

TO: Chair and Members of Design Review Committee

SUBMITTED BY: ORIGINAL SIGNED

Bob Bjerke, Chief Planner and Director of Planning and Development

DATE: February 24, 2017

SUBJECT: **Case 21123: Amended Substantive Site Plan Approval – 5504 Spring Garden Road, Halifax**

ORIGIN

- Application by Westwood Developments Ltd. for changes to the approved building design for 5504 Spring Garden Road, Halifax
- May 9, 2013 approval by Design Review Committee of a Substantive Site Plan Approval for 5504 Spring Garden Road, Halifax (Case 18465)

LEGISLATIVE AUTHORITY

Refer to Attachment F.

RECOMMENDATION

It is recommended that the Design Review Committee:

1. Approve the amendments to the qualitative elements of the substantive site plan approval application for the mixed-use development at 5504 Spring Garden Road, Halifax, as contained in Attachment A, which amends the substantive site plan approval plans for the development which were approved by the Design Review Committee on May 9, 2013¹, conditional upon the following:
 - a. that the penthouse and mechanical levels be clad in curtain wall and spandrel panels as per the 2013 design approval.
2. Approve the additional requested variance to the Land Use By-law requirements regarding side and rear yard setbacks for the mechanical penthouse, as contained in Attachment A.

¹ <https://www.halifax.ca/boardscom/drc/documents/Case184655504SpringGardenRoad.pdf>

BACKGROUND

An application has been received from Westwood Developments for substantive site plan approval to authorize changes to the design of a recently constructed mixed-use building at the southwest corner of Spring 5506 Spring Garden Road and Birmingham Street (Map 1, Attachment A). The building was approved in 2013 through the site plan approval process, but was not constructed in conformance with all terms of the approved site plan (Attachment B). The matter is the subject of an active municipal compliance case. As a component of the compliance process, a decision of the Design Review Committee is necessary to determine which design changes are compliant with the Downtown Halifax Land Use By-law.

During the construction of the building in 2015, changes to the building envelope and design were undertaken by the developer, however, they were not authorized through the site plan approval process.

In this case, some, but not all of the non-complying aspects of the building may be considered for approval by the Design Review Committee through the substantive site plan approval process. To authorize the changes to the building design, the Design Review Committee may consider the requested changes relative to the Design Manual within the Downtown Halifax Land Use By-law (LUB). This report outlines which non-compliant aspects of the building can be considered for approval by the Design Review Committee, in addition to identifying relevant guidelines of the Design Manual in order to assist the Committee in their decision.

Subject Site	5506-5508 Spring Garden Rd./1448-1468 Birmingham St., Halifax
Location	Southwest corner of Spring Garden Rd. and Birmingham St.
Zoning (Map 1)	DH-1 (Downtown Halifax) Zone, Precinct 3 (Spring Garden Road)
Total Size	492 square metres (5,300 square feet)
Site Conditions	Fully developed with a 7 storey building
Current Land Use(s)	3 levels of commercial use and 5 levels of residential use with 12 units
Surrounding Land Use(s)	Surrounded by a mixture of commercial and high density residential uses, including retail stores and restaurants along Spring Garden Road; and a vacant lot on Birmingham Street

Project Description

The existing building is a 7-storey mixed use building with the following primary characteristics:

- The first two floors, plus the basement level contain commercial uses (retail) with approximately 14,300 sq. ft. of gross commercial floor area;
- Above the second floor, there are 5 floors of residential use with a total of 12 units (4-two bedroom units and 8-one bedroom units);
- The building has a 5-storey streetwall along both Spring Garden Road and Birmingham Street;
- A 2-storey penthouse at floors 6 and 7 which is recessed from the streetwall by 3 metres, and a mechanical penthouse at the 8th floor;
- Weather protection at sidewalk level via cantilevered building elements and glass canopies; and
- Exterior cladding materials include clear and spandrel glass, terra cotta panels and louvers, metal panels, and a stone building base.

Attachment E contains photographs of the as-constructed building.

Approved Variances

Four variances to the requirements of the LUB were approved as follows in 2013 under case 18465:

- Streetwall Height – a greater streetwall height was permitted along Birmingham Street to match that along Spring Garden Road;
- Upper Storey Streetwall Stepback – glass guardrails for penthouse terraces were permitted to be installed behind the parapet on both street frontages within the required 3m stepback;
- Upper Storey Side Yard Stepback - floors 6 and 7 were permitted to be built to the internal property lines rather than meeting the required 3 m stepback; and

- Landscaped Open Space – the requirement to provide 5 square metres of landscaped open space per unit, where more than 50% of the building is used for residential purpose, was waived.

Non-Compliant Elements of the Project

Following approval of the project through the site plan approval process, the developer made several changes to the exterior design, penthouse and roof design of the building during the preparation of final plans and subsequently implemented these changes during construction. These changes are as follows:

1. Alterations to the street facing façades and rear wall design with reductions in proportion of window openings, and the use of different cladding materials and colours;
2. The size of the mechanical penthouse was substantially increased from 37 square metres to 101.5 square metres (1,092.5 sq. feet), and located with zero setback from the side and rear property lines rather than the required 3 metres (9.8 m);
3. The composition of the guards on penthouse terraces are not the low profile railings and transparent glass that was approved but heavy steel frames and balusters;
4. The streetwall height is 0.7 m taller than the maximum permitted on Spring Garden Road;
5. The lack of rooftop landscaping; and
6. The lack of screening of rooftop mechanical equipment.

While items 1 – 3 are within the purview of the Design Review Committee for decision, items 4 – 6 are matters that do not meet the land use by-law, may not be varied and will, therefore, require remedy through the on-going compliance process. A decision of the DRC on items 1 - 3 alone will not result in the building achieving compliance with the LUB. Although the requested design changes have been constructed, the Committee is under no obligation to approve them but must decide whether they meet the guidelines of the Design Manual. The Committee's decision may be appealed to Regional Council, therefore final decisions on these elements of the building design following the outcome of any appeal process may also need to be addressed through the compliance process.

Regulatory Context – Municipal Planning Documents

With regard to the Downtown Halifax Secondary Municipal Planning Strategy (DHSMPS) and the Downtown Halifax LUB, the following are relevant to the proposed development from a regulatory context:

- Zone: DH-1 (Downtown Halifax) Zone
- Precinct: Spring Garden Road Area (Precinct 3);
- Building Height (Pre and Post-bonus): Maximum pre-bonus height is 22 metres and the maximum post-bonus height is 28 metres;
- Streetwall Height: Minimum streetwall height is 11 metres while the maximum height is 17 m along Spring Garden Road and 18.5 m along Birmingham Street.
- Streetwall Stepback: This section of Spring Garden Road requires buildings above 17 metres along the Spring Garden Road streetline to be setback an additional 0.9 metres from the streetline for every 0.6 metres of height (southern sunlight angle);
- Viewplane: The site is encumbered by View Planes 9 and 10;
- Landscaped Open Space: Is required for predominantly residential buildings (more than 50% of the gross floor area is devoted to residential uses); and
- Landscaped Roof: Landscaping is required for buildings with flat rooftops where useable landscaped open space is not provided.

In addition to the above regulations, the Design Manual of the Downtown Halifax LUB contains guidance regarding the appropriate appearance and design of buildings and conditions for assessing any request to vary any of the built-form requirements.

Site Plan Approval Process

Under the site plan approval process, development proposals within the Downtown Halifax Plan area must meet the land use and building envelope requirements of the Land Use By-law (LUB), as well as the requirements of the By-law's Design Manual. The process requires approvals by both the Development Officer and the DRC as follows:

Role of the Development Officer

In accordance with the Substantive Site Plan Approval process, as set out in the Downtown Halifax LUB, the Development Officer is responsible for determining if a proposal meets the land use and built form requirements of the Downtown Halifax LUB.

With respect to building height, the LUB establishes a maximum pre-bonus height of 22 m for this area, and a maximum post-bonus height of 28 m. Due to the presence of two view planes over the site, however, the maximum post-bonus height cannot be achieved. The building was approved to a maximum overall height of 24.5 m including mechanical penthouse, and a small public benefit was required to be provided. However, the building was constructed 1.4 m taller with an overall height of 25.9 m. The as-built building height meets the requirements of the LUB and as this increase in height did not create additional floor area, no additional public benefit is required.

With regard to other building features, the Development Officer has reviewed the building as-constructed and determined that the following elements do not conform to the Downtown Halifax LUB:

- penthouse setback from rear and side property lines;
- streetwall height on Spring Garden Road;
- rooftop landscaping; and
- screening of rooftop mechanical equipment.

To address the built-form requirements that do not meet LUB requirements, the applicant has requested that a variance for the penthouse setback from the rear and side property lines be considered for approval through the site plan review process (Attachment B). Variances cannot be considered for the streetwall height on Spring Garden Road, the rooftop landscaping, or the screening of mechanical equipment.

Role of the Design Review Committee

The Design Review Committee (DRC), established under the LUB, is the body responsible for making decisions relative to a proposal's compliance with the requirements of the Design Manual.

The role of the Design Review Committee in this case is to:

1. Determine if the project is in keeping with the design guidelines contained within the Design Manual; and
2. Decide on the requested variance in keeping with the criteria of the Design Manual.

Notice and Appeal

Where a proposal is approved by the DRC, notice is given to all assessed property owners within the DHSMPs Plan Area boundary plus 30 meters. Any assessed property owner within the area of notice may then appeal the decision of the DRC to Regional Council. If no appeal is filed, the Development Officer may then issue the Development Permit for the proposal, provided all other requirements of the LUB are met. If an appeal is filed, Regional Council will hold a hearing and make decision on the application. A decision to uphold an approval will result in the approval of the project while a decision to overturn an approval will result in the refusal of the amended site plan approval application.

The subsequent Discussion section of this report will outline the staff analysis of the proposal relative to the criteria within the Design Manual and provide a recommended decision for the Committee's consideration.

DISCUSSION

Design Manual Guidelines

As noted above, the Design Manual contains a variety of building design criteria that are to be met in the development of new buildings and modifications to existing buildings. Specifically relevant to the subject proposal are:

- Section 2.3 of the Design Manual which contains design guidelines that are to be considered specifically for properties within Precinct No. 3; and
- Section 3.6 of the Design Manual which specifies conditions in which variances to certain Land Use By-law requirements may be considered.

An evaluation of the general guidelines and the relevant conditions as they relate to the project are found in a table format in Attachment C. The table indicates staff's advice as to whether the project complies with a particular guideline. In addition, it identifies circumstances where there are different possible interpretations of how the project relates to a guideline, where additional explanation is warranted, or where the Design Review Committee will need to give particular attention in their assessment of conformance to the Design Manual. These five matters, identified as "Discussion" items, are considered as follows:

1. Mechanical Penthouse - LUB section 8 (10)

The approved design included a 37 sq. m (340 sq. ft) mechanical penthouse at level 8 to be built to the property lines at the rear corner of the site. The LUB requires a 3 m (9.8 feet) setback from lot lines for such features, and a variance should have been requested to allow the reduction of this setback.

The penthouse was redesigned and built to 101.5 sq. m (1,093 sq. ft.) in area, and this larger penthouse extends for 15.2 m (50 ft.) along the rear property line as opposed to the approximately 4.2 m (14 ft.) in the approved design. This increase in the size of the penthouse requires a new approval as well as the approval of a variance to eliminate the required 3m setback.

2. Corner Site Design - Section 3.4.2 (a) & (b)

The Design Manual indicates that special conditions for corner sites should be acknowledged with design responses such as the change in building massing at the corner and the use of distinctive architectural treatments. With the exception of the mechanical penthouse, the massing of the building conforms to what was previously approved in 2013.

The corner is clad in horizontal terra cotta louvers that wrap around the corner from Spring Garden road to Birmingham Street on floors 2 through 5. However, of concern is the design of levels 6 and 7 of the penthouse and the expanded mechanical penthouse. The approved design called for glass curtain wall on these levels which reduced the visual prominence of these floors of the building. These same floors of the constructed building are instead clad with prefinished metal siding. As seen on the rendering comparisons provided in Attachment D, the result is a highly visible penthouse that makes the building appear top heavy when compared to the approved design utilizing a glass curtain wall, and which had a more strongly defined two storey base. This change in the design requires a new approval. Staff advise that the existing cladding does not fully meet the intent of the Design Manual, and recommend that changes to the cladding materials in this area of the building are needed to mitigate its visual prominence.

3. Design of Street Facades and Rear Wall - Section 3.3.2 (c)

The rear wall of the building is constructed to the property line of the vacant abutting lot on Birmingham Street. The Design Manual discourages blank walls, and the approved design utilized a variety of colours and textures of terra cotta panels to achieve this goal. The rear wall was instead finished in white metal panels with relief lines. The applicant explains that the approved design would have been costly, and that future construction on the adjoining empty lot will eventually hide the wall, leading to the decision to make the change. This change conforms with the Design Manual and requires a new approval which is recommended by staff.

4. Design of Amenity Space Guard Railings - LUB 8 (10):

The LUB requires a 3 metre stepback for all features above both streetwalls at the 6th floor but a variance was previously granted to allow railings to be placed directly behind the parapet. The approved design was for low profile railings with glass panels that would have little visibility. However, heavy gauge galvanized steel railings and balusters were instead installed that are highly visible and do not comply with the terms of the approval. The applicant advises that the heavier railings were required in order to serve as anchors for maintenance staff to access the building facades safely. This change in design requires approval.

5. Building Articulation and Design - Section 3.2.1 (a), 3.3.1(a), 3.3.4 (a) & (b) and 3.4.2

The Design Manual calls for the articulation of building facades by distinguishing the base, middle and top portions of buildings, providing a vertical rhythm which is in keeping with the character of narrow storefronts and by providing distinctive rooftops which contribute to the skyline. The building as-constructed does provide the three-part articulation, however the extra massing of the top that has resulted from the increased size and change in the finishing materials of the mechanical penthouse, makes the building appear top heavy. This is of particular concern given the corner location of the building and the emphasis the Design Manual places on good design for such sites.

To address this concern for the massing of the top floors of the building, staff suggest alternative materials be installed on the street facing facades such as glass curtain wall and spandrel panels as originally approved. This material change will provide a more transparent appearance and has been suggested in discussions to date, however the applicant has indicated that they do not wish to make any changes to the building as constructed.

Variance Requests

In addition to the previously approved variances which continue to remain in effect, one (1) new variance is being sought to the quantitative requirements of the Downtown Halifax LUB for the as-constructed building as follows:

Mechanical Penthouse Setback Variance – Design Manual Section 3.6.2

The plans as approved included a small square mechanical penthouse at the 8th level of about 37 sq. m (398 sq. ft.) built to the interior corner property lines, extending for about 6 m along each of the rear and side property lines. Such rooftop features are to be setback 3 m (9.8 ft.) from the edge of the roof, however this was overlooked and no variance was granted.

The building was constructed contrary to approved plans with a much larger L-shaped mechanical penthouse of about 101.5 sq. m. (1,093 sq. ft.), extending along 3 m (9.8 ft.) of the side property line and 13 m (42.6 ft.) along the rear property line. A larger penthouse of this size can be supported, as its coverage of the roof is less than the 30% limit established by the LUB. As this penthouse does not meet the 3 m (9.8 ft.) setback requirement of S. 8 (10) of the LUB, a variance is required to allow the as-constructed feature to remain in its present configuration.

Section 3.6.2 of the Design Manual allows for side and rear side yard setback variances as follows:

3.6.2 *Side and rear yard setbacks may be varied by Site Plan Approval where:*

- a. *the modified setback is consistent with the objectives and guidelines of the Design Manual; and*
- b. *the modification does not negatively impact abutting uses by providing insufficient separation.*

The original approved design for the mechanical penthouse, with its small footprint and placement in the rear corner of the property had minimal impact and satisfied the variance criteria.

While the size of the penthouse as constructed could be supported, its current design and location are problematic given the goals of the Design Manual. Specifically, the increased size of the penthouse raises concerns regarding implications for the possible future redevelopment of the adjacent property on Birmingham Street. The effect of the penthouse is that insufficient separation from future development is provided. By crowding the adjacent lot, this building may limit the design options for any development that

seeks to meet the allowable pre-bonus height of 22 m or achieve a post bonus height of 28m. With this said, the variance criteria refer to the modification negatively impacting 'abutting uses' which in this case is a ground level parking lot. Therefore, the variance request can be supported as it is in keeping with the criteria outlined in the Design Manual.

Design Elements That Cannot Be Varied

There are several aspects of the project that were not built in conformance with the approved plans and for which there is no authority in the LUB to enable the consideration of variances. As such, the building will need to be altered to achieve compliance for the matters described as follows:

Landscaped Roof

The Design Manual in section 3.3.4 (c) requires landscape treatments of all flat roofs in order to reduce the visual prominence of these landscaped areas; the use of 'green roofs' is strongly encouraged. The Design Manual emphasises that this is particularly important in the precincts close to Citadel Hill, which includes the subject site. The LUB defines landscaped open space as "...any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, pavers, screening or other landscape architectural elements...".

The approved plans for the project included sedum mat planting on the roof of the 7th floor that met by-law requirements. The developer advises that the plantings were not provided as the mechanical penthouse and amount of rooftop equipment needed to be substantially increased, leaving little space for such plantings on a small site. Concrete paving slabs were instead provided to cover the roofing material, however, this is not acceptable as a single landscaping material. The landscaping requirement cannot be varied and landscaping must be provided to the greatest possible extent. Given the small footprint of the building and extent of rooftop mechanical equipment, most of the landscaping would have to be provided on top of the mechanical penthouse. There is space available both around the mechanical equipment and on the roof of the mechanical penthouse for landscaping to be installed.

Screening of Rooftop Mechanical Equipment

The Design Manual in s. 3.3.4 (d) requires that all rooftop mechanical equipment be screened by integration into the architectural design of the building. At the initial site plan approval stage there was minimal equipment shown. The applicant has now advised that at the detailed design stage it was determined that substantially more equipment would be required. It was installed on the roof without any screening or visual integration and is therefore highly visible. The developer advises that the screening will soon be installed, however, until this is done the building does not comply with the LUB. There is no authority with the LUB to vary this requirement.

Conclusion

The building as-constructed does not comply with the terms of its original 2013 approval (Attachment D). Several changes have been identified which may be considered by the DRC in keeping with the requirements of the Design Manual and through the consideration of a variance. However, there are other building design changes which do not meet the Design Manual and others which cannot be considered by variance, due to lack of authority for same in the LUB. For any design changes which are not approved, alterations to the building will be required. For aspects of the building that remain non-compliant, remedy through the standard compliance processes will be pursued.

FINANCIAL IMPLICATIONS

There are no financial implications. The HRM costs associated with processing this planning application can be accommodated within the approved operating budget for C310 Urban & Rural Planning Applications.

RISK CONSIDERATION

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the requirements of the Downtown Halifax LUB regarding substantive site plan approvals. The level of engagement was information sharing, achieved through the developer's website, public kiosks at HRM Customer Service Centres, and a Public Open House.

ENVIRONMENTAL IMPLICATIONS

No implications have been identified.

ALTERNATIVES

1. The Design Review Committee may choose to approve, without conditions, the amended application as shown in Attachment A, subject to the conditions for further revisions to the plans to meet the requirements of the Land Use By-law for Downtown Halifax relative to the maximum permitted streetwall height as per section 11(3), the screening of rooftop mechanical equipment, as per section 3.3.4 (d); and the provision of rooftop landscaping as per section 3.3.4 (c).
2. The Design Review Committee may choose to approve the application with conditions that differ from those recommended by staff. This may necessitate further submissions by the applicant, as well as a supplementary report from staff.
3. The Design Review Committee may choose to deny the application. The Committee must provide reasons for this refusal based on the specific criteria of the Design Manual. An appeal of the Design Review Committee's decision can be made to Regional Council.

ATTACHMENTS

Map 1	Location and Zoning
Attachment A	Site Plan Approval Plans (As Built)
Attachment B	Rationale for Design Changes
Attachment C	Design Manual Checklist
Attachment D	Comparison of As-Built and Approved Renderings, Elevations & Roof Plans
Attachment E	As-Constructed Photographs
Attachment F	Legislative Authority

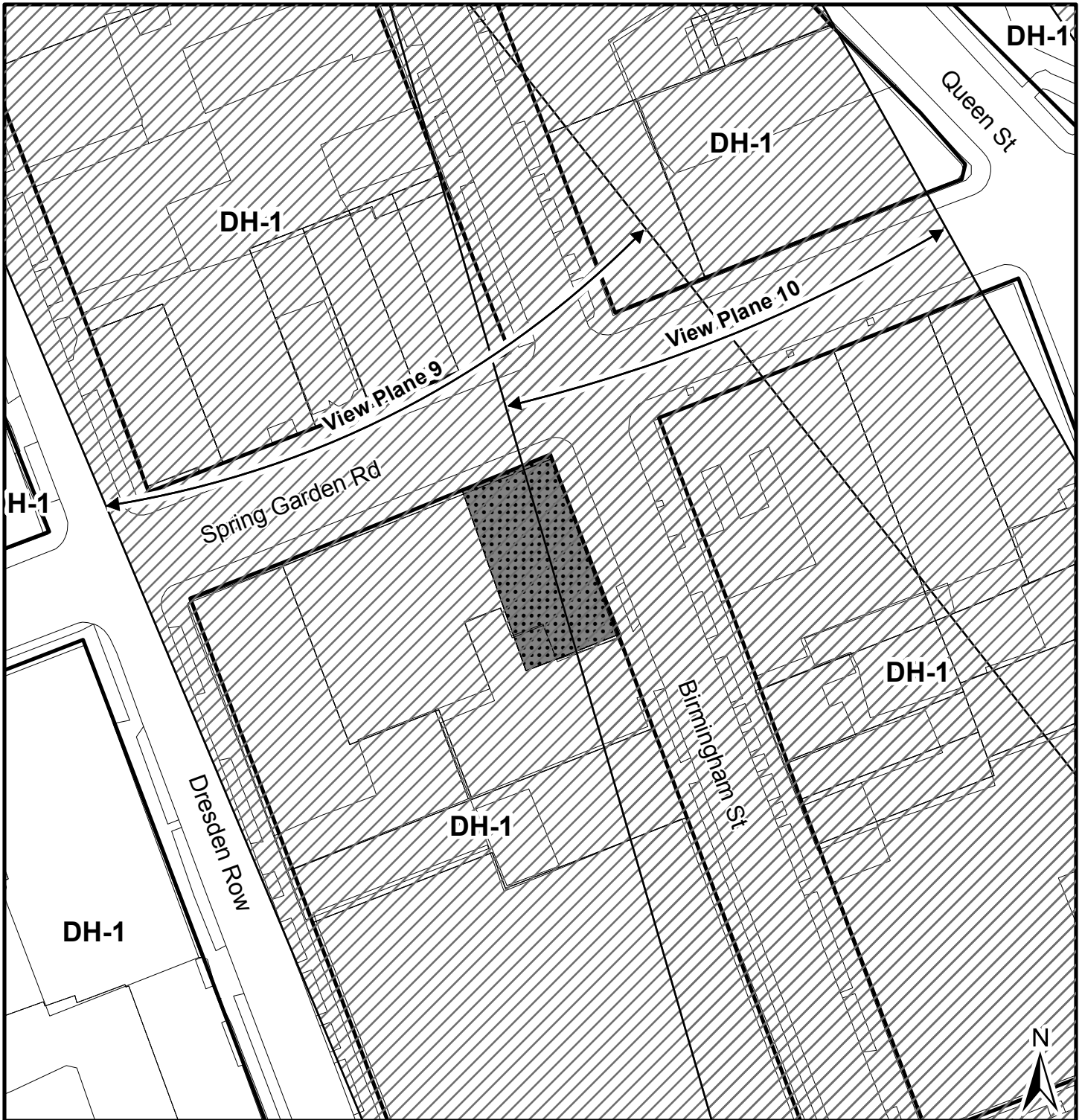
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Mitch Dickey, Policy Coordinator, 902.292.3207

ORIGINAL SIGNED



Report Approved by:

Kelly Denty, Manager of Current Planning, 902.490.4800



Map 1 - Zoning

5504-5510 Spring Garden Road
Halifax

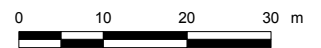
-  Subject property
-  View plane

Downtown Halifax Plan Area

Zone

DH-1 Downtown Halifax 1

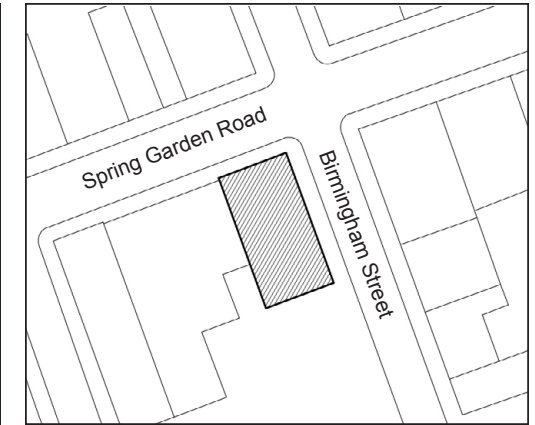
HALIFAX



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

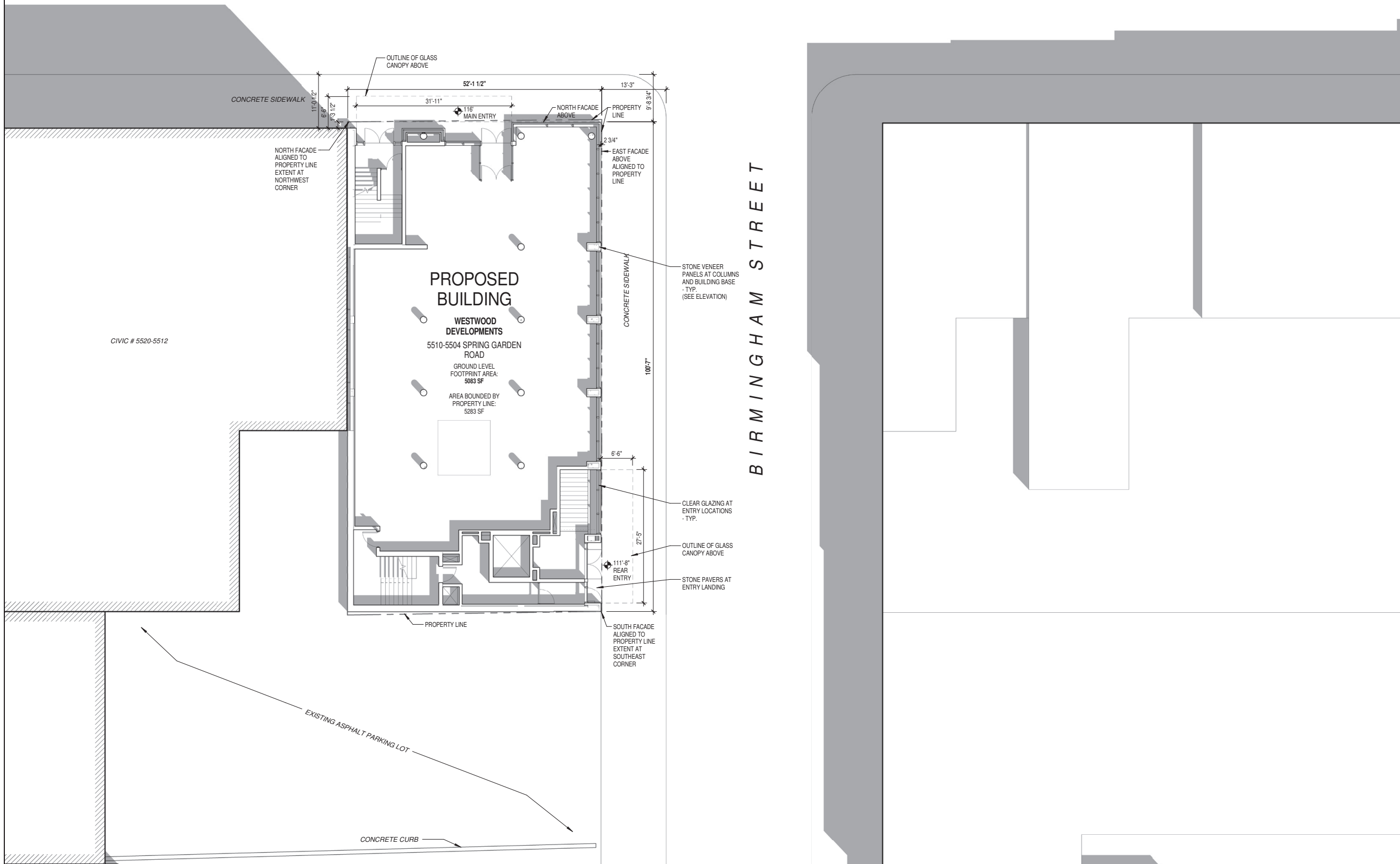
HRM does not guarantee the accuracy of any representation on this plan.

Attachment A
Site Plan Approval Plans (As Built)



SPRING GARDEN ROAD

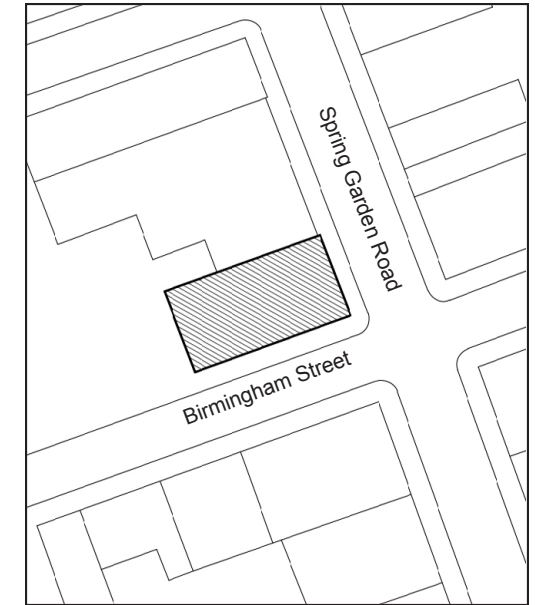
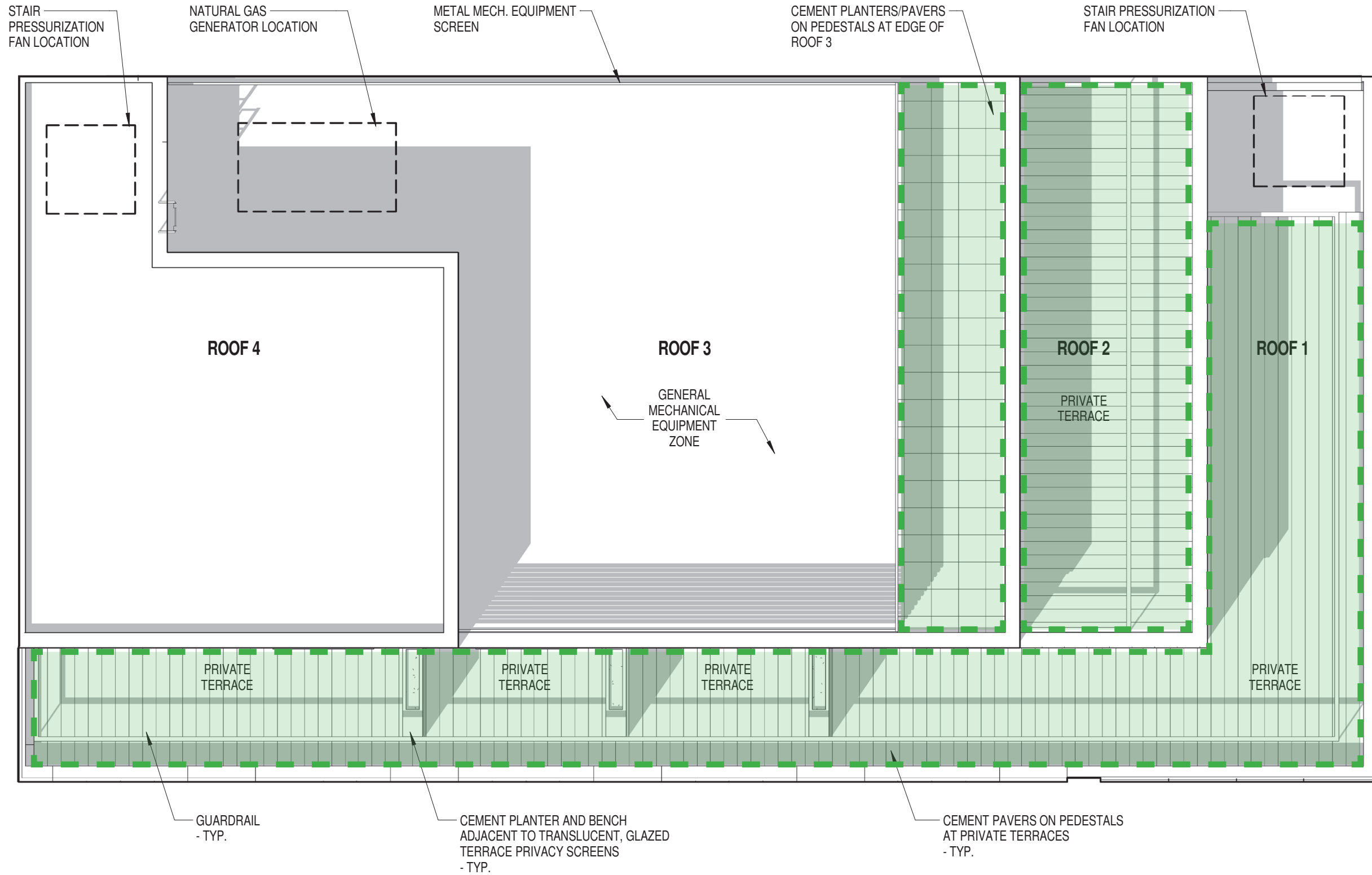
BIRMINGHAM STREET



Architect: **DSRA** Property Owner: **Westwood**

5510-5504 Spring Garden Rd.
Site Plan
 3/64" = 1' - 0"
 September 1, 2015
A001

**Attachment A
Site Plan Approval Plans (As Built)**



DASHED LINES INDICATE LANDSCAPED AREAS OF PAVERS AND PLANTERS

Architect: **DSRA** Property Owner: **Westwood**

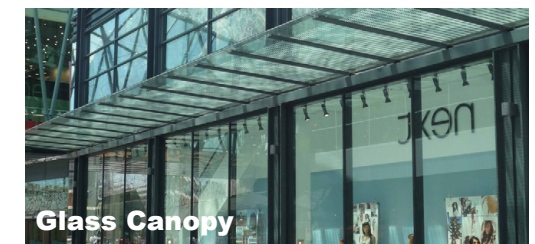
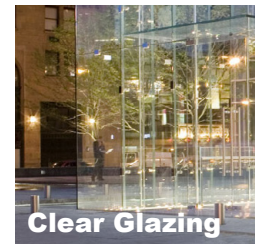
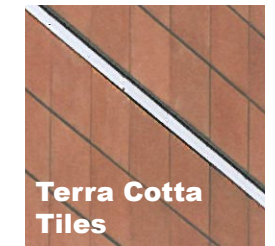
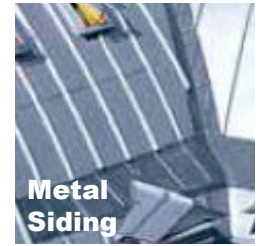
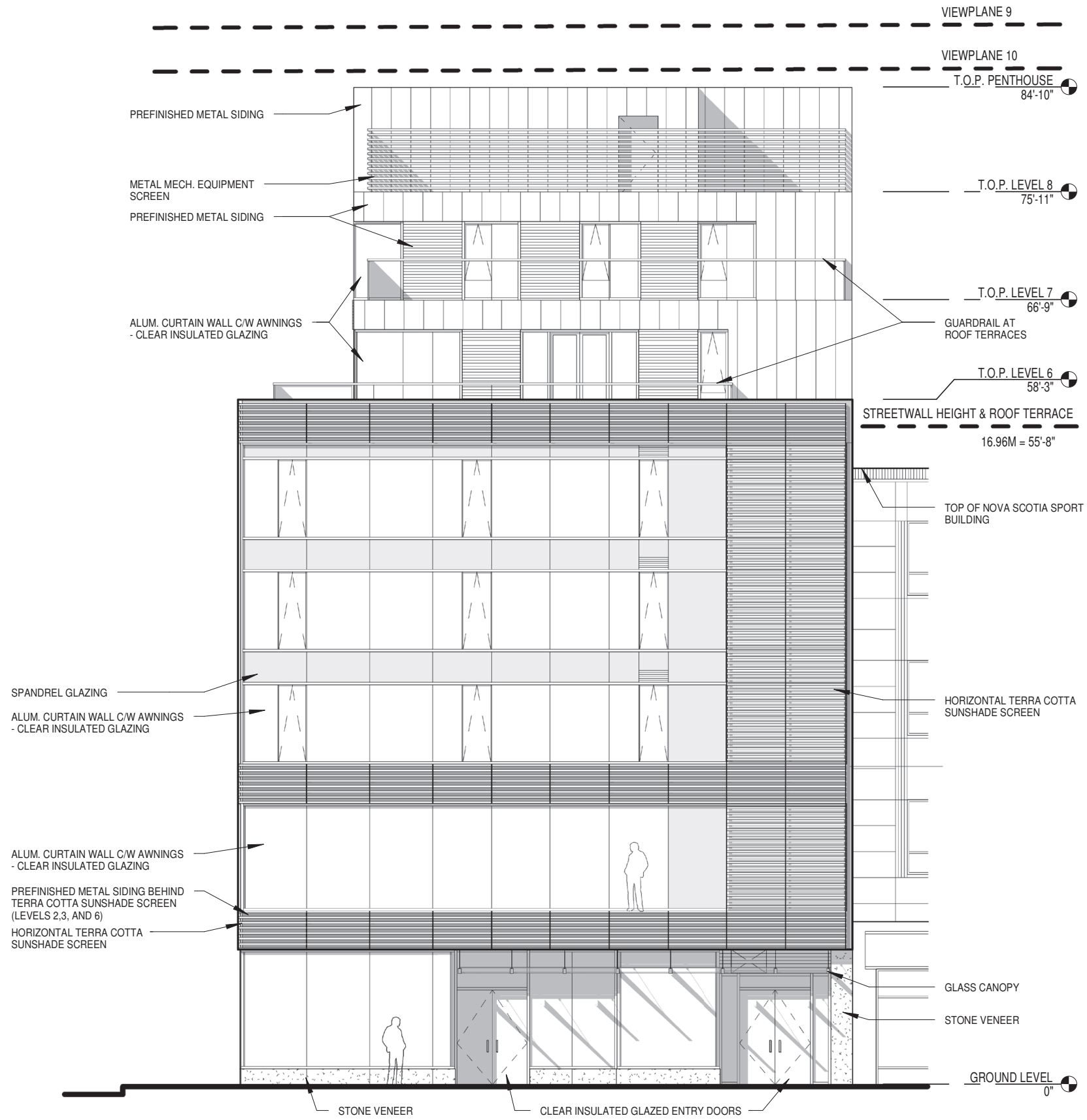
**5510-5504 Spring Garden Rd.
Roof Landscape Plan**

1/8" = 1' - 0"

September 1, 2015

A109

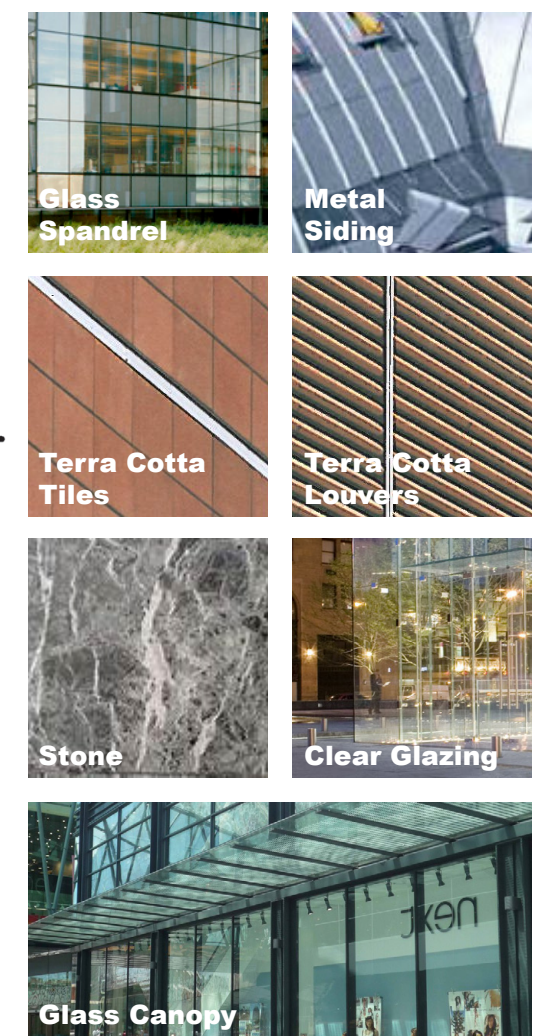
**Attachment A
Site Plan Approval Plans (As Built)**



Architect: **DSRA** Property Owner: **Westwood**

5510-5504 Spring Garden Rd.
North Elevation
 3/32" = 1' - 0"
 September 1, 2015
A112

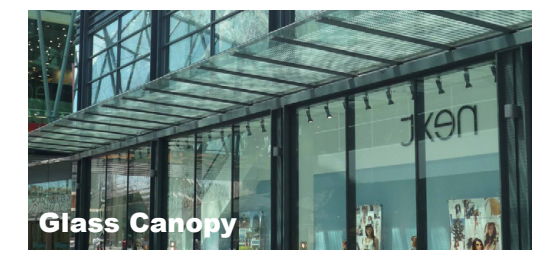
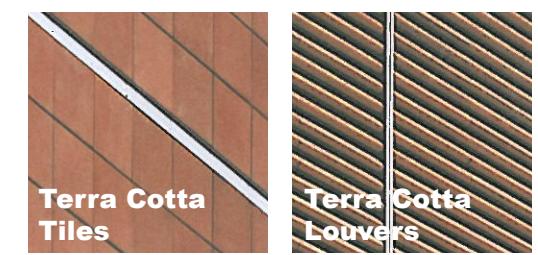
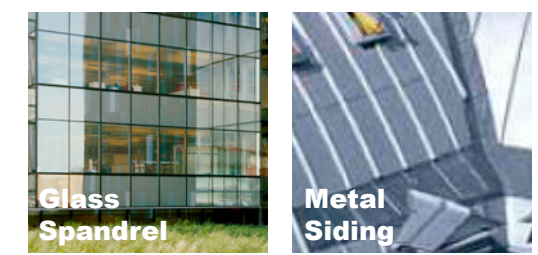
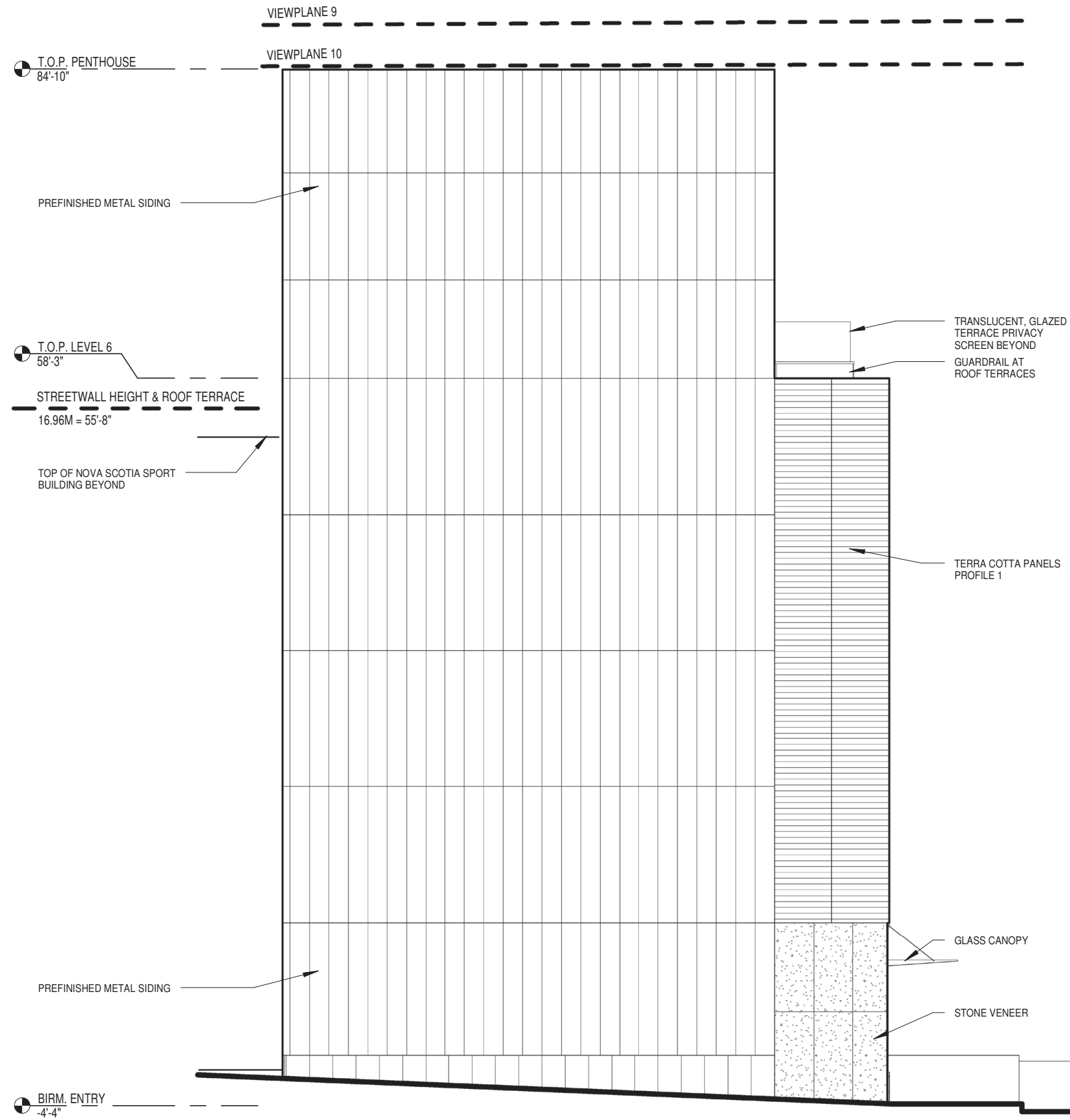
**Attachment A
Site Plan Approval Plans (As Built)**



Architect: **DSRA** Property Owner: **Westwood**

5510-5504 Spring Garden Rd.
East Elevation
3/32" = 1' - 0"
September 1, 2015
A113

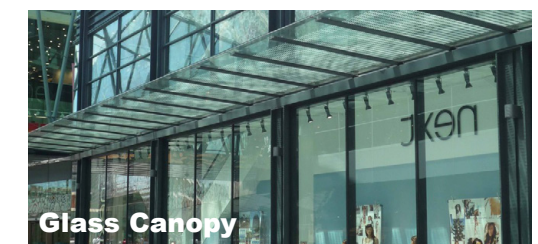
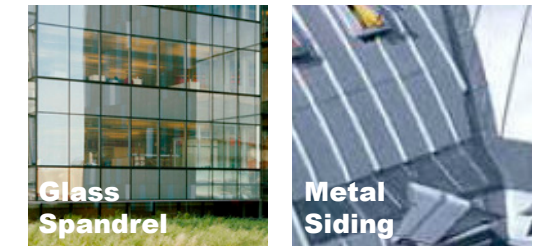
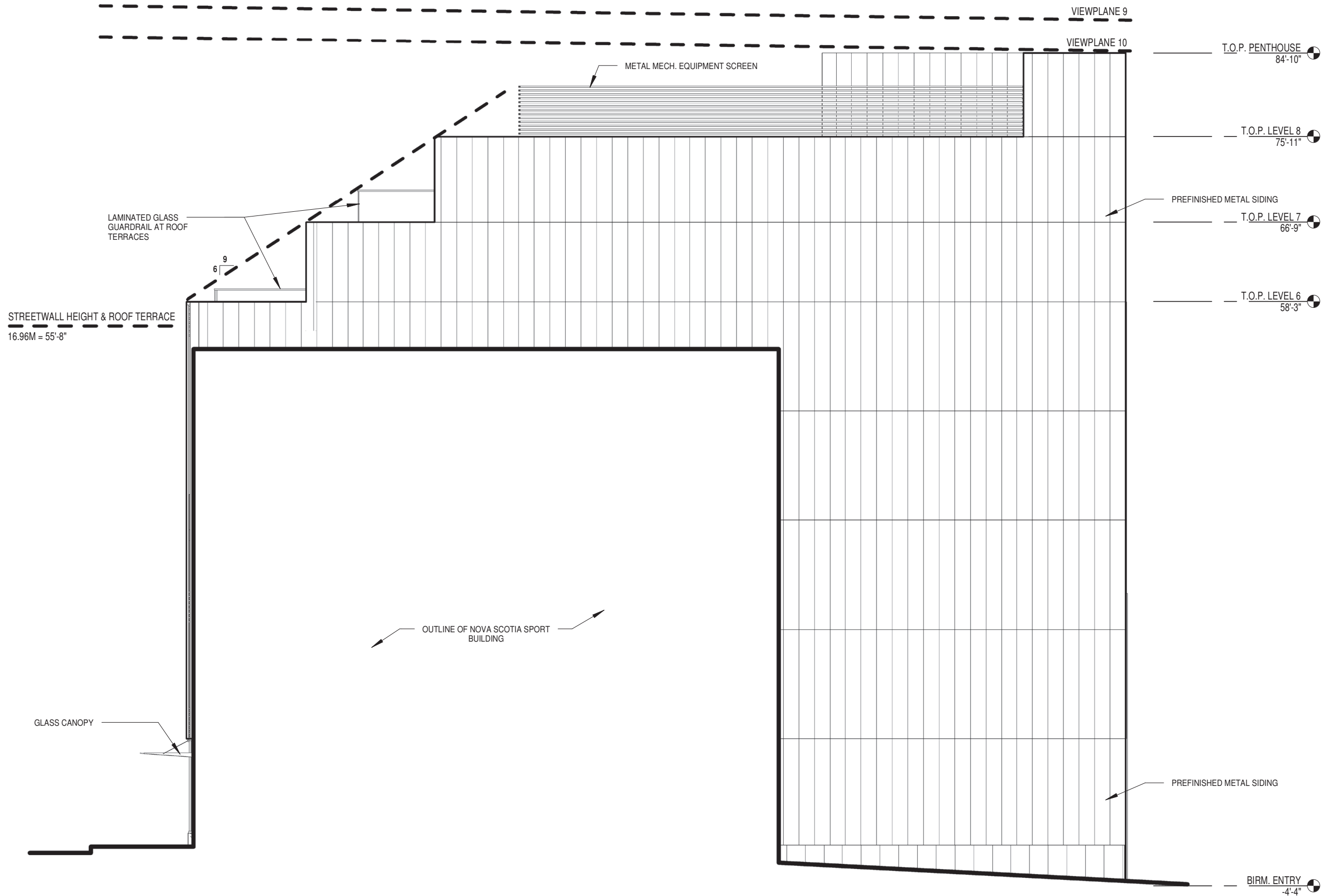
**Attachment A
Site Plan Approval Plans (As Built)**



Architect: **DSRA** Property Owner: **Westwood**

5510-5504 Spring Garden Rd.
South Elevation
 3/32" = 1' - 0"
 September 1, 2015
A114

**Attachment A
Site Plan Approval Plans (As Built)**



Architect: **DSRA** | Property Owner: **Westwood**

5510-5504 Spring Garden Rd.
West Elevation
3/32" = 1' - 0"

September 1, 2015
A115

**Attachment B
Rationale for Design Changes**



Westwood Construction Limited
5881 Spring Garden Road T 902.425.7500
Suite 100 F 902.425.6988
Halifax, NS B3H 4S3 westwoodgroup.ca

July 23, 2015

Mr. Sean Audas
Development Officer
Halifax Regional Municipality
PO Box 1749,
Halifax, Nova Scotia
B3J 3A5

Dear Mr. Audas,

RE: 1488 Birmingham Street – Permit #136743 – Response to letter dated July 20, 2015

We appreciate you taking the time to visit us on site last week to discuss the project's development. With regards to the differences between the approved building permit drawings and those approved by the Design Review Committee we offer the following response to specific items noted in your letter dated July 20th. 2015.

RE: View Plane - please provide certification, from a Nova Scotia Land Surveyor, that the building does not exceed view plane #9 and #10.

The building does not exceed View Plans 9 and 10, as confirmed by attached letter provided by NS Land Surveyor Servant Dunbrack McKenzie & MacDonald (SDMM). Refer to Document 1.

RE: Street Wall Height — please provide as built drawings of the street wall height on Spring Garden Road and Birmingham Street;

The building is in compliance with HRM's Land Use By-law Street Wall Height requirements, as illustrated in attached As-built building structure heights. Refer to Document No. 2.

RE: Step Back — please provide as built drawings to confirm that the height step back requirement as per section 11(3) of Downtown Halifax Land Use By-Law is being met.

The building is in compliance with HRM's Land Use By-law Height Step Back requirements, as illustrated in attached As-built building structure heights. Refer to Document No. 2.

RE: Mechanical Penthouse — please provide a plan with measurements to confirm that the mechanical penthouse does not exceed 30% of the roof. Also, the flat roof portions of the roof are required to be landscaped in accordance with the land use by law.

The building is in compliance with HRM's Land Use By-law regarding maximum area for roof top penthouses and landscaped roofs. The attached sketch confirms the mechanical penthouse coverage is 21% of the roof area. We confirm the flat roof portions of the project are to be landscaped roof with a variety of plantings and pavers. Refer to Document No. 3.

RE: Design variations to the building which are inconsistent with the approval of the DRC as follows:

The shape and size of mechanical penthouse

The mechanical penthouse has been modified to enable the generator to sit below the view plane height restrictions. To achieve this it was necessary to remove a portion of the penthouse on the west side of the building and as a result the resulting lost volume was added back on the east side. Secondly, as the building progressed through detailed design developed the elevator requirements were finalized; resulting in the elevator shaft being higher than anticipated; the penthouse height was extended to accept the increased elevator shaft height.

Changes to the window openings on the second floor

At the design review committee presentation there was considerable criticism of the fully-glazed level 2 façade. Though the design was approved, individual committee members lobbied Westwood to consider modifying the façade to a more conventional composition. The façade approved in the permit drawings was designed to achieve a more traditional rhythm and scale of facade elements and to avoid long, monotonous, flat expanses of material without texture – two strategies that are encouraged in the HRM Design Manual (sections 3.3.1 and 4.5.1)

RE: Additional architectural features on the Spring Garden Road elevation — additional terra cotta screening

Further to the previous item, the terra cotta screening was extended to achieve a more traditional "base-middle-top" composition to meet the intentions in the HRM Design Manual (section 3.3.1).



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RE: Changes to the building material of the mechanical penthouse. The South and West elevations contain additional panels and siding. It was confirmed on site that you intend to remove items on these same elevations such as terra cotta screens, spandrel panels, and spandrel curtain walls.

The curtain wall spandrel panels could not be accommodated along the property lines due to building code regulations with regard to fire safety, nor could they be built to be integrated with a composite metal panel system as per the designer's intentions.

During design development and construction discussions began on the possibility of developing the adjacent property to the immediate south of the project. With this in mind, the decision was made to remove a portion of the terra cotta from the south façade as it was too material was exceeding expensive for a temporary material - given it mostly likely be removed or covered over in very near future. The windows were removed for similar financial considerations - even more so as they required fire shutters, an expensive and intrusive item that would become redundant when the adjacent property is developed.

In addition to the specific responses above, we emphasize that *none* of the changes made to the project were done in bad faith, to achieve an unfair advantage over competitors, or to openly disregard HRM planning regulations – we respect HRM by-laws. Westwood has been one of the more vocal proponents for HRM By Design and has participated in the process more than most local developers. As a company, we are committed to developing appropriately scaled mid-rise development in the city centre.

By having the above changes approved during the building permit process we were of the mind that the proper rules and procedures were being followed. We were acting in good faith to improve the building based on comments received from the Design Review Committee. Though errors were made in procedure, the resulting building in fact aligns much better with the intentions of the HRM's Design Requirements Manual.

Your Truly,

A black oval redaction box covers the signature of Danny Chedrawe.

Danny Chedrawe



Servant, Dunbrack, McKenzie & MacDonald Ltd.
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February 19, 2014

Mr. Jamie Haddad
Westwood Developments Ltd.
5855 Spring Garden Road, Suite A310
Halifax, Nova Scotia B3H 4S2

File No. 1-1-129 (30351)

**RE: CERTIFICATION OF VIEW PLANES, 5504-5510 SPRING GARDEN ROAD, HALIFAX,
HALIFAX COUNTY, NOVA SCOTIA**

Dear Mr. Haddad,

I, Kevin A. Robb, NSLS, have reviewed the following drawings showing proposed buildings associated with the above referred to project.

- DSRA: Building Elevation Plan, Drawing No. A201, dated February 6, 2014.
- DSRA: Building Elevation Plan, Drawing No. A202, dated February 6, 2014.

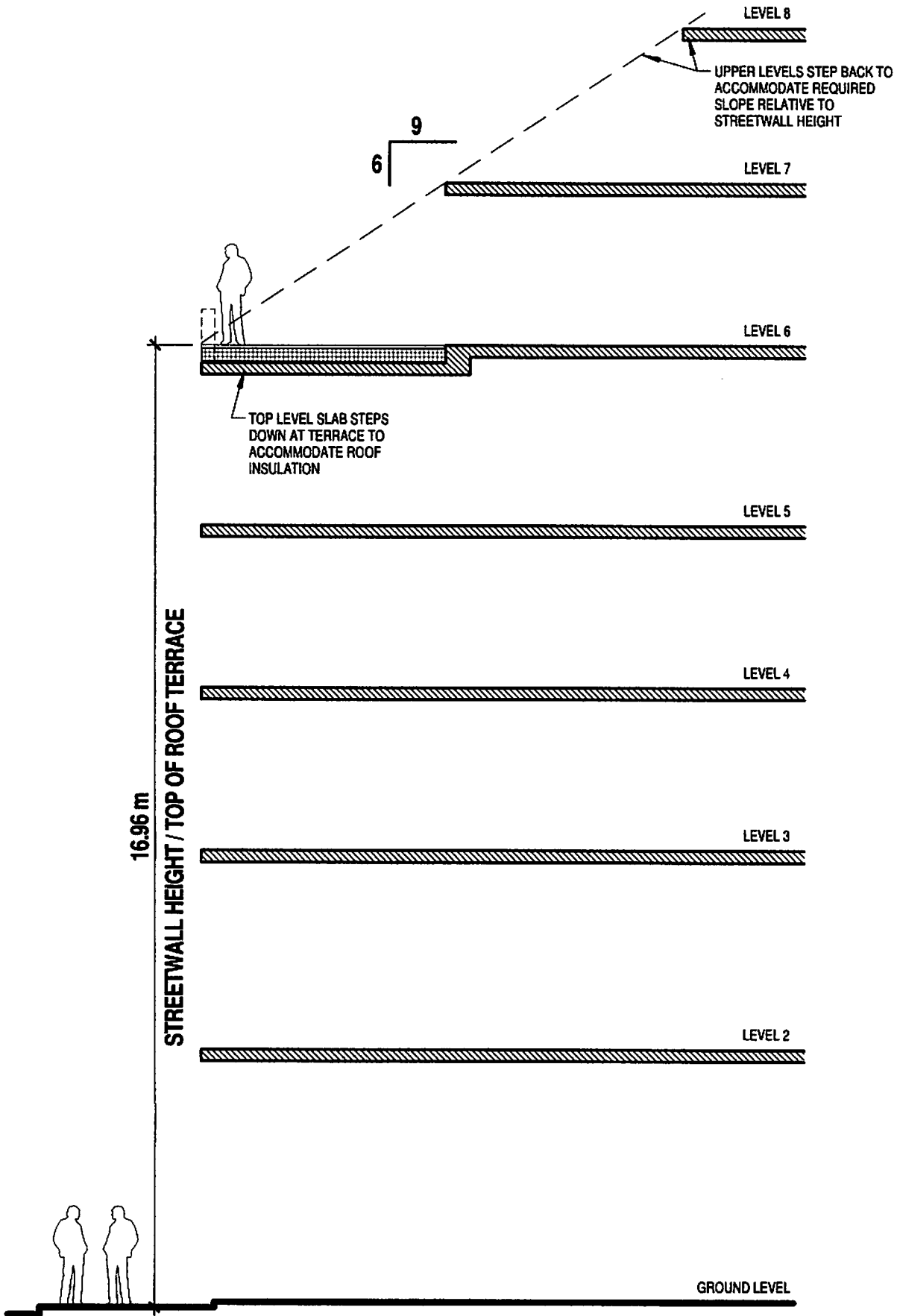
I hereby certify that all elements of the proposed buildings, and associated appurtenances, as shown on said drawings, comply with Section 14 (View Plane Requirements) of the Downtown Halifax Land Use By-law, last amended August 17, 2013.

Regards,

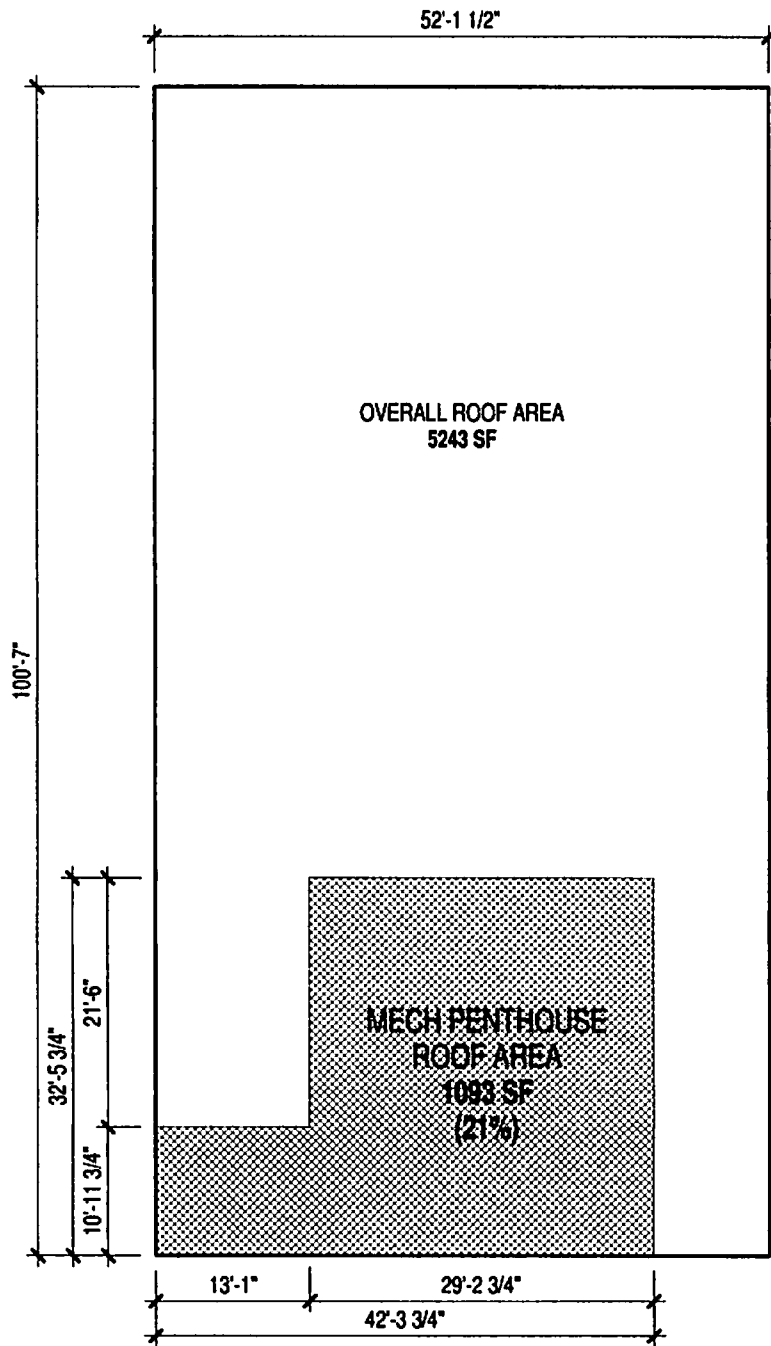
Servant, Dunbrack, McKenzie & MacDonald Ltd.



Kevin A. Robb, NSLS



5504 SPRING GARDEN
STREETWALL AND SLOPED SET BACK AS-BUILT DRAWING
 1/8" = 1'-0"



5504 SPRING GARDEN
ROOF AREA COVERAGE
 1/16" = 1'-0"

Attachment C – Design Manual Checklist – Case 21123

Section	Guideline	Complies	Discussion
2	Downtown Precinct Guidelines		
2.3	Precinct 3 - Spring Garden Road Area		
2.3a	Development shall appropriately frame Citadel Hill, the Public Gardens, and Victoria Park through the provision of consistent, animated streetwalls of superior quality and design.	N/A	
2.3b	Ensure that there continues to be adequate sunlight penetration on Spring Garden Road.	N/A	
2.3c	Focus pedestrian activities at sidewalk level through the provision of weather protected sidewalks using well-designed canopies and awnings.	Yes	<i>Unchanged from original DRC approval.</i>
2.3d	Prohibit new surface parking lots of any kind	Yes	<i>Unchanged from original DRC approval.</i>
2.3e	Improve the pedestrian environment in the public realm through a program of streetscape improvements as previously endorsed by Council (Capital District Streetscape Guidelines).	Yes	<i>Unchanged from original DRC approval.</i>
2.3f	<p>Development shall be in keeping with The Spring Garden Road/Queen Street Area Joint Public Lands Plan, including:</p> <ul style="list-style-type: none"> • ensure that the Clyde Street parking lots are redeveloped with mid-rise development, underground parking, and massing that transitions to Schmidville; • ensure that the existing parking supply on the two Clyde Street parking lots will be preserved as part of the redevelopment of those lots, and that in addition, the redevelopment provides adequate parking for the new uses being introduced; • reinforce a development pattern of “monumental” buildings on Spring Garden Road from Queen Street towards Barrington Street; • a new public open space, 2,000 square metres minimum, shall be established at the terminus of Clyde Street, on the east side of Queen Street; • Clyde Street and Brenton Place to become important pedestrian-oriented streets; • allow for a mid-rise development at the corner of Morris and Queen Streets, and; • to allow tall buildings on the western blocks of the precinct. 	Yes	<i>Unchanged from original DRC approval.</i>
3	General Design Guidelines		
3.1	The Streetwall		
3.1.1	Pedestrian-Oriented Commercial		

Attachment C – Design Manual Checklist – Case 21123

Section	Guideline	Complies	Discussion
	<p>On certain downtown streets pedestrian-oriented commercial uses are required to ensure a critical mass of activities that engage and animate the sidewalk These streets will be defined by streetwalls with continuous retail uses and are shown on Map 3 of the Land Use By-law.</p> <p>All retail frontages should be encouraged to reinforce the ‘main street’ qualities associated with the historic downtown, including:</p>		
3.1.1a	The articulation of narrow shop fronts, characterized by close placement to the sidewalk.	Yes	<i>Unchanged from original DRC approval.</i>
3.1.1b	High levels of transparency (non-reflective and non-tinted glazing on a minimum of 75% of the first floor elevation).	Yes	<i>Unchanged from original DRC approval.</i>
3.1.1c	Frequent entries.	Yes	<i>Unchanged from original DRC approval.</i>
3.1.1d	Protection of pedestrians from the elements with awnings and canopies is required along the pedestrian-oriented commercial frontages shown on Map 3, and is encouraged elsewhere throughout the downtown.	Yes	<i>Unchanged from original DRC approval.</i>
3.1.1e	Patios and other spill-out activity is permitted and encouraged where adequate width for pedestrian passage is maintained.	Yes	<i>Unchanged from original DRC approval.</i>
3.1.1f	Where non-commercial uses are proposed at grade in those areas where permitted, they should be designed such that future conversion to retail or commercial uses is possible.	N/A	
3.1.2	Streetwall Setback (refer to Map 6 of the LUB)		
3.1.2a	Minimal to no Setback (0-1.5m): Corresponds to the traditional retail streets and business core of the downtown. Except at corners or where an entire block length is being redeveloped, new buildings should be consistent with the setback of the adjacent existing buildings.	Yes	<i>Unchanged from original DRC approval.</i>
3.1.2b	Setbacks vary (0-4m): Corresponds to streets where setbacks are not consistent and often associated with non-commercial and residential uses or house-form building types. New buildings should provide a setback that is no greater or lesser than the adjacent existing buildings.	Yes	<i>Unchanged from original DRC approval.</i>
3.1.2c	Institutional and Parkfront Setbacks (4m+): Corresponds to the generous landscaped setbacks generally associated with civic landmarks and institutional uses. Similar setbacks designed as landscaped or hardscaped public amenity areas may be considered where new public uses or cultural attractions are proposed along any downtown street. Also corresponds to building frontages on key urban parks and squares where an opportunity exists to provide a broader sidewalk to enable special streetscape treatments and spill	N/A	

Attachment C – Design Manual Checklist – Case 21123

Section	Guideline	Complies	Discussion
	out activity such as sidewalk patios.		
3.1.3	<p>Streetwall Height (<i>refer to Map 7 of the LUB</i>) To ensure a comfortable human-scaled street enclosure, streetwall height should generally be no less than 11 metres and generally no greater than a height proportional (1:1) to the width of the street as measured from building face to building face. Accordingly, maximum streetwall heights are defined and correspond to the varying widths of downtown streets B generally 15.5m, 17m or 18.5m. Consistent with the principle of creating strong edges to major public open spaces, a streetwall height of 21.5m is permitted around the perimeter of Cornwallis Park. Maximum Streetwall Heights are shown on Map 7 of the Land Use By-law.</p>		
3.2	Pedestrian Streetscapes		
3.2.1	Design of the Streetwall		
3.2.1a	The streetwall should contribute to the fine grained character of the streetscape by articulating the façade in a vertical rhythm that is consistent with the prevailing character of narrow buildings and storefronts.	Yes	The façade is articulated in both a vertical and horizontal rhythm in a contemporary manner. <i>Unchanged from original DRC approval.</i>
3.2.1b	The streetwall should generally be built to occupy 100% of a property's frontage along streets.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.1c	Generally, streetwall heights should be proportional to the width of the right-of-way a 1:1 ratio between streetwall height and right of way width. Above the maximum streetwall height, further building heights are subject to upper storey stepbacks.	Yes	<i>While the streetwall height has increased by 0.7m, staff advise that the general intent of this design element is met.</i>
3.2.1d	In areas of contiguous heritage resources, streetwall height should be consistent with heritage buildings.	N/A	
3.2.1e	Streetwalls should be designed to have the highest possible material quality and detail.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.1f	Streetwalls should have many windows and doors to provide eyes on the street and a sense of animation and engagement.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.1g	Along pedestrian frontages at grade level, blank walls shall not be permitted, nor shall any mechanical or utility functions (vents, trash vestibules, propane vestibules, etc.) be permitted.	Yes	<i>There are no blank walls on street facing facades; however, the changes in cladding at the penthouse levels create a blank rear wall that is visible to pedestrians on Birmingham Street.</i>
3.2.2	Building Orientation and Placement		
3.2.2a	All buildings should orient to, and be placed at, the street	Yes	<i>Unchanged from original</i>

Attachment C – Design Manual Checklist – Case 21123

Section	Guideline	Complies	Discussion
	edge with clearly defined primary entry points that directly access the sidewalk.		<i>DRC approval.</i>
3.2.2b	Alternatively, buildings may be sited to define the edge of an on-site public open space, for example, plazas, promenades, or eroded building corners resulting in the creation of public space (see diagram at right). Such treatments are also appropriate for Prominent Visual Terminus sites identified on Map 9 of the Land Use By-law.	N/A	
3.2.2c	Sideyard setbacks are not permitted in the Central Blocks defined on Map 8 of the Land Use Bylaw, except where required for through-block pedestrian connections or vehicular access.	N/A	
3.2.3	Retail Uses		
3.2.3a	All mandatory retail frontages (Map 3 of Land Use By-law) should have retail uses at-grade with a minimum 75% glazing to achieve maximum visual transparency and animation.	N/A	
3.2.3b	Weather protection for pedestrians through the use of well-designed awnings and canopies is required along mandatory retail frontages (Map 3) and is strongly encouraged in all other areas.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.3c	Where retail uses are not currently viable, the grade-level condition should be designed to easily accommodate conversion to retail at a later date.	N/A	
3.2.3d	Minimize the transition zone between retail and the public realm. Locate retail immediately adjacent to, and accessible from, the sidewalk.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.3e	Avoid deep columns or large building projections that hide retail display and signage from view.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.3f	Ensure retail entrances are located at or near grade. Avoid split level, raised or sunken retail entrances. Where a changing grade along a building frontage may result in exceedingly raised or sunken entries it may be necessary to step the elevation of the main floor slab to meet the grade changes.	Yes	A sloping condition exists on both street frontages. The floor slab has been stepped to avoid sunken entries. <i>Unchanged from original DRC approval.</i>
3.2.3g	Commercial signage should be well designed and of high material quality to add diversity and interest to retail streets, while not being overwhelming.	N/A	

3.2.4	Residential Uses		
3.2.4a	Individually accessed residential units (i.e. town homes) should have front doors on the street, with appropriate front yard privacy measures such as setbacks and landscaping. Front entrances and first floor slabs should be raised above grade level for privacy, and should be accessed through means such as steps, stoops and porches.	N/A	
3.2.4b	Residential units accessed by a common entrance and lobby may have the entrance and lobby elevated or located at grade-level, and the entrance should be clearly recognizable from the exterior through appropriate architectural treatment.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.4c	Projects that feature a combination of individually accessed units in the building base with common entrance or lobby-accessed units in the upper building, are encouraged.	N/A	
3.2.4d	Units with multiple bedrooms (2 and 3 bedroom units) should be provided that have immediately accessible outdoor amenity space. The amenity space may be at-grade or on the landscaped roof of a podium.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.4e	Units provided to meet housing affordability requirements shall be uniformly distributed throughout the development and shall be visually indistinguishable from market-rate units through the use of identical levels of design and material quality.	N/A	
3.2.4f	Residential uses introduced adjacent to pre-existing or concurrently developed eating and drinking establishments should incorporate acoustic dampening building materials to mitigate unwanted sound transmission.	N/A	
3.2.5	Sloping Conditions		
3.2.5a	Maintain active uses at-grade, related to the sidewalk, stepping with the slope. Avoid levels that are distant from grade.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.5b	Provide a high quality architectural expression along facades. Consider additional detailing, ornamentation or public art to enhance the experience.	Yes	<i>Some changes in design have occurred, but this guideline is still met.</i>
3.2.5c	Provide windows, doors and other design articulation along facades; blank walls are not permitted.	Yes	<i>There are no blank walls on street facing facades; however, the changes in cladding at the penthouse levels create a blank rear wall that is visible to pedestrians on Birmingham Street.</i>
3.2.5d	Articulate the façade to express internal floor or ceiling	Yes	<i>Unchanged from original</i>

	lines; blank walls are not permitted.		<i>DRC approval.</i>
3.2.5e	Wrap retail display windows a minimum of 4.5 metres around the corner along sloping streets, where retail is present on the sloping street.	Yes	<i>Unchanged from original DRC approval.</i>
3.2.5f	Wherever possible, provide pedestrian entrances on sloping streets. If buildings are fully accessible at other entrances, consider small flights of steps or ramps up or down internally to facilitate entrances on the slope.	Yes	A sloping condition exists on both street frontages. The floor slab will be stepped to avoid sunken entries.
3.2.5g	Flexibility in streetwall heights is required in order to transition from facades at lower elevations to facades at higher elevations on the intersecting streets. Vertical corner elements (corner towers) can facilitate such transitions, as can offset or broken cornice lines at the top of streetwalls on sloping streets.	N/A	
3.2.6	Elevated Pedestrian Walkways <i>(not applicable)</i>		
3.2.7	Other Uses <i>(not applicable)</i>		
3.3	Building Design		
3.3.1	Building Articulation		
3.3.1a	To encourage continuity in the streetscape and to ensure vertical breaks in the façade, buildings shall be designed to reinforce the following key elements through the use of setbacks, extrusions, textures, materials, detailing, etc.: <ul style="list-style-type: none"> • Base: Within the first four storeys, a base should be clearly defined and positively contribute to the quality of the pedestrian environment through animation, transparency, articulation and material quality. • Middle: The body of the building above the base should contribute to the physical and visual quality of the overall streetscape. • Top: The roof condition should be distinguished from the rest of the building and designed to contribute to the visual quality of the skyline. 	Yes	<i>The articulation of the building façade distinguishes the base, middle and top portions through the varied use of projected solid volumes in angled or wedge positions, framed-glass volumes, recessed glazed voids, and alternating colours/finishes.</i>
3.3.1b	Buildings should seek to contribute to a mix and variety of high quality architecture while remaining respectful of downtown's context and tradition.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.1c	To provide architectural variety and visual interest, other opportunities to articulate the massing should be encouraged, including vertical and horizontal recesses or projections, datum lines, and changes in material, texture or colour.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.1d	Street facing facades should have the highest design quality; however, all publicly viewed facades at the side and rear should have a consistent design expression.	No	<i>There are no blank walls on the street facing facades; however, the changes in cladding at the penthouse levels</i>

			<i>create a blank rear wall that is visible to pedestrians on Birmingham Street.</i>
3.3.2	Materials		
3.3.2a	Building materials should be chosen for their functional and aesthetic quality, and exterior finishes should exhibit quality of workmanship, sustainability and ease of maintenance.	No	<i>See staff report relative to discussion of cladding on the penthouse levels.</i>
3.3.2b	Too varied a range of building materials is discouraged in favour of achieving a unified building image.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2c	Materials used for the front façade should be carried around the building where any facades are exposed to public view at the side or rear.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2d	Changes in material should generally not occur at building corners.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2e	Building materials recommended for new construction include brick, stone, wood, glass, in-situ concrete and pre-cast concrete.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2f	In general, the appearance of building materials should be true to their nature and should not mimic other materials.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2g	Stucco and stucco-like finishes shall not be used as a principle exterior wall material.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2h	Vinyl siding, plastic, plywood, concrete block, EIFS (exterior insulation and finish systems where stucco is applied to rigid insulation), and metal siding utilizing exposed fasteners are prohibited.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2i	Darkly tinted or mirrored glass is prohibited. Clear glass is preferable to light tints. Glare reduction coatings are preferred.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.2j	Unpainted or unstained wood, including pressure treated wood, is prohibited as a building material for permanent decks, balconies, patios, verandas, porches, railings and other similar architectural embellishments, except that this guidelines shall not apply to seasonal sidewalk cafes.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.3	Entrances		
3.3.3a	Emphasize entrances with such architectural expressions as height, massing, projection, shadow, punctuation, change in roof line, change in materials, etc.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.3b	Ensure main building entrances are covered with a canopy, awning, recess or similar device to provide pedestrian weather protection.	Yes	A large canopy, recessed entries, enclosed lobby area and building overhangs are incorporated.

			<i>Unchanged from original DRC approval.</i>
3.3.3c	Modest exceptions to setback and stepback requirements are possible to achieve these goals.	Yes	<i>Unchanged from original DRC approval.</i>
3.3.4	Roof Line and Roofscapes		
3.3.4a	Buildings above six storeys (mid and high-rise) contribute more to the skyline of individual precincts and the entire downtown, so their roof massing and profile must include sculpting, towers, night lighting or other unique features.	No	The original design called for a building top which was distinguished by a solid, uninterrupted mass, with fully glazed portions on the north and south elevations. <i>The changes in cladding at the penthouse levels lessen the degree that this guideline has been satisfied.</i>
3.3.4b	The expression of the building top (see previous) and roof, while clearly distinguished from the building middle, should incorporate elements of the middle and base such as pilasters, materials, massing forms or datum lines.	Yes	Elements of the middle and base are incorporated into the top. <i>Unchanged from original DRC approval.</i>
3.3.4c	Landscaping treatment of all flat rooftops is required. Special attention shall be given to landscaping rooftops in precincts 3, 5, 6 and 9, which abut Citadel Hill and are therefore pre-eminently visible. The incorporation of living green roofs is strongly encouraged.	No	<i>See staff report</i>
3.3.4d	Ensure all rooftop mechanical equipment is screened from view by integrating it into the architectural design of the building and the expression of the building top. Mechanical rooms and elevator and stairway head-houses should be incorporated into a single well-designed roof top structure. Sculptural and architectural elements are encouraged to add visual interest.	No	<i>See staff report</i>
3.3.4e	Low-rise flat roofed buildings should provide screened mechanical equipment. Screening materials should be consistent with the main building design. Sculptural and architectural elements are encouraged for visual interest as the roofs of such structures have very high visibility.	N/A	
3.3.4f	The street-side design treatment of a parapet should be carried over to the back-side of the parapet for a complete, finished look where they will be visible from other buildings and other high vantage points.	Yes	<i>Unchanged from original DRC approval.</i>
3.4	Civic Character		
3.4.1	These are frontages and sites with exceptional visibility and	N/A	

	opportunity for signature or landmark architectural treatments or features. The design of these buildings should provide distinctive massing articulation and architectural features so as to reinforce their visual prominence.		
3.4.2	Corner buildings have a greater visual prominence given that they terminate two streetwalls and that they have excellent visual exposure from the open space created by street intersections. Provision of distinctive architectural treatments such as spires, turrets, belvederes, porticos, arcades, or archways.	No	<i>See Staff Report</i>
3.4.3	Civic buildings entail a greater public use and function, and therefore should be prominent and recognizable, and be designed to reflect the importance of their civic role.	N/A	
3.5	Parking Services and Utilities		
3.5.1	Vehicular Access, Circulation, Loading and Utilities		
3.5.1a	Locate parking underground or internal to the building (preferred), or to the rear of buildings.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.1b	Ensure vehicular and service access has a minimal impact on the streetscape, by minimizing the width of the frontage it occupies, and by designing integrated access portals and garages.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.1c	Locate loading, storage, utilities, areas for delivery and trash pick-up out of view from public streets and spaces, and residential uses.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.1d	Where access and service areas must be visible from or shared with public space, provide high quality materials and features that can include continuous paving treatments, landscaping and well-designed doors and entries.	N/A	
3.5.1e	Coordinate and integrate utilities, mechanical equipment and meters with the design of the building, for example, using consolidated rooftop structures or internal utility rooms.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.1f	Locate heating, venting and air conditioning vents away from public streets. Locate utility hook-ups and equipment (i.e. gas meters) away from public streets and to the sides and rear of buildings, or in underground vaults.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.2	Parking Structures		
3.5.2a	Where multi-storey parking facilities are to be integrated into new developments they should be visually obscured from abutting streets by wrapping them with 'sleeves' of active uses.	N/A	
3.5.2b	Animated at-grade uses should occupy the street frontage, predominantly retail, with 75% transparency.	Yes	<i>Unchanged from original DRC approval.</i>

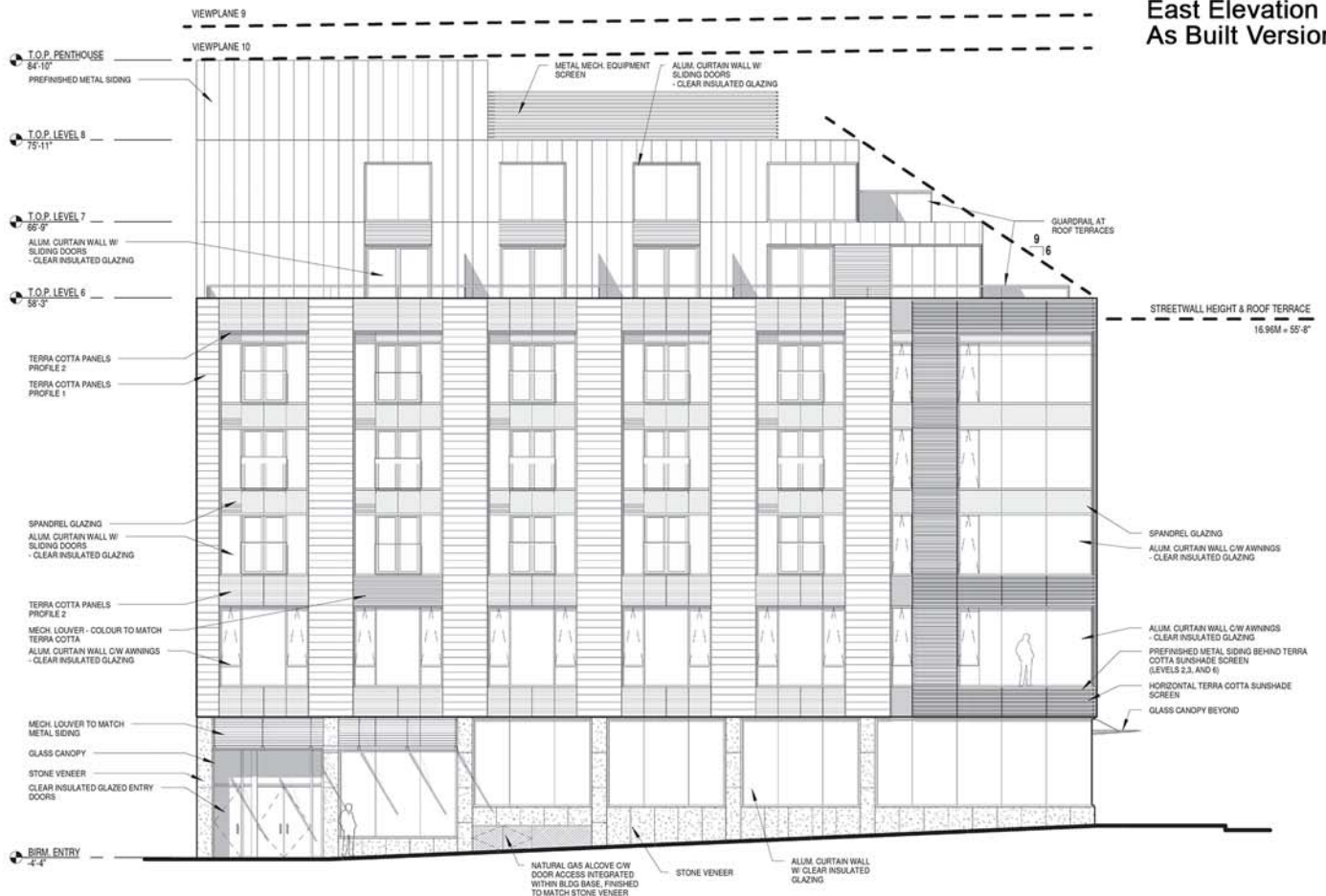
3.5.2c	At-grade parking access and servicing access to retail stores should be provided to the rear and concealed from the street.	N/A	
3.5.2d	Provide articulated bays in the façade to create fine-grained storefront appearance.	N/A	
3.5.2e	Provide pedestrian amenities such as awnings, canopies, and sheltered entries.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.2f	Provide façade treatment that conceals the parking levels and that gives the visual appearance of a multi-storey building articulated with 'window' openings.	N/A	
3.5.2g	Design of parking structures such that they can be repurposed to other uses (i.e. level floor slabs) is encouraged.	N/A	
3.5.2h	Provide cap treatment (at roof or cornice line) that disguises views of rooftop parking and mechanical equipment.	N/A	
3.5.2i	Utilize high quality materials that are compatible with existing downtown buildings.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.2j	Locate pedestrian access to parking at street edges, with direct access. Ensure stairs to parking levels are highly visible from the street on all levels.	N/A	
3.5.2k	Ensure all interior and exterior spaces are well lit, inclusive of parking areas, vehicular circulation aisles, ramps, pedestrian accesses, and all entrances.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.2l	Maintain continuous public access to parking at all hours and in all seasons.	N/A	
3.5.2m	Minimize the width and height of vehicular access points to the greatest practical extent.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.2n	Provide clear sightlines for vehicles and pedestrians at sidewalks, by setting back columns and walls, and providing durable low-maintenance mirrors.	Yes	Side wall is set back from sidewalk and contains openings to improve visibility. <i>Unchanged from original DRC approval.</i>
3.5.2o	Bicycle parking must be provided in visible at-grade locations, and be weather-protected.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.3	Surface Parking (<i>not applicable</i>)		
3.5.4	Lighting		
3.5.4a	Attractive 50% and architectural features can be highlighted with spot-lighting or general lighting placement.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.4b	Consider a variety of lighting opportunities inclusive of	Yes	<i>Unchanged from original</i>

	street lighting, pedestrian lighting, building up- or down-lighting, internal building lighting, internal and external signage illumination (including street addressing), and decorative or display lighting.		<i>DRC approval.</i>
3.5.4c	Illuminate landmark buildings and elements, such as towers or distinctive roof profiles.	N/A	
3.5.4d	Encourage subtle night-lighting of retail display windows.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.4e	Ensure there is no light trespass onto adjacent residential areas by the use of shielded full cutoff fixtures.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.4f	Lighting shall not create glare for pedestrians or motorists by presenting unshielded lighting elements in view.	Yes	<i>Unchanged from original DRC approval.</i>
3.5.5	Signs (<i>no plans have been provided about specific signage – signs will be subject of separate future permit applications</i>)		
3.6	Site Plan Variance		
3.6.3	Streetwall Height Variance: Streetwall heights may be varied by Site Plan Approval where:		
3.6.3a	The streetwall height is consistent with the objectives and guidelines of the Design Manual; and	Yes	<i>Refer to staff report</i>
3.6.2c	The streetwall height of abutting buildings is such that the streetwall height would be inconsistent with the character of the street.	Yes	<i>Unchanged from original DRC approval.</i>
3.6.7	Maximum Tower Width Variance: The maximum tower dimensions may be varied by Site Plan Approval where:		
3.6.7a	The maximum tower width is consistent with the objectives and guidelines of the Design Manual;	Yes	<i>Unchanged from original DRC approval.</i>
3.6.15	Land Uses at Grade Variance: The minimum floor-to-floor height for the ground floor of a building having access at the streetline or Transportation Reserve may be varied by Site Plan Approval where:		
3.6.15a	The proposed floor-to-floor height of the ground floor is consistent with the objectives and guidelines of the Design Manual; and	Yes	<i>Unchanged from original DRC approval.</i>
3.6.15b	The proposed floor-to-floor height of the ground floor does not result in a sunken ground floor condition; and	Yes	<i>Unchanged from original DRC approval.</i>
3.6.15e	The in the case of a new building or an addition to an existing building being proposed along a sloping street(s), the site of the proposed new building or the proposed addition to an existing building is constrained by sloping conditions to such a degree that it becomes unfeasible to properly step up or step down the floor plate of the building to meet the slope and would thus result in a ground floor to-floor height at its highest point that would be impractical	Yes	<i>Unchanged from original DRC approval.</i>

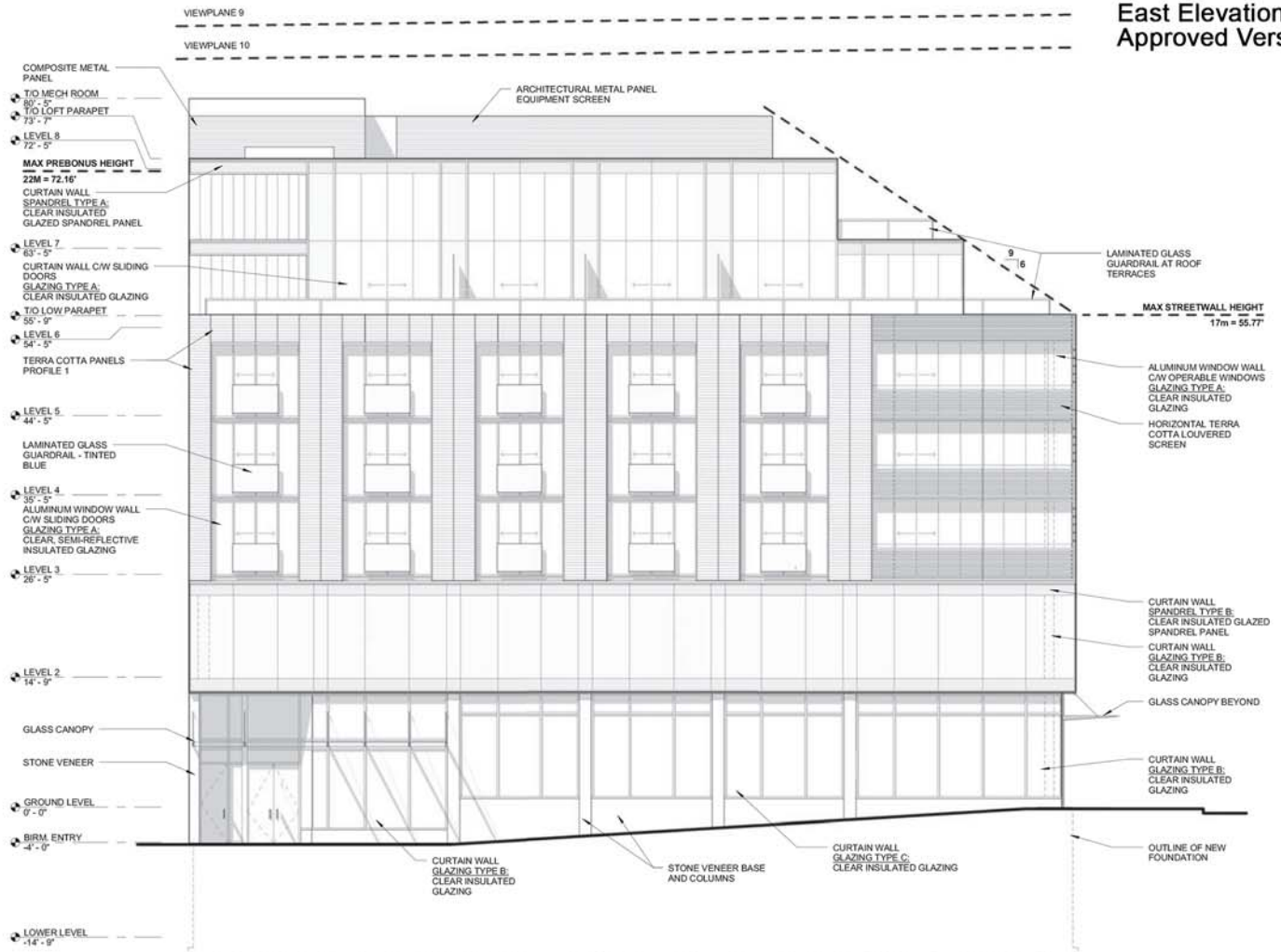
Attachment D
Comparison of As-Built and Approved Renderings, Elevations & Roof Plans



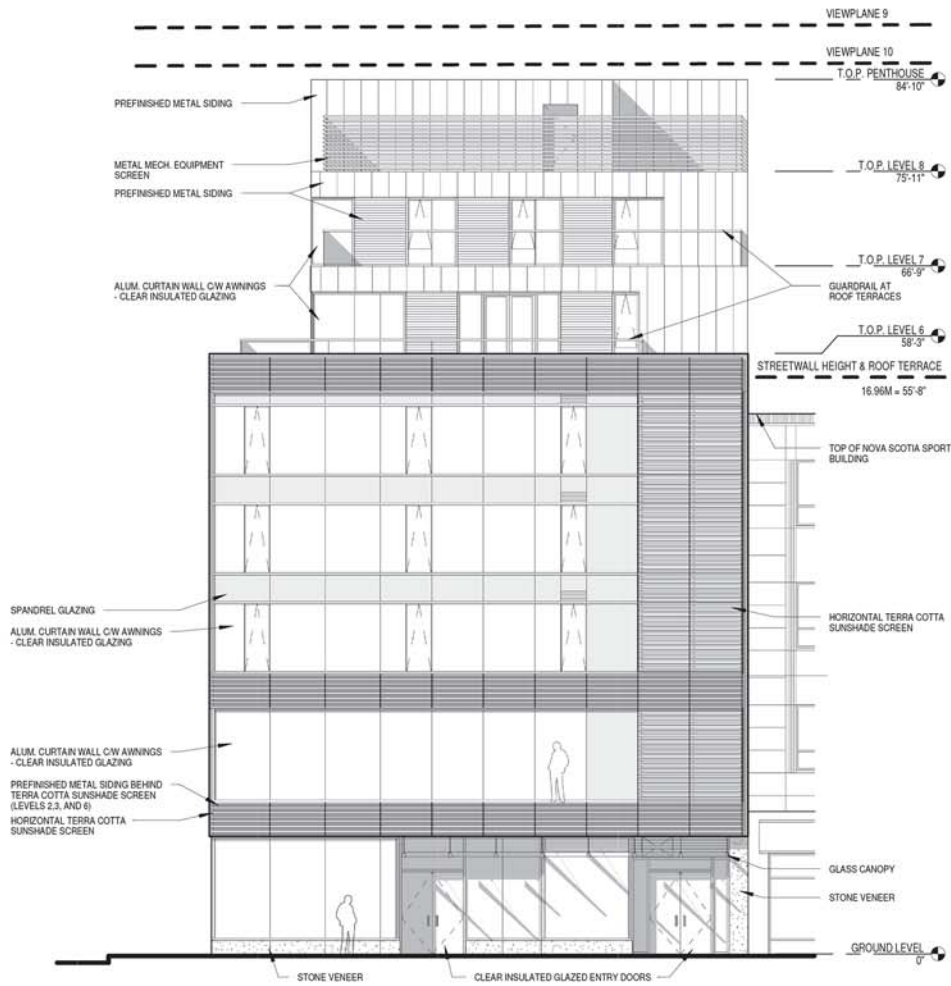
East Elevation As Built Version



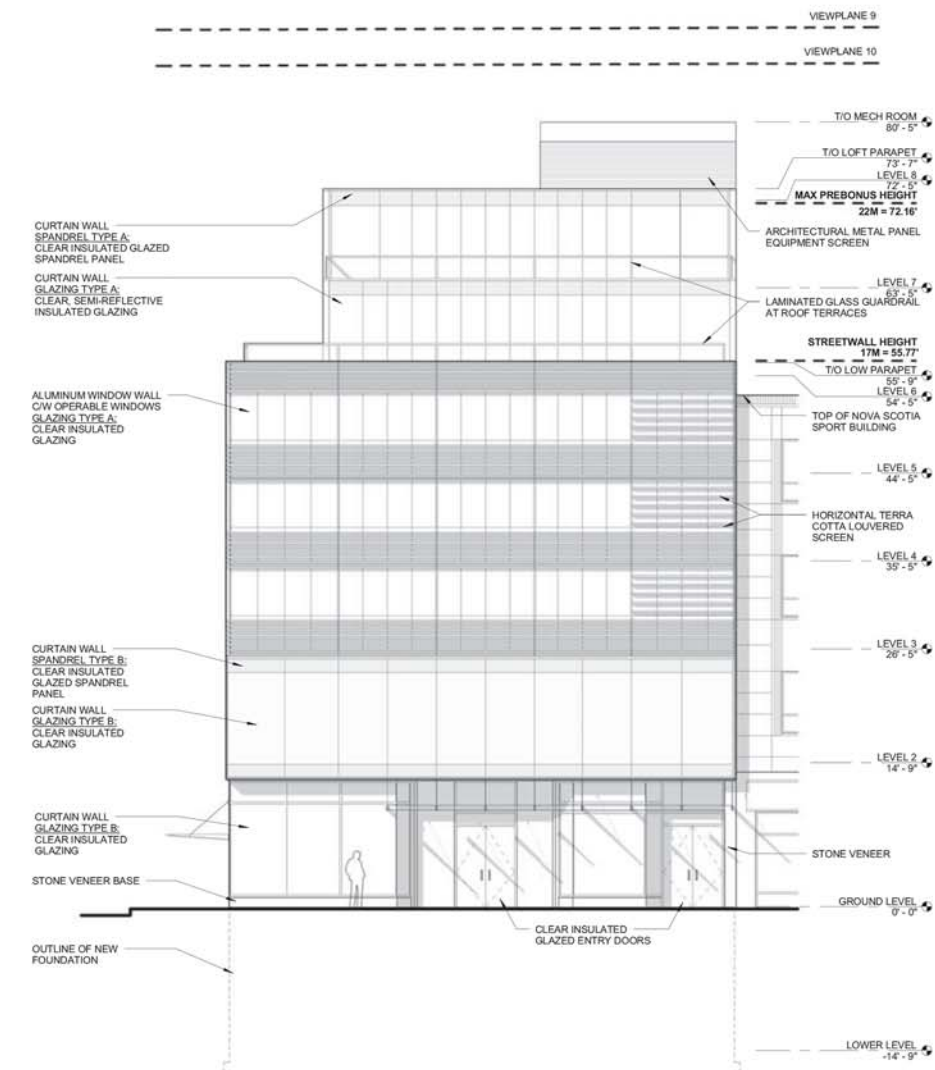
East Elevation Approved Version



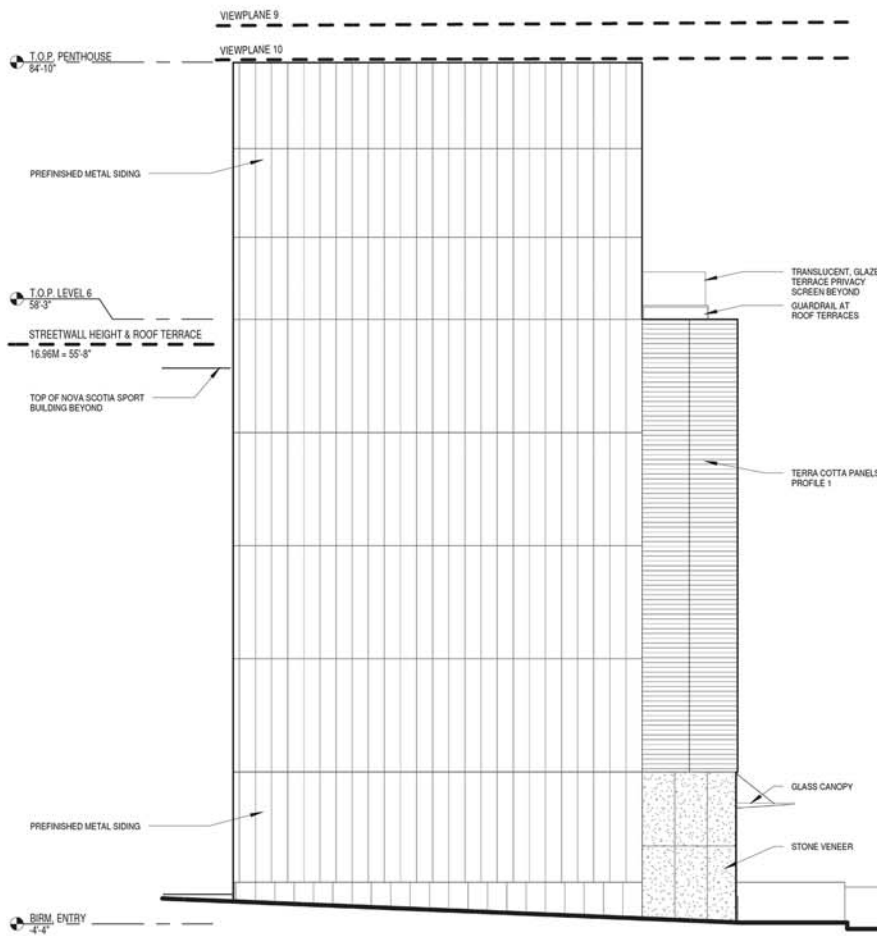
North Elevation As Built Version



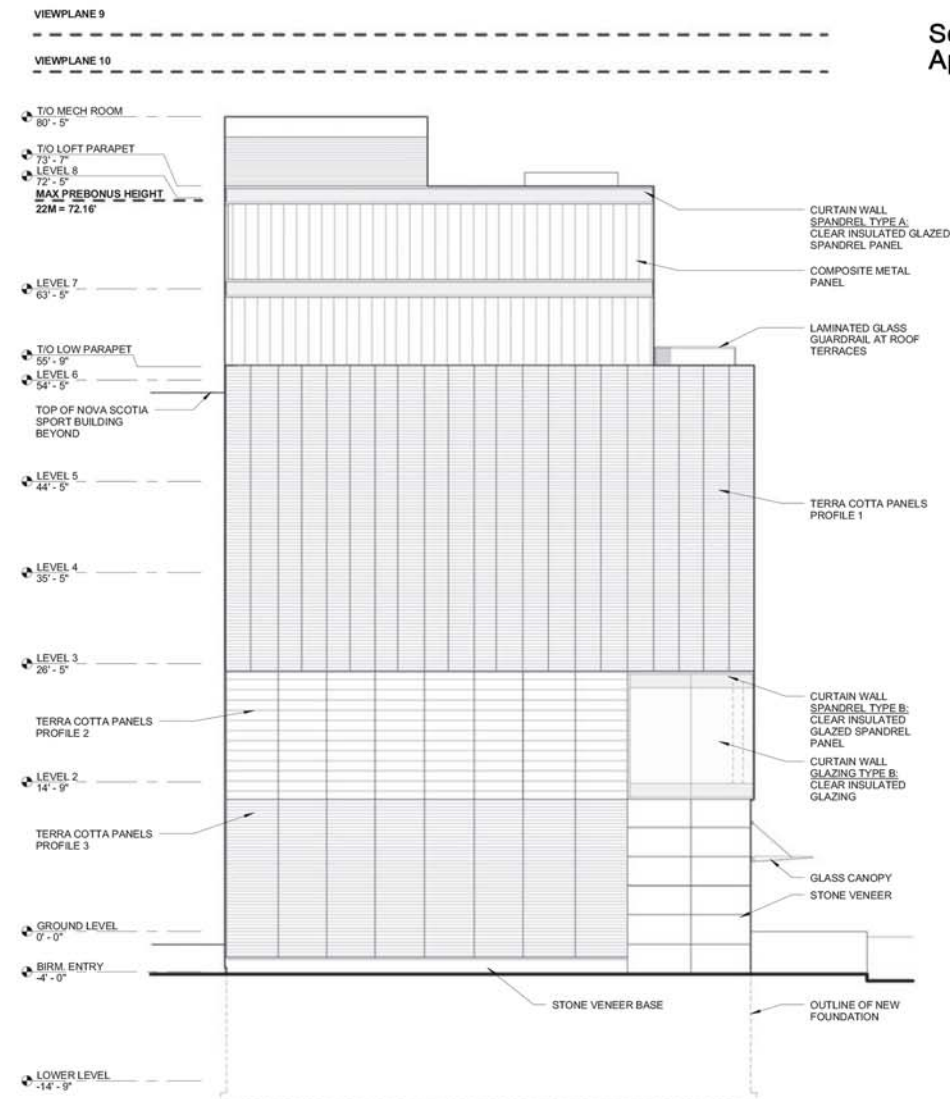
North Elevation Approved Version



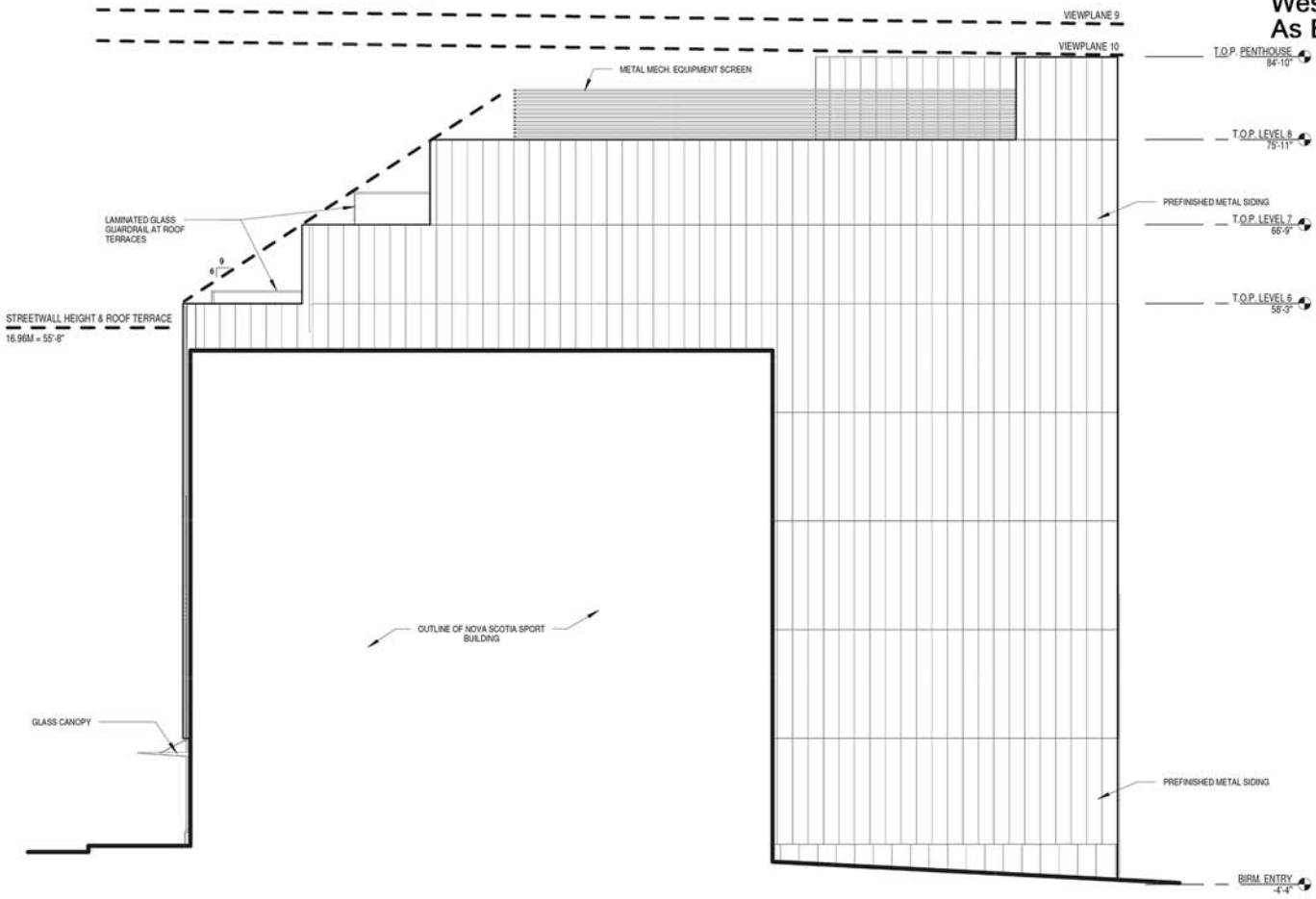
South Elevation As Built Version



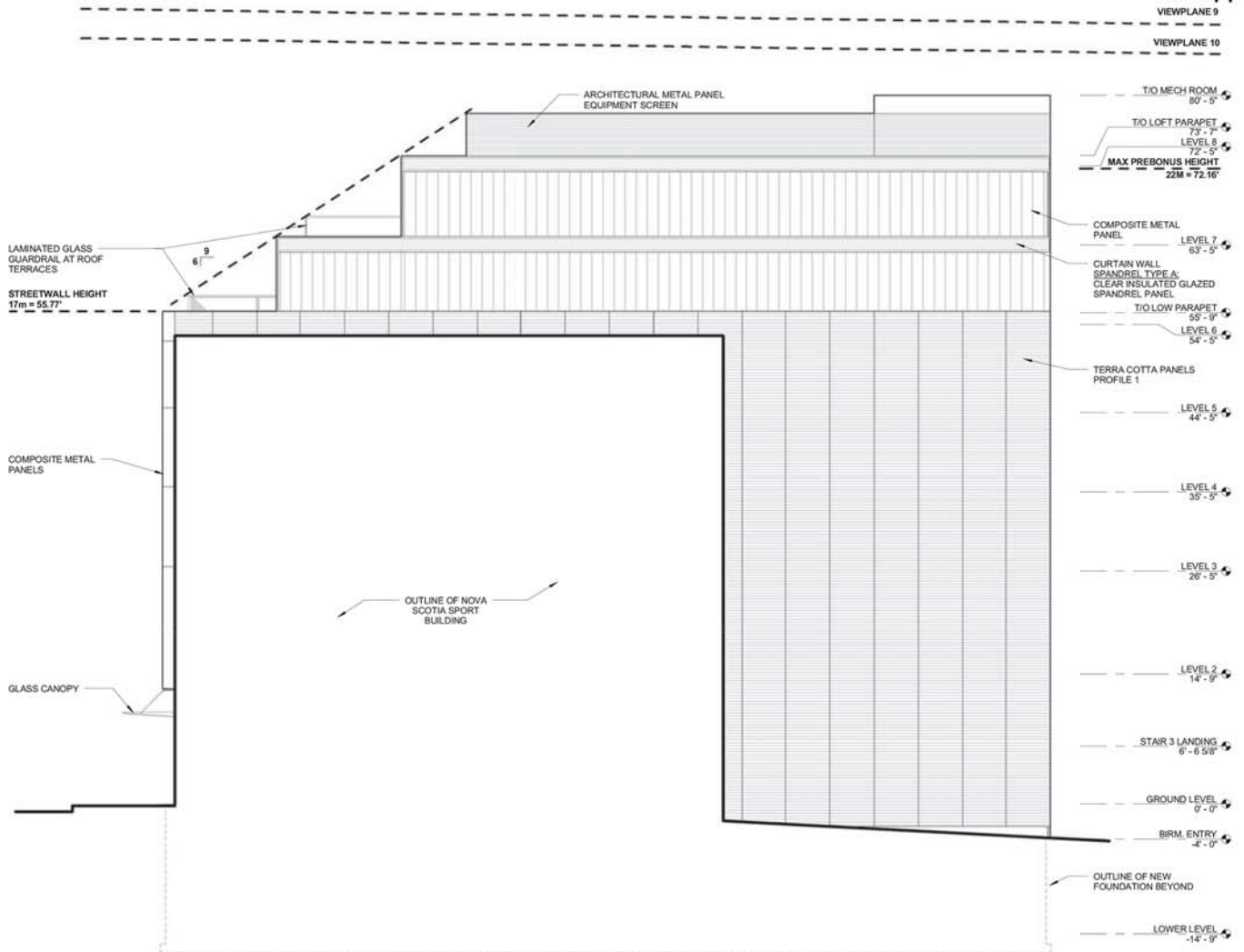
South Elevation Approved Version



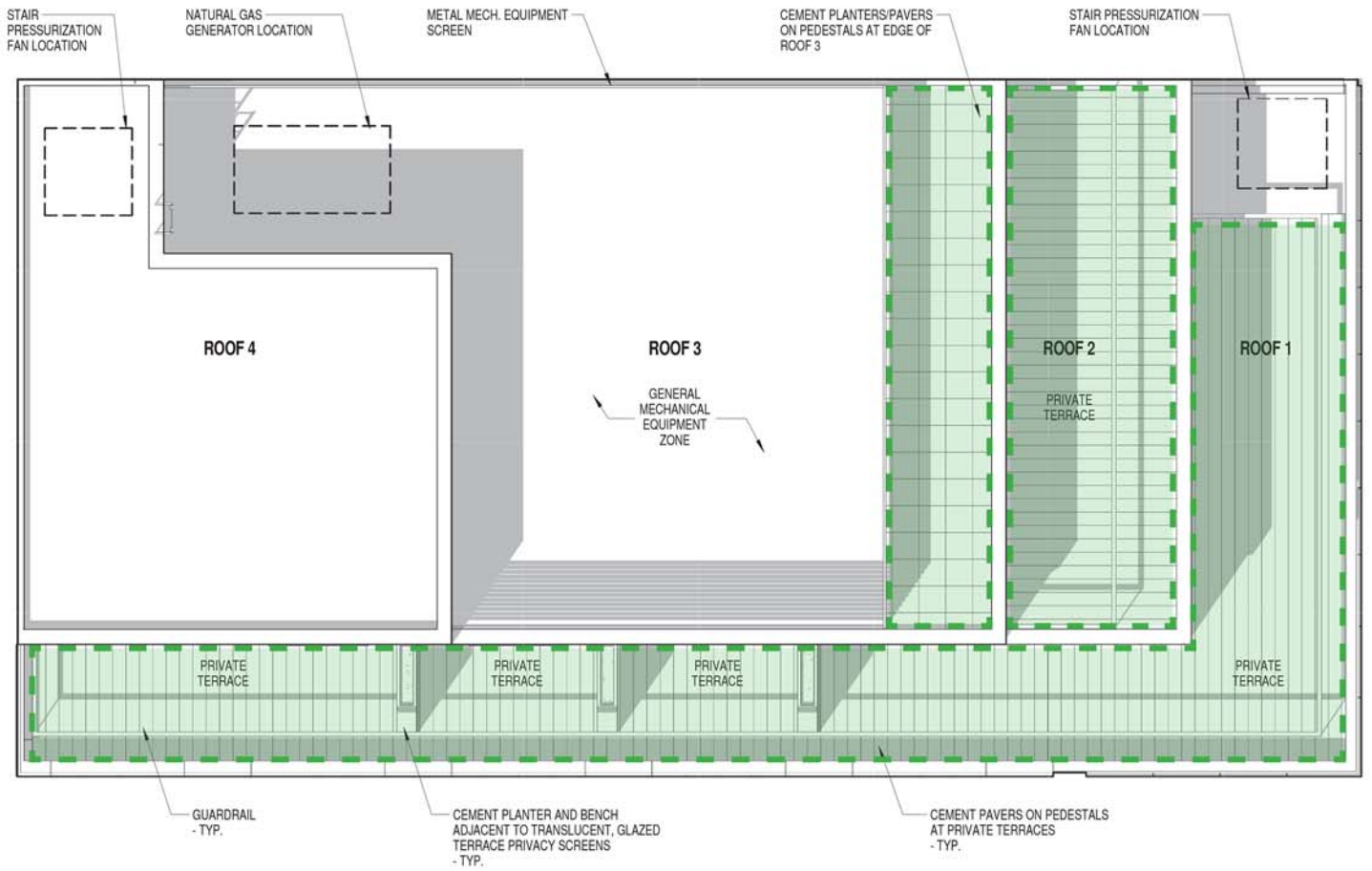
West Elevation As Built Version



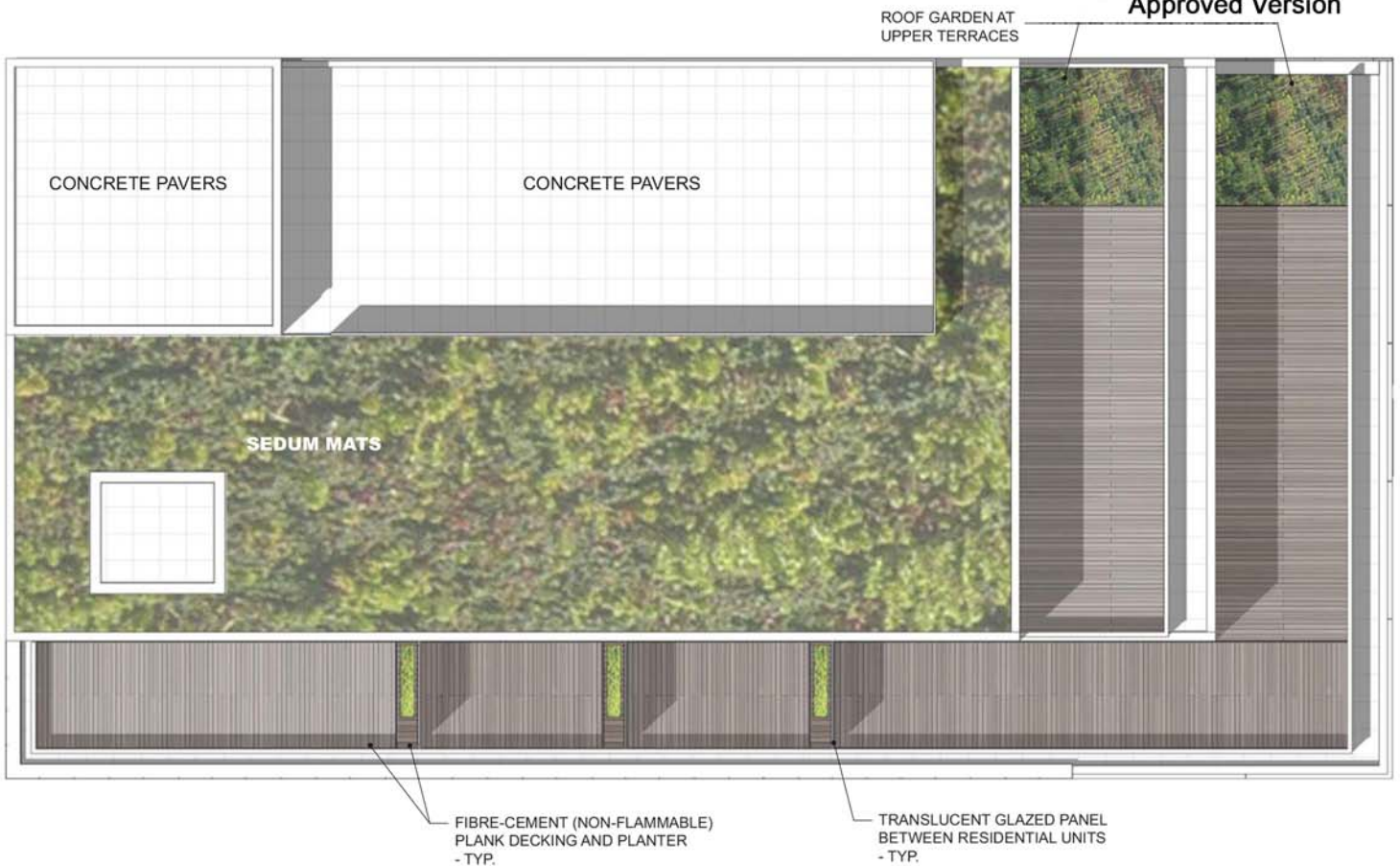
West Elevation Approved Version



Roof Landscape Plan As Built Version



Roof Landscape Plan Approved Version



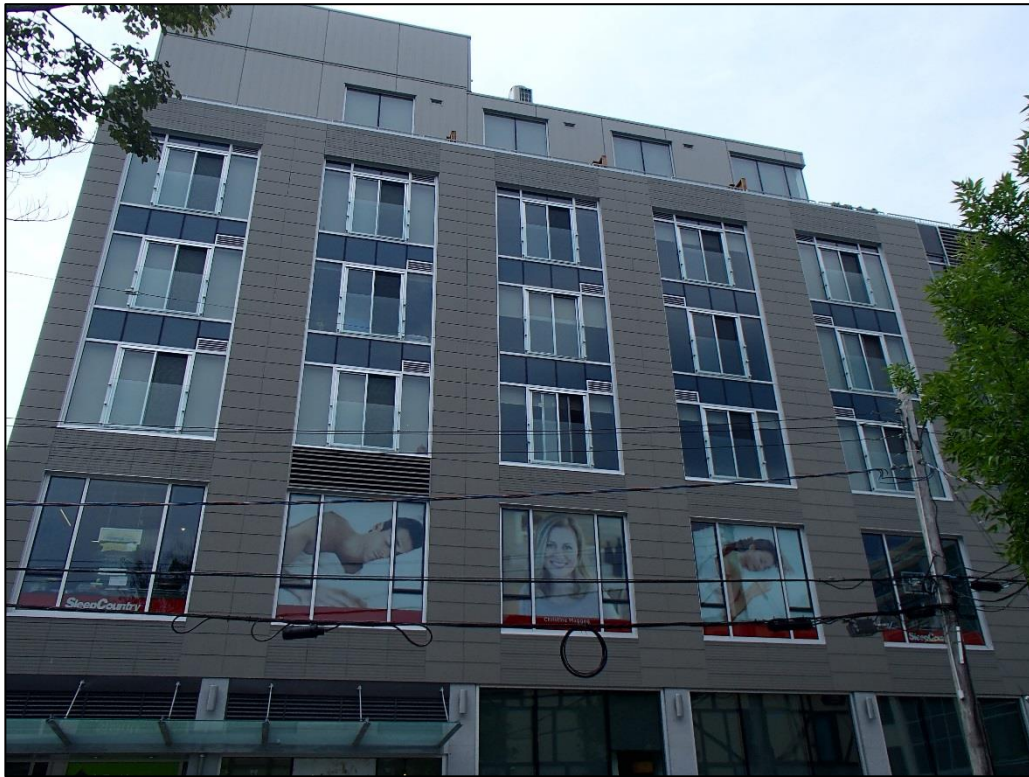
Attachment E – As Constructed Photographs



Photograph 1: Corner of Spring Garden Road and Birmingham Streets.



Photograph 2: Birmingham Street showing rear and side elevations.



Photograph 3: Birmingham Street elevation.



Photograph 4: Rear Elevation.



Photograph 5: View of upper floors and roof areas.



Photograph 6: Close-up view of upper floors and roof areas.

Attachment F – Legislative Authority

Part VIII, Halifax Regional Municipality Charter (“HRM Charter”), including:

Site-plan approval

246 (1) Where a municipal planning strategy so provides, a land-use by-law shall identify

- (a) the use that is subject to site-plan approval;
- (b) the area where site-plan approval applies;
- (c) the matters that are subject to site-plan approval;
- (d) those provisions of the land-use by-law that may be varied by a site-plan approval;
- (e) the criteria the development officer must consider prior to granting site-plan approval;
- (f) the notification area;
- (g) the form and content of an application for site-plan approval; and
- (h) with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area, the requirements for public consultation that must take place prior to an application for site plan approval being submitted to the Municipality.

(2) No development permit may be issued for a development in a site-plan approval area unless

- (a) the class of use is exempt from site-plan approval as set out in the land-use by-law and the development is otherwise consistent with the requirements of the land-use by-law; or
- (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use by-law.

(3) A site-plan approval may deal with

- (a) the location of structures on the lot;
- (b) the location of off-street loading and parking facilities;
- (c) the location, number and width of driveway accesses to streets;
- (d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;
- (e) the retention of existing vegetation;
- (f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;
- (g) the type and location of outdoor lighting;
- (h) the location of facilities for the storage of solid waste;
- (i) the location of easements;
- (j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;
- (k) the type, location, number and size of signs or sign structures;
- (l) the external appearance of structures in the HRM by Design Downtown Plan Area and the Centre Plan Area;
- (m) provisions for the maintenance of any of the items referred to in this subsection.

Design review committees

246A (1) The Council may, by by-law, establish one or more design review committees for the HRM by Design Downtown Plan Area and the Centre Plan Area.

(2) Subject to subsection (3), the design review committee shall exercise the powers of the development officer with respect to any matter set out in subsection 246(3) to the extent, for the area and under the conditions set out in the by-law and, for greater certainty, a decision of the design review committee is in substitution for a decision of the development officer.

(3) A decision of the design review committee is not in substitution of a decision of the development officer for the issuance of any permits.

(4) The by-law referred to in subsection (1) must

- (a) provide for the membership of the design review committee;
- (b) provide for the appointment of the chair and other officers of the committee;
- (c) fix the terms of appointment and set out provisions respecting re-appointment if any;

Attachment F – Legislative Authority

- (d) fix the remuneration, if any, to be paid to the chair of the committee, if the chair is not a Council member;
- (e) determine the reimbursement of members of the committee for expenses incurred as members;
- (f) establish the duties and procedure of the committee;
- (g) provide for the matters the committee may consider when reviewing the external appearance of structures for a development; and
- (h) list non-substantive matters that may not be appealed.

(5) The by-law referred to in subsection (1) may provide that the members are to be appointed by resolution.

(6) There is an appeal to the Council from a decision of the design review committee, except in relation to those non-substantive matters listed in the by-law pursuant to clause (4)(h).

(6A) The results of all public consultation with respect to the Centre Plan Area pursuant to clause 246(1)(h) or regulations made pursuant to clause 277A(1)(b) must be submitted to the design review committee.

(7) The design review committee shall approve or refuse an application within sixty days from the date of the application.

(8) An application that is not approved or refused within sixty days is deemed to have been refused.

(9) An appeal to the Council, pursuant to subsection (6) must be heard by the Council within sixty days unless the parties to the appeal agree otherwise and the Council shall render its decision within thirty days after having heard the appeal.

(10) Where a design review committee approves or refuses to approve an application for a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

Site-plan approval

247 (1) A development officer shall approve an application for site-plan approval unless

- (a) the matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or
- (b) the applicant fails to enter into an undertaking to carry out the terms of the site plan.

(2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

(3) Notwithstanding subsection (2), the Council may require a larger notification distance for site-plan approvals in its land-use by-law if the municipal planning strategy so provides.

(4) The Council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.

(5) The Council may by resolution provide that any person applying for approval of a site plan must pay the Municipality the cost of

- (a) notifying affected land owners; and
- (b) posting a sign.

(6) A development officer may, with the concurrence of the property owner, discharge a site-plan, in whole or in part.

(7) Subsections (8) and (9) apply only with respect to the HRM by Design Downtown Plan Area and the Centre Plan Area.

Attachment F – Legislative Authority

(8) A development officer may, with concurrence of the property owner, amend the site plan for matters that are non-substantive.

(9) For those amendments consisting of non-substantive matters listed in the by-law pursuant to clause 246A(4)(h), there is no appeal.

Development permit in site-plan approval area

248 A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved, the development otherwise complies with the land-use by-law and

- (a) the appeal period has elapsed and no appeal has been commenced; or
- (b) all appeals have been abandoned or disposed of or the site plan has been affirmed by the Council.

Prohibition on breach of agreement or site plan

273 No person shall breach the terms of a development agreement, site plan, or an incentive or bonus zoning agreement.

Breach of approved site plan

275 (1) The Municipality may, upon the breach of an approved site plan, where thirty days notice in writing has been provided to the owner, enter the land and perform any of the terms contained in the site plan.

(2) All reasonable expenses whether arising out of the entry on the land or from the performance of the terms of the site plan are a first lien on the land that is the subject of the site plan.

(3) No action lies against the Municipality or against any agent, servant or employee of the Municipality for anything done pursuant to this Section.

Remedies where offence

276 (1) This Section applies to this Part and Part IX.

(2) In the event of an offence,

- (a) where authorized by the Council or by the Chief Administrative Officer, the Clerk or development officer, in the name of the Municipality; or
- (b) the Director, in the name of Her Majesty in right of the Province, when authorized by the Minister, may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided pursuant to this Section.