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Item No. 10.1.1
North West Community Council
May 16, 2022
June 20, 2022

TO: Chair and Members of North West Community Council

SUBMITTED BY: - Original Signed -

Kelly Denty, Executive Director of Planning and Development

DATE: May 4, 2022

SUBJECT: **Case 23556: Amendments to the Sackville Drive Land Use By-law – Access to Multi-Unit Dwellings Across LS Zoned Properties**

ORIGIN

On March 8, 2021, North West Community Council PUT and PASSED the following motion:

That North West Community request a staff report to consider amendments for the Sackville Drive Land Use By-law to allow access to multi-unit dwellings across LS (Large Scale Commercial) Zone lots.

On October 4, 2021, North West Community Council PUT and PASSED the following motion:

That North West Community Council direct the Chief Administrative Officer to commence the planning process to consider amendments to the Sackville Drive Land Use By-law to allow access to new multi-unit dwellings across lots within the LS (Large Scale Commercial) Zone.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Give First Reading to consider approval of the proposed amendment to the Land Use By-law for Sackville Drive, as set out in Attachment A, to allow access to Multi-Unit Dwellings across LS Zoned Properties and schedule a public hearing;
2. Adopt the amendment to the Land Use By-law for Sackville Drive, as set out in Attachment A.

BACKGROUND

Council's motion of October 4, 2021 directed staff to commence the planning process to consider amendments to the Sackville Drive Land Use By-law to allow access to new multi-unit dwellings across lots within the LS (Large Scale Commercial) Zone.

Subject Site	Sackville Drive Plan Area
Location	Lower Sackville
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Downsview-Beaver Bank Designation (DB)
Zoning (Map 2)	Large Scale Commercial Zone (LS) and Downsview Complex Zone 3 (DC-3)
Current Land Use(s)	Commercial and Residential uses

History

Prior to the adoption of the Sackville Drive Secondary Planning Strategy (SPS) and Land Use By-law (LUB), land use and development on Sackville Drive was regulated through the Sackville Municipal Planning Strategy and Land Use By-law. In 2002, the Sackville Drive SPS and LUB were adopted in response to the community's desire to provide more specific development guidance to ensure the successful and desired growth of this commercial destination. Existing developments that did not conform with the new land use designations and regulations provided by the Sackville Drive SPS and LUB were classified as "existing", indexed in an appendix to the LUB, and permitted within new zones. This appendix allowed the continued operation of these uses but prohibited their expansion. In the Large-Scale Commercial (LS) Zone, existing multiple unit dwellings were indexed as such and permitted to continue their operation. All aspects of a use, including access, must be located within a zone that permits it, or be established as non-conforming, meaning that the use existed at the time of the adoption of the current zoning, and was able to be permitted under the prior regulations.

Proposal Details

The amendment proposes to add access to multiple unit dwellings as a permitted use within the LS (Large Scale Commercial) Zone while also requiring that a registered easement over the lands be provided to ensure legal access is obtained. While there are several properties currently zoned LS (see Map 2) under the Sackville Drive LUB, the immediate impact of this proposed amendment is relatively small in scope as it will only directly impact one property. There is only one vacant property that permits new multiple unit residential uses, that does not have direct, approvable access to a public street, for which access must be obtained over adjacent LS-zoned property.

Enabling Policy and LUB Context

The LS (Large Scale Commercial) Zone is established under the Downsview-Beaver Bank (DB) Designation. One objective of the DB Designation is to encourage the creation of a large format retail power centre in proximity to the Highway 102 interchange and Beaver Bank Connector/Sackville Drive intersection. It aims to achieve this through the following:

- permitting commercial and retail uses that typically require larger footprints (10,000 square feet or greater) as-of-right through the LS (Large Scale Commercial) Zone;
- requiring smaller scale commercial uses by development agreement; and
- prohibiting new multiple unit residential uses. While new multiple unit residential uses are discouraged within the LS Zone to ensure these lands are developed for commercial/retail purposes, existing residential uses developed before the adoption of the Sackville Drive SPS were permitted to continue.

Although not permitted in the LS Zone, new high-density residential uses are permitted within the DB Designation as the SPS acknowledges the market foundation they provide to support retail businesses. To encourage a broader range of land uses, increased density, and commercial and residential infilling within

the DB Designation, the Downsview Complex Zones 1, 2, and 3 were established and situated adjacent to the LS Zone.

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 providing information and seeking comments through the HRM website (167 unique web page views), and 331 letters mailed to property owners, residents, and tenants of LS and DC-3 zoned lands. Only two phone calls were received regarding the application, both of which were in support of the proposal.

A public hearing must be held by North West Community Council before they can consider approval of the proposed LUB amendment. Should Community Council decide to proceed with a public hearing on this application, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

North West Planning Advisory Committee

On March 2, 2022, the application was before the North West Planning Advisory Committee (PAC) who recommended that the application be approved. However, during the discussion concerns around traffic and access points were expressed by the Committee. A report from the PAC to Community Council will be provided under separate cover.

DISCUSSION

The proposal has been reviewed relative to all relevant policies and staff advise that it is reasonably consistent with the intent of the SPS. Attachment A contains the proposed LUB amendment that would allow access to new multi-unit dwellings across lots within the LS (Large Scale Commercial) Zone.

LUB Amendment Review

Attachment B provides an evaluation of the proposed rezoning in relation to relevant SPS policies. Of the matters reviewed to satisfy the SPS criteria, the following have been identified for more detailed discussion:

Intent of Existing Regulation

As stated earlier in this report, the existing regulations of the Land Use By-law prohibit accessing a given use through a private driveway or other vehicular access point which is on land that is not zoned to allow for that main use. The purpose of this regulation is to ensure the zoning applied to land can function as intended and can direct uses which may have the propensity to generate more traffic, more light, more noise, or more odour, to areas appropriate for these uses. In this particular case, it is unlikely that uses within the Large Scale Commercial Zone would be impacted to any significant extent by positioning a driveway for a nearby multiple-unit residential building located appropriately in an adjacent zone.

Traffic Efficiency

A key goal of the Sackville Drive SPS is to improve traffic efficiency and vehicular movement. Discussions with Development Engineering and Nova Scotia Public Works staff indicate that locations suitable for permitting new access to provincial and municipal roadways in this area are limited and challenging. As such, the amendment could alleviate this concern by allowing a more efficient use of the land for traffic circulation and potentially eliminate the need for additional access points to municipal and provincial roadways. As this is a blanket amendment through the Land Use By-law, specific traffic impacts of individual construction projects will be assessed during the building permit review by both Development Engineering and Nova Scotia Public Works. It is important to note that while the LUB will permit access from a land use perspective, to ensure authorized access rights are achieved, a registered easement over any LS Zoned lands will be required to be demonstrated to the Development Officer prior to any approvals.

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 SPS. The proposed amendment will result in a more efficient use of the land for vehicular circulation while still meeting the intent of the SPS by not allowing new residential uses on LS zoned lands. Therefore, staff recommend that the North West Community Council approve the proposed LUB amendment.

FINANCIAL IMPLICATIONS

There are no financial implications. The HRM cost associated with processing this planning application can be accommodated with the approved 2022-2023 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing SPS policies. Community Council has the discretion to make decisions that are consistent with the SPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendment are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

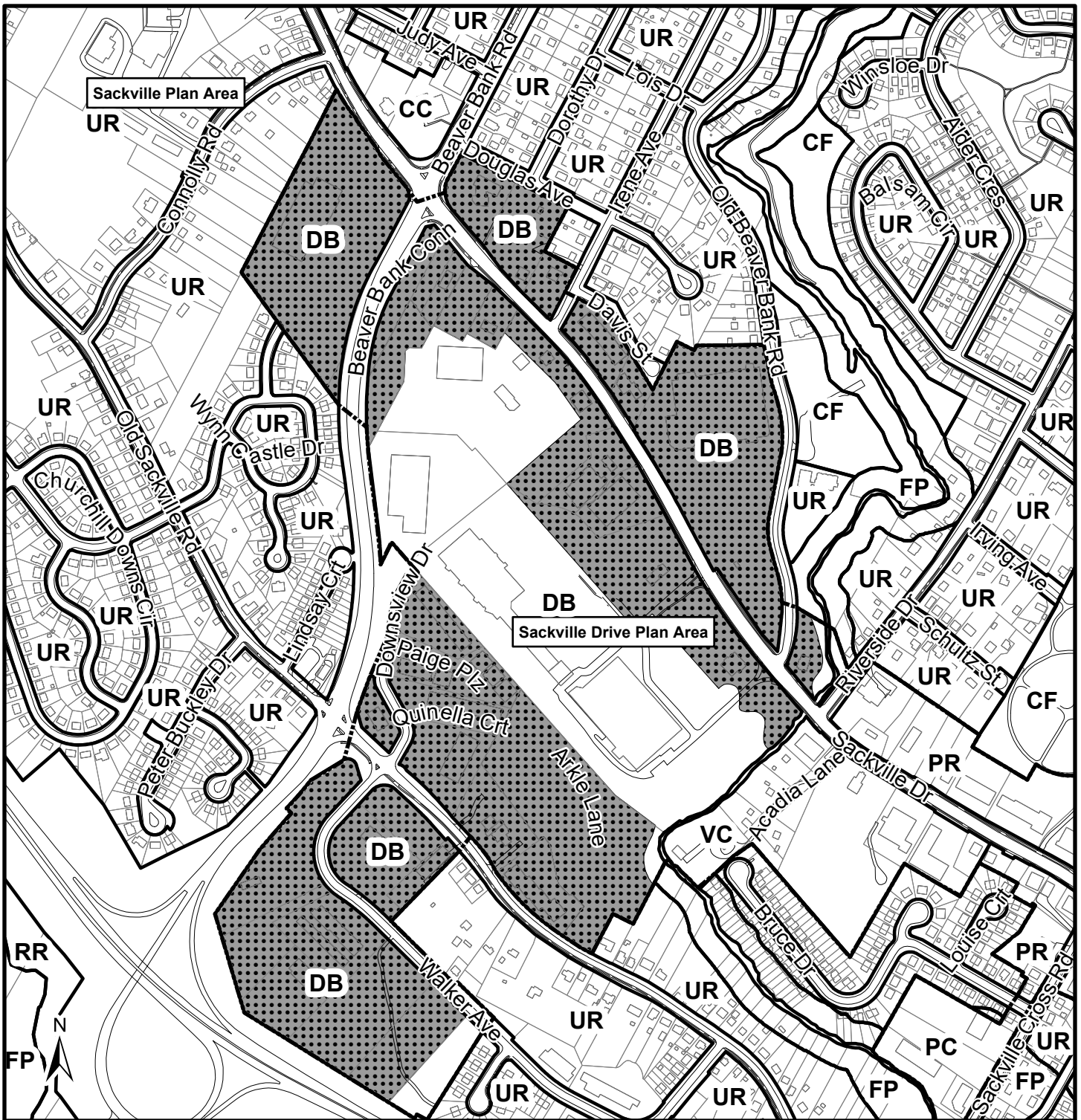
1. North West Community Council may choose to approve the proposed LUB amendment subject to modifications. Such modifications may require further discussion with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this proposed LUB amendment 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 LUB amendment, and in doing so, must provide reasons why the proposed amendment does not reasonably carry out the intent of the SPS. A decision of Council to refuse the proposed LUB amendment 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 Area
Attachment A:	Proposed LUB Amendment
Attachment B:	Review of Relevant SPS Policies



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: Dean MacDougall - Planner III - 902.240.7085

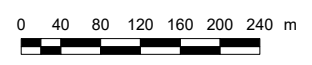


Map 1 - Generalized Future Land Use

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-  Subject Lands
-  Plan Area

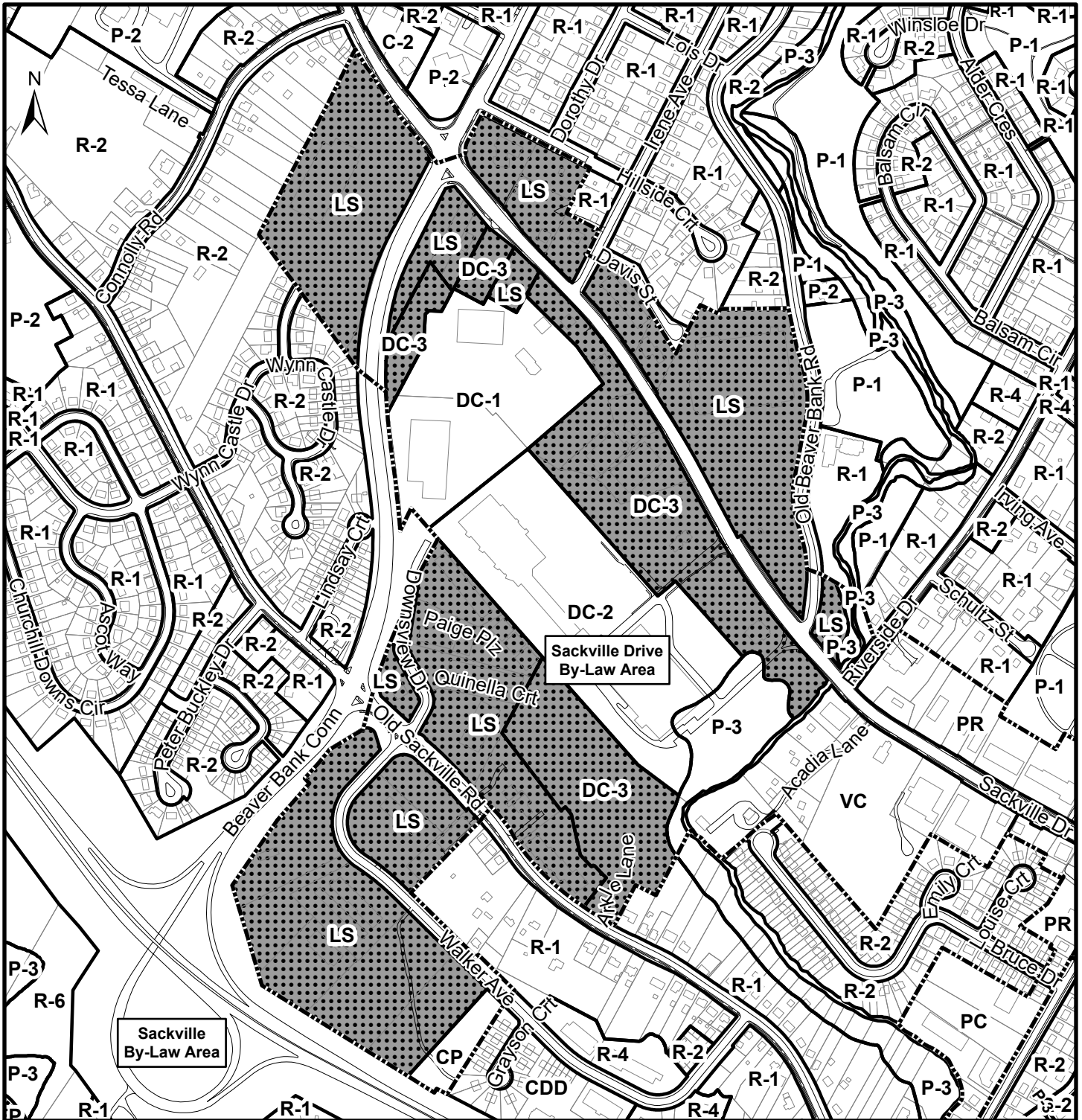
- Sackville Drive
- Sackville
- DB Downview / Beaver Bank
- PC Pinehill / Cobequid
- PR Pedestrian Retail
- VC Acadia Village Centre
- CC Community Commercial
- CF Community Facility
- FP Floodplain
- RR Rural Residential
- UR Urban Residential





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 Drive Plan Area
Sackville Plan Area



Map 2 - Zoning

-  Subject Lands
-  By-Law Area

Sackville Drive
Land Use By-Law Area
Sackville
Land Use By-Law Area

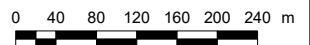
Zone Sackville Drive By-Law Area

- CP Community Parkland and Facility
- DC-1 Downsview Complex-1
- DC-2 Downsview Complex-2
- DC-3 Downsview Complex-3
- LS Large Scale Commercial
- P-3 Floodplain Zone
- PC Pinehill/Cobequid
- PR Pedestrian Retail
- VC Acadia Village Centre

Zone Sackville By-Law Area

- C-2 Community Commercial
- CDD Comprehensive Development District
- P-1 Open Space
- P-2 Community Facility
- P-3 Floodplain
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- R-4 Multiple Unit Dwelling
- R-6 Rural Residential

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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 Amendments to the Land Use By-law for Sackville Drive

BE IT ENACTED by the North West Community Council of the Halifax Regional Municipality that the Land Use By-law for Sackville Drive, is hereby further amended as follows:

1. PART 6 shall be amended by adding the text shown in bold below immediately following section 43:

ACCESS

- 44. Access for Multiple Unit Dwellings constructed after May 7, 2002 shall be permitted over the LS (Large Scale Commercial) Zone through a registered easement no less than 3.0 metres wide.**

2. PART 8 Section 1 shall be amended by adding the text shown in bold below:

No development permit shall be issued in any LS (Large Scale Commercial) Zone except for the following:

Residential Uses

- Existing Single Unit Dwellings
- Existing Two Unit (detached and semi-detached) Dwellings
- Existing Townhouses
- Existing Multiple Unit Dwellings
- **Access for Multiple Unit Dwellings constructed after May 7, 2002**

I HEREBY CERTIFY that the amendment to the Land Use By-law for Sackville Drive as set out above, was passed by a majority vote of the maximum number of members that may be elected to Halifax and West Community Council, at a meeting held on the ***** day of *****, 20**.**

GIVEN under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this _____ day of _____, A.D., **20**.**

Iain MacLean
Municipal Clerk

Attachment B – Review of Relevant SPA Policies

Policy DB-1 A Downsview-Beaver Bank Designation shall be established as shown on Schedule ‘A’ - Generalized Future Land Use, that shall:	
Policy DB-1 criteria:	Staff Comment
<i>(a) encourage the creation of a visually attractive and viable retail power centre in Sackville;</i>	Proposed amendment may assist in the development of adjacent residentially zoned lands which will increase consumer base for potential commercial ventures on LS zoned lands.
<i>(b) discourage new high density residential uses, other than within the Downsview Complex Zones and with the exception of a mixed-use multiple unit development at 8 Walker Avenue and 732 Old Sackville Road as permitted by Development Agreement due to its proximity to the Halifax Transit Sackville Terminal</i>	<i>Amendment is not altering where residential development can happen.</i>
<i>(c) discourage small scale retail and commercial uses within the Large Scale Commercial Zone;</i>	<i>Proposed amendment will have no effect on the policy and will not undermine its intent.</i>
<i>(d) encourage the restoration of the Downsview Shopping Centre and Plaza to re-instill it as an important and viable community commercial centre;</i>	Providing for a more efficient use of land for vehicular movement will assist infilling and redevelopment.
<i>(e) improve vehicular movement</i>	The amendment could result in an improvement of vehicular movement. Discussions with HRM Development Engineering and Nova Scotia Public Works staff indicate that locations suitable for permitting new access to provincial and municipal roadways in this area are limited and challenging. As such, the amendment could alleviate this concern by allowing a more efficient use of the land for traffic circulation and potentially eliminate the need for additional access points to municipal and provincial roadways.
<i>(f) create a recognizable entry into Sackville Drive;</i>	Proposed amendment may assist in the development of adjacent vacant lands which could assist in improve the visual entry into Sackville Drive.
<i>(g) improve the visible and physical connection to the Little Sackville River; and.</i>	Proposed amendment will have no effect on the policy and will not undermine its intent.
<i>(h) improve the quality and image of the streetscape.</i>	Proposed amendment will have no effect on the policy and will not undermine its intent.

Policy DB-2	Staff Comment
<p><i>Within the Downsview-Beaver Bank Designation, a Large Scale Commercial Zone shall be established under the Land Use By-law and applied to a portion of the lands as shown on Schedule B. The Large Scale Commercial Zone shall permit a range of commercial and retail uses that typically require buildings of 10,000 square feet, or greater, in size, including but not limited to, retail, office, hotel and motels, self storage facilities, commercial entertainment, commercial recreation, automobile rental, motor home sales. Institutional and community uses shall be permitted. New multiple residential uses shall be prohibited in the Large Scale Zone. All residential, outdoor display, trade and contracting uses in existence as of May 7, 2002, shall be permitted within the Zone.</i></p>	<p>The addition of access for multiple unit dwellings will have no effect on this policy and will not undermine its intent and objectives. New residential development still cannot be built on lands under the Large Scale Commercial Zone.</p>

Policy 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:	
Policy IM-13 Criteria	Staff Comment
<p><i>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></p>	<p>The proposal is in conformity with the intent of the planning strategy and may result in a more efficient use of the land for traffic purposes while still meeting the intent of the policy and not allowing new residential uses on LS zoned lands.</p>
<p><i>(b) that the proposal is not premature or inappropriate by reason of:</i></p>	
<p><i>(i) the financial capability of the Municipality is to absorb any costs relating to the development;</i></p>	<p>No Municipal costs are anticipated.</p>
<p><i>(ii) the adequacy of sewer and water services and public utilities;</i></p>	<p>Evaluated at permitting for any new development.</p>
<p><i>(iii) the adequacy and proximity of schools, recreation and other public facilities;</i></p>	<p>The proposal is not adding residential uses to lands that otherwise would not be permitted.</p>
<p><i>(iv) the adequacy of road networks leading or adjacent to, or within the development; and</i></p>	<p>Discussions with HRM Development Engineering and Nova Scotia Public Works staff indicate that locations suitable for permitting new access to provincial and municipal roadways in this area are limited and challenging. As such, the amendment could alleviate this concern by allowing a more</p>

Policy 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:	
Policy IM-13 Criteria	Staff Comment
	efficient use of the land for traffic circulation and potentially eliminate the need for additional access points to municipal and provincial roadways.
(v) <i>the potential for damage to or for destruction of designated historic buildings and sites.</i>	No historic buildings or sites have been identified.
<p>(c) <i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> <ul style="list-style-type: none"> (i) <i>type of use;</i> (ii) <i>height, bulk and lot coverage of any proposed building;</i> (iii) <i>traffic generation, access to and egress from the site, and parking;</i> (iv) <i>open storage;</i> (v) <i>signs; and</i> (vi) <i>any other relevant matter of planning concern.</i> <p>(d) <i>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></p> <p>(e) <i>any other relevant matter of planning concern; and</i></p> <p>(f) <i>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></p>	<p>The proposal is not adding development to lands that otherwise would not be permitted. Regulations of the LUB that apply would still apply.</p> <p>Access over LS zoned land exists for residential uses contrasted before May 7, 2002. This amendment would be extending that permission to residential uses constructed after that date.</p> <p>Discussions with HRM Development Engineering and Nova Scotia Public Works staff indicate that locations suitable for permitting new access to provincial and municipal roadways in this area are limited and challenging. As such, the amendment could alleviate this concern by allowing a more efficient use of the land for traffic circulation and potentially eliminate the need for additional access points to municipal and provincial roadways.</p>