

**Item No. 8.1.2**

**Halifax and West Community Council**

**March 25, 2014**

**May 6, 2014**

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

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

**DATE:** February 27, 2014

**SUBJECT:** **Case 18591 – LUB Amendment and Development Agreement – 5530-5532 Bilby Street, Halifax**

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**ORIGIN**

Application by WSP Canada Inc.

**LEGISLATIVE AUTHORITY**

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

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law to include 5530-5532 Bilby Street, Halifax, and the abutting vacant property to the west in Schedule Q, as presented on Attachment A and Maps 1 and 2 of this report, and schedule a public hearing.
2. Move Notice of Motion to consider the proposed development agreement as contained in Attachment B to allow for an 8-storey building with residential and commercial uses and schedule a public hearing. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.
3. Adopt the amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law as presented on Attachment A and Maps 1 and 2 of this report.

**RECOMMENDATIONS CONTINUED ON PAGE 2**

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

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

### **BACKGROUND**

An application has been submitted by WSP Canada Inc., on behalf of the property owner, FH Construction Limited, to enable the development of an 8-storey mixed-use building containing multi-unit residential uses with the potential for a ground-level commercial space at 5530-5532 Bilby Street, Halifax and the abutting property to the west as shown on Maps 1 and 2. As the proposal cannot be enabled through the existing zoning, the applicant has requested that the site be included within Schedule “Q” of the Halifax Peninsula Land Use By-law (LUB), which would then allow the proposed mixed-use building to proceed by development agreement.

#### **Location, Subject Area and Surrounding Area**

The subject area:

- is located on the south side of Bilby Street (Maps 1 and 2);
- is comprised of three separate properties; a vacant parcel and two properties occupied by commercial and industrial buildings (Maps 1 and 2); and
- totals approximately 861.0 square metres (9,266.0 square feet) in area and has approximately 28 metres (92 feet) of street frontage on Bilby Street.

The surrounding area is comprised of commercial, residential, and institutional uses. Surrounding land uses include:

- Canadian Forces Base Stadacona;
- a 2 storey commercial building containing a locksmith shop;
- low and medium density residential uses;
- an Ultramar service station; and
- an auto repair use.

#### **Designation and Zoning:**

The subject property;

- lies within Area 5 of the Peninsula North Secondary Planning Strategy (Section XI of the Halifax Municipal Planning Strategy [MPS]), is designated for Major Commercial development (Map 1), and falls within the Regional Centre designation of the Regional MPS; and

- is zoned C-2 (General Business) by the Halifax Peninsula Land Use By-law (Map 2).

### **Enabling Policy and Zoning Context**

The subject application is made pursuant to Policy 2.3.1 of Section XI of the MPS which allows Council to identify areas designated Major Commercial for comprehensive site planning through the development agreement process. This process is achieved through the application of Schedule “Q” of the Halifax Peninsula Land Use By-law. Schedule “Q” was established to address the challenge of introducing new residential uses into existing commercial and industrial areas by negotiating, on a site by site basis, the conditions of a development agreement including:

- the creation of an adequate environment for residential living on sites which may be surrounded by commercial and industrial uses; and
- providing for the continued operation of adjacent commercial and industrial uses without being encumbered by new residential uses.

The majority of Schedule "Q" is currently applied to lands on the west side of Robie Street between Young Street and North Street, and has also been applied more recently to select sites in general proximity to the subject property (Map 3).

The C-2 Zone permits commercial buildings with no restrictions on front, side or rear yards but limits the height to 24.4 metres (80 feet), with an allowance for additional height if the building is set back from the property line. Residential uses are also permitted within the C-2 Zone subject to the requirements of the R-3 (Multiple Dwelling) Zone. The application of Schedule “Q” to a property supersedes the requirements of the C-2 Zone by requiring projects of greater than four dwelling units to be considered by development agreement. This provides flexibility by enabling the modification of the standard land use by-law requirements for development on a site-by-site basis through the development agreement process.

### **Proposal**

The applicant wishes to remove the existing buildings on the site, consolidate the three parcels into one property and construct an 8-storey building containing residential and non-residential uses that may include commercial or community facility uses. To achieve this development, the applicant has requested that the subject property be included within Schedule “Q” of the LUB to allow for the proposed development to proceed by development agreement. This process will allow the site to be developed comprehensively with care taken to minimize land use conflicts. Further detailed elements of the proposal are as follows:

- one townhouse-style unit or a non-residential use on the ground level;
- a maximum of 35 dwelling units above the ground floor;
- an enclosed 2-level vehicle parking garage; and
- amenity space within the building and outdoors, on the podium.

### **Approval Process**

The approval process for this application involves two steps:

- i) First, Community Council must consider and, if deemed appropriate, approve the proposed amendment to the Land Use By-law (Map ZM-2) to include the subject land within “Schedule Q”; and
- ii) Secondly, Community Council shall consider and, if deemed appropriate, approve the proposed development agreement.

A single public hearing can be held by Community Council to consider both the LUB amendment and the development agreement. However, Community Council can only render a decision on the development agreement following the approval of the LUB amendment. Community Council will be provided with a supplementary report once the LUB amendment is in effect, at which time it can consider approval of the development agreement. Decisions on both the LUB amendment and the development agreement are subject to appeals to the Nova Scotia Utility and Review Board.

## **DISCUSSION**

Staff has reviewed the proposal relative to all relevant policies and has determined that the proposed development is consistent with the MPS. Attachment C provides an evaluation of the proposed LUB amendment and development agreement in relation to the relevant MPS policies. The following issues have been identified for more detailed discussion.

### **LUB Amendment (Schedule “Q”)**

Considering the mixed nature of land uses located on and around the subject site, which includes residential, commercial and industrial uses, the application of Schedule “Q” provides an opportunity for comprehensive site planning. As Schedule “Q” is currently applied to a large area of Peninsula North that is designated Major Commercial, the proposed development represents a small expansion of the area under the Schedule (Map 3). The proposal will benefit from the controls and flexibility that the development agreement process provides to reduce future land use conflicts.

### **Development Agreement**

Attachment B contains the proposed development agreement for the subject property and the conditions under which the development may occur. It addresses the following matters:

- ground-floor permitted land uses (non-residential use or one townhouse unit);
- residential uses (maximum of 35 units; minimum of 19 two-bedroom units);
- architectural, signage, lighting and maximum building height requirements;
- parking (bicycle and vehicular), vehicular circulation and site access;
- detailed landscaping requirements and plan for podium and rooftop areas;
- building services, maintenance and waste facilities; and
- options for various non-substantive amendments by resolution of Council, including: building architecture, landscaping details, amenity space details, functional elements and changes to timeframes for development.



The matters are addressed in the development agreement stem from the Schedule “Q” policy criteria. A detailed review of the criteria is found in Attachment C. Of the matters addressed by the proposed development agreement, the following have been identified for more detailed discussion.

#### Siting and Neighbourhood Compatibility

MPS policies require that Council consider “*the relationship of new development to adjacent properties and uses; and the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment*”. The subject block, and those immediately abutting it, are designated Major Commercial and are zoned C-2 (General Business). Substantial building heights and massing are achievable through the as-of-right zoning applied to this area. However, through the development agreement process, staff was able to negotiate with the applicant to address compatibility and design issues as per Policy 2.3.3. As a result, a building of greater density with a massing and height less than that which could be achieved in an as-of-right situation has been accommodated.

One of key considerations when reviewing an application of such scope is the compatibility of the proposed land use with the existing neighbourhood. Planning Policies encourage establishing regulations and provisions that control the intensity of land uses in order for new proposals to be compatible with existing land uses (Attachment C). A variety of land uses are located in the area surrounding the subject property that include single unit and two-unit dwellings, 4 to 5-storey multi-unit buildings, as well as a few commercial and industrial businesses.

Moreover, the property is located in close proximity to sites that recently received Council’s approval for comprehensive site planning under Schedule “Q” subject to development agreements (Map 3). Approved proposals include 7 to 8-storey residential and mixed use buildings which consist of townhouse units, commercial ground floors and/or office spaces. One of those sites is located on the south east corner of Isleville and Bilby Streets, which abuts the subject site on the south side of Bilby Street. In January 2013, Halifax and West Community Council approved amendments to the LUB to include that site within Schedule “Q” and approved a development agreement that permits a 56-unit, 7-storey residential building that includes 8 townhouse units on the ground level (refer to Case 17511). Council should note that there is currently an active planning application for comprehensive site planning under Schedule “Q” policies for the property located on the north east corner of the Isleville and Bilby Streets, which is referred to as Case 18555. A decision by Council has not been made to date.

Due to the location of the subject site, within a transitioning neighbourhood and in relation to two local streets with moderate traffic volumes, the proposed mixed use building provides an appropriate response to surrounding land uses.

#### Building Design

The MPS encourages effective urban design treatments and the use of high quality exterior building materials. To assist HRM in its review, the applicant has provided renderings of the building which are contained in Attachment D.

Effective urban design treatment is established by a two storey streetwall along Bilby Street, which is consistent with the height of the neighbouring properties. The building design utilizes differing architectural wall treatments in order to mitigate against blank walls on the building's south elevation. The building incorporates high quality materials such as stone masonry, cement siding, glass and metal rails. Signs are limited to awnings, fascia and projecting signs. The back lighting is limited to the lettering of each sign.

The design of the proposed building includes measures to reduce land use conflicts, such as including larger stepbacks from neighbouring property line for the upper storeys of the building and through the nature of the building's non-combustible construction materials, which will assist with noise attenuation. These design aspects not only help mitigate the impact of the development from existing uses, but also intend to lessen the potential impact for the future development of adjacent sites. Attachment D contains renderings of the building provided by the applicant.

#### Traffic/Site Access

MPS policy encourages vehicular traffic to use principal streets and discourages it within existing neighbourhoods. A Traffic Impact Statement, prepared by the applicant's consultant, was reviewed by HRM and was deemed acceptable. The Study concludes that there are no issues with the proposed development on the local street network. The proposed Development Agreement requires vehicles accessing the site to utilize Bilby Street and for parking within the building.

#### Population Density

The MPS encourages reinvestment and redevelopment within major commercial areas by allowing for flexibility with regard to the residential population density requirements of the Halifax Peninsula Land Use By-law, provided that proposed densities are "consistent with municipal services". In this case, a sewer capacity analysis was conducted by the developer's consultant and reviewed by Halifax Water and deemed sufficient relative to municipal central sewage and water systems.

#### Landscaping and Open Space

MPS policy calls for the provision of on-site open space and leisure areas which are adequate for the building residents. The proposed development agreement requires at least 130 square metres (1,400 square feet) of indoor amenity space. The outdoor amenity space is required to be located on the podium, which is located on the third level of the development, and amenity space on the upper levels in the form of landscaped areas. Council should note that the proposed development agreement ensures the use of high quality materials and landscape design. It also requires adherence to detailed landscaping requirements and the submission of a detailed landscape plan prepared by a landscape architect.

#### **Districts 7 & 8 Planning Advisory Committee**

This application was presented to the Districts 7 & 8 Planning Advisory Committee (PAC) on October 28, 2013. The recommendations of the PAC on the application are sent to Community Council by means of a separate report.

The Committee had several recommendations for inclusion within the development agreement. The majority of the Committee's recommendations focused generally on:

- ensuring the pedestrian experience and safety be considered in regard to parking entrance and exit;
- ensuring appropriate treatment of the south elevation of the building with regards to the massing of the wall and privacy measures;
- considering of additional aesthetic and architectural treatments in the design of the building that include landscaping features that address the south elevation;
- utilizing high quality materials in the development; and
- providing bike parking in accordance with the requirements of the Halifax Peninsula Land Use By-law.

Staff has reviewed the recommendations of the PAC and has incorporated provisions within the proposed development agreement that deal with the architectural design of facades and entrances, landscaping, mitigation measures, type of materials, and bike parking.

### **Conclusion**

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

### **FINANCIAL IMPLICATIONS**

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved 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 26, 2013. Attachment E contains a copy of the minutes from the meeting. Notices of the Public Information Meeting were posted on the HRM website, in the newspaper and mailed to property owners within the notification area shown on Map 2.

A public hearing must be held by Community Council before they can consider approval of any amendments to the LUB or the approval of a development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 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 development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

### **ENVIRONMENTAL IMPLICATIONS**

No additional concerns have been identified beyond those raised in this report.

### **ALTERNATIVES**

1. Council may choose to approve the proposed LUB amendment and development agreement as set out in Attachments A and B of this report. This is the recommended course of action. A decision of Council to approve the proposed LUB amendment or development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Council may choose to approve the proposed LUB amendment but request modifications to the development agreement. This may necessitate further negotiation with the applicant and the need to hold a second public hearing.
3. Council may choose to refuse the proposed LUB amendment and development agreement and, in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended, as the proposal is consistent with the MPS. A decision of Council to refuse the proposed LUB amendment or development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1	Generalized Future Land Use Map
Map 2	Zoning and Notification Map
Map 3	Properties within Schedule Q
Attachment A	Proposed Amendment to the Halifax Peninsula LUB Schedule A
Attachment B	Proposed Development Agreement
Attachment C	Review of Relevant Policies of the Halifax MPS
Attachment D	Project Renderings
Attachment E	Minutes of Public Information Meeting

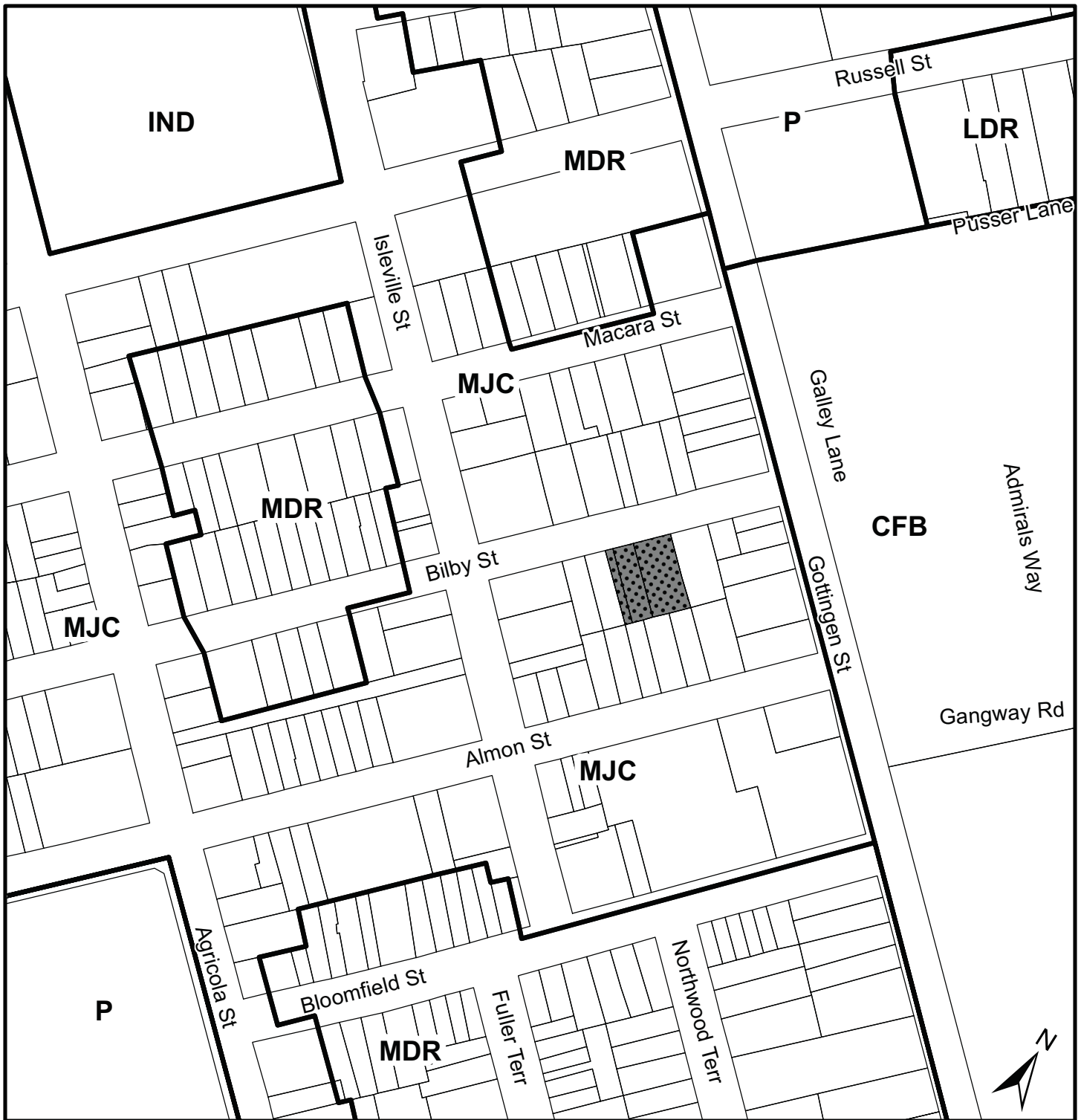
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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Dali H. Salih, Planner, Development Approvals, 490-1948  
Original Signed \_\_\_\_\_

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

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## Map 1 - Generalized Future Land Use

5530-5532 Bilby Street  
Halifax



Area proposed to be  
included in Schedule Q

Halifax Plan Area  
Peninsula North Secondary Plan Area

### Designation

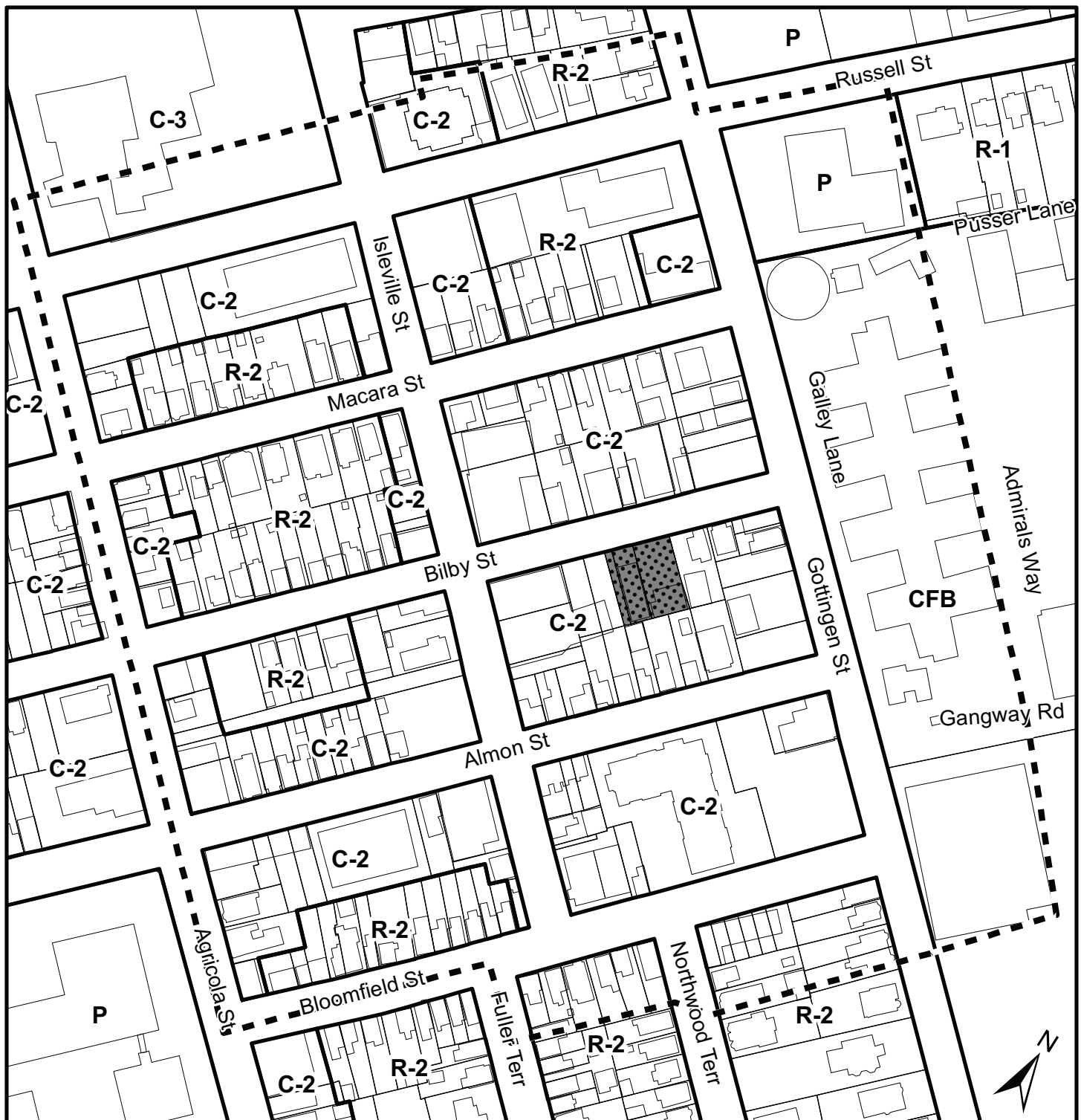
LDR Low Density Residential  
MDR Medium Density Residential  
MJC Major Commercial  
IND Industrial  
P Park and Institutional  
CFB Canadian Forces Base

0 20 40 60 80 m

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 and Notification

5530-5532 Bilby Street  
Halifax

 Area proposed to be included in Schedule Q


 Area of notification

Halifax Peninsula  
Land Use By-Law Area

### Zone

R-1	Single Family
R-2	General Residential
C-2	General Business
C-2A	Minor Commercial
C-3	Industrial
P	Park and Institutional
CFB	Canadian Forces Base

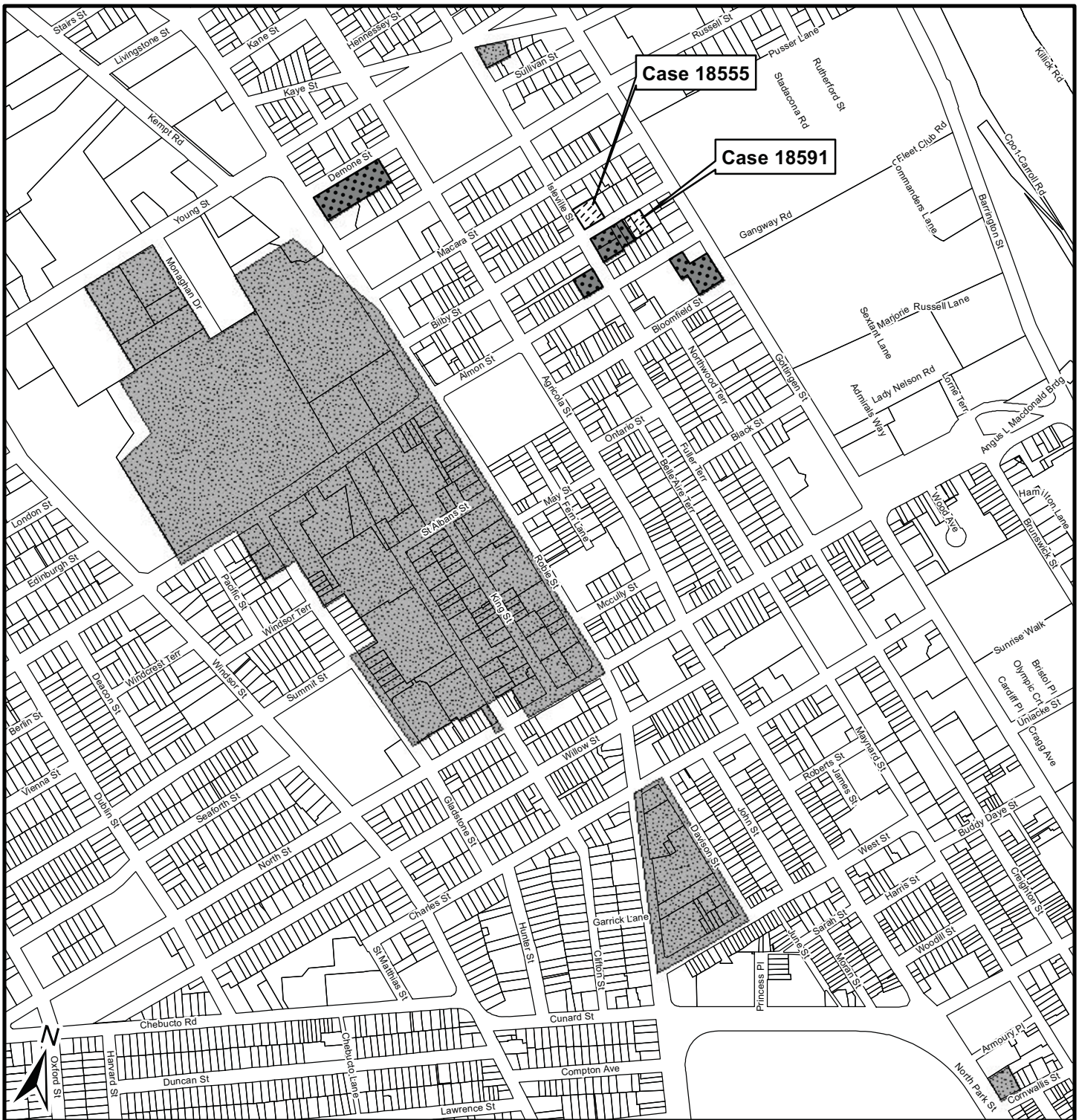
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This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.




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





### Map 3 - Schedule Q Areas

Halifax Peninsula

-  Schedule Q
-  Schedule Q areas approved in 2013
-  Area proposed to be added to Schedule Q (currently under application)

Halifax Peninsula  
Land Use By-Law Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS



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

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

**ATTACHMENT A:**  
**Proposed Amendments to the Halifax Peninsula Land Use By-law (LUB)**

BE IT ENACTED by the Halifax and West Community Council of the Halifax Regional Municipality that the Land Use By-law for Halifax Peninsula as adopted by Regional Council on the 30<sup>th</sup> day of March, 1978, and approved by the Minister of Municipal Affairs on the 11<sup>th</sup> day of August, 1978, which includes all amendments thereto which have been adopted by the Halifax Regional Municipality and are in effect as of the [**insert date of ‘appeal date’**] is hereby amended as follows:

1. Amend Zoning Map, **ZM-2**, by including 5530-5532 Bilby Street and the property identified by PID No. 00441832, Halifax, in Schedule Q, as presented on Schedule A.

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 and West Community Council at a meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2014.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Municipal Clerk



## Schedule A

5530-5532 Bilby Street  
Halifax



Area to be  
included in Schedule Q

Halifax Peninsula  
Land Use By-Law Area

### Zone

R-2 General Residential  
C-2 General Business  
CFB Canadian Forces Base

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

0 20 40 m

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

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

**ATTACHMENT B:**  
**Proposed Development Agreement**

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_,

BETWEEN:

**[INSERT Name of Corporation/Business LTD]**

a 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 on the south side of Bilby Street, identified as 5530-5532 Bilby Street, Halifax, and the abutting property to the west identified as PID No. 00441832, 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 construction of a building consisting of residential and commercial uses on the Lands pursuant to the provisions of Section XI of the *Halifax Regional Municipality Charter* and pursuant to Policies 2.3.1, 2.3.2 and 2.3.3 of the Halifax Municipal Planning Strategy and Section 92 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 **18591**;

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

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

### **1.1 Applicability of Agreement**

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

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

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the 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.

## **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 18591:

Schedule A	Legal Description of the Lands(s)
Schedule B	Site Plan
Schedule C-A	Ground Floor Plan – Townhouse Dwelling
Schedule C-B	Ground Floor Plan – Commercial Space
Schedule D-1A	North Elevation (Bilby Street) – Townhouse Dwelling
Schedule D-1B	North Elevation (Bilby Street) – Commercial Space
Schedule D-2	East Elevation
Schedule D-3	South Elevation
Schedule D-4	West Elevation
Schedule E	Preliminary Landscape Plan (Ground & Podium Levels)

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

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



- a) Obtain subdivision approval from the Municipality in accordance with Section 3.5 of this Agreement;
  - b) a written confirmation and photographs demonstrating that the existing buildings on the Lands has been removed, in accordance with Section 3.5 of this Agreement;
  - c) a detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.7 of this Agreement; and
  - d) an outdoor Lighting plan in accordance with Section 3.8 of this Agreement.
- 3.2.2 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

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

- 3.3.1 The use(s) of the Lands permitted by this Agreement, subject to its terms and conditions as generally illustrated on the Schedules attached hereto, are the following:
- (a) An 8-storey apartment house (multi-unit residential use); and
  - (b) One townhouse-style unit; or
  - (c) One non-residential uses as per clause 3.4.2 (b).

### **3.4 Detailed Provision for Land Use**

- 3.4.1 Ground-floor land uses shall be limited to uses permitted by Section 3.3.1(b) or 3.3.1(c), and as shown on Schedules C-A, C-B, D-1A and D-1B.
- 3.4.2 Further to Clause 3.4.1, the permitted ground-floor land uses are detailed as follows:
- (a) A townhouse-style unit shall:
    - i. be limited to one dwelling unit;
    - ii. consist of 2 storeys;
    - iii. comprise a minimum of 93.0 square meters (1,000 square feet) in gross floor area;
    - iv. contain at least 2 bedrooms;

- v. be permitted to include home occupation uses; and
- vi. be located within the ground floor of the building with frontage on Bilby Street.

(b) A non-residential use shall:

- i. be limited to a restaurant, an office space, a personal service shop, a retail shop, or a community facility, subject to the C-2A Zone provisions;
- ii. not exceed a maximum of 93.0 square metres (1,000 square feet) of gross floor area; and
- iii. be located within the ground floor of the building with frontage on Bilby Street.

3.4.3 A maximum of 35 residential dwelling units shall be permitted within the multiple-unit residential portion of the building.

3.4.4 The Developer shall provide the Development Officer with sufficient information to verify that the proposed development conforms to each of the following requirements:

(a) Height: The height of building above grade shall not exceed 24.4 metres (80 feet), and shall not include the underground parking garage. Height shall be defined as the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building along Bilby Street. Height exemptions included in the Halifax Peninsula Land Use By-law shall apply with the exception of penthouses;

(b) Population Density: The total density for the building shall not exceed a maximum of 80 persons. For the purposes of calculating population density on the Lands, the following shall apply:

- i. Bachelor units shall be assigned 1 person per unit;
- ii. One (1) Bedroom units shall be assigned 2 persons per unit; and
- iii. Two (2) Bedroom or more units shall be assigned 2.25 persons per unit;

(c) Further to 3.4.4(b), for the purposes of determining permissible density, one bedroom plus den units shall be considered one-bedroom units and two bedrooms plus den shall be considered two bedroom units;

(d) Unit Mix: A minimum of 55% of the residential units shall consist of 2 or more bedrooms per unit; and

(e) Amenity and Open Spaces: The proposed development shall include a minimum of 130 square metres (1,400.0 square feet) of amenity space within the building, a minimum of 65 square metres (700 square feet) of outdoor amenity space on the

third floor podium and a minimum of 571 square metres (6,150 square feet) of amenity space outside the building.

### **3.5 Demolition and Lot Consolidation**

- 3.5.1 As per Section 3.2.1 (b), the Developer shall remove all existing buildings and structures on the Lands prior to the issuance of a Development Permit.
- 3.5.2 The Developer shall submit a subdivision application to the Development Officer to consolidate the properties, as shown on Schedule B, into a single parcel. No Building Permit shall be issued until the consolidation plan has been approved.

### **3.6 Siting and Architectural Requirements**

- 3.6.1 The development shall be exempted from the detailed requirements of the R-3 (Multiple Dwelling) Zone of the Land Use By-law. Instead, the Schedules and written provisions of this Agreement shall apply.
- 3.6.2 The building's height, massing, exterior design and materials shall be as shown on the Schedules.
- 3.6.3 The building's exterior design shall be as shown on the Schedules.
- 3.6.4 Entrances to the building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, corner boards, fascia boards or an acceptable equivalent approved by the Development Officer.
- 3.6.5 The façades of the building facing Bilby Street shall be designed and detailed, as shown on the Schedules. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.
- 3.6.6 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.).
- 3.6.7 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 compliment the colour of the adjacent surface, except where used expressly as an accent.
- 3.6.8 Building shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Bilby 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.

- 3.6.9 Windows for each component shall be designed as illustrated on the Schedules. All windows shall be vertical in orientation, or square. If shutters are used, they shall be sized to fit the opening and shall be provided for all windows. Windows shall be vertically proportioned, where possible.
- 3.6.10 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from adjacent properties.
- 3.6.11 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.

### **3.7 Amenity Space and Landscaping**

- 3.7.1 The apartment house portion of the building shall include outdoor landscaped open space for the residents of the building. Outdoor landscaped open space shall be provided on the third floor podium and the building rooftop as shown on the Schedules.
- 3.7.2 Prior to the issuance of a Development Permit, the Developer shall provide a Landscape Plan, which complies with the provisions of this section. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.7.3 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.
- 3.7.4 Landscaped areas shall conform with the following:
  - (a) Provisions of new street trees along the Bilby Street frontages shall conform to the HRM Municipal Design Guidelines and shall be in consultation with HRM's Urban Forester and Development Engineer;
  - (b) Landscaped open spaces shall include any combination of trees, shrubs, flowers, grass or other horticultural, and decorative stonework, pavers, screening or other landscape architectural elements;
  - (c) The minimum requirement for landscaped open space horticultural elements shall be grass sod; and

(d) Further to 3.6.6, blank walls abutting adjacent residential properties on the south side of the building shall be tempered by introducing vegetation upon the wall of the building.

3.7.5 At the time of issuance of the 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.

3.7.6 Notwithstanding Section 3.7.5, the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

### **3.8 Parking, Access and Circulation**

3.8.1 Vehicular parking, circulation and access shall be in conformance with the following:

- (a) Vehicular parking shall be fully enclosed;
- (b) Parking area shall accommodate a maximum of 30 parking spaces;
- (c) Above-ground parking areas shall be as generally shown on Schedules C-A and C-B;
- (d) Notwithstanding clauses (b) and (c), up to one quarter (1/4) of the individual parking spaces may be reduced in size to a minimum of 8 feet by 17 feet; and
- (e) Bicycle parking shall be provided as per the requirements of the Halifax Peninsula Land Use By-law.

### **3.9 Outdoor Lighting**

3.9.1 An outdoor lighting plan shall be submitted to the Development Officer, prior to the issuance of a Development Permit.

- 3.9.2 Lighting required for each multiple unit dwelling shall be shown on the site plan and building drawings prior to the issuance of a Development Permit. Lighting required for each multiple unit dwelling shall be installed prior to the issuance of an Occupancy Permit.
- 3.9.3 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.
- 3.9.4 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.

### **3.10 Maintenance**

- 3.10.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, 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 and ice control, salting of walkways and driveways.
- 3.10.2 All disturbed areas shall be reinstated to original condition or better.

### **3.11 Signs**

- 3.11.1 All signage shall comply with requirements for signage in the C-2 (General Business) Zone of the Land Use By-law for Halifax Peninsula and shall further comply with the following:
  - (a) No ground sign shall be permitted on the Lands;
  - (b) One fascia signage shall be permitted for the commercial occupancy;
  - (c) One fascia signage shall be permitted for the apartment house;
  - (d) Block fascia signs shall not be internally illuminated or backlit however, individual lettering may be internally illuminated; and
  - (e) One (1) temporary ground sign depicting the name or corporate logo of the Developer shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. The temporary ground sign shall be removed prior to the issuance of the last residential occupancy permit.

### **3.12 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.

### **3.13 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**

- 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: Amendments**

### **5.1 Non-Substantive Amendments**

The following items are considered by both parties to be not substantive and may be amended by resolution of Council:

- (a) A reduction in the number of storeys;
- (b) Minor changes to the exterior architectural appearance of the building, which in the opinion of the Development Officer do not conform with the attached Schedules as per Section 3.1;
- (c) Changes to the landscaping requirements as detailed in Section 3.7, which in the opinion of the Development Officer do not conform with the attached Schedules as per Section 3.1;

- (d) The granting of an extension to the date of commencement of construction as identified in Section 6.3 of this Agreement; and
- (e) The length of time for the completion of the development as identified in Section 6.5 of this Agreement.

## **5.2 Substantive Amendments**

Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

## **PART 6: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **6.1 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.

### **6.2 Subsequent Owners**

- 6.2.1 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.
- 6.2.2 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).

### **6.3 Commencement of Development**

- 6.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 6.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed residential building.
- 6.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.1(d), 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.

#### **6.4 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 the Halifax Peninsula Land Use By-law, as may be amended from time to time.

#### **6.5 Discharge of Agreement**

If the Developer fails to complete the development after eight (8) 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 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

#### **7.1 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.

#### **7.2 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

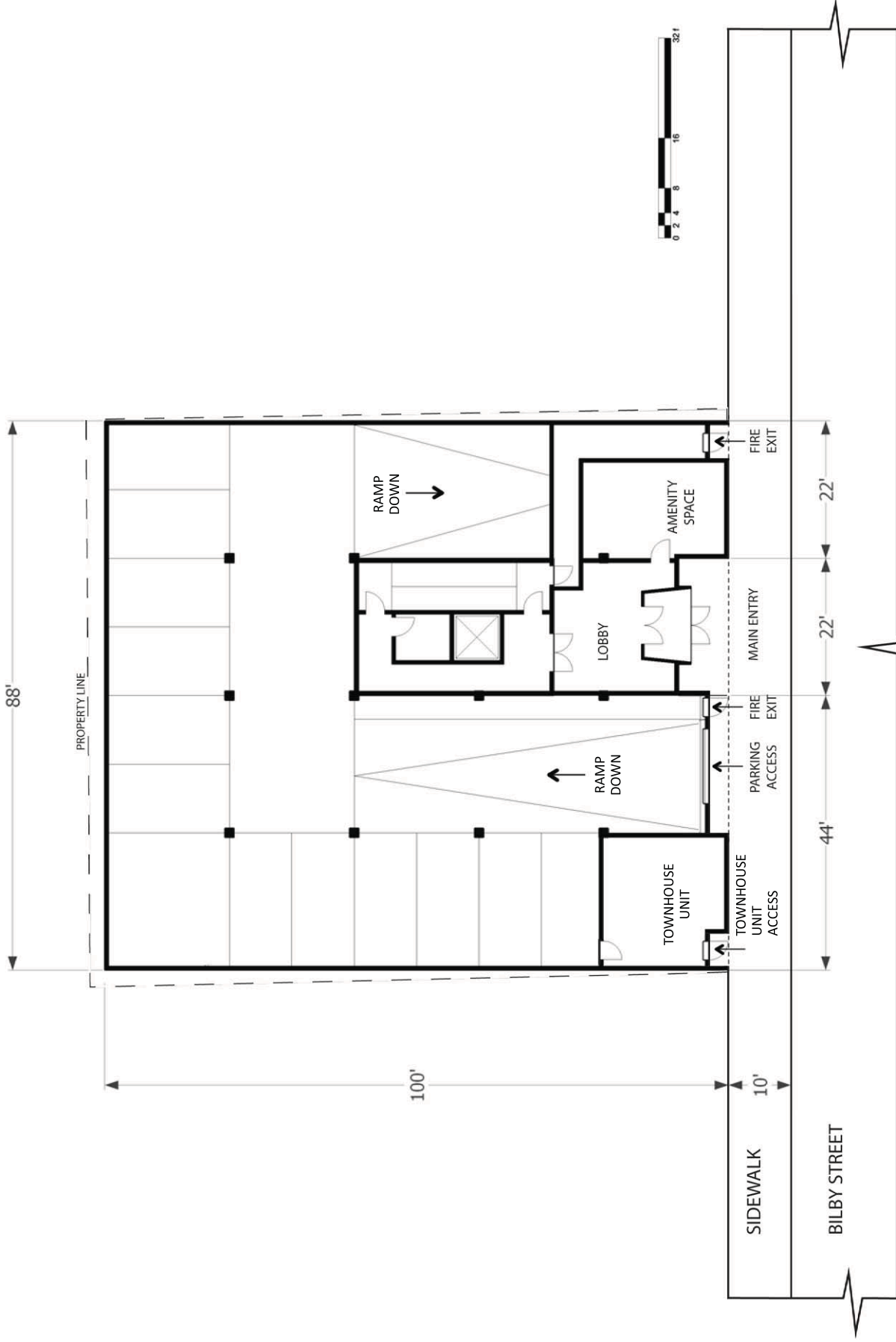
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Witness

Per: \_\_\_\_\_  
MUNICIPAL CLERK





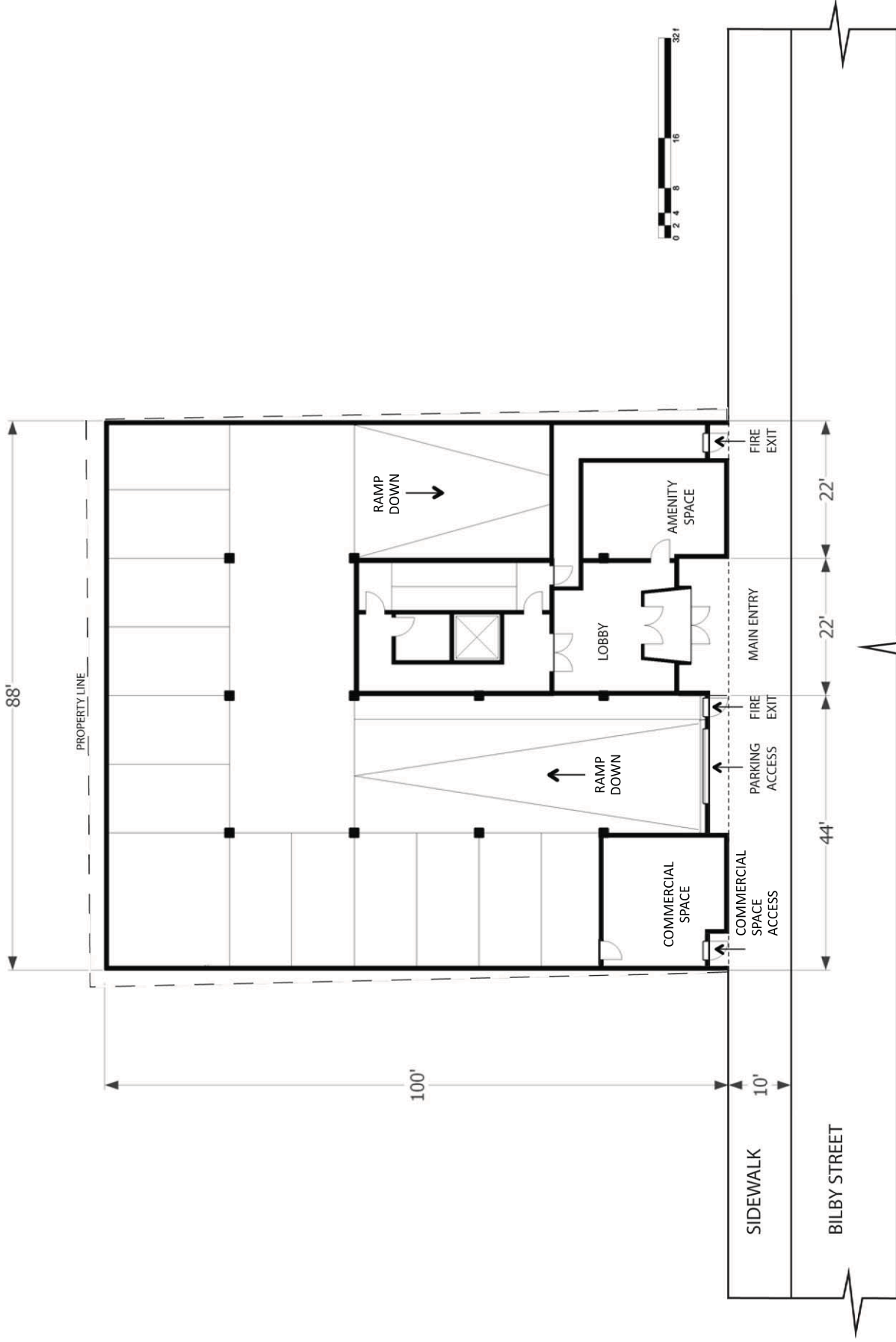
**Schedule B - Site Plan**  
Proposed Residential Development  
Bilby Street, Halifax



**Schedule C-A - Ground Floor Plan - Townhouse Dwelling**  
 Proposed Residential Development  
 Bilby Street, Halifax



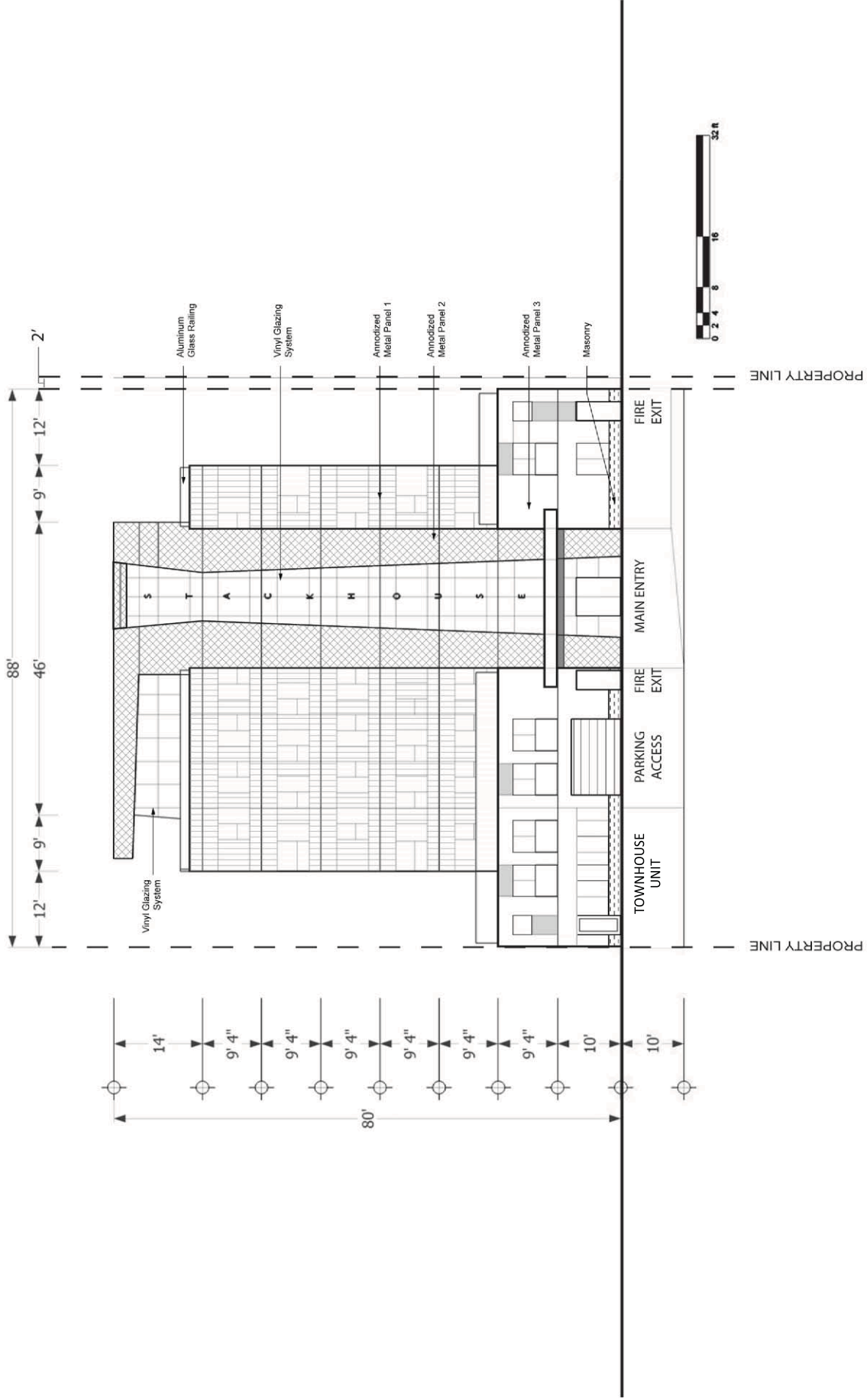




**Schedule C-B - Ground Floor Plan - Commercial Space**  
Proposed Residential Development  
Bilby Street, Halifax

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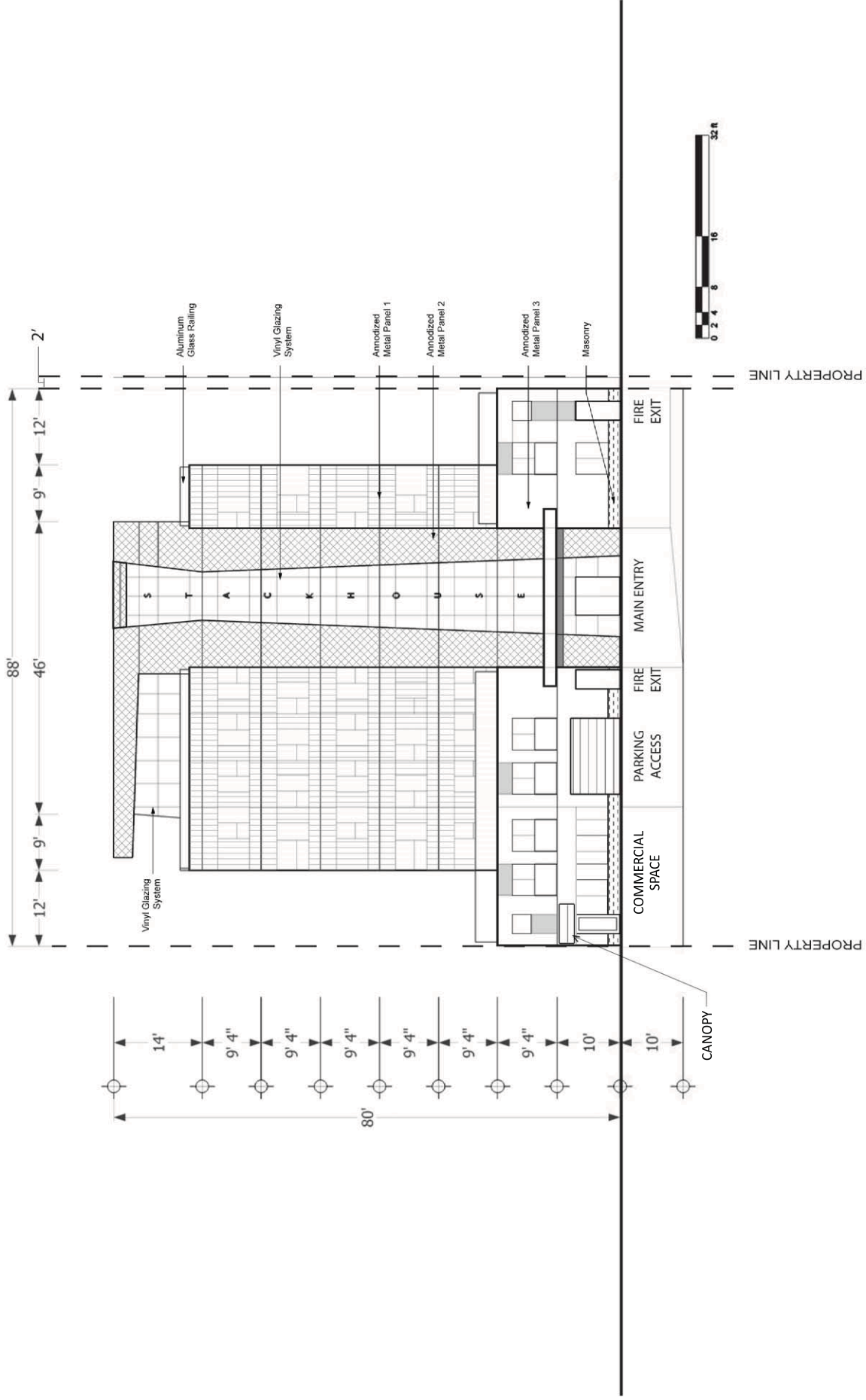
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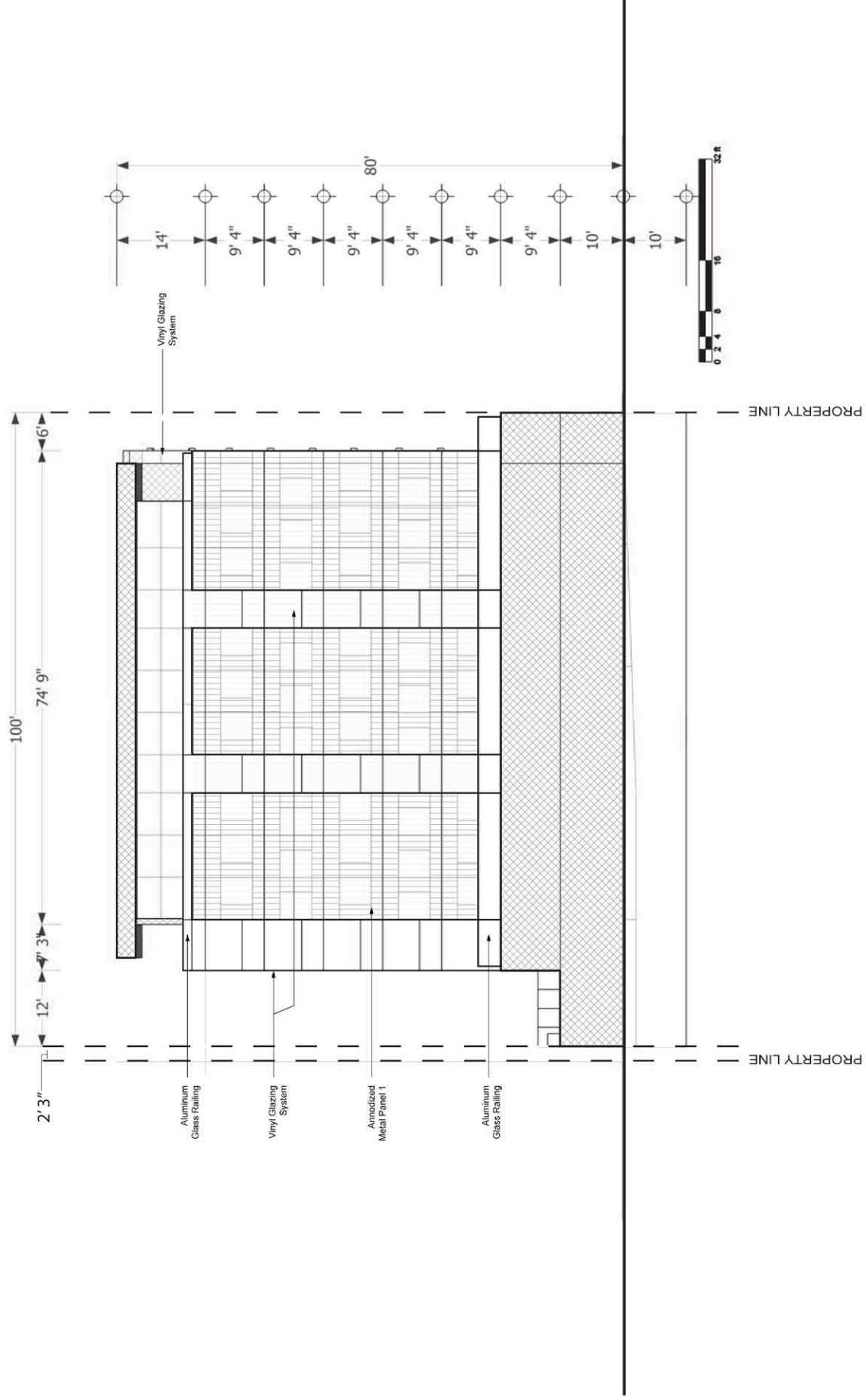
**Schedule D-1A - North Elevation (Bilby Street) - Townhouse Dwelling**  
Proposed Residential Development  
Bilby Street, Halifax

DATE:

17-JAN-2014



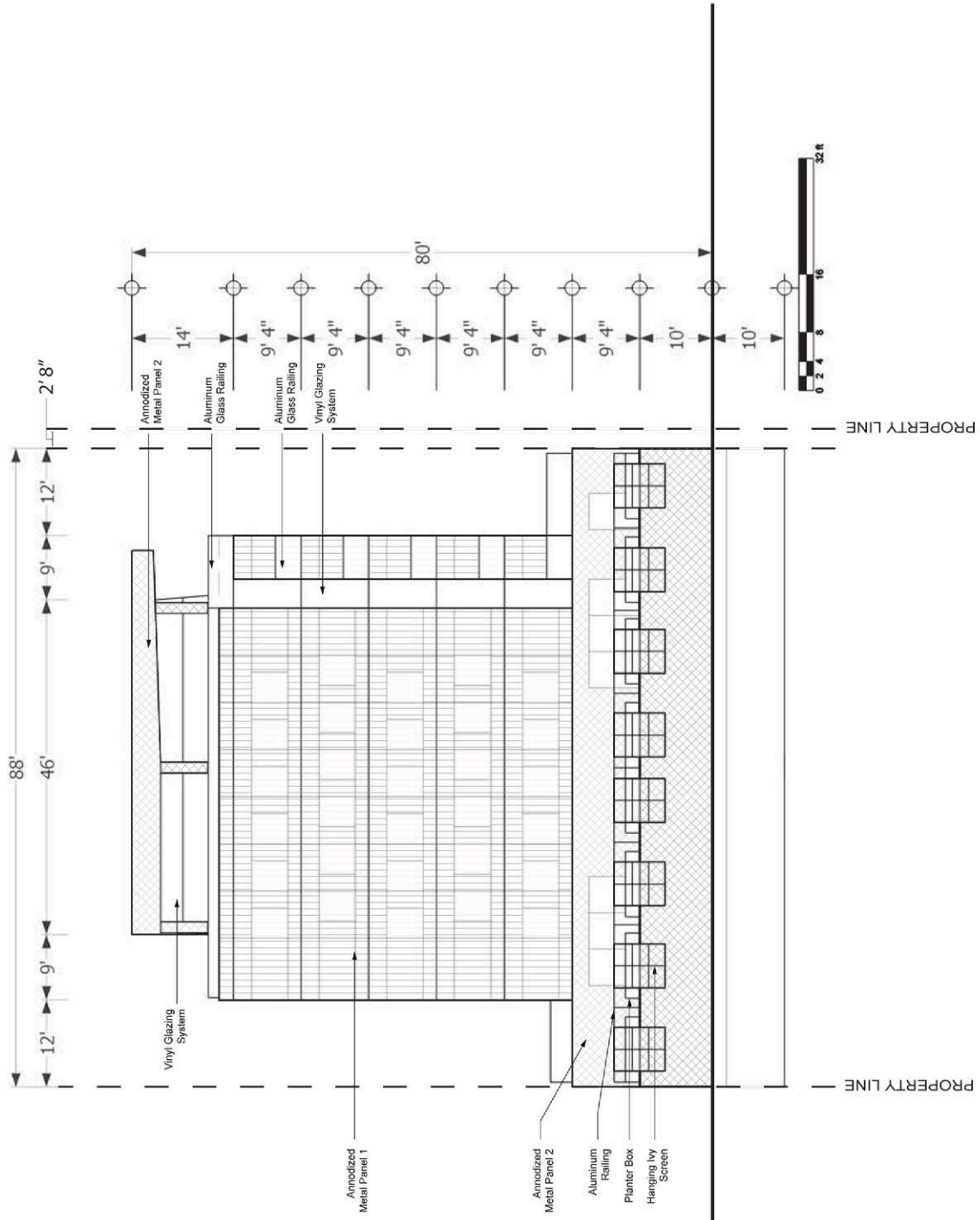
**Schedule D-1B - North Elevation (Bilby Street) - Commercial Space**  
 Proposed Residential Development  
 Bilby Street, Halifax



**Schedule D-2 - East Elevation**  
Proposed Residential Development  
Bilby Street, Halifax

DATE:

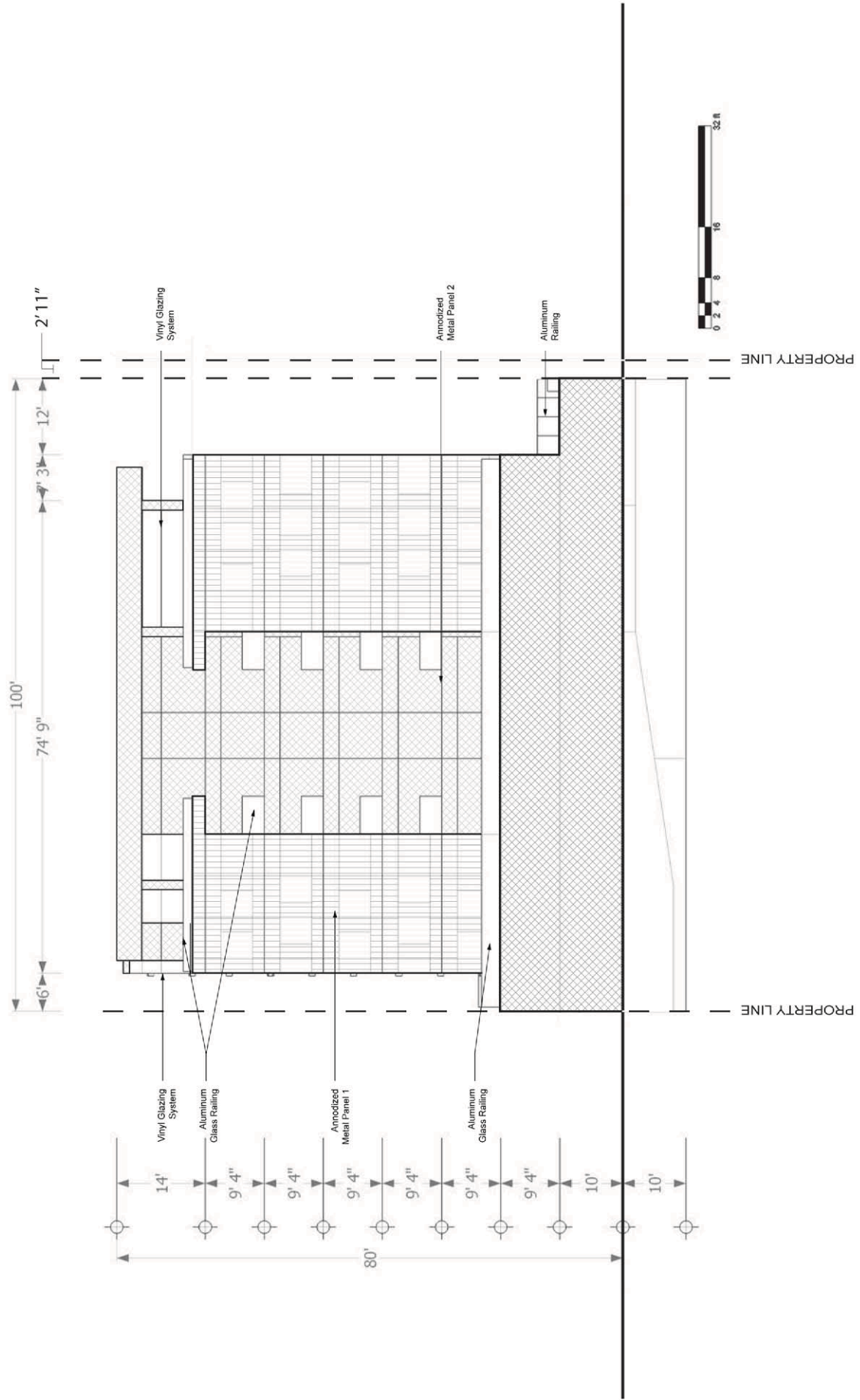
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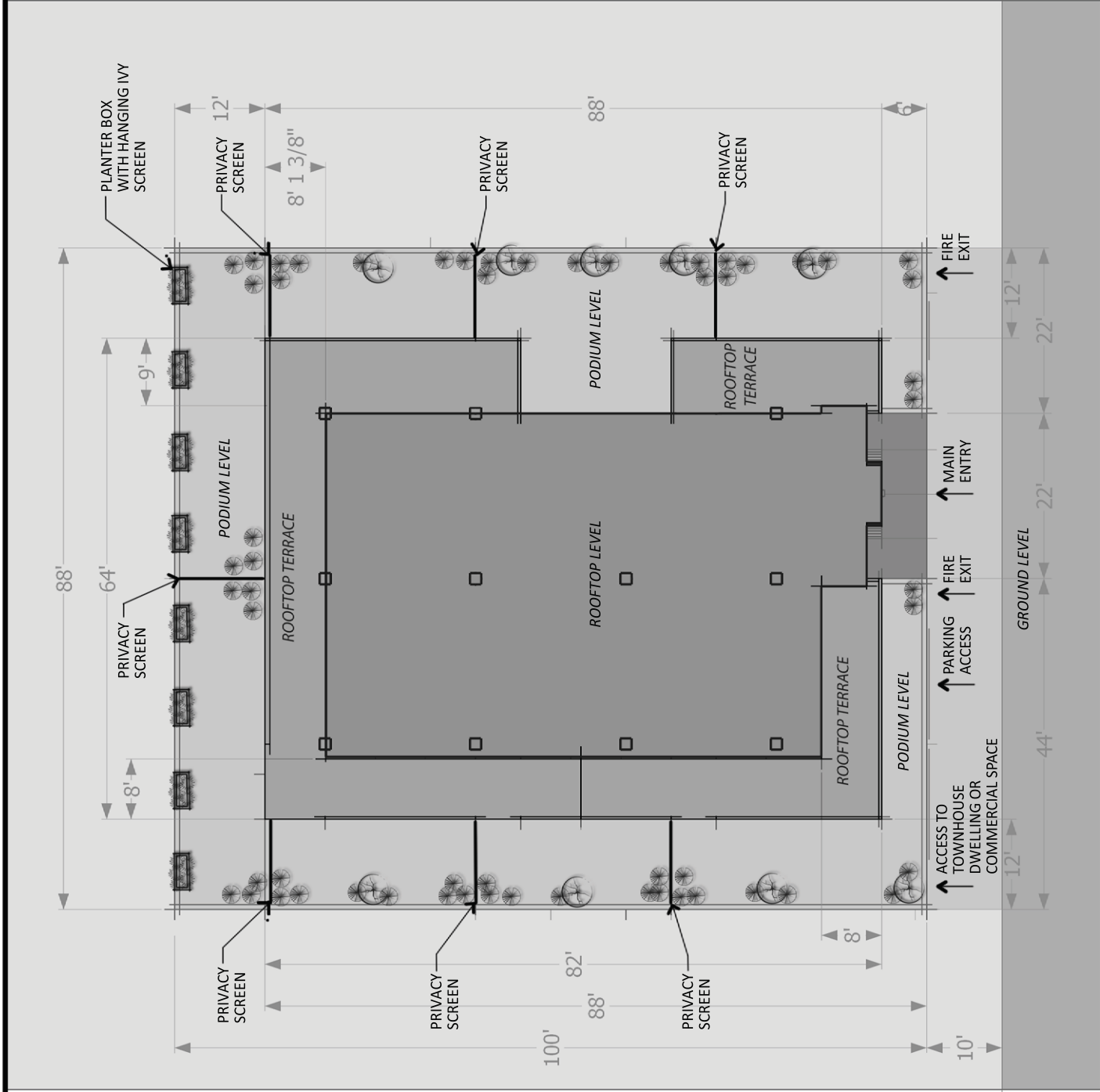
**Schedule D-3 - South Elevation**  
Proposed Residential Development  
Bilby Street, Halifax











**Note:**  
 Landscaped open space shall include any combination of trees, shrubs, flowers, grass or other horticultural, and decorative stonework, pavers, screening or other landscape architectural elements

**Schedule E - Preliminary Landscape Plan (Ground & Podium Levels)**

Proposed Residential Development  
 Bilby Street, Halifax



**ATTACHMENT C:**  
**Review of Relevant Policies – Halifax Municipal Planning Strategy (MPS)**

The proposal may be considered by Council through Policies 2.3, 2.3.1, 2.3.2 and 2.3.3 of the Halifax Municipal Planning Strategy (MPS).

**Halifax Municipal Planning Strategy (MPS)**  
**Section XI (Peninsula North Secondary Planning Strategy)**

**Commercial Facilities Designation:**

*Objective: A variety of appropriately located commercial facilities to serve the needs of both the resident and working populations of Peninsula North and the City as a whole.*

**Policies for the application of Schedule “Q”:**

<b><i>Policy Criteria</i></b>	<b><i>Staff Comments</i></b>
<p><i>2.3: In areas designated major commercial, uses consistent with Section II, Policy 3.1.3 shall be permitted.</i></p> <p><i>[Section II, Policy 3.1.3: Major commercial centres should service a market area comprising most or all of the City. These centres may include major offices and hotels, in addition to uses suggested for minor commercial centres. The City should encourage parking facilities in these centres to serve several businesses in order to limit nuisance impact. The City's policy for major commercial centres in all other respects should be identical to Policy 3.1.2.]</i></p>	<p>In the Peninsula North Secondary Planning Strategy (Section XI of the Halifax MPS), the site is designated for Major Commercial land uses. The site is zoned C-2 (General Business), which permits major and minor commercial land uses as well as residential uses. Parking will be provided for and utilized by residential and commercial tenants and the general public. The majority of parking spaces will be underground.</p>
<p><i>2.3.1: In order to promote investment in commercial and residential redevelopment and to prevent conflict between new and existing uses, the city may, through the land use by-law, identify areas that provide an opportunity for and will benefit from comprehensive site planning.</i></p>	<p>The site is appropriate for and will benefit from comprehensive site planning. The site is located within a major commercial area, but adjacent to a variety of land uses, low and medium density residential, and has prominent street frontage on Bilby Street. The development agreement process can help alleviate and minimize potential land use conflicts.</p>

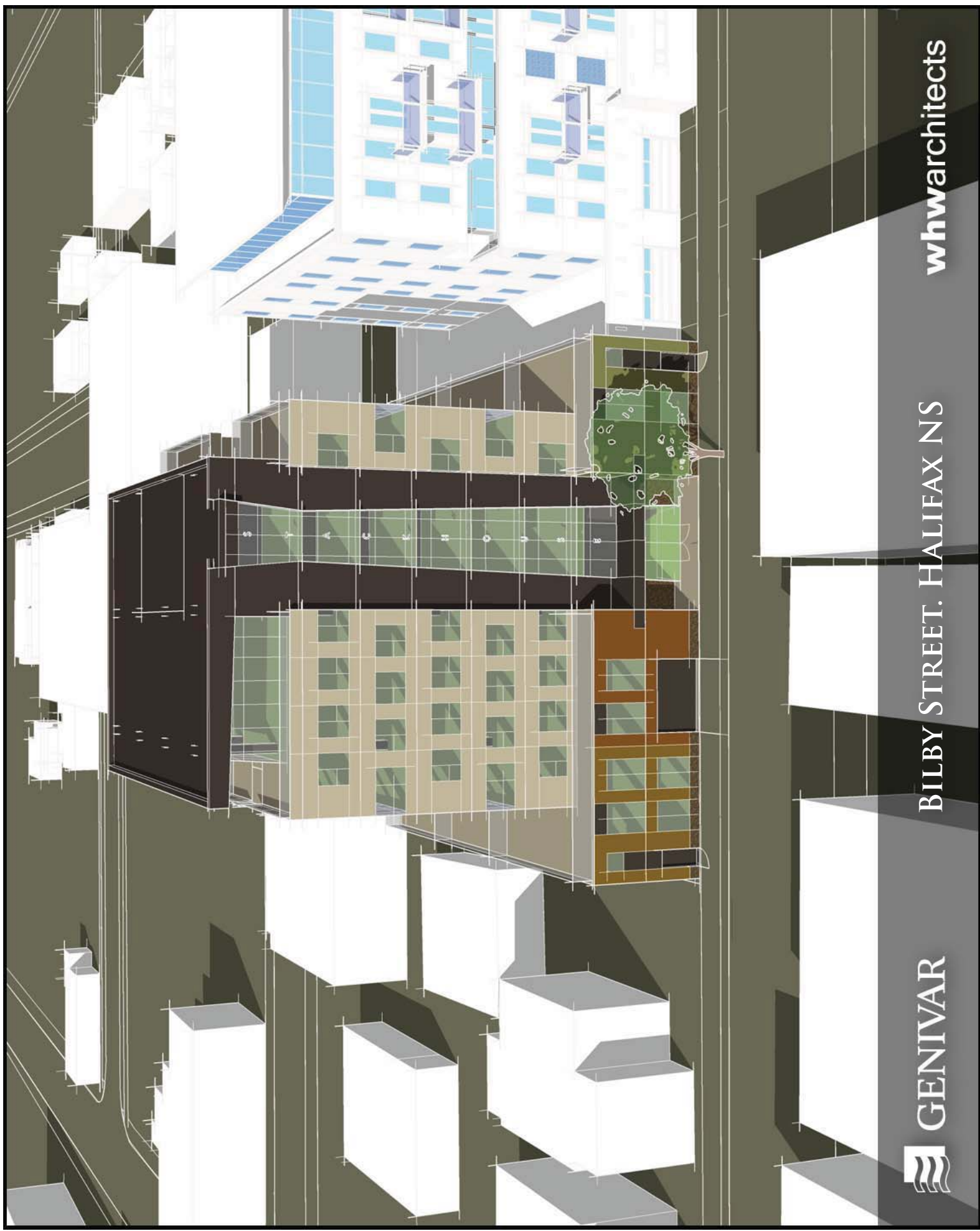
<b><i>Policy Criteria</i></b>	<b><i>Staff Comments</i></b>
<i>2.3.2: In those areas identified in the land use by-law pursuant to Policy 2.3.1, all residential and mixed residential-commercial development over four units shall be by agreement.</i>	Contingent upon approval of the LUB amendment implemented as Schedule 'Q', Council may consider the proposed development agreement, which is included as Attachment B. The proposal is for an 8-storey mixed-use building.

Policies for the consideration of the Development Agreement:

<b><i>Policy Criteria</i></b>	<b><i>Staff Comments</i></b>
<p><i>2.3.3: In considering agreements pursuant to Policy 2.3.2, Council shall consider the following:</i></p> <p><i>(i) the relationship of new development to adjacent properties and uses; and, the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment;</i></p>	<p>The immediate neighbourhood contains a mix of land use (see Staff Report).</p> <p>Substantial building heights and massing are achievable through the as-of-right permitting process in the major commercial portion of this area (C-2 Zone). However, the proposed building's height and mass is much less than that which could be achieved in an as-of-right situation. Through the development agreement process, staff negotiated with the applicant to achieve a reduction in the building's height and massing.</p> <p>Effective urban design treatment is created by a two storey streetwall along Bilby Street that includes various types of high quality materials such as stone masonry, cement siding and glass. The proposed design also includes decorative lighting and many windows and doors that provide eyes on the street and a sense animation and pedestrian engagement.</p> <p>To minimize potential land use conflicts, the development agreement restricts the land uses on the ground floor of the building to either a townhouse-style unit or one non-residential use that may consist of a restaurant, an office space, a personal service shop, a retail shop, or a community facility, subject to the C-2A Zone provisions. The nature of the building's non-combustible construction materials will also assist with noise attenuation. Signs are limited to awnings, fascia and projecting signs. The back lighting is limited to the lettering of each</p>

<b><i>Policy Criteria</i></b>	<b><i>Staff Comments</i></b>
	sign.
<i>(ii) the appropriate integration of the development into the traditional grid street system of the Peninsula;</i>	The proposal utilizes the existing frontage on Bilby Street. The proposed development integrates with the existing street grid.
<i>(iii) the design and layout of the development should encourage vehicular traffic to use Principal Streets and discourage traffic from infiltrating through existing neighbourhoods;</i>	A Traffic Impact Statement, prepared by the applicant's consultant, was reviewed by HRM and was deemed acceptable. The Study concludes that there are no issues with the proposed development on the local street network. The proposed Development Agreement requires vehicles accessing the site to utilize Bilby Street and for parking within the building.
<i>(iv) the creation of high quality design detail at street level through attention to such matters as landscaping, signs, building entrances, and vehicle layby areas;</i>	<p>The proposed agreement requires adherence to detailed landscaping requirements, which includes the provisions of street trees along the HRM right-of-way of Bilby Street, which will be in consultation with HRM Urban Forester and HRM Development Engineer. Signs are limited to awnings, fascia and projecting signs. The back lighting is limited to the lettering of each sign.</p> <p>The proposed design also includes decorative lighting and many windows and doors that provide "eyes on the street" and a sense animation and engagement.</p> <p>There will be no on-street vehicle lay-by areas off the public street as vehicular access is proposed from Bilby Street, where vehicles accessing and egressing from the site utilize Bilby Street for underground parking spaces (total of 30 spaces).</p>

<b><i>Policy Criteria</i></b>	<b><i>Staff Comments</i></b>
<i>(v) the provision of high quality open space and leisure areas of a size and type adequate for the resident population;</i>	Open space and leisure areas will consist of podium and rooftop landscaped areas, indoor amenity space for building tenants and individual private balconies for units in the residential towers. The provisions in the agreement ensure the use of high quality materials and landscape design. The design of the building also includes individual private balconies. These spaces/areas will be adequate for the resident population.
<i>(vi) residential and commercial densities consistent with municipal services;</i>	The proposed density for the overall site is 80 persons per acre. A sewer capacity analysis, prepared by the developer's consultant, was reviewed by Halifax Water and deemed acceptable.
<i>(vii) encouraging high quality exterior construction materials such as masonry; and</i>	Proposed exterior materials include various forms of masonry including brick and pre-cast concrete panels and trim, as well as stucco, glass, architectural panels and metal rails.
<i>(viii) other relevant land use considerations which are based on the policy guidance of this Section.</i>	No other matters were identified for consideration under the proposed development agreement.



GENIVAR

BILBY STREET. HALIFAX NS

whwarchitects

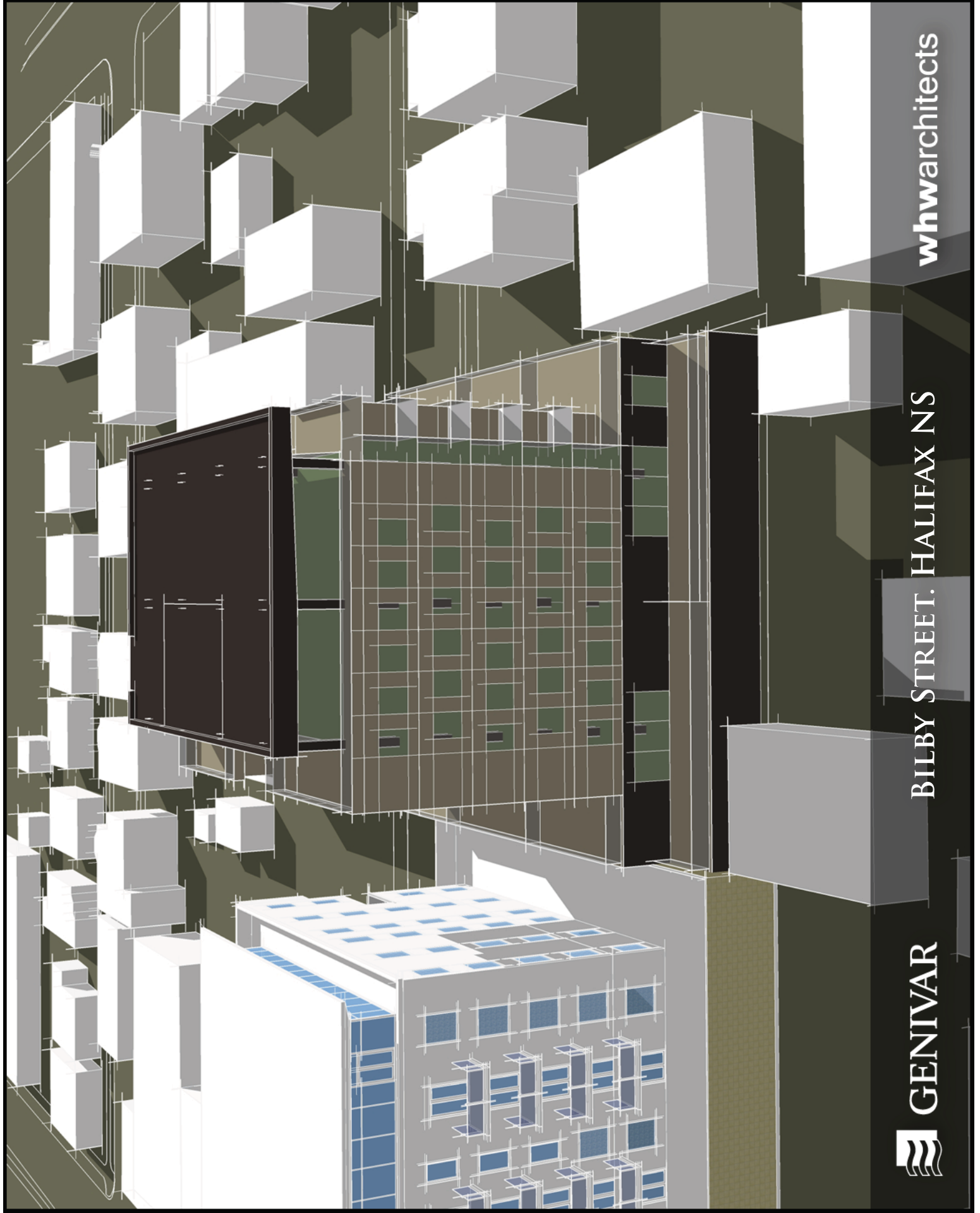




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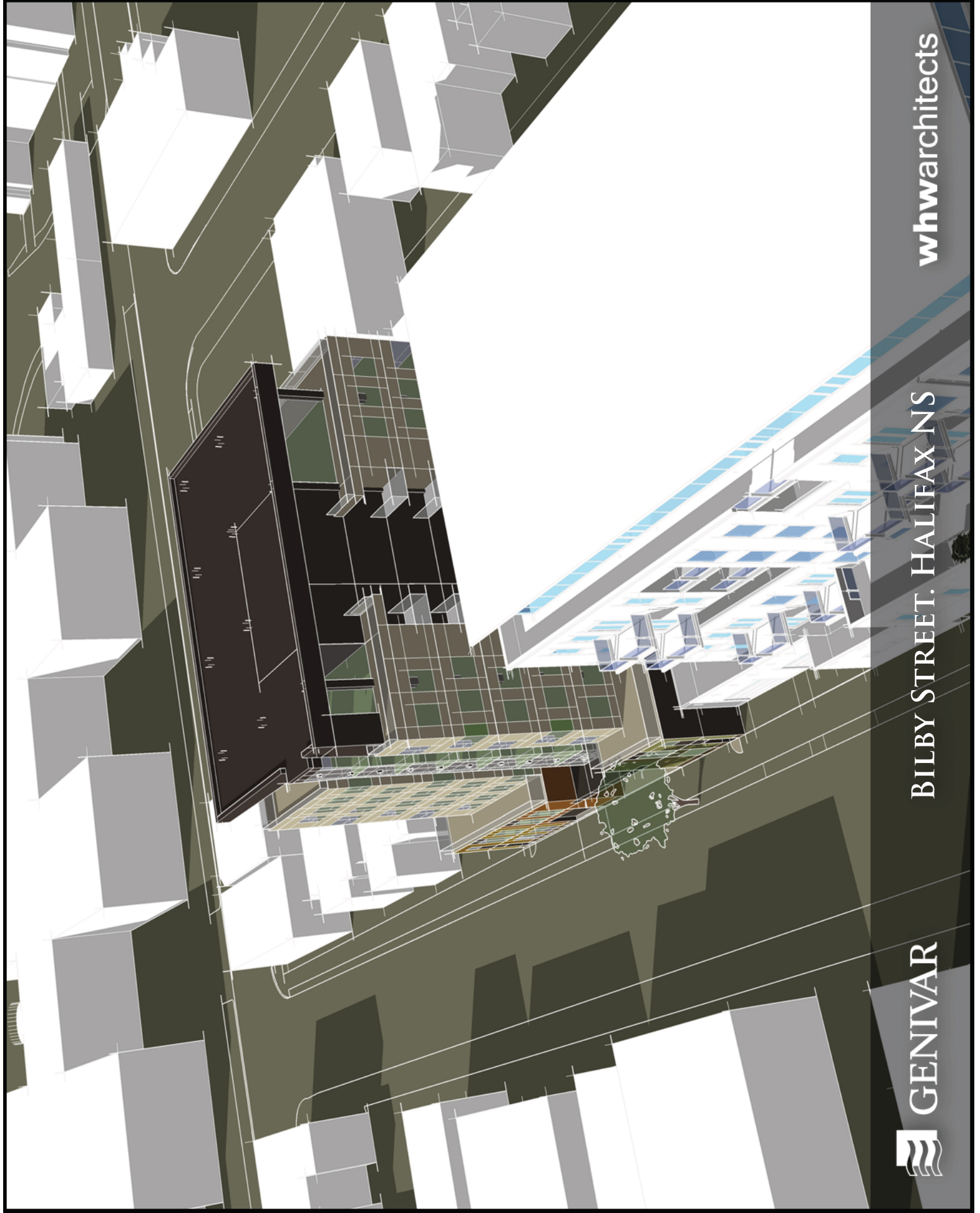
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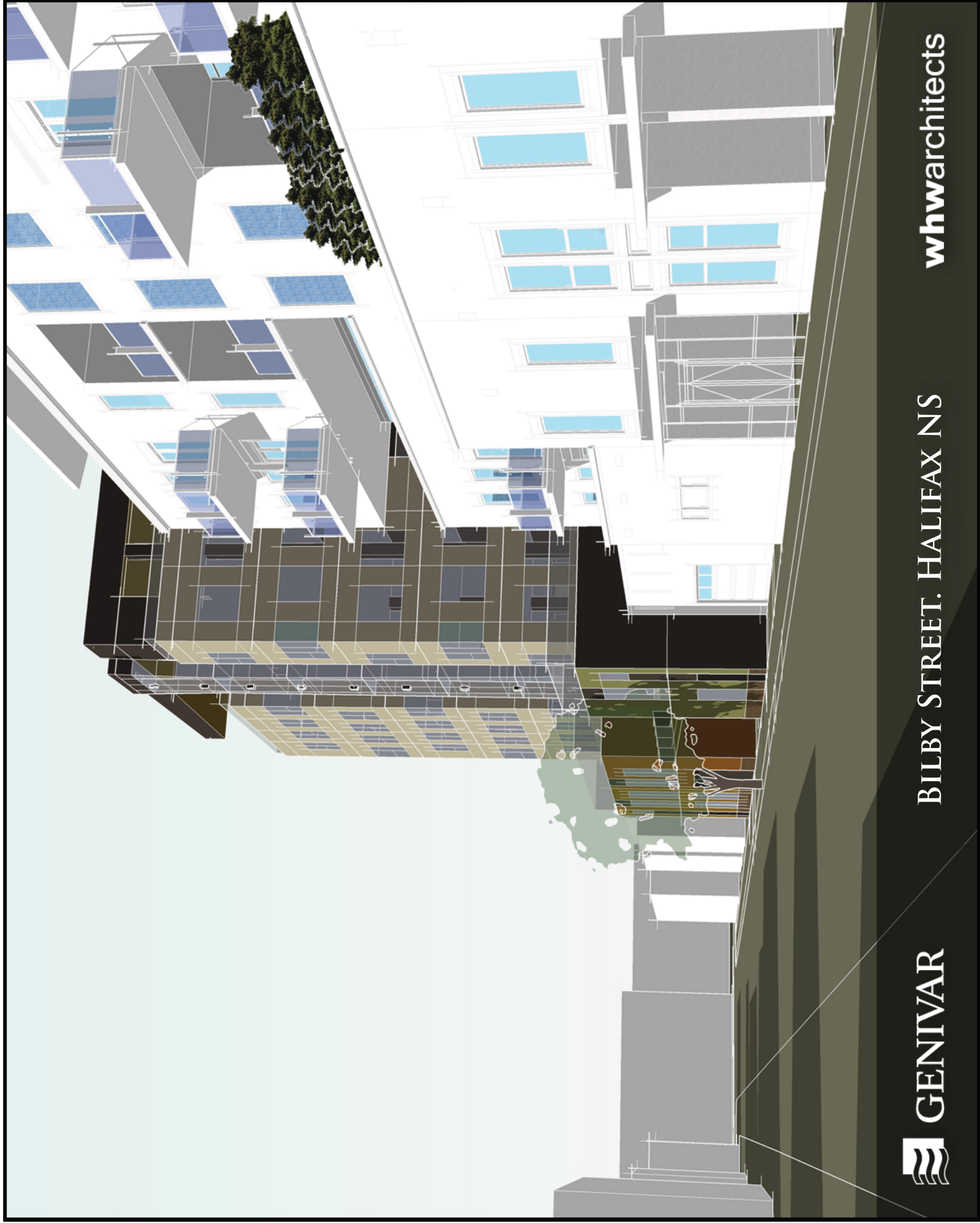


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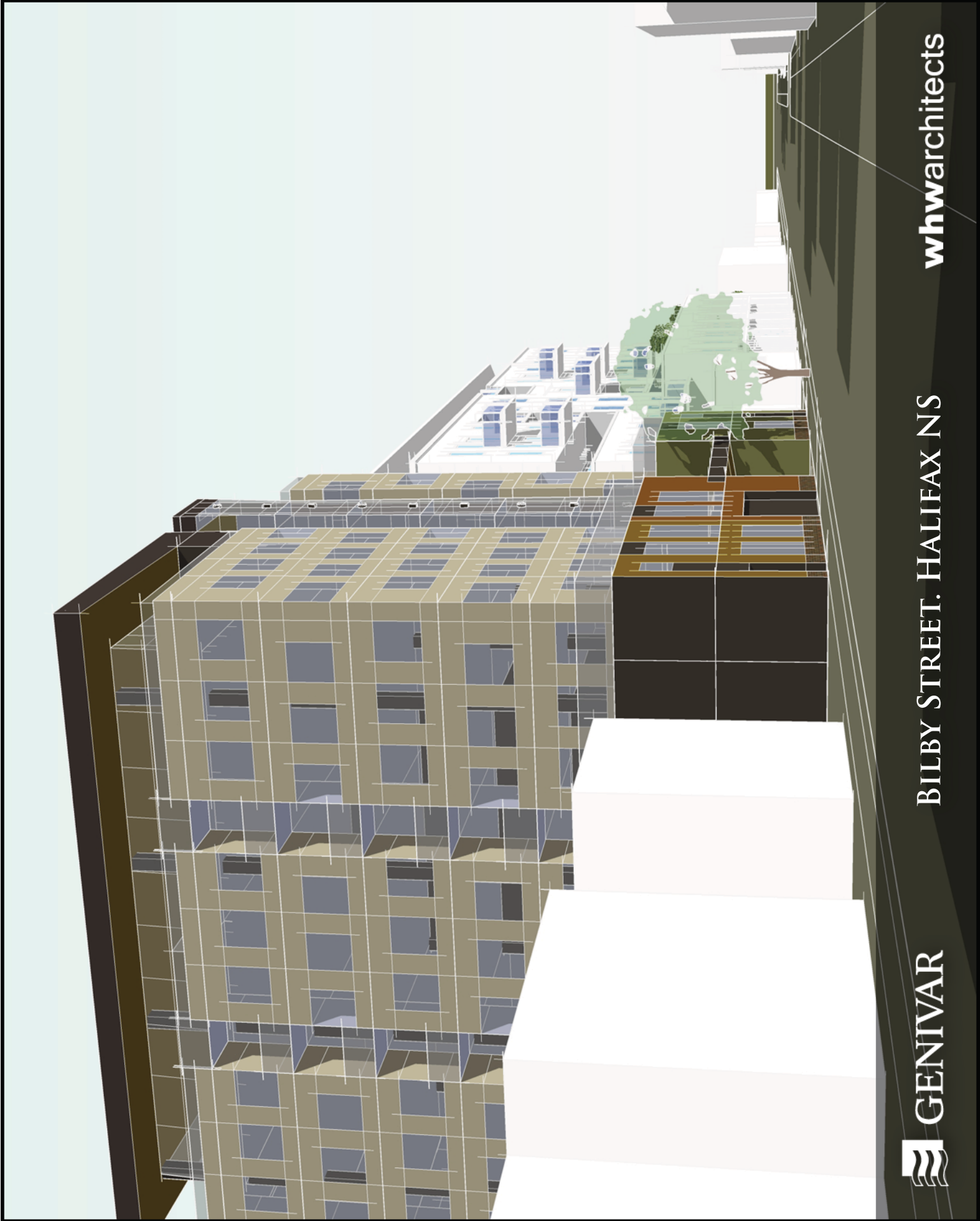




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BILBY STREET. HALIFAX NS

whwarchitects



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BILBY STREET. HALIFAX NS

whwarchitects

**ATTACHMENT E**  
**Public Information Meeting Minutes – September 26, 2013**

**7:00 p.m.**  
**Bloomfield Centre**  
**2786 Agricola Street, Halifax**

**STAFF IN**

**IN ATTENDANCE:** Dali H. Salih, Planner, HRM Development Approvals  
Cara McFarlane, Planning Controller, HRM Development Approvals  
Hilary Campbell, Planning Technician, HRM Development Approvals  
Councillor Jennifer Watts, District 8

**ALSO IN**

**ATTENDANCE:** Faisal Al- Hamadi, FH Construction – Property Owner  
Blaise Morrison, Consultant – WSP Group (formally GENIVAR)  
Joe Zareski, Architect – WHW Architects

**PUBLIC IN**

**ATTENDANCE:** Approximately 14

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The meeting commenced at approximately 7:00 p.m.

**1. Call to order, purpose of meeting – Dali Salih**

**Ms. Salih** introduced herself as the planner facilitating the application through the planning process; Cara McFarlane and Hilary Campbell, HRM Planning Applications; Councillor Jennifer Watts, District 8; Blaise Morrison, GENIVAR; and Joe Zareski, WHW Architects.

Case No. 18591 is an application by GENIVAR, on behalf of the property owner, FH Construction Ltd., to amend the Halifax Peninsula Land Use By-law (LUB) by applying Schedule Q on the subject property, 5530 and 5532 Bilby Street in Halifax by way of a development agreement.

The purpose of this Public Information Meeting (PIM) is to inform the public that HRM has received an application, to describe the proposal, explain planning policies and the stages of planning process associated with this application and to gain feedback. No decisions are made at this PIM.

The PIM agenda was reviewed.

Ms. Salih explained that a development agreement is a legal contract between HRM and the



property owner regarding specific land uses and criteria (height of the building, materials, etc.). The public's feedback is important to help staff draft the development agreement when negotiating with the applicant.

## **2. Presentation of Proposal – Dali Salih**

The site is located on Bilby Street and has a total area of approximately less than 10,000 square feet. It consists of three properties, two of them currently have buildings on them and the other is a strip of land that is vacant. This application would require those three properties to be consolidated into one.

An image of the existing structures on the properties was shown (commercial and industrial uses).

The applicant is proposing to construct an eight storey residential building, approximately 80 feet in height, with a population density of 74 persons per acre (a total of 32 residential units) and pedestrian access to the residential tower from Bilby Street. At grade, there are 13 parking spaces and 14 spaces underground.

The subject property is designated MJC (Major Commercial) under the Halifax Municipal Planning Strategy (MPS) and the Peninsula North Secondary Planning Strategy (SPS) and zoned C-2 (Major Commercial Zone under the Halifax Peninsula LUB. There are commercial and residential uses surrounding the property which are designated MDR (Medium Density Residential). Policies 2.3, 2.3.1, 2.3.2 and 2.3.3 under the Halifax MPS allow for the development agreement option.

Under the C-2 Zone, some residential and commercial uses are permitted as of right (a building 80 feet in height with angle controls at the top – shown on slide). A rendering of the proposed building was shown.

## **3. Presentation of Proposal – Blaise Morrison, GENIVAR**

The proposal is another great opportunity to bring some life into an already exciting community, some new life and some new admiration. The developer wanted to design a building that told a story and linked the past, present and future, and in a respectful manner that speaks to the residents and the area.

One of the inspirations for this proposed building is the historic theme of many properties in the area, the smoke stack, and trying to maintain or reimagine it in a new way.

The proposed building covers three properties and basically 100% of the lot. The podium is two storeys up around the building, one storey on the back and then the tower portion of the building is a bit slender that goes up to a total of eight storeys.

In a previous meeting, the public informed the applicant that there is great history in the neighbourhood. The applicant would like to reflect the industrial and residential heritage into the

proposed building. Wood and brick buildings and smoke stacks appear to be a common theme in the area over time.

The applicant would like to engage street level activity and bring more pedestrian-friendly elements to the building. That is the power of the development agreement as well. There are some developments that have already been approved in the area and things are changing.

By incorporating the past, present and a little bit of the future, the idea was to name this proposed building the Stack House. The smoke stack isn't actually on the property but by having the nice glass feature running the height of the building would reimagine and keep it a feature of the community. Height of a building is often an issue in any community; however, the applicant used this opportunity to experience a building from the ground up to the top in a very respectful and subtle way. Most of the detail of this building is on the ground level. The townhouse style façade along the front will be maintained and really emphasize a nice entrance that brings your eyes up to experience the building visually. Lighter colors on the building and stepbacks will be used to break it up a bit differently. Because the proposed building will be bordering existing residential lots, some landscaping (ivy or some type of trees) will be incorporated. The parking is comes off of Bilby Street and there are ramps that go to underground parking. The lobby is off of Bilby Street. The thought was to create an amenity space there so people can interact with others at street level. There are basically five units per floor going all the way to the top with a total of 32 units. There is bicycle parking to encourage people to bike to work. Lots of amenity space is provided at different areas of the building.

An image of what some of the buildings that have been approved will look like together once they have been constructed. Fortunately, one of the other developments is a client of GENIVAR; therefore, the two images could be viewed together. The idea is to maintain the same sort of townhouse façade.

#### **4. Overview of Planning Process – Dali Salih**

When an application is received by HRM, Staff makes sure there is policy within the MPS for Council to consider the proposal. A PIM is then held to receive public comments which assist Staff in preparing a recommendation and Staff Report that would go to District 7&8 Planning Advisory Committee. The Committee would then forward their recommendation of approval or refusal to Halifax and West Community Council (HWCC). HWCC would give the application First Reading and schedule a Public Hearing at which time the public is given another opportunity to comment before a decision is made by HWCC to approve or refuse the application. Whether approved or refused, a 14-day appeal period follows. The application can be appealed through the NSURB.

#### **5. Questions and Comments**

**Neila MacDonald, Halifax** – Is the third piece of land to the side of the building?

Ms. Salih said it is (shown on the slide).

Ms. MacDonald commented on the traffic in the area. There are now three developments that have their parking garages coming off of Bilby Street. She likes the look of the building and is glad to see the applicant listened to the public and their comments about larger apartments.

Mr. Morrison mentioned that it is undecided as to whether the units will be apartments vs. condos.

**Fred Connors, Halifax** – The look and feel of the Isleville, Bilby and Bloomfield area is starting to resemble a district in Portland, Oregon, known as The Pearl. It was a former rundown industrial/warehouse neighbourhood very close to the center of the city. In imagining this type of development, they also imagined how they would engage people at the street level so there is more interaction. Isleville Street presents itself as a tremendous opportunity for a really robust commercial corridor to exist as well to serve the 100s of new tenants. As a member of the North End Business Association, he knows that as a growing neighbourhood, it is suffering from a shortage of really high quality commercial opportunities for retailers and small businesses. Whenever possible, opportunities should be given to entrepreneurs to run their businesses in these new communities. He referred to the corner of Isleville and Kay Streets as an example of an excellent commercial/residential mix development. He would like to see the area filled with more coffee shops, bakeries, etc., so that the people living in these units have what they need right in their community.

**Andrew Killawee, Halifax** – What considerations have been given to privacy? He moved here eight years ago for the privacy aspect and currently enjoys a lovely backyard.

Ms. Salih mentioned that with applications such as these, multi-unit buildings, mitigation and privacy measures of the proposed building are put into consideration and included in the development agreement. This is something that can be negotiated with the applicant in finer detail by including vegetation or privacy screens.

Mr. Morrison explained that the developer would like to find a way to make the building look less abrupt for the existing residential bordering on the back of the proposed building. As for the windows at the upper levels, maybe through the leasing agreement, the curtains could be all the same.

Mr. Killawee asked about balconies on the back.

Mr. Morrison mentioned that none of the balconies protrude from the building. They are built into the cuts and sides of the building. There is also rooftop patio and amenity space. The penthouse units will have their own open space area.

Mr. Zareski said that it works both ways. People living in the building want their privacy as well; therefore, the developer will look at screening opportunities.

**Patrick Lawlor, Halifax** – Likes the structure but doesn't think it is in the right location. Has HRM assessed the magnitude of the six developments within a very short strip of street to see if they balance (traffic, property taxes, revenue for HRM (condos vs. apartments)?

Ms. Salih explained that the Traffic Impact Statement was prepared by a Traffic Engineer and reviewed by HRM Development Engineering and Traffic Services. Those studies make sure that the background growth rate is included in the Traffic Impact Statement. In terms of the balances of the building (condos vs. apartments), the property owner decides between those options and HRM cannot regulate that under the development agreement provisions. With regards to property taxes, those are provincial matters and, the city does not regulate those either.

Mr. Lawlor clarified that the city is forfeiting a lot of revenue by approving so many apartment buildings.

**Councillor Jennifer Watts, District 8** – Asked for more explanation on the levels of parking and a better idea of the entrance in relation to the other building.

Mr. Morrison explained that there is a façade, then the garage door and then another façade right next to it. Cars come into a parking garage which ramps down to another 13 stalls underground. In relation to the other developments, it looks like there would be four parking garage doors on Bilby Street.

**Mr. Connors** – Asked what pedestrians will be looking into as the walk down Bilby Street.

Mr. Zareski explained that the first 20 foot bay has a window to mimic the character of the street but you won't be able to see through it. The next bay has two windows that may or may not have visibility but will give us the scale and character of a two storey townhouse. The third bay is a garage door and has an apartment above. The color change is going to help articulate that street façade. You won't be looking at anything here because it is a garage door. The main entrance is set back from the sidewalk about four feet to give more graciousness coming into the building. The stack is glazed and acts as the feature element that will be translucent, transparent and glow at night. The fourth bay is a window into that front porch.

**Michael Bradshaw, Halifax, Member of the PAC** – Why is a development agreement required if 80 feet in height is permitted? He is concerned that the increase in traffic will deteriorate instead of enhance the pedestrian experience.

Ms. Salih explained that without the development agreement, a box could be built as-of-right and there would be no public input. With the development agreement, design elements can be regulated. In terms of the traffic, whenever a Traffic Impact Statement is submitted, the background growth rate is included in that study.

**Mr. Lawlor** mentioned that there will be a lot of traffic will be brought into the neighbourhood from tenants and their extended families and associates. There is no parking on Almon Street and people will be parked on Bilby and Isleville Streets. Many current residents don't have driveways so are forced to park on the street. Is this assessed in the traffic study? Also, is the water and sewer infrastructure being considered in this combination of developments?

Ms. Salih explained that additional traffic is referred to in the Traffic Impact Statement as number of trips generated from the site. She will look into it further and provide an answer on

the website. In terms of water and sewer, the applicant has provided, based on the persons per acre on the site, schematic plans that show the water and sewer. Those were reviewed by Halifax Water and were deemed acceptable. Plans for the schematic are available on the website.

Mr. Lawlor asked if these studies are being done on totality.

Ms. Salih reiterated that when an application is received, it is reviewed and circulated to municipal staff to ensure there are no problem areas before coming to the public.

Mr. Morrison said that HRM requested the plans and studies include all the developments in the area.

## **6. Closing Comments**

**Ms. Salih** thanked everyone for coming and expressing their comments.

## **7. Adjournment**

The meeting adjourned at approximately 8:10 p.m.