



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 12.1
Halifax Regional Council
December 12, 2023
January 23, 2024

TO: Mayor Savage and Members of Halifax Regional Council

ORIGINAL SIGNED

SUBMITTED BY:

Brian Macdonald, Chair, Heritage Advisory Committee

DATE: November 22, 2023

SUBJECT: **Case 20218: Amendments to the Regional Centre Secondary Municipal Planning Strategy and associated development agreement for lands located at Robie Street Spring Garden Road, and Carlton Street, Halifax**

ORIGIN

November 22, 2023 meeting of Heritage Advisory Committee, Item 9.1.2.

LEGISLATIVE AUTHORITY

Legislative Authority is outlined in the attached staff report dated October 18, 2023.

RECOMMENDATION

The Heritage Advisory Committee recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Regional Centre Secondary Municipal Planning Strategy, as set out in Attachment A of the staff report dated October 18, 2023, to broaden the scope of enabling policies IM-43, IM-44, and IM-46 and schedule a public hearing; and
2. Adopt the proposed amendments to the Regional Centre Secondary Municipal Planning Strategy, as set out in Attachment A of the staff report dated October 18, 2023.

The Heritage Advisory Committee recommend that the Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment B of the staff report dated October 18, 2023, to permit a 30-storey mixed-use residential and commercial building on the southeast corner of the Robie Street and Spring Garden Road intersection, while rehabilitating four municipally registered heritage buildings on Carlton Street. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1;

RECOMMENDATION CONTINUES ON PAGE 2

4. Provisionally approve the proposed development agreement for a 30-storey mixed-use residential and commercial building on the southeast corner of the Robie Street and Spring Garden Road intersection, while rehabilitating four municipally registered heritage buildings on Carlton Street, which shall be substantially of the same form as set out in Attachment B of the staff report dated October 18, 2023; and
5. Require that the development agreement contained in Attachment B of the staff report dated October 18, 2023 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

Heritage Advisory Committee received a staff recommendation report dated October 18, 2023 to consider the application by Dixel Developments Limited, on behalf of the property owner Lowen Properties Limited to enter into a development agreement to construct a 30-storey mixed-use residential and commercial building on a portion of the site fronting on Robie Street and Spring Garden Road, while rehabilitating four municipally registered heritage buildings fronting on Carlton Street.

For further information refer to the attached staff report dated October 18, 2023.

DISCUSSION

Heritage Advisory Committee considered the staff report dated October 18, 2023 and approved the recommendation to Halifax Regional Council as outlined in this report.

FINANCIAL IMPLICATIONS

Financial implications are outlined in the attached staff report dated October 18, 2023.

RISK CONSIDERATION

Risk consideration is outlined in the attached staff report dated October 18, 2023.

COMMUNITY ENGAGEMENT

The Heritage Advisory Committee is comprised of six citizen members and two Councillors. Meetings are live webcast on Halifax.ca. The agenda, reports, video, and minutes of the Board/ Committee are posted on Halifax.ca.

ENVIRONMENTAL IMPLICATIONS

Environmental implications are outlined in the staff report dated October 18, 2023.

ALTERNATIVES

Alternatives are outlined in the attached staff report dated October 18, 2023.

ATTACHMENTS

Attachment 1 – Staff recommendation report dated October 18, 2023.

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

Report Prepared by: Dorothy Maponga, Legislative Assistant, Municipal Clerk's Office 902.478.2408

ATTACHMENT 1



P.O. Box 1749
Halifax, Nova Scotia
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Item No.9.1.2
Heritage Advisory Committee
November 22, 2023

TO: Chair and Members of Heritage Advisory Committee

-ORIGINAL SIGNED-

SUBMITTED BY:

Cathie O'Toole, Chief Administrative Officer

DATE: October 18, 2023

SUBJECT: **Case 20218: Amendments to the Regional Centre Secondary Municipal Planning Strategy and associated development agreement for lands located at Robie Street, Spring Garden Road, and Carlton Street, Halifax.**

ORIGIN

- Application by Dexel Developments Limited.
- August 1, 2017, Regional Council gives direction to continue to process this request for site-specific municipal planning strategy amendments, on the conditions that the proposal:
 - (a) Generally aligns with the June 2017 Centre Plan document relative to Urban Structure, Height and Floor Area Ratio, and
 - (b) Addresses the planning principles of transition, pedestrian-orientation, human-scale building design, and context-sensitivity as noted in Table 2 of the staff report dated July 26, 2017.
- December 12, 2018, the Heritage Advisory Committee reviews the substantial alterations to the four municipally registered heritage properties (Case H00461).
- January 29, 2019, Regional Council approves substantial alterations to the four municipally registered heritage properties (Case H00461).
- June 5, 2019, the Heritage Advisory Committee reviews a proposal to amend the Halifax MPS and the Peninsula LUB to enable a proposal through a development agreement.
- July 15, 2019, Regional Council adopts amendments to the Halifax MPS and the Peninsula LUB to enable a proposal through a development agreement.
- November 27, 2021, the Halifax MPS and the Peninsula LUB which regulated land use on Peninsula Halifax are replaced by the Regional Centre SMPS and the Regional Centre LUB. The Regional Centre SMPS contains policies IM-42, IM-43, and IM-44 to enable Community Council to consider a development agreement on the subject lands.
- September 12, 2023, Regional Council initiates amendments to the Regional Centre SMPS to broaden the scope of enabling policies IM-43, IM-44, and IM-46 of the Regional Centre SMPS.

RECOMMENDATION ON PAGE 2

LEGISLATIVE AUTHORITY

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

HRM By-law No. H-200 - *Heritage Property By-law*:

4. The [Heritage Advisory] Committee shall, within the time limits prescribed by Council or the [Heritage Property] Act, advise the Region respecting:

.....

(h) applications for heritage agreement, development agreements or amendments to a Land Use Bylaw which may affect a registered heritage property or amendments to a Municipal Planning Strategy affecting heritage policies;

RECOMMENDATION

It is recommended that the Heritage Advisory Committee recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Regional Centre Secondary Municipal Planning Strategy, as set out in Attachment A of this report, to broaden the scope of enabling policies IM-43, IM-44, and IM-46 and schedule a public hearing; and
2. Adopt the proposed amendments to the Regional Centre Secondary Municipal Planning Strategy, as set out in Attachment A of this report.

It is further recommended that the Heritage Advisory Committee recommend that the Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment B of this report, to permit a 30-storey mixed-use residential and commercial building on the southeast corner of the Robie Street and Spring Garden Road intersection, while rehabilitating four municipally registered heritage buildings on Carlton Street. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1;
4. Provisionally approve the proposed development agreement for a 30-storey mixed-use residential and commercial building on the southeast corner of the Robie Street and Spring Garden Road intersection, while rehabilitating four municipally registered heritage buildings on Carlton Street, which shall be substantially of the same form as set out in Attachment B of this report; and
5. Require that the development agreement contained in Attachment B of this report 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.

EXECUTIVE SUMMARY

Dexel Developments Limited, on behalf of the property owner Lowen Properties Limited, is proposing to construct a 30-storey mixed-use residential and commercial building on the southeast corner of the Robie Street and Spring Garden Road intersection, while rehabilitating four municipally registered heritage buildings on Carlton Street. The application is being considered through the development agreement process under Policies IM-42, IM-43, and IM-44 of the Regional Centre Secondary Municipal Planning Strategy (SMPS). However, before Halifax and West Community Council can consider the proposed

development agreement, Regional Council must first consider amendments to Policy IM-43. These amendments are required for Halifax and West Community Council to consider:

- signature architectural projections that will impact the permitted maximum floor area ratio, the minimum separation distance required between tower portions, and the maximum permitted floor area for floors in the tower portions located above the streetwall;
- a one-storey residential penthouse as a rooftop feature that can exceed the overall maximum height of 90 metres; and
- a two-percent tolerance for maximum building height, streetwall heights, and building podium heights.

Should Regional Council approve the SMPS amendments, Halifax and West Community Council may render a decision on the proposed development agreement.

BACKGROUND

Dexel Developments Limited, on behalf of the property owner Lowen Properties Limited, has applied to enter into a development agreement to construct a 30-storey mixed-use residential and commercial building on a portion of the site fronting on Robie Street and Spring Garden Road, while rehabilitating four municipally registered heritage buildings fronting on Carlton Street. If approved, the heritage buildings will be rehabilitated on site. Three of the municipally registered heritage properties are currently subject to existing development agreements. These existing agreements will be discharged by the Chief Administrative Officer in accordance with the *HRM Charter* through a parallel process.

This application is being considered under Policies IM-42, IM-43, and IM-44 of the Regional Centre SMPS. These policies allow for the consideration of comprehensive, unique, and site-specific mixed-use development proposals within the Spring Garden Road – Robie Street (SGRRS) Special Area by development agreement. However, prior to the development agreement application being considered by Halifax and West Community Council, Regional Council must first consider amendments to the Regional Centre SMPS to allow for signature architectural projections that impact the permitted maximum floor area ratio, the minimum separation distance required between tower portions, and the maximum permitted floor area for floors in the tower portions located above the streetwall. Staff is also proposing other amendments that will bring additional flexibility to the consideration of the Dexel proposal.

Subject Site	1403 Robie Street; PID 00135384; 5950, 5954A/5954, 5958A/5958B/5960/5962/5964/5966/5966A; 5970/5972; 5980; 5982; 5984/5986; 5990/5992 and 5994 Spring Garden Road; and 1478; 1480;1484; and 1494 Carlton Street
Location (Map 1)	The subject properties are located two blocks to the west of the Halifax Public Gardens, on the opposite side of Spring Garden Road. The properties have frontage on Robie Street, Spring Garden Road, and Carlton Steet.
Regional Plan Designation	Urban Settlement
Regional Centre SMPS Designation (Map 2)	Centre
Zoning (Map 3)	Centre 2 (CEN-2) and Centre 1 (CEN-1)
Size of Site	4,961 square metres (53,401 square feet)
Street Frontage	Robie Street – 30 m (98 feet) Spring Garden Road – 123 m (403 feet) Carlton Street – 43 m (141 feet)
Current Land Use(s)	A variety of residential and commercial uses
Surrounding Use(s)	A variety of residential, institutional, and commercial uses

History

In October of 2015, Dixel Developments Limited, on behalf of the property owner Lowen Properties Limited, applied for an amendment to the Halifax Municipal Planning Strategy (MPS) to enable a development agreement for a mixed-use residential and commercial development located at the southeast corner of the Spring Garden Road and Robie Street intersection. On July 15, 2019, Regional Council approved amendments to the Halifax MPS to enable a development agreement for the subject site. After the 2019 amendments, the proposed development continued to evolve with the most recent proposal being received in June 2021.

On November 27, 2021, the Regional Centre Secondary Municipal Planning Strategy (SMPS) was adopted and replaced the Halifax MPS on Peninsula Halifax. Policies that enabled the consideration of a mixed-use residential and commercial development by development agreement were carried forward into the new SMPS with minor changes in the wording. The new policies IM-42, IM-43, and IM-44 were intended to allow Community Council to consider a development agreement for the June 2021 proposal. However, after further review, staff determined that the enabling policy set was not sufficient in scope to consider all elements of the June 2021 proposal. Therefore, amendments to the enabling policies will first be required before a development agreement for the June 2021 proposal can be considered by Community Council.

Proposal Details

The Spring Garden West proposal consists of three main components:

- (a) to rehabilitate four municipally registered heritage buildings fronting on Carlton Street (1478-1494 Carlton Street);
- (b) to demolish the rest of the building stock on the development site (5950-5994 Spring Garden Road and 1403 Robie Street); and
- (c) to build a 30-storey mixed-use residential and commercial building along Spring Garden Road and Robie Street (5950-5994 Spring Garden Road and 1403 Robie Street).

The 30-storey mixed-use residential and commercial building will consist of a shared four-storey podium supporting two tower components, each consisting of an additional 26 storeys. Access to the underground parking for the building is proposed to occur in between the buildings located at 1484 and 1494 Carlton Street. A one-way at-grade driveway serving the 30-storey mixed-use residential and commercial building will have an entrance on Spring Garden Road and an exit on Robie Street.

The proposal also includes signature architectural projections at various locations on the facades of the tower portions (see Attachment C). These signature architectural projections are 2-metre-deep, glazed curtain-wall cladded projections that span the height of multiple storeys. The signature architectural projections are counted as floor area because they extend for the full height of the units and extend the living area of the units that they are attached to.

Heritage

The subject site includes four municipally registered heritage properties along Carleton Street (1478, 1480, 1484, and 1494 Carlton Street). If approved, the heritage buildings will be rehabilitated on site. Three of the municipally registered heritage properties are currently subject to existing development agreements. These existing agreements will be discharged by the Chief Administrative Officer in accordance with the *HRM Charter* via a parallel process and the discharging agreements will be registered at the Nova Scotia Land Registration Office at the same time as any new development agreements are approved for the subject lands.

1478 Carlton Street has a lot area of approximately 300 s/m (3,200 s/f) and features a side-hall design, two storey Queen Anne style dwelling with mansard roof and dormers. It was built in 1890 by Edmund Smith.

1480 and 1484 Carlton Street are two separate properties that contain a semi-detached mirror image residence that covers a lot area of approximately 290 s/m (3,100 s/f) each, and feature a side-hall design,

two storey Italianate style duplex dwelling with truncated roof and shed dormers. The building was built in 1860 and pre-dates the 1871 subdivision of Carlton Street into smaller lots.

1494 Carlton Street contains two adjoining structures on a consolidated lot totalling 479 sq/m (5153 s/ft) in area. The original building was constructed around 1860 by J.W. Rhuland and pre-dates the approval of the original sub-division of all the other Carlton Street properties. In 1990, a significant exterior renovation was completed on the property, including a simplification of the Second Empire architectural elements, siding and rooflines. It was also consolidated and physically attached to 5950 Spring Garden Road (c.1895), which is proposed to be demolished as part of this proposal. The most historically significant resident of 1494 Carlton Street was Margaret Marshall Saunders (1861-1947) who was an accomplished writer, social activist, and recipient of the Order of the British Empire. She is best known as the author of the 1894 novel, *Beautiful Joe*, which was written during her tenure in the house.

Regional Council previously considered a concurrent application for a substantial alteration to the four municipally registered heritage properties. In accordance with the *Heritage Property Act*, this application (Case H00461) was reviewed by the Heritage Advisory Committee on December 12, 2018, and approved by Regional Council on January 29, 2019. Regional Council approved the following alterations to the four municipally registered heritage properties:

- removal of a portion of the rear wing of 1478 Carlton Street to facilitate the subdivision of the property and shortening of the rear yard;
- restoration of the original central chimneys of 1480 and 1484 Carlton Street;
- replacement of modern windows at the rear of 1480 and 1484 Carlton Street with new windows in keeping with the building's character;
- removal of modern dormer windows on the front and rear of 1480 and 1484 Carlton Street, and restoration of the original two-over-two single hung windows;
- removal of an attached dwelling and breezeway at 1494 Carlton Street to allow construction of a commercial access and construction of a new building podium; and
- undertaking of a complete restoration of 1494 Carlton Street to its original form and configuration based on photographic and archival evidence.

The applicant is proposing to subdivide all four subject properties to allow for a larger development site for the 30-storey mixed-use residential and commercial building. When a heritage property is subdivided, the registration remains on title for all resulting parcels. Following subdivision approval, the proposed development agreement would require these new resulting parcels to be deregistered. The rear yards are not considered character defining elements, and therefore, the subdivision is not considered to be a substantial alteration.

The proposed development agreement requires ongoing maintenance in accordance with the *Standards and Guidelines for the Conservation of Historic Places in Canada, 2nd Edition*, for the rehabilitated heritage buildings to preserve their heritage value and integrity.

SMPS and LUB Context

The subject site is designated Centre under the Regional Centre SMPS. The Centre Designation supports a wide mix of land uses, including commercial, residential, institutional, cultural, and recreational. Built form massing is regulated by the floor area ratio (FAR) tool and supports low-rise buildings to high-rise buildings. Subject to maximum FAR values, buildings within the Centre Designation may reach a maximum height of 90 metres.

The four municipally registered heritage properties (1478-1494 Carlton Street) are currently zoned Centre 1 (CEN-1) under the Regional Centre LUB, while the balance of the site is zoned Centre 2 (CEN-2). The CEN-2 Zone permits the construction of high-rise buildings as-of-right, with a broad range of residential, commercial, and institutional land uses, provided that the built form and siting requirements are met. The CEN-1 and CEN-2 zones do not require the provision of parking.

This proposal is to be considered under Policies IM-42, IM-43, and IM-44 of the Regional Centre SMPS. These policies allow for the consideration of comprehensive, unique, and site-specific mixed-use development proposals within the Spring Garden Road – Robie Street (SGRRS) Special Area by development agreement. The subject lands lie within the SGRRS Special Area.

Of note, Policy IM-43 includes the following three mandatory criteria:

- Development of Site A is limited to a maximum floor area ratio of 8.0 and any lot area(s) containing registered heritage properties shall not be included as part of the total lot area calculation;
- A minimum separation distance of 23 metres is provided between any tower portions of the building; and
- That any proposed towers, located above the streetwall, not exceed a floor area of 750 square metres per floor.

Staff have determined that because the signature architectural projections are considered floor area, the June 2021 proposal is unable to meet the above three criteria. The signature architectural projections would result in a development that would have:

- a floor area ratio of 9.1;
- a tower separation distance of 19 metres between the two tower portions; and
- a floor area exceeding 750 square metres (805 square metres) for one of the two tower portions¹.

Approval Process

The approval process for this application has two components. One, the consideration of the proposed amendments to the SMPS (Attachment A) and two, the consideration of the proposed development agreement (Attachment B). Given the recent *HRM Charter* changes enacted through Bill 137, Halifax and West Community Council now has the authority to provisionally approve a development agreement after Regional Council makes a decision on the SMPS amendment. A decision on the proposed SMPS amendment is not appealable to the Nova Scotia Utility and Review Board (the Board). However, the decision on the proposed development agreement is appealable to the Board.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the *HRM Community Engagement Strategy*, the *HRM Charter*, and the Public Participation Program approved for this application by Regional Council on September 12, 2023. 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 letters mailed to 886 property owners and residents within the notification area (as shown on Map 1).

Emails were received from a total of nine individuals. There were also two telephone calls received. Six of the individuals that contacted Planning and Development were opposed to the proposed SMPS amendments, two individuals were supportive, and three individuals did not specify either way if they were supportive or opposed to the proposed SMPS amendments. The main concerns raised with the proposed SMPS amendments included the following:

- the proposed policy changes would move away from a consistent application of existing policy;
- concerns with the eventual construction phase, including construction debris and blasting;
- concerns about the cumulative impacts on traffic and the mental health of residents on Peninsula

¹ The maximum West Tower floor area which occurs at levels 21-23 is 467.4 square metres (including signature architectural projections). The average maximum floor area between the two towers is 635.3 square metres.

Halifax;

- the information provided to the public is vague, incomplete, and not targeted to lay persons; and
- the application is not aggressive enough with both height and density to help resolve the housing crisis.

Additionally, a public meeting on an initial concept for the site was held on June 11, 2018. Attachment D contains a summary of the feedback received during the public information meeting. Feedback was received on 10 broad topics, including the height of the proposed building, population density in the immediate area, neighbourhood vibrancy, demand for office space, the importance of heritage resources, construction impacts, human scale and context sensitive developments, shadow and wind impacts, if the development is needed, and the loss of small businesses.

A public hearing must be held by Regional Council before it can consider approval of the proposed SMPS amendments and before Halifax and West Community Council can consider approval of the proposed development agreement. Should Council decide to proceed with a public hearing on this application, in addition to a notice of the public hearing being published on the Municipality's website at least seven days in advance, property owners and residents within the notification area shown on Map 1 will be notified of the hearing by regular mail.

DISCUSSION

The SMPS is a strategic policy document that sets out the goals, objectives, and direction for long term growth and development in the Municipality. Amendments to an SMPS are significant undertakings and Council is under no obligation to consider such requests. In this case, staff advise that the request is reasonably consistent with applicable planning policies and good planning principles. In coming to this conclusion, staff reviewed the applicant's proposal and rationale, and considered the existing neighbourhood context, current zoning regulations, and Regional Plan and Priorities Plan policies.

The following details the review of the rationale and content of the proposed SMPS amendments, as well as the associated development agreement.

Proposed SMPS Amendments

Staff considered the existing MPS policy context and a number of policy approaches when drafting the proposed SMPS amendments. Attachment A contains the proposed SMPS amendments, and a summary of the proposed amendments are as follows:

- increasing the permitted maximum floor area ratio for a development on Site A, from 8.0 to 9.1, to accommodate the signature architectural projections;
- increasing the allowable floor area for tower floors located above the streetwall, from 750 square metres per floor to 810 square metres per floor, to accommodate the signature architectural projections;
- reducing the minimum separation distance required between any tower portions of the building, from 23 metres to 19 metres, to accommodate the signature architectural projections;
- identifying the signature architectural projections as secondary elements in setback and stepback requirements;
- identifying a one-storey residential penthouse as a rooftop feature that can exceed the overall maximum height of 90 metres;
- permitting a two-percent tolerance for maximum building height, streetwall heights, and building podium heights; and
- allowing for the consideration of opportunities for collaboration with a development on the neighbouring site, identified as Site B on Map 24 of the Regional Centre SMPS.

Of the matters addressed by the proposed SMPS amendments, the following has been identified for detailed discussion.

Signature Architectural Projections

The original enabling policies for Spring Garden West were adopted by Regional Council as an amendment to the Halifax MPS on July 15, 2019. Because the enabling policies and the associated Land Use By-law (Peninsula LUB) did not specify what was to be excluded from floor area ratio calculations, tower separation distances, and tower floor area maximums, it was decided that these measures would be defined within the development agreement.

In June 2021, staff were in receipt of a revised design proposal for Spring Garden West (current proposal). At the time, it was decided that the enabling policies, then contained in the Halifax MPS, would be transferred to the newly proposed Regional Centre SMPS for consideration by Regional Council in the Fall. A few minor changes were made to the policies during this transfer. On November 27, 2021, the Regional Centre SMPS and LUB were approved by Regional Council and replaced the existing policy and land use regulatory context (Halifax MPS and Peninsula LUB) which had applied to the Halifax Peninsula. The Regional Centre SMPS contains policies IM-42, IM-43, and IM-44, which enable Community Council to consider a development agreement on the subject lands.

Staff have recently determined that amendments to the SMPS are required prior to Council considering this proposal. Unlike the Halifax Peninsula LUB, the Regional Centre LUB specifies what is to be excluded from floor area ratio calculations, tower separation distances, and tower portion floor area maximums. The signature architectural projections included in the June 2021 proposal are not permitted by the Regional Centre LUB to be excluded from these built form controls. Policy IM-43 of the Regional Centre SMPS is not broad enough to allow Community Council to consider additional exclusions to these measures via a development agreement.

As part of this report, staff are proposing amendments to bring additional flexibility to the site-specific development agreement policies that will address the issues highlighted above (Attachment A).

Proposed Development Agreement

Attachment B 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:

- permitted land uses;
- project phasing,
- building siting, massing, and scale;
- architectural requirements;
- requirements for the rehabilitation of the four municipally registered heritage buildings;
- subdivision of lands;
- access, circulation, and parking;
- requirements for landscaping, lighting, signage, solid waste, and maintenance of the site;
- incentive or bonus zoning;
- wind mitigation measures;
- streets and municipal services; and
- environmental protection measures.

The proposed development agreement also identifies amendments that would be considered non-substantive and may be amended by decision of the Development Officer. In this case, non-substantive amendments include:

- the granting of an extension to the date of commencement of development;
- the granting of an extension to the length of time for the completion of the development;

- changes to the Preliminary Landscape Plan;
- changes to the amenity space requirements for the 30-storey mixed-use residential and commercial building;
- changes to the exterior architectural appearance of the 30-storey mixed-use residential and commercial building;
- changes to the motor vehicle parking requirements;
- changes to the sign requirements; and
- changes to the Site Plan regarding the access ramp (entry/exit) to the underground parking levels and the driveway access and layout on the 30-storey mixed-use residential and commercial building site to allow for future collaboration, in terms of interconnected underground parking levels and shared driveway and access, with a development on the neighbouring site identified as Site B on Map 24 of the Regional Centre SMPS.

The attached development agreement will permit a 30-storey mixed-use residential and commercial building, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the Regional Centre SMPS criteria (with proposed amendments) as shown in Attachment E, the following have been identified for detailed discussion.

Shadow Impact Assessment

A shadow impact assessment was submitted as part of the application, including shadow diagrams and a written analysis certified and stamped by an architect. The shadow study was completed for September 21 with outputs in fifteen-minute increments from 8am to 6pm. The objective of the shadow study was to look at impacts on public spaces located off-site, as well as the heritage resources on Carlton Street. Staff is satisfied that the shadow analysis submitted demonstrates that the proposed 30-storey mixed-use residential and commercial building would not unreasonably shadow public spaces and heritage resources in the immediate area.

Pedestrian Wind Impact Assessment

A pedestrian wind impact assessment has been submitted as part of the application. The study, which was certified and stamped by a professional engineer, involved quantitative measurements in a boundary-layer wind tunnel to assess pedestrian wind comfort and safety. The wind impact assessment compared the existing configuration of the immediate area with the addition of both the Spring Garden West proposal and the recently approved Promenade development (abutting property). The results of the study showed a general worsening of the wind comfort conditions around the subject site in both the summer and winter periods. Regarding the wind safety criteria, all measurement locations were predicted to meet the wind safety criteria in the existing configuration. The addition of the Spring Garden West development (and future Promenade development) will be expected to result in one location, which marginally exceeds the safety performance standard (~1 km/h above the criteria limit).

Following the review of the results of the pedestrian wind impact assessment, staff requested an addendum from the wind consultant specifically covering wind mitigation measures. The addendum dated March 15, 2023, recommended several wind mitigation strategies be incorporated into the design of the 30-storey mixed-use residential and commercial building and along the sidewalks surrounding the 30-storey mixed-use building. The mitigation measures that were suggested to be incorporated into the design of the 30-storey mixed-use building have been addressed in the proposed development agreement. Furthermore, discussions are ongoing between the Developer and staff regarding the future streetscaping treatment of the sidewalks abutting the proposed 30-storey mixed-use building, including street trees and street furniture. Any of these elements, when added to the wind mitigation measures already incorporated into the design of the 30-storey mixed-use building, will have a positive effect on improving the local wind conditions surrounding the building.

Incentive or Bonus Zoning

The approval of the 30-storey mixed-use residential and commercial building is conditional on the provision of incentive or bonus zoning. The proposed development agreement allocates 90% of the total public

benefit value required under the Regional Centre LUB to the rehabilitation of the four Carlton Street municipally registered heritage buildings. The remaining 10% of the total public benefit value will be determined at a later stage by the Developer and will need to follow the provisions of the Regional Centre LUB.

On October 12, 2023, the NS Government introduced [Bill 329](#) (Halifax Regional Municipality Charter (amended) and Housing in the Halifax Regional Municipality Act (amended)) to the NS Legislature. The NS Legislature gave Bill 329 First Reading on October 12, 2023, and Second Reading on October 13, 2023. Amendments to the Bill were carried in Committee of the Whole House (COW) on October 27 and October 30, 2023. As of the writing of this report, Bill 329 has not yet been given Third Reading or Royal Assent.

[Clause 4](#) of the draft of Bill 329, as introduced, prohibits, for a period of two years, the Municipality from changing, without the approval of the Minister, fees, certain charges and incentive or bonus zoning agreements that would increase the cost to applicants for development approvals beyond the cost that would have been chargeable immediately prior to its coming into force. The amendments to the Bill carried at COW allow new incentive or bonus zoning agreement, capital cost contribution agreement or local improvement charge to be created if the formulas and methods to calculate the charges used in the agreement are either: (1) the same as those in effect at the time this Section comes into force; or (2) in accordance with formulas approved by the Minister. Bill 329 may limit CPI increases to the Incentive or Bonus Zoning Program in the Regional Centre. Staff will continue to work with Provincial staff to understand the impact of Bill 329 as it progresses.

Priorities Plans

In accordance with Policy G-14A of the Regional Municipal Planning Strategy, 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 that were originally intended to apply at a regional level and inform the development of Secondary Municipal Planning Strategy policies, there are still components of each plan that can and should be considered on a site-by-site basis. Where conflict between SMPS 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, no conflict was found between the Regional and local SMPS policies and the priorities plans. The Regional Centre SMPS was written and adopted after the *Integrated Mobility Plan*, the *Halifax Green Network Plan*, and *HalifACT* were approved. As such, the objectives and policies of the SMPS align with the objectives, policies, and actions of these priorities plans.

Conclusion

Staff have reviewed the application and the existing policy context and advise that the SMPS should be amended to consider signature architectural projections and additional flexibility to the site-specific development agreement policies. Should Regional Council approve the SMPS amendments, staff recommend that Halifax and West Community Council approve the proposed development agreement to enable the development of a 30-storey mixed-use building.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing the SMPS amendment application and the development agreement application can be accommodated within the approved 2023-2024 operating budget for Planning and Development. The applicant will be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred in order to satisfy the terms of the proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2023-2024 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed SMPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to Nova Scotia Utility and Review Board.

This application also involves a proposed development agreement. The proposed development agreement would have to be considered under SMPS policies existing at the time. Community Council has the discretion to make decisions that are consistent with the SMPS, and such decisions may be appealed to the Nova Scotia Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments and approving the proposed development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No additional environmental implications are identified beyond those already raised in this report.

ALTERNATIVES

Regional Council may choose to:

1. Modify the proposed amendments to the Regional Centre Secondary Municipal Planning Strategy, as set out in Attachment A of this report. If this alternative is chosen, specific directions regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Regional Council to approve or refuse the proposed amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the Regional Centre Secondary Municipal Planning Strategy. A decision of Regional Council to approve or refuse the proposed amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

The Halifax West and Community Council may choose to:

3. Approve the proposed development agreement subject to modifications. Such modifications may require further negotiations with the applicant and may require a supplementary report or another public hearing. A decision of Community Council to approve this development agreement is appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.
4. Refuse the proposed development agreement. If Community Council were to refuse the proposed development agreement, it must provide reasons why the proposed agreement does not reasonably carry out the intent of the SMPS. A decision of Community Council to refuse the proposed development agreement is appealable to the Nova Scotia Utility and Review Board as per Section 262 of the *HRM Charter*.

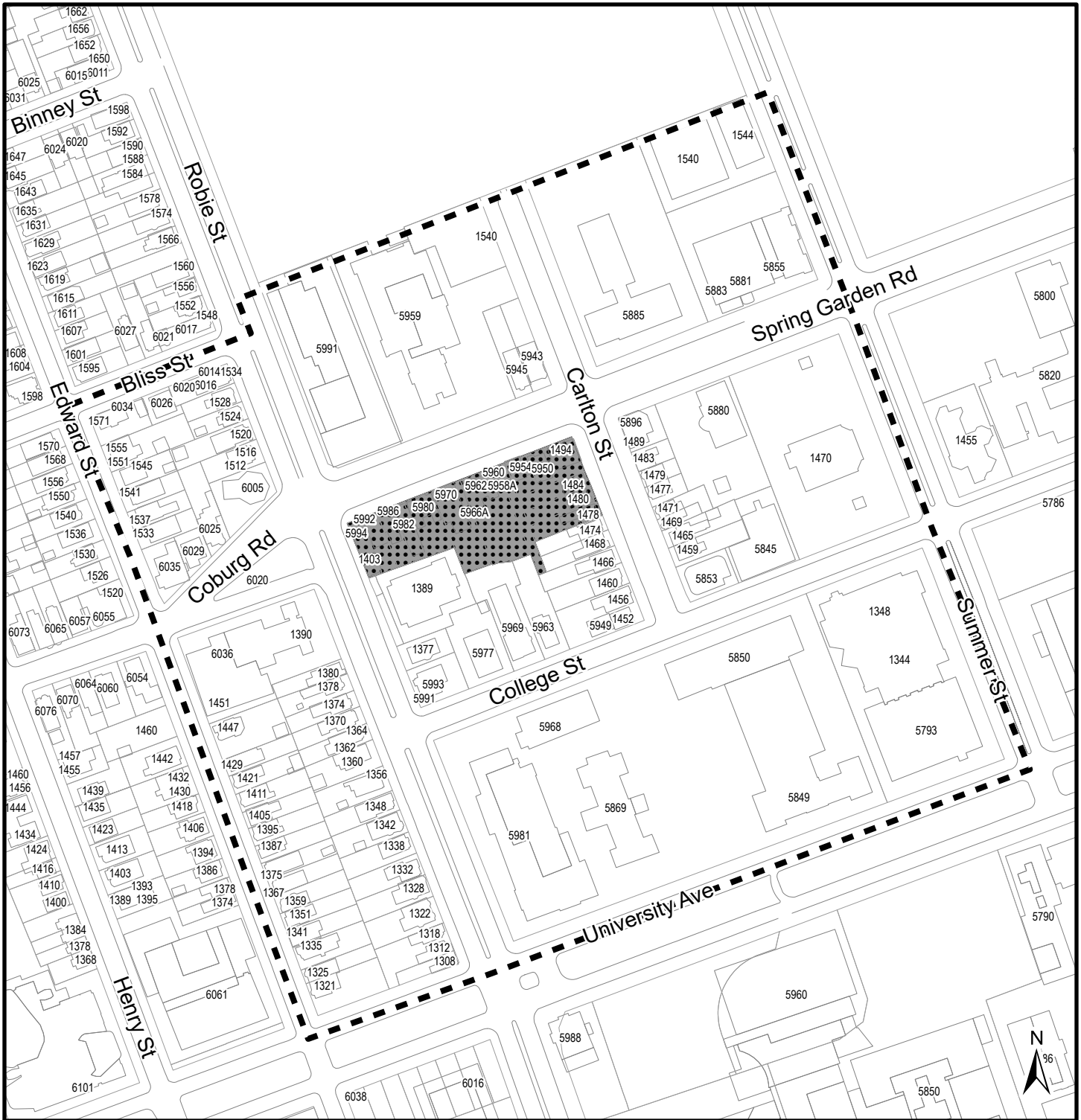
ATTACHMENTS

Map 1:	Location and Notification
Map 2:	Generalized Future Land Use
Map 3:	Zoning

Attachment A: Proposed Amendments to the Regional Centre SMPS
Attachment B: Proposed Development Agreement
Attachment C: Images of Signature Architectural Projections
Attachment D: Public Information Meeting (PIM) Notes (June 11, 2018)
Attachment E: Review of DA Against Regional Centre SMPS Policies (with proposed amendments)



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

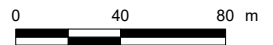
Report Prepared by: Luc Ouellet, Principal Planner, Planning and Development, 902.717.4357



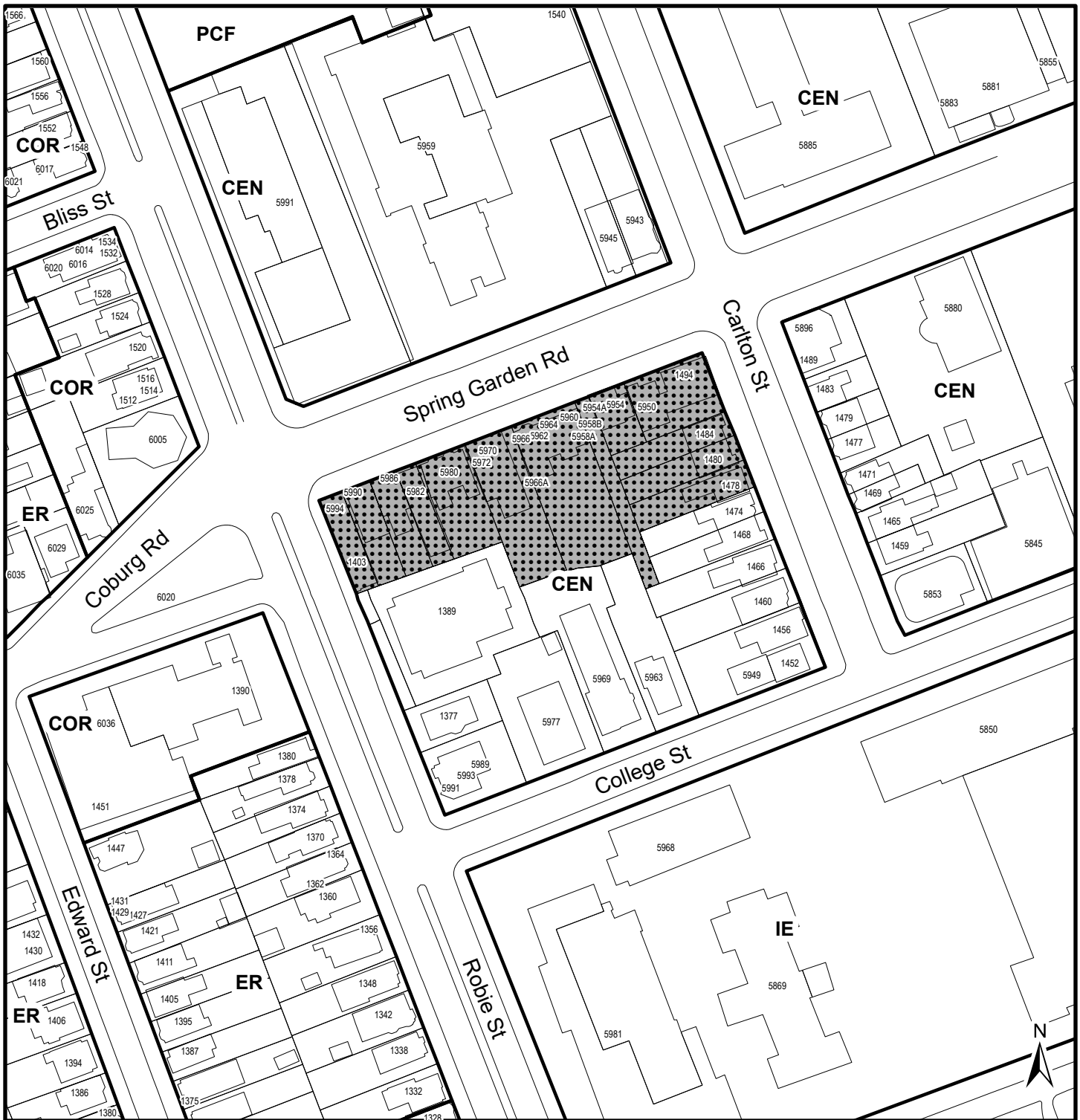
Map 1 - Location and Notification Area

Spring Garden Road and Robie Street,
Halifax

-  Subject Property
-  Area of Notification




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



Map 2 - Generalized Future Land Use

Spring Garden Road and Robie Street,
Halifax

 Subject Properties

Designation

- CEN Centre
- COR Corridor
- ER Established Residential
- IE Institutional Employment
- PCF Park and Community Facility



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.

Regional Centre Plan Area



Map 3 - Zoning

Spring Garden Road and Robie Street,
Halifax

 Subject Properties

Zone

- CEN-1 Centre 1
- CEN-2 Centre 2
- COR Corridor
- ER-2 Established Residential 2
- ER-3 Established Residential 3
- PCF Parks and Community Facilities
- UC-2 University and College 2



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.

Regional Centre
Land Use By-Law

ATTACHMENT A

PROPOSED AMENDMENTS TO THE REGIONAL CENTRE SMPS

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Regional Centre Secondary Municipal Planning Strategy is hereby further amended as follows:

1. Clause (d) of Policy IM-43 is amended, as shown below in bold, by adding the words, brackets, letter, and comma “subject to Clause (o),” before the words “development of Site A”.
 - (d) **subject to Clause (o)**, development of Site A is limited to a maximum Floor Area Ratio of 8.0 and any lot area(s) containing registered heritage properties shall not be included as part of the total lot area calculation;

2. Clause (e) of Policy IM-43 is amended, as shown below in bold, by adding the period and words “. For additional clarity, a one-storey residential penthouse is considered a rooftop feature under Policy IM-43” after the words “excluding rooftop features” and before the semi-colon.
 - (e) building heights are limited to a maximum of 90 metres, excluding rooftop features. **For additional clarity, a one-storey residential penthouse is considered a rooftop feature under Policy IM-43;**

3. Clause (h) of Policy IM-43 is amended, as shown below in bold, by adding the commas and words “, signature architectural projections,” after the words “secondary elements such as balconies” and before the words “or window bays”.
 - (h) that the mixed-use development located above the streetwall or building podium, not including secondary elements such as balconies, **signature architectural projections**, or window bays, be located west of the Heritage Line, as identified on Map 24 and be setback a minimum of 11.5 metres from the edge of the building podium facing East (Carlton Street);

4. Clause (i) of Policy IM-43 is amended, as shown below in bold, by adding the commas and words “, signature architectural projections,” after the words “secondary elements such as balconies” and before the words “or window bays”.
 - (i) that the mixed-use development located above the streetwall or building podium, not including secondary elements such as balconies, **signature architectural projections**, or window bays, be setback a minimum of:
 - (i) 11.5 metres from the south property line, and
 - (ii) 4.5 metres from the edge of any streetwall,

5. Clause (l) of Policy IM-43 is amended, as shown below in bold and strikeout, by:
- (a) adding the words, brackets, letter, and comma “subject to Clause (o),” before the words “a minimum separation distance”; and
 - (b) deleting the word “and” after the semi-colon.
- (l) **subject to Clause (o)**, a minimum separation distance of 23 metres is provided between any tower portions of the building; ~~and~~
6. Clause (m) of Policy IM-43 is amended, as shown below in bold and strikeout, by:
- (a) adding the words, brackets, letter, and comma “subject to Clause (o),” before the words “that any proposed towers”; and
 - (b) by deleting the period at the end of the sentence and replacing it with a semi-colon.
- (m) **subject to Clause (o)**, that any proposed towers, located above the streetwall, not exceed a floor area of 750 square metres per floor;
7. Policy IM-43 is amended, as shown below in bold, by adding two new clauses immediately below Clause (m).
- (n) **that a tolerance of two percent be allowed for maximum building heights, streetwall heights, and building podium heights; and**
 - (o) **the Floor Area Ratio set out in Clause (d), the minimum separation distance between any tower portions of the building set out in Clause (l), and the floor area per floor of any proposed towers located above the streetwall set out in Clause (m) may, for the purpose of permitting the additional floor area required to accommodate signature architectural projections only, be decreased and increased to the following minimum and maximum values:**
 - (i) **maximum Floor Area Ratio (FAR) of 9.1,**
 - (ii) **minimum separation distance between any tower portions of the building of 19 metres, and**
 - (iii) **maximum floor area per floor of any proposed towers located above the streetwall of 810 square metres per floor.**
- For additional clarity, signature architectural projections , in the context of Policy IM-43, are glazed curtain-wall cladded projections that span the height of multiple storeys.**
8. Clause (k) of Policy IM-44 is amended, as shown below in strikeout, by deleting the word “and” after the semi-colon.

- (k) that incentive or bonus zoning is provided in accordance with Part XV of the Land Use By-law; ~~and~~
9. Clause (l) of Policy IM-44 is amended, as shown below in bold and strikeout, by deleting the period and replacing it with a semi-colon and the word “and”.
- (l) the general development agreement criteria set out in Policy IM-7 in Part 9 of this Plan-; **and**
10. Policy IM-44 is amended, as shown below in bold, by adding a new clause immediately below Cause (l).
- (m) opportunities for collaboration with a development on the neighbouring site, identified as Site B on Map 24.**
11. Clause (n) of Policy IM-46 is amended, as shown below in strikeout, by deleting the word “and” after the semi-colon.
- (n) that incentive or bonus zoning is provided in accordance with Part XV of the Land Use By-law; ~~and~~
12. Clause (o) of Policy IM-46 is amended, as shown below in bold and strikeout, by deleting the period and replacing it with a semi-colon and the word “and”.
- (o) the general development agreement criteria set out in Policy IM-7 in Part 9 of this Plan-; **and**
13. Policy IM-46 is amended, as shown below in bold, by adding a new clause immediately below Clause (o).
- (p) opportunities for collaboration with a development on the neighbouring site, identified as Site A on Map 24.**

ATTACHMENT B: PROPOSED DEVELOPMENT AGREEMENT

THIS AGREEMENT made this [] day of [Insert Month], 20[],

BETWEEN:

[INSERT NAME OF CORPORATION/BUSINESS LTD.]

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

-OR-

[INSERT INDIVIDUAL'S NAME]

an individual, in the Halifax Regional Municipality [or other applicable
County], in the Province of Nova Scotia [or other Province,]
(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 5950-5994 Spring Garden Road, 1403 Robie Street, and 1478-1494 Carlton Street, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for the construction of a 30-storey mixed use residential and commercial development with underground parking on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies IM-42, IM-43, and IM-44 of the *Regional Centre Secondary Municipal Planning Strategy* and Section 498 of the *Regional Centre Land Use By-law*;

AND WHEREAS the Halifax and West Community Council of the Municipality approved this request at a meeting held on [Insert – Date], referenced as Municipal Case 20218;

AND WHEREAS a portion of the Lands have been registered as a municipal heritage property pursuant to the provisions of the *Heritage Property Act*, RSNS 1989, c 199 and the Municipality's *Heritage Property By-law* (By-law H-200), as amended from time to time;

AND WHEREAS the Developer has requested approval by the Municipality to undertake substantial alterations to a portion of the Lands comprising of 1478, 1480, 1484, and 1494 Carlton Street, Halifax;

AND WHEREAS the Regional Council for the Municipality granted approval to this request at a meeting held on January 29, 2019;

AND WHEREAS the Chief Administrative Officer of the Municipality approved on [Insert – Date] the discharge of the existing Development Agreement that applies to 1480-1484 Carlton Street, Halifax and filed in the Registry of Deeds as Document Number 21523, in Book 4912, at pages 454-457, said discharge to take effect upon the registration of this Agreement;

AND WHEREAS the Chief Administrative Officer of the Municipality approved on **[Insert – Date]** the discharge of the existing Development Agreement that applies to 1494 Carlton Street and 5950-5954 Spring Garden Road, Halifax and filed in the Registry of Deeds as Document Number 54518, in Book 4821, at pages 496-500, said discharge to take effect upon the registration of this Agreement;

AND WHEREAS the Chief Administrative Officer of the Municipality approved on **[Insert – Date]** the discharge of the existing Development Agreement that applies to 5954 Spring Garden Road, Halifax and filed in the Registry of Deeds as Document Number 44971, in Book 3621, at pages 124-126, said discharge to take effect upon the registration of this Agreement;

AND WHEREAS the Chief Administrative Officer of the Municipality approved on **[Insert – Date]** the discharge of the existing Development Agreement that applies to 5954 Spring Garden Road, Halifax and filed in the Registry of Deeds as Document Number 15806, in Book 3569, at pages 445-450, said discharge to take effect upon the registration of this Agreement;

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 *Regional Centre Land Use By-law* and the *Regional Subdivision By-law*, as may be amended from time to time.
- 1.2.2 Schedule I lists the sections of the *Regional Centre Land Use By-law* that apply to this Agreement. For greater clarity, sections of the *Regional Centre Land Use By-law* not listed on Schedule I do not apply to this Agreement.
- 1.2.3 Variances to the requirements of the *Regional Centre Land Use By-law* shall be permitted on the Carlton Street Site, in accordance with the *Halifax Regional Municipality Charter*.
- 1.2.4 Variances to the requirements of the *Regional Centre Land Use By-law* shall not be permitted on the Tower Building Site.

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

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner, or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law or the *Regional Subdivision By-law* to the extent varied by this Agreement), or any statute or regulation of the Provincial Government or 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 or the *Regional Subdivision By-law* to the extent varied by this Agreement) or any Provincial or Federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities, and Obligations

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

1.6 Provisions Severable

- 1.6.1 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

1.7 Lands

- 1.7.1 The Developer hereby represents and warrants to the Municipality that the Developer is the owner of the Lands and that all owners of the Lands have entered into this Agreement.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

2.1.1 All words unless otherwise specifically defined herein shall be as defined in the *Regional Centre Land Use By-law* and the *Regional 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) **Carlton Street Buildings** means the buildings that were located on the Carlton Street Site on the coming into force date of this Agreement;
- (b) **Carlton Street Site** means the portion of the Lands that is identified as such on Schedule B;
- (c) **East Tower** means the tower portion of the Tower Building that is identified as such on Schedules F, G, and H;
- (d) **Floor Area** means for the purposes of a FAR calculation or an incentive or bonus zoning calculation, the horizontal area of all floors of a building or a parking structure, measured from the interior faces of any exterior wall or fire wall and includes interior staircases, but excludes the following:
 - (i) unenclosed space outside any exterior walls or located on a rooftop, such as balconies and patios,
 - (ii) any floor area below a ground floor of a building or parking structure,
 - (iii) elevator shafts,
 - (iv) accessory structures,
 - (v) rooftop greenhouses,
 - (vi) any space open to a floor below, including the space occupied by a swimming pool, and
 - (vii) pedways;
- (e) **Floor Area** means for the purposes other than a FAR calculation or an incentive or bonus zoning calculation, the horizontal area of all floors of a building or a parking structure, measured from the interior faces of any exterior wall or fire wall and includes interior staircases, but excludes the following:
 - (i) unenclosed space outside any exterior walls or located on a rooftop, such as balconies and patios,
 - (ii) elevator shafts,
 - (iii) rooftop greenhouses,
 - (iv) any space open to a floor below, including the space occupied by a swimming pool, and
 - (v) pedways;
- (f) **HRM Substantial Alteration Report** means Attachment 1 to the staff report dated December 13, 2018 and having the subject matter "Case H00461: Substantial Alteration to municipally registered heritage properties at 1478, 1480, 1484 and 1494 Carlton Street, Halifax" which was before Halifax Regional Council on January 29, 2019 as Item No. 9.2 on the agenda;
- (g) **Signature Architectural Projections** means glazed curtain-wall cladded projections that span the height of multiple storeys. For additional clarity, the schedules attached to this Agreement identify the location and extent of the Signature Architectural Projections on the Tower Building;

- (h) **Tower Building** means the building that is enabled by this Agreement on the Tower Building Site;
- (i) **Tower Building Podium** means the portion of the Tower Building that forms a pedestal that supports clearly distinct upper levels. For additional clarity, the Tower Building Podium includes the ground floor and the podium levels 2-4, but does not include the tower levels 5 and above;
- (j) **Tower Building Site** means the portion of the Lands that is identified as such on Schedule B; and
- (k) **West Tower** means the tower portion of the Tower Building that is identified as such on Schedules F, G, and H.

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 20218:

- (a) Schedule A Legal Description of the Lands;
- (b) Schedule B Site Plan;
- (c) Schedule C Subdivision of Land;
- (d) Schedule D Preliminary Landscape Plan;
- (e) Schedule E Setback and Stepback Plan;
- (f) Schedule F North Elevation (Spring Garden Road);
- (g) Schedule G East & West (Robie Street) Elevations;
- (h) Schedule H South Elevation; and
- (i) Schedule I Applicable Sections of the Regional Centre Land Use By-law.

3.1.2 Floor levels and elevations values on Schedules F, G, and H are indicative. The total number of floor levels is subject to the built form values contained in Sections 3.6.2, 3.6.3, 3.6.4, 3.6.6, 3.6.7, 3.6.11, and 3.6.12.

3.2 Requirements Prior to Approval

3.2.1 Prior to the issuance of a Construction Permit for the Tower Building, the Developer shall:

- (a) Submit an application for Demolition Permit(s) for the existing buildings on the Tower Building Site. A Construction Permit shall not be issued until the Demolition Permit(s) have received approval from the Building Official and the existing buildings have been removed from the Tower Building Site;
- (b) Enter into an incentive or bonus zoning agreement with the Municipality, as per the requirements of Part XV of the *Regional Centre Land Use By-law*;
- (c) Submit an application for subdivision approval to the Development Officer, which shall comply with Section 3.11 and Schedule C of this Agreement. A Construction Permit shall not be issued until the Plan of Subdivision has received approval from the Development Officer and has been registered at the Registry of Deeds or Land Registry Office for the County of Halifax, Nova Scotia and the Developer shall incur all costs in recording such document;
- (d) Submit an application for a Grade Alteration Permit to the Municipality, as per Section 5.1 of this Agreement and in accordance with the *Grade Alteration By-law* (By-law G-200). A Construction Permit shall not be issued until a Grade Alteration Permit has been issued by the HRM Development Engineer;
- (e) Submit a Landscape Plan to the Development Officer, in accordance with Section 3.13 and Schedule D of this Agreement;
- (f) Submit a Wastewater Capacity Analysis acceptable to Halifax Water; and
- (g) Submit written confirmation and photographic evidence demonstrating that rehabilitation work has begun on the Carlton Street Site, as per the HRM Substantial Alteration Report and the Construction Permits for the Carlton Street Buildings.

3.2.2 The Developer shall be exempt from submitting the following documents or studies for any application for a Development Permit or a Construction Permit for the Tower Building enabled under this Agreement:

- (a) a pedestrian wind impact assessment report under Clause 10(j) of the *Regional Centre Land Use By-law*; and

- (b) a shadow study and shadow diagrams under Clause 10(k) of the *Regional Centre Land Use By-law*.

3.2.3 Prior to the issuance of the first the Occupancy Permit for the Tower Building, the Developer shall provide the following to the Development Officer, unless otherwise permitted, modified, or waived by the Development Officer:

- (a) Written confirmation from a Landscape Architect, which the Development Officer may accept as sufficient record of compliance with the Landscape Plan; or
- (b) The posting of security in accordance with Section 3.13.9 of this Agreement; and
- (c) Written confirmation from the HRM Development Engineer indicating compliance with Section 4.2 of this Agreement; and
- (d) Written confirmation from the HRM Heritage Planner that all work and substantial alterations proposed for 1478, 1480, 1484, and 1494 Carlton Street, as outlined in the HRM Substantial Alteration Report, have been completed and inspected; and
- (e) Written confirmation from the HRM Heritage Planner that the Developer has applied to deregister the resulting parcels from the subdivision of 1478 Carlton Street, 1480 Carlton Street, 1484 Carlton Street, and 1494 Carlton Street which contain no heritage buildings.

3.2.4 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 or a conditional occupancy has been issued by the Municipality. No Occupancy Permit for the entire Tower Building, if done under one Occupancy Permit, or the Occupancy Permit for the final component of the Tower Building, if the occupancy of the Tower Building is broken down under separate Occupancy Permits, 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 uses of the Lands permitted by this Agreement are:

- (a) for the Tower Building Site, and subject to Sections 32, 37, and 38 of the *Regional Centre Land Use By-law*, any uses permitted in the CEN-2 Zone of the *Regional Centre Land Use By-law*; and
- (b) for the Carlton Street Site, and subject to Sections 32, 37, and 38 of the *Regional Centre Land Use By-law*, any uses permitted in the CEN-1 Zone of the *Regional Centre Land Use By-law*.

3.4 Detailed Provisions for Land Use

3.4.1 The Tower Building shall meet the CEN-2 requirements for dwelling unit mix contained in Section 64 of the *Regional Centre Land Use By-law*.

3.4.2 The Developer shall provide the following minimum amount of amenity space on the Podium Level 4 of the Tower Building for the benefit of the residents of the Tower Building:

- (a) 600 square metres of indoor amenity space; and
- (b) 200 square metres of outdoor amenity space.

3.5 Phasing

3.5.1 (1) Phasing shall comply with the following conditions and sequences:

- (a) Phase 1 – The Developer shall:
 - (i) apply and obtain Construction Permits for the rehabilitation of the Carlton Street Buildings, and
 - (ii) commence the work on the rehabilitation of the Carlton Street Buildings by completing the demolition work detailed in the HRM Substantial Alteration Report. The Heritage Officer shall sign off on this condition;
 - (b) Phase 2, the Developer shall:
 - (i) apply and obtain Demolition Permits for the existing buildings on the Tower Building Site,
 - (ii) complete the demolition work on the existing buildings on the Tower Building Site,
 - (iii) apply and obtain subdivision approval as required under Section 3.11,
 - (iv) apply and obtain a Construction Permit for the Tower Building, which can be for the entire Tower Building (Tower Building Podium, East Tower, and West Tower) or for the Tower Building Podium and one of the two tower portions (the East Tower or the West Tower), and
 - (v) commence work on the Tower Building by completing the installation of footings and foundation for the Tower Building;
 - (c) Phase 3, the Developer shall:
 - (i) apply and obtain the first Occupancy Permit for each of the Carlton Street Buildings, and
 - (ii) apply and obtain the first Occupancy Permit for the Tower Building (either for the full Tower Building or a component of the Tower Building); and
 - (d) Phase 4, the Developer shall apply and obtain an Occupancy Permit for the last component of the Tower Building.
- (2) Prior to commencing a subsequent phase of the phasing sequence detailed in Subsection 3.5.1(1), the Developer must complete the previous phase.

3.6 Building Siting, Massing, and Scale for the Tower Building Site

- 3.6.1 The Tower Building shall be located on the Tower Building Site, as shown on Schedules B and E.
- 3.6.2 The Tower Building shall not exceed a maximum Floor Area Ratio (FAR) value of 9.1 applied to the entire Tower Building Site. The Floor Area Ratio calculation shall make use of the Floor Area definition contained under Clause 2.2.1(d) of this Agreement.
- 3.6.3 Subject to Sections 3.6.6 and 3.6.21, the Tower Building shall not exceed a maximum building height of 90.0 metres above the average finished grade, excluding:
- (a) one single-storey residential unit per tower portion;
 - (b) enclosed staircases;
 - (c) enclosed elevators with overhead requirement;
 - (d) elevator machine rooms above the elevator overhead requirement;
 - (e) mechanical rooms;
 - (f) flag poles;
 - (g) antennas;
 - (h) solar collectors;

- (i) lightning rods;
- (j) chimneys;
- (k) clear glass guard and railing systems;
- (l) cooling towers;
- (m) window cleaning equipment;
- (n) windscreens;
- (o) architectural screens or architectural screening elements;
- (p) hard landscaping or soft landscaping;
- (q) parapets;
- (r) skylights
- (s) rooftop greenhouses;
- (t) heating, ventilation, and air conditioning equipment and enclosure; and
- (u) any ancillary equipment and installations related to the above exclusions.

3.6.4 Subject to Sections 3.6.6 and 3.6.21, the following elements shall not exceed a height of 100.5 metres above the average finished grade of the Tower Building:

- (a) one single-storey residential unit per tower portion;
- (b) enclosed staircases;
- (c) enclosed elevators with overhead requirement;
- (d) elevator machine rooms above the elevator overhead requirement;
- (e) mechanical rooms;
- (f) clear glass guard and railing systems;
- (g) windscreens;
- (h) architectural screens or architectural screening elements;
- (i) hard landscaping or soft landscaping;
- (j) parapets;
- (k) skylights;
- (l) rooftop greenhouses; and
- (m) heating, ventilation, and air conditioning equipment and enclosure.

3.6.5 Subject to Section 3.6.6, the following elements on the Tower Building shall not be constrained by a height maximum:

- (a) flag poles;
- (b) antennas;
- (c) solar collectors;
- (d) lightning rods;
- (e) chimneys;
- (f) cooling towers, and
- (g) window cleaning equipment.

3.6.6 The Tower Building and all attached elements shall conform with the Citadel Rampart Sight Line requirements, as contained in Sections 398 and 400 of the *Regional Centre Land Use By-law*.

3.6.7 Subject to Section 3.6.21, the following elements that are allowed to exceed a maximum building height of 90.0 metres above the average finished grade under Section 3.6.3, when combined together, shall not occupy more than 70 percent of the footprints of the tower portions on which they are located:

- (a) one single-storey residential unit per tower portion;
- (b) enclosed staircases;
- (c) enclosed elevators with overhead requirement;
- (d) elevator machine rooms above the elevator overhead requirement;
- (e) mechanical rooms;

- (f) cooling towers;
 - (g) rooftop greenhouses; and
 - (h) heating, ventilation, and air conditioning equipment and enclosure.
- 3.6.8 The Tower Building Podium or streetwall shall be setback a minimum of:
- (a) 6.0 metres from any property boundary associated with 1474 Carlton Street;
 - (b) 28.0 metres from the Carlton Street streetline;
 - (c) 1.5 metres from the Robie Street streetline; and
 - (d) 0.5 metres from the Spring Garden Road streetline.
- 3.6.9 Excluding secondary elements such as balconies and Signature Architectural Projections, the portion of the Tower Building located above the streetwall or the Tower Building Podium shall be stepped back a minimum of 11.5 metres from the edge of the Tower Building Podium facing East (Carlton Street).
- 3.6.10 Excluding secondary elements such as balconies and Signature Architectural Projections, the portion of the Tower Building located above the streetwall or the Tower Building Podium shall be:
- (a) set back a minimum of 11.5 metres from the south property line, and
 - (b) stepped back a minimum of 4.5 metres from the edge of any streetwall.
- 3.6.11 Subject to Section 3.6.21, the Tower Building shall conform to the following maximum streetwall heights:
- (a) 16.0 metres along Robie Street;
 - (b) subject to Clause 3.6.11(c), 13.0 metres along most of Spring Garden Road; and
 - (c) 16.0 metres along Spring Garden Road, for a total distance of 35.0 metres travelling northeast from Robie Street, however no portion of the 16.0 metre streetwall, along Spring Garden Road, shall be located between two tower portions.
- 3.6.12 Excluding open screened roof mechanical areas and subject to Section 3.6.21, the Tower Building Podium shall conform to the following maximum heights:
- (a) 13.0 metres facing East (Carlton Street), and
 - (b) 16.0 metres facing South (College Street).
- 3.6.13 Excluding secondary elements such as balconies, Signature Architectural Projections, and open screened roof mechanical areas, a minimum separation distance of 23.0 metres shall be provided between any tower portions of the Tower Building.
- 3.6.14 Any tower portion of the Tower Building shall not exceed a Floor Area of 810 square metres per storey. The determination of Floor Area per storey shall make use of the Floor Area definition contained under Clause 2.2.1(e) of this Agreement.
- 3.6.15 Pedestrian entrances shall meet the requirements of Subsection 93(1) of the *Regional Centre Land Use By-law*.
- 3.6.16 Motor vehicle entrances shall meet the requirements of Subsection 93(2) of the *Regional Centre Land Use By-law*.
- 3.6.17 Subject to Section 3.6.18, permitted encroachments into setbacks, stepbacks, or separation distances on the Tower Building Site are set out in Clauses 94(1)(a) and 94(1)(b) of the *Regional Centre Land Use By-law*.

- 3.6.18 Permitted encroachments into setbacks, setbacks, or separation distances for balconies and Signature Architectural Projections, on the Tower Building Site, shall be as shown on the schedules of this Agreement. For additional clarity, the permitted depth of encroachment for both balconies and Signature Architectural Projections shall be 2.0 metres.
- 3.6.19 Where zero lot line setbacks are permitted, they are subject to a detailed review by the Development Officer to ensure compliance with all relevant building codes and by-laws. Any excavation, construction, or landscaping shall be carried out in a safe manner by the Developer, with appropriate measures put into place to ensure the protection and preservation of the adjacent properties.
- 3.6.20 Accessory structures on the Tower Building Site shall meet the requirements of Sections 327, 329, 330, 331, 333, 334, and 335 of the *Regional Centre Land Use By-law*.
- 3.6.21 Subject to Section 3.6.6, the built form values contained in Sections 3.6.3, 3.6.4, 3.6.7, 3.6.11, and 3.6.12 may be exceeded by up to 2 percent.

3.7 Building Siting, Massing, and Scale for the Carlton Street Site

- 3.7.1 The Carlton Street Buildings' siting, massing, and scale shall conform to the specifications in the HRM Substantial Alteration Report.
- 3.7.2 Permitted encroachments into setbacks, setbacks, or separation distances on the Carlton Street Site are set out in Subsections 94(1) and 94(2) of the *Regional Centre Land Use By-law*.
- 3.7.3 Accessory structures on the Carlton Street Site shall meet the requirements of Sections 327, 328, 329, 330, 331, 333, 334, and 335 of the *Regional Centre Land Use By-law*.

3.8 Architectural Requirements for the Tower Building

- 3.8.1 The Tower Building's exterior design and materials shall be as shown on Schedules F, G, and H.
- 3.8.2 Subject to Section 3.8.3, the Development Officer may permit alteration to external cladding materials, shown on Schedules F, G, and H, provided that doing so does not affect the external appearance of the Tower Building.
- 3.8.3 The following external cladding materials shall be prohibited on the Tower Building:
- (a) vinyl siding;
 - (b) plastic;
 - (c) plywood;
 - (d) unfinished concrete;
 - (e) exterior insulation and finish systems where stucco is applied to rigid insulation, and
 - (f) mirrored glass.
- 3.8.4 Service entrances shall be integrated into the design of the Tower Building and shall not be a predominant feature.
- 3.8.5 Pedestrian entrances within streetwalls on the Tower Building shall meet the requirements of Sections 363 and 367 of the *Regional Centre Land Use By-law*.
- 3.8.6 Any exposed foundation walls and underground parking structures on the Tower Building Site shall meet the requirements of Section 368 of the *Regional Centre Land Use By-law*.

3.8.7 Awnings and canopies are permitted on the Tower Building, but shall meet the requirements of Section 375 of the *Regional Centre Land Use By-law*.

3.9 Architectural Requirements for the Carlton Street Buildings

3.9.1 The exterior design and materials for the Carlton Street Buildings shall be as specified in the HRM Substantial Alteration Report.

3.10 Functional Elements on the Tower Building Site

3.10.1 Subject to Section 3.10.5, all vents, down spouts, flashing, electrical conduits, meters, service connections, and other functional elements on the Tower Building shall be treated as integral parts of the design. Where appropriate, these elements shall match the colour of the adjacent surface, except where used expressly as an accent.

3.10.2 Subject to Section 3.10.5, at-grade mechanical equipment (e.g., HVAC, exhaust fans, etc.) and utilitarian feature such as propane tanks, electrical transformers, and standby power generators on the Tower Building Site shall not be visible from Robie Street, Spring Garden Road, or Carlton Street. Furthermore, no at-grade mechanical equipment, propane tanks, electrical transformers, or standby power generators shall be located between the Tower Building and abutting properties unless:

- (a) they are secured in accordance with the applicable approval agencies;
- (b) they are screened from abutting properties by one or a combination of the following:
 - (i) building elements,
 - (ii) a continuous coniferous hedge,
 - (iii) an opaque fence, or
 - (iv) a masonry or architectural concrete wall; and
- (c) noise reduction measures are implemented.

3.10.3 Mechanical equipment shall be permitted on the roofs of the Tower Building provided the equipment is integrated into the architectural treatment and roof structure of the Tower Building, or screened and not visible from any streetline abutting the Lands.

3.10.4 Fixed or retractable canopies or awnings are permitted at the ground floor level of the Tower Building, provided the canopies or awnings are designed as an integral part of the building façade.

3.10.5 Heat pumps shall be permitted for individual dwelling units within the Tower Building and may be located on balconies.

3.11 Subdivision of the Lands

3.11.1 A subdivision application shall be submitted to the Development Officer in accordance with the phasing plan presented in Schedule C, and the Development Officer shall grant subdivision approval.

3.11.2 Following subdivision of 1478 Carlton Street, 1480 Carlton Street, 1484 Carlton Street, and 1494 Carlton Street, the Developer shall apply to deregister the resulting parcels which contain no heritage buildings.

3.12 Access, Circulation, and Parking

- 3.12.1 The driveway access and layout on the Tower Building Site, and the access ramp (entry/exit) to the underground parking levels, associated with the Tower Building on the Lands, shall be as generally illustrated on Schedule B.
- 3.12.2 The driveway on the Tower Building Site shall have a hard finished surface, such as asphalt, concrete, or interlocking precast concrete paver stones.
- 3.12.3 The limits of the driveway on the Tower Building Site shall be delineated by curbing, and such curbing shall not be asphalt.
- 3.12.4 Subject to Section 3.12.6, motor vehicle parking on the Tower Building Site shall:
- (a) be provided underground; and
 - (b) be accessed from Carlton Street, as shown on Schedule B.
- 3.12.5 Up to four levels of underground parking shall be permitted on the Tower Building Site.
- 3.12.6 Up to eight (8) surface parking spaces shall be allowed on the Tower Building Site on top of the underground parking slab at-grade behind the above-grade portions of the Tower Building. The surface parking spaces shall not be visible from either Spring Garden Road or Robie Street.
- 3.12.7 The minimum amount of motor vehicle parking, required to be provided on the Lands under Clause 3.12.4(c), and the eight (8) surface parking spaces, allowed under Section 3.12.6, shall meet the requirements of Sections 431 and 432 of the *Regional Centre Land Use By-law*.
- 3.12.8 Any motor vehicle parking space on the Lands may be used as a motor vehicle sharing space.
- 3.12.9 Bicycle parking shall be provided on the Lands and shall meet the requirements of Sections 446, 447, 448, 449, 450, 451, 452, and 453 of the *Regional Centre Land Use By-law*.
- 3.12.10 Off-street loading shall be provided on the Tower Building Site and shall meet the requirements of Sections 454, 455, and 456 of the *Regional Centre Land Use By-law*.
- 3.12.11 It is the responsibility of the Developer to convey all required right-of-way easements over the Lands, as shown on Schedule C.

3.13 Landscaping

- 3.13.1 Prior to the issuance of a Construction Permit for the Tower Building, the Developer agrees to provide a Landscape Plan which complies with the provisions of Section 3.13 and generally conforms with the overall intentions of the Preliminary Landscape Plan, as shown on Schedule D. The Landscape Plan shall be prepared by a Landscape Architect.
- 3.13.2 The Landscape Plan shall depict the design of all hard landscaping or soft landscaping proposed for the development, and where applicable shall indicate:
- (a) the current and proposed site topography, including the location of any significant gradients;
 - (b) the footprints of all existing and proposed buildings, including underground parking structures;
 - (c) the location and height for any proposed retaining wall systems, as well as the type of fencing proposed in conjunction with them;

- (d) the planting areas and details for all new vegetation and groundcover at-grade, on the roof slabs of any underground parking structure, or any rooftops, including location, quantity, size, and both the common and botanical names that identify the species and variety;
- (e) the protection measures, such as hoardings, for any existing soft landscaping that is to be maintained;
- (f) the construction details for all hard-landscaped areas, including design specifications, dimensions, paving materials, and locations;
- (g) the manufacturers' specifications, such as model and colour, for all seating, light standards and fixtures, waste receptacles, bicycle parking racks, roofed bicycle cages, enclosed bicycle lockers, tree grates or guards, bollards, planter seating walls, wood arbours, outdoor furniture, solid waste management enclosures, railings, and fencing; and
- (h) any other information that the Development Officer requires to determine if the development complies with the requirements of this Agreement.

3.13.3 All plant material shall conform to the Canadian Nursery Landscape Association's Canadian Nursery Stock Standard (ninth edition).

3.13.4 The minimum acceptable sizes for plant material shall be as follows:

- (a) high branching deciduous trees at grade – 60 millimetres caliper;
- (b) high branching deciduous trees on slab – 45 millimetres caliper;
- (c) coniferous trees – 1.5 metres in height; and
- (d) shrubs – 0.6 metres in height or spread.

3.13.5 Planting on rooftops above structures shall be carefully selected for their ability to survive in rooftop environments.

3.13.6 Rooftop trees shall be located in planting beds or containers.

3.13.7 No HRM street trees are to be removed or damaged during the construction phase. The Landscape Plan shall identify plywood tree protective hoarding located as close to the dripline of the existing street trees as possible to protect them during the construction phase.

3.13.8 Subject to Section 3.13.9, prior to issuance of the first Occupancy Permit for the Tower Building, the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect certifying that all landscaping has been completed according to the terms of this Agreement.

3.13.9 Where the weather and time of year do not allow for the completion of the outstanding landscape works prior to the issuance of the first Occupancy Permit for the Tower Building, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate shall be approved by a Landscape Architect. 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 Schedule D, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve (12) months of issuance of the first Occupancy Permit for the Tower Building, the Municipality may use the deposit to complete the landscaping as set out in Section 3.13 of this 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.

3.13.10 It is the responsibility of the Developer to ensure that any rooftops or any roof slabs of underground parking structures are capable of supporting additional loads related to any

proposed hard landscaping or soft landscaping, including required drainage and the anticipated mature weight of plant material.

3.14 Outdoor Lighting

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

3.15 Signs

- 3.15.1 Signs on the Lands shall be in accordance with Sections 457, 458, 459, 460, 461, 462, 463, 464, 466, and 467 of the *Regional Centre Land Use By-law*.
- 3.15.2 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the Lands.

3.16 Temporary Construction Buildings

- 3.16.1 Temporary construction buildings 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 buildings shall be removed from the Lands at the end of the construction period.

3.17 Reinstatement

- 3.17.1 All disturbed areas on the Lands shall be reinstated to original condition or better.

3.18 Maintenance

- 3.18.1 (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, 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, including the salting of walkways and driveways.
- (2) The Developer agrees to ongoing maintenance in accordance with the *Standards and Guidelines for the Conservation of Historic Places in Canada, 2nd Edition*, for the rehabilitated heritage buildings to preserve their heritage value and integrity.

3.19 Hours of Operation

- 3.19.1 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

3.20 Incentive or Bonus Zoning

- 3.20.1 The provision of an incentive or bonus zoning shall be a condition of this Agreement.

3.20.2 Subject to Section 3.20.3, the incentive or bonus zoning provided to enable the development of the Tower Building shall meet the requirements of Sections 472, 473, 474, 475, 477, 478, 479, 480, 481, 482, 483, and 484 of the *Regional Centre Land Use By-law*.

3.20.3 For additional clarity, the 90% of the total public benefit value required under Section 481 of the *Regional Centre Land Use By-law* shall be allocated to the rehabilitation of the Carlton Street Buildings, consistent with the HRM Substantial Alteration Report.

3.20.4 The bonus rate for the calculation of the required public benefit value shall be the bonus rate at the time a complete application for a Construction Permit is received by the Municipality for the Tower Building.

3.21 Right to Alter or Demolish

3.21.1 In the event that an application for a demolition or substantial alteration to 1478, 1480, 1484, or 1494 Carlton Street is denied by the Municipality, the Developer agrees not to alter the exterior appearance of or demolish these heritage buildings, as provided for under Sections 16, 17, and 18 of the *Heritage Property Act*.

3.22 Wind Mitigation Measures

3.22.1 At a minimum, the following wind mitigation measures shall be incorporated on the Lands into the overall design of the Tower Building:

- (a) two fixed glass screens, 2.5 metres in height, along the Robie Street frontage;
- (b) raised planters along portions of the Spring Garden Road streetwall of the Tower Building that include 2.5 metres high 75% solid lattice with evergreen climbers;
- (c) a northeast corner canopy projecting between 1.0 metre and 1.5 metres beyond the Spring Garden Road streetwall; and
- (d) a modified perimeter guardrail, incorporated into the design of the outdoor amenity space on Podium Level 4, to include a combination of fixed glass panels and 75% solid lattice structures with evergreen climbers.

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 editions of the *Municipal Design Guidelines* and the *Halifax Water Design and Construction Specifications*, unless otherwise provided for in this Agreement, and shall receive written approval from the Development Engineer 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 Undergrounding Services

- 4.3.1 All primary and secondary electrical, telephone, and cable services to the Tower Building shall be through an underground installation.

4.4 Outstanding Site Work

- 4.4.1 For the Tower Building, security for the completion of outstanding on-site paving work (at the time of issuance of the first Occupancy Permit for the Tower Building) may be permitted. Such security shall consist of a security deposit in the amount of 110 percent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable automatically renewing letter of credit issued by a chartered bank. The security shall be returned to the Developer by the Development Officer when all outstanding work is satisfactorily completed.

4.5 Wastewater Capacity Analysis

- 4.5.1 Prior to the issuance of a Construction Permit for the Tower Building, a Wastewater Capacity Analysis, as directed by Halifax Water, shall be submitted. Any system upgrades required to accommodate the proposed Tower Building shall be the responsibility of the Developer.

4.6 Solid Waste Facilities

- 4.6.1 The Tower Building shall include designated space(s) inside the building for five stream commercial waste containers (1. Garbage, 2. Blue Bag Recyclables, 3. Paper, 4. Corrugated Cardboard, and 5. Organics) to accommodate a source separation program in accordance with the *Solid Waste Resource Collection and Disposal By-law* (By-law S-600), as amended from time to time. This designated space(s) for five (5) waste containers shall be shown on the building plans and approved by the Development Officer and Building Official in consultation with HRM Solid Waste Resources.
- 4.6.2 All refuse and recycling materials for the Carlton Street Buildings 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 all refuse and recycling materials 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 Grade Alteration and Stormwater Management

- 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 have been issued a Grade Alteration Permit in accordance with the *Grade Alteration By-law* (By-law G-200), as amended from time to time.

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 not substantive and may be amended in a manner consistent with the *Halifax Regional Municipality Charter* (for greater certainty, these items do not include changes which, in the opinion of the Development Officer, are in conformance with the plans attached as Schedules B to H):

- (a) The granting of an extension to the date of commencement of development as specified in Section 7.3.1 of this Agreement;
- (b) The granting of an extension to the length of time for the completion of the development as specified in Section 7.4.1 of this Agreement;
- (c) Changes to the Preliminary Landscape Plan as illustrated on Schedule D;
- (d) Changes to the amenity space requirements for the Tower Building pursuant to Section 3.4.2;
- (e) Changes to the exterior architectural appearance of the Tower Building other than the requirements found under Section 3.6;
- (f) Changes to the motor vehicle parking requirements pursuant to Section 3.12;
- (g) Changes to the sign requirements pursuant to Section 3.15; and
- (h) Changes to the Site Plan, as illustrated on Schedule B, regarding the access ramp (entry/exit) to the underground parking levels and the driveway access and layout on the Tower Building Site to allow for future collaboration in terms of interconnected underground parking levels and shared driveway and access with a development on the neighbouring site identified as Site B on Map 24 of the *Regional Centre Secondary Municipal Planning Strategy*.

6.2 Substantive Amendments

6.2.1 Amendments to any matters not identified under Section 6.1 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 the Chief Administrative Officer for the Municipality.
- 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 eight (8) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the applicable Land Use By-law.
- 7.3.2 For the purpose of this Agreement, commencement of development shall mean the installation of the footings and foundation for the Tower Building.
- 7.3.3 The Development Officer may consider granting an extension of the commencement of development time period 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

- 7.4.1 In the event that the development on the Lands has not been completed within twelve (12) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the applicable Land Use By-law.
- 7.4.2 For the purpose of this Agreement, completion of the development shall mean the issuance of a first Occupancy Permit for each main building enabled under this Agreement.
- 7.4.3 The Development Officer may consider granting an extension of the completion of the development time period under Section 6.1, if the Municipality receives a written request from the Developer prior to the expiry of the completion of development time period.

7.5 Review and Discharge of Agreement

- 7.5.1 Upon the completion of the development or complete phases of the development, or at such time that policies applicable to the Lands have been amended, the Municipality 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 have been completed, discharge this Agreement and apply appropriate zoning pursuant to the *Regional Centre Secondary*

Municipal Planning Strategy and the *Regional Centre Land Use By-law*, as may be amended from time to time.

- 7.5.2 For the purpose of this Agreement, completion of a complete phase of the development shall mean the issuance of a first Occupancy Permit for each main building enabled under that particular phase of the Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

8.1.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty-four (24) hours of receiving such a request.

8.2 Failure to Comply

8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any 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: _____

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

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

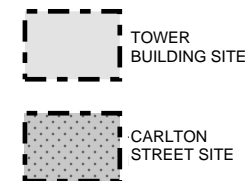
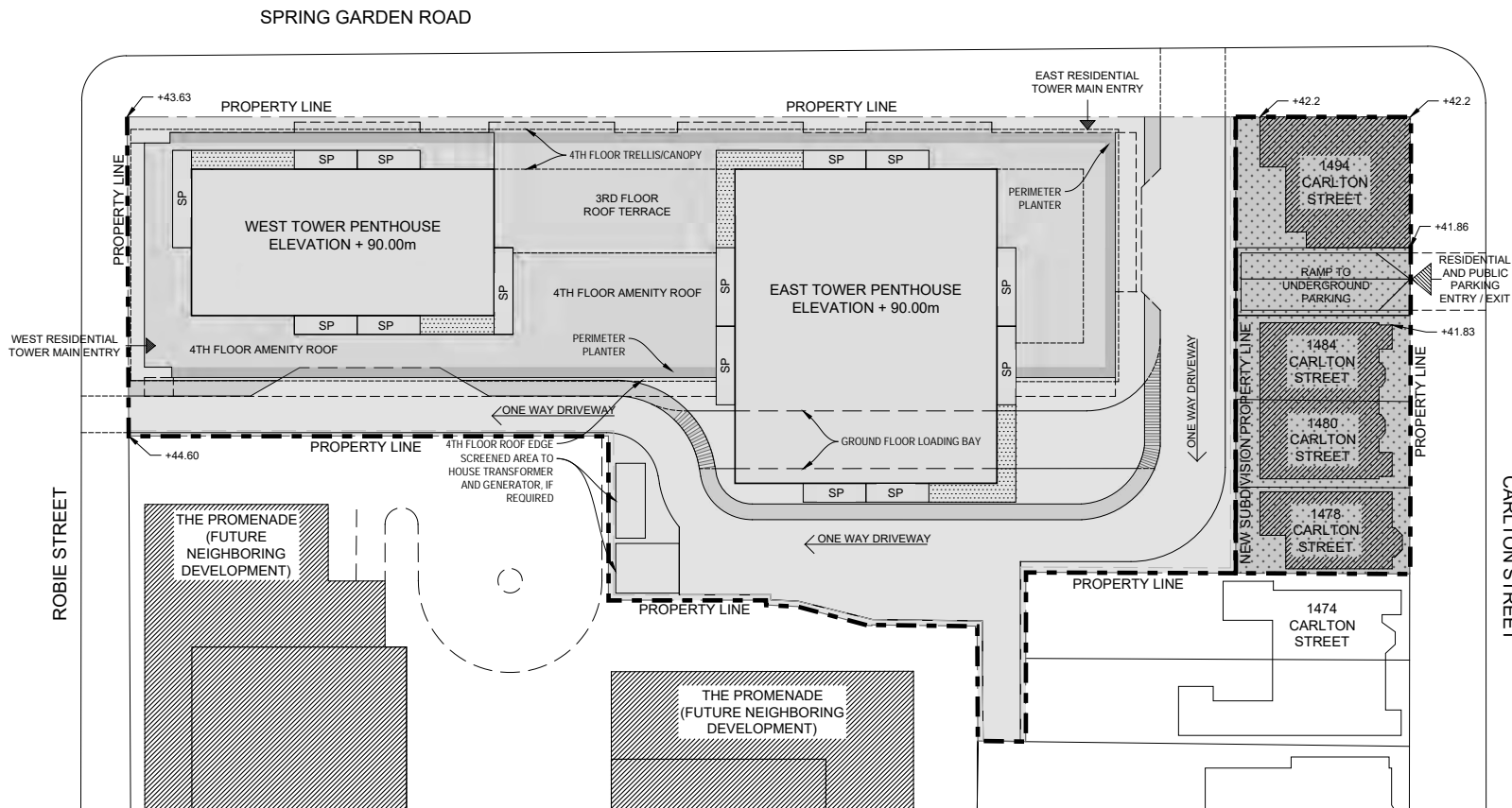
Schedule A
Legal Description of the Lands

Schedule B Site Plan

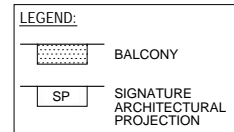
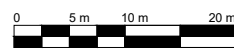
SPRING GARDEN WEST

DEXEL + MACKAY-LYONS SWEETAPPLE ARCHITECTS LTD.

DEVELOPMENT AGREEMENT



Note:
Project reference elevation 0.0m = 42.7m



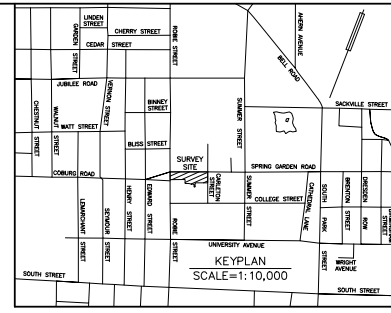
BASED ON ORIGINAL SURVEY
AUGUST 29, 2016
DWG. NO.: 16-005-50

BY
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MacKay-Lyons
Sweetapple Architects

DATE
2022-06-06

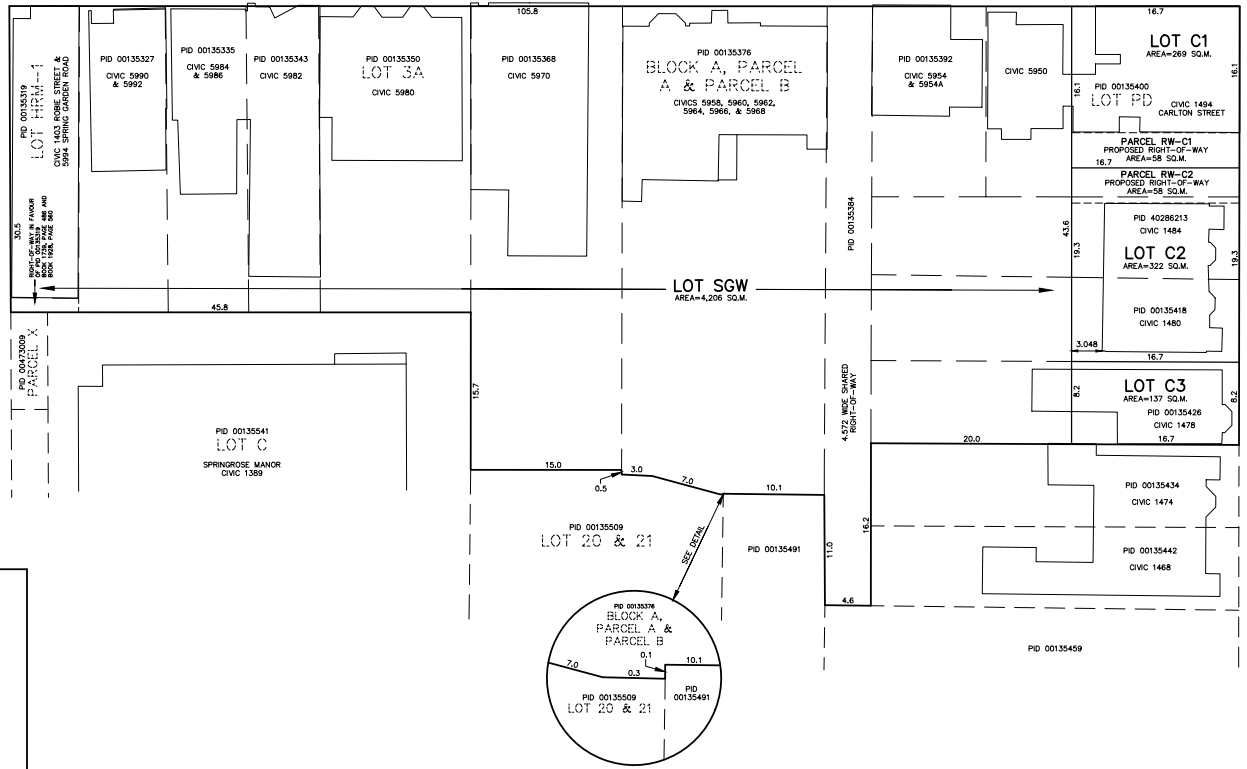
Schedule C Subdivision of Land



NOTES:
 LANDS OF LOWEN PROPERTIES LIMITED ARE TO BE SUBDIVIDED TO CREATE LOT SGW, LOT C1, LOT C2 AND LOT C3.
 DESIGNATORS LOT SGW, LOT C1, LOT C2, LOT C3, PARCEL RW-C1 AND PARCEL RW-C2 ORIGINATE WITH THIS PLAN.
 PRELIMINARY APPROVAL IS REQUESTED FOR LOT SGW, LOT C1, LOT C2 AND LOT C3.

OWNER:
 LOWEN PROPERTIES LIMITED
 1245 BARRINGTON STREET
 HALIFAX, NS
 B3J 1Y2

SPRING GARDEN ROAD
(23.718 WIDE)



ROBIE STREET
(12.614 WIDE)

CARLTON STREET
(25.603 WIDE)

APPROVAL STAMPS

PROPERTY OWNERSHIP TABLE

PID	LOT No.	OWNER	DEED	PLAN REFERENCES
00135400	PD	LOWEN PROPERTIES LIMITED	LRO DOC No. 96025904	SEE PLAN BY SERVANT, DUNBRACK, MCKENZIE & MACDONALD LTD., SIGNED BY TERRANCE R. DOOQUE, NSLS, DATED JANUARY 11, 1989, APPROVED SEPTEMBER 27, 1989, LRO PLAN No. 26619, DRAWER 283
40286213		LOWEN PROPERTIES LIMITED	LRO DOC No. 96025904	
00135418		LOWEN PROPERTIES LIMITED	LRO DOC No. 96025904	
00135426		LOWEN PROPERTIES LIMITED	LRO DOC No. 90781288	
00135434		BARBARA STEWART PENICK	BOOK 2962, PAGE 1012	
00135442		GREGOR BYRNE & ANNE MARIE BYRNE	LRO DOC No. 98153720	
00135459		GREGOR BYRNE & ANNE MARIE BYRNE	LRO DOC No. 98521611	
00135392		LOWEN PROPERTIES LIMITED	LRO DOC No. 96025904	
00135384		LOWEN PROPERTIES LIMITED	LRO DOC No. 96810321	
00135376	BLOCK A	LOWEN PROPERTIES LIMITED	BOOK 4098, PAGE 177	SEE PLAN BY THOMPSON CONN & ASSOCIATES, SIGNED BY JOHN D. CONN, NSLS, DATED FEBRUARY 1, 1995, NOT RECORDED AT LRO
00135368		LOWEN PROPERTIES LIMITED	LRO DOC No. 83188921	
00135350	LOT 3A	LOWEN PROPERTIES LIMITED	LRO DOC No. 106678643	SEE PLAN BY GERALD B. BOYLAN, NSLS, DATED JANUARY 28, 1978, REVISED TO MAY 19, 1978, APPROVED FEBRUARY 6, 1979, LRO PLAN No. 16778, DRAWER 211
00135343		LOWEN PROPERTIES LIMITED	LRO DOC No. 108113326	
00135335		LOWEN PROPERTIES LIMITED	LRO DOC No. 96883904	
00135327		LOWEN PROPERTIES LIMITED	LRO DOC No. 108113326	
00135319	LOT HRM-1	LOWEN PROPERTIES LIMITED	LRO DOC No. 108113326	SEE PLAN BY HALIFAX REGIONAL MUNICIPALITY, SIGNED BY H. JAMES McINTOSH, NSLS, DATED NOVEMBER 17, 1997, HRM FILE No. 97021501
00473009	PARCEL X	3088962 NOVA SCOTIA LIMITED	LRO DOC No. 107613813	SEE PLAN BY GERALD B. BOYLAN, NSLS, DATED JANUARY 28, 1978, REVISED TO MAY 19, 1978, APPROVED FEBRUARY 6, 1979, LRO PLAN No. 16778, DRAWER 211
00135541	LOT C	3088962 NOVA SCOTIA LIMITED	LRO DOC No. 107613813	SEE PLAN BY GERALD B. BOYLAN, NSLS, DATED JANUARY 28, 1978, REVISED TO MAY 19, 1978, APPROVED FEBRUARY 6, 1979, LRO PLAN No. 16778, DRAWER 211
00135509	LOT 20 & 21	3088962 NOVA SCOTIA LIMITED	LRO DOC No. 119554179	
00135491		3088962 NOVA SCOTIA LIMITED	LRO DOC No. 99144389	

PRELIMINARY SUBDIVISION PLAN
 SUBDIVISION AND CONSOLIDATION OF
 LANDS OF LOWEN PROPERTIES LIMITED
 TO CREATE LOT SGW, LOT C1,
 LOT C2 AND LOT C3
 ROBIE STREET, SPRING GARDEN ROAD
 AND CARLTON STREET
 HALIFAX, HALIFAX COUNTY, NOVA SCOTIA
 5 4 3 2 1 0 5 10 15 20 25
 SCALE : 1/250 (METRIC)
 MARCH 18, 2022
 DWG. No.: 16-005-10

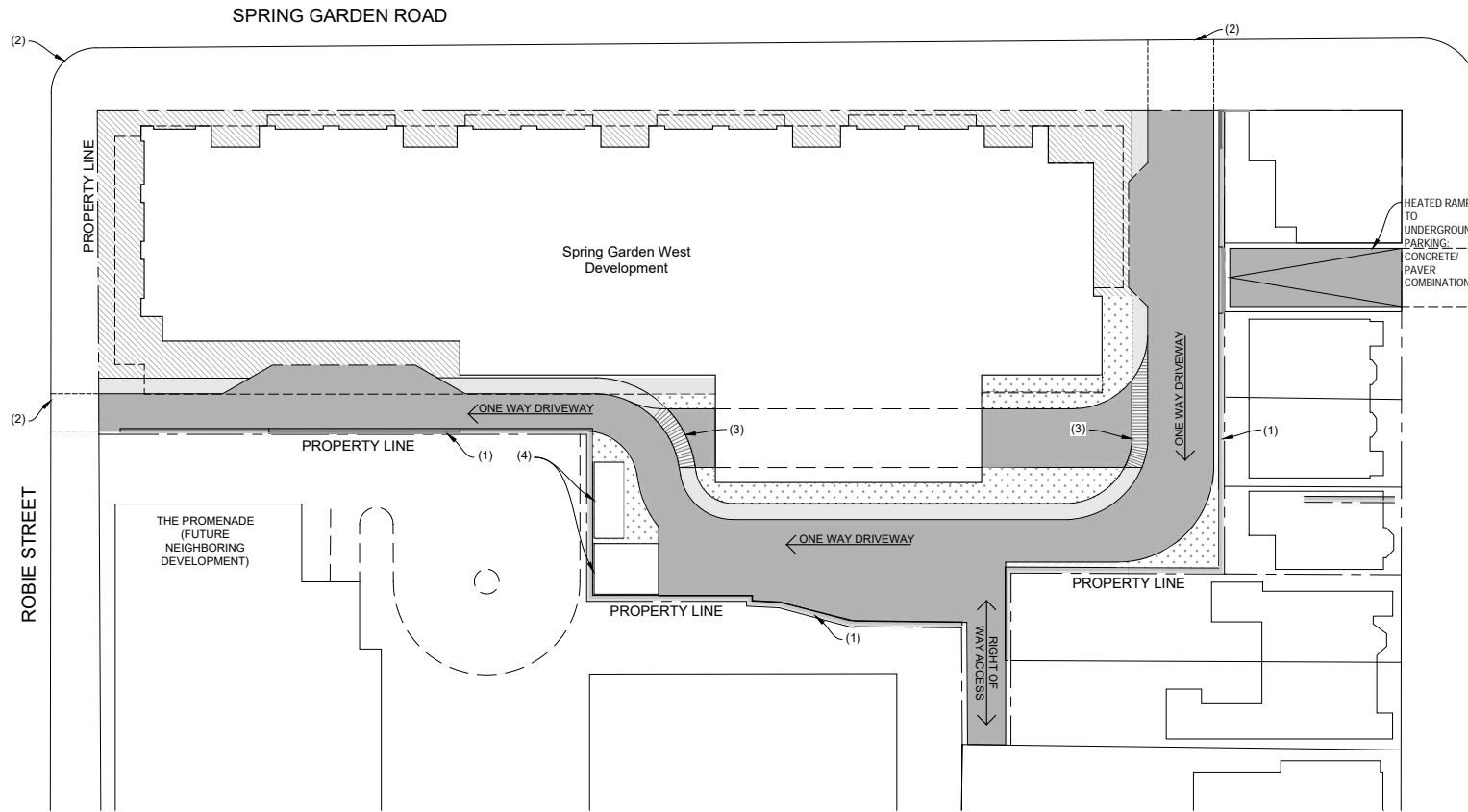
B. DAVISON
 Surveying & Engineering Ltd.
 1037 Annapolis Drive, Hants Border, NS, B0P 1P0
 902-552-2188 / 902-552-2189 / 902-240-9190
 www.bda.ca busterdavison@eastlink.ca

Schedule D Preliminary Landscape Plan

SPRING GARDEN WEST

DEXEL + MACKAY-LYONS SWEETAPPLE ARCHITECTS LTD.

DEVELOPMENT AGREEMENT



Note:
Project reference
elevation 0.0m = 42.7m



LEGEND:

	PERIMETER FENCE (1)
	DRIVEWAY: CONCRETE/PAVER COMBINATION
	ARCHITECTURAL PAVERS
	ARCHITECTURAL PAVERS WITH 150MM CURB
	LANDSCAPED PAVED AREAS WITH PLANTERS

BASED ON ORIGINAL SURVEY
AUGUST 29, 2016
DWG. NO.: 16-005-50

BY
B. DAVISON
SURVEYING & ENGINEERING LTD.
1037 Avonview Drive, Harbourside, NS, B0P 1P0
p:902-352-2185 f:902-352-2186 e:902-240-9180
www.bdsac.ca bdsac@bdsac.com

NOTES:
(1) PERIMETER FENCE: ARCHITECTURAL FENCE 1.8m, 2.4m, 3m - 2.4m HIGH AT HERITAGE PROPERTIES W/ GATES, PORTIONS W/ TRAINED CLIMBERS IN PLANTERS FOR A MINIMUM OF 10% OF TOTAL WALL LENGTH.
(2) CURB CUTS PER REDBOOK HRM SPEC.
(3) MARKED AND RAISED CROSSWALK
(4) SCREENED AREA TO HOUSE TRANSFORMER & GENERATOR IF REQ'D

MacKay-Lyons
Sweetapple Architects

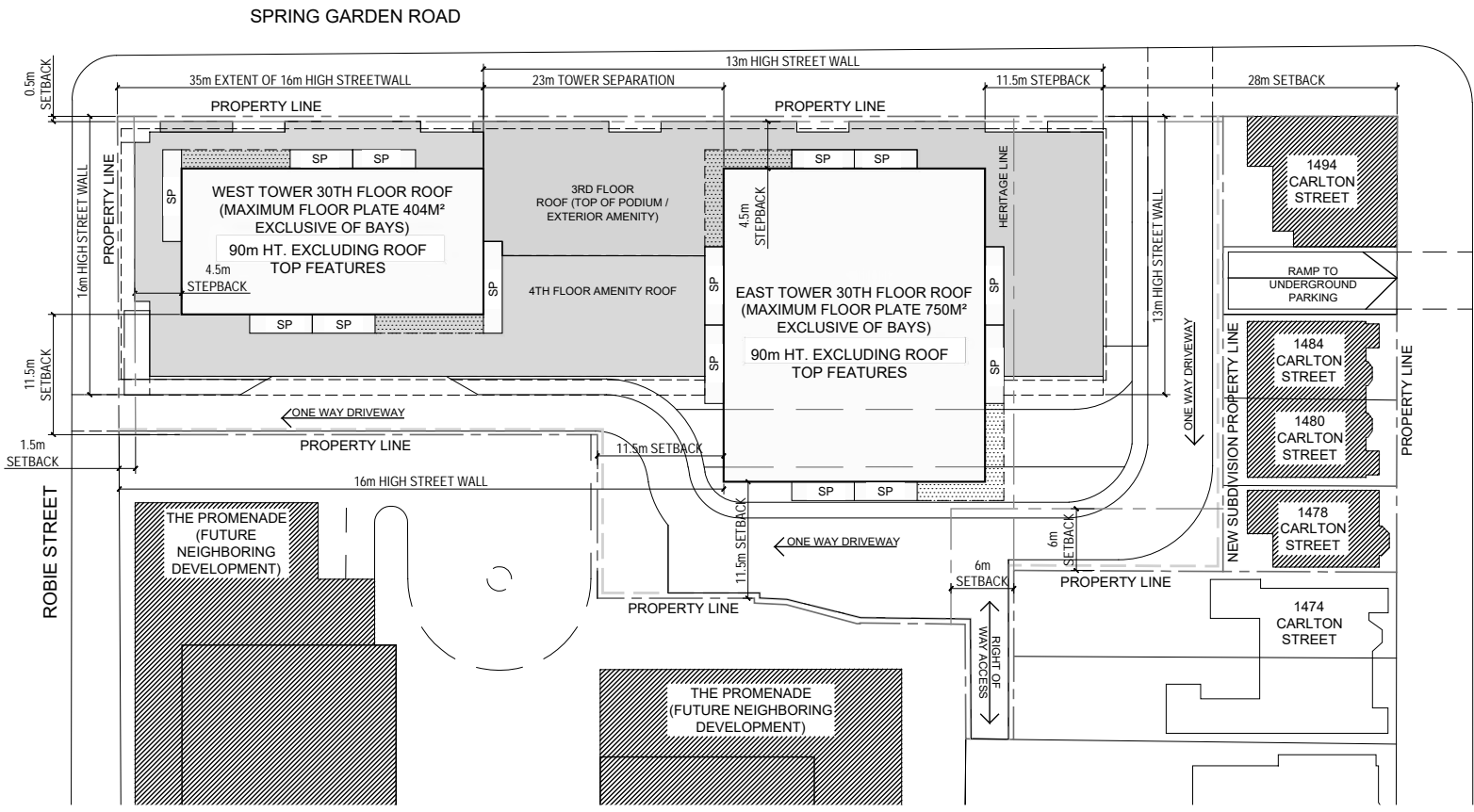
DATE
2022-06-06

Schedule E Setback and Stepback Plan

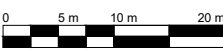
SPRING GARDEN WEST

DEXEL + MACKAY-LYONS SWEETAPPLE ARCHITECTS LTD.

DEVELOPMENT AGREEMENT



Note:
Project reference elevation 0.0m = 42.7m



LEGEND:

	BALCONY
	SIGNATURE ARCHITECTURAL PROJECTION

BASED ON ORIGINAL SURVEY
AUGUST 29, 2016
DWG. NO.: 16-005-50

BY
B. DAVISON
SURVEYING & ENGINEERING LTD.
1037 Acornview Drive, Harbourside, NS, B0P 1P0
p:902-392-2185 f:902-352-2186 e:902-243-9180
www.bdsae.ca bdsae@bdsae.com



MacKay-Lyons
Sweetapple Architects

DATE
2022-06-06

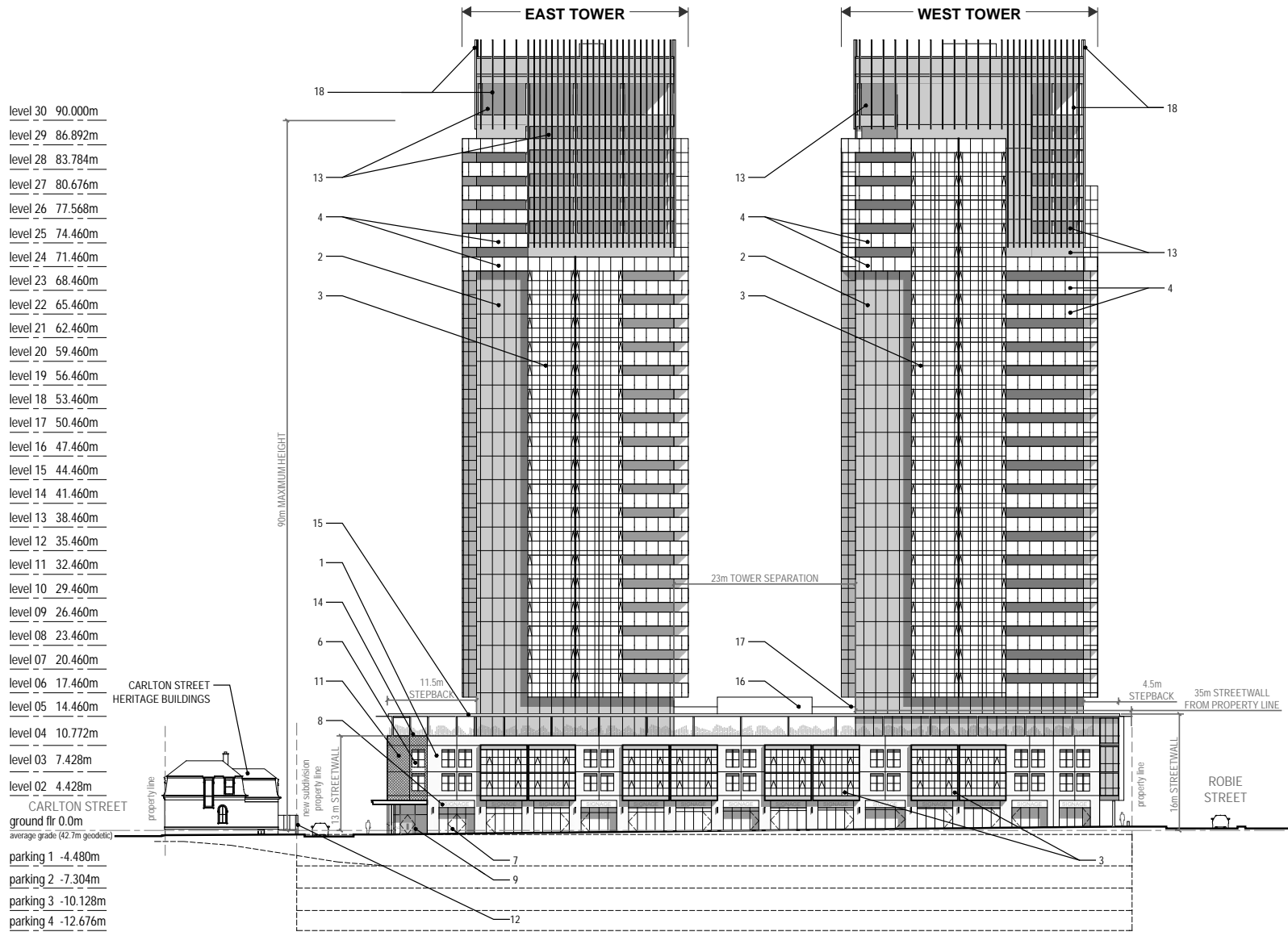
Schedule F

North Elevation (Spring Garden Road)

SPRING GARDEN WEST

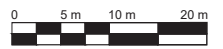
DEXEL + MACKAY-LYONS SWEETAPPLE ARCHITECTS LTD.

DEVELOPMENT AGREEMENT



- level 30 90.000m
- level 29 86.892m
- level 28 83.784m
- level 27 80.676m
- level 26 77.568m
- level 25 74.460m
- level 24 71.460m
- level 23 68.460m
- level 22 65.460m
- level 21 62.460m
- level 20 59.460m
- level 19 56.460m
- level 18 53.460m
- level 17 50.460m
- level 16 47.460m
- level 15 44.460m
- level 14 41.460m
- level 13 38.460m
- level 12 35.460m
- level 11 32.460m
- level 10 29.460m
- level 09 26.460m
- level 08 23.460m
- level 07 20.460m
- level 06 17.460m
- level 05 14.460m
- level 04 10.772m
- level 03 7.428m
- level 02 4.428m
- ground flr 0.0m
- average grade (42.7m geodetic)
- parking 1 -4.480m
- parking 2 -7.304m
- parking 3 -10.128m
- parking 4 -12.676m

EXTERIOR MATERIALS AND NOTES	
1	MASONRY FACADE
2	TOWER GLAZING SYSTEM
3	SIGNATURE ARCHITECTURAL PROJECTION
4	GLAZED BALCONY RAILINGS
5	SCREENED BALCONY
6	PUNCHED WINDOWS
7	RETAIL SHOP FRONT / ACCESS
8	SIGNAGE BAND
9	RESIDENTIAL ENTRY / EXIT
10	RESIDENTIAL TOWER ENTRY CANOPY
11	TRAINED PLANT WALL
12	PERIMETER FENCE
13	INSET TERRACE
14	PERIMETER TERRACE PLANTER
15	TERRACE CANOPY
16	SCREENED MECHANICAL EQUIPMENT
17	GLAZED ROOF TERRACE DIVIDERS
18	VERTICAL METAL FEATURE FINIS



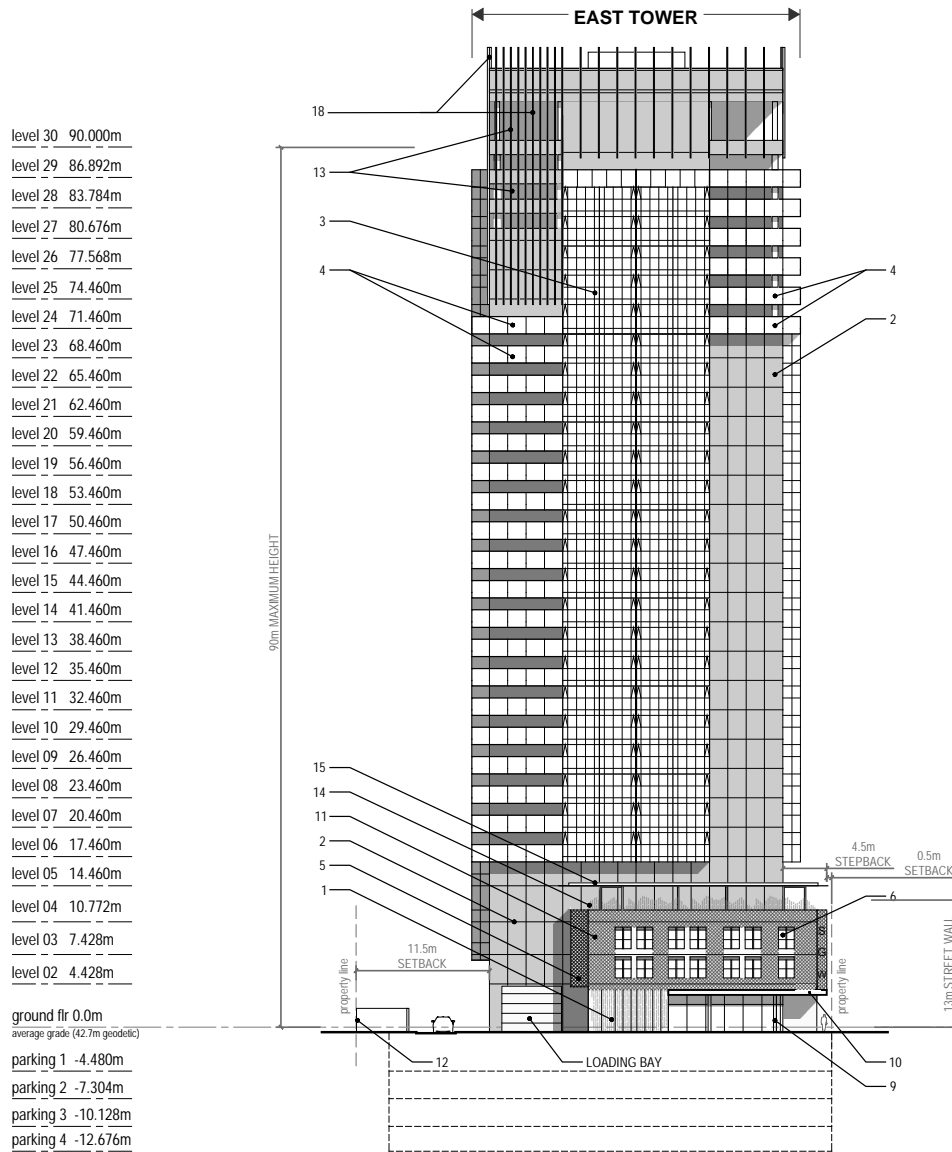
Schedule G

East & West (Robie Street) Elevations

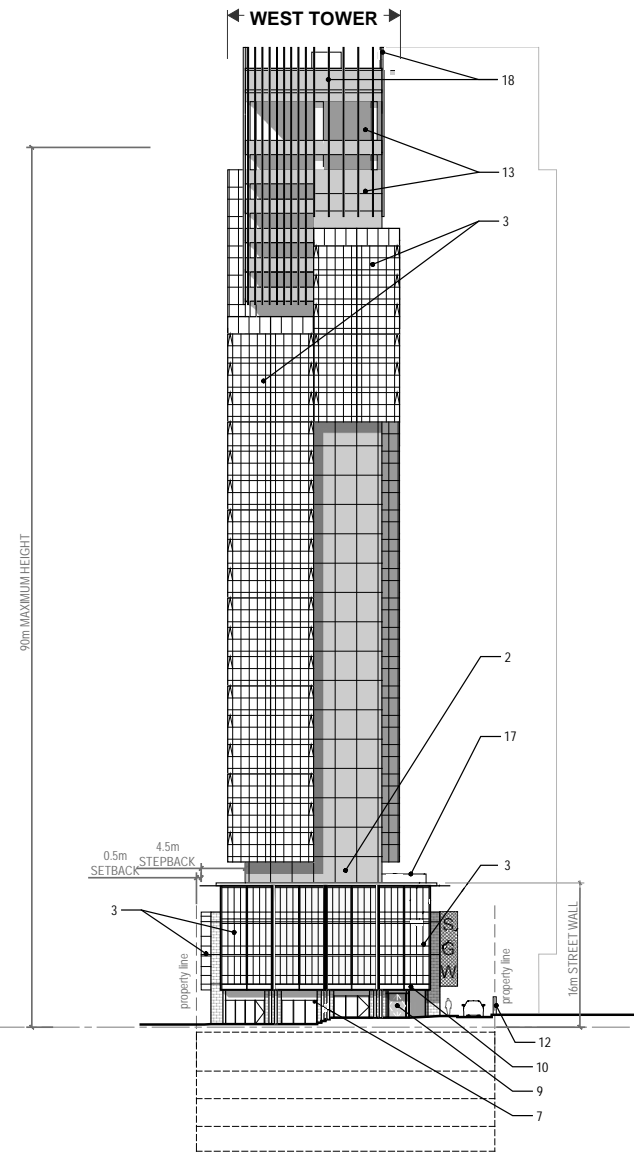
SPRING GARDEN WEST

DEXEL + MACKAY-LYONS SWEETAPPLE ARCHITECTS LTD.

DEVELOPMENT AGREEMENT



EAST ELEVATION



WEST ELEVATION (ROBIE STREET)

EXTERIOR MATERIALS AND NOTES	
1	MASONRY FACADE
2	TOWER GLAZING SYSTEM
3	SIGNATURE ARCHITECTURAL PROJECTION
4	GLAZED BALCONY RAILINGS
5	SCREENED BALCONY
6	PUNCHED WINDOWS
7	RETAIL SHOP FRONT / ACCESS
8	SIGNAGE BAND
9	RESIDENTIAL ENTRY / EXIT
10	RESIDENTIAL TOWER ENTRY CANOPY
11	TRAINED PLANT WALL
12	PERIMETER FENCE
13	INSET TERRACE
14	PERIMETER TERRACE PLANTER
15	TERRACE CANOPY
16	SCREENED MECHANICAL EQUIPMENT
17	GLAZED ROOF TERRACE DIVIDERS
18	VERTICAL METAL FEATURE FINIS

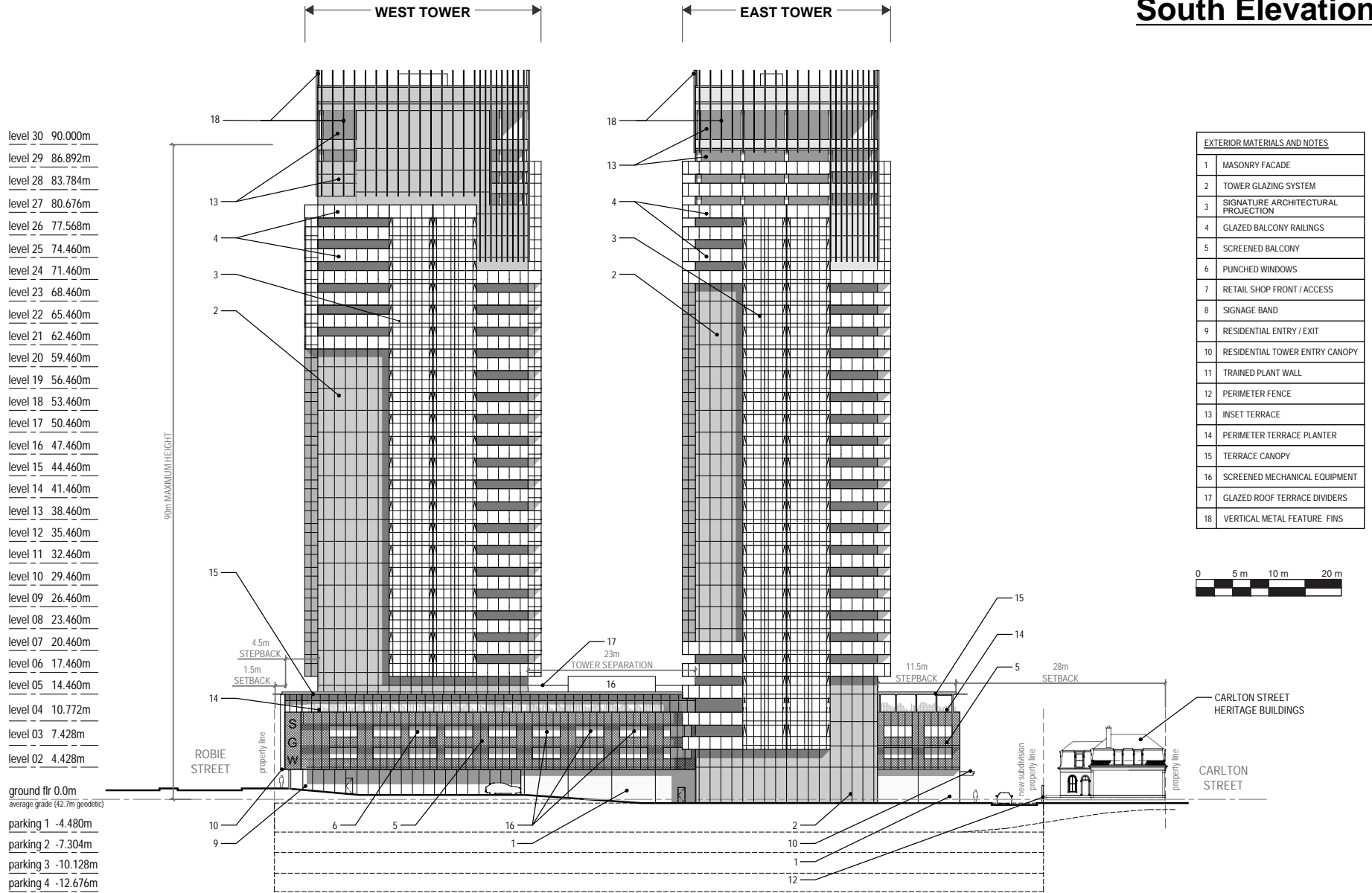


MacKay-Lyons
Sweetapple Architects

DATE
2022-06-06

Schedule H

South Elevation



Schedule I: Applicable Sections of the Regional Centre Land Use By-law

Section #	Section Header	Special Note
Part 1, Chapter 1: General Administration		
6	Requirement for a Development Permit	
Part 1, Chapter 2: Development Permit		
9	Development Permit Exemptions	
10	Development Permit Applications	Clauses 10(j), 10(k), and 10(m) do not apply to the development agreement. Wind and shadow impacts are to be reviewed during the development agreement process, instead of the development permit process.
12	Expiry	
13	Revocation	
14	Fees	
Part I, Chapter 4: Non-Conforming Structures and Uses		
23	Non-Conforming Structures	Only applies to the Carlton Street Site, and not to the Tower Building Site.
Part 1, Chapter 6: Interpretation of this By-law		
26	Diagrams	
27	Defined Terms	
28	More Restrictive Requirement Applies	
Part I, Chapter 7: Schedules and Appendices		
29	List of Schedules and Appendices	Only the following schedules apply for the purpose of this development agreement for both the Tower Building Site and the Carlton Street Site: 1, 7, 26, 27A, 27B, 27C, and 50. Schedule 18 applies, but only for the Carlton Street Site. Only Appendices 3 and 4 apply to the Lands.
Part II, Chapter 2: Zones and Permitted Uses		
32	Interpretation of Permitted Uses	The CEN-2 and CEN-1 uses would apply to their respective zones. The development agreement assigns the CEN-2 zone to the Tower Building Site and the CEN-1 zone to the Carlton Street Site.
37	Obnoxious Uses Prohibited	
38	Pedestrian-Oriented Commercial Streets	

Part III, Chapter 1: General Land Use Requirements		
40	Access Uses Prohibited	
44	Cannabis-Related Uses	
46	Temporary Rock Crushers	
Part III, Chapter 2: Residential Use Requirements		
51	Home Occupation Uses	
52	Home Office Uses	
53	Bed and Breakfast Uses	
55	Secondary Suite Uses	
56	Backyard Suite Uses	
64	Dwelling Unit Mix – New Buildings	
70	Work-Live Units	
Part III, Chapter 3: Urban Agriculture Use Requirements		
71	General Urban Agriculture Use Requirements	
72	Keeping of Bees as an Accessory Use	
73	Keeping of Egg-Laying Hens as an Accessory Use	
Part V, Chapter 1: General Built Form and Siting Requirements		
93	General Requirement: Setback of Entrances	
94	General Requirement: Permitted Encroachments into Setbacks, Stepbacks, or Separation Distances	<p>For the Tower Building Site, only Clauses 94(1)(a) and 94(1)(b) apply. The development agreement amends the permitted encroachments for window bays and balconies by allowing additional encroachments as described in the text of the Agreement, or as shown on the schedules attached to the Agreement.</p> <p>For the Carlton Street Site, only Subsections 94(1) and 94(2) apply.</p>
98	General Requirement: Drive-Throughs	
100	General Requirement: Self-Storage Facility Uses	
Part V, Chapter 19: Accessory Structures, Backyard Suite Uses, and Shipping Containers		
327	Accessory Structure Location	
328	Accessory Structure Front or Flanking Setbacks	Only applies to the Carlton Street Site, and not to the Tower Building Site.
329	Accessory Structure Side or Rear Setbacks	
330	Accessory Structure Separation Distances	
331	Accessory Structure Height	

333	Accessory Structure Footprint and Area	Only Subsections 333(1) and 333(1.5) apply to the development agreement.
334	Quonset Huts	
335	General Requirements for Shipping Containers	
Part VII, Chapter 3: Building Design Requirements		
363	Design Requirement: Pedestrian Entrances Along Streetwalls	Only applies to the Tower Building Site, and not to the Carlton Street Site.
367	Design Requirement: Weather Protection for Entrances	Only applies to the Tower Building Site, and not to the Carlton Street Site.
368	Design Requirement: Exposed Foundations and Underground Parking Structures	Only applies to the Tower Building Site, and not to the Carlton Street Site.
Part VII, Chapter 5: Other Design Requirements		
375	Design Requirement: Prohibited Awning or Canopy Materials	
Part X, Chapter 1: General Requirements for View Planes, Halifax Citadel Rampart Sight Lines, and Waterfront View Corridors		
398	General Requirements: View Planes, Halifax Citadel Rampart Sight Lines, and Waterfront View Corridors	
Part X, Chapter 2: View Planes and Halifax Citadel Rampart Sight Lines		
399	View Planes	
400	Halifax Citadel Rampart Sight Lines	
Part XIII, Chapter 1: Motor Vehicle Parking		
431	General Motor Vehicle Parking Requirements	
432	Parking Space and Driving Aisle Dimensions	
438	Motor Vehicle Sharing Spaces	
Part XIII, Chapter 2: Bicycle Parking		
446	Bicycle Parking Exemptions for Specific Uses	
447	Bicycle Parking Exemptions for a Change of Use	
448	General Bicycle Parking Requirements	
449	Required Number of Bicycle Parking Spaces	
450	Rounding Regulation	
451	Class A Bicycle Parking Requirements	
452	Class B Bicycle Parking Requirements	
453	Minimum Bicycle Parking Geometric Requirements	
Part XIII, Chapter 3: Off-Street Loading		
454	Off-Street Loading Space	
455	Type A Off-Street Loading Space	
456	Type B Off-Street Loading Space	
Part XIV, Chapter 1: General Signage Requirements		

457	Temporary Sign By-law	
458	Sign Permit Exemptions	
459	Prohibited Signs	
460	Variable Message Signs	
461	Fascia Signs on Registered Heritage Buildings	
Part XIV, Chapter 2: Signage Requirements for the DD, DH, CEN-2, CEN-1, COR, HR-2, HR-1, CLI, LI, HRI, INS, UC-2, UC-1, PCF, RPK, CDD-2, and CDD-1 Zones		
462	Fascia Signs	
463	Ground Signs	
464	Projecting Signs	
466	Fascia Signs for Home Occupation Uses, Bed and Breakfast Uses, and Work-Live Unit Uses	
467	Billboards	
Part XV, Chapter 1: General Incentive or Bonus Zoning Requirements		
472	Requirement to Provide a Public Benefit for Incentive or Bonus Zoning	
473	Calculation of the Public Benefit Value for a Development Exceeding 2,000 Square Metres in a DD, DH, CEN-2, CEN-1, COR, HR-2, or HR-1 Zone	
474	Deadline to Complete Public Benefit	
475	Incentive or Bonus Zoning Rates	
477	Incentive or Bonus Zoning Rate Adjustments	
478	Proposal for Required Public Benefits	
479	Public Benefit Categories	
480	Public Benefit Requirement: Money-in-Lieu for Affordable Housing	
481	Public Benefit Requirement: Conservation of a Registered Heritage Building or a Building within a Heritage Conservation District	
482	Public Benefit Requirement: On-Site Public Art	
483	Unacceptable Forms of Public Art	
484	Incentive or Bonus Zoning Agreement	
Part XVII, Chapter 1: Definitions		
499	Definitions	All definitions apply except for Subsection 499(90.5).

ATTACHMENT C

IMAGES OF SIGNATURE ARCHITECTURAL PROJECTIONS



Figure 1: Signature architectural projections identified by red arrows



Figure 2: Signature architectural projections identified by red arrows



Figure 3: Signature architectural projections identified by red arrows



Figure 4: Signature architectural projections identified by red arrows



Figure 5: Signature architectural projections identified by red arrows

Attachment D Public Information Meeting Minutes June 11 2018



HALIFAX PENINSULA PLANNING ADVISORY COMMITTEE PUBLIC MEETING MINUTES June 11, 2018

PRESENT: Sarah MacDonald, Chair
Grant Cooke
Jason Cooke
Ashley Morton
Mathew Novak
Margo Grant
Councillor Lindell Smith
Deputy Mayor Wayne Mason

REGRETS: Jeana MacLeod, Vice Chair
Houssam Elokda

STAFF: Tyson Simms, Planner III, Planning and Development
Sharon Chase, Legislative Assistant

The following does not represent a verbatim record of the proceedings of this meeting.

The agenda, reports, supporting documents, and information items circulated to the Halifax Peninsula Planning Advisory Committee are available online at halifax.ca.

The meeting was called to order at 7:01 p.m., the Committee adjourned at 8:51 p.m.

1. CALL TO ORDER

The Chair called the meeting to order at 7:01 p.m. at St. Andrews United Church, 6036 Coburg Road, Halifax.

2. PUBLIC INFORMATION MEETING

Case 20218: Application by Dixel Developments to change the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law to allow two towers, 30 and 16 floors, on a shared base, with a mix of retail uses, commercial uses and residential units, at the corner of Spring Garden Road and Robie Street.

The Chair invited Tyson Simms, Planner III, to present Case 20218. Simms reviewed the steps in the planning process and the role and opportunity for public engagement. He reminded the audience that no decisions will be made at this meeting and that he would provide his contact information if there were any further questions regarding the case.

Tyson Simms outlined the details of the development proposal which covers 1.2 acres and includes 250 residential units, commercial and office space, and underground parking. There are also three (3) registered heritage properties on Carleton Street, which will come to the Heritage Advisory Board under a separate proposal. This proposal falls under a Spring Garden Road Sub Area of the Peninsula Centre Plan Area. The specific considerations for this sub area were explained. The site context was reviewed: commercial, mixed residential surrounded by both medium and high density residential buildings. It is zoned C-2A, minor commercial zone, with an R2 zone on Carleton Street and is surrounded by R3 zoning. Height maps of the area were also shared, noting 35 feet maximum as of right. The Centre Plan guidelines and planning principles were explained.

Louis Lawen, Dixel Developments, introduced his company reviewing its history and highlighting other recent development projects. They shared the concept for the Spring Garden West development noting the importance of its central/gateway location. Lawen reviewed the timeline of this project from May 2105-now; highlighting their focus on public engagement throughout the process. They also noted some partnerships that have been formed as a result of this consultation and emphasized that this type of engagement would continue. Lawen noted that there would be a full restoration of the three (3) heritage homes and that the company had developed a heritage impact statement. They highlighted how this development addresses the key planning principles: transition, pedestrian orientation, human scale and context sensitive giving specific examples for each.

The Chair reviewed the ground rules for the public participation portion of the meeting and invited the audience to share their feedback.

Gerry Post, Dresden Row, provided written correspondence, dated June 11, 2018, endorsing the project which was distributed to Committee members.

Elaine MacEachern, Spring Garden Road, asked whether any existing buildings will be a part of this development.

Margo Christie, Spring Garden Road, noted that the area was not just getting these two buildings but potentially four large buildings. The existing high rises have large setbacks and green space around them giving a more residential feel. They felt the heights suggested were too high.

Dawn F, South Park Street, was excited by a creative development that has given consideration to liveability, noting in particular the four-season public atrium and public spaces.

L Toomey, College Street, quoted from past Mayor's remarks concerning densifying the city while maintaining green space. They felt the two massive proposed projects need to be considered in their

entirety as the area will become very crowded. Summer Gardens was given as an example of a large building which does fit without overpowering the neighbourhood. People choose a neighbourhood for the lifestyle it provides.

Alan Ferguson, Saint Mary's University, noted the impact of developments on the building trades. They felt that Dixel is a responsible developer who creates high quality buildings.

Chris P, Dartmouth, stated that they had worked with Dixel on this project. They noted the extensive public consultation process and that the community was being represented and listened to. A vibrant community will be the outcome of density in the area.

Adam Conter, North End Halifax, noted that this is an opportunity to test how we can change development and take it to the next level. This is an opportunity to build density at a key intersection which can become a defining factor of our city. The development is creative and well thought out and the developer is willing to spend private capital for the public good.

Wes Campbell, Summer Gardens resident, loves their neighbourhood and fully supports the concept being presented and welcomes more people living in the area. They noted there are lots of public spaces in the neighbourhood and that development has to take place on what is remaining.

Kristina McMillan, Allan Street, asked if there is a need or demand for more office space. The heritage look and feel of the city is important and is what makes this city unique and attractive to young professionals and new residents.

Alan Hayman, Spring Garden Area, stated that the two large planned developments must be treated equally. These are impressive, massive and significant developments that should be supported. They align with the Centre plan documents. They noted two concerns, 30 storeys is out of character for the area and it will be very important to have a rodent control program in place during construction.

Madge Skinner, Victoria Road, commended the project and asked for clarification on what the restoration of the heritage buildings would entail. They did have concerns with the height of 30 storeys.

Beverley Miller, South Street, felt that outdated planning strategies were being used. They shared their experience living through two construction projects and detailed what is involved: length of time, traffic, blasting, noise. They noted that the Stantec Report pointed out that there was enough existing vacant land for 30 years of development.

Tim Margolian, South Park Street, would love to live in this development. They noted the obvious thought taken in the design for this scale of development and pointed out the high quality of this developer's projects. Margolian would like to see the two developments considered together.

Ann Wachter, Proctor Sacred Heart School, is delighted in the increase in density and feels the public spaces are a wonderful addition. They are happy to see affordable housing included. They are impressed by the openness and approach taken by the developer to be forward thinking.

Dennis Philips, Carleton Street, sees no reason or evidence for this project to be done. They feel it is not human scale or context sensitive; the podium is too large with no setback; it will create years of disruption; there will be a loss of sunlight and create a wind tunnel. As these issues would be imposed on residents they asked whether there would be compensation provided to individuals.

Resident of Allan Street, asked if this development is needed. The existing buildings are still usable and create a small community. Once they are gone they cannot be replaced.

Alan Ruffman, Ferguson's Cove, stated that the two developments need to be considered together. Shadow, wind and traffic studies should also reflect both projects done together. They felt that there is a

history of giving developers whatever they want and that this is an example of jumping the queue ahead of the Centre Plan. They highlighted the Robie Street corridor and its impact on development.

Dennis, Spring Garden Road, feels the architectural uniqueness of Halifax is being undermined and destroyed and would like to see more detail of the preservation of the heritage buildings.

Ella Dodson, north of Spring Garden Road, applauds the engagement that has been solicited but feels there are issues being missed: losing small businesses and the time it takes to develop these; historic culture is being impacted in neighbourhoods; and taking into consideration community values.

Chris Annand, Wellington Street, shared her experience living with noise and construction and suggested that amendments might be made to noise by-laws. There have been recent examples where developers have worked with residential neighbourhoods and set specific guidelines around noise which worked well and might be considered with this development.

Graham Reid, Armdale, feels that a 30-storey building is not context sensitive and that building design should be interesting from all angles and there is not much artistry found in Halifax developments. They noted that it is wasting resources when the existing buildings are still useful but being demolished.

The Chair called for any other speakers and as there were none closed the public feedback portion of the meeting.

Tyson Simms, Planner III, addressed some of the questions asked by members of the public.

- Staff have acknowledged that there is merit in looking at the proposals at the same time
- The site is 1.4 acres in size
- The 2017 draft Centre Plan noted 11.3 % office vacancies and encourages an office space cycle in the next 15 years
- Construction timelines can be stipulated in development agreements with construction mitigation plans put in place. Activity is then considered against what is submitted and must be followed.
- HRM has no program for affordable housing units at this time
- Wind and traffic studies have been submitted separately for each proposal and will be analyzed.
- Development agreements approved by local Community Councils are appealable.
- The heritage impact study has been submitted by the developer and is available to the public. It will be tabled along with the staff report to the Heritage Advisory Committee.
- The Carleton Street buildings will be retained but all other buildings would be removed and the lots consolidated.

Louis Lawen, Dixel Developments, explained that the heritage buildings would be restored to the original construction detail. It would include a full renewal of the buildings and site.

The public was thanked for their attendance and participation at both recent public meetings. Contact information for any further questions was shared.

3. ADJOURNMENT

The meeting adjourned at 8:51 p.m.

Sharon Chase
Legislative Assistant

ATTACHMENT E: REVIEW OF DA AGAINST REGIONAL CENTRE SMPS POLICIES (with proposed amendments)

Planning Policy Review		
Policy Number	Policy Provision	Staff Comment
Regional Centre Secondary Municipal Planning Strategy		
IM-42	Development in the Spring Garden Road - Robie Street (SGRRS) Special Area, which consists of Site A and Site B, as shown on Map 24, shall only proceed either through the as-of-right allowances under the Land Use By-law or through the development agreement policy for Site A and Site B, as set out in Policies IM-43, IM-44, IM-45, and IM-46.	The subject property is identified as Site A on Map 24. Therefore, policies IM-43 and IM-44 apply to this site, but not policies IM-45 and IM-46.
IM-43	Subject to Policy IM-42, to enable comprehensive, unique, and site-specific development of Site A within the Spring Garden Road – Robie Street (SGRRS) Special Area, shown on Map 24, Council may consider mixed-use development proposals by development agreement that meet the following requirements:	The subject property is identified as Site A on Map 24. The application is for a mixed-use development proposal by development agreement. Staff comments can be found below in conjunction with Clauses (a) to (m).
	(a) that the proposal is a comprehensive plan for the development of all lands identified as Site A, and including phasing of the development;	The proposal is for a comprehensive planned development of all lands identified as Site A. The proposed development agreement includes a phasing plan for the development (see Section 3.5.1).
	(b) in accordance with the approval of substantial alterations granted by Council on January 29, 2019, the properties identified as 1478 Carlton Street, 1480 Carlton Street, 1484 Carlton Street and 1494 Carlton Street, shall be altered and subdivided, as proposed in the staff report dated November 9, 2018, titled <i>Case H00461: Substantial Alteration to municipally registered heritage properties at 1478, 1480, 1484 and 1494 Carlton Street, Halifax;</i>	This policy intent has been carried forward into the proposed development agreement under Sections 2.2.1, 3.7.1, 3.9.1, and 3.11.1, as well as under Schedules B and C.

	<p>(c) following subdivision of 1478 Carlton Street, 1480 Carlton Street, 1484 Carlton Street and 1494 Carlton Street, that resulting parcels (parcels which contain no heritage buildings) be deregistered;</p>	<p>This policy intent has been carried forward into the proposed development agreement under Clause 2.2.1(f) and Section 3.11.2. The deregistration matter will be brought to HAC for review and Regional Council for a decision following subdivision.</p>
	<p>(d) subject to Clause (o), development of Site A is limited to a maximum Floor Area Ratio of 8.0 and any lot area(s) containing registered heritage properties shall not be included as part of the total lot area calculation;</p>	<p>The applicant is proposing signature architectural projections as part of their design. Therefore, Clause (o) applies.</p> <p>Lot area(s) containing registered heritage properties will not be included as part of the total lot area calculation.</p>
	<p>(e) building heights are limited to a maximum of 90 metres, excluding rooftop features. For additional clarity, a one-storey residential penthouse is considered a rooftop feature under Policy IM-43;</p>	<p>The applicant has requested that a number of building rooftop features, above and beyond those identified under the <i>Regional Centre Land Use By-law</i>, be allowed to exceed the overall maximum height on the Tower Building Site. These additional building rooftop features include:</p> <ul style="list-style-type: none"> • a one-storey residential unit per tower portion; • elevator machine rooms above the elevator overhead requirement; • window cleaning equipment; and • architectural screens or architectural screening elements. <p>Staff is supportive of the building rooftop features that have been proposed to exceed the overall 90-metre height maximum.</p> <p>Sections 3.6.3, 3.6.4, 3.6.5, 3.6.6, and 3.6.7 of the proposed development agreement identify which building rooftop features will be allowed to exceed the overall 90-metre maximum height and what limitations will be applied to them.</p> <p>Policy UD-7 of the <i>Regional Centre Secondary Municipal Planning Strategy</i> states the following:</p> <p><i>The Land Use By-law shall establish height exemptions for rooftop building features that:</i></p>

		<p><i>a) are not integral to the form of a building, such as mechanical equipment, antennae and landscaping;</i></p> <p><i>b) are needed to access the rooftop, such as penthouses, stairs and railings; and</i></p> <p><i>c) enhance the visual interest of building tops, such as parapets, clock towers, and spires.</i></p> <p>It is the opinion of staff that Policy UD-7 is to be read as informing the Land Use By-law only. It should therefore not be read as limiting the ability of Council to enter into a development agreement that would add new exempted building rooftop features, which may not fully conform to Policy UD-7. The above being said, staff is of the opinion that all four of the requested additional building rooftop features fit under the criteria of Policy UD-7.</p>
	(f) that the development conforms with the Citadel Rampart Sight Line requirements;	Section 3.6.6 of the proposed development agreement requires that the Tower Building and all attached elements conform with the Citadel Rampart Sight Line requirements, as contained in Sections 398 and 400 of the <i>Regional Centre Land Use By-law</i> .
	(g) that the proposed building podium and streetwall are setback a minimum of:	Staff comments can be found below in conjunction with Subclauses (i) to (iv).
	(i) 6 metres from any property boundary associated with 1474 Carlton Street,	Captured under Section 3.6.8 of the proposed development agreement and shown on Schedule E.
	(ii) 28 metres from the Carlton Street streetline,	Captured under Section 3.6.8 of the proposed development agreement and shown on Schedule E.
	(iii) 1.5 metres from the Robie Street streetline, and	Captured under Section 3.6.8 of the proposed development agreement and shown on Schedule E.
	(iv) 0.5 metres from the Spring Garden Road streetline,	Captured under Section 3.6.8 of the proposed development agreement and shown on Schedule E.
	(h) that the mixed-use development located above the streetwall or building podium, not including secondary elements such as balconies, signature architectural projections, or window bays, be	Captured under Section 3.6.9 of the proposed development agreement and shown on Schedule E.

	located west of the Heritage Line, as identified on Map 24 and be setback a minimum of 11.5 metres from the edge of the building podium facing East (Carlton Street);	
	(i) that the mixed-use development located above the streetwall or building podium, not including secondary elements such as balconies, signature architectural projections, or window bays, be setback a minimum of:	Staff comments can be found below in conjunction with Subclauses (i) and (ii). The applicant is proposing signature architectural projections as part of their design.
	(i) 11.5 metres from the south property line, and	Captured under Section 3.6.10 of the proposed development agreement and shown on Schedule E.
	(ii) 4.5 metres from the edge of any streetwall,	Captured under Section 3.6.10 of the proposed development agreement and shown on Schedule E.
	(j) streetwall height is limited to a maximum of:	Staff comments can be found below in conjunction with Subclauses (i) to (iii).
	(i) 16 metres along Robie Street;	Captured under Section 3.6.11 of the proposed development agreement. However, it is important to note that the applicant has requested a 2 percent tolerance on maximum streetwall heights (see Section 3.6.21 of the proposed development agreement). Staff is of the opinion that this is a reasonable request and that Section 3.6.21 does not offend the policy intent.
	(ii) 13 metres along most of Spring Garden Road; and	Captured under Section 3.6.11 of the proposed development agreement. However, it is important to note that the applicant has requested a 2 percent tolerance on maximum streetwall heights (see Section 3.6.21 of the proposed development agreement). Staff is of the opinion that this is a reasonable request and that Section 3.6.21 does not offend the policy intent.
	(iii) 16 metres along Spring Garden Road, for a total distance of 35 metres travelling northeast from Robie Street, however no portion of the 16 metre streetwall, along Spring Garden Road, shall be located between two towers;	Captured under Section 3.6.11 of the proposed development agreement. However, it is important to note that the applicant has requested a 2 percent tolerance on maximum streetwall heights (see Section 3.6.21 of the proposed development agreement). Staff is of the opinion that this is a reasonable request and that Section 3.6.21 does not offend the policy intent.

	(k) building podium heights are limited to a maximum of:	Staff comments can be found below in conjunction with Subclauses (i) and (ii).
	(i) 13 metres facing East (Carlton Street), and	Captured under Section 3.6.12 of the proposed development agreement. However, it is important to note that the applicant has requested a 2 percent tolerance on maximum podium heights (see Section 3.6.21 of the proposed development agreement). Staff is of the opinion that this is a reasonable request and that Section 3.6.21 does not offend the policy intent.
	(ii) 16 metres facing South (College Street),	Captured under Section 3.6.12 of the proposed development agreement. However, it is important to note that the applicant has requested a 2 percent tolerance on maximum podium heights (see Section 3.6.21 of the proposed development agreement). Staff is of the opinion that this is a reasonable request and that Section 3.6.21 does not offend the policy intent.
	(l) subject to Clause (o), a minimum separation distance of 23 metres is provided between any tower portions of the building;	The applicant is proposing signature architectural projections as part of their design. Therefore, Clause (o) is in play.
	(m) subject to Clause (o), that any proposed towers, located above the streetwall, not exceed a floor area of 750 square metres per floor;	The applicant is proposing signature architectural projections as part of their design. Therefore, Clause (o) is in play.
	(n) that a tolerance of two percent be allowed for maximum building heights, streetwall heights, and building podium heights; and	Captured under Section 3.6.21 of the proposed development agreement.
	(o) the Floor Area Ratio set out in Clause (d), the minimum separation distance between any tower portions of the building set out in Clause (l), and the floor area per floor of any proposed towers located above the streetwall set out in Clause (m) may, for the purpose of permitting the additional floor area required to accommodate signature architectural projections only, be decreased and increased to the following minimum and maximum values:	Staff comments can be found below in conjunction with Subclauses (i) to (iii).
	(i) maximum Floor Area Ratio (FAR) of 9.1,	Section 3.6.2 of the proposed development agreement allows for a maximum Floor Area

		Ratio of 9.1 to accommodate signature architectural projections.
	(ii) minimum separation distance between any tower portions of the building of 19 metres, and	Under Section 3.6.13 of the proposed development agreement, signature architectural projections are excluded from the calculation of the minimum separation distance of 23.0 metres between any tower portions of the Tower Building. Furthermore, Section 3.6.18 of the proposed development agreement limits permitted encroachments for signature architectural projections into any separation distance at 2.0 metres. Therefore, with the proposed Tower Building containing signature architectural projections, a minimum separation distance of 19 metres between any tower portions of the building will be achieved.
	(iii) maximum floor area per floor of any proposed towers located above the streetwall of 810 square metres per floor.	Captured under Section 3.6.14 of the proposed development agreement.
	For additional clarity, signature architectural projections, in the context of Policy IM-43, are glazed curtain-wall cladded projections that span the height of multiple storeys.	This clarification has been captured as a definition under the proposed development agreement under Clause (g) of Section 2.2.1.
IM-44	In considering a development agreement under Policy IM-43 for the lands identified as Site A on Map 24, Council shall consider:	The subject property is identified as Site A on Map 24. Staff comments can be found below in conjunction with Clauses (a) to (l).
	(a) that a mix of residential unit types are provided;	Section 3.4.1 of the proposed development agreement states that the Tower Building must meet the dwelling unit mix requirement for the CEN-2 Zone contained in Section 64 of the <i>Regional Centre Land Use By-law</i> , i.e., no less than 25% of all dwelling units shall be required to contain a minimum of two bedrooms.
	(b) that a landscaped buffer and fencing is provided along the east lot line or any property boundaries which abut a registered heritage property;	Schedule D of the proposed development agreement shows a perimeter fence along the property line shared with abutting properties having frontage on Carlton Street and College Street. Due to the presence of a one-way driveway servicing the development, there is very little room to add a landscaped buffer along the east lot line or any property boundaries which abut a

		<p>registered heritage property. However, the applicant is proposing an architectural fence for the perimeter fence. In addition, the applicant is proposing trained climbers in planters for a minimum of 10% of the total wall length. The policy criteria is therefore only partly met. Nonetheless, a landscaped buffer on the Tower Building side of the perimeter fence would not necessarily be visible to enhance the registered heritage properties.</p>
	<p>(c) the provision of indoor and outdoor amenity space for on-site residents;</p>	<p>Section 3.4.2 of the proposed development agreement requires the provision of a minimum of 600 square metres of indoor amenity space and a minimum of 200 square metres of outdoor amenity space on the Podium Level 4 of the Tower Building for the benefit of the residents of the Tower Building.</p>
	<p>(d) streetwall massing, external building design, building materials, design of at-grade residential units, front yard landscaping, outdoor storage, signage, and the planting of vegetation that complements any abutting registered heritage property in a manner that respects its heritage value;</p>	<p>The streetwall massing varies between 3 and 4 storeys, with the higher streetwall height at the prominent Spring Garden Road and Robie Street corner. The longer streetwall along Spring Garden Road is broken up by projections (window bays) and recesses (recessed entrances), and the use of three different window treatments (retail-type transparent glass at the ground level and punched windows and window bays on the upper floors of the streetwall). The shorter streetwall on Robie Street doesn't make use of punched windows, but instead uses retail-type transparent glass at the ground level and window bays on the upper floors of the streetwall.</p> <p>The palette of materials used to clad the building is purposefully limited to masonry, glazing of various kinds, trained plant wall, and vertical metal feature fins. The heavier masonry material is used to clad both streetwalls. While both podium walls (East and South Elevation) also make use of masonry materials, they are primarily clad with a trained plant wall. Above the Tower Building Podium, the Tower Building is clad in various kinds of glazing. This gives the tower portions of the Tower Building a lighter feel</p>

		<p>than the podium. The effect would be that the attention of pedestrians would be focused on the streetwalls instead of on the tower portions.</p> <p>The applicant is not proposing any at-grade residential units, but will be including grade-oriented premises along both Spring Garden Road and Robie Street.</p> <p>Since the frontage along Spring Garden Road is identified as a Pedestrian-Oriented Commercial Street and that the streetwalls along both Spring Garden Road and Robie Street will be established at very minimal setbacks from the respective streetlines, the front and flanking yard landscaping will be hard landscaping with architectural pavers.</p> <p>A storage yard use is not permitted in the CEN-2 and CEN-1 zones that are referenced by the proposed development agreement. Section 4.6 of the proposed development agreement controls the placement and screening of outdoor solid waste facilities.</p> <p>Section 3.15 of the proposed development agreement covers signage. The development agreement refers back to the signage provisions of <i>the Regional Centre Land Use By-law</i>.</p> <p>Vegetation on the site will include trained plant walls on the podium along the East and South elevations, perimeter planters on top of the third floor portion of the streetwall/podium along the North, East, and South elevations, and trained climbers in planters for a minimum of 10% of the total length of the perimeter fence.</p> <p>Staff is of the opinion that all of the above design interventions complement the abutting municipally registered heritage properties in a manner that respects their heritage value.</p>
	(e) the provision of parking within or under the proposed building;	Sections 3.12.4, 3.12.5, 3.12.6, 3.12.7. and 3.12.8 of the proposed development

		<p>agreement cover motor vehicle parking, Section 3.12.9 covers bicycle parking, while Section 3.12.10 covers off-street loading for the Tower Building Site.</p> <p>The underlying CEN-2 Zone has no minimum number of motor vehicle parking spaces required per use on the lot. Likewise, the proposed development agreement contains no minimum number of required motor vehicle parking spaces.</p>
	<p>(f) the provision of appropriate changes in building size and massing, to create appropriate transitions to surrounding built forms;</p>	<p>The Tower Building is made up of two tower portions on top of a 3-4-storey podium. The two tower portions respect appropriate setbacks and stepbacks mandated under Policy IM-43. These setbacks and stepbacks keep the two tower portions at appropriate distances away from surrounding built forms. The massing of the tower portions, while generally uniform, have extensive window bay and balcony projections that break up what could otherwise be viewed as a monotonous tower massing.</p>
	<p>(g) that the proposed development is oriented toward Spring Garden Road and Robie Street and that the design complements a commercial streetscape, through the provision of commercial units with large, transparent windows and at-grade entrances opening onto the sidewalk;</p>	<p>Schedules F and G of the proposed development agreement shows that the development is oriented towards Spring Garden Road and Robie Street and that the design complements a commercial streetscape with the provision of ground floor commercial units along both street frontages. The ground floor commercial units will have large, transparent windows and entrances at-grade opening onto the sidewalk.</p>
	<p>(h) that the design of driveways and garage entrances minimizes their impact on pedestrians and on the streetscape, by minimizing their size, by setting garage doors back from the street and by using screening or architectural finishes as appropriate;</p>	<p>Motor vehicles will access the underground parking, serving the site, off of Carlton Street. The two-way heated ramp to the underground parking will be established between the buildings identified by civic addresses 1484 Carlton Street and 1494 Carlton Street. The garage entrance itself will be beyond the limits of these two buildings, and will far exceed the requirement under the <i>Regional Centre Land Use By-law</i> that mandates that motor vehicle entrances to any main building facing a streetline be set back a minimum of 4.5 metres from the streetline. This deep setback and the use of</p>

		<p>trained climbers around the entrance to the underground parking structure will minimize the impact on pedestrians and on the streetscape.</p> <p>Off-street loading, deliveries, and drop-offs to the Tower Building will use a one-way driveway that will go to the rear of the Tower Building. The entrance to the one-way driveway will be from Spring Garden Road, along the property line shared with 1494 Carlton Street. The exit from the one-way driveway will be along Robie Street at the point furthest away from the Robie Street and Spring Garden Road intersection. Limiting the width of the driveway to one lane where it intersects with both Spring Garden Road and Robie Street will limit its impact on both pedestrians and the streetscape. The provision of architectural pavers with a 150 mm raised curb along the one-way driveway will provide some level of protection to pedestrians walking on the side of and behind the Tower Building.</p>
	<p>(i) environmental factors, including sun/shadow and wind conditions are suitable for the intended use of the site;</p>	<p>A shadow study, including shadow diagrams and a written analysis, certified and stamped by an architect, has been submitted as part of the application. The shadow study was completed for September 21 with outputs in fifteen-minute increments from 8am to 6pm. The objective of the shadow study was to look at impacts on public spaces located off-site, as well as the heritage resources on Carlton Street.</p> <p>Regarding shadowing effects on public spaces, the study makes the following findings: <i>“Balcom Square Park has limited shadow impacts, experiencing early morning shadows, but no impact the rest of the day. There are no shadows impacting the Public Gardens at this date of the equinox. As well, shadows do not reach the more distant Victoria Park.”</i></p> <p>Regarding shadowing impacts on heritage resources, the study concludes the following:</p>

“Shadows do not cast on the west facing facades of the Carlton Street heritage buildings until 3:00pm, with coverage increasing through-out the afternoon. The podium and setback of the proposed development benefit the heritage buildings, as the shape of the shadow impact is reduced. While the heritage buildings experience shadow, it is considered reasonable and typical of dense urban developments.”

Staff is satisfied that the shadow analysis submitted in support of the application demonstrates that the proposed Tower Building would not unreasonably shadow public spaces and heritage resources in the immediate area. There are no proposed uses on the site that would be affected by shadow impacts on the site.

A pedestrian wind impact assessment has been submitted as part of the application. The study, which was certified and stamped by a professional engineer, involved quantitative measurements in a boundary-layer wind tunnel to assess pedestrian wind comfort and safety. The results of the study were summarized by the wind consultant as follows:

- *During the summer, most measurement points are predicted to have wind comfort conditions rated as standing with a few points rated as strolling and sitting in the existing configuration. With the addition of the proposed Spring Garden West development (and future Promenade Development), wind conditions are generally expected to remain similar with wind comfort ratings at most measurement points predicted to be rated as standing and strolling with one point rated as walking. These predicted wind conditions are considered appropriate for the*

		<p><i>intended use of the areas around the Spring Garden West development.</i></p> <ul style="list-style-type: none">• <i>During the winter, most measurement locations around the site are generally expected to be comfortable for walking or strolling in the existing configuration, with one measurement location further south of the site predicted to be uncomfortable. With the addition of the Spring Garden West development (and future Promenade development) wind activity around the site are expected to increase with conditions at most locations generally rated as walking or uncomfortable. It should be noted, these predicted wind conditions are common for other similar size developments in the Halifax area during the winter season.</i>• <i>All measurement locations are predicted to meet the wind safety criteria in the existing configuration. The addition of the Spring Garden West development (and future Promenade development) are expected to result in one location which marginally exceeds the safety performance standard (~1 km/h above the criteria limit).</i>• <i>While the Spring Garden West development does contribute to some minor increases in wind speeds along Robie Street, it is CPP's opinion that the predicted safety exceedance at point 28 is the result of the future Promenade development and the result of winds downwashing and accelerating at the southwest corner the Promenade. It is CPP's opinion that the various conceptual mitigative strategies presented (particularly the addition of streetscaping along the Robie Street sidewalk) are expected to improve wind conditions at this location.</i>
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		<p>Following the review of the results of the pedestrian wind impact assessment, staff requested an addendum from the wind consultant specifically covering wind mitigation measures. The addendum dated March 15, 2023, recommended a number of wind mitigation strategies, both incorporated into the design of the Tower Building and along the sidewalks surrounding the Tower Building. The mitigation measures that were suggested to be incorporated into the design of the Tower Building have been covered in the proposed development agreement under Section 3.22. Furthermore, discussions are ongoing between the Developer and staff regarding the future streetscaping treatment of the sidewalks abutting the proposed Tower Building. Street trees and street furniture will be part of the discussion. Any of these elements, when added to the wind mitigation measures already incorporated into the design of the Tower Building, will have a positive effect on improving the local wind conditions surrounding the Tower Building.</p>
	<p>(j) Policy CH-16 of the Regional Municipal Planning Strategy, which provides guidance for development abutting heritage properties, and all applicable heritage policies as may be amended from time to time;</p>	<p>See staff comments below under Policy CH-16.</p>
	<p>(k) that incentive or bonus zoning is provided in accordance with Part XV of the Land Use By-law;</p>	<p>Section 3.20 of the proposed development agreement requires that incentive or bonus zoning be provided in accordance with Part XV of the Land Use By-law.</p>
	<p>(l) the general development agreement criteria set out in Policy IM-7 in Part 9 of this Plan; and</p>	<p>See staff comments below under Policy IM-7.</p>
	<p>(m) opportunities for collaboration with a development on the neighbouring site, identified as Site B on Map 24.</p>	<p>Captured under Clause (h) of Section 6.1.1 of the proposed development agreement.</p>
IM-7	<p>In considering proposals to amend the Land Use By-law, amend the zoning boundaries, or enter into development agreements, Council shall consider that:</p>	<p>The application before Council is a request to enter into a development agreement. Staff comments can be found below in conjunction with Clauses (a) to (d).</p>

	(a) the proposal is consistent with the Vision, Core Concepts, Urban Design Goals, and all applicable objectives and policies set out in the Regional Plan and this Plan;	The proposal is reasonably consistent with the Vision, Core Concepts, Urban Design Goals, and all applicable objectives and policies set out in the Regional Plan and this Plan.
	(b) the proposal is appropriate and not premature by reason of:	Staff comments can be found below in conjunction with Subclauses (i) to (v).
	i) the financial capacity of the Municipality to absorb any costs relating to the development,	The applicant will be responsible for all costs related to this development.
	ii) the adequacy of municipal wastewater facilities, stormwater systems or water distribution systems,	The site is serviced by municipal wastewater facilities, stormwater systems, and water distribution systems. Section 4.5.1 of the proposed development agreement will require the developer to submit a wastewater capacity analysis, as directed by Halifax Water, prior to the issuance of a development permit for the Tower Building. Section 4.5.1 of the agreement further states that any system upgrades required to accommodate the proposed Tower Building will be the responsibility of the developer.
	iii) the proximity of the proposed development to schools, parks, and community facilities, and the capability of these services to absorb any additional demands,	The application was circulated to the Halifax Regional Centre for Education (HRCE) for comments. It is the responsibility of the HRCE to find capacity within area schools for all students. HRCE did not indicate any concerns regarding the proposed Tower Building. A number of HRCE schools covering the full spectrum of grades from PP to grade 12 are within easy walking distance from the proposed site of development (St. Mary's Elementary School, LeMarchant-St. Thomas Elementary School, Gorsebrook Junior High School, and Citadel High School). The area is in close proximity to a number of municipal parks (Halifax Public Gardens, Victoria Park, and the Halifax Common), as well as community facilities such as the Halifax Central Library and the John W. Lindsay YMCA.
	iv) the adequacy of transportation infrastructure for pedestrians, cyclists, public transit and vehicles for travel to and within the development, and	The site is located along Spring Garden Road and Robie Street, which are major public transit thoroughfares served collectively by 6 high-frequency corridor bus routes with stops either directly along the site or in close proximity to the site. A number of local and

		<p>express bus routes also have stops along or in close proximity to the site. Furthermore, 3 of the 4 proposed bus rapid transit (BRT) routes in the <i>Rapid Transit Strategy</i> are expected to have stops directly along the site or in close proximity to the site. The immediate streets bordering the development all contain sidewalks on both sides of the street. Furthermore, the site is located in close proximity to the bicycle protected lanes on South Park Street and University Avenue. Motor vehicles will access the underground parking serving the site off of Carlton Street. Off-street loading, deliveries, and drop-offs to the site will use a one-way driveway that will go to the rear of the Tower Building. The entrance to the one-way driveway will be from Spring Garden Road, close to the intersection of Spring Garden Road and Carlton Street. The exit from the one-way driveway will be along Robie Street at a point furthest away from the Robie Street and Spring Garden Road intersection. HRM Engineering has reviewed the transportation impact study submitted in support of this application and did not have any concerns with its conclusions.</p>
	<p>v) the impact on registered heritage buildings, heritage streetscapes, and heritage conservation districts;</p>	<p>The application includes buildings forming part of the Carlton Street heritage streetscape. As such, the enabling policy set (Policies IM-43 and IM-44) has set down controls to limit the impact of the proposed Tower Building on these heritage properties. The project has also already received approval under the substantial alteration process for the work that will be undertaken on the properties identified as 1478 Carlton Street, 1480 Carlton Street, 1484 Carlton Street and 1494 Carlton Street. The conditions of the substantial alteration approval are being carried forward under the proposed development agreement.</p>
	<p>(c) the subject lands are suitable for development in terms of the steepness of grades, soil and geological conditions, locations of watercourses, wetlands, and susceptibility to flooding;</p>	<p>The site already contains buildings that will need to be demolished to make way for the development. The site is fairly flat and does not contain steep grades. Staff is not aware of any issues in terms of soil and geological</p>

		conditions, locations of watercourses, wetlands, and susceptibility to flooding.
	(d) that development regulations in the proposed rezoning or development agreement will adequately mitigate potential conflict between the proposed development and nearby land uses, by reason of:	Staff comments can be found below in conjunction with Subclauses (i) to (vi).
	i) type of use(s),	The type of uses being proposed through the negotiated development agreement are the same as those allowed in the underlying CEN-2 and CEN-1 zones.
	ii) built form of the proposed building(s),	The enabling policy set (Implementation Policies IM-43 and IM-44) contains built form controls that were specifically approved by Council for the site and the proposal under consideration, in order to mitigate potential conflict between the proposed development and nearby land uses. The staff review of the evaluation criteria for those policies is contained above.
	iii) impacts on adjacent uses, including compatibility with adjacent residential neighbourhoods, parks, community facilities, and railway operations,	The enabling policy set (Policies IM-43 and IM-44) was developed after substantial public engagement and discussion. The enabling policy set envisioned the proposal that is now under consideration. The enabling policy set has built-in controls to mitigate impacts on adjacent uses, including compatibility with adjacent residential neighbourhoods, parks, and community facilities. There are no railway operations in the immediate area of the subject site.
	iv) traffic generation, safe access to and egress from the site, and parking,	<p>Section 3.12 of the proposed development agreement covers access and egress, circulation, and parking on the site.</p> <p>A traffic study has been submitted as part of this proposal and has been reviewed by HRM engineering staff. HRM engineering staff have indicated that they have no concerns with the proposal regarding traffic generation and safe access to and egress from the site.</p> <p>Parking on the Tower Building site is to be provided mainly in underground parking levels. Only 8 exterior at-grade parking spots will be allowed on the Tower Building Site</p>

		and these will not be visible from either Spring Garden Road or Robie Street. Off-street loading spaces will need to be provided on the site in accordance with the requirements of the <i>Regional Centre Land Use By-law</i> (see Section 3.12.10 of the proposed development agreement).
	v) open storage and signage, and	Staff have incorporated controls over signage within the proposed development agreement (see Section 3.15) to mitigate potential conflicts with nearby land uses. Regarding open storage, a storage yard use is not permitted in the CEN-2 and CEN-1 zones that are referenced by the proposed development agreement. Furthermore, Section 4.6 of the proposed development agreement controls the placement and screening of outdoor solid waste facilities.
	vi) impacts of lighting, noise, fumes and other emissions.	Staff have incorporated controls over lighting within the proposed development agreement (see Section 3.14) to mitigate potential conflicts with nearby land uses. The development is not expected to generate any noise, fumes, or other emissions that would be unusual or problematic in the context of surrounding land uses that exist within the Spring Garden Road, Carlton Street, College Street and Robie Street area.
Regional Municipal Planning Strategy		
CH-16	For lands abutting federally, provincially or municipally registered heritage properties, HRM shall, when reviewing applications for development agreements, rezonings and amendments pursuant to secondary planning strategies, or when reviewing the provision of utilities for said lands, consider a range of design solutions and architectural expressions that are compatible with the abutting federally, provincially or municipally registered heritage properties by considering the following:	Staff comments can be found below in conjunction with Clauses (a) to (k).
	(a) the careful use of materials, colour, proportion, and the rhythm established by surface and structural	Schedules F, G, and H of the proposed development agreement shows that the Tower Building will be mostly clad with a

	<p>elements should reinforce those same aspects of the existing buildings;</p>	<p>masonry material, a trained plant wall, and glass at the streetwall and podium levels, and glass on the tower portions of the Tower Building. The use of a heavy material like masonry on the streetwall and a light material like glass on the tower portions will have the effect of keeping the pedestrian's attention focused on the streetwall, as opposed to the tower portions. This reinforces the 2-3 storeys of the municipally registered heritage properties. Furthermore, it is proposed that the masonry material that will be used to clad the Spring Garden Road streetwall will be of a beige colour, which is an earth tone. Likewise, the vegetation that will be used to fill the trained plant wall on the podium of the East Elevation will bring natural colours to the podium. The beige colour of the masonry material and the natural colours of the trained plant wall are all seen as neutral colours that will be complementary to any colours used on the municipally registered heritage properties.</p> <p>Schedule F, of the proposed development agreement, shows that the Spring Garden Road streetwall will have an established rhythm of retail bays on the ground floor and an alternating rhythm of punched windows and bay window projections on podium levels 2 and 3. This rhythm and these proportions will help break up the massing of the long streetwall. These elements on the streetwall will also reinforce similar aspects on the municipally registered heritage buildings on Carlton Street.</p>
	<p>(b) ensuring that new development is visually compatible with yet distinguishable from the abutting registered heritage property. To accomplish this, an appropriate balance must be struck between mere imitation of the abutting building and pointed contrast, thus complementing the abutting registered heritage property in a manner that respects its heritage value;</p>	<p>The Tower Building is compatible with the municipally registered heritage properties on Carlton Street by: (a) presenting a 13-metre, 3-storey streetwall and podium directly abutting 1494 Carlton Street; and (b) by using punched windows for the first two structural bays of the Spring Garden Road streetwall, immediately abutting the said property on Carlton Street, as well as for the podium on the East Elevation (see Schedules F and G of the proposed development agreement).</p>

		<p>The use of masonry in the Spring Garden Road streetwall is complimentary, but distinguishable from the municipally registered heritage property at 1494 Spring Garden Road. The use of a trained plant wall cladding for most of the podium wall on the East Elevation is also complimentary and distinguishable from the municipally registered heritage properties on Carlton Street. The use of vegetation is a proper design intervention used to somewhat neutralize the impact of the new building on the backyard view from the municipally registered heritage properties.</p> <p>The decision to clad the tower portions of the Tower Building with glass is a common intervention when building high-rise buildings in close proximity to registered heritage properties. Glass is seen as a light material that doesn't compete with the more solid materials (wood or masonry) that usually clad heritage buildings. By contrast, the use of masonry on the Spring Garden Road streetwall and a trained plant wall on the East Elevation podium will have the effect of keeping the viewer's attention to the pedestrian realm (streetwall and podium), as opposed to the tower portions.</p> <p>Schedule E of the proposed development agreement shows generous setbacks and stepbacks for the tower portions of the Tower Building that will push the tower portions away from the municipally registered heritage properties on Carlton Street.</p>
	<p>(c) ensuring that new developments respect the building scale, massing, proportions, profile and building character of abutting federally, provincially or municipally registered heritage structures by ensuring that they:</p>	<p>Staff comments can be found below in conjunction with Subclauses (i) to (iii).</p>
	<p>(i) incorporate fine-scaled architectural detailing and human-scaled building elements,</p>	<p>Schedules F, G, and H of the proposed development agreement identify the types, locations, and extent of the materials to be used to clad the exterior of the Tower</p>

		<p>Building. The elevation schedules shows the incorporation of fine-scaled architectural detailing and human-scaled building elements along both the Robie Street and the Spring Garden Road streetwalls, as well as on the South and East elevations of the Tower Building Podium (the ground floor and the podium levels 2-4). The fine-scaled architectural detailing and human-scaled building elements include the use of pedestrian level lighting elements, signage bands above the ground floor commercial bays, punched windows, canopies above entrances, masonry facades, and a trained plant wall.</p>
	<p>(ii) reinforce, the structural rhythm (i.e., expression of floor lines, structural bays, etc.) of abutting federally, provincially or municipally registered heritage properties; and</p>	<p>Schedule F of the proposed development agreement (North Elevation – Spring Garden Road) shows that the Tower Building reinforces the structural rhythm of 1494 Carlton Street. This is achieved through the expression of clearly defined floor lines and narrow structural bays in the 3-storey Spring Garden Road streetwall, as well as the use of punched windows in the portion of the streetwall immediately adjacent to 1494 Carlton Street.</p>
	<p>(iii) any additional building height proposed above the pedestrian realm mitigate its impact upon the pedestrian realm and abutting registered heritage properties by incorporating design solutions, such as stepbacks from the street wall and abutting registered heritage properties, modulation of building massing, and other methods of massing articulation using horizontal or vertical recesses or projections, datum lines, and changes in material, texture or colour to help reduce its apparent scale;</p>	<p>Enabling Policies IM-43 and IM-44 contain site-specific built-form controls to mitigate the impact upon the pedestrian realm and abutting heritage properties. These built-form controls were developed and approved within the lens of CH-16(c)(iii).</p> <p>The massing of the tower portions is modulated by horizontal projections in the form of window bays.</p> <p>The decision to clad the tower portions of the Tower Building with glass is a common intervention when building high-rise buildings in close proximity to registered heritage properties. Glass is seen as a light material that doesn't compete with the more solid materials (wood or masonry) that usually clad heritage buildings. By contrast, the use of masonry on the Spring Garden Road streetwall and a trained plant wall on the East Elevation podium will have the effect of</p>

		keeping the viewer’s attention to the pedestrian realm (streetwall and podium), as opposed to the tower portions.
	(d) the siting of new developments such that their footprints respect the existing development pattern by:	Staff comments can be found below in conjunction with Subclauses (i) and (ii).
	(i) physically orienting new structures to the street in a similar fashion to existing federally, provincially or municipally registered heritage structures to preserve a consistent street wall; and	The proposal orients the new building (Tower Building) towards Spring Garden Road in a similar fashion to the municipally registered heritage structure on the corner of Carlton Street and Spring Garden Road (1494 Carlton Street).
	(ii) respecting the existing front and side yard setbacks of the street or heritage conservation district including permitting exceptions to the front yard requirements of the applicable land use by-laws where existing front yard requirements would detract from the heritage values of the streetscape;	Subclause (g)(iv) of Enabling Policy IM-43 establishes a minimum setback of 0.5 metres from the Spring Garden Road streetline. This criterion is being met by the proposed new structure (Tower Building). Enabling Policy IM-43 contains further controls in Clauses (g) and (h), as to the positioning of the structure in relation to the municipally registered heritage properties located along Carlton Street.
	(e) not unreasonably creating shadowing effects on public spaces and heritage resources;	<p>A shadow study, including shadow diagrams and a written analysis, certified and stamped by an architect, has been submitted as part of the application. The shadow study was completed for September 21 with outputs in fifteen-minute increments from 8am to 6pm.</p> <p>Regarding shadowing effects on public spaces, the study makes the following findings: <i>“Balcom Square Park has limited shadow impacts, experiencing early morning shadows, but no impact the rest of the day. There are no shadows impacting the Public Gardens at this date of the equinox. As well, shadows do not reach the more distant Victoria Park.”</i></p> <p>Regarding shadowing impacts on heritage resources, the study concludes the following: <i>“Shadows do not cast on the west facing facades of the Carlton Street heritage buildings until 3:00pm, with coverage increasing through-out the afternoon. The podium and setback of the proposed development benefit the heritage buildings,</i></p>

		<p><i>as the shape of the shadow impact is reduced. While the heritage buildings experience shadow, it is considered reasonable and typical of dense urban developments.”</i></p> <p>Staff is satisfied that the shadow analysis submitted in support of the application demonstrates that the proposed Tower Building would not unreasonably shadow public spaces and heritage resources.</p>
	(f) complementing historic fabric and open space qualities of the existing streetscape;	The subject site is located in a built-up area of the municipality with the placement of buildings close to the streetline and with little open space visible from Spring Garden Road, Carlton Street, or Robie Street.
	(g) minimizing the loss of landscaped open space;	The portion of the subject site where the Tower Building is to be built consists of buildings and surface parking. The proposed development will thus not lead to the loss of existing landscaped open space.
	(h) ensuring that parking facilities (surface lots, residential garages, stand-alone parking and parking components as part of larger developments) are compatible with abutting federally, provincially or municipally registered heritage structures;	Parking on the Tower Building Site is being provided mostly underground. The entrance and exit for the underground parking will be situated on Carlton Street between 2 of the municipally registered heritage properties. The actual structural entrance to the underground parking is proposed to be set back a substantial distance from Carlton Street itself, which together with landscaping measures, will help limit the impact on the Carlton Street heritage streetscape. A maximum of 8 at-grade parking spaces will be allowed in the rear of the Tower Building. The at-grade parking spaces will not be visible from Carlton Street and a perimeter fence will limit the impact on the Carlton Street municipally registered heritage properties.
	(i) placing utility equipment and devices such as metering equipment, transformer boxes, power lines, and conduit equipment boxes in locations which do not detract from the visual building character or architectural integrity of the heritage resource;	Section 3.10 of the proposed development agreement contains controls that guide the placement of utility equipment and devices in locations which do not detract from the visual building character or architectural integrity of the abutting heritage resources. Furthermore, Section 4.3 of the agreement requires that all primary and secondary electrical, telephone, and cable services to

		the Tower Building shall be through an underground installation.
	(j) having the proposal meet the heritage considerations of the appropriate Secondary Planning Strategy, as well as any applicable urban design guidelines; and	The proposal meets the heritage considerations of the <i>Regional Centre Secondary Municipal Planning Strategy</i> . There are no applicable urban design guidelines for this application.
	(k) any applicable matter as set out in Policy G-14 of this Plan.	Not applicable