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**Item No. 10.1.3**  
**Harbour East-Marine Drive Community Council**  
**May 2, 2019 Public Hearing**  
**April 4, 2019 First Reading**

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

Original Signed

**SUBMITTED BY:**

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Kelly Denty, Director of Planning and Development

Original Signed

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Jacques Dubé, Chief Administrative Officer

**DATE:** January 4, 2019

**SUBJECT:** **Case 21537: Development Agreement for 169 Wyse Road, Dartmouth**

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**ORIGIN**

Application by Michael Napier Architecture.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

**It is recommended that Harbour East-Marine Drive Community Council:**

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to allow for a 6-storey residential building containing ground floor commercial uses at 169 Wyse Road, Dartmouth 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

**Contingent upon the approval of the proposed development agreement, it is further recommended that Harbour East-Marine Drive Community Council:**

3. Approve, by resolution, the proposed Discharging Development Agreement, which shall be substantially of the same form as set out in Attachment B of this report;

4. Require the both the Discharging Development Agreement and Development Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

Michael Napier Architecture, on behalf of the property owner, is applying to enable the construction of a six-storey residential building containing ground floor commercial uses on a site at the intersection of Wyse Road, Pelzant Street, and George Street in Dartmouth (Map 1).

<b>Subject Site</b>	A single property located at 169 Wyse Road, Dartmouth
<b>Location</b>	Corner of Wyse Road, Pelzant Street, and George Street
<b>Regional Plan Designation</b>	Urban Settlement (US)
<b>Community Plan Designation (Map 1)</b>	Commercial (C) under the Dartmouth Municipal Planning Strategy
<b>Zoning (Map 2)</b>	C-2 (General Business) Zone under the Dartmouth Land Use Bylaw
<b>Size of Site</b>	1,603.7 square metres (17,263 square feet) in area
<b>Street Frontage</b>	25.3 metres (83 feet) of frontage on Wyse Road 58.1 metres (191 feet) of frontage on Pelzant Street; and 31.2 metres (102 feet) of frontage on George Street
<b>Current Land Use(s)</b>	Vacant
<b>Surrounding Use(s)</b>	The surrounding area is comprised of commercial and residential uses. Surrounding land uses include: <ul style="list-style-type: none"><li>• To the east – a single unit dwelling and a variety of commercial buildings along Wyse Road, and single unit dwellings and a two unit dwelling along George Street;</li><li>• To the west – a commercial property on the opposite side of Pelzant Street, and a single unit dwelling;</li><li>• To the south – single unit dwellings on the opposite side of George Street; and</li><li>• To the north – apartment buildings and commercial buildings on the opposite side of Wyse Road.</li></ul>

## **Existing Agreement**

On September 8, 2016, Harbour East-Marine Drive Community Council approved a development agreement to allow a ten-storey mixed-used building containing a maximum of 80 residential units with ground floor commercial (Case 19500). It was the developer's intention to, separate from the municipal approval process, enter into an agreement with Housing Nova Scotia to provide affordable housing units within the development.

The owner has evaluated the original approved project with construction consultants and concluded that regulatory changes implemented since the original approval now allow wood frame construction for larger buildings which provides greater economic viability for a smaller structure on this particular site. This application proposes that the existing Development Agreement be discharged and replaced with a new agreement based on the new proposal. The owner's original intent to engage with Housing Nova Scotia with respect to affordable housing outside the municipal approval process remains in place.

## **Proposal Details**

The owner is now requesting a six-storey mixed-used building on the site. The major aspects of the proposal are as follows:

- 241.5 square metres (2600 square feet) of commercial space shall be provided on the ground-floor level of Wyse Road, which shall include contiguous frontage at the corner of Wyse Road and Pelzant Street;
- a maximum of 78 residential units, 4 of which are to have independent pedestrian access to George Street;
- Two levels of underground parking with one level accessed from Pelzant Street and the other from George Street;
- A two-storey streetwall along George Street with upper floors stepped back from the sidewalks; and
- 129.14 square metres (1,390 square feet) of common amenity space for the residents of the building.

### **Enabling Policy and LUB Context**

The subject property is designated Commercial under the Dartmouth Municipal Planning Strategy (MPS). The intent of the commercial designation is to encourage the development of business and commercial uses to serve both local residents and the region as a whole while ensuring commercial uses are located and designed to minimize impacts on existing residential neighbourhoods.

The property is zoned C-2 (General Business) under the Dartmouth Land Use Bylaw (LUB). The C-2 zone permits commercial buildings with full lot coverage, no height limit, and no requirement for stepbacks of upper floors. All commercial uses are permitted excluding adult entertainment uses, pawn shops, cabarets, and uses that could be deemed obnoxious. For office buildings dedicated to major corporate tenancies, a three-storey height limit applies. For office buildings that contain local office uses and offices for professionals providing services, there is no height limit. Residential uses are also permitted within the C-2 Zone. Lower density housing (single and two-unit dwellings, townhouses, and group homes) are permitted as-of-right, while apartment buildings require approval of a development agreement.

The application is made pursuant to Policy IP-5 of the MPS which requires approval by Community Council before any apartment building can be constructed. This process requires that careful consideration be given to the construction of apartment buildings and allows for public involvement in the evaluation of proposed developments. The policy requires attention be given to exterior design, density, massing, landscaping, amenity space and traffic.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public information meeting held on July 25, 2018. Attachment D contains a copy of the minutes from the meeting. The public comments received both at the meeting and through correspondence with staff include the following topics:

- Loss of green space between adjacent low density residential buildings;
- Traffic and parking on the street;
- Parking garage entrance on George Street;
- Blasting concerns;
- Large footprint – out of scale; and
- Greater setback required above second floor units facing George Street.

A public hearing must be held by Harbour East-Marine Drive Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a

public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and property owners.

## **DISCUSSION**

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

### **Proposed Development Agreement**

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

- Permitted residential uses (maximum of 78 units, with a minimum of 18 two-bedroom units);
- Ground floor minor commercial uses, including a lounge;
- Provisions of appropriate transitions in scale to respect the pedestrian realm and the amenity and enjoyment of adjacent properties;
- Controls on architectural design, signage, and lighting;
- Required parking (bicycle and vehicular), circulation and site access;
- Site servicing, maintenance, and waste management facilities;
- Requirement for commencement of development, within a certain timeframe; and
- Options for limited non-substantive amendments by resolution of Council, including: minor modifications to design, signage requirements, and changes to timeframes for development.

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

### **Compatibility**

One of the key considerations when reviewing an application under Policy IP-5 is the compatibility of the proposed land use with the existing neighbourhood and the mitigation of potential impacts that could potentially arise. These matters were considered as follows:

- Due to the location of the subject site on a corner lot within the Wyse Road area, a six-storey building height with ground floor commercial is considered appropriate as it promotes a pedestrian oriented environment by bringing the building to the street edge and providing pedestrian oriented street level uses;
- Given the orientation of the site to the adjacent neighbourhood and the massing limitations imposed by the development agreement, there would be very minimal shadow impacts on nearby homes;
- A two-storey residential form is provided along George Street to reflect the neighbourhood character. The units are designed to present a fine-grained neighbourhood feel through provision of setbacks, individual entrances, landscaping, and cladding materials and colours. A stepback is provided above the two-storey residential form to establish a clear low rise, low density character; and
- A setback of 10 feet is provided for the building from abutting low density uses. Although a parking garage ramp is located within a portion of this setback, a retaining wall with landscaping and a privacy fence provide a visual and acoustic buffer that help to ensure compatibility with abutting uses.

### Site and Building Design

The following requirements are established in the development agreement to ensure that the project is sited and designed appropriately for the site:

- Lot coverage is limited to 70%, with setbacks of 0.3 metre (1 foot) from Wyse Road, 1.5 metre (5 feet) from George Street and 0-1.5 metres (5 feet) from Pelzant Street;
- A maximum streetwall of 5 storeys fronting Wyse Road with provisions for an appropriate 2 storey streetwall along George Street, which is generally consistent with the existing heights on neighbouring properties;
- Provision of a 5.18 metre (17 feet) stepback above the 2<sup>nd</sup> floor along George Street;
- Utilization of varied architectural wall treatments to mitigate against blank walls; and
- The incorporation of high quality materials such as brick, glass, composite panels, and metal railings with tinted glass on balconies to break up the massing and ensure an aesthetically pleasing building and increase privacy. Signs are limited to the commercial uses located at the ground floor level with a residential identification sign permitted at the residential entrance on Pelzant Street.

### Landscaping/Amenity Space

An interior amenity space of a minimum 129.14 square metres (1390 square feet) in area is required. In addition, 80% of the dwelling units are required to have a private balcony. New landscaping is required, including mixed plantings and fences along internal property lines, and along the Pelzant Street and George Street frontages. These measures will improve the aesthetics of the site and provide a form of buffer along internal property lines. The site contains some trees along the property line adjacent to 16 George Street, which will be removed to enable development of the site. However, the driveway entrance has been redesigned to minimize excavation towards the rear of both the subject property as well 16 George Street. The redesign also includes the added benefit of additional landscaping in this rear corner of the subject property.

An existing street tree on George Street would have to be removed to accommodate the proposed driveway and compensation provided under Bylaw T-600 (Tree By-law). Compensation for this tree will be determined by the HRM Urban Forester at the time of the construction permit application.

### Traffic

There are two driveway entrances to underground parking (minimum 44 parking stalls) proposed for the project. One is located on Pelzant Street and the second is from George Street. A Traffic Impact Statement (TIS) was prepared by a Professional Engineer for the original proposal (Case 19500), which has been deemed acceptable for this application given the reduction in the intensity of the use. The TIS concluded that the proposed development is not expected to have any significant impact on the level of performance of the local streets, the adjacent intersections, or the regional street network. There are no concerns relative to the expected traffic volumes that would be generated by a primarily residential development on the site.

### **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The proposed development represents an appropriate infill opportunity for this vacant site, and presents a built form that responds to the character of each of the three streets upon which it has frontage. The development will foster pedestrian-oriented streetscapes, through the design fronting on Wyse Road, limitations on the scope of commercial uses and the provision of four individually accessed ground level units on George street. The proposal includes setbacks at grade, landscaping, and cladding materials and colours that mitigate the impact on abutting properties. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed development agreement.

## **FINANCIAL IMPLICATIONS**

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018-2019 budget and with existing resources.

## **RISK CONSIDERATION**

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

## **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

## **ALTERNATIVES**

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

## **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Proposed Discharging Development Agreement
Attachment C:	Review of Relevant Policies of the Dartmouth MPS
Attachment D:	Public Information Meeting Summary

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

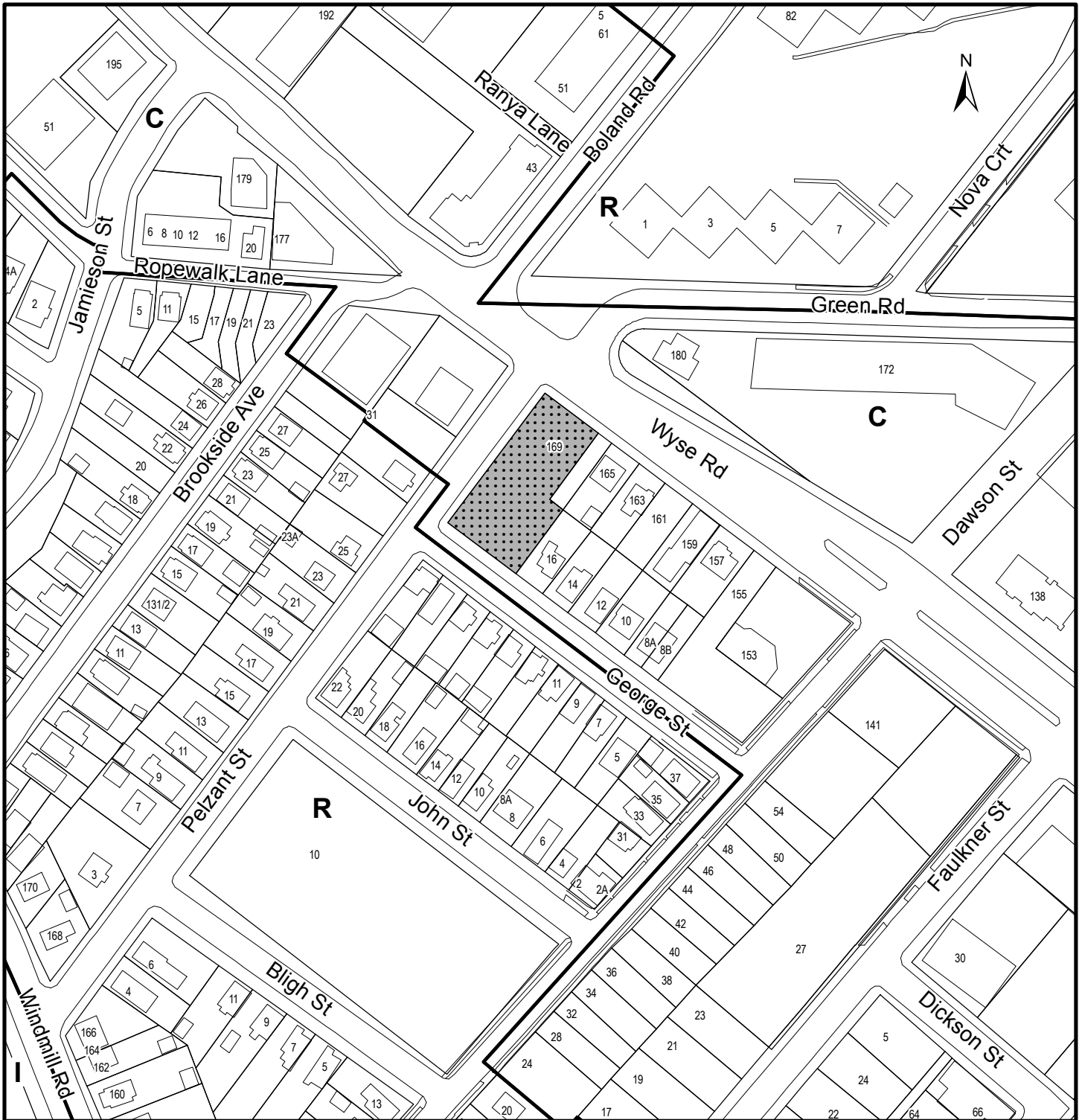
Report Prepared by: Dean MacDougall, Planner II, 902.490.4193

Original Signed

Report Approved by:

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Steven Higgins, Manager Current Planning, 902.490.4382

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**Map 1 - Generalized Future Land Use**

169 Wyse Road,  
Dartmouth

**HALIFAX**



Subject Property

**Designation**

- R Residential
- C Commercial

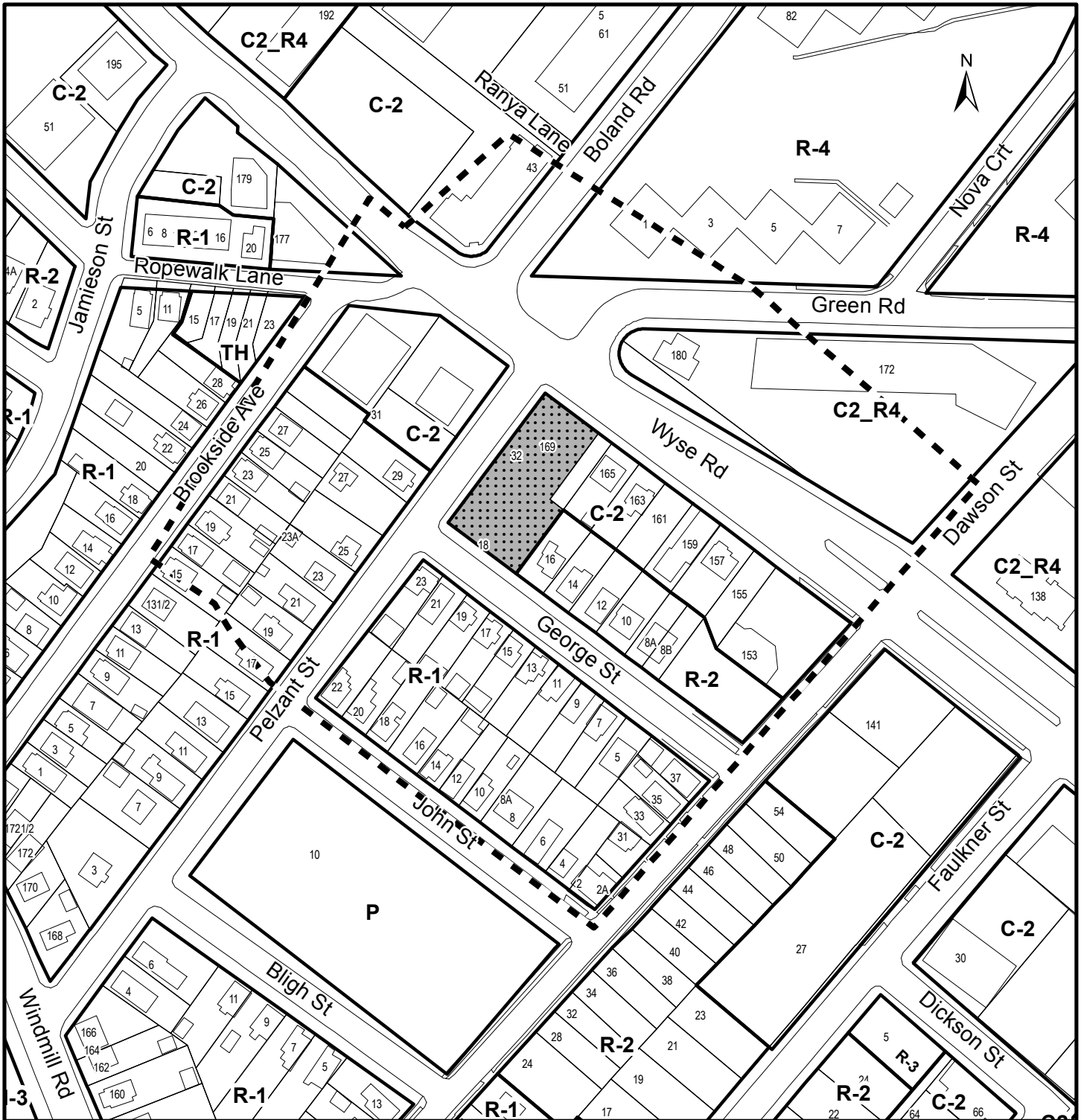


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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

Dartmouth  
Plan Area





**Map 2 - Zoning and Notification**

169 Wyse Road,  
Dartmouth

**HALIFAX**

Area of proposed development Agreement

Area of Notification

Dartmouth  
Plan Area

**Zone**

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- R-4 Multiple Family Residential (High Density)
- TH Town Housing
- C-2 General Business
- P Park



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

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



this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer and/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) **Lounge:** means an establishment licensed as a lounge pursuant to the Nova Scotia

Liquor Control Act.

**(b) Amenity Space:** means non-commercial indoor space designed for shared use by a building's occupants, such as communal indoor kitchens, swimming pools, fitness rooms, racquet or other sport courts, playgrounds, games and television rooms, exercise or art studios, music rooms, greenhouses, saunas, and meeting rooms.

### **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

#### **3.1 Schedules**

3.1.1 The Developer shall develop the lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 21537:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Level P1 – Lower Parking
Schedule D	Level P2/TH at George Street
Schedule E	East Elevation
Schedule F	North Elevation
Schedule G	West Elevation
Schedule H	South Elevation

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

3.2.1 Prior to the commencement of any site work on the Lands, the Developer shall provide the following to the Development Officer:

- (a) A detailed Site Disturbance Plan prepared by a Professional Engineer in accordance with Part 5 of this Agreement;
- (b) A detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with Part 5 of this Agreement; and
- (c) A detailed Site Grading and Stormwater Management Plan prepared by a Professional Engineer in accordance with Part 5 of this Agreement.

3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide to the Development Officer:

- (a) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.6 of this Agreement; and

3.2.3 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the Development Officer with certification from a member in good standing of the Canadian Society of Landscape Architects indicating that the Developer has complied with the landscaping provisions of this Agreement, or the posting of security in accordance with Section 3.6.7.

3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any use 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 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 an apartment building consisting of the following:
- (a) ground floor commercial uses at the Wyse Road level;
  - (b) a maximum of 78 residential units, 4 of which are to have independent pedestrian access to George Street. The unit mix shall be as follows:
    - (i) a minimum of 18 two-bedroom or larger apartment units;
    - (ii) a maximum of 60 one-bedroom apartment units; and
  - (c) two levels of underground parking, one being accessed from Pelzant Street and the other being accessed from George Street, as generally shown on Schedule B, C and D.

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

- 3.4.1 Ground-floor commercial uses shall be limited to uses permitted by the C-1 (Local Business) Zone of the Land Use By-law for Dartmouth, and a Lounge in association with a restaurant. The remaining floors shall include multiple-unit residential, Amenity Space, and residential accessory uses only.
- 3.4.2 A minimum of 241.5 square metres (2600 square feet) of commercial space shall be provided on the ground-floor level of Wyse Road, which shall include contiguous frontage at the corner of Wyse Road and Pelzant Street, as generally shown on Schedules E and F.

### **3.5 Building Siting and Architectural Requirements**

- 3.5.1 The building footprint, height, massing, exterior design and mix of materials shall be as generally shown on the Schedules of this Agreement.
- 3.5.2 The elevator overrun, rooftop mechanical equipment, and associated screening are permitted to exceed the overall height, but shall not occupy more than 30% of the rooftop area and shall not exceed a maximum of 4.5 m (14.76 ft.) in height.
- 3.5.3 Building cladding shall be varied throughout five panels, as generally shown on Schedules E through H. The following external cladding materials shall be prohibited:
- a) vinyl siding;
  - b) plastic, except for architectural laminate panels;
  - c) bare or painted plywood;
  - d) standard concrete blocks, however architectural concrete products are permitted;
  - e) exterior insulation and finish systems (EIFS) where stucco is applied to rigid insulation as a primary weather protection for the building envelope; and
  - f) mirrored glass or darkly tinted glass.
- 3.5.4 Minimum property line setbacks shall be as shown on the Schedules. These setbacks may be increased provided the overall massing of the building is otherwise consistent with the Schedules.
- 3.5.5 All guardrails associated with balconies and terraces shall be made of metal framing with insert colour tinted glass.
- 3.5.6 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.).

- 3.5.7 Any exposed foundation in excess of 0.6 m (2 foot) in height shall be architecturally detailed, veneered with stone or brick, or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.8 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade and subject to the requirements of any other applicable by-law, statute or regulation.

### **3.6 Amenity Space and Landscaping**

- 3.6.1 The building shall include individual balconies or terraces for at least 62 of the 78 apartment units.
- 3.6.2 The building shall include a singular common Amenity Space of a minimum 129.14 square metres (1390 square feet) for the residents of the building, and which shall be located above ground.
- 3.6.3 Landscaping shall be provided for as generally shown on Schedule B. In addition to the plantings shown on Schedule B, landscaping in the form of a 0.45 m (1.5 ft.) wide planter setback 0.3 m (1 ft.) from the shared property line of 16 George Street shall be provided for along the entire length of the parking ramp, as shown on Schedule H. In addition, a raised bed concrete planter is required to be located at the residential entry off Pelzant Street, as shown on Schedule F.
- 3.6.4 Prior to the issuance of a Development Permit, the Developer shall provide a Landscape Plan which complies with the provisions of this section and conforms with the overall intentions of the landscaping shown on the Schedules of this Agreement. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.6.5 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.6.6 Prior to the 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 Agreement.
- 3.6.7 Notwithstanding Section 3.6.6, where the weather and time of year does not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer shall supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### **3.7 Signs**

- 3.7.1 Signage shall be limited to the following:

- (a) No ground sign shall be permitted on the Lands with the exception of one (1) temporary ground sign depicting the name or corporate logo of the Developer which shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. The temporary ground sign shall be removed prior to the issuance of the last residential Occupancy Permit; and
- (b) The location of awnings, fascia, and projecting signs shall be limited to the commercial use(s) located at the ground floor level only. Residential identification signage is permitted at the residential entrance on Pelzant Street. The sign requirements shall be accordance with the Dartmouth Land Use By-law as amended from time to time; and

### **3.8 Building and Site Lighting**

- 3.8.1 Outdoor lighting shall be directed to driveways, parking areas, loading areas and building entrances and shall be arranged so as to direct the light away from streets, adjacent lots and buildings.
- 3.8.2 The building 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.

### **3.9 Functional Elements**

- 3.9.1 All vents, down spouts, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.9.2 All mechanical equipment, including rooftop mechanical, exhausts, propane tanks, electrical transformers, and other utilitarian features shall be visually concealed from abutting properties, including municipal rights-of-way, and shall include noise reduction measures.

### **3.10 Maintenance**

- 3.10.1 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 building, 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 removal/salting of walkways and driveways.

### **3.11 Outdoor Storage**

- 3.11.1 No outdoor storage shall be permitted on the Lands.

### **3.12 Hours of Operation**

- 3.12.1 The private collection of refuse and recyclables on the Lands shall occur only between the hours of 7:00 a.m. and 7:00 p.m.
- 3.12.2 Commercial delivery vehicles on the Lands shall only be permitted between the hours of 7:00 a.m. and 7:00 p.m.
- 3.12.3 A restaurant and accessory Lounge shall only be permitted to operate between the hours of 7:00 a.m. and midnight.
- 3.12.4 The hours specified under this section shall apply seven (7) days a week.

### **3.13 Parking and Bicycle Facilities**

- 3.13.1 A minimum of 44 parking spaces shall be provided within the building in a two level underground parking structure which shall have two separate access points as shown on Schedule B.
- 3.13.2 An off-street loading space is not required for the ground floor commercial uses.
- 3.13.3 The Developer shall provide bicycle parking pursuant to the Land Use By-law for Dartmouth

### **3.14 Construction/Sales Structure**

- 3.14.1 A temporary structure 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 as per the Land Use Bylaw. The temporary structure shall be removed prior to the issuance of the last residential occupancy permit.

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

### **4.1 General Provisions**

- 4.1.1 All construction shall conform to the most current edition of the HRM Municipal Design Guidelines and Halifax Water's Design and Construction Specifications unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.
- 4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including 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 Engineer. Furthermore, the Developer shall be responsible for all costs and work associated with the relocation of on-site/ off-site underground services, overhead wires and traffic signals to accommodate the needs of the development.

### **4.2 Solid Waste Facilities**

- 4.2.1 The building shall include designated space for five 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. This designated space for five (5) waste containers shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with HRM Solid Waste Resources.
- 4.2.2 All refuse and recycling materials shall be contained within the building, and accessed via the Pelzant Street driveway.

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

### **5.3 Archaeological Monitoring and Protection**

- 5.3.1 The Lands fall within the High Potential Zone for Archaeological Sites identified by the Province of Nova Scotia. The Developer shall contact the Coordinator of Special Places of the Nova Scotia Department of Communities, Culture and Heritage prior to any disturbance of the Lands and the Developer shall comply with the requirements set forth by the Province of Nova Scotia in this regard.

### **5.4 Sulphide Bearing Materials**

- 5.4.1 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 Substantive Amendments**

- 6.1.1 Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

### **6.2 Non-Substantive Amendments**

- 6.2.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
- (a) changes to the materials, architectural, and mechanical requirements as detailed in Section 3.5.2 and 3.5.3 of which, in the opinion of the Development Officer, do not conform with the Schedules;
  - (b) changes to the landscaping required by Section 3.6.3;
  - (c) changes to the sign requirements of Section 3.7;
  - (d) changes to the functional elements requirements of Section 3.9; and
  - (e) changes to the date of commencement of development specified in Section 7.3;

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

## **7.1 Registration**

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

## **7.2 Subsequent Owners**

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

## **7.3 Commencement of Development**

- 7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.

## **7.4 Completion of Development**

- 7.4.1 Upon the completion of the development, Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement;
  - (c) discharge this Agreement; or
  - (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Dartmouth Municipal Planning Strategy and Land Use By-law, as may be amended from time to time.
- 7.4.2 For the purpose of this section, completion of development shall mean the issuance of an Occupancy Permit.

## **7.5 Discharge of Agreement**

- 7.5.1 If the Developer fails to complete the development after six (6) years from the date of registration of this Agreement at the Land Registration Office Council may review this Agreement, in whole or in part, and may:
- (a) retain the Agreement in its present form;
  - (b) negotiate a new Agreement; 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 defense 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: \_\_\_\_\_

**HALIFAX REGIONAL MUNICIPALITY**

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

\_\_\_\_\_  
Witness

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

MAYOR

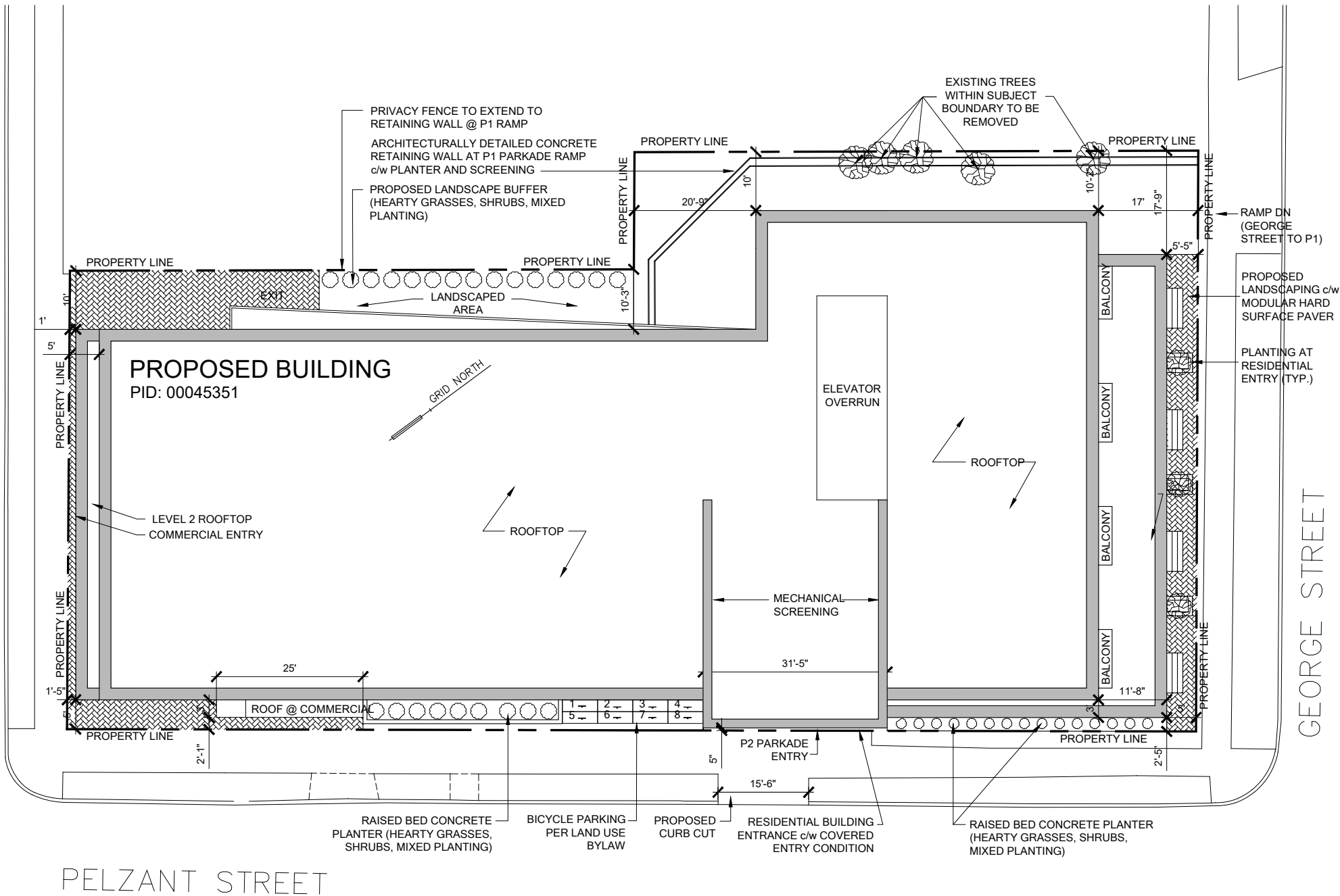
\_\_\_\_\_  
Witness

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

MUNICIPAL CLERK

WYSE ROAD

GEORGE STREET



**PROPOSED BUILDING**  
PID: 00045351

LEVEL 2 ROOFTOP  
COMMERCIAL ENTRY

GRID NORTH

ROOFTOP

ROOFTOP

MECHANICAL  
SCREENING

BALCONY  
BALCONY  
BALCONY  
BALCONY

RAISED BED CONCRETE  
PLANTER (HEARTY GRASSES,  
SHRUBS, MIXED PLANTING)

BICYCLE PARKING  
PER LAND USE  
BYLAW

PROPOSED  
CURB CUT

RESIDENTIAL BUILDING  
ENTRANCE c/w COVERED  
ENTRY CONDITION

RAISED BED CONCRETE PLANTER  
(HEARTY GRASSES, SHRUBS,  
MIXED PLANTING)

PRIVACY FENCE TO EXTEND TO  
RETAINING WALL @ P1 RAMP  
ARCHITECTURALLY DETAILED CONCRETE  
RETAINING WALL AT P1 PARKADE RAMP  
c/w PLANTER AND SCREENING  
PROPOSED LANDSCAPE BUFFER  
(HEARTY GRASSES, SHRUBS, MIXED  
PLANTING)

EXISTING TREES  
WITHIN SUBJECT  
BOUNDARY TO BE  
REMOVED

RAMP DN  
(GEORGE  
STREET TO P1)

PROPOSED  
LANDSCAPING c/w  
MODULAR HARD  
SURFACE PAVER

PLANTING AT  
RESIDENTIAL  
ENTRY (TYP.)

PELZANT STREET

**169 WYSE ROAD**

HALIFAX, NOVA SCOTIA

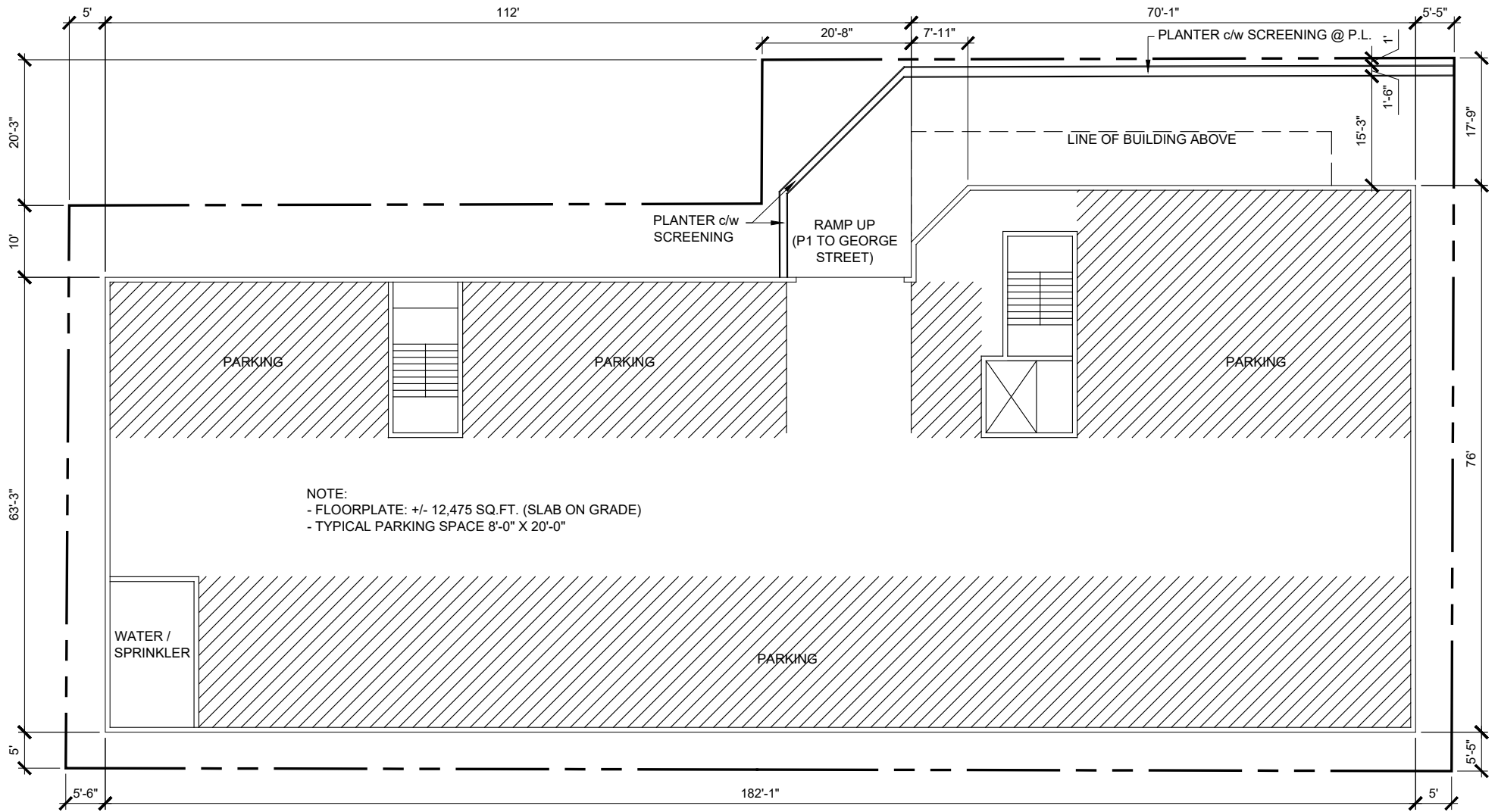
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3. GENERAL REVISIONS	2018-09-28
4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2018-12-20
6. GENERAL REVISIONS	2019-01-11

**M**ICHAEL  
**A**PIER  
**A**RCHITECTURE  
www.mnarch.ca + 902.455.5522

DRAWING  
**SITEPLAN**

DATE  
DEC 2017

**SCHEDULE 'B'**



**169 WYSE ROAD**  
 HALIFAX, NOVA SCOTIA

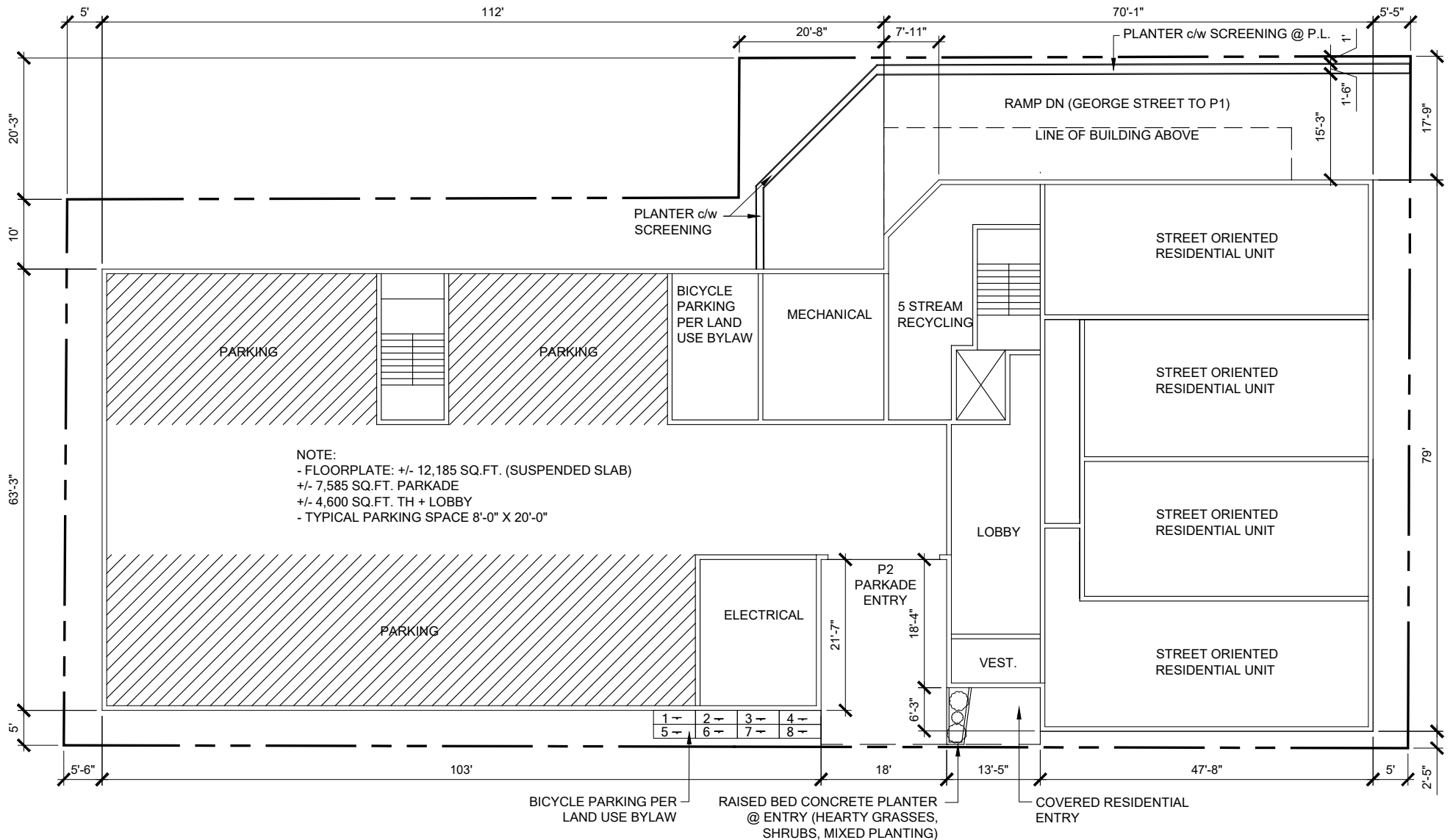
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4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2018-11-28
6. GENERAL REVISIONS	2018-12-20

**M**ICHAEL  
**A**PIER  
**A**RCHITECTURE  
 www.mnarch.ca + 902.455.5522

DRAWING	DATE
P1	DEC 2017

5'-0" 20'-0" 10'-0"

**SCHEDULE 'C'**



**169 WYSE ROAD**  
 HALIFAX, NOVA SCOTIA

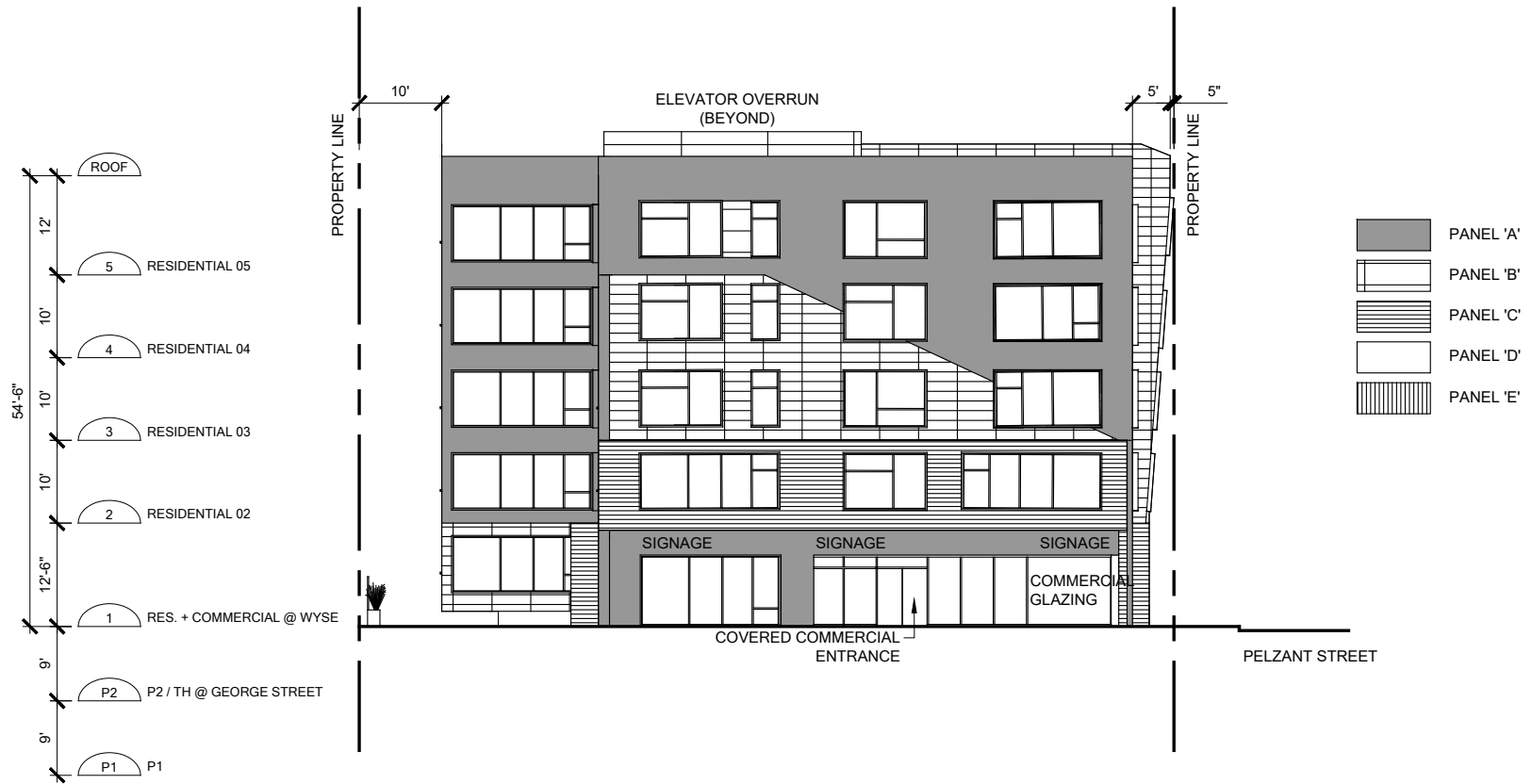
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6. GENERAL REVISIONS	2018-12-20
7. GENERAL REVISIONS	2019-01-11

**M**ICHAEL  
**A**PIER  
**A**RCHITECTURE  
 www.mnarch.ca + 902.455.5522

DRAWING  
 P2 / TH @ GEORGE  
 STREET  
 5'-0" 20'-0" 10'-0"

DATE  
 DEC 2017

**SCHEDULE 'D'**



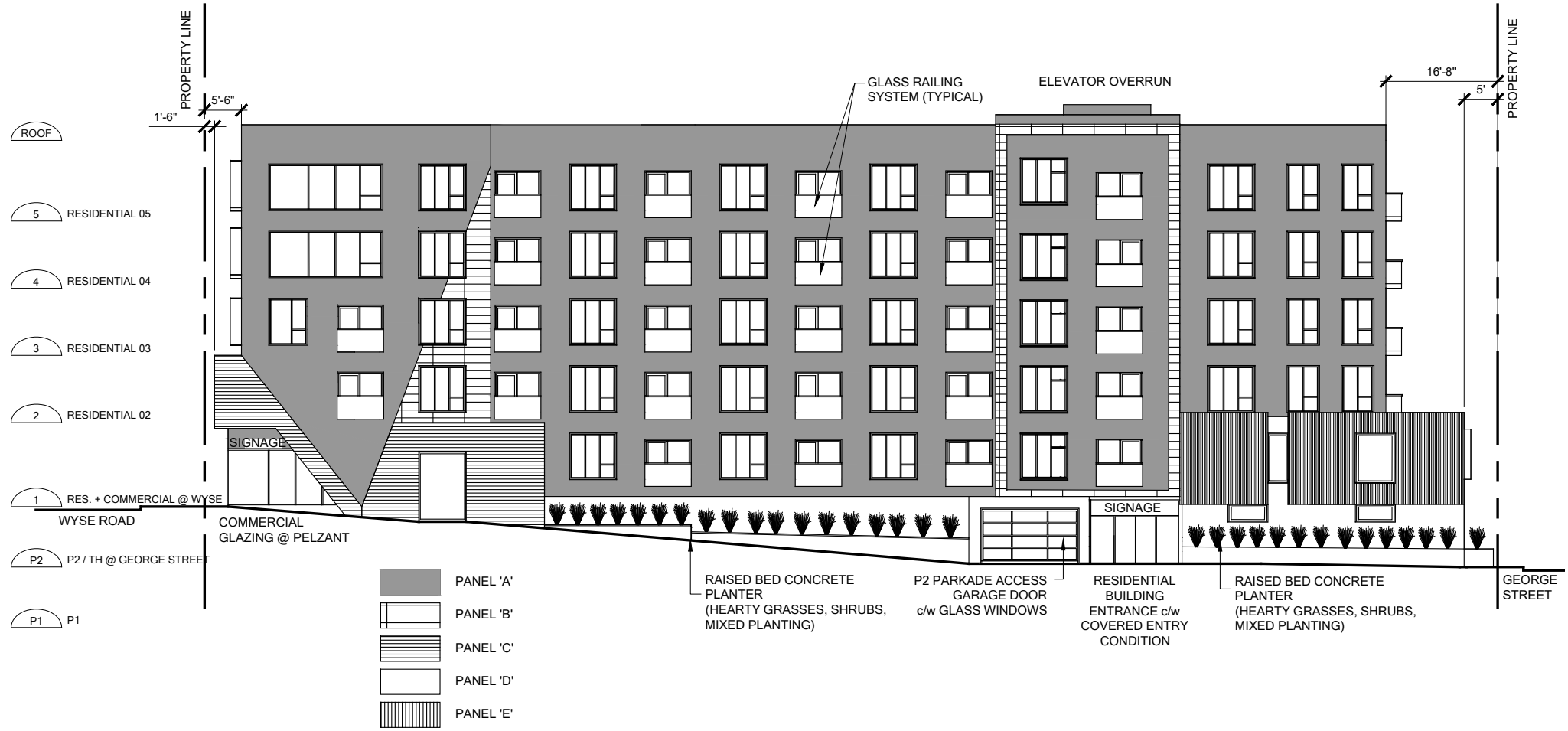
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 HALIFAX, NOVA SCOTIA

REVISION	DATE
1. DA APPLICATION REVISIONS	2018-05-08
2. GENERAL REVISIONS	2018-09-28
3. GENERAL REVISIONS	2018-09-28
4. GENERAL REVISIONS	2018-11-02

**M**ICHAEL  
**A**PIER  
**A**RCHITECTURE  
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DRAWING  
 EAST ELEVATION  
 N.T.S.

DATE  
 DEC 2017  
**SCHEDULE 'E'**



# 169 WYSE ROAD

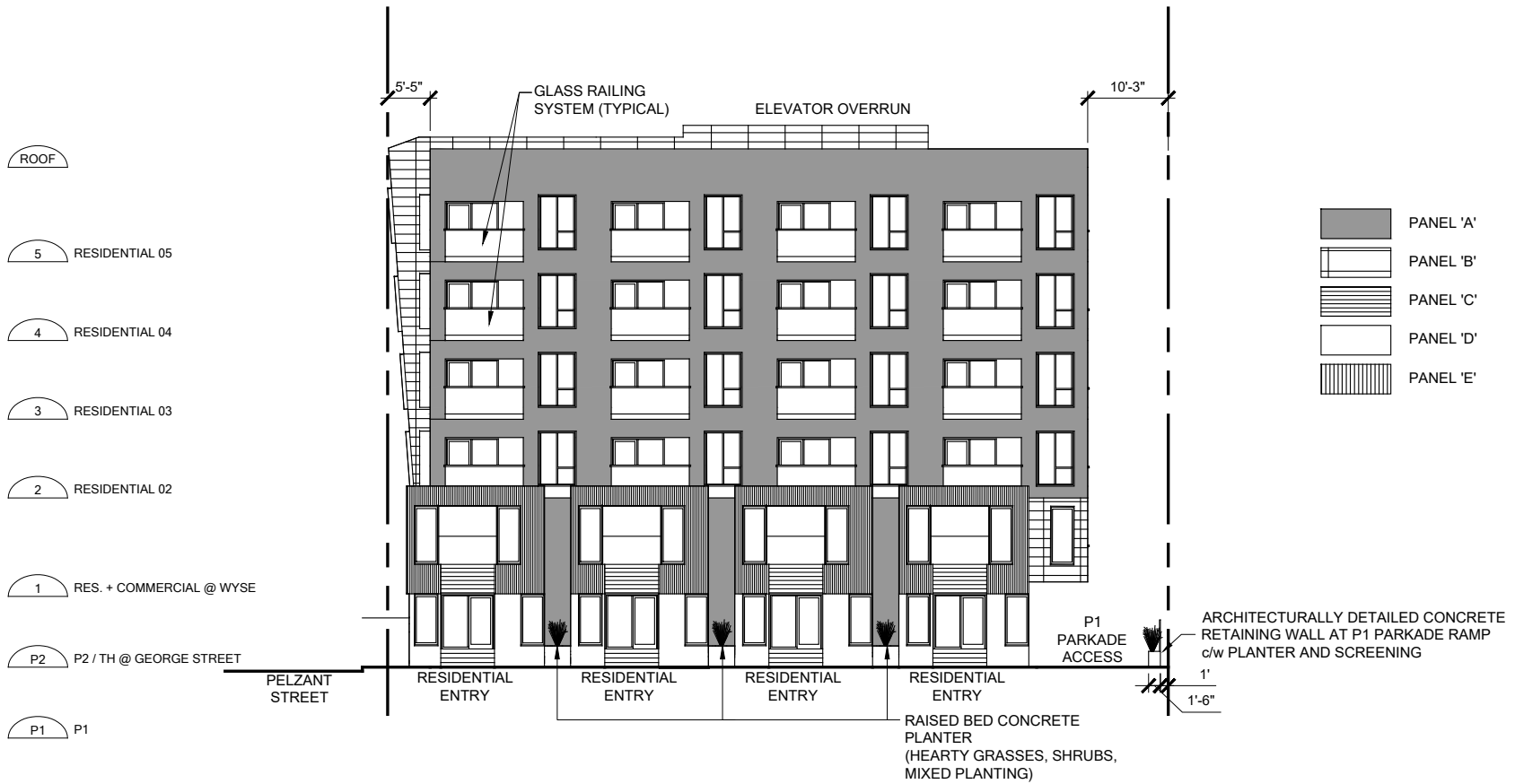
HALIFAX, NOVA SCOTIA

REVISION	DATE
2. GENERAL REVISIONS	2018-09-28
3. GENERAL REVISIONS	2018-09-28
4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2019-01-11

**M**ICHAEL  
**N**APIER  
**A**RCHITECTURE  
www.mnarch.ca + 902.455.5522

DRAWING	DATE
NORTH ELEVATION	DEC 2017
N.T.S.	<b>SCHEDULE 'F'</b>





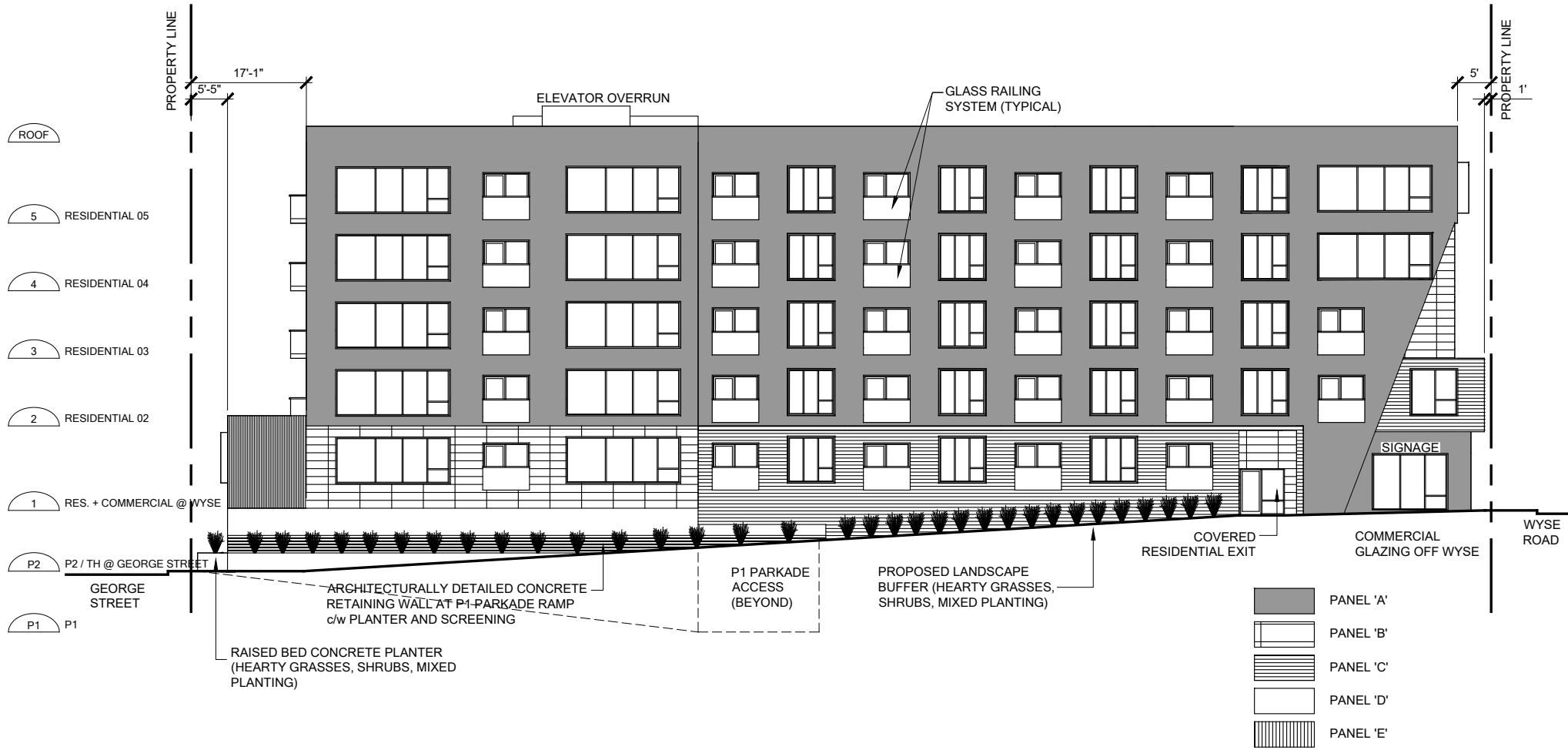
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 HALIFAX, NOVA SCOTIA

REVISION	DATE
2. GENERAL REVISIONS	2018-09-28
3. GENERAL REVISIONS	2018-09-28
4. GENERAL REVISIONS	2018-11-02
5. GENERAL REVISIONS	2019-01-11

**M**ICHAEL  
**APIER**  
**A**RCHITECTURE  
 www.mnarch.ca + 902.455.5522

DRAWING  
 WEST ELEVATION  
 N.T.S.

DATE  
 DEC 2017  
**SCHEDULE 'G'**



# 169 WYSE ROAD

HALIFAX, NOVA SCOTIA

REVISION	DATE
1. DA APPLICATION REVISIONS	2018-05-08
2. GENERAL REVISIONS	2018-09-28
3. GENERAL REVISIONS	2018-09-28
4. GENERAL REVISIONS	2018-11-02

**M**ICHAEL  
**A**PIER  
**A**RCHITECTURE  
www.mnarch.ca + 902.455.5522

DRAWING  
SOUTH ELEVATION

N.T.S.

DATE  
DEC 2017

**SCHEDULE 'H'**

**Attachment B**  
**Proposed Discharging Development Agreement**

THIS DISCHARGING AGREEMENT made this      day of **[Insert Month]**, 20\_\_\_,

BETWEEN:

**3112771 NOVA SCOTIA LIMITED,**

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 identified 169 Wyse Road, Dartmouth, and which said lands are more particularly described in the Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the Municipality entered into a Development Agreement with the Developer to allow for a mixed-use development on the Lands (Municipal Case Number 19500) on September 8, 2016, and which was registered at the Nova Scotia Land Registry on February 15, 2017 as Document Number 110334944, (hereinafter called the "Original Agreement");

**AND WHEREAS** Section 244 (2) of the Halifax Charter states that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owners;

**AND WHEREAS** the Developer has requested that the Original Agreement be discharged from the Lands;

**AND WHEREAS** the Harbour East Marine Drive Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 21537;

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

1. The Original Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with any development agreements for the Lands entered into by the parties and all applicable provisions and requirements of the Dartmouth Land Use By-law, as amended from time to time.

**IN WITNESS WHEREOF** 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:

**3112771 NOVA SCOTIA LIMITED.**

\_\_\_\_\_  
Witness

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

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

**HALIFAX REGIONAL MUNICIPALITY**

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

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

**Attachment C: Review of Relevant Policies of the Dartmouth MPS**

Policy IP-5 It shall be the intention of City Council to require Development Agreements for apartment building development in R-3, R-4, C-2, MF-1 and GC Zones. Council shall require a site plan, building elevations and perspective drawings for the apartment development indicating such things as the size of the building(s), access & egress to the site, landscaping, amenity space, parking and location of site features such as refuse containers and fuel storage tanks for the building. In considering the approval of such Agreements, Council shall consider the following criteria:

Policy	Comment
(a) adequacy of the exterior design, height, bulk and scale of the new apartment development with respect to its compatibility with the existing neighbourhood;	<p>The site has frontage on three streets including Wyse Road which is a major, primarily commercial, arterial street. The overall design of the project responds appropriately to each street frontage, to the internal property lines and abutting properties, and addresses the goal of adequacy of compatibility with the neighbourhood as follows:</p> <ul style="list-style-type: none"> <li>• A five-storey streetwall with ground floor commercial is provided along Wyse Road to promote a pedestrian oriented environment by bringing the building to the street edge and providing pedestrian oriented street level uses;</li> <li>• The six-storey maximum height and orientation of the site minimizes the potential for shadow impacts on existing housing and variations in materials and colour of the building break up the massing and reduces the visual impact of the building;</li> <li>• A two-storey residential townhouse form is provided along George Street to reflect the neighbourhood character, to enhance the existing residential environment. The units are designed to present a fine-grained neighbourhood feel through provision of setbacks, individual entrances, landscaping, and cladding materials and colours;</li> <li>• On George Street a setback of 5.18 metre (17 feet) is provided above the two storey townhouses to establish a clear low rise, low density character; and</li> <li>• A setback of 10 feet is provided for the building from abutting low density uses. Although a parking garage ramp is located within a portion of this setback, a retaining wall with landscaping and privacy fence provide a visual and acoustic buffer that ensures compatibility.</li> </ul>
(b) adequacy of controls placed on the proposed development to reduce conflict with any adjacent or nearby land uses by reason of:	
(i) the height, size, bulk, density, lot coverage, lot size and lot frontage of any proposed building;	The development agreement contains provisions that ensure the development will conform to the approved design as outlined above.

Policy	Comment
(ii) traffic generation, access to and egress from the site; and	<p>Given that the site is currently vacant, any development under existing zoning will result in an increase in traffic volumes on the area street network. The traffic analysis submitted under the previous application addressed peak hour traffic impacts for the specific proposal and was found to meet HRM guidelines. The driveway locations were found acceptable and the street network can accommodate the projected traffic.</p> <p>The provision of two driveway accesses will help diffuse traffic over the street network and not concentrate it on one street. There were no concerns raised for the previous application and the unit count is decreasing under this application. Engineering has determined the previously submitted traffic analysis is acceptable for this application.</p>
(iii) parking;	<p>No surface parking is permitted, and parking for a total of 44 vehicles is provided in two underground parking levels. This ratio of parking (0.56 spaces per unit) is sufficient given the site's location, as addressed by the Regional Parking Strategy Functional Plan that was approved by Regional Council in 2009. Given the site's location and proximity to transit, commercial uses, and community facilities, building residents will rely less heavily on the private automobile and more on walking, cycling, and transit.</p> <p>Access to the two internal parking levels will be split between George Street and Pelzant Street which will diffuse the residential traffic through the local streets. The underground parking structure will be fully screened from view, and bicycle parking is required to meet the Land Use Bylaw standard. Available on-street parking can be utilized by the general public including all area residents and customers of local businesses.</p>
(c) adequacy or proximity of schools, recreation areas and other community facilities;	<p>There are schools nearby that can accommodate students from grades Primary through 12. There are several parks with varied recreational opportunities within walking distance of the site. The Dartmouth Sportsplex is also located nearby.</p>
(d) adequacy of transportation networks in, adjacent to, and leading to the development;	<p>The application's driveway accesses conform to municipal standards and traffic volumes could be accommodated within the existing street network.</p>
(e) adequacy of useable amenity space and attractive landscaping such that the needs of a variety of household types are addressed and the development is aesthetically pleasing;	<p>The proposed agreement requires that private and common amenity space be provided. This space includes balconies for most of the units and an internal common room of approximately 129 square metres (1,390 square feet). This spaces along with the several parks with varied recreational opportunities within walking distance of the site ensures opportunities exist for building residents to socialize, relax, and enjoy outdoor opportunities as weather permits.</p> <p>Landscaping is provided in the form of landscaped setbacks and planters along the Pelzant Street and George Street frontages, a privacy fence with tall shrub plantings adjacent to a single unit dwelling at 16 George Street, and a fence and trees adjacent to 165 Wyse Road. This mix of landscaping will complement the exterior design of the project and ensure it is aesthetically pleasing.</p>

Policy	Comment
<p>(f) that mature trees and other natural site features are preserved where possible;</p>	<p>There are no natural site features.</p> <p>The only existing trees on the site are adjacent to the property line shared with 16 George Street. It is assumed that several of these trees are proposed to be removed. Under the previous application they were not expected to survive the excavation for the parking garage ramp. However, under this application the driveway entrance has been redesigned to minimize excavation towards the rear of both the subject property as well 16 George Street, which may assist in preserving some of the existing trees along the property boundary. The redesign also includes the added benefit of additional landscaping in this rear corner of the subject property.</p> <p>There are two existing street trees on Pelzant Street and two on George Street. Three of the trees are to be retained while the removal of one on George Street is proposed to enable a driveway access to the underground parking garage. Previously, the Engineer supported the driveway location in terms of conformance to Bylaw S-300 the Streets Bylaw however, the Urban Forester did not support the removal of the tree. There is a mechanism in place under By-law T-600 The Tree By-law, whereby appropriate compensation can be provided should Council approve the development and the driveway location. The compensation is based on the diameter of the existing tree, which is 381 mm (15 inches). For every 60 mm of diameter, one new tree is required. Seven new trees would therefore be required, to be planted on HRM property in the area. A detailed review will be completed by the HRM Urban Forester at the time of the construction permit application.</p>
<p>(g) adequacy of buffering from abutting land uses;</p>	<p>The site abuts a single unit dwelling at 165 Wyse Road and another at 16 George Street. The property at 165 Wyse Road is zoned C-2 (General Business) and the draft Centre Plan has it designated as a Centre with a proposed zoning of Centre 1. Based on the properties location and fronting street it is possible it will be redeveloped for commercial uses in the future. Currently the building is setback 10 feet from this property line to reflect the current land use on the property, a single unit dwelling. In addition, landscaping and a privacy fence along the property line will serve as a buffer to the backyard of the dwelling. The site also abuts another single unit at 16 George Street that, whilst designated as Commercial by the MPS and eligible to be rezoned commercial, is currently zoned R-1 (Single Unit Dwelling). Furthermore, the draft Centre Plan has it designated as a Centre and proposed zoning of Centre 1. The driveway has been redesigned to preserve as many as the existing trees along the shared property line as possible. In addition, new tree and shrub plantings provided along the property line serve as a buffer and increase privacy. A privacy fence is also proposed that will extend past the retaining wall for the parking garage entrance which, in conjunction with the landscaping, provides an adequate visual and acoustic buffer.</p>

<b>Policy</b>	<b>Comment</b>
(h) the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment; and	The agreement will require the submission of a site grading plan(s), identification of stormwater management measures, and erosion controls. These plans must conform with HRM and Provincial standards as well as minimize impacts on adjacent properties.
(i) the Land Use By-law amendment criteria as set out in Policy IP- 1(c)	See below.

### **IP-1(c) Zoning By-law**

In considering zoning amendments and contract zoning, Council shall have regard to the following:

<b>Policy</b>	<b>Comment</b>
(1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan	The proposal has been considered in accordance with policies IP-5, and IP-1 (c).
(2) that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal	<p>The site has relationships to both a major arterial commercial road and a low density residential neighbourhood that need to be considered.</p> <ul style="list-style-type: none"> <li>• Wyse Road is a key area for commercial development under the MPS and contains a broad mix of land uses and building heights and forms. The C-2 zone is intended to enable large scale development. Within the context of the Wyse Road area a 6 storey residential building with ground floor commercial is a compatible use.</li> <li>• A 6 storey multiple unit dwelling with limited commercial uses is appropriate for this site given its context to the abutting low density zoned neighbourhood and setbacks provided by the development. Shadow impacts on the neighbourhood would be negligible, and this is a key consideration in compatibility. On George Street the townhouse form with setbacks above the second floor strengthen the residential character of this street and commercial uses are precluded on George Street and Pelzant Street frontages which ensures compatibility.</li> </ul>
(3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries	<p>There are no concerns relative to incompatibility between the development and Wyse Road which is an arterial road.</p> <p>Adjacent land uses addressed under IP-5 (a).</p>
(4) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of the City is to absorb any costs relating to the development	No concerns were identified regarding potential financial implications for HRM.
(ii) the adequacy of sewer and water services and public utilities	No concerns were identified regarding the capacity of sewer or water.



<b>Policy</b>	<b>Comment</b>
(iii) the adequacy and proximity of schools, recreation and other public facilities	Addressed under IP-5 (c).
(iv) the adequacy of transportation networks in adjacent to or leading to the development	Addressed under IP-5 (d).
(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas	No concerns have been identified. Erosion and sedimentation control measures are required to avoid such issues.
(vi) preventing public access to the shorelines or the waterfront	Not applicable
(vii) the presence of natural, historical features, buildings or sites	Staff are not aware of any such features on the Lands.
(viii) create a scattered development pattern requiring extensions to trunk facilities and public services while other such facilities remain under utilized	The development would utilize sewer, water and transportation infrastructure that is already in place.
(ix) the detrimental economic or social effect that it may have on other areas of the City.	Staff are not aware of any potential detrimental effects that the development may pose.
(5) that the proposal is not an obnoxious use	The proposed use would not have any obnoxious effects.
(6) that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or nearby land uses and public facilities. Such controls may relate to, but are not limited to, the following:	
(i) type of use, density, and phasing	The use and density are controlled by the development agreement. There is no phasing as the development is comprised of a single building.
(ii) emissions including air, water, noise	The development is not expected to generate emissions that will warrant controls. However, mechanical equipment must be screened from adjacent properties. Solid waste is to be stored on the upper parking level and accessed from Pelzant Street to minimize the number of properties impacted by potential noise.
(iii) traffic generation, access to and egress from the site, and parking	Addressed under IP-5 (b) (ii).
(iv) open storage and landscaping	The development agreement requires that landscaping measures be planned and certified by a Landscape Architect. Open storage is not permitted.
(v) provisions for pedestrian movement and safety	The sidewalks on each street frontage shall be maintained and these will be utilized by occupants of the new building. Parking garage entrances must be designed to provide adequate visibility to avoid conflicts between cars and pedestrians.
(vi) management of open space, parks, walkways	Not applicable

Policy	Comment
(vii) drainage both natural and sub-surface and soil-stability	The agreement includes requirements for site grading, stormwater management and erosion and sedimentation controls in accordance with applicable HRM and Provincial standards.
(viii) performance bonds.	Not applicable.
(7) suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors	No concerns have been identified with regard to these features on the lands. The development will have to comply with all applicable HRM, Provincial and Federal regulations.
(8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council	A public information meeting was held on July 25, 2018 for this application.
(9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:	
(i) Council with a clear indication of the nature of proposed development, and	Complete.
(ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community	Complete.
(10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.	Not applicable.

**Attachment D  
Public Information Meeting Summary**

**HALIFAX REGIONAL MUNICIPALITY  
Public Information Meeting  
Case 21537**

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

**Wednesday, July 25, 2018  
6:30 p.m.**

**Alderney Library, Helen Creighton Room, 60 Alderney Drive, Dartmouth, NS**

**STAFF IN**

**ATTENDANCE:** Dean MacDougall, Planner, HRM Planning  
Jamy-Ellen Klenavic, Planner, HRM Planning  
Genevieve Hachey, Planning Controller, HRM Planning

**ALSO IN**

**ATTENDANCE:** Councilor, Sam Austin  
Michael Napier – Applicant  
Michael Schraefel - Applicant  
David Zareski – Agent for Property Owner  
Stephen Lockyer – Agent for Property Owner  
Kenneth Anthony – Property Owner

**PUBLIC IN**

**ATTENDANCE:** Approximately: 12

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The meeting commenced at approximately 6:30 p.m.

**Call to order, purpose of meeting – Dean MacDougall**

Dean MacDougall introduced himself as the Planner and Facilitator for the application. They also introduced; Councillor Sam Austin, Genevieve – Planning Controller, Jamy-Ellen Klenavic - Planner, and Michael Napier and Michael Schraefel who represent the Property Owner

**Case 21537:** Application by Michael Napier Architecture Inc. requesting an amendment to an existing development agreement for lands at 169 Wyse Road, Dartmouth to enable a mixed-use building containing 78 residential units and 2700 sq. ft. of commercial space.

Dean MacDougall explained; their role as manager of the application, they are the main contact for the public and for the applicant. The purpose of the Public Information Meeting (PIM) is: a) to identify that HRM has received a proposal for the site; b) to provide information on the project; c) to explain the Planning Policies and the stages of the Planning Process; d) an opportunity for Staff to receive public feedback regarding the proposal. No decisions are made at this PIM.

**1a) Presentation of Proposal – Dean MacDougall**

Dean MacDougall provided a brief introduction to the application and then made a presentation to the public outlining the purpose of the meeting, status of the application and the applicants request, this is an amendment to a current Development Agreement. Dean outlined the context of the subject lands, the relevant planning policies and explained what a Development Agreement is.

## **1b) Presentation by Michael Napier - Architect**

Michael spoke about the design of the proposed project, and the differences between the original design and the proposed changes. The building code has recently changed and this will now allow for a six-story building to be constructed in wood.

## **2. Questions and Comments**

**Denise Dunn** – [REDACTED], has concerns with the negative impacts a large amount of people moving into the neighborhood will bring. This is a quiet neighborhood and 78 units will bring a lot of noise, a lot of cars, these people will have to park on the street and that will mean they won't be able to have visitors as they will never be able to park by my house. They would never have purchased a house near an apartment building. The houses here all have rock foundations, what happens if blasting causes damage, will this be my responsibility or the builder's responsibility? They are very concerned about not being able to enjoy the quiet of their own home.

**Sam March**– [REDACTED], is very concerned with this new design, it seems as if compromises reached in the last building design have been put aside, the design has lost 4 stories yet has the same number of apartments, the better setbacks and green spaces agreed to in the last proposal have been removed. All of the trees that create a green barrier between this project and their house will be killed if the project goes ahead. They would like to suggest that the green space setbacks be re-instated to allow these trees to live, a 10 foot setback would do this. There was a plan that was created after the developer met with residents a second time that included a setback between the proposed development and 16 George street.

**Eryn Foster** – [REDACTED], would like to say that they are encouraged by the proposal but has a few concerns. There is an opportunity here to create a community within a community and to bring vitality to the community. They believe there should be more green space on and around the proposed development, they enjoy the juxtaposition of modern with the historical and feel that there should be more thought into the look of the townhouses and the transition between modern and the historic "9 sisters". This proposal is more to scale with the neighborhood than the previous design. They would like more thought put into the aesthetics and shaping of the design.

## **3. Closing Comments**

**Dean MacDougall** thanked everyone for coming and expressing their comments. They provided their contact information and advised people to contact him if they had any questions or comments.

## **4. Adjournment**

The meeting adjourned at approximately 6:58 p.m.