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Item No. 13.1.4
Halifax and West Community Council
January 8, 2019

TO: Chair and Members of Halifax and West Community Council

-Original Signed-

SUBMITTED BY:

Kelly Denty, Director, Planning and Development

-Original Signed-

Jacques Dubé, Chief Administrative Officer

DATE: October 24, 2018

SUBJECT: **Case 21861: Non-substantive amendments to an existing development agreement on lands at 2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax.**

ORIGIN

Application by City of Halifax Non-Profit Housing Society requesting non-substantive amendments to an existing development agreement on the lands at 2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax, to extend the date of commencement for construction.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve, by resolution, the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report, to extend the development commencement date for the proposed development at 2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax; and
2. Require the amending development agreement be signed by the property owners 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

City of Halifax Non-Profit Housing Society is applying for a non-substantive amendment to an existing development agreement to allow for a time extension to the development commencement date for a proposed residential/commercial development at 2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax.

Subject Site	2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax. (PIDs 41158411, 40261356, and 40261349)
Location	North side of Brunswick Street, Halifax. To the southeast of the Angus L. MacDonald Bridge.
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Medium Density Residential Designation (MDR), Area 7 of the Peninsula North Secondary Plan, and Schedule HA-1, all within the Halifax Municipal Planning Strategy
Zoning (Map 2)	R-2 (General Residential) Zone of the Halifax Peninsula Land Use Bylaw
Size of Site	Approximately 1,253 square metres (13,490 square feet)
Street Frontage	Approximately 48 meters (157 feet)
Current Land Use(s)	Two dwellings rented as low-income housing, and a third dwelling which was condemned in 2005 and has remained vacant since.
Surrounding Use(s)	A mix of residential uses including 2-3 story semi-detached dwellings along the opposite side of Brunswick Street. The North Mews, a housing complex, is located immediately South to the subject area. The subject area is in proximity to a transit hub, a community recreational facility, greenspace, and commercial uses along Gottingen and Agricola Streets.

Proposal Details

On March 5, 2012, the Peninsula Community Council approved a development agreement to allow a multiple unit dwelling at 2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax.

The existing development agreement allows a building with a maximum height of 37 feet and 34 units with a minimum of ten units containing two-bedrooms or more. The design intends to replicate four individual homes and reflect the existing character of Brunswick Street by dividing the building into four components joined by the main body of the structure.

Section 6.3.1 of the existing agreement requires that construction commence within three (3) years and be completed within five (5) years from the date of registration of the original development agreement. This commencement date expired on September 15, 2018.

The applicant proposes to amend the existing development agreement to allow for a four (4) year extension to the original three (3) year commencement and completion dates. No other changes to the development as originally approved are proposed.

The City of Halifax Non-Profit Housing Society has indicated a continued intent to complete this project. A time extension is required to secure the development capacity on this site while accommodating an operational plan that includes repair and recapitalization of existing housing stock prior to construction of new units.

Enabling Policy and LUB Context

Policies 9.3, 9.3.2, 9.3.2.1 of Section XI of the Halifax Municipal Planning Strategy, and Section 93 of the Halifax Peninsula Land Use By-law allows apartment houses over four dwelling units that maintain the streetscape of Brunswick Street by development agreement.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through providing information through the HRM website and signage posted on the subject site. A public information meeting and public hearing are not required for a non-substantive amendment to a development agreement. The decision on the amendments is made by resolution of Council.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and advise that it is consistent with the intent of the Halifax Municipal Planning Strategy.

Proposed Amending Agreement

Attachment A contains the proposed amending development agreement. This agreement allows no change to the development as originally approved other than a four (4) year extension of the commencement and completion dates.

The proposed time extensions can be considered as a non-substantive amendment as provided for in section 5.1.1(b) of the original development agreement.

The enabling policy has not changed since the application was originally approved and staff advise that the proposal remains consistent with that specific policy and MPS at-large

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The MPS policy has not changed since the time the application was originally approved, nor has the surrounding neighbourhood changed in a manner which would impact the application of policy. Therefore, staff recommend that the Halifax and West Community Council approve the proposed amending development agreement.

FINANCIAL IMPLICATIONS

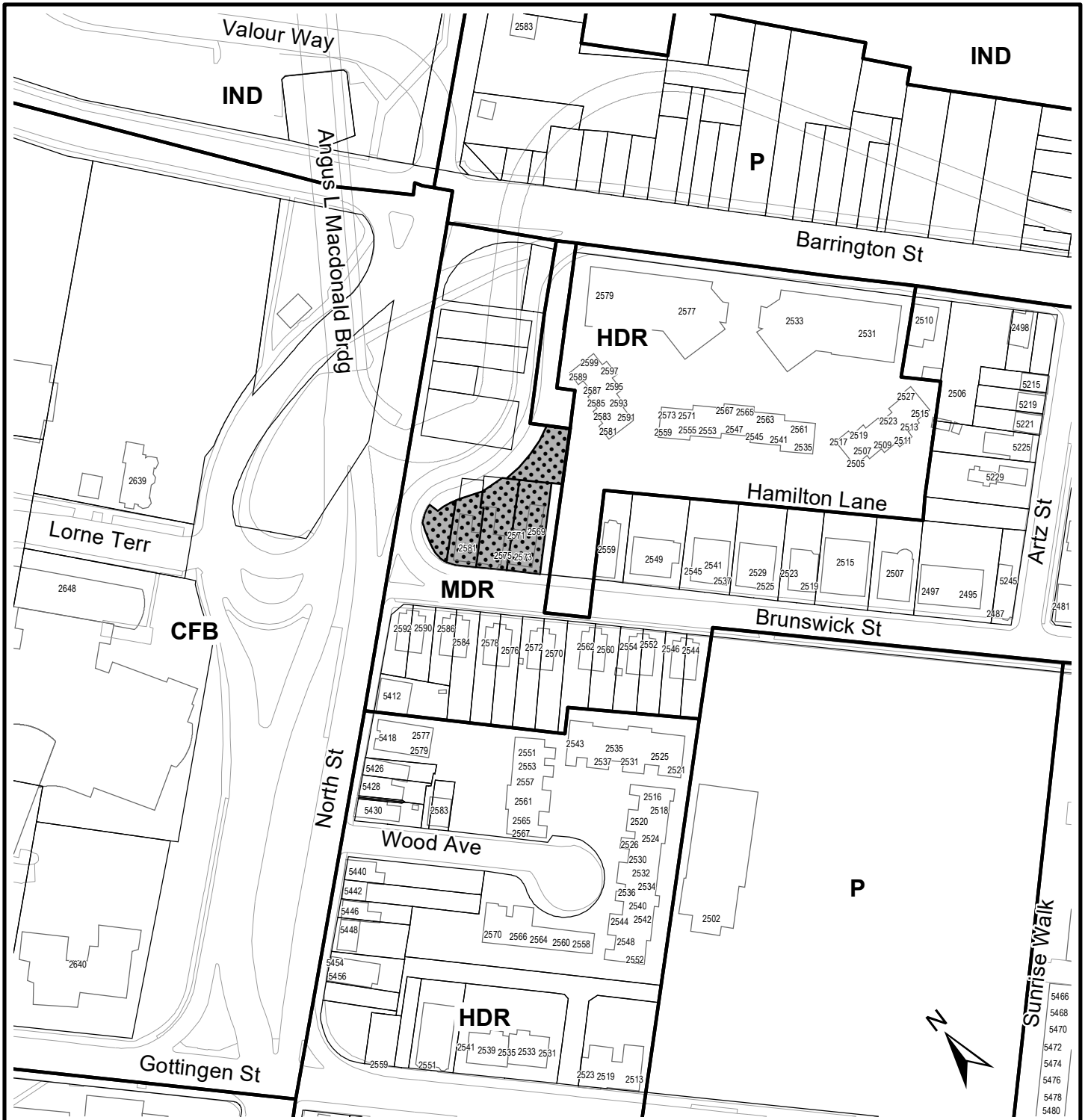
There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018-2019 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.



Map 1 - Generalized Future Land Use

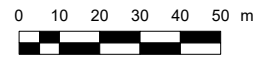
2569, 2571, 2573, 2575, 2579 and 2581
 Brunswick Street, Halifax

HALIFAX

 Subject area

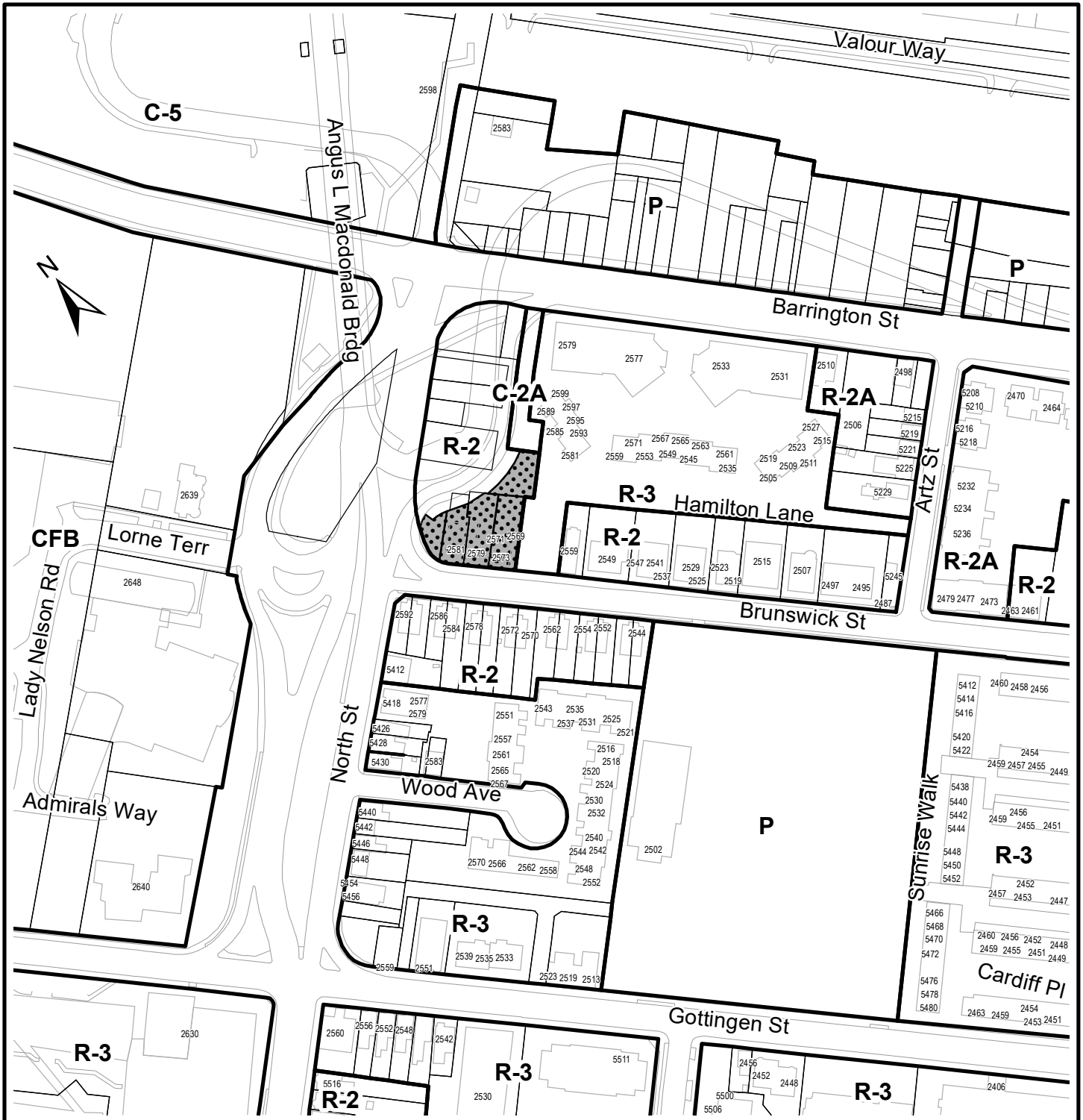
Designation

- MDR Medium Density Residential
- HDR High Density Residential
- IND Industrial
- P Park
- CFB Canadian Forces Base




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

HRM does not guarantee the accuracy of any representation on this plan.



Map 2- Zoning

2569, 2571, 2573, 2575, 2579 and 2581
 Brunswick Street, Halifax

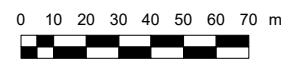
 Subject area

Halifax Peninsula
 Land Use By-Law Area

Zone

- R-2 General Residential
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- C-2A Minor Commercial
- C-5 Harbour Related Industrial
- CFB Canadian Forces
- P Park and Institutional

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

HRM does not guarantee the accuracy of any representation on this plan.

Attachment A
Proposed Amending Development Agreement

THIS FIRST AMENDING DEVELOPMENT AGREEMENT made this day of **[Insert Month], 2018,**

BETWEEN:

CITY OF HALIFAX NON-PROFIT HOUSING SOCIETY

A body corporate, in the Halifax Regional Municipality 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 2569, 2571, 2573, 2575, 2579 and 2581 Brunswick Street, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Peninsula Community Council of the Halifax Regional Municipality approved an application to enter into a development agreement to allow for a multiple unit dwelling containing no more than 34 units on the Lands on March 5, 2012 (Municipal Case 16803), which said Agreement was registered at the Land Registration Office on September 17, 2015 as Document Number 107792914 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer wishes to amend the Existing Agreement to allow for a four (4) year extension to the date of construction commencement of development pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6 of the Existing Agreement;

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 **21861**;

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

1. Except where specifically varied by this First Amending Development Agreement, all other terms, conditions and provisions of the Existing 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 Development Agreement, and the Existing Agreement.
3. Section 6.3.1 of the Existing Agreement shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in bold as follows:

6.3.1 In the event that development on the Lands has not commenced within ~~3~~ **4** years from the date of registration of this **First Amending Development** 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.

4. Section 6.4.3 of the Existing Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold as follows:

- 6.4.3 If the Developer fails to complete the development after ~~5~~ **6** years from the date of registration of this **First Amending Development** 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.

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:

CITY OF HALIFAX NON-PROFIT HOUSING SOCIETY

Witness

Per:_____

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per:_____
MAYOR

Witness

Per:_____
MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia