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October 1, 2018

Carl Purvis, MCIP, RPP  
Planning Applications Program Manager  
Planning and Development  
Halifax Regional Municipality  
Via email: [purvisc@halifax.ca](mailto:purvisc@halifax.ca)

Re: Development Agreement Application - 2486 Creighton Street (PID 41463225)

Dear Carl:

We are pleased to submit an application for a development agreement to modify the lot requirements to permit ground floor uses at 2486 Creighton Street, as permitted in the R-2 zone.

In support of this application, we submit the following information:

- Application form
- Application fee (\$1830)
- Site plan
- Building elevations

**Proposal**

Omar Gandhi owns and operates a highly successful architectural practice in the South End of Halifax. He also has an office in Toronto and regularly commutes between them. Mr. Gandhi wishes to relocate his small South End office to the North End where he can operate it out of the ground floor private garage/workshop space of a single family dwelling to be constructed on a vacant lot on Creighton Street. The house will also be his primary residence. As a Professional Architect, the Mr. Gandhi is generally permitted to operate an Office of a Professional Person from their home.

**Issue**

The lot, like most other R-2 lots in the area, is undersized and cannot meet the lot requirements required to permit a Professional Office use. Properties that have been created prior to the bylaw—most in the area—are eligible to use the standard variance process to permit this use. As the subject property was only created in 2018, the owner is unable to modify the lot area and frontage through the standard variance process. The Halifax MPS and Peninsula LUB does, however, permit Council to consider lot modifications by development agreement, so long as the uses proposed are permitted in the zone.

## Request

On behalf of the property owner, we request a lot modification development agreement to allow the ground-level of the proposed building to be used as an Office of a Professional Person. This use is permitted within the R-2 zone.

The following table outlines the existing lot area requirements for the proposed use and the minor variances necessary to permit the proposed uses:

	LUB Requirements based on Use		Proposal	LUB Satisfied?
	Single Family Dwelling (S. 43M)	Professional Office (S. 43H)		
Lot Area	2000 sf	3,000 sf	<b>2587</b>	No - DA Required
Coverage %	50%	35%	<b>60%</b>	No - DA Required
GFAR	0.75		<b>1.18</b>	No - DA Required
Frontage	20 feet	30 feet	<b>26</b>	No - DA Required
Left Side Yard	0'	4'	<b>0</b>	No - DA Required
Right Side Yard	0'	4'	<b>5' 4 3/4"</b>	Yes
Rear Yard	-		<b>0</b>	Yes
Front Yard	Streetline		<b>0</b>	Yes
Parking	1	0	<b>2</b>	Yes

It is important to note that while the proposed use requires variances to frontage, lot area, lot coverage and side yards, a main building of the same size and scale can already be built as-of-right as a single family dwelling without any variances.

Council recognizes the value in giving consideration to reasonable proposals for uses permitted in the zone, but where lot requirements could not be met. The Halifax MPS and Halifax Peninsula LUB addresses the challenges of infill development on small lots in the Plan Area by providing a development agreement mechanism to modify the lot requirements to permit additional zone-appropriate uses with input from the community.

## Enabling Policy

This application is made under Section 99(5) of the Halifax Peninsula Land Use Bylaw and in accordance with Implementation Policy 4.6 of the Halifax Municipal Planning Strategy:

### *Section 99(5)*

*Lot Modification Council may, by development agreement, pursuant to the Implementation Policies of the Municipal Planning Strategy, permit any use permitted by the zoning designation which*

would not otherwise be permitted by the minimum lot frontage, lot area and yard requirements of this by-law, in accordance with Policies 4.4 and 4.6.

#### Policy 4.6

For any proposed development, the City may permit modification of the yard or lot area or width provisions of the Peninsula and Mainland Zoning By-laws under the authority of Section 33(2)(b) of the Planning Act. A decision of the Council of the City of Halifax to permit such modification may be preceded by a public hearing if deemed necessary and such modification shall be granted provided that:

- (a) the amenity, convenience, character and value of neighbouring properties will not be adversely affected;
- (b) conditions necessitating such modification are unique to the lot and have not been created by either the owner of such lot or the applicant;
- (c) the modification is necessary to secure an appropriate development of the lot where such lot is of such restricted area that it cannot be appropriately developed without such modification;
- (d) the modification is consistent with Section II of this Plan; and
- (e) the registered owner of the land for which the modification is sought shall enter into an agreement with Council pursuant to Section 34(1) of the Planning Act.

### Rationale for Request

In contemplating such development agreements, Council must consider four key criteria, which we address below:

**(a) The amenity, convenience, character and value of neighbouring properties will not be adversely affected.**

The proposed building meets the volume requirements if constructed as a single family home. The request is only about the use within the structure. Parking for the proposed building/use is available at the rear of the property.

The block where the subject property is located is at a point where the Medium Density Residential designation is squeezed by higher intensity designations including High Density Residential and Major Commercial (see **Figure 1**). The area is home to a range of zones and uses (see **Figure 2**), including residential, commercial, light industrial and institutional uses.

While situated within a small R-2 area, the properties abutting the rear of the subject property are zoned C-2, with an existing building built to the lot line. As a large C-2 lot, there exists potential for significant

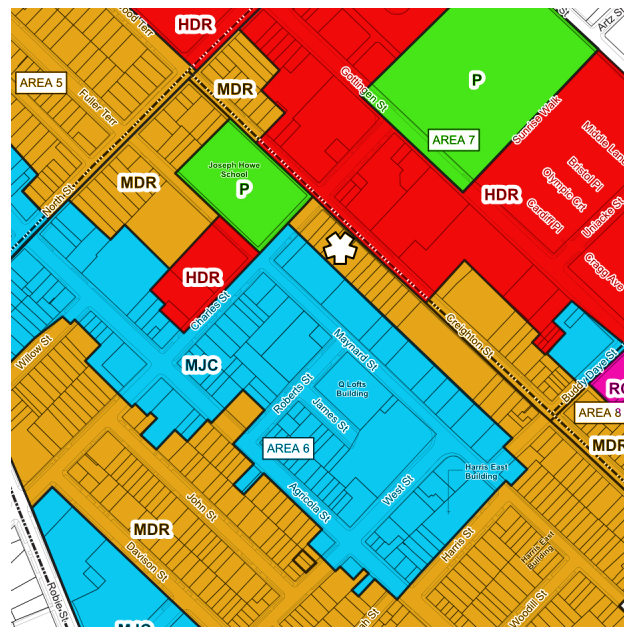


Figure 1: Subject property shown with asterisk. While large areas of Medium Density Residential areas exist, it is squeezed in the area of the subject property by higher intensity uses, making it more suitable as a transition zone more accommodating of increased GFAR and complementary local commercial uses.

development as-of-right with no setback from the subject property. For example, the permitted GFAR permitted on site could be as high as 5, based on 100% coverage and current 50-foot high maximum. Permitted GFARs on much of Gottingen Street are also 5 or more. In the immediate R-2 zoned area, GFARs range as high as 2, some of which have been recently achieved through the standard variance process. In this regard, permitting a GFAR of approximately 1.2, with a site coverage of 60% or less will result in a building that fits well within the existing fabric of the neighbourhood and contribute to the area as a walkable, urban neighbourhood.



Figure 2: (top) The subject property, highlighted in red, is surrounded by a wide range of uses, including single family, multi-family, institutional, light industrial and commercial uses; (bottom) The subject property is situated within a small R-2 portion of a larger block zoned C-2 and R-2A. Properties across the street are zoned for high-density residential uses (R-3).

Directly across from the subject property is a large contiguous block of R-3 lands, which includes more dense forms of housing such as over/under or stacked townhomes owned by the Nova Scotia Housing Development Corporation, the former Victoria Hall, which has been converted into apartments (and having

significant area for expansion of the building), and Sunrise Manor, a 10-storey, 165-room seniors facility. Joe Howe Elementary School is located nearby at the intersection of Creighton and Charles Street. This section of Charles Street is an important pedestrian corridor, linking a popular commercial area on Agricola to Gottingen Street and terminating at the George Dixon Community Centre.

The majority of the properties in the area are used for two-dwellings or more; major commercial uses already abut the subject property. The ability to include an office use is in keeping with the existing character of the area and is appropriate given the intensive uses and zones abutting the rear yard and directly across Creighton Street.

**(b) Conditions necessitating such modification are unique to the lot and have not been created by either the owner of such lot or the applicant.**

This lot was created in 2018 by the previous owner. The current owner did not create the lot but purchased it intending to build a primary residence and relocate a small architectural practice to the ground floor, a use permitted in the R-2 zone.

The lot area and dimensions of the subject property is common in the area, yet the restriction of permitted uses on the subject property is not. As most, if not all, R-2 properties in the surrounding area were created prior to the adoption of the bylaw, owners in the area may apply through a standard variance process to relax the minimum lot requirements in order to permit other R-2 uses such as home occupations, professional offices, two-unit dwellings and apartment buildings up to 4 units. However, as this lot was created in 2018, it cannot apply through a standard variance process. In this regard, the property is limited to a single use, which is not in keeping with the intent of the Halifax Municipal Planning Strategy (MPS), the Peninsula North Secondary Planning Strategy and the direction given in the draft Centre Plan. The difficulty experienced was not created by the owner or applicant and is likely unique to this property.

**(c) the modification is necessary to secure an appropriate development of the lot where such lot is of such restricted area that it cannot be appropriately developed without such modification**

This lot faces development restrictions that do not apply to other lots in the area. The modification is necessary to enable any use other than a single family dwelling. Given the fact that the property is designated medium density residential and zoned R-2, we submit that the lot cannot be appropriately developed based on the intent of the land use designation without modification of the lot.

EDM discussed other options and possible mechanisms, including rezoning, with the property owner and with HRM Staff. It was determined that a development agreement would be more appropriate than a rezoning for a commercial uses, which would be more restrictive for residential uses and more permissive of a wide range of commercial uses. This is not desired by the owner and would not be in alignment with the existing character of the area. In meeting with Staff, it was also clear that the request made through the development agreement aligns well with the direction presented in the draft Centre Plan, where small-scale, compatible commercial uses and secondary suites are encouraged in residential areas.

This request is limited to varying the lot requirements by development agreement, a request that most if not all surrounding properties can request through a standard variance process. In this regard, we submit that

the request for a development agreement is in alignment with the intent of the Municipal Planning Strategy. The lot modifications requested are within the range of standard variances granted to older lots in the area.

We submit that the subject property faces the maximum restrictions possible in regard to “as-of-right” development options—it is located in a “Medium Density Residential” area, is not zoned “Single Family Residential” (R-1), and directly abuts a “Major Commercial” area, yet it cannot obtain a permit for anything other than a single family dwelling. In this regard, we submit that the lot modification by development agreement is necessary to secure an appropriate development of the lot.

**(d) the modification is consistent with Section II of this Plan.**

Section II of the Halifax MPS consists of city-wide objectives and policies, as well as policies to guide future planning in residential environments. The proposal is consistent with Section II of the Plan, as the uses requested to be enabled by development agreement are already uses supported by the Plan and permitted by regulations for the R-2 zone in the LUB. The policies support and encourage rehabilitation and compatible infill within existing neighbourhoods. Compatibility generally refers to the scale of the building. The proposed building is appropriately scaled, as its form is already permissible in the zone by-right.

We trust that our submission is sufficient for your review. We look forward to discussing the application and next steps with you as soon as possible. Please don't hesitate to contact me if you have any questions.

Sincerely,  
EDM Planning Services Ltd.

Jessica Harper, BCD, MCIP, LPP