

**Halifax and West Community Council**  
**January 21, 2013**

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

**SUBMITTED BY:** Original Signed  
Brad Anguish, Director, Community and Recreation Services

**DATE:** December 4, 2012

**SUBJECT:** **Case 17458: 5599 Fenwick Street – Phasing Amendments**

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**ORIGIN**

Application by Templeton Place Limited

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Move Notice of Motion to consider approval of the proposed amending development agreement, presented as Attachment A, to amend the phasing schedule for the comprehensive redevelopment of the Fenwick Tower property, and schedule a Public Hearing;
2. Approve the proposed development agreement, presented as Attachment A, and;
3. 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**

The Fenwick Tower property is located at 5599 Fenwick Street, Halifax, and includes a 33 storey multiple unit residential building (Map 1). In February of 2011, Halifax Regional Council approved amendments to the Halifax Municipal Planning Strategy (MPS) and the Halifax Peninsula Land Use By-law (LUB) to allow for the redevelopment of the Fenwick Tower property by development agreement. In April of 2011, the former Peninsula Community Council approved a development agreement (existing agreement) to allow for a comprehensive redevelopment of the Fenwick Tower property in 4 phases. The applicant now wishes to amend the phasing provisions of the existing agreement.

### **Existing Phasing Provisions:**

The existing agreement requires the Fenwick Tower property be redeveloped as a single building with several building components, and requires all components to be completed within 72 months (6 years) from the date of initial permit for construction. This approach ensures the re-development project is completed in a comprehensive manner and within a reasonable period of time. Further, the existing agreement requires re-development to be completed in 4 phases, pursuant to a phasing schedule (Map 4). The existing agreement also allows individual phases to occur simultaneously, but restricts occupancy of later phases until construction of all proceeding phases are completed. An amendment to the phasing schedule under the existing agreement is a substantial amendment and requires Council's approval.

### **Requested Phasing Amendments:**

As shown on the existing phasing schedule (Map 4), the redevelopment of Fenwick Tower is reserved for the final phase, while the construction of the Fenwick Street townhouses is scheduled for Phase 2. The most significant phasing change requested by the applicant relates to Fenwick Tower and the Fenwick Street townhouses. The applicant requests work on these building elements be moved to the first phase. Other phasing changes proposed by the applicant are shown on Map 5 and further detailed in Attachment A. The proposed phasing schedule also provides greater detail on what actions will occur during each phase of the re-development project, and enables buildings elements in Phase 2 to be occupied provided all exterior construction to Fenwick Tower and the Fenwick Street townhouses is completed.

### **Planning Policy:**

The 2011 amendments to the MPS for the Fenwick Tower property outline the considerations Council shall have regard for when considering a development agreement on the site (Attachment B). These considerations address the unique opportunities and constraints of the site, and emphasize the importance of building design and comprehensive site planning, including construction phasing. An amendment to the phasing schedule must be consistent with the 2011 amendments to the MPS.

## **DISCUSSION**

A substantial amendment to the existing agreement, such as an amendment to the phasing schedule, requires staff and Council to consider the proposed amendments relative to the applicable MPS policy and the intent of the existing agreement. In staff's opinion, the proposed

phasing amendments, as contained in the attached amending development agreement (Attachment A), are consistent with the intent of MPS policy and the existing agreement.

Although upgrades to Fenwick Tower (Phase 4) and the Fenwick Street townhouses (Phase 2) are identified under the existing agreement (Map 4), the applicant has requested this work be moved to the first phase. Shifting work on Fenwick Tower and the townhouses to the first phase will allow significant visual and site design improvements to be made during the initial stages of redevelopment. Also, the applicant has requested that the number of phases be reduced from 4 to 3; with Phase 2 including development along South Street and the remainder of development along Fenwick Street, and Phase 3 including the remaining interior site work (see Map 5). These additional phasing changes will address logistical construction challenges, and will ensure components of the project which contribute to the public streetscape are completed before development activity occurs within the property's interior.

**Conclusion:**

The proposed amending development agreement outlines all requested phasing changes in greater detail (Attachment A). The proposed amending development agreement represents an opportunity to move significant components of the redevelopment to earlier phases, thereby allowing for impactful visual improvements to Fenwick Tower to occur well before completion of the project. As such, it is recommended that Halifax and West Community Council approve the proposed amending development agreement presented as 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 Agreement. The administration of the Agreement can be carried out within the approved 2012/13 budget with existing resources.

**COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. In this case, in consultation with the former area Councillor, the need for a public information meeting was waived as the application requested work on Fenwick Tower and the Fenwick Street townhouses be moved to the first phase. Although a public information meeting was not held, a sign has been placed on the property and a web page has been created to provide the public with information on the proposal.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the amending development agreement. Should Halifax and West Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, individual property owners with the notification area shown on Map 3 will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

## ENVIRONMENTAL IMPLICATIONS

Staff has not identified any environmental issues with the requested phasing changes.

## ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amending development agreement provided as Attachment A of this report. This is staff's recommendation.
2. 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 an additional public hearing.
3. Halifax and West Community Council may choose to refuse the proposed amending development agreement. Pursuant to the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the MPS.

## ATTACHMENTS

Map 1:	Location and Zoning Map
Map 2:	Generalized Future Land Use Map
Map 3:	Area of Notification
Map 4:	Existing Phasing
Map 5:	Proposed Phasing
Attachment A:	Proposed Amending Development Agreement
Attachment B:	Excerpts from the MPS

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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.

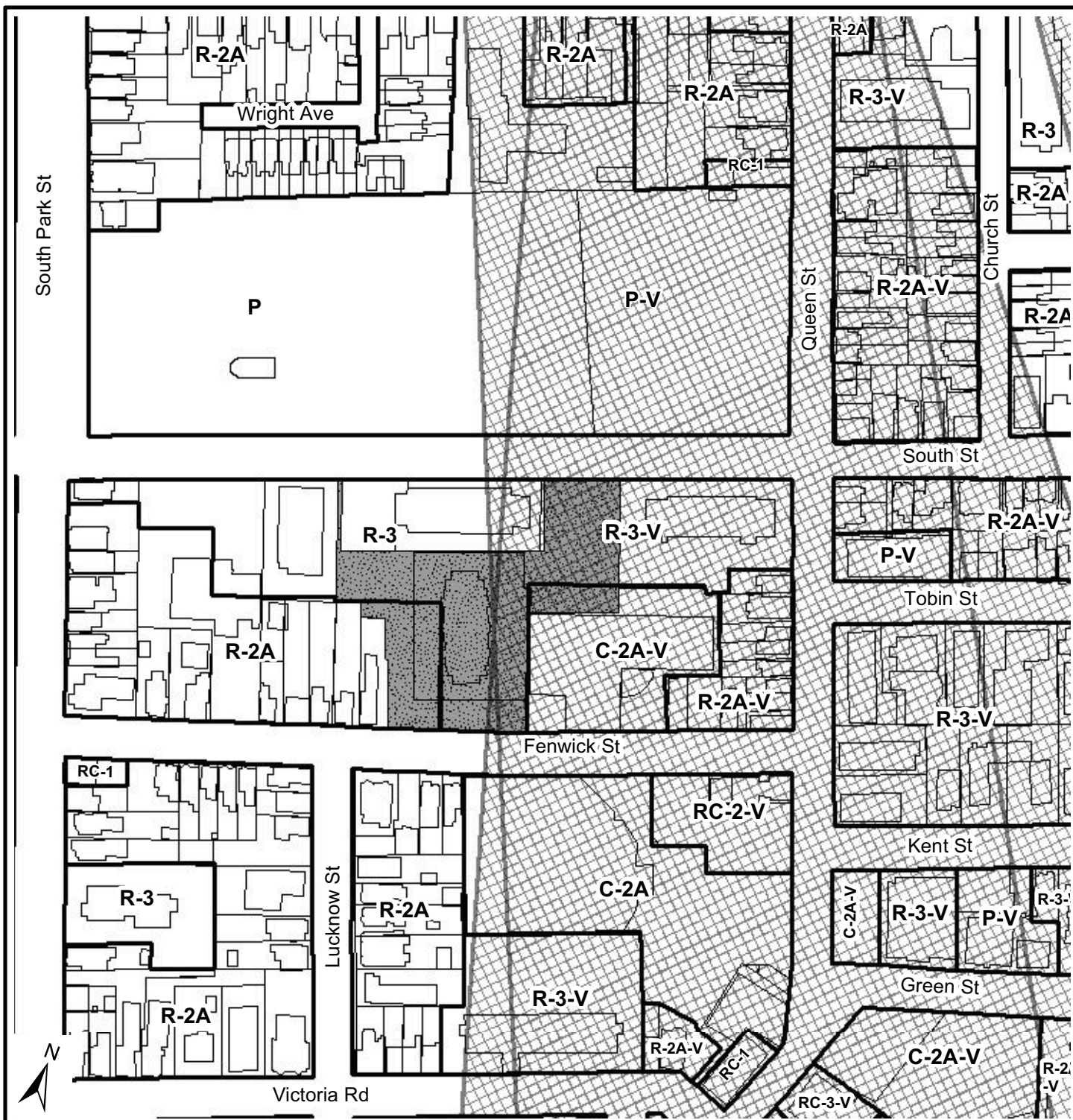
Report Prepared by: Miles Agar, Planner 1, Planning Services, 490-4495

Original Signed

Report Approved by: Kelly Denty, Manager, Development Approvals, 490-4800


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## Map 1 - Location and Zoning

5595 Fenwick Street  
Halifax

 Subject property

Halifax Peninsula  
Land Use By-Law Area

### Zone (-V within view plane)

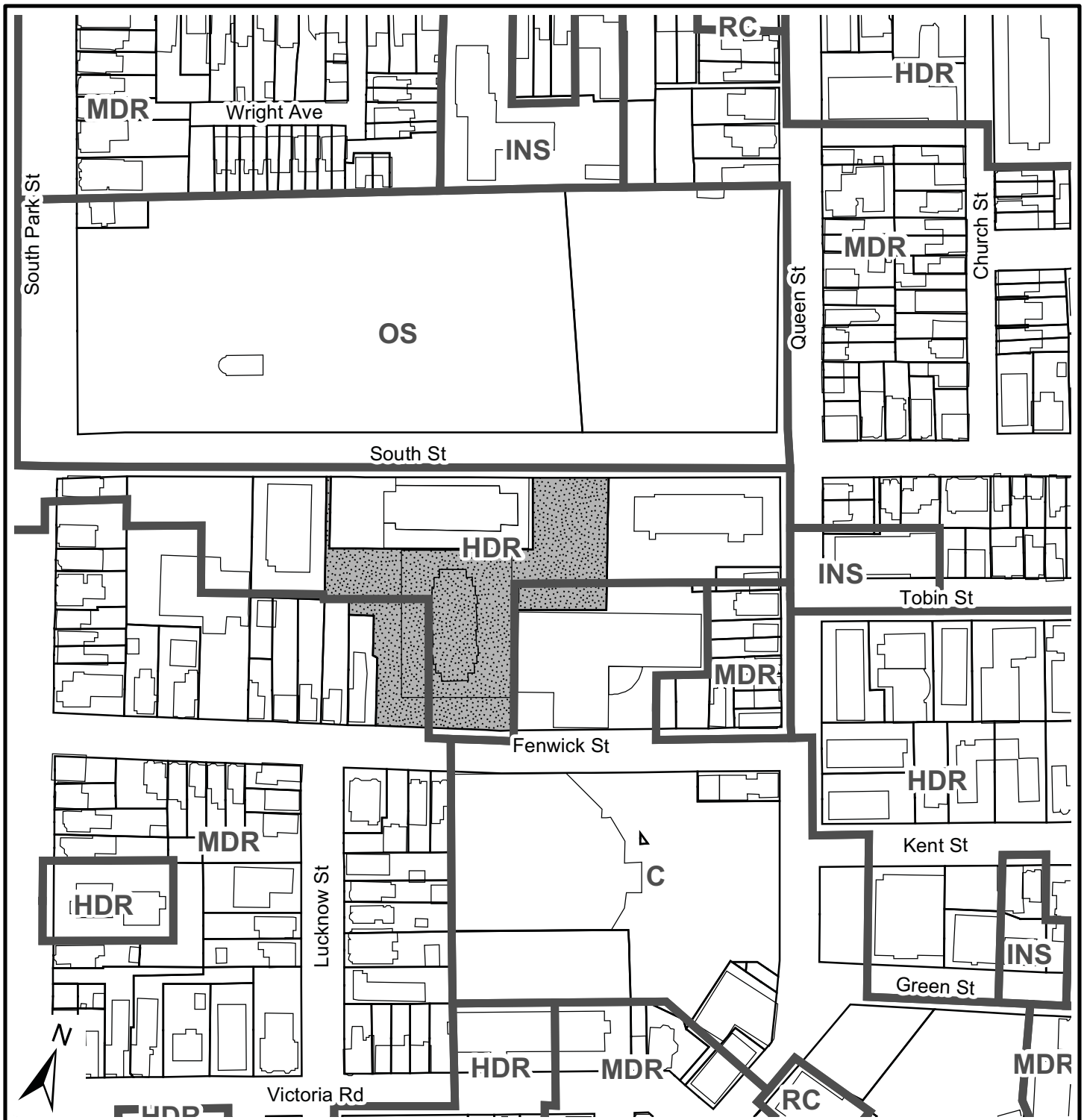
R-2A General Residential Conversion  
R-3 Multiple Dwelling  
RC-1 Neighbourhood Commercial  
RC-2 Residential Minor Commercial  
C-2A Minor Commercial  
P Park and Institutional

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

0 20 40 m  


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


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



## Map 2 - Generalized Future Land Use

5595 Fenwick Street  
Halifax


**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

 Subject property

### Designation

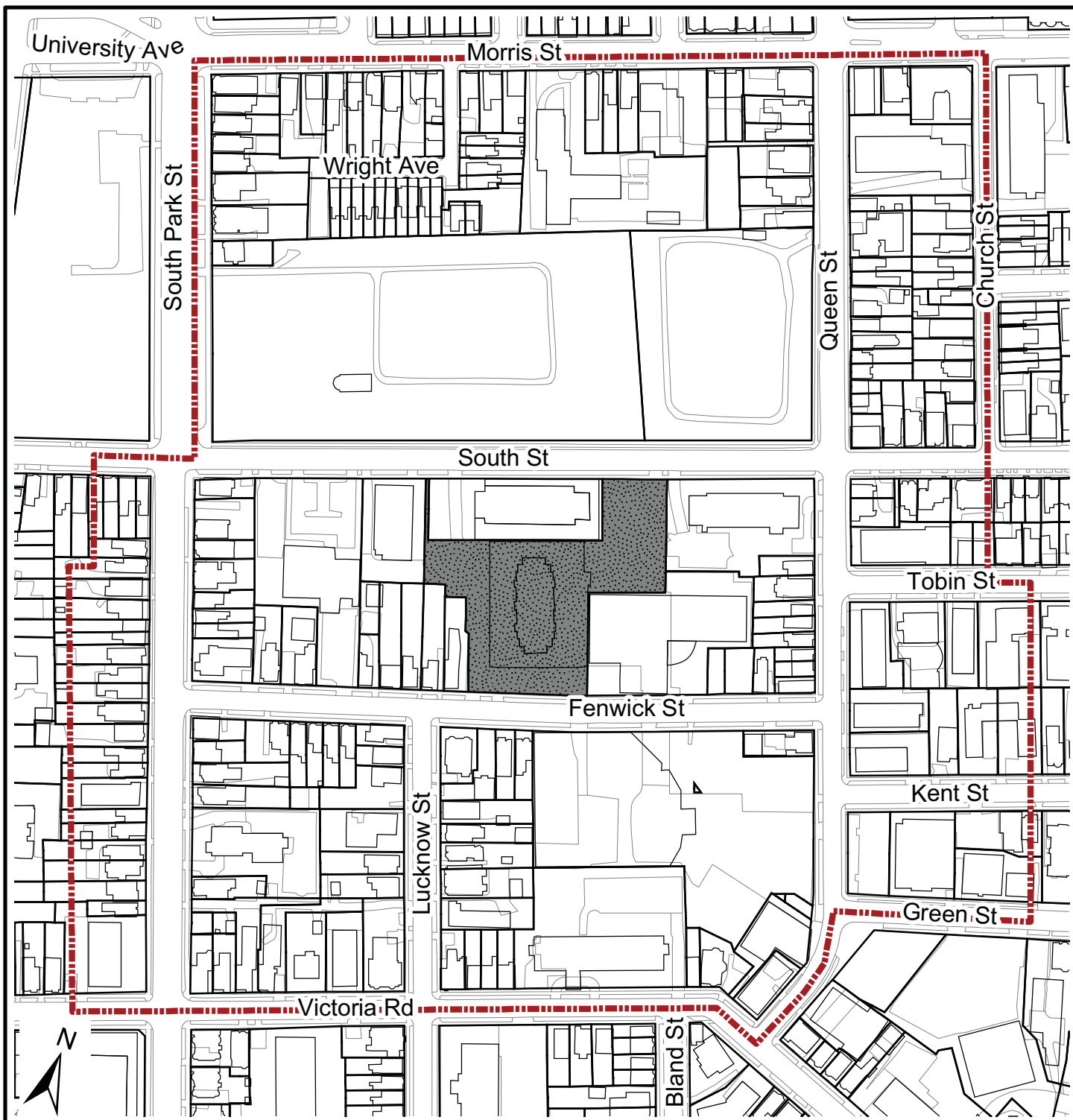
MDR	Medium Density Residential
HDR	High Density Residential
RC	Residential Commercial Mix
C	Commercial
INS	Institutional
OS	Open Space

Halifax Plan Area  
South End Detailed Area Plan

0 20 40 m  




This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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



### Map 3 - Area of Notification

5595 Fenwick Street  
Halifax

-  Subject property
-  Area of notification

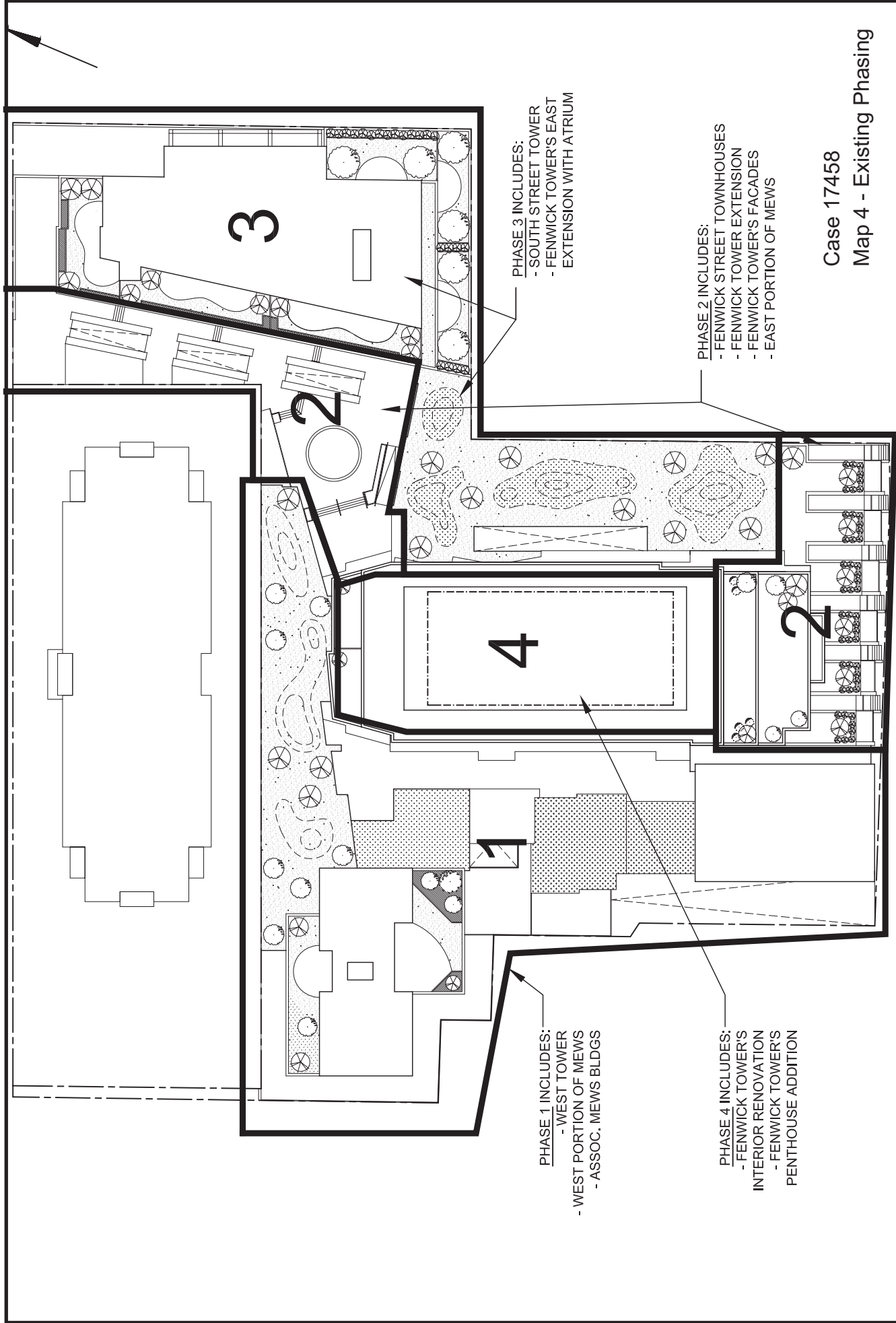
Halifax Peninsula  
Land Use By-Law Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS



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





Case 17458  
Map 4 - Existing Phasing

PHASE 3 INCLUDES:  
- SOUTH STREET TOWER  
- FENWICK TOWER'S EAST  
EXTENSION WITH ATRIUM

PHASE 2 INCLUDES:  
- FENWICK STREET TOWNHOUSES  
- FENWICK TOWER EXTENSION  
- FENWICK TOWER'S FACADES  
- EAST PORTION OF MEWS

PHASE 1 INCLUDES:  
- WEST TOWER  
- WEST PORTION OF MEWS  
- ASSOC. MEWS BLDGS

PHASE 4 INCLUDES:  
- FENWICK TOWER'S  
INTERIOR RENOVATION  
- FENWICK TOWER'S  
PENTHOUSE ADDITION

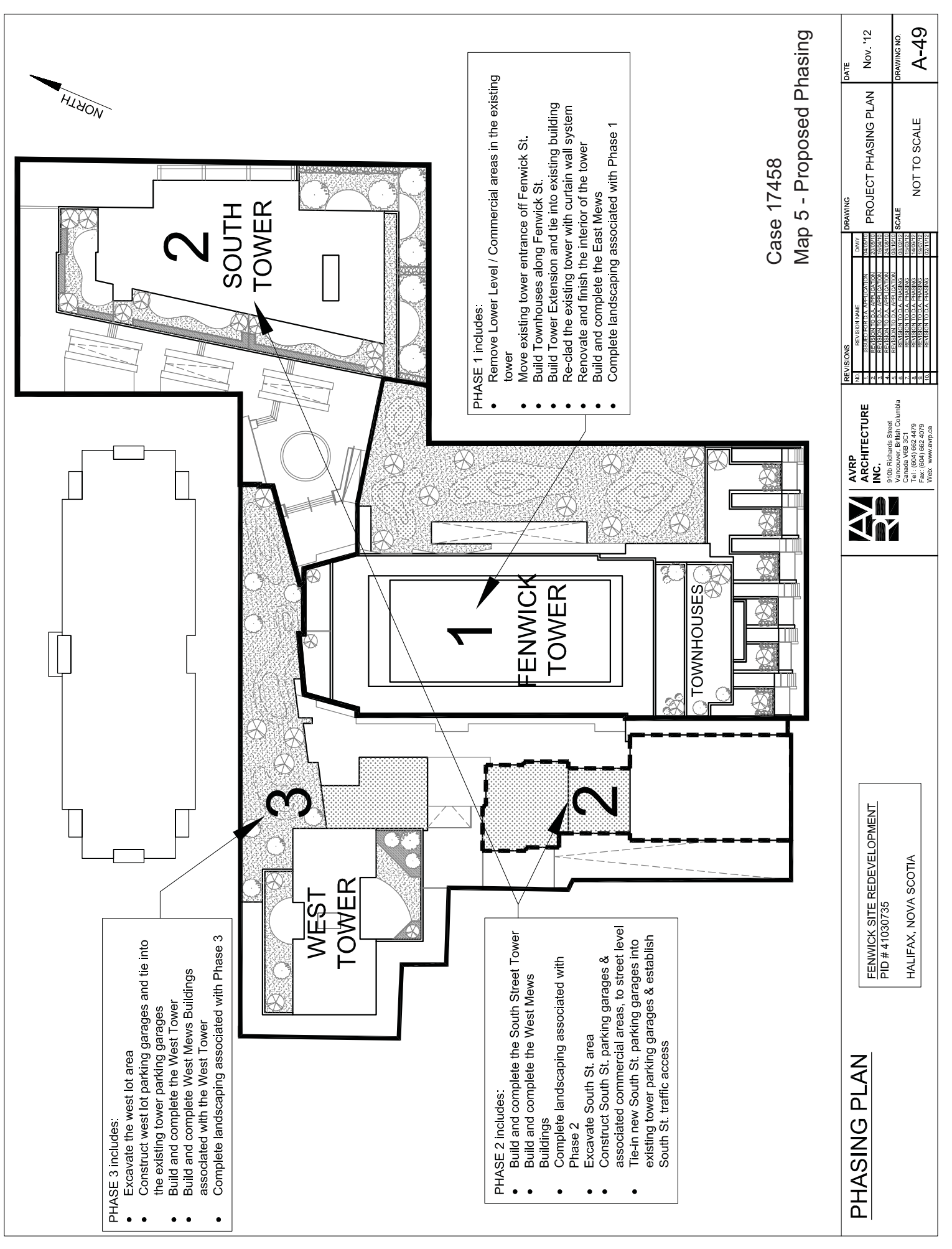
PHASING PLAN

FENWICK SITE REDEVELOPMENT  
PID # 41030735  
HALIFAX, NOVA SCOTIA



REVISIONS		DRAWING	DATE
NO.	REVISION NAME	DRAWN	
1.	ISSUED FOR O.A. APPLICATION	04/05/10	ARP '10
2.	REVISION TO O.A. APPLICATION	02/05/10	
3.	REVISION TO O.A. APPLICATION	11/06/10	
4.	REVISION TO O.A. APPLICATION	07/07/10	
		SCALE	DRAWING NO.
		NOT TO SCALE	A-49





PHASE 3 includes:

- Excavate the west lot area
- Construct west lot parking garages and tie into the existing tower parking garages
- Build and complete the West Tower
- Build and complete West Mews Buildings associated with the West Tower
- Complete landscaping associated with Phase 3

PHASE 2 includes:

- Build and complete the South Street Tower
- Build and complete the West Mews Buildings
- Complete landscaping associated with Phase 2
- Excavate South St. area
- Construct South St. parking garages & associated commercial areas, to street level
- Tie-in new South St. parking garages into existing tower parking garages & establish South St. traffic access

PHASE 1 includes:

- Remove Lower Level / Commercial areas in the existing tower
- Move existing tower entrance off Fenwick St.
- Build Townhouses along Fenwick St.
- Build Tower Extension and tie into existing building
- Re-clad the existing tower with curtain wall system
- Renovate and finish the interior of the tower
- Build and complete the East Mews
- Complete landscaping associated with Phase 1

Case 17458  
Map 5 - Proposed Phasing

PHASING PLAN

FENWICK SITE REDEVELOPMENT  
PID # 41030735  
HALIFAX, NOVA SCOTIA



**AVRP  
ARCHITECTURE  
INC.**  
910b Richards Street  
Vancouver, British Columbia  
Canada V6B 3C1  
Tel: (604) 682 4079  
Fax: (604) 682 4079  
Web: www.avrp.ca

REVISIONS		DRAWING	DATE
No.	REVISION NAME	PROJECT PHASING PLAN	Nov. '12
1	ISSUED FOR EXISTING APPLICATION	SCALE NOT TO SCALE	DRAWING NO. A-49
2	REVISION TO EXISTING APPLICATION		
3	REVISION TO EXISTING APPLICATION		
4	REVISION TO EXISTING APPLICATION		
5	REVISION TO EXISTING APPLICATION		
6	REVISION TO EXISTING APPLICATION		
7	REVISION TO EXISTING APPLICATION		
8	REVISION TO EXISTING APPLICATION		
9	REVISION TO EXISTING APPLICATION		
10	REVISION TO EXISTING APPLICATION		

**Attachment A**  
**Proposed Amending Development Agreement (January 21, 2013)**

THIS AMENDING AGREEMENT made this       day of **[Insert Month]**, 20\_\_,

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 5599 Fenwick 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 a Development Agreement with Templeton Place Limited to allow for a redevelopment that includes new commercial and residential uses on the Lands (Municipal Case No. 15937), which said Development Agreement was registered at the Halifax County Land Registration Office as Document No. 99010796 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer wishes to amend the Existing Agreement by amending the phasing schedule pursuant to the provisions of the *Halifax Regional Municipality Charter* and Policies 7.7A and 7.7A.1 of Section 7, District Policies of the South End Area Plan of the Halifax Municipal Planning Strategy and Development Agreement Provisions, South End, Clause 94(1)(s) of the Halifax Peninsula Land Use By-law (hereinafter called the "Amending Agreement");

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 17458;

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

1. The Existing Agreement shall be amended by replacing Schedule B, Plans, Drawing A-49 (Phasing Plan) with a new Schedule B, Plans, Drawing A-49 (Phasing Plan), as attached to this Amending Agreement.

2. The Existing Agreement shall be amended by replacing Section 3.6.1 with a revised Section 3.6.1 as follows:

3.6.1 Construction shall proceed in phases, pursuant to Schedule B, Drawing A-49, Project Phasing Plan Schedule, and all construction within each construction phase shall be complete by the dates below:

<b>Phase</b>	<b>Months from the Initial Permit for Construction</b>
1	48
2	60
3	72

3. The Existing Agreement shall be amended by replacing Section 3.6.2 with a revised Section 3.6.2 as follows:

3.6.2 Construction of individual phases may occur simultaneously, but no development within a phase shall be occupied until the construction of all proceeding phases is complete.

4. The Existing Agreement shall be amended by inserting the following Section immediately after Section 3.6.3:

3.6.4 Notwithstanding Section 3.6.2, development within Phase 2 may be occupied provided all exterior construction to Fenwick Tower and the Fenwick Street Townhouses is completed pursuant to this Agreement.

5. All other terms and conditions of the Existing Agreement shall remain in full force and effect.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

\_\_\_\_\_

**(Insert Registered Owner Name)**

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

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

=====

**SEALED, 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**

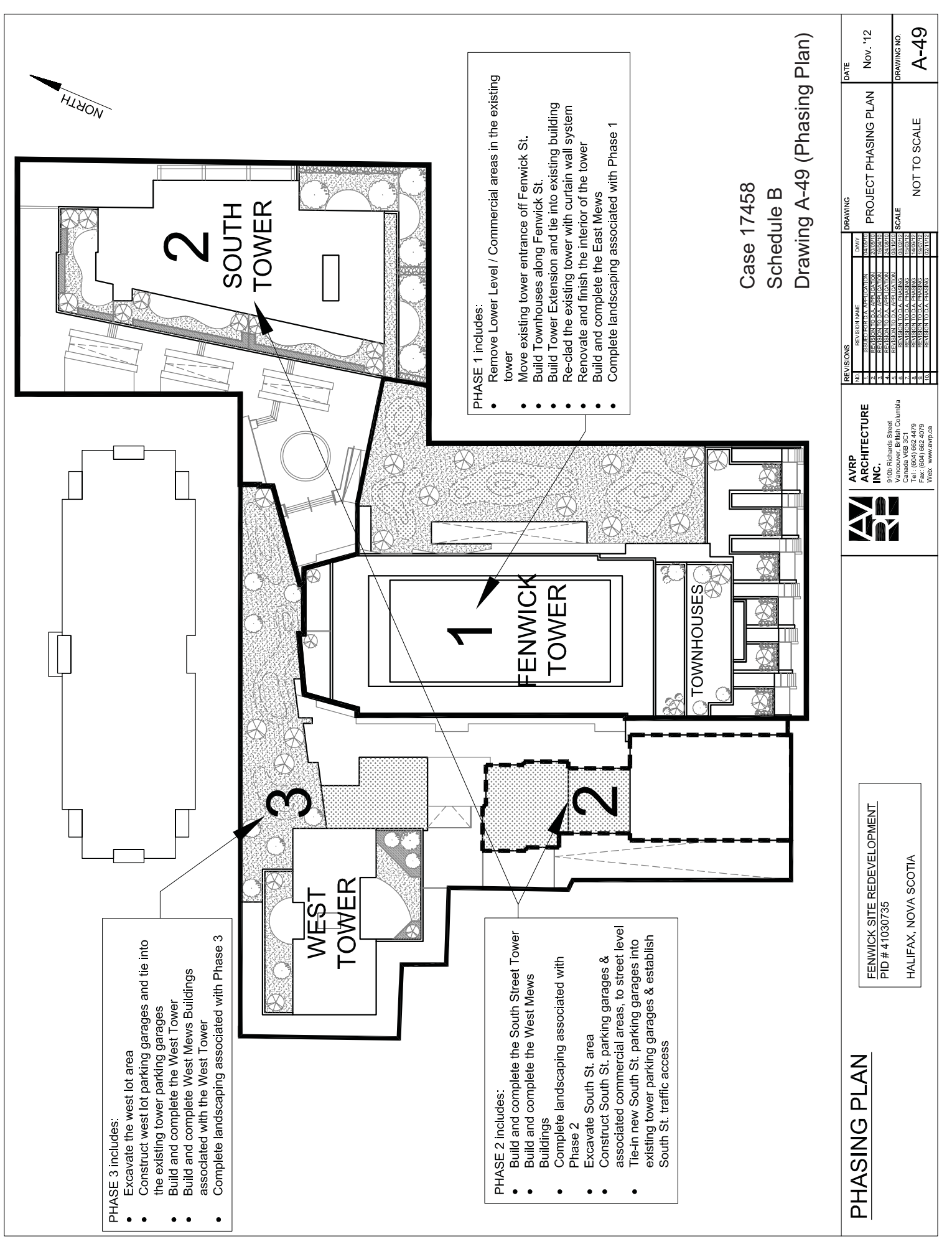
Per: \_\_\_\_\_

Mayor

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

Municipal Clerk





PHASE 3 includes:

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- Complete landscaping associated with Phase 1

Case 17458  
Schedule B  
Drawing A-49 (Phasing Plan)

PHASING PLAN

FENWICK SITE REDEVELOPMENT  
PID # 41030735  
HALIFAX, NOVA SCOTIA

**AVRP ARCHITECTURE INC.**  
910b Richards Street  
Vancouver, British Columbia  
Canada V6B 3C1  
Tel: (604) 682-4079  
Fax: (604) 682-4079  
Web: www.avrp.ca

REVISIONS		DRAWING		DATE
NO.	REVISION NAME	DATE	PROJECT PHASING PLAN	Nov. '12
1	ISSUED FOR PERMIT APPLICATION	04/25/12		
2	REVISION TO PERMIT APPLICATION	05/01/12		
3	REVISION TO PERMIT APPLICATION	05/01/12		
4	REVISION TO PERMIT APPLICATION	05/01/12		
5	REVISION TO PERMIT APPLICATION	05/01/12		
6	REVISION TO PERMIT APPLICATION	05/01/12		
7	REVISION TO PERMIT APPLICATION	05/01/12		
8	REVISION TO PERMIT APPLICATION	05/01/12		
9	REVISION TO PERMIT APPLICATION	05/01/12		
10	REVISION TO PERMIT APPLICATION	05/01/12		
SCALE		NOT TO SCALE		
		DRAWING NO. A-49		

**Attachment B:**

**Excerpts from the Halifax MPS – Section V – South End Area Plan**

- 7.7A Notwithstanding the High Density Residential designation applied to PID 41030735, the Fenwick Tower lands, and other policies of this Municipal Planning Strategy, Council may consider a redevelopment proposal for the entirety of these lands by development agreement.
- 7.7A.1 In considering a development agreement proposal pursuant to policy 7.7A, Council shall have regard for the following:
- a) that a proposal is a comprehensive plan for the development of the lands in their entirety and includes construction phasing;
  - b) that the development conforms with the Citadel Rampart and View Plane requirements;
  - c) that the development is comprised of a mixture of residential dwelling unit types, with a minimum of 50% of the dwelling units that are comprised of a minimum of two bedrooms and that are spread throughout the development, and commercial uses that are compatible with residential uses;
  - d) that there is an adequate supply of vehicular and bicycle parking;
  - e) that vehicular parking is exclusively provided within an interior parking garage that has access from both South Street and Fenwick Street;
  - f) that the proposal is a single building with an underground parking garage, above which the form and land use of individual building elements is consistent with the following:
    - i. the existing Fenwick Tower may be enlarged towards Fenwick Street and its existing exterior cladding shall be replaced, along with the addition of a new penthouse;
    - ii. Fenwick Tower shall contain commercial uses within its first three levels, residential uses throughout the remainder of the building element, with an option for commercial uses upon top level of the building;
    - iii. at the base of Fenwick Tower, along Fenwick Street, there shall be Townhouse style dwelling units with an option for at grade commercial uses;
    - iv. to the north-west of Fenwick Tower, there may be a building element that is a maximum of 8 storeys and a maximum of 85 feet above the level of the parking garage rooftop, that shall be comprised of ground floor commercial uses and either residential dwelling units or office uses;
    - v. upon South Street, there may be a building element that is a maximum of 10 storeys from South Street and in conformity with the Citadel View Plane requirements, that shall be comprised of ground floor commercial uses and upper storey residential uses;

- vi. connecting South Street and Fenwick Street, there shall be a pedestrian passageway that is accessible to the general public and that may have one and two storey building elements along it, above the level of the parking garage rooftop, that shall have ground floor commercial uses and either second floor commercial or residential uses;
- g) that rooftop areas around the base of the building elements described above and the pedestrian passageway, are comprised of landscaping;
- h) that mechanical equipment and other utilitarian features are concealed;
- i) that environmental factors, including sun/shadow and wind conditions are suitable for in the intended use of the site; and
- j) that the form of the development is of a high quality and that the development and its land uses are suitable with surrounding properties.

(RC-Feb 1/11;E-Mar 26/11)