



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

Item No. 13.1.2
Harbour East Marine Drive Community Council
Special Meeting
December 16, 2020

TO: Chair and Members of Harbour East Marine Drive Community Council

-Original Signed-

SUBMITTED BY:

Kelly Denty, Director of Planning and Development

DATE: May 21, 2020

SUBJECT: **Case 22921: Discharge Development Agreement for property at the corner of Wyse Road and Pelzant St., Dartmouth (PID 00045351)**

ORIGIN

Application by Zagros Nova Home Developments Limited.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), 2008, c. 39, Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Harbour East - Marine Drive Community Council:

1. Approve, by resolution, the Discharge Agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
2. Require the Discharge Agreement be signed by the property owner within 240 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

Zagros Nova Home Developments Limited is applying to discharge an existing development agreement that would have allowed the construction of a six-storey, mixed use building on property with PID 00045351 located at the corner of Wyse Road, Pelzant Street and George Street in Dartmouth.

Subject Site	PID 00045351 - Corner of Wyse Road, Pelzant Street and George Street in Dartmouth
Location	Regional Centre Municipal Planning Strategy
Regional Plan Designation	US (Urban Settlement)
Community Plan Designation (Map 1)	Centre
Zoning (Map 2)	CEN-2 (Centre 2)
Size of Site	1,604 m ² (17,263 ft ²)
Street Frontage	Wyse Road: 25 m (82 ft) Pelzant Street: Approx. 60 m (193 feet) George Street: Approx. 31 m (102 ft)
Current Land Use(s)	Vacant
Surrounding Use(s)	Single and two-unit dwellings, apartment buildings, office uses, retail uses and restaurant uses.

Proposal Details

The applicant proposes to discharge a development agreement that would permit the construction of a 6-storey, multi-use building with up to 78 dwelling units and commercial uses at grade along Wyse Road on property with PID 00045351 in Dartmouth. The Harbour East - Marine Drive Community Council approved the Development Agreement under case 21537 at its meeting on May 2, 2019. The land owner has indicated they will be pursuing a Site Plan Approval application as per applicable Regional Centre Plan policies. To do this, the Development Agreement existing on the lands would first need to be discharged.

Policy Context

The *Halifax Regional Municipality Charter* provides Council with a mechanism to discharge development agreements. Part VIII, Clause 244 identifies that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The *Charter* does not require a public hearing for the discharge of an agreement or a portion thereof. A Community Council may discharge a development agreement by resolution.

The structure permitted by the existing development agreement was never constructed, and the subject site remains vacant. If the existing development agreement is discharged, future development on the subject site would be controlled by the CEN-2 zone standards in the Land Use By-law for the Regional Centre.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site. Staff have not received any comments from the public relating to this application, and there is no requirement for a public hearing for this application.

DISCUSSION

The subject site is zoned CEN-2 in the Land Use By-law for the Regional Centre. The CEN-2 Zone permits a wide range of residential, commercial, open space, institutional and industrial uses. A full list of the uses permitted in the CEN-2 Zone can be found in Attachment C.

Any of the CEN-2 uses could be permitted by-right if the existing development agreement is discharged. The CEN-2 Zone is subject to maximum Floor Area Ratios (FAR) on Map 2 of the Regional Centre MPS. Maximum FAR for by-right development on the subject site is 5.00.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the request to discharge the existing development agreement is reasonably consistent with the intent of the Regional Centre MPS. The proposed discharge is also explicitly provided for in both the *HRM Charter* and the approved development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed discharge agreement. The administration of the proposed discharge agreement can be carried out within the approved 2020-2021 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of discharge the development agreement contained within the Discussion section of this report, if applicable.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Harbour East Marine Drive Community Council may choose to refuse to discharge the existing development agreement, and therefore, development on the property would remain subject to the conditions of the agreement. A decision of Council to refuse to discharge a development agreement is appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

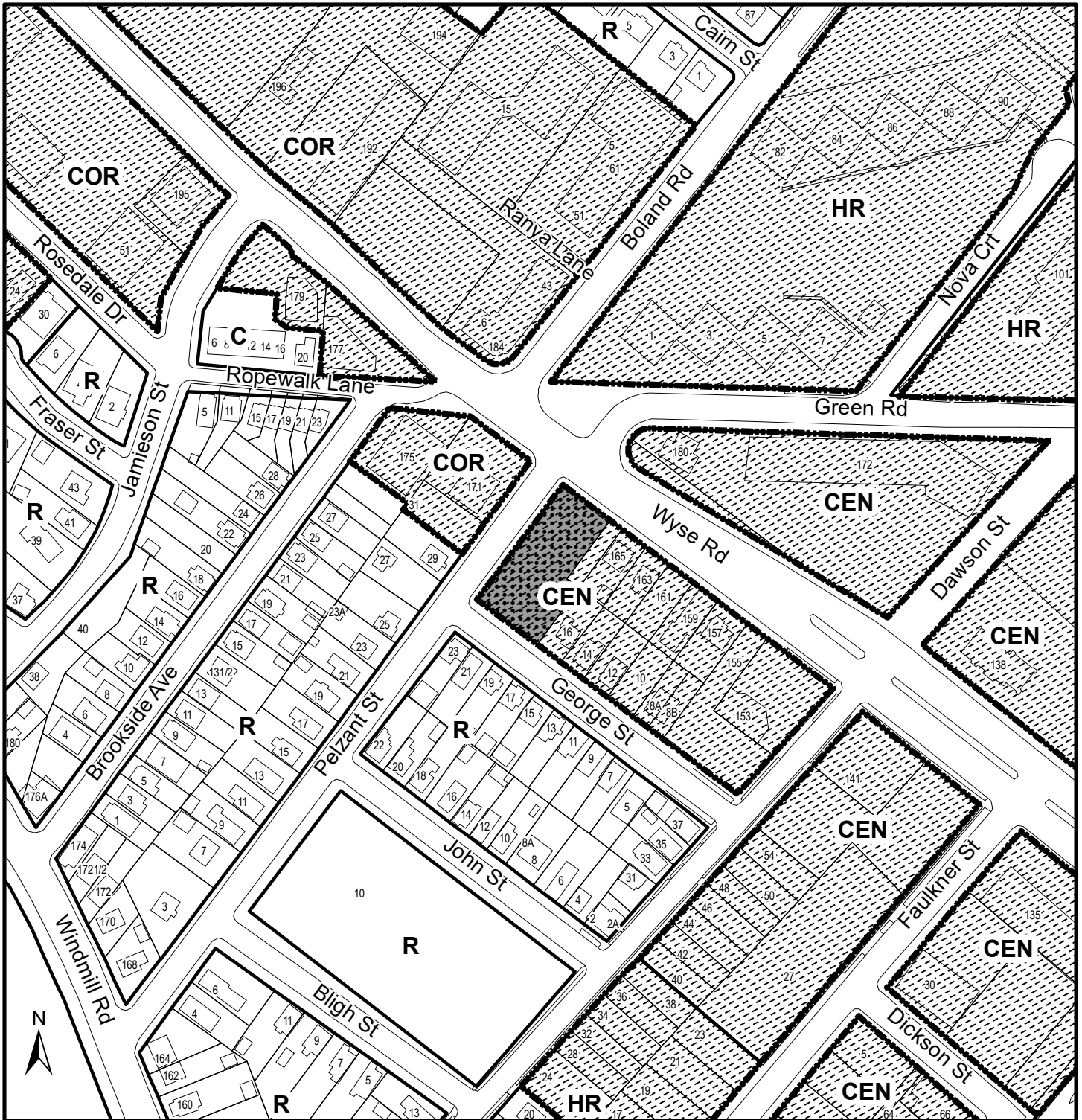
ATTACHMENTS

Map 1: Generalized Future Land Use
Map 2: Zoning

Attachment A: Discharge Agreement
Attachment B: Original Development Agreement
Attachment C: Regional Centre LUB - List of Permitted Uses in the CEN-2 Zone


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


Report Prepared by: Jamy-Ellen Klenavic, Planner 2, 902.476.8361



Map 1 - Generalized Future Land Use

Pelzant St, Dartmouth

 Area of Existing Development Agreement to be Discharged

 Regional Centre Package A Plan Area

Dartmouth Plan Area
Regional Centre Package A Plan Area

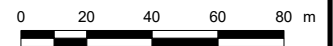
Dartmouth Plan Area

- R Residential
- C Commercial
- I Industrial

Regional Centre Package A Plan Area

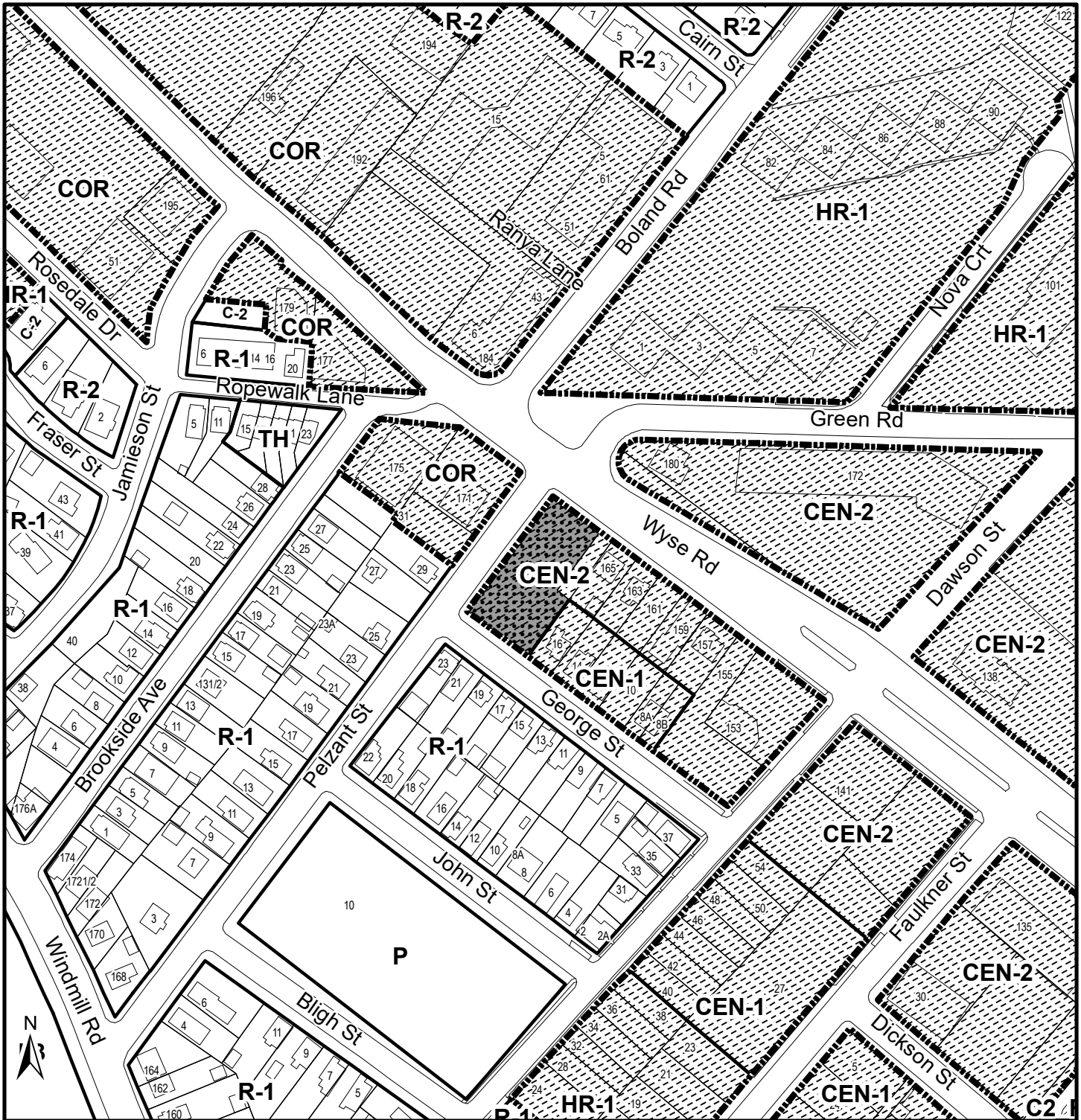
- CEN Centre
- COR Corridor
- HR High-Order Residential

HALIFAX




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


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



Map 2 - Zoning and Location

Pelzant St, Dartmouth

 Area of Existing Development Agreement to be Discharged

 Regional Centre Package A Plan Area

Dartmouth By-Law Area
Regional Centre Package A By-Law Area

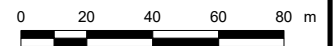
Dartmouth Bylaw Area

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-4 Multiple Family Residential (High Density)
- C-2 General Business
- I-3 Harbour-Oriented Industrial
- TH Town Housing
- P Park

Regional Centre Package A Bylaw Area

- CEN-1 Centre 1
- CEN-2 Centre 2
- COR Corridor
- HR-1 Higher-Order Residential 1

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

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

ATTACHMENT A: Discharging Agreement

THIS DISCHARGING AGREEMENT made this day of , 202_ ,

BETWEEN:

PROPERTY OWNER

a body corporate, registered 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 Wyse Road and Pelzant Street in Dartmouth (PID 00045351), and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East – Marine Drive Community Council approved an application on May 2, 2019 to enter into a Development Agreement to allow the construction of a six-storey mixed use development on the Lands, pursuant to policy IP-5 of the Dartmouth Municipal Planning Strategy and referenced as Municipal Case 21537, and which said development agreement was registered at the Registry of Deeds in Halifax on July 17, 2019, as Document Number 114796478 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Existing Agreement be discharged from the Lands;

AND WHEREAS Section 244(2) of the *Halifax Regional Municipality Charter* states that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owners;

AND WHEREAS the Harbour East – Marine Drive Community Council of the Municipality approved this request by resolution at a meeting held on **Insert – date**, referenced as Municipal Case 22921;

THEREFORE in consideration of the benefits accrued to each party from the covenants herein contained, the parties agree as follows:

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with all applicable provisions and requirements of the Land Use By-law for the Regional Centre, as amended from time to time.

ATTACHMENT A: Discharging 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:

[DEVELOPER]

Witness

Per: _____

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

ATTACHMENT A: Discharging Agreement

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

Attachment B: Existing Development Agreement

Form 24

Purpose: to change the registered interest, benefits or burdens

(Instrument code: 450)

(If change(s) requested relate(s) to one or more of the following and no other interests are being added or removed on this form: manner of tenure, description of manner of tenure, non-resident status, parcel access or NSFLB occupant. Note: This form cannot be used to correct an error in a parcel register).

(Instrument code: 451)

(Change to existing servient or dominant tenement PID number in a parcel register as a result of subdivision or consolidation. Note: This form cannot be used to correct an error in a parcel register)

For Office Use

Registration district: Halifax
Submitter's user number: 1709
Submitter's name: J. Washington

HALIFAX COUNTY LAND REGISTRATION OFFICE
I certify that this document was registered or recorded as shown here.
Kim MacKay, Registrar
114796478
Document #
JUL 17 2019
MM DD YYYY
LR [checked] ROD []
13:30
Time

In the matter of Parcel Identification Number (PID)

Table with 2 columns and 2 rows. Row 1: PID 45351. Row 2: PID

(Expand box for additional PIDs, maximum 9 PIDs per form)

The following additional forms are being submitted simultaneously with this form and relate to the attached document (check appropriate boxes, if applicable):

- Form 24(s)
Form 8A(s)

Additional information (check appropriate boxes, if applicable):

- This Form 24 creates or is part of a subdivision or consolidation.
This Form 24 is a municipal or provincial street or road transfer.
This Form 24 is adding a corresponding benefit or burden as a result of an AFR of another parcel.
This Form 24 is adding a benefit or burden where the corresponding benefit/burden in the "flip-side" parcel is already identified in the LR parcel register and no further forms are required.

Power of attorney (Note: completion of this section is mandatory)

- No power of attorney applies to this document

This form is submitted to make the changes to the registered interests, or benefits or burdens, and other related information, in the above-noted parcel register(s), as set out below.

May 4, 2009

The registered interests and related information are to be changed as follows:

Instrument type	
Interest holder and type to be removed (if applicable)	
Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) if applicable</i>	
Mailing address of interest holder to be added (if applicable)	
Manner of tenure to be removed (if applicable)	
Manner of tenure to be added (if applicable)	
Description of mixture of tenants in common and joint tenancy (if applicable)	
Access type to be removed (if applicable)	
Access type to be added (if applicable)	
Percentage or share of interest held (for use with tenant in common interests)	
Non-resident (to qualified solicitor's information and belief) (Yes/No?)	
Reference to related instrument in parcel register (if applicable)	
Reason for removal of interest (for use only when interest is being removed by operation of law and no document is attached) Instrument code: 443	

The following tenant in common interests that appear in the section of the parcel register(s) labelled "Tenants in Common not registered pursuant to the *Land Registration Act*" are to be removed because the interests are being registered (*insert names to be removed*):

May 4, 2009

I have searched the judgment roll with respect to this revision of the registered interest and have determined that it is appropriate to add the following judgment(s) or judgment-related documents to the parcel register, in accordance with the *Land Registration Act* and *Land Registration Administration Regulations*:

Instrument type	
Interest holder name and type to be added	
Interest holder mailing address	
Judgment Roll reference	

The following benefits are to be added and/or removed in the parcel register(s):

(Note: An amending PDCA is required if the changes being made to the benefit section are not currently reflected in the description in the parcel register).

Instrument type	
Interest holder and type to be removed (if applicable)	
Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i>	
Mailing address of interest holder to be added (if applicable)	
Servient tenement parcel(s) (list all affected PIDs):	
Reference to related instrument in names-based roll/parcel register (if applicable)	
Reason for removal of interest (for use only when interest is being removed by operation of law) <i>Instrument code: 443</i>	

The following burdens are to be added in the parcel register(s):

(Note: An amending PDCA is required if the changes being made to the burden section are not currently reflected in the description in the parcel register).

Instrument type	Agreement Re: Use of Land
Interest holder and type to be removed (if applicable)	n/a
Interest holder and type to be added (if applicable) <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i>	Halifax Regional Municipality Party to Agreement (Burden)
Mailing address of interest holder to be added (if applicable)	PO Box 1749 Halifax, NS B3J 3A5
Reference to related instrument in names-based roll/parcel register (if applicable)	n/a

May 4, 2009

Reason for removal of interest <i>(for use only when interest is being removed by operation of law)</i> Instrument code: 443	n/a
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The following recorded interests are to be added and/or removed in the parcel register:

Instrument type	
Interest holder and type to be removed <i>(if applicable)</i>	
Interest holder and type to be added <i>(if applicable)</i> <i>Note: include qualifier (e.g., estate of, executor, trustee, personal representative) (if applicable)</i>	
Mailing address of interest holder to be added <i>(if applicable)</i>	
Reference to related instrument in names-based roll/parcel register <i>(if applicable)</i>	
Reason for removal of interest <i>(for use only when interest is being removed by operation of law)</i> Instrument code: 443	

The textual qualifications are to be changed as follows:

Textual qualification on title to be removed <i>(insert any existing textual description being changed, added to or altered in any way)</i>	
Textual qualification on title to be added <i>(insert replacement textual qualification)</i>	

Reason for change to textual qualification <i>(for use only when no document is attached)</i> Instrument code: 838	
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The following information about the occupier of the parcel, which is owned by the Nova Scotia Farm Loan Board, is to be changed:

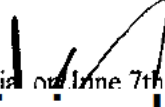
Name and mailing address of occupier to be removed	
Name and mailing address of occupier to be added	

May 4, 2009

Certificate of Legal Effect:

I certify that, in my professional opinion, it is appropriate to make the changes to the parcel register(s) as instructed on this form.

Dated at Halifax, in the County of Halifax, Province of Nova Scotia on June 7th 2019


Original Signed

Name:  J. Washington

Address: 503-5475 Spring Garden Road
Halifax, NS B3J 3T2

Phone: 

E-mail: 

Fax: 

- This document also affects non-land registration parcels. The original will be registered under the *Registry Act* and a certified true copy for recording under the *Land Registration Act* is attached.

May 4, 2009

THIS AGREEMENT made this 28 day of June, 2019,

BETWEEN:

3112771 NOVA SCOTIA LIMITED,
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 located at 169 Wyse Road, Dartmouth, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow for a mixed-use development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy IP-5 of the Dartmouth Municipal Planning Strategy;

AND WHEREAS the Harbour East-Marine Drive Community Council for the Municipality approved this request at a meeting held on May 2, 2019 referenced as Municipal Case Number 21537;

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, subdivision and use of the Lands shall comply with the requirements of the Land Use By-law for Dartmouth and the Halifax Regional Subdivision By-law, as may be amended from time to time.

1.2.2 Variances to the requirements of the Land Use By-law for Dartmouth shall not be permitted.

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 and/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, 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) **Lounge:** means an establishment licensed as a lounge pursuant to the Nova Scotia Liquor Control Act.

(b) **Amenity Space:** means non-commercial indoor space designed for shared use by a building's occupants, such as communal indoor kitchens, swimming pools, fitness rooms, racquet or other sport courts, playgrounds, games and television rooms, exercise or art studios, music

rooms, greenhouses, saunas, and meeting rooms.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

3.1.1 The Developer shall develop the lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 21537:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Level P1 – Lower Parking
Schedule D	Level P2/TH at George Street
Schedule E	East Elevation
Schedule F	North Elevation
Schedule G	West Elevation
Schedule H	South Elevation

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 Part 5 of this Agreement;
- (b) A detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Part 5 of this Agreement; and
- (c) A detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer in accordance with Part 5 of this Agreement.

3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide to the Development Officer:

- (a) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.6 of this Agreement; and

3.2.3 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the Development Officer with certification from a member in good standing of the Canadian Society of Landscape Architects indicating that the Developer has complied with the landscaping provisions of this Agreement, or the posting of security in accordance with Section 3.6.7.

3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any use 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 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 use(s) of the Lands permitted by this Agreement are an apartment building consisting of the following:

- (a) ground floor commercial uses at the Wyse Road level;
- (b) a maximum of 78 residential units, 4 of which are to have independent pedestrian access to George Street. The unit mix shall be as follows:
 - (i) a minimum of 18 two-bedroom or larger apartment units;
 - (ii) a maximum of 60 one-bedroom apartment units; and
- (c) two levels of underground parking, one being accessed from Pelzant Street and the other being accessed from George Street, as generally shown on Schedule B, C and D.

3.4 Detailed Provisions for Land Use

- 3.4.1 Ground-floor commercial uses shall be limited to uses permitted by the C-1 (Local Business) Zone of the Land Use By-law for Dartmouth, and a Lounge in association with a restaurant. The remaining floors shall include multiple-unit residential, Amenity Space, and residential accessory uses only.
- 3.4.2 A minimum of 241.5 square metres (2600 square feet) of commercial space shall be provided on the ground-floor level of Wyse Road, which shall include contiguous frontage at the corner of Wyse Road and Pelzant Street, as generally shown on Schedules E and F.

3.5 Building Siting and Architectural Requirements

- 3.5.1 The building footprint, height, massing, exterior design and mix of materials shall be as generally shown on the Schedules of this Agreement.
- 3.5.2 The elevator overrun, rooftop mechanical equipment, and associated screening are permitted to exceed the overall height, but shall not occupy more than 30% of the rooftop area and shall not exceed a maximum of 4.5 m (14.76 ft.) in height.
- 3.5.3 Building cladding shall be varied throughout five panels, as generally shown on Schedules E through H. The following external cladding materials shall be prohibited:
 - a) vinyl siding;
 - b) plastic, except for architectural laminate panels;
 - c) bare or painted plywood;
 - d) standard concrete blocks, however architectural concrete products are permitted;
 - e) exterior insulation and finish systems (EIFS) where stucco is applied to rigid insulation as a primary weather protection for the building envelope; and
 - f) mirrored glass or darkly tinted glass.
- 3.5.4 Minimum property line setbacks shall be as shown on the Schedules. These setbacks may be increased provided the overall massing of the building is otherwise consistent with the Schedules.
- 3.5.5 All guardrails associated with balconies and terraces shall be made of metal framing with insert colour tinted glass.
- 3.5.6 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.).
- 3.5.7 Any exposed foundation in excess of 0.6 m (2 foot) in height shall be architecturally detailed, veneered with stone or brick, or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.8 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are

designed as an integral part of the building façade and subject to the requirements of any other applicable by-law, statute or regulation.

3.6 Amenity Space and Landscaping

- 3.6.1 The building shall include individual balconies or terraces for at least 62 of the 78 apartment units.
- 3.6.2 The building shall include a singular common Amenity Space of a minimum 129.14 square metres (1390 square feet) for the residents of the building, and which shall be located above ground.
- 3.6.3 Landscaping shall be provided for as generally shown on Schedule B. In addition to the plantings shown on Schedule B, landscaping in the form of a 0.45 m (1.5 ft.) wide planter setback 0.3 m (1 ft.) from the shared property line of 16 George Street shall be provided for along the entire length of the parking ramp, as shown on Schedule H. In addition, a raised bed concrete planter is required to be located at the residential entry off Pelzant Street, as shown on Schedule F.
- 3.6.4 Prior to the issuance of a Development Permit, the Developer shall provide a Landscape Plan which complies with the provisions of this section and conforms with the overall intentions of the landscaping shown on the Schedules of this Agreement. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.6.5 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.6.6 Prior to the 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.
- 3.6.7 Notwithstanding Section 3.6.6, where the weather and time of year does not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer shall 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.

3.7 Signs

- 3.7.1 Signage shall be limited to the following:
 - (a) No ground sign shall be permitted on the Lands with the exception of one (1) temporary ground sign depicting the name or corporate logo of the Developer which shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. The temporary ground sign shall be removed prior to the issuance of the last residential Occupancy Permit; and

- (b) The location of awnings, fascia, and projecting signs shall be limited to the commercial use(s) located at the ground floor level only. Residential identification signage is permitted at the residential entrance on Pelzant Street. The sign requirements shall be accordance with the Dartmouth Land Use By-law as amended from time to time; and

3.8 Building and Site Lighting

- 3.8.1 Outdoor lighting shall be directed to driveways, parking areas, loading areas and building entrances and shall be arranged so as to direct the light away from streets, adjacent lots and buildings.
- 3.8.2 The building may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

3.9 Functional Elements

- 3.9.1 All vents, down spouts, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.9.2 All mechanical equipment, including rooftop mechanical, exhausts, propane tanks, electrical transformers, and other utilitarian features shall be visually concealed from abutting properties, including municipal rights-of-way, and shall include noise reduction measures.

3.10 Maintenance

- 3.10.1 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 removal/salting of walkways and driveways.

3.11 Outdoor Storage

- 3.11.1 No outdoor storage shall be permitted on the Lands.

3.12 Hours of Operation

- 3.12.1 The private collection of refuse and recyclables on the Lands shall occur only between the hours of 7:00 a.m. and 7:00 p.m.
- 3.12.2 Commercial delivery vehicles on the Lands shall only be permitted between the hours of 7:00 a.m. and 7:00 p.m.
- 3.12.3 A restaurant and accessory Lounge shall only be permitted to operate between the hours of 7:00 a.m. and midnight.
- 3.12.4 The hours specified under this section shall apply seven (7) days a week.

3.13 Parking and Bicycle Facilities

- 3.13.1 A minimum of 44 parking spaces shall be provided within the building in a two level underground parking structure which shall have two separate access points as shown on Schedule B.

3.13.2 An off-street loading space is not required for the ground floor commercial uses.

3.13.3 The Developer shall provide bicycle parking pursuant to the Land Use By-law for Dartmouth

3.14 Construction/Sales Structure

3.14.1 A temporary structure shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development as per the Land Use Bylaw. The temporary structure shall be removed prior to the issuance of the last residential occupancy permit.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

4.1.1 All construction shall conform to the most current edition of the HRM Municipal Design Guidelines and Halifax Water's Design and Construction Specifications unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.

4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including 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 Engineer. Furthermore, the Developer shall be responsible for all costs and work associated with the relocation of on-site/ off-site underground services, overhead wires and traffic signals to accommodate the needs of the development.

4.2 Solid Waste Facilities

4.2.1 The building shall include designated space for five stream commercial waste containers (1. Garbage, 2. Blue Bag Recyclables, 3. Paper, 4. Corrugated Cardboard, and 5. Organics) to accommodate source separation program in accordance with By-law S-600 as amended from time to time. This designated space for five (5) waste containers shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with HRM Solid Waste Resources.

4.2.2 All refuse and recycling materials shall be contained within the building, and accessed via the Pelzant Street driveway.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

5.1.1 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.

5.2 Stormwater Management Plans and Erosion and Sedimentation Control Plan

5.2.1 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.

5.3 Archaeological Monitoring and Protection

- 5.3.1 The Lands fall within the High Potential Zone for Archaeological Sites identified by the Province of Nova Scotia. The Developer shall contact the Coordinator of Special Places of the Nova Scotia Department of Communities, Culture and Heritage prior to any disturbance of the Lands and the Developer shall comply with the requirements set forth by the Province of Nova Scotia in this regard.

5.4 Sulphide Bearing Materials

- 5.4.1 The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

PART 6: AMENDMENTS

6.1 Substantive Amendments

- 6.1.1 Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

6.2 Non-Substantive Amendments

- 6.2.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
 - (a) changes to the materials, architectural, and mechanical requirements as detailed in Section 3.5.2 and 3.5.3 of which, in the opinion of the Development Officer, do not conform with the Schedules;
 - (b) changes to the landscaping required by Section 3.6.3;
 - (c) changes to the sign requirements of Section 3.7;
 - (d) changes to the functional elements requirements of Section 3.9; and
 - (e) changes to the date of commencement of development specified in Section 7.3;

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 four (4) 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 installation of the footings and foundation for the proposed building.

7.4 Completion of Development

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

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

7.4.2 For the purpose of this section, completion of development shall mean the issuance of an Occupancy Permit.

7.5 Discharge of Agreement

7.5.1 If the Developer fails to complete the development after six (6) years from the date of registration of this Agreement at the 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 thirty (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:

Original Signed

Witness

[Handwritten signature]

JOHN WASHINGTON
A Barrister of the Supreme
Court of Nova Scotia

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

Original Signed

Witness

Original Signed

Witness

3112771 NOVA SCOTIA LIMITED



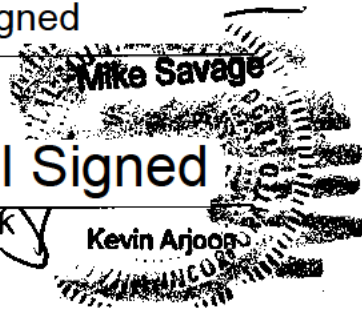
Original Signed

Per:

Name: *Kenneth Anthony*
Position: *President*

HALIFAX REGIONAL MUNICIPALITY

Original Signed
Per: MAYOR



Original Signed
Per: MUNICIPAL CLERK

Kevin Arjoon

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this 7 day of June A.D. 2019, before me, the subscriber personally came and appeared J. Washington a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that 3112771 NOVA SCOTIA LIMITED of the parties thereto, signed, sealed and delivered the same in his/her presence.

Original Signed

A Commissioner of the Supreme Court
of Nova Scotia
WILLIAM L. MAHODY
A Barrister of the Supreme
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this 28th day of June, A.D. 2019, before me, the subscriber personally came and appeared Dawn Carter and Leslie Wade the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Kevin Arjoon, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

Original Signed

A Commissioner of the Supreme Court
of Nova Scotia

SIMON ROSS-SIEGEL
A Commissioner of the
Supreme Court of Nova Scotia

SCHEDULE "A"

PID: 00045351

All that certain lot, piece or parcel of land situate, lying and being, in the City of Dartmouth, County of Halifax, Province of Nova Scotia, intended to be the consolidation of lots of 3112771 Nova Scotia Limited and being more particularly described as follows:

BEGINNING at a point on the corner of Pelzant Street and George Street in the Town of Dartmouth aforesaid and being on the southern boundary of Lots 1 and 2;

THENCE running in a southeasterly direction along the northern boundary of George Street to a point on the south western corner of Lot 3;

THENCE running in a northerly direction along the northwestern boundary of Lot 3 a distance of 96.58 feet, more or less, to the northwestern corner of said Lot No. 3;

THENCE running in a northwesterly direction 20 feet, more or less;

THENCE to run in a northerly direction along the boundary of land now or formerly owned by Grace Swaffer and Marilyn Swaffer (PID 40339129) a distance of 96.58 feet, more or less, to a point on the southern side of Wyse Road;

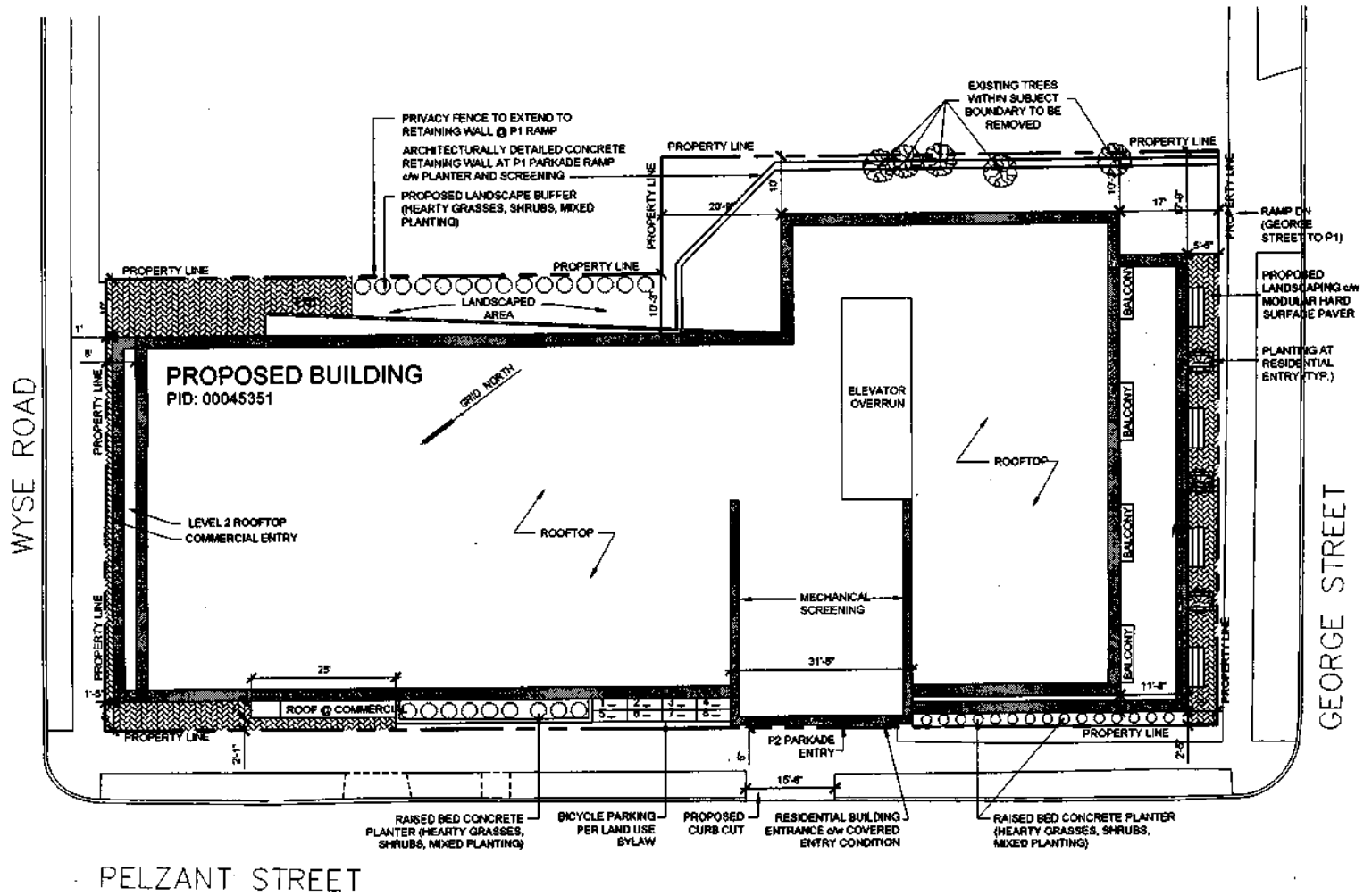
THENCE to run in a westerly direction along the southern boundary of Wyse Road to a point on the corner of Wyse Road and Pelzant Street;

THENCE to run in a southerly direction along the boundary of Pelzant Street a distance of 193.6 feet, more or less, to the place of beginning.

*** Municipal Government Act, Part IX Compliance ***

Compliance:

THIS PARCEL IS EXEMPT FROM THE PROVISIONS OF PART IX OF THE MUNICIPAL GOVERNMENT ACT BECAUSE A DEFACTO CONSOLIDATION FILED AS DOCUMENT NO. 99457922 HAS BEEN MADE AND THE PROPERTY HAS BEEN IN EXISTENCE PRIOR TO 1987.



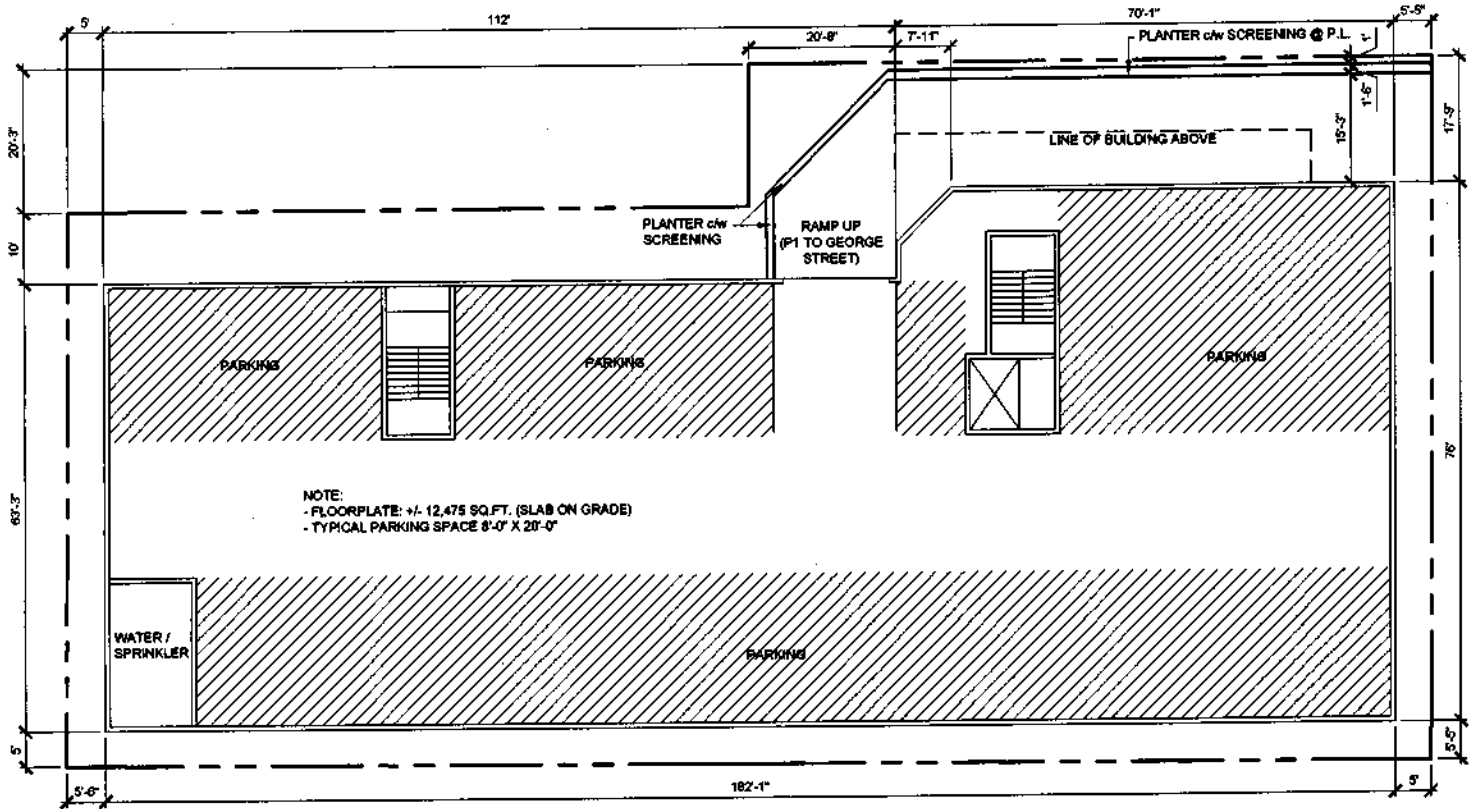
169 WYSE ROAD
HALIFAX, NOVA SCOTIA

REVISION	DATE
3. GENERAL REVISIONS	2018-09-28
4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2018-12-29
6. GENERAL REVISIONS	2019-01-11

**MICHAEL
APIER
ARCHITECTURE**
www.michaelapier.ca • 902.453.6372

DRAWING
SITEPLAN
5'-0"
10'-0"
20'-0"

DATE
DEC 2017
SCHEDULE 'B'

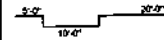


169 WYSE ROAD
 HALIFAX, NOVA SCOTIA

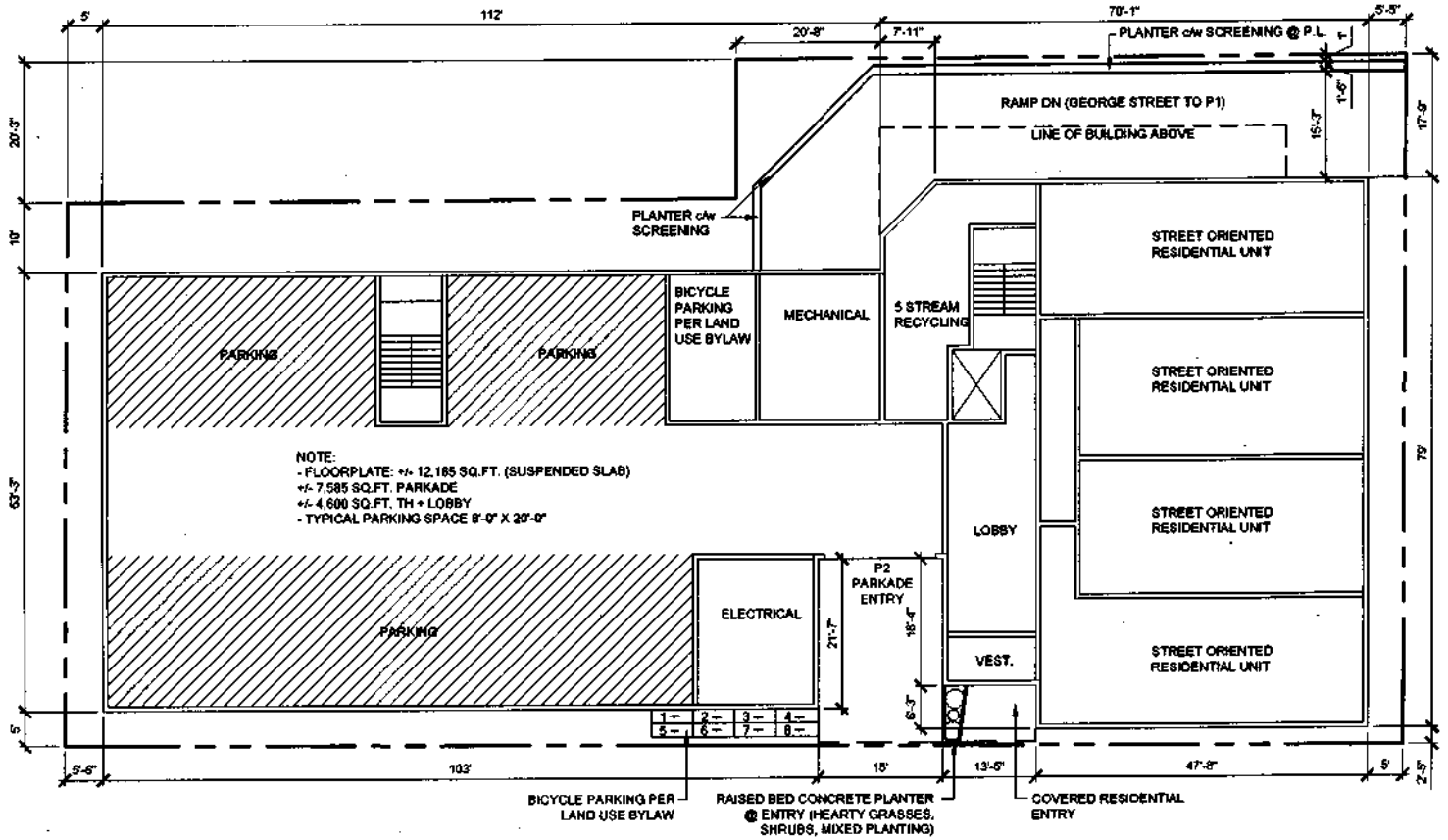
REVISION	DATE
3. GENERAL REVISIONS	2018-06-28
4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2018-11-28
6. GENERAL REVISIONS	2018-12-20

**MICHAEL
 APIER
 ARCHITECTURE**
 www.mapiera.com • 902-451-6333

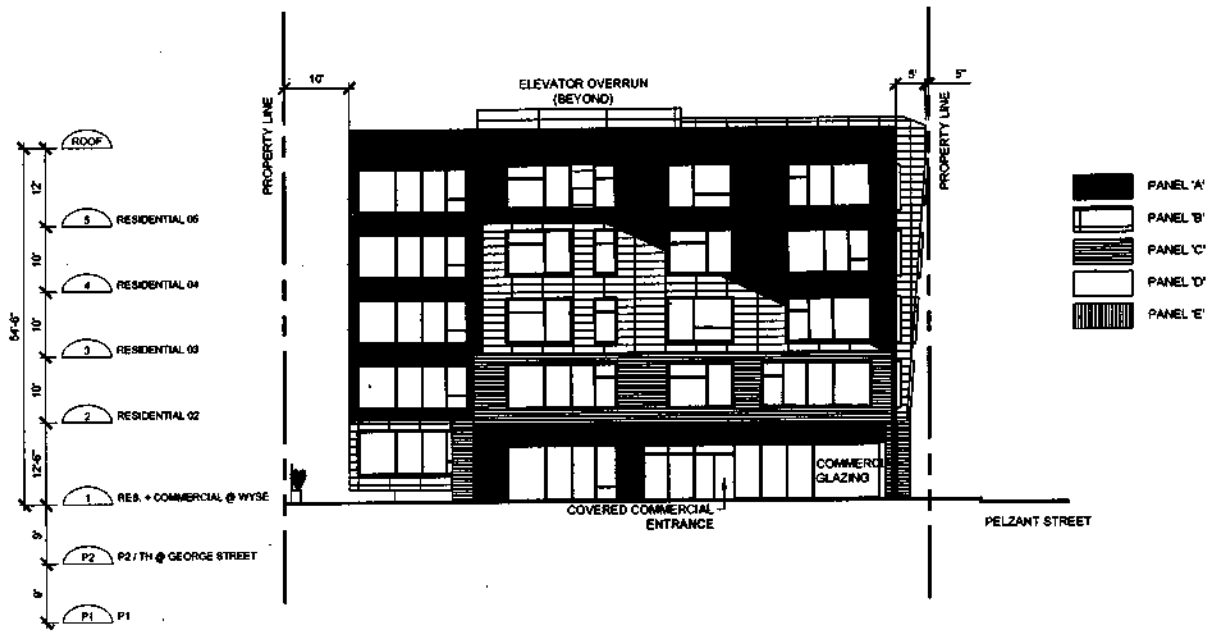
DRAWING	DATE
P1	DEC 2017



SCHEDULE 'C'



169 WYSE ROAD HALIFAX, NOVA SCOTIA	REVISION	DATE	MICHAEL NAPIER ARCHITECTURE <small>www.micna.com • 902-431-2233</small>	DRAWING	DATE		
	4 GENERAL REVISIONS	2016-11-02		P2 / TH @ GEORGE STREET	DEC 2017		
	5 GENERAL REVISIONS	2016-11-28			SCHEDULE 'D'		
	6 GENERAL REVISIONS	2016-12-20					
	7 GENERAL REVISIONS	2016-01-11					



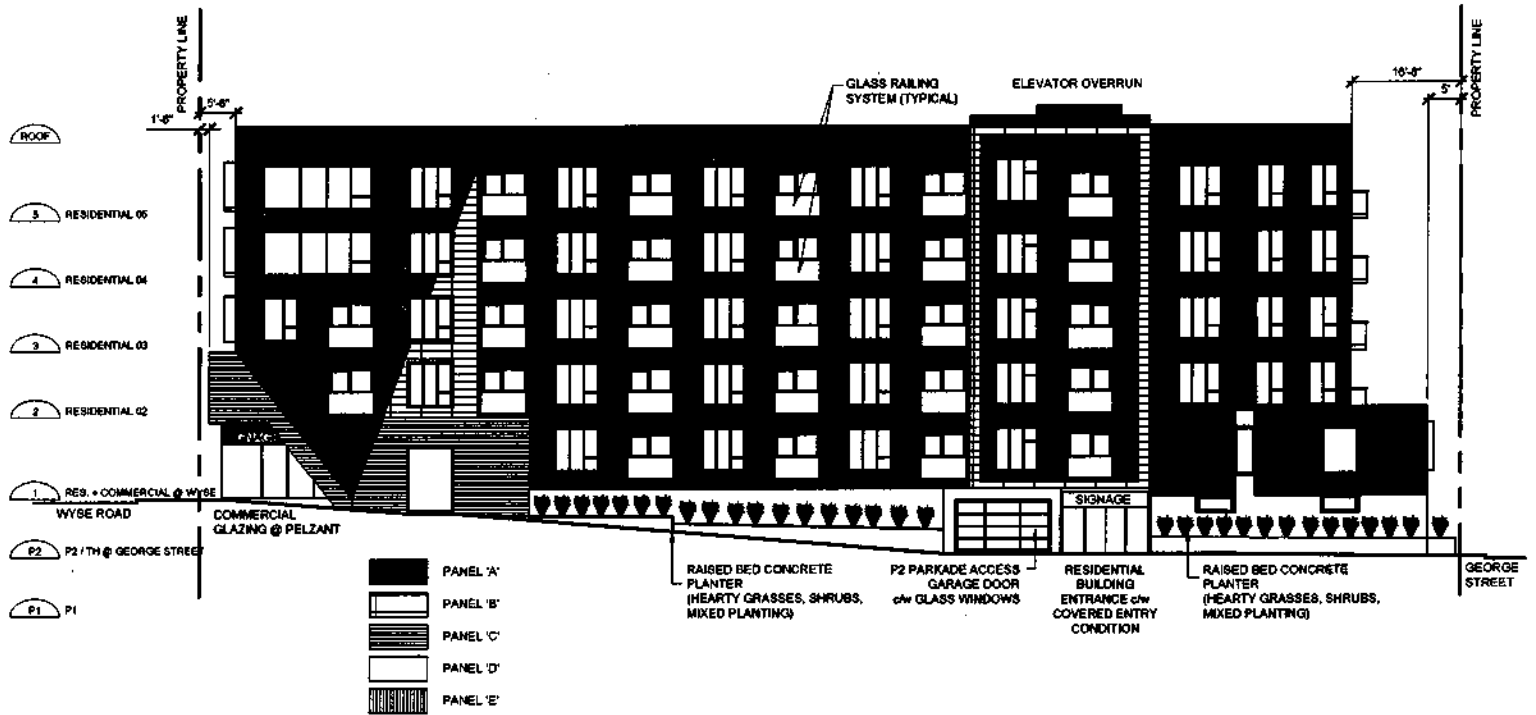
169 WYSE ROAD
 HALIFAX, NOVA SCOTIA

REVISION	DATE
1. IN APPLICATION REVISIONS	2016-05-08
2. GENERAL REVISIONS	2016-08-28
3. GENERAL REVISIONS	2016-08-28
4. GENERAL REVISIONS	2016-11-02

M
NA
A
 MICHAEL
 APIER
 ARCHITECTURE
 www.micapier.ca • 902.453.0217

DRAWING
 EAST ELEVATION
 N.T.S.

DATE
 DEC 2017
 SCHEDULE 'B'



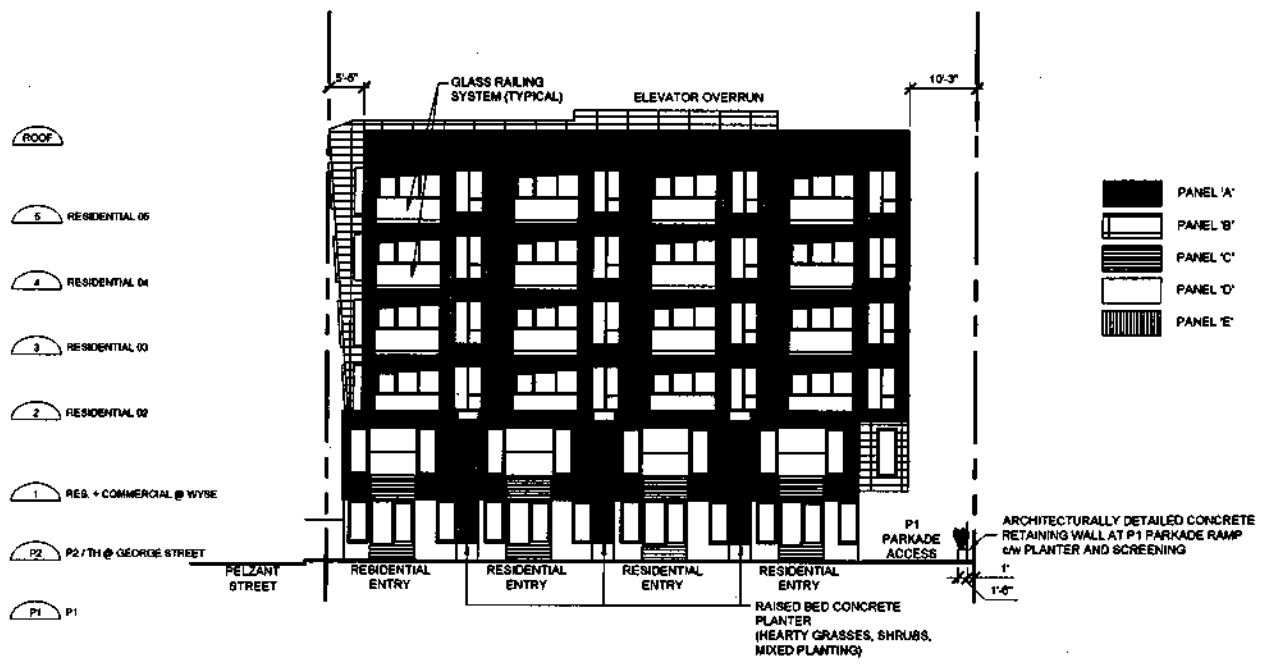
169 WYSE ROAD
 HALIFAX, NOVA SCOTIA

REVISION	DATE
2 GENERAL REVISIONS	2016-09-26
3 GENERAL REVISIONS	2016-09-28
4 GENERAL REVISIONS	2016-11-02
5 GENERAL REVISIONS	2016-01-11

**MICHAEL
 APIER
 ARCHITECTURE**
 www.micapier.com 902-411-1573

DRAWING
 NORTH ELEVATION
 N.T.S.

DATE
 DEC 2017
 SCHEDULE 'F'

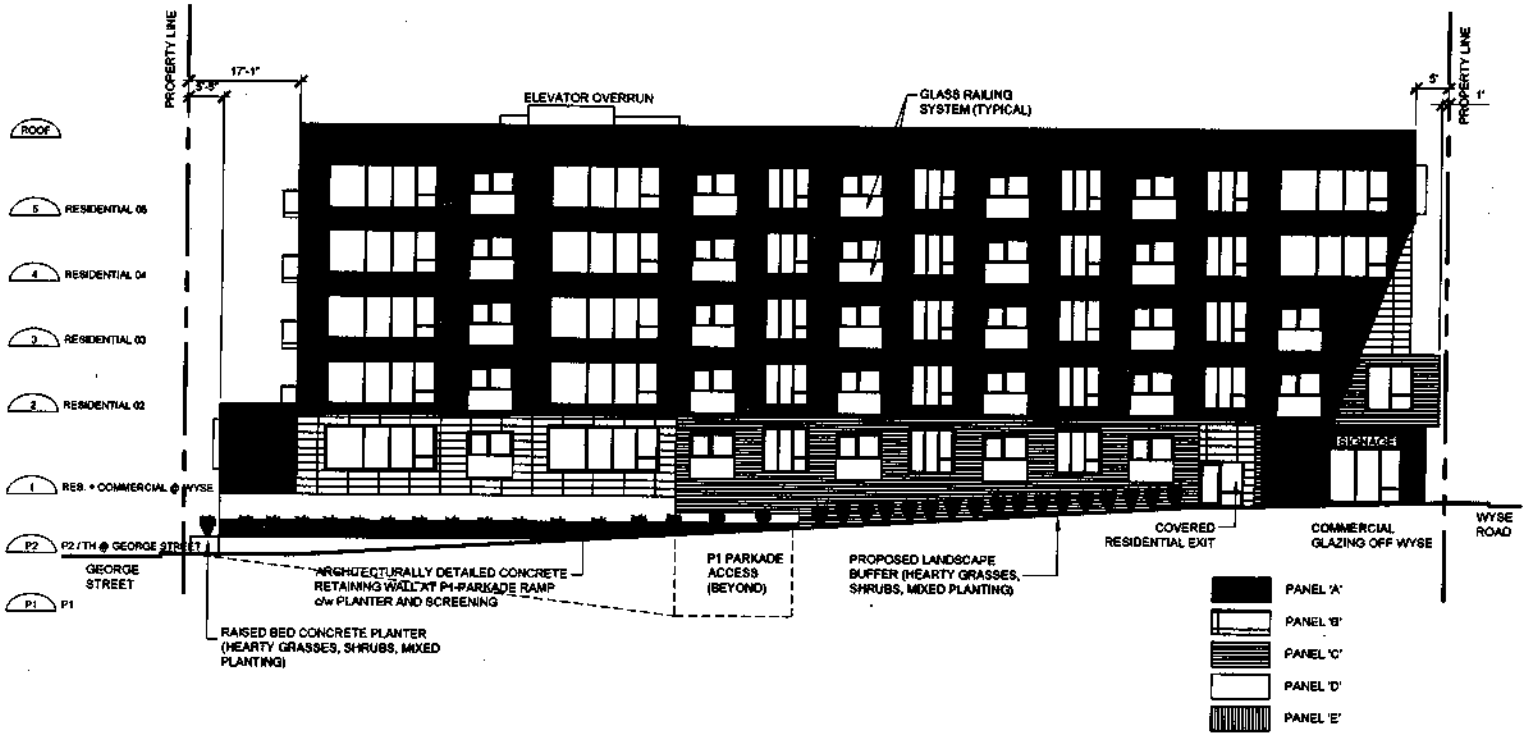


169 WYSE ROAD
 HALIFAX, NOVA SCOTIA

REVISION	DATE
2. GENERAL REVISIONS	2018-09-29
3. GENERAL REVISIONS	2018-09-29
4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2018-01-11

**MICHAEL
 APIER
 ARCHITECTURE**
www.michaelapier.ca • 902.653.0323

DRAWING	DATE
WEST ELEVATION	DEC 2017
N.T.S.	SCHEDULE 'G'



169 WYSE ROAD
 HALIFAX, NOVA SCOTIA

REVISION	DATE
1. SUBMISSION REVISIONS	2016-05-09
2. GENERAL REVISIONS	2016-09-29
3. GENERAL REVISIONS	2016-09-29
4. GENERAL REVISIONS	2016-11-02

**MICHAEL
 APITER
 ARCHITECTURE**
www.micahpiter.com 902.465.0222

DRAWING: **SOUTH ELEVATION**
 N.T.S.

DATE: **DEC 2017**
SCHEDULE 'H'

Attachment C: Regional Centre LUB - List of Permitted Uses in the CEN-2 Zone

Regional Centre Land Use By-law

The subject site is zoned CEN-2 (Centre 2) by the Regional Centre Land Used By-law. The Regional Centre LUB permits the following uses by-right in the CEN-2 Zone:

Residential uses

- Single, Two-Unit, or Three- or Four-Unit Dwelling	- Multi-unit Dwelling	- Bed and Breakfast
- Townhouse Dwelling	- Large Shared Housing	- Wok-live/Grade-related Unit
- Home Occupation/Office	- Secondary/Backyard Suite	- Model Suite

Commercial Uses

- Broadcast Use	- Garden Centre	- Pet Daycare
- Cannabis Lounge/Retail Sales	- Grocery Store	- Workshop
- Daycare	- Hotel	- Restaurant
- Drinking Establishment	- Local Commercial Use	- Retail
- Financial Institution	- Micro-brewery or Micro-distillery	- Self-storage Facility
- Fitness Centre	- Office Use	- Service Station
- Personal Service Use	- Pawn Shop	- Veterinary Facility
- Any other commercial use not expressly prohibited by the Land Use By-law for the Regional Centre		

Institutional Uses

- Convention Centre	- Emergency Shelter	- Religious Institution
- Cultural Use	- Minor Spectator Venue	- School
- Emergency Services Use	- Medical Clinic	- University or College

Other Uses

- Farmers' Market/Urban Farm	- Club Recreation Use	- Historic Site or Monument Use
- Wholesale Food Production	- Community Recreation Use	- Parking Structure Use
- Recycling Depot	- Park Space	- Temporary Construction Use
- Utility Use	- Accessory Structure Use	- Transportation Facility Use