



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

**Item No. 10.1.3**  
**Halifax and West Community Council**  
**September 15, 2015**

**TO:** Chair and Members of Halifax and West Community Council  
Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Bob Bjerke, Chief Planner & Director, Planning and Development

**DATE:** August 21, 2015

**SUBJECT:** **Case 19809: Development Agreement Time Extension, Vernon Street,  
Halifax**

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**ORIGIN**

Application by W.M. Fares Group

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Approve the proposed amending development agreement to allow the provisions for construction commencement and completion to be extended for 18 months, presented as Attachment A to this report, and;
2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

On September 10, 2012, the former Peninsula Community Council approved a development agreement, herein referred to as the "Agreement", to allow for an increase to the volume of a structure containing a non-conforming six (6) unit apartment house at 1749, 1751, 1753, 1757, and 1759 Vernon Street in Halifax (subject property). The Agreement allows a third storey to be added to the existing apartment house, with the majority of the third storey contained within a pitched roof form. The Agreement also contains provisions related to architectural design and site improvements.

### **Site Description, Designation, and Zoning**

The subject property is located on the east side of Vernon Street between Cedar Street and Jubilee Road (Map 1), and is described as follows:

- Approximately 780.4 square metres (8,400 square feet) in total area;
- Approximately 29.9 metres (98 feet) of total street frontage;
- Designated MDR (Medium Density Residential) by the Peninsula Centre Detailed Area Plan (PCDAP), which forms part of the Halifax Municipal Planning Strategy (MPS) (Map 1); and
- Zoned R-2 (General Residential Zone) by the LUB (Map 2).

### **Requested Amendments**

W. M. Fares Group, on behalf of the property owner (John Sipos and Melissa Sanford), has applied for non-substantive amendments to the agreement to allow the provisions of construction commencement and completion to be extended by eighteen (18) months. Currently, commencement must take place by February 13, 2016 and completion by February 13, 2018. The property owner has not been able to proceed with the project pursuant to the timing clauses due to medical reasons.

### **Process**

The Agreement identifies changes to the construction commencement and completion requirements as non-substantive matters. Therefore, under the provisions of the *Charter*, these matters do not require a public hearing. The decision is made by resolution of Council and is subject to the appeal process outlined in the *Charter*.

### **Enabling Policy**

Implementation Policy 3.14 of the MPS allows for the structure in which a non-conforming use is located to be altered or expanded by development agreement. This is the policy framework under which the agreement was considered and approved.

## **DISCUSSION**

The agreement was reviewed by staff in 2012, and again for this application, and determined to be consistent with the relevant policies contained within the MPS and the PCDAP. Given the requested changes relate only to construction commencement and completion, provisions of the agreement which regulate development will remain unchanged. Further, as the MPS and PCDAP policies which enabled the agreement have not changed, the dates for construction commencement and completion can be extended. Therefore, it is recommended that the dates for construction commencement and completion be extended as outlined in the proposed amending development agreement (Attachment A).

## **FINANCIAL IMPLICATIONS**

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Amending Agreement. The administration of the Amending Agreement can be carried out within the approved 2015/16 budget with existing resources.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved prior to approval of the agreement through a Public Information Meeting (held on February 2, 2012) and a Public Hearing (held on September 10, 2012). Given the agreement identifies construction commencement and completion as non-substantive matters, a public hearing is not required. The decision is made by resolution of Council. In the event Council approves the proposed amending development agreement, a notice will be placed in the Chronicle Herald setting out the right to appeal.

The proposed amending development agreement will potentially impact the following stakeholders: local residents and property owners.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental concerns were identified.

### **ALTERNATIVES**

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

### **ATTACHMENTS**

Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Attachment A	Proposed Amending Development Agreement

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

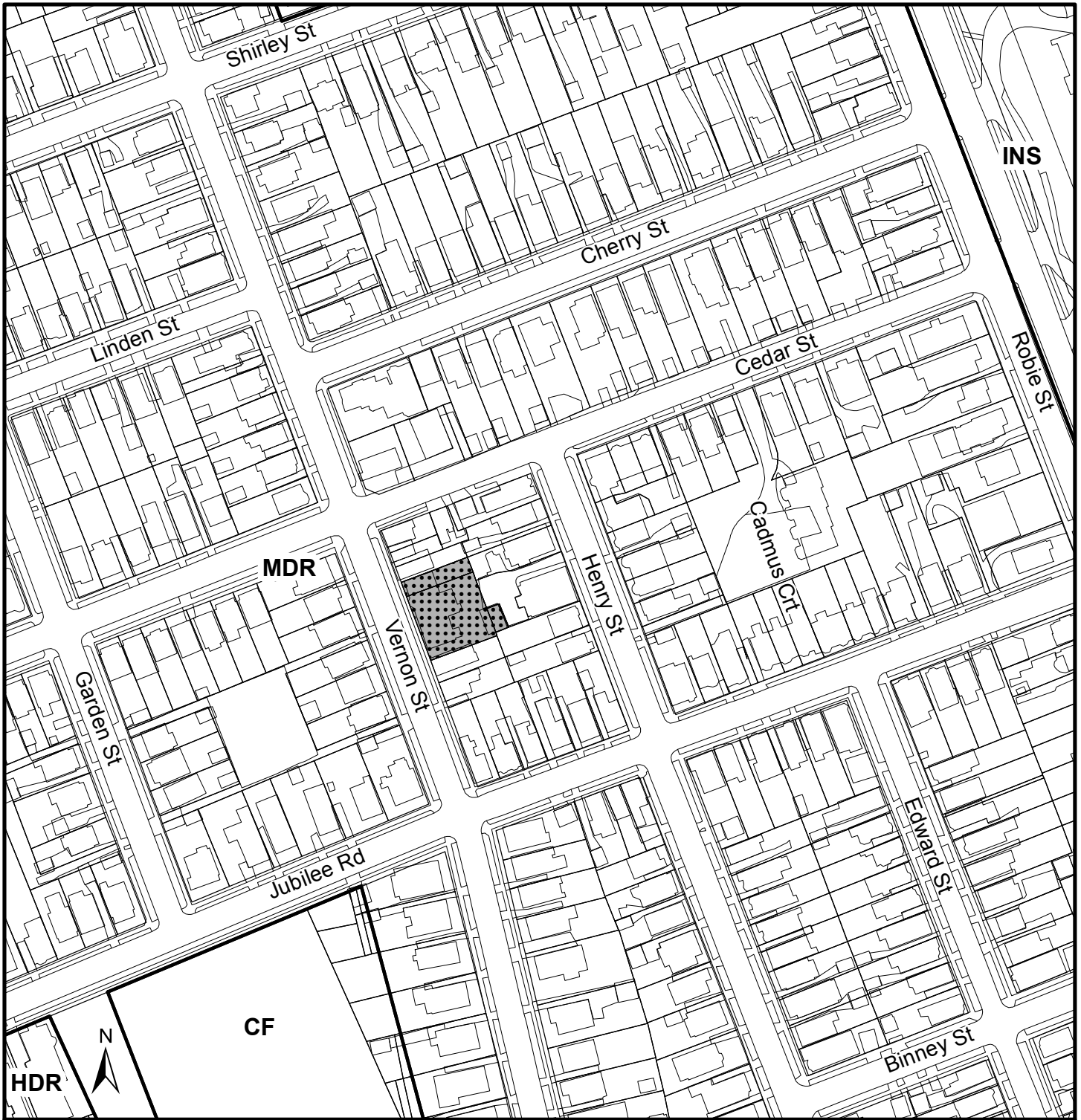
Report Prepared by: Miles Agar, LPP, Planner 1, Development Approvals, 902-490-4495

Original Signed

Report Approved by:

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Kelly Denty, Manager of Development Approvals, 902-490-4800

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### Map 1 - Generalized Future Land Use

1751-1759 Vernon Street  
Halifax

**HALIFAX**

 Subject Property

**Designations**

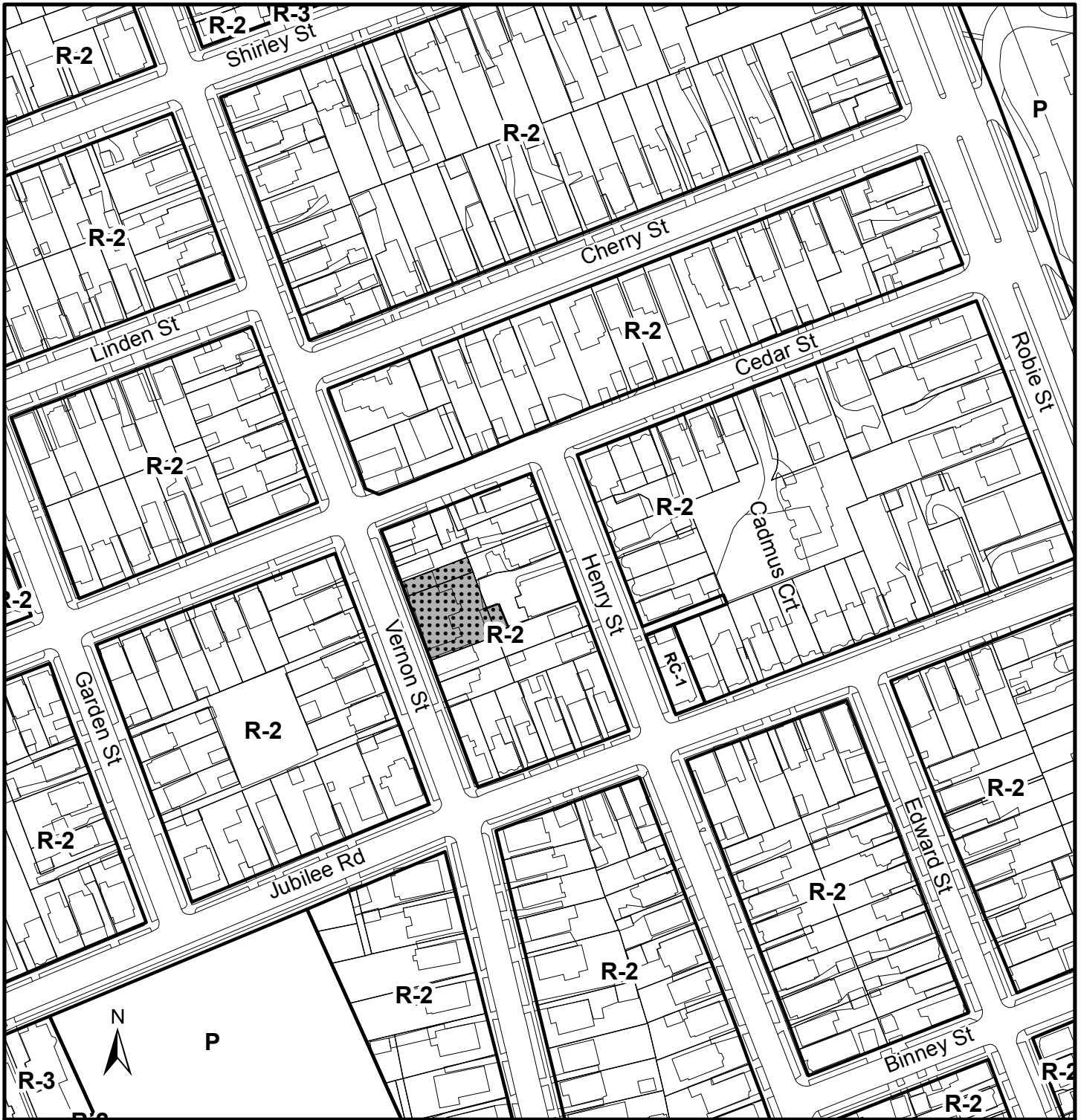
- MDR Medium Density Residential
- HDR High Density Residential
- CF Community Facility
- INS Institutional



Halifax Plan Area  
Peninsula Centre Detailed Area Plan

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

1751-1759 Vernon Street  
Halifax

 Subject Property

#### Zones

- R-2 General Residential
- R-3 Multiple Dwelling
- RC-1 Neighbourhood Commercial
- C-2 General Business
- P Park and Institutional



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

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

Halifax Peninsula  
Land Use By-Law Area

**ATTACHMENT A:**

**Proposed Amending Development Agreement**

THIS AMENDING AGREEMENT made this     day of                             , 201   ,

BETWEEN:

**[Insert Name of Corporation/Business LTD.]**,  
a body corporate, in the Province of Nova Scotia,  
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY**,  
a municipal body corporate, in the Province of Nova Scotia,  
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1749, 1751, 1753, 1755, 1757, and 1759 Vernon Street, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former Peninsula Community Council for the Municipality approved an application by the Developer to enter into a Development Agreement to allow for an increase in the volume of a structure containing a non-conforming six (6) unit apartment house on the Lands, which said Development Agreement was registered at the Land Registration Office in Halifax as Document Number 102476869 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested non-substantive amendments to the Existing Agreement to allow the provisions for construction commencement and completion to be extended by 18 months pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Part 6 of the Existing Agreement;

AND WHEREAS the Halifax and West Community Council for the Municipality approved these requests at a meeting held on **[INSERT DATE]**, referenced as Municipal Case Number **19809**;

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

The Existing Agreement is amended as follows:

1. Subsection 7.3.1 shall be deleted and replaced with the following revised subsection:

"7.3.1 In the event that development on the Lands has not commenced by July 13, 2017, 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."

2. Subsection 7.4.3 shall be deleted and replaced with the following revised subsection:

"7.4.3 If the Developer fails to complete the development by July 13, 2019, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement."

**IN WITNESS WHEREAS** the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**(Insert Registered Owner Name)**

\_\_\_\_\_  
Witness

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

**HALIFAX REGIONAL MUNICIPALITY**

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

\_\_\_\_\_  
Witness

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

**MAYOR**

\_\_\_\_\_  
Witness

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

**MUNICIPAL CLERK**