



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

Item No. 10.1.1
Halifax and West Community Council
May 13, 2015

TO: Chair and Members of Halifax and West Community Council
Original Signed

SUBMITTED BY: _____
Bob Bjerke, Chief Planner and Director of Planning and Development

DATE: April 10, 2015

SUBJECT: **Case 18510: MPS/LUB Amendments and Development Agreement, 3400 Dutch Village Road and 3343 Westerwald Street, Halifax**

ORIGIN

- Application by R.C. Jane Properties Limited
- March 18, 2014, Regional Council initiation of the MPS amendment process

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that Halifax and West Community Council recommend that Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) as set out in Attachments A and B of this report and schedule a joint Public Hearing with Halifax and West Community Council; and
2. Approve the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law as contained in Attachments A and B of this report.

It is recommended that Halifax and West Community Council:

3. Give Notice of Motion to consider the proposed development agreement as set out in Attachment C of this report to permit a mixed-use development consisting of residential and commercial uses at 3400 Dutch Village Road, in association with an existing 24-unit apartment building at 3343 Westerwald Street, Halifax. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.

RECOMMENDATIONS CONTINUED ON PAGE 2

Contingent upon the adoption by Regional Council of the above MPS and LUB amendments which are applicable to the proposed development agreement as set out in Attachment C of this report, and those amendments becoming effective under the *Charter*, it is further recommended that Halifax and West Community Council:

1. Approve the proposed development agreement as set out in Attachment C of this report: and
2. Require the development agreement be signed by the property owner within 120 days, or any extension thereof granted 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

W.M. Fares and Associates, on behalf of the property owner R.C. Jane Properties Limited, has submitted an application for a site-specific amendment to the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) to permit a 6-storey mixed-use development at 3400 Dutch Village Road in association with the adjoining property at 3343 Westerwald Street, Halifax (Maps 1 and 2). The proposal cannot be considered under existing policy and zoning established in the Halifax MPS and Halifax Peninsula LUB. As such, the applicant is seeking amendments to the MPS and LUB to enable consideration of their proposal through a development agreement.

On March 18, 2014, Regional Council initiated a separate MPS amendment process for the subject lands at 3400 Dutch Village Road and 3343 Westerwald Street. The property owner requested the proposed MPS amendments prior to Council's August 2013 initiation of the larger process for Dutch Village Road and Council determined that there was merit in proceeding on a site-specific basis for these lands.

Site Description and Surrounding Land Uses

Site Description

The subject lands consist of two properties as shown on Maps 1 and 2:

- 3400 Dutch Village Road , which:
 - has a total area of approximately 13,750 square feet;
 - has street frontage on Dutch Village Road and Westerwald Street;
 - abuts the Chain of Lakes multi-purpose trail on the west side of Joseph Howe Drive;
 - previously contained a service station which was removed and the site was remediated; and
 - is currently vacant, except for a freestanding billboard sign; and
- 3343 Westerwald Street, which:
 - has a total area of approximately 19,100 square feet;
 - has street frontage on Westerwald Street;
 - backs on the Chain of Lakes trail; and
 - contains a "non-conforming" 24-unit apartment building and surface parking lot.

Surrounding Land Uses

The surrounding area includes a mix of land uses as follows:

- commercial and apartment uses along Dutch Village Road and the west side of Joseph Howe Drive;
- residential uses along Westerwald Street, including low-density residential development and small to medium-size apartment buildings; and
- primarily low-density residential uses to the east of Joseph Howe Drive.

Designation and Zoning

The following are relevant to note from a policy and regulatory context:

- The subject lands are designated Minor Commercial and Medium Density Residential on the Generalized Future Land Use Map and are located within the Fairview Secondary Planning Strategy (Section VII) of the Halifax MPS (Map 1);
- The property at 3400 Dutch Village Road is zoned C-2A (Minor Commercial) while 3343 Westerwald Street is zoned R-2AM (General Residential Conversion) pursuant to the Halifax Peninsula and Mainland Land Use By-laws (Map 2);
- The C-2A Zone permits a variety of minor commercial uses as well as apartment buildings up to 4 storeys in height; and
- The R-2AM Zone permits low-density residential uses and apartment buildings of up to 14 units.

Proposal

The applicant is proposing to develop a 6-storey mixed-use development at 3400 Dutch Village Road in association with the adjoining property at 3343 Westerwald Street, Halifax (Maps 1 and 2; Attachments A and B). Details of the proposal are as follows:

- 3400 Dutch Village Road: a new mixed-use building consisting of:
 - ground-floor commercial space (approx. 5,000 - 8,000 sq. ft.) with optional residential units to the rear;
 - five levels of residential apartments above the ground-floor with a total of 45-50 residential units;
 - one level of underground parking; and
 - grade-level landscaping and rooftop landscaped amenity space; and
- 3343 Westerwald Street:
 - retention of the existing 24-unit apartment building;
 - use of the driveway in order to access the underground parking garage at 3400 Dutch Village Road;
 - shared surface parking for commercial and residential uses; and
 - landscaped open space improvements to the rear of the existing apartment building.

In order for the proposal to proceed, an amendment to the MPS is required, as the current zoning of 3400 Dutch Village Road limits building heights to 4 storeys or less, requires greater building setbacks from property lines, requires more parking and more open space at grade-level and does not permit vehicular access over the abutting property at 3343 Westerwald Street.

Approval Process

The approval process for this application involves two steps:

- first, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB; and
- secondly, Halifax and West Community Council must consider and, if deemed appropriate, approve a proposed development agreement.

A public hearing, which is required prior to a decision on both matters, may be held at the same time for both MPS and LUB amendments and a proposed development agreement. In the event Regional Council approves the MPS and LUB amendments, Halifax and West Community Council may only make a decision on the proposed development agreement following the amendments to the MPS and LUB coming into effect. A decision on proposed MPS and LUB amendments is not appealable to the Nova Scotia Utility and Review Board (Board). However, the decision on the proposed development agreement is appealable to the Board.

DISCUSSION

Plan Dutch Village Road

On August 6, 2013, Regional Council initiated a planning process to establish comprehensive planning policies that enable additional commercial and residential developments on the lands located within Dutch Village Road and neighbouring areas (Map 3). The Plan Dutch Village Road study area is made up of approximately 170 properties and includes a mix of commercial and residential uses. The process is intended to address land use and built form concerns within the study area and result in amendments to Halifax MPS and the Halifax Mainland and Peninsula LUB's.

A public workshop was held on March 25, 2015 to discuss the future potential for the area. At the workshop the study area was divided into four sections (Map 3), each section typified by a similar land use and development pattern. The property at 3400 Dutch Village Road lies within the study area boundary, at the southern edge, in Area D.

Area D is an existing mixed-use area that contains a mix of small footprint commercial and multi-unit residential buildings. There was support at the workshop for development in Area D to proceed at up to 6 stories in height and to encourage mixed use development with ground floor commercial uses that serve the local community. Any development needs to be sensitive to the established neighbourhood that exists to the west of the study area.

Staff are currently reviewing the public comments and are preparing new zoning and MPS policies for the area. These will be made available to the public for comment prior to moving forward to Regional Council. It is anticipated that new zoning and MPS policies will be brought forward to Regional Council in the fall of 2015.

Municipal Planning Strategy Amendments

Amendments to an MPS are generally not considered unless it can be shown that circumstances have changed since the document was adopted to the extent that the original land use policy is no longer appropriate. Site specific MPS amendment requests, in particular, require significant justification to be considered.

Rationale for Site Specific Development Controls

In this particular case, staff have determined that there is merit in proceeding with site-specific amendments to the MPS and LUB (Attachments A and B) for the subject lands for the following reasons:

- The lands are physically separated and isolated from their surroundings and the remainder of the study area by the three abutting streets and the existing apartment building at 3343 Westerwald Street;
- The land is a "brownfield" site which contained a former gas station which was demolished, the site was remediated, awaits redevelopment and is appropriate for urban intensification;
- The lands are situated in a desirable location at a prominent street intersection;
- The use of a shared driveway access is preferred due to the curvature of the streetline at 3400 Dutch Village Road and the proximity of intersections to one another;
- The future redevelopment of the lands will assist in forming a visual "entrance" to the Dutch Village Road commercial area from Bayers Road which warrants special consideration; and
- The proposed development is compatible with its surroundings.

The existing MPS objectives and policies which relate specifically to the Fairview Secondary Planning Strategy (Section VII of the MPS) call for "continued development of the Dutch Village Road area as a Minor Commercial centre" which "should be concentrated between Bayers Road and Evans Avenue" and encourage the enhancement of the residential environment while "allowing for growth and change in

designated areas". The proposed site-specific MPS and LUB amendments further this intent as outlined in Attachments A and B of this report.

Proposed Development Agreement

The proposed development agreement (Attachment C and Schedules) provides for the elements of the proposed development as noted above and has specifications relating to matters such as:

- provisions for the existing 24-unit apartment building at 3343 Westerwald Street, including restrictions on any expansion of the building while providing allowance for its future reconstruction, repair, replacement, rebuilding or renovation;
- massing, location and height of the proposed building at 3400 Dutch Village Road;
- architectural design of the building, including building materials and signs;
- site landscaping and useable open space for building residents;
- provision of safe vehicular and pedestrian access and egress, including on-site parking for commercial uses;
- adequacy of bicycle parking and solid waste facilities; and
- adequacy of the servicing capacity of the site.

Staff conducted a review of the proposed development relative to the proposed policy criteria and has concluded that the proposed development is consistent with the intent of the Halifax MPS. Attachment D contains staff's analysis of the applicable policies. Staff has identified below some aspects of the development that warrant further discussion:

Building design, height and compatibility

- Building height at 3400 Dutch Village Road is limited to six storeys. Due to the site's configuration and street frontage, there are no abutting residential uses, except for a residential dwelling to the south of the existing apartment building which will not be impacted. Residential uses on the west side of Westerwald Street will be opposite the narrowest portion or elevation of the proposed building which reduces any potential impact;
- Variations in the building façade and massing, including recesses and projections, provide visual interest;
- The design employs a varied use of quality, non-combustible materials including glass, aluminum framing and panels, metal railings and canopies, cement board siding, and stone or brick veneer; and
- The existing 24-unit apartment building is currently a non-conforming use in the R-2AM Zone. As such, the existing development agreement provides for its continued use, allows for its repair, renovation, etc., but prohibits additional floor area or dwelling units in the future.

Landscaping and open space

- Proposed landscaping and amenity space includes a rooftop amenity area on the proposed building as well as open space improvements to an existing grassed area behind (to the east of) the existing building on Westerwald Street. This combination of on-site amenity spaces and proximity to the regional trail on Joseph Howe Drive will be suitable for the building residents.

Traffic impact, site access and parking

- A traffic impact statement was carried out by Genivar (now WSP) consultants in August of 2012 for the applicant and has been reviewed by HRM staff. The study reviewed the proposed development's access and impacts on the existing street network and concluded that visibility is adequate and that there would be no noticeable impacts due to the low number of trips generated;

- Any alterations to the shared driveway access for the lands will be required to meet municipal requirements; and
- The amount of vehicular parking, when combined with bicycle facilities and the site's close proximity to transit facilities, will be adequate for the proposed development and will meet demand from tenants.

Servicing capacity

- The proposal has been reviewed by Halifax Water. No servicing issues have been identified. The applicant will be required to submit sewage generation numbers and a sanitary capacity analysis prior to obtaining a construction permit.

Conclusion

The proposed MPS and LUB amendments and development agreement provide for a six-storey mixed-use redevelopment of a "brownfield" site at 3400 Dutch Village Road in conjunction with an existing 24-unit apartment building at 3343 Westerwald Street which is compatible with the surrounding area. Therefore, staff recommends that Regional Council approve the proposed MPS and LUB amendments as contained in Attachments A and B and that Halifax and West Community Council approve the development agreement as contained in Attachment C.

FINANCIAL IMPLICATIONS

There are no budget 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 undertaken for this application 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 May 26, 2014. Notices of the meeting were posted on the HRM website, in the newspaper, and mailed to property owners within the notification area (Map 4). The minutes from the meeting are found in Attachment E. Written submissions received from the public to date are found in Attachment F.

Prior to considering the approval of any MPS amendments, Regional Council must hold a public hearing. Should Regional Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, individual property owners within the notification area will be advised of the public hearing by regular mail. The HRM website will also be updated to indicate notice of the public hearing.

The proposed MPS and LUB amendments will potentially impact local residents and property owners, community or neighbourhood organizations, and business and professional associations.

ENVIRONMENTAL IMPLICATIONS

The proposed amendments to the MPS and LUB are consistent with the applicable environmental policies of the MPS.

ALTERNATIVES

The Halifax and West Community Council may recommend that Halifax Regional Council:

1. Modify the proposed amendments to the Halifax MPS and Halifax Peninsula LUB as contained in

Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications and amendments is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve MPS and LUB amendments is not appealable to the NS Utility and Review Board as per Section 262 of the HRM Charter.

2. Refuse the proposed amendments to the Halifax MPS and Halifax Peninsula LUB as contained in Attachments A and B of this report and wait for the Plan Dutch Village Road process to be complete. This is not recommended for the reasons outlined in this report. A decision of Council to refuse the proposed amendments is not appealable to the Nova Scotia Utility and Review Board as per Section 262 of the HRM Charter.

ATTACHMENTS

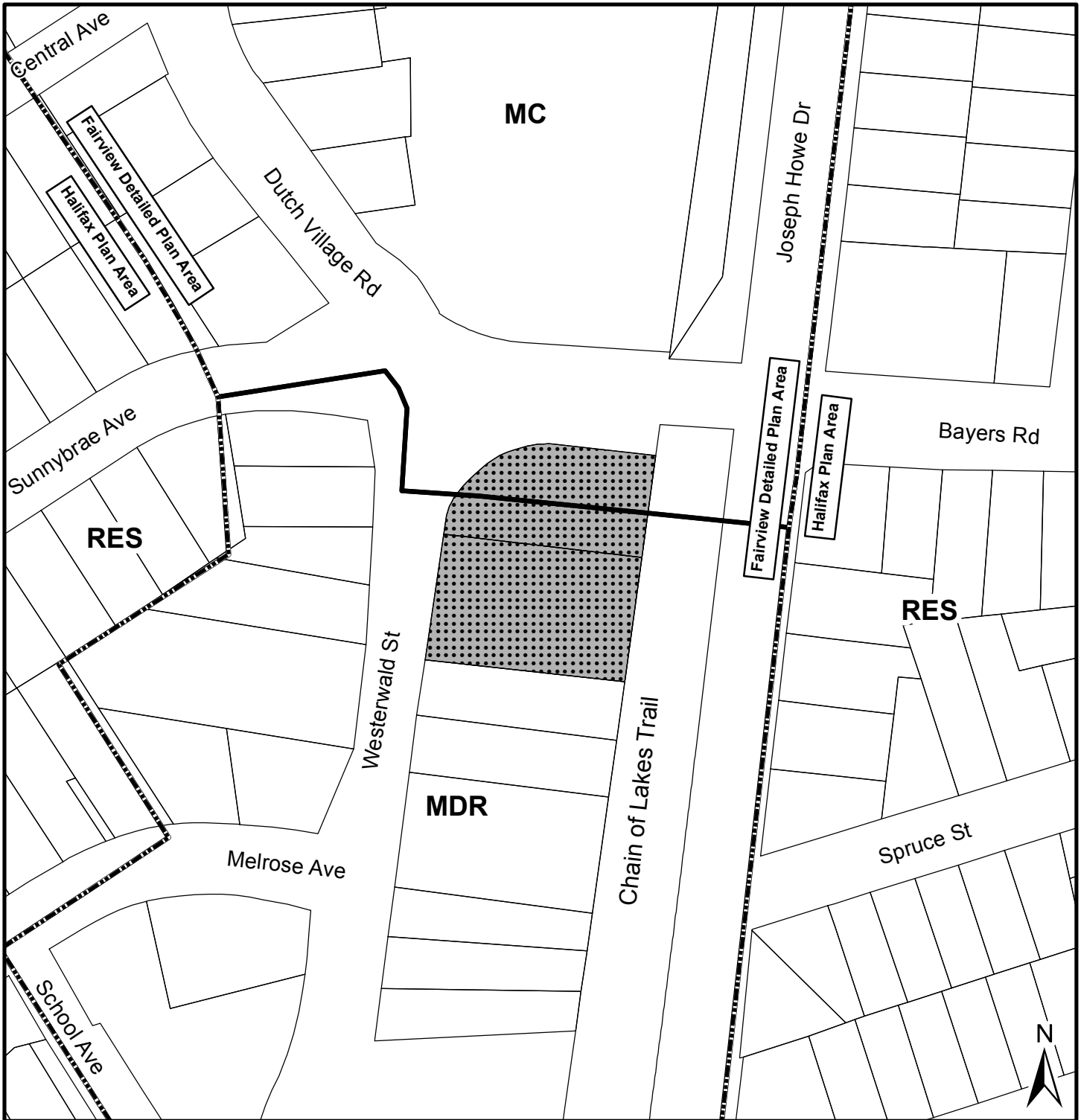
Map 1	Generalized Future Land Use Map
Map 2	Zoning
Map 3	Plan Dutch Village Road Area
Map 4	Area of Notification
Attachment A	Proposed Amendments to the Halifax MPS
Attachment B	Proposed Amendments to the Halifax LUB
Attachment C	Proposed Development Agreement
Attachment D	Proposed Development Agreement Policy Review
Attachment E	Minutes from Public Information Meeting
Attachment F	Public Submissions

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Paul Sampson, LPP, Planner, 902-490-6259



Original Signed

Report Approved by: _____
Kelly Denty, Manager, Development Approvals, 902-490-4800



Map 1 - Generalized Future Land Use

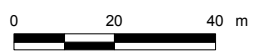
3400 Dutch Village Road
and 3343 Westerwald Street
Halifax

-  Area of proposed development agreement
-  Detailed plan area boundary

Halifax Plan Area
Fairview Detailed Plan Area

- Designation - Fairview**
- MDR Medium Density Residential
 - MC Minor Commercial
- Designation - Halifax**
- RES Residential Environments

HALIFAX




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.



Map 2 - Zoning

3400 Dutch Village Road
and 3343 Westerwald Street
Halifax

 Area of proposed development agreement

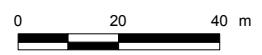
Halifax Peninsula Land Use By-Law Area
Halifax Mainland Land Use By-Law Area

Zone - Halifax Peninsula

- R-2 General Residential
- R-2AM General Residential Conversion
- C-2A Minor Commercial

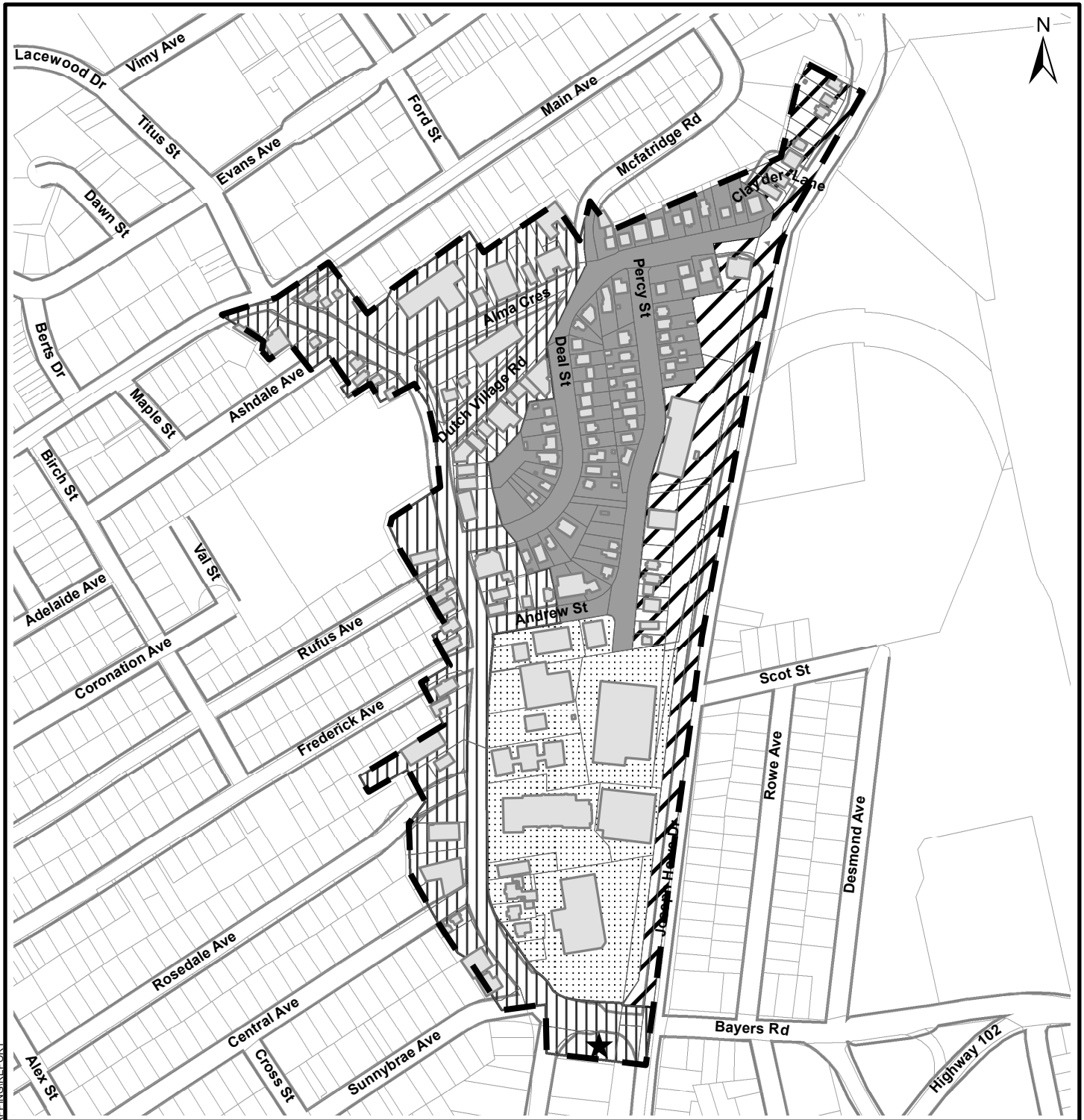
Zone - Halifax Mainland

- R-2 Two Family Dwelling
- R-2P General Residential
- R-2AM General Residential Conversion
- C-2A Minor Commercial



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.

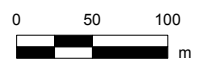


Map 3 - Plan Dutch Village Road Area

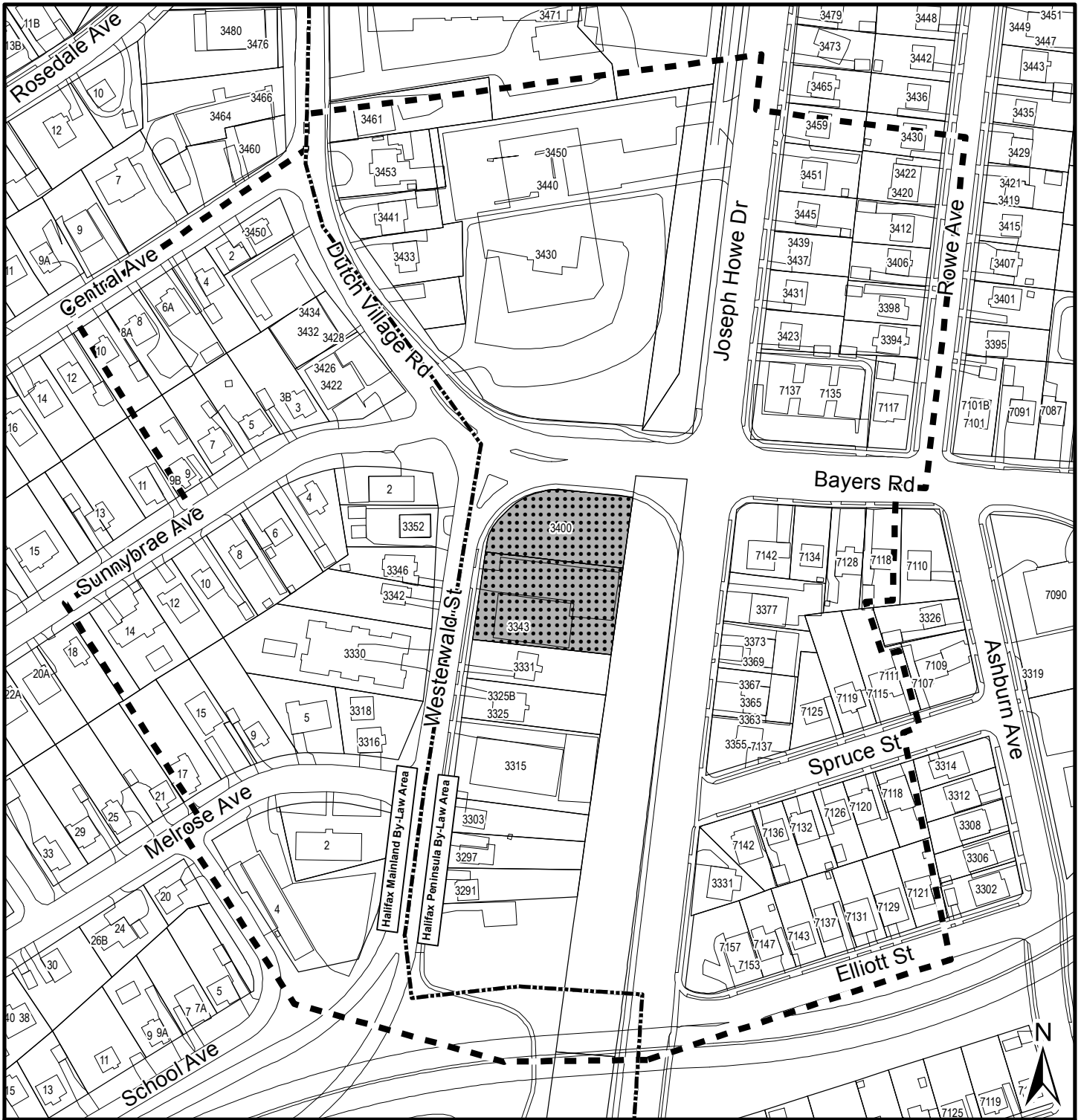
- ★ Application Site
- ▤ Area A
- ▨ Area B
- Area C
- ▧ Area D
- ▭ Plan Extent
- ▭ Parcel
- Building

HALIFAX

DEVELOPMENT APPROVALS





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



Map 4 - Area of Notification

3400 Dutch Village Road
 and 3343 Westerwald Street
 Halifax

 Area of proposed development agreement

 Area of notification

Halifax Peninsula Land Use By-Law Area
 Halifax Mainland Land Use By-Law Area

HALIFAX



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

ATTACHMENT A

Proposed Amendments to the Municipal Planning Strategy for Halifax

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Municipal Planning Strategy for Halifax is hereby amended as follows:

1. By adding Policies 2.7 and 2.7.1 to Section VII (Fairview Area Secondary Planning Strategy), immediately following Policy 2.6.1, as follows:

“2.7 The property at 3400 Dutch Village Road (PID# 00198515) is the site of a former service station at the entrance to the Dutch Village Road Commercial Area and is a suitable location for a commercial-residential development. However, given its limited size and configuration, there are benefits in allowing shared access, parking, and landscaped open space with the adjoining property at 3343 Westerwald Street (PID# 00198523). Further to this, notwithstanding the Minor Commercial and Medium Density Residential objectives and policies of this Section, a six storey commercial and residential building at 3400 Dutch Village Road in conjunction with the property at 3343 Westerwald Street, may be permitted by development agreement in accordance with the *Halifax Regional Municipality Charter*.

2.7.1 In considering a development agreement pursuant to Policy 2.7, Council shall consider the following:

- a) the existing 24-unit apartment building at 3343 Westerwald Street, be permitted to be reconstructed, repaired, replaced, rebuilt and renovated, but not permitted additional floor area or dwelling units;
- b) a new building at 3400 Dutch Village Road has:
 - i) a maximum of 6 storeys;
 - ii) ground floor commercial uses that are compatible with the surrounding area and include individual accesses facing Dutch Village Road;
 - iii) high quality exterior building materials and variations in the façade and mass of the building to provide visual interest; and
 - iv) underground parking;
- c) signs are compatible with the surrounding area;
- d) landscaping and useable open space areas for building residents are provided;
- e) safe vehicular and pedestrian access and egress is achieved;
- f) sufficient vehicular and bicycle parking shall be provided for the development;
- g) there are suitable solid waste facilities; and
- h) the adequacy of the servicing capacity of the site.”

I HEREBY CERTIFY that the amendments to the Halifax Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Halifax Regional Council at a meeting held on the ___ day of _____, 2015.

GIVEN under the hand of the Clerk and the
Corporate Seal of the Halifax Regional
Municipality this ____ day of _____, 2015.

Municipal Clerk

ATTACHMENT B

Proposed Amendments to the Halifax Peninsula Land Use By-law

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

1. By adding subsection (f) to Section 96 as follows:

“3400 DUTCH VILLAGE ROAD/ 3343 WESTERWALD STREET

- (f) permit, in accordance with Policy 2.7 and 2.7.1 of Section VII (Fairview Area Secondary Planning Strategy, Commercial Facilities) of the Halifax Municipal Planning Strategy, a mixed-use development consisting of residential and commercial uses in association with an existing 24-unit apartment building.”**

I HEREBY CERTIFY that the amendments to the Land Use By-law for Halifax Peninsula, as set out above, were duly passed by a majority vote of the Halifax Regional Council at a meeting held on the ____ day of _____, 2015.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2015.

Municipal Clerk

ATTACHMENT C:
Proposed Development Agreement

THIS AGREEMENT made this day of , 2015,

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 3400 Dutch Village Road and 3343 Westerwald 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 mixed-use development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 2.7 and 2.7.1 of Section VII of the Halifax Municipal Planning Strategy and Section 96 (f) 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 **[INSERT DATE]** , referenced as Municipal Case Number **18510**;

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, subdivision and use of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Halifax 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 and/or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

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

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

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.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 18510:

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

3.2 Requirements Prior to Approval

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

(a) Landscape Plan in accordance with Section 3.6 of this Agreement.

3.2.2 Upon issuance of the first Municipal Occupancy Permit, the Developer shall provide the Development Officer with certification from a qualified professional indicating that the Developer has complied with the Landscape Plan, or the posting of security in accordance with Section 3.6.9.

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

3.3 General Description of Land Use

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

- (a) Apartment house (multiple-unit residential uses) at 3400 Dutch Village Road;
- (b) Any minor commercial use permitted in the C-2A (Minor Commercial) Zone may occupy the ground floor level (Schedule C) of the proposed building at 3400 Dutch Village Road, with the exception of uses listed in clauses 59A(1) (f), (g),(h) and (la);
- (c) An existing 24-unit apartment house at 3343 Westerwald Street; and
- (d) Uses accessory to any of the foregoing uses.

3.4 Detailed Provisions for Land Use

3.4.1 The existing 24-unit apartment house at 3343 Westerwald Street shall comply with the following requirements:

- (a) no additions or renovations to the building which result in additional floor area or dwelling units shall be permitted;
- (b) the apartment house may be reconstructed, repaired, replaced, rebuilt, or renovated provided that such reconstruction, repair, replacement, rebuilding or renovation:
 - i) does not exceed three storeys in height above the mean grade of the finished ground adjoining the building; and
 - ii) conforms with Schedule B;
- (c) accessory uses may be permitted subject to R-2AM zone requirements;
- (d) parking and landscaped open space may be shared between both properties at the discretion of the Developer and shall conform to Schedule B and Sections 3.6 and 3.12. The driveway access for the proposed development at 3400 Dutch Village Road shall be permitted over the lands of 3343 Westerwald Street as shown on Schedule B.

3.4.2 The proposed development at 3400 Dutch Village Road shall be exempted from the detailed requirements of the R-3 (Multiple Dwelling) and C-2A (Minor Commercial) zones of the Land Use By-law related to angular planes, population density, unit mix, parking and open space. Instead, the Schedules and written provisions of this Agreement shall apply.

3.4.3 Further to Subsection 3.4.2, the following conditions shall apply to the proposed development:

- (a) A minimum of 33% of the new residential dwelling units shall consist of 2 or more bedrooms;
- (b) Seven (7) parking spaces shall be reserved for commercial uses (parking spaces 1 through 7 as shown on Schedule B). Signage shall be provided to differentiate between commercial and residential parking spaces; and
- (c) Further to Subsection 3.3 (b), for those units shown on Schedule C as "Commercial or Residential Unit", the Developer may choose to substitute permitted commercial uses with residential units.

3.4.4 The existing billboard on 3400 Dutch Village Road shall be removed prior to the issuance of a Construction Permit for the new building.

3.5 Architectural Requirements

3.5.1 The proposed building's exterior design and materials shall be as shown on Schedules E through H. The building shall not exceed 6 storeys and 75 feet in height above the mean grade of the finished ground adjoining the building. The building shall employ high quality materials and variations in the façade and mass of the building to provide visual interest, as shown on the Schedules.

3.5.2 Multiple storefronts shall be visually unified through the use of complementary architectural forms,

similar materials and colours. Covered walkways, arcades, awnings, open colonnades and similar devices shall be required along long facades to provide shelter, and encourage pedestrian movement.

- 3.5.3 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork (murals), textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, offsets in the vertical plane, etc.).
- 3.5.4 Any exposed foundation in excess of four feet in height shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer or as shown on the Schedules.

3.6 Landscaping

- 3.6.1 Prior to the issuance of a Development Permit, the Developer shall provide the Development Officer with a detailed Landscape Plan, prepared by a Landscape Architect, which shall provide details of all landscaped areas shown on the Schedules.
- 3.6.2 Landscaped areas shown on the Schedules shall be active areas generally accessible to building occupants and shall contain a combination of concrete pavers, walkways, sod, ground cover, shrubs, deciduous and coniferous trees, site furnishings and landscaping features.
- 3.6.3 A portion of the building rooftop (Schedule D) shall be landscaped and used as open space for tenants. Additionally, the ground-level open space to the east of the existing 24-unit apartment house shall be landscaped, as shown on Schedule B, in order to create usable open space for tenants. The ground-level open space shall be visually screened from the neighbouring property (3331 Westerwald Street) by the use of suitable wood fencing or vegetation as determined by the Development Officer. The details of these open spaces shall be provided on the Landscape Plan pursuant to Subsection 3.6.1.
- 3.6.4 Planting on rooftops above structures shall be carefully selected for their ability to survive in rooftop environments. Rooftop trees shall be located in planting beds or containers. Approximately 50 percent of the plant material shall be evergreen or material with winter colour and form. Deciduous trees shall have a minimum size of 45 mm caliper (1.8 inch diameter). Coniferous trees shall be a minimum of 1.5 m (5 ft.) high and upright shrubs shall have a minimum height of 60 cm. (2 ft.). It is the responsibility of the Developer to ensure that the underground parking structures or other structures are capable of supporting loads from all landscaping as well as the anticipated mature weight of the plant material on any rooftop or podium.
- 3.6.5 All plant material shall conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.6.6 Planting details for each type of plant material proposed on the Landscape Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety). Mass shrub plantings or mixed shrub and ground cover plantings are preferred instead of perennial beds.
- 3.6.7 Construction Details or Manufacturer's Specifications for all constructed landscaping features such as pergolas, benches, etc. shall be provided to the Development Officer or shall be noted on the Landscape Plan required by Subsection 3.6.1.
- 3.6.8 Upon the issuance of an Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this

Agreement.

- 3.6.9 Notwithstanding the above, an Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape work and the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping as shown on the Landscape Plan. 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 landscaping as described herein and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

3.7 Signs

- 3.7.1 Exterior signs shall meet the requirements of the C-2A Zone of the Land Use By-law and shall be limited to:
- (a) awning signs made of fabric material above ground level windows and doors;
 - (b) fascia and projecting signs along the ground-floor level; and
 - (c) signs identifying the brand name, civic address or corporate logo of the building, provided they are located along the ground-floor level.

3.8 Building and Site Lighting

- 3.8.1 Outdoor lighting shall be directed to driveways, parking areas, loading areas and building entrances and shall be arranged so as to direct the light away from streets, adjacent lots and buildings.
- 3.8.2 The building may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

3.9 Functional Elements

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

3.10 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow removal/salting of walkways and driveways.

3.11 Solid Waste Facilities

All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal effect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

3.12 Parking and Bicycle Facilities

Vehicular parking shall include a combination of underground parking and exterior, single-level surface parking to accommodate vehicular parking spaces, as shown on the Schedules. Notwithstanding this, the underground parking level shall include bicycle parking required by the Land Use By-law and solid waste facilities required by Section 3.11.. The number of parking spaces may be reduced to accommodate such bicycle parking and solid waste facilities. Up to 75 percent of the parking spaces may be reduced in size to 8 feet by 17 feet.

3.13 Subdivision

The Development Officer may approve a subdivision plan which results in a change to the location of the property line between the two properties that form the Lands, provided that:

- (a) the resulting property at 3343 Westerwald Street contains a minimum lot frontage of 75 feet and a minimum lot area of 7,500 square feet;
- (b) the development on both parcels resulting from such subdivision shall be exempted from Land Use By-law requirements related to building setbacks, angular planes, population density, unit mix, parking, and open space; and
- (c) appropriate easements for access, parking, servicing and maintenance of building(s) shall be shown on the final plan of subdivision.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

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

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Archaeological Monitoring and Protection

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

5.2 Sulphide Bearing Materials

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

PART 6: AMENDMENTS

6.1 Substantive Amendments

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

6.2 Non-Substantive Amendments

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council (for greater certainty, these items do not include changes which, in the opinion of the Development Officer, are in conformance with the plans attached as Schedules B-N):

- (a) minor changes to the land use provisions of Section 3.4 and any changes to corresponding Schedules;
- (b) minor changes to the architectural requirements and exterior architectural appearance or materials as detailed in section 3.5 and corresponding Schedules;
- (c) changes to the landscaping requirements as detailed in Section 3.6;
- (d) changes to the sign requirements of Section 3.7;
- (e) changes to the parking requirements pursuant to Section 3.12;
- (f) changes to the date of commencement of development specified in Section 7.3; and
- (g) changes to the date of completion of development specified in Section 7.4.

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

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

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within four years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.2, 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**

Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as may be amended from time to time.

7.5 **Discharge of Agreement**

If the Developer fails to complete the development after six 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.

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 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.

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

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

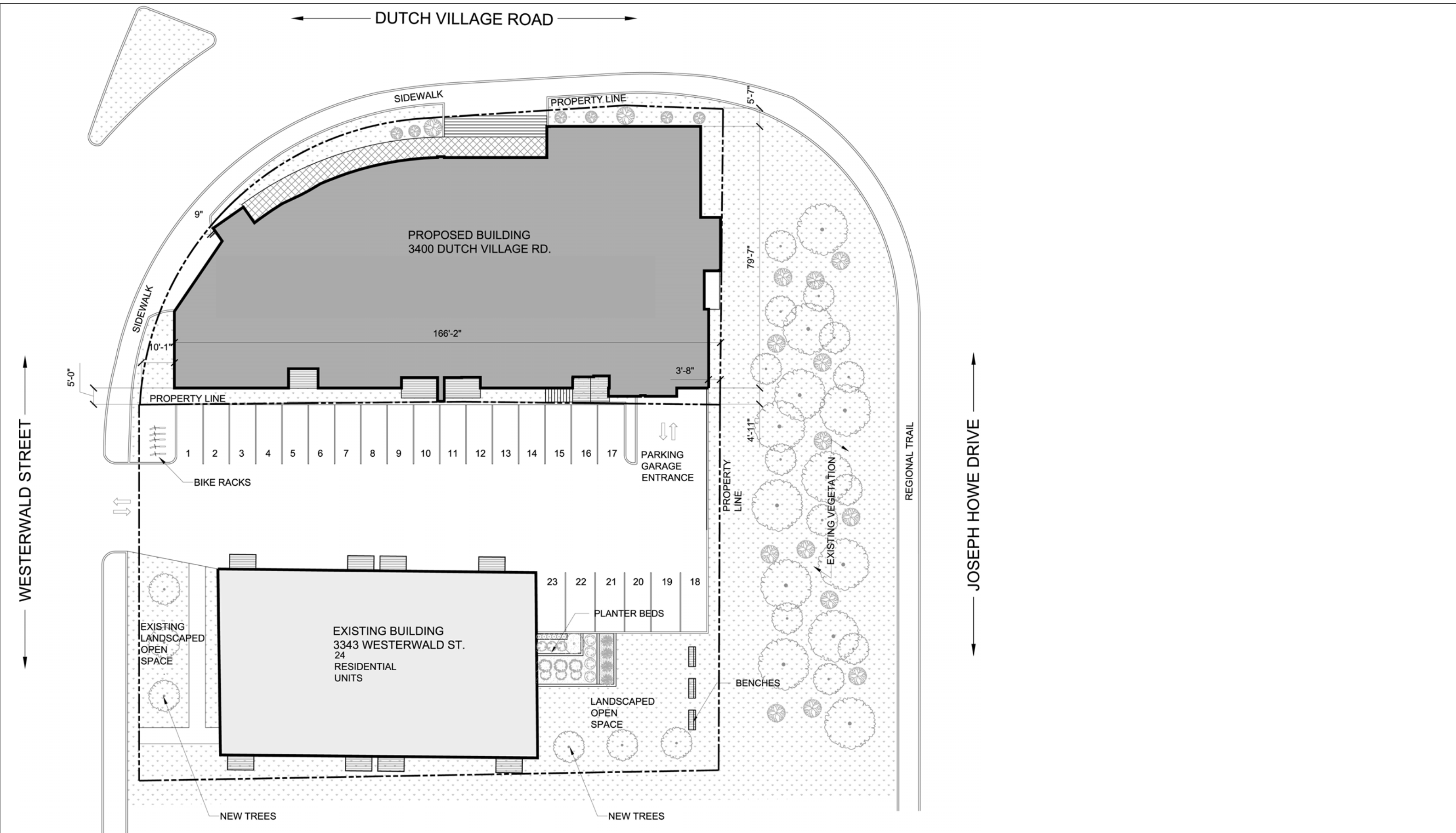
Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK



3400 DUTCH VILLAGE ROAD

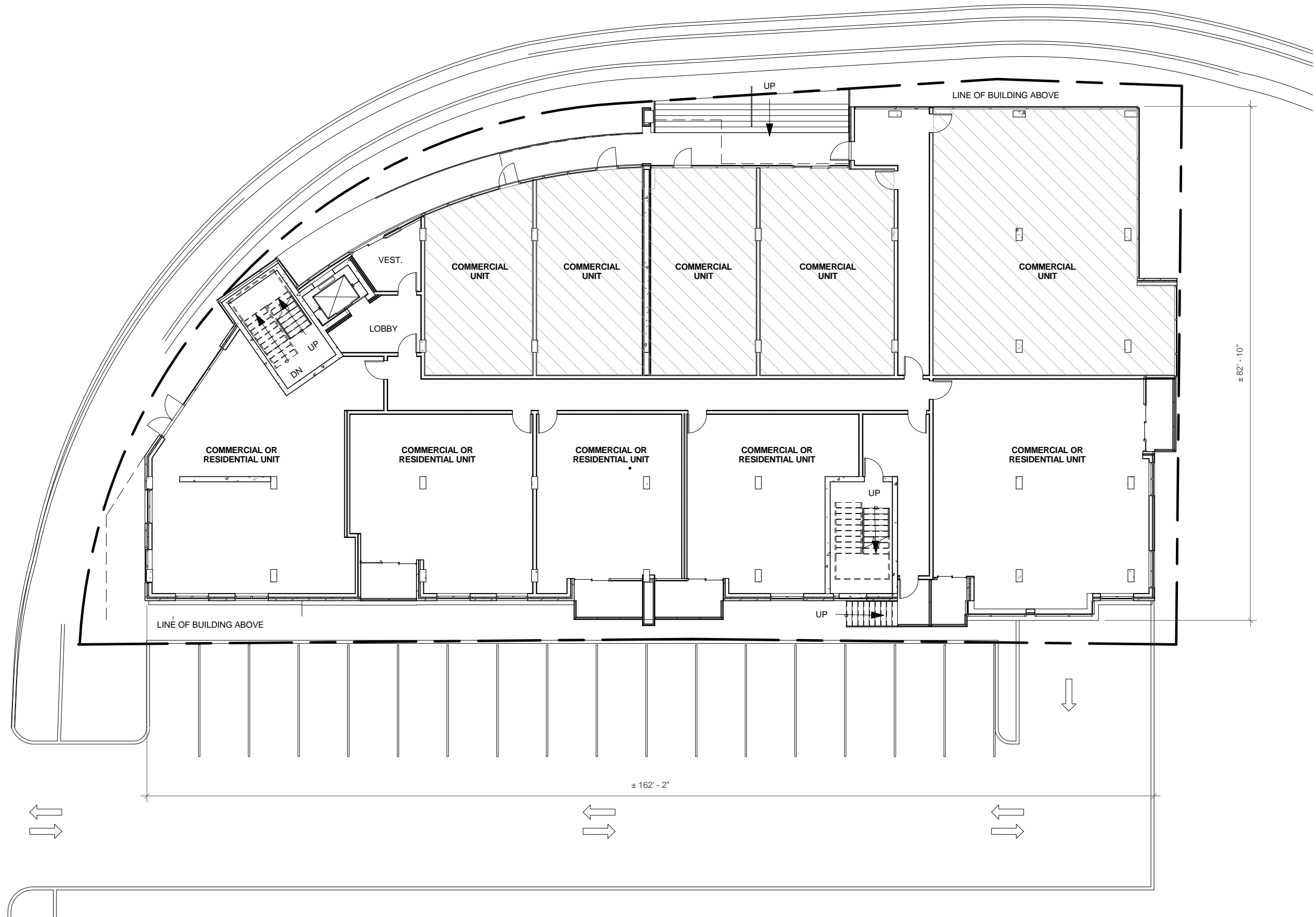
SCHEDULE B - SITE PLAN

SCALE: NTS

DATE: DEC 16, 2014



SDP

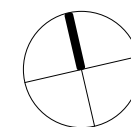


3400 DUTCH VILLAGE ROAD

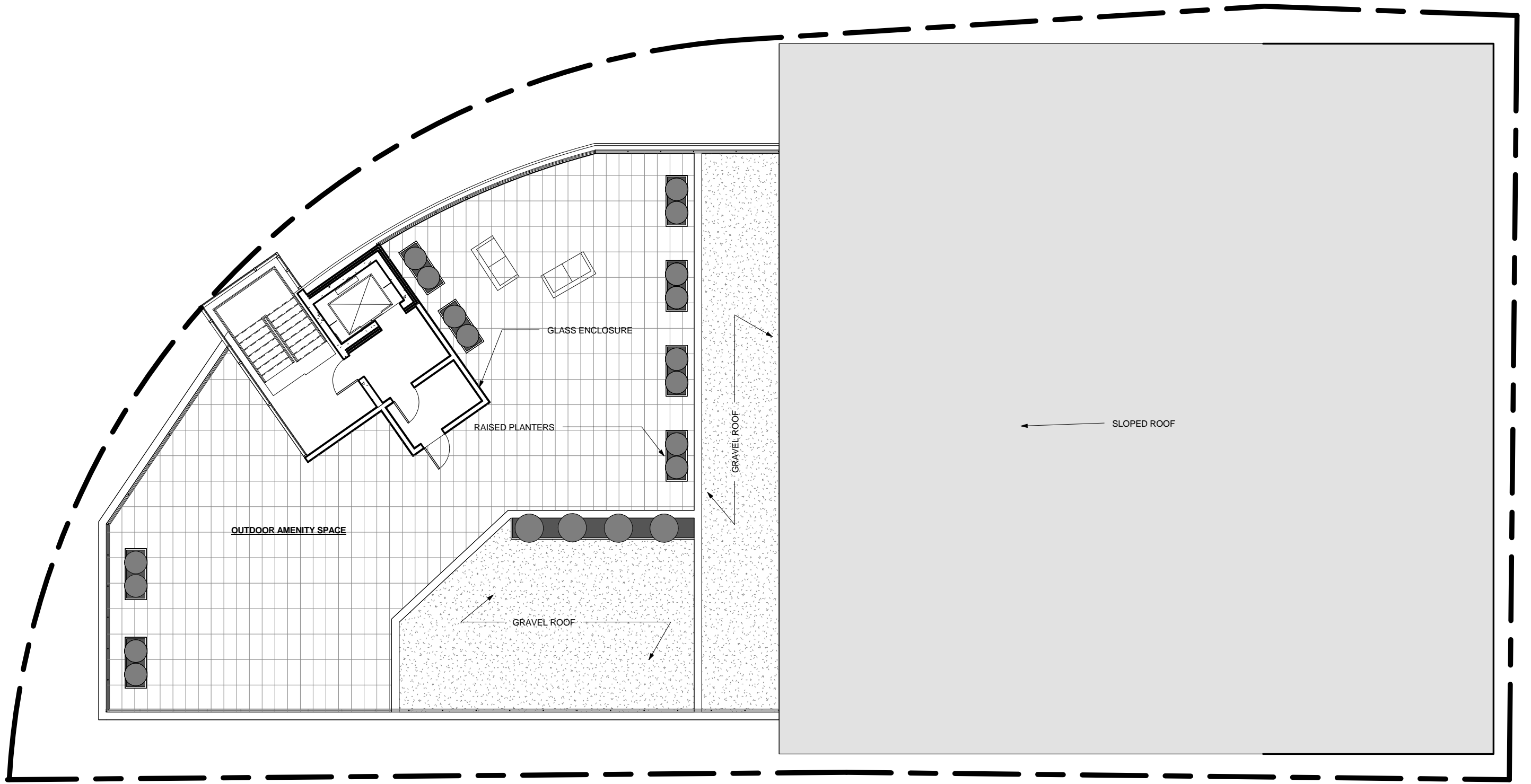
SCHEDULE C - GROUND FLOOR PLAN

SCALE: NTS

DATE: DEC 16, 2014



A3

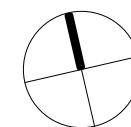


3400 DUTCH VILLAGE ROAD

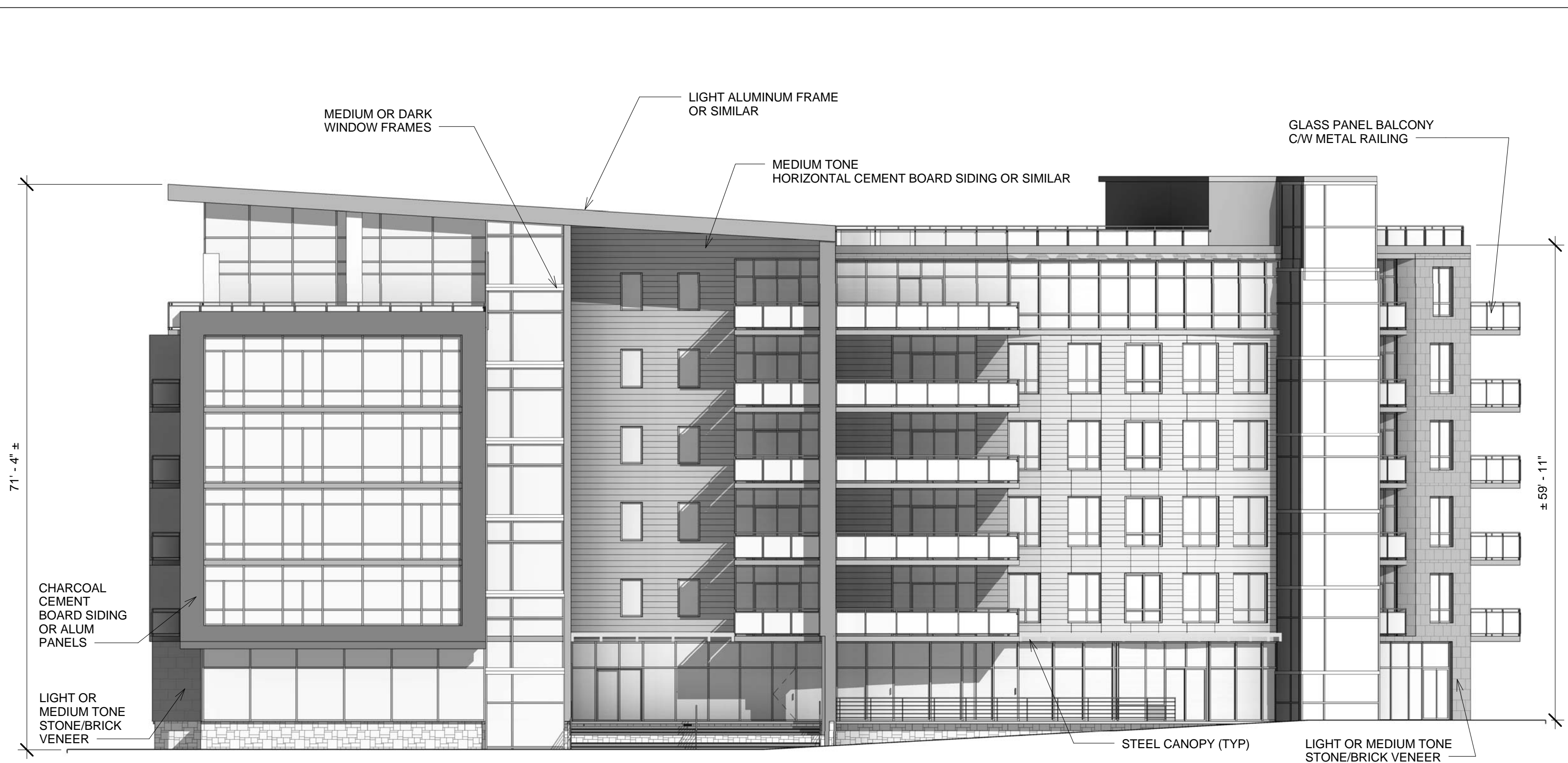
SCHEDULE D - ROOF
PLAN

SCALE: NTS

DATE: DEC 16, 2014



A6



3400 DUTCH VILLAGE ROAD

SCHEDULE E - NORTH ELEVATION

SCALE: NTS

DATE: DEC 16, 2014



A14



3400 DUTCH VILLAGE ROAD

SCHEDULE F - SOUTH ELEVATION

SCALE: NTS

DATE: DEC 16, 2014



A15



3400 DUTCH VILLAGE ROAD

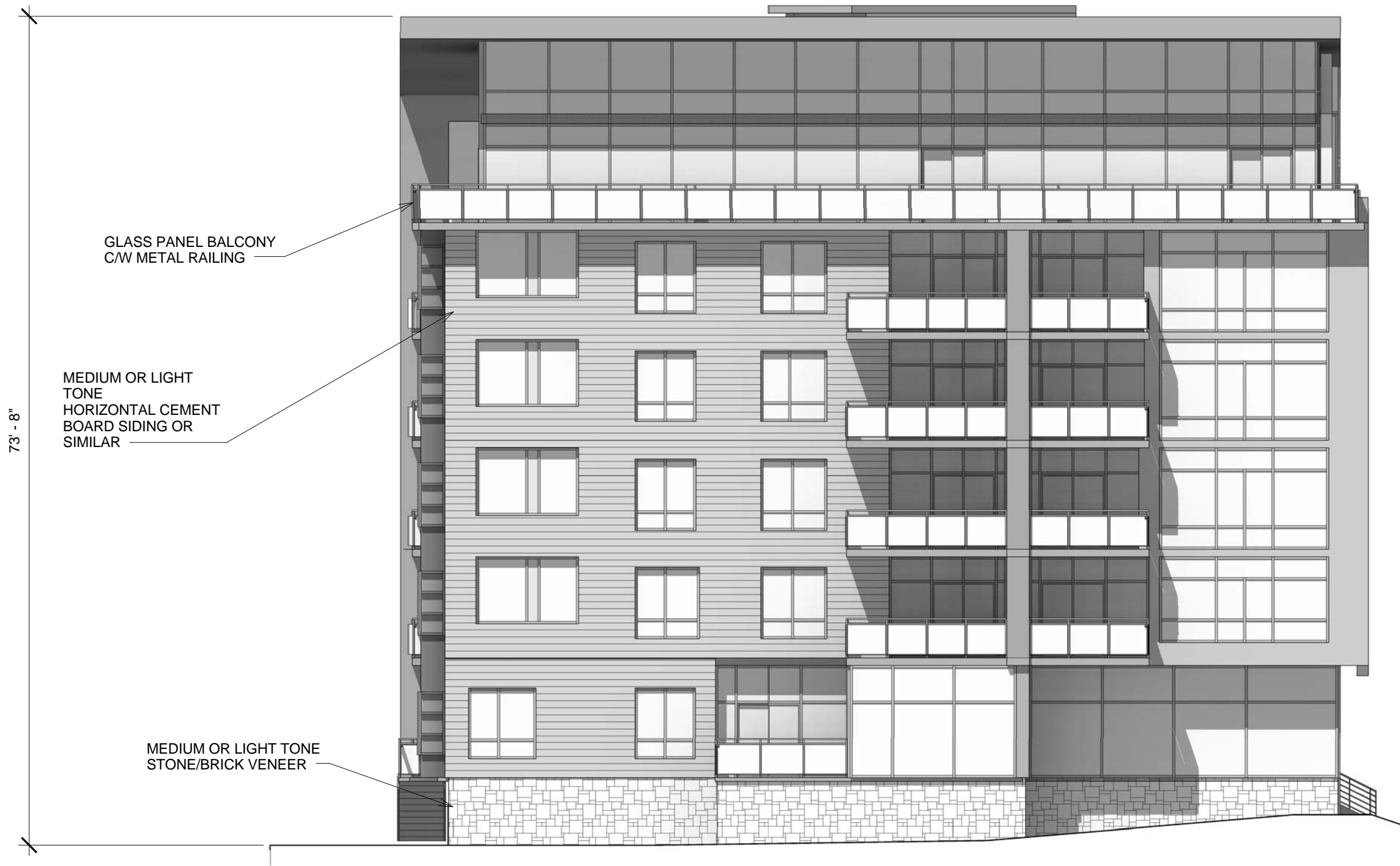
**SCHEDULE G - WEST
ELEVATION**

SCALE: NTS

DATE: DEC 16, 2014



A16



3400 DUTCH VILLAGE ROAD

**SCHEDULE H - EAST
ELEVATION**

SCALE: NTS

DATE: DEC 16, 2014



A17

Attachment D – Proposed Development Agreement Policy Review

Policy	Comment
<p>2.7 The property at 3400 Dutch Village Road (PID# 00198515) is a former service station at the entrance to the Dutch Village Road Commercial Area and is a suitable location for a commercial-residential development. However, given its limited size and configuration, there are benefits in allowing shared access, parking, and landscaped open space with the adjoining property at 3343 Westerwald Street (PID# 00198523). Further to this, notwithstanding the Minor Commercial and Medium Density Residential objectives and policies of this Section, a six storey commercial and residential building at 3400 Dutch Village Road in conjunction with the property at 3343 Westerwald Street, may be permitted by development agreement in accordance with the Halifax Regional Municipality Charter</p>	<p>The proposed development agreement (Agreement) is included as Attachment C.</p>
<p>2.7.1 In considering a development agreement pursuant to Policy 2.7, Council shall consider the following:</p> <p>a) that the existing 24-unit apartment building at 3343 Westerwald Street, be permitted to be reconstructed, repaired, replaced, rebuilt and renovated, but not permitted additional floor area or dwelling units;</p>	<p>As the existing 24-unit apartment building is currently a non-conforming use in the R-2AM zone, the Agreement provides for its continued use. The Agreement allows for its repair, renovation, etc., but prohibits additional floor area or dwelling units.</p>
<p>b) that a building at 3400 Dutch Village Road has:</p> <p>i) a maximum of 6 storeys;</p>	<p>The Agreement limits the new building to a maximum of 6 storeys and 75 feet in height (above the mean grade of the finished ground adjoining the building).</p>
<p>ii) ground floor commercial uses that are compatible with the surrounding area and that include individual accesses facing Dutch Village Road;</p>	<p>The types of commercial uses which are permitted are those permitted in the C-2A zone, with the exception of a bowling alley, motion picture theatre, service station and billboards. These individually accessed commercial uses are proposed to have entrance doors adjoining Dutch Village Road.</p>
<p>iii) high quality building materials and variations in the façade and mass of the building to provide visual interest;</p>	<p>The Agreement requires high quality materials and variations to the building's façade and mass. The proposal includes recesses and projections and a varied use of quality, non-combustible materials, including glass, aluminum framing and panels, metal railings and canopies, cement board siding, and stone or brick veneer, in differing colour tones.</p>

Policy	Comment
2.7.1 iv) underground parking;	The Agreement requires underground parking at 3400 Dutch Village Road.
c) that signs are compatible with the surrounding area;	Signs are limited to awning signs made of fabric material and fascia and projecting signs along the ground-floor level. These signs will be subject to C-2A zone requirements and compatible with the surrounding area.
d) suitable landscaping and useable open space areas for building residents are provided;	The Agreement requires that a detailed landscaping plan be prepared by a landscape architect and outlines minimum requirements for landscape materials. Proposed landscaping and amenity space includes a rooftop amenity area on the proposed building as well as open space improvements to an existing grassed area behind (to the east of) the existing building on Westerwald Street. The combination of on-site amenity spaces and proximity to the regional trail on Joseph Howe Drive will provide adequate open space for the building residents.
e) safe vehicular and pedestrian access and egress is achieved;	A traffic impact statement was reviewed by HRM staff. The study reviewed the proposed development's access/ egress and impacts on the existing street network. The study concluded that visibility is adequate and that there would be no noticeable impacts due to the low number of trips generated. Any future changes to the site access would be subject to HRM requirements.
f) sufficient vehicular and bicycle parking shall be provided for the development;	The Agreement requires that the site at 3400 Dutch Village Road include underground parking and that the surface parking at 3343 Westerwald Street include seven parking spaces for commercial uses. The amount of vehicular parking combined with bicycle facilities and close proximity to transit facilities will be adequate for the proposed development and will meet demand from tenants. Bicycle parking facilities will meet the requirements of the LUB.
g) that there are suitable solid waste facilities; and	The Agreement requires that solid waste containers be either located indoors or screened from view.
h) the adequacy of the servicing capacity of the site.	No servicing issues have been identified. The applicant will be required to submit sewage generation numbers and a sanitary capacity analysis prior to obtaining a Construction Permit.

Attachment E – Minutes From Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY
Public Meeting - Case No. 18510

Monday, May 26, 2014
7:00 p.m.
Bayers Road Boardroom

STAFF IN

ATTENDANCE: Paul Sampson, Planner, HRM Planning Applications
Hilary Campbell, Planning Technician, HRM Planning Applications
Cara McFarlane, Planning Controller, HRM Planning Applications

ALSO IN

ATTENDANCE: Councillor Russell Walker, District 10
Cesar Saleh, W.M. Fares Group

PUBLIC IN

ATTENDANCE: Approximately 14

The meeting commenced at approximately 7:00 pm.

1. Call to order, purpose of meeting – Paul Sampson

Mr. Sampson introduced himself as the Planner facilitating this application through the planning process; Councillor Russell Walker, District 10; Cara McFarlane and Hilary Campbell, HRM Planning Applications; and Cesar Saleh, W.M. Fares Group.

The purpose of the public meeting is to identify that Halifax has received an application, give some background on the proposal and receive feedback on the proposal from the public. This is purely for information exchange and no decisions will be made at this meeting.

The meeting agenda was reviewed.

2. Overview of planning process – Paul Sampson

There are a number of steps involved in a plan amendment process, the first being a public meeting. Comments from this meeting will go back to Council in the form of a staff report after a detailed Staff review (traffic study, sewer and water calculations, etc.) is completed. The staff report would be presented to Halifax and West Community Council (HWCC) who in turn would give recommendation to Regional Council for approval or refusal.

3. Presentation of Proposal – Paul Sampson

Case 18510 is an application for an amendment to the Halifax Municipal Planning Strategy (MPS) and Halifax Peninsula Land Use By-law (LUB) and to enter into a development agreement for the site located at 3400 Dutch Village Road and 3343 Westerwald Street.

This site was shown. It is made up of two properties which housed a former gas station.

The apartment building on Westerwald Street was shown. Its current driveway will be used for access purposes to the proposed building.

There is a variety of land uses in the area including commercial, apartment buildings and a mix of low density housing types.

The property located at 3400 Dutch Village Road is zoned C-2A (Minor Commercial). As-of-right, this Zone allows for commercial and apartment buildings up to four storeys in height. The property located at 3343 Westerwald Street is zoned R-2AM (General Residential Conversion) and is strictly residential. Under the MPS, 3400 Dutch Village Road is designated Minor Commercial and 3343 Westerwald Street is designated Medium-Density Residential.

Tonight's proposal is seeking an exception to the rule to allow for something a little different than what is permitted as-of-right. The process will also allow HRM Staff and the public to have a say in the design of the building and site, landscaping and open space, etc.

Mr. Sampson gave some background on the proposal. In August 2013, due to a number of proposals and as-of-right developments coming forward at one time, Regional Council initiated a process for a larger study area of Dutch Village Road. There was some desire to move quicker with regards to this site; therefore, in March 2014, Regional Council initiated the MPS and LUB process for this specific site.

The MPS and LUB amendment would involve policy change and create the ability for this site to be developed by a development agreement (legal contract) which would dictate how the site is developed (landscaping, building height and design, etc.). The development agreement has to abide by the policy that is created.

Presentation of Proposal – Cesar Saleh, WM Fares Group

Mr. Saleh shared some of the projects that WM Fares Group has done in the area that are relevant to this proposal or are in the same vicinity: Windsor and Young Streets, Normandy Street and Lady Hammond Road, a building in the north end, and St. Lawrence Place.

The applicant is proposing a mixed use building on the corner of Dutch Village Road and Westerwald Street which also faces Joseph Howe Drive.

The site plan was shown: lot area is 13,750 square feet; building area is about 10,000 square feet; landscaped/open space area is just shy of 7,000 square feet; building height is six storeys (first being commercial at front and residential at the back, second to fifth level being residential); 49 units altogether (26 two bedroom, 18 one bedroom and five bachelor units); and 44 parking spaces at grade and one level of underground parking. There is an existing access from the building behind the proposed site; therefore, this can be used to access the proposed underground parking.

The proposed building is of modern design. The first level facing the street will be commercial with access from the corner. There is a separate entrance for each commercial unit facing Dutch Village Road. The residential entrance is at the corner to the right of the site. The building materials are a combination of composite panel, lots of glass, brick and stone at the bottom base, some cement siding (shown) and the design includes features such as projections and recesses with the balconies. An advantage of the development agreement is that what is approved at Council is what will be built.

Mr. Saleh showed where the different units will be placed within the proposed building. The roof top is accessible to the residents from the elevator or the stairs and there will be a combination of landscaping and amenity space.

The elevations of the proposed building were shown.

4. Questions and Comments

Andrea Davidson, Westerwald Street – She is concerned about the traffic with the addition of 44 new cars. Will traffic lights be installed? There are already nine lanes at that intersection. **Mr. Sampson** explained that HRM Engineering Staff and HRM Traffic Services are reviewing the traffic study that was submitted by the applicant. The third party consultant who performed the traffic study was WSP Canada Inc. **Mr. Saleh** said the traffic study is available to the public on the HRM webstie.

Susan Paczek, Westerwald Street – She assumes there will be blasting to create the underground parking area. **Mr. Saleh** does not believe that blasting is permitted on the small site or in the area. It depends on the condition of the soil but it may be possible to excavate and break the ground. He will look into it and respond to HRM.

Ms. Paczek – She is concerned there will be a shortage of parking spaces causing driveways to be blocked. Westerwald Street already has a shortage of parking especially when the winter parking bans are in effect. **Mr. Saleh** explained that because the site is on a major bus route, they don't anticipate every unit to require parking. He noted her concern and will look into it. **Mr. Sampson** added that parking can be addressed within the development agreement. For example, it can allow for additional underground parking but would require a traffic analysis or an update to the already submitted traffic study. The market usually dictates this.

Ms. Paczek – She finds it unfair that one side of Westerwald Street be zoned for residential with a height restriction of 35 feet and the opposite side allow for a six storey building. Her family relies on rental income from the two houses across the street from the proposal. **Mr. Saleh** mentioned that from her property she would be looking at the narrowest side of the proposed building. **Mr. Sampson** explained that quite often streets are the dividing line between zoning areas. He gave an example of Robie and Young Streets to which Ms. Paczek pointed out that the width of that area is quite a bit bigger than Westerwald Street which is a narrow residential street. Her family is not against increasing density but would like to see some fairness. **Mr. Sampson** mentioned the other process in progress and that her property may fall into that study area.

A resident from Westerwald Street – Is it rental units or condos? She would like to see condos as it is an investment for people. **Mr. Saleh** explained that it would depend on the market at the time of occupying the building. This is a family business and they take pride in what they have (owners of the building behind this site). Whether it is rentals or condos, the maintenance, operation and quality of the building will be the same.

The resident wanted to stress the traffic and parking. The businesses will need parking spaces. **Mr. Saleh** mentioned that there are 17 parking spots just behind the building. That building has more parking than needed. The applicant envisions small commercial, office type units, not retail, in this proposed building. **The resident** emphasized that the corner is very busy and dangerous. There are no safe crosswalks or flashing lights along that area. **Mr. Saleh** took note of that and will see what can be done between the applicant and HRM. **Mr. Sampson** will bring the issue up to staff.

Mr. Sampson informed the public that HRM cannot control whether a building is rentals or condominiums. The development agreement can specify the land use types. **Mr. Saleh** said there is no indication or desire to have a drive-thru. The site doesn't lend itself to a drive-thru.

Ms. Paczek – What is the height of this proposed building? **Mr. Saleh** said on average, it would be approximately 60 feet (ten feet per six floors).

Donna MacEachern, Westerwald Street – What are you looking at in terms of the construction time frame? **Mr. Saleh** expects that a building of this size, from beginning to finish, realistically would be 12 to 18 months.

Ms. Paczek – She is very concerned about being able to keep their properties rented during construction. It would create a lot of natural hardship for her family.

Mr. Saleh – Dutch Village Road is changing and is a desirable area for development. He feels their projects are setting a good precedence for the area.

Mr. Sampson reminded the public that as-of-right, a developer or property owner could apply for a four storey building (50 feet in height) in the C-2A Zone within the Fairview area.

5. Closing Comments

Mr. Sampson thanked everyone for coming and expressing their comments.

6. Adjournment

The meeting adjourned at approximately 7:49 p.m.

Re: Case18510

My name is Karen Brown and I live on Westerwald Street across the street from the development site at 3400 Dutch Village Road. When we moved here to raise our family here we were hoping to rejuvenate the area with more young families so I have a number of concerns with this 6-story building proposal.

We are concerned that there may be blasting involved in order to create this underground parking. Our house is an older home and I don't think the foundation could withstand any blasting. What happens if our foundation is damaged during the construction of this building?

We are also concerned about the parking as the underground parking is only able to accommodate 41 vehicles and there are 48 units. Half of these units are 2 bedroom and these days most couples have their own vehicles. This parking doesn't even take the commercial businesses staff into consideration. We realize we are on a bus route but my experience over the years living next to the condo (which also only has parking for one vehicle per unit) and the apartment building across the street tells me they are fooling themselves if they don't think the tenants, staff and visitors are going to be using the street for parking. For example as it stands right now on a regular evening there are at least 4 cars parked adjacent to our driveway and on either side overnight and the condo next door is only a 14 unit building and a smaller apt building. This number will increase significantly if you allow a 48 unit building plus business staff and only 41 parking spaces. This is already an issue for us as our driveway is narrow and with parking on both sides of the street it makes it hard to manoeuvre in and out of our driveway. There are many times we are actually blocked from getting into or out of our driveway and calling the parking authority and having the vehicles towed every time doesn't help us get to where we are going on time not to mention the inconvenience.

We are concerned about the increased traffic on our street as the main driveway to this building is on Westerwald Street. The corner of DutchVillage and Westerwald is currently dangerous and often have to jump on the curb to avoid being hit by a car racing around the corner as it is a blind spot. I am concerned for the safety of my young children walking to and from school with the increased traffic.

We are also concerned with the noise, dirt, debris and dust that will be created once construction begins. Not being able to open our windows for fresh air, cleaning our vehicles daily as well as our siding. I have young children and pets and our air quality will be compromised during the construction and after as the traffic increases so will the pollution. We foresee long days and evenings filled with banging and dust flying through the air and not being able to enjoy our yard or home not to mention stressing out our animals. I have walked by the St. Lawrence Place almost daily during construction and there were lots of times the dust was blinding and debris was littered over the sidewalks.

The building will block a lot of the current daylight which will increase our light bill.

We feel like our property value as a home owner will decrease as it will be hard to sell down the road for fair market value. There won't be a big market for a single family dwelling home living in the shadow of a 6-story mixed-use building on a busy street. There is no incentive for a young family to buy our homes and move onto our street. Let's face it these 3 older single family homes don't fit in the big picture of an area that has so much room to redevelop. We are being squeezed out by the commercial buildings. We are not totally opposed to the idea of redeveloping the area so long it is not done at our expense.

My husband and I have invested over 17 years here and have seen lots of positive changes to our street that has increased the value of our homes. All we are asking for is the same opportunity you are giving the developer as the only way I can see this benefiting our property value is to change our zoning from R-2P to C-2A and give us a chance to re-sell to a developer down the road. It will eventually happen in order to redevelop the area we are just asking for it to be done sooner rather than later. If you are going to change the rules for them it would only be fair to include us as well.

Sincerely, Karen Brown

hi Paul,

regarding last Monday's public info meeting for the building at 3400 Dutch Village, Brendan and I just wanted to reaffirm that we're not opposed to it so long as our lots on Westerwald and our neighbour's (so [REDACTED]) can be included in the "Fairview Study Area" and our zoning upgraded, to either C2A or R2AM. We think this is a very fair compromise for being amenable to construction of a building that exceeds a few different limits of its zoning - eg in terms of height and % of lot being built upon. This would compensate us for inconvenience we're going to experience with construction of this project. We believe the zoning change would just make sense in terms of what current buildings surround our 3 lots. As I mentioned before HRM would also benefit as well from an increased tax base if a condo project is built on our lots.

Kind Regards,
Susan Paczek and Brendan Labelle

On Fri, May 16, 2014 at 2:18 PM, Susan Paczek wrote:
Hi Paul, thanks for the email head's up, appreciate it. we just got the letter too. We know the meeting will be about the proposed project, but we're concerned about a 6 storey building going up across the street from our houses; particularly if HRM won't allow multi family redevelopment on our side of the street!

It seems odd to us for the HRM to want to keep 3 energy inefficient old houses on big lots with condo complexes/apartment buildings on either side and across the road!

How is allowing 6 storeys on one side of Westerwald and only a 35' height restriction on our side of the street fair? We anticipate that the construction of such a large building directly across from our houses is going to make keeping them rented a challenge, and will us a lot of financial hardship. Permitting multi family redevelopment on our lots could mitigate our losses by increasing our land value, and seems like a fair compromise in order to keep the gentrification of Fairview moving forward.

We had asked about our lots last fall ([REDACTED] westerwald), and their redevelopment potential, to see if we could redevelop them on our own, and never did hear back whether they were part of the Fairview study area or not. We'd encourage your office to reconsider the best use of our lots, along with the house next door, in light of the proposed project, and consider the impacts to ourselves and the other house owner at [REDACTED] Westerwald.

Look forward to discussing our views at the meeting,
Sincerely,
Brendan Labelle and Susan Paczek

From: Susan Paczek
Sent: April-24-14 5:25 PM
To: Sampson, Paul
Subject: Re: public info meeting Case 18510, 3400 Dutch Village Road, 3343 Westerwald

Hi Paul,

Thanks for the update; we live in the country and sometimes take awhile to get to our mail so an email would be appreciated if you think of it.

Just to let you know our thoughts up front: We appreciate the gentrification of Fairview by WM Fares. However, if this building is to be approved at the full 6 stories, we think it would only be fair that HRM would look favourably upon any future development applications for the houses at [REDACTED] Westerwald, which are all currently R2P, for a plan that would permit a 4 storey apartment building or condo development on the 3 lots.

We think this would create a win/win/win: With rezoning, our neighbour at [REDACTED] and ourselves would benefit from our increased land value and would likely sell, a developer and their customers would benefit from a new condo project location, and HRM would benefit from an increased tax base as these 3 old houses are replaced with higher density. Given that the 3 lots are sandwiched between an existing condo complex at 3330 Westerwald, and an apartment building at #2 Sunnybrae we think this makes sense.

Right now these 3 lots together ([REDACTED]) comprise 3 old, energy inefficient houses on a total of 24,000 sqft of what is potentially prime development land. To me this does not seem to be the highest and best use of this land; especially where the location is close to good transit, walking distance to many amenities and now has natural gas available. I think this land could support a project similar to Harris East or Q-Lofts.

We're curious to hear what you think, or we can wait to discuss at the public information meeting,

Best,
Susan