



PO Box 1749
Halifax, Nova Scotia
B3J 3A5, Canada

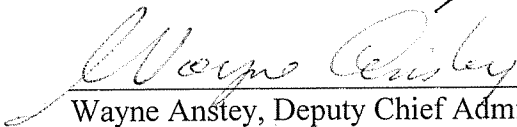
Item No. 9.2 (ii)
Halifax Regional Council
December 15, 2009
January 19, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer – Operations

DATE: November 27, 2009

SUBJECT: **Case 01003: MPS / LUB Amendments and Development Agreement –
Regatta Point, Halifax**

SUPPLEMENTARY REPORT

ORIGIN

- February 1, 2007 Application by Almond Properties Limited
- October 30, 2007 Initiation by Regional Council of the MPS amendment process
- April 28, 2009 Request by Regional Council for a second PIM
- September 14, 2009 Request by Chebucto Community Council for a legal review of the development agreement

RECOMMENDATION

It is recommended that Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Mainland Land Use By-law, as provided in Attachments A and B of this report, and schedule a joint public hearing with Chebucto Community Council; and
2. Approve the amendments to the Halifax Municipal Planning Strategy and the Halifax Mainland Land Use By-law as provided in Attachments A and B.

BACKGROUND

The proposal is to expand the existing 96 unit apartment building at 16 Anchor Drive by constructing an addition on the southwestern wing of the building towards Purcells Cove Road (Maps 1, 2 and 3). The land on which the addition is to be constructed is a separate vacant lot (Lot RP-1), which will be consolidated with the lot containing the existing building (Lot RP-2).

Amendments to the Halifax Municipal Planning Strategy and Halifax Mainland Land Use By-law are needed to permit the proposal (Attachments A and B). This application proposes to discharge Lot RP-2 from the existing Regatta Point development agreement and apply a new development agreement to the consolidated properties (Attachments C and D). This will effectively complete the Regatta Point development.

The proposal previously came forward to Chebucto Community Council and Regional Council in April 2009. On April 28, 2009, Regional Council requested a second public information meeting. The meeting was held on June 4, 2009, and revisions to the proposal in response to public feedback are described in a staff report dated July 22, 2009. On September 14, 2009, Chebucto Community Council moved:

“Notice of Motion to consider approval of the proposed development agreement contained in Attachment A of the report dated July 22, 2009 with the amendment that the underground parking lot contain 34 spaces and that the report dated July 22, 2009 be forwarded to HRM Legal Staff prior to the scheduling of a joint public hearing with Regional Council.”

DISCUSSION

Legal review

Based on comments from HRM Legal Services, the following changes are incorporated in the proposed development agreement (Attachment D):

- The agreement has been revised so the developers – Mount Cedar Developments Limited and Anchor Group (Atlantic) Limited – are the ‘collective’ first party to the agreement.
- When citing the Schedules (drawings) to which the development is to adhere, the word ‘generally’ has been removed from Section 3.1. It now reads: “The Developer shall develop the Lands in a manner which, in the opinion of the Development Officer, is in conformance with the following Schedules attached to this Agreement.” This wording clarifies that while the development is to conform to the Schedules, the Development Officer may exercise some discretion when interpreting them.”
- To address any ambiguity about the future expansion of the existing apartment building, Section 3.2.4 now clarifies that only the proposed addition is permitted, as shown on the Schedules.

- The section on Variation by Development Officer has been removed. Section 3.14.1 has been moved to Section 3.4.5, and Section 3.14.2 has been moved to Section 3.4.6(d), to allow for minor variations between the conceptual drawings attached to the development agreement and the construction drawings used for permit applications. Sections 3.14.3 and 3.14.4 were removed entirely.
- The number of parking spaces required by Section 3.6.2 has been increased to 34, at Chebucto Community Council's request.

In addition, based on discussion with HRM Legal Services, relative to the rental of parking, the following clarification to the staff report should be made:

- The staff report dated July 22, 2009 stated that "HRM is not permitted to specify in the agreement that rental may be solely to residents of Regatta Point". While the rental of parking spaces to residents or non-residents is not an issue of discrimination (such as race or sex), the *Halifax Regional Municipality Charter* does not enable it as possible content for a development agreement. Furthermore, the enforcement of such a clause would not be practical for the Municipality. Therefore, the development agreement does not specify who may rent a parking space.

BUDGET 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.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

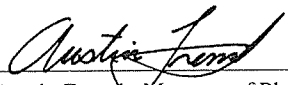
1. Regional Council may choose to approve the requested amendments provided in Attachments A and B of this report. This is the recommended course of action.
2. Regional Council may choose not to approve the amendments provided in Attachment A and B of this report. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend the MPS cannot be appealed.
3. Regional Council may choose to either adopt certain amendments but not others outlined in this report, or alternatively request that additional amendments not identified in this report be made, in which case an additional staff report(s) may be required.

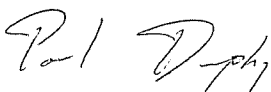
ATTACHMENTS

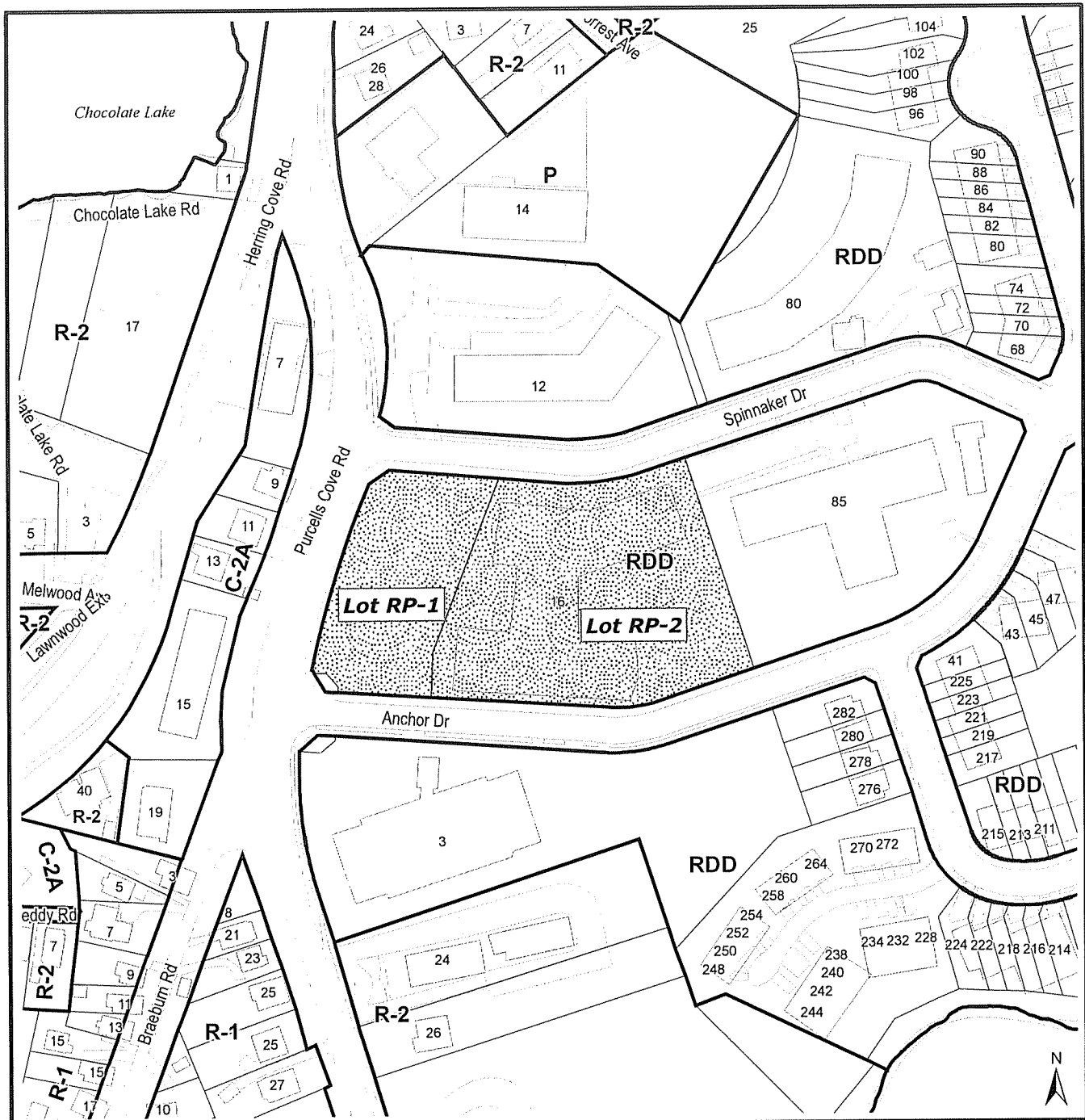
| | |
|--------------|---|
| Map 1 | Location and Zoning |
| Map 2 | Generalized Future Land Use |
| Map 3 | Notification Area |
| Attachment A | Amendments to the Halifax Municipal Planning Strategy |
| Attachment B | Amendments to the Halifax Mainland Land Use By-law |
| Attachment C | Discharging Agreement |
| Attachment D | Development Agreement |

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

Report Prepared by: Mackenzie Stonehocker, Planner I, 490-4793


Report Approved by: 
Austin French, Manager of Planning Services, 490-6717

Report Approved by: 
Paul Dunphy, Director of Community Development



Map 1 - Location and Zoning

Anchor Drive
Halifax

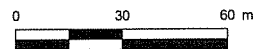
 Subject area

Halifax Mainland
Land Use By-Law Area

Zone

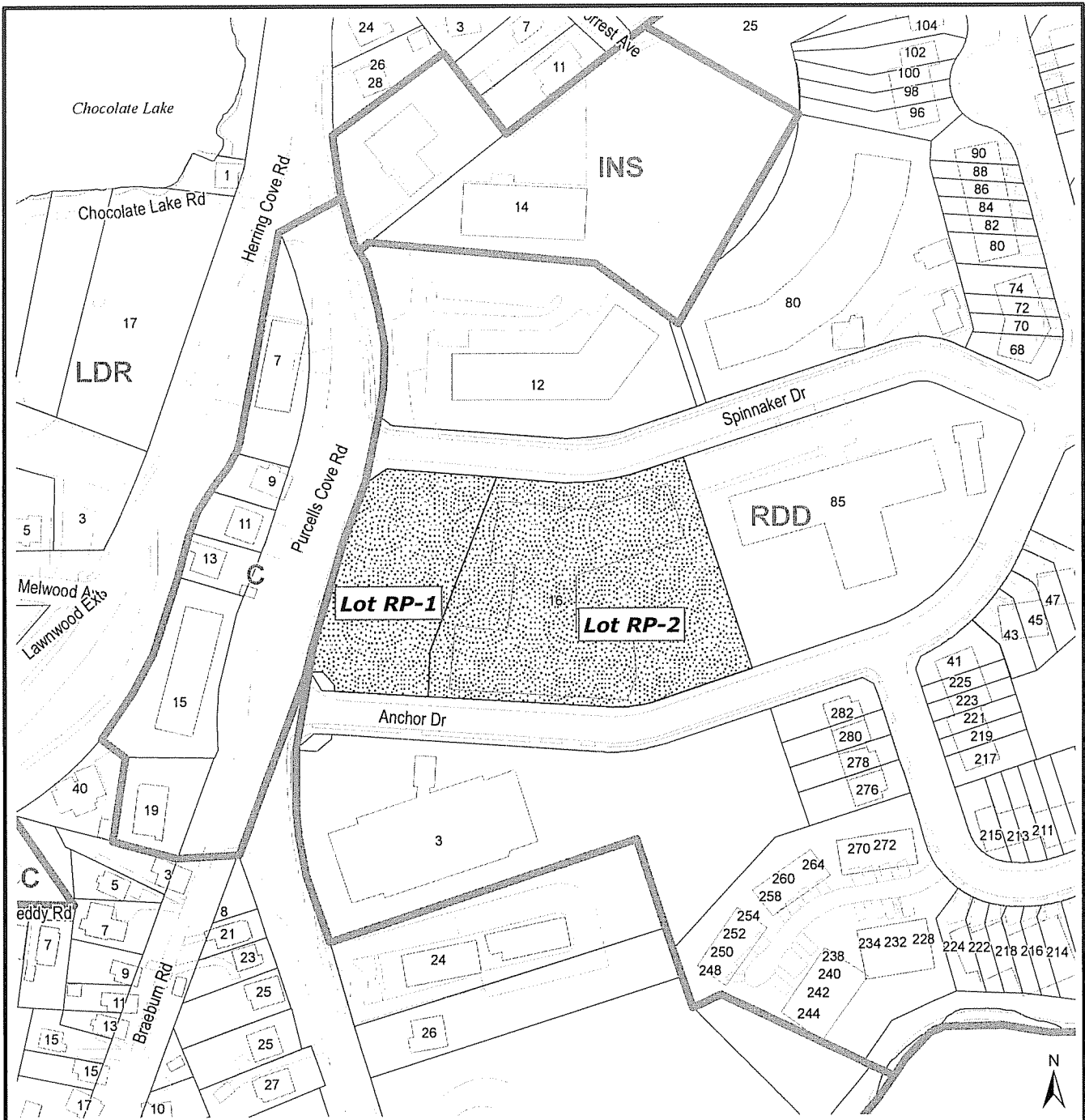
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- C-2A Minor Commercial
- P Park and Institutional
- RDD Residential Development District

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES




This is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area.

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



Map 2 - Generalized Future Land Use

Anchor Drive
Halifax

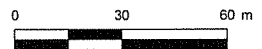
 Subject area

Halifax Plan Area
Mainland South Secondary Plan Area

Designation

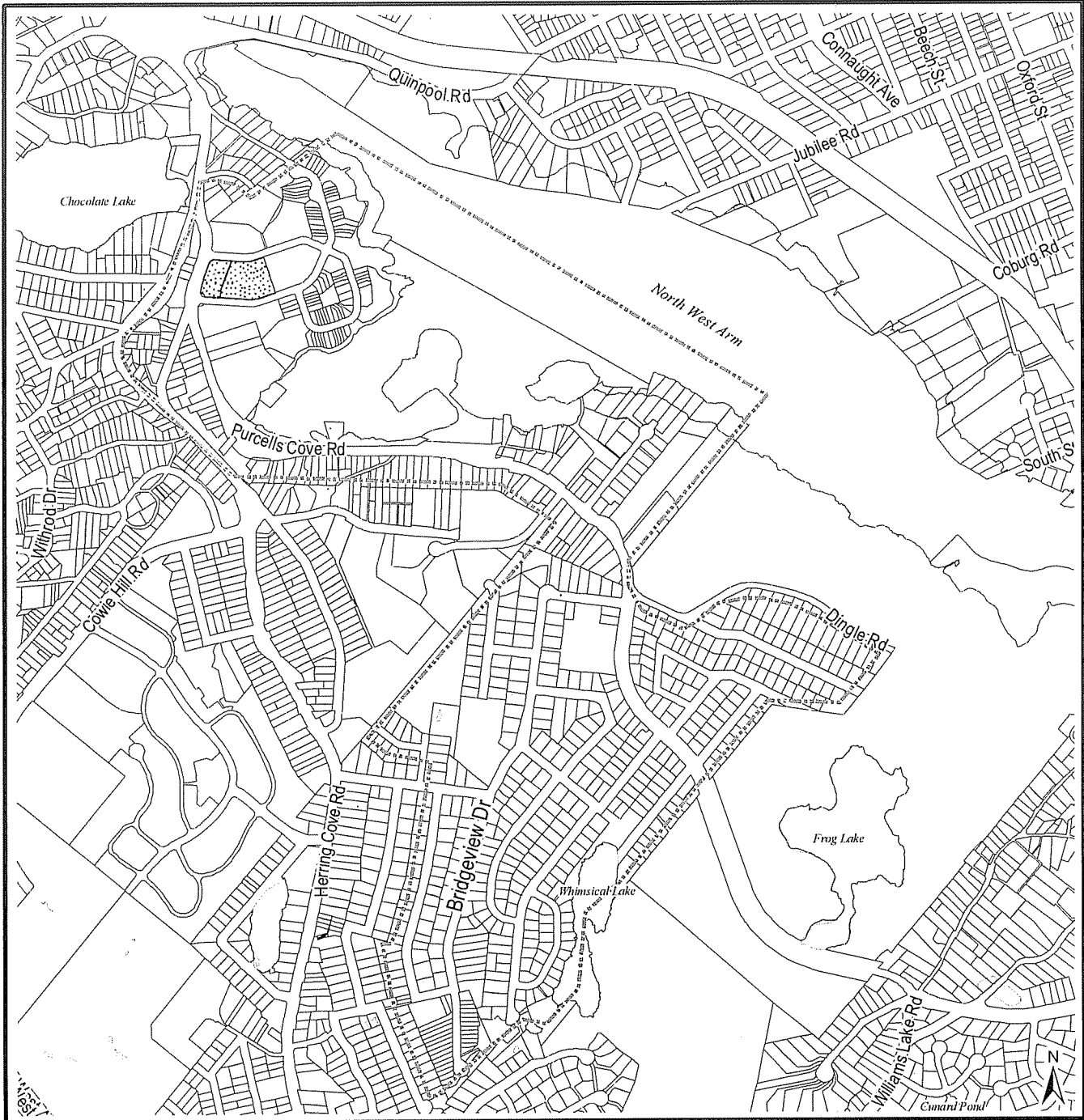
- LDR Low Density Residential
- C Commercial
- INS Institutional
- RDD Residential Development District

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES





This is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Mainland South Secondary Plan area

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



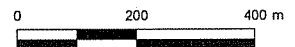
Map 3 - Area of Notification

Anchor Drive
Halifax

-  Subject area
-  Area of notification

Halifax Mainland
Land Use By-Law Area

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

Attachment A:
Amendments to the Halifax Municipal Planning Strategy

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

1. By inserting the following policies immediately after Policy 1.5.5 (Regatta Point) of the Mainland South Secondary Planning Strategy:

1.5.5.1 For the area designated as "Residential Development District" known as Regatta Point, as shown on Map 2 of Schedule I, notwithstanding that the site is less than three acres, does not provide a mixture of residential uses, and will result in greater than 15% of the land being used for apartment uses, the Municipality may, by development agreement, permit the consolidation of Lot RP-1 (PID 40396699) with Lot RP-2 (16 Anchor Drive; PID 40396681), and the expansion of the existing apartment building to a maximum of 118 units on the consolidated lot.

1.5.5.2 Any development permitted pursuant to Policy 1.5.5.1 shall be compatible with the surrounding area and consistent with Regatta Point and this shall be achieved by having regard for the following:

- i) The height of any expansion shall not exceed seven storeys;
- ii) Vehicular access shall not be permitted from Purcells Cove Road;
- iii) The areas abutting Purcells Cove Road shall be well landscaped including hard and soft elements and trees; and
- iv) The layout and design of the buildings shall allow for the retention of mature trees.

1.5.5.3 For the purposes of calculating population density for any development permitted pursuant to Policies 1.5.5.1 and 1.5.5.2, the following population allocations shall apply:

- i) Bachelor units shall be assigned 1 person per unit;
- ii) One-bedroom units shall be assigned 2 persons per unit; and
- iii) All other dwelling units shall be assigned 2.25 persons per unit.

I HEREBY CERTIFY that the amendments to the Municipal Planning Strategy for Halifax, as set out above, were passed by a majority vote of the Regional Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2010.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2010.

Municipal Clerk

Attachment B:
Amendments to the Halifax Mainland Land Use By-law

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

1. By inserting the following section after Section 72 (Mainland South Area - Development Agreements):

72(1) For the area known as Regatta Point, the Municipality may, by development agreement, permit the consolidation of Lot RP-1 (PID 40396699) with Lot RP-2 (16 Anchor Drive; PID 40396681), and the expansion of the existing apartment building to a maximum of 118 units on the consolidated lot.

I HEREBY CERTIFY that the amendments to the Land Use By-law for Halifax Mainland, as set out above, were passed by a majority vote of the Regional Council of the Halifax Regional Municipality at a meeting held on the ____ day of _____, 2010.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2010.

Municipal Clerk

Attachment C:
Discharging Agreement

THIS DISCHARGING AGREEMENT made this day of , 2009,

BETWEEN:

ANCHOR GROUP (ATLANTIC) LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 16 Anchor Drive (Lot RP-2; PID 40396681) in Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Municipality entered into a Development Agreement with Edmonds Grounds Services Limited (General Partner of Edmonds Grounds Limited Partnership) on April 10, 1986 which was registered at the Registry of Deeds in Halifax as Document Number 21812 in Book 4156, at Pages 235 to 244 (hereinafter called the "Existing Agreement");

AND WHEREAS the Municipality entered into an amendment to the Existing Agreement with Edmonds Grounds Services Limited (General Partner of Edmonds Grounds Limited Partnership) on August 8, 1986 which was registered at the Registry of Deeds in Halifax as Document Number 51381 in Book 4228, at Pages 94 to 110 (hereinafter called the "Amending Agreement");

AND WHEREAS the Developer has requested that both the Existing Agreement and the Amending Agreement be discharged;

AND WHEREAS, pursuant to the procedures and requirements contained in the *Halifax Regional Municipality Charter*, the Regional Council of the Municipality approved this request at a meeting held on [INSERT DATE], referenced as Municipal Case Number 01003;

WITNESS that it is agreed that the Lands are hereby discharged from both the Existing Agreement and the Amending Agreement.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2009.

SIGNED, SEALED AND DELIVERED) **ANCHOR GROUP**
in the presence of) **(ATLANTIC) LIMITED**
)
)
per _____) per: _____

per _____) per: _____

SEALED, DELIVERED AND)
ATTESTED to by the proper)
signing officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence) **HALIFAX REGIONAL MUNICIPALITY**
)
)
per _____) per: _____
MAYOR

per _____) per: _____
MUNICIPAL CLERK

Attachment D:
Development Agreement

THIS AGREEMENT made this _____ day of _____, 2009,

BETWEEN:

MOUNT CEDAR DEVELOPMENTS LIMITED,
a body corporate, in the Province of Nova Scotia

- and -

ANCHOR GROUP (ATLANTIC) LIMITED,
a body corporate, in the Province of Nova Scotia
(hereinafter collectively 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 Mount Cedar Developments Limited is the registered owner of certain lands located at Lot RP-1 (Purcells Cove Road / Anchor Drive; PID 40396699) and Anchor Group (Atlantic) Limited is the registered owner of certain lands located at Lot RP-2 (16 Anchor Drive; PID 40396681) in 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 the expansion of the existing apartment building located on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies 1.5.5.1, 1.5.5.2 and 1.5.5.3 of the Halifax Municipal Planning Strategy and Section 72(1) of the Halifax Mainland Land Use By-law;

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality approved this request at a meeting held on [INSERT DATE], referenced as Municipal Case Number 01003;

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 Mainland 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 or 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.

1.4.3 Where metric values conflict with imperial values within the written text of this Agreement, the metric values 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.

2.2 Definitions Specific to this Agreement

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

- (a) “Certified Architect” means a professional, full member in good standing with the Nova Scotia Association of Architects;
- (b) “Certified Arborist” means a professional, full member in good standing with the International Society of Arboriculture;
- (c) “Forester” means a professional, full member in good standing with the Registered Professional Foresters Association of Nova Scotia;
- (d) “Forestry Technician” means a professional, full member in good standing with the Nova Scotia Forest Technicians Association;
- (e) “Landscape Architect” means a professional, full member in good standing with the Canadian Society of Landscape Architects; and
- (f) “Professional Engineer” means a professional, full member in good standing with the Association of Professional Engineers of Nova Scotia.

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, is in conformance with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case 01003:

| | |
|------------|--|
| Schedule A | Legal Description of the Lands |
| Schedule B | Site Plan |
| Schedule C | Preliminary Landscape Plan |
| Schedule D | Addition / Existing – Front Elevation “A” (Main Entry) – South |
| Schedule E | Addition – Front Elevation “A” (Main Entry) – South |
| Schedule F | Addition – End Elevation “B” – West |
| Schedule G | Addition – Rear Elevation “C” – North |
| Schedule H | Addition – Building Link Elevation “D” – East |
| Schedule I | Addition – Typical Floor |
| Schedule J | Addition – Penthouse (Seventh Storey) |
| Schedule K | Addition – Underground Parking |

3.2 General Description of Land Use

- 3.2.1 The use of the Lands permitted by this Agreement is an apartment building containing a maximum of 118 units.
- 3.2.2 The 118 dwelling unit apartment building shall consist of the existing 96 dwelling unit apartment building and one addition, attached to the southwestern end of the building near Anchor Drive, as generally shown on Schedule B.
- 3.2.3 The addition shall consist of one (1) storey of underground parking and seven (7) residential storeys above ground.
- 3.2.4 Except for the addition as described in this Agreement, the existing apartment building shall not be further enlarged.
- 3.2.5 Commercial uses are permitted on the ground floor of the addition, to a maximum of 100 square metres (1076.4 square feet), in accordance with the requirements of the R-4 (Multiple Dwelling) Zone of the Halifax Mainland Land Use By-law, as amended.
- 3.2.6 Rental of parking spaces in the underground parking to non-residents of the property is permitted.

3.3 Detailed Provisions for Land Use

- 3.3.1 The population density shall not exceed 75 persons per acre.

- 3.3.2 For the purposes of calculating population density on the Lands, bachelor units shall be assigned 1 person per unit, one-bedroom units shall be assigned 2 persons per unit, and all other dwelling units shall be assigned 2.25 persons per unit.
- 3.3.3 For the purposes of determining permissible density, one bedroom plus den units shall be considered to be one-bedroom units.

3.4 Building Siting, Height, Massing and Scale

- 3.4.1 The building wall of the addition shall be located no closer than 10.0 metres (32.8 feet) from the property line facing Anchor Drive; the covered entry canopy over the driveway shall be located no closer than 3.05 metres (10.0 feet) from the property line facing Anchor Drive.
- 3.4.2 The addition shall be located no closer than 6.0 metres (19.7 feet) from the property line facing Purcells Cove Road.
- 3.4.3 The addition shall be located no closer than 30.0 metres (98.4 feet) from the property line facing Spinnaker Drive.
- 3.4.4 The ground floor of the addition shall be connected to the southwestern end of the existing building, as generally shown on Schedules B and D; the 2nd through 7th floors of the addition shall be located no closer than 10.0 metres (32.8 feet) from the west end of the existing building.
- 3.4.5 In the consideration of construction drawings for a permit application, minor changes to the layout and positioning of the building as shown on the attached Schedules or as detailed in Sections 3.4.1 to 3.4.4 shall be permitted.
- 3.4.6 The addition is subject to the following requirements regarding floor area:
- (a) The footprint of the addition, including the link to the existing building but excluding the underground parking podium, shall not exceed 850.0 square metres (9150 square feet) in area.
 - (b) A typical floor of the addition shall not exceed 770.0 square metres (8288 square feet) in area.
 - (c) The penthouse (seventh floor) of the addition shall not exceed 320.0 square metres (3444 square feet) of enclosed floor area.
 - (d) In the consideration of construction drawings for a permit application, a minor increase of no more than five percent (5%) of the addition shall be permitted.

3.4.7 The massing of the addition shall be generally as shown on Schedules D to H, inclusive.

3.4.8 The maximum height of the addition to the top of the roof shall not exceed 25.0 metres (82.0 feet) above the mean grade of the finished ground adjoining the building.

3.5 Materials and Architectural Requirements

3.5.1 The addition shall be complementary to or substantially conform with the existing building's design, materials, exterior siding, roof materials, colour and ornamentation.

3.5.2 All balconies on the addition shall have a concrete floor with glass and painted metal railings.

3.5.3 Any exposed foundation or parking garage face in excess of 0.5 metres (1.6 feet) shall be architecturally detailed, veneered with stone or brick, painted, stucco, or a complementary equivalent.

3.5.4 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.

3.5.5 All roof mounted mechanical and telecommunications equipment shall be visually integrated into the roof design or screened, and shall not be visible from any public street or adjacent residential development.

3.5.6 The addition shall be designed such that the mechanical systems (HVAC, etc.) are not visible from Anchor Drive, Purcells Cove Road or Spinnaker Drive, or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

3.6 Parking, Circulation and Access

3.6.1 The underground parking in the addition shall be sited as generally shown on Schedules B, H and K, and shall be accessed from the existing underground parking garage.

3.6.2 The one (1) level of underground parking in the addition shall provide a minimum of thirty-four (34) parking spaces.

3.6.3 Within the underground parking for the addition and the existing building, parking spaces shall be reserved at the rate of one space per dwelling unit for the use of residents of the multiple unit residential building. Remaining spaces may be rented to non-residents of the property.

- 3.6.4 All parking spaces contained within the underground parking shall comply with the minimum requirements of the Land Use By-law.
- 3.6.5 The building shall include designated bicycle parking as per the requirements of the Land Use By-law.
- 3.6.6 All driveways shall conform to Municipal standards, including the Streets By-law.
- 3.6.7 The driveway access shall be one-way only, with an entrance at the east end of the driveway and an exit at the west end of the driveway, as generally shown on Schedule B.
- 3.6.8 The driveway access shall maintain setbacks from the property lines as generally shown on Schedules B and C.
- 3.6.9 The driveway access, as shown on Schedules B and C, shall have a hard finished surface such as asphalt, concrete, interlocking precast concrete paving stones, or an acceptable equivalent in the opinion of the Development Officer.
- 3.6.10 The limits of the outdoor driveway access shall be defined by landscaping and curbs, and such curbs shall not be asphalt.

3.7 Building and Site Lighting

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

3.8 Landscaping

- 3.8.1 Prior to the issuance of a Construction Permit, the Developer agrees to provide a Detailed Landscape Plan prepared by a Landscape Architect, and which complies with the provisions of Section 3.8 and which generally conforms with the Preliminary Landscape Plan as contained in Schedule C.
- 3.8.2 At a minimum, the Detailed Landscape Plan shall identify planting as outlined in this Agreement and shall identify appropriate measures to provide for aesthetic enhancement.
- 3.8.3 The Detailed Landscape Plan should maintain as much of the natural landscape and vegetation as can be reasonably achieved.
- 3.8.4 Planting details for each type of plant material proposed on the Detailed Landscape Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).

- 3.8.5 All plant material shall conform to the current Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the current Canadian Nursery Sod Growers' Specifications.
- 3.8.6 The minimum acceptable sizes for plant material shall be as follows:
- (a) High branching deciduous trees at grade: 60 mm caliper;
 - (b) High branching deciduous trees on podiums: 45 mm caliper;
 - (c) Coniferous trees: 1.5 metres in height; and
 - (d) Shrubs: 0.6 metres in height or spread.
- 3.8.7 Notwithstanding subsection 3.8.6, no landscaping greater than 0.6 metres (2 feet) in height shall be permitted within the daylighting triangle.
- 3.8.8 For the purpose of subsection 3.8.7, the daylighting triangle means a triangular area on a corner lot which is formed by the corner lot lines and a straight line which intersects them 6.1 metres (20) feet) from the corner where they meet.
- 3.8.9 Decorative plantings shall be provided at the entrances to the building consisting of a combination of decorative trees, shrubs and ground cover.
- 3.8.10 Plantings on podiums above structures shall be selected for their ability to survive on rooftop environments. Trees on podiums shall be located in planting beds or containers.
- 3.8.11 It is the responsibility of the Developer to ensure that the podium above the underground parking structure is capable of supporting the loads from all landscaping as well as the anticipated mature weight of the plant material.
- 3.8.12 Construction Details or Manufacturer's Specifications for all constructed landscaping features, such as fencing, retaining walls, benches, garbage and recycling receptacles, etc., shall be provided to the Development Officer. The documents shall describe their design, construction, specifications, model numbers, quantities, manufacturers of site furnishings, hard surface areas, materials and placement and include a certification from a Landscape Architect that they will enhance the design of the building and the character of the surrounding area.
- 3.8.13 As generally shown on Schedule C, the walkways shall be identified on the Detailed Landscape Plan, and shall have a hard finished surface such as poured in place concrete, interlocking precast concrete paving stones, or an acceptable equivalent in the opinion of the Development Officer.
- 3.8.14 All retaining wall systems are to be identified on the Detailed Landscape Plan, including the height of the wall and the type of fencing proposed in conjunction with the wall.

- 3.8.15 All retaining walls shall be constructed of a decorative precast concrete or modular stone retaining wall system or equivalent, with a precast concrete cap or equivalent.
- 3.8.16 A construction detail of any retaining wall and fence combination shall be provided and certified by a Professional Engineer.
- 3.8.17 Upright shrubs with a minimum of 50 percent being coniferous shall be located at the base of all retaining walls. All shrubs shall be a minimum height of 0.6 metres (2 feet) and be planted with a maximum spacing of 1 metre (3 feet) on centre. Low maintenance ground covers or vines shall be used in association with the shrubs and retaining walls.
- 3.8.18 No HRM street trees are to be removed or damaged during the construction phase. The Detailed Landscape Plan shall identify plywood protective hoarding as close to the dripline of the existing street trees as possible to protect them during the construction phase.
- 3.8.19 Prior to the issuance of the first Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect certifying that all landscaping has been completed according to the terms of this Agreement.
- 3.8.20 Notwithstanding subsection 3.8.19, an 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 supplies a security deposit in the amount of 110% of the estimated cost to complete the landscaping. The Developer shall engage the services of a Landscape Architect to prepare and submit, as part of the Occupancy Permit application, a cost estimate for the uncompleted work. The cost estimate, including quantities, unit prices and a 10% contingency fee, shall be approved by the Development Officer. 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. Should the Developer not complete the landscaping within twelve (12) months of issuance of first Occupancy Permit, the Municipality may, but is not required to, use the deposit to complete the landscaping as set out in this Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification by a Landscape Architect.

3.9 Signage

Signage for the development shall be accordance with the requirements of the R-4 (Multiple Dwelling) Zone of the Halifax Mainland Land Use By-law, as amended.

3.10 Outdoor Storage and Display

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

3.10.2 Propane tanks, electrical transformers and other utility boxes shall be located on the site in such a way to ensure minimal visual impact from Anchor Drive, Purcells Cove Road and Spinnaker Drive, and from abutting residential uses. 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.

3.11 Solid Waste Facilities

All solid waste facilities shall be in accordance with By-law S-600 (Solid Waste Resource Collection and Disposal By-Law) as amended from time to time.

3.12 Maintenance

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

3.13 Requirements Prior to Approval

3.13.1 Prior to the application for any municipal permits, the Developer shall complete the MICI (Multi-unit / Industrial / Commercial / Institutional) process, as outlined by the Municipality.

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

- (a) Plan of subdivision showing approval of consolidation of Lot RP-1 (PID 40396699) with Lot RP-2 (PID 40396681);
- (b) A Detailed Landscape Plan in accordance with Section 3.8 ;
- (c) A detailed Site Disturbance Plan in accordance with clause (a) of Section 5.1 ;
- (d) A detailed Erosion and Sedimentation Control Plan in accordance with clause (b) of Section 5.1 ; and
- (e) A detailed Final Site Grading and Stormwater Management Plan in accordance with clause (c) of Section 5.1 .

3.13.3 Prior to the issuance of the first Occupancy Permit, the Developer shall provide the following to the Development Officer:

- (a) Certification from a Professional Engineer indicating that the Developer has complied with the Erosion and Sedimentation Control Plan required pursuant to this Agreement;

- (b) Certification from a Professional Engineer indicating that the Developer has complied with the Stormwater Management Plan required pursuant to this Agreement; and
- (c) Certification from a Landscape Architect indicating that either the Developer has complied with the Detailed Landscape Plan required pursuant to this Agreement, or that the Developer has exercised their option under subsection 3.8.19 .

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

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

All construction shall satisfy Municipal Services Systems Specifications unless otherwise varied by this Agreement and shall receive written approval from the Municipality's Development Engineer prior to undertaking any work.

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 Municipality's Development Engineer.

4.3 Garbage Collection from Building

The Developer shall be responsible for garbage collection from the building. The Municipality shall be relieved of any and all responsibility respecting garbage collection from the Lands.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plans

Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:

- (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
- (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and,
- (c) Submit to the Development Officer a detailed Final Site Grading and Stormwater Management Plan prepared by a Professional Engineer, which shall include an appropriate stormwater collection and treatment system. The Final Site Grading and Stormwater Management Plan shall identify structural and vegetative stormwater management measures, which may include infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers that will minimize adverse impacts on receiving watercourses during and after construction.

5.2 Stormwater Management System

- 5.2.1 The Developer agrees to construct at its own expense the stormwater collection and treatment system which conforms to the concept design reviewed by the Development Officer, in consultation with the Municipality's Development Engineer, pursuant to clause (c) of subsection 5.1. The Developer shall provide certification from a Professional Engineer that the system, or any phase thereof, has been constructed in accordance with the approved design.
- 5.2.2 The Developer agrees, at its own expense, to maintain in good order all stormwater facilities on the Lands.

5.3 Failure to Conform to Plans

If the Developer fails at any time during any site work or construction to fully conform to the approved plans as required under Section 5.1, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Municipality's Development Engineer to ensure compliance with the environmental protection measures.

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 not 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 subsection 7.3.3; and
- (b) The granting of an extension to the length of time for the completion of the development as identified under subsection 7.4.1.

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 Dartmouth, 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 thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is 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 five (5) 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 Agreement, commencement of development shall mean the installation of the footings or foundation for the addition to the existing building.
- 7.3.3 Council may consider granting an extension of the commencement of development time period through a resolution under clause (a) of Section 6.2, if the Municipality receives a written request from the Developer prior to the expiry of the commencement of development time period.

7.4 Completion of Development

- 7.4.1 If the Developer fails to complete the development after seven (7) 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 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 Mainland Land Use By-law, as may be amended from time to time.

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 covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, 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; and
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remediation under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

WITNESS that this Development Agreement, made in quadruplicate, was properly executed by the respective Parties on this _____ day of _____, 2009.

SIGNED, SEALED AND DELIVERED) **MOUNT CEDAR DEVELOPMENTS**
in the presence of) **LIMITED**

per _____) per: _____

per _____) per: _____

SIGNED, SEALED AND DELIVERED) **ANCHOR GROUP (ATLANTIC)**
in the presence of) **LIMITED**

per _____) per: _____

per _____) per: _____

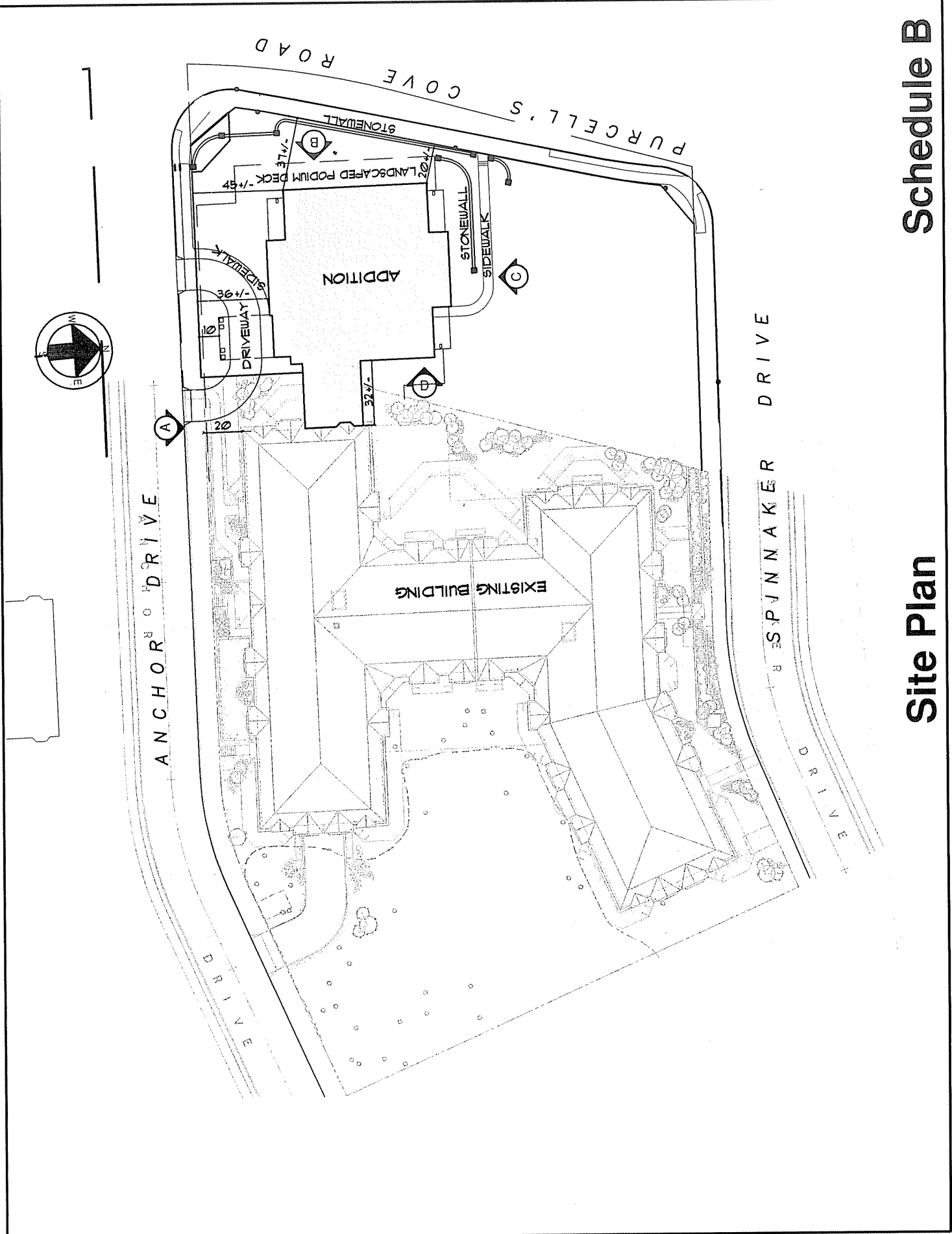
SEALED, DELIVERED AND)
ATTESTED to by the proper)
signing officers of Halifax Regional)
Municipality duly authorized)
in that behalf in the presence) **HALIFAX REGIONAL MUNICIPALITY**

per _____) per: _____

MAYOR

per _____) per: _____

CLERK

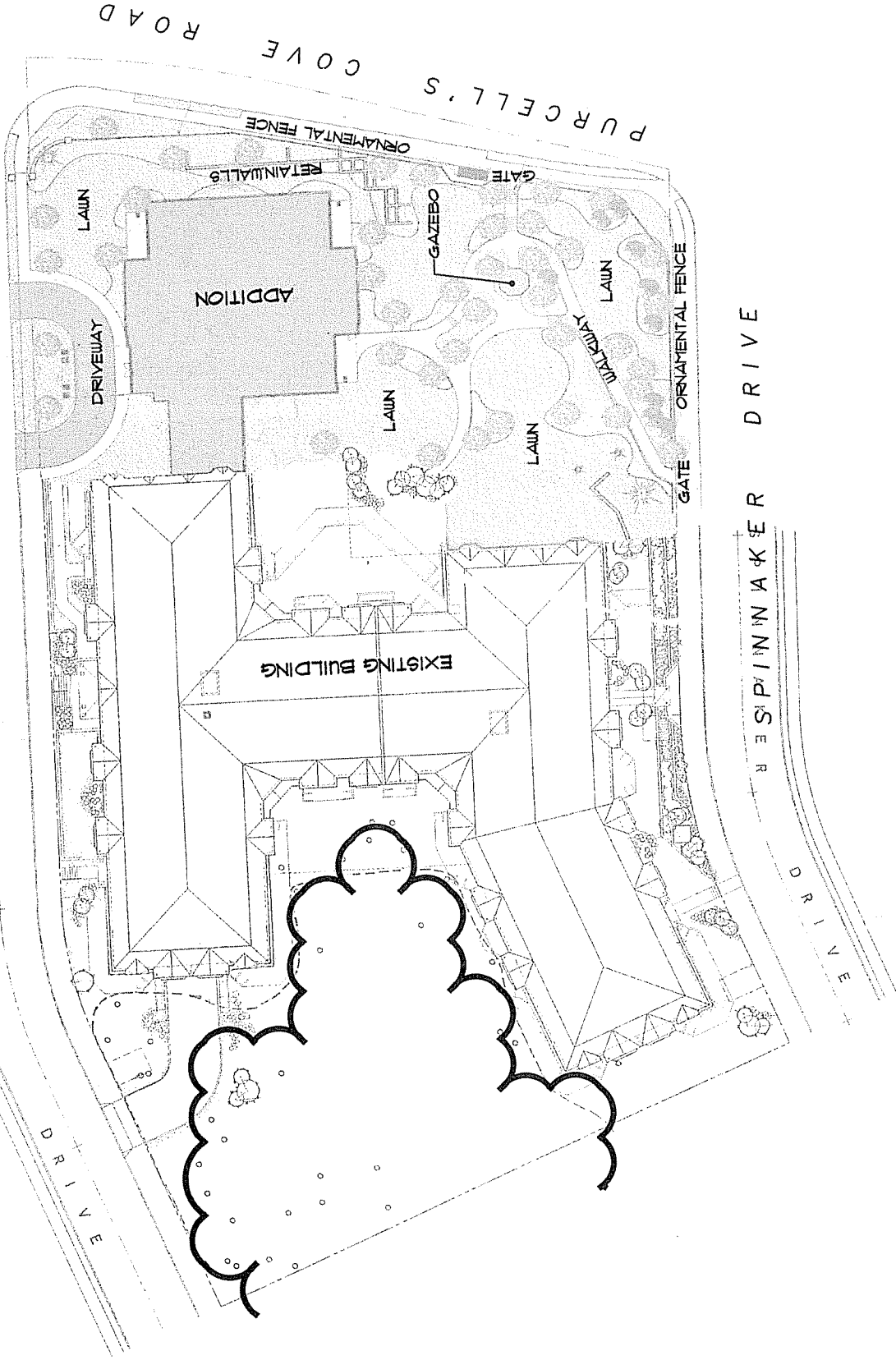


Schedule B

Site Plan

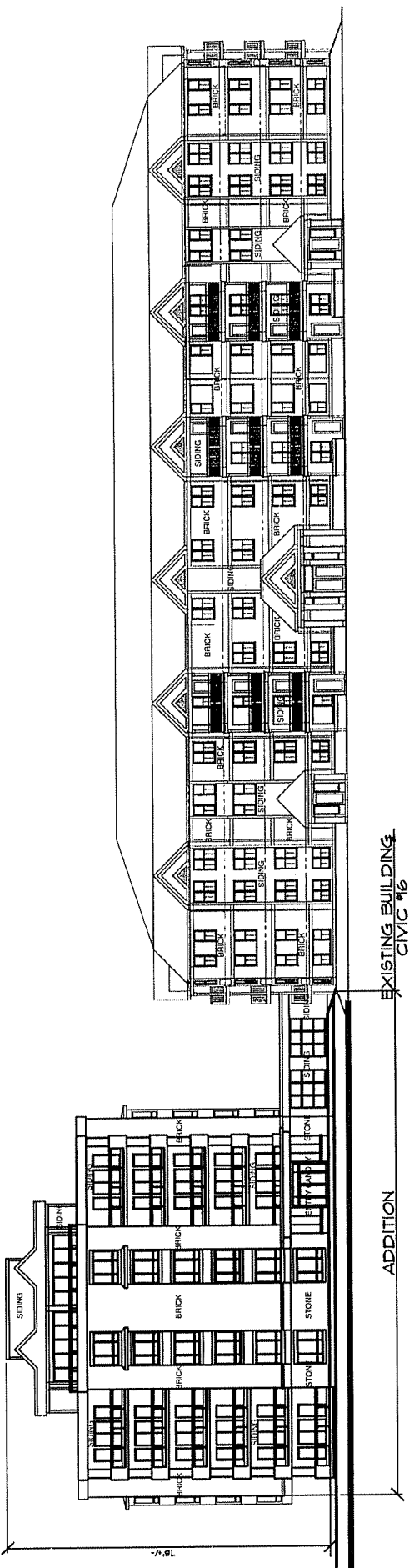


ANCHOR DRIVE



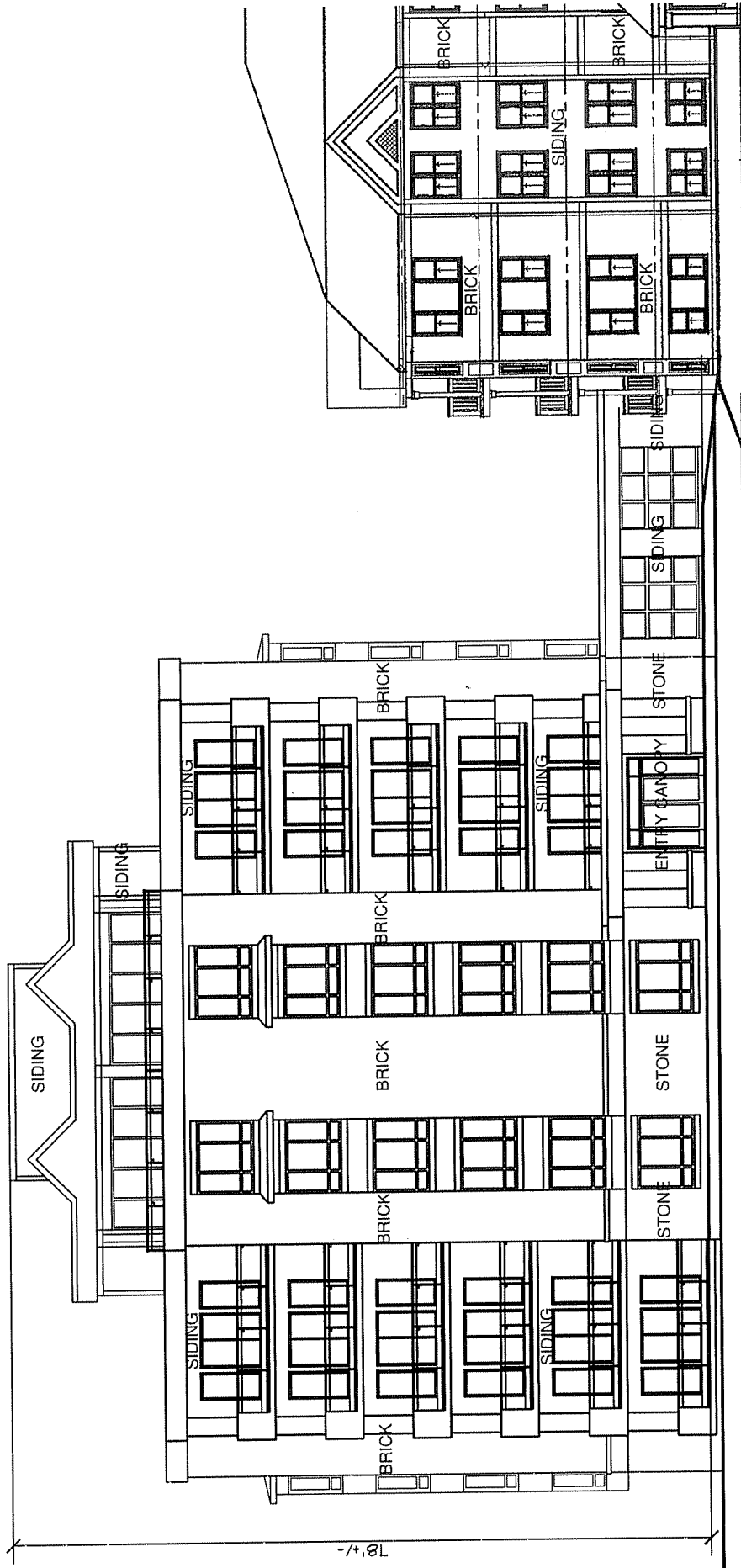
Landscape Plan

Schedule C



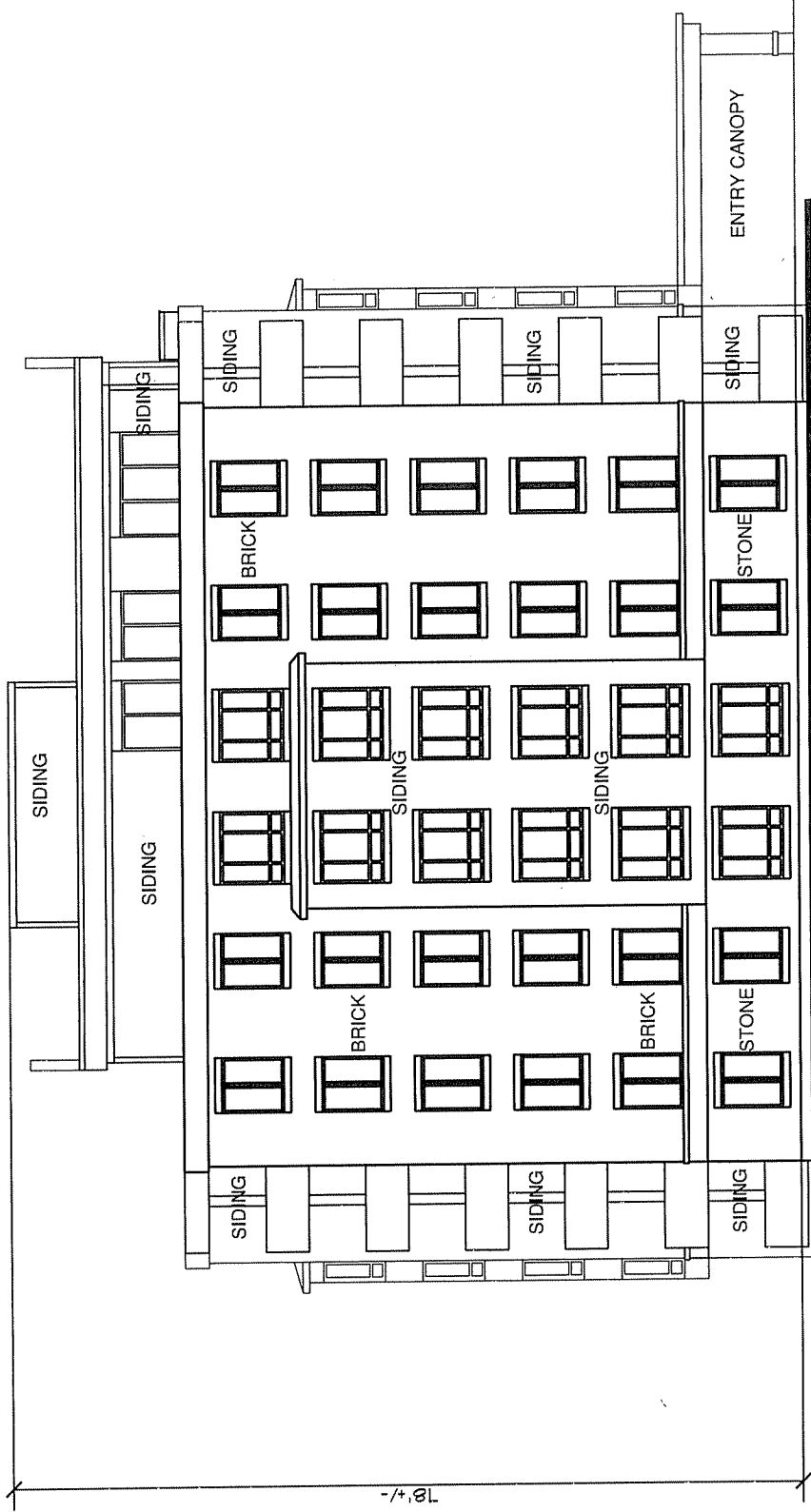
ADDITION/EXISTING - FRONT ELEVATION "A" (MAIN ENTRY) SOUTH

Schedule D



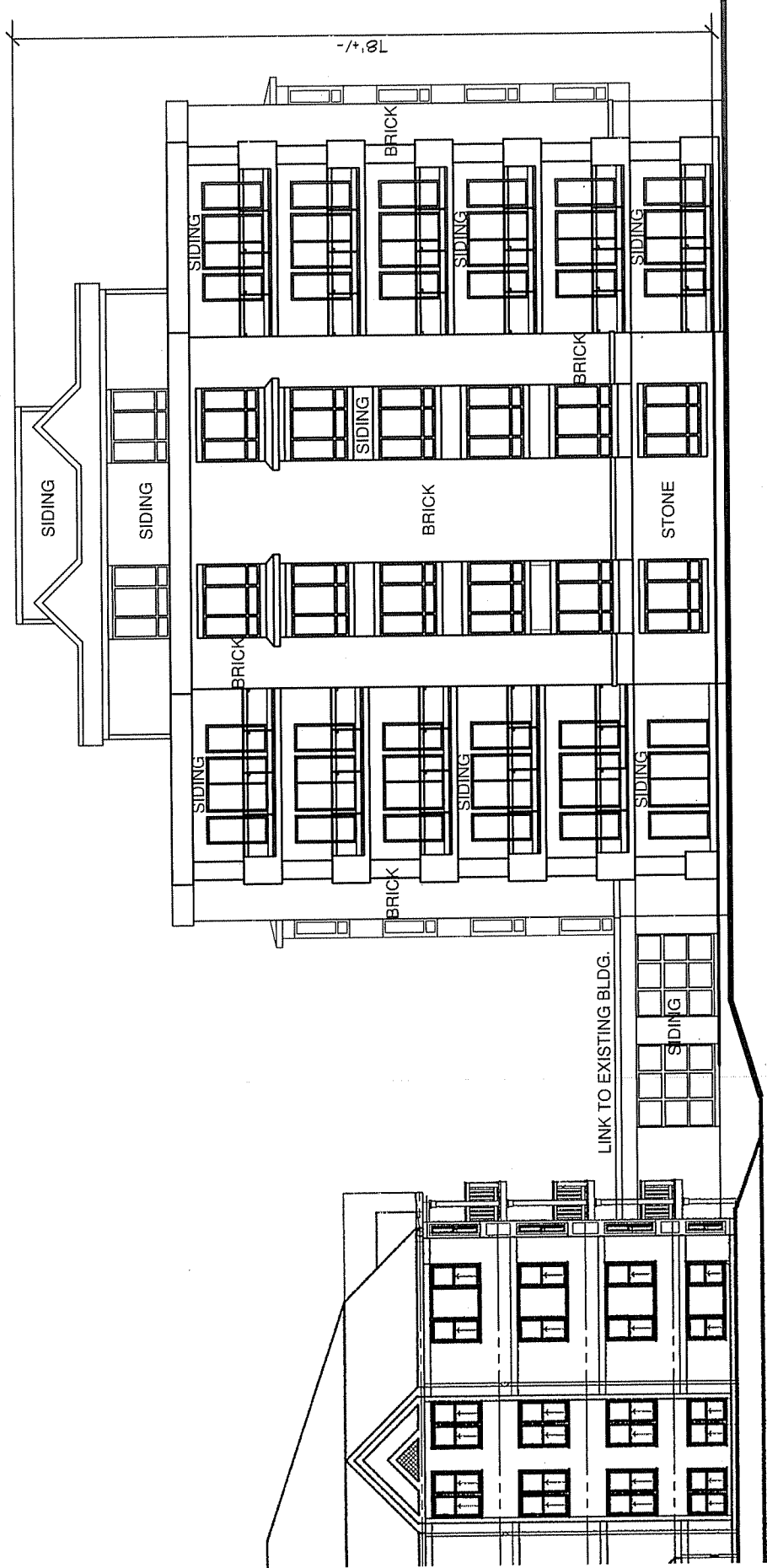
ADDITION - FRONT ELEVATION "A" (MAIN ENTRY) SOUTH

Schedule E



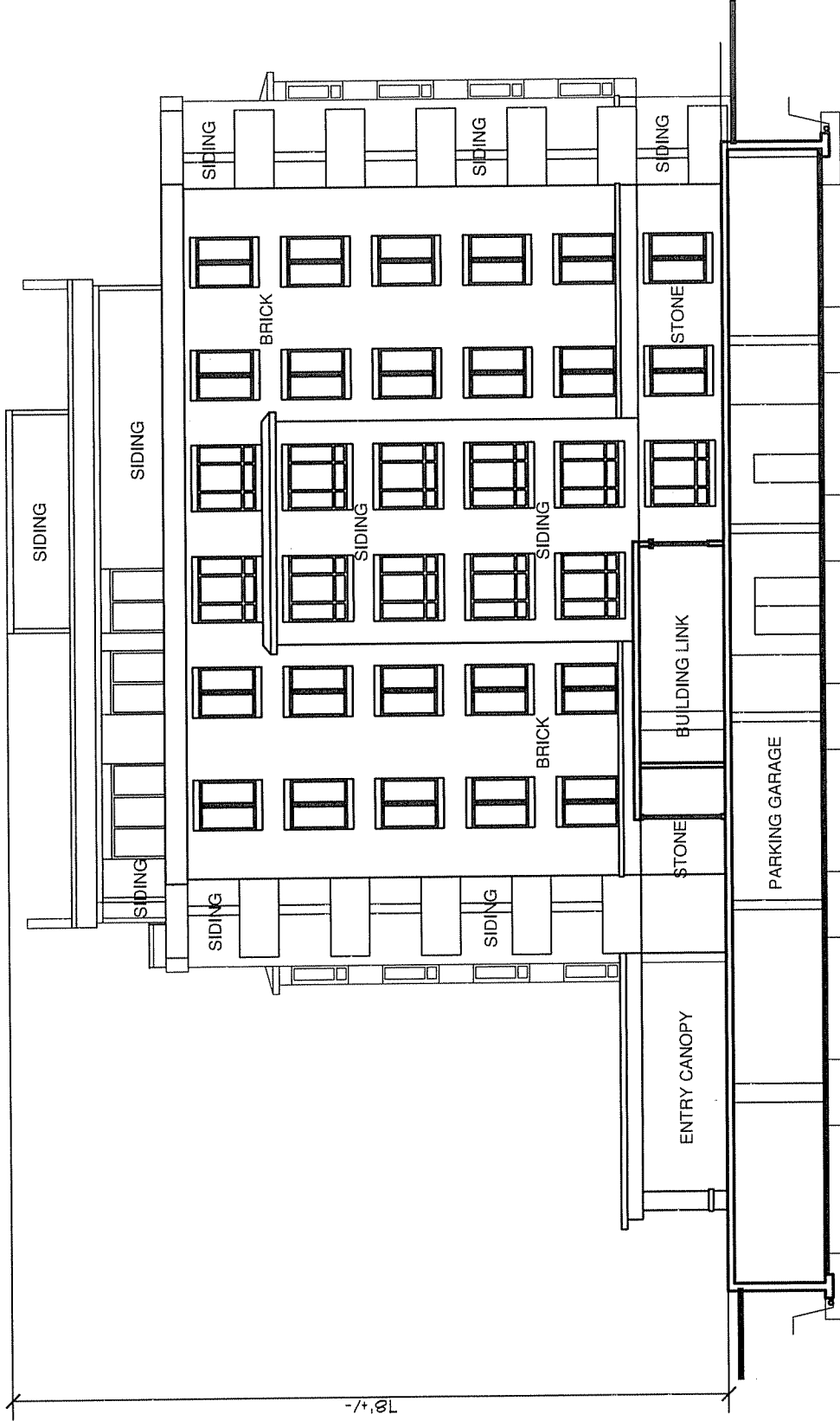
ADDITION - END ELEVATION "B" (WEST)

Schedule F



ADDITION - REAR ELEVATION "C" (NORTH)

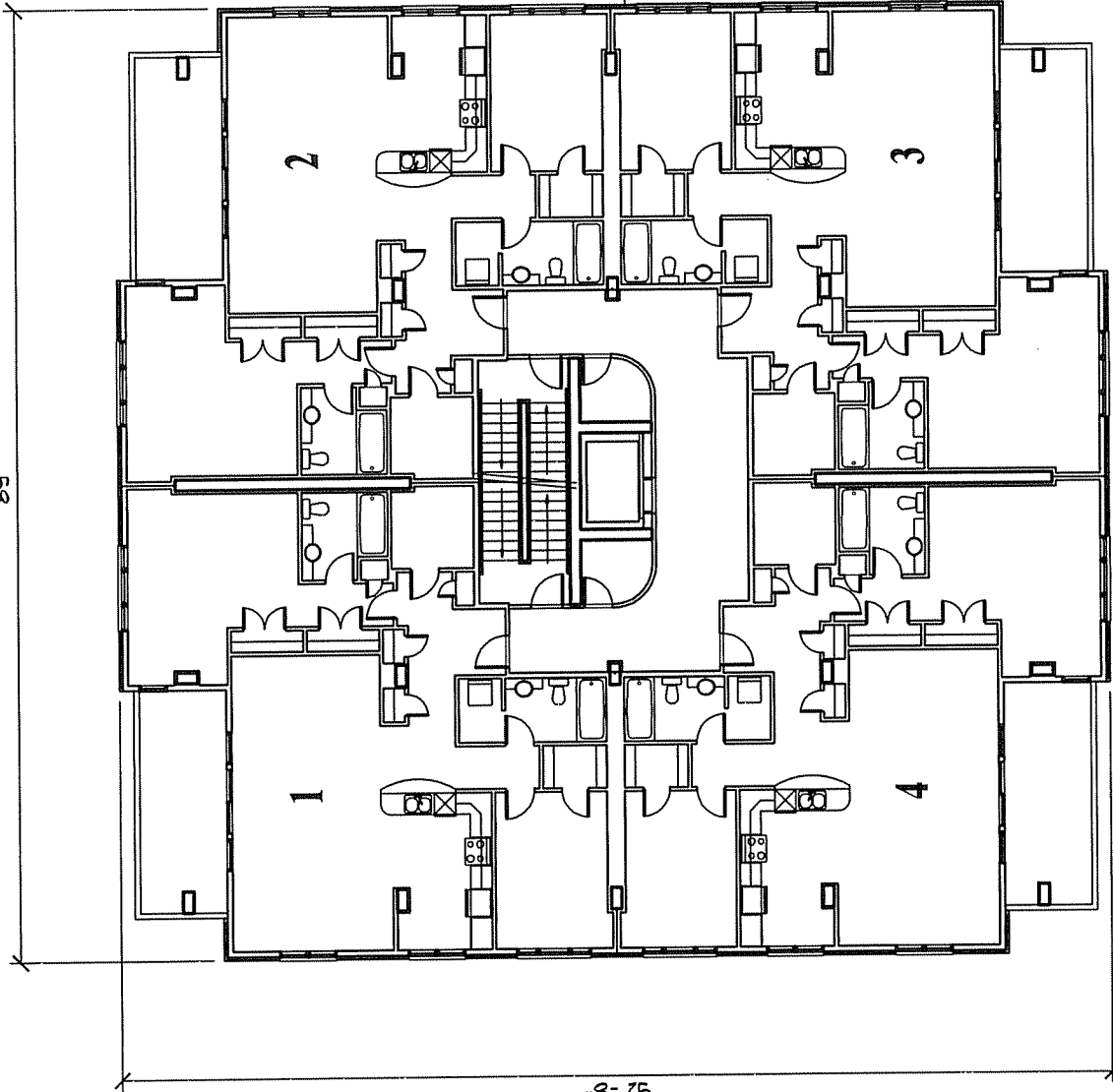
Schedule G



ADDITION - BLDG LINK ELEVATION "D" (EAST)

NORTH

68'



WEST

92'-8"

EAST

BLDG. LINK
(BELOW)

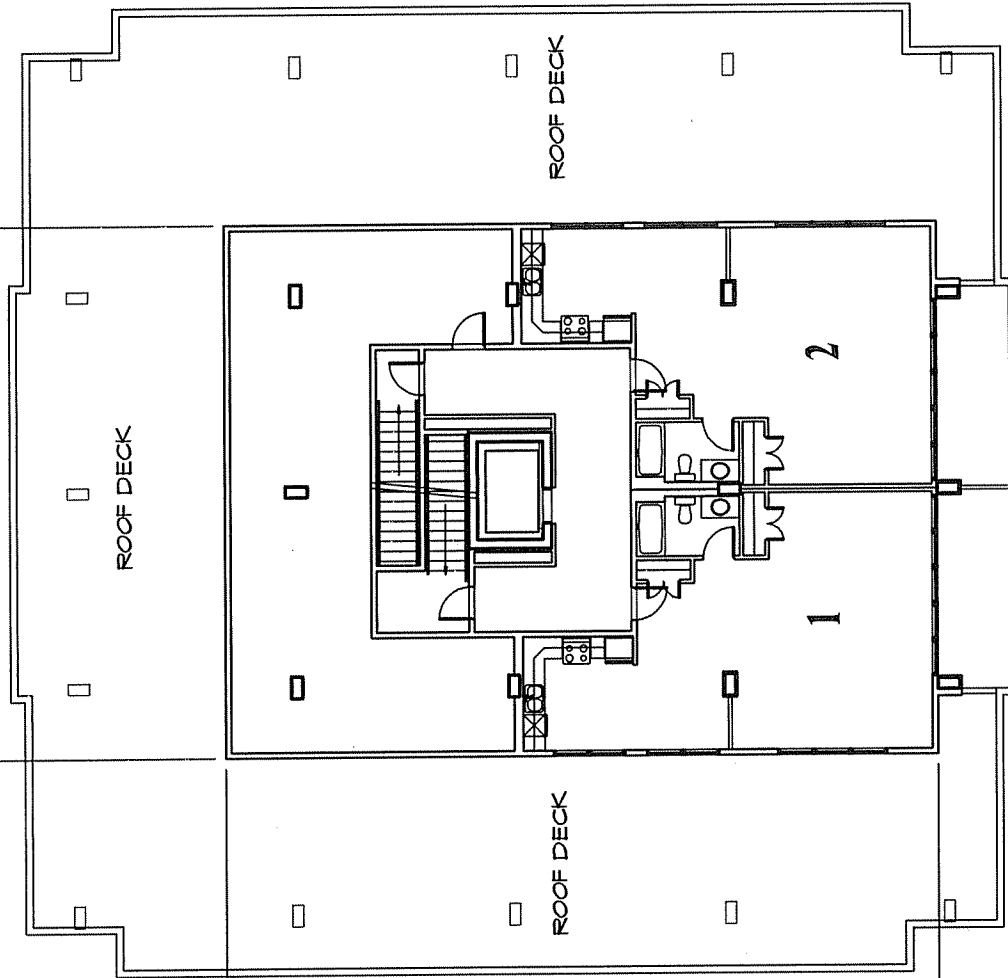
EXISTING BLDG.

SOUTH
ADDITION - TYPICAL FLOOR

Schedule I

NORTH

49'



WEST

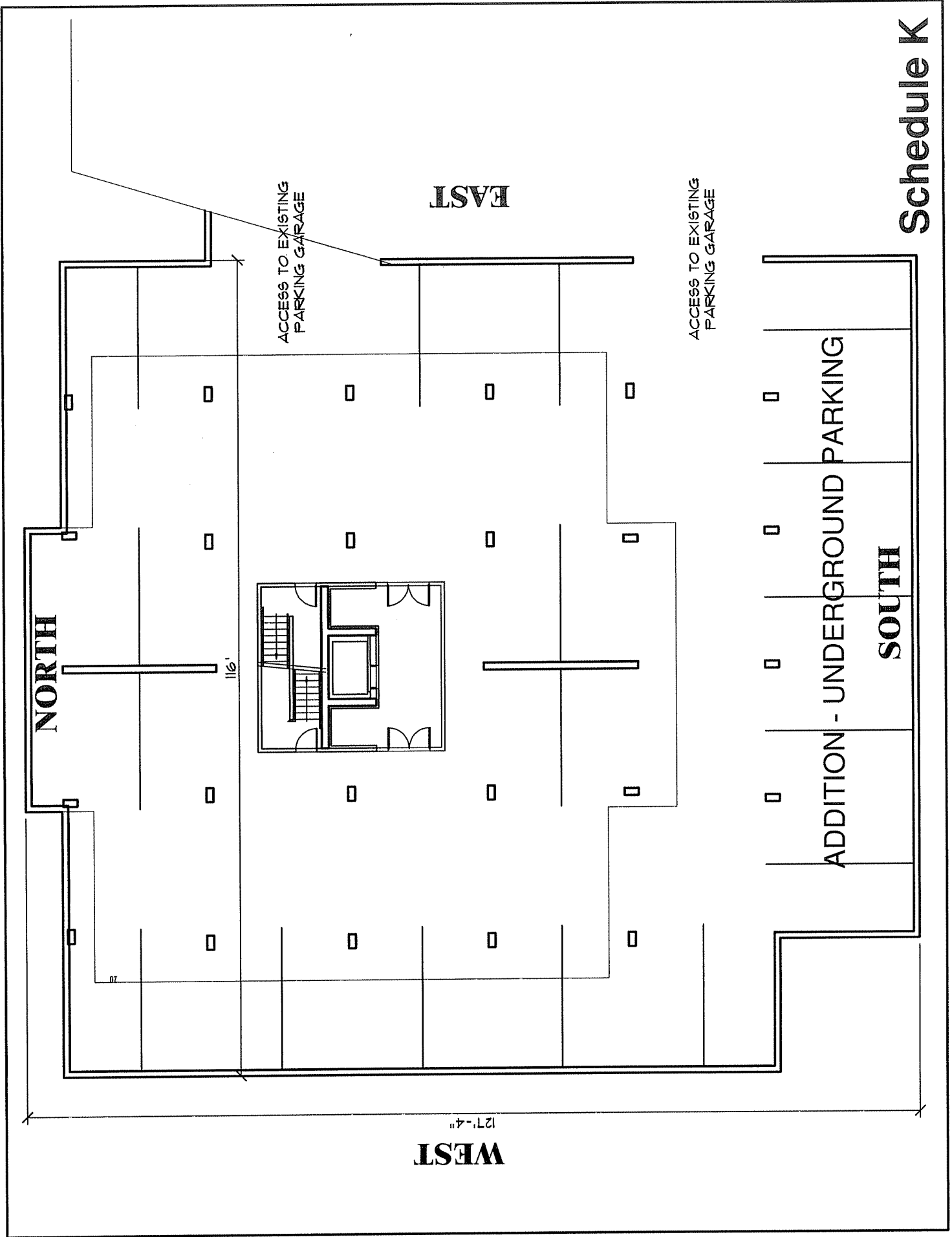
65'-6"

EAST

SOUTH

ADDITION - PENTHOUSE (7TH STOREY)

Schedule J



NORTH

EAST

SOUTH

WEST

ACCESS TO EXISTING
PARKING GARAGE

ACCESS TO EXISTING
PARKING GARAGE

ADDITION - UNDERGROUND PARKING

116'

127'-4"

20'

Schedule K