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**Item No. 13.1.6**  
**Halifax and West Community Council**  
**January 8, 2019**

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

***-Original Signed-***

**SUBMITTED BY:**

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Peter Duncan, Acting Director, Planning and Development

***-Original Signed-***

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Brad Anguish, A/Chief Administrative Officer

**DATE:** November 28, 2018

**SUBJECT:** **Case 20267: Amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, and a proposed development agreement to enable a five-storey building on lands fronting Chebucto Road, Beech Street and Elm Street, Halifax**

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## **ORIGIN**

- Application by WM Fares Architects
- August 1, 2017, Regional Council direction to continue to process this request for site-specific municipal planning strategy amendments, subject to the proposal:
  - a) Generally aligning with the June 2017 Centre Plan document relative to Urban Structure, Height and Floor Area Ratio, and
  - b) Addressing the planning principles of transition, pedestrian-orientation, human-scale, building design, and context-sensitive as noted in Table 2 of the staff report dated July 26, 2017.

## **LEGISLATIVE AUTHORITY**

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

## **RECOMMENDATION**

It is recommended that Halifax and West Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy for Halifax and the Land Use By-law for Halifax Peninsula, as set out in Attachments A and B of this report, to allow a five-storey plus penthouse mixed-use building by development agreement at 6482 Chebucto Road, 2586 Beech Street and 2585 Elm Street, Halifax, and schedule a public hearing; and
2. Adopt the proposed amendments to the MPS and the LUB, as set out in Attachments A and B of this report.

It is further recommended that Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment C of this report, to permit a five-storey plus penthouse mixed-use building at 6482 Chebucto Road, 2586 Beech Street and 2585 Elm Street, Halifax. The public hearing for the proposed development agreement shall be held concurrently with the public hearing referenced in Recommendation 1.

Contingent upon the amendments to the MPS and LUB amendments being approved by Regional Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Halifax and West Community Council:

4. Approve the proposed development agreement for a five-storey plus penthouse mixed-use building at 6482 Chebucto Road, 2586 Beech Street and 2585 Elm Street, Halifax, which shall be substantially of the same form as contained in Attachment C of this report; and
5. Require the development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

WM Fares Architects, on behalf of Jane Group Ltd., is applying to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) to permit a five-storey plus penthouse mixed-use development on the properties located at 6482 Chebucto Road, 2586 Beech Street, and 2585 Elm Street, Halifax. A development of this nature cannot be considered under existing policy and regulations. Attachment C contains the current version of the proposal, which was revised following the October 5, 2017 public information meeting (PIM), and includes the following features:

- A five-storey mixed-use building plus penthouse;
- Three-to-four-storey streetwalls facing Chebucto Road;
- Three-storey streetwalls along both Beech Street and Elm Street;
- Southern yard stepbacks at the second-and-third storeys;
- Landscaped courtyard and rooftop amenity space;
- 57 residential units, cultural uses, work-live units, and/or ground floor commercial uses; and
- Approximately 51 underground parking spaces.

### **Subject Property Details**

<i>Location</i>	Chebucto Road / Beech Street and Chebucto Road / Elm Street intersections
<i>Subject Site</i>	6482 Chebucto Road, 2586 Beech Street, and 2585 Elm Street, Halifax
<i>Regional Plan Designation</i>	Urban Settlement
<i>Community Plan Designation (Map 1)</i>	6482 Chebucto Road and 2586 Beech Street are designated Commercial; 2585 Elm Street is designated Residential Environments
<i>Zoning (Map 2)</i>	6482 Chebucto Road and 2586 Beech Street are zoned C-2A (Minor Commercial); 2585 Elm Street is zoned R-2 (General Residential)
<i>Size of Site</i>	1904.5 square metres (20,500 square feet)
<i>Street Frontage</i>	62.6 m (205.5 ft.) on Chebucto Road; 30.5 m (100 ft.) on Beech Street; and 30.5 m (100 ft.) on Elm Street

<i>Current Land Use(s)</i>	6482 Chebucto Road is vacant; 2586 Beech Street and 2585 Elm Street contain low density dwellings
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### **Planning Application Case 19660**

The property owner originally made an application for 6482 Chebucto Road and 2586 Beech Street in 2014. Case 19660 included a proposal for a similar mixed-use development, which could be considered in accordance with Commercial Policy 3.3 and Implementation Policy 3.10 given that the properties are located within the Commercial designation. The original application was withdrawn following the purchase of 2585 Elm Street because this third property is located within the Residential Environments, not the Commercial designation (See MPS and LUB Context section).

### **Surrounding Context**

The subject site is located within a small mixed-use node along Chebucto Road and surrounded by buildings ranging from two-to-three storeys in height: a mixed-use building containing the Olympic Laundromat and European Pantry is located to the west; two mixed-use buildings flank Connolly Street to the north; a mixed-use building containing Dimitris Pizza lies further east along Chebucto Road; and two mixed-use buildings front onto Elm Street to the immediate east.

The surrounding area, however, is predominately defined by an established residential neighbourhood containing low-density dwellings. The neighbourhood's built form is reasonably compact due to the presence of moderate-sized lots and small building setbacks; features that contribute to the area's walkability and traditional character. The subject site's southern boundary abuts two detached dwellings; one constructed to the property line (2581 Elm Street) and one with an approximate setback of 0.4 m (1.3 ft.) (2580 Beech Street).

### **MPS and LUB Context**

The subject site contains multiple designations and zones. 2585 Elm Street is designated Residential Environments and zoned R-2 (General Residential). The R-2 Zone permits single detached dwellings, semi-detached dwellings, and buildings with a maximum of four units, up to a maximum height of 35 feet. 6482 Chebucto Road and 2586 Beech Street - approximately 84% of the subject site's area - are designated Commercial and zoned C-2A (Minor Commercial). The C-2A Zone permits the residential uses noted above, in addition to a variety of commercial uses. The height of an apartment dwelling in the C-2A Zone is restricted to 35 feet, as well.

The proposed development does not adhere to the as-of-right provisions of the existing zoning framework. A proposal of this nature can be considered within the Commercial designation via development agreement; however, the Halifax MPS contains no enabling policy to consider the proposed development (i.e., commercial uses and multi-unit residential developments exceeding four units) within the Residential Environments designation.

### **Regional Plan & Centre Plan**

The Halifax Regional Municipal Planning Strategy (i.e., the "Regional Plan") identifies the Halifax Peninsula and Dartmouth, between Halifax Harbour and the Circumferential Highway, as the Regional Centre. The Regional Plan expresses a clear objective to adopt a Regional Centre Plan. The process to adopt the Regional Centre Plan is well underway, and is known commonly as the *Centre Plan process*.

In June 2017, Regional Council authorized the direction contained within the June 2017 Centre Plan document as a framework for amending existing planning documents and developing new planning documents within the Regional Centre.

### **Regional Council Direction for this Application**

On August 1, 2017, Regional Council determined that several requests for site specific MPS amendments inside the Regional Centre area should proceed, subject to considerations flowing from the June 2017 Centre Plan document. Specifically, Regional Council directed staff to process this application, subject to:

- (a) The application generally aligning with the June 2017 Centre Plan document, relative to Urban Structure, Height and Floor Area Ratio, and
- (b) The application addressing the planning principles of transition, pedestrian-orientation, human-scale, building design, and context-sensitive.

According to the June 2017 Centre Plan document, the subject site is located in a *Corridor*, which is envisioned to support approximately 21% of new Regional Centre residents. *Corridors* are an appropriate destination for low (three-storey) to moderate (four-to-six-storey) development that, depending on local conditions, should include ground floor commercial spaces. The proposed development's alignment with the June 2017 Centre Plan document's direction for *Corridors* and Regional Council's planning principles are reviewed in the Discussion section of this report.

### **Density Bonusing**

Density bonusing is a process that provides additional public benefits for additional development rights such as additional height. This tool is currently used through the Downtown Halifax Secondary Municipal Planning Strategy. The HRM Charter enables the Municipality to use the density bonus tool to allow an increase in built area in exchange for public amenities or benefits. While originally limited to Downtown Halifax, in 2014 the Province extended HRM's ability to use the density bonus tool in the Regional Centre. At the time, the Province also required a portion of the bonus (outside of Downtown Halifax) to be provided in the form of affordable housing. In December 2016, Regional Council considered the density bonus tool and directed staff to develop an incentive or bonus zoning program for the Regional Centre, to capture affordable housing benefits. This includes policies, planning document amendments, and financial tools. This work is underway as part of the Centre Plan.

To date, Regional Council has not directed the use of density bonusing for site specific MPS amendments, except for the MPS amendment process for the proposal by APL Properties at the corner of Robie Street and Quinpool Road (Case 18966).

### **Approval Process**

The approval process for this application involves two steps:

- (a) First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB; and
- (b) Secondly, Halifax and West Community Council must consider and, if deemed appropriate, approve a proposed development agreement.

A public hearing, which is required prior to a decision on both matters, may be held at the same time for both MPS and LUB amendments and the proposed development agreement. In the event Regional Council approves MPS and LUB amendments, Halifax and West Community Council may only make a decision on a proposed development agreement once the amendments to the MPS and LUB have come into effect. A decision on proposed MPS and LUB amendments is not appealable to the Nova Scotia Utility and Review Board (Board), however, the decision on the proposed development agreement is appealable.

## **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. The approved public participation program included a webpage, signage posted on the subject site, and a public information meeting (PIM). Attachment D contains a copy of the minutes from the PIM meeting, which was hosted by the Halifax Peninsula Planning Advisory Committee on October 5, 2017 before the current proposal was finalized (See Revisions section). The public comments received include the following:

- Some attendees expressed support for the proposed development, though most expressed concern.

- Many attendees indicated that the building's scale (i.e., height and density) is too large for the property and the design is incompatible with the neighbourhood's established character. Most pressing are the concerns about the proposed building height. Attendees stated that the proposal offers an insufficient transition into the existing low density residential area, south of the subject site, which is characterized by two-storey dwellings. Most attendees would prefer that the proposed development be a maximum of three-or-four storeys.
- Residents generally believe that the proposed development will have a negative impact on traffic congestion, which they find troubling as the area already has high congestion levels.
- Several residents noted that the area has an insufficient supply of parking and the proposal will magnify the identified parking shortage.
- Several attendees were concerned about the neighbourhood's pedestrian environment and negative impact the proposal will have on pedestrian safety.

This application, in conjunction with 17 other MPS amendment applications within the Regional Centre, was the focus of a December 7, 2016 Open House. Planning staff held this meeting to seek early public feedback on these proposals, and in consideration of the ongoing *Centre Plan process*. An overview of Open House comments pertaining to the subject application are as follows:

- **Form** - Most participants stated the proposed development is out of scale with the surrounding neighbourhood. The development was also noted as being too tall; some suggested that a height of three-to-four storeys is preferred. Others commented that the height seemed reasonable. Many commenters thought the design is too busy without harmony between the ideas. Other participants praised the design for its break down of massing and architectural interest. One commenter suggested that inset balconies would promote use while protecting the privacy of neighbours.
- **Streetscape** - Many participants stated that the setbacks are too small, there is a need for wider sidewalks, and more greenery / landscaping should be incorporated into the design.
- **Process** - Comments urge that Council wait for the Centre Plan and stick to the height rules. Some participants noted that if there would be more public engagement sessions on this development, neighbours and the developer could come to satisfactory agreement.

A public hearing must be held by Regional Council before they can consider MPS amendments. Should Regional Council decide to proceed with a public hearing on this application, property owners and residents within the notification area shown on Map 2 will be notified of the hearing by regular mail. Newspaper ads for the hearing will also be published.

The proposal will potentially impact residents, property owners, and local businesses.

#### **Halifax Peninsula Planning Advisory Committee**

The Halifax Peninsula Planning Advisory Committee (HPPAC) reviewed the applicant's proposal on December 11, 2017. The HPPAC noted that a maximum building height of four storeys and maximum streetwall height of approximately 10.67 metres (35 feet) on Beech Street and Elm Street is more appropriate for the area. Conversely, the applicant has proposed a five-storey building (plus penthouse) and a maximum streetwall height of 12 metres on said streets. The HPPAC believed that the Transition principle was not achieved and this shortcoming should be addressed through additional setbacks. The HPPAC also recommended that the sidewalk be widened to improve the pedestrian experience.

A report from the HPPAC to Community Council will be provided under separate cover.

## **REVISIONS**

Following the PIM and HHPAC's December 2017 meeting, the applicant revised the proposed development to respond to public, staff, and HPPAC feedback and better align with Regional Council's direction. The notable changes are as follows:

- The minimum front yard setback on Chebucto Road increased from 0.6 metres (2 ft.) to 1.5 metres (4.9 ft.);
- Streetwall height along Chebucto Road has decreased from four-to-five storeys to three-to-four storeys;
- The Chebucto Road and Beech Street façades have been significantly re-designed;
- The underground parking entryway was shifted further south along the Elm Street façade;
- The southern portion of the proposed development has been re-designed, and a courtyard, landscape buffer, and privacy fence have been added;
- A portion of the building's southern wall will step back above the second storey instead of the third storey; and
- Stepback distances have increased notably along the southern property line, but decreased along Beech Street.

## **DISCUSSION**

The MPS is a strategic policy document that sets out the goals, objectives and direction for long-term growth and development in Halifax. Amendments to an MPS are significant undertakings. Council is under no obligation to consider such requests. In this case, staff recommend that amendments to the MPS are warranted. The following sections review the rationale and content of the proposed MPS and LUB amendments.

### **June 2017 Centre Plan Document**

As previously stated, Regional Council directed staff to process the subject application in accordance with two key criteria; the first being the June 2017 Centre Plan document, which classifies the site as a *Corridor*. Staff advise that the proposed development strongly aligns with the direction for Urban Structure and Floor Area Ratio within *Corridors*. While the proposal's height has been subject to some public concern, staff advise that the proposal generally aligns with the document's height direction.

#### Urban Structure

The June 2017 Centre Plan document states that redevelopment, mixed-used buildings in particular, is encouraged within *Corridors*. Mixed-use development, in addition to new residents, amenities, and transit services, ensures that *Corridors* play a key part in supporting established residential areas and creating complete communities within the Regional Centre.

The proposal is consistent with the intent of a *Corridor* and the June 2017 Centre Plan document's vision of how and where growth should occur. The applicant has proposed a mixed-use building that includes active ground floor uses and four storeys of dwelling units above. This proposal will increase the number of new residents within HRM's *Corridors* and bring daily amenities and employment to areas identified for strategic growth to help enhance transit ridership (See HRM Initiatives section).

#### Floor Area Ratio

Within *Corridors*, a Floor Area Ratio (FAR) of 3.5 shall be considered in the development of regulations.

The applicant indicated that the proposal has a FAR of 3.2, which is generally consistent with the June 2017 Centre Plan document. This FAR was calculated using a hybrid of the document's FAR definition and the current working FAR definition used by the Centre Plan - Package A; floor area is measured from the

inside building wall and the calculation does not include balconies, elevator shafts, mechanical penthouses, and underground areas.

Height

The June 2017 Centre Plan document states that, *Building heights – within a Corridor - shall not exceed four storeys unless there is sufficient lot depth to accommodate up to six storeys through appropriate design transitions of adjacent buildings*, such as building setbacks, horizontal separation and stepbacks.

After consulting the community and HPPAC and reviewing the existing neighbourhood structure (i.e. established character and building heights) a maximum building height of four storeys plus penthouse(s) may be desirable for the subject site. That being said, the applicant has proposed five storeys, and the June 2017 Centre Plan document provides an avenue through which taller buildings can be accommodated.

The proposed development incorporates small setbacks, which are characteristic of the neighbourhood, yet somewhat small for a development of this scale. Notwithstanding, the subject site has a lot depth of approximately 30.5 metres (100 feet) which is sufficient to incorporate varying buildings heights and ample stepbacks to assist with the transition between the proposed development and existing dwellings. Further, the proposal utilizes a landscaped buffer, privacy fencing, and limited southern yard / courtyard entryways to minimize potential land use conflicts on abutting properties.

**Planning Principles**

The second evaluative criteria for this application are the planning principles or transition, pedestrian-oriented human-scale, building design and context-sensitive, which are outlined in Table 1:

**Table 1. Planning Principles**

<b>Planning Principles</b>	<b>Description</b>
<b>Transition</b>	The proposed building design recognizes surrounding development, especially adjacent low-scale residential buildings, through built form and landscape transitions. This can include setting proposed buildings back from property lines and stepping down the height of proposed buildings as they approach low-rise buildings. Landscaping can be used as a buffer between properties and to soften building elements.
<b>Pedestrian-oriented</b>	Pedestrian-oriented means that the proposed building and site design prioritizes the needs and comfort of pedestrians. The intent is to create safe, comfortable, and more enjoyable environments for people of all ages and abilities. Pedestrian-oriented design elements include buildings that are oriented to the street, with safe and inviting pedestrian connections through larger sites. Streetwalls should respond to the rhythm and variety of walking speed. Buildings should provide frequent and prominent entrances, transparent windows, weather protection using awnings and recesses, and be designed to mitigate the impact of required parking accesses and utility features.
<b>Human-Scale</b>	Human-scale means the impression of a building when seen in relation to its surroundings, or the size and proportion of parts of a building or its details in relation to its surroundings, that relates in a positive way to the visual and physical experience of a pedestrian. Moderately sized buildings, as well as taller buildings with lower scale podiums and architectural detailing, work together with narrow streets, plazas and small pocket parks to create an intimate environment and comfortable experience. Human scale design makes urban environments more interesting, encourages exploration and draws more people to local shops and services.
<b>Building Design</b>	Design means the overall architectural composition of a building and its orientation on the site. Proposed buildings should provide visual interest from all vantage points, and especially from the street. The building's façade should be articulated vertically and horizontally using a combination of windows, changes

<b>Planning Principles</b>	<b>Description</b>
	to materials and material treatments and other architectural façade elements. Coordinated building elements (like lighting and signage) and site elements (like landscaping) contribute to the overall quality of the design.
<b>Context-sensitive</b>	The proposed building's design respects the character of the surrounding neighbourhood. The scale, form, and materials used respond to the architectural character of the neighbourhood. Next to heritage buildings or streetscapes, the proposed building complements and enhances the heritage features.

Staff note that the revised proposal places greater emphasis on addressing the Transition and Context-Sensitive principles than the original design, though the visual appeal of the Beech Street façade has been altered. Overall, the proposal now adequately addresses these planning principles.

Transition

The applicant has made revisions to the proposed development, which were intended to better address the Transition principle. Staff advise that the revisions have generally accomplished their intended goal. The proposal, in its current form, is more cognizant of surrounding development; in particular the residential neighbourhood lying directly south of the subject site.

Streetwalls are tallest along Chebucto Road, which of the three frontages, is the streetline suitable for a four-storey building wall. The shortest sections of the building are located along the Beech Street, Elm Street, and southern property line, and transition to the taller building core at the subject site's centre. In the southern yard, the building walls step back at the second-and-third storeys, offering a more gentle transition into the existing low-density dwellings. This transition is further enhanced by the introduction of a landscaped buffer and fencing. Lastly, due to the design of the proposed development's southern wall, the proposal is similar in scale and mass to the abutting dwellings and as such, a 1.2 metre (3.9 ft.) setback has been provided.

Pedestrian-Oriented

The proposed development provides a valuable infill opportunity that enhances the pedestrian environment along a major transit corridor. The building contains three public façades that are oriented towards the street; large windows and commercial entrances are provided along Chebucto Road and Elm Street to create a pedestrian friendly, active ground storey. The streetwall setback of 1.5 metres (4.9 ft.) along Chebucto Road helps create more prominent commercial entryways, which expands the pedestrian environment and provides opportunity for *spillover* activities. At grade residential uses along Beech Street provide an alternative form of street activity, which is compatible with the street's traditional use / activity.

Human-Scale

The proposed building is larger in scale than its surroundings, however, the applicant has made efforts to appropriately scale the building. A three-to-four-storey streetwall has been proposed, while the southern portion of the building has a two-to-three-storey building wall / podium. Stepbacks above the streetwalls range between 1.5 and 2.5 metres (4.9 ft. and 8.2 ft.), and a significant stepback from the building's southern wall (2.5 metres (4.9 ft.) and greater) is provided. Staff advise that these features lessen the impact of the proposed development on its potential surroundings.

The ground storey contains many windows, storefronts, and pedestrian entrances, which helps its pedestrian orientation and facilitate vibrancy on the street. The proposal also contains landscaping / hardscaping along the streetline, which in tandem with ground floor windows and storefronts, should help add life to the streetscape. The ground-storey wall along Chebucto Road is relatively straight (i.e., parallel to the street), however, and lacks physical dimension that could further enhance vibrancy on the sidewalk.

The remaining building walls have been designed to include protrusions, recessions, and balconies that break the streetwall mass into smaller, human-focused components. These design features help lessen the building's physical presence on pedestrians and the neighbourhood as a whole.

### Building Design

The inclusion of ground-floor windows, storefronts, protrusions, recessions, and balconies into the streetwall helps generate visual interest from the streetscape. The building incorporates three tones of brick veneer and large clusters of glazing / windows to help create additional visual interest and contrast.

The Beech Street and Elm Street façade offers rhythm to their surroundings; however, the revised Beech Street façade lacks several unique architectural features that were originally proposed. When the applicant increased the streetwall setback along Chebucto Road and southern yard setbacks to enhance alignment with the Transition and Context-Sensitive principles, these details were lost in order to maintain the desired building volume and unit count. Though the loss of these architectural features is unfortunate, the streetwall still provides adequate visual interest.

The southern portion of the building does not provide the same degree of visual interest from abutting properties; however, the presence of a landscape buffer and fencing help enhance the overall proposal.

### Context-Sensitive

While all public concerns were not addressed, the revised proposal represents a reasonable response to the concerns and Context-sensitive principle. The southern building wall has been reduced to two storeys near Elm Street, which provides an improved transition to the abutting dwelling. The building's rear has a minimum setback of 1.2 metres (3.9 ft.) from the southern property line, which is compatible with abutting development, and the courtyard is setback 6 metres (19.7 ft.). Further, the upper portion of the southern building wall is setback 8.5 metres (27.9 ft.); these features push the building's height / mass towards Chebucto Road and away from the existing neighbourhood. Further, it should be noted that there are no heritage buildings nearby.

### **HRM Initiatives**

Staff advise that the proposed development does not conflict with HRM's broad planning initiatives.

### Regional Plan

The Regional Plan expresses a clear objective to adopt a Regional Centre Plan. A focus of the Centre Plan process relates to "growth and change", which is identified in the Regional Plan as a guiding principle for the purposes of adopting a Regional Centre Plan. The Regional Plan's growth and change principle directs change and intensification to areas that will benefit from growth. The appropriate development of the subject site will contribute to the Regional Plan's "growth and change" guiding principle.

### Centre Plan Package A

On February 23, 2018, Centre Plan Package A was released for public and committee review. Package A includes a draft Secondary Municipal Planning Strategy and Land Use By-law which focusses on *Centres, Corridors, Higher Order Residential, and Future Growth Node* classifications in the Regional Centre. Package A suggested an approach for regulating development on the subject property, including a Height Precinct Map that indicates the subject site could support a maximum building height of 17 metres (55.8 ft.). The applicant, however, has proposed a maximum building height of 18 metres (59.1 ft.). Staff were directed to review the application in accordance with the June 2017 Centre Plan documents' direction for Height, not the draft height precincts listed in the Centre Plan - Package A. As previously stated, the application is generally consistent with Council's specific direction regarding height.

### Integrated Mobility Plan

The Integrated Mobility Plan, which was approved by Council in December 2017, provides a vision for facilitating movement throughout HRM and investing in transportation demand management, transit, attractive transportation, and street network infrastructure. This Plan identifies Chebucto Road as a *Potential Transit Priority Corridor*; these corridors should incorporate measures to reduce transit delays and improve service reliability in the future. This classification indicates that Chebucto Road is well positioned to support increased density and mixed-use development, which generate additional ridership.

### **Additional Planning Items**

Additional planning concerns were raised during the public participation process. Staff reviewed the following concerns and do not anticipate significant impacts:

- **Traffic Congestion** – The Traffic Impact Statement (TIS) indicates that the proposed development will not significantly impact traffic congestion or the performance of adjacent streets. The Planning and Development Department's Engineering Division accepted the applicant's TIS and raised no additional concerns.
- **On-Street Parking** – Several residents are concerned about the availability of on-street parking and that parking is frequently occupied by commuters and individuals employed in the Centre Plan area. The proposed development agreement contains parking requirements to ensure that underground parking spaces are available to residents of the proposed development.
- **Wind** – A wind impact assessment letter from an architect with good standing in the Nova Scotia Association of Architects stated that *major wind impacts to pedestrian comfort* are not anticipated. Staff concur with this statement – significant wind impacts are not anticipated as the proposed building is five-storeys in height.

### **Proposed MPS and LUB Amendments**

MPS and LUB amendments are required to permit a five-storey, mixed-use building (plus penthouse) on the subject site. The proposed MPS policy, which includes additions to Section XVI of the Halifax MPS, is contained in Attachment A. The proposed MPS policy ensures the subject site's future development generally aligns with the June 2017 Centre Plan document relative to Urban Structure, FAR, and Height, and addresses Regional Council's planning principles. Further, the policy requires that the proposed development be permitted via development agreement

Attachment B contains a proposed LUB amendment, which includes an addition to the City Wide – Development Agreement section.

### **Proposed Development Agreement**

Attachment C contains the proposed development agreement. Staff notes that the proposed agreement carries out the intent of the proposed MPS amendments (See Attachment E).

The proposed development agreement allows a mix of commercial, cultural, work-live, and multi-unit residential uses, though commercial uses are limited to the ground floor only. The development agreement requires that at least one third of residential units contain two or more bedrooms. Additional highlights include the following:

#### Height and Built Form

- Maximum building height of five-storeys (plus penthouse);
- Three-to-four-storey streetwall along Chebucto Road;
- Three-storey streetwalls along both Elm Street and Beech Street;
- Two-to-three-storey building wall in the southern yard;
- Indoor and outdoor amenity space; and
- Requirements for exterior appearance and building materials.

#### Setbacks and Stepbacks

- Minimum streetwall setback of 1.5 metres (4.9 ft.) from Chebucto Road lot line;
- Minimum horizontal stepback of 1.5 metres (4.9 ft.) above the Chebucto Road streetwall;
- Streetwall setback between 0 metres and 4 metres (13.1 ft.) from Elm Street lot line;
- Streetwall setback between 0 metres and 2 (6.6 ft.) metres from Beech Street lot line;
- Minimum horizontal stepback of 2.5 metres (8.2 ft.) above the Elm Street and Beech Street streetwalls;
- Southern yard setbacks between 1.2 metres (3.9 ft.) and 6 metres (19.7 ft.); and

- Minimum southern yard setback of 8.5 metres (27.9 ft.) above the second and third storeys.

### **Conclusion**

Staff have reviewed the proposal and completed the public participation program approved by Regional Council. While several residents of the abutting neighbourhood would prefer to limit the proposal's height to a maximum of four storeys, staff advise the proposed development is suitable for the subject site. The June 2017 Centre Plan document has identified the subject site as an appropriate location for five-and-six-storey buildings if appropriate design transitions are provided for adjacent buildings. Staff advise that the proposal generally aligns with the June 2017 Centre Plan document's direction.

The revised proposal incorporates numerous design features (e.g., limiting streetwall heights, utilizing horizontal setbacks, installing landscaped buffers and fencing, pedestrian-focused design practices, etc.) that better address Regional Council's Transition and Context-Sensitive principles and as such, staff advise that the proposed development is generally consistent with the noted planning principles.

Staff recommend creating new MPS policy, new LUB provisions, and a development agreement to regulate development on the subject site. The MPS and LUB amendments respond to the direction Regional Council provided when this planning application was initiated, while the development agreement ensures future development aligns with the June 2017 Centre Plan document and Regional Council's key planning principles. Should Regional Council approve the MPS and LUB amendments, Halifax & West Community Council may render a decision on the proposed development agreement once the MPS and LUB amendments become effective.

### **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 the proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018-19 budget with existing resources.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations in this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. The proposed development agreement is subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained in the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

A portion of the subject site - 6482 Chebucto Road - previously contained an Ultramar gas station. The applicant indicated that remediation efforts were completed prior to the sale of the property, in preparation for future residential uses. Confirmation of the necessary environmental assessment(s) shall be provided to the Development Officer before any permits are issued. The assessment process is regulated by the provincial Contaminated Sites Regulations under the Environment Act, and includes an environmental site assessment(s) and remediation by a site professional. If it is discovered that contamination from the site has spread to nearby properties, the Contaminated Sites Regulations require notification to the Minister and the affected property owner(s), and remedial measures must be taken.

## **ALTERNATIVES**

Halifax & West Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the Halifax MPS and Halifax Peninsula LUB, as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the Halifax MPS and the Halifax Peninsula LUB. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

## **ATTACHMENTS**

Map 1	Generalized Future Land Use Map
Map 2	Zoning Map and Notification Area
Attachment A	Proposed Amendments to the Municipal Planning Strategy for Halifax
Attachment B	Proposed Amendments to the Land Use By-law for Halifax Peninsula
Attachment C	Proposed Development Agreement
Attachment D	Public Information Meeting Minutes (October 5, 2017)
Attachment E	Policy Review of Proposed Development Agreement

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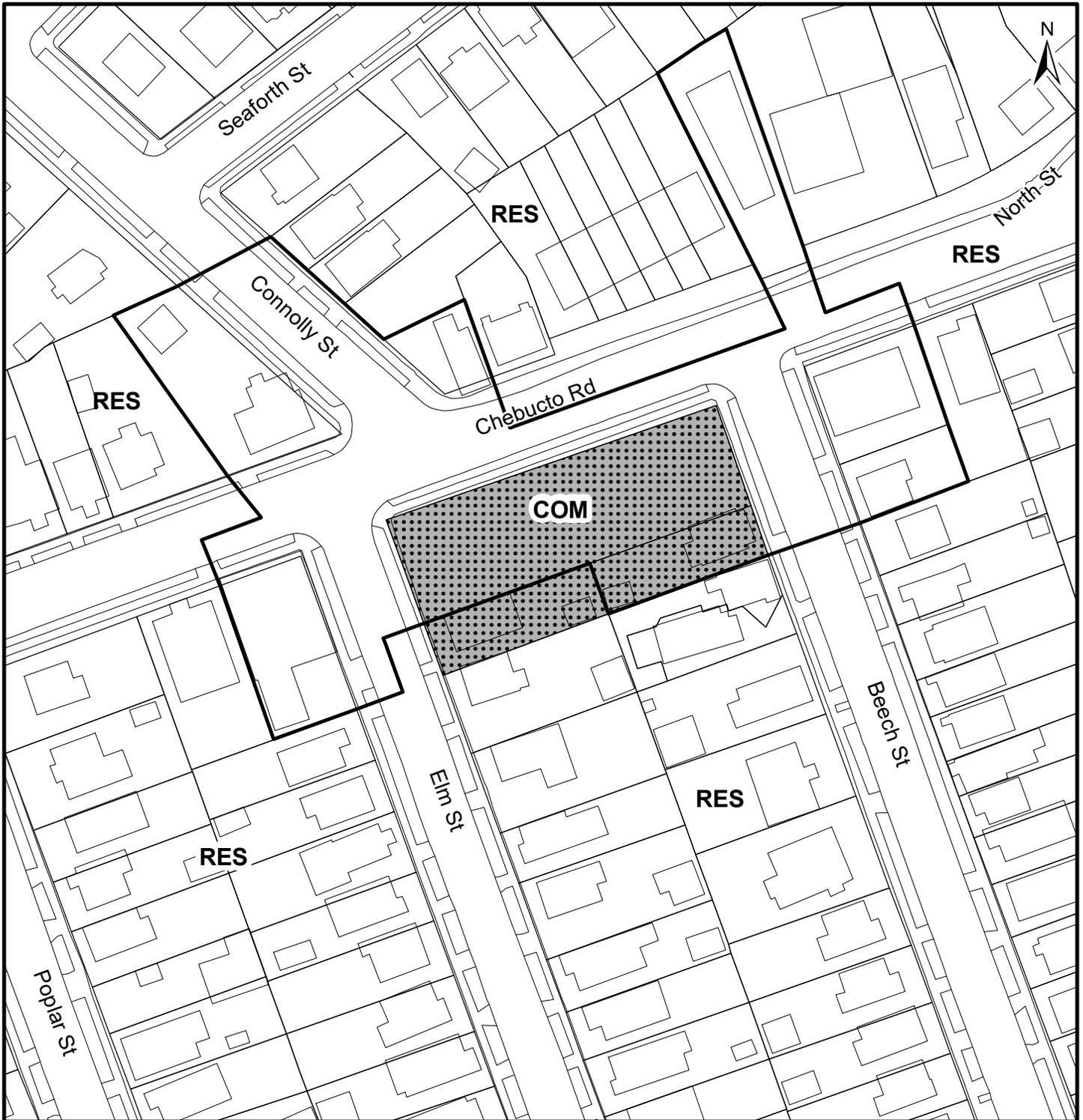
A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jesse Morton, Planner II, 902.490.4844

***-Original Signed-***

Report Approved by: \_\_\_\_\_  
Eric Lucic, Regional Planning Manager, 902.430.3954

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**Map 1 - Generalized Future Land Use**

Chebucto Rd, Beech St. and Elm St.  
Halifax

**HALIFAX**

 Subject Properties



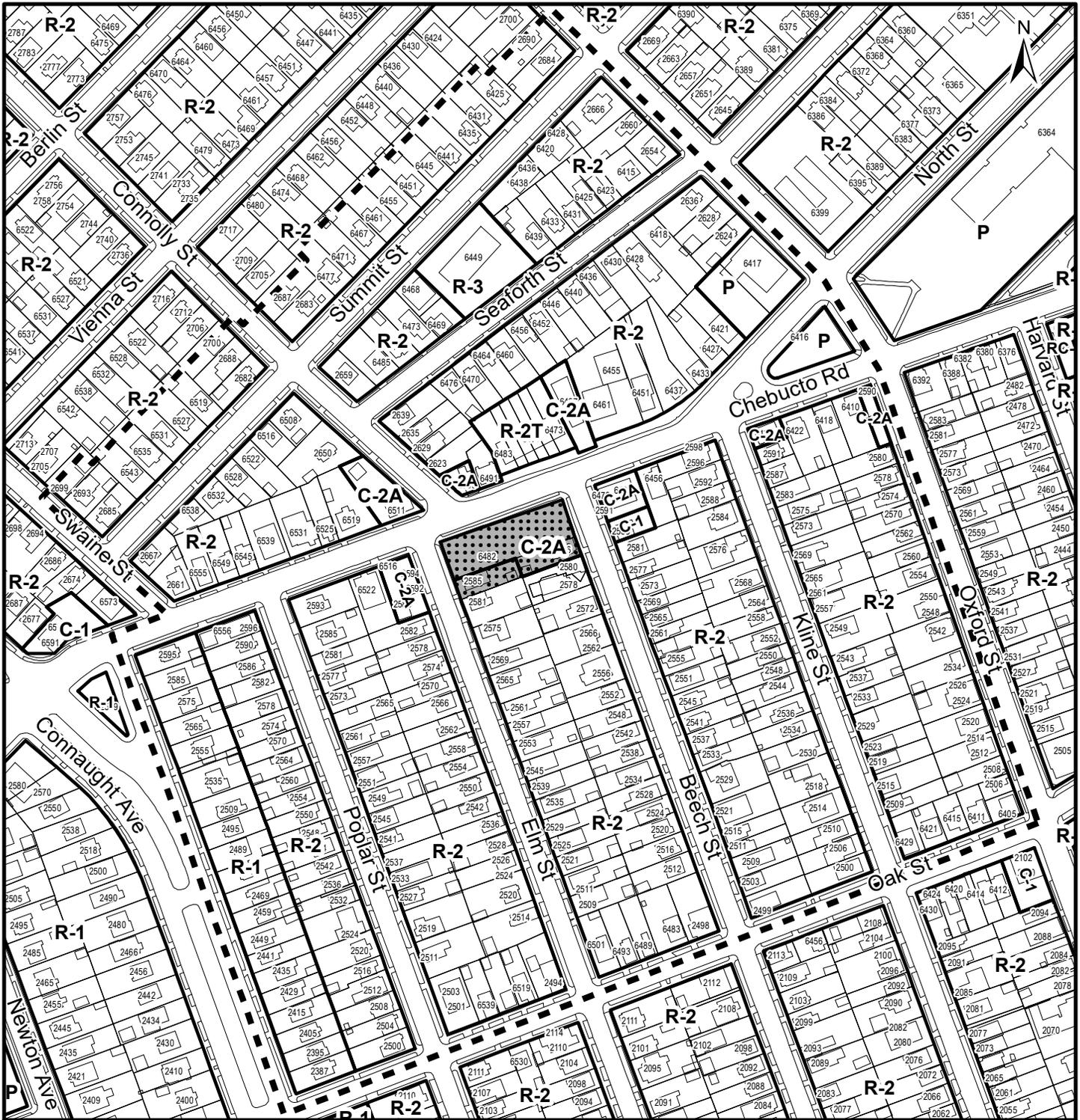
**Designation**

RES Residential Environments  
COM Commercial

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

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

Halifax Plan Area



### Map 2 - Zoning and Notification

Chebucto Rd, Beech St. and Elm St.,  
Halifax

# HALIFAX

**Zone**

-  Subject Property
-  Area of Notification

Halifax Peninsula  
Land Use By-Law Area

<b>R-2</b>	General Residential
<b>R-2T</b>	Townhouse
<b>R-3</b>	Multiple Dwelling
<b>C-1</b>	Local Business
<b>C-2A</b>	Minor Commercial
<b>P</b>	Park and Institutional



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.

**ATTACHMENT A:**  
**Proposed Amendments to the Municipal Planning Strategy for Halifax**

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax is hereby further amended as follows:

1. By amending the TABLE OF CONTENTS to add the following text shown in bold immediately before the text "IMPLEMENTATION POLICIES", and renumbering the page numbers for the TABLE OF CONTENTS as applicable:

SECTION XVI                      SITE-SPECIFIC POLICIES IN KEEPING WITH THE JUNE 2017 CENTRE  
PLAN DOCUMENT

1. Background
2. The Planning Principles
3. Development at Robie Street / Pepperell Street / Shirley Street
- 4. Development at Chebucto Road / Elm Street / Beech Street**

2. By amending Section XVI, to add the following text shown in bold and strikeout as follows:

SECTION XVI   SITE-SPECIFIC POLICIES IN KEEPING WITH THE JUNE 2017 CENTRE PLAN  
DOCUMENT

1. BACKGROUND

The Regional Municipal Planning Strategy for the Municipality (Regional Plan) identifies the Halifax Peninsula and Dartmouth between Halifax Harbour and the Circumferential Highway as the Regional Centre. The Regional Plan expresses a clear objective to adopt a Regional Centre Plan.

In June of 2017, as part of the Centre Plan process, Regional Council authorized the direction contained in the June 2017 Centre Plan Document as a framework for amending existing planning documents and developing new planning documents.

On August 1, 2017, Regional Council directed nine requests for site-specific amendments to this Municipal Planning Strategy to proceed subject to specific considerations flowing from **the** June 2017 Centre Plan Document. On January 16, 2018, Regional Council also directed three other site-specific amendments to this Municipal Planning Strategy proceed subject to the same considerations.

2. THE PLANNING PRINCIPLES

Regional Council directed that five planning principles be used to evaluate the following requests for new Municipal Planning Strategy policy:

- a) Development at Robie Street / Pepperell Street / Shirley Street, as identified in Section 3; **and**

**b) Development at Chebucto Road / Elm Street / Beech Street, as identified in Section 4.**

These planning principles are described as:

Planning Principles	Description
a) Transition	The proposed building design recognizes surrounding development, especially adjacent low-scale residential buildings, through built form and landscape transitions. This can include setting proposed buildings back from property lines and stepping down the height of proposed buildings as they approach low-rise buildings. Landscaping can be used as a buffer between properties and to soften building elements.
b) Pedestrian-oriented	Pedestrian-oriented means that the proposed building and site design prioritizes the needs and comfort of pedestrians. The intent is to create safe, comfortable, and more enjoyable environments for people of all ages and abilities. Pedestrian-oriented design elements include buildings that are oriented to the street, with safe and inviting pedestrian connections through larger sites. Streetwalls should respond to the rhythm and variety of walking speed. Buildings should provide frequent and prominent entrances, transparent windows, weather protection using awnings and recesses, and be designed to mitigate the impact of required parking accesses and utility features.
c) Human-Scale	Human-scale means the impression of a building when seen in relation to its surroundings, or the size and proportion of parts of a building or its details in relation to its surroundings, that relates in a positive way to the visual and physical experience of a pedestrian. Moderately sized buildings, as well as taller buildings with lower scale podiums and architectural detailing, work together with narrow streets, plazas and small pocket parks to create an intimate environment and comfortable experience. Human scale design makes urban environments more interesting, encourages exploration and draws more people to local shops and services.
d) Building Design	Design means the overall architectural composition of a building and its orientation on the site. Proposed buildings should provide visual interest from all vantage points, and especially from the street. The building's façade should be articulated vertically and horizontally using a combination of windows, changes to materials and material treatments and other architectural façade elements. Coordinated building elements (like lighting and signage) and site elements (like landscaping) contribute to the overall quality of the design.
e) Context-sensitive	The proposed building's design respects the character of the surrounding neighbourhood. The scale, form, and materials used respond to the architectural character of the neighbourhood. Next to heritage buildings or streetscapes, the proposed building complements and enhances the heritage features.

**3. DEVELOPMENT AT ROBIE STREET / PEPPERELL STREET / SHIRLEY STREET**

An 'L' shaped property having street frontage on Robie Street, Pepperell Street, and Shirley Street is the subject site of a proposal for site-specific planning policy amendments to allow for a 14-storey building comprised mostly of residential dwelling units. This proposal is one of the twelve policy requests noted in Section 1. On August 1, 2017, Regional Council chose to continue processing the 14-storey proposal subject to specific considerations.

**3.1 Specific Considerations**

The June 2017 Centre Plan Document identifies this property as part of the Quinpool Centre. The Quinpool Centre is the heart of the Regional Centre's West End Neighbourhood. It includes a scale of buildings that transition from taller buildings at the eastern end to low buildings in the more residentially focussed western end. Based on the general transition of existing building heights, the June 2017 Centre Plan Document proposed locating the tallest buildings at the eastern edge of the Quinpool Centre, including buildings between 11 and 15 storeys at the intersections of Robie Street and Pepperell Street, and Robie Street and Shirley Street.

The Robie/Pepperell/Shirley 14-storey proposal was given Regional Council direction to continue, subject to the proposal generally aligning with the June 2017 Centre Plan Document relative to urban structure, height, and floor area ratio. As noted, the June 2017 Centre Plan Document places the Robie/Pepperell/Shirley site within the Quinpool Centre. Further, the June 2017 Centre Plan Document identifies the portion of the site fronting Robie Street for heights between 11 and 15 storeys, with the remainder of the site identified for heights between 4 and 6 storeys. The June 2017 Centre Plan Document does not suggest a specific floor area target for Centres.

Regional Council also directed the 14-storey proposal to address the planning principles noted in Section 2.

### 3.2 Regulating Development

To achieve a development form on the Robie/Pepperell/Shirley site that generally aligns with the urban structure and heights identified in the June 2017 Centre Plan Document, and ensures the five planning principles noted in Section 2 are addressed, development will be permitted by development agreement, as described below.

#### 3.2.1 Development Agreement Provisions

The Land Use By-law for Halifax Peninsula shall be amended to identify that mixed-use, multi-unit residential development may be considered by development agreement for the property located at the intersections of Robie Street, Pepperell Street, and Shirley Street.

Notwithstanding other policies of this Municipal Planning Strategy, a development agreement for the property located at the intersections of Robie Street, Pepperell Street, and Shirley Street (6030 Pepperell Street, Halifax), shall:

- a) permit mixed-used (residential and commercial) buildings;
- b) permit a range of uses that serve both a local and regional population, including: residential, office, retail, service, restaurants, establishments licensed to serve alcohol, institutional, cultural, and entertainment uses;
- c) require a mix of residential unit types;
- d) restrict development at the southwest corner of Robie Street and Pepperell Street to 14 storeys, plus a penthouse;
- e) restrict development fronting on the balance of Robie Street to 7 storeys;
- f) restrict development fronting on the balance of Shirley Street to between 4 and 5 storeys;
- g) restrict development fronting on Pepperell Street to 3 storeys, with the exception of a 7 storey portion next to the 14 storey plus penthouse portion at the southwest corner of Robie Street and Pepperell Street;
- h) restrict streetwall heights to 4 storeys, with provision for a 5 storey streetwall at the southwest corner of Robie Street and Pepperell Street;
- i) require indoor and outdoor amenity space for on-site residents;
- j) require regulations for signage and the external appearance of structures;
- k) regulate streetwall design and the design of at-grade residential units;

- l) regulate landscaping, fencing, outdoor storage, and the planting or retention of trees and vegetation;
- m) prohibit surface parking lots; and
- n) permit residential and commercial parking.

In addition to meeting the requirements of Policy 3.2.1 a) to n) inclusive, Council shall also have regard for the following when considering a development agreement for the property located at the intersections of Robie Street, Pepperell Street, and Shirley Street (6030 Pepperell Street, Halifax):

- o) the planning principles of transition, pedestrian-oriented, human-scale, building design and context sensitive, as described in Section 2; and
- p) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.

- 3. By amending Section XVI to add the following text shown in bold immediately after Subsection 3.2.1:

#### **4. DEVELOPMENT AT CHEBUCTO ROAD / ELM STREET / BEECH STREET**

**The properties having street frontage on Chebucto Road, Elm Street, and Beech Street (6482 Chebucto Road, 2586 Beech Street and 2585 Elm Street) is the subject site of a proposal for site-specific planning policy amendments to allow for a 5-storey mixed-use building. This proposal is one of the twelve policy requests noted in Section 1. On August 1, 2017, Regional Council chose to continue processing the 5-storey proposal subject to specific considerations.**

##### **4.1 Specific Considerations**

**The June 2017 Centre Plan Document identifies this property as a Corridor, which is envisioned to support approximately 21% of new Regional Centre residents. Corridors are an appropriate destination for low (three storey) to moderate (four-to-six storey) development that, depending on local conditions, should include ground floor commercial spaces. Specifically, building heights shall only exceed 4-storeys if there is sufficient lot depth to accommodate up to 6-storeys through appropriate design transitions to adjacent buildings.**

**The Chebucto Road / Elm Street / Beech Street 5-storey proposal was given Regional Council direction to continue, subject to the proposal generally aligning with the June 2017 Centre Plan Document relative to urban structure, height, and floor area ratio. Regional Council also directed the 5-storey proposal to address the planning principles noted in Section 2.**

##### **4.2 Regulating Development**

**To achieve a development form on the Chebucto Road / Elm Street / Beech Street site that generally aligns with the urban structure and heights identified in the June 2017 Centre Plan Document, and ensure the five planning principles noted in Section 2 are addressed, development will be permitted by development agreement, as described below.**

###### **4.2.1 Development Agreement Provisions**

**The Land Use By-law for Halifax Peninsula shall be amended to identify that mixed-use development may be considered by development agreement for the properties located at the intersections of Chebucto Road, Elm Street, and Beech Street.**

- (1) Notwithstanding other policies of this Municipal Planning Strategy except 4.2.1(2), a development agreement for the property located at the intersections of Chebucto Road, Elm Street, and Beech Street shall:
- (a) permit a mixed-used (residential and commercial) building;
  - (b) permit a range of commercial uses, including, cultural, daycare, office, restaurant, retail, and work-live uses;
  - (c) require a mix of residential unit types;
  - (d) restrict building height to a maximum of 5 storeys, plus penthouse(s);
  - (e) require that the 4<sup>th</sup> and 5<sup>th</sup> storeys and penthouse(s) are orientated towards Chebucto Road;
  - (f) restrict streetwall height to a maximum of 4 storeys along Chebucto Road;
  - (g) restrict streetwall height to a maximum of 3 storeys along both Elm Street and Beech Street;
  - (h) restrict the building's podium height to a maximum of 3 storeys along the southern lot line;
  - (i) restrict development to a minimum setback, both above and below grade, of 1.5 metres from the Chebucto Road lot line;
  - (j) require a landscaped buffer and fencing along the rear lot line;
  - (k) require indoor and outdoor amenity space for on-site residents;
  - (l) regulate streetwall massing, external building design, cladding materials, design of at-grade residential units, front yard landscaping, outdoor storage, signage, and the planting and retention of vegetation; and
  - (m) permit underground parking.
- (2) In addition to meeting the requirements of Policy 4.2.1(1) a) to m) inclusive, when considering a development agreement for the property located at the intersections of Chebucto Road, Elm Street, and Beech Street, Halifax, Council shall consider:
- (a) the planning principles of transition, pedestrian-oriented, human-scale, building design and context sensitive, as described in Section 2; and
  - (b) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.

I HEREBY CERTIFY that the amendment to the Municipal Planning Strategy for Halifax as set out above, was passed by a majority vote of the maximum number of members that may be elected to Halifax Regional Council, at a meeting held on the [DATE] day of [MONTH], [YEAR].

GIVEN under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this \_\_\_ day of \_\_\_\_\_, A. D., 20\_\_\_\_\_.

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

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

1. By Amending the section PENINSULA WIDE - DEVELOPMENT AGREEMENTS part to insert Subsection 100(4) following Subsection 100(3) as follows:

**100(4) Intersections of Chebucto Road, Elm Street, and Beech Street, Halifax (6482 Chebucto Road, 2586 Beech Street and 2585 Elm Street)**

**Council may, by development agreement, pursuant to Policy 4.2.1 of Section XVI of the Halifax Municipal Planning Strategy, permit a multiple dwelling containing commercial uses.**

I HEREBY CERTIFY that the amendment to the Land Use By-law for Halifax Peninsula as set out above, was passed by a majority vote of the maximum number of members that may be elected to Halifax Regional Council, at a meeting held on the [DATE] day of [MONTH], [YEAR].

GIVEN under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this \_\_\_ day of \_\_\_\_\_, A. D., 20\_\_\_\_.

**ATTACHMENT C:**

**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 Chebucto Road, Beech Street, and Elm 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 development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Section XVI, Policy 3 of the Municipal Planning Strategy for Halifax and Subsection 100(4) 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 20267;

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, excluding mechanical penthouses and similar rooftop structures;
  - 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 setback 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) "Streetline" 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 20267:**

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

Schedule D	Required Yard Landscaping Plan
Schedule E	Landscaped Buffer Cross Section

### **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 3.5.19 of this Agreement; and
  - b) A Subdivision Plan prepared by a Professional Surveyor in accordance with Subsection 3.6.1 of this Agreement.
- 3.2.3 Prior to the issuance of a Development Permit for the building, the Developer shall provide the following to the Development Officer, in consultation with the Development Engineer:
- a) Tree Retention and Mitigation Plan for street trees in accordance with Subsection 4.2.1 of this Agreement.
- 3.2.4 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 3.5.21:
- 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.
- 3.2.5 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 Subject to Subsection 3.3.2 through 3.3.4, the use(s) of the Lands permitted by this Agreement are:
- a) An apartment house (multiple dwelling);
  - b) The following commercial uses on the ground storey:
    - i. Commercial recreation uses;
    - ii. Daycares;
    - iii. Medical clinics and medical offices;
    - iv. Office uses;
    - v. Personal and professional services;

- vi. Restaurants and licensed alcohol establishments, excluding cabarets and lounges; and
- vii. Retail uses, excluding adult entertainment uses, amusement centres and automotive uses;
- c) Cultural uses;
- d) Work-live units, which include the uses listed in Subsection 3.3.1(b) and 3.3.1(c); and
- e) 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.

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

3.3.4 Drive-through facilities shall not be permitted.

### 3.4 Site and Architectural Requirements

#### ***Siting***

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

3.4.2 In accordance with Subsection 3.4.6, all portions of the building, including those above and below grade, shall be setback a minimum of 1.5 metres from the Chebucto Road lot line as shown on Schedule B.

#### ***Height Framework***

3.4.3 Subject to Subsection 3.4.4, no building shall be constructed or altered so that it exceeds the maximum height framework as shown on Schedule B.

3.4.4 Elevator enclosures, stairway enclosures, mechanical penthouses, rooftop amenity penthouses, and similar structures shall be:

- a) Generally located as shown as Schedule B;
- b) Setback a minimum of 6 metres from the Beech Street and Elm Street rooflines;
- c) Setback a minimum of 2.5 metres from the Chebucto Road and southern rooflines;
- d) Extend a maximum of 5 metres above the building height; and
- e) Limited to a maximum of 30 percent of the roof area.

#### ***Exterior Design***

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

#### ***Streetwall Setbacks***

3.4.6 Streetwalls shall have the following minimum and maximum streetwall setbacks:

Streetwall	Minimum Setback	Maximum Setback
Chebucto Road	1.5 metres	n/a
Elm Street	0 metres	4 metres
Beech Street	0 metres	2 metres

***Southern Yard Setbacks***

- 3.4.7 Subject to Subsection 3.4.8, the minimum setbacks from the southern lot line shall be as shown on Schedule B.
- 3.4.8 The building shall be setback a minimum of 8.5 metres from the southern lot line above the second and third storeys as shown on Schedule B.

***Maximum Streetwall Height***

- 3.4.9 Subject to Subsection 3.4.10 through 3.4.12, the maximum streetwall height shall conform with the streetwall heights as shown on Schedule C.
- 3.4.10 Up to 20 percent of the streetwall may exceed the maximum streetwall height.
- 3.4.11 The maximum streetwall height may be exceeded by a glass guard and railing system to allow for the safe use of podiums and rooftops.
- 3.4.12 The maximum streetwall height may be exceeded by a parapet, no higher than 1.25 metres in height.

***Streetwall Design***

- 3.4.13 The ground floor shall have a minimum floor to ceiling height of 3.5 metres.
- 3.4.14 If a building's streetwall width exceeds 15.0 metres, 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; or
  - e) Building entrances.

***Building Stepbacks***

- 3.4.15 Building walls facing Chebucto Road shall have a horizontal stepback of at least 1.5 metres from the edge of the streetwall above the third and fourth storeys as shown on Schedule B.
- 3.4.16 Building walls facing Elm Street or Beech Street shall have a horizontal stepback of at least 2.5 metres from the edge of the streetwall above the third storey.

***At-grade Residential***

- 3.4.17 At-grade residential units and work-live 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***

- 3.4.18 All cladding materials shall be durable and have an architectural finish.
- 3.4.19 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).

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

3.4.21 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 Required Yards and Stepbacks***

3.5.1 No encroachments are permitted in the required front yard setback facing Chebucto Road and the required setbacks facing the southern lot line.

3.5.2 The following structures are permitted encroachments into the front yard setbacks facing Elm Street and Beech Street:

- a) Balconies, lifting devices, porches, steps, sundecks, uncovered patios, verandas, walkways, and wheelchair ramps;
- b) Eaves, gutters, downspouts, cornices, and other similar features, up to 0.9 metres from the building face;
- c) Window bays and solar collectors, up to 0.9 metres from the building face; and
- d) Mechanical and electrical systems, up to 0.9 metres from the building face, subject to Subsection 3.4.21.

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

3.5.4 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.

#### ***Parking***

3.5.5 Surface parking lots are prohibited.

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

- a) Four bachelor units, or fraction thereof, contained in an apartment house;
- b) Three one-bedroom units contained in an apartment house;
- c) Dwelling unit in excess of one-bedroom in an apartment house; and
- d) Work-live unit.

3.5.7 Access to the underground parking area shall be located along Elm Street as shown on Schedule B and D.

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

***Indoor and Outdoor Amenity Space***

- 3.5.9 Subject to Subsection 3.5.10 through 3.5.13, an apartment house building shall provide indoor and outdoor amenity spaces to residents.
- 3.5.10 Indoor amenity space shall be provided on the building's rooftop, in conjunction with the mechanical penthouse as generally shown on Schedule B and D.
- 3.5.11 Outdoor amenity space shall be provided as generally shown on Schedule B.
- 3.5.12 A private courtyard shall be provided as generally shown on Schedule D.
- 3.5.13 Additional amenity spaces may include, but are not limited to unit patios, unit balconies, rooftop balconies, fitness rooms, and community rooms.

***Required Yard on Chebucto Road***

- 3.5.14 The required front yard fronting onto Chebucto Road shall contain a combination of soft landscaping materials, hard landscaping materials, and planter boxes as shown on Schedule D.

***Landscaping***

- 3.5.15 The southern courtyard, 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.
- 3.5.16 Areas required for pedestrian access do not need to be landscaped.

***Landscaped Buffer***

- 3.5.17 Subject to Subsection 3.5.18, a landscape buffer shall be provided along a portion of the southern lot line as shown on Schedule B, D and E.
- 3.5.18 The landscaped buffer shall:
- a) Contain a minimum of 10 coniferous trees;
  - b) Have a minimum height of 4 metres; and
  - c) Have a minimum width of 1.2 metres.
- 3.5.19 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.
- 3.5.20 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.
- 3.5.21 Notwithstanding Subsection 3.5.20, 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.

#### ***Privacy Fencing***

3.5.22 Subject to subsection 3.5.23, an opaque fence shall be provided along the full extent of the southern lot line as shown on Schedule B and D.

3.5.23 The opaque fence shall have a minimum height of 1.8 metres.

#### ***Signs***

3.5.24 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***

3.5.25 Subject to Subsection 3.5.26, an exposed concrete foundation wall or enclosed parking structure shall not exceed 0.6 metres in height.

3.5.26 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.

#### ***Outdoor Lighting***

3.5.27 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 Additional Requirements**

#### ***Subdivision of the Lands***

3.6.1 Prior to the issuance of a Development Permit, a subdivision application to consolidate the Lands shall be submitted to the Development Officer in accordance with the Regional Subdivision By-law. No Development Permit shall be issued until the subdivision plan is approved.

#### ***Hours of Operation***

3.6.2 Restaurants shall be permitted to operate between the hours of 7:00am and 10:00pm on Sunday through Thursday, and between the hours of 7:00am and 11:00pm on Friday and Saturday.

3.6.3 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 10:00pm.

3.6.4 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

***Solid Waste Facilities***

3.6.5 All refuse and recycling materials shall be contained within the building.

***Maintenance***

3.6.6 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.

***Temporary Buildings***

3.6.7 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**

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

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

of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and

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

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

## **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; and
- 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.

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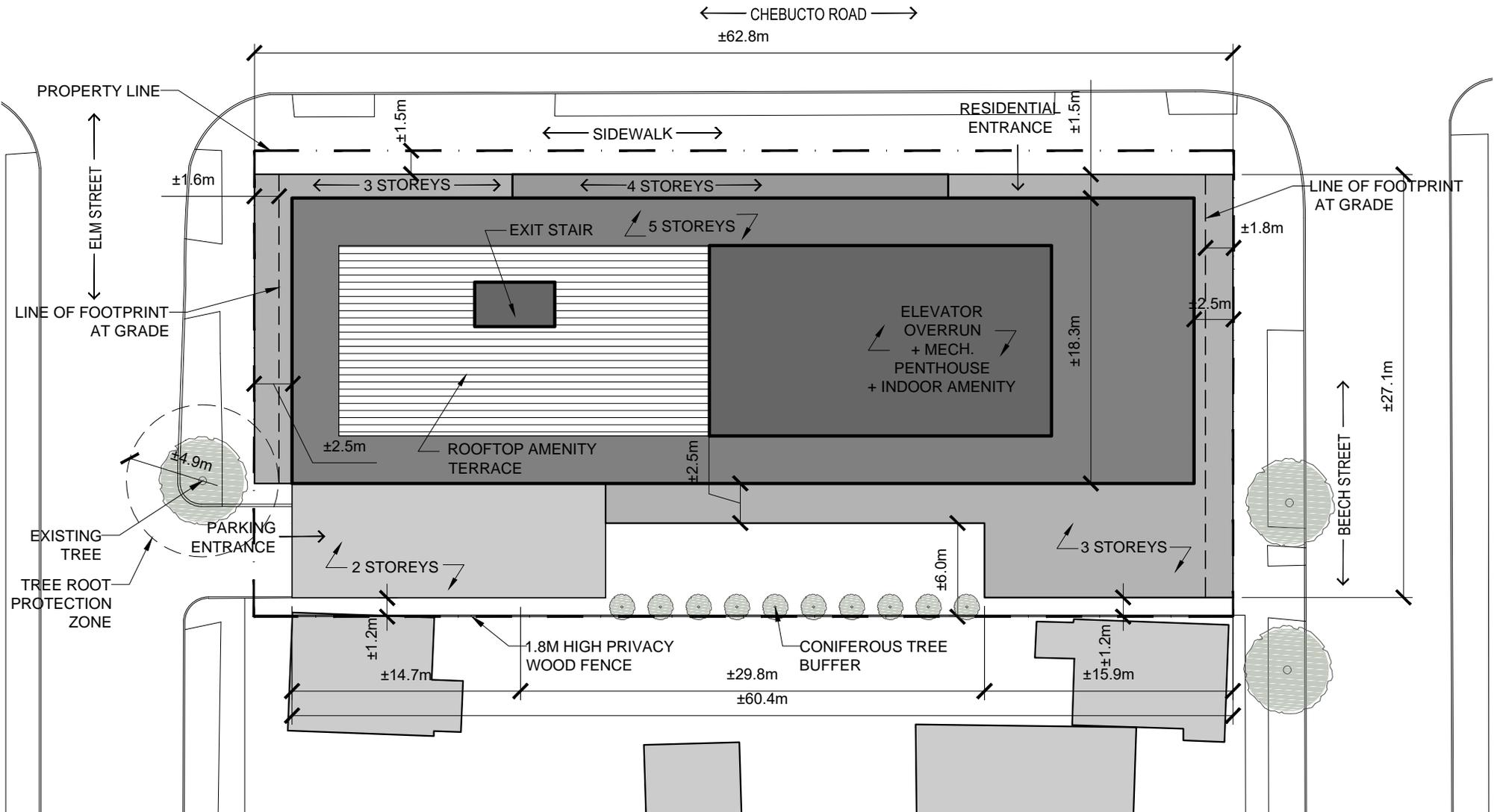
A Commissioner of the Supreme Court  
of Nova Scotia

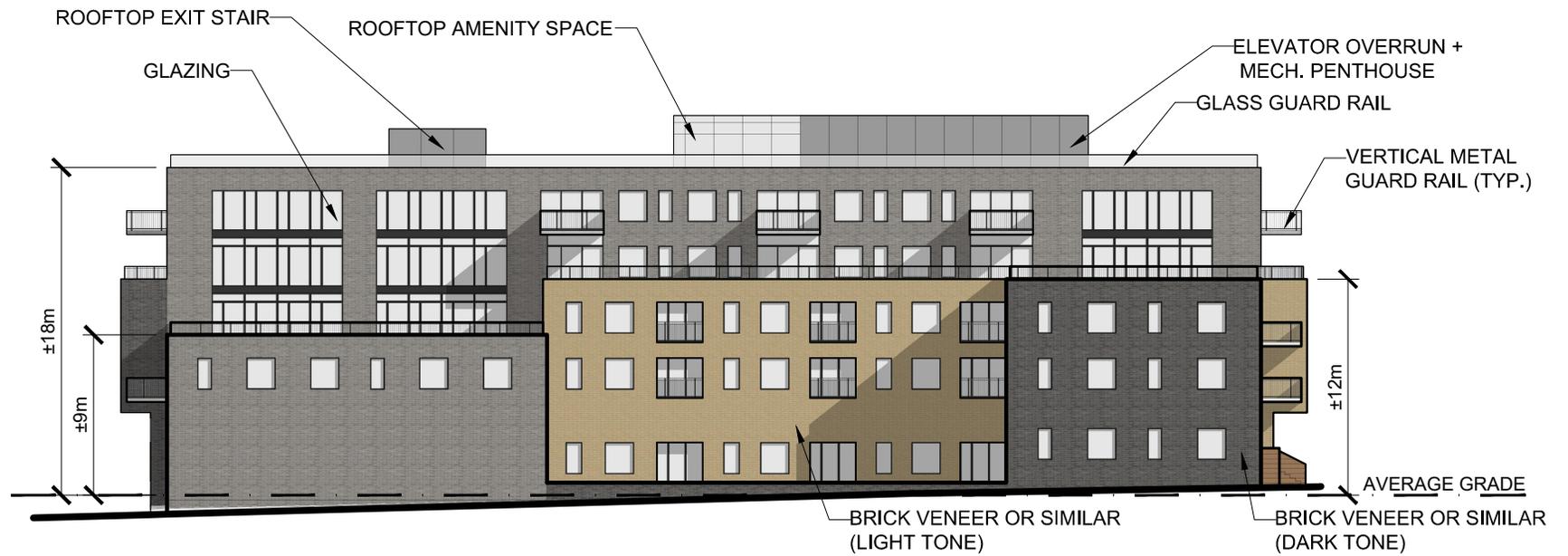
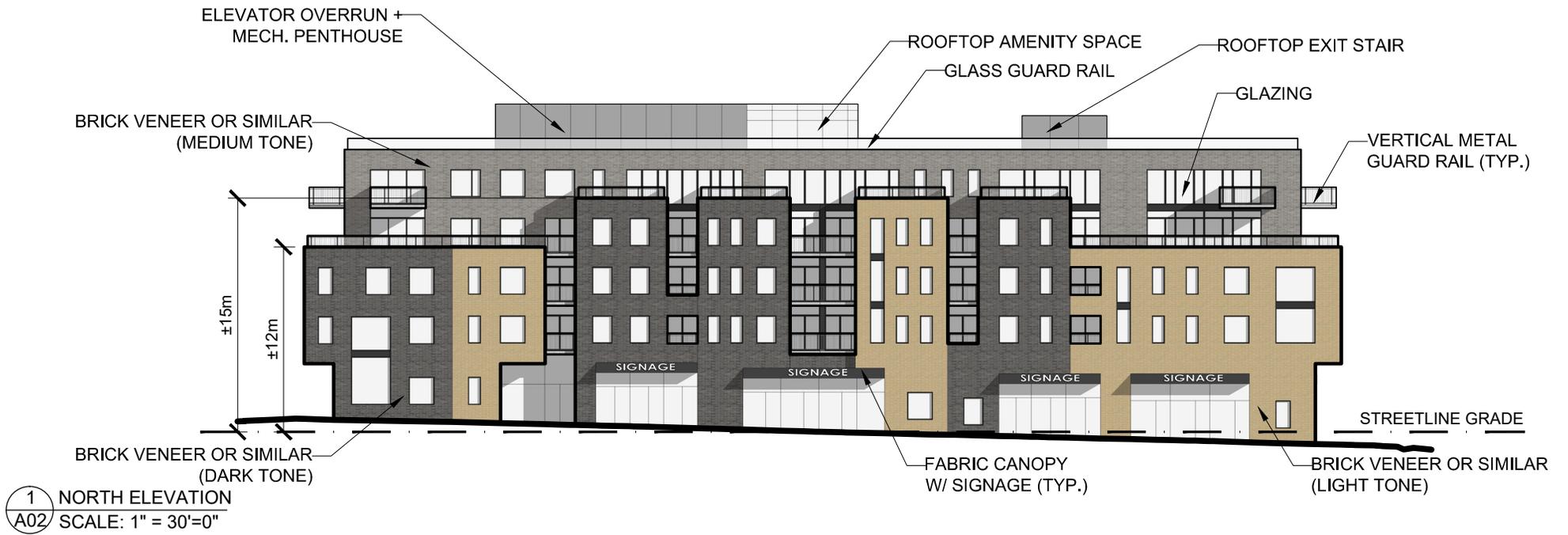
PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

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 Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

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A Commissioner of the Supreme Court  
of Nova Scotia





CHEBUCTO + ELM

6482 CHEBUCTO ROAD, HALIFAX, NS

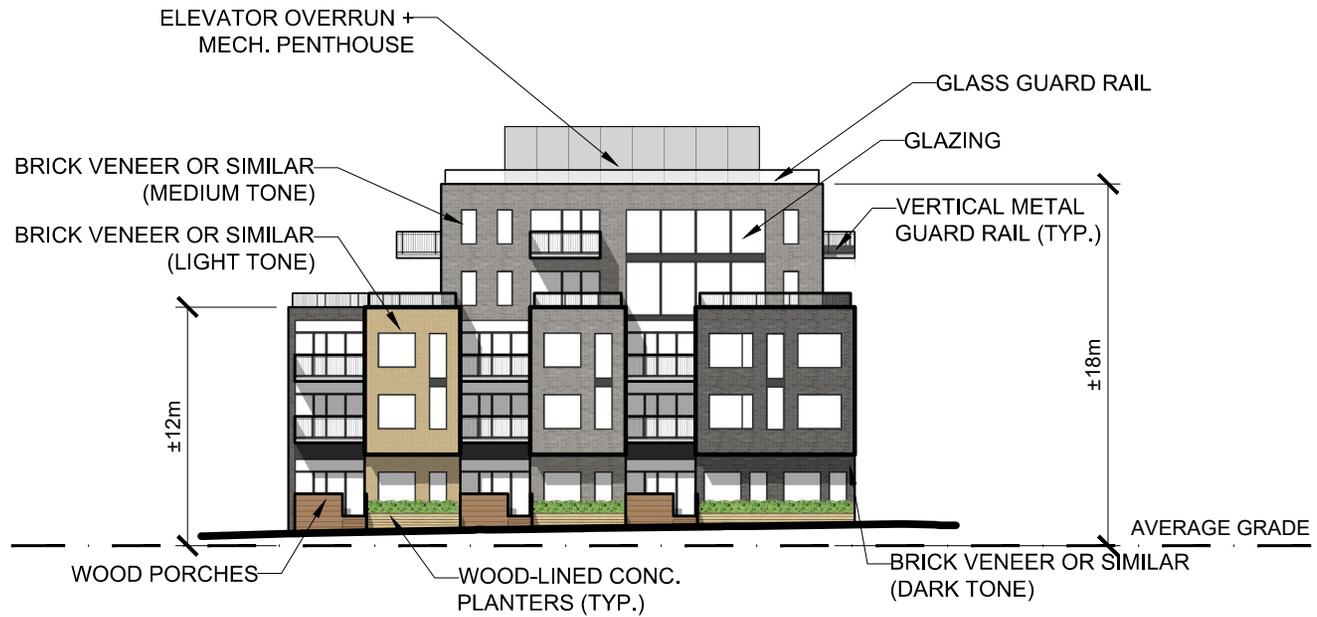
SCHEDULE C

BUILDING ELEVATIONS & STREETWALL  
FRAMEWORK

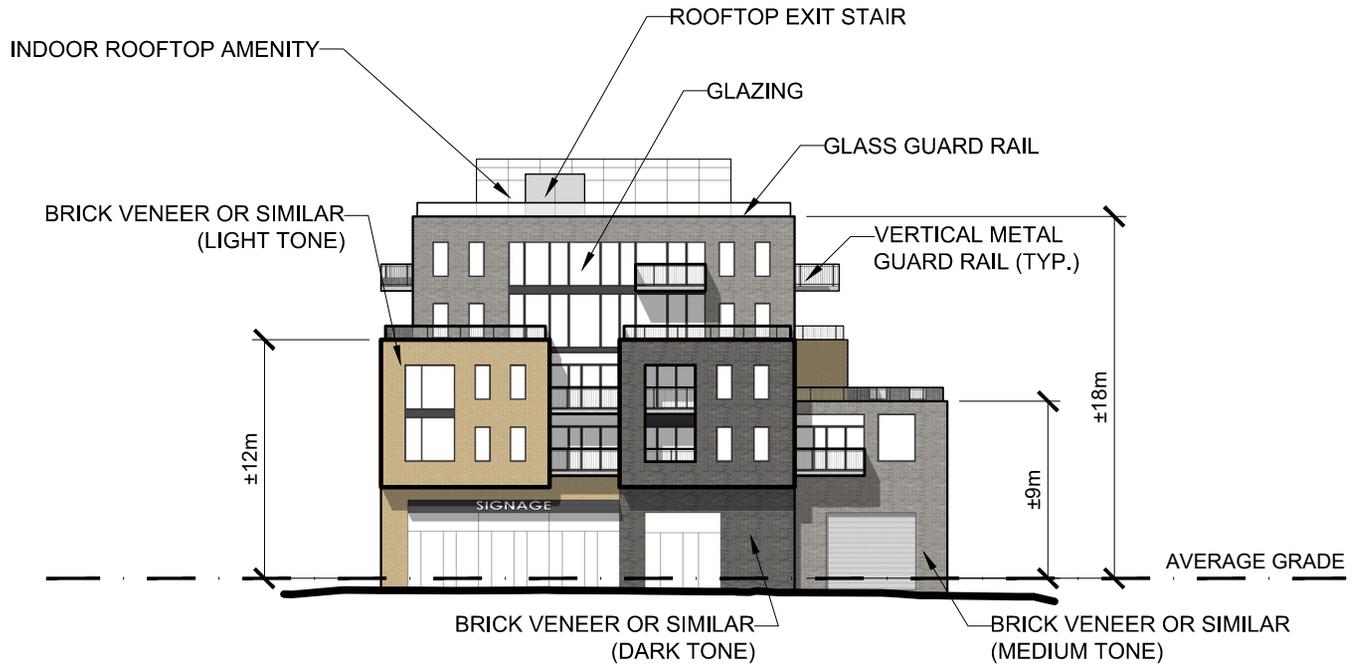
Project No.: 2015.14  
Scale: AS NOTED  
Date: 12 Sep 2018

WM FARES  
ARCHITECTS

A02



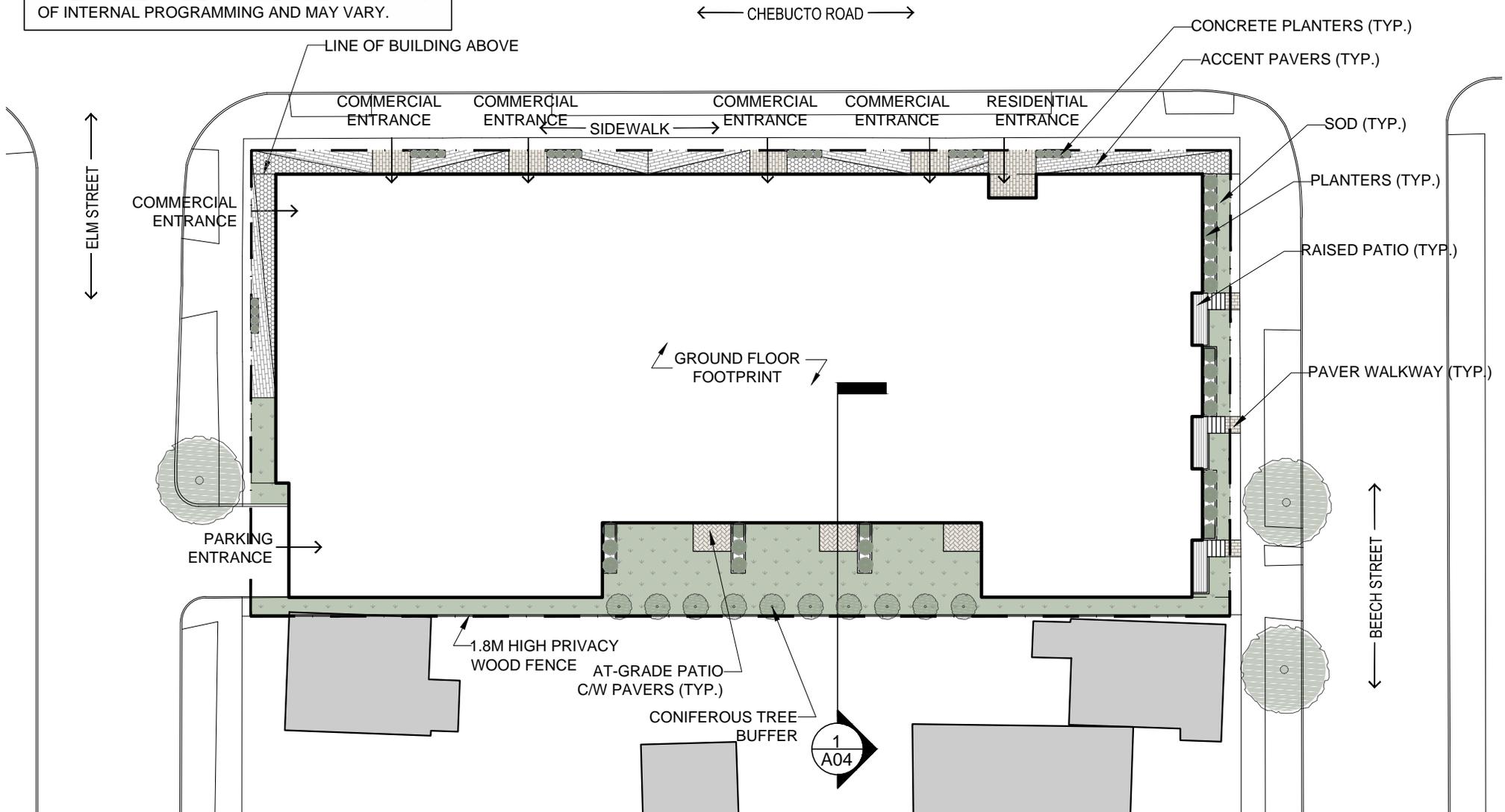
1 EAST ELEVATION  
A03 SCALE: 1" = 30'-0"

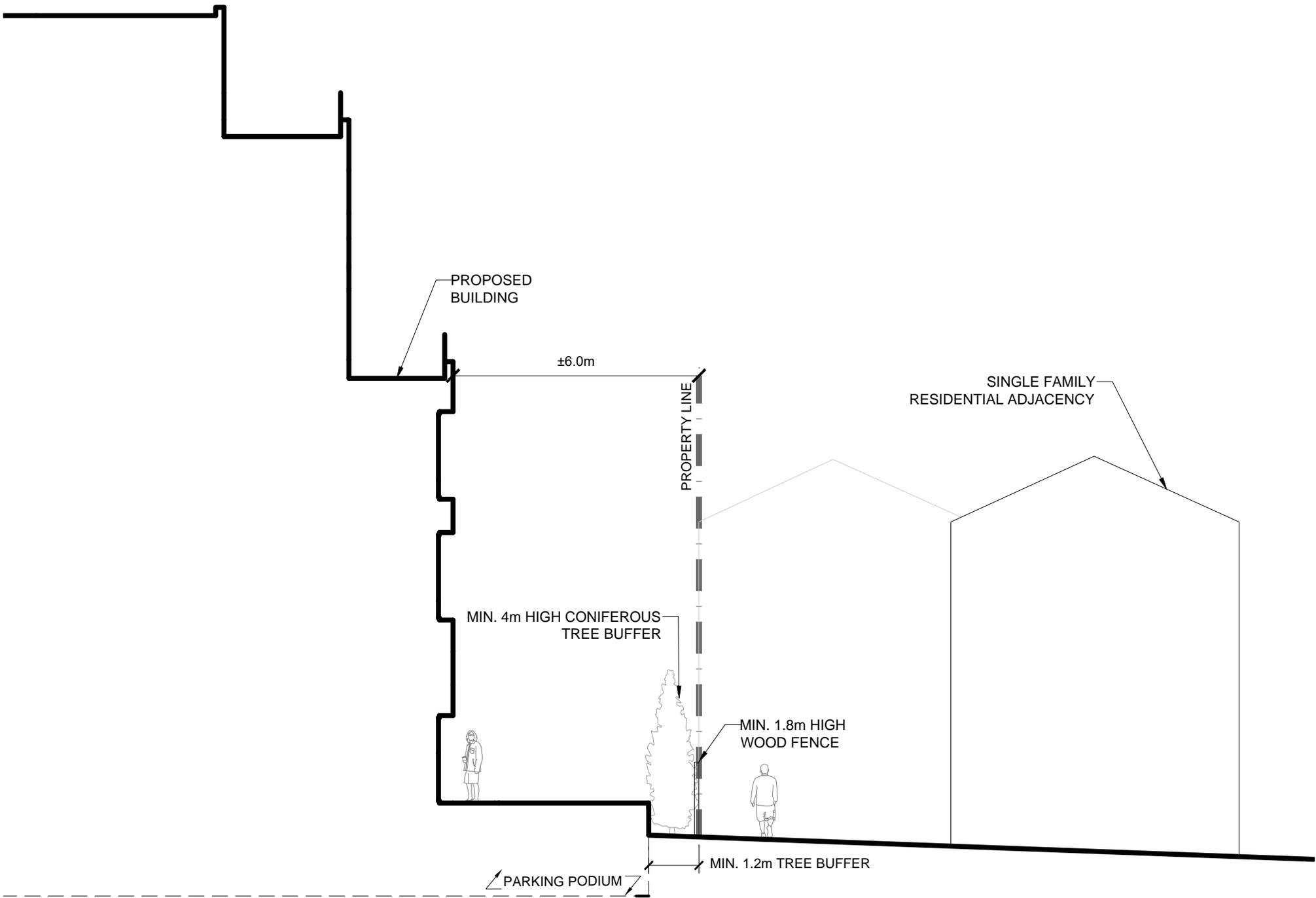


2 WEST ELEVATION  
A03 SCALE: 1" = 30'-0"

NOTE: LANDSCAPE DESIGN ELEMENTS ARE PRELIMINARY AND SUBJECT TO MODIFICATION BY THE LANDSCAPE ARCHITECT DURING THE BUILDING PERMIT PROCESS.

NOTE: COMMERCIAL ENTRANCES ARE A FUNCTION OF INTERNAL PROGRAMMING AND MAY VARY.





CHEBUCTO / BEECH / ELM DEVELOPMENT

6482 CHEBUCTO ROAD, HALIFAX, NS

SCHEDULE E

LANDSCAPED BUFFER CROSS SECTION

Project No.: 2015.14

Scale: 1" = 10'-0"

Date: 24 Oct 2018

WM FARES  
ARCHITECTS

**A05**



**ATTACHMENT D:**  
**Halifax Peninsula Planning Advisory Committee**  
**Public Information Minutes (October 5, 2017)**

PRESENT: Ashley Morton, Chair  
Councillor Lindell Smith  
Councillor Waye Mason  
Amy Siciliano  
Jeana MacLeod  
Grant Cooke

REGRETS: Sarah MacDonald, Vice Chair  
Joe Metledge  
Michael Bradfield  
Sunday Miller

OTHERS PRESENT: Shawn Cleary, Councillor District 9  
Jacob JeBailey, Principal Architect, WM Fares  
Cesar Saleh, Vice President, Planning and Design, WM Fares

STAFF: Andrew Bone, Planner III, Planning and Development  
Holly Kent, Planning Technician  
Phoebe Rai, Legislative Assistant, Office of the Municipal Clerk  
Hannah Forsyth, Legislative Support, Office of the Municipal Clerk

*The following does not represent a verbatim record of the proceedings of this meeting.*

*The agenda, supporting documents, and information items circulated to the Committee are available online at [Halifax.ca](http://Halifax.ca)*

*The meeting was called to order at 7:01 p.m. and the Committee adjourned at 9:15 p.m.*

## **1. CALL TO ORDER**

The Chair called the meeting to order at 7:01pm pm at the Halifax Forum (Maritime Hall), 2901 Windsor Street, Halifax.

The Chair encouraged the public to view the posters illustrating the project and to speak to staff until 7:25 p.m.

## **2. PUBLIC INFORMATION MEETING**

### **2.1 Case 20267 - Application by WM Fares Architects to change the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law to allow for a five-storey mixed-use building with ground floor commercial uses and residential uses at the site of a former service station at 6482 Chebucto Road, and on two additional properties (2586 Beech Street and 2585 Elm Street), Halifax.**

The Chair invited Andrew Bone, Planner III, to present Case 20267. Bone outlined the role of the City Planner as related to the proposal. Bone stated the purpose of the meeting was to provide information to the public on the proposed development at the corner of Chebucto Rd., Beech and Elm Streets, Halifax and to explain the process involved for an application of this type. The meeting's purpose is to receive feedback, hear concerns, and answer questions regarding the proposed development.

Bone described the history of the site as well as its context and explained the existing Halifax Municipal Planning Strategy (MPS). The municipality has been actively working on a Centre Plan and staff has provided recommendations of high level policies in a draft form. The proposed Centre Plan identifies the area as a corridor suitable for mixed use residential with commercial ground floor, and suggests building height from 4-6 storeys and a floor area ratio (FAR) of 3.5.

Regional Council directed staff to continue the process to consider site specific MPS amendments related to several proposals including Case 20267, subject to the application generally aligning to the draft Centre Plan. Council advised that the principles of transition, pedestrian-orientation, human scale, building design and context-sensitivity be considered.

The Chair invited Jacob JeBailey, Principal Architect, WM Fares to present the building proposal on behalf of the applicant.

Jacob JeBailey stressed that the proposal is not fixed and that the group is open to concerns and modifications. JeBailey presented an overall map of the site for context and outlined existing amenities, the central location on the peninsula and the urban context. JeBailey's presentation included street views and visuals on how pedestrians are using the street and how residents are accessing their homes. JeBailey stated the importance of integrating those elements into the design. A site map included storey heights and grade changes with commercial sites at the street level.

The Chair clarified the rules of the question and answer and the format for a productive feedback session before opening the floor to comments from the public.

**Robert Estey-Willick, Beech Street** shared concerns on behalf of owners and operators of a clinic on Beech Street. Estey-Willick stated the development threatens the clinic and will disrupt the tranquil environment the clinic needs. They also expressed concern regarding disruption during the construction phase. They questioned what the developer would offer to offset the impact to business owners. Estey-Willick concluded by noting an insufficient allotment of parking spaces and requesting the committee to keep the scale of the development small and respect the feedback they hear.

Andrew Bone stated the question would be addressed in a staff report.

**Stephen Feist, Chebucto Road** commented that Elm Street has increasing numbers of young families and expressed concern that the project, with 40 parking spaces will worsen the existing traffic on Chebucto Road and Elm Street. Feist raised concerns around winter snowfall, removal and parking resulting in a one-way road. They also stated that the scale of the development, five or six storeys, is too high given single dwellings surrounding the area.

**Susan Tooke, Elm Street** shared concerns about the sound of construction given they illustrate books for children and do audio work from home, so their work will be impacted by the sound. Tooke also commented on the increased traffic and the potential danger to children in the area. They questioned whether there was a traffic study completed and commented that parking is already at a premium. They also questioned the sewer implications and questions regarding run-off and the wind impacts on snow patterns. Tooke stated that the proposed exit of the garage is too close to the street corner and spoke against the proposed five storeys.

**Richard Rudnicki, Elm Street** expressed support for developments in Halifax and noted they could be proud of this proposal. Rudnicki takes issue with the transition to the neighbourhood with five storeys to two storeys and noted that utilities will add to height. Rudnicki asked for additional information on power poles and waste removal on Elm Street.

**Isabel Fearon, Swaine Street** commented that with the proposed building right to the edge of the property, the transition to the community would be harsher. Fearon questioned the impact the building would have on water run-off in the area, and questioned if there are any proposed exchanges being offered by the developers. Fearon raised the concern of pedestrian safety on the sidewalk given the screened in porches are so close to the sidewalk, and they questioned the lack of commercial parking and where the trucks and commercial vehicles will park when delivering.

Jacob JeBailey clarified that the developer is tasked with the design of the building and that the building owners would be able to answer logistical questions. JeBailey suggested that the trucks would likely tuck into the parkade and move into the driveway of the garage to unload.

**Mike Smith, Connolly Street** expressed support of the development and believes the development will not add to the traffic in and out of the city. Smith stated that the project, if approved, should stay on schedule and questioned whether there would be penalties if the project was delayed.

**Joan Fraser, Seaforth Street** stated that a low residential development would fit nicely on the site and that the development should be kept to three or four storeys. Fraser commented that it is important to remember that the Centre Plan is still in progress and that a transition into the communities will be difficult with five storey buildings and four storeys should become the model for upcoming developments.

**Lara Hazelton, Halifax** shared concerns that annexing the residential property will set a precedent and that the proposed building is too large. Hazelton does not believe the development will fit with the community and the context of the surrounding area. They stated that traffic is already an issue and that additional persons will not help with that.

**Steve Parcell, Duncan Street** commented that 148 people will be on this site with one or two bedrooms, the site area is less than half an acre, so the density is 320 persons per acre which is quite high. Parcell inquired as to the floor area ratio and questioned the origins of the 3.5 FAR maximum. Parcell also stated that there is a 125 persons per acre maximum in the area, and 250 downtown according to bylaws. Therefore the proposed density would exceed that bylaw provision. Parcell commented that the current height limit on the property is 35 feet, and the proposal is 54 feet; under the current law it is too high by 19 feet. They concluded by noting that the maximum number of storeys for a corridor is four unless there is suitable depth underneath, however the lot is less than 100 feet deep, so anything more than four storeys should not be permitted.

Andrew Bone stated that more research is necessary.

Jacob JeBailey stated that the floor area ratio is 3.59, it was completed before the Centre Plan and the developer is open to reducing the footprint.

**Katie Standage, Kline Street** stated that the area currently has single family dwellings, with children walking to school. Standage is concerned that children's safety will be at risk with increased traffic and the high density will not blend with the young community.

**Mark Buckrell, Beech Street** stated there is already a parking problem on Beech Street that will be exacerbated by the proposed development. Buckrell questioned what variances were needed to build the building, what needs to be rezoned and what is still being considered. Buckrell expressed appreciation for the aesthetic of the Beech Street side, but suggested moving the building back from the sidewalk because the sidewalk is currently too small to pass another person. They stated that the proposed Chebucto corridor will only be four blocks so the development will seem out of character in the community.

Andrew Bone noted that there is a planning policy in commercial areas that allow for the consideration of buildings of this scale.

**Jean Kimber, Elm Street** is concerned by the increased traffic effects on the safety of children playing on the streets. Kimber stated that the European deli across from the proposed development parkade will result in people stopping on both sides, and commented that there will not be enough parking spaces for the number of apartments.

**Luke Williams, Elm Street** stated that the building is not attractive, the development will add to the current traffic issues and that the logistics regarding deliveries should be considered further.

**Morgen Grandy, Timberlea** questioned whether there was any consideration for the environmental assessment from the gas station that previously occupied the site. Grandy commented that the building will be aimed towards housing university students and not families. Grandy questioned why there are no windows on one side of the building and whether there will be 10 to 13 feet between the buildings.

Jacob JeBailey stated that the development aligns with the footprints of the adjacent residences. JeBailey also clarified that it is a fire code requirement to have one side of the building windowless.

Andrew Bone commented that there was a former gas station, however Nova Scotia environment had strict rules regarding the gas station cleanup and they require a cleanup if there are any further issues.

The Chair clarified contact information and comment cards for feedback and thanked the community for attending the Public Information Meeting.

### **3. ADJOURNMENT**

The Chair adjourned the meeting at 9:15 p.m.

Hannah Forsyth  
Legislative Support

**ATTACHMENT E**  
**Policy Review of Proposed Development Agreement (DA)**

**Policy 4.2.1 Development Agreement Provisions**

*The Land Use By-law for Halifax Peninsula shall be amended to identify that mixed-use development may be considered by development agreement for the property located at the intersections of Chebucto Road, Elm Street, and Beech Street.*

*(1) Notwithstanding other policies of this Municipal Planning Strategy except 4.2.1(2), a development agreement for the property located at the intersections of Chebucto Road, Elm Street, and Beech Street shall:*

<b>Policy Criteria</b>	<b>Comment</b>
<i>a) permit a mixed-used (residential and commercial) building;</i>	The DA permits residential and commercial uses within a single building.
<i>b) permit a range of commercial uses, including, cultural, daycare, office, restaurant, retail, and work-live uses;</i>	The DA permits a wide mix of uses, including residential, commercial, cultural, work-live, and limited institutional uses.
<i>c) require a mix of residential unit types;</i>	Section 3.3 of the DA requires that at least one third of the all dwelling units contain two or more bedrooms.
<i>d) restrict development to a maximum building height of 5 storeys, plus penthouse(s);</i>	The DA states that no building shall be constructed that exceeds the maximum height framework listed in Schedule B. Schedule B clearly denotes the tallest portion of the building as five storeys tall (excluding the penthouse(s)).
<i>e) require that the 4th and 5th storeys and penthouse(s) are orientated towards Chebucto Road;</i>	The DA requires that the proposed height framework is achieved. The DA, in addition to Schedule B, indicates that the fourth storey, fifth storey, and penthouse(s) are shifted away from the southern property line towards the Chebucto Road lot line.
<i>f) restrict streetwall height to a maximum of 4 storeys along Chebucto Road;</i>	The DA, in accordance with Schedule B, permits a maximum streetwall height of three-and-four storeys along Chebucto Road. Staff suggest that this streetwall height helps maintain a human scale.
<i>g) restrict streetwall height to a maximum of 3 storeys along both Elm Street and Beech Street;</i>	The DA, in accordance with Schedule B, permits a maximum streetwall height of four storeys along Chebucto Road.
<i>h) restrict the building's podium height to a maximum of 3 storeys along the southern lot line;</i>	The DA, in accordance with Schedule B, permits a maximum podium height of two storeys along the southwest portion of the southern yard and three storeys along the remaining portion of the southern yard. These features help provide a sufficient transition into, and lessen the proposal's impact on the established low-density residential neighbourhood.
<i>i) restrict development to a minimum setback, both above and below grade, of 1.5 metres from the Chebucto Road lot line;</i>	The DA, in accordance with Schedule B, requires that a minimum setback of 1.5 metres from the Chebucto Road lot line is provided both above and below grade.
<i>j) require a landscaped buffer and fencing along the rear lot line;</i>	The DA requires that a landscaped buffer be provided along a portion of the rear lot line. The buffer shall

	contain coniferous trees that have a minimum height of 4 metres and a minimum width of 1.2 metres. The DA also requires that an opaque fence, which has a minimum height of 1.8 metres, is provided along the rear lot line, as per the attached Schedules.
<i>k) require indoor and outdoor amenity space for on-site residents;</i>	The DA, in accordance with attached Schedules, requires that an interior amenity space be provided on the building's rooftop, in conjunction with the mechanical penthouse. The DA, as per Schedule B, ensures that a rooftop amenity terrace and rear yard courtyard are also provided to on-site residents.
<i>l) regulate streetwall massing, external building design, cladding materials, design of at-grade residential units, front yard landscaping, outdoor storage, signage, and the planting and retention of vegetation; and</i>	The DA: regulates streetwall and external building design; restricts the cladding materials that are suitable for the building; requires at-grade residential units to open onto a porch or patio, and mandates that the ground floor be set above sidewalk grade; requires that front yards contain a combination of hardscaping, landscaping, and planters; regulates the size of signs permitted on-site; ensures that the existing street trees along Elm Street and Beech Street are retained; and provides direction for landscaping the rear courtyard. These features will allow the building to more effectively satisfy the planning principles listed in Section 2.
<i>m) permit underground parking.</i>	The DA prohibits surface parking lots and contains minimum requirements for underground vehicular parking. Additionally, the DA states that bicycle parking provisions shall adhere to the Halifax Land Use By-law.
<i>(2) In addition to meeting the requirements of Policy 4.2.1(1) a) to m) inclusive, when considering a development agreement for the property located at the intersections of Chebucto Road, Elm Street, and Beech Street, Halifax, Council shall consider:</i>	
<i>(a) the planning principles of transition, pedestrian-oriented, human-scale, building design and context sensitive, as described in Section 2; and</i>	A detailed review of the planning principles is provided within the subject staff report. The DA contains various regulations to ensure the proposed development generally aligns with the necessary planning principles.
<i>b) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.</i>	The Transition principle is discussed at length in the subject staff report. The DA includes regulations and Schedules, which incorporate design features (e.g., limited streetwall and building podium heights, large horizontal stepbacks, landscaped buffers, fencing, etc.) that create sufficient transitions to surrounding built forms.