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## Non-Substantive Amendment to a Development Agreement

**TO:** Development Officer

**DATE:** December 9, 2022

**SUBJECT:** **Case 24391: Non-Substantive Amendment to an existing Development Agreement at 1029 Tower Road, Halifax**

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### LEGISLATIVE AUTHORITY

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

Regional Centre Plan - adoption or amendment of development agreement by Policy 245:

- *(3A) Notwithstanding subsections (1) to (3), a development officer may approve non-substantive amendments to a development agreement without holding a public hearing.*
- *(3B) Subsection (3A) does not apply where amendments to a development agreement are a combination of substantive and non-substantive amendments.*

### RECOMMENDATION

It is recommended that the Development Officer approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report.

### BACKGROUND

ZZap Consulting Ltd. has applied for a non-substantive amendment to an existing development agreement at 1029 Tower Road, Halifax, to permit changes to Schedule B, the site plan. The changes include the subdivision of the property and reconfiguration of the sunken terrace and walkways. The original DA was approved in June 2021.

<b>Subject Site</b>	1029 Tower Road, Halifax (PID 00142935)
<b>Location</b>	Near the intersection of Tower Road and Inglis Street in South End Halifax
<b>Regional Plan Designation</b>	Urban Settlement (US)
<b>Community Plan Designation</b>	Established Residential (ER) within the Regional Centre Secondary Municipal Planning Strategy (RCSMPS)
<b>Zoning</b>	ER-1, Regional Centre Land Use Bylaw
<b>Size of Site</b>	Approx. 474 m <sup>2</sup> (5,100 s/f)
<b>Street Frontage</b>	Approximately 27 metres (90 ft) of street frontage on Tower Road
<b>Current Land Use(s)</b>	Residential
<b>Surrounding Use(s)</b>	The surrounding area includes a mix of residential and institutional uses from two to six storeys in height. The subject property is part of a designated heritage streetscape.

### **Existing Development Agreement**

- On February 16, 2021, Halifax & West Community Council entered into a development agreement with Stefan Frent for a heritage development agreement at 1029 Tower Road to permit the movement and restoration of the heritage house and the construction of a three-storey multi-unit residential building on the same site.
- The agreement permitted both buildings to be located on the same property (1029 Tower Road) and required a central pedestrian walkway on the property, providing rear access to both buildings.
- The agreement permits changes to Schedule B, the site plan, as non-substantive amendments provided that changes do not conflict with the text provisions in the agreement.

### **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.

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

The existing development agreement was approved under Policy 6.8 of the Halifax SMPS. The Regional Centre SMPS was adopted on November 21, 2021, and at that time the subject site was designated Established Residential and zoned ER-1 (Established Residential 1) within the Regional Centre Land Use By-law. The development agreement policy which enables applications for Development Agreements on Registered Heritage Properties following adoption of the Regional Centre SMPS became Policy CHR-7.

When the RCSMPS was adopted, Policy 6.8 of the Halifax MPS was repealed for the area within the boundary of the RCSMPS. However, the RCSMPS does provide specific 'transition' policies enabling non-substantive amendments to existing development agreements. Policy IM-33 enables applications for non-substantive amendments to existing development agreements to be considered under the policies in effect at the time the agreement was approved.

The relevant section of the existing Development Agreement, which outlines amendments considered non-substantive in nature, can be found in Attachment C.

### **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the Regional Centre SMPS and the Halifax MPS policies. Attachment B provides an evaluation of the proposed amended development agreement in relation to the relevant MPS policies including Policy IM-33 regarding amending agreements and Policy CHR-7.

### **Proposed Non-substantive Amendment to the Development Agreement**

Attachment A contains the proposed non-substantive amendment to the existing development agreement. This amendment is permitted under the Existing Agreement in Section 5.1. This section allows changes to Schedule B, the site plan, provided that the changes do not conflict with the provisions in the text of the agreement.

The purpose of the non-substantive amendment is to permit the property to be subdivided as shown in Schedule B-1 of the amending agreement. As a result of the subdivision and the desire for pedestrian circulation on both lots (rather than shared pedestrian access for the two buildings on one lot), Schedule B-1 also shows an adjusted sunken terrace and additional walkways. The proposed amendments would allow the developer to subdivide the lands, but not require it. These amendments do not conflict with the text of the development agreement.

Changes include:

- Amending the agreement from referring to "Schedule B" to referring to Schedule B-1 (site plan).

### Community Engagement

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through providing information and seeking comments through the HRM website and signage posted on the subject site. A public information meeting and public hearing are not required for a non-substantive amendment to a development agreement. Planning staff have not received any public comments on this application.

### 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 RCSMPS and the Halifax MPS policies that were in effect at the time of the approval of the existing development agreement. Therefore, staff recommend that development officer approve the proposed amending development agreement.

### ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning Map
Attachment A:	Proposed Amending Development Agreement
Attachment B:	Review of Relevant Municipal Planning Strategy Policies
Attachment C:	Relevant Sections and Schedules of the Existing Development Agreement

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### Development Officers Decision

**HALIFAX REGIONAL MUNICIPALITY**  
Non-Substantive Development Agreement  
Is **APPROVED** for

Details:

Date: January 3rd, 2022

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approved by Development Officer  
Name