



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

**Item No. 13.1.3**  
**North West Community Council**  
**February 8, 2016**

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

Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Bob Bjerke, Chief Planner & Director, Planning and Development

**DATE:** January 15, 2016

**SUBJECT:** **Case 19452: Amending Development Agreement for 67 Metropolitan Avenue, Lower Sackville.**

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**ORIGIN**

Application by KWR Approvals Inc.

**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 contained in Attachment A of this report, to permit 3 additional units to an existing 36 unit multiple unit dwelling and implement non-disturbance requirements at 67 Metropolitan Avenue, Lower Sackville and schedule a public hearing.
2. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report, to permit 3 additional units to an existing 36 unit multiple unit dwelling and implement non-disturbance requirements at 67 Metropolitan Avenue, 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**

An application has been submitted by KWR Approvals Inc., on behalf of the property owner, Denmark Real Estate Limited, to permit 3 additional units within the existing multiple unit dwelling at 67 Metropolitan Avenue, Lower Sackville. The subject property, 67 Metropolitan Avenue, is a development agreement which limits the number of units within the existing multiple unit dwelling to a maximum of 36 units. As the proposal cannot be enabled under the existing development agreement, the applicant has requested a substantive amendment to the development agreement to enable 3 additional units.

<b>Subject Property</b>	67 Metropolitan Avenue, Lower Sackville
<b>Location</b>	Northeast corner of Metropolitan Avenue and First Lake Drive
<b>Regional Plan Designation</b>	Urban Settlement
<b>Community Plan Designation (Map 1)</b>	Urban Residential under the Sackville Municipal Planning Strategy (MPS)
<b>Zoning (Map 2)</b>	R-4 (Multiple Unit Residential) under the Sackville Land Use By-Law (LUB)
<b>Size of Property</b>	Approximately 0.56 hectares (1.4 acres)
<b>Street Frontage</b>	56m (183.7ft) along Metropolitan Avenue and 108m (354.3 ft.) along First Lake Drive
<b>Site Conditions</b>	The property is flat and fully developed with a multiple unit dwelling. Access to the property is from Metropolitan Avenue, a parking lot is located in the rear with mature trees, and vegetation along Metropolitan Avenue and First Lake Drive
<b>Current Land Use(s)</b>	A 36 unit multiple unit building (3 storeys in height)
<b>Surrounding Land Uses</b>	<ul style="list-style-type: none"><li>• to the north is 2 multiple unit dwellings (85 and 91 Metropolitan Avenue) which are zoned R-4 Multiple Unit Dwelling;</li><li>• to the east is Lakehead Court, a street of semi-detached dwellings which are zoned R-2 (Two Unit Dwelling);</li><li>• to the south is First Lake Drive and a P-2 zoned (Community Facility) property known as Kinsmen Park; and</li><li>• to the west is Metropolitan Avenue, and single unit dwellings (zoned R-1 (Single Unit Dwelling) backing onto Metropolitan Avenue.</li></ul>

### **Existing Development Agreement and Enabling Policy**

The existing development agreement was approved in 1986 by the former Municipality of the County of Halifax (Case #90141) and permits the development of Lakehead Court (36 two unit dwellings) and 3 multiple units dwellings (67, 85 and 91 Metropolitan Avenue). This proposal is being considered under Policy U-8 (Attachment B) of the Sackville MPS which allows Council to consider multiple unit dwellings over 6 units by way of a development agreement.

### **Proposal**

The proposed amendment is to enable an additional 3 units within the existing multiple unit dwelling at 67 Metropolitan Avenue, for a total of 39 residential units. As proposed, the additional units will be accommodated within the existing building and there is no proposed increase to the building height or the

footprint. In support of the 3 additional units, the proposal also includes 3 additional parking spaces and additional bicycle parking, as well as minor grade changes to accommodate new windows and/or patios.

## **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the MPS. Attachment B provides an evaluation of the proposed amending development agreement in relation to the relevant MPS policies. The following outlines matters which have been identified for more detailed discussion:

### Land Use Compatibility

Based upon the mix of low and medium density residential development surrounding the subject site, its location on a corner lot, and minimal changes to the exterior of the building, it is anticipated that the 3 additional units being proposed will not impact surrounding land uses.

### Buffering

To minimize land use conflicts, the existing agreement prohibits the removal of any existing trees with a circumference greater than 16 inches located within twenty feet of the front lot line along Metropolitan Avenue and First Lake Drive. The proposed amending development agreement builds upon this requirement by creating non-disturbance areas on the property to retain more of the existing vegetation surrounding the building (see Attachment A – Schedule B).

### Traffic Impact (Access and Egress) and Parking

A Traffic Impact Statement was not required for this application due to the small increase in units and the existing driveway on the subject property not being changed. As a result, the impact of the proposed change in units is anticipated to have only a minimal impact on traffic generation in the area.

The 3 additional units would typically require the creation of 5 additional parking spaces in accordance with Sackville Land Use By-law (LUB) provisions. However, this proposal includes only 3 additional parking spaces plus new bicycle parking. The Sackville LUB permits a reduction in vehicular car parking spaces when bicycle parking is provided. Therefore, the proposal meets the requirements of the Sackville LUB.

### Tenant Storage

To create the 3 additional units, the applicant will be relocating some of the tenant storage space within the existing building. New storage spaces will be relocated throughout the building as follows: to the laundry facilities in the building, common areas by the stairwell on the basement level, the top level of the building, and in the basement level.

## **North West Planning Advisory Committee**

The North West Planning Advisory Committee (NWPAC) reviewed this application on August 5<sup>th</sup>, 2015. The Committee provided three recommendations:

- the applicant should replace the storage space that is being lost either inside or outside of the building;
- Vegetation should be maintained as much as possible and reinstated where it is disturbed; and
- Clearly define “future flexibility” within the development agreement.

The recommendations from the PAC have been incorporated into the development agreement accept for “future flexibility” within the development agreement. Staff has reviewed the option of having ‘flexibility’ as it relates to the number of units and unit layout. It was determined that such an option would be difficult to enable while ensuring the necessary parking spaces were provided. Despite staff not recommending this

option, the applicant could increase the size of some units by reducing the number of units in the building which are permitted under the existing development agreement.

### **Conclusion**

Staff has reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the MPS due to its limited nature (only 3 units); the fact that there is no proposed change to the building mass or footprint, and the existing vegetation is further protected. Therefore, it is recommended that the proposed amending development agreement (Attachment A) be approved.

### **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 budget with existing resources.

### **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 a mail out in May 2015. Notices were posted on the HRM website, and mailed to property owners within the notification area as shown on Map 2. No comments were received as a result of the mail out notifications or website.

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 as shown on Map 2. The HRM website will also be updated to indicate notice of the public hearing.

The proposed amendments will potentially impact, but not limited to, the following stakeholders: property owners, and tenants within the building.

### **ENVIRONMENTAL IMPLICATIONS**

The proposal meets all applicable environmental policies as contained in the Sackville MPS.

### **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 the preparation of a supplementary staff report and an additional public hearing. A decision of Community 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 amending development agreement, and in doing so, must provide reasons why the amending 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
Attachment A	Proposed Amending Development Agreement
Attachment B	Review of Relevant Policies from Sackville Municipal Planning Strategy

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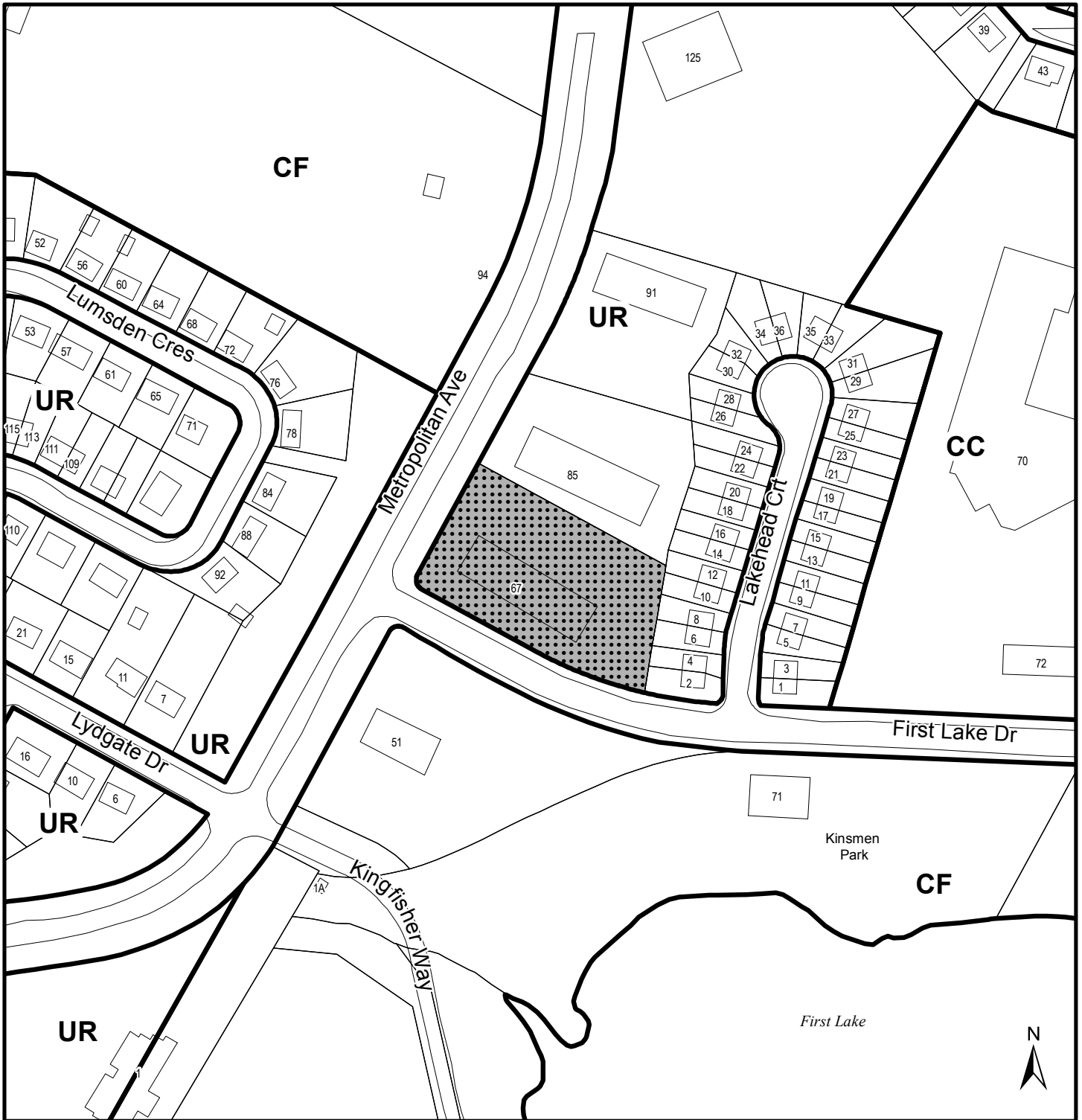
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Stephanie A. Norman, Planner, 902.490.4843

Original Signed


Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager of Development Approvals, 902.490.4800

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**Map 1 - Generalized Future Land Use**

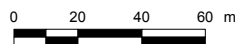
67 Metropolitan Avenue,  
Sackville

 Subject Property

**Designation**

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

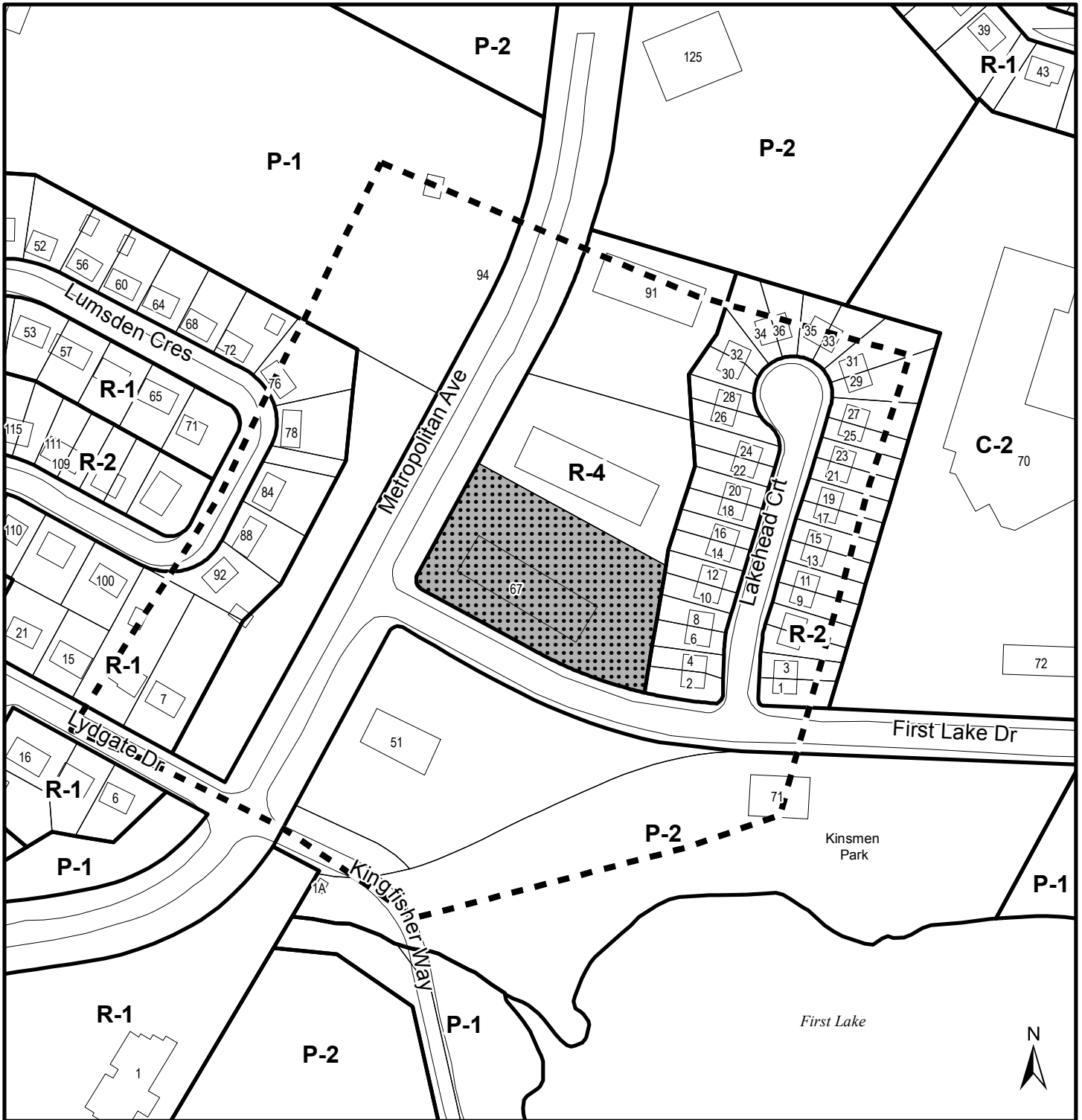
**HALIFAX**



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

HRM does not guarantee the accuracy of any representation on this plan.



Sackville Plan Area



### Map 2 - Zoning and Notification

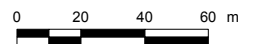
67 Metropolitan Avenue,  
Sackville

**HALIFAX**

-  Subject Property
-  Area of Notification

**Zone**

- 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



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 Amending Development Agreement**

THIS AMENDING AGREEMENT made this    day of **[INSERT MONTH]**, 2016

BETWEEN:

**[INSERT DEVELOPER 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 67 Metropolitan Avenue, Lower Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** that on October 15<sup>th</sup>, 1986, the Council of the Municipality of the County of Halifax entered into a Development Agreement to permit construction of 18 two unit dwellings and 3 multiple unit dwellings, located at the intersection of Metropolitan Avenue and First Lake Drive, Lower Sackville pursuant Section 19.2 of the Zoning By-law for Sackville and the provisions of the *Planning Act* and filed in the Halifax Registry, Book 4272 and Page 252 (hereafter called the "Existing Agreement");

**AND WHEREAS** the Developer has requested that the Municipality enter into an Amending Agreement to allow 3 additional residential units within the existing 36 unit multiple unit dwelling and the implementation of non-disturbance areas at 67 Metropolitan Avenue, Lower Sackville (hereafter called the "Amending Agreement");

**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 19452;

**THEREFORE**, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree that the Existing Agreement is amended, as follows:

1. In Section 4 of the Existing Agreement, adding subsections (ai), (aii) and (aiii) immediately following subsection (a) as follows:

“(ai)            Notwithstanding Clause (a) as it pertains to Lot 21, 39 residential units shall be permitted. For greater certainty, vehicular and bicycle parking shall be required in accordance with the Sackville Land Use By-law, as amended from time to time.

(aii)            Non- Disturbance Areas for Lot 21:  
Non-disturbance areas shall be provided as shown on Schedule "B". All grading plans shall indicate areas where existing vegetation is to be maintained and the areas to be protected from disturbance during any future activity on the Lands unless otherwise specified in the Existing Agreement and this Amending Agreement. Non-disturbance areas shall be delineated by the Developer with a snow fence or other appropriate continuous physical barrier, and signage in the field prior to any site preparation (i.e. tree cutting and excavation activity). The



delineation of the non-disturbance area shall be maintained by the Developer for the duration of the construction. If trees are removed or tree habitat damaged beyond repair in the non-disturbance areas, the Developer or the land owner shall replace the trees with two new trees of 1½ inch (38mm) clipper for every one removed or damaged, as directed by the Development Officer. If the Developer fails at any time during any site work or construction to fully conform to the approved plans, the Municipality shall require that the site and construction work cease, except for works which may be approved by the Development Engineer to ensure compliance with the Erosion and Sedimentation Control Plan, Grading Plan, and Storm Water Management Plan.

- (a) 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, 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, and the salting of walkways and driveways.

2. All other terms of the Existing Agreement shall remain in full force and effect.

This Amending Development Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

**WITNESS** that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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

**[Insert Registered Owner’s Name]**

\_\_\_\_\_

Witness

=====

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

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**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

\_\_\_\_\_

Witness

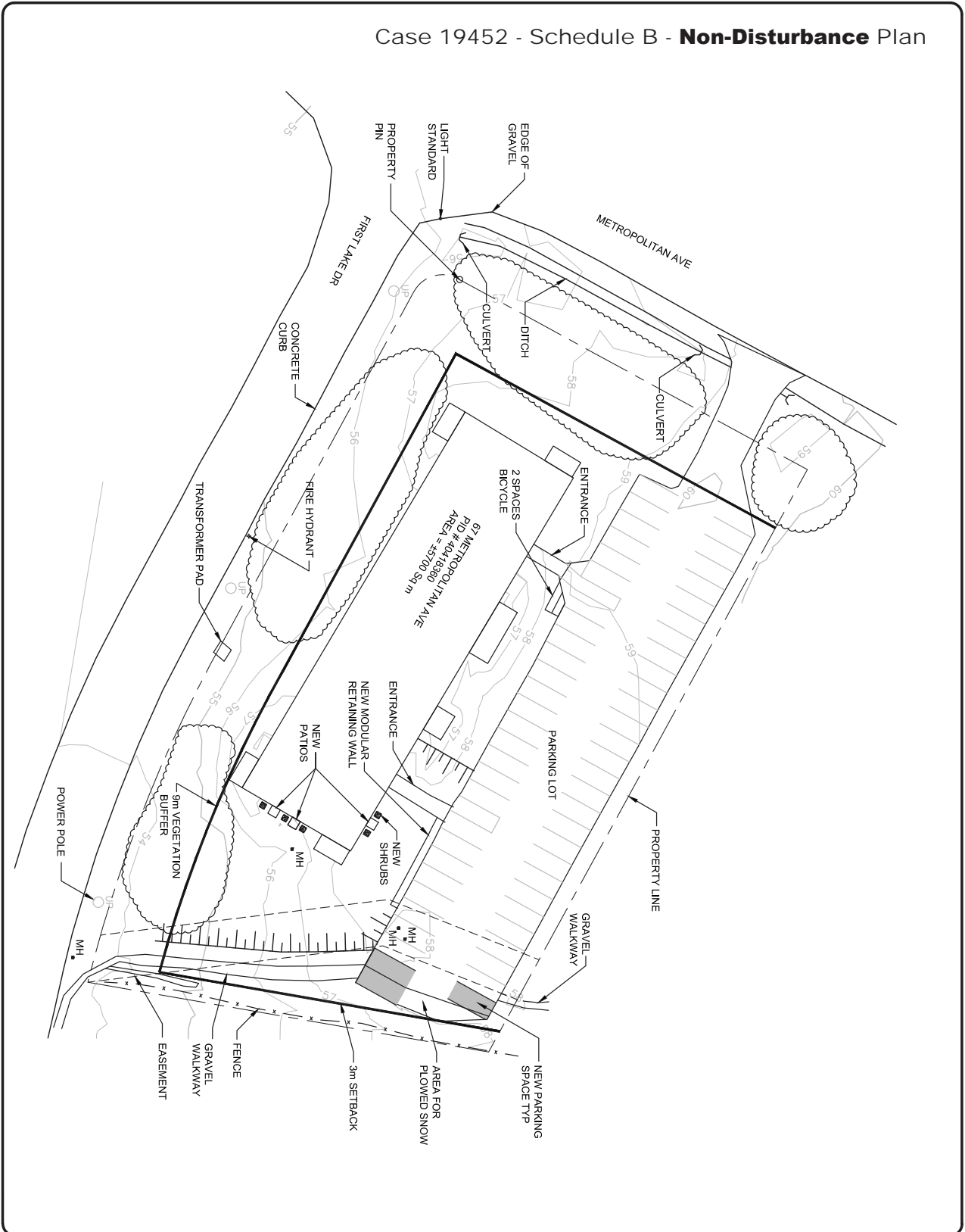
Per: \_\_\_\_\_

Mayor

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

Municipal Clerk

# Case 19452 - Schedule B - Non-Disturbance Plan



exp Services Inc. © 2015

Project Title		67 METROPOLITAN AVE SITE PLAN	
Project Title		LANDSCAPE PLAN	
Project No.	HEX-00223786-A0	Rev. No.	0
Dwg. No.	C-103	Scale	1:500

BUILDING SCHEMATIC ENVIRONMENT ENERGY ANALYTICAL INFRASTRUCTURE ESTIMATION

exp Services Inc.  
 1402 453 825  
 7071 Bonar Road, Suite 2002  
 Halifax, NS B1L 2C2  
 CANADA  
 www.exp.com

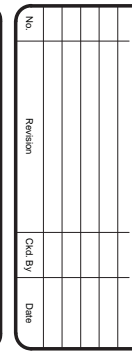


Date Printed	Dwg. Design	EMC
Drawn By	JNT	
Checked By		
Designed By		
Drawn By		

**PRELIMINARY**

North

No.	Revision	Chd By	Date



**Attachment B**  
**Review of Relevant Policies of the Sackville Municipal Planning Strategy**

UR-8 Notwithstanding Policies UR-2 and UR-7, within the Urban Residential Designation, it shall be the intention of Council to consider multiple unit dwellings over six (6) dwelling units, according to the development agreement provisions of the Planning Act. In considering such an agreement, Council shall have regard to the following:

<b>Policy Criteria</b>	<b>Staff Comments</b>
<i>(a) the adequacy of separation distances from low density residential developments;</i>	No change in building location.
<i>(b) that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</i>	The existing building is not proposed to change in size, height or bulk. Minor changes to the buildings appearance may occur to accommodate new windows and/or patios for the proposed units.
<i>(c) that site design features, including landscaping, amenity areas, 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 residential of the development;</i>	The applicant is proposing 3 additional parking spaces and bicycle parking which meets the requirements of the Sackville LUB.
<i>(d) preference for a site in close proximity to community facilities such as schools, recreation areas and transit routes;</i>	N/A
<i>(e) that municipal central services are available and capable of supporting the development;</i>	Halifax Water has reviewed the proposal, and advised that sewer and water services are adequate.
<i>(f) that appropriate controls are established to address environmental concerns, including stormwater controls, based on a report from the appropriate Municipal, Provincial, and/or Federal Government authority;</i>	No environmental concerns were identified.
<i>(g) that the proposed development has direct access to a local street, minor collector or major collector as defined in Map 3 - Transportation;</i>	The proposed development has direct access to Metropolitan Avenue, and is also adjacent to First Lake Drive.
<i>(h) that it is not being considered on lands which are presently zoned and developed for either single or two unit dwelling purposes nor where it is intended to replace a single or two unit dwelling which has been demolished, removed or destroyed by fire;</i>	There is an existing development agreement on the property which allows for 36 units within the existing building. In addition, the underlying zone is R-4 (Multiple Unit Dwelling).
<i>(i) the impact on traffic circulation and, in particular, sighting distances and entrances and exits to the site;</i>	Staff has reviewed the proposal, and has advised there are no issues with traffic. The existing entrances/exits are not being changed.
<i>(j) general maintenance of the development; and</i>	The amending development agreement requires that the developer maintain in good repair all elements of the proposal, including the exterior of the building, parking areas and driveways, landscaping, garbage removal and snow and ice

	control, salting of driveways and walkways.
<i>(k) the provisions of Policy IM-13</i>	See below for review of Policy IM-13

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>Policy Criteria</b>	<b>Staff Comments</b>
<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 is in conformity with the intent of the MPS, and all bylaws and regulations of the municipality are either met, as proposed, or will be met prior to issuance of a permit.
<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>	(i) The property owner will be responsible for any costs relating to the development.  (ii) Halifax Water has reviewed the application and advised that the sewer and water services are adequate.  (iii) N/A  (iv) Staff has reviewed the proposal and advised that there are no concerns for traffic impacts regarding this proposal.  (v) No historic buildings or sites will be impacted by this proposal.
<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>	(i) The existing multiple unit dwelling has been in existence since the late 1980's, and the proposed additional three units will not impact the mass or size of the existing building as it's an internal conversion.  (ii) The height, bulk and lot coverage are not proposed to be changed.  (iii) There are no proposed changes to existing driveways on the property.  (iv) N/A  (v) N/A  (vi) N/A.

<b>Policy Criteria</b>	<b>Staff Comments</b>
<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>	(d) The property is fairly flat with no watercourses.
<i>(e) any other relevant matter of planning concern.</i>	N/A
<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>	N/A