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Item No. 13.1.1
Halifax and West Community Council
March 21, 2018

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Kelly Denty, Acting Director, Planning and Development

DATE: February 2, 2018

SUBJECT: **Case 21263: Substantive Amendment to Development Agreement for 6112 Quinpool Road, Halifax**

ORIGIN

Application by Studioworks International Incorporated.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A of this report, to allow for the addition of glass canopies on the sixth and eighth floors of the building under construction at 6112 Quinpool Road, Halifax and schedule a public hearing;
2. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Halifax Regional Council approved amendments to the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) on June 25, 2013 to allow a development agreement for a mixed-use development at 6112 Quinpool Road. Subsequently, on October 28, 2013, Halifax and West Community Council approved a development agreement for 6112 Quinpool Road under planning case 17195.

The building is currently under construction and is commonly known as 'The Keep'. It is nearing substantial completion for the spring of 2018.

Subject Site	6112 Quinpool Road, Halifax (PID 00176461)
Location	Intersection of Quinpool Road and Vernon Street, Halifax
Regional Plan Designation	US (Urban Settlement)
Community Plan Designation (Map 1)	<ul style="list-style-type: none">• C (Commercial) under the Quinpool Road Commercial Area Secondary Plan (SMPS), and• MDR (Medium Density Residential) under the Peninsula Center Area Plan (SMPS), and Pepperell Street Sub-Area
Zoning (Map 2)	C-2 (General Business) Zone
Size of Site	30,514 square feet/0.7 acres/0.284 hectares
Street Frontage	Quinpool Road, Vernon Street, and Pepperell Street
Current Land Use	Multi-unit dwelling including ground floor commercial space
Surrounding Use	Quinpool is commercial and side streets mostly residential

Proposal Details

A request was submitted to amend the existing development agreement to allow for the addition of glass canopies on the eighth floor on all sides of the building and the sixth floor on the west elevation.

The proposed text amendment is considered substantive in accordance with Section 6.2.1 of the existing development agreement. The existing agreement does not provide the capacity to add a new architectural element to the design; only cladding materials may be altered via non-substantive amendment. This would be a relatively minor adjustment to the building design to improve functionality.

Existing Development Agreement

On October 28, 2013, the Halifax and West Community Council approved a development agreement under planning case 17195. This agreement allowed:

- A mixed use residential and commercial building on the aggregated subject site known as 6112 Quinpool Road;
- An 8-storey building, not exceeding a height of 27.432 M (90 feet), and containing a maximum of 72 (with variance to 81 depending on design adjustments) residential units and 0.3 hectares (31,500 sq. feet) of commercial space; and
- Design controls for aesthetic purposes and neighbourhood compatibility.

Enabling Halifax MPS Policy and LUB Context

The property is divided across two secondary plan areas with the Halifax MPS; the Quinpool Road Commercial Area Plan and the Peninsula Centre Area Plan (Map 1). The area of land which falls within the Quinpool Road Commercial Area is designated Commercial, and the area that is within the Peninsula Centre Area Plan is designated 'Medium Density Residential'. This same area that is designated Medium Density Residential also falls with the Pepperell Street Sub Area.

The Policy Review in Attachment B provides a comprehensive analysis of the planning rationale compared to relevant Halifax MPS policies.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, a postcard mailed to property owners within the notification area. A public information meeting was not scheduled due to this application being a minor adjustment to architectural detailing. No comments were submitted to staff from any of the fifty-eight mailout recipients.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

DISCUSSION

Proposed Amending Development Agreement

The proposed amendment is a single clause insertion permitting the canopies, restricted in materials to glass and metal, limited to balcony coverage only. However, this amendment qualifies as substantive under Sections 6.1 and 6.2 of the existing development agreement as canopies are considered a new architectural element to the design of the building. Please refer to Attachment A for the proposed text amendment to the existing development agreement.

Halifax Peninsula Planning Advisory Committee

On November 27, 2017, the Halifax Peninsula Planning Advisory Committee (PAC) recommended that the application be approved noting no conditions nor concerns. A report to community council from the PAC will be provided under a separate cover.

Conclusion

Staff reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the MPS. Massing impact would be negligible and residents would benefit from improved cover over the upper floor balconies in line with what is already offered on lower floor balconies. Design control over the materials will ensure aesthetic compatibility with the existing design of a building already near substantial completion. This is a minor revision to an existing development agreement.

Therefore, staff recommend that the Halifax and West Community Council approve the proposed amendment to the existing development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2017/18 C310 Planning Applications budget and with existing resources.

RISK CONSIDERATION

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

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amending Development Agreement
Attachment B:	Review of Relevant Policies of the Halifax MPS

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

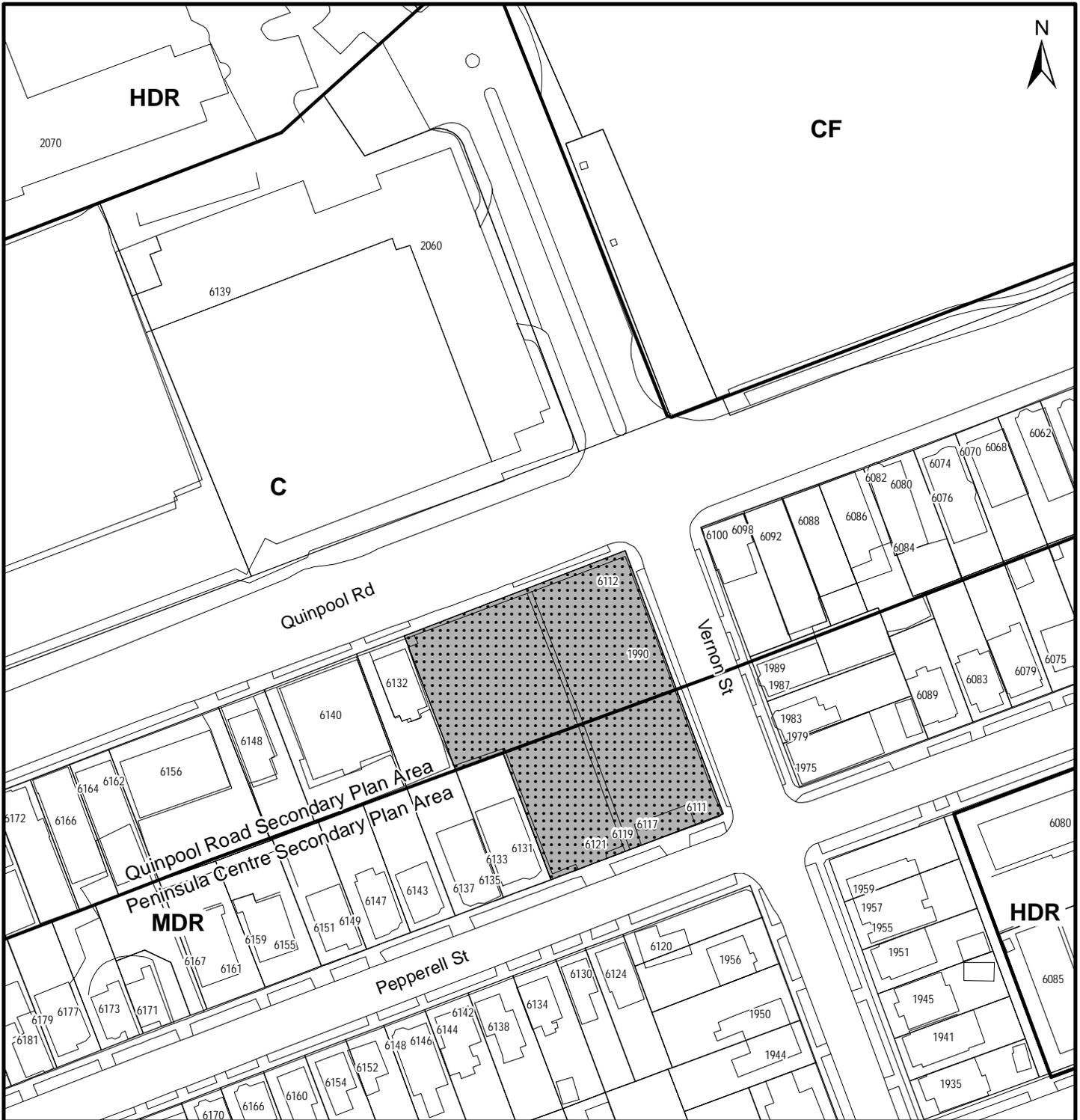
Report Prepared by: T. Scott Low, Planner II, Current Planning, 902.490.6373

Report Approved by: Original signed

Carl Purvis, Program Manager, Current Planning, 902.490.4797

Report Approved by: Original signed

Steve Higgins, Acting Manager of Current Planning, 902.490.4382



Map 1 - Generalized Future Land Use

HALIFAX

6112 Quinpool Road, Halifax

 Subject Site

Designations - Halifax Plan Area

MDR Medium Density Residential
HDR High Density Residential

Designations - Quinpool Road Secondary Planning Strategy

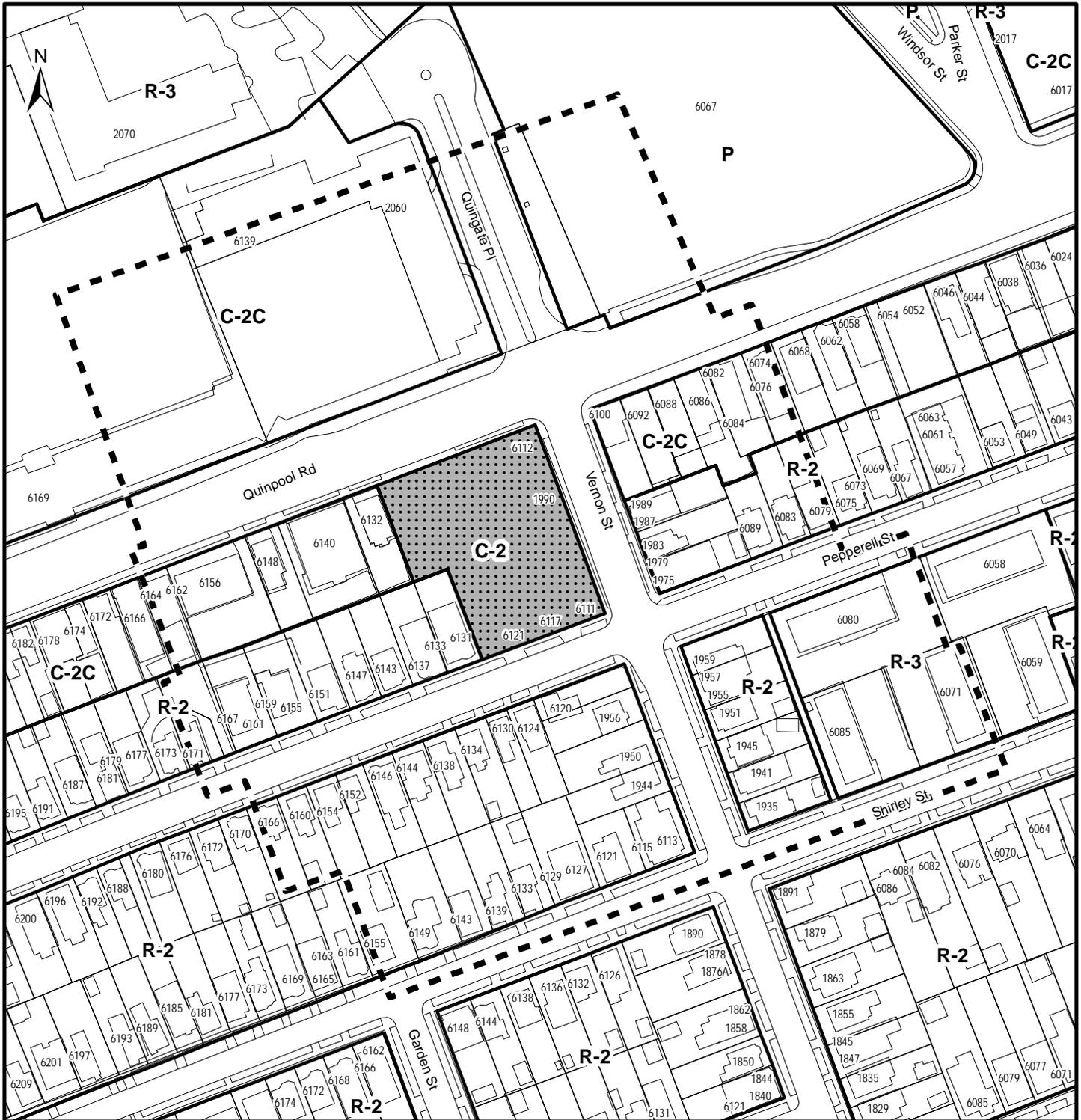
C Commercial
CF Community Facilities

Halifax Plan Area
Quinpool Road Secondary
Planning Strategy



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

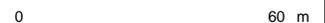
6112 Quinpool Road, Halifax

-  Subject Property
-  Area of Notification

Zones

- R-2 General Residential
- R-3 Multiple Dwelling
- C-2 General Business
- C-2C Minor Commercial - Quinpool Road
- P Park and Institutional

HALIFAX

0  60 m

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

31 October 2017

Case 21263 T:\work\planning\SER_Group\SER_Cases\Variances\21263\Maps_Plans\ (IAHG)

ATTACHMENT A

Proposed Amending Development Agreement

THIS FIRST AMENDING AGREEMENT made this [INSERT] day of [INSERT], 2018,

BETWEEN:

2227770 NOVA SCOTIA LIMITED

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 the subject lands known by the civic address of 6112 Quinpool Road, Halifax, or PID 00176461, more particularly described in Schedule A (and hereinafter called the "Lands");

AND WHEREAS the Developer and the Municipality previously entered into a Development Agreement to allow for development of the Lands, commonly known as The Keep, approved by the Halifax and West Community Council at a meeting held on October 18, 2013 (referenced by the Original Municipal Case number 17195), being recorded at the Halifax County Land Registration Office on March 14, 2014 as Document 104756128 (hereinafter known as the "Original Agreement"), and which does apply to the Lands;

AND WHEREAS the Developer requested an amendment to the Original Agreement allowing for installation of canopies over upper floor balconies on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* (S. 240), the *Halifax Municipal Planning Strategy* (S. 1.14 and 2.9), and the *Halifax Peninsula Land Use By-law* S. 95(3);

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 21263;

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

1. Except where specifically varied by this First Amending Agreement, all other terms, conditions and provisions of the Original Agreement shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this First Amending Agreement and the Original Agreement.
3. The Original Agreement shall be amended by inserting a clause under 3.5 Height and Architectural Requirements, to read in **bold** as follows:

3.5.16 Canopies or awnings on upper floors shall be made of glass and metal framing and be designed and installed such that they cover only the balcony immediately below.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

SIGNED, SEALED AND DELIVERED in the presence of:

<INSERT REGISTERED OWNER NAME>

Witness

Per: _____

Witness

Per: _____

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SEALED, 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
Per: _____
Mayor

Per: _____
Municipal Clerk

Attachment B – Review of Relevant Policies of the Halifax MPS

Halifax MPS – Section XII (Quinpool Road Commercial Area Plan) <u>Commercial Facilities – Policies 2.1.1, 2.9, 2.9.1</u>	
<i>Objective: The development and promotion of Quinpool Road as a general retail, office, personal service and business service area including mixed residential/commercial uses within the presently established commercial area.</i>	
Policy:	Staff Comment:
2.1.1 <i>In areas designated "Commercial" on the Generalized Future Land Use Map (Map 9h) of this Section, the City shall permit the following uses: retail shops and rental services, personal services, household repair shops, offices, parking structures, parking lots, bakeries, service stations, restaurants, wholesale uses in conjunction with retail uses, institutions, commercial schools, business services, and residential uses in single-use or mixed-use buildings.</i>	The existing development agreement allows commercial uses listed under the C-2C (Minor Commercial – Quinpool Road) Zone of the Halifax Peninsula Land Use By-law fronting Quinpool Road and Vernon Street.
2.9 <i>Notwithstanding Section 2.2 within the Commercial Facilities Section, for the property known as 6112 Quinpool Road bounded by Quinpool Road, Vernon Street and Pepperell Street and in conjunction with Policy 1.14 of Section VI of this Municipal Planning Strategy, the Municipality shall permit a mixed use residential and commercial building which exceeds 13.72 metres (45 feet) by development agreement. (RC-Jun 25/13; E-Aug 17/13)</i>	The existing development agreement allows an eight (8) storey commercial and residential, mixed use development at the site.
2.9.1 <i>Any development permitted pursuant to Policy 2.9 shall be achieved by attention to a variety of factors for which conditions may be set out in the development agreement, such as but not limited to:</i>	
<i>(a) the appropriate scale and massing of the building with respect to the low rise neighbourhood along Pepperell Street;</i>	No change to the general scale and massing of the building is proposed; however minor changes were approved under the building permit application that met the requirements of the existing agreement.
<i>(b) the height of the building shall transition from a maximum of height of 27.43 metres (90 feet) adjacent to Quinpool Road to a maximum height of 12.19 metres (40 feet) adjacent to Pepperell Street. Height shall be defined as the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building, but shall not include the placement of mechanical equipment;</i>	No change to the overall height of the building is proposed.

<i>(c) the building shall be constructed of high quality durable materials;</i>	The existing agreement allows canopy and awning signs to be of fabric or glass. The proposed amendments include allowing canopies and awnings that are not signs to be constructed of glass.
<i>(d) to promote pedestrian interest, where commercial uses are located at the ground floor, the ground level shall have a high level of transparency and there shall be frequent entryways where there are multiple occupancies;</i>	The existing agreement permits, but does not require, awnings.
<i>(e) the building's design shall be articulated into three separate and distinguishable sections; a base section, a middle section, and a top section in order to break up the massing of the building;</i>	Minor changes to the design of the building were approved under the building permit application, and no changes to the massing are proposed.
<i>(f) to provide connectivity with the street, minimal setbacks from property lines shall be provided;</i>	No changes to the setbacks are proposed.
<i>(g) a mixture of residential unit types and sizes shall be provided;</i>	No changes to the unit types are proposed.
<i>(h) commercial uses must be located on the ground floor of the building where it fronts Quinpool Road and Vernon Street. Commercial uses may be considered in other areas of the building, but shall not be considered at the 3rd level of a building or higher;</i>	Commercial uses are permitted on the ground and second levels of the approved building. No change in the location of commercial uses is proposed under the current application.
<i>(i) all vehicular parking shall be located underground;</i>	No changes to the parking requirements are proposed.
<i>(j) no vehicular or service access points shall be located on Quinpool Road;</i>	The existing agreement does not permit driveway or parking garage access from Quinpool Road, and no changes are proposed.
<i>(k) the size and visual impact of utilitarian features such as garage doors, service entries, and storage areas, shall be minimized;</i>	Section 3.5.10 of the existing agreement requires all functional elements be painted to match the colour of the adjacent surface. Functional elements are shown above the parking garage entrance on the South Elevation (Pepperell St.). No changes are proposed.
<i>(l) the building shall include useable on-site landscaped open space and recreational amenities of a size and type adequate for the residential population;</i>	Landscaped and amenity space is provided under the existing agreement. Changes to these requirements are not proposed; however, landscaping details were removed on the proposed schedules. The existing agreement provides sufficient details for landscaping, and no changes are proposed.
<i>(m) there shall be adequate water and sewer capacity to service the development; and</i>	No changes to the density is proposed. Therefore, additional capacity is not necessary.

<p><i>(n) there shall be controls put in place to reduce conflict with any adjacent or nearby land uses by reason of traffic generation, access to and egress from the site and parking. (RC-Jun 25/13; E-Aug 17/13)</i></p>	<p>N/A</p>
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<p>Halifax MPS – Section VI (Peninsula Centre Area Plan) <u>Residential Environments – Policies 1.14 and 1.14.1</u></p>
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Policy:	Staff Comment:
<p><i>1.14 Notwithstanding the Mid Density Residential Designation of the southern portion of the property known as 6112 Quinpool Road bounded by Quinpool Road, Vernon Street and Pepperell Street, and in conjunction with Policy 2.9 of Section XII of this Municipal Planning Strategy, the Municipality shall permit a mixed use residential and commercial building by development agreement. (RC-Jun 25/13 E-Aug 17/13)</i></p>	<p>The existing development agreement allows an eight (8) storey commercial and residential, mixed use development at the site.</p>
<p><i>1.14.1 Any development permitted pursuant to Policy 1.14 shall be achieved through attention to a variety of factors for which conditions may be set out in the development agreement, such as but not limited to the criteria found in Policy 2.9 any 2.9.1 of Section XII of this Municipal Planning Strategy. (RC-Jun 25/13 E-Aug 17/13)</i></p>	<p>See policy 2.9 and 2.9.1 above.</p>