

HALIFAX

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

Item No. 10.1.2

Halifax & West Community Council

July 16, 2024

August 13, 2024

TO: Chair and Members of Halifax and West Community Council

FROM: Tyler Brothers, Vice Chair, Heritage Advisory Committee

DATE: June 28, 2024

SUBJECT: **Case 24359: Development Agreement for 2537-39 Agricola Street, Halifax for a 27.3m mixed-use addition to a registered heritage property**

ORIGIN

June 28, 2024 special meeting of Heritage Advisory Committee, Item 9.1.1.

RECOMMENDATION

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

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A of the staff report dated May 3, 2024, to enable the construction of a 27.3m mixed-use addition to the registered heritage property located at 2539 Agricola Street, with amendments to the second sentence of section 3.5.5 of the proposed development agreement to read "Furthermore, any elevator enclosure shall be subject to the requirements of the Regional Center Land Use By-law, as amended from time to time," and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of the staff report dated May 3, 2024; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

At the June 19, 2024 meeting the Heritage Advisory Committee received a staff recommendation report dated May 3, 2024 to consider a development agreement to enable the construction of a 27.3m mixed-use addition to the registered heritage property located at 2537-39 Agricola Street, Halifax.

For further information refer to the attached staff report dated May 3, 2024.

DISCUSSION

The Heritage Advisory Committee considered the staff report dated May 3, 2024 and approved the recommendation to Halifax and West Community Council as outlined in this report with an amendments. (See Attachment 2)

FINANCIAL IMPLICATIONS

Financial implications are outlined in the attached staff report dated May 3, 2024.

RISK CONSIDERATION

Risk consideration is outlined in the attached staff report dated May 3, 2024.

COMMUNITY ENGAGEMENT

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

For further information on Community Engagement refer to the attached staff report dated May 3, 2024.

ENVIRONMENTAL IMPLICATIONS

Environmental implications are outlined in the staff report dated May 3, 2024.

ALTERNATIVES

Alternatives are outlined in the attached staff report dated May 3, 2024.

LEGISLATIVE AUTHORITY

Legislative Authority is outlined in the attached staff report dated May 3, 2024.

Heritage Property Act:

s. 14(1) A heritage advisory committee may recommend to the municipality that a building, public building interior, streetscape, cultural landscape or area be registered as a municipal heritage property in the municipal registry of heritage property.

Halifax Regional Municipality By-law H-200, *Respecting the Establishment of a Heritage Advisory Committee and a Civic Registry of Heritage Property*:

4. The Committee shall, within the time limits prescribed by Council or the Act, advise the Region respecting:
 - (a) the inclusion of buildings, public building interiors, streetscapes, cultural landscapes or areas in the Registry.

ATTACHMENTS

Attachment 1 – Staff recommendation report dated May 3, 2024.

Attachment 2 – Extract from the June 28, 2024 Heritage Advisory Committee Special Meeting Draft Minutes

Report Prepared by: Simon Ross-Siegel, Legislative Assistant, Municipal Clerk's Office 902.292.3962

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

Attachment 1
Heritage Advisory Committee
Special Meeting
June 28, 2024

TO: Chair and Members of the Heritage Advisory Committee

SUBMITTED BY: *-Original Signed-*

Cathie O'Toole, Chief Administrative Officer

DATE: May 3, 2024

SUBJECT: **Case 24359: Development Agreement for 2537-39 Agricola Street, Halifax for a 27.3m mixed-use addition to a registered heritage property.**

ORIGIN

An application by Ecogreen Homes, on behalf of the property owner, for a development agreement on the registered heritage property at 2539 Agricola Street, Halifax, known as the Open Mic House, and the neighbouring property at 2537 Agricola Street, Halifax.

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

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

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to enable the construction of a 27.3m mixed-use addition to the registered heritage property located at 2539 Agricola Street, and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Ecogreen Homes, on behalf of the property owner, has applied to enter into a development agreement to permit a 27.3m mixed-use addition to a registered heritage property at 2539 Agricola Street, Halifax. If approved, the existing Halifax Box style heritage building will be rehabilitated and preserved. The heritage building consists of a circa 1900-1905 two-storey dwelling that has historically served as a home for tradespeople and the working classes. More recently, the heritage building has gained prominence for its culturally significant function as a hub for the local arts community and a venue for live music events, earning it the moniker of "Open Mic House". This application is being considered under Policy CHR-7 of the Regional Centre Secondary Municipal Planning Strategy (SMPS) which allows Council to consider a development agreement on any lot containing a registered heritage building that exceeds the requirements of the underlying zone to encourage the preservation and adaptive re-use of registered heritage properties.

Subject Site	2539 Agricola Street	2537 Agricola Street	Total Site
Heritage	Registered Heritage Property (Open Mic House)	Adjacent unregistered property	Registered Heritage Property (Open Mic House) and adjacent unregistered property
Location (Map 1)	The subject property fronts on Agricola Street, as shown on Map 1.	The subject property fronts on Agricola Street, as shown on Map 1.	The subject property fronts on Agricola Street, as shown on Map 1.
Regional Plan Designation	Urban Settlement	Urban Settlement	Urban Settlement
Regional Centre SMPS Designation (Map 2)	COR - Corridor	COR - Corridor	COR - Corridor
Zoning (Map 3)	COR - Corridor	COR - Corridor	COR - Corridor
Size of Site	278.71sqm	250.84sqm	529.55sqm
Street Frontage	30m	27m	57m
Current Land Use(s)	Residential Use - Single Unit Dwelling	(Non-conforming) Auto Repair Use (Carlo Auto) - and surface parking	Residential - Single Unit Dwelling and (Non-conforming) Auto Repair Use
Surrounding Use(s)	Commercial and Higher-Order Residential Uses	Commercial and Higher-Order Residential Uses	Commercial and Higher-Order Residential Uses

Proposal Details

As proposed, the heritage building at 2539 Agricola Street (Open Mic House) will be conserved and rehabilitated. An informal open space abutting the Agricola Street property line, denoted as "piazza" in Schedule B of the development agreement (Attachment A) will be retained, in order to activate the street frontage. Underground parking access will also be from Agricola Street. The 27.3 meter, 8 storey + amenity penthouse addition will physically abut the rear of the heritage property, separated by a fire wall. The addition will employ neutral colours, compatible materials, and simplified design to preserve the heritage building's visual prominence on the site. The second-storey balcony with pergola will restore the fabric of the historic streetwall and provide outdoor commercial space which will also serve as an elevated outdoor performance venue.

Conservation of the heritage building will include retention and rehabilitation of the front 54% of the original circa 1900-1905 building and its adaptive re-use for commercial use. This proposed work includes:

- the replacement of the existing failed foundation with a new foundation clad in reclaimed brick;
- the repair and (where necessary) replacement in kind of all character-defining elements;
- the replacement of existing vinyl windows with new wood-frame windows;
- the replacement of the existing wood shingle cladding with new wood shingle cladding of an appropriate scale;
- replacement of the modified front entrance with a new entrance appropriate in design and materials to the building; and
- other substantial and non-substantial alterations as outlined in the [HRM Substantial Alterations Report \(HRTG-2023-01146\)](#), which was reviewed by the Heritage Advisory Committee (HAC) and approved by Regional Council on February 6, 2024.

Enabling Policy and LUB Context

This proposal is being considered under Policy CHR-7 of the Regional Centre Secondary Municipal Planning Strategy (RCSMPS). The RCSMPS recognizes the important role that heritage buildings and sites have in defining HRM's character and identity. To support the retention, preservation, and rehabilitation of heritage buildings in the Halifax Regional Municipality, this policy allows owners of registered heritage properties to apply for a development agreement to permit a development or use not otherwise permitted by the underlying zone to encourage the preservation and adaptive re-use of registered heritage properties.

The subject property is designated and zoned Corridor (COR). The existing heritage building is currently a residential use, while the existing Carlo Auto property is a non-conforming auto-repair use with surface parking. The proposal will consist of a mixed-use development including multi-residential and commercial uses, as permitted within the zone, and the existing non-conforming auto-repair use will cease. The registered heritage property and neighbouring Carlo Auto property both have a maximum height of 17 metres (equivalent to 5-storeys) under the Regional Centre Land Use By-law. This proposal is seeking relief from the present maximum height requirements of 17m, proposing instead a maximum height of 27.3m (eight storeys plus an amenity penthouse). This proposal is also seeking relief from the minimum rear setback requirement of 4.5m for portions of a building above 20m in height and is seeking relief from streetwall stepback, minimum height, and articulation requirements, to enable the streetwall design as proposed. The non-conforming front setback of the heritage building will remain unchanged. There are no requirements for side setbacks or lot coverage in this zone. The requested increase in maximum height and relaxation of certain built-form requirements are justified through the retention and rehabilitation of the registered heritage property known as the Open Mic House, pursuant to Policy CHR-7.

COMMUNITY ENGAGEMENT

The community engagement process for this application is consistent with the intent of the RCSMPS and the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, and a fact sheet mailout distributed to owners and residents within a 250-metre radius in the Fall of 2023 to inform them of the proposal and to solicit their feedback. Six responses were received, with members of the public generally expressing support for the project with some concerns primarily regarding:

- provision of sufficient vehicle parking; and
- proposed height of the development.

One level of underground parking will be provided for the proposed development, with ten vehicle parking spaces (two accessible) and eighteen bicycle parking spaces. Review agencies did not identify any major issues accommodating additional vehicle or pedestrian traffic or parking demand resulting from the proposed development. The height of the proposed development has been mitigated through design and material choices to lessen its visual prominence, and the additional height sought through this agreement is both commensurate with the level of investment to be made in the rehabilitation of the heritage building, and comparable in height and density to other recent developments in the surrounding area. Attachment C provides a summary of engagement related to Case 24359.

Halifax and West Community Council must hold a public hearing before it can consider approval of the proposed development agreement. If Community Council decides to proceed with a public hearing, staff will send a mail out for the hearing to property owners and residents within the notification area (as shown on Map 3) by regular mail.

DISCUSSION

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

Proposed Development Agreement

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

- the use and form of the 27.3m mixed-use addition and the heritage building;
- requirements for design and materiality of the proposed new addition and its location on the site;
- requirements for the rehabilitation of the heritage building; and
- requirements for landscaping, lighting, parking, signage, environmental protections, solid waste, and maintenance of the site, including the heritage building.

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

- changes to Schedules B, C, D, and E provided that the changes do not conflict with the text of this agreement;
- changes to the amenity, parking, outdoor lighting, landscaping, and/or signage requirements as identified in Sections 3.7, 3.9, 3.10, 3.11, and 3.13 of the agreement;
- the granting of an extension to the date of commencement of construction; and
- the granting of an extension to the length of time for the completion of the development.

Land Use Impacts

Policy CHR-7 of the Regional Centre SMPS allows for the consideration of land uses and densities which are not permitted by the underlying zone for municipally registered heritage properties, subject to certain criteria. HRM staff have evaluated the level of conservation effort proposed for the Open Mic House and have found it to be commensurate with the increased density.

One of the aforementioned criteria is that any development does not unduly disrupt adjacent uses, especially residential uses. The abutting properties around the subject site are zoned COR and HR-1 with COR and ER-3 zoned properties located opposite on Agricola Street. The surrounding area contains a mixture of buildings with varying heights, street frontages, lot sizes, and ages of construction. This proposal is comparable in density and use with other recent and ongoing developments in the surrounding area and its use will be less disruptive than the existing non-conforming auto-service use. The new construction has sought compatibility with its surroundings through design, materiality, and form, while reducing the overall impact of the additional density on adjacent land uses through:

- repair of the historic streetwall established by the heritage building across the full width of the site with a second-storey balcony and pergola;
- setback of the new addition's massing by 4.8m from the streetwall established by the heritage building (excluding the parking garage entrance); and
- preservation of informal open space previously provided by a surface parking lot, to be improved in the form of a "piazza" with landscaping, enhancing and activating the pedestrian realm.

The applicant will be required to meet all relevant requirements pertaining to construction noise and circulation during the construction of the development.

Relevant Regional Plan Policies

Policy CH-16 of the Regional Municipal Planning Strategy requires that applications for development agreements consider a range of design solutions and architectural expressions that are compatible with the

abutting municipally registered heritage properties. Attachment B contains an evaluation of the proposed development agreement in relation to the Policy CH-16, which includes the following:

- the proposed new addition references the heritage resource on the site through its unique streetwall design and materiality; and
- the setback of most of the development's massing to the rear of the heritage building, its simplified design, and its neutral colours maintain the prominence of the heritage resource.

Relevant Policies of the Regional Centre SMPS

Section 2: Residential Environments of the Regional Centre SMPS includes objectives and policies which encourage:

- a variety of high-quality, affordable housing choices;
- development to accommodate future growth where there is existing services;
- new construction relates to the needs or characteristics of the neighbourhood;
- the retention of existing residential character and any change will be compatible with these neighbourhoods; and
- redevelopment at a scale compatible with those neighbourhoods.

The subject site is located within Halifax's North End, which is a serviced community containing a high level of services, infrastructure, and transit. The scale of this development is comparable to that of other recent and ongoing development projects in the surrounding area and it reflects the varied uses, scales, and massing of the surrounding community. The development's design, through its balcony and piazza, enables its continued function as a culturally significant and prominent live music venue and outdoor gathering place for the local community, contributing to the vibrant character of Agricola Street. The new addition has also been designed to minimally impact the heritage building by retaining all character-defining elements and proposing a physical connection only at the rear of the building. The site offers access to the transit network via nearby Transit Priority Corridors on North, Robie and Gottingen Streets. The site is also situated near established pedestrian and active transportation networks (such as the North End Bikeway Corridor), and within a short distance of the Halifax Common.

Heritage Planning

The "Open Mic House" is listed on the Registry of Heritage Property for the Halifax Regional Municipality and is protected under the *Heritage Property Act of Nova Scotia*. The heritage building, located at 2539 Agricola Street, is a two-storey, Halifax Box style dwelling constructed circa 1900-1905 by an unknown local construction firm. The character-defining elements are identified in Schedule F of the Development Agreement (Attachment A).

Staff processed a concurrent application for a substantial alteration to the registered municipal heritage property. In accordance with the *Heritage Property Act*, this application (HRTG-2023-01146) was reviewed by the Heritage Advisory Committee (HAC) and approved by Regional Council on February 6, 2024. Regional Council approved the following alterations to the registered heritage property:

- removal of the existing rear addition (circa 1911-1918) and removal of the rear portion (46%) of the building and the construction of a 27.3m tall, mixed-use addition;
- replacement of the existing unsound brick and rubblestone foundation with a new poured-concrete foundation faced in reclaimed brick to ensure structural integrity;
- replacement of the modified front door with a new front entry featuring materials, design, and detailing appropriate to the age and style of the building and based on physical and documentary evidence of similar dwellings (wooden door with wood-framed transom and sidelights); and
- installation of a second-storey side-entrance featuring materials, design, and detailing appropriate to the age and style of the building, to provide access to the second-storey balcony of the new mixed-use addition.

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

A staff evaluation of the proposal against the *Standards and Guidelines* can be found in Attachment B. The proposal retains and rehabilitates all character-defining elements of the Open Mic House, while allowing for a new compatible use. The existing foundation, which has failed structurally, will be replaced, but will be faced with a veneer of reclaimed brick, imparting an appearance more historically appropriate than the existing concrete-parged foundation. One new second-storey door opening is required to facilitate the new compatible use, but will employ design and materials appropriate to the character of the heritage building, and could be reversed in the future if needed. All character-defining elements will be repaired wherever possible, and replaced in kind wherever necessary, based on physical and/or documentary evidence. Elements lost from the heritage building over time will be reconstructed based on physical and documentary evidence of similar buildings, and this process of reconstruction will be documented. The new addition's massing is set back behind the heritage building, enhancing the heritage building's prominence, and preserving the open space of the piazza. The simplified design and neutral cladding of the new addition will reduce its visual impact and subordinate the addition to the heritage building. The ground and second storeys of the new addition employ brick complementary to the reclaimed brick facing of the heritage building's new foundation, enhancing compatibility with the heritage resource. Based on the conservation of all character-defining elements, the setbacks, design, and materials, the proposed development satisfies Standards 1 through 12.

Conclusion

Staff have reviewed the proposal and advise that it is reasonably consistent with the intent of applicable policy in the Regional Centre Secondary Municipal Planning Strategy. The main intent of Policy CHR-7 is to encourage the retention and restoration of heritage properties through additional land use flexibility beyond the permitted uses and densities in the underlying zone. In this case, the proposed development represents infill mixed-use development in a designated corridor that will be supportive of and compatible with the heritage character of the subject site and the surrounding neighbourhood. HRM staff have also evaluated the level of conservation effort proposed for the Open Mic House and have found it to be proportionate to the increased density being proposed. Therefore, staff recommend that the Heritage Advisory Committee recommend that Halifax and West Community Council approve the proposed development agreement as contained in Attachment A.

FINANCIAL IMPLICATIONS

The applicant will be responsible for all costs, expenses, liabilities, and obligations imposed under or incurred to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2024-2025 budget for Planning and Development.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application is being considered under existing RCSMPS policies. Community Council has the discretion to make decisions that are consistent with the RCSMPS, and such decisions may be appealed to the Nova Scotia Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications have been identified.

ALTERNATIVES

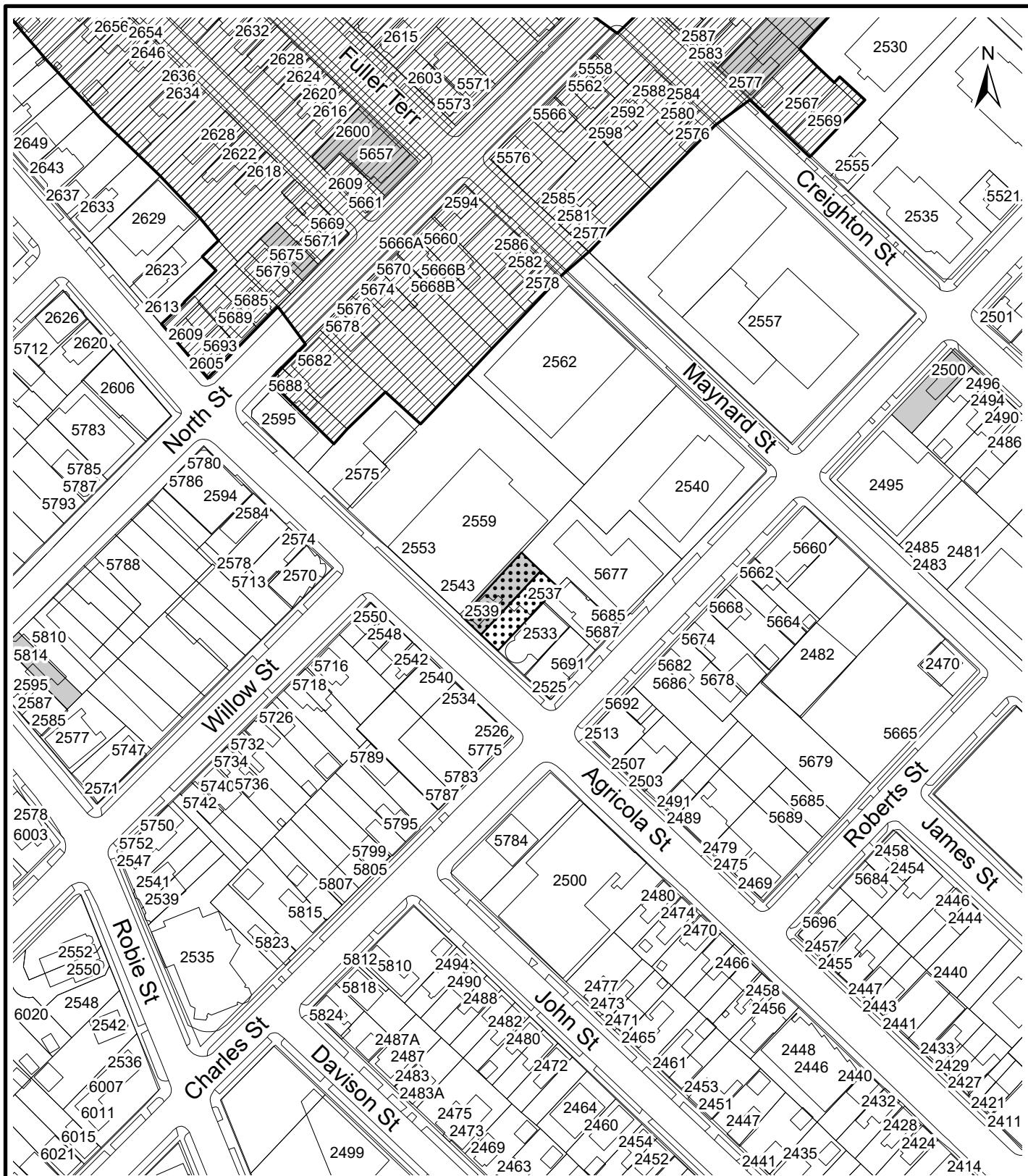
1. The Heritage Advisory Committee may recommend that the Halifax and West Community Council approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant.
2. The Heritage Advisory Committee may recommend that the Halifax and West Community Council refuse the proposed development agreement.

ATTACHMENTS

Map 1:	Location Map
Map 2:	Generalized Future Land Use Map
Map 3:	Zoning and Notification Map
Attachment A:	Proposed Development Agreement
Attachment B:	Planning Policy Review
Attachment C:	Public Engagement Summary

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: Carter Beaupre-McPhee, LPP, MCIP, CAHP, Planner III - Heritage, 902.719.9604



Map 1 - Location Map

2537-2539 Agricola Street, Halifax

Registered Heritage Property

Subject Properties

Proposed Bloomfield Heritage
Conservation District Boundary

HALIFAX

0 10 20 30 40 50 60 m

HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Generalized Future Land Use

2537-2539 Agricola Street, Halifax

HALIFAX

0 40 m

Subject Property

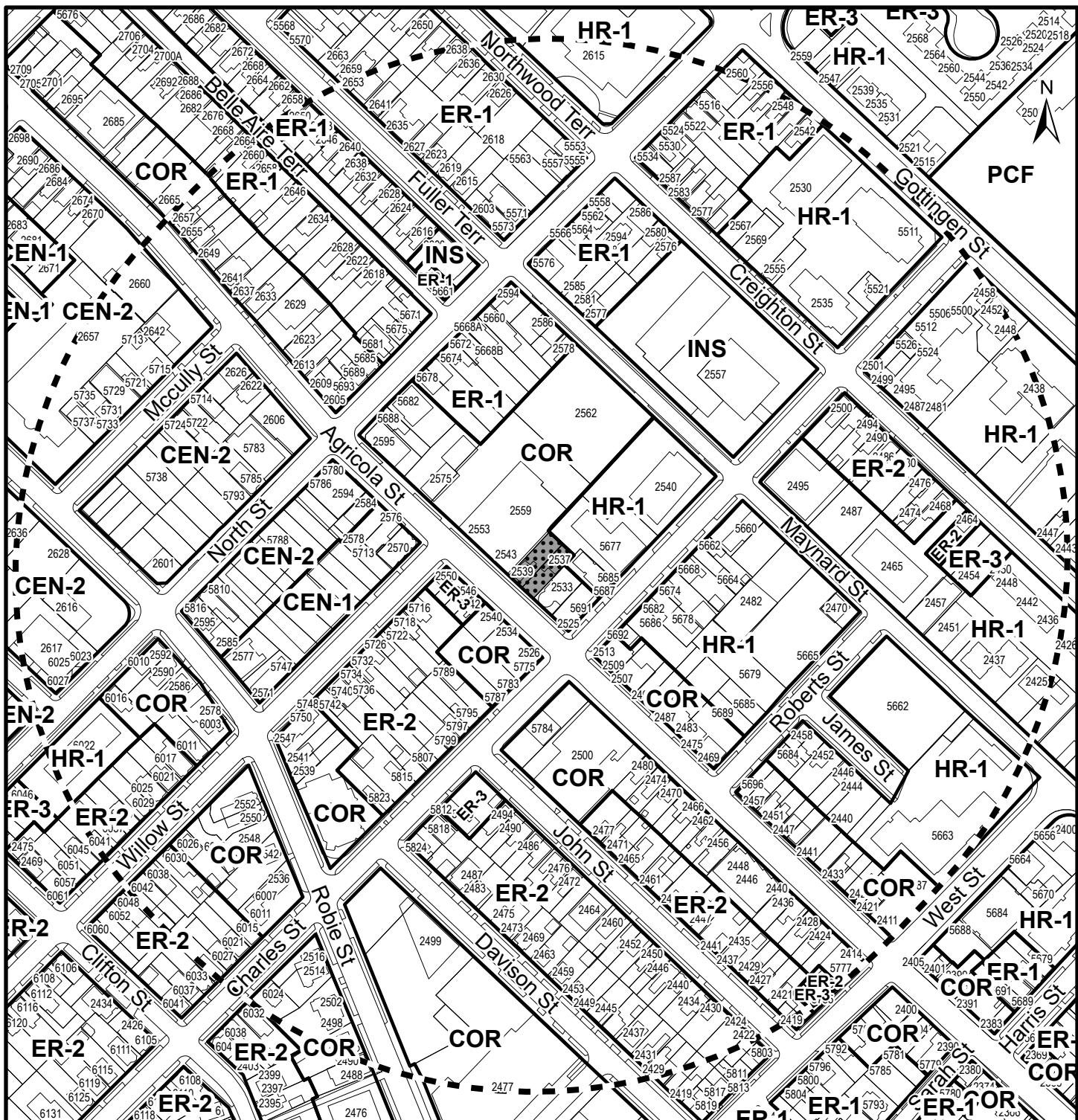
Designation

CEN Centre
COR Corridor
ER Established Residential
HR Higher-Order Residential
IE Institutional Employment

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 and Notification Area

HALIFAX

2537-2539 Agricola Street, Halifax

Zone

CEN-1	Centre 1
CEN-2	Centre 2
COR	Corridor
HR-1	Higher-Order Residential 1
ER-1	Established Residential 1
ER-2	Established Residential 2
ER-3	Established Residential 3
INS	Institutional
PCF	Parks and Community Facilities

0 40 80 m

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

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

ATTACHMENT A

PROPOSED DEVELOPMENT AGREEMENT

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

BETWEEN:

[INSERT PROPERTY OWNER NAME]

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

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 2537-2539 Agricola Street, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS a portion of the Lands more specifically located at 2539 Agricola Street, Halifax has been registered as a municipal heritage property pursuant to the provisions of the Municipality's Heritage Property By law (By-law H-200) and the *Heritage Property Act* as amended from time to time;

AND WHEREAS the Developer has requested approval by the Municipality to undertake substantial alterations to the Lands;

AND WHEREAS the Regional Council for the Municipality granted approval to this request at a meeting held on February 6, 2024, referenced as Municipal Case **HRTG-2023-01146**;

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a mixed-use addition on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy CHR-7 of the Regional Centre Secondary Municipal Planning Strategy and Section 485 of the Regional Centre Land Use By-law;

AND WHEREAS the **Halifax and West Community Council** approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case **24359**;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use By-law and the Regional Subdivision By-law, as amended from time to time.
- 1.2.2 Variances to the requirements of the Land Use By-law for Regional Centre shall not be permitted.

1.3 Applicability of Other By-laws, Statutes and Regulations

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

1.4 Conflict

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

1.5 Costs, Expenses, Liabilities and Obligations

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

1.6 Provisions Severable

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

1.7 Lands

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

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

2.1.1 All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

2.2 Definitions Specific to this Agreement

2.2.1 The following words used in this Agreement shall be defined as follows:

- (a) "Amenity / Mechanical Penthouse" means the uppermost storey of a building, consisting of enclosed and unenclosed non-habitable space for residential amenities and building systems;
- (b) "Architect" means a professional, full member in good standing with the Nova Scotia Association of Architects;
- (c) "Character Defining Elements" means the materials, forms, location, spatial configurations, uses and cultural associations or meanings that contribute to the heritage value and that must be sustained in order to preserve heritage value;
- (d) "Heritage Building" means the existing structure built c.1900-1905 at 2539 Agricola Street, Halifax, also known as the "Open Mic House".
- (e) "HRM Substantial Alteration Report" means the staff recommendation report dated January 8, 2024 and having the subject matter "Case HRTG-2023-01146: Substantial Alteration to the Municipally Registered Heritage Property at 2539 Agricola Street, Halifax" which was before Halifax Regional Council on February 6, 2024 as Attachment 1 to Item No. 15.4.1 on the agenda and was approved on that day by Halifax Regional Council;
- (f) "Landscape Architect" means a professional, full member in good standing with the Canadian Society of Landscape Architects;
- (g) "New Addition" means the 27.3m mixed-use new structure to be constructed at the eastern portion of the Lands and integrated with a municipally registered Heritage Building, pursuant to this Development Agreement;
- (h) "Open Space" refers to the informal public space along the Agricola Street elevation of the Heritage Building and New Addition;
- (i) "Professional Engineer" means a professional, full member in good standing with the Association of Professional Engineers of Nova Scotia;
- (j) "Raising" means the process of separating a building from its foundation and temporarily lifting it with hydraulic screw jacks or similar methods;
- (k) "Substantial Alteration" means any action that affects or alters the character-defining elements of a property;

(I) "Surveyor" means a land surveyor who is a registered member in good standing of the Association of Nova Scotia Land Surveyors.

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 24359:

Schedule A	Legal Description of the Land(s)
Schedule B	Site Plan
Schedule C	Materials, Elevations, Plans & Renders
Schedule D	Landscape Plan
Schedule E	Lighting Plan
Schedule F	Heritage Building Summary

3.2 Requirements Prior to Approval

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

(a) Post securities in accordance with Section 3.11.5 of this Agreement;

(b) Based on the sensitivity of the Heritage Building, the Developer is required to provide the following information in addition to the general requirements of Blasting By-law B-600 prior to a Blasting Permit being issued:

- i. Submit a structural analysis of the Heritage Building, prepared by a professional engineer, to determine its structural integrity;
- ii. Submit a report, prepared by a professional engineer, which determines and proposes limits for Frequency of Ground Vibration and Maximum Allowable Particle Velocity in mm/s such that blasting operations will cause no damage to the Heritage Building;
- iii. Submit a report, prepared by a professional engineer, to prepare and monitor a detailed blast plan for the proposed blasting on the Lands; and
- iv. Submit a report, prepared by a professional engineer, a detailed blast plan for the proposed blasting site.

3.2.2 Prior to the issuance of a Development Permit affecting the exterior of the Heritage Building, the Developer shall provide the following to the Development Officer and Heritage Planner:

(a) A Heritage Conservation and Alteration Plan prepared by an Architect, in accordance with the requirements of Section 3.4 of this Agreement.

3.2.3 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

(a) An incentive or bonus agreement in accordance with the Regional Centre Land Use By-law;

(b) A subdivision application subject to and in accordance with the terms and conditions of Section 3.8 of this Agreement;

(c) A Landscape Plan stamped by a certified Landscape Architect in accordance with Section 3.11 of this Agreement;

(d) Confirmation through a stamped structural engineering report that the Heritage Building

and its structural integrity has been assessed prior to any raising or relocation efforts. All such efforts are to be overseen by a professional engineer;

- (e) An Outdoor Lighting Plan in accordance with the requirements of Section 3.10 of this Agreement;
- (f) Written confirmation from a Structural Engineer that all landscaped areas designed to be installed upon any portion of any rooftop level of the building are able to support any required drainage or additional weight caused by the landscaped area; and
- (g) Written confirmation from an Architect that the construction plans meet the architectural requirements of Section 3.6 and Schedules B and C of this Agreement and the HRM Substantial Alteration Report.

3.2.4 Prior to the issuance of an Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Written confirmation from a certified Landscape Architect which the Development Officer may accept as sufficient record of compliance with the Landscape Plan provided in Schedule D or the posting of security in accordance with Section 3.11.5 of this Agreement;
- (b) Written confirmation from an Architect confirming that construction has been completed in accordance with Section 3.6 and Schedules B and C of this Agreement and the HRM Substantial Alteration Report; and
- (c) Written confirmation from HRM's Heritage Planner indicating that all conservation, repair, and rehabilitation work proposed for the Heritage Building as identified in Schedules B and C and the HRM Substantial Alteration Report has been inspected by an HRM Heritage Planner and found to be completed to the extent depicted in the said Schedules B and C and the said HRM Substantial Alteration Report.

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

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) Residential and commercial uses, as permitted within the applicable zone of the Land Use By-law, as amended from time to time, within the Heritage Building and New Addition, with commercial uses limited to the ground and second storeys;
- (b) Open Space, including paved walkways, open terrace, amenity space, and landscaped areas as generally shown on Schedule B; and
- (c) Any uses permitted within the zone applied to the Lands subject to the provisions contained within the applicable Land Use By-law as amended from time to time.

3.4 Heritage

Rights to Alter or Demolish

3.4.1 The Developer covenants and agrees that it shall not demolish the Heritage Building or alter its exterior appearance in any manner without the written consent of the Halifax Regional Municipality.

3.4.2 In the event that an application for a substantial alteration or demolition is denied by the Municipality, the Developer agrees not to demolish or alter the exterior appearance of the Heritage

Building and waives its rights to carry out such alteration or demolition as provided for under Sections 16, 17, and 18 of the *Heritage Property Act*.

3.4.3 Alterations to the exterior appearance of the Heritage Building or Character-Defining Elements are subject to the Heritage Property By-law (By-law H-200) and the *Heritage Property Act*.

Character-Defining Elements

3.4.4 Character-Defining Elements shall be maintained and repaired and not removed or replaced without approval from the Municipality. These Character-Defining Elements of 2539 Agricola Street, include but are not limited to:

- (a) Two-storey "Halifax Box" style dwelling;
- (b) Asymmetrical front façade;
- (c) Bracketed cornice with plain frieze;
- (d) Two-storey bay window with interstitial bell-roof and matching bracketed cornice with plain frieze;
- (e) Simple wooden window trims;
- (f) Corner boards;
- (g) Wood-shingle cladding;
- (h) Near-flat roof; and
- (i) Culturally significant use as a live-music venue.

Substantial Alterations

3.4.5 Any substantial alterations to the Character-Defining Elements of the Heritage Building as identified in Schedule F shall be consistent with the HRM Substantial Alteration Report.

3.4.6 In the event of accidental damage or loss of the Heritage Building, reconstruction must be carried out in consultation with HRM Heritage Staff and consistent with the *Standards and Guidelines for the Conservation of Historic Places in Canada (2nd Edition)*.

Non-Substantial Alterations

3.4.7 All Character-Defining Elements of the Heritage Building as identified in Schedule F shall be maintained, repaired, or replaced in-kind as generally shown in Schedule C, using historical documentation and traditional materials.

3.4.8 Any non-substantial alteration to the exterior appearance of the Heritage Building in accordance with the requirements of the *Heritage Property Act* and the Municipal Heritage Property By-law (By-law H-200), shall be submitted to the Development Officer for review and approval in consultation with an HRM Heritage Planner.

Maintenance and Preventative Measures

3.4.9 All maintenance and repair of the Character-Defining Elements of the Heritage Building shall be conducted with the approval of the HRM Heritage Planner at the time of permitting, and in accordance with the *Standards and Guidelines for the Conservation of Historic Places in Canada, 2nd ed.*, and shall be generally consistent with Schedule C.

Archaeological Monitoring and Protection

3.4.10 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.

3.5 Building Siting & Scale

3.5.1 The Heritage Building's siting, bulk, massing, and scale shall be as generally shown on Schedules B and C and shall conform to the specifications in the HRM Substantial Alteration Report.

- 3.5.2 The Heritage Building shall have a minimum setback of 0.0m from the property line fronting on Agricola Street.
- 3.5.3 The New Addition's siting, bulk, massing, and scale shall be as generally shown on Schedules B and C.
- 3.5.4 The New Addition shall have a minimum setback of 6.1m from the property line fronting on Agricola Street, excepting the parking garage entrance and second-storey balcony, both of which shall have a minimum setback of 1.9m from the property line fronting on Agricola Street, as shown on Schedules B and C.
- 3.5.5 The New Addition shall have a maximum height of 27.3m above average grade, and shall contain no more than 8 storeys plus an Amenity / Mechanical Penthouse storey, as generally shown in Schedule C. Furthermore, no mechanical penthouse shall exceed 4.5 metres in height.
- 3.5.6 The New Addition's streetwall height, streetwall stepbacks, and streetwall articulation shall be as generally shown on Schedules B and C.
- 3.5.7 The New Addition's minimum setbacks from the side lot lines shall be 0.0m.
- 3.5.8 The New Addition's minimum setback from the rear lot line shall be 3.0m.
- 3.5.9 Where 0.0m side 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.
- 3.5.10 Any excavation, construction, or landscaping will be carried out in a safe manner, with the appropriate measures put into place to ensure the protection and preservation of the adjacent properties and the Heritage Building.
- 3.5.11 Notwithstanding Section 3.5.5, the maximum height of the New Addition may be exceeded by the following:
 - (a) antennas;
 - (b) solar collectors;
 - (c) lightning rods;
 - (d) chimneys;
 - (e) cooling towers;
 - (f) window cleaning equipment;
 - (g) windscreens;
 - (h) architectural screens or architectural screening elements;
 - (i) skylights
 - (j) heating, ventilation, and air conditioning equipment and enclosure; and
 - (k) any ancillary equipment and installations related to the above exclusions.

3.6 Architectural Requirements

- 3.6.1 Architectural form, treatment, and materials of the Heritage Building and the New Addition shall be generally consistent with Schedules B and C.
- 3.6.2 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be screened and treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

- 3.6.3 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from view from the public right-of-way.
- 3.6.4 Unenclosed structures attached to a main building such as verandas, decks, porches, balconies, steps, and mobility disabled ramps may be located as generally shown on the Schedules.

3.7 Amenity Space

- 3.7.1 Amenity space shall be provided as generally shown in Schedules B and C.
- 3.7.2 All landscape areas designed to be installed upon any portion of the building must be supported by documentation from a Structural Engineer indicating that the building design is able to support any required drainage or additional weight caused by the landscaped area.

3.8 Subdivision of the Lands

- 3.8.1 Subdivision applications shall be submitted to the Development Officer prior to issuance of development permit and the Development Officer shall grant subdivision approval subject to and in accordance with the following terms and conditions:
 - a) No subdivision under the Regional Subdivision By-law to create additional new lots shall be permitted. 2537 and 2539 Agricola Street, Halifax (PIDs 00169508 and 00169516 respectively) may only be consolidated into one parcel; and
 - b) The designation of 2539 Agricola Street, Halifax (PID 00169516) as a municipally registered heritage property shall carry over to the whole of the consolidated lot resulting from this Municipal subdivision process.

3.9 Parking, Circulation, and Access

- 3.9.1 Access to underground vehicular parking shall be provided from Agricola Street only and as generally shown in Schedules B and C.
- 3.9.2 The dimensions of each vehicular parking space shall adhere to the requirements of the Land Use By-law as amended from time to time.
- 3.9.3 Bicycle parking shall be provided in accordance with the Land Use By-law as amended from time to time.
- 3.9.4 All loading and driveway areas shall be paved or finished with hard surface material.

3.10 Outdoor Lighting

- 3.10.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.10.2 The Heritage Building and New Addition may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

3.11 Landscaping

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

- 3.11.2 Prior to the issuance of a Development Permit, the Developer agrees to provide a Landscape Plan which complies with the provisions of this section and the HRM Urban Forest Master Plan and which generally conforms with the overall intentions of the preliminary landscape plan as shown in Schedule D. The Landscaping Plan shall be prepared by a Landscape Architect (a full member of the Canadian Society of Landscape Architects) and comply with all provisions of this Section.
- 3.11.3 The Developer agrees to work with HRM Urban Forestry and provide a compensation plan for any street trees to be removed.
- 3.11.4 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.11.5 Notwithstanding Section 3.11.4, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.
- 3.11.6 All landscape areas designed to be installed upon any portion of the building must be supported by documentation from a Structural Engineer indicating that the building design is able to support any required drainage or additional weight caused by the landscaped area.
- 3.11.7 All disturbed areas of the Lands shall be reinstated to original condition or better.

3.12 Maintenance

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

3.13 Signs

- 3.13.1 The sign requirements shall be in accordance with the Regional Centre Land Use Bylaw as amended from time to time.
- 3.13.2 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the Lands.
- 3.13.3 Signs shall only be externally illuminated.

3.14 Temporary Construction Building

3.14.1 A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.15 Screening

3.15.1 Propane tanks, oil tanks, natural gas meters, electrical transformers, and mechanical equipment (including HVAC) shall be located on the Lands in such a way to ensure minimal visual impact from any public right-of-way, especially as viewed from Agricola Street, and from residential properties along the side and rear property lines. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

3.15.2 Mechanical equipment shall be permitted on the roof provided the equipment is screened and not visible from the public right-of-way or incorporated into the architectural treatments and roof structure.

3.16 Hours of Operation

3.16.1 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 6:00am and 10:00pm.

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

3.17 Reinstatement

3.17.1 All disturbed areas shall be reinstated to original condition or better.

3.18 Incentive or Bonus Zoning

3.18.1 Incentive or Bonus Zoning shall apply to the development, as per Section 472(2) of the Regional Centre Land Use By-law.

3.18.2 Public benefit values shall be updated using a new appraisal every five (5) years from the date of signing this Agreement. The appraisal shall be done in accordance with Section 476 of the Regional Centre Land Use By-law. No development permit shall be issued for the development if it has not been appraised within the last five (5) years.

3.18.3 The public benefit shall be completed as per Section 474 of the Regional Centre Land Use By-law.

3.18.4 Incentive or Bonus Zoning allocations shall be subject to Section 479-484 of the Regional Centre Land Use By-law.

3.18.5 Notwithstanding Section 472(5) of the Regional Centre Land Use By-law, an Incentive or Bonus Zoning agreement shall not be required when the public benefit is provided in the form of money in lieu.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

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

4.2 Off-Site Disturbance

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

4.3 Undergrounding Services

- 4.3.1 All secondary or primary (as applicable) electrical, telephone and cable service to the building shall be underground installation.

4.4 Site Preparation in a Subdivision

- 4.4.1 The Developer shall not commence clearing, excavation or blasting activities required for the installation of primary or secondary services in association with a subdivision prior to receiving final approval of the subdivision design unless otherwise permitted by the Development Officer.

4.5 Solid Waste Facilities

- 4.5.1 The building shall include designated space for a minimum of five (5) stream commercial waste containers (1. Garbage, 2. Blue Bag Recyclables, 3. Paper, 4. Corrugated Cardboard, and 5. Organics) to accommodate source separation program in accordance with By-law S-600 as amended from time to time.
- 4.5.2 All refuse and recycling materials shall be contained within suitable containers, within the building. Consideration shall be given to the locating of all refuse and recycling material to ensure minimal effect on abutting property owners by means of confining all refuse containers and waste compactors to the parking garage of the building.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

- 5.1.1 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

5.2 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.2.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall have been issued a Grade Alteration Permit in accordance with By-law G-200 Respecting Grade Alteration and Stormwater Management Associated with Land Development, as amended from time to time.

5.3 Sulphide Bearing Materials

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

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

6.1.1 The following items are considered by both parties to be non-substantive and may be amended in a matter consistent with the *Halifax Regional Municipality Charter*:

- (a) Changes to Schedules B, C, D, and E provided that the changes do not conflict with the text of this Agreement;
- (b) Changes to the amenity, parking, outdoor lighting, landscaping, and/or signage requirements as identified in Sections 3.7, 3.9, 3.10, 3.11, and 3.13;
- (c) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
- (d) The granting of an extension to the length of time for the completion of the development as identified in Section 7.4 of this Agreement.

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 three (3) years from the date of registration of this Agreement at the Land Registry Office in Halifax, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

- 7.3.2 For the purpose of this section, commencement of development shall mean final subdivision approval of the consolidation of 2537 Agricola Street (PID or Lot 00169508) and 2539 Agricola Street (PID or Lot 00169516).
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer.

7.4 Completion of Development

- 7.4.1 For the purpose of this section, completion of development shall mean issuance of an Occupancy Permit.
- 7.4.2 Upon the completion of the whole 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 Center Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.

- 7.4.3 In the event that development on the Lands has not been completed within five (5) years from the date of registration of this Agreement at the Land Registry Office in Halifax, as indicated herein, the Lands shall conform with the provisions of the applicable Land Use By-law.

7.5 Discharge of Agreement

- 7.5.1 If the Developer fails to complete the development after five (5) years from the date of execution of this Agreement, 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; or
 - (c) discharge this Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

8.2 Failure to Comply

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

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

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

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

Print Name: _____

Position: _____

Date Signed: _____

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

Witness

HALIFAX REGIONAL MUNICIPALITY

Per: _____
MAYOR

Date signed: _____

Witness

Per: _____
MUNICIPAL CLERK

Date signed: _____

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

SCHEDULE A

LEGAL DESCRIPTION OF THE LAND(S)

PARCEL DESCRIPTION REPORT

2024-01-23 09:37:59

PID: 169508
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2023-12-27 09:10:31

PID 00169508

ALL that lot, piece or parcel of land situate, lying and being in the City of Halifax, being the Lot 1 on the plan of property of William E. Matheson conveyed to him by Sheriffs Deed, August 26, 1902, said lot being described as follows:

BEGINNING at a point on the East side of Agricola Street, 80 feet Northerly from the north-west corner of Garrick Street;

THENCE running Easterly 100 feet;

THENCE at right angles North 27 feet to lands sold to one William Parker;

THENCE along the southern line of said William Parkers Lot 100 feet to Agricola Street aforesaid;

THENCE running Southerly at right angles along Agricola Street, 27 Feet to the place of beginning.

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

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

External Comments:

Description Change Details:

Reason:

Author of New or

Changed Description:

Name:

Registered Instruments:

Comments:

PARCEL DESCRIPTION REPORT

2024-01-23 09:41:00

PID: 169516
CURRENT STATUS: ACTIVE
EFFECTIVE DATE/TIME: 2023-12-27 12:03:07

ALL that certain lot, piece or parcel of land situate, lying and being on the East side of Agricola Street, in the City of Halifax, being part of property conveyed to William E. Mathason in 1902 and being lot number 2 on a plan of said property made by Matheson bounded and described as follows:

BEGINNING at a point on the East side of Agricola Street, distant 107 feet North from the north side Garrick Street;

THENCE to run north on Agricola Street 30 feet to the south side of Lot number 3 of said division;

THENCE Easterly along the south side line of Lot number 3, 100 feet;

THENCE Southerly 30 feet to the north side of Lot Number 1;

THENCE West along the north side line of Lot Number 1, 100 feet to the place of beginning;

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

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

External Comments:

Description Change Details:

Reason:

Author of New or

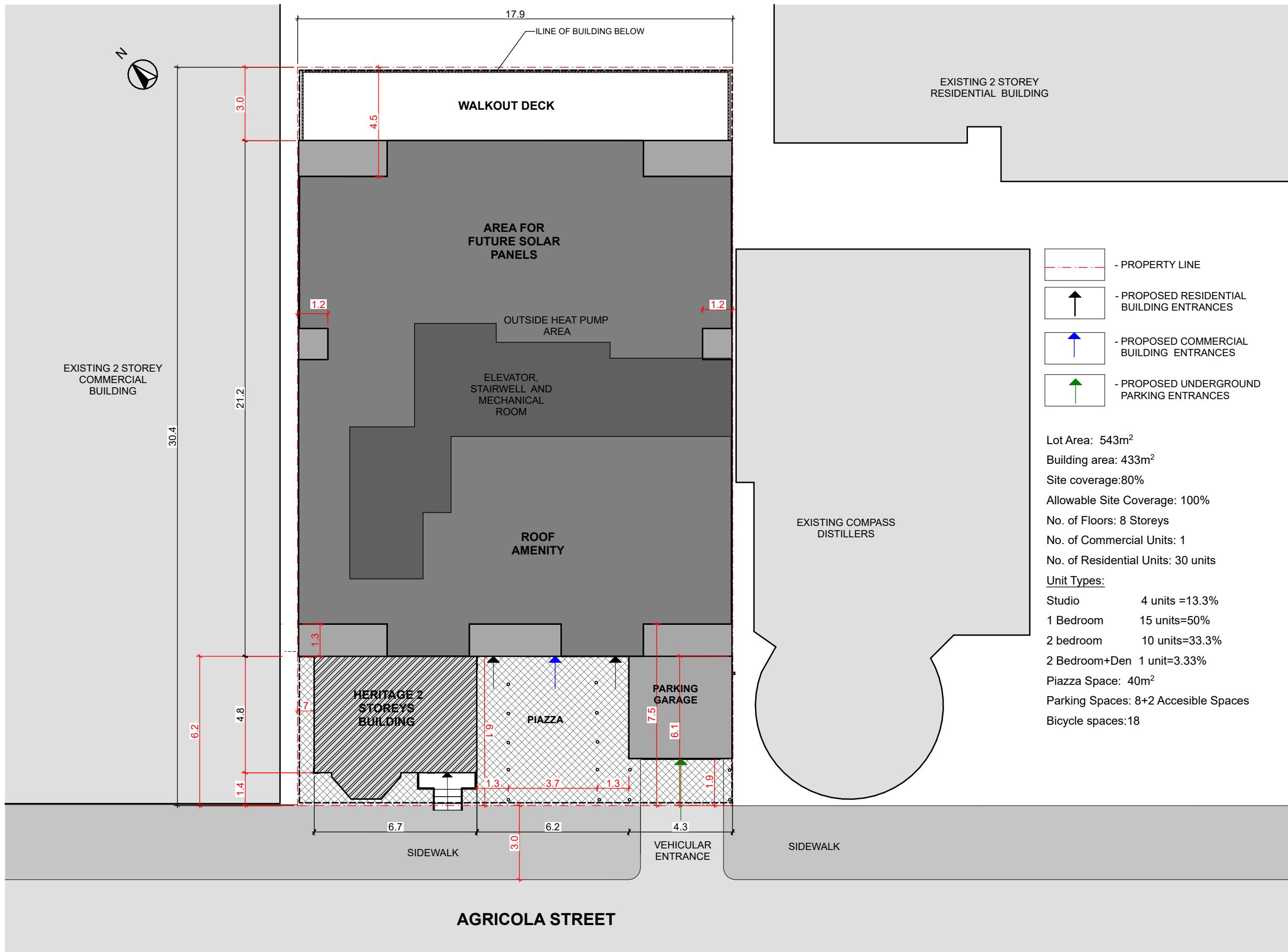
Changed Description:

Name:

Registered Instruments:

Comments:

SCHEDULE B
SITE PLAN



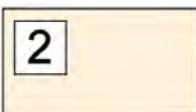
SCHEDULE C

MATERIALS, ELEVATIONS,
PLANS & RENDERS

HERITAGE BUILDING



- WOOD SHINGLES GREEN COLOUR OR SIMILAR



- CORNBOARD, CORNICE, DOOR AND
WINDOW TRIM PAINTED IN LIGHT
BEIGE COLOURS

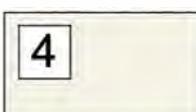


- RECLAIMED CLAY BRICK OR SIMILAR

NEW BUILDING



- RECLAIMED CLAY BRICK OR SIMILAR



- SVK FIBRE CEMENT PANELS NATURAL
COLOUR OR SIMILAR



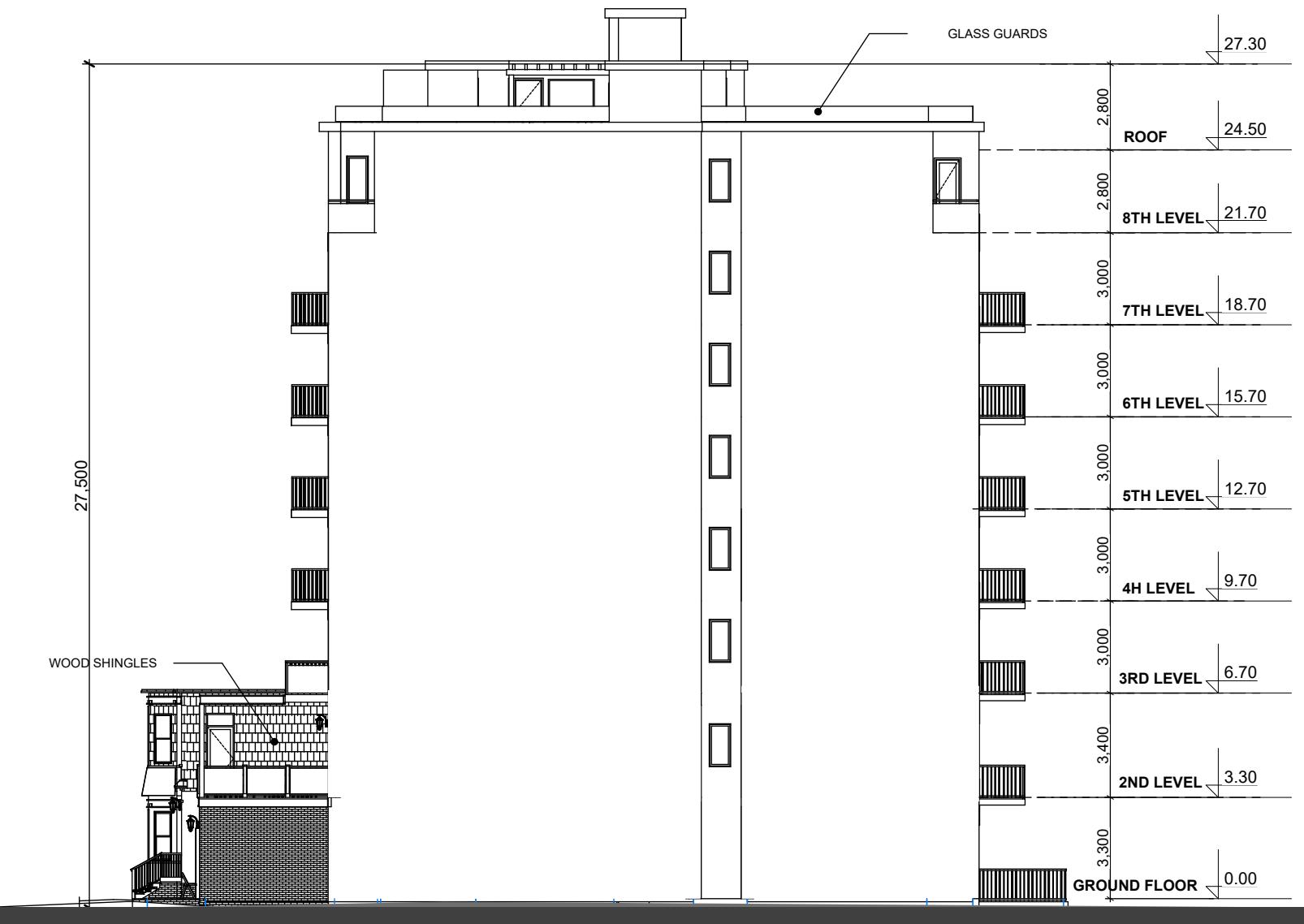
- SMOOTH STEEL PANELS OR SIMILAR



- SVK FIBRE CEMENT PANELS SLATE
COLOUR OR SIMILAR



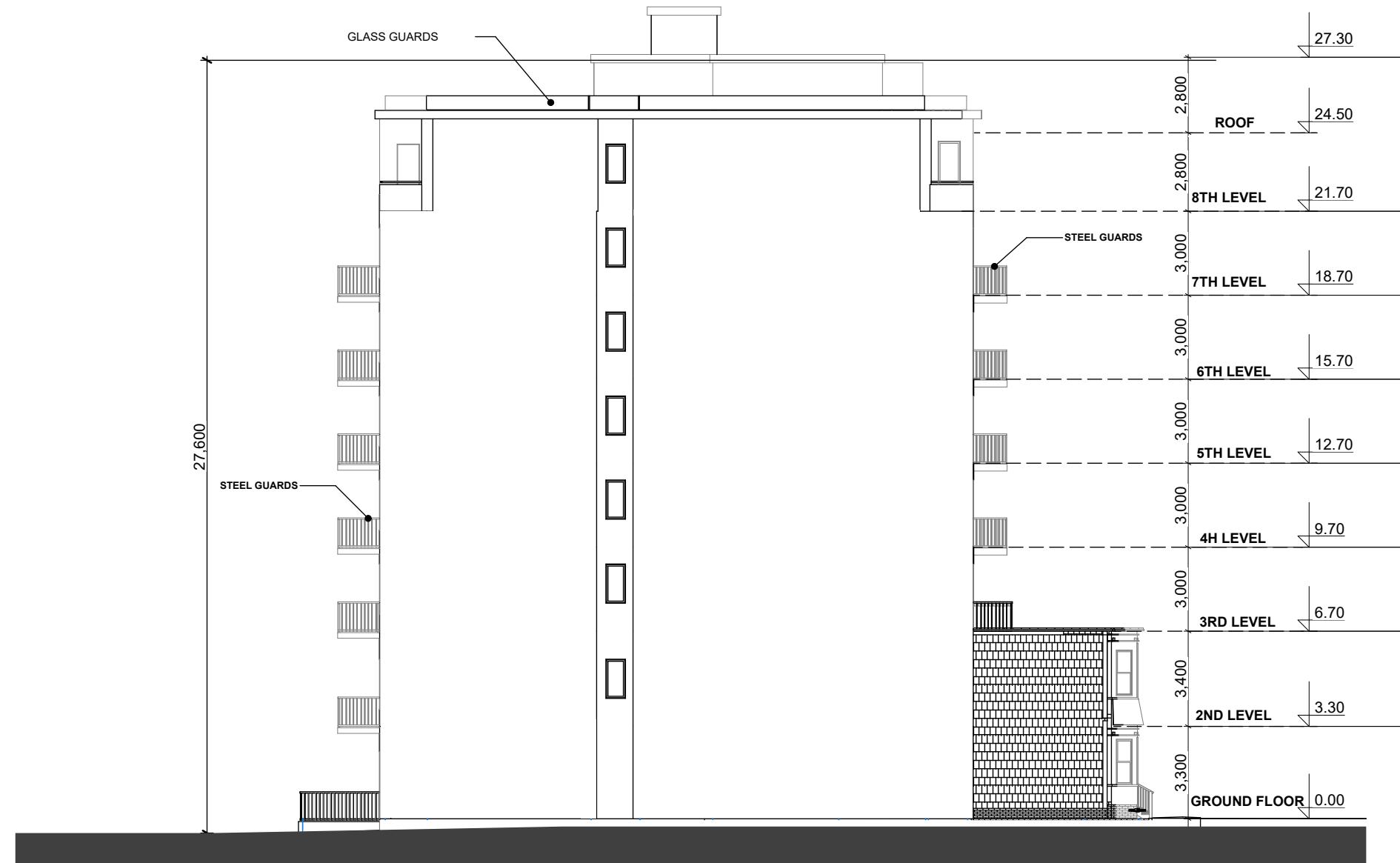
SOUTH FACADE



EAST FACADE



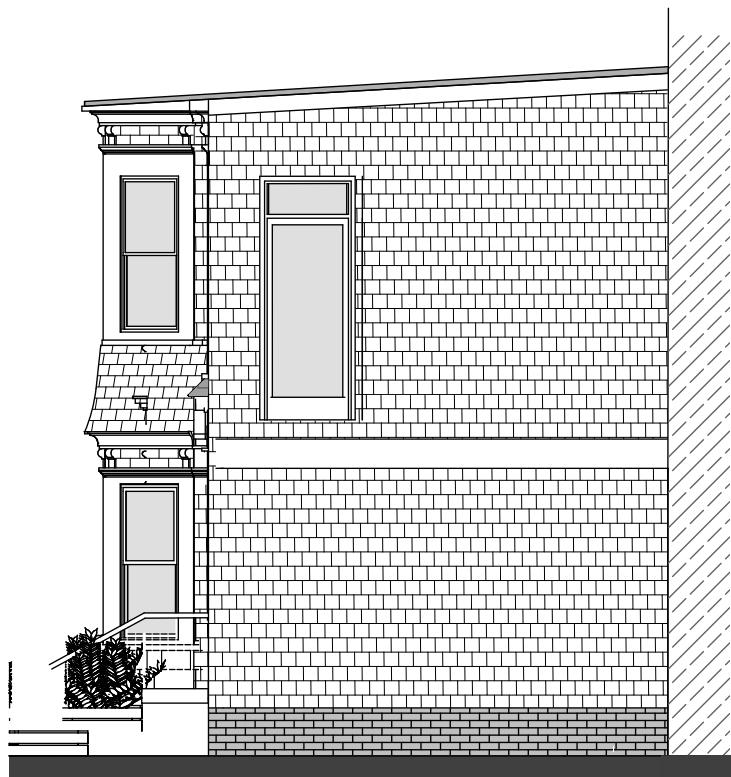
NORTH FACADE



NORTH ELEVATION

2537 Agricola Street

SIDE ELEVATION



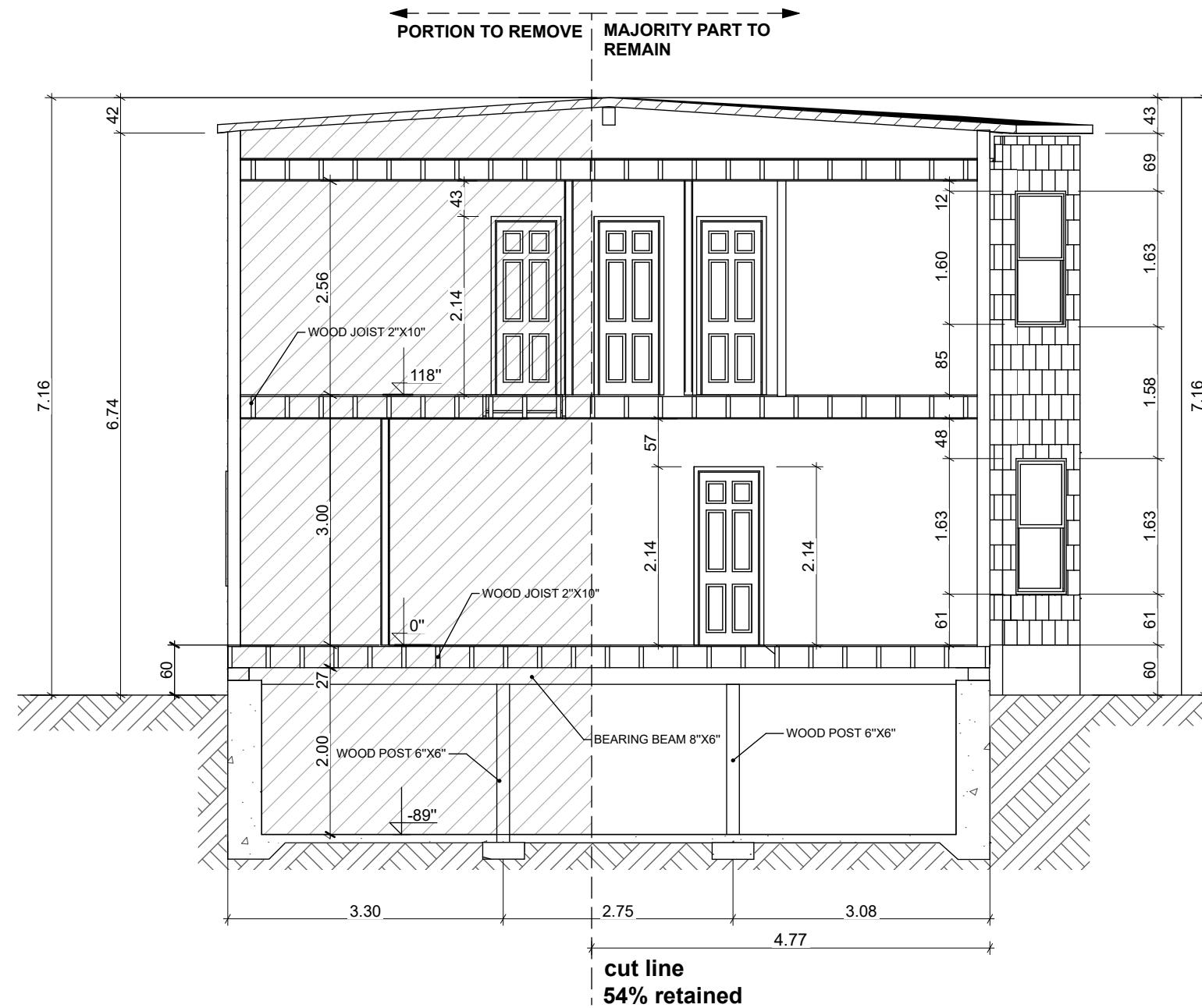
FRONT ELEVATION



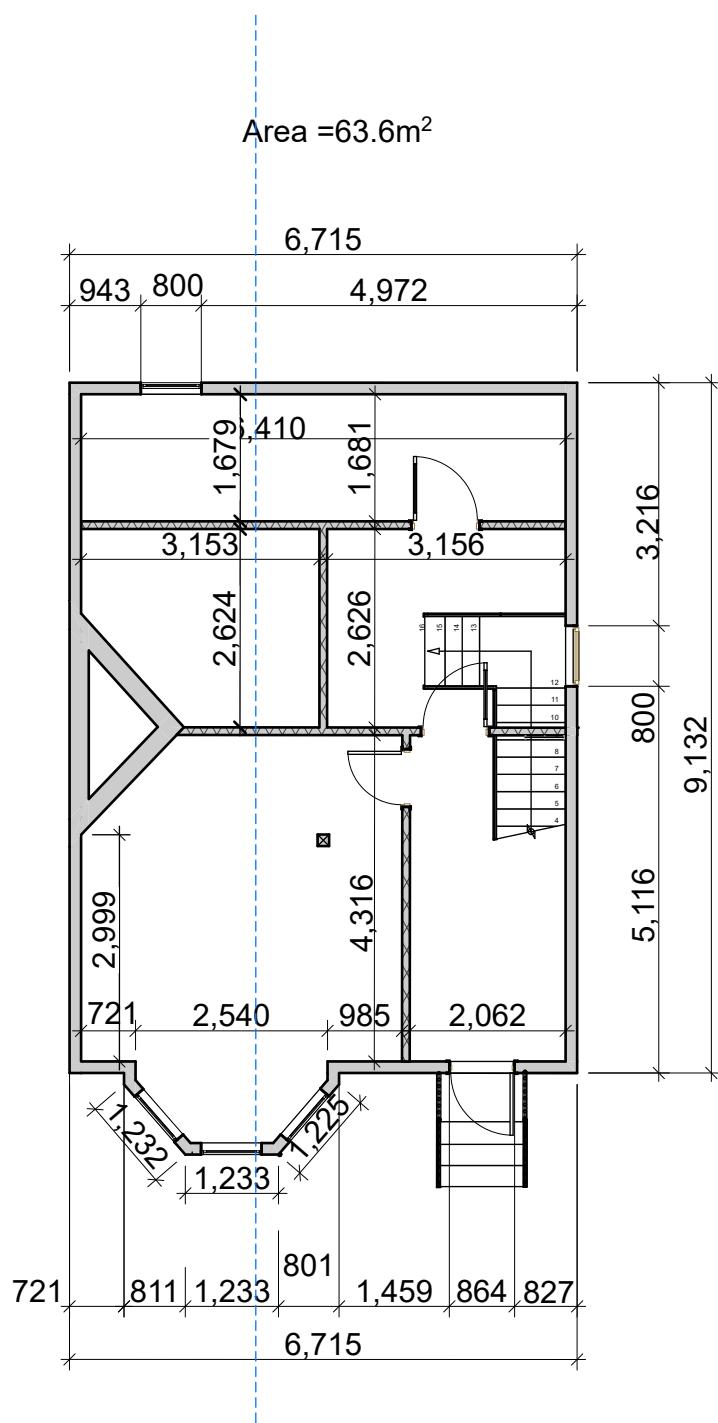
FRONT ELEVATION
IN COLOR



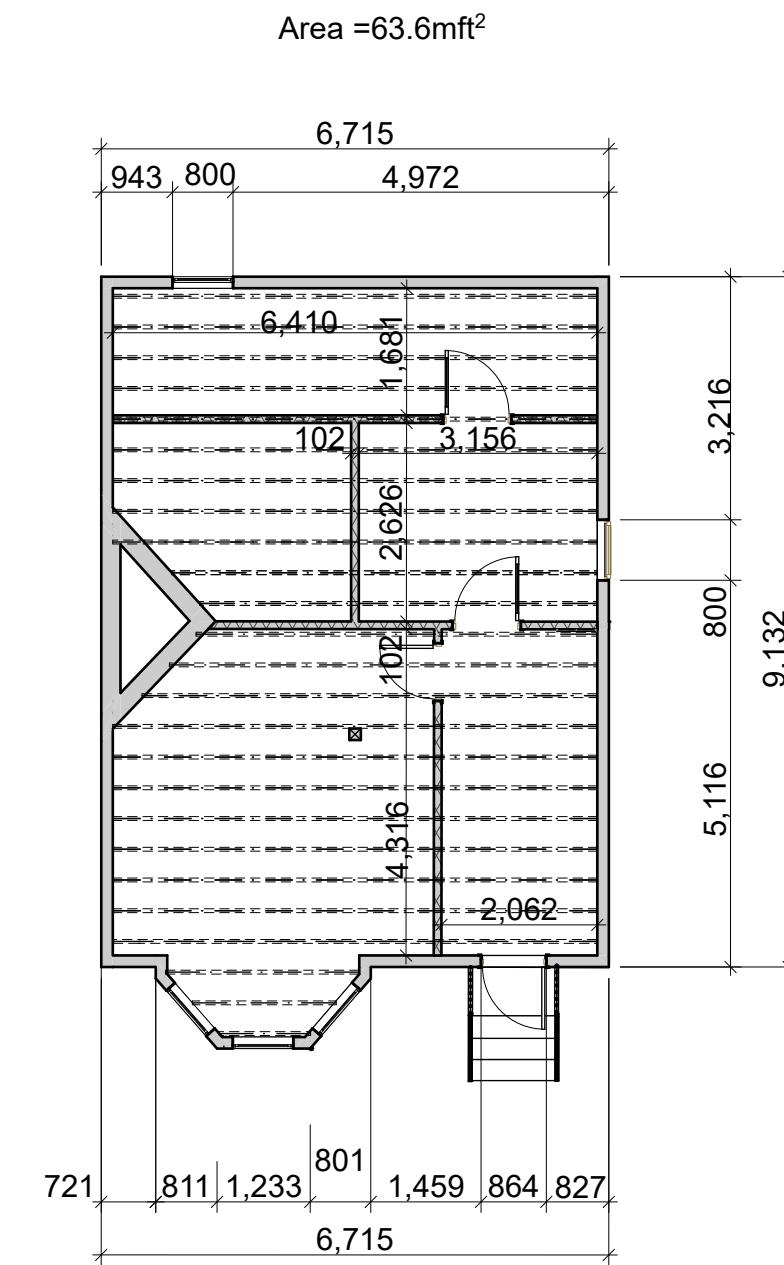
RESTORATION OF THE HERITAGE BUILDING
WILL BE DOCUMENTED



PLAN



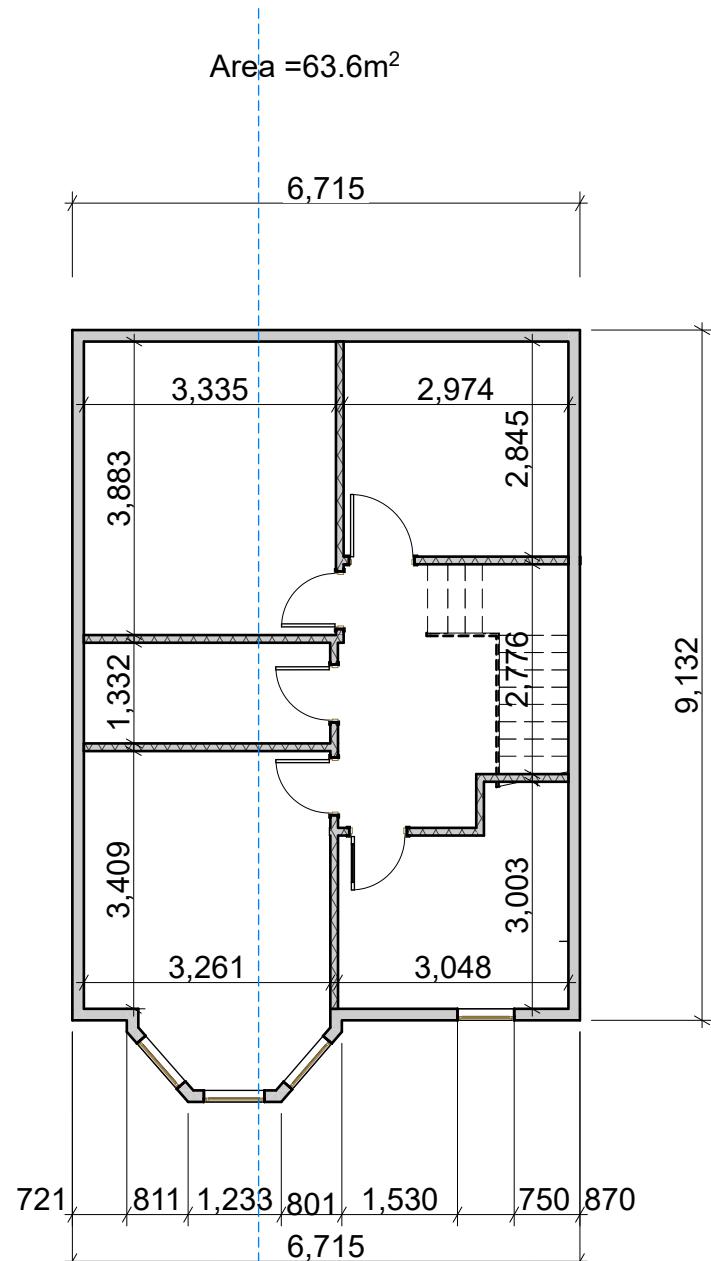
FRAMING PLAN



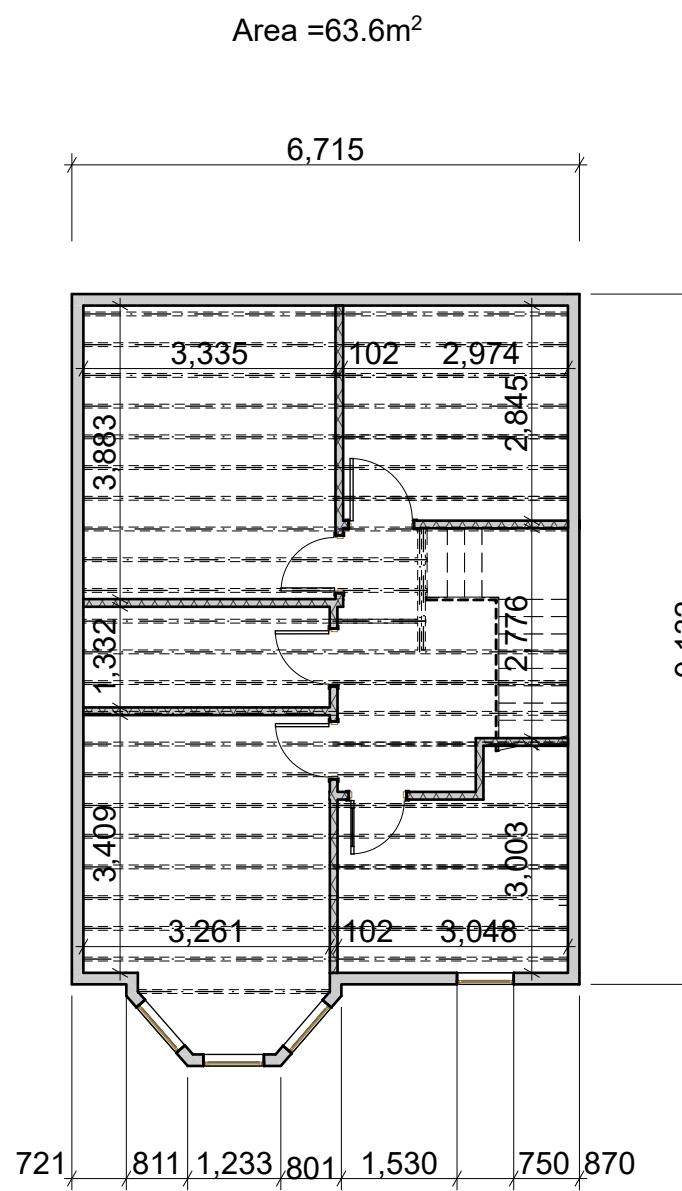
EXISTING MAIN FLOOR

2537 Agricola Street

PLAN



FRAMING PLAN



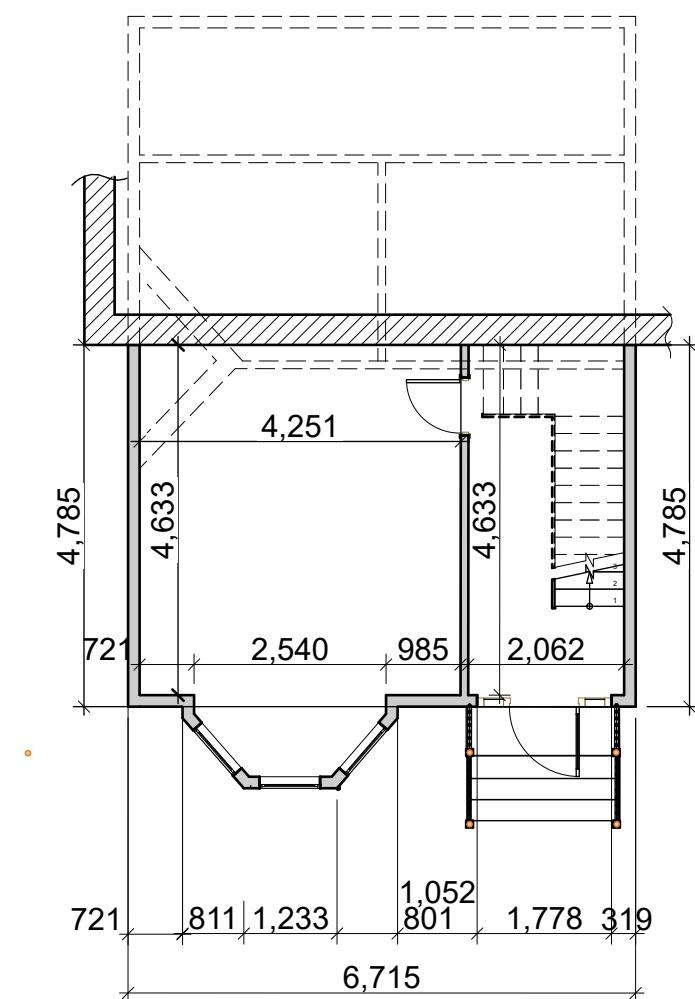
EXISTING SECOND FLOOR

2537 Agricola Street

MAIN FLOOR

Area = 34.3m^2

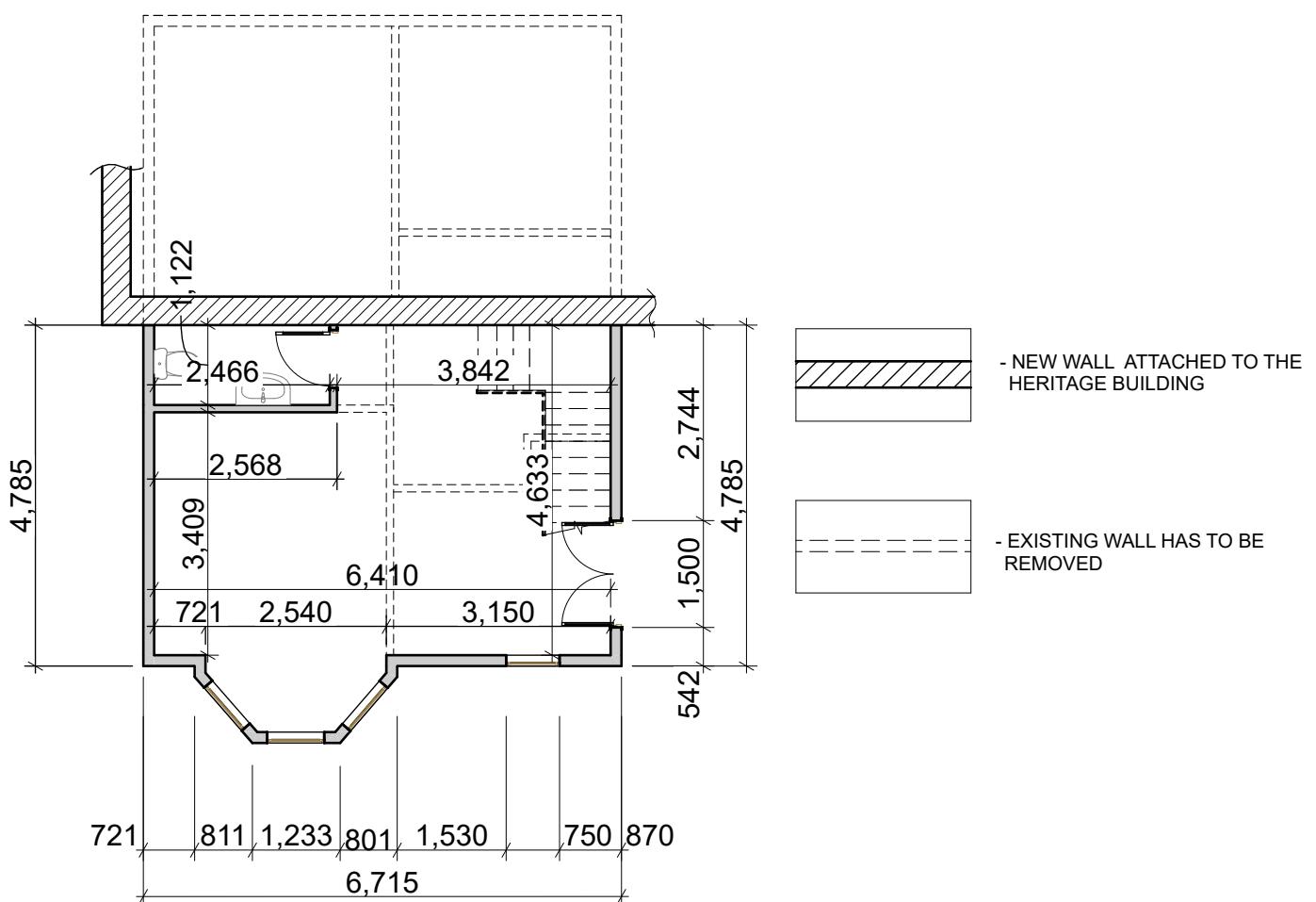
54% retained



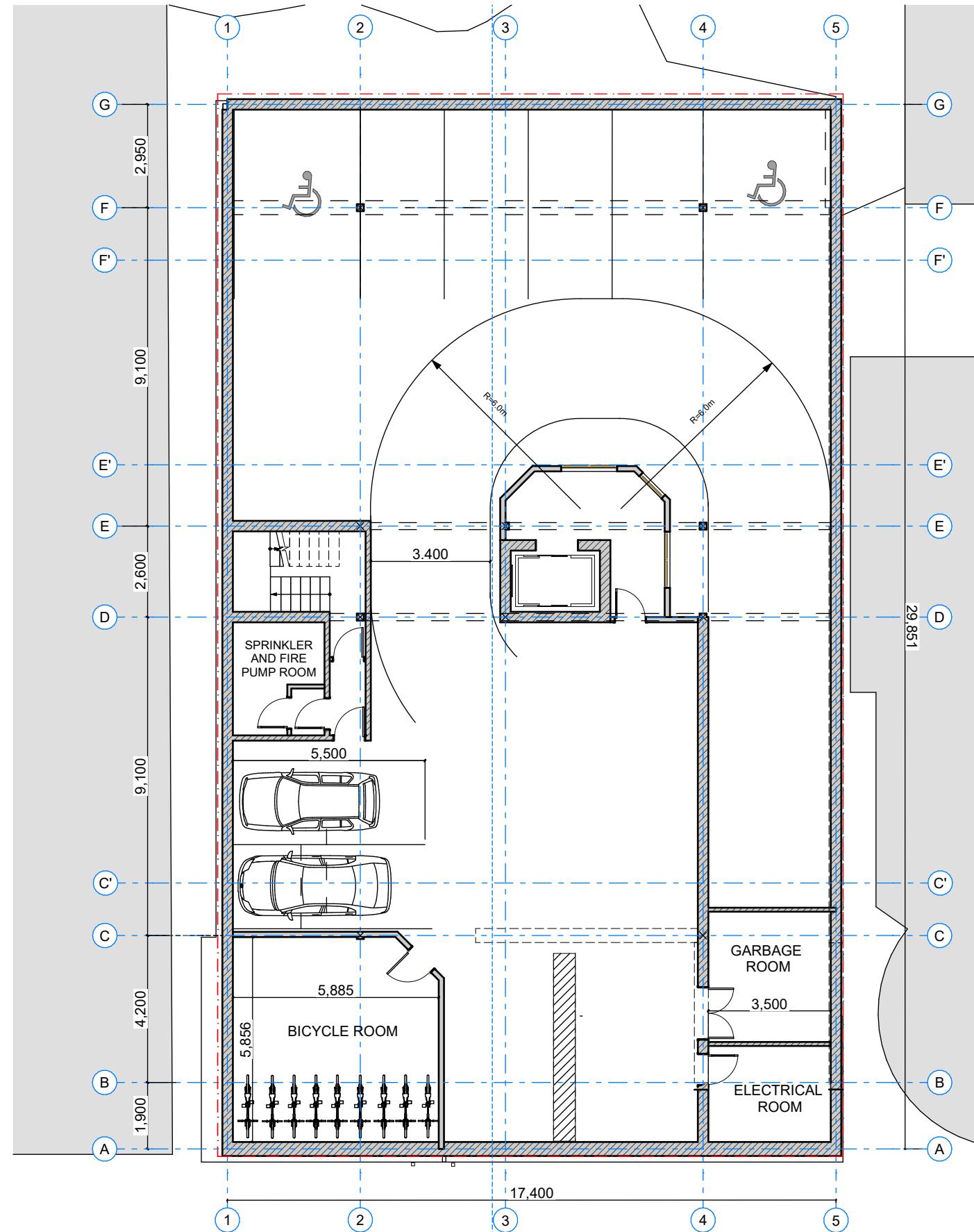
SECOND FLOOR

Area = 34.3m^2

54% retained



UNDERGROUND FLOOR



UNDERGROUND FLOOR

2537 Agricola Street



PLAN



3D VIEW







SCHEDULE D
LANDSCAPE PLAN

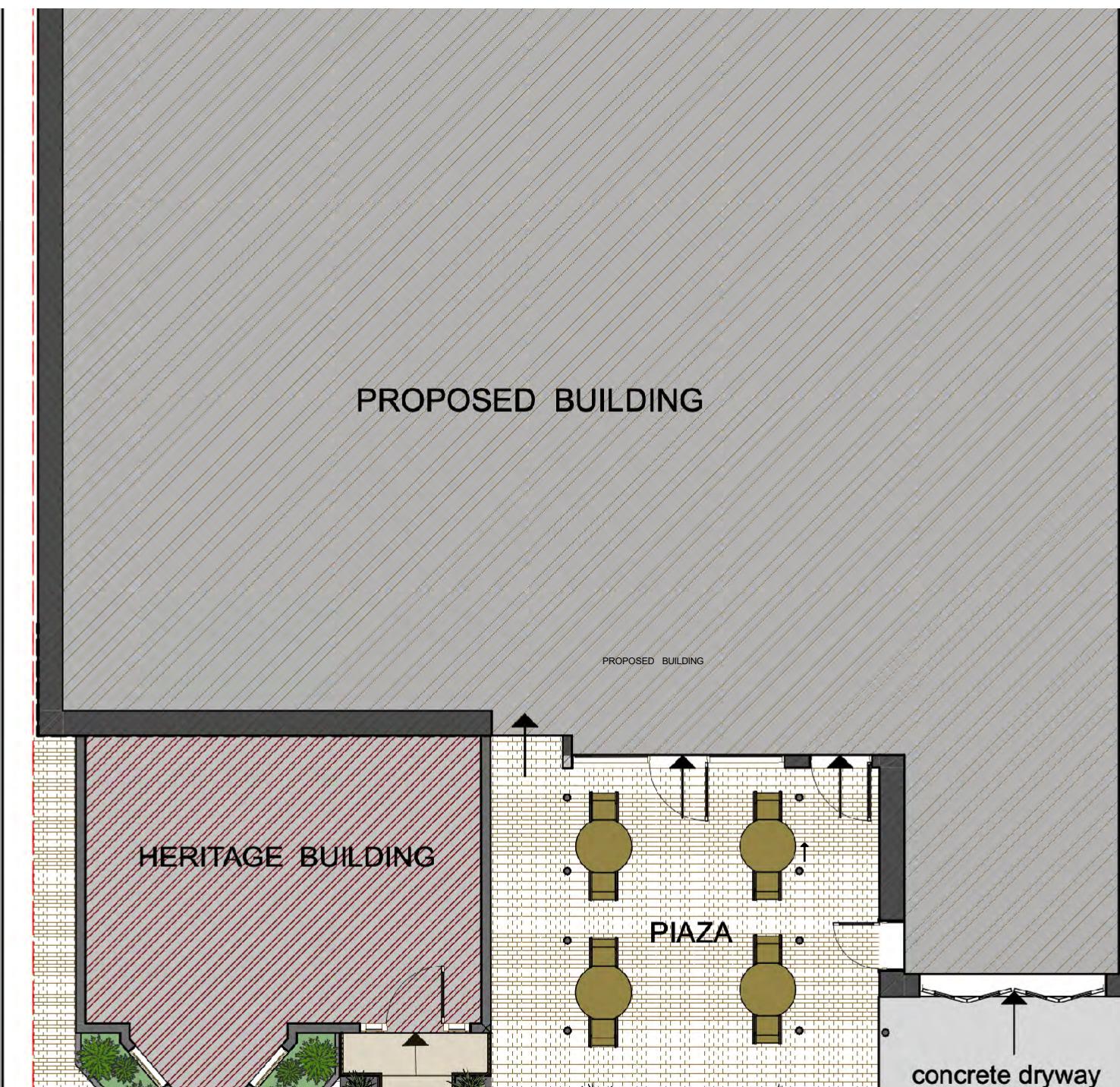
EXISTING 2 STOREY
COMMERCIAL BUILDING

KEY:



PROPOSED BUILDING

EXISTING COMPASS
DISTILLER



AGRICOLA STREET

SCHEDULE E
LIGHTING PLAN



SCHEDULE F

HERITAGE BUILDING SUMMARY

OPEN MIC HOUSE, 2539 AGRICOLA STREET, HALIFAX (c.1905)



Character-Defining Elements:

- Two-storey “Halifax Box” style dwelling
- Asymmetrical front façade
- Bracketed cornice with plain frieze
- Two-storey bay window with interstitial bell-roof and matching bracketed cornice with plain frieze
- Simple wooden window trims
- Corner boards
- Wood-shingle cladding
- Near-flat roof
- Culturally significant use as a live-music venue

Heritage Value:

The Open Mic House (2539 Agricola Street, Halifax) was added to the Registry of Heritage Properties for the Halifax Regional Municipality in 2020. The property's heritage value is embodied in the 2-storey Victorian Plain (Halifax Box) dwelling which was constructed circa 1900-1905 and first occupied by William Oxner (employee of the Intercolonial Railway), his wife, Mary Oxner, and Joseph Locke (labourer). The property has alternated between housing rental tenants and owner-occupiers. It has a longstanding history as a home for tradespeople and the working classes, with occupants including a marine engineer, carpenter, assistant engineer at Nova Scotia Technical College, fisherman, elevator operator and clerk, fireman, rabbi, mechanic, airline attendant, foreman, and so on.

Much of Agricola Street was badly damaged in the Halifax Explosion, but the subject property's location south of North Street likely aided its survival. It is now a rare remaining example of the “Halifax Box” style on Agricola Street. The builder responsible for the construction of this dwelling is unknown, but based on the style, the home was likely built by a local construction firm. One such example is the firm of Rhodes & Curry, which was located nearby at the corner of Robie Street and McCully Street and was the largest contractor in the Maritimes at the time.

In more recent years, the property has earned the colloquial name “Open Mic House” for its culturally significant function as a hub for the local arts community and a venue for live music events. Beginning in 2008, the Open Mic House held weekly live music events, initially hosted by award-winning local musicians and Open Mic House residents, Ben Caplan and Jacques Mindreau, and attracting many noteworthy local artists. The cultural contributions of the venue as a performance space have been recognized by both local media and the provincial government.

ATTACHMENT B

PLANNING POLICY REVIEW

The following document reviews the policies which apply to Case 24359: Application for a Heritage Development Agreement for a mixed-use addition at 2537 & 2539 Agricola Street, Halifax.

The applicable policies which have been reviewed include:

- The *Standards and Guidelines for the Conservation of Historic Places in Canada, 2nd Ed.*
- Applicable policies of the *Halifax Regional Municipal Planning Strategy* (Regional Plan)
- Applicable Policies in the *Regional Centre Secondary Municipal Planning Strategy*

Standards and Guidelines

Standard	Staff Comments
Standard 1 Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable character defining elements. Do not move a part of an historic place if its current location is a character-defining element.	The historic use as a musical venue is proposed to be maintained through the new commercial use of the heritage building and second-storey balcony as a performance space and all existing character-defining elements (CDEs) will be retained. Wooden single-hung windows, which are listed as a CDE in the Form A will be reinstated. The rear portion to be removed does not contain any character-defining elements. The historic building will be replaced in its original location once the new foundation is completed.
Standard 2 Conserve changes to an historic place that, over time, have become character-defining elements in their own right.	The cultural use of the heritage property as a musical venue, which has over time become character-defining in its own right, will be retained.
Standard 3 Conserve heritage value by adopting an approach calling for minimal intervention.	Physically the building exhibits fair to poor heritage integrity. The proposal will retain all remaining character-defining elements and will remove later modifications. The proposal will rehabilitate the building with period-appropriate features of the same architectural style based on similar examples. This level of intervention is commensurate with the current fair to poor state of the building's heritage integrity. The rear addition will not impact the CDEs of the historic building and the removal of a rear portion of the historic building (46%) is due to the limited size of the site and is needed to provide a viable floorplate for the project and by extension enable rehabilitation of the historic building.
Standard 4 Recognize each historic place as a physical record of its time, place and use. Do not create a false sense of historical development by adding elements from other historic places or other properties, or by combining features of the same property that never coexisted.	There is insufficient historic record to exactly restore the historic building to its original state. As this original state is unknown, existing CDEs will be retained, later modifications will be removed, and era-appropriate features will be reinstated based on historical evidence of similar buildings of the same style from the same era. No features with identifiable characteristics will be directly added/reused from other properties or eras.
Standard 5 Find a use for an historic place that requires minimal or no change to its character-defining elements.	The proposed use of the existing historic building as commercial space, including its continued use as a musical venue will require no change to character-defining elements.
Standard 6 Protect and, if necessary, stabilize an historic place until any subsequent intervention is undertaken. Protect and preserve archaeological resources in place. Where there is potential for disturbing archaeological	The historic building will be temporarily closed, with measures to protect it from vandalism and weather while the building is moved. The historic building will be protected during construction of its new foundation in consultation with a structural engineer.

<p>resources, take mitigation measures to limit damage and loss of information.</p>	
<p>Standard 7 Evaluate the existing condition of character-defining elements to determine the appropriate intervention needed. Use the gentlest means possible for any intervention. Respect heritage value when undertaking an intervention.</p>	<p>Original character-defining elements will be conserved and rehabilitated wherever possible, and where not possible, will be replaced, matching the details and materiality (i.e. wood construction) of the originals. The new building at rear will have a two-hour rated wall constructed as a firewall to create two physically independent buildings. A sprinkler system and fire alarm monitoring tied in with the new building will be installed in the heritage building. This additional fire prevention should permit the use of wood shingles as exterior siding to respect the heritage value of the historic building.</p>
<p>Standard 8 Maintain character-defining elements on an ongoing basis. Repair character-defining elements by reinforcing their materials using recognized conservation methods. Replace in kind any extensively deteriorated or missing parts of character-defining elements, where there are surviving prototypes.</p>	<p>Replacement in kind will be used for any extensively deteriorated or missing parts of character-defining elements based on surviving examples. The new addition in rear of the historic building will provide a source of revenue to enable the ongoing maintenance of the historic building.</p>
<p>Standard 9 Make any intervention needed to preserve character-defining elements physically and visually compatible with the historic place and identifiable on close inspection. Document any intervention for future reference.</p>	<p>The repairs and intervention will aim to repair and where necessary replace deteriorate or lost character-defining elements in a visually compatible fashion. A front door with transom, sidelights, and trim will be constructed and installed, and its design will be based on historical evidence of similar buildings of the same style from the same era. The new foundation will be faced with reclaimed brick to reference the historic building's original foundation materials and ensure the new foundation remains compatible with the historic building. The rehabilitation process will be documented.</p>
<p>Standard 10 Repair rather than replace character-defining elements. Where character-defining elements are too severely deteriorated to repair, and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements. Where there is insufficient physical evidence, make the form, material and detailing of the new elements compatible with the character of the historic place.</p>	<p>Character-defining elements will be repaired where possible, and rotten wood ornamentation needing replacement will employ the same forms, materials, and detailing as the original. Archival photos of similar properties of the same style and era show the original scale of shingles for such a building, which will be reinstated as part of the rehabilitation.</p> <p>New elements such as the new entrance, replacement windows, and new foundation will be designed to be compatible with the historic place and consistent with designs and materiality of the same architectural style and era, using the physical evidence of similar extant buildings and the documentary evidence of historic photographs of similar buildings as a point of reference.</p>
<p>Standard 11 Conserve the <i>heritage value</i> and <i>character-defining elements</i> when creating any new additions to an <i>historic place</i> or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.</p>	<p>The proposal conserves the heritage value of the heritage building by maintaining and restoring character-defining elements and conserving its relationship to the street and location on Agricola Street. The proposed modern addition's massing is located to the rear of the heritage building to help subordinate it. The design of the modern addition has been revised to become physically and visually compatible with, but subordinate to and distinguishable from the heritage building:</p> <ul style="list-style-type: none"> - The proposed addition has been simplified so as not to distract from the registered heritage property;

	<ul style="list-style-type: none"> - The proposed addition employs a consistent number of bays throughout the vertical façade of the building; - The second storey balcony and pergola continue the streetwall from the registered heritage property, minimizing the prominence of the garage entrance; - The roofline of the addition has been simplified to avoid drawing the eye upwards; - The addition employs neutral colours so as not to distract from the registered heritage property; - The addition employs the use of reclaimed brick cladding (human-scale materiality) to reference the original foundation materials and complement the heritage building; and - The faux cornice of the second-storey pergola extends the streetwall datum line from the cornice of the historic building across the full width of the new addition and employs a simplified design in order to remain sufficiently distinguishable.
Standard 12 Create any new additions or related new construction so that the essential form and integrity of an <i>historic place</i> will not be impaired if the new work is removed in the future.	The new addition proposes to attach to only the rear of the heritage building, where there are no character defining elements to be lost, damaged, or altered. The firewall between the heritage building and addition and the revised layout of the heritage building mean its function, essential form, and integrity are not compromised should the addition ever be removed.

Regional Centre Secondary Municipal Planning Strategy

Policy CHR-7

On any lot containing a registered heritage building located outside of the DH Zone and any approved Heritage Conservation District, Council may consider a development agreement for any development or change in use not otherwise permitted by the Land Use By-law to support the integrity, conservation and adaptive re-use of registered heritage buildings. This includes development proposals that exceed the maximums floor area ratios or the maximum building heights on Map 3 and Map 4 of this Plan. In considering such development agreement proposals, Council shall consider that:

Policy	Comments
a) the development proposal maintains the heritage value of any registered heritage property of which it is part, including a registered heritage streetscape, and does not propose to demolish any registered heritage buildings that exist on the lot;	The proposed development will see the preservation and rehabilitation of the Open Mic House, the registered heritage building on the site.
b) the impact on adjacent uses, particularly residential uses, is minimized in terms of intensity of use, scale, height, traffic generation, noise, hours of operation, and such other land use impacts as may be required as part of a development;	The proposed development is located on Agricola Street between Charles Street and Willow Street. In terms of the intensity, scale, and height of the proposal, this area of Agricola Street is a mixed-use environment, which is primarily zoned Corridor (COR) and Centre (CEN-2), with a small pocket of ER-3 zoning across the street. There is a mixture of residential densities, including mid-rise multi-unit buildings, as well as single-unit dwellings, in the blocks surrounding the subject site. In terms of traffic generation, noise, and hours of operation, Agricola Street also features several commercial uses, such as restaurants, cafes, storefronts, and auto repair shops. The proposed

	<p>commercial use is for a restaurant/taproom, which is in keeping with existing commercial uses that immediately abut the property. Furthermore, the existing use at 2537 Agricola Street (one of the subject properties) is an auto repair garage, which staff consider as a more intense traffic and noise generator than the proposed residential and commercial uses.</p> <p>Based on the above rationale, staff have determined that the impact of the proposal, a higher residential density and similar/lesser commercial intensity as adjacent/existing uses, is not anticipated to have negative impacts on adjacent uses.</p>
<p>c) any new construction, additions, or renovations facing a street substantially maintain the predominant streetwall height, setbacks, scale, and the rhythm of the surrounding properties, especially of registered heritage properties;</p>	<p>The proposal has two primary sections of streetwall: one created by the existing registered heritage building and the other created by the garage entrance to the proposed new addition. Excluding the garage entrance, the new addition is set back 6.15m from the front lot line and 4.78m from the existing streetwall established by the registered heritage property. This will help reduce the addition's perceived scale. The cornice of the registered heritage building establishes a datum line which the new addition, through its balcony and pergola, respects and reinforces. The pergola and balcony in-effect create a continuation of the registered heritage building's existing upper and lower cornice lines. Together the registered heritage building and new addition form a stronger more coherent streetwall than existed before.</p> <p>The modern addition features a recessed front entrance to accommodate a commercial use and an underground parking garage entrance which is setback from the front lot line further than the registered heritage building but substantially less so than the face of the new addition. To create a streetwall of similar height and setback to the heritage building along the entire streetwall on Agricola a balcony and pergola have been added to the second storey commercial space which extend the streetwall along the datum lines established by the registered heritage property.</p> <p>The Piazza space at ground level, as well as the second-storey balcony space have both been indicated as for the use of the commercial tenant.</p>
<p>d) the development complies with Pedestrian Wind Impact and Shadow Impact Assessment Protocol and Performance Standards of the Land Use By-law;</p>	<p>Under the Pedestrian Wind Impact Assessment Protocol and Performance Standards in the LUB, a <u>qualitative assessment</u> by a qualified wind engineer is required under Table A1-1, due to its height being between 20 and 40 metres amongst surroundings which are lower.</p> <p>Such an assessment has been provided by a qualified wind engineer on behalf of the applicant. The report concludes that wind conditions are expected to be suitable both on site and on surrounding sidewalks.</p> <p>A Shadow Impact Assessment is not required under LUB.</p>

e) the level of proposed investment in conservation measures on the property and through the required incentive or bonus zoning requirements is generally proportional with the additional development rights provided through the agreement, especially in cases of new construction;	The applicant's proposed level of investment as outlined in their Class C Cost estimate has been reviewed by staff using an internal calculator and was found to be proportional with the additional development rights provided through the agreement.
f) any un-registered, historic buildings on the lot that contributes to neighbourhood character are preserved to retain the visual integrity of the lot;	There are no unregistered historic buildings on the lot.
g) the development complies with policies relating to protected public views and view terminus sites;	This site is not a public view/view terminus site.
h) incentive or bonus zoning is provided consistent with the requirements of the Land Use By-law;	Bonus zoning will be required as part of the development agreement. A public benefit agreement will be developed at the permitting stage for the conservation of a registered heritage property (the Open Mic House).
i) the development agreement requires a waiver under Section 18 of the Heritage Property Act to be registered on the property before a development permit is issued for any portion of the development; and	The waiver will be required as part of the development agreement.
j) the general development agreement criteria set out in Policy IM-7 in Part 9 of this Plan.	See below.

Policy IM-7

Policy	Staff Comments
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;	Review of applicable Regional Plan and SMPS policies has been completed to determine consistency. Proposal is generally consistent with both documents and applicant has made changes on staff's recommendation to better meet intent.
b) the proposal is appropriate and not premature by reason of: <ul style="list-style-type: none"> i) the financial capacity of the Municipality to absorb any costs relating to the development, ii) the adequacy of municipal wastewater facilities, stormwater systems or water distribution systems, iii) the proximity of the proposed development to schools, parks, and community facilities, and the capability of these services to absorb any additional demands, iv) the adequacy of transportation infrastructure for pedestrians, cyclists, public transit and vehicles for travel to and within the development, and v) the impact on registered heritage buildings, heritage streetscapes, and heritage conservation districts; 	The proposal is appropriate and not premature by reasons outlined: <ul style="list-style-type: none"> i) There will be no additional costs for the Municipality relating to the development. The developer will be required to pay for site servicing and any other works to take place pertaining to the development; ii) Halifax Water reviewed the application and did not identify any wastewater, stormwater, or water distribution concerns; iii) HRCE and staff did not express concerns with regards to availability or capacity for schools and parks; iv) The subject property is located on Agricola Street, which is well-served by active transportation and public transit facilities, including current and future Local Street Bikeways, nearby bus stops on North Street, Robie Street, and Gottingen Street, and pedestrian facilities throughout the neighbourhood. v) The application is focused within a heritage context on a Registered Heritage Property. The subject property will be altered and restored to the specifications of the Policy. No other heritage buildings are expected to be impacted by the proposal.

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;	Staff reviewed this application and did not find that any geological concerns are anticipated.
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: i) type of use(s), ii) built form of the proposed building(s), iii) impacts on adjacent uses, including compatibility with adjacent residential neighbourhoods, parks, community facilities, and railway operations, iv) traffic generation, safe access to and egress from the site, and parking, v) open storage and signage, and vi) impacts of lighting, noise, fumes and other emissions.	<p>Potential conflict is adequately minimized by development regulations:</p> <p>i) The proposed use(s) in this application are multi-unit residential and commercial. This is in keeping with the existing neighbourhood near North and Agricola Streets, which contains a variety of commercial uses (specifically focused along the pedestrian realm) and a range of residential densities from single-unit dwellings to multi-unit dwellings. It is not expected that the proposed uses will conflict with existing uses.</p> <p>ii) The proposed building is an 8-storey plus amenity penthouse multi-unit residential building with a glazed streetwall to provide for permeability for the future commercial use. The building also features the retention of the Registered Heritage Property at 2539 Agricola Street which represents roughly a third of the streetwall of the overall building. There are some modifications which have been made to the proposal to make the new addition more compatible with the registered heritage property and the existing neighbourhood, including reducing the protrusion/mass of the parking garage entrance along the streetwall, and reducing the visual intricacy of the new addition to create a more neutral backdrop for the Registered Heritage Property, among other changes.</p> <p>iv) Staff have reviewed the proposal and determined that traffic generation, safe access and egress to and from the site, and parking are not expected to conflict with nearby land uses.</p> <p>v) The proposal will be required to meet the Land Use By-law provisions for open storage and signage, which mitigate potential conflicts with nearby land uses;</p> <p>vi) The proposal includes commercial uses and residential uses which are in keeping with the existing commercial and residential uses in the neighbourhood, therefore the impacts of lighting, noise, fumes, or other emissions are not expected to be in conflict with adjacent uses.</p>

Regional Municipal Planning Strategy

CHAPTER 7: CULTURAL AND HERITAGE RESOURCES	
7.3 Protection of Heritage Resources	
Policy	Staff Comments
CH-5 <i>HRM shall consider the retention, preservation, rehabilitation and restoration of those buildings, public building interiors, streetscapes, cultural landscapes, areas and districts of historic, architectural or cultural value in both urban and rural areas and encourage their continued use.</i>	The proposed development includes the retention and rehabilitation of the registered heritage property at 2539 Agricola Street (Open Mic House) for a new compatible use.

7.4 Development Abutting Registered Heritage Properties	
Policy	Staff Comments
<p>CH-16</p> <p><i>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:</i></p> <ul style="list-style-type: none"> a) <i>the careful use of materials, colour, proportion, and rhythm established by surface and structural elements should reinforce those same aspects of the existing buildings;</i> b) <i>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;</i> c) <i>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:</i> <ul style="list-style-type: none"> i) <i>incorporate fine-scaled architectural detailing and human-scaled building elements.</i> ii) <i>reinforce, the structural rhythm (i.e., expression of floor lines, structural bays, etc.) of abutting federally, provincially or municipally registered heritage properties; and</i> iii) <i>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;</i> 	<p>The proposed addition is to be located on the heritage building lot and the abutting lot, adjacent to and behind the existing heritage building.</p> <ul style="list-style-type: none"> a) Proposed building materials and colours are considered suitable. The new building features a rhythm reinforced by alternating cladding materials, and a rectangular floor plan reflecting the proportions of the facade on the heritage building. The second-storey balcony with its pergola helps carry the datum lines of the streetwall from the heritage building southward, reducing the visual prominence of the parking garage entrance and reinforcing the existing streetwall. The new building also incorporates a simplified design and neutral colour palette, so as to help subordinate it to the heritage building. b) The proposal is distinguishable from the heritage building yet is considered visually compatible. Compatible due to regular fenestration patterns, rectangular footprint and 3:4 proportion of the buildings. The ground and second storeys on the front façade of the new addition feature reclaimed brick cladding to enhance compatibility with the heritage building by referencing the materials of the original foundation. The proposed new addition has been simplified to reduce its visual impact and allows the registered heritage building to be the focus point. c) <ul style="list-style-type: none"> (i) The registered heritage building helps to maintain the human-scaled nature of the development. The parking garage entrance through its incorporation with the second storey balcony forms part of a fine-scaled pedestrian streetwall continuing from the registered heritage building at the other end. (ii) The façade of building is split into five distinct bays from the third to eighth storey. The bays have complementary proportions to the dual bay façade of the registered heritage building and reinforce the rhythm of the heritage building in a complimentary fashion throughout the new development, so as not to conflict with or distract from the registered heritage building. (iii) With the exception of the single-story garage entrance, the modern addition is setback 6.1m from the front property line and 4.8m from the streetwall of the registered heritage property. The modern addition also features horizontal articulation on the 8th level with a partial stepback of 1.32m (on the front façade) and alternating cladding materials / textures / colours which help to break the building into distinct bays and mitigate the impact of the height on the

<p>d) the siting of new developments such that their footprints respect the existing development pattern by:</p> <ul style="list-style-type: none"> 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 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; <p>e) not unreasonably creating shadowing effects on public spaces and heritage resources;</p> <p>f) complementing historic fabric and open space qualities of the existing streetscape;</p> <p>g) minimizing the loss of landscaped open space;</p> <p>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;</p> <p>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;</p> <p>j) having the proposal meet the heritage considerations of the appropriate Secondary Planning Strategy, as well as any applicable urban design guidelines; and</p> <p>k) any applicable matter as set out in Policy G-14 of this Plan.</p>	<p>pedestrian realm.</p> <p>d) (i) N/A (ii) N/A</p> <p>e) No shadow study required under the LUB. Building not anticipated to unreasonably create shadowing effects.</p> <p>f) Many buildings along Agricola Street immediately abut the streetline, resulting in a reduction of open space along the street. This has been mitigated by commercial vendors who have created outdoor patios. The intent of this proposal is similar – to have a commercial outdoor patio which is at the street grade, facilitated by the recessed new development, which forms a “piazza” and enhances and activates the pedestrian realm.</p> <p>g) There is no existing landscaped open space on the property.</p> <p>h) As elaborated above, the parking garage entrance has been incorporated into a continuous two-storey streetwall by way of the proposed balcony and pergola, reducing the visual prominence of the parking garage entrance and ensuring the registered heritage property remains the most visually prominent element of the streetwall.</p> <p>i) During the Substantial Alteration approval process, the impact of these elements on the registered heritage building was evaluated and the proposed alterations were reviewed by the heritage Advisory Committee and approved by Regional Council.</p> <p>j) Proposal has been reviewed under the Regional Centre SMPS and LUB.</p> <p>k) N/A.</p>
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ATTACHMENT C:

CASE 24359 – PUBLIC ENGAGEMENT SUMMARY

Overview

Staff requested input on Case 24359 via a page on the municipal website, signage posted on the subject site, and a fact sheet mailout distributed to owners and residents within a 250-metre radius in the Fall of 2023 which sought to inform them of the proposal and solicit their feedback.

Staff received **six** (6) submissions regarding the applicant's proposed development:

- Two people expressed **general support** for the proposal.
- Three expressed **qualified support** for the proposal (support with concerns over certain aspects of the proposal)
- One expressed **predominantly concerns** regarding the proposal.

Respondent Overview



- General Support
- Qualified Support
- Predominantly Concerns

Response Summary

The 6 respondents provided comments on a variety of topics, which are summarized below:

Scale and Density

- Four respondents were supportive of adding density to the site.
- Three respondents expressed concern with the height of the proposal or its compatibility with the scale of surrounding buildings.

Heritage Conservation

- Two respondents expressed appreciation that the heritage building would be conserved.
- One respondent expressed concern regarding removal of the rear of the heritage building.
- Two respondents expressed concern or desire to see the Open Mic House's function as a music venue conserved as part of the proposal.

Parking

- Four respondents expressed concern that the proposed parking would be insufficient.
- One respondent expressed appreciation for the inclusion of underground parking.
- One respondent expressed a general desire for more electric vehicle (EV) chargers in new developments.

General Building Design

- One respondent expressed appreciation for the piazza and balcony, noting that they lessen the impact of the building's height.
- One respondent liked the building plans and expressed enthusiasm for recent improvements in the area.
- One respondent expressed a desire for a variety of unit sizes and for the proposal to be condominiums or otherwise to include affordable rentals.

Extract of Heritage Advisory Committee Draft Minutes – June 28, 2024

9. REPORTS/DISCUSSION

9.1 STAFF

9.1.1 Case 24359: Development Agreement for 2537-39 Agricola Street, Halifax for a 27.3m mixed-use addition to a registered heritage property

The following was before the Committee:

- Staff report dated May 3, 2024
- Staff presentation dated June 28, 2024

Carter Beaupre-McPhee, Planner III gave a presentation and responded to questions of clarification from the Committee.

The Chair joined the meeting. With the consent of the members, the Vice Chair remained in the Chair for the entirety of the meeting.

MOVED by Jason Cooke, seconded by Brian MacDonald

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

1. **Give notice of motion to consider the proposed development agreement, as set out in Attachment A of the staff report dated May 3, 2024, to enable the construction of a 27.3m mixed-use addition to the registered heritage property located at 2539 Agricola Street, and schedule a public hearing;**
2. **Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of the staff report dated May 3, 2024; and**
3. **Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

MOVED by Jason Cooke, seconded by Councillor Lovelace

THAT part 1 of the motion be amended to add “with amendments to the second sentence of section 3.5.5 of the proposed development agreement to read ‘Furthermore, any elevator enclosure shall be subject to the requirements of the Regional Center Land Use By-law, as amended from time to time,’

MOTION TO AMEND PUT AND PASSED.

The question was called on the main motion:

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

1. **Give notice of motion to consider the proposed development agreement, as set out in Attachment A of the staff report dated May 3, 2024, to enable the construction of a 27.3m mixed-use addition to the registered heritage property located at 2539 Agricola Street, with amendments to the second sentence of section 3.5.5 of the proposed development agreement to read “Furthermore, any elevator enclosure shall be subject to the requirements of the Regional Center Land Use By-law, as amended from time to time,” and schedule a public hearing;**

- 2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of the staff report dated May 3, 2024; and**
- 3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

MOTION AS AMENDED PUT AND PASSED.