



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

Item No. 13.1.1
North West Community Council
November 8, 2021
December 13, 2021

TO: Chair and Members of North West Community Council

SUBMITTED BY: - Original Signed -
Kelly Denty, Executive Director of Planning and Development

DATE: October 13, 2021

SUBJECT: **Case 23662: Amendments to Development Agreement for lands at Walker Service Road, Lower Sackville**

ORIGIN

Application by WM Fares Architects, on behalf of Cascade Property Group Ltd.

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 allow a non-substantive amendment to an existing development agreement extending the commencement date for the building construction;
2. Approve, by resolution, the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the amending development agreement be signed by the property owner within 240 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

WM Fares Architects have applied on behalf of Cascade Property Group Limited to amend an existing development agreement at Walker Service Road, Lower Sackville enabling a 52 unit apartment building and 34 townhouse units on a new public street. The proposed amending developing agreement request is to allow more time to begin construction of the approved development (Attachment B).

Subject Site	26 and 34 Walker Service Road, Lower Sackville (4 PID # 40695561, 40706822, 40699829 and 40124398)
Location	Southwest of Old Sackville Road and Highway #101
Regional Plan Designation	Urban Settlement (US) and Rural Commuter (RC)
Community Plan Designation (Map 1)	Rural Residential (RR) of the Sackville Municipal Planning Strategy (MPS)
Zoning (Map 2)	Comprehensive Development District (CDD) Zone, Sackville Land Use By-law (LUB)
Size of Site	4.15 hectares (10.25 acres) +/-
Street Frontage	Approx. 280 metres (920 feet) on Walker Service Road
Current Land Use(s)	Existing vacant industrial buildings, storage use (empty construction bins), 2 existing houses, some tree cover
Surrounding Use(s)	Low-density residential uses to the east, north and west; Wooded land to the south owned by the Department of National Defence (DND).

Proposal Details

On April 26, 2016 Regional Council approved amendments to the Sackville Municipal Planning Strategy (MPS) and Land Use By-law (LUB) creating site specific policy for 26 and 34 Walker Service Road, Lower Sackville to allow a townhouse and multiple unit development.

In July of 2016, the North West Community Council approved a development agreement for the site which allowed for a 4-storey, 52-unit apartment building; 34 townhouses; a public park; and a single-unit dwelling. The supplemental report and original development agreement can be found at the following location:
<http://legacycontent.halifax.ca/Commcoun/central/documents/160711nwcc1311.pdf>

On May 10, 2021, the North West Community Council refused a request for an amendment to the original development agreement that, if approved, would have permitted two 56-unit apartments and two single unit dwellings. The townhouse forms would no longer have been part of the development and without them the subdivision process to acquire the lands for a public park would no longer have existed. The staff report and proposed amending development agreement may be found at:
<https://www.halifax.ca/sites/default/files/documents/city-hall/community-councils/210510nwcc1011.pdf>

Section 7.3 of the existing agreement stipulates that the development must commence within five (5) years from the date of registration of the original development agreement, establishing a commencement date of October 18, 2021. The applicant proposes to amend the existing development agreement to extend the commencement date by four (4) years from the date of registration of the proposed amending development agreement.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through providing information through the HRM website and signage posted on the subject site. A public information meeting and public hearing are not required for a non-substantive amendment to a development agreement. The decision on the amendments is made by resolution of Council.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it remains reasonably consistent with the intent of the Sackville MPS. There have been no changes to the proposal, nor the policy framework for local community.

Proposed Amending Development Agreement

Attachment A contains the proposed amending development agreement for the subject site. The proposed amending development agreement addresses the time extension for the commencement date and aligns the time for completion date (but leaves it unaltered) with the registration date of the First Amending Agreement.

The proposed change relates only to the development commencement date; the development itself will be unchanged. This extension can be permitted as a non-substantive amendment pursuant to section 6.1 of the original development agreement. It is recommended that the date for development commencement be extended as outlined in the proposed amending development agreement (Attachment A).

Timeframe for signing of Agreements

The COVID-19 pandemic has resulted in difficulties in having legal agreements signed by multiple parties in short periods of time. To recognize this difficulty these unusual circumstances presents, staff are recommending extending the signing period for agreements following a Council approval and completion of the required appeal period. While normally agreements are required to be signed within 120 days, staff recommend doubling this time period to 240 days. This extension would have no impact on the development rights held within the agreement, and the agreement could be executed in a shorter period of time if the situation permits.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the MPS. The proposed amendment is only to the date of commencement. The architecture, placement and use of the proposed structures is unchanged from that which is set out in the existing development agreement. Therefore, staff recommend that the North West Community Council approve the proposed First Amending 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 2021-2022 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

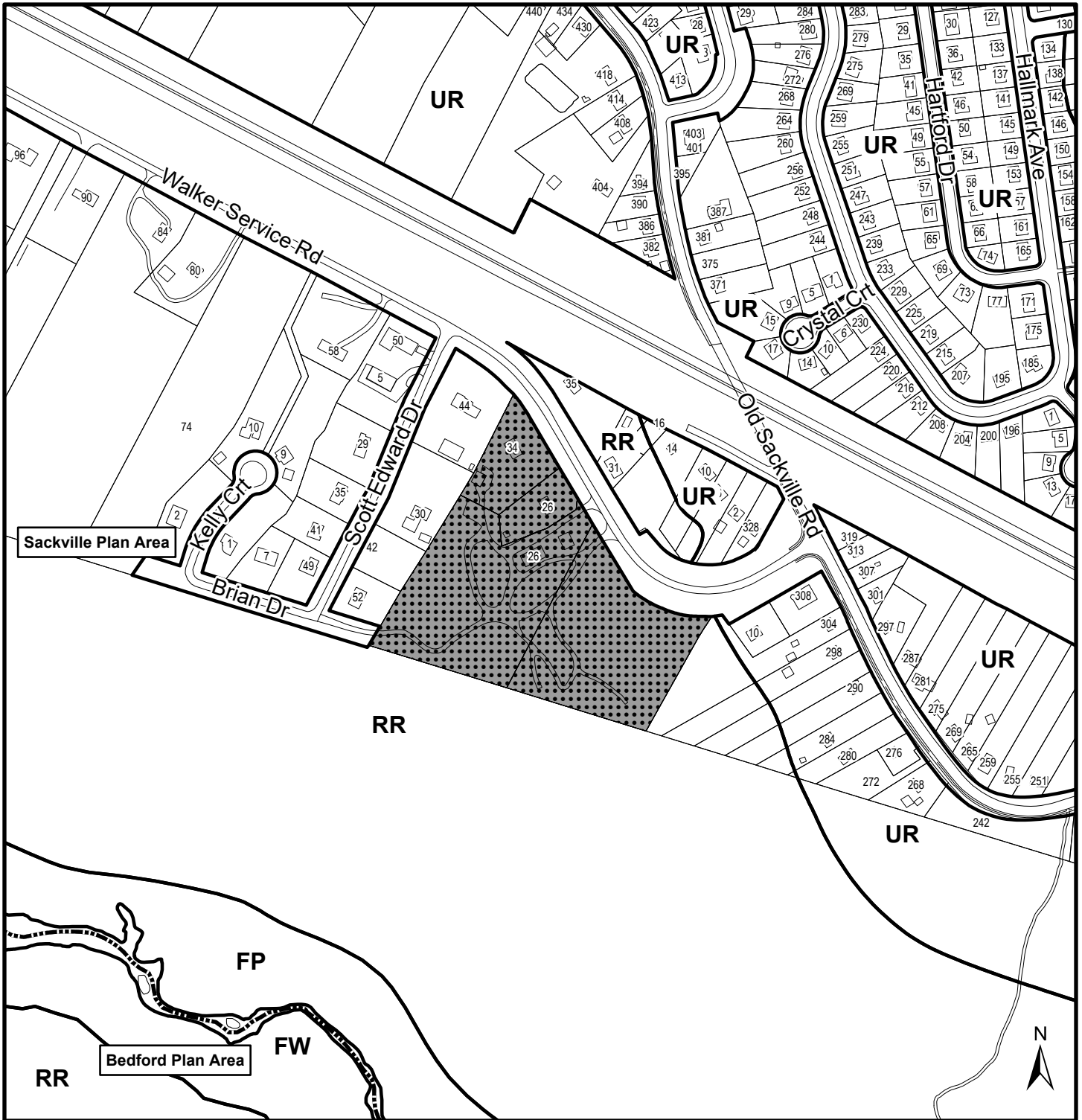
1. North West Community Council may choose to approve the proposed amending development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development 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 amending 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
Attachment A:	Proposed Amending Development Agreement
Attachment B:	Applicant Request


A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Darrell Joudrey, Planner II, 902.225.8630



Map 1 - Generalized Future Land Use

26 and 34 Walker Service Road
Sackville

 Subject Property

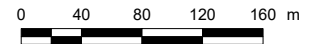
Designation - Sackville

- FP Floodplain
- RR Rural Residential
- UR Urban Residential

Designation - Bedford

- FW Floodway
- RR Residential Reserve

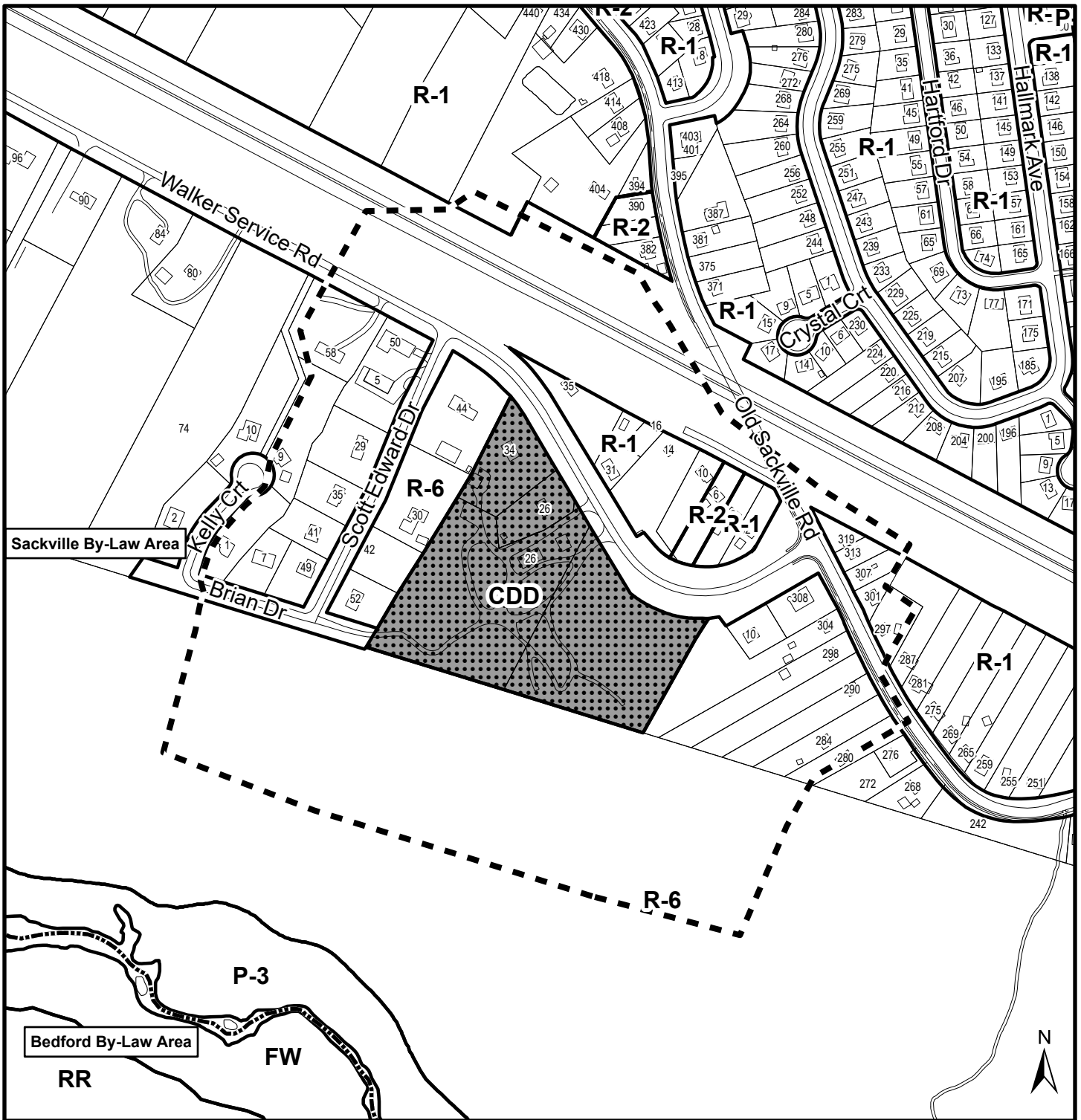
HALIFAX



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

26 and 34 Walker Service Road
Sackville

-  Subject Property
-  Area of Notification

Sackville
Land Use By-Law Area

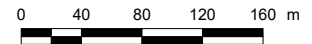
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Zone - Sackville

- CDD Comprehensive Development District
- P-3 Floodplain
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-6 Rural Residential

Zone - Bedford

- FW Floodway
- RR Residential Reserve



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.

Attachment A: Proposed Amending Development Agreement

THIS FIRST AMENDING DEVELOPMENT AGREEMENT made this day of ,
2021,

BETWEEN:

[Insert Name of Corporation/Business LTD.],
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 26 and 34 Walker Service Road, Lower Sackville [PID# 40695561, 40706822, 40699829, 40124398], and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on July 11, 2016 the North West Community Council approved an application to enter into a Development Agreement to allow for the development of townhouses, a multiple unit dwelling, and a single unit dwelling on the lands (case number 19056), pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to policies RR-3 and UR-10 of the Sackville Municipal Planning Strategy and Section 3.6(b) of the Sackville Land Use By-law, and which said Development Agreement was registered at the Land Registry Office in Halifax on October 18, 2016 as Document #109750811 (hereinafter called the "Original Agreement"), and which applies to the Lands;

AND WHEREAS the Developer has requested amendments to the Original Agreement to allow for the extension of the time for commencement of development, pursuant to the provisions of the *Halifax Regional Municipal Charter* and pursuant to Policies RR-3 and UR-10 of the Sackville Municipal Planning Strategy and Section 3.6(b) of the Sackville Land Use Bylaw and Section 7.3 of the Original Development Agreement;

AND WHEREAS the North West Community Council approved this request at a meeting held on **[INSERT DATE]**, referenced as Municipal Case 23662;

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

-
1. Except where specifically varied by this First Amending Agreement, all other conditions and provisions of the Original Agreement, as amended, shall remain in effect.
 2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Agreement, and the Original Agreement.

3. Section 7.3.1 of the Original Agreement shall be amended by deleting the text shown in strikeout, and inserting the text shown in bold, as follows:

7.3.1 In the event that development on the Lands has not commenced within ~~five (5)~~ **four (4)** years from the date of registration of this **First Amending Development Agreement** at the ~~Registry of Deeds or~~ Land Registry Office **in Halifax**, as indicated herein, the 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.

4. Section 7.5 of the Original Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold as follows:

7.5 If the Developer fails to complete the development after eight (8) years from the date of the registration of this **First Amending Development Agreement** at the ~~Registry of Deeds or~~ Land Registration Office **in Halifax** Council may review this Agreement, in whole or in part, and may:

- (a) retain this Agreement in its present form;
- (b) negotiate a new Agreement, or
- (c) discharge 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 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: Applicant Request for Amendments

WM FARES
ARCHITECTS

May 28, 2021

Re: Case 19056 – Walker Service Road

Attention: HRM – Planning Department:

Please be advised that pursuant to section 6.1(d) - Non-Substantive Amendments - of Development Agreement Case # 19056, we are requesting a 4-year extension to the date of commencement of construction as identified under section 7.3 of the said agreement.

Thank you for considering our request.

Yours truly,

Original Signed

Cesar Saleh, P.Eng.
W M Fares Architects