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Item No. 9.1
Heritage Advisory Committee
June 5, 2019

TO: Chair and Members of Heritage Advisory Committee

-Original Signed-

SUBMITTED BY:

Kelly Denty, Director, Planning and Development

-Original Signed-

Dave Reage, Acting Chief Administrative Officer

DATE: May 9, 2019

SUBJECT: **Case 20159: Amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, and a proposed development agreement to enable re-development of an eight storey (plus penthouse) multiple dwelling at 5713 Victoria Road, Halifax**

ORIGIN

- Application by ZZap Consulting Incorporated, on behalf of Eldorado Properties Limited.
- 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 the Heritage Advisory Committee recommend 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 an 8 storey (plus penthouse) mixed-use building by development agreement at 5713 Victoria Road and 1102 and 1106 South Park Street, Halifax, and schedule a public hearing;
2. Adopt the proposed amendments to the Municipal Planning Strategy and the Land Use By-law, as set out in Attachments A and B of this report;

Recommendation Continues on Page 2

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 Heritage Advisory Committee recommend 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 an eight storey (plus penthouse) residential building at 5713 Victoria Road and 1102 and 1106 South Park Street, Halifax. The public hearing for the proposed development agreement shall be held concurrently with the public hearing referenced in Recommendation 1;
4. Approve the proposed development agreement for an eight storey (plus penthouse) mixed-use building at 5713 Victoria Road and 1102 and 1106 South Park 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

ZZap Consulting Incorporated, on behalf of Eldorado Properties Limited, is applying to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) to permit re-development of an existing eight storey (plus penthouse) residential multiple dwelling at 5713 Victoria Road, Halifax. As proposed, two detached residential dwellings will be removed from 1102 and 1106 South Park Street to allow for an eight storey (plus penthouse) addition. The proposed addition, along with the existing residential building, will be converted into a mixed-use residential building with ground floor commercial uses. A development of this nature cannot be considered under existing policy and regulations. Attachment C contains the current version of the proposal, which was revised following staff's final review in February 2019, and includes the following features:

- An eight storey mixed-use building (plus penthouse);
- 88 residential units;
- Approximately 580.6 square metres (6,250 square feet) of ground floor commercial space;
- Streetwalls that range in height from one to four storeys; and
- Approximately 46 underground parking spaces, including 10 existing surface parking spaces.

Subject Property Details

<i>Location</i>	Northwest corner of South Park Street and Victoria Road intersection, Halifax
<i>Subject Site</i>	3 properties in total (5713 Victoria Road and 1102 and 1106 South Park Street).
<i>Regional Plan Designation</i>	Urban Settlement
<i>Community Plan Designation (Map 1)</i>	HDR (High Density Residential) at 5713 Victoria Road and MDR (Medium Density Residential) at 1102 and 1106 South Park Street, under the Halifax Municipal Planning Strategy (MPS)
<i>Zoning (Map 2)</i>	R-3 (Multiple Dwelling Zone) at 5713 Victoria Road and R-2A (General Residential Conversion Zone) at 1102 and 1106 South Park Street, under the Halifax Peninsula Land Use By-law (LUB)
<i>Size of Site</i>	2,417.5 square metres (26,022.5 square feet)
<i>Street Frontage</i>	~55 metres (~180.4 feet) on South Park Street and ~40 metres (131.2 feet) on Victoria Road.
<i>Current Land Use(s)</i>	5713 Victoria Road contains an existing 8 storey residential building

	with 55 units. 1102 and 1106 South Park Street each contain a detached residential building.
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Surrounding Context

The built form and community context of Victoria Road and South Park Street do not exhibit one dominant form or scale. The site's existing 8 storey multiple unit dwelling (also known as South Park Towers) shares its northern boundary with a detached residential dwelling (1102 South Park Street). This dwelling, along with 1106 South Park Street, are proposed to be removed and consolidated as part of 5713 Victoria Road.

The proposed development site abuts a 2.5 storey detached residential dwelling (1110 South Park Street). Moving further north and east, the neighbourhood consists of a mixture of residential forms ranging from a 1.5 storey registered heritage property (1101 South Park Street) to a 9 storey multiple unit dwelling (1121 South Park Street) and a large-scale institutional use in the form of the Victoria General Hospital (1260 South Park Street). South of the development site, at the south west corner of Victoria Road and South Park Street intersection, is Summerset Place Apartments, a 13 storey multiple unit dwelling. West of the development site, along Victoria Road and Tower Road, a mix of existing low scale detached and mid-rise multiple unit dwellings continue the residential form found north and east of the proposed development site. This includes a series of fourteen registered heritage properties (1041 – 1105 Tower Road) located along the eastern side of Tower Road. Together, these registered heritage properties form the Tower Road Heritage Streetscape. Each house provides an interesting glimpse into the Late Victorian construction period. The streetscape includes houses that have details such as brackets, Palladian windows, side hall plans as well as centrally located doorways. The unifying force on the street are the bay windows and porches. Many of the same architectural features are repeated several times. Of the fourteen registered properties, two (1099/1101 and 1105 Tower Road) directly abut a portion of the proposed development site (Map 1).

Role of the Heritage Advisory Committee

Regional Plan Policy CH-16, regarding Development Abutting Registered Heritage Properties, addresses the compatibility of a proposal which abuts a heritage resource. As previously noted, the proposed development site abuts two registered heritage properties (1099/1101 and 1105 Tower Road), which form part of the greater Tower Road Heritage Streetscape. As such, the Heritage Advisory Committee (HAC) must make a recommendation to Community Council based on interpretation of the proposal's merits when evaluated against the criteria of Policy CH-16. Staff have completed a review of the subject policy. A copy of the review is provided as Attachment D.

MPS and LUB Context

The subject site is designated MDR (Medium Density Residential) and HDR (High Density Residential) under the Halifax MPS. The site is zoned R-2A (General Residential Conversion Zone) and R-3 (Multiple Dwelling Zone) under the Halifax LUB. The R-2A Zone permits single detached dwellings, semi-detached dwellings, townhouses and converted multiple unit dwelling houses, which subject to conditions, permit a maximum of 14 self-contained dwelling units. The R-3 Zone permits similar uses, however also allows for boarding houses, lodging or rooming houses and apartment houses (multiple unit dwellings). The maximum heights permitted on the subject site are 16.7 metres (55 feet) at 5713 Victoria Road and 10.6 metres (35 feet) at 1102 and 1106 South Park Street.

The MDR designation and R-2A Zone, along with the HDR (High Density Residential) Designation and R-3 (Multiple Dwelling Zone) Zone represent the common designations and zones surrounding the subject site. This is consistent with the existing building fabric of low density and higher density residential development. Maximum permitted heights in the area range from 10.6 metres (35 feet) up to 27.4 metres (90 feet). Some developments, most notably the thirteen storey multiple unit dwelling located south of the site, exceed the maximum heights prescribed in the Halifax Peninsula LUB, however many of these developments existed prior to the subject regulations.

Both the existing and proposed development do not adhere to the as-of-right provisions of the existing

zoning framework. Further, the Halifax MPS contains no enabling policy to consider the proposed development within the MDR designation, HDR designation and height precincts. As such, the applicant is requesting site-specific amendments to the Halifax MPS and LUB to enable consideration of the subject proposal.

Regional Plan & Centre Plan

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

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

Regional Council Direction for this Application

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

According to the June 2017 Centre Plan document, the subject site is located in an *Established Residential Area*. Later versions of the Centre Plan (2018 Centre Plan Package A and 2019 Centre Plan Package A) identify the subject site as a *Higher Order Residential Area*. Along with *Established Residential Areas*, these residential areas are envisioned to accommodate 16% of new residential growth in the Regional Centre. Moderate to high density Higher Order Residential Areas are characterized by clusters of multi-unit apartment and condominium buildings. The proposed development’s alignment with the June 2017 Centre Plan document’s direction for Established Residential Areas and Regional Council’s planning principles are reviewed in the Discussion section of this report.

Incentive or Bonus Zoning

Incentive or bonus zoning is a process that provides additional public benefits for additional development rights such as additional height. This tool is currently used through the Downtown Halifax Secondary Municipal Planning Strategy. The HRM Charter enables the Municipality to use the 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 this 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 this 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). When Council initiated the subject application, it did not direct staff to consider incentive or bonus zoning.

Approval Process

The approval process for this application involves two steps:

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

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the alternative public participation program approved by Regional Council on August 1, 2017. The approved public participation program for this application included a webpage, signage posted on the subject site, and a public meeting.

Engagement Exercise – December 7, 2016

This application, in conjunction with 17 other MPS amendment applications within the Regional Centre, was the focus of a December 7, 2016 Open House. Planning staff held this meeting to seek early public feedback on these proposals, and in consideration of the ongoing *Centre Plan process*. At the time of this presentation, the subject proposal was for a 9 storey addition to the existing 8 storey residential multiple unit dwelling. An overview of Open House comments pertaining to the 9 storey proposal are as follows:

- **Form** – Some participants identified that this development is out of scale with the adjacent homes and that the design could be improved. In their opinion, the proposed exterior panelling does not appear to be high quality building material and reduces the appeal of the building. Other respondents stated that the height and/or scale seems reasonable for the area given the existing building and similar nearby developments (Somerset Place).
- **Character** – The predominant message conveyed through these comments is to preserve older homes which have heritage value. Other respondents noted that the proposed development does not fit with the neighbourhood and lacks historic features/recognition.
- **Process** - Comments urge that Council wait for the Centre Plan and stick to the height rules.

Public Meeting – April 9, 2018

On April 9, 2018, members of the Halifax Peninsula Planning Advisory Committee (HPPAC) held a public meeting to discuss the application. Attachment E contains a copy of the minutes from the meeting. Public comments received included the following:

- **Form:** Some participants expressed that the proposed building was too tall and dense. Participants suggested that building setbacks could be increased to improve transition, improve design variation and building articulation. Further, these elements may reduce wind impacts.
- **Character:** Some residents expressed that the proposed development is not consistent with the Victorian character of the existing neighbourhood.

- **Streetscape:** Participants questioned the proposed removal of detached residential dwellings on South Park Street (1102 and 1106 South Park Street). Some participants expressed concerns regarding the potential increased impact of shadows and wind on walkability. Other participants questioned the removal of existing mature vegetation and expressed a need for increased landscaping.
- **Impact on Neighbours:** Residents expressed concerns regarding the safety of pedestrians when vehicles are exiting the parkade on Victoria Road. Concerns were also expressed regarding the impact of: potential nuisance generated by construction of the development; increased on-street parking to support the proposed ground floor commercial component; and increased shadows and wind.
- **Process:** Residents commented that public feedback provided, as part of a previous information session held by the applicant, was negative and differed from the summary provided by the applicant as part of their presentation to residents during the public meeting on April 9th.

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

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

Halifax Peninsula Planning Advisory Committee

The Halifax Peninsula Planning Advisory Committee (HPPAC) reviewed the applicant's proposal on May 28, 2018. The HPPAC commented that the proposal does not sufficiently present special circumstances to warrant exceptions to the applicable planning documents. The Committee does not support the idea that the proposed development represents suitable adherence to the principles of transition and context-sensitivity. While the Committee values additional residential density in the area and the proposed addition of pedestrian and street-facing features, it remains concerned regarding the potential loss of mature vegetation, the lack of building stepback features and the limited number of amenities provided for a building addition of this scale.

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

REVISIONS

Following the April 9, 2018 public meeting and HHPAC's review (May 2018), the applicant revised the proposed development to respond to public, staff, and HPPAC feedback and to better align with Regional Council's direction. The notable changes are as follows:

- The height of the proposed addition was reduced from 9 storeys to 8 storeys (plus penthouse).
- The penthouse was reduced in scale (no greater than 30% of roof area) to better align with existing regulations;
- Separation distances, in the form of building setbacks and stepbacks, were increased between the building and northern lot line and nearby existing residential development;
- A landscape buffer and privacy fencing have been added along the northern lot line and a portion of the western lot line; and
- The building facades have been modified.

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 the MPS are significant undertakings. Council is under no obligation to consider such requests. In this case, staff advise 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 continue to process a development proposal on the subject site in accordance with two key criteria; the first being the June 2017 Centre Plan document, which classifies the site as an *Established Residential Area*. Staff advise that the proposal does not generally align with the document's direction pertaining to Urban Structure, Height and Floor Area Ratio, however specific policies contained within the document allowed for the redevelopment of existing multi-unit non-conforming buildings, including the existing building subject to this proposal, through the development agreement process.

Urban Structure

The June 2017 Centre Plan document identifies *Established Residential Areas* as having lower densities and being largely characterized by detached homes. These areas consist of a significant portion of the Regional Centre and are not targeted for extensive growth. These areas are suitable locations for auxiliary dwelling units, such as secondary suites, or other residential infill that is consistent with the character of the existing neighbourhood. The scale of the proposed development does not align with the *Established Residential Area* designation, rather it aligns with other residential areas identified as *Higher Order Residential Areas*. These areas are characterized by clusters of multi-unit apartment and condominium buildings. The 2017 Centre Plan document indicates that redevelopment of these areas should include similarly scaled infill of moderate buildings. Later versions of the draft Centre Plan, specifically the 2018 Centre Plan Package A and 2019 Centre Plan Package A documents identify the subject site as a *Higher Order Residential Area*.

Although the June 2017 Centre Plan document identifies the site as being suitable for lower density development, it also allows for consideration of redevelopment of the site through a development agreement process. In June 2017, Council authorized the direction contained within the Centre Plan. As such, the proposed redevelopment of the existing multiple dwelling may be considered subject to the development agreement process.

Height

The June 2017 Centre Plan document does not identify maximum height values for *Established Residential Areas*. As proposed, the development consists of 8 storeys plus a rooftop mechanical penthouse. While the Centre Plan does not identify a specific height, the proposed height of 8 storeys, plus a penthouse, is consistent with the height of the existing building at 5713 Victoria Road and is generally consistent with the surrounding context of South Park Street and existing development, particularly to the south.

Floor Area Ratio

Within *Established Residential Areas*, a specific Floor Area Ratio (FAR) value is not specified. In *Higher Order Residential Areas*, a Floor Area Ratio (FAR) of 3.5 shall be considered in the development of regulations.

The applicant proposes a FAR of 2.96. This FAR was calculated using a hybrid of the document's FAR definition and the current working FAR definition used by the draft Centre Plan - Package A. Floor area is measured from the inside building wall and the calculation does not include balconies, stairwells, elevator shafts, mechanical penthouses, and underground areas.

Planning Principles

The second evaluative criteria for this application are Regional Council's planning principles, which are outlined in Table 1:

Table 1. Planning Principles

Planning Principles	Description
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.
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.
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.
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.
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.

The revised proposal places greater emphasis on addressing the Transition and Context-Sensitive principles than the original design. Overall, the proposal adequately addresses the subject planning principles. The following provides discussion related to each of the planning principles:

Transition

The applicant has revised the proposed development, in an effort to address the Transition principle. Staff advise that the revisions have generally accomplished their intended goal. As proposed, the development recognizes surrounding development, including existing low-scale residential development located north, east and west of the subject site.

Side yard building setback and stepback distances have been increased from the north property line to improve the transition between the proposed development and adjacent low-scale development. The north streetwall and building podium heights are consistent with existing building heights found along the western side of South Park Street, which range from 2 to 4 storeys. As proposed, the 8 storey building addition encroaches further into the western yard than the existing multiple dwelling, however this impact is limited as the siting of the building addition takes advantage of increased lot depth and as a result maintains an appropriate at-grade building setback of approximately 7.6 metres (25 feet). Overall, the proposed development serves as an appropriate transition between existing high-rise residential development from the south to lower scale forms of residential development to the north, east and west.

Pedestrian-Oriented

The proposed building is oriented towards the street. Unlike the existing multiple unit dwelling, which maintains a significant setback (approximately 12.5 metres) from the South Park Streetline, the proposed building addition reduces this setback to 1.7 metres. As proposed, the design of the streetwall, including the incorporation of ground floor commercial units and landscaping provides an improved pedestrian environment along South Park Street. The streetwall setback, along with the use of hard and soft landscape surfaces provides additional width near the sidewalk, which serves to support walkability and increase space for pedestrians.

Articulation of the streetwall façade provides vertical breaks in the façade, contributes to variety along the street and provides opportunity for animation. The proposed use of quality materials such as brick, encourage continuity with the existing streetscape. The proposed use of glass and development of multiple at grade entrances provide transparency at the ground floor level. Together, these elements help to create a pedestrian-oriented streetwall condition along South Park Street and Victoria Road.

Human-Scale

The proposed building is larger in scale than surrounding residential development located to the north, west and east, however is smaller in comparison to existing residential high-rise development located south. Although larger than much of the surrounding low-scale residential development, the proposed building incorporates design elements which help to relate in a positive way to its surroundings. Overall the design of the building effectively incorporates a base, middle and top. This is achieved by providing a streetwall and building podium walls which vary from 1 to 4 storeys. Above the base, the mid-rise portion of the building is stepped back before rising an additional 4 storeys. Two mechanical penthouses serve as the top of the building and are located on the rooftop of the mid-rise portion. Similar to the commencement of the mid-rise portion, the mechanical penthouse is stepback, thus providing a clear vertical break. These features lessen the impact of the proposed development on its potential surroundings.

The ground storey and streetwall contain many windows and pedestrian entrances, this provides greater transparency, helps to humanize the building's scale and facilitates vibrancy on the street. The proposal also contains landscaping / hardscaping along the streetline, which in tandem with ground floor commercial units, should help add life to the streetscape.

Remaining portions of the building have been designed to include protrusions, recessions, and balconies that break the building wall's mass into smaller, human-focused components. Together, these design features help lessen the building's physical presence on pedestrians and the neighbourhood as a whole.

Building Design

The overall massing of the proposed building denotes a base, middle and top which is oriented toward South Park Street and Victoria Road. A combination of architectural façade elements including protrusions, recessions and balconies helps to generate visual interest from several vantage points. The use of a variety of materials including brick, ceramic cladding and large clusters of glass help generate additional visual interest through contrast, colour, transparency and reflectivity. The use of materials and façade elements is particularly notable along the streetwalls where the base maintains rhythm with low-scale residential development located to the north and west. The presence of landscaping and fencing along the northern and western property lines help to contribute to the overall proposal.

Context-Sensitive

Through the public engagement process, many participants commented that the proposed development was too tall and dense and that it did not fit within the existing character of the area. The revised proposal provides a reasonable response to concerns related to the context-sensitive principle. Most notably, the proposed building now incorporates increased separation distance from existing low-scale residential development to the north. To achieve this separation, the building podium has been setback 3 metres from the north property line. Further, the mid-rise portion of the north building wall has been stepped back 3 metres for each two storeys the building rises for a total setback of 6 metres.

The streetwall is setback 1.8 metres from the South Park Street streetline and 0 metres from the Victoria Road streetline. These setbacks are consistent with the average existing building setbacks along each street. While the proposed building is setback from the streetline, it is designed in a manner that supports walkability and the pedestrian environment. Further, the building responds to the architectural character of the surrounding area by incorporating building materials (i.e. brick, cladding and glass) and architectural elements (i.e. at grade commercial entrances), which form part of the existing neighbourhood. Articulation of the streetwall façade provides vertical breaks in the façade. This provides variation in the streetwall and contributes to variety along the street similar to the variation produced by neighbouring low scale single detached dwellings, including registered heritage properties, which form part of the nearby Tower Road Heritage Streetscape.

HRM Initiatives

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

Regional Plan

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

2018 Centre Plan Package A

On February 23, 2018, Centre Plan Package A was released for public and committee review. Package A includes a draft Secondary Municipal Planning Strategy and Land Use By-law which focusses on *Centres, Corridors, Higher Order Residential, and Future Growth Node* classifications in the Regional Centre. Unlike the 2017 Centre Plan Document, which identified the Urban Structure classification of the subject site as an *Established Residential Area*, the 2018 Package A document designated the subject site as *Higher Order Residential*. The document also suggested an approach for regulating development on the subject site, including a Height Precinct Map and maximum FAR value. With respect to height, Package A indicates that the subject site could support a maximum building height of 26 metres (5713 Victoria Road and 1102 South Park Street) and 14 metres (1106 South Park Street). The applicant has proposed a maximum building height of 23 metres. Concerning FAR, Package A indicates maximum values of 4.25 (5713 Victoria Road and 1102 South Park Street) and 2.25 (1106 South Park Street). The applicant has proposed a higher FAR value of 2.96. Staff were directed to review the application in accordance with the June 2017 Centre Plan documents' direction for Height and FAR, not the draft height precincts and FAR values listed in the Centre Plan - Package A. As previously stated, the application is not generally consistent with Council's specific direction regarding urban structure, height and FAR, however based on special circumstances (redevelopment of an existing non-conforming multi-unit building), as identified under Section 4.1.4(c)(ii) of the June 2017 Centre Plan document¹, the proposed development is eligible for consideration through a development agreement process.

2019 Centre Plan Package A

¹ <https://www.halifax.ca/sites/default/files/documents/city-hall/regional-council/170613rc1421.pdf>

On April 10, 2019, an updated version of Centre Plan Package A was tabled with the Community Design Advisory Committee (CDAC). The 2019 Centre Plan Package A retains the same Urban Structure classification (Higher Order Residential) for the subject site and many of the regulations captured within the 2018 version, including the same maximum building height values. However, unlike the 2018 version, maximum FAR values for Higher Order Residential Areas, including the subject site, have been removed. Further, the calculation of floor area has changed and is now measured from the interior faces of exterior walls and includes interior staircases. However, the calculation does not include: unenclosed space outside any exterior walls or located on a rooftop, such as balconies and patios; any floor area below the lowest ground floor of a building; elevator shafts; accessory structures; rooftop greenhouses; and any space open to a floor below. Based on this calculation, the proposed development has a FAR of 3.03. As previously noted, Staff were directed to review this application in accordance with the June 2017 Centre Plan documents' direction for Height and FAR, not the draft height precincts and FAR values listed in the 2019 version of the Centre Plan Package A.

Integrated Mobility Plan

The Integrated Mobility Plan (IMP), which was approved by Council in December 2017, provides a vision for facilitating movement throughout HRM and investing in transportation demand management, transit, attractive transportation, and street network infrastructure. This Plan identifies South Park Street as an existing/potential corridor route as part of the Moving Forward Together Plan. Further, South Park Street is identified as an important active transportation route and part of the proposed Regional Centre all ages and abilities bicycle network by 2022. The IMP provides no specific guidance regarding Victoria Road.

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:** Findings provided in the submitted Traffic Impact Statement (TIS) indicate that traffic volumes on South Park Street will be relatively balanced, however authors of the statement anticipate additional traffic heading north, from the proposed development, in the morning to work and other destinations during the AM peak hour. No alterations to the existing street network are necessary to accommodate the additional traffic.
- **On-Street Parking:** Several residents are concerned about the availability of on-street parking and that parking is frequently occupied by commuters and individuals employed in the Centre Plan area. The proposed development agreement contains parking requirements to ensure that underground parking spaces are available to residents of the proposed development.
- **Shadows:** The applicant submitted a shadow analysis which evaluates the shadow impacts for various times of the calendar year. Based on a review of this analysis, the proposed building is not anticipated to have a significant impact on the surrounding area.

Proposed MPS and LUB Amendments

MPS and LUB amendments are required to permit an 8 storey (plus penthouse), mixed-use building addition 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 sites and proposals where there are special circumstances present that require a customized development agreement. In accordance with the Land Use Policy and Regulations Section of the June 2017 Centre Plan, the proposed MPS policy identifies a development agreement as the preferred tool for the proposed redevelopment of the existing multi-unit non-conforming building.

Attachment B contains a proposed LUB amendment, which includes an addition to the South End – 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 F).

The proposed development agreement allows for multiple dwelling units with select ground floor commercial uses. The development agreement requires that at least one quarter of residential units contain two or more bedrooms. Additional highlights include the following:

Height and Built Form

- Maximum building height of 8 storeys (plus penthouse);
- 1-to-4 storey streetwall along South Park Street;
- 1 storey streetwall along Victoria Road;
- Indoor amenity space;
- Landscape buffer and privacy fencing along interior lot lines; and
- Requirements for exterior appearance and building materials.

Setbacks and Stepbacks

- No required streetwall setback from the Victoria Road Street
- Minimum streetwall setback of 1.5 metres (4.9 feet) from the South Park Street streetline;
- Maximum streetwall setback of 3.5 metres (11.5 feet) from the South Park Street streetline;
- Minimum horizontal stepback of 2.0 metres (6.56 feet) above the South Park Street and Victoria Road streetwalls;
- Minimum northern yard setback of 3.0 metres (9.8 feet);
- Minimum northern yard horizontal stepback of 3.0 metres (9.8 feet) above the north facing building podium (4th storey) and a second horizontal stepback of 3.0 metres (9.8 feet) above the sixth storey;
- Minimum western yard setback of 6.0 metres (19.6 feet); and
- Minimum western yard horizontal stepback of 3.0 metres (9.8 feet) above the west facing building podium.

Conclusion

In accordance with Section 4.1 (Land Use Policy and Regulations) of the June 2017 Centre Plan, the proposed re-development has been considered under the development agreement process. Staff have reviewed the proposal and completed the public participation program approved by Regional Council.

While the proposed redevelopment does not generally align with the June 2017 Centre Plan document's Urban Structure, FAR, and Height direction, it does adequately address Regional Council's planning principles and can be considered, subject to Policy 4.1.4(c)(ii) of the June 2017 Centre Plan, under the development agreement process as redevelopment of existing multi-unit non-conforming buildings are viewed as a special circumstance that require a customized development agreement. Later versions of the Centre Plan Document (2018 and 2019 Centre Plan Package A) classify the proposed development site as a Higher Order Residential Area. Based on this classification, the proposed development is generally consistent with Urban Structure, FAR and Height.

Staff advise that the proposal is consistent in scale and appropriately transitions to adjacent properties. The revised proposal incorporates numerous design features (e.g., limiting overall building and streetwall heights, utilizing horizontal stepbacks, incorporating pedestrian-focused design practices, etc.) to better address Regional Council's planning principles. Therefore, staff advise that the proposal is reasonably consistent with Regional Council's direction for the subject application.

Staff recommend creating new MPS policy, new LUB provisions, and a development agreement to regulate re-development on the subject site. The MPS and LUB amendments generally respond to the direction Regional Council provided when this planning application was initiated, while the development agreement ensures future re-development generally 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.

FINANCIAL IMPLICATIONS

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of the proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 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

The Heritage Advisory Committee may 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 and Area of Notification
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	Analysis of Regional Plan Policy CH-16
Attachment E	Public Meeting Minutes
Attachment F	Policy Review of Proposed Development Agreement

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

Report Prepared by: Tyson Simms, Planner III, 902.490.6983

-Original Signed-

Report Approved by:



Eric Lucic, Regional Planning Manager, 902.430.3954

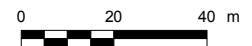


Map 1 - Generalized Future Land Use

Victoria Road and South Park Street.
Halifax



-  Subject Properties
-  Heritage Properties



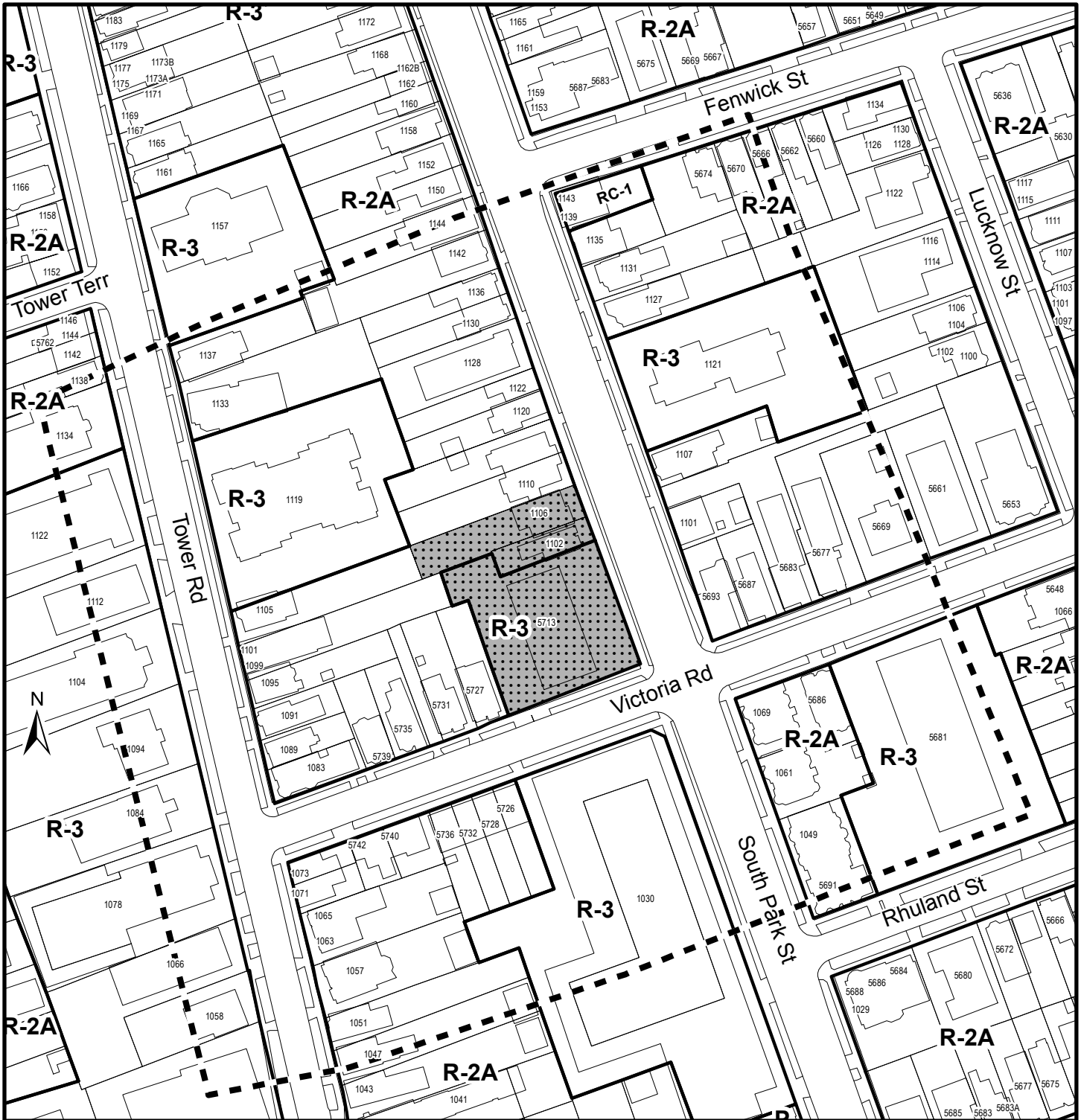
Halifax Plan Area
South End Area Plan Area

Designation

- MDR Medium Density Residential
- HDR High Density Residential

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

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




Map 2 - Zoning

Victoria Road and South Park Street.
Halifax



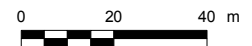
 Subject Properties

 Area of Notification

Halifax Peninsula
Land Use By-Law Area

Zone

- R-2A General Residential Conversion
- R-3 Multiple Dwelling



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
- 9. Re-development at South Park Street and Victoria Road**

2. By amending Section XVI, to add the following text shown in bold and delete the text shown in ~~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;
- g) Development at Victoria Road and South Park Street, as identified in Section 9.**

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 4th and 5th storeys and penthouse(s) are orientated towards Chebucto Road;
 - (f) restrict streetwall height to a maximum of 4 storeys along Chebucto Road;
 - (g) restrict streetwall height to a maximum of 3 storeys along both Elm Street and Beech Street;
 - (h) restrict the building's podium height to a maximum of 3 storeys along the southern lot line;
 - (i) restrict development to a minimum setback, both above and below grade, of 1.5 metres from the Chebucto Road lot line;
 - (j) require a landscaped buffer and fencing along the rear lot line;
 - (k) require indoor and outdoor amenity space for on-site residents;
 - (l) regulate streetwall massing, external building design, cladding materials, design of at-grade residential units, front yard landscaping, outdoor storage, signage, and the planting and retention of vegetation; and
 - (m) permit underground parking.
- (2) In addition to meeting the requirements of Policy 4.2.1(1) a) to m) inclusive, when considering a development agreement for the property located at the intersections of Chebucto Road, Elm Street, and Beech Street, Halifax, Council shall consider:
 - (a) the planning principles of transition, pedestrian-oriented, human-scale, building design and context sensitive, as described in Section 2; and
 - (b) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.

9. DEVELOPMENT AT VICTORIA ROAD AND SOUTH PARK STREET

The properties having street frontage on Victoria Road (5713 Victoria Road, Halifax) and South Park Street (1102 and 1106 South Park Street, Halifax) are the subject site of a proposal for site-specific planning policy amendments to allow for an 8-storey (plus penthouse) mixed-use building addition to an existing multiple-unit non-conforming building at 5713 Victoria Road, Halifax. This proposal is one of the twelve policy requests

noted in Section 1. On August 1, 2017, Regional Council chose to continue processing the re-development proposal subject to specific considerations.

9.1 Specific Considerations

The June 2017 Centre Plan document identifies the site as a lower density Established Residential Area. These areas are largely characterized by detached homes and are suitable locations for auxiliary dwelling units, such as secondary suites, or other residential infill that is consistent with the character of the existing neighbourhood. The proposed re-development is not characterized as lower density, however there are special circumstances that allow for consideration of redevelopment of existing multiple-unit non-conforming buildings through a development agreement process.

The re-development 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.

9.2 Regulating Development

To achieve a development form on the Victoria Road/South Park Street site that generally aligns with the urban structure, floor area ratio and heights identified in the June 2017 Centre Plan Document, and ensure the five planning principles noted in Section 2 are addressed, re-development will be permitted by development agreement, as described below.

9.2.1 Development Agreement Provisions

The Land Use By-law for Halifax Peninsula shall be amended to identify that mixed-use re-development may be considered by development agreement for the properties located at 5713 Victoria Road and 1102 and 1106 South Park Street, Halifax:

- (1) Notwithstanding other policies of this Municipal Planning Strategy except 9.2.1(2), a development agreement for the property located at 5713 Victoria Road and 1102 and 1106 South Park Street shall:
 - (a) permit a mixed-use (multiple dwelling with ground floor commercial) building;
 - (b) require a mix of residential unit types;
 - (c) restrict building height to a maximum of 8 storeys, plus penthouse(s);
 - (d) require that the building is oriented towards South Park Street and Victoria Road;
 - (e) restrict streetwall heights to a maximum of:
 - i. 4 storeys along South Park Street; and
 - ii. 3 storeys along Victoria Road;
 - (f) require that development be setback a minimum of 1.5 metres from the South Park Street lot line;
 - (g) require landscaping and fencing along the northern lot line and a portion of the western lot line;
 - (h) require amenity space for on-site residents;
 - (i) regulate streetwall massing, external building design, cladding materials, design of at-grade residential units, front yard landscaping and the planting of vegetation; and
 - (j) permit underground parking.

(2) In addition to meeting the requirements of Policy 9.2.1(1) a) to j) inclusive, when considering a development agreement for the property located at 5713 Victoria Road and 1102 and 1106 South Park Street Halifax, Council shall consider:

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

I, 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 SOUTH-END DEVELOPMENT AGREEMENTS by inserting the following sub-heading and subsection 94(1)(x) immediately following subsection 94(1)(w) as follows:

5713 Victoria Road and 1102 and 1106 South Park Street

- (x) **Council may, by development agreement, pursuant to Policy 9.2.1 Section XVI of the Halifax Municipal Planning Strategy, permit development of a multiple dwelling containing commercial uses at 5713 Victoria Road and 1102 and 1106 South Park Street.**

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 Corporation/Business LTD.]

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands at 5713 Victoria Road and 1102 and 1106 South Park Street, Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for mixed-use residential development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Section XVI, Policy **[Insert -#]** of the Municipal Planning Strategy for Halifax and Subsection 94(1)(x) 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 20159;

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) "Amenity Space" means indoor or outdoor spaces designed for leisure or recreational activities by the occupants of a building.
 - b) "Commercial Parking" means a parking structure, or any portion thereof, where parking spaces can be leased by the public;
 - c) "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;
 - d) "Parapet" means a barrier which is an extension of the wall at the edge of a roof or at the edge of the streetwall;
 - e) "Streetwall" means the wall of a building or portion of a wall facing a streetline that is below the height of a specified setback or stepback, excluding minor recesses for elements such as doorways or intrusions such as bay windows;
 - f) "Streetwall Height" means the vertical distance between the top of the streetwall and the streetline grade, extending across the width of the streetwall;
 - g) "Streetwall Setback" means the distance between the streetwall and the streetline;
 - h) "Stepback" means a specified horizontal recess from the top of a wall, which shall be unobstructed from the top of the wall to the sky except as otherwise specified;
 - i) "Streeline" means the lot line between the street and an abutting lot;
 - j) "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
 - k) "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, SUBDIVISION 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 20159:**

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan and Building Massing
Schedule C	Height Framework
Schedule D	Building Elevations and Streetwall Framework
Schedule E	Landscaping Plan
Schedule F	Landscape Buffer Cross Section

3.2 Requirements Prior to Approval

3.2.1 Prior to the commencement of any site work on the Lands, the Developer shall provide the following to the Development Officer:

- a) A detailed Site Disturbance Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement;
- b) A detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement; and
- c) A detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement.

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

- a) A Landscape Plan prepared by a Landscape Architect in accordance with Section 3.5.16 of this Agreement;
- b) A Subdivision Plan prepared by a Professional Surveyor in accordance with Section 3.6.4 of this Agreement; and
- c) A Tree Retention and Mitigation Plan for street trees in accordance with Section 4.2.1 of this Agreement.

3.2.3 Prior to the issuance of an Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer, subject to Section 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.

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

3.3 General Description of Land Use

3.3.1 Subject to Section 3.3.2 through 3.3.6, the use(s) of the Lands permitted by this Agreement are:

- a) Apartment house (multiple dwelling);
- b) The following uses on the ground floor only:
 - i. Daycares;
 - ii. Cultural uses;
 - iii. Institutional uses;
 - iv. Medical clinics and medical offices;
 - v. Office uses;
 - vi. Personal and professional services;

- vii. Restaurants and licensed alcohol establishments, excluding cabarets and lounges; and/or
- viii. Retail uses, excluding adult entertainment uses, amusement centres and automotive uses;
- c) Work-live units, which include the uses listed in Section 3.3.1(b); and
- d) Any use accessory to any of the foregoing uses.

3.3.2 Uses listed in Section 3.3.1(b) may be provided on the ground floor facing South Park Street.

3.3.3 Apartment house uses or work-live units may be provided on the ground floor facing Victoria Road.

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

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

3.3.6 Drive-through facilities shall not be permitted.

3.4 Siting and Architectural Requirements

Siting

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

Exterior Design

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

Height Framework

3.4.3 No building shall be constructed that exceeds 8 storeys and the maximum height framework as shown on Schedule D.

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

- a) Generally located as shown as Schedule B;
- b) Setback a minimum of 3 metres from the outer most edge of the roof on which they are located;
- c) Extend a maximum of 5 metres above the building height; and
- d) Limited to a maximum of 30 percent of the roof area.

Streetwall Height

3.4.5 Subject to Sections 3.4.3 through 3.4.8, the streetwall height shall:

- a) Conform with the streetwall heights as shown on Schedules C and D;
- b) Not exceed 4 storeys along South Park Street; and
- c) Not exceed 1 storey along Victoria Road.

3.4.6 Streetwall height shall conform with the heights identified on Schedule D.

3.4.7 Notwithstanding Subsection 3.4.6, the maximum streetwall height may be exceeded by a glass guard and railing system to allow for the safe use of podiums and rooftops.

3.4.8 Notwithstanding Subsection 3.4.6, the maximum streetwall height may be exceeded by a parapet, no higher than 1.25 metres in height.

Building Podium Height

3.4.9 The maximum height of the building podium, facing north and west, shall not exceed 4 storeys.

Streetwall Setbacks

3.4.10 The South Park Street streetwall shall be setback a minimum of 1.5 metres and a maximum of 3.5 metres from the streetline. The Victoria Road streetwall may be setback a minimum of 0 metres from the Victoria Road streetline.

Building Podium Setbacks

3.4.11 Building podium walls shall have the following minimum setbacks:

- a) 3.0 metres from the north lot line; and
- b) 6.0 metres from the west lot line, excluding any portion of the parking garage or the proposed parking entrance located along the Victoria Road streetline.

Building Stepbacks

3.4.12 Building walls (located above the streetwall) facing South Park Street and Victoria Road shall have a minimum horizontal stepback of 2.0 metres from the edge of the streetwall, however no stepback is required for up to 20 percent of the width of the building along the South Park Street streetline.

3.4.13 Building walls shall have the following minimum horizontal stepbacks:

- a) 3.0 metres from the edge of the building podium facing the western lot line;
- b) 3.0 metres from the edge of the building podium facing the northern lot line as shown on Schedule D; and
- c) 3.0 metres from the edge of the building above the sixth storey facing the northern lot line, as shown on Schedule D.

Streetwall Design

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

3.4.15 If the building's South Park Street or Victoria Road streetwalls width exceed 15 meters, the ground floor of the streetwall must incorporate distinct changes in articulation, in increments of 10-15 metres, measured horizontally. Changes in articulation may include:

- a) Changes to streetwall heights;
- b) Changes to front setbacks, or the use of recesses or projections;
- c) Use of contrasting façade materials or treatments; and
- d) Building entrances.

3.4.16 The ground floor façade facing South Park Street shall be a minimum of 50% windows, doors or other transparent treatments that provide views of the building interior. The ground floor façade should be composed of narrow and visibly distinct elements. Individual unit façades must balance solid elements (walls and columns) with transparent elements (doors, sidelights and windows). The width of the façade must also balance solid elements with transparent elements. At the street level, neither full glass curtain walls nor walls with few transparent openings may be the dominant façade type for more than a few metres in a row, measured horizontally. The length of the façade shall be articulated to create a horizontal rhythm, as described above.

At Grade Residential

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

External Building Appearance

- 3.4.18 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).
- 3.4.19 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 The following structures are permitted encroachments into any required yard:
- a) Wheelchair ramps, uncovered patios, walkways, lifting devices, and steps;
 - b) Eaves, gutters, downspouts, cornices, and other similar features that may project up to 0.9 metres from the building face; and
 - c) Walls, planters and/or fences as detailed under Subsection 3.4.17(c).
- 3.5.2 The following structures are permitted encroachments into any required yard, except for the front yards facing South Park Street and Victoria Road:
- a) Window bays and solar collectors up to 0.9 metres from the building face;
 - b) Balconies, porches, verandas, and sundecks; and
 - c) Mechanical and electrical systems that may project up to 0.9 metres from the building face, subject to Section 3.4.20.
- 3.5.3 Enclosed parking structures may project into a required yard if:
- a) the parking structure is sited as generally shown on Schedules B and D; and
 - b) the parking structure meets the requirements of Section 3.5.22.
- 3.5.4 Building stepbacks above the streetwall and required stepbacks above the building podium must be open and unobstructed except for:
- a) Eaves, gutters, downspouts, cornices, and other similar features; and

- b) Balconies, provided that:
 - i. the total horizontal width of the balconies on any one storey shall not be more than 40 percent of the width of the building wall; and
 - ii. balcony depth shall not project more than 2 metres past the building wall.

3.5.5 Notwithstanding Subsection 3.5.4, balconies shall be permitted as shown on Schedule D.

Waste Management

3.5.6 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, refuse and recycling containers shall be located to ensure minimal effect on abutting property owners, by means of opaque fencing or masonry walls with suitable landscaping.

Parking, Driveways and Garage Entrances

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

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

3.5.8 The surface parking lot, as shown on Schedule B, shall include no more than 10 parking spaces.

3.5.9 Driveway access shall be off Victoria Road. A garage entrance may face Victoria Road. The garage shall be generally sited and designed as shown on Schedule B.

Bicycle Parking

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

Landscaping

3.5.11 All required yards shall be landscaped as follows:

- a) Landscaped areas shall include soft landscaping materials, such as grasses or plantings;
- b) Landscaped areas to be used for outdoor amenity space or walkways may include hard landscaping materials such as pavers, tile or wood; and
- c) Landscaping shall not be required along driveways and areas designated for surface parking

3.5.12 Soft and hard landscaping may be provided on any flat roof that:

- a) Exceeds 40 contiguous square metres;
- b) Has at least one linear dimension exceeding 3.0 metres; and
- c) Is not required or used for amenity space, architectural features, mechanical equipment, or solar collectors.

3.5.13 Subject to Section 3.5.14, a landscape buffer shall be provided along the full extent of the western and northern lot lines as shown on Schedules E and F.

3.5.14 The landscaped buffer shall:

- a) Contain a minimum of 1 tree (with a minimum base caliper of 60 millimeters) for every 4 linear metres of said buffer;
- b) Have a minimum height of 4 metres;
- c) Have a minimum width of 1.2 metres; and
- d) Portions of the western lot line which abut the existing surface parking entrance shall not require plantings, however shall be buffered using opaque wood fencing.

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

3.5.16 Prior to the issuance of a Development Permit, the Developer agrees to provide a 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 Section 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.

Indoor and Outdoor Amenity Space

3.5.19 Apartment house buildings shall provide amenity space at a rate of 5 square metres per residential unit or work live unit. Amenity space may be provided in the form of unit patios, unit balconies or terraces, rooftop balconies or terraces. The building shall also provide common amenity space. Common amenity space shall include one of the following elements:

- a) Common fitness room of a minimum size of 40 square metres;
- b) Community room of a minimum size of 40 square metres; or
- c) Outdoor common rooftop terrace of a minimum size of 40 square metres.

3.5.20 Indoor and outdoor amenity space shall be provided on the building's rooftop, in conjunction with the mechanical penthouse as generally shown on Schedules B and D.

Signage

3.5.21 Any persons carrying on a commercial 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.

Building Foundations

- 3.5.22 Foundations and/or enclosed parking structures that are taller than 0.6 metres above grade, shall be clad or architecturally detailed in a manner that compliments the exterior design and materials of the main building and abutting registered municipal heritage properties.

Outdoor Lighting

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

3.6 Additional Requirements

Hours of Operation

- 3.6.1 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.
- 3.6.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 10:00pm.
- 3.6.3 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

Subdivision

- 3.6.4 Prior to the issuance of a Development Permit, a subdivision application to consolidate the properties shown on Schedule B 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.

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.

4.3 Underground Services

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

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plan

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

- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and
- (c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.

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

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

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

- (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement;

- (b) The length of time for the completion of the development as identified in Section 7.5.1 of this Agreement.

6.2 Substantive Amendments

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

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

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

7.2 Subsequent Owners

7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.

7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

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

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

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

7.4 Completion of Development

7.4.1 Upon the completion of the whole development or completion of phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the applicable Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

7.5 Discharge of Agreement

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

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

8.2 Failure to Comply

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

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

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

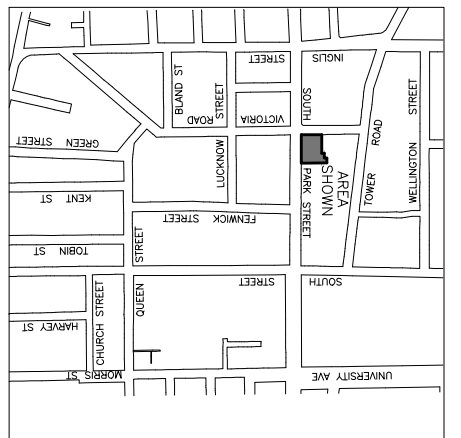
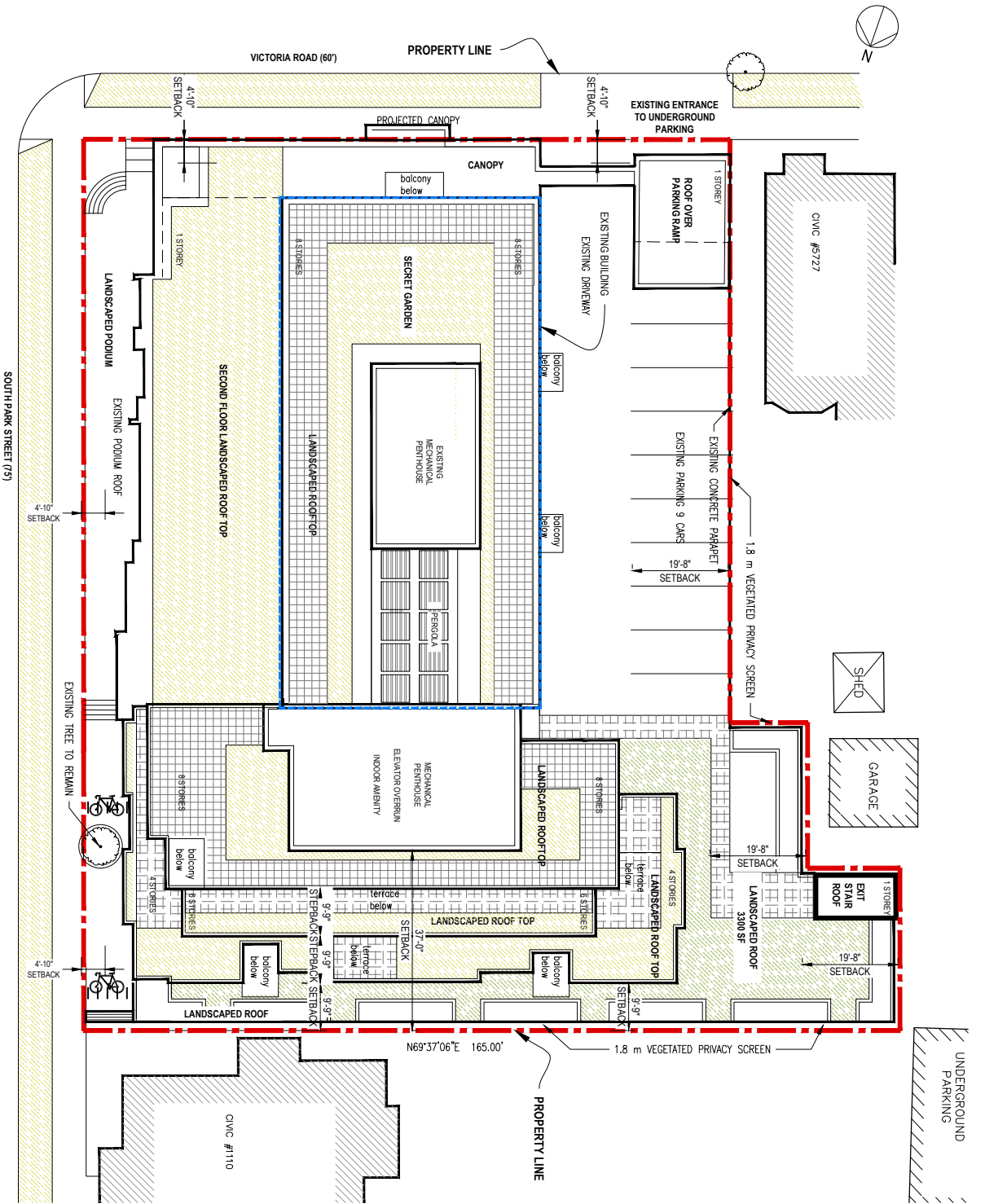
A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

Schedule B - Site Plan & Building Massing



KEY PLAN
Scale 1"=800'

SITE BOUNDARY
INFORMATION TAKEN FROM
PLAN OF SURVEY LOT E,
PLAN No. 13-2426-0
DATED 8TH OF MAY, 2015
PREPARED BY SERVAANT
DUNBRACK MCKENZIE &
McDONALD LTD. WITH
WHOM REST
RESPONSIBILITY FOR
ACCURACY



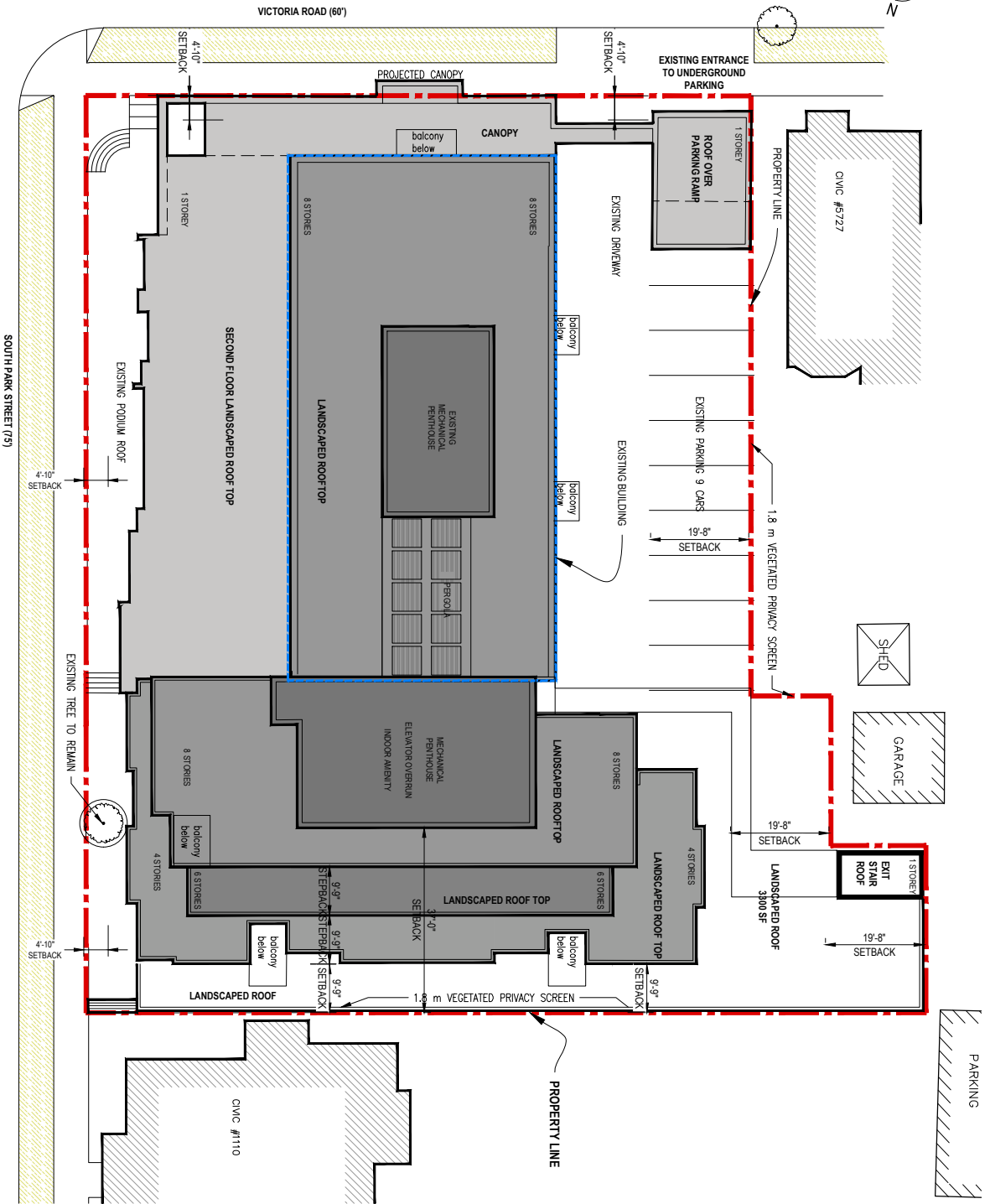
1 Canal Street, Dartmouth, NS B2Y 2W1 ZZap.ca

SOUTH PARK TOWERS _ RENOVATION
1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

SITE PLAN & BUILDING MASSING
SCHEDULE B

Apr 2019

Schedule C - Height Framework



Zwicker
Zareski
architecture +
planning

ZZap Consulting Inc.
1 Canal Street, Dartmouth, NS B2Y 2W1 ZZap.ca

SOUTH PARK TOWERS _ RENOVATION

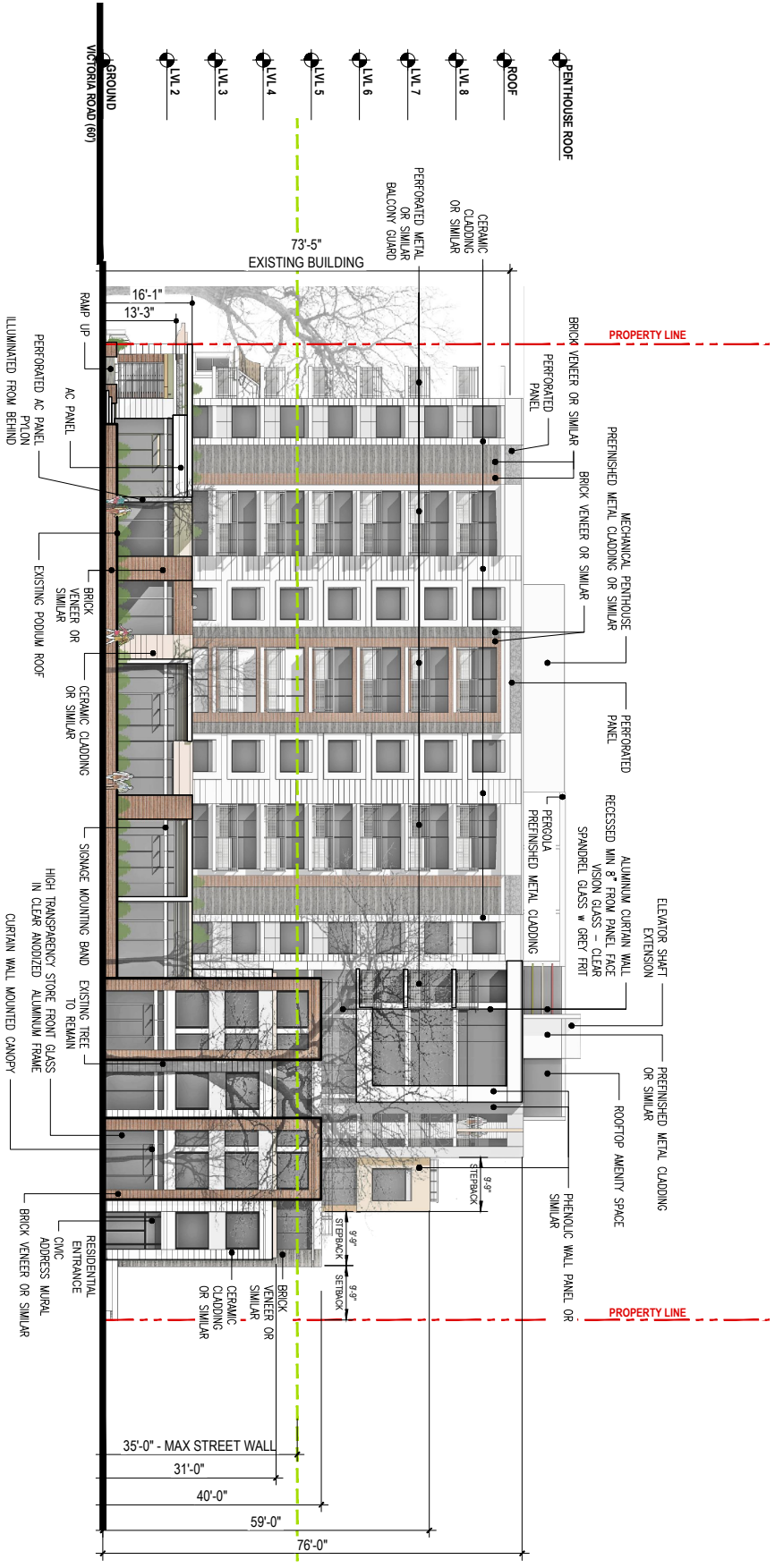
1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

HEIGHT FRAMEWORK

SCHEDULE C

Apr 2019

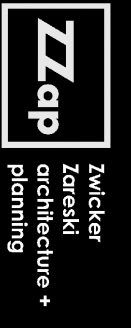
Schedule D - Building Elevations & Streetwall Framework



EAST ELEVATION

SOUTH PARK TOWERS _ RENOVATION
 1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

BUILDING ELEVATIONS AND STREETWALL FRAMEWORK
 SCHEDULE D-01

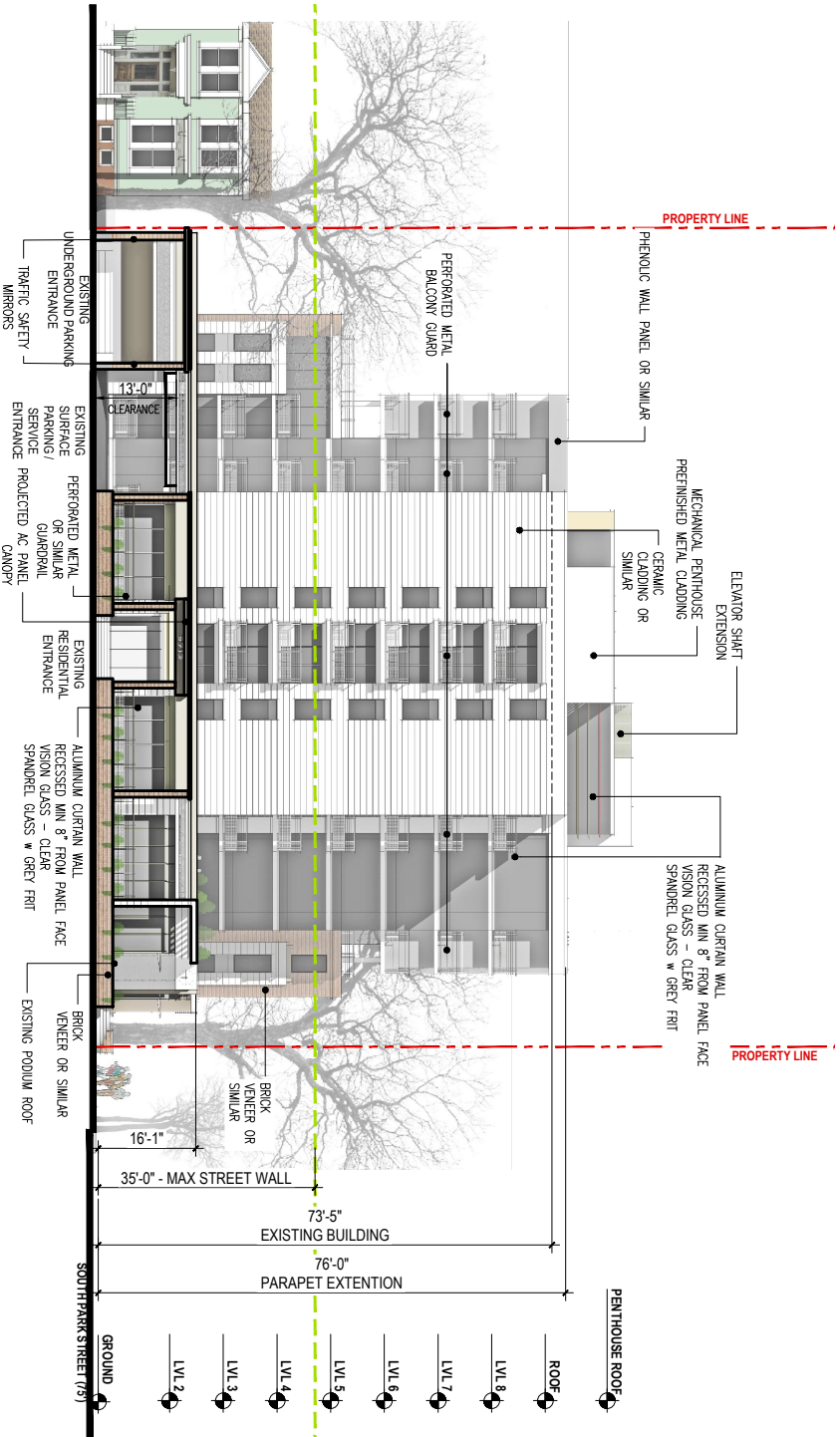


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SOUTH PARK TOWERS _ RENOVATION

1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

BUILDING ELEVATIONS AND
STREETWALL FRAMEWORK

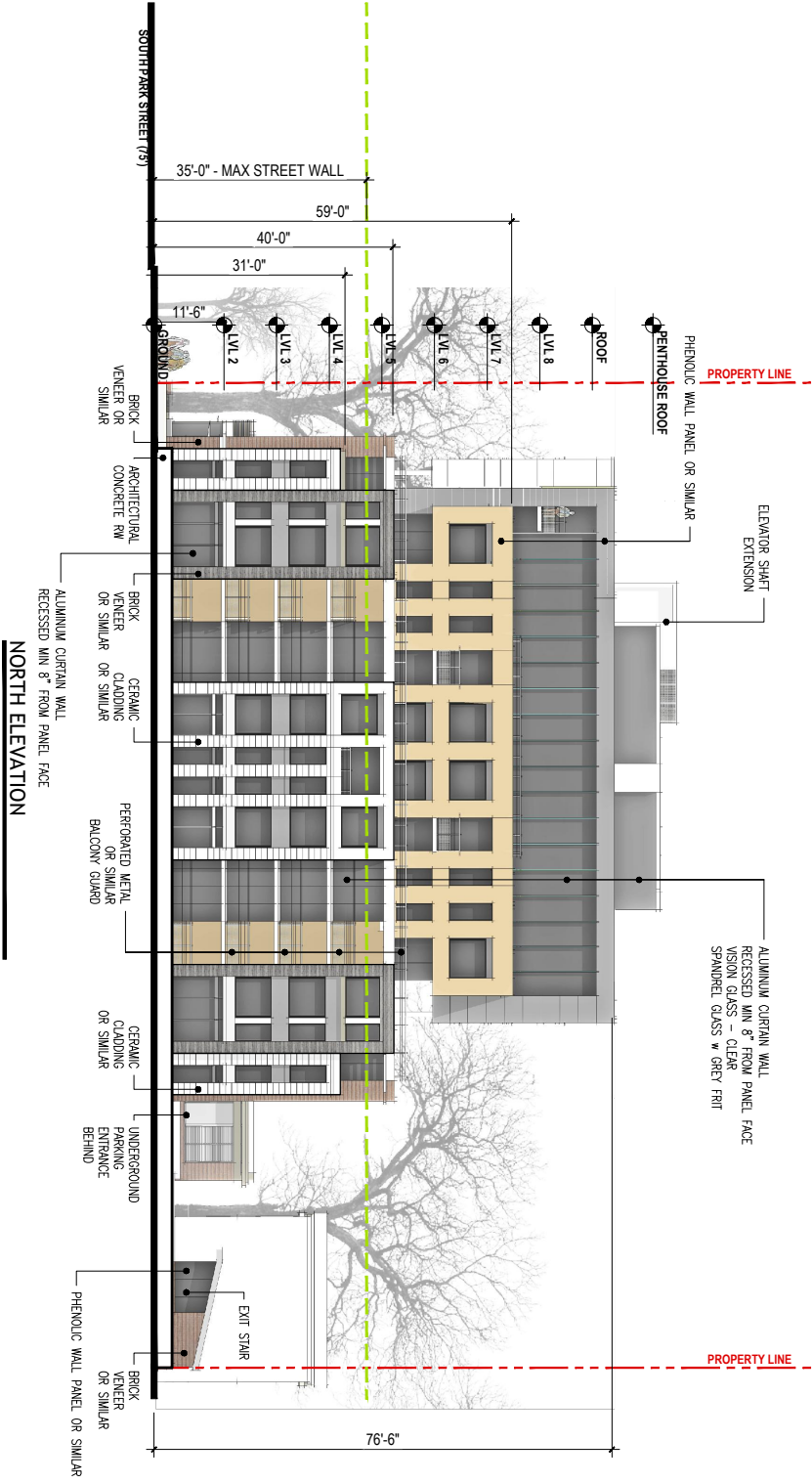
SCHEDULE D-02

Mar 2019



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SOUTH PARK TOWERS _ RENOVATION

1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

**BUILDING ELEVATIONS AND
STREETWALL FRAMEWORK**

SCHEDULE D-04

Mar 2019

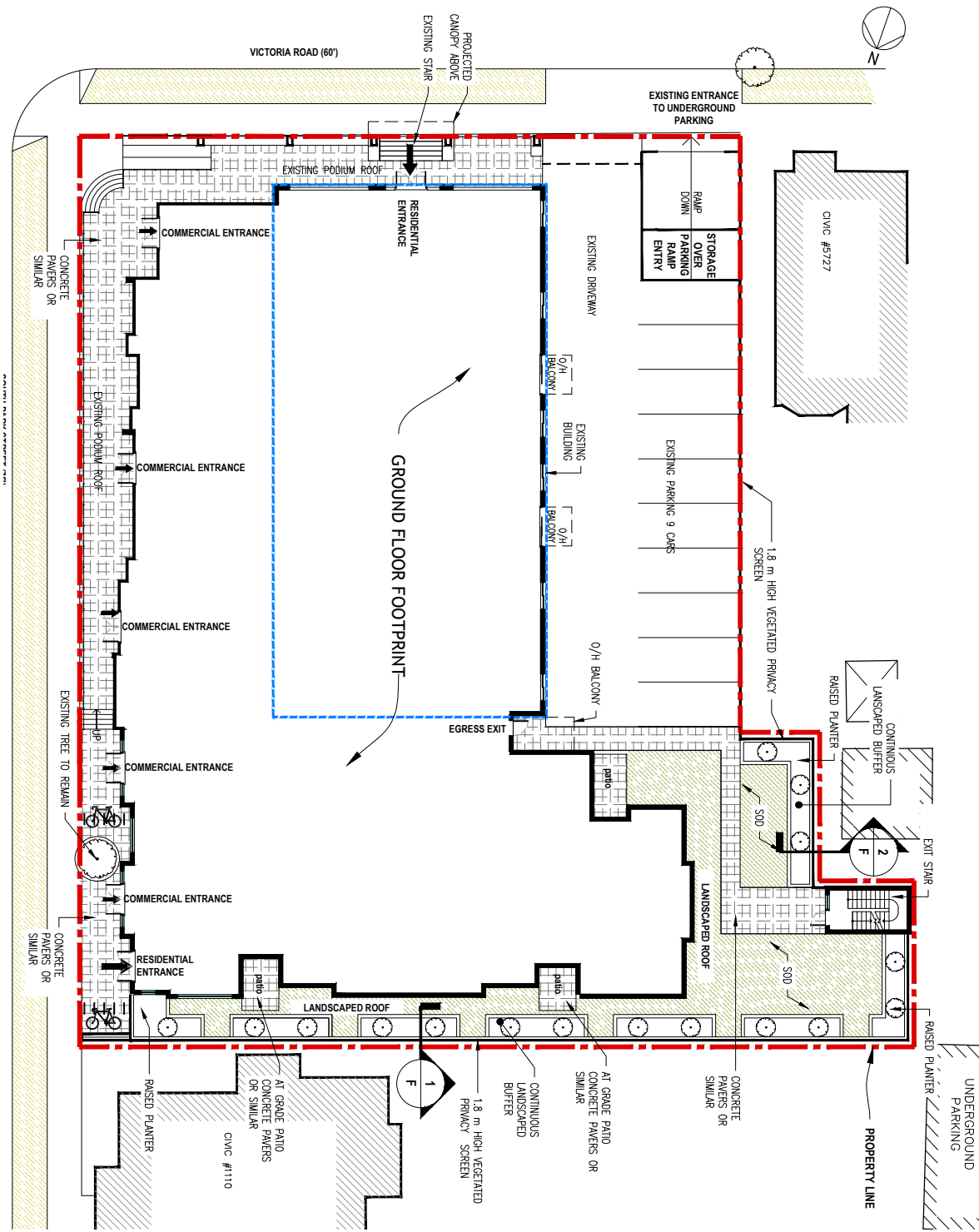
Schedule E Required Yard Landscaping Plan



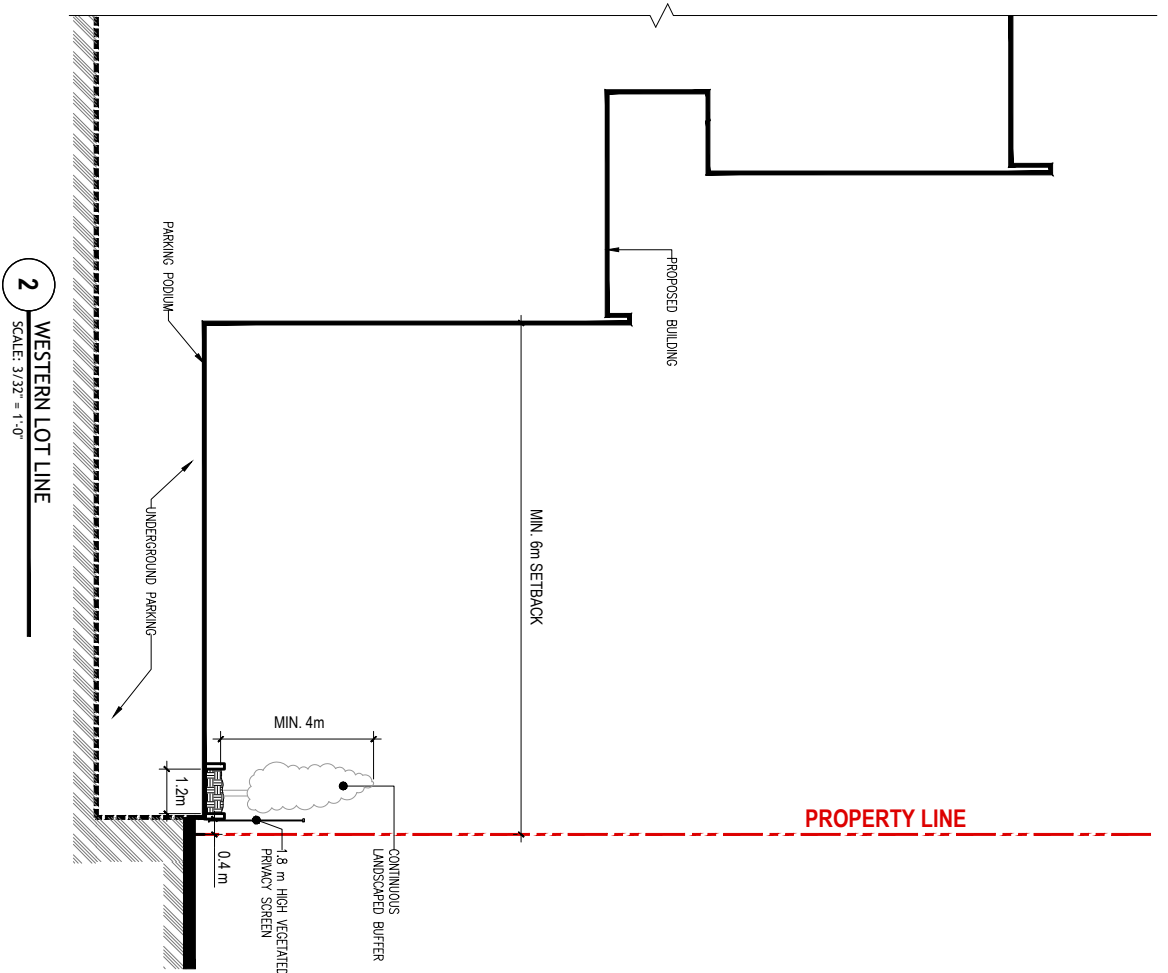
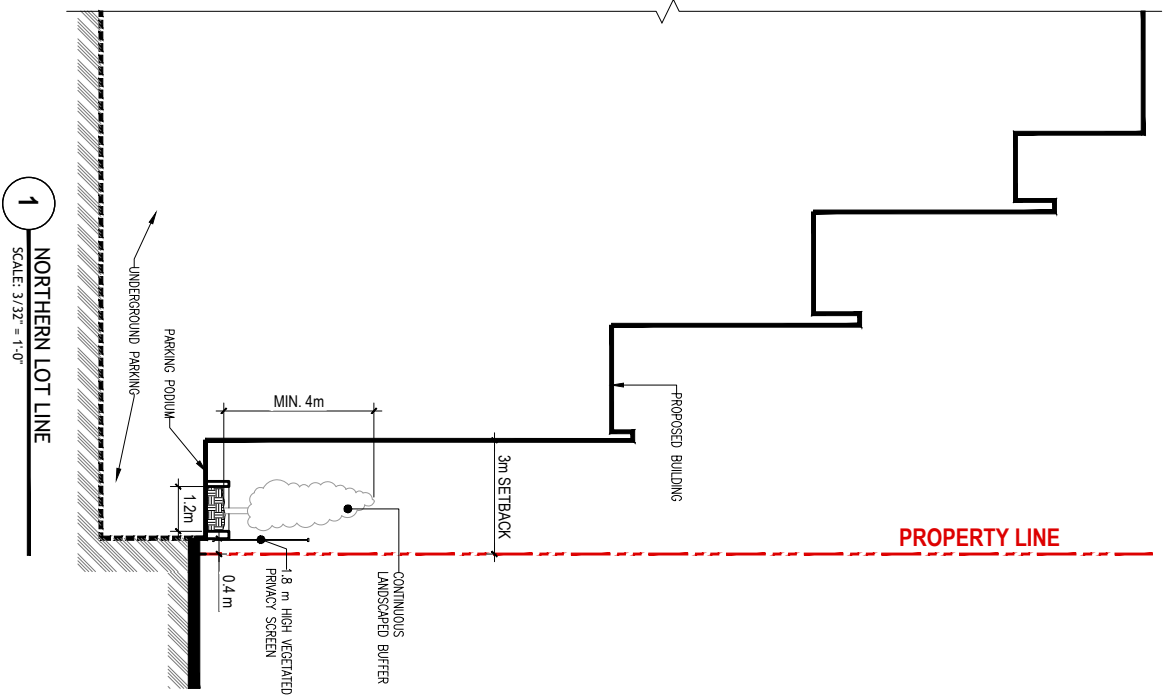
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1 Canal Street, Dartmouth, NS B2Y 2W1 Zzap.ca

SOUTH PARK TOWERS _ RENOVATION
1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

REQUIRED YARD LANDSCAPING PLAN
SCHEDULE E



Schedule F - Landscaped Buffer Cross Section



SOUTH PARK TOWERS _ RENOVATION

LANDSCAPED BUFFER CROSS SECTION

1102-1106 SOUTH PARK ST \ 5713 VICTORIA RD., HALIFAX, NS

SCHEDULE F



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Mar 2019

ATTACHMENT D
Analysis of Regional Plan Policy CH-16

Policy CH-16: *For lands abutting federally, provincially or municipally registered heritage properties, HRM shall, when reviewing applications for development agreements, re-zonings and amendments pursuant to secondary planning strategies, or when reviewing the provision of utilities for said lands, consider a range of design solutions and architectural expressions that are compatible with the abutting federally, provincially or municipally registered heritage properties by considering the following:*

Policy Criteria	Comment
<p><i>(a) the careful use of materials, colour, proportion, and the rhythm established by surface and structural elements should reinforce those same aspects of the existing buildings;</i></p>	<p>The proposed development incorporates the use of brick veneer and horizontal ceramic cladding. These building materials maintain a similar rhythm surrounding heritage resources. The roof of the proposed Victoria Road streetwall is aligned with the first-floor cornice of the adjacent property (5727 Victoria Road, Halifax). This helps to continue the rhythm and scale of the existing streetscape.</p>
<p><i>(b) ensuring that new development is visually compatible with yet distinguishable from the abutting registered heritage property. To accomplish this, an appropriate balance must be struck between mere imitation of the abutting building and pointed contrast, thus complementing the abutting registered heritage property in a manner that respects its heritage value;</i></p>	<p>The proposed development agreement (Attachment C of the Staff Report) requires that the exposed portion of the exit stairwell from the proposed parking garage, that is closest to the abutting heritage properties (1099/1101 and 1105 Tower Road, Halifax), be detailed similar to the overall proposed development to complement the abutting heritage resources. The proposed development agreement also requires a landscaped buffer along the northern and a portion of the western property boundaries. This will help to reduce the visual impact of the proposed exit stairwell.</p>
<p><i>(c) ensuring that new developments respect the building scale, massing, proportions, profile and building character of abutting federally, provincially or municipally registered heritage structures by ensuring that they:</i></p> <ul style="list-style-type: none"> <i>(i) incorporate fine-scaled architectural detailing and human-scaled building elements.</i> <i>(ii) reinforce, the structural rhythm (i.e., expression of floor lines, structural bays, etc.) of abutting federally, provincially or municipally registered heritage properties; and</i> <i>(iii) any additional building height proposed above the pedestrian realm mitigate its impact upon the pedestrian realm and abutting registered heritage properties by</i> 	<p>The development agreement requires that the proposed building maintain appropriate setbacks (minimum 6 metres) and stepbacks (minimum 3 metres from roofline of the building podium) from the western property line. This ensures adequate separation distance between the proposed development and abutting heritage resources. The incorporation of maximum building podium heights and large horizontal setbacks helps to provide visual interest and articulation and reduces the appearance of the building's overall scale.</p>

<p><i>incorporating design solutions, such as stepbacks from the street wall and abutting registered heritage properties, modulation of building massing, and other methods of massing articulation using horizontal or vertical recesses or projections, datum lines, and changes in material, texture or colour to help reduce its apparent scale;</i></p>	
<p><i>(d) the siting of new developments such that their footprints respect the existing development pattern by:</i></p> <ul style="list-style-type: none"> <i>(i) physically orienting new structures to the street in a similar fashion to existing federally, provincially or municipally registered heritage structures to preserve a consistent street wall; and</i> <i>(ii) respecting the existing front and side yard setbacks of the street or heritage conservation district including permitting exceptions to the front yard requirements of the applicable land use by-laws where existing front yard requirements would detract from the heritage values of the streetscape;</i> 	<p>The proposed development is not located along the Tower Road streetline or streetscape. The proposed development has been sited in a manner that maintains appropriate setback distances from neighbouring heritage resources. A proposed addition to the streetwall facing Victoria Road provides rhythm along the Road and improves the existing development's presence and overall relationship with neighbouring properties which eventually connect to Tower Road and the heritage streetscape.</p>
<p><i>(e) not unreasonably creating shadowing effects on public spaces and heritage resources;</i></p>	<p>Shadow studies submitted as part of the planning application process identify no significant change to shadow patterns or shadows falling on any of the heritage resources located west of the subject property.</p>
<p><i>(f) complementing historic fabric and open space qualities of the existing streetscape;</i></p>	<p>The proposed development is not located along the Tower Road streetline or streetscape. The proposed one storey addition to the front of the existing multiple dwelling (facing Victoria Road) is intended to enhance the historic fabric of the neighbourhood by providing an improved pedestrian scale. The addition continues the historic pattern of development on Victoria Road which eventually connects to Tower Road and the heritage streetscape.</p>
<p><i>(g) minimizing the loss of landscaped open space;</i></p>	<p>Proposed interior and outdoor amenity space, including rooftop terraces will help to replace some of the open space that is proposed to be removed within the eastern and northern yards of the subject site. In addition, the development agreement requires a landscaped buffer along the full extent of the northern property boundary and a portion of the western property boundary.</p>

<p><i>(h) ensuring that parking facilities (surface lots, residential garages, stand-alone parking and parking components as part of larger developments) are compatible with abutting federally, provincially or municipally registered heritage structures;</i></p>	<p>As proposed, redevelopment of the existing multiple dwelling will include underground parking and retention of 6 existing surface parking spaces located in the western yard. The development agreement requires a combination of fencing and vegetation in the form of landscaped buffer to help mitigate potential impact on abutting heritage resources. As previously noted, the development agreement also requires that the exposed portion of the exit stairwell from the proposed underground parking garage, be detailed to complement the abutting heritage resources.</p>
<p><i>(i) placing utility equipment and devices such as metering equipment, transformer boxes, power lines, and conduit equipment boxes in locations which do not detract from the visual building character or architectural integrity of the heritage resource;</i></p>	<p>A mechanical penthouse on the roof will house the majority of the utility equipment. Power line access will be provided from Victoria Road or South Park Street, neither of which abut the subject heritage resources.</p>
<p><i>(j) having the proposal meet the heritage considerations of the appropriate Secondary Planning Strategy, as well as any applicable urban design guidelines; and</i></p>	<p>The objective of the Heritage Policies under the MPS is “<i>The preservation and enhancement of areas, sites, structures, streetscapes and conditions in Halifax which reflect the City's past historically and/or architecturally.</i>” The policy criteria speaks to preserving heritage properties through heritage designation and ensuring development that will impact heritage resources is sensitive and complementary.</p> <p>Requirements of the proposed development agreement ensure adequate separation distance, appropriate buffering and appropriate design elements are implemented as part of the development. Together, these requirements help to limit the overall impact of the proposed development on abutting heritage resources.</p> <p>There are no applicable urban design guidelines for this site.</p>
<p><i>(k) any applicable matter as set out in Policy G-14 of this Plan.</i></p>	<p>Policy G-14 (pertaining to Regional Plan amendments requiring subsequent amendments to other planning documents for consistency), does not apply in this case.</p>

Attachment E - Public Meeting Minutes



HALIFAX PENINSULA PLANNING ADVISORY COMMITTEE PUBLIC MEETING MINUTES April 9, 2018

PRESENT: Sarah MacDonald, Chair
Jeana MacLeod, Vice Chair
Grant Cooke
Jason Cooke
Margo Grant
Councillor Lindell Smith
Deputy Mayor Wayne Mason

REGRETS: Ashley Morton
Houssam Elokda
Mathew Novak

STAFF: Tyson Simms, Planner III, Planning and Development
Sharon Chase, Legislative Assistant

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

The agenda, reports, supporting documents, and information items circulated to the Halifax Peninsula Planning Advisory Committee are available online at halifax.ca.

The meeting was called to order at 7:00 p.m., the Committee adjourned at 8:24 p.m.

1. CALL TO ORDER

The Chair called the meeting to order at 7:00 p.m. at the Harbour Suites, Westin Hotel, Halifax.

2. PUBLIC INFORMATION MEETING

Case 20159- Application by Kassner Goodspeed Architects to change the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law to allow for a renovation to an existing apartment building at the northwest corner of South Park Street and Victoria Road, Halifax (South Park Towers), including a 9-storey addition on two adjacent properties and adding ground floor commercial space.

The Chair invited Tyson Simms, Planner, to present Case 20159. Simms reviewed the steps in the planning process and the role and opportunity for public engagement.

This proposal is for a 9 storey mixed use development which would consolidate 3 parcels of land. The site context was reviewed. It falls within the South End Secondary Plan area of the Municipal Planning Strategy with the existing building zoned high density residential (R3) and the two adjacent properties zoned medium density residential (R2A). The Heritage Advisory Committee will also review this case as the property is adjacent to registered Heritage Properties. This site-specific application is in general alignment with the proposed Centre Plan. The planning principles of: transition, pedestrian orientation, human scale, building design and context sensitivity are being considered.

Richard Kassner, of Kassner Goodspeed Architects, was then invited to speak to the application. In May 2015 a meeting was hosted by the developer to receive public input during the design phase. 30-40 people attended and based on their feedback some changes to the design were made. Kassner noted that ceramic and brick were being used for their durability and that the commercial space was designed to reflect the 1960's style of commercial buildings which is the era of the original building. The architect then reviewed the five planning principles and indicated how they had been addressed in this proposal. They shared the shadow study results. The following aspects of the proposal were also highlighted: elevations, bike and underground parking, finishes, energy efficiency of the new envelope of the building, and landscaping. Kassner explained that the two wooden buildings on the adjacent properties did not have any truly heritage aspects of merit and there was no attempt to echo their design in the proposal.

The Chair reviewed the ground rules for the public participation portion of the meeting and invited the audience to share their feedback. The Chair advised that the speakers have five minutes to speak.

Rebecca Jameson, Halifax, expressed concern around transition to the surrounding 3 storey buildings. Making a big non-conforming building bigger is a mistake. Pedestrians cannot be safely seen by vehicles exiting the existing parkade and the new design does not appear to address this issue.

David Miller, Victoria Road, noted the massing of the building will result in the loss of late afternoon sun on Victoria Road and create a wind tunnel on South Park Street, both of which negatively impact the highly valued aspect of a walkable neighbourhood. They also questioned the decision to eliminate the heritage type buildings. They suggested that the massing was too much and that innovative design was needed. Miller shared that Ashville N.C. was a good example of how development and planning innovation can work.

Rick Gibson, South Park Street, felt that this proposal doesn't fit the Victorian Neighbourhood or complement its heritage characteristics. They noted that the 3-foot podium has pushed the ground floor out closer to the street, leaving no room for landscaping. Gibson suggested that parking, driveway and wind problems will increase and there was a lack of transition to the 9 storey building. The removal of a 100-year-old oak tree was also noted.

Michael McCurdy, Victoria Road, attended the developer's meeting but doesn't remember the meeting as relayed by Richard Kassner. Their main concern is that the facades and Victorian fronts of the two buildings be preserved at the very least. McCurdy felt that parking should be included in the rent to prevent residents from parking on the street. The time period and disruption of additional construction was also of concern.

Chris Beamont, Halifax, expressed concern about the re-development of an already non-conforming property and asked about the Floor Area Ration (FAR) for this proposal and whether it was in line with the proposed Centre Plan?

Tyson Simms, Planner, confirmed that it does not meet the most recent draft of the Centre Plan but that this application must be considered using the June 2017 draft as the guide along with the five planning principles.

Chris A, Wellington Street, also attended the developer's meeting where the public did express concern over the two Victorian buildings. They felt that the measurement of the step-backs speaks to transition and that they were not quite enough. They felt design variation and articulation could have been better used to cut down on wind on the street.

Michael McCurdy, Victoria Road, spoke for a second time. They also recall that different public feedback was shared at the developer's public meeting. They noted that additional commercial businesses will affect vehicle traffic in the area and was concerned about parking and what type of businesses they would be.

The Chair called for any other speakers and as there were none closed the public feedback portion of the meeting.

Tyson Simms, Planner, reviewed the next steps and opportunities for public participation and shared their contact information encouraging the audience to contact them with any further questions.

The public was thanked for their attendance and participation.

3. ADJOURNMENT

The meeting adjourned at 8:24 p.m.

Sharon Chase
Legislative Assistant

ATTACHMENT F
Policy Review of Proposed Development Agreement

9.2.1 Development Agreement Provisions

The Land Use By-law for Halifax Peninsula shall be amended to identify that mixed-use re-development may be considered by development agreement for the properties located at 5713 Victoria Road and 1102 and 1106 South Park Street, Halifax:

(1) Notwithstanding other policies of this Municipal Planning Strategy except 9.2.1(2), a development agreement for the property located at 5713 Victoria Road and 1102 and 1106 South Park Street shall:

Policy Criteria	Comment
<i>a) permit a mixed-use (multiple dwelling with ground floor commercial) building;</i>	Subsection 3.3.1 of the development agreement permits an apartment house (multiple dwelling) with select ground floor commercial, institutional and office uses.
<i>b) require a mix of residential unit types;</i>	Subsection 3.3.5 of the development agreement requires that at least twenty-five (25) percent of the total number of dwelling units contain two or more bedrooms.
<i>(c) restrict building height to a maximum of 8 storeys, plus penthouse(s);</i>	Subsection 3.4.3 of the development agreement states that no building shall be constructed that exceeds the maximum height framework listed in Schedule C. Schedule C identifies the tallest portion of the building as eight storeys (plus penthouses).
<i>d) require that the building is oriented towards South Park Street and Victoria Road;</i>	Subsection 3.4.1 of the development agreement states that the proposed building shall be sited as shown on Schedule B. Schedule B identifies that the proposed building is to be oriented towards South Park Street and Victoria Road.
<i>e) restrict streetwall heights to a maximum of:</i> <i>i. 4 storeys along South Park Street; and</i> <i>ii. 3 storeys along Victoria Road;</i>	Subsection 3.4.5 of the development agreement requires that the streetwall be a maximum of 4 storeys along South Park Street and 3 storeys along Victoria Road.
<i>f) require that development be setback a minimum of 1.5 metres from the South Park Street lot line;</i>	Subsection 3.4.10 of the development agreement requires that development be setback a minimum of 1.5 metres and a maximum of 3.5 metres from the South Park Street lot line.
<i>g) require landscaping and fencing along the northern lot line and a portion of the western lot line;</i>	Subsections 3.5.13 and 3.5.14 of the development agreement require a landscaped buffer along the full extent of the northern property boundary and a combination of fencing and landscaping along the western property boundary.

<p><i>h) require indoor and outdoor amenity space for on-site residents;</i></p>	<p>Subsection 3.5.19 of the development agreement requires a combination of landscaping and fencing along the northern property line. Section 3.5.15(e) requires the installation of a wooden opaque fence along the full extent of the northern property line.</p>
<p><i>i) regulate streetwall massing, external building design, cladding materials, design of at-grade residential units, front yard landscaping and the planting of vegetation; and</i></p>	<p>The development agreement 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 and requires that all yards be landscaped. These features will allow the building to more effectively satisfy the planning principles listed in Section 2.</p>
<p><i>j) permit underground parking.</i></p>	<p>Section 3.59 of the development agreement allows for continued use and expansion of the existing underground parking infrastructure.</p>
<p><i>(2) In addition to meeting the requirements of Policy 9.2.1(1) a) to j) inclusive, when considering a development agreement for the property located at 1110, 1116, 1120, 1122, 1126A/1126B/1126C and 1130/1132 Wellington 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 development agreement contains various regulations to ensure the proposed development generally addresses the subject 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 staff report. The development agreement contains regulations and Schedules, which incorporate design features (e.g., limited streetwall and building podium heights, large horizontal stepbacks, fencing, etc.) that create appropriate transitions to surrounding built forms.</p>