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Item No. 13.1.4 (i)
Halifax and West Community Council
December 11, 2019

TO: Chair and Members of Halifax and West Community Council

-Original Signed-

SUBMITTED BY: _____
Kelly Denty, Director, Planning and Development

DATE: November 26, 2019

SUBJECT: **Case 20774: Development Agreement Correction, Multiple Unit Residential Development, Wellington Street, Halifax.**

SUPPLEMENTARY REPORT

ORIGIN

- Application by Lydon Lynch Architects, on behalf of BANC Developments Limited;
- Original Staff Report dated April 11, 2019;
- July 10, 2019, public hearing and approval of MPS and LUB amendments by Halifax Regional Council; and
- August 6, 2019, approval of a development agreement by Halifax and West Community Council.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Correct, by resolution, the development agreement approved by Halifax and West Community Council on August 6, 2019 for 1110, 1116, 1120, 1122, 1126A/1126B/1126C and 1130/1132, Wellington Street, Halifax by deleting section 3.4.7 and replacing it with the following:

3.4.7 The streetwall shall be setback from the streetline a minimum of 1.5 metres and a maximum of 4.5 metres.

2. Require the development agreement, including the correction noted in recommendation number 1, be signed by the property owner within 120 days from December 11, 2019 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

On August 6, 2019, Halifax and West Community Council approved a development agreement for an eight storey multiple unit residential building (plus penthouse) at 1110, 1116, 1120, 1122, 1126A/1126B/1126C and 1130/1132, Wellington Street, Halifax. Council's decision was not appealed and the development agreement was signed by the property owner.

However, prior to execution of the agreement by the Municipality's signing officers, the following drafting error was confirmed: Subsection 3.4.7 referenced that the streetwall shall be setback 4.1 metres from the streetline. This subsection should be corrected to identify a minimum streetwall setback of 1.5 metres and a maximum streetwall setback of 4.5 metres from the streetline.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and is described in the April 11, 2019 staff report.¹

DISCUSSION

As a means of addressing the error identified above, section 3.4.7 must be amended. In addition, the staff recommendation includes a new 120-day timeframe within which the property owner must sign the corrected development agreement.

The required correction has no effect on the intent of the development agreement that was approved by Community Council. The proposed change rectifies an incorrect reference which is inconsistent with: Schedule B (Site Plan) of the development agreement; subsection 3.4.1 of the development agreement regarding siting of the building; and references in the staff report dated April 11, 2019, which identify provisions of the development agreement, including specific requirements for a minimum streetwall setback of 1.5 metres and a maximum streetwall setback of 4.5 metres from the Wellington Street lot line. As the Development Agreement has not yet been executed by the Municipality's signing officers, it is not in effect.

If Community Council approves the staff recommendation, the corrected agreement must be signed by the property owner(s) and then the agreement may be authorized for execution by the Municipality's signing officers.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of the proposed development agreement. The administration of the proposed development agreement can be carried out within the 2019-20 budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report. The proposed correction to the develop agreement does not require a new public hearing and Community Council is able to approve the correction by resolution. A decision to approve the proposed correction may not be appealed to the

¹ Link to Staff Report dated April 11, 2019: https://www.halifax.ca/sites/default/files/documents/city-hall/community_councils/190806hwcc1315.pdf

N.S. Utility and Review Board.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those raised in the original staff report.

ALTERNATIVES

Halifax & West Community Council may choose to:

1. Propose modifications to the proposed correction. Such modifications may require further negotiations with the applicant and may require a supplementary report and/or an additional public hearing.
2. Not correct the development agreement. This is not recommended for the reasons outlined in the report.

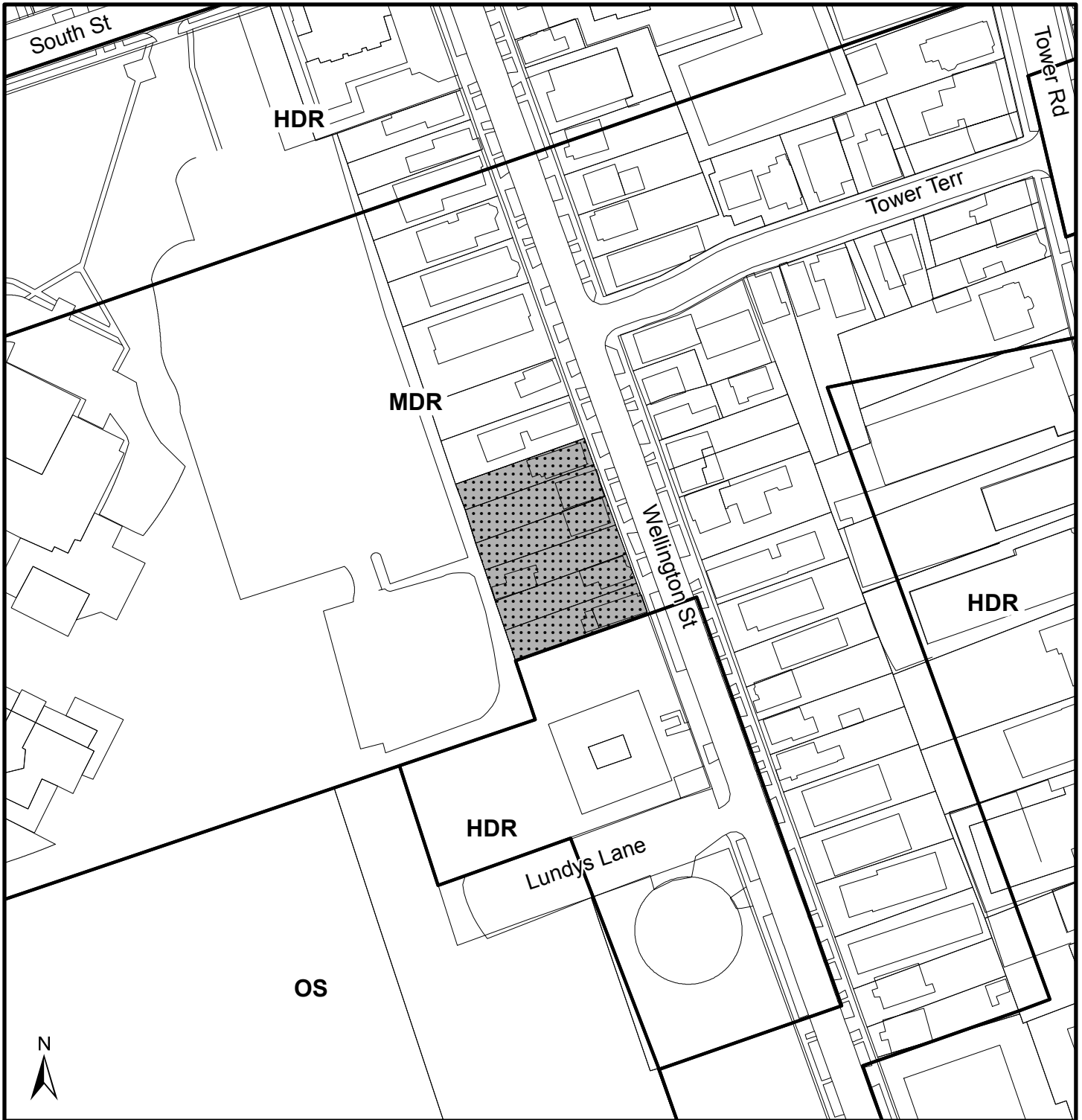
ATTACHMENTS

Map 1 Generalized Future Land Use Map
Map 2 Zoning and Area of Notification

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

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Report Approved by: Eric Lucic, Regional Planning Manager, 902.430.3954



Map 1 - Generalized Future Land Use

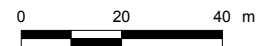
HALIFAX

Wellington Street

 Subject Properties

Designation

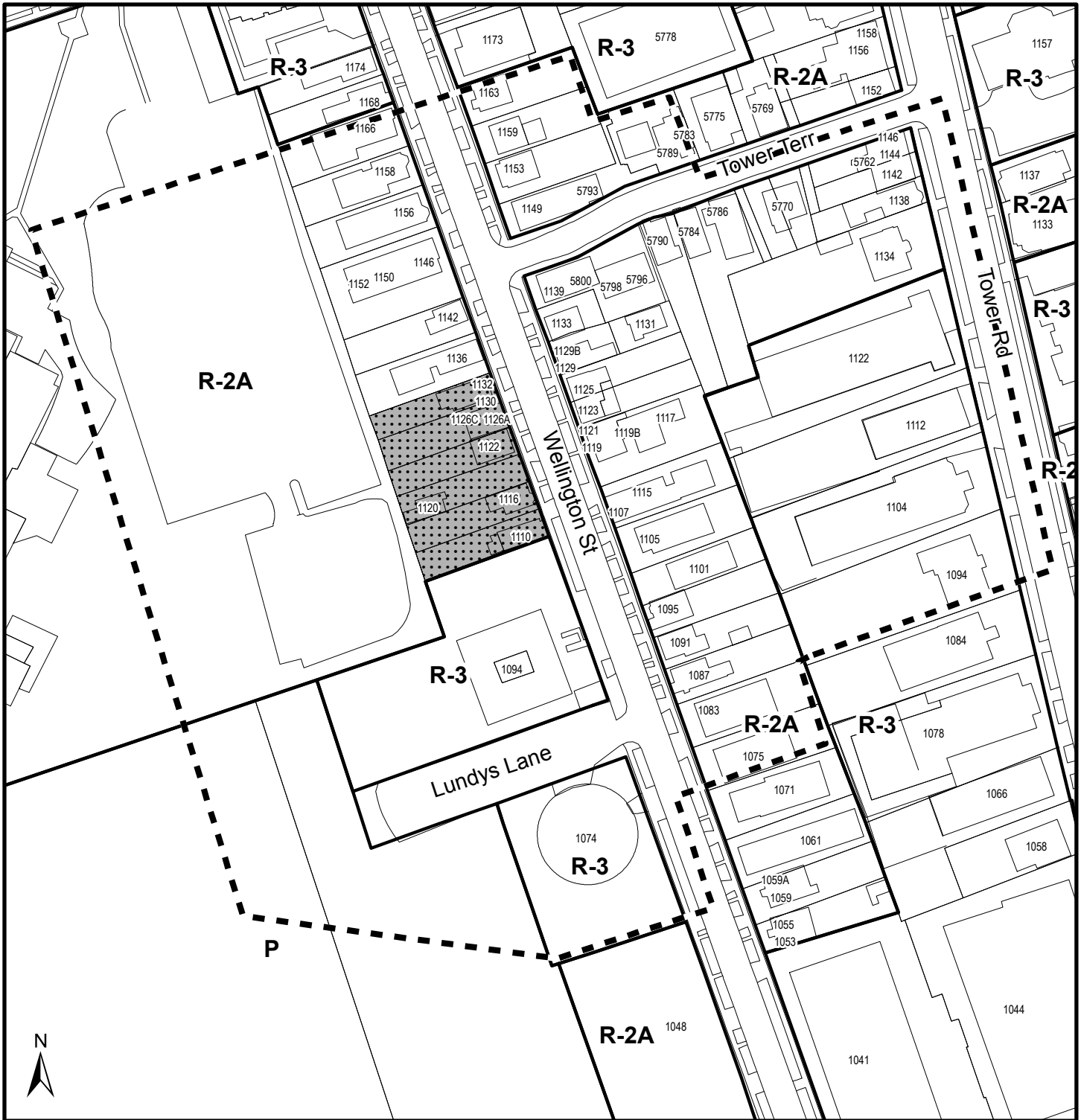
- MDR Medium Density Residential
- HDR High Density Residential
- INS Institutional
- OS Open Space



Halifax Plan Area
South End Plan Area



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 Area of Notification

Wellington Street

-  Subject Properties
-  Area of Notification

- Zone**
- R-2A General Residential Conversion
 - R-3 Multiple Dwelling
 - 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