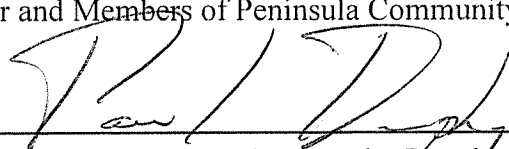


Peninsula Community Council
August 5, 2008

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: 
Paul Dunphy, Director, Community Development

DATE: June 17, 2008

SUBJECT: **Case 01113: Land Use By-law Amendment and Development Agreement for 5552 Kaye Street, Halifax**

ORIGIN

An application by Michael Napier Architecture, on behalf of 3223041 Nova Scotia Limited, to amend Schedule "Q" of the Halifax Peninsula Land Use By-law to permit, by development agreement, a seven storey mixed use commercial residential building at 5552 Kaye Street, Halifax.

RECOMMENDATION

It is recommended that Peninsula Community Council:

1. Give First Reading to consider approval of the proposed amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law to include the subject lands in Schedule Q as presented on Map 2;
2. Move Notice of Motion to consider the proposed development agreement as contained in Attachment "A" to allow for a mixed-use development and schedule a public hearing. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1; and
3. Adopt the amendment to Map ZM-2 of the Halifax Peninsula Land Use By-law as presented on Map 2.

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

1. Approve the proposed development agreement as contained in Attachment "A"; and
2. Require that the development agreement be signed and returned within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community 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 to amend the Halifax Peninsula Land Use By-law to permit a seven storey mixed use commercial / residential building on the southwest corner of Kaye and Isleville Street by development agreement. The building includes two levels of underground parking, two levels of commercial uses and five levels of residential apartment units.

The property is presently zoned C-2 (Major Commercial) and as such has a high degree of as-of-right development potential with few limitations relative to building height and use but with more restrictive requirements for the residential component. Because the Developer's proposal does not strictly adhere to the requirements for residential development such as density, open space and angle controls, it may only be considered under the provisions of Schedule "Q" and the development agreement process. This process allows HRM to address the compatibility of potentially conflicting residential, commercial and industrial land uses by negotiating a site-specific agreement with the Developer. This helps to ensure the provision of a suitable living environment in close proximity to commercial and industrial uses without interference among the three types of land uses. The proposed development will be of high quality design and construction and controls in the development agreement relative to height, form, design, exterior materials, landscaping and use ensure that the building makes every effort to be compatible with its surroundings.

BACKGROUND

Project Overview

The Developer, 3223041 Nova Scotia Limited, proposes to build by development agreement, a seven storey mixed use commercial / residential building at 5552 Kaye Street. The property, now vacant, was formerly operated as a commercial auto glass repair shop. The definitive feature of the site is its proximity to both the Hydrostone District a National Historic Site of Canada and Oland Breweries Limited.

Details of the proposal include:

- 0.43 acre property with 135 feet of frontage on Kaye Street and 104 feet of frontage on Isleville Street
- maximum number of storeys above grade is seven
- two storeys of commercial space comprised of 18,000 square feet of ground floor and second storey commercial space

- setback above the commercial base a five storey 30 unit apartment building
- two levels of underground parking totalling 50 parking spaces
- gross density of 67.5 persons per acre
- landscaping on the second storey and rooftop terrace
- individual apartment balconies articulating the residential facade
- masonry construction with high quality design details at street level

The surrounding neighbourhood uses include:

- Commercial and residential uses along Kaye Street between Isleville and Gottingen Street
- Hydrostone Market and Hydrostone Park
- Single unit dwellings on Sullivan Street
- Olands Brewery on the west side of Isleville Street

Municipal Planning Strategy and Land Use By-law Context

The property lies within Area 5 of the Peninsula North Secondary Planning Strategy (SPS) is designated Major Commercial and is zoned C-2 (General Business) (see Map 1).

The C-2 Zone permits as-of-right commercial buildings with no front, side or rear yards and a height of eighty feet, with allowance for additional height as the building is set back from the property line. High density residential uses are permitted in the Major Commercial designation as-of-right within the C-2 Zone according to the requirements of the R-3 (Multiple Dwelling) Zone, including specifications over density, open space and angle controls. The development does not comply with these and as a result, the Developer has requested amendments to the regulations. In consideration of this, the proposal before Council is to consider applying an existing schedule, Schedule "Q" of the Land Use Bylaw that currently exists in areas such as the recently developed Gladstone Ridge project, to the subject property. Applying Schedule "Q" to the lands removes much of the "as-of-right" capability for residential development by requiring that projects of greater than four dwelling units be considered by development agreement. While allowing flexibility on certain matters such as density, open space and angle controls, this approach allows for site specific controls through the development agreement approach.

Schedule "Q"

This proposal is made pursuant to Policy 2.3.1 of the SPS which allows Council to identify areas that will benefit from comprehensive site planning through a development agreement process by amending Schedule "Q" of the Land Use By-law (refer to Attachment B). Schedule "Q" was originally established to address the challenge of introducing new residential uses into existing commercial and industrial areas by negotiating on a site by site basis the conditions of a development agreement including:

1. The creation of an adequate environment for residential living on sites which may be surrounded by commercial and industrial uses; and

2. Providing for the continued operation of adjacent commercial and industrial uses without being encumbered by the unmanaged expectations of new residential neighbours.

Schedule "Q" may be applied to areas of Peninsula North which are designated Major Commercial. It's application to a property supersedes the as-of-right ability of the C-2 Zone and enables the modification of the standard land use by-law requirements for high density development through the development agreement process.

DISCUSSION

Neighbourhood Compatibility

The proposal provides an good transition between the predominantly commercial / industrial uses north and west of the site. There is no height precinct designated for the site and the proposed building is lower in height than what would be permitted for as-of-right commercial development in the C-2 Zone. The separation distance between the proposed residential mid-rise building and the existing residences on Sullivan Street is acceptable for an urban setting.

Siting and Layout

The corner location of the property is ideally situated in the neighbourhood to create an appropriate transition from the industrial uses, to the low density residential, and the historic Hydrostone district. While the existing as-of-right C-2 Zone requirements would allow for a commercial building, it would not be an effective transition for the neighbourhood.

The policy requires that the potential for conflicts between dissimilar land uses be minimized through "effective urban design and landscape treatment". The overall building design, orientation and facade details provide for a high quality commercial retail experience at the street level that reinforces the commercial local market character of the neighbourhood. The visual prominence of the proposed corner building has been recognized through the increased massing at the street corner, the addition of an at-grade commercial entrance and the inclusion of balconies on the residential portion of the building.

Street Level Detail and Design

The articulation of narrow shop fronts with protection from the elements, the large areas of glass and frequent entries at grade all form the basis of a pedestrian-oriented commercial environment. The zero lot line setback on Kaye Street corresponds to the traditional retail street as found at the Hydrostone Market. The building reinforces the human scale of the streetwall by occupying 100% of the property's frontage along Kaye Street with a height of two commercial storeys which is consistent with the prevailing heights of the heritage buildings in the area.

The predominant exterior building material for the two storey commercial base along the Kaye Street and Isleville Street frontages is high quality exterior masonry materials. Masonry veneer panel systems, unfinished concrete block or poured-in place concrete have been specifically excluded from the development agreement as acceptable materials.

The provision of 4500 square feet of landscaped open space on the second storey and rooftop combined with the proximity of the building to the Hydrostone Park will provided residents with high quality open space and leisure areas adequate for the resident population. The landscaping and new street trees particularly along Isleville Street will help soften the hard edge environment created by the adjacent industrial use.

Density and Traffic

The proposed density for the overall site is 67.5 persons per acre. Engineering staff have reviewed this density with regard to the capacity of municipal services and are satisfied that there is sufficient system capacity.

The commercial traffic from the development will utilize on street parking on the adjacent streets, primarily Kaye and Isleville Streets. Residential and commercial tenants of the building will have access to no less than 50 underground parking spaces which will be accessed from Isleville Street.

Regional Plan Context

HRM's Regional Plan encourages new residential growth in the Regional Centre (Halifax Peninsula and Dartmouth inside the Circumferential Highway). To assist in achieving this, the Regional Plan directs growth to opportunity sites on the Peninsula in the form of compact, mixed-use, walkable communities. The growth potential for low density development on the Halifax Peninsula is very limited due to the high cost of land and the lack of large, undeveloped land holdings. Consequently, to achieve the regional growth projections outlined by the Regional Plan it is necessary to utilize new strategies that support medium to high density housing alternatives (apartments of 2 bedrooms or more) that accommodate families. The Kaye Street project, like many others, is an opportunity to increase the number of people and families living in the urban core which, over the long term, will help to make HRM more sustainable.

Public Information Meeting

A public information meeting was held on March 27, 2008 and the minutes of this meeting are provided as Attachment C. Concerns relative to building design, materials and parking were raised. The proposed building represents a high quality design which is complementary to the neighbourhood. The development agreement contains extensive requirements relative to the building's form, architecture and materials. Two levels of underground parking comprising fifty spaces, which exceeds the as-of-right requirement, are included in the project. Should Peninsula Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.

The proposal is in keeping with the policies and objectives of the Halifax MPS and the Regional Plan. The proposal is both appropriate for and compatible with the surrounding area. As such, staff recommend approval of the proposal and the attached draft development agreement.

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 this 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

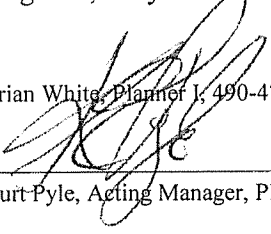
1. Approve the attached amendment to Schedule "Q" of the Halifax Peninsula Land Use By-law. This is the recommended alternative.
2. Approve the attached development agreement. This is the recommended alternative.
3. Council may choose to propose modifications to the development agreement. Such modifications may require further negotiations with the developer.
4. Council may refuse to amend Schedule "Q" and therefore negate the ability to enter into the development agreement. Staff does not recommend this alternative, based on the as-of-right ability to develop the property and analysis contained in this report.

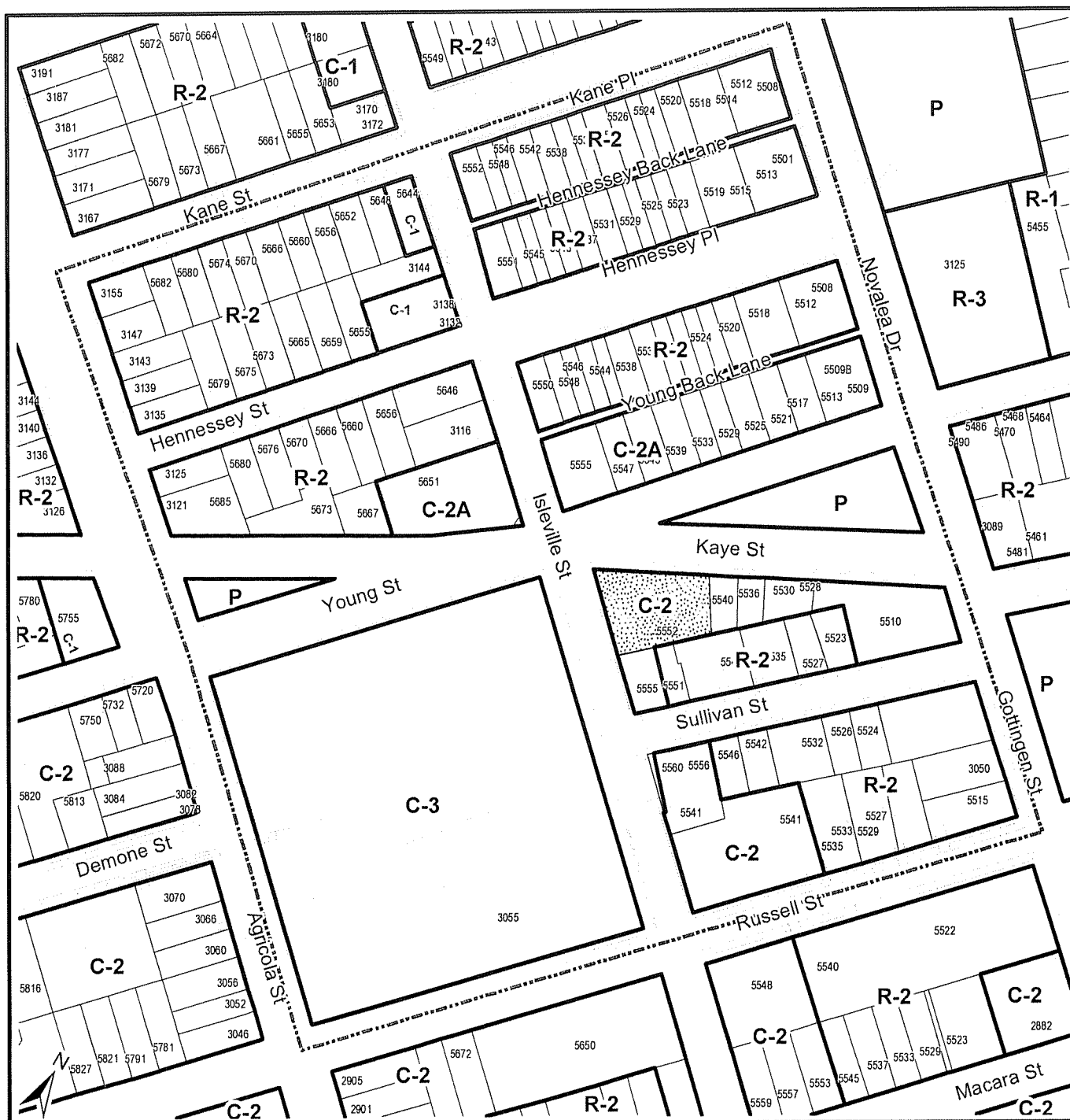
ATTACHMENTS

- | | | |
|--------------|---|--|
| Map 1 | - | Location and Zoning |
| Map 2 | - | Lands to be added to Schedule "Q" of the Halifax Peninsula Land Use By-law |
| Attachment A | - | Draft Development Agreement with Schedules |
| Attachment B | - | Relevant sections of Municipal Planning Strategy & Land Use By-law |
| Attachment C | - | Minutes from Public Information Meeting |

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: Brian White, Planner I, 490-4793


Report Approved by: 
Kurt Pyle, Acting Manager, Planning Services, 490-7066



Map 1 - Location and Zoning

5552 Kaye Street
Halifax

 Area proposed to be added to Schedule "Q"

 Area of notification

Halifax Peninsula
Land Use By-Law Area

Zone

- R-1 Single Family Dwelling
- R-2 General Residential
- R-3 Multiple Dwelling
- C-1 Local Business
- C-2 General Business
- C-2A Minor Commercial
- C-3 General Industrial
- P Park and Institutional

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES




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



Map 2 - Generalized Future Land Use

5552 Kaye Street
Halifax

 Area proposed to be added to Schedule "Q"

Halifax Municipal Planning Strategy
Peninsula North Secondary Planning Strategy

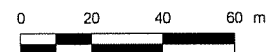
Designation - Halifax MPS

RES Residential Environments
COMM Commercial

Designation - PNSPS

MDR Medium Density Residential
MJC Major Commercial
IND Industrial
P Park

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

**Attachment A
Development Agreement**

THIS AGREEMENT made this day of , 2008,

BETWEEN:

3223041 NOVA SCOTIA LIMITED

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

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 5552 Kaye Street (PID 00127092) and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a development agreement to allow a mixed use commercial residential apartment building on the Lands pursuant to the provisions of the *Municipal Government Act* and the Municipal Planning Strategy and Land Use Bylaw for Halifax;

AND WHEREAS the Peninsula Community Council approved this request at a meeting held on September 8, 2008, referenced as Municipal Case Number 01113;

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 and use of the Lands shall comply with the requirements of the Regional Municipal Planning Strategy, Regional Subdivision By-law, Halifax Peninsula Secondary Plan and Land Use By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

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

Except as otherwise provided for herein, the consolidation/subdivision of the Lands shall comply with the requirements of the Subdivision By-law for Halifax, as may be amended from time to time.

1.4 More Stringent Regulation to Apply in Case of Conflict

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 and Subdivision By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the more stringent limitation or requirement shall govern and prevail.

1.5 Precedence of Written Specifications over Schedules and Drawings

Where the written text of this agreement conflicts with information provided or as indicated in the Schedules attached to this agreement, the written text of this agreement shall prevail.

1.6 Costs, Expenses, Liabilities and Obligations

The Developer and each lot owner 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 regulations, by-laws or codes applicable to any Lands owned by the Developer or lot owner.

1.7 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: Use of Lands and Development Provisions

2.0 General Description of Land Use

The use of the Lands permitted by this Agreement is a seven (7) storey mixed use commercial/residential apartment building consisting of two (2) levels of underground parking, two (2) storeys of above ground commercial uses and five (5) storeys of residential.

2.1 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 following Schedules attached to this agreement, unless further specified under the Agreement, referenced as Municipal Case Number 01113:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	North Elevation
Schedule D	East Elevation
Schedule E	South Elevation
Schedule F	West Elevation
Schedule G	Partial Elevation
Schedule H	Parkade Plan (Level 1)
Schedule I	Parkade Plan (Level 2)
Schedule J	Commercial Plan (Level 1)
Schedule K	Commercial Plan (Level 2)
Schedule L	Residential Plan (Level 3)
Schedule M	Residential Plan (Levels 4-7)
Schedule N	Roof Plan
Schedule O	Building Section

2.2 Unit Mix

The maximum number of residential units shall be thirty (30) and may include residential bachelor units, one bedroom, two bedroom, and three bedroom units.

2.3 Maximum Population Density

The density for the thirty (30) residential units shall not exceed a maximum population density of sixty seven and one half persons (67.5).

For the purpose of calculating population density on the Lands, the following shall apply:

- (i) bachelor units shall be assigned 1 person per unit;
- (ii) one (1) bedroom units shall be assigned 2 persons per unit;
- (iii) two (2) bedroom and 3 bedroom units shall be assigned 2.25 persons per unit.

2.4 MICI Project Review

The Developer shall complete HRM's Multi-unit Residential, Institutional, Commercial, and Industrial (MICI) project review process for building permit applications including compliance with Section 2.5 of this agreement prior to the issuance of any municipal Permits.

2.5 Contaminated Site Remediation

Whereas the Lands were subject to a PHASE I Environmental Site Assessment, the Developer agrees to the following:

- 2.5.1** Prior to the issuance of any municipal permits, the Developer shall provide to the Development Officer a copy of the PHASE II Environmental Site Assessment prepared by a qualified "Environmental Site Professional" as submitted to Nova Scotia Environment (NSE). The Development Officer shall not issue a Development Permit until the Environmental Site Assessment has been reviewed and deemed acceptable by NSE.
- 2.5.2** Pursuant to Section 2.5.1 of this Agreement, no Occupancy Permit shall be issued for the building until proof that the site has been assessed, remediated and/or managed in accordance with the Guidelines for Management of Contaminated Sites in Nova Scotia has been provided in the form of a Certificate of Compliance.

2.6 Commercial Requirements

- 2.6.1 Except as otherwise provided for herein by the Schedules or this Agreement, the commercial uses on the main floor commercial level and second floor commercial level shall meet the requirements of the C-2 (General Business) Zone of the Halifax Peninsula Land Use By-law.

2.7 Building Architecture

- 2.7.1 The Developer shall construct a building on the Lands, which, in the opinion of the Development Officer, is substantively in conformance with architectural details shown on the following:

Schedule C	North Elevation
Schedule D	East Elevation
Schedule E	South Elevation
Schedule F	West Elevation
Schedule G	Partial Elevation

- 2.7.2 The maximum number of storeys above grade shall be seven (7) and shall not include the underground parking garage levels.
- 2.7.3 The roofline of the building shall provide visual interest. A positive visual termination at the top of the building shall be created with a cornice design extending above the building roof line, substantively in conformance with Schedules C to F inclusive.
- 2.7.4 The predominant exterior building material for the two storey commercial base along the Kaye Street and Isleville Street frontages (Schedule C - North Elevation and Schedule F - West Elevation) shall be high quality exterior masonry materials, including, but not limited to, brick, sandstone, other native stone and architectural precast concrete building stones. Masonry veneer panel systems, unfinished concrete block or poured-in place concrete are not acceptable materials.
- 2.7.5 The predominant exterior building material for the two storey commercial base along the East Elevation (Schedule D) and South Elevation (Schedule E) shall include exterior fibre cement panels, fibre cement siding, and architectural precast concrete panels. Unfinished concrete block or poured-in place concrete are not acceptable materials.
- 2.7.6 The predominant exterior building material for the five storey residential portion of the building, including the portion of the building that extends down to Kaye Street to serve as the entrance to the residential units and second floor commercial, shall include a combination of high quality prefinished metal panels

and exterior masonry materials, including, but not limited to, brick, sandstone, other native stone, fibre cement panels and architectural precast concrete panels. Unfinished concrete block or poured-in place concrete are not acceptable materials.

2.7.7 Belt courses, string courses, cornices, corbels, lintels, spandrels, sills and other architectural facade elements shall be constructed of materials and colours complementary, as determined by the Development Officer, to the masonry exterior.

2.7.8 Each residential unit shall include a balcony, 'french' balcony, or terrace. Balconies shall include pre-finished metal rails, balustrades or equivalent. Wooden lumber is not an acceptable construction material.

2.7.9 General Finish of Exterior Concrete Surfaces:

- (a) All exposed concrete building 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.
- (b) All exposed unformed exterior concrete surfaces, pads, sidewalks, slabs and floors, shall be brought to a uniform surface. The finish for all exposed unformed exterior concrete surfaces shall be a soft broom finish.

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

2.8 Landscaping

Prior to the issuance of Building or Development Permits for any of the components of the development on the Lands, the Developer shall provide a detailed Landscape Plan, prepared by a Landscape Architect, which complies with the provisions of this Section and the general specifications as shown on Schedule J - Commercial Plan (Level 1), Schedule Residential Plan (Level 3) and Schedule N - Roof Plan.

2.8.1 Landscaped areas shall conform with the following:

- (a) Provision of a minimum of 418 square metres (4500 square feet) of landscaped open space.

- (b) Landscaped open space shall include any combination of trees, shrubs, flowers, grass or other horticultural elements, and decorative stonework, pavers, screening or other landscape architectural elements.
- (c) Provision of two (2) new street trees along the Kaye Street frontage and two (2) new street trees along the Isleville Street frontage of the site, in consultation with HRM's Urban Forester.
- (d) Rooftop (Schedule N - Roof Plan) landscaped open space shall be contiguous and not less than 600 square feet (56 square metres) in area.
- (e) Rooftop (Schedule N - Roof Plan) landscaped open space shall be fully accessible for the common use of the occupants of the building.
- (f) The minimum requirement for landscaped open space horticultural elements shall be grass sod.
- (g) All plant and sod material shall conform to the Canadian Standards for Nursery Stock, Eighth Edition as set out by the Canadian Nursery Landscape Association.

2.8.2 No Occupancy Permit shall be issued for any building constructed on the Lands until such time as the landscaping has been completed in accordance with Section 2.8 of this Agreement. Where such building has been completed and all other terms of this Agreement have been met, an Occupancy Permit may be issued subject to security being provided to the Municipality in the amount of one hundred and ten (110%) percent of the estimated cost of completion of all outstanding work. Security shall be in favour of the Municipality and may be in the form of a certified cheque or an automatically renewing irrevocable Letter of Credit issued by a chartered bank. Security shall be returned to the Developer only upon completion of all work, as described herein and illustrated on the Schedules, and as approved by the Municipality.

2.8.2 The Developer agrees that should the landscaping as set out in Section 2.8 of this Agreement not be completed within nine (9) months from the date of issuance of the Occupancy Permit, the Municipality may use the security to complete the landscaping as set out in Section 2.8 of this agreement. The developer shall be responsible for all costs in this regard exceeding the security. The security or unused portion of the security shall be returned to the developer upon completion of the work.

2.9 Parking, Circulation and Access

- (a) The driveway layout and entrance to the underground parking on the Lands shall be as generally illustrated on Schedule J - Commercial Plan (Level 1).
- (b) Parking, Circulation and Access shall be substantively in conformance with the following:
 - (i) Provision of two (2) levels of underground parking containing a minimum of fifty (50) parking spaces.
 - (ii) Underground parking shall be as generally shown on Schedules H and Schedule I.
 - (iii) Underground parking shall comply with the requirements of the Land Use By-law.
 - (iv) Notwithstanding the foregoing, up to one third of the individual parking spaces may be reduced in size to 8 feet by 17 feet minimum.
 - (v) Provision of designated bicycle parking as per the Land Use By-law.

2.10 Signage

- (a) The Developer agrees to provide a hanging sign fixture and to install on same double sided signage constructed of professional materials and design. Signage on the Lands shall be as generally illustrated on Schedule G - Partial Elevation.
- (b) Signage shall conform with the following:
 - (i) No more than one (1) double sided sign is permitted per commercial business use to a maximum size of 0.5 square meters (5 square feet) per sign face.
 - (ii) One (1) doubled sided sign identifying the residential portion of the building shall be permitted to a maximum size of 2.3 square meters (25 square feet) per sign face.
 - (iii) Animated signs are prohibited.
 - (iv) Roof signs are prohibited.
 - (v) Projecting or canopy signs may be permitted on the Lands provided that encroachment permits/licences are approved in accordance with HRM

By- Law E - 200 Respecting Encroachments Upon, Under or over a Street.

2.11 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, pruning, litter control, garbage removal and snow removal/salting of walkways, driveways, and parking areas.

2.12 Developer Responsible for Approval Costs

The Developer shall be responsible for securing all applicable permits, reports, plans, and approvals associated with the on-site contamination 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 Nova Scotia Environment. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer.

PART 3: Variation by Development Officer

The Development Officer may approve:

- (a) The following modifications to the building:
 - (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;
 - (ii) changes to the interior layout of the underground parking levels provided the changes do not reduce the minimum number (50) of parking spaces required by the Agreement; and
 - (iii) a maximum increase of ten percent (10%) to the total number of units and permitted density provided the building size has not increased and the exterior appearance of the building is not affected.
- (b) Minor modifications to the exterior design of the building and landscaping, provided that the intent of this Agreement is substantively met.

- (c) A reduction in the number or reconfiguration of retail bay entrances/doorways, as shown on Schedules C, J, and G, to meet the requirements of ground floor commercial uses.

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 the developer 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 Electrical Services / Utilities

The Developer shall be responsible for all costs associated with electrical cabling, pole removal, connections and ensuring that the requirements of the applicable electrical utility companies are met. The Municipality shall be relieved of any and all responsibility respecting electrical servicing to the Lands.

4.5 Encroachments

The Developer agrees to comply with HRM Encroachment By-law (By-law E-200) for any proposed or future building encroachments into the street right-of-way.

4.6 Occupancy Permit

Pursuant to Sections 4.1 to 4.5 of this Agreement, no Occupancy Permit shall be issued for the building on the Lands until all street improvements, municipal servicing systems and utilities have been completed, except that the Occupancy Permit may, at the discretion of the Municipality, be issued subject to security being provided to the Municipality in the amount of one hundred and ten (110%) percent of the estimated cost

of completion of all outstanding work. Security shall be in favour of the Municipality and may be in the form of a certified cheque or an automatically renewing irrevocable Letter of Credit issued by a chartered bank. Security shall be returned to the Developer only upon completion of all work, as described herein and illustrated on the Schedules, and as approved by the Municipality.

PART 5: Amendments

5.1 Substantive Amendments

Amendments to any matters not identified under Section 5.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Municipal Government Act*.

5.2 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 7.3.3 of the Agreement;
- (b) The granting of an extension to the length of time for the completion of the development, as identified under Section 7.4 of the Agreement;
- (c) A reduction in the number of floors in the building;
- (d) The replacement of the second floor commercial uses with residential uses;
- (e) An increase of more than ten percent (10 %) of the total number of dwelling units provided the building size has not increased and the exterior appearance of the building is not affected;
- (f) Changes, which in the opinion of the Development Officer are not minor modifications, 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;
- (g) Changes to the signage requirements detailed under Section 2.10 of the Agreement; and

- (h) A change to a Schedule of this agreement that is specifically required to accommodate management recommendations or land use restrictions as may be required to comply with the Environment Act, "Guidelines for Management of Contaminated Sites in Nova Scotia."

PART 6: Enforcement and Rights and Remedies on Default

6.1 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.

6.2 Failure to Comply

In the event that 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 7: Registration, Effect of Conveyances and Discharge

7.1 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.

7.2 Subsequent Owners

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

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

7.3 Commencement of Development

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

7.3.2 For the purposes of Subsection 8.3.1, commencement of development shall mean the installation of the foundation of the two levels of underground parking for the seven (7) storey mixed use residential/commercial building on the Lands.

7.3.3 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 5.2(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.

7.4 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 in
the presence of

3223041 NOVA SCOTIA LIMITED

=====

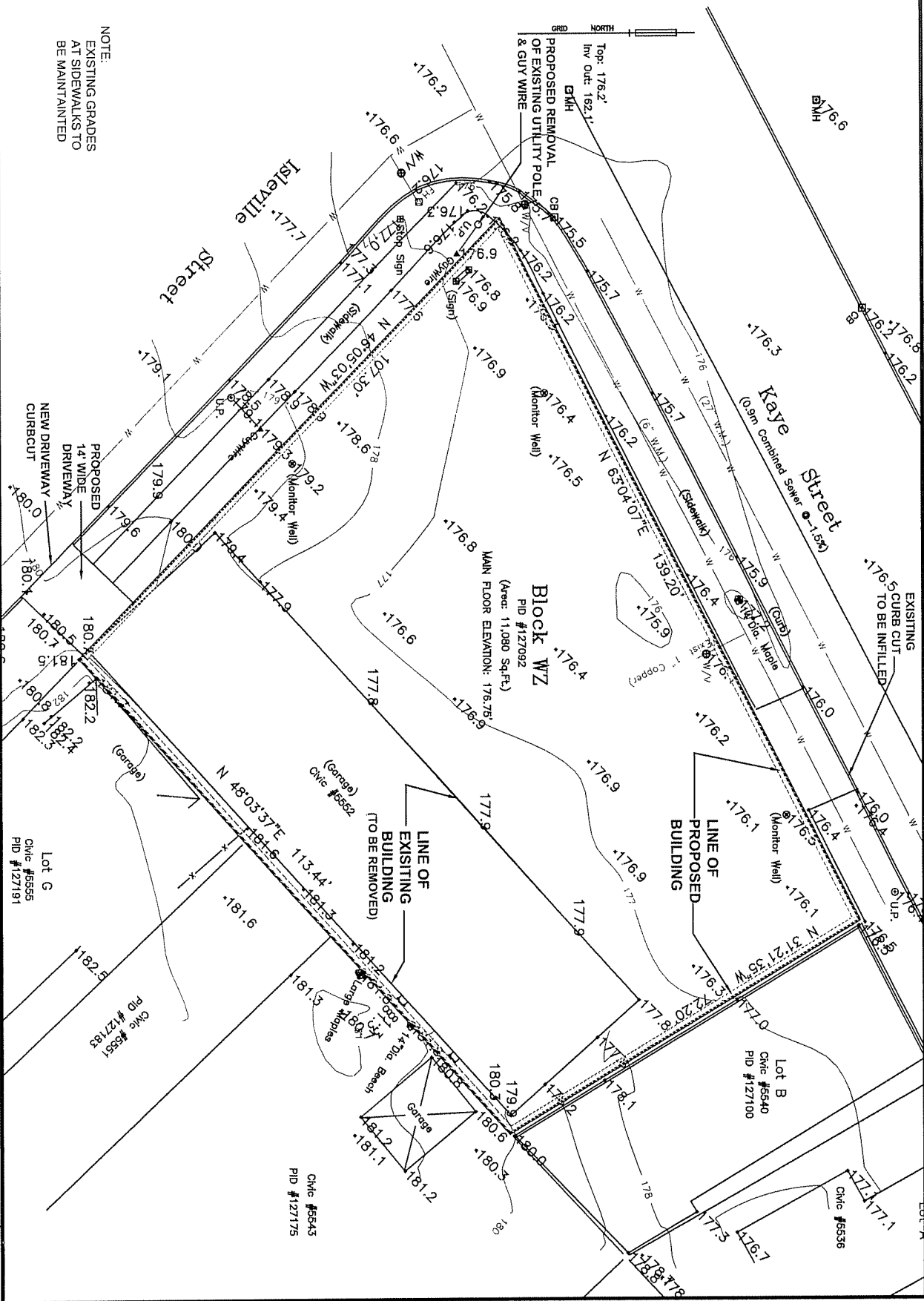
SEALED, DELIVERED AND ATTESTED
to by the proper signing officers of Halifax
Regional Municipality duly authorized in that
behalf in the presence of

=====

HALIFAX REGIONAL MUNICIPALITY

MAYOR

CLERK



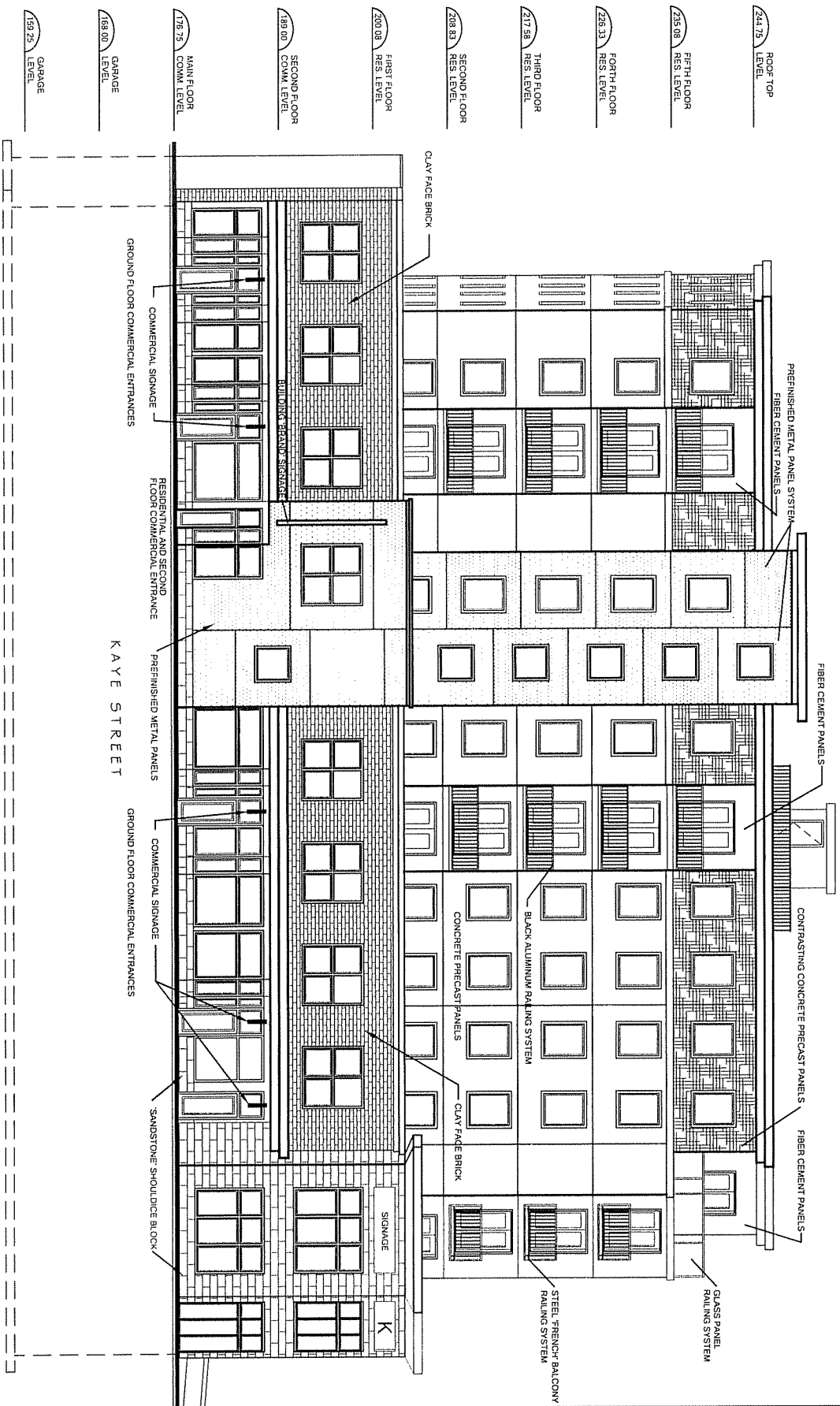
NOTE:
EXISTING GRADES
AT SIDEWALKS TO
BE MAINTAINED

SCHEDULE B - SITE PLAN

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

REVISIONS		DATE
1	ISSUED FOR B.A. APPLICATION	06/06/08
2	FOR PRELIMINARY REVISIONS	07/05/08
3	FOR PRELIMINARY REVISIONS	01/05/09
DRAWINGS		DATE
SITE PLAN		MAY / 08
SCALE		DRAWING NO.
N.T.S.		A-001

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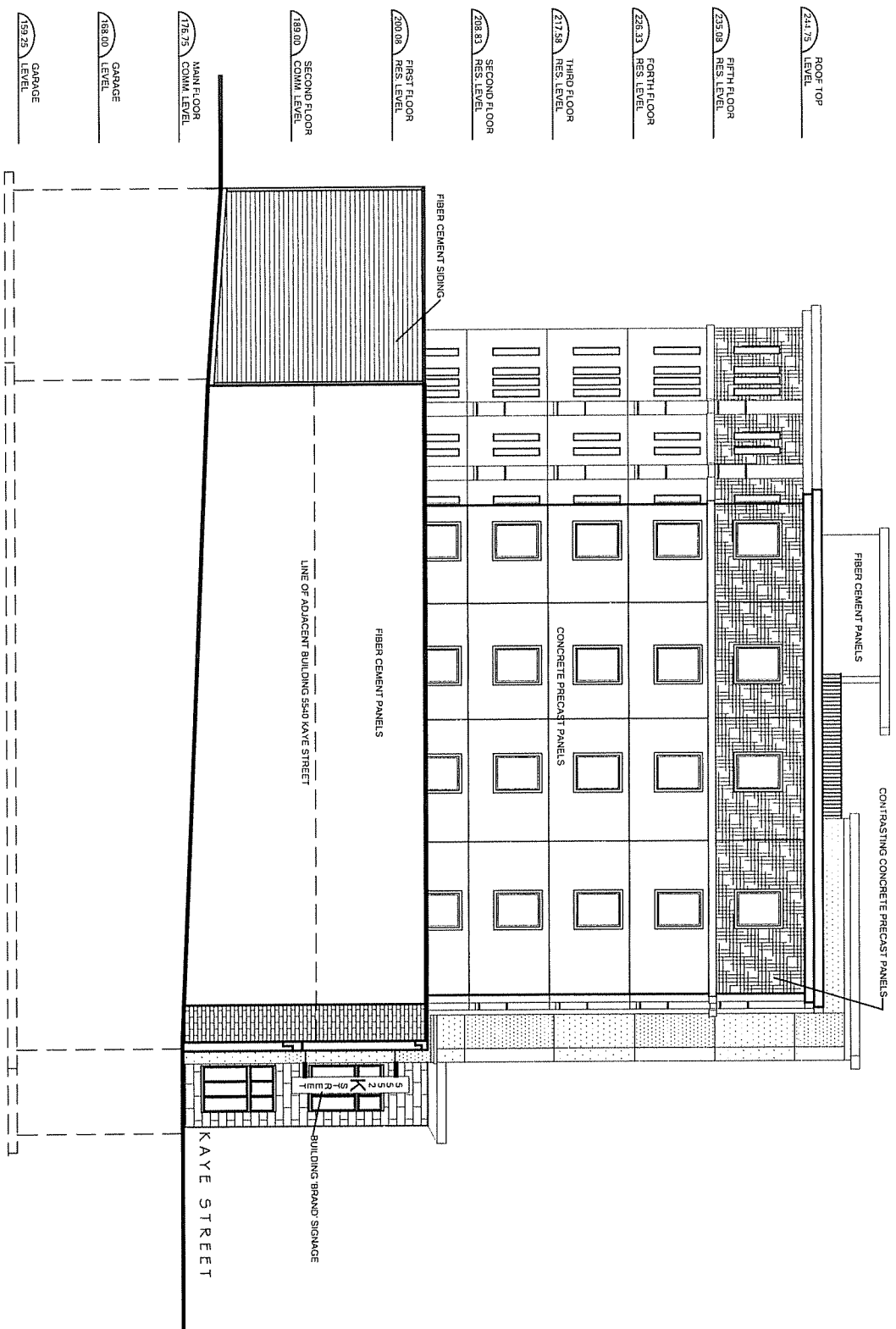


SCHEDULE C - NORTH ELEVATION

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

REVISIONS				DRAWING		DATE
NO.	REVISION NAME	DATE				
1	ISSUED FOR O.A. APPROVAL	06/25/08		NORTH ELEVATION		APR / 08
2	GENERAL REVISIONS	17/25/08				
3	GENERAL REVISIONS	03/25/08				
				SCALE		
				N.T.S.		
				DRAWING NO.		A-201

MICHAEL
NAPLER
ARCHITECTURE



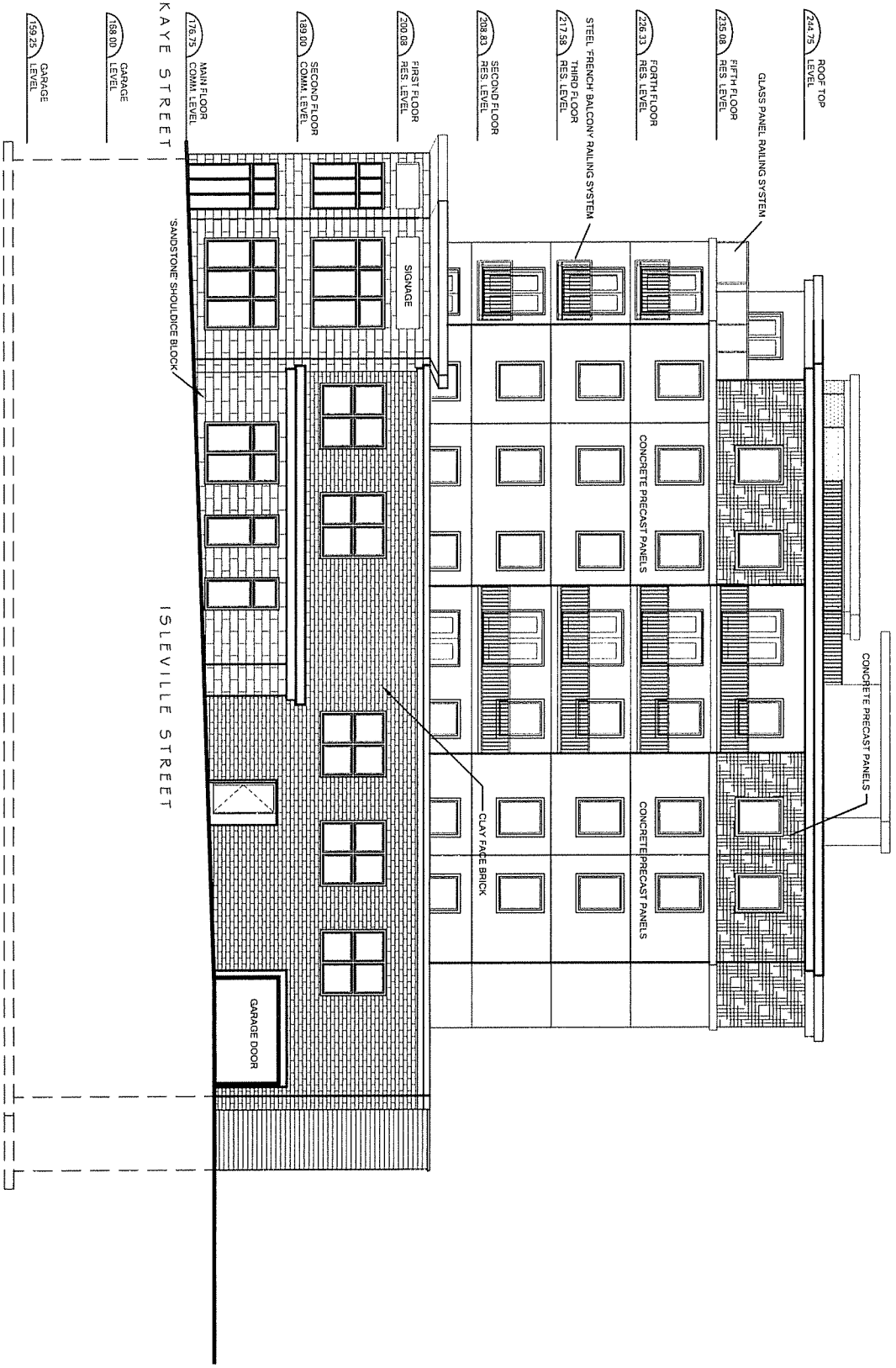
SCHEDULE D - EAST ELEVATION

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

REVISIONS			DRAWING		DATE
NO.	REVISION MADE	DATE	EAST ELEVATION		APR. / 08
1	ISSUED FOR P.O. APPLICATION	06/05/08			
2	ORTHOGONAL REVISIONS	17/05/08			
3	ORTHOGONAL REVISIONS	03/06/08			
			SCALE	N.T.S.	
					DRAWING NO. A-202

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[illegible]



SCHEDULE F - WEST ELEVATION

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

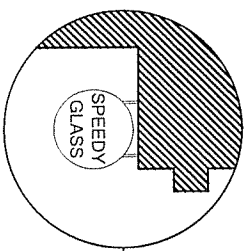
REVISIONS			DRAWING		DATE
NO.	REVISION NAME	DATE	WEST ELEVATION		APR. / 08
1	ISSUED FOR O.A. APPLICATION	06/04/08	SCALE		N.T.S.
2	GENERAL REVISIONS	17/05/08			
3	GENERAL REVISIONS	03/06/08			
			DRAWING NO.		A-204

MICHAEL
NAPIER
ARCHITECTURE

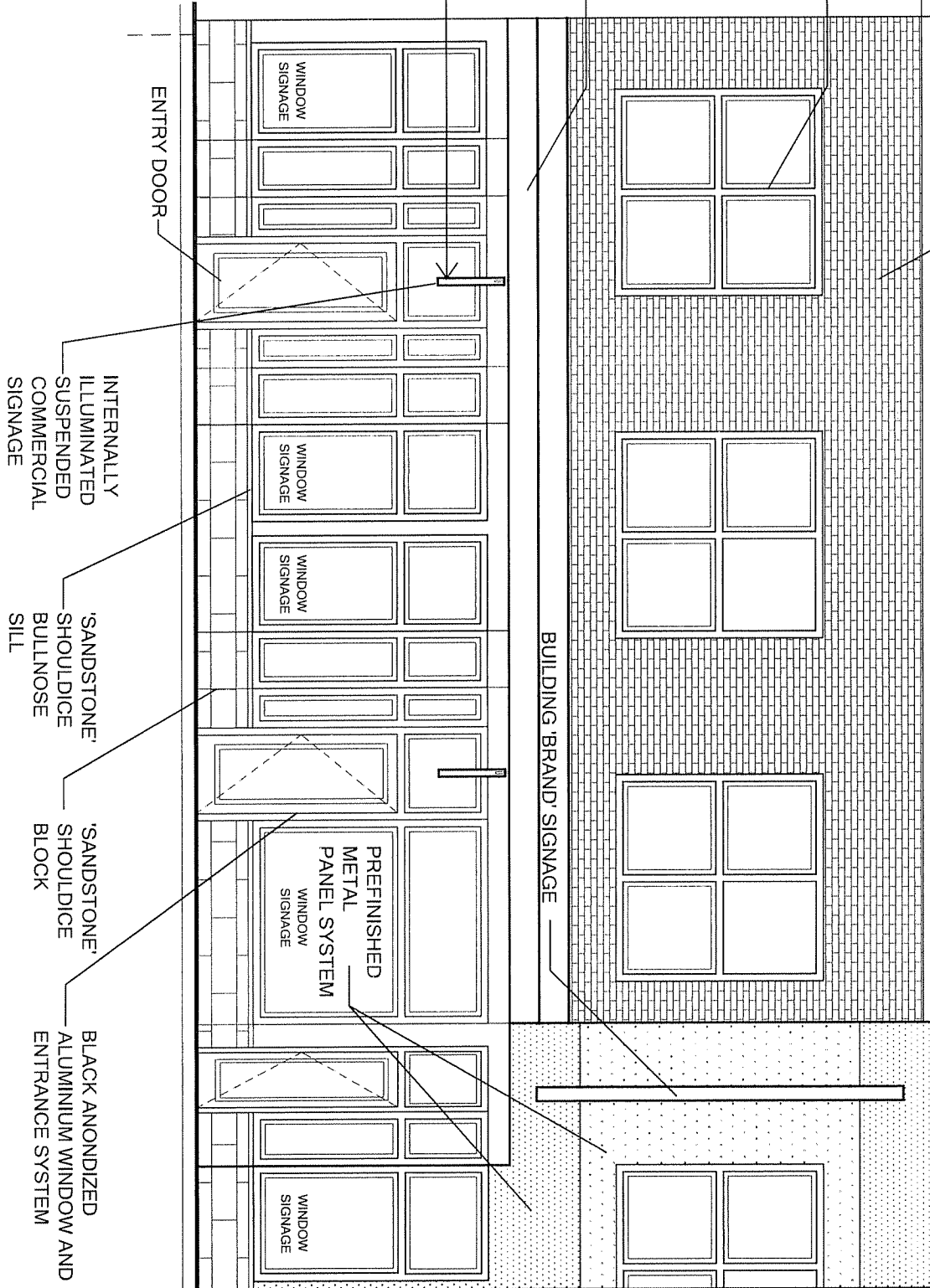
TAPESTRY CHARCOAL RANGE
CLAY FACE BRICK

CLEAR ANONODIZED
ALUMINIUM
WINDOW SYSTEM

PAINTED BELT
CORNICE



28" DIAMETER
SUSPENDED
COMMERCIAL
SIGNAGE



SCHEDULE G - PARTIAL ELEVATION

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

M I C H A E L
N A P I E R
A R C H I T E C T U R E

REVISIONS		DATE
NO	REVISION NAME	DATE
1	ISSUED FOR D.A. APPLICATION	17/05/04
2	GENERAL REVISIONS	17/05/04
3	GENERAL REVISIONS	01/06/04

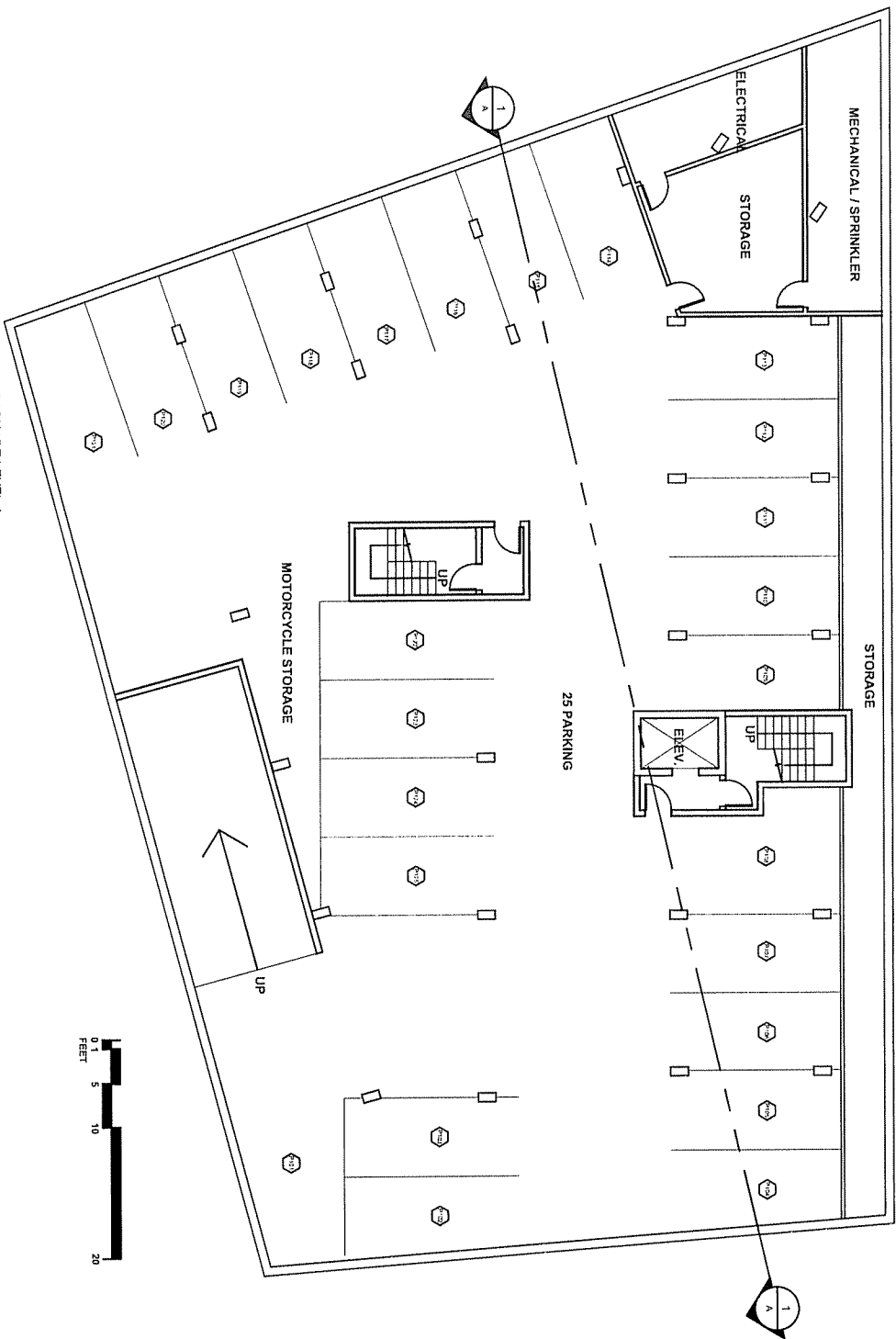
DRAWING
PARTIAL
ELEVATION

DATE

APR / 08

SCALE
3/16" = 1'-0"

DRAWING NO.
A-204



PARKADE LEVEL 1
ALL AREAS APPROXIMATE

SCHEDULE H - PARKADE PLAN (LEVEL 1)

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

M ICHAE L
N APLER
A RCHITECTURE

REVISIONS				DRAWING		DATE
NO.	REVISION MADE	DATE		PARKADE PLAN LEVEL 1	SCALE	DRAWING NO.
1	ISSUED FOR D.A. APPLICATION	06/03/08				
2	GENERAL REVISIONS	12/22/08		N.T.S.		A-101

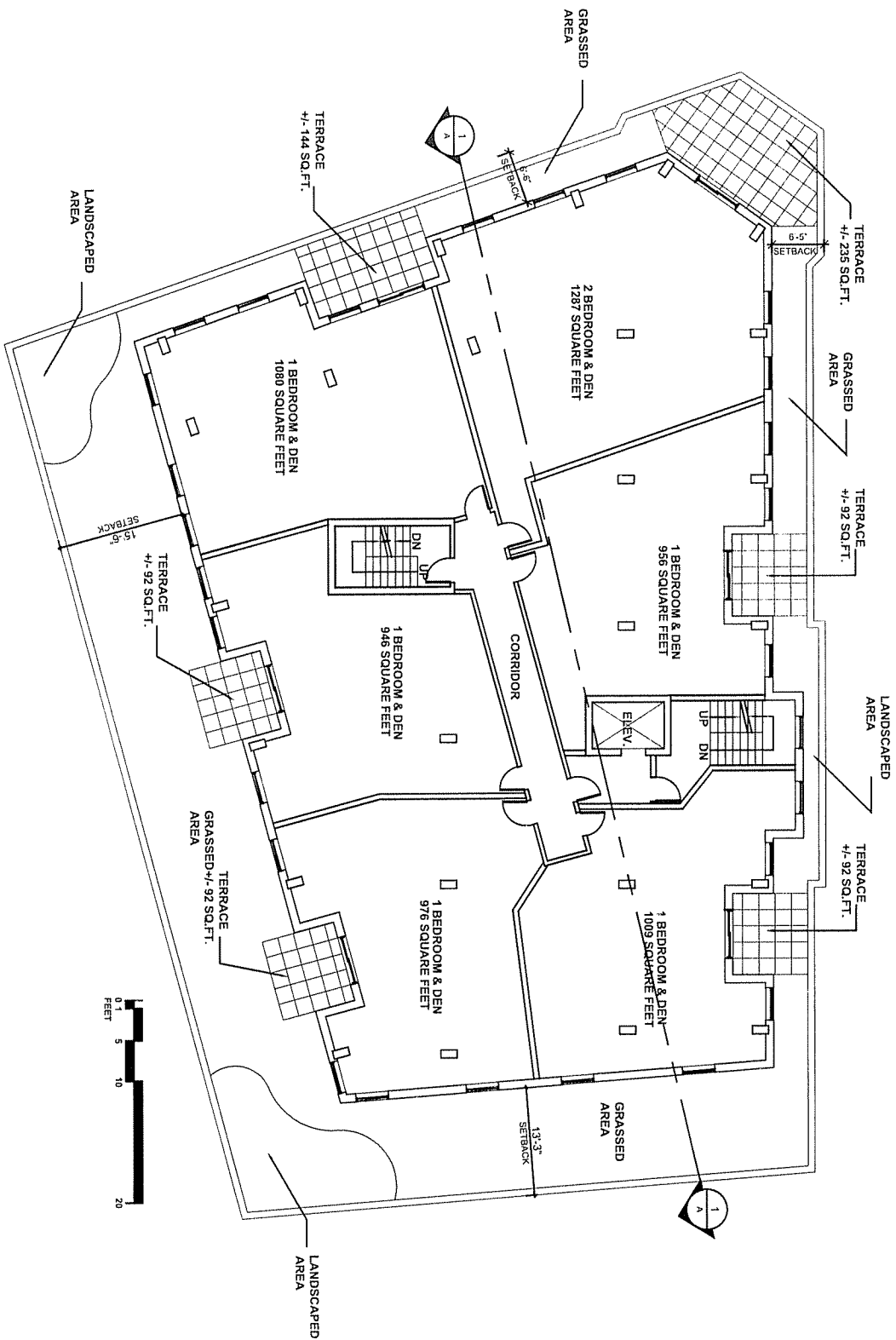


<div>MZA MICHAEL APIER ARCHITECTURE</div>			DRAWING		DATE
REVISIONS			PARADE PLAN LEVEL 2		APR / 08
NO	REVISION NAME	DATE	SCALE		DRAWING NO.
1	BUILD FOR A NEW LOCATION	06/04/18			
2	REWORK REVISIONS	11/20/18			
			N.T.S.		A-102



5552 KAYE STREET, HALIFAX, NOVA SCOTIA

DRAWING		DATE
COMMERCIAL PLAN LEVEL 1		JUNE / 08
SCALE		DRAWING NO.
N.T.S.		A-105
REVISIONS		
NO.	DESCRIPTION	DATE
1	ISSUED FOR A.C. APPLICATION	06/06/08
2	CORRECTED REVISIONS	12/06/08
3	CORRECTED REVISIONS	29/06/08



LANDSCAPED TERRACE RESIDENTIAL
ALL AREAS APPROXIMATE

SCHEDULE L - RESIDENTIAL PLAN (LEVEL 3)

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

M I C H A E L
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A R C H I T E C T U R E

REVISIONS			DRAWING		DATE
NO.	REVISION NAME	DATE	RESIDENTIAL PLAN LEVEL 3	SCALE	DRAWING NO.
1	ISSUED FOR A APPLICATION	06/25/08			
2	DIFFERENTIAL REVISIONS	12/05/08			

N.T.S.

A-105

APR. / 08



SCHEDULE M - RESIDENTIAL PLAN (LEVELS 4-7)

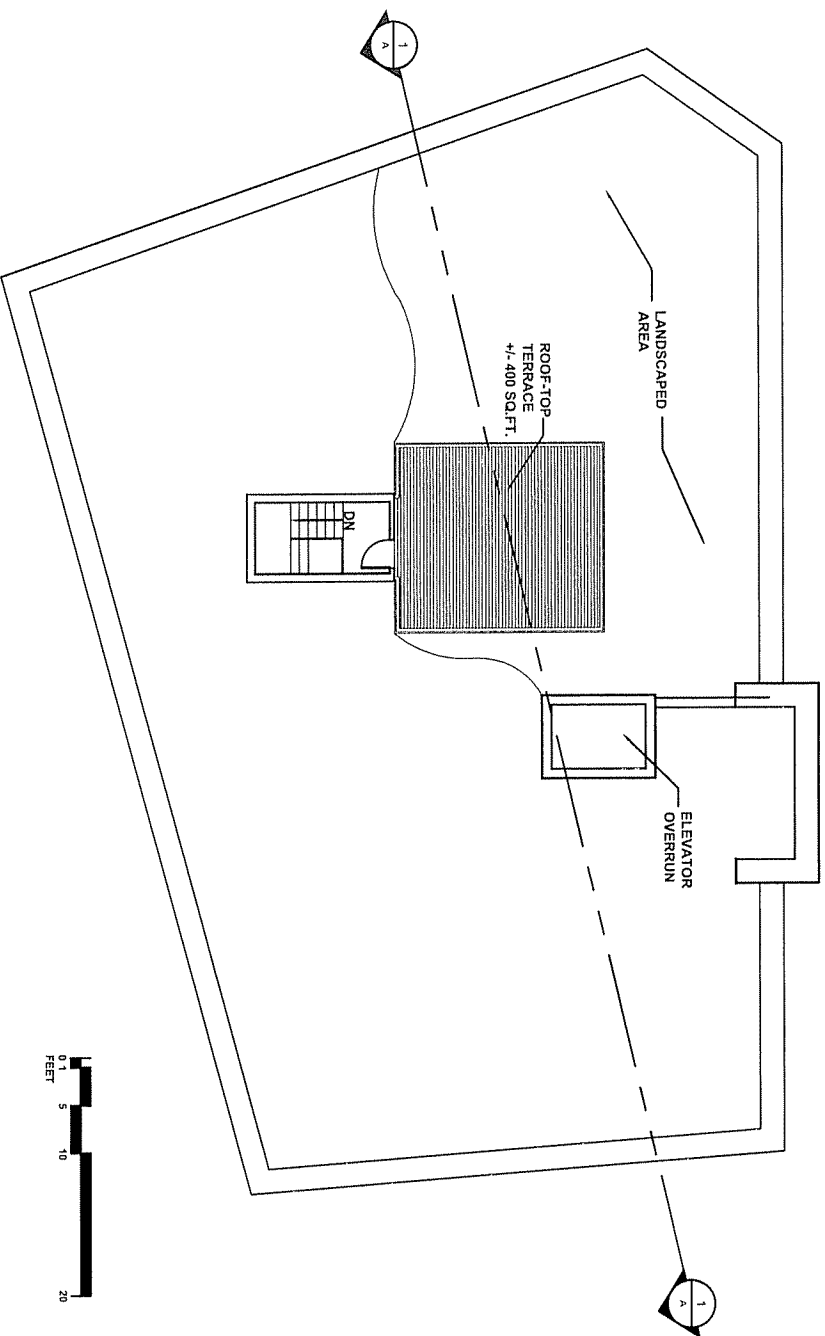
	DRAWING	DATE
	RESIDENTIAL PLAN LEVELS 4-7	APR / 08
REVISIONS		
NO.	REVISION NAME	DATE
1	CHECKED FOR D & A APPLICATION	9/26/08
2	GENERAL REVISIONS	1/25/09
	SCALE	N.T.S.
		A-106

RESIDENTIAL PLAN

APR. / 08

N.T.S.

A-106

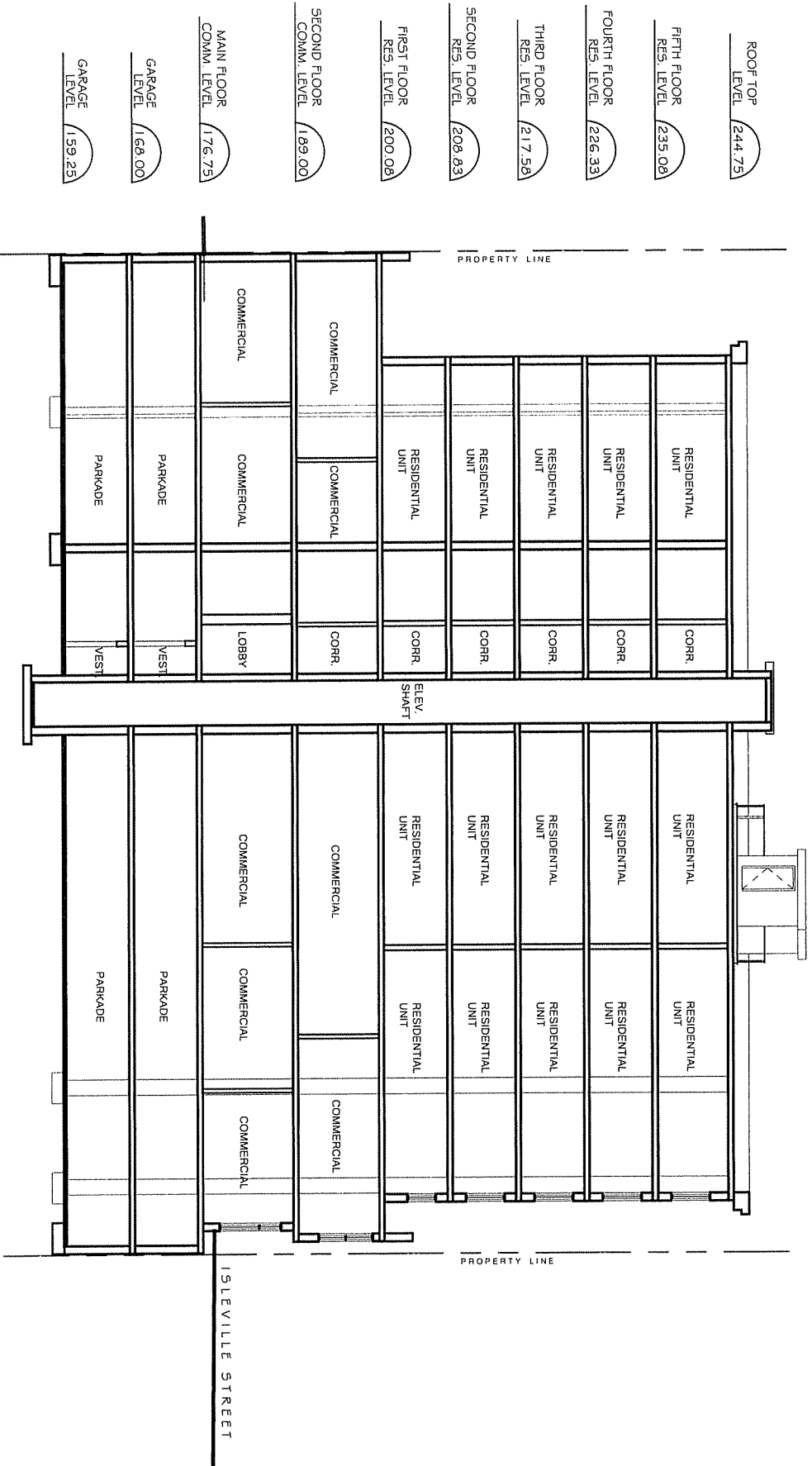


SCHEDULE N - ROOF PLAN

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

M I C H A E L
N A P I E R
A R C H I T E C T U R E

REVISIONS			DRAWING		DATE
NO.	REVISION NAME	DATE	ROOF PLAN		APR. / 08
1	ISSUED FOR A APPLICATION	06/05/08	SCALE N.T.S.		DRAWING NO. A-107
2	GENERAL REVISIONS	12/05/08			



SCHEDULE O - BUILDING SECTION

5552 KAYE STREET, HALIFAX, NOVA SCOTIA

MICHAEL APIER ARCHITECTURE			DRAWING		DATE
BUILDING SECTION			APR. / 08		
SCALE			DRAWING NO.		
N.T.S.			A-301		
REVISIONS					
NO	REVISION MADE	DATE			
1	ISSUED FOR O.A. APPLICATION	06/08/08			
2	GENERAL REVISIONS	11/09/08			
3	GENERAL REVISIONS	01/09/09			

MICHAEL
NAPIER
ARCHITECTURE

Attachment B
Relevant Experts from the Halifax MPS and LUB

- 2.3.1 In order to promote investment in commercial and residential redevelopment and to prevent conflict between new and existing uses the city may, through the land use by-law, identify areas that provide an opportunity for and will benefit from comprehensive site planning.
- 2.3.2 In those areas identified in the land use by-law pursuant to Policy 2.3.1 all residential and mixed residential-commercial development over four units shall be by agreement.
- 2.3.3 In considering agreements pursuant to Policy 2.3.2, Council shall consider the following:
- (i) the relationship of new development to adjacent properties and uses; and, the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment;
 - (ii) the appropriate integration of the development into the traditional grid street system of the Peninsula;
 - (iii) the design and layout of the development should encourage vehicular traffic to use Principal Streets and discourage traffic from infiltrating through existing neighbourhoods;
 - (iv) the creation of high quality design detail at street level through attention to such matters as landscaping, signs, building entrances, and vehicle layby areas;
 - (v) the provision of high quality open space and leisure areas of a size and type adequate for the resident population;
 - (vi) residential and commercial densities consistent with municipal services;
 - (vii) encouraging high quality exterior construction materials such as masonry; and
 - (viii) other relevant land use considerations which are based on the policy guidance of this Section.

Land Use By-law

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Schedule "Q"

In any area shown as Schedule "Q", any use shall be permitted which is permitted by the zoning designation of such area, except that any proposed residential or mixed residential-commercial development over four residential units may proceed only by development agreement pursuant to Policy 2.3.3. of Section XI.

Attachment C
Minutes from Public Information Meeting
March 27, 2007

In attendance: Councillor Murphy
Brian White, Planner, Planning Applications
Gail Harnish, Planning Services
Tony Metledge
Troy Grant
Michael Napier
James Bugden

Call to order, introductions, purpose of the meeting:

Mr. Brian White called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Bloomfield Centre. We are here to discuss an application by Michael Napier Architecture, on behalf of 3223041, to amend Schedule Q of the Peninsula Land Use By-law (LUB) to permit by development agreement a seven storey mixed use commercial residential building at 5552 Kaye Street, Halifax.

Overview of planning process

Mr. White reviewed the process for an amendment to the LUB:

- an application has been received
- staff did a preliminary review of the application
- we are now at the PIM
- staff will review the comments from this meeting and do a detailed review of the application
- staff will prepare a staff report and a draft development agreement which is tabled with Peninsula Community Council
- Community Council will either reject the application or set a date for a public hearing
- following the public hearing, if one is held, Community Council will make a decision
- there is an appeal process

Mr. White noted this project is a little different from others that the public may be familiar with. This site has a tremendous as-of-right development potential. We are not here to discuss whether or not they can build a seven storey or tall building because the applicant has an as-of-right potential for a 80 foot zero lot line building through the existing zoning.

Mr. White clarified as-of-right development refers to development applications which adhere to the zoning requirements of the LUB and are issued development permits. As-of-right projects do not require Council approval. There are many projects which happen as-of-right that perhaps the community would rather not see built. However, municipalities do not have the authority to

restrict someone from exercising their legal right to build something under the LUB as long as they adhere to the requirements of the LUB.

An individual stated the neighbourhood should be notified of all developments and have a say about all projects like these.

Mr. White noted that to provide the public with the ability to review all as-of-right applications would require a change in Provincial legislation and such a change likely bog down the planning department to the point where nothing would get approved in the Municipality. Such changes if applied would not only affect commercially zoned properties but also residential properties. Currently, if a member of the public buys a vacant R-1 lot, then they have the right to put up a single family dwelling. Notwithstanding some technical issues the Municipality cannot restrict you from building and he did not believe that the public would want the Municipality to have such powers.

Mr. White advised the subject property is zoned C-2 so, as-of-right, they can build a building at least 80 feet high and you can go higher if you set the building back from the property street line. For every one foot you come in from the street line, you can go up to two feet.

An individual questioned whether there is a maximum.

Mr. Michael Napier advised they could put up a 170' high building on this particular site. It would not be very practical to do so but the LUB allows you to do that.

Mr. White clarified the only height restrictions relate to the Halifax Citadel ramparts.

Mr. White advised the C-2 Zone in this particular area permits ground floor commercial but it does not permit second storey commercial. What the applicant is requesting is some second storey commercial. We can only do that by amending the LUB for Schedule Q which then allows the Municipality to enter into a development agreement. Schedule Q gives policy guidance in terms of what we can deal with in terms of negotiating with a developer. It is things like:

- mitigating the impacts on adjacent properties and uses, and the mitigation of impacts on the amenity, convenience and development potential of adjacent properties through effective urban design and landscape treatment
- integration of the development into the traditional grid street system of the Peninsula
- encouraging vehicular traffic to use principle streets and discouraging traffic from infiltrating through existing neighbourhoods
- the creation of high quality design detail at the street level through attention to such matters as landscaping, signs, building entrances, and vehicle layby areas
- provision of high quality open space and leisure areas of a size and type adequate for the resident population
- residential and commercial densities consistent with municipal services
- encouraging high quality exterior construction materials such as masonry

Mr. White noted these are urban design principles that will make for a better constructed and desired building that would blend in better. We do not really have the ability to restrict the mass and the height of the building. His job is to advise Community Council on whether or not a second storey commercial ability for this project can be permitted so that we can have a better quality building through this development agreement process. He has heard a lot of discussion from members of the public about the height of the building.

In response to Councillor Murphy, Mr. White advised this seven storey building, with one storey commercial, can go ahead tomorrow as-of-right with no approval from Council. They simply have to meet the requirements of the LUB. What they cannot do is the second storey commercial; that requires discretionary approval of Community Council. He has to advise Community Council whether or not the second storey commercial should go ahead and what the trade-off is going to be for the neighbourhood and that would be a better quality design based on this policy we use in the MPS.

An individual asked for clarification on the comment that there was discussion by the public about the height of the building.

Mr. White indicated a lot of people are concerned about the height of the building looking over the primarily low rise residential buildings in the residential neighbourhood.

An individual stated they would be doing away with their privacy in the backyard. That happened with two buildings already.

An individual questioned whether any concerns were expressed with regard to wind or shadowing.

Mr. White responded no, but noted we could talk about that tonight.

Presentation of proposal

Mr. Napier advised he was an architect with an office on Kaye Street. They are neighbours to this project so they are quite concerned about what happens in this area. The reason they moved their offices to this area is because they loved the Hydrostone. It is a unique spot in Halifax. It is a very European area. The area was revitalized in the 1990s. Larry Swinamer has done a good thing for Halifax. Their office overlooks that project. It is roughly across from them, but unfortunately Larry has to look at them. They have an old garage. The building beside them is certainly an eye sore. It is a mixed bag of things but it is like in Central Park where that whole park is much stronger because of the buildings overlooking it and the people there to populate it.

Mr. Napier said when they started talking about this development they did not feel that one storey of commercial would give the emphasis to help benefit across the street. If you think of the hip market, they are trying to relate to that scale. It helps reinforce that. When you look back through in the park right now, if you have the view without this building, you would be looking at the

blank wall of Olands Brewery. It has been here forever and is certainly a blight on the neighbourhood.

Councillor Murphy disagreed with the last comment, noting they have put a lot of people in the community to work for a long time. Generations of people worked there from the North End of Halifax. The Brewery is what it is and is part of the neighbourhood.

Mr. Napier noted it presents a very blank wall. This is trying to reinforce that corner of the park which the Municipality spent some money on.

Mr. Napier said they are trying to get some strong retail and things to help complement the area. The sidewalk on this side is not as broad as on the Hydrostone so if they build up to the Hydrostone, it would be quite narrow with no opening for cafes. What they have done is held the lower level back and modified the entrances so that it is approximately 5' wider than the sidewalk there now. This would provide a better overhang and receiving doors and entrance. The actual entrance to the second floor commercial space would be back in this area here (pointed out) and it would have the door off to the side so there would be a protected cover area.

Mr. Napier continued to show various views:

- the closest view of the Hydrostone memorial area
- the Brewery in behind and the back towards Novalea Drive
- looking back the other direction towards Robie Street
- the building on the corner of Kaye Street and Gottingen Street
- an aerial view showing the neighbourhood in relation to Olands on the corner of Gottingen Street and Kaye Street
- the new Hydrostone Place
- the houses down along Sullivan Street
- the retail and the type of feel it would have to try and bring detail and scale down to the lower area
- signage complementary to what would be across from the Hydrostone Market
- back down Isleville Street towards Almon Street
- the little building on the corner of the Hydrostone
- the two apartment buildings behind the paint shop

Mr. Napier advised the building has two levels with a landscaped podium at that level for the inhabitants of this residential area. The residential portion is setback 15' from that line (pointed out) and this portion would be setback 6' from the lower part of the building. There are approximately thirty units. They will be mostly two bedroom units and possibly a few three bedroom units. There is 9000 sq.ft. of retail space and about 10,000 sq.ft. of commercial on the second floor. The underground parking would be reached through a ramp on Isleville Street. The first two levels of the podium are around 22' high in relation to the street and the overall building would be about 68' high. They are under the 80' magic pyramid you could have above there.

Questions and comments

Mr. Don Colyer questioned whether the proposed building would decrease or increase the value of their existing properties.

Mr. Napier responded he thought everything that brings people to this neighbourhood makes it a stronger area. Traditionally values go up. In a lot of cases, they get complaints about assessments going up.

Mr. Scott Patrick stated when the building was being built in his back yard, he did not recall there ever being a meeting of this nature.

Mr. White responded that would have been an as-of-right project. In that case, you simply come in and apply for a permit which you are granted if you meet the requirements of the LUB.

Mr. Patrick said he lost his privacy because now that building is overlooking his property. Also, he lost sunlight because of the shadow of the building. He questioned whether that would affect the resale value of his house unless he was able to attract somebody who already lived in a metropolitan area. Anybody local or from the suburbs may not find it appealing. This one is across the road from him so he was not as affected.

Mr. Napier commented that in terms of the urban feel, Halifax has been lucky in many areas. He has had a suburban feel. As time goes on and the energy problems increase in the world, there will be more density in the Municipality. He did not see this project affecting the value of his property.

Mr. White noted the properties along Kaye Street have been zoned commercial since the earliest LUB. The ability is there for somebody to come in and build tall buildings. It is wise for anybody moving into a new neighbourhood to familiarize themselves with the potential development around them. These documents (e.g. land use by-law) are not hidden. LUBs are something we are all privy to. The potential is there for this to happen in any C-2 Zone on the Peninsula.

An individual questioned whether they consulted with HRMbyDesign.

Mr. Napier responded they have been to the meetings and spoke to them. They embody a lot of what they are talking about. They are addressing the corners and the street scape.

The individual commented he liked the project but was concerned about the use of materials. The use of foam materials looks like concrete. He questioned what they would use in terms of exterior material.

Mr. Napier responded what they are showing right now is a conceptual drawing. They are trying to portray some solidity to these buildings and are trying to pick up on the Hydrostone across the

street. They do not make Hydrostone anymore so they will look at other materials. He referenced the Royal Bank building on the corner of Agricola Street.

The individual expressed concern with the composite material they used on the new Marriott hotel building.

It was commented they want the building to blend in with the neighbourhood.

An individual commented in terms of the scale, they are almost there. It is expected that the population on the Peninsula will increase. A large amount of those people will be seeking accommodation on the Peninsula. There have been a lot of fights on height versus heritage. There are very limited sites for high rise opportunities available on the Peninsula. He liked what he saw for this project so far but was concerned about the use of material. In terms of scale, he would endorse a taller building. The first two storeys of commercial are important in terms of the material. It should fit in nicely with the Hydrostone. If they were to recede further back at the third floor and add a couple of storeys you do not have that sense of it being in your face and taking up the whole block. The materials would be different. It could be a modern and a nice contrast with the first two storeys replicating the material of the neighbourhood. We are seeing buildings being built now from low to midrise around ten storeys with turrets and brick and taking up the entire property. We are chewing up potential for public lands. In terms of shadow, you cast a narrower shadow with a taller and thinner building.

Mr. Bernie Vaughan questioned the effect this would have on their property value and assessment.

An individual stated if the building goes to commercial, the more facilities you have in your neighbourhood, the more valuable your property. He referenced an example on Tower Road by the hospital where they built a big condominium with two storeys of commercial. They are not going to put up an ugly box because they will never be hired again. The building going up now is a beautiful building and will increase their tax base. They need people to stay on the Peninsula rather than leaving the Peninsula after working hours.

Ms. Barb Findlay commented the original notice said it would be a thirty unit building on top with twenty-four parking spaces down below. She questioned where everybody is going to park. There is a shopping demand for people wanting to go into the Hydrostone Market and parking is at capacity along that street. Kaye Street is always full of cars parked on both sides. If you put in offices, those people have to put their cars someplace during the day and the retail people come and go and there is nowhere for them to park. It will be wall to wall of cars from Almon Street to Livingstone Place. She did not mind the look of the building or the height, but felt the parking has to be addressed. She questioned where the parking for the office space and the commercial would be.

Mr. Napier responded it will become less of a contentious issue in the future because there will be less cars. As our resources decrease, there will not be as many cars. The idea of building a

new bridge does not make sense. There is no place to put the cars anyway. Right now parking in the neighbourhood is at a premium. In the morning, the Navy personnel come in at 7 o'clock and fill everything up. For a lot of the apartment buildings they are doing now, the ratio of people with cars is dropping quite drastically. Only 40% of the residents for one of their recent projects on Barrington Street requires parking. Perhaps twenty-four spaces is not enough for the present but he thought it will be more than enough for the future.

Mr. White advised he would be examining what the parking requirements might be for the commercial and office space and would work with the owners and the architect to determine exactly what that underground parking allocation could or should be.

Ms. Findlay stated she ran a small business out of her home for the past thirty years and was required to have a minimum of two parking spaces. She would assume the by-laws are somewhat uniform.

Mr. White responded he would try and address that in his staff report. Also, we can specify that in the development agreement.

An individual asked that they also take into account the delivery trucks.

Mr. Napier indicated the reason they went with twenty-four spaces was because they were looking at one level of underground parking. It could be that they have to go down lower.

Mr. Larry Swinamer, owner of the Hydrostone Market, stated parking is becoming more and more of a problem in the neighbourhood. While he appreciated the comment about where society is headed, what we are talking about is the present. He thought this project should accommodate parking.

Mr. Swinamer referenced the comment of a speaker who said they would be happy with more height. He probably generally agreed with that comment but felt it might not sit well with the people adjacent to this property. In terms of their assessment, he felt this project, whether seven or eleven storeys, would be significantly better than what they have there today, so he thought the worse case scenario is that nothing happens to their assessment and in all probability their value would increase with a quality development. He would trade-off and allow height on the basis of what is important in this area which is the fundamental street scape. As you're walking along, it is what is visible for the first two to three storeys. The rest is less important. To make our community connected, it is all about walkability which he thought was very important. He also believed they should be seeing a blend of heritage and architecture.

Mr. Swinamer indicated the Hydrostone facing Kaye Street and Young Street (facing the parking) is a bit different. Maybe the "water is already under the bridge" but here is an opportunity to address that. He realized the plans they are looking at are big picture, but the detail he saw on the side of the building left him cold. He realized there are costs involved and a developer has to get density on the site to make it work so he would not be opposed to something

higher if it had more of a stepped up design to it. He found it to be utilitarian at street level and the front facade to be very flat. If the project moved forward, he felt it was important for the Municipality to address the storefronts and the signage in terms of type, glare and illumination. He felt they have the opportunity to mirror the Hydrostone on the opposite side of the street. He referenced the apartment building at the other corner and indicated he thought his intentions were good but felt the building has totally missed the mark.

Mr. White noted the ability to do this development through a development agreement gives us more ability to comment on the design of the building. The onus is on the Municipality to pay attention to the detail.

Mr. Napier commented the unfortunate problem is that the detailing cannot be replicated today. They would like to keep the scale and some of the detailing to be complementary.

Mr. Swinamer stated the two ground levels are the most important. They have put up a very straight facade.

Mr. Napier suggested he missed some of the details, such as the windows which are the same as in his place. It is very similar in scale to what Mr. Swinamer has.

In individual indicated he was concerned about the material. He referred to development along Dunbrack Street and when he saw the scale of the new building going up, he shuddered to see this press board. It breaks down and becomes toxic.

Mr. Napier stated this would be a non-combustible building so the elements could not be wood. The structure inside would be steel stud on a concrete frame.

An individual commented in terms of personal taste, there are all these affronts in the Municipality. He referenced a development where a project was changed after they had been shown the original renderings.

Mr. White stated that could not happen when there is a development agreement.

An individual said the first two storeys are very important and suggested they might want to consider contrast. If they were to recede further back and go higher, he thought the contrast would work better. It is a great first attempt.

Ms. Sharon Brisson referenced the concern about parking and indicated even as far up as they are, they had to get parking restrictions put on their street because the parking is unbelievable. She thought the twenty-four parking spaces for thirty apartments and commercial needs to be looked at. She questioned what type of businesses they are targeting and whether they had any intentions of putting in a liquor establishment.

Mr. Napier responded no.

Mr. White advised through the development agreement process we have the right to restrict certain types of uses.

Mr. Swinamer questioned the depth of the retail space.

Mr. Napier responded at the shallow point it is about 80' and at the corner it is probably about 101'.

Mr. Swinamer commented it will be very difficult for them to cater to small uses so they will have to target spaces of 2000 sq.ft. A local entrepreneur usually starts their business with 800 to 1400 sq.ft. They may be forced to go with a national type of franchise tenant.

Mr. Napier responded they have no plans now.

Mr. White noted we can also regulate hours of operation in the development agreement. There are various controls they can put in place.

An individual commented they have enough liquor outfits around now and did not need to look at adding more.

An individual stated parking is a big problem and needs to be addressed now and not in ten to twenty years time. He would like to see Sullivan Street with permit parking so that they could get in and out of their driveways. Many times he had to get the cops up to move cars so he could get in and out of his driveway.

Mr. Mike Poltras referenced another development in the area where the dry wallers were fighting and the people were drinking and the garbage was flying around. He lived right behind the one going up now.

Mr. Tony Metledge he would be the developer on this project. He has given Troy some flack about the problems referenced with the other development. The other development was Troy's first project and he did the best he could. He has done lots of buildings and many developments. Most of the neighbours to his projects are happy. That is why he decided to go through the development agreement process and not as-of-right. During construction, there will be noise and construction trucks. They hope short-term pain is long-term gain. They hope the final project will be better for the neighbourhood and appealing to the eye. He reiterated he was the developer and would be onsite.

An individual referenced the busting of rock and indicated they did not mind it from 8 a.m. to 5 p.m. but after that people want to rest with young children.

Mr. Metledge stated they would do everything they can to respect their lives during construction. The site has been dug down about 15' so there will not be much rock breaking. During construction there will be headaches. They will try to limit the times they can work.

Mr. White noted part of the difficulty related to not having a point of contact for problems, and questioned whether having a better line of communication with the developer would improve things.

Mr. Douglas MacDonald said he did not think they have a group of anti-development people but rather you have people going into a third building where there has been a lot of unhappy disruption and concern about where to find 2' to put their barbecue so they can get ten minutes of sun. It is a comfort of living and the quality that you live by. You have people who lived here for a long time and had a good quality of life.

Mr. MacDonald commented he thought the project would be great. Walkability has come up as an issue in terms of schools. They want to continue to close everything in the North End. Walkability is going to be an important factor. There has to be a quality and comfort of people living there. Parking is a major problem. They have a parking lot between their building and the church. He had to occasionally block cars in until the Navy people left work. It is not a public parking lot. Parking is a big issue which should be addressed now.

Mr. Metledge stated a big thing on a project is site management. You need somebody there who cares and can relieve a lot of stress. He was a developer and has done many projects. He could not afford to ruin his reputation to build something that is not good.

Mr. MacDonald noted it comes back to as-of-right development.

Mr. Metledge said he did not need the second floor of commercial but he would not do that building as-of-right. He wanted to have pride in a project when he drove by it. If they want more parking, they will have to sit down and see how they can get more parking. He wanted this site because of Mr. Swinamer's project across the street. He did not want to ruin that. His goal is to add to it. He promised to do what he could to make life as simple as possible during the construction period.

Mr. Swinamer commented he never met the developer but heard he was a quality developer. Also, he was guessing the developer really wanted to develop that second level of commercial. Next will be the St. Joseph's property.

Councillor Murphy noted there is quite an influx of non-stop traffic in the morning on Kaye Street from people not living in the neighbourhood. Somebody at Council questioned why they had three crossing guards. We have enforcement people on Hennessey Place all the time. There are 32,000,000 crossings over the two bridges coming into District 11. Two lanes will be for transit. The largest single user now of the bridge is Metro Transit. Referencing the St. Joseph's property and the playground which has always been green space, he questioned whether there is going to be a traffic study done.

Mr. White responded we would not normally require a full study for this type of project. There is a lesser study called a traffic impact statement which we could require. The parking issue will have to be addressed in a more meaningful manner in the staff report.

Councillor Murphy noted perhaps they cannot replicate it. He questioned whether there are any balconies. It was responded they are recessed.

Councillor Murphy suggested they consider trying to replicate something.

Mr. Metledge responded you cannot really see the detail with what they have shown tonight. What they envision is something really nice.

Mr. Metledge referenced their project at the entrance to Fairmount where they went from R-1 to R-3. Originally, the neighbours were very concerned about their project.

Mr. Swinamer questioned whether there was any possibility of getting diagonal parking on the Young Street side of Kaye Street.

Mr. White advised he would take that back to our Development Engineer. That is not specifically part of this application but he thought innovate ideas like that may go a long ways. Something like that might work on Kaye Street as well.

Councillor Murphy noted they were here tonight because of the second floor of commercial which they have to convince Peninsula Community Council of. If they decided not to proceed with the second floor of commercial, they could develop the property as-of-right.

Mr. White advised the next step would be for him to prepare a staff report with a draft agreement which will be tabled with Community Council. Community Council will decide whether or not to schedule a public hearing date. Following Council's decision, there is an appeal process.

The meeting adjourned at approximately 8:35 p.m.