



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

**Item No. 13.1.1**  
**North West Community Council**  
**October 3, 2022**

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

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

**DATE:** August 11, 2022

**SUBJECT:** **Case 24038: Amendments to Development Agreement, 1715 Sackville Dr, Middle Sackville (PID 41158858)**

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**ORIGIN**

Application by WSP Canada Inc. (WSP), on behalf of Keizer Properties Limited.

**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, to permit an additional use of a commercial school and allow for a time extension to the commencement of development date, 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; 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**

WSP Canada Inc. (WSP), on behalf of Keizer Properties Limited has applied to amend an existing development agreement to add “commercial school” to the list of uses permitted by the agreement and allow for a time extension to the commencement of development date.

<b>Subject Site</b>	Sackville Drive, Middle Sackville (PID 41158858)
<b>Location</b>	Between Rosemary Drive and Hamilton Drive on the north side of Sackville Drive
<b>Regional Plan Designation</b>	Rural Commuter / Urban Settlement
<b>Community Plan Designation (Map 1)</b>	Urban Residential / Rural Residential under the Sackville Municipal Planning Strategy
<b>Zoning (Map 2)</b>	R-6 (Rural Residential) under the Sackville Land Use By-law
<b>Size of Site</b>	2012.5 square metres (21,662.4 square feet)
<b>Street Frontage</b>	57.9 metres (190 feet) on Sackville Drive
<b>Current Land Use(s)</b>	Undeveloped, forested lot with watercourse buffer along eastern end of property.
<b>Surrounding Use(s)</b>	The property is surrounded by commercial uses.

### **Existing Development Agreement**

On January 8, 2018, North West Community Council approved a development agreement to allow a commercial building on the subject lands under case number 20332. The agreement permits a 2-storey building for retail store, service and personal service, or office use. The development has not been commenced at this time. The staff report and development agreement for case 20332 can be found here: <https://cdn.halifax.ca/sites/default/files/documents/city-hall/community-councils/180108nwcc1011.pdf>

### **Proposal Details**

The applicant requests to enter into an amending agreement. The major aspects of the proposal are as follows:

- Request to add commercial school to the list of uses permitted by the agreement; and  
Extend the commencement of construction date by four years resulting in a date of March 26, 2026, and a corresponding extension to the date of completion.
- There are no other changes proposed including no changes to the site plan or dimensions of the building.

### **Enabling Policy and LUB Context**

The site is located within the R-6 (Rural Residential) Zone of the Sackville Land Use By-law. The R-6 Zone permits a limited list of residential, resource and community uses (see Attachment B for the R-6 Zone requirements). Policy UR-31 of the Sackville Drive Municipal Planning Strategy enables Council to consider C-2 (Community Commercial) Zone land uses by development agreement on properties located on Sackville Drive, Middle Sackville, to the east of Rosemary Drive and west and north of the Atlantic Gardens Properties (PID 40150856, 40150815). The existing agreement was entered using this policy and this policy remains unchanged.

Section 6.2 of existing agreement (Attachment C) lists items that can be considered as non-substantive amendments. The granting of an extension to the date of commencement of the development can be considered as a non-substantive amendment. Adding a permitted use, however, is not listed under section 6.2 and therefore is a substantive amendment requiring a decision of Community Council following a public hearing.

## **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, signage posted on the subject site, and fact sheets mailed to thirty-three property owners within the notification area. The webpage received 106 views, including 87 unique viewers and the average time spent on the page was two minutes. No comments were received from the public regarding the proposal.

A public hearing must be held by North West Community Council before they can consider approval of the proposed development agreement. Should 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 shown on Map 2 will be notified of the hearing by regular mail.

## **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Sackville Municipal Planning Strategy (MPS). Attachment C provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

As there are no other changes proposed to the previously approved site and building design requirements, most policy considerations remain addressed as previously approved. Of the matters of this amendment application which are subject to re-evaluation against MPS criteria, the items noted below have been identified for detailed discussion.

### **Commercial School Use**

Commercial school is a use permitted under the Community Commercial (C-2) Zone of the Sackville Land Use By-law. There is no land use by-law definition for commercial school, therefore application of this use is subject to the customary meaning. Common elements looked for during review of a proposal to permit a commercial school use may include that the use is reasonably distinct from other uses such as a day care or institutional use and that there are reasonable elements of a school such as classrooms and a curriculum/defined educational focus. Examples of Commercial School uses include "Success College" or "Sylvan Learning Centre", although the definition is not limited to these entities.

Policy IM-13 of the Sackville MPS requires consideration of traffic generation, access to and egress from the site, and parking. Development Engineering and Traffic Services staff requested and reviewed an addendum to the December 2<sup>nd</sup>, 2015 traffic impact study (TIS) submitted with the original application. The addendum discusses potential impacts specific to the proposed use. The findings of the TIS addendum were deemed acceptable and no issues are anticipated.

Regarding parking, currently a minimum of 16 parking spaces are required, which is consistent with the land use by-law requirement for retail use. There is no land use by-law parking requirement specific to commercial school uses, however, if the requirement for 'school use' were to be applied, the resulting minimum number of spaces would likely be much lower as the requirement is that 3 spaces be provided per classroom. It has been indicated that the proposed commercial school use would contain 2 classrooms, resulting in a minimum of 6 spaces. To ensure the development includes adequate off-street parking for any use enabled by the agreement, it is proposed that the minimum parking requirement remain at 16 parking spaces for the building regardless of its occupied use.

### **Time Extension**

The existing development agreement required development to commence within four years of the date of registration at the Land Registry. This agreement was registered March 26, 2018, and therefore would have expired March 26, 2022. The agreement states that Council may consider granting an extension of

the commencement of development time period through resolution if a written request from the developer is received at least sixty days prior to the expiry. A request for extension was received January 13, 2022, which satisfies this requirement.

### **Proposed Development Agreement**

Attachment A contains the proposed amending development agreement for the subject site. The proposed development agreement addresses the following matters:

- Adding commercial school to the list of permitted uses; and
- Changing the length of time to commence construction from four years from the date of registration of the Original Agreement to eight years.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. Staff recommend that the North West Community Council approve the proposed 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 2022-2023 operating budget for Planning and Development.

### **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 amending 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 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 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**

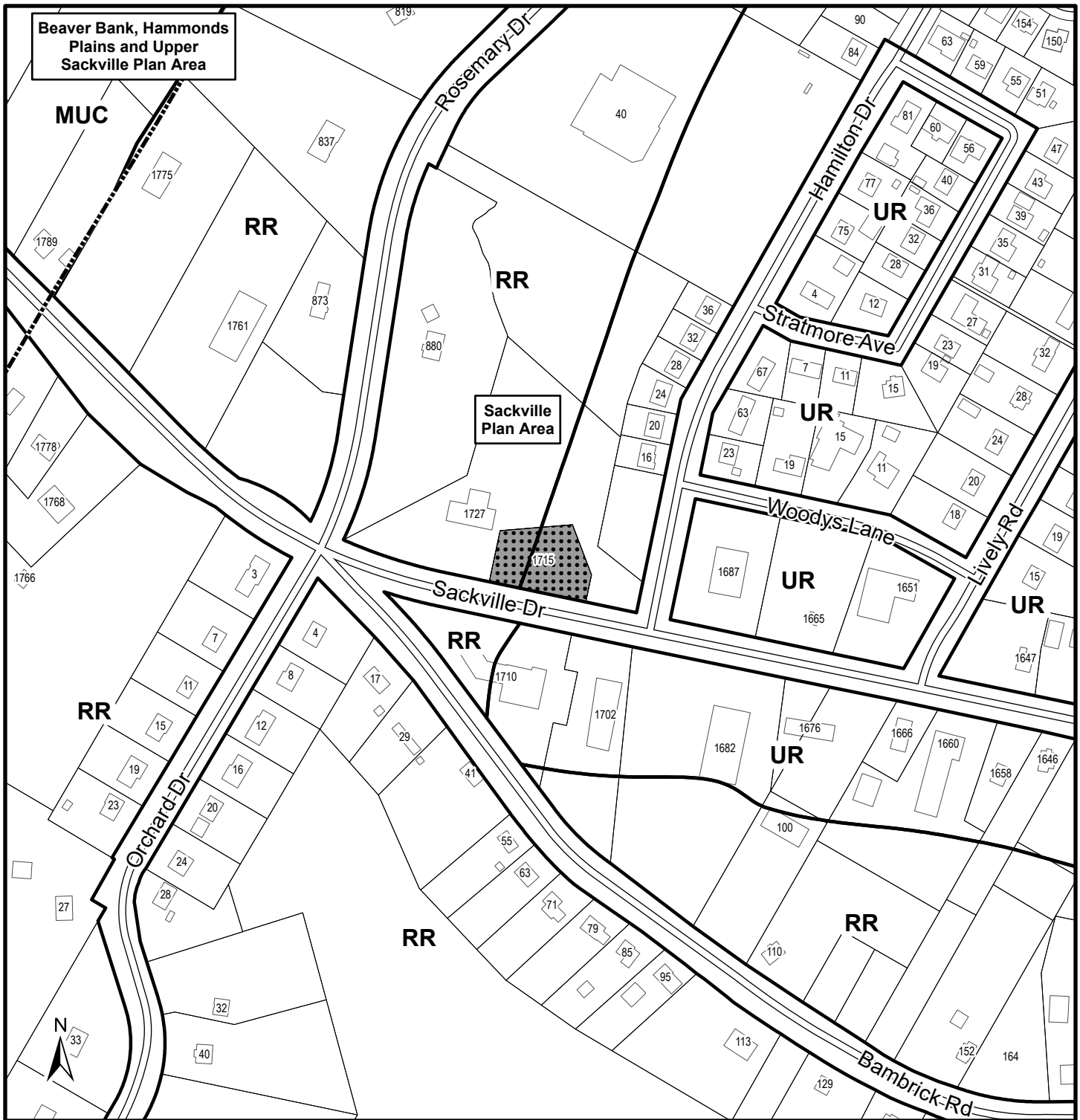
Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	R-6 Zone Requirements
Attachment C:	Existing Development Agreement
Attachment D:	Review of Relevant MPS Policies

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Taylor MacIntosh, Planner II, 902-219-0836, [macintta@halifax.ca](mailto:macintta@halifax.ca)


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**Map 1 - Generalized Future Land Use**

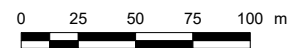
1715 Sackville Drive,  
Middle Sackville

**HALIFAX**

 Subject Property

**Designation**

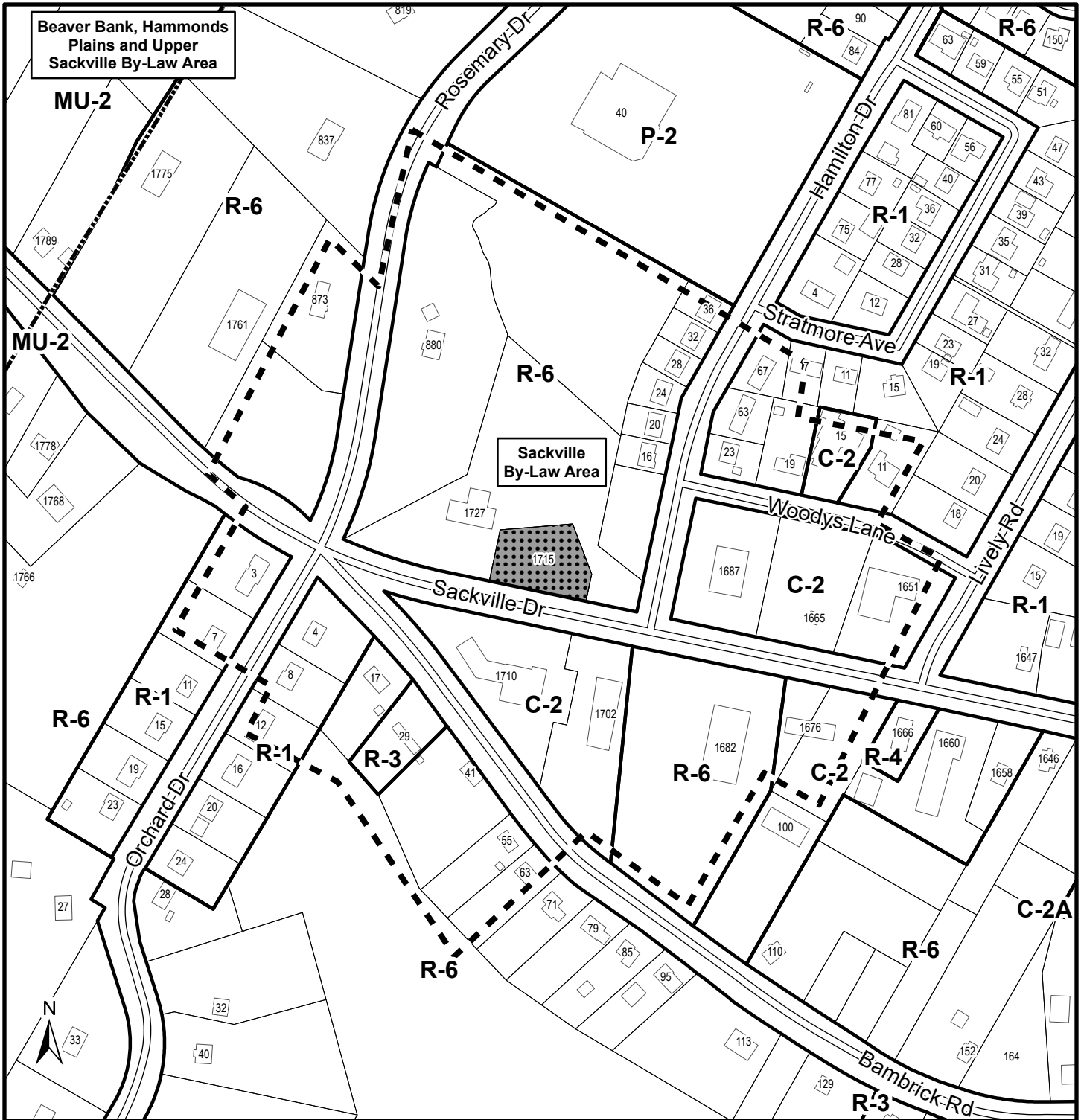
SACKV	RR	Rural Residential
	UR	Urban Residential
HPSBB	MUC	Mixed Use C



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





Beaver Bank, Hammonds Plains and Upper Sackville By-Law Area

Sackville By-Law Area

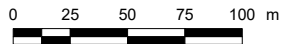
**Map 2 - Zoning and Notification Area**

1715 Sackville Drive,  
Middle Sackville

-  Subject Property
-  Area of Notification

Zone	
SACK	C-2 Community Commercial
	C-2A Minor Commercial
	P-2 Community Facility
	R-1 Single Unit Dwelling
	R-3 Mobile Dwelling
	R-4 Multiple Unit Dwelling
	R-6 Rural Residential
HPSBB	MU-2 Mixed Use 2

**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

THIS FIRST AMENDING AGREEMENT made this      day of **[Insert Month]**, 2022,

BETWEEN:

**[INSERT NAME OF CORPORATION]**

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 1715 Sackville Dr, Middle Sackville (PID 41158858) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the North West Community Council approved an application to enter into a Development Agreement to allow for a commercial building on the Lands (municipal case 20332), which said Development Agreement was registered at the Land Registration Office in Halifax on March 26, 2018 as Document Number 112346128 (hereinafter called the "Original Agreement");

**AND WHEREAS** the Developer has requested amendments to the Original Agreement to allow a commercial school use and to extend the commencement of development requirement by four years pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies UR-31 and IM-13 of the Sackville Municipal Planning Strategy and Section 3.6 of the Sackville Land Use By-law respectfully;

**AND WHEREAS** the North West Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as municipal case 24038;

**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. Subsection 3.3.1 of the Original Agreement shall be amended by deleting the text shown in strikeout, and inserting the text shown in bold as follows:

3.3.1 The uses(s) of the Lands permitted by the Agreement are the following:

- (a) Retail Stores;
- (b) Service and Personal Service uses; ~~and~~
- (c) Offices; ~~and~~
- (d) Commercial School**

4. 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 ~~four (4) years~~ **eight (8) years** from the date of registration of ~~this~~ **the Original** 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.

5. 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 ~~6 (Six)~~ **10 (ten)** years from the date of the registration of ~~this~~ **the Original** Agreement at the ~~Registry of Deeds or~~ Land Registration Office **in Halifax**, ~~Council~~ **the Municipality** may review this Agreement, in whole or in part, and may:

- (a) retain the 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 NAME OF CORPORATION]**

\_\_\_\_\_  
Witness

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

Name: \_\_\_\_\_

Date Signed: \_\_\_\_\_

=====

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**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

Date Signed: \_\_\_\_\_

\_\_\_\_\_  
Witness

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

MUNICIPAL CLERK

Date Signed: \_\_\_\_\_

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, personally came and appeared \_\_\_\_\_, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that \_\_\_\_\_ of the parties thereto, signed, sealed and delivered the same in his/her presence.

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, personally came and appeared \_\_\_\_\_, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Mike Savage, Mayor and Iain MacLean Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

## PART 12: R-6 (RURAL RESIDENTIAL) ZONE

NOTE: The Municipal Development Plan and Zoning By-law for Sackville approved on May 14, 1982, as amended, remains in effect for land owned by the Nova Scotia Department of Housing and Consumer Affairs shown on Map 1, Generalized Future Land Use Map in accordance with Ministerial amendments made on June 16, 1994. Any development of these lands is subject to the 1982 Plan and By-law.

### 12.1 R-6 USES PERMITTED

No development permit shall be issued in any R-6 (Rural Residential) Zone except for the following:

#### Residential Uses

Single unit dwellings

Day care facilities for not more than fourteen (14) children and in conjunction with permitted dwellings

Bed and breakfasts in conjunction with permitted dwellings

Business uses in conjunction with permitted dwellings

**Pet care facility in conjunction with permitted dwellings (NWCC-Dec 11/17; E-Dec 30/17)**

#### Resource Uses

Agricultural uses

Forestry uses

Fishing and fishing related uses

#### Community Uses

Open space uses

Institutional uses except day care facilities, medical clinics and fraternal centres and halls

### 12.2 R-6 ZONE REQUIREMENTS: RESIDENTIAL AND RESOURCE USES

In any R-6 Zone, where uses are permitted as residential uses or Resource Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area:	central services	6,000 square feet (558 m <sup>2</sup> )
	on-site services	20,000 square feet (1858.1 m <sup>2</sup> )
Minimum Frontage:	central services	60 feet (18.3 m)
	on-site services	100 feet (30.5 m)
Minimum Front or Flankage Yard		20 feet (6.1 m)
Minimum Rear or Side Yard		8 feet (2.4 m)
Maximum Lot Coverage		35 per cent
Maximum Height of Main Building		35 feet (10.7 m)

### 12.3 OTHER REQUIREMENTS: BUSINESS USES

- (a) Any business shall be wholly contained within the dwelling which is the principal residence of the operator of the business.
- (b) No more than twenty-five (25) per cent of gross floor area shall be devoted to any business use, and in no case shall any business use occupy more than three hundred (300) square feet (27.9 m<sup>2</sup>).
- (c) No mechanical equipment shall be used except that which is reasonably consistent with the use of a dwelling and which does not create a nuisance by virtue of noise, vibration, glare, odour or dust which is obnoxious.
- (d) No open storage or outdoor display of materials, goods, supplies, or equipment related to the operation of the business use shall be permitted.
- (e) No more than (1) sign shall be permitted for any business and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area.
- (f) One (1) off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet (14 m<sup>2</sup>) of floor area devoted to any business.
- (g) No exterior alterations to the dwelling related to the business use shall be permitted except to meet fire safety, structural safety, or health regulations.
- (h) No retail operation shall be permitted except where retail is accessory to a business use which involves the production of goods or crafts or the provision of a service.

### 12.4 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any R-6 Zone, the following shall apply:

- (a) With the exception of outdoor play space, any day care facility shall be wholly contained within the dwelling, which is the principal residence of the operator of the facility.
- (b) No open storage or outdoor display shall be permitted.
- (c) No more than one (1) sign shall be permitted for any facility and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area.
- (d) One (1) off-street parking space, other than that required for the dwelling, shall be provided.

### 12.5 OTHER REQUIREMENTS: AGRICULTURAL USES

Notwithstanding the provisions of Section 11.2, where any barn, stable or other building intended for the keeping of more than ten (10) animals is erected in any R-6 Zone, no such structure shall:

- (a) be less than fifty (50) feet (15.2 m) from any side lot line;
- (b) be less than one hundred (100) feet (30.5 m) from any dwelling or potable water supply except a dwelling or supply on the same lot or directly related to the

- agricultural use; and
- (c) be less than three hundred (300) feet (91.4 m) from any watercourse or waterbody.

## 12.6 OTHER REQUIREMENTS: BED AND BREAKFASTS

Where any bed and breakfasts are permitted in any R-6 Zone, the following shall apply:

- (a) Not more than three (3) rooms may be let.
- (b) No window display and not more than one (1) business sign shall be permitted and no such sign shall exceed two (2) square feet (0.2 m<sup>2</sup>) in area.
- (c) One off-street parking space in addition to that required for the dwelling shall be provided for each room to be let.

## 12.7 R-6 ZONE REQUIREMENTS: COMMUNITY USES

In any R-6 Zone, where uses are permitted as community uses, no development permit shall be issued except in conformity with the provisions of Parts 19 and 20.

## 12.8 OTHER REQUIREMENTS: PET CARE FACILITIES

(NWCC-Dec 11/17; E-Dec 30/17)

**Notwithstanding the provisions of Section 12.2, where a pet care facility is permitted in any R-6 Zone, the following shall apply:**

- (a) **Any building or structure intended for use as a pet care facility may be located on a lot which directly abuts or is directly across a private road or private right-of-way from the lot containing the principal dwelling.**
- (b) **Minimum lot area: 80,000 square feet (7,432 square metres)**  
**For the purposes of this section, where the pet care facility operates on more than one lot, lot area is defined as the cumulative lot area of all lots used for the pet care facility, including the lot containing the principal dwelling.**
- (c) **Minimum frontage: 100 feet (30.5 metres)**
- (d) **Pet Density: 7 pets per acre (4,047 square metres)**  
**For the purposes of this section, where the pet care facility operates on more than one lot, the pet density is calculated based on the cumulative area of all lots used for the pet care facility, including the lot containing the principal dwelling.**
- (e) **Any building or part thereof intended for use as a pet care facility shall conform to the following requirements:**
  - (i) **Minimum front or flankage yard: 100 feet (30.5 metres)**
  - (ii) **Minimum side and rear yard: 50 feet (15.2 metres)**
  - (iii) **Maximum lot coverage: 35 percent**
  - (iv) **a minimum distance of 100 feet (30.5 metres) shall be maintained for any pet run from any dwelling or potable water supply that is not located on the same lot as the principal dwelling;**
  - (v) **a minimum setback of 200 feet (91.4 metres) shall be maintained for any pet run from any watercourse;**
  - (vi) **a minimum setback of 20 feet shall be maintained for any pet run from**

- the streetline;**
- (vii) any pet run shall be completely enclosed by a fence having a minimum height of 1.8 metres and including any gate constructed in the same manner and height as the enclosure.**

THIS AGREEMENT made this 16 day of March, 2018.

BETWEEN:

**ARMCO CAPITAL INC.**

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 the parcel identified as PID 41158858, Sackville Drive, Middle Sackville and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

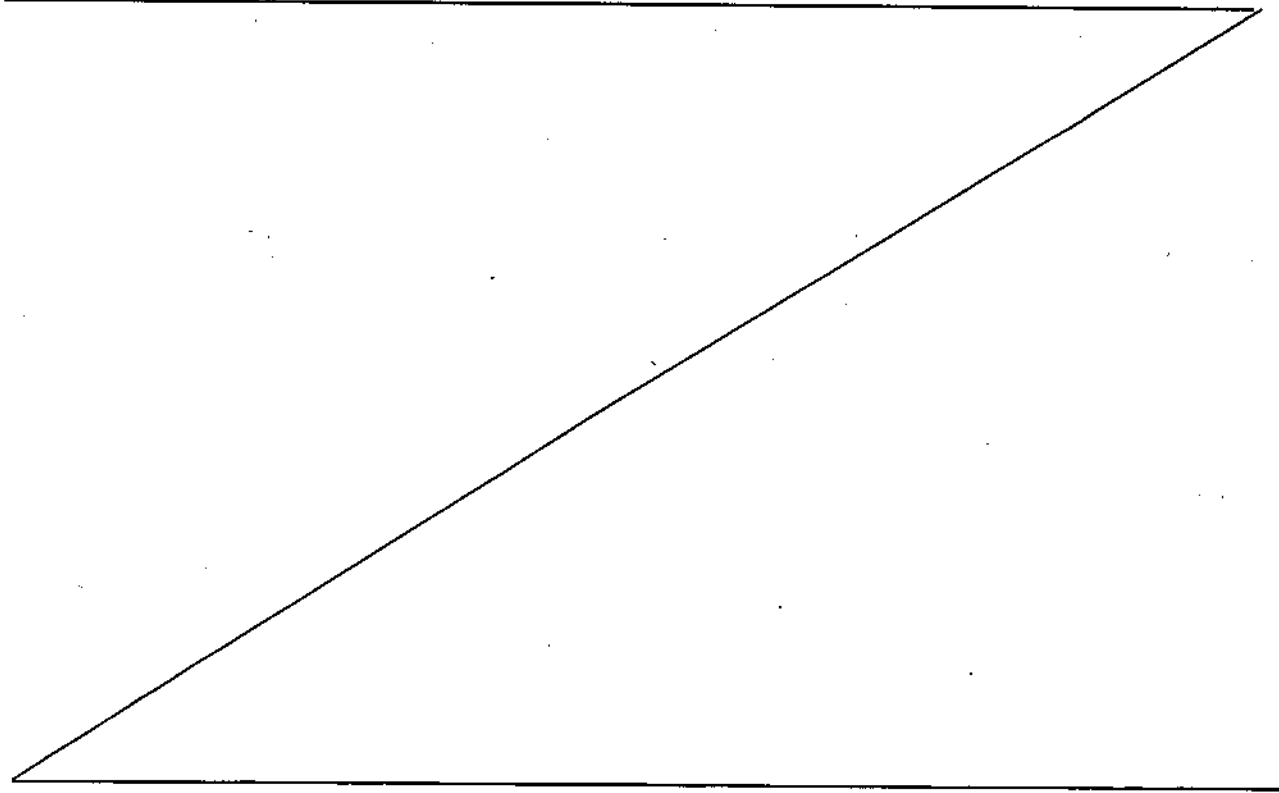
AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for commercial building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy(is) UR-31 and IM-13 of the Sackville Municipal Planning Strategy and Section 3.6 of the Sackville Land Use By-law;

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on January 8, 2018, referenced as Municipal Case Number 20332;

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

\_\_\_\_\_

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## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Sackville Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

### **1.5 Costs, Expenses, Liabilities and Obligations**

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

### **1.6 Provisions Severable**

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

## **PART 2: DEFINITIONS**

### **2.1 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

### **2.2 Definitions Specific to this Agreement**

The following words used in this Agreement shall be defined as follows:

- (a) Variable message signs (VMS): any advertising display that is capable of displaying dynamic content or automatically changing content. These include digital and projected advertising displays that are visible from the road.
- (b) Static content signs: stationary advertising display with no moving parts, animation, flashing lights (LED or other), or ability to change advertising media through mechanical or digital means.
- (c) Drive-thru: a place or facility where one can be served without leaving one's vehicle or motorized machinery.

## **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 20332:

Schedule A	Legal Description of the Land
Schedule B	Site Plan
Schedule C	Landscape Plan
Schedule D1	South Elevation
Schedule D2	North Elevation
Schedule D3	West & East Elevations
Schedule E1	First Floor Plan
Schedule E2	Second Floor Plan

### **3.2 Requirements Prior to Approval**

3.2.1 Prior to the issuance of a Grade Alteration or Lot Grading Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Post securities in accordance with Section 4 of this Agreement; and
- (b) A Plan of Survey.

3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) A Lighting Plan in accordance with section 3.7 of this Agreement.
- (b) A Landscaping Plan in accordance with section 3.8 of this Agreement.

3.2.3 Prior to the issuance of an Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) A letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement which the Development Officer may accept as sufficient record of compliance with the Landscape Plan prepared as per the requirements of section 3.8.
- (b) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Lighting Plan.
- (c) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Stormwater Management Plan.
- (d) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Erosion and Sedimentation Control Plan.

3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### **3.3 General Description of Land Use**

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) Retail Stores;
- (b) Service and Personal Service uses; and
- (c) Offices

3.3.2 Drive-thru use shall not be permitted, accessory or otherwise.

3.3.3 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the Sackville Land Use Bylaw as amended from time to time.

3.3.4 No open storage or outdoor display shall be permitted.

3.3.5 Other than associated with a retail use and products for sale, the licensing for and sales of alcohol to be consumed on the premises shall not be permitted.

### **3.4 Siting**

The Proposed Building shall be sited as generally illustrated on Schedule B.

### **3.5 Architectural Requirements**

#### Entrances

3.5.1 The main building entrance shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. At least one main door shall face the Sackville Drive. Service entrances shall be integrated into the design of the building and shall not be a predominate feature.

#### Building facades

3.5.2 All building facades shall be designed and detailed as primary façades. Further, architectural treatment shall be continued around all sides of the building as identified on Schedules D1, D2 and D3.

#### Exposed Foundation

3.5.3 Any exposed foundation in excess of 1.8m<sup>2</sup> (20ft<sup>2</sup>) in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.

#### Building Materials

3.5.4 A minimum of three different exterior building cladding materials of different colors shall be required on each façade.

3.5.5 Exterior building materials shall not include pressed brick siding panels or vinyl siding, but may include any one or more of the following

- (a) non-combustible cladding;
- (b) clay masonry;
- (c) concrete split face masonry;
- (d) cut stone masonry;
- (e) random stone masonry; or
- (f) acceptable equivalent in the opinion of the Development Officer.

#### Functional Elements

3.5.6 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.5.7 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Sackville Drive.

#### Windows

3.5.8 All windows shall be vertical in orientation, or square. If shutters are used, they must be sized to fit the opening and must be provided for all windows. Windows shall be vertically proportioned, where possible. Windows should be framed with painted or stained wood, prefinished metal or vinyl.

#### Awnings

3.5.9 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.

#### Roof

3.5.10 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.

#### Retaining Wall Systems

3.5.11 All retaining wall systems are to be identified on the final Landscaping Plan including the height and type of fencing proposed in conjunction with it. A construction detail of any fence and wall combination should be provided and certified by a professional engineer.

- 3.5.12 All proposed retaining walls shall be constructed of a decorative precast concrete or modular stone retaining wall system or acceptable equivalent in the opinion of the Development Officer.

#### Commercial Storefronts

- 3.5.13 Multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colours. Covered walkways, arcades, awnings, open colonnades and similar devices shall be permitted along long facades to provide shelter, and encourage pedestrian movement.

#### Walkways

- 3.5.14 A hard surfaced walkway shall be provided along the front facade to encourage pedestrian movement and separation between the building and parking areas.
- 3.5.15 A hard surfaced walkway shall be provided along the rear facade and around the garbage enclosure at the western side of the building to provide access to the back of the building and the exterior waste and recycling area.
- 3.5.16 Hard surfaced materials may be composed of any combination of poured in place concrete, decorative patio slabs, decorative interlocking precast concrete paver stones, or acceptable equivalent in the opinion of the Development Officer. Walkways providing access to the front of the building or outdoor waste receptacle areas, shall be designed to barrier free standards and shall not be surfaced with asphalt.

### **3.6 Parking, Circulation and Access**

- 3.6.1 The parking area shall be sited as generally shown on Schedule B. The parking area shall maintain setbacks from the property lines as shown on the plan.
- 3.6.2 The parking area shall provide a minimum of 16 parking spaces.
- 3.6.3 The parking area shall be hard surfaced.
- 3.6.4 The limits of the parking area shall be defined by fencing, landscaping or curb.
- 3.6.5 Snow storage areas shall be provided as shown on Schedule C with landscaping and grading in these areas designed to ensure run off is directed through any storm water treatment system required by this Agreement.
- 3.6.6 It is the responsibility of the Developer to acquire all required rights-of-way or easements over adjacent properties, where necessary for services or other requirement.
- 3.6.7 The Development Officer may approve modifications to the parking plan, which, in the opinion of the Development Officer, are required for a reduction of parking spaces to less than that shown on Schedule B, but not less than required under section 3.6.2. Changes permitted under this clause shall not result in a reduction of green space from that shown along the southern and/or western property boundaries.

### **3.7 Outdoor Lighting**

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
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- 3.7.2 All lighting fixtures shall be fully shielded.
- 3.7.3 The Developer shall prepare an exterior lighting plan and submit it to the Development Officer for review to determine compliance with this Agreement. The lighting plan shall contain, but shall not be limited to, the following:
- (a) Plans indicating the location on the premises and the type of illuminating devices, fixtures, lamps, supports, and other devices;
  - (b) Description of the illuminating devices, fixtures, lamps supports and other devices. This description may include, but is not limited to, manufacturers' catalogue cuts and drawings including sections where required; and
  - (c) Should the applicant desire to substitute outdoor light fixtures or lamps and install them on the Lands after a permit has been issued, the Developer shall submit all changes to the Development Officer for approval, with adequate information to assure compliance with this clause.

### **3.8 Landscaping**

#### Landscape Plan

- 3.8.1 Prior to the issuance of a Development Permit, the Developer agrees to provide a Landscape Plan which complies with the provisions of this section and generally conforms with the overall intentions of the Landscape Plan shown on Schedule C. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.8.2 Planting details for each type of plant material proposed on the plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 3.8.3 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.8.4 Trees proposed along the western property are intended to provide visual separation between properties and screening of the outdoor waste receptacle enclosure. Trees proposed along this boundary shall be no less than 100 mm caliper when measured at 30 cm from the base of the tree trunk or top of the root ball.

#### Compliance with Landscaping Plan

- 3.8.6 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.8.7 The Development Officer may approve minor modifications to the species, size and location of plant stock, provided such modifications, in the opinion of the Development Officer, enhance the attractiveness and visual appearance of the Lands and, do not remove any screening or compromise landscaping intent as outlined in section 3.8.4.
- 3.8.8 Notwithstanding Section 3.8.6, where the weather and time of year does not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable
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letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

**3.9 Fencing**

Fencing is not required, but shall be permitted only at the side and rear property boundaries or where utilized to define parking areas. Where fencing is proposed it shall be limited to solid board wood fence, or equivalent, a minimum of 1.5 m (5 ft.) in height but no greater than 1.8 m (6 ft.) in height.

**3.10 Maintenance**

3.10.1 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, recreational amenities, 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, salting of walkways and driveways.

3.10.2 All disturbed areas shall be reinstated to original condition or better.

**3.11 Signs**

3.11.1 Signs shall be permitted as per the signage requirements of the Sackville Land Use By-law, as amended from time to time, with the exception of:

- (a) Signs shall only be externally illuminated with downcasting illumination not impacting adjoining properties and any adjacent streets;
- (b) Signs shall be limited to static content signs;
- (c) Variable message signs shall not be permitted;
- (d) Only one ground sign shall be permitted on the premises. The location of the ground sign may differ from than shown on schedule. If an alternate location is selected, Landscaping at the base of the ground sign shall consist of shrubs and/or flower beds; and
- (e) No ground sign be less than 3 m (10 ft.) from any street or abutting lot.

**3.12 Temporary Construction Building**

A building shall be permitted on the Lands for the purposes of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

**3.13 Screening**

Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from Sackville Drive. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

**3.14 Hours of Operation**

3.14.1 Hours of operation for all permitted uses shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

- 3.14.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00 am and 9:00 pm.
- 3.14.3 Any retail convenience store use shall be permitted to operate between the hours of 7 am and 11 pm.

#### **PART 4: STREETS AND MUNICIPAL SERVICES**

##### **4.1 General Provisions**

All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

##### **4.2 Off-Site Disturbance**

Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

##### **4.3 Outstanding Site Work**

Securities for the completion of outstanding on-site paving and landscaping work (at the time of issuance of the first Occupancy Permit) may be permitted. Such securities shall consist of a security deposit in the amount of 110 percent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable automatically renewing letter of credit issued by a chartered bank. The security shall be returned to the Developer by the Development Officer when all outstanding work is satisfactorily completed.

##### **4.4 Solid Waste Facilities**

- 4.4.1 The building shall include designated space for five stream (refuse, recycling and composting) source separation services in accordance with By-law S-600 as amended from time to time. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.
- 4.4.2 Refuse containers and waste compactors shall be confined to the loading area of the building, and shall be fully screened from adjacent properties and public view, by means of opaque fencing or masonry with suitable landscaping to the satisfaction of the development officer. Masonry walls shall be clad in keeping with the building exterior.
- 4.4.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk.

#### **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

##### **5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plan**

Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:

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- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and
- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.

## **5.2 Non-Disturbance Area**

- 5.2.1 The area of non-disturbance includes the portion of the property falling within the 20 m watercourse buffer at the east of the site, as generally shown on Schedule "C" and labelled "Undisturbed Vegetation". Development within this area shall be limited to that permitted under the Sackville Land Use By-law for watercourse setbacks and buffers, as may be amended from time to time.
  - 5.2.2 All grading plans shall indicate: areas where existing vegetation is to be maintained and undisturbed; areas to be protected from disturbance during the installation of services, construction of buildings, landscaping, and any future activity on the lot unless otherwise specified in this Agreement. The non-disturbance areas shall be clearly delineated on the Site Plan and Grading Plan prior to and during construction.
  - 5.2.3 The non-disturbance area identified on the Schedules shall be delineated on all final survey plans prior to final approval.
  - 5.2.4 Non-disturbance areas shall be identified by the Developer with snow fence or other appropriate continuous physical barrier or delineation and signage in the field prior to any site preparation (i.e., tree cutting, and excavation activity). The snow fence or other appropriate continuous physical barrier or delineation and signage shall be maintained by the Developer for the duration of the construction and the snow fence or other appropriate continuous physical barrier or delineation and signage in the field.
  - 5.2.5 If trees are removed or tree habitat damaged beyond repair in the non-disturbance areas, the Developer or the landowner shall replace the trees, with two new trees of ½ inch (38mm) caliper for every one removed or damaged, as directed by the Development Officer.
  - 5.2.6 If the Developer fails at any time during any site work or construction to fully conform to the requirements under Section 5, the Municipality shall require that the site and construction works 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.
  - 5.2.7 Notwithstanding Section 5.2.6, if weather and time of year does not allow for remediation of the non-disturbance area as specified in section 5.2.5, the Development Officer may, at their discretion, allow for continuation of construction. No occupancy permit shall be issued until such
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time that remediation required under Section 5 has been completed to the satisfaction of the Development Officer.

**5.3 Archaeological Monitoring and Protection**

In the event that the lands are determined to fall within the High Potential Zone for Archaeological Sites identified by the Province of Nova Scotia. The Developer shall contact the Coordinator of Special Places of the Nova Scotia Department of Communities, Culture and Heritage prior to any disturbance of the Lands and the Developer shall comply with the requirements set forth by the Province of Nova Scotia in this regard.

**5.4 Sulphide Bearing Materials**

The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

**PART 6: AMENDMENTS**

**6.1 Non-Substantive Amendments**

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council.

- (a) Changes to the landscaping plan as detailed in Section 3.8 which, in the opinion of the Development Officer, do not conform with Schedule C.
- (b) Changes to the hours of operation as detailed in Section 3.14;
- (c) Changes to the requirements relating to setbacks and yards;
- (d) The granting of an extension to the date of commencement of the development as identified in Section 7.3 of this Agreement; and
- (e) The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

**6.2 Substantive Amendments**

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

**PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

**7.1 Registration**

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

**7.2 Subsequent Owners**

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

**7.3 Commencement of Development**

- 7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, 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.
- 7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.
- 7.4. Completion of Development**  
The Developer shall complete the building no later than two (2) years following commencement of development. Upon the completion of the whole development, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement;
  - (c) discharge this Agreement; or
  - (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Sackville, as may be amended from time to time.
- 7.5 Discharge of Agreement**  
If the Developer fails to complete the development after 6 (Six) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement; or
  - (c) discharge this Agreement.

## **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

- 8.1 Enforcement**  
The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.
- 8.2 Failure to Comply**  
If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer fourteen (14) days written notice of the failure or default, then in each such case:
- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;

- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this 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; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with 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:

- Original Signed -

Witness Jonathan Andrews

**ARMCO CAPITAL INC.**

- Original Signed -

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

Name:

Robert Jeffery

Position:

Executive Vice-President

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

- Original Signed -

Witness \_\_\_\_\_

- Original Signed -

Witness \_\_\_\_\_

**HALIFAX REGIONAL MUNICIPALITY**

- Original Signed -

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

MAYOR **Mike Savage**

- Original Signed -

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

MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this 6<sup>th</sup> day of February, A.D. 20 18, before me, the subscriber personally came and appeared Jarathen Andrews a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that ARMCO CAPITAL INC. of the parties thereto, signed, sealed and delivered the same in his/her presence.

- Original Signed -

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this 19<sup>th</sup> day of March, A.D. 20 18, before me, the subscriber personally came and appeared Ken Bennett & Leslie White the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

- Original Signed -

\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

**LIAM MACSWEEN**  
A Commissioner of the  
Supreme Court of Nova Scotia

**PARCEL DESCRIPTION REPORT**

2018-03-12 14:11:13

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**PID:** 41158858  
**CURRENT STATUS:** ACTIVE  
**EFFECTIVE DATE/TIME:** 2005-02-01 09:04:00

Place Name: ROSEMARY DRIVE SACKVILLE  
Municipality/County: COUNTY OF HALIFAX/HALIFAX COUNTY  
Designation of Parcel on Plan: LOT RL1  
Title of Plan: PLAN OF SURVEY OF LOTS 501 TO 533 INCL., PARCELS RM, RR1, RR2, RL1, RL2 AND RL3 A  
S/D OF LANDS OF ANAHID INVEST  
Registration County: HALIFAX COUNTY  
Registration Number of Plan: 81277353  
Registration Date of Plan: 2005-01-28 08:47:12

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**External Comments:**

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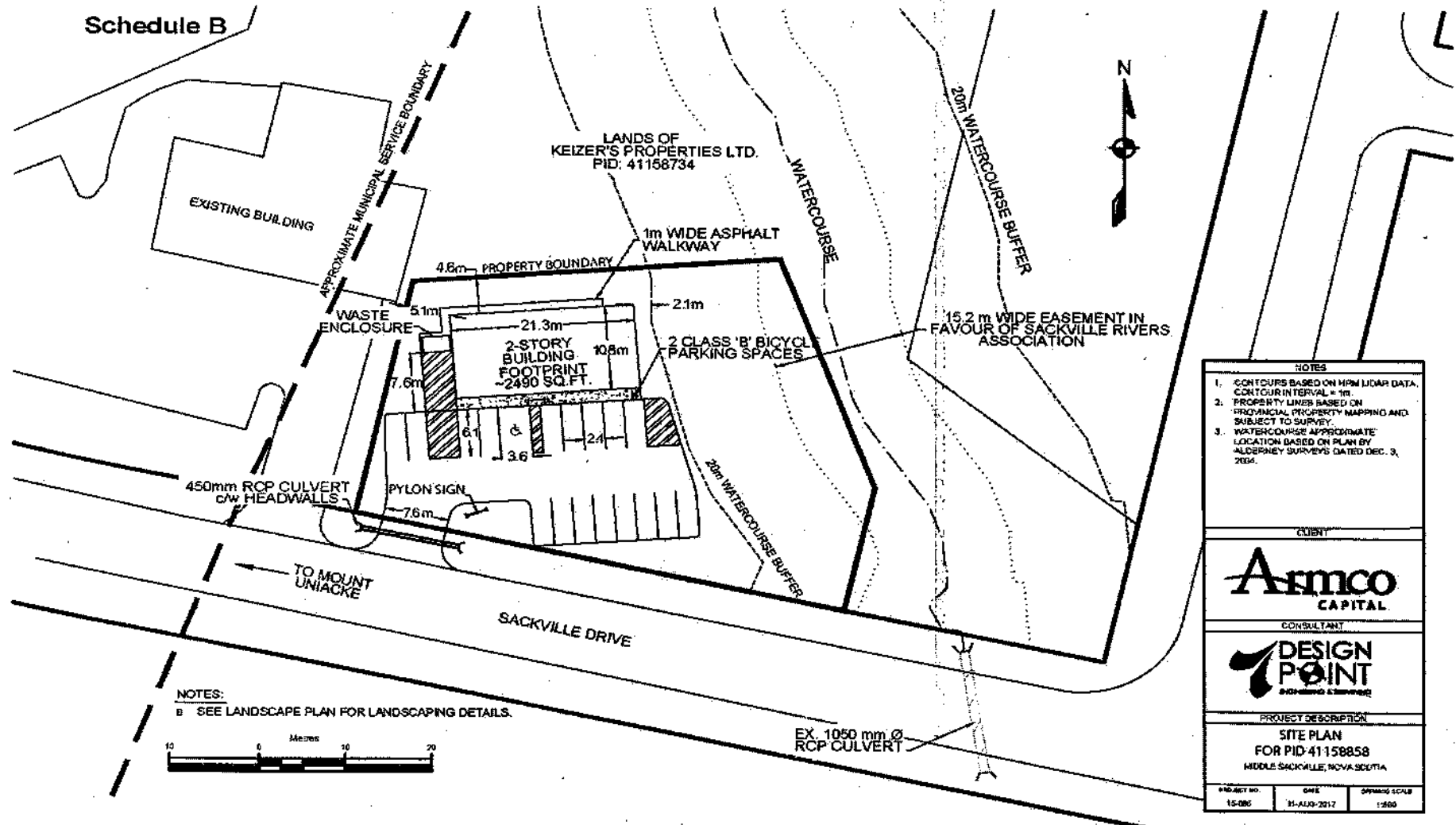
**Description Change Details:**

**Reason:**  
**Author of New or  
Changed Description:**  
**Name:**

**Registered Instruments:**

**Comments:**

Schedule B



- NOTES
1. CONTOURS BASED ON HPM LIDAR DATA. CONTOUR INTERVAL = 1m
  2. PROPERTY LINES BASED ON PROVINCIAL PROPERTY MAPPING AND SUBJECT TO SURVEY.
  3. WATERCOURSE APPROXIMATE LOCATION BASED ON PLAN BY ALBERNEY SURVEYS DATED DEC. 9, 2004.

CLIENT

**Amco**  
CAPITAL

CONSULTANT

**DESIGN POINT**  
ENGINEERING & ARCHITECTURE

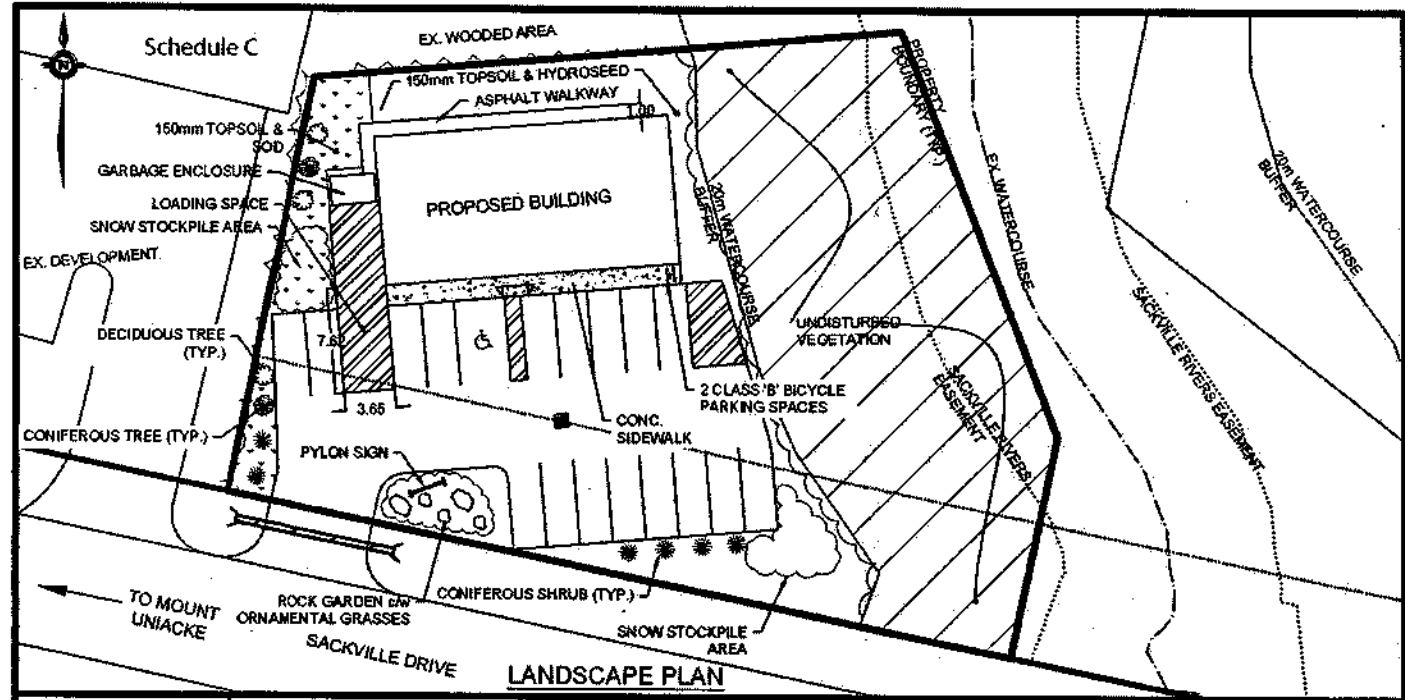
PROJECT DESCRIPTION

SITE PLAN  
FOR PID 41158858  
MIDDLE SACKVILLE, NOVA SCOTIA

PROJECT NO.	DATE	DRAWING SCALE
15-085	31-AUG-2017	1:500

- NOTES:
- B SEE LANDSCAPE PLAN FOR LANDSCAPING DETAILS.





**LANDSCAPE PLAN**

TITLE:	LANDSCAPE PLAN
PROJECT:	BERRY HILL PH 75
IRM CASE#:	20332
DATE:	Aug 10, 2017
SCALE:	1:250
DRAWN BY:	R.A.B.

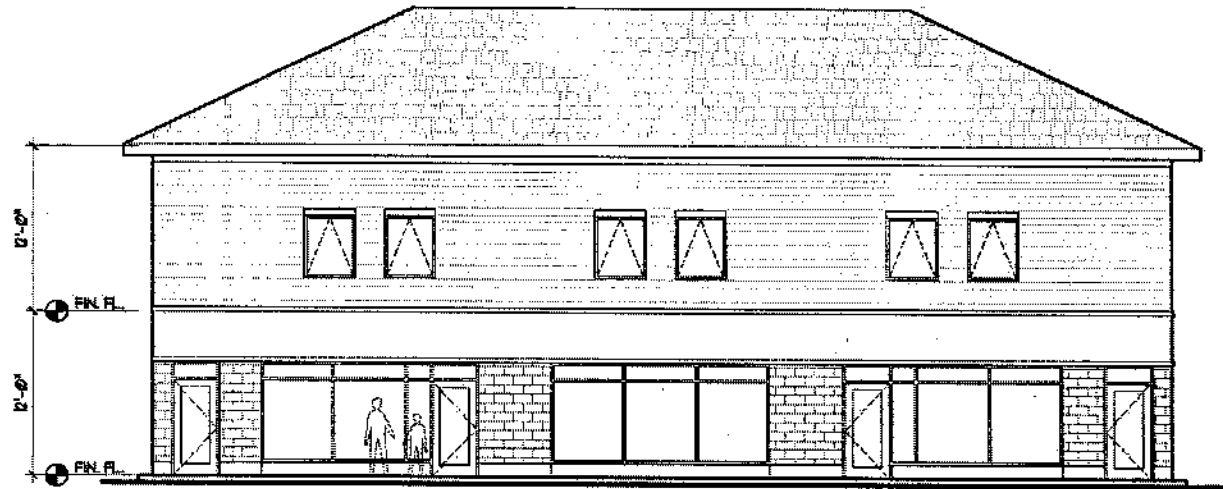


**GENERAL LANDSCAPING NOTES**

1. ALL PLANT MATERIAL SHALL CONFORM TO THE CANADIAN NURSERY TRADES ASSOCIATION METRIC GUIDE SPECIFICATIONS AND STANDARDS AND SOILED AREAS TO THE CANADIAN NURSERY SOIL GROWERS' SPECIFICATIONS.
2. THE LIMITS OF THE PARKING AREA ARE TO BE DEFINED BY FENCING, LANDSCAPING OR CURB.
3. PRIOR TO THE ISSUANCE OF A CONSTRUCTION PERMIT, THE DEVELOPER AGREES TO PROVIDE A LANDSCAPE PLAN WHICH COMPLIES WITH THE PROVISIONS OF THE DEVELOPMENT AGREEMENT AND GENERALLY CONFORMS WITH THE OVERALL INTENTIONS OF THE LANDSCAPE PLAN.
4. EXTERNAL WASTE FACILITIES (IF NEEDED) ARE TO BE SCREENED WITH ATTRACTIVE OTHER CLADDING IN KEEPING WITH THE BUILDING EXTERIOR.
5. PLANTING DETAILS FOR EACH PLANT TYPE AND THE SIZE, SPECIES LIST, COMMON AND BOTANICAL NAMES SHALL BE PROVIDED ON THE DETAILED PLAN PROVIDED AT THE TIME OF PERMIT APPLICATION.
6. THE FOLLOWING PLANT TYPES WILL NOT BE ACCEPTED FOR THIS SITE: SUGAR MAPLE, RED OAK, BIRCH, MAPLE, POPLAR, HEMLOCK OR SPRUCE.



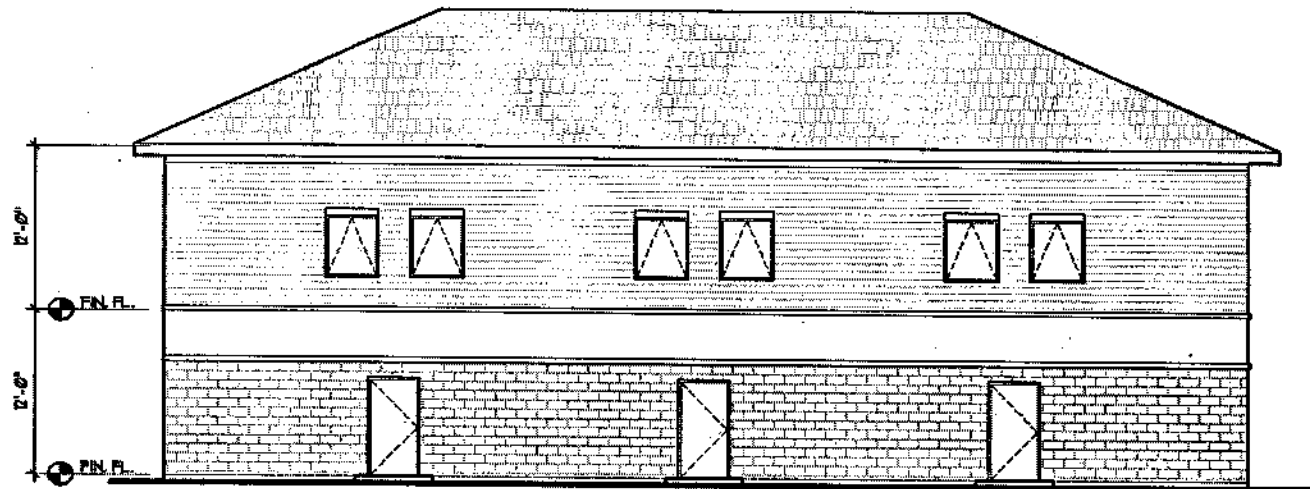
Schedule D1: South Elevation



SOUTH ELEVATION

**Berry Hills Project** Nov. 30, 2015  
Revised Mar. 21, 2016

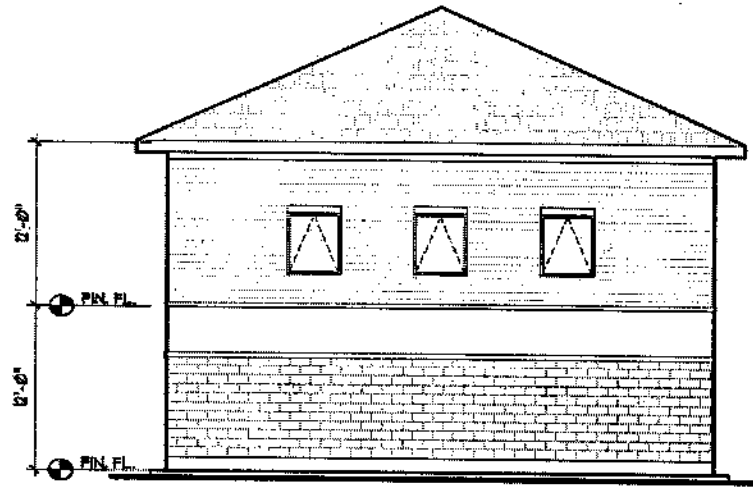
Schedule D2 : North Elevation



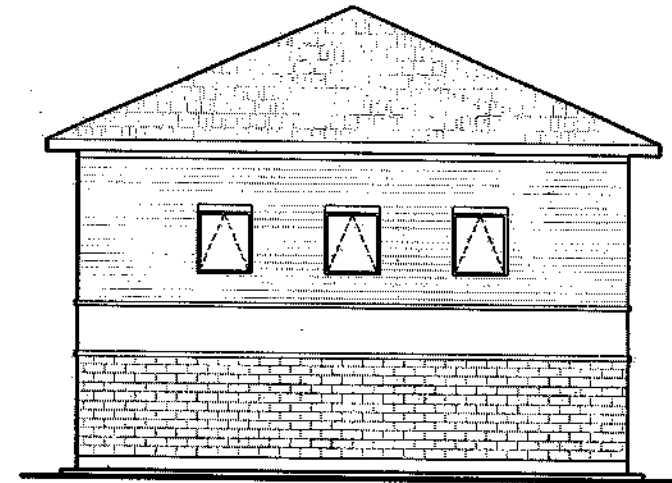
NORTH ELEVATION

**Berry Hills Project** Nov. 30, 2015  
Revised Sept. 01, 2017

Schedule D3: West and East Elevations



WEST ELEVATION

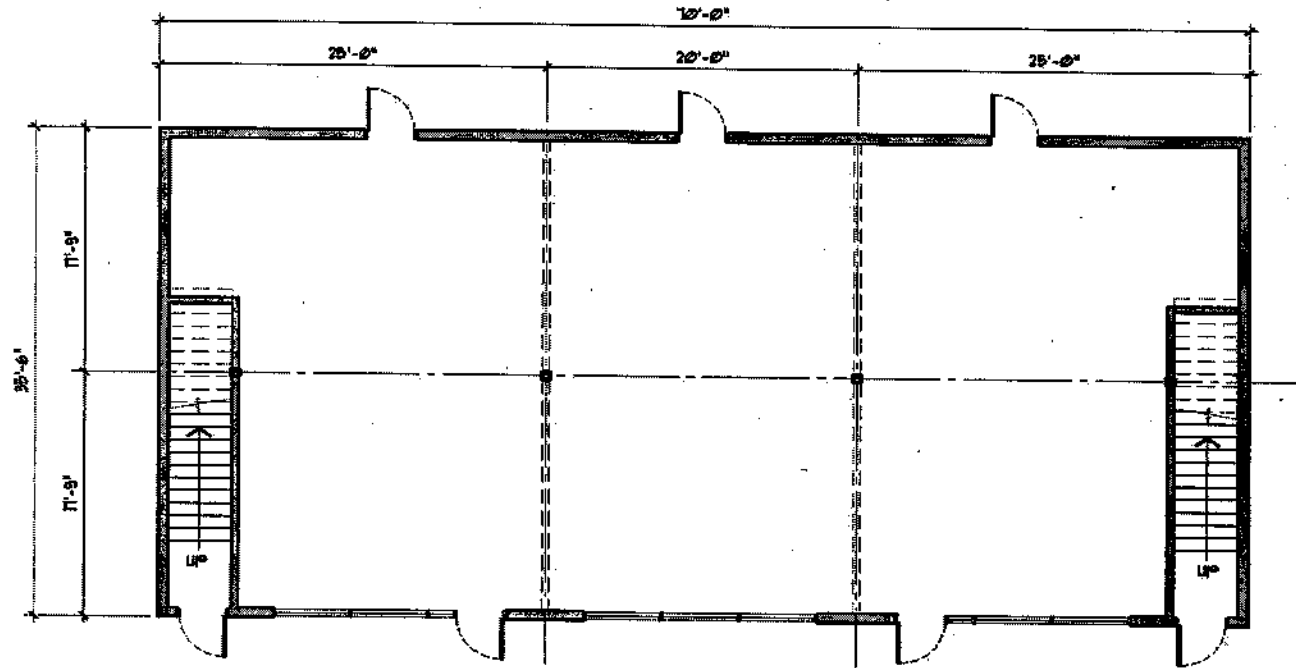


EAST ELEVATION

**Berry Hills Project**

Nov. 30, 2015  
Revised Mar. 21, 2016

Schedule E1: First Floor Plan

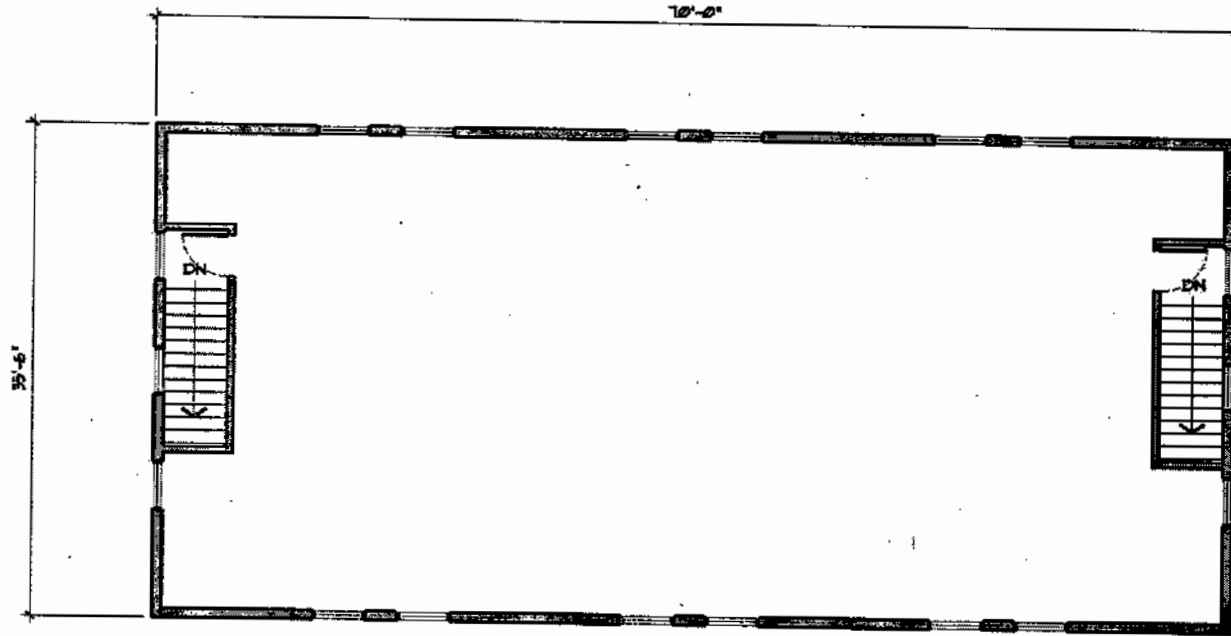


GROUND FLOOR PLAN (OFFICES OR COMMERCIAL)

**Berry Hills Project**

Nov. 30, 2015  
Revised Mar. 21, 2016

Schedule E2: Second Floor Plan



SECOND FLOOR PLAN (OFFICES OR COMMERCIAL)

**Berry Hills Project**

Nov. 30, 2015  
Revised Mar. 21, 2016

**Attachment D: Review of Relevant MPS Policies**

<b>SACKVILLE MUNICIPAL PLANNING STRATEGY</b>		
<i>URBAN RESIDENTIAL DESIGNATION POLICIES</i>		
<b>Policy Number</b>	<b>Policy Provision</b>	<b>Staff Comment</b>
Policy UR-31	Notwithstanding UR-2 and RR-2, Council may consider permitting Community Commercial (C-2) Zone land uses and auto body shops on lands not currently zoned for such uses according to the development agreement provisions of the Municipal Government Act on properties in Middle Sackville located on Sackville Drive and to the east of Rosemary Drive and west and north of the Atlantic Gardens Properties (PID#40150856, 40150815). In considering such uses, Council shall have regard to the following:	Commercial schools are listed as a permitted use in the C-2 use.  The property is located within the described area.
	(a) site has frontage on and direct access to Highway No. 1;	The site has frontage on Sackville Drive, otherwise known as Highway No. 1.
	(b) proposed use, height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;	There are no proposed changes to the previously approved built form provisions of the development agreement.
	(c) site design features, including landscaping, signage, 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 developments;	There are no proposed changes to the previously approved provisions for site design in the development agreement.  Parking is discussed further under subclause (c)(iii) of policy IM-13.
	(d) appropriate controls are established to address environmental concerns, including stormwater controls;	The original agreement includes requirements for the protection of the buffer and watercourse identified on schedules B (Site Plan) and C (Landscape Plan) and requires the submission of a Site Disturbance Plan, an Erosion and Sedimentation Control Plan and a site grading and stormwater management plan prepared by a Professional Engineer. These plans must conform with HRM and Provincial standards as well as minimize impacts on adjacent properties.  The non-disturbance of the buffer required under the agreement (20 metre setback) shall meet the requirements of the Land Use Bylaw.
	(e) site meets the minimum zone standards for the Community Commercial Zone;	The existing lot meets the minimum lot size and frontage requirements of the Community Commercial zone.
	(f) general maintenance of the development;	The existing DA provides for requirements for maintenance, development and screening of waste receptacles, as well as snow deposition areas.
	(g) hours of operation; and	The existing agreement specifies the hours of operation.
	(h) provisions of Policy IM 13.	See below.
<b>IMPLEMENTATION POLICIES</b>		

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:	See below.
	(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;	The proposal has been found to be consistent with the Sackville Municipal Planning Strategy. A commercial school use must be in conformance with the requirements of the Land Use By-law with further controls provided in the development agreement ensure the development meets the intent of applicable policies and other standards.
	(b) that the proposal is not premature or inappropriate by reason of:	See below.
	(i) the financial capability of the Municipality is to absorb any costs relating to the development;	No Municipal costs are anticipated.
	(ii) the adequacy of sewer and water services and public utilities;	No servicing issues were identified.
	(iii) the adequacy and proximity of schools, recreation and other public facilities;	The proposal does not have a residential component that would otherwise require consideration of these factors.
	(iv) the adequacy of road networks leading or adjacent to, or within the development; and	A traffic impact study (TIS) addendum has been provided and HRM Development Engineering and Traffic Services have deemed it acceptable.
	(v) the potential for damage to or for destruction of designated historic buildings and sites.	No impacted historic buildings or sites were identified.
	(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:	See below.
	(i) type of use;	The property is surrounded on three sides by a single lot containing a commercial use, which was also enabled through a Development Agreement using Polycyc UR-31. The adjacent building is similar in size, scale and lot arrangement to the building enabled by this agreement. The properties to the east on Sackville Drive and the lot directly across the street are zoned for commercial uses as-of-right; C-2 (Community Commercial) zoning.
	(ii) height, bulk and lot coverage of any proposed building;	There are no proposed changes to the previously approved built form provisions of the development agreement.
	(iii) traffic generation, access to and egress from the site, and parking;	A traffic impact study (TIS) addendum has been provided and HRM Development Engineering and Traffic Services have deemed it acceptable.  The Existing Agreement requires 16 parking spaces, which is consistent with the land use bylaw requirement for retail use.

	<p>The Sackville Land Use Bylaw provides a minimum parking standard for 'School Uses' of 3 spaces per each classroom. It has been indicated that the proposed Commercial School use would contain 2 classrooms, resulting in a minimum of 6 required parking spaces per the land use bylaw requirements. Under the Agreement, future use of the building can still include service and personal service, and office uses and so it is proposed the minimum parking requirement remain 16 parking spaces for the building regardless of occupied use.</p>
(iv) open storage;	<p>The existing agreement does not permit open storage or outdoor display.</p>
(v) signs; and	<p>Signs are permitted as per the requirements of the land use bylaw, with some additional restrictions added by the agreement.</p>
(vi) any other relevant matter of planning concern.	<p>No other items identified.</p>
(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;	<p>There are no site suitability concerns. The original agreement includes requirements for the protection of the buffer and watercourse.</p>
(e) any other relevant matter of planning concern; and	<p>No other items identified.</p>
(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.	<p>Not applicable.</p>