



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

**Item No. 7.2.1**  
**Halifax & West Community Council**  
**February 16, 2021**

**TO:** Lindell Smith and Members of Halifax & West Community Council

**SUBMITTED BY:** Original Signed  
For Jenny Lugar, Chair, Heritage Advisory Committee

**DATE:** February 2, 2021

**SUBJECT:** Case 23066: Development Agreement for 1029 Tower Rd

**ORIGIN**

January 27, 2021 special meeting of the Heritage Advisory Committee, Item 9.1.3.

**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 development agreement, as set out in Attachment A of the December 24, 2020 report, to allow a three-storey multi-unit residential building and a commercial use on the registered heritage property located at 1029 Tower Road and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the agreement to 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**

The Heritage Advisory Committee received a staff recommendation report dated December 24, 2020, at their January 27, 2021 special meeting respecting Case 23066.

For further information on the background of this item, refer to the staff report dated December 24, 2020.

**DISCUSSION**

The Heritage Advisory Committee reviewed the December 24, 2020 staff report, and received a staff presentation at their January 27, 2021 special meeting. Following a discussion of the item, the Committee approved the recommendation as outlined in the "Recommendation" portion of this report.

For further discussion on this item, refer to the staff report dated December 24, 2020.

**FINANCIAL IMPLICATIONS**

Refer to the staff report dated December 24, 2020.

**RISK CONSIDERATION**

Refer to the staff report dated December 24, 2020.

**COMMUNITY ENGAGEMENT**

Members of the public are permitted to submit correspondence and petitions to be circulated to the Heritage Advisory Committee. The agenda, reports, and minutes of the Heritage Advisory Committee are posted on Halifax.ca.

For further information on Community Engagement as it relates to this item, refer to the staff report dated December 24, 2020.

**ENVIRONMENTAL IMPLICATIONS**

Refer to the staff report dated December 24, 2020.

**ALTERNATIVES**

The Committee did not discuss alternatives. Refer to the staff report dated December 24, 2020.

**ATTACHMENTS**

**Attachment 1** – Staff Recommendation Report dated December 24, 2020

**Attachment 2** – Extract from the Heritage Advisory Committee January 27, 2021 Draft Minutes

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If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Simon Ross-Siegel, Legislative Assistant, Office of the Municipal Clerk, 902.490.6519

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

**Attachment 1**  
**Heritage Advisory Committee**  
**January 27, 2021**

**TO:** Chair and Members of the Heritage Advisory Committee

**-Original Signed-**

**SUBMITTED BY:**

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Kelly Denty, Executive Director of Planning and Development

**-Original Signed-**

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Jacques Dubé, Chief Administrative Officer

**DATE:** December 24, 2020

**SUBJECT:** **Case 23066: Development Agreement for 1029 Tower Road, Halifax**

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**ORIGIN**

An application by ZZap Consulting Inc. for a development agreement at 1029 Tower Road, Halifax.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that the Heritage Advisory Committee recommend that Halifax and West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to allow a three-storey multi-unit residential building and a commercial use on the registered heritage property located at 1029 Tower Road and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the agreement to 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**

ZZap Consulting Inc., on behalf of the property owner Stefan Frent has applied to enter into a development agreement to construct a three-storey multi-unit residential building and to allow a commercial use on the registered heritage property at 1029 Tower Road, Halifax. If approved, the heritage building will be restored and preserved on the property.

This application is being considered under Policy 6.8 of the Halifax Secondary Municipal Planning Strategy (MPS) which allows uses other than those permitted under the existing land use by-law specifically for registered heritage properties to encourage the retention, conservation and viability of those properties.

<b>Subject Site</b>	1029 Tower Road, Halifax
<b>Location</b>	The subject property abuts the rear property lines of three properties at the northeast corner of Inglis Street and Tower Road, South End Halifax
<b>Regional Plan Designation</b>	Urban Settlement
<b>Community Plan Designation (Map 1)</b>	MDR (Medium Density Residential)
<b>Zoning (Map 2)</b>	R-2A (General Residential Conversion)
<b>Size of Site</b>	474 s/m (5,100 s/f)
<b>Street Frontage</b>	27 m (90 ft) on Tower Road
<b>Current Land Use(s)</b>	A single-unit detached residential dwelling
<b>Surrounding Use(s)</b>	A variety of residential uses, ranging from detached single-unit dwellings to mid-rise multi-unit buildings

### **Proposal Details**

Under the proposal, the heritage building will be moved and repositioned to face Tower Road on a new foundation to provide space to construct a new three storey building on the same property. The heritage building will include a new coffee shop or similar use on the ground floor with residential units in the basement and second storey. It will be setback from the sidewalk to enable a large front yard.

The new three-storey building will include up to a maximum of eight residential units and will be of a scale and design that is complementary to the heritage building and streetscape. Conservation work on the existing heritage building will include repairing and renovating the exterior including cladding, roof, windows, and chimneys while making upgrades to meet Building Code requirements and constructing a new rear addition.

### **Heritage Planning**

The subject property is listed on the Registry of Heritage Property for the Halifax Regional Municipality and as such, is protected under the Nova Scotia *Heritage Property Act*. The building at 1029 Tower Road, known as the Dr. James Doull House, forms part of a Victorian Streetscape along Tower Road in Halifax. The Victorian Streetscape is valued for the fourteen houses designed in the Late Victorian Eclectic style: a complex style that incorporates many traditional architectural styles into one house. The Dr. James Doull House (c.1873) is one of the oldest buildings in the Streetscape and is unique among its neighbours due to its smaller size and its orientation toward Inglis Street rather than Tower Road.

### **Demolition Permit**

The property owner applied to demolish the heritage building on January 25th, 2017. Therefore, in accordance with Section 18 of the *Heritage Property Act*, the property owner can legally demolish the heritage building between January 25th, 2020, and January 25th, 2021. A Public Information Meeting was held on January 15th, 2020, to address the demolition application including development alternatives. In the summer of 2020, the property owner applied for a development agreement and substantial alteration to preserve the heritage building on the property as part of the new development.

### **Substantial Alteration of Heritage Building**

Staff processed a concurrent application to substantially alter the registered municipal heritage property in accordance with the *Heritage Property Act*. The substantial alteration application (Case H00499) was reviewed by the Heritage Advisory Committee and approved by Regional Council at its meeting on November 17, 2020. As part of this substantial alteration proposal, the heritage building will be completely restored to its original condition and repositioned to face Tower Road on a new foundation.

### **Enabling Policy and LUB Context**

The subject property is designated MDR (Medium Density Residential) which encourages a mix of family and non-family dwellings of not more than four units. Buildings are limited to a maximum of four storeys. The designation supports interior conversion, additions, infill between existing structures and small-scale developments on vacant lots.

The property is currently zoned R-2A (General Residential Conversion) under the Halifax Peninsula Land Use By-law which permits the construction of buildings with up to four units as-of-right with a minimum 370 s/m (4,000 s/f) lot size and maximum 40 percent lot coverage. The R-2A Zone also permits home occupations and professional offices, day care facilities, and special care homes. The existing heritage building on the subject property is a single detached dwelling.

This proposal is being considered under Policy 6.8 of the Halifax MPS, which allows owners of registered heritage properties to apply for a development agreement to permit a use not allowed by the underlying land use designation (MDR) and zone (R-2A) in order to encourage conservation and adaptive re-use. In this case, the proposed multi-unit residential use, as well as the proposed commercial use are not permitted under the existing land use designation and zone.

## **DISCUSSION**

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment B provides an evaluation of the proposed development in relation to the relevant MPS policies.

### **Proposed Development Agreement**

Attachment A contains the proposed development agreement for the subject property and the conditions under which the development may occur. The proposed development agreement will permit the construction of a new three-storey residential building with up to eight units in the south side yard of the subject property and would allow the addition of a commercial use on the ground floor of the heritage building. The proposed agreement addresses the following matters:

- The proposed uses and number of units on the property;
- The design of the proposed new building and its location on the property;
- The type of commercial use and its hours of operation; and
- Requirements for landscaping and maintenance of the property, including the heritage building.

The proposed agreement also identifies amendments that would be considered non-substantive and may be amended by resolution of Community Council. In this case, non-substantive amendments include changes to the footprint of the new building, setbacks from property lines and the heritage building are not reduced, and extensions to the date of commencement or the time for completion.

### **Heritage Impacts**

Under Policy 6.8 of the Halifax MPS, any development approved must not alter the registered heritage building in any way to diminish its heritage value and must maintain the integrity of any registered heritage property, streetscape or conservation area of which it is part. As discussed previously, a substantial alteration application was submitted by the applicant, reviewed by the Heritage Advisory Committee and

approved by Regional Council (Case H00499) in accordance with the *Heritage Property Act*. The proposed development agreement complies with Council's approval and will ensure the building is maintained.

The Regional Municipal Planning Strategy, Policy CH-16, requires that applications for development agreements consider a range of design solutions and architectural expressions that are compatible with the abutting municipally registered heritage properties. In considering Policy CH-16, staff advise that the proposed design maintains the distinguishing setback for the heritage building and positions the new building to have a front yard and side yard setbacks that are consistent with the streetscape. The new building will include a pitched roof and other elements to complement the historic fabric and open space qualities of the existing streetscape. Attachment B includes an evaluation of the proposed development agreement in relation to the Policy CH-16.

### **Land Use Impacts**

The Halifax MPS recognizes the important role that heritage buildings and sites play in defining Halifax's character and identity. In order to support the retention, preservation and rehabilitation of registered heritage buildings in Halifax, Policy 6.8 of the Halifax MPS allows for the consideration of land uses that are not permitted by the underlying land use designation and zone, subject to certain criteria. One of these criteria is that any development does not unduly disrupt adjacent uses, especially residential uses. The subject property is in an area designated MDR (Medium Density Residential) under the Halifax Secondary Municipal Planning Strategy. The form of the building and the number of units proposed are consistent with the policies for properties within this designation. In addition, Tower Road features several comparable medium density residential developments. The design of the new building includes architectural elements and setbacks that complement the neighbourhood character.

### **Relevant Policies of the Halifax MPS**

Policy 6.8 also includes a provision that any development shall substantially comply with the policies of the Halifax MPS. In considering this policy, staff have determined that the availability of vacant land on the subject property provides an appropriate opportunity for infill development in an established residential neighbourhood. The proposed building has been designed to be compatible with the character of the registered heritage streetscape along Tower Road. Policy 6.8 permits appropriate land use flexibility to encourage the preservation and retention of heritage assets. The new building is consistent with the heritage character of the subject property and promotes a wider variety of housing options in the neighbourhood. At least 30 percent of the total floor area of the heritage building and new building would consist of family-type dwelling units with 800 s/f or more.

The proposed commercial use within the heritage building will service primarily local and walk in trade. There is a requirement for at least one residential unit in the building if the building includes a commercial use. There is no requirement for parking; however, the property may include up to two parking spaces, but the Agreement requires the majority of the front yard on Tower Road will be landscaped. The number, size, height, illumination and location of signs for the commercial use are addressed under the development agreement. Attachment B includes an evaluation of the proposed development agreement in relation to the relevant MPS policies.

### **Halifax Peninsula Planning Advisory Committee**

On December 14, 2020, the Halifax Peninsula Planning Advisory Committee (PAC) recommended that Halifax and West Community Council approve the application as proposed. A report to Community Council from the PAC will be provided under separate cover.

### **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 main intent of Policy 6.8 is to incent the retention, conservation and adaptive re-use of heritage properties through additional land use flexibility. In this case, the proposed development represents appropriate infill development that will be compatible with the heritage character of the subject property and surrounding area. Therefore, staff recommend that the

Heritage Advisory Committee recommend that Halifax and West Community Council approve the proposed development agreement as contained in Attachment A of this report.

### **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 2020-2021 budget and with existing resources.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. This application is being 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 NS Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the Discussion section of this report.

### **COMMUNITY ENGAGEMENT**

The community engagement process for this application 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 property, and letters mailed to property owners within the notification area, which contained a questionnaire requesting feedback on the development proposal. Attachment C contains a summary of the feedback received from members of the public. The public comments received are summarized below:

(a) Expressed support for the development proposal

- The registered heritage building will be preserved;
- The coffee shop in the heritage building fits with the quiet neighbourhood;
- The new building fits the character of the neighbourhood; and
- The development provides much needed housing units.

(b) Expressed concern about the development proposal

- The potential impact of the commercial use on vehicular and pedestrian traffic;
- The impact on parking which is already in short supply; and
- The impact of construction on the neighbourhood.

Halifax and West Community Council must hold a public hearing before it can consider approval of the proposed development agreement. If Community Council decides to proceed with a public hearing, staff will publish a newspaper advertisement for the hearing and notify property owners, within the notification area shown on Map 2, about the hearing by regular mail.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications have been identified.

### **ALTERNATIVES**

1. The Heritage Advisory Committee may recommend that the Halifax and West Community Council choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and a supplementary report.
2. The Heritage Advisory Committee may recommend that the Halifax and West Community Council refuse the proposed development agreement.

### **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant MPS Policies
Attachment C:	Engagement Mail Out Summary

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Seamus McGreal, Planner III, 902.717.1568




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**Map 1- Generalized Future Land Use**

1029 Tower Rd,  
Halifax

-  Subject Property
-  Regional Centre Package A
-  Registered Heritage Property

Halifax Plan - South End Area Plan  
Regional Centre Package A Plan Area

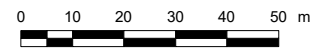
**Halifax South End Area Designations**

- LDR Low Density Residential
- MDR Medium Density Residential
- OS Open Space
- INS Institutional

**Regional Centre Package A Designations**

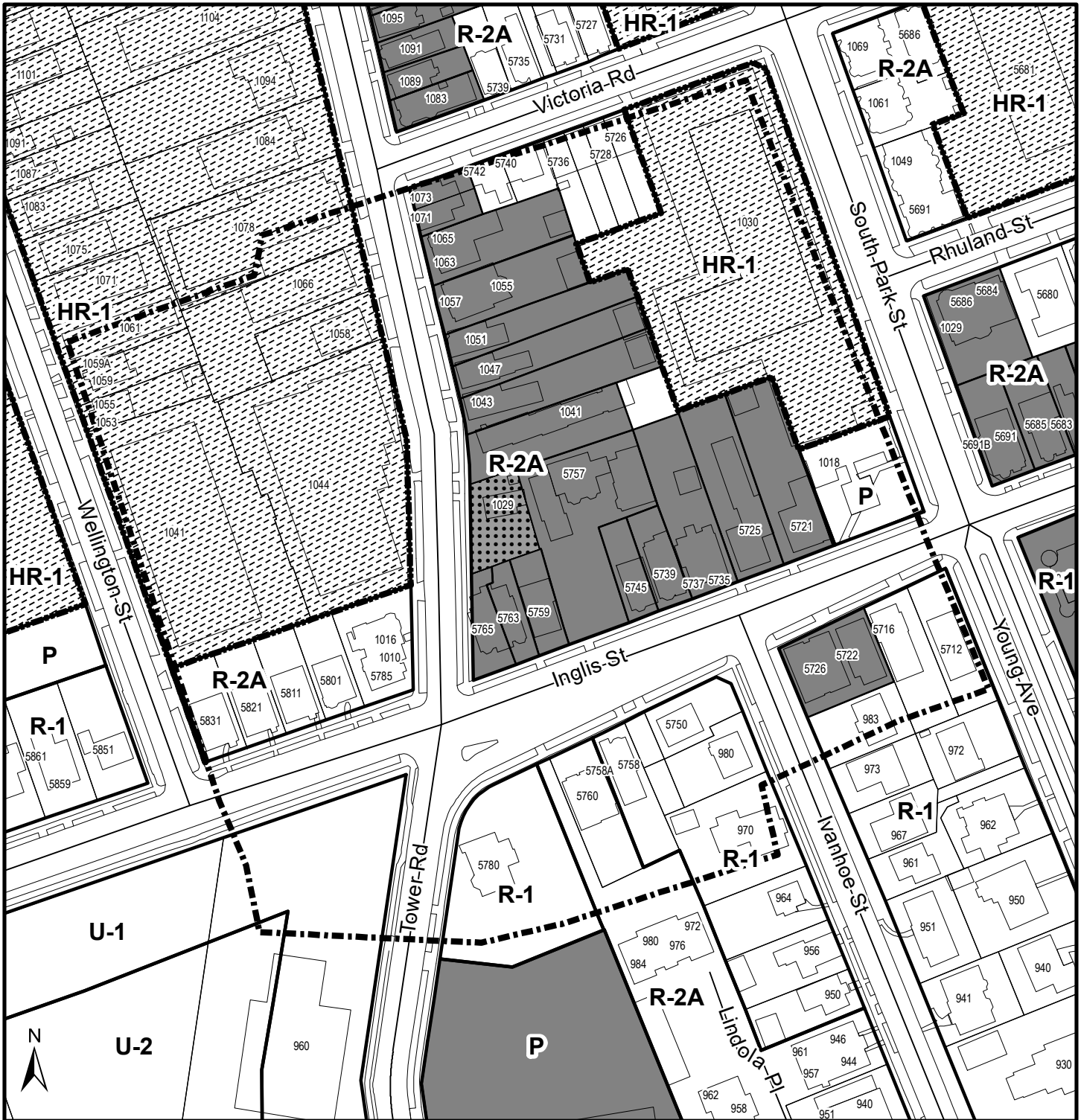
- HR Higher-Order Residential

**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**

1029 Tower Rd, Halifax

-  Subject Property
-  Area of Notification
-  Regional Centre Package A
-  Registered Heritage Property

Halifax Peninsula By-Law Area  
Regional Centre Package A By-Law Area

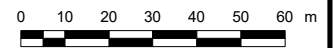
**Halifax Peninsula Zones**

- R-1 Single Unit Dwelling
- R-2A General Residential Conversion
- P Park and Institutional
- U-1 Low-Density University
- U-2 High-Density University

**Regional Centre Package A Zones**

- HR-1 Higher-Order Residential 1

**HALIFAX**



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

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

**Attachment A**

THIS AGREEMENT made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_,

BETWEEN:

**STEFAN FRENT**

an individual, 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 1029 Tower Road, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Lands have been registered as a municipal heritage property pursuant to the provisions of the Municipality's Heritage Property By-law (By-law H-200) as amended from time to time;

AND WHEREAS the Developer has requested approval by the Municipality to undertake substantial alterations to the heritage property in accordance with the *Heritage Property Act*,

AND WHEREAS the Regional Council for the Municipality granted approval to this request at a meeting held on November 17, 2020, to reposition the heritage building and to allow the construction of a new building on the same Lands;

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow a commercial use and the construction of a new building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy 6.8 of the Halifax Municipal Planning Strategy;

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 23066;

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**

- 1.1.1 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**

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.
- 1.2.2 Variances to the requirements of the applicable Land Use By-law shall be permitted in accordance with the *Halifax Regional Municipality Charter* on the Lands as shown on Schedule B.

### **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 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 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**

- 1.5.1 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**

- 1.6.1 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**

- 2.1.1 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**

- 2.2.1 The following words used in this Agreement shall be defined as follows:

**“Dr James Doull House”** means the existing registered heritage building located on the northern portion of the Lands, identified as “Relocated Heritage Building” on Schedule B.

**“New Building”** means the building to be constructed on the southern portion of the Lands, pursuant to this Development Agreement, identified as “Proposed Building” on Schedule B.

**“Restaurant Use”** means premises whose primary purpose is to prepare, serve, and sell food and non-alcoholic beverages for consumption on or off the premises. Restaurants may include table service, dine-in, take-out, home delivery services, and cafes.

## **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

### **3.1 Schedules**

- 3.1.1 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 23066:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Building Elevations

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the issuance of the Occupancy Permit for the New Building, the Developer shall provide the following to the Development Officer:
- (a) Written confirmation from a qualified professional architect which the Development Officer may accept, in consultation with a Heritage Planner, as sufficient record of the completion of all conservation work on the Dr James Doull House, identified in Schedule C, including the siting of the building on a new foundation and the construction of a new rear addition.
- 3.2.2 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses 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 applicable 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**

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

- (a) The Dr James Doull House may:
  - i. contain up to a maximum of three residential units; or
  - ii. contain a Restaurant Use if there is a minimum of one residential unit in the building;
- (b) the New Building may contain up to a maximum of eight residential units; and
- (c) any uses permitted by the underlying zone applied to the Lands subject to the provisions contained within the applicable Land Use By-law as amended from time to time.

3.3.2 The Development Officer may permit unenclosed structures attached to the New Building such as verandas, decks, porches, steps, mobility disabled ramps and architectural detailing to be located within the required minimum front, side, and rear yards in conformance with the provisions of this Agreement or the applicable Land Use By-law as amended from time to time.

### **3.4 Heritage**

#### *Rights to Alter or Demolish*

3.4.1 The Developer agrees not to alter the exterior appearance of or demolish the Dr James Doull House, as provided for under Sections 16, 17 and 18 of the *Heritage Property Act*, in the event that an application for a substantial alteration or demolition is denied by the Municipality.

#### *Character Defining Elements*

3.4.2 All character defining elements shall be maintained and/or repaired but not removed without approval from the Municipality. Character defining elements of the Dr James Doull House include, but are not limited to:

- (a) one-and-a-half storey height;
- (b) gable roof with eaves and returns;
- (c) shingle siding;
- (d) corner boards;
- (e) central entrance with surround;
- (f) Palladian window within an extended gable dormer flanked by twin five-sided Scottish dormers;
- (g) finials at gable ends;
- (h) paired brick chimneys; and
- (i) two-over-two hung windows.

#### *Non Substantial Alterations*

3.4.3 Any non-substantial alteration to the exterior appearance of the Dr James Doull House, in accordance with the requirements of the *Heritage Property Act* and By-law H-200, shall be submitted to the Development Officer for review and approval in consultation with a Heritage Planner.

#### *Maintenance and Preventative Measures*

3.4.4 All maintenance and repair of the Dr James Doull House shall be conducted with the approval of a Heritage Planner, and in accordance with the *Standards and Guidelines for the Conservation of Historic Places in Canada, 2<sup>nd</sup> edition*.



### *Archaeological Monitoring and Protection*

3.4.5 The Lands fall within the High Potential Zone for Archaeological Sites identified by the Province of Nova Scotia. The Developer shall contact the Coordinator of Special Places of the Nova Scotia Department of Communities, Culture and Heritage prior to any disturbance of the Lands and the Developer shall comply with the requirements set forth by the Province of Nova Scotia in this regard.

## **3.5 Siting of Buildings**

3.5.1 There may be two separate main buildings on the Lands, but these buildings are limited to the Dr James Doull House and the New Building as shown on Schedule B.

3.5.2 The Dr James Doull House shall be located on the Lands as shown on Schedule B, and shall be:

- (a) a minimum of 5.4 metres from the front lot line;
- (b) a minimum of 1.2 metres from the flanking lot line;
- (c) a minimum of 1.2 metres from the rear lot line; and
- (d) a minimum of 5 metres from the New Building.

3.5.3 The New Building shall be located on the Lands as shown on Schedule B, and shall be:

- (a) a minimum of 2.2 metres from the front lot line;
- (b) a minimum of 0.0 metres from the (South) side lot line;
- (c) a minimum of 1.2 metres from the rear lot line; and
- (d) a minimum of 5 metres from the Dr James Doull House.

3.5.4 The sunken terrace shall be located on the Lands as generally shown on Schedule B.

## **3.6 Architectural Requirements**

3.6.1 The façade of the New Building facing Tower Road shall be designed and detailed as the primary façade. Architectural treatment shall be continued around all sides of the New Building as shown on Schedule C.

3.6.2 The exterior walls of the New Building shall be clad in high quality materials, as shown on Schedule C. Such materials shall include non-combustible clapboard or shingle siding, masonry or brick, and engineered composite panels.

3.6.3 Vinyl siding is prohibited as a material on both the Dr James Doull House and the New Building.

3.6.4 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements of the New Building shall be screened or 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.

3.6.5 The New Building shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Tower Road or abutting residential properties, unless screened. Furthermore, no mechanical equipment or exhaust fans shall be located between the New Building and the adjacent residential properties unless screened or treated as an integral part of

the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

### **3.7 Parking**

- 3.7.1 No on-site parking shall be required for residents or visitors.
- 3.7.2 A driveway and up to a maximum of two parking spaces may be sited within the Landscaped Courtyard, as shown on Schedule B.
- 3.7.3 The driveway and parking areas shall be hard surfaced.
- 3.7.4 The limits of the driveway and parking areas shall be defined by fencing, landscaping, or curb.

### **3.8 Outdoor Lighting**

- 3.8.1 Lighting shall be directed to driveways, on-site parking areas, loading areas, building entrances and walkways and shall be arranged to divert the light away from streets, adjacent lots and buildings.

### **3.9 Landscaping**

- 3.9.1 All portions of the Lands not included in the building foot prints, sunken terrace, and walkways, as shown on Schedule B, shall be grassed or landscaped. If the Landscaped Courtyard, as shown on Schedule B, includes on-site parking as provided for under Sections 3.7, then a minimum of 50% of the Landscaped Courtyard shall consist of open space with grass or landscaping.

### **3.10 Maintenance**

- 3.10.1 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 buildings, fencing, walkways, recreational amenities, on-site 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 and ice control, salting of walkways and driveways.
- 3.10.2 All disturbed areas of the Lands shall be reinstated to original condition or better.

### **3.11 Signs**

- 3.11.1 The sign requirements shall be in accordance with the applicable Land Use By-law as amended from time to time.
- 3.11.2 Signs shall only be externally illuminated.

### **3.12 Hours of Operation**

- 3.12.1 The Restaurant Use shall be permitted to operate between the hours of 7:00 am and 10:00 pm every day.
- 3.12.2 Deliveries to the Lands, and the collection of refuse and recyclables, shall occur only between the hours of 7:00 am and 10:00 pm.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### **4.1 General Provisions**



- 4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

#### **4.2 Off-Site Disturbance**

- 4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, 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: AMENDMENTS**

#### **5.1 Non-Substantive Amendments**

- 5.1.1 The following items are considered by both parties to be non-substantive and may be amended by resolution of Council:
- (a) changes to the footprint of the New Building as long as the setbacks from property lines and the Dr James Doull House, detailed in Section 3.5 of this agreement, are not reduced;
  - (b) Changes to Schedules B and C so long as such changes do not conflict with the provisions within the text of this agreement;
  - (c) the granting of an extension to the date of commencement of construction as identified in Section 6.3 of this Agreement; and
  - (d) the length of time for the completion of the development as identified in Section 6.4 of this Agreement.

#### **5.2 Substantive Amendments**

- 5.2.1 Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

### **PART 6: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

#### **6.1 Registration**

- 6.1.1 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.

#### **6.2 Subsequent Owners**

- 6.2.1 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.
- 6.2.2 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).

### **6.3 Commencement of Development**

- 6.3.1 In the event that development on the Lands has not commenced within **three (3)** 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.
- 6.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Building Permit for the construction of the New Building.
- 6.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.1, 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.

### **6.4 Completion of Development**

- 6.4.1 Upon the completion of the whole 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; or
  - (c) discharge this Agreement;
  - (d) for those portions of the development which have been completed, discharge this Agreement and apply appropriate zoning pursuant to the applicable Secondary Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.
- 6.4.2 For the purpose of this section, completion of development shall mean issuance of Occupancy Permit.
- 6.4.3 In the event that development on the Lands has not been completed within **five (5) years** from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

### **6.5 Discharge of Agreement**

- 6.5.1 If the Developer fails to complete the development after **five (5) 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 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **7.1 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.

## 7.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer **sixty (60)** 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 defence 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:

**STEFAN FRENT**

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
**HALIFAX REGIONAL MUNICIPALITY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Per: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Per: \_\_\_\_\_  
MUNICIPAL CLERK

DRAFT

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 \_\_\_\_\_, 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

DRAFT



**LEGEND**

- Site Boundary
- - - Adjacent Property Boundary

**SITE SUMMARY:**

- PID: 00142935
- Total Land Area: 5,106 m<sup>2</sup>
- Existing Zone: R-2A

**NOTES:**

- Adjacent property lines and topographic features are approximate only.
- Site subject to by-law review and regulations.

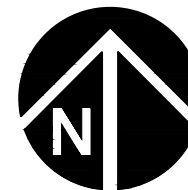
**SOURCES:**

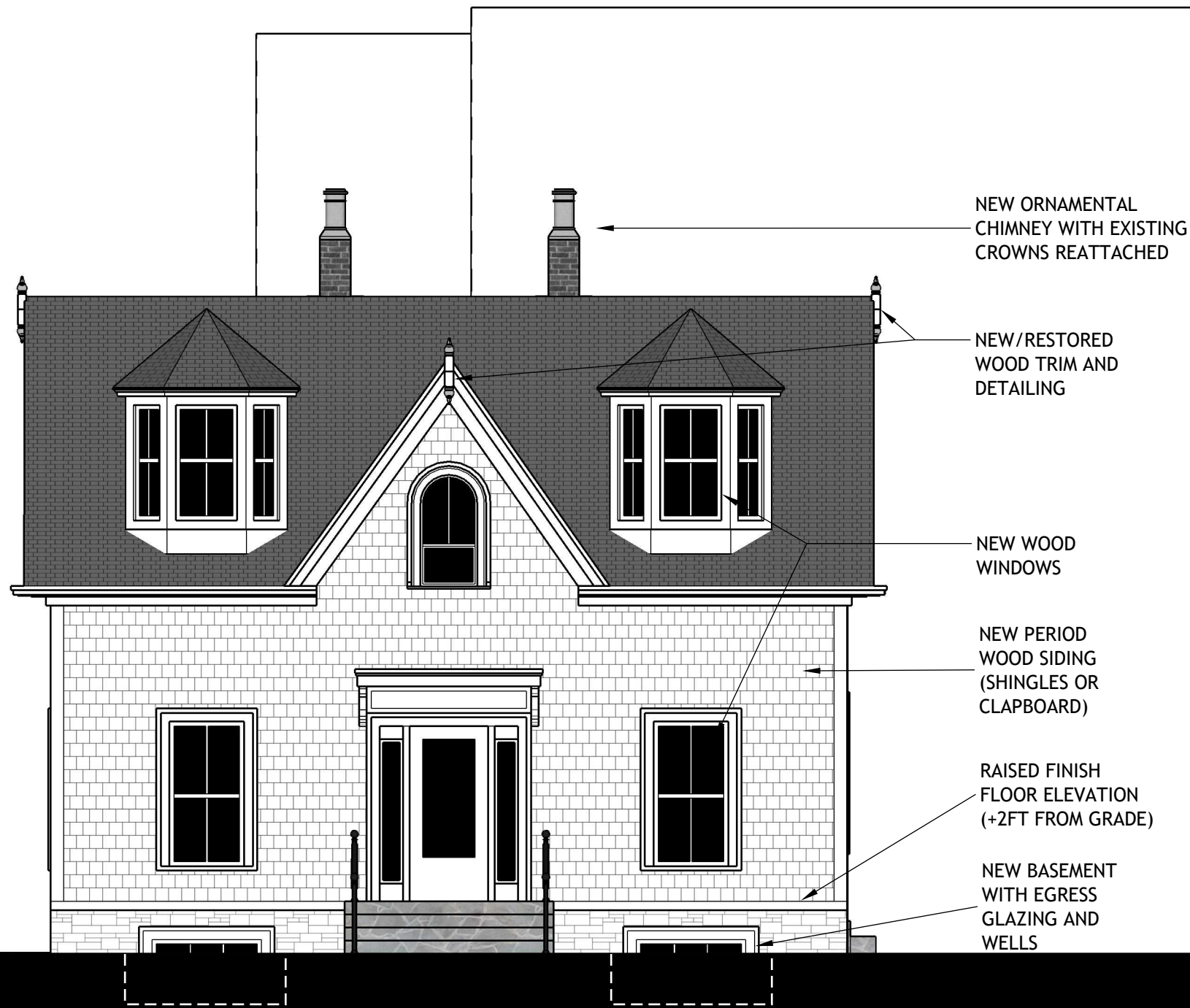
- Plan based on Alderney Survey Limited Lot Grading Plan. CAD file: 'ACAD-19347001 GR topo.dwg'
- Adjacent property lines and topographic features are from provincial mapping

**SCALE:**

0 1 2 5 10m

1 : 200

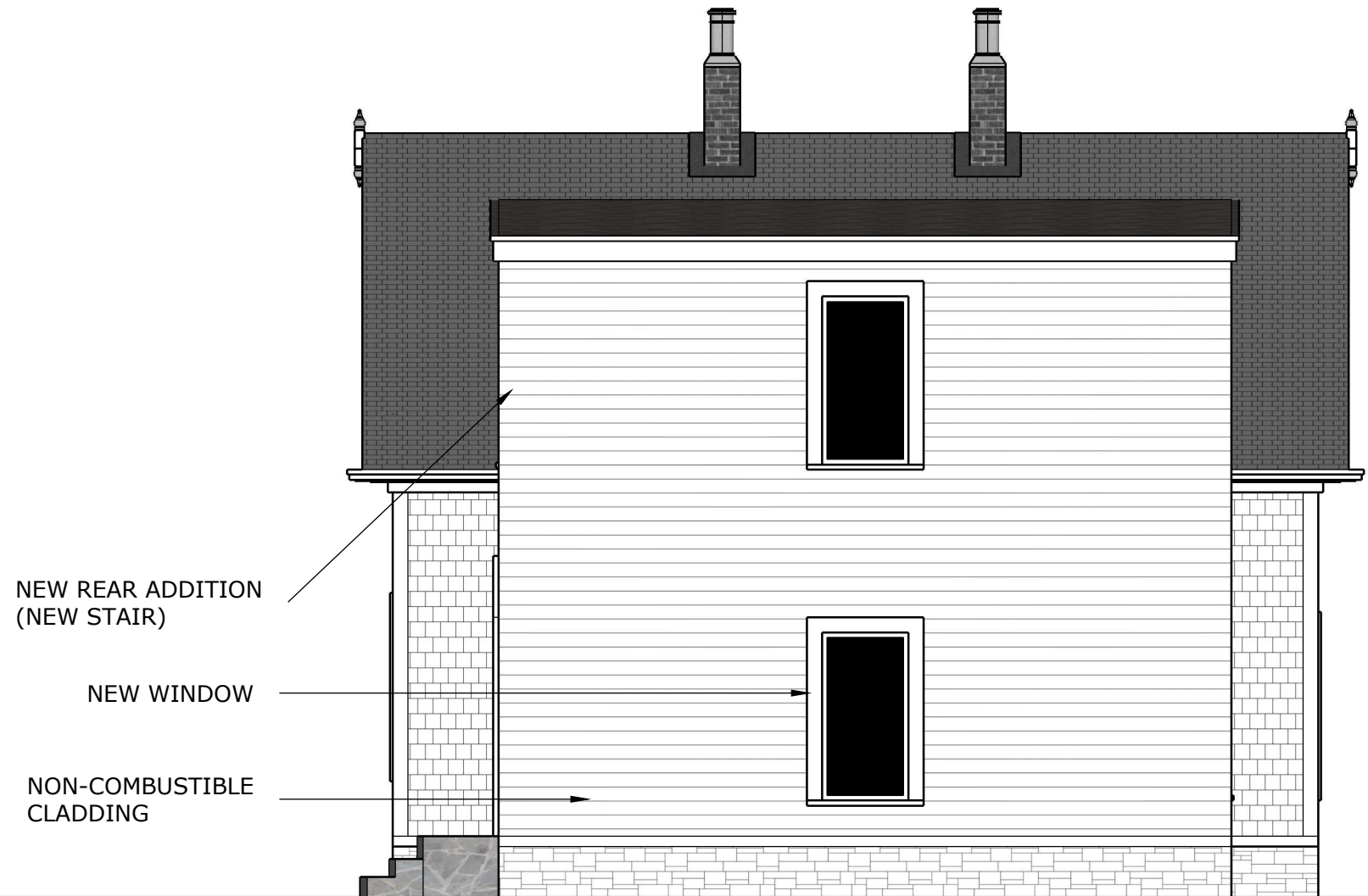








FUTURE MULTI-UNIT  
RESIDENTIAL  
DEVELOPMENT



NEW REAR ADDITION  
(NEW STAIR)

NEW WINDOW

NON-COMBUSTIBLE  
CLADDING



Zwicker  
Zareski  
architecture +  
planning

**Tower Road - Renovation & Addition**  
1029 Tower Rd., Halifax NS

**EAST ELEVATION**  
SCALE: 3/16"=1'-0"

**Page 3**

ISSUED FOR REVIEW  
DATE: December 2, 2022



TOWER RD.



Zwicker  
Zareski  
architecture +  
planning

**Tower Road - Renovation & Addition**  
1029 Tower Rd., Halifax NS

**EAST ELEVATION**  
SCALE: 3/16"=1'-0"

**Page 4**

ISSUED FOR REVIEW  
DATE: December 2,  
2022

ENGINEERED  
COMPOSITE  
PANELS

PVC PATIO  
DOOR

METAL GUARD  
RAIL

NON-COMBUSTIBLE  
CLADDING

METAL  
AWNING

MASONRY

BASEMENT  
LEVEL



property line

U/S CEILING

10'-0"

LVL 3

10'-0"

LVL 2

10'-0"

LVL 1

5'-0"

LVL B

TOWER RD.



Zwicker  
Zareski  
architecture +  
planning

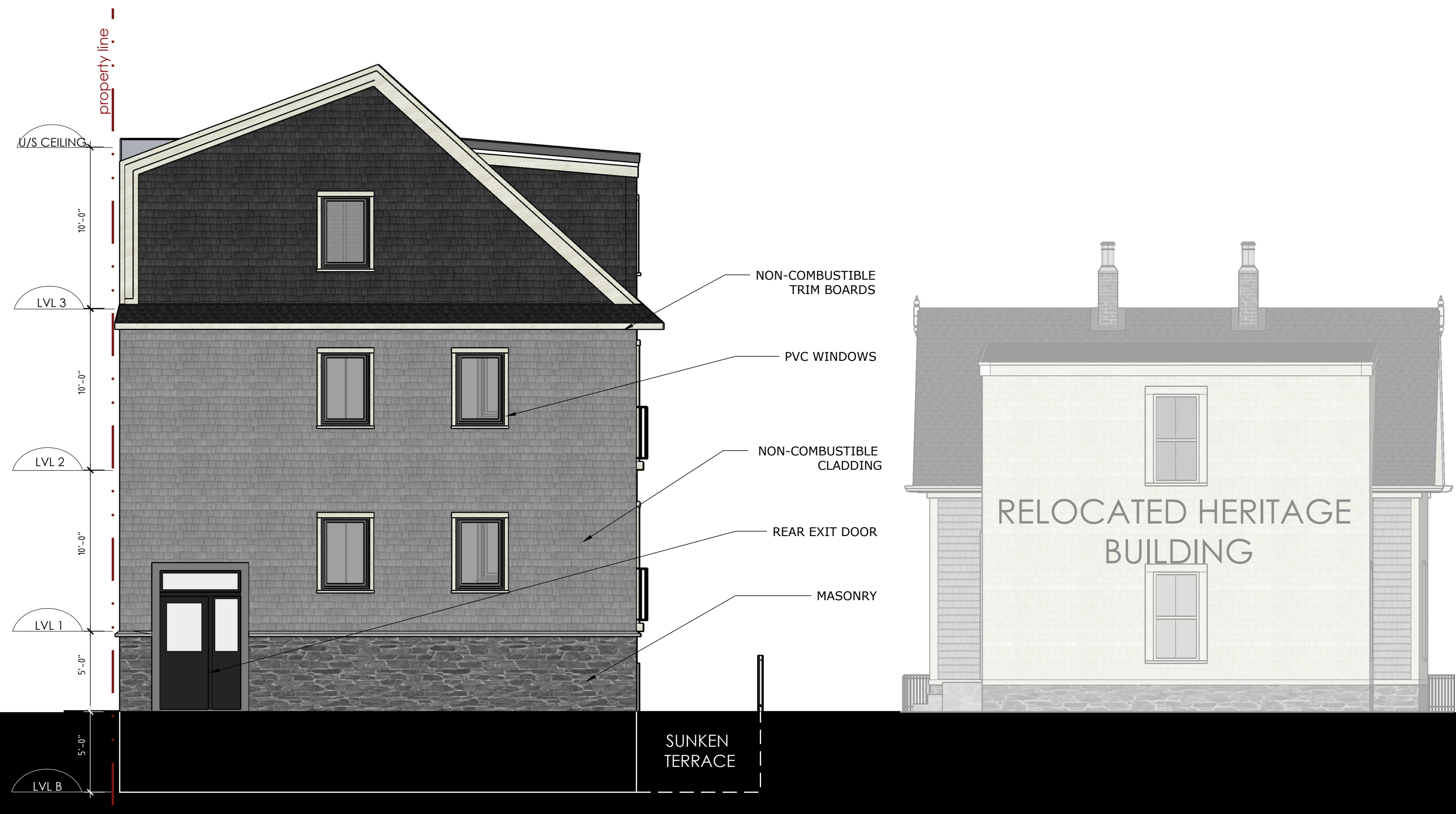
**Tower Road - Renovation & Addition**  
1029 Tower Rd., Halifax NS

**SOUTH ELEVATION**  
SCALE: 3/16"=1'-0"

**Page 5**

ISSUED FOR REVIEW  
DATE: December 2, 2020







property line

U/S CEILING

10'-0"

LVL 3

10'-0"

LVL 2

10'-0"

LVL 1

5'-0"

LVL B

5'-0"

ENGINEERED COMPOSITE PANELS

PVC WINDOWS AND DOORS

NON-COMBUSTIBLE CLADDING

METAL AWNING

METAL FRENCH BALCONY RAIL

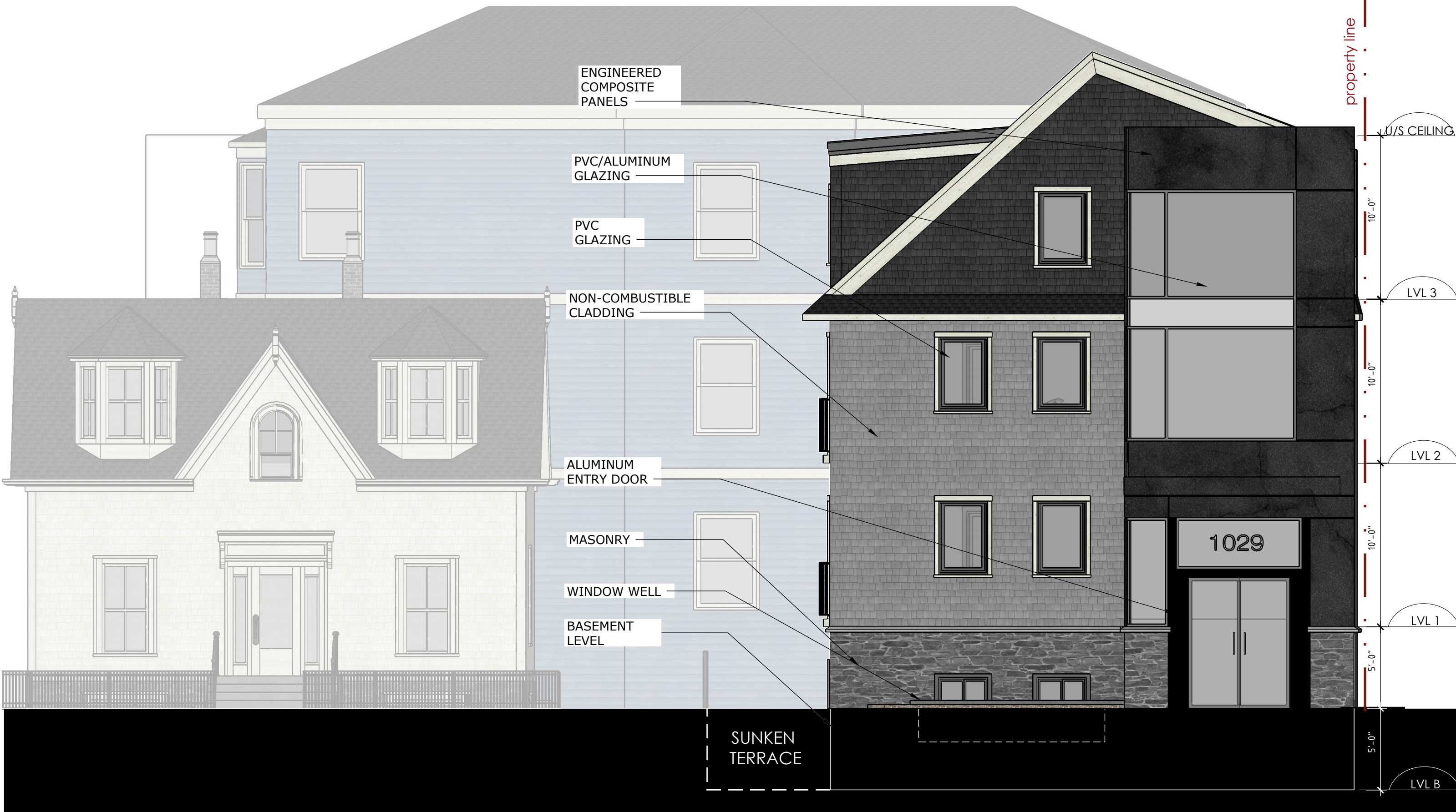
METAL GUARD RAIL

MASONRY

SUNKEN TERRACE

TOWER RD.





**Attachment B  
Review of Relevant Policies from the Halifax MPS**

**REGIONAL MUNICIPAL PLANNING STRATEGY**

<b>CHAPTER 7: CULTURAL AND HERITAGE RESOURCES</b>	
<b>7.3 Protection of Heritage Resources</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>CH-5 <i>HRM shall consider the retention, preservation, rehabilitation and restoration of those buildings, public building interiors, streetscapes, cultural landscapes, areas and districts of historic, architectural or cultural value in both urban and rural areas and encourage their continued use.</i></p>	<p>The existing registered heritage building, the Dr. James Doull House, and the Victorian streetscape will be rehabilitated and preserved in accordance with an approved substantial alteration (Case H00499).</p>
<b>7.4 Development Abutting Registered Heritage Properties</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>CH-16 <i>For lands abutting federally, provincially or municipally registered heritage properties, HRM shall, when reviewing applications for development agreements, rezonings and amendments pursuant to secondary planning strategies, or when reviewing the provision of utilities for said lands, consider a range of design solutions and architectural expressions that are compatible with the abutting federally, provincially or municipally registered heritage properties by considering the following:</i></p>	
<p>a) the careful use of materials, colour, proportion, and rhythm established by surface and structural elements should reinforce those same aspects of the existing buildings;</p>	<p>More modern materials were chosen for the new building that are of compatible proportions and variability as the abutting heritage buildings. Its three-storey height and rhythm of bays reinforces those same aspects of the abutting heritage buildings.</p>
<p>b) ensuring that new development is visually compatible with yet distinguishable from the abutting registered heritage property. To</p>	<p>The new building will be compatible with the rest of the streetscape because of its three-storey height, setback from the street, and rhythm of bays. It will be distinguishable as a</p>

<p>accomplish this, an appropriate balance must be struck between mere imitation of the abutting building and pointed contrast, thus complementing the abutting registered heritage property in a manner that respects its heritage value;</p>	<p>new building in the heritage streetscape because of its new materials, contemporary form, and window treatments.</p>
<p>c) ensuring that new developments respect the building scale, massing, proportions, profile and building character of abutting federally, provincially or municipally registered heritage structures by ensuring that they:</p> <ul style="list-style-type: none"> <li>i) incorporate fine-scaled architectural detailing and human-scaled building elements.</li> <li>ii) reinforce, the structural rhythm (i.e., expression of floor lines, structural bays, etc.) of abutting federally, provincially or municipally registered heritage properties; and</li> <li>iii) any additional building height proposed above the pedestrian realm mitigate its impact upon the pedestrian realm and abutting registered heritage properties by incorporating design solutions, such as stepbacks from the street wall and abutting registered heritage properties, modulation of building massing, and other methods of massing articulation using horizontal or vertical recesses or projections, datum lines, and changes in material, texture</li> </ul>	<p>The new building respects the character of the abutting heritage properties through the following:</p> <ul style="list-style-type: none"> <li>i) It incorporates cornice, vertical cladding, trim boards, awning, and masonry;</li> <li>ii) Its Cornice height, rhythm of bays, and floor lines reinforce the structural rhythm; and</li> <li>iii) No additional building height is proposed above the pedestrian realm.</li> </ul>



<p>or colour to help reduce its apparent scale;</p>	
<p>d) the siting of new developments such that their footprints respect the existing development pattern by:</p> <ul style="list-style-type: none"> <li>i) physically orienting new structures to the street in a similar fashion to existing federally, provincially or municipally registered heritage structures to preserve a consistent street wall; and</li> <li>ii) respecting the existing front and side yard setbacks of the street or heritage conservation district including permitting exceptions to the front yard requirements of the applicable land use by-laws where existing front yard requirements would detract from the heritage values of the streetscape;</li> </ul>	<p>The siting of the new building respects the existing development pattern:</p> <ul style="list-style-type: none"> <li>i) The setback of the proposed new building is consistent with the setbacks of other buildings within the Tower Road streetscape; and</li> <li>ii) The proposed design maintains the distinguishing setback for the heritage building and sites the new building such that the front yard and side yard setbacks are consistent with the streetscape.</li> </ul>
<p>e) not unreasonably creating shadowing effects on public spaces and heritage resources;</p>	<p>The new building will not unreasonably create shadowing effects on public spaces and heritage resources.</p>
<p>f) complementing historic fabric and open space qualities of the existing streetscape;</p>	<p>The new building will include a pitched roof and other elements to complement the historic fabric and open space qualities of the existing streetscape.</p>
<p>g) minimizing the loss of landscaped open space;</p>	<p>The new development will increase the amount of landscaped open space between the heritage building and the street by setting it back. The total lot coverage will increase but the remainder of the property will be landscaped with walkways and connections to various elements of the development.</p>

<p><i>h)</i> ensuring that parking facilities (surface lots, residential garages, stand-alone parking and parking components as part of larger developments) are compatible with abutting federally, provincially or municipally registered heritage structures;</p>	<p>The new development will not include any underground parking. Minimal surface parking is permitted, but it will not be incompatible with abutting or adjacent heritage properties.</p>
<p><i>i)</i> placing utility equipment and devices such as metering equipment, transformer boxes, power lines, and conduit equipment boxes in locations which do not detract from the visual building character or architectural integrity of the heritage resource;</p>	<p>The development agreement includes a clause that regulates the location and appearance of utility equipment so that it is screened from public view and does not detract from the character or integrity of the heritage streetscape.</p>
<p><i>j)</i> having the proposal meet the heritage considerations of the appropriate Secondary Planning Strategy, as well as any applicable urban design guidelines; and</p>	<p>Heritage and urban design considerations of the Halifax SMPS are addressed herein, see below.</p>
<p><i>k)</i> any applicable matter as set out in Policy G-14 of this Plan.</p>	<p>Policy G-14 (pertaining to Regional Plan amendments requiring subsequent amendments to other planning documents for consistency), does not apply in this case.</p>

## HALIFAX MUNICIPAL PLANNING STRATEGY

<b>SECTION II - CITY-WIDE OBJECTIVES AND POLICIES</b>	
<b>2. Residential Environments</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>Policy 2.1.1 <i>On the Peninsula, residential development should be encouraged through retention, rehabilitation and infill compatible with existing neighbourhoods; and the City shall develop the means to do this through the detailed area planning process.</i></p>	<p>The availability of vacant land on the subject property provides an appropriate opportunity for infill development in an established residential neighbourhood. The proposed building has been designed to be compatible with the character of the registered heritage streetscape along Tower Road.</p>
<p>Policy 2.2 <i>The integrity of existing residential neighbourhoods shall be maintained by</i></p>	<p>The proposed development will be a three storey building with up to eight residential</p>

<p><i>requiring that any new development which would differ in use or intensity of use from the present neighbourhood development pattern be related to the needs or characteristics of the neighbourhood and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>units. The height of the new building is modelled to reflect the height and proportions of the abutting heritage buildings within the heritage streetscape. The property fronts on Tower Road, which features multi-unit residential uses at varying densities.</p> <p>Policy 3.1 – N/A Policy 3.2 – N/A</p>
<p>Policy 2.4 <i>Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</i></p>	<p>The subject property fronts on Tower Road and abuts registered heritage properties, to form a registered heritage streetscape. The proposed building is a modern design that reflects the proportions, massing, fenestration pattern and cornice line of the abutting heritage buildings. The design of the new building is consistent with the <i>Standards and Guidelines for the Conservation of Historic Places in Canada</i>.</p> <p>The form and density of the proposed development are consistent with the existing neighbourhood context.</p>
<p>Policy 2.4.1 <i>Stability will be maintained by preserving the scale of the neighbourhood, routing future principal streets around rather than through them, and allowing commercial expansion within definite confines which will not conflict with the character or stability of the neighbourhood, and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>The proposed building will be consistent with the height and scale of development in the surrounding area.</p> <p>The new commercial use will be confined to the ground floor of the heritage building and it will not conflict with the character or stability of the neighbourhood.</p> <p>Policy 3.1 – N/A Policy 3.2 – N/A</p>
<p>Policy 2.6 <i>The development of vacant land, or of land no longer used for industrial or institutional purposes within existing residential neighbourhoods shall be at a scale and for uses compatible with these neighbourhoods, in accordance with this Plan and this shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>The southern side yard of the subject property is large and underutilized. Comparable medium density residential development currently exists on Tower Road. The height and massing of the new building will be compatible with the low-density residential development on Tower Road.</p> <p>Policy 3.1 – N/A Policy 3.2 – N/A</p>

<p>Policy 2.7 <i>The City should permit the redevelopment of portions of existing neighbourhoods only at a scale compatible with those neighbourhoods.</i></p> <p><i>The City should attempt to preclude massive redevelopment of neighbourhood housing stock and dislocations of residents by encouraging infill housing and rehabilitation.</i></p> <p><i>The City should prevent large and socially unjustifiable neighbourhood dislocations and should ensure change processes that are manageable and acceptable to the residents. The intent of this policy, including the manageability and acceptability of change processes, shall be accomplished by Implementation Policies 3.1 and 3.2 as appropriate.</i></p>	<p>This development proposal consists of infill housing and rehabilitation that does not result in a dislocation of existing residents.</p> <p>The existing heritage building on the subject property will be rehabilitated, moved, and repositioned within the property. This substantial alteration of the heritage building was approved (Case H00499).</p> <p>The new building will be located on a vacant portion of the property as infill development. The proposed new building will be of a scale that is compatible with surrounding buildings.</p> <p>Policy 3.1 – N/A Policy 3.2 – N/A</p>
<p>Policy 2.10 <i>For low and medium density residential uses, controls for landscaping, parking and driveways shall ensure that the front yard is primarily landscaped. The space devoted to a driveway and parking space shall be regulated to ensure that vehicles do not encroach on sidewalks.</i></p>	<p>The subject property's front yard on Tower Road will be maintained for landscaping. No parking is proposed for residents on the subject property.</p>
<b>3. Commercial Facilities</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>Policy 3.1 <i>The City shall encourage a variety of commercial centres to serve the variety of community needs and shall seek to do so under Implementation Policy 3.7. Provision shall be made for neighbourhood shopping facilities, minor commercial centres, shopping centres and regional centres.</i></p>	<p>The commercial use on the ground floor of the heritage building will consist of a neighbourhood shopping facility.</p> <p>Policy 3.7 is addressed below.</p>
<p>Policy 3.1.1 <i>Neighbourhood shopping facilities in residential environments should service primarily local and walk-in trade, and should be primarily owner-occupied. They shall be required to locate at or adjacent to the</i></p>	<p>The commercial use of the heritage building will service primarily local and walk in trade. There is a requirement for at least one residential unit in the building if the building includes a commercial use. The property is located 30 metres from the intersection of</p>

<p><i>intersections of local streets rather than in mid-block. Neighbourhood shopping facilities may include one business, for example a corner store or a cluster of businesses. This policy shall serve as a guideline for rezoning decisions in accordance with Implementation Policies 4.1 and 4.2 as appropriate.</i></p>	<p>Tower Road and Inglis Street, separated by one other property. The neighbourhood shopping facility will include only one business: a coffee shop.</p>
<p>Policy 3.7  <i>In considering applications pursuant to Implementation Policy 3.10, Council shall have regard for the guidelines set out below:</i></p> <ul style="list-style-type: none"> <li><i>(i) that entrances and exits be arranged in such a way so as to minimize the impact of additional traffic on any adjacent residential areas;</i></li> <li><i>(ii) that the proposed use does not entail an unacceptable nuisance such as traffic, smoke, toxic, or noxious effluents and noise;</i></li> <li><i>(iii) that storage areas be enclosed or be visually screened from the abutting street by such means as planting materials or well-designed fences;</i></li> <li><i>(iv) that service areas for trucks and other vehicles be located in areas other than the front yards;</i></li> <li><i>(v) that front yards of an appropriate size be provided, well landscaped and including provisions for tree planting;</i></li> <li><i>(vi) that drainage from large paved areas be required to be treated in cases where such drainage will result in unacceptable pollution of watercourses or water bodies;</i></li> <li><i>(vii) that appropriate measures be taken to prevent erosion or deposit of sediments away from the development site during construction and afterwards;</i></li> <li><i>(viii) that the building envelope be located in such a manner as to provide a sufficient area for landscaped open space in both front and side yards</i></li> <li><i>(ix) that areas of significant natural, aesthetic and amenity value be protected as part of the site design in accordance with Policy Sets 7 and 8 of this Plan as appropriate;</i></li> <li><i>(x) that there be an appropriate setback or other separation of any building from abutting</i></li> </ul>	<p>The neighbourhood shopping facility will be encouraged with consideration of the following:</p> <ul style="list-style-type: none"> <li>(i) there is no requirement for parking; however, the property may include up to two parking spots which limits traffic;</li> <li>(ii) the coffee shop is not anticipated to be a nuisance;</li> <li>(iii) there will be no storage areas outside of the two buildings on the subject property;</li> <li>(iv) there will be no service areas on the subject property;</li> <li>(v) the majority of the subject property's front yard on Tower Road will be maintained for landscaping;</li> <li>(vi) there will be no large paved areas on the subject property;</li> <li>(vii) the subject property does not include any sloping conditions that would result in erosion or deposit of sediments;</li> <li>(viii) the subject property's front yard on Tower Road, north side yard, and south side yard, between the two buildings, will be maintained as landscaped open space;</li> <li>(ix) there are no areas of significant natural, aesthetic and amenity value on the subject property as described in Policy Sets 7 and 8;</li> <li>(x) there will be a 1.2 m landscaped side yard between the commercial use and abutting residential property;</li> <li>(xi) no environmental impacts are anticipated;</li> <li>(xii) refer to all other staff comments in this document.</li> </ul>

<p><i>residential properties and that a portion of such setback be landscaped; and</i>  <i>(xi) that the applicant provide a statement of the environmental impacts of the proposed development on and off the site and identify the ways and means to mitigate any negative effects, particularly as they relate to such aforementioned matters as air and water pollution, erosion and sediment control, and protection of significant natural, aesthetic, and amenity value;</i>  <i>(xii) such other land use considerations as Council may from time to time deem necessary, based on guidance provided by the policies of this Plan.</i></p>	
<p>Policy 3.9  <i>For commercial areas the land use by-law may regulate the number, size, height, illumination and location of signs to ensure that development is in keeping with the character of the respective commercial areas.</i></p>	<p>The number, size, height, illumination, and location of signs for the commercial use are addressed under the development agreement.</p>
<b>6. Heritage Resources</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>Policy 6.1  <i>The City shall continue to seek the retention, preservation, rehabilitation and/or restoration of those areas, sites, streetscapes, structures, and/or conditions such as views which impart to Halifax a sense of its heritage, particularly those which are relevant to important occasions, eras, or personages in the histories of the City, the Province, or the nation, or which are deemed to be architecturally significant. Where appropriate, in order to assure the continuing viability of such areas, sites, streetscapes, structures, and/or conditions, the City shall encourage suitable re-uses.</i></p>	<p>The subject property is a municipally registered heritage property. The Dr. James Doull House is located on the north side of the property and will be rehabilitated, moved, and repositioned on the property. This substantial alteration of the heritage building was approved (Case H00499).</p>
<p>Policy 6.4  <i>The City shall attempt to maintain the integrity of those areas, sites, streetscapes, structures, and/or conditions which are retained through encouragement of sensitive</i></p>	<p>The subject property is located on Tower Road within a registered heritage streetscape</p> <p>Substantial alterations of the heritage building, and the design of the new building</p>

<p><i>and complementary architecture in their immediate environs.</i></p>	<p>were approved under the <i>Heritage Property Act</i> (Case H00499).</p>
<p>Policy 6.8  <i>In any building, part of a building, or on any lot on which a registered heritage building is situated, the owner may apply to the City for a development agreement for any development or change in use not otherwise permitted by the land use designation and zone subject to the following considerations:</i></p> <ul style="list-style-type: none"> <li><i>i) that any registered heritage building covered by the agreement shall not be altered in any way to diminish its heritage value;</i></li> <li><i>ii) that any development must maintain the integrity of any registered heritage property, streetscape or conservation area of which it is part;</i></li> <li><i>iii) that any adjacent uses, particularly residential use are not unduly disrupted as a result of traffic generation, noise, hours of operation, parking requirements and such other land use impacts as may be required as part of a development;</i></li> <li><i>iv) that any development substantially complies with the policies of this plan and in particular the objectives and policies as they relate to heritage resources.</i></li> </ul>	<ul style="list-style-type: none"> <li>i) The subject property is included in the Registry of Heritage Property for the Halifax Regional Municipality.</li> <li>ii) The substantial alteration of the heritage building was approved (Case H00499). The substantial alteration will not diminish its heritage value. It will maintain the integrity of the heritage building.</li> <li>iii) Staff do not anticipate that the new development would have any significant land use impacts on the adjacent residential area.</li> <li>iv) The proposal generally complies with the policies of this plan.</li> </ul>

**SECTION V - SOUTH END AREA PLAN OBJECTIVES AND POLICIES**

<p><b>1. Residential Environments</b></p>	
<p><b>Policy</b></p>	<p><b>Staff Comment</b></p>
<p>Policy 1.1  <i>Residential neighbourhoods shall be maintained and expanded by encouraging retention and rehabilitation of existing structures and units and by permitting new stock through infill and complementary redevelopment.</i></p>	<p>The availability of vacant land on the subject property provides an appropriate opportunity for infill development in an established residential neighbourhood. The proposed building has been designed to be compatible with the character of the existing heritage streetscape along Tower Road.</p>

<p>Policy 1.1.1  <i>Several forms of infill housing shall be encouraged by the City as appropriate to the diverse physical characteristics of the individual districts and neighbourhoods.</i></p>	<p>The construction of the proposed building on a sizeable vacant portion of the subject property represents a form of infill permitted in the South End. The building would be consistent with the required densities outlined for properties located in Medium-Density Residential Areas.</p>
<p>Policy 1.1.1.1  <i>Forms of infill housing which shall be permitted in the South End include:</i></p> <ul style="list-style-type: none"> <li>a) the interior conversion of existing structures;</li> <li>b) addition to existing structures, either through infilling between existing structures or additions to the rear of existing structures;</li> <li>c) building on vacant lots in the forms prescribed by this Section of the Plan; and</li> <li>d) low-rise housing within the densities prescribed by this Section of the Plan</li> </ul>	<p>The interior of the heritage building will be converted to commercial use on the ground floor and residential uses in the basement and second storey. A second, low-rise infill building will be developed on a vacant portion of the existing property.</p>
<p>Policy 1.3  <i>The City shall encourage the retention and creation of family-type housing accommodation in the South End.</i></p>	<p>Up to three units in the heritage building and one unit in the new development would meet the criteria for family-type dwelling units in Medium-Density Residential areas.</p>
<p>Policy 1.4.2  <i>Areas shown as Medium-Density Residential on the Future Land Use Map of this Plan shall be regarded as residential environments which provide a mix of family and non-family dwelling units in buildings of not more than four storeys. For such areas, the City shall amend its Zoning By-law in accordance with Policies 1.4.2 to 1.4.2.3 inclusive. In any building a minimum of 50 percent of the units shall be family-type dwelling units.</i></p>	<p>Policy 6.8 of the MPS permits appropriate land use flexibility in order to encourage the preservation and retention of heritage assets. The new building is consistent with the heritage character of the subject property and promotes a wider variety of housing options in the neighbourhood. At least 30 percent of the total floor area of the heritage building and new building would consist of family-type dwelling units with 800 s/f or more.</p>
<p>Policy 1.4.2.1  <i>The forms of infill housing permitted in Medium Density Residential Areas shall include:</i></p>	<p>The construction of the proposed building on a sizeable vacant portion of the subject property represents a form of infill permitted in Medium-Density Residential areas. The building would be consistent with the</p>



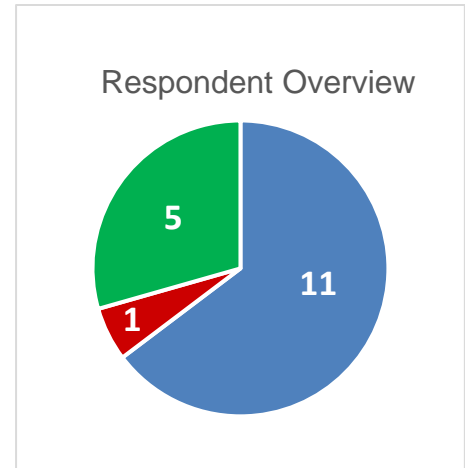
<ul style="list-style-type: none"> <li>a) interior conversion;</li> <li>b) additions to existing structures;</li> <li>c) infilling between existing structures; and</li> <li>d) small-scale development on vacant lots.</li> </ul>	<p>densities outlined for properties located in Medium-Density Residential Areas.</p> <p>The interior of the heritage building will be converted to commercial use on the ground floor and residential uses in the basement and second storey.</p>
<p>Policy 1.4.2.2 <i>In Medium-Density-Residential areas, family type dwelling units shall be a minimum of 800 square feet.</i></p>	<p>Four of the maximum eleven dwelling units in the heritage building and new building would close to or exceed 800 square feet.</p>
<p>Policy 1.4.2.3 <i>In Medium-Density Residential areas, the City shall not permit any building to be converted or added to such that more than 14 dwelling units are contained within the building.</i></p>	<p>The proposed new building will have only a maximum of 8 dwelling units.</p>
<b>2. Commercial Facilities</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>Policy 2.1 <i>In the South End it is the HRM's intent to allow for neighbourhood shopping facilities and minor commercial facilities. Commercial uses shall not be encouraged other than in accordance with Part II, Section II of the Municipal Planning Strategy.</i></p>	<p>The commercial use is consistent with Part II, Section II of the Municipal Planning Strategy, see above.</p>
<p>Policy 2.2 <i>Spot rezonings to permit neighbourhood shopping facilities pursuant to and consistent with Part II, Section II, Policy 3.1.1 of the Municipal Development Plan may be permitted.</i></p>	<p>The commercial use is consistent with Part II, Section II, Policy 3.1.1 of the Municipal Planning Strategy, see above.</p>
<b>5. Heritage Resources</b>	
<b>Policy</b>	<b>Staff Comment</b>
<p>Policy 5.1 <i>The City shall continue to seek the retention, preservation, rehabilitation and restoration of areas, streetscapes, buildings, features and spaces in the South End area consonant with the City's general policy stance on heritage preservation (See Section II, Policy Set 6).</i></p>	<p>The proposed development is consistent with Section II, Policy Set 6 of the Municipal Planning Strategy, see above.</p>

## Attachment C Engagement Mail Out Summary

### Overview

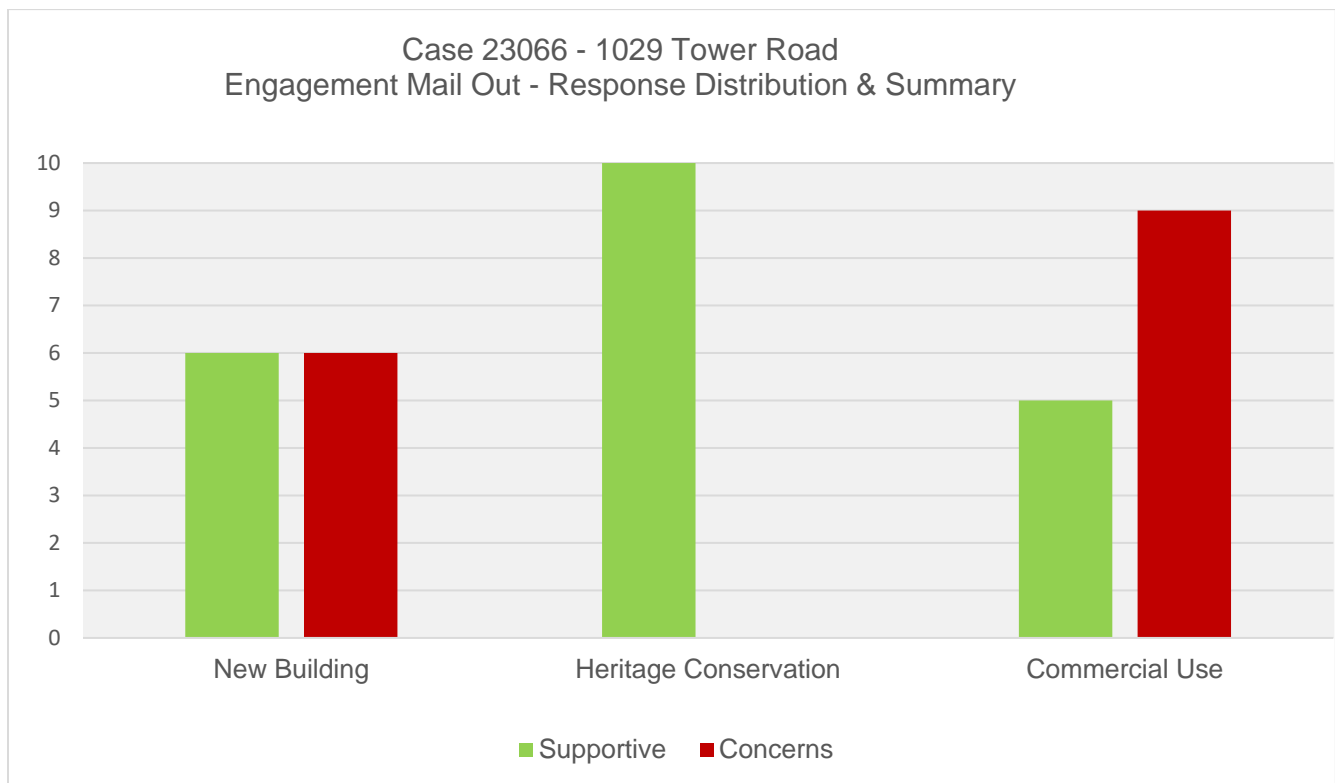
The Heritage Team requested public input on Case 23066 via mail out and webpage notifications. At the conclusion of the eight-week submission period, staff received 17 submissions regarding the applicant's proposed development:

- Eleven respondents **supported** the proposal; and
- Five respondent offered **mixed support**; and
- One respondent **did not support** the proposal



### Response Summary

The 17 respondents provided both supportive comments and concerns, which are summarized in three categories below:



## **New Building**

### Supportive Comments

- Five respondents expressed support for the design of the new building because it fits the three-storey character of the Victorian homes further north on Tower Road, makes better use of the property, and the proposal will preserve the heritage building on the same property; and
- One respondent expressed support that the proposed development will provide more housing in an area that needs more apartment units for students and young professionals.

### Concerns

- Three respondents expressed concerns about the impact of construction on noise levels, traffic and pedestrian circulation, as well as emergency vehicle access;
- Two respondents expressed concerns that on-street parking is already next to impossible in the area and would prefer to see a requirement for onsite parking on the property;
- Two respondents expressed concern that the drawings of the new building look a bit mundane and would prefer to see more artistic effort that better complements the Dr James Doull House; and
- One respondent expressed concern that the units in the new building will not be affordable and that affordable housing is a need in the neighbourhood.

## **Heritage Conservation**

### Supportive Comments

- Ten respondents expressed support for the development agreement because the Dr James Doull House, registered heritage building, will be preserved as part of the proposal.

### Concerns

- There were no concerns expressed about the conservation of the heritage building.

## **Commercial Use**

### Supportive Comments

- Five respondents expressed support for the café use of the Dr James Doull House because it will not disrupt the quiet neighbourhood, it will draw the public into the main level of the heritage building and it will be combined with residential units on the upper and basement levels.

### Concerns

- Seven respondents expressed concern that the commercial use will increase vehicular and pedestrian traffic in the neighbourhood:
  - The streets are already narrow with parking on both sides.
  - Winter traffic will be even more congested.
  - Cars and pedestrians sometimes pass through private properties.
  - Cars and people also collide with each other and increasing both on the narrow street is dangerous.
  - Cars make illegal stops or park in “No Parking” areas to access coffee shops; and
- Two respondents expressed concern that a franchise coffee shop will operate in the heritage building and would prefer to see a local coffee shop operate in the small heritage building.

*These minutes are considered draft and will require approval by Heritage Advisory Committee at a future meeting.*

The Heritage Property Program was reviewed, highlighting that HRM has 500 registered heritage properties and three Heritage Conservation Districts. Roles of staff and the Committee were outlined. Legislative authority is provided by the Heritage Property Act of Nova Scotia which covers: registered properties, heritage conservation districts and cultural landscapes. Additional guiding policies and regulations were noted. The definition of a registered heritage property was reviewed and recent examples provided, highlighting the work and areas of attention for the Committee. Heritage Conservation Districts and how they are identified was reviewed along with maps and illustrations of existing and potential districts. Murnaghan noted the success of the Heritage Conservation District Incentive Program. Other forms of heritage protection were also identified. Important links for key information useful to the Committee were shared.

### **9.1.3 Case 23066: Development Agreement for 1029 Tower Rd**

The following was before the Committee:

- A staff recommendation report dated December 24, 2020
- A staff presentation dated January 27, 2021

Vice Chair Patrick Connor assumed the Chair for the discussion of Item 9.1.3.

Seamus McGreal, Planner III provided a presentation.

A development application has been submitted for Dr. James Doull House at 1029 Tower Road, a municipal heritage property. Maps and photos showed the site context as a part of the Victorian Streetscape. The proposal is for: construction of a new 3-storey building, new commercial use for the heritage building and general conservation of the heritage building. Elevations were shared showing the repositioning of the heritage building, the design of the new building, construction of a rear addition and alterations to meet building code requirements. The substantial alteration application was approved by Regional Council in November 2020. The site is subject to its designation as medium density residential and Heritage Policy 6.8. Public engagement was done in the form of a survey to 656 households. McGreal summarized the feedback gathered from the 17 responses received. The Heritage DA Process was reviewed, indicating what has taken place and the next steps.

McGreal confirmed that the heritage building would be turned 90 degrees to face Tower Road and set back from the road near the north property line. New composite board siding will be used to meet fire ratings.

The Committee discussed the design of the new building and how it fits in with the Victorian Streetscape and nearby buildings. Conservation standards for new construction was reviewed. It was noted that the applicant worked through the substantial alteration process when demolition was still an option. Committee feedback on the design will be shared with the applicant and can also be considered at the permit review stage.

MOVED by David Atchison, seconded by Jennifer Clarke-Hines

**THAT the Heritage Advisory Committee recommend that Halifax and West Community Council:**

- 1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A of the December 24, 2020 report, to allow a three-storey multi-unit residential building and a commercial use on the registered heritage property located at 1029 Tower Road and schedule a public hearing;**
- 2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and**

**3. Require the agreement to 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.**

**MOTION PUT AND PASSED.**

#### **9.1.4 H00500: Development within Heritage Properties in the South End**

The following was before the Committee:

- A staff recommendation report dated December 22, 2020
- A staff presentation dated January 27, 2021

Chair Jenny Lugar rejoined the meeting and assumed the Chair.

Seamus McGreal, Planner III provided a presentation.

This report originated from a request by Regional Council in October 2019. It looks at the potential for integrated development on registered heritage properties within the South End Plan Area with the goal of providing land use policy and standards that supports heritage conservation. Maps of the South End Area were shared showing examples of how policy and zoning worked in the development of Schmidville. Policy 6.8, the Heritage Property Act and HRM conservation standards are considerations for this work. It was noted that Developers were looking for opportunities and incentives for projects in the South End Area.

Staff looked at three options to address the issues:

- Expanding development potential under Centre Plan, Package B
- Expanding development potential for historic buildings prior to heritage registration
- Expanding development potential within Heritage Conservation Districts

McGreal reviewed each option indicating required changes to policy; merits and risks for HRM and stakeholders; what would be viewed as interim measures and long-term solutions. McGreal concluded with the staff recommendation.

McGreal confirmed that when neighbourhood boundaries are being created, particular buildings could be identified and excluded from the historic district designation (i.e. the NSLC building in Schmidville). They clarified that Policy 6.8 would be replaced in the Centre Plan with Policy 5.6.

McGreal added that the use of Heritage Conservation Districts provides a comprehensive development plan which would include design guidelines allowing for more as of right development and eliminate the Development Agreement process in these areas.

MOVED by David Atchison, seconded by Councillor Cuttall

**THAT the Heritage Advisory Committee recommend that Regional Council direct the Chief Administrative Officer to identify additional heritage conservation district study areas within the South End Plan Area, as per Option 3 of the December 22, 2020 report, for potential inclusion in the Regional Centre Secondary Municipal Planning Strategy.**

**MOTION PUT AND PASSED.**

#### **9.2 MEMBERS OF THE HERITAGE ADVISORY COMMITTEE – NONE**

#### **10. MOTIONS/DISCUSSION – NONE**