



P.O. Box 1749
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Item No. 10.1.2
Halifax West Community Council
May 22, 2018
June 13, 2018

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: **ORIGINAL SIGNED**

Kelly Denty, Acting Director, Planning and Development

ORIGINAL SIGNED

Jacques Dubé, Chief Administrative Officer

DATE: April 24, 2018

SUBJECT: **Case 20719: LUB Amendment, Development Agreement, and Development Agreement Discharge for 5516, 5530 and 5532 Bilby Street**

ORIGIN

Application by WM Fares.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law, as set out in Attachment A, to add 5516 Bilby Street, Halifax in Schedule Q and schedule a public hearing;
2. Give notice of motion to consider the proposed Development Agreement, as set out in Attachment A of this report, and schedule a public hearing. The public hearing for the Development Agreement shall be held concurrently with the public hearing indicated in Recommendation 1; and
3. Adopt the amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law as set out in Attachment A of this report.

Contingent upon the amendment to the Halifax Peninsula Land Use By-law being approved by Community Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Halifax and West Community Council:

1. Approve, by resolution, the proposed Discharging Development Agreement, which shall be substantially of the same form as set out in Attachment C of this report;
2. Approve the proposed Development Agreement, which shall be substantially of the same form as set out in Attachment B of this report; and
3. Require that both the Discharging Development Agreement and 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.

BACKGROUND

WM Fares, on behalf of Stack House Development Inc., has applied to add 5516 Bilby Street, Halifax into Schedule Q of the Halifax Peninsula Land Use By-law and enter into a development agreement to enable an 8-storey residential building. The lands identified as 5530 and 5532 Bilby Street are identified on Schedule Q and are subject to an existing development agreement for an 8-storey mixed use building. The applicant proposes to discharge this agreement and enter into a revised agreement to incorporate 5516 Bilby Street into the development proposal.

Subject Site	5516, 5530 and 5532 Bilby Street
Location	Halifax
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Major Commercial (MJC) and is located within the Peninsula North Secondary Planning Strategy (SPS)
Zoning (Map 2)	C-2 (General Business) Zone
Size of Site	1309.2 sq. m
Street Frontage	Approx. 43.42 m
Current Land Use(s)	Vacant, single unit dwelling
Surrounding Use(s)	Mixed density residential, commercial uses, parking lots

Proposal Details

The applicant proposes to demolish the existing building on the site and construct an 8-storey residential building. The major aspects of the proposal are as follows:

- 8 storey residential building with a townhouse style podium;
- 110 square metres of indoor amenity space;
- 3 storey streetwall, which steps down to 2 storeys on each side and 1 storey in the rear;
- 45 interior parking spaces with approximately 2,026 m² (21,807 sq. ft.) of Gross Floor Area (GFA); and
- Approximately 6,177m² (66,488 sq. ft.) of residential GFA containing 64 residential units.

Existing Development Agreement

The properties at 5530 and 5532 Bilby Street are subject to an existing development agreement that allows an 8-storey, 32-unit residential building with ground floor commercial uses. Permitted uses on the ground floor include townhouse forms and 1,000 square feet of commercial space. This agreement was registered

in September of 2014. Since then, the owner has purchased the adjacent property at 5516 Bilby Street and proposes to incorporate that lot in the development plan.

Enabling Policy and LUB Context

The subject property is designated Major Commercial under the Halifax Municipal Planning Strategy (MPS), Peninsula North Secondary Planning strategy and it is zoned C-2 (General Business) Zone under the Halifax Peninsula Land Use By-law (LUB). These properties are currently identified in Schedule Q and the current zoning permits commercial buildings up to 24.4 m (80 feet) in height, with an allowance for additional height if stepped back from the property lines above 24.4 m (80 feet).

Policies 2.3.1, 2.3.2 and 2.3.3 of Section XI of the Halifax MPS allow Community Council to consider residential or mixed-use buildings for lands located within this commercial designation through the development agreement process. The provisions of Schedule "Q" were established to address the challenge of introducing new residential uses into existing commercial and industrial areas by negotiating, on a site by site basis, the conditions of a development agreement including:

- the creation of an adequate environment for residential living on sites which may be surrounded by commercial and industrial uses; and
- providing for the continued operation of adjacent commercial and industrial uses without being encumbered by new residential uses.

The majority of Schedule "Q" is currently applied on the west side of Robie Street between Young Street and North Street but it has also been applied to select sites in general proximity to the subject property (Map 3). The policy is intended to control the potential land use conflicts, ensure adequate road connections, provide high quality design and have appropriate, high quality amenity space.

Approval Process

The approval process for this application involves two steps:

- i) First, Halifax and West Community Council must consider and, if deemed appropriate, approve the proposed amendment to the Land Use Bylaw to include the subject site (5516 Bilby Street) within Schedule Q; and
- ii) Second, Halifax and West Community Council must consider and, if deemed appropriate, discharge the existing development agreement and approve the proposed development agreement once the Land Use Bylaw (LUB) amendment is in effect.

A single public hearing can be held by Halifax and West Community Council to consider the LUB amendment and the development agreement. However, Community Council can only render a decision on the proposed new development agreement once the LUB amendment has come into effect.

The decision of Community Council on both the rezoning and proposed development agreement can be appealed to the N.S. Utility and Review Board (UARB). A decision of Community Council to approve the discharge of the existing development agreement is not appealable to the UARB.

COMMUNITY ENGAGEMENT

The community engagement process has been consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement for his application was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public open house held on June 7, 2017. Attachment D contains a copy of the notes from the meeting. The public comments received include the following topics:

- Attractive design; and
- Parking concerns in the neighbourhood.

Should Community Council decide to proceed with a public hearing, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

A public hearing is not required for the DA discharge, as the *Halifax Regional Municipality Charter* provides a mechanism for the Halifax West Community Council to discharge the existing development agreement. Part VIII, Section 244, identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The Charter does not require a public hearing for the discharge of an agreement or a portion thereof. A development agreement may be discharged by resolution of Community Council.

The proposal will potentially impact local residents and property owners.

Halifax Peninsula Planning Advisory Committee

On June 26, 2017, the Halifax Peninsula Planning Advisory Committee (PAC) recommended that the application be approved. The recommendations of the PAC on the application are sent to Community Council by means of a separate report.

HPPAC did note concerns over the setback on the east side of the development and the relatively large blank wall. The building was revised to increase this setback to 1.83 m (6 ft.) and the development agreement requires a landscaped buffer within this setback that includes mixed plantings and shrubs. PAC also recommended a 2 storey streetwall, but a three storey streetwall was determined to better hold the proportion of the building.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment D provides an evaluation of the proposed LUB amendment and development agreement in relation to the relevant MPS policies.

LUB Amendment (Schedule Q)

Policy 2.3.1 provides direction to consider the application of Schedule Q. The policy intent is to enable development agreements to facilitate reinvestment in commercial and residential properties with a focus on reducing the potential for conflict between commercial and residential uses. Much of Bilby Street, between Isleville Street and Gottingen Street, is identified on Schedule Q (Map 3) and this parcel is immediately adjacent to Schedule Q land. Identifying these lands within Schedule Q allows for the consideration of residential uses by development agreement which grants Community Council greater control and predictability on the site and building design and it reduces the potential for land use and design conflicts.

Proposed Development Agreement

Attachment B contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- A maximum building height of 26 m excluding the mechanical penthouse;
- Provision for a 3 storey streetwall facing Bilby Street;
- The streetwall transitions from three to two storeys on the sides and one storey in the rear;
- A requirement for a detailed landscaping plan including outdoor amenity space;
- A requirement to provide 110 square metres of interior amenity space with direct access to outdoor amenity space;

- A requirement that a minimum of 50% of the units to be two or more bedrooms;
- A requirement for 45 interior parking spaces which must be integrated into the building; and
- Controls on the materials and exterior design.

The following items in the development agreement are identified as non-substantive and can be amended by motion of Community Council:

- The granting of an extension to the date of commencement of construction;
- Changes to the unit mix; and
- Changes to the permitted uses and schedules to allow ground floor commercial use.

Of the matters addressed by the proposed development agreement to satisfy the MPS criteria in Attachment C, the following have been identified for detailed discussion.

Surrounding Context

This area of Bilby Street has the potential for significant change. This block has four approved development agreements for multi unit residential buildings (Map 3):

1. an 8-storey residential on the corner of Bilby and Isleville Streets (Case 18555);
2. a 7-storey residential building on the opposite corner of Bilby and Isleville Streets (Case 17511);
3. a 7-storey mixed use building on the corner of Bilby and Gottingen Streets (Case 18149);
4. and the applicant's approved 8-storey building at 5530 and 5532 Bilby Street (Case 185191).

Of these four approved agreements, three are on vacant land or land that is used for parking with the fourth presently being used for commercial activity.

South of Isleville Street, Bilby Street has a more consistent, low density character that changes to more commercial in nature as Bilby Street approaches Robie Street.

Properties on Almon Street abutting the rear yard of the subject lots include a mix of residential and commercial uses and a Legion Hall. They are predominantly low in height and the proposed building steps down to one storey at the rear to provide an appropriate transition to these properties.

The property abutting the subject lots to the north-east on Bilby Street contains a single unit dwelling. The proposed building is set back 1.83 m (6 ft.) from this property and a landscaped buffer is to be provided along the property line. The property to the south-west on Bilby Street is presently vacant.

Building Design

Much of this block is under transition with one single unit dwelling, a mix of converted and small scale multi-unit buildings, some commercial uses and a number of approved residential and mixed-use buildings. This proposal is consistent with the form of the other approved developments and it includes design elements that respond appropriately to the surrounding context. The building height transitions from a 3 storey streetwall to 2 storeys in the side and down to a single storey in the rear in response to the low-density context of the properties that abut the proposal on Almon Street.

The development is designed with a three storey, townhouse style streetwall, that has a fine-grained articulation and provides variation and interest at street level. The entrance to the parking garage carries forward this design through the continued articulation of a townhouse form.

The building incorporates high quality materials such as brick, prodema wood and composite panels, with the use of colour to further define the building. Ivy screens are provided on the back of the building to break up the rear wall.

Parking

The development agreement requires a minimum of 45 interior parking spaces which equates to approximately 0.7 parking spaces per unit. Staff consider the need for parking in a building based on its location in relation to transit connections, opportunities for active transportation and the community desire for less costly housing. This building is well located with bus service provided every 15 minutes on Gottingen Street and more frequent service is available on Robie Street. Minimizing the required number of parking spaces can materially reduce construction costs which can contribute to less costly units. Under these circumstances, staff support the proposed parking requirements.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The building is well articulated and provides an appropriate transition to the surrounding context. Therefore, staff recommend that Halifax and West Community Council approve the proposed LUB amendment, development agreement and discharge agreement.

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 development agreement. The administration of the proposed development agreement can be carried out within the approved 2018/19 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 development 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 the proposed amendment to the Halifax Peninsula LUB subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve the proposed LUB Amendment or development 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 refuse the proposed amendment to the Halifax Peninsula LUB, and in doing so, must provide reasons why the amendment does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment or development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
3. Subject to the adoption of the proposed Halifax Peninsula LUB and discharge of the existing development agreement Halifax and West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require

further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.

4. Halifax and West Community Council may choose to refuse the proposed development agreement, and retain the existing development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.
5. Halifax and West Community Council may choose to refuse the proposed development agreement, and discharge the existing development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed 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 2	Zoning and Notification Area
Map 3	Schedule Q Properties
Attachment A	Proposed Amendment to the Halifax Peninsula Land Use Bylaw
Attachment B	Proposed Development Agreement
Attachment C	Proposed Discharging Development Agreement
Attachment D	Review of Relevant Policies – Halifax Municipal Planning Strategy (MPS)
Attachment E	Public Open House Meeting Notes

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jennifer Chapman Planner III, Urban Enabled Applications 902.490.3999


ORIGINAL SIGNED

Report Approved by: Steve Higgins, Manager of Current Planning, 902.490.4382



Map 1 - Generalized Future Land Use

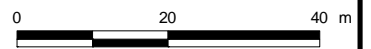
5516, 5530 and 5532 Bilby Street
Halifax

 Subject Properties

Designation

- MDR Medium Density Residential
- MJC Major Commercial
- CFB Canadian Forces Base

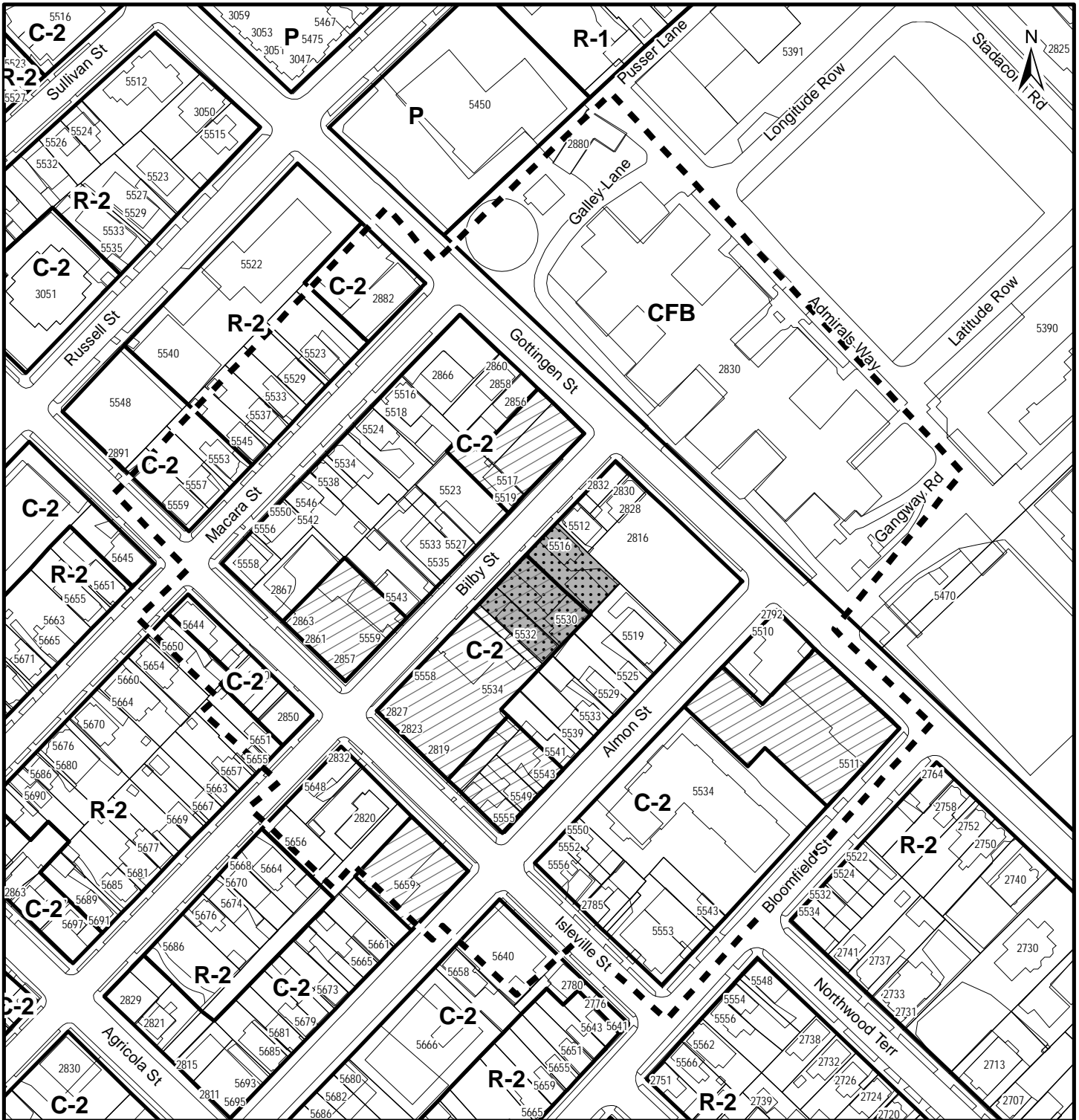
HALIFAX



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.

Halifax Plan Area
Peninsula North Planning Area - Area 5

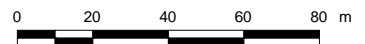


Map 2 - Zoning and Notification

5516, 5530 and 5532 Bilby Street
Halifax

-  Subject Properties
-  Schedule Q
-  Notification Area

- | Zone | |
|------|----------------------|
| R-2 | General Residential |
| C-2 | General Business |
| CFB | Canadian Forces Base |



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

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Halifax Peninsula Land Use By-Law
Peninsula North Secondary Planning Strategy

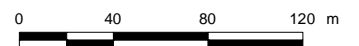


Map 3 - Schedule Q Lands

5516, 5530 and 5532 Bilby Street
Halifax

HALIFAX

-  Subject Properties
-  Schedule Q



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

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Halifax Peninsula Land Use By-Law
Peninsula North Secondary Planning Strategy

Attachment A

Amendments to the Land Use By-law for Halifax Peninsula

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Peninsula is hereby further amended as follows:

1. Amend Map ZM-2 of the Halifax Peninsula Land Use Bylaw by applying Schedule "Q" to properties identified as PID 00161430 on 5516 Bilby St, Halifax, as illustrated on Schedule A attached hereto.

I HEREBY CERTIFY that the amendments to the Halifax Peninsula Land Use By-law, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the day of , 20__.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this day of , 20__.

Municipal Clerk



CFB

Göttingen St

C-2

Bilby St



C-2

Almon St

Schedule A

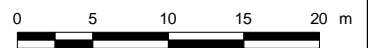
5516 Bilby Street Halifax

HALIFAX

-  Area to be included in Schedule Q
-  Existing Schedule Q

Zone

- C-2 General Business
- CFB Canadian Forces Base



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
Peninsula North Secondary Planning Strategy

Attachment B: Proposed Development Agreement

THIS AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN: Stack House Development Inc.

a body corporate, in the Province of Nova Scotia, which formally operated under the business name 3293109 Nova Scotia Limited (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 5516, 5530 and 5532 Bilby Street, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer and the Municipality entered into a Development Agreement to allow for multi-unit residential development on Lands at 5530-5532 Bilby Street, Halifax on September 30, and such agreement was registered at the Registry of Deeds on October 7, 2014 as document 105932256 2014 (the "Existing Development Agreement");

AND WHEREAS the Developer has requested that the Municipality discharge the existing development agreement and enter into a new Development Agreement to allow for multi-unit residential development the Lands, pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 2.3.1, 2.3.2 and 2.3.3 of the Halifax Municipal Planning Strategy and Section 92 of the Halifax Peninsula Land Use By-law;

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 20719;

AND WHEREAS the Halifax and West Community Council of the Municipality, at its meeting on **(INSERT DATE)**, approved the discharge of the Existing Development Agreement, and approved this Development Agreement to allow a multi-unit residential development on the Lands subject to the registered owner of the Lands described herein;

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

1.1.1 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

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Halifax Peninsula 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

- 1.5.1 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

- 1.6.1 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

2.1.1 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) "Indoor Amenity Space" means common amenity areas for residents of the development that are located within the building, including but not limited to, exercise facilities and multi-purpose rooms with associated kitchen facilities.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

3.1.1 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 20719:**

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan
Schedule C	North Elevation
Schedule D	South Elevation
Schedule E	East Elevation
Schedule F	West Elevation

3.2 Requirements Prior to Approval

3.2.1 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) A final subdivision application shall be submitted of PIDs 00161430, 00161422, 00161414 and 00441832.
- (b) an outdoor Lighting Plan in accordance with Section 3.7 of this agreement; and
- (c) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.8 of this Agreement;

3.2.2 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the following to the Development Officer, written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Landscape Plan.

3.2.3 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) An eight storey multi-unit residential building;

- (b) Underground parking in the multi-unit building; and
- (c) Uses accessory to any of the foregoing uses.

3.4 Detailed Provisions for Land Use

- 3.4.1 A minimum of 50% of units shall contain two or more bedrooms.
- 3.4.2 A minimum of 110 square metres of indoor amenity space shall be provided. This space shall be located at the second level or higher and shall include access to outdoor amenity space.

3.5 Siting and Architectural Requirements

- 3.5.1 The building's siting, bulk and scale shall comply to the following:
 - (a) The maximum height of the building shall not exceed 26 metres;
 - (b) Elevator, mechanical stairwell enclosures projecting above the roofline may be excluded from the maximum building height, so long as they do not exceed 30 percent of the total roof area nor exceed a height of 3 metres;
 - (c) The building shall be located on the site as generally shown on Schedule B; however the setback on the North east property boundary shall not be reduced to less than 1.83 m;
 - (d) The building podium shall have a 3 storey streetwall, that shall transition to 2 storeys on the eastern and western property lines down to a one storey on the southern elevation as shown on Schedules B, C, D, E and F.
 - (e) The building shall stepback as generally shown on Schedule B; however, no stepback shall be reduced to less than 2.1 m.
- 3.5.2 The building height, massing, exterior design and materials shall be as shown on Schedule C, D, E and F.
- 3.5.3 The façades facing Bilby Street shall be designed and detailed as primary façade. Further, architectural treatment shall be continued around all sides of the building as generally identified on the Schedules.
- 3.5.4 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, material change and/or architectural detail to create shadow lines (implied windows, cornice lines, or offsets in the vertical plane) as identified on the Schedules.
- 3.5.5 Any exposed foundation in excess of .75m in height and 2 square metres in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.6 Exterior building materials shall not include vinyl siding but may include any one or more of the following:
 - clay masonry;
 - non-combustible cladding;
 - concrete split face masonry;
 - cut stone masonry;
 - random stone masonry; or
 - acceptable equivalent in the opinion of the Development Officer.
- 3.5.7 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these

elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

- 3.5.8 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Bilby St or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building 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.
- 3.5.9 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.
- 3.5.10 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.

3.6 Parking, Circulation and Access

- 3.6.1 The parking area shall provide a minimum of 45 interior parking spaces.
- 3.6.2 Bicycle parking shall be provided in accordance with the requirements of the Halifax Peninsula Land Use By-law.

3.7 Outdoor Lighting

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.7.2 The building may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

3.8 Landscaping

- 3.8.1 Landscaping shall be provided as follows:
 - (a) at grade in the form of mixed plantings or shrubs in the landscaped buffer area on the Northeast property boundary as shown on Schedule B;
 - (b) on the outdoor amenity area as required in Section 3.4, supplemented by privacy screening of at least 1.5 m in height screening any amenity area from the adjacent dwelling on the Northeast property boundary.
- 3.8.2 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.8.3 Prior to the issuance of a Construction Permit, the Developer agrees to provide Landscape Plan which comply with the provisions of this section. The Landscape Plan shall prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.8.4 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.

3.8.5 Notwithstanding Section 3.8.4, the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

3.9 Maintenance

3.9.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, 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.

3.9.2 All disturbed areas shall be reinstated to original condition or better.

3.10 Signs

3.10.1 The sign requirements shall be accordance with the Halifax Peninsula Land Use By-law as amended from time to time.

3.10.2 Notwithstanding 3.10.1, billboards shall not be permitted on the lands.

3.10.3 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the site.

3.10.4 Signs shall only be externally illuminated.

3.11 Temporary Construction Building

3.11.1 A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.12 Screening

3.12.1 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from the Bilby Street and residential properties along the rear and side property line. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

3.12.2 Mechanical equipment shall be permitted on the roof provided the equipment is screened and not visible from Bilby Street or the mechanical equipment shall be incorporated in to the architectural treatments and roof structure.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

- 4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

4.2 Off-Site Disturbance

- 4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, 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 Officer, in consultation with the Development Engineer.

4.3 Underground Services

- 4.3.1 All secondary or primary (as applicable) electrical, telephone and cable service to the multi-unit residential building shall be underground installation.

4.4 Outstanding Site Work

- 4.4.1 Securities for the completion of outstanding on-site paving and landscaping work (at the time of issuance of the first Occupancy Permit) may be permitted. Such securities shall consist of a security deposit in the amount of 110 percent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable automatically renewing letter of credit issued by a chartered bank. The security shall be returned to the Developer by the Development Officer when all outstanding work is satisfactorily completed.

4.5 Solid Waste Facilities

- 4.5.1 The building shall include designated space for five stream (refuse, recycling and composting) source separation services in accordance with By-law S-600 as amended from time to time. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.1.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:
- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
 - (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova

Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and

- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.

- 5.1.2 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

5.2 Archaeological Monitoring and Protection

- 5.2.1 The Lands fall within the High Potential Zone for Archaeological Sites identified by the Province of Nova Scotia. The Developer shall contact the Coordinator of Special Places of the Nova Scotia Department of Communities, Culture and Heritage prior to any disturbance of the Lands and the Developer shall comply with the requirements set forth by the Province of Nova Scotia in this regard.

5.3 Sulphide Bearing Materials

- 5.3.1 The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
 - (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement;
 - (b) Changes to the unit mix as detailed in Clause 3.4.1; and
 - (c) Changes to the permitted uses, as detailed in Section 3.3.1, and schedules to allow ground floor commercial use.

6.2 Substantive Amendments

- 6.2.1 Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

- 7.1.1 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.

7.2 Subsequent Owners

- 7.2.1 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.
- 7.2.2 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).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within three (3) 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.
- 7.3.2 For the purpose of this section, commencement of development shall mean the installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, 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.

7.4. Completion of Development

- 7.4.1 Upon the completion of the whole development 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 Land Use By-law for Halifax Peninsula as may be amended from time to time.

7.5 Discharge of Agreement

- 7.5.1 If the Developer fails to complete the development after seven (7) 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 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

- 8.1.1 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.

8.2 Failure to Comply

8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (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: _____

HALIFAX REGIONAL MUNICIPALITY

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

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.

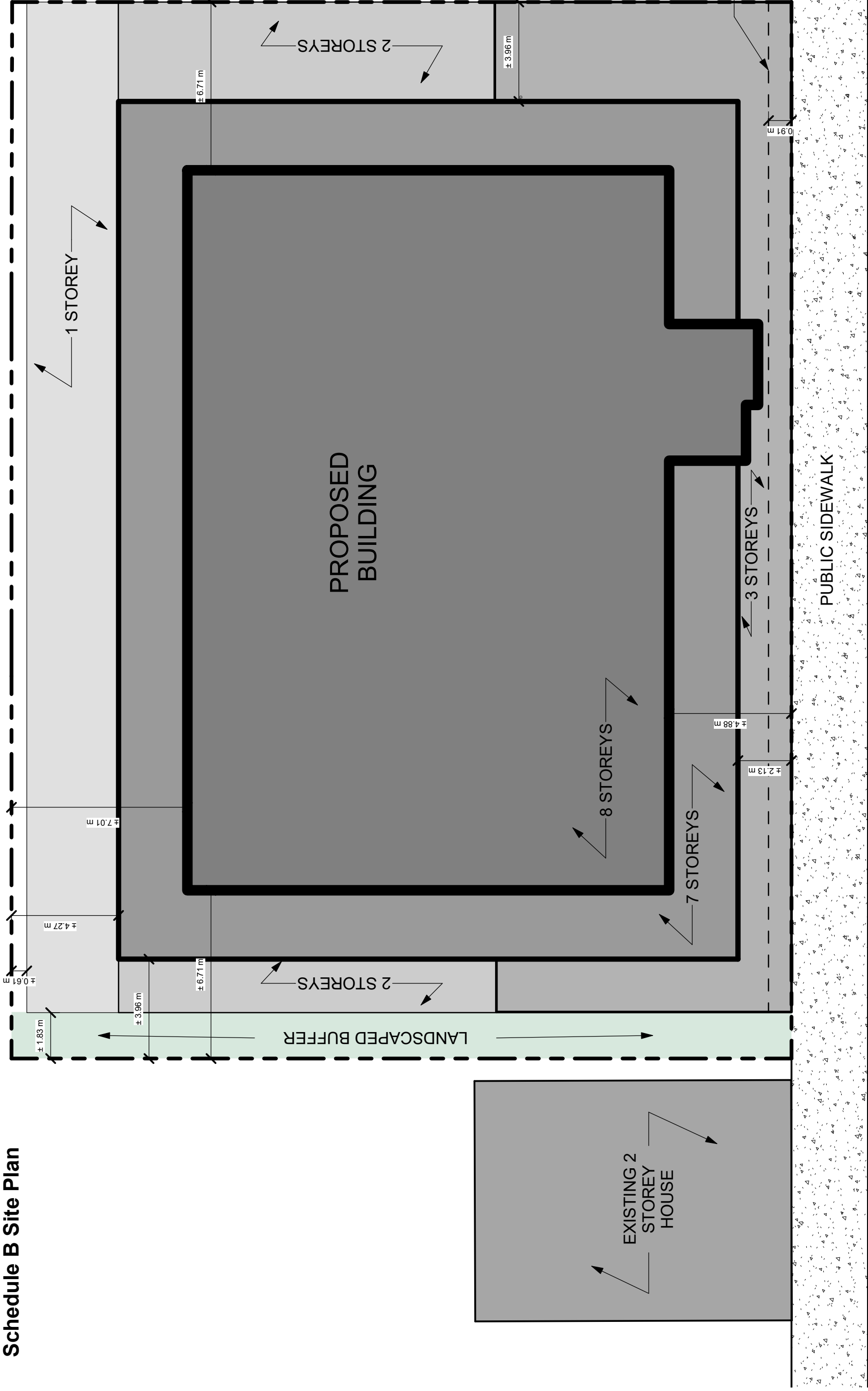
A Commissioner of the Supreme Court
of Nova Scotia

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

Schedule B Site Plan



STACKHOUSE
5530 BILBY ST. HALIFAX NS

SCHEDULE B
SITE PLAN

PROJECT NO.
2015-32
SCALE
1 : 150
DATE
16 APR 2017

WM FARES
ARCHITECTS

A01

Schedule C North Elevation



STACKHOUSE
 5530 BILBY ST. HALIFAX NS

SCHEDULE C
NORTH ELEVATION

PROJECT NO.
 SCALE
 DATE

2015-32
 1 : 125
 22 DEC 2017

WM FARES
 ARCHITECTS

A09

Schedule D: South Elevation



STACKHOUSE
5530 BILBY ST. HALIFAX NS

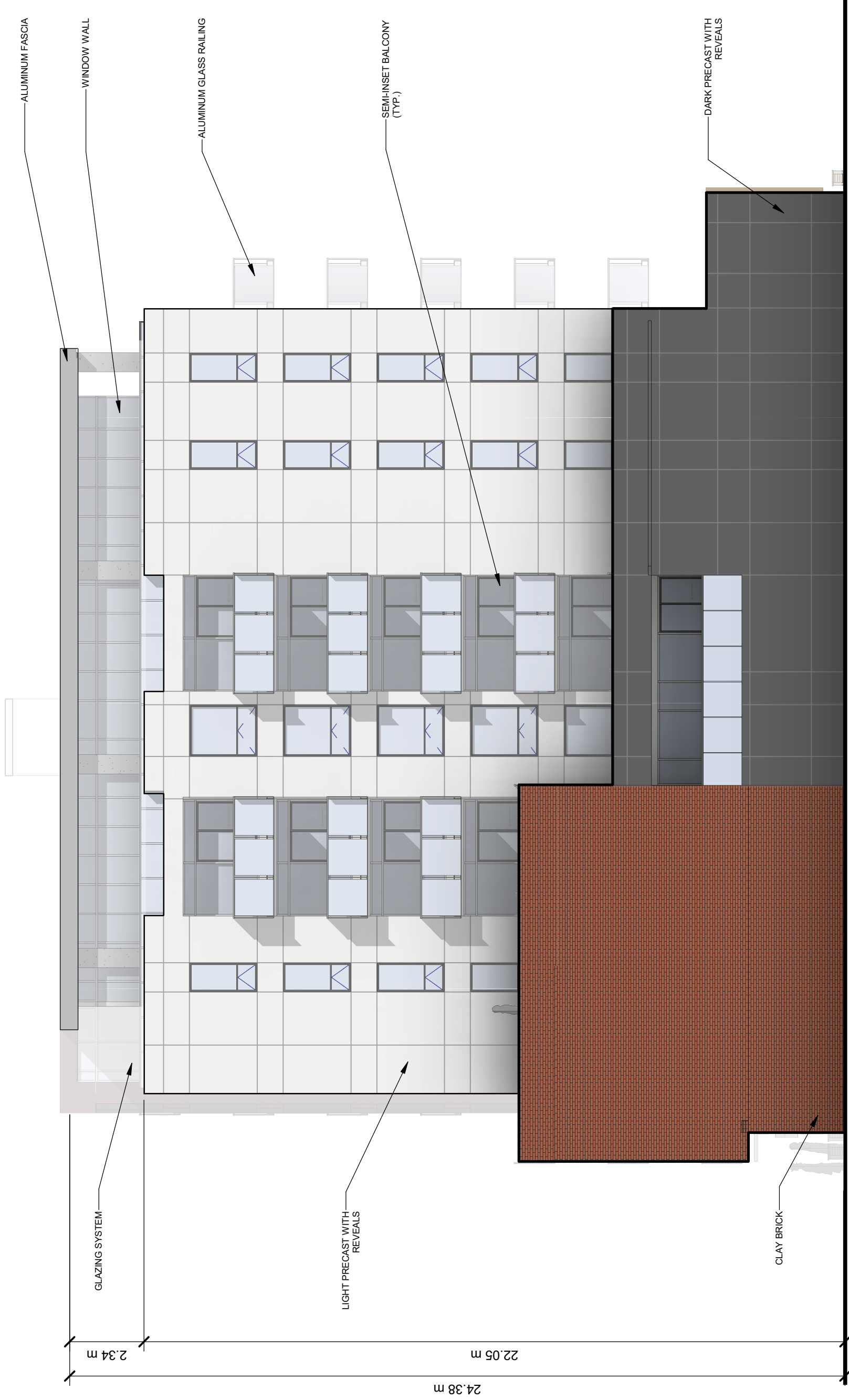
SCHEDULE D
SOUTH ELEVATION

PROJECT NO. 2015-32
SCALE 1 : 125
DATE 22 DEC 2017

WM FARES
ARCHITECTS

A11

Schedule E East Elevation



STACKHOUSE
5530 BILBY ST. HALIFAX NS

SCHEDULE E
EAST ELEVATION

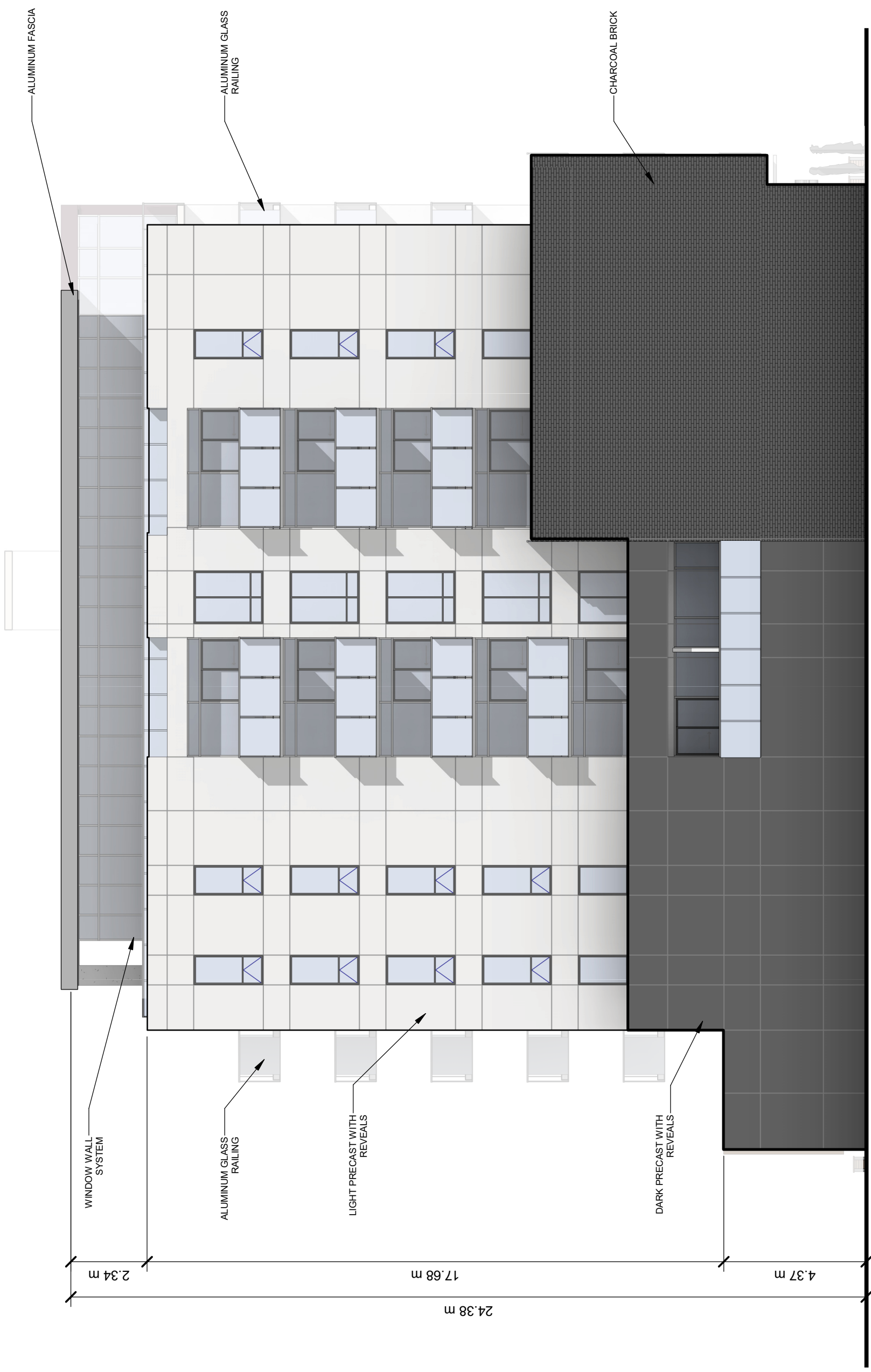
PROJECT NO.
SCALE
DATE

2015-32
1 : 125
16 APR 2017

WM FARES
ARCHITECTS

A10

Schedule F West Elevation



**ATTACHMENT C
PROPOSED DISCHARGING DEVELOPMENT AGREEMENT**

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]**, 20___,

BETWEEN:

[INSERT REGISTERED OWNER NAME],

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 5530 and 5532 Bilby Street, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Halifax and West Community Council approved an application to enter into a development agreement to allow a mixed-use development on June 26, 2014, referenced as Municipal Case Number 18591, and which said development agreement was registered on October 7, 2014 at the Registry of Deeds in Halifax as Document Number 105932256 (hereinafter called the "Existing Agreement");

AND WHEREAS Section 244 (2) of the Halifax Charter states that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner;

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

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 20719;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with any development agreements for the Lands entered into by the parties and all applicable provisions and requirements of the Halifax Mainland Land Use By-law, as amended from time to time.

IN WITNESS WHEREOF 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

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

**Attachment D: Review of Relevant Policies -
Halifax Municipal Planning Strategy (MPS)**

Halifax MPS – Section XI (Peninsula North Secondary Planning Strategy) Commercial Facilities – Policies 2.3.1, 2.3.2 & 2.3.3	
<i>Objective: A variety of appropriately located commercial facilities to serve the needs of both the resident and working populations of Peninsula North and the City as a whole.</i>	
Policy Criteria:	Staff Comment:
<i>2.3.1 In order to promote investment in commercial and residential redevelopment and to prevent conflict between new and existing uses the city may, through the land use by-law, identify areas that provide an opportunity for and will benefit from comprehensive site planning.;</i>	Two of the three lots are within Schedule Q lands in the Halifax Peninsula Land Use By-law. The applicant has requested to add the third parcel to Schedule Q. Identifying these lands on Schedule Q allows for the consideration of residential uses by development agreement which grants Community Council greater control and predictability on the site and building design.
<i>2.3.2 In those areas identified in the land use by-law pursuant to Policy 2.3.1 all residential and mixed residential-commercial development over four units shall be by agreement.</i>	This request is for a 64 unit residential building by development agreement.
<i>2.3.3 In considering agreements pursuant to Policy 2.3.2, Council shall consider the following: (i) the relationship of new development to 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>	Building is very close to adjacent residential. Mitigation is required to reduce conflict between proposed building and surrounding properties. No landscaping is proposed—increased sideyard and rearyard setbacks as well as landscaping would reduce the conflict.
<i>(ii) the appropriate integration of the development into the traditional grid street system of the Peninsula;</i>	No new streets required to enable this development.
<i>(iii) the design and layout of the development should encourage vehicular traffic to use Principal Streets and discourage traffic from infiltrating through existing neighbourhoods;</i>	Site is midblock and will have access from Bilby St.
<i>(iv) the creation of high quality design detail at street level through attention to such matters as landscaping, signs, building entrances, and vehicle layby areas;</i>	Building is well articulated at street level and has a fine grain. Landscaping has not been proposed. Building signage is appropriate for development. Building entrances are well defined and the townhouse units have a clear distinct entrance that is separate from main access.
<i>(v) the provision of high quality open space and leisure areas of a size and type adequate for the resident</i>	The DA requires that a minimum of 110 square metres of indoor amenity space shall be provided. This space shall be located at the second level or higher and shall include access to outdoor

<i>population;</i>	amenity space.
<i>(vi) residential and commercial densities consistent with municipal services;</i>	HW has not identified any concerns with servicing this building.
<i>(vii) encouraging high quality exterior construction materials such as masonry; and</i>	Building is to have brick, prodema wood and precast concrete building materials, which will create a high quality façade. The building is well articulated
<i>(viii) other relevant land use considerations which are based on the policy guidance of this Section.</i>	ok

Attachment E Public Open House Meeting Notes

HALIFAX REGIONAL MUNICIPALITY
Public Open House
Case 20719

Monday, June 7, 2017
7:00 p.m.

Halifax Forum (Maritime Hall), Windsor Street

STAFF IN

ATTENDANCE: Jennifer Chapman, Planner, HRM Planning and Development
Melissa Eavis, Planner, HRM Planning and Development
Iain Grant, Planning Technician, HRM Planning and Development

ALSO IN

ATTENDANCE: Cesar Saleh, WM Fares Architects

REGRETS:

Councillor Lindell Smith, District 8

PUBLIC IN

ATTENDANCE: Approximately 7

The open house began at approximately 6:30 p.m.

The following comments were gathered from a resident - postal code starting with B3K:

1. What do you like about the proposal?

- Attractive
- Stepbacks
- Underground parking

2. What would you change?

- Add pathway between east side of 5516 and easement between Ultramar and to back entrance and driveway of the White Ensign Legion
- Or possible lane-way one-way drive from Legion driveway to Bilby Street

3. Other Comments?

- Increase guest parking
- Arrange for more parking in area, possibly at Stadacona