



P.O. Box 1749  
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**Item No. 13.1.1**  
**Harbour East – Marine Drive Community Council**  
**April 20, 2023**  
**June 15, 2023**

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

**SUBMITTED BY:** *- Original Signed -*  
\_\_\_\_\_  
Kelly Denty, Executive Director of Planning and Development

**DATE:** February 28, 2023

**SUBJECT:** **Case 22622: Development Agreement for 1268 Cole Harbour Road, Cole Harbour**

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**ORIGIN**

Application by ZZap Architecture + Planning, on behalf of the property owner A.J. Giles Investments Limited

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

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

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to allow for a 30-unit residential building and a 16-unit townhouse-style residential building at 1268 Cole Harbour Road, Cole Harbour, and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

ZZap Architecture + Planning, on behalf of the property owner A.J. Giles Investments Limited, has applied for a development agreement for lands at 1268 Cole Harbour Road, Cole Harbour (PID 00406702 & 41217431) to allow for a 30-unit residential building and a 16-unit townhouse-style residential building.

<b>Subject Site</b>	1268 Cole Harbour Road, Cole Harbour (PID 00406702 & 41217431)
<b>Location</b>	South side of Cole Harbour Road, east of Bisset Road intersection
<b>Regional Plan Designation</b>	Urban Settlement (US), Urban Local Growth Centre
<b>Community Plan Designation (Map 1)</b>	Community Commercial (CC) and Urban Residential (UR), Municipal Planning Strategy for Cole Harbour/ Westphal (MPS)
<b>Zoning (Map 2)</b>	General Business (C-2) zone & Two Unit Dwelling (R-2) zone, Land Use By-law for Cole Harbour/ Westphal (LUB)
<b>Size of Site</b>	Approximately 0.4 hectares (1 acre)
<b>Street Frontage</b>	Approximately 55 metres (180 feet)
<b>Current Land Use(s)</b>	Commercial and storage uses
<b>Surrounding Use(s)</b>	<ul style="list-style-type: none"><li>• Commercial uses and residential apartment uses to the north, including a 3.5-storey apartment building with commercial uses directly across from the site on Cole Harbour Road;</li><li>• Low-density residential uses, commercial daycare and church to the west; and</li><li>• Low and medium-density residential uses abutting the site to the south and east (R-1, R-2 &amp; R-4 zones).</li></ul>

### **Proposal Details**

The applicant proposes two multiple-unit dwellings on the site via the development agreement process. The major aspects of the proposal are as follows:

- A 4-storey, 30-unit residential building on the front portion of the site, with one level of underground parking and interior amenity space for tenants;
- A 3-storey, 16-unit townhouse-style residential building on the rear portion, with internal storage space for tenants;
- Exterior landscaped amenity area and exterior terrace for tenants, in addition to interior amenity space and private balconies;
- Exterior surface parking area, in addition to interior parking within the 4-storey building, equalling at least one vehicular parking space per unit, as well as bicycle parking facilities;
- Requirement for re-subdivision of the lands so that:
  - each building is located on its own property with street frontage, and
  - a portion of the sidewalk along the front property line, which is partially located on the applicant's land, is fully located within the street right-of-way, including the deed transfer of the resulting parcel to HRM at no cost; and
- Exterior site fencing, new vegetative plantings, balcony privacy measures, and tree protection measures along specific side and rear property lines.

The initial proposal in early 2020 requested that the rear portion of the lands at 1268 Cole Harbour Road be rezoned from the R-2 (Two-unit Dwelling) Zone to the C-2 (General Business) Zone. However, the proposal was changed in mid-2021 to a request for development agreement; this provides a greater level of detail on the proposal and the ability to regulate the development more specifically.

### **Enabling Policy and Land Use By-law (LUB) Context**

The subject site has two different MPS land use designations and LUB zoning classifications. The front portion of the site is designated Community Commercial (CC) and the rear portion is designated Urban

Residential (UR). Subject to Policies CC-4, UR-10, and IM-11 of the Municipal Planning Strategy for Cole Harbour/ Westphal (MPS), Community Council may consider applications for residential multi-unit development through the development agreement process. These enabling policies are found in both the CC and UR designations and provide criteria for considering the development of the site (Attachment B).

Like the dual designations in the MPS, the front portion of the subject site is zoned C-2 (General Business) and the back portion is zoned R-2 (Two Unit Dwelling) under the Land Use By-law for Cole Harbour/ Westphal. A variety of commercial and residential uses are permitted in the C-2 Zone. Permitted commercial uses include retail, restaurants, commercial services and establishments up to 10,000 square feet per building. Permitted residential uses include shared housing with up to 30 bedrooms or multiple unit dwellings with up to 12 units. The residential uses permitted in the R-2 Zone include single-unit and two-unit dwellings and shared housing with up to 10 bedrooms.

### Zoning and MPS History

During the public engagement process noted below, questions arose regarding the history of the zoning and land use designations on the site. Specifically, the question was raised regarding when the former residential zoning and designation on the front portion of the site was changed to allow commercial uses, and whether proper procedure was followed at the time. Staff have researched this matter and note the following:

- Between December 1982 and November 1992, the MPS land use designation of the entire site was Residential 'A'. The front portion of the property was zoned R-3 (Mobile Dwelling) Zone and the remainder of the site was zoned R-2 (Two-Unit Dwelling);
- The current land use designations and zoning on the site (noted above) have been in place since November 30, 1992, when the Council of the former Halifax County Municipality approved a new Municipal Planning Strategy and Land Use By-law, which became effective upon review and approval by the Provincial Minister of Municipal Affairs on March 3, 1993; and
- Council minutes from November 30, 1992 state that a public hearing was held and all indications are that proper procedures were followed at that time.

## **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, and two separate mailouts (May 2020 and November 2021) of approximately 72 letters to property owners and residents within the notification area. The webpage was viewed a total of 1,374 times (941 of these are unique) between May of 2020 and January of 2023. The following comments and concerns regarding the development agreement proposal were raised:

- Concern that the population density is high for the size of the property;
- Concern that the scale of buildings is too high/ massive compared to surrounding buildings;
- Lack of privacy, impacts on existing dwellings, loss of sunlight, etc.;
- Traffic concerns and pedestrian safety;
- Concerns regarding adequate parking, servicing, stormwater, and environmental issues;
- Construction noise and debris;
- Comment in support of the proposal, great opportunity for the neighbourhood; and
- Questions regarding how and when the C-2 zoning and the Community Commercial designation was applied to the subject site.

A public hearing must be held by Harbour East – Marine Drive Community Council before consideration can be given to the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to a notice of the hearing published on the Municipality's

website at least seven days before the date of the public hearing, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

## **DISCUSSION**

Staff have reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment B provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

### **Proposed Development Agreement**

Attachment A contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- the proposed buildings are limited to 3 and 4 storeys in height and contain a total of 46 residential units;
- the location and size of the buildings on the site, which include minimum setbacks from the property lines that abut existing residential dwelling sites. The exterior design of the building and site will be subject to schedules in the agreement;
- allowance for re-subdivision so that the two main buildings are each constructed on their own lot and the sidewalk along the front property line is fully located within the street right-of-way;
- site plan to address the location of landscaped areas, driveway and vehicular parking areas, and pedestrian walkways, in addition to proposed building locations;
- landscaping, tree retention, fencing and other privacy measures to help reduce impacts on abutting residential development; and
- non-substantive amendment process to allow for changes, if necessary, to site landscaping, parking and access, and the dates for commencement and completion of development.

The attached development agreement will permit the proposed development, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion.

#### **Building Height, Bulk and Design**

The height of the proposed 4-storey building is approximately 12 metres (39.4 feet) and the height of the 3-storey building would be approx. 9.5 metres (31 feet). These building heights are calculated pursuant to the land use by-law. For comparison purposes, the C-2 Zone permits multiple-unit dwellings (with up to 12 units) at a maximum of 35 feet in height, while the R-2 Zone and R-5 (Townhouse) Zone also permit buildings of up to 35 feet in height. The proposed lot coverage (total) is approximately 35.6% for the entire site. In comparison, the underlying C-2 Zone has a maximum lot coverage requirement of 50% and the R-2 Zone maximum is 35%. The LUB does not specify a maximum length of building. Therefore, similarly sized (or slightly lower) building heights and similar length of buildings could be constructed via an as-of-right permitting process, especially within the front (C-2 zoned) portion of the site.

The 3-storey building is designed to have a contemporary townhouse building appearance with a shallow-pitched gable roof. The 4-storey building is proposed to have more of a traditional low-rise apartment design with projecting balconies, also with a shallow gable roof pitch and contemporary design. A mix of non-combustible building materials are proposed which will fit in with and complement materials found on surrounding low-density wood frame structures. Therefore, the proposed building heights, bulk and design are compatible with surrounding land uses.

#### **Permitted Land Uses**

The zoning of the surrounding area allows for a mix of land uses, but the immediately abutting properties are primarily lower-density residential in nature. However, the front half of the subject site is zoned C-2. As noted above, the C-2 Zone permits an apartment building of up to 12 units and 35 feet in height, as well as shared housing with up to 30 bedrooms. The rear portion of the site is zoned R-2, which would allow for a

two-unit dwelling as well as potential for a secondary suite or backyard suite, or alternatively, shared housing with up to 10 bedrooms. Therefore, the land uses permitted by the attached development agreement, with the separation distances and privacy measures that are noted below included, would not result in significantly greater land use impacts on surrounding properties than that which could be constructed and permitted as-of-right.

#### Separation Distances from Abutting Uses

The 4-storey building closest to Cole Harbour Road will have a minimum 5.8 metre (19 ft.) setback from the building wall to the south west property line in common with abutting low-density dwelling properties. The 3-storey building to the rear of the site will have a minimum 4.5 metre (15 ft.) setback from the south west property line and a 3.0 metre (10 ft.) setback from the north east property line. The setbacks of the 4-storey building are comparable to those required by the C-2 Zone of the LUB for commercial buildings, apartment buildings or shared housing of similar height. Likewise, a 3-storey townhouse building of 35 feet in height, if located in a R-5 (townhouse) Zone, would require similar or less of a separation than that proposed to the rear of the site. The separation distances are reasonable for this proposal on the subject site. In addition to separation distances, privacy measures will be employed, as noted below.

#### Landscaping, Fencing and Privacy Measures

The proposed agreement requires privacy measures, which include opaque fencing (6 ft. high) or vegetative screening along all side and rear property lines. Along the south west property line abutting the 4-storey building, where the proposed buildings would be the closest to and have the greatest impact on abutting development, the development agreement requires tree retention measures, fencing along the property line and privacy screening of balconies, such as opaque panels and semi-opaque (frosted) glass panels.

Landscaped areas will include a formal outdoor amenity area in the front north west corner of the site, which will include hard and soft landscaping elements such as pavers, ground cover, planting beds and benches. There will be a landscaped terrace to the rear of the 4-storey building adjacent to an interior amenity room. Walkways in front of building entrances will allow for pedestrian access to the street. Other unprogrammed green areas around the building perimeters will include sodded yard space. The proposed agreement requires the developer submit a landscaping plan at the permitting stage.

#### Traffic and Site Access

A Traffic Impact Statement, prepared by Griffin Transportation Group dated September 14, 2021, has been reviewed by Development Engineering and Traffic Management staff and deemed acceptable.

Access to the site is shared by the two buildings and will be limited to the existing driveway location to the left (east) side of the proposed 4-storey building. The existing driveway will be further defined and its width will be reduced in order to meet municipal requirements (Streets By-law S-300). The details will be determined at the permitting stage of development approvals.

#### Sidewalk/ Road Right-of-Way

As part of the re-subdivision process, a portion of the sidewalk along the front property line, which was built on part of the subject property owner's land, will be fully relocated within the street right-of-way. The owner will be responsible for the deed transfer of the resulting parcel to HRM at no cost via the subdivision process, prior to the issuance of construction permits.

#### **Priorities Plans**

In accordance with Policy G-14A of the Halifax Regional Plan, this planning application was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. While these priority plans often contain policies which were originally intended to apply at a regional level and inform the development of Municipal Planning Strategy policies, there are still components of each plan which can and should be considered on a site by site basis. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they would be applied to a specific geographic context. In this case, the policies of the Integrated Mobility Plan

was identified as most relevant to this application, and were used to inform the recommendation within this report.

The Integrated Mobility Plan guides investment in active transportation, transit, transportation demand management, goods movements, and the roadway network. As the subject site is within the Urban Transit Service Boundary and bus stops are located directly in front of the site and across Cole Harbour Road, the proposed development for two multi-unit residential buildings furthers the intent of the IMP by adding significant residential density along this transit corridor, helping to contribute towards creating complete communities. Additionally, one of the actions identified in the IMP (Action 121) is to study existing roads that are important for regional vehicle flow, goods movement, and active transportation (walking, rolling, and cycling). The Portland Street/Cole Harbour Road corridor is one of these areas. The Portland Street / Cole Harbour Road Functional Plan is underway to support this action, but still in its early design stages and potential implications for this site have not been designed. The subject site is just outside of the functional plan's study area, which runs along Portland Street and Cole Harbour Road eastward to Bissett Road. However, pursuant to the development agreement, the proposed buildings will be set back from the street and a portion of the subject property which contains part of the existing sidewalk will be deeded to HRM in order to ensure that the entire sidewalk will be located within the Cole Harbour Road right-of-way, as noted above. As such, the proposed development furthers the intent of the IMP and is not expected to have any impact on the findings and implementation of the Functional Plan.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the MPS. The proposed development agreement permits two multiple-unit dwellings on the site with adequate controls and measures in place to reduce impacts on the adjacent low-density residential development. Therefore, staff recommend the Harbour East – Marine Drive Community Council approve the proposed 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 development agreement. The administration of the proposed development agreement can be carried out within the approved 2022-2023 operating budget for Planning and Development.

### **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 adopting the proposed development agreement are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

## **ALTERNATIVES**

1. Harbour East – Marine Drive Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East – Marine Drive Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

## **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant Regional MPS and Cole Harbour/ Westphal MPS Policies

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


Report Prepared by: Paul Sampson, Planner II, 902.717.8125

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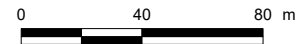
**Map 1 - Generalized Future Land Use**

1268 Cole Harbour Road  
Cole Harbour

 Subject Property

**Designation**

CC	Community Commercial
PP	Provincial Park
SA	Special Area
UR	Urban Residential

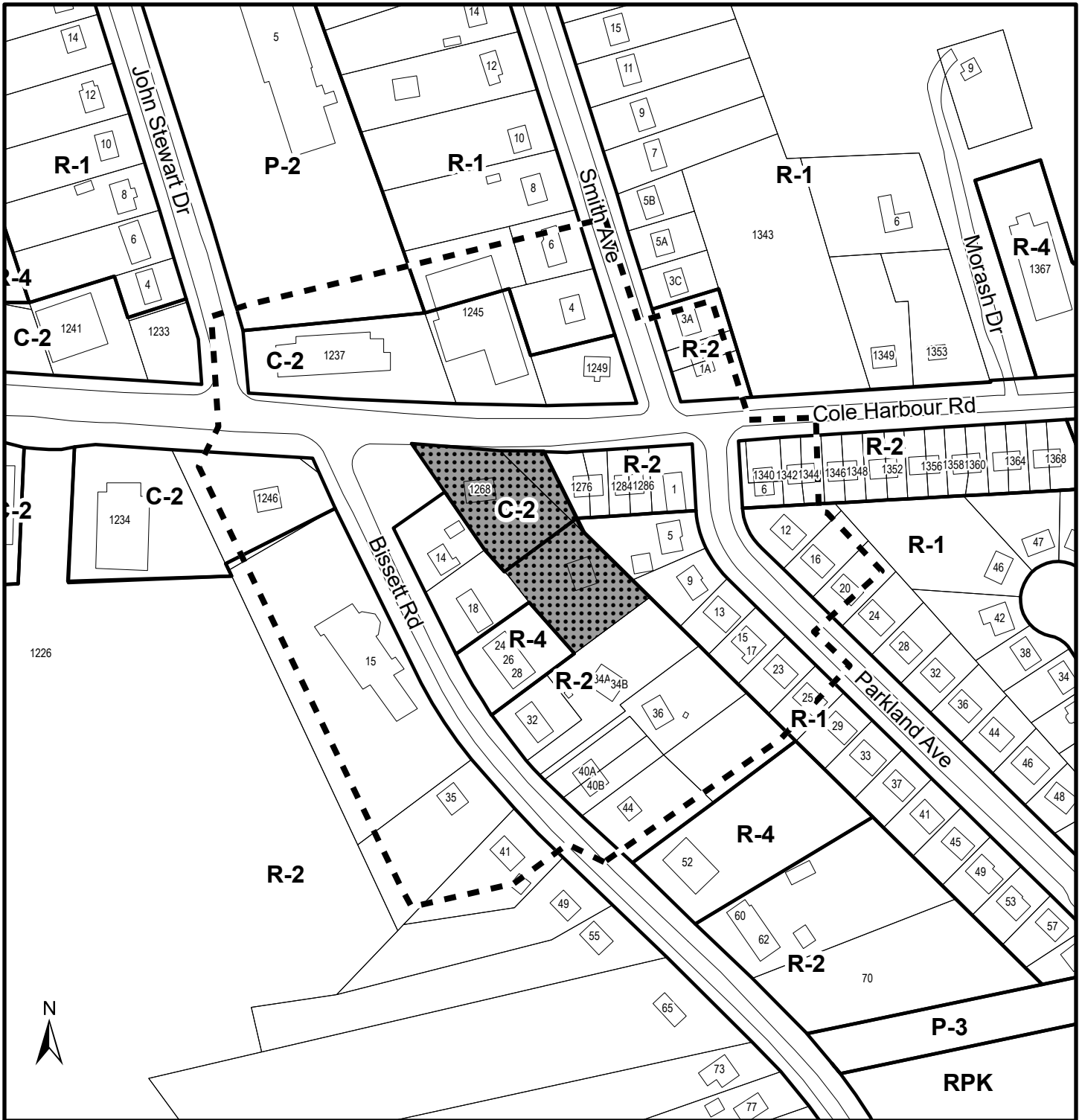


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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



Cole Harbour/Westphal  
Land Use By-Law Area



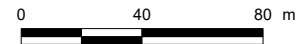


**Map 2 - Zoning and Notification Area**

1268 Cole Harbour Road  
Cole Harbour

-  Subject Property
-  Area of Notification

- Zone**
- C-2 General Business
  - P-2 Community Facility
  - P-3 Provincial Park
  - R-1 Single Unit Dwelling
  - R-2 Two Unit Dwelling
  - R-4 Multiple Unit Dwelling
  - RPK Regional Park



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.

Cole Harbour/Westphal  
Land Use By-Law Area

**Attachment A: Proposed Development Agreement**

THIS AGREEMENT made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_,

BETWEEN:

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

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

OF THE FIRST PART

- and -

**HALIFAX REGIONAL MUNICIPALITY**

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

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of certain lands located at 1268 Cole Harbour Road, Cole Harbour (PIDs 00406702 and 41217431) 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 permit the construction of a 4-storey multiple-unit dwelling and a 3-storey multiple-unit dwelling on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies CC-4, UR-10 and IM-11 of the Municipal Planning Strategy for Cole Harbour/ Westphal and Sections 3.6 (b) and (n) of the Land Use By-law for Cole Harbour/ Westphal;

**AND WHEREAS** the Harbour East – Marine Drive Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Case Number 22622;

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

## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

- 1.1.1 The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

### **1.2 Applicability of Land Use By-law and Subdivision By-law**

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

- 1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

### **1.5 Costs, Expenses, Liabilities and Obligations**

- 1.5.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

### **1.6 Provisions Severable**

- 16.1 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) "Storey" means a building floor level which is entirely or primarily located above the established grade but does not include any floor level which is entirely or primarily located below the established grade and primarily used for parking, storage or other accessory uses.

## **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 22622:

Schedule A	Legal Description of the Lands
Schedule B	Site Survey
Schedule C	Site Plan
Schedule D	North East Elevation (3-storey apartments)
Schedule E	North West Elevation (3-storey apartments)
Schedule F	South West Elevation (3-storey apartments)
Schedule G	South East Elevation (3-storey apartments)
Schedule H	North East Elevation (4-storey apartments)
Schedule I	North West Elevation (4-storey apartments)
Schedule J	South West Elevation (4-storey apartments)
Schedule K	South East Elevation (4-storey apartments)

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

- 3.2.1 Prior to any site work and the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Plan of survey and deeds showing the proposed reconfiguration of the existing parcels constituting the Lands and the proposed sidewalk areas to be added to the street right-of-way, in accordance with Section 3.4.6 of this Agreement;
- (b) Written confirmation and photograph demonstrating the existing buildings/structures have been removed from the specific parcel of the Lands on which each Development Permit has been requested, in accordance with Section 3.4.10 of this Agreement; and
- (c) A proposed landscape plan in accordance with Section 3.6 of this Agreement.

- 3.2.2 Prior to the issuance of the first the Occupancy Permit for the buildings, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the landscape plan, or a security deposit in accordance with Section 3.6 of this Agreement.

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

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

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
- (a) A 3-storey multiple-unit dwelling containing a maximum of sixteen (16) dwelling units and interior storage areas for residents;
  - (b) A 4-storey multiple-unit dwelling containing a maximum of thirty (30) dwelling units and including at least one level of underground parking and interior storage areas; and
  - (c) Accessory uses, pursuant to the Land Use By-law, as amended from time to time.

### **3.4 Detailed Provisions for Land Use**

- 3.4.1 Notwithstanding the requirements of the Land Use By-law for Cole Harbour/ Westphal, the development of the Lands shall conform with the attached Schedules and the provisions of Part 3 of this Agreement.
- 3.4.2 Accessory uses, buildings and structures shall comply with the Land Use By-law.
- 3.4.3 Vehicular parking shall be located as shown on Schedule C and shall include at least one level of underground parking below the 4-storey multiple-unit dwelling. Parking shall comply with the Land Use By-law provisions, with the exception that the minimum parking requirement shall be 1 space per dwelling unit inclusive of any spaces for the mobility disabled, and that the minimum size of individual, regular spaces may be reduced to eight (8) feet by eighteen (18) feet, which does not apply to mobility disabled spaces. The exterior parking and driveway areas shall be hard-surfaced.
- 3.4.4 Notwithstanding subsection 3.4.3, exterior surface parking spaces located or partially located on the property containing the 3-storey multi-unit dwelling may count towards the minimum parking requirement for the 4- storey multi-unit dwelling, provided the minimum parking ratio is 1 space per unit for the entire development.
- 3.4.5 Bicycle parking: Facilities for bicycles shall be provided for the multiple-unit dwellings pursuant to the requirements of the Land Use By-law.
- 3.4.6 Subdivision: The Developer shall submit a plan of survey to the Development Officer for the reconfiguration of the existing lots so that each multiple-unit dwelling is located on its own lot, provided that each resulting lot has a minimum of 60 feet (18.3 metres) of frontage along the street line. Additionally, the Developer agrees to convey to the municipality the parcel of land that is created using a offset line 0.3m from the southern edge of the existing asphalt sidewalk, out to the existing road boundary of Cole Harbour Road, so that the existing sidewalk along the portion of these lots is located entirely within the road right of way. This resultant land shall be conveyed to the Municipality, with no resultant cost to the Municipality, for street widening purposes, and the Developer shall prepare and submit deeds with the subdivision plan prior to the issuance of a Development Permit, to the satisfaction of the Development Officer.
- 3.4.7 Private balconies for the multiple-unit dwellings shall include privacy glass (eg. frosted or semi-opaque glass which may be lightly tinted), which shall be specified on the drawings submitted for the Development and Construction Permits.

- 3.4.8 Site fencing, tree retention and vegetative protection shall adhere to Section 3.6.
- 3.4.9 Amenity areas for tenants shall include an interior amenity room (approximately 850 square feet), an exterior landscaped terrace adjacent to the interior amenity room (approximately 450 square feet), and an exterior amenity area located in the northwest corner of the site (minimum 800 square feet), as shown on Schedule C and detailed in Section 3.6. The minimum area of total usable interior and exterior amenity space shall be 2,100 square feet (195 square metres), not including private balconies.
- 3.4.10 The existing buildings and structures on the Lands shall be removed prior to the issuance of a Development Permit, with the exception that the existing structure at the front of the site may continue to exist and operate while the 3-storey, 16-unit multiple-unit dwelling at the rear of the site is being constructed and occupied.

### **3.5 Architectural Requirements**

- 3.5.1 The following external cladding materials shall be prohibited: plywood, exterior insulation and finish systems (where stucco is applied to rigid insulation), metal siding using exposed fasteners, and darkly tinted or mirrored glass.
- 3.5.2 Any exposed foundation in excess of three feet in height shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.3 All vents, down spouts, flashing, 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.
- 3.5.4 Notwithstanding subsection 3.1.1, the arrangement of window, balconies, rooflines and exterior features may be altered to accommodate the interior layout of the building, and exterior building materials may be altered, provided that the arrangement is consistent with the general architectural intent of the Schedules, and under no circumstances shall the arrangement create a condition which results in large blank or unadorned walls

### **3.6 Landscaping**

- 3.6.1 All plant material shall conform to the Canadian Nursery Landscape Association's Canadian Nursery Stock Standard (latest edition).
- 3.6.2 Outdoor landscaped open spaces for tenants shall include a terrace at the southern end of the 4-storey building and an amenity area in the northwest corner of the site, as generally shown on Schedule C. The landscaped amenity area in the northwest corner shall be a minimum area of 800 square feet and include hard and soft landscaping elements including, but not limited to pavers, ground cover, planting beds and benches.
- 3.6.3 Tree retention: Existing trees shown on Schedule B with a minimum trunk diameter of 3 inches (measured at 4.5 feet above ground) and existing tree roots and ornamental bushes shall be retained within 10 feet ( 3.05 m) of the western side property line opposite the 4-storey multiple-unit dwelling. Limbs of trees that are retained, which interfere with construction, may be removed subject to approval by the Development Officer. Trees shall be retained where possible elsewhere along the side and rear property lines, as generally shown on Schedule C, except where the parking area immediately abuts the east side property line or construction requires trees to be removed. The existing trees and other vegetation along the western property line shall be flagged or otherwise marked on-site before & during construction, to the satisfaction of the Development Officer, and shall be shown on the site plan submitted for a Construction Permit. Any trees to be

preserved that are damaged or removed shall be replaced, two new trees for each damaged or removed tree, with trees of a similar type and with minimum sizes of 3-inch diameter. The Development Officer may permit the removal of dead or dying trees, to be replaced with one new tree for each dead or dying tree removed.

- 3.6.4 Opaque fencing, a minimum of six (6) feet in height, shall be provided along the west and east side property lines abutting residential uses, as shown on Schedule C. Vegetative visual screening of similar height shall be included along the rear (south) property line. Adjustments may be permitted to the location of the fence in situations where there is conflict with existing tree locations.
- 3.6.5 Prior to the issuance of a Development Permit, the Developer agrees to provide Landscape Plan which comply with the provisions of this section and generally conforms with the overall intentions of the Site Plan shown on Schedule C. 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.
- 3.6.6 Prior to issuance of the first Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.6.7 Notwithstanding Section 3.6.6, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### **3.7 Maintenance**

- 3.7.1 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 buildings, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.

### **3.8 Temporary Construction Building**

- 3.8.1 A building, including any existing building, 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 in accordance with this Agreement. The construction building shall be removed from the specific parcel of the Lands on which each Development Permit has been requested prior to the issuance of an Occupancy Permit for that parcel.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### **4.1 General Provisions**

4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

#### **4.2 Off-Site Disturbance**

4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

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

4.3.1 The building shall include designated space for five stream commercial waste containers 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.

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

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

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

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

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

#### **5.2 Archaeological Monitoring and Protection**

5.2.1 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.



### **5.3 Sulphide Bearing Materials**

- 5.3.1 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 Non-Substantive Amendments**

- 6.1.1 The following items are considered by both parties to be non-substantive and may be amended by resolution of Council:
- (a) Changes to the site landscaping and corresponding changes to the Schedules;
  - (b) Changes to the surface parking layout, parking supply, driveway locations and underground parking access and corresponding changes to the schedules;
  - (c) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement; and
  - (d) The length of time for the completion of the development as identified in Section 7.4.1 of this Agreement.

### **6.2 Substantive Amendments**

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

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

### **7.1 Registration**

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

### **7.2 Subsequent Owners**

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

### **7.3 Commencement of Development**

- 7.3.1 In the event that development on the Lands has not commenced within six (6) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law for Cole Harbour/ Westphal.
- 7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Construction Permit for the first multiple-unit dwelling, site excavation and commencement of the footings/ foundation.

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

#### **7.4 Completion of Development and Discharge**

7.4.1 If the Developer fails to complete the development after nine (9) 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;
- (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 Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

### **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 sixty (60) 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 defence based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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

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

**(Insert Registered Owner Name)**

\_\_\_\_\_  
Witness

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

Print Name: \_\_\_\_\_

Print Position: \_\_\_\_\_

Date Signed: \_\_\_\_\_

=====

=====

**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

Date signed: \_\_\_\_\_

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MUNICIPAL CLERK

Date signed: \_\_\_\_\_

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

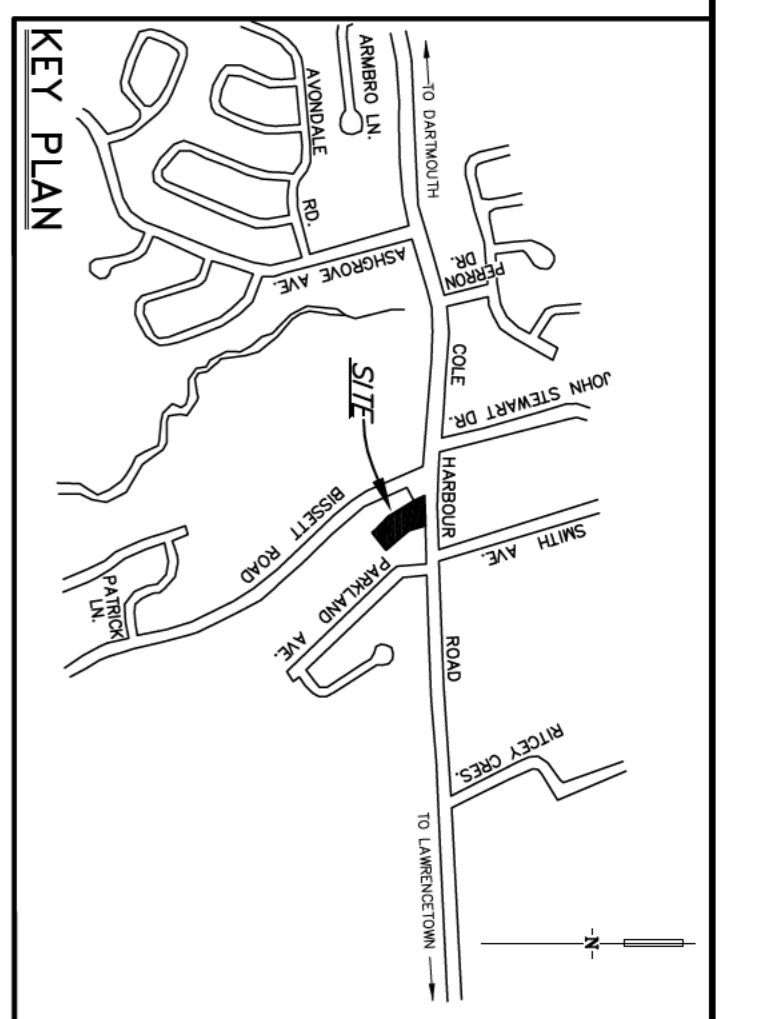
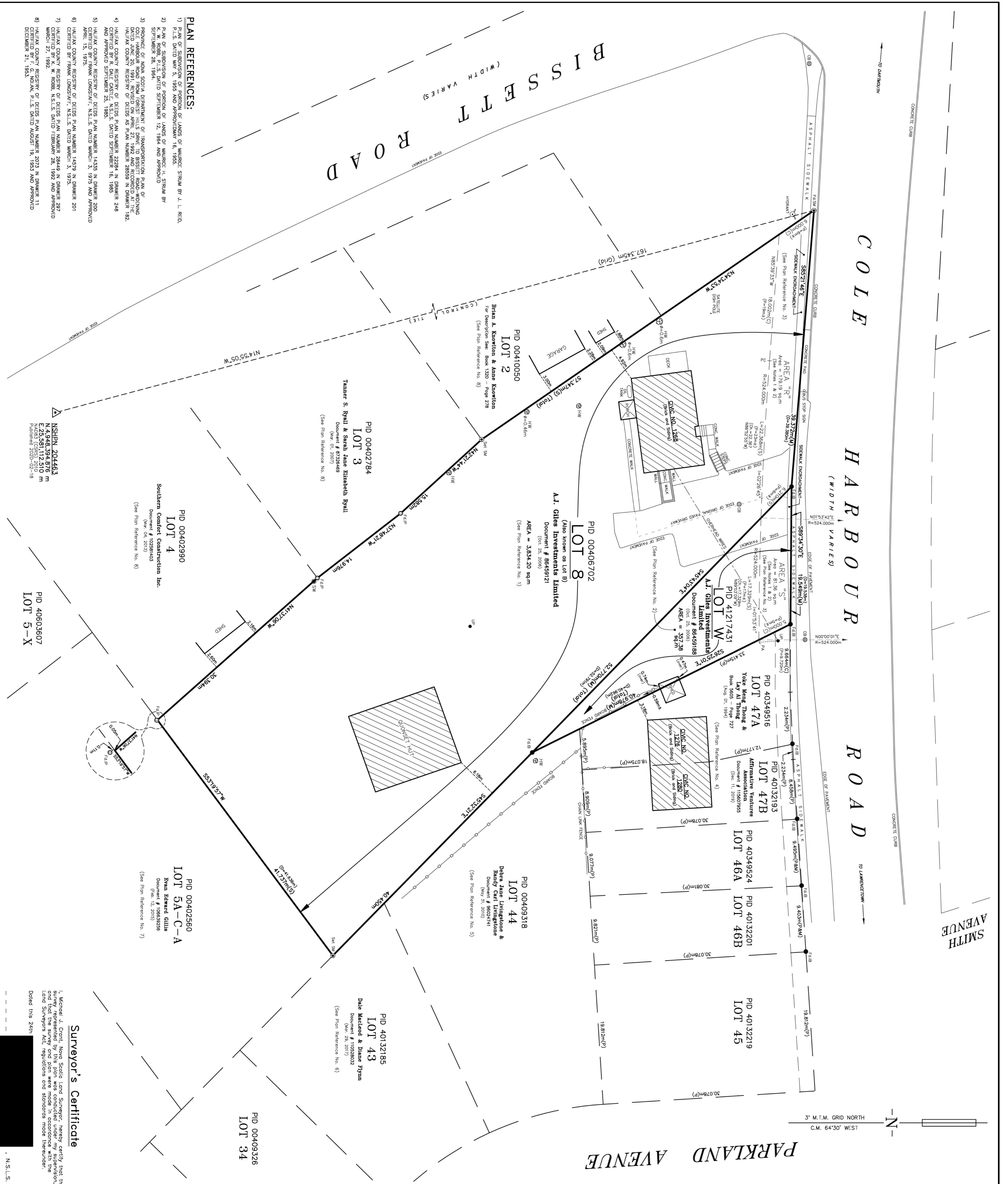
On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, the subscriber personally came and appeared \_\_\_\_\_ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that \_\_\_\_\_, \_\_\_\_\_ of the parties thereto, signed, sealed and delivered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



**LEGEND:**

- LANDS DEALT WITH BY THIS PLAN
- DEED, PLAN, MEASURED, CALCULATED
- SET
- SETBACK
- IRON BAR
- IRON PIPE
- NOW SCOTIA HIGH PRECISION NETWORK MONUMENT
- FOUND
- LAND INFORMATION SERVICES
- PROPERTY IDENTIFIER NUMBER
- UTILITY POLE & POLE ANCHOR
- PA
- POINT OF CURVATURE
- POINT OF CURVATURE
- CHORD
- CONC.
- REINFORCED CONCRETE
- REINFORCED CONCRETE
- REINFORCED CONCRETE
- REINFORCED CONCRETE
- DIAMETER

**COORDINATE SYSTEM INFORMATION**

HORIZONTAL DATUM: NAD83 (GRS)

VERTICAL DATUM: CANADIAN GEODETIC VERTICAL CALCULATED OFFSET FROM VERTICAL DATUM: DATUM 2011 (CGVD2011) TRANSFORMED TO CGVD2013, -0.66m

PROJECTION: UTM ZONE 18N

ZONE: 5

COMBINED SCALE FACTOR: 0.999976

**NOTES:**

- 1) AREAS OF "A" AND "B" ARE SHOWN AS PARCELS DESIGNATED FOR ROAD WIDENING AND TRANSPORTATION PLAN REFERRED TO IN PLAN REFERENCE 3.
- 2) AREAS OF "C" AND "D" WERE USED TO BE THE NOVA SCOTIA DEPARTMENT OF TRANSPORTATION OR HALIFAX REGIONAL MUNICIPALITY.

**Surveyor's Certificate**

I, Michael J. Croll, Nova Scotia Land Surveyor, hereby certify that the survey represented by this plan was conducted in accordance with the Land Survey Act, Regulations and standards made thereunder. Dated this 24th day of October, 2022.

**SURVEYOR'S CERTIFICATE**

Michael J. Croll, Nova Scotia Land Surveyor, 389

**ALDERNEY SURVEYS LIMITED**

NOVA SCOTIA LAND SURVEYORS  
12 DAWN DRIVE, DARTMOUTH, N.S. B3B 1Y8  
Tel: 902.485.7300 Fax: 902.485.4834 edemey@alderneys.com

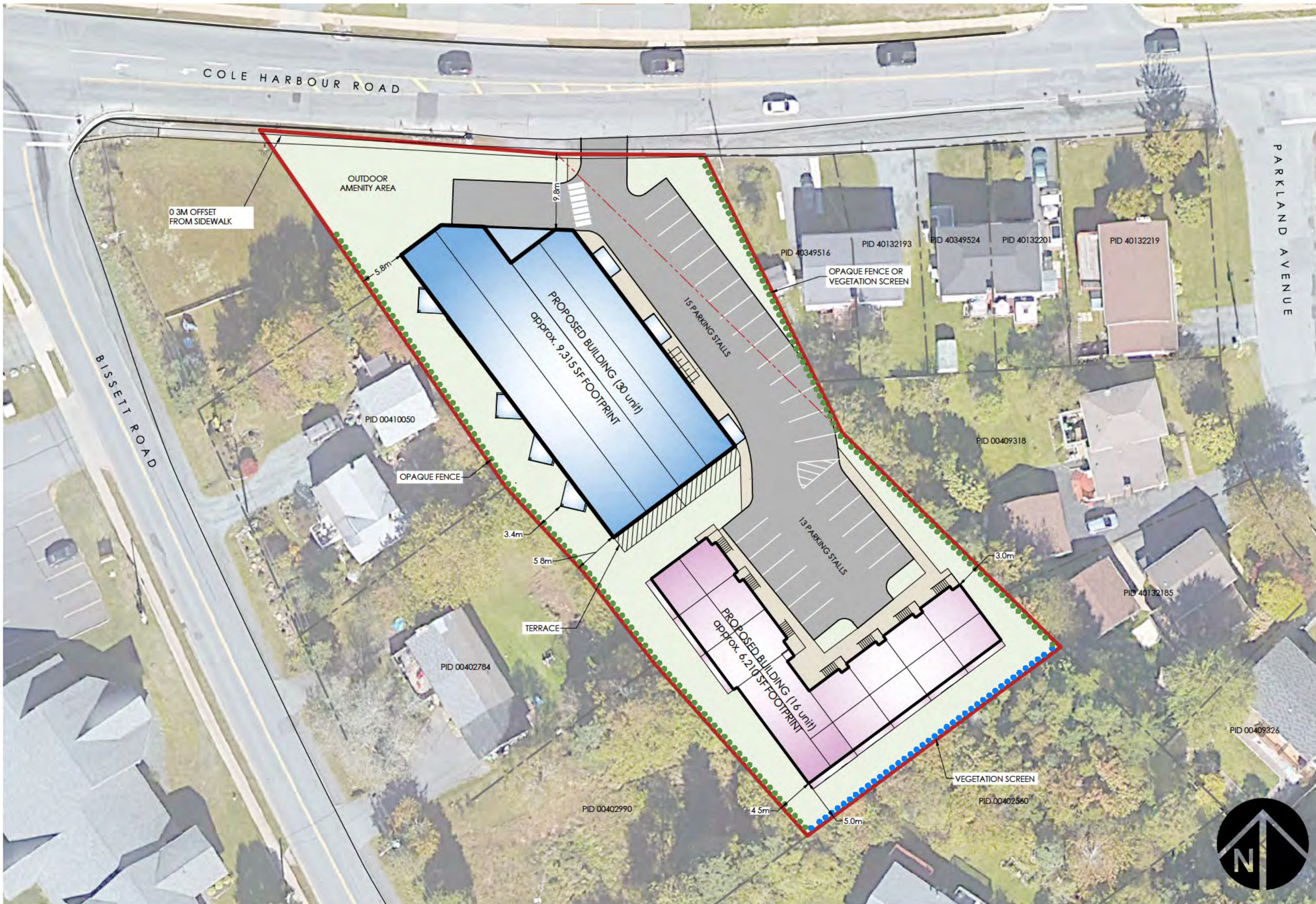
**PLAN OF SURVEY SHOWING**  
Retracement of Boundaries of  
**LOT 8 (PID 00406702) &**  
**LOT W (PID 41217431)**  
Lands Conveyed to  
**A.J. Giles Investments Limited**  
COLE HARBOUR ROAD  
COLE HARBOUR, HALIFAX COUNTY, NOVA SCOTIA

GRAPHIC SCALE  
1 : 250

DWG. NO. 224833-1  
DRAWN BY: MJC  
DATED: OCTOBER 24, 2022



FILE: C:\Users\Ken\Zwickler\Projects - Planning\Projects - Documents\2019\19-087 Giles - Cole Harbour Road\1\_DWG\1\_Site Plan\19-087-SITE\_PLAN-111.dwg SHEET: 11x17



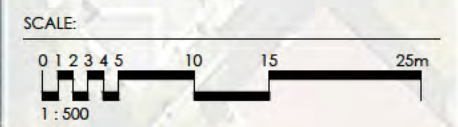
**LEGEND**

- Site Boundary
- Adjacent Property Boundary
- - - Ex. Internal Property Boundary

- SITE SUMMARY:**
- PID: 00406702 / 41217431
  - Total Land Area: 4 191.6 sm / 45 118 SF
  - Existing Zone: C-2 / R-2

- NOTES:**
- Proposed Setbacks to property lines are minimum distances

- SOURCES:**
- Plan based on Alderney Surveys Limited Retracements of Boundaries Plan dated October 24 2022
  - CAD file: 'ACAD-224833-1 (Retracement Plan).dwg'



CLIENT  
**A.J. GILES INVESTMENTS LIMITED**

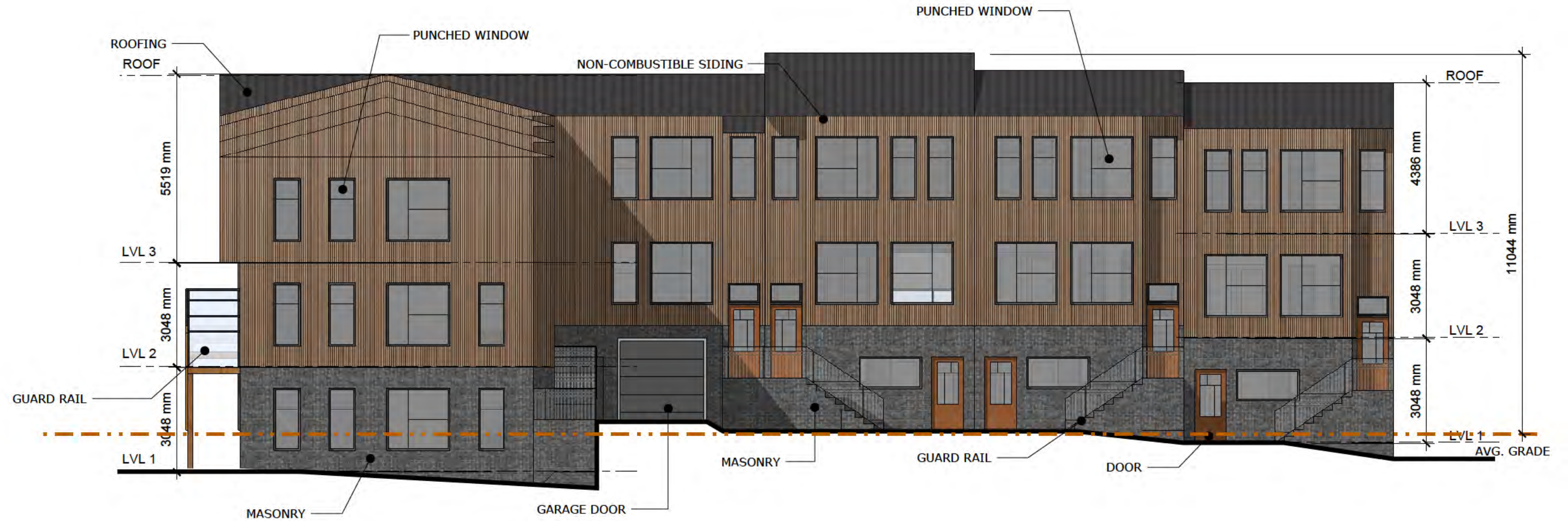
PROJECT  
**LOT 8 | LOT W - 1268 COLE HARBOUR ROAD**  
Cole Harbour, Nova Scotia

DRAWING  
**SCHEDULE C**

PROJECT NO. **19-087** DRAWING NUMBER  
DRAWN BY: KW **111**  
DATE: OCTOBER 26, 2022

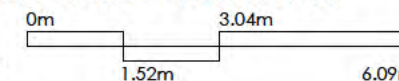


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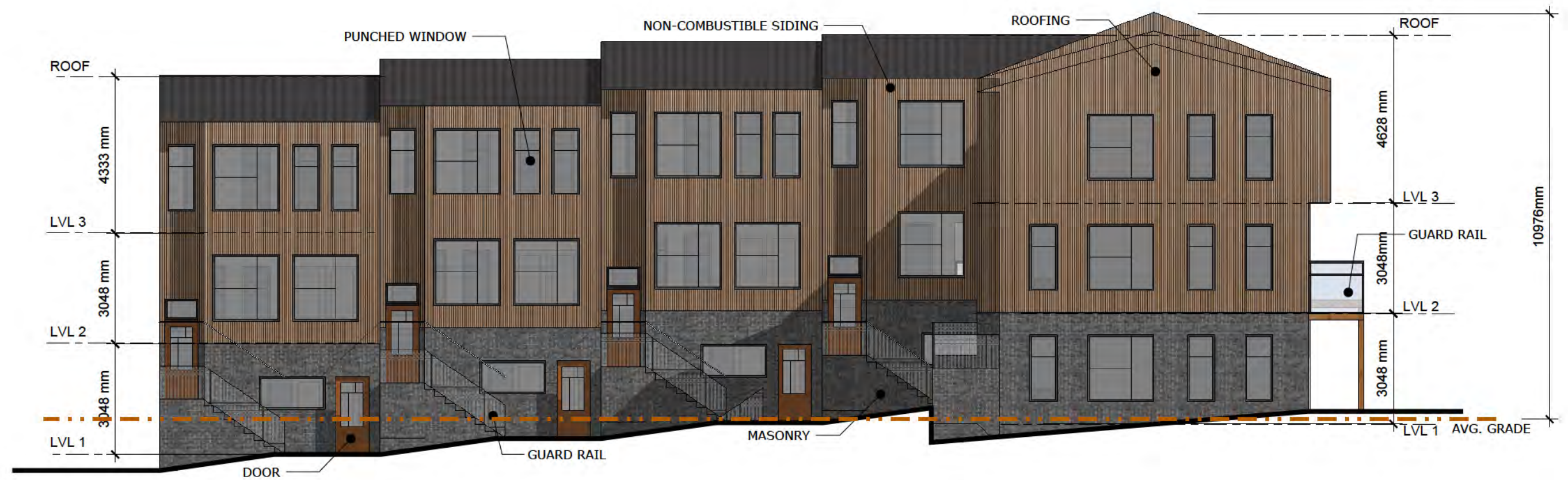
**TOWHOUSES - NORTH EAST ELEVATION**

19-087\_DA Application\_2022





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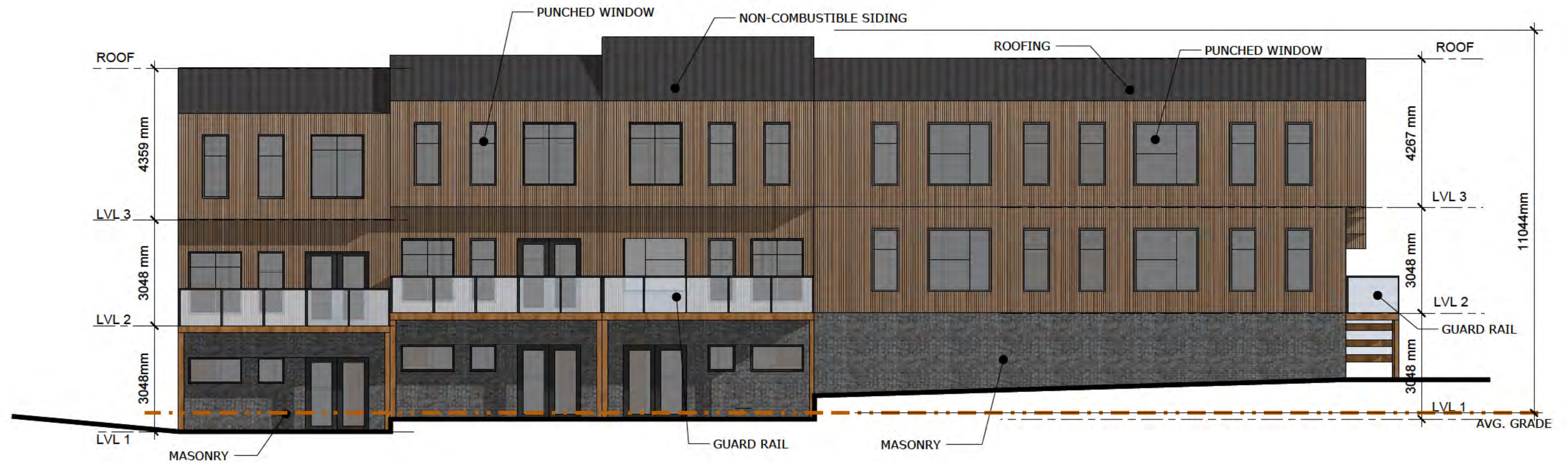


**TOWHOUSES - NORTH WEST ELEVATION**

19-087\_DA Application\_2022



NOTE:  
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**TOWHOUSES - SOUTH WEST ELEVATION**

19-087\_DA Application\_2022

**zap**

architecture + planning  
1 Canal St, Dartmouth  
NS B2Y 2W1 | zap.ca

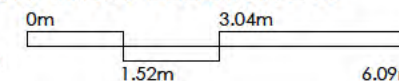
PROJECT

**LE HARBOUR ROAD DEVELOPMENT**  
Cole Harbour, Nova Scotia

DRAWING

**SOUTH WEST ELEVATION**

SCALE 1:120



PROJECT NO. 19-087

DRAWN BY: MC

ISSUED FOR DP

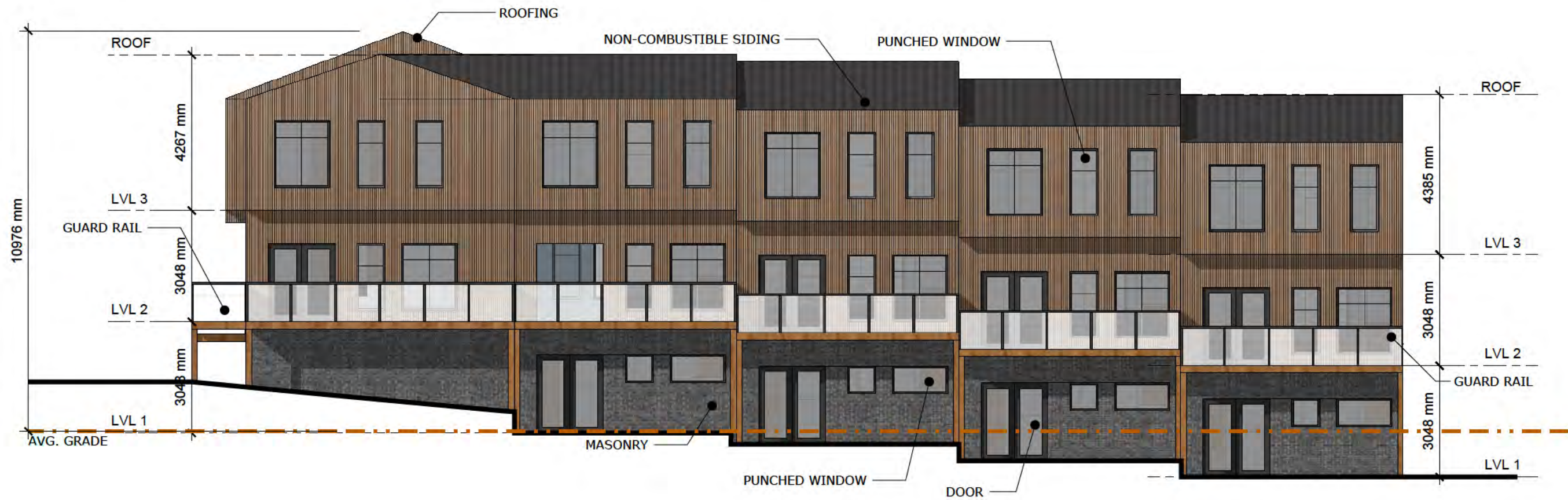
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SCHEDULE

**F**

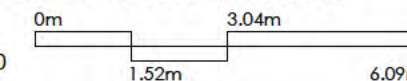


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**TOWHOUSES - SOUTH EAST ELEVATION**

19-087\_DA Application\_2022





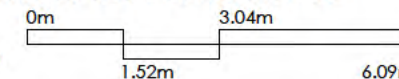
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NON-COMBUSTIBLE SIDING TYPE 2

NON-COMBUSTIBLE SIDING TYPE 3



19-087\_DA Application\_2022

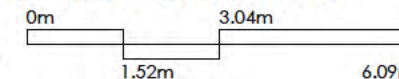




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19-087\_DA Application\_2022





NOTE:  
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**MULTI - SOUTH WEST ELEVATION**

19-087\_DA Application\_2022

CLIENT

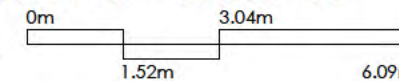
PROJECT

**1268 COLE HARBOUR ROAD DEVELOPMENT**  
Cole Harbour, Nova Scotia

DRAWING

**SOUTH WEST ELEVATION**

SCALE 1:120



PROJECT NO. 19-087

DRAWN BY: MC

ISSUED FOR DP

DATE: February 16, 2023

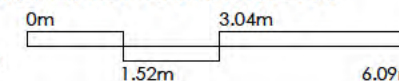
SCHEDULE  
**J**



NOTE:  
CLADDING TO BE NON-COMBUSTIBLE, NON-VINYL TYPE.



19-087\_DA Application\_2022



**Attachment B**  
**Review of Relevant Regional MPS and Cole Harbour/ Westphal MPS Policies**

Policy	Staff Comment
<b>Regional Municipal Planning Strategy</b>	
<p><i>Policy G-14A</i>  <i>In considering development agreements or amendments to development agreements, or any proposed amendments to the Regional Plan, secondary planning strategies, or land use by-laws, in addition to the policies of this Plan, HRM shall consider the objectives, policies and actions of the priorities plans approved by Regional Council since 2014, including:</i></p> <ul style="list-style-type: none"> <li><i>(a) The Integrated Mobility Plan;</i></li> <li><i>(b) Halifax Green Network Plan;</i></li> <li><i>(c) HalifACT;</i></li> <li><i>(d) Halifax’s Inclusive Economic Strategy 2022-2027; and</i></li> <li><i>(e) any other priority plan approved by Regional Council while this policy is in effect.</i></li> </ul>	<p>Staff see no conflict between the objectives of the priority plans and this proposed development. See comments on policies E-10, T-3, and T-9 below.</p>
<p><i>Policy G-15</i>  <i>In considering development agreement applications pursuant to the provisions of this Plan, in addition to all other criteria as set out in various policies of this Plan, HRM shall consider the following:</i></p> <ul style="list-style-type: none"> <li><i>a) that the proposal is not premature or inappropriate by reason of:</i> <ul style="list-style-type: none"> <li><i>(i) the financial capability of HRM to absorb any costs relating to the development;</i></li> <li><i>(ii) the adequacy of municipal wastewater facilities, stormwater systems or water distribution systems;</i></li> <li><i>(iii) the proximity of the proposed development to schools, recreation or other community facilities and</i></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>a) See comments below under Policy IM-11.</li> <li>b) See comments below under Policy IM-11.</li> <li>c) See comments below under Policy IM-11.</li> <li>d) Policies EC-14, CH-14 and CH-16 are not applicable. See comments on policies E-10, T-3, and T-9 below.</li> </ul>

<p><i>the capability of these services to absorb any additional demands;</i></p> <p><i>(iv) the adequacy of road networks leading to or within the development; and</i></p> <p><i>(v) the potential for damage to or for destruction of designated historic buildings and sites;</i></p> <p><i>b) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> <p><i>(i) type of use;</i></p> <p><i>(ii) height, bulk and lot coverage of any proposed building;</i></p> <p><i>(iii) traffic generation, access to and egress from the site, and parking;</i></p> <p><i>(iv) open storage; and</i></p> <p><i>(v) signs;</i></p> <p><i>c) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and</i></p> <p><i>d) if applicable, the requirements of policies E-10, T-3, T-9, EC-14, CH-14 and CH-16.</i></p>	
<p><i>Policy E-10</i></p> <p><i>The recommendations of the Urban Forest Master Plan, adopted in principle by HRM in September 2012, shall be considered in planning, programming and regulatory activities related to managing and enhancing the urban forest cover in HRM.</i></p>	<p>There are requirements in the proposed development agreement that contribute to various actions in the Urban Forest Master Plan. The proposed development agreement requires a landscaping plan as part of the development permit application which must be prepared by a landscape architect and plant material conform to the Canadian Nursery Landscape Association's Canadian Nursery Stock Standard. As well, the proposed agreement requires the retention of existing trees and replacement of any trees that are damaged or removed at a rate of two new trees for each one removed or damaged.</p>



<p><i>Policy T-3</i>  <i>When preparing secondary planning strategies or negotiating development agreements, HRM shall consider:</i></p> <ul style="list-style-type: none"> <li><i>a) protecting greenways from development that would disrupt the continuity of planned greenways;</i></li> <li><i>b) requiring planned greenways to be built by developers to HRM standards when the land abutting them is developed; and</i></li> <li><i>c) requiring new development be connected to, and provide access to, existing and planned greenways.</i></li> </ul>	<p>As per Map 3, the subject site is located in the area of a greenway that extends from Provincially owned parkland on Bissett Road North toward Enfield. The subject site and abutting sites are currently developed and the site is permitted to be redeveloped as-of-right. Under the proposed development agreement, a portion of the of the existing sidewalk area will be incorporated into HRM ownership via the subdivision process and there will be on-site walkways which connect residents to the street, providing access to existing and planned greenways.</p> <p>As per Map 4, the subject site is not within a natural corridor or open space and natural resource network.</p>
<p><i>Policy T-9</i>  <i>HRM shall require mixed use residential and commercial areas designed to maximize access to public transit (Transit Oriented Development) within the Urban Transit Service Boundary through secondary planning strategies, and shall strive to achieve the intent of this policy through land use by-law amendments, development agreements and capital investments.</i></p>	<p>The subject site is within the Urban Transit Service Boundary and bus stops are located directly in front of the site and across Cole Harbour Road. The proposed development is for two multi-unit residential buildings, which meets the intent of this policy by adding significant residential density along Cole Harbour Road.</p>
<p><b>Cole Harbour / Westphal Municipal Planning Strategy</b></p>	
<p><i>Policy CC-4</i>  <i>Notwithstanding Policy CC-2, Council may consider permitting multiple unit residential uses containing more than twelve dwelling units within the Community Commercial Designation in accordance with the development agreement provisions of the Planning Act. In considering such an agreement, Council shall have regard for the following:</i></p>	
<p><i>a) the effects of the proposed development upon the road network;</i></p>	<p>The Traffic Impact Statement, prepared by Griffin Transportation Group dated September 14, 2021, has been reviewed and accepted by Development Engineering and Traffic Management.</p>
<p><i>b) separation distances from low density residential uses;</i></p>	<p>The 4-storey building in the front will have a minimum 5.8 m (19 ft.) setback from the building wall to the south west property line in common with abutting low-density dwelling properties. The 3-storey building to the rear of the site will have a minimum 4.5 m (15 ft.) setback from the south west property line and a 3.0 m (10 ft.) setback from the north east property line. The setbacks of the 4-storey building are comparable to those required by the C-2</p>

	<p>zone of the LUB for commercial buildings, apartment buildings or shared housing of similar height. Likewise, a 3-storey townhouse building of 35 feet in height, if located in a R-5 (townhouse) zone, would require similar or less of a separation than that proposed to the rear of the site.</p> <p>In addition to separation distances, privacy measures will be employed, such as opaque fencing (6 ft. high) or vegetative screening along all side and rear property lines. Along the south west property line abutting the 4-storey building, the development agreement requires tree retention measures, fencing along the property line and privacy screening of balconies, such as opaque panels and semi-opaque (frosted) glass panels. The separation distances combined with the screening/ privacy measures are reasonable for this proposal on the subject site.</p>
<p>c) <i>the availability of useable open space;</i></p>	<p>The development agreement requires approximately 116 square metres (1,250 sq.ft.) of outdoor amenity space, including an exterior landscaped terrace (approximately 450 sq. ft.) to the rear of the 4-storey building and a landscaped amenity area located in the northwest corner of the site (approximately 800 sq. ft.). There is other unprogrammed space around the buildings as well as interior amenity space and private balconies. There is also a variety of off-site parks and recreational facilities in the Cole Harbour area.</p>
<p>d) <i>the location of on site amenity areas;</i></p>	<p>Proposed outdoor amenity spaces are noted above. The development agreement requires a total minimum area of 195 square metres (2,100 sq. ft.) of outdoor and indoor amenity space, not including private balconies. The interior amenity room (approximately 850 square feet) will be located adjacent to the exterior landscaped terrace. The provision of these amenity areas meets the intent of this policy.</p>
<p>e) <i>the overall design of the site and structure, including landscaping, parking areas and access;</i></p>	<p>The site is designed so that the 4-storey building is situated relatively close to the street and the 3-storey building is located to the rear of the site. The lots will be re-subdivided so that each building is located on its own lot and the front property line will be adjusted so that the sidewalk is fully on municipal property.</p> <p>The proposal includes a mix of surface and underground parking. More than half of the parking for the 4-storey building will be underground. Surface</p>

	<p>parking will be partially shared between the two buildings.</p> <p>HRM's Parking Services was consulted to assist in determining an appropriate amount of vehicular parking for the development. The development agreement requires a minimum of 1.0 parking spaces per dwelling unit. For comparison purposes, the Regional Centre does not have a minimum parking requirement. The C-2C Zone in the Fairview area of Halifax, which is a newer zone, requires 0.5 parking spaces per bachelor or one-bedroom units and 0.8 spaces per units containing two or more bedrooms.</p> <p>Access to the site is shared and will be limited to the existing driveway location to the left (east) side of the proposed 4-storey building. The existing driveway will be further defined, and its width will be reduced in order to meet municipal requirements (Streets By-law S-300).</p> <p>Landscaped areas will include a formal outdoor amenity area in the front north west corner of the site, which will include hard and soft landscaping elements such as pavers, ground cover, planting beds and benches, and a landscaped terrace to the rear of the 4-storey building. Walkways in front of building entrances will allow for pedestrian access to the street. Other unprogrammed green areas around the building perimeters will act as yard space or sodded areas. Landscaping measures will also include tree retention and the construction of fencing or landscaped screening around the side and rear perimeter of the site, between both the buildings and parking areas and any abutting development. The proposed agreement requires the developer submit a landscaping plan at the permitting stage.</p>
<p>f) <i>the design of buildings, including roof pitch and finish materials; and</i></p>	<p>The 3-storey building is designed to have a contemporary townhouse building appearance with a shallow-pitched gable roof. The 4-storey building is proposed to have more of a traditional low-rise apartment design with projecting balconies, also with a shallow gable roof pitch and contemporary design. A mix of non-combustible building materials are proposed which will fit in with and complement materials found on surrounding low-density wood frame structures. Balconies on the 4-storey building along the south west property line will include privacy</p>

	screening measures, such as opaque panels and semi-opaque (frosted) glass panels.
g) <i>the provisions of Policy IM-11.</i>	Refer below.
<p><i>Policy UR-10</i>  <i>Notwithstanding Policies UR-2 and UR-9, within the Urban Residential Designation, it shall be the intention of Council to consider multiple unit dwellings over six (6) dwelling units, according to the development agreement provisions of the Planning Act. In considering such an agreement, Council shall have regard to the following:</i></p>	
<p>a) <i>the adequacy of separation distances from low density residential developments;</i></p>	<p>As noted in Policy CC-4 b) above, the separation distances will be reasonable for this proposal. The proposed setbacks for both the 4-storey and 3-storey buildings are similar to that which would be required by the Land Use By-law in an as-of-right situation. Additional privacy measures are also required by the agreement, such as opaque fencing or vegetative screening around the side and rear property lines, and tree retention and privacy screening measures on projecting balconies along the south west property line, where the proposed buildings would be the closest to and have the greatest impact on abutting development.</p>
<p>b) <i>that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses;</i></p>	<p>Adjacent land uses primarily include low-density residential uses such as single-unit and two-unit dwellings. However, the site abuts a 3-unit townhouse-style dwelling to the rear which is zoned R-4 (Multiple Unit Dwelling). There are also a commercial property and a 3.5-storey apartment building with commercial uses directly across from the site on Cole Harbour Road which are zoned C-2 (General Business).</p> <p>Pursuant to the LUB definition of “height”, which is measured from the ‘established grade’ to ¼ the height of the roof, the height of the proposed 4-storey building is approximately 12 metres (39.4 feet) and the height of the 3-storey building would be approx. 9.5 metres (31 feet). In comparison, the C-2 zone permits multiple-unit dwellings up to 12 units at a maximum of 35 feet in height. The R-2 zone and R-5 (Townhouse) zone also permit buildings of up to 35 feet in height. As the LUB does not specify a maximum length of building, a similarly sized (or slightly lower) height and similar length of buildings could be constructed via an as-of-right permitting process. Therefore, the proposed bulk or massing, in addition to height, is compatible with surrounding land uses.</p>

	<p>Proposed lot coverage (total) is approximately 35.6% for the entire site. The site is proposed to be re-subdivided so that each building is located on its own lot, and the coverage of each lot is not expected to greatly deviate above or below this figure. The underlying C-2 zone has a maximum lot coverage requirement of 50% and the R-2 zone maximum is 35%. Therefore, proposed lot coverage is compatible with surrounding uses.</p> <p>As noted in Policy CC-4 f) above, the proposed building design, materials and appearance are compatible with adjacent buildings.</p>
<p>c) <i>that site design features, including landscaping, amenity areas, parking areas and driveways, are of an adequate size and design to address potential impacts on adjacent development and to provide for the needs of residents of the development;</i></p>	<p>Refer to policies CC-4 c), d) and e) above. Proposed landscaping, amenity areas, parking areas and driveways will be of an adequate size, location and design.</p>
<p>d) <i>preference for a site in close proximity to community facilities such as school, recreation areas and transit routes;</i></p>	<p>The site is in close proximity to schools, recreation areas and transit routes. Halifax Regional Centre for Education (HRCE) has indicated that the proposal would likely only project about 8 students. There is sufficient capacity (both currently and projected) in the schools within the Cole Harbour District High Family of Schools. In addition, the Education Act mandates that every person over the age of five years and under the age of 21 years has the right to attend a public school serving the school region in which that person resides. While there may be operational challenges in some cases, the HRCE will work to ensure all students are provided with access.</p> <p>There are adequate recreation facilities of various sizes in the Cole Harbour area and the site is in close proximity to many of those. Transit routes exist along Cole Harbour Road and there are bus stops directly in front of the site and directly across Cole Harbour Road.</p>
<p>e) <i>that municipal central services are available and capable of supporting the development;</i></p>	<p>Halifax Water reviewed the proposal and advised the Developer will have to confirm capacity of the water and wastewater infrastructure at permitting. No concerns were identified at this time regarding the capacity of sewer or water infrastructure.</p>

<p>f) <i>that appropriate controls are established to address environmental concerns, including stormwater controls;</i></p>	<p>Part 5 of the proposed development agreement addresses this and requires submission of various plans including a Site Disturbance Plan, Erosion and Sedimentation Control Plan, and a detailed Site Grading and Stormwater Management Plan prior to any site work and permits.</p>
<p>g) <i>that the development has direct access to a minor or major collector as defined on Map 3 – Transportation;</i></p>	<p>Cole Harbour Road is a major collector on Map 3.</p>
<p>h) <i>the impact on traffic circulation and, in particular, sighting distances and entrances and exits to the site;</i></p>	<p>The Traffic Impact Statement, prepared by Griffin Transportation Group dated September 14, 2021, has been reviewed and accepted by Development Engineering and Traffic Management. All accesses to the property must meet the HRM Municipal Design Guidelines and the Street By-Law (S-300).</p>
<p>i) <i>general maintenance of the development;</i></p>	<p>The agreement includes a clause regarding maintenance. The Developer shall be responsible for maintaining and keeping in good repair all portions of the development.</p>
<p>j) <i>the effect of the development on the overall housing mixture within the community; and</i></p>	<p>In the early 1990s, the MPS established a general objective of 70:30 as a housing mixture ratio between single unit dwellings and other types of residential dwellings units within the Plan Area (policy UR-4). However, this is a somewhat outdated objective, as the Regional Plan now designates the Cole Harbour area as an Urban Local Growth Centre with a mix of low, medium and high-density residential development. In addition, more recently adopted changes by Regional Council to all planning areas to allow for secondary and backyard suites and shared housing in all residential zones will likely have an impact on the overall mix. Also, the Regional MPS Policies G-14A and T-9 are relevant. Pursuant to these policies, the Integrated Mobility Plan calls for adding significant residential density along transit corridors within the Urban Transit Service Boundary. Therefore, over time the housing mix is expected to change to reflect a greater percentage of multiple-unit and other housing types versus single unit dwellings.</p> <p>It is estimated that the current housing mix in the plan area is 73% single unit dwellings to 27% other dwelling types. The proposed development will have a negligible increase in the amount of multi-unit dwellings overall.</p>
<p>k) <i>the provisions of Policy IM-11.</i></p>	<p>See below.</p>

<p><b>Policy IM-11</b>  <i>In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this planning strategy, Cole Harbour/Westphal Community Council shall have appropriate regard to the following matters:</i></p>	
<p>a) <i>that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;</i></p>	<p>See comments above and below.</p>
<p>b) <i>that the proposal is not premature or inappropriate by reason of:</i></p> <ul style="list-style-type: none"> <li><i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i></li> <li><i>(ii) the adequacy of sewer and water services;</i></li> <li><i>(iii) the adequacy or proximity of school, recreation and other community facilities;</i></li> <li><i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i></li> <li><i>(v) the potential for damage to or destruction of designated historic buildings and sites.</i></li> </ul>	<ul style="list-style-type: none"> <li>(i) All costs associated with the proposed development will be the responsibility of the Developer.</li> <li>(ii) Halifax Water reviewed the proposal and advised the Developer will have to confirm capacity of the water and wastewater infrastructure at permitting. No concerns were identified at this time regarding the capacity of sewer or water infrastructure. The development will conform to the latest version of the Halifax Water Design Specification and regulations.</li> <li>(iii) Refer to policy UR-10 d) above. The site is close to multiple schools, community facilities and parks in the Cole Harbour area.</li> <li>(iv) As noted in UR-10 h) above, the TIS prepared by Griffin Transportation Group dated September 14, 2021, has been reviewed and accepted by Development Engineering and Traffic Management.</li> <li>(v) There are no designated historic buildings or sites near the site.</li> </ul>
<p>c) <i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> <ul style="list-style-type: none"> <li><i>(i) type of use;</i></li> <li><i>(ii) height, bulk and lot coverage of any proposed building;</i></li> <li><i>(iii) traffic generation, access to and egress from the site, and parking;</i></li> <li><i>(iv) open storage;</i></li> <li><i>(v) signs; and</i></li> <li><i>(vi) any other relevant matter of planning concern.</i></li> </ul>	<ul style="list-style-type: none"> <li>(i) Refer to above policies CC-4 b) and UR-10 a) and b). There is a mix of adjacent land uses, but the immediately abutting properties are primarily lower-density residential in nature. There will be adequate separation distances between the proposed development and surrounding lower-density residential development, combined with privacy measures which are also required by the agreement, such as opaque fencing or vegetative screening around the side and rear property lines, and tree retention and privacy screening measures on projecting balconies on the south west side.</li> <li>(ii) Refer to policy UR-10 b). The proposed bulk, massing, and building heights are compatible with surrounding land uses.</li> </ul>

	<p>(iii) Refer to policies CC-4 a) and e), and UR-10 c) and h).</p> <p>(iv) The development agreement does not permit open storage. All refuse and recycling materials shall be either contained within a building or suitably enclosed and screened from the street and abutting properties.</p> <p>(v) Signs will comply with the signage requirements of the underlying zone and Part 5 of the Land Use By-law.</p> <p>(vi) No other matters have been identified at this time.</p>
<p>d) <i>that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding; and</i></p>	<p>Refer to policy UR-10 f). The site is suitable for the proposed development. Part 5 of the agreement requires the submission of various environmental plans prior to any work on the site and the developer is required to comply with any related provincial regulations. No other concerns or issues have been identified.</p>
<p>e) <i>any other relevant matter of planning concern.</i></p>	<p>No other matters have been identified at this time.</p>
<p>f) <i>within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.</i></p>	<p>A holding zone has not been established, and there are no additional lots being proposed, only the re-subdivision of the existing two lots.</p>
<p><i>Policy IM-12 In considering amendments to the land use by-law or development agreements, Cole Harbour/Westphal Community Council shall hold a Public Hearing according to the Planning Act.</i></p>	<p>Any public hearing scheduled by Community Council will be held in accordance with the <i>HRM Charter</i>.</p>



*Policy IM-14*

*It shall be the intention of the Cole Harbour/Westphal Community Council to post a notice of public hearing for any rezoning or development agreement application being considered under the provisions of this planning strategy. The notice shall be posted on the property under consideration and all expenses incurred shall be debited from an advertising deposit made by the applicant.*

Prior to a public hearing, a notice will be posted on the application webpage and on the signage on the subject site.