

Halifax and West Community Council
March 18, 2013

TO: Chair and Members of Halifax and West Community Council

Original Signed

SUBMITTED BY: _____
Brad Anguish, Director of Community & Recreation Services

DATE: March 8, 2013

SUBJECT: **Case 17829: Land Use By-Law Amendment and Development Agreement - 3090 Oxford Street, Halifax**

ORIGIN

Application by W.M. Fares Group.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter; Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to the Halifax Peninsula Land Use By-law, as contained in Attachment A, to include the lands at 3090 Oxford Street, within Schedule "L", and schedule a public hearing;
2. Move Notice of Motion to consider the proposed development agreement as contained in Attachment B to allow for a mixed-use development and schedule a public hearing. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1; and
3. Approve the proposed land use by-law amendment as contained in Attachment A.

RECOMMENDATIONS CONTINUED ON PAGE 2

Contingent upon the amendments to the Halifax Peninsula Land Use By-Law being approved by Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Halifax and West Community Council:

1. Approve the proposed development agreement as contained in Attachment B to enable a five storey mixed commercial and residential building at 3090 Oxford Street, Halifax; and
2. Require that the proposed 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

The subject site is located at 3090 Oxford Street, Halifax, at the corner of Bayers Road. The site is currently vacant but was developed with a service station which was demolished in 2008. The applicant wishes to construct a 5 storey mixed use residential and commercial building on the site. To enable the proposal to proceed, the applicant has requested that the subject site be included within Schedule “L” of the Halifax Peninsula Land Use By-law to allow for the proposed development to proceed via the development agreement process.

Subject Property and Surrounding Area:

The subject site:

- Is located at the intersection of Oxford Street and Bayers Road in Halifax;
- Consists of 3 separate properties which total approximately 16,988 sq ft (1578 m²) in area;
- Has approximately 167 ft (50.9 m) of street frontage on Oxford Street and 98 ft (29.9 m) on Bayers Road;
- Is located in an area that consists of local commercial uses surrounded by a mix of single detached dwellings and small, multi-unit residential buildings. The commercial uses include office space, small restaurants and retail spaces. The commercial uses are a part of a commercial node that extends along Oxford Street and Bayers Road;
- Is designated Commercial under the Halifax Municipal Planning Strategy (MPS); and
- Is zoned C-2A (Minor Commercial) Zone, under the Halifax Peninsula Land Use By-law (LUB). The main provisions of the C-2A Zone include:
 - 35 foot maximum height;
 - No setbacks required from property lines;
 - No required upper storey stepback;
 - A variety of neighbourhood commercial services and offices; and
 - Residential uses that are included in the R1, R2 and R-2T Zones.

Proposal

The applicant wishes to consolidate the three properties, and construct a mixed use development consisting of a 5 storey mixed commercial and residential building with underground parking. Details of the proposal are as follows:

- 10,200 square feet of ground level commercial uses;
- 29 residential units within the top 4 storeys of the building;
- Underground parking for 29 vehicles; and
- Provision of at grade landscaping, around the building perimeter.

Enabling Policy

The subject application is made pursuant to Policy 3.12 of the *Implementation Policies* section of the MPS which allows Council to identify areas designated commercial or industrial for comprehensive site planning through a development agreement process (Attachment C). This process is achieved through the application of Schedule “L” of the Halifax Peninsula LUB (Attachment D). Schedule “L” was established in order to negotiate, on a site basis, the conditions of a development agreement.

Zoning Requirements

The C-2A Zone does not contain requirements for front, side or rear yards where commercial buildings are to be developed. Residential uses are also permitted within the C-2A Zone but are subject to the requirements of the R-2T Zone (Attachment E). The application of Schedule “L” to a property supersedes the requirements of the C-2A Zone by allowing projects to be considered by Council through the development agreement process. This provides flexibility by enabling the modification of the standard land use by-law requirements for developments on a site-by-site basis.

Approval Process

The approval process for this application involves two steps:

- i) First, Council must consider and, if deemed appropriate, approve the proposed amendment to the LUB (Map ZM-2) to include the subject lands within “Schedule L”; and
- ii) Secondly, Council shall consider and, if deemed appropriate, approve the proposed development agreement.

A single public hearing can be held by Council to consider both the LUB amendment and the development agreement. However, Council can only render a decision on the development agreement following the approval of the LUB amendment. An appeal mechanism to the Nova Scotia Utility and Review Board exists for both decisions of Council.

DISCUSSION

Staff have reviewed the proposal relative to all relevant policies and have determined that the proposed development is consistent with the MPS. Attachment C provides an evaluation of the proposed LUB amendment and development agreement in relation to the relevant MPS policies.

The following items have been identified for more detailed discussion.

LUB Amendment (Schedule “L”)

The inclusion of the subject site in Schedule “L” will allow the development to benefit from comprehensive site planning which is achieved through the development agreement process. Due to the site’s prominent location in the neighbourhood, the proposal will benefit from the controls and flexibility that the development agreement process provides.

Development Agreement

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

- Land use;
- Architectural, signage and lighting treatments;
- Detailed landscaping requirements;
- Building services, maintenance and waste facilities; and
- Options for various non-substantive amendments by resolution of Council.

Of the matters addressed by the proposed development agreement, the following elements have been identified for a more detailed discussion.

Neighbourhood Compatibility

The proposed development agreement requires the massing of the building to be broken into distinct sections by varying the roofline, and by varying façade materials. By breaking up the massing in this manner, the building resembles the fine grain character of the existing neighbourhood.

Along Oxford Street and at the rear of the property, where the proposed building will abut residential properties, the building is required to be stepped back from the property line to minimize the bulk of the building on adjacent properties. This provides a transition from the typical neighbourhood character of buildings comprising 2-3 storeys up to the maximum height of the proposed 5 storey building.

Building Design

The proposed development agreement requires the building to incorporate high quality exterior materials such as brick, fibre cement boards, glass, and aluminum railings. The proposed design also incorporates canopies over building entrances for aesthetic and weather climate protection purposes. The development agreement also helps to minimize conflict with existing residential uses by maintaining a 20 foot setback from the only existing residentially zoned property abutting the site (6419/6421 Young Street).

Traffic/ Site Access

A traffic impact study was prepared by the developer’s consultant, reviewed by HRM and found to be acceptable. The study concludes that there are no resultant issues or concerns with the proposal. The proposed agreement requires vehicles accessing and egressing from the site to

utilize Oxford Street via a driveway and garage. The driveway and garage entrance are recessed from the streetline in order to provide ample space and time for vehicles to safely cross the sidewalk and access Oxford Street.

All parking is contained within an underground parking garage. One parking stall is required for each residential unit.

Conclusion

In the opinion of staff, the proposed LUB amendment and development agreement are in keeping with the objectives and policies of the Halifax MPS to develop the lands in a comprehensive manner and to address compatible issues with the surrounding uses. Therefore, staff recommend approval of the proposed LUB amendment (Attachment A) and development agreement (Attachment B).

FINANCIAL IMPLICATIONS

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved budget with existing resources.

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 a Public Information Meeting held on June 27, 2012. Notices for the meeting were posted on the HRM website, in a local newspaper and were mailed to property owners within a given notification area.

A public hearing has to be held by Community Council before it can consider the approval of a development agreement. Should Community Council decide to proceed with a public hearing on this application, notices will be published in a local newspaper and on the HRM website. In addition, notifications will also be mailed to property owners within the notification area and to others that have requested to be added to the notification list.

At the public information meeting (see Attachment F), some residents of the public expressed that the notification area should be enlarged. As a result, if Council proceeds to a public hearing, then the notification area will be extended to Connolly Street (See Map 2).

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant, environmental policies contained in the Halifax MPS. Please refer to Attachment C of this report for further information.

ALTERNATIVES

1. Council may choose to approve the proposed amendments to the Halifax Peninsula Land Use By-Law and development agreement, as contained in Attachments A and B of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amendments to the Halifax Peninsula Land Use By-Law and development agreement subject to modifications to the agreement. This may necessitate further negotiation with the applicant and the need to hold a second public hearing.
3. Council may choose to refuse the proposed amendments to the Halifax Peninsula Land Use By-Law and development agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended, as the proposal is consistent with the MPS.

ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Halifax Peninsula Land Use By-Law Amendment
Attachment B	Proposed Development Agreement
Attachment C	Review of Relevant Municipal Planning Strategy Policies
Attachment D	Schedule L
Attachment E	C-2A Zone
Attachment F	Public Information Meeting Minutes

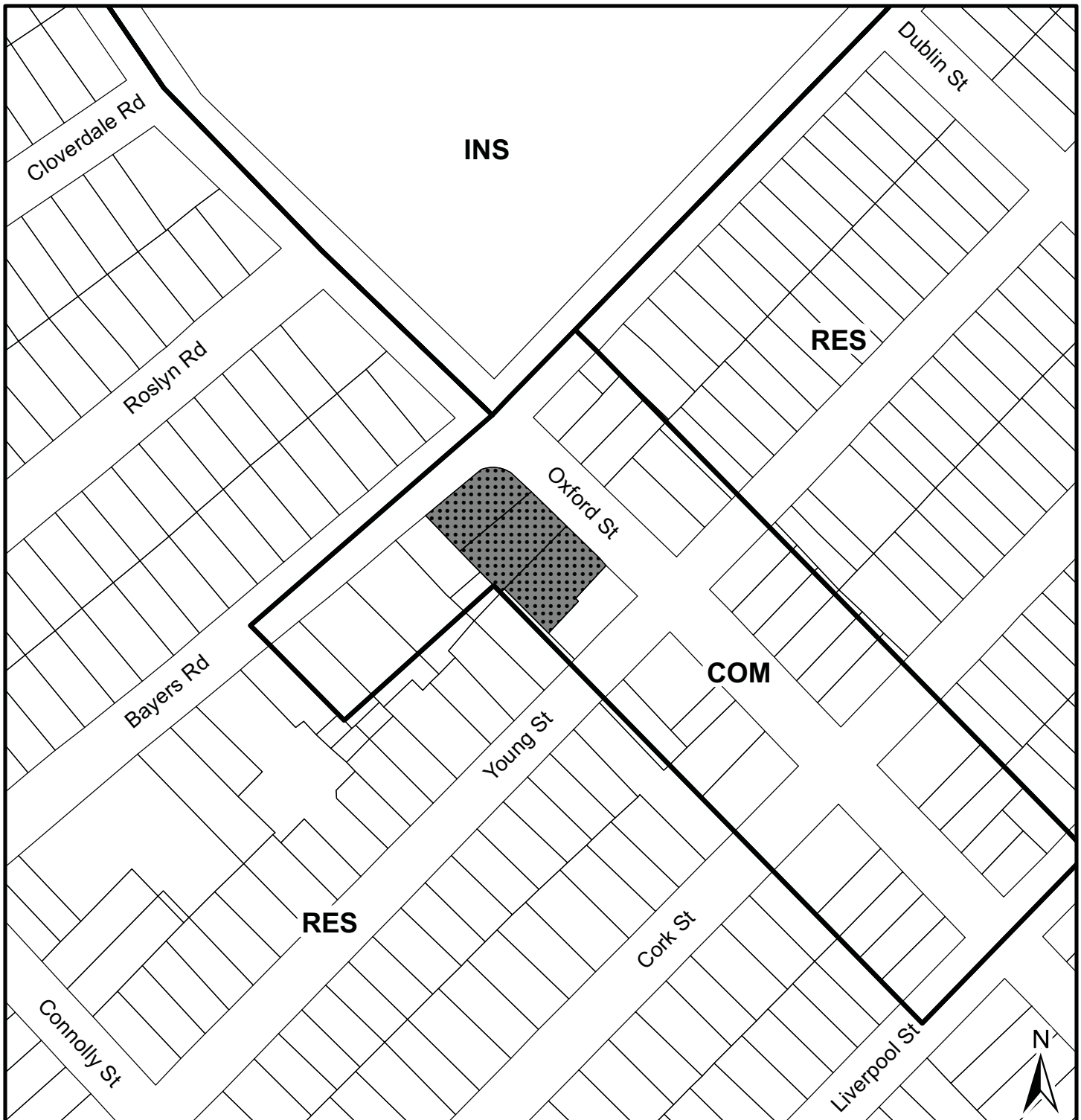
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Brandon Silver, Urban Designer, 490-4911

Original Signed

Report Approved by:

 Kelly Dent, Manager of Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

3090 Oxford Street
Halifax

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS



Area proposed to be
included in Schedule L

0 20 40 60 m

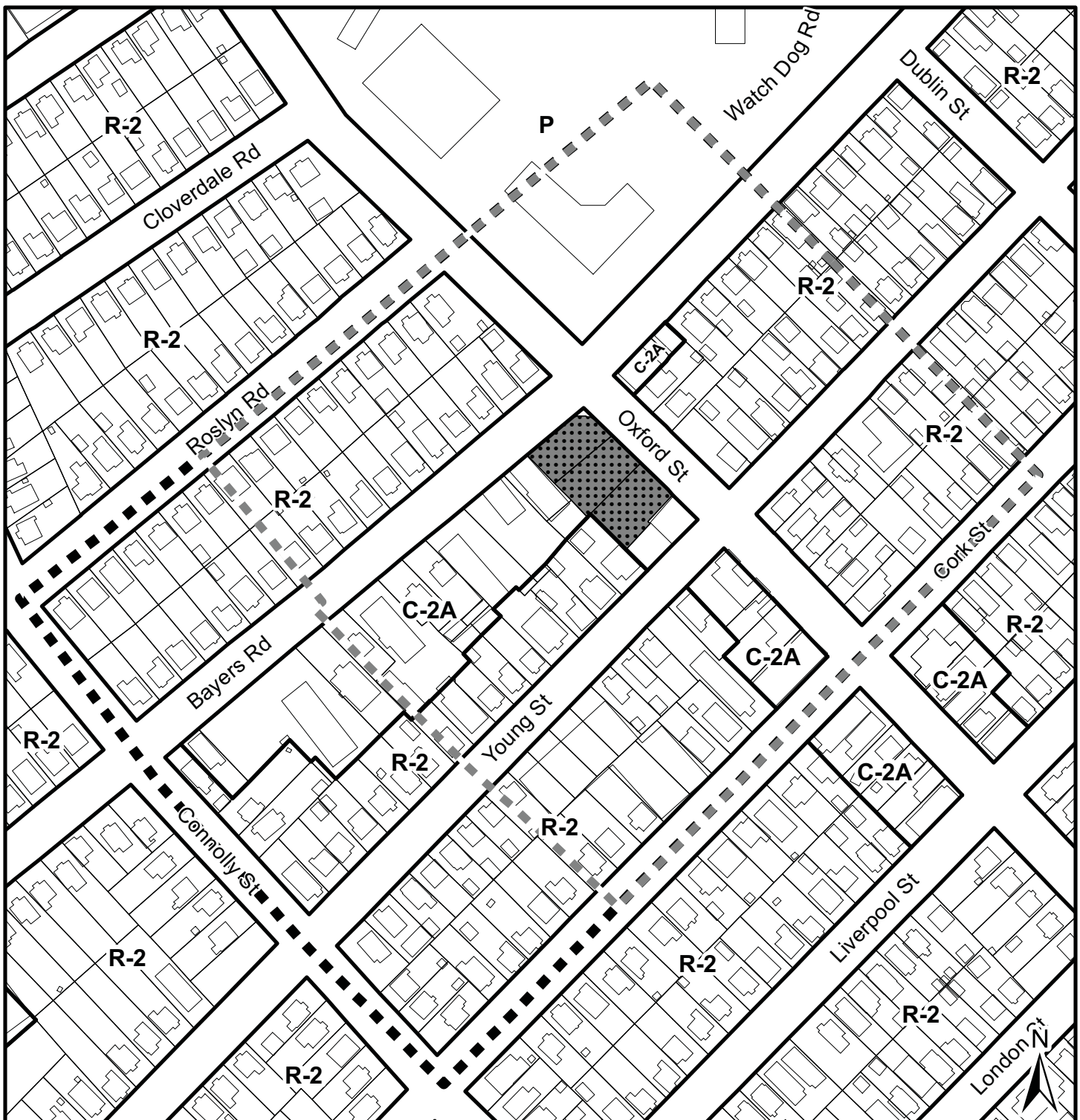
Designation

RES Residential Environments
COM Commercial
INS Institutional

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




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

Halifax Plan Area



Map 2 - Zoning and Notification

3090 Oxford Street
Halifax

-  Area of proposed development agreement
-  Original Area of notification
-  Area of notification Extension

Halifax Peninsula
Land Use By-Law Area

Zone

- R-2 General Residential
- C-2A Minor Commercial
- P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS

0 20 40 60 80 m

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

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

ATTACHMENT A
Proposed Amendments to the Halifax Peninsula Land Use By-Law

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Halifax Peninsula Land Use By-Law is hereby further amended as follows:

1. Amend Map ZM-2 of the Halifax Peninsula Land Use By-Law, as illustrated in Schedule “A” attached hereto, by applying Schedule “L” to the site identified at 3090 Oxford Street, Halifax.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of the _____, A.D., 20__.

GIVEN under the hand of the municipal clerk and under the Corporate Seal of the said Municipality this ____ day of the _____, A.D., 20__.

Municipal Clerk

Schedule A Legal Description of Lands



Schedule A

3090 Oxford Street
Halifax



Area to be included
in Schedule L

Halifax Peninsula
Land Use By-Law Area

Zone

R-2 General Residential
C-2A Minor Commercial

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS

0 10 20 m

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

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

ATTACHMENT B

Proposed Development Agreement

THIS AGREEMENT made this ____ day of _____, 20__,

BETWEEN:

[Insert Name of Corporation/Business LTD.],
a corporate body, in the Halifax Regional Municipality 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 3090 Oxford Street, Halifax and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a five storey mixed commercial and residential building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 3.7, 4.6 of Part II, Section II, and Policy 3.12 of the Halifax Municipal Planning Strategy and Schedule L of the Halifax Peninsula Land Use By-law;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on _____, referenced as Municipal Case Number 17829;

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

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

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.

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

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

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.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

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

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

“Landscape Architect” means a professional, full member in good standing with the Canadian Society of Landscape Architects.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop and use 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 17829:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Commercial Ground Floor
Schedule D	Underground Parking Layout
Schedule E	North Elevation
Schedule F	East Elevation
Schedule G	South Elevation
Schedule H	West Elevation

3.2 Requirements Prior to Approval

3.2.1 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer:

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

3.2.2 At the time of issuance of an Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer as per Section 3.6.8 of this Agreement:

- (a) Certification from a Landscape Architect indicating that the Developer has complied with the Landscape Plan required pursuant to Section 3.6 of this Agreement.

3.2.3 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.

3.2.4 Prior to the issuance of a Development Permit for construction, the Developer shall consolidate all properties on the Lands into a single parcel, in accordance with the requirements of the Regional Subdivision By-law.

3.3 General Description of Land Use

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

- (a) Commercial uses as permitted in the C-2A (Minor Commercial) Zone of the Land Use By-law only on the ground level; and
- (b) Multiple-unit residential uses.

3.3.2 All commercial uses shall be located on the ground level.

3.3.3 No more than 30 dwelling units shall be permitted on the Lands.

3.3.4 A minimum of 50% of the dwelling units on the Lands shall contain two or more bedrooms.

3.4 Architectural Treatments

3.4.1 The exterior design and materials of the building shall be as shown on Schedules E, F, G, and H.

3.4.2 All vents, down spouts, flashing, 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.

3.4.3 The building shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from all abutting streets and abutting properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent properties unless screened as an integral part of the building design and noise

reduction measures are implemented. This requirement shall exclude individual residential mechanical systems.

- 3.4.4 Fixed or retractable awnings and canopies are permitted at ground floor level, provided the awnings and canopies are designed as an integral part of the building façade.
- 3.4.5 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened so that they are not visible from all adjacent streets or properties.
- 3.4.6 All exposed concrete surfaces shall be architecturally textured. Any exposed foundation in excess of four (4) feet in height shall be architecturally detailed.
- 3.4.7 There shall be no outdoor storage on the Lands.
- 3.4.8 The number of commercial entrances to the building shall be as per Schedules E and H. The Developer may reduce the number of entrances to a minimum of 1 entrance on the Bayers Road elevation, the Oxford Street elevation, and the entrance at the corner of the building oriented towards the intersection of Bayers Road and Oxford Street.
- 3.4.9 The floor plate of the building shall be varied to match the slope of the land as per Schedules E and H.

3.5 Parking, Circulation, and Access

Parking on the Lands shall be limited to underground parking as shown on Schedule C, and the Developer shall provide a minimum of 29 parking spaces.

3.6 Landscaping

- 3.6.1 Prior to the issuance of a Development Permit, the Developer shall submit a Landscape Plan, which complies with the provisions of this section. The Landscape Plan shall be prepared by a Landscape Architect which shall provide details of all landscaped areas as shown on Schedule B.
- 3.6.2 The minimum acceptable sizes for plant material shall be as follows:
 - (a) High branching deciduous trees at grade – 60 mm CAL;
 - (b) High branching deciduous trees on slab – 45 mm CAL;
 - (c) Coniferous trees – 1.5 m in height; and
 - (d) Shrubs – 0.6 m in height or spread.
- 3.6.3 Planting details for each type of plant material proposed on the Landscape Plan shall be provided, including a species list with quantities, size of material, and common and botanical names (species and variety).

- 3.6.4 All plant material shall conform to the Canadian Nursery Trades Association's Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.6.5 Construction Details and Manufacturer's Specifications (including model and colour) for all tree protection hoarding, benches, light standards and luminaries, trash receptacles, bike racks, tree grates and guards, planter seating wall, wood arbour, patio table and chairs, outdoor garbage enclosure, railings, and fencing shall be provided to the Development Officer with the application of the Construction Permit, and shall describe their design, construction, specifications, hard surface areas, materials and placement so that they will enhance the design of the building on the Lands and the character of the surrounding area.
- 3.6.6 The detailed Landscape Plan shall identify plywood tree protective hoarding for existing street trees located as close to the drip-line as possible to protect them during the construction phase.
- 3.6.7 Prior to the building being occupied, the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect certifying that all landscape works have been completed according to the terms of this Agreement.
- 3.6.8 Notwithstanding Section 3.6.7, the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and that the Developer shall provide 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 Landscape Architect. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve (12) 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 unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

3.7 Signage

Signs shall meet the requirements of the C-2A Zone of the Land Use By-law for Halifax Peninsula.

3.8 Screening

Propane tanks, natural gas service hookups, and electrical transformers shall be located on the Lands in such a way to ensure minimal visual impact from all adjacent streets.

These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

3.9 Outdoor Lighting

Lighting shall be directed to driveways, parking areas, loading areas, and building entrances. Walkways shall be arranged so as to divert the light away from streets, adjacent lots and buildings and shall be of a full cut-off design.

3.10 Maintenance

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, driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, and salting of walkways and driveways.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 Site Servicing Plan

The Developer shall provide a Site Servicing Plan for the proposed building, including proposed wastewater flows. Prior to the issuance of a Construction Permit, a wastewater capacity analysis, as directed by Halifax Water, shall be submitted. Any system upgrades required to accommodate the development will be the responsibility of the Developer.

4.2 Off-Site Disturbance

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 HRM Development Engineer and the HRM Urban Forester.

4.3 Underground Services

All secondary electrical and communication distribution systems to the building shall be underground.

4.4 Outstanding Site Work

Securities for the completion of outstanding on-site paving work (at the time of issuance of the first Occupancy Permit) may be permitted. Such securities shall consist of a security deposit in the amount of 110 percent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable automatically renewing letter of credit issued by a chartered bank.

The security shall be returned to the Developer by the Development Officer when all outstanding work is satisfactorily completed.

4.5 Encroachments

Any proposed building encroachments into the street rights-of-way shall require HRM approval and a separate encroachment permit and licence as per the requirements of the Encroachment By-law (By-law E-200).

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Archaeological Resources

The Developer shall contact the Curator of Special Places with the Heritage Division of the Department of Communities, Culture and Heritage of the Province of Nova Scotia prior to any disturbance of the Land and the Developer shall comply with the requirements set forth by the Province in this regard.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council:

- (a) The granting of an extension to the date of commencement of development, as identified under Section 7.3.1 of this Agreement;
- (b) The granting of an extension to the length of time for the completion of the development, as identified under Section 7.4.1 of this Agreement;
- (c) Changes to the landscaping requirements detailed in Section 3.6;
- (d) A 10% change in the number of dwelling units, provided the building size, and maximum height have not increased and the exterior appearance of the building is not affected;
- (e) A change in the number of parking spaces, to a minimum of 26, provided the building size and maximum height have not increased and the exterior appearance of the building is not affected; and
- (f) Minor changes to the exterior architectural appearance of the building but not in association with changes identified in subsections 6.1(d) and 6.1(e).

6.2 Substantive Amendments

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

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

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.

7.3 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 the excavation and construction of the footings and foundation for the building.

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 at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4. Completion of Development

7.4.1 If the Developer fails to complete the development after six (6) years from the date of registration of this Agreement at the Registry of Deeds or 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.

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

7.4.3 For the purpose of this section, Council may consider granting an extension of the completion of development time period through a resolution under Section 6.1, if the

Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the completion of development time period.

7.5 Discharge of Agreement

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; or,
- (c) Discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law for Halifax Peninsula.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

8.2 Failure to Comply

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.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, _____.

SIGNED, SEALED AND DELIVERED
in the presence of:

[Insert Name of Corporation/Business LTD.]

Per: _____

Per: _____

=====

=====

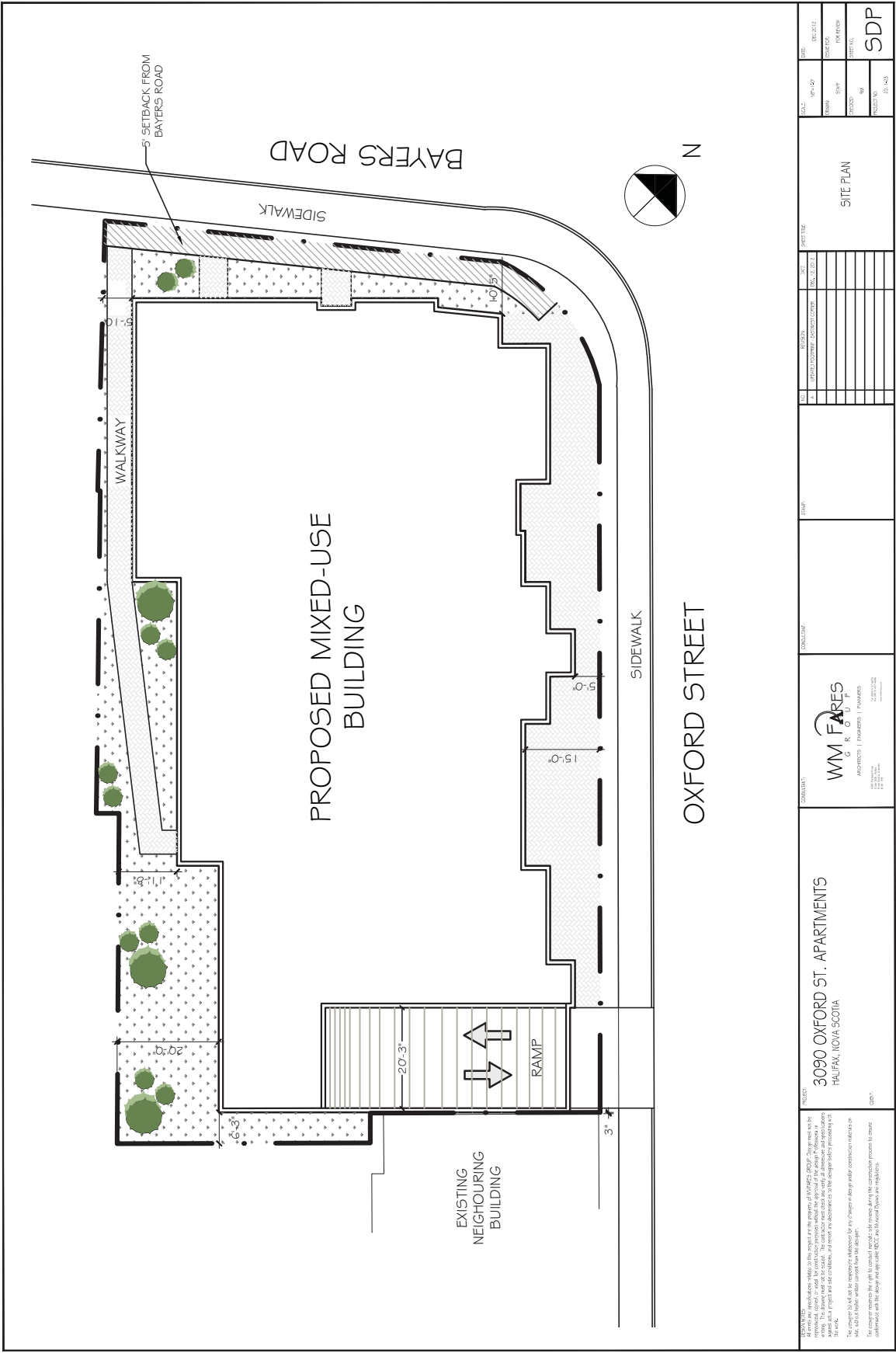
**SEALED, DELIVERED AND
ATTESTED** to by the proper signing
officers of Halifax Regional Municipality,
duly authorized in that behalf, in the
presence of:

**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____
Mayor

Per: _____
Municipal Clerk

Schedule B Site Plan



3090 OXFORD ST. APARTMENTS
HALIFAX, NOVA SCOTIA

WM FARES
G R O U P
ARCHITECTS | ENGINEERS | PLANNERS
145 Appleton Rd.
Halifax, NS B3H 2Y6
Tel: 902-421-1234
Fax: 902-421-1235
www.wmfares.com

LEVEL 1
FLOOR PLAN
(COMMERCIAL SPACE)

SCALE: 1/8" = 1'-0"
DATE: DEC 2012
DRAWN: SUTT
CHECKED: RM
PROJECT NO.: 301-123
PRODUCT NO.: A1

OXFORD STREET

BAYERS ROAD

2710 SQ FT

3381 SQ FT

2011 SQ FT

1716 SQ FT

MAIN ENTRANCE

RAMP TO UNDERGROUND PARKING

COMMERCIAL AREA

LEVEL 1

LEVEL 2

LEVEL 3

LEVEL 4

LEVEL 5

LEVEL 6

LEVEL 7

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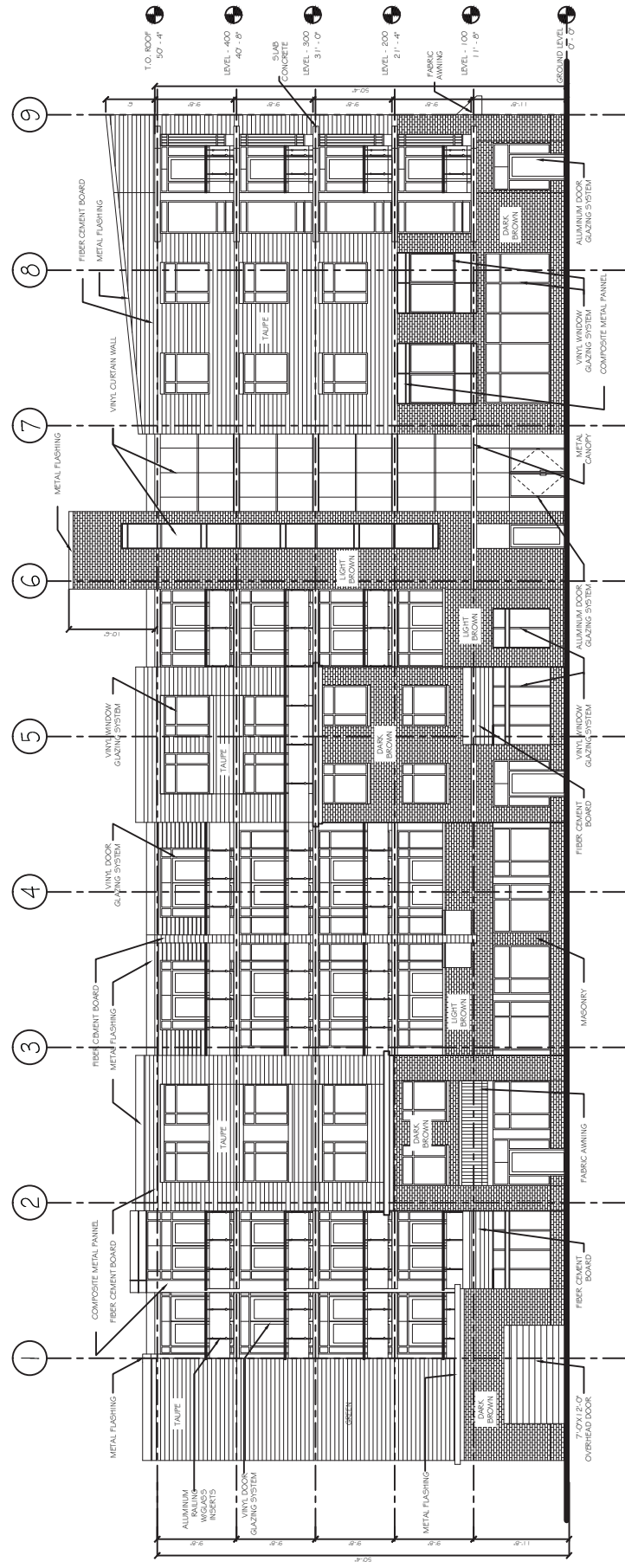
LEVEL 378

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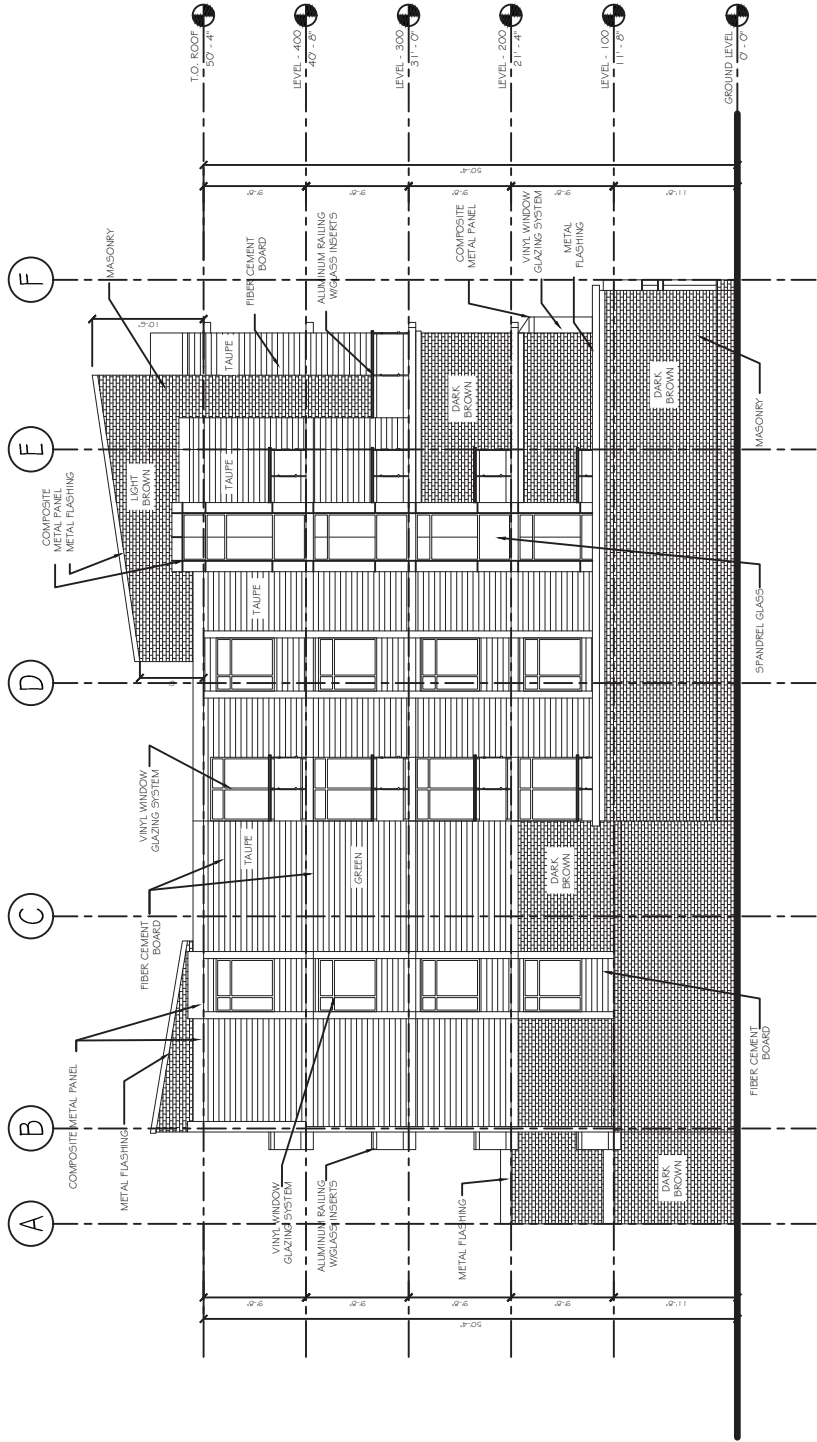
Schedule E North Elevation



* Floor Plate to be divided into at least 2 sections following the slope of the site

[illegible]

Schedule F East Elevation



ALL RIGHTS RESERVED. This drawing is the property of WM FARÉS GROUP. Design must be as shown and no alterations or modifications shall be made without the written consent of the architect. The contractor must check and verify all dimensions and specifications with the architect before proceeding with the work. The architect shall not be responsible for any changes in design or construction materials or methods after the date of completion of the design. The architect reserves the right to conduct periodic site visits during the construction process to ensure compliance with the design and applicable building codes and municipal bylaws and regulations.

3090 OXFORD ST. APARTMENTS
HAUFAX, NOVA SCOTIA

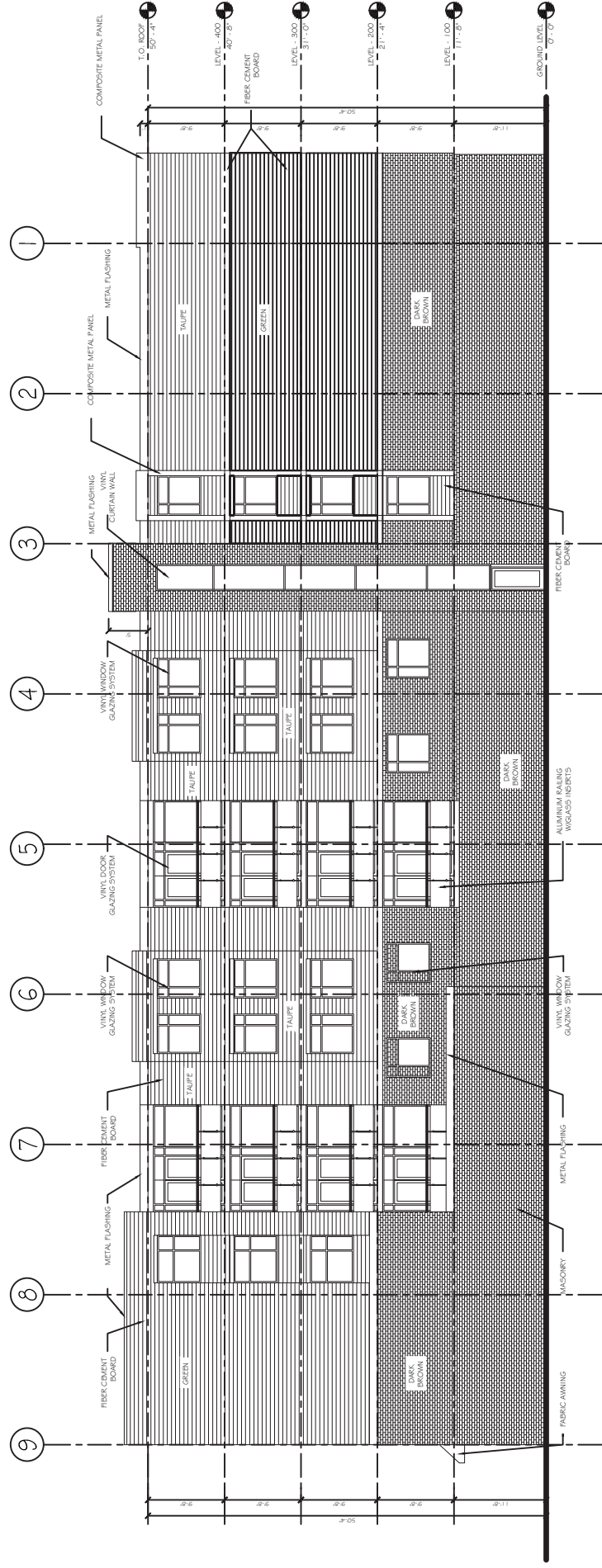
WM FARÉS
GROUP
ARCHITECTS | ENGINEERS | PLANNERS
1470-1472
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NO.	REVISION	DATE
1	ISSUED FOR PERMIT	MAY 14, 2024
2	REVISED PER COMMENTS	JUN 10, 2024
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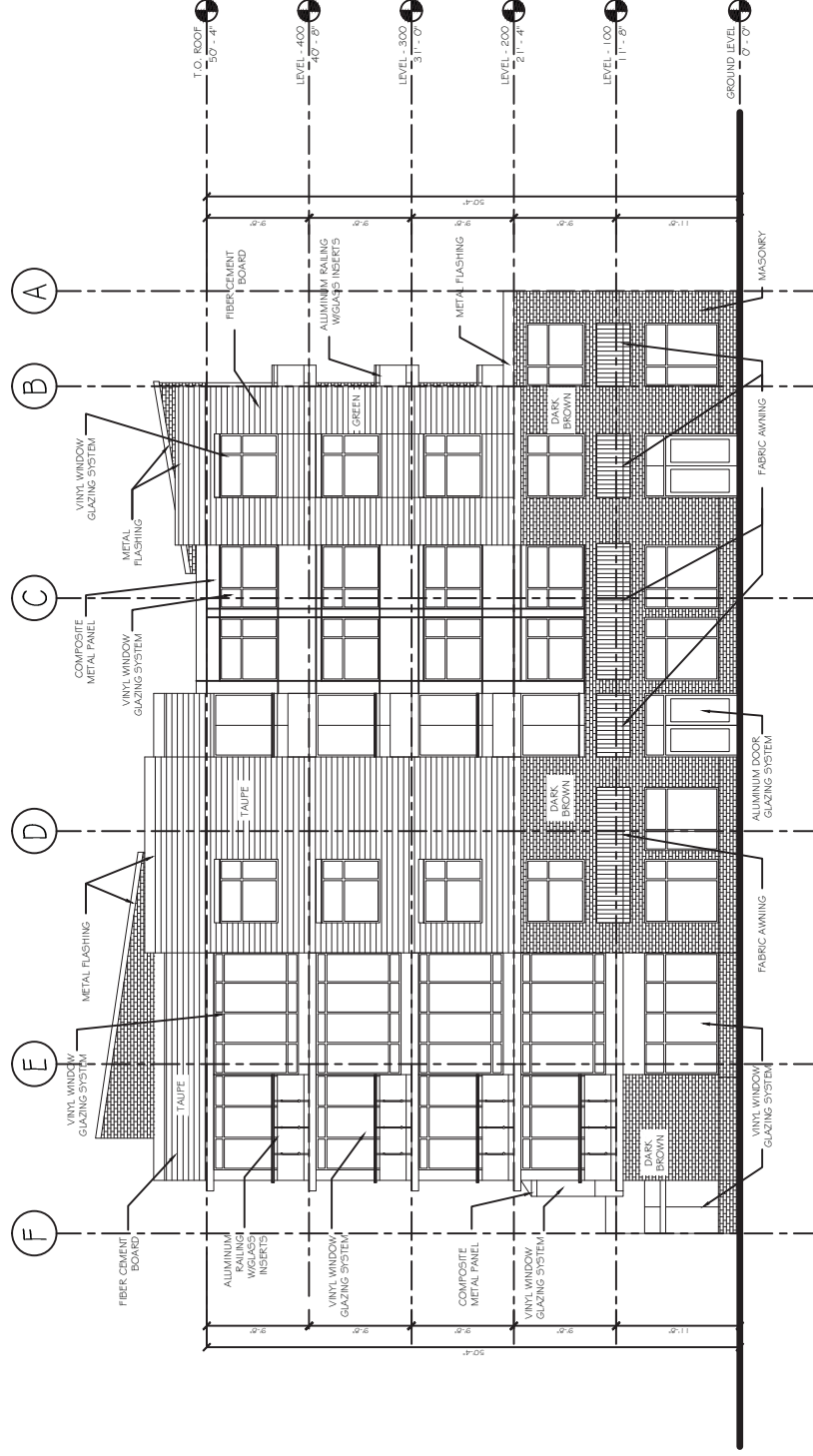
EAST ELEVATION

SCALE	1/4" = 1'-0"	DATE	MAY 2024
DESIGNER	WM FARÉS	DATE	MAY 2024
CHECKED	WM FARÉS	DATE	MAY 2024
PROJECT NO.	201-123	PROJECT NO.	A8

Schedule G South Elevation

[illegible]

* Floor Plate to be divided into at least 2 sections following the slope of the site

[illegible]

ATTACHMENT C Review of Relevant Municipal Planning Strategy Policy and Schedule L	
Policy	Comment
<p>Policy 3.7</p> <p>In considering applications pursuant to Implementation Policy 3.10 [should be 3.12], Council shall have regard for the guidelines set out below:</p>	
<p>(i) that entrances and exits be arranged in such a way so as to minimize the impact of additional traffic on any adjacent residential areas;</p>	<p>The underground parking driveway is on Oxford Street.</p>
<p>(ii) that the proposed use does not entail an unacceptable nuisance such as traffic, smoke, toxic, or noxious effluents and noise;</p>	<p>It is estimated that the site will generate approximately 32 vehicle trips during the AM peak hour and 39 vehicle trips during the PM peak hour. According to the Traffic Impact Study, this will not significantly impact the performance of adjacent intersections.</p> <p>No impacts with regard to smoke, toxic, or noxious effluents and noise are anticipated with respect to typical C-2A uses</p>
<p>(iii) that storage areas be enclosed or be visually screened from the abutting street by such means as planting materials or well-designed fences;</p>	<p>There are no storage areas directly adjacent to streets. Storage areas are located internal to the building.</p>
<p>(iv) that service areas for trucks and other vehicles be located in areas other than the front yards;</p>	<p>There are no service for trucks and other vehicles.</p>
<p>(v) that front yards of an appropriate size be provided, well landscaped and including provisions for tree planting;</p>	<p>The yards fronting on Bayers Road and Oxford Street are landscaped and consistent with the existing established commercial neighbourhood character.</p>

(vi) that drainage from large paved areas be required to be treated in cases where such drainage will result in unacceptable pollution of watercourses or water bodies;	Not Applicable
(vii) that appropriate measures be taken to prevent erosion or deposit of sediments away from the development site during construction and afterwards;	Not Applicable
(viii) that the building envelope be located in such a manner as to provide a sufficient area for landscaped open space in both front and side yards;	The west side yard is grassed and contains numerous planted trees. The yards fronting on Bayers Road and Oxford Street are landscaped.
(ix) that areas of significant natural, aesthetic and amenity value be protected as part of the site design in accordance with Policy Sets 7 and 8 of this Plan as appropriate;	The existing site is a reclaimed service station. The proposed building covers the majority of the lot while creating small landscaped, front, rear and side yards
(x) that there be an appropriate setback or other separation of any building from abutting residential property and that a portion of such setback be landscaped;	There is a 20 foot setback from all residential properties with grass and numerous planted trees. There is a small section by the east side entrance, approximately 11 feet wide, that is set back 11 feet from a residential property line.
(xi) that the applicant provide a statement of the environmental impacts of the proposed development on and off the site and identify the ways and means to mitigate any negative effects, particularly as they relate to such aforementioned matters as air and water pollution, erosion and sediment control, and protection of significant natural, aesthetic, and amenity value; and	The uses and built form proposed do not pose any significant concerns environmentally and do not require any mitigating measures.
(xii) Such other land use considerations as Council may from time to time deem necessary, based on guidance provided by the policies of this Plan.”	The proposed development agreement allows for C2A commercial uses which are viewed as being consistent with the existing neighbourhood character.

	<p>In addition, the form and design of the building help to mitigate potential issues regarding locating commercial uses next to residential uses such as storage and refuse, traffic concerns, and aesthetic compatibility.</p> <p>Potential parking issues are mitigated by requiring approximately 1 stall per each residential unit ratio.</p>
<p>Schedule L</p> <p>87A</p> <p>In an area designated as Schedule "L", any industrial or commercial use shall be permitted which is permitted by the land use by-law designation of such area, provided that:</p> <p>(a) industrial and/or commercial uses shall not exceed a height of thirty-five (35) feet;</p> <p>(b) industrial and/or commercial uses shall not exceed a gross floor area of 5,000 square feet;</p> <p>(c) industrial and/or commercial uses shall not be permitted on sites in excess of 15,000 square feet of lot area; Halifax Peninsula Land Use By-law Page 125</p> <p>(d) residential uses shall not be permitted in areas zoned industrial or commercial;</p> <p>(e) Council may, after a public hearing and by resolution, approve any specific development requested which would not otherwise be permitted by this by-law, provided that no approval shall be given inconsistent with Policies 3.7 and 4.6 of Part II, Section II, and Policy 3.12 of the Implementation Policies Section, all of the Municipal Planning Strategy, and provided that</p>	<p>Pursuant to Schedule L, 87A, the Lands are currently designated Commercial.</p> <p>Pursuant to Schedule L, 87A(e), a public hearing was held on June 27, 2012 (see Attachment F).</p> <p>Pursuant to Schedule L, 87A(e), the application is consistent with Policies 3.7 (see above review) and 4.6 of Part II, Section II (Not Applicable), and Policy 3.12 (is designated Commercial) of the Implementation Policies Section, all of the Municipal Planning Strategy, and Section 24 (Not Applicable) of this by-law.</p>

<p>no approval shall be given inconsistent with Section 24 of this by-law.</p> <p>(f) approval by Council under Subsection (e) shall only be granted subject to the condition that the registered owner of the land upon which the development is to occur shall enter into an agreement with Council containing such terms and conditions as Council may direct;</p> <p>(g) applications for amendments to agreements made pursuant to Subsection (e) may be made by Council after a public hearing if deemed necessary.</p>	
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ATTACHMENT D

Schedule L

SCHEDULE "L"

- 87A In an area designated as Schedule "L", any industrial or commercial use shall be permitted which is permitted by the land use by-law designation of such area, provided that:
- (a) industrial and/or commercial uses shall not exceed a height of thirty-five (35) feet;
 - (b) industrial and/or commercial uses shall not exceed a gross floor area of 5,000 square feet;
 - (c) industrial and/or commercial uses shall not be permitted on sites in excess of 15,000 square feet of lot area; Halifax Peninsula Land Use By-law Page 125
 - (d) residential uses shall not be permitted in areas zoned industrial or commercial;
 - (e) Council may, after a public hearing and by resolution, approve any specific development requested which would not otherwise be permitted by this by-law, provided that no approval shall be given inconsistent with Policies 3.7 and 4.6 of Part II, Section II, and Policy 3.12 of the Implementation Policies Section, all of the Municipal Planning Strategy, and provided that no approval shall be given inconsistent with Section 24 of this by-law.
 - (f) approval by Council under Subsection (e) shall only be granted subject to the condition that the registered owner of the land upon which the development is to occur shall enter into an agreement with Council containing such terms and conditions as Council may direct;
 - (g) applications for amendments to agreements made pursuant to Subsection (e) may be made by Council after a public hearing if deemed necessary.

ATTACHMENT E

C-2A Zone

C-2A ZONE

MINOR COMMERCIAL ZONE

- 59A(1) The following uses shall be permitted in any C-2A Zone:
- (a) all R-1, R-2, R-2T and C-1 uses;
 - (b) stores for the purpose of retail trade and rental excluding:
 - (i) motor vehicle dealers;
 - (ii) motor vehicle repair shops which such shops are not primarily engaged in providing service station facilities; and
 - (iii) adult entertainment uses
 - (c) radio, television and electrical appliance repair shops;
 - (d) watch and jewellery repair shops;
 - (e) a store for the purpose of personal service including shoe repair shops, barber and beauty shops, dry cleaners, funeral services, and excepting massage parlours and adult entertainment uses and amusement centres;
 - (f) bowling alley;
 - (g) a motion picture theatre;
 - (h) a service station;
 - (i) offices;
 - (j) a bank and other financial institutions;
 - (k) a restaurant;
 - (l) community facilities;
 - (la) billboards not to exceed twenty-eight square meters (28m²) in area and not to extend more than eight meters (8m) above the mean grade on which it is situated provided that no billboard shall be erected in the Peninsula North Area;
 - (lb) commercial recreation uses;
 - (lc) day care facility; (RC-Mar 3/09;E-Mar 21/09)
 - (m) any use accessory to any of the foregoing uses.
- 59A(2) No person shall in any C-2A Zone carry out, or cause or permit to be carried out, any development for any purpose other than one or more of the uses set out in subsection (1).
- 59A(3) No person shall in any C-2A Zone use or permit to be used any land or building in whole or in part for any purpose other than one or more of the uses set out in subsection (1).

R-1, R-2T AND R-2 USES IN C-2A ZONE

- 59B Buildings erected, altered or used for R-1, R-2 and R-2T uses in a C-2A Zone shall comply with the requirements of their respective zones. Halifax Peninsula Land Use By-law Page 92

HEIGHT

- 59C The height of any building in a C-2A Zone shall not exceed 35 feet.

SIGNS

- 59D(1) (a) Any persons carrying on a business may place upon and parallel to the front of the building a non-illuminated signboard not exceeding 3 feet in height and limited to the space immediately above the ground floor store windows extending the length of such front and appertaining solely to the ownership of the business conducted therein. For each foot that the building face upon which the said signboard is placed is setback from the street line, .05 feet may be added to the height of such signboard to a maximum of eight feet. In no case shall a sign permitted by this section exceed 300 square feet in area.
- (b) Any persons carrying on a business may place upon the building, a non-illuminated signboard not exceeding three feet in height and 300 square feet in area or two non-illuminated signboards, each of which does not exceed three feet in height and a total of 300 square feet in area and appertaining solely to the ownership of the business conducted therein.
- 59D(2) Illuminated signs may be erected provided they do not constitute a nuisance or hazard to the public.
- 59D(3) A single signboard (illuminated or otherwise) may be placed upon and perpendicular to the front of a building for the purpose of identifying the proprietor or nature of the business permitted therein. Such signboards shall be located immediately above the ground floor windows and shall not exceed 12 square feet (1.12 square meters) in area on a single surface. A maximum of two such signboards shall be permitted for any building regardless of the number of uses contained therein.
- 59D(4) In the Peninsula North Area, a single freestanding sign (illuminated or otherwise) of up to twenty-eight square metres - 28m² (300 ft²) in area and up to eight metres - 8m (26ft) above mean grade, may be placed upon a lot for the purpose of identifying the proprietor or nature of the business or businesses located on the lot.

ATTACHMENT F

Public Information Meeting Minutes

Case 17829
Public Information Meeting Minutes – Wednesday, June 27, 2012

7:00 p.m.
Maritime Hall, Halifax Civic, Halifax

IN ATTENDANCE: Richard Harvey, Senior Planner
Councillor Jennifer Watts
Councillor Linda Mosher

ALSO IN ATTENDANCE: Cesar Saleh, W.M. Fares Group, Applicant

1. Opening Remarks and Overview

Richard Harvey opened the meeting at 7:05 p.m. and introduced himself as a Senior Planner with Halifax Regional Municipality (HRM). He welcomed the public to the meeting and thanked them for attending.

Mr. Harvey indicated that the purpose of the meeting was to discuss Case 17829, a development proposal for the corner of Oxford Street and Bayers Road in Halifax. By way of a PowerPoint slide he indicated that there will be four parts to the meeting:

1. An introduction of the project;
2. An overview of the planning policies and regulations;
3. A presentation of the proposal by the applicant; and
4. Public questions and comments.

Mr. Harvey introduced Cesar Saleh as the applicant for the proposal.

2. Introduction of the Project

Mr. Harvey proceeded, by way of a PowerPoint presentation, to explain the location and characteristics of the site and the surroundings. Through photographic images from the vantage-point of the street corner and with an aerial image he described that the lot was at one time, a service station, but that it is now a vacant lot. The area is comprised of local commercial uses at the corner and extending to the west along Bayers Road and parts of Oxford Street. The areas off these streets are low density residential in character. The proposal is to develop the vacant service station lot with a five storey mixed use building comprised of ground floor commercial uses and upper storey residential uses.

3. Overview of Planning Policies and Regulations

Mr. Harvey showed the zoning of the area, highlighting that in general, the commercial properties along Bayers Road and Oxford Street are within the C-2A Zone and that the surrounding residential areas are in a low density zone; the R-2 Zone. He indicated that the C-2A Zone permits a wide variety of commercial uses within buildings and a maximum of four residential dwelling units per lot. He added that a building may be a maximum of 35 feet in height and occupy 100% of a site. There are no architectural standards to control the appearance of a building.

The Halifax Municipal Planning Strategy allows for Council to consider an alternative to the C-2A Zone. It specifies that Council can consider amending the Halifax Peninsula Land Use By-law to apply a schedule, Schedule L, to the property. He explained that this would limit the type of development that could occur on the property to a maximum of 5,000 square feet of gross floor area and prohibit development on lots greater than 15,000 square feet in size. It would however, allow Council to be able to consider alternative development proposals by development agreement. He explained that a development agreement is a contract between a municipality and a property owner which is tailored to the individual attributes of a site based on its qualities and the circumstances of its surroundings. Development agreements can be very specific concerning matters such as land use, hours of operation, and building materials.

Mr. Harvey indicated that rather than generic requirements in the Land Use By-law, if Schedule L were to be applied to the property, a development agreement proposal would be evaluated against a series of criteria. He then referenced a handout that had been provided to each member of the audience that showed the planning policy criteria that would be considered. He concluded that the application for this property was to amend the Land Use By-law, to have Schedule L applied to it, and then to enter into a development agreement to allow the applicant's proposed development.

4. Presentation of the proposal

Mr. Harvey introduced Cesar Saleh, the applicant for the proposal. Mr. Saleh stated that he was with the firm W.M. Fares that was representing the developer of the project. By way of a PowerPoint presentation, he outlined several of his firm's recent projects that are of a similar scale to that which is being proposed on the site at Bayers and Oxford, including a development on Herring Cove Road, a site on Queen and Clyde Streets, and a five storey residential building near Larry Uteck Drive.

Using a map, Mr. Saleh provided an overview of the site and then described why the property owner had chosen to proceed through an amendment and development agreement process. He stated that the property owner had asked W.M. Fares to review the site and develop a proposal. The property owner wants to develop a mixed use project. The current zoning was considered, but it was found that it does not allow the type of project that is felt to be best for the site. As such, the development agreement process has been chosen. Mr. Saleh stated that the big advantage of a development agreement is that it allows for a great deal of control over a site.

Mr. Saleh proceeded to provide an overview of the proposal. He showed an outline of the building on the site and the various distances from the street and property lines. The location of the parking garage entrance was shown. He stated that there will be 30 dwelling units and 29 underground parking spaces. A perspective image of the proposal at the intersection of the streets was provided and the architectural features were outlined. Mr. Saleh stated that there are various individual entrances along the streets with areas between the sidewalk and the building for outdoor areas that might be used for uses such as a restaurant. He showed a variety of perspective images from various viewpoints. He concluded by stating that the overall height of the building is 50 feet.

5. Public Questions and Comments

Richard Harvey indicated that it was time for what he felt was the most important part of the meeting; the part where comments and questions can be asked by the public. He reviewed the process for considering the application, stating that public consultation such as this meeting was at the beginning and that there are various other ways in which public opinions can be also made to staff aside, such as through emails and phone calls. Following the public consultation he stated that staff will be undertaking a detailed review, drafting potential amendments, and devising the terms of a development agreement. A staff report will also be written that will either recommend approval or refusal of the proposal. The Community Council will receive this information and if it wishes to consider adopting the amendments and the development agreement, it is required to hold a public hearing. At that time, advertisements and mailed notifications will occur and the public will be able to make their views known directly to Council.

Mr. Harvey outlined the process for hearing from the public, indicating that anyone interested in speaking should come to the microphone and ask any questions or comments for no more than 4 to 5 minutes so that a wide variety of people can be heard. Importantly, he stressed the importance for everyone having respect for a wide variety of comments and that it was really important that people not jeer or clap as it can make people uncomfortable to speak. He stated that this was particularly important as most people in attendance are neighbours and that he had already received calls and emails that indicate that are people that are both for and against the proposal. He then opened the floor to the public.

Damon Deveau asked about the type of commercial that is envisioned and how loading and off-loading would occur. Cesar Saleh responded that a similar type of commercial use to that which is found in the surrounding neighbourhood is being considered and that on that basis, there really would not be the need for loading bays.

Cameron Janson noted that he thought there would be about 6 to 8 units per floor and he asked about what kinds of tenants were envisioned. Cesar Saleh stated that each of the units would be approximately 1,200 square feet in size and all of them would have two bedrooms. Mr. Janson stated that it would be good to have green roofs, possibly as amenity areas. Mr. Saleh stated that this is something that can be explored. Mr. Janson's final comment was that he found the building too varied; that it does not have a strong visual cohesiveness.

Robert Jeans stated that he lives within site of the building. He wondered about the effect of the sun on streets such as Oxford and suggested that this be addressed. He indicated that the development is positive for the area. He questioned whether the building could be a LEED building and that this was a good opportunity to have a green development. He concluded by stating that the neighbourhood has a strong environmental outlook. Cesar Saleh responded by stating that he appreciated the comments and that these are matters that can be looked into further. He noted that in addition to these points, there are environment considerations that have been made such as decision not to have surface parking.

Mr. Lewis introduced himself as a resident of the area and as a clinical micro-biologist. He stated that he was in attendance because he got a letter in the mail from one his neighbours. He indicated that he is favour of the development. He was sorry to see the service station go, but more sorry to see the vacant lot that now exists. He proceeded to respond to points that were raised in the letter he received. He noted that the area was not really a “quiet neighbourhood” and that they were not living in heaven. There are traffic accidents that occur. Mr. Harvey asked Mr. Lewis to ensure that his points on the letter were not criticisms that could be argumentative or that would stop others from feeling comfortable in expressing their views. Mr. Lewis agreed with this and indicated that he did not believe that property values would go down, that additional commercial would be appreciated, and that he would like to see the vacant lot developed.

Andres de Silva asked whether affordable housing would be provided. Cesar Saleh stated that he would bring this matter to the attention of the developer, but noted that it is difficult to have true affordable housing in a building with such a small number of housing units. He concluded that it is important to note that by its nature, the building will bring a greater range of choice to the area and that this is an important component of affordable housing.

Ms. de Silva asked if the policies would require affordable housing. Richard Harvey suggested that affordable housing is a very topical matter with the municipality at this time and devising new planning policies is something that is being looked into. However, Schedule L policies do not have any context for considering this matter, but it is something that will be explored with the property owner. Mr. Saleh indicated that the property owner is in the audience and that affordable housing is something that has been considered in previous developments.

Peter White indicated that he was the author of a letter that was circulated in the neighbourhood and that he was pleased to have the number of people in the audience as he felt that HRM’s catchment area for notification was too small and that this was purposeful so as to limit participation. He noted that he will be able to see the development from his deck. He proceeded to make a number of points, including that:

- Customers are going to park on the neighbourhood streets;
- While the images of the building at pretty, he doubts that the development will look the way it is being shown;
- The development is beneficial to the developer and that Council will be pleased to gain more taxes, but that as a result, there will be increased traffic and a decrease in R-2 property values;
- This is like a density bonus system;

- There will be increased traffic and the traffic study is light;
- People will be parking cars on Oxford Street;
- This is a change in the neighbourhood one lot at a time;
- Developers should build to the rules; and
- Council should enforce the zoning regulations.

Cesar Saleh indicated that there is a traffic study for the development and feels this proposal is better than what can occur as-of-right.

Shelly Reid indicated that it is hard not to be emotional about changes to the neighbourhood that are seen as negative. She asked for more information about the process and why the current zoning was not being followed as a first question. Her second question was about the relationship between this developer and the adjoining property owner that had a collection of properties.

Richard Harvey stated that when the planning was done for the area, which would have included public participation, the C-2A Zone was established. At the same time, the same planning process resulted in an option, to amend the Land Use By-law to include the site in Schedule L and adopt a development agreement, which Council could consider.

In response to Shelly Reid's second question, Cesar Saleh stated that there is no relationship between the property owners.

Danielle Heshen stated that she lives across from the site, on Bayers Road, and that an accident on the street resulted in a car being in her backyard. She noted that people will park on the street and that this is a negative. She also stated that the building will block the sun.

Richard Harvey stated that there have been a few questions about shadowing and that this is something that can be looked at in further detail.

Peter Greer stated that he lives outside the neighbourhood, on Creighton Street, but that he has been following vacant sites with interest. He is in favour of the building on the basis that there is too much urban sprawl. He noted that there has been infill development in his neighbourhood and that such projects have actually slowed traffic. He concluded by stating that single family dwellings and multi-unit buildings can co-exist.

Barbara Whynot stated that she is a long-term resident of the area and that her husband has lived in the area since he was 2 years; over 55 years. She is concerned with redevelopment in the neighbourhood noting that there is a new Hindu temple and that a business such as Ted's Tack Shop is now a multi-unit building. She also cited that recently a single family home was converted to a two unit development and that because rents are so high, there are a large number of people that live in the units. She indicated that this could be a problem with the proposal. Ms. Whynot stated that something should be done with the vacant lot but not the development that is being proposed. She concluded by stating that the notification area for HRM's notices should be larger.

Peter Burns stated that he had no idea about the proposal until he received a letter from one of his neighbours. He noted that the proposal will result in terrible parking and traffic issues. He concluded by stating that the development will destroy the neighbourhood.

Paul McKinnon introduced himself noting his involvement with the Downtown Business Commission. He is generally an advocate for greater density in the urban core and a mix of uses, but that there is a careful balance that needs to be met. The site should not stay as vacant and noted that his kids refer to it as the graveyard. Mr. McKinnon observed that commercial development is already allowed on the site as-of-right and that as such parking should not be seen as a new issue. He noted that suburban sprawl is an issue and there is therefore a need for more people to live on the Peninsula and for such density to occur on major streets such as those with major bus routes. With regard to the development, he was surprised that the proposal is only 5 storeys and is concerned about the neighbourhood banding together to prevent it, when in the future a much higher building might be proposed through the Centre Plan project. He is in favour of the development, but questioned the confidence the developer had that any environmental issues associated with the former service station could be addressed.

In response, Cesar Saleh stated that the site had been assessed and that no issues were foreseen.

Alex Hellef introduced himself as being the Developer of the project, along with his father. He made several points based on some of the comments that had been made, as follows:

- The comments that were raised about affordable housing would be looked into;
- Various development options for the site were explored and it was felt that the current proposal was most suitable, noting that a development that was solely commercial would create a lot of parking issues;
- The contamination could be addressed without problems;
- The building will not be a LEED building, but it will be energy efficient; and
- There are positive elements of creating additional density.

At this point, Richard Harvey indicated that many valuable comments had been received and wondered if there were any other points people wanted to ask with respect to detailed elements of the proposal, especially in light of the planning policy criteria, or points not raised during the meeting.

Paul McKinnon asked what was being thought about for the streetscapes.

Cesar Saleh highlighted that Oxford will be a hard surface with planters to allow spill-out from the commercial businesses and that the rear of the lands will be comprised of landscaping.

A resident stated that at first he was opposed to the development but now with greater information he is okay with it. Varied retail would be good and he wondered about speciality stores and a restaurant or even a neighbourhood pub.

Richard Harvey stated that some caution needs to be exercised as it is often difficult to differentiate in regulations what would be a nice local pub and a full bar, which may not be seen as desirable.

Peter White, referring to the policy criteria, wondered how the project was addressing the concerns over front landscaping and garbage storage.

Cesar Saleh stated that garbage storage would be located within the parking garage. Richard Harvey stated that the characteristics of the streetscape in various areas need to be assessed in determining the most appropriate front yard treatment. He noted that in this area, buildings tend to be located reasonably close to streets.

John Kline introduced himself as the owner of the office building next door. He indicated to the audience members that he would pay more attention to the concerns that had been raised about on-street parking. He asked about the construction schedule.

Cesar Saleh, conferring with the property owner, stated that the hope was to start construction in Spring 2013 and it would take about 18 months to complete.

Mr. Kline assumes that not much can be done to reduce construction noise. Mr. Saleh noted that there are regulations under the noise by-law.

Robert Jeans stated that he liked the angle of the building at the corner. He suggested that energy features such as solar panels be investigated.

Darrell Houstial asked whether this type of the development was consistent with the vision that the planning department has for this area. He also thought that the building could be terraced back on the upper floors more than what is being proposed.

Richard Harvey stated that there are two ways to answer the question. The official and correct answer is that the vision that the planning department has for areas that might be included in Schedule L is that which is found in the planning criteria. These are the policies that guide the municipality. He proceeded to explain that beyond this, it was important to note that outside the review process for this development, there is a major exercise that is underway to look at all the planning policies and regulations for the entire Peninsula and that part of Dartmouth that is within the Circumferential Highway. Questions will be asked of the public about the size and types of buildings that should be allowed in areas such as this one.

Mr. Harvey indicated that there were very good comments. He reminded the audience that comments and questions could be directed to him by email or phone. He then reviewed again the process under which the application would be considered. He thanked everyone for attending.

The meeting ended at 8:50 p.m.