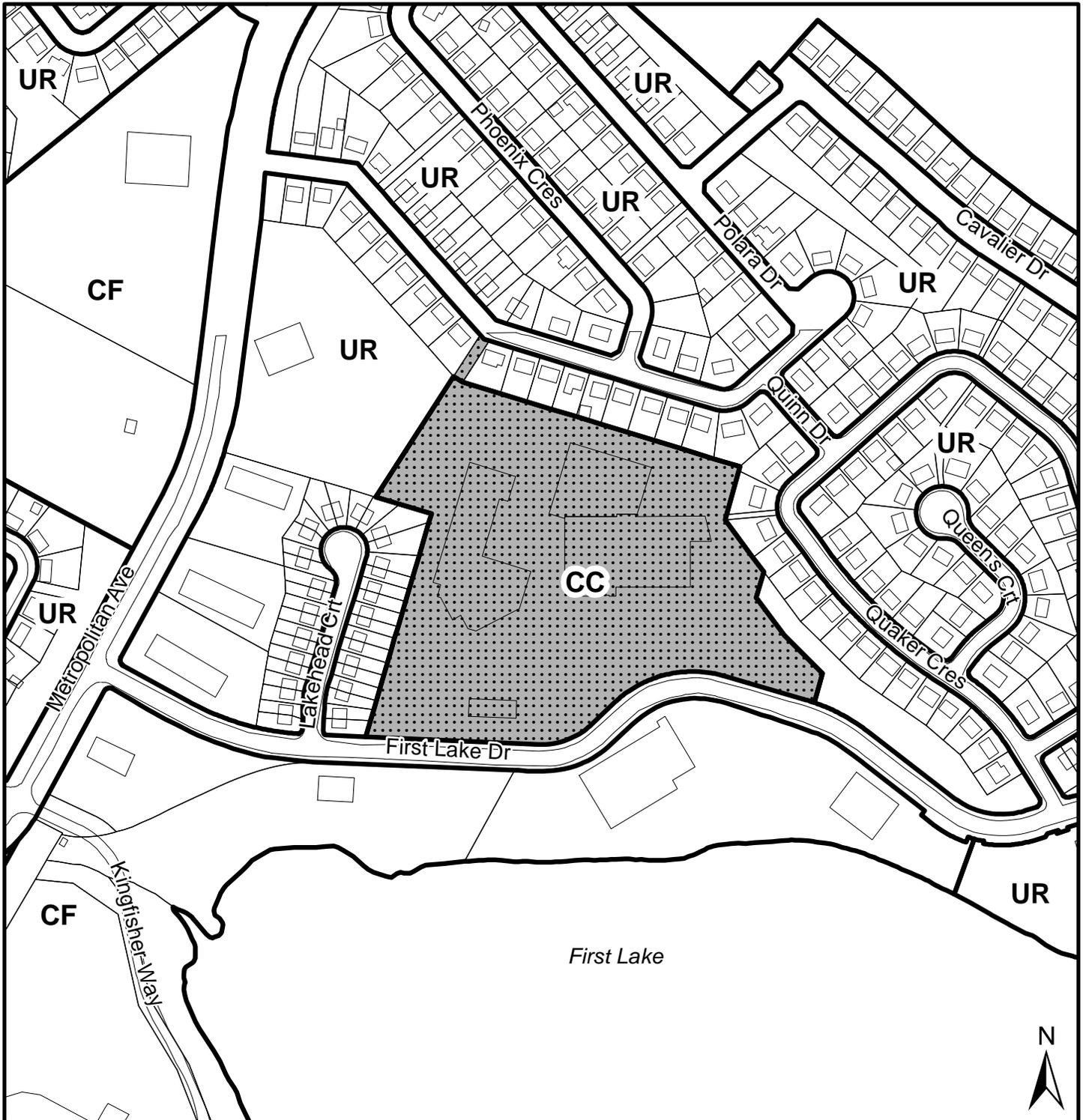
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Amending Development Agreement
Attachment B	Policy Review
Attachment C	Minutes from Public Information Meeting (March 9, 2016)

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

Report Approved by: Original Signed
Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

80 First Lake Drive

HALIFAX

 Subject Property

Designations

- UR Urban Residential
- CC Community Commercial
- CF Community Facility

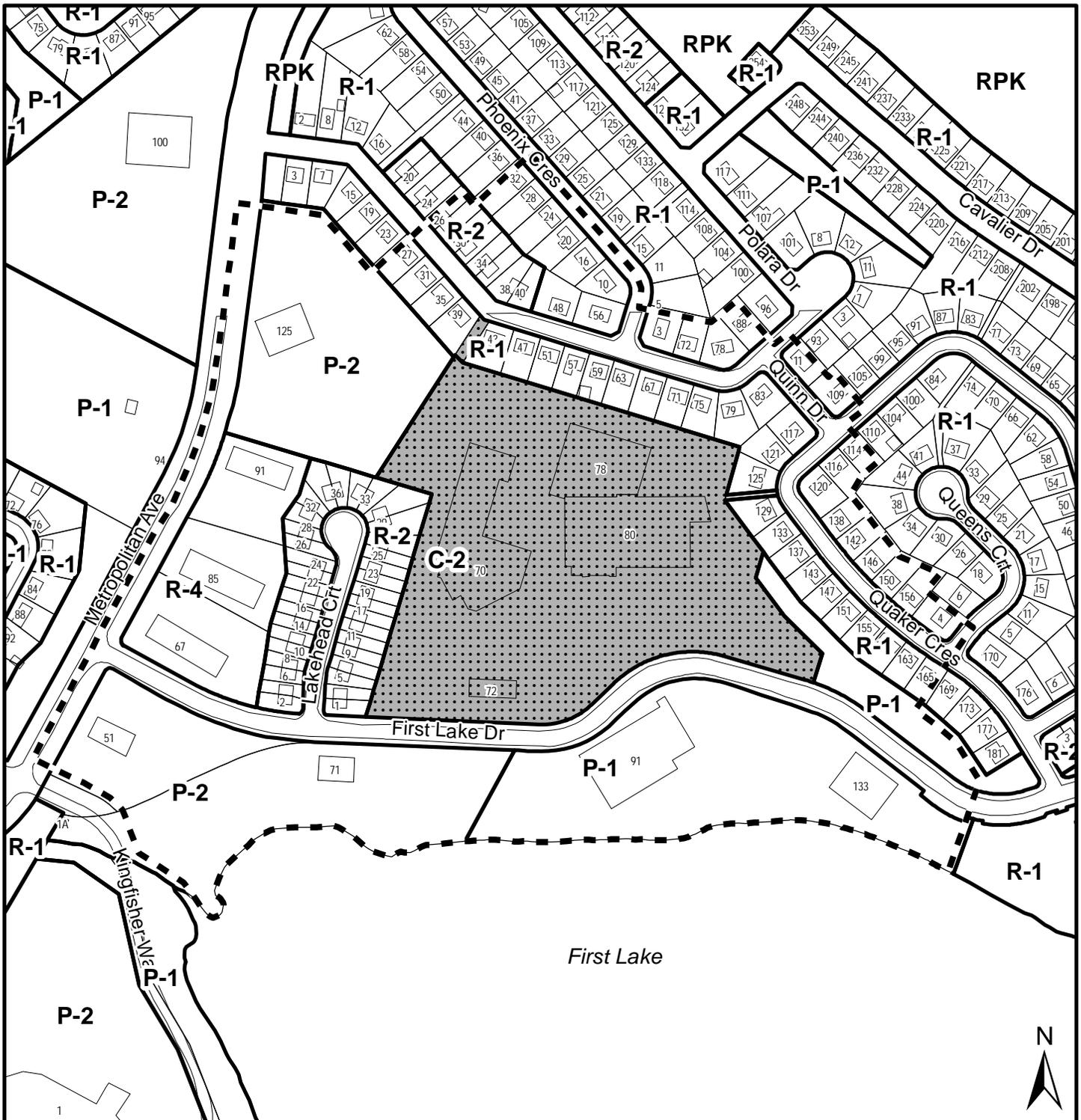
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This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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

Sackville
Plan Area



Map 2 - Zoning and Notification Area

80 First Lake Drive

-  Subject Property
-  Notification Area

Zones

- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-4 Multiple Unit Dwelling
- C-2 Community Commercial
- P-1 Open Space
- P-2 Community Facility
- RPK Regional Park

HALIFAX



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
By-Law Area

1. Except where specifically varied by this Amending Agreement, all other terms, conditions and provisions of the Existing Agreement shall remain in effect.
2. Subsection 3.3.1(a) is amended by deleting the words "and liquor stores".

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 Owners Names)

 Witness

Per: _____

=====

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

=====

HALIFAX REGIONAL MUNICIPALITY

 Witness

Per: _____

Mayor

 Witness

Per: _____

Municipal Clerk

Attachment B:
Review of Relevant Policies from the Sackville MPS

Please note: A review of the proposed amendments to the development agreement relative to the applicable criteria of policies CC-3 and IM-13 is included in the Discussion section of this report. The policy criteria are enumerated here with some additional staff comments provided.

CC-3 Notwithstanding Policy CC-2, within the Community Commercial Designation, Council may consider the expansion of existing uses and the establishment of new commercial uses in excess of the maximum size permitted in the community commercial zone, according to the development agreement provisions of the Planning Act. In considering any such development agreement, Council shall have regard to the following:

CC-3 Policy Criteria	Comment
<i>(a) an evaluation of the appropriateness of the proposed use in terms of its effect on the development of the Sackville Drive Secondary Plan (RC-May 7/02;E-Jun 29/02) as the major commercial focus within the plan area;</i>	Prior to entering into the existing agreement, it was indicated by the applicant that the existing Sobeys Food Store on Sackville Drive would remain in operation (see Case 16418).
<i>(b) that no development agreement for office uses in excess of the maximum size permitted in the community commercial zone be considered;</i>	NA
<i>(c) that municipal central services are capable of supporting the development;</i>	No significant impacts anticipated
<i>(d) that site design features, including landscaping, 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>	Provisions exist under the current agreement, and no changes have been proposed to those provisions.
<i>(e) that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</i>	Proposed renovations would be interior only
<i>(f) that appropriate controls are established to address environmental concerns, including stormwater controls;</i>	No impacts anticipated
<i>(g) the impact on traffic circulation and, in particular, sighting distances and entrances and exits to the site;</i>	No significant impacts anticipated
<i>(h) general maintenance of the development;</i>	NA
<i>(i) hours of operation; and</i>	Hours of operation will conform with all relevant Municipal and Provincial regulations. Provisions under the existing agreement limit the hours of operation from 8:00 AM to 11:00 PM Monday to Sunday in Building 1 where the proposed liquor store is to be located.
<i>(j) 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:

IM-13 Policy Criteria	Comment
<i>(a) that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;</i>	The proposal conforms with the intent and requirements of the Sackville Municipal Planning Strategy and the Sackville Land Use By-law.
<i>(b) that the proposal is not premature or inappropriate by reason of: (i) the financial capability of the Municipality to absorb any costs relating to the development; (ii) the adequacy of sewer and water services; (iii) the adequacy or proximity of school, recreation and other community facilities; (iv) the adequacy of road networks leading or adjacent to, or within the development; and (v) the potential for damage to or for destruction of designated historic buildings and sites.</i>	The proposal is not premature or inappropriate for any of the reasons listed.
<i>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of: (i) type of use; (ii) height, bulk and lot coverage of any proposed building; (iii) traffic generation, access to and egress from the site, and parking; (iv) open storage; (v) signs; and (vi) any other relevant matter of planning concern.</i>	The existing agreement had dealt with these considerations and as the proposed renovations are internal only and small in scale, no further concerns are anticipated.
<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>	NA
<i>(e) any other relevant matter of planning concern; and</i>	No further concerns have been identified
<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>	NA

Attachment C
Minutes from Public Information Meeting (March 9, 2016)

HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 20290

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

Wednesday, March 9, 2016
7:00 p.m.
Sackville Heights Community Centre (Gym)

STAFF IN

ATTENDANCE:

Nathan Hall, Planner, HRM Development Approvals
Thea Langille, Major Project Planner, HRM Development Approvals
Alden Thurston, Planning Technician, HRM Development Approvals
Cara McFarlane, Planning Controller, HRM Development Approvals

ALSO IN

ATTENDANCE:

Councillor Steve Craig, District 15
Cesar Saleh, WM Fares Architects

PUBLIC IN

ATTENDANCE:

Approximately 17

The meeting commenced at approximately 7:01 p.m.

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

Mr. Hall introduced himself as the Planner facilitating this application through the planning process; Councillor Steve Craig, District 15; Cesar Saleh, W.M. Fares; Thea Langille (Major Project Planner), Alden Thurston (Planning Technician) and Cara McFarlane (Planning Controller), HRM Development Approvals.

Case 20290 - Application by W.M. Fares Architects to amend the existing Development Agreement to allow liquor sales within the Sobeys Food Store located at the Sackville Town Centre Shopping Mall, 80 First Lake Drive, Lower Sackville.

The Public Information Meeting (PIM) Agenda was reviewed.

The purpose of the PIM is: a) to identify to the community that HRM has received an application on the subject property; b) to provide information/background on the proposal; c) to explain the planning policies and process; d) to provide the applicant an opportunity to present their proposal and answer questions; and e) to provide Staff an opportunity to receive public feedback regarding the application. This is purely for information exchange and no decisions are made at the PIM.

2. Overview of Proposal – Nathan Hall

Mr. Hall pointed out that the address of the site on the Public Notice was incorrect. It should

have read 80 First Lake Drive as opposed to 70.

Mr. Hall made a presentation outlining the site which is about 13.25 acres in size and fronts on First Lake Drive in Lower Sackville. An image of the site was shown. The existing development agreement for the property was approved on May 26, 2011 and allowed for the construction of the Sobeys building as well as the Tim Hortons and Needs store. Commercial floor area on the property was to be in excess of 10,000 square feet as permitted by the C-2 Zone, so a development agreement was required. The development agreement restricted the sale of liquor; therefore, in order to permit liquor sales within Sobeys, the development agreement has to be amended. The amendment would not allow an entertainment use such as a bar or lounge.

The proposed floor plan was presented along with the planning context and policy: a) within the Sackville Plan Area; b) designated as CC (Community Commercial) within the Municipal Planning Strategy (MPS); c) zoned C-2 (Community Commercial) under the Land Use By-law (LUB); and d) falls under Policy CC-3 (enables Staff to consider proposal) and other considerations such as compatibility, parking and service capacity.

The planning process was reviewed: a) application received; b) preliminary review; c) PIM; d) proposal goes before North West Planning Advisory Committee (NWPAC); e) detailed review of proposal (internal/external agencies); f) development agreement negotiated with applicant; g) Staff report to North West Community Council (recommendations, public feedback and draft development agreement included); h) public hearing held by NWCC; and i) a 14-day appeal process.

3. Presentation of Proposal – Cesar Saleh, Engineer, W.M. Fares Architects

Mr. Saleh explained that the amendment is text only; therefore, there will be no change in external structure or parking. A few images were shown to display where the liquor sales [1,380 square feet in total – retail (780 square feet) and storage] would be located within the Sobeys store. There is an internal and external access to the liquor boutique and hours of operation would be the same as the hours of the Sobeys store.

4. Questions and Comments

John Gray, Polara Drive mentioned that a liquor store and lounge existed at that location a number of years ago and were removed when the mall was renovated. Have there been any studies done to identify future issues that may occur with this proposal? He is concerned about the effects on the residential neighbourhood and nearby schools, churches, etc. **Mr. Hall** – The property is within the C-2 Zone in Sackville which does permit the sale of liquor; therefore, Staff and Council have to consider the application. The existing development agreement (which restricts the sale of liquor) was placed on the property in 2011 because the total square footage of the proposal exceeded 10,000 square feet and therefore the uses were negotiated through the development agreement process. In order for Sobeys to now construct a liquor store within the building, they must amend the existing development agreement.

Greg Publicover, Polara Drive – Is there an outside entrance to the liquor store? **Mr. Saleh** – there is a single external door.

Mr. Gray – Will the employees be from Sobeys? **Mr. Saleh** – No, they will be Nova Scotia Liquor Commission employees.

Councillor Craig - The site has always been zoned C-2 which allows for the use of a liquor store and there is policy within the Sackville MPS that allows Staff and Council to consider it under the existing development agreement but through a public consultation process. The public will have another opportunity for comment when NWCC schedules the public hearing.

Mr. Hall emphasized that the amendment to the development agreement will not permit a bar or lounge, only retail of liquor. Staff is aware of the issues regarding the former liquor store and lounge. The application does have to go through this public process and meet the policy as interpreted by Staff and Council.

Megan – What is the timeframe for this application? **Mr. Hall** – Typically nine to 12 months but this particular application may be more like nine months. **Ms. Langille** – There are some legislative required steps that Staff have to take. A lot of times the applications are larger files which would take more within the nine to 12 month range. It depends on staff's resource situation. **Mr. Saleh** - As for construction, probably about 30 days once the approval has been given.

One resident said it looks as though some construction has already started within the Sobeys store. **Mr. Saleh** – Initially, the store was going to sell wine only but the Development Officer was concerned that the use would not be permitted under the existing development agreement and that is why Sobeys has applied for this amendment.

Laura Napke, Belleshire Drive likes the convenience and approves of the proposal.

Karen Burton, Cartier Crescent posted about tonight's PIM on a couple of school pages and received only positive comments about the proposal. She doesn't find there are many problems in the area.

Megan - The liquor store employees do ask for ID. She likes the convenience and approves of the proposal. She has only heard positive comments in the community.

5. Closing Comments

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

6. Adjournment

The meeting adjourned at approximately 7:32 p.m.