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Halifax, Nova Scotia
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Item No. 14.1.2
Halifax and West Community Council
November 25, 2024

TO: Chair and Members of Halifax and West Community Council

FROM: Jacqueline Hamilton, Executive Director of Planning and Development

DATE: November 4, 2024

SUBJECT: **PLANAPP 2024-00371: Development Agreement for 6319 Chebucto Rd, Halifax**

ORIGIN

Application Peter Henry Architects.

EXECUTIVE SUMMARY

This report outlines a request to enter into a development agreement to allow a café use and three residential units at 6319 Chebucto Road, Halifax. Staff recommend that Halifax and West Community Council approve the development agreement, as outlined in Attachment A of this report. There are no financial implications or anticipated risks associated with the approval of this application.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed development agreement, as set out in Attachment A, to enter into a development agreement that would allow three residential units and a restaurant use at 6319 Chebucto Road, Halifax and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the 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

Applicant Peter Henry Architects is requesting to enter into a development agreement to permit three residential units and a café at 6319 Chebucto Road, Halifax. The current zoning permits low-density residential uses. The existing building is vacant and was previously occupied by a main level non-conforming commercial use (Gibson's Appraisers Ltd.) and single upper-level residential unit. Policy E-5 of the Regional Centre Secondary Municipal Planning Strategy enables Council to consider proposals to develop neighbourhood-scale commercial uses within the Established Residential Designation by development agreement (Policy E-5).

A previous application (Case 24111) was approved by Halifax and West Community Council on [May 16, 2023](#), however that development agreement was not signed by the applicant within the required 120 days and therefore has become null and void. Subsequently, the applicant has made a new application for a similar proposal, however, is requesting approval to construct one additional floor.

Subject Site	6319 Chebucto Road, Halifax
Location	Between Chebucto Road and Willow Street, next to Oxford School and Oxford School Park.
Regional Plan Designation	US (Urban Settlement)
Community Plan Designation (Map 1)	ER (Established Residential) under the Regional Centre Secondary Municipal Planning Strategy (SMPS)
Zoning (Map 2)	ER-3 (Established Residential 3) under the Regional Centre Land Use Bylaw (LUB)
Size of Site	149.6 square meters (1610 square feet)
Street Frontage	Approximately 19.1 meters (59.5 feet) on Chebucto Road and 17.7 meters (58.1 feet) on Willow Street
Current Land Use(s)	Vacant non-conforming commercial space and single residential unit.
Surrounding Use(s)	This property is within an area of mainly established low-density residential uses. To the northeast is Oxford School and Oxford School Park.

Proposal Details

The major aspects of the proposal are as follows:

- Reconstruction of the existing building with a similar building design, and one additional floor, which maintains the existing footprint and massing of the existing building;
- A café with minor accessory retail. This use will occupy the main level, as well as an upper-level mezzanine floor; and
- Three residential units.

Enabling Policy and LUB Context

The subject property is designated ER (Established Residential) under the Regional Centre SMPS and zoned ER-3 (Established Residential 3) under the Regional Centre LUB. As-of-right, the ER-3 zone primarily permits low-density residential uses. A café is considered a restaurant use. Restaurant uses are not permitted in the ER-3 zone, however this use may be considered under Policy E-5.

Policy E-5 of the Regional Centre SMPS enables the development of neighbourhood-scale commercial uses within established residential areas by development agreement. This policy seeks to support complete communities, which is an objective of the Established Residential designation. Generally, complete communities are places where residents can live, work, learn, shop and play where they live which can benefit residents' sense of place and well-being.

DISCUSSION

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

- A maximum floor area of 200 square metres for the restaurant use;
- Three residential dwelling units;
- Minor changes to the height, siting, and exterior design elements of the building;
- Controls on screening, signage, and hours of operation; and
- Non-substantive amendments permitted within the agreement, including;
 - Changes to building siting, bulk, or scale; and
 - Extension to the dates of commencement and completion of development.

The attached proposed development agreement will permit a restaurant use (café) and three residential units subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion.

Compatibility Controls

Entering into a development agreement enables the ability to place controls on the proposal that would otherwise not apply in the ER-3 zone:

- Building design is primarily required to be substantially in conformance with the design shown on the schedules of the agreement. A Development Officer is permitted to accept minor changes to exterior architectural design and building materials, to allow reasonable flexibility. Minor changes to building siting, bulk, or scale would require a non-substantive amendment while any other changes would require a substantive amendment.
- Hours of operation are restricted to between 7am and 11pm. Staff believe this range provides a reasonable level of flexibility for the property owner while maintaining neighbourhood compatibility.
- Screening is required for refuse areas and rooftop mechanical equipment. A privacy wall is required at the second-floor level (east elevation) to provide privacy from a rear deck and the abutting low-density residential property.
- Signage requirements offer some flexibility while maintaining neighbourhood compatibility. Signage is restricted to fascia and projecting signs. No sign can be erected on the east façade of the building which faces the abutting low-density residential property and signs cannot be internally illuminated.
- Vehicular parking is not required, which is consistent with the themes and existing requirements of the Regional Centre SMPS and LUB. Given the location of this property, it is reasonable to assume many will visit this site by foot, bike, or transit. The minimum bicycle parking requirements of the Regional Centre LUB will apply to the commercial space.

Restaurant Use

The applicant has requested to occupy a café as their intended use and to open a location of Selby's Bunker, which has an existing location in Cole Harbour. Cafés are included in the Regional Centre Land Use Bylaw definition of Restaurant Use, as follows:

Restaurant Use means premises, excluding a catering use, whose primary purpose is to prepare, serve, and sell food and non-alcoholic beverages for consumption on or off the premises. A restaurant use may be licensed to serve alcoholic beverages, but this shall be incidental to the preparation, serving, and selling of food.

Permitting a Restaurant Use generally, instead of specifying a café, allows reasonable flexibility for current and future use of this space. It is noted that regardless of the type of restaurant, the use will remain limited by a maximum 200 square meter floor area. Restaurant Use is listed as an example of neighbourhood-scale commercial and institutional uses under Policy E-5 and therefore this use can be considered under this policy.

Existing Building

The applicant's original intention was to keep the existing building at this location and carry out renovations. It is noted that members of the public did voice positive opinions regarding keeping the building. However, the applicant has advised that further investigation has revealed that the existing building is unsalvageable and will need to be demolished and reconstructed. The applicant is proposing the same building design, which retains the footprint and massing of the existing building but will be adding one additional floor. Although there would be a community benefit to keeping the original structure, the proposed design and built form maintains compatibility with the adjacent residential neighbourhood and reconstruction offers the ability to improve elements such as accessibility.

Priorities Plans

In accordance with Policy G-14A of the Halifax Regional Plan, staff considered the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027 in making its recommendation to Council. The Regional Centre SMPS was written and adopted after many of these priority plans were approved. As such, the objectives and policies of the SMPS align with the objectives, policies, and actions of the various priority plans.

FINANCIAL 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 2024-2025 operating budget for Planning and Development.

RISK CONSIDERATION

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

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the Public Participation Administrative Order (2023-002-ADM). The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM planning applications website, and signage posted on the subject site. Notices were mailed to property owners within 200m (650 ft.) surrounding the proposed development. A total of 75 letters were mailed to property owners and tenants within the notification area (Map 2).

As of July 30, 2024, the HRM planning applications website received a total of 87 unique pageviews over the course of the application with an average time on the page of 24 seconds. Staff did not receive any direct responses from the public.

A public hearing must be held by Halifax and West 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 advertisement on the HRM webpage, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

LEGISLATIVE AUTHORITY

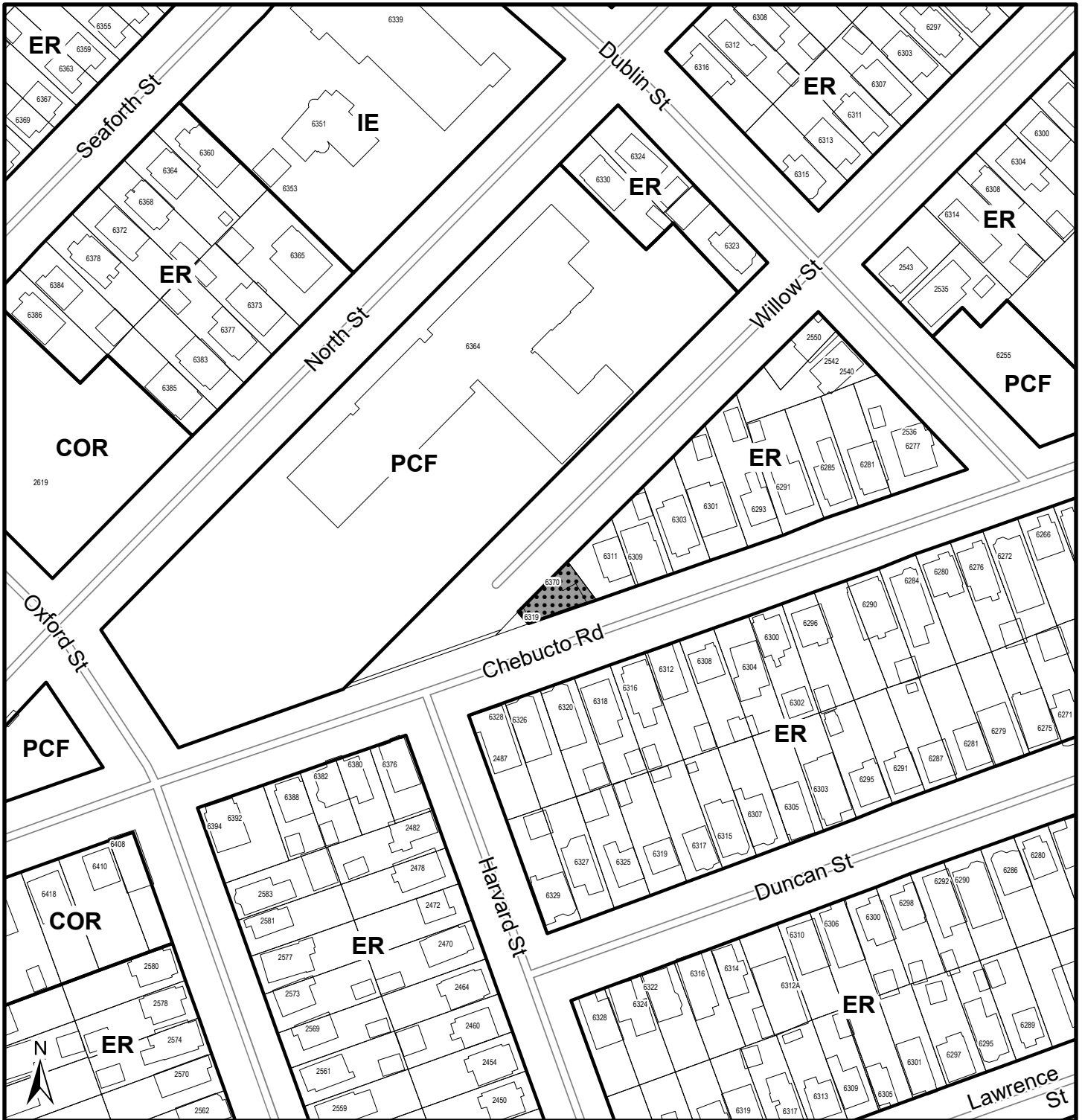
Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

ALTERNATIVES

1. Halifax and West 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. Halifax and West Community Council may choose to refuse the proposed development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Development Agreement
Attachment B:	Review of Relevant Regional Center SMPS Policies




Map 1 - Generalized Future Land Use

6319 Chebucto Rd
Halifax

HALIFAX

Designation

 Subject Property

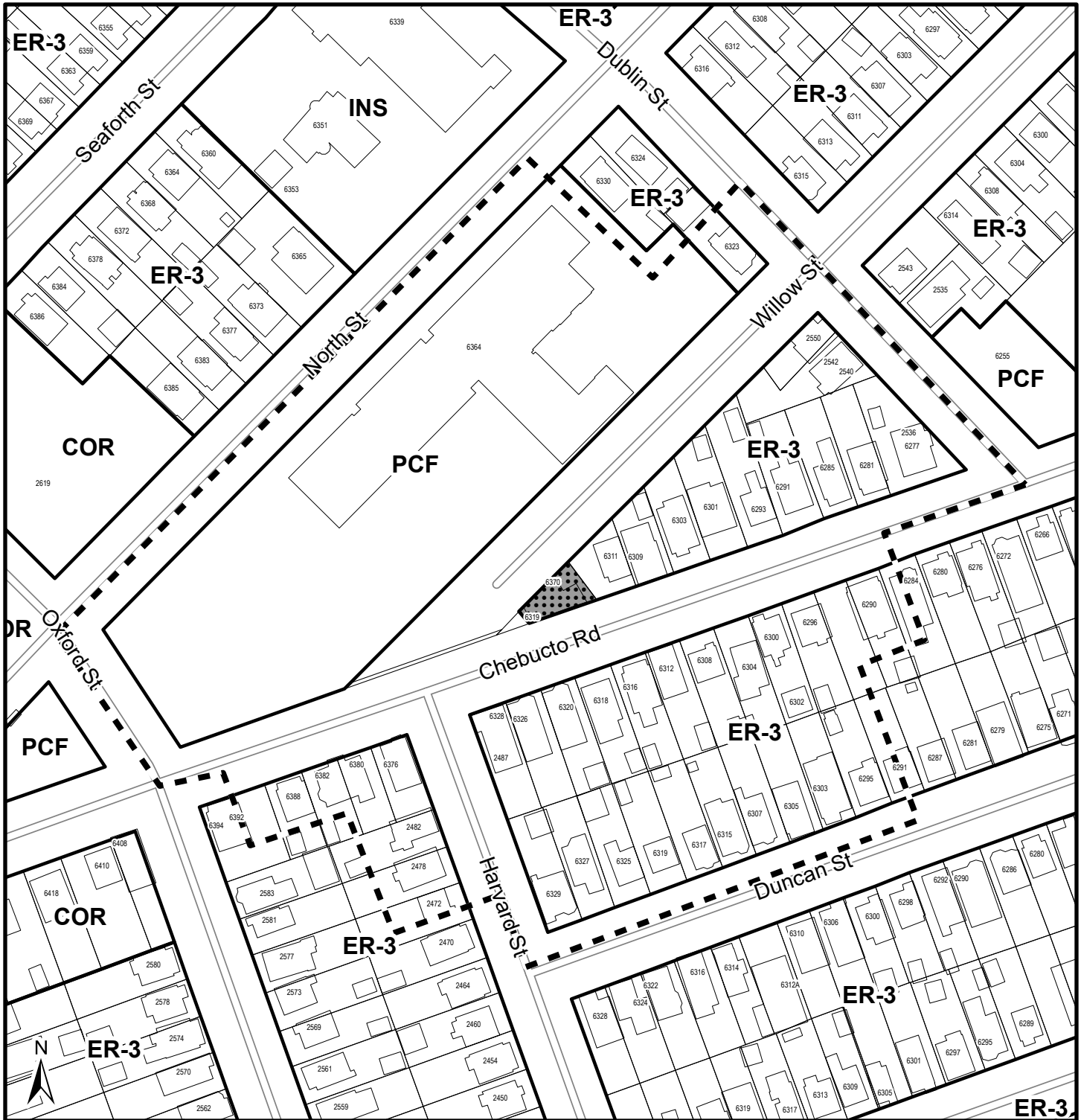
- COR Corridor
- ER Established Residential
- IE Institutional Employment
- PCF Park and Community Facility



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

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



Regional Centre
Plan Area



Map 2 - Zoning and Notification Area

6319 Chebucto Rd
Halifax

HALIFAX

-  Subject Property
-  Area of Notification

Zone

- COR Corridor
- ER-3 Established Residential 3
- INS Institutional
- PCF Park and Community Facility



Regional Centre
Land Use By-Law Area

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

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

**Attachment A:
Proposed Development Agreement**

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

BETWEEN:

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 6319 Chebucto Rd, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a restaurant use and single residential unit on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies E-5 and IM-7 of the Regional Centre Municipal Planning Strategy and Section 495 of the Regional Centre Land Use Bylaw;

AND WHEREAS the Halifax and West Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as PLANAPP 2024-00371;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Regional Centre Land Use Bylaw and the Regional Subdivision By-law, as may be amended from time to time.
- 1.2.2 Variances applications enable under Section 250 of the Halifax Regional Municipality Charter shall be permitted.

1.3 Applicability of Other By-laws, Statutes and Regulations

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

1.4 Conflict

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

1.5 Costs, Expenses, Liabilities and Obligations

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

1.6 Provisions Severable

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

1.7 Lands

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

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

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

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, is substantially in conformance with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as PLANAPP 2024-00371:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	West Elevation
Schedule D	North Elevation
Schedule E	East Elevation
Schedule F	South Elevation

3.2 Requirements Prior to Approval

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

3.3 General Description of Land Use

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
- (a) A restaurant use with a maximum gross floor area of 200 square metres;
 - (b) Three (3) dwelling units; and
 - (c) uses accessory to any of the foregoing uses.

3.4 Building Siting and Architectural Requirements

- 3.4.1 The building's siting, bulk, scale, and exterior architectural design and building materials shall be substantially in conformance with that shown on Schedule B, C, D, E, and F, and shall comply with the following:
- (a) building setbacks shall be as shown on Schedule B;

- (b) the maximum height of the building shall not exceed 12 metres above average grade, including any protruding mechanical equipment;
 - (d) any exposed foundation in excess of 0.6 metres in height shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer; and
 - (c) exterior building materials shall not include vinyl siding.
- 3.4.2 The Development Officer may approve minor changes to the exterior architectural design and building materials, including window openings, provided such changes, in the opinion of the Development Officer, are minor in nature.
- 3.4.3 The Development Officer may permit unenclosed structures attached to the main building, which are not shown on the schedules, such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the ER-2 zone of the Regional Centre Land Use By-law, as amended from time to time.
- 3.4.4 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.

3.5 Parking, Circulation and Access

- 3.5.1 No minimum vehicular parking requirement shall apply.
- 3.5.2 Bicycle parking shall be provided in accordance with the provisions of the Regional Centre Land Use By-law.

3.6 Outdoor Lighting

- 3.6.1 Lighting shall be directed to driveways building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.6.2 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.

3.7 Maintenance

- 3.7.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways.
- 3.7.2 All disturbed areas of the Lands shall be reinstated to original condition or better.

3.8 Signs

- 3.8.1 Signage shall be limited to fascia and projecting signage and shall not be internally illuminated.
- 3.8.2 Signage shall comply with the General Signage Requirements of the Regional Centre Land Use By-law, however no sign shall be erected on the east elevation of the building.
- 3.8.3 The combined area of all fascia signs on a building wall shall not exceed 10% of the area of the wall that the signs are affixed.

3.8.4 Projecting signage shall:

- (a) be limited to one projecting sign per building side;
- (b) be setback no less than 1.25 metres from any side or rear lot line;
- (c) not exceed 2.0 square metres in area, per sign face; and,
- (d) be subject to accordance with the HRM Encroachment Bylaw.

3.9 Screening

- 3.9.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing that is no less than 1.8 metre in height.
- 3.9.2 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.
- 3.9.3 Any outdoor space on the property used for seating of patrons, including the upper-level rear deck, shall provide an opaque privacy screen that is no less than 1.8 metres in height, when abutting a low-density residential use.
- 3.9.4 All vents, down spouts flashing, electrical conduits, metres, 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.

3.10 Hours of Operation

- 3.10.1 The restaurant use shall be permitted to operate between the hours of 7am and 11pm.
- 3.10.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 10:00pm.
- 3.10.3 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

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

4.2 Off-Site Disturbance

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

4.3 Solid Waste Facilities

- 4.3.1 The building shall include designated space for five stream commercial waste containers to accommodate source separation program in accordance with By-law S-600 as amended from time to time.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

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

5.2 Stormwater Management Plans and Erosion and Sedimentation Control Plan

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

5.3 Sulphide Bearing Materials

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

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended in a matter consistent with the *Halifax Regional Municipality Charter*:
- (a) Changes to building siting, bulk, or scale which, in the opinion of the Development Officer, do not conform with Schedule B, C, D, E, or F and are minor in nature;
 - (b) Changes to the uses permitted on the Lands under this Agreement to include any use permitted by the existing zoning under the applicable land use by-law;
 - (c) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement; and
 - (d) The granting of an extension to the length of time for the completion of the development as identified in Section 7.4.3 of this Agreement.

6.2 Substantive Amendments

- 6.2.1 Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

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

7.2 Subsequent Owners

7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by the Chief Administrative Officer for the Municipality.

7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

7.3.1 In the event that development on the Lands has not commenced within five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

7.3.2 For the purpose of this section, commencement of development shall mean issuance of a Development Permit.

7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer prior to the expiry of the commencement of development time period.

7.4 Completion of Development

7.4.1 Upon the completion of the whole development, the Municipality may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

7.4.2 For the purpose of this section, completion of development shall mean issuance of an Occupancy Permit

7.4.3 In the event that development on the Lands has not been completed within ten (10) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

7.5 Discharge of Agreement

If the Developer fails to complete the development after ten (10) years from the date of execution of this Agreement, the Municipality may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

8.2 Failure to Comply

- 8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:
- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
 - (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
 - (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
 - (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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

SIGNED, SEALED AND DELIVERED in the presence of:

[INSERT NAME]

Witness

Per: _____

Print Name: _____

Date Signed: _____

=====

=====

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

Date signed: _____

Witness

Per: _____
MUNICIPAL CLERK

Date signed: _____

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

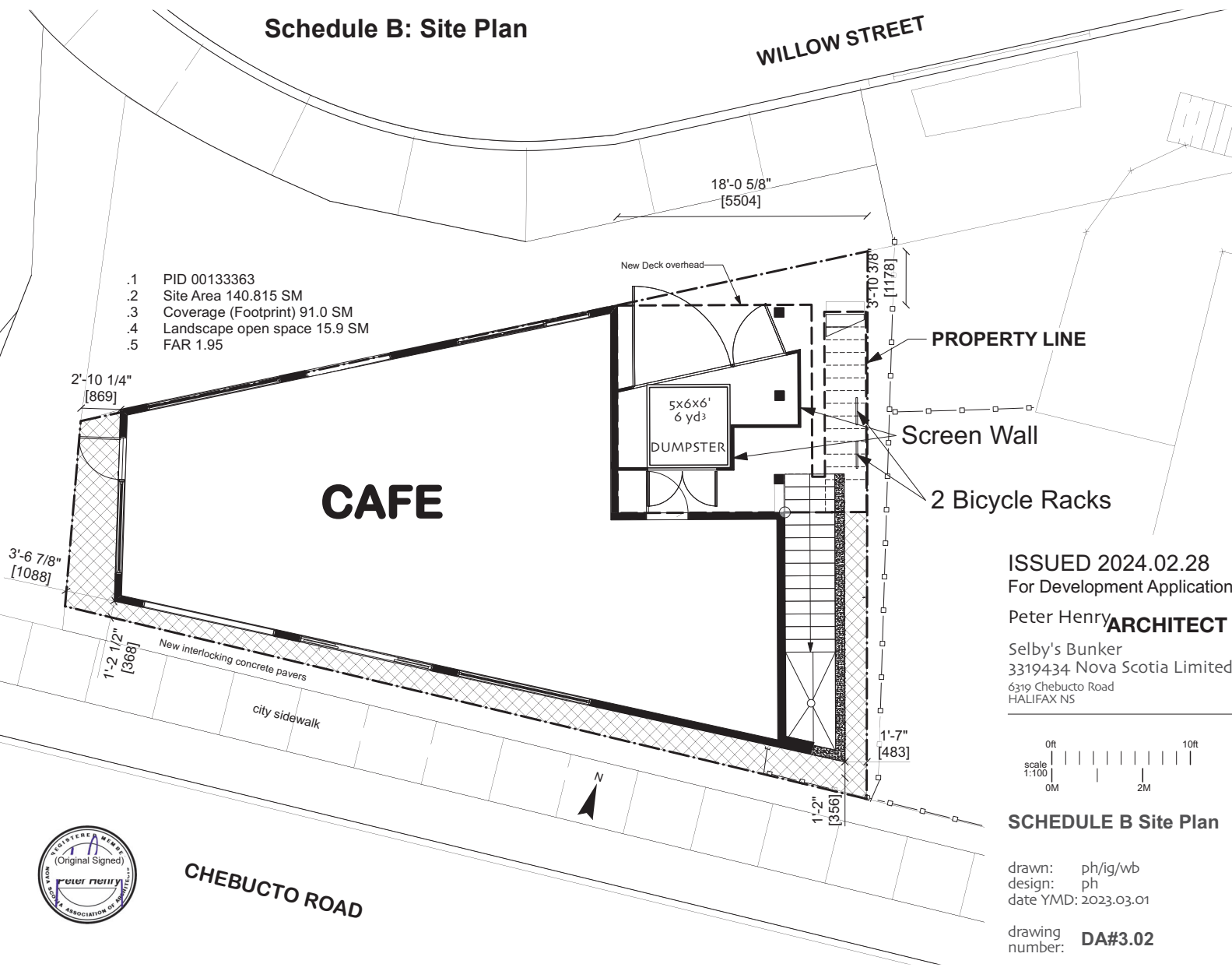
On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Iain MacLean, Clerk of the Halifax Regional Municipality, signed the same and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

A Commissioner of the Supreme Court
of Nova Scotia

Schedule B: Site Plan

WILLOW STREET

- .1 PID 00133363
- .2 Site Area 140.815 SM
- .3 Coverage (Footprint) 91.0 SM
- .4 Landscape open space 15.9 SM
- .5 FAR 1.95



PROPERTY LINE

Screen Wall

2 Bicycle Racks

CAFE

5x6x6'
6 yd³
DUMPSTER

New Deck overhead

ISSUED 2024.02.28
For Development Application

Peter Henry **ARCHITECT**

Selby's Bunker
3319434 Nova Scotia Limited
6319 Chebucto Road
HALIFAX NS



SCHEDULE B Site Plan

drawn: ph/ig/wb
design: ph
date YMD: 2023.03.01

drawing number: **DA#3.02**

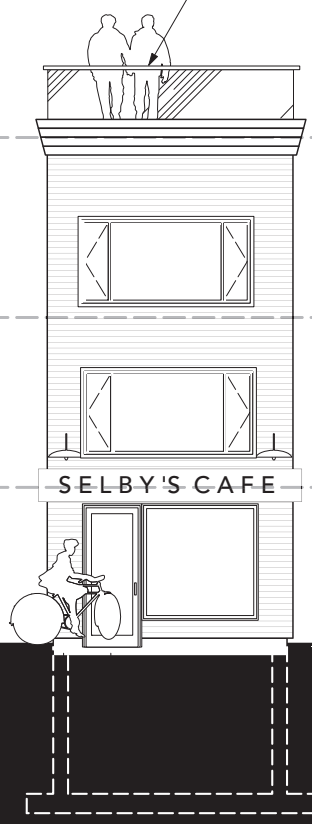


CHEBUCTO ROAD

Schedule C: West Elevation

12M Maximum Height
Above finished grade

42" (1100)
Glass Balustrade



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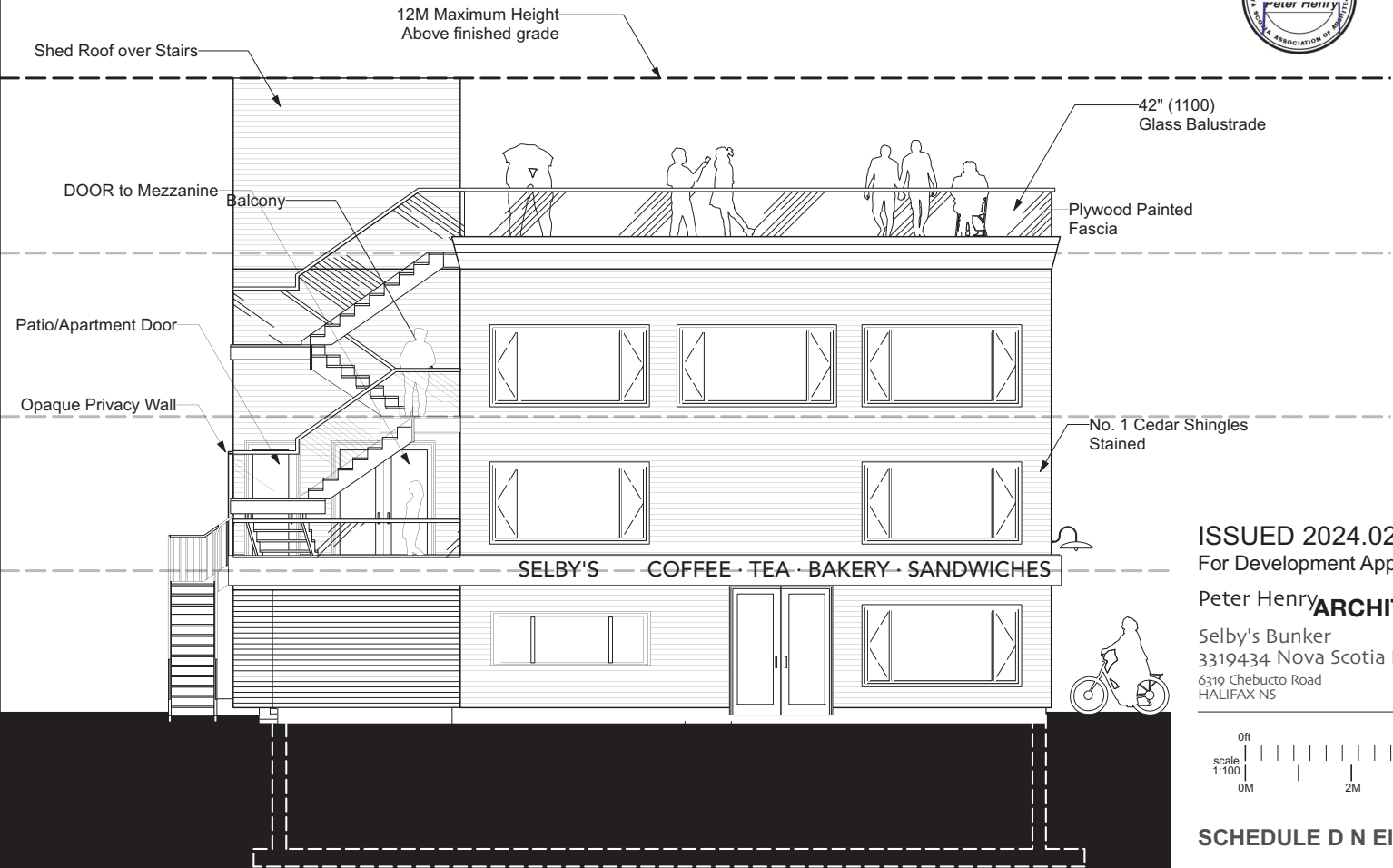


WEST SIDE

drawn: ph/ig/wb
design: ph
date YMD: 2023.03.01

drawing number: **DA#3.06**

Schedule D: North Elevation



WILLOW STREET SIDE

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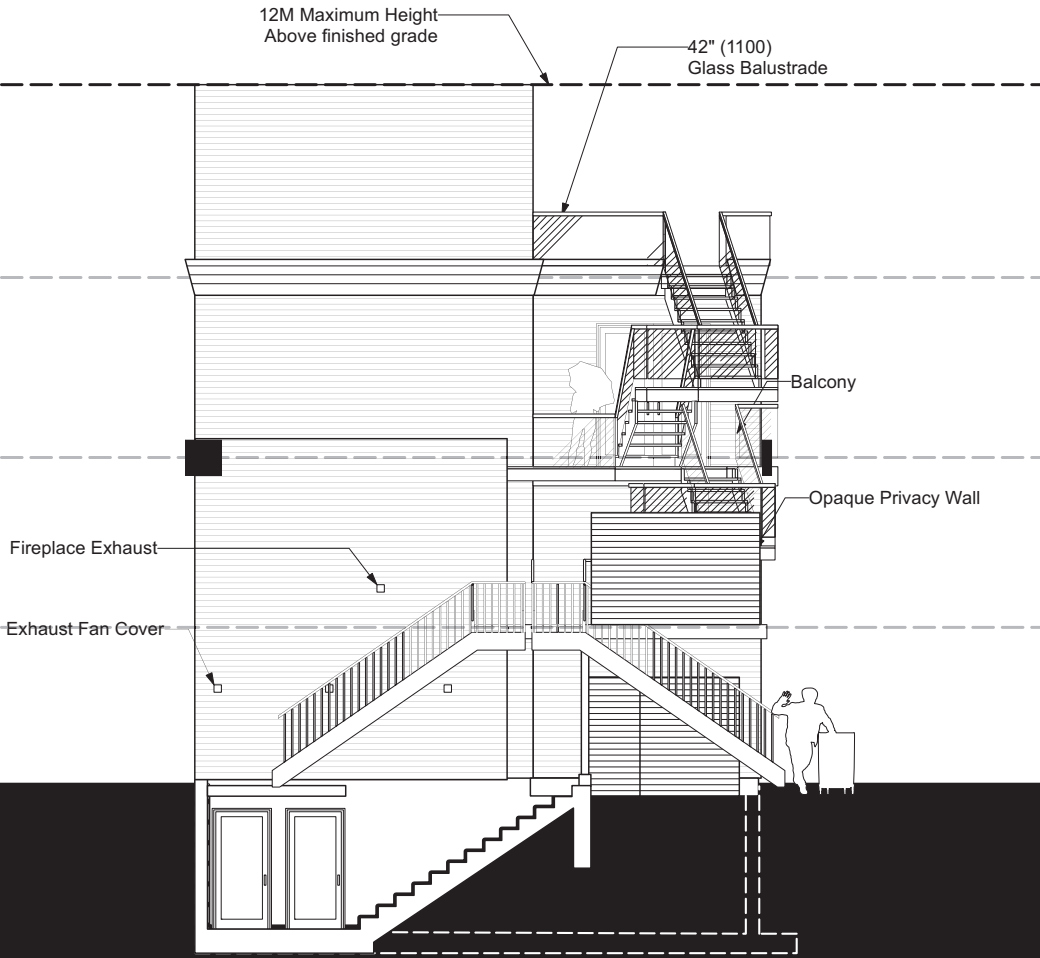


SCHEDULE D N Elevation

drawn: ph/ig/wb
design: ph
date YMD: 2023.03.01

drawing number: **DA#3.04**

Schedule E: East Elevation



EAST SIDE

ISSUED 2024.02.28
For Development Application

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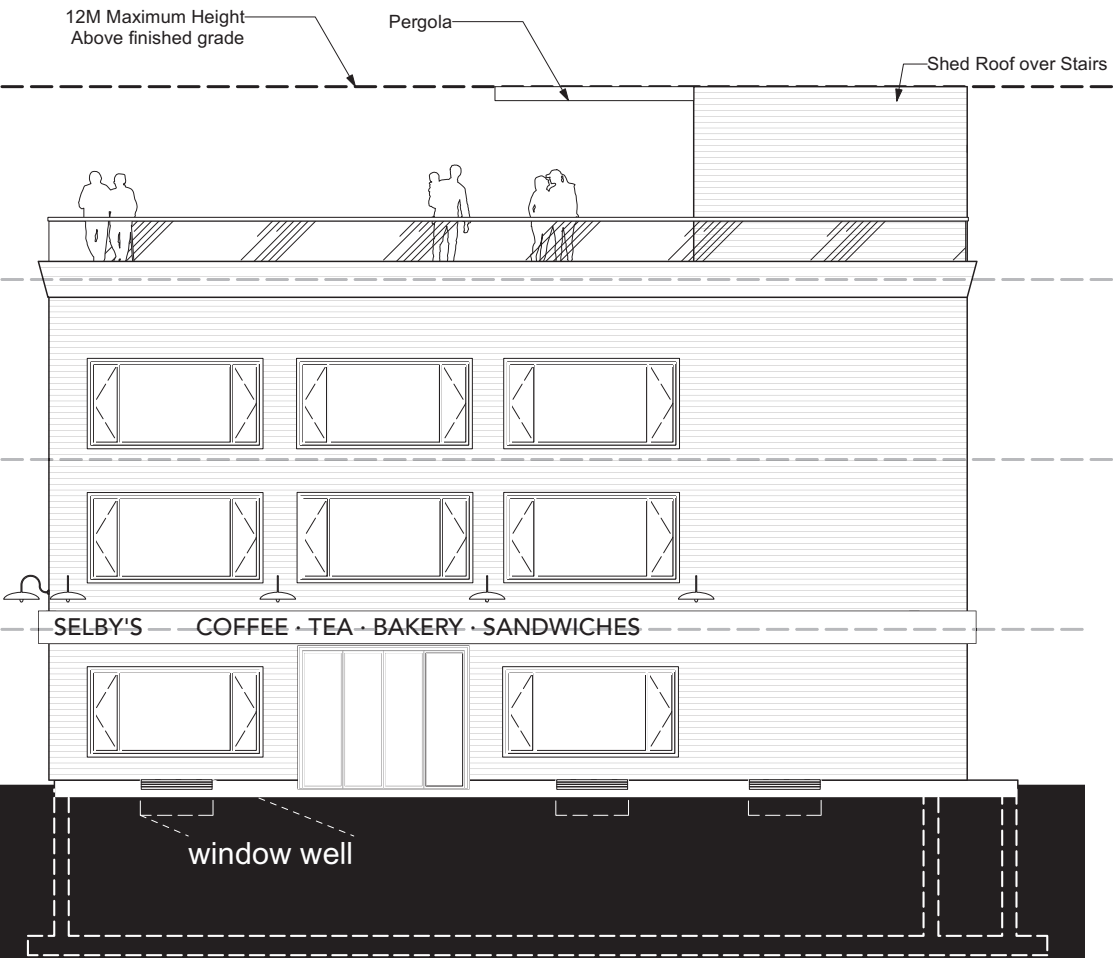


SCHEDULE E E Elevation

drawn: ph/ig/wb
design: ph
date YMD: 2023.03.01

drawing number: **DA#3.05**

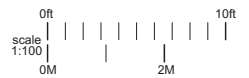
Schedule F: South Elevation



ISSUED 2024.02.28
For Development Application

Peter Henry **ARCHITECT**

Selby's Bunker
3319434 Nova Scotia Limited
6319 Chebucto Road
HALIFAX NS



drawn: ph/ig/wb
design: ph
date YMD: 2023.03.01

drawing number: **DA#3.03**

CHEBUCTO ROAD SIDE

Attachment B: Review of Relevant Regional Centre SMPS Policies

Regional Centre SMPS	
Policy E-5	Staff Comment
<p><i>Council may consider proposals to develop neighbourhood-scale commercial and institutional uses within the Established Residential Designation by development agreement, such as, but not limited to, restaurants, retail uses, personal service uses, daycare uses, medical clinics, and cultural uses. In considering development agreement proposals, Council shall consider:</i></p>	<p>The proposal is for a café which may include minor accessory retail sales.</p> <p>A café falls under the restaurant uses definition of the Regional Centre Land Use Bylaw (LUB) and any associated retail will remain accessory in nature to the restaurant use. This is a use that can be considered under this policy.</p>
<p><i>a) the number of existing local commercial or institutional uses in the area, as the intention of the designation is to remain primarily residential in nature;</i></p>	<p>This site is a unique corner-type lot located on an arterial road. The location is on the edge of an established residential neighbourhood. Commercial and institutional uses in immediate area include:</p> <ul style="list-style-type: none"> • Chebucto Grocery (ER zoning) • Darling Tattoos, La Piazza Restaurant, North St. Gospel Hall (COR Zoning) • Oxford School (PCF Zoning) <p>This building previously housed a non-conforming commercial use (antique store/business offices). The proposal resumes the previous commercial use with a use that is oriented towards the community.</p> <p>Given the context of this lot and its history of commercial use, it is not anticipated that the proposal will negatively impact the residential nature of the immediate ER designated area.</p>
<p><i>b) if the development comprises a local commercial use, that the use is limited to 200 square metres or less;</i></p>	<p>The proposed floor area of the café is 162 sq. m. The agreement is written to allow up to 200 square metres to allow some flexibility.</p>
<p><i>c) that controls on the hours of operation for the proposed land use are established where needed to mitigate potential land use conflicts with surrounding residential uses; and</i></p>	<p>Given the proximity to low-density residential it is appropriate to regulate hours of operation. The proposed agreement restricts the restaurant use to operate between 7am and 11pm, with deliveries between 7am and 10pm.</p> <p>It is noted that the applicant has advised that at this time, the owner of the proposed café does not intend to apply for a liquor license but wishes to reserve the right to at a future date.</p>

	By definition a restaurant use may be licensed but it shall be incidental to preparation, servicing, and selling of food.
d) <i>the general development agreement criteria set out in Policy IM-7 in Part 9 of this Plan.</i>	See below.
Policy IM-7	Staff Comment
<i>In considering proposals to amend the Land Use By-law, amend the zoning boundaries, or enter into development agreements, Council shall consider that:</i>	See below.
a) <i>the proposal is consistent with the Vision, Core Concepts, Urban Design Goals, and all applicable objectives and policies set out in the Regional Plan and this Plan;</i>	<p>The Regional Centre SMPS includes that an objective of the Established Residential designation is to “<i>Support complete communities ... and opportunities for home occupations and local commercial uses</i>”.</p> <p>Generally the SMPS encourages providing daily goods and services which are pedestrian-friendly and human-scale.</p> <p>This proposal is consistent with the objectives of the plan and works towards the objective for complete communities by providing a ‘third-place’ within walking distance of an established residential area.</p>
b) <i>the proposal is appropriate and not premature by reason of:</i>	See below.
i) <i>the financial capacity of the Municipality to absorb any costs relating to the development,</i>	No costs predicted.
ii) <i>the adequacy of municipal wastewater facilities, stormwater systems or water distribution systems,</i>	No adequacy issues identified.
iii) <i>the proximity of the proposed development to schools, parks, and community facilities, and the capability of these services to absorb any additional demands,</i>	The Agreement permits the creation of three residential units and therefore no additional demand is anticipated.
iv) <i>the adequacy of transportation infrastructure for pedestrians, cyclists, public transit and vehicles for travel to and within the development, and</i>	The site is well serviced by public and active transportation options. Given the sites context, mostly foot traffic anticipated. Negligible traffic generation is anticipated as compared to the previous commercial use.

<p>v) <i>the impact on registered heritage buildings, heritage streetscapes, and heritage conservation districts;</i></p>	<p>This property is not a registered heritage building and there are no known heritage assets in the immediate vicinity. It is not within a proposed heritage conservation district study area (Map 20).</p>
<p>c) <i>the subject lands are suitable for development in terms of the steepness of grades, soil and geological conditions, locations of watercourses, wetlands, and susceptibility to flooding;</i></p>	<p>No site suitability concerns.</p>
<p>d) <i>that development regulations in the proposed rezoning or development agreement will adequately mitigate potential conflict between the proposed development and nearby land uses, by reason of:</i></p>	<p>See below.</p>
<p>i) <i>type of use(s),</i></p>	<p>This agreement would permit a restaurant use with a maximum of a 200 sqm floor area. A restaurant use is provided as an example of neighbourhood-scale commercial use within the enabling policy.</p> <p>Restaurant Use means “<i>premises, excluding a catering use, whose primary purpose is to prepare, serve, and sell food and non-alcoholic beverages for consumption on or off the premises. A restaurant use may be licensed to serve alcoholic beverages, but this shall be incidental to the preparation, serving, and selling of food</i>”. The maximum floor area, restrictions on hours, and distinction between this use and a “drinking establishment use” aid in mitigating conflict with the nearby residential uses.</p>
<p>ii) <i>built form of the proposed building(s),</i></p>	<p>There are no substantial changes proposed to the exterior footprint or dimensions of the building as the proposal intends to maintain the unique form of the existing building. The proposal will see the addition of one more building floor in the same dimensions. Additionally, facade materials (cedar shingles, cornice molding) are consistent with surrounding established residential areas.</p> <p>Built form is regulated by the proposed agreement by requiring the building to be substantially in conformance with the</p>

	schedules, regardless of renovation or reconstruct.
<p>iii) <i>impacts on adjacent uses, including compatibility with adjacent residential neighbourhoods, parks, community facilities, and railway operations,</i></p>	<p>Adjacent uses include a school, park space, and low-density residential uses. The use is complementary to the adjacent park use as an additional “third-place” option for residents. The Halifax Regional Centre for Education declined circulation of this application as there were no items of concern.</p> <p>There is an upper rear deck included in the proposal which may be used for café seating. In order to mitigate the potential for negatively impact to the adjacent residential use a requirements for a privacy screen has been included in the proposed agreement. This requirement also applies if a commercial outdoor area was included on the property at ground level.</p>
<p>iv) <i>traffic generation, safe access to and egress from the site, and parking,</i></p>	<p>No parking is required by the proposed agreement. This aligns with the requirements of the Regional Centre Land Use Bylaw and given the context of this small lot in a walkable area with access to transit, this is appropriate.</p> <p>Development Engineer requested a traffic impact statement which specifically spoke to interaction with the adjacent school, especially during school drop-off time and intended loading/parking activities. This was provided and Development Engineering recommended that the application may proceed however it was acknowledged that HRM may need to adjust signed parking/loading sections in the future to mitigate impacts.</p>
<p>v) <i>open storage and signage, and</i></p>	<p>There is no proposed open storage associated with this use other than storage of waste. The proposed agreement includes refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing that is no less than 1.8 metre in height.</p> <p>Signage is limited to non-illuminated fascia and projecting signage and is subject to the general signage requirements of the Regional Centre LUB. No signage can be erected on the east</p>

	façade, which faces a low-density residential use.
vi) <i>impacts of lighting, noise, fumes and other emissions.</i>	The submission states that exhausts will be directed to the rooftop. Rooftop mechanical features shall be required to be visually integrated into the overall design of the building top and screened.