

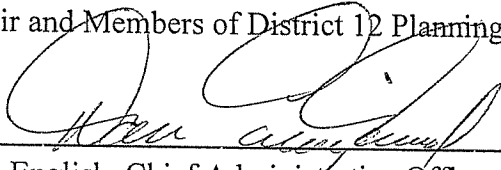


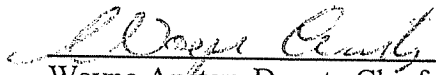
PO Box 1749
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District 12 Planning Advisory Committee
April 21, 2008

TO: Chair and Members of District 12 Planning Advisory Committee

SUBMITTED BY:


Dan English, Chief Administrative Officer


Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: March 28, 2008

SUBJECT: **Case 01046: MPS/LUB Amendments and Development Agreement,
South Park Street and Brenton Place, Halifax**

ORIGIN

Application by W.M. Fares to amend the Halifax Municipal Planning Strategy and Peninsula Land Use By-law to permit a 19-storey mixed use residential/commercial building on the northeast corner of South Park Street and Brenton Place (1441-1467 South Park Street and 5679-5683 Brenton Place) in Halifax, by development agreement.

RECOMMENDATION

It is recommended that the District 12 Planning Advisory Committee recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as contained in Attachments A and B of this report, and schedule a public hearing.
2. Move Notice of Motion to consider the development agreement, as contained in Attachment C of this report, to allow for a 19-storey mixed use residential/commercial building on the northeast corner of South Park Street and Brenton Place, Halifax. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.
3. Approve the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as contained in Attachments A and B of this report.

RECOMMENDATIONS CONTINUED ON NEXT PAGE

Contingent upon the amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use By-law being approved by Regional Council and becoming effective pursuant to the requirements of the *Municipal Government Act*, it is further recommended that the District 12 Planning Advisory Committee recommend that Regional Council:

4. Approve the development agreement, as contained in Attachment C.
5. Require that the development agreement be signed and returned within 120 days, or any extension thereof granted by Regional Council on request of the Applicant, from the date of final approval by Regional Council or any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

EXECUTIVE SUMMARY

This application is for amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law to permit a 19-storey mixed use residential/commercial building on the northeast corner of South Park Street and Brenton Place in Halifax, by development agreement. Generally, the applicant is proposing that the first two storeys of the building be set aside for commercial uses, while the upper seventeen storeys would contain up to eighty dwelling units. Two levels of underground parking would service the parking needs of the development.

The proposal does not meet many of the longstanding Municipal Planning Strategy policies and Land Use By-law regulations that relate to the subject site, such as a height limit of 45 feet and a maximum of four (4) dwelling units per lot. These provisions were enacted to protect Spring Garden Road, the Public Gardens and Victoria Park against unreasonable visual and shadow impacts, as well as to preserve a low density character for the neighbourhood in which the site is located. However, it is rationalized that the protection of Spring Garden Road, the Public Gardens and Victoria Park against excessive visual and shadow impacts can be achieved through the building's design. Moreover, circumstances have changed since the Municipal Planning Strategy policies and Land Use By-law regulations were adopted for the block upon which the lands are located. Buildings were demolished and there is no longer a cohesive low density residential neighbourhood area.

Staff is of the opinion that a proposal for a high-rise building in this location is acceptable as the immediate area possesses an urban character in which tall buildings are already present and are acceptable from an urban design standpoint, provided the concerns of shadow and wind impacts are mitigated through building design, and the criteria of Regional Plan Policy EC-2 (Attachment D) are met. In its analysis, staff concluded the following:

- The area does indeed possess an urban character in which tall buildings have been established and are acceptable;
- Overall, the proposed building will ameliorate wind conditions at ground level, which should be further improved when wind mitigation measures are accounted for;
- The proposed building does not excessively shadow Spring Garden Road, the Public Gardens and Victoria Park during peak times of public use; and,
- The proposed building does meet the evaluation criteria of Regional Plan Policy EC-2.

BACKGROUND

Initiation:

At the October 23, 2007 meeting of Regional Council, staff was instructed to initiate a process to consider amending the Halifax Municipal Planning Strategy and Peninsula Land Use By-law to enable a development agreement to permit a 19-storey mixed use residential/ commercial building on the northeast corner of South Park Street and Brenton Place, Halifax.

Site Description:

The site is made up of six separate parcels of land located on the northeast corner of South Park Street and Brenton Place (refer to Map 1). They include the following:

- 1441 South Park Street (PID # 40310021), which contains an apartment house;
- 1449-1451 South Park Street (PID # 00125690), which contains an apartment house;
- 1455 South Park Street (PID # 00125708), which is used as a parking lot;
- 1467 South Park Street (PID # 00125716), which contains an apartment house;
- 5679 Brenton Place (PID # 00125682); which is used as a parking lot; and,
- 5683 Brenton Place (PID # 40346710); which is used as a parking lot.

None of the existing buildings are registered as heritage properties. The subject properties are located in close proximity to Spring Garden Road, Victoria Park, the Public Gardens and Schidmtville¹.

MPS Designation and Zoning:

All six parcels are located within the Spring Garden Road Commercial Plan Area and are designated RC (Residential-Commercial Mix) under the Halifax Municipal Planning Strategy (MPS) and zoned RC-2 (Residential/Minor Commercial) under the Halifax Peninsula Land Use By-law (LUB) (see Maps 1 and 2). The subject properties are also located within Schedule A where the permitted density for R-3 uses is 250 persons per acre.

¹ Area bounded by Clyde Street, Queen Street, Morris Street and Brenton Street.

“As-of-Right” Development Options:

The RC-2 Zone currently allows for R-1 (Single Family), R-2 (General Residential), R-2T (Townhouse), and some minor commercial uses as set out under the C-2A (Minor Commercial) Zone. The RC-2 Zone also allows for the construction of mixed use residential/commercial buildings on the subject properties. However, these buildings would only be permitted a maximum of four dwelling units and the commercial component would be restricted to the ground floor and below grade. In addition, while the maximum building height is restricted to 45 feet under the RC-2 Zone, the Regional Municipal Planning Strategy requires a development agreement for any proposal in excess of 40 feet. The development agreement criteria under the Regional Plan relate to building design only and do not enable additional development opportunities beyond what is currently permitted under the RC-2 Zone.

The Proposal:

In its application, W.M. Fares proposes to amend the Halifax Municipal Planning Strategy and Peninsula Land Use By-law to establish a development agreement policy set that would allow for the construction of a 19-storey mixed use residential/commercial building that is to be comprised of:

- Minor commercial uses on the ground floor and the second level;
- Upper storey residential uses; and,
- Two levels of underground parking with access off Brenton Place.

Proposed MPS/LUB Amendments:

The proposed amendments to the Halifax MPS and Peninsula LUB (refer to Attachments A and B) include the following new, site specific policies:

- To clarify building height and setback, parking requirements, and the population density calculation methodology for the proposed development;
- Allowing minor commercial uses to be established on the second storey; and,
- Exempting the proposed development from the angle control regulations and open space requirements of the R-3 (Multiple Dwelling) Zone.

Highlights of the Draft Development Agreement:

The draft development agreement (Attachment C) provides for all elements of the proposed development as outlined above, and specifically for the following:

- Maximum height of 215 feet;
- Requirement for consolidation of all 6 parcels into one lot;
- Maximum of 80 dwelling units;
- Maximum density of 250 persons per acre;
- Minimum of 80 parking spaces;
- Up to 30,000 square feet of commercial space;
- Architectural details regarding building materials, colour and texture;
- Requirement for two landscaped terraces for common use by residents of the building;
- Requirement for the installation of a public art piece on the corner of South Park and Brenton Place;
- Requirement for a building and site lighting plan;
- Requirement for undergrounding of existing electrical and communication distribution systems;
- Flexibility to allow changes in internal layout;
- Requirement for further examination of wind mitigation measures prior to the issuance of permits; and,
- Flexibility of design to accommodate the proposed wind mitigation measures.

Approval Process:

The proposed MPS/LUB amendments, along with the draft development agreement, are under the jurisdiction of Regional Council. A public hearing, which is required prior to a decision by Council, may be held at the same time for both the MPS/LUB amendments and the development agreement. In the event that Council approves the MPS/LUB amendments, Council may only make a decision on the development agreement following the coming into effect of the MPS/LUB amendments.

DISCUSSION

Municipal Planning Strategy Amendments:

The Municipal Planning Strategy is the expression of the municipality's intent with respect to future land use patterns. Amendments to the MPS are not routine undertakings and Council is under no obligation to consider such requests. Amendments should only be considered when there is reason to believe that there has been a change in circumstances since the MPS was adopted or reviewed or where circumstances are significantly different from the situations that the Plan anticipated. Moreover, amendments to the Municipal Planning Strategy require

community acceptance and general consistency with good planning principles before it can be adopted.

Rationale for Proposed Changes:

This application proposes significant changes to many longstanding Municipal Planning Strategy policies and Land Use By-law regulations that relate to the subject site. The Developer has summarized their rationale as follows:

1. The circumstances have changed since the Municipal Planning Strategy policies and Land Use By-law regulations were adopted for the area, particularly for the block upon which the lands are located. Buildings have been demolished and there is no longer a cohesive low density residential neighbourhood area;
2. Many of the objectives expressed within the Halifax MPS, such as limiting the impact upon Victoria Park, can be achieved through the building's design;
3. The proposal meets the recently adopted Regional Plan development agreement conditions that address function and form;
4. There is little impact upon the established Schmidtville neighbourhood area;
5. The proposal will contribute to the Clyde Street/Brenton Place linkage outlined in the Public Lands Plan; and,
6. The building relates well to the principles that have been expressed through the HRMbyDesign study.

Foundation for Existing Policy Context:

During the preparation of the Spring Garden Road Commercial Area Plan, much attention was devoted to the visual and shadow impacts of new development upon Spring Garden Road, the Public Gardens and Victoria Park.² Consequently, staff must ensure that any proposed amendment to the Halifax MPS or Halifax Peninsula LUB will not result in a development that would unduly impact these community assets.

Impact of Tall Buildings:

Tall buildings can be either a negative or a positive force depending on their design and location. Tall buildings cast longer shadows than do low to mid-rise buildings and they can sometime create harsh wind conditions, which can impact the comfort and safety of pedestrians at street level. In addition, tall buildings can be detrimental in terms of visual impact if they are located in the middle of a primarily low-rise neighbourhood, as is the case for Fenwick Tower in South End

² The Spring Garden Road Area Plan was prepared between 1981 and 1985. It was adopted in May of 1986 and became effective in January of 1987.

Halifax, or if they have large floor plates and a simple rectangular shape, as is the case of Park Victoria.

On the positive side, tall buildings can be beneficial to their local environment by providing a strong edge to a public square, plaza, park, or wide street or boulevard. Tall buildings can also provide a positive visual impact to the urban landscape if they are located in areas that already have tall buildings, if they possess interesting architecture through the use of articulations, which add variety to the building surfaces and breaks up the massing of the building, and if the upper storeys promote visual interest in the urban skyline by incorporating an ornamental or signature top. Furthermore, the shadow and wind impacts attributable to tall buildings can often be mitigated through design. Firstly, tall slender buildings, while casting longer shadows than low to mid-rise buildings, may have less of an impact than mid-rise buildings with large floor plates, which cast wide shadows and therefore tend to impact a larger area for a longer period of time. Secondly, designs in which the building steps back and gets narrower as its height increases have a tendency to substantially reduce the wind impact at street level.

Evaluation of MPS/LUB Amendment Proposal:

In order to properly evaluate the proposal to amend the Halifax MPS and Halifax Peninsula LUB, staff must ask the following questions:

1. Does the immediate area possess an urban character in which tall buildings are already present and are acceptable from an urban design stand point, i.e. do not stand out?
2. Can the concerns of shadow and wind impacts be mitigated through building design?

Character of Immediate Area

The immediate area contains a mix of low, medium, and high-rise structures, including the following buildings (refer to Map 3):

1. Park Lane Terraces (5657 Spring Garden Road; 9 storeys);
2. 5670 Spring Garden Road (10 storeys);
3. 5770 Spring Garden Road (19 storeys);
4. Martello on Dresden Row (1550 Dresden Row; 15 storeys);
5. Charter House (1465 Brenton Street; 15 storeys);
6. Victoria General Hospital (1278 South Park Street; 13 storeys);
7. Park Victoria (1333 South Park Street; 21 storeys);
8. The Lord Nelson Hotel (1515 South Park Street; 9 storeys);
9. The Paramount (1545-1551 South Park Street; 17 storeys); and,
10. 1464-1490 Martello Street (9 storeys).

It is clear to staff that the immediate area definitely possesses an urban character in which tall buildings are present. While staff does acknowledge that the design and siting of some of the above-noted buildings are inadequate when assessed against contemporary urban design standards, for the most part the taller buildings contribute positively to the character of the district.

Wind Impact

The MPS calls for acceptable wind levels on sidewalks and public open spaces. In order to determine the wind impact from the proposed development, W.M. Fares commissioned RWDI Consulting Engineers & Scientists to undertake wind tunnel testing of a 1:400 scale model of the proposed building (with no wind mitigation measures) and compared these results with those from a scenario with no buildings on the subject site. A total of 51 wind speed sensors were installed at key locations in the model to measure mean and gust wind speeds. The study concluded that:

1. From May through October
 - ▶ Wind conditions at ground level were comfortable for walking or better for both the proposed building and the site as vacant.
 - ▶ The proposed building had the effect of decreasing the comfort level at 5 at-grade locations, while increasing it at 5 other locations.
 - ▶ Wind conditions on the terraces were comfortable for walking or better.
 - ▶ No safety failures were identified either at grade or on the terraces.³
2. From November through April
 - ▶ Wind conditions were identified as being uncomfortable at 6 ground level locations with the proposed building in place; an increase of 2 locations over the scenario with the site as vacant.
 - ▶ The proposed building had the effect of reducing the amount of ground level safety failures from 11 to 8, when compared to the site as vacant.
 - ▶ There would be 5 safety failures on the terraces.
3. Wind Control Measures
 - ▶ Wind control measures should be included to improve wind conditions at the south building corner near the intersection of Brenton Place and South Park Street, as well as next to some of the building entrances.
 - ▶ Wind control options should be investigated to improve wind conditions on some of the more exposed terraces during winter (November through April).

Planning Services is satisfied with the results of the RWDI study. Specific wind mitigation measures such as canopies, wind screens, and landscaping will be determined at the detailed design stage. The draft development agreement requires that any mitigation measures which

³ A safety failure is defined as more than two (2) events seasonally of gust speed winds in excess of 88 km/h.

encroach into the street right-of-way or which are not in keeping with the conceptual design be approved by Council as a non-substantive amendment to the proposed agreement.

Shadow Impact

The development is immediately east and south of some very important public spaces and the form of the proposed building helps to reduce the impact of shadow upon these spaces. The Halifax MPS calls for a minimal amount of shadow cast on Victoria Park, the Public Gardens and Spring Garden Road east of South Park Street.

Ekistics Planning and Design was commissioned by W.M. Fares to prepare a shadow analysis to assist HRM Planning staff in evaluating the application. The sun's path was modelled for the solstices (December 21st and June 21st) as well as the equinoxes (March 21st and September 21st). Shadow effects on public open spaces (Victoria Park and the Public Gardens) and adjacent streets/sidewalks were reviewed. The study assessed both the impact on plant life and the comfort of park users. The following represents the results of the shadow modelling for the four seasons:

Winter

The winter months are those that are most heavily impacted by the proposed development. In the Public Gardens the southern areas of the park are in heavy shade until 10:00 am. Most of this shade is provided by existing buildings. The proposed building does increase the shadow incrementally but this is not detrimental owing to the winter dormancy and the fact that the Gardens are closed at that time of year. Generally, it is viewed that other building sites in the area have a great deal more potential for negative impact upon the Gardens.

Because of proximity, the proposed building will cast shadow upon the intersection of Spring Garden and Queen and Victoria Park. The bulk of the new building is within the pre-existing shadow cast by Park Victoria during this time of the year. The proposed building has an incremental impact upon the intersection and upon Victoria Park. Owing to the time of year and available sun at other times of the day, a major impact is not anticipated.

Spring

During the spring, the proposed building has no impact upon the Public Gardens or upon the intersection of Spring Garden and South Park. It does, however, cast considerable shade on the north end of Victoria park until 10:30 am when the shadows from the building are completely off the park. Coupled with Park Victoria, large areas of the park are in shade until about 9:45 am. Shade from the proposed building will affect human comfort within the park and coupled with the existing shadow from Park Victoria will reduce overall sunlight in the park.

Summer

During the summer, the proposed building has no impact upon the Public Gardens or on the intersection of Spring Garden and South Park. At Victoria Park the impact is acceptable with large areas of the park being in full sunlight by 9:15 am and all shadow being off the park largely by 10:00 am.

Fall

During the fall shoulder season, the proposed building contributes considerable morning shadow across Spring Garden and South Park intersection and the entry gates and south east corner of the Public Gardens. This is not viewed as desirable, however, the building cladding (glass curtain wall) will reflect light into shadow areas providing some mitigation.

It is worth noting that some of the residents and property owners of Schmidville were concerned about the shadow impacts on their neighbourhood. While there is no policy requirement for Council to consider the shading of private properties, staff did request that Ekistics Planning and Design investigate this concern. The shadow modelling found that:

- ▶ Some properties on Brenton Street and Dresden Row will receive an extra few hours of shade from 5 to 7 p.m. on June 21st.
- ▶ The bulk of the properties in Schmidville will not be impacted on March 21st and September 21st.
- ▶ Schmidville is not impacted on December 21st.

Staff is of the opinion that the proposed building will not shade the Public Gardens, Victoria Park, Spring Garden Road, and Schmidville to an unacceptable level.

Other Considerations:

Traffic Impact

W.M. Fares commissioned Atlantic Road & Traffic Management (ARTM) to prepare a traffic impact study to evaluate the impacts of site generated traffic on the streets and intersections adjacent to the site. In its report submitted to HRM Planning Services and reviewed by HRM Traffic Services, ARTM concluded that site generated trips are not expected to have any significant impacts on local streets serving the site or on the regional street system.

HRMbyDesign

As indicated in the initiation report dated October 11, 2007, the timing of this proposal coincides with the HRM by Design process (Regional Centre Urban Design Study). It is anticipated that the HRMbyDesign Project will recommend planning policy and zoning changes for the Spring

Garden Road Commercial Area. In the meantime, Council has continued to consider MPS amendments for site-specific development proposals on the Halifax Peninsula.

Public Lands Plan Context

In February, 2007, Regional Council adopted, in principle, the Spring Garden Road / Queen Street Area Joint Public Lands Plan. Of relevance to this application, the "Public Lands Plan" recognizes the importance of the Schmitville area to the south of Clyde Street as a cohesive neighbourhood. It also views Clyde Street / Brenton Place as an important linkage between Victoria Park and a new park that is to be established at the intersection of Queen Street and Clyde Street on the former Infirmary Hospital lands.

Previous concerns that were expressed in the initiation report concerning the initial design of the corner and its relation to Brenton Place and Clyde Street have been resolved. Staff feel that the revamped design responds well to the Clyde Street / Brenton Place link and should act as a strong gateway through to Brenton Place and Clyde Street.

Rest of the Block

Staff discussed the feasibility of looking at the entire block as a subject of these amendments, but decided against it in order to avoid duplicating the work being undertaken in the HRMbyDesign project.

Open Space

The proposal includes two landscaped podiums for use by the residents of the building. These, together with the building's close proximity to the Public Gardens and Victoria Park, will ensure a sufficient quantity of open space for the residents of the proposed development.

Density

The permitted population density in the area is 250 persons per acre, which will remain unchanged with this application. Under the R-3 zone requirements, density is calculated based on the theoretical number of persons that can occupy a unit given the number of bedrooms and other "habitable rooms". The mix of units has not yet been determined by the applicant, however, the maximum number of dwelling units permitted is 80. For the purposes of this project, bachelor units will be assigned one (1) person per unit, one-bedroom units will be assigned two (2) persons per unit, and all other dwelling units will be assigned 2.25 persons per unit. Staff believe these density allocations will more closely resemble the actual population density of the finished project.

DA Policy Analysis:

A detailed review of the most relevant policies is included as Attachment D to this report. It is staff's opinion that the draft development agreement (Attachment C) will meet the intent of both the Halifax MPS and Regional MPS if the proposed MPS and LUB amendments (Attachments A and B) are adopted as proposed.

Public Meeting / Area of Notification:

In accordance with Regional Council's Public Participation Program for MPS amendments, the District 12 Planning Advisory Committee held a public meeting for this application on December 5, 2007. Minutes of this meeting are provided as Attachment E of this report. Community attendees were mainly concerned with the height of the proposed building, as well as its potential shadow and wind impacts. Should Regional Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 4 will be sent written notification.

Conclusion:

Staff feels that the proposed mixed use residential/commercial development is an appropriate use for the subject site. As such, staff recommends that Regional Council adopt the amendments to the Halifax Municipal Planning Strategy and the Peninsula Land Use by-law provided in Attachments A and B. Further to the adoption of the amendments, staff recommends that Regional Council approve the development agreement as contained in Attachment C.

BUDGET IMPLICATIONS

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

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

ALTERNATIVES

1. Regional Council may choose to approve the requested amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as contained in Attachments A and B. This is the recommended course of action.
2. Regional Council may choose to refuse the requested amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law. Regional Council is under no obligation to consider a request to amend its MPS and a decision not to amend the MPS cannot be appealed.
3. Regional Council may choose to approve the entire development agreement, as contained in Attachment C. This is the recommended course of action.
4. Regional Council may choose to alter the terms of the development agreement. This may necessitate further negotiations with the applicant, and may require an additional public hearing.
5. Regional Council may choose to refuse the entire development agreement. Pursuant to Section 230(6) of the *Municipal Government Act*, Council must provide reasons for this refusal, based on the policies of the MPS.

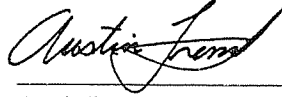
ATTACHMENTS

Map 1	Zoning and Location
Map 2	Generalized Future Land Use
Map 3	Buildings Over 8 Storeys
Map 4	Area of Notification
Attachment A	Proposed Amendments to Halifax MPS
Attachment B	Proposed Amendments to Halifax Peninsula LUB
Attachment C	Draft Development Agreement
Attachment D	Review of Most Relevant Policies
Attachment E	Minutes from the December 5, 2007 Public Meeting
Attachment F	Letter from Applicant
Attachment G	Summary of Shadow Analysis
Attachment H	Written submissions

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

Report Prepared by: Luc Ouellet, Planner I, 490-3689

Report Approved by:



Austin French, Manager, Planning Services, 490-6717

Financial Approval by:

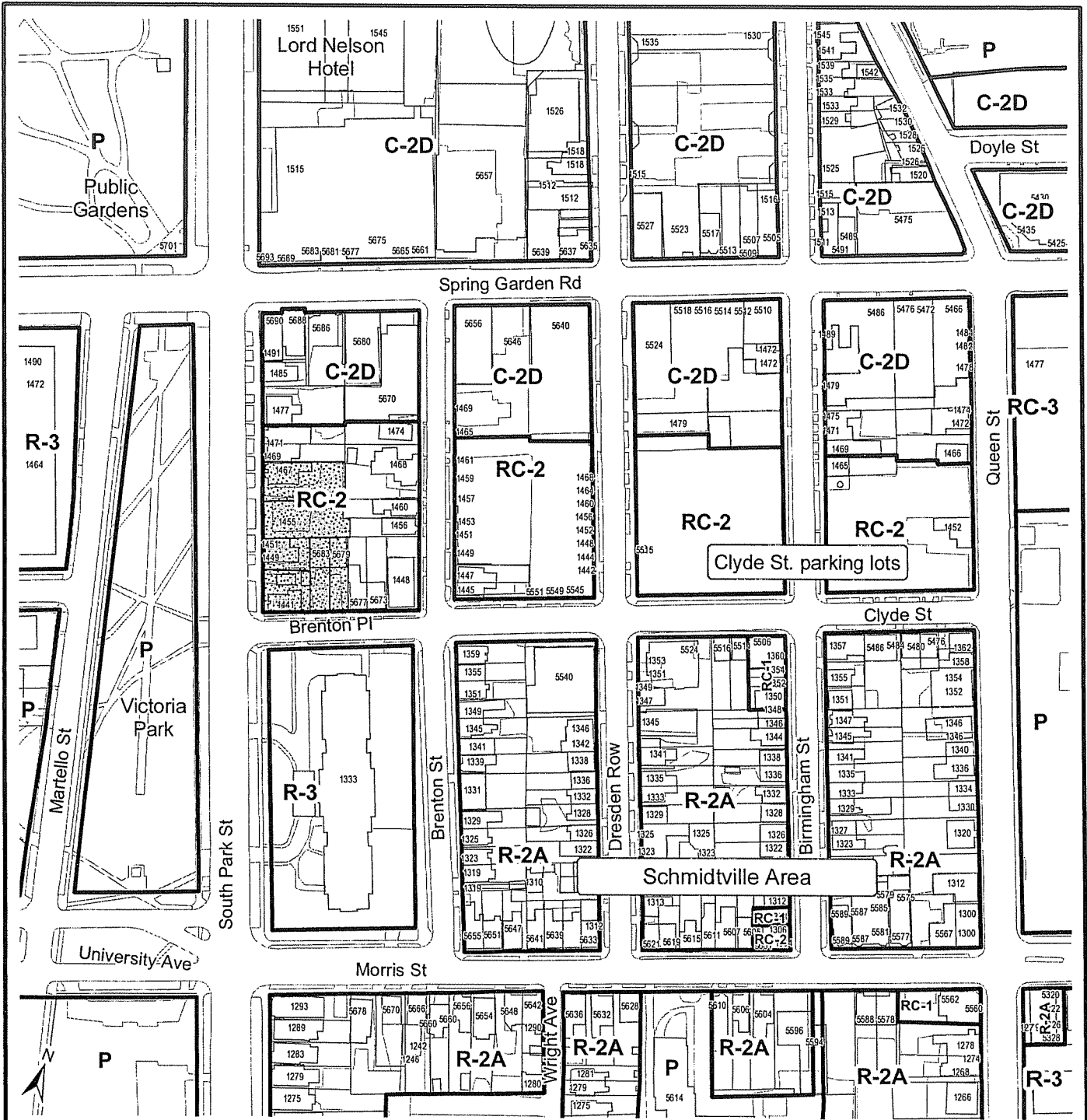


Catherine Sanderson, Senior Manager, Financial Services, 490-1562



Report Approved by:


Paul Dunphy, Director, Community Development



Map 1 - Location and Zoning

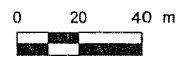
1441-1467 South Park Street
 5679-5683 Brenton Place
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 Subject area

Zone

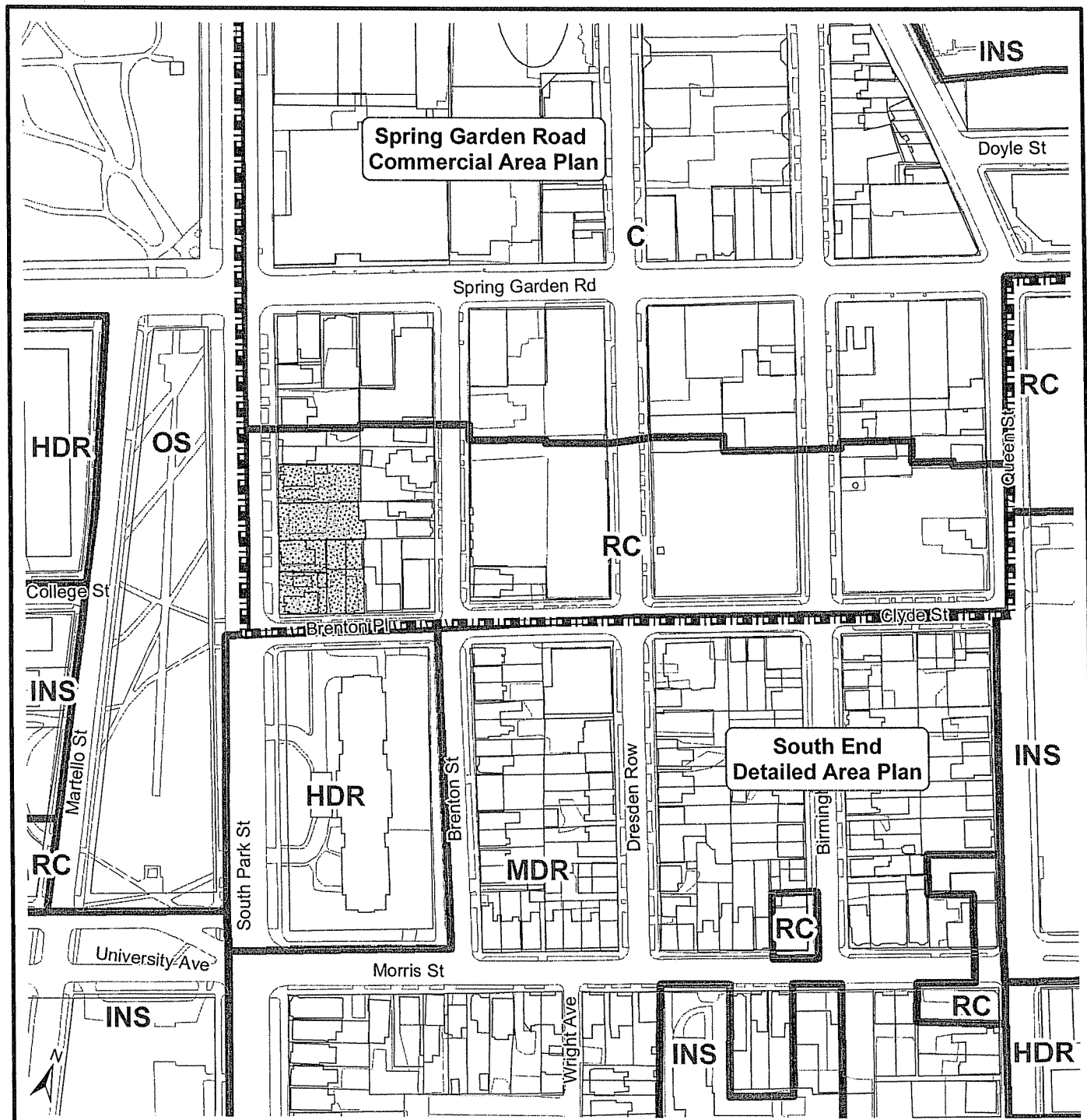
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- RC-2 Residential Minor Comm.
- C-2D General Business - Spring Garden Rd
- P Park and Institutional



This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law Area.



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

Halifax Peninsula
 Land Use By-Law Area



Map 2 - Generalized Future Land Use

1441-1467 South Park Street
 5679-5683 Brenton Place
 Halifax

-  Subject area
-  Secondary plan boundary

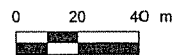
Halifax Plan Area

Designation - Spring Garden Road Commercial Area Plan

- C Commercial
- RC Residential Commercial Mix
- INS Institutional

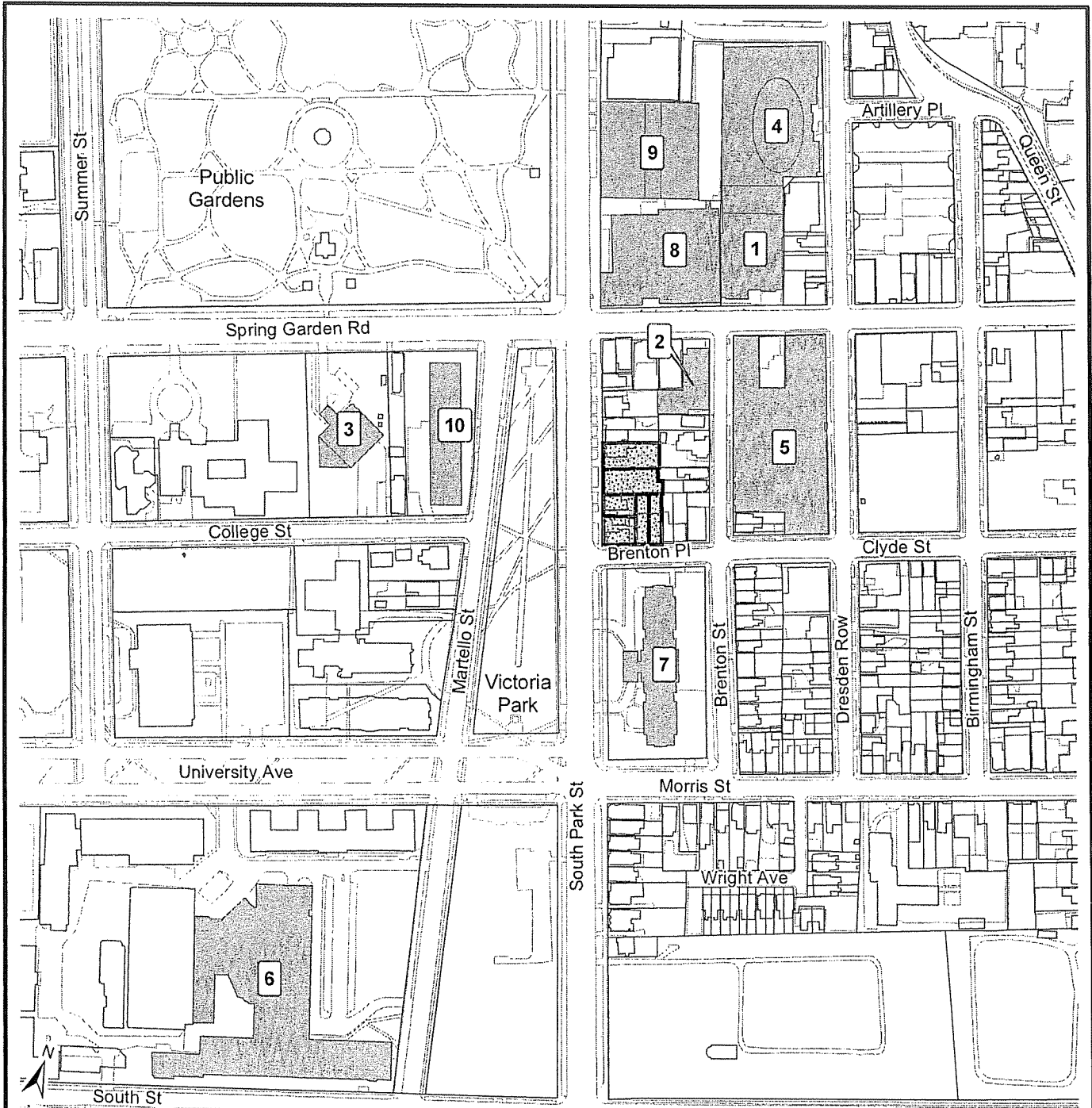
Designation - South End Detailed Area Plan

- MDR Medium Density Residential
- HDR High Density Residential
- RC Residential Commercial Mix
- OS Open Space
- INS Institutional




This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan Area.

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



Map 3 - Buildings Over 8 Stories

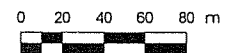
1441-1467 South Park Street
 5679-5683 Brenton Place
 Halifax

 Subject area

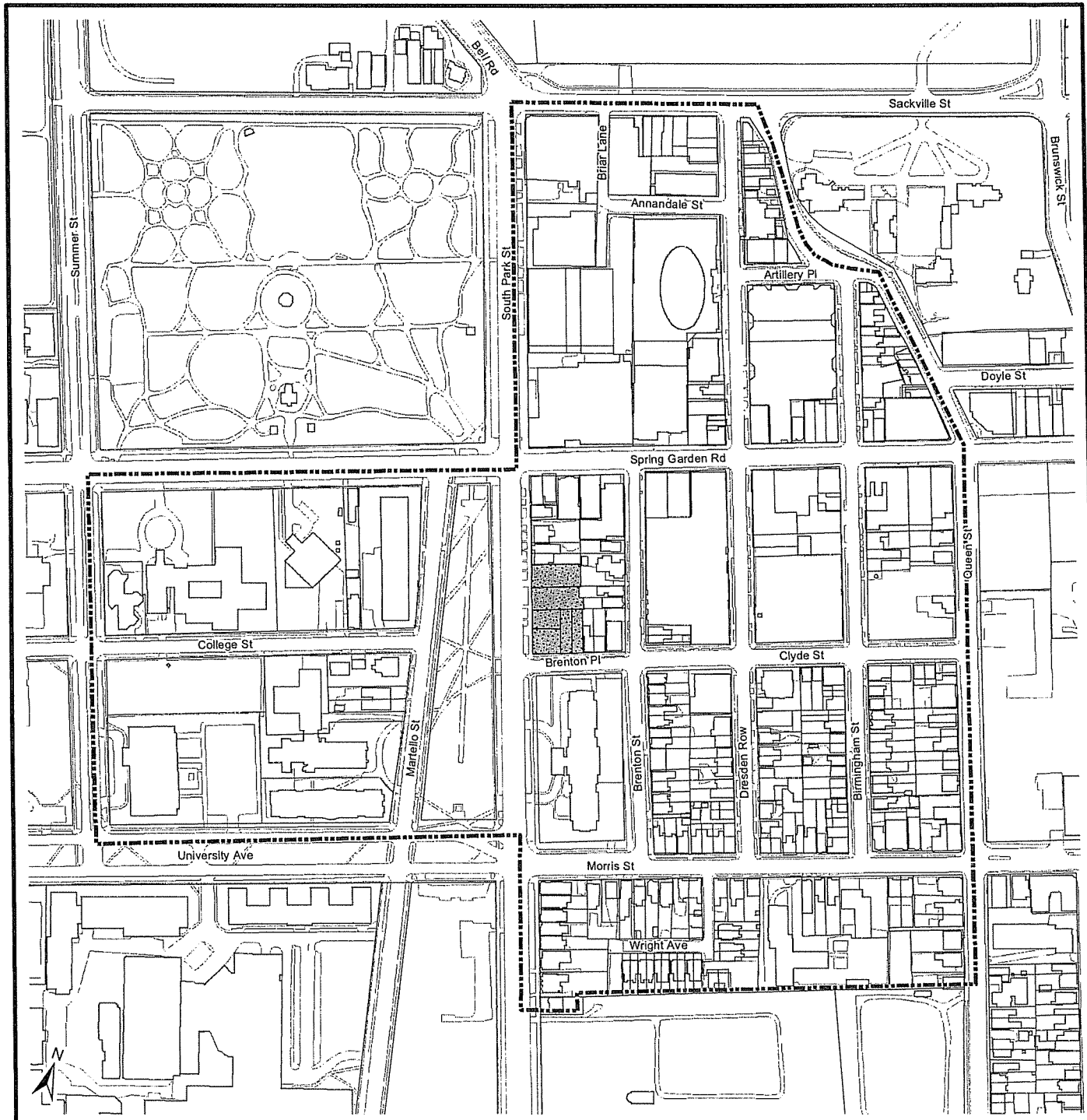
Halifax Plan Area

- 1 Park Lane Terraces (9 storeys)
- 2 5670 Spring Garden Road (10 storeys)
- 3 5770 Spring Garden Road (19 storeys)
- 4 Martello on Dresden Row (15 storeys)
- 5 Charter House (15 storeys)
- 6 Victoria General Hospital (13 storeys)
- 7 Park Victoria (21 storeys)
- 8 The Lord Nelson Hotel (9 storeys)
- 9 The Paramount (17 storeys)
- 10 1464-1490 Martello Street (9 storeys).

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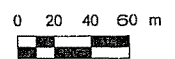
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Map 4 - Area of Notification

1441-1467 South Park Street
 5679-5683 Brenton Place
 Halifax

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 PLANNING SERVICES



-  Subject area
-  Area of notification

Halifax Plan Area

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**ATTACHMENT A - PROPOSED AMENDMENTS TO THE HALIFAX MUNICIPAL
PLANNING STRATEGY**

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

1. Amend Section IX, Part II, of the Municipal Planning Strategy for Halifax by adding the following policy after Policy 1.5.1:
 - 1.6 On the northeast corner of South Park Street and Brenton Place (1441-1467 South Park Street and 5679-5683 Brenton Place; PID # 40310021, 00125690, 00125708, 00125716, 00125682 and 40346710), the Municipality may permit, by development agreement, a mixed use residential/commercial building of up to 215 feet in height.
 - 1.6.1 In considering an application under Policy 1.6, Council shall make reference to Policy EC-2 of the Regional Municipal Planning Strategy.
 - 1.6.2 In considering an application under Policy 1.6, Council may permit minor commercial uses to occupy both the first and second storeys.
 - 1.6.3 Any development permitted pursuant to Policy 1.6 shall comply with a setback of 30 feet from the eastern boundary of the consolidated lots.
 - 1.6.4 Any development permitted pursuant to Policy 1.6 shall be exempt from angle control regulations prescribed under the Land Use By-law.
 - 1.6.5 Any development permitted pursuant to Policy 1.6 shall be exempt from the open space requirements of the R-3 (Multiple Dwelling) Zone of the Land Use By-law.
 - 1.6.6 For the purpose of calculating population density for any development permitted pursuant to Policy 1.6, the following population counts shall apply:
 - (I) bachelor units shall be assigned one (1) person per unit;
 - (ii) one-bedroom units shall be assigned two (2) persons per unit; and,
 - (iii) all other dwelling units shall be assigned 2.25 persons per unit.
 - 1.6.7 For the purpose of determining the amount of parking to be provided for any development permitted pursuant to Policy 1.6, each dwelling unit shall be assigned one (1) parking space, while the commercial portion of the development will not require the provision of parking.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2008.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 2008.

Julia Horncastle
Acting Municipal Clerk

**ATTACHMENT B - PROPOSED AMENDMENTS TO THE HALIFAX PENINSULA
LAND USE BY-LAW**

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

1. By adding the following Section after Section 97A:

Northeast Corner of South Park Street and Brenton Place

- 97B Council may permit a mixed use residential/commercial development on the northeast corner of South Park Street and Brenton Place (1441-1467 South Park Street and 5679-5683 Brenton Place; PID # 40310021, 00125690, 00125708, 00125716, 00125682 and 40346710), in accordance with Policy 1.6 of the Halifax Municipal Planning Strategy (Section IX, Part II).

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 2008.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 2008.

Julia Horncastle, Acting Municipal Clerk

ATTACHMENT C - DRAFT DEVELOPMENT AGREEMENT

THIS AGREEMENT made this day of , 2008,

BETWEEN:

3225655 NOVA SCOTIA LIMITED,

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

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 1441-1467 South Park Street and 5679-5683 Benton Place (northeast corner of South Park Street and Brenton Place; PID # 40310021, 00125690, 00125708, 00125716, 00125682 and 40346710), 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 nineteen (19) storey mixed use residential/commercial building on the Lands pursuant to the provisions of the *Municipal Government Act* and pursuant to Policy 1.6 of the Halifax Municipal Planning Strategy and Section 97B of the Halifax Peninsula Land Use By-law;

AND WHEREAS Regional Council approved this request at a meeting held on [INSERT - **Date**], referenced as Municipal Case Number 01046;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

Except as otherwise provided for herein, the development, subdivision, and use of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the 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 and Federal Governments and the Developer and/or lot owner agree to observe and comply with all such laws, by-laws and regulations 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 other approval agencies.

1.4 Conflict

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

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

1.4.3 Where imperial units of measurement conflict with metric units of measurement within the written text of this Agreement, the imperial units of measurement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed

under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal laws, by-laws, regulations, and codes applicable to the Lands.

1.6 Provisions Severable

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

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law.

2.2 Definitions Specific to this Agreement

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

- (a) **“Brise Soleil”** means a permanent sun-shading horizontal projection equipped with louvers, and which extends from the facade of a building to prevent glass curtain wall systems from overheating during summer months.
- (b) **“Cornice”** means any moulded projection which crowns or finishes the part to which it is fixed, e.g. a wall, door or window.
- (c) **“Landscape Architect”** means a professional, full member in good standing with the Canadian Society of Landscape Architects.
- (d) **“Living Wall”** means a vertical garden affixed to a building facade.
- (e) **“Louver”** means a system of metal slats which are angled in such a way that light is admitted, all the while keeping out direct sunshine.
- (f) **“Shouldice Block”** means a manufactured stone lookalike veneer.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop and use the Lands in a manner, which, in the opinion of the

Development Officer, is generally in conformance with the Schedules attached to this Agreement, unless further specified under the Agreement, and filed in the Halifax Regional Municipality as Case Number 01046:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	South Park Street Elevation
Schedule D	Brenton Place Elevation
Schedule E	Brenton Street Elevation
Schedule F	Spring Garden Road Elevation
Schedule G	Partial Enlarged Elevation
Schedule H	Section A
Schedule I	Aerial View - North East
Schedule J	Parking Plan Level 001
Schedule K	Parking Plan Level 002
Schedule L	Floor Plan Retail Level 100
Schedule M	Floor Plan Office Level 200
Schedule N	Floor Plan Residential Level 300
Schedule O	Floor Plan Residential Level 400
Schedule P	Floor Plan Residential Level 500 to 700
Schedule Q	Floor Plan Residential Level 800 to 1300
Schedule R	Floor Plan Residential Level 1400
Schedule S	Floor Plan Residential Level 1500 to 1800
Schedule T	Floor Plan Residential Level 1900
Schedule U	Site Plan - Street Level Landscape Plan
Schedule V	Common Landscape Podium - Level 300
Schedule W	Common Landscape Podium - Level 1400
Schedule X	South Park Preliminary Lighting Scheme
Schedule Y	Brenton Place Preliminary Lighting Scheme
Schedule Z	Brenton Street Preliminary Lighting Scheme
Schedule AA	Spring Garden Road Preliminary Lighting Scheme

3.2 General Description of Land Use

The use(s) of the Lands permitted by this Agreement is a nineteen (19) storey mixed use residential/commercial building consisting of two (2) floors of underground parking, two (2) floors of above-ground commercial uses and seventeen (17) residential floors.

3.3 Detailed Provisions for Land Use

3.3.1 The building shall contain a maximum of eighty (80) dwelling units to be located on Residential Levels 300 to 1900, inclusively.

- 3.3.2 For the purpose of calculating population density on the Lands, bachelor units shall be assigned one (1) person per unit, one-bedroom units shall be assigned two (2) persons per unit, and all other dwelling units shall be assigned 2.25 persons per unit.
- 3.3.3 The following uses shall be permitted on Retail Level 100:
- (a) Retail and personal services, excluding adult entertainment uses and amusement centres;
 - (b) Restaurants and lounges in association with a restaurant, as outlined in the “Spring Garden Road Area” of the Land Use By-law;
 - (c) Financial institutions; and,
 - (d) The entrances for uses permitted and established on the upper floors.
- 3.3.4 The following uses shall be permitted on Office Level 200:
- (a) Minor commercial uses permitted under the RC-2 (Residential/Minor Commercial) Zone of the Land Use By-law; and,
 - (b) Lounges in association with a restaurant, as outlined in the “Spring Garden Road Area” of the Land Use By-law.
- 3.3.5 The Developer shall provide a landscaped area on the ground level, as shown on Schedule B for use by the occupants of the building.
- 3.3.6 The Developer shall provide two (2) landscaped terraces, one (1) on Residential Level 300 and one (1) on Residential Level 400, as shown on Schedules N and W respectively, for common use by the residents of the building.
- 3.3.7 The Developer shall be permitted to utilize the area shown as an outdoor visitor parking area on Schedule B, as an outdoor restaurant patio, a landscaped area for common use by the occupants of the building, or a loading/unloading area.

3.4 Building Siting, Massing and Scale

The building constructed on the Lands shall comply with the following siting, massing and scale requirements:

- (a) The building and the underground parking garage shall be permitted to coincide with the property line on both the South Park Street and Brenton Place frontages;
- (b) The building, excluding the underground parking podium, shall be located no closer than 30 cm (1 foot) from the northern boundary of the Lands;
- (c) The building, excluding the underground parking podium, shall be located no closer than 10.5 m (35 feet) from the eastern boundary of the Lands;

- (d) The underground parking garage/podium shall be located no closer than 45 cm (18 inches) from both the northern and eastern boundaries of the Lands;
- (e) The building footprint, excluding the underground parking garage/podium, shall not be greater than 1393.5 sq. m (15,000 sq. feet);
- (f) The massing of the building and the sizes and locations of exterior terrace spaces shall be as generally shown on Schedules L to T, inclusively;
- (g) The maximum height of the building shall not exceed 64.5 m (215 feet) above the mean grade of the finished ground adjoining the building; and,
- (h) The building shall not violate Section 26B of the Land Use By-law.

3.5 Materials and Colours

- 3.5.1 The building shall be clad in brick, architectural precast concrete, and glass curtain wall.
- 3.5.2 The use of brick shall be limited to portions of Retail Level 100, Office Level 200, and Residential Level 300, as generally shown on Schedules C to F, inclusively.
- 3.5.3 The brick to be used on the building shall match the colour and texture of the Lord Nelson Hotel's (PID # 41019704) brick cladding, as it existed on January 1, 2008.
- 3.5.4 The brick to be used on the building shall be traditional brick and not a precast brick cladding or other type of imitation brick.
- 3.5.5 The architectural precast concrete cladding to be used on the building shall be limited to portions of the building from Retail Level 100 to Residential Level 1900, as generally shown on Schedules C to F, inclusively.
- 3.5.6 The architectural precast concrete cladding to be used on the building shall have, in the opinion of the Development Officer, the colour and texture of limestone.
- 3.5.7 A clear and transparent glass curtain wall system shall clad the South Park Street and Brenton Place corner entrance, as generally shown on Schedule C and D, and shall climb the entire height of the building.
- 3.5.8 A clear and transparent glass curtain wall system shall clad the South Park Street facade of Residential Level 1400 to Residential Level 1900, inclusively, as generally shown on Schedule C.

- 3.5.9 The glass curtain wall system specified under Subsection 3.5.8 shall be continued to a portion of the Spring Garden Road facade, as generally shown on Schedule F.
- 3.5.10 A clear and transparent glass curtain wall system shall clad a portion of the Brenton Street facade of Residential Level 800 to Residential Level 1500, inclusively, as generally shown on Schedule E.
- 3.5.11 A clear and transparent glass curtain wall system shall clad a portion of the Brenton Street facade of Residential Level 1800 to Residential Level 1900, inclusively, as generally shown on Schedule E.
- 3.5.12 The Developer shall be permitted to install brise soleils on the building.

3.6 Window Treatment

- 3.6.1 All windows shall be of a clear and transparent glass with aluminum frame.
- 3.6.2 All windows on the Retail Level 100 shall have a sill added above a shouldice block.
- 3.6.3 The building's fenestration pattern in terms of window sizes and locations shall be in general conformance with the pattern found on Schedules C to F, inclusively.

3.7 Weather Protection

- 3.7.1 Fixed or retractable canvas awnings made of a black, burgundy, or royal blue coloured fabric and containing the corporate logo of individual businesses shall be permitted along each retail bay.
- 3.7.2 A clear and transparent glass canopy shall be installed above the South Park Street and Brenton Place corner entrance.

3.8 Roof

- 3.8.1 All roof mounted mechanical and/or telecommunication equipment shall be visually integrated into the roof design of the building and shall not be visible from any public street or public park.
- 3.8.2 Roof mounted mechanical and/or telecommunication equipment shall not violate Section 26B of the Land Use By-law.

3.9 Balconies

All balconies shall be made of aluminum framing with insert glass.

3.10 Blank Wall

The scale of the large blank wall covering portions of Residential Levels 1400 to 1900, inclusively, as shown on Schedule F, shall be tempered by the introduction of artwork (murals), living wall systems, fixed windows, or a combination thereof.

3.11 Functional Elements

3.11.1 All vents, down spouts, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.11.2 The building on the Lands shall be designed such that the mechanical systems (HVAC, cooking exhaust fans, etc.) are not visible from South Park Street and Brenton Place. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the abutting properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

3.12 Other Architectural Treatments

3.12.1 A band of a minimum width of 20 cm (8 inches) shall be placed between each retail bay and between the ceiling of the Retail Level 100 and the floor of Office Level 200, as shown on Schedule C to E, inclusively.

3.12.2 A band of a minimum width of 20 cm (8 inches) shall be placed to top off the brick cladding on the Office Level 200 for those portions of the Office Level 200 brick wall that do not continue up to the Residential Level 300 as shown on Schedules C to F, inclusively.

3.12.3 A band of a minimum width of 20 cm (8 inches) shall be placed to top off the brick cladding on the Residential Level 300, as shown on Schedules C to F, inclusively.

3.12.4 A cornice of a minimum width of 45 cm (18 inches) shall crown the top of the portions of the building clad with architectural precast concrete on Residential Levels 1300, 1800, and 1900, as shown on Schedules C to F, inclusively.

3.12.5 The bands and cornices shall be made of stone, architectural precast concrete, or an acceptable equivalent in the opinion of the Development Officer.

- 3.12.6 All exposed concrete surfaces shall be reasonably free from fins, bulges, ridges, offsets, defects, honeycombing, or roughness of any kind, and shall present a finished, smooth, continuous hard surface.
- 3.12.7 Service/delivery entrances shall be integrated into the design of the building and shall not be a predominate feature.

3.13 Lot Consolidation

The Developer agrees to have all six (6) parcels, which make up the Lands to be consolidated into one (1) lot prior to making an application for a Building or Development Permit for any of the components of the development.

3.14 Parking, Circulation and Access

- 3.14.1 The driveway layout and entrance to the underground parking on the Lands shall be as generally illustrated on Schedule B.
- 3.14.2 An outdoor visitor parking area containing a maximum of four (4) parking spaces may be located on the Lands as generally illustrated on Schedule B.
- 3.14.3 The driveway access on the Lands shall be designed to the widest extent possible as approved by the Development Engineer.
- 3.14.4 The driveway and outdoor visitor parking area on the Lands shall have a hard finished surface such as asphalt, concrete, interlocking precast concrete paver stones, or an acceptable equivalent in the opinion of the Development Officer.
- 3.14.5 The limits of the driveway and the outdoor visitor parking area on the Lands shall be defined by curbing.
- 3.14.6 Where the driveway and the outdoor visitor parking area is to be delineated by curbing, such curbing shall not be asphalt.
- 3.14.7 The building on the Lands shall be serviced by two (2) levels of underground parking containing a minimum of eighty (80) parking spaces.
- 3.14.8 The layout of the two (2) levels of underground parking shall be as generally shown on Schedules J and K.
- 3.14.9 All parking spaces contained within the two (2) levels of underground parking and the outdoor visitor parking area shall comply with the minimum requirements of the Land Use By-law.

3.14.10 The building on the Lands shall include designated bicycle parking as per the Land Use By-law.

3.15 Landscaping

3.15.1 Prior to the issuance of Building or Development Permits for any of the components of the development on the Lands, the Developer agrees to provide a detailed Landscape Plan, prepared by a Landscape Architect, and which comply with the provisions of this Section and generally conform with the overall intentions of Schedules U to W, inclusively.

3.15.2 Sidewalk construction, planting, street lighting and site furnishings at ground/sidewalk level shall be the responsibility of the Developer and shall comply with the HRM's Capital District Urban Design Project standards. The Development Officer shall consult with the HRM Streetscape Program's Senior Landscape Architect and the Development Engineer on the detailed design prior to the issuance of a Development Permit. The Developer agrees to provide streetscaping of a type consistent with the aforementioned municipal standards subject to detailed design and review.

3.15.3 It is the responsibility of the Developer to ensure that the underground parking structure and rooftop terraces are capable of supporting the loads from all landscaping as well as the anticipated mature weight of the plant material.

3.15.4 Planting on rooftops and podiums above structures shall be carefully selected for their ability to survive in rooftop environments. Rooftop trees shall be located in planting beds or containers.

3.15.5 The minimum acceptable sizes for plant material shall be as follows:

- (a) High branching deciduous trees at grade - 60 mm CAL;
- (b) High branching deciduous trees on slab - 45 mm CAL;
- (c) Coniferous trees - 1.5 m in height; and,
- (d) Shrubs - 0.6 m in height or spread.

3.15.6 Planting details for at grade and on slab planting situations for each type of plant material proposed on the detailed Landscape Plan shall be provided, including a species list with quantities, size of material, and common and botanical names (species and variety).

3.15.7 All plant material shall conform to the Canadian Nursery Trades Association's Metric Guide Specifications and Standards and sodded areas to the Canadian Nursery Sod Growers' Specifications.

3.15.8 The detailed Landscape Plan shall include a fence of a minimum of 1.5 m (5 feet) in height but no greater than 1.8 m (6 feet) in height along the eastern property line.

- 3.15.9 Construction Details and/or Manufacturer's Specifications (including model and colour) for all tree protection hoarding, benches, light standards and luminaries, trash receptacles, bike racks, tree grates/guards, planter seating wall, wood arbour, patio table and chairs, outdoor garbage enclosure, railings, and fencing shall be provided to the Development Officer with the application for the first Building or Development Permit, and shall describe their design, construction, specifications, hard surface areas, materials and placement so that they will enhance the design of the building on the Lands and the character of the surrounding area.
- 3.15.10 The detailed Landscape Plan shall include information on the type of public art to be installed at the corner of South Park Street and Brenton Place, as shown on Schedule U, along with an identification of how it is to be displayed and secured/protected.
- 3.15.11 No HRM street trees are to be removed or damaged during the construction phase. The detailed Landscape Plan shall identify plywood tree protective hoarding located as close to the dripline of the existing street trees as possible to protect them during the construction phase.
- 3.15.12 Prior to issuance of the first Occupancy Permit, the Developer shall submit to the Development Officer a letter prepared by a Landscape Architect certifying that all landscaping has been completed according to the terms of this Agreement.
- 3.15.13 Notwithstanding Subsection 3.15.12, Occupancy Permits may be issued provided the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. 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 as approved by the Development Officer. Should the Developer not complete the landscaping within twelve (12) months of issuance of the first 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 security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification by a Landscape Architect.

3.16 Building and Site Lighting

- 3.16.1 The Developer shall submit a Lighting Plan prepared by a Licenced Architect, a Professional Engineer experienced in lighting engineering, or a qualified Lighting Designer to the Development Officer for review to determine general compliance with the preliminary lighting scheme, as described in Schedules X to AA, inclusively. The Lighting Plan shall contain the following:

- (a) Plans indicating the type and the location on the premises of illuminating devices, fixtures, lamps, supports, and other related devices;
 - (b) A description of the illuminating devices, fixtures, lamps, supports and other related devices, which shall include the manufacturers' catalog cuts and drawings including sections; and,
 - (c) A written description of the lighting effects that the Lighting Plan will achieve when fully operational.
- 3.16.2 The plans and descriptions referred to under Subsection 3.16.1 shall be sufficient to enable the Development Officer to ensure compliance with the requirements of the preliminary lighting scheme will be satisfied. If the plans and descriptions referred to under Subsection 3.16.1 cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the Developer shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.
- 3.16.3 Should the Developer desire to substitute outdoor light fixtures or lamps and install them on the Lands after a permit has been issued, the Developer shall submit all changes to the Development Officer for approval, with adequate information to assure compliance with this Section.
- 3.16.4 Lighting shall be directed to driveways, parking areas, loading areas, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

3.17 Signage

- 3.17.1 Signage on the Lands shall be in accordance with the requirements of the RC-2 (Residential/Minor Commercial) Zone of the Land Use By-law, as amended from time to time.
- 3.17.2 Notwithstanding Subsection 3.17.1, projecting and/or canopy signs may be permitted on the Lands provided that encroachment permits/licences are approved.
- 3.17.3 Notwithstanding Subsection 3.17.1, signs on the Lands shall only be externally illuminated.

3.18 Outdoor Storage and Display

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

3.18.2 Propane tanks and electrical transformers shall be located on the Lands in such a way as to ensure minimal visual impact from South Park Street and Brenton Place and abutting properties. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing/masonry walls with suitable landscaping.

3.19 Solid Waste Facilities

The building shall include a designated space for three stream (refuse, recycling and composting) source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Official in consultation with Solid Waste Resources.

3.20 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the interior and exterior of the building, fencing, walkways, recreational amenities, parking areas 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.

3.21 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 prior to the issuance of the last Occupancy Permit.

3.22 Deliveries and Solid Waste Collection

3.22.1 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.

3.22.2 Vehicular loading and unloading from Brenton Place shall only be permitted between the hours of:

- (a) 9:00 a.m. and 4:00 p.m.; and,
- (b) 6:00 p.m. and 9:00 p.m.

3.22.3 Delivery trucks that are required to back up from Brenton Place 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.; and,
- (b) 6:00 p.m. and 9:00 p.m.

3.22.4 The hours specified under Section 3.22 shall apply seven (7) days a week.

3.23 Requirements Prior to Approval

3.23.1 Prior to the issuance of any municipal permits for the nineteen (19) storey mixed use residential/commercial building, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional) process, as outlined by the Municipality.

3.23.2 Prior to the issuance of Building and Development Permits for any of the components of the development on the Lands, the Developer shall provide all of the following to the Development Officer:

- (a) Written certification from a Professional Surveyor that the proposed development does not violate Section 26B of the Land Use By-law;
- (b) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.15 of this Agreement;
- (c) A Lighting Plan in accordance with Section 3.16 of this Agreement;
- (d) A report outlining proposed wind mitigation measures for the development in accordance with Section 5.3 of this Agreement; and,
- (e) A Site Servicing Plan prepared by a Professional Engineer and acceptable to the Development Engineer.

3.23.3 Prior to the issuance of Building and Development Permits for any of the components of the development on the Lands, the Developer shall have all six (6) parcels of land comprising the Lands consolidated into one (1) lot.

3.23.4 Prior to the issuance of an Occupancy Permit for any of the components of the development on the Lands, the Developer shall provide all of the following to the Development Officer:

- (a) Written certification from a Professional Surveyor that the completed development on the Lands does not violate Section 26B of the Land Use By-law;
- (b) Certification from a Landscape Architect indicating that the Developer has complied with the Landscape Plan required pursuant to Section 3.15 of this Agreement, or Security in accordance with Subsection 3.15.13;
- (c) Certification from a Licenced Architect, a Professional Engineer experienced in lighting engineering, or a qualified Lighting Designer indicating that the

Developer has complied with the Lighting Plan required pursuant to Section 3.16 of this Agreement; and,

- (d) Written confirmation from the Development Engineer indicating compliance with Section 4.2 of this Agreement.

3.23.5 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, licences, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.24 Variation by Development Officer

The Development Officer may approve:

- (a) The following variations to the Schedules:
 - (I) changes to the internal floor plans of the building provided the number of dwelling units and building size has not increased and the exterior appearance of the building is not affected; and,
 - (ii) changes to the interior layout of the underground parking levels provided the changes do not reduce the minimum number of parking spaces required by the Agreement.
- (b) Minor variations to the exterior design of the building and landscaping, in order to accommodate wind mitigation measures as contained in a report prepared by a Professional Engineer experienced in wind engineering, provided that the intent of this Agreement is met.
- (c) A reduction in the number of retail bay entrances/doorways, as shown on Schedule C, from eight down to four, to permit the establishment of large retail tenants that attract high volumes of pedestrian traffic.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

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

4.2 Off-site Disturbance

Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

4.3 Garbage Collection from Building

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

4.4 Underground Services

The Developer agrees to place all primary and secondary utility services (electrical and communication distribution systems) underground. In addition to being responsible for the full cost of placing secondary services underground, the Developer agrees to pay for all infrastructure costs required to place the primary utility services underground that are currently above ground within those portions of South Park Street and Brenton Place which abut the Lands. It is expected that any cabling or pole removal costs associated with the placement of the primary services underground will be borne by the respective utility. The Developer is responsible for ensuring that the requirements of the applicable utility companies are met.

4.5 Street Lighting

The Developer shall install light standards and luminaries for street lighting. These light standards and luminaries shall have the ballast in the fixture, meet the illumination standards of the Municipal Service Systems Specifications and the design standards of the HRM's Capital District Urban Design Project and shall be approved by the Development Officer, in consultation with the Development Engineer and the HRM Streetscape Program's Senior Landscape Architect.

4.6 Encroachments

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

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Archaeological Monitoring and Protection

The Lands fall within the High Potential Zone for Archaeological Sites identified by the Province

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

5.2 Sulphide Bearing Materials

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

5.3 Wind Mitigation Measures/Solutions

5.3.1 The Developer shall submit a report to the Development Officer prepared by a Professional Engineer experienced in wind engineering, which outlines proposed wind mitigation measures for the development. The report shall specify various mitigation measures/solutions, which will result in acceptable wind conditions as identified in the wind study report titled Final Report: Pedestrian Wind Study South Park Halifax, Nova Scotia dated February 12, 2008, and prepared by Rowan Williams Davies & Irwin Inc. Consulting Engineers & Scientists (RWDI Project Number 08-1182).

5.3.2 Appropriate wind mitigation measures/solutions shall be approved by the Development Officer under Section 3.24(b) prior to the issuance of a Building or Development Permit, except those which, in the opinion of the Development Officer, involve a substantial change in the design of the building, those which are not in accordance with HRM's Capital District Urban Design Project standards and/or those which require an encroachment licence. In these instances, such measures shall be considered by Regional Council under Section 6.2 (m) prior to the issuance of a Building or Development Permit. Mitigation measures/solutions shall be shown on the building plans submitted for a Building or Development Permit approval and completed prior to the issuance of an Occupancy Permit.

PART 6: AMENDMENTS

6.1 Substantive Amendments

Amendments to any matters not identified under Section 6.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Municipal Government Act*.

6.2 Non-substantive Amendments

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

- (a) The granting of an extension to the date of commencement of development, as identified under Subsection 8.3.3 of the Agreement;
- (b) The granting of an extension to the length of time for the completion of the development, as identified under Section 8.4 of the Agreement;
- (c) Changes to the Preliminary Lighting Scheme Schedules of the Agreement (Schedules X to AA, inclusively);
- (d) Changes to the building and site lighting detailed under Section 3.16 of the Agreement;
- (e) Changes to the landscaping measures shown on Schedules U to W, inclusively, which is above and beyond the allowable variation identified under Section 3.24 of the Agreement;
- (f) Changes to any of the landscaping measures detailed under Section 3.15 of the Agreement;
- (g) Changes to the permitted hours of deliveries and solid waste collection detailed under Section 3.22 of the Agreement;
- (h) A reduction in the number of floors associated to the building;
- (I) The replacement of the second floor commercial uses with residential uses;
- (j) An increase in the number of dwelling units provided the building size has not increased and the exterior appearance of the building is not affected;
- (k) Changes to the exterior architectural appearance of the building, including materials, colours, architectural treatments and fenestration pattern, provided that plans are submitted for any changes to the building design and that such changes, in the opinion of Council, are an improvement over the design detailed in the Agreement;
- (l) Changes to the signage requirements detailed under Section 3.17 of the Agreement;
- (m) Wind mitigation measures other than those that may be approved by the Development Officer under Section 3.24(b) and Subsection 5.3.2 of the Agreement;
- (n) Changes to Schedule B of the Agreement; and,

- (o) The replacement of the first and second floor commercial uses with residential uses, which on the South Park Street and Brenton Street frontages shall be in the form of individually accessible townhouse-style dwelling units.

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 (24) hours of receiving such a request.

7.2 Failure to Comply

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, except that such notice is waived in matters concerning environmental protection and mitigation, then in each such case:

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or,
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remediation under the *Municipal Government Act* or Common Law in order to ensure compliance with this Agreement.

PART 8: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

8.1 Registration

A copy of this Agreement and every amendment and/or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office for Halifax County, Nova Scotia and the Developer shall incur all cost in recording such documents.

8.2 Subsequent Owners

8.2.1 This Agreement shall be binding upon the Parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Agreement until this Agreement is discharged by Council.

8.2.2 Upon the transfer of title to any lot, the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.

8.3 Commencement of Development

8.3.1 In the event that development on the Lands has not commenced within five (5) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

8.3.2 For the purposes of Subsection 8.3.1, commencement of development shall mean the installation of the foundation for the nineteen (19) storey mixed use residential/commercial building on the Lands.

8.3.3 For the purpose of Subsection 8.3.1, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.2(a), 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.

8.4 Completion of Development

Upon the completion of the development or portions thereof, or after ten (10) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office for Halifax County, Nova Scotia, whichever time period is less, 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 on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as may be amended from time to time.

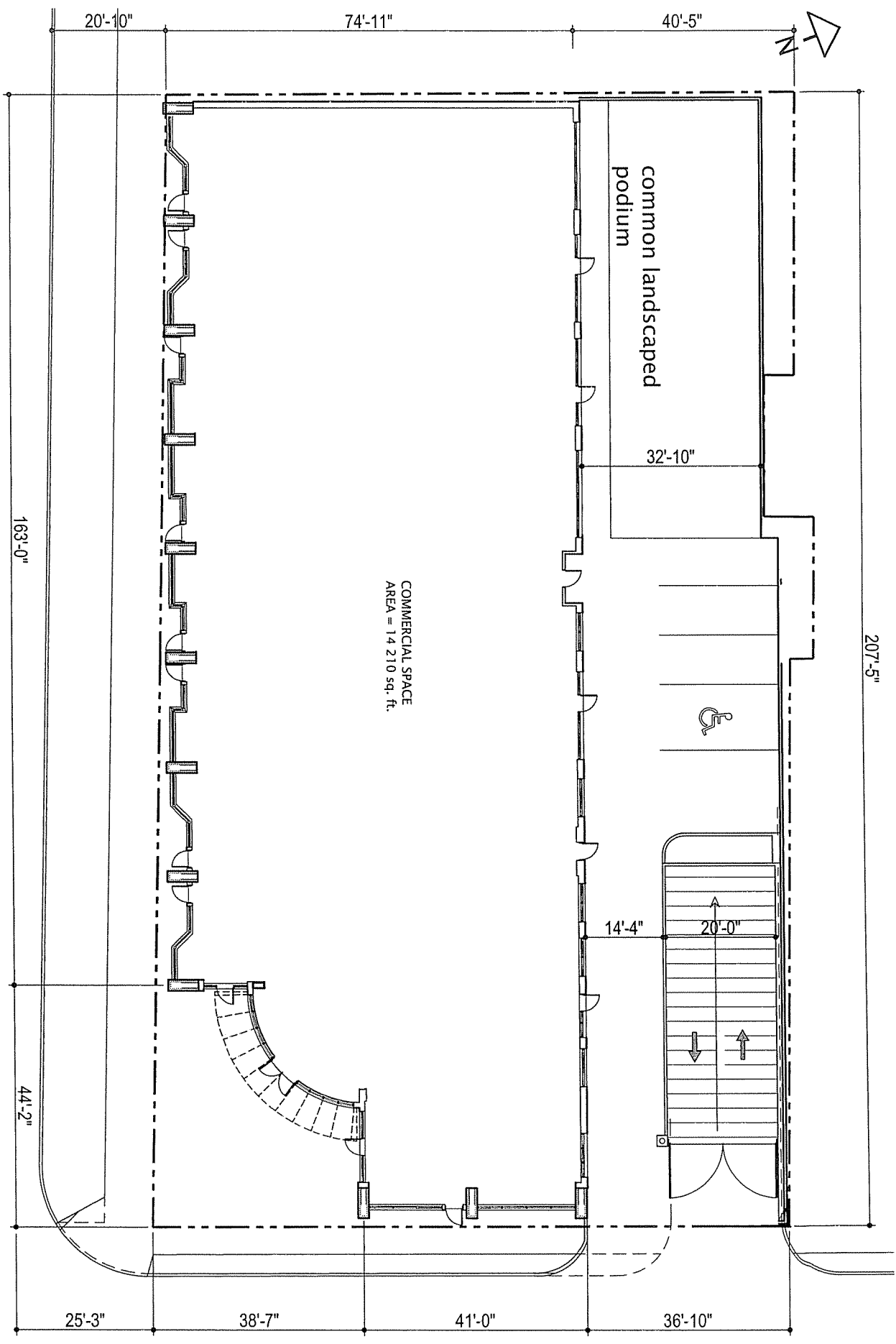
WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2008.

SIGNED, SEALED AND DELIVERED) 3225655 NOVA SCOTIA LIMITED
 in the presence of)
) Per: _____
 _____)
)

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

SITE PLAN

SOUTH PARK ST.



COMMERCIAL SPACE
AREA = 14 210 sq. ft.

common landscaped
podium



20'-0"

14'-4"

163'-0"

20'-10"

74'-11"

40'-5"

44'-2"

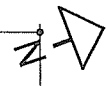
25'-3"

38'-7"

41'-0"

36'-10"

207'-5"



Schedule B Revised

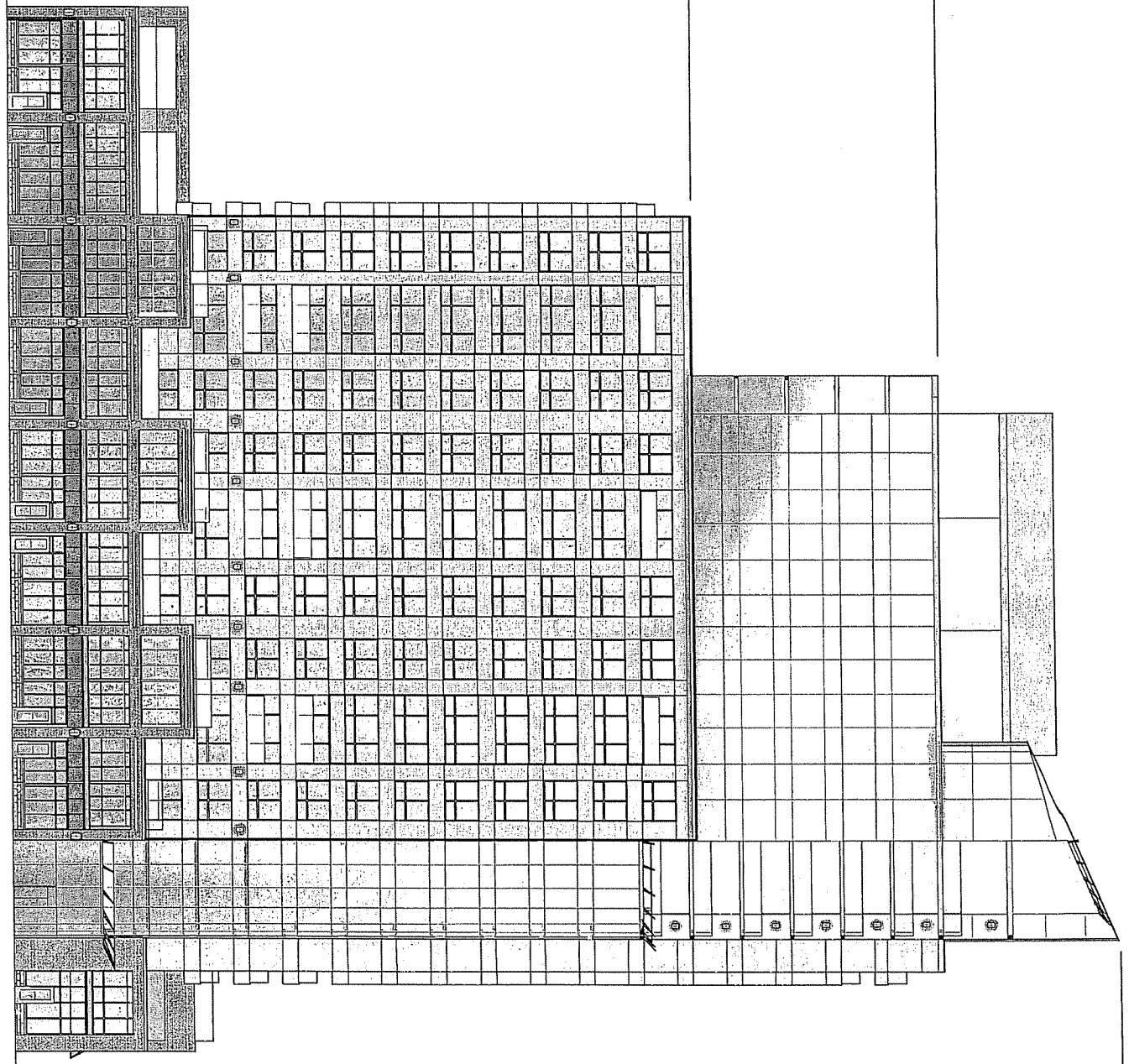
WMM
FARRIS

level 1900

level 1400

level 400

level 300



ELEVATION - South Park St.

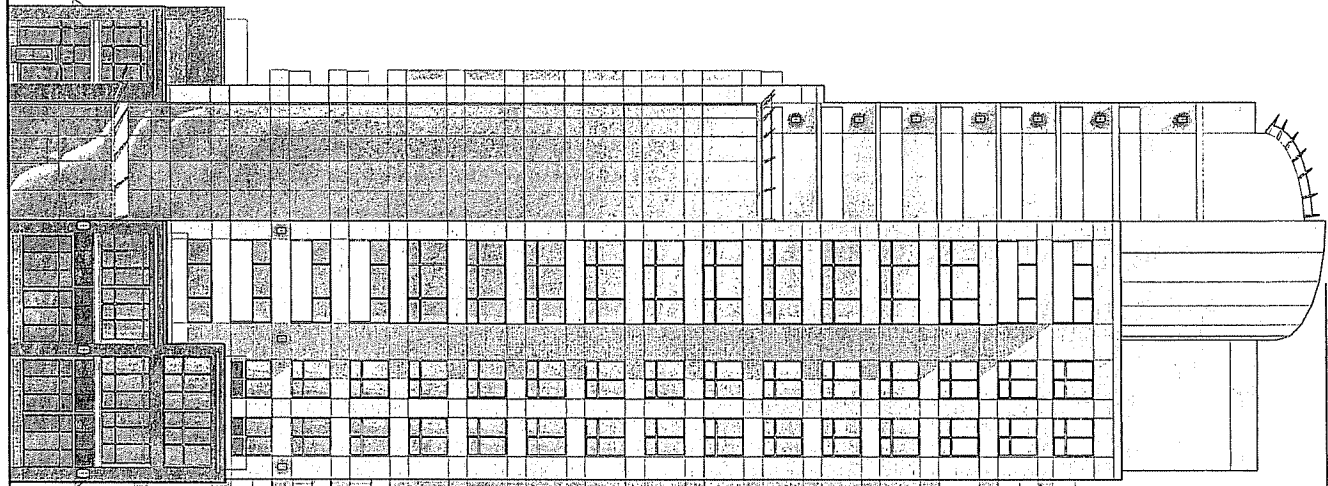
schedule C

WM
G R O U P
F A R E S

213'

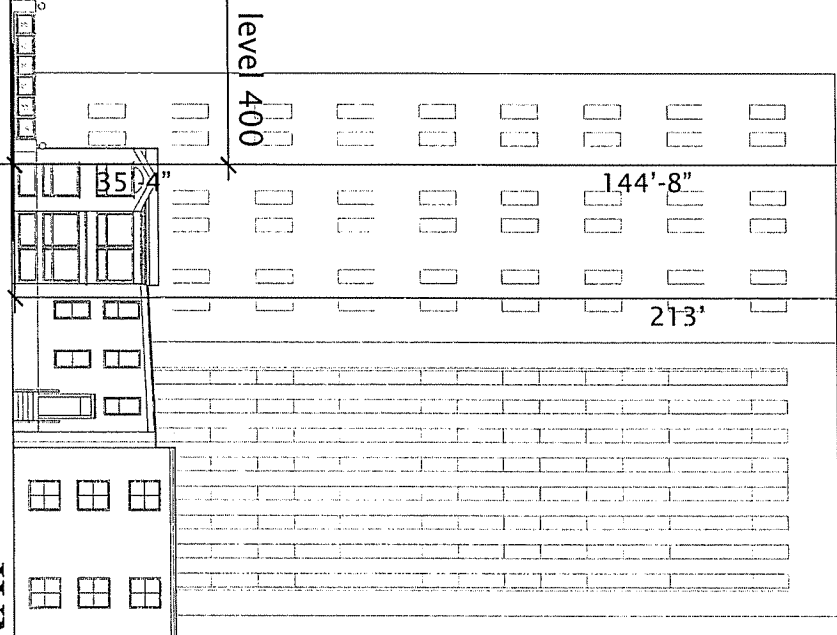
ELEVATION - Brenton Pl.

level 300



level 1900

level 400



144'-8"

213'

35' >

Schedule D

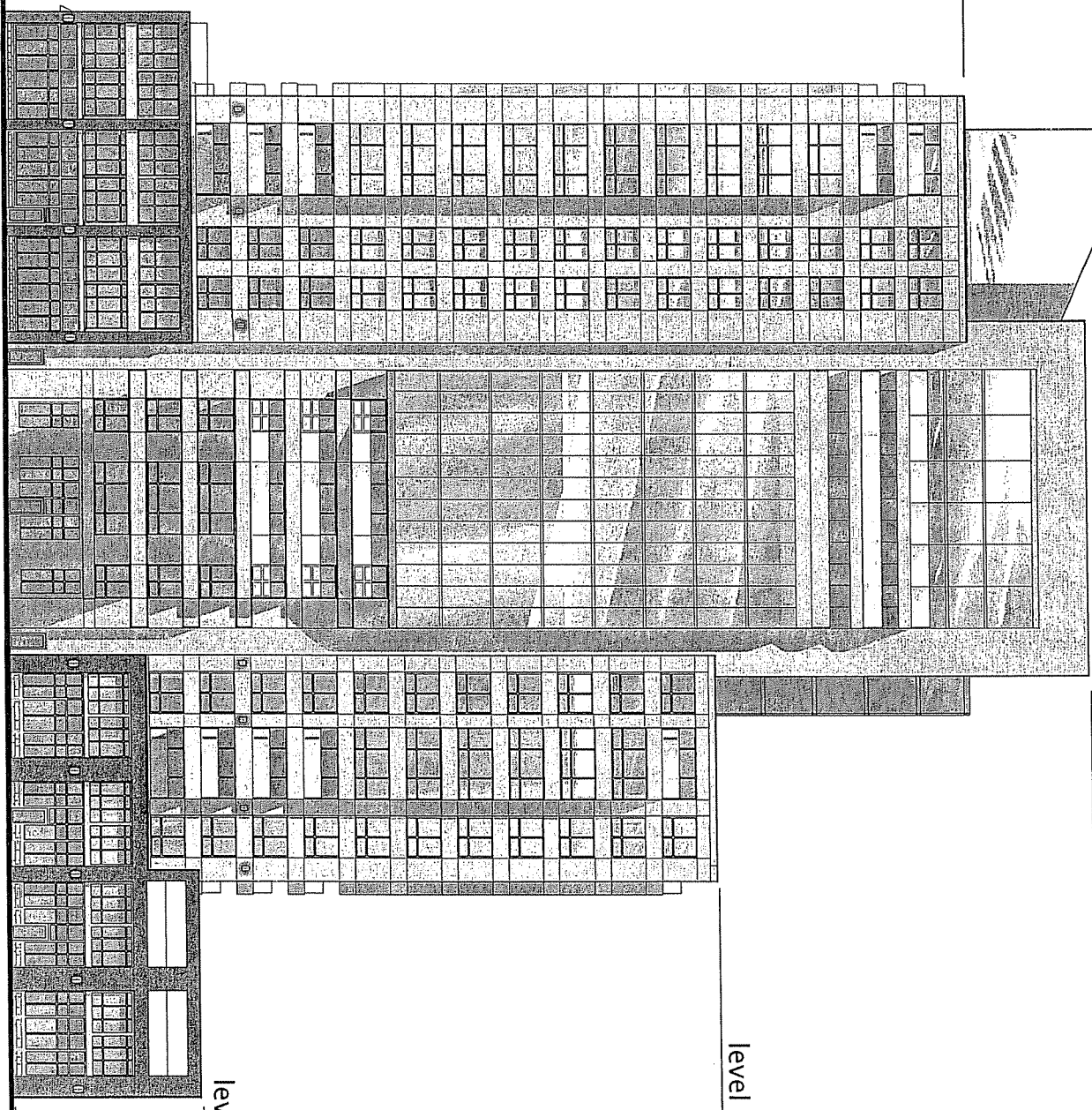
WM FARES
6780 U.P.

level 1900

level 400

level 300

ELEVATION - Brenton St.



roof

level 1400

level 400

35'-4"

96'-8"

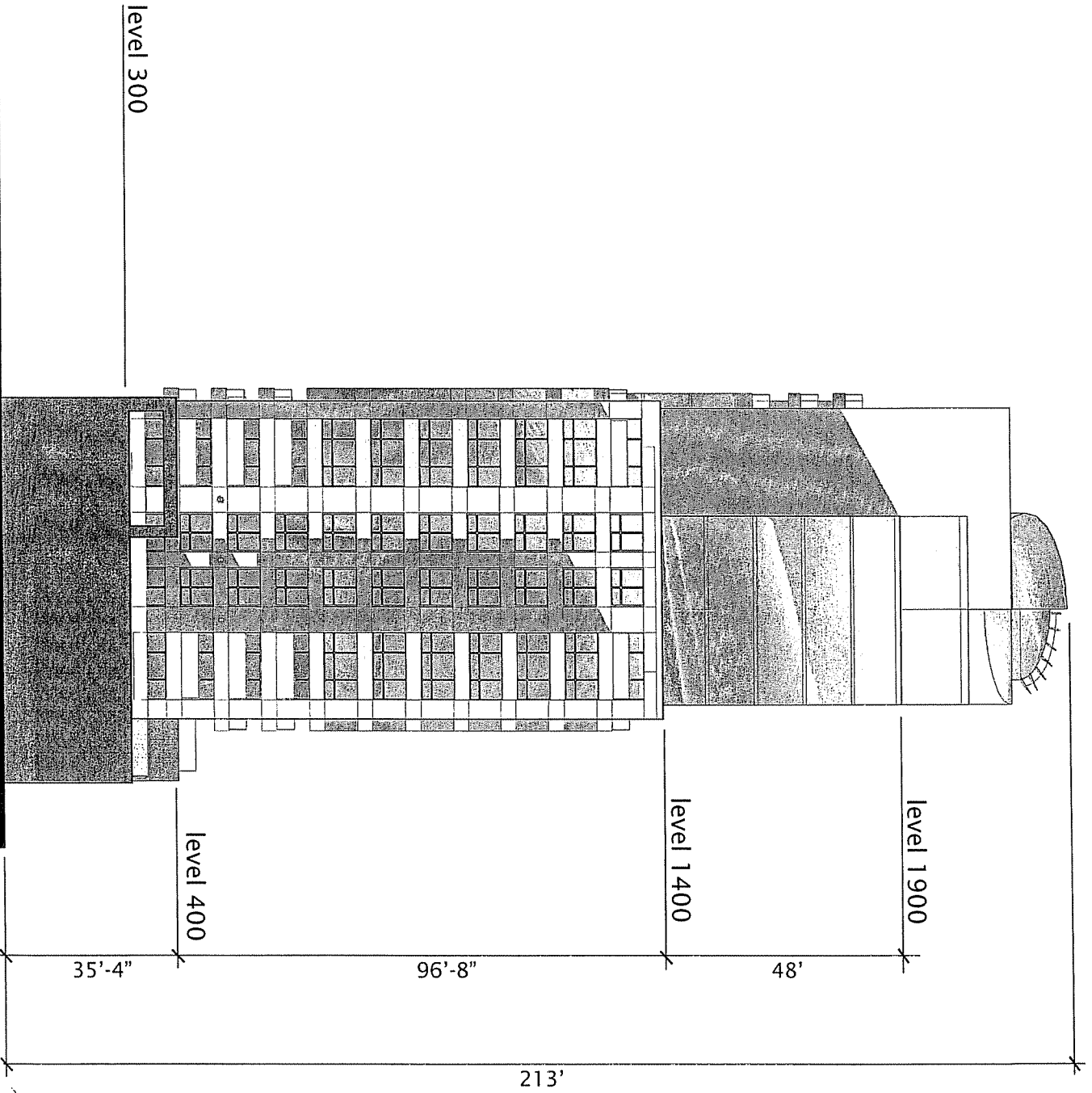
73'

205'

Schedule E

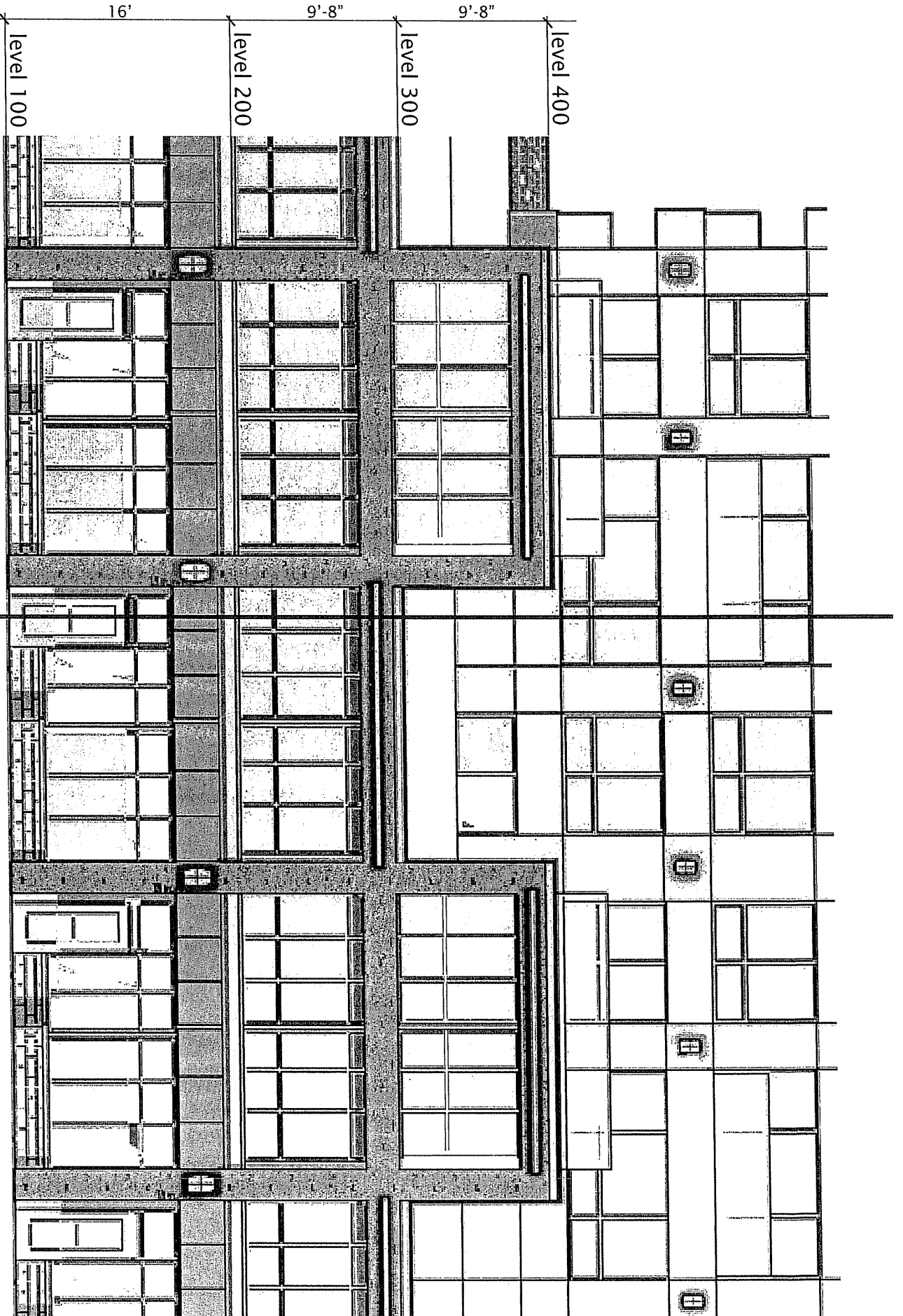
W.M. FARRES GROUP

ELEVATION - Spring Garden



schedule E

WMI PARES
G R O U P



sec A

PARTIAL ENLARGED ELEVATION

NOTE: FOR EXTERIOR MATERIAL FINISHES REFER TO SECTION A

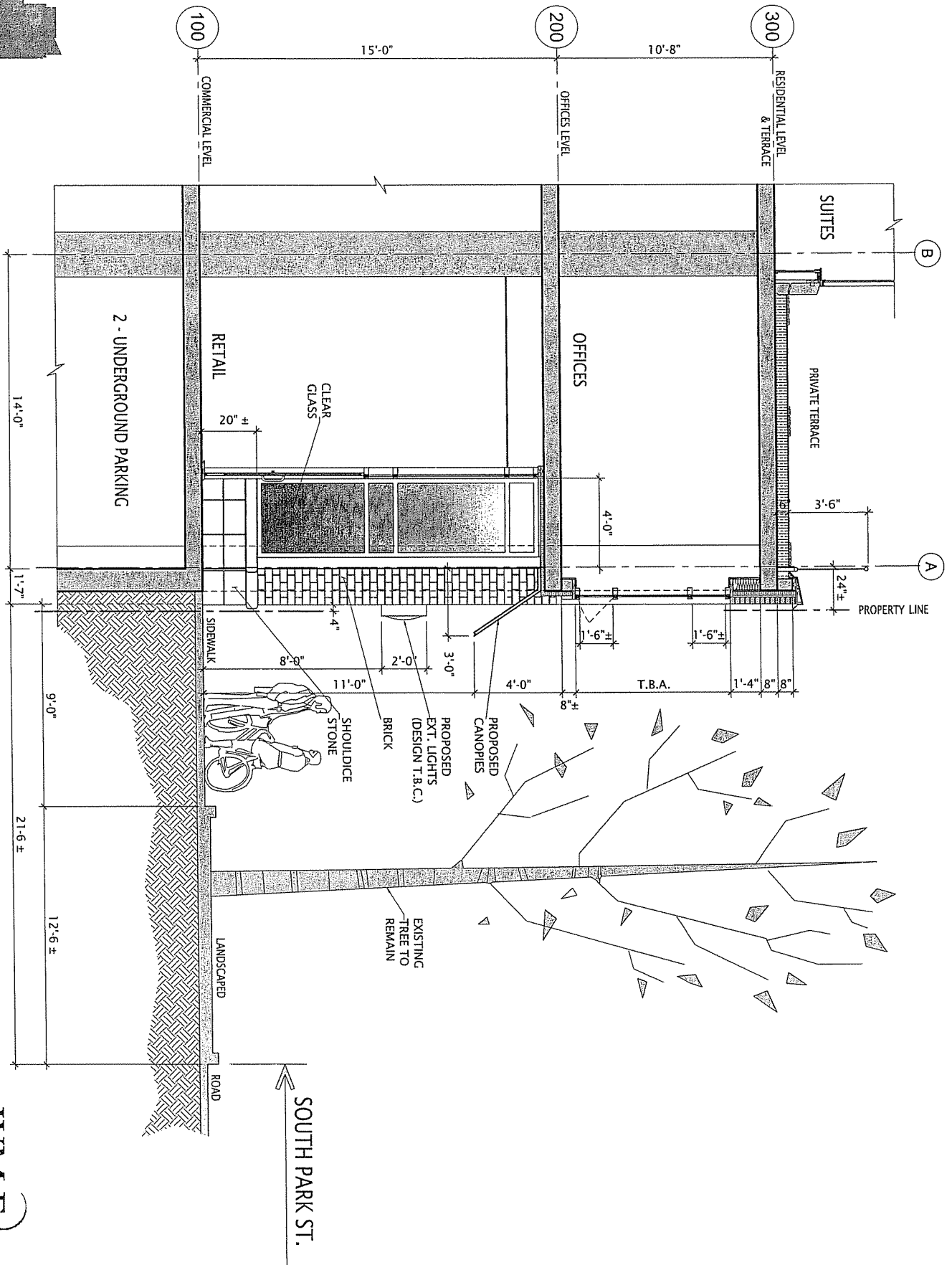
Schedule G

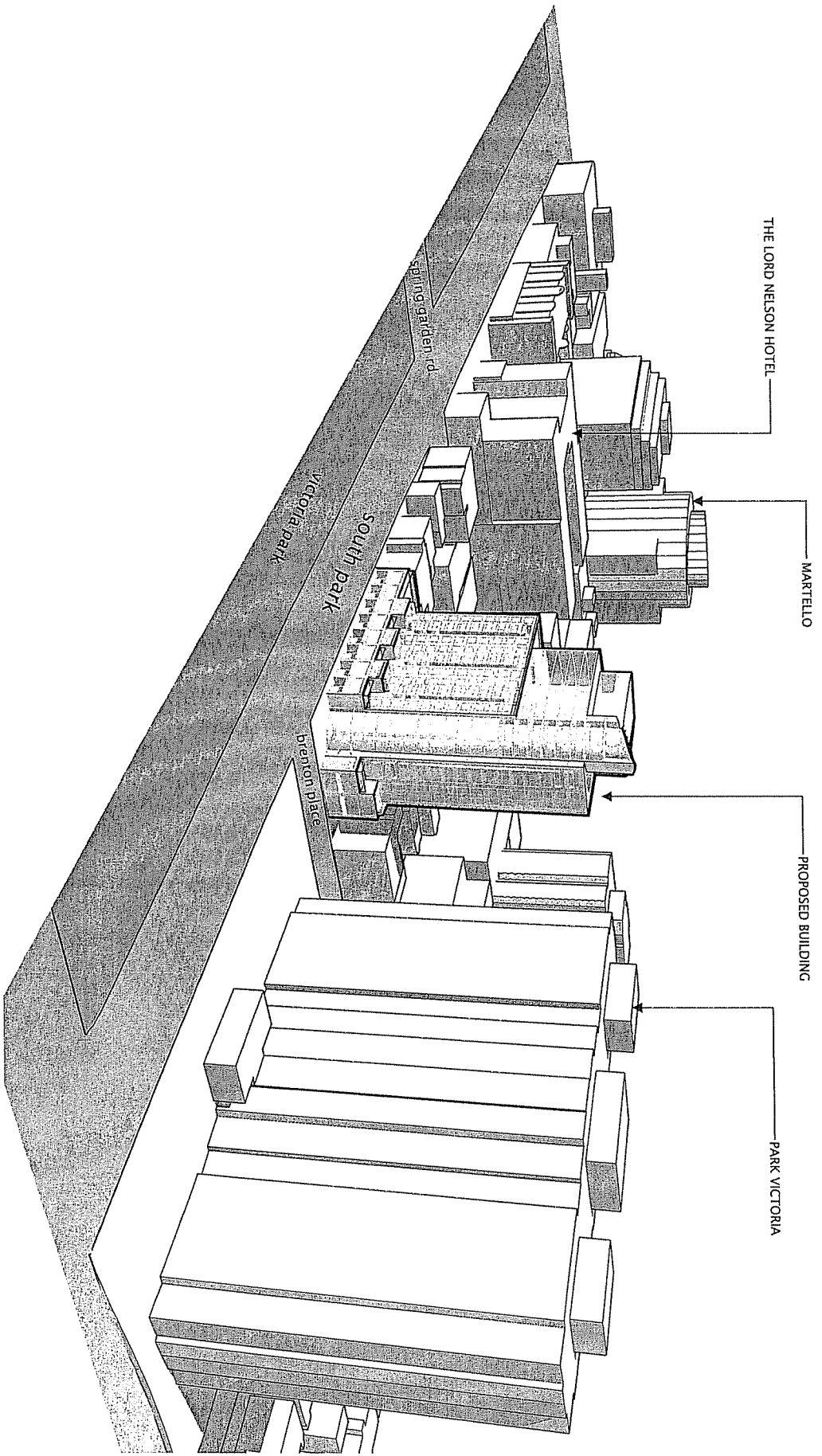
W M F A R E S
C O R P.

SECTION A

Schedule H

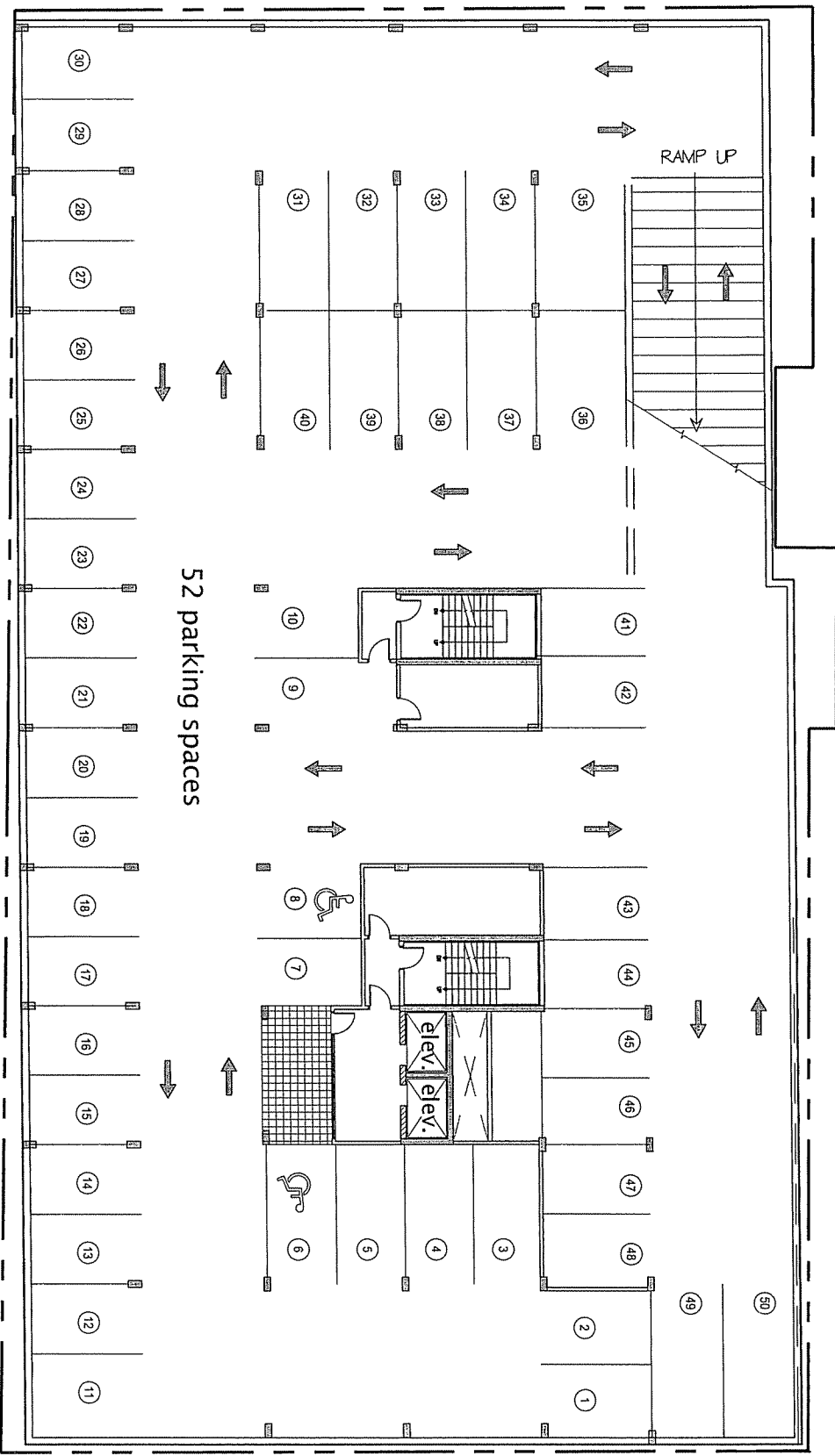
WMM FARRIS
GENERAL CONTRACTORS





AERIAL VIEW - NORTH EAST

Schedule

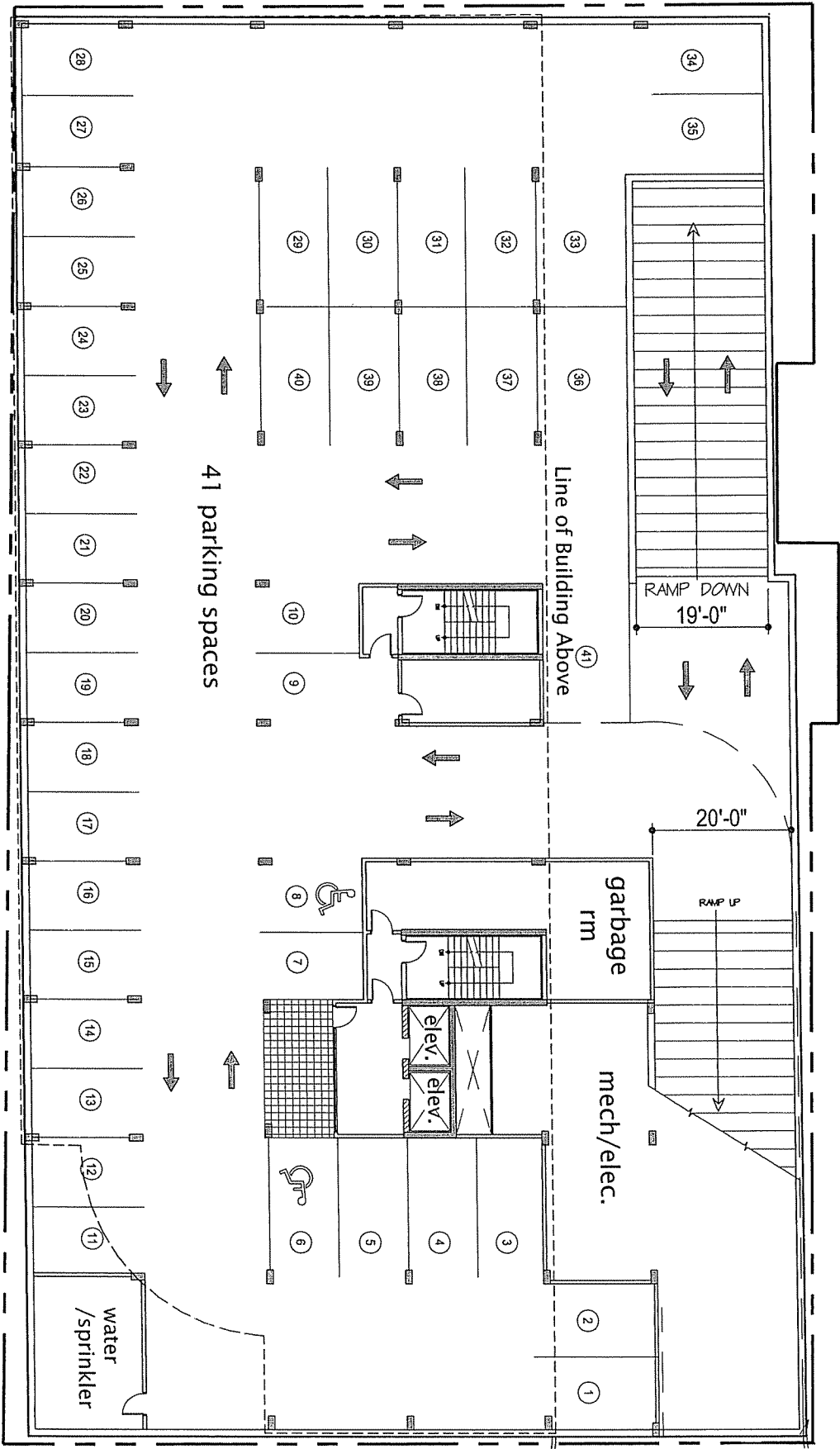


52 parking spaces

UNDERGROUND PARKING LEVEL 1

schedule



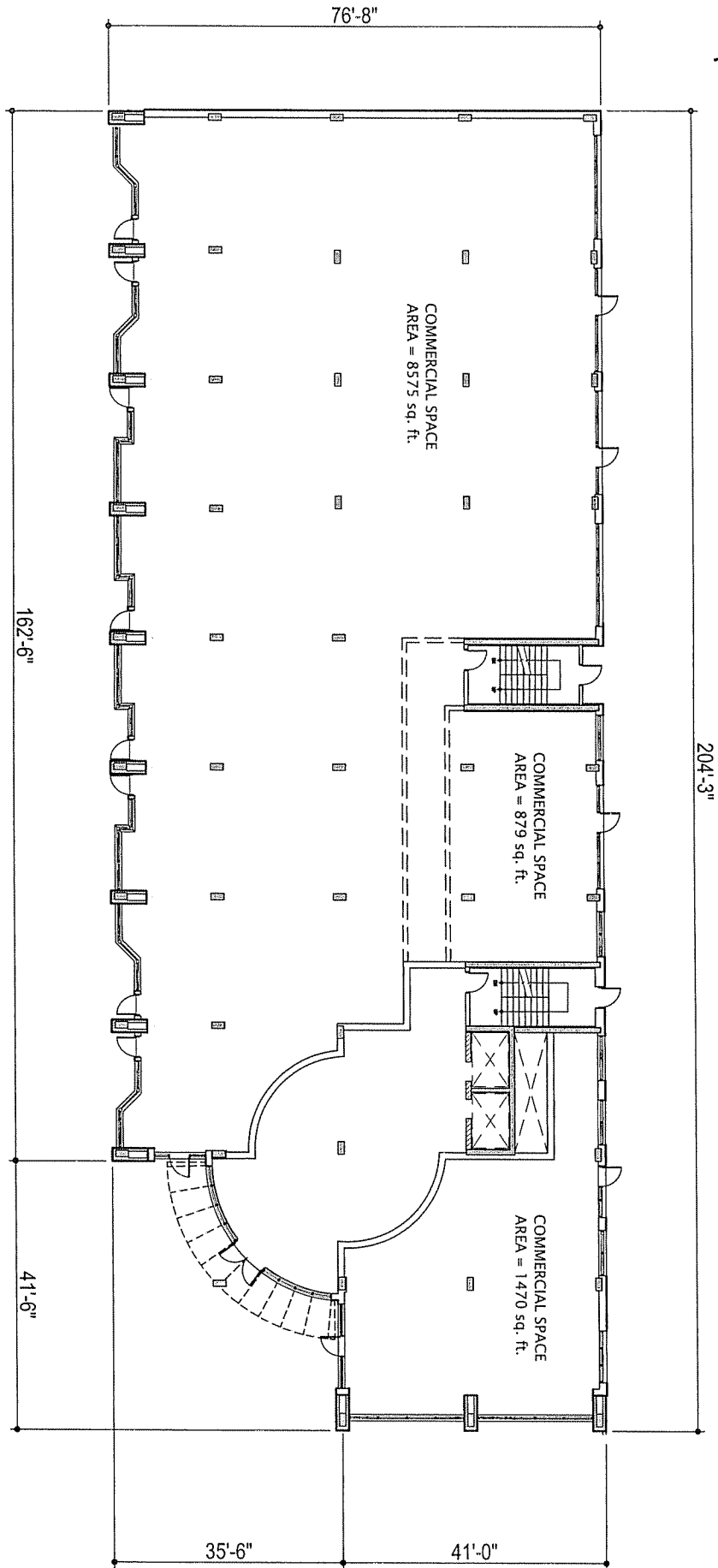


UNDERGROUND PARKING LEVEL 2

schedule



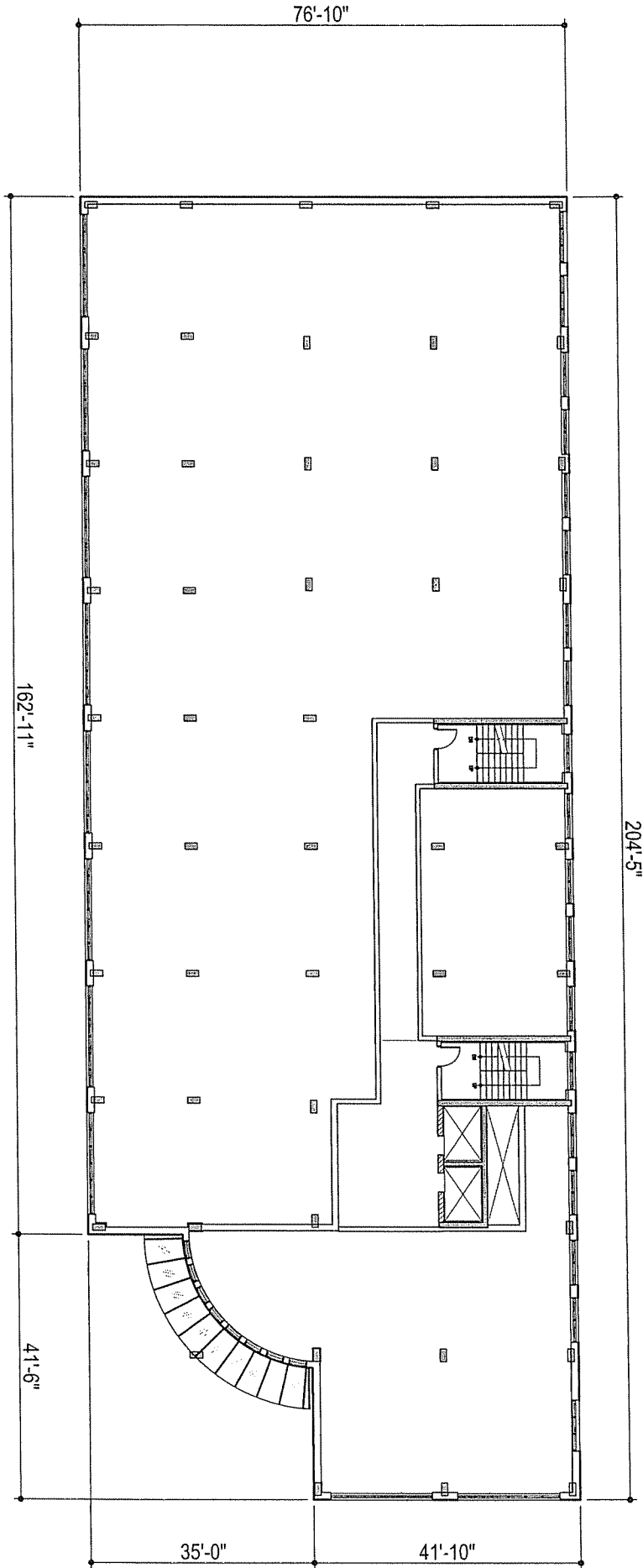
6 R O U P



LEVEL 100

schedule

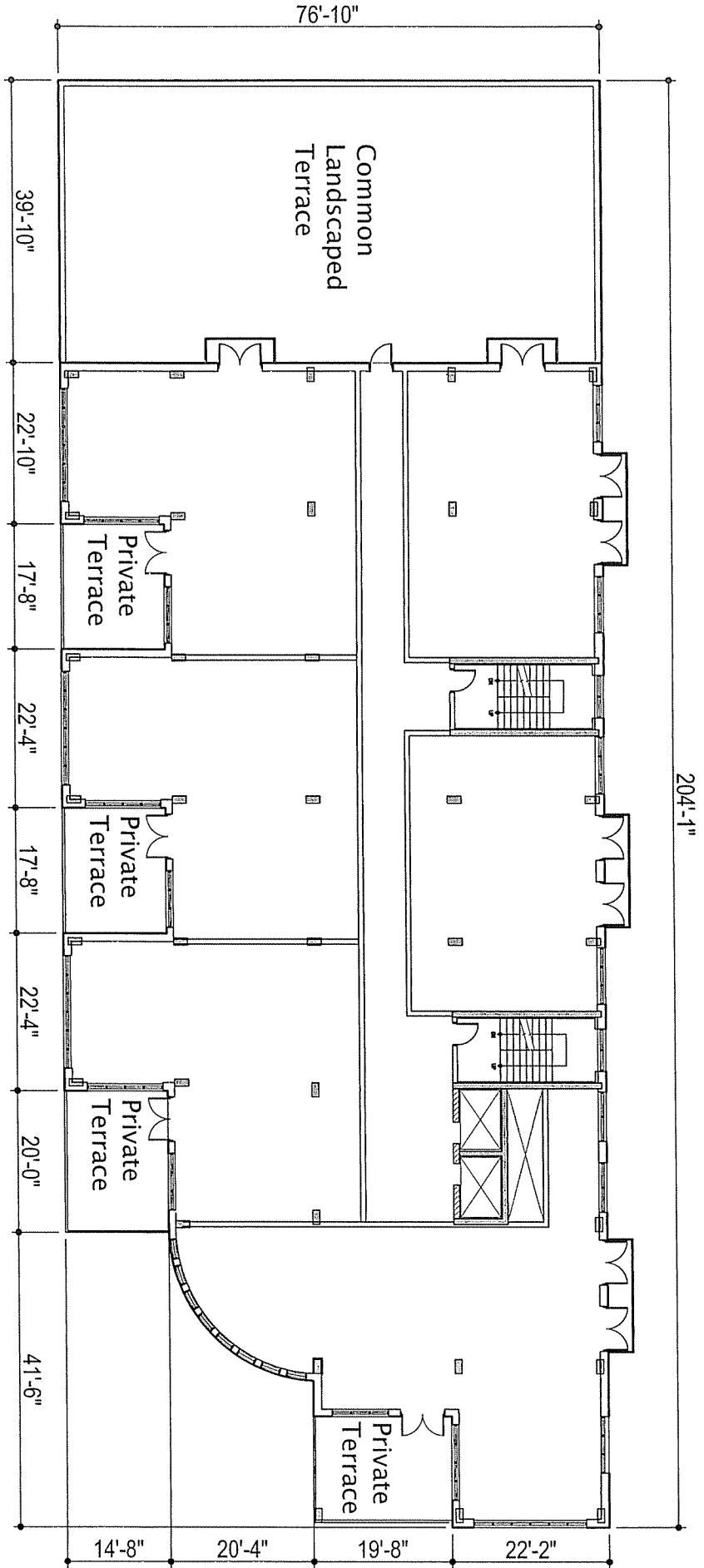
WM FARRES
G R O U P



LEVEL 200

schedule M

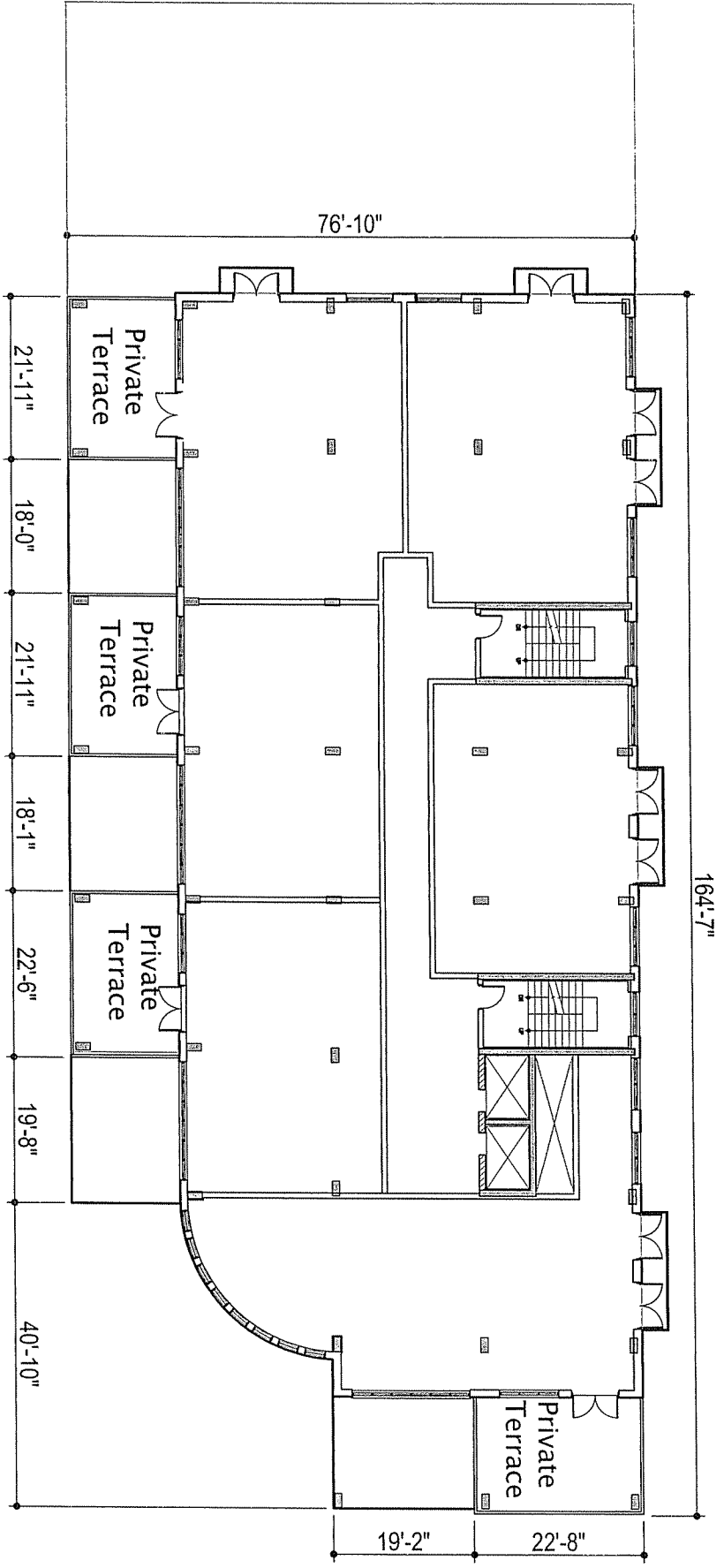
WM FAYRES
GROUP



LEVEL 300

schedule N

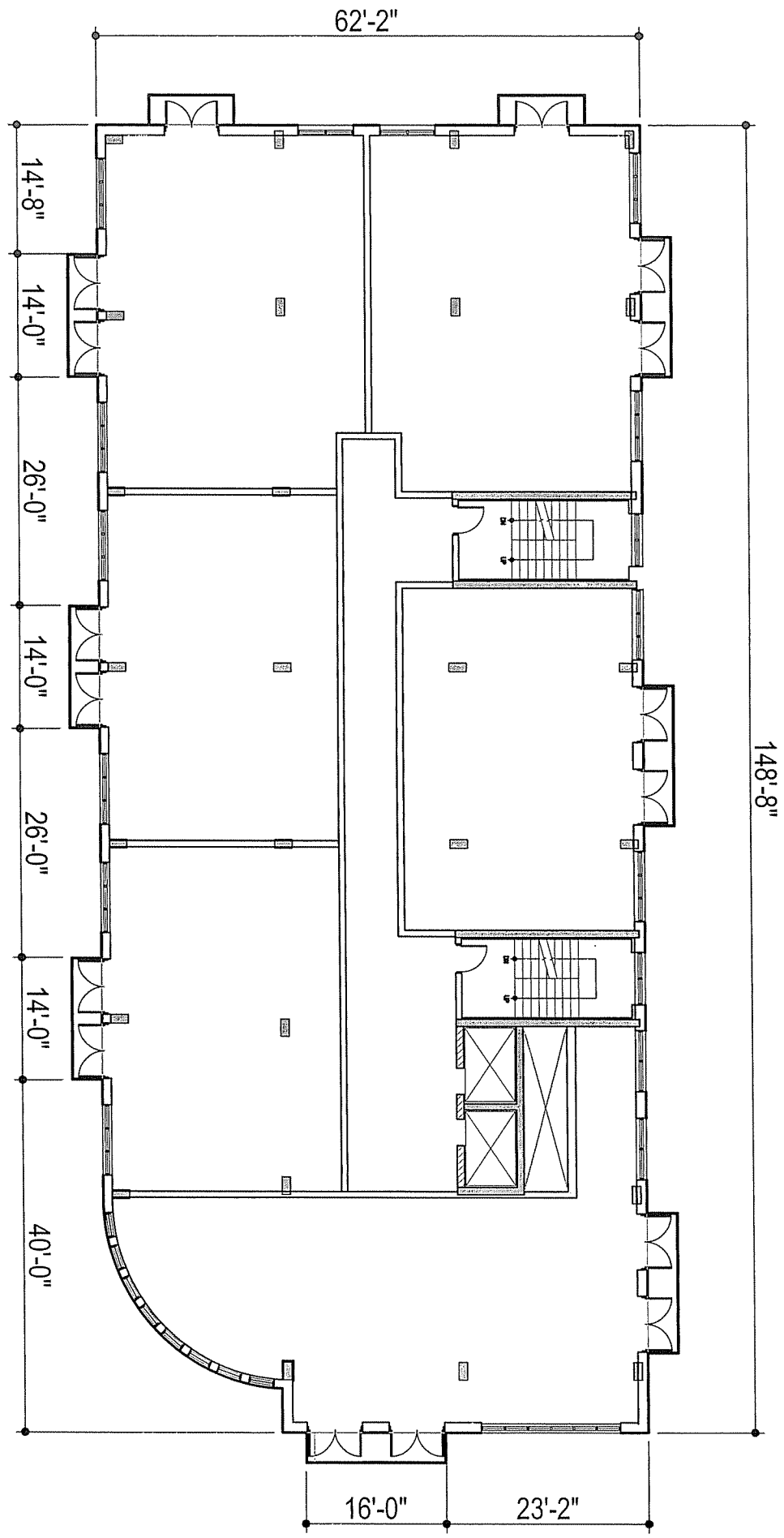
W.M. FARRES
G R O U P



LEVEL 400

schedule: O

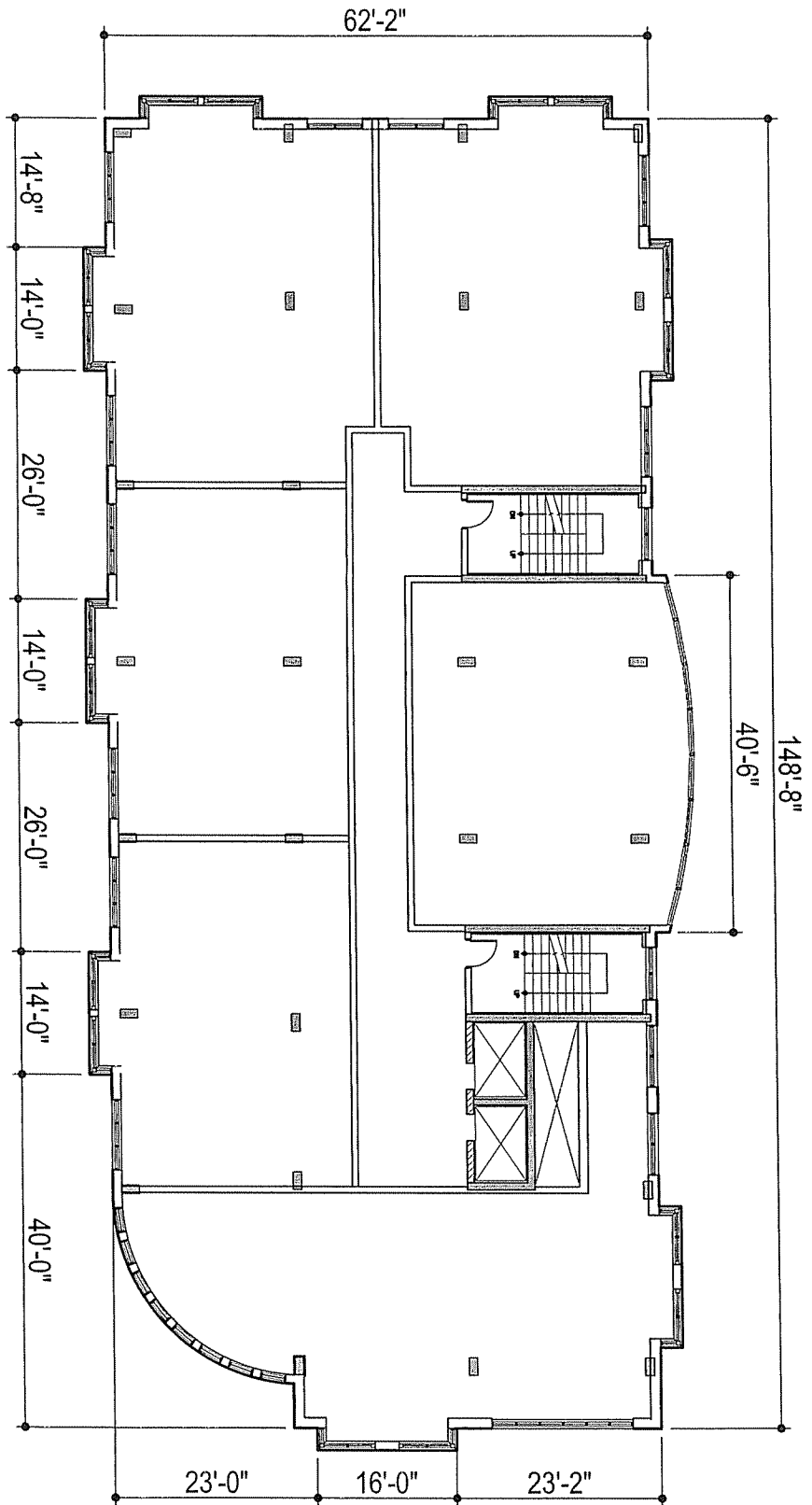
WM FARES GROUP



LEVEL 500 TO 700

schedule P

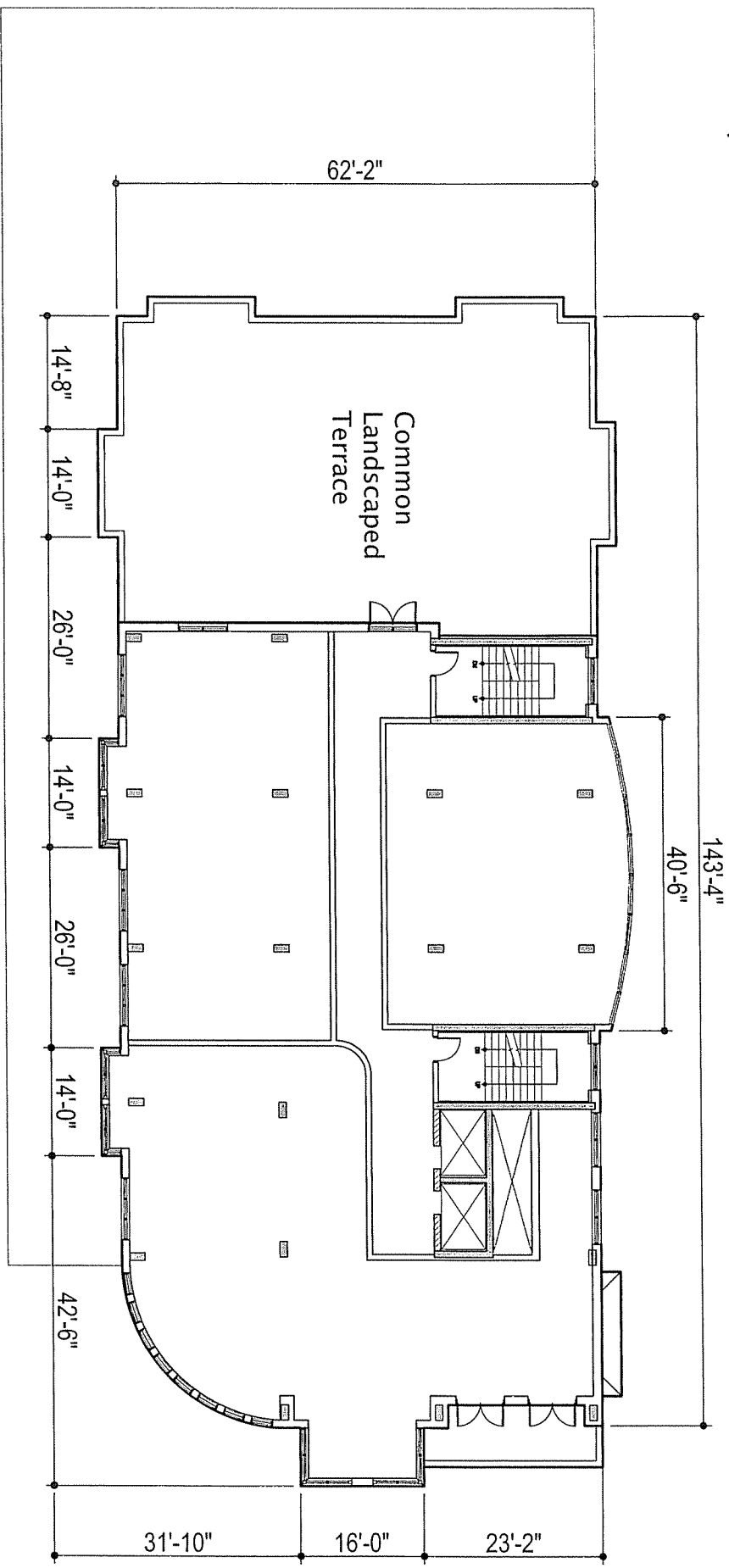
WM FARRES
G R O U P



LEVEL 800 TO 1300

schedule: Q

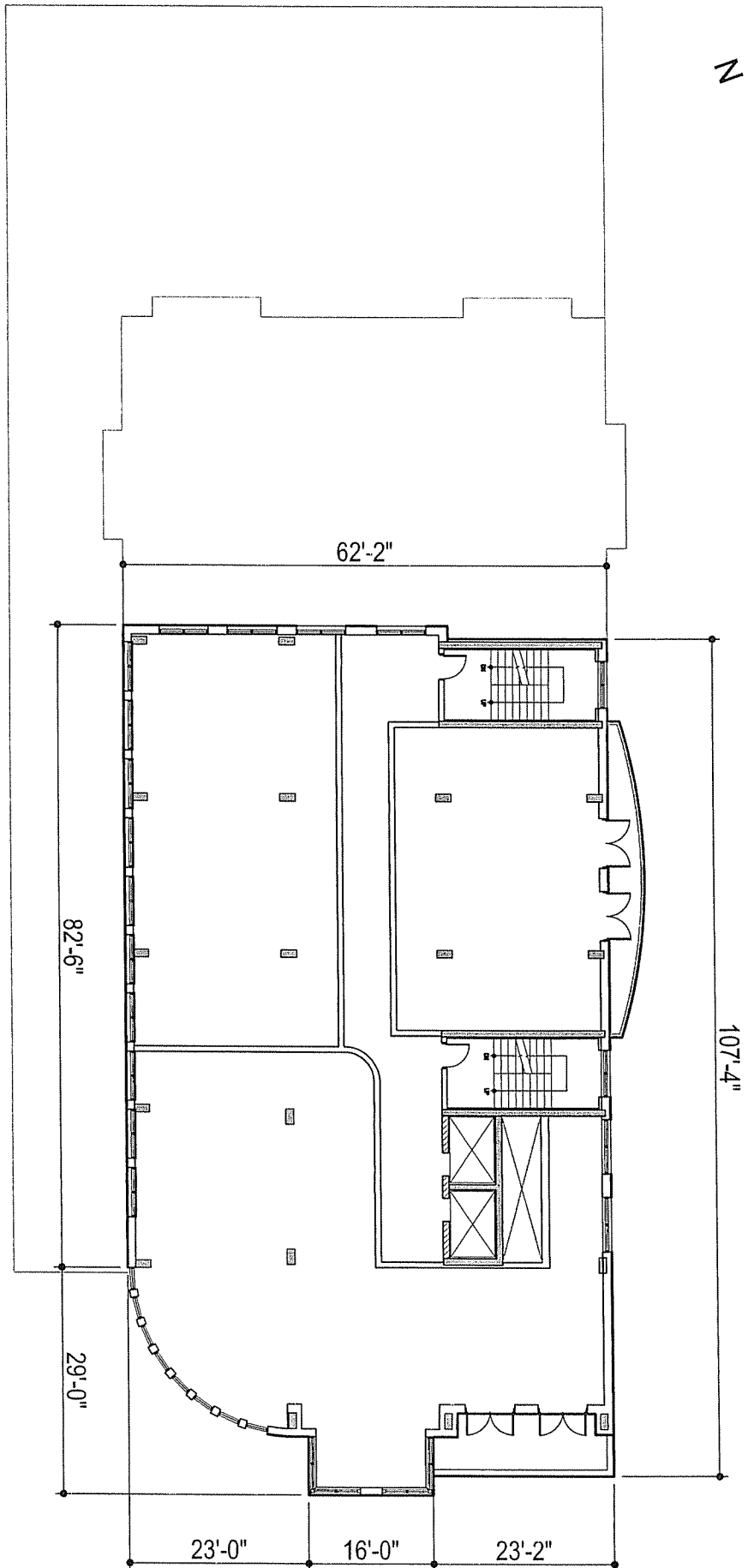
WM FARES
GROUP



LEVEL 1400

schedule: R

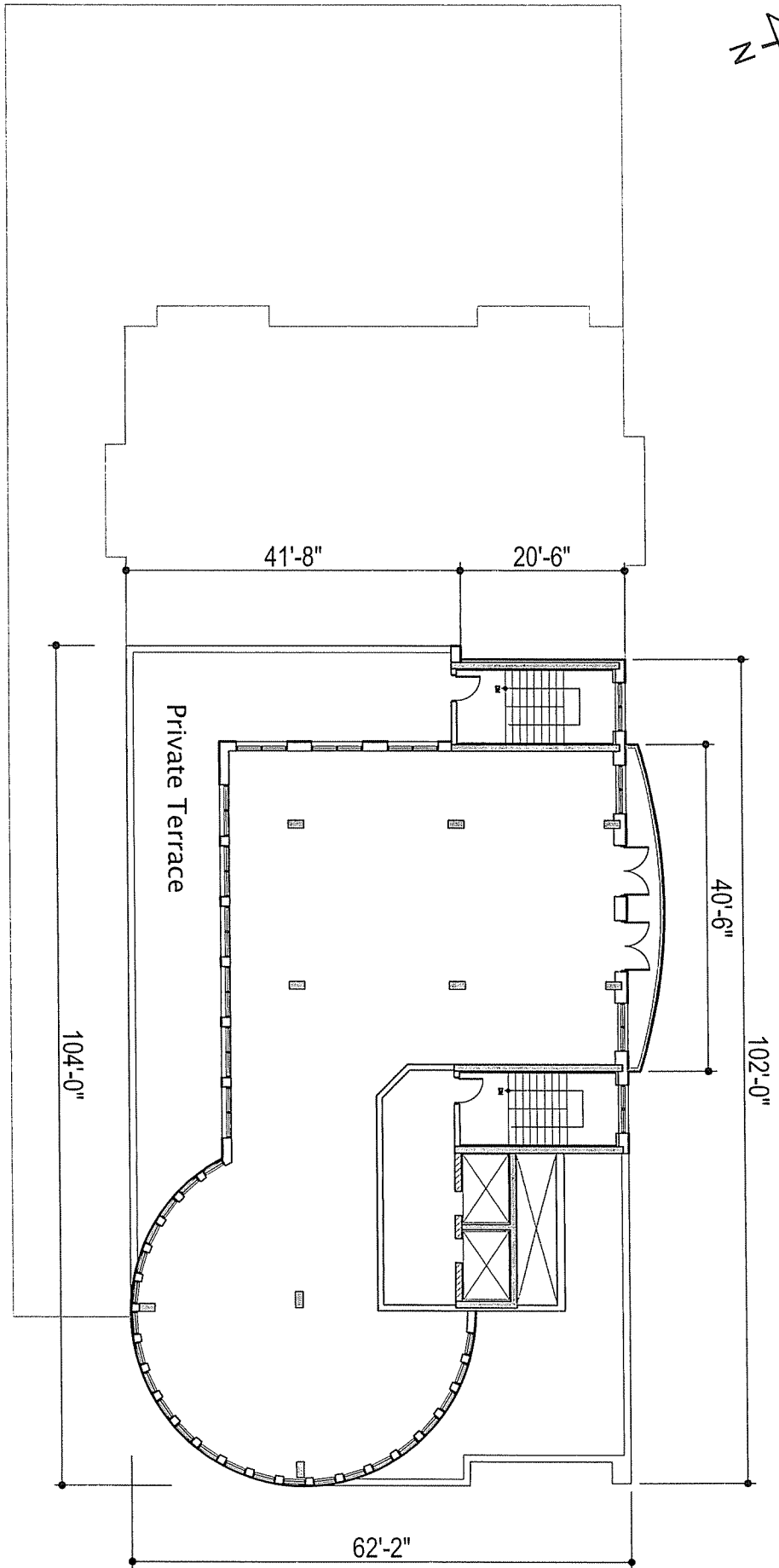
WM FARRIS
G R O U P



LEVEL 1500 TO 1800

schedule: S

WM FARES
GROUP



PENTHOUSE

schedule: T

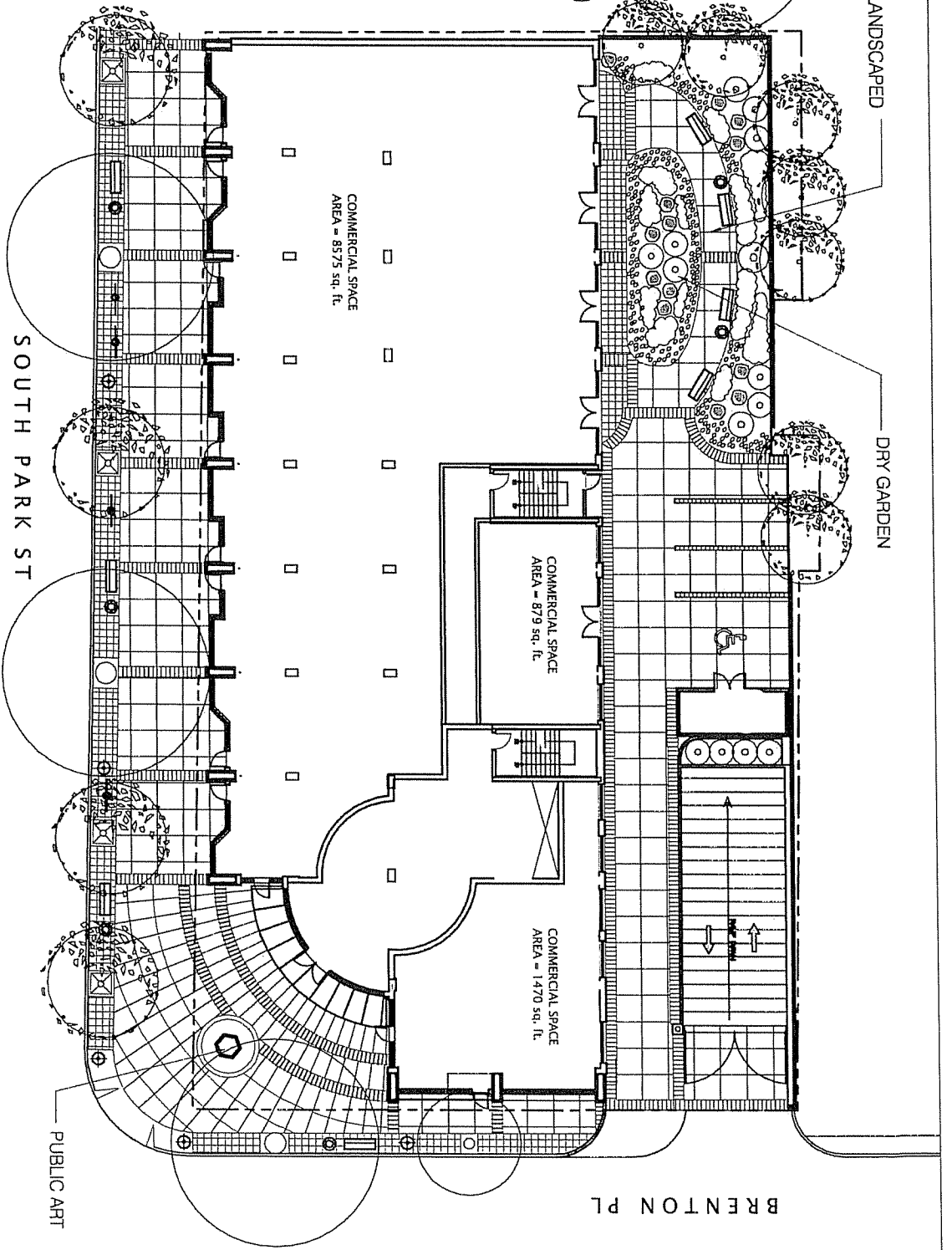
WM FARES
GROUP

COMMON LANDSCAPED
PODIUM

DRY GARDEN

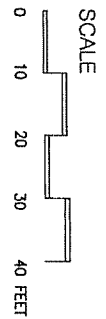
LEGEND

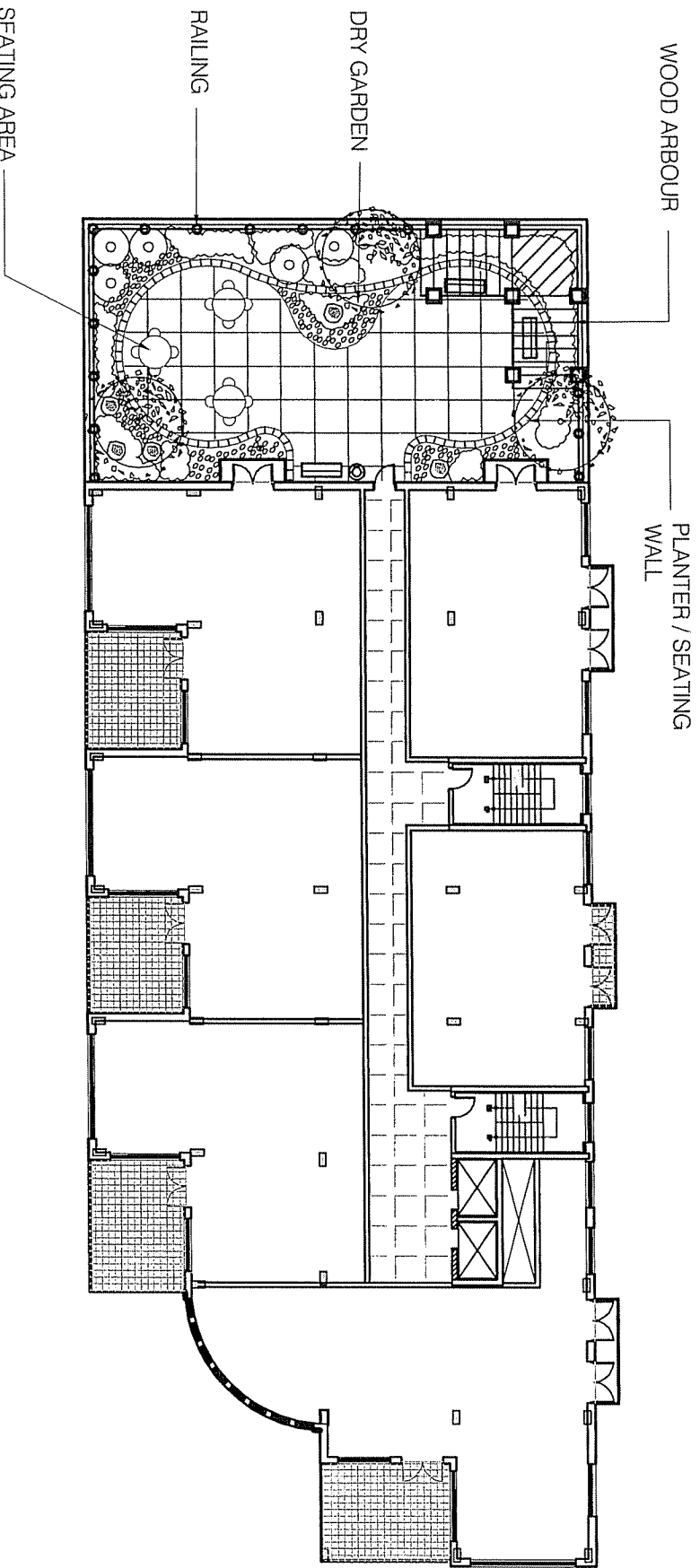
- EXISTING TREE
- NEW TREE
- SHRUB
- PERENNIALS AND VINES
- PROPOSED RIVER ROCK
- PROPOSED GRANITE BOULDER
- TREE GRATE
- BENCH
- LIGHT STANDARD
- TRASH RECEPTACLE
- BIKE RACK



SOUTH PARK STREET MIXED USE BUILDING SITE PLAN - STREET LEVEL

Schedule: U





WOOD ARBOUR
PLANTER / SEATING WALL

DRY GARDEN

RAILING

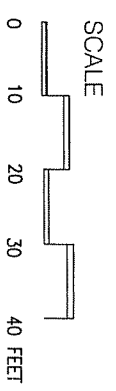
SEATING AREA

LEGEND







- | | | |
|--------------------|-----------------|------------------------|
| NEW TREE | RIVER ROCK | TRASH RECEPTACLE |
| SHRUB | GRANITE BOULDER | RAILING |
| PERENNIALS & VINES | BENCH | PATIO TABLE AND CHAIRS |

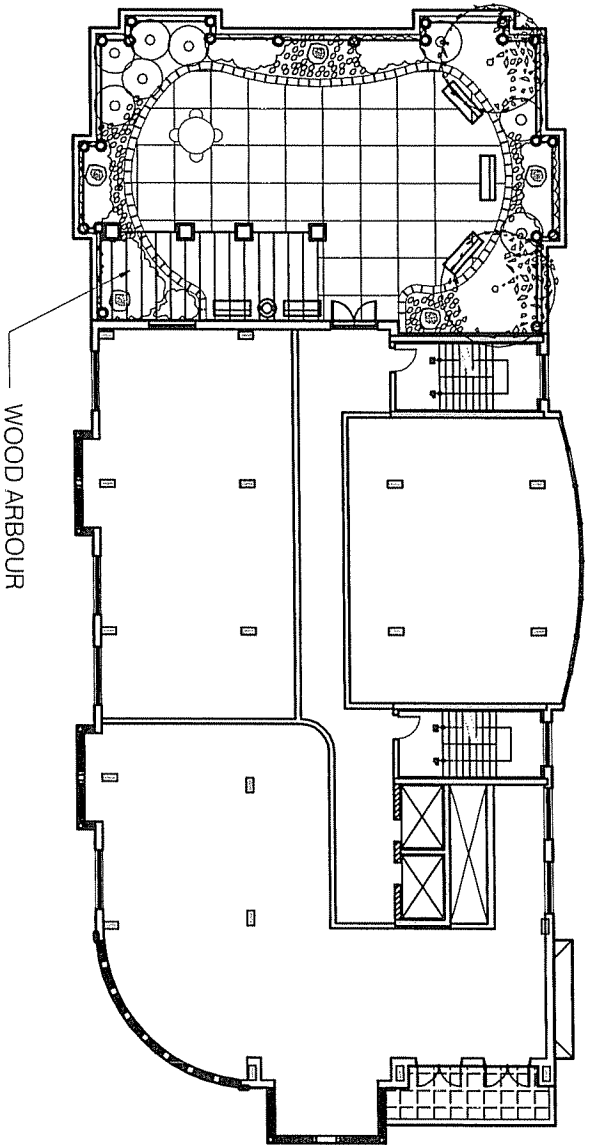
**SOUTH PARK STREET MIXED USE BUILDING
COMMON LANDSCAPE PODIUM - LEVEL 300**

Schedule: V



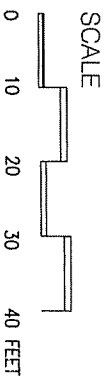
LEGEND

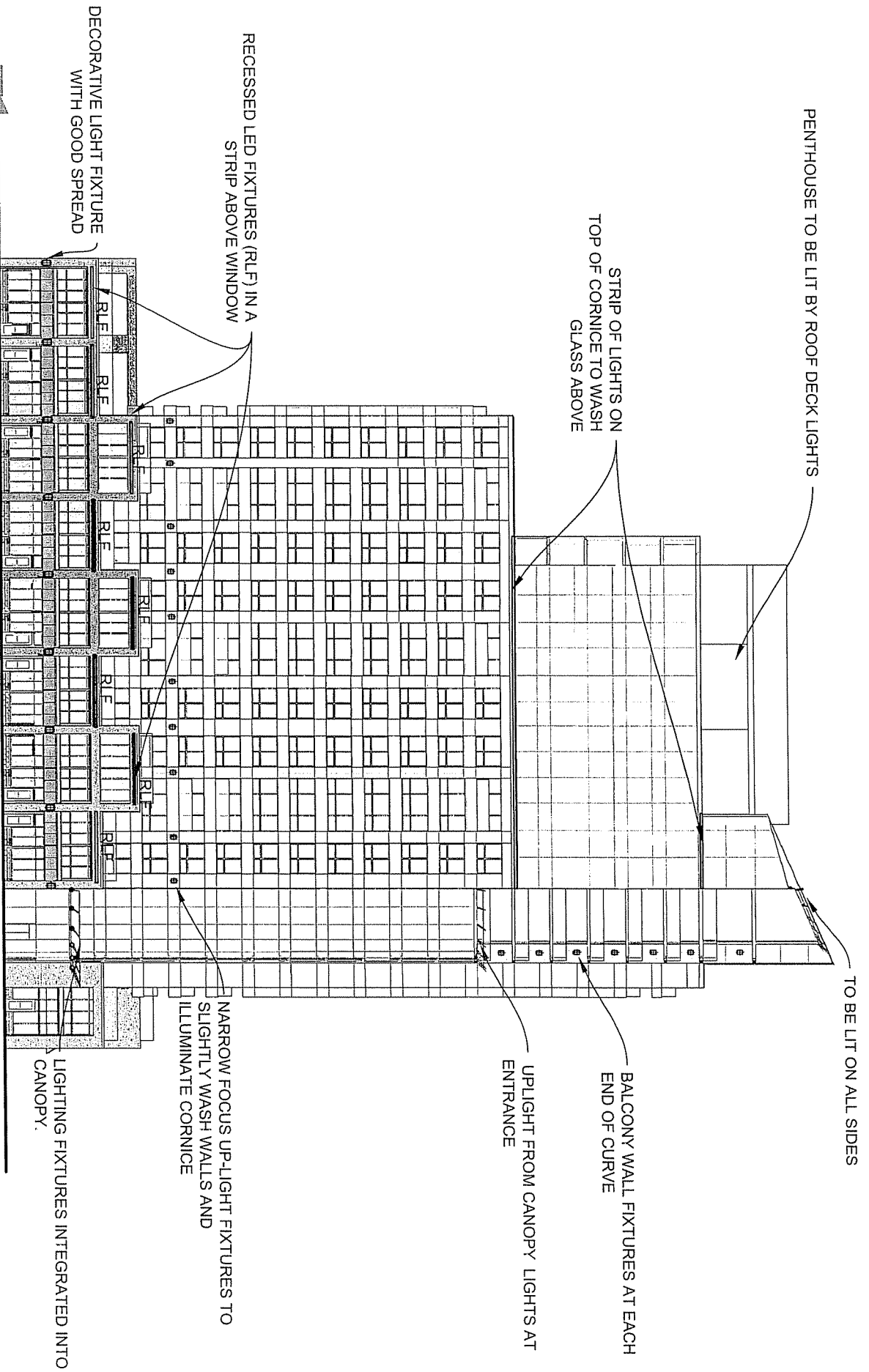
- NEW TREE 
- SHRUB 
- PERENNIALS AND VINES 
- RIVER ROCK 
- GRANITE BOULDER 
- BENCH 
- TRASH RECEPTACLE 
- RAILING 
- PATIO TABLE AND CHAIRS 



SOUTH PARK STREET MIXED USE BUILDING
COMMON LANDSCAPE PODIUM - LEVEL 1400

Schedule: W

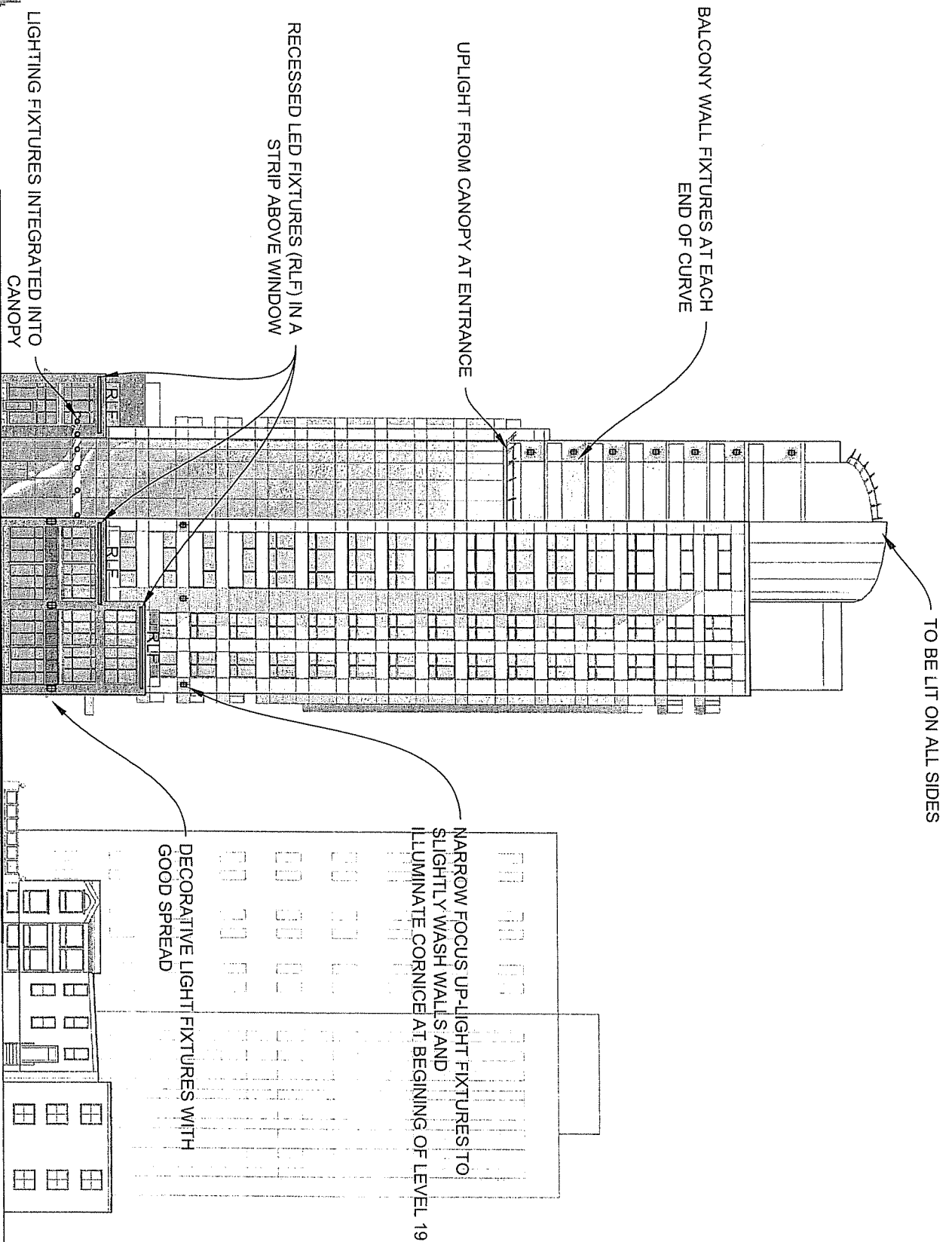




SOUTH PARK PRELIMINARY LIGHTING SCHEME

PRELIMINARY LIGHTING - SOUTH PARK ELEV

schedule X



TO BE LIT ON ALL SIDES

BALCONY WALL FIXTURES AT EACH
END OF CURVE

UPLIGHT FROM CANOPY AT ENTRANCE

RECESSED LED FIXTURES (RLF) IN A
STRIP ABOVE WINDOW

LIGHTING FIXTURES INTEGRATED INTO
CANOPY

NARROW FOCUS UP-LIGHT FIXTURES TO
SLIGHTLY WASH WALLS AND
ILLUMINATE CORNICE AT BEGINNING OF LEVEL 19

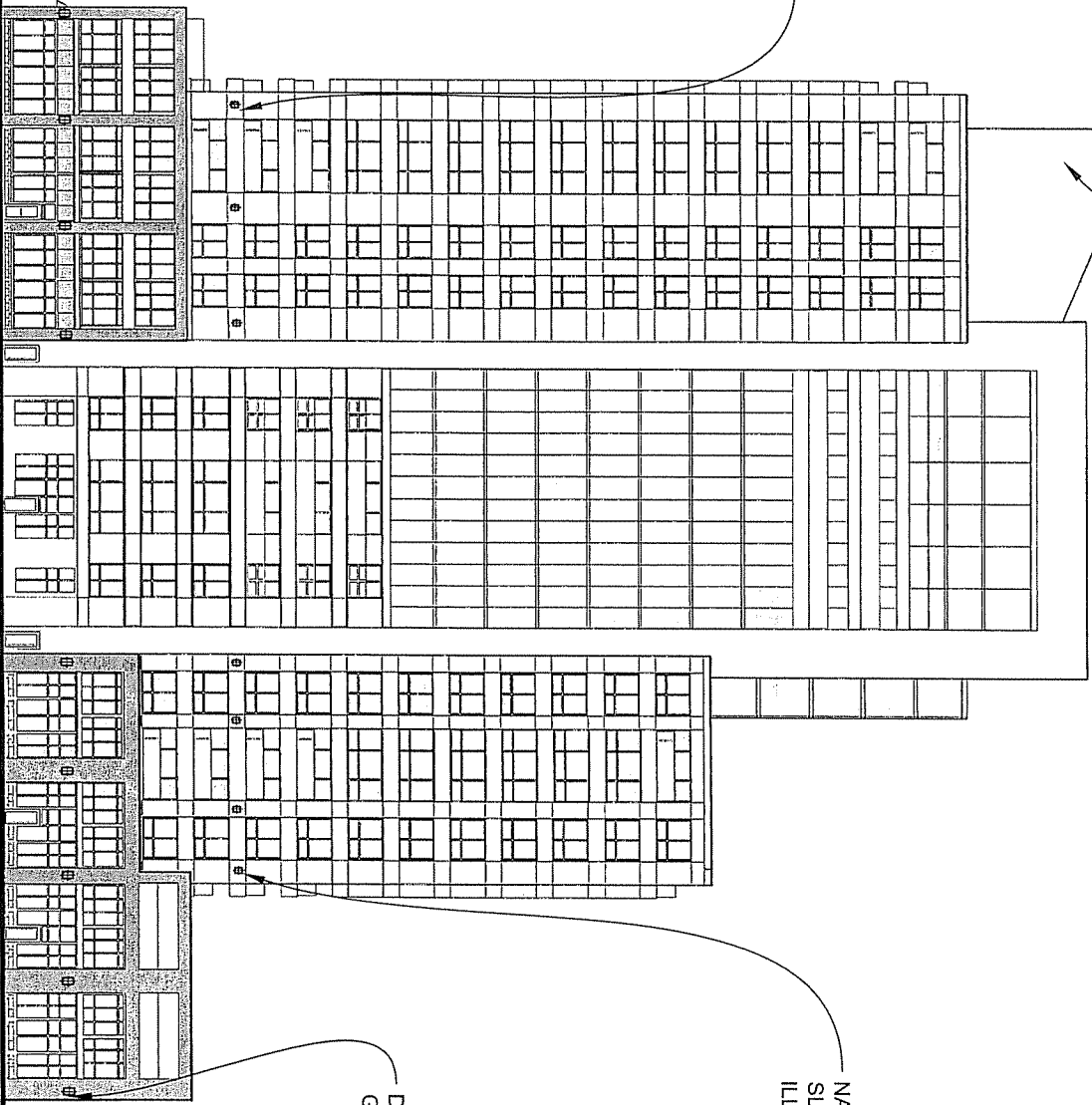
DECORATIVE LIGHT FIXTURES WITH
GOOD SPREAD

PRELIMINARY LIGHTING - Brenton Pl.

schedule: V

TO BE LIT ON ALL SIDES

NARROW FOCUS
UP-LIGHT
FIXTURES TO
SLIGHTLY WASH
WALLS AND
ILLUMINATE CORNICE
BEGINNING
AT LEVEL 19



NARROW FOCUS UP-LIGHT FIXTURES TO
SLIGHTLY WASH WALLS AND
ILLUMINATE CORNICE BEGINNING AT LEVEL 14

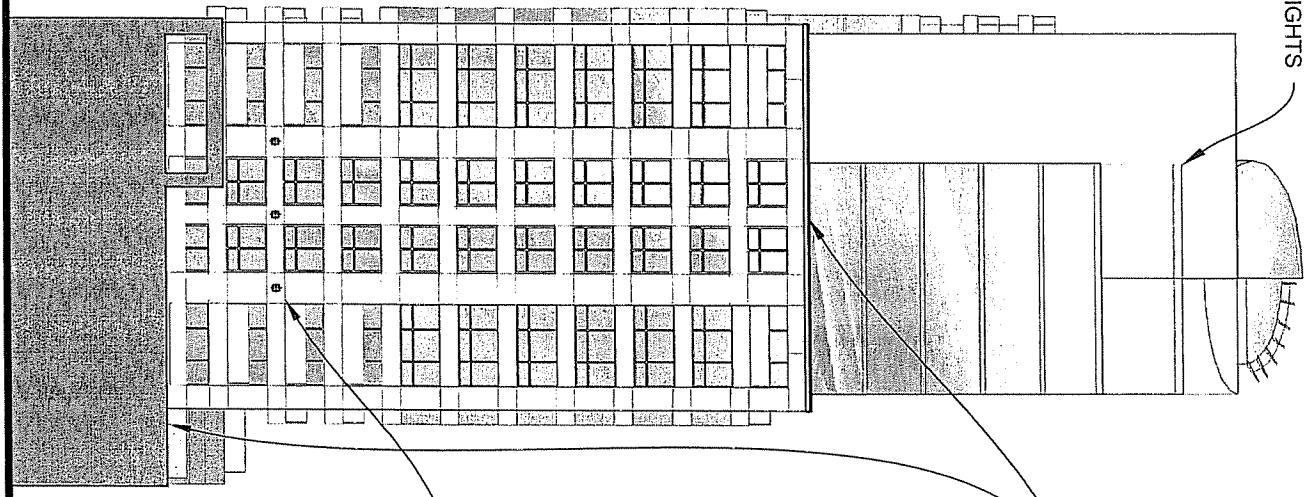
DECORATIVE LIGHT FIXTURES WITH
GOOD SPREAD

PRELIMINARY LIGHTING - Brenton St.

schedule Z

WM FAYERS
G R O U P

PENTHOUSE TO BE LIT BY ROOF DECK LIGHTS



DECK ON LEVEL 3 AND LEVEL 14 WILL HAVE EXTERIOR LIGHTING INTEGRATED WILDLANDSCAPE ELEMENTS.

NARROW FOCUS UP-LIGHT FIXTURES TO SLIGHTLY WASH WALLS AND ILLUMINATE CORNICE AT BEGINNING OF LEVEL 14

PRELIMINARY LIGHTING - Spring Garden Rd.

schedule AA



ATTACHMENT D - REVIEW OF MOST RELEVANT POLICIES

City-Wide Objectives and Policies (Section II, Part II)

Policy	Staff Comments
<p>6.3.2 Within the area bounded by North Street, Robie Street and Inglis Street, no development shall be permitted that is visible over the top of the reconstructed earthworks on the Citadel ramparts, from an eye-level of 5.5 feet above ground level in the Parade Square of the Citadel.</p>	<p>The DA explicitly states that the building shall not violate Section 26B of the Land Use By-law (Citadel ramparts regulations). The DA further requires that written certification from a professional surveyor must be submitted to the Development Officer indicating that the building does not violate Section 26B of the LUB prior to the issuance of any Building, Development, or Occupancy Permits.</p>
<p>8.6 The City should make every effort to ensure that developments do not create adverse wind and shadow effects. The means by which this policy shall be implemented shall be considered as part of the study called for in Part III.</p>	<p>Staff required the applicant to submit a shadow analysis and a wind study as part of the application process. Both studies demonstrated that the proposed building will not create adverse wind and shadow effects.</p>

Spring Garden Road Commercial Area Plan (Section IX, Part II)

Existing Policies:

Policy	Staff Comments
<p>For development exceeding 12 m in height in the area shown as Map 1, reference shall also be made to Policy EC-2 in the Regional Municipal Planning Strategy. Added (RC-June 27/06; E-August 26/06)</p>	<p>Staff has referenced the policy set (see below).</p>

<p>1.2 In areas designated "Residential-Commercial Mix", the City shall permit the following uses:</p> <ul style="list-style-type: none">(I) residential uses;(ii) minor commercial uses, provided that in new buildings they are limited to the ground floor and basement levels, while in existing buildings they are permitted throughout the building;(iii) commercial and residential uses in mixed use buildings shall have independent and direct access to the street;(iv) lounges in association with restaurants, provided that the intensity of use and impact on the residential character of the area shall be controlled through the Land Use By-law by limiting the size of lounges and ensuring that they are subordinate to the associated restaurant; and(v) public parking on the city owned Clyde Street parking lot bounded by Dresden Row, Clyde Street and Queen Street.	<p>(I) Residential is one of the use permitted under the DA.</p> <p>(ii) The proposed amending policies will override this policy for the subject site (see below).</p> <p>(iii) This is the case with the proposed building.</p> <p>(iv) Lounges in association with restaurants will be a permitted use under the DA.</p> <p>(v) This policy does not apply to the subject site.</p>
---	---

<p>2.2 New development on Spring Garden Road and South Park Street shall be sited on or close to the street line adjacent to the sidewalks to encourage the retention of a continuous street frontage of retail and other uses that promote pedestrian activity and interest.</p>	<p>The DA states that the proposed building shall be permitted to coincide with the property line on both the South Park Street and Brenton Place frontages.</p>
<p>2.3 New development on Spring Garden Road shall be designed to permit sunlight penetration to pedestrian level on the north side of Spring Garden Road for approximately six months of the year.</p>	<p>While the proposed building will front on South Park Street, its potential impact on sunlight penetration on the north side of Spring Garden Road was evaluated during the solstices and equinoxes. It was determined that the building will impact sunlight penetration on December 21st, but will not impact it on March 21st, June 21st, and September 21st.</p>
<p>2.4 New development on Spring Garden Road and South Park Street should be designed to minimize the effect of air turbulence at pedestrian level on Spring Garden Road and South Park Street, by requiring the upper storey levels of buildings to be stepped back.</p>	<p>There are three major step back included in the building design. The first occurs between the second and third storey, the second one occurs between the thirteen and fourteen storey, while the last one occurs between the eighteen and nineteen storey.</p>
<p>2.5 The City shall control the height of new development within the Spring Garden Road Commercial Area in the vicinity of Citadel Hill, pursuant to Policies 6.3, 6.3.1, 6.3.2, and 6.3.3 of Part II, Section II of this Plan.</p>	<p>The DA explicitly states that the building shall not violate Section 26B of the Land Use By-law (Citadel ramparts regulations). The DA further requires that written certification from a professional surveyor must be submitted to the Development Officer indicating that the building does not violate Section 26B of the LUB prior to the issuance of any Building, Development, or Occupancy Permits.</p>

<p>2.6 The City shall seek to achieve a phased program for the burial or relocation of overhead electricity and telephone cables, particularly along Spring Garden Road.</p>	<p>The DA requires the developer to place all primary and secondary utility services (electrical and communication distribution systems) underground along those portions of South Park Street and Brenton Place which abut the site.</p>
<p>2.7 New development on South Park Street should be designed to minimize its visual impact on the Public Gardens and Victoria Park, by maintaining a maximum height of 55 feet at the street line.</p>	<p>The proposed building will only be permitted to have a maximum of three storeys at the street line on South Park, which will amount to less than 55 feet.</p>

Proposed Policies

Policy	Staff Comments
<p>1.6 On the northeast corner of South Park Street and Brenton Place (1441-1467 South Park Street and 5679-5683 Brenton Place; PID # 40310021, 00125690, 00125708, 00125716, 00125682 and 40346710), the Municipality may permit, by development agreement, a mixed use residential/commercial building of up to 215 feet in height.</p>	<p>The DA allows for a mixed use residential/commercial building of up to 215 feet.</p>
<p>1.6.1 In considering an application under Policy 1.6, Council shall make reference to Policy EC-2 of the Regional Municipal Planning Strategy.</p>	<p>Staff has referenced the policy set (see below).</p>
<p>1.6.2 In considering an application under Policy 1.6, Council may permit minor commercial uses to occupy both the first and second storeys.</p>	<p>The DA does allow minor commercial uses on both the first and second storeys.</p>

<p>1.6.3 Any development permitted pursuant to Policy 1.6 shall comply with a setback of 30 feet from the eastern boundary of the consolidated lots.</p>	<p>The DA includes a mandatory 30 feet setback for the building from the eastern boundary of the consolidated lots.</p>
<p>1.6.4 Any development permitted pursuant to Policy 1.6 shall be exempt from angle control regulations prescribed under the Land Use By-law.</p>	<p>Angle controls were not taken into account in the design of the building.</p>
<p>1.6.5 Any development permitted pursuant to Policy 1.6 shall be exempt from the open space requirements of the R-3 (Multiple Dwelling) Zone of the Land Use By-law.</p>	<p>The open space requirements of the R-3 Zone were not taken into account during the drafting of the DA. However, the DA does require the provision of two landscaped terraces for use by the residents of the building.</p>
<p>1.6.6 For the purpose of calculating population density for any development permitted pursuant to Policy 1.6, the following population counts shall apply:</p> <ul style="list-style-type: none">(I) bachelor units shall be assigned one (1) person per unit;(ii) one-bedroom units shall be assigned two (2) persons per unit; and,(iii) all other dwelling units shall be assigned 2.25 persons per unit.	<p>The DA does concur with the policy.</p>
<p>1.6.7 For the purpose of determining the amount of parking to be provided for any development permitted pursuant to Policy 1.6, each dwelling unit shall be assigned one (1) parking space, while the commercial portion of the development will not require the provision of parking.</p>	<p>The DA requires 80 parking spaces to be provided. This number was based on the fact that the DA allows for a maximum of 80 dwelling units.</p>

Regional Municipal Planning Strategy

5.1.2 Spring Garden Road Commercial Area Plan

Within the Capital District, the existing Spring Garden Road Commercial Area Plan contains policies that enable considerable commercial and residential development to take place as-of-right, with little opportunity for input from members of the public or Council. Additional urban design guidance is required to ensure that future development will preserve and enhance the vitality of this area. Until the Capital District Sub-Designation Policy Amendments are completed, such development shall only be considered by way of development agreement.

EC-2 Within the Spring Garden Road Commercial Area Plan, HRM shall only consider new development or expansions to existing development greater than 12 metres in height by development agreement. When considering an application for a development agreement, in addition to the applicable policies of the Halifax Municipal Planning Strategy, including the Spring Garden Road Commercial Area Secondary Planning Strategy and the requirements of the Halifax Peninsula Land Use By-law, including requirements pertaining to height and setback of buildings, HRM shall consider the following:

Policy Criteria	Staff Comments
(a) sidewalk retail uses, including restaurants and cafes, shall be encouraged within the Capital District to bring life to the streetscape with the pedestrian activity that accompanies such uses	The DA only permits uses which generate strong pedestrian traffic on the ground level. These uses include retail and personal services, restaurants and lounges in association with restaurants, and financial institutions.
(b) new development should observe the front setbacks of adjacent buildings to maintain a consistent street wall, and should avoid large, incongruous setbacks that create gaps in the streetwall	The proposed building will respect the front setback of adjacent buildings on the same block.

<p>(c) buildings should avoid long, un-interrupted blank walls, especially facing sidewalks or other public areas. Building wall articulations such as projections, recesses and expression of floor lines should be used to add variety to otherwise plain, unadorned building surfaces. At sidewalk level, no less than 50% of a building wall shall be composed of display windows and glass doors</p>	<p>The building does include a blank wall covering portions of Residential Levels 1400 to 1900. However, there is a clause in the DA that requires the blank wall to be tempered by the introduction of artwork (murals), living wall systems, fixed windows, or a combination thereof.</p> <p>Building wall articulations are included as part of the overall design for the proposed building.</p> <p>A minimum of 50% of the building wall at street level will be composed of display windows and glass doors.</p>
<p>(d) new developments should incorporate human scaled building elements in, at a minimum, the first three stories of development to enhance the pedestrian environment. Human scaled building elements range from small (masonry units, doorknobs, window muntins, etc.) to medium (doors, windows, awnings, balconies, railings, signs, etc.) to large (expression of floor lines, expression of structural bays, cornice lines, etc.)</p>	<p>The DA requires the provisions of a sill added above a shouldice block for windows found at street level. Other architectural treatments include bands, cornices lines, canvas awnings, and balconies at different locations on the building.</p>
<p>(e) for building facades along sidewalks and pedestrian routes, consideration should be given to weather protection for pedestrians through the use of decorative canopies and awnings</p>	<p>The DA requires that a clear and transparent glass canopy be installed above the South Park Street and Brenton corner entrance. The DA further states that fixed and retractable canvas awnings shall be permitted along each retail bay.</p>

<p>(f) public safety should be a consideration in the design of new buildings and the spaces they create to limit opportunities for crime. Special attention should be paid to the elimination of dead spaces, the introduction of pedestrian level lighting and to the provision of evening uses which encourage passive surveillance or "eyes on the street" after regular working hours</p>	<p>Dead spaces have been discouraged from the design of the building and a pedestrian lighting system is part and parcel of the lighting plan required under the DA. Moreover, the DA encourages the provision of evening uses like restaurants and retail establishments.</p>
<p>(g) the architecture of new or redeveloped buildings should be complementary to adjacent buildings of historic or landmark significance in terms of building height along the established street wall, materials, and structural rhythm. Traditional building materials such as wood shingle and brick are preferred, however the creative use of modern building materials is acceptable where such use does not detract from the existing streetscape character</p>	<p>There are no buildings of historic or landmark significance situated on the same block as the subject site.</p>
<p>(h) the upper storeys of buildings should be designed to promote visual interest in the urban skyline</p>	<p>Staff is of the opinion that the design of the upper storeys of the proposed building does promote visual interest in the urban skyline, which should be furthered with the inclusion of a lighting plan.</p>
<p>(I) consideration should be given to the maximization of sunlight at street level, and to the minimization of any wind tunnel effect</p>	<p>Staff required the applicant to submit a shadow analysis and a wind study as part of the application process. Both studies demonstrated that the proposed building will not create adverse wind and shadow effects.</p>

<p>(j) usable common areas in residential developments should be provided where the size of the project and site conditions permit. Buildings should be arranged around larger contiguous common areas rather than providing more numerous but smaller and fragmented areas</p>	<p>Two landscaped terraces, for use by the residents of the building, are to be included as part of the proposed building.</p>
<p>(k) encouraging design at the interface of commercial areas and residential neighbourhoods that is compatible with residential uses, and discouraging adverse impacts on residential uses from noise, lighting, illuminated signage and commercial service areas</p>	<p>The area is designated RC (Residential-Commercial Mix) and therefore encourages a mix of both uses. Clauses have been included in the DA to minimize negative impacts from the proposed development on existing residential uses in terms of noise, lighting, illuminated signage and commercial service areas.</p>
<p>(l) service areas for trash dumpsters and compactors, recycling bins, loading docks, mechanical equipment, fuel tanks, transformers and HVAC intake/exhaust vents should be located away from the street front. Those elements which, for operational reasons, cannot be located away from the street front should be attractively screened from view</p>	<p>The DA includes several clauses to ensure that trash dumpsters, compactors, recycling bins, loading docks, mechanical equipment, fuel tanks, transformers and HVAC intake/exhaust vents are either located away from a street front or are screened from view.</p>

HALIFAX REGIONAL MUNICIPALITY

**DISTRICT 12 PLANNING ADVISORY COMMITTEE
DECEMBER 05, 2007
PUBLIC MEETING MINUTES**

PRESENT: Ms. Heather Ternoway, Chair
Ms. Beverly Miller, Vice Chair
Mr. Clary Kempton
Ms. Katherine Perrot
Councillor Dawn Sloane

ABSENT: Mr. Graeme Gunn
Ms. Lucy Trull

STAFF: Mr. Luc Oullett, Planner 1
Mr. Brian White, Planner, Western Region
Ms. Jennifer Weagle, Legislative Assistant
Ms. Sandra T. Riley, Legislative Assistant

1. CALL TO ORDER

The Chair called the meeting to order at 7:07 p.m. at Windsor Room 2, Prince George Hotel, 1725 Market St., Halifax

2. CASE 01046- Application by WM Fares to Amend the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law to permit a 19-storey residential building, with first and second storey commercial uses, on the north-east corner of South Park Street and Brenton Place in Halifax (1441-1467 South Park Street and 5679-5683 Brenton Place), by development agreement.

Ms. Ternoway advised that this was the first official formal opportunity in the planning process for the public to see the proposal for the site and to share their comments.

A handout explaining overview of process, entitled 'Letter of Request' was submitted. Mr. Luc Ouellet, Planner 1, clarified the handout of the complete process to get the initial application of the Letter of Request into approval. Mr. Ouellet explained that after receiving a Letter of Request and a review of the application has been done, it is presented to Regional Council, which could end the process or proceed. Once the report is tabled at Regional Council, there are two options: schedule a public hearing or reject the application at that point. Regional Council will usually schedule a public hearing within a month following. Notifications will be sent out by mail as well as being advertised in newspapers. Regional Council will call a public hearing allowing members of the public five minutes to speak to Council and/or comments can be submitted ahead of time. Council will approve or refuse the proposal. If Council approves, it will be sent to the Minister for review. HRM then places an ad in the newspaper to announce approval of the application. He further stated that on the development agreement process, there is an appeal period that follows in which time members of the public or the developer can appeal the decision of Council.

Mr. Cesar Saleh addressed those in attendance, stating that he was the Prime Consultant from WM Fares Group. He introduced all the professionals involved with the project and advised the members of the public of a few of WM Fares' previous commercial, residential, hospitality and community projects. The presentation included slides and 3-D images. Mr. Saleh elaborated on the proposal and explained the slides presented, noting:

- The proposed site is at the corner of South Park Street and Brenton Street and blocked by Spring Garden Road, Brenton Place, South Park Street and Brenton Street. There are six lots containing three buildings and three vacant lots.
- These are multi-unit buildings with four to five units in every building.
- The entrance to underground parking will be off Brenton Place. The main entrance to the plaza and the condominiums will be at the corner of South Park Street and Brenton Street.
- The site is 24,000 square feet. The building area is 14,000 square feet, and there will be 19 storeys, including the Penthouse level.
- The commercial area, which is the first and second storeys, is 23,400 square feet.
- The number of units will range in the middle of 65 units to a maximum of 80 depending on the market and the size of the condominiums to be sold.

- The landscape area is 7,900 square feet and the amenities area indoor and outdoor is 8,000 square feet, with the average unit area being 1,300 square feet.
- There will be 93 in door parking spots, split between two underground parking garages.
- The Site Planning and Urban Design were taken into consideration and these things were found to be unique about the site: Victoria Park - the Summer and the Winter stages; the streetscape; the Park Victoria building; site orientation; transition of building; The Public Gardens; the Walter Cox Monument; Spring Garden; Lord Nelson; and the Schmdtville axis.

Mr. Saleh further clarified additional slides of different views:

South Park Elevation:

- There are three to four storeys that relate to the existing buildings and are designed to be brick and clear glass.
- This elevation includes broad decks which enjoy a South-Western exposure and a view of Victoria Park.
- The store fronts will create an interesting streetscape and will have separate awnings in different colours.
- There is about a five foot elevation distance on South Park Street from one end of the building to the other and there will be steps in the slab/sidewalk.
- There are large setbacks from the Spring Garden Road side and from Brenton Place, also from South Park Street side - 40 feet from Spring Garden, 15 feet from Brenton Place, 15 feet from South Park Street, creating a human scale right at the sidewalk.
- The middle of the building is limestone colour pre-cast with clear glass.
- Architectural features include curved glass and glazed wall.
- The curvature at the corner of South Park Street is carried through to the corner of the building, to the corner of the entrance to the mini plaza, and to the transition from the building to the sky.

Brenton Place elevation:

- The centre of the building is the main entrance of the mini plaza which directly looks at Walter Cox monument and provides a lot of urban energy and re-enforces the gateway posts to the Brenton Place/Clyde Street axis.
- Some of the projected balconies are enclosed in glass from top to bottom while some are open to create variation. The lower decks have patios.
- This creates a well-defined building with a bottom, middle portion, and a top skyline feature.
- The building is unique in how it relates to the lower level of existing buildings while anticipating future expansions through generous setbacks.
- Park Victoria is 21 storeys.
- A streetscape shot of the elevation showed that the storefronts allow interaction between businesses.

Brenton Street Elevation:

- Every elevation is unique in that there is no front or side or back of the building, creating its own character with the same features carried throughout. The bottom of the building is two or three storeys, with projected balconies.

Mr. Saleh reviewed the Spring Garden Road Elevation, pointing out the North East, South East and North West aerial views, as well as the Public Gardens view. He pointed out the Spring Garden apartment building with 20 storeys. He presented a video animation video showing the building in context of the surrounding.

The next speaker was Mr. Rob LeBlanc with a presentation on Shadow Analysis. Mr. LeBlanc's comments were as follows:

- Shadow Analysis explains the sun movement and the impact of shade on the surrounding areas.
- The diagrams focussed on patterns of the sun and how it moves from Summer Solstice to Equinox and then to Winter Solstice.
- The first shade diagram was for June 21 - Summer solstice, when the sun is at its highest in the sky. The gradient of colour showed from zero hours of shade up to 14 hours of shade. Adding the new building, he demonstrated the change in number of hours of shade on existing surrounding properties.
- With implementation of the proposal, there would be one to three hours of shade to an area where it is closer to five and six hours of shade, directly across the street.
- Another diagram showed shade analysis for Equinox March 21 and September 21, adding about an hour of shade as a result of the new building.
- The worst period is Winter Solstice, December 21, as there are extended shadows this time of year. This impacts a variety of plants and their ability to grow as well as adding an extra hour of shade at the entrance to the Gardens around four or five o'clock.
- Normally, a building of this scale would have a very big impact, but because of its design, it will have a very minimal impact on the surroundings areas.

Ms. Ternoway opened the floor to questions from members of the public, followed by points of clarification. She reviewed the ground rules and encouraged attendees to contact the planning department at any time.

Vice Chair, Ms. Beverley Miller requested clarification on diagram 309A in the package. She stated that the building in the presentation is very unlike the building in 309A as far as design elements go. There have been alterations made.

Ms. Ternoway clarified that the diagram spoken of is not the same that was distributed to the public; the package only went to Council. Mr. Saleh responded that further enhancements were requested for the corner of South Park and Brenton streets. Ms. Miller inquired as to whether the material should now be considered out-dated. Mr. Saleh again responded that it is just enhancements to the earlier package, but still has the same number of storeys and same number of units.

Councillor Sloane expressed her concerns regarding the streetscape, pointing out there is no public garden or public amenities. The response was that they are considering public gardens for South Park Street and Brenton Street.

Mr. Kempton inquired about the angle of view from Spring Garden Road where there is a required angle of setback. Mr. Saleh noted that the building has three setbacks with a 40 foot setback between the low-rise and the center of the building. He indicated the other setbacks on the diagram. He added that because of the setbacks, there are no blank walls, and balconies and windows can be introduced.

Mr. Kempton remarked on the Brenton Street courtyard that goes from Brenton Place in to the centre of the site which allows for no blank walls and for windows as a result of setbacks, and was informed on the 40 foot setback which allowed this.

In response to further questions by Mr. Kempton, Mr. Saleh clarified the following points:

- The commercial area at the plaza level will be 12,000 square feet.
- The occupants will have their own entrances with small boutique stores facing South Park Street.
- Level 200 and 300 will be office space. Level 300 in the Spring Garden Road view is setback 40 feet allowing 3,000 square feet of amenity area which will be landscaped.
- A setback on Spring Garden Road will allow another area for landscaping.
- The landscaped area on the roof for the 200 level is an outdoor amenity area for the residents.
- When Mr. Kempton inquired as to whether there was any consideration or any avenue to incorporate the existing building into the lower features of the property in the South Park Elevation, Mr. Saleh stated that the inquiry was 'noted'.

The following members of the public shared their comments and concerns:

Larry Haven, Schmidville- about two blocks away from the proposed development. Mr. Haven wanted to know why the building has to be 19 storeys. Is it not profitable to build a smaller building. He stated that a building that high will cut off the Western view from his home.

Mr. Saleh responded that the building is custom designed to the site. He stated that through the planning and design over the past year and relating to the existing streetscape and buildings from the 60s, 70s and 80s, this proposed building works for this site.

Dave Barlow, Halifax. Mr. Barlow stated that his home was built circa 1870. He requested a presentation showing the Shadow Analysis on the houses on Brenton Street, Birmingham Street and Dresden Row instead of only showing the shadow effects on Victoria Park and Public Gardens. He shared that noon on Brenton Street is already dark black. He stated that the proposed building is nice looking, but he would like to have a full presentation.

Peter Selingo, Halifax. Mr. Selingo advised that the historic presence of Schmidville, with its 1870s houses, would enhance the proposed new building, and not the other way around. He is

concerned about the building taking away too much sunlight, but is not against the development. He summarized his concerns in two words - Too Tall.

Greg Starrott, from Duffus, Romans Architects. Mr. Starrott stated there is the beginning of an open gateway axis along Brenton Place and Clyde Street. He advised that he anticipates over time, that those four blocks will be terminated at some point in the Halifax Infirmery future development grounds. Clyde Street will take on new characteristics. He advised that this was what has been referred to as the Schmidville axis.

Mr. Selingo further added that he checked the heights of some viable surrounding commercial buildings. The highest appears to be about 10-15 storeys from street level. He stated that he would have no objections to new buildings at that height.

Mr. Saleh interjected that this is not a solid 19-storey building because of the setbacks. The building is softened by steps, architecturally, at different levels.

Lyndon Watkins, Schmidville. Mr. Watkins shared that one of the properties he owns in Schmidville is the oldest property in the area, going back to 1790. He stated that he already has high heating bills from the wind vortex, from another building that was erected there in 1962. He further stated that this new proposal will cause the same shadow and wind problems and blight the neighbourhood even further. He noted that wind was not discussed in this meeting. He expressed that this is not planning, this is expediency and the character of Halifax will be markedly changed by these developments. Mr. Watkins asserted that there will be a strong economic cost for the city on tourism as there is very little Georgian and Victorian architecture remaining. He recounted the history of Schmidville as an example of Halifax's unique history that should be preserved. Nineteen storey buildings should not be built in a four storey area.

Ms. Ternoway made a request of the Planner for clarification on the wind study. She stated it was her understanding that these studies will be done in subsequent review for this proposal. The planner responded that the study will be done before the staff report. The study will entail a full wind tunnel testing.

Peter Perkins, Halifax. He expressed concerns regarding the wind effects and would like to see more of shade pattern as the presentation did not show anything relevant to residents in the area. Nobody lives in Victoria Park. He does not think the proposed building is a very good idea as it takes away a lot of Halifax heritage.

Judy Haven, Halifax. Ms. Haven requested a further look at the North East Aerial View showing tall buildings in the area adjacent to Schmidville. She is concerned about the shadow. Her backyard gets no light in the Wintertime and very little in the Summertime because of shadows. She pointed out that as a public transit user, it is freezing cold in Winter on both sides of the street, because there is a lot of shadow cast by Park Victoria, and she is quite sure this will be added to by this 19-storey building. She stated that Heritage Trust has had walking tours to talk about famous people and architecture in that area. She opined that it will be a theme park in the middle of very tall buildings. Although the proposed building is quite nice and various features have been installed to make it

more pleasant, it is still 19 storeys. She remarked that it is about time that developers/planners respect the by-right limits of development in the city of Halifax. Four or five storeys is just fine.

Phil Pacey, President of Heritage Trust of Nova Scotia. Mr. Pacey offered these observations:

- The developer has asked the municipality to change many planning and zoning bills to permit them to construct a 19-storey building.
- The proposal would involve the demolition of three houses on South Park Street. They are not registered heritage properties, but were proposed for possible heritage registration in the Spring. These buildings could be considered for possible registration before this process proceeds any further.
- The building at the corner is a prime example of Victorian architecture and is in the 2nd Empire style. He reviewed the history of the house, stating that it has both historic and architectural merit. The other two houses also have architectural merit.
- The area has a 45 foot height limit, allowing a four or five storey building. The same zone and height limits applies on the north side of Brenton Place and Clyde Street. These provisions were put in place to protect the scale of the Victoria Park/Schmidtville neighbourhood.
- As long as the height allowed in the zone is similar to the height of the existing buildings, this creates an incentive for owners to retain the existing buildings and a dis-incentive to demolish said buildings. This zoning was done to protect the character of the existing neighbourhood and also provides affordable housing. The best affordable housing is existing housing.
- The current zoning is based on sound principles and should be respected. Approval of the proposed change for this site could act as a precedent for weakening of the zoning and policy protection for other sites in the neighbourhood.
- Existing rules need to be respected and should not be moved to a system of site specific amendments.
- The proposal would cast shadows on Victoria Park, on the sidewalks of South Park Street and on Brenton Street.
- The proposal does not maximize sunlight at street level.
- The proposed building will be much taller than neighbouring buildings and would place these buildings in a canyon. It would be impossible to use solar heating in these buildings, and would take away much of the sky view from the residents of those buildings.
- Heritage Trust advised that Staff and the Planning Advisory Committee recommend that the requested plans and zoning bylaw amendments be rejected.
- Heritage Trust invited the developer to come forward with a proposal that is in scale with this historic neighbourhood and a proposal that complies with the policies of the municipal planning strategy.

Janet Morris, Halifax. Ms. Morris shared these concerns:

- There are unregistered heritage buildings that are significant on the streetscape and these buildings should be addressed before addressing other buildings.
- She is offended that the proposal will tear down buildings in the streetscape on South Park Street.
- Ms. Morris does not believe this type of proposal should go in under the wire and destroy heritage properties.

Mr. Selingo offered another comment. He stated that the zoning also exists to protect the investments and economic interests of those people who are stakeholders in the neighbourhood. Zoning should be respected.

Brian Malloy, Halifax. Mr. Malloy owns five properties in the area. He stated he was shocked to hear the proposal was a 19-storey building, as he still can not believe Park Victoria was built. He has no light after 5pm in the Summer and feels this building will shadow him, also. He is opposed to the 19-storey building and feels it should be built on a lower street.

Ruth Goldblum, Halifax. Ms. Goldblum expressed that the proposal is a lovely design, and the amount of creativity is remarkable. She advised that this kind of development environment is needed downtown in order to keep the graduates and the young generation here. She stated that Halifax has a history of not putting up the right kind of structure. She further remarked that Halifax's reputation across Canada is one of anti-development. She complimented Mr. Fares and his team for trying to bring something that would be extremely positive to the city.

Joe, Halifax. He stated that he is a Master's student, who plans on staying in Halifax and would love to raise children here. Although he is concerned with shadow and wind, he asserts that it is a selfish perspective because we live in a time where things are changing. He advised that increasing density downtown will allow the public to walk and live in a small core area rather than drive to Clayton Park. Though he loves Halifax, he feels there have to be compromises, as it makes more sense than relying on a rule that was put in place a long time before these considerations were at the forefront.

Ted Worthington, Halifax. Mr. Worthington shared that in 1971 he was on the planning committee, planning the zoning and it could not be amended. He stated that there are no guarantees when you buy a house, and that we need more public transportation and more density is needed in the city. He remarked on the Urban group who advised that we need 25,000 more souls downtown. He agreed that the proposed building is beautiful. He added that 20 thousand people left Nova Scotia last year. Regarding Park Victoria, Mr. Worthington stated someone should have complained about the shadows caused by that building before now.

Rick Layton, Halifax. He stated that the proposed building is, basically, in his backyard. Mr. Layton inquired as to how much money it would take to revive the existing heritage buildings and bring them back to standard. He noted that commercial space in Halifax is very limited and this type of building proposal is nice for commercial use as well. He admitted that he really does not know how he feels about the building after discussions regarding the wind and shade issues, but he stressed that if he wants to be out in the sun, he just picks the hours that his area has sun and then goes outside to enjoy it. He further stated that if he wanted to live somewhere that had a lot of sun throughout the day, he would not live downtown. Mr. Layton would not be opposed to the proposed building being in his backyard.

Anthony (Tony) Metlej, Halifax. He stated that he is also a builder and he owns property that was built under the old regulation of 45 feet. He advised that, with those regulations, very squat buildings that cover a lot of land and gives nothing to the city is the result. He stated that allowing the buildings to go up and spread the density vertically enables creativity in design. He pointed out that creativity in development will allow a signature for the next century as heritage does not stop.

Heritage moves forward and new buildings will become part of heritage in the future. He added that building up the downtown core is what the city needs. Mr. Metlej is not opposed to the proposal.

Peter Kontak, Halifax. He reviewed the debt that the province is presently in and referred to taxes having doubled in the last couple years. Mr. Kontak advised that he does not want to have elementary schools with 750 students and he feels that this type of building will prevent that from happening by increasing downtown density. He agreed with his neighbours that this should go ahead as the shadows are already there. He stated the need to protect Schmidville and that the borders have to be restored.

Ms. Haven addressed the attendees again. She noted that the proposal calls for 93 parking spaces in an area that is already congested with traffic. Ms. Haven offered the opinion that living downtown will be a pricey affair. She does not feel this building will attract families with children.

Mr. Haven further remarked that he is disturbed by the way the debate is turning into a generational issue. He stated that it has been suggested that the younger public will move away if tall buildings are not built in the HRM. He remarked on how the view from Citadel Hill has been altered. Mr. Haven quoted a young man who told him to beware of destroying what makes Halifax distinctive. He inquired as to whether the proposed building is going to make Halifax distinctive; will people come and stay because of this building. He added that the HRM will not be the place he wants to live if it is made to look like Toronto.

Ms. Miller added these comments to her earlier statements:

- Park Victoria was built before the present Municipal Planning Strategy was adopted. She suggested that the process was put in place to prevent the building of more Park Victorias.
- She reiterated that in the Staff Report of October 23, the building bears no resemblance to the one presented. She suggested that the corner had to be made more welcoming in the revised presentation.
- According to the report, Staff advised that shops along the street would not provide enough light to the street and that residential units should be considered at that level. This recommendation does not appear to have been followed.
- She suggested that 24 units could be put on this property.
- The building is about four and a half times the height presently allowed.
- She inquired of Staff whether they know what the allowable limits are for wind, and what is considered acceptable.
- There are concerns in how podiums will break up the wind. She mentioned Scotia Square, the Aliant Building, and Fenwick Tower as always being presented as bad examples of buildings on podiums.
- In regards to affordability, Ms. Miller stated that the young public can not afford the half million dollar condominium. Since Staff redesigned the corner, perhaps they will consider some affordable residential spaces. She suggested that Staff consider townhouses to attract families.

Brian White, Planner with the Western Region. He referred back to the Midtown project, where there were many presentations made to the Planning Advisory Committee with regard to the Beaufort Scale, which is the international standard at the RWDI. A report was brought back to Staff, the PAC and Council about the internationally accepted Beaufort Scale in what the effects would be at the ground level. He stated that the performance criteria is to create a comfortable pedestrian environment at street level. He explained that the Beaufort Scale is a graduated one and it would show the effects of the building and whether it will be uncomfortable for the pedestrians, at which time recommendations would be made, based on the results of the study. The applicant would then have the opportunity to make changes to the building design to reduce some of those effects.

The applicant commented that townhouses have not been considered at the first level, but it can be evaluated. Affordability will also be considered.

Phil LeVangie, Halifax. He stated that he will be living close to the proposed building. He advised that it is impractical to rejuvenate existing buildings. He expressed that HRM needs density and the kind of desire and thought that has gone into the building. He added that he thinks that the proposal is a credible project and deserves public support.

Lyman Langille, Halifax. Mr. Langille agreed that all of the things talked about, such as affordable downtown housing, are needed in the HRM. He stated that the HRM is anti-development and needs some signature properties such as this proposed building. He expressed that the building will provide a variety of needs and is in walking distance to the hospital and shopping, and has lots of greenspace. He added that he likes the setback features and the decks, and the designers and planners should be complimented. He salutes all in favour.

Ms. Miller addressed the glass wall that faces Victoria, saying that it seems to be a blank wall at about the fourth level facing West. Her concerns were:

- As this glass wall will be facing the sun, the concern is whether the building will be energy efficient or cost a lot to cool.
- Because of the wide expanse of glass, what effects will the reflections from the sun have on the surroundings or will there be no effect.
- She expressed concern about the glare emitted from the building.

The responses to her queries are as follows:

- The glass is all clear glazed. There will be times when light reflects off the glass but there will be minimal effects.
- The reflection of the colour of the sky in the glass will be appreciated when looking upward as it will minimize the visual impact of the building.
- The corner is an outward curve that will spread the glare.

Ms. Miller re-addressed the podium issue asking whether it is a proven wind reducer. The response was that the podium was part of an old city development process that allowed you to build five feet above the sidewalk. The comparison was made of canopies and podiums acting like rocks on the seashore breaking up waves. The same thing occurs - refraction - with winds when canopies or podiums are present, diminishing the effects.

Ms. Ternoway stated that actual results of wind studies will be submitted as the process goes on. Through these studies, the impact on the street and if there are measures needed to mitigate the wind impact, will be found and taken into consideration. The effects are speculative right now. The design is intended to minimize the wind as it descends, as opposed to a straight shear wall.

Richard Goldblum, Halifax and at his present address since 1967. He stated that the proposed building has a genuinely attractive design and has a lot to recommend it. He expressed that it will make Halifax more attractive and that all citizens of HRM should endorse it.

Joyce McCullough, Halifax. Ms. McCullough suggested that the proposed building would be more attractive in a certain area; not next to a heritage district. She stated that she understands that heritage districts are going to be set out in the city so people will know where they stand. She expressed a need for a moratorium on any developments that go against the heritage issues. She stated that Halifax is a certain kind of city where people come to see the history.

3. CLOSING COMMENTS

The Chair thanked everyone for coming out this evening and providing their comments and discussion on the proposal. She stated that the process allows planning staff and the applicant, collectively, to make adjustments and refinements to, hopefully, produce a great final product that works in the city. She advised that the struggle is in trying to uphold the best in the roots and core of existing policy, while also trying to adjust and adopt new policy at the same time. She remarked that it is a challenging time to consider development as people want to know what is going on and they want to be able to have some confidence in purchasing and developing properties. The ultimate goal is to create a really great city and to hold on to the best and be the best. A staff report will be tabled as more comes in.

4. ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 p.m.

Sandra Riley
Legislative Assistant

Attachment F - Letter from Applicant



480 Parkland Drive
Suite 205, Halifax
Nova Scotia, Canada
B3S 1P9

tel. 902.457.6676
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www.wmfares.com

October 4, 2007

Richard Harvey, Senior Planner
Planning and Development Services
Halifax Regional Municipality
636 Mumford Road
Halifax, Nova Scotia
B3J-3A5

Re: Site Specific Plan Amendment Corner of South Park and Brenton Place
HRM Case # 01046
PID numbers: (125682, 40346710, 40310021, 125690, 125708, 125716)

Dear Mr. Harvey,

The following is in support of a Site Specific Plan Amendment application for the subject properties, which are bound by South Park and Brenton Place, to allow a mixed use complex.

1.0 SITE LOCATION AND CHARACTERISTICS:

The parcels of land (civic #s 5679 and 5683 along Brenton Place and civic #s 1441, 1449, 1451, 1455, and 1467) which are subject to this application, are located in the Spring Garden Road Commercial Area Plan and designated Residential Commercial Mix (RC).

The current use of the subject properties is low density residential. This no longer resembles the characteristics of the immediate area, which is predominately high density residential and commercial, but is more characteristic of Smittyville, which has evolved into a cohesive residential neighbourhood. Some of the adjacent uses are Park Victoria Apartments, Garden Apartments/Smitty's Restaurant, Spring Garden Apartments, Lord Nelson Hotel, Park Lane Shopping Mall, City Center Atlantic, in addition to a number of banks, restaurants, and schools.

There are many attributes of this site that make it truly unique and provide an opportunity for an exciting and animated development, some of which are:

- Creating a vibrant environment around Victoria Park.
- The close proximity to the Public Gardens.
- Provides for an urban design streetscape as an extension of Spring Garden Road to South Park Street
- Being a gateway site of the axis to Brenton Place/Clyde Street
- Provides a tremendous opportunity to create an exciting place to live and work.

2.0 PROJECT DESCRIPTION

- The project is comprised of four principal elements:
 - Two floors of underground parking.
 - A low rise perimeter accommodating two floors of commercial space, and two floors of stepped residential units incorporating large terraces of approximately 15' x 20', which overlook Victoria Park.
 - A slender tower of residential floors including 80 suites
 - The tower steps at higher levels leading to a skyline feature that will add a signature architectural element and form an exciting transition from building to sky.
- The total height from sidewalk to penthouse level is 19 floors.
- The entrance for the tower is at the South Park/Brenton Place corner providing both “urban energy” to the intersection and a northern “gateway” post to the Infirmary/Walter Scott axis.
- The low rise building shows a brick exterior with clear glass.
- The tower shows architectural pre-cast, stone in colour also with clear glass.

3.0 MERITS OF PROSAL

The proposed mixed use building meets the intent of the Municipal Planning Strategy; specifically we have given great consideration to Policy 2.7 that speaks to minimizing the visual impact of new development along South Park Street on the Public Gardens and Victoria Park, through the following:

- The proposed development is of high quality. It promotes high quality architecture and urban design.
- We are proposing a low rise perimeter accommodating two floors of commercial space, and two floors of stepped residential. This is defined with the stepping of the generous outdoor terraces along the roof areas of the low rise, which will be animated with people, planting and activity visible from Victoria Park. Conversely Victoria Park will become a stage providing active views for people

on the terraces and in the tower above. The commercial level presents an urban design streetscape which provides for a relationship with the side walk, and brings life to the streetscape encouraging pedestrian activity. This commercial space also steps down with the grade to create ease of movement and a visual break.

- The maximum height at the street line varies between 26 feet and 36 feet, which is significantly less than the 55 feet stated in MPS Policy 2.7.
- building wall to glass ratio
- Human scaled building elements at the first few stories

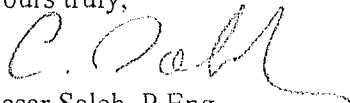
- We are proposing a slender tower (60ft x 144ft) which is stepped back 15.5 feet from the commercial level. The tower is softened by incorporating elements such as projected bay balconies on lower levels and inset French balconies with glass from floor to ceiling on higher levels, pre-cast concrete panels with simple yet stylish detailing and soft colors, iron and glass railings, clear windows, a geometric element at the corner of South Park and Brenton Place, which provides the opportunity for some type of public art. The proposed building will also ensure quality skyline with elegant proportions and high quality materials adding to the overall architectural appeal.

The proposed project exemplifies the vision and principles of the Regional Centre Urban Design Study which states:

“An urban design strategy for the Regional Centre should reinforce the vitality of both downtowns by continuing to direct concentrations of civic and cultural attractions to these areas; by improving the quality of the civic infrastructure; and most importantly, through a targeted strategy of residential intensification. The best and most enduring urban destinations are living and breathing communities that are dense with activity and people at all hours and seasons – a community that theme parks, museums, stadiums and casinos alone cannot build.”

Thank you for your time and assistance to date. We are looking forward to working with you and other approval agencies to bring this unique and exciting project to life.

Yours truly,



Cesar Saleh, P.Eng.

W. M. Fares Group



EKISTICS PLANNING & DESIGN

October 30, 2007

Cesar Salah
WM Fares Associates

Dear Cesar:

Re: Shade Study for South Park Development

This letter accompanies the attached shade study to demonstrate the impact of sunlight reduction as a result of the proposed building. Ekistics has completed dozens of these type studies including most recently for the New York Times Tower in Manhattan.

The investigation looked at the 4 key seasonal events (summer solstice, winter solstice and spring and fall equinox) using the Halifax longitude and latitude. The model was prepared by constructing a scale digital model of the proposed building and using computer modelling for solar relief using Sketchup 6.0. A terrain model was not constructed for this exercise and since the topography in this area is relatively flat, we do not expect any major variations in shade results due to changes in topography. Existing surrounding buildings were not modeled in detail as part of this exercise. While the surrounding buildings will cast their own shade on the surroundings, they do not influence the shade cast by this new building.

Summer Solstice (June 21) Results:

This event occurs at the time of year when the sun is at its highest point in the sky with the most sunlight of any day in the year. The shade diagram shows that Victoria Park, directly west of the new development will be impacted from between 1 hour (orange-yellow) and 4 hours (red) per day at ground level. This will occur from sunup (5am to 9am). To the east of the development, there will be a similar loss of sunlight from 5pm till sundown after 9pm. Because these shade diagrams denote groundlevel shade, mature trees in the park will have significantly less shade influence from the building (because they are 50-60' above ground level). The shade animation shows that a few properties on Brenton and Dresden will receive an extra few hours of shade from 5 to 7pm. The bulk of the properties in Schmidville will not be impacted.

Spring and Fall Equinox (March 21 and Sept 21) Results:

This event corresponds with the middle of summer and winter solstice. The shade diagram shows again, another 4 hours maximum of shade (red) in the area behind the Robby Burns Memorial. The main seating plaza should still receive sunlight during the equinox. The sidewalk on Spring garden Road will not receive any shade during this period. Similar to the June 21 results, a few properties on Brenton, Dresden and Birmingham will have shade from 2:30 till about 6pm. The bulk of the properties in Schmidville will not be impacted.

Winter Solstice (Dec 21) Results:

This event occurs when the sun is at its lowest solar angle in the sky and corresponds to the shortest day of the year (for sunlight). The model shows that the south east corner of the Public Gardens will be impacted for about 1 hour in the morning (around 8 am) on the winter solstice. Victoria park will not be impacted at all during this period. Similar to the September and March 21 results, a few properties on Brenton, Dresden and Birmingham will have shade from 1:30 till about 4 pm. The bulk of the properties in Schmidville will not be impacted.

Landscape architecture

urban design

visualization

environmental planning

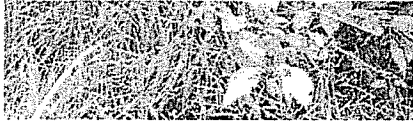
1 Starr Lane

Dartmouth,

NS, B2Y 4V7

p: 902.461.2525

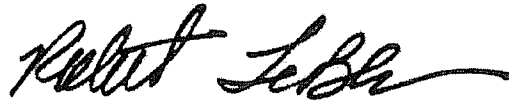
f: 902.465.3131

e: contact@ekistics.netw: www.ekistics.net

The results of the shade study demonstrate fairly minimal impacts of shade on both Victoria Park and the Public Gardens. As well, much of Schmidville will not be adversely impacted by shade from the new building. The most impact for people would be around the equinox period when the Robby Burns plaza may be partially in shade for a short period during the fall and spring. The most significant impact on street trees would be the trees directly west of the proposed development which, at the canopy level, could see their sunlight reduced by about 2 hours per day.

If you have any questions concerning this report, please feel free to contact me at your convenience.

Sincerely

A handwritten signature in black ink, reading "Robert LeBlanc". The signature is written in a cursive style with a long, sweeping underline.

Robert LeBlanc, CSLA
Ekistics Planning & Design

Joseph Farrell
6013 Belmont Road
Halifax, NS, B3H 1N3

March 23, 2008

Halifax Regional Municipality
City Clerk
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

RE: Properties on Brenton Street and Brenton Place

Dear City Clerk ,

We have owned properties 1460 Brenton Street and 5673 Brenton Place for the past 28 years. Our properties are single family homes that have been converted into two floors of flats. Over the past 28 years there has been much development in this area. We are very pleased to see that the current HRM by Design process is looking to bring clarity and predictability to the development of this and other areas of HRM. While we are happy with the proposed designation of the parking lots at South Park and Brenton Street for highrise development, however we feel that this will leave our section of the block orphaned. Our buildings are currently surrounded by high rise development, including Park Victoria, Charterhouse Condominiums, the office building at 5670 Spring Garden Road, and now the proposed 19 storey building by WM Fares at the corner of Brenton Place and South Park street – all of these buildings are 10 storeys plus.

Once the Fares building is complete, the five to six properties left on this end of the block will be orphaned, therefore we are requesting that council consider including our corner of Brenton Street/ Brenton Place in this new zoning that will allow for the new Fares development to expand upwards. It seems that now is the perfect time to consider the future and it is the time to look at the entire block to be on par with the development plans.

We already experience shadowing and extreme wind conditions due to the height differential of Park Victoria and our Brenton Place property. This has led to damage on occasions when our front steps have been ripped from the house and the roof has peel off due to the wind tunnel effect. Allowing for our properties and those of our neighbors to have the choice in future to rise up in keeping with the surrounding properties seems to only be fair and consistent with the block planning. Otherwise we become the “hole in the donut” surrounded on all sides by shadowing buildings .

This block is very desirable, so close to the beautiful green spaces on South Park (Victoria Park) and the Public Gardens and just off the busy and vibrant Spring Garden Road. We will be losing our current view of Victoria Park green space with the new development. It makes sense to have this area with more concentrated residential opportunities that will not only be a very great spot to live, but will be environmentally wise offering alternatives to driving. Our corner of the block should be included in future development possibilities. We should all have the appropriate zoning to allow this end of the block to be redeveloped. This would be in keeping with what is being approved now by HRM giving that area a consistent look and feel and not leaving our corner as the flat lands that will remain underdeveloped compared to all the neighbouring properties.

We appreciate the planning that has gone on to date and are looking forward to being included *and not excluded* as this block continues to grow in a positive way. Our properties and those of our neighbours would blend with the current changes and should be planned for now, giving clarity and predictability to this block.

We are not land developers but we are tax payers and have owned and lived in this area over the past 28 years. We feel our request would foster predictable outcomes that are achievable and fair to all of the block and not just the bigger developers who have been granted an opportunity to expand upwards.

A future view of the surrounding shadows and increased wind tunnel effects is not one to look forward to. An opportunity to rise up in future is only fair. Don't make us the "hole in the donut" permanently.

We look forward to your response to our request to be considered for increase in height zoning in keeping with the surrounding developments. We will continue to explore our various options to ensure a positive future for our properties and those of our neighbors in the "hole".

Sincerely,

Hal Bent

Joseph Farrell

cc: Dawn Sloan, HRM Councillor, sloaned@halifax.ca fax 490-4759
Sue Uteck, HRM Councillor, utecks@halifax.ca fax 490-6013
Andy Fillmore, HRM by Design fillmoa@halifax.ca, fax: 490-5730

From: Luc Ouellet
To: Gail Harnish
Date: April 8, 2008
Subject: Fwd: South Park and Brenton

>>> "Philip Pacey"

Mr. Luc Ouellet
Planning Services
Halifax Regional Municipality

Dear Mr. Ouellet:

I noticed that the wind study and the shadow study for the proposed development at the corner of South Park Street and Brenton Place were on the HRM web site. I am writing with concerns about those studies and with concerns about the relationship of the proposed building to the Municipal Planning Strategy.

The Wind Study:

The base case used for the wind study was a site with no buildings, a vacant site. This does not correspond to the present reality, nor to what could be constructed under the present planning strategy. The wind study should be done again, both with models of the present three houses on the site, and with a model of a 40-foot high building on the site. Sensors should also be placed on the roofs of existing structures, as these can be damaged by winds.

The wind study indicates that unsafe winds would exist near the base of the proposed building. The building should not be recommended for approval.

The Shadow Study:

The shadow study omits Brenton Place and Clyde Street, two important open spaces. The study should be redone to include this space.

It is clear already that the proposal does not achieve the "maximization of sunlight at street level", as provided by Policy EC-2(i) in the newly adopted Regional Municipal Planning Strategy.

Neighbourhood Stability:

The position of HRM with regard to neighbourhood stability is set out in Section 3.7.5 and Policy S-38 of the Regional Municipal Planning Strategy, pages 60 and 61. Here are some quotes from that section:

"For a neighbourhood to be stable, the expansion or redevelopment of existing housing and businesses must be predictable." "This Plan is designed to protect established neighbourhoods from rapid unplanned change by directing most future growth to centres where development can occur without affecting existing residents." "This may involve using vacant lots, dividing parcels to create new lots for houses, or adding

additional units to existing buildings." "There are many opportunities within established neighbourhoods where low to medium-density development can be accommodated without altering the local character. Through Community Visioning, future secondary planning strategies may consider some new single and two unit dwellings, basement apartments, small scale townhouses and low rise multiple unit dwellings in appropriate locations."

"Policies and regulations will strive to ensure that infilling is sensitive, gradual and compatible with the existing physical character. Projects will be required to respect and reinforce the general physical patterns in existing neighbourhoods."

The site in question is clearly part of an existing neighbourhood. The current 45-foot height limit and other Land Use By-law and Secondary Planning Strategy provisions for the site are very much in line with the direction in the Regional Planning Strategy. For example, Policies 2.1.1 and 2.2 in the Halifax Municipal Planning Strategy speak of compatible development and maintaining the integrity of existing residential neighbourhoods. The buildings on the site have been recommended for consideration as Registered Heritage Properties. The Park Victoria should not be used as a precedent, because the height limit on the Park Victoria site has been lowered to 45 feet. The existing height limit should not be changed.

In accordance with Policy 12.5 of the Halifax Municipal Planning Strategy, please attach this letter to your recommendations to HRM committees and to Council.

Yours sincerely,
Phil Pacey
President