



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

Item No.
Halifax and West Community Council
May 30, 2017
June 27, 2017
July 25, 2017

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: February 15, 2017

SUBJECT: **Case 20183: LUB Amendment (Schedule Q) and Development Agreement for 2710 and 2712 Agricola Street and a vacant property on Fern Lane, Halifax**

ORIGIN

Application by WSP Canada

LEGISLATIVE AUTHORITY

See Attachment E

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law, as contained in Attachment A, to include 2710 and 2712 Agricola Street and a vacant property on Fern Lane (PID 40346363), Halifax, in Schedule Q and schedule a public hearing;
2. Give notice of motion to consider the proposed development agreement, as contained in Attachment B, to allow for a 7 storey residential building containing ground floor commercial uses and a 3 storey row house and schedule a public hearing. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1; and
3. Adopt the amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law as presented in Attachment A of this report.

Contingent upon the amendment to the Halifax Peninsula Land Use By-law being approved by Community Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Halifax and West Community Council:

1. Approve the proposed development agreement as contained in Attachment B; and
2. Require that the 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 is applying to enable the development of a 7 storey residential building containing ground floor commercial uses on a site at the intersection of Agricola Street and May Street, and a 3 storey row house fronting on Fern Lane, in the north end of the Halifax peninsula (Map 1). As the proposal cannot be enabled through the existing zoning applied to the lands, the applicant has requested that the subject site be included within Schedule “Q” of the Halifax Peninsula Land Use By-law (LUB), which would then allow the proposed building to be considered by development agreement.

Subject Site	Comprised of 7 properties at 2710 and 2712 Agricola Street (PIDs 40346363, 40346355, 40346348, 40346330, 40346322, 40346314 and 00161487) and a vacant lot on Fern Lane (PID 40346363)
Location	Northwest corner of the intersection of Agricola and May Streets
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Major Commercial (MJC) under the Peninsula North Secondary Planning Strategy (SPS) of the Halifax Municipal Planning Strategy (MPS)
Zoning (Map 2)	C-2 (General Business) under the Halifax Peninsula Land Use By-law (LUB)
Size of Site	1624.04 square metres (17,481 square feet) in area
Street Frontage	45.7 metres (150 feet) on Agricola Street 30.5 metres (100 feet) on May Street 10.7 metres (35 feet) on Fern Lane
Site Conditions	Fully developed with 1 storey building setback from Agricola Street with front yard associated asphalt parking lot and accessed from Agricola and May Streets
Current Land Use(s)	A thrift shop commercial use and parking
Surrounding Land Use(s)	The surrounding area is comprised of commercial, residential, and institutional uses. Surrounding land uses include: <ul style="list-style-type: none"> • ground floor retail commercial uses and residential along Agricola Street; • low and medium density residential uses including 3 storey apartment buildings; • ground floor retail and office commercial uses along Robie Street arterial to the west; and • Bloomfield Centre Park community centre and recreation facilities to the northwest of the site.

Proposal

The applicant wishes to demolish the existing building on the subject site and construct a 7 storey residential building containing ground floor commercial uses and residential uses above facing Agricola Street and May Street. The proposal also includes a 3 storey row house on Fern Lane. To achieve this development, the applicant has requested that the subject site be included within Schedule Q of the LUB to allow for the proposed development to proceed by development agreement. Further detailed elements of the proposal are as follows:

- 721.39 square metres (7765 square feet) of minor commercial ground floor uses;
- 68 residential units (including 3 dwelling units in row house) comprised of 41 one-bedroom or one-bedroom with den, 20 two-bedroom and 7 three-bedroom;
- 22 underground parking spaces accessed from May Street;
- a 3 storey streetwall along a portion of Agricola Street façade that wraps around the north corner with upper floors stepped back from the sidewalks;
- a 3 storey streetwall along a portion of May Street;
- a 3 storey row house on Fern Lane; and
- balconies, terraces and common rooftop amenity space for residents of the development.

Enabling Policy and Zoning Context

The application is made pursuant to Policy 2.3.1 of Section XI of the MPS which allows Community Council to identify areas designated Major Commercial for comprehensive site planning through the development agreement process. This process is achieved through the application of Schedule “Q” of the Halifax Peninsula Land Use By-law. Schedule “Q” was established to address the challenge of introducing new residential uses into existing commercial and industrial areas by negotiating, on a site by site basis, the conditions of a development agreement including;

- the creation of an adequate environment for residential living on sites which may be surrounded by commercial and industrial uses; and
- providing for the continued operation of adjacent commercial and industrial uses without being encumbered by new residential uses.

The majority of Schedule "Q" is currently applied to lands on the west side of Robie Street between Young Street and North Street, and has also been applied more recently to select sites in general proximity to the subject site (Map 3).

The C-2 Zone permits commercial buildings with no restrictions on front, side or rear yards but limits the height to 24.4 metres (80 feet), with an allowance for additional height if stepped back from property lines above a height of 80 feet. Residential uses are also permitted within the C-2 Zone subject to the requirements of the R-3 (Multiple Dwelling) Zone. The application of Schedule “Q” to a site supersedes the requirements of the C-2 Zone by requiring projects greater than four dwelling units be considered by development agreement. This provides flexibility by enabling the modification of land use by-law requirements, on a site-by-site basis, through the development agreement process.

Approval Process

The approval process for this application involves two steps:

- i) First, Halifax and West Community Council must consider and, if deemed appropriate, approve the proposed amendment to the LUB to include the subject site within “Schedule Q”; and
- ii) Second, Halifax and West Community Council shall consider and, if deemed appropriate, approve the proposed development agreement once the LUB amendment is in effect.

A single public hearing can be held by Community Council to consider both the LUB amendment and the development agreement. However, Community Council can only render a decision on the development agreement following the approval of the LUB amendment. Community Council will be provided with a supplementary report once the LUB amendment is in effect, at which time it can consider approval of the

development agreement. An appeal mechanism to the Nova Scotia Utility and Review Board exists for both decisions of Council.

Centre Plan

The Halifax Regional Municipal Planning Strategy (RMPS) identifies the 'Regional Centre' as the area encompassing the Halifax Peninsula and Dartmouth between Halifax Harbour and the Circumferential Highway. Through the recent review of the RMPS, the adoption of a Regional Centre Plan was confirmed as a primary objective for the Municipality. The Centre Plan will include the creation of a new Secondary Municipal Planning Strategy (SMPS) for the Regional Centre as well as regulatory and financial tools to ensure that the vision statement and guiding principles endorsed by Regional Council are achieved. The process is underway, with stakeholder and community engagement previously held in 2016 and a full slate of public consultations in line with the Centre Plan Engagement Strategy in early 2017. The existing MPS will remain in effect on the Halifax Peninsula until the Centre Plan is finalized and approved. The application of Schedule Q to the subject lands is an option available under existing policy, and as such this application is being considered in advance of finalized Centre Plan policy.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through a Public Information Meeting (PIM) held on June 6, 2016, and a sign posted on the subject site. Additional information and seeking comments through the HRM website, notification in the newspaper and mailed to property owners within the notification area shown on Map 2. Attachment D contains a copy of the minutes from the PIM. The public comments received include the following topics:

- Traffic;
- Parking;
- Building height; and
- Community character and compatibility.

A public hearing must be held by Halifax and West Community Council before they can consider the approval of any amendments to the LUB or the approval of a 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 advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that the proposed development is consistent with the intent of the MPS. Attachment C provides an evaluation of the proposed LUB amendment and development agreement in relation to the relevant MPS policies.

LUB Amendment (Schedule Q)

Considering the mixed nature of land uses located on and around the subject site, which includes residential, commercial and institutional type uses, the proposed development presents an appropriate and beneficial opportunity for comprehensive site planning. As Schedule Q is currently applied to a large area of Peninsula North that is designated Major Commercial, the proposed development represents a small expansion of the area under the Schedule (Map 3). The proposal will benefit from the controls and flexibility that the development agreement process provides, in turn reducing the potential for land use and design conflicts.

Development Agreement

Attachment B contains the proposed development agreement for the subject site and the conditions under which the development may occur. In summary, the proposed development agreement includes conditions that address:

- permitted residential uses (maximum of 68 units, including 3 storey row house, with a minimum of 20 two-bedroom units and 7 three-bedroom units);
- ground floor minor commercial uses
- future ground floor residential;
- building mass, architectural, signage, and lighting;
- parking (bicycle and vehicular) and site access;
- detailed landscaping plan required for site and terrace/rooftop landscaped areas;
- building services, maintenance and waste facilities; and
- options for limited non-substantive amendments by resolution of Council, including: landscape requirements, materials and signage requirements and changes to timeframes for development.

The attached development agreement will permit a mixed use development that is compatible and appropriate with the neighbourhood. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment C, the following have been identified for more detailed discussion.

Siting and Neighbourhood Compatibility

One of the key considerations when reviewing an application within Schedule Q is the compatibility of the proposed land use with the existing neighbourhood and the mitigation of potential impacts that could potentially arise. These aspects were considered as follows:

- The site is located in close proximity to properties that recently received Council's approval for development agreements under Schedule Q (Map 3). Approved proposals include 7 to 8-storey residential and mixed use buildings which consist of townhouse units, commercial ground floors and/or office spaces with residential units on upper floors;
- Given the commercial zoning that is applied in the area, substantial building heights and massing are achievable on this site and throughout the area as-of-right and without the requirement for community consultation, Council approval, or design controls;
- The development agreement reduces allowable massing and height below what is permitted as-of-right in the C-2 Zone, and mitigates the effects of the proposal in this mixed use area; and
- Due to the location of the subject site on a corner lot, within a transitioning neighbourhood and in relation to local streets with moderate traffic volumes, the proposed building provides an appropriate response to surrounding land uses.

Building Design

The MPS encourages the use of effective urban design treatments and high quality exterior building materials. These goals are implemented through the development agreement as follows:

- Provision of an appropriate 3 storey streetwall along portions of both street frontages which is generally consistent with the existing and approved heights of neighbouring properties provides scale, grain and legibility in accordance with the grain of local context;
- Utilization of varied architectural wall treatments seeks to achieve a contemporary design response and to mitigate against blank walls on the building's elevations. The building incorporates high quality materials such as wood, glass, fibre cement panels, and metal/glass railings that complement the neighbouring context without replicating materials found locally. Signs are limited to small scale fascia signs;
- Provision of appropriate setbacks from neighbouring property lines for the upper storeys of the building places the tallest portion of the building further from more sensitive residential neighbours

and through the nature of the building's non-combustible construction materials, which will assist with noise attenuation; and

- These design aspects not only help mitigate the impact of the development from existing uses, but also intend to lessen the potential impact for the future development of adjacent sites.

Traffic

MPS policy encourages vehicular traffic to use principal streets and discourages it within existing neighbourhoods. The proposed building is located on a collector street (Agricola Street), with sidewalks and time restricted parking located on both sides. The proposed driveway to the project is located on May Street and will provide access to 22 underground parking spaces. A Traffic Impact Statement (TIS) prepared in support of this proposal takes into account other approved developments within the area. The TIS concludes that the proposed development is not expected to have any significant impact on the level of performance of the adjacent streets or intersections, or the regional street network. The TIS further concludes that the net additional trips generated by the 8 proposed developments (including this proposal) are not expected to have any significant cumulative effect on the traffic operations of local intersections or adjacent streets, or the regional street network. The TIS and its conclusions was deemed acceptable.

Landscaping and Open Space

MPS policy calls for the provision of on-site open space and amenity areas which are adequate for the building residents. The proposed development agreement requires at least 71.07 square metres (765 square feet) of common indoor amenity space, 125.4 square metres (1350 square feet) ground level "backyard" space, 41.8 square metres (450 square feet) of common outdoor amenity space on the seventh floor terrace and a minimum of 78.9 square metres (850 square feet) of common outdoor amenity space on the rooftop patio of the building. Council should note that the proposed development agreement ensures the use of high quality materials and landscape design. It also requires adherence to detailed landscaping requirements and the submission of a detailed landscape plan prepared by a Landscape Architect.

Districts 7 & 8 Planning Advisory Committee

On June 27, 2016, the Districts 7 & 8 Planning Advisory Committee (PAC) recommended that the application be approved. The recommendations of the PAC on the application are sent to Community Council by means of a separate report.

The Committee had several conditions for inclusion within the development agreement. The majority of the Committee's conditions focused generally on:

- Encouraged a reduction in height to 5 or 6 stories;
- Consider the passive house concept and include requirements in the DA;
- Consider improvement of the pedestrian experience on May Street, through more greenery, greater setbacks, awnings or other solutions;
- Consider a greater diversity in appearance of the building exterior;
- Consider pedestrian safety associated with parking garage access;
- Give consideration to requiring a minimum number of 2 bedroom (plus den) and 3 bedroom units; and
- That matters identified through the PAC's recommendations be identified as substantive matters, with respect to future amendments.

The recommendations of the PAC were incorporated within the revised site plan and building elevations and proposed development agreement, with the exception of reducing height and incorporating *Passive House* principles (energy efficient and sustainable method of development). The 7 storey building as permitted by the proposed development agreement is appropriate given the subject site's urban context and the stepped transition promotes mediation between the heights of the neighbouring buildings. With respect to *Passive House* principles, this level of detail is not required by MPS policy; however, building systems differing from standard systems will be permitted to the extent possible under the Building Code.

Centre Plan

HRM has adopted a vision and guiding principles for the Regional Centre which forms the basis for undertaking planning. Policy RC-3 of the RMPS identifies the creation of a Centre Plan and accompanying Land Use By-law will be guided by the vision and guiding principles.

Included in the vision is a statement which aims to strengthen the Regional Centre's vibrancy, animation and economic health through the cultivation of a compact, civic inspired and human-scaled urban fabric of streets, blocks and buildings.

The guiding principles for the Regional Centre commit to new development being of high quality and compatible with other high quality developments. Additionally, guiding principles developed with the community for the Regional Centre in the drafting and adoption of the Regional Plan include a desire that new developments respond to the natural, cultural, historical, and urban character of their context and that new buildings contribute to the betterment of the public realm and support quality urban design.

As required by the existing MPS, the proposed development agreement must include provisions that mitigate impacts on adjacent properties through effective urban design treatments, while also creating high quality design detail at street level and ensuring appropriate integration of the development into the traditional street grid system.

While the proposed development ensures these policy objectives are achieved through such measures as an animated streetwall and interior property line setbacks for the upper storeys, these measures also demonstrate an awareness of the vision and guiding principles for the Regional Centre.

Conclusion

Staff advise that the proposed land use bylaw amendment and development agreement are in keeping with the objectives and policies of the Peninsula North Secondary MPS to identify areas appropriate for comprehensive planning and to develop the site in a manner that mitigates potential land use conflicts which could arise. Therefore, it is recommended that the proposed LUB amendment (Attachment A) and development agreement (Attachment B) be approved.

FINANCIAL IMPLICATIONS

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved 2017 budget with existing resources.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve proposed amendment to the Halifax Peninsula Land Use By-law and the proposed development agreement subject to modifications. Such modifications may require further negotiations with the Developer, and may require a supplementary report and/or a public hearing. A decision of Council to approve the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed LUB amendment and development agreement and, in doing so, must provide reasons why the 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
Map 2	Zoning and Notification Map
Map 3	Schedule Q
Attachment A	Proposed Amendment to the Halifax Peninsula Land Use Bylaw
Attachment B	Proposed Development Agreement
Attachment C	Review of Relevant Policies of the Halifax MPS
Attachment D	Minutes from the Public Information Meeting
Attachment E	Legislative Authority

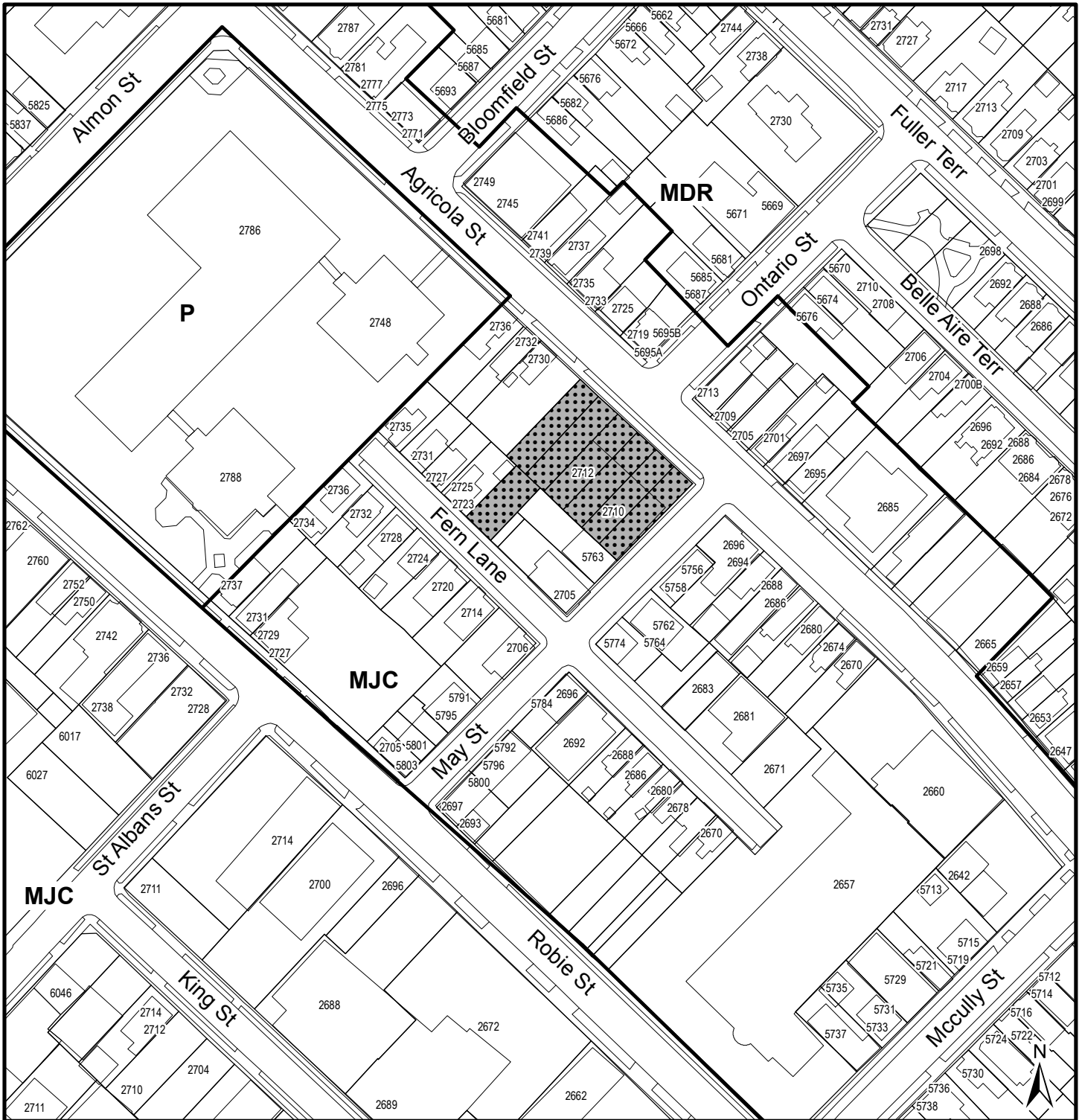
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Darrell Joudrey, Planner II, Development Approvals, 902.490.4181

Original Signed


Report Approved by:

Kelly Denty, Manager of Development Approvals, 902.490.4800



Map 1 - Generalized Future Land Use

2710 Agricola Street, Halifax
 (PIDs 00161497, 40346314, 40346322,
 40346330, 40346348, 40346355, and 40346363)

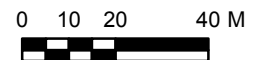
 Area of Proposed Policy Amendments

Halifax Plan Area
 Peninsula North Secondary Plan Area

Designation

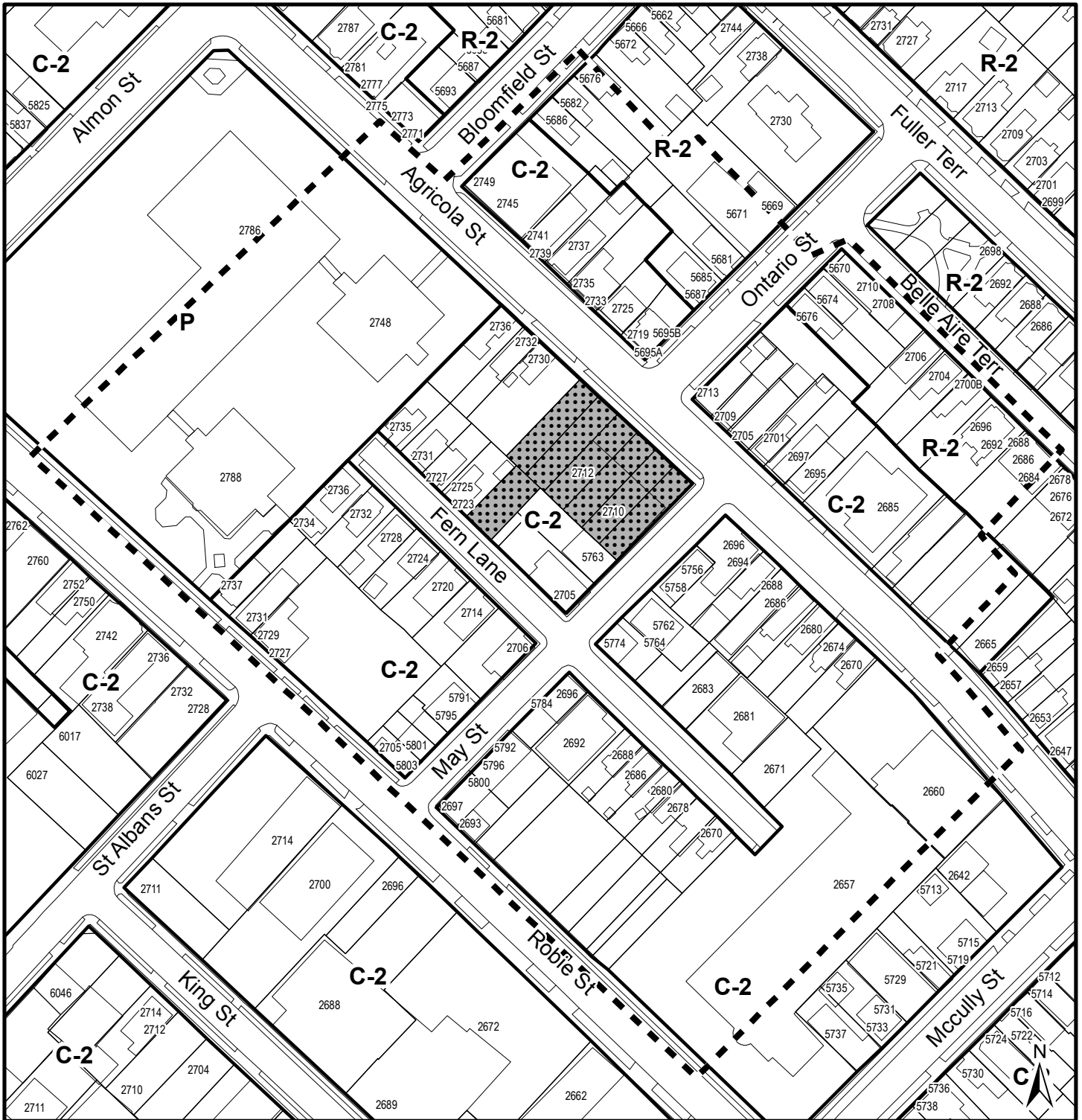
- MDR Medium Density Residential
- MJC Major Commercial
- P Park and Institutional

HALIFAX





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

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



Map 2 - Zoning and Notification

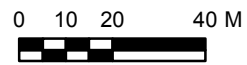
2710 Agricola Street, Halifax
 (PIDs 00161497, 40346314, 40346322,
 40346330, 40346348, 40346355, and 40346363)

-  Area of Proposed Policy Amendments
-  Area of Notification

- Zone**
- R-2 General Residential
 - C-2 General Business
 - P Park and Institutional

Halifax Peninsula Land Use By-Law Area

HALIFAX



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

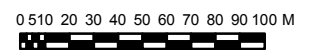
The accuracy of any representation on this plan is not guaranteed.





Map 3 - Schedule Q

2710 Agricola Street, Halifax
 (PIDs 00161497, 40346314, 40346322,
 40346330, 40346348, 40346355, and 40346363)

HALIFAX



-  Area Proposed to be included in Schedule Q
-  Existing Schedule Q

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Halifax Peninsula Land Use By-Law Area

ATTACHMENT A

Proposed Amendments to the Halifax Peninsula Land Use By-law

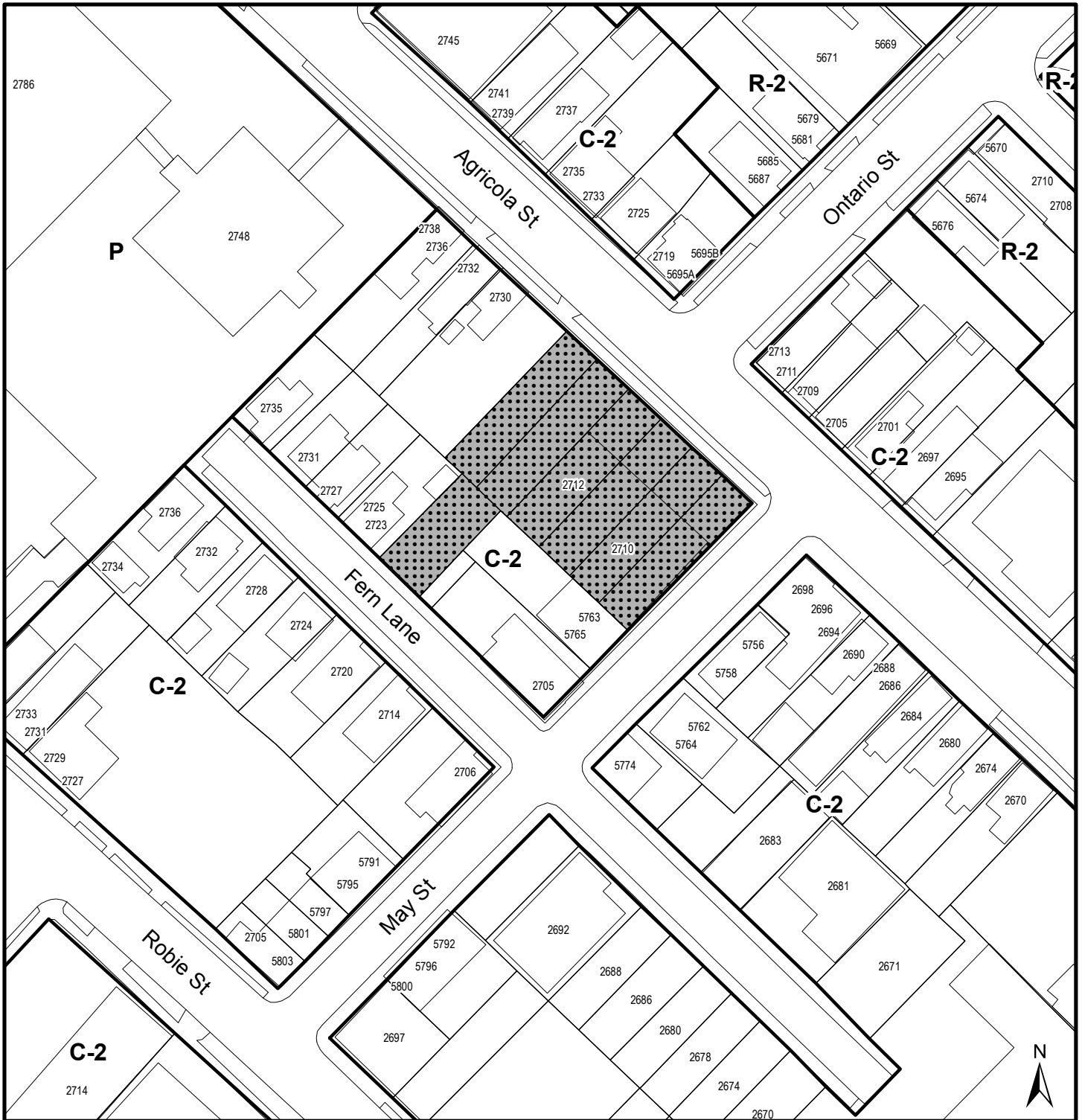
BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Halifax Peninsula Land Use By-law is hereby further amended as follows:

1. Amend Map ZM-2 of the Halifax Peninsula Land Use Bylaw by applying Schedule "Q" to properties identified as PID 40346363 on Fern Lane, and 2710 and 2712 Agricola Street, Halifax, as illustrated on Schedule A attached hereto.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Halifax and West Community Council of Halifax Regional Municipality held on the _____ day of _____, 20____.


GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this ____ day of _____, 20____.

Municipal Clerk



Schedule A

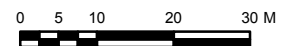
2710 Agricola Street, Halifax
 (PIDs 00161497, 40346314, 40346322,
 40346330, 40346348, 40346355, and 40346363)

 Area included in
 Schedule Q

Zone

- R-2 General Residential
- C-2 General Business
- P Park and Institutional

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.

Halifax Peninsula Land Use By-Law Area

ATTACHMENT B
Proposed Development Agreement

THIS AGREEMENT made this _____ day of _____, 201__,

BETWEEN:

[Insert Name of Corporation/Business LTD.],
 a body corporate, in the Province of Nova Scotia,
 (hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 2710 Agricola Street, the western intersection of Agricola Street and May Street, and at the northeastern side of Fern Lane, Halifax, 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 a mixed-use development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 2.3.1, 2.3.2 and 2.3.3 of Section XI of the Halifax Municipal Planning Strategy and Section 92 of the Halifax Peninsula Land Use By-law;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[INSERT DATE]** referenced as Municipal Case Number 20183;

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

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, subdivision and use of the Lands shall comply with the requirements of the Land Use By-law for Halifax Peninsula and the Halifax 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 and/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) "Indoor Amenity Space" means common amenity areas for residents of the development that are located within the building, including but not limited to, exercise facilities and multi-purpose rooms with associated kitchen facilities; and
- (b) "Outdoor Storage" means the keeping of goods, materials or equipment in a location on the Lands not enclosed by walls and a roof.

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 20183:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	East Elevation
Schedule D	South Elevation
Schedule E	South Elevation Row House
Schedule F	West Elevation
Schedule G	West Elevation Row House
Schedule H	North Elevation including Row House Elevation

3.2 Requirements Prior to Approval

3.2.1 Prior to the issuance of a Development Permit, the Developer shall provide to the Development Officer:

- (a) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.6 of this Agreement; and
- (b) A Site Servicing Plan prepared by a Professional Engineer and acceptable to the Development Engineer in accordance with Section 4.1 of this Agreement.

3.2.2 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the Development Officer with certification from a member in good standing of the Canadian Society of Landscape Architects indicating that the Developer has complied with the landscaping provisions of this Agreement.

3.2.3 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any use 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 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

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

- (a) Multiple unit residential building use;
- (b) A residential use on Fern Lane with up to 3 units;
- (c) Commercial use on the main floor of multiple unit building;
- (d) Underground parking in the multiple unit building; and
- (e) Uses accessory to any of the foregoing uses.

3.4 Detailed Provisions for Land Use

- 3.4.1 Main floor of the multiple unit residential building uses shall be limited to commercial uses, residential use in combination with permitted commercial uses or solely residential and a residential entrance lobby. The remaining floors shall include multiple unit residential, indoor amenity space, outdoor amenity space on the 2nd, 4th, 7th floor terraces and a rooftop patio and residential accessory uses only.
- 3.4.2 A maximum of 721.39 square metres (7765 square feet) of commercial space shall be provided on the main floor of the multiple unit residential building.
- 3.4.3 A minimum of 232 square metres (2500 square feet) of outdoor green space shall be provided at ground level at the northwest corner or west elevation of the multiple unit residential building.
- 3.4.4 A minimum of 71.07 square metres (765 square feet) indoor amenity space shall be provided on the 7th floor of the multiple unit residential building
- 3.4.5 A minimum of 22 parking spaces shall be provided in the underground parking of the multiple unit residential building.
- 3.4.6 A maximum of 68 residential dwelling units shall be permitted within the multiple unit residential building (floors 2 through 7) and including the Fern Lane Row House floors 1 to 3.
- 3.4.7 Of the residential units on floors 1 through 7 of the multiple unit residential building, and including the units in the Fern Lane Row House, a minimum of:
 - (a) 41 units shall consist of 1 bedrooms or 1 bedroom and a den;
 - (b) 20 units shall consist of 2 bedrooms; and
 - (c) 7 units shall consist of 3 bedrooms.

3.5 Architectural Requirements

- 3.5.1 The development shall be exempted from the requirements of the C-2 (General Business) Zone of the Land Use By-law. Instead, the Schedules and written provisions of this Agreement shall apply.
- 3.5.2 The building's height, massing, exterior design and materials shall be as shown on the Schedules

B through H.

- 3.5.3 The facades of the multiple unit residential building facing Agricola Street, May Street and Fern Lane shall be designed and detailed as primary facades. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules attached to this agreement.
- 3.5.4 The buildings shall be setback from property lines as shown on Schedules B through H of this Agreement. The property line setbacks may be increased provided the overall massing of the building is generally consistent with Schedules B through H of this Agreement, subject to detailed review by the Development Officer to ensure compliance with all relevant building codes and by-laws.
- 3.5.5 All guard railings associated with balconies and terraces from floors 1 to 3 of the Fern Lane Row House and floors 2 to 7 and the 7th floor rooftop patio of the multiple-unit building shall be made of metal framing with transparent material.
- 3.5.6 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.).
- 3.5.7 Any exposed foundation in excess of 0.3 m (1 foot) in height shall be architecturally detailed, veneered with stone or brick, or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.8 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade and subject to the requirements of any other applicable by-law, statute or regulation.
- 3.5.9 The size and location of windows and doors shall be as generally shown on Schedules C through H.
- 3.5.10 The development officer may allow minor revisions to size, location and placement of doors and windows, as well as balcony supports on the outside façade of the buildings, as long as it meets the intent of the design.

3.6 Amenity Space and Landscaping

- 3.6.1 The multiple unit residential building shall include an area of indoor amenity space having a minimum area of 71.07 square metres (765 square feet).
- 3.6.2 The multiple unit residential portion of the building shall include ground level outdoor landscaped green space for the residents of the building as generally located on Schedule B. Common outdoor landscaped amenity space shall be provided on the multiple unit residential building rooftop patio and on the terraces of floors as shown on Schedule B of this Agreement.
- 3.6.3 Prior to the issuance of a Development Permit, the Developer shall provide a Landscape Plan which complies with the provisions of this section and conforms to the overall intentions of the landscaping shown on the Schedules of this Agreement. 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.
- 3.6.4 Construction Details or Manufacturer's Specifications for all constructed landscaping features such as pergolas, benches, etc. shall be noted on the Landscape Plan required by Subsection 3.6.3, and shall describe their design, construction, specifications, hard surface areas, materials and placement.

3.7 Signs

Signage shall be limited to the following:

- (a) No ground sign shall be permitted on the Lands;
- (b) Fascia signage shall be limited to the sizes and areas shown on Schedules C and E.

3.8 Building and Site Lighting

Outdoor lighting shall be directed to driveways, parking areas, loading areas and building entrances and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.9 Functional Elements

- 3.9.1 All vents, down spouts, electrical conduits, meters, 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.
- 3.9.2 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Agricola Street, May Street or Fern Lane or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

3.10 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, 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 removal/salting of walkways and driveways.

3.11 Solid Waste Facilities

The development shall include, adjacent to the underground parking area, designated space for five stream 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. All refuse and recycling materials shall be contained within the building.

3.12 Outdoor Storage

No outdoor storage shall be permitted on the Lands with the exception of products, materials and vehicles during the time of construction.

3.13 Deliveries and Solid Waste Collection

- 3.13.1 The private collection of refuse and recyclables on the Lands shall occur only between the hours of 8:00 a.m. and 7:00 p.m.
- 3.13.2 Commercial delivery vehicles on the Lands shall only be permitted between the hours of 8:00 a.m. and 7:00 p.m.

3.13.3 The hours specified under this section shall apply seven (7) days a week.

3.14 Parking and Bicycle Facilities

3.14.1 Vehicular parking shall include parking within the building to accommodate a minimum of 22 vehicular parking spaces. Up to 75 percent of the parking spaces may be reduced in size to 8 feet by 17 feet. A minimum of 2 parking spaces shall be designated as visitor parking.

3.14.2 The Developer shall provide bicycle parking pursuant to the Land Use By-law for Halifax Peninsula.

3.15 Construction/Sales Structure

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

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

4.1.1 All construction shall conform to the most current edition of the HRM Municipal Design Guidelines and Halifax Water's Design and Construction Specifications unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.

4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including 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.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

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 not substantive and may be amended by resolution of Council:

- (a) Minor changes to the exterior materials as specified in Schedules C through H;
- (b) Changes to the sign requirements as detailed in Section 3.7 or which, in the opinion of the Development Officer, do not conform to Schedules C and E;
- (c) Changes to the functional elements requirements as detailed in Section 3.9 or which in the opinion of the Development Officer do not conform to Schedules C through H;

- (d) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this agreement; and
- (e) The length of time for the completion of the development specified in Section 7.5 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 construction 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

Upon the completion of the whole development or complete phases of the 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 Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as may be amended from time to time.

7.5 Discharge of Agreement

If the Developer fails to complete the development after six (6) 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 thirty (30) 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 defense 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:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

Per: _____

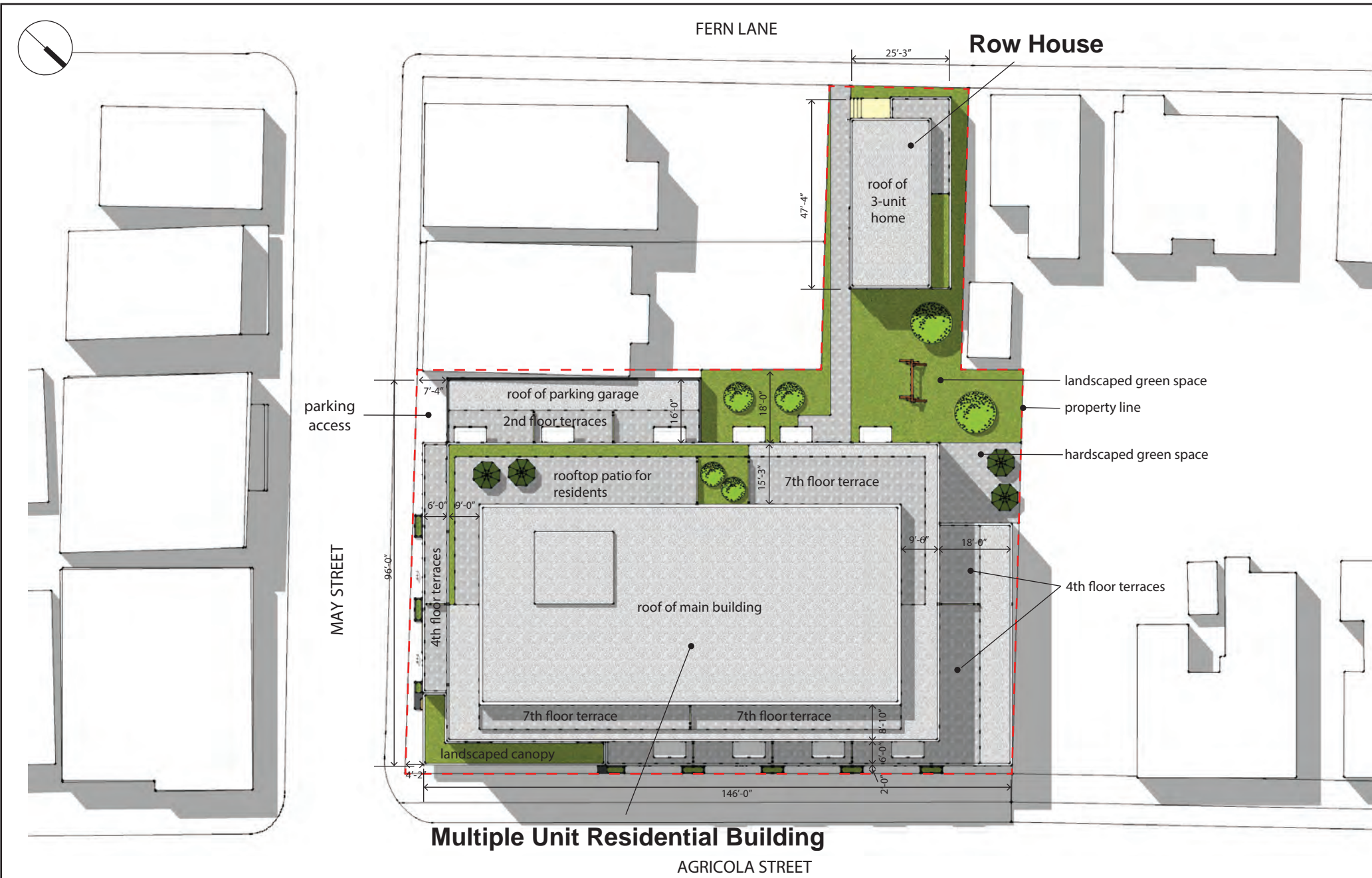
MAYOR

Witness

Per: _____

MUNICIPAL CLERK

Schedule B



Schedule C



Schedule D



elevator overrun

fiber cement facade

wood slats

glass railing

glass balcony

triple pane glazing

fiber cement facade

glass railing

fiber cement facade

masonry veneer

14'-0"

31'-0"

80'-0"

21'-0"

14'-0"



Schedule E



Schedule F



Schedule G



Schedule H



Attachment C: Review of Relevant Policies of the Halifax MPS

Halifax MPS – Section XI (Peninsula North Secondary Planning Strategy) <u>Commercial Facilities – Policies 2.3.1, 2.3.2 & 2.3.3</u>	
<i>Objective: A variety of appropriately located commercial facilities to serve the needs of both the resident and working populations of Peninsula North and the City as a whole.</i>	
Policy Criteria:	Staff Comment:
<p><i>2.3 In areas designated major commercial, uses consistent with Section II, Policy 3.1.3 shall be permitted.</i></p> <p><i>[Section II, 3.1.3: Major commercial centres should service a market area comprising most or all of the City. These centres may include major offices and hotels, in addition to uses suggested for minor commercial centres. The City should encourage parking facilities in these centres to serve several businesses in order to limit nuisance impact. The City's policy for major commercial centres in all other respects should be identical to Policy 3.1.2.]</i></p>	<p>In the Peninsula North Secondary Planning Strategy (Section XI of the Halifax MPS), the site is designated Major Commercial. The site is zoned C-2 (General Business), which permits major and minor commercial land uses as well as residential uses. Parking will be provided within the building and utilized by residential tenants and guests.</p>
<p><i>2.3.1 In order to promote investment in commercial and residential redevelopment and to prevent conflict between new and existing uses the city may, through the land use by-law, identify areas that provide an opportunity for and will benefit from comprehensive site planning.;</i></p>	<p>The subject site comprises a single mixed use building with multiple tenants and a single row house. The surrounding neighbourhood consists of a mixture of uses that include residential, commercial, and institutional of varying intensities.</p> <p>As the property falls within a generally residential neighbourhood with various types of other uses (commercial and institutional), there is an opportunity for comprehensive site planning by introducing residential and commercial uses, as well as built form requirements, that are suitable and compatible with the area.</p> <p>Schedule 'Q' is currently applied to a large area of Peninsula North which is designated Major Commercial. Therefore, the proposal represents a small expansion of the Schedule 'Q' area.</p> <p>The development agreement process alleviates potential land use conflicts through appropriate land use and built form requirements.</p>
<p><i>2.3.2 In those areas identified in the land use by-law pursuant to Policy 2.3.1 all residential and mixed residential-commercial development over four units shall be by agreement.</i></p>	<p>Contingent upon approval of the LUB amendment to apply as Schedule 'Q', Council may consider the proposed development agreement.</p> <p>The proposal is for a 7-storey residential building containing ground floor commercial uses and flexibility for future ground floor residential. The proposed development presents an</p>

	appropriate and beneficial opportunity for comprehensive site planning.
<p>2.3.3 <i>In considering agreements pursuant to Policy 2.3.2, Council shall consider the following:</i></p> <p><i>(i) the relationship of new development to adjacent properties and uses; and, the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment;</i></p>	<p>The immediate neighbourhood contains a mix of land uses (see Staff Report).</p> <p>Substantial building heights and massing are achievable through the as-of-right permitting process in the major commercial portion of this area (C-2 Zone). However, the proposed building's height and mass is much less than that which could be achieved in an as-of-right commercial situation.</p> <p>Effective urban design treatment is created by a three storey streetwall along Agricola Street and a portion of May Street, which includes substantial amounts of glass and landscaping at ground-level. The building incorporates high quality materials such as wood, glass, fibre cement panels, and metal/glass railings.</p> <p>To minimize potential land use conflicts, the proposed development agreement restricts land uses on the ground floor to minor commercial uses, and the flexibility to provide future residential use. The nature of the building's non-combustible construction materials will also assist with noise attenuation. Signs are limited to fascia signs at select locations.</p>
<p><i>(ii) the appropriate integration of the development into the traditional grid street system of the Peninsula;</i></p>	<p>The site fronts Agricola Street and May Street with a row house fronting on Fern Lane The proposed development integrates with the existing street grid.</p>
<p><i>(iii) the design and layout of the development should encourage vehicular traffic to use Principal Streets and discourage traffic from infiltrating through existing neighbourhoods;</i></p>	<p>The proposed development fronts on Agricola Street and May Street, and is located between a major urban arterial street, Robie Street, and a collector street, Agricola Street.</p> <p>Both Fern and May Streets are two-lane local streets and both streets have sidewalks on both sides.</p> <p>A Traffic Impact Statement (TIS), prepared by a Professional Engineer, was reviewed by HRM and deemed acceptable. The TIS reviewed the proposed development, as well as the other TIS's prepared for eight other developments in the general vicinity. The TIS concludes that the proposed development is not expected to have any significant impact to the level of performance of Agricola Street, May Street, or Fern Lane, the adjacent intersections, or the regional street network. The TIS further concludes that the net additional trips generated by the eight developments in the area are not expected to have any significant cumulative effect on the traffic operations of local intersections or streets, or the regional street network.</p>
<p><i>(iv) the creation of high quality design detail at street level through attention to such matters as landscaping, signs, building entrances, and vehicle layby areas;</i></p>	<p>The proposed agreement requires adherence to detailed landscaping requirements, which includes the provision of landscape planters at street level along Agricola Street. Signs are limited to fascia signs at select locations.</p>
<p><i>(v) the provision of high quality open space and leisure areas of a size and type adequate for the resident</i></p>	<p>Open space and leisure areas consist of the common rooftop landscaped area, landscaped terraces, balconies, and common</p>

<p><i>population;</i></p>	<p>indoor amenity space. These spaces/areas will be adequate for the resident population.</p> <p>Provisions in the agreement ensure the use of high quality materials and landscape design.</p>
<p><i>(vi) residential and commercial densities consistent with municipal services;</i></p>	<p>With respect to municipal wastewater services, Halifax Water has reviewed the proposal, with no concerns identified at this time. Halifax Water requires evidence of wastewater capacity at the time of connection (at the building permit stage).</p>
<p><i>(vii) encouraging high quality exterior construction materials such as masonry; and</i></p>	<p>Proposed exterior materials are of high quality and include wood, glass, fibre cement panels, and metal/glass railings.</p>
<p><i>(viii) other relevant land use considerations which are based on the policy guidance of this Section.</i></p>	<p>None identified.</p>

ATTACHMENT D: Public Information Meeting Minutes

HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 20183

The following does not represent a verbatim record of the proceedings of this meeting.

Monday, June 6, 2016
7:00 p.m.
Halifax Forum (Maritime Hall)

STAFF IN

ATTENDANCE:

Darrell Joudrey, Planner II, HRM Development Approvals
Iain Grant, Planning Technician, HRM Development Approvals
Cara McFarlane, Planning Controller, HRM Development Approvals

ALSO IN

ATTENDANCE:

Councillor Jennifer Watts, District 8
Kourosh Rad, WSP Canada Inc.
Anna Sampson, Architecture 49

PUBLIC IN

ATTENDANCE:

Approximately 30

The meeting commenced at approximately 7:03 p.m.

1. Call to order, purpose of meeting – Darrell Joudrey

Mr. Joudrey introduced himself as the Planner and Facilitator for the application; Kourosh Rad, WSP Canada Inc.; Anna Sampson, Architecture 49; Councillor Jennifer Watts, District 8; and Iain Grant and Cara McFarlane, HRM Development Approvals.

Case 20183 - Application by WSP Canada to amend the Land Use By-law for Halifax Peninsula by applying Schedule Q to lands located at 2710 Agricola Street, Halifax and for approval of a development agreement to enable a 7 storey mixed use building with 68 units.

The purpose of the Public Information Meeting (PIM) is to: a) identify the proposal site; b) look at the current planning approach in the neighbourhood; c) highlight the proposal; d) explain the process from the Municipal Planning Strategy (MPS) that allows this to be considered; e) give the applicant an opportunity to present the proposal; and f) receive public feedback and input regarding the proposal that will be used to prepare the staff report and go forward with this application. No decisions are made at this PIM.

2. Presentation of Proposal – Darrell Joudrey

Mr. Joudrey presented the proposal outlining the site (17,481 square feet) and the relevant planning policies [MJC (Major Commercial) within the Halifax MPS, Peninsula North Secondary Plan - Area 5] and zoning [C-2 (General Commercial) Zone – allows Schedule Q to be applied). The Centre Plan for the Regional Centre was explained to the audience. Mr. Joudrey reviewed the planning process.

Presentation of Proposal – Anna Sampson, Architecture 49 and Kourosh Rad, WSP Canada Inc.

The proposal started in June 2015 with a public open house which resulted in a new application submitted to HRM. The orientation of the site and its surroundings were reviewed: commercial, residential, mixed use, and the Bloomfield site. An overview of the planning context/existing rights was given and the reason why the applicant is asking for a by-law change. The building would be built to Passive House standards (Ms. Sampson explained and referenced the website and the display at the Discovery Centre). The design ideas and differences between the original proposal and revised one were reviewed and included things like setbacks/stepbacks, building mass materials, layout, etc. A shadow study showing results for the months of December, March, September and June was presented.

3. Questions and Comments

Marvin Moore, May Street, reiterated from the first public meeting he attended that the building is too big for the neighbourhood and the setback is not large enough especially on May Street. There is no space for the public. As wonderful as the passive house design is, it's too big and tall and takes up too much space. Isleville Street has new larger buildings but all of them are set back from the sidewalk more so than this one. **Mr. Rad** – The sidewalk is setback a little bit (location shown) and space is provided for people to walk. The idea is to have an active storefront on the street. The height was brought up at the last meeting. Compared to the height of the buildings to the north and south on Agricola Street, this proposal falls in between and the seven storeys seems appropriate for the area. **Mr. Moore** believes four or five storeys would be high enough. The answer regarding height a year ago was that it wasn't economically feasible to make the building that small.

Anthony Kawalski, Brunswick Street – Is any of the mixed residential use affordable housing? This might be an opportunity for the developer to lead by example for the city. **Mr. Rad** - Affordable housing is a Provincial matter and without a mechanism that is workable, it is extremely difficult to provide affordable housing on a scale like this. Affordable housing is needed especially in the north end of Halifax. **Mr. Kawalski** – If this moves forward, with the mass of the building and the little setback, he believes the building should be broken up more than just with the occasional panel of wood. Also, if approved, it would be somewhat an iconic for the location both in terms of mass and presence. Will there be an opportunity to create a European style commercial space with more setback from the street with a covered arcade strip allowing a greater egress of people to access that retail space? Will the commercial space be divided into more affordable units? **Mr. Rad** – There is an interest in dividing the commercial space into smaller units to allow room for more affordable commercial spaces. **Ms. Sampson** – The idea is to have a free-standing structure and with the larger mass to keep the more neutral color with some accents of wood so that we would help accentuate the scale of the building at the lower level.

Darrell Maxon, Agricola Street, was under the impression that there is a hold on the Bloomfield School site; therefore, there are no plans. **Mr. Rad** – The plan that was shown in the presentation was the latest official plan on that site. **Mr. Maxon** – The shadow analysis shows until 4:00 p.m. but by 5:00 p.m. his house will be in total darkness. **Mr. Rad** – The full study shows analysis from 8:00 a.m. to 8:00 p.m. **Mr. Maxon** - Regarding the parking, there are 24 spaces proposed to accommodate 68 residential units. Parking is already difficult in this area and some residents have a parking permit to park on the street. Parking for 40 extra units will be a nightmare. **Ms. Sampson** strongly believes that this building is for the future and will attract

people who are not car dependent and will use other methods of transportation.

Deborah Gillis, Bedford, wondered why the lot on Fern Lane is being lumped in with the Agricola and May Streets development if it is not being consolidated as pointed out in the presentation. This is concerning as traffic will increase on that narrow street and parking will be a nightmare, both for residents and the commercial patrons. She agrees that the development is too large for the neighbourhood. **Mr. Rad** – All seven lots are connected. The Fern Lane lot could be either consolidated or subdivided but discussions are not at that point yet. The detail analysis is the next step.

Jane Hart, Fuller Terrace, was at the meeting a year ago. A lot of people at that meeting thought the building was too big for the neighbourhood and certainly were not happy with it being right on the sidewalk on both sides. The building is still too big and she doesn't see any big differences stylistically. Many buildings being constructed in the area include groundfloor commercial. Halifax doesn't currently have a lot of commercial activity. Does the developer or City have a Plan B in case these units remain empty? **Mr. Rad** – The development agreement includes a standard clause to allow the commercial units to be converted to residential. **Ms. Hart** - What will the price range of the units be? **Mr. Rad** – The price is hard to say at this point but it has to be accepted in the market. **Ms. Hart** sees this proposal as too big and too high and would consider a four storey, maybe five, with a bigger setback.

Heather Maxon, Agricola Street, will be greatly impacted as she lives directly across the street. The proposal is too high but she would consider a maximum of four storeys. What kind of space is available for family get-togethers? **Ms. Sampson** showed an area of open space in the back that could be used for planting and BBQ'ing as well as some rooftop terrace area to support a gathering of people in the building. These areas will be more detailed as the project moves forward. **Ms. Maxon** reiterated that there is absolutely no parking in the area at night.

Chelsea Code McNeil, Ontario Street, is all for the low parking ratio and believes it fits the demographic of people who will live in the building and she is excited that there is going to be a passive house option. As a renter, there aren't a lot of options available to personally control her environmental contribution. This area is a metro transit hub and it is very easy to get around. She is glad parking is not being prioritized. Will this building be condos or rentals? **Mr. Rad** – This will be decided later, but leaning towards rentals at this point. He wanted to point out that there will also be an area for bike storage and repair (not mentioned earlier in the presentation).

Pat Kipping, Almon Street, attended the first meeting and is excited about the passive house building. She does like some of the changes and thought they were very responsive. She would like to see a little more stepback on the upper portion more of a stepdown kind of idea. Would laundry facilities be an example of one of the standards to be met as a passive building? **Ms. Sampson** explained that the developer has to prove the building is meeting passive house standards. **Ms. Kipping** likes the idea of the shared bike repair space and bike storage. Is there plans for a common room? **Ms. Sampson** – There is a 450 square foot rooftop amenity space and a rooftop garden area. **Ms. Kipping** agrees with the concept of breaking up the mass of the building. She is interested in the rent and the idea of affordable housing. Hopefully there will be some programs in place where affordable housing can be possible. Regarding the commercial use, she is interested in the market research and vision for the commercial use that was done. With the Bloomfield project on hold, there will be a lot of demand for commercial space in the area.

Steven MacDonald, Armcrescent West Avenue – His home was built on passive house principles and wanted to comment on the efficiency and comfort of the home. Energy costs are a fraction of what they would otherwise be and the home is incredibly comfortable with high air quality.

Valerie Evans, Norwood Street, introduced herself as one of the owners of the company that will develop this property.

Brenden Sommerhalder, Roome Street, likes the balconies and the three storey streetwall. The design is still too uniform and the sidewalk is very narrow. He understands the principle of going right to the sidewalk but wondered if it could be set back a bit to give some of the sidewalk back. **Mr. Rad** will go back to the client to see if the building can be pushed back a bit further.

Mr. Joudrey mentioned that any updates will be posted to the website.

Ms. Hart – Why is Schedule Q required? **Mr. Rad** – As of right, there are no height limits and the development is either residential or commercial. There is no mechanism for a mix of development in this zoning. **Mr. Joudrey** – Schedule Q allows the development agreement to be negotiated between the community and the developer which enables the project to be built on the site.

Councillor Watts, District 8 – There is another opportunity to provide comments to Districts 7 & 8 Planning Advisory Committee and this will be publicized on the website. Schedule Q is a mechanism that enables development of a combination of residential with commercial uses. It also allows for some design controls as opposed to a development done as of right. The Centre Plan, which is coming into place, will provide much clearer regulations and move towards mixed uses.

Jacob Ritchie, Manager of Urban Design, gave a brief explanation of why Schedule Q is applied to a property within the Peninsula and why the Centre Plan is creating a Municipal Planning Strategy for the Regional Centre (Halifax Peninsula and all areas of Dartmouth within the Circumferential Highway).

4. Closing Comments

Mr. Joudrey thanked everyone for coming and expressing their comments.

5. Adjournment

The meeting adjourned at approximately 8:45 p.m.

Attachment E – Legislative Authority

1. Land Use By-law Amendments By Community Council

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”),

- 30 (1)** A community council may amend the land-use by-law of the Municipality applicable to the community with respect to any property in the community if the amendment carries out the intent of any municipal planning strategy of the Municipality applicable to the property and, in doing so, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.

HRM Charter, Part VIII, Planning and Development, including:

Requirements for adoption of planning documents

- 220 (1)** The Council shall adopt, by by-law, planning documents.
- (3)** Before planning documents are read for a second time, the Council shall hold a public hearing.

Amendment of land-use by-law

- 225 (1)** An amendment to a land-use by-law that
- (a) is undertaken in accordance with the municipal planning strategy; and
 - (b) is not required to carry out a concurrent amendment to a municipal planning strategy,
 - (c) is not subject to the review of the Director or the approval of the Minister.
- (2)** The procedure for the adoption of an amendment to a land-use by-law referred to in subsection (1) is the same as the procedure for the adoption of planning documents, but a public participation program is at the discretion of the Council and the amendment may be adopted by a majority of votes of the Council members present at the public hearing.
- (3)** Upon the adoption of an amendment to a land-use by-law referred to in subsection (1), the Clerk shall place a notice in a newspaper circulating in the Municipality stating that the amendment has been adopted and setting out the right of appeal.
- (4)** When notice of an amendment to a land-use by-law referred to in subsection (1) is published, the Clerk shall file a certified copy of the amending by-law with the Minister.
- (5)** Within seven days after a decision to refuse to amend a landuse by-law referred to in subsection (1), the Clerk shall notify the applicant in writing, giving reasons for the refusal and setting out the right of appeal.
- (6)** Where the Council has not, within one hundred and twenty days after receipt of a completed application to amend a land-use by-law referred to in subsection (1), commenced the procedure required for amending the land-use bylaw by publishing the required notice of public hearing, the application is deemed to have been refused.
- (7)** Within seven days after an application to amend a land-use by-law, referred to in subsection (1), being deemed to be refused, the Clerk shall notify the applicant in writing that the application is deemed to have been refused and setting out the right to appeal.
- (8)** An amendment to a land-use by-law referred to in subsection (1) is effective when

- (a) the appeal period has elapsed and no appeal has been commenced; or
- (b) all appeals have been abandoned or disposed of or the amendment has been affirmed by the Board.

Content of land-use by-law

- 235 (1)** A land-use by-law must include maps that divide the planning area into zones.
- (2)** A land-use by-law must
- (a) list permitted or prohibited uses for each zone; and
 - (b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.
- (3)** A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.
- (4)** A land-use by-law may
- (a) regulate the dimensions for frontage and lot area for any class of use and size of structure;
 - (b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;
 - (c) regulate the maximum area of the ground that a structure may cover;
 - (d) regulate the location of a structure on a lot;
 - (e) regulate the height of structures;
 - (f) regulate the percentage of land that may be built upon;
 - (g) regulate the size, or other requirements, relating to yards;
 - (h) regulate the density of dwelling units;
 - (i) require and regulate the establishment and location of off-street parking and loading facilities;
 - (j) regulate the location of developments adjacent to pits and quarries;
 - (k) regulate the period of time for which temporary developments may be permitted;
 - (l) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;
 - (m) regulate the floor area ratio of a building;
 - (n) prescribe the fees for an application to amend a landuse by-law or for entering into a development agreement, site plan or variance.
- (5)** Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, as long as a lot has access to at least one street;
 - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
 - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
 - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
 - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
 - (f) regulate the location of disposal sites for any waste material;
 - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
 - (h) regulate or prohibit the removal of topsoil;
 - (i) regulate the external appearance of structures;
 - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;

- (k) provide for incentive or bonus zoning in the HRM by Design Downtown Plan Area and the Centre Plan Area, including requirements for incentive or bonus zoning;
 - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
 - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on floodplains identified in the land-use by-law;
 - (n) prohibit development or certain classes of development where, in the opinion of the Council, the
 - (i) cost of providing municipal wastewater facilities, stormwater systems or water systems would be prohibitive,
 - (ii) provision of municipal wastewater facilities, stormwater systems or water systems would be premature, or
 - (iii) cost of maintaining municipal streets would be prohibitive;
 - (o) regulate or prohibit development within a specified distance of a watercourse or a municipal water-supply wellhead;
 - (p) prohibit development on land that
 - (i) is subject to flooding or subsidence,
 - (ii) has steep slopes,
 - (iii) is low-lying, marshy, or unstable,
 - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
 - (v) is known to be contaminated within the meaning of the *Environment Act*, or
 - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
 - (q) regulate or prohibit development in areas near airports with a noise exposure forecast or noise exposure projections in excess of thirty, as set out on maps produced by an airport authority, as revised from time to time, and reviewed by the Department of Transport (Canada);
 - (r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.
- (6) Where the land-use by-law provides for incentive or bonus zoning within the Centre Plan Area, the land-use by-law must require the inclusion of affordable housing in a development in addition to any other requirements adopted by the Council, as the contribution for any incentive or bonus zoning applicable to the development.

Appeals to the Board

- 262 (1)** The approval or refusal by the Council to amend a land-use by-law may be appealed to the Board by
- (a) an aggrieved person;
 - (b) the applicant;
 - (c) an adjacent municipality;
 - (d) the Director.

2. Development Agreements By Community Council

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.

Development agreements by community councils

- 31 (2)** This Section applies to a community council if the Council so provides in the policy establishing the community council.

- (3) Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.
- (4) A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.
- (5) Where a development agreement entered into by a community council purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

HRM Charter, Part VIII, Planning and Development, including:

Development agreements

- 240 (1)** The Council may consider development by development agreement where a municipal planning strategy identifies
- (a) the developments that are subject to a development agreement;
 - (b) the area or areas where the developments may be located; and
 - (c) the matters that the Council must consider prior to the approval of a development agreement.
- (2)** The land-use by-law must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

Content of development agreements

- 242 (1)** A development agreement may contain terms with respect to
- (a) matters that a land-use by-law may contain;
 - (b) hours of operation;
 - (c) maintenance of the development;
 - (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, stormwater systems, wastewater facilities, water systems and other utilities;
 - (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
 - (f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;
 - (g) the subdivision of land;
 - (h) security or performance bonding.
- (2)** A development agreement may include plans or maps.
- (3)** A development agreement may
- (a) identify matters that are not substantive or, alternatively, identify matters that are substantive;
 - (b) identify whether the variance provisions are to apply to the development agreement;
 - (c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
 - (d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;
 - (e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by the Council without the concurrence of the property owner. 2008, c. 39, s. 242.

Requirements for effective development agreement

- 243**
- (1)** A development agreement must not be entered into until
 - (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.

 - (2)** The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.

 - (3)** A development agreement does not come into effect until
 - (a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;
 - (b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality; and
 - (c) the development agreement is filed by the Municipality in the registry.

 - (4)** The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 2008, c. 39, s. 243.