



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 15.3.2**  
**Halifax Regional Council**  
**May 14, 2019**

**TO:** Mayor Savage Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed  
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For Councillor Stephen D. Adams, Chair, Halifax and West Community Council

**DATE:** May 8, 2019

**SUBJECT:** **Case 20632: Amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, and a proposed development agreement for 2440, 2442, 2444, 2446, 2448, 2450, 2452 and 2454 Agricola Street, Halifax**

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### **ORIGIN**

May 7, 2019 meeting of Halifax and West Community Council, Item 13.1.6.

### **LEGISLATIVE AUTHORITY**

HRM Charter, Part 1, Clause 25(c) – “The powers and duties of a Community Council include recommending to the Council appropriate by-laws, regulations, controls and development standards for the community.”

### **RECOMMENDATION**

It is recommended that Halifax 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 the staff report dated March 27, 2019, to allow a five storey (plus penthouse) building by development agreement at 2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola Street, Halifax, and schedule a joint public hearing; and
2. Adopt the proposed amendments to the MPS and the LUB, as set out in Attachments A and B of the staff report dated March 27, 2019.

## **BACKGROUND**

At their May 7, 2019 meeting, Halifax and West Community Council considered the staff report dated March 27, 2019 regarding Case 20632: Amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, and a proposed development agreement for 2440, 2442, 2444, 2446, 2448, 2450, 2452 and 2454 Agricola Street, Halifax.

For further information, refer to the staff report dated March 27, 2019. (Attachment 1)

## **DISCUSSION**

Halifax and West Community Council considered the staff report dated March 27, 2019 and approved a recommendation to forward to Halifax Regional Council, as outlined in the 'Recommendation' section of this report. Community Council additionally gave notice of motion to consider the proposed development agreement, as set out in Attachment C of the staff report dated March 27, 2019.

For further discussion on this item, refer to the staff report dated March 27, 2019. (Attachment 1)

## **FINANCIAL IMPLICATIONS**

For information on the financial implications relating to this item, refer to the staff report dated March 27, 2019. (Attachment 1)

## **RISK CONSIDERATION**

For information on the risk considerations relating to this item, refer to the staff report dated March 27, 2019. (Attachment 1)

## **COMMUNITY ENGAGEMENT**

Meetings of Halifax and West Community Council are open to the public and live-streamed on Halifax.ca. The agenda, reports, and minutes for the meeting are posted on Halifax.ca as well.

For further information on Community Engagement as it relates to this item, refer to the staff report dated March 27, 2019. (Attachment 1)

## **ENVIRONMENTAL IMPLICATIONS**

For information on the environmental implications relating to this item, refer to the staff report dated March 27, 2019. (Attachment 1)

## **ALTERNATIVES**

Halifax and West Community Council did not provide alternatives.

Refer to the staff report dated March 27, 2019. (Attachment 1) for alternatives.

## **ATTACHMENTS**

**Attachment 1** - Staff report dated March 27, 2019.

**Attachment 2** - Halifax Peninsula Planning Advisory Committee Memo dated October 27, 2017.

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: David Perusse, Legislative Assistant, Municipal Clerk's Office 902.490.6732

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

**Item No. 13.1.6**  
**Halifax and West Community Council**  
**May 7, 2019**

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

Original Signed

**SUBMITTED BY:**

\_\_\_\_\_  
Kelly Denty, Director, Planning and Development

Original Signed

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Jacques Dubé, Chief Administrative Officer

**DATE:** March 27, 2019

**SUBJECT:** **Case 20632: Amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, and a proposed development agreement for 2440, 2442, 2444, 2446, 2448, 2450, 2452 and 2454 Agricola 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) building by development agreement at 2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola 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) building at 2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola 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) building at 2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola 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 are applying to amend the Municipal Planning Strategy (MPS) for Halifax and the Land Use By-law (LUB) for Halifax Peninsula to permit a five storey (plus penthouse) development on the properties located at 2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola Street, Halifax. A development of this nature cannot be considered under existing policy and regulations. Attachment C contains the current version of the proposal, and includes the following features:

- Five storey (plus penthouse) mixed-use building;
- Three storey streetwall facing Agricola Street;
- Three storey building podium facing the rear lot line;
- Rear yard setback of 4.6 metres;
- Rear yard setback of 5.5 metres above the third storey;
- Rear yard amenity courtyard, landscape buffer, and fencing; and
- Approximately 34 residential units and 446 square metres of ground floor commercial / cultural uses.

## **Subject Property Details**

<i>Location</i>	Agricola Street; mid-block between Charles Street and West Street
<i>Subject Site</i>	2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola Street, Halifax
<i>Regional Plan Designation</i>	Urban Settlement
<i>Community Plan Designation (Map 1)</i>	2454 Agricola Street is designated Major Commercial; all other properties are designated Medium Density Residential
<i>Zoning (Map 2)</i>	2454 Agricola Street is zoned General Business (C-2); all other

	properties are zoned General Residential (R-2)
<i>Size of Site</i>	763.3 square metres (8216 square feet)
<i>Street Frontage</i>	32 m (105 feet)
<i>Current Land Use(s)</i>	2454 Agricola Street contains a ground-floor retail use and residential units above; all other properties contain residential uses

### Historical Context

Agricola Street developed in the mid-to-late 19<sup>th</sup> century as the population centre of the Halifax Peninsula expanded northward from Downtown. Today, Agricola Street is a community in transition. For much of the last 30 years the area has supported modest homes and small businesses, but recently Agricola has seen the establishment of new restaurants, bars and small businesses. Development pressure in this area is becoming more apparent, but as of today, much of the original built form fabric of the street remains intact.

Agricola Street is marked mainly by Halifax vernacular “Late Victorian Plain” architecture, which is prevalent in North End Halifax. These were fairly simple two storey working class and middle-class houses with flat roofs and very little architectural detail. In the Southern portion of Agricola, buildings adjoin the sidewalk and are characterized by small stoops or stairs, alleys between buildings, and a generally tight-knit urban fabric. As older buildings are restored, the street is taking on a colourful aesthetic, as new owners often opt for bolder paint choices.

### Surrounding Context

The subject site is located on the western side of Agricola Street, at the midpoint of the block bounded by Charles Street to the north and West Street to the south. The block is characterized by compact building forms and minimal front & side yard setbacks. Most existing buildings range from two to two-and-a-half storeys which creates a uniform roofline and streetwall. Two taller buildings are located at the block’s extremities: a three storey building (i.e., Chapman Auto Body Ltd.) is located near the Agricola Street / Charles Street intersection; and a three storey (plus penthouse) building (i.e., McGillivray Law Office) is situated at the Agricola Street / West Street intersection.

The subject site contains residential buildings, though 2454 Agricola Street contains a mixed-use building with a ground-floor retail use (i.e., Obsolete Records). The remainder of the block is largely characterized by residential uses, though a small number of commercial uses are also present, including Chapman Auto Body Ltd., McGillivray Law Office, and Coffin Skate Shop on the abutting property (2456 Agricola Street).

Commercial uses become more prevalent to the north and south of the defined block. The Agricola Street / Charles Street intersection marks the beginning of a commercial area, which contains several new commercial developments and uses. The prominence of commercial uses, and a more-balanced mix of commercial / residential uses, is a defining feature of the northern section of Agricola Street leading to the Hydrostone neighbourhood. South of the subject block, there is another strong concentration of commercial uses between West Street and the Agricola / Cunard / North Park roundabout, particularly on the eastern side of Agricola Street.

### MPS and LUB Context

The subject site is located within multiple designations and zones. A small portion of the subject site (i.e., 2454 Agricola Street) is: designated Major Commercial, as per the Peninsula North Secondary Plan, where the character is to be a mix of commercial and residential development; and zoned C-2 (General Commercial) by the Halifax Peninsula Land Use By-law. The C-2 Zone permits a variety of commercial uses and residential uses, including apartment houses, up to a maximum height of 80 feet.

While only a small portion of the subject site contains the Major Commercial Designation and C-2 Zone, this designation and zone defines a large section of Agricola Street (e.g., between Charles Street and the Hydrostone neighbourhood). Staff note that this designation / zone have been applied to the Agricola Street lots east of the subject site, as well.

In contrast, the vast majority of the subject site is designated Medium Density Residential 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. The proposed development does not adhere to the as-of-right provisions of R-2 Zone, nor is there enabling policy to consider the proposed development (i.e., commercial uses and/or multi-unit residential developments exceeding four units) within the Medium Density Residential designation. As such, the subject site's development potential is more restrictive than the Agricola Street lots to the north and immediate east.

### **Regional Plan and 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 is reviewed in the Discussion section of this report.

### **Incentive or Bonus Zoning**

Incentive or bonus zoning is a process that provides additional public benefits in exchange 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 Incentive or bonus zoning 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 incentive or bonus zoning 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 incentive or bonus zoning 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 incentive or bonus zoning 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). Regional Council also directed staff to consider the use of incentive or bonus zoning for an active site specific amendment application at the corner of Bedford Highway and Flamingo Drive (Case 21730).

### **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 and 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 neighbourhood questionnaire. Attachment D contains a summary of the neighbourhood questionnaire responses, roughly 30% of which were largely supportive. A brief synopsis is provided below:

- Several respondents liked the proposed development and raised no major concerns;
- Several respondents indicated that a multi-unit residential building and/or increased density would improve the subject site;
- Many respondents highlighted transition-related concerns, the most frequent being an overwhelming lot coverage and insufficient setbacks / stepbacks / building height reductions leading to the abutting John Street properties; and
- Many respondents noted the proposal failed to address the context-sensitive principle, citing that the proposal does not complement the existing built form and should be limited to three or four storeys in height.

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

- **Form** - The majority of comments noted that the design is boxy and utilitarian. Some stated that the façade should be made more dynamic and given depth to make it interesting. The development was noted as being too tall and out of scale for the neighbourhood. Based on participant feedback, a lower streetwall with stepbacks, and setbacks for transitioning at the rear should be explored.
- **Character** - Several respondents commented that that proposal does not fit with the “quirky” character of Agricola Street. Commenters wish to preserve the look and feel of the street.
- **Streetscape** - Participants suggested that the proposal should have larger front yard setbacks in order to incorporate more green space, wider sidewalks, and public amenities at grade. In their opinion, the building must do more to foster community and contribute to a lively street.

A public hearing must be held by Regional Council before they can consider approval of 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 October 23, 2017. The HPPAC recommended that the Halifax and West Community Council not proceed with the consideration of the subject application unless substantial amendments are made. While the HPPAC appreciated the proposal's inclusion of public art and bicycle parking, they noted several key concerns, including the following:

- The building does not provide adequate transition to the abutting rear yard properties;
- The development is not sufficiently pedestrian oriented;
- The proposal's overall mass is very large;
- The inclusion of rear yard commercial patios (facing residential dwellings) is concerning;
- A concealed vehicular parking entrance could impact pedestrians along Agricola Street;
- A three storey streetwall would be more appropriate than a four storey streetwall; and
- An overall height of four storeys is recommended unless further measures to improve transition are incorporated.

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

### **REVISIONS**

Following the HPPAC's October 2017 meeting, the applicant revised the proposal in an effort to respond to feedback and better align with Regional Council's direction. The notable changes are as follows:

- Streetwall height along Agricola Street was reduced from four storeys to three storeys;
- Stepbacks from Agricola Street were reduced from 2.4 metres to 1.5 metres;
- The building is setback an additional 0.9 metres from the rear lot line above the third storey;
- Rear yard commercial patios were replaced by an amenity courtyard for on-site residents;
- A landscape buffer (four metres tall) and privacy fence (1.8 metres tall) were added along the rear lot line;
- Indoor parking was removed from the proposal; and
- The ground floor façade was redesigned (e.g., vehicular parking entrance removed, storefronts / windows / signage / accent panel were added, etc.).

### **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**

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, the applicant's revised 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 applicant has proposed a redevelopment opportunity that includes active ground floor uses and four storeys of dwelling units above. The proposal would bring daily amenities and employment opportunities to areas identified for strategic growth, and aid in supporting *Established Residential Areas*. The applicant noted that the development could potentially be solely dedicated to residential uses. Regardless of the development’s final composition, the proposal will increase the number of new residential units within HRM’s *Corridors*.

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 3.3, 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.

Both the community and HPPAC suggested that the proposed development was too tall for the surrounding context and provided an insufficient transition. The applicant, however, has proposed a five storey building, and the June 2017 Centre Plan document provides an avenue through which five storeys can be accommodated.

The subject site has a depth of only 24.1 metres (79.1 feet), and the proposal utilizes a 4.6 metre rear yard setback, which is smaller than those historically present on surrounding lots, and 5.5 metre rear yard setback above the third storey. These features help direct the building’s mass towards Agricola Street and provide relief to the abutting properties. Further, the applicant has proposed four metre trees and a 1.8 metre privacy fence along the rear lot line to provide an additional buffer to the abutting dwellings. With these considerations in mind, staff advise that the revised proposal meets the minimum lot depth / transition threshold required to accommodate a five storey building on the subject site.

**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,

Planning Principles	Description
	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 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 Regional Council's planning principles, particularly the transition, pedestrian-oriented, and context-sensitive principles. In light of these revisions, the proposal now strongly addresses three principles and adequately addresses the transition and context-sensitive principles.

#### Transition

The applicant has made revisions to the proposed development, which were intended to better address the transition principle. The proposal utilizes a three storey streetwall in order to reinforce the historical roofline / streetwall that characterizes Agricola Street development. The building is setback 4.6 metres from the rear lot line and an additional 0.9 metres above the third storey, which provides a more gradual transition to the low-lying dwellings on John Street and directs the building's mass towards Agricola Street. The inclusion of a rear yard amenity courtyard (as opposed to commercial patios) eliminates the encroachment of commercial activity onto John Street properties. The proposal's transition is further enhanced by the introduction of columnar trees, retaining wall, and fencing to provide an invaluable buffer to abutting residential dwellings.

#### Pedestrian-Oriented

The proposed development is oriented towards the street, utilizes minimal front yard setbacks (which is a defining feature of Agricola Street's traditional form), and incorporates numerous storefronts, building entrances, and integrated benches along the sidewalk. Thus, the proposal provides a positive interface between the pedestrian environment and ground floor uses, particularly in comparison to the subject site's existing buildings.

The applicant's revised proposal better adheres to the pedestrian-orientation principle in several ways: the vehicular parking entrance, which provides little pedestrian benefit, was removed from the façade; the

existing storefront windows were re-designed and a fourth storefront was added; a corner accent feature and commercial signage was added to the ground storey; and architectural depth (i.e., a zig-zag wall design) was added to the ground floor façade. These features help capture a pedestrian's visual interest and enhance activity along the street.

#### Human-Scale

The proposed building is larger than abutting properties, yet the applicant has taken measures to reduce the building's impact on its surroundings. The proposed building contains a three storey streetwall and 1.5 metre setback from the Agricola Street lot line, has features that help humanize the proposed development and reduce its perceived height and mass. The ground floor façade contains glazing, storefronts, and multiple entryways that enhance how a pedestrian experiences the building. The design of the ground floor façade, which incorporates variations in depth, creates several overhangs to help protect pedestrians and residents from the elements.

#### Building Design

The proposal benefits from strategic measures (e.g., large ground-floor windows, active storefronts, vertical wood siding, and accent colour panels) that create a visually attractive façade along the ground floor. The ground floor contrasts with the streetwall's upper storeys through the use of brick veneer, opposed to the continuation of vertical wood panelling, which enhances visual interest from the sidewalk. The upper portion of the streetwall also blends the use of aligned windows, insert balconies, and alternating tones of brick veneer to strengthen the proposal's appearance and visual rhythm from surrounding properties.

Above the streetwall, the proposed development continues the use of windows and balconies to provide articulation to the upper portion of the building. Alternative building materials or colours are abandoned on the fourth and fifth storeys, in an effort to create a more subtle appearance.

Similar design features are incorporated in the building's rear design, though the ground level contains fewer details and articulation as the rear yard will be a private space for on-site residents. The presence of a landscape buffer and fencing help enhance the overall proposal.

#### Context-Sensitive

The proposed development's streetwall was reduced from four storeys to three storeys, and is compatible with existing Agricola Street buildings and complements the historical appearance of the streetscape.

The subject site abuts an established residential area to the west, which is characterized by low-density dwellings. The proposal's podium is setback 4.6 metres from the rear lot line at grade and 5.5 metres above the third storey, in an effort to respect the characteristics of abutting lots. The public was originally concerned about the presence of rear yard commercial patios, but these have been replaced by a courtyard for on-site residents in order to further enhance compatibility in the current proposal. Further, the revised proposal contains a 1.8 metre privacy fence and 4 metre tall landscape buffer along the rear lot line.

It should be noted that none of the buildings that will be removed to make way for this development have been registered buildings and further, there are no registered 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 this principle.

### Centre Plan Package A

On February 23, 2018, Centre Plan Package A was released for public and committee review. Package A indicates that the subject site shall have a maximum building height of 14 metres, a streetwall height of eight metres, and FAR of 2.25. The proposed development has a maximum height of 17 metres, streetwall height of 11 metres, and a FAR of 3.3.

Staff were directed to review the application in accordance with the June 2017 Centre Plan document's direction for Height and FAR, not those listed in the Centre Plan - Package A. As previously stated, the application is consistent with Council's specific direction regarding Height and FAR.

### **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.
- **Parking** – Several residents raised concerns about the neighbourhood's parking shortage, and subsequently, indoor vehicular parking was removed from the revised proposal (bicycle parking is still provided). The June 2017 Centre Plan documents states that on-site vehicular parking shall be allowed within Corridors, though it is not required.

### **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 Peninsula North – 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 and cultural uses are limited to the ground floor. The proposed development agreement does not regulate the maximum number of residential units or commercial floor area; the figures previously disclosed in this report are an estimate only. Additional highlights include the following:

#### Height and Built Form

- Maximum building height of five storeys (plus penthouse);
- Three storey streetwall along Agricola Street;
- Three storey building podium in the rear yard; and
- Requirements for exterior appearance and building materials.

#### Setbacks and Stepbacks

- Streetwall setbacks between 0 metres (0 feet) and 1.5 metres (4.92 feet);
- Minimum streetwall stepback of 1.5 metres (4.9 feet) above the third storey;
- Minimum side yard setbacks of 0 metres (0 feet);
- Minimum rear yard setback of 4.6 metres (15.1 feet); and

- Minimum rear yard setback of 5.5 metres (18 feet) above the third storey.

### **Conclusion**

Staff have considered the request against the Regional Plan's policies and Regional Council's direction for this proposal. While several local residents expressed opposition to the proposed development, staff advise that the proposal suits the subject site. The June 2017 Centre Plan document identifies the subject site as a *Corridor* and suitable destination for five-and-six storey buildings if appropriate design transitions are provided. Staff advise that the proposal strongly aligns with the Document's Urban Structure and FAR direction and generally aligns with the Document's Height direction.

The revised proposal incorporates numerous features (i.e., three storey streetwall, streetwall stepback, three storey rear building podium, varying rear yard setbacks, amenity courtyard, landscaped buffer and fencing, pedestrian-focused design features) to better address Regional Council's planning principles. The proposed development now strongly addresses the pedestrian-orientated, human-scale, and building design principles and adequately addresses the transition and context-sensitive principles. As such, staff advise that the proposed development is generally consistent with the noted planning principles.

Staff recommend adapting 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 2019-20 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**

No additional concerns were identified beyond those raised in this report.

### **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	Neighbourhood Questionnaire Responses
Attachment E	Policy Review of Proposed Development Agreement

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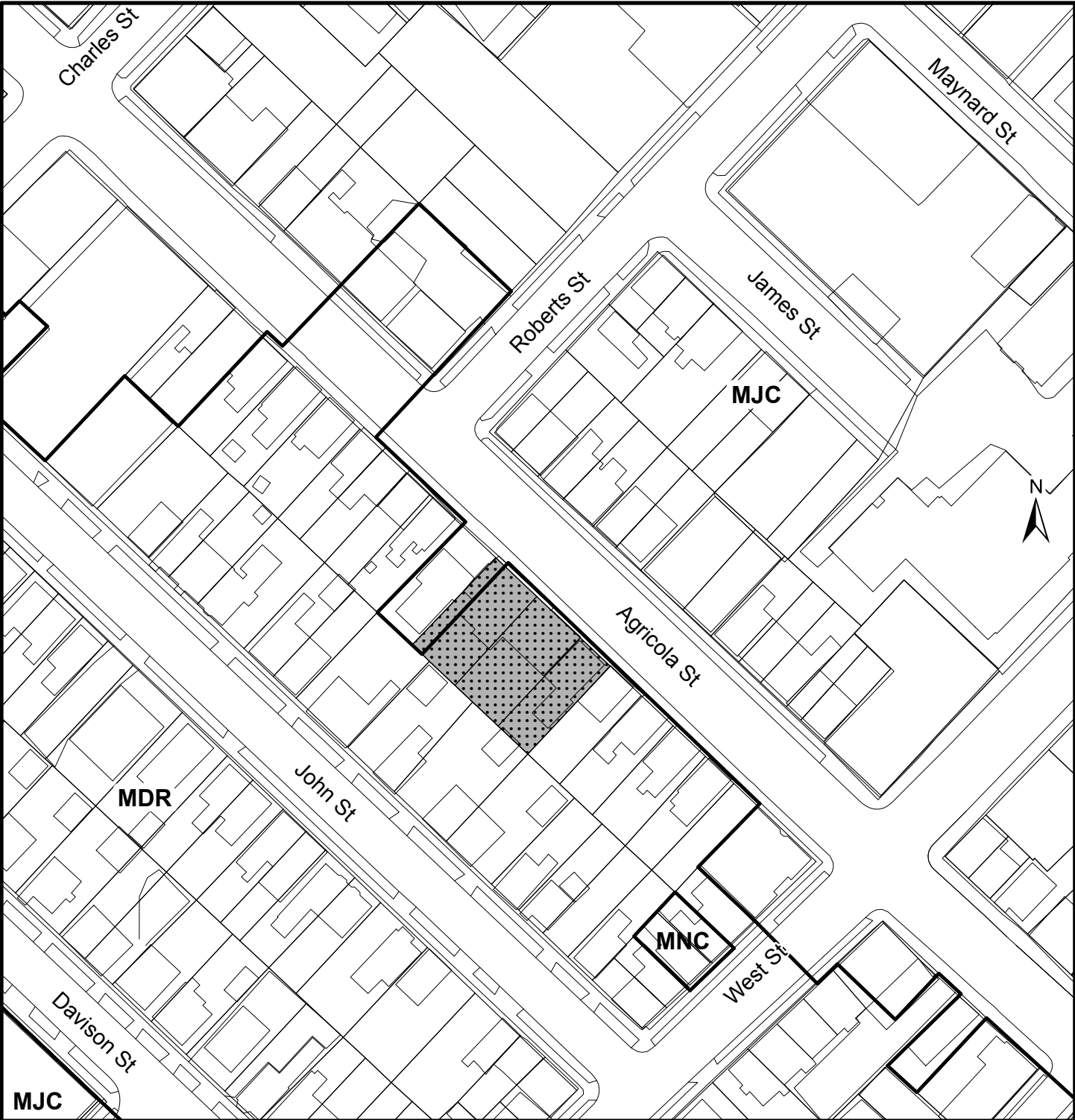
A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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



Agricola Street  
Halifax

 Subject Properties

**Designation**

- MDR Medium Density Residential
- MJC Major Commercial
- MNC Minor Commercial

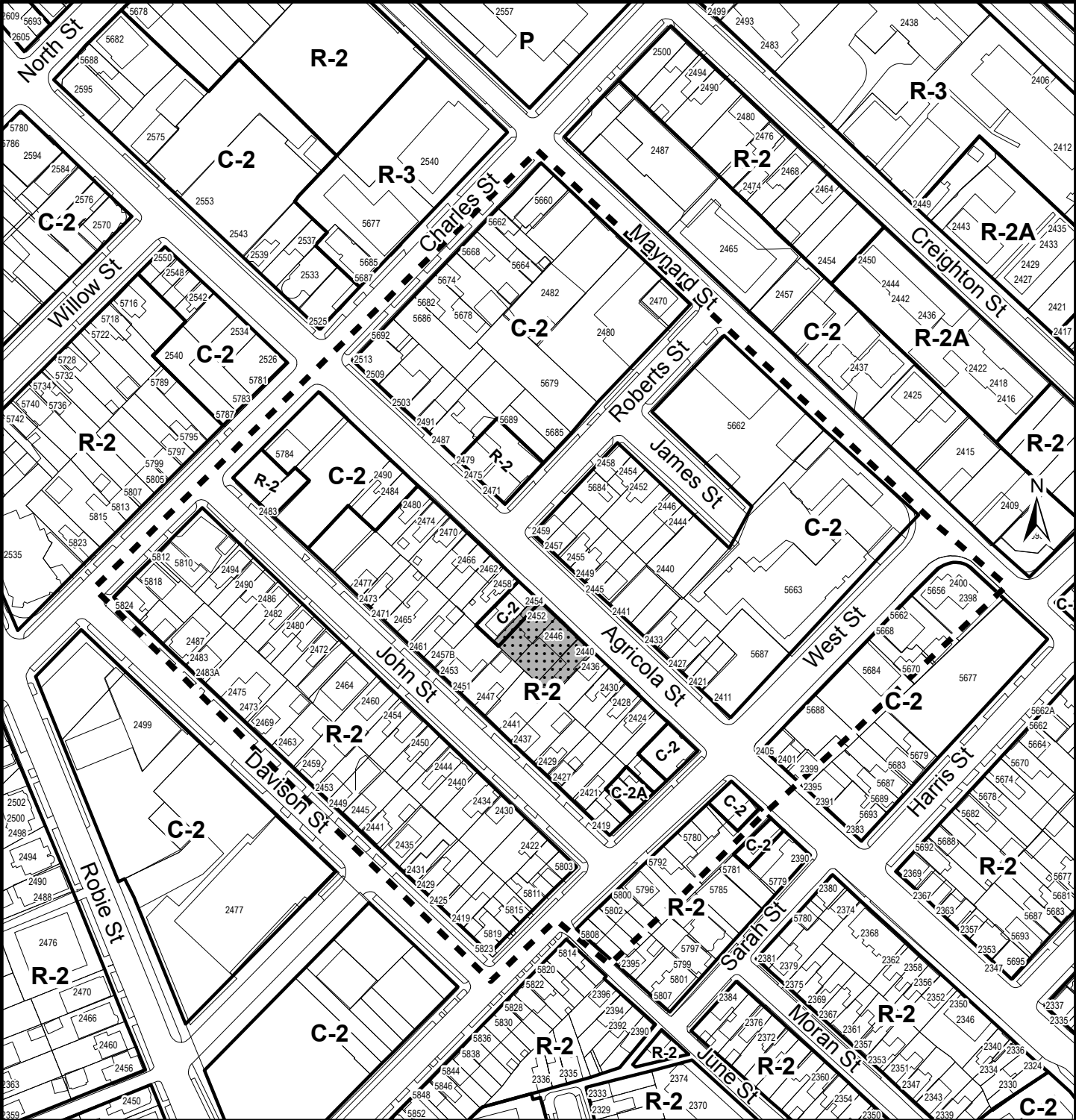


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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

Halifax Plan Area  
Peninsula North Secondary Plan Area






### Map 2 - Zoning and Notification

Agricola Street  
Halifax

 Subject Properties

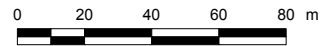
 Area of Notification

Halifax Peninsula  
Land Use By-Law Area

#### Zone

- R-2 General Residential
- C-2 General Business
- C-2A Minor Commercial

# HALIFAX



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

**8. Development at Agricola 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

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;
- b) Development at Chebucto Road / Elm Street / Beech Street, as identified in Section 4;
- f) Development at Agricola Street, as identified in Section 8.**

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.

Planning Principles	Description
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. By amending Section XVI to add the following text shown in bold after Subsection 4.2.1:

**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, 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.

## **8. DEVELOPMENT AT AGRICOLA STREET**

**The properties having street frontage on the western side of Agricola Street, mid-block between West Street and Charles Street (2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola Street) is the subject site of a proposal for site-specific planning policy amendments to allow for a 5-storey (plus penthouses) 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.

### **8.1 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 (3 storey) to moderate (4-to-6 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 5-storey Agricola Street 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 proposal to address the planning principles noted in Section 2.

### **8.2 Regulating Development**

To achieve a development form on the Agricola 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.

#### **8.2.1 Development Agreement Provisions**

The Land Use By-law for Halifax Peninsula shall be amended to identify that a mixed-use or residential development may be considered by development agreement for the properties located on Agricola Street.

- (1) Notwithstanding other policies of this Municipal Planning Strategy except 8.2.1(2), a development agreement for the property located at Agricola Street shall:

  - (a) permit a mixed-used (residential and commercial) or residential building;
  - (b) permit a range of ground-floor commercial uses, including, cultural, daycare, office, restaurant, retail, and work-live uses;
  - (c) restrict building height to a maximum of 5 storeys, plus penthouse(s);
  - (d) restrict streetwall height to a maximum of 3 storeys;
  - (e) restrict the building podium's height to a maximum of 3 storeys abutting the required rear yard;
  - (f) require a minimum rear yard setback of 4.6 metres (15 feet);
  - (g) require a landscaped buffer and fencing along the rear lot line;
  - (h) require indoor and outdoor amenity space for on-site residents;
  - (i) 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
  - (j) permit indoor / underground parking and prohibit surface parking.
- (2) In addition to meeting the requirements of Policy 8.2.1(1) a) to j) inclusive, when considering a development agreement for the property located on Agricola 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 above; and
  - (b) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.

I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the [INSERT COUNCIL NAME] held on [DATE], 201[#].

---

Kevin Arjoon  
Municipal Clerk

**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. Amend the section under the heading PENINSULA NORTH - DEVELOPMENT AGREEMENTS by inserting the following sub-heading and subsection 98(5) immediately following Subsection 98(4):

**2440 Agricola Street, 2442 Agricola Street, 2444 Agricola Street, 2446 Agricola Street, 2448 Agricola Street, 2450 Agricola Street, 2452 Agricola Street, and 2454 Agricola Street, Halifax**

- 98(5) Council may, by development agreement, pursuant to Policy 8.2.1 of Section XVI of the Halifax Municipal Planning Strategy, permit a multiple dwelling which may contain ground-floor commercial uses.**

I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the **[INSERT COUNCIL NAME]** held on **[DATE], 201[#].**

---

Kevin Arjoon  
Municipal Clerk

**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 Agricola Street 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, residential development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Section ##, Policy ## of the Municipal Planning Strategy for Halifax and Subsection ## 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 20632;

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) "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;
  - b) "Parapet" means a barrier which is an extension of the wall at the edge of a roof or at the edge of the streetwall;
  - c) "Streetwall" means the wall of a building or portion of a wall facing a streetline that is below the height of a specified stepback or angular plane, excluding minor recesses for elements such as doorways or intrusions such as bay windows;
  - d) "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;
  - e) "Streetwall Setback" means the distance between the streetwall and the streetline;
  - f) "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;
  - g) "Streeline" means the lot line between the street and an abutting lot;
  - h) "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
  - i) "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 20632:**

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan & Building Height Framework
Schedule C	Building Elevations & Streetwall Framework
Schedule D	Landscape Buffer & Fencing 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, 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.
- 3.2.3 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 3.5.16 of this Agreement.
- 3.2.4 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.
- 3.2.5 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 3.5.17:
- 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.
- 3.2.6 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 3.3.3, the use(s) of the Lands permitted by this Agreement are:
- a) An apartment house (multiple dwelling);
  - b) The following uses on the ground floor:
    - i. Commercial recreation uses;
    - ii. Cultural uses;
    - iii. Daycares;
    - iv. Institutional uses;
    - v. Medical clinics and medical offices;
    - vi. Office uses;
    - vii. Personal and professional services;

- viii. Restaurants and licensed alcohol establishments, excluding cabarets and lounges; and
- ix. Retail uses, excluding adult entertainment uses, amusement centres and automotive uses;
- c) Work-live units; and
- d) Any use accessory to any of the foregoing uses.

3.3.2 The commercial portion of any work-live unit shall:

- a) Be located and accessible at the ground floor;
- b) Have a separate exterior entrance; and
- c) Contain studio uses, office uses, medical clinics and medical offices, personal and professional services, and/or the retail of products produced on the premises or associated with the service provided on the premises.

3.3.3 Drive-through facilities and commercial patios 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 Section 3.4 of this Agreement.

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

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

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

- a) Generally located as shown on Schedule B;
- b) Setback a minimum of 6 metres from the Agricola Street roofline;
- c) Setback a minimum of 6 metres from the northern side roofline; and
- d) Limited to a maximum of 25 percent of the roof area.

3.4.4 Elevator enclosures may extend a maximum of 5.5 metres above the maximum building height. Stairway enclosures, mechanical penthouses, amenity penthouses, and similar rooftop structures may extend a maximum of 4.5 metres above the maximum building height.

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

3.4.5 The building's exterior design shall be developed substantially in conformance 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 be setback a minimum of 0 metres and a maximum of 1.5 metres from the streetline.

#### ***Side & Rear Yard Setbacks***

3.4.7 The building may be setback a minimum of 0 metres from the side lot lines.

3.4.8 The first three storeys of the building shall be setback a minimum of 4.6 metres from the rear lot line.

3.4.9 Above the third storey, the building shall be setback a minimum of 5.5 metres from the rear lot line.

**Maximum Streetwall Height**

- 3.4.10 Subject to Subsection 3.4.11 and 3.4.12, the maximum streetwall height shall conform with the streetwall heights as shown on Schedule C.
- 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 the building's streetwall width exceeds 15.0 meters, the streetwall must incorporate distinct changes in articulation in increments of 5-10 metres, while still respecting relevant height and setback requirements. Changes in articulation may include:
- a) Changes to streetwall heights;
  - b) Changes to setbacks and front yards;
  - c) Use of different façade materials;
  - d) Recesses, projections or recessed balconies; and
  - e) Building entrances.

**Building Stepbacks**

- 3.4.15 Building walls facing Agricola Street shall have a minimum horizontal stepback of 1.5 metres above the third storey.

**At-grade Residential**

- 3.4.16 At-grade residential units that have exterior entrances fronting on a public street shall be designed as follows:
- a) The ground floor will be set above the sidewalk grade;
  - b) The entrance will open directly onto an individual porch, patio or stoop, which is connected directly to the sidewalk by a stairway or ramp; and
  - c) A wall, planter or fence of up to 1.25 metres in height may be placed between the sidewalk and the porch, stoop or patio. Above 1.25 metres, a glass railing may be used if needed.

**External Building Appearance**

- 3.4.17 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).
- 3.4.18 Large blank or unadorned walls shall not be permitted. Large blank walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, or changes in building materials / colours.
- 3.4.19 Utility connections, fill pipes, exhaust vents, and ventilators shall be screened.
- 3.4.20 Mechanical and electrical systems (HVAC, exhaust fans, generators etc.) shall be screened. Furthermore, no mechanical equipment, electrical equipment or exhaust fans shall be located between the building and abutting properties used or zoned for residential, unless screened, and noise reduction measures are implemented.

### **3.5 General Requirements**

#### ***Permitted Encroachments Into Yards and Stepbacks***

- 3.5.1 No encroachments are permitted into the required streetwall and side yard setbacks.
- 3.5.2 The following structures are permitted encroachments into the rear yard:
- a) At-grade walkways;
  - b) Balconies above the third storey, up to 0.9 metres from the building wall; and
  - c) Eaves, gutters, downspouts, cornices, and other similar features, up to 0.45 metres from the building wall.
- 3.5.3 Building stepbacks above the streetwall must be open and unobstructed except for balconies (subject to 3.5.4), 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 Underground vehicular parking spaces are not required.
- 3.5.7 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***

- 3.5.8 Subject to Subsection 3.5.9 and 3.5.10, an apartment house shall provide indoor and outdoor amenity spaces to residents.
- 3.5.9 A private courtyard shall be provided in the rear yard, as shown on Schedule B.
- 3.5.10 An indoor amenity space with a minimum floor area of 39.95 square metres (430 square feet) shall be provided. This indoor amenity space may be used as a fitness room, community room, or similar shared indoor amenity space.

#### ***Ground Floor Footprint Design***

- 3.5.11 The ground floor footprint area abutting the streetline shall contain a combination of integrated benches, as generally shown on Schedule C, and hard landscaping materials.

#### ***Landscaping***

- 3.5.12 The rear yard courtyard shall 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.
- 3.5.13 Areas required for pedestrian access do not need to be landscaped.

#### ***Landscaped Buffer***

- 3.5.14 Subject to Subsection 3.5.15, a landscape buffer shall be provided along the full extent of the rear lot line as shown on Schedule B and D.

- 3.5.15 The landscaped buffer shall:
- a) Contain a minimum of 1 columnar beech (or similar) tree (with a minimum base caliper of 60 millimetres) for every 4 linear metres of the rear lot line;
  - b) Have a minimum height of 4 metres; and
  - c) Have a minimum width of 1.2 metres.
- 3.5.16 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.
- 3.5.17 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.
- 3.5.18 Notwithstanding Subsection 3.5.17, 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***

- 3.5.19 Subject to subsection 3.5.20, an opaque fence shall be provided along the full extent of the rear lot line as shown on Schedule B and D.
- 3.5.20 The opaque fence shall have a minimum height of 1.8 metres.

***Signs***

- 3.5.21 Any persons carrying on a use permitted in this Agreement may place upon and parallel to the front of the building signage that complies with the following:
- a) Where signs are illuminated, they shall be illuminated in such a manner not to cause a glare or hazard to motorists, pedestrians or neighbouring premises;
  - b) Fascia signs shall not extend beyond the extremities of a wall on which they are affixed;
  - c) Maximum combined size of fascia signs on the wall of a building shall be no greater than 10 percent of the total area of said wall;
  - d) Aggregate area of all window signs shall not exceed 25 percent of the window, or glass area of a door, to which they are affixed;
  - e) Signs on awnings shall not cover more than 25 percent of the area of the awning, and the length of the text shall not exceed 80 percent of the length of the front valance; and
  - f) No signs shall be permitted on the roof of a building.

***Parking Structures and Foundations***

- 3.5.22 Subject to Subsection 3.5.23, an exposed concrete foundation wall or enclosed parking structure shall not exceed 0.6 metres in height.

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

***Outdoor Lighting***

3.5.24 Lighting shall be directed to 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 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***

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

***Maintenance***

3.6.5 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***

3.6.6 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; and

### **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 Council may review this Agreement, in whole or in part, and may:
- a) Retain the Agreement in its present form;
  - b) Negotiate a new Agreement;
  - c) Discharge this Agreement; or
  - d) For those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the applicable Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

### **7.5 Discharge of Agreement**

- 7.5.1 If the Developer fails to complete the development after 10 years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:
- a) Retain the Agreement in its present form;
  - b) Negotiate a new Agreement; or
  - c) Discharge this Agreement.

## **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **8.1 Enforcement**

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

### **8.2 Failure to Comply**

- 8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 30 days written notice of the failure or default, then in each such case:
- a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
  - b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
  - c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
  - d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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

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

(Insert Registered Owner Name)

\_\_\_\_\_  
Witness

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

**HALIFAX REGIONAL MUNICIPALITY**

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

\_\_\_\_\_  
Witness

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

**MAYOR**

\_\_\_\_\_  
Witness

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

**MUNICIPAL CLERK**

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

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

---

A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

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

---

A Commissioner of the Supreme Court  
of Nova Scotia

← AGRICOLA STREET →

ACCENT PAVERS PER RED BOOK STANDARD

± 31.7m

BIKE RACK (TYP.)

COMMERCIAL ENTRANCE

COMMERCIAL ENTRANCE

COMMERCIAL ENTRANCE

COMMERCIAL ENTRANCE

RESIDENCE ENTRANCE

LINE OF GROUND  
FLOOR FOOTPRINT

SIDEWALK

± 1.5m

3 STOREYS

2-1/2 STOREY DWELLING

2 STOREY DWELLING

2 STOREY DWELLING

PROPOSED BUILDING

5 STOREYS

ELEVATOR  
OVERRUN +  
MECH.  
PENTHOUSE

PROPERTY LINE

± 17.1m

± 0.9m

3 STOREYS

± 4.6m

WOOD FENCE  
ALONG BOUNDARY

PROPERTY LINE

SHED

COLUMNAR BEECH  
OR SIMILAR

SHED

SHED

AGRICOLA STREET

SCHEDULE B

Project No.: 2015.06

Scale: 1 : 240

Date: 28 Feb 2019



WM FARES  
ARCHITECTS

A01

HALIFAX, NS

SITE PLAN & HEIGHT FRAMEWORK

ELEVATOR OVERRUN & MECH/AMENITY PENTHOUSE

GLASS GUARD RAIL (TYP.)

ALUM. PANELS TO MATCH WINDOW FRAMES

BRICK VENEER OR SIMILAR (LIGHT TONE)

INSET BALCONY (TYP.)

± 4.5m

VERTICAL STEEL GUARD RAIL (TYP.)

± 17m  
± 11m

AVG. GRADE ±53.3m

STREETLINE GRADE ±53m

FIBER CEMENT PANEL OR SIMILAR (ACCENT COLOUR)

VERTICAL WOOD SIDING OR SIMILAR (NATURAL TONE)

BRICK VENEER OR SIMILAR (WARM TONE)

INTEGRATED BENCHES

1 EAST ELEVATION  
A02 SCALE: 1 : 240

NOTE: LOCATION AND SIZE OF WINDOWS AND DOORS AT GRADE TO REFLECT INTERNAL PROGRAMMING.

AGRICOLA STREET

HALIFAX, NS

SCHEDULE C

BUILDING ELEVATIONS

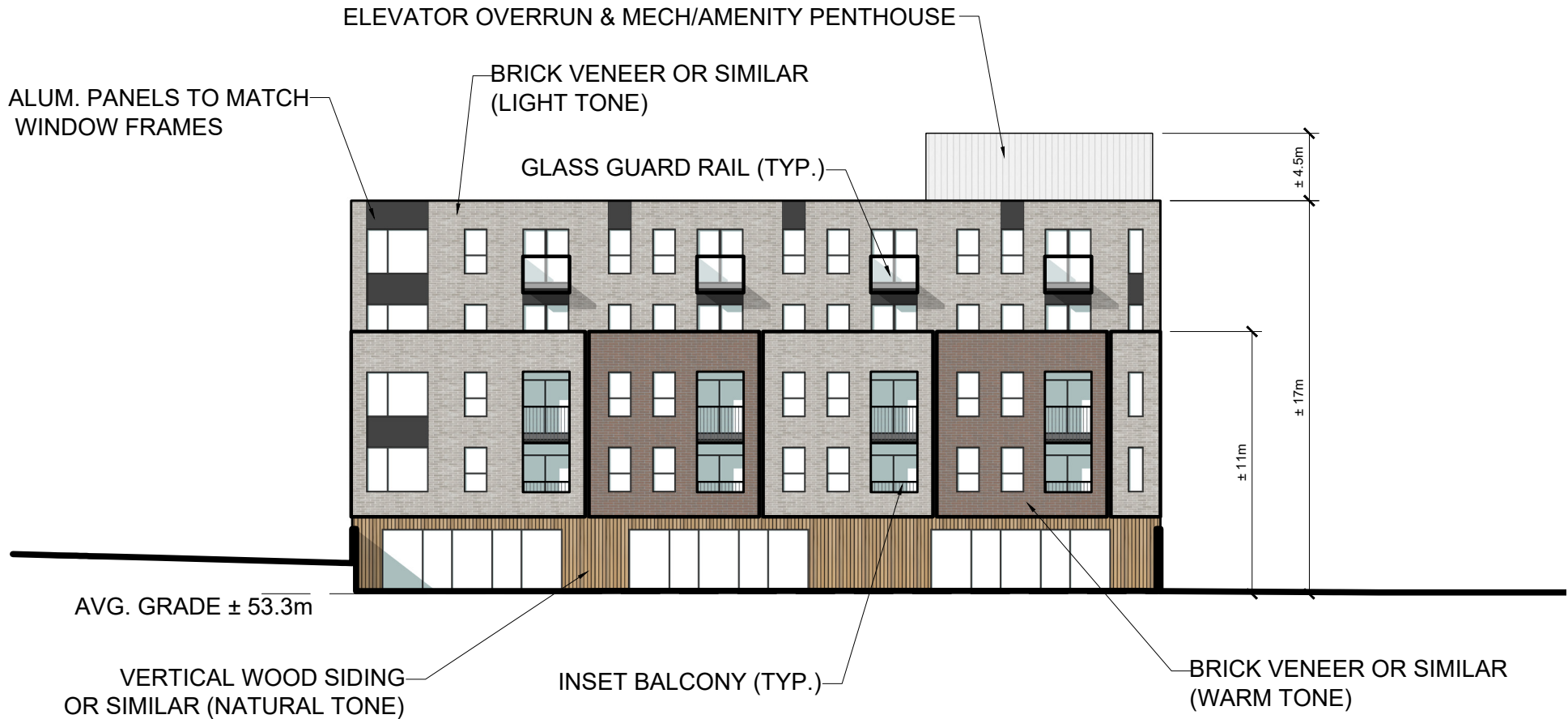
Project No.: 2015.06

Scale: 1 : 240

Date: 28 Feb 2019

WM FARES  
ARCHITECTS

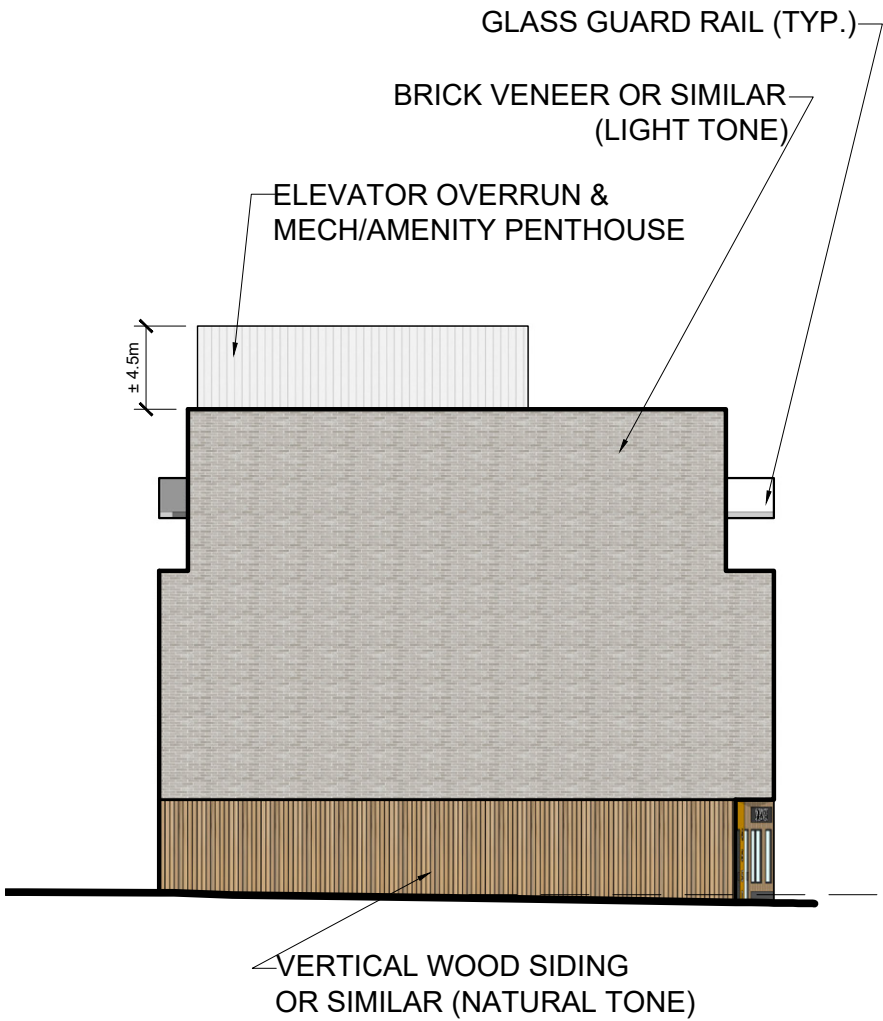
A02



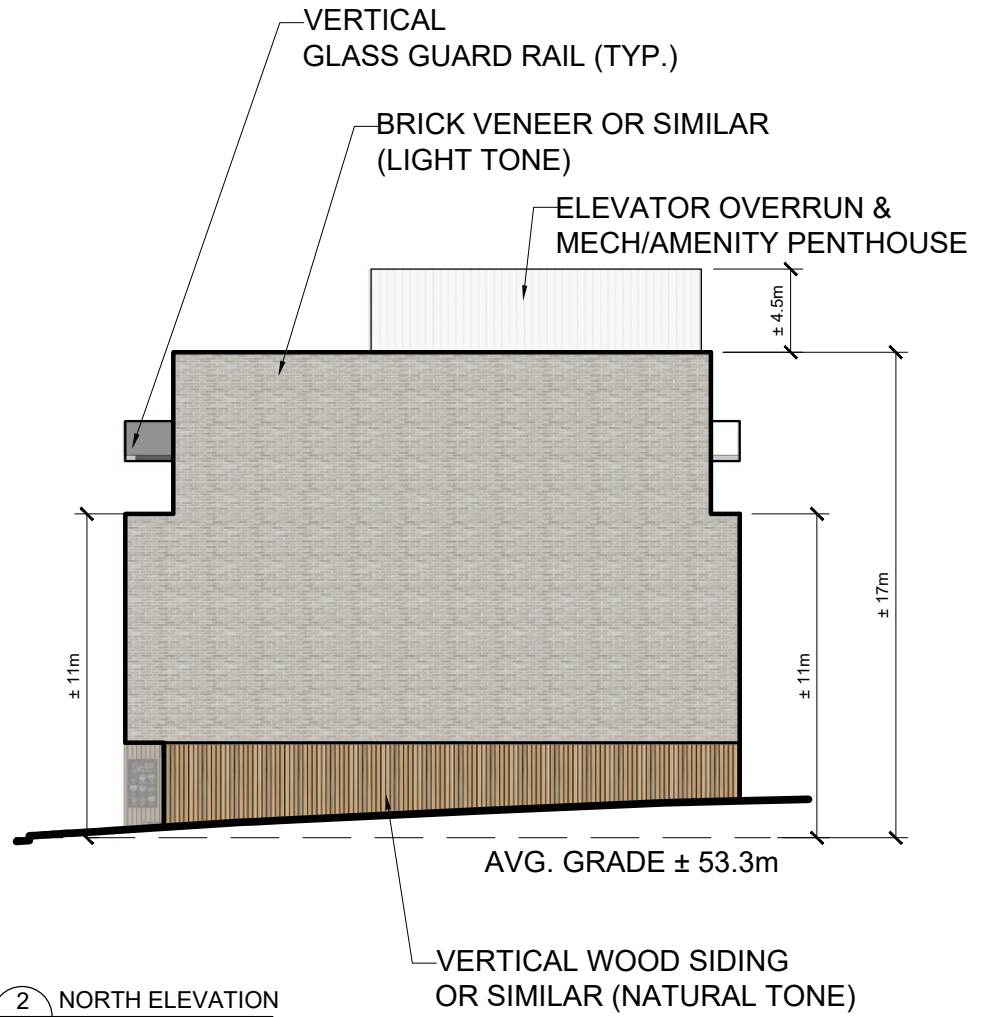
1 WEST ELEVATION  
 A03 SCALE: 1 : 240

NOTE: LOCATION AND SIZE OF WINDOWS AND DOORS AT GRADE TO REFLECT INTERNAL PROGRAMMING.

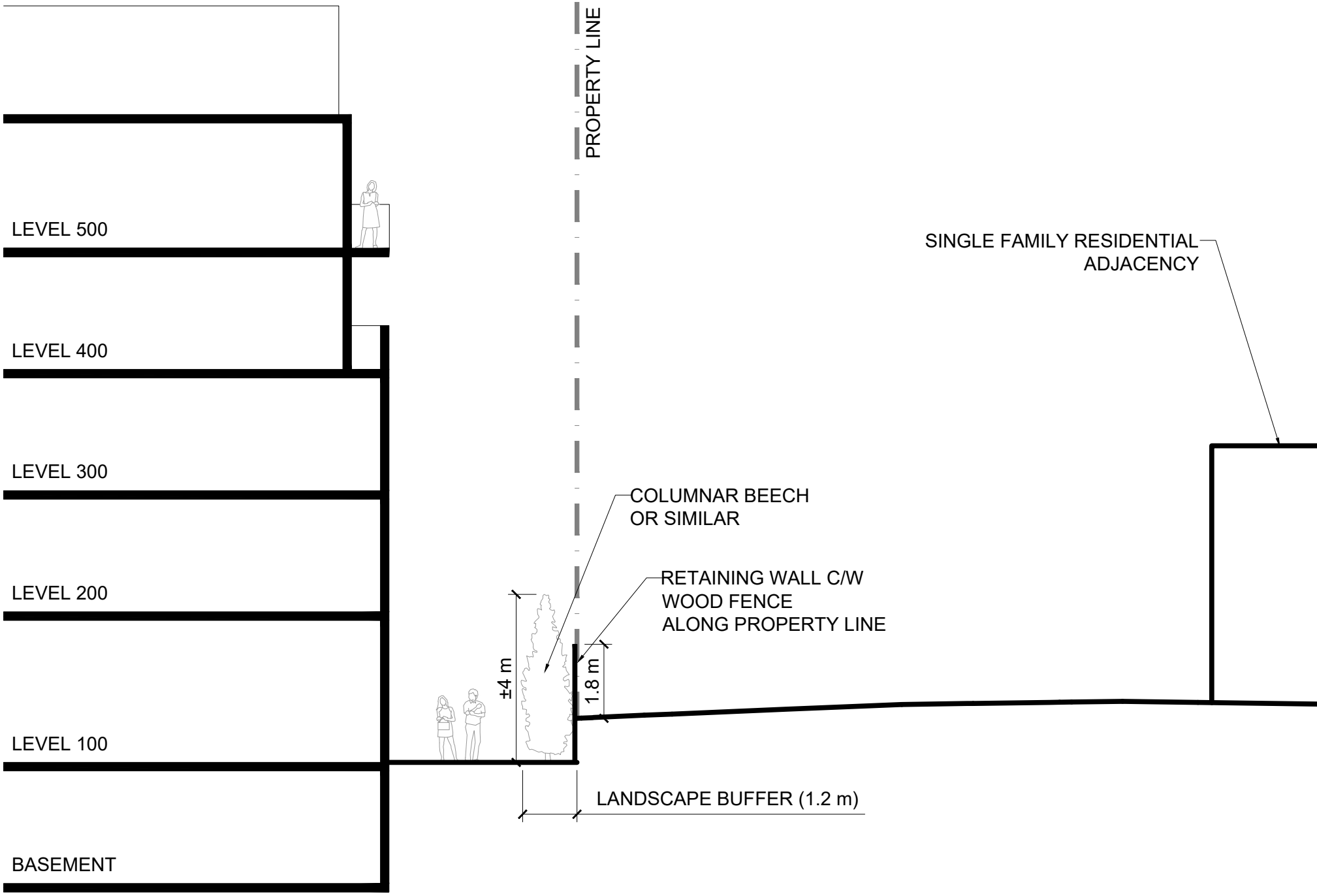




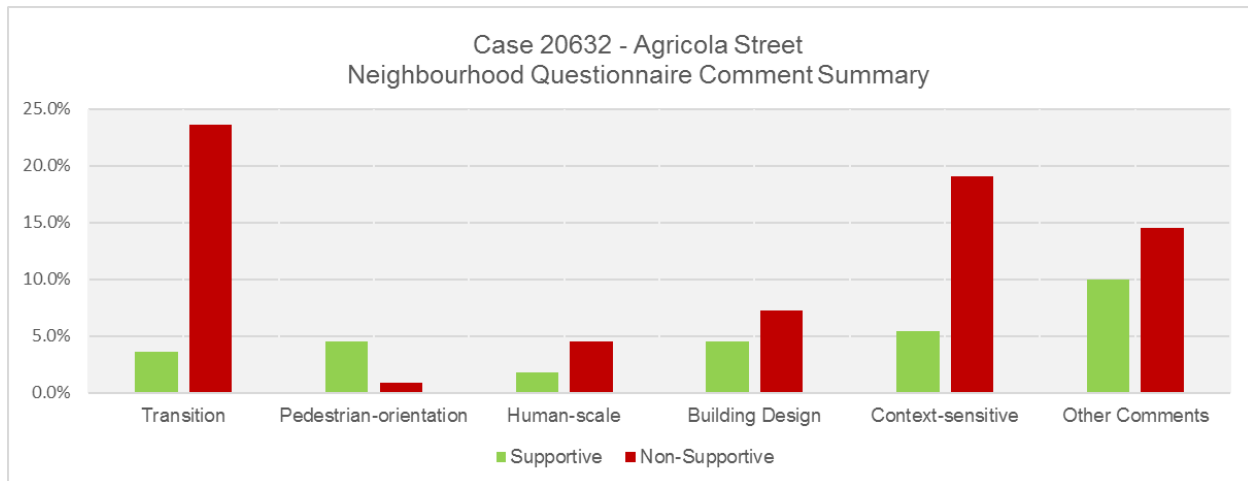
1 SOUTH ELEVATION  
A04 SCALE: 1 : 240



2 NORTH ELEVATION  
A04 SCALE: 1 : 240



**ATTACHMENT D**  
**Summary of Neighbourhood Questionnaire Responses**



### **Transition**

- A few respondents liked the overall design of the building and had no concerns relating to transition.
- Most respondents, however, highlighted transition-related concerns, including:
  - A lot coverage that is too great for the subject site;
  - Insufficient setbacks / stepbacks from John Street properties;
  - Insufficient building height reductions leading to John Street properties;
  - Insufficient open space, greenspace, and vegetative landscaping;
  - Concerns relating to the privacy and shading of abutting properties; and
  - Concern with the commercial patio along the rear property line (due to its proximity to John Street properties).

### **Pedestrian-oriented and human-scale**

- Several respondents highlighted potential ground floor commercial uses as positive for Agricola Street.
- A couple commenters liked the proposed streetwall and the stepbacks along Agricola Street.
- Conversely, several respondents felt that the pedestrian-environment would benefit from increased setbacks or stepbacks.
- Two respondents stated that the building is not human-scale compared to the street's existing form.

### **Building Design**

- A few respondents liked the design and choice of building materials.
- Conversely, several respondents had concerns with the building design, such as:
  - The building appears architecturally uninteresting;
  - The need for high quality building materials; and
  - Blank side walls, resulting lack of windows and light for the building's units and surroundings.

### **Context-Sensitive**

- Several respondents felt the building complemented the neighbourhood
- One respondent identified that if this is the first building to develop under the Centre Plan, the design could set a precedent for the rest of the street.

- Many respondents felt the building doesn't reflect the character of the neighbourhood, in particular:
  - The building doesn't reflect the neighbourhood's small scale; and
  - The building is too tall for the neighbourhood.
- Some of these respondents commented that the building's height should be limited to 3 or 4 storeys.

#### **Other Comments**

- Many respondents felt that a multi-unit residential building and/or increased density is a positive for Agricola Street.
- A few of respondents felt the proposal is a significant improvement over the existing buildings.
- A couple of respondents disliked the entire proposal.
- Several respondents identified concerns with a lack of parking in this development and Agricola Street as a whole; others expressed concerns about traffic.
- A couple respondents felt the existing MPS and zoning works for the area, while a couple others felt the proposal should align with the Centre Plan.
- A couple commenters were concerned that the applicant did canvass the neighbourhood to speak directly with residents, and others were concerned that feedback from the December 7<sup>th</sup> open was not incorporated into a revised design.

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

<b>Policy 8.2.1 Development Agreement Provisions</b>	
<p><i>The Land Use By-law for Halifax Peninsula shall be amended to identify that a mixed-use or residential development may be considered by development agreement for the properties located on Agricola Street.</i></p> <p>(1) <i>Notwithstanding other policies of this Municipal Planning Strategy except 8.2.1(2), a development agreement for the property located at Agricola Street shall:</i></p>	
Policy Criteria	Comment
<i>a) permit a mixed-used (residential and commercial) or residential building;</i>	The DA permits a mixed-use (residential and commercial uses within a single building) or residential building.
<i>b) permit a range of ground-floor commercial uses, including, cultural, daycare, office, restaurant, retail, and work-live uses;</i>	The DA permits a mix of uses, including residential uses and commercial, cultural and limited institutional uses on the ground floor. The commercial component of a work-live unit shall also be limited to the ground floor.
<i>(c) restrict building height to a maximum of 5 storeys, plus penthouse(s);</i>	The DA states that no building shall exceed the maximum height framework listed in Schedule B, which clearly denotes the tallest portion of the building as five storeys tall (plus penthouses).
<i>(d) restrict streetwall height to a maximum of 3 storeys;</i>	The DA, in accordance with Schedule B, permits a maximum streetwall height of three storeys. Staff suggest that this streetwall height helps maintain a human scale.
<i>(e) restrict the building's podium height to a maximum of 3 storeys abutting the required rear yard;</i>	The DA, via Schedule B, permits a maximum podium height of three storeys along the rear lot line. The DA also requires that the 4 <sup>th</sup> and 5 <sup>th</sup> storeys are setback a minimum of 0.9 metres (2.95 feet) from the outermost edge of the rear building podium wall. These features help provide a transition into the established low-density residential neighbourhood.
<i>(f) require a minimum rear yard setback of 15 feet;</i>	The DA requires that the proposal is setback a minimum of 4.6 metres (15.09 feet) from the rear lot line and an additional 0.9 metres (2.95 feet) above the third storey building podium. These characteristics are vital to direct the proposal away from the established residential area along John Street.
<i>(g) require a landscaped buffer and fencing along the rear lot line;</i>	The DA requires that a landscaped buffer (minimum height of four metres and minimum width of 1.2 metres) be provided along the rear lot line. 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>(h) require indoor and outdoor amenity space for on-site residents;</i>	The DA ensures that, at minimum, a rear yard courtyard and indoor amenity space (minimum area of 430 square feet) are provided to on-site residents.

<p><i>(i) 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></p>	<p>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 hard landscaping materials and integrated benches; regulates the size of signs permitted on-site; requires a tree retention and mitigation plan; and provides direction for landscaping in the rear yard. These features will allow the building to more effectively satisfy the planning principles listed in Section 2.</p>
<p><i>j) permit indoor / underground parking and prohibit surface parking.</i></p>	<p>The DA prohibits surface parking lots and while permitted, indoor / underground vehicular parking spaces are not required. The DA states that bicycle parking provisions shall adhere to the Land Use By-law.</p>
<p><i>(2) In addition to meeting the requirements of Policy 8.2.1(1) a) to j) inclusive, when considering a development agreement for the property located on Agricola Street, Halifax, Council shall consider:</i></p>	
<p><i>(a) the planning principles of transition, pedestrian-oriented, human-scale, building design and context sensitive, as described in Section 2; and</i></p>	<p>A detailed review of the planning principles is provided within the staff report. The DA contains various regulations to ensure the proposed development generally addresses the necessary planning principles.</p>
<p><i>b) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.</i></p>	<p>The transition principle is discussed at length in the subject staff report. The DA includes regulations and Schedules, which incorporate design features (e.g., maximum streetwall and building podium heights, rear setbacks and required courtyard, landscaped buffer, fencing, etc.) that provide a transition to surrounding buildings.</p>

PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

## MEMORANDUM

TO: Chair and Members of the Halifax and West Community Council  
CC: Leah Perrin, Planner II, Urban Plan Amendments  
FROM: Ashley Morton, Chair, Halifax Peninsula Planning Advisory Committee  
DATE: October 27, 2017

**SUBJECT: Case 20632 – Application by WM Fares Architects to change Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) to allow a 5-storey building with residential units and ground floor commercial uses at 2440-2454 Agricola Street, Halifax.**

The Halifax Peninsula Planning Advisory Committee considered Case 20632 at their October 23, 2017 meeting. The following motion was approved by the Committee.

*THAT the Halifax Peninsula Planning Advisory Committee has reviewed the application for an amendment to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law and recommends that the Halifax and West Community Council not proceed with the consideration of the application of Case 20632 unless substantial amendments are made. The committee notes the following:*

- *The building does not provide adequate transition – specifically transition between the development and the adjacent residential buildings, particularly at the rear.*
- *The development is not sufficiently pedestrian oriented.*
- *The overall mass is very large having no green space and full lot coverage in the front.*
- *A three-floor street wall would be more appropriate than a four-floor street wall.*
- *The committee is concerned about commercial patios along the back of the building that face residential homes and residential zoning. If a development agreement moves forward, parameters should be set for patio use (ie. Time of day).*
- *The committee appreciates the concept of public art on the development.*
- *The committee is concerned about the concealed parking entrance in the front for pedestrians; concerned about the setbacks around the parking entrance.*
- *The committee is concerned about the lack of planning principles around transition from corridors to residential zoning.*
- *The committee appreciates having adequate bike parking.*
- *The committee would recommend a maximum height of four storeys unless further measures to improve transition are incorporated.*

This motion has been provided to HRM planning staff and will be addressed in their report to the Halifax & West Community Council.