




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

Item No. 10.2.1
Regional Centre Community Council
February 24, 2021

TO: Chair and Members of Regional Centre Community Council

SUBMITTED BY:  (original signed)
Steve Higgins, Manager, Current Planning

DATE: January 11, 2021

SUBJECT: Case 23161: Appeal of Site Plan Approval – 6459 Bayers Rd., Halifax

ORIGIN

Appeal of the Development Officer's decision to issue a Site Plan Approval.

LEGISLATIVE AUTHORITY

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

- s. 247 (1) A development officer shall approve an application for site plan approval unless
 - (a) the matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or
 - (b) the applicant fails to enter into an undertaking to carry out the terms of the site plan.
- (2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.
- s. 251, regarding variance requirements for notice, appeals and associated timeframes.
- s. 252, regarding requirements for appeal decisions and provisions for variance notice cost recovery.

Regional Centre Land Use By-law

- s. 31 (1) Subject to Subsection 31(2), a decision by the Development Officer to approve, approve with conditions, or refuse a Level I, Level II, or Level III site plan approval application may be appealed to Council in accordance with the Charter, as amended from time to time.
 - (2) Only the following matters are appealable to Council:
 - (a) design requirements set out in Part VI; and
 - (b) any variation to the requirements of this By-law enabled under Section 28.

RECOMMENDATION

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

That the appeal be allowed.

Community Council approval of the appeal will result in refusal of the Site Plan Approval.

Community Council denial of the appeal will result in issuance of Site Plan Approval.

Staff recommend that Regional Centre Community Council deny the appeal.

BACKGROUND

A Site Plan Approval application has been submitted to enable the construction of a new, five-storey, eight-unit residential building on an existing vacant lot (Map 1, Attachments A and B). The proposed building is a mid-rise building under the Regional Centre (Package A) Land Use By-law (LUB). The development includes grade-related residential units, a landscaped buffer along the adjacent low-density residential properties, and landscaping on the remainder of the lot. There is no proposed on-site parking.

The subject property is zoned COR (Corridor) under LUB. Staff reviewed the application against the LUB and advise that the proposed building meets all applicable requirements.

For the reasons detailed in the Discussion section of this report, the Development Officer has issued the Site Plan Approval. The community was notified of the decision as required by the by-law and one property owner within the notification area has appealed the approval (Attachment D). That appeal is now before Regional Centre Community Council for decision.

Site Plan Approval Process

The Site Plan Approval process applies to new building construction of this type in the Regional Centre (Package A) Plan Area. This process is regulated under the *HRM Charter* and the Regional Centre LUB. The LUB authorizes the Development Officer to approve or refuse applications and variations based on the content of the LUB. The process includes a limited right of appeal with respect to:

- design requirements set out in Part VI of the LUB; and / or
- any variation to the requirements enabled under Section 28.

No other components of the Site Plan Approval are subject to this appeal process. The applicant has not requested any variations under Section 28.

Process for Hearing an Appeal of Site Plan Approval

Notification procedures and rights of appeal with respect to a decision of the Development Officer on Site Plan Approval are based on the *HRM Charter* requirements that apply to a Development Officer's decision to grant or refuse a variance application. The Charter and LUB mandates that the owners of all property within 30 metres of the subject site be notified within 7 days of the approval of the Level I Site Plan Approval application (Map 1).

Notice of the decision of the Development Officer was given to all property owners within 30m of the project site on November 24, 2020 (Attachment C). Prior to the appeal period end date of December 11, 2020, one notice of appeal (Attachment D) was filed by a property owner regarding the Development Officer's decision.

Administrative Order Number One, the *Procedures of the Council Administrative Order* requires that Council, in hearing any appeal, must place a motion to "allow the appeal" on the floor, even if that motion

is in opposition to the staff recommendation. The Recommendation section of this report contains the required wording of the appeal motion as well as the corresponding staff recommendation.

Staff recommend that Community Council deny the appeal and uphold the decision of the Development Officer to issue the Site Plan Approval.

DISCUSSION

Development Officer's Assessment of the Site Plan Approval Application

Development proposals of this type within the Package A area of the Regional Centre LUB are subject to land use, lot standards and built form requirements set out in the by-law. As noted above, staff confirm the proposed development meets all applicable requirements of the by-law.

In addition, proposals which are subject to the Site Plan Approval process must meet design requirements as set out in Part VI of the LUB. For Council's reference, Part VI of the by-law is included as Attachment E of this report. The relevant criteria and results of the Development Officer's review are summarized in the table below:

Land Use By-law Criteria	Land Use By-law Section	Analysis
At-Grade Private Open Space Design Requirements	Part VI, Chapter 2	Requirements met
Building Design Requirements	Part VI, Chapter 3	Requirements met
Parking, Access, and Utilities Design Requirements	Part VI, Chapter 4	Requirements met
Heritage Conservation Design Requirements	Part VI, Chapter 5	Not applicable
Other Design Requirements	Part VI, Chapter 6	Requirements met
Variation Criteria	Part VI, Chapter 7	Requirements met - No variations proposed

Appellant's Submission

In hearing a Site Plan Approval appeal, Council may make any decision that the Development Officer could have made with respect to the portions of the approval process that are subject to appeal. As noted above, the grounds for appeal and the corresponding grounds for Council's consideration of any appeal are limited to the Development Officer's application of the design criteria in Part VI of the LUB and the approval of any variations. There are no variations requested as part of this application.

When an appeal of the Development Officer's decision is received, staff carefully consider the appellant's rationale in order to provide Council with a staff report that puts that rationale in an appropriate context that allows Council to make an informed decision.

Paraphrased summary of the appellants' comments that are subject to the appeal process are included in the table below along with staff's comments:

Appellant's Appeal Comments	Staff Response
------------------------------------	-----------------------

<p><u>Part VI, Chapter 2, Section 114: At-Grade Private Open Spaces Abutting a Public Sidewalk</u></p> <p>No dimensions have been given for the walkway connecting the at-grade private open space for the unit fronting Bayers Road and the Bayers Road sidewalk. On the site plan it appears to be less than 2.0 m in width based on the dimensions provided for the 3.0 m building setback.</p> <p>The public realm and relationship of the building to the street could be improved by having a deeper front patio for the at-grade unit fronting Bayers Rd. This would better relate to the street and improve the usability of this space particularly for persons with mobility challenges who may otherwise benefit from an at-grade dwelling.</p>	<p>The open space in front of the grade-related unit is a patio, which is required under section 90(4)(a) of the land use bylaw and must be a minimum depth of 1.5 metres. The patio is considered a required part of the building, and as such, does not constitute an at-grade private open space, and does not have to meet the 2 metre pedestrian access requirement.</p> <p>Accessibility considerations are contained within the building code, not the land use bylaw. Before a construction permit can be issued, the Building Official will have to be satisfied that the units meet any applicable accessibility requirements.</p>
<p><u>Part VI, Chapter 2, Section 116: Weather Protection for At-Grade Private Open Spaces</u></p> <p>A new deciduous tree with a base caliper of at least 100 mm is shown on the site plan however, it is located at the far side of the rear yard and not adjacent to the seating area offering little weather protection for those using the seating area. The site plan refers to a separate zoning requirement for the tree which relates to requiring landscape buffers along the transition line rather than weather protection.</p>	<p>Weather protection for the at-grade private open space is provided by the referenced deciduous tree, as well as the balconies which cantilever over the rear entrance to the building, which are both listed as options in section 116. While the new deciduous tree is required as part of the landscaping buffer, there is nothing in the bylaw which precludes the use of this tree to satisfy both the requirements for weather protection and landscaped buffering.</p>
<p><u>Part VI, Chapter 3, Section 122: Articulation of Non-Streetwalls Fronting an At-Grade Private Open Space</u></p> <p>The side exterior walls of the proposed building abut neighbouring private open spaces which abut a public right-of-way (Bayers Road). The proposed siding treatment would not meet the requirements of Section 121 as it appears to exceed the maximum 8.0 m in width without a differentiation in materials, colours or projections and recesses.</p>	<p>The requirements of section 122 apply to building walls along an at-grade private open space on the same lot, not side yards on adjacent lots. As there is no at-grade private open space along the sides of the building, the requirements of section 122 do not apply to these walls.</p>

<p><u>Part VI, Chapter 3, Section 128: Ground Floor Transparency – Grade Related Uses</u> We are seeking clarification on the calculation used to determine the amount of glazing required. Without a floor plan, we are unable to determine how much of the streetwall is dedicated to the grade-related unit. Assuming the entire width of the ground floor façade relates to the grade-related unit (9.7 m width by 3.0 m height), the 50 square foot of glazing provided by the one window and door would not meet the minimum requirement of 25%.</p>	<p>A portion of the building along the streetwall is used for common building utility or storage purposes. Based on the area of the remaining portion of the streetwall, 4.4 square metres of glazing is required, and the proposal includes 4.6 square metres of glazing, which meets the requirement.</p>
<p><u>Part VI, Chapter 6, Section 154: General Lighting</u> It is unclear in the plans and drawings provided if the doorway and stairs shown on the front elevation is a common access or not. More broadly, we have concerns about the type of lighting being proposed as this has the potential to directly impact neighbouring properties. For example, the main shared entrance is located on the side of the building and immediately adjacent to the existing residence and lighting for the private open-space in the rear yard could impact all abutting properties.</p>	<p>The building entrances on the front elevation are not common building entrances, and are not required to be illuminated under section 154, although there is nothing prohibiting this from being illuminated. Regardless of the function of the entrance, section 47 of the land use bylaw prohibits light from being directed towards streets or adjacent properties, and requires the use of full cut-off lighting fixtures. Specific details of lighting fixtures have not been provided yet, as this is not a design requirement, but it will be a confirmed as part of the permit review. The lighting requirements are outside the scope of the consideration of the appeal.</p>
<p>Properties fronting on Roslyn Road are zoned R-2 and have a common rear property line that abuts the Corridor-zoned properties on Bayers Road. The Roslyn Road properties have become the transition line between the two zones. The new zoning of the Bayers Road properties allows for development that is out of keeping with the current neighbourhood. A five-storey building will stand out starkly and reduce privacy. The transition line requirements of an opaque fence, shrubbery and the 6 metre setback isn't enough for a structure of this height.</p>	<p>The LUB applies a transition line at the common rear property line between the properties fronting on Bayers and Roslyn. The transition line regulations are not part of the design requirements and are outside the appeal consideration.</p>
<p>Residents on Roslyn were not invited to participate in the rezoning process. Request that the zoning changes be re-assessed before allowing development to proceed.</p>	<p>There was extensive engagement in advance of Council's consideration and approval of Package A of the Regional Centre Land Use By-law. Public engagement as part of the plan and by-law adoption is outside of the appeal consideration.</p>
<p>The developer has purchased another property nearby and wishes to propose a similar development there. This will impact the sunlight and view of the neighbour, between this proposal and that, and leave only a 2 metre setback on either side of their property.</p>	<p>Sunlight, view and setbacks relative to a potential future proposal are not under consideration as part of this site plan approval process and are outside of the appeal consideration.</p>

Conclusion

Staff have reviewed all the relevant information in this Site Plan Approval application. As a result of that review, the application was approved as it was determined that the proposal is consistent with all relevant requirements of the Regional Centre Land Use By-law.

One resident in the notification area has exercised the right of appeal as set out in the by-law. The appeal is now before Council to render a decision. Staff advise the appeal rationale provided to date demonstrates no contravention of the requirements in the bylaw and therefore the appeal should be dismissed.

FINANCIAL IMPLICATIONS

There are no material financial implications for HRM related to this application. The administration of the appeal can be carried out within the approved 2020/21 operating budget for Planning and Development.

RISK CONSIDERATION

There are no significant risks associated with the recommendation in this report.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the requirements of the Regional Centre LUB regarding Level I Site Plan Approval applications. The level of engagement was information sharing, achieved through the notice of the Development Officer's decision, which included the site plan and elevations of the proposed development, and the right of appeal.

ENVIRONMENTAL IMPLICATIONS

There are no material environmental implications associated with the recommendations in this report.

ALTERNATIVES

As noted throughout this report, Administrative Order One requires that Community Council consideration of this item must be in context of a motion to allow the appeal. Council's options are limited to denial or approval of that motion.

1. Denial of the appeal motion would result in approval of the Site Plan Approval application. This would uphold the Development Officer's decision, and this is staff's recommended alternative.
2. Approval of the appeal motion would result in refusal of the Site Plan Approval application. This would overturn the decision of the Development Officer.

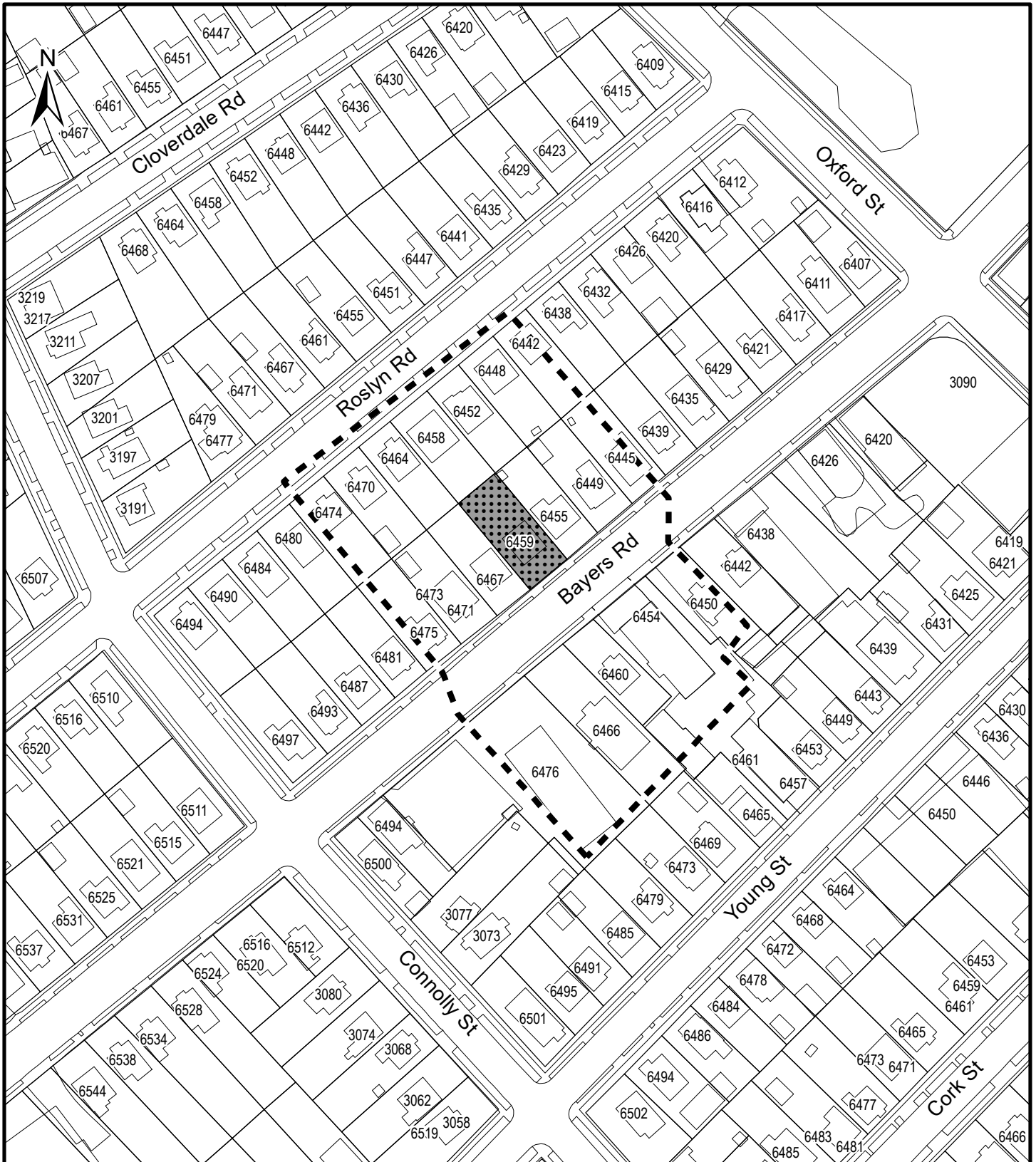
ATTACHMENTS

Map 1:	Notification Area
Attachment A:	Building Renderings & Elevations
Attachment B:	Site Plan

Attachment C: Site Plan Approval Letter
Attachment D: Letter of Appeal
Attachment E: Part VI Regional Centre LUB - Design Requirements

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: Peter Nightingale, Planner II, 902.719.9478
Andrew Faulkner, Development Officer/Principal Planner, 902.476.2982

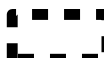


Map 1 - Notification Area

6459 Bayers Rd
Halifax

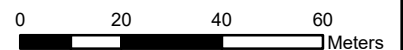


Subject Property



Notification Area

HALIFAX



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

Attachment A - Building Renderings & Elevations



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ARCHITECTURE + DESIGN
DRAWING INSPIRATION

6459 Bayers Rd.,
Halifax - New 8 Unit
Building

Project Number	20-072
Date	2020.10.30
Scale	
Sheet	A2



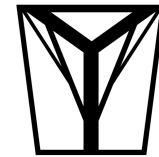
① Render View - Bayer's Rd



② Render View - Down Bayer's Rd



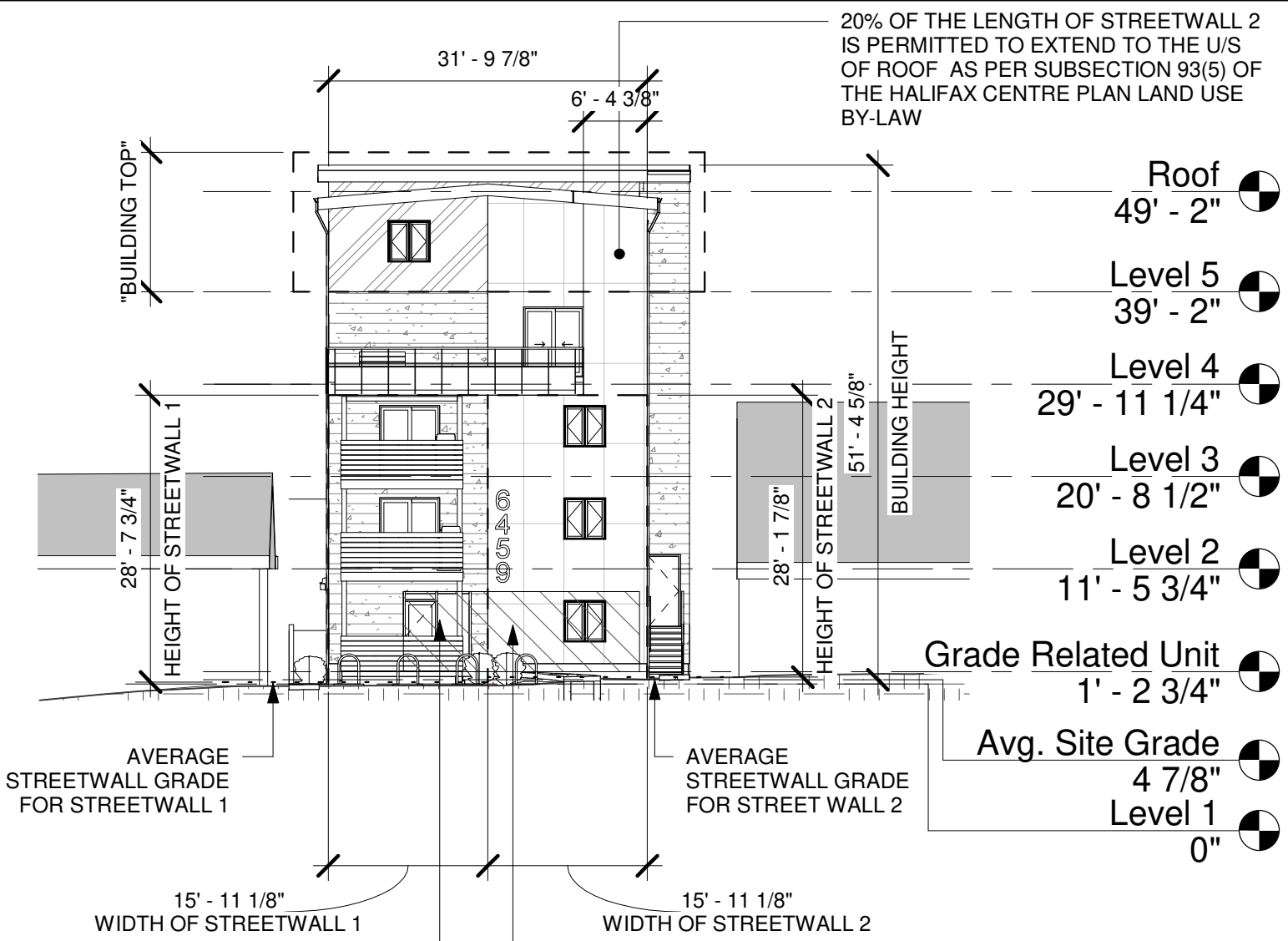
③ Render View - Up Bayer's Rd.



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Halifax - New 8 Unit
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Scale	As indicated
Sheet	A4



GRADE RELATED UNIT TO HAVE ENTRANCE SYSTEM IS TO DIFFERENTIATE FROM THE REMAINING BUILDING FACE BY CHANGE IN MATERIAL AND BY BEING RECESSED .16m.

AREA OF BUILDING FACE DEDICATED TO GRADE RELATED UNIT = 188.8 SQ.FT

REQUIRED CLEAR GLAZING = 25% = 47.2 SQ.FT.

ACTUAL CLEAR GLAZING = 50 SQ.FT







EXTERIOR FINISH LEGEND

	HORIZONTAL METAL SIDING
	JAMES HARDIE PRODUCT - HARDIEPLANK
	JAMES HARDIE PRODUCT - HARDIEPANEL

1 Elevation - Front (Small Scale)
1/16" = 1'-0"

PORTION OF THE TOP THIRD OF THE BUILDING NO LESS THAN 0.5M IN HEIGHT IS TO BE CONSIDERED "BUILDING TOP". THIS AREA IS TO BE DIFFERENTIATED FROM THE REST OF THE BUILDING BY CHANGE OF MATERIAL AND COLOUR, AS PER SUBSECTION 132(1) & 132(2) OF THE HALIFAX CENTRE PLAN LAND USE BY-LAW.



- Roof 49' - 2" 
- Level 5 39' - 2" 
- Level 4 29' - 11 1/4" 
- Level 3 20' - 8 1/2" 
- Level 2 11' - 5 3/4" 
- Level 1 0" 


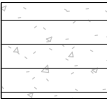



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6459 Bayers Rd.,
Halifax - New 8 Unit
Building

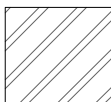
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Date	2020.10.30
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EXTERIOR FINISH LEGEND

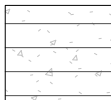
	HORIZONTAL METAL SIDING
	JAMES HARDIE PRODUCT - HARDIEPLANK
	JAMES HARDIE PRODUCT - HARDIEPANEL

① Elevation - Rear (Small Scale)
1/16" = 1'-0"

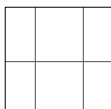
EXTERIOR FINISH LEGEND



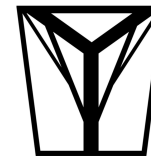
HORIZONTAL METAL SIDING



JAMES HARDIE PRODUCT - HARDIEPLANK



JAMES HARDIE PRODUCT - HARDIEPANEL



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6459 Bayers Rd.,
Halifax - New 8 Unit
Building

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Sheet	A6

THE FACADE OF SIDE 1 - WALL A) SHALL CONTINUE THE ARTICULATION OF MATERIAL AND COLOUR OF STREETWALL 2

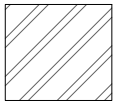
BUILDING FACE THAT ABUTS A TRANSITION LINE IS TO STEPBACK 2.5m AT A POINT BETWEEN 6m AND 11m ABOVE FINISHED GRADE BELOW.



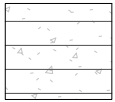
① Elevation - Side (1) (Small Scale)
1/16" = 1'-0"

LINE INDICATES 15m FROM REAR PROPERTY LINE. NEIGHBOURING PROPERTIES ARE REPRESENTED WITHIN THIS DISTANCE.

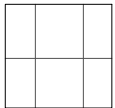
EXTERIOR FINISH LEGEND



HORIZONTAL METAL SIDING



JAMES HARDIE PRODUCT - HARDIEPLANK



JAMES HARDIE PRODUCT - HARDIEPANEL



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6459 Bayers Rd.,
Halifax - New 8 Unit
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FAÇADE OF SIDE 2 SHALL CONTINUE
THE ARTICULATION OF MATERIAL AND
COLOUR OF STREETWALL 1



LINE INDICATES 15m FROM REAR
PROPERTY LINE. NEIGHBOURING
PROPERTIES ARE REPRESENTED
WITHIN THIS DISTANCE.

① Elevation - Side (2) (Small Scale)
1/16" = 1'-0"

Attachment B - Site Plan

MEDIUM SCALE AT-GRADE PRIVATE OPEN SPACE TO BE LIT BY MEANS OF EXTERIOR LIGHTING. SEE ELECTRICAL PLANS FOR MORE INFORMATIONS.

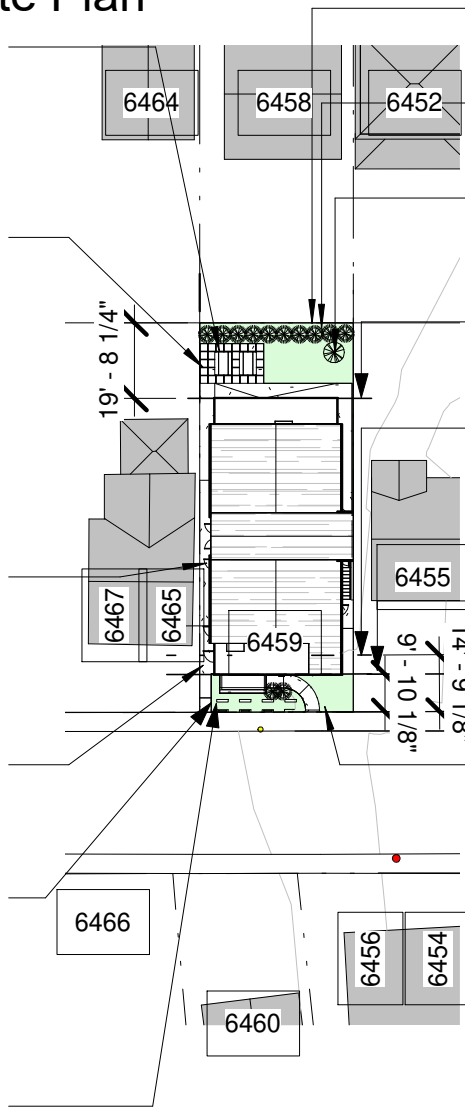
PROVIDE MEDIUM SCALE AT-GRADE PRIVATE OPEN SPACE AT BACK OF BUILDING. AN AREA OF 15 m² TO BE CREATED USING 2'x2' CONCRETE PAVERS. AREA TO BE C/W WITH PERMANANT FIXED SEATING. AREA TO BE IN COMPLAINE WITH ARTICLE 115 OF THE HALIFAX CENTRE PLAN LAND USE BY-LAW - PACKAGE A.

ALL COMMON BUILDING ENTRANCES ARE TO BE WELL LIT. SEE ELECTRICAL PLANS FOR MORE INFORMATION.

ALL EXTERIOR WALKWAYS TO BE WELL LIT, TYPICAL. SEE ELECTRICAL PLANS FOR MORE INFORMATION.

UNCOVERED CLASS 'B' BIKE PARKING AREA TO BE WITHIN 15m OF VISITOR ENTRANCE. AREA PROVIDED AT EACH STALL TO BE 0.9m x 1.8m

CLASS B PARKING STALL TO HAVE TO BE LIT BE MEANS OF EXTERIOR LIGHTING. SEE ELECTRIALPLANS FOR FURTHER INFORMATION.



OPAQUE WOOD FENCING ALONG TRANSITION LINE AT A HEIGHT NO LESS THAN 1.8M IN COMPLIANCE WITH "L2 BUFFER"
 CONTINUOUS EVERGREEN HEDGE MIN. 1M TALL ALONG TRANSITION LINE IN COMPLIANCE WITH "L2 BUFFER"
 AT LEAST ONE TREE WITH BASE CALIPER OF 100MM IS REQUIRED ALONG TRANSITION LINE IN COMPLIANCE WITH "L2 BUFFER"

6m SETBACK FROM REAR PROPERTY LINE

4.5m MAX. SETBACK FROM FRONT PROPERTY LINE

3m MIN. SETBACK FROM FRONT PROPERTY LINE

60% OF PROPOSED FRONT YARD TO BE SOFT LANDSCAPING

AREA OF FRONT YARD = 395.4 SQ.FT.
 REQUIRED 60% SOFT LANDSCAPING = 237.2 SQ.FT
 ACTUAL PROVIDED SOFT LANDSCAPING AREA = 245 SQ.FT (62%)



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 DRAWING INSPIRATION

6459 Bayers Rd.,
 Halifax - New 8 Unit Building

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SITE PLAN LEGEND:

	PROPERTY LINE
	MINIMUM SETBACK AS OUTLINED IN CENTRE PLAN - LUB (PACKAGE 'A')
	MAXIMUM SETBACK AS OUTLINED IN CENTRE PLAN - LUB (PACKAGE 'A')
	ROOFING MEMBRANE
	CONCRETE WALKWAYS / CONCRETE PAVERS
	EXISTING NEARBY STRUCTURES
	SOFT LANDSCAPING
	FIRE HYDRANT
	POWER POLE

Attachment C - Site Plan Approval Letter

November 24, 2020

OLIVER ANDREW GORSKI
[REDACTED]

Re: Level i Site Plan Approval Application (#23161) – 6459 Bayers Rd., Halifax (PID 00084665)

As the Development Officer for Halifax Regional Municipality, I have approved your site plan approval application for **an 8-unit residential dwelling at 6459 Bayers Rd., Halifax (PID # 00084665)**.

Pursuant to Section 247 of the Halifax Regional Municipal Charter, and Part I, Chapter 3, Section 30 of the Regional Centre (Package A) Land Use Bylaw, assessed property owners within 30 meters of the property have been notified of this application. Those property owners have the right to appeal in accordance with Part 1, Chapter 3, Section 31 of the Regional Centre (Package A) Land Use Bylaw, and must file their notice, in writing, to the Clerk's Office on or before **Friday, December 11, 2020**.

PERMITS WILL NOT BE ISSUED UNTIL ANY APPEAL HAS BEEN DISPOSED OF OR THE APPEAL PERIOD HAS EXPIRED.

You will be notified once the appeal period has expired as to whether any appeals have been filed. If no appeals are filed, a development permit will be issued.

If you have any questions or require clarification of any of the above, please do not hesitate to contact Peter Nightingale at 902-719-9478.

Sincerely,

[REDACTED]

Andrew Faulkner, Principal Planner / Development Officer
Halifax Regional Municipality

cc. Sherryl Murphy - Acting Municipal Clerk
Councillor Lindell Smith

ATTACHMENT D - LETTER OF APPEAL

December 10, 2020

Municipal Clerk
Halifax Regional Municipality
PO BOX 1749, Halifax, NS
B3J 3A5

Dear Mr. Maclean

SUBJECT: APPEAL OF APPLICATION #23161

We are writing to appeal the recent Site Plan Approval of application # 23161 for an 8-unit residential dwelling at 6459 Bayers Road, Halifax (PID 00084665). We are appealing the approval based on the following sections of the Land Use Bylaw and we have provided an explanation outlining the basis for our appeal on each of these matters.

Land Use Bylaw Criteria	Land Use Bylaw Section
At-Grade Private Open Spaces Abutting a Public Sidewalk	Part VI, Chapter 2, Section 114
At-Grade Private Open Space Design Requirements	Part VI, Chapter 2, Section 116
Articulation of Non-Streetwalls Fronting an At-Grade Private Open Space	Part VI, Chapter 3, Section 122
Ground Floor Transparency- Grade Related Uses	Part VI, Chapter 3, Section 128
General Lighting	Part VI, Chapter 6, Section 154

At-Grade Private Open Spaces Abutting a Public Sidewalk

Requirement: At-grade private open spaces that abut public sidewalks shall provide pedestrian access by having at least one contiguous connection of not less than 2.0 metres wide, from the at-grade private open space to the public sidewalk.

Appeal: No dimensions have been given for the walkway connecting the at-grade private open space for the unit fronting Bayers Road and the Bayers Road sidewalk. On the site plan it appears to be less than 2.0 m in width based on the dimensions provided for the 3.0 m building setback.

The public realm and relationship of the building to the street could be improved by having a deeper front patio for the at-grade unit fronting Bayers Rd. This would better relate to the street and improve

the usability of this space particularly for persons with mobility challenges who may otherwise benefit from an at-grade dwelling.

At-Grade Private Open Space Design Requirements

Requirement: At-grade private open spaces with a contiguous area of 15 square meters of greater, and dimensions of not less than 3.0 m by 5.0 m shall offer weather protection to its users through at least one of the following:

- a) a new deciduous tree that is not a shrub or the retention of an existing tree that is not a shrub with a minimum base caliper of 100 millimetres;
- (b) canopies or awnings on abutting façades;
- (c) recessed entrances of abutting façades;
- (d) cantilever(s) of a building on the same lot; or
- (e) structures such as gazebos, pergolas, or covered site furnishings

Appeal: a new deciduous tree with a base caliper of at least 100 mm is shown on the site plan however, it is located at the far side of the rear yard and not adjacent to the seating area offering little weather protection for those using the seating area. The site plan refers to a separate zoning requirement for the tree which relates to requiring landscape buffers along the transition line rather than weather protection.

Articulation of Non-Streetwalls Fronting an At-Grade Private Open Space

Requirement: Any exterior wall within the podium that is not a streetwall, and fronts an at-grade private open space abutting a public right-of-way, shall meet the requirements of Section 121 as if it was a streetwall.

Appeal: The side exterior walls of the proposed building abut neighbouring private open spaces which abut a public right-of-way (Bayers Road). The proposed siding treatment would not meet the requirements of Section 121 as it appears to exceed the maximum 8.0 m in width without a differentiation in materials, colours or projections and recesses.

Ground Floor Transparency – Grade Related Uses

Requirement: For grade-related unit uses in the streetwall, between 25% and 80% of the building's ground floor façade dedicated to grade-related unit uses shall consist of clear glass glazing.

Appeal: We are seeking clarification on the calculation used to determine the amount of glazing required. Without a floor plan, we are unable to determine how much of the streetwall is dedicated to the grade-related unit. Assuming the entire width of the ground floor façade relates to the grade-related unit (9.7 m width by 3.0 m height), the 50 square foot of glazing provided by the one window and door would not meet the minimum requirement of 25%.

General Lighting

Requirement: The following features shall be illuminated:

- (a) common building entrances;
- (b) walkways;
- (c) accessible at-grade private open space;
- (d) parking lots; and
- (e) off-street loading spaces.

Appeal: It is unclear in the plans and drawings provided if the doorway and stairs shown on the front elevation is a common access or not. More broadly, we have concerns about the type of lighting being proposed as this has the potential to directly impact neighbouring properties. For example, the main shared entrance is located on the side of the building and immediately adjacent to the existing residence and lighting for the private open-space in the rear yard could impact all abutting properties.

In addition to the matters outlined above, we have concerns with the new Corridor Zone as it relates to our properties and other residential properties across the Regional Centre Plan area.

Our understanding is that in November of 2019, the properties lining Bayer's Road were re-zoned to a 'Corridor Zone', as a part of the city's peninsula redevelopment plans. As residents of Roslyn Road, with properties that abut those along the northern side of Bayer's Road, we believe our neighbourhood is classified as an 'R2 zone'. As such, the rear property lines of houses along our street has become a transition line between these two zones, and the new zoning rules allow for properties to be developed in our backyards that are totally out of keeping with the neighbourhood. Some of us have lived in this neighbourhood for decades, and do not recall ever being invited to participate or weigh-in on the rezoning process. If this is the case, it seems unfair to those of us on Roslyn that we did not have a say in the changes being made to the Bayer's Road zoning, given that they will undoubtedly affect our neighbourhood, living experience, and property values. If the reality of these changes, and the type of projects they would permit to be built, was not well explained to the public, the process seems particularly unfair, and we would strongly ask it be reassessed by the city council and planner before any developments be allowed to proceed.

As mentioned above, those of us living along Roslyn Road now have a rear property line that serves as a transition line between the 'corridor and R2' zones. In a neighbourhood of largely single-family homes, a 5-storey building, built on such a narrow footprint, will stand out starkly. Many of us have chosen to live here because it is one of a decreasing number of neighbourhoods on the peninsula comprised of such homes, one with an excellent school for young families and wonderful small local businesses within

walking distance. Allowing developments like that proposed for 6459 Bayer's Road will affect not just the homes directly adjacent to the lot, but contribute to the gradual erosion of the spirit of the neighbourhood. While we recognize that some of the land use bylaws attempt to address this 'transition line' (an opaque fence and some shrubbery), these measures seem totally inadequate to lessen the impact of developments like the one that has been approved by Mr. Faulkner. As a concrete example, the balconies along the backside of the building will look directly into the backyards and posterior windows of many of our houses, ruining the relative privacy we currently enjoy. We feel the 6 meter setback from the rear property isn't nearly enough for a structure of this height, and should be set back even further to allay some of our concerns.

Furthermore, we are concerned that the developer, while technically following the land use bylaws, has not taken into consideration the impact of his structure will have on those living around it. He has spoken to some of us in the area over the past few months, and indicated that he is actively trying to purchase other properties along Bayer's Road for future developments. He has already bought the land at 6471 Bayer's Road, and suggested he would like to put up another 5-storey building in its place. This would leave the homeowners living at 6465 Bayer's Road sandwiched between these two towers, with only a 2 meter setback on either side of their property, and a significant impact on the sunlight and view they currently enjoy. One could argue that this sort of reduction in their quality of life might pressure them to sell their home, which would allow the developer to purchase yet another lot and raise another structure to block out our view and contribute to noise and commotion in the neighbourhood.

To summarize, as a group of homeowners living on Roslyn Road, we have specific concerns about the proposed development for 6459 Bayer's Road, and broader worries about the impact the rezoning of Bayer's Road will have on our homes and quality of life. We would ask that you pause the construction of this development to allow for further public consultation and discussion, so that all voices can weigh in and be heard.

Thank you for your consideration,

**PART VI:
SITE PLAN APPROVAL DESIGN
REQUIREMENTS AND
VARIATION CRITERIA**

Part VI, Chapter 1: General Site Plan Approval Design Requirements

Development Subject to Design Requirements

- 111 Any development subject to site plan approval shall meet all applicable design requirements contained within this Part.

Granting of Site Plan Approval by Development Officer

- 112 The Development Officer shall grant site plan approval where all applicable design requirements set out within this Part are met.

Part VI, Chapter 2: At-Grade Private Open Space Design Requirements

Design Requirement: Contribution to Open Space Network

- 113 Where one or more at-grade private open space(s) are proposed, at least one shall contribute to the Regional Centre's network of open spaces by (Diagram 6):
- (a) abutting an existing public open space that is not a public sidewalk;
 - (b) abutting an existing public sidewalk;
 - (c) abutting an existing mid-block at-grade private open space; or
 - (d) establishing a new mid-block at-grade private open space.

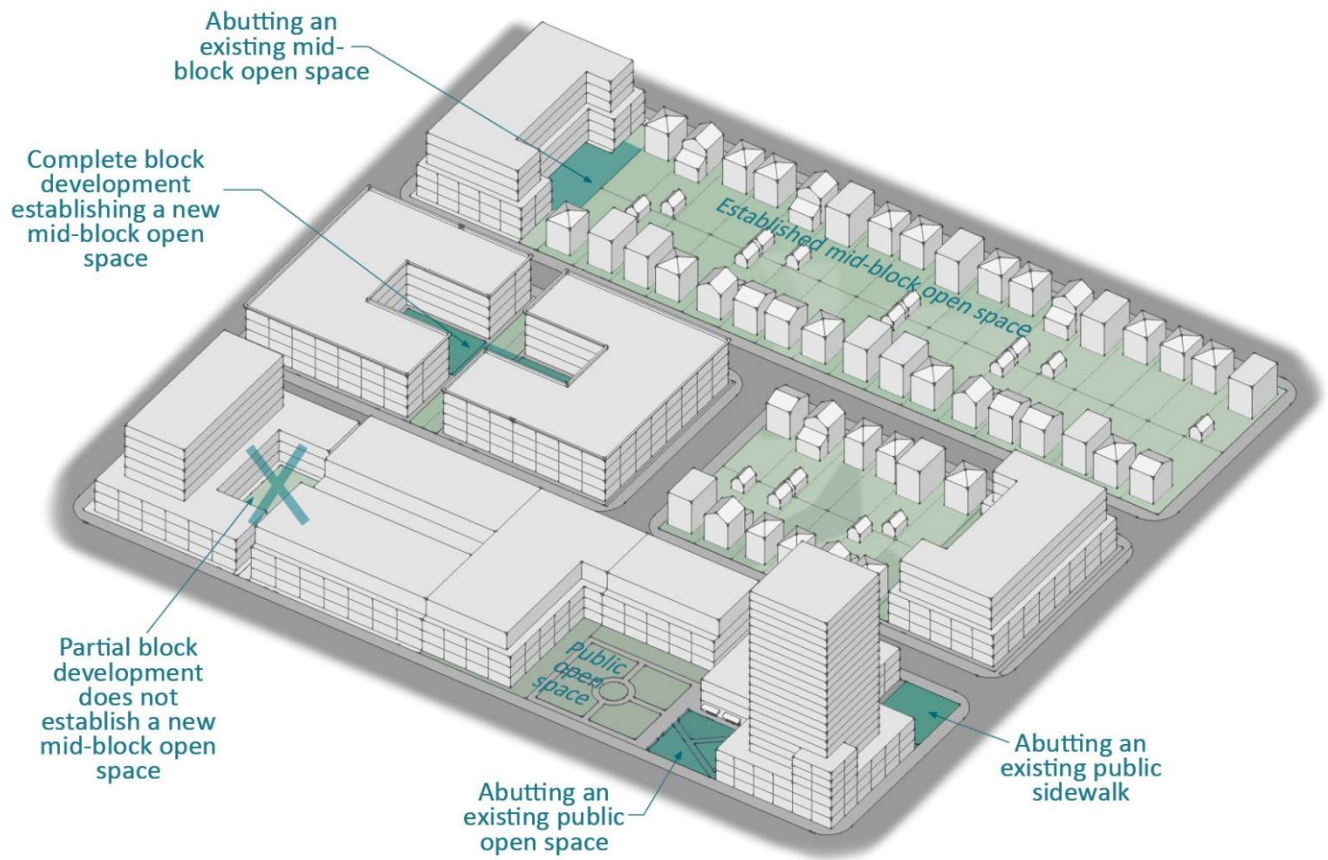


Diagram 6: Contribution to open space network, as per Section 113

Design Requirement: At-Grade Private Open Spaces Abutting a Public Sidewalk

- 114 At-grade private open spaces that abut public sidewalks shall provide pedestrian access by having at least one contiguous connection of not less than 2.0 metres wide, from the at-grade private open space to the public sidewalk.

Design Requirement: At-Grade Private Open Spaces – Medium Scale

- 115 At-grade private open spaces with a contiguous area of 15 square metres or greater, and dimensions of not less than 3.0 metres by 5.0 metres shall:

- (a) provide
 - (i) barrier-free access, and
 - (ii) permanent seating; and
- (b) provide one or more of the following materials for groundcover
 - (i) vegetation,
 - (ii) brick pavers, stone pavers, or concrete pavers, or
 - (iii) wood, excluding composites.

Design Requirement: Weather Protection for At-Grade Private Open Spaces – Medium Scale

- 116 At-grade private open spaces with a contiguous area of 15 square metres or greater, and dimensions of not less than 3.0 metres by 5.0 metres shall offer weather protection to its users through at least one of the following (Diagram 7):

- (a) a new deciduous tree that is not a shrub or the retention of an existing tree that is not a shrub with a minimum base caliper of 100 millimetres;
- (b) canopies or awnings on abutting façades;
- (c) recessed entrances of abutting façades;
- (d) cantilever(s) of a building on the same lot; or
- (e) structures such as gazebos, pergolas, or covered site furnishings.

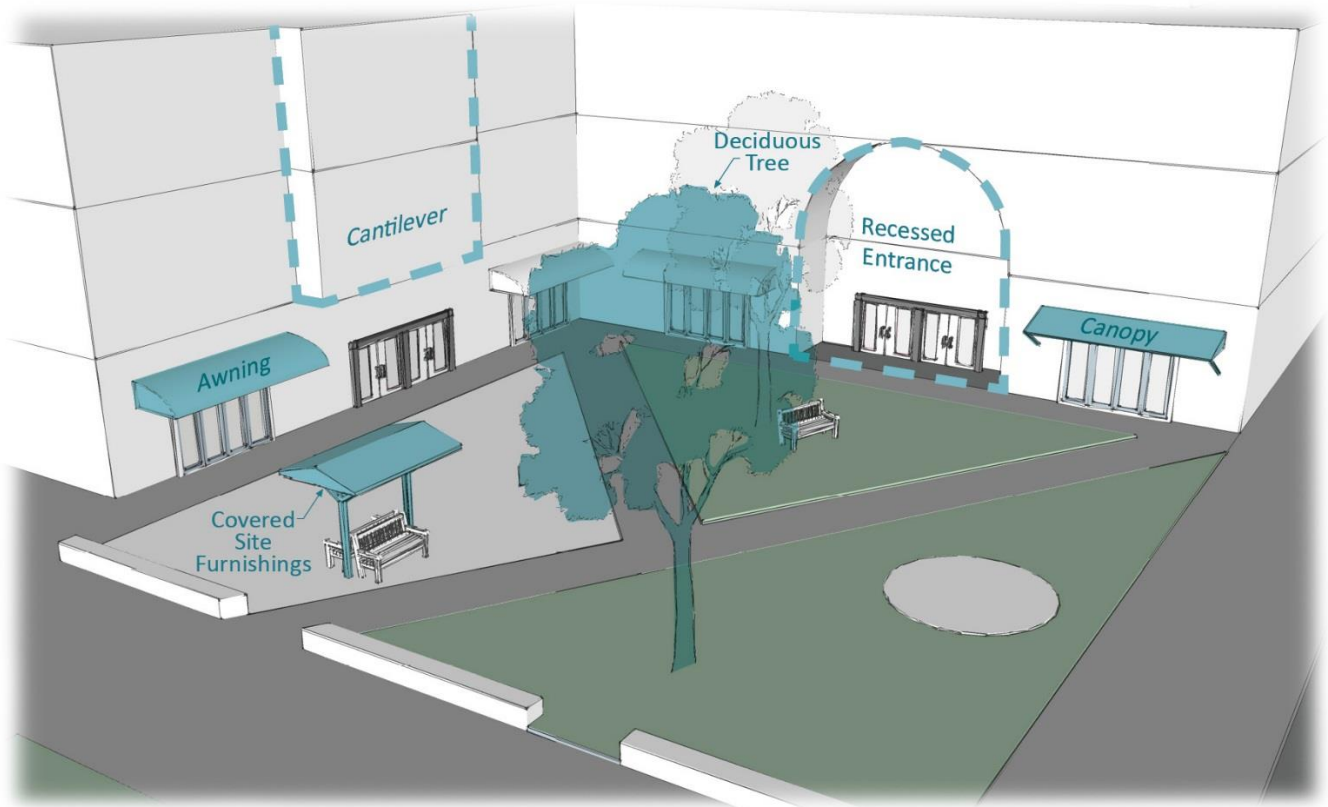


Diagram 7: Weather protection for private open spaces, as per Section 116

Design Requirement: At-Grade Private Open Spaces – Large Scale

117 In addition to meeting the requirements of Sections 115 and 116, at-grade private open spaces with a contiguous area exceeding 400 square metres and with an average depth exceeding 2.5 metres, shall provide at least three of the following:

- (a) an additional deciduous tree that is not a shrub or the retention of an existing tree that is not a shrub with a minimum base caliper of 100 millimetres;
- (b) a permanent table and chair(s);
- (c) a public art piece, a cultural artifact, or a commemorative monument;
- (d) a structure such as a gazebo or pergola; or
- (e) a planter or planting bed.

Design Requirement: Existing Access to Public Open Spaces

118 At-grade private open spaces shall maintain existing accesses to abutting public open spaces.

Design Requirement: Privacy for Grade-Related Units

119 At-grade private open spaces which are 2.5 metres deep or greater, as measured perpendicularly from the streetline, and which are located between the streetline and a grade-related unit, shall provide privacy for the residential units by using a minimum of one of the following elements per grade-related unit (Diagram 8):

- (a) a deciduous tree that is not a shrub with a minimum base caliper of 50 millimetres;
- (b) a minimum of two shrubs, each no less than 1.0 metre in height;
- (c) planters ranging in height from 0.25 to 1.0 metres; or
- (d) masonry walls ranging in height from 0.25 to 1.0 metres.



Diagram 8: Methods for privacy for grade-related units, as per Section 119

Design Requirement: Walkways to be Hard-Surfaced

120 Walkways within at-grade private open spaces shall be hard-surfaced, excluding asphalt.

Part VI, Chapter 3: Building Design Requirements

Design Requirement: Streetwall Articulation

121 Streetwalls shall be divided into distinct sections no less than 0.3 metres in width and not exceeding 8 metres in width, from the ground floor to the top of the streetwall, with each section differentiated by using at least two of the following (Diagram 9):

- (a) colour(s);
- (b) material(s); or
- (c) projections and recesses not less than 0.15 metres in depth.

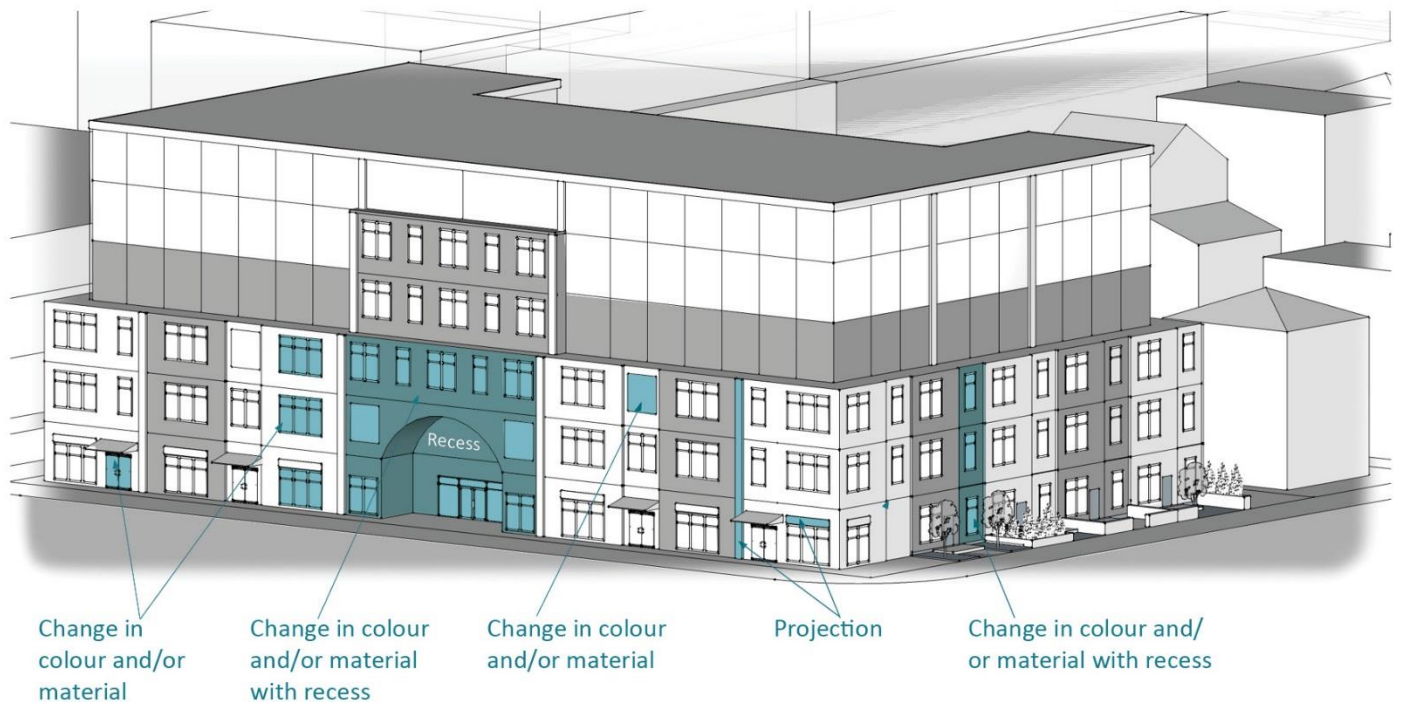


Diagram 9: Methods for streetwall articulation, as per Section 121

Design Requirement: Articulation of Non-Streetwalls Fronting an At-Grade Private Open Space

122 Any exterior wall within the podium that is not a streetwall, and fronts an at-grade private open space abutting a public right-of-way, shall meet the requirements of Section 121 as if it was a streetwall.

Design Requirement: Side Façade Articulation

123 Where a side yard is proposed or required, the side yard façade shall continue the streetwall articulation for a depth greater than or equal to the width of the side yard, as measured at the streetline, using the same options chosen to achieve the design requirement in Section 121 (Diagram 10).

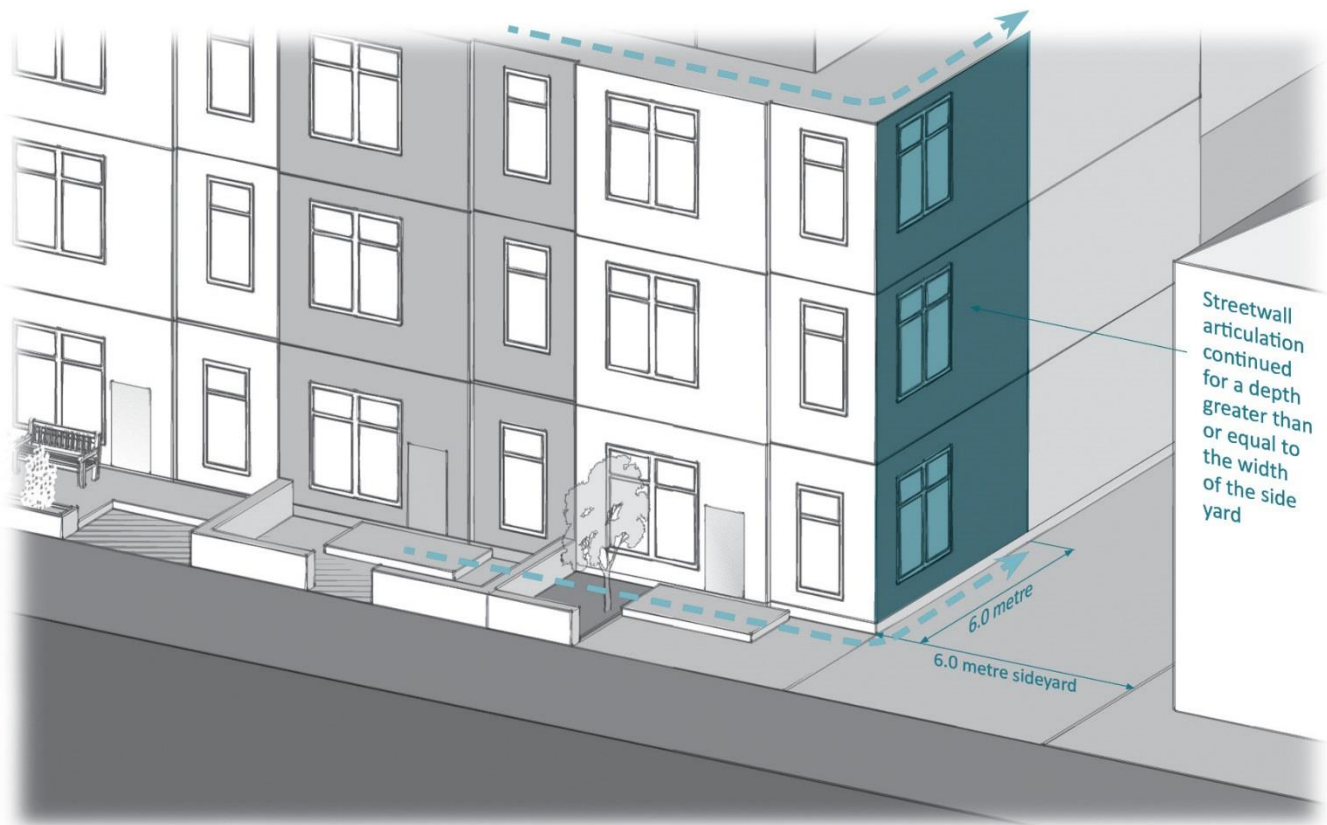


Diagram 10: Methods for side yard façade articulation, as per Section 123

Design Requirement: Pedestrian Entrances Along Streetwalls

- 124 (1) Subject to Subsection 124(2), pedestrian entrances in the streetwall shall be distinguished from the remainder of the streetwall by using at least two of the following:
- (a) changes in colour;
 - (b) changes in materials; or
 - (c) projections and recesses not less than 0.15 metres in depth.

- (2) Canopies or awnings shall not be used to meet the requirements of Subsection 124(1).

Design Requirement: Pedestrian Entrances Along Non-Streetwalls Fronting an At-Grade Private Open Space

- 125 Any exterior wall within the podium that is not a streetwall, and fronts an at-grade private open space, shall meet the requirements of Section 124 as if it was a streetwall.

Design Requirement: Number of Pedestrian Entrances Along Streetwalls

- 126 Streetwalls shall provide:
- (a) a minimum of one pedestrian entrance per storefront; or
 - (b) a minimum of 2 pedestrian entrances where the storefront is greater than 24 metres wide.

Design Requirement: Ground Floor Transparency – Commercial Uses

- 127 For at-grade commercial uses in the streetwall, between 50% and 80% of the building's ground floor façade dedicated to commercial uses shall consist of clear glass glazing.

Design Requirement: Ground Floor Transparency – Grade-Related Unit Uses

- 128 For grade-related unit uses in the streetwall, between 25% and 80% of the building's ground floor façade dedicated to grade-related unit uses shall consist of clear glass glazing.

Design Requirement: Access Ramps Along Streetwalls

- 129 Where a ramp for barrier-free access is provided between a streetwall and a sidewalk, no portion of the access ramp shall exceed a width of 2.0 metres and depth of 2.0 metres.

Design Requirement: Weather Protection

- 130 (1) Subject to Subsection 130(2), where entrances for commercial uses or multi-unit dwelling uses are proposed in the streetwall, weather protection for pedestrians shall be provided above the entrances and shall consist of at least one of the following (Diagram 11):

- (a) canopies;
- (b) awnings;
- (c) recessed entrances; or
- (d) cantilevers.

(2) Subsection 131(1) shall not apply to the entrances of grade-related units.

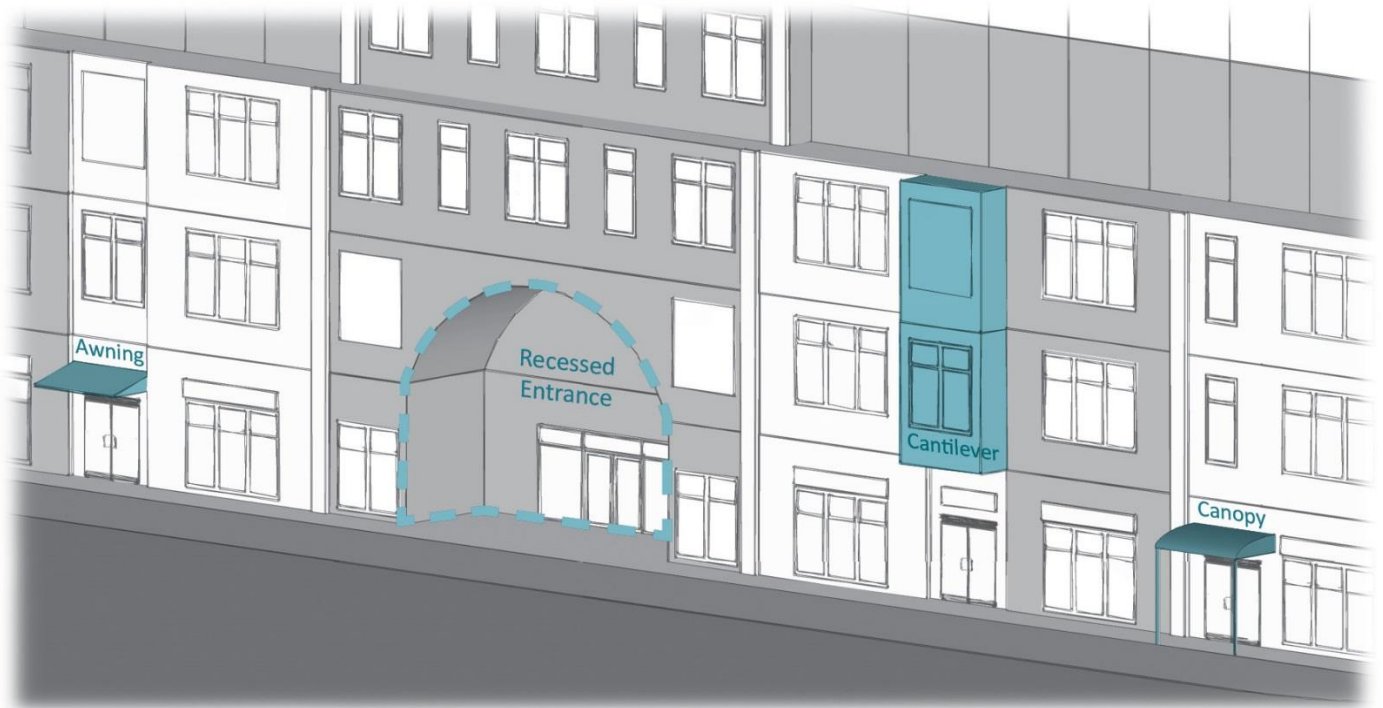


Diagram 11: Methods of weather protection, as per Section 130

Design Requirement: Exposed Foundations and Underground Parking Structures

131 Exterior foundation walls and underground parking structures the height of which exceeds 0.6 metres above grade shall be clad in a material consistent with the overall design of the same exterior façade.

Design Requirement: Building Top Distinction

132 (1) Subject to Subsection 132(2), a portion of the top third of a building shall be

differentiated from lower portions of the same building, by using two or more of the following (Diagram 12):

- (a) colour(s);
- (b) material(s); and
- (c) projections and recesses not less than 0.15 metres in depth.

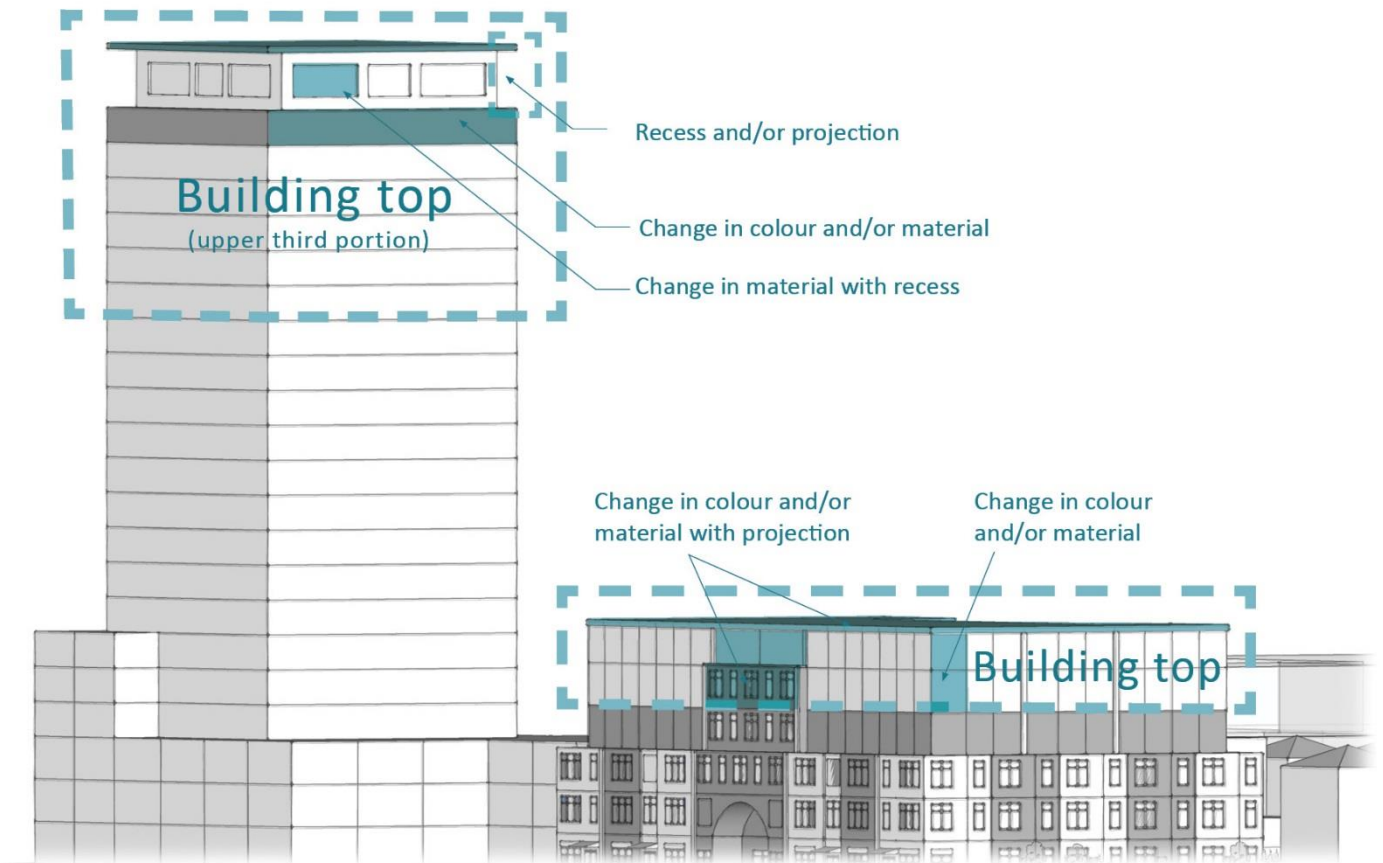


Diagram 12: Building top distinction, as per Section 132

- (2) The minimum height of the differentiated portion shall be no less than:
 - (a) 0.5 metres in height for a low-rise building or mid-rise building;
 - (b) 1.0 metres in height for a tall mid-rise building; and
 - (c) 3.0 metres in height for a high-rise building.

Design Requirement: Penthouses

133 Penthouses shall be visually integrated into the overall design of the building.

Design Requirement: Rooftop Mechanical Features

- 134 Rooftop mechanical features shall be visually integrated into the design of the building and concealed from the public view at the streetline.

Part VI, Chapter 4: Parking, Access, and Utilities Design Requirements

Design Requirement: Pedestrian Connections

135 Where pedestrian connections are proposed on the site, at least one shall connect (Diagram 13):

- (a) one public street to another public street;
- (b) one public street to a public open space;
- (c) one sidewalk to another sidewalk; or
- (d) one public street or a sidewalk to an at-grade private open space that is located on the site.

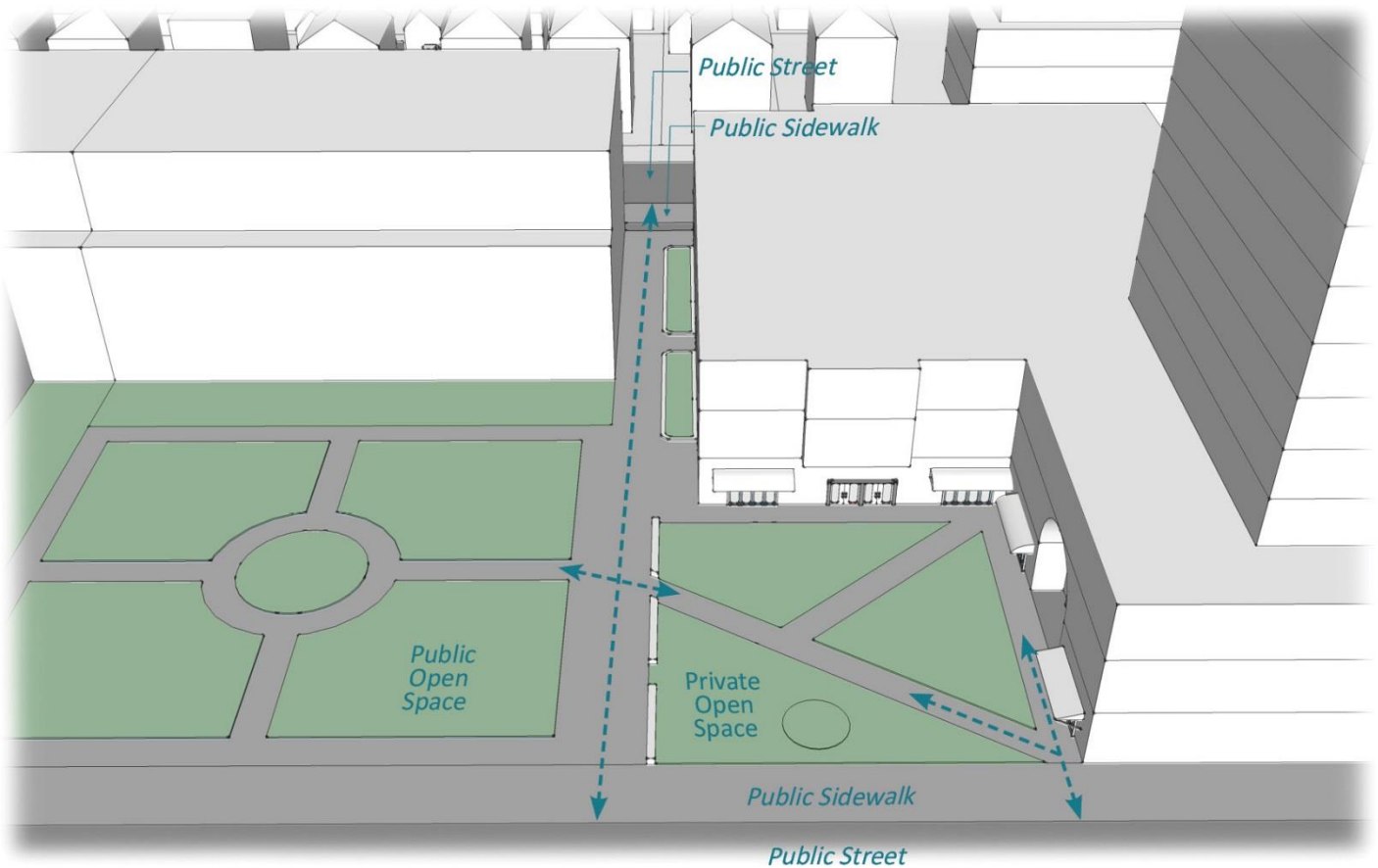


Diagram 13: Appropriate pedestrian connections, as per Section 135

Design Requirement: Pedestrian Connections Through Accessory Surface Parking Lots

- 136 (1) Pedestrian connections within accessory surface parking lots shall be no less than 2.0 metres wide.
- (2) Pedestrian connections within accessory surface parking lots shall be delineated by raised walkways, no less than 0.15 metres high, and consisting of:
- (a) poured concrete;
 - (b) brick pavers;
 - (c) stone pavers; or
 - (d) concrete pavers.
- (3) Where a pedestrian connection crosses a driving aisle, the surface of the aisle shall be raised to meet the elevation of the abutting pedestrian connection and delineated with a change of colour or material from the driving aisle.
- (4) A pedestrian connection shall provide a direct route between parking areas, building entrances, and the nearest sidewalk.

Design Requirement: Motor Vehicle and Service Accesses

- 137 (1) Motor vehicle and service accesses in the streetwall shall be minimized by using the same colours or materials chosen for the streetwall.
- (2) All motor vehicle and service accesses shall:
- (a) not exceed the height of the ground floor or 4.5 metres, whichever is less; and
 - (b) be completely enclosed with a door(s).

Design Requirement: Parking Internal to a Building or Within a Parking Structure

- 138 Where parking internal to a building is located within the streetwall, it shall be screened from public view from any public right-of-way or park.

Design Requirement: Visual Impact Mitigation for Utility and Mechanical Features

- 139 The visual impact of utility features and mechanical features, including vents and meters, shall be minimized by concealing them from public view at the streetline by:

- (a) using opaque screening; or
- (b) enclosing them within a projection or recess in the building.

Design Requirement: Heat Pumps and Other Heating and Ventilation Equipment for Individual Units

140 Heat pumps and other heating and ventilation equipment for individual units are permitted on balconies, unenclosed porches, and verandas if they are concealed from public view at the streetline by:

- (a) using opaque screening; or
- (b) enclosing them within a projection or recess in the building.

Part VI, Chapter 5: Heritage Conservation Design Requirements

Design Requirement: Conservation of Character-Defining Elements

- 141 Character-defining elements of registered heritage buildings shall be conserved and remain unobstructed.

Design Requirement: New Windows and Doors

- 142 New window and door openings on registered heritage buildings shall match established patterns (materials, design, detail, and dimensions).

Design Requirement: Preservation of Architectural Elements

- 143 Architectural elements on registered heritage buildings shall be preserved, such as pilasters, columns, cornices, bays, and parapets.

Design Requirement: Use of Archival Evidence

- 144 Archival evidence shall be used to support the rehabilitation and restoration of character-defining elements on registered heritage buildings, or on registered heritage properties.

Design Requirement: Historic Building Façades

- 145 Historic building façades on registered heritage buildings shall be retained and rehabilitated, or restored using traditional materials.

Design Requirement: Materials

- 146 Brick or masonry façades shall be maintained and restored on registered heritage buildings. The painting of brick or masonry façades is prohibited.

Design Requirement: Maintenance of Same or Similar Cornice Line Height for New Developments in a Heritage Context

- 147 The podiums or streetwalls of new developments in a heritage context shall maintain the same or similar cornice line height established by abutting registered heritage

buildings, except where the maximum streetwall height permitted under the Land Use By-law is lower than the cornice of the registered heritage buildings.

Design Requirement: Streetwall Stepback for Taller Portions of New Developments in a Heritage Context

148 Subject to Subsection 93(4), any portions of new developments in a heritage context that are taller than the cornice line of an existing abutting registered heritage building shall be stepped back from the streetwall (Diagram 14).

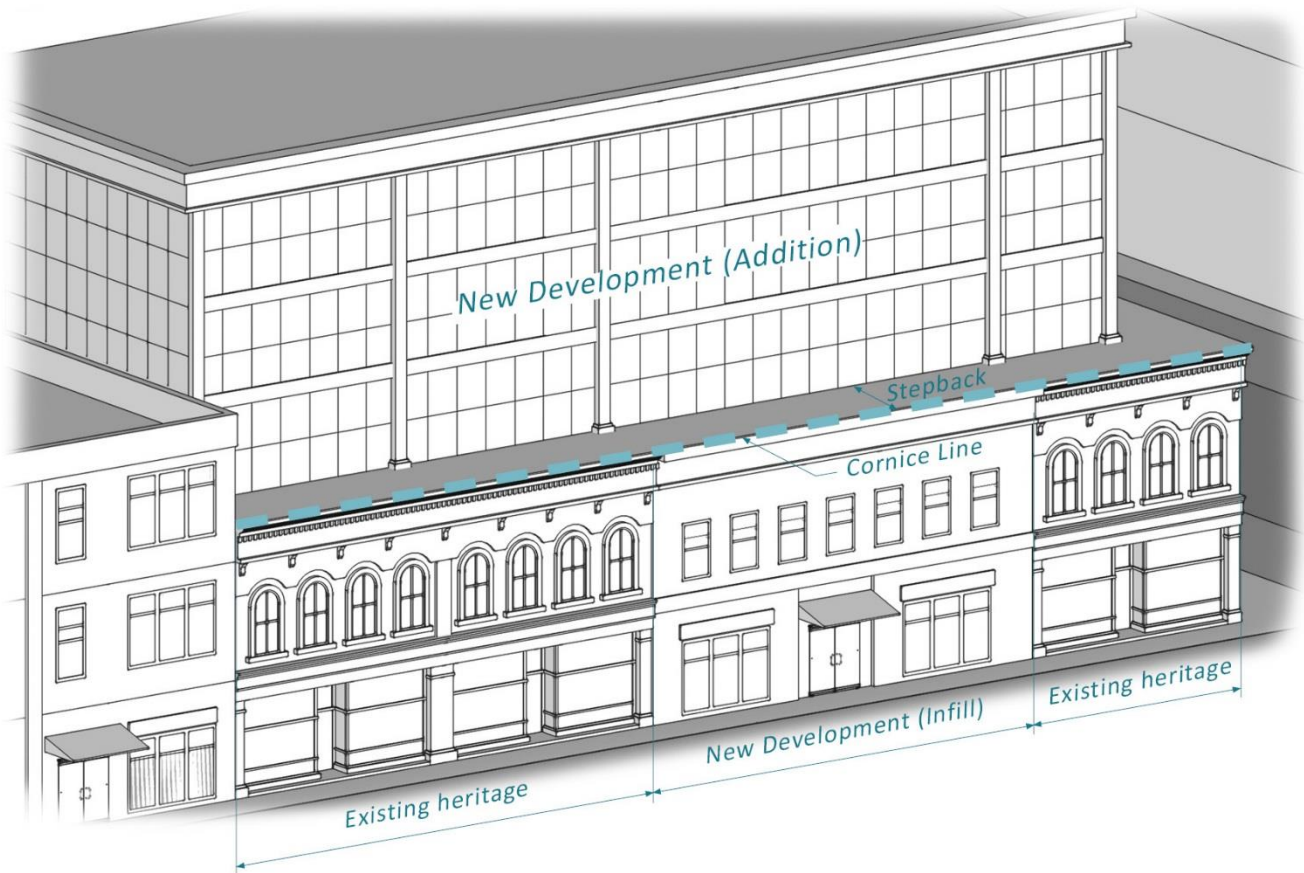


Diagram 14: Streetwall stepback for taller portions of new developments in a heritage context, as per Section 148

Design Requirement: Side Wall Stepback for Taller Portions of New Detached Buildings in a Heritage Context

149 Where a detached building constitutes a new development in a heritage context and where it abuts the same streetline as the registered heritage building, any portions of the new development that are taller than the cornice line of the registered heritage

building shall be stepped back 3 metres on the side that abuts the heritage building (Diagram 15).



Diagram 15: Side wall stepback for taller portions of new detached buildings in a heritage context, as per Section 149

Design Requirement: Architectural Elements of Existing Heritage Buildings to be Used as a Reference in the Design of New Development in a Heritage Context

150 Architectural elements of existing abutting registered heritage buildings shall be used as a reference in the design of new development in a heritage context, by:

- (a) Incorporating articulation established by vertical and horizontal architectural elements of the registered heritage buildings (i.e. columns, pilasters, cornice, architectural frieze, datum lines, etc.);
- (b) Incorporating proportions and vertical spacing of the registered heritage buildings' windows; and

- (c) Where new development in a heritage context is located at the ground level, maintaining the proportions and transparency of the registered heritage buildings' storefront and façade elements.

Design Requirement: Awnings and Canopies

- 151 (1) If proposed on a registered heritage building, awnings and canopies shall be:
- (a) Designed to fit within the dominant horizontal structural elements of the lower façade and not obscure significant architectural features;
 - (b) Located between vertical columns or pilasters to accentuate and not to obscure these elements;
 - (c) Designed to complement the fenestration pattern of the registered heritage building; and
 - (d) Constructed using heavy canvas fabric or similar material in either a solid colour or striped. The use of retractable awnings is encouraged. Vinyl and high gloss fabrics and internally-illuminated awnings shall be prohibited.
- (2) Metal or glass awnings or canopies may be permitted on a registered heritage building, if designed to complement historic architectural elements.

Design Requirement: Lighting Hardware

- 152 Lighting hardware shall be located so that it does not disfigure or conceal any significant architectural feature of the registered heritage building. Where it is not possible to hide lighting hardware, it shall be compatible with the building's architecture and materials.

Design Requirement: Directing Lighting to Accentuate or Emphasize Architectural Features or Signage

- 153 Lighting shall be directed to accentuate or emphasize the architectural features of registered heritage buildings or their signage.

Part VI, Chapter 6: Other Design Requirements

Design Requirement: General Lighting

154 The following features shall be illuminated:

- (a) common building entrances;
- (b) walkways;
- (c) accessible at-grade private open space;
- (d) parking lots; and
- (e) off-street loading spaces.

Design Requirement: Emphasis of View Terminus Sites

155 View terminus sites, as shown on Schedule 5, shall be emphasized perpendicular to and visible from a view line, by at least one of the following approaches:

- (a) subject to Subsection 93(5), extending the height of a portion of the streetwall (Diagram 16);
- (b) locating a clock tower, bell tower, rooftop cupola, spire, steeple, or minaret on the top of the building (Diagram 16);
- (c) providing an at-grade private open space (Diagram 17); or
- (d) locating a public art installation, a landmark element, or a cultural artifact on a portion of the streetwall, or in an at-grade private open space (Diagram 17).

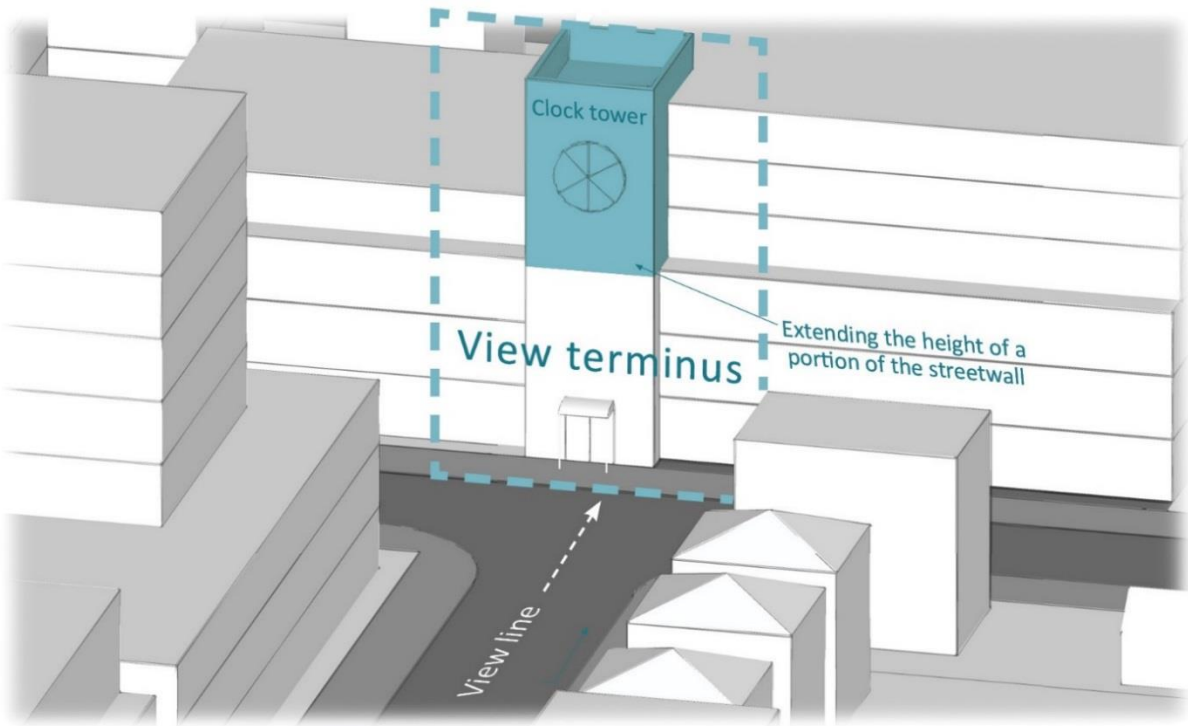


Diagram 16: Methods for view terminus site articulation, as per Clauses 155 (a) and (b)

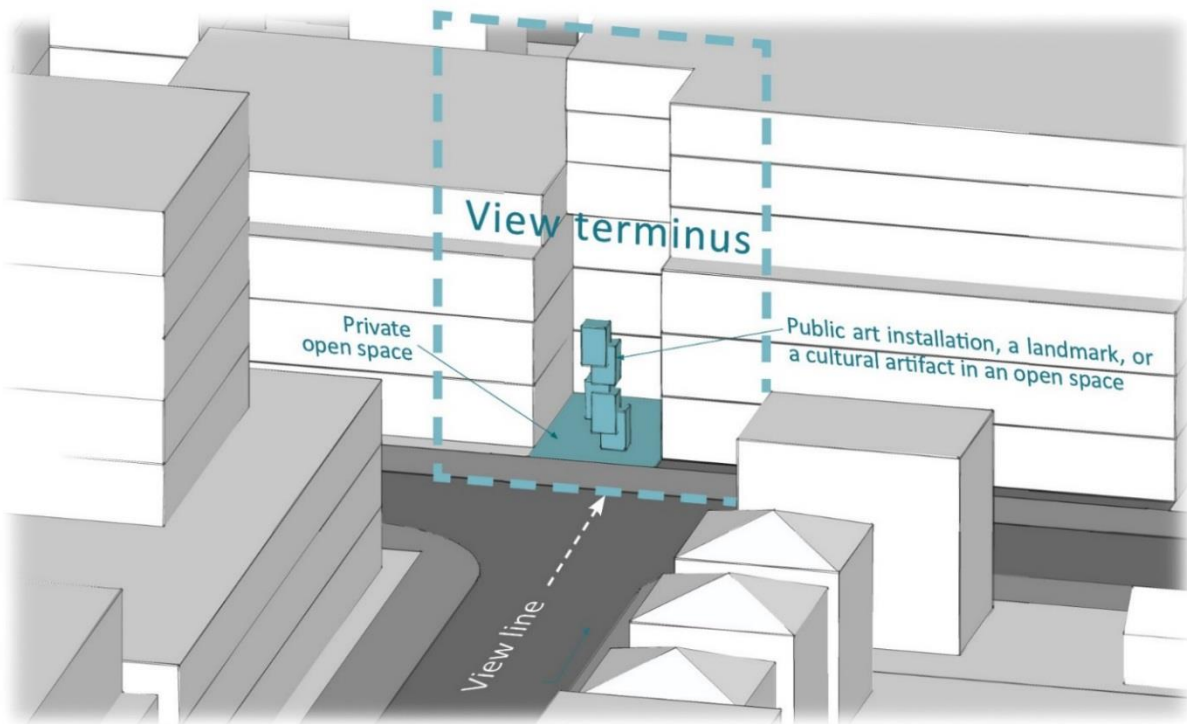


Diagram 17: Methods for view terminus site articulation, as per Clauses 155 (c) and (d)

Design Requirement: Parking Areas, Accessory Surface Parking Lots, Off-Street Loading Spaces, and Site Utilities on View Terminus Sites

- 156 Parking areas, accessory surface parking lots, off-street loading spaces, or site utilities shall not be visible within a view terminus as shown on Schedule 5.

Part VI, Chapter 7: Variation Criteria

Variation: Roof Edge Setbacks of Height-Exempted Rooftop Features

- 157 For height-exempted rooftop features, the minimum setback from the outermost edge of the roof may be varied by site plan approval where:
- (a) the variation is to an interior lot line only; and
 - (b) the rooftop feature is designed or buffered in such a way to minimize its potential visual impact.

Variation: Location of a Structure on a Lot Respecting Maximum Front and Flanking Yards

- 158 The maximum front and flanking yard may be varied by site plan approval where:
- (a) the variation results in an open space associated with a public building; or
 - (b) the location of a registered utility easement on the lot prohibits meeting the yard requirement(s).

Variation: Minimum Streetwall Height

- 159 The minimum streetwall height may be varied by site plan approval to a minimum of 3.5 metres for one streetline where the variation is required on an excessive slope.

Variation: Maximum Streetwall Height on Sloping Conditions

- 160 Where a variation to a maximum streetwall height is required to address sloping conditions, the maximum streetwall height may be increased by a maximum of 5% through site plan approval.

Variation: Side and Rear Setbacks for Portions of a High-Rise Building Above the Streetwall

- 161 Side and rear setback requirements for a high-rise building above the streetwall may be varied by site plan approval where view plane restrictions would not permit the abutting property to have a high-rise form.

Variation: Side and Rear Setbacks for Portions of a Tall Mid-Rise Building Above the Streetwall

- 162 Side and rear setback requirements for a tall mid-rise building above the streetwall may be varied by site plan approval where:
- (a) a proposal covers multiple parcels of land and will be developed under a single site plan approval and development permit, and the applicant can demonstrate that the building could be achieved without the need for a variation if the parcels were consolidated; and
 - (b) the building depth and building width above the streetwall shall not exceed 52 metres.

Variation: Maximum Width of a Building Below the Height of the Streetwall

- 163 The maximum width of a building below the height of the streetwall may be varied by site plan approval to a maximum of 88 metres along one streetline to allow for two towers on the same podium where:
- (a) all setbacks, separation distances, and setbacks are met;
 - (b) above the streetwall, no tower dimension exceeds a width of 21.5 metres along the streetline where the variation is applied; and
 - (c) an at-grade private open space measuring a minimum of 8.0 metres by 16.0 metres shall be provided abutting the public right-of-way along which the dimension is being varied.

Variation: Side Yard Setback for Pedestrian Access

- 164 The maximum side yard may be varied by site plan approval for the purpose of creating a single access driveway and a grade-separated walkway connecting a public sidewalk to accessory surface parking at the rear of the building, or to uses only accessed from the rear of the building. The grade-separated walkway shall be no less than 1.5 metres wide.