



P.O. Box 1749  
Halifax, Nova Scotia  
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**Item No. 10.1.1**  
**Harbour East – Marine Drive Community Council**  
**June 15, 2023**  
**July 6, 2023**

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

**SUBMITTED BY:** - Original Signed -  
Peter Duncan, A/Executive Director of Planning and Development

**DATE:** May 18, 2023

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

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**SUPPLEMENTARY REPORT**

**ORIGIN**

- Revisions to Schedules B and C of the proposed development agreement - application by ZZap Architecture + Planning, on behalf of the property owner A.J. Giles Investments Limited;
- April 20, 2023 Harbour East-Marine Drive Community Council:

*MOVED by Councillor Purdy, seconded by Councillor Kent  
THAT Harbour East – Marine Drive Community Council give notice of motion to consider the proposed development agreement, as set out in Attachment A of the staff report dated February 28, 2023, 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.  
MOTION PUT AND PASSED.*

**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 of this report, 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;

**RECOMMENDATION CONTINUED ON NEXT PAGE**

2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of this report; 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 / DISCUSSION**

On April 20, 2023, Harbour East-Marine Drive Community Council gave notice of motion to consider the proposed development agreement, as set out in Attachment A of the staff report dated February 28, 2023, 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.

Following notice of motion by Council, the applicant's surveyor had realized an error with the assistance and feedback from a neighbour regarding the shared property line with civic 14 Bissett Road. The surveyor has since carried out additional survey work on-site, and prepared a revised survey plan which confirms that the subject site at 1268 Cole Harbour Road is slightly more narrow where it borders 14 Bissett Road (by approximately 0.52 metres to 0.72 metres).

The proposed site plan was also updated and as a result, minor adjustments to the width of either the proposed 4-storey building, driving aisle or parking spaces, or combination thereof, will be made in order to maintain similar setbacks to those that were shown on the original site plan, from the proposed building to the southwestern property line in common with properties along Bissett Road. These revised setbacks are shown on the proposed site plan (Schedule C of Attachment A). In at least one location, the proposed setback will be slightly less, resulting in a revised setback of 5.6 metres instead of 5.8 metres (less than 1 foot difference). There are no changes to the text of the development agreement, only Schedules B and C are being updated.

In the February 28, 2023 staff report package, the incorrect minimum setback of 5.8 metres is mentioned on page 5 (section titled 'Separation Distances from Abutting Uses'), is noted in Attachment B - Review of Relevant Regional MPS and Cole Harbour/ Westphal MPS policies (under Policy CC-4 b)), and is shown on Schedules B and C of the agreement (survey and proposed site plan). Schedules B and C have been replaced with the new versions in the agreement attached to this report (Attachment A).

The corrected setback of 5.6 metres does not materially change the proposed development's impact on surrounding properties, given the agreement's requirement for tree retention measures, fencing along the property line and privacy screening of balconies. As such, staff's previous recommendation remains unchanged.

For more information, please see the February 28, 2023 staff report at the following link:

<https://cdn.halifax.ca/sites/default/files/documents/city-hall/community-councils/230420hemdcc1311.pdf>

## **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. More information on the results of the community engagement process is contained within the staff report dated February 28, 2023.

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 of the staff report dated February 28, 2023 will be notified of the hearing by regular mail.

### **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 2023-2024 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**

Attachment A: Proposed Development Agreement

Report Prepared by: Paul Sampson, Planner II, 902.717.8125

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**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:* \_\_\_\_\_

=====

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**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.

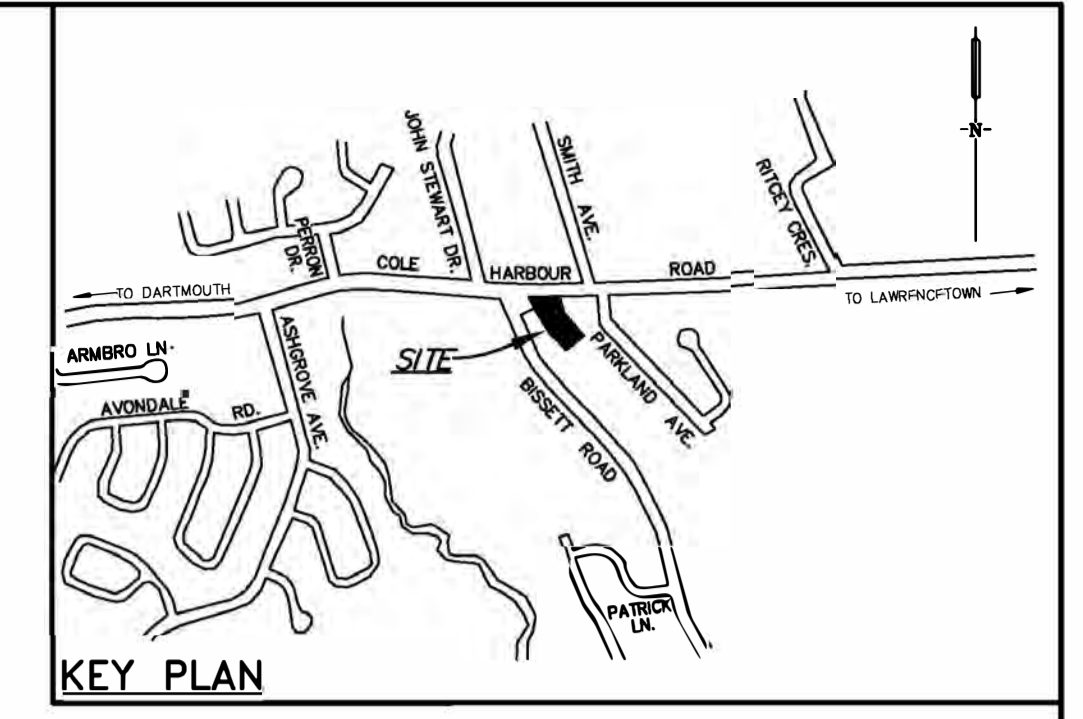
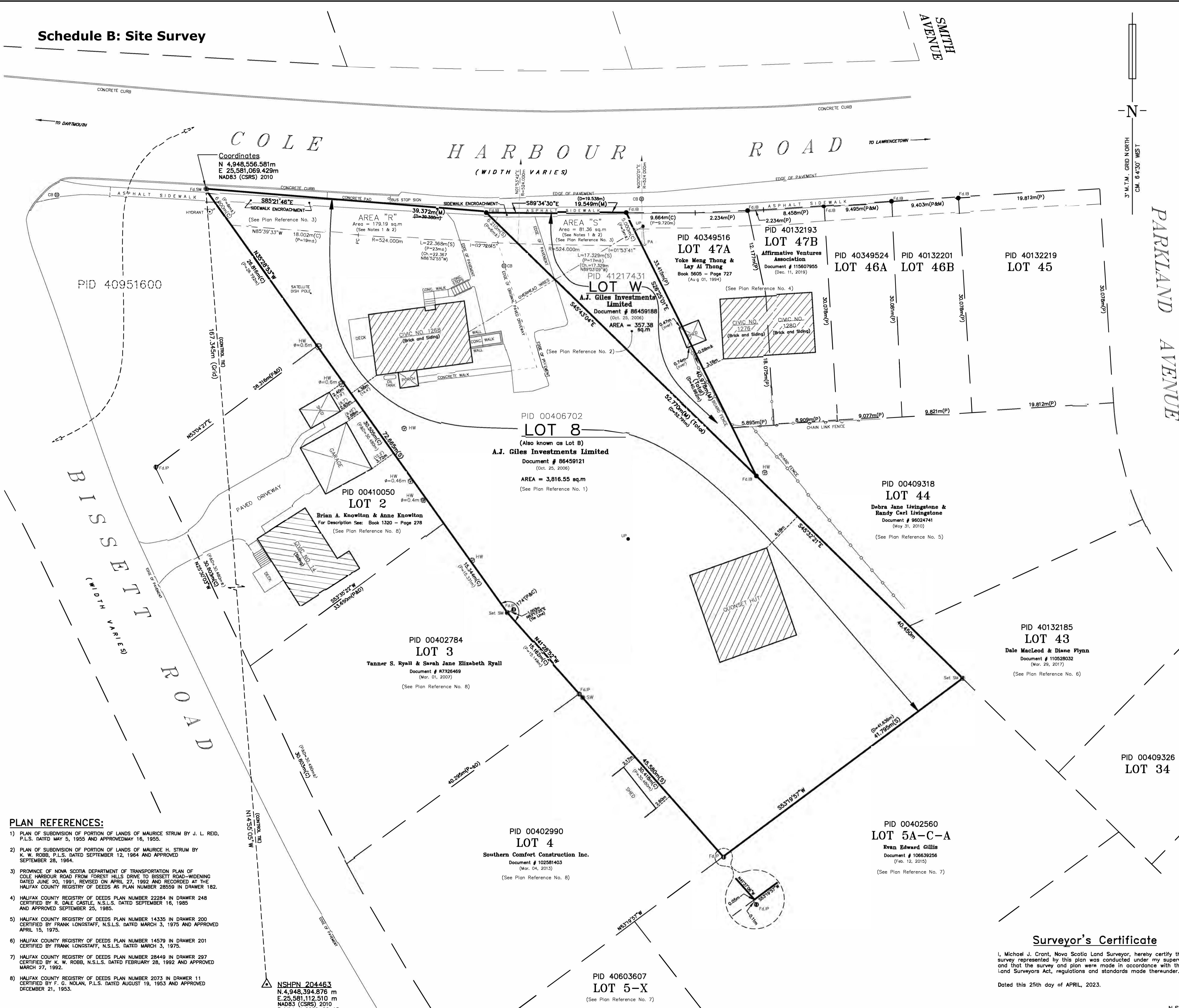
\_\_\_\_\_  
A Commissioner of the Supreme Court  
of Nova Scotia

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

**Schedule B: Site Survey**



- LEGEND:**
- (D), (P), (M), (C) DEED, PLAN, MEASURED, CALCULATED
  - (S) SET
  - SM SURVEY MARKER
  - IB IRON BAR
  - IP IRON PIPE
  - NSHPN NOVA SCOTIA HIGH PRECISION NETWORK MONUMENT
  - FOUND FOUND
  - PID LAND INFORMATION SERVICES PROPERTY IDENTIFIER NUMBER
  - UP-PA UTILITY POLE & POLE ANCHOR
  - CB CATCH BASIN
  - HW HARDWOOD TREE
  - SW SOFTWOOD TREE
  - R, L, Ch. RADIUS, LENGTH OF ARC, INTERNAL ANGLE, CHORD
  - PC POINT OF CURVATURE
  - CONC. CONCRETE
  - RET. WALL RETAINING WALL
  - Ø DIAMETER

ALL BEARINGS ARE GRID, BASED ON THE NOVA SCOTIA 3<sup>rd</sup> MODIFIED TRANSVERSE MERCATOR SYSTEM, ZONE 5, CENTRAL MERIDIAN 64°30' WEST LONGITUDE, AND WERE DERIVED FROM NETWORK REAL TIME KINEMATIC GNSS OBSERVATIONS USING CAN-MET OBSERVATION CHECKS WERE MADE ON NOVA SCOTIA HIGH PRECISION MONUMENT NUMBER 204463.

COORDINATE SYSTEM INFORMATION	
HORIZONTAL DATUM: NAD83 (CSRS)	EPOCH: 2010.0
VERTICAL DATUM: CANADIAN GEODETIC VERTICAL CALCULATED OFFSET FROM DATUM 2013 (CGVD2013) CGVD28 TO CGVD2013: -0.65m	
PROJECTION: NOVA SCOTIA 3 <sup>rd</sup> MODIFIED TRANSVERSE MERCATOR PROJECTION (3 <sup>rd</sup> MTM)	ZONE: 5
COMBINED SCALE FACTOR: 0.999976	

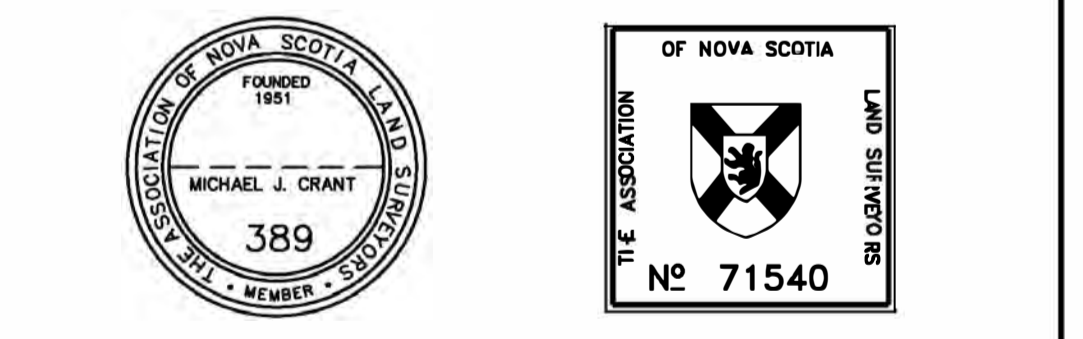
DISTANCES SHOWN ON THIS PLAN ARE GROUND DISTANCES (UNLESS OTHERWISE NOTED) USING A COMBINATION OF TOTAL STATION MEASUREMENTS AND DERIVED GNSS GROUND DISTANCES.

FIELD SURVEYS WERE CARRIED OUT DURING THE PERIOD AUGUST 4, 2022 TO APRIL 18, 2023.

- NOTES:**
- AREAS "R" and "S" ARE SHOWN AS PARCELS DESIGNATED FOR ROAD WIDENING ON PROVINCE OF NOVA SCOTIA DEPARTMENT OF TRANSPORTATION PLAN REFERRED TO IN PLAN REFERENCE 3.
  - AREAS "R" and "S" WERE NEVER CONVEYED TO THE NOVA SCOTIA DEPARTMENT OF TRANSPORTATION OR HALIFAX REGIONAL MUNICIPALITY.
  - THIS AMENDED PLAN OF SURVEY IS INTENDED TO SUPERSEDE A PREVIOUS PLAN OF SURVEY SHOWING RETRACEMENT OF BOUNDARIES OF LOT B & LOT W CERTIFIED BY MICHAEL J. CRANT, N.S.L.S. DATED OCTOBER 24, 2022 AND RECORDED AT THE HALIFAX COUNTY LAND REGISTRATION OFFICE AS PLAN # 121656350.

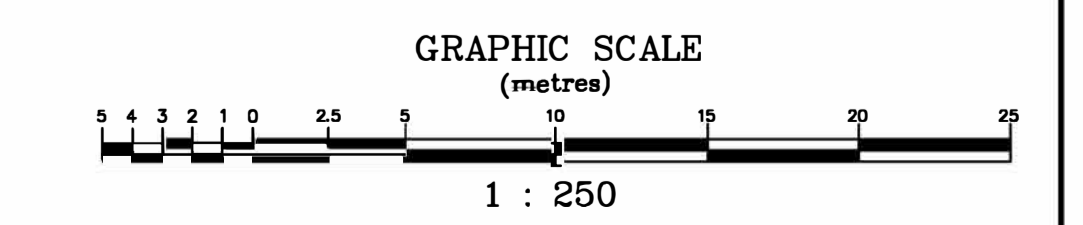
- PLAN REFERENCES:**
- PLAN OF SUBDIVISION OF PORTION OF LANDS OF MAURICE STRUM BY J. L. REID, P.L.S. DATED MAY 5, 1955 AND APPROVED MAY 16, 1955.
  - PLAN OF SUBDIVISION OF PORTION OF LANDS OF MAURICE H. STRUM BY K. W. ROBB, P.L.S. DATED SEPTEMBER 12, 1964 AND APPROVED SEPTEMBER 28, 1964.
  - PROVINCE OF NOVA SCOTIA DEPARTMENT OF TRANSPORTATION PLAN OF COLE HARBOUR ROAD FROM FOREST HILLS DRIVE TO BISSETT ROAD—WIDENING DATED JUNE 20, 1991, REVISED ON APRIL 27, 1992 AND RECORDED AT THE HALIFAX COUNTY REGISTRY OF DEEDS AS PLAN NUMBER 28559 IN DRAWER 182.
  - HALIFAX COUNTY REGISTRY OF DEEDS PLAN NUMBER 22284 IN DRAWER 248 CERTIFIED BY R. DALE CASTLE, N.S.L.S. DATED SEPTEMBER 16, 1985 AND APPROVED SEPTEMBER 25, 1985.
  - HALIFAX COUNTY REGISTRY OF DEEDS PLAN NUMBER 14335 IN DRAWER 200 CERTIFIED BY FRANK LONGSTAFF, N.S.L.S. DATED MARCH 3, 1975 AND APPROVED APRIL 15, 1975.
  - HALIFAX COUNTY REGISTRY OF DEEDS PLAN NUMBER 14579 IN DRAWER 201 CERTIFIED BY FRANK LONGSTAFF, N.S.L.S. DATED MARCH 3, 1975.
  - HALIFAX COUNTY REGISTRY OF DEEDS PLAN NUMBER 28449 IN DRAWER 297 CERTIFIED BY K. W. ROBB, N.S.L.S. DATED FEBRUARY 28, 1992 AND APPROVED MARCH 27, 1992.
  - HALIFAX COUNTY REGISTRY OF DEEDS PLAN NUMBER 2073 IN DRAWER 11 CERTIFIED BY F. G. NOLAN, P.L.S. DATED AUGUST 19, 1953 AND APPROVED DECEMBER 21, 1953.

NSHPN 204463  
N. 4,948,394.876 m  
E. 25,581,112.510 m  
NAD83 (CSRS) 2010  
Published 2020-02-18



**ALDERNEY SURVEYS LIMITED**  
NOVA SCOTIA LAND SURVEYORS  
12 DAWN DRIVE, DARTMOUTH, N.S. B3B 1H9  
Tel: 902.465.7300 Fax: 902.465.4834 alderney@bellaliant.com

**AMENDED 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



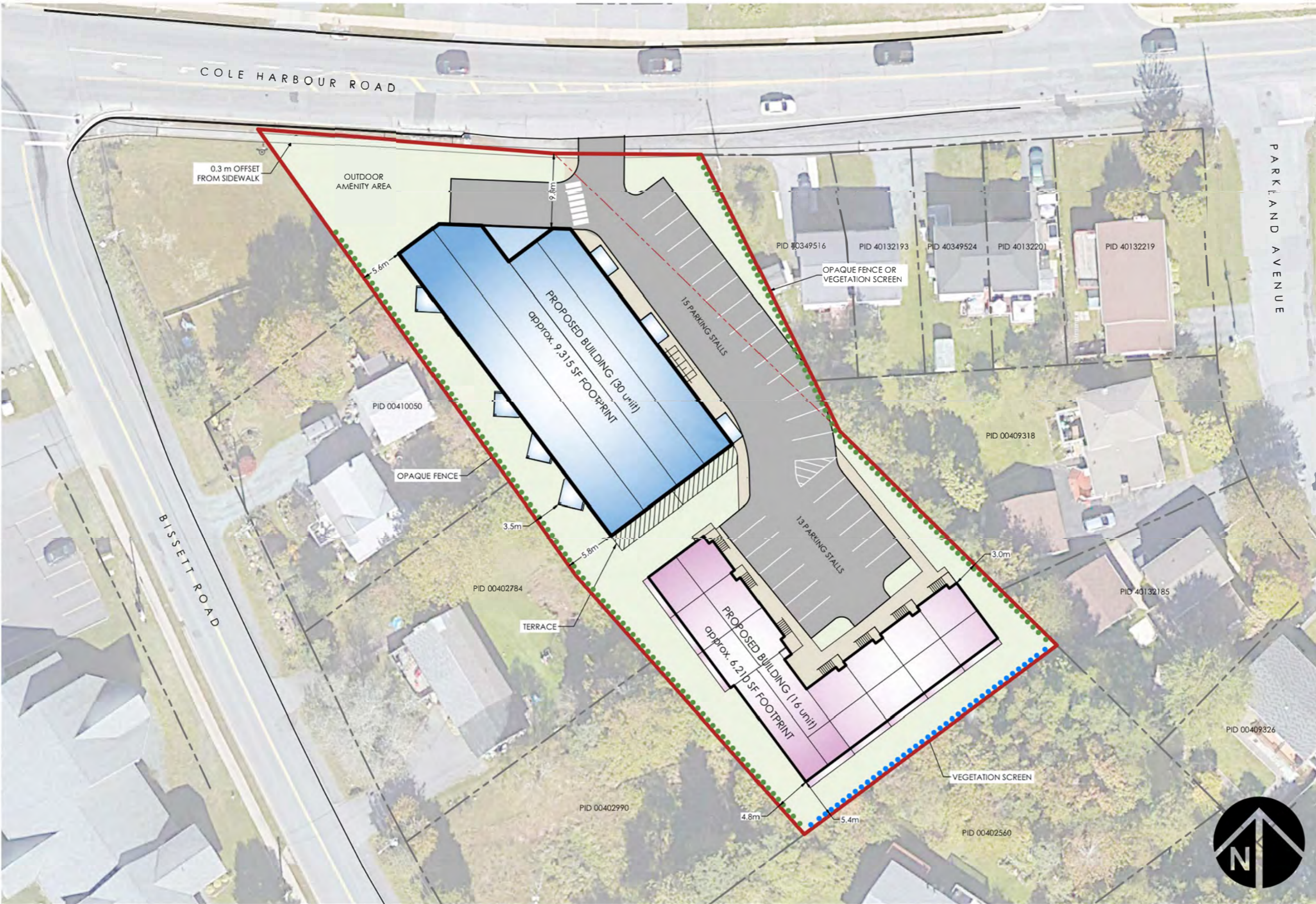
DRAWN BY: MJC  
DATED: APRIL 25, 2023  
DWG. No. 224833-2

**Surveyor's Certificate**  
I, Michael J. Crant, Nova Scotia Land Surveyor, hereby certify that the survey represented by this plan was conducted under my supervision, and that the survey and plan were made in accordance with the Land Surveyors Act, regulations and standards made thereunder.  
Dated this 25th day of APRIL, 2023.

N.S.L.S.



L:\Users\Ken\Zwickler\Projects - Documents\2019\19-087 Giles - Cole Harbour Road\19-087-SITE\_PLAN\113.dwg SHEET: 11x17



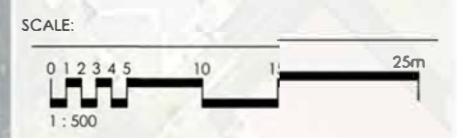
**LEGEND**

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

- SITE SUMMARY:**
- PID: 00406702 / 41217431
  - Total Land Area: 4,173.9 sm / 44,928 SF
  - Existing Zone: C-2 / R-2

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

- SOURCES:**
- Plan based on Aldemey Surveys Limited Amended Retracement of Boundaries Plan dwg no. 224833-2, dated April 25, 2023
  - CAD file: 'ACAD-224833-2 (Amended Retracement Plan).dwg'



1 Canal St, Dartmouth  
NS B2Y 2W1 | zzap.ca

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

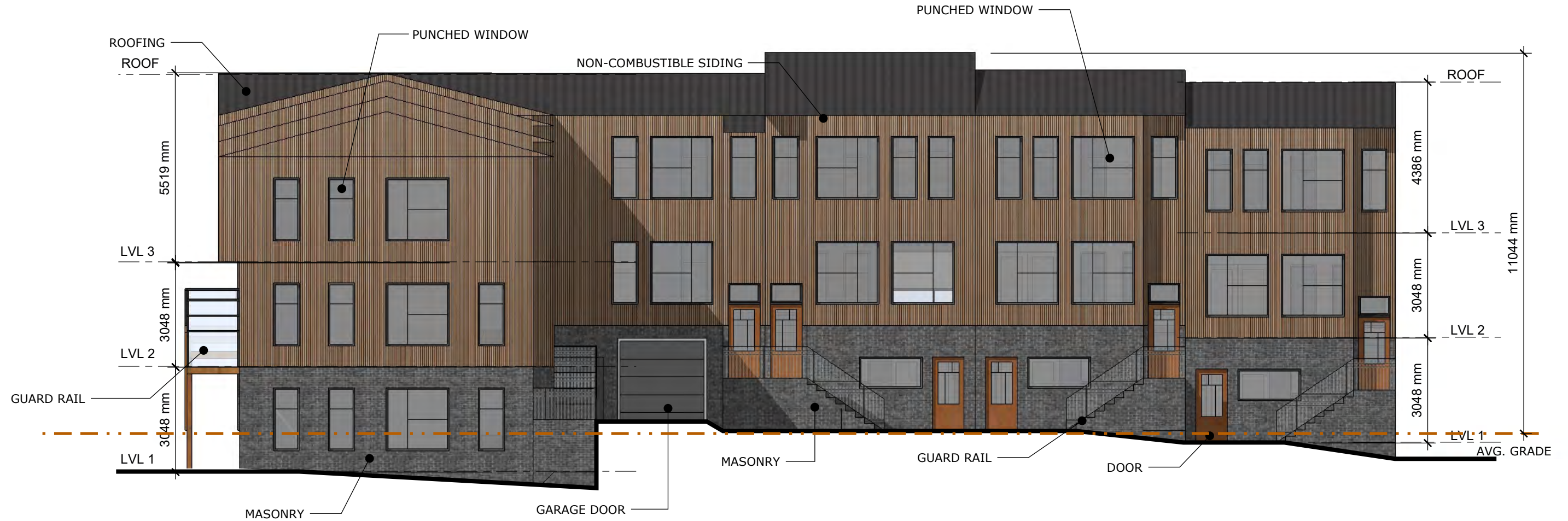
PROJECT  
**LOT 8 | LOT W - 1268 COLE HARBOUR ROAD**  
Cole Harbour, Nova Scotia

DRAWING  
**Schedule C**

PROJECT NO. 19-087 DRAWING NUMBER  
DRAWN BY: KW  
**113**  
DATE: APRIL 26, 2023

**Schedule D: North East Elevation (3-Storey apartments)**

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

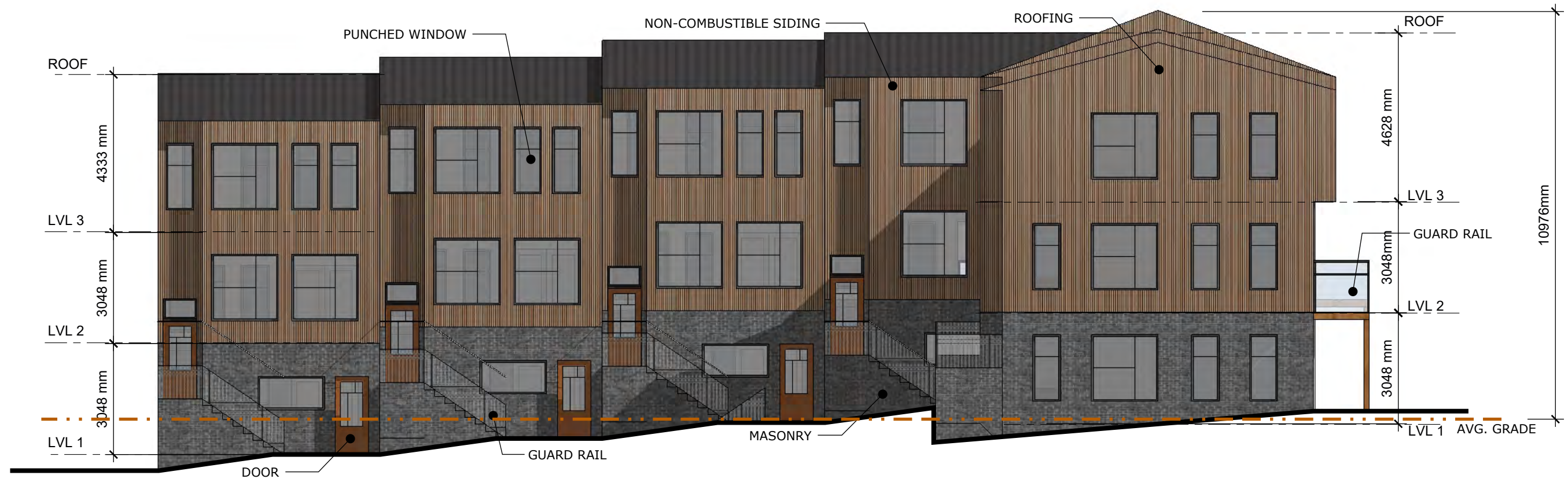


**TOWHOUSES - NORTH EAST ELEVATION**

19-087\_DA Application\_2022

**Schedule E: North West Elevation (3-Storey apartments)**

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

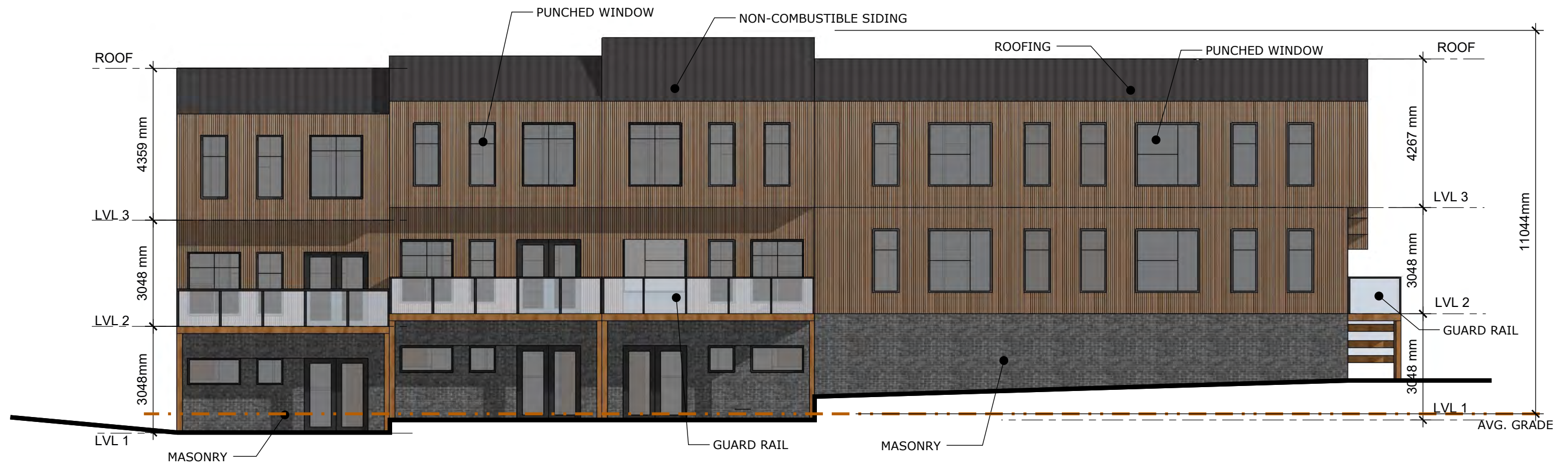


**TOWHOUSES - NORTH WEST ELEVATION**

19-087\_DA Application\_2022

**Schedule F: South West Elevation (3-Storey apartments)**

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



**TOWHOUSES - SOUTH WEST ELEVATION**

19-087\_DA Application\_2022

**Schedule G: South East Elevation (3-Storey apartments)**

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



**TOWHOUSES - SOUTH EAST ELEVATION**

19-087\_DA Application\_2022

**Schedule H: North East Elevation (4 Storey apartments)**

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



**MULTI - NORTH EAST ELEVATION**

**Schedule I: North West Elevation (4 Storey apartments)**

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



19-087\_DA Application\_2022



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

DRAWING  
**NORTH WEST ELEVATION**  
SCALE 1:120  
0m 1.52m 3.04m 6.09m

PROJECT NO. **19-087**  
DRAWN BY: MC  
ISSUED FOR DP  
DATE: June 15, 2022

**SCHEDULE**  
**I**

**Schedule J: South West Elevation (4 Storey apartments)**

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



**MULTI - SOUTH WEST ELEVATION**

19-087\_DA Application\_2022



CLIENT

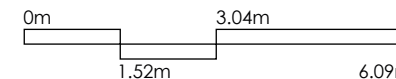
PROJECT

**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

**A7**



**Schedule K: South East Elevation (4 Storey apartments)**

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



**MULTI - SOUTH EAST ELEVATION**

19-087\_DA Application\_2022