



**Town of Amherst
Planning Advisory Committee Meeting**

Agenda

Date: **Monday, December 3, 2018**
Time: **5:00 pm**
Location: **Council Chambers, Town Hall**

	Pages
1. Call to Order (5:00p.m.)	
1.1 Approval of Agenda	
1.2 Approval of Minutes	1 - 2
2. Public Participation Opportunity - 150 East Victoria Street Development Agreement Application (5:00p.m.)	
2.1 Staff Report Presentation	3 - 17
2.2 Committee Questions	
2.3 Owner Questions & Comments	
2.4 Public Questions & Comments	
3. Motion to Conclude the Public Participation Opportunity and Return to the Regular Planning Advisory Committee Meeting (5:30p.m.)	
4. Adjournment (5:35p.m.)	

Town of Amherst Planning Advisory Committee Minutes

Date of Meeting: Tuesday, November 13, 2018
Location: Council Chambers, Town Hall

Members Present: Deputy Mayor Sheila Christie
Councillor Terry Rhindress (Vice Chair)
Citizen Appointee Gordon Goodwin
Citizen Appointee Ronald Wilson

Staff Present: Manager of Planning and Strategic
Priorities, Andrew Fisher
Deputy CAO, Jason MacDonald
Unsightly Premises Administrator, Marc
Buske
Municipal Clerk Kimberlee Jones
Admin Assistant Emily Wainwright

1. Call to Order

Vice-Chair called the meeting to order at 12:15 p.m.

1.1. Approval of Agenda

Moved By: Citizen Appointee Wilson
Seconded By: Deputy Mayor Christie
That the agenda be approved.

Motion Carried

1.2. Approval of Minutes

Moved By: Citizen Appointee Goodwin
Seconded By: Citizen Appointee Wilson
That the minutes of the November 5, 2018 PAC meeting be approved.

Motion Carried

2. Motion – Amendments to the Land Use Bylaw for Cannabis-related Land Uses

Moved By: Citizen Appointee Goodwin

Seconded By: Citizen Appointee Wilson

That the Planning Advisory Committee recommend that Council amend the Land Use Bylaw to regulate cannabis-related uses as shown in the Attachment.

Motion Carried

3. Motion – 196 East Victoria Street Demolition

Moved By: Deputy Mayor Christie

Seconded By: Citizen Appointee Wilson

That the Planning Advisory Committee order the buildings at 196 East Victoria Street be demolished, and back fill the hole within 30 days from the date of this Committee meeting, with all work to be done by the property owner. Failure by the property owner to do the work will result in the Town completing the work and send all contents of the building to the Cumberland Joint Services Management Authority land fill with all costs charged to the property owner's tax account.

Motion Carried

5. Adjournment

Citizen Appointee Goodwin motioned to adjourn the meeting at 12:29p.m.

Motion Carried

Kimberlee Jones, Municipal Clerk

Vice Chairman Terry Rhindress

To: Planning Advisory Committee
From: Andrew Fisher, Manager of Planning & Strategic Initiatives
Date: December 3, 2018
Subject: 150 East Victoria Street – Proposed Development Agreement to convert an existing motel into an apartment complex.

PROPOSAL:

An application by the property owner of 150 East Victoria Street (PIDs# 25343187 & 25005224) for a development agreement to permit the conversion of an existing motel to a 10-unit motel with six apartment units.

BACKGROUND:

Site Details: The subject property consists of two parcels, one contains a ten-unit motel, and the other contains five motel units that were converted from ten units. There is also an existing two-bedroom apartment unit on the second floor of the upper building. In total, the property is approximately 1664 m² in area, and is located in the Downtown Commercial Zone (outside the Core Area District). The property is at the edge of the downtown commercial core. To the west, across Herbert Street is a large senior's facility. To the east on East Victoria is a large converted apartment building, and to the north is a 2-unit detached dwelling. The remainder of the neighborhood consists of low density detached homes. The property is almost entirely covered by buildings with the remaining area covered in asphalt for 21 parking spaces.

Proposal Details: As previously mentioned, the lower building was converted from 10-unit motel rooms to five rooms in 2017. While this conversion is permitted under the Land Use Bylaw (LUB), the creation of ground floor dwelling units is not permitted. Staff determined that the units change from a motel to a dwelling unit with the installation of stoves. The installation of a stove in the five units is the essence of this development agreement application.

2017 Application: In January and February 2017 the PAC and Council considered an application for a development agreement to convert all existing 20 motel units into 10-dwelling units (plus the existing second floor dwelling unit). At that time, the PAC initially deferred a decision and asked staff to negotiate with the applicant to address the lack of greenspace and the concerns raised by an adjacent land owner. A motion to recommend that Council enter into the agreement was defeated. Subsequently, Council rejected the application on March 27, 2017.

The current application differs only in that the proposal involves conversion of five motel units to dwellings in the lower building, while leaving the upper building as-is. Otherwise, the circumstances of the application remain substantially unchanged. As such, please see the attached February 1, 2017 staff report that outlines the issues that were of concern in 2017. The discussion points and proposed solutions provided in the draft development agreement also remain the same.

RELEVANT POLICY AND DISCUSSION:

Municipal Planning Strategy policy CP-15 allows for the conversion of commercial uses to residential uses by development agreement:

CP-15 *It shall be the intention of Council to consider applications for ground floor residential uses in the Downtown Zone by Development Agreement excluding that portion of a building that abuts Church, Victoria and Havelock Streets. Outside said streets, applications for new*

residential buildings or ground floor conversion of existing commercial and institutional buildings will not be considered for residential uses unless it can be shown that such a conversion will not detract from the commercial character of the surrounding streetscape.

In negotiating such a development agreement, Council shall take into account:

(a) the location, height, bulk of the building;

(b) the architecture of the building;

(c) signage;

(d) parking facilities;

(e) landscaping;

(f) pedestrian access;

(g) the unique characteristics of the property and its relationship to the surrounding streetscape;

(h) that the ground floor frontage of any building fronting on Church, Havelock or Victoria Streets shall be used for commercial purposes.

(a) *the location, height, bulk of the building;*

As previously mentioned the exterior dimensions of the building are not being altered. That being said, the current structures on the lots satisfy all Land Use Bylaw requirements in regards to minimum standards for setbacks. The minimum front, side and rear yards in the Downtown Commercial zone is 0 meters.

(b) *the architecture of the building;*

Again, the exterior dimensions of the building are not being altered; therefore, significant changes to the architecture of the buildings are not easily achieved. New windows and doors have been installed on all of the units. The majority of the building is one story and for the most part, the lower half is constructed of brick while the upper half is made up almost entirely of windows and doors.

(c) *signage;*

There is no proposed change to the existing signage.

(d) *parking facilities;*

Significant changes to the parking facilities on the property are not easily achieved. The property was designed as a drive up motel and parking is proposed to remain in front of each unit. The asphalt on the property is in fairly good condition.

(e) *landscaping*

The Development Agreement stipulates under Schedule 'A' that all areas not used for buildings and parking be landscaped. As well over grown vegetation will be required to be removed.

(f) *pedestrian Access*

Pedestrian access is achievable from Herbert Street as well as east Victoria Street.

(g) *the unique characteristics of the property and its relationship to the surrounding streetscape;*

The characteristics of the property and their relation to the surrounding streetscape will not be altered. The exterior of the building will remain largely the same as it is now.

(h) *that the ground floor frontage of any building fronting on Church, Havelock or Victoria Streets shall be used for commercial purposes.*

There is no direct access to the building from Victoria Street. The current use of the Victoria Street end of the building is the motel office. The purpose of this clause is to require the continuation of an 'active storefront' along the main streets downtown. As this use never included an actual 'active storefront', is outside the Core Area District and is adjacent to the residential uses on Victoria Street, requiring this end of the building to be converted to a commercial operation is not the intent of the planning policy.

More generally, the proposal supports the following MPS Policies:

SP-1 It shall be the intention of Council to encourage high density residential development in the Downtown Zone

RP-11 It shall be the intention of Council to encourage and promote the provision of affordable housing units within all residential areas of the Town by:

- (a) encouraging a mix of housing types and densities;

RP-8 It shall be the intention of Council to encourage a mix of housing densities in all residential areas of town to encourage a mix of housing types and income groups in all residential areas.

Finally, the proposal satisfies all relevant aspects of MPS Policy A-5:

A-5 It shall be the intention of Council, when considering an amendment to this or any other planning document, including the entering into or amendment of a development agreement, to consider the following matters, in addition to all other criteria set out in the various policies of this planning strategy:

- (a) That the proposal conforms to the general intent of this plan and all other municipal bylaws and regulations.
- (b) That the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Town to absorb any costs relating to the development;
 - (ii) the adequacy of municipal water, sanitary sewer and storm sewer services;
 - (iii) the adequacy of road networks, in, adjacent to, or leading to the development;
- (c) That consideration is given to the extent to which the proposed type of development might conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) parking, traffic generation, access to and egress from the site;
 - (iv) any other matter of planning concern outlined in this strategy.

While not a matter to be considered in the land use planning process, the proposed renovations will have to satisfy all relevant provision of the National Building Code and Nova Scotia Building Code Regulations.

CONCLUSIONS:

The proposal generally conforms to the relevant policies of the MPS and LUB. Staff do not anticipate significant negative impacts on the surrounding neighbourhood.

OPTIONS:

Option One: Recommend that Council enter into the proposed Development Agreement for 150 East Victoria Street as drafted by Staff, subject to any revisions that may arise during the public participation process.

Option Two: Recommend to Council not to enter into the Development Agreement for 150 East Victoria Street, citing specific policies with which the proposal does not conform.

Option Three: Defer the application and instruct Staff to provide more information or negotiate changes to the agreement.

STAFF RECOMMENDATION: Option One.

To: Planning Advisory Committee
From: Jason MacDonald, MCIP, LPP, Deputy CAO
Date: February 1, 2017
Subject: **Supplementary Report**
150 East Victoria Street – Proposed Development Agreement to convert an existing motel into an apartment complex.

PROPOSAL:

An application by the property owner of 150 East Victoria Street (PIDs# 25343187 & 25005224) for a development agreement that would permit the existing motel to be converted into an 11 unit apartment complex.

STATUS:

At the January 9, 2017 meeting of the PAC a public participation session was held to consider the above application. At that meeting, the Committee passed the following motion:

Moved by: Councillor MacKenzie Seconded by: Deputy Mayor Christie

That the Planning Advisory Committee defer the application and instruct Staff to provide more information or negotiate changes to the agreement, with particular attention given to the lack of green space and the concerns raised in Mr. Ettinger’s letter of opposition, included as part of the minutes.

Motion Carried

UPDATE:

Regarding the concern about lack of green space staff have spoken to the owner and he is not amenable to removing any asphalt and installing grass on the property. The owner has offered to install:

1. Benches at a few spots on the property;
2. A patio table and chair set outside each room;
3. A hanging flower basket outside of each room.

Staff Comments - Landscaping

While the development agreement process allows for the negotiation of aspects contained within the relevant policy it should be noted that the Land Use Bylaw waives the requirement for amenity space in multi-unit buildings when balconies are provided. In the proposed redevelopment, every unit will have an at grade balcony immediately outside their unit. Therefore, if the development was ‘as of right’ the amenity space would not be required.

Furthermore, it is not uncommon for multi-unit residential buildings in downtown urban locations to not provide landscaped open space. In these situations, nearby parks are used for this purpose. Not only do the parks provide amenity space for the local residents, but the increased usage of the parks by the residents provide for a more vibrant atmosphere for those people in the downtown area. This is a key component of the Centre First – Downtown Action Strategy adopted by the Town of Amherst.

Staff Comments – Mr. Ettinger’s Letter

Mr. Ettinger lives adjacent to the subject property, just north of the rear building on Herbert Street.

After the introduction, the first part of the letter addressed the current use (motel and long term rentals) and law enforcement issues. While it is truly unfortunate that there are existing law enforcement issues on the site, strictly speaking, Land Use Planning cannot directly address these issues. I can advise that the current use (motel and long term rentals) is permitted to exist and may continue should the application for the development agreement not be approved. Furthermore, should the development agreement be approved, the number of units on the property will be reduced from 21 to 11, thus reducing the overall traffic on the property. Furthermore, it could be anticipated that the larger renovated units, which will include a kitchen, will be safer than the potential alternative of people trying to cook with inadequate resources.

Mr. Ettinger’s letter then addresses the requirement for ‘new one level apartment buildings in Amherst adhere to set backs providing green space for outdoor enjoyment for the residents while providing properties close by a buffer from these multi-units buildings’. While the above statement is true for such new developments in the Residential zone, these rules do not apply to existing buildings in the Downtown Zone.

Regarding the comments concerning the building code, any and all developments and renovations within the Town must conform to the National Building Code and Nova Scotia Building Code Regulations. While not necessarily required, the proposed development agreement can be amended to state that “Variations from the requirements of this development agreement in relation to the built structures are permitted in order to meet the National Building Code and Nova Scotia Building Code Regulations. Specifically, should non-combustible material be required along the outside walls this material will be permitted, with the design subject to the satisfaction of the Development Officer”.

Regarding the requirement for the front office portion of the building to be used for commercial purposes, the Town does have the authority to require this to be the case. However, given the existing market conditions for small, converted commercial space in the area, it is possible that the space may remain vacant, or attract a business that may not be ideal to the residents of the area.

Section 7.2.3 of the Land Use Bylaw applies to new residential construction in the Residential Zone and does not apply to this development.

Section 8.1.1 of the LUB is intended for new construction, not conversion of existing buildings.

Section 8.5 is a specific commercial zone and not applicable to this location.

Regarding the type of windows along the property lines, the Town may require that casement windows be installed to reduce noise impacts on adjacent properties.

Summary

For reasons cited above, and in the original report, staff are of the opinion that landscaped open space is not required on this property. Outdoor balconies are provided and nearby high quality parks are nearby for the use of the residents.

The buildings are obviously in existence in their current location, and due to the proximity to property lines landscaped buffers cannot be provided, nor are they required by the current polices of the MPS or regulations of the LUB.

The existing use of the building as a motel with both short and long term rentals can continue indefinitely without the benefit of a development agreement. It can be argued that reducing the number of units from 21 to 11 will reduce traffic on the property. Furthermore, the renovations, including doubling the size of the units and the addition of kitchens may result in a safer situation than the potential alternative of people trying to cook with inadequate resources.

Staff have amended the proposed development agreement to include the outdoor amenities mentioned in this report, as well as the requirement for casement windows and reference to the National Building Code and Nova Scotia Building Code Regulations.

Staff recommend that the Planning Advisory Committee recommend that Council enter into the attached development agreement for the existing motel to be converted into an 11 unit apartment complex.

Committee Options:

1. I move that PAC recommend that Council **ENTER** into the attached development agreement for the existing motel to be converted into an 11 unit apartment complex.
2. I move that PAC recommend that Council **DO NOT** enter into the attached development agreement for the existing motel to be converted into an 11 unit apartment complex.
3. Recommend that Council enter into a modified development agreement.





Case No. DA-2018-01

This Agreement made this _____ Day of _____ 2018.

Between:

Jack Van Der Donk (Owner of property located at 150 East Victoria Street [PIDs 25343187 & 25005224], hereinafter called the "Owner")

of the one part

- and-

The Town of Amherst (a body corporate hereinafter called the "Town")_

of the other part.

WHEREAS the Owner wishes to obtain permission pursuant to Policy CP-15 of the Municipal Planning Strategy of the Town of Amherst, to convert a 15-unit motel into a 10-unit motel with 6 dwelling units on properties located at 150 East Victoria Street (PIDs 25343187 & 25005224.

AND WHEREAS a condition of the granting of approval of Council is that the Owner enter into an agreement with the Town;

AND WHEREAS the Council of the Town, at its meeting on the ____ Day of _____ 2018, approved the said development agreement subject to the registered owner of the land described herein entering into this agreement;

AND WHEREAS the following Schedules shall be attached to and form part of this Agreement:

- (a) Schedule 'A' - Terms and Conditions
- (b) Schudule 'B' – Site Map
- (c) Schedule 'C' - Building Floor Plans

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the granting by the Town of the development agreement requested by the Owner, the Owner agrees as follows:

- 1) That the Owner is the registered owner of the aforesaid lands in the Town of Amherst, hereinafter called the Lands. The aforesaid Lands are the only lands in the Town of Amherst to which this agreement applies, and the Lands are illustrated in the plan shown on Schedule B attached hereto and forming part of this agreement.
- 2) That the owner may convert the existing 15-unit motel to a 10-unit motel and a 6-unit apartment complex, subject to the following Schedules A and B, attached.

- 3) Nothing in this Agreement shall exempt or be taken to exempt the Owner or any other person from complying with the requirements of any Bylaw of the Town applicable to the Property (other than the Land Use Bylaw to the extent varied by this Agreement) or any Provincial or Federal statute, act, or regulation.
- 4) Any failure of the Town to insist upon strict enforcement of any requirements or conditions contained in this agreement shall not be deemed a waiver of any rights or remedies that the Town may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this Agreement.
- 5) Should the Owner fail to act in accordance with any aspect of this agreement, the Town shall retain the right to discharge the agreement upon 30 days notification and / or enter the property and conduct the required work. The cost of the said work will become a lien on the property tax bill.
- 6) The Town shall issue the necessary Development Permit for the development upon expiration of the appeal period specified for Development Agreements under Section 249 of the Municipal Government Act, as the same may be amended from time to time, or upon the withdrawal or dismissal of any appeal which may be taken.
- 7) The Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors and assigns, and shall run with the land which is the subject of this Agreement until such time as it is discharged by the Town in accordance with Section 229 of the Municipal Government Act.

SIGNED, SEALED AND DELIVERED

in the presence of

FOR THE TOWN OF AMHERST

David Kogon
Mayor

Gregory D. Herrett, CA
Chief Administrative Officer

FOR THE OWNER
Jack Van Der Donk

Schedule A

150 East Victoria Street - Development Agreement

Terms and Conditions:

1. The use of the property shall be limited to a 10-unit motel and a 6-unit apartment dwelling in a 2-building complex.
2. The bulk and height of the buildings shall not be altered, and the character of the apartment buildings shall remain largely the same.
3. Solid waste management shall be in conformance with the Town of Amherst Solid Waste Bylaw.
4. A minimum of 17 parking spaces shall be maintained on the site.
5. All driveway and parking areas shall be maintained with asphalt and kept clear of snow, and shall otherwise be unobstructed at all times so as to be passable by emergency vehicles.
6. All areas not used for buildings, parking or driveways shall be landscaped with grass or other manicured vegetation. Existing overgrown vegetation on the property shall be removed to the satisfaction of the Development Officer.
7. No outdoor storage shall be permitted on the property.
8. Exterior lighting shall be carefully designed to not shine directly onto adjacent properties.
9. The exterior rear wall of the lower building, including the foundation, shall be scraped and painted prior to August 1, 2018.
10. The subject properties, including buildings, shall be kept in good repair, and be continuously maintained to be aesthetically pleasing.
11. The existing office space at the front of the building may be used for the administrative purposes of the apartment complex as well as laundry facilities for residents of the complex.
12. A minimum of 2 benches and/or 2 patio and chair sets shall be provided out of doors for the residents of the property.
13. Variations from the requirements of the development agreement in relation to the built structures are permitted in order to meet the Nation Building Code and nova Scotia Building Code requirements. Specifically, should non-combustible material be required along the outside walls this material will be permitted, with the design subject to the satisfaction of the Development Officer.



Schedule B

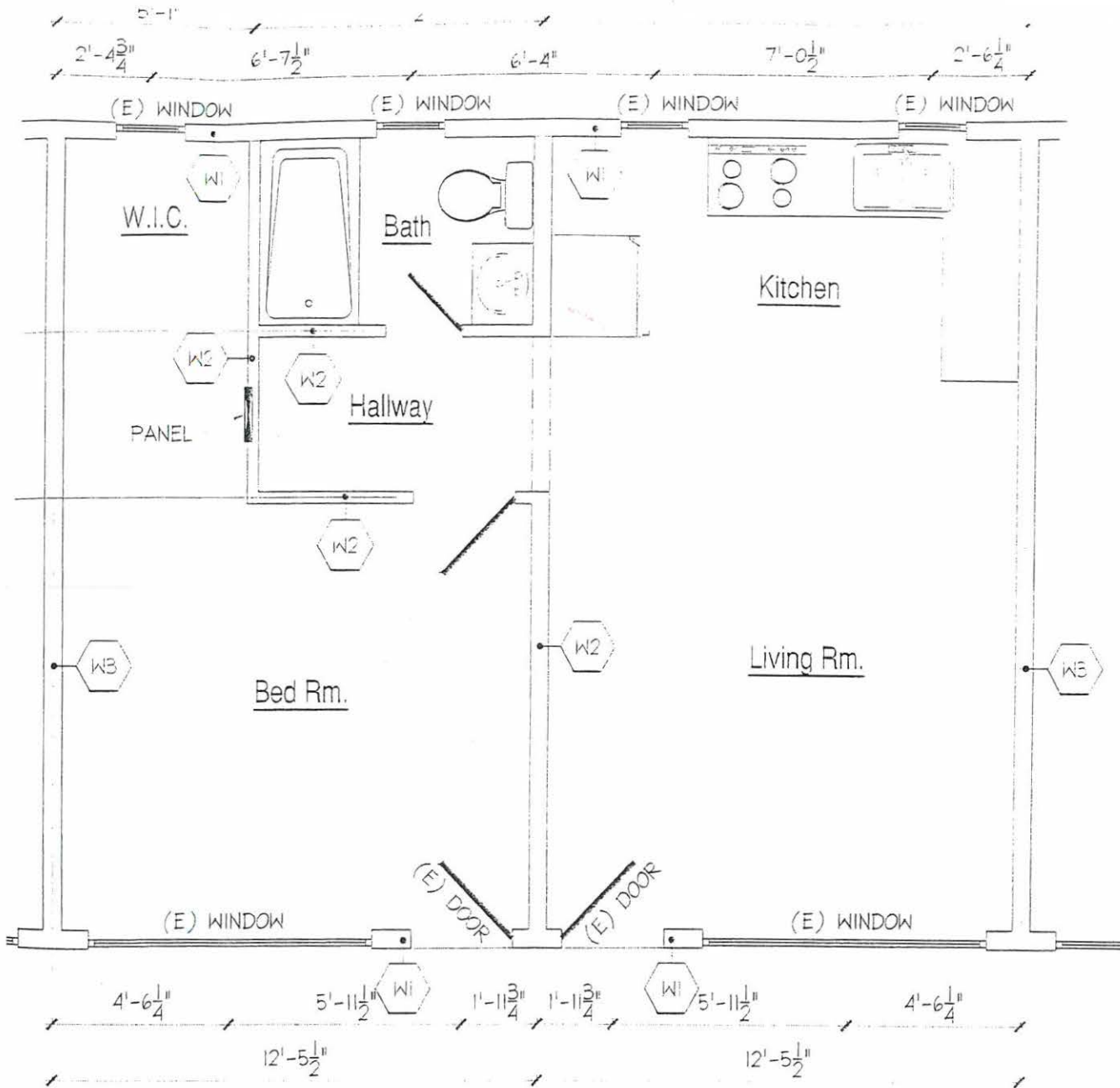
150 East Victoria Street



Herbert

East Victoria

Schedule "C"

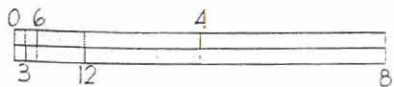


NOTE:

INSTALL 5/8" TYPE X DRYWALL ON CEILING. OR A FIRE RATED PARTITION IS TO BE CONSTRUCTED FROM TOP OF EXISTING WALL TO UNDERSIDE OF ROOF DECKING. OWNERS CHOICE

MAIN FLOOR PLAN

477 SQ.FT.



W2 INTERIOR WALL

- EXISTING DRYWALL
- EXISTING STUDS
- EXISTING DRYWALL

W3 RENOVATED DEMISING WALL ESTIMATED STC=51 F.R. =1 HR