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**Item No. 13.1.1**  
**Halifax and West Community Council**  
**June 11, 2019**

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

***-Original Signed-***

**SUBMITTED BY:**

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Steve Higgins, Acting Director, Planning and Development

***-Original Signed-***

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Jacques Dubé, Chief Administrative Officer

**DATE:** May 15, 2019

**SUBJECT:** **Case 20658: Amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, and a proposed development agreement for a large site with frontage onto Bayers Road and Young Street, Halifax**

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#### **ORIGIN**

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

#### **LEGISLATIVE AUTHORITY**

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

#### **RECOMMENDATION**

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

1. Give First Reading to consider the proposed amendments to the Municipal Planning Strategy for Halifax and the Land Use By-law for Halifax Peninsula, as set out in Attachments A and B of this report, to allow a building that is a maximum of six storeys [plus penthouse(s)] along Bayers Road and three storeys [plus penthouse(s)] along Young Street by development agreement at 6438, 6442, 6450, 6454, and 6460 Bayers Road and 6419, 6421, 6425, 6431, 6439, 6443, 6449, 6453, 6457, 6459, 6461, 6461A, 6465, and 6467 Young Street, Halifax, and schedule a public hearing; and

2. Adopt the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law, as set out in Attachments A and B of this report.

It is recommended that Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment C of this report, to permit a building with three components:
  - A six-storey [plus penthouse(s)] mixed-use or apartment house component on Bayers Road;
  - A three-storey [plus penthouse(s)] apartment house component on Young Street; and
  - A three-storey townhouse component on Young Street,at 6438, 6442, 6450, 6454, and 6460 Bayers Road and 6419, 6421, 6425, 6431, 6439, 6443, 6449, 6453, 6457, 6459, 6461, 6461A, 6465, and 6467 Young Street, Halifax. The public hearing for the proposed development agreement shall be held concurrently with the public hearing referenced in Recommendation 1.

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

4. Approve the proposed development agreement for a building with three components (a six-storey plus penthouse component on Bayers Road, three-storey plus penthouse component on Young Street, and three-storey component on Young Street) at 6438, 6442, 6450, 6454, and 6460 Bayers Road and 6419, 6421, 6425, 6431, 6439, 6443, 6449, 6453, 6457, 6459, 6461, 6461A, 6465, and 6467 Young Street, Halifax, which shall be substantially of the same form as contained in Attachment C of this report; and
5. Require the proposed development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

WM Fares Architects is applying to amend the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) to allow a mixed-use (residential and ground-floor commercial) or residential building that is a maximum of six-storeys [plus penthouse(s)] along Bayers Road and three-storeys [plus penthouse(s)] along Young Street by development agreement at 6438, 6442, 6450, 6454, and 6460 Bayers Road and 6419, 6421, 6425, 6431, 6439, 6443, 6449, 6453, 6457, 6459, 6461, 6461A, 6465, and 6467 Young Street, Halifax. Further, the applicant has indicated that the building will have three distinct (in terms of land use and design) components. This proposal cannot be considered under existing policy and regulations. Attachment C contains the current version of the proposal, which includes the following features:

### **Building Component A**

- A six-storey (plus penthouse) mixed-use structure along Bayers Road;
- Three-storey podium;
- Approximately 72 residential units;
- Approximately 1,000 square metres of ground-floor commercial uses; and
- Indoor / underground parking entrance onto Bayers Road.

**Building Component B**

- A three storey (plus penthouse) apartment house along Young Street;
- Approximately 41 residential units;
- Indoor / underground parking entrance onto Young Street; and
- A northern patio.

**Building Component C**

- A three-storey, four-unit townhouse along Young Street; and
- Private fenced yards.

The proposed development will also include: a southern landscape buffer; a large, central courtyard amenity space on a raised foundation; approximately 61 bicycle parking spaces; and approximately 127 indoor / underground parking spaces.

**Subject Property Details**

<i>Location</i>	Through lot on Bayers Road / Young Street, mid-block between Connolly Street and Oxford Street
<i>Subject Site</i>	6438, 6442, 6450, 6454, and 6460 Bayers Road and 6419, 6421, 6425, 6431, 6439, 6443, 6449, 6453, 6457, 6459, 6461, 6461A, 6465, and 6467 Young Street, Halifax
<i>Regional Plan Designation</i>	Urban Settlement
<i>Community Plan Designation (Map 1)</i>	The majority of 6438 and 6442 Bayers Road are located in the Commercial Designation; all other properties are in the Residential Environments Designation
<i>Zoning (Map 2)</i>	Bayers Road properties are zoned Minor Commercial (C-2A) and Young Street properties are zoned General Residential (R-2)
<i>Size of Site</i>	Approximately 6,723 square metres (72,365 square feet)
<i>Street Frontage</i>	Approximately 75.2 metres (246.8 feet) on Bayers Road and 111.3 metres (365 feet) on Young Street
<i>Current Land Use(s)</i>	6438 Bayers Road contains a vacant building, which was formerly a motor vehicle repair shop; 6454 Bayers Road and 6439 Young Street both contain apartment houses; and the remaining lots contain low-density dwellings

**Surrounding Context**

The subject site is a large parcel of land with frontage on Bayers Road and Young Street, near the midpoint of the block bounded by Oxford Street to the north and Connolly Street to the south. The Bayers Road portion of the block is characterized by varying building typologies, irregular front / rear yard setbacks, and buildings ranging from one-and-a-half to three storeys in height. By contrast, the Young Street portion of the block is defined by established residential uses with uniform building typologies and front yard setbacks and building heights between one-and-a-half and two-and-a-half storeys.

The western and northern edge of the block is characterized by a mix of land uses. The subject site contains a vacant building (6438 Bayers Road), which was formerly a motor vehicle repair shop, apartment dwelling (6454 Bayers Road), and three low-density dwellings (6442 Bayers Road, 6450 Bayers Road and 6460 Bayers Road) along Bayers Road. Further, the site's north boundary is flanked by two mixed-use buildings while the southern boundary abuts the St. Catherine of Siena Catholic Church.

The majority of the surrounding area, however, is an established residential neighbourhood, which is largely comprised of low-density dwellings. The Young Street portion of the subject site reflects this character, though 6439 Young Street contains a small apartment house. Another notable exception to this low-density residential character is the office / self-storage building situated to the immediate east of the subject site (6446 & 6450 Young Street).

### **MPS and LUB Context**

The subject site contains multiple designations and zones. 6442 Bayers Road and approximately 83% of 6438 Bayers Road are designated Commercial, while the overwhelming majority of the subject site is designated Residential Environments. The lots fronting onto Young Street are located in the R-2 (General Residential) Zone. The R-2 Zone permits detached dwellings, semi-detached dwellings, and buildings with a maximum of four apartment units, up to a maximum height of 35 feet. Conversely, the lots fronting onto Bayers Road are located in the C-2A (Minor Commercial) Zone, which permits the residential uses noted above, in addition to townhouse buildings, larger apartment houses, and a variety of commercial uses. The C-2A Zone's maximum height is also restricted to 35 feet.

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

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

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

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

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

On August 1, 2017, Regional Council determined that several requests for site specific MPS amendments inside the Regional Centre area should proceed, subject to considerations flowing from the June 2017 Centre Plan document. Specifically, Regional Council directed staff to 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 lots that front onto Bayers Road, including 6457-6459-6461-6461A Young Street, are located within a *Corridor*; this amounts to approximately 55% of the subject site's total area. *Corridors* are: envisioned to support approximately 21% of new Regional Centre residents; and 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.

Conversely, the remaining Young Street lots – or approximately 45% of the subject site - are located within an *Established Residential Area*. These areas will support 16% of HRM's new residential development by accommodating detached dwellings, auxiliary units, townhouses, and modest redevelopment opportunities that respect the existing scale, character, and built form of surrounding properties.

The proposed development's alignment with the June 2017 Centre Plan document's direction for *Corridors* and *Established Residential Areas* and key planning principles is reviewed in the Discussion section of this report.

### **Incentive or Bonus Zoning**

Incentive or bonus zoning is a process that provides additional public benefits 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 proposed amendments to the MPS and LUB; and
- (b) Secondly, Halifax and West Community Council must consider and, if deemed appropriate, approve a proposed development agreement.

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

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the alternative public participation program approved by Regional Council on August 1, 2017. The approved public participation program included a webpage, signage posted on the subject site, and a neighbourhood questionnaire. Attachment D contains a summary of the neighbourhood questionnaire responses, roughly 25% of which were supportive. A brief synopsis is provided below:

- Some respondents expressed support for the proposed development, though most expressed concern.
- Some respondents stated that the proposed development utilizes a favourable design and is an improvement over the existing buildings. Conversely, many respondents did not enjoy the building design.
- Many respondents indicated that the proposal does not complement the neighbourhood's established character, though conversely, a few believe it is complementary.
- Residents generally noted that the proposed development will have a negative impact on traffic congestion and intensify the perceived pre-existing on-street parking shortage.

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

- **Form** - Many participants stated that the building's design could be improved. Some found that the materials were not high quality while others expressed issues with the use of glass. Others mentioned that the building could be located anywhere in the world, and the design has no local

flavour. One respondent noted that the shape of the townhouses were visually jarring. Conversely, some participants praised the design; the courtyard amenity space and townhouse in particular, received positive attention.

- **Character** - Some respondents stated that the development does not fit with the architecture of the surrounding neighbourhood, and that some historic features should be incorporated.
- **Streetscape** - Some commenters noted that the setbacks were too small and the development should incorporate more green space. In their opinion, wider sidewalks are needed as to enhance pedestrian interest at grade.
- **Impacts on Neighbours** - A handful of participants noted their concerns about bringing increased traffic to what is perceived to be an already congested area.

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

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

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

The Halifax Peninsula Planning Advisory Committee (HPPAC) reviewed the applicant's proposal on September 25, 2017. The HPPAC passed a motion recommending that Halifax & West Community Council approve the application, subject to a list of considerations. The HPPAC appreciated the proposal's residential density, building height along Bayers Road, and the inclusion of ample amenity space. Conversely, the HPPAC was concerned about the proposal's overall building mass on Young Street, building materials (which were deemed to be inconsistent with the neighbourhood) and shortage of commercial parking. The HPPAC also preferred that the Young Street portion of the proposal more closely resemble a townhouse form and be limited to 10.7 metres (35 feet).

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

### **Revisions**

Following the HPPAC's September 2017 meeting, the applicant revised the proposed development to respond to submitted feedback. The most significant change occurred along the Young Street elevation; during the public participation program, the proposal contained one large building component along Young Street, a three-storey apartment house (which contained individual, townhouse-style entryways). This component was subsequently replaced with two smaller components: a smaller apartment house (with similar entryways) along the northern streetline and a four-unit townhouse along the southern streetline. This modification not only responds to feedback, but it increases alignment with the transition and context-sensitive principle. Additional revisions are as follows:

- Building Component A's building height framework was modified;
- Building Component A's maximum height increased from 17.8 metres to 20 metres;
- Building Component A's building façades were re-designed;
- A landscape buffer and privacy fencing were added to the southern side lot line; and
- Privacy fencing has been added along a portion of the northern side lot line.

### **DISCUSSION**

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

warranted. The following sections review the rationale and content of the proposed MPS and LUB amendments.

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

Regional Council directed staff to 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 majority of the subject site (approximately 55%) as a *Corridor* and a smaller portion (approximately 45%) as an *Established Residential Area*. Staff advise that the proposal generally aligns with the document's direction pertaining to Urban Structure, Floor Area Ratio, and Height.

#### Urban Structure

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

The Bayers Road portion of the subject site is within a *Corridor* and as such, is consistent with the June 2017 Centre Plan document's direction for *Corridor* development. The proposed development contains a mixed-use component that includes active ground-floor uses and five-storeys of residential units above, in addition to a portion of a townhouse. This proposal will increase the number of new residents within HRM's *Corridors* and bring daily amenities and employment to areas identified for strategic growth to help enhance transit ridership (See HRM Initiatives section).

The Young Street portion of the subject site is largely classified as an *Established Residential Area*, which is intended to support low-density residential uses (e.g., detached dwellings, duplexes, townhouses, multi-unit dwellings with a maximum height of three storeys, etc.) and modest redevelopment opportunities. This portion of the subject site contains a four-unit townhouse near the southern lot line and a three-storey apartment house near the northern lot line, both of which align with the building typologies prescribed by the *Established Residential Area* designation.

#### Floor Area Ratio

Within *Corridors*, a Floor Area Ratio (FAR) of 3.5 shall be considered in the development of regulations. No FAR direction is provided for *Established Residential Areas*.

The applicant indicated that the proposal has a FAR of 1.97, which is generally consistent with the June 2017 Centre Plan document. This FAR was calculated using a hybrid of the document's FAR definition and the definition used by the draft Centre Plan - Package A (2018); floor area is measured from the inside building wall and the calculation does not include balconies, elevator shafts, mechanical penthouses, and underground areas.

#### Height

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

The applicant has proposed a large development with three distinct building components. Building Component A, which is sited entirely in the *Corridor* designation, is six storeys (plus penthouse) and is setback a minimum of 1.5 metres from the Bayers Road lot line; a setback compatible with abutting mixed-use buildings. Building Component A also incorporates additional measures to facilitate a positive transition (See Planning Principles subsection) and as such, the proposal is consistent with the document's *Corridor* Height direction.

The subject site has ample depth to accommodate a central courtyard amenity space that is approximately 18.4 metres wide and transitions to three-storey building components along Young Street. While Building Component B is partially situated in a *Corridor*, the vast majority of Young Street lots are located within the

*Established Residential Area.* Three-storey building components are consistent with the document's *Established Residential Area Height* direction.

### Planning Principles

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

**Table 1. Planning Principles**

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

Staff note that the revised proposal places greater emphasis on addressing the Transition and Context-Sensitive principles than the original design. Overall, the proposal now adequately addresses all planning principles.

#### Transition

Building Component A is setback a minimum of 1.5 metres, both above and below grade, from the Bayers Road lot line which is generally compatible with nearby mixed-use buildings. That vast majority of Building Component A's podium is limited to a maximum of three-storeys to facilitate a smooth transition to the



streetscape and side lot lines. While the building's shared foundation is elevated above grade, the introduction of a 1.8 metre tall landscape buffer and 1.8 metre tall privacy fence along the southern lot line further enhances the southern transition.

This deep lot contains a central courtyard amenity space that is available to on-site residents. The presence of this courtyard directs commercial uses towards Bayers Road, far away from the sensitive Young Street neighbourhood. Opposite the 18.4 metre deep courtyard lies two three-storey buildings components: an apartment house (Building Component B) and townhouse (Building Component C) components. The inclusion of these two components (as opposed to one apartment house component spanning the full lot width) provides a more effective transition to Young Street's low-density dwellings.

#### Pedestrian-Oriented

The proposal is oriented towards two unique streets and incorporates distinct features to create positive relationships with pedestrians. Building Component A has a minimum setback of 1.5 metres from the Robie Street lot line, which widens the pedestrian environment. The ground-floor façade contains numerous commercial storefronts, transparent windows, entryways, and canopies to create an inviting and safe space where pedestrians can interact with the building. The three-storey streetwall utilizes alternating brick veneer colours to provide visual rhythm to those walking past the site.

On Young Street, both Building Component B and C incorporate numerous at-grade residential entrances, modern architecture, and varying façade depth (due to the presence of numerous protrusions / recessions) to generate visual interest from the pedestrian environment. The required setback area consists of walkways, vegetated landscaping and planters which creates an appealing space for pedestrians. These features, in addition to three-storey building heights, are also aimed at generating compatibility with Young Street's existing character.

#### Human-Scale

The development incorporates measures to lessen the building's presence on its surroundings. As previously stated, the building consists of three distinct building components – a feature that helps *break-up* and reduce the building's mass. Building Component A is setback 1.5 metres from the Bayers Road lot line, has a three-storey building podium, and incorporates 3.1 metre stepbacks above the podium. The required front yard contains hardscaping along the Bayers Road streetline, which in tandem with ground floor windows and storefronts, provides opportunities for spillover activities.

Building Component B and C are limited to a maximum height of three-storeys, which is generally compatible with Young Street's established roofline. Though Building Component B's façade is wider than typically seen on Young Street, it is broken into smaller components (by the use of at-grade residential entrances, large windows, overhangs, recessed balconies, and accent colours) to help create a more human-centric appearance along this local street. Building Component C's townhouse units are visually interesting and reflective of the street's traditional uses.

#### Building Design

The proposal utilizes an elevated foundation which accommodates indoor / underground parking which results in a high lot coverage. The elevated foundation is most noticeable along the southern lot line, however, the site design incorporates buffers and a central courtyard to minimize the foundation's presence and perceived lot coverage.

The proposal's architectural composition provides visual interest through the use of horizontal articulation, vertical articulation, and modern architecture. The Bayers Road building component utilizes ground-floor storefronts, recessed balconies, and alternating veneer colours / window clusters to generate sufficient visual interest from the street. The building's façade is separated into two vertical components via the primary building entrance / elevator overrun architectural feature, which adds to the building's overall visual appeal. Conversely, the building component is broken into horizontal components through a hierarchy of colours: streetwalls contain dark colours, while the upper storeys contain white building colours. This contrast reduces the building's perceived height.

Young Street combines vibrant modern design into traditional housing forms. Building Component B is broken into distinct vertical components through the use of varying setbacks, at-grade residential entrances, and contrasting building materials. This component generates a high degree of visual interest from nearby properties due to significant window coverage, large second-and-third-storey projections, and a discrete parking entrance. The Young Street townhouse is compatible with traditional housing forms and adds visual interest through the use of vibrant colours and pitched roofs.

#### Context-Sensitive

The applicant has taken measures to ensure that the proposal respects the surrounding context provided by two unique streetscapes. The development's maximum height is oriented towards Bayers Road, away from the more-sensitive Young Street neighbourhood. Commercial uses are restricted to Bayers Road and separated by an 18.4-metre deep amenity courtyard to eliminate potential impacts on the established residential neighbourhood. Building Component A's six-storey height, three-storey building podium, and minimal setbacks are reasonably consistent with Bayers Road development patterns and a mixed-use commercial node. The building components along Young Street incorporate numerous features (i.e., three-storey building heights, numerous at-grade residential entrances, and creative design elements) to compatibility to the local residential street.

The subject site's southern lot line abuts low-density dwellings and St. Catherine of Siena Catholic Church properties. As such: Building Component A's building podium has been setback 8.8 metres from this lot line; Building Component C is setback 2.7 metres and limited to three-storeys; and a 1.8 metre tall privacy fence and a four-metre tall landscape buffer will be provided along the southern lot line. Further, a 1.8 metre privacy fence will also be provided along a portion of the northern lot line.

#### **HRM Initiatives**

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

#### Regional Plan

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

#### Centre Plan - Package A (2019)

Centre Plan – Package A was released to the public on April 5, 2019. The document provides direction for the use and development of the *Corridor* portion of the subject site: multi-unit dwellings and commercial uses are permitted; there is no maximum FAR requirement; and the maximum building height is 20 metres. The proposal is consistent with these requirements.

According to Centre Plan – Package A, a *transition line* traverses the subject site in a north-south direction. The Plan also requires ample setbacks from a *transition line*. As such, staff note that a proposed development on this nature cannot be contemplated on the subject site under Centre Plan – Package A.

#### Integrated Mobility Plan

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

#### **Additional Planning Items**

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

- **Traffic Congestion** – The Traffic Impact Statement (TIS) indicates that the proposed development is not expected to significantly impact the performance of adjacent streets or intersections. The Planning and Development Department's Engineering Division accepted the applicant's TIS and raised no additional concerns.
- **On-street Parking** – Several residents are concerned about the availability of on-street parking within the neighbourhood. The proposed development agreement contains parking requirements to ensure that indoor / underground parking spaces are provided to on-site residents.
- **Young Street Parking Access** – A couple of residents expressed concern that the indoor / underground parking area can be accessed from Young Street. The Planning and Development Department's Engineering Division indicated that the primary indoor / underground parking access should be provided via Young Street, in accordance with applicable engineering design standards.

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

MPS and LUB amendments are required to allow a large, comprehensive development with a maximum height of six storeys [plus penthouse(s)] along Bayers Road and three storeys [plus penthouse(s)] along the Young Street portion of 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 that the subject site's future development generally aligns with the June 2017 Centre Plan document relative to Urban Structure, FAR, and Height and addresses Regional Council's planning principles. Further, the policy requires that the proposed development be permitted via development agreement.

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

### **Proposed Development Agreement**

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

The proposed development agreement permits: a large building with three above-grade components; an apartment house or mixed-use building (residential units and ground-floor commercial uses) along Bayers Road (Building Component A); and an apartment house and townhouse along Young Street (Building Component B and C respectively). The proposed development agreement does not regulate the maximum number of residential units or commercial floor area (the figures previously disclosed in this report are an estimate only). The agreement does, however, regulate the distribution of dwelling units, vehicular parking, and vehicular access. Additional highlights include the following:

#### Height and Built Form

- Building Component A:
  - Maximum height of six-storeys (plus penthouse)
  - Three-storey building podium
- Building Component B:
  - Maximum height of three-storeys (plus penthouse)
- Building Component C:
  - Maximum height of three-storeys
- Outdoor courtyard and indoor amenity space
- Requirements for exterior appearance and building materials

#### Setbacks and Stepbacks

- Minimum setback of 1.5 metres from the Bayers Road lot line
- Minimum setback of 2.4 metres from the Young Street lot line
- Minimum setbacks from side line shall be as shown on the DA Schedules
- Minimum stepback of three metres above the third-storey podium (Building Component A)

### **Conclusion**

Staff have reviewed the proposal and completed the public participation program approved by Regional Council. The majority of the subject site (approximately 55%) is primarily located within the *Corridor* designation, as per the June 2017 Centre Plan document, which means a six-storey (plus penthouse) mixed-use or residential building component (and a portion of a townhouse building component) are suitable uses. The remainder of the site is located within an *Established Residential Area* and is an appropriate location for a three-storey (plus penthouse) apartment house component and three-storey townhouse component. With these considerations in mind, staff advise that the proposal generally aligns with the June 2017 Centre Plan document's Urban Structure, FAR, and Height direction.

Staff note that the proposal was revised to reduce the building mass and incorporate traditional residential along the Young Street lot line and provide a more suitable buffer along the southern lot line. Due to these revisions, staff indicate that the proposal is now reasonably consistent with Regional Council's planning principles.

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

### **FINANCIAL IMPLICATIONS**

There are no financial implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of the proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2019-20 budget with existing resources.

### **RISK CONSIDERATION**

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

### **ENVIRONMENTAL IMPLICATIONS**

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

### **ALTERNATIVES**

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

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

2. Refuse the proposed amendments to the Halifax MPS and the Halifax Peninsula LUB. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.

**ATTACHMENTS**

Map 1	Generalized Future Land Use Map
Map 2	Zoning Map
Map 3	Notification Area
Attachment A	Proposed Amendments to the Municipal Planning Strategy for Halifax
Attachment B	Proposed Amendments to the Land Use By-law for Halifax Peninsula
Attachment C	Proposed Development Agreement
Attachment D	Summary of Neighbourhood Questionnaire Responses
Attachment E	Policy Review of Proposed Development Agreement

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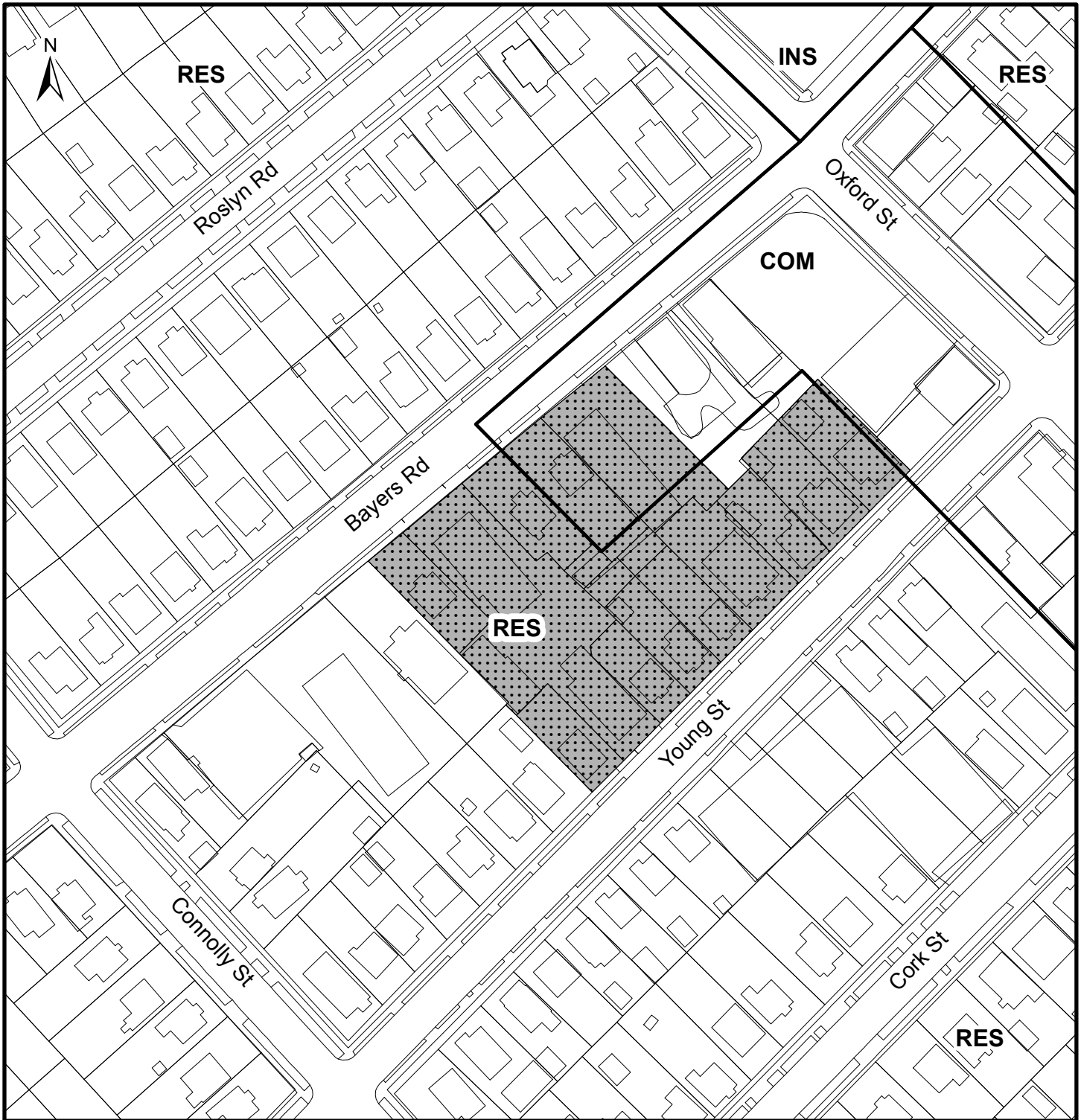
A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jesse Morton, Planner II, 902.490.4844

***-Original Signed-***

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

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**Map 1 - Generalized Future Land Use**

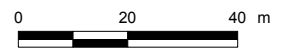
Bayers Road and Young Street  
Halifax

**HALIFAX**

 Subject Properties

**Designation**

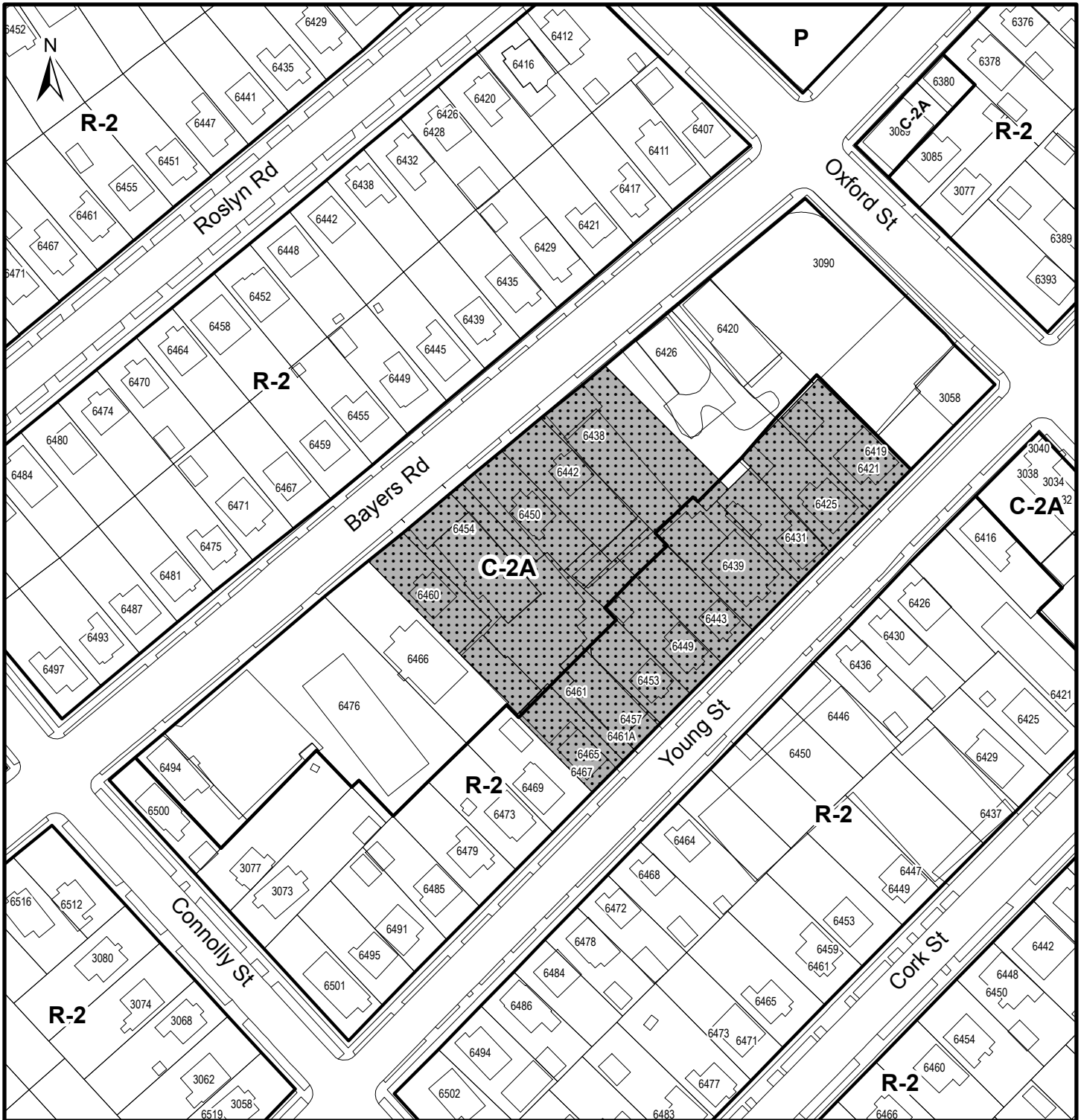
RES Residential Environments  
COM Commercial  
INS Institutional



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

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

Halifax Plan Area



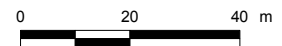
**Map 2 - Zoning**

Bayers Road and Young Street  
Halifax

**HALIFAX**

 Subject Properties

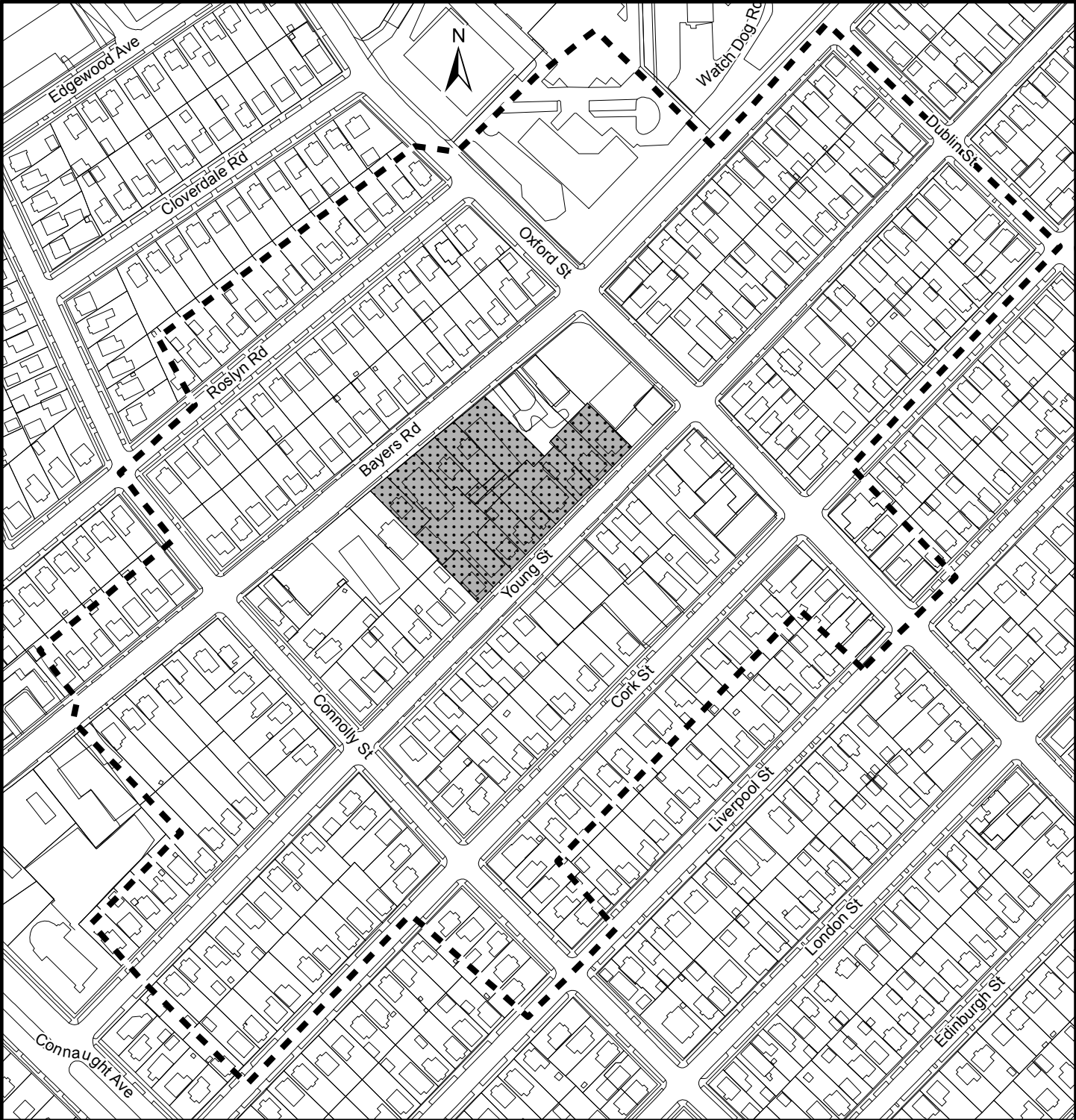
**Zone**  
 R-2 General Residential  
 C-2A Minor Commercial  
 P Park and Institutional



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

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


Halifax Peninsula  
Land Use By-Law Area



**Map 3 - Notification**

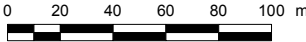
Bayers Road and Young Street  
Halifax

 Subject Properties

 Area of Notification

Halifax Peninsula  
Land Use By-Law Area

**HALIFAX**



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

**11. Development at Bayers Road / Young Street**

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;
- h) **Development at Bayers Road / Young Street, as identified in Section 11.**

These planning principles are described as:

Planning Principles	Description
a) Transition	The proposed building design recognizes surrounding development, especially adjacent low-scale residential buildings, through built form and landscape transitions. This can include setting proposed buildings back from property lines and stepping down the height of proposed buildings as they approach low-rise buildings. Landscaping can be used as a buffer between properties and to soften building elements.

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

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

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

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

**4.1 Specific Considerations**

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

The Chebucto Road / Elm Street / Beech Street 5-storey proposal was given Regional Council direction to continue, subject to the proposal generally aligning with the June 2017 Centre Plan

Document relative to urban structure, height, and floor area ratio. Regional Council also directed the 5-storey proposal to address the planning principles noted in Section 2.

#### 4.2 Regulating Development

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

##### 4.2.1 Development Agreement Provisions

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

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

#### **11. DEVELOPMENT AT BAYERS ROAD / YOUNG STREET**

**The properties with frontage onto Bayers Road and Young Street, near the midpoint of the block bounded by Oxford Street to the north and Connolly Street to the south (6438 Bayers Road, 6442 Bayers Road, 6450 Bayers Road, 6454 Bayers Road, 6460 Bayers Road, 6419 Young Street, 6421 Young Street, 6425 Young Street, 6431 Young Street, 6439 Young Street, 6443 Young Street, 6449 Young Street, 6453 Young Street, 6457 Young Street, 6459 Young**

Street, 6461 Young Street, 6461A Young Street, 6465 Young Street, 6467 Young Street), is the subject site of a proposal for site-specific planning policy amendments to allow for a 6-storey building with distinct building components. This proposal is one of the twelve policy requests noted in Section 1. On August 1, 2017, Regional Council chose to continue processing the 6-storey proposal subject to specific considerations.

### **11.1 Specific Considerations**

The June 2017 Centre Plan Document identifies the majority of the site (approximately 55%) as a Corridor, which is envisioned to support approximately 21% of new Regional Centre residents. Corridors are an appropriate destination for low (3-storey) to moderate (4-to-6 storey) development that, depending on local conditions, should include ground floor commercial spaces.

The remainder (approximately 45%) of the site is located within an Established Residential Area. These areas will support 16% of HRM's new residential development by accommodating low-density dwellings, townhouses, auxiliary units, multi-unit dwellings (up to a maximum of 3 storeys) and modest redevelopment opportunities that respect the existing scale, character, and built form of surrounding properties.

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

### **11.2 Regulating Development**

To achieve a development form on the Bayers Road / Young 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.

#### **11.2.1 Development Agreement Provisions**

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

- (1) Notwithstanding other policies of this Municipal Planning Strategy except 11.2.1(2), a development agreement for the property located at Bayers Road / Young Street shall:
  - (a) permit a mixed-used (residential and commercial) or residential building;
  - (b) permit a range of ground-floor commercial uses, including, but not limited to, cultural, daycare, office, restaurant, retail, and work-live uses, along Bayers Road only;
  - (c) restrict development to a minimum setback, both above and below grade, of 1.5 metres from the Bayers Road lot line;
  - (d) subject to 11.2.1(1)(e), restrict building height to a maximum of 6 storeys, plus penthouse(s), along Bayers Road;
  - (e) restrict building podium height along Bayers Road to a maximum of 3 storeys;
  - (f) require a minimum of two distinct above-grade building components along Young Street to reduce the building's mass;
  - (g) restrict building height to a maximum of 3 storeys, plus penthouses(s), along Young Street;

- (h) require a central outdoor-courtyard and indoor amenity space for on-site residents;
  - (i) require a landscaped buffer and fencing along the southern side lot line;
  - (j) 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;
  - (k) require indoor / underground parking and prohibit surface parking; and
  - (l) require that all indoor / underground parking spaces have direct access onto Young Street.
- (2) In addition to meeting the requirements of Policy 11.2.1(1) a) to l) inclusive, when considering a development agreement for the property located on Bayers Road / Young 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 PENINSULA WIDE - DEVELOPMENT AGREEMENTS by inserting the sub-heading and Subsection 100(5) following Subsection 100(4) as follows:

**100(5) 6438 Bayers Road, 6442 Bayers Road, 6450 Bayers Road, 6454 Bayers Road, 6460 Bayers Road, 6419 Young Street, 6421 Young Street, 6425 Young Street, 6431 Young Street, 6439 Young Street, 6443 Young Street, 6449 Young Street, 6453 Young Street, 6457 Young Street, 6459 Young Street, 6461 Young Street, 6461A Young Street, 6465 Young Street, 6467 Young Street, Halifax**

**Council may, by development agreement, pursuant to Policy 11.2.1 of Section XVI of the Halifax Municipal Planning Strategy, permit a multiple dwelling which may contain ground-floor commercial uses.**

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

---

Kevin Arjoon  
Municipal Clerk

**ATTACHMENT C:**

**Proposed Development Agreement**

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

BETWEEN:

**[Insert Name of Corporate/Business LTD.]**

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

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY,**

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands on Agricola Street which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for mixed-use, residential development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Section ##, Policy ## of the Municipal Planning Strategy for Halifax and Subsection ## of the Land Use By-law for Halifax Peninsula;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 20658;

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 space on a lot that is communal and available for use by the occupants of a building on the lot for recreational or social activities.
  - b) "Building" means the building that is the subject of this Agreement, in its entirety, of which there are three Building Components on a shared foundation.
  - c) "Building Component" means any or all of "Building Component A", "Building Component B", and "Building Component C", as shown on the Schedules.
  - d) "Height" as pertaining to any Building Component, 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;
  - e) "Landscape Architect" means a professional, full member in good standing with the Canadian Society of Landscape Architects.
  - f) "Parapet" means a barrier which is an extension of the wall at the edge of a roof or at the edge of the Streetwall;
  - g) "Podium" means the structural base of a Building Component, which is formed by a raised pedestal, Stepbacks, and distinct architectural or decorative elements.
  - h) "Public Façade" means the exterior wall of a Building Component that abuts directly onto a public street.
  - i) "Separation Distance" means the horizontal distance between the Building Components.
  - j) "Streetwall" means the wall of a building or portion of a wall facing a Streetline that is below the height of a specified Stepback or angular plane, excluding minor recesses for elements such as doorways or intrusions such as bay windows.
  - k) "Stepback" means a specified horizontal recess from the top of a Podium, which shall be unobstructed from the Podium to the sky except as otherwise specified;
  - l) "Streetline" means the lot line between the street and an abutting lot.
  - m) "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 a maximum of 50% of the of the Work-live Unit's total floor area.

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

### **3.1 Schedules**

- 3.1.1 Unless otherwise provided for in the text of this Agreement, the Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules, which form a part of this Agreement and are attached to this Agreement **and filed in the Halifax Regional Municipality as Case Number 20658:**

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan & Building Height Framework
Schedule C	Building Elevations C1: Building Component A C2: Building Component B C3: Building Component C
Schedule D	Landscape Plan
Schedule E	Side Yard Buffer Cross Section E1: Young Street E2: Bayers Road

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the commencement of any site work on the Lands, the Developer shall provide the following to the Development Officer:
- a) A detailed Site Disturbance Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement;
  - b) A detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement; and
  - c) A detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer in accordance with Section 5.1 of this Agreement.
- 3.2.2 Prior to the issuance of a Development Permit, a subdivision application to consolidate the Lands shall be submitted to the Development Officer in accordance with the Regional Subdivision By-law. No Development Permit shall be issued until the subdivision plan is approved.
- 3.2.3 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- a) A Landscape Plan prepared by a Landscape Architect in accordance with Subsection 3.5.16 of this Agreement; and
- 3.2.4 Prior to the issuance of a Development Permit for the Building, the Developer shall provide the following to the Development Officer, in consultation with the Development Engineer:
- a) Tree Retention and Mitigation Plan for street trees in accordance with Subsection 4.2.1 of this Agreement.
- 3.2.5 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer, subject to Subsection 3.5.17:
- a) Written confirmation from a Landscape Architect which the Development Officer may accept as sufficient record of compliance with the landscaping requirements of this Agreement.
- 3.2.6 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### **3.3 General Description of Land Use**

- 3.3.1 The following use(s) are permitted within Building Component A:
- a) An apartment house (multiple dwelling);
  - b) Work-live Units;
  - c) Commercial recreation uses, cultural uses, daycares, institutional uses, medical clinics and medical offices, office uses, personal and professional services, restaurants and licensed alcohol establishments (excluding cabarets and lounges), and retail uses (excluding adult entertainment uses, amusement centres, and automotive uses) on the ground floor only; and
  - d) Any use accessory to any of the foregoing uses.
- 3.3.2 The following use(s) are permitted within Building Component B:
- a) Apartment house (multiple dwelling); and
  - b) Any use accessory to the foregoing.
- 3.3.3 The following use(s) are permitted within Building Component C:
- a) A townhouse, up to a maximum of 4 townhouse units; and
  - b) Any use accessory to the foregoing.
- 3.3.4 The commercial portion of any Work-live Unit permitted in Building Component A shall:
- a) Be located and accessible at the ground floor;
  - b) Have a separate exterior entrance; and
  - c) Contain studio uses, office uses, medical clinics and medical offices, personal and professional services, and/or the retail of products produced on the premises or associated with the service provided on the premises.
- 3.3.5 Drive-through facilities shall not be permitted.
- 3.3.6 At least one third of the total number of dwelling units (rounded up to the nearest whole number) in an apartment house in Building Component A and Building Component B shall include two or more bedrooms.

### **3.4 Site and Architectural Requirements**

#### ***Siting***

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

#### ***Minimum Building Setbacks***

- 3.4.2 The Building shall have minimum front yard setbacks, both above and below grade, of:
- a) 1.5 metres from the Bayers Road lot line; and
  - b) 2.4 metres from the Young Street lot line.

- 3.4.3 The Building shall have minimum side yard setbacks, both above and below grade, as shown on Schedule B.

#### ***Maximum Building Component Setbacks***

- 3.4.4 Building Component A shall have a maximum setback of 5 metres from the Bayers Road lot line.
- 3.4.5 Building Components B and C shall have a maximum setback of 5 metres from the Young Street lot line.

### ***Separation between Building Components***

- 3.4.6 Building Components A and B shall have a minimum Separation Distance of 17 metres.
- 3.4.7 Building Components A and C shall have a minimum Separation Distance of 27 metres.
- 3.4.8 Building Components B and C shall have a minimum Separation Distance of 2.5 metres.

### ***Height Framework***

- 3.4.9 Subject to Subsections 3.4.10 to 3.4.14 no Building Component shall be constructed or altered so that it exceeds the maximum height framework as shown on Schedule B.
- 3.4.10 On Building Component A, the maximum Podium height may be exceed by:
- a) An elevator overrun architectural feature on both the eastern and western Building elevation as generally shown on Schedule B and C;
  - b) A glass guard and railing system to allow for the safe use of the Podium; and
  - c) A Parapet, no higher than 1.25 metres in height.
- 3.4.11 On Building Component A, elevator enclosures / overruns, stairway enclosures, mechanical penthouses, indoor amenity penthouses, and similar rooftop structures shall:
- a) Be generally located and oriented as shown as Schedule B;
  - b) Be setback a minimum of 25 metres from the edge of the northern roofline;
  - c) Be setback a minimum of 6 metres from the edge of the southern roofline;
  - d) Be setback from the western roofline as generally shown on Schedule B; and
  - e) Be limited to a maximum of 25 percent of the roof area.
- 3.4.12 On Building Component A, elevator enclosures / overruns may extend a maximum of 5.5 metres above the maximum building height. Stairway enclosures, mechanical penthouses, amenity penthouses, and similar rooftop structures may extend a maximum of 4.5 metres above the maximum building height.
- 3.4.13 On Building Component B, elevator enclosures / overruns, stairway enclosures, mechanical penthouses, indoor amenity penthouses, and similar rooftop structures shall:
- a) Be generally located as shown on Schedule B;
  - b) Be setback a minimum of 15 metres from the edge of the northern and southern rooflines;
  - c) Be setback a minimum of 3 metres from both the edge of the eastern and western rooflines;
  - d) Be limited to a maximum of 20 percent of the roof area; and
  - e) Extend a maximum of 4.5 metres above the maximum building height.
- 3.4.14 On Building Component C, elevator enclosures / overruns, stairway enclosures, mechanical penthouses, indoor amenity penthouses, and similar rooftop structures shall be prohibited.

### ***Exterior Design***

- 3.4.15 The exterior design of Building Components shall be developed substantially in conformance with Schedule C of this Agreement. The Development Officer may permit minor changes to Building elements shown on Schedule C, provided the height and size of the Building Components do not increase and the intent of this Agreement is maintained.
- 3.4.16 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).

3.4.17 Large blank or unadorned walls shall not be permitted. Large blank walls shall be tempered by the introduction of windows, artwork (such as murals, textural plantings and trellises), changes in building materials / colours, or architectural detail that creates shadow lines (e.g., implied windows, cornice lines, or offsets in the vertical plane).

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

3.4.19 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.

***Stepback (Building Component A)***

3.4.20 Subject to Subsection 3.4.21, Building Component A shall have a minimum horizontal Stepback of 3 metres above the three-storey Podium.

3.4.21 The minimum horizontal Stepback shall not apply to an elevator overrun architectural feature on the eastern and western elevation as generally shown on Schedule B and C.

***Streetwall Design & Public Façade Design (Building Component A and B)***

3.4.22 If Building Component A's Streetwall or Building Component B's Public Façade width exceeds 15.0 meters, the Streetwall or Public Façade shall incorporate distinct changes in articulation, in increments of 5-10 metres, while still respecting relevant height and setback requirements. Changes in articulation may include:

- a) Changes in heights;
- b) Changes to setbacks and front yards;
- c) Use of different façade materials;
- d) Recesses, projections or recessed balconies; and
- e) Building entrances.

***Ground Floor Height (Building Components A and B)***

3.4.23 Building Components A and B shall have a minimum floor-to-ceiling height of 3.5 metres on the ground floor.

***Roof Design (Building Component C)***

3.4.24 Building Component C shall have pitched roofs as generally shown on Schedule C.

***At-grade Residential***

3.4.25 At-grade residential units that have exterior entrances fronting onto 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.

**3.5 General Requirements**

***Permitted Encroachments Into Yards***

3.5.1 No encroachments are permitted into the required side yard setbacks.

3.5.2 The following structures are permitted encroachments into the required front yards:

- a) At-grade walkways;
- b) Planters;
- c) Porches;
- d) Steps; and
- e) Wheelchair ramps.

***Permitted Encroachments Into Stepbacks (Building Component A)***

- 3.5.3 Stepbacks above Building Component A's Podium shall be open and unobstructed except for:
- a) Structures listed in Subsection 3.4.10;
  - b) Eaves, gutters, downspouts, cornices; and
  - c) Balconies, provided the total horizontal width of all balconies on any one storey is not more than 40 percent of the width of the Building wall.

***Parking***

- 3.5.4 Surface parking lots are prohibited.
- 3.5.5 The development shall provide one indoor / underground, separately accessible parking space, at least 2.4 metres wide and 5.5 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;
  - d) Townhouse unit; and
  - e) Live-work unit.
- 3.5.6 Access to the indoor / underground parking area shall be provided from Young Street as shown on Schedule B, C and D. A second access to the underground parking area may be provided from Bayers Road.
- 3.5.7 All indoor / underground parking spaces shall have direct access onto Young Street.
- 3.5.8 The development shall comply with the bicycle parking provisions of the applicable Land Use By-law, as amended from time to time.

***Indoor and Outdoor Amenity Space***

- 3.5.9 Subject to Subsection 3.5.10 through 3.5.13, indoor and outdoor Amenity Space shall be provided to residents.
- 3.5.10 A central courtyard Amenity Space shall be provided as generally shown on Schedule D.
- 3.5.11 The courtyard Amenity Space shall be landscaped as follows:
- a) Landscaped areas shall include soft landscaping materials, such as grasses or plantings, as generally shown on Schedule D;
  - b) Plantings on rooftops and structures shall be carefully selected for their ability to survive in rooftop environments; and
  - c) Landscaped areas to be used for walkways may include hard landscaping materials such as pavers, tile or wood.
- 3.5.12 An indoor Amenity Space with a minimum floor area of 92.9 square metres shall be provided within Building Component A. This indoor Amenity Space may be used as a fitness room, community room, or similar shared amenity space.
- 3.5.13 An indoor Amenity Space with a minimum floor area of 46.45 square metres shall be provided within Building Component B. This indoor Amenity Space may be used as a fitness room, community room, or similar shared amenity space.

### ***Landscape Buffer***

- 3.5.14 Subject to Subsection 3.5.15, a landscape buffer shall be provided along the southern side lot line as shown on Schedule D and E.
- 3.5.15 The landscaped buffer shall:
- a) Contain a minimum of six columnar beech (or similar) trees (with a minimum base caliper of 60 millimetres);
  - b) Have a minimum height of 4 metres; and
  - c) Have a minimum width of 1.2 metres.
- 3.5.16 Prior to the issuance of a Development Permit, the Developer agrees to provide Landscape Plan which complies with the landscaping provisions of this Agreement. The Landscape Plan shall be prepared by a Landscape Architect and comply with all provisions of this section.
- 3.5.17 Prior to issuance of the first Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Agreement.
- 3.5.18 Notwithstanding Subsection 3.5.17, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### ***Privacy Fencing***

- 3.5.19 Subject to subsection 3.5.21, an opaque fence shall be provided along the full extent of the southern lot line as shown on Schedule D and E.
- 3.5.20 Subject to subsection 3.5.21, an opaque fence shall be provided along a portion of the northern lot line to buffer courtyard Amenity Space and Building Component B from abutting mixed-use buildings, as generally shown on Schedule D.
- 3.5.21 The opaque fence shall have a minimum height of 1.8 metres.

### ***Signs***

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

- e) Signs on awnings shall not cover more than 25 percent of the area of the awning, and the length of the text shall not exceed 80 percent of the length of the front valance; and
- f) No signs shall be permitted on the roof of a Building.

#### ***Parking Structures and Foundations***

- 3.5.23 Subject to Subsection 3.5.24, an exposed concrete foundation wall or enclosed parking structure shall not exceed 0.6 metres in height.
- 3.5.24 Foundations or enclosed parking structures that are taller than 0.6 metres, shall be:
  - a) Landscaped for amenity purposes as shown on Schedule D; and
  - b) Clad or architecturally detailed in a manner that compliments the exterior design and materials of the Building.

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

- 3.5.25 Lighting shall be directed to entrances and walkways and shall be arranged to divert the light away from streets, adjacent lots and buildings. Accent lighting of Building elements is permitted.

### **3.6 Additional Requirements**

#### ***Hours of Operation (Building Component A)***

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

#### ***Solid Waste Facilities***

- 3.6.3 All refuse and recycling materials shall be contained within the Building.

#### ***Maintenance***

- 3.6.4 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the Building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

#### ***Temporary Buildings***

- 3.6.5 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 of the Building shall be underground installation.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

### **5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plan**

- 5.1.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:
- a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
  - b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and
  - c) Submit to the Development Officer a detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer.
- 5.1.2 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

## **PART 6: AMENDMENTS**

### **6.1 Non-Substantive Amendments**

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

## **6.2 Substantive Amendments**

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

## **PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **7.1 Registration**

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

### **7.2 Subsequent Owners**

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

### **7.3 Commencement of Development**

- 7.3.1 In the event that development on the Lands has not commenced within 6 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Building Permit.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1(a), if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

### **7.4 Completion of Development**

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

## **7.5 Discharge of Agreement**

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

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

### **8.1 Enforcement**

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

### **8.2 Failure to Comply**

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

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

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

(Insert Registered Owner Name)

\_\_\_\_\_  
Witness

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

**HALIFAX REGIONAL MUNICIPALITY**

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

\_\_\_\_\_  
Witness

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

**MAYOR**

\_\_\_\_\_  
Witness

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

**MUNICIPAL CLERK**

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

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

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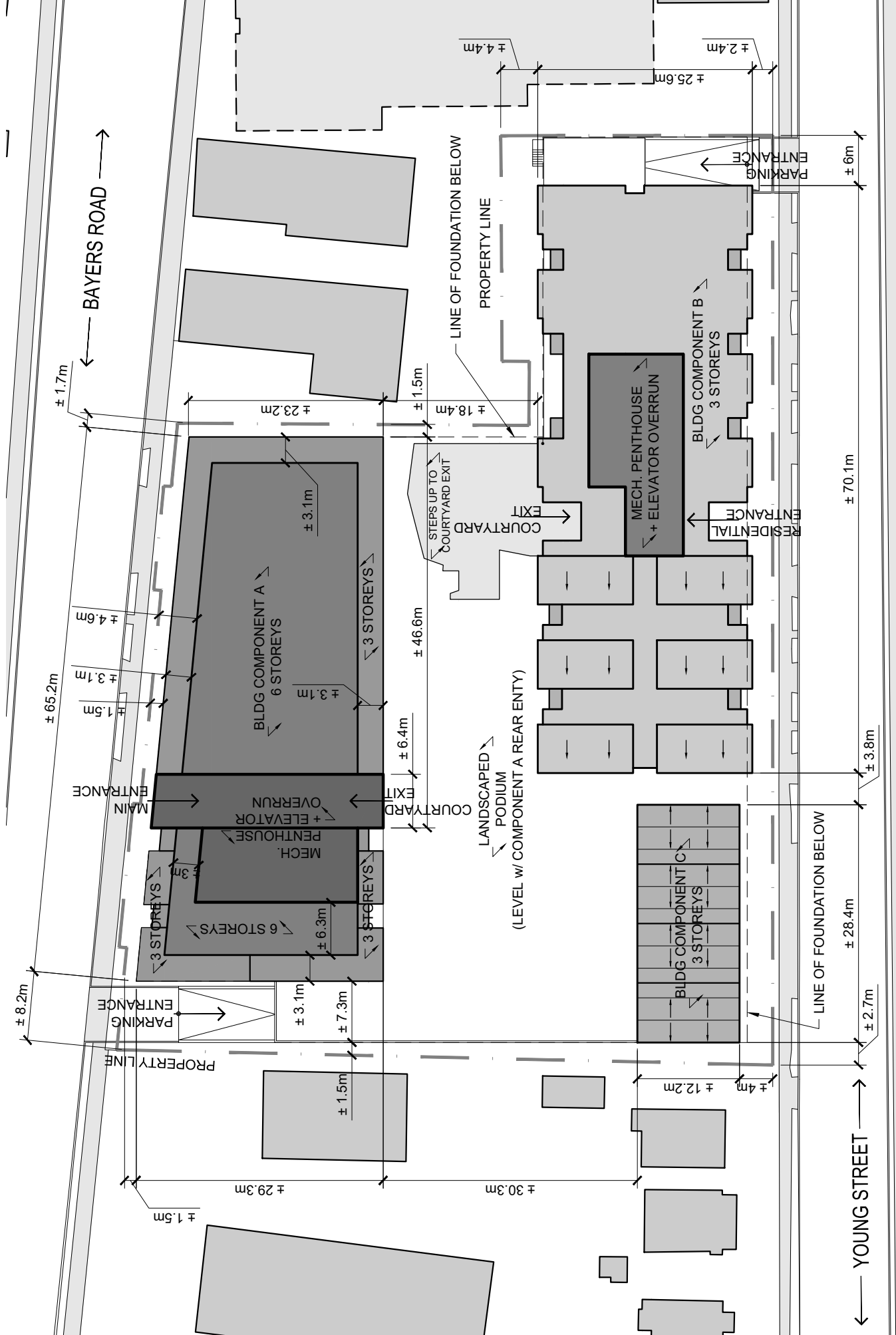
A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

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

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A Commissioner of the Supreme Court  
of Nova Scotia



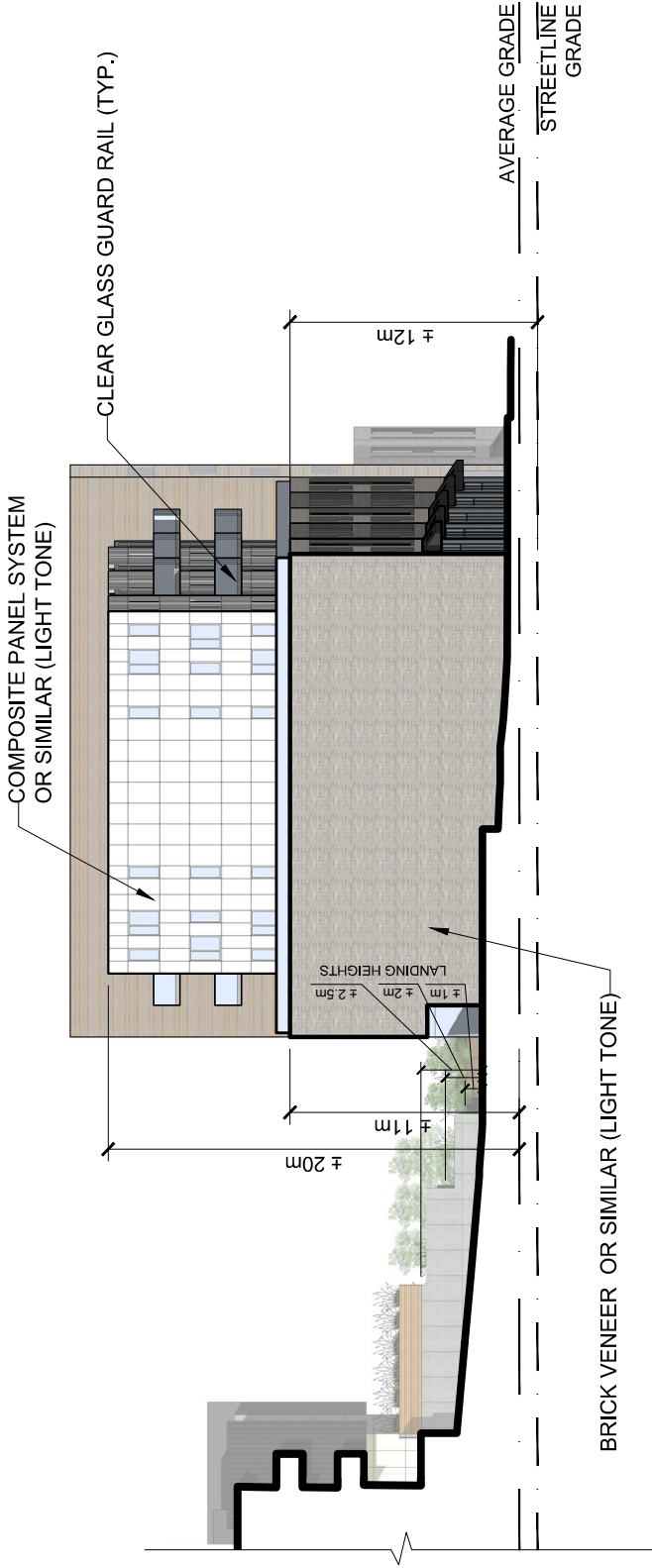


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A03 SCALE: 1 : 360

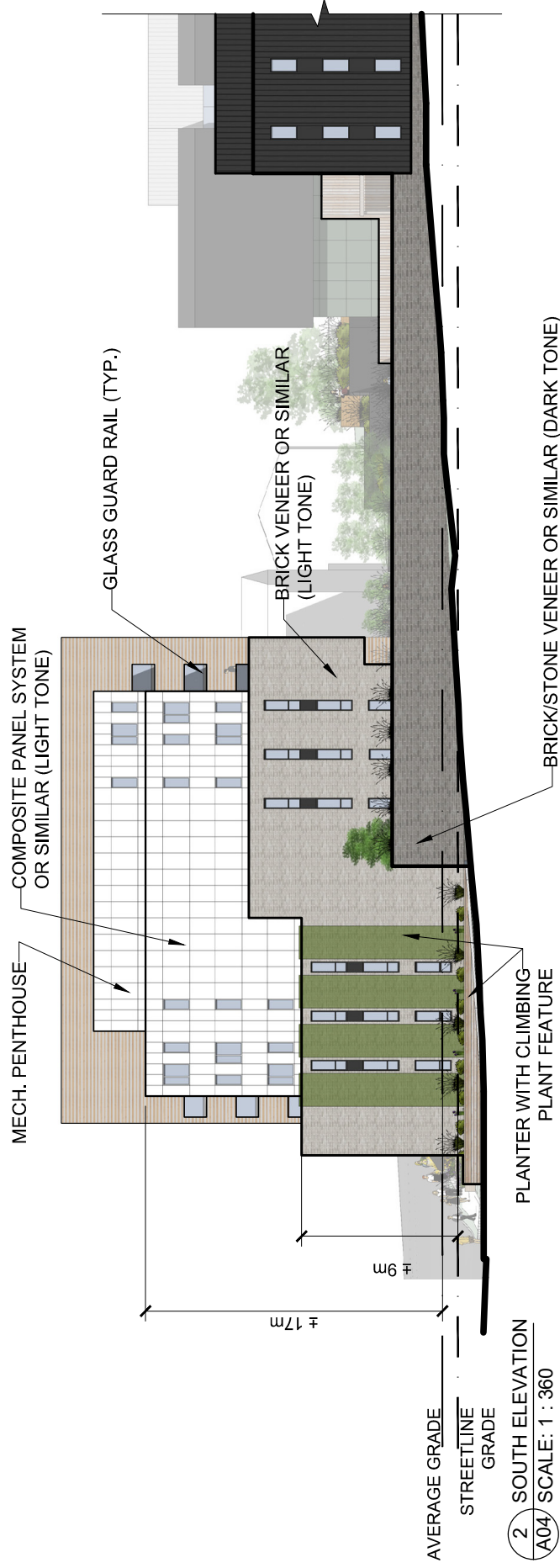


2 WEST ELEVATION  
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<p><b>BAYERS + YOUNG</b> 6438-6460 BAYERS RD AND D. 6419-6467 YOUNG STREET, HALIFAX, NS</p>	<p><b>SCHEDULE C</b> Building Elevations C1: Building Component A</p>	<p>Project No.: 2012.13 Scale: AS NOTED Date: 15 Apr 2019</p>	<p><b>WM FARES</b> ARCHITECTS <b>A03</b></p>
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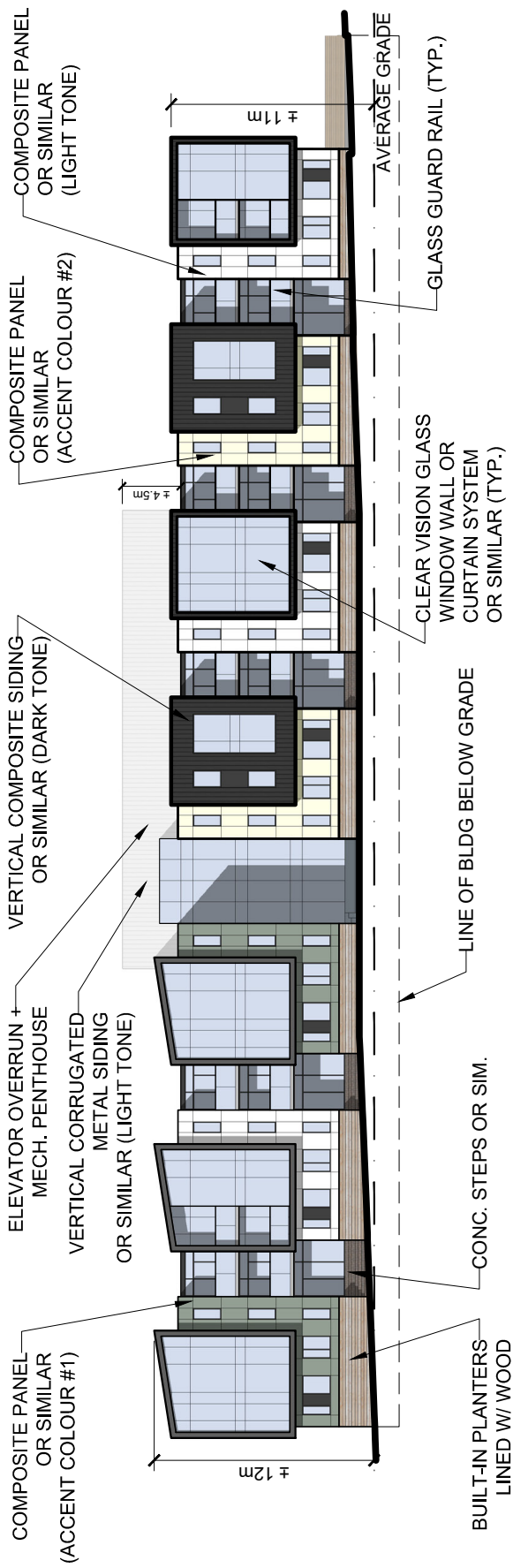


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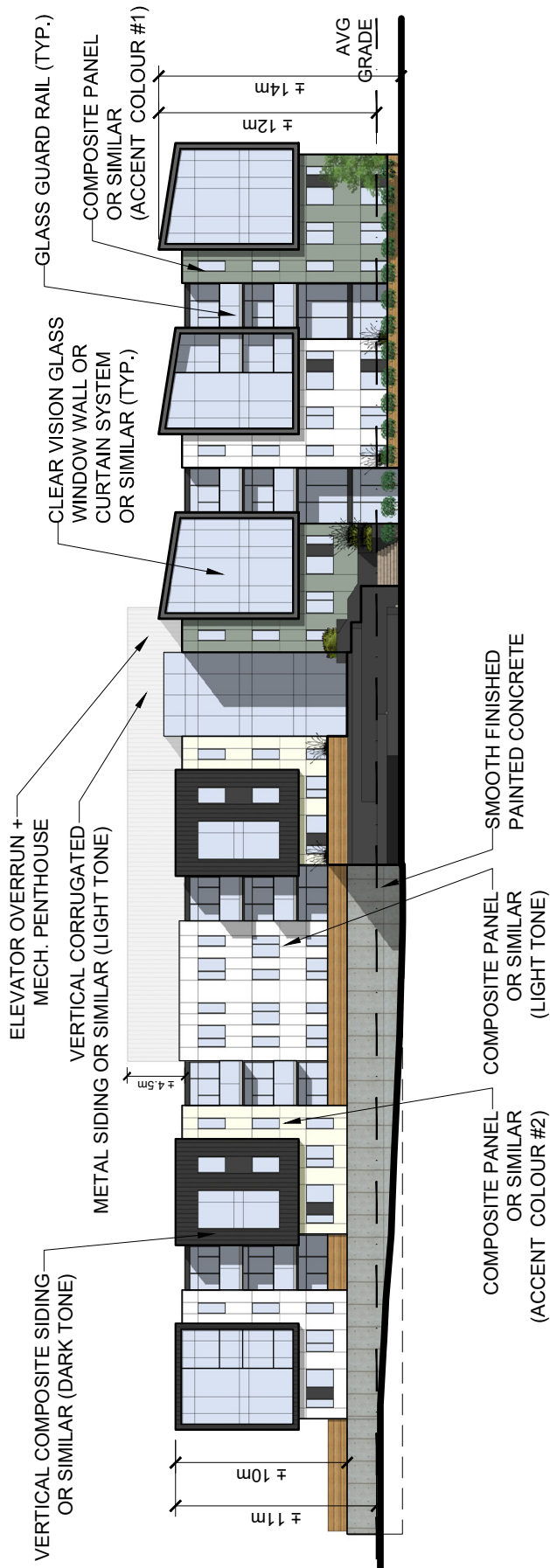


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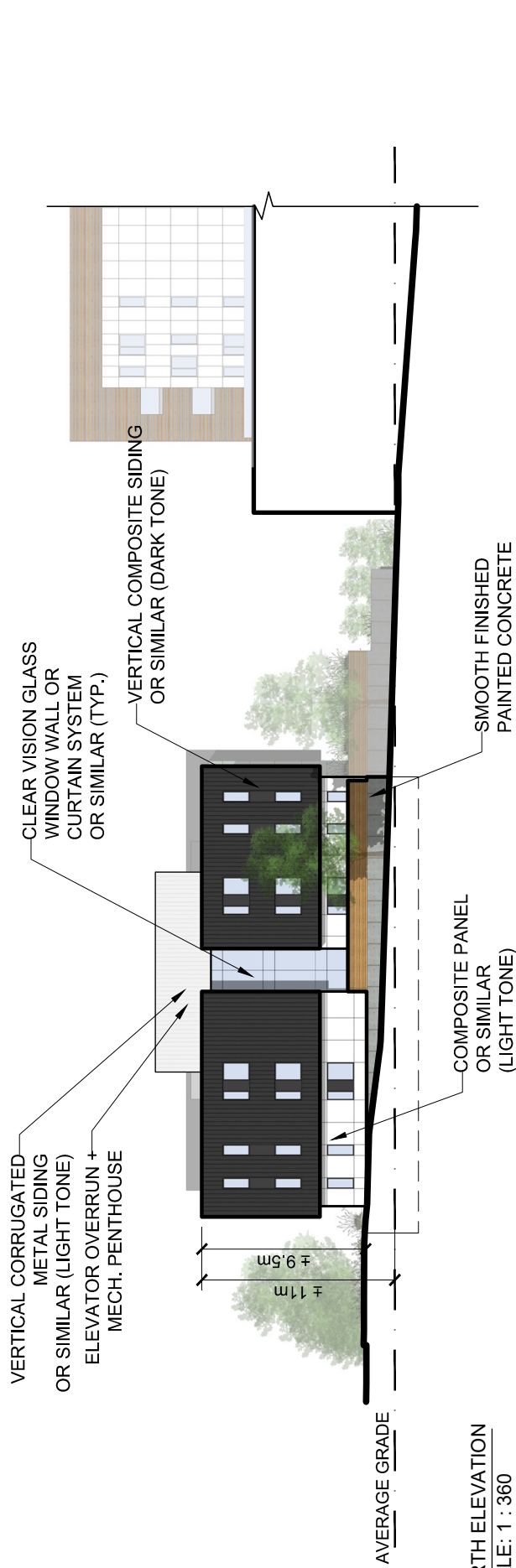




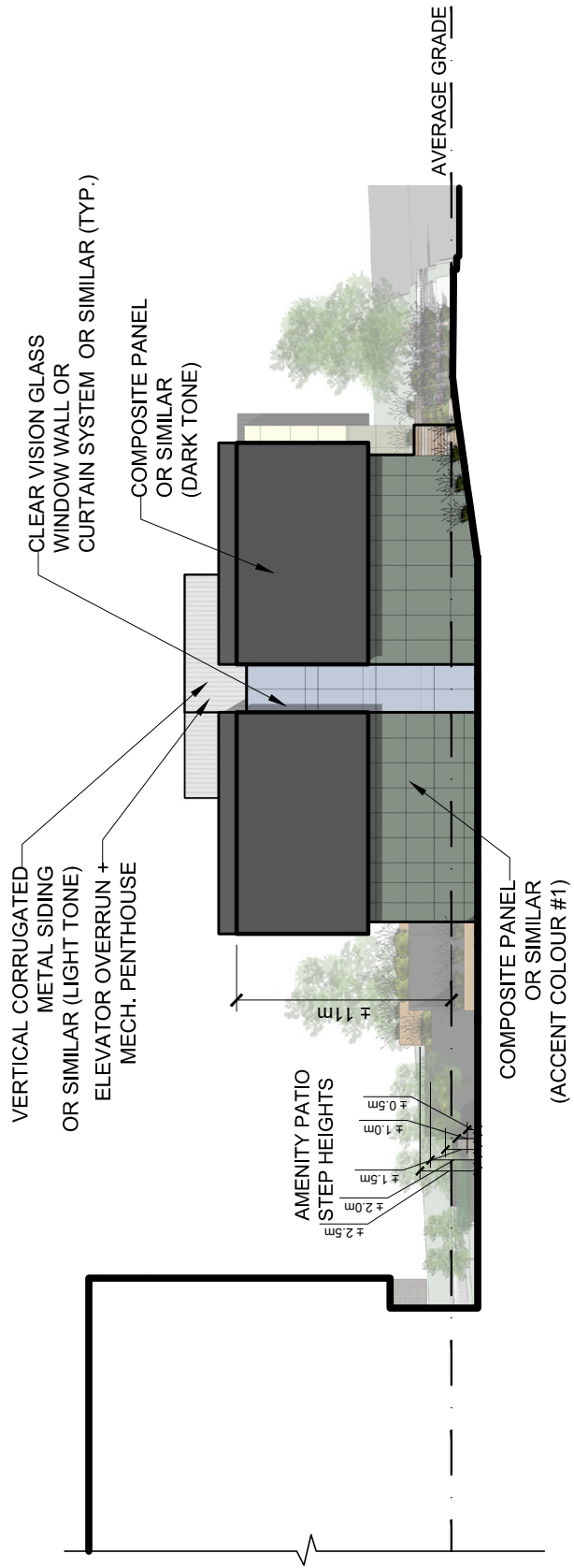
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A05/ SCALE: 1 : 360



2 WEST ELEVATION  
A05/ SCALE: 1 : 360



1 NORTH ELEVATION  
A06 SCALE: 1 : 360



2 SOUTH ELEVATION  
A06 SCALE: 1 : 360

<p><b>BAYERS + YOUNG</b> 6438-6460 BAYERS RD AND 6419-6467 YOUNG STREET, HALIFAX, NS</p>	<p><b>SCHEDULE C</b> Building Elevations C2: Building Component B</p>	<p>Project No.: 2012.13 Scale: AS NOTED Date: 16 Apr 2019</p>	<p>WM FARES ARCHITECTS <b>A06</b></p>
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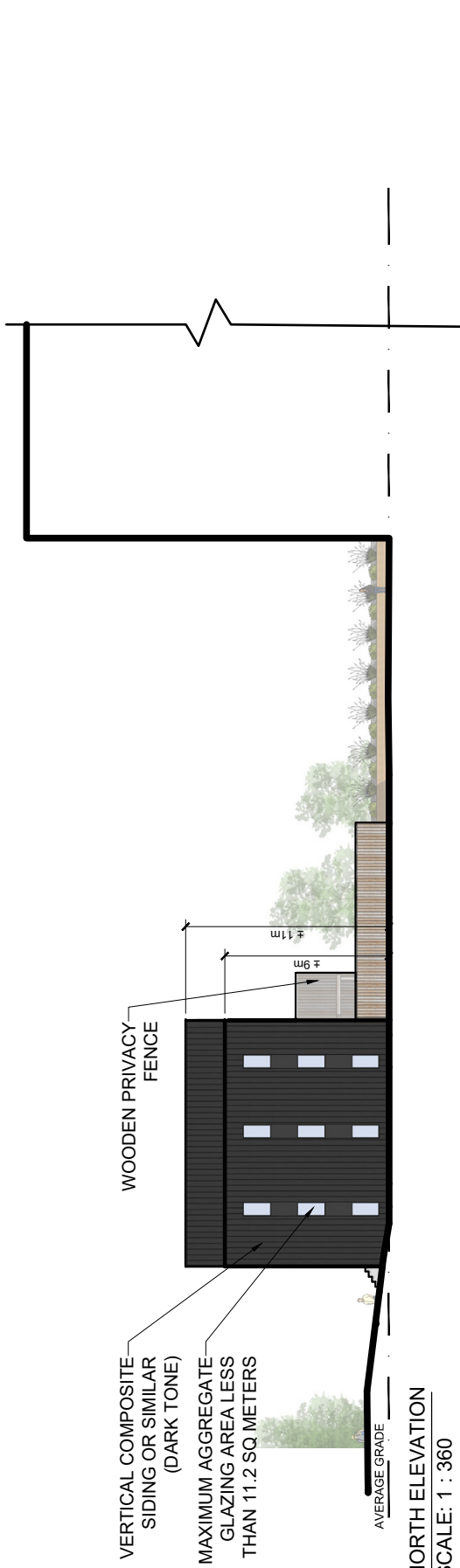


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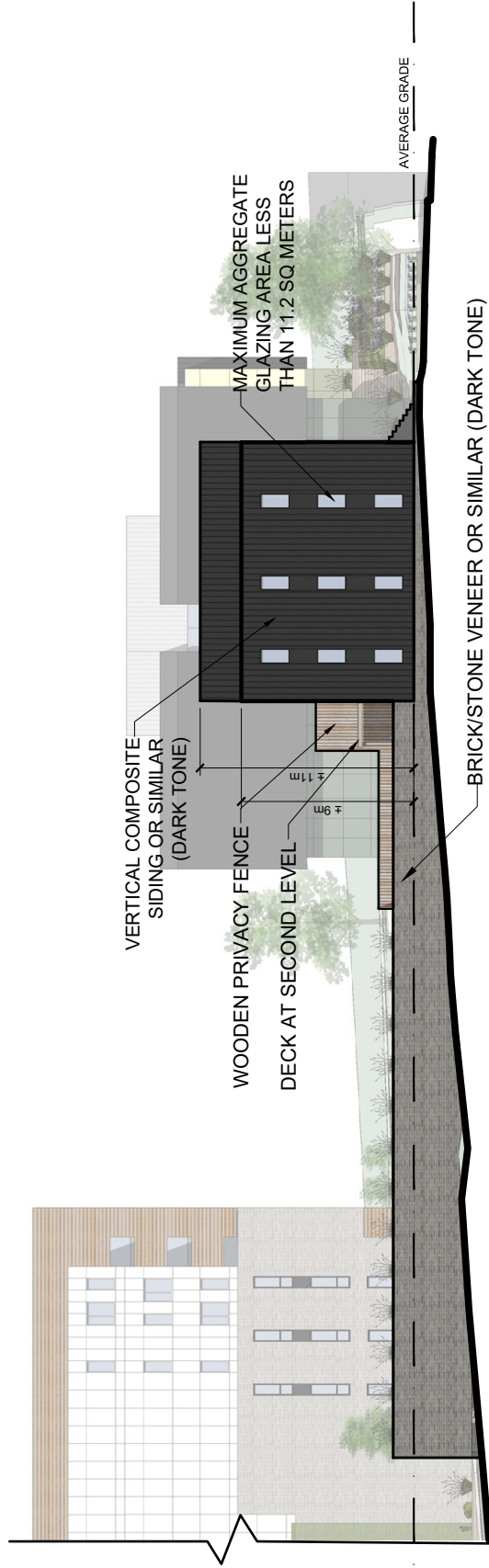


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<p>BAYERS + YOUNG 6438-6460 BAYERS RD AND D.6419-6467 YOUNG STREET, HALIFAX, NS</p>	<p><b>SCHEDULE C</b> Building Elevations C3: Building Component C</p>	<p>Project No.: 2012.13 Scale: AS NOTED Date: 16 Apr 2019</p>	<p>WM FARES ARCHITECTS</p>
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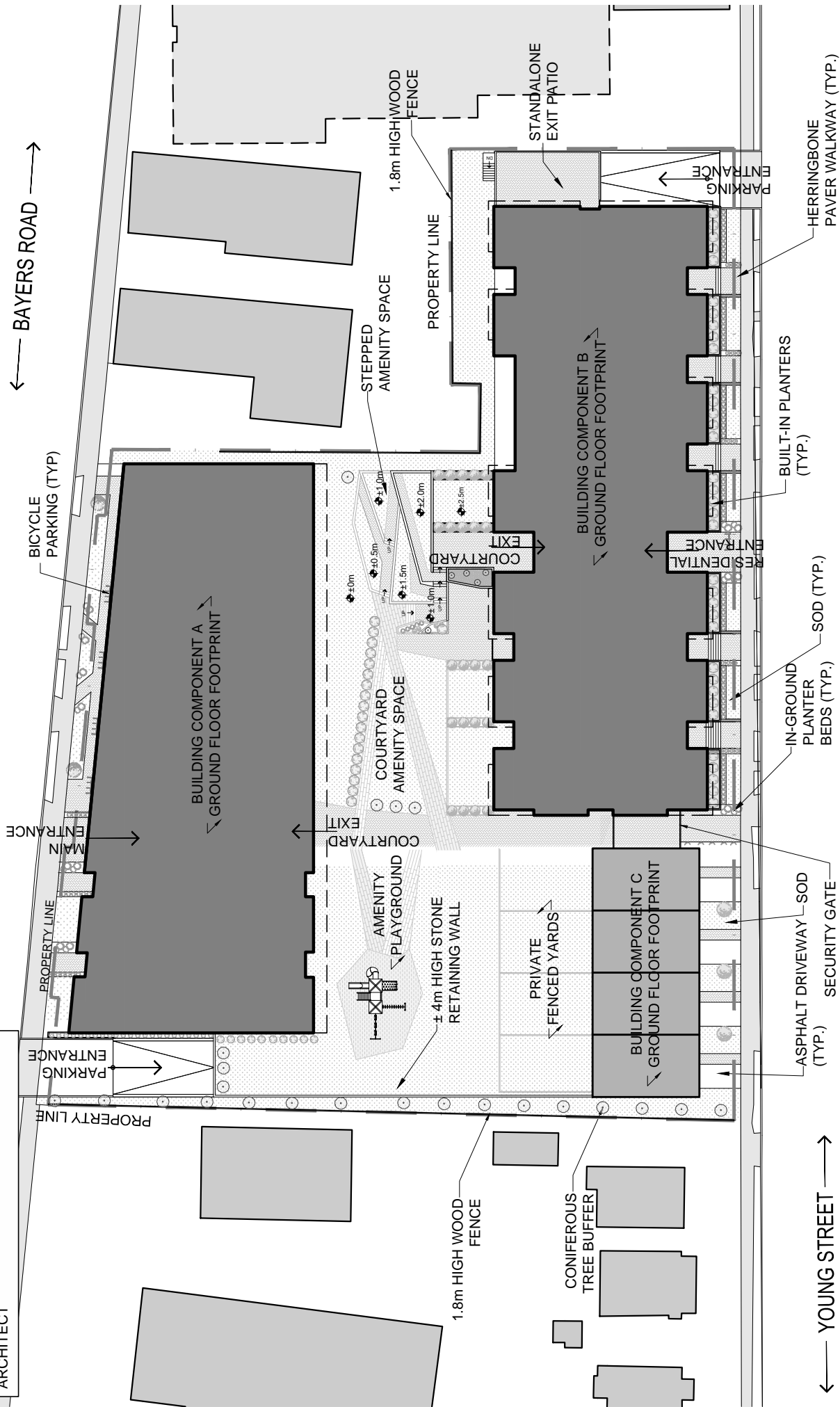


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2 SOUTH ELEVATION  
A09/ SCALE: 1 : 360

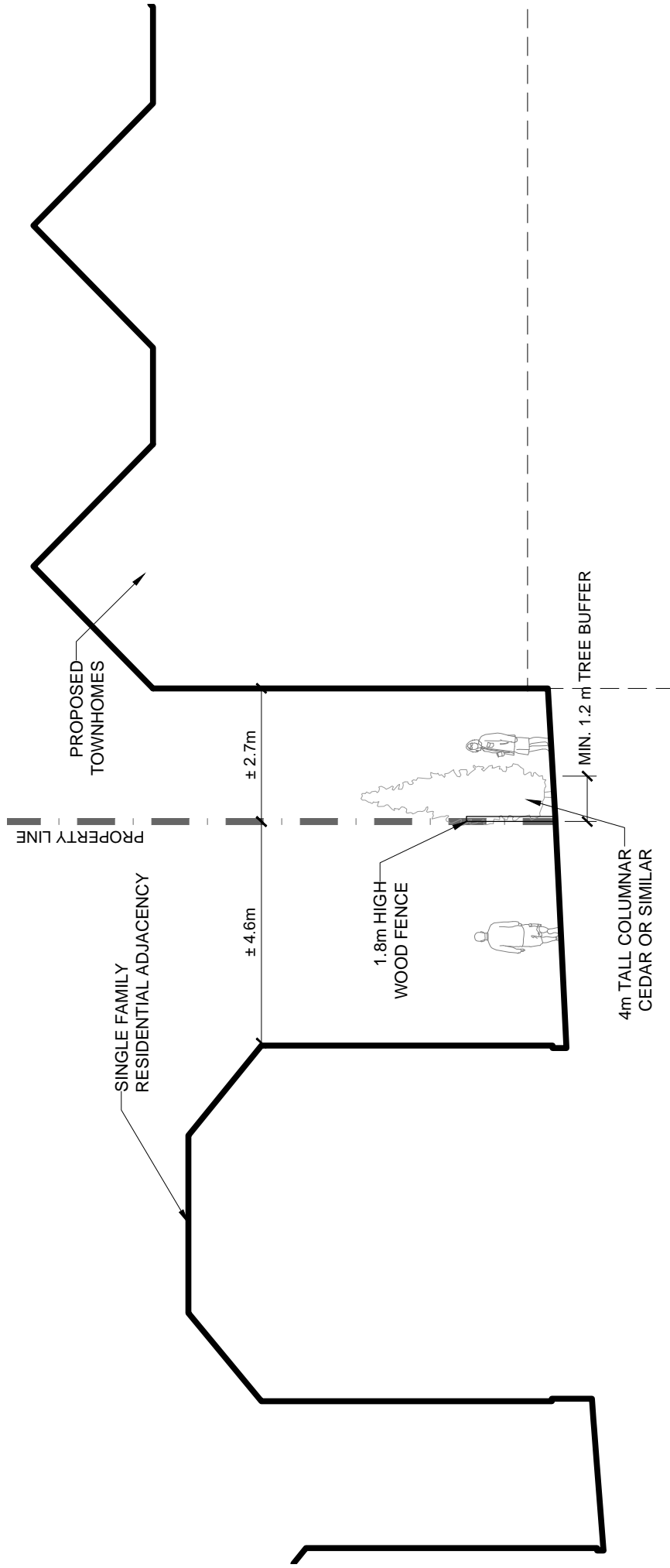
NOTE: LANDSCAPE DESIGN ELEMENTS ARE PRELIMINARY AND SUBJECT TO CHANGE UPON DETAILED DESIGN AND REVIEW BY LANDSCAPE ARCHITECT

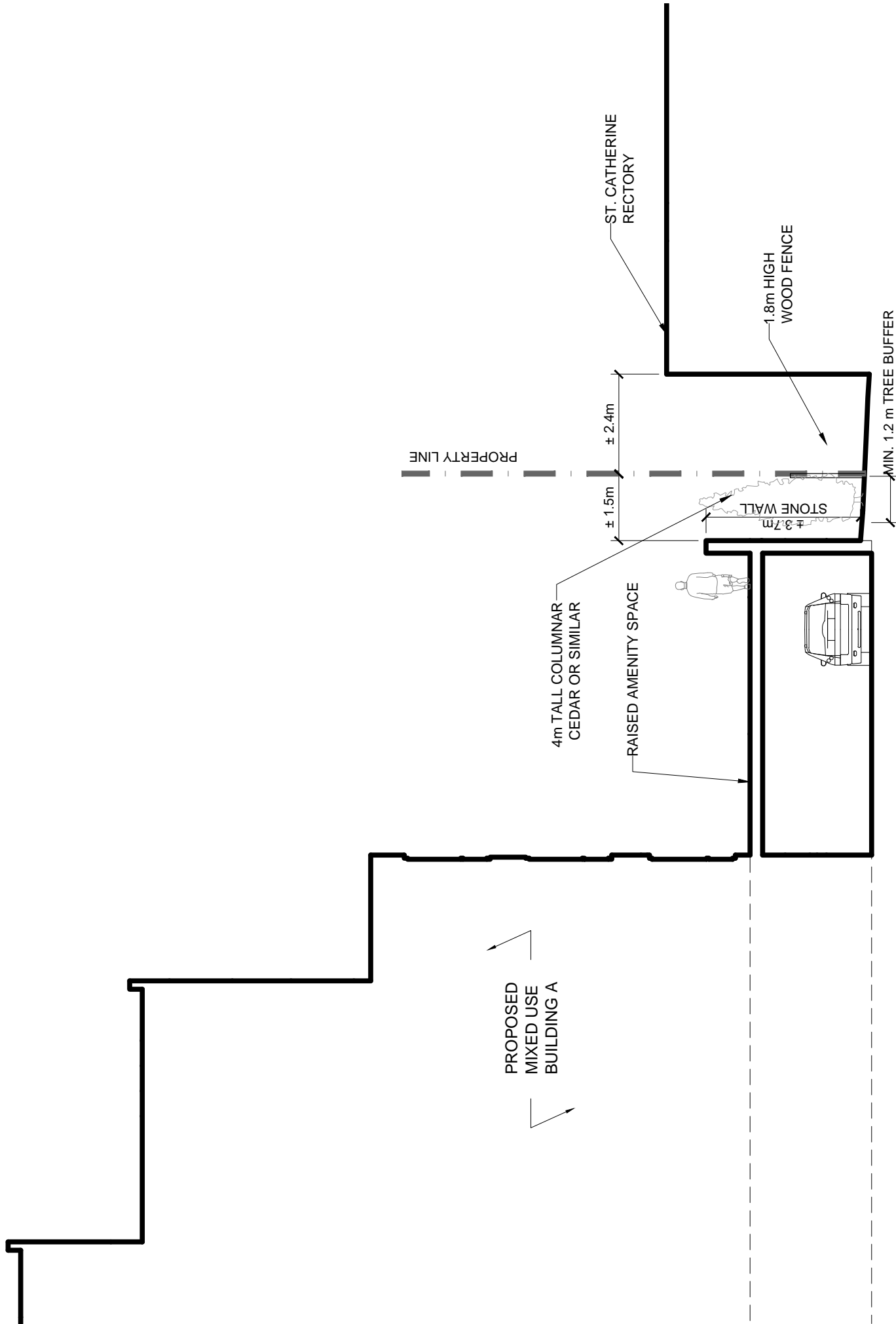


← BAYERS ROAD →

← YOUNG STREET →

BAYERS + YOUNG	6438-6460 BAYERS RD AND 6419-6467 YOUNG STREET, HALIFAX, NS			<b>A02</b>
Project No.: 2012.13 Scale: 1 : 600 Date: 7 May 2019				





BAYERS + YOUNG

6438-6460 BAYERS RD AND 6419-6467 YOUNG STREET, HALIFAX, NS

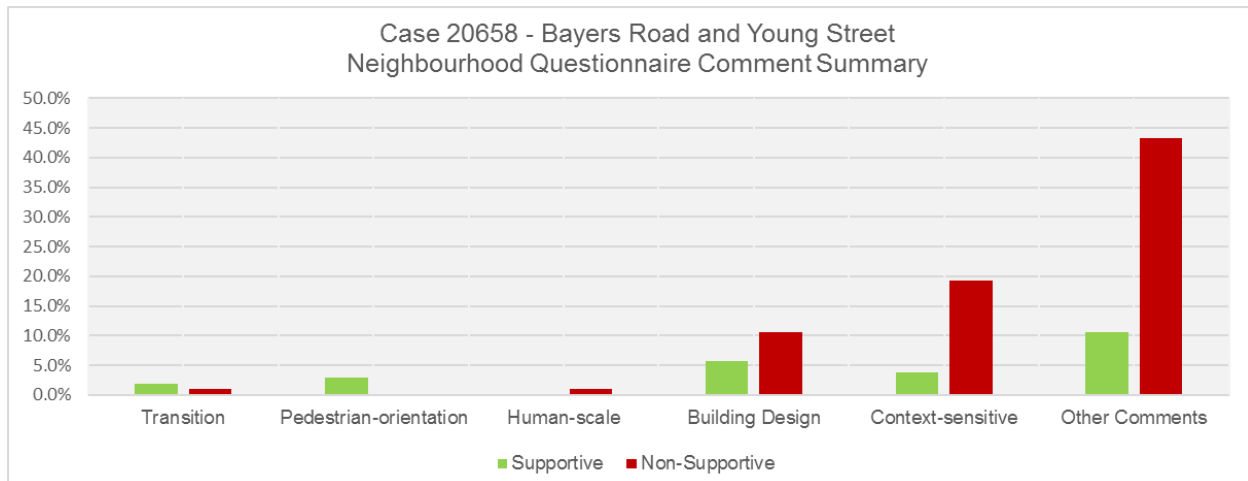
**SCHEDULE E**  
Side Yard Buffer Cross Section  
E2: Bayers Road

Project No.: 2012.13  
Scale: 1 : 120  
Date: 16 Apr 2019

WM FARES  
ARCHITECTS

**A10**

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



### **Transition**

- A couple respondents believe the proposed townhouse component creates an effective transition.
- One respondent is concerned about potential shadow impacts.

### **Pedestrian-oriented**

- A few respondents liked the ground-floor commercial uses along Bayers Road.

### **Building Design**

- Several respondents liked the proposal's modern design.
- A few respondents disliked the building's design, describing it as "boxy" or "ultra-modern".
- A few respondents felt that the architectural style does not complement the neighbourhood.
- Several respondents thought that the proposal was too dense for the site.
- A couple respondents were concerned that the proposal spans a significant percentage of the block.

### **Context-Sensitive**

- One respondent appreciates that the building's height and built form is unique on both Bayer Road and Young Street.
- A few respondents believe the proposal complements the neighbourhood.
- Conversely, many respondents feel the proposal does not complement the neighbourhood's established character and/or is too tall for the neighbourhood.
- A couple respondents worry that the proposal sets a negative precedent for the rest of the neighbourhood.

### **Other Comments**

- A few respondents stated they liked the overall proposal.
- Several respondents identified that the proposed development is a significant improvement over the existing buildings, which are in poor condition.
- A couple of respondents felt that increased density would be a positive for the area; however, several felt that there is enough residential density in the neighbourhood.



- One individual liked the proposed courtyard, while a couple others thought the proposal needs more greenspace.
- Several respondents disliked the entire proposal.
- Many respondents were concerned with increased traffic volumes that could result from the development. One respondent had safety concerns and two others were worried about the parking garage entrance on Young Street.
- Many respondents were concerned about vehicular parking within the neighbourhood.
- Several respondents had concerns about the construction process.
- A few respondents had concerns about their property values
- A couple respondents felt the existing MPS and zoning works for the area, while others felt the proposal should align with the Centre Plan.
- A few respondents identified that there have been developments approved recently in the area, and the effects of all of those developments should be considered together

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

**Policy 11.2.1 Development Agreement Provisions**

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

*(1) Notwithstanding other policies of this Municipal Planning Strategy except 11.2.1(2), a development agreement for the property located at Bayers Road / Young Street shall:*

<b>Policy Criteria</b>	<b>Comment</b>
<i>(a) permit a mixed-used (residential and commercial) or residential building;</i>	The DA permits a building that contains a large mixed-use (residential and ground-floor commercial) or residential building component along Bayers Road. The two Young Street building components shall only contain residential uses (and accessory uses).
<i>(b) permit a range of ground-floor commercial uses, including, but not limited to, cultural, daycare, office, restaurant, retail, and work-live uses, along Bayers Road only;</i>	The DA permits states that Building Component A, which is located along Bayers Road, may contain ground-floor residential use. The commercial component of a work-live unit shall also be limited to the ground floor.
<i>(c) restrict development to a minimum setback, both above and below grade, of 1.5 metres from the Bayers Road lot line</i>	The DA states that the building shall be setback a minimum of 1.5 metres, both above and below grade, from the Bayers Road lot line.
<i>(d) subject to 11.2.1(1)(e), restrict building height to a maximum of 6 storeys, plus penthouse(s), along Bayers Road;</i>	The DA states that no building shall exceed the maximum height framework listed in Schedule B, which clearly denotes the tallest portion of the building as six storeys (plus penthouse(s)) along Bayers Road.
<i>(e) restrict building podium height along Bayers Road to a maximum of 3 storeys;</i>	The DA, in accordance with Schedule B, requires that Building Component A (i.e., mixed-use or residential component along Bayers Road) have a maximum podium height of three storeys and a minimum stepback of 3 metres above said streetwall. A portion of the required podium may be exceeded by an elevator overrun architectural feature on the eastern and western portion of the Building Component, as it aids in addressing the human-scale and building design planning principles (11.2.2(2)(a)).
<i>(f) require a minimum of two distinct above-grade building components along Young Street to reduce the building's mass;</i>	Schedule B of the DA shows that two building components (B and C) shall be provided along Young Street. Building Component B shall be an apartment house and Building Component B shall be a four-unit townhouse.
<i>(g) restrict building height to a maximum of 3 storeys, plus penthouses(s), along Young Street;</i>	The DA requires that Building Component B have a maximum height of three storeys (plus penthouse) and Building Component C shall have a maximum height of three storeys.
<i>(h) require a central outdoor-courtyard and indoor amenity space for on-site residents;</i>	The DA ensures that an outdoor courtyard amenity space (minimum area of 1300 square metres) be

	provide in the central portion of the subject site. The DA also requires that indoor amenity space be provided in both Building Component A and B.
<i>(i) require a landscaped buffer and fencing along the southern side lot line;</i>	The DA requires that a landscaped buffer (minimum height of four metres and minimum width of 1.2 metres) be provided along the southern lot line. The DA also requires that an opaque fence, which has a minimum height of 1.8 metres, is provided along the southern lot line.
<i>(j) 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;</i>	The DA: regulates streetwall and external building design; restricts the cladding materials that are suitable for the building; requires at-grade residential units to open onto a porch or patio, and mandates that the ground floor be set above sidewalk grade; requires that front yards contain hard landscaping materials and integrated benches; regulates the size of signs permitted on-site; requires a tree retention and mitigation plan; and provides direction for landscaping in the courtyard and required front yard setback area. These features will allow the building to more effectively satisfy the planning principles listed in Section 2.
<i>(k) require indoor / underground parking and prohibit surface parking; and</i>	The DA prohibits surface parking lots and contains minimum requirements for indoor / underground vehicular parking. Additionally, the DA states that bicycle parking provisions shall adhere to the Land Use By-law.
<i>(l) require that all indoor / underground parking spaces have direct access onto Young Street.</i>	The DA clause 3.5.7 requires that all indoor / underground parking spaces have direct access onto Young Street.
<i>(2) In addition to meeting the requirements of Policy 11.2.1(1) a) to l) inclusive, when considering a development agreement for the property located on Bayers Road / Young Street, Halifax, Council shall consider:</i>	
<i>(a) the planning principles of transition, pedestrian-oriented, human-scale, building design and context sensitive, as described in Section 2; and</i>	A detailed review of the planning principles is provided within the staff report. The DA contains various regulations to ensure the proposed development generally addresses the necessary planning principles.
<i>b) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms.</i>	The transition principle is discussed at length in the subject staff report. The DA includes regulations and Schedules, which incorporate design features (e.g., building setbacks, separation distances, varying building heights, required courtyard, landscaped buffer, fencing, etc.) that provide a transition to surrounding buildings.