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Item No. **9.2 (iii)**

District 12 Planning Advisory Committee - February 25, 2010

Heritage Advisory Committee - February 24, 2010

Halifax Regional Council - March 9, 2010

March 30, 2010

TO: Chair and Members of District 12 Planning Advisory Committee
Chair and Members of Heritage Advisory Committee

SUBMITTED BY:

Dan English, Chief Administrative Officer

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: January 11, 2010

SUBJECT: Case 01227, Development Agreement, City Centre Atlantic

ORIGIN

Application by Dexel Developments Limited

RECOMMENDATION

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

1. Move Notice of Motion to consider the development agreement, as contained in Attachment A of this report, to allow a five storey addition to City Centre Atlantic, Halifax, and schedule a public hearing.
2. Approve the development agreement, as contained in Attachment A.
3. Require that the development agreement be signed and returned within 120 days, or any extension thereof granted by Regional Council on request of the Developer, 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 proposal is for a five storey residential addition to City Centre Atlantic, located in the Spring Garden Road Area of Halifax. It is one of four projects that were "grandfathered" by Regional Council as part of the adoption of the HRMbyDesign planning documents. This means that it is to be considered pursuant to the policies and regulations that were in place when this application was submitted to HRM. The most relevant of these are policies EC-2 and IM-15 of the Regional Plan. In consideration of them, staff recommend that Regional Council approve the proposed development agreement.

BACKGROUND

Proposal

City Centre Atlantic is a retail, office, and residential building that is located on a block that is bounded by Spring Garden Road, Artillery Place, Dresden Row, and Birmingham Street, in Halifax. The building has two heights; the southern part is three storeys and the northern part is eight storeys. The first floor is comprised of retail uses and the second and third floors have office uses. The upper five floors of the eight storey section is a residence; the Heritage Way condominium. There is an underground parking garage that is accessed off Birmingham Street.

When City Centre Atlantic was conceived in the late 1980s, in addition to the elements that were constructed, the building was to include five floors of office uses on top of the southern part of the building, to be constructed to approximately the same height as the Heritage Way residence. This was not realized, reportedly due to unfavourable economic conditions, but the three storey southern part of the building was constructed to support a future addition. The parking garage that was established was also built to accommodate future parking needs.

Dexel Developments now proposes a five storey addition on the southern part of the existing building that will either be a residence or a hotel. Its main part will be five storeys, at approximately the same height as the Heritage Way residence, while a smaller single storey, further to the south (closer to Spring Garden Road), is to be comprised of common amenity space. The exterior materials of the building are found on the attachments of the proposed development agreement.

Changes to the exterior of the existing building are to be limited to a new entrance upon Birmingham and the accentuation of an existing entrance upon Dresden Row. Above these entrances, there are to be protrusions from the existing facades, extending vertically onto the new addition. There are upper storey encroachments into the street rights of way that are to be considered through a separate, Council approval process.

Planning Context and HRMbyDesign

The subject site is located in the new Downtown Halifax Secondary Municipal Planning Strategy area and the DH-1 Zone of the Downtown Halifax Land Use By-law. This application was submitted before these planning documents were approved, and in keeping with the Regional Council's approved policy directive, it is to be reviewed pursuant to the policies and regulations that were in effect at the time in which the application was made. Based upon this, the most relevant context to consider in evaluating the proposal is found in policies EC-2 and IM-15 of the Regional Municipal Planning Strategy. EC-2 specifies that any development of greater than 12 metres is to be considered and approved by development agreement pursuant to the policy criteria found within this policy and IM-15.

Development Agreement

The proposed development agreement specifies matters such as:

- the size of the addition and its placement upon the existing building;
- the exterior cladding materials;
- that the development comply with various requirements of the Land Use By-law concerning matters such as the provision of parking spaces; and
- that the development commence within three years and be completed within six years of its adoption by Council.

Notably, the proposed development agreement applies solely to the building addition and the minor modifications to existing building, namely associated with a new entrance off Birmingham Street. The remainder of the existing building is not to be subject to the development agreement and will therefore be regulated by the new Downtown Halifax Land Use By-law.

DISCUSSION

This development agreement application is to be considered against the objectives and policies of the Regional Municipal Planning Strategy and the Halifax Municipal Planning Strategy. From the Regional Municipal Planning Strategy, policies EC-2 and IM-15 are particularly relevant. An assessment of each of these contained in Appendices B and C. Policy criteria that warrant detailed discussion are found in the main body of this report.

Policies EC-2 and IM-15

Prior to the adoption of the Regional Municipal Planning Strategy, development in the Spring Garden Road Commercial Area was "as-of-right", meaning that it was solely subject to the issuance of a development permit in consideration of the land use and building envelope requirements of the Halifax Land Use By-law. There was no public input or decision of Council. The Regional Municipal Planning Strategy introduced a requirement that development over 12

metres in height was to be approved by development agreement, out of a concern about construction that was occurring without public or Council input.

Much of Policy EC-2 relates to the impact of development upon the streetscape; the function and appearance of a street and importantly, the buildings that enclose it. Policy IM-15 provides Council with the ability to consider the effects of a proposal upon a site and its surroundings, notably from a compatibility perspective.

From the review of the policies EC-2 and IM-15 of the Regional Municipal Planning Strategy, certain criteria within them warrant detailed discussion, as follows.

EC-2, Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law

Policy EC-2 states that Council is to consider 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."

The Halifax Municipal Planning Strategy (originally referred to as the Municipal Development Plan) was adopted in 1978. It established what are referred to as City-wide objectives and policies and it set out a framework for the preparation of detailed area plans. Subsequently, the Spring Garden Road Commercial Area Secondary Planning Strategy was adopted along with amendments to the Halifax Peninsula Land Use By-law to implement this area plan.

The new requirements of the Regional Plan specifying that new development over 12 metres in height be considered by development agreement did not call the area plan objectives and policies and the Land Use By-law regulations into question, they added a new layer of consideration. Logically, if new development meets the requirements of the Halifax Land Use By-law it can be concluded that it is consistent with the objectives and policies of the Halifax Municipal Planning Strategy and in particular, the Spring Garden Road Commercial Area Secondary Planning Strategy. The proposal is within the General Business Zone - Spring Garden Road Area (C2-D Zone) and has been evaluated against its requirements. The development is found to meet the requirements of the CD-Zone, with respect to matters such as land use, parking, and a multitude of other requirements. There is one small issue relative to the height of the addition, in that some of its ornamental features such its parapet and protrusions that accentuate its entrances, may slightly exceed the Land Use By-law's maximum height requirement of 80 feet (above which, setbacks from property boundaries are necessary). This is not viewed as a substantial issue. The building addition will be lower than the existing Heritage Way eight storey section of the building and will comply with View Plane requirements (see below).

On the basis that the proposal meets the requirements of the C2-D Zone, it is therefore found that it is also consistent with the objectives and policies of the Halifax Municipal Planning Strategy and in particular the Spring Garden Road Commercial Area Secondary Planning Strategy.

EC-2, View Plane Requirements of the Land Use By-law

The requirements of the Land Use By-law include View Plane provisions. The development is impacted by View Plane Number 9, which covers the existing building and limits height to approximately the height of the existing Heritage Way part of the building, and View Plane Number 10, a small fraction of which impacts part of the project along Birmingham Street. The proposal meets both of these View Plane requirements.

EC-2, (a), (b), (d), (e), and (f), Street Level Interface

Many of the policy criteria in EC-2 focus upon the interface of new development and the public realm of streets. Very little of this proposal includes changes at the street level; limited to creation of a new entrance along Birmingham Street where there is currently a small nondescript utility door. It is found that the new entrance will be consistent with those policy criteria that call for enhanced street level activity and safety.

EC-2 (c), Long Blank Walls

Policy EC-2 (c) is meant to apply to long blank walls at street level, however the wording is not so limiting that it cannot and should not be applied to upper storey walls as well. Parts of the southern walls of the proposal, facing Spring Garden Road, are fronting immediately upon property lines and are comprised of blank walls (meaning in this case, walls without window openings). There are two major sections of these walls, one close to Birmingham Street and other close to Dresden Row, that both extend the full height of the addition. There is a smaller blank wall on the west side of the single storey amenity element of the addition, facing Dresden Row, but this is incidental in comparison to the other two wall sections.

Blank walls anticipate the erection of a future adjoining building, along or close to a shared property boundary. The concern with blank walls is that until an adjoining building is constructed, they can be visually monotonous. To minimize this effect, the developer has chosen to provide relief to the walls by varying their materials and adding balconies.

From a pedestrian's perspective the view of the proposal's blank walls will vary dependant upon the vantage point from which they are viewed, particularly due to their considerable setback from Spring Garden Road. Immediately facing the proposal and looking directly at one of the blank walls from the sidewalk on the south side of Spring Garden Road, only approximately the top 15 feet of the wall will be visible. As the vantage point changes to locations further along Spring Garden Road, either further east or west, more of the blank walls is apparent, but their extent naturally diminishes based upon increasing distances and angles of views that would be experienced. They will, however, be noticeable from southerly vantage points.

It would be preferable for the development to not include blank walls. However, based upon the treatment that has been chosen, the limited width of the walls, and the limited degree in which

they can largely be seen, it is felt that they are suitable.

EC-2 (g), Adjacent Buildings of Historic or Landmark Significance

Policy EC-2 (g) states:

“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;”

Royal Artillery (RA) Park, located south of Sackville Street, is a Registered Heritage Property that is adjacent to the subject site. It is comprised of 2 ½ storey brick buildings and wooden buildings that are in a park-like setting. The proposal bears little, if any, relationship to them.

The relevant question pursuant to the policy criteria is whether the project should have relationship to RA Park. It is suggested that this is unnecessary. The proposal is neither a new nor redeveloped building; it is an addition. Aside from this, it is situated, in relation to RA Park, behind the existing eight storey part of the City Centre Atlantic building. If City Centre Atlantic was being conceived in its entirety as a new building or a building that was being completely reclad through this application, there is no doubt that EC-2 (g) would have an important bearing upon its design. This is not the case.

A further important measure of the relationship of the addition to RA Park derives from the City-wide policies of the Halifax Municipal Planning Strategy and in particular, policy 6.4 which states, “The City shall attempt to maintain the integrity of those areas, sites, streetscapes, structures, and/or conditions which are retained through the encouragement of sensitive and complementary architecture in their immediate environments.”

It is found that the addition, due to its placement, will not have any notable impact upon the integrity of RA Park. Further, there are other registered heritage properties in the vicinity of City Centre Atlantic, but due to their location, they are not important factors of consideration pursuant to Policy EC-2 (g).

EC-2 (i), Sunlight Penetration

Policy EC-2 (i) plainly calls for development to maximize sunlight penetration onto adjoining streets. Given the path of sunlight, the orientation of streets, and the size blocks in the Spring Garden Road Commercial Secondary Plan area, the only way in which development can *maximize* sunlight penetration onto streets is not to occur at all. This is clearly not the overall intent of policy EC-2.

In response to policy EC-2 (i), it does seem reasonable to evaluate if changes to the massing of the proposal significantly changes the amount of sunlight that is cast onto streets. To this end, the impact of the proposal upon Dresden Row and Birmingham Street was examined. It is found that although the building addition does cast additional shadow onto the streets, the net increase is not significant given the presence of the pre-existing three and eight storeys sections of the building. Details about the shadow impact are found in a report from the Developer's Architect (Attachment E).

Artillery Place and Spring Garden Road were not considered because: (i) The proposal will not contribute any greater shadow impact upon Artillery Place due to the presence of Heritage Way; and (ii) The proposal meets the Land Use By-law setback from Spring Garden Road requirements that were devised to ensure adequate sunlight penetration onto this street.

Some comments from members of the public have referred to this policy in addressing the reduction of sunlight onto the south side of the Heritage Way residence and its rooftop garden. However, this is not a correct application of the policy as it refers specifically to sunlight penetration onto streets.

EC-2 (i), Wind Tunnel

A submission from the Developer's Architect concludes that the proposal will, "not add appreciable wind conditions to this area of Halifax."

Undergrounding of Wires

Outside of the policy requirements of Policies EC-2 and IM-15, the proposed development agreement also specifies that every effort is to be made to underground any existing above-ground wires abutting the development.

Public Input/Area of Notification

A Public Information Meeting was held on February 26, 2009 and the minutes are attached (Attachment D).

Should 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.

Conclusion

In evaluating the proposal, Council is to consider it against the objectives and policies of the both the Halifax Municipal Planning Strategy and in particular, the Regional Municipal Planning Strategy. The proposal relates positively to these and it is therefore recommended that the development agreement be approved.

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 could approve the proposed development agreement. This is the recommended alternative.
2. Regional Council could refuse the proposed development agreement. Pursuant to subsection 6 of Section 254 of the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal based on the policies of the MPS.
3. Regional Council could approve the proposed development agreement with changes. This alternative would require concurrence with the developer and would need to be consistent with the objectives and policies of the Halifax Municipal Planning Strategy and the Regional Municipal Planning Strategy. An additional public hearing may also be required.

ATTACHMENTS

Map 1	Location and Zoning
Map 2	Registered Heritage Properties
Attachment A	Proposed Development Agreement
Attachment B	Review of Regional Plan Policy EC-2
Attachment C	Review of Regional Plan Policy IM-15
Attachment D	Public Information Meeting Minutes
Attachment E	Shadow Impact Statement
Attachment F	Wind Impact Statement
Attachment G	Traffic Impact Statement
Attachment H	Submissions Related to the Proposal

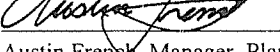
**Addition to City Centre Atlantic
Council Report**

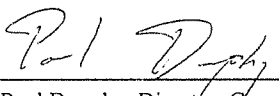
- 9 -

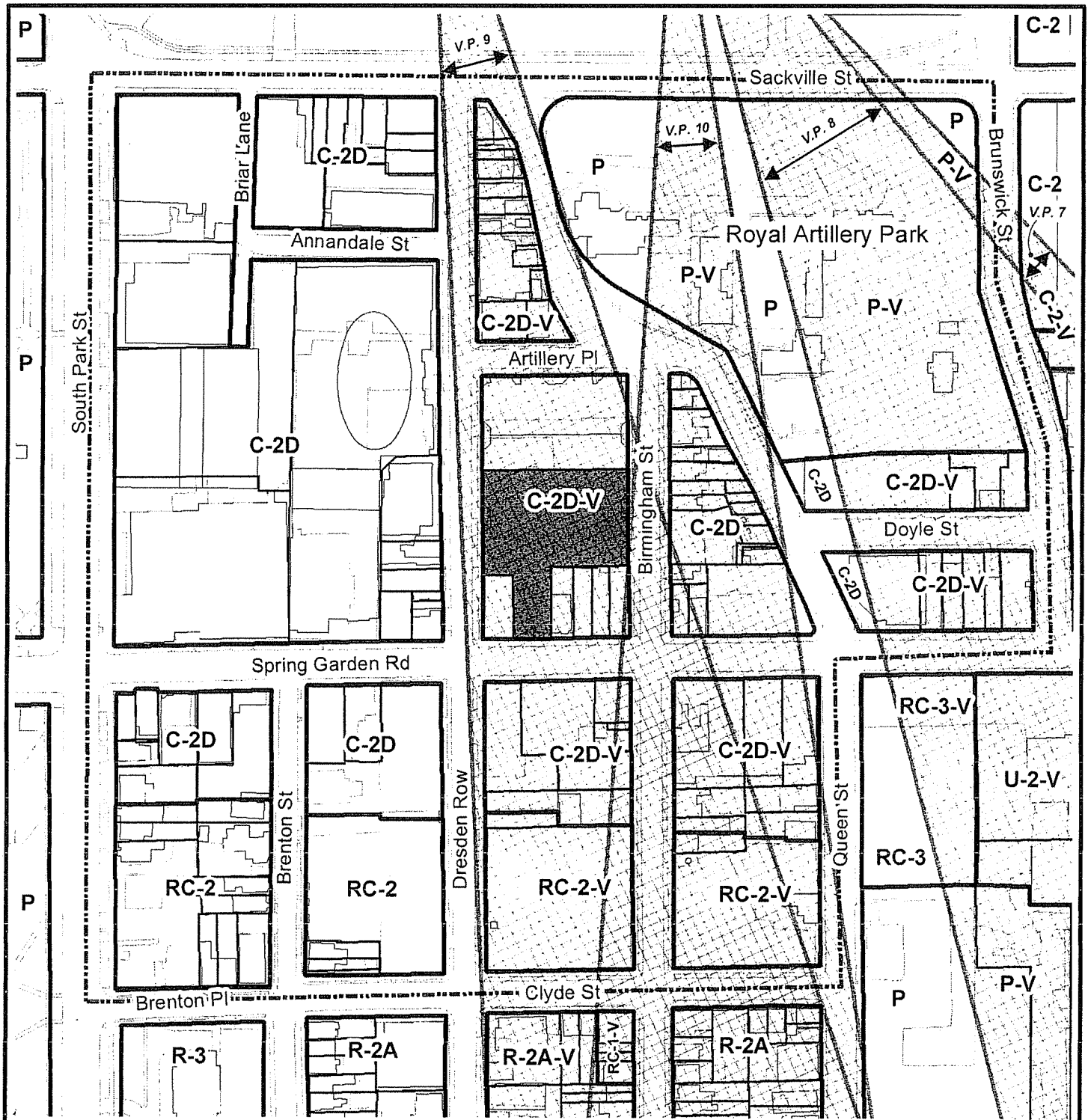
**PAC - February 25, 2010
HAC - February 24, 2010**

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

Report Prepared by: Richard Harvey, Senior Planner, 490-5637



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

Report Approved by: 
Paul Dunphy, Director, Community Services



Map 1 - Location and Zoning

5523 Spring Garden Road
1515 Dresden Row
Halifax

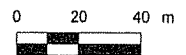
-  Subject area
-  Area of notification

Halifax Peninsula
Land Use By-Law Area

Zone (-V within view plane)

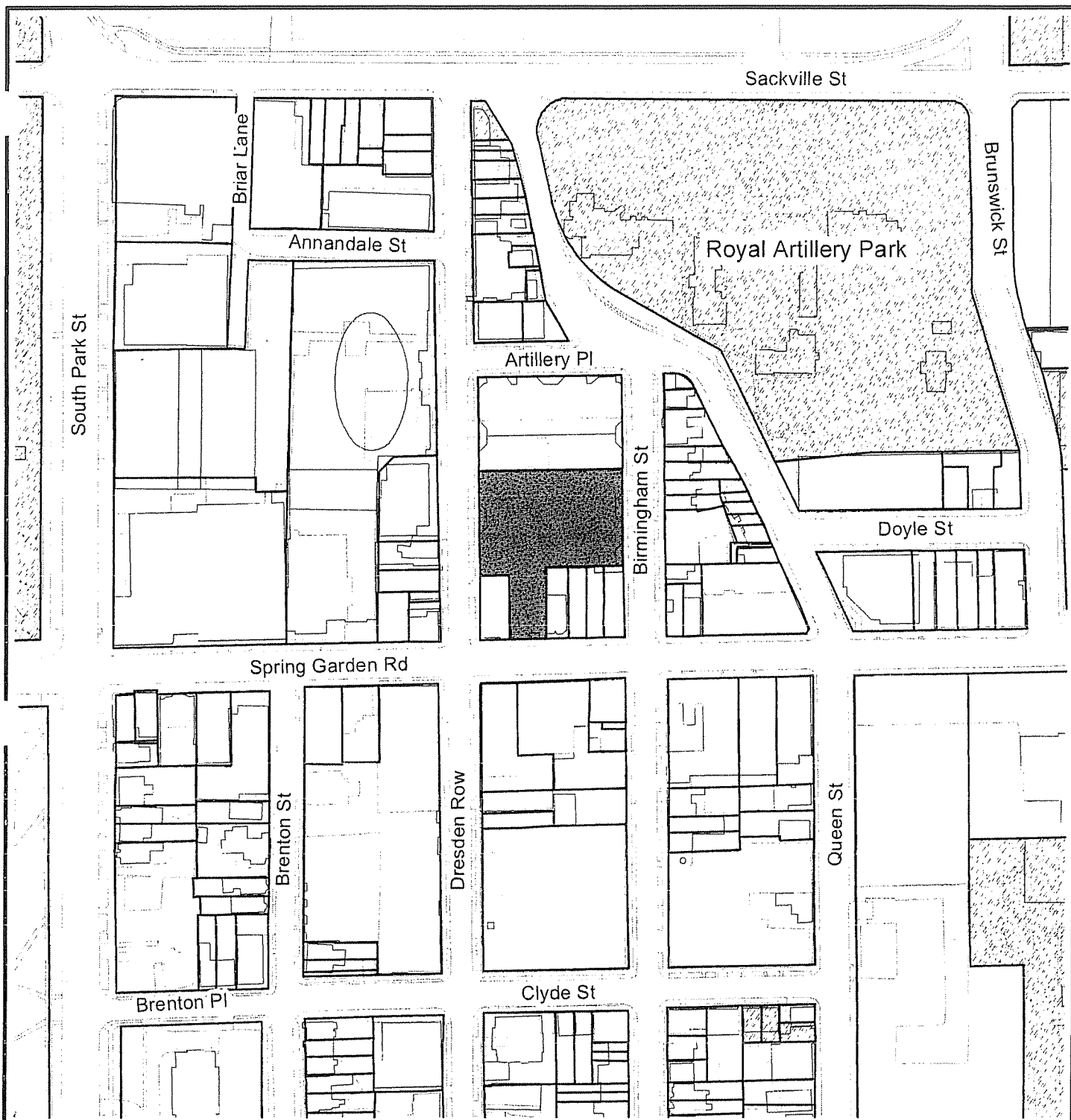
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- RC-2 Residential Minor Commercial
- RC-3 High Density Res. Minor Commercial
- C-2 General Business
- C-2D General Business - Spring Garden Rd
- P Park and Institutional
- U-2 High-Density University
- RPK Regional Park

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- Registered Heritage Properties

5523 Spring Garden Road
1515 Dresden Row
Halifax



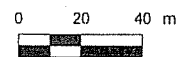
Subject area



Registered heritage property

Halifax Peninsula
Land Use By-Law Area

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

Attachment A - Proposed Development Agreement

THIS AGREEMENT made this day of , 2010,

BETWEEN:

PYXIS REALESTATE EQUITIES INCORPORATED,

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 PID 40577215 and identified as 1515 Dresden Row, 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 5 storey addition to existing building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy EC-2 of the Regional Municipal Planning Strategy and Section 97A of the Halifax Peninsula Land Use By-law;

AND WHEREAS Regional Council approved this request at a meeting held on _____, referenced as Municipal Case Number 01227;

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

- 1.1.1 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.
- 1.1.2 The Agreement shall apply solely to the Development.

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

- 1.2.1 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 in effect on October 23, 2009 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.

1.5 Costs, Expenses, Liabilities and Obligations

- 1.5.1 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

- 1.6.1 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

- 2.1.1 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

- 2.2.1 The following words used in this Agreement shall be defined as follows:
- (a) **“Development”** means the 5 storey addition to the building and modifications to the existing building shown on the Schedules that is the subject of this Agreement.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

- 3.1.1 The Developer shall develop the addition in a manner, which, in the opinion of the Development Officer, conforms with the Schedules attached to this Agreement, unless further specified under the Agreement, and filed in the Halifax Regional Municipality as Case Number 01162:

Schedule A	Legal Description of the Lands
Schedule B	Building Elevation (West)
Schedule C	Building Elevation (South)
Schedule D	Building Elevation (East)
Schedule E	Building Elevation (North)
Schedule F	Floor Plan - 1 st Level
Schedule G	Floor Plan - 2 nd Level
Schedule H	Floor Plan - 3 rd and 4 th Levels
Schedule I	Floor Plan - 5 th Level
Schedule J	Roof Level

3.2 Permitted Land Uses

- 3.2.1 The following uses shall be permitted within the development:
- (a) Residential uses; and
 - (b) A hotel.

3.3 Land Use Requirements

- 3.3.1 With the exception of building heights and related setbacks, which shall be consistent with the Schedules, the development shall comply with the requirements of the Land Use By-law.
- 3.3.2 Changes in the interior arrangement of floor space shown on the Schedules shall be permitted.

3.4 View Plane Requirements

- 3.4.1 For greater certainty, with regard to clause 3.1.1 (the Schedules of this Agreement) and 3.3.1, no element of the building, including any fixture which is to be attached to the building, shall violate the view plane requirements of the Land Use By-law.

3.5 Functional Elements

- 3.5.1 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.
- 3.5.2 Other than roof mounted equipment, any mechanical equipment, exhausts (except exhausts for individual dwelling units), propane tanks, electrical transformers, and other utilitarian features shall be visually concealed from abutting properties, including municipal rights-of-way.

3.6 Parking

- 3.6.1 Prior to the issuance of a Development Permit, the Developer shall provide documentation, to the satisfaction of the Development Officer, to confirm adherence with the Parking Requirements of the Land Use By-law.

3.7 Building Lighting

- 3.7.1 This Agreement shall not oblige the Developer to illuminate the building, but where the building is illuminated, such illumination shall generally comply with the Schedules.
- 3.7.2 The lighting pursuant to 3.7.1 shall be directed away from surrounding properties, including municipal right-of-ways except to the extent as shown on the Schedules.
- 3.7.3 Lighting shall be not include illumination that flashes, moves, or varies in intensity.

3.8 Outdoor Storage and Display

- 3.8.1 No outdoor storage or outdoor display shall be permitted.

3.9 Solid Waste

- 3.9.1 Unless otherwise agreed to or required by the Municipality pursuant to 1.3.1, the Developer shall be responsible for solid waste collection from the building.
- 3.9.2 Unless otherwise agreed to or required by the Municipality pursuant to 1.3.1, the building shall include a designated space for four stream (refuse, recycling , cardboard, 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.

3.10 Maintenance

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

3.11 Requirements Prior to Approval

- 3.11.1 Unless otherwise agreed to or required by the Municipality pursuant to a separate regulation or by-law, prior to the application for any municipal permits for the building, the Developer shall complete the MICI (Multi-unit/Industrial/Commercial/Institutional) process, as outlined by the Municipality.
- 3.11.2 Prior to the issuance of a Development Permit and a Building Permit for the building, the Developer shall provide the following to the Development Officer:
 - (a) Written certification from a Professional Surveyor that the proposed development conforms with the view plane requirements of the Land Use By-law; and
 - (b) Confirmation of the undergrounding arrangement in accordance with Section 4.2 of this Agreement.
- 3.11.3 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 building complies with the view plane requirements of the Land Use By-law.
- 3.11.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licences, and approvals required to be obtained by the Developer pursuant to this Agreement.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

- 4.1.1 All construction shall conform to the Municipal Services Specifications unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.
- 4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer and shall be reinstated, removed, replaced, or relocated by the Developer as directed by the Municipal Engineer.

4.2 Underground Services

- 4.2.1 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 Dresden Row and Birmingham Street which abut that part of the Lands that are alongside the development. The Developer is responsible for meeting the requirements of applicable utility companies.
- 4.2.2 The Municipal Engineer may waive or alter the requirements of 4.2.1 where improvements to utility services are necessary that are beyond the obligations of the Developer as specified in clause 4.2.1 and the Developer is unable to secure such improvements from an applicable utility provider.

4.3 Proposed Encroachments

- 4.3.1 Any proposed building encroachments into the street rights-of-way, illustrated on the attached Schedules or otherwise, shall be subject to separate Municipal approval pursuant to 1.3.1.

PART 5: AMENDMENTS

5.1 Substantive Amendments

- 5.1.1 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 *Halifax Regional Municipality Charter*.

5.2 Non-substantive Amendments

- 5.2.1 The following items are considered by both Parties to be non-substantive and may be amended by resolution of Council:
- (a) Changes to the exterior materials and colour of the development as shown on the Schedules;
 - (b) Changes to the building lighting provisions specified in Section 3.7;
 - (c) Changes to the requirements prior to approval specified in Section 3.11;
 - (d) Changes to the requirements for underground services specified in Section 4.2;
 - (e) Changes to the date of commencement of development specified in Section 7.3; and
 - (f) Changes to the date of completion of development specified in Section 7.4.

PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

6.1 Enforcement

- 6.1.1 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

6.2.1 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 remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

7.1.1 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 3 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purposes of Subsection 7.3.1, commencement of development shall mean the issuance of a permit for the construction of the Development.
- 7.3.3 For the purpose of Subsection 7.3.1, Council may consider granting an extension of the commencement of development time period through a resolution under Section 5.2.1, if the Municipality receives a written request from the Developer at least 60 calendar days prior to the expiry of the commencement of development time period.

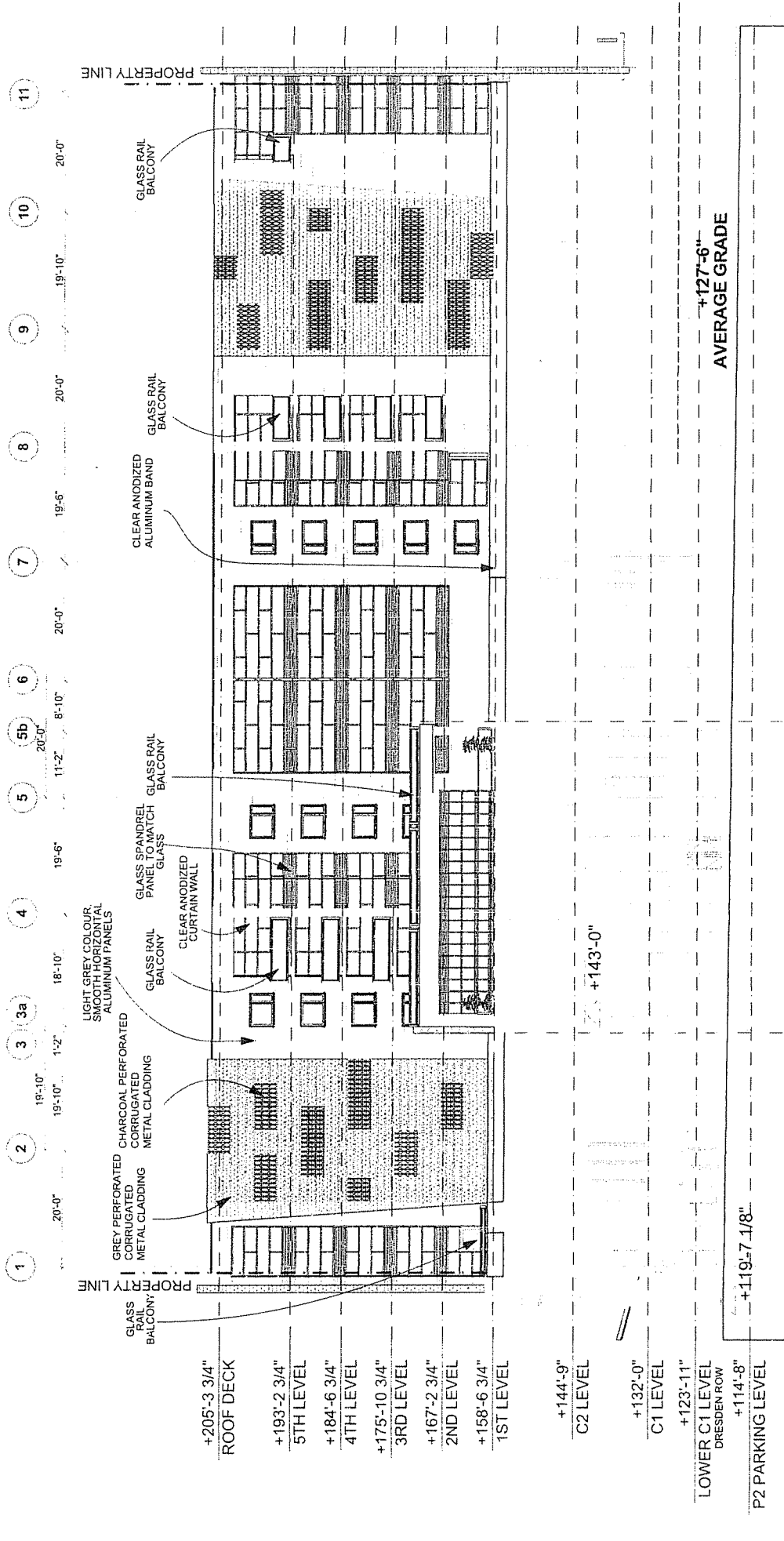
7.4 Completion of Development

- 7.4.1 Upon the completion of the development or portions thereof, or after 6 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., 2010.

SIGNED, SEALED AND DELIVERED)	<u>PYXIS REALESTATE EQUITIES</u>
)	<u>INCORPORATED</u>
in the presence of)	
_____)	Per: _____
)	
)	
SEALED, DELIVERED AND)	
ATTESTED to by the proper)	
signing officers of Halifax Regional)	<u>HALIFAX REGIONAL MUNICIPALITY</u>
Municipality duly authorized)	
in that behalf in the presence)	Per: _____
of)	MAYOR
_____)	
)	Per: _____
)	MUNICIPAL CLERK



E-02

Elevation Spring Garden Road

Note: Development Agreement does not apply to areas of the existing building identified by a lighter shade.

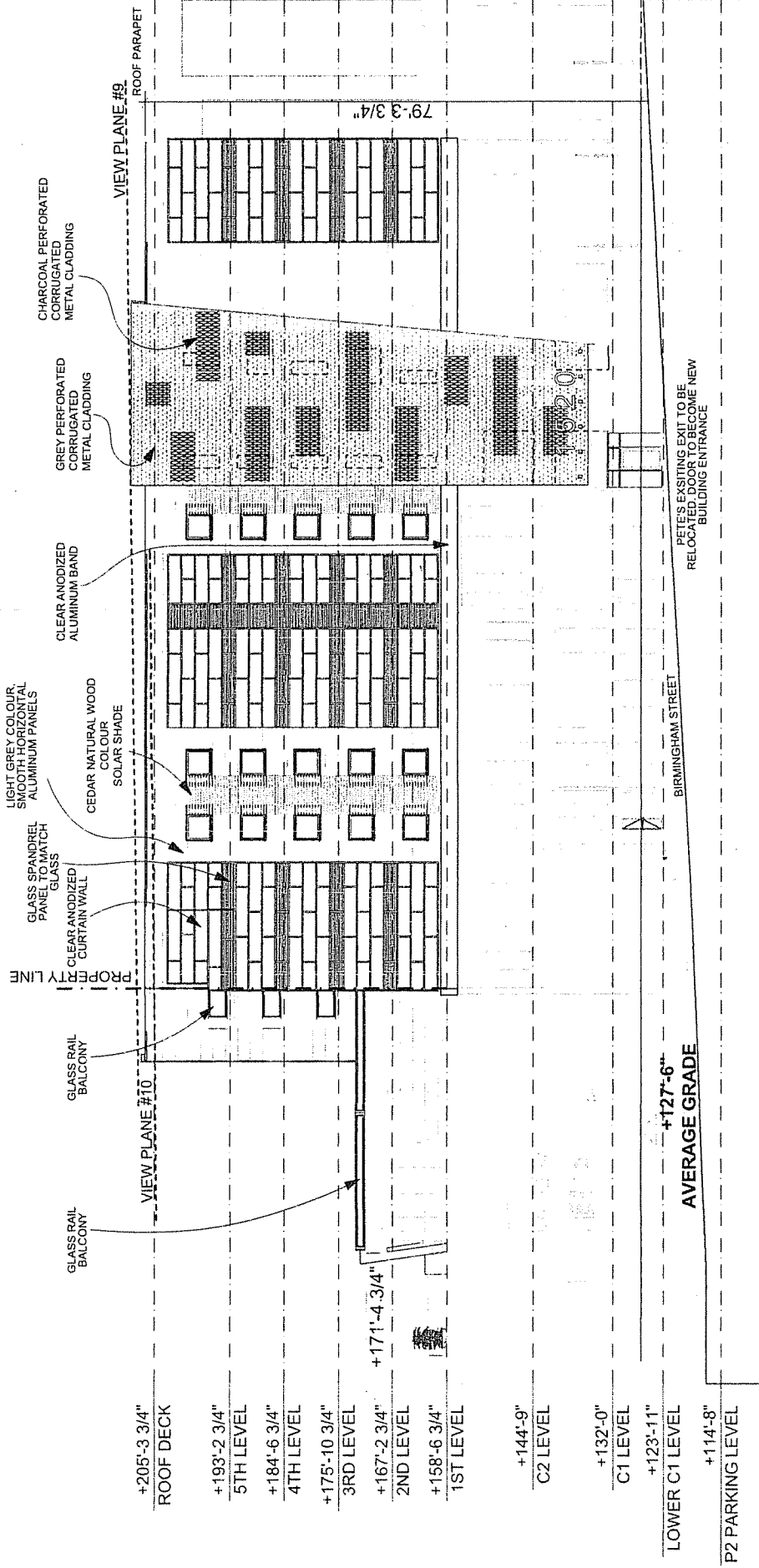
1/16" = 1'-0"

SCALE IF PRINTED ON 11X17 PAPER

Plotted on 1/7/2010 at 9:29 AM

P N M L J H G1 G

20'-0" 19'-0" 19'-0" 19'-0" 19'-0" 17'-2" 1'-10"



Note: Development Agreement does not apply to areas
of the existing building identified by a lighter shade.

1/16" = 1'-0"

SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:29 AM

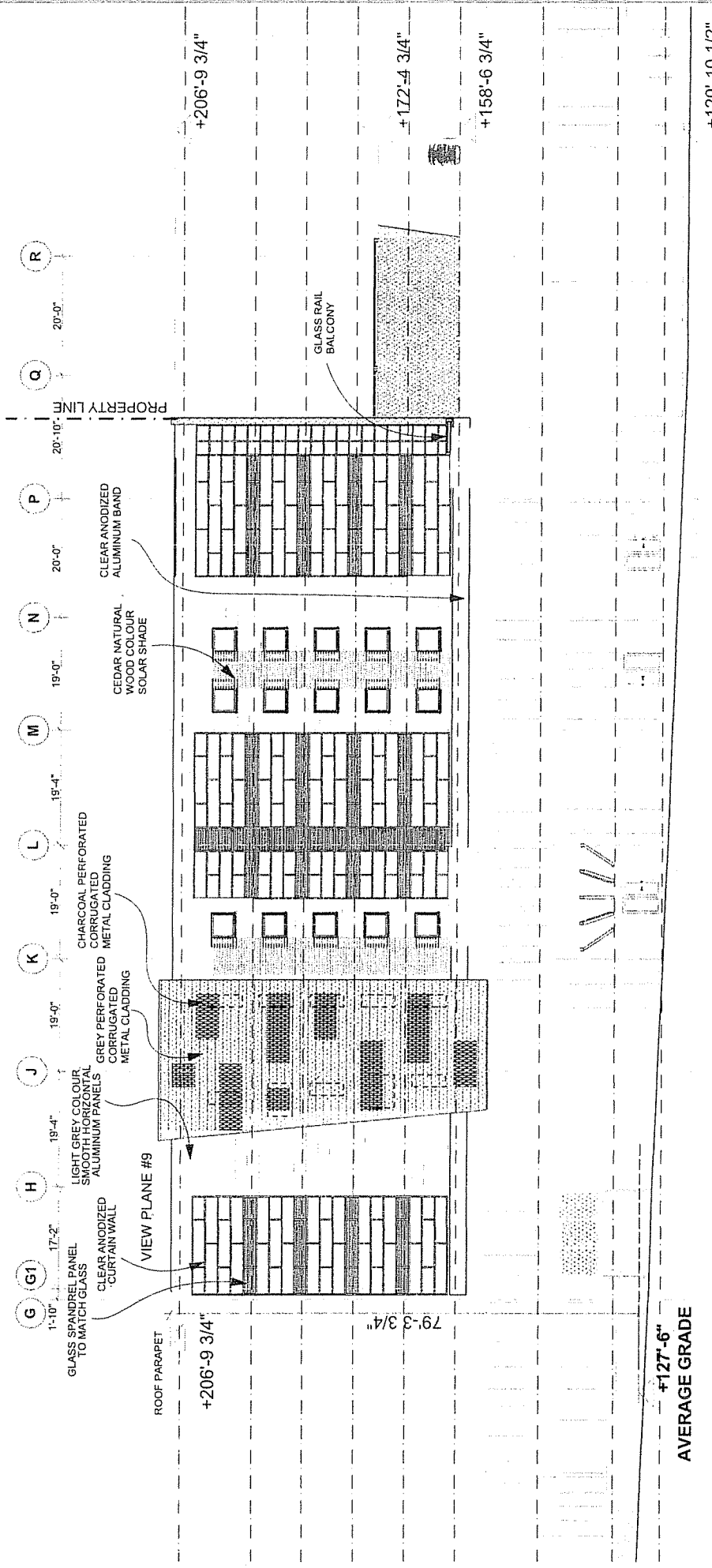
Elevation Birmingham Street

MICHAEL
NADIER
ARCHITECTURE
SEAN FAY OF
HALIFAX, N.S.
TEL 902 468 8822
FAX 902 468 8823

creation
a DEXTEL

apartment building
1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

SCHEDULE: D



E-01

Elevation Dresden Row

Note: Development Agreement does not apply to areas of the existing building identified by a lighter shade.

1/16" = 1'-0"

SCALE IF PRINTED ON 11X17 PAPER

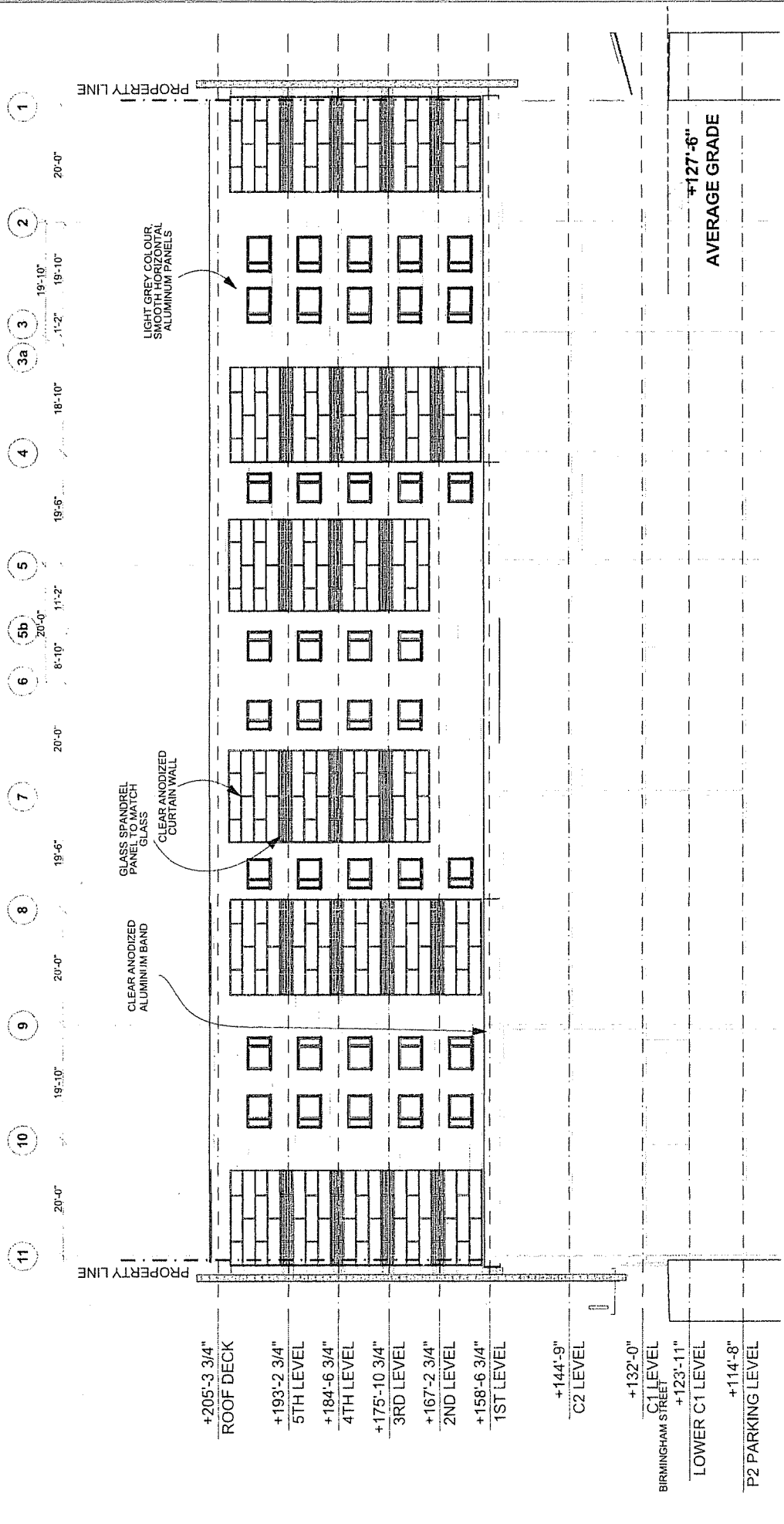
Plotted on 1/7/2010 at 9:26 AM

1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

MICHAEL NAPIER ARCHITECTURE

1520 BIRMINGHAM STREET
HALIFAX, NOVA SCOTIA
TEL: 902 444 4822
FAX: 902 445 5223

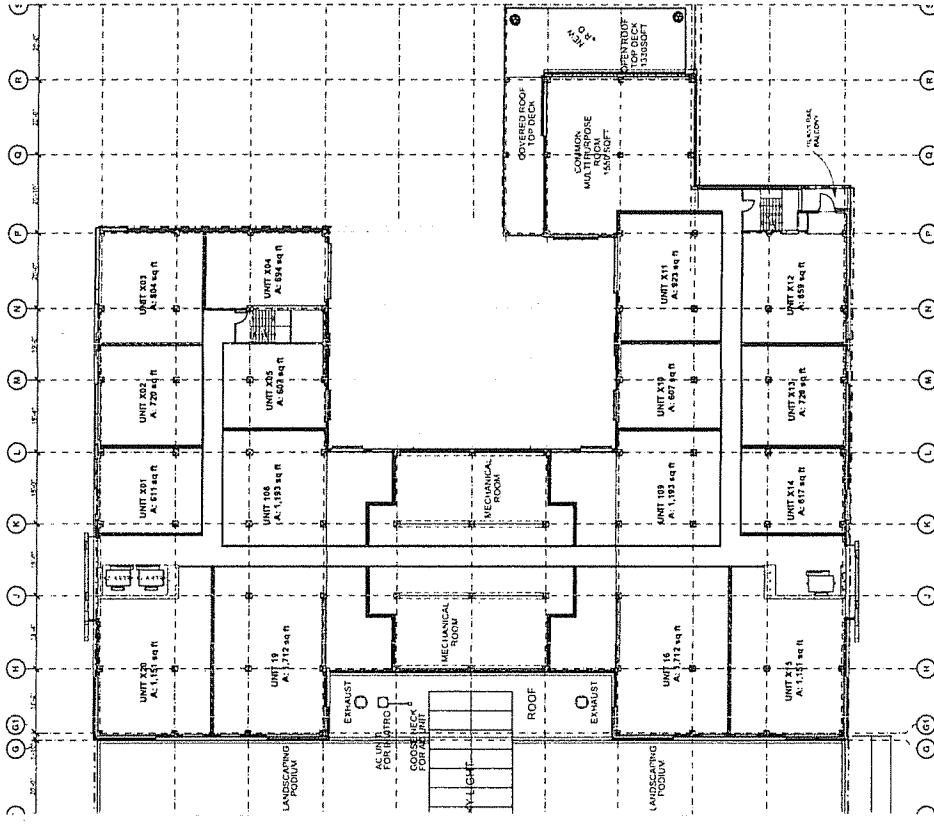
SCHEDULE: B



E-04 North Elevation 1/16" = 1'-0"

Note: Development Agreement does not apply to areas of the existing building identified by a lighter shade.

SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:29 AM



1/32" = 1'-0"

R1-1ST LEVEL

SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:29 AM

creation
MICHAEL
NAPIER
ARCHITECTURE
2540 FAY ST
HALIFAX, NS
B3K 2L5
902-445-5252

apartment building
1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

SCHEDULE: F

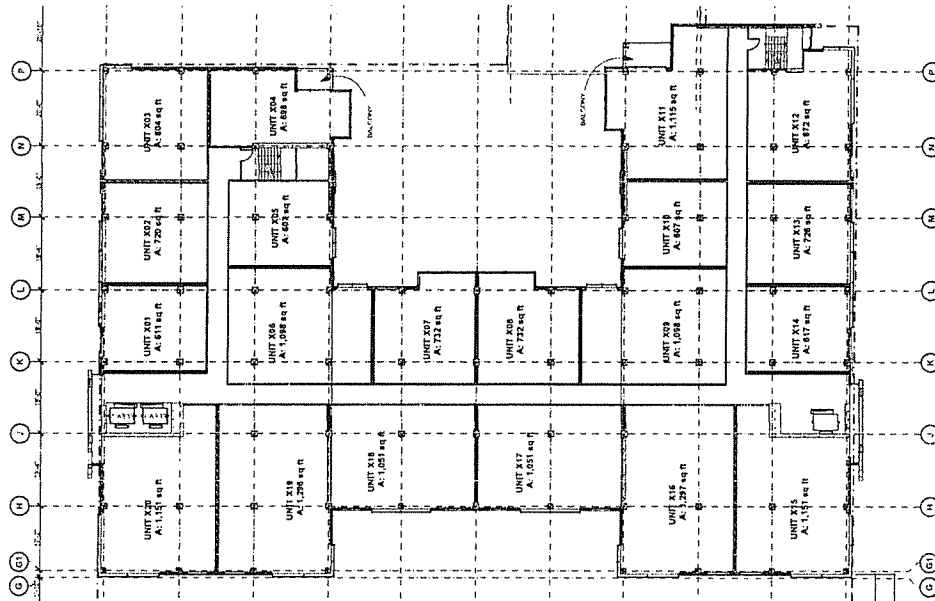

$$1/32" = 1'-0"$$

SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:29 AM

ad **DEXEL** creation

apartment building
1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

SCHEDULE: G



11.

R3-5: 3RD, 4TH, TYPICAL LEVEL

$$1/32" = 1'-0"$$

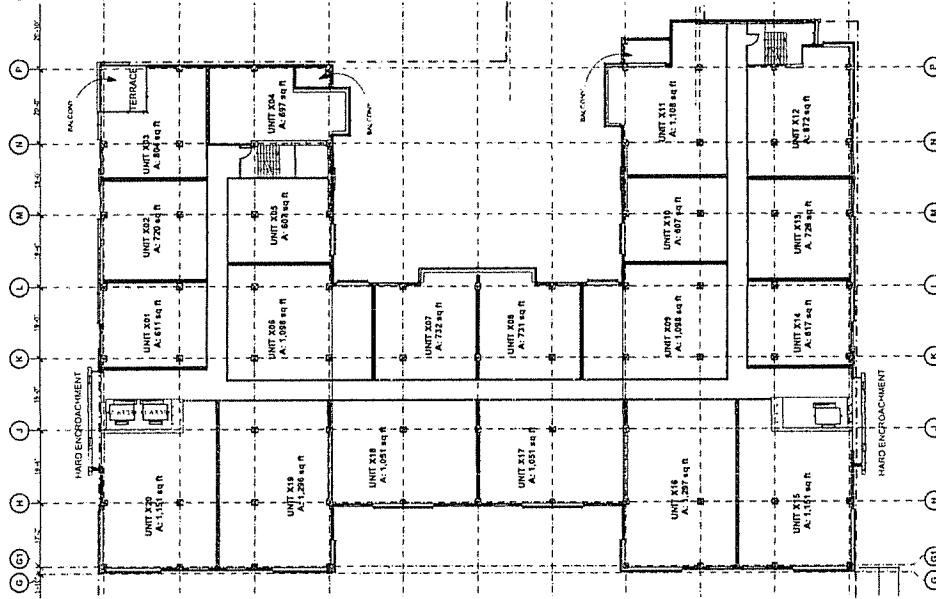
SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:30 AM

adpexel creation
MICHAEL NAPIER ARCHITECTURE
SEAN PATE BY MAILBOX N.B.
TEL 902 488 8822
FAX 902 455 8822

apartment building
1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

SCHEDULE: H

SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:30 AM



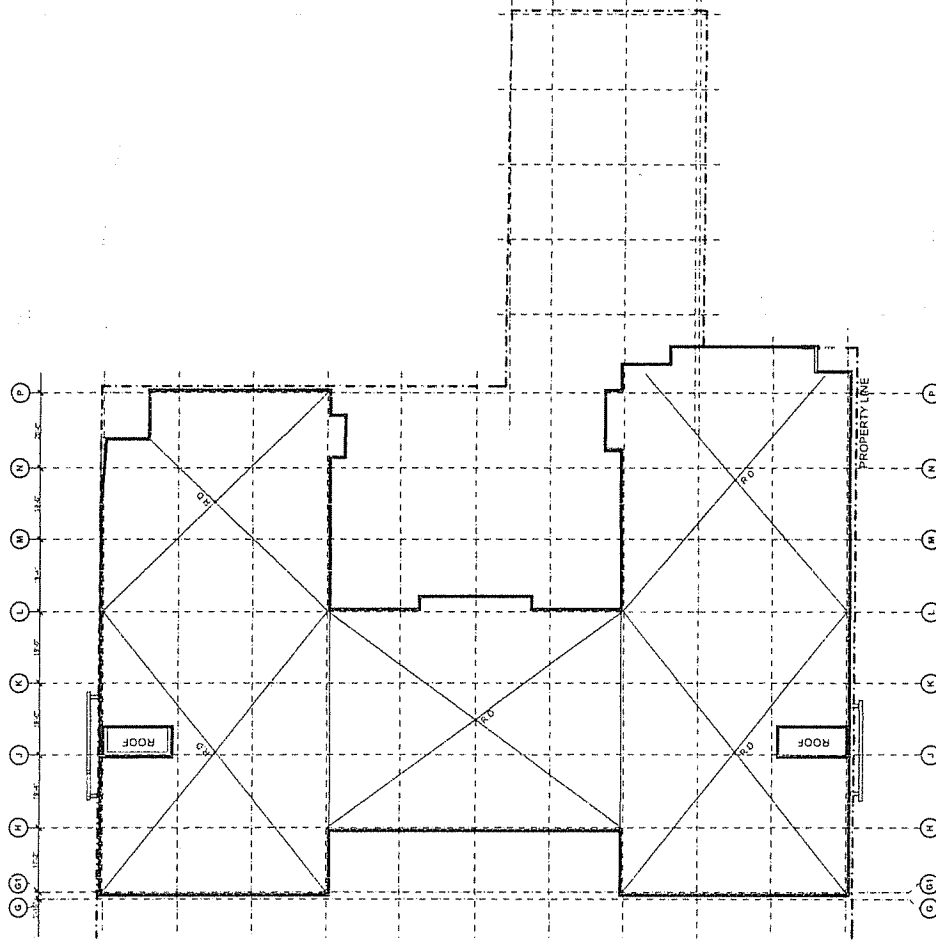
DESIGNED BY
MICHAEL
NADLER
ARCHITECTURE

creation
d PEXEL

1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

apartment building
1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

SCHEDULE: I



14.

ROOF DECK

1/32" = 1'-0"

SCALE IF PRINTED ON 11X17 PAPER
Plotted on 1/7/2010 at 9:30 AM

creation
MICHAE
NAPIER
ARCHITECTURE
4540 FAYE ST
DANFORTH, ONTARIO
M1S 1T4
TEL: 416 445 1922
FAX: 416 445 1923

apartment building
1520 BIRMINGHAM STREET HALIFAX, NOVA SCOTIA

SCHEDULE: J

Attachment B Review of the Spring Garden Road Area Plan Development Agreement Policy Criteria (Regional Plan Policy EC-2)	
Policy	Comment
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:	
(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;	There are no ground floor uses that form part of the proposed development.
(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 development does not include changes to the placement of the existing building relative to front setbacks.
(c) buildings should avoid long, un-interrupted blank walls, especially facing sidewalks or other public areas. Building wall articulations	Part of the south facade will be comprised of a blank wall faces. See the main part of the report for detailed discussion.

Attachment B Review of the Spring Garden Road Area Plan Development Agreement Policy Criteria (Regional Plan Policy EC-2)	
Policy	Comment
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;	
(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.);	Along Birmingham Street, a new entrance will be created as part of the development. Although limited in scope, relative to the building in its entirety, this will enhance the pedestrian environment by introducing a new human scaled element.
(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;	The proposed development is an addition to the top of the existing building. The only part of the development that has an impact upon a building facade along a sidewalk is the new entrance along Birmingham Street. It is to include an awning feature that provides weather protection and is a decorative element.
(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	The new building entrance along Birmingham Street will create a new active area and increase "eyes on the street" at a place that could be partially characterized as a dead space.

Attachment B Review of the Spring Garden Road Area Plan Development Agreement Policy Criteria (Regional Plan Policy EC-2)	
Policy	Comment
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;	
(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;	Royal Artillery (RA) Park is a Registered Heritage Property that is located to the south of Sackville Street. See the main part of the report for additional information.
(h) the upper storeys of buildings should be designed to promote visual interest in the urban skyline;	This is a modest building addition, but it is comprised of building elements that are visually interesting.
(i) consideration should be given to the maximization of sunlight at street level, and to the minimization of any wind tunnel effect;	The proposal creates additional shadowing at the street levels surrounding it, notably on Dresden Row and Birmingham Street. Wind impact is expected at street level is expected to be minimal. See main part of the report for additional information.
(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	There is a common area provided to serve the tenants of the building.

Attachment B Review of the Spring Garden Road Area Plan Development Agreement Policy Criteria (Regional Plan Policy EC-2)	
Policy	Comment
common areas rather than providing more numerous but smaller and fragmented areas;	
(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; and	The residence and hotel proposals are seen as being compatible with the surrounding residential uses.
(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.	These are largely existing features within the existing building and are already located away from street fronts. Any new features are required to be screened.

Attachment C Review of the Relevant Implementation Policy (Regional Plan Policy IM-15)	
Policy	Comment
IM-15 In considering development agreements or amendments to land use by-laws, in addition to all other criteria as set out in various policies of this Plan, HRM shall consider the following:	
(a) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of HRM to absorb any costs relating to the development;	There are costs to HRM related to the development.
(ii) the adequacy of municipal wastewater facilities, stormwater systems or water distribution systems;	There are adequate facilities and systems.
(iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;	There are nearby schools, recreation and community facilities to serve the proposed development.
(iv) the adequacy of road networks leading to or within the development;	The roads surrounding the site are adequate to accommodate the proposed development. A traffic study for the proposal anticipates very limited impact upon surrounding streets.
(v) the potential for damage to or for destruction of designated historic buildings and sites;	Not applicable.
(b) that controls are placed on the proposed development so as to reduce conflict with any adjacent or	

Attachment C Review of the Relevant Implementation Policy (Regional Plan Policy IM-15)	
Policy	Comment
nearby land uses by reason of:	
(i) type of use;	The type of use is similar to the uses surrounding the proposed development.
(ii) height, bulk and lot coverage of any proposed building;	The site of the addition is surrounded by lower and taller buildings and almost identical in height to the Heritage Way residential building, immediately to the north of the site. See the main part of the report for additional discussion.
(iii) traffic generation, access to and egress from the site, and parking;	There is little additional vehicular traffic associated with the development so as to cause a conflict with surrounding land uses. An existing parking garage will be used and has sufficient parking to accommodate the development
(iv) open storage;	No open storage is permitted in the proposed development agreement.
(v) signs; and	There are no signs associated with the development and none are permitted under the terms of the proposed development agreement.
(c) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.	Not applicable.

Attachment D - Public Information Meeting Minutes

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING**

CASE NO. 01227 - Application by Dixel Developments to Construct a Five Storey Residential Addition to City Centre Atlantic, PID 40577215, Located Between Dresden Row and Birmingham Street, Halifax, by Development Agreement.

**7:00 p.m.
Thursday, February 26, 2009
Halifax Hall**

STAFF IN

ATTENDANCE: Richard Harvey, Senior Planner, HRM Planning Services
Shanan Pictou, Planning Technician, HRM Planning Services
Alana Hines, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE: Councillor Dawn Sloane, District 12
Louis Lawen, Dixel Developments Limited
James Bugden, Michael Napier Architects

PUBLIC IN

ATTENDANCE: Approx. 30 people

The meeting commenced at approximately 7:04 p.m.

1. Opening Remarks/Introductions/Purpose of Meeting

Mr. Harvey introduced himself as the Senior Planner and identified that this public information was for Case 01227 - Addition to City Centre Atlantic. Mr. Harvey reviewed the meeting agenda and introduced Councillor Dawn Sloane and the Developer, Louis Lawen, Dixel Developments.

2. A Review of the Planning Process

Mr. Harvey reviewed the Development Agreement process, as per the outline in the PowerPoint presentation, and indicated that this application will require the approval of Council. Mr. Harvey orientated those in attendance on the location of the proposed development (map shown on screen). Mr. Harvey indicated that this application was identified and located as C2D which is a commercial zone within the Spring Garden Road plan area. Prior to August 2006 development in this particular area (Spring Garden Road plan area) was all as-of-right. As-of-right was defined as an area with

particular zoning requirements and zoning regulations put in force by policies and a bylaw. In order for a property owner to develop in this as-of-right area, all the criteria needed to be met and a permit with the planning department could be applied for without any public input. In August 2006 the Regional Plan was introduced and development agreement policies were put into place due to concerns on how development was occurring and as a result the as-of-right development now required a development agreement process and approval of council (for anything greater than 12 meters in height). Mr. Harvey indicated that proposals such as this are subject to policies and referred to the handout on planning strategies and encouraged everyone to consider the application and planning policies during the course of the evening and to ask questions.

3. Presentation of Proposal - by Developer

Louis Lawen introduced himself from Dixel Developments. He identified that this was the same presentation given a few nights prior. Mr. Lawen explained that Dixel Developments is a family company based in Halifax that designs, develops, builds, and manage apartment complexes. Mr. Lawen went on to show and identify some of Dixel's apartment complexes in the Halifax area such as the Waterford, Hillside Suites, Acadia Suites, W Suites just to name a few. Mr. Lawen indicated that all of Dixel's apartment complexes are condominium equivalent and of a high quality. Mr. Lawen gave a brief history of the proposed development indicating that City Centre Atlantic was planned in the late 80's and build in 1990 with three phases. Phase 1 was commercial, Phase 2 was the condo building also known as Heritage Way, and Phase 3 is now Dixel's proposal of a five storey addition. Mr. Lawen indicated that the addition will be similar to Heritage Way, a stand alone building, with its own systems and entrance (renderings shown). The proposal includes no balconies, at least five (5) appliances, a common area in the building, multipurpose room, a gym, outdoor and covered deck with an outdoor kitchen. The proposal also includes a separate entrance to the building for the residents.

Mr. Lawen turned the presentation over to his architect to give a brief description of the architectural features of the proposal. James Bugden introduced himself from Michael Napier Architects in Halifax, the Architect Consultants on this project. Mr. Bugden discussed the location and that this proposal promotes urban living. Mr. Bugden discussed the building materials for the proposal and identified that these materials are not uncommon to the area and this is reflected in the design while giving the addition its own identity (rendering shown from Dresden Row).

A resident asked the applicant to explain the orientation/location of the renderings being shown. Mr. Lawen, using the renderings on the screen, identified surrounding areas to give an orientation where the addition would take place.

Mr. Lawen thanked Mr. Bugden and continued on with his summary on the layout of the building (a site plan was shown). Mr. Lawen indicated that the proposed building is within the allowed height limits and also noted that the site is covered by two view planes (from Citadel Hill) called number

9 & 10. Mr Lawen confirmed the proposed building does not penetrate any of these view plans. A resident asked for a further explanation on what a view plane was. Mr. Lawen explained that the City has a map that shows certain view points (horizontally and vertically) from Citadel Hill which cannot be broken (part of the planning rules with the City). Mr. Lawen again confirmed that the proposed addition is 100 percent within the allowable view plane.

Mr. Lawen said that there was a question from the presentation he held previously in regards to height limits on Spring Garden Road which allows for light. The requirement is 55 feet and must be at a particular angle. He demonstrated this within the PowerPoint presentation. Mr. Lawen further discussed constructability methods for the proposed addition and indicated that there is no intention for loading off Dresden Row. This concluded Mr. Lawen's presentation.

4. Questions/Comments from the public

Mr. Harvey opened the floor to public questions/comments.

Jane Gordon, Chair of the Condominium Board for Heritage Way wanted to express some of her concerns as well as speak on behalf of concerned residents at Heritage Way. Ms. Gordon explained that Heritage Way is an owner occupied building, fairly stable with very little turn over, and said the owners consider Heritage Way their home and life investment. Residents of Heritage Way expressed a number of concerns to Ms. Gordon and the major issue is their ability to have quite enjoyment of their homes. She indicated that there are a number of concerns people have about the construction process and after the construction is finished. Ms. Gordon said many residents lived through the construction of the Martello and the noise and the crowding on the streets during this phase made the lives of these residents unpleasant. The construction (for the proposed addition) will increase the amount of traffic, vehicular and/or pedestrian, on Birmingham Street, for example. The additional traffic means additional noise and air pollution and this is a concern for those in the building who appreciate the tranquility of the neighbourhood - it has noise but is not constantly noisy. Second concern is about the population increase in density. It is the downtown core, and they realize this, but feel buildings with homeowners are some how more stable and more concerned about the quality of life in the neighbourhood than buildings that have transitory populations, as in rental accommodations. Another set of concerns arises out of the issue of crowding streets and the crowding of traffic and access in case of emergencies. Ms. Gordon indicated that it is not only in the winter months that the traffic piles up on Birmingham Street and Dresden Row and they are worried about what would happen in the case of a fire emergency - can a fire truck/ambulances get through. Can peoples needs for quick help be met with the volume of traffic that will be there during construction and afterwards. According to Ms. Gordon, residents are also concerned with grid lock in their neighbourhood. A third set of concerns is the impact of the construction on the property values to the homeowners in Heritage Way and feels that having neighbours this close to Heritage Way will be a detraction to the quality of life in the Heritage Way building. Finally, there are concerns on the human scale of Spring Garden Road. Although there are setbacks and proper angles

for sunlight to be met, etc., Ms. Gordon feels there is currently a low human scale shopping area and feels the more there are taller buildings encroaching upon it the more unpleasant it becomes to the human scale where someone can feel at one with their physical environment. She also commented that open space access will become more crowded, such as the Public Gardens, with development. Ms. Gordon concluded that these were the concerns from the residents at Heritage Way and they welcome the opportunity to participate in every way they can in the process.

Roxanne Grant, resident of Heritage Way (an original owner), said besides creating all kinds of noise, this proposed addition will block the sun on her side on the building (Birmingham side), which she relies on for solar heating, especially in the winter time. Ms. Grant was also concerned with wind tunnels that would be created by the proposed building and how the various systems for the proposal would work. Ms. Grant indicated that Heritage Way and City Centre are very connected, they are not two separate buildings, and the security and fire systems along with several other systems are all connected. She feels the addition of systems to the addition will be a problem, especially with the cost sharing of systems currently in place. Ms. Grant said she feels this proposal will wreak her condo.

Mr. Harvey thanked Roxanne and Ms. Gordon and asked Mr. Lawen to comment on some of the following concerns: environmental effect of the wind tunnel, sun light (block), security of the building.

Mr. Lawen first commented on what he feels is a misconception on renters versus owners. Mr. Lawen indicated that just because people rent, it doesn't mean it is not their home, it is their home as much as anyone who owns or rents. Mr. Lawen invited everyone present to visit anyone of Dixel's Apartment Complexes to see the quality of the buildings and indicated that he has many renters who have rented their apartment for 10 years and considers their apartment their home.

Roxanne Grant said that was not what they were trying to say, what they meant was that renters tend to move more often than people who own their own condos and owners take more care as it is their life investment.

Mr. Harvey indicated that this point had been noted and it is really not a significant planning issue in terms of recommendation or refusal of this application. It is not a basis on which council would make a decision.

Mr. Lawen advised that there would be no cost to Heritage Way (owners or the Condo Corp) of any kind, any costs incurred that had any effect to the development will be solely the responsibility to the development itself. With respect to shared costs, if anything, Mr. Lawen would anticipate that the costs would be reduced as it would be shared then by Heritage Way, City Centre Atlantic and the owners of this new building. With respect to the separate systems, the sewer that enters into the building will be tied into at the property line at the last section of the building. Heritage Way has it's

own sewer going out of the building and has it's own water supply into the building. With respect to the electrical service, Mr. Lawen indicated that there have been breakers that have been in place for 20 years for this addition. The new addition will have it's own meter and breaker. Sprinklers will be the same as what is currently in place, however, if a sprinkler was to go off in the proposed addition it would not go off at Heritage Way. This is what Mr. Lawen meant when he referred to the building as having separate systems, they are stand alone for each building.

Part of the reason the new addition is broken into three facades is to break up the plane so that a wind tunnel is not created.

Mr. Lawen acknowledged Ms. Gordon's comments and agreed with some of them with regard to urban development, but the unique thing about this project is that it has nothing to do with green space, it is being built on an existing roof, green space/parks/backyards are not being taken to do this development.

With respect to value of the condo's, Mr. Lawen said that it is not the intention that they build a third class property, but a first class building. Mr. Lawen indicated that the addition is approximately a 15 to 20 million dollar investment and with this type of investment values don't normally go down, they go up.

Mr. Lawen showed a short 3D visual (movie) which showed how the sunlight rises and sets within the area in the month of June and the shadows that are cast. Mr. Lawen acknowledged that buildings cast shadows on buildings, and this cannot be changed no matter what. He also showed this 3D visual showing the sun in the month of December. Roxanne Grant indicated that as seen from the visual, a shadow will be cast. Mr. Lawen agreed, and indicated this shadow is no different than the shadow that the Heritage Way casts on other surrounding buildings. Mr. Bugden added that there are also existing buildings in the area that are casting shadows to the area in question already.

Dr. Wally Geldart, resident of Heritage Way, said that clearly shadows exist, but part of the planning process as he understands it is to improve the area and there is no doubt in his opinion that the question of shadow will have an impact on people who want to make commercial development on the side streets (if this addition was to take place) and this is where there is room for growth.

Katherine Perrott agreed with the Architect that this is a very exciting spot to be able to do a design, but was concerned with policy 5.1.2, page 82[c] of the hand out, which states "buildings should avoid long, un-interrupted blank walls, especially facing sidewalks or other public areas..." realizing this is above the street level, there seems to be a blank wall facing Spring Garden and wanted to know about the materials being used for this wall and why windows are not being used.

Mr. Lawen acknowledge this and said that the property was designed 20 years ago and the addition to the building will be on the property line. He further said that if you are not on a corner, you would

not add windows. If future development occurs and they too build up to the property line then any windows would be then facing a blank wall. Ms. Perrott asked Mr. Harvey what were the chances of another building being built on top of the CIBC building, especially with HRMbyDesign coming up with certain requirements. Mr. Harvey said it is possible, but indicated that there are specific planning regulations along Spring Garden Road that would need to be met. This is also somewhat of a building code issue as well as a fire rated wall is required. Ms. Perrott's recommendation to the Developer was to not build up to the property line, set it back and add some windows so that the building can respect Spring Garden Road better.

Councillor Dawn Sloane wanted to mention that with HRMbyDesign that when you get to the 55 foot point, but after that point it would have to be set back, then go up, and then set back so that there wouldn't be blank walls and suggested that this might be something the developer may want to look into. Mr. Lawen indicated that this was looked at and they were able to do this on one side, but not on the side in question. He also mentioned that this wall is not in the view plane of pedestrians on Spring Garden Road.

Kaila, resident of Heritage Way, made some comments about renters versus owners. She also wanted to know what would happen to the building and other buildings when construction occurs, regarding cracks.

Mr. Lawen acknowledge Kaila's concerns and indicated that the actual building was designed for this addition and indicated that Dixel went through the design with the original engineer and had a structural engineer go back through and review the original design and confirm that this is structurally sound to build this addition. Mr. Lawen said that the Heritage Way building should not crack because of the addition. Mr. Lawen further commented that Dixel operates approximately 750 properties in the city of Halifax and every building of this nature would have somebody in there taking care of it 24 hours a day. Mr. Lawen stated that they do not rent to people that Kaila was referring to (rowdy students). They advertise their buildings as non-smoking, no pets, and have a no noise policy, there are strict renting rules associated with their buildings. Mr. Lawen said their buildings are kept at a high standard and again invited everyone to visit one of their existing buildings to see for themselves, he said this building would be no different.

Mr. Lawen indicated that this development is not a surprise, it was part of the original plan and was brought forth to the original condo owners. A resident indicated that she believed there was a time limit in the contract associated with the original agreement for construction of this proposed building (Phase 3) and this time has expired. Mr. Lawen advised he not aware of this contract.

Kaila asked about window replacement if her windows crack. Mr. Lawen said there are very strict building codes/rules that must be followed, it is not a building made of stick and stones, and will be subject to inspections by the City.

Rachel Darrah, Community Designer who lives and rents in downtown Halifax, wanted to piggy back on a couple of comments made earlier. Ms. Darrah said the traffic issue is very important and the budget is being prepared by HRM and a lot of money is going towards transportation and it would be good if the Condo Board could write a letter to them HRM about this matter. Ms. Darrah commented on the quality of life as a resident renting and living downtown. She indicated that she wants to live in a vibrant area and there are many shops in the downtown closing rapidly so the development is good. She also feels there is a housing gap in the downtown area and based on what has been presented she'd be happy to have this development in her back yard.

Doug Caine, resident of Heritage Way, asked what requirements were there for parking for this type of development and asked how the development would effect the current underground parking situation.

Mr. Harvey indicated that there are parking regulations in place and they are based on the number and type of dwelling. Mr. Lawen indicated that the proposed addition is for 96 apartments or less and the requirements for commercial parking is one space for every 1,000 square feet. In this case there is 12,800 square feet of commercial space which is equivalent to 128 parking spaces. The remainder of the parking would meet the standards in the Land Use By-law.

Dr. Wally Geldart commented on renters versus owners. Dr. Geldart feels this area is a special area that has owners who are seniors and suggest there is a difference between renters and owners when someone's life savings are put into their home compared to renters. Dr. Geldart indicated that this seems like a great project but thinks it would be great some place else. Dr. Geldart further commented on traffic density and believes that the traffic density has doubled since Pete's Frootique came to the area. Dr. Geldart believes by adding an additional 100 units to this area will add more congestion to Birmingham Street and considers it a danger to public safety.

Mr. Lawen addressed the comment on renters versus owners again and explained that apartment renting is not the same as the old standard of renting. As for traffic, Mr. Lawen indicated that his company hired a professional engineer (a traffic consultant) who indicated there would be no impact to traffic with this addition. Dr. Geldart disagreed and said there would be more stress added to the street with the addition of more residents.

Joanne Macrae, who lives and owns a business in the downtown, said she rents and considers her rental accommodation her home, which she has resided at for the last 7 years, and feels it is important for the City to look at and consider developments like this.

Carol Rankin, VP Condominium Corporation from Heritage Way wanted to state that she agrees with all of her neighbours and can't believe that HRM is considering this development to take place.

Joanne David, identified herself as Mr. Lawen's sister and a business owner of two business in the downtown area and believes that downtown development is good and is required. She also feels if more people lived and worked in the downtown area it would help with the traffic issues.

Councillor Dawn Sloane said that she is a member of the Spring Garden Road Business Association and indicated that the association has not yet discussed this proposed development, however wanted to let those in attendance know that HRM will be having more free transit to the downtown area which will help people navigate in the downtown core.

Roxanne Grant said that construction noise will impact residents, especially the elderly residents and is concerned what the noise will do to her hearing long term.

Mr. Lawen explained about construction joints and how they help to buffer out the construction noise and indicated that every effort would be made to reduce construction noise.

Ms. Gordon asked about the noise at night, as she has experienced construction of this type in the past and has little faith in the public system with respect to regulations surrounding this issue.

Mr. Lawen said there will be noise with construction and the noise Ms. Gordon was referring to was probably the finishing of concrete at night and that every effort would be made to reduce noise with this development.

Roxanne Grant also expressed concern with construction noise she has experienced in the past.

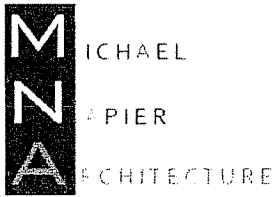
5. Closing Comments

Mr. Harvey thanked everyone for attending that noted that it was 9:05 pm and that the meeting was only scheduled for two hours. He provided his contact information and welcomed anyone to contact him if they had any further concerns not brought up at the meeting.

6. Adjournment

The meeting adjourned at approximately 9:05 p.m.

Attachment E - Shadow Impact Statement



5540 Kaye Street
Halifax, Nova Scotia
B3K 1Y5

Tel 902 455 5522
Fax 902 455 5523

December 21, 2009

Planning Applications
Planning & Development Services
PO Box 1749
Halifax, NS
B3J 3A5

Attention: Mr. Richard Harvey

**Re: Development Agreement Application
Proposed Residential Building
City Centre Atlantic, 1520 Birmingham Street**

The proposed project is situated above the existing City Centre Atlantic (CCA) complex. This retail and commercial centre is situated on a city block that is bound by Spring Garden Road to the south, Dresden Row to the west, Artillery Place to the north, and Birmingham Street to the east.

The existing complex has a three level underground parkade with a two to three storey podium that houses the retail and commercial functions. These include major retail tenants such as HMV, Pete's Frootique and several restaurants. Above this base, located to the north on Artillery Place, is *Heritage Place Condominium (HPC)*, a six-storey residential condominium building. The roof top area to the south of *HPC* consists of a small mature landscaped area, a major skylight over the interior retail mall and various mechanical equipment serving the retail and commercial areas. CCA was originally approved with the anticipation of an additional built-space to be constructed on a portion of this roof area.

This proposed new residential building will be located above the existing retail complex approximately 58'-0" from the adjacent *HPC* on the southern portion of CCA's roof. This positioning maintains the existing landscaped area, as well as, allows for the retention of the majority of the retail skylight. The 'U' shaped building will have a footprint of approximately 23,000 square feet and be five stories high. This height is lower than the adjacent *HPC* due to current 'View Plane' regulations.

Matching the street relationship of the adjacent *HPC*, the proposed residential complex's vertical walls will be aligned with the street walls of the base below on Birmingham Street and Dresden Row. The five-storey portion of the proposed building is between eighty and one hundred feet from Spring Garden Road. A single storey annex, which will be a common area on the podium, is set back sixty feet from this major

retail artery. Neighboring properties include three-storey row housing (converted for commercial use), the Park Lane commercial complex with The Martello condominiums above (fifteen stories), an eight-storey office complex, as well as, a variety of commercial buildings along Spring Garden Road including Spring Garden Place with its own eighteen-storey condominium above.

Situated on the existing base building, this proposed five-storey residential element will be approximately eight stories above grade at Birmingham Street and Dresden Row. Approximately two of these five stories will be above this area's sixty-foot *Streetwall* height (building height at sidewalk line) as defined in *HRMbyDesign*. If the proposal were to comply with the *Streetwall*, the top two residential stories of the proposed building would be setback 10'-0" from both Dresden Row and Birmingham Street.

The statement that follows summarizes the shadow impact study as it was simulated through computer modeling. Four observation periods were recorded through time animation. These include the winter and summer Solstice - being the least and most intrusive time periods - and the spring and fall Equinox -the midpoints between. These individual observation periods started at sunrise and were recorded at fifteen-minute intervals until sunset.

The results describe the effects that the proposed building will have on the shading of the surrounding area in comparison with the existing condition, as well as, a proposed building that would adhere to *HRMbyDesign's Streetwall* height. The shadows cast by the proposed building will directly affect Dresden Row to the west, the south elevation of the adjacent *HPC* to the north, and Birmingham Street to the east. The proposed building, due to its location to the north and its distance from Spring Garden Road has no impact on this street.

Fall Equinox (September 22)

Dresden Row: On September 22 all three versions shade - in some capacity - Dresden Row until 10:00am when the road experiences full sun. During these hours the existing complex creeps to the east sidewalk quicker than the other two versions of the proposal (at 9:00am only the sidewalk is in shade, while a little under 50% of the road is shaded by the proposals). The differences in shading between the proposal with and without the 10'-0" setback is negligible.

Birmingham Street: The existing complex begins to shade the street between 10:00am and 11:00am beginning with a sliver of the west sidewalk and completely shading the street between 2:00pm and 3:00pm. Both iterations of the proposed project also begin to shade Birmingham between the hours of 10:00am and 11:00am. By 12:00pm, the proposal without a setback has almost completely shaded the street, while at this hour the proposal with the setback casts a shadow on approx 50% of the street. Both proposals fully shade Birmingham Street by 1:00pm.

Heritage Place Condominium (HPC): At this time of the year, the south elevation of HPC currently experiences full sun from sun-up to sundown. Its elevation is effected by both proposals (with and without the setback) equally. Beginning at sunrise (approx 7:00am) the bottom three floors are in shadow (excepting the bay on the far east which has full height sun); at 8:00am the first two floors are in shadow; at 9:00am only the first floor is in shadow. At 10:00am only the landscaped roof is partially shaded by both proposals.

From between 10:00am and 11:00am the south elevation of HPC experiences full sun until sundown.

Winter Solstice (December 21)

Dresden Row: All three versions shade Dresden Row until 9:15am.

Birmingham Street: Currently Birmingham Street begins to experience shadow from CCA at 10:15am when the west sidewalk is shaded. The shadow creeps across the street until 1:15pm when it begins to also extend up the faces of the buildings on the east side of Birmingham Street; the upper faces of these buildings are shaded by 2:15pm and are in full shade by 3:15pm. When looking at how the proposed residential building affects the shading on Birmingham street, a 10'-0" setback makes no difference. At 10:15am, a shadow begins mid building and extends up and across Birmingham Street to meet Queen Street. At 11:15am, the shadow begins to extend up the faces of the buildings on the east side of the street; the upper faces of these buildings are in full shade up to the roofline by 12:15pm. From 1:15pm on Birmingham Street and its buildings are in full shade.

Heritage Place Condominium (HPC): Currently the south elevation of HPC experiences limited shade until 10:15am. Beginning at 2:15pm, a shadow from the existing Martello Condominiums begins to shade the northwest corner of HPC, completely shading the building by 3:30pm. When looking at how the proposed residential building affects the shading on HPC, a 10'-0" setback makes no difference. In the first part of the day, the south elevation of HPC is in full shade except for the top floor at 8:15am, the top two floors at 9:15am and the top three floors at 10:15am. At 11:15 the west bay of HPC's south elevation experiences full sun while the remaining elevation is in shade except the top four floors. At 12:15pm the west bay still experiences full sun, as does the remainder of the elevation except the bottom floor. For the remainder of the day, the proposed residential building does not cast any shadow on the south elevation of HPC. This elevation enjoys full sun until a shadow from the existing Martello Condominiums begins to cast shadow beginning at 2:15pm.

Spring Equinox (March 20)

Dresden Row: Currently, CCA shades Dresden Row from sun-up until 9:15am. At this time only the east sidewalk is in shade. This road does not experience any shadow from CCA from 10:15am on. In both proposals, CCA shades Dresden Row from sun-up until 10:15am at which time only the east sidewalk is in shade. Dresden Row does not experience any shadow from either proposal from 11:15am on.

Birmingham Street: Birmingham Street begins to experience shadow from all three versions by 1:15pm. Both the existing complex, as well as, the proposal with the 10'-0" setback cast a sliver of shadow on the west sidewalk, while the proposal without the setback shades approx. 50% of Birmingham. Currently, at 2:00pm the east sidewalk on Birmingham Street is in shadow; 50% of the street is shaded with the setback proposal and almost 100% of the street is shaded by the proposal without a setback. The existing complex completely shades Birmingham Street by 5:15pm while both proposals completely shade the street by 3:15pm.

Heritage Place Condominium (HPC): At this time of the year, this property does not cast any shadow on the south elevation of HPC.

Summer Solstice (June 21)

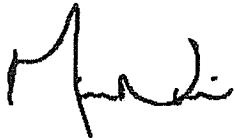
Dresden Row: Currently Dresden Row is shaded by CCA, in varying degrees, from sun-up to 11:15am. Both versions of the proposal stop casting shadow on Dresden Row one hour later.

Birmingham Street: Both the current CCA, and the CCA with proposed residential building begin shading Birmingham Street at approx. 1:15pm, with the existing CCA shading just the west sidewalk, the proposal without a setback shading ~30% of the street, and the proposal with a setback shading ~20% of the street. The shadow continues to creep across Birmingham Street in all three instances until both proposals cast a shadow over the entire street and the faces of the buildings on the east side of the street at 5:15pm. The existing complex completely shadows the street and the buildings on the east side of the street at 6:15pm.

Heritage Place Condominium (HPC): The south elevation of HPC does not experience any shading from the existing or proposed CCA at this time of the year.

In summary, both Dresden Row and Birmingham Street are affected by additional shading due to the proposed residential building above the existing City Centre Atlantic. Dresden Row has added shade early to mid morning for most of the year. Birmingham Street has added shade early to mid afternoon for most of the year. The adjacent Spring Garden Road does not receive further shade from this project except late evening on the Summer Solstice. There is little difference in overall shading between the proposed structure and the *HRMbyDesign* compliant upper storey setback. This setback is recognized as minor spikes/cuts in shadows reaching the ground but would not be readily discernable to the casual passerby. The adjacent Heritage Place Condominium building will see a decrease in sunlight on its Southern facade but, given its location in the centre of a downtown business district, will still benefit from a large degree of sun exposure. Overall, given the relative nature of these streets with their North/ South orientation, narrow street widths, relatively tall existing buildings and the tree canopy on Birmingham Street, the additional shading produced by this proposed addition will have little effect on the use and enjoyment of these streets.

Regards,

A handwritten signature in black ink, appearing to read 'Michael Napier', with a stylized, cursive script.

Michael Napier NSAA

Attachment F - Wind Impact Statement

December 10, 2008

Planning Applications
Planning & Development Services
PO Box 1749
Halifax, NS
B3J 3A5

Attention: Mr. Richard Harvey

**Re: Development Agreement Application – Proposed Residential Building – City
Centre Atlantic – 1520 Birmingham Street
Wind Impact Statement**

The proposed project is situated above the existing City Centre Atlantic complex. This retail and commercial centre is bounded by Spring Garden Road to the south, Birmingham Street to the east, Artillery Place to the north and Dresden Row to the west. The complex has a four level underground parkade with a two storey podium housing the retail and commercial functions. These include major retail tenants such as HMV, Pete's Frootique and several restaurants. Above this base, located at the northern extent along Artillery Place, is Heritage Way, a six storey residential condominium building. The roof top area to the south of this consists of a small mature landscaped area, a major skylight over the interior retail mall and various mechanical equipment serving the retail and commercial areas. Originally when the Centre was approved there was provision for additional built-space to be constructed on a portion of this roof area.

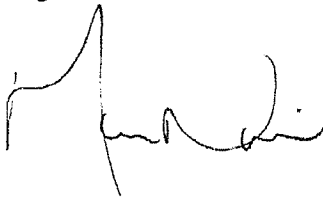
It is proposed to locate the new residential complex closer to the southern portion of this roof, maintaining the existing landscaped area with the two residential buildings being approximately fifty-eight feet apart. This positioning allows the retention of the majority of the retail skylight. The 'U' shaped building, with a footprint of approximately 23,000 square feet, will be lower than the adjacent six storey condominium building in height due to View Plane regulations. The vertical walls on Birmingham Street and Dresden Row will be aligned with the base below, matching the configuration of the existing condominium building. The five storey portion of the proposed building is between eighty and one hundred feet from Spring Garden Road. A single storey annex which will be a common area on the podium roof is set back sixty feet from this major retail artery. Neighboring properties include rowhousing (converted for commercial) at three stories, the Park Lane commercial complex with The Martello condominiums of fifteen stories above, an office complex of eight stories and a variety of commercial buildings along Spring Garden Road including Spring Garden Place with its own eighteen storey condominium above. This five storey residential element when situated on the existing base building form will have an approximate eight storeies above grade height. Approximately two of these stories will be above the *Streetwall* height (building height at sidewalk line) of sixty feet in this area in the proposed *HRMbyDesign*. This affects the Birmingham and Dresden elevations. Future building projects in the area will therefore be of similar scale.

continued

Various factors were explored during the Preliminary Design phase of the project. Many of these were directly influenced by concerns of the effects on the building and the surrounding area by wind. All of the adjacent streets are adversely affected in some portions by excessive wind velocities. Some of this is caused by a *Streetwall Channeling* effect where the wind blows parallel between adjacent building faces. With the prevailing winds the channeling is most prevalent on Birmingham and Dresden. These winds from the Southeast and North are funneled onto the streets great distances from the actual site. The streetwalls ranging in height from approximately 30-50 feet in height contain these horizontal winds. The proposed extended height above the existing City Centre Atlantic streetwall should have no additional affect on pedestrians at sidewalk level on these streets. *Downwashing Flow* occurs when wind strikes tall vertical surfaces and cascades accelerating to the ground below. Buildings as tall as the adjacent Martello condominiums would contribute to this affect. Its placement on the raised base of Park Lane helps mitigate the affects on sidewalk pedestrian traffic. The much lower status of the proposed building negates to a large degree this Downwashing phenomena from occurring. With a north wind, Spring Garden Road would be unaffected to a large extent due to the large setback and the low podium base and adjacent two to three storey buildings fronting the street. The southerly breezes striking the building would have no affect on Spring Garden, again due to the setback, while Artillery Place to the north is buffered by the existing condominium building. Winds from the east and west could have the most impact for Downwashing on Dresden and Birmingham but are the least frequent prevailing conditions. This coupled with the low propensity for this phenomena to occur in this mid rise configuration would mean little additional affect on pedestrian traffic or at building entrances.

In summary our inherently windy coastal location will always present challenges for pedestrians navigating our street grid. We feel that the proposed building at 1520 Birmingham Street will create a built form which will not add appreciable wind conditions to this area of Halifax.

Regards,



Michael Napier NSAA

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

5540 KAYE STREET
HALIFAX
NOVA SCOTIA
B3K 1Y5
TEL 902 455 5522
FAX 902 455 5523

Attachment G - Traffic Impact Statement

Atlantic Road & Traffic Management

Traffic Engineering Specialists

PO Box 25205
Halifax, NS B3M 4H4

Phone (902) 443-7747
Fax (902) 443-7747
email traffic@ns.sympatico.ca

December 8, 2008

Mr. Louis Lawen, P. Eng.
Dexel Developments Limited
1254 Hollis Street, Unit #100
HALIFAX NS B3J 1T6

0896

**RE: Traffic Impact Statement - Proposed City Centre Atlantic Phase III,
Spring Garden Road, Halifax, NS**

Dear Mr. Lawen:

Dexel Developments Limited is preparing plans for the addition of about 100 apartment units to the existing City Centre Atlantic complex, CCA III (Figure 1). This is the Traffic Impact Statement that you have requested for use in making development applications to Halifax Regional Municipality (HRM).

Development Description - The project will involve the addition of about 100 apartment units on five floor levels to be constructed above the existing City Centre Atlantic complex (Figure 1). The existing street level building foot print for City Centre Atlantic will not be altered by this project. Parking will be provided from existing parking spaces in the commercial parking levels of City Centre Atlantic which are accessed from an existing entrance on Birmingham Street (Figure 1).

Trip Generation - *Trip Generation, 7th Edition* (Institute of Transportation Engineers (ITE), Washington, 2003) provides trip generation rate estimates for AM and PM peak hours for various land uses. Trip generation estimates for the proposed development are included in Table 1. Since the development is in the Central Business District and is expected to have much higher than the average pedestrian and transit use, published trip generation rates for the proposed land uses have been adjusted as indicated in the notes included with Table 1. It is estimated that the proposed 100 apartment units will generate 19 trips (5 in and 14 out) during the AM peak hour and 23 trips (14 in and 9 out) during the PM peak hour.

Table 1 - Trip Generation Estimates for City Centre Atlantic Phase III Development									
Land Use ¹	Number Units ²	Trip Generation Rates ¹				Trips Generated ²			
		AM Peak		PM Peak		AM Peak		PM Peak	
		In	Out	In	Out	In	Out	In	Out
High Rise Apt ³ (ITE 222)	100 units	0.05	0.14	0.14	0.09	5	14	14	9
NOTES: 1. Trip generation rates are 'vehicles per hour per unit' as published in <i>Trip Generation, 7th Edition</i> , Institute of Transportation Engineers, 2003. 2. Vehicles per hour for peak hours. 3. The lower published average trip generation rate for a High Rise Apartment (Land Use 222) has been used to account for expected high pedestrian and transit use by residents.									

Trip Distribution and Assignment - Since trip generation estimates have considered the higher than average pedestrian and transit usage anticipated from building occupants, all trips generated by this development have been considered as primary trips. The apartment units will use existing underground parking spaces in an existing commercial parking garage, and will access Birmingham Street using the existing parking garage entrance. Traffic will then have access to the regional street network by way of Queen Street and Sackville Street to the north and Spring Garden Road to the south.

Summary and Conclusions -

1. The project will involve the addition of about 100 apartment units on five floor levels to be constructed above the existing City Centre Atlantic complex. The existing street level building foot print for City Centre Atlantic will not be altered by this project. Parking will be provided from existing parking spaces in the commercial parking levels of City Centre Atlantic which are accessed from an existing entrance on Birmingham Street.
2. It is estimated that the proposed 100 apartment units will generate 19 trips (5 in and 14 out) during the AM peak hour and 23 trips (14 in and 9 out) during the PM peak hour.
3. Since the apartment units will use existing underground parking spaces in an existing commercial parking garage, and will access Birmingham Street using the existing parking garage entrance, trips generated by the site are not expected to have any noticeable impact to the level of performance of Birmingham Street, or other streets and intersections in the area.

If you require additional information please contact me by Email or telephone 443-7747.

Sincerely,.



Ken O'Brien, P. Eng.

Attachment H - Submissions Related to the Proposal

From: Clerks Office
To: Robert McDonald
CC: Richard Harvey
Date: February 11, 2009 9:56 am
Subject: Re: Fw: Dixel case #01227/City Centre Atlantic proposal. Mayor

Good Morning Mr. McDonald,

Thank you for your email regarding Case 01227. There is a public information meeting on this topic scheduled for February 19, 2009 at 7:00 p.m. in Halifax Hall, City Hall - 1841 Argyle Street. More information on this can be found here: <http://www.halifax.ca/planning/Case01227Details.html>

By copy of this email I'm forwarding your comments to Richard Harvey, Senior Planner as he is the main contact for this Case. He may be reached at 490-5637 or harveyri@halifax.ca

Please let me know if I can be of any further assistance.

April Guy
Administrative Clerk Assistant

Office of the Municipal Clerk
1841 Argyle Street
PO Box 1749, Halifax
Nova Scotia B3J 3A5
490-4210 (phone)
490-4208 (fax)
E-mail: clerks@halifax.ca

>>> Robert McDonald 10/02/2009 5:45 pm >>>

----- Original Message ----- **From:** Robert McDonald
To: Dawn Sloane (<mailto:sloaned@halifax.ca>)
Cc: Lisa Power

Sent: Tuesday, February 10, 2009 2:40 PM
Subject: Dixel case #01227/City Centre Atlantic proposal.

Dear Ms. Sloane,
As city Halifax Councilor for district 12 I would like to inform you of concerns regarding this building proposal for City Centre Atlantic requested by Dixel Developments Ltd., by the Condominium Corp. #192 owners of Heritage Way.

Although we are not aware of the particular "design" as yet, there is great concern of the "proximity" of the proposed building to Corp. #192. On the third level of the established complex, there is a roof top garden green area for the use of Corp. #192, the extension of which is a matter of "feet" from the existing "low wall" boundary of the City Centre Complex property roof top structure.

Depending on the design of the proposed development, should the actual structure rise from that existing "low wall," it would present a real problem for the residents of Corp. #192 facing that South side of the building. Such an attempt to build the proposed structure beginning at this "wall" would be a visual imposition to say the least, certainly impacting the value of the existing Condominium resident's valuation of their individual living unit investment. The element of reasonable privacy and enjoyment of their property would also be impacted.

The point I am making is the existing example of the Martello Tower Condominium complex, Dresden Row and it's close proximity to the Paramount Apartment Complex, South Park Street. The two buildings designs are also a matter of "feet" on the backside of each building. I do feel that this example and the proposed one City Centre is (Drexel) is considering a serious error in the Halifax Municipal Planning permissions of Regional Council considerations, should they be in the same design proximity pointed out here. It is true the facades of Martello and Paramount are attractive on their front side but the backsides, feet from each other are not desirable, any one unit in each is faced with the close visual invasion of any ten opposite units. Such a situation is not esthetically desirable nor a reasonable valued purchase towards a reasonable City Development Plan.

Director Corp. #192
Bob McDonald

From: Alan Eastley
To: Richard Harvey <harveyr@halifax.ca>
Date: February 15, 2009 10:13 pm
Subject: Reference: Case 01227, City Centre Atlantic
Attachments: ObjectionArtilleryPlace.docx

Dear Mr Harvey,

I am writing with reference to the above case number, specifically, the application by Dixel Developments Limited for a five storey addition to City Centre Atlantic, PID 40577215, located between Dresden Row and Birmingham Street, Halifax, by development agreement. The five storey addition is proposed above the existing City Centre Atlantic building, located to the south of the Heritage Way apartment building.

My wife and I purchased apartment 704 at 5530 Artillery Place (Heritage Way) at the beginning of 2008 with the specific purpose of retiring there in a few years time. I now understand that there is the above five storey addition to be built immediately facing Heritage Way. The first we heard that this structure was to be built was through an information sheet provided last week to my apartment.

I wish to strongly state my objection to this proposal:

- The addition will block the view from our apartment.
- The addition will reduce the sunlight to the building.
- The addition will lower the value of the apartments in the building.
- The addition is unreasonably close to the existing structure of 5530 Artillery Place.
- The very close proximity of the new addition will significantly impact privacy in all the apartments facing the new structure.
- Construction, should it proceed, will be extremely noisy and disruptive.
- There will be significant congestion created by the additional traffic.

The overall impact will be one of ugliness, and can only be environmentally degrading. I find it hard to believe that, from a planning perspective, this addition would meet the requirements of a great city such as Halifax. I request that the city planning office will review and reject this proposal.

Yours truly,

Alan and Gillian Eastley

From: steve rankin
To: <harveyri@halifax.ca>
CC:
Date: February 10, 2009 12:37 pm
Subject: Dixel Construction Case # 01227 HRM

TO: Richard Harvey, Senior Planner, HRM

FROM: Carol Rankin, Vice President
Condo Corporation #192
Heritage Way Condo Corporation

In conversation with Councilor Reg Rankin last week, I expressed some concerns with regard to the proposed construction project for City Centre Atlantic. Mr. Rankin wisely suggested I talk directly to yourself. However, I have been unable to get an answer at phone #490-3691.

Our residential development of 50 owners (Heritage Way) is directly adjacent to the proposed 5 storey addition to City Centre Atlantic on Dresden Row. The south side of our building will be directly facing this new structure that is to include 80 to 100 apartments.

We understand there will be a public information meeting on February 19 at 7:00 p.m. At this time, the developer will have the opportunity to make a pitch to ask for HRM approval on this application. Will there also be time allotted for comments from the public?? You can understand our owners have concerns regarding the impact on the quiet enjoyment of their property, 2 years of construction noise and more traffic congestion in an already high density populated area.

It is my understanding that Dixel's proposal will then go to a committee of four HRM councilors for approval. Can we ask how this plan will be assessed? What are the criteria council will use in their considerations? We feel we should also have access to this information before the public meeting.

Thank you for the opportunity of voicing our concerns.

Yours truly,

Carol Rankin

From: Robert McDonald
To: Richard Harvey <harveyri@halifax.ca>
CC:
Date: February 18, 2009 10:56 am
Subject: Re: Dixel Construction Case # 01227 HRM

Mr. Harvey, (senior planner) in rereading your response which started with the statement of "original intent" regarding the building of a second structure over City Centre Atlantic, does not in any way add to the fact that it was a "good idea" in the sense of 'permission to build' at the time and an automatic permissive application today by extension.

There is no need to compound mistakes here (presently) in City Regional Planning because of an original error in judgment, and short-sightedness. "As-of-right" decisions in the past can be amended in future for the very reasons I pointed out in my letter regarding the terrible existing residential example of Paramount and Martello situation, by extensive application with this new proposal. I might add that Heritage Way is not an apartment building but a Condominium Corporation which carries a sense of "long term" residency and serious personal investment in Halifax's future.

Bob McDonald: Director CC #192

----- Original Message -----

From: "Richard Harvey" <harveyri@halifax.ca>

Sent: Monday, February 16, 2009 1:52 PM
Subject: Re: Dixel Construction Case # 01227 HRM

Hello Mr. Rankin (and others),

Thank you for your email. I appreciate the opportunity to provide you with additional information before the meeting. My understanding is that City Centre Atlantic was originally meant to have a structure to the south of the Heritage Way apartment building, but this was not realized when it was constructed (the proponent will be present at the public information meeting and will be able to provide additional information about this).

Before August 2006, development in the Spring Garden Road Commercial Plan Area was largely "as-of-right", meaning that if the zoning regulations were met, development and building permits could be issued without the approval of Council and without public input. As examples, the Martello and Paramount projects were as-of-right. When the Regional Plan was adopted in 2006 there was a concern about such as-of-right development, especially given the importance of streetscapes in the area. As a result, as part of the Regional Plan, there were policies introduced that require development agreement approval for projects greater than 12 metres in height. In the Spring Garden Road Commercial Plan Area, development agreement approvals require the consideration of the full Regional Council rather than the local Peninsula Community Council.

The objectives and policies of the Regional Plan and Halifax Municipal Planning Strategy are the matters that are evaluated in considering a development agreement proposal in the Spring Garden Road Commercial Plan Area. In particular, the policy in the Regional Plan that was established in 2006 is important in assessing this development proposal. I have attached this as a PDF - it is also linked on our website at <http://www.halifax.ca/planning/Case01227Details.html> in the description of the project, under "Planning Policy Context." Once you have the PDF open, look under the heading Spring Garden Road Commercial Area Plan for the policy considerations.

Unfortunately there has been an incorrect reference to my direct phone number - my number is 490-5637.

I hope this information is helpful. Please feel free to contact me if I can be of additional assistance.

Regards.

Richard Harvey, Senior Planner
Halifax Regional Municipality
PO Box 1749
Halifax, Nova Scotia, Canada
B3J 3A5
902-490-5637

TO: Richard Harvey, Senior Planner, HRM

FROM: Carol Rankin, Vice President
Condo Corporation #192
Heritage Way Condo Corporation

In conversation with Councilor Reg Rankin last week, I expressed some concerns with regard to the proposed construction project for City Centre Atlantic. Mr. Rankin wisely suggested I talk directly to yourself. However, I have been unable to get an answer at phone #490-3691.

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Thank you for the opportunity of voicing our concerns.

Yours truly,

Carol Rankin

From: trknox35
To: <harveyri@halifax.ca>
CC:
Date: February 19, 2009 10:06 am
Subject: Case No. 01227 Dexel Developments

Dear Mr. Harvey:

We were both saddened and surprised upon learning of the plans for a five storey residential addition to City Centre Atlantic.

Our sadness stemmed from the fact that the proposed addition will further congest an already extremely congested part of the peninsula, lowering the quality of life for everyone involved. Spring Garden is no longer a wonderful shopping thoroughfare in the South End but is rather a road best avoided. Not only will two years of construction further snarl traffic beyond comprehension, but the associated noise pollution will make living in this wonderful neighborhood extremely unpleasant. Furthermore, the addition of 80 more residential units on this particular block, with the associated residents and vehicles, will guarantee the overcrowding of this neighborhood for the years to come.

Our surprise stemmed from the fact that the proposed addition seems blatantly against the HRM's best interests as it will almost certainly lower the city's tax receipts. While this may seem counterintuitive with the addition of 80 units and their associated property tax, we would point out the following:

1. The proposal to take over City Centre Atlantic's current commercial parking for residential purposes will make an already difficult parking situation on Spring Garden much, much worse. This will cause greatly decreased shopping traffic through the Spring Garden shopping district, resulting in decreased GST and the shuttering of shops and restaurants in the district.
2. Property values in the South End will greatly decrease, resulting in a net decrease in property tax receipts to the HRM. A quick glance at the MLS real estate system shows that there are currently hundreds of residential units for sale on the peninsula, more than at any time in the last decade. This current glut in units combined with the coming tough economic times already suggest that real estate values across the peninsula are certain to fall. Adding another 80 units to this enormous backlog of unsold property will ensure that the fall in peninsula real estate prices turns into a precipitous fall. The additional tax receipts from 80 units, assuming they can even be sold, will not come close to compensating the HRM for the drop in value of the hundreds and hundreds of extant properties on the peninsula. If this seems unlikely, we would ask you to consider real estate markets across the globe. In every case, months of non-clearing markets with a growing inventory of unsold properties preceded a steep decline in prices. The real estate market is quite clearly indicating that no additional residential units are required in Halifax and that adding to the current over-supply of properties on the peninsula will only depress prices and result in greatly reduced property tax receipts for the HRM.

To summarize, we feel that the proposed addition to City Centre Atlantic will not only decrease the quality of life for residents of the neighborhood

but will also result in a potentially disastrous drop in real estate values across the South End, thereby resulting in greatly reduced tax receipts for the HRM. For these reasons, we would ask that the council reject this proposal.

Regards,
Michael Hase

From: peter green --
To: <harveyri@halifax.ca>
Date: February 24, 2009 5:59 pm
Subject: case 01227

Richard

I am writing to express my concerns with the proposal case 01227. I was unable to attend the information meeting Feb 24 due to a conflict. As a current resident of the Martello Building on Dresen Row, I have legitimate concerns with the impact of this proposed development on the surrounding traffic flow and feel the proposal, as submitted, does not address these concerns appropriately.

There is an underlying assumption from the traffic study that many residents are going to walk or use transit yet the proposal provides no evidence that this would in fact be the case. It is incumbent upon the developer to demonstrate this with evidence, not assumption.

No new parking is being created for this development and yet no data for existing utilization rates for the existing garage is provided; in may not be possible for this garage to meet the needs of residents and visitors

which could impact Park lane or other local parking and traffic flow.

In the numbers from the table included from the ITE trip generation manual, I would question why the numbers that they used assumed the lowest possible numbers at the very bottom of the range (I verified this independently) as opposed to using the average which would generate a much higher number of vehicles coming and going. Can the developer actually provide some hard data as to why the number of trips would be so significantly reduced? This is an important point and may alter the actual traffic flow. As an example, it is at times assumed erroneously that a senior's condo would result in a lower number of vehicle trips but developers and engineers in other cities will cite that this is often not the case. In other Canadian urban centers, without actual, local data, this assumption would be rejected.

The developer has also stated that this development is not expected to have any noticeable impact to the level of performance of Birmingham Street or

other streets and intersections in the area. Has the developer actually calculated the "level of service"...especially during the peak hours... at any of these

intersections in question? I suspect the level of service at Dresden and Spring Garden is quite poor; any further traffic flow increase in this area will only exacerbate an existing problem.

Currently, Dresden Row is a safety concern for residents in our building given difficulty with access that exists. Despite recent NO PARKING designated areas, police have not been able to adequately clear the street. On numerous occasions, I have personally been caught in "one lane traffic" where drivers take turns to get through. Firetrucks, ambulances and police cars would have the same issue.

I suspect you are already aware of police changing the designation to

NO PARKING because of difficulty getting through the street to a robbery and yet the street is still often one lane access.

This project does not adequately address the traffic impact and safety issues for the surrounding area and as such should be rejected without significant modification or evidence to back the above claims and assumptions.

Sincerely

Peter Green

Letter Senior Planner Richard Harvey

March 25, 2009

Mr. Richard Harvey
Senior Planner
Planning Services, Western Region
HRM

Dear Mr. Harvey,

I attended the public information meeting on February 26, 2009, regarding the application by Dixel Developments Limited for a five storey addition to City Centre Atlantic by development agreement (case 01227). There was a good deal of discussion at this meeting. I would like to emphasize some of the points that were made and to ask some questions.

It was clear from the public information meeting that there is strong opposition to this development from many residents in the area. The essential reason is that the particular location is really not appropriate. The traffic density has already increased dramatically in recent years, especially since Pete's Frootique opened. The infrastructure is already stressed and the traffic burden of personal vehicles and delivery vans is at a dangerous level, especially during the winter months. Traffic is sometimes at a gridlock. Access by emergency vehicles to the Dresden Row - Birmingham Street - Queen Street area between Spring Garden Road and Sackville Street is seriously limited. We believe that the inevitable added traffic load would be seriously dangerous for all in this area, especially for, but not limited to, the residents. This is a basic issue of health and safety! The arrangement of streets in this area is very unusual and not at all typical of downtown Halifax. There is plenty of suitable development space even only a few blocks away. Let new apartment buildings be developed there!

At the end of the public information meeting, public transit was mentioned but no details were given. Could you please explain what is involved? What are time scales for any changes and how is it that our concerns might be met?

Yours sincerely,
Wally Geldart

From: "Pam Reid" <
To: <sloand@halifax.ca>
CC: <harveyri@halifax.ca>
Date: April 17, 2009 2:57 pm
Subject: CONCERNED CITIZEN

Good afternoon Councillor Sloane

Re: Dixel Development Project City Centre Atlantic and Snau Bar Outside Patio

I am a condo owner at Heritage Way, 5530 Artillery Place. It is with great concern that I email regarding the above proposed project and request for a patio on Artillery Place. A resident and owner in this building since 1993, I have witnessed many changes in this area and have growing concerns regarding the impact of some of these changes on both the quality of life of my family residing here and our property value. The above developments can do nothing but negatively impact both.

With the addition of Pete's Frootique and the development of Spring Garden Road there has been an enormous increase in traffic congestion. Although the changes have for the most part been enhancements to our neighbourhood I urge you and our elected representatives to consider the negative impacts as well. Traffic congestion in this area is extremely problematic. Often it requires several minutes wait and careful driving to negotiate around delivery trucks, parked cars, and traffic leaving and entering the parking garage for residents of this condo building to access our home. An apartment building would make this situation even more untenable.

Regarding the outdoor patio, I have serious concerns re the impact of this decision on our quality of life. Now that the weather is improving I am regularly awakened by the noise of clientele coming out of the bar to smoke. It will be impossible to leave the windows open this summer with both the noise and the smoke. A patio would only increase both.

In closing I urge you to consider the impact of the above on the residents of this and other condo buildings in the area. We have made considerable financial investments in our homes and we pay high yearly taxes for same. Having home owners as the key residents in this area is a bonus for the city. Most of us are professionals or retired professionals who are good citizenstaking great pride in our homes and neighbourhoods. Our voice should be heard and thoughtfully considered.

Thank you for your attention to the matter.
Sincerely
Pamela Reid

From: Robert McDonald ·
To: <letters@herald.ca>
CC: Richard Harvey <harveyri@halifax.ca>,
Date: June 17, 2009 10:17 am
Subject: HRM By Design ?

It would seem by the article in today's paper 6-17,2009 "Council Passes" HRM By Design Plan. A fourth element of the Plan not mentioned, is the Drexil Proposal for City Centre Atlantic, a six story addition of the Mall's apartment project,just may go ahead after all.

In my original objection to such an event: it would be an unsitely structure built in the fashion of the Paramount and Martello complex, where in the back-side of these structures, they (units) are impacting one another unfavorably in poor design.

The Planning Strategy states that adjacent buildings: EC-2 (g) should be 'complementary' to adjacent buildings. That is just not the case with Paramount and Martello. And it seems a recreation of the same by HRM By Design, will result in the City Centre Atlantic project if built as planned, impacting by a matter of 'feet' the existing Condo Corp Heritage Way residence.

Should this new apartment project take place by Drexil Developers, council might pay more attention to the 'greed and privilege's factor I mentioned in my first letter to the Herald rather than a rush to judgment. As Coun. Bill Karsten stated ... "This is ridiculous "This council is being railroaded into making decisions in 5...10 minutes." (without flooring all possible amendments).
Bob McDonald, Halifax

HRM Community Development
Planning Services, Western Region
PO Box 1749
Halifax, NS B3J 3A5
Attention: Richard Harvey, Senior Planner
June 29, 2009

Dear Mr. Harvey,

Dexel Developments propose to construct a five-storey residential rental addition to City Centre Atlantic. A six-storey residential condominium addition to City Centre Atlantic has been in place for nineteen years—Heritage Way. The proposed structure is an obvious source of concern for the residents and owners of Heritage Way.

Heritage Way is a fifty-two-unit condominium complex adjoining City Centre Atlantic. Residential units begin on the third floor where there is access to a rooftop common area with patios and gardens. At its deepest point, the common area is sixty feet. Dexel intend to erect a vertical wall just shy of forty-seven feet on the perimeter of the common area. For many residents and owners of Heritage Way, this forty-seven foot wall will be the face of Dexel's roughly one hundred-unit residential rental property. Regardless of what the Building Code or city by-laws have to say with respect to such a structure, common sense dictates that a forty-seven foot residential rental unit built within sixty feet of an established residence will have an immediate and lasting impact on the established residence.

Dexel Developments are well aware that their proposed addition to City Centre Atlantic will have an impact on Heritage Way. There will be noise, congestion, and confusion in the short term. Property values will be affected, vehicle and pedestrian traffic will be affected, and the south side of Heritage Way will be forever altered. The proposal attempts to address many of these concerns, not surprisingly downplaying the impact on Heritage Way, but fails to convince the residents and owners of Heritage Way that the impact will be either minimal or in their best interest.

The residents and owners of Heritage Way wish to have their concerns addressed. Further consideration must be given to the safety and privacy of Heritage Way residents. Further consideration must be given to the future of the rooftop common area. Further research is required into the effect that the proposed building will have on traffic, wind, and parking. There are many uncertainties surrounding the Dexel proposal; but one thing is certain, if approved, the Dexel proposal will have an immediate and long lasting impact on every resident and owner of Heritage Way. To this end, the residents and owners of Heritage Way intend to be an active voice as this proposal moves forward.

Sincerely,

Jane Gordon
President, Condo Board, Heritage Way, HCCC 192

Loss of Sunlight, Privacy and aesthetics

The Regional Municipal Planning Strategy determines that a goal of the Capital District Policy is to cluster activities in the Capital District to optimize the strength and success of HRM.

The policy acknowledges that balance between land uses is needed to maintain the vibrancy of the Capital District, and amendments directed to “foster the continued development of the Capital District as a healthy and attractive place to live, work, play and do business”. In protecting the health of the residential uses, the proposed plan is a step backwards in the effort to provide a healthy and attractive place to reside within the capital district.

Loss of Sunlight

The development of roof top gardens is not a new concept; it was at play when Heritage Way was constructed 20 years ago, and the model of architecture that incorporated such space into the urban residential environment won awards at the time of construction. The concept was replicated in the building of such downtown structures as Charter House. The need for green space within residential communities is further found in the development of Bishop’s Landing, Somerset Place, and others in HRM and other major centers.

The value of this component in residential design has been ongoing; even the new Citadel High has incorporated rooftop gardening into its design to foster a recognition of the concept in future generations. It is well known that greenery provides a balancing of the oxygen that is extracted from air particularly in areas of high human population. It is also known that effective use of roof top gardens can provide for a dietary supplement to packaged food that is in the best interests of all who utilize them.

The proposed new development itself does not have balconies to promote plant life, and in fact creates a situation that the green space of the existing development will be hugely compromised. The blocking of sunlight by this proposed structure will cause mould and fungus in a location that currently thrives, that is the rooftop garden on the 3rd level of Heritage Way. Likewise, the use of the balconies at Heritage Way, on the south side of the building, will experience mould and ineffective growing space.

Moreover, the developer has not only designed a structure that will eliminate the current healthy garden and garden uses at Heritage Way, but has declared that the existing trees be chopped down (announced at the public information session at The Martello). If this is legal, which is disputed, such action is clearly in conflict with the current use of balconies and 3rd floor garden area at Heritage Way. Replacement trees will be retarded in their growth due to lack of sunlight. This situation is akin to that argued forcefully by the Friends of the Public Gardens committee in opposing high rise development on the west side of the Gardens. We will take another step backwards in promoting the city as a healthy and attractive place to live. The City of Trees will be a lesser city.

Sunlight is essential to the life of plants. The need for sunlight is less apparent in humans, as we don’t usually suffer in height, nor do we fail to flower due to lack of sunlight. However, the effect on us is undisputed, and the need in human life for sunlight is just as important as it

is for plants. To deny city dwellers sunlight is to deny city dwellers the right to be healthy flourishing human beings. Halifax has the chance to be a leader in developing healthy urban lifestyles, because we are relatively young. To accomplish higher density urban residential land use, it is not necessary to deny the human element the benefits of sunlight. The proposed Dixel development is a mar on our right to be healthy Haligonians, not only for the existing and future residents of Heritage Way, but for the prospective residents of the Dixel apartments. Sometimes people choose to compromise their health for economic reasons; the government of this city should not be a party to such deprivation, but should strive to protect people from themselves, and be a leader in fostering healthy urban design.

Privacy Issue

Privacy is an intangible thing. It is something we guard in an increasingly futile struggle, as technology tracks our moves through cell phones, credit cards, and the unknowable mound of statistical information. The right to privacy in our homes, in the face of ever increasing infringements on our privacy in other domains, remains protected in our laws as evidenced by the Canadian Charter of Rights and Freedoms, and the courts who give shape to that law. The creation of new home invasion offences and penalties is evidence of an increased need to protect the small facet of the privacy we maintain. In choosing to inhabit an urban environment, mankind necessarily chooses to forfeit some privacy. If urban living is to be healthy living, then the design should seek to protect privacy at the design phase. The community should not be saddled with the costs imposed by short sighted or thoughtless components in design.

The proposed Dixel development proposal confronts inhabitants of Heritage Way with the problem of total loss of privacy to those who inhabit the south side of the structure. There is no issue of degree, it is a total loss of privacy due to the closeness of the buildings. We have recently enhanced our property with purchase, at great expense, of new weather tight windows, preserving the largely glass component of our exterior walls. In undertaking a five year project to preserve and enhance the sunny and private nature of our units, we have exacerbated the aquarium effect that the new proposed development imposes on us. Is this a necessary cost of progress? No. Our new windows are steps towards lower power consumption, natural light, and preservation of healthy urban living. If Dixel had similar concerns for its future inhabitants, they would not create ghetto conditions, devoid of light, privacy and decency. If a degree of privacy is to be preserved, a good design could create privacy by terracing the new building, allowing for natural barriers between the view planes.

The density created by the proposed development on the land use map of downtown Halifax, has to be negative. The previously secure balconies on the third floor are now to become an almost irresistible crime scene. We are a building designed without the benefits of air exchangers or air conditioning. We need to keep our windows open, especially on summer nights, to survive. If the proposed development takes place, we will survive only at the cost of surrendering our personal security. Furthermore, we will have to block any hope of breeze with curtains and blinds that keep light pollution and noise out of our sleeping quarters. Although we currently have curtains and blinds, we do not need to keep them drawn to the point that a breeze is denied.

The proximity of the two buildings makes us vulnerable to air borne objects. Although the proposed Dixel project purports to attract a high caliber occupant, the effects of alcohol do not distinguish between the affluent and not-so-affluent imbiber. The existing design presents an opportunity to the not so sober individual, alcohol fuels the imagination for such opportunities. The design is certainly not in keeping with the values suggested in EC-2(f) of planning strategy.

Aesthetics

Because aesthetics are sometimes thought to be a matter of personal taste, it is not our objective to criticize the appearance of the proposed Dixel structure. Suffice to say it does not contain any of the elements of design which the Planning Strategy drafters valued when they itemized the list found in EC-2(d). Nor does it fit within the rhythm of the existing buildings on Birmingham Street. However, we feel that the developers have shirked their responsibility to our community by not incorporating the street fronts on Spring Garden Road into the development. Piecemeal approach to design and development is infringing on the marketability of our city as a tourist destination. The streetscape on Spring Garden Road, as epitomized by Mills Brothers, needs to be addressed. To permit the operators with the larger budgets to develop without contributing to the important issue of the aesthetics of Spring Garden Road is not in the best interest of the community of urban inhabitants, nor the community of Halifax as a whole. Our tourism industry depends on good planning, the attraction of Spring Garden Road needs to be infused with good design to spare it the fate that Barrington and Gottingen Streets have already suffered.

Controls necessary to reduce conflicts with “adjacent or nearby land uses” as per (b) (i) “type of use” and (b) (iii) “traffic generation, access to and egress from the site, and parking”

IM-15 (b) (i) and (b) (iii)

Another major concern with the Dixel development is the proximity of the proposed entrance of the five story building to three other current competing uses on Birmingham Street which often cause traffic blockages on the street. The new structure will be located between the parking garage for City Centre Atlantic and the entrance to the truck unloading bay for Pete’s. Also, there is another competing use - a small parking lot, immediately across from the entrance from the underground parking and the new proposed five story building. The entrance to this parking lot is currently used by many drivers as the place to turn around on the street when the traffic is blocked to the south by the traffic on Spring Garden Road or to the north by the large produce trucks moving into the unloading bays at Pete’s.

These three existing conflicting uses often cause the traffic on this part of the street to become blocked. The front door of this new building will be directly in the middle of these three current competing uses and substantially increase this problem. It is reasonable to assume that the car traffic on the street will increase significantly as people are dropped off and picked up in the front of the building and large moving and delivery trucks are required to park at this location. The new building will also increase traffic in and out of the garage and increase pedestrian traffic on Birmingham Street. Serious consideration needs to be taken to find ways to resolve the impacts that this new building will bring to the street and the existing uses. Other major buildings in the area, such as Park Victoria, the Martello and others have minimized these kinds of use conflicts and impacts by creating distance between competing uses, setting the building back from the street to allow space for parking and drop offs and/ or creating other drop off locations.

We propose that similar measures be taken to address the increase conflicts that will be introduced by putting this new structure in the middle of these current busy competing uses. Modification of the proposed development to deal with this issue is necessary, including the possibility of moving the entrance of the building to Dresden Row or a possible set back area off Dresden Row on the south side of the building.

Urban skyline, sunlight and wind tunnel effect - EC-2(h,i)

The documentation submitted with the proposed development includes a two-page "Wind Impact Statement" prepared by an architect. We have some concerns with this document. This brief two-page submission seems to contain only opinions without any reference to supporting facts. Is the architect an expert on wind effects? It would seem appropriate to at least make reference to relevant wind tunnel studies. This is a standard experimental procedure and professional expertise is available in Canada for such studies. The University of Guelph is one such center.

Halifax is inherently a windy city. We already have negative experience with strong wind tunnel effects due to tall buildings in downtown Halifax in the Spring Garden Road area. Examples are the Park Victoria, the Aliant building, The Martello, and others. The immediate vicinity of Birmingham Street, Dresden Road, and Artillery Place is already windy. The proposed structure with five added stories would certainly increase wind tunneling effects in the immediate area and in the side streets to the detriment of residents and general pedestrians.

The stated opinion of the architect is that the proposed structure would "not add appreciable wind conditions to this area". No evidence is given to support this opinion. We consider that it is not acceptable.

The tunneling effect of high buildings is enhanced by straight uninterrupted walls. Consequently, we can reasonably expect the negative effects of wind tunneling to be minimized by replacing the straight essentially uninterrupted walls of the proposed structure by a terraced structure with regular set-backs. This modification would simultaneously achieve the desired maximization of sunlight in the neighbouring streets and would evidently also increase the visual interest of the urban skyline. These three aspects (wind, sunlight and skyline) of urban planning strategy are not at all adequately addressed by the proposed development. Modification of the proposed development is necessary and our suggested modification would simultaneously achieve these three objectives of urban planning for the intended location.

Traffic generation, access to and egress from the site, and parking - IM-15(b-iii)

We consider the estimate of the added vehicle load provided by the "Traffic Impact Statement" to be unreliable. We believe that a realistic, objective, and statistically sound appraisal of these data would suggest that the number of trips actually generated by the proposed structure would be considerably more than the estimate of the Traffic Impact Statement. This is a very serious concern. There are several very fundamental reasons for this concern and we will outline them below.

We want to emphasize that use of the Institute of Transportation Engineers "Trip Generation, 7th Edition" requires certain specific assumptions. There are consequently potentially serious limitations and loss of accuracy if the site of particular interest does not satisfy these specific assumptions. There are two parts to this issue.

First, it must be understood that the data collected in Trip Generation, 7th Edition, are almost entirely (99%) based on sites in the United States. In particular, all of the data collected for Land Use 222 (page 346) refer to sites "surveyed from the late 1960s to the late 1980s throughout the United States". These data are then subjected to an averaging process and the result forms the basis for Table 1 of the Traffic Impact Statement. How can these averaged data be applicable to the particular location of the proposed development? The Spring Garden Road area of this old historically important city is surely not at all properly represented as some "average site" in the continental United States. Second, surely these data are significantly out of date by now. For example, has the number of vehicles per family not increased greatly during the past few decades? Has there not also been increasing overlap between commercial and residential uses? The conclusions of the Traffic Impact Statement regarding trip generation are based on a flawed methodology.

This is not at all just a biased opinion on our part. In fact, the need for caution in using the compilation of the Institute of Transportation Engineers is well known and documented. On page 2 of Trip Generation, 7th Edition, the authors themselves state "When practical, the user is encouraged to supplement the data in this document with *local data* that have been collected at *similar sites*." [our emphasis] This is an explicit acknowledgement of the evident fact that the collection of data averaged over the continental United States need not be accurate when applied today to a *specific site* of different character. The Traffic Impact Statement submitted with this proposal does not address this serious concern and the submitted conclusions cannot be considered to be accurate when applied to the Spring Garden Road area of HRM.

The strong potential for inappropriate and inaccurate use of the Trip Generation, 7th Edition, database has been explicitly reported in the literature. For example, on page 101 of "Urban transportation planning in the United States: an historical overview", illustrated, revised edition, by Edward Weiner, published by Greenwood Publishing Group, 1999, it is stated that "At times, the Trip Generation report was used as an expedient when a site specific analysis would have been more appropriate."

This is surely a warning by an expert in the profession that use of the Trip Generation data can give inaccurate conclusions even when applied to sites in the continental United States. The warning applies all the more when considering applications to sites in Canada.

In fact, these limitations of the Institute of Transportation Engineers "Trip Generation, 7th Edition" database and the need for site-specific and up-to-date Canadian data has already been recognized. The City of Calgary has prepared a detailed report to the Canadian Institute of Transportation Engineers.

"Trip Generation in the City of Calgary: Studies and Storage

Prepared by:

The City of Calgary

Transportation Data Division

Transportation Planning Business Unit

for Canadian Institute of Transportation Engineers 2005

By Cheryl Hudson, April 22, 2005"

Extensive consideration of problems faced by users of the rather dated American database and the need to expand on and supplement Trip Generation, 7th Edition, can be found in this report by the City of Calgary.

It is evident from the above that the methodology of the submitted Traffic Impact Statement is incomplete, at best, and more probably simply not valid for the proposed location. The conclusions cannot be considered to be accurate.

In addition, independently of the database used, we believe the assumptions made in forming adjusted trip generation rates from the published data have not been justified. Moreover, there is no indication of the expected accuracy of the estimates in Table 1 of the Traffic Impact Statement. This is a most important point and merits some comment.

The procedure to estimate trip generation rates is based on statistics. Hence, in addition to the statistical estimate of the trip generation rates, it is also necessary to provide a statistically based estimate of the probable error of that estimate. Otherwise, it is not possible to judge whether the estimate provided is at all significant. This is very much like the error estimates and accuracy probabilities that are always provided when statistical results are reported for the various polls throughout election times. For example, if the probable error of the trip generation rate estimate is found to be 50% or even more, then use of the "bare estimate" without reference to the probable error is misleading. The actual trip generation rates could be 100%, or even more, larger.

We consider it likely that an objective mathematically sound statistical analysis would show that the probable errors of the trip generation rates obtainable from the data of Land Use 222 in Trip Generation, 7th Edition may be large and also that the actual trip generation rates may be much larger than those indicated in Table 1 of the Traffic Impact Statement.

The submitted traffic document is a "Traffic Impact Statement" which is a rather minimal document. There are other ways to address these questions. More site-specific observational data could be considered if a "Traffic Impact Study" had been submitted. However, we emphasize that such a study or even any other supporting documentation which relies on the database of Trip Generation, 7th Edition, is of questionable accuracy for all of the reasons discussed above. This is inescapable. It is not reasonable to base planning developments in this particular Spring Garden Road location on the assumption that this micro-region can be accurately described by the rather old statistical data from such a limited number of sites all of which are in the United States.

All of these fundamental problems would be compounded by the increased parking load in the City Centre Atlantic parkade and in neighbouring streets that would result from the approximately 100 apartment units of the proposed project. The streets are currently seriously congested and parking is already at a premium and often cannot be found at all. Some users of the City Centre Atlantic parkade have stated that they often have difficulty finding parking spots in the parkade when arriving in the morning hours. Users also have stated that there are delays when exiting the parkade due to congestion in Birmingham Street. This area is very particular with its narrow, twisting and short streets. The added traffic and parking load which would result from the proposed project would be unsafe and would endanger the safety of passing pedestrians as well as local residents. The overall quality of life and the general integrity of this area would be diminished.

From: "Peter Horvath"
To: <harveyri@halifax.ca>
CC: <sloaned@halifax.ca>,
Date: July 4, 2009 10:54 pm
Subject: Dixel Development Proposal: Case # 01227

Richard Harvey

Senior Planner

Halifax Regional Municipality

Dear Mr. Harvey:

Last February I spoke to you on the telephone conveying my deep concern about the new Dixel Developments proposal to build an apartment complex on top of City Centre Atlantic. This email is a follow up to the issues and objections that I raised with you at that time.

My wife Kathy and I have been owners of unit 604 in Heritage Way for approximately the past twenty years, enjoying the quiet of our unit and the beautiful cityscape from our south-facing unit on the sixth floor of Heritage Way. Now all that is going to be taken away by an inconsiderate and intrusive building project. This proposed tall structure will be only 50 feet away from us, and will take away our view and privacy. Consequently, it will have a devastating effect on the neighbouring condominiums and property values in Heritage Way which will be robbed of their privacy and their south-facing views of the city landscape, which have been part of the assets of these units for the past twenty years.

To put this bold building proposal in perspective, about five years ago we the residential owners of units in Heritage Way were asked to and were kind enough to gave up our separate garage entrance to our condominium building from Birmingham Street to help out the business interests of City Centre Atlantic so that they could accommodate a separate commercial entrance for their businesses including Pete's Frootique who wished to locate in the Centre. As a consequence, the residents of Heritage Way now have to use the common public garage entrance of City Centre Atlantic along with the public and the shoppers of the Centre. This has been somewhat of a nuisance and inconvenience ever since. The public garage is full already and I don't see how it could accommodate the public parking and traffic that will be required by shoppers frequenting the stores of City Center Atlantic, along with all the residents of the 100 or so new proposed apartment units, plus the residents of the 70 condominium units of Heritage Way, all entering from the same garage entrance on Birmingham Street. Birmingham Street is dangerously narrow. There is always parking on the street to make it even narrower still. In winter it is worse still. The traffic demands of

this new huge building would create a public nuisance and a dangerous traffic situation. This is not even taking into account the lack of consideration for the residents of Heritage Way who would be even further inconvenienced by the additional parking and traffic congestion they will now have to wade through to get to their own parking spaces. I don't trust or agree with the traffic evaluation report that has been posted on the HRM Municipal Planning website. I will tell you why.

The following is an example of City Centre Atlantic's questionable evaluations and disregard for the welfare of their residential condominium neighbours who were good enough to make sacrifices on their behalf. When Cora's Restaurant moved into City Centre Atlantic about four years ago, their commercial ventilation unit was placed on the Centre's roof just below our unit, about three floors below our south facing balcony. Instead of installing a quiet ventilation system that shows some consideration for their adjacent neighbours and residents, Cora's installed a commercial ventilation unit that was very noisy. We complained to our condominium corporation and City Centre Atlantic repeatedly. The Centre replied that they checked out the unit, that it was fine, and that they could not do anything about it. I thought of taking it further and complain to the city, so they could determine whether they were breaking some city noise ordinance. I thought they were. However, before doing that I called the manager at Cora's and just let her hear the actual noise coming from their ventilation unit over the phone. Well she was surprised, agreed it was too noisy, and within a day or so the noise was fixed and gone. It is not difficult to draw some sober lessons and conclusions from the above described incidents with regard to the reliability of the Centre's sponsored evaluations of residential and public safety concerns.

With regard to the Regional Municipal Planning Strategy, I would estimate that this bold and intrusive new building proposal would violate a number of articles of the Spring Garden Road Commercial Area Plan, in EC-2:

Article (f) - the increased traffic congestion of a narrow street would further diminish public safety

Articles (g) and (h) - the building would detract from the existing streetscape character and visual interest in the urban skyline

Article (i) - the proposed building would detract from the sunlight available to the adjacent buildings, residences, and streets

Article (k) - the design is not compatible with adjacent residential uses and intrudes on their privacy and other residential interests

I hope that this intrusive building proposal will not be allowed to go forward.

We look forward to your reply and consideration of our plight and would be happy to elaborate on any of the above stated concerns that will adversely affect the welfare of the residents of Heritage Way.

Sincerely,

Peter and Kathy Horvath

From: <rkmurphy@
To: <harveyri@halifax.ca>
Date: July 9, 2009 3:47 pm
Subject: Dixel Development Proposal: Case # 012271

Dear Mr. Harvey:

My husband and I have recently sold our beautiful home on Connaught, in exchange for our lovely new condo at 5530 Artillery Place, Heritage Way. We were surprised to find out about the proposed development by Dixel construction after our significant investment in our new home. We chose Heritage Way as it is one of the only condominium units in downtown Halifax which still has a feel of green space, natural light, and a reasonable number of units to feel like a home. The green space on the third floor courtyard area was a major selling point of us – we were impressed by the landscaping and wide open spaces. Imagine our shock to understand that a structure was to be built 55 feet from our building which would in most definitely compromise the gardens, light, privacy and security of the existing structure. These are important issues – and a major issue which will affect all owners of Heritage Way is the devaluing of our properties in terms of resale when and if it comes to a possible move in the future. Our purchase price was significant – and the understanding from most everyone who invests in real estate on this (and most) areas of the peninsula of Halifax is that the value will appreciate with time and given upkeep and investment. We have always realized a return on our numerous homes we have purchased, maintained with pride, and resold on peninsula Halifax. I fear this development will end this positive trend which has been one of the only safe investment opportunities of many years of late.

I was also surprised at the entrance to the parking underground as I assumed there would be a private residence entrance for such a significant investment. Understanding now what the history was in that residents generously gave up their private entrance to Pete's Frootique – I now see why there is such a convoluted and confusing arrangement to enter the building. That being said – my husband and I were willing to accept this inconvenience in exchange for the other benefits the building and its location provided. Now to realize we will also see significant increases in traffic at that entrance is absurd. Each day I leave the building; there are industrial sized delivery and waste vehicles blocking the entrance and exit of the parkade. Routinely – there are additional trucks parked on Birmingham illegally, and there is little room to pass one car safely – forget two which would be vying to get by. The situation is less than ideal, and unsafe in many cases. We are new to the building since April – but I can't imagine what winter will bring with more narrow pathways and potentially more unsafe conditions. Forget adding additional residents to the mix when using the underground parkade.

I wish to have on the record my concern with the current Dixel construction, and as a recent document to address this issue reaffirms: "all of these fundamental problems would be compounded by the increased parking load in the City Centre Atlantic parkade and in neighboring streets that would result from the approximately 100 apartment units of the proposed project. The streets are currently seriously congested and parking is already at a premium and often cannot be found at all. Some users of the City Centre Atlantic parkade have stated that they often have difficulty finding parking spots in the parkade when arriving in the morning hours. Users also have stated that there are delays when exiting the parkade due to congestion in Birmingham Street. This area is very particular with its narrow, twisting and short streets. The added traffic and parking load which would result from the proposed project would be unsafe and would endanger the safety of passing pedestrians as well as local residents. The overall quality of life and the general integrity of this area would be diminished."

Essentially – This is not good news for the residents of 5530 heritage Way. Many people have voiced concerns and we all look forward to your proposed solutions to all who are affected by Dixel Development Proposal: Case # 012271 construction project.

Sincerely,

K & R. Murphy