

**Item No. 10.1**

**Halifax and West Community Council**  
**October 28, 2013**

**TO:** Chair and Members of Halifax and West Community Council

Original Signed

**SUBMITTED BY:**

Brad Anguish, Director, Community and Recreation Services

**DATE:** October 1, 2013

**SUBJECT:** Case 17195: Development Agreement – 6112 Quinpool Road, Halifax

**SUPPLEMENTARY REPORT**

**ORIGIN**

- Application by Studio Works International Inc.
- Approval by Regional Council on June 25, 2013, of amendments to the Halifax MPS and Halifax Peninsula LUB to allow a mixed use commercial and residential building at 6112 Quinpool Road, through a development agreement.

**LEGISLATIVE AUTHORITY**

- *Halifax Regional Municipality Charter*, Part VIII, Planning & Development

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Approve the proposed development agreement, presented as Attachment A to this report, and;
2. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND/DISCUSSION**

On June 25, 2013 Regional Council held a public hearing to consider the proposed amendments to the Municipal Planning Strategy for Halifax (MPS) and the Land Use By-law for Halifax Peninsula (LUB), as well as a proposed development agreement, to permit an 8 storey mixed use commercial and residential development at 6112 Quinpool Road, Halifax. Subsequent to the public hearing, Regional Council gave its approval to the amendments to the MPS and LUB to enable the consideration of a mixed use commercial and residential development at 6112 Quinpool Road through a development agreement. While the proposed development agreement was part of the public hearing process, it could not be approved by Council until the MPS and LUB amendments took effect.

The amendments to the Municipal Planning Strategy and Land Use By-law have since been reviewed by the Provincial Department of Service Nova Scotia and Municipal Relations as per Section 223 of the *Halifax Regional Municipality Charter*. These amendments became effective on August 17, 2013. As noted in the April 22, 2013 report, staff is now required to bring the matter back to Halifax and West Community Council for a decision on the proposed development agreement now that the MPS and LUB amendments have taken effect.

Since the June 25, 2013 public hearing, minor changes have been made to the Development Agreement to address some of the concerns discussed during the public hearing, and as a result of further consultation with HRM staff and the applicant. Staff has consulted HRM Legal Services on the proposed changes to the development agreement and they have advised that the changes are minor in nature and can be considered by Community Council without an additional public hearing. The changes to the development agreement include the following:

- Sections 3.2.1 (c); 3.2.2(b) and 4.3 which reference the removal of the HRM owned tree located on Pepperell Street and the requirement to receive approval from the Municipality before removal and to provide compensation as determined by the Municipality. The tree will be lost in order to accommodate vehicular access to the parking area.
- Section 3.7.6 which outlines the height and design of the guard providing separation from the existing dwelling at 6133 and 6131 Pepperell Street.
- Section 3.4.1 which addresses the total commercial floor area to be permitted.
- Section 3.8.2 which outlines the materials of awnings.

### **Tree Retention / Compensation**

Through consultation with HRM's Urban Forester, it was agreed that the Developer provide 11 trees with a caliper of 60 mm and extend the vegetated verge along Pepperell Street to the corner of Pepperell and Vernon Street to compensate for the loss of a tree located in the HRM right-of-way. The developer may provide the equivalent value of the trees in cash or through site work and tree planting. The location of the new trees is to be determined by the Urban Forester, however, planting sites will be chosen based on sound arboricultural practices and proximity to the subject property. The specific requirement for compensation is not included within the development agreement, as the *HRM Charter* does not provide the ability to consider such matters. However, the *HRM Charter* and the *HRM By-Law # T-600 - By-Law Respecting Trees*

*On Public Lands*, does require the Developer to seek approval from the Municipality to remove an HRM owned tree and as such compensation can be sought as part of such approval.

Although the development will result in the removal of some trees located on the shared property line of the property and 6133/6131 Pepperell Street and 6132 Quinpool Road, HRM does not have the authority to require compensation for the tree loss on private property.

### **Parking Ramp Safety Guard**

To provide a buffer between the parking access and the neighbouring residential property at 6133 and 6131 Pepperell Street, the proposed development agreement requires a guard, such as a wall or fence, to be located along the southern portion of the western property line. The proposed development agreement has been amended to require that the proposed wall is 42 inches high to meet the requirements to accord with the requirements of the National Building Code. In addition, the appearance of the wall would be tempered by the introduction of artwork, such as murals, textural plantings and trellises, architectural detail or a combination of these options.

### **Total Commercial Floor Area**

The proposed development agreement allows commercial uses to be located at the ground floor and the 2<sup>nd</sup> floor. A traffic impact statement (TIS) was completed for this application on August 2, 2011 and a supplementary TIS was completed on May 6, 2013. The TIS assessed the traffic generation for 81 residential units and 31,500 square feet of commercial floor space. The proposed development agreement has been revised to require a supplementary TIS if the commercial floor area exceeds 31,500 square feet. It is important to note that commercial uses are still limited to the ground and 2<sup>nd</sup> floor of the building.

### **Awning Material**

The proposed development agreement requires awnings to be constructed of a fabric material. At the request of the developer, the proposed development agreement has been revised to include glass as an acceptable awning material. The addition of this type of material is considered favorable by staff, as it adds to the variety of building material. It is important to note that the proposed development agreement considers changes to the building material as a non-substantial amendment, which require approval through a resolution from Community Council and not require a public hearing.

### **Commercial Uses Along Pepperell**

Although no changes have been made to the development agreement regarding commercial uses along Pepperell Street, the item was discussed during the public hearing (June 25, 2013) so further clarification is included herewith. A Council motion was made to exclude commercial uses along Pepperell Street as part of the amendment to the MPS, however, this motion was defeated. As such, staff have not made any changes to the development agreement as it pertains to commercial uses along Pepperell Street. Staff would like to highlight that the proposed development agreement already includes provisions that would restrict the size of commercial occupancies that could be accessed from Pepperell Street such that they are to be small scale.

### **FINANCIAL IMPLICATIONS**

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved 2013/14 budget with existing resources.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

The level of community engagement was consultation, achieved through a Public Information Meeting held on September 20, 2012 and a Public Hearing on June 25, 2013.

Notices of the public information meeting and public hearing were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 3 of the April 22, 2013 staff report.

### **ENVIRONMENTAL IMPLICATIONS**

No implications have been identified.

### **ALTERNATIVES**

1. Halifax and West Community Council may choose to approve the proposed development agreement provided as Attachment A of this report. This is staff's recommendation. A decision of Council to approve the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to propose modifications to the proposed development agreement. Such modifications may require further negotiations with the Developer, and may require a supplementary report and/or an additional public hearing.
3. Halifax and West Community Council may choose to refuse the proposed development agreement. Pursuant to the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Attachment A: Proposed Development Agreement

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

Report Prepared by: Jillian MacLellan, Planner 1, Planning Services, 490-4423  
Original Signed

Report Approved by: Kelly Dent, Manager of Development Approvals, 490-4800

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**Attachment A**  
**Revised Proposed Development Agreement**

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

BETWEEN:

**[DEVELOPER]**

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 6112 Quinpool Road, 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 residential and commercial building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and policies 1.14, 1.14.1 of Section VI and policies 2.9 and 2.9.1 of Section XII of the Municipal Planning Strategy for Halifax.

AND WHEREAS the **INSERT** Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 17195;

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

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## **PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **1.1 Applicability of Agreement**

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

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

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

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

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

### **1.4 Conflict**

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

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

## **1.5 Costs, Expenses, Liabilities and Obligations**

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

## **1.6 Provisions Severable**

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

## **PART 2: DEFINITIONS**

### **2.1 Words Not Defined under this Agreement**

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

### **2.2 Definitions Specific to this Agreement**

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

- (a) *Height* means the vertical distance of the highest point of the roof, excluding any mechanical rooftop equipment, above the mean grade of the finished ground adjoining the building along the principle street; and
- (b) *Live/Work Unit* means a residential unit that includes a commercial component and may include a commercial store front.

## **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 17195:

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan
Schedule C	North Elevation (Quinpool Road)
Schedule D	East Elevation (Vernon Street)
Schedule E	South Elevation (Pepperell Street)
Schedule F	West Elevation



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

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

- (a) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.6 of this Agreement;
- (b) A Site Servicing Plan prepared by a Professional Engineer and acceptable to the Development Engineer in accordance with Section 4.1 of this Agreement; and
- (c) Written approval from the Municipality regarding the removal the HRM tree in accordance with Section 4.3 of this Agreement.

3.2.2 Upon the issuance of the first Occupancy Permit, the Developer shall provide to the Development Officer:

- (a) A letter prepared by a member in good standing of the Canadian Society of Landscape Architects shall be provided to the Development Officer certifying that all landscaping has been completed according to Schedule B and Section 3.6 of this Agreement; and
- (b) Compensation for the loss of an HRM tree in accordance with Section 4.3 of this Agreement.

### **3.3 General Description of Land Use**

3.3.1 The uses of the Lands permitted by this Agreement is an eight (8) storey, mixed use residential and commercial building.

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

3.4.1 Commercial uses fronting Quinpool Road and Vernon Street shall be located on the ground and second level. A maximum of 2,926.45 square metres (31,500 square feet) of commercial floor area is permitted. Additional commercial floor area is subject to a supplementary Traffic Impact Study which would support the additional floor area, as determined by the Development Engineer.

3.4.2 Commercial uses shall be limited to those uses permitted in the C-2C (Minor Commercial – Quinpool Road) Zone of the Land Use By-law for Halifax Peninsula, as amended from time to time.

3.4.3 Further to Section 3.4.1, the footprint for commercial uses accessed from Pepperell Street shall not exceed 278.71 square metres (3,000 square feet).

3.4.4 The total number of residential units shall not exceed 72 units and at least 50% of the residential units shall contain 2 or more bedrooms.

- 3.4.5 Further to Sections 3.4.1 and 3.4.4, the maximum number of residential units permitted may be increased to a maximum of 81 residential units if residential units are developed on the second floor of the building or along the ground level facing Pepperell Street.
- 3.4.6 The commercial component of Live/Work Units shall be permitted at the ground level along Pepperell Street and throughout the second level. The residential portion of a Live/Work Unit shall be subject to the requirements for residential units as outlined in this section.

### **3.5 Height and Architectural Requirements**

- 3.5.1 The maximum height of the building along Quinpool Road shall not exceed 27.43 metres (90 feet).
- 3.5.2 The maximum height of the building along Pepperell Street shall not exceed 12.19 metres (40 feet).
- 3.5.3 The building's exterior design shall be as shown on Schedules C to F. A minimum of three major exterior cladding materials, excluding fenestration, are required for any publicly-viewed façade as generally shown on the Schedules. The use of two discernible colours or two discernible textures of the same material are acceptable as meeting this requirement.
- 3.5.4 Further to Section 3.5.3, acceptable cladding materials include brick, stone masonry, wooden shingles and high quality pre-cast panelling containing fine grained detail to resemble one of the other permitted cladding materials.
- 3.5.5 The first floor front façade of the building, with ground floor commercial uses, shall contain at least 75% windows or doors to provide view of the interior of the building from the street and vice versa.
- 3.5.6 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade and subject to the requirements of any other applicable by-law, statute or regulation.
- 3.5.7 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 permitted along extended façades to provide shelter, and encourage pedestrian movement.
- 3.5.8 Individual entrances from the street shall be provided for each commercial occupancy located on the ground level.
- 3.5.9 The main entrances to the residential portion of the building shall be located on Vernon Street and shall be emphasized by detailing, changes in materials, and other architectural devices.

- 3.5.10 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.5.11 Balconies shall be provided as shown on Schedules C to F and shall be made of aluminium framing with insert glass. Additional balconies may be considered under Section 6.1.
- 3.5.12 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, architectural detail or a combination of these options.
- 3.5.13 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc. ) are not visible from Quinpool Road, Pepperell Street, Vernon Street 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.
- 3.5.14 Roof mounted telecommunication equipment shall be integrated into the roof design of the building.
- 3.5.15 Access to the underground parking and solid waste collection shall be incorporated into the overall design of the building through the use of similar colour and similar building materials as the adjacent portions of the building.

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

- 3.6.1 A combination of indoor and outdoor common amenity space shall be provided as shown on the Schedules. A minimum of 1,247.69 square metres (13,430 square feet) of amenity space shall be provided, exclusive of balconies. A minimum of 1,146.42 square metres (12,340 square feet) shall be provided as outdoor amenity space as shown on Schedule B.
- 3.6.2 Prior to the issuance of a Development Permit, the Developer shall provide the Municipality with a detailed Landscape Plan, prepared by a Landscape Architect, for the outdoor amenity areas as shown on the Schedules.
- 3.6.3 Planting types shall be suitable for a rooftop environment and conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.
- 3.6.4 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).

- 3.6.5 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 Development Agreement.
- 3.6.6 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 Parking**

- 3.7.1 A minimum of 142 parking spaces shall be providing through two levels of underground parking.
- 3.7.2 A minimum of 60 parking spaces shall be made available for the commercial uses or visitor parking
- 3.7.3 Parking space sizes shall comply with the requirements of the Land Use By-law for Halifax Peninsula
- 3.7.4 The Developer shall provide bicycle parking pursuant to Section 6A of the Land Use By-law for Halifax Peninsula.
- 3.7.5 Access to the underground parking shall be from Pepperell Street as shown on Schedule B.
- 3.7.6 A guard shall be provided to separate 6133 and 6131 Pepperell Street and the ramp to the parking area and shall be no higher than 1.06 metres (42 inches). The appearance of the guard shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, architectural detail or a combination of these options and shall include features that will not facilitate climbing on the structure. Further, the guard may be set back from the property line to incorporate landscaping.

### **3.8 Signage**

- 3.8.1 Signage on the Lands shall be in accordance with the Land Use By-law for Halifax Peninsula.

3.8.2 Awning or canopy signs shall be made of glass or a fabric material.

3.8.3 Projecting signs may be permitted on the Lands. If the signs project beyond the Lands, the Developer shall obtain the necessary encroachment permits and licences before erecting such signs.

### **3.9 Outdoor Lighting**

3.9.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

### **3.10 Outdoor Storage**

3.10 No outdoor storage shall be permitted on the Lands.

### **3.11 Deliveries and Solid Waste Collection**

3.11.1 The private collection of refuse and recyclables on the Lands shall occur only between the hours of 9:00 a.m. and 4:00 p.m.

3.11.2 Delivery trucks that are required to back up from Pepperell Street to use the loading/unloading bay on the Lands shall only be permitted between the hours of:

(a) 9:00 a.m. and 4:00 p.m.

3.11.3 The hours specified under this section shall apply seven (7) days a week.

### **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 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.

### **3.13 Construction/Sales Structure**

A temporary structure shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The structure shall be removed from the Lands upon the issuance of the last Occupancy Permit.

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

### **4.1 General Provisions**

All construction shall satisfy HRM's Municipal Service Systems Specifications and both Halifax Water's Design and Construction Specifications, and Rules & Regulations for Water, Wastewater and Stormwater Services unless otherwise varied by this Agreement and shall receive written approval from the HRM Development Engineer and Halifax Water 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 Development Engineer.

### **4.3 Tree Compensation**

- 4.3.1 Prior to the issuance of the Development Permit, the Developer shall provide to the Development Officer, written approval from the Municipality to remove the HRM tree associated with this development, pursuant to *By-Law # T-600 - By-Law Respecting Trees On Public Lands*.
- 4.3.2 Upon the issuance of an Occupancy Permit, the Developer shall provide any compensation required by the Municipality, in granting the approval to remove HRM trees as referenced above.

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

## **PART 6: AMENDMENTS**

### **6.1 Non-Substantive Amendments**

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council.
- (a) Changes to the unit types and number of permitted units as outlined in Section 3.4.5 of this Agreement;
  - (b) Variations to the exterior building material as outlined in Section 3.5.3 of this Agreement;
  - (c) Additional balconies as outlined in Section 3.5.11 of this Agreement;
  - (d) Changes to the Amenity and Landscaping requirements as detailed in Section 3.6 of this Agreement;
  - (e) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
  - (f) The length of time for the completion of the development as identified in Section 7.5 of this Agreement.

### **6.2 Substantive Amendments**

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

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

### **7.1 Registration**

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 3 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Building Permit.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1 of this Agreement, 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 Municipal Planning Strategy and Land Use By-law for Halifax Peninsula as may be amended from time to time.

### **7.5 Discharge of Agreement**

- 7.5.1 If the Developer fails to complete the development after 5 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 14 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)**

\_\_\_\_\_

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

Witness

**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:

\_\_\_\_\_

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

Witness

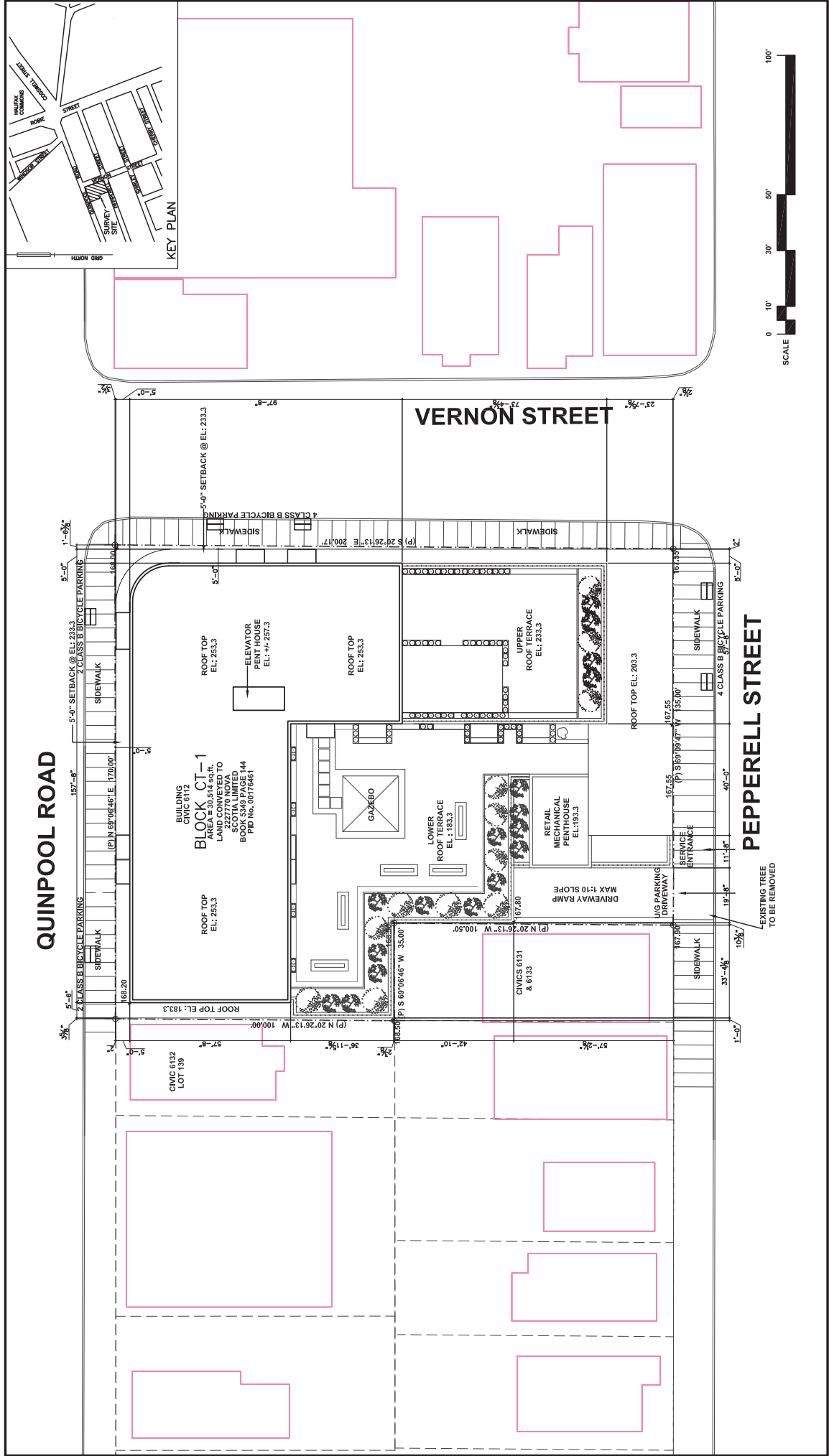
**MAYOR**

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

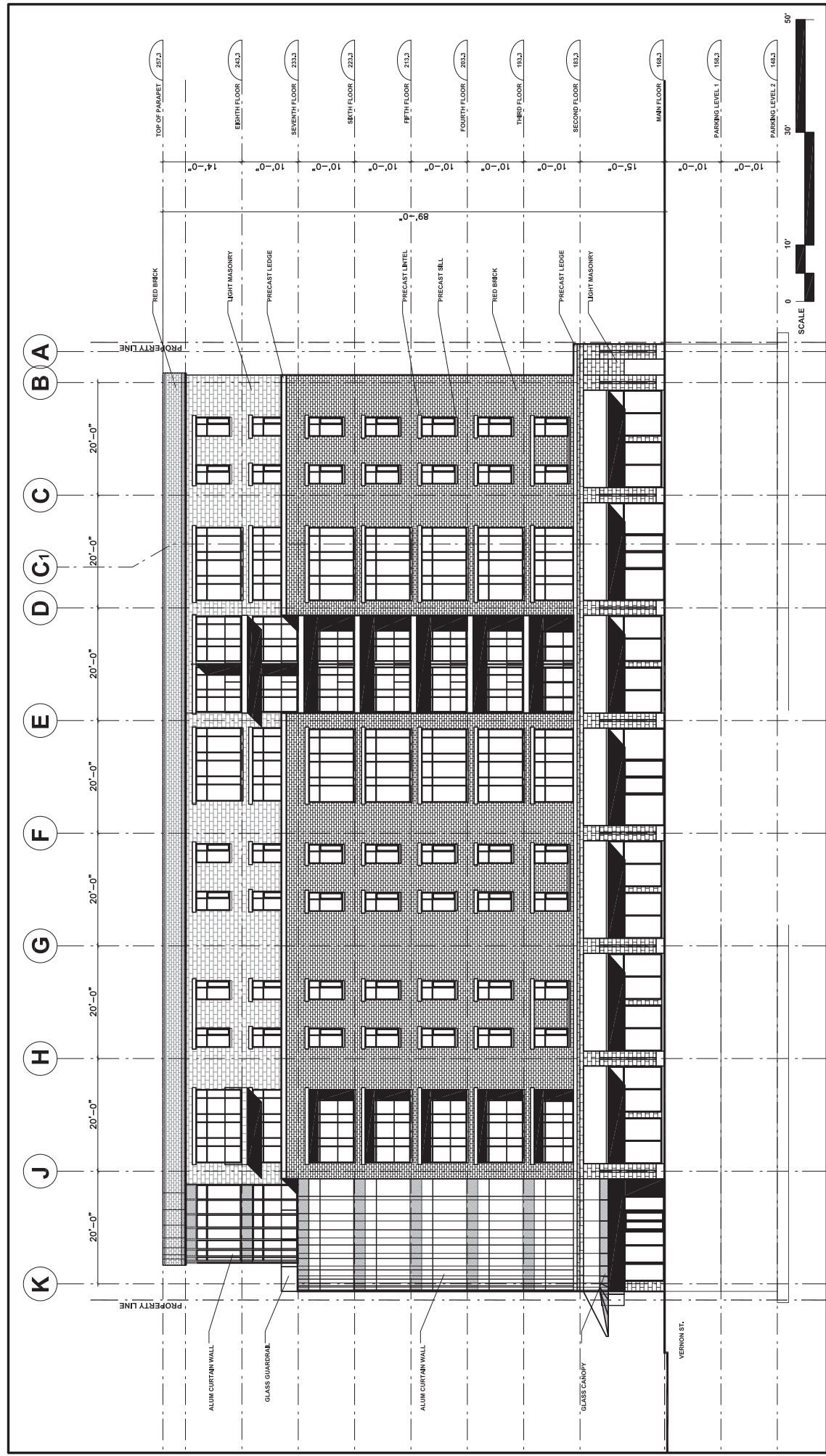
Witness

**MUNICIPAL CLERK**



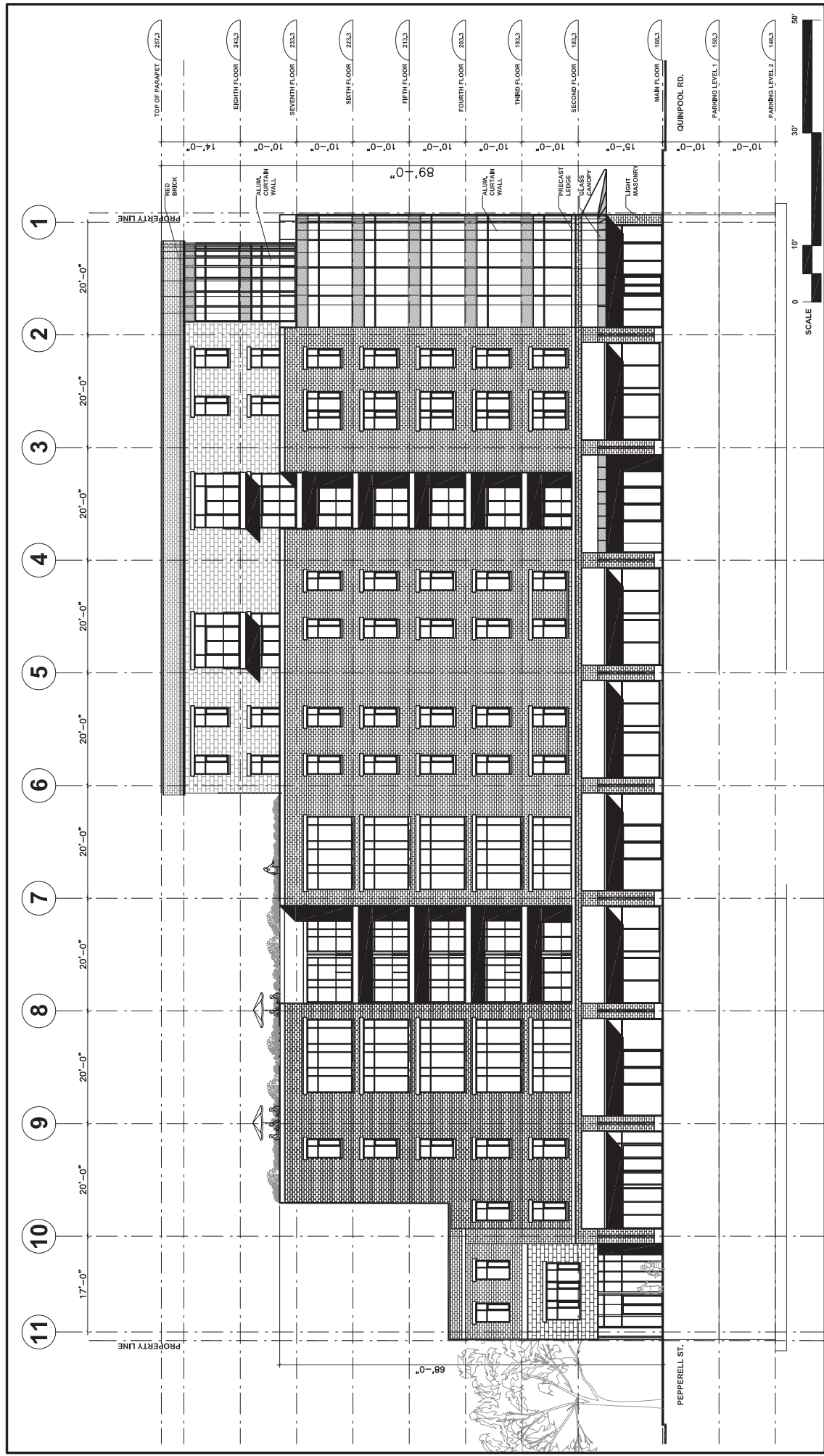
	title <b>LM1001- QUINPOOL ROAD MULTI-USE BUILDING SITE PLAN</b>	scale AS INDICATED	date 07/21/11	drawn All	rev. LM1001
	location 6112 QUINPOOL ROAD, HALIFAX, N.S.				

Schedule B - Site Plan



<b>STUDIO WORKS</b> INTERNATIONAL INC <small>ARCHITECTS INTERIORS LANDSCAPE ARCHITECTS</small> 6112 QUINPOOL ROAD SUITE 1000 HALIFAX NS B3K 2G7 CANADA TEL: 902-420-1234 FAX: 902-420-1235 WWW.STUDIOWORKS.COM	title <b>LM1001 - QUINPOOL ROAD MULTI-USE BUILDING          NORTH ELEVATION (QUINPOOL RD.)</b>	scale AS INDICATED	drawing no. <b>A11</b>
	location 6112 QUINPOOL ROAD, HALIFAX, NOVA SCOTIA	drawn LG	project LM1001

Schedule C - North Elevation (Quinpool Road)



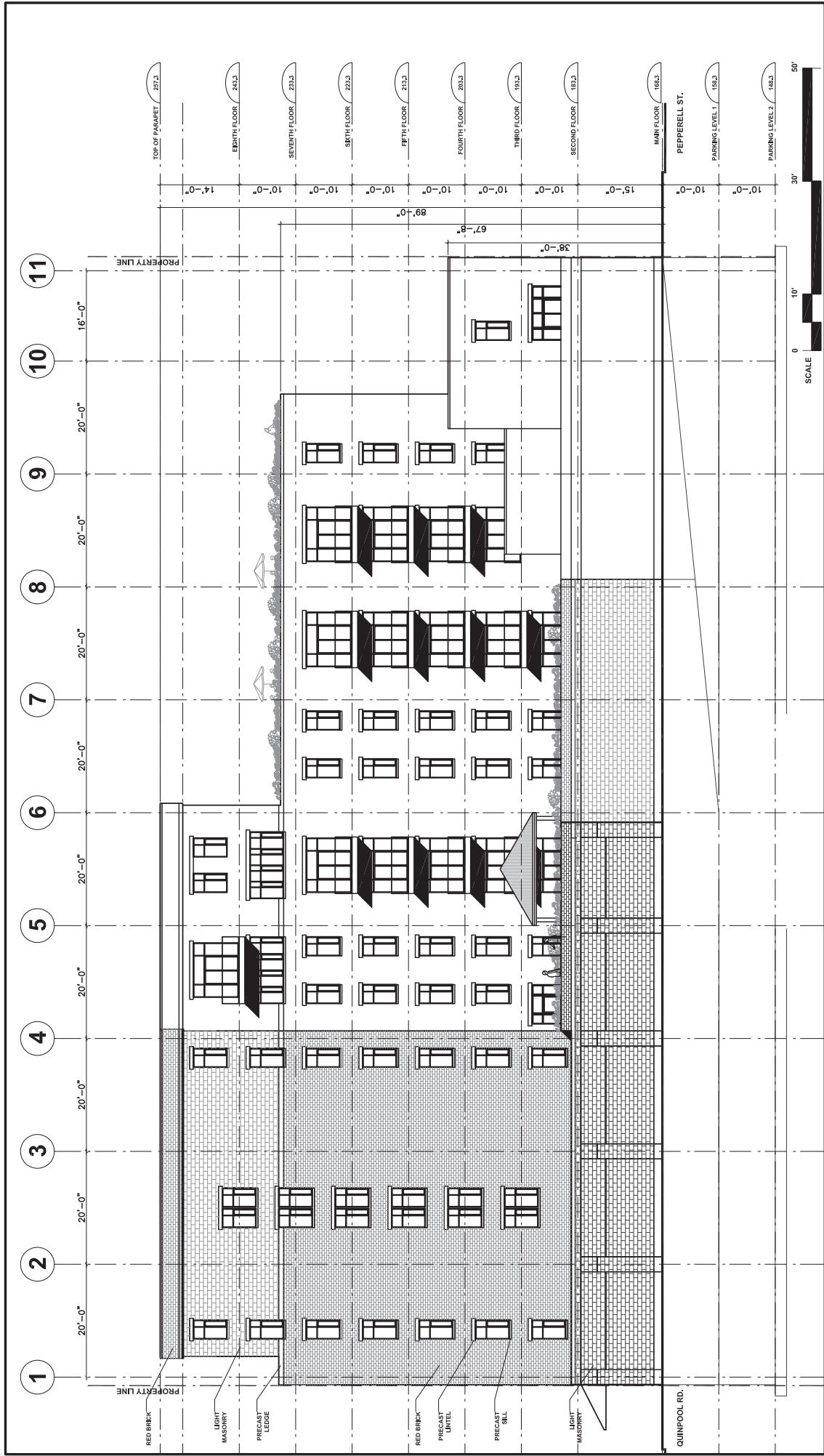
<b>STUDIO WORKS</b> INTERNATIONAL INC. <small>Architectural Services • 3D Modeling • Rendering • Construction Administration</small> 1115 20th Street West • Suite 100 • Victoria, BC V8M 1Y1 Tel: 250-383-8888 • Fax: 250-383-8889 • www.studioworks.com	title LM1001 - QUINPOOL ROAD MULTI-USE BUILDING EAST ELEVATION (VERNON ST.)	scale AS INDICATED	drawing no. A12
	location 6112 QUINPOOL ROAD, HALIFAX, NOVA SCOTIA	drawn LG	rev. LM1001

Schedule D - East Elevation (Vernon Street)



<b>STUDIO WORKS</b> INTERNATIONAL INC. <small>ARCHITECTS ENGINEERS INTERIORS</small> 6112 QUINPOOL ROAD, SUITE 100 HALIFAX, NOVA SCOTIA B3K 2G7, CANADA TEL: 902-425-1241 FAX: 902-425-1242 WWW.STUDIOWORKS.COM	title LM1001 - QUINPOOL ROAD MULTI-USE BUILDING SOUTH ELEVATION (PEPPERELL ST.)	scale AS INDICATED	drawing no. 062111	drawing LG	project LM1001	drawing no. A13	revision rev.
	location 6112 QUINPOOL ROAD, HALIFAX, NOVA SCOTIA						

Schedule E - South Elevation (Vernon Street)



<b>STUDIO WORKS</b> INTERNATIONAL INC. <small>Architects • Planners • Engineers • Interiors • Landscape Architects</small> 1155 Quinpool Road, Suite 1000, Halifax, Nova Scotia B3H 2Y9, Canada Tel: 902.425.1241 Fax: 902.425.1242 Email: info@studio-works.com Website: www.studio-works.com	Title: LM1001 - QUINPOOL ROAD MULTI-USE BUILDING <b>WEST ELEVATION</b>		Scale: AS INDICATED Date: 02/08/11 Drawn: LG Proj: LM1001	DWG NO: A14 REV.
	Location: 6112 QUINPOOL ROAD, HALIFAX, NOVA SCOTIA			

Schedule F - West Elevation