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Item No. 10.1.2
Halifax and West Community Council
November 25, 2014

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Director of Planning and Development

DATE: October 30, 2014

SUBJECT: Case 19185 – Development Agreement – 5826 South Street, Halifax

ORIGIN

Application by the Canadian Cancer Society (CCS)

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 the proposed development agreement, as contained in Attachment A, to recognize the existing land use and structure (Daffodil Place) and allow for the construction of an addition to the Daffodil Place building, and schedule a Public Hearing.
2. Approve the proposed development agreement, as contained in Attachment A; and
3. Require that the development 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.

RECOMMENDATIONS Continued on page 2

4. Approve, by resolution, the discharge of the existing development agreement, as shown in Attachment B of this report, to take effect upon the registration of the new development agreement; and
5. Require the discharge 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 Canadian Cancer Society (CCS) currently owns and operates a non-profit boarding and lodging facility, which includes staff office spaces at and below ground level at 5826 South Street, Halifax (Maps 1, 2 and 3). The existing building, known as Daffodil Place, was established in 1989 through the development agreement process to provide accommodations for out-of-town patients, who are required to stay in Halifax to receive treatments at one of the nearby hospitals.

The CCS has expressed the need to expand current lodging and office uses due to the growing demand for such housing and facilities for out-of-town patients. As such, a proposal has been submitted to:

1. discharge the existing development agreement; and
2. enter into a new development agreement to recognize the existing land use and structure, and permit for an expansion of the current lodging facilities and staff offices.

Site Description and Surrounding Land Uses:

The subject property is:

- located on the south-west corner of the intersection of South Street and Wellington Street, Halifax (Maps 1, 2 and 3);
- comprised of a single property and one building, known as Daffodil Place (Maps 1, 2 and 3). A Lot Consolidation application was approved in September 29th, 2014, to consolidate the subject property with an adjacent L-shaped parcel to the east and a small parcel to the south (Map 5);
- 1,517 square metres (16,330.5 square feet) in area with 40 metres (131.2 feet) of continuous frontage on South Street and Wellington Street; and
- bounded by the provincially-owned Gorsebrook Lands to the west (Maps 1, 2 and 3).

The surrounding area is comprised of residential and institutional uses (Map 3). Surrounding land uses include:

- Izaak Walton Killam (IWK) Health Centre and Victoria General (VG) Hospital to the north;
- a surface parking lot and institutional uses including the Gorsebrook Junior High School and the Atlantic Provinces Special Education Authority to the west; and
- a children's day care centre and a mixture of low-rise and mid-rise residential uses to the south and east.

Designation and Zoning:

The subject property is:

- located within Area 6 of the South End Area Secondary Planning Strategy (SESPS) (Section V of the Halifax Municipal Planning Strategy [MPS]), and designated for High Density Residential (HDR) development (Map 1);
- zoned R-3 Zone under the Halifax Peninsula Land Use By-law (LUB) (Map 3); and
- is located within a 65-foot Height Precinct in the (LUB) (Map 4).

Enabling Policy:

The subject property is governed by the HDR Designation under the SESPS of the Halifax MPS, which consists of Planning Policies 7.6.2 and 7.6.3. These policies enable Community Council to consider establishing offices of a non-profit organization of a medical and/or a rehabilitative nature on or below the ground floor of a residential use by development agreement. These policies list criteria and guidelines that provide Council and staff with guidance when evaluating proposals of this nature (Attachment C).

Further, the development agreement process offers a mechanism to address issues such as the architectural appearance of the building, vehicle access and parking, compatibility of adjacent land uses, landscaping and buffering.

Land Use Provisions

Under the Halifax Peninsula LUB, the R-3 Zone permits a wide range of residential uses such as R-1 (Single Family Dwelling), R-2 (General Residential), and R-2T (Townhouse) uses. The zone also permits boarding houses, lodging or rooming houses, apartment houses, and other uses subject to LUB provisions (Attachment D).

Existing Development Agreement and Site History:

The existing Development agreement allows for:

- a four-storey building containing office spaces for the CCS's staff at ground and basement levels, and private rooms on the remaining three levels; and
- one primary parking area located on the west side of the building consisting of 14 parking spaces. Council should note that this parcel is part of the Provincially-owned Gorsebrook Lands, and was leased to the CCS in 1989 for 20 years; it has since renewed for a period of 25 years commencing in 2012 and ending in 2037 (Maps 1, 2 and 3).

To assist with understanding of the current development activity on the subject property, a brief development history is provided in Attachment C.

Proposal:

The applicant is requesting to:

1. discharge the existing development agreement that pertains to the Daffodil Place building and the leased parking area; and
2. enter into a new development agreement that recognizes the existing development while also allowing for additional development rights inclusive of:
 - a) constructing a four-storey addition on the east side of the existing building that is 15 metres (~49.2 feet) in height, containing office spaces, rooms for amenity and recreation purposes, and between 15 to 17 private rooms; and
 - b) providing five parking spaces at the rear of the building with an entrance to the site from Wellington Street.

Municipal Planning Approval Process:

Upon detailed review of the application, it was determined that discharging the existing development agreement would essentially simplify the planning process and the implementation of the terms and conditions of the proposed development agreement. The approval process for this application consists of the following steps:

- Step 1. A Public Hearing and Community Council consideration of the new development agreement for recognizing the existing use and structure, and allowing the construction of a four-storey addition to the Daffodil Place building.

Step 2. Discharging the existing development agreement for the subject property and the portion of the Gorsebrook Lands upon adoption of the new development agreement.

DISCUSSION

Staff has reviewed and evaluated the proposal in accordance with Policies 7.6.2 and 7.6.3 of the South End Secondary Planning Strategy and relevant policies contained in the Residential Environments Section of the Halifax MPS (Attachment C). The Residential Environments Designation is intended to:

“encourage the maintenance of the Halifax South End as vital inner-city neighbourhoods and residential development with diverse family and non-family housing through retention, rehabilitation and infill that is compatible with existing neighbourhoods.”

The following items are being highlighted for detailed discussion:

Discharging Development Agreement

As part of the Planning Process, Council can consider the proposed development agreement for the four-storey building addition and discharge the existing Agreement at the same time. As the Daffodil Place building met the requirements of the existing Agreement and, as such, was constructed in the early 1990s, the intent of the existing Agreement is met.

Proposed Development Agreement

Policies 7.6.2 and 7.6.3 include criteria for Community Council to consider when evaluating development agreements. These policies support the proposed expansion and ensure that development of this nature blends with the existing building, and is properly integrated with surrounding land uses. The proposed Development Agreement, contained in Attachment A of this report, includes site-specific controls and specifications that address the following matters:

- land use, building and site requirements;
- architectural, signage and lighting requirements;
- vehicular parking, circulation and site access;
- building services, maintenance and waste facilities; and
- options for various non-substantive amendments by resolution of Council, such as changes to timeframes for development.

Of the matters addressed by the proposed development agreement, the following elements have been identified for detailed discussion:

Neighbourhood Compatibility and Building Design:

As mentioned previously, the subject property is located within a mixture of residential and institutional uses that include low-density homes along Wellington Street and 9 to 10-storey multi-unit buildings along South Street, as well as hospitals and institutional uses. As such, the Daffodil Place building was designed with a traditional residential aesthetic in an effort to ensure that it is properly integrated within the surrounding predominately residential neighbourhood. The exterior of the building has a combination of brick and wood, and complemented by a variation of flat and steeply pitched roof lines.

The MPS also requires consideration be given to the architectural design for expansions of residential buildings. The intent of this objective is to provide a building design that is consistent with the existing building and complementary to the neighbourhood. In this case, residential buildings in this area of the Halifax South End are generally two storeys in height with flat roof forms, or three storeys with pitched roof forms, which also incorporates dormer windows. In this case, the proposed development agreement requires the addition to the building to be constructed in an architectural style and with building materials that will ensure its compatibility both with the existing building as well as with the streetscape as a whole.

Building Height:

The objective of SESPS policies is to maintain the built form in areas adjacent to the subject property as a predominately medium-rise residential uses, by concentrating the high density development along South Street (Map 4). To reinforce this objective, the LUB restricts height in properties located along South Street to 65 feet. Low and medium density residential areas to the south and west of the subject property, on the other hand, fall within a 35-foot height restriction (Map 4).

The proposed development agreement ensures that the heights of the Daffodil Place building and the proposed addition are maintained at 50 feet, which is significantly below the maximum permitted by height precinct.

Landscaping and Buffering:

In order to alleviate potential impacts on adjacent properties, the design of the addition includes measures that reduce land use conflicts by providing visual relief and tempering the massing of the addition, such as:

- continuing the zero-setback rhythm of existing buildings along South Street and Wellington Street;
- including larger setbacks from neighbouring property line to the south, which vary between 4m (13 ft) and 8.5m (28 ft.); and
- providing landscaping along the southern property to provide a suitable transition to the residential neighbourhood to the south.

Traffic and Parking:

MPS Policies 7.6.2 and 7.6.3 direct that consideration be given to the adequacy of parking for both the office and residential use, and the impact of the traffic generated on the surrounding residential uses. The applicant has indicated that the Daffodil Place building is primarily an accommodation for patients and their families who come to Halifax for treatments at one of the nearby hospitals. The building is located within walking distance from all cancer treatment facilities and on two bus routes. Further, parking spaces are available for use on a first-come, first-served basis on the leased parking area with direct vehicle access to South Street.

The proposed development agreement requires that five parking spaces at the rear of the Daffodil Place building with a direct access from Wellington Street be provided. Should Council choose to discharge the existing development agreement, parking on the leased area will be considered “off-site” given its location on a separate property. Additional off-site parking available to visitors include paid surface parking areas along South Street, on the Gorsebrook Lands and at the IWK and VG hospitals (Map 3).

Upon review of the application and the submitted Traffic Impact Statement, staff determined that the proposed expansion of the Daffodil Place building will not adversely impact the surrounding residential neighbourhood or the existing road network as there is sufficient off-site parking within the immediate vicinity.

Districts 7 & 8 Planning Advisory Committee:

This application was presented to the Districts 7 & 8 Planning Advisory Committee (PAC) on May 26, 2014. The recommendations of the PAC on the application are sent to Community Council by means of a separate report.

The Committee provided recommendations on the proposal for inclusion within the Development agreement. The majority of the Committee’s recommendations focused on the pedestrian and patient experience along Wellington Street through the use of soft landscaping.

Staff has reviewed the recommendations of the PAC and has incorporated a number of the recommendations within the proposed development agreement pertaining to the architectural design of facades, landscaping, mitigation measures, type of materials, parking and signage.

Conclusion:

Staff advise that the proposal is consistent with the applicable policies and the intent of the Halifax MPS as described above. Therefore it is recommended that Halifax and West Community Council approve the proposed development agreement and the Discharging Agreement as contained in Attachment A and B of this report.

FINANCIAL IMPLICATIONS

There are no budget 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 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 information sharing achieved through two mail-outs. The first mail-out was distributed to neighbouring residents in November 30th, 2011 under Case 17198 and no comments were received. The second notification of the revised design under the current case was distributed in May 14th, 2014 and no comments were received.

A public hearing must be held by Community Council before they can consider approval of any amendments to the LUB or the approval of a development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposed development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

1. Community Council may choose to refuse to approve the 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 Community Council to refuse this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Community Council may choose to approve the proposed development agreement subject to modifications. This may necessitate further negotiation with the applicant, a supplementary staff report and an additional public hearing. A decision of Community Council to approve this 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 (GFLUM) Map
Map 2	Area Applicable to Policy 7.6.2
Map 3	Zoning & Notification
Map 4	Height Precincts
Map 5	Lot Consolidation (Approved – Sept. 29, 2014)

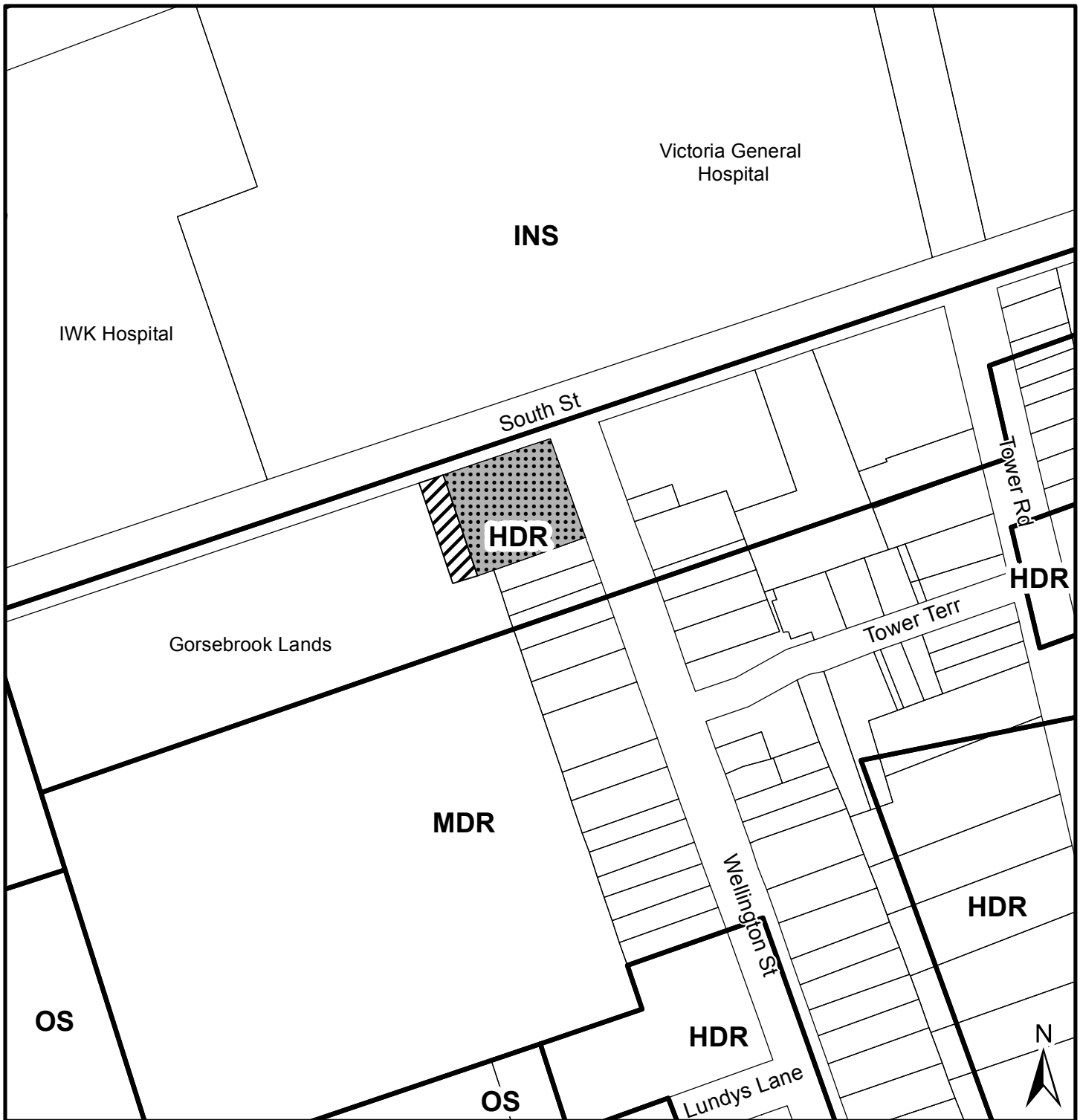
Attachment A	Proposed Development Agreement
Attachment B	Proposed Discharging Agreement
Attachment C	History of Subject Property
Attachment D	Review of Relevant Policies – Halifax Municipal Planning Strategy (MPS)
Attachment E	Excerpt from the Halifax Peninsula Land Use By-law (LUB)

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 490-4210, or Fax 490-4208.

Report Prepared by: Dali Salih, Planner, Development Approvals, 902- 490-1948



Original Signed

Report Approved by: _____
Kelly Denty, Manager of Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

5826 South Street
Halifax

-  Area of proposed development agreement
-  Parking Area (portion of the Gorsebrook Lands leased by CCS)

Halifax Plan Area
South End Detailed Plan Area

Designation

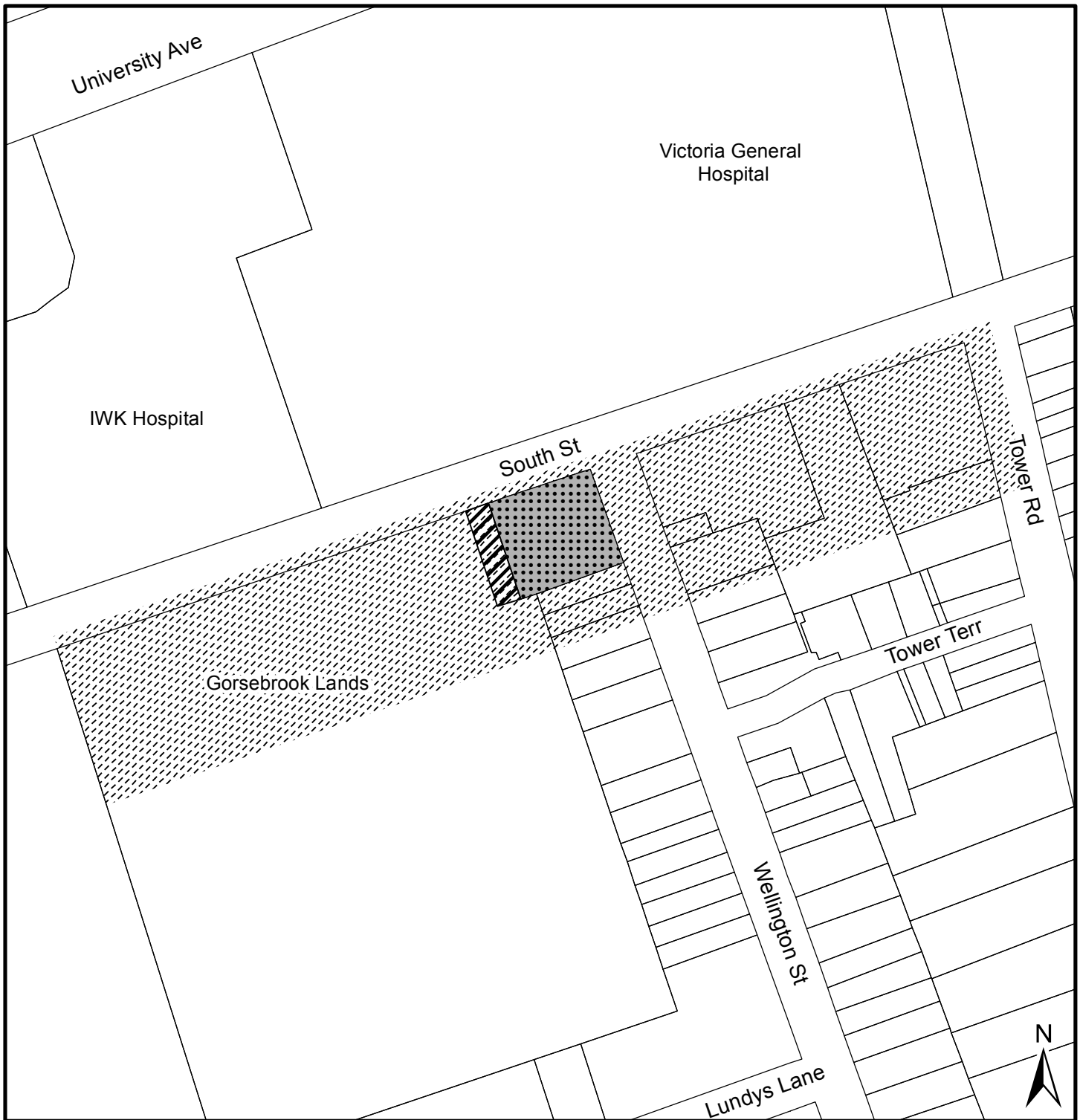
- MDR Medium Density Residential
- HDR High Density Residential
- INS Institutional
- OS Open Space

HALIFAX



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 2 - Area Applicable to Policy 7.6.2

5826 South Street
Halifax

HALIFAX



Area of proposed
development agreement



Parking Area (portion of the
Gorsebrook Lands leased by CCS)

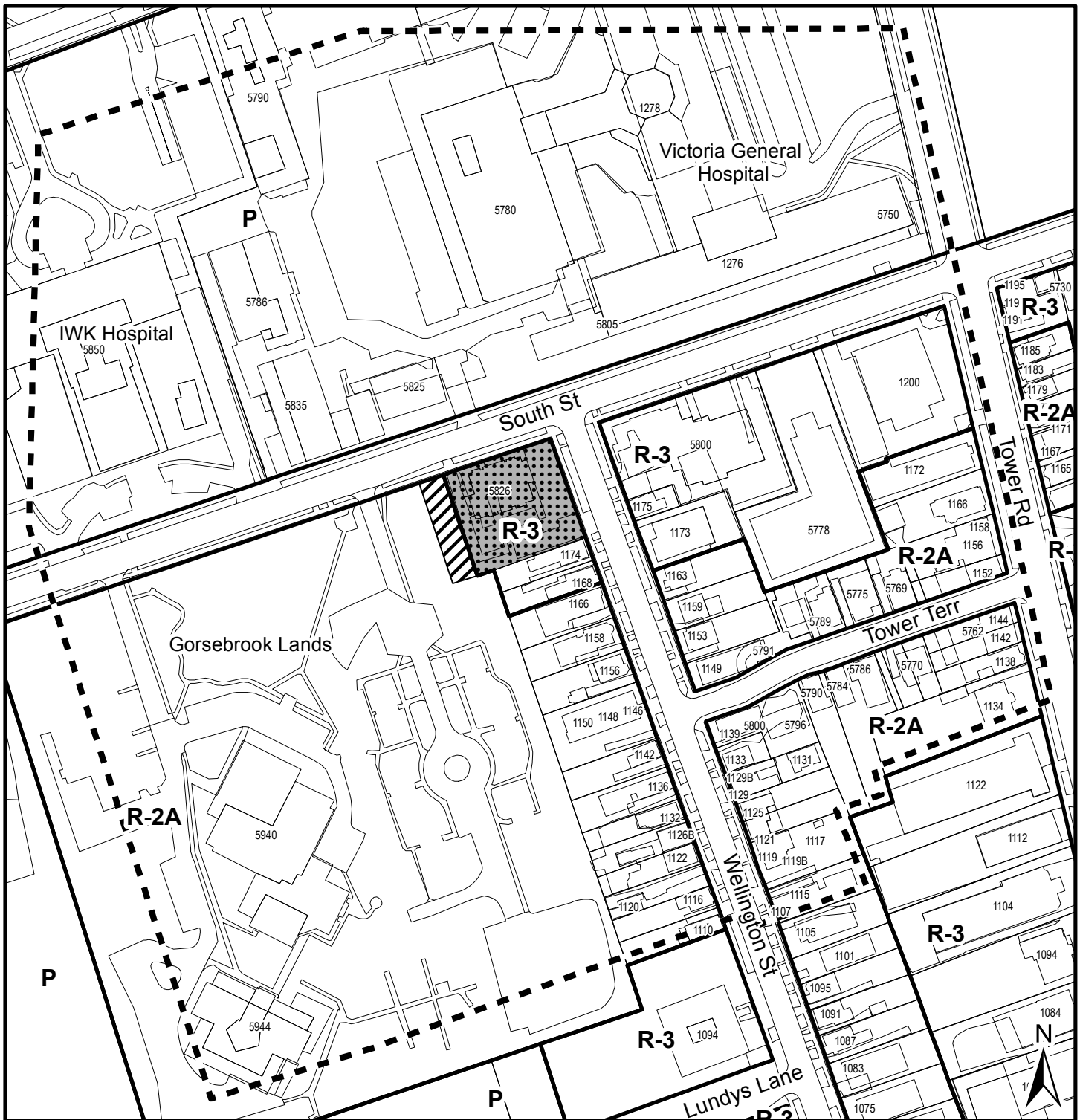


Area described in Policy 7.6.2
of the Halifax Municipal Planning Strategy

0 20 40 60 m




Halifax Plan Area
South End Detailed Plan Area

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



Map 3 - Zoning and Notification

5826 South Street
Halifax

-  Area of proposed development agreement
-  Area of notification
-  Parking Area (portion of the Gorsebrook Lands leased by CCS)

Halifax Peninsula
Land Use By-Law Area

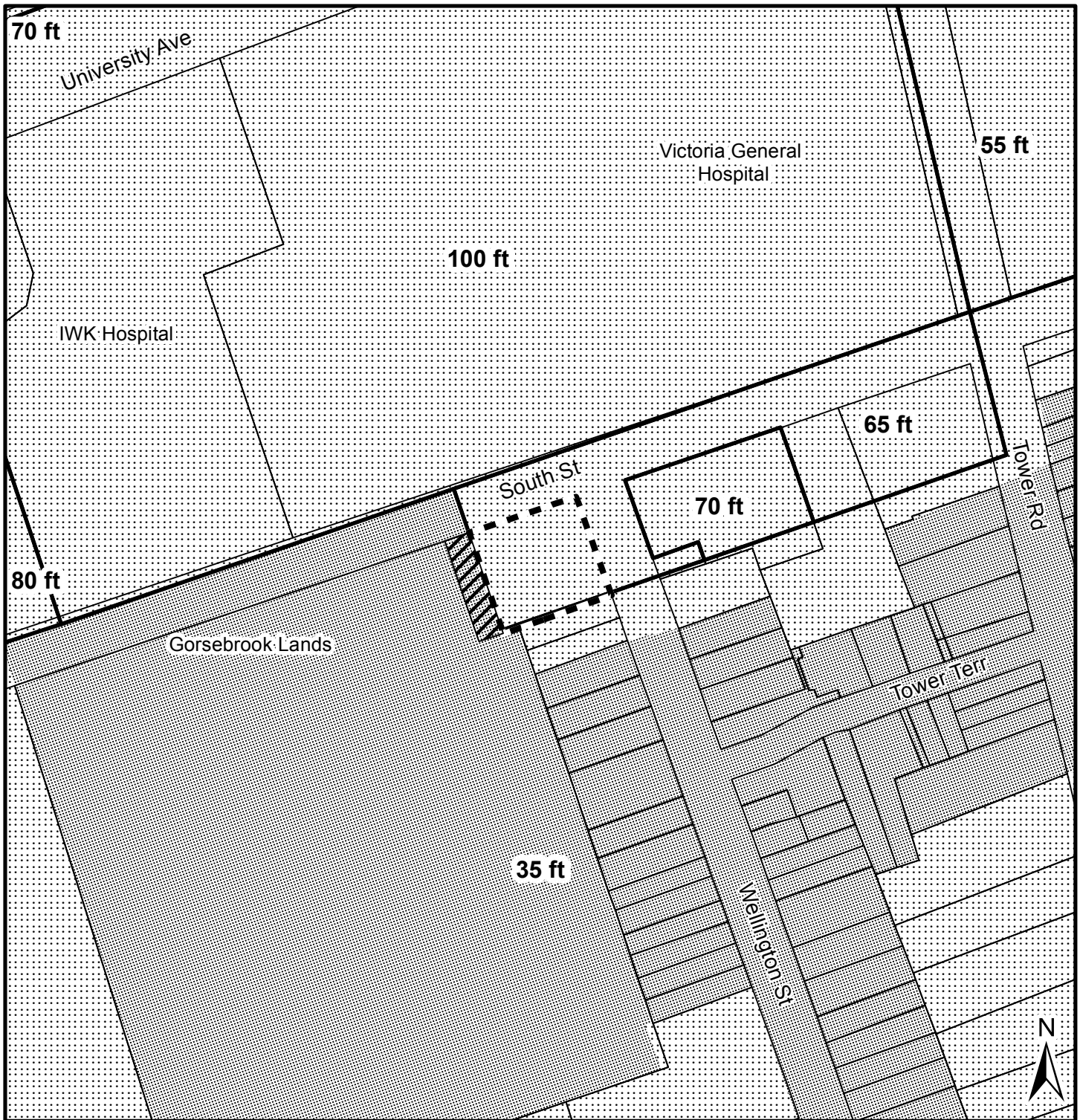
Zone

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




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 4 - Height Precinct


5826 South Street
Halifax


 Area of proposed development agreement

 Parking Area (portion of the Gorsebrook Lands leased by CCS)

Halifax Peninsula
Land Use By-Law Area

 Height measured to highest point of roof

 Height measured to highest point of top floor of building (not including non-habitable roof)

 Height measured to commencement of top storey of building

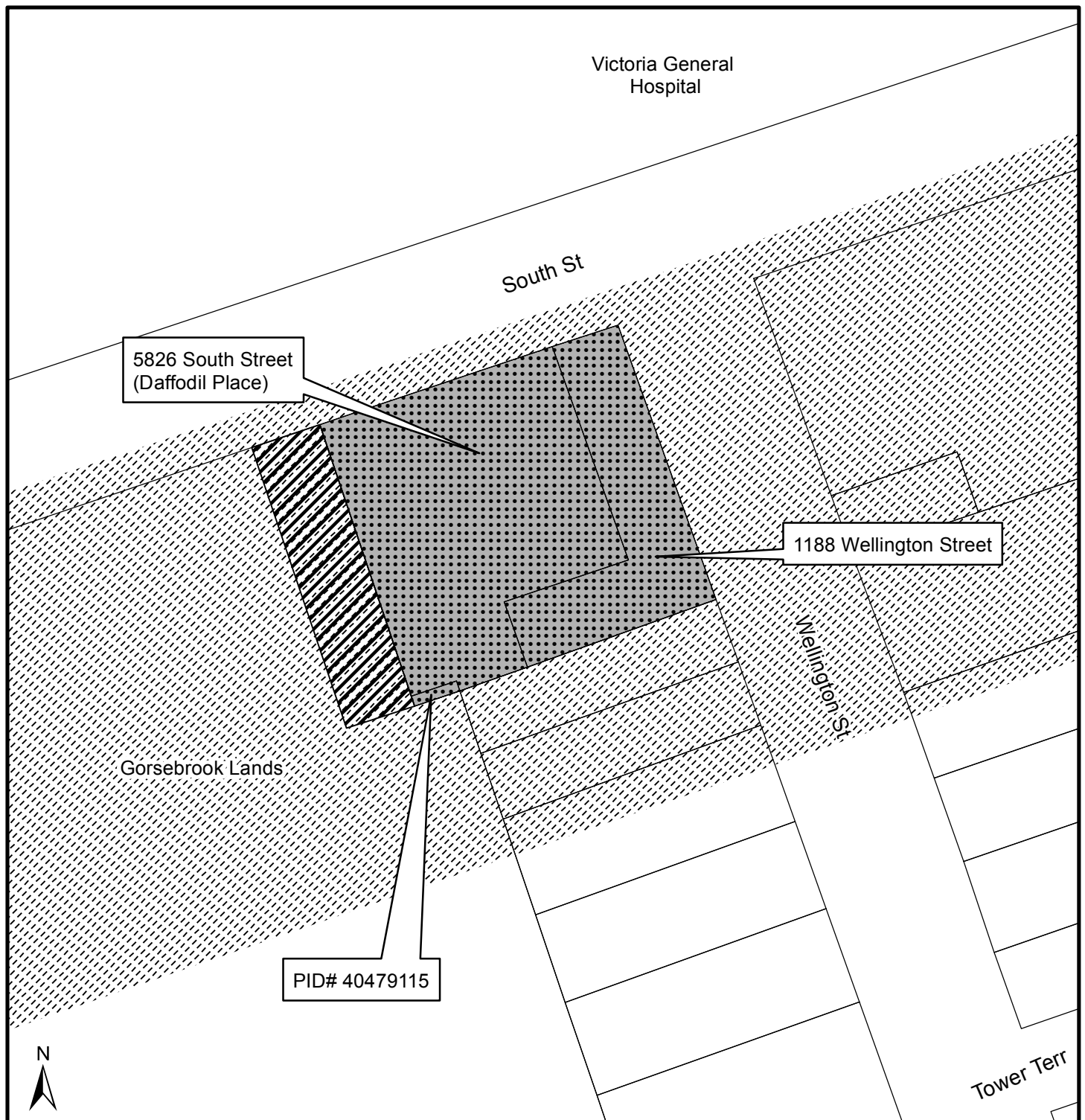
Please refer to ZM-17 - Height Precinct Map for full definitions of height measurement.

HALIFAX

0 20 40 60 m

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



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




Map 5 - Lot Consolidate (Approved Sept. 29th, 2014)

5826 South Street
Halifax

HALIFAX

-  Area of proposed development agreement
-  Area described in Policy 7.6.2 of the Halifax Municipal Planning Strategy

-  Parking Area (portion of the Gorsebrook Lands leased by CCS)

0 20 m

Halifax Plan Area
South End Detailed Plan Area

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

ATTACHMENT A:
Proposed Development Agreement

THIS 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 at 5826 South Street, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to acknowledge an existing building that accommodates non-profit boarding facilities and offices on the Lands (hereinafter called the "Existing Building"), and enable the construction of a four-storey addition to the Existing Building in order to expand existing non-profit medical and rehabilitative uses that include boarding facilities and offices on the Lands, pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 7.6.2 and 7.6.3 of the Municipal Planning Strategy for Halifax and Section 94(1) of the Land Use By-law for Halifax Peninsula;

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 **19185**;

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

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

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.

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, lot owner 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

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

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

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:

- a. "The Addition" means a structure constructed and added to the Existing Building, which includes every structure placed on, over or under the Lands and any external chimney, staircase, porch, sign or other structure use in connection with the Existing Building and shall include any awning or other covering.
- b. "Boarding Facilities" means a dwelling house that is comprised of ten or more bedrooms within the entire building, where the bedrooms are provided for patients and secured through means such as locking devices, and may contain common rooms such as living and amenity rooms.
- c. "Landscaping" means any combination of shrubs, flowers, grass or other horticultural elements, all of which are designed to enhance the façades of the townhouse-style units. These elements shall not include decorative stonework, pavers, screening or other hard surfacing materials.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

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 **19185**:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C-1	North Elevation (South Street)
Schedule C-2	East Elevation (Wellington Street)
Schedule C-3	South Elevation
Schedule C-4	West Elevation

3.2 General Description of Land Use

- 3.2.1 The use(s) on the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, are non-profit medical and rehabilitative uses that include Boarding Facilities and office spaces.
- 3.2.2 The Existing Building and the Addition shall be limited to four storeys and 16 metres (52.5 feet) in height.
- 3.2.2 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the Halifax Peninsula Land Use By-law as amended from time to time.

3.3 Siting and Architectural Requirements

- 3.3.1 Changes to the Existing Building shall not be permitted.

- 3.3.2 The Addition shall be exempted from the detailed requirements of the R-3 (Multiple Dwelling) Zone of the Land Use By-law for Halifax Peninsula. Instead, the Schedules and written provisions of this Agreement shall apply.
- 3.3.3 The Developer shall construct the Addition to the Existing Building on the Lands which, in the opinion of the Development Officer, is in conformance with Schedules B, C-1, C-2, C-3 and C-4, and shall not develop or use the lands for any purpose other than non-profit institutional uses that include Boarding Facilities and offices.
- 3.3.4 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of textural plantings and architectural detail to create shadow lines such as implied windows, cornice lines, offsets in the vertical plane, etc.
- 3.3.5 The Addition shall be designed such that the mechanical systems such as HVAC and exhaust fans are not visible from South Street, Wellington Street or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the Existing Building and the Addition, and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.
- 3.3.2 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from adjacent properties.

3.4 Variations by Development Officer

- 3.4.1 The Development Officer may approve variations to the Addition that includes changes to the exterior architectural appearance of the building, such as changes to materials and colours, provided that such changes are in general conformance with the intent of this Agreement.

3.5 Landscaping

- 3.5.1 Landscaping on the Lands shall be as shown on Schedule B.
- 3.5.2 Provisions of new street trees placement along the Wellington Street frontage shall conform to the HRM Municipal Design Guidelines. Further, the decision of tree placements and types shall be in consultation with HRM's Urban Forester and Development Engineer.

3.6 Parking, Circulation and Access

- 3.6.1 Parking on the Lands shall be as shown on Schedule B.
- 3.6.2 The Lands shall be accessed from Wellington Street, as shown on Schedule B.
- 3.6.3 Bicycle parking shall be provided as per the requirements of the Land Use By-law for Halifax Peninsula.

3.7 Outdoor Lighting

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading area, entrances of the Existing Building and the Addition, and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.8 Maintenance

- 3.8.1 The Developer shall maintain and keep in good repair all portions of the Existing Building and the Addition on the Lands, including but not limited to, the exterior of the Existing Building and the Addition, fencing, walkways, recreational amenities, 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.

3.9.1 Signs

- 3.9.1 Signs depicting the name or corporate logo of the Developer shall be permitted subject to the requirements of the R-3 (Multiple Dwelling) Zone of the Land Use By-law for Halifax Peninsula.
- 3.9.2 Two (2) temporary ground signs depicting the name or corporate logo of the Developer shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. The temporary ground sign shall be removed prior to the issuance of the last residential occupancy permit.

3.10 Screening

- 3.10.1 Refuse containers located outside the Existing Building and the Addition shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

3.11 Streets and Municipal Services

- 3.11.1 All construction shall conform to the most current edition of the HRM Municipal Design Guidelines and Halifax Water's Design and Construction Specifications unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.
- 3.11.2 Any disturbance to existing off-site infrastructure resulting from the development, including 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 Engineer. Furthermore, the Developer shall be responsible for all costs and work associated with the relocation of on-site/ off-site underground services, overhead wires and traffic signals to accommodate the needs of the development.

PART 4: AMENDMENTS

4.1 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- a. Changes and variations to the exterior architectural appearance of the Existing Building and the Addition, which in the opinion of the Development Officer do not conform with the attached Schedules as per Section 3.1;
- b. The granting of an extension to the date of commencement of construction as identified under the 'Commencement of the Addition' of Section 5.3.3 of this Agreement.
- c. The length of time for the completion of the Addition as identified under the 'Discharge of Agreement' of Section 5.5 of this Agreement;

4.2 Substantive Amendments

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

PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

5.1 Registration

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.

5.2 Subsequent Owners

5.2.1 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.

5.2.2 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).

5.3 Commencement of Development

5.3.1 In the event that development of the Addition on the Lands has not commenced within two (2) 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.

5.3.2 For the purpose of this section, commencement of development of the Addition shall mean issuance of a Construction Permit for the addition to the non-profit facility.

5.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 4.1(a), 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.

5.4 Completion of Development

Upon the completion of the development of the Addition or complete phases of the 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;
- c. discharge this Agreement; or
- d. for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as may be amended from time to time.

5.5 Discharge of Agreement

5.5.1 If the Developer fails to complete the development of the Addition after six (6) 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 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 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.

6.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 30 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:

(Insert Registered Owner Name)

Witness

Per:_____

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

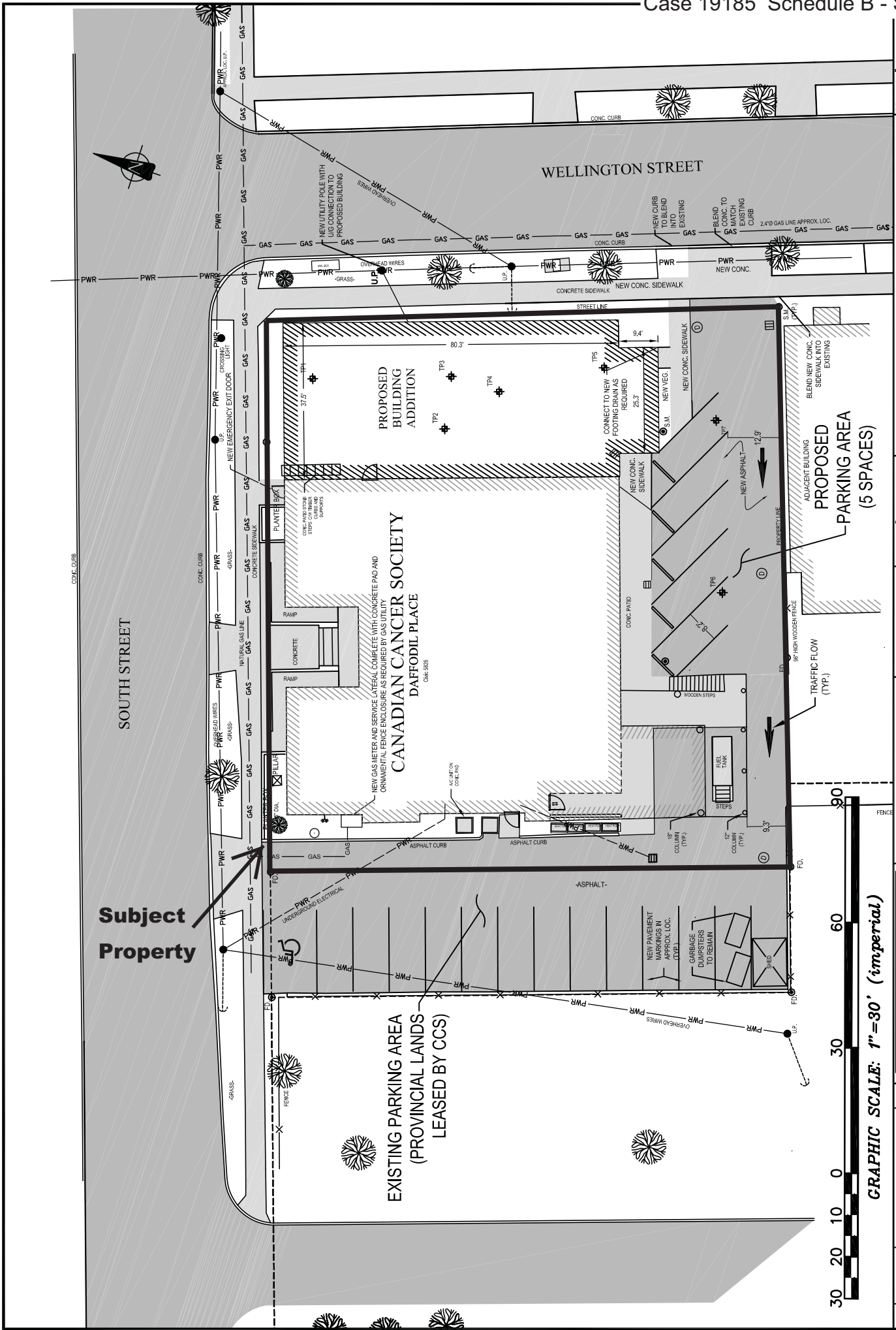
HALIFAX REGIONAL MUNICIPALITY

Witness

Per:_____
MAYOR

Witness

Per:_____
MUNICIPAL CLERK



REV.		DATE	DESCRIPTION	BY
C02	07/24/14		REISSUED FOR DEVELOPMENT AGREEMENT	
C01	07/18/14		ISSUED FOR DEVELOPMENT AGREEMENT	

ARCHITECTURE 49		SNC-LAVALLIN	
1640 Main Street, Halifax, Nova Scotia, Canada B3J 2C8 T: 902-429-5490 F: 902-429-2632 www.architecture49.com		SNC-LAVALLIN Inc. 1000-10000, 10000, 10000 Telephone: (802) 492-4444 Fax: (802) 492-4540 Member of the SNC-LAVALLIN Group	

DESIGNED:	A. PERTUS, P.ENG
DRAWN:	J. GRAY E.I.T.
CHECKED:	A. PERTUS, P.ENG
PROJECT #:	620246-0001
SCALE:	1"=30'
DATE:	24 Jul. 2014

PROJECT:	DAFFODIL PLACE - PROPOSED MIXED USE ADDITION SOUTH ST & WELLINGTON ST, HALIFAX
DRAWING #:	CSK-01
DRAWING TITLE:	SCHEDULE B - SITE PLAN

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NORTH ELEVATION
(South Street)

SCHEDULE C1

Drawn: LD Checked: DP Approved: DO Scale: 1/16" = 1'-0"

DAFFODIL PLACE

Date: 07/15/14

Project Number: 149-12397-0B

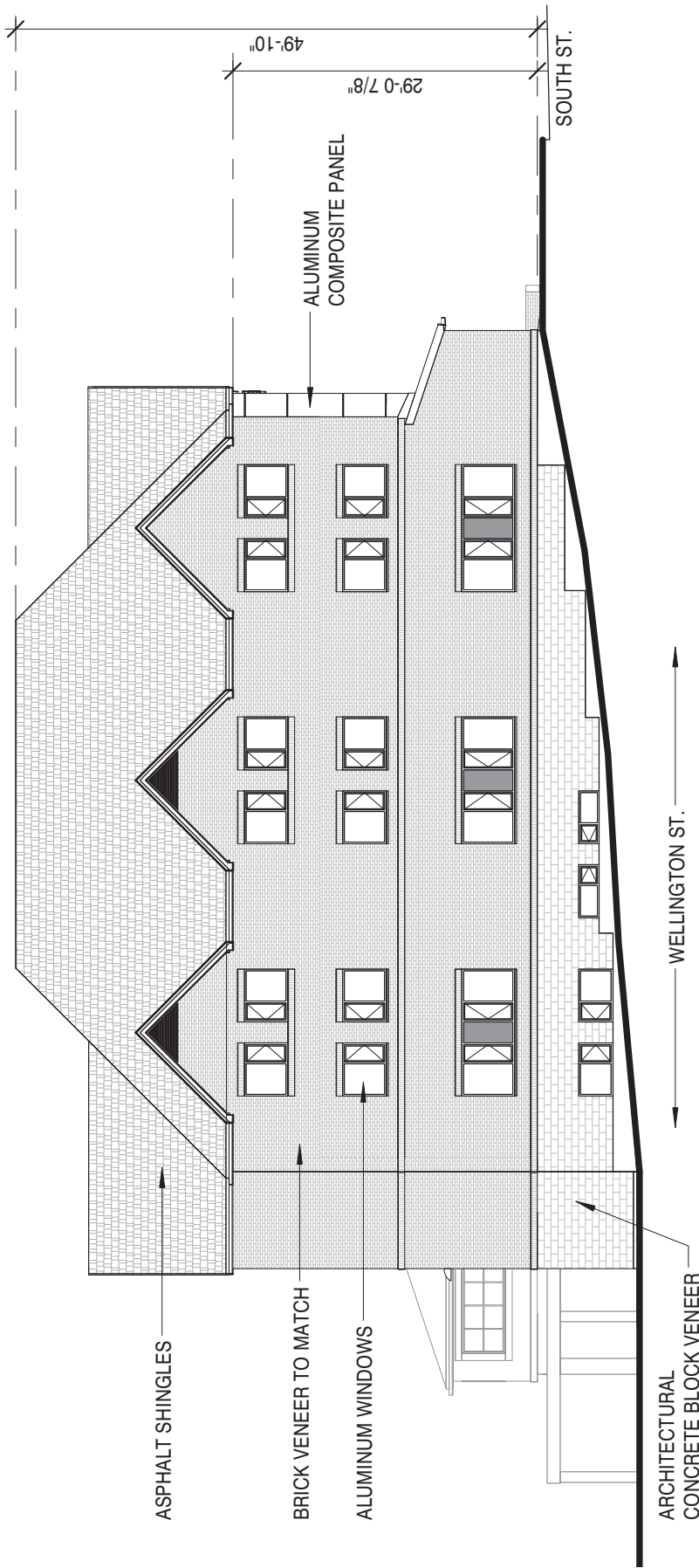
PROPOSED BUILDING ADDITION
SOUTH STREET & WELLINGTON STREET, HALIFAX

ARCHITECTURE | 49

1640 Market Street, Halifax, NS, Canada, B3J 2C8
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DAFFODIL PLACE

PROPOSED BUILDING ADDITION
SOUTH STREET & WELLINGTON STREET, HALIFAX

EAST ELEVATION
(Wellington Street)

SCHEDULE C2

Project Number: 149-12397-0B

Date: 07/15/14

Drawn: LD

Checked: DP

Approved: DO

Scale: 1/16" = 1'-0"

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SOUTH ELEVATION

SCHEDULE C3

Drawn: LD Checked: DP Approved: DO Scale: 1/16" = 1'-0"

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DAFFODIL PLACE

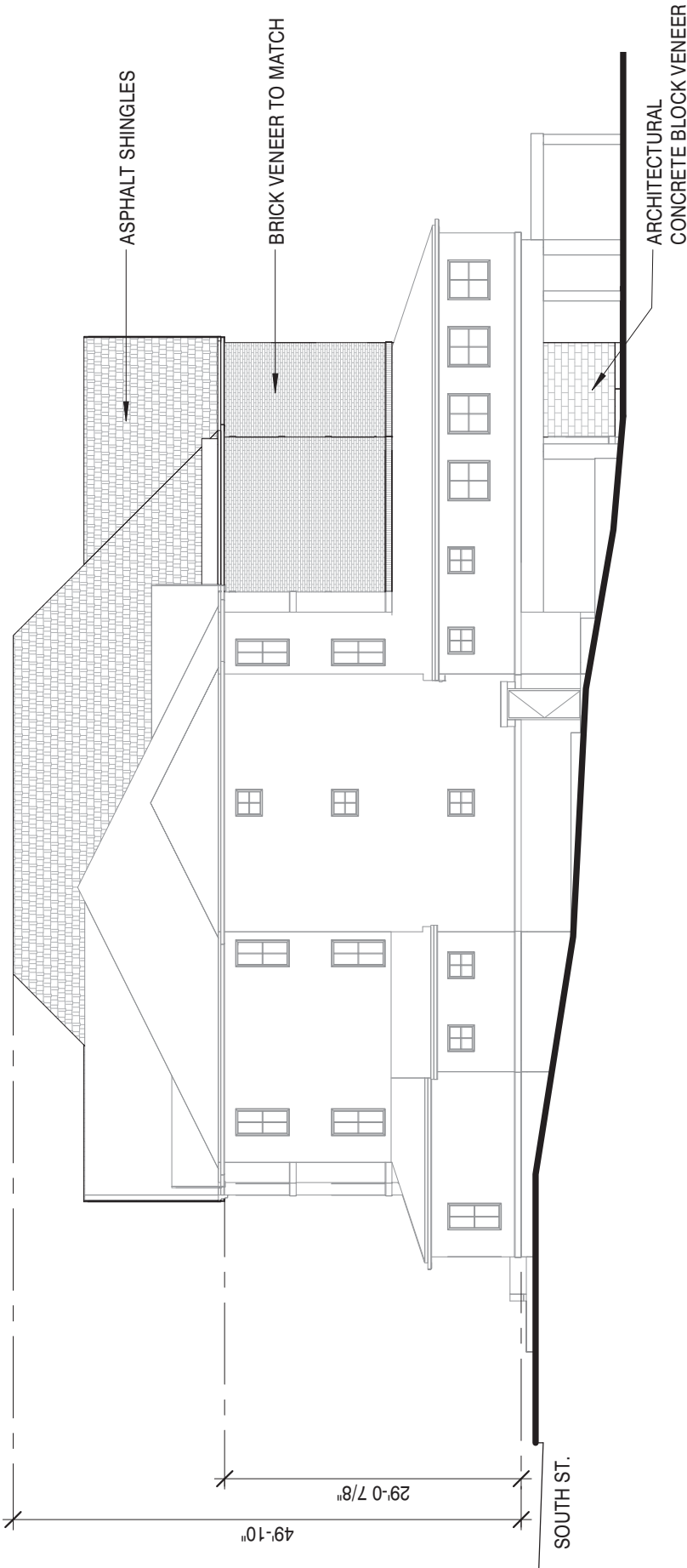
Project Number: 149-12397-0B Date: 07/15/14

PROPOSED BUILDING ADDITION
SOUTH STREET & WELLINGTON STREET, HALIFAX

ARCHITECTURE | 49

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WEST ELEVATION

SCHEDULE C4

Drawn: LD Checked: DP Approved: DO Scale: 1/16" = 1'-0"

DAFFODIL PLACE

Project Number: 149-12397-0B Date: 07/15/14

PROPOSED BUILDING ADDITION
SOUTH STREET & WELLINGTON STREET, HALIFAX

ARCHITECTURE | 49

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ATTACHMENT B:
Proposed Discharging Agreement

THIS AGREEMENT made this _____ day of _____, 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 –

HER MAJESTY THE QUEEN

in Right of the Province of Nova Scotia, Represented by the Minister of
Transportation and Infrastructure Renewal
(hereinafter called the "Province")

OF THE SECOND PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE THIRD PART

WHEREAS the Developer is the registered owner of certain lands located at 5826 South Street, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

WHEREAS the Province is the registered owner of certain lands located to the west of the Lands, and identified as Gorsebrook Lands **[Insert PID No.]**, Halifax, and which said lands are more particularly described in Schedule B hereto (hereinafter called the "Provincial Lands");

AND WHEREAS the former City of Halifax, at its meeting on March 15, 1989, approved an application by the Canadian Cancer Society to enter into a Development Agreement (Municipal Case 5221) to allow for the construction of a building to accommodate boarding facilities and offices on the Lands, pursuant to policies 7.6.2 and 7.6.3 of the Halifax Municipal Planning Strategy, which said agreement was entered into on April 26, 1989, and then registered at the Registry of Deeds as Document No. 27443, Pages 655 to 660 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Existing Agreement be discharged from the Lands and the Provincial Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Halifax and West Community Council of the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number **19185**;

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

1. The Lands are hereby discharged from the Existing Agreement, which shall no longer have any force or effect; and
2. The Provincial Lands are hereby discharged from the Existing Agreement, which shall no longer have any force or effect.

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:_____

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per:_____

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

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 Cathy Mellett, 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

ATTACHMENT C:
History of the Subject Property

At the time, of the property's initial development, the housing component of Daffodil Place building was enabled under existing R-3 (Multiple Dwelling) Zone provisions of the Halifax Peninsula Land Use By-law (LUB). However, the office use element of the development could only be permitted in residential buildings containing 100 or more dwelling units in the South End area of Halifax. As such, in order to permit for the office use component of the development to proceed forward, amendments to the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula LUB were required. These amendments enabled the establishment of the Daffodil Place building through the development agreement process.

In 1987, the CCS applied for an amendment to Municipal Planning documents to permit the construction of the Daffodil Place building.

In 1989 the former Halifax City Council approved Policies 7.6.2 and 7.6.3, which were applied to properties fronting on South Street between the Gorsebrook Lands and Tower Road (Map 2). These policies consist of criteria which Community Council can consider when assessing proposals of a non-profit medical and/or rehabilitative nature. These guidelines include land use compatibility, parking and landscaping. At the time, the Province of Nova Scotia indicated that assistance will be provided to the CCS in securing parking spaces in order for the approved policies to be met. This lead to negotiating a lease agreement for a portion of the Gorsebrook Lands to be used exclusively for parking purposes for 20 years (Maps 1 through 4).

In 2012, the CCS submitted a Planning Application for substantive amendments to the existing Development Agreement to expand the Daffodil Place building to accommodate for additional office space and private rooms. As part of the application process, the lease agreement for the parking area was renewed for an additional 25 years, commencing in 2012 and ending in 2037.

In 2013, the application was withdrawn prior to proceeding with a Staff Report to Community Council at the request of the CCS in order to re-assess the request and building design.

ATTACHMENT D:
Review of Relevant Policies –
Halifax Municipal Planning Strategy (MPS)

The proposal may be considered by Council through the following applicable policies of the Halifax Municipal Planning Strategy:

Section V: South End Secondary Planning Strategy

Residential Environments (*High Density Residential Designation*)

Section V: South End Secondary Planning Strategy

District Policies - District VI

Applicable Policies	Staff Comments
Policy 7.6.2: For those properties designated 'High Density Residential (HDR)' fronting on South Street between the Gorsebrook lands and Tower Road, Council may permit, by development agreement, an office of a non-profit medical or medical and rehabilitative organization to be located at or below the ground floor of a residential structure.	<p>The subject property is designated HDR and fronts on South Street, as shown on Maps 1, 2 and 3. Also, existing land uses on the subject property are limited to non-profit boarding and lodging facility and staff office spaces at and below ground level (Daffodil Place building).</p> <p>Council should note that the proposed development agreement allows for the construction of an addition to the Daffodil Place building in order to expand existing boarding facilities and office spaces for non-profit institutional purposes. As such, the intent of the policy is met.</p>
Policy 7.6.3: <i>Proposals under Policy 7.6.2 shall be evaluated against the following criteria:</i>	
Applicable Policies	Staff Comments
<i>a. that parking is adequate for both the residential use and the office use;</i>	<p>Adequate parking for both the residential and office uses is available on and off site. The existing surface parking area is located on the west side of the existing building, with egress and ingress to South Street and consists of 14 spaces (leased parcel). The applicant is proposing additional parking area to the south of the property that consists of five spaces with an entrance from Wellington Street. Further, ample off-site parking is available in the South Street area. As such, the proposal meets this guideline.</p>

Section V: South End Secondary Planning Strategy

District Policies - District VI

b. that adjacent residential uses are not unduly effected as a result of location, parking, and lighting.

The proposed building addition is designed with sufficient setbacks from property lines to the south, which vary between 4m (13ft.) and 8.5m (28ft.), in order to mitigate against any potential impacts on adjacent residential uses. Other mitigation and buffering measures for parking and lighting include landscaping along the southern property line. As such, the proposal meets this guideline.

ATTACHMENT E:
Excerpt from the Halifax Peninsula Land Use By-law (LUB)

R-3 (Multiple Dwelling) Zone

44(1) The following uses shall be permitted in any R-3 Zone:

- (a) R-1 and R-2 and R-2T uses;
- (aa) R-2A uses in "**South End Area**";
- (b) boarding house;
- (c) lodging or rooming house;
- (d) apartment house;
- (e) uses accessory to any of the foregoing uses, if not specifically prohibited;

OTHER USES:

- (f) in any one building one office for rendering professional or personal services, provided that the net area for such purposes does not exceed 700 square feet;
- (g) special care home;
- (h) greenhouse;
- (i) the office of a Consulate located in a single family dwelling provided such dwelling is used by the Consulate as his private residence;
- (ia) **day care facility; (RC- Mar 3/09; E - Mar 21/09)**
- (ib) parking lots and parking structures existing on the date of adoption of this

COMMERCIAL USES:

One each of the following uses only if located in an apartment house which contains not less than one hundred self-contained dwelling units and located in "**Schedule B**";

- (j) Section, in Area 8 of the "**Peninsula North Area**".
- (k) retail foodstuff store of not more than 600 square feet;

One each of the following uses only if located in an apartment house which contains not less than one hundred self-contained dwelling units and which is erected on a lot of more than one acre:

- (l) restaurant of not more than 900 square feet of dining area, exclusive of kitchen, storage, washroom, staff areas, and the like;
- (m) barber shop;
- (n) beauty parlour;
- (o) dry cleaning distribution station;
- (p) valet service;
- (q) restaurant;
- (r) florist shop;
- (s) newsstand;
- (t) health club;
- (u) coin-operated vending machines;
- (v) retail foodstuff store of not more than 600 square feet;

Provided that:

- (i) these uses shall be for the exclusive use of the residents of such apartment house or their guests;
- (ii) there shall be no advertising or identification of the uses on the outside of the building;
- (iii) there shall be no visible indication from the exterior of the building that the commercial uses described in this section are carried on;
- (iv) there shall be no direct access from the exterior of the building to any of the commercial uses described in this section other than emergency access places in case of fire.

- 44(2) No person shall in any R-3 Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 44(3) No person shall in any R-3 Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

DISPLAY WINDOW

- 44(4) Where any building is used in an R-3 Zone for any of the purposes described in clause (f) of subsection (1) of this section, no display window shall be permitted, nor shall any evidence of the use of such building for such purposes be visible from the exterior of such building; PROVIDED, however, that nothing contained herein shall prohibit the display of a sign not exceeding one square foot in area, which bears the name and profession as set forth in clause (f) of subsection (1) of this section, of any person occupying such building.

SOUTH END

- 44A Notwithstanding the provisions of subsections 44(1) and 44(4), an apartment house in the "**South End Area**", and which contains 100 or more self-contained dwelling units may include those commercial uses which are permitted in Section 59A(1), except a bowling alley, a motion picture theatre and a service station, provided that such uses are located on the ground floor of the apartment house and are separately accessible from the building exterior.

SIGNS/ADVERTISING

- 44B Exterior advertising of the commercial uses described in Section 44A shall be permitted, provided that such advertising is non-illuminated.

UNIT MIX

- 44C An apartment house in the "**South End Area**" shall, of the total amount of dwelling units, be required to include at least one dwelling unit of a minimum of 800 square feet in floor area for every three dwelling units, each of which is less than 800 square feet in floor area.
- 44D An apartment house in the "**Peninsula Centre Area**" area shall, of the total amount of dwelling units, be required to include at least one dwelling unit of a minimum of 800 square feet in floor area for every two dwelling units, each of which is less than 800 square feet.

SPECIAL PARKING

- 44E Notwithstanding any other provision of this by-law, an apartment house in the "**South End**" and "**Peninsula Centre Areas**", shall be required to provide one parking space for each dwelling unit which is 800 square feet or greater, and one parking space for every two dwelling units, each of which is less than 800 square feet.
- 44F A lot which abuts a street at more than one location or which abuts two or more streets shall not be used for R-3 uses in the "**South End Area**", except for corner lots which abut at least two streets on a continuous uninterrupted line. For greater certainty, a corner lot may be subdivided and developed for R-3 uses in accordance with the requirements of this by-law, notwithstanding that a through lot may be created.

R-1, R-2, AND R-2T USES IN R-3 ZONE

- 45 Buildings erected, altered, or used for R-1, R-2 and R-2T uses in an R-3 Zone shall comply with the requirements of their respective zones.
- 45(2) Buildings erected, altered or used for R-2A uses in an R-3 Zone in the "**South End Area**" shall comply with the requirements of the R-2A Zone with the exception of Sections 43AD (vii) and viii), 43AE and 43AG.

SIGNS

- 46(1) No person shall erect or display any billboard or illuminated sign in an R-3 Zone.

- 46(2) A non-illuminated sign may be erected in an R-3 Zone if, in the opinion of the Inspector of Buildings, such sign is of reasonable proportion and will not constitute a hazard to the public or a nuisance to the owners of the property in the area.
- 47 Where any building is erected or altered or used for R-3 uses in an R-3 Zone, such building shall comply with the following requirements:

MINIMUM LOT AREA

- 47(1) (a) The minimum lot area upon which such building is located shall be 8,100 square feet with a minimum continuous street frontage of at least 90 feet on one street;
- (b) (Deleted)

DISTANCE FROM LOT LINE – 80 Degree ANGLE

- 47(2) (a) The distance from any part of such building and any official street line or lines abutting upon such lot shall be no less than 20 feet measured at right angles to any such official street line or lines; provided, however, that such distance may be reduced to not less than 10 feet measured at right angles to any such official street line or lines if that part of the building which is less than 20 feet from any such official street line or lines is entirely contained within the arms of an 80 degree horizontal angle as determined in subsection (3) of this section.
- (b) The distance from any part of such building and any lot line of such lot other than an official street line shall be not less than 10 feet measured at right angles to such lot line.
- (c) All windows and doors serving habitable rooms in such building shall be located not less than 10 feet from any lot line of such lot measured at right angles to such lot line.
- (d) Notwithstanding the provisions of clauses (a) and (b) of this subsection, the distance from any part of such building, not containing any windows or doors serving habitable rooms, to any official street line or lot line, may be less than the distance prescribed in said clauses (a) and (b) or may extend to any such official street line or lot line of the lot upon which such building is located, provided that:
- (i) the height of such part of the building does not exceed 5 feet above the natural ground level measured at any point on any official street line abutting such lot and extending for a horizontal distance of 10 feet measured at right angles to any such official street line;
 - (ii) the height of such part of the building does not exceed 5 feet above the natural ground level measured at any point on any lot line of such lot other than an official street line; and
 - (iii) the building is so designed that it does not interfere with traffic safety.
- (e) (Deleted)

SIZE OF BUILDING – 60 Degree ANGLE

- 47(3) (a) Subject to the provisions of subsection (2), such building or any part thereof shall not project beyond the angular planes determined by constructing such angular planes over such lot
- (i) from each lot line at natural or finished ground level, whichever is the lower, at a vertical angle of 60 degrees above the horizontal and measured perpendicular to such lot line or, in the case of a curved lot line, perpendicular to the tangents of all points of such lot line; provided, however, that where the natural ground at the lot line is more than 5 feet above the finished ground level established at any point on the wall opposite the lot line and where the horizontal distance to the face of any part of such wall or its vertical projection is less than 50 feet, the angular planes shall be constructed over the lot from all points on the intersections of the vertical projections of the lot line and the horizontal projection of the finished ground level; or
 - (ii) in the case where a lot line of such lot coincides with an official street line, from the center line of such street or from any intervening line parallel to such center line; provided, however, that

- (A) the distance from the line on which the plane is constructed and the lot line does not exceed 30 feet; and
 - (B) the vertical angle of 60 degrees is constructed perpendicular to the line on which the plane is constructed or, in the case of a curved line, perpendicular to the tangents of all points of the curved line.
- (b) Notwithstanding the provisions of clause (a) of this subsection and subject to the provisions of subsection (2), any part of such building may project beyond any prescribed 60 degree angular plane if:
 - (i) the projection through the plane subtends a horizontal angle not exceeding 80 degrees formed by lines drawn from a point on the line on which the 60 degree angular plane is constructed opposite to the center of the projection; and
 - (ii) the extremities of the projection are enclosed by the arms of such 80 degree horizontal angle.

DISTANCE BETWEEN EXTERNAL WALLS – 85 Degree ANGLE

47(4) (a) For the purposes of this subsection:

- (i) "base line" means, in the case of a wall rising from the ground, the natural or finished level of the ground adjoining the base of the wall, whichever is lower, and in all other cases means the lowest line of the wall above the natural or finished level of the ground, whichever is lower;
- (ii) a wall supported by construction above posts, pillars, or other open construction shall be deemed to rise from the ground and the base line of the wall shall be deemed to be the line on which the projection downward of the face of the wall meets the natural or finished level of the ground, whichever is lower;
- (iii) where external walls are not parallel to each other but the angle of divergence does not exceed 85 degrees, such walls shall be deemed to face each other.

65 Degree ANGLE

- (b) The provisions of this subsection (4) shall only apply if any part of such building is erected within the arms of horizontal angles of 65 degrees constructed outwards at the natural level of the ground, from the nearest extremities of external walls that face each other; provided, however, that where the two extremities of one such wall are, respectively, equidistant from the opposite extremities of the other wall or where the two extremities of one wall are equidistant from the nearest extremity of the other wall, the 65 degree horizontal angle may be constructed from either pair of equidistant extremities.

40 Degree ANGLE

- (c) The distance between any external walls of such building that face each other shall be not less than 50 feet, and any part of such building shall not project beyond any of the angular planes determined by constructing such angular planes outwards from the base line of each such external facing wall of each part of such building at a vertical angle of 40 degrees above the horizontal and measured perpendicular to such base line or, in the case of a curved base line, perpendicular to the tangents of all points of such curved base line.
- (d) Where two external walls of such building face each other and neither wall contains any door or window serving a habitable room, the provisions of clause (c) of this subsection shall not apply but the distance between such walls shall not be less than six feet.

BALCONIES, CORNICES, EAVES, AND CANOPIES

- 47(5) Notwithstanding the provisions of subsections (3) and (4) of this section, separate individual balconies, which are open on three sides, cornices, eaves, and canopies may project through the angular planes as determined in such subsections; provided, however, that any part of such projection shall be not less than 10 feet from any lot line of such lot.

- 48 Where any building is erected, altered, or used as a **boarding house, lodging or rooming house, an apartment house or special care home** in an R-3 Zone, such building, in addition to the requirements hereinbefore set out in Section 47, shall comply with the following requirements:

POPULATION DENSITY

- 48(1) The population density of such building shall not exceed:
- (a) 250 persons per acre if located in "**Schedule A**"; and
 - (b) 125 persons per acre if located in an area other than that described in Schedule "A".

OPEN SPACE

- 48(2) (a) The lot upon which such building is located shall contain a minimum of:
- (i) 120 square feet of open space for each person occupying such building in a dwelling unit containing two or more bedrooms, of which at least 100 square feet shall be landscaped open space; and
 - (ii) 80 square feet of open space for each person residing within such building in a dwelling unit containing one bedroom, of which at least 70 square feet shall be landscaped open space; and
 - (iii) 50 square feet of landscaped open space for each person residing within such building in a bachelor unit if located in "**Schedule B**"; and
 - (iv) 80 square feet of open space, of which at least 70 square feet shall be landscaped open space, for each person residing within such building in a bachelor unit if located within an area other than "**Schedule B**".
- (b) The occupancy of such building shall be calculated on the basis of one person for each habitable room contained therein.
- (c) For the purpose of this subsection, the roof, or any portion thereof, of any part of such building that has no residential accommodation included below such roof or portion thereof may be calculated as landscaped open space; provided that:
- (i) no part of such roof is more than 5 feet above the ground level of at least one lot line of such lot; and
 - (ii) such roof, or portion thereof, is capable of being used as landscaped open space.
- (d) Notwithstanding the provisions of Subsection 48(2)(c) above, a maximum of 40% of the landscaped open space requirement for dwelling units containing two or more bedrooms may be transferred to the building rooftop, including rooftops greater than 5 feet above the ground level; provided that:
- (i) the rooftop landscaped open space is contiguous and not less than 600 square feet (56 m²) in area; and
 - (ii) the rooftop landscaped open space is fully accessible for the common use of the occupants of the building. (PCC-April14/08; E-May 5/08)

OPEN SPACE FOR SPECIAL CARE HOME

- 48A A minimum of 35 percent of the lot area of any lot on which a building is erected, altered or used as a special care home, shall consist of landscaped open space.