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Item No. 13.1.5
Halifax and West Community Council
November 15, 2016

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: **ORIGINAL SIGNED**

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: November 1, 2016

SUBJECT: **Case 20386: Non-substantive Amendments to the Development Agreement for 3480 Joseph Howe Drive, Halifax**

ORIGIN

Application by W. M. Fares Group.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter): Part VIII, Planning and Development

RECOMMENDATION

It is recommended that Halifax and West Community Council refuse, by resolution, the proposed amending agreement, as set out in Attachment A of this report.

BACKGROUND

The applicant, W. M. Fares Group, is applying to amend the existing development agreement to permit the addition of two fascia signs on a commercial building at 3480 Joseph Howe Drive (Map 1). Both signs have been installed on the building's south elevation facing an interior property line. One is a corporate logo sign located on the fifth level and the other is for a business located at the ground level. Under the existing development agreement, fascia signs are not permitted to be located above the ground level or to face interior property lines. The proposal is being considered as a non-substantive amendment to the existing development agreement.

This amendment application is the result of a land use compliance matter. A permit to install an illuminated sign on the fifth level of the building was refused in November, 2013 but the sign was nevertheless installed without a permit. During a recent site visit, staff identified a second unauthorised fascia sign located along the south elevation, above the ground level windows. This sign also does not meet the provisions of the existing agreement given that it is parallel to an interior lot line and is the second sign installed for the leasehold where only one is permitted.

Subject Site	3480 Joseph Howe Drive, Halifax (PID 40180507)
Location	Halifax
Regional Plan Designation	US (Urban Settlement)
Community Plan Designation (Map 1)	MC (Minor Commercial Centre)
Land Use By-law	Halifax Mainland
Zoning (Map 2)	C-2A (Minor Commercial)
Size of Site	Approximately 3,268 square metres (35,176 square feet)
Street Frontage	Approximately 59.8 metres (196.1 feet) along Joseph Howe Drive
Current Land Use(s)	Commercial/office building - five(5) storeys with parking level
Surrounding Land Use(s)	The uses immediately surrounding the site are: <ul style="list-style-type: none"> • Minor commercial and residential commercial buildings located to the north and south of the subject property fronting Joseph Howe Drive; • Residential properties located along the eastern side of Joseph Howe Drive; and • A mixed use, multi storey building located west of the subject property, fronting Dutch Village Road, with commercial uses on the ground level.

Enabling Policy

The existing development agreement was considered under policies 2.5 and 2.5.1 of the Halifax Municipal Planning Strategy, Section VII Fairview Secondary Plan Area Policies and Objectives (MPS). These policies allow for the consideration of a mixed use development through the development agreement process. Since the existing development agreement was approved in 2010, the policy set that enabled this development was amended with the adoption of the recent MPS amendments for the Dutch Village Road area. The property is currently regulated under Section 2A.11 of the Fairview Secondary Planning Strategy which allows non-substantive amendments to existing development agreements to be considered under policies in effect at the time the agreement was approved (Attachment B).

Changes to the fascia signage can be considered as a non-substantive amendment, in accordance with Section 3.2(a) of the existing agreement (Attachment C), as a change to the exterior architectural appearance of the building which does not conform to the agreement's schedules.

Existing Development Agreement

Chebucto Community Council approved the existing development agreement on October 4, 2010 to allow for the construction of a twelve storey mixed use building fronting Dutch Village Road and a five storey commercial building fronting Joseph Howe Drive. The development was enabled through site specific Policies 2.5 and 2.5.1 under the MPS, which require attention to high quality design, coordinated signage and the building's relationship to the street.

Specifically, the existing agreement regulates fascia signs as follows:

- a) Signs cannot be located above the ground floor;
- b) Illuminated signage is permitted; and
- c) Fascia signs are limited to one per business premise and confined to a single defined area on the street facing façade.

Proposal Details

The applicant proposes to amend the existing development agreement to allow the installation of two fascia signs on the south elevation of the existing commercial building; one bearing their corporate logo located on the fifth floor, and the other for an existing business (Telus) located at the ground level. As outlined above, the existing agreement limits the number of fascia signs to one per business premise and limits their location to the ground floor on the street facing façade of the building.

In terms of the corporate logo sign, the developer has expressed that this building portrays the company's services of design, construction, and development. The applicant further indicated that the corporate logo forms part of the building's identity and facilitates wayfinding for the company's head office which is located within the building. The applicant has not provided a planning rationale for the Telus store sign.

COMMUNITY ENGAGEMENT

The community engagement process for this application is consistent with the intent of the HRM Community Engagement Strategy. As the process for amending agreements requires approval by resolution of Council, neither a public information meeting nor a public hearing is required. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website. The proposal will potentially impact local residents and property owners.

DISCUSSION

Sign regulations guide the type, size, location, and number of permitted signs on a property to ensure that the visual environment is not negatively affected. As per the existing development agreement, signs should be unified, compatible, and complementary to the building on which they are affixed and should have minimal impact on surrounding properties. The applicant has proposed two fascia signs, a corporate logo sign which is supported by the existing policy and an additional sign for Telus (located on the ground floor) which is not.

Staff have reviewed the proposal relative to all relevant policies and advise that the ground level Telus sign is not consistent with the intent of the MPS and as such recommend refusal of the attached amending development agreement which permits both signs. Attachment B provides an evaluation of the proposed development agreement against the relevant MPS policies and the following items have been identified for detailed discussion.

Street Level Design Considerations

The corporate office for the W.M Fares Group is located on the fifth level of the existing commercial building. Policy 2.5.1(d) supports the “creation of high quality design detail at the street level”. The corporate logo sign is located approximately 17.4 metres (57 feet) above grade, and therefore does not impact the quality of design of the building at the street level. Further, this type of signage identifying a building as a corporate head office is commonly located at the top of buildings.

The tenant fascia sign located at the ground level does not meet the intent of policy 2.5.1(d). As this is the second fascia sign for the business premise, it is unnecessary for identification and does not contribute positively to the visual environment. The other businesses located on the ground floor are restricted to a single fascia sign per business premise, and if multiple signs per business premise are permitted there is risk of creating cluttered building facades. This second business sign extends along the side of the building where there is no entrance, and as such detracts from the unified and coordinated appearance of the building.

Relationship to the Street and Surrounding Properties

Policy 2.5.1(e) emphasizes the relationship between new development and the street, and with adjacent properties and uses. The corporate logo sign could be seen as enhancing the building’s relationship with the surrounding environment as it improves wayfinding for the corporate office. The sign is appropriate in size as it occupies less than 10% of the building façade and is positioned so as not to extend beyond the wall to which it is attached. Although it faces interior rather than front property lines, it is located at such a height that it does not significantly impact the neighboring property to the south. As the neighbouring property is a commercial use, it would not be affected by the illumination of the sign.

Although there would be minimal impact to surrounding properties in permitting the Telus ground level fascia sign, it does not enhance the building’s relationship with the street. The other permitted fascia signs are located along the street facing façade and confined to a single defined area. These signs guide the observer to the business entrance and tastefully advertise services to vehicular and pedestrian traffic traveling along Joseph Howe Drive. Allowing an additional fascia sign to be located on the south facing facade of the building would unnecessarily detract from the street level experience with no benefit to the intended observer.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is not consistent with the intent of the MPS. Although the proposed fifth floor signage is appropriate in terms of design and location, the ground level sign is not. As the applicant has requested these two matters be considered jointly, staff recommend that the Halifax and West Community Council refuse the proposed amending agreement as set out in Attachment A. A decision of Council to refuse this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed amending agreement. The administration of the proposed amending agreement can be carried out within the approved 2016/2017 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility

and Review Board. Information concerning risks and other implications of adopting the proposed amending agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community council may choose to approve, by resolution, the proposed amending agreement, which shall be substantially of the same form as set out in Attachment A of this report and in doing so, require the amending 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. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to approve the proposed amending agreement subject to modifications. Such modifications may require further negotiation with the applicant and the preparation of a supplementary staff report. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

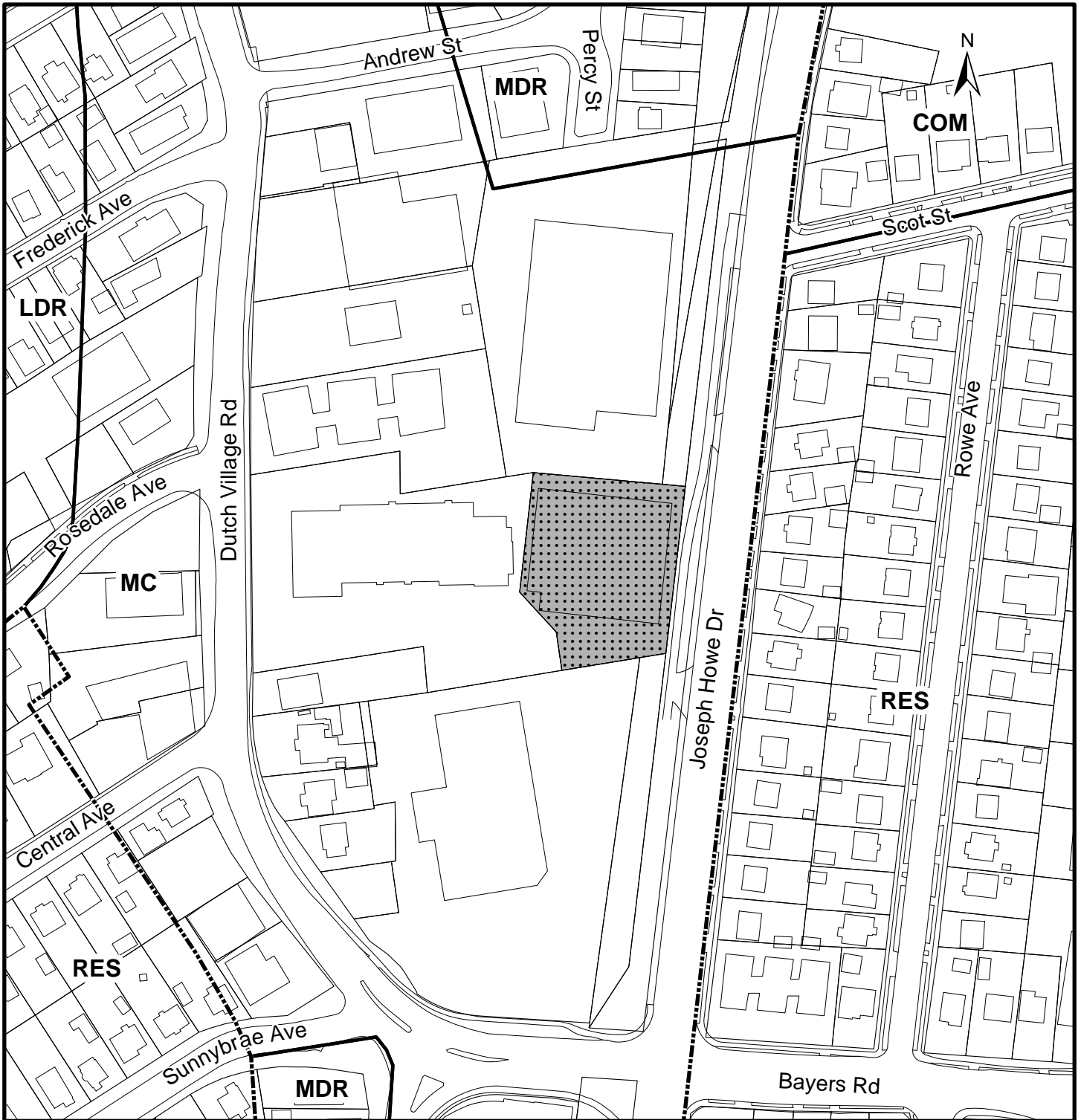
Map 1	Generalized Future Land Use
Map 2	Zoning and Notification Area
Attachment A	Amending Development Agreement
Attachment B	Review of Relevant Policies from the Halifax MPS
Attachment C	Extracts from the Existing Development Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Melissa Eavis, Planner II, 902.490.3966

ORIGINAL SIGNED



Report Approved by: _____
Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

3480 Joseph Howe Drive
Halifax

HALIFAX

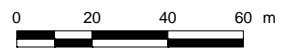
-  Subject Property
-  Fairview Secondary Plan Area Boundary

Fairview Secondary Plan Area Designations

- MDR Medium Density Residential
- MC Minor Commercial

Halifax Plan Area Designations

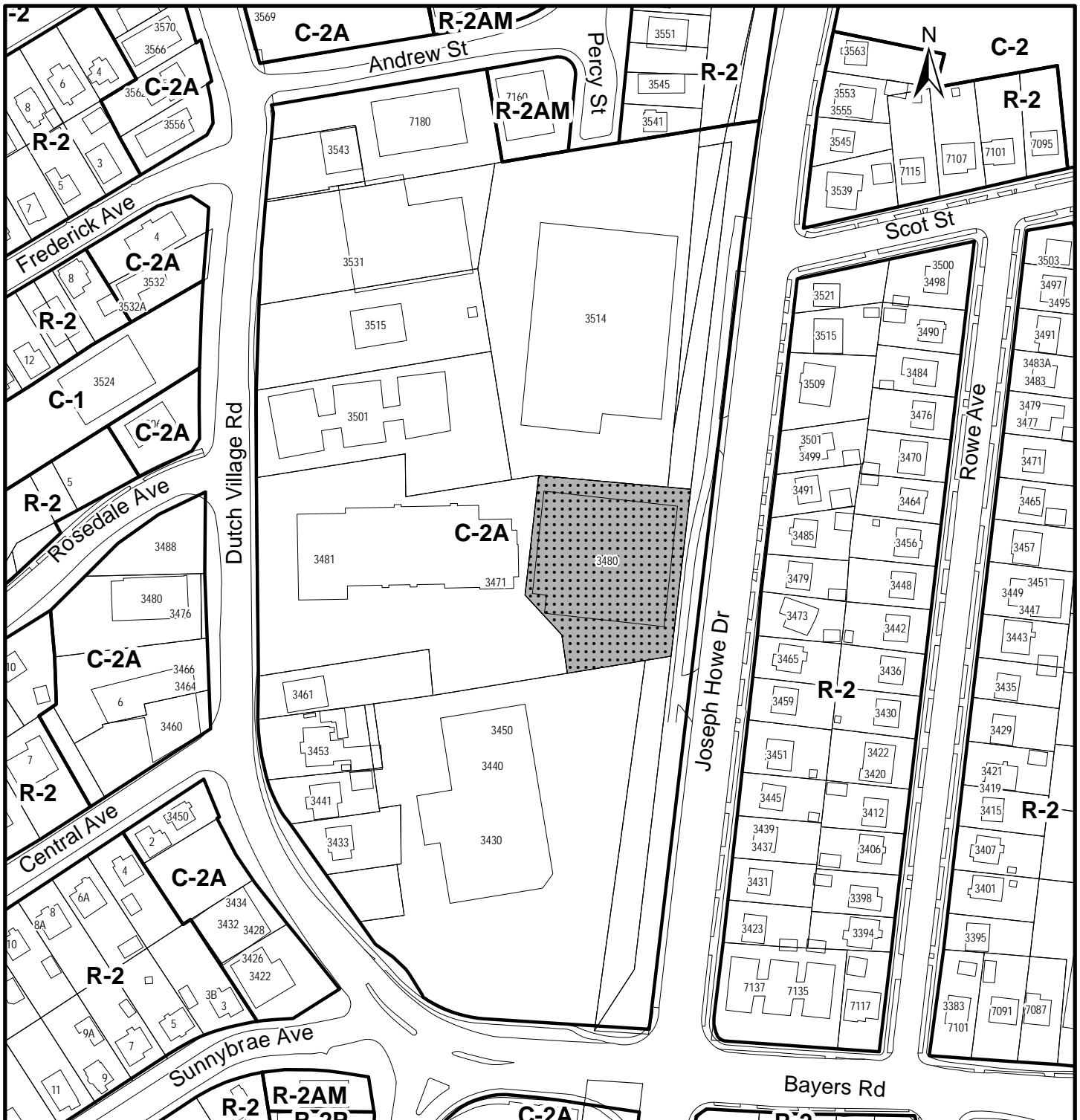
- RES General Residential
- COM Commercial



Halifax Plan Area
Fairview Secondary Plan Area

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

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



Map 2 - Zoning

3480 Joseph Howe Drive
Halifax

 Subject Property

Zone	
R-2	General Residential
R-2AM	General Residential Conversion
C-2	General Business
C-2A	Minor Commercial



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

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

Halifax Peninsula
Land Use By-Law Area

~~commercial/office buildings. Illuminated signage is permitted. Fascia signage shall be limited to one sign per business premise and confined to a single defined area or sign band on the street facing façade of each building. Directional signage to the residential entrance shall be provided but limited to a maximum of 3 signs, each with a maximum sign area of 0.74 square metres (8 square feet).~~

Exterior signage for the buildings, including signage for the commercial uses, shall be designed to be unified, compatible and complementary to the buildings in accordance with the following:

- (a) Signage shall not be located above the ground floor of the mixed use or the commercial/office buildings;
- (b) Illuminated signage is permitted;
- (c) Fascia signage shall be limited to one sign per business premise and confined to a single defined area or sign band on the street facing façade of each building;
- (d) Directional signage to the residential entrance shall be provided but limited to a maximum of 3 signs, each with a maximum sign area of 0.74 square metres (8 square feet);
- (e) Notwithstanding clauses (a) and (c), one fascia sign, no greater than 6.75 square metres in area, shall be permitted on the fifth level of the commercial building, parallel to the south elevation;
- (f) Notwithstanding clause (c), one additional fascia sign shall be permitted on the ground floor for a single business premise and confined to a single defined area or sign band parallel to the south elevation.

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 Owners Names)

Witness

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

Witness

Per: _____

Municipal Clerk

Witness

Attachment B
Review of Relevant Policies from the Halifax MPS

Halifax Municipal Planning Strategy (MPS) Policy

Section VII – Fairview Area Secondary Planning Strategy Objectives and Policies

Policy 2.5: *Notwithstanding the preceding policies within the Commercial Facilities Section, for properties bounded by Joseph Howe Drive, Dutch Village Road and Andrew Street, zoned C-2A (Minor Commercial Zone) and designated Minor Commercial on the Generalized Future Land Use Map (Map 9c) of this Plan, the Municipality may permit the development of a mix of residential and commercial uses by Development Agreement.*

Policy 2.5.1: *Any development permitted pursuant to Policy 2.5 shall be achieved by attention to a variety of factors for which conditions may be set out in the Development Agreement, such as but not limited to:*

Policy 2.5.1 Development Standards	Comment
<i>(a) the appropriate scale and massing of the building(s) for the lot area and configuration;</i>	Not applicable
<i>(b) the height of the building(s) which shall not exceed the low to mid-rise range;</i>	Not applicable
<i>(c) the architectural design of the building(s) including high quality building materials, articulation of and variation to the building(s) facades; and fine-grained architectural detailing;</i>	Staff advise that the proposed signage complements the design of the building in terms of colour and scale.
<i>(d) the creation of high quality design detail at street level through attention to such matters as site landscaping, minimal surface parking on the street frontage, conspicuous building entrances, appropriate lighting and co-ordinated signage;</i>	<p>Due to the height of this building, a corporate logo sign located at the top level is appropriate and is a typical location for this type of signage. Other potential locations for this type of signage on the building are less appropriate as it would detract from the quality of design at the street level.</p> <p>An additional ground floor fascia sign would not be appropriate as it does not improve wayfinding. The proposed location of the sign is not above a building entrance which is confusing to users. The additional fascia sign for this building premise would not contribute positively to the street level visual environment and it lacks co-ordination with the premise it serves and with rest of the building.</p>
<i>(e) the relationship of new development to the street, adjacent properties and uses; and, the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment;</i>	<p>The proposed fifth floor signage enhances the building's relationship with the surrounding environment as it improves wayfinding for the corporate office. The sign occupies less than 10 percent of the building face and does not increase the overall height of the building. Although it faces interior property lines, due to the proposed height it does not significantly impact the neighbouring property. For these reasons, the corporate logo sign would not impact the development potential of adjacent properties.</p> <p>The ground floor signage does not enhance the relationship with the street as it faces interior property lines and does not help with wayfinding as it</p>

	is not located above the business entrance. Due to its limited size and distance from adjacent properties, there would be minimal impact to the development potential of neighboring properties.
<i>(f) provision and improvement of safe vehicular and pedestrian access and egress;</i>	Not applicable
<i>(g) the adequacy and appropriate location of vehicular and bicycle parking facilities;</i>	Not applicable
<i>(h) the provision of useable on-site open space and recreational amenities of a size and type adequate for the resident population;</i>	Not applicable
<i>(i) appropriate separation of residential and commercial uses;</i>	Not applicable
<i>(j) connectivity and interaction with the Regional Trail where abutting; and</i>	Not applicable
<i>(k) the adequacy of the servicing capacity of the site.</i>	Not applicable

Amended Section VII – Fairview Area Secondary Planning Strategy Objectives and Policies

2A. Plan Dutch Village Road

Existing Development Agreements

Policy 2A.11: *Applications for non-substantive amendments to approved development agreements shall be considered under the policies in effect at the time the agreement was approved provided that the proposed amendments were identified in the agreement as non-substantive.*

Attachment C
Extracts from the Existing Development Agreement

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

2.8 Signs

2.8.5 Exterior signage for the buildings, including signage for the commercial uses, shall be designed to be unified, compatible and complementary to the buildings. Signage shall not be located above the ground floor of the mixed use or the commercial/office buildings. Illuminated signage is permitted. Fascia signage shall be limited to one sign per business premise and confined to a single defined area or sign band on the street facing façade of each building. Directional signage to the residential entrance shall be provided but limited to a maximum of 3 signs, each with a maximum sign area of 0.74 square metres (8 square feet).

PART 3: AMENDMENTS

- 3.1 Amendments to any matters not identified under Section 3.2 of this Agreement shall be deemed substantive and shall only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.
- 3.2 The following items are considered by both parties to be not substantive and may be amended by Resolution of Council:
- (a) Changes to the exterior architectural appearance of the buildings or the construction materials of the buildings as detailed in Section 2.4 or which, in the opinion of the Development Officer, do not conform with the attached Schedules;