

Re: Item No. 8.4

HALIFAX

**Case 22708: Appeal Hearing
Site Plan Approval Application
1325 Lower Water St., Halifax**

Halifax Regional Council

- Process
- DRC's decision
- Applicants proposal
- Site context
- Building Design
- Evaluation against the Design Manual
- Variances
 - Variances with a positive recommendation
 - Variances with a negative recommendation
- Wind Study
- Post Bonus Height Public Benefit
- Recommendation

Site Plan Approval Process



Under Site Plan Approval, there are two components of review and approval:

- 1. Quantitative (LUB)** – Parameters relating to land use and building envelope (height, massing, scale, streetwall setbacks and stepbacks, etc.)
 ➔ Development Officer
- 2. Qualitative (Design Manual)** – Guidelines relating to building design (architectural design, streetscape details, materials, variances, etc.)
 ➔ Design Review Committee / Regional Council

- Approved at DRC on July 30, 2020
- Notice of approval ad placed in newspaper August 8, 2020
- Appeal period expired August 22, 2020
- 23 appeals were filed but one appellant was not allowed as the individual was not a property owner within the appeal boundary

In hearing an appeal, Regional Council may make any decision that the DRC could have made on the qualitative aspects of the building (Design Manual).

Regional Council may not substitute its decision for that of the Development Officer – quantitative aspects of the building (LUB).

Design Review Committee

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Decision on Building Design & Variances

The building design was approved by Design Review Committee on July 30, 2020, with the following motion:

1. Approve the qualitative elements of the substantive site plan approval application for Case 22708 as shown in Attachment A with consideration given to the following:
 - a) adding public access to the penthouse level,
 - b) adding articulation to the banding,
 - c) providing vertical articulation to break up the horizontal massing within floors 3 and 4 of the development, and
 - d) subject to an approved license agreement with Nova Scotia Power Inc, the applicant shall consider minor modifications to the streetwall of the building abutting the Morris Street Waterfront View Corridor, such as streetwall articulation, materials including glazing, and public art features that serve to further activate the terminus area of the Morris Street Waterfront View Corridor.

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Design Review Committee

Decision on Building Design & Variances

2. Approve 11 of the 12 variances requested by the applicant but refuse the variance that is requested to section 10.13 of the Land Use By-law which allows balconies to be permitted encroachments into a setback or stepback provided that the aggregate length of the balconies does not exceed 50% of the building face and approve the following variances:
 - a) Variance Category 3: Maximum Height Variance is consistent with section 3.6.8d of the Design Manual,
 - b) Variance Category 4: Precinct 1 Built Form Variance is consistent with section 3.6.7b of the Design Manual,
 - c) Variance Category 5: Tower Width and Separation is consistent with section 3.6.7b of the Design Manual, and
 - d) Approve the 4 variances as per the staff recommendation.
3. Accept the findings of the qualitative Wind Impact Assessment, as contained in Attachment C.
4. Recommend that the Development Officer accept sustainable building practices as the post-bonus height public benefit for the development.

Applicant Proposal

Applicant: Southwest Properties

Location: 1325 Lower Water St

Proposal:

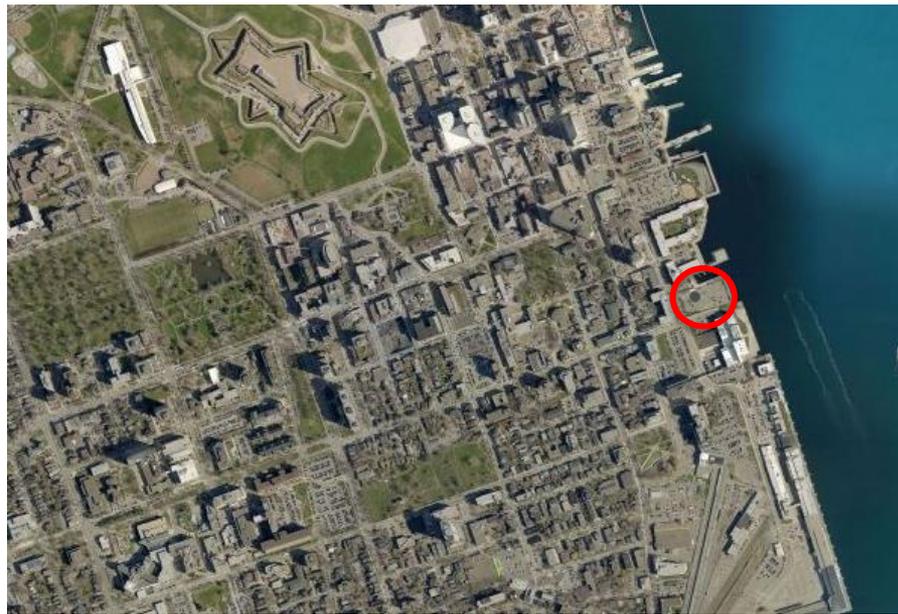
- 16 storey (55.385 m) building with rooftop mechanical;
- Mixed use building, with residential, ground floor retail, office use and restaurant use;
- 254 residential units;
- 36642 sq. m of GFA;
- Building materials include: large format porcelain tile; pre-finished composite metal panel system; aluminum window wall system; and vision glazing;
- Approximately 8093.7sq. m of plaza space; and
- 229 indoor parking spaces at the 3 and 4th floor.



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Site Context

1325 Lower Water St, Downtown Halifax



General Site location

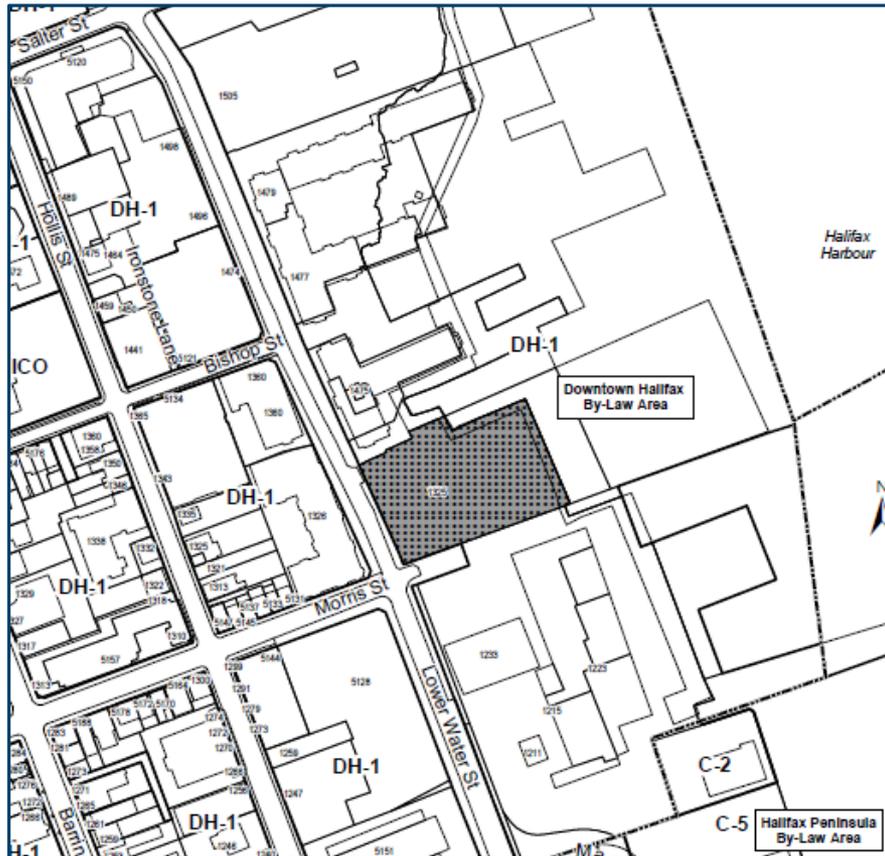


Site Boundaries in Red

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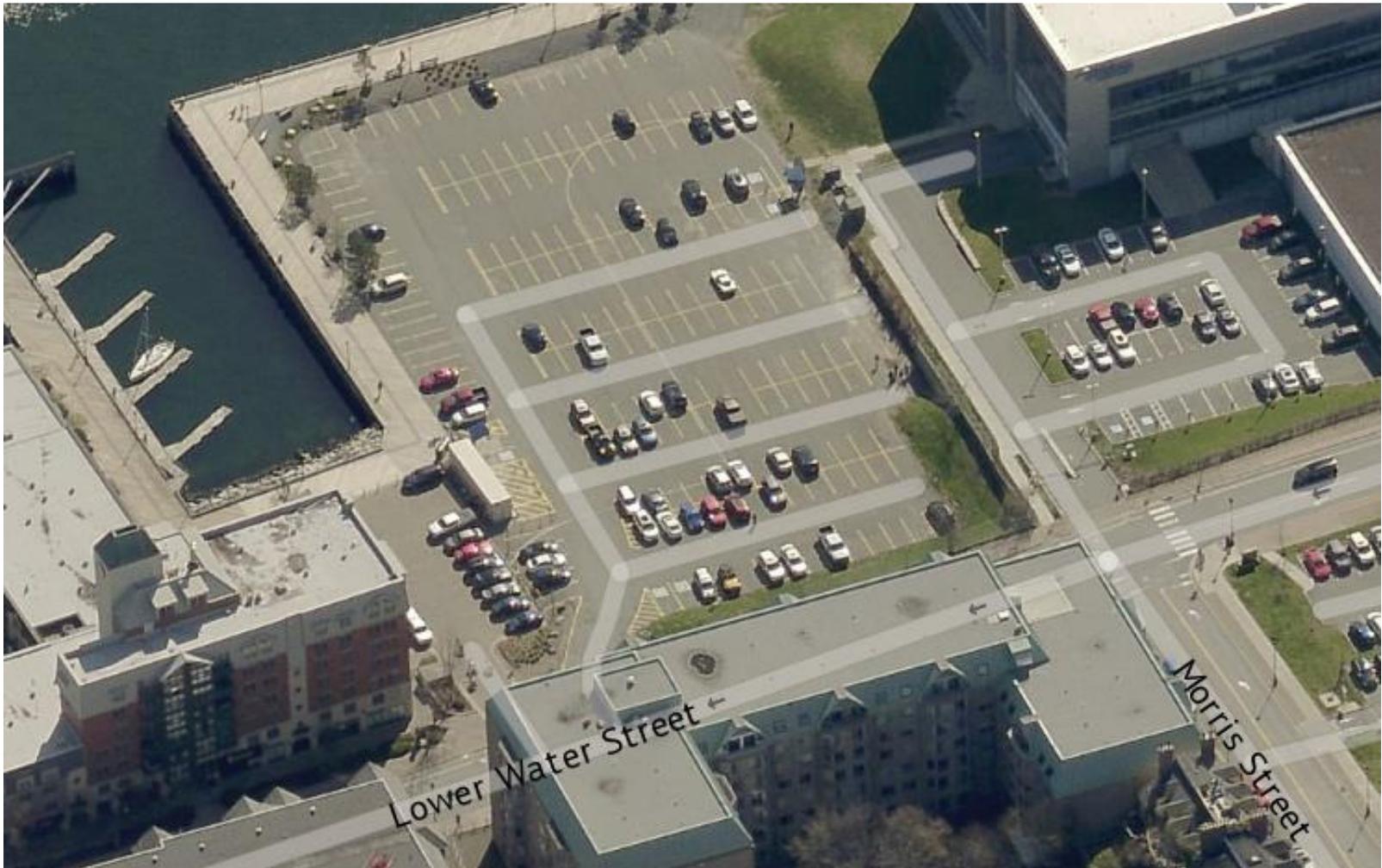
Downtown Halifax Land Use By-law

Zoning Regulations & Process



- **Zone:** DH-1 (Downtown Halifax), Schedule W (Waterfront Development Overlay)
- **Precinct:** 1 Southern Waterfront
- **Building Height (Pre and Post-Bonus):** 39 m and 49 m
- **Viewplane:** A portion of the site is covered by Viewplane 6,
- **Streetwall Setback:** 0-4 m
- **Streetwall Height:** 18.5 m
- **Prominent Civic/ Cultural Frontage:** Identified as a Prominent Civic / Cultural Frontage

Orthoview



Subject Site

12



Looking North on Lower Water Street (@ Morris Street)

Subject Site

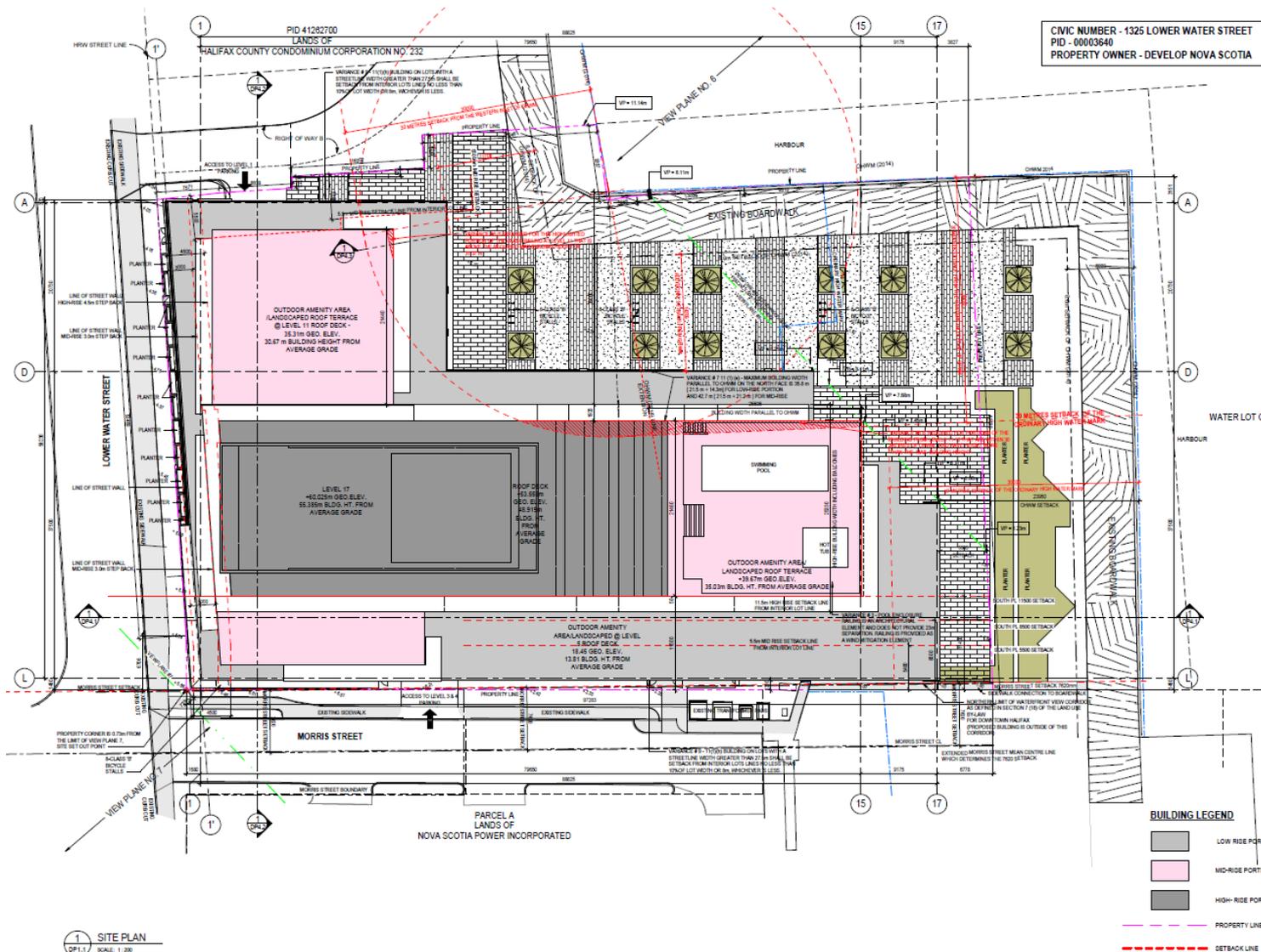


Looking South on Lower Water Street

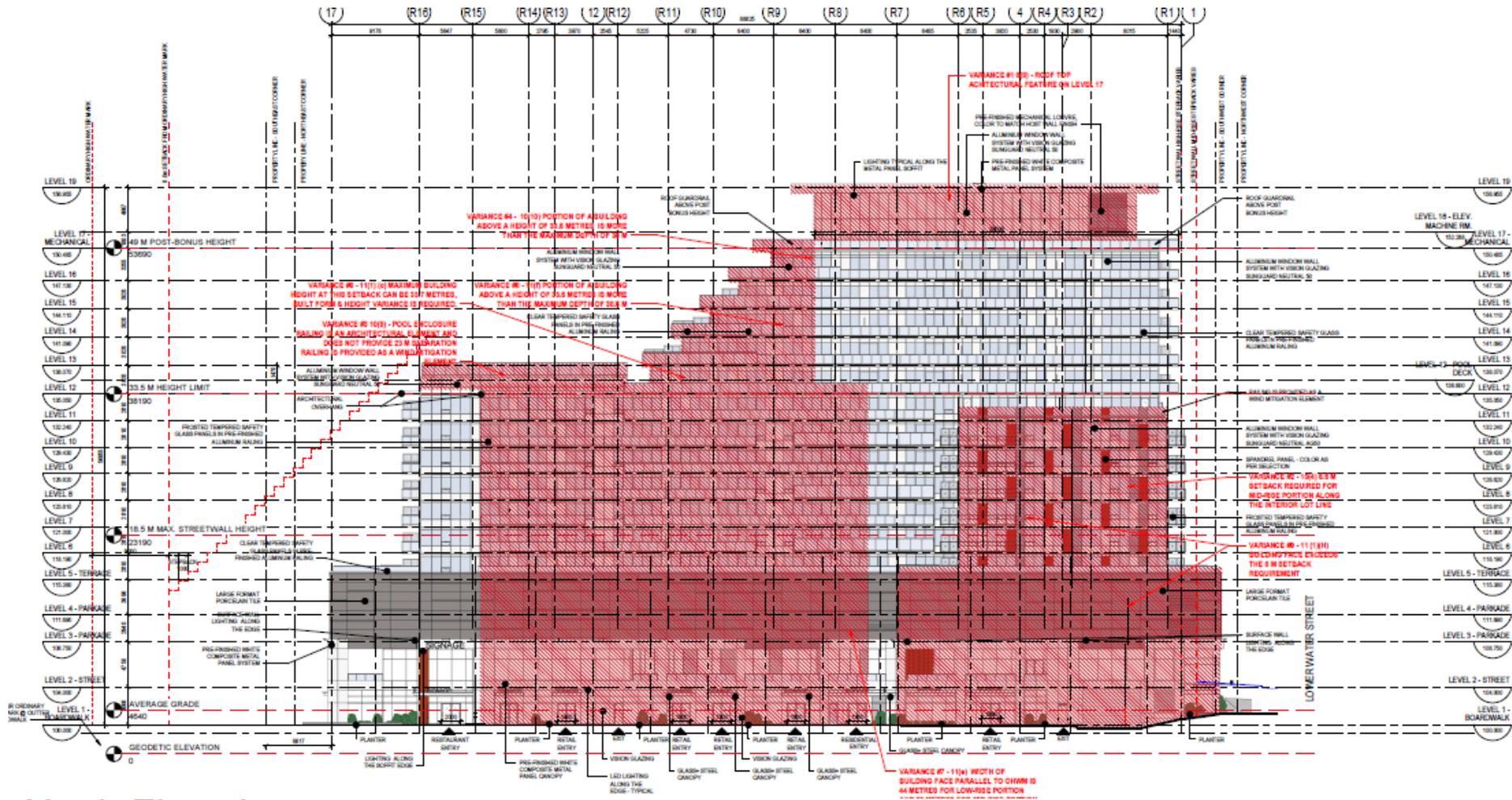
Proposed Development



Site Plan

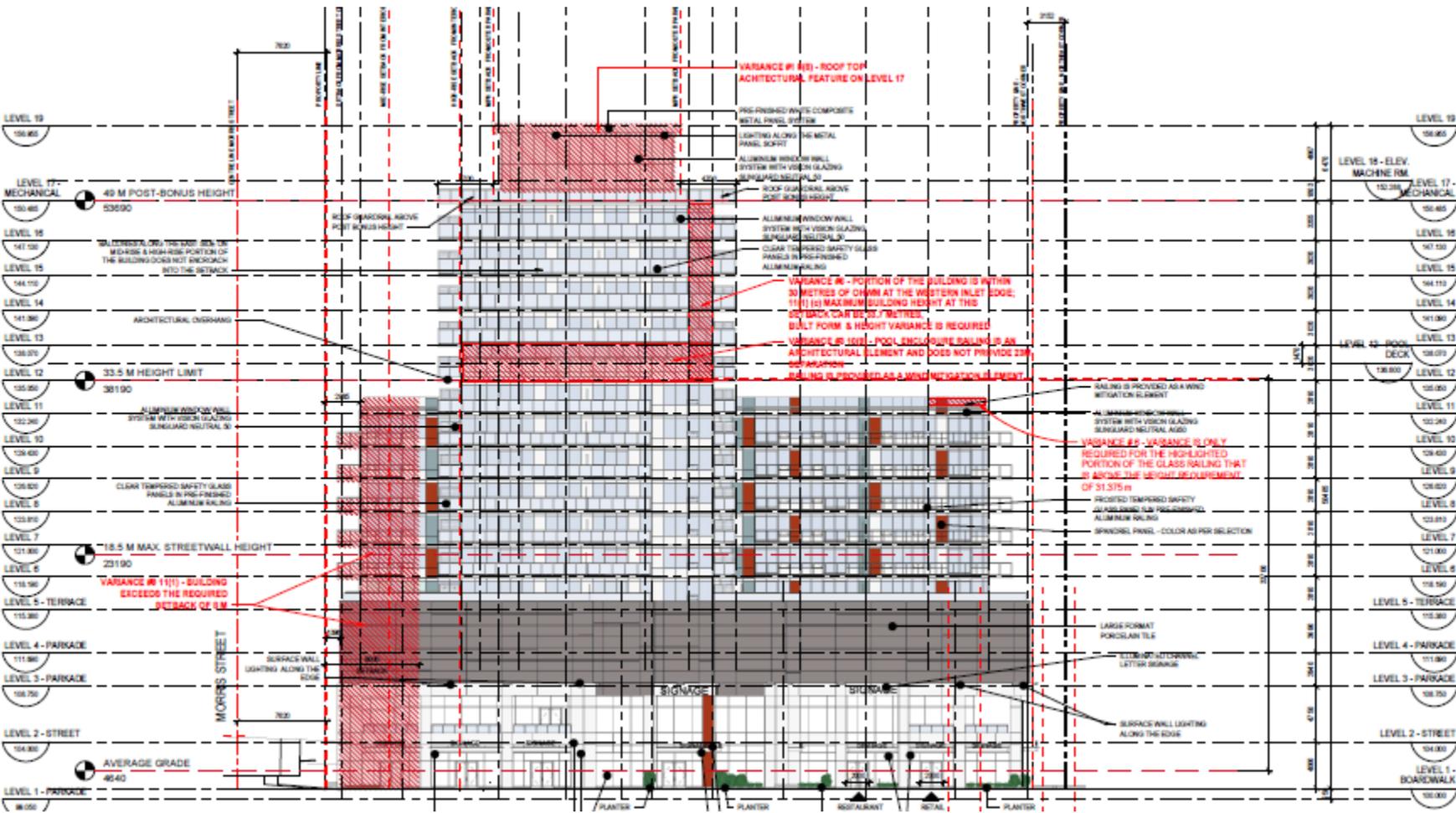


Proposed Development



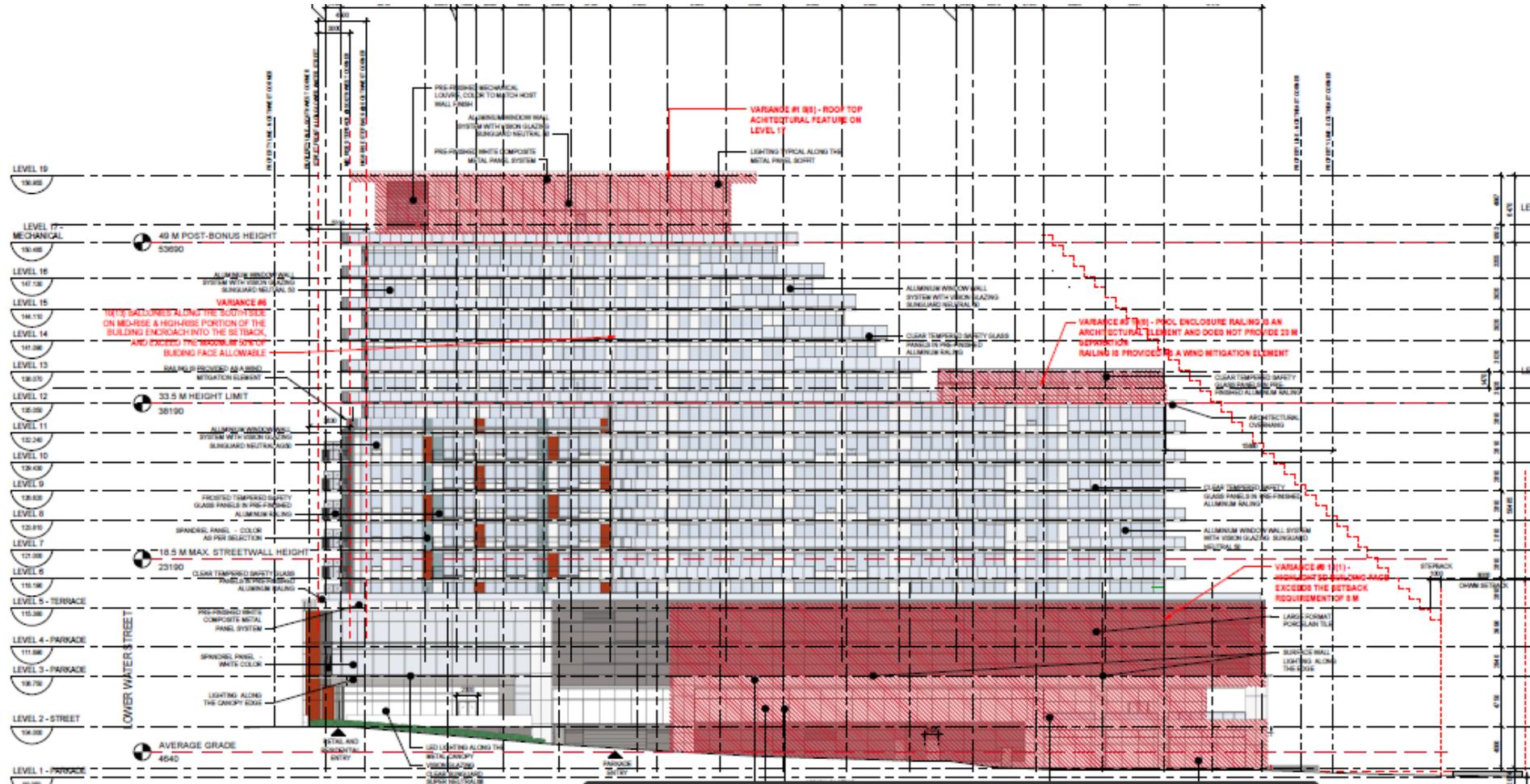
North Elevation

Proposed Development



East Elevation

Proposed Development



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Design Manual

Precinct One: Southern Waterfront and Downtown Halifax Waterfront

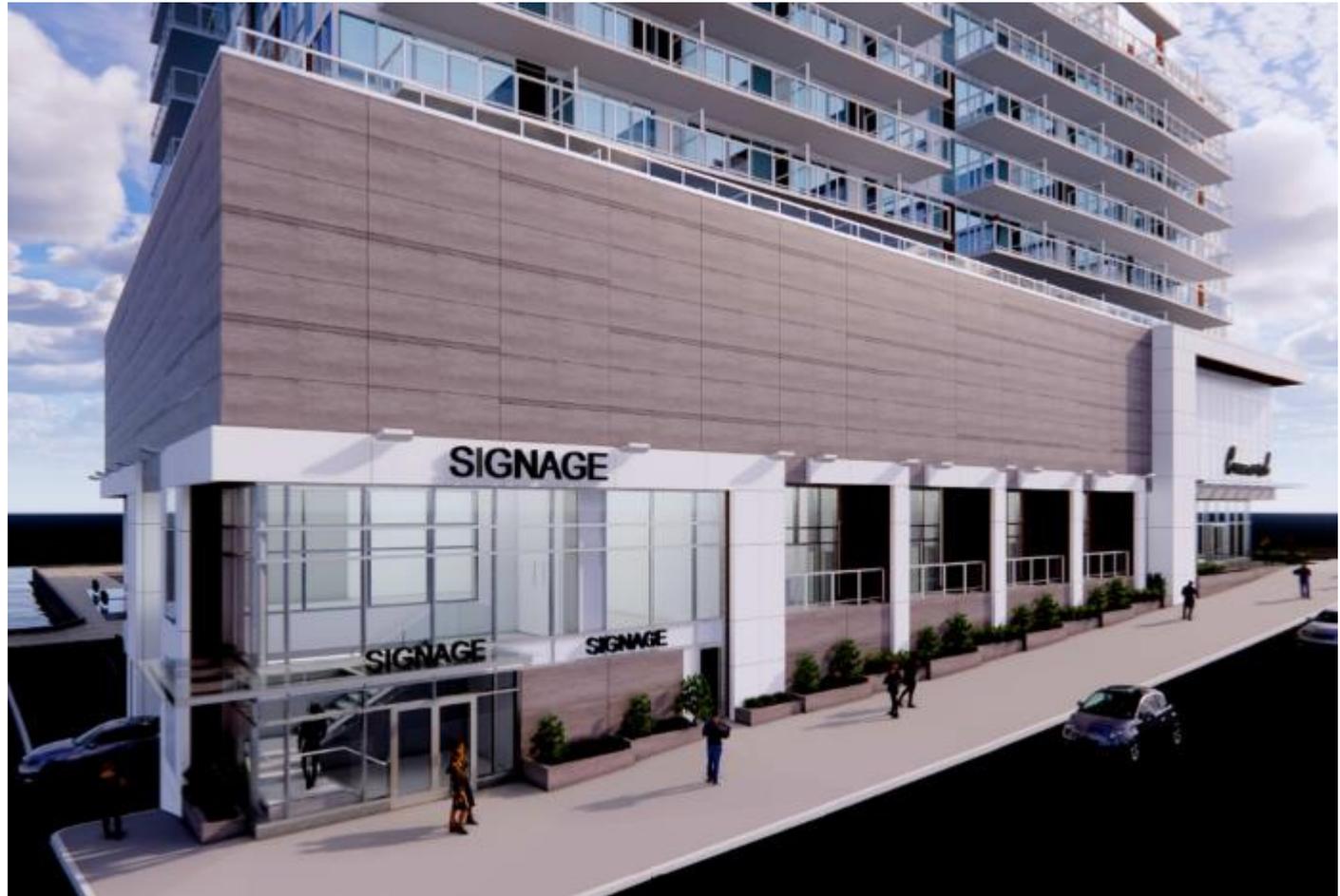
2.1c- Tall and slender towers provided that their placement and design are consistent with the objectives identified for this precinct and with the design guidelines.



Design Manual

Precinct One: Southern Waterfront and Downtown Halifax Waterfront Requirements (2.10b, 2.10e, 2.10i)

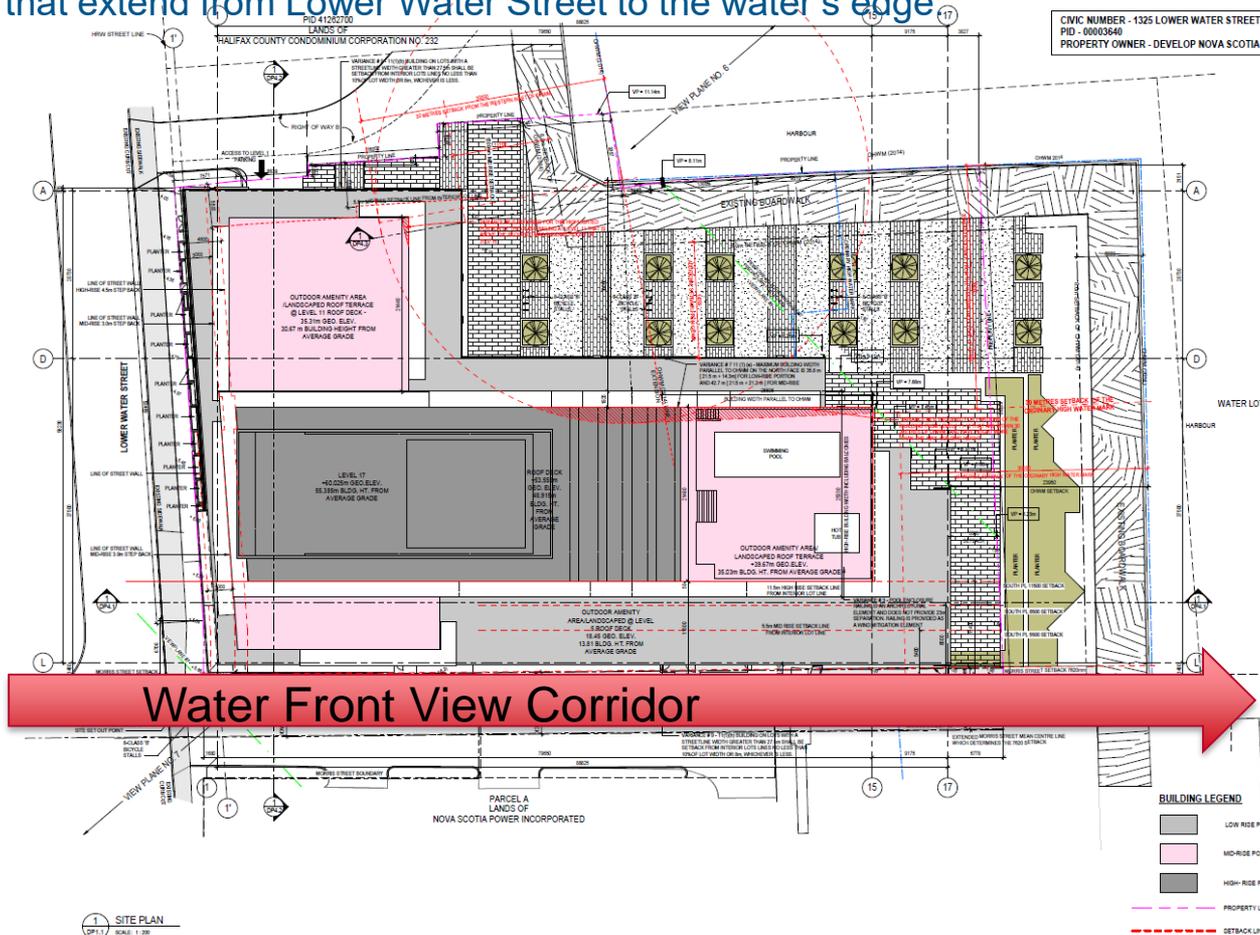
2.10b ensure that a generally complete and consistent streetwall is built along Lower Water Street that permits visual and physical access to the harbour along the eastward extension of the east west streets to the water's edge, and at intermediate locations as deemed appropriate.



Design Manual

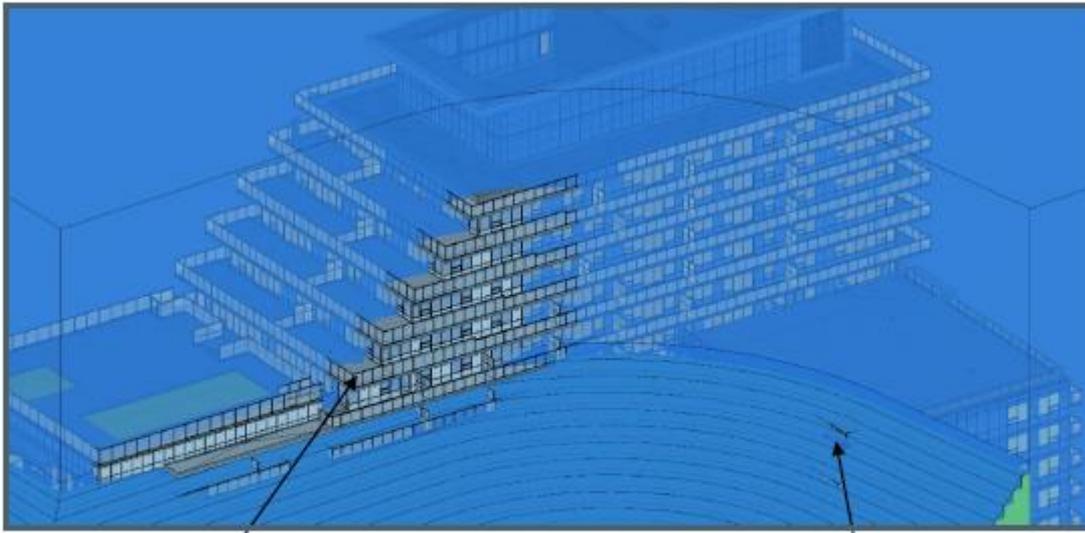
Precinct One: Southern Waterfront and Downtown Halifax Waterfront Requirements

2.10e Public open spaces are provided where the eastward extension of east-west streets intersects the boardwalk. These open spaces shall be accomplished through the use of waterfront view corridors that extend from Lower Water Street to the water's edge



Precinct One: Southern Waterfront and Downtown Halifax Waterfront Requirements

2.10i Ensure building height immediately adjacent to the 8 metre setback shall not be higher than 12.5 metres. Height may increase as distance from the boardwalk or the water's edge increases at a rate of approximately one metre of vertical height for every one metre of horizontal stepback from the boardwalk or water's edge.



Portions of the north-east building face on levels 12, 13, 14, 15 and 16 that are within 30 metres of OHWM and over the required 33.7 metres of building height limit require this variance.

Portion of the railing that is over the required 31.37 metres of building height and within 30 metres of OHWM setback requires this variance.

Design Manual

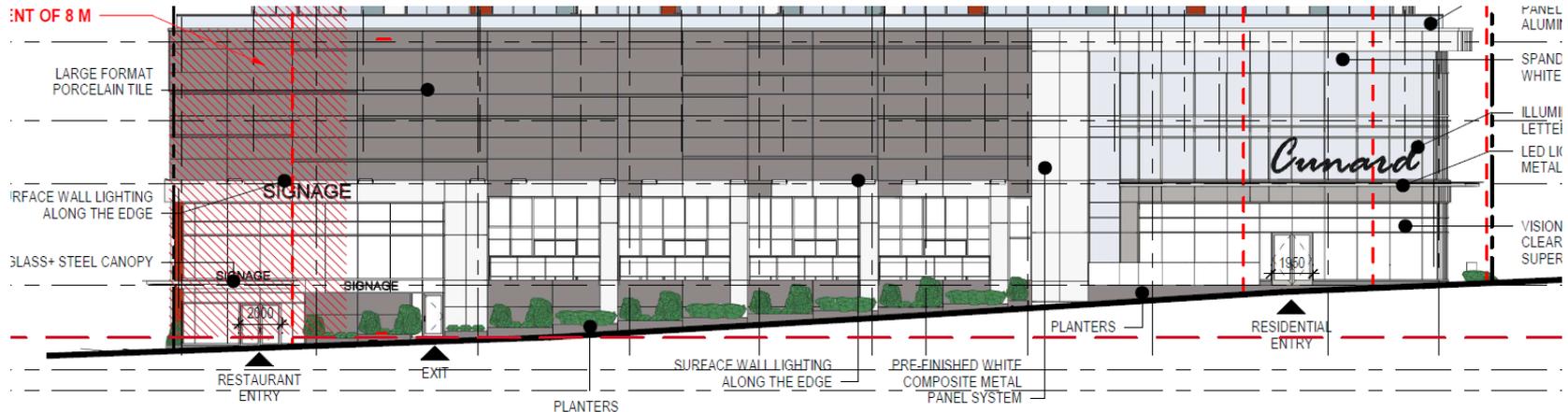
Design of the Streetwall (Section 3.2.1a, 3.2.1f and 3.4.1b) and Sloping Conditions (3.2.5a)

3.2.1a The streetwall should contribute to the fine grained character of the streetscape by articulating the façade in a vertical rhythm that is consistent with the prevailing character of narrow buildings and storefronts. The building is articulated horizontally but not vertically, and the building design does not include fine grained elements. Design cues should be pulled from buildings in the area which do provide a fine grained building articulation at the street level, and this rhythm should be continued along the street frontage of this proposal.

3.2.1f Streetwalls should have many windows and doors to provide eyes on the street and a sense of animation and engagement.

3.4.1b Prominent Civic Frontage

3.2.5a Maintain active uses at-grade, related to the sidewalk, stepping with the slope. Avoid levels that are distant from grade.



Design Manual

Building Design and Articulation

3.3.1b Buildings should seek to contribute to a mix and variety of high quality architecture while remaining respectful of downtown's context and tradition.

3.3.1c To provide architectural variety and visual interest, other opportunities to articulate the massing should be encouraged, including vertical and horizontal recesses or projections, datum lines, and changes in material, texture or colour.



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Variations

Variations are required when the proposal cannot meet the requirements of the LUB

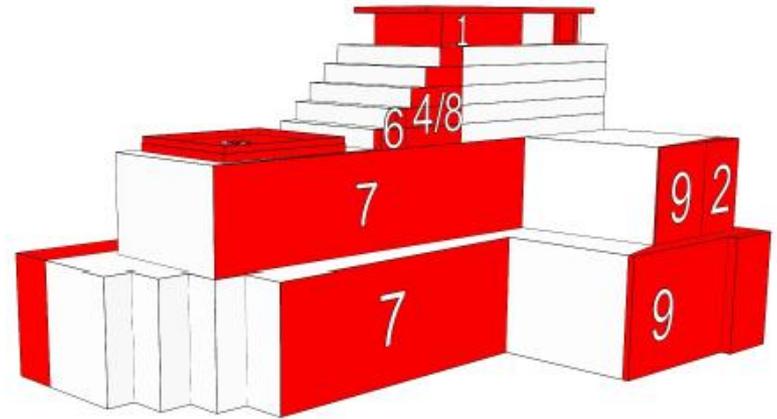
- The LUB states which sections of the by-law may be varied and directs review to the Design manual;
- The Design Manual then prescribes specifically the criteria that must be met to consider approval of a variance;
 - Must be consistent with intent of Design Manual;
 - Intent is to provide some flexibility for the building design
- Staff report will include a recommendation and review of all requested variations;
- DRC evaluates if variance meets the Design Manual; and
- DRC is the approval body for variations
- Regional Council considers all appeals

Requested Variances

12 instances where a variance is needed under the LUB

- Within 11 Sections of the LUB
- 9 building elements
- Five different categories in Design Manual:
 1. Side and rear yard setbacks;
 2. Upper storey side yard stepback;
 3. Maximum height;
 4. Precinct 1 built form variance; and
 5. Tower width and separation distances.

Some variance requests apply in multiple locations, while other building features require more than one category of variances



Variations with Positive Recommendation

- Following variations have positive staff recommendation
- Positively align with the Design Manual
 - Section 11(1)h of the LUB, which requires that buildings on lots with a streetline width greater than 27.5 m be setback from interior lot lines no less than 10% of the lot width or 8 m, whichever is less (Variance #9)
 - Section 10(4) of the LUB (Variance #2) requires that any portion of a mid-rise building above a height of 18.5 m shall be setback 5.5 m from interior lot lines.
 - Section 8(8) of the LUB (Variance #1) requires that a mechanical penthouse shall not occupy more than 30% of the roof area.
 - Section 11(1)e (Variance #7) of the LUB, the maximum width of a building parallel to OHWM is 21.5 m.
- DRC recommended approval of these 4 variations

Requested Variances

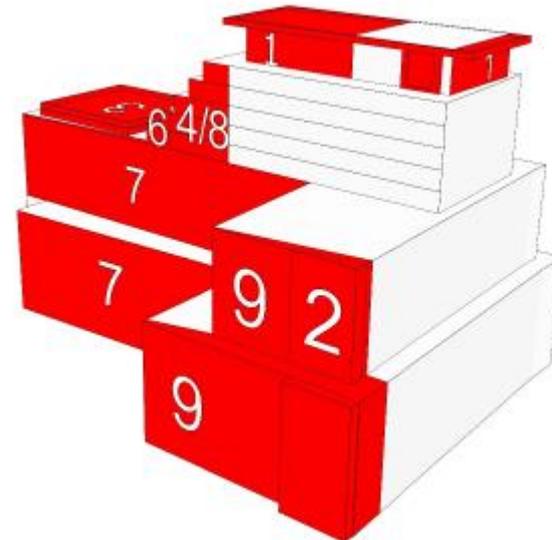
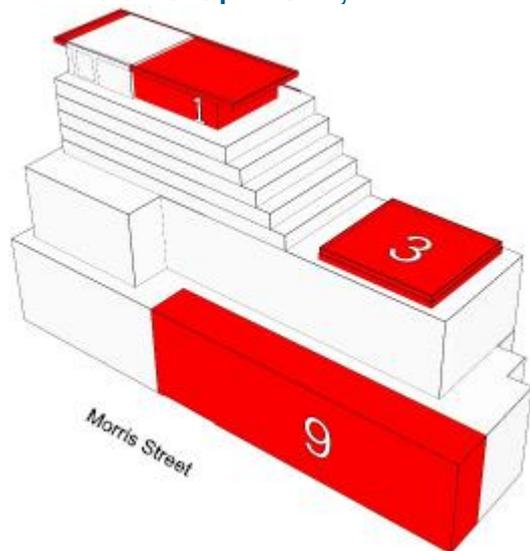
Variance Category 1 – Side and Rear Yard Setback

Variance Category 4 – Precinct 1 Built Form

Section 11(1)h of the LUB, which requires that buildings on lots with a streetline width greater than 27.5 m be setback from interior lot lines no less than 10% of the lot width or 8 m, whichever is less (Variance #9)

Staff recommends **approval** based on the following:

- 3.6.2a – the requested variance is consistent with the Design Manual
- 3.6.2b – the variance does not negatively impact abutting uses by providing insufficient separation do not constitute an increase in gross floor area
- 3.6.10a - fill existing gaps created by vacant properties or parking lots with new development;



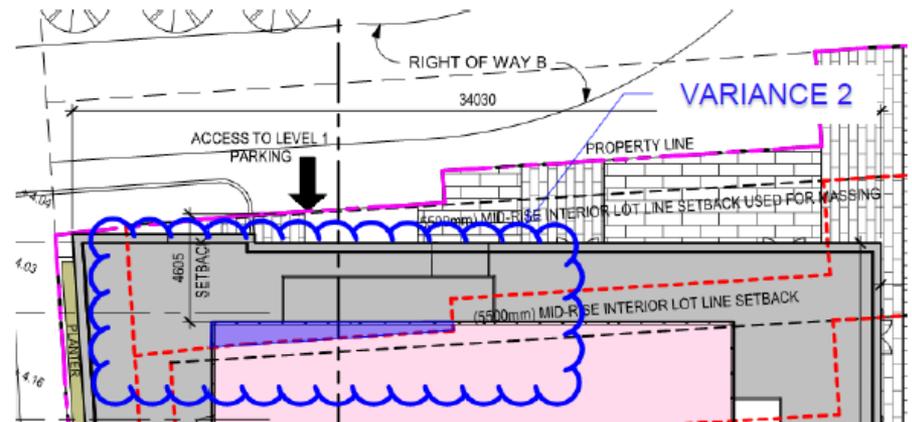
Requested Variances

Variance Category 2 – Upper Storey Side Yard Stepback Variance

Section 10(4) of the LUB (Variance #2) requires that any portion of a mid-rise building above a height of 18.5 m shall be setback 5.5 m from interior lot lines.

- **Staff recommends approval based on the following:**
 - 3.6.6a – the requested variance is consistent with the Design Manual
 - 3.6.6b – where the height of the building is substantially lower than the maximum permitted building height and the setback reduction is proportional to that lower height

Required Setback – 5.5 metres
Provided Setback – 5.5 metres [4.6 metres only at the N-W corner]

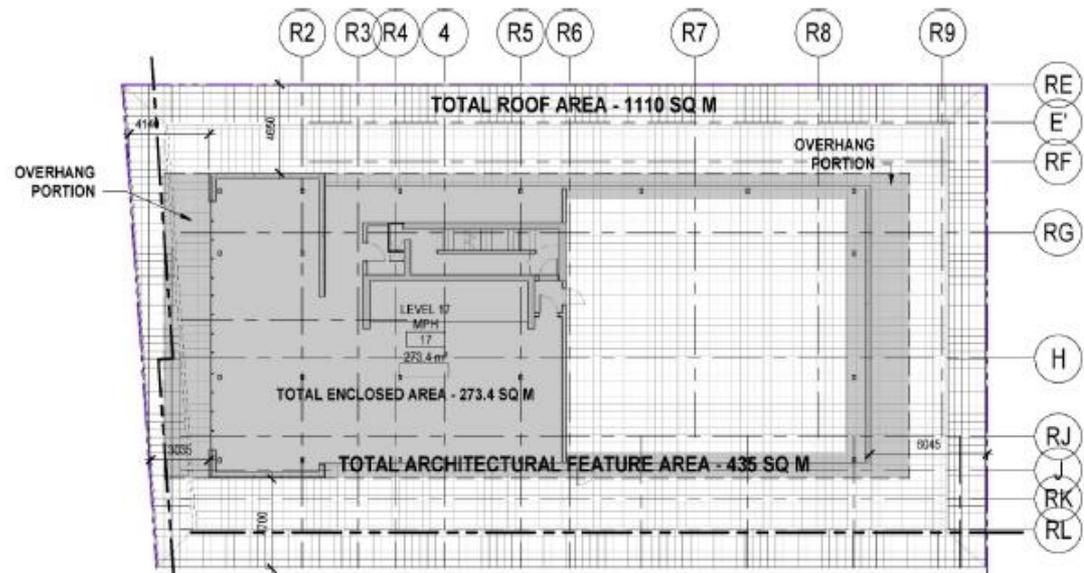


Requested Variances

Variance Category 3 – Maximum Height

Section 8(8) of the LUB (Variance #1) requires that a mechanical penthouse shall not occupy more than 30% of the roof area.

- Staff recommends approval based on the following:
 - 3.6.8a – the requested variance is consistent with the Design Manual
 - 3.6.8b – the mechanical penthouse and railings do not constitute an increase in gross floor area



Variance Category 4 – Precinct 1 Built Form

Section 11(1)e (Variance #7) of the LUB, the maximum width of a building parallel to OHWM is 21.5 m.

- Staff recommends approval based on the following:
 - 3.6.10a – fill existing gaps created by vacant properties or parking lots with new development;

Variances With Negative Recommendation

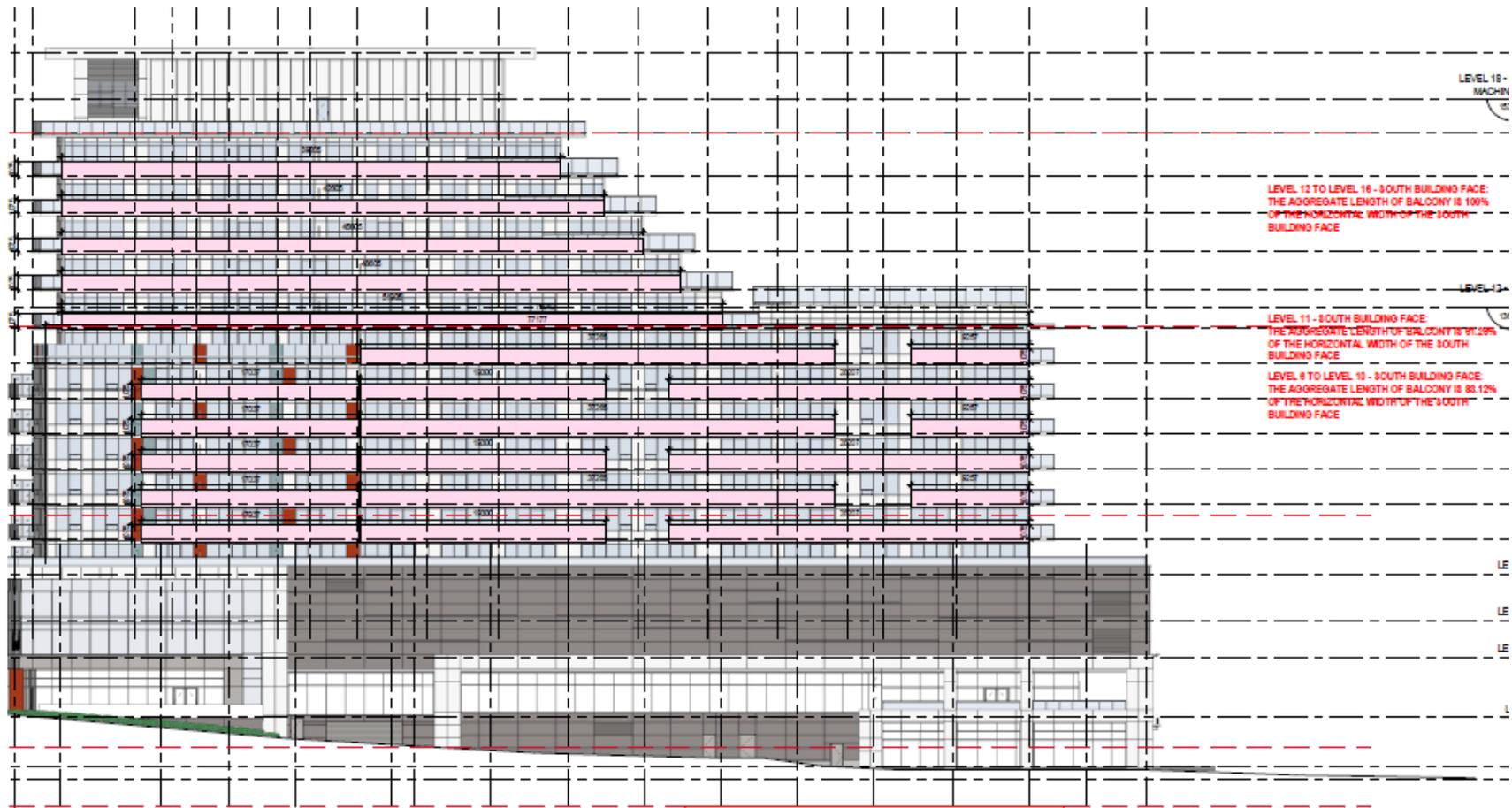
Following variances do not have staff support:

- Section 10(13) (Variance #5) which allows balconies to be permitted encroachments into a setback or stepback provided that aggregate length of balconies does not exceed 50% of building face.
- Section 11(1)c (Variance #6) states that the maximum height of a building within 30 m of the OHWM (Ordinary High-Water Mark) is 12.5 m, which may be increased by 1 m for each additional metre of setback from the OHWM.
- Section 10(10) (Variance #4) states that buildings shall be a maximum width of 38 m and a maximum depth of 38 m,
- Section 11(1)f (Variance #8) requires that the maximum width of any portion of a building above a height of 33.5 m shall be 21.5 m parallel to Lower Water Street and a maximum depth of 38.5 m.
- Section 10(9) of the LUB (Variance #3) requires that any portion of a high-rise building above a height of 33.5 m shall be separated from another non residential portion of the building by a minimum of 23 m.

Requested Variances

Variance Category 2 – Upper Storey Side Yard Stepback Variance

Section 10(13) (Variance #5) which allows balconies to be permitted encroachments into a setback or stepback provided that aggregate length of balconies does not exceed 50% of building face.



LEVEL 12 TO LEVEL 16 - SOUTH BUILDING FACE:
THE AGGREGATE LENGTH OF BALCONY IS 100%
OF THE HORIZONTAL WIDTH OF THE SOUTH
BUILDING FACE

LEVEL 11 - SOUTH BUILDING FACE:
THE AGGREGATE LENGTH OF BALCONY IS 91.25%
OF THE HORIZONTAL WIDTH OF THE SOUTH
BUILDING FACE

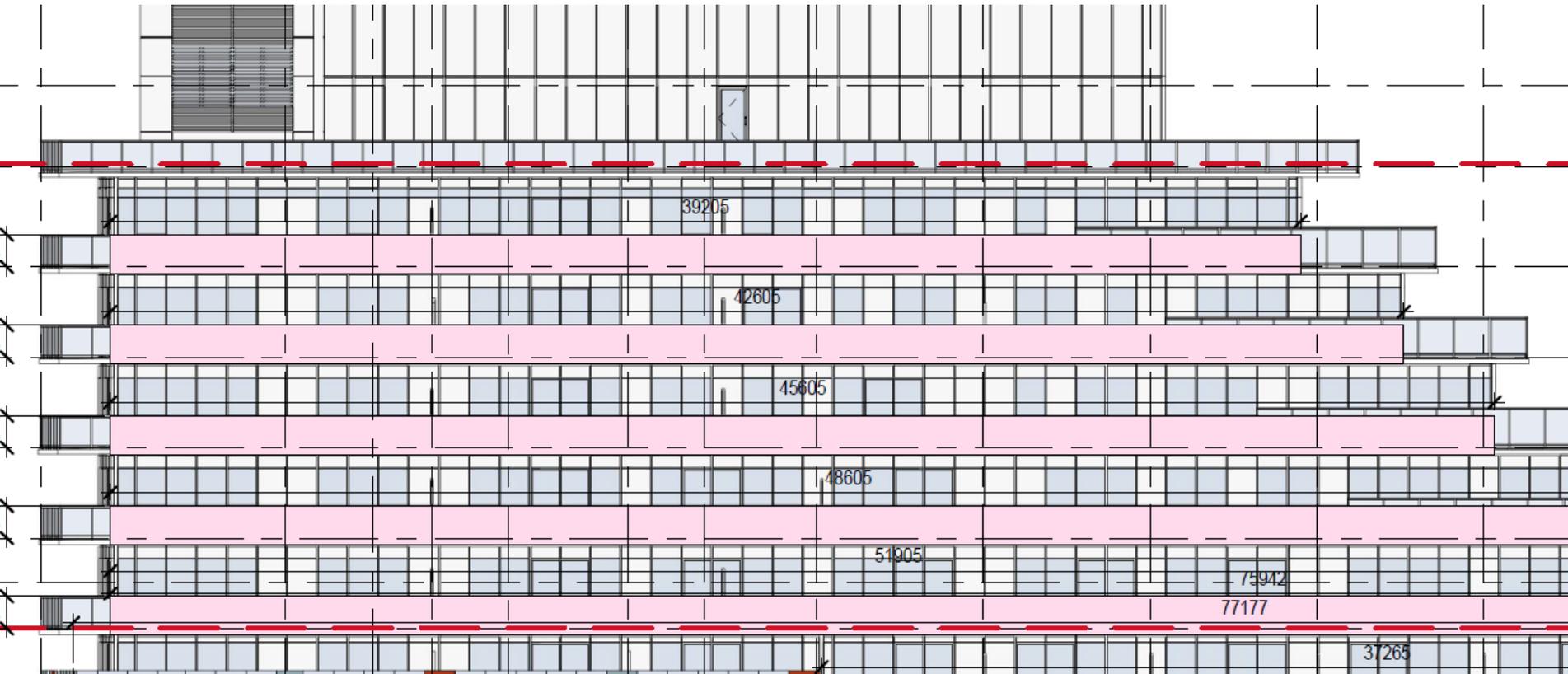
LEVEL 8 TO LEVEL 10 - SOUTH BUILDING FACE:
THE AGGREGATE LENGTH OF BALCONY IS 98.12%
OF THE HORIZONTAL WIDTH OF THE SOUTH
BUILDING FACE

LEVEL 6 TO LEVEL 16 - SOUTH BUILDING FACE TOTAL:
THE TOTAL AGGREGATE LENGTH OF BALCONIES IS 86.29%
OF THE HORIZONTAL WIDTH OF THE SOUTH
BUILDING FACE TOTAL

Requested Variances

Variance Category 2 – Upper Storey Side Yard Stepback Variance

Section 10(13) (Variance #5) which allows balconies to be permitted encroachments into a setback or stepback provided that aggregate length of balconies does not exceed 50% of building face.



Requested Variances

Variance Category 2 – Upper Storey Side Yard Stepback Variance



Variance Category 2 – Upper Storey Side Yard Stepback Variance

Section 10(13) (Variance #5) which allows balconies to be permitted encroachments into a setback or stepback provided that aggregate length of balconies does not exceed 50% of building face.

Staff recommends refusal based on the following:

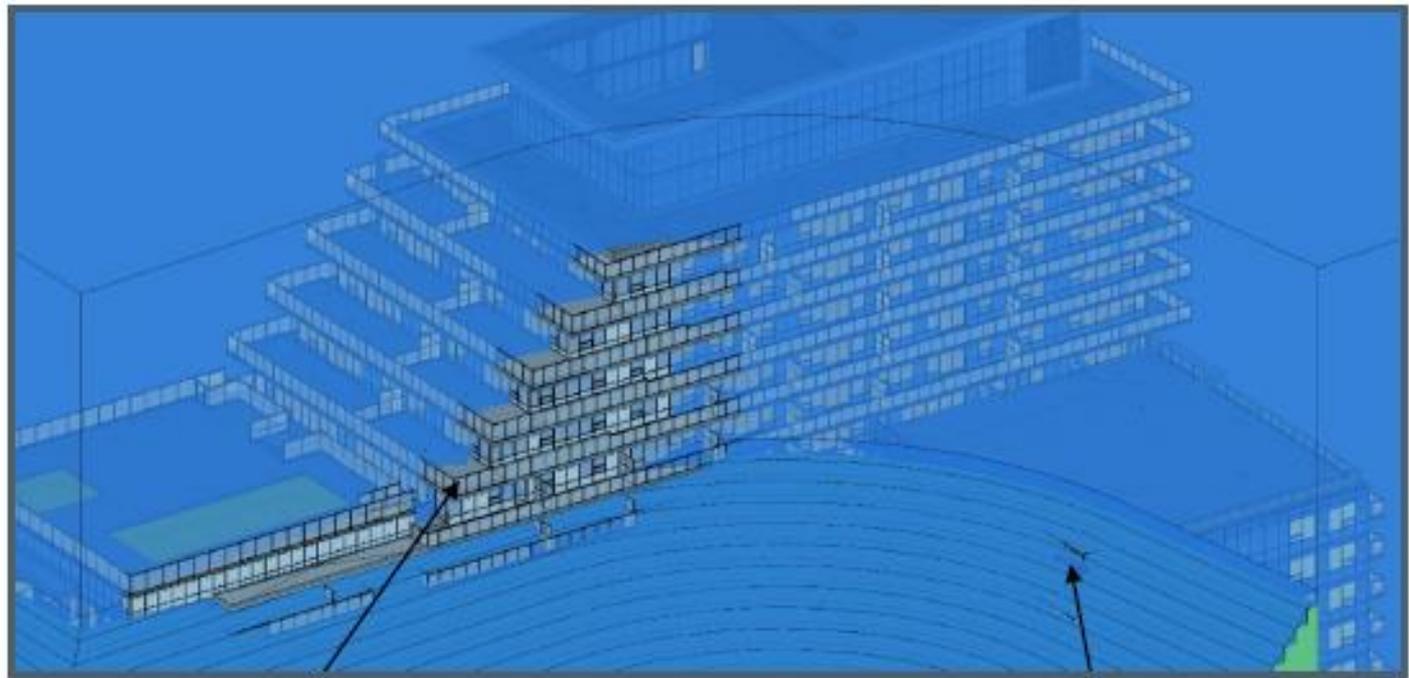
- 3.6.6a – the requested variance is inconsistent with the Design Manual and it does not meet either of the criteria below
- 3.6.6b – where the height of the building is substantially lower than the maximum permitted building height and the setback reduction is proportional to that lower height; or
- 3.6.6c- a reduction in setback results in the concealment of an existing blank wall with a new, well designed structure.

DRC did not allow this variance

Requested Variances

Variance Category 3 and 4 – Maximum Height and Precinct 1 Built Form

Section 11(1)c (Variance #6) states that the maximum height of a building within 30 m of the OHWM (Ordinary High-Water Mark) is 12.5 m, which may be increased by 1 m for each additional metre of setback from the OHWM.



Portions of the north-east building face on levels 12, 13, 14, 15 and 16 that are within 30 metres of OHWM and over the required 33.7 metres of building height limit require this variance.

Portion of the railing that is over the required 31.37 metres of building height and within 30 metres of OHWM setback requires this variance.

Variance Category 3 and 4 – Maximum Height and Precinct 1 Built Form

Section 11(1)c of the LUB (Variance #6) requires the maximum height of the building within 30 m of the OHWM to be no greater than 12.5 m;

- While it meets 3.6.10a, **Staff recommends refusal based on the following:**
 - 3.6.8a – the requested variance is inconsistent with the Design Manual and does not meet any of the following criteria:
 - 3.6.8b –the additional building height is for rooftop architectural features and the additional height does not result in an increase in gross floor area;
 - 3.6.8c— the maximum building height is less than 1.5 metres below the View Plane or Rampart height requirements;
 - 3.6.8d -where a landmark building element is provided pursuant to the Design Manual; or
 - 3.6.8e- where the additional height is shown to enable the adaptive re use of heritage buildings.
 - **DRC identified these elements to be a landmark building element**

Requested Variances

Variance Category 4 – Precinct 1 Built Form

Variance Category 5 – Tower Width and Separation

Section 10(10) (Variance #4) states that buildings shall be a maximum width of 38 m and a maximum depth of 38 m, and Section 11(1)f (Variance #8) requires that the maximum width of any portion of a building above a height of 33.5 m shall be 21.5 m parallel to Lower Water Street and a maximum depth of 38.5 m.

While it meets 3.6.10a, **Staff recommends refusal based on the following:**

- 3.6.7a – the requested variance is inconsistent with the Design Manual; and it does not meet the following
- 3.6.7b – the modification results in a clear public benefit such as the remediation of an existing blank building wall;
- **DRC approved this as a clear public benefit**

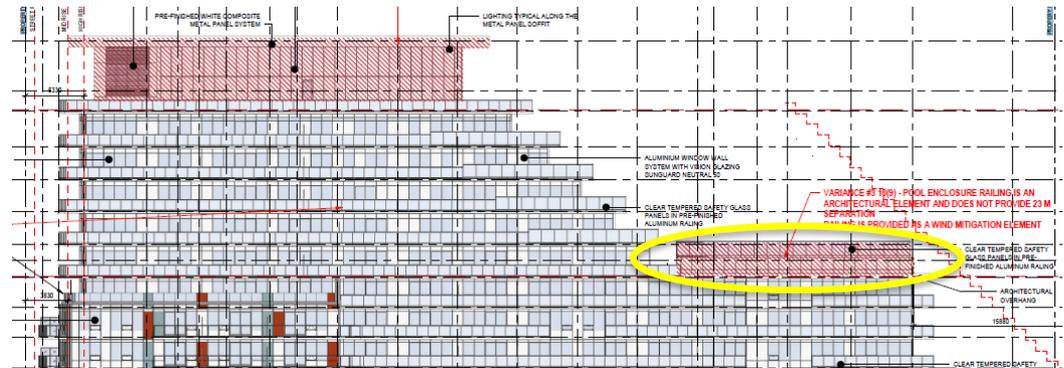
Requested Variances

Variance Category 5 – Tower Width and Separation

Section 10(9) of the LUB (Variance #3) requires that any portion of a high-rise building above a height of 33.5 m shall be separated from another non residential portion of the building by a minimum of 23 m.

○ Staff recommends refusal based on the following:

- 3.6.7a – the requested variance is inconsistent with the Design Manual; and it does not meet the following
- 3.6.7b – the modification results in a clear public benefit such as the remediation of an existing blank building wall;



DRC approved this as a clear public benefit

Wind Study

- Wind study required a built model of the proposal and surrounding area to assess wind impacts on public space at the ground level and proposed outdoor amenity space
 - Model was placed in a wind tunnel to assess impacts
- Development will result in comfort levels suitable for persons sitting, standing, or walking at the sidewalk level
- Study indicated higher than desired wind activity for the outdoor amenity areas located on levels 11 and 12
 - Mitigation proposed include trellises, stand alone canopies and landscaping at level 11
 - Mitigation proposed include canopies and tall porous railings of at least 2m and 20-40% porosity, at level 12
 - RWDI confirmed that the proposed mitigation will respond to wind issues



Post-Bonus Height Public Benefit

- Design Review Committee's role is to review and recommend to the Development Officer whether a proposed public benefit should be accepted by the Municipality.
- 4.70 for every 1 sq metres. $\$4.7 * 2937 = \$138,039.00$
- LEED Gold certification
- DRC recommended approval of this

Design Review Committee

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Decision on Building Design & Variances

The building design was approved by Design Review Committee on July 30, 2020, with the following motion:

1. Approve the qualitative elements of the substantive site plan approval application for Case 22708 as shown in Attachment A with consideration given to the following:
 - a) adding public access to the penthouse level,
 - b) adding articulation to the banding,
 - c) providing vertical articulation to break up the horizontal massing within floors 3 and 4 of the development, and
 - d) subject to an approved license agreement with Nova Scotia Power Inc, the applicant shall consider minor modifications to the streetwall of the building abutting the Morris Street Waterfront View Corridor, such as streetwall articulation, materials including glazing, and public art features that serve to further activate the terminus area of the Morris Street Waterfront View Corridor.

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Design Review Committee

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Decision on Building Design & Variances

2. Approve 11 of the 12 variances requested by the applicant but refuse the variance that is requested to section 10.13 of the Land Use By-law which allows balconies to be permitted encroachments into a setback or stepback provided that the aggregate length of the balconies does not exceed 50% of the building face and approve the following variances:
 - a) Variance Category 3: Maximum Height Variance is consistent with section 3.6.8d of the Design Manual,
 - b) Variance Category 4: Precinct 1 Built Form Variance is consistent with section 3.6.7b of the Design Manual,
 - c) Variance Category 5: Tower Width and Separation is consistent with section 3.6.7b of the Design Manual, and
 - d) Approve the 4 variances as per the staff recommendation.
3. Accept the findings of the qualitative Wind Impact Assessment, as contained in Attachment C.
4. Recommend that the Development Officer accept sustainable building practices as the post-bonus height public benefit for the development.

HALIFAX

In accordance with Administrative Order One, the following motion shall be placed on the floor:

That the appeal be allowed.

Halifax Regional Council approval of the appeal will result in the refusal of the Substantive Site Plan Approval Application.

Halifax Regional Council denial of the appeal will result in approval of the Substantive Site Plan Approval Application.

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Thank You