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Item No. 13.1.5
Halifax and West Community Council
October 9, 2018

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

-Original Signed-

SUBMITTED BY:

Kelly Denty, Director, Planning and Development

-Original Signed-

Jacques Dubé, Chief Administrative Officer

DATE: September 14, 2018

SUBJECT: **Case 20148: Development Agreement for a 14-storey building on lands fronting Robie, Pepperell and Shirley Streets, Halifax**

SUPPLEMENTARY REPORT

ORIGIN

- Application by Dixel Developments Limited
- August 1, 2017, Halifax Regional Council initiated the MPS amendment process
- July 31, 2018, Halifax Regional Council approved amendments to the Municipal Planning Strategy for Halifax (MPS) and the Land Use By-law for Halifax Peninsula (LUB)
- September 15, 2018, coming into effect of MPS and LUB amendments

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A, to allow a 14-storey building (plus penthouse) at 6030 Pepperell Street, Halifax; and
2. Require that the proposed development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable

appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND / DISCUSSION

On July 31, 2018, Regional Council and Halifax and West Community Council held a joint public hearing to consider:

- amendments to the Municipal Planning Strategy for Halifax (MPS);
- amendments to the Land Use By-law for Halifax Peninsula (LUB); and
- a development agreement to permit a 14-storey (plus penthouse) residential and commercial building at 6030 Pepperell Street, Halifax.

Following the public hearing, Regional Council approved the proposed MPS and LUB amendments. These amendments allow for a 14-storey (plus penthouse) residential and commercial building to be considered by development agreement at 6030 Pepperell Street, Halifax. For more information, please see the July 31, 2018 staff report at the following link: <https://www.halifax.ca/sites/default/files/documents/city-hall/regional-council/180731rc113.pdf>

The proposed development agreement addresses the following:

Land Uses: The proposed development agreement allows a mix of commercial, institutional, community and multi-unit residential uses. It allows restaurants and licensed establishments, excluding cabarets and lounges. Banks and office uses are limited to 4,000 square metres (43,056 square feet).

Building Height and Built Form:

- Maximum height is limited to 14-storeys (46.5 metres or 153 feet), plus a penthouse, at the corner of Robie and Pepperell Streets;
- Maximum height along the balance of Robie Street is limited to 7-storeys;
- Maximum height on the balance of Shirley Street is limited to between 4 and 5-storeys;
- Maximum height on Pepperell Street is limited to 3-storeys, except for a 7-storey portion; and
- Maximum streetwall heights of between 3 and 5-storeys are permitted;

Building Setbacks:

- Minimum streetwall setbacks are between 0.75 metres and 1.5 metres;
- Minimum side yards are 3 metres next to established residential areas;
- Minimum rear yards are 6 metres next to established residential areas; and
- Building walls must have a minimum horizontal step-back above the streetwall of between 2 and 3 metres.

Unit Mix: The proposed development agreement requires at least one third of residential units to have 2 or more bedrooms.

The proposed development agreement also includes requirements for:

- Landscaping and landscaped buffers
- Amenity space
- External appearance
- Streetwall articulation and streetwall design; and
- Parking

As noted in the July 31, 2018 staff report, Halifax and West Community Council could not decide on the proposed development agreement until the MPS and LUB amendments became effective. As the MPS and

LUB amendments became effective on September 15, 2018, Community Council is now able to consider the proposed development agreement as contained in Attachment A of this report.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the alternative public participation program approved by Regional Council on August 1, 2017 for this application. The approved public participation program included a neighbourhood questionnaire sent to surrounding property owners, a specific web page on the Municipal website, and signs posted on the subject property. Regional Council and Halifax and West Community Council held a joint public hearing held on July 31, 2018.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of this development agreement. The administration of the development agreement can be carried out within the approved 2018-2019 budget 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 reasonably consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed Development Agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the amending development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A Proposed Development Agreement

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

Report Prepared by: Sean Gillis, Planner II, 902.490.6357

-Original Signed-

Report Approved by:

Kate Greene, Policy & Strategic Initiatives Program Manager, 902.225.6217

-Original Signed-

Report Approved by:

Eric Lucic, Manager, Regional Planning, 902.430.3954

ATTACHMENT A:

Proposed Development Agreement

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

BETWEEN:

[Insert Name of Corporate/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 on Robie Street, Pepperell Street, and Shirley Street, 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 mixed-use, high density residential development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Section XVI, Policy 3.2.1 of the Municipal Planning Strategy for Halifax and Subsection 95(7) of the Land Use By-law for Halifax Peninsula;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 20148;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

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

1.3 Applicability of Other By-laws, Statutes and Regulations

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

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

1.6 Provisions Severable

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

1.7 Lands

- 1.7.1 The developer hereby represents and warrants to the Municipality that the Developer is the owner of the Lands and that all owners of the Lands have entered into this Agreement.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

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

2.2 Definitions Specific to this Agreement

- 2.2.1 The following words used in this Agreement shall be defined as follows:
- a) "Commercial parking" means a parking structure, or any portion thereof, where parking spaces can be leased by the public;
 - b) "Height" as pertaining to any building, means, the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building;
 - c) "Parapet" means a barrier which is an extension of the wall at the edge of a roof or at the edge of the streetwall;
 - d) "Streetwall" means the wall of a building or portion of a wall facing a streetline that is below the height of a specified stepback or angular plane, excluding minor recesses for elements such as doorways or intrusions such as bay windows;
 - e) "Streetwall Height" means the vertical distance between the top of the streetwall, excluding parapets, and the streetline grade, extending across the width of the streetwall;
 - f) "Streetwall setback" means the distance between the streetwall and the streetline;
 - g) "Stepback" means a specified horizontal recess from the top of a streetwall, which shall be unobstructed from the streetwall to the sky except as otherwise specified;
 - h) "Streeline" means the lot line between the street and an abutting lot;
 - i) "Streetline Grade" means the elevation of a streetline at a point that is perpendicular to the horizontal midpoint of the streetwall. Separate streetline grades shall be determined for each streetwall segment that is greater than 20 metres in width or part thereof; and
 - j) "Work-live unit" means buildings or spaces within buildings that are used jointly for commercial and residential purposes, where the residential use of the space is equal to or accessory to the primary use as a place of work.

PART 3: USE OF LANDS AND DEVELOPMENT PROVISIONS

3.1 Schedules

- 3.1.1 Unless otherwise provided for in the text of this Agreement, the Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules, which form a part of this Agreement and are attached to this Agreement **and filed in the Halifax Regional Municipality as Case Number 20148:**

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan
Schedule C	Height and Streetwall Framework

3.2 Requirements Prior to Approval

- 3.2.1 Prior to the commencement of any site work on the Lands, the Developer shall provide the following to the Development Officer:
- a) a detailed Site Disturbance Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement;
 - b) a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement; and
 - c) a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement.
- 3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- a) a Landscape Plan prepared by a Landscape Architect in accordance with Subsection 3.5.17 of this Agreement.
- 3.2.3 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer, subject to Subsection 3.5.19:
- a) Written confirmation from a Landscape Architect which the Development Officer may accept as sufficient record of compliance with the landscaping requirements of this Agreement.
- 3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
- a) apartment house (multi-unit residential)
 - b) restaurants and licensed alcohol establishments, excluding cabarets and lounges
 - c) banks and office uses, up to 4,000 square metres
 - d) work-live units
 - e) retail uses and pharmacies
 - f) commercial recreation uses
 - g) personal and professional services
 - h) daycares
 - i) institutional uses
 - j) medical clinics and medical offices
 - k) cultural uses
 - l) commercial parking
 - m) any use accessory to any of the foregoing uses

3.3.2 At least one third of the total number of dwelling units in an apartment house, rounded up to the nearest full number, shall include two or more bedrooms.

Work-Live Units

3.3.3 The commercial portion of a work-live unit shall be located and accessible at the ground floor, and shall have a separate exterior entrance.

3.4 Siting and Architectural Requirements

3.4.1 The building shall be generally sited as shown on Schedule B, and include additional detailing as identified in Section 3.4 of this Agreement.

3.4.2 Subject to Subsection 3.4.3, no building will be constructed or altered so that it exceeds the maximum height framework as shown on Schedule C, Height and Streetwall Framework.

3.4.3 Elevator enclosures, mechanical penthouses and habitable penthouses shall be setback from the rooflines facing streetlines a minimum of 5 metres (16.4 feet) and shall be limited to 5 metres (16.4 feet) above the building height. Elevator enclosures and penthouses shall be limited to a maximum of 40 percent of the roof area. Habitable penthouses shall be limited to 2 units or less.

3.4.4 The building's exterior design shall be developed substantially in conformance with Schedule D of this Agreement. The Development Officer may permit minor changes to building elements shown on Schedule D, provided the height and size of the building do not increase and the intent of this Agreement is maintained.

Streetwall Setbacks

3.4.5 Subject to Subsection 3.4.6, the streetwall shall be setback from the streetline a minimum of 1.5 metres and a maximum of 3 metres. Up to 20 percent of the streetwall may be setback more than 3 metres from the streetline.

3.4.6 The streetwall facing Robie Street shall be setback at least 0.75 metres.

Sideyard Setbacks

3.4.7 Subject to Subsection 3.4.8, side yard setbacks are as follows:

Abutting Zone	Minimum	Maximum
Properties used or zoned for residential	3 m	10% of lot width
All other zones	0 m	10% of lot width

3.4.8 Above the 4th storey, the building shall be setback at least 6 metres as measured from the property line of any abutting properties used or zoned for residential.

Rear Yard Setbacks

3.4.9 Subject to Subsection 3.4.10, rear yard setbacks are as follows:

Abutting Zone	Minimum
Properties used or zoned for residential	6 m
All other zones	3 m

3.4.10 Subject to Subsections 3.5.22 and 3.5.23, an enclosed parking structure that is above grade shall be setback at least 1.5 metres from properties zoned or used for residential.

Maximum Streetwall Height

3.4.11 Subject to Subsections 3.4.12, 3.4.13, and 3.4.14, the maximum streetwall height shall conform with the streetwall heights as shown on Schedule C, Height and Streetwall Framework.

3.4.12 Up to 20 percent of the streetwall may exceed the maximum streetwall height.

3.4.13 The maximum streetwall height may be exceeded by a glass guard and railing system to allow for the safe use of podiums and rooftops.

3.4.14 The maximum streetwall height may be exceeded by a parapet, no higher than 1.25 metres in height.

Streetwall Design

3.4.15 The ground floor shall have a minimum floor to ceiling height of 3.5 metres.

3.4.16 If a building's streetwall width exceeds 15.0 meters, the streetwall must incorporate distinct changes in articulation, in increments of 5–10 metres, while still respecting relevant height and setback requirements. Changes in articulation may include:

- a) changes to streetwall heights;
- b) changes to setbacks and front yards;
- c) use of different façade materials;
- d) recesses, projections or recessed balconies; and
- e) building entrances.

Building Stepbacks

3.4.17 Subject to Subsection 3.4.18, above the streetwall, the building shall have a horizontal stepback of at least 3 metres from the edge of the streetwall.

3.4.18 Above the streetwall, building walls facing Robie Street must have a horizontal stepback of at least 2 metres from the edge of the streetwall.

At-grade Residential

3.4.19 At-grade residential units that have exterior entrances fronting on a public street shall be designed as follows:

- a) the ground floor will be set above the sidewalk grade;
- b) the entrance will open directly onto an individual porch, patio or stoop, which is connected directly to the sidewalk by a stairway or ramp; and
- c) a wall, planter or fence of up to 1.25 metres in height may be placed between the sidewalk and the porch, stoop or patio. Above 1.25 metres, a glass railing may be used if needed.

External Building Appearance

3.4.20 All cladding materials shall be durable and have an architectural finish.

3.4.21 The following cladding materials are prohibited:

- a) vinyl siding;
- b) plywood;

- c) unfinished concrete block or cinder block;
- d) exterior insulation and finish systems where stucco is applied to rigid insulation; and
- e) darkly tinted or mirrored glass (not including spandrel panels)

3.4.22 Utility connections, fill pipes, exhaust vents, and ventilators shall be screened.

3.4.23 Mechanical and electrical systems (HVAC, exhaust fans, generators etc.) shall be screened. Furthermore, no mechanical equipment, electrical equipment or exhaust fans shall be located between the building and abutting properties used or zoned for residential, unless screened, and noise reduction measures are implemented.

3.5 General Requirements

Permitted Encroachments Into Yards and Stepbacks

3.5.1 The following structures are permitted encroachments into any required yard:

- a) Wheelchair ramps, uncovered patios, walkways, lifting devices, and steps; and
- b) Eaves, gutters, downspouts, cornices, and other similar features may project up to 0.9 metres from the building face;

3.5.2 The following structures are permitted encroachments into any required yard, except for the front yard facing Robie Street:

- a) Window bays and solar collectors up to 0.9 metres from the building face;
- b) Balconies, porches, verandas, and sundecks; and
- c) Mechanical and electrical systems may project up to 0.9 metres from the building face, subject to Subsection 3.4.23.

3.5.3 Encroachments listed in Subsection 3.5.2 are not permitted in the front yard facing Robie Street.

3.5.4 Enclosed parking structures may project into a required front yard facing Pepperell Street, if:

- a) the parking structure meets the landscaping requirements in Subsections 3.5.13 and 3.5.14;
- b) the parking structure is covered by a porch or deck leading from the sidewalk to an at-grade residential unit; and
- c) the parking structure meets the requirements of Subsections 3.5.22 and 3.5.23.

3.5.5 Building stepbacks above the streetwall must be open and unobstructed except for eaves, gutters, downspouts, cornices, and other similar features.

3.5.6 Building stepbacks above the streetwall must be open and unobstructed except for balconies, if:

- a) the total horizontal width of the balconies on any one storey is not more than 40 percent of the width of the building wall; and
- b) balcony depth does not project more than 2 metres past the building face.

Screening of Waste Management Containers

3.5.7 If refuse of any kind is stored outside, it must be stored in waste management containers.

3.5.8 Waste management containers stored outside shall:

- a) only be in a side or rear yard;
- b) must be screened by an opaque fence at least 1.8 metres tall; and
- c) must not be located any closer than 3 metres to a property line abutting a property zoned or used for residential uses.

Parking

3.5.9 Surface parking lots are prohibited.

3.5.10 Commercial parking is permitted.

3.5.11 The development shall provide one separately accessible parking space, at least 2.4 metres wide and 4.8 metres long, for each:

- a) four bachelor units or fraction thereof contained in an apartment house;
- b) three one-bedroom units contained in an apartment house; and
- c) other dwelling unit contained in an apartment house.

Bicycle Parking

3.5.12 The development shall comply with the bicycle parking provisions of the applicable Land Use By-law, as amended from time to time.

Landscaping

3.5.13 Subject to Subsection 3.5.14, all required yards and all areas on top of an enclosed parking structure must be landscaped as follows:

- a) landscaped areas shall include soft landscaping materials, such as grasses or plantings; and
- b) landscaped areas to be used for outdoor amenity space or walkways may include hard landscaping materials such as pavers, tile or wood.

3.5.14 Areas required for vehicle and pedestrian access do not need to be landscaped.

Landscaped Buffer

3.5.15 Where the development abuts a property zoned or used for residential, it must contain a landscape buffer next to that use, which must contain:

- a) an opaque fence or masonry wall at least 1.8 metres high; and
- b) at least one tree (with a minimum base caliper of 50 millimetres) for every 4 linear metres of buffer.

3.5.16 Trees in a landscaped buffer may be grouped or unevenly spaced.

3.5.17 Prior to the issuance of a Development Permit, the Developer agrees to provide Landscape Plan which complies with the landscaping provisions of this Agreement. 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.

3.5.18 Prior to issuance of the first Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Agreement.

3.5.19 Notwithstanding Subsection 3.5.18, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

Amenity Space

3.5.20 Apartment house buildings shall provide amenity space at a rate of 5 square metres per residential unit. Amenity space may be provided in the form of unit patios, unit balconies or terraces, rooftop balconies or terraces, and shall include interior amenity space. Interior amenity space shall include one of the following common elements:

- a) fitness room of a minimum size of 40 square metres; or
- b) community room of a minimum size of 40 square metres.

Signs

3.5.21 Any persons carrying on a use permitted in this Agreement may place upon and parallel to the front of the building signage that complies with the following:

- a) where signs are illuminated, they shall be illuminated in such a manner not to cause a glare or hazard to motorists, pedestrians or neighbouring premises;
- b) fascia signs shall not extend beyond the extremities of a wall on which they are affixed;
- c) maximum combined size of fascia signs on the wall of a building shall be no greater than 10 percent of the total area of said wall;
- d) aggregate area of all window signs shall not exceed 25 percent of the window, or glass area of a door, to which they are affixed;
- e) signs on awnings shall not cover more than 25 percent of the area of the awning, and the length of the text shall not exceed 80 percent of the length of the front valance; and
- f) no signs shall be permitted on the roof of a building.

Parking Structures and Foundations

3.5.22 Subject to Subsection 3.5.23, an exposed concrete foundation wall or enclosed parking structure, which faces a public street or faces a property used or zoned for residential, shall not exceed 0.6 metres in height.

3.5.23 Foundations or enclosed parking structures that are taller than 0.6 metres, shall be clad or architecturally detailed in a manner that compliments the exterior design and materials of the main building.

3.6 Additional Requirements

3.6.1 Lighting shall be directed to driveways, parking areas, loading areas, building entrances and walkways and shall be arranged to divert the light away from streets, adjacent lots and buildings. Accent lighting of building elements is permitted.

3.6.2 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 buildings, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

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

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

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

4.2 Off Site Disturbance

4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plan

Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:

- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The

- Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and
- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.

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

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council.
 - (a) The granting of an extension to the date of commencement of construction as identified in Subsection 7.3.1 of this Agreement;
 - (b) The length of time for the completion of the development as identified in Subsection 7.5.1 of this Agreement.

6.2 Substantive Amendments

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

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

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

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within 6 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Building Permit.

7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1(a), if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4 Completion of Development

7.4.1 Upon the completion of the whole development or completion of 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 applicable Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

7.5 Discharge of Agreement

7.5.1 If the Developer fails to complete the development after 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 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

8.2 Failure to Comply

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

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

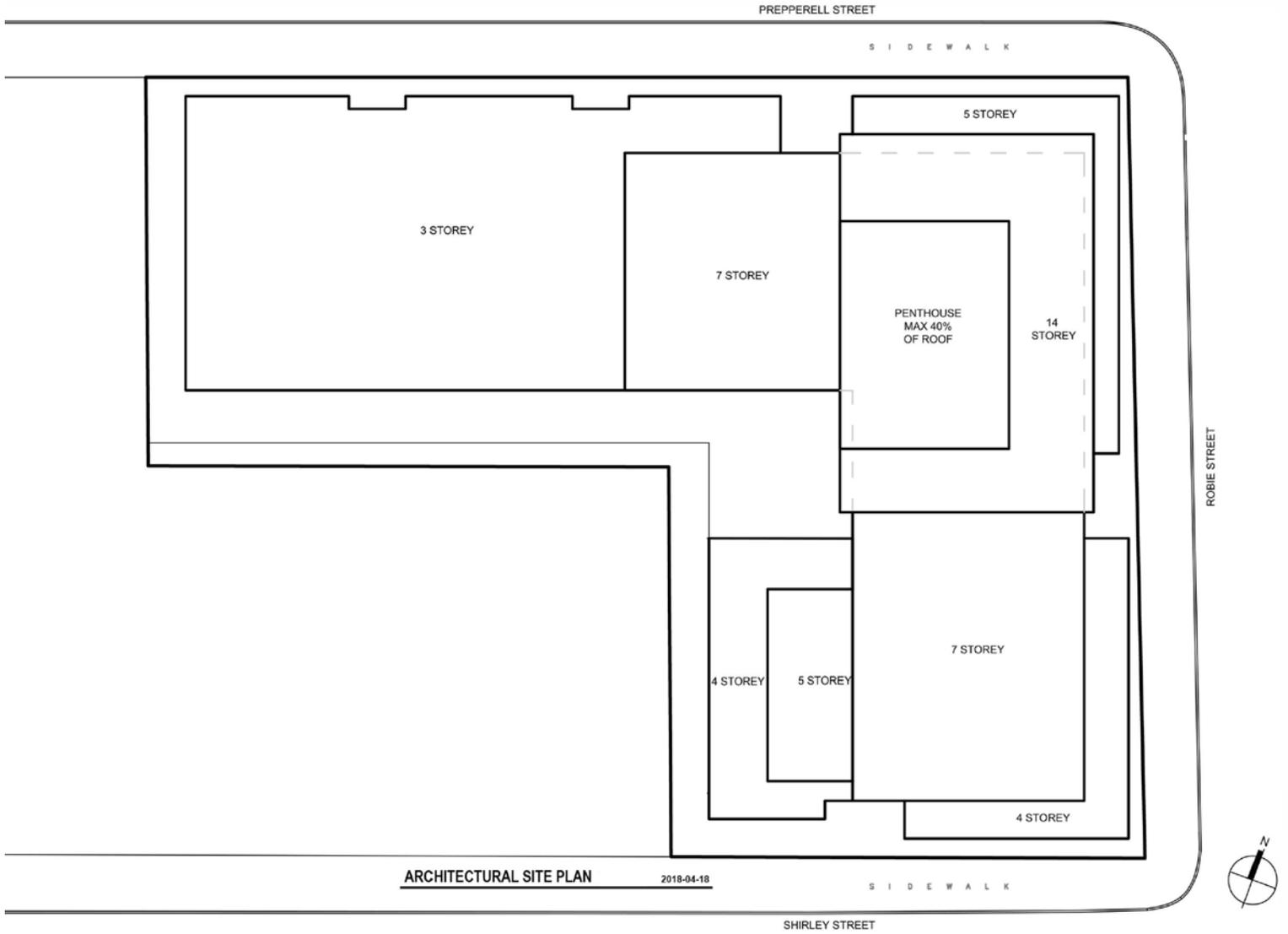
A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

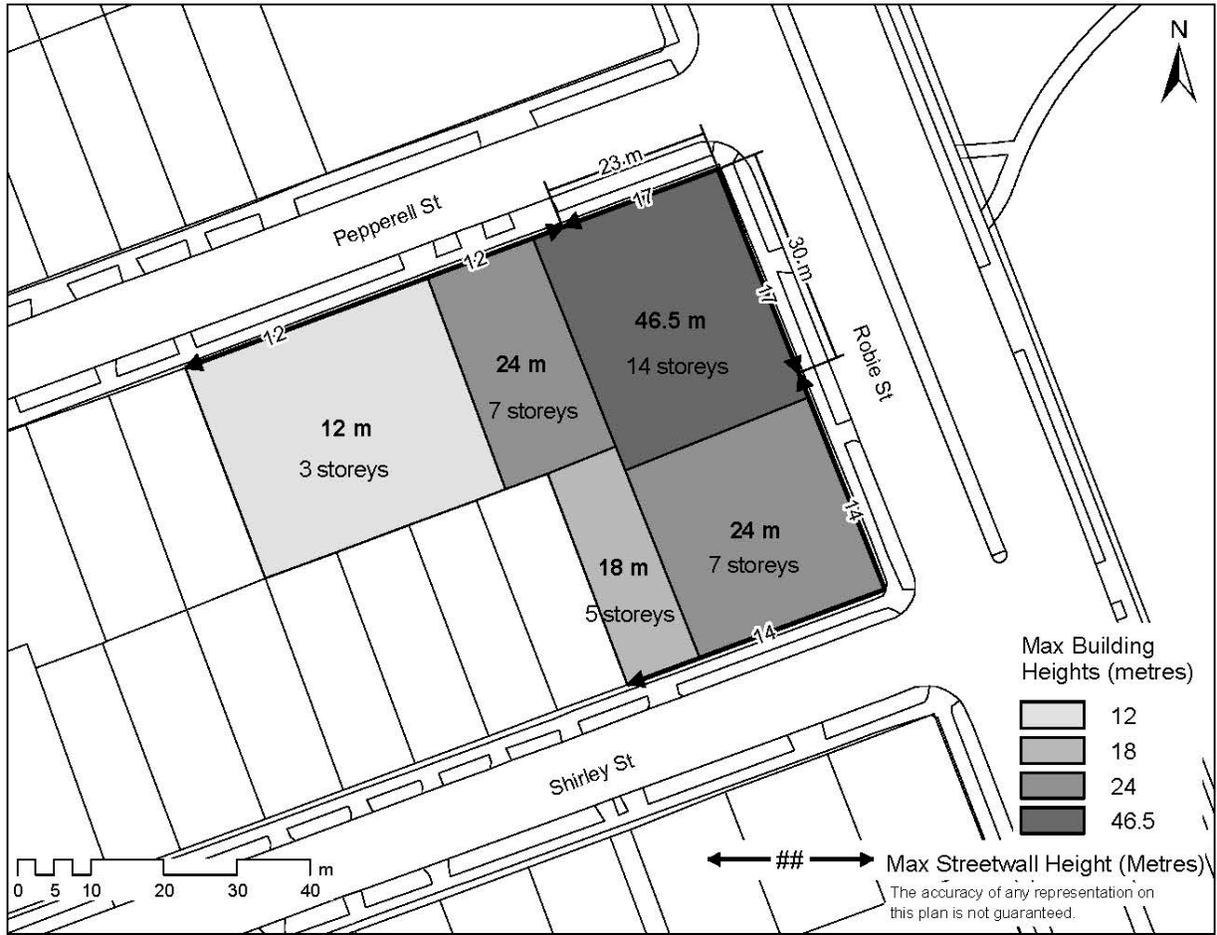
On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Cathy Mellett, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

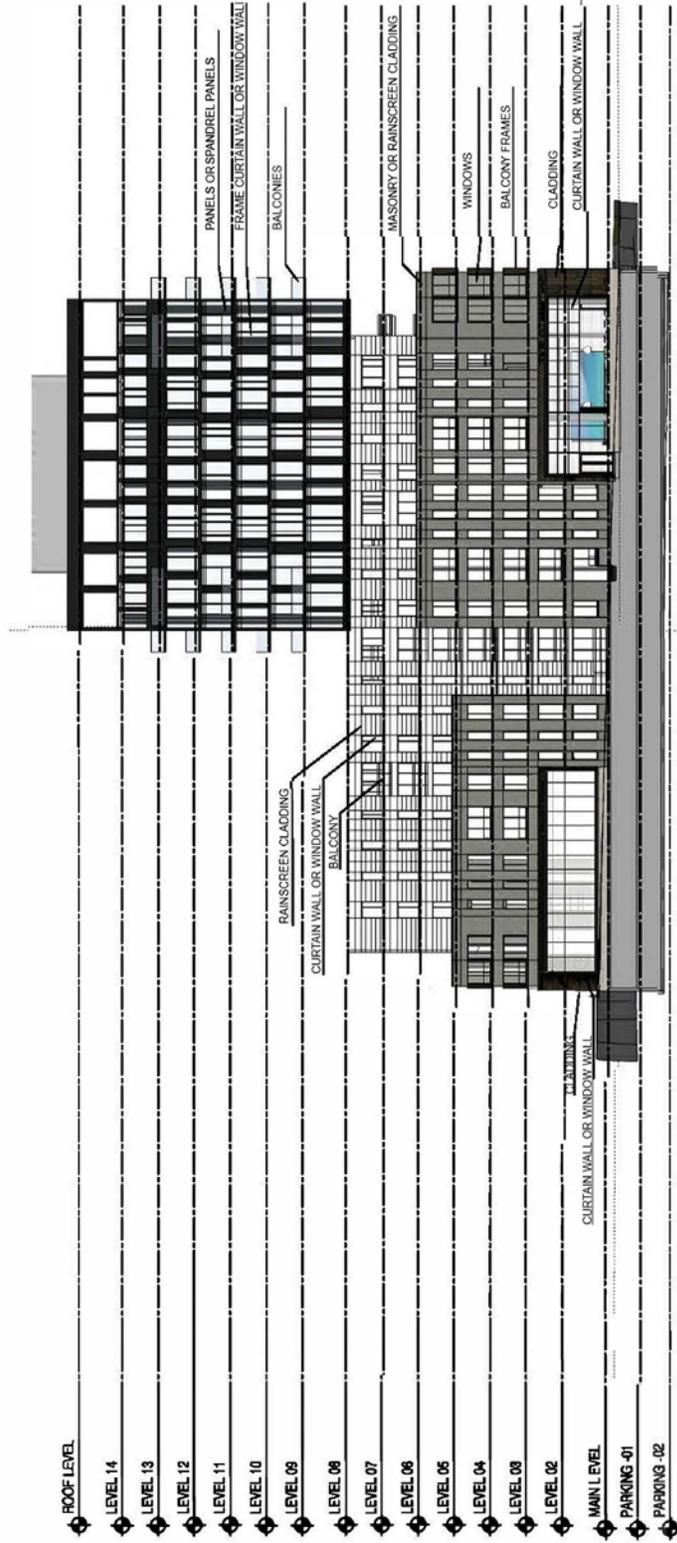
Schedule B – Site Plan



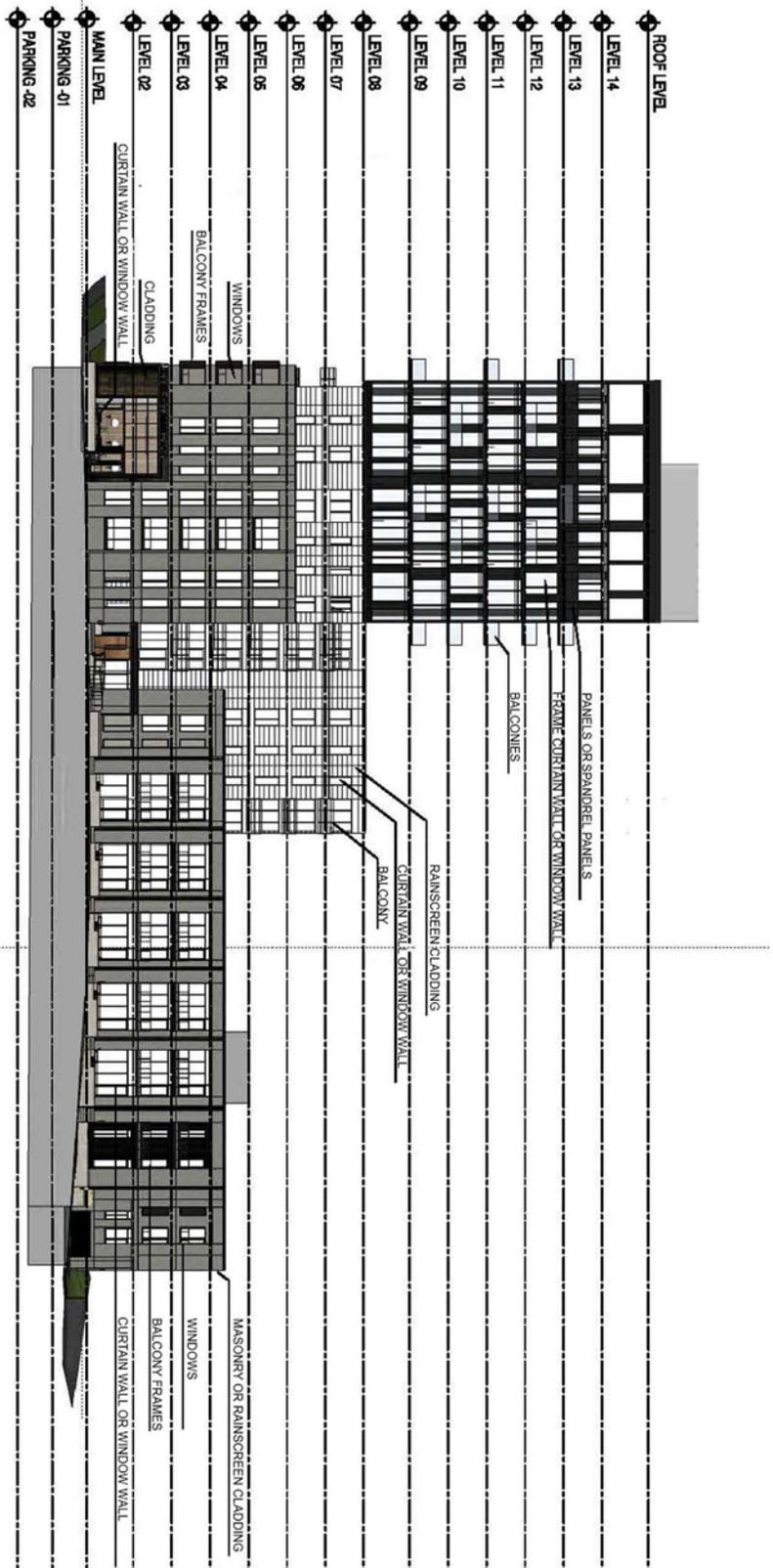
Schedule C – Height and Streetwall Framework



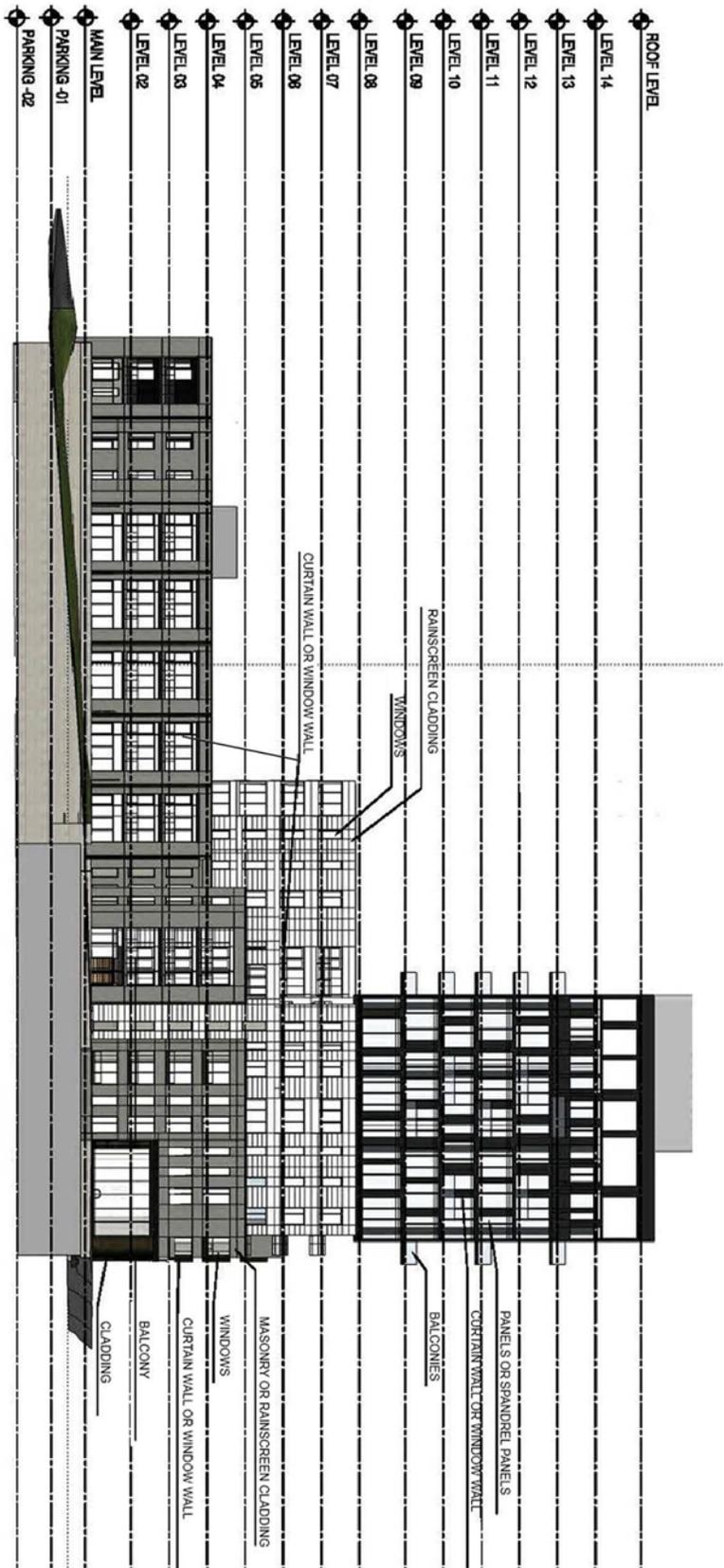
Schedule D – Building Elevations



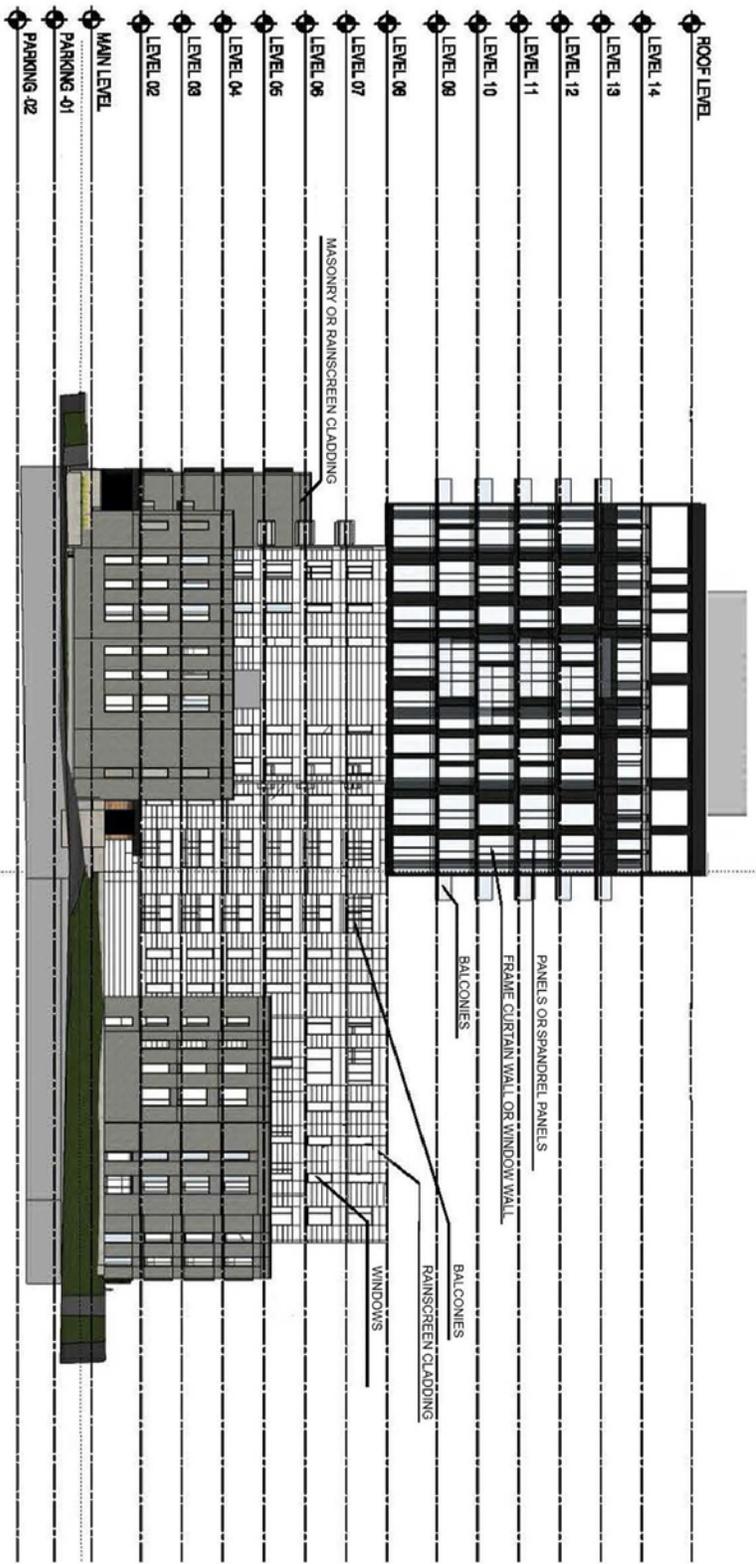
EAST ELEVATION 2018-04-18



NORTH ELEVATION 2018-04-18



SOUTH ELEVATION 2018-04-18



WEST ELEVATION

2018-04-18