

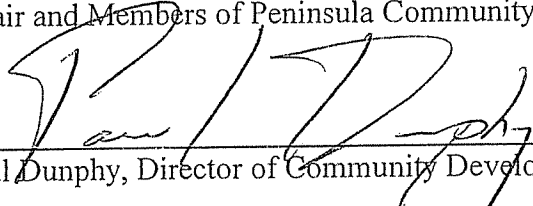
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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Peninsula Community Council
October 1, 2007

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Community Development

DATE: September 13, 2007

SUBJECT: Case 01071: Discharge of Development Agreement - 1078 Tower Road, Halifax

ORIGIN

Application by Dexel Developments Limited, on behalf of Ollive Properties Limited, to discharge the existing development agreement at 1078 Tower Road, Halifax (PID # 00054387).

RECOMMENDATION

It is recommended that Peninsula Community Council:

1. Approve the discharging agreement, presented as Attachment "A" to this report, for lands located at 1078 Tower Road, Halifax.
2. Require that the discharging agreement be signed within 120 days, or any extension thereof granted by Community Council on the request of the applicant, from the date of final approval by Community Council and any other bodies as necessary, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The subject property is designated HDR (High Density Residential) and is zoned R-3 (Multiple Dwelling) under the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB), respectively (see Map 1). On May 27, 1982, the Council of the former City of Halifax approved a development agreement on the property to allow for an additional dwelling unit through internal conversion of the already existing 28-unit apartment building. This development agreement is still binding on the property.

DISCUSSION

In 1982, 1078 Tower Road was contained under Schedule "C" pending Ministerial Approval of the South End Area Plan. Schedule "C" had the effect of limiting development abilities on R-3 zoned properties to 25 dwelling units, unless otherwise approved by Council through a development agreement process. However, within one year of Council entering into a development agreement for the additional dwelling unit, the South End Area Plan received Ministerial Approval and the lands were subsequently removed from Schedule "C". This resulted in the agreement becoming obsolete. If Council approves the discharging agreement, the property will revert back to the land use requirements of the R-3 Zone.

The intent of the discharge is to allow for an expansion of the existing building which must occur within the requirements of the R-3 zone. The owner's intention is to add an extension at the rear of the building creating an additional 17 units. Currently, the property is deficient on frontage by less than 3 feet, which will result in the building gaining a nonconforming status if the existing agreement is discharged. However Section 239 (1)(b)(i) of the Municipal Government Act allows a nonconforming structure to be expanded if it is located in a zone that permits the use made of it, if it is used primarily for residential purposes, and if the enlargement does not further reduce the minimum required yards or separation distances that do not conform with the land use by-law.

Public Information Meeting: No public information meeting was held. Such meetings are not typically convened for development agreement discharge applications.

Conclusion: Staff is recommending Council to approve the application to discharge the existing development agreement at 1078 Tower Road, Halifax.

BUDGET IMPLICATIONS

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

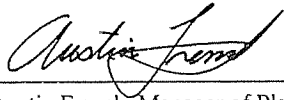
1. Council could accept to enter into a discharging agreement and allow the subject property to revert back to the R-3 (Multiple Dwelling) Zone. This is the recommended alternative.
2. Council could refuse to enter into a discharging agreement and the existing use would be retained as the only permitted use. This is not recommended for the reasons outlined above.

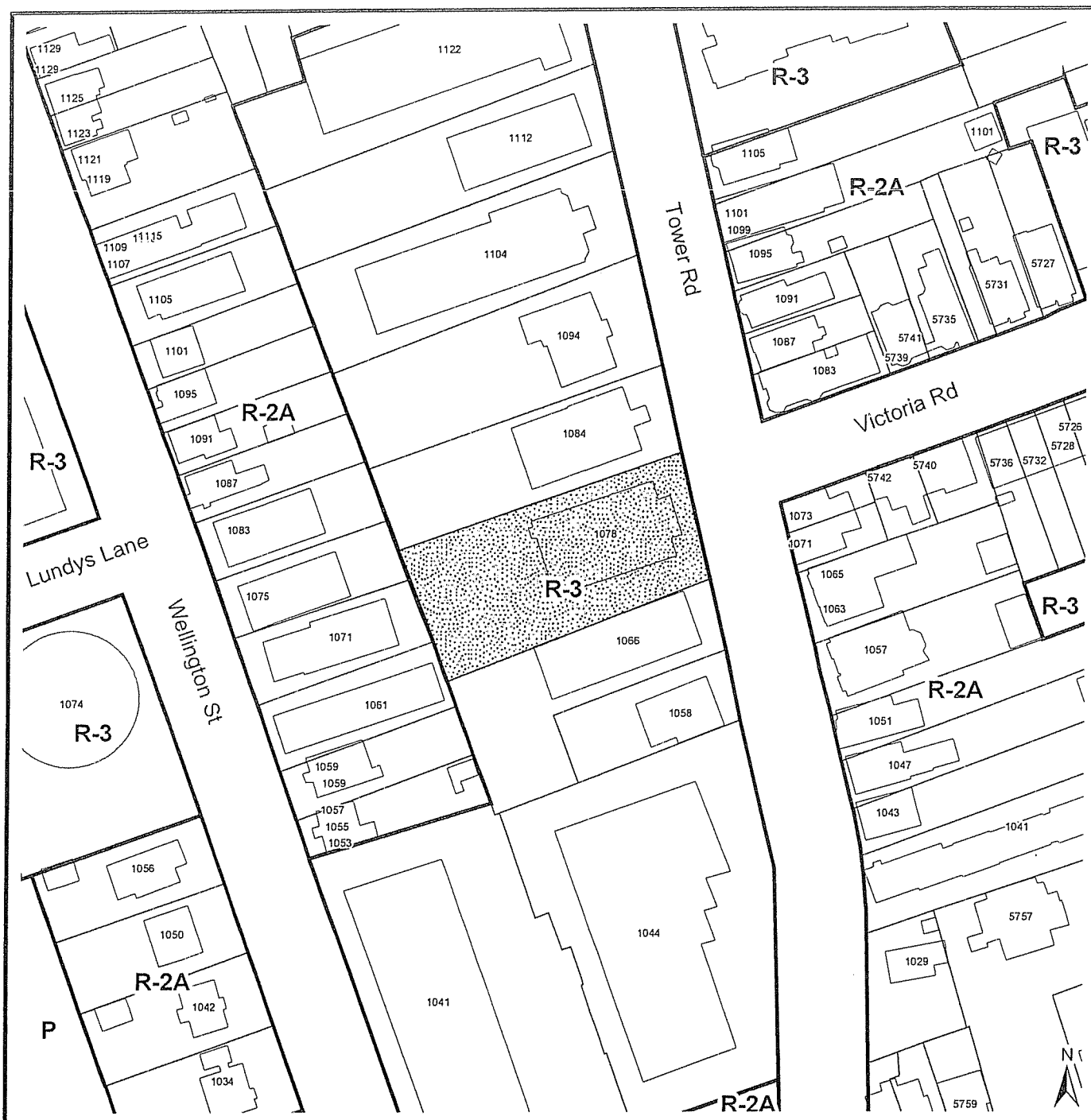
ATTACHMENTS

Map 1	Location and Zoning
Attachment "A"	Draft Discharging Agreement

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


Report Prepared by : Luc Ouellet, Planner I, Community Development, 490-3689

Report Approved by: 
Austin French, Manager of Planning Services, 490-6717



Map 1: Location and Zoning

1078 Tower Road
Halifax


 Subject property of development
agreement to be discharged

Halifax Peninsula
Land Use By-Law Area

Zone

R-2A General Residential Conversion
R-3 Multiple Dwelling
P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 20 40 m


This map is an unofficial reproduction of a
portion of the Zoning Map for the Halifax
Peninsula Land Use By-Law Area

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

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2007.

SIGNED, SEALED AND DELIVERED
in the presence of

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

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OLLIVE PROPERTIES LIMITED

Per: _____

HALIFAX REGIONAL MUNICIPALITY

Per: _____

MAYOR

Per: _____

MUNICIPAL CLERK