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Halifax, Nova Scotia
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Item No. 13.1.1
North West Community Council
July 17, 2017

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Bob Bjerke, Chief Planner and Director, Planning and Development

DATE: May 19, 2017

SUBJECT: **Case 20945: Development Agreement Discharge - 874 Sackville Drive,
Sackville**

ORIGIN

Application by WSP Canada Incorporated, on behalf of Kent Building Supplies Limited to discharge the existing development agreement for 874 Sackville Drive, Sackville.

LEGISLATIVE AUTHORITY

See Attachment C.

RECOMMENDATION

It is recommended that North West Community Council:

1. Approve, by resolution, the proposed Discharge Agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
2. Require the Discharge 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 Incorporated, on behalf of Kent Building Supplies Limited, is applying to discharge the existing development agreement for 874 Sackville Drive, Sackville. This application is associated with Case 20224 whereby on November 8, 2016 the Sackville Municipal Planning Strategy (MPS), the Sackville Drive Secondary Planning Strategy (SPS), and the associated Land Use By-laws were amended to allow the future expansion of the existing Kent Building Supplies Store located at 874 Sackville Drive, Lower Sackville.

Subject Site	874 Sackville Drive, Sackville (PID 40093742)
Regional Plan Designation	Urban Settlement (US)
Community Plan Area	Sackville Drive
Community Plan Designation (Map 1)	Downsview/Beaver Bank (DB) under the Sackville Drive Secondary Planning Strategy (Map 1)
Zoning (Map 2)	Large Scale Commercial (LS) Zone under the Sackville Drive Land Use By-law (LUB) (Map 2)
Size of Site	29,700 square metres (319,700 square feet)
Street Frontage	Approximately 82 metres (269 feet) on Sackville Drive
Current Land Use(s)	A large scale commercial store (Kent) and accessory storage building.
Surrounding Use(s)	The surrounding area is comprised mainly of residential, institutional, medium and large-scale commercial uses. Immediate surrounding land uses include: <ul style="list-style-type: none">• North – Low-density residential development and church;• South – Low-density residential development;• East – Auto repair operation, clinic, school; and• West – Wooded area, low-density residential development.

Proposal Details

The applicant proposes to discharge the existing development agreement which was approved by North West Community Council on May 25, 2000 (Planning Case 00215). The development agreement permits the development of storage buildings of which one has subsequently been built. The applicant now wishes to carry out as-of-right development under the provisions of the land use by-law and in order to do so, requests that the existing development agreement be discharged.

Rationale for the Original Development Agreement

The site is located within the Downsview/Beaver Bank Designation of the Sackville Drive SPS and zoned Large Scale Commercial (LSC) under the Sackville Drive Land Use By-law. The SPS was approved on May 7, 2002. Prior to that, this site was within the Sackville MPS planning area and zoned Community Commercial (C-2) and as such, accessory buildings were not permitted as-of-right, but were enabled through development agreement under Policy UR-19.

Under the current land use by-law requirements, new buildings on this site that are less than 10,000 square feet in area are only enabled through a development agreement. The purpose of the development agreement tool in this case is to discourage small-scale uses within this area and encourage large format retail. Large-format stores are integral to the viability of Sackville Drive, and Sackville overall. These stores have broad market appeal drawing on both local and non-local consumer markets, benefiting the entire street. (Sackville Drive MPS, Policies 5.2.1 and 5.2.2).

Discharge of Development Agreements

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner(s). The Charter does not require a public hearing for the discharge of an agreement or a portion

thereof. A development agreement may be discharged by resolution of Community Council (see Attachment C).

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. A public information meeting or a public hearing is not required, nor is it the practice to hold such meetings for the discharge of a development agreement. The decision to discharge a development agreement is made by resolution of Community Council.

DISCUSSION

Section 4.6 of the agreement provides provisions for discharging the agreement respecting this proposal:

- “4.6 Upon the completion of the development or portions thereof, or after five years from the date of registration of this Agreement at the Registry of Deeds, 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.”*

Should the discharge be approved by Council, the existing development agreement would no longer regulate the development of the property, and instead, the subject site would be fully regulated under the Land Use By-law for Sackville Drive (Attachment B).

Buffering

The current development agreement was enabled under and prepared through consideration of the provisions outlined in policies UR-19 (Urban Residential policy) and IM-13 (General Implementation policy) of the Sackville Municipal Planning Strategy in place in 2000. Those policies covered many considerations including, but not limited to frontage on Sackville Drive, compatibility with adjacent land uses and adequate provision for buffering and screening from adjacent residential properties. The staff report for Case 00215 identified that buffering was a major concern for the residents of Bridlewood Lane, an area that abuts the Kent property and overlooked the lumber yard. In this regard, the staff report states the following:

“To ensure these residential properties are visually protected from the existing lumber yard, and as proposed by the residents who attended the Public Information Meeting, the storage buildings will be placed along the west and southwest property line in order to function as a buffer and visual screen from the existing lumber yard. As well, in order to comply with the requirements of the C-2 zone, the existing chain link fence will be replaced or modified in the areas where the lumber yard abuts the R-2 zone. The requirement is that the fence be opaque and function as a visual and physical barrier.”

These requirements are addressed in section 2.3.6 of the existing development agreement.

It should be noted that there is currently no storage building along the west side of the property that abuts Bridlewood Lane as is permitted under the existing development agreement. There is however, a wooden fence and planted buffer, which screens this area from the site.

If the development agreement is discharged, the specific standards relative to buffering would no longer be in place and any repair or replacement of associated fencing or other elements would then be required to conform with the requirements of the LUB. In this case, the LUB contains standards for fencing and buffering associated with commercial parking lots abutting residential areas.

Conclusion

The proposed development agreement discharge would enable the subject property to be developed in accordance with the provisions of the existing underlying Large Scale Commercial (LS) zone. Therefore, staff recommends that North West Community Council discharge the existing development agreement through the discharge agreement contained in Attachment A.

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 discharge agreement. The administration of the proposed discharge agreement can be carried out within the approved 2017/2018 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under the terms of the existing development agreement and section 244 of the *HRM Charter*. Community Council has the discretion to make decisions that are consistent with their legislative authority. Information concerning risks and other implications of adopting the proposed discharge agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

North West Community Council may choose not to discharge the existing development agreement and therefore, development on the property would remain subject to the conditions of the development agreement. A decision of Council to refuse to discharge a development agreement is not 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 Location
Attachment A:	Proposed Discharge Agreement
Attachment B:	LS (Large Scale Commercial) Zone Requirements – Sackville Drive LUB
Attachment C:	Legislative Authority

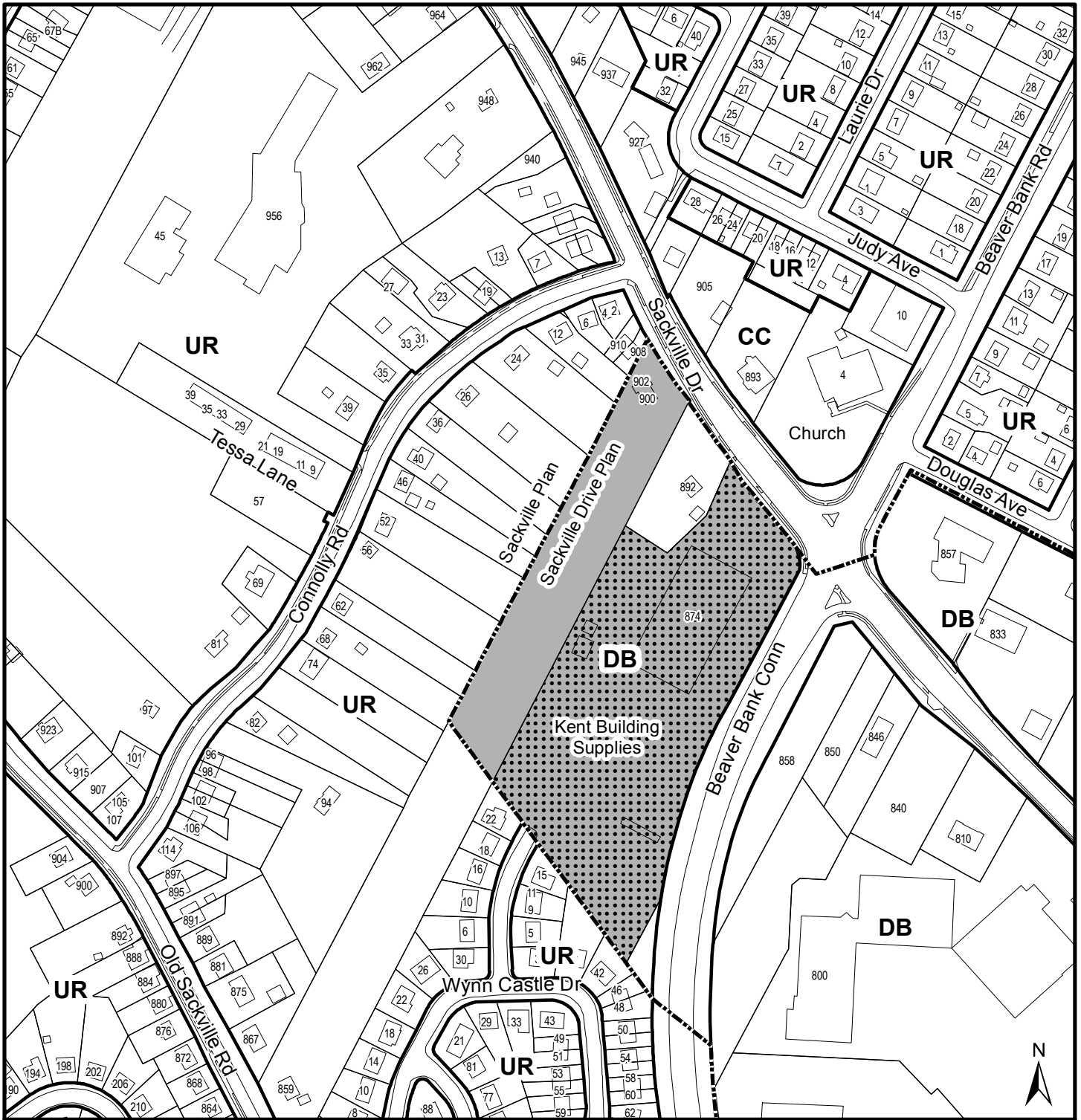
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Justin Preece, Planner II, 902.490.6805

Original Signed

Report Approved by:




Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

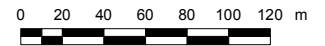
874, 900 and 902 Sackville Drive,
Lower Sackville

HALIFAX

-  Area of Existing Development Agreement to be Discharged
-  Subject Properties
-  Plan Area Boundary

Designation

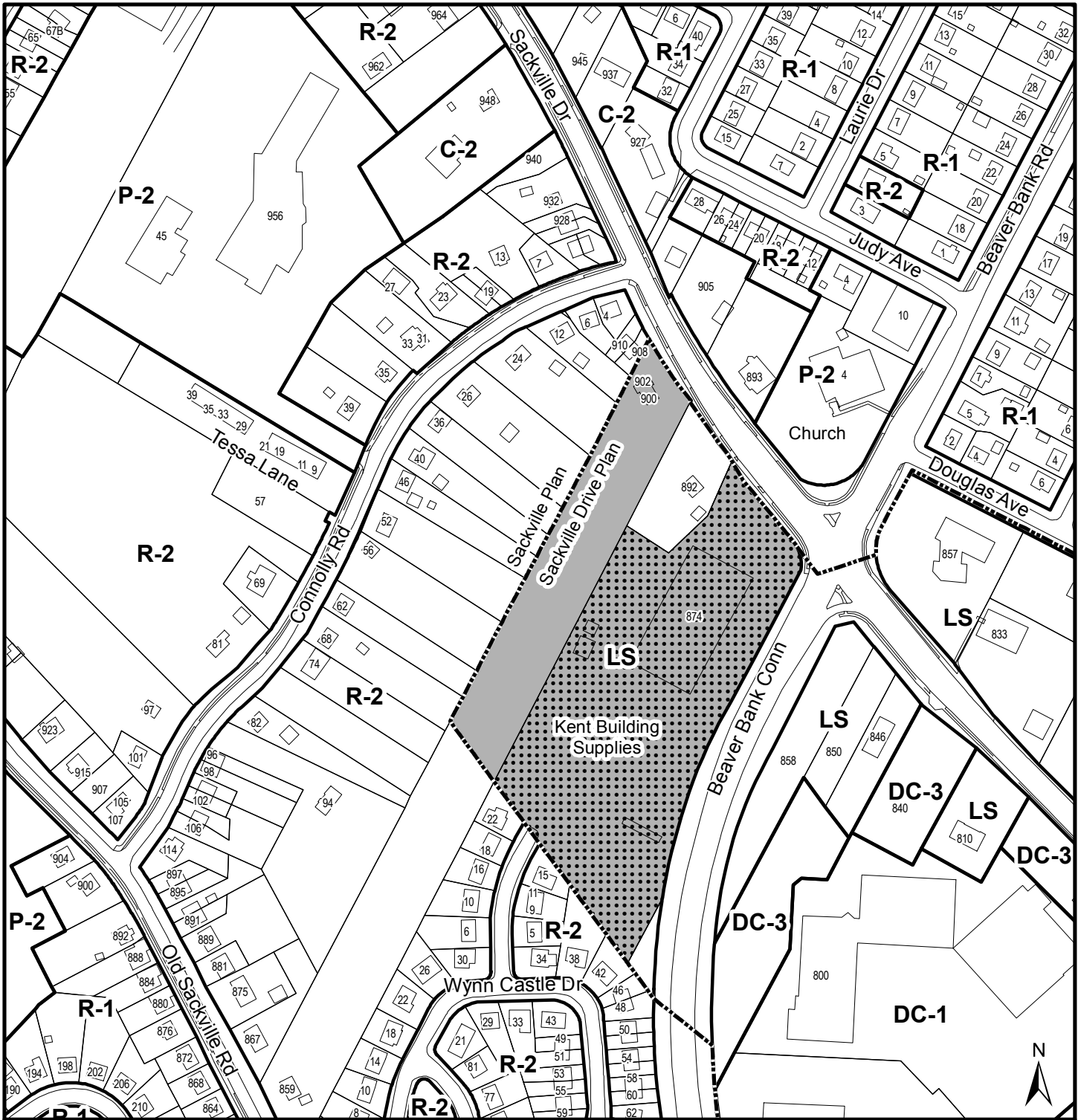
Sackville	UR	Urban Residential
	CC	Community Commercial
Sackville Drive	DB	Downview/Beaver Bank



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


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

Sackville Plan Area




Map 2 - Zoning

874, 900 and 902 Sackville Drive,
Lower Sackville

 Area of Existing Development
Agreement to be Discharged

 Subject Properties

 Plan Area Boundary

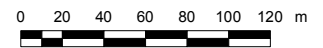
Sackville Plan Area

Zone

Sackville R-1 Single Unit Dwelling
R-2 Two Unit Dwelling
C-2 Community Commercial
P-2 Community Facility

Sackville Drive LS Large Scale Commercial
DC-1 Downsview Complex -1
DC-2 Downsview Complex -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.

**ATTACHMENT A
PROPOSED DISCHARGE AGREEMENT**

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

[INSERT REGISTERED OWNER NAME],

a body corporate in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 874 Sackville Drive (previously known as 882 Sackville Drive) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on May 25, 2000 the North West Community Council approved an application to enter into a development agreement to allow an expansion to the existing commercial enterprise, in particular the construction of storage buildings within the existing lumber yard on the Lands pursuant to the provision of the Municipal Government Act and the Sackville Municipal Planning Strategy and the Land Use By-law, referenced as Municipal Case Number 00215, and which said development agreement was registered on October 18, 2000 at the Registry of Deeds in Halifax as Document Number 33826 (hereinafter called the "Existing Agreement");

AND WHEREAS upon the completion of the development or portions thereof, or after five years from the date of registration of the Existing Agreement at the Registry of Deeds, Council may review the Existing Agreement, in whole or in part, and may discharge the Existing Agreement, as per Section 4.6 of the Existing Agreement;

AND WHEREAS the Developer has requested that the Existing Agreement be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the North West Community Council for the Municipality approved this request by resolution at a meeting held on **[INSERT DATE]** referenced as Municipal Case Number 20945;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Sackville Drive Land Use By-law, as amended from time to time.

IN WITNESS WHEREOF the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

INSERT REGISTERED OWNER NAME

Witness

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

Attachment B
LS (Large Scale Commercial) Zone – Sackville Drive LUB

PART 8: LARGE SCALE COMMERCIAL (LS) ZONE

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

Commercial Uses

- Big Box (Large Box Retail)
- Retail Stores
- Food Stores
- Building Supply Outlets
- Offices
- Banks and Financial Institutions
- Restaurants (full service, drive-thru and take-out)
- Commercial Entertainment Uses
- Commercial Recreation Uses
- Garden Market and Nurseries associated with Retail Stores
- Automotive Rental Facilities/Car Rental Agency
- Automotive Service Stations
- Taxi and Bus Depots
- Commercial Parking Lot
- Automotive Repair Outlets
- Self Storage Facilities
- Motel/Hotel
- Funeral Home
- Motor Home Sales and Service
- Shopping Centre
- Strip Mall/Shopping Plaza
- Equipment Rental
- Bakeries (including wholesale)
- Service and Personal Service Shops contained with a Big Box (Large Box Retail), **Strip Mall/Shopping Plaza or Existing Multiple Unit Dwelling. (NWCC-May 10/07;E-May 26/07)**
- Existing Outdoor Display Courts
- Existing welding, plumbing and heating, electrical, automotive and other trade contracting services & shops • Existing Autobody Shop

Institutional and Community Uses

- Educational Institutions (including commercial schools)
- Denominational Institutions excluding cemeteries
- Medical, Veterinary and Health Service Clinics; outdoor kennels associated with veterinary clinics are prohibited
- **Day Care Facilities (RC-Mar 3/09;E-Mar 21/09)**
- Civic Buildings including by not limited to public office, post office, fire station, police station, library, museum, gallery
- **Public Transit Terminal (NWCC-May 26/05;E-May 28/05)**

Attachment C – Legislative Authority

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

Halifax Regional Municipality Charter (“HRM Charter”),

Discharge of development agreement

- 244** (1) A development agreement is in effect until discharged by the Council.
- (2) The Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner.
- (3) After a development agreement is discharged, the land is subject to the land-use by-law. 2008, c. 39, s. 244.