



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 10.1.1**  
**Halifax and West Community Council**  
**September 13, 2016**  
**November 15, 2016**

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

**Original Signed**

**SUBMITTED BY:**

\_\_\_\_\_  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** August 31, 2016

**SUBJECT:** **Case 20326: Substantive Development Agreement Amendments for a development on the corner of Isleville Street and Bilby Street, Halifax**

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**ORIGIN**

Application by Michael Napier Architecture.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed Amending Agreement, as set out in Attachment A of this report, to allow for a mixed use development and schedule a public hearing;
2. Approve the proposed Amending Agreement, as contained in Attachment A; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, which is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Michael Napier Architecture, on behalf of the property owner is applying to make substantive amendments to an existing Development Agreement that enables a residential building at 5558 Bilby Street and 2819-2827 Isleville Street, the corner of Isleville Street and Bilby Street, Halifax (Map 1). The purpose of the amendments are to include 15 additional units, allow for the concept of live-work spaces within the ground-level units that have direct frontage on Isleville Street and Bilby Street, and enable minor modifications to the exterior architectural materials.

|   |   |
|---|---|
| <b>Subject Site</b>                       | 5558 Bilby Street and 2819-2827 Isleville Street, Halifax ( <i>four properties</i> )  |
| <b>Location</b>                           | South eastern corner of Isleville Street and Bilby Street   |
| <b>Regional Plan Designation</b>          | Urban Settlement  |
| <b>Community Plan Designation (Map 1)</b> | - Within Area 5 of the Peninsula North Secondary Planning Strategy<br>- Designated – Major Commercial (MJC)   |
| <b>Zoning (Map 2)</b>                     | - C-2 (General Business) – Halifax Peninsula Land Use By-law (LUB)<br>- Under Schedule 'Q' of the Halifax Peninsula LUB applied to the site                                     |
| <b>Size of Site</b>                       | Approximately 1672 square metres (18,000 square feet) in area   |
| <b>Street Frontage</b>                    | 50 metres (164 feet) along Bilby Street and 36 metres (118 feet) along Isleville Street   |
| <b>Current Land Use(s)</b>                | Vacant/Surface parking area   |
| <b>Surrounding Use(s)</b>                 | A mixture of minor commercial uses such as small retail shops, and residential uses, including single unit dwellings, duplexes and low-rise multiple unit residential buildings |

### **Proposal Details:**

The applicant wishes to substantively amend the existing Development Agreement to include 15 additional units, allow for live-work spaces within the ground-level units that have direct frontage on Isleville Street and Bilby Street, and enable minor modifications to the exterior architectural materials. The major aspects of the proposal are as follows:

- Increase the number of units from 56 units to 71 units (a total increase of 15 units). This increase falls within the density bounds of the current agreement and does not change or alter the volume, size, or exterior appearance of the building;
- Allow for the concept of live-work spaces in the ground level units with frontage along Bilby Street and Isleville Street;
- Allow for modifications to the exterior materials (color and type); and
- Increase to the number of parking spaces from 60 to 66.

### **Existing Development Agreement (Planning Case No. 17511):**

On January 21<sup>st</sup>, 2013, Halifax and West Community Council (HWCC) held a Public Hearing to consider amendments to the Halifax Peninsula Land Use By-law (LUB) and a Development Agreement to allow for a 7-storey residential development on the subject properties. Subsequent to the Public Hearing, HWCC approved the amendments to the Halifax Peninsula LUB to include the lands within Schedule Q, and approved the Development Agreement on March 18<sup>th</sup>, 2013.

The existing agreement requires consolidating the four properties and enables for constructing a 7-storey residential building consisting of a total of 56 units. Details in the existing Agreement are as follows:

- Residential building consisting of 48 units within the tower and 8 townhouse-style units on the ground level fronting on both Isleville Street and Bilby Street;

- Ground-level units individually-accessed at the street level with the units in the upper levels accessed via an common lobby;
- Vehicular access to the building is from Bilby Street where side-by-side driveways lead to an internalized main floor parking area and a ramp to a single level of underground parking (total of 60 parking spaces);
- Private rooftop landscaped areas and amenity spaces for the use of building tenants; and
- Population density of 144 persons.

**Enabling Policy and LUB Context:**

The original development, under Planning Case 17511, was approved pursuant Policies 2.3, 2.3.1, 2.3.2 and 2.3.3 of Section XI of the MPS (Attachment D). These policies are also relevant to the substantive amendments request.

These policies enabled Council to identify areas designated Major Commercial for comprehensive site planning through a Development Agreement process. This process was achieved through the application of Schedule 'Q' of the LUB to the properties. Schedule 'Q' policies 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.

Schedule 'Q' is currently applied to multiple properties along Bilby Street and Isleville Street. It is also applied to lands on the west side of Robie Street and on a property located on the corner of Kaye Street and Isleville Street (Map 3).

The underlying C-2 (General Business) Zone permits commercial buildings with no required front, side or rear yard setbacks, and a height of 24.38 metres (80 feet), with allowance for additional height if the building is set back from the property line. Residential uses are also permitted within the C-2 Zone subject to the requirements of the R-3 (Multiple Dwelling) Zone (Attachment C). Council should note, however, that the application of Schedule 'Q' to a property supersedes the provisions of the C-2 Zone by requiring that projects of greater than four dwelling units be considered by Development Agreement. This provides flexibility by enabling the modification of the standard land use by-law requirements through the Development Agreement process.

**COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement 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.

A Public Hearing must be held by Halifax and West Community Council before they can consider approval of the proposed development agreement. Should Halifax and West Community Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and property owners.

## **DISCUSSION**

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

### **Proposed Amending Development Agreement:**

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

- Permitted residential uses (maximum of 71 units, with a minimum of 33% two-bedroom units and two-bedroom-plus-den units);
- Live-work uses (limited to the ground-level units with direct street frontage);
- Building mass, architectural details, signage, and lighting;
- Parking (bicycle and vehicular), circulation and site access; and
- Options for limited non-substantive amendments by resolution of Council, including timeframes for development.

Of the matters addressed by the proposed Amending Agreement to satisfy the MPS Policies' criteria shown in Attachment B, the following have been identified for detailed discussion:

### **Number of Units and Unit Mix:**

The applicant proposes an increase in the number of dwelling units above the 10% allowance provided in the current Development Agreement through the non-substantive amendments process. The increase is for additional 15 units, resulting in a total of 71 dwelling units of different types. This is achieved by reconfiguring the floor plate and reducing the unit size and layouts in order to accommodate for the additional units without exceeding the population density requirements or altering the volume, size or massing of the building. The proposal also maintains an appropriate unit mix of 33% 2-bedroom units, with the remainder consisting of 1-bedroom, 1-bedroom and den and bachelor units.

### **Additional Land Uses - Live-Work Units:**

Over the last 5 years, various areas in Peninsula North have been in a state of transition, where a number of properties within Schedule Q areas have been or are in the process of being developed. The site is located in close proximity to properties that recently received Council's approval for Development Agreements under Schedule Q (Map 3). Approved proposals include 7 to 8-storey residential and mixed use buildings which consist of townhouse-style units, commercial ground floors and/or office spaces with residential units on upper floors.

Due to the location of the property within a growing and transitioning neighbourhood, and in relation to two local streets with low to moderate traffic volume, the applicant proposes introducing the live-work concept to the townhouse-style units at ground level. This is a unique concept and has merits for considerations as it provides the ability for residents to live in the dwelling unit, while simultaneously operating a commercial business out of the same building.

The proposed Amending Agreement, contained in Attachment A of this report, includes terms and conditions that regulate the live-work concept, as follows:

- Definition: A "Live-Work Unit" is defined as a ground-level dwelling unit with direct street frontage, part of which may be used as a home-based business, and the dwelling unit is the principle residence of the business operator;
- Location: A maximum of 7 units are permitted on the ground-level of the building with direct frontages on either Bilby Street or Isleville Street;

- Type of Business Uses: Only one home-business use is permitted in conjunction with a Live-Work Unit. Those uses include a community facility, medical clinic, office space or personal service shop;
- Business Hours of Operations: Hours are limited to 8:00 a.m. to 9:00 p.m.
- Occupancy: The residential component of the unit is to occupy a minimum of 50% of the gross floor area
- Several other regulations that address building design, unit size and mix, and signage requirements.

As such, the proposed Amending Agreement will permit a residential development that is compatible and appropriate with the transitioning nature of the neighbourhood, and consistent with criteria of MPS Policies.

**Building Design - Exterior Architectural Appearance:**

The applicant is proposing a number of changes to the appearance of the building including modifications to the materials and architectural treatments (Attachments D). The new design differs from that which was originally envisioned and shown within the existing Development Agreement. However, upon further assessment of the building design, it has been determined that the essential composition, scale, and massing of the original building is being retained. The Development Officer has reviewed the proposed amendments and has indicated that some of the proposed changes conform with the general intent of the existing Development Agreement. Specifically, it is observed that:

- The relationship of the building to the street is being retained with the two storey podium base and the continuation of the commercial and townhouse-style frontages;
- parking continues to be underground;
- The style, type and color of the materials is modified primarily along the two storey podium base, resulting in a more contemporary appearance to the building.
- Upper portions of the building continue to be in a tower form. The tower portion of the proposed building is slightly smaller in area in comparison to the originally approved development and the maximum building height is unchanged; and
- The amount of glazing/ windows and curtain wall incorporated into the new design is similar to that in the existing development agreement.

As such, the proposed changes are considered minor in nature and conform with the intent of the existing Development Agreement and applicable MPS policies.

**District 7 & 8 Planning Advisory Committee:**

On May 30, 2016 the Districts 7 & 8 Planning Advisory Committee (PAC) recommended that the application be approved.

The Committee had several recommendations for inclusion within the Amending Agreement. The majority of the Committee's recommendations focused generally on:

- Maintaining a minimum of three townhouse-style units as residential only;
- Limiting the hours of operations of any commercial use;
- Considering the R-1 (Single Unit Dwelling) Zone as a basis for the description of commercial uses
- Including unit mix requirements; and
- Including provisions that require a minimum of 12 units to be two bedrooms plus den, three bedrooms or greater.

The recommendations of the PAC were incorporated within the proposed Amending Agreement, with the exception of maintaining a minimum of three townhouse-style units as residential only. Given the site's urban context and its location within a transitioning area, allowing for the live-work concept provides an appropriate response to surrounding and upcoming uses.

In order to facilitate for including this concept while maintaining the residential nature of the development, the proposed Amending Agreement includes specific terms and conditions to regulate this use. These provisions restrict the number and location of the live-work units, and provide controls on the type of business uses, hours of operations, residential occupancy, signage requirements, and others. These measures meet the intent of MPS Policies and ensure appropriate integration of this concept within the development and the neighbourhood.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is consistent with the intent of the Peninsula North Secondary MPS to identify areas appropriate for comprehensive planning and to develop the site in a manner that mitigates potential land use conflicts which could arise. Therefore, it is recommended that Halifax and West Community Council approved the proposed Amending Development 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 2016/17 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 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 amendments to the 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 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 approve the proposed amendments to the Development Agreement, and in doing so, must provide reasons why either or both do 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*.

**ATTACHMENTS**

|               |   |
|---------------|---|
| Map 1:        | Generalized Future Land Use                                     |
| Map 2:        | Zoning and Development Agreements                               |
| Map 3:        | Area of Notification  |
| Map 4:        | Schedule Q Areas  |
| Attachment A: | Proposed Amending Agreement & Schedules                         |
| Attachment B: | Review of Relevant MPS Policies                                 |
| Attachment C: | C-2 (General Business) Zone – Halifax Peninsula Land Use By-law |
| Attachment D: | Planning Case 17511 - Staff Report                              |

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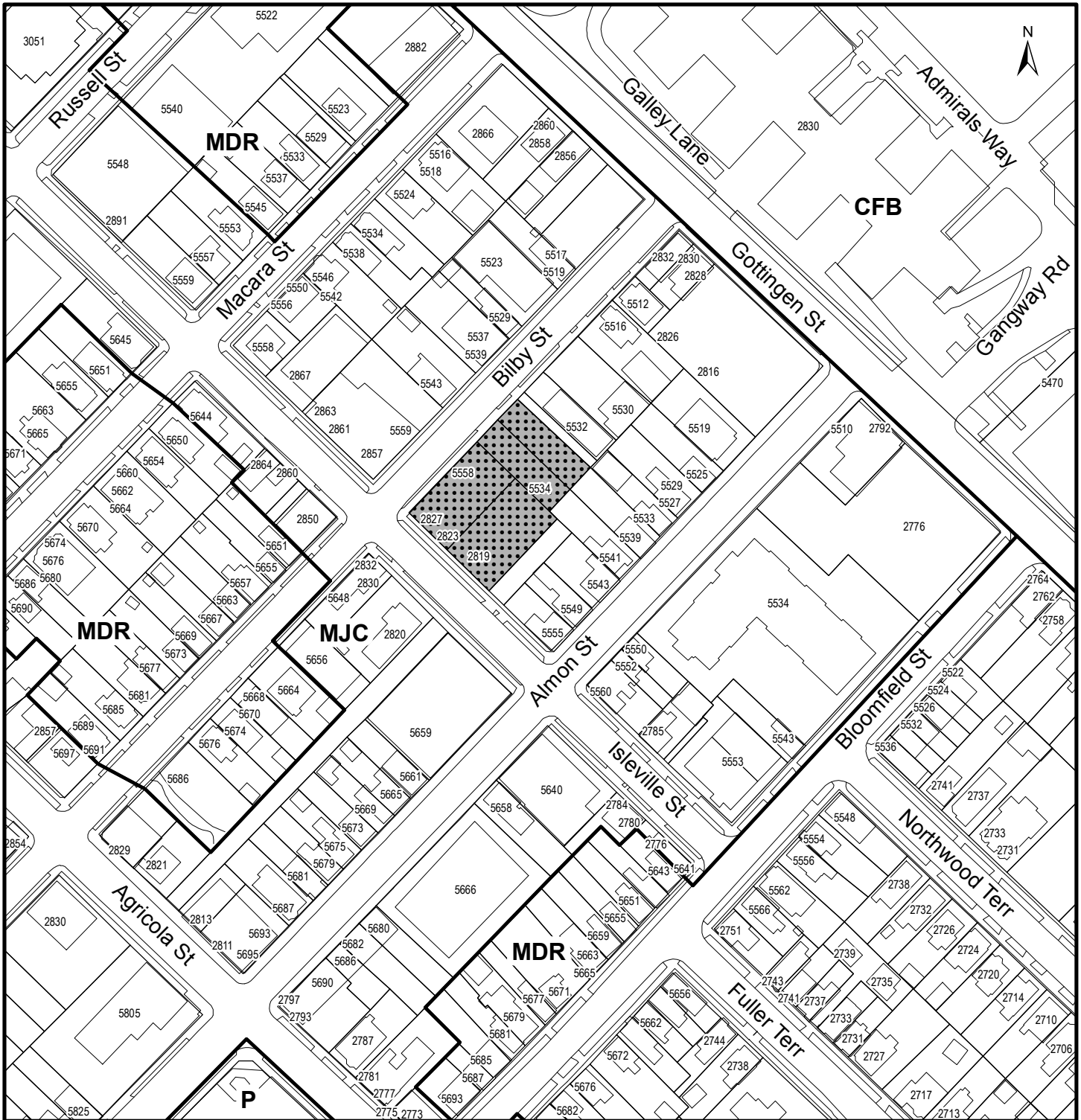
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Dali Salih, Planner II, Current Planning, 902-490-1948

**Original Signed**

Report Approved by: \_\_\_\_\_  
Carl Purvis, Acting Manager, Current Planning, 902.490.4797


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**Map 1 - Generalized Future Land Use**

**HALIFAX**

5534-5558 Bilby Street and 2819-2827 Isleville Street,  
Halifax

 Area of Proposed Substantive Amendments to an Existing Development Agreement

**Designation**

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

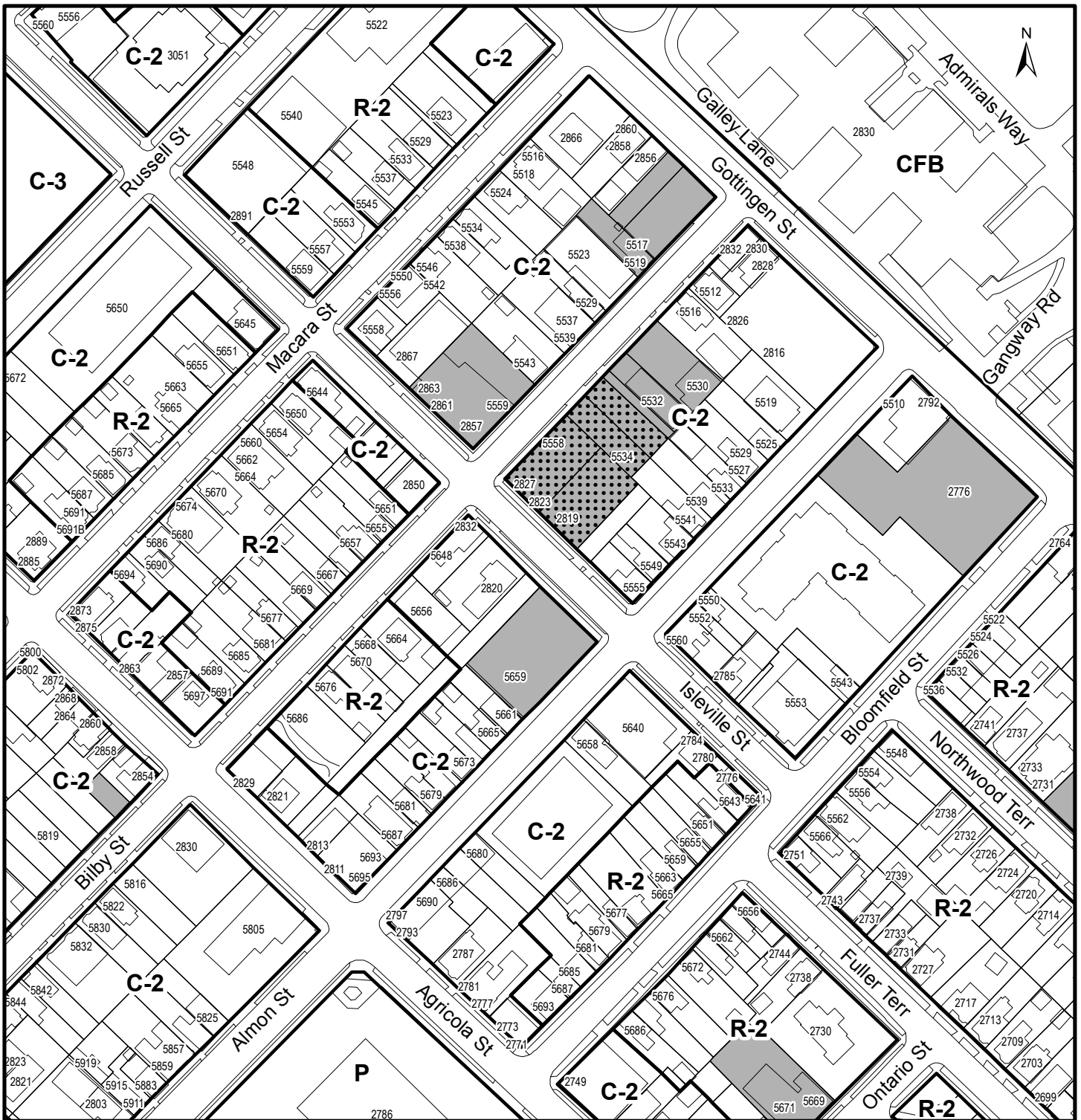
Halifax Plan Area  
Peninsula North Secondary Plan Area



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 and Development Agreements



5534-5558 Bilby Street and 2819-2827 Isleville Street, Halifax

-  Area of Proposed Substantive Amendments to an Existing Development Agreement
-  Approved Development Agreements

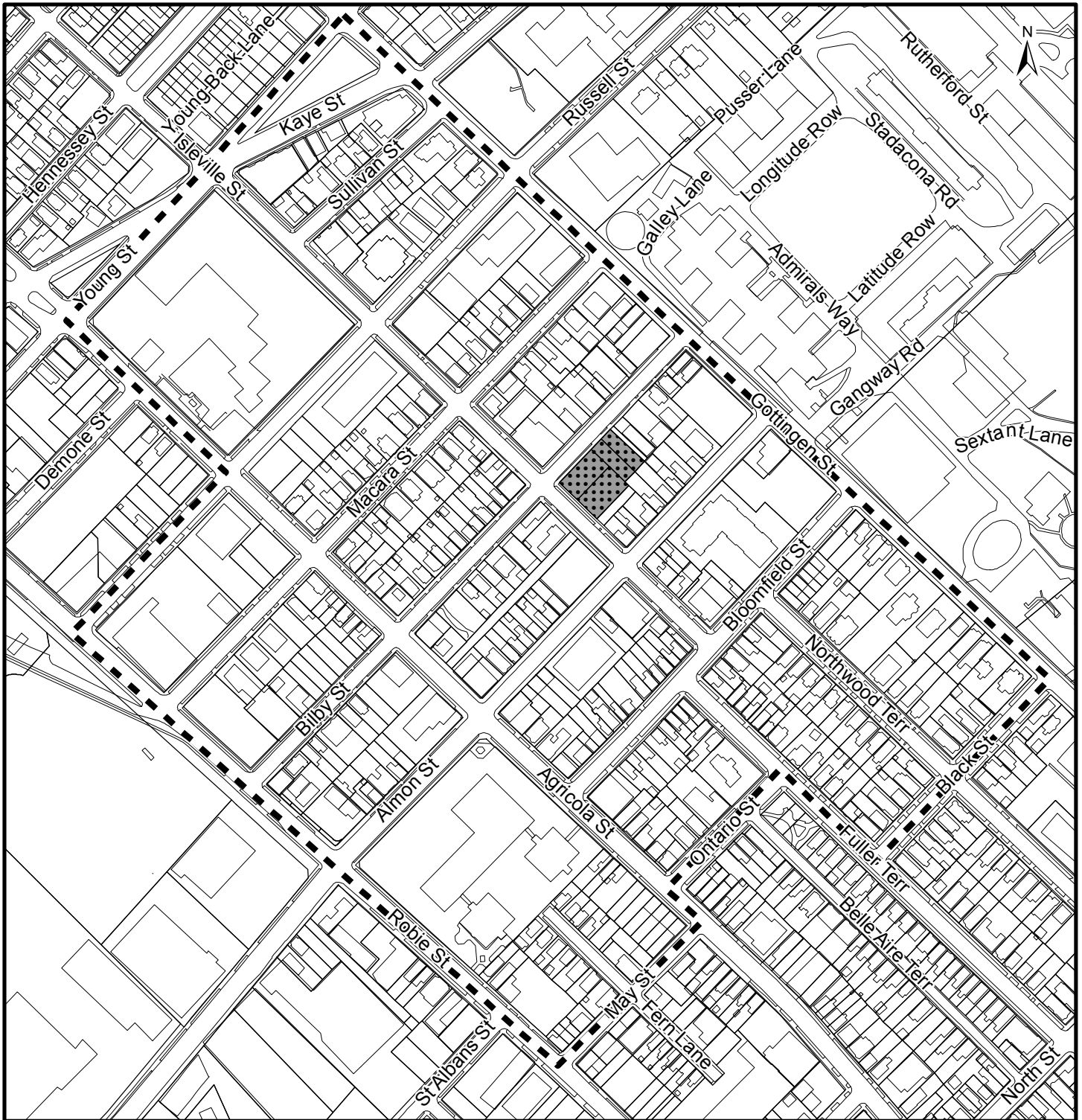
- Zone**
- R-2 General Residential
  - C-2 General Business
  - C-3 Industrial
  - P Park and Institutional
  - CFB Canadian Forces Base



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 Area

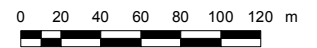


### Map 3 - Area of Notification

5534-5558 Bilby Street and 2819-2827 Isleville Street,  
Halifax

**HALIFAX**

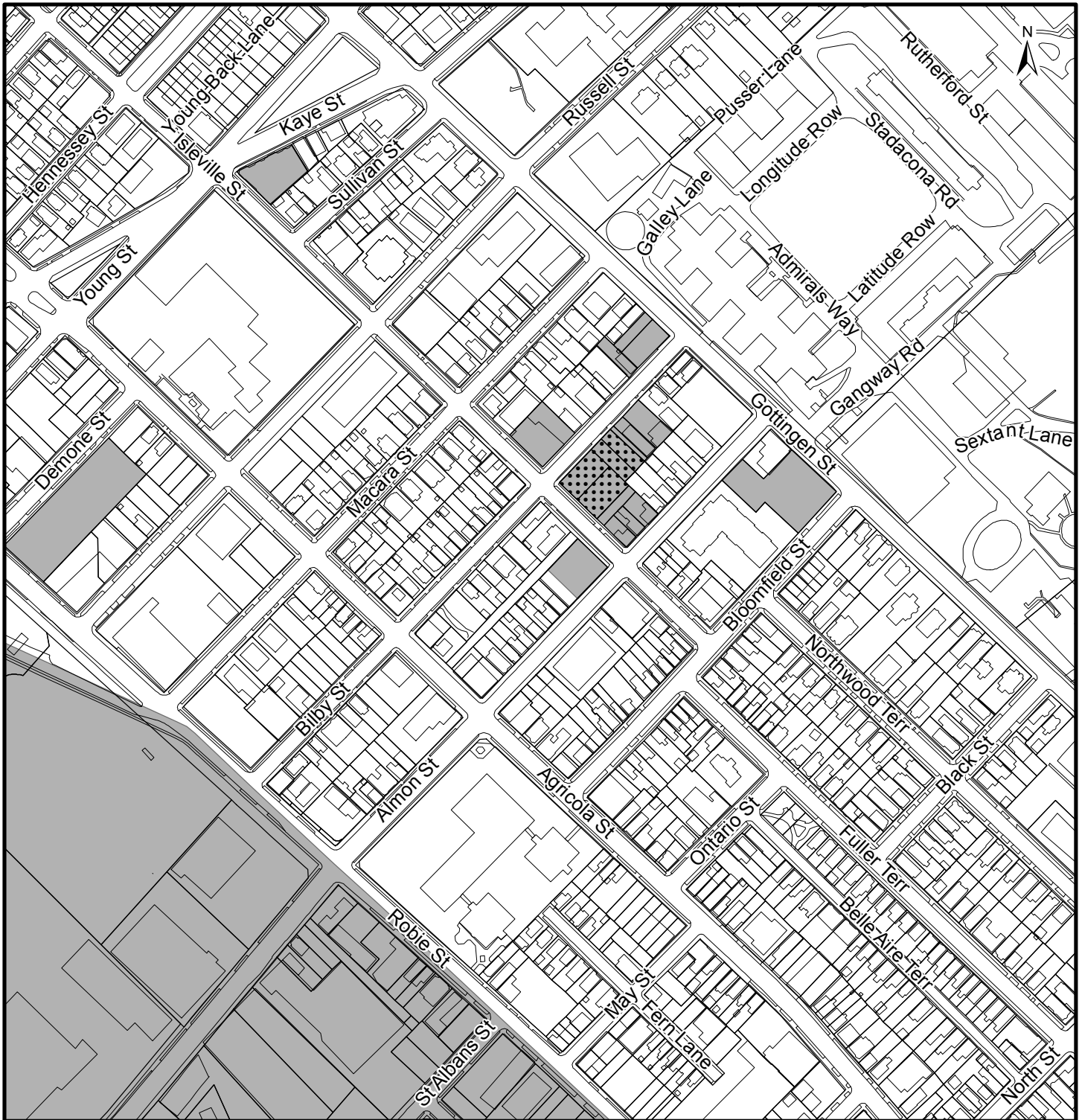
 Area of Proposed Substantive  
Amendments to an Existing  
Development Agreement



Halifax Peninsula  
Land Use By-Law Area

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



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

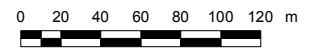


### Map 4 - Schedule Q Areas

**HALIFAX**

Halifax Peninsula

-  Schedule Q
-  Subject Area



Halifax Peninsula  
Land Use By-Law Area

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

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

**ATTACHMENT A:**  
**Proposed Amending Development Agreement & Schedules**

THIS AMENDING AGREEMENT made this       day of                                 , 20\_\_\_\_,

BETWEEN:

**[INSERT Name of Corporation/Business LTD.]**  
a body corporate, in the Province of Nova Scotia  
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

**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 5534, 5558, Bilby Street, and 2819-2827 Isleville 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 of the Municipality approved an application to enter into a development agreement to allow for a multi-unit residential building on the Lands (Municipal reference number 17511), which said Development Agreement was registered at the Halifax County Land Registration Office on July 5<sup>th</sup>, 2013 as Document Number 103368016 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested amendments to the Existing Agreement to allow for a mixed-use development that consists of residential and home-based business uses, and to enable changes to the building design on the Lands;

AND WHEREAS the Halifax and West Community Council for the Halifax Regional Municipality approved this request at a meeting held on [**INSERT-Date**], referenced as Municipal Case Number 20326;

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

1. Section 2.2 of the Existing Agreement is amended by inserting the text shown in **bold**:

**“(b) “Indoor Amenity Space” means common amenity areas for residents of the building, including but not limited to, exercise facilities and multi-purpose rooms with associated kitchen facilities.**

**(c) “Live-Work Unit” means a ground-level dwelling unit with direct street frontage, part of which may be used as a home-based business, and the dwelling unit is the principle residence of the business operator.**

**(d) “Personal Service Shop” means the use of part of the Live-Work Unit for professional or personal services and, without limiting the generality of the definition, includes beauty and hair salon, medical clinic, and similar uses, but excludes adult entertainment uses.”**

2. Section 3.1 of the Existing Agreement is amended by deleting the Schedules shown in ~~strikeout~~ and inserting the Schedules shown in **bold**, as follows:

~~Schedule B~~ ~~Site Plan~~  
~~Schedule C-1~~ ~~Landscape Plan (Level 1)~~  
~~Schedule E-1~~ ~~North Elevation (Bilby Street)~~  
~~Schedule E-2~~ ~~South Elevation~~  
~~Schedule E-3~~ ~~East Elevation~~  
~~Schedule E-4~~ ~~West Elevation (Isleville Street)~~  
~~Schedule F-1~~ ~~Parkade Plan~~  
~~Schedule F-2~~ ~~Ground Floor Plan (Level 1)~~

**“Schedule B-A                    Site Plan**  
**Schedule C-1A                Ground Floor Plan (Level 1)/Parkade Plan**  
**Schedule E-1A                North Elevation (Bilby Street)**  
**Schedule E-2A                South Elevation**  
**Schedule E-3A                East Elevation**  
**Schedule E-4A                West Elevation (Isleville Street)**

3. The Existing Agreement is further amended by:

- (a) deleting all references to “Schedule B” and replacing it with “Schedule B-A”;
- (b) deleting all references to “Schedule C-1” and replacing it with “Schedule C-1A”;
- (c) deleting all references to “Schedule E-1” and replacing it with “Schedule E-1A”.
- (d) deleting all references to “Schedule E-2” and replacing it with “Schedule E-2A”.
- (e) deleting all references to “Schedule E-3” and replacing it with “Schedule E-3A”.
- (f) deleting all references to “Schedule E-4” and replacing it with “Schedule E-4A”.
- (g) deleting all references to “Schedule F-1”.
- (h) deleting all references to “Schedule F-2”.

4. Section 3.3 of the Existing Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

~~3.3~~ ~~General Description of Land Use~~

~~The uses(s) of the Lands permitted by this Agreement are the following:~~

- ~~(a) A residential building containing a maximum of 56 units within seven (7) storeys. The building shall consist of an apartment house (multiple unit residential uses) in conjunction with townhouse dwellings, which is detailed as follows:~~

- ~~i. the apartment house shall contain a maximum of 48 units.~~
- ~~ii. The townhouse dwellings shall:~~
  - ~~Schedule~~
  - ~~a) not exceed a maximum of 8 units;~~
  - ~~b) form a part of the overall building and be considered as part of the multiple-unit dwelling;~~
  - ~~c) consist of 2 storeys; and~~
  - ~~d) be a minimum of 1,200 square feet (111.5 square metres) in gross floor area for each unit and contain at least 2 bedrooms.~~
- ~~(b) Home occupation uses within the townhouse dwellings only.~~

### “3.3A General Description of Land Use

The use(s) of the Lands permitted by this Agreement, subject to its terms and conditions as generally illustrated on the Schedules attached hereto, are the following:

- (a) **Residential Uses:** A 7-storey apartment house (multiple-unit residential building) containing a maximum of 71 units, in the form of dwelling units and Live-Work Units;
- (b) **Commercial Uses:** Only one of the following home-based business uses shall be in conjunction with a Live-Work Unit: Community Facility, Medical Clinic, Office or Personal Service Shop; and
- (c) **Uses accessory to any of the foregoing uses.”**

5. The Existing Agreement is further amended by:

- (a) deleting all references to “townhouse units” and replacing it with “Live-Work Units”;

6. Section 3.4 of the Existing Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

#### ~~3.4 Detailed Provision for Land Use~~

~~3.4.1 The Developer shall provide the Development Officer with sufficient information to verify that the proposed development conforms to each of the following requirements:~~

- ~~(a) Maximum Height: The height of building above grade shall not exceed 20.7 metres (68 feet), and shall not include the underground parking garage. Height shall be defined as the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building along Bilby Street.~~
- ~~(b) Maximum Population Density: The density for 56 residential units shall not exceed a maximum of 144 persons. For the purposes of calculating population density on the Lands, the following shall apply:~~
  - ~~i. Bachelor units shall be assigned 1 person per unit;~~
  - ~~ii. One (1) Bedroom units shall be assigned 2 persons per unit; and~~
  - ~~iii. Two (2) Bedroom or more units shall be assigned 2.25 persons per unit;~~

**“3.4A Detailed Provisions for Land Use:**

**3.4A.1 A maximum of 7 Live-Work Units shall be permitted on the ground level, subject to the following regulations:**

- (a) The units shall be limited to uses permitted by sub-sections 3.3A(a) and 3.3A(b) of this Agreement.**
- (b) The units shall have direct frontages on either Isleville Street or Bilby Street and form a part of the overall building; be a minimum of 65 square metres (700 square feet) in gross floor area; and contain at least one bedroom;**
- (c) The residential component of the unit shall occupy a minimum of 50% of the gross floor area of the Live-Work Unit;**
- (d) At least one full-time resident of the dwelling unit with the home-based business operates the business or service;**
- (e) Business hours of operation shall be limited to 8:00 a.m. to 9:00 p.m.**

**3.4A.2 A maximum of 64 residential dwelling units shall be permitted within the multiple-unit residential portion of the building. The upper levels shall include Indoor Amenity Space, landscaped open space and residential accessory uses only.**

**3.4A.3 The Developer shall provide the Development Officer with sufficient information to verify that the proposed development conforms to each of the following requirements:**

- (a) Height: The height of building above grade shall not exceed 20.7 metres (68 feet). Height shall be defined as the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building along Bilby Street and Isleville Street. Height exemptions included in the Halifax Peninsula Land Use By-law shall apply.**
- (b) Population Density: The density for 71 residential units shall not exceed a maximum of 144 persons. For the purposes of calculating population density on the Lands, the following shall apply:**
  - Bachelor units shall be assigned 1 person per unit;
  - One (1) Bedroom units shall be assigned 2 persons per unit; and
  - Two (2) Bedroom or more units shall be assigned 2.25 persons per unit;
- (c) Further to 3.4A.4(c), for the purposes of determining permissible density, one bedroom plus den units shall be considered one-bedroom units and two bedrooms plus den shall be considered two bedroom units;**
- (d) Unit Mix: A minimum of 33% of the residential units shall consist of 2 or more bedrooms per unit; and**
- (e) Indoor Amenity and Open Spaces: The multiple-unit building shall include a minimum of 65 square metres (700 square feet) of Indoor Amenity Space within**

**the building, and a minimum of 25 square metres (269 square feet) of amenity space outside the building.”**

7. Section 3.5 of the Existing Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

~~3.5.1 The Developer shall construct a residential building on the Lands, as shown on Schedule B. The building shall consist of 2 residential uses, as shown on the Schedules, and they shall be joined by the main body of the building.~~

**“3.5.1A The Developer shall construct a residential building on the Lands, as shown on Schedule B-A. The building shall consist of a mix of residential unit types, as shown on the Schedules, and they shall be joined by the main body of the building.**

8. Section 3.8 of the Existing Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

~~3.8 PARKING, CIRCULATION AND ACCESS~~

~~3.8.1 The entrance, driveway and parking area shall be shown on Schedule B.~~

~~3.8.2 Parking, circulation and access shall be in conformance with the following:~~

- ~~(a) Parking area shall contain no more than 60 spaces;~~
- ~~(b) Underground and above-ground parking areas shall be as generally shown on Schedules F-1 and F-2;~~
- ~~(c) Bicycle parking shall be provided as per the requirements of the Halifax Peninsula Land Use By-law;~~
- ~~(d) Notwithstanding clauses (a) and (b), up to one quarter of the individual parking spaces may be reduced in size to a minimum of 8 feet by 17 feet.~~

**“3.8A PARKING AND BICYCLE FACILITIES**

**3.8A.1 Vehicular parking shall include parking within the building to accommodate a maximum of 66 vehicular parking spaces. Up to 25 percent of the parking spaces may be reduced in size to 8 feet by 17 feet. A minimum of 5 parking spaces shall be designated as visitor parking.**

**3.8A.2 The Developer shall provide bicycle parking pursuant to the Land Use By-law for Halifax Peninsula.”**

9. Section 3.12 of the Existing Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

~~3.12 Signs~~

~~Signage shall be limited to one temporary ground (1) sign depicting the name or corporate logo of the Developer which shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. This temporary ground sign shall be removed prior to the issuance of the last residential occupancy permit.~~

**“3.12A Signs**

**Signage shall be limited to the following:**

- (a) No ground sign shall be permitted on the Lands;**



- (b) signage shall be limited to the sizes and areas shown on Schedules E-1A and E-4A; and
- (c) Two (2) temporary ground signs depicting the name or corporate logo of the Developer shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. Temporary ground signs shall be removed prior to the issuance of the last residential occupancy permit.”

10. Section 5.1 of the Existing Agreement is amended by deleting the text shown in ~~strikeout~~, as follows:

**5.1 Non-Substantive Amendments**

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

- ~~(a) A reduction in the number of floors in the building;~~
- ~~(b) A 10% increase of the total number of the multi-dwelling units provided that neither the building size nor the exterior appearance of the building change;~~
- (c) Minor changes to the exterior architectural appearance of the building, including materials, colours, and architectural treatments which, in the opinion of the Development Officer, are not permitted under sub-section 3.6;
- (d) The granting of an extension to the date of commencement of construction as identified in Section 6.3 of this Agreement; and
- (e) The length of time for the completion of the development as identified in Section 6.5 of this Agreement;

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

SIGNED, SEALED AND DELIVERED in the

<INSERT REGISTERED

presence of:

\_\_\_\_\_

Witness

\_\_\_\_\_

Witness

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

\_\_\_\_\_

**OWNER NAME>**

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


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

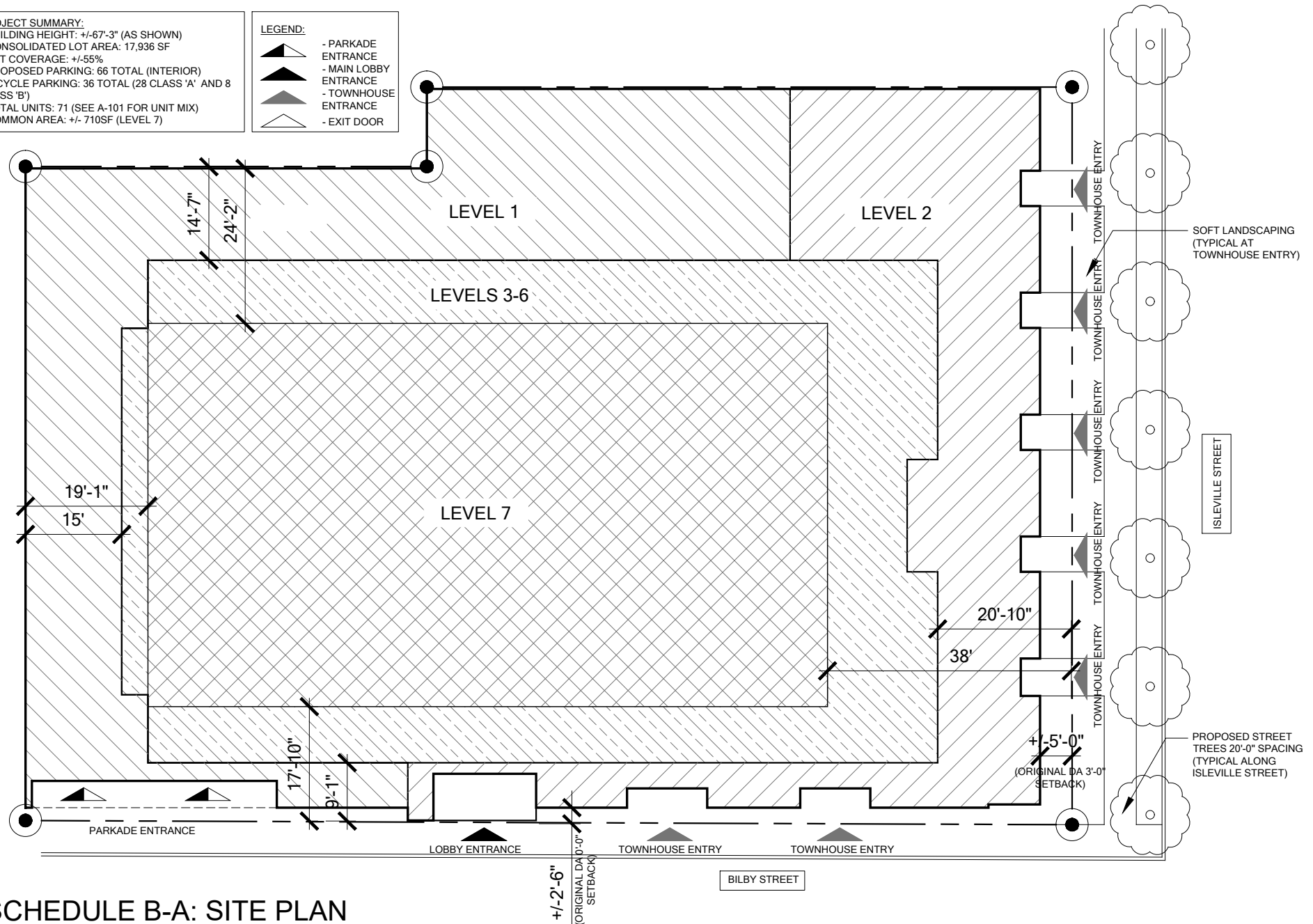
=====
**HALIFAX REGIONAL MUNICIPALITY**

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



Per: \_\_\_\_\_
Municipal Clerk

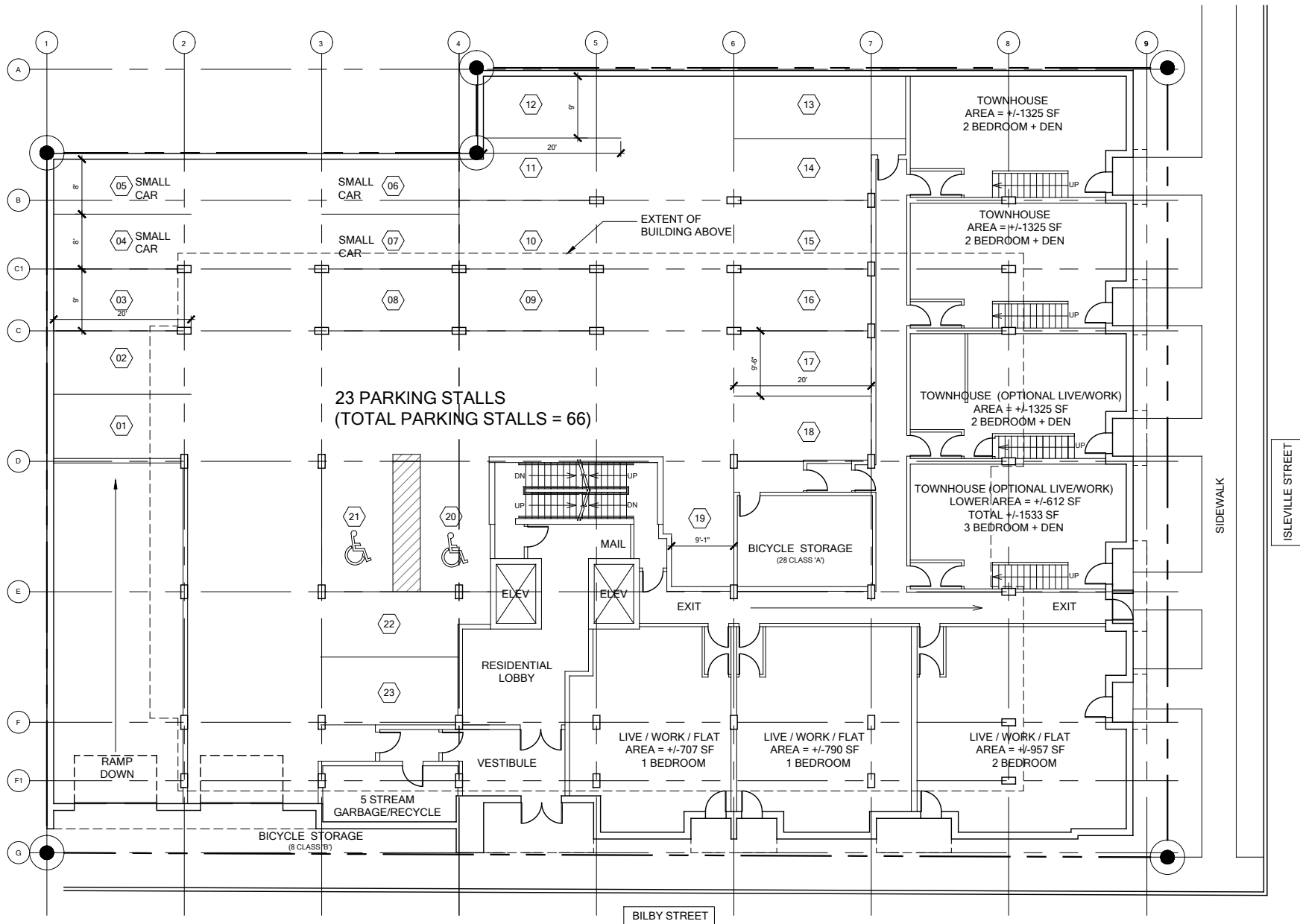
**PROJECT SUMMARY:**  
 - BUILDING HEIGHT: +/-67'-3" (AS SHOWN)  
 - CONSOLIDATED LOT AREA: 17,936 SF  
 - LOT COVERAGE: +/-55%  
 - PROPOSED PARKING: 66 TOTAL (INTERIOR)  
 - BICYCLE PARKING: 36 TOTAL (28 CLASS 'A' AND 8 CLASS 'B')  
 - TOTAL UNITS: 71 (SEE A-101 FOR UNIT MIX)  
 - COMMON AREA: +/- 710SF (LEVEL 7)

**LEGEND:**  
  
 - PARKADE ENTRANCE  
 - MAIN LOBBY ENTRANCE  
 - TOWNHOUSE ENTRANCE  
 - EXIT DOOR





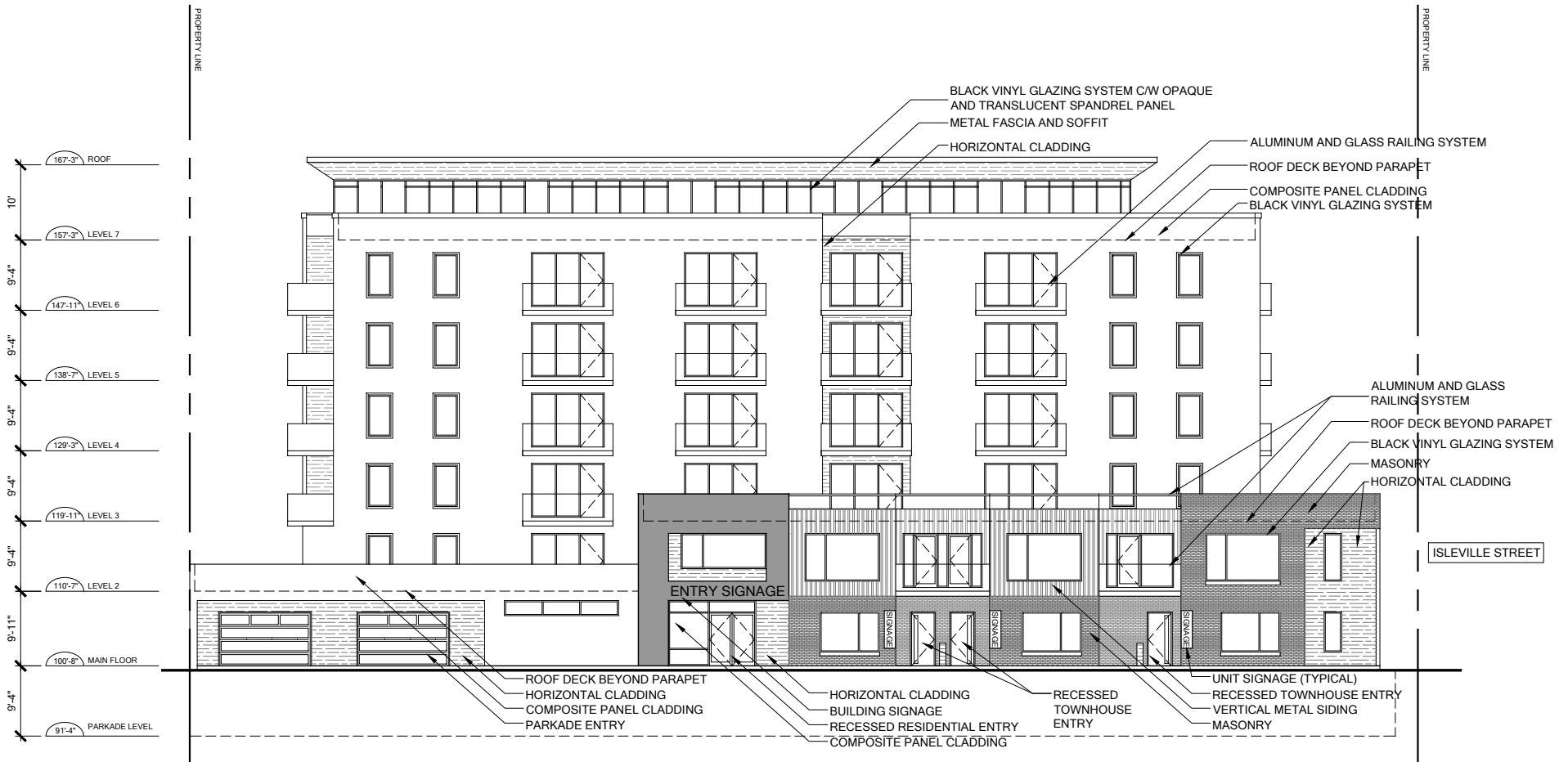
**SCHEDULE B-A: SITE PLAN**

|  |                                |                   |            |   |              |             |
|--|--------------------------------|-------------------|------------|---|--------------|-------------|
| <b>PROPOSED MIXED-USE</b><br>PID 00161075, 00161083, 001611091<br>ISLEVILLE STREET<br>HALIFAX, NOVA SCOTIA | ISSUED FOR                     | REVISION          | DATE       |  PROJECT NORTH<br> MICHAEL APPIER ARCHITECTURE inc<br>www.march.ca + 902-455-5522 | DRAWING      | DATE        |
|  | SUBSTANTIVE CHANGE APPLICATION | GENERAL REVISIONS | 2016-04-14 |   | SITEPLAN     | 23 DEC 2015 |
|  |                                | GENERAL REVISIONS | 2016-06-30 |   | SCALE        | DRAWING NO. |
|  |                                | GENERAL REVISIONS | 2016-08-23 | NOT TO SCALE  | <b>A-001</b> |             |




### SCHEDULE C-1A: Ground Floor Plan (Level 1) / Parkade Plan

|  |   |                   |            |   |                                     |                             |
|--|---|-------------------|------------|---|-------------------------------------|-----------------------------|
| <b>PROPOSED MIXED-USE</b><br>PID 00161075, 00161083, 001611091<br>ISLEVILLE STREET<br>HALIFAX, NOVA SCOTIA | ISSUED FOR<br><b>SUBSTANTIVE CHANGE APPLICATION</b> | REVISION          | DATE       |  PROJECT NORTH<br> MICHAEL APPIER ARCHITECTURE inc<br><small>www.mnarch.ca   902-455-5522</small> | DRAWING<br>PLAN - LEVEL 1 / PARKADE | DATE<br>23 DEC 2015         |
|  |   | GENERAL REVISIONS | 2016-04-14 |   | SCALE<br>NOT TO SCALE               | DRAWING NO.<br><b>A-102</b> |
|  |   | GENERAL REVISIONS | 2016-06-30 |   |                                     |                             |
|  |   | GENERAL REVISIONS | 2016-08-23 |   |                                     |                             |




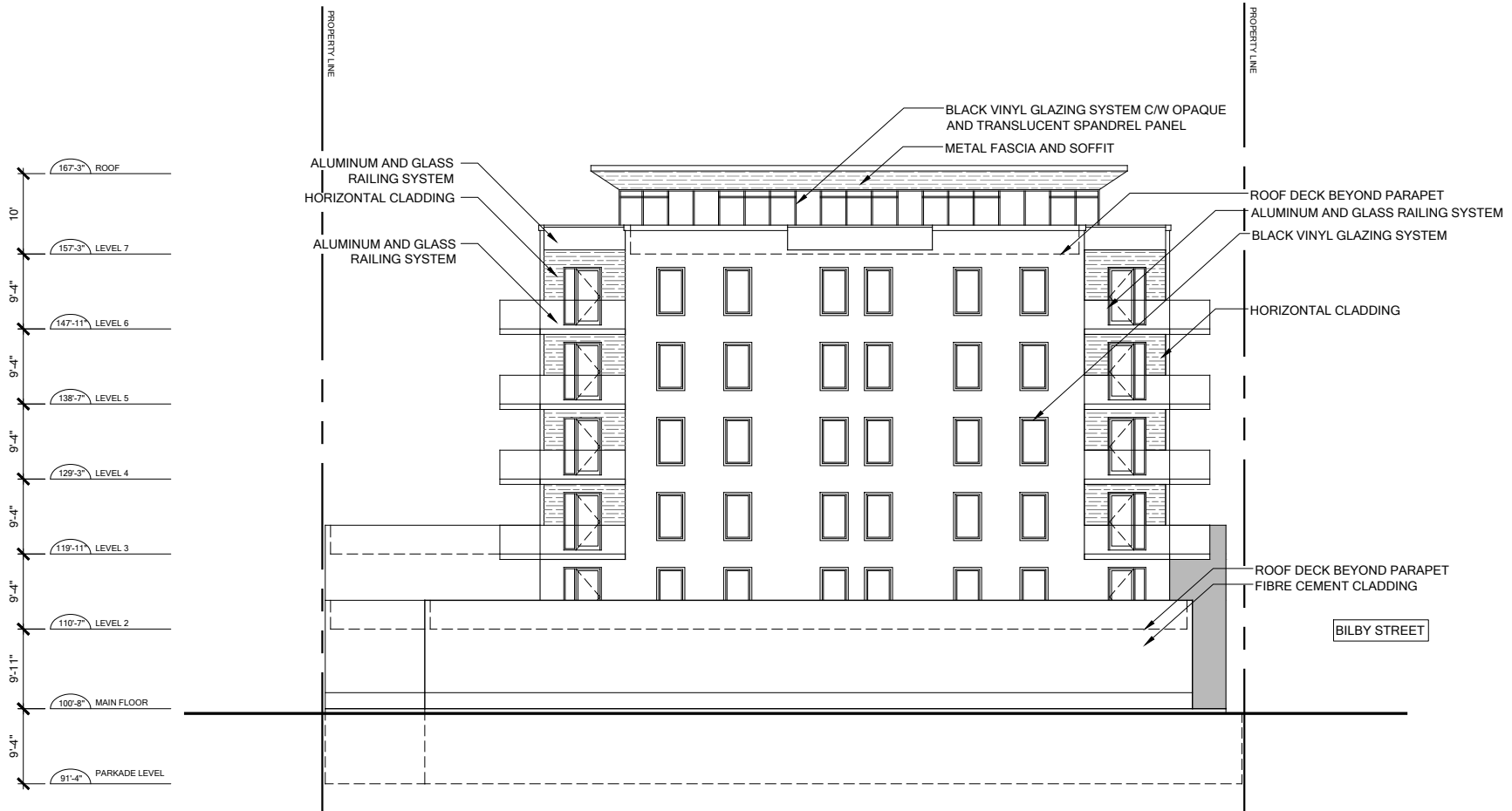
## SCHEDULE E-1A: North Elevation (Bilby Street)

|  |                                |                   |              |  |                 |             |
|--|--------------------------------|-------------------|--------------|--|-----------------|-------------|
| <b>PROPOSED MIXED-USE</b><br>PID 00161075, 00161083, 001611091<br>ISLEVILLE STREET<br>HALIFAX, NOVA SCOTIA | ISSUED FOR                     | REVISION          | DATE         |  MICHAEL<br>APIER<br>ARCHITECTURE inc<br>www.mnarch.ca + 902.455.5522 | DRAWING         | DATE        |
|  | SUBSTANTIVE CHANGE APPLICATION | GENERAL REVISIONS | 2016-04-14   |  | NORTH ELEVATION | 23 DEC 2015 |
|  |                                | GENERAL REVISIONS | 2016-06-30   |  | SCALE           | DRAWING NO. |
|  |                                | GENERAL REVISIONS | 2016-08-23   |  |                 |             |
|  |                                | GENERAL REVISIONS | 2016-08-24   |  |                 |             |
|  |                                |                   | NOT TO SCALE | <b>A-201</b>   |                 |             |




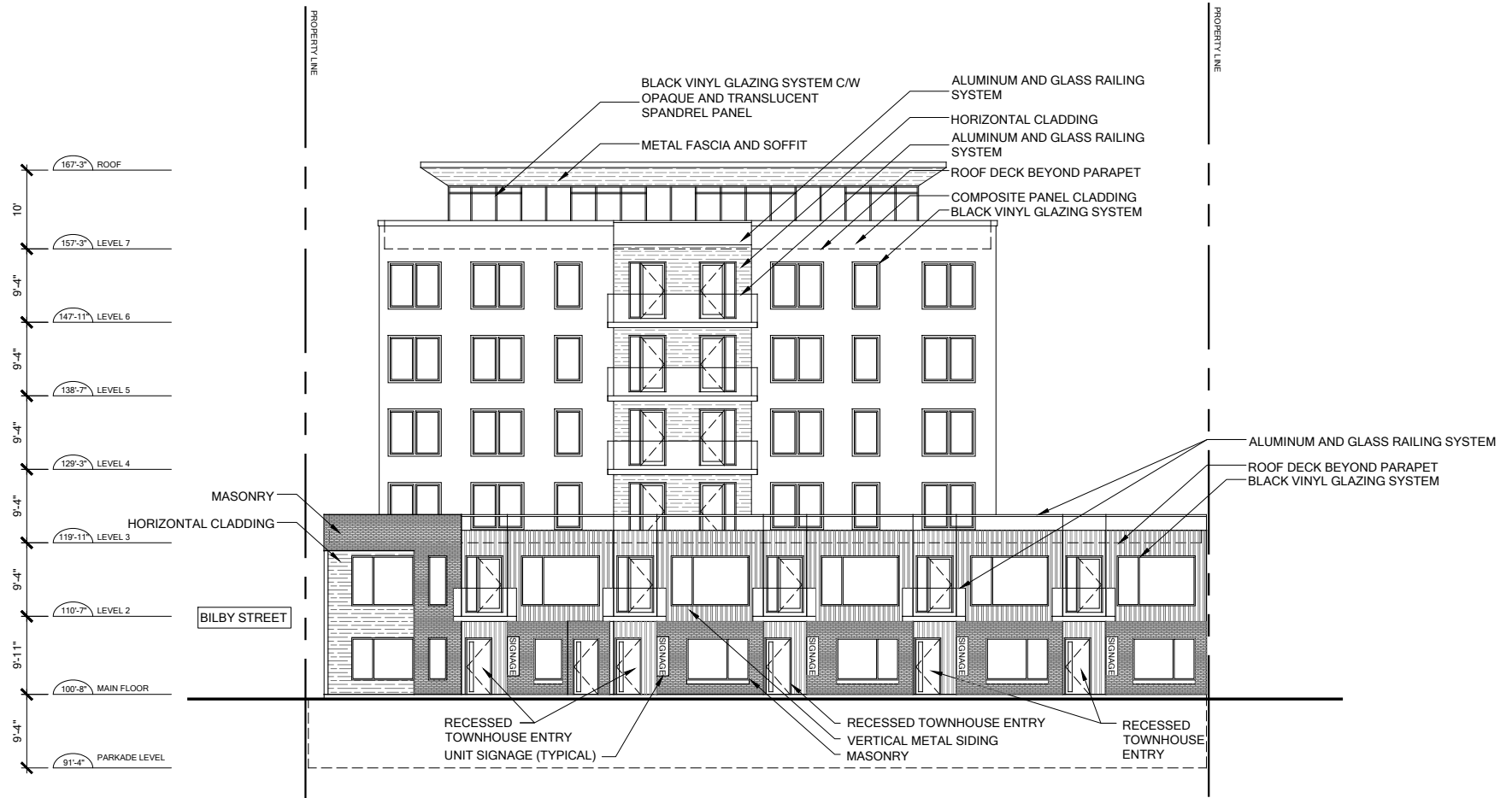
## SCHEDULE E-2A: South Elevation

|  |   |                   |            |   |                                   |                             |
|--|---|-------------------|------------|---|-----------------------------------|-----------------------------|
| <b>PROPOSED MIXED-USE</b><br>PID 00161075, 00161083, 001611091<br>ISLEVILLE STREET<br>HALIFAX, NOVA SCOTIA | ISSUED FOR<br><b>SUBSTANTIVE<br/>         CHANGE<br/>         APPLICATION</b> | REVISION          | DATE       |  <b>MICHAEL<br/>         APIER<br/>         ARCHITECTURE inc</b><br><small>www.march.ca   902.455.5522</small> | DRAWING<br><b>SOUTH ELEVATION</b> | DATE<br><b>23 DEC 2015</b>  |
|  |   | GENERAL REVISIONS | 2016-04-14 |   | SCALE<br><b>NOT TO SCALE</b>      | DRAWING NO.<br><b>A-203</b> |
|  |   | GENERAL REVISIONS | 2016-06-30 |   |                                   |                             |
|  |   | GENERAL REVISIONS | 2016-08-23 |   |                                   |                             |




### SCHEDULE E-3A: East Elevation

|  |                                      |                   |            |   |                |              |
|--|--------------------------------------|-------------------|------------|---|----------------|--------------|
| <b>PROPOSED MIXED-USE</b><br>PID 00161075, 00161083, 001611091<br>ISLEVILLE STREET<br>HALIFAX, NOVA SCOTIA | ISSUED FOR                           | REVISION          | DATE       |  MICHAEL<br>APIER<br>ARCHITECTURE inc<br>www.march.ca   902.455.5522 | DRAWING        | DATE         |
|  | SUBSTANTIVE<br>CHANGE<br>APPLICATION | GENERAL REVISIONS | 2016-04-14 |   | EAST ELEVATION | 23 DEC 2015  |
|  |                                      | GENERAL REVISIONS | 2016-06-30 |   | SCALE          | DRAWING NO.  |
|  |                                      | GENERAL REVISIONS | 2016-08-23 |   | NOT TO SCALE   | <b>A-204</b> |



## SCHEDULE E-4A: West Elevation (Isleville Street)

|  |                                |                   |            |  |                |             |
|--|--------------------------------|-------------------|------------|--|----------------|-------------|
| <b>PROPOSED MIXED-USE</b><br>PID 00161075, 00161083, 001611091<br>ISLEVILLE STREET<br>HALIFAX, NOVA SCOTIA | ISSUED FOR                     | REVISION          | DATE       |  MICHAEL<br>APIER<br>ARCHITECTURE inc<br><small>www.march.ca + 902.455.5522</small> | DRAWING        | DATE        |
|  | SUBSTANTIVE CHANGE APPLICATION | GENERAL REVISIONS | 2016-04-14 |  | WEST ELEVATION | 23 DEC 2015 |
|  |                                | GENERAL REVISIONS | 2016-06-30 |  | SCALE          | DRAWING NO. |
|  |                                | GENERAL REVISIONS | 2016-08-23 |  | NOT TO SCALE   | A-202       |
|  |                                | GENERAL REVISIONS | 2016-08-24 |  |                |             |



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

**Halifax Municipal Planning Strategy (MPS)**  
**Section XI (Peninsula North Secondary Planning Strategy)**

Commercial Facilities Designation:

*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.*

| <b>Policy Criteria</b>  | <b>Staff Comments</b>   |
|---|---|
| <p>2.3: <i>In areas designated major commercial, uses consistent with Section II, Policy 3.1.3 shall be permitted.</i></p> <p><i>[Section II, Policy 3.1.3: Major commercial centres should service a market area comprising most or all of the City. These centres may include major offices and hotels, in addition to uses suggested for minor commercial centres. The City should encourage parking facilities in these centres to serve several businesses in order to limit nuisance impact. The City's policy for major commercial centres in all other respects should be identical to Policy 3.1.2.]</i></p> <p>2.3.1: <i>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></p> <p>2.3.2: <i>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></p> | <ul style="list-style-type: none"> <li>• In the Peninsula North Secondary Planning Strategy (Section XI of the Halifax MPS), the site is designated for Major Commercial land uses. The underlying zone of the site is zoned C-2 (General Business), which permits major and minor commercial land uses, as well as, residential uses.</li> </ul> <p><u>Existing Development Rights:</u></p> <ul style="list-style-type: none"> <li>• In 2013, Halifax and West Community Council (HWCC) approved amendments to the Halifax Peninsula Land Use By-law (LUB) to include the site within Schedule Q and a Development Agreement (DA)</li> <li>• The existing DA permits the development of a 7-storey residential building consisting of a total of 56 units</li> </ul> <p><u>Proposed Amendments:</u></p> <p>The proposed Amending Agreement will permit a residential development that includes home-based business uses that is compatible and appropriate with the transitioning nature of the neighbourhood, and consistent with criteria of MPS Policies.</p> |

|   |  |
|---|--|
| <p>2.3.3: <i>In considering agreements pursuant to Policy 2.3.2, Council shall consider the following:</i></p> <p>(i) <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></p> | <p>The immediate neighbourhood contains a mix of land use (refer to Staff Report and Attachment E).</p> <p>Substantial building heights and massing are achievable through the as-of-right permitting process in the major commercial portion of this area (C-2 Zone). However, the proposed building's height and mass is much less than that which could be achieved in an as-of-right situation. In 2013, through the development agreement process, Staff negotiated with the applicant to achieve a reduction in the building's height and massing.</p> <p>Effective urban design treatment is created by a two-storey streetwall along Bilby Street and Isleville Street that includes various types of high quality materials such as stone masonry, cement siding and glass. The proposed design also includes decorative lighting and many windows and doors that provide eyes on the street and a sense animation and pedestrian engagement.</p> <p>To minimize potential land use conflicts, the DA and Amending Agreement restrict the land uses on the ground-level of the building to stand alone residential use or live-work use. In the event a lie-work concept is established, the permitted uses include a community facility, medical clinic, office space or personal service shop.</p> <p>The nature of the building's non-combustible construction materials will also assist with noise attenuation. Signs are limited to awnings, fascia and projecting signs. The back lighting is limited to the lettering of each sign.</p> |
| <p>(ii) <i>the appropriate integration of the development into the traditional grid street system of the Peninsula;</i></p>   | <p>The proposal utilizes the existing frontage on both Bilby Street and Isleville Street. The proposed development integrates with the existing street grid.</p>   |
| <p>(iii) <i>the design and layout of the development should encourage vehicular traffic to use Principal Streets and discourage traffic from infiltrating through existing neighbourhoods;</i></p>  | <p>The proposed development fronts on Bilby Street and Isleville Street, and is located between major urban arterial streets: Agricola Street, Young Street and Gottingen Street.</p> <p>Both Bilby Street and Isleville Street are two-lane local streets, and each street has sidewalks on both sides.</p> <p>In 2013, a Traffic Impact Statement was reviewed by HRM Development Engineering Staff and deemed acceptable. The TIS concludes that the proposed development is not expected to have any significant impact to the level of performance of Bilby Street, Isleville Street, the adjacent intersections, or the regional street network.</p>   |

|   |   |
|---|---|
| <p><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></p> | <p>The existing DA and Amending Agreement require adherence to detailed landscaping requirements, which includes the provisions of street trees along the HRM right-of-way of Bilby Street and Bilby Street, which will be in consultation with HRM Urban Forester and HRM Development Engineer.</p> <p>Signs are limited to awnings, fascia and projecting signs. The back lighting is limited to the lettering of each sign.</p>              |
| <p><i>(v) the provision of high quality open space and leisure areas of a size and type adequate for the resident population;</i></p>   | <p>Open space and leisure areas will consist of podium and rooftop landscaped areas, indoor amenity space for building tenants and individual private balconies for units in the residential towers. The provisions in the agreement ensure the use of high quality materials and landscape design. The design of the building also includes individual private balconies. These spaces/areas will be adequate for the resident population.</p> |
| <p><i>(vi) residential and commercial densities consistent with municipal services;</i></p>   | <p>With respect to municipal wastewater services, Halifax Water has reviewed the proposal, with no concerns identified at this time. Halifax Water requires evidence of wastewater capacity at the time of connection (at the building permit stage).</p>   |
| <p><i>(vii) encouraging high quality exterior construction materials such as masonry; and</i></p>   | <p>Proposed exterior materials include various forms of masonry including brick and pre-cast concrete panels and trim, as well as, glass, architectural panels and metal rails</p>  |
| <p><i>(viii) other relevant land use considerations which are based on the policy guidance of this Section.</i></p>   | <p>No other matters were identified for consideration under the proposed Amending Agreement.</p>  |

**ATTACHMENT C:**  
**C-2 (General Business) Zone – Halifax Peninsula Land Use By-law**

- 56(1) The following uses shall be permitted in any C-2 Zone:
- a) R-1, R-2, R-2T, R-2A, R-3, C-1 and C-2A uses;
  - b) Any business or commercial enterprise except when the operation of the same would cause a nuisance or a hazard to the public and except adult entertainment uses, junk yards and amusement centres;
  - c) Billboards not to exceed twenty-eight square meters (28 m<sup>2</sup>) in area and not to extend more than eight meters (8 m) above the mean grade on which it is situated.
  - d) Uses accessory to any of the foregoing uses.
- 56(2) No person shall in any C-2 Zone, carry out, cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 56(3) No person shall in any C-2 Zone, use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

**REQUIREMENTS**

- 57(1) No front, side or rear yards are required for C-2 uses in C-2 Zones.
- 57(2) (Deleted)
- 58 The height of a building in a C-2 Zone shall not exceed a height of eighty (80) feet, but for each foot that the building or that portion of the building which would exceed eighty (80) feet in height is set back from the property line, two (2) feet may be added to the height of the building.

**R-1, R-2, R-3, C-1, R-2T AND C-2A USES IN C-2 ZONE**

- 58A(1) Buildings erected, altered or used for R-1, R-2, R-2T, R-2A, R-3, C-1 and C-2A uses in a C-2 Zone shall comply with the requirements of their respective zones.
- 58A(2) (Deleted)
- 58A(3) (Deleted)

**CENTRAL BUSINESS DISTRICT**

- 58B(1) Deleted (**RC-Jun 16/09;E-Oct 24/09**)
- 58B(2) Deleted (**RC-Jun 16/09;E-Oct 24/09**)

**PENINSULA NORTH - AREA 8:**

- 58C(1) Notwithstanding Sections 6, 8 and 58A(1), buildings erected, altered, or used for R-1, R-2, R-2A, R-2T, R-3, RC-3, C-1, C-2A uses in the C-2 zone of the "**Peninsula North Area (Area 8)**" shall comply with the requirements of the C-2 zone.
- 58C(2) In the **Peninsula North Area - (Area 8)**, all buildings constructed for commercial or industrial purposes, shall be required to provide direct access to pedestrians from Gottingen Street into the building, which is not more than two feet above grade; for the purposes of this section, grade shall be defined as being the elevation of the ground at any one point along the official street line of Gottingen Street abutting such lot.
- 58C(3) In the **Peninsula North Area - (Area 8)**, the maximum setback for the first storey of: (1) buildings constructed for commercial or industrial uses, or (2) additions to buildings used for commercial or industrial uses, shall be 2 feet from the official street line of Gottingen Street.

58C(4) In the **Peninsula North Area - (Area 8)**, buildings of over 50 feet width measured parallel to Gottingen Street shall have the appearance of two or more buildings by altering the appearance of the facade and/or roof in increments no greater than 50 feet. In addition, one third of the surface area of the face of the ground floor of the building shall be comprised of windows.

58C(5) In the **Peninsula North Area - (Area 8)** the following applies:

- 1) for buildings constructed for minor commercial purposes which are on a lot greater than 20,000 square feet in area, parking shall be provided at a rate of 1 space for every 1000 square feet of gross commercial area.
- 2) for additions to existing buildings used for minor commercial purposes that are 50 percent or more of the gross commercial floor area of the existing building, are on a lot greater than 20,000 square feet in area, parking shall be provided at a rate of 1 space for every 1000 square feet of gross commercial floor area of the addition.

58C(6) In the **Peninsula North Area - (Area 8)**, all parking areas shall comply with the following requirements:

- i) Where commercial or industrial parking abuts a residential zone, an opaque fence a minimum of five feet shall be erected to visually screen abutting properties.
- ii) Parking areas abutting a street shall be set back a minimum of 5 feet from any street line; the setback area shall be landscaped with natural ground cover to reach a height of no more than 2 feet upon maturity, or other materials, along that part of the street not required for any parking pedestrian entrance.
- iii) Parking shall be constructed with a stable surface such as asphalt or concrete.
- iv) Lighting for parking area shall be directed away from any adjacent residential properties and from the street.




P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Case 20326 - Attachment D:  
Planning Case 17511 - Staff Report**

**West Community Council  
December 10, 2012**

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

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

**DATE:** November 16, 2012

**SUBJECT:** Case 17511: LUB Amendment and Development Agreement - 5534,  
5558 Bilby Street and 2819 to 2827 Isleville Street, Halifax

---

**ORIGIN**

Application by Genivar

**RECOMMENDATION**

It is recommended that West Community Council:

1. Give First Reading to consider approval of the proposed amendments to Map ZM-2 of the Halifax Peninsula Land Use By-law to include 5534, 5558 Bilby Street and 2819 - 2827 Isleville Street, Halifax in Schedule 'Q', as presented on Attachment A of this report and schedule a public hearing;
2. Move Notice of Motion to consider the proposed development agreement as contained in Attachment B to allow for a residential development and schedule a public hearing. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1; and
3. Adopt the amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law as presented on Attachment A of this report.

**RECOMMENDATIONS CONTINUED ON PAGE 2**

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

4. Approve the proposed development agreement as contained in Attachment B; and
5. Require that the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

### **BACKGROUND**

An application has been submitted by Genivar, on behalf of PFK Properties Limited, to enable the development of a 7-storey, multi-unit residential building at 5534, 5558 Bilby Street and 2819-2827 Isleville Street, Halifax. The proposal is not permitted under the current zoning which limits the size, density and massing of any proposed multi-unit residential development in the Isleville Street area to a maximum of four storeys. To enable the proposal to proceed, the applicant has requested that the subject site be included within Schedule “Q” of the Halifax Peninsula Land Use By-law which would then allow the proposed multi-unit residential building to proceed by the development agreement process. This will allow the site to be developed comprehensively and to be designed to minimize land use conflicts with surrounding neighbourhood.

### **Location, Designation, Zoning and Surrounding Land Use**

The subject lands:

1. consist of four separate properties, which total approximately 17,650 square feet in area;
2. are located on the north eastern corner of Isleville Street and Bilby Street (Map 1);
3. are zoned C-2 (General Business) by the Halifax Peninsula Land Use By-law (LUB) (Map 1);
4. lie within Area 5 of the Peninsula North Secondary Planning Strategy (Section XI of the Halifax Municipal Planning Strategy [MPS]) and is designated for Major Commercial development (Map 2);
5. consist of a single building that contains 9 apartment units and 5 commercial/industrial businesses. The business operations include a motorcycle shop, a dance studio, a print shop, a welding operation, and a carpentry operation; and
6. are surrounded by residential uses that include a mixture of single unit dwellings, duplexes and low-rise multiple unit residential buildings.

### **Enabling Policy and Zoning Context**

The subject application is made pursuant to Policy 2.3.1 of Section XI of the MPS which allows Council to identify areas designated Major Commercial for comprehensive site planning through a development agreement process. This process is achieved through the application of Schedule “Q” of the Halifax Peninsula Land Use By-law. Schedule “Q” was 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.

Schedule "Q" is currently applied to those lands on the west side of Robie Street and on a property located on the corner of Kaye Street and Isleville Street (Map 3).

The C-2 Zone permits commercial buildings with no front, side or rear yards and a height of eighty feet, with allowance for additional height if the building is set back from the property line. Residential uses are also permitted within the C-2 Zone subject to the requirements of the R-3 (Multiple Dwelling) Zone (refer to Attachment D). The application of Schedule "Q" to a property supersedes the requirements of the C-2 Zone by requiring that projects of greater than four dwelling units be considered by development agreement. This provides flexibility by enabling the modification of the standard land use by-law requirements for development through the development agreement process.

### **Proposal**

The applicant wishes to remove the existing buildings and structures on the four subject properties, consolidate the properties, and construct a 7-storey, 56-unit residential development. Details of the proposal are as follows:

- 48-unit, 7-storey residential building with 8 townhouse-style units on the ground level fronting on both Isleville Street and Bilby Street (Schedules E-1 through E-4 of Attachment B);
- The townhouse units are individually-accessed at the street level with the units in the upper building levels accessed via an exterior lobby;
- Vehicular access to the building is from Bilby Street, where side by side driveways lead to an internal grade level parking area and a ramp to a single level of underground parking (total of 60 parking spaces);
- Power to the development will be provided underground; and
- Private rooftop landscaped areas and amenity space for the building tenants.

### **Approval Process**

The approval process for this application involves two steps:

- i) Firstly, Council must consider and, if deemed appropriate, approve the proposed amendment to the Land Use By-law (Map ZM-2) to include the subject lands within "Schedule Q"; and
- ii) Secondly, Council shall consider and, if deemed appropriate, approve the proposed development agreement.



A single public hearing can be held by Council to consider both the LUB amendment and the development agreement. However, Council can only render a decision on the development agreement following the approval of the LUB amendment. Council will be provided with a supplementary report once the LUB amendment is in effect, at which time it can consider approval of the development agreement. An appeal mechanism to the Nova Scotia Utility and Review Board exists for both decisions of Council.

### **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and have determined that the proposed development is consistent with the MPS. Attachment C provides an evaluation of the proposed LUB amendment and development agreement in relation to the relevant MPS policies. The following issues have been identified for more detailed discussion.

#### **LUB Amendment (Schedule ‘Q’)**

Considering the mixed nature of land uses located on and around the subject area, which include residential, commercial and industrial uses, the proposal presents an appropriate and beneficial opportunity for comprehensive site planning. As Schedule ‘Q’ is currently applied to a large area of Peninsula North that is designated Major Commercial, the proposed development represents a small expansion of the area under the Schedule (Map 3). The proposal will benefit from the controls and flexibility that the development agreement process provides to reduce future land use conflicts.

#### **Development Agreement**

To ensure the proposed development is properly integrated within existing land uses, Policies 2.3.1, 2.3.2 and 2.3.3 include criteria for Council to consider when evaluating proposals prior to the Municipality entering into development agreements. The proposed development agreement contained in Attachment B of this report includes site-specific controls and specifications that address the following matters:

- land use, building and site requirements;
- architectural, signage and lighting requirements;
- parking (bicycle and vehicular), circulation and site access;
- detailed landscaping requirements for public and private landscaped areas;
- building services, maintenance and waste facilities; and
- options for various non-substantive amendments by resolution of Council, including a 10% increase of the total number of the multi-dwelling units (provided that neither the building size nor exterior the appearance of the building change) and changes to timeframes for development.

In staff’s opinion, the attached development agreement will permit a residential development that is compatible and appropriate with the neighbourhood.

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

### Siting, Building Design and Neighbourhood Compatibility

The existing neighbourhood consists of low density residential dwellings located in the area surrounding Isleville Street, except for two medium-density, 4 to 5-storeys, residential buildings. The location of the subject lands, on the corner of Isleville and Bilby Streets, is ideally situated in the neighbourhood to create a step-up transition from the existing development. Also, the proposed development agreement restricts the height of the proposed building to 7 storeys to address the massing and scale of the building relative to the land use development along Isleville Street. Moreover, the proposal provides an acceptable transition between the mid-rise residential buildings to west and south of the subject area. The visual prominence of the proposed building has been tempered by the addition of at-grade townhouse dwellings and the inclusion of balconies on the residential portion of the building. Further, the separation distance between the proposed residential mid-rise building and the existing residences on Isleville Street and Bilby Street is considered acceptable for an urban setting.

The residential development incorporates high quality exterior materials such as brick, pre-cast concrete panels and trim, stucco, glass, architectural panels and metal rails. The proposed townhouse design incorporates a direct street level pedestrian access to each of the townhouse units with doorways recessed back from the streetwall with a few steps raised above grade. Further, the townhouses are also proposed to be setback from property lines in a way that mimics the existing setbacks and streetwalls of adjacent buildings.

The upper storeys are proposed to be stepped back from building lines to minimize their enclosure of the streetscape and to accommodate landscaped areas and amenity spaces. The building design utilizes differing architectural wall treatments in order to mitigate against blank walls on the building's south and east elevations.

### Population Density

The MPS encourages reinvestment and redevelopment within major commercial areas by allowing for flexibility with regard to the residential population density requirements of the Halifax Peninsula LUB, provided that proposed densities are "consistent with municipal services". The applicant is proposing 144 persons per acre for the residential development, which is considered a minor increase from the 125 persons per acre permitted under the current C-2 Zone. Further, a sewer capacity analysis was conducted by the developer's consultant and reviewed by Halifax Water which indicates that they have no issues or concerns with the proposal relative to the adequacy municipal central sewage and water systems to service the development.

### Traffic/Site Access

A Traffic Impact Statement, prepared by the developer's consultant, was reviewed by HRM and deemed acceptable. The Study concludes that there are no resultant issues or concerns with the proposed development. The proposed development agreement requires vehicles accessing and egressing from the site to utilize Bilby Street.

It should be noted that both of Isleville Street and Bilby Street are considered two-lane local streets that have sidewalks on both sides. Currently, no traffic signals are warranted at the

Isleville Street and Bilby Street intersection; traffic is controlled by two way stop signs at Isleville Street to the west and Gottingen Street to the east (Map 1).

#### Landscaping and Open Space

The applicant intends to provide both open space and leisure areas within the proposal consisting of private features such as rooftop landscaped areas, indoor amenity space for building tenants and individual private balconies. Council should note that the proposed development agreement ensures the use of high quality materials and landscape design. It also requires adherence to detailed landscaping requirements and the submission of a detailed landscape plan prepared by a landscape architect.

#### **Legal Review**

The proposed development agreement has been reviewed by HRM's legal services and its content has been approved.

#### **Conclusion**

In staff's opinion, the proposed LUB amendments and development agreement are consistent with the intent, objectives and policies of the Halifax MPS. As the proposed development is considered both appropriate for and compatible with the surrounding area, staff recommends that West Community Council approve the proposed LUB amendment and the proposed development agreement, as presented in Attachments A and B respectively.

#### **BUDGET IMPLICATIONS**

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

#### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

#### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement was consultation, achieved through a public information meeting held on March 5, 2012. Attachment E contains a copy of the minutes from the meeting. Notices of the Public Information Meeting were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 3.

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

The proposed development agreement will potentially impact local residents and property owners on Bilby Street and Isleville Street and adjacent residential uses.

### **ENVIRONMENTAL IMPLICATIONS**

No implications have been identified.

### **ALTERNATIVES**

1. Council may choose to approve the proposed LUB amendment and development agreement as set out in Attachments A and B of this report. This is the recommended course of action.
2. Council may choose to approve the proposed LUB amendment and development agreement subject to modifications. This may necessitate further negotiation with the applicant and the need to hold a second public hearing.
3. Council may choose to refuse the proposed LUB amendment and development agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended, as the proposal is consistent with the MPS.

### **ATTACHMENTS**

|              |   |
|--------------|---|
| Map 1        | Location and Zoning Map                         |
| Map 2        | Generalized Future Land Use Map                 |
| Map 3        | Area of Notification                            |
| Attachment A | Proposed Amendment to the Halifax Peninsula LUB |
| Attachment B | Proposed Development Agreement                  |
| Attachment C | Review of Relevant Policies of the Halifax MPS  |
| Attachment D | Excerpts from Halifax Peninsula LUB             |
| Attachment E | Minutes of Public Information Meeting           |

**Case 17511: Multi-Unit Building –  
Bilby St. and Isleville St.  
Council Report**

- 8 -

**December 10, 2012**

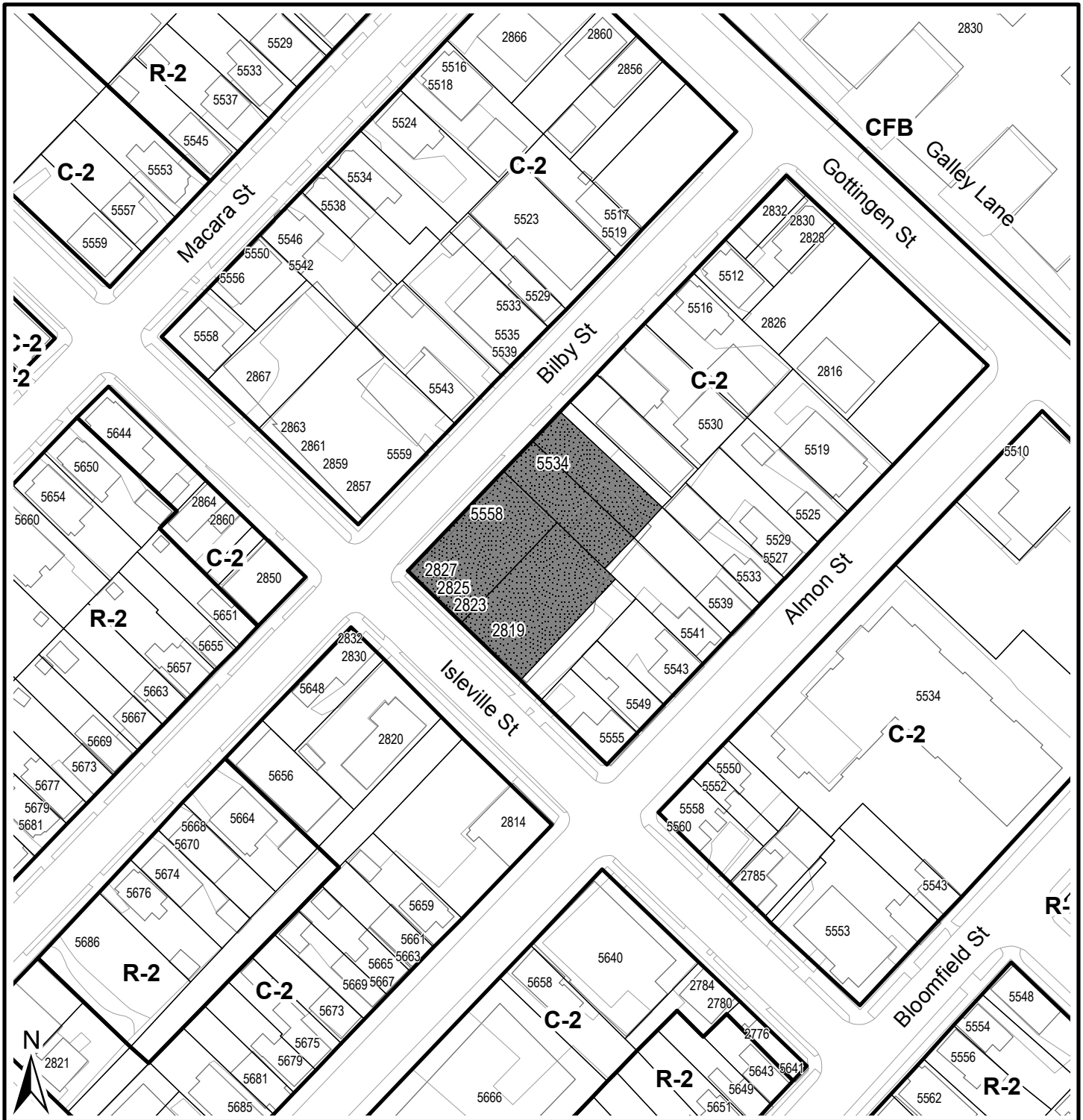
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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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


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

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**Map 1 - Location and Zoning**

5534-5558 Bilby Street  
and 2819-2827 Isleville Street, Halifax

 Area proposed to be added to Schedule Q

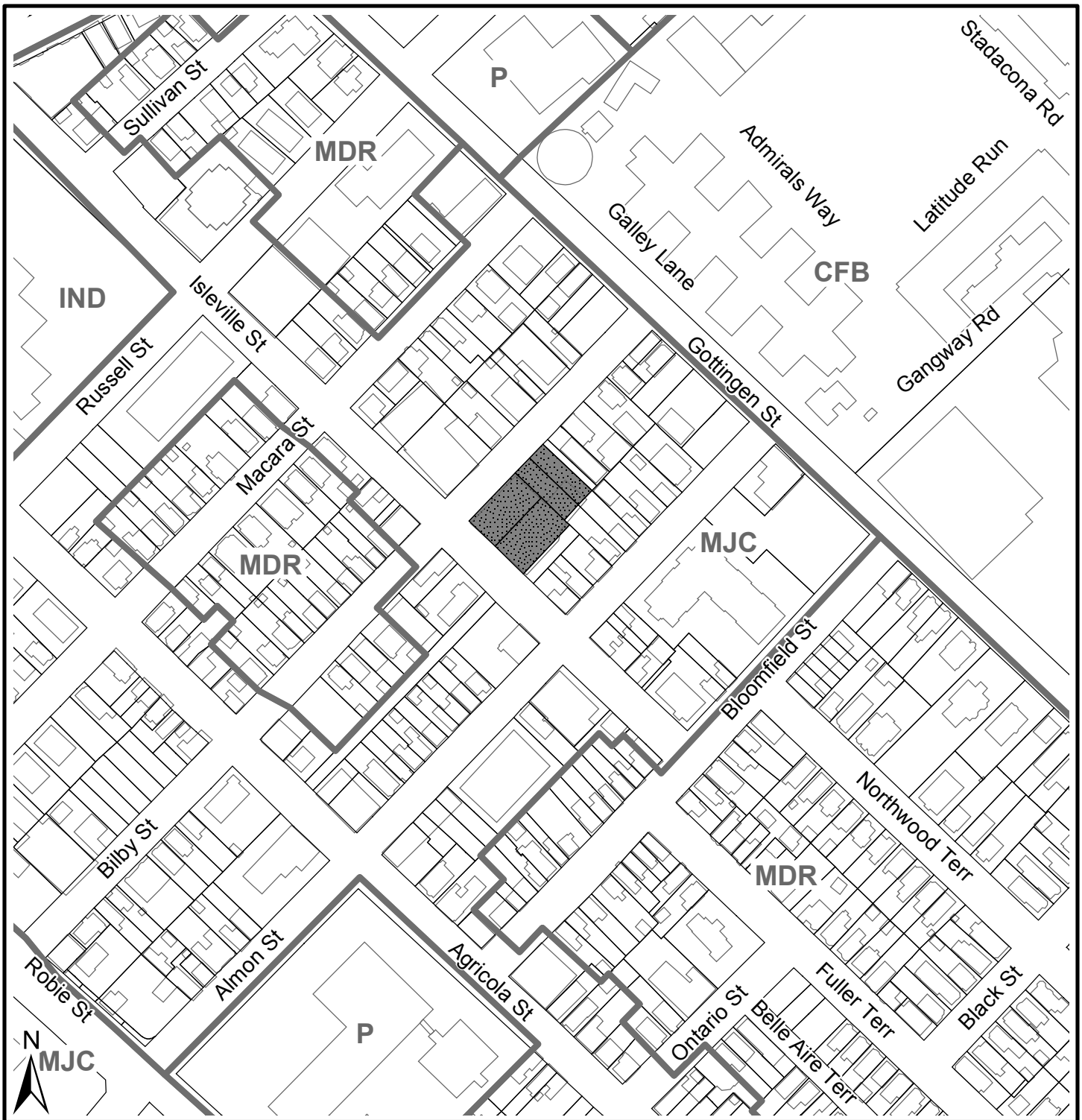
Halifax Peninsula  
Land Use By-Law Area

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



## Map 2 - Generalized Future Land Use

5534-5558 Bilby Street  
and 2819-2827 Isleville Street, Halifax

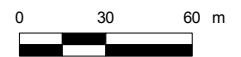
 Area proposed to be included within Schedule Q

Halifax Plan Area  
Peninsula North Secondary Plan Area

### Designation

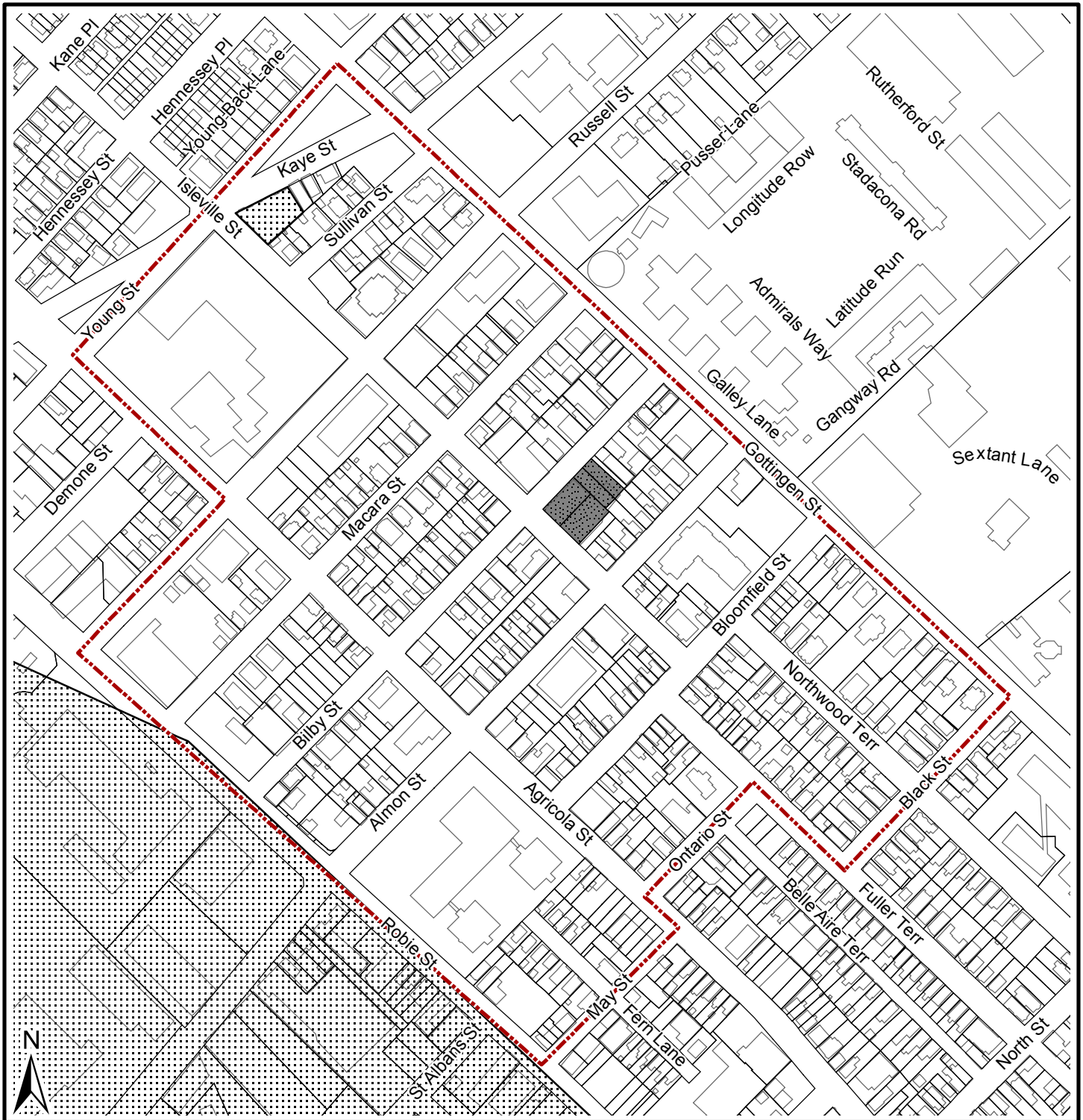
LDR Low Density Residential  
MDR Medium Density Residential  
MJC Major Commercial  
P Park and Open Space  
IND Industrial  
CFB Canadian Forces Base

**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING SERVICES



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



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




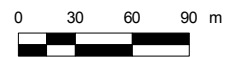
### Map 3 - Area of Notification

5534-5558 Bilby Street  
and 2819-2827 Isleville Street, Halifax



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

 Area of notification



Halifax Peninsula  
Land Use By-Law Area

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



**ATTACHMENT A:**  
**Proposed Amendments to the Halifax Peninsula Land Use By-law**

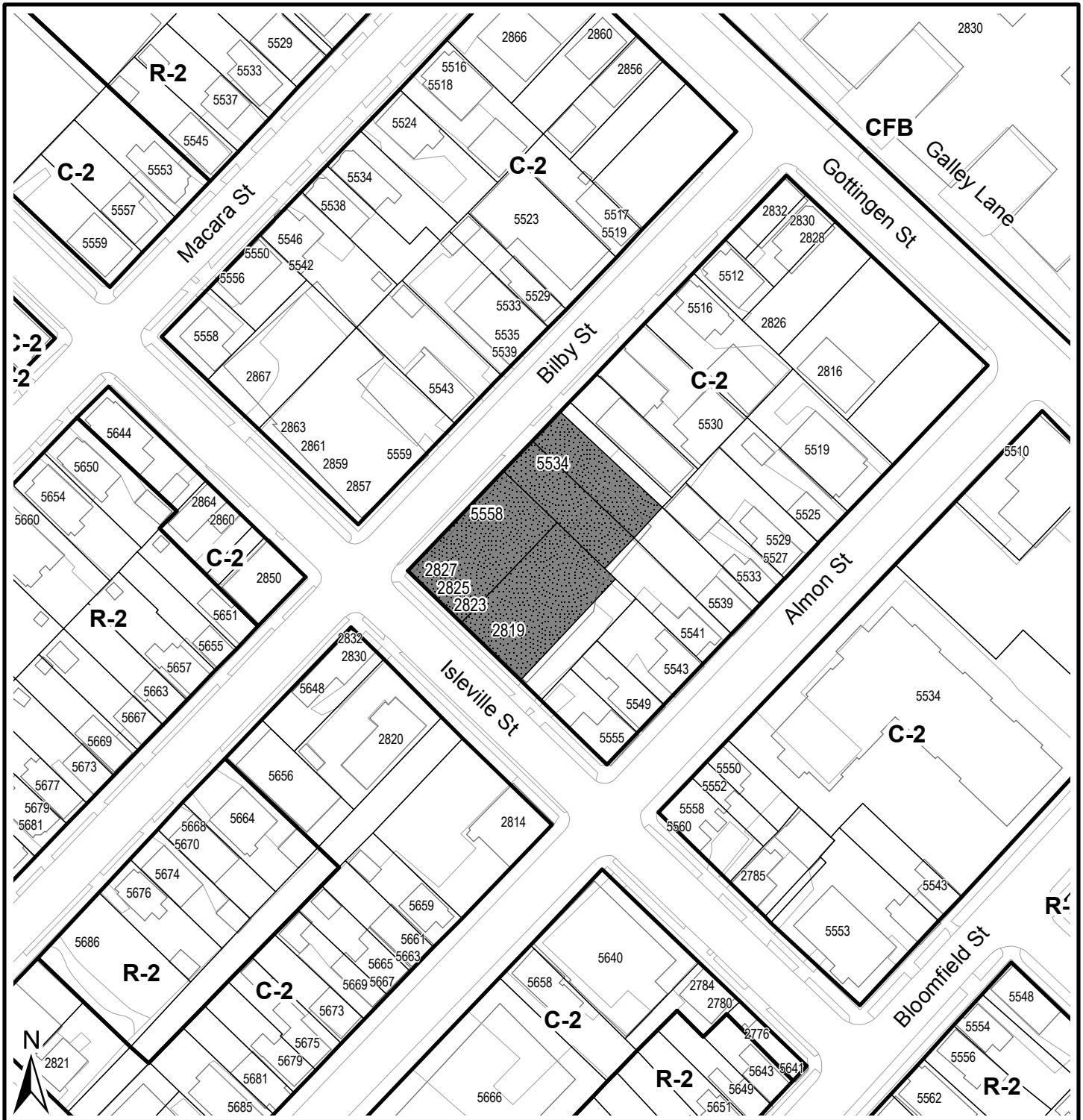
BE IT ENACTED by the West Peninsula Community Council of the Halifax Regional Municipality that the Halifax Peninsula Land Use By-law, as amended, is hereby further amended as follows:

1. By amending Zoning Map, **ZM-2**, to include the 5534, 5558 Bilby Street and 2819-2827 Isleville Street, Halifax in Schedule Q, as presented on Schedule A.

I HEREBY CERTIFY that the amendments to the Halifax Peninsula Land Use By-law, as set out above, were passed by a majority vote of the West Community Council of the Halifax Regional Municipality at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2012.


GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this day of \_\_\_\_\_, 2012.

Municipal Clerk



**Schedule A**

5534-5558 Bilby Street  
and 2819-2827 Isleville Street, Halifax

 Area to be included within Schedule Q

Halifax Peninsula  
Land Use By-Law 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.

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

**ATTACHMENT B:**  
**Proposed Development Agreement**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BETWEEN:

**[INSERT DEVELOPER 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 5534, 5558 Bilby Street and 2819-2827 Isleville Street, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a multi-unit residential building on 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 West Community Council for the Municipality approved this request at a meeting held on [**INSERT DATE**], referenced as Municipal Case Number **17511**;

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

## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the 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**

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

### **1.6 Provisions Severable**

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

## **PART 2: DEFINITIONS**

### **2.1 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

### **2.2 Definitions Specific to this Agreement**

The following words used in this Agreement shall be defined as follows:

- (a) “Soft Landscaping” means any combination of shrubs, flowers, grass or other horticultural elements, all of which are designed to enhance the façades of the townhouse-style units. These elements shall not include decorative stonework, pavers, screening or other hard surfacing materials.

## **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement **and filed in the Halifax Regional Municipality as Case Number 17511:**

|              |                                   |
|--------------|-----------------------------------|
| Schedule A   | Legal Description of the Lands(s) |
| Schedule B   | Site Plan                         |
| Schedule C-1 | Landscape Plan (Level 1)          |
| Schedule C-2 | Landscape Plan (Level 2)          |
| Schedule C-3 | Landscape Plan (Level 3)          |
| Schedule E-1 | North Elevation (Bilby Street)    |
| Schedule E-2 | South Elevation                   |
| Schedule E-3 | East Elevation                    |
| Schedule E-4 | West Elevation (Isleville Street) |

|              |                             |
|--------------|-----------------------------|
| Schedule F-1 | Parkade Plan                |
| Schedule F-2 | Ground Floor Plan (Level 1) |

### **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) Written confirmation and photographs demonstrating the existing buildings/structures on the Lands have been removed; and
  - (b) Plan of Survey of approved Lot Consolidation of the Lands in accordance with Section 3.7 of this Agreement.
- 3.2.2 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the Development Officer with written confirmation from a qualified professional accompanied by a photographic record demonstrating compliance with the required Landscape Plans in accordance with Section 3.10 of this Agreement.
- 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**

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

- (a) a residential building containing a maximum of 56 units within seven (7) storeys. The building shall consist of an apartment house (multiple-unit residential uses) in conjunction with townhouse dwellings, which is detailed as follows:
  - i. the apartment house shall contain a maximum of 48 residential units.
  - ii. the townhouse dwellings shall:
    - a) not exceed a maximum of 8 units;
    - b) form a part of the overall building and be considered as part of the multiple-unit dwelling;
    - c) consist of 2 storeys; and
    - d) be a minimum of 1,200 square feet (111.5 square metres) in gross floor area for each unit and contain at least 2 bedrooms.

(b) Home occupation uses within the townhouse dwellings only.

### **3.4 Detailed Provision for Land Use**

3.4.1 The Developer shall provide the Development Officer with sufficient information to verify that the proposed development conforms to each of the following requirements:

(a) Maximum Height: The height of building above grade shall not exceed 20.7 metres (68 feet), and shall not include the underground parking garage. Height shall be defined as the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building along Isleville Street and Bilby Street.

(b) Maximum Population Density: The density for 56 residential units shall not exceed a maximum of 144 persons. For the purposes of calculating population density on the Lands, the following shall apply:

- i. Bachelor units shall be assigned 1 person per unit;
- ii. One (1) Bedroom units shall be assigned 2 persons per unit; and
- iii. Two (2) Bedroom or more units shall be assigned 2.25 persons per unit.

### **3.5 Siting and Architectural Requirements**

#### Siting

3.5.1 The Developer shall construct a residential building on the Lands as shown on Schedule B. The building shall consist of 2 residential uses, as shown on the Schedules, and they shall be joined by the main body of the building.

3.5.2 The apartment house shall be stepped back from the building line of the townhouse units, as shown on Schedules E-1 through E-4.

3.5.3 The townhouse units shall be setback a minimum of three (3) feet from the Isleville Street public right-of-way.

#### Entrances

3.5.4 Entrances to the townhouse-style units shall front Isleville Street and Bilby Street as shown on Schedules E-1 and E-2. Variations to the colors and designs of the doors shall be permitted.

3.5.5 The main entrance to the multiple-unit dwelling shall front Bilby Street and be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards or an acceptable equivalent approved by the Development Officer. A secondary entrance to the residential building shall also front on Bilby Street.

### Rear and side facades

3.5.6 The façades of the residential building facing the Isleville Street and Bilby Street shall be designed and detailed as shown on the Schedules. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.

### Building Materials

3.5.7 The exterior building materials and colour of each component of the building shall be as shown on the Schedules.

### Functional Elements

3.5.8 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.

3.5.9 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc. ) are not visible from Isleville Street, Bilby Street 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.

### Balconies

3.5.10 Units within the apartment house shall include balconies as shown on Schedules E-1 through E-4. Balconies shall include pre-finished metal rails, balustrades or equivalent.

### Windows

3.5.11 Windows for each component shall be designed as illustrated on the Schedules. All windows shall be vertical in orientation, or square. If shutters are used, they must be sized to fit the opening and must be provided for all windows. Windows shall be vertically proportioned, where possible. Windows should be framed with painted or stained wood, prefinished metal or vinyl.

### Roof

3.5.12 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from adjacent properties.

## **3.6 Variations By Development Officer**

The Development Officer may approve minor variations to the exterior architectural appearance of the building, including materials, colours, and architectural treatments, provided such changes are in general conformance with the intent of this Agreement.



### **3.7 SUBDIVISION OF THE LANDS**

A subdivision application to consolidate the properties shown on Schedule B into a single lot shall be submitted to the Development Officer in accordance with the Regional Subdivision By-law. No Building Permit shall be issued until the subdivision plan has been approved.

### **3.8 PARKING, CIRCULATION AND ACCESS**

3.8.1 The entrance, driveway and parking area shall be shown on Schedule B.

3.8.2 Parking, circulation and access shall be in conformance with the following:

- (a) Parking area shall contain no more than 60 spaces;
- (b) Underground and above-ground parking areas shall be as generally shown on Schedules F-1 and F-2;
- (c) Bicycle parking shall be provided as per the requirements of the Halifax Peninsula Land Use By-law.
- (d) Notwithstanding clauses (a) and (b), up to one quarter (1/4) of the individual parking spaces may be reduced in size to a minimum of 8 feet by 17 feet.

3.8.3 The parking area shall be finished with a hard surface.

### **3.9 OUTDOOR LIGHTING**

Lighting shall be directed to driveways, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

### **3.10 LANDSCAPING**

3.10.1 Prior to the issuance of a Building Permit, the Developer agrees to provide a Landscape Plan which complies with the provisions of this section and generally conforms with the overall intentions of the Preliminary Landscape Plan shown on Schedules C-1, C-2 and C-3. The Landscape Plan shall be 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.

#### Landscape Plan

3.10.2 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.

3.10.3 Landscaped areas shall conform with the following:

- (a) Soft landscaping shall be as generally shown on Schedule C-1;
- (b) Landscaped open space shall include any combination of trees, shrubs, flowers, grass or other horticultural, and decorative stonework, pavers, screening or other landscape architectural elements;
- (c) Provision of new street trees along the Isleville Street frontage and minor landscaping along Bilby Street, in consultation with HRM's Urban Forester and Development Engineer; and
- (d) The minimum requirement for landscaped open space horticultural elements shall be grass sod.

3.10.4 Notwithstanding Section 3.10.1, 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 unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### **3.11 MAINTENANCE**

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.

#### Reinstatement

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

### **3.12 Signs**

**“Signage shall be limited to one temporary ground (1) sign depicting the name or corporate logo of the Developer which shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. This temporary ground sign shall be removed prior to the issuance of the last residential occupancy permit.**

### **3.13 TEMPORARY CONSTRUCTION BUILDING**

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.

### **3.14 SCREENING**

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

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### General Provisions

4.1 All design and construction of primary and secondary service systems shall satisfy Municipal Service Systems Specifications and Halifax Water Design and Construction Specifications (latest edition) as well as all applicable by-laws unless otherwise provided for in this Agreement.

### Off-Site Disturbance

4.2 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.

### Solid Waste Facilities

4.3 The building shall include designated space for five stream (refuse, recycling and composting) source separation services. 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.

4.4 Refuse containers and waste compactors shall be confined to the loading areas of each building, and shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping.

- 4.5 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

## **PART 5: AMENDMENTS**

### **5.1 Non-Substantive Amendments**

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

- (a) A reduction in the number of floors in the building;
- (b) A 10% increase of the total number of the multi-dwelling units provided that neither the building size nor the exterior appearance of the building change;
- (c) Minor changes to the exterior architectural appearance of the building, including materials, colours, and architectural treatments which, in the opinion of the Development Officer, are not permitted under sub-section 3.6;
- (d) The granting of an extension to the date of commencement of construction as identified in Section 6.3 of this Agreement; and
- (e) The length of time for the completion of the development as identified in Section 6.5 of this Agreement;

### **5.2 Substantive Amendments**

Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

## **PART 6: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **6.1 Registration**

A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

## **6.2 Subsequent Owners**

- 6.2.1 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.
- 6.2.2 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).

## **6.3 Commencement of Development**

- 6.3.1 In the event that development on the Lands has not commenced within five (5) 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.
- 6.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed residential building.
- 6.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.1(d), 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.

## **6.4 Completion of Development**

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 Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law, as may be amended from time to time.

## **6.5 Discharge of Agreement**

If the Developer fails to complete the development after ten (10) 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 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **7.1 Enforcement**

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

### **7.2 Failure to Comply**

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 defense 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.

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

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

\_\_\_\_\_  
=====

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

\_\_\_\_\_

**(Insert Registered Owner Name)**

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

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

=====

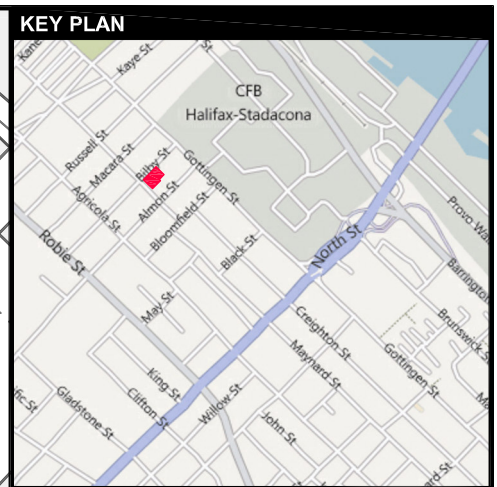
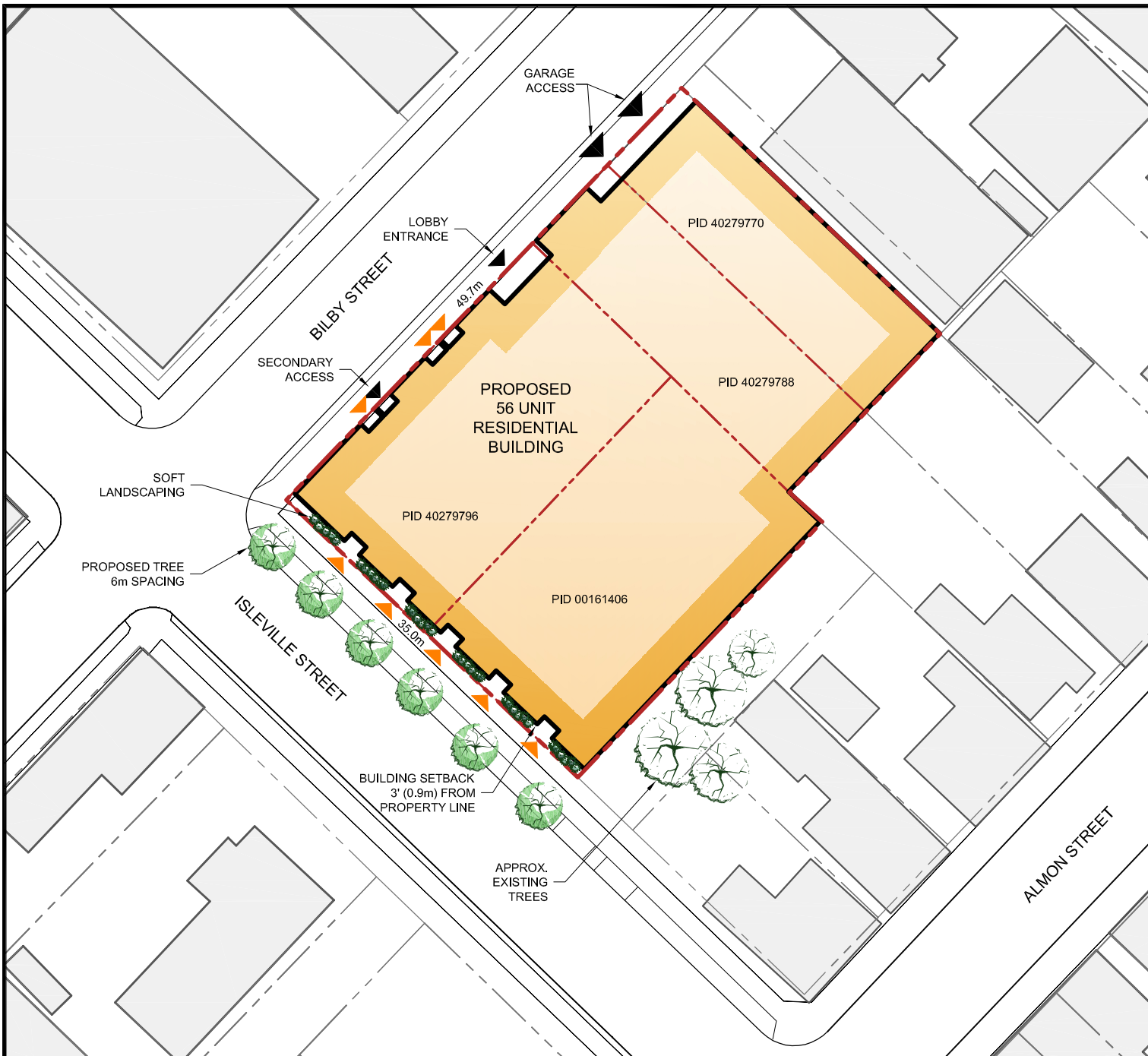
=  
**HALIFAX REGIONAL**  
**MUNICIPALITY**

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

Mayor

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

Municipal Clerk



**LEGEND**

- - - - - Site Boundary
- · - · - Existing Internal Property Boundary (To be consolidated)
- - - - - Adjacent Property Boundary
- Building Access
- Townhouse Unit Access

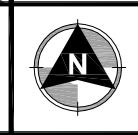
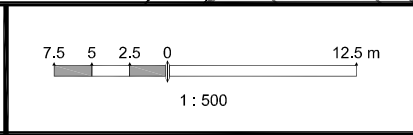
- SITE SUMMARY:**
- Building Height - 167 ft.
  - Consolidated Lot Area - 1,666.3 m<sup>2</sup> / 17,936 sf
  - Proposed Parking U/G - 44 Stalls
  - Proposed Parking at Grade - 16 Stalls

- NOTES:**
- Property lines approximate only. Site subject to survey

- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE GROUND FLOOR PLAN LEVEL 1 DWG. A-101, DATED AUG. 2011, CAD FILE 20079 - Plans Ground FP.dwg



**SCHEDULE B: SITE PLAN**  
 Bilby St. and Isleville Street, Halifax, Nova Scotia



6 3 2 0 10 m  
 1:500 METRIC  
 DATE: 17-JULY-2012





BILBY STREET

ISLEVILLE STREET

TOWER ABOVE  
3' MINIMUM SETBACK FROM PROPERTY LINE

**SOURCES:**

- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
- MICHAEL NAPIER ARCHITECTURE GROUND FLOOR PLAN LEVEL 1 DWG. A-101, DATED AUG. 2011, CAD FILE 20079 - Plans Ground FP.dwg

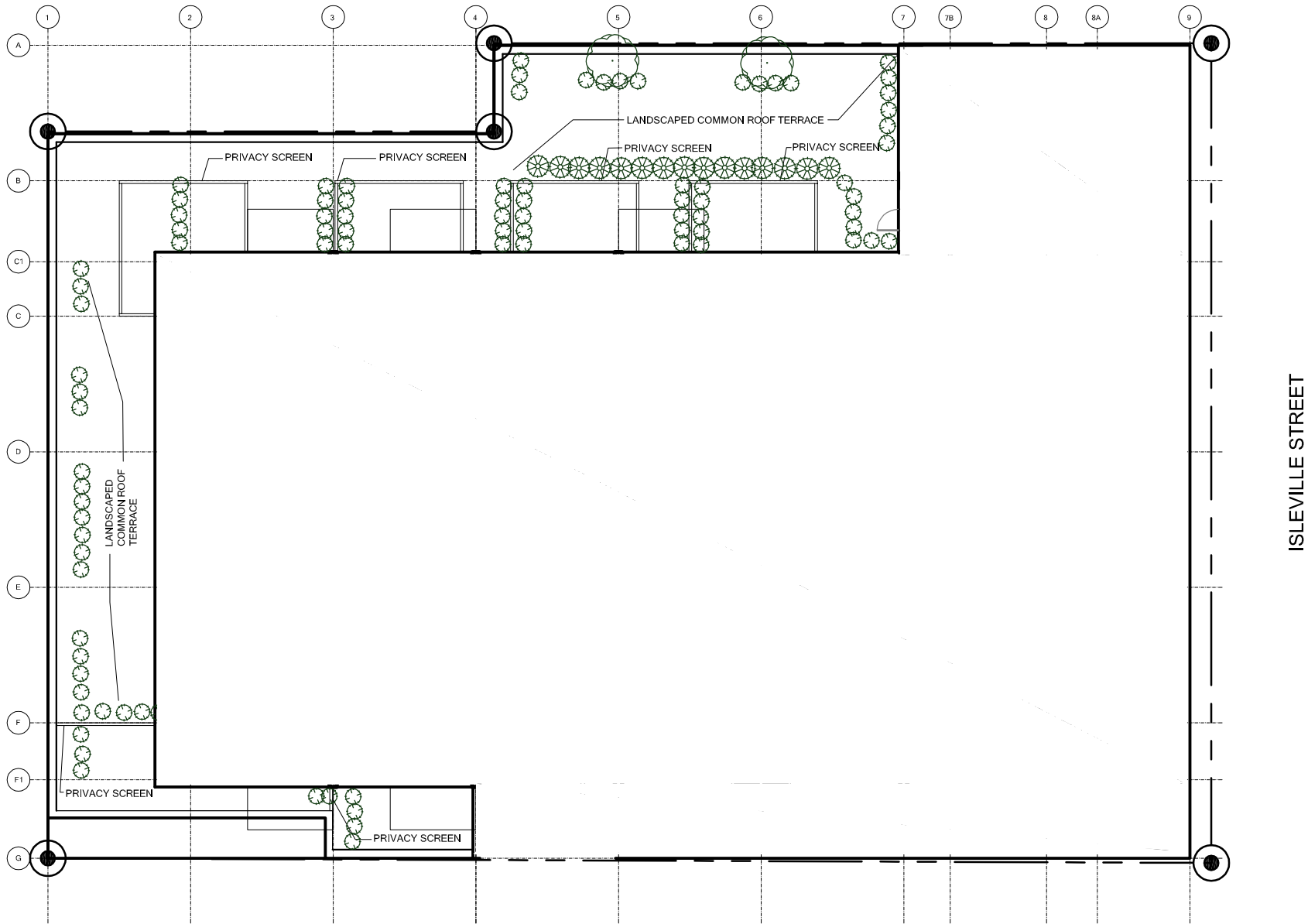


**SCHEDULE C-1: LANDSCAPE PLAN (LEVEL 1)**  
Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC

DATE: 25-MAY-2012



BILBY STREET

ISLEVILLE STREET

- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE GROUND FLOOR PLAN LEVEL 1 DWG. A-101, DATED AUG. 2011, CAD FILE 20079 - Plans Ground FP.dwg



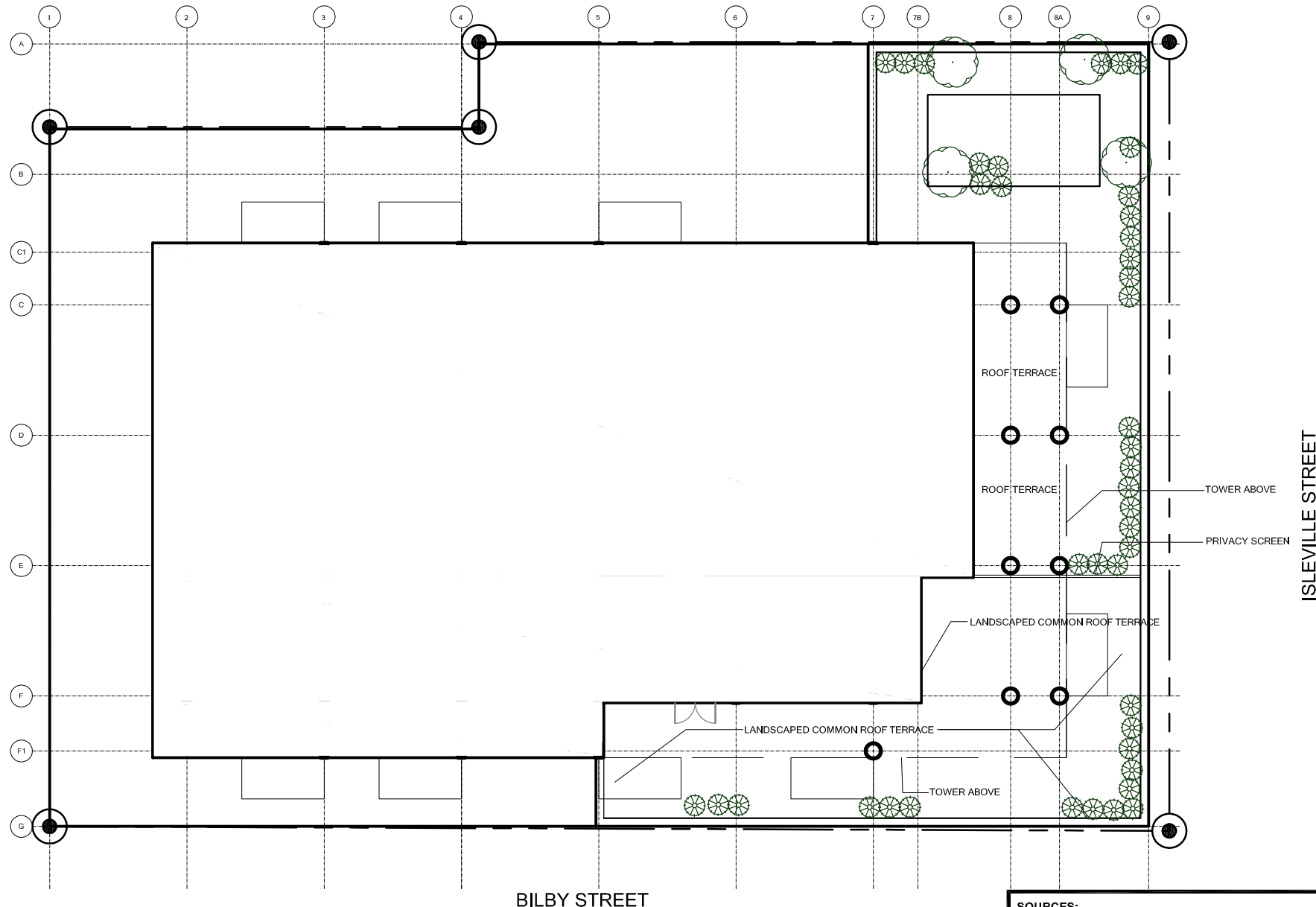
**SCHEDULE C-2: LANDSCAPE PLAN (LEVEL 2)**

Bilby St. and Isleville Street, Halifax, Nova Scotia

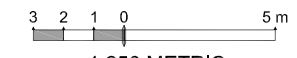


1:250 METRIC

DATE: 25-MAY-2012



- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE GROUND FLOOR PLAN LEVEL 1 DWG. A-101, DATED AUG. 2011, CAD FILE 20079 - Plans Ground FP.dwg

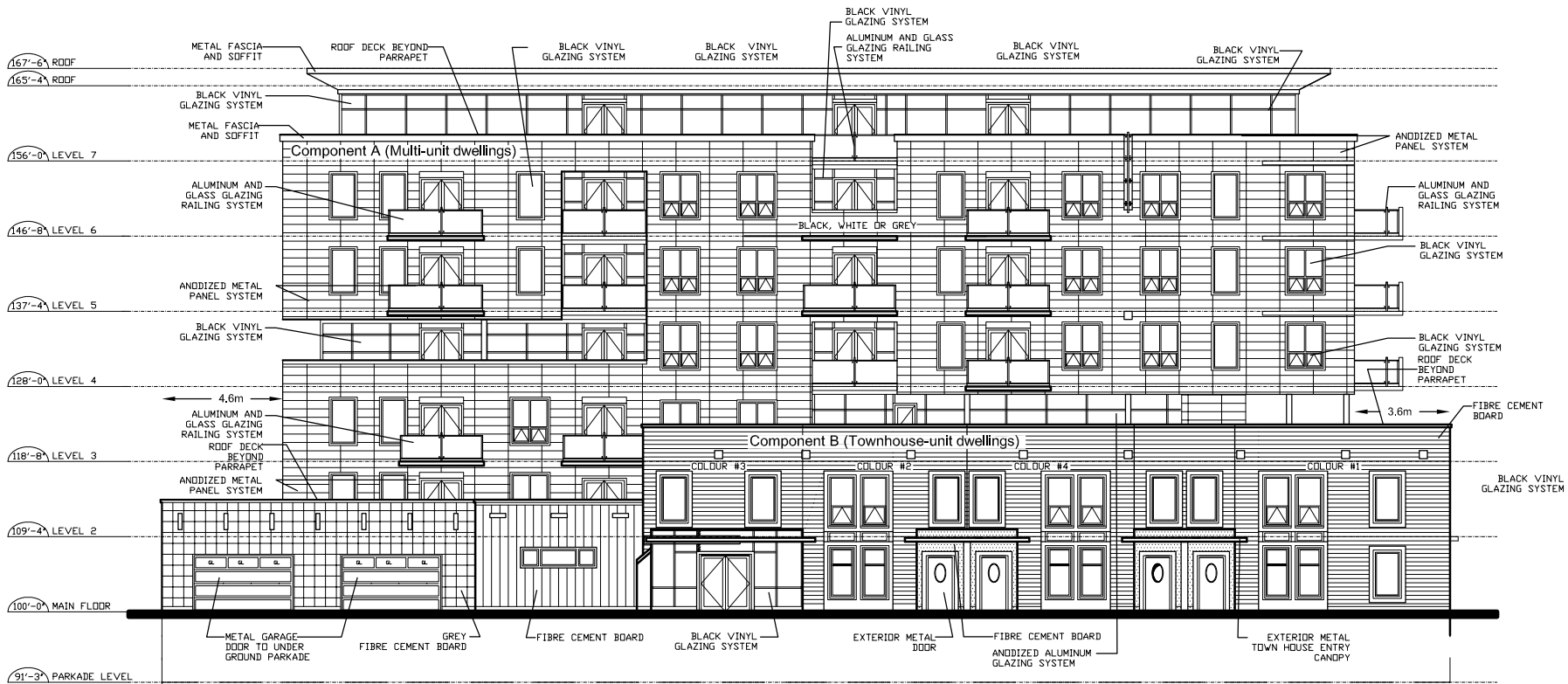


1:250 METRIC

DATE: 25-MAY-2012



**SCHEDULE C-3: LANDSCAPE PLAN (LEVEL 3)**  
 Bilby St. and Isleville Street, Halifax, Nova Scotia



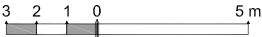
COMPONENT A (MULTI-UNITS)  
BLACK, WHITE, GREY

COMPONENT B (TOWNHOUSE UNITS)  
COLOURS #1, #2, #3, #4, TO BE ANY OF THE FOLLOWING COLOURS:  
YELLOW, ORANGE, GREEN, BLUE, RED, BLACK, WHITE, GREY  
COLOURS TO BE APPLIED TO UNITS IN AN ALTERNATING WAY

- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE ELEVATION PLAN A-201, DATED SEP. 2011

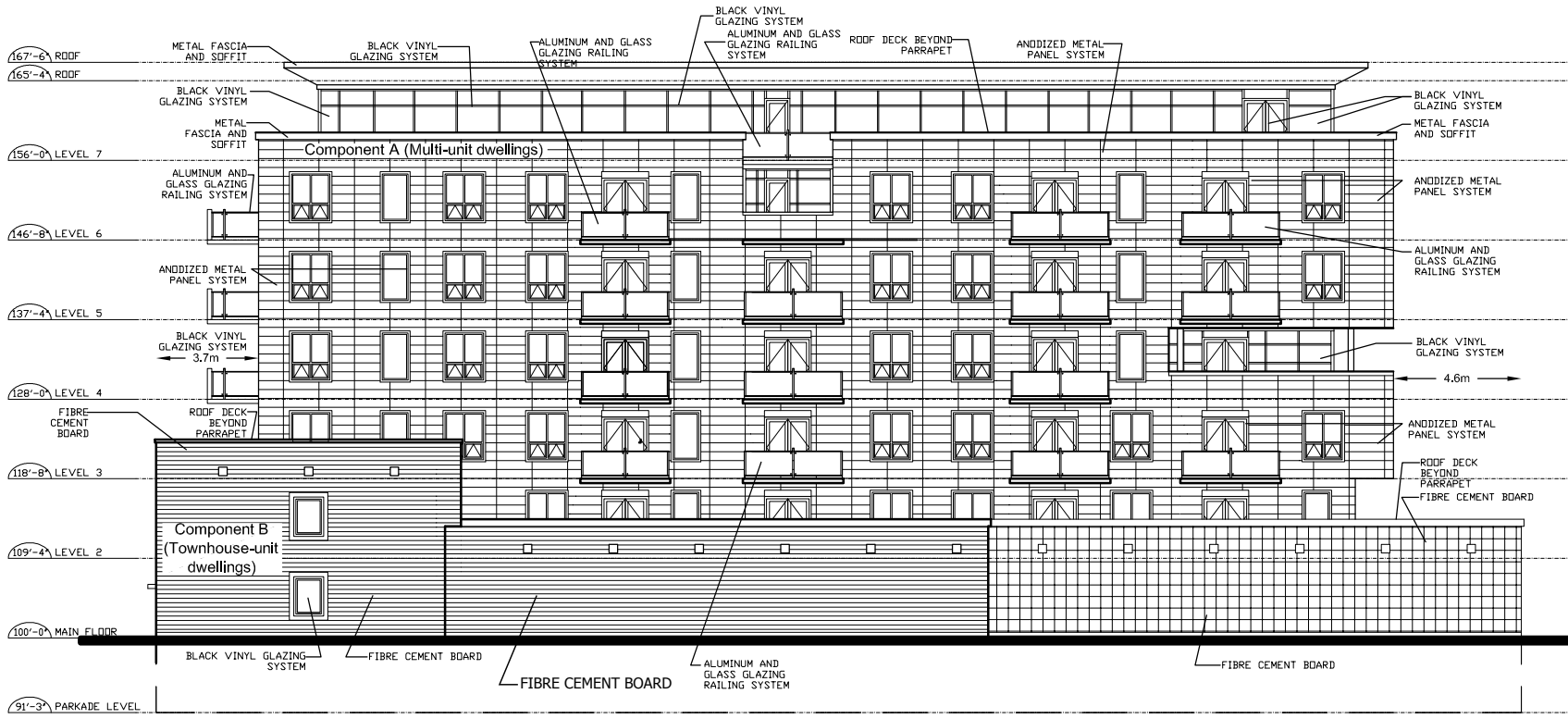


**SCHEDULE E-1: NORTH ELEVATION (Bilby Street)**  
Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC

DATE: 6-NOV-2012



- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE ELEVATION PLAN A-203, DATED SEP. 2011

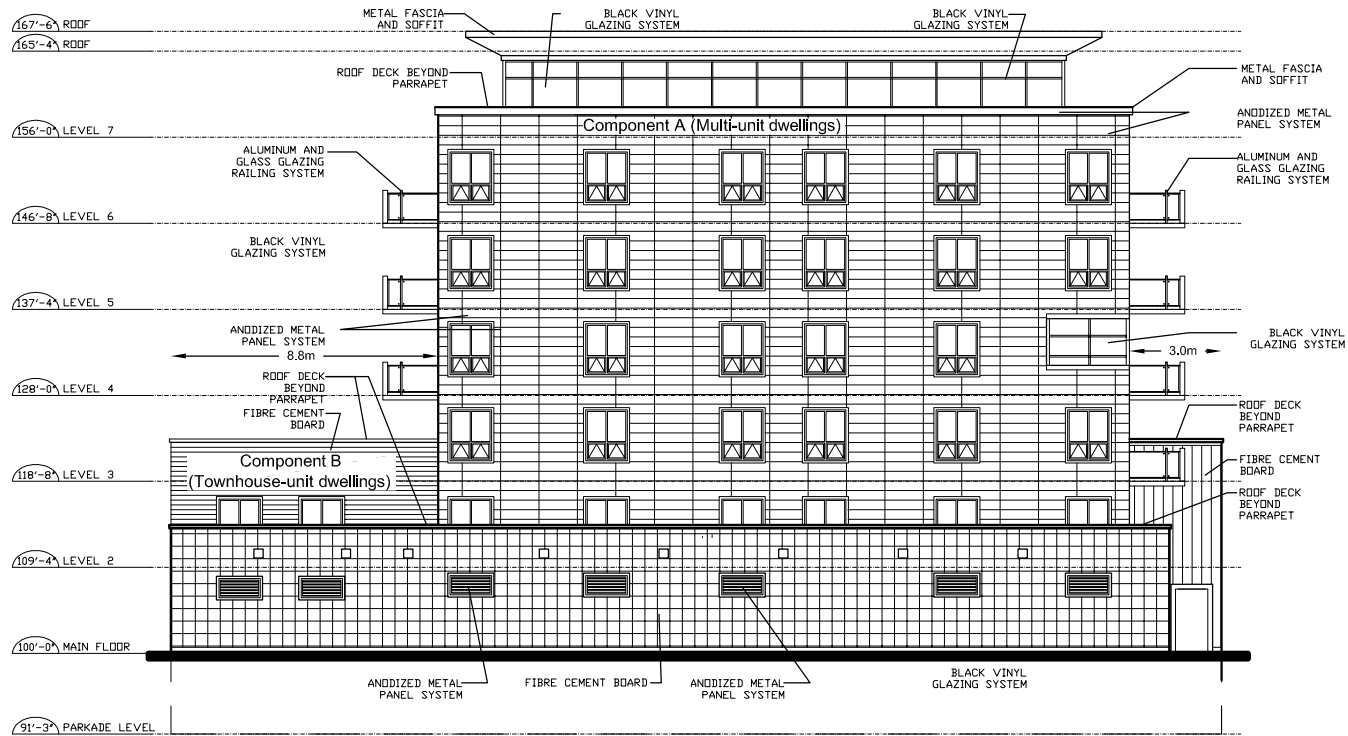


**SCHEDULE E-2: SOUTH ELEVATION**  
 Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC

DATE: 25-MAY-2012



- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE ELEVATION PLAN A-204, DATED SEP. 2011



**SCHEDULE E-3: EAST ELEVATION**  
 Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC

DATE: 25-MAY-2012



COMPONENT A (MULTI-UNITS)  
BLACK, WHITE, GREY

COMPONENT B (TOWNHOUSE UNITS)  
COLOURS #1, #2, #3, #4, TO BE ANY OF THE FOLLOWING COLOURS:  
YELLOW, ORANGE, GREEN, BLUE, RED, BLACK, WHITE, GREY  
COLOURS TO BE APPLIED TO UNITS IN AN ALTERNATING WAY.

- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE ELEVATION PLAN A-200, DATED SEP. 2011

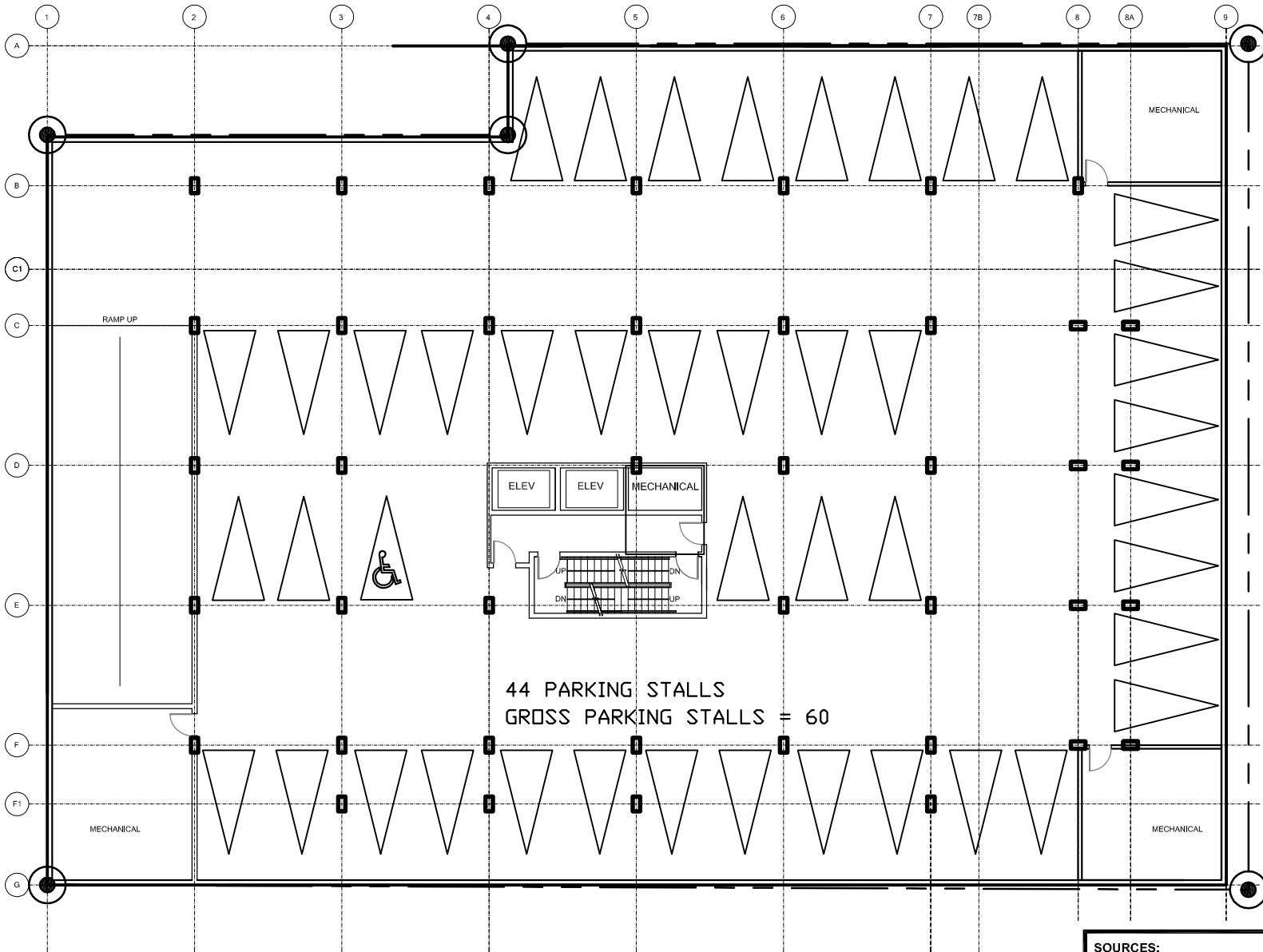


**SCHEDULE E-4: WEST ELEVATION (Isleville Street)**  
Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC

DATE: 6-NOV-2012

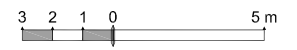


44 PARKING STALLS  
GROSS PARKING STALLS = 60

- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE FLOOR PLAN A-100, DATED SEP. 2011



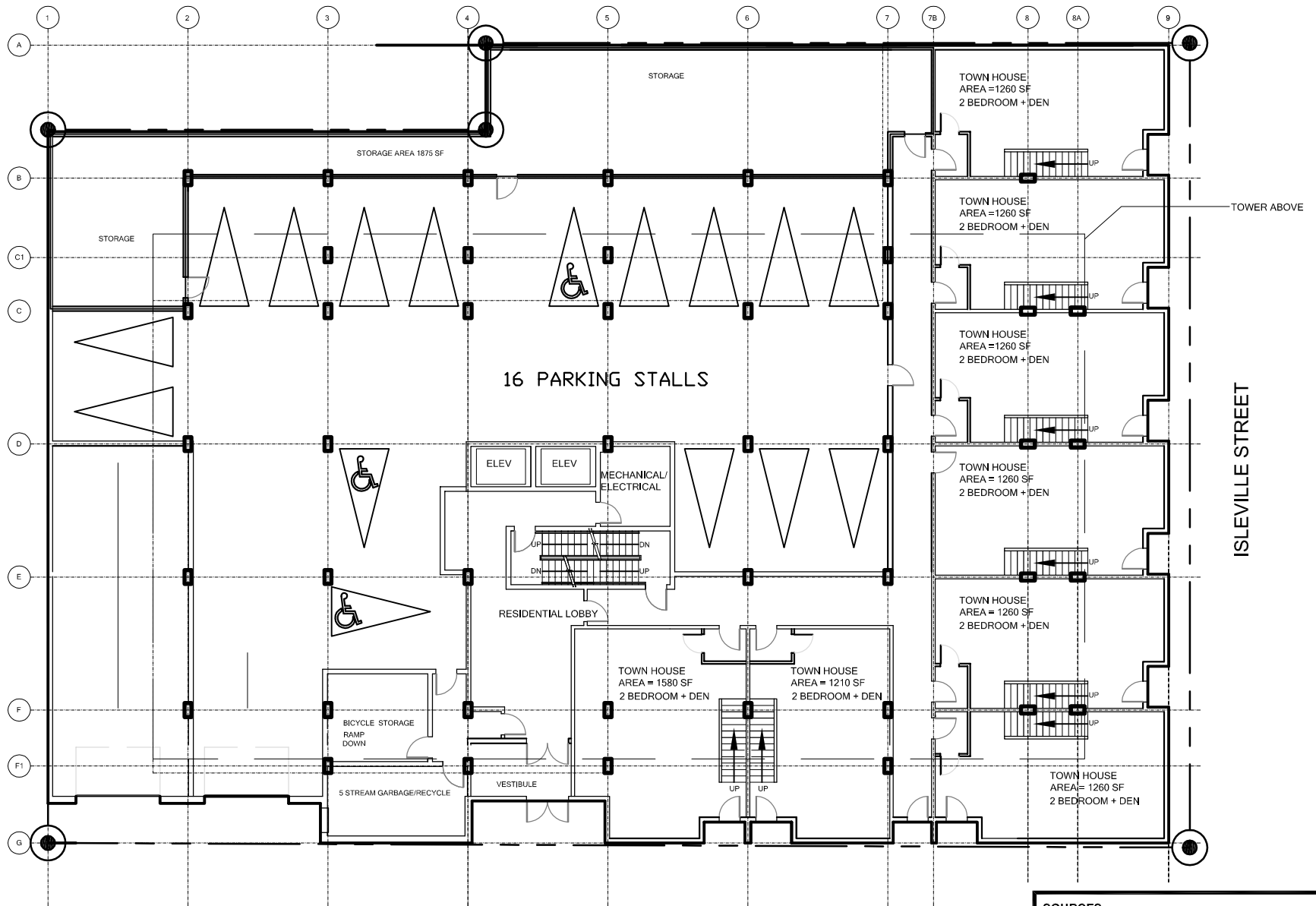
**SCHEDULE F-1: PARKADE PLAN**  
Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC

DATE: 25-MAY-2012

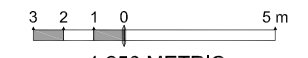




- SOURCES:**
- PROPERTY LINES FROM PROVINCIAL PROPERTY MAPPING
  - MICHAEL NAPIER ARCHITECTURE FLOOR PLAN A-101, DATED SEP. 2011



**SCHEDULE F-2: GROUND FLOOR PLAN (LEVEL 1)**  
 Bilby St. and Isleville Street, Halifax, Nova Scotia



1:250 METRIC  
 DATE: 25-MAY-2012

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

The proposal may be considered by Council through Policies 2.3, 2.3.1, 2.3.2 and 2.3.3 of the Halifax Municipal Planning Strategy (MPS). Findings that support this position are as follows:

**Halifax Municipal Planning Strategy (MPS)**  
**Section XI (Peninsula North Secondary Planning Strategy)**

Commercial Facilities Designation:

*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.*

| <b>Policy</b>   | <b>Staff comment:</b>   |
|---|---|
| <p><b>2.3</b> In areas designated major commercial, uses consistent with Section II, Policy 3.1.3 shall be permitted.</p> <p>[Section II, Policy 3.1.3: Major commercial centres should service a market area comprising most or all of the City. These centres may include major offices and hotels, in addition to uses suggested for minor commercial centres. The City should encourage parking facilities in these centres to serve several businesses in order to limit nuisance impact. The City's policy for major commercial centres in all other respects should be identical to Policy 3.1.2.]</p> | <ul style="list-style-type: none"> <li>• In the Peninsula North Secondary Planning Strategy (Section XI of the Halifax MPS), the subject area is designated for Major Commercial land uses and zoned C-2 (General Business). This permits major and minor commercial land uses as well as residential uses.</li> <li>• Although the development is residential, the internal parking will be provided to serve the residential tenants.</li> </ul>  |
| <p><b>2.3.1</b> In order to promote investment in commercial and <u>residential redevelopment</u> and to prevent conflict between new and existing uses, the city may, through the land use by-law, identify areas that provide an <u>opportunity</u> for and will <u>benefit</u> from comprehensive site planning.</p>   | <ul style="list-style-type: none"> <li>• The subject area is currently utilized for mixture of uses that include residential units and, commercial and industrial operations. As the property falls within a residential neighbourhood, there is an opportunity for comprehensive site planning by introducing residential uses that are suitable and compatible with the area.</li> <li>• Schedule ‘Q’ is currently applied to a large area of Peninsula North which is designated Major Commercial. Therefore, the proposal represents a small expansion of the Schedule ‘Q’ area.</li> <li>• The development agreement process can help alleviate potential land use conflicts.</li> </ul> |

|   |  |
|---|--|
| <p><b>2.3.2</b> 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.</p>  | <ul style="list-style-type: none"> <li>• Contingent upon approval of the LUB amendment implemented as Schedule ‘Q’, Council may consider the proposed development agreement.</li> <li>• The proposal is for a residential development that consists of two components, 48 multiple units and 8 townhouse-style units.</li> </ul>   |
| <p><b>2.3.3</b> In considering agreements pursuant to Policy 2.3.2, Council shall consider the following:</p> <p>(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;</p> | <p><u>Relationship of New Development to Adjacent Uses:</u></p> <ul style="list-style-type: none"> <li>• The uses currently present along Isleville Street and Bilby Street are in the form of a mixture of commercial and industrial uses, and various housing types.</li> <li>• The separation distance between the proposed residential building and existing buildings on Isleville Street and Bilby Street is considered acceptable for an urban setting.</li> <li>• The proposed residential building is lower in height than the as-of-right commercial development permitted under the C-2 Zone for commercial uses (Attachment D).</li> </ul> <p><u>Effective Urban Design and Landscape Treatment:</u></p> <p>The overall building design is proposed to:</p> <ul style="list-style-type: none"> <li>• mimic setbacks of existing adjacent buildings from streets;</li> <li>• incorporate high quality materials and landscaping design, which will reinforce the predominant residential nature and character of the neighbourhood; and</li> <li>• use of non-combustible construction materials in order to enhance noise mitigation.</li> </ul> |
| <p>(ii) the appropriate integration of the development into the traditional grid street system of the Peninsula;</p>  | <p>The proposal utilizes the existing frontage on Isleville Street and Bilby Street. The proposed development integrates with the existing street grid.</p>  |
| <p>(iii) the design and layout of the development should encourage vehicular traffic to use Principal Streets and discourage traffic from infiltrating through existing neighbourhoods;</p>   | <ul style="list-style-type: none"> <li>• The proposed development fronts on Isleville Street and Bilby Street and is located between major urban arterial streets, Almon Street, Agricola Street, Young Street and Gottingen Street.</li> <li>• Isleville Street and Bilby Street are considered two-lane local streets that have sidewalks on both sides.</li> </ul>  |

|  |   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• Bibly Street currently has STOP sign controlled intersections with Isleville Street to the west and Gottingen Street to the east</li> <li>• A Traffic Impact Statement (TIS), prepared by the developer's consultant, was reviewed by HRM and deemed acceptable.</li> </ul>  |
| <p>(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;</p> | <p>The proposed development agreement:</p> <ul style="list-style-type: none"> <li>• requires adherence to detailed landscaping requirements and the submission of a detailed landscape plan prepared by a landscape architect;</li> <li>• includes provisions for the street level portion of the residential building, which includes landscaping and controls on signage;</li> <li>• consists of provisions related to landscaped open space, which is in the form of landscaped common roof terrace on the 2nd and 3rd storeys, as well as a roof terrace at the penthouse level accessed for 7th storey residents; and</li> <li>• excludes vehicle lay-by areas off the public street as vehicular access is proposed from from Bilby Street, where side by side driveways lead to an internal grade level parking area and a ramp to a one level of underground parking (total of 60 spaces).</li> </ul> |
| <p>(v) the provision of high quality open space and leisure areas of a size and type adequate for the resident population;</p>   | <ul style="list-style-type: none"> <li>• Open space and leisure areas will consist of private rooftop landscaped areas, indoor amenity space for building tenants and individual private balconies for units in the towers.</li> <li>• The provisions in the agreement ensure the use of high quality materials and landscape design.</li> <li>• Soft landscaping is proposed along Isleville Street and Bilby Street, in addition to planting trees in HRM right-of-way, which will be in consultation with HRM Urban Forester.</li> </ul>   |
| <p>(vi) residential and commercial densities consistent with municipal services;</p>   | <p>The proposed density for the overall site is 144 persons per acre. A sewer capacity analysis, prepared by the developer's consultant, was reviewed by Halifax Water and deemed acceptable.</p>   |
| <p>(vii) encouraging high quality exterior construction materials such as masonry; and</p>   | <p>Proposed exterior materials include various forms of masonry including brick and pre-cast concrete panels and trim, as well as stucco, glass, architectural panels and metal rails.</p>  |

|   |  |
|---|--|
| (viii) other relevant land use considerations which are based on the policy guidance of this Section. | No other matters were identified for consideration under the proposed development agreement. |
|---|--|

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

92     **SCHEDULE "Q"**

In any area shown as Schedule "Q", any use shall be permitted which is permitted by the zoning designation of such area, except that any proposed residential or mixed residential-commercial development over four residential units may proceed only by development agreement pursuant to Policy 2.3.3. of Section XI.

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**C-2 (General Business) Zone**

- 56(1) The following uses shall be permitted in any C-2 Zone:
- (a) R-1, R-2, R-2T, R-2A, R-3, C-1 and C-2A uses;
  - (b) Any business or commercial enterprise except when the operation of the same would cause a nuisance or a hazard to the public and except adult entertainment uses, junk yards and amusement centres;
  - (c) Billboards not to exceed twenty-eight square meters (28 m<sup>2</sup>) in area and not to extend more than eight meters (8 m) above the mean grade on which it is situated.
  - (d) Uses accessory to any of the foregoing uses.
- 56(2) No person shall in any C-2 Zone, carry out, cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 56(3) No person shall in any C-2 Zone, use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

**REQUIREMENTS**

- 57(1) No front, side or rear yards are required for C-2 uses in C-2 Zones.
- 57(2) (Deleted)
- 58 The height of a building in a C-2 Zone shall not exceed a height of eighty (80) feet, but for each foot that the building or that portion of the building which would exceed eighty (80) feet in height is set back from the property line, two (2) feet may be added to the height of the building.

**R-1, R-2, R-3, C-1, R-2T AND C-2A USES IN C-2 ZONE**

- 58A(1) Buildings erected, altered or used for R-1, R-2, R-2T, R-2A, R-3, C-1 and C-2A uses in a C-2 Zone shall comply with the requirements of their respective zones.
- 58A(2) (Deleted)
- 58A(3) (Deleted)

**CENTRAL BUSINESS DISTRICT**

58B(1) Deleted (**RC-June 16/09;E-Oct 24/09**)

58B(2) Deleted (**RC-June 16/09;E-Oct 24/09**)

PENINSULA NORTH - AREA 8:

58C(1) Notwithstanding Sections 6, 8 and 58A(1), buildings erected, altered, or used for R-1, R-2, R-2A, R-2T, R-3, RC-3, C-1, C-2A uses in the C-2 zone of the “**Peninsula North Area (Area 8)**” shall comply with the requirements of the C-2 zone.

58C(2) In the **Peninsula North Area - (Area 8)**, all buildings constructed for commercial or industrial purposes, shall be required to provide direct access to pedestrians from Gottingen Street into the building, which is not more than two feet above grade; for the purposes of this section, grade shall be defined as being the elevation of the ground at any one point along the official street line of Gottingen Street abutting such lot.

58C(3) In the **Peninsula North Area - (Area 8)**, the maximum setback for the first storey of:

- 1) buildings constructed for commercial or industrial uses, or
- 2) additions to buildings used for commercial or industrial uses, shall be 2 feet from the official street line of Gottingen Street.

58C(4) In the **Peninsula North Area - (Area 8)**, buildings of over 50 feet width measured parallel to Gottingen Street shall have the appearance of two or more buildings by altering the appearance of the facade and/or roof in increments no greater than 50 feet. In addition, one third of the surface area of the face of the ground floor of the building shall be comprised of windows.

58C(5) In the **Peninsula North Area - (Area 8)** the following applies:

- 1) for buildings constructed for minor commercial purposes which are on a lot greater than 20,000 square feet in area, parking shall be provided at a rate of 1 space for every 1000 square feet of gross commercial area.
- 2) for additions to existing buildings used for minor commercial purposes that are 50 percent or more of the gross commercial floor area of the existing building, are on a lot greater than 20,000 square feet in area, parking shall be provided at a rate of 1 space for every 1000 square feet of gross commercial floor area of the addition.

58C(6) In the **Peninsula North Area - (Area 8)**, all parking areas shall comply with the following requirements:

- (i) Where commercial or industrial parking abuts a residential zone, an opaque fence a minimum of five feet shall be erected to visually screen abutting properties.
- (ii) Parking areas abutting a street shall be set back a minimum of 5 feet from any street line; the setback area shall be landscaped with natural ground cover to reach a height of no

more than 2 feet upon maturity, or other materials, along that part of the street not required for any parking pedestrian entrance.

- (iii) Parking shall be constructed with a stable surface such as asphalt or concrete.
- (iv) Lighting for parking area shall be directed away from any adjacent residential properties and from the street.



**ATTACHMENT E:**  
**Public Information Meeting Minutes**

**7:00 p.m.**  
**Wednesday, March 7, 2012**  
**Highland Park Junior High**

**IN ATTENDANCE:** Paul Sampson, Planner, HRM Planning Services  
Shanan Pictou, Planning Technician, HRM Planning Services  
Sharlene Seaman, Planning Controller, HRM Planning Services  
Nathan Rogers, Consultant, GENIVAR  
Councillor Jerry Blumenthal

**PUBLIC IN ATTENDANCE:** Approximately 20

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The meeting commenced at approximately 7:00 p.m.

**1. Opening remarks/Introductions/Purpose of meeting - Paul Sampson**

Paul Sampson opened the meeting by introducing himself as a Planner for the Western Region of Halifax Regional Municipality (HRM). He introduced the applicant, HRM staff and the Councillor present. He welcomed everyone and thanked them for coming.

Mr. Sampson gave the agenda for the meeting and reviewed the ground rules.

**2. Overview of planning process/Presentation of Proposal - Paul Sampson**

Mr. Sampson stated that HRM Planning Department had received an application by GENIVAR, for the lands of PFK Properties Limited, to amend the Halifax Peninsula Land Use By-law by applying Schedule 'Q' to 5534-5558 Bilby Street and 2819-2827 Isleville Street, Halifax, which would allow for the consideration of a 56-unit multiple unit residential building by development agreement.

He stated that the purpose of the meeting was to inform the public of the application, to give understanding of HRM's process and to receive comments and questions from the public. There will be no decisions made at the meeting. He provided his contact information.

Mr. Sampson noted that the site was within a Major Commercial area in Peninsula North, within the Halifax Municipal Planning Strategy. There is a process, by which developers can apply, for a Land Use By-law amendment and development agreement process. The property is zoned General Business. That allows a variety of commercial uses as well residential uses. The zoning does allow for buildings of a substantial size.

He stated that the process allows HRM staff and the public to give input as to what is placed in the development agreement. The plan encourages development that is compatible with the area, preventing any land use conflicts between the existing and the proposed. He encouraged input on this topic. The process allows the ability to have a higher density than what could happen through an as-of-right permit process. The developer can go directly to HRM Development Services and apply for a building and construction permit. This would mean that public and HRM staff input would not be necessary, other than the review of the permits applied for.

Mr. Sampson stated that Council would be looking at things such as the design and mass of the building, landscaping, traffic, site access, etc. He noted that a development agreement is a written agreement between the developer and HRM. It is a legal document that gets filed with the Registry of Deeds. It is enforceable by the Municipality.

He stated that after the Public Information Meeting, staff will give a detailed review of the application, prepare a report to Community Council. Next will be a Public Hearing where a decision will be made to accept or reject the proposal.

Mr. Sampson turned the floor over to Nathan Rogers from GENIVAR to give his presentation of their proposal.

### **3. Presentation of Proposal – Nathan Rogers**

Nathan Rogers introduced himself as a Planner with GENIVAR. He stated that his job is to represent his client, PFK Properties Limited. The property was purchased less than one year ago. He welcomed thoughts from the community as he felt it to be very important. He noted that he is not from the area but visits it regularly. He also noted that the architect working on the project is Michael Napier.

He showed the site, stating that it is an existing multi-use site. It currently has nine apartment units, a dance studio, a salon, a cycle shop and a cabinet operation, at one time or another. He showed the site plan. The property fronts on Isleville and Bilby Streets. The proposal uses 100 percent of the lot. This is an important consideration when designing urban streets. This will help create a comfortable feel. Recent studies recommend that continuous frontage is important.

He stated that the total number of units for the project is 56. There are 8 townhouse units, with a 48 unit tower in the back. There is an underground parking entrance and parking at grade. He showed different elevations and layout from multiple views.

He stated that the building is designed to reduce noise impact and add to the streetscape. There is landscaping proposed, in terms of the building itself. The proposal will bring back street trees to the area. It is important to note the public investment in this public space within a private development. This will be included in the development agreement and will move on with any new owners. There is a range of building heights in the neighbourhood. He showed existing 7-storey buildings in the area. They are proposing to landscape a portion of the sidewalk as well, which will help out with the pedestrian experience at ground level.

Mr. Sampson gave the ground rules and opened the floor for questions and comments.

## 5. Questions/Comments

**Ken Edwards**, Halifax, asked the size of the townhouses and the amount of units.

Mr. Rogers stated that they are 1,250 square feet and there will be 8 units. There is consideration for the development agreement to include opportunity for small business.

**Lois Randall**, Halifax, Asked what the height of the building is.

Mr. Rogers advised that the building is proposed at seven storeys, which is 70 feet in total.

Ms. Randall asked if the height could change between now and when it goes to Council.

Mr. Rogers advised that the proposal is not to go higher. He understands, from the architect, that seven stories is an optimal height for economical design. Going higher would pose an additional cost.

Ms. Randall asked why the area is referenced as Major Commercial when it is an R-1 neighbourhood.

Mr. Sampson advised that the site is within a Major Commercial Designation , in reference to the plan area. He referred her to the fact sheet and explained the plan area.

Ms. Randall noted that the existing building is not attractive but she is feeling a little anxious about all of the development in the area. The traffic studies all note that there is no impact. She asked when the increase in development will impact traffic. She has been there since 1994 and there has been an impact on traffic in the area. She feels threatened and stated that it is not fun to have to keep coming to these meetings concerning more developments.

Mr. Sampson showed the Major Commercial area and gave clarification on the zoning in the area. He explained that some of the development in the area is as-of-right and have no public consultation. The developers of this property are not going in that direction. They want the public feedback.

**Eszter Horvath**, Halifax, asked about the current zoning, construction timelines and the timelines for the current tenants to vacate the building.

Mr. Rogers stated that the development agreement process will take about a year, in his experience. The lease expires in 2013 and the tenants will be given notices according to their agreements. He stated that he is not sure about the commercial leases. That will be looked at after the public consultation. It will be planned out in advance of the development. People will be provided proper notice. He noted that the construction timeline will about 8-12 months.

Ms. Horvath asked if there would be any commercial space available.

Mr. Rogers stated that they thought about having commercial space at the corner lot. He is not sure as a commercial use does not make sense in this context. Commercial operation at the corner will require grading and a higher podium for the townhouses. There is a market for

residential but the neighborhood does not necessarily need another coffee shop. The existing business covers that.

Ms. Horvath stated that she would like to see commercial spaces. She is the owner for the dance studio and thinks the commercial would complement the residential.

Mr. Sampson stated that the zoning does not require that use but those uses are allowed. He noted that construction timelines could also be written in the development agreement.

**Dan Sanford**, Halifax, asked when the project would start, if approved. He asked if the project would be rental units or condos.

Mr. Rogers stated that if the development agreement is approved, there will be a waiting period for tenants' leases to expire. After that, he is under the impression that the developers want to start construction immediately. He advised that the units are proposed as condos.

Mr. Sanford asked if the current street level parking would go underneath the building. He wanted to know why they were not looking into placing trees on Bilby Street.

Mr. Rogers stated that the parking would be underground. Regarding the trees, the right-of-way on Islevile Street is wider but placing trees on Bilby Street is something they could look into.

Unknown speaker stated that he has lived in the area since 1990. He likes the building but feels the density is too high, the building is too high and the footprint is too large. He suggested shrinking the building. He feels that 42 units and 7 townhouses would mean more privacy to the tenants and more space for visitor parking. He asked what the density is currently in the neighbourhood.

Mr. Rogers stated that he was uncertain of the number. It is calculated by HRM.

**Jennifer Beamer**, Halifax, stated that she liked the design but feels that 7 stories are too high for the area. This is a neighbourhood street. She feels that it is too tall for the neighbourhood but likes the building. She noticed that the traffic has increased in the past 3 years and cars speed in the area. There are 11 children in the area that are under age 8. She would like to see speed bumps installed on Bilby as she feels that this would control traffic.

Mr. Sampson stated that they cannot put that in the development agreement as that decision would have to be made by the Department of Transportation.

**Harry Ward**, Halifax, feels that traffic is horrendous in the area. There is at least one accident a week at that location. He feels that the building is too high for the neighbourhood. He would like to see the development happen but would like to see it fit into the neighbourhood.

**Creighton Barrett, Halifax**, asked who calculates the number of trips per day.

Mr. Rogers stated that it is calculated by traffic engineers that review standards produced by TIR (NS Department of Transportation and Infrastructure Renewal). There is set trip data that is used for a multiuse residential versus a single unit dwelling. This number is produced and analyzed.

Mr. Barrett advised that traffic is busy in the area.

Mr. Rogers agrees as he travels that route often. The busy times are isolated and traffic disperses. He advised that the driveway access that allows vehicles to turn left or right. Traffic engineers understand that there is a low impact on the local streets but they also look at the regional network.

Mr. Barrett believes that the building is too big for the low rise neighbourhood. He would like to see a mixed use building. The structure currently seems to stick out from the future planning strategy. He would like to see it redesigned.

Mr. Rogers reiterated on the designation and the Municipal Planning Strategy. It is designated Major Commercial. When the plan was written, it was thought that the entire area would be Major Commercial, meaning commercial uses that would serve the city of Halifax. That was the vision. The area never became what the city envisioned. That is why they decided to put residential there. He feels that the Municipal Planning Strategy is outdated and HRM is trying to bring it back up to speed.

Mr. Sampson touched on the fact that the townhouses could potentially have small home-based businesses within.

Lois Randall stated that there was limited parking for clients of small business owners. She is opposed to this the commercial aspect.

Eszter Horvath stated that this would limit the kind of businesses that could go in the homes.

## **6. Closing comments**

Mr. Sampson thanked everyone for coming and provided his contact information.

## **7. Adjournment**

The meeting adjourned at approximately 8:00 p.m.