

# HALIFAX

P.O. Box 1749  
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**Item No. 13.1.3**  
**Harbour East-Marine Drive Community Council**  
**September 8, 2016**

**TO:** Chair and Members of the Harbour East-Marine Drive Community Council

**SUBMITTED BY:** Original Signed

Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** August 16, 2016

**SUBJECT:** Case 19626 – Dartmouth MPS and LUB Amendments – Development Agreement for Multiple Unit Residential Dwelling and Commercial Development at 836 and 842 Portland Street, Dartmouth

## ORIGIN

- Application from W.M Fares Architects
- April 14, 2015, Regional Council initiation of the MPS amendment process

## LEGISLATIVE AUTHORITY

*Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development*

## RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as set out in Attachments A and B of this report and schedule a joint Public Hearing with Harbour East-Marine Drive Community Council;
2. Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as set out in Attachments A and B of this report.

It is recommended that the Harbour East-Marine Drive Community Council:

3. Move Notice of Motion to consider the proposed development agreement, as set out in Attachment C of this report, to permit two commercial buildings and a multiple unit residential dwelling at 836 and 842 Portland Street, Dartmouth. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1.
4. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and

any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end;

5. Approve, by resolution, the discharge of the existing development agreement that applies to the lands as shown in Attachment D of this report, to take effect upon the registration of the new development agreement; and
6. Require the discharge agreement be signed by the property owner within 120 days, or any extension thereof, granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

W.M Fares Architects is applying to amend the Dartmouth Municipal Planning Strategy (MPS) and Land Use By-law (LUB) to allow two commercial buildings and one multiple unit residential dwelling at 836 and 842 Portland Street, Dartmouth.

<b>Subject Site</b>	Comprised of 2 properties: 836 and 842 Portland Street, Dartmouth (Maps 1, 2 and 3)
<b>Location</b>	Southwest corner of Portland Street and Portland Hills Drive, Dartmouth (Map 2)
<b>Regional Plan Designation</b>	Urban Settlement
<b>Community Plan Designation (Map 1)</b>	Residential (R) in the Dartmouth MPS
<b>Zoning (Map 2)</b>	H (Holding) and CDD (Comprehensive Development District) under the Dartmouth LUB
<b>Size of Site</b>	1.62 ha (4.01 Acres)
<b>Street Frontage</b>	117 metres (383.8 feet) along Portland Street 136 metres (446.1 feet) along Portland Hills Drive
<b>Current Use of Subject Property</b>	Contains a detached garage. The remainder of the site is vacant. A residential single unit dwelling was previously on the site. The dwelling has been removed.
<b>Surrounding Uses</b>	The surrounding area is comprised mainly of residential and medium scale commercial uses. Immediate surrounding land uses include: <ul style="list-style-type: none"><li>• North – Portland Street and Two-Unit Dwellings</li><li>• South – Townhouses;</li><li>• East – Portland Hills Drive and the Portland Hills Commercial Plaza</li><li>• West – Single Unit Dwellings</li></ul>

## **Proposal Details**

The applicant proposes to develop two commercial buildings and one multiple unit residential dwelling. The major aspects of the proposal are as follows:

- Comprised of commercial/office and residential uses;
- Three separate buildings on a lot;
- Two commercial buildings are to have two storeys and a combined total gross floor area of approximately 2,540 square meters (27,350 square feet);
- Multiple unit residential dwelling to have five storeys containing a maximum of 81 dwelling units;
- A mix of dwelling unit types and sizes;

- Multiple unit residential dwelling will contain a combination of indoor and outdoor amenity space for residents;
- Landscaping;
- Retention of mature trees and vegetation to serve as buffer to surrounding residential uses; and
- Both below grade and surface parking.

The proposed development is comprised of commercial/office and residential uses. The commercial/office portion of the proposed development is in the form of a strip plaza containing two buildings located along Portland Street (Schedule B of Attachment C). To the rear of the site (south), an 81 unit, five storey, multiple unit residential dwelling is also proposed. The development is intended to reflect a neighbourhood village design by way of grouping small-scale commercial/office buildings with the separated multiple unit residential dwelling located at the rear of the site. Buffering and landscaping along the south and west property lines reduces potential impact and maintains privacy to adjacent residential development.

### **MPS and LUB Context**

The subject lands are designated Urban Settlement under the Regional Plan and are identified as an Urban District Local Centre (Cole Harbour). The land use characteristics of an Urban District Local Centre are a mix of low, medium and high density residential, commercial, institutional and recreation uses. The lands are also located within one of three existing designated growth areas identified in the Regional Plan.<sup>1</sup>

In 1997, Council retained Griffiths Muecke Associates to conduct a Watershed Management Study for Morris Lake. The purpose of the study was to establish a management framework by which to guide future development within the Morris Lake Watershed. The study indicated that Morris Lake, while still in a generally “healthy” condition, was in danger of becoming eutrophic if development proceeded in an environmentally insensitive manner. Following the recommendations of the Watershed Management Study, Council established a public participation committee and engaged property owners, local area residents, the Dartmouth Lakes Advisory Board and the general public to co-ordinate and develop a Master Plan for the Morris-Russell Lake Secondary Plan Area, to ensure future development within both the Morris Lake Watershed and Russell Lake Sub-Watershed, which is intimately linked to the water quality of Morris Lake, would occur in an environmentally sensitive and comprehensive manner.

Under the Dartmouth MPS, the lands are located within the Morris-Russell Lake Secondary Plan Area (MLSPA). The larger parcel at 836 Portland Street and a portion of the smaller parcel at 842 Portland Street (Map 2) are zoned H (Holding) in the Dartmouth LUB. The H zone permits low density residential development. This zone has been in effect since the adoption of the Dartmouth MPS in 1978 and reflects the deficiencies existing in the Dartmouth sanitary sewer system at that time, thus limiting the application of higher density zones on these properties. Despite subsequent upgrades to the system, the H zone still exists as the prevailing zoning in this area. Consistent with the H zone, the CDD (Comprehensive Development District) Zone, under the Dartmouth MPS, also designates the subject lands for low density development. A portion of 842 Portland Street is split zoned H and CDD (Map 2). The CDD zoned portion is currently designated for commercial use under MPS policy. This irregular shaped parcel has a long frontage and reduced depth making the property difficult to develop for commercial use. The principle use of this parcel has been for signage and to accommodate a sales centre.

### **Approval Process**

The approval process for this application involves three steps:

- a) First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the MPS and LUB;
- b) Second, Harbour East-Marine Drive Community Council must consider and if deemed appropriate, approve by resolution, a proposed discharge agreement; and

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<sup>1</sup> The other two existing designated growth areas are Bedford South and Bedford West.

- c) Third, Harbour East-Marine Drive Community Council must consider and if deemed appropriate, approve a proposed development agreement.

A public hearing, which is required prior to a decision on the proposed MPS and LUB amendments (Attachments A and B) and development agreement (Attachment C), may be held at the same time. A decision to discharge the existing development agreement (Attachment D) from 842 Portland Street does not require a public hearing and can be addressed by resolution of Community Council. In the event Regional Council approves MPS and LUB amendments, Harbour East-Marine Drive Community Council may only make a decision on a proposed development agreement following the amendments to the MPS and LUB coming into effect. A decision on proposed MPS and LUB amendments and a decision to discharge an existing development agreement are not appealable to the Nova Scotia Utility and Review Board. However, the decision on the proposed development agreement is appealable to the Board.

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy, the *HRM Charter*, and the Public Participation Program approved by Council on February 25, 1997. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public information meeting held on June 23, 2015. Attachment E contains a copy of the minutes from the meeting. The public comments received include the following topics:

- Impact of traffic, particularly along Portland Street and Portland Hills Drive;
- The potential change in community character of the area with additional commercial and multiple unit residential development;
- Buffering between the proposed development and existing residential development.

A public hearing must be held by Regional Council before they can consider approval of the proposed MPS and LUB amendments. Should Regional Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and property owners.

### **DISCUSSION**

The MPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in the Municipality. Amendments to an MPS are significant undertakings and Council is under no obligation to consider such requests. In this case, staff advise that the proposed amendments are consistent with Regional Plan policy that recognize the subject lands as part of an Urban District Local Centre and designated growth area. The following discussion reviews the rationale and content of the proposed MPS and LUB amendments, the associated development agreement, and the proposals overall consistency with the objectives of the Morris-Russell Lake Master Plan

### **Proposed MPS and LUB Amendments**

Staff considered the existing MPS policy context and a number of policy approaches when drafting the proposed MPS and LUB which are contained in Attachments A and B. A summary of the proposed amendments is as follows:

- New allowances for commercial development, at 836 and 842 Portland Street, to be considered by development agreement;
- New allowances for multiple unit residential development, at 836 and 842 Portland Street, to be considered by development agreement; and
- New allowances for permitting more than one building, at 336 and 842 Portland Street, be considered by development agreement.

Of the matters addressed by the proposed MPS and LUB amendments, the following have been identified for detailed discussion:

#### Fostering a Pedestrian Oriented Environment

The proposed development agreement policies will allow Community Council to consider proposals for medium scale multiple unit residential and small scale commercial/office development which fosters a pedestrian oriented environment. This is achieved through the proposed development agreement criteria which requires: 1) that buildings are oriented to the sidewalk and primary pedestrian ways; 2) that commercial buildings do not exceed a height of three stories and that residential buildings not exceed a height of five storeys; and 3) that pedestrian street level activity is encouraged in proximity to the street through the incorporation of commercial ground floor uses that relate to the street and public realm. This proposed development agreement policy is consistent with Regional Plan Policy which encourages enhanced pedestrian linkages and the development of pedestrian oriented facades.

#### Traffic Generation and Circulation:

Traffic has been identified as a primary point of discussion through the planning process for this application. Development agreement policies have been incorporated into the proposed MPS policy to ensure consideration of traffic related matters such as traffic generation and circulation, sighting distances, site access and egress and pedestrian circulation and safety. Further, in an effort to improve circulation and access to and from Portland Street, specific development agreement policy requires that any proposed access from the subject lands to Portland Street will be restricted to right-out movement.

#### Integrating Development with Surrounding Community:

In an effort to mitigate against potential land use conflict between the proposed development and existing community several development agreement policies have been incorporated, these include that lighting on the subject site is designed to ensure minimal impact on adjacent properties and that existing significant vegetation stands are retained where possible. Retention of existing vegetation, particularly between the proposed development and the existing built form to the west and south, provides a visual and audible buffer between proposed commercial development and the surrounding community.

### **Proposed Development Agreement**

Attachment C contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- provisions enabling parking
- provisions enabling a maximum of 81 residential units;
- maximum commercial square footage;
- architectural, signage, lighting and maximum building height requirements;
- parking (bicycle and vehicular), circulation and site access;
- permitted commercial land uses;
- hours of operation; and

- provisions for indoor and outdoor amenity space.

The attached development agreement will permit the two commercial/office buildings and a multiple unit residential dwelling, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the proposed MPS criteria as shown in Attachment F, the following have been identified for detailed discussion:

Scale of Development:

The development proposal reflects the medium residential and small scale development as intended in the proposed MPS policy. As proposed, the multiple unit residential dwelling will provide a maximum of 81 dwelling units and will have a total building height of five storeys. The two commercial buildings will provide a maximum of 2,540 square meters (27,350 square feet) and will have a maximum permitted height of two stories. Further, the commercial buildings will be sited in close proximity to Portland Street and Portland Hills Drive to provide improved pedestrian access and connectivity. This proposed density is appropriate for the subject site because it is located within the Cole Harbour Urban District Local Centre and designated growth area. It is also consistent Regional Plan policy for these areas which encourages a mix of low to medium density residential, small office and convenience commercial uses.

Land Use Compatibility:

The proposed development agreement contains a number of requirements aimed at ensuring the proposal is compatible with surrounding single unit residential, townhouse and convenience commercial uses. The commercial buildings are located approximately 39.6 meters (130 feet) from the western property line (Alpine Drive). The multiple unit dwelling is located approximately 37.7 meters (124 feet) from the western property line (Alpine Drive) and 87 feet (26.5 meters) from the south property line (condominium development). In addition, the proposed agreement requires existing vegetation to be retained along both west and south property boundaries to provide a buffer between the proposed development and adjacent properties.

**Morris-Russell Lake Master Plan**

**The intent of the Morris-Russell Lake Master Plan is to ensure development, within the Morris Lake Watershed and Russell Lake Sub-Watershed, occurs in an environmentally sensitive and comprehensive manner. The Master Plan was to address issues and constraints to future development within the area such as transportation, municipal services, land use, environmental opportunities and constraints and so on. Many of these issues and constraints have been addressed as part of the proposed MPS and LUB Amendments (Attachment A and B) and development agreement (Attachment C). As such, the proposed development is consistent with the intent and objectives of the Morris-Russell Lake Master Plan Area.**

**Conclusion**

Although the subject site is identified as Single Family Residential under the Russell Lake/Morris Lake Future Land Use and Transportation Plan and zoned Holding under the Dartmouth LUB, its location and characteristics make it appropriate for the proposed densities and form of development. Accordingly, the proposed MPS amendments builds on the future characteristics of the Cole Harbour Urban Local Growth Centre as identified in the Regional Plan. In accordance with the proposed MPS policies, the associated development agreement provides medium density housing options and opportunities for localized convenience commercial uses while limiting impacts on surrounding single unit and townhouse development. Therefore, staff recommends that Council adopt the amendments to the Dartmouth MPS and LUB provided in Attachments A and B of this report. Should Council decide to adopt the amendments, staff recommends that Harbour East-Marine Drive Community Council approve the development agreement as contained in Attachment C.

**FINANCIAL IMPLICATIONS**

There are no financial implications. The Applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Development Agreement. The administration of the development agreement can be carried out within the approved 2016/17 budget with existing resources.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations contained within this report. This application involves proposed MPS amendments. Such amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report.

### **ENVIRONMENTAL IMPLICATIONS**

No additional concerns were identified beyond those identified in this report.

### **ALTERNATIVES**

The Harbour East Marine Drive Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the Dartmouth MPS and LUB, as set out in Attachments A and B of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the Dartmouth MPS and LUB. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

### **ATTACHMENTS**

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Map 3	Subject Property Proposed for DA Discharge
Attachment A	Amendments to the Dartmouth Municipal Planning Strategy
Attachment B	Amendments to the Dartmouth Municipal Land Use By-law
Attachment C	Development Agreement
Attachment D	Discharging Agreement
Attachment E	Minutes of Public Information Meeting
Attachment F	Dartmouth MPS Evaluation of Proposal Against Proposed MPS Policy

Report Prepared by: Tyson Simms, Planner II, 490-6983

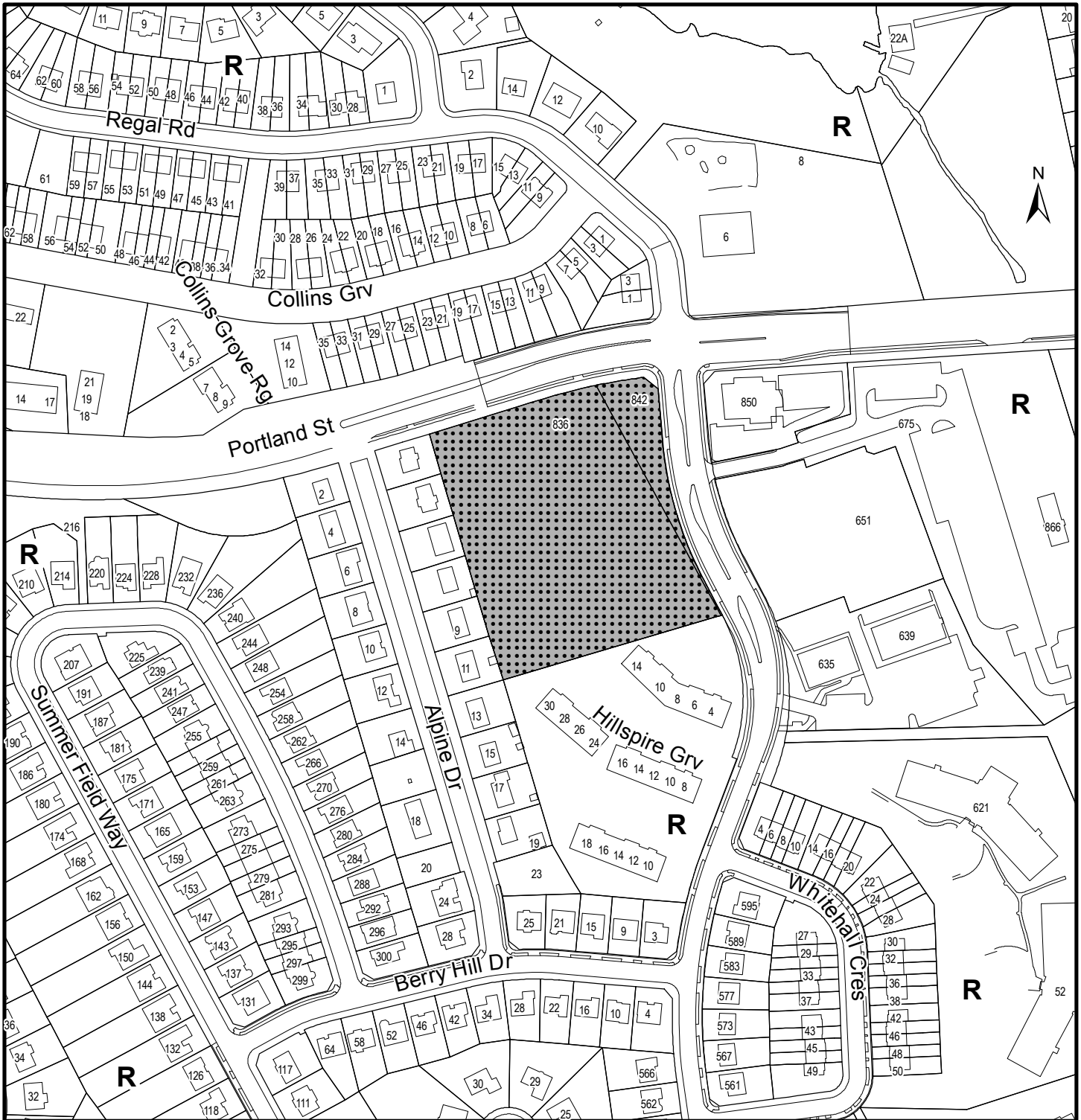
Original Signed

Report Approved by:

Carl Purvis, Acting Manager, Current Planning, 490-4797

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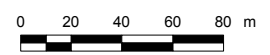
**Map 1 - Generalized Future Land Use**

836, 842 Portland Street,  
Dartmouth

**HALIFAX**

 Subject Properties  
Proposed for Development  
Agreement

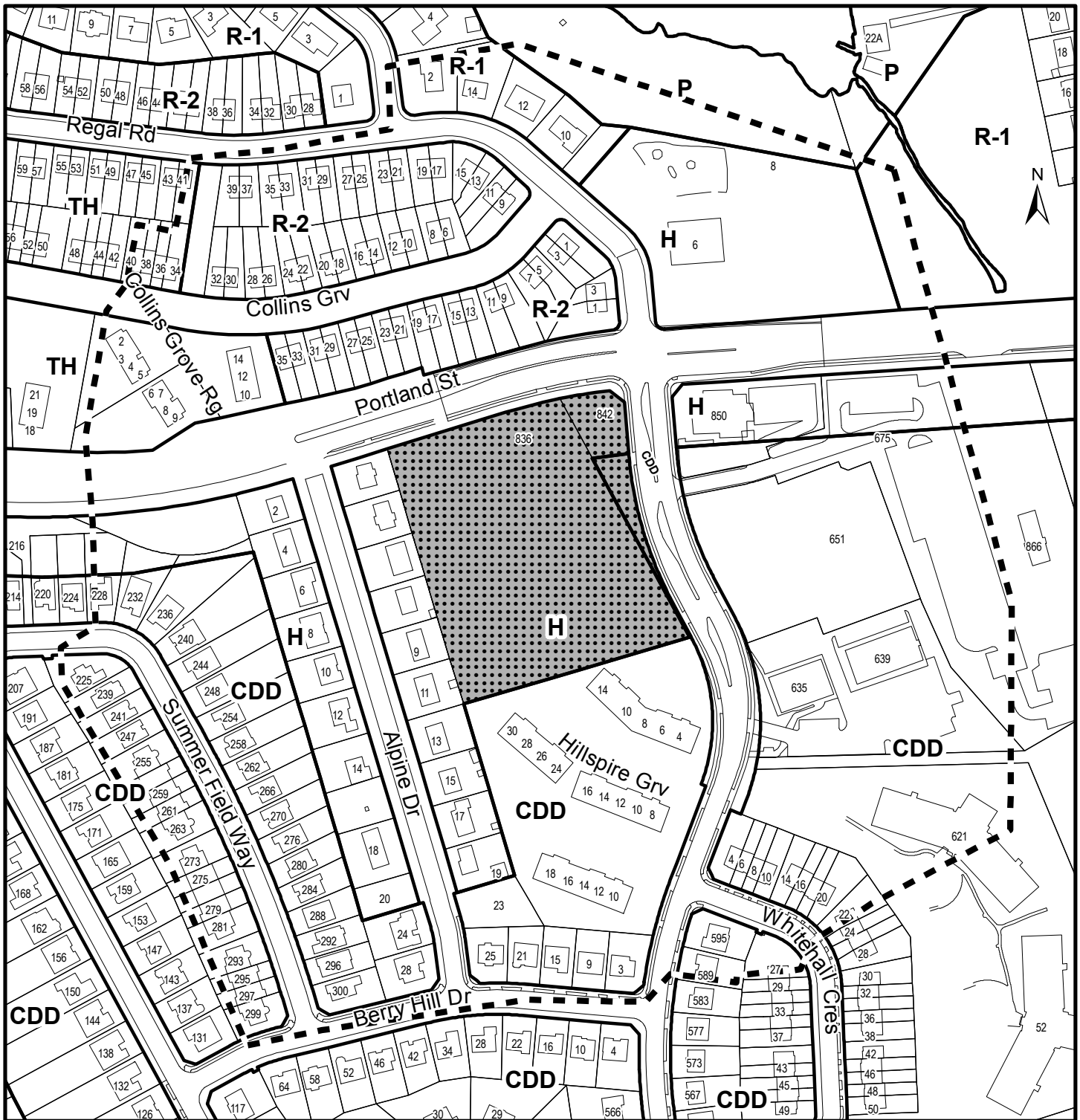
**Designation**  
R Residential



Dartmouth  
Plan Area

This map is an unofficial reproduction of  
a portion of the Generalized Future Land  
Use Map for the plan area indicated.


The accuracy of any representation on  
this plan is not guaranteed.




### Map 2 - Zoning and Notification

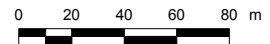
836, 842 Portland Street,  
Dartmouth

**HALIFAX**

 Subject Properties  
Proposed for Development Agreement

 Area of Notification

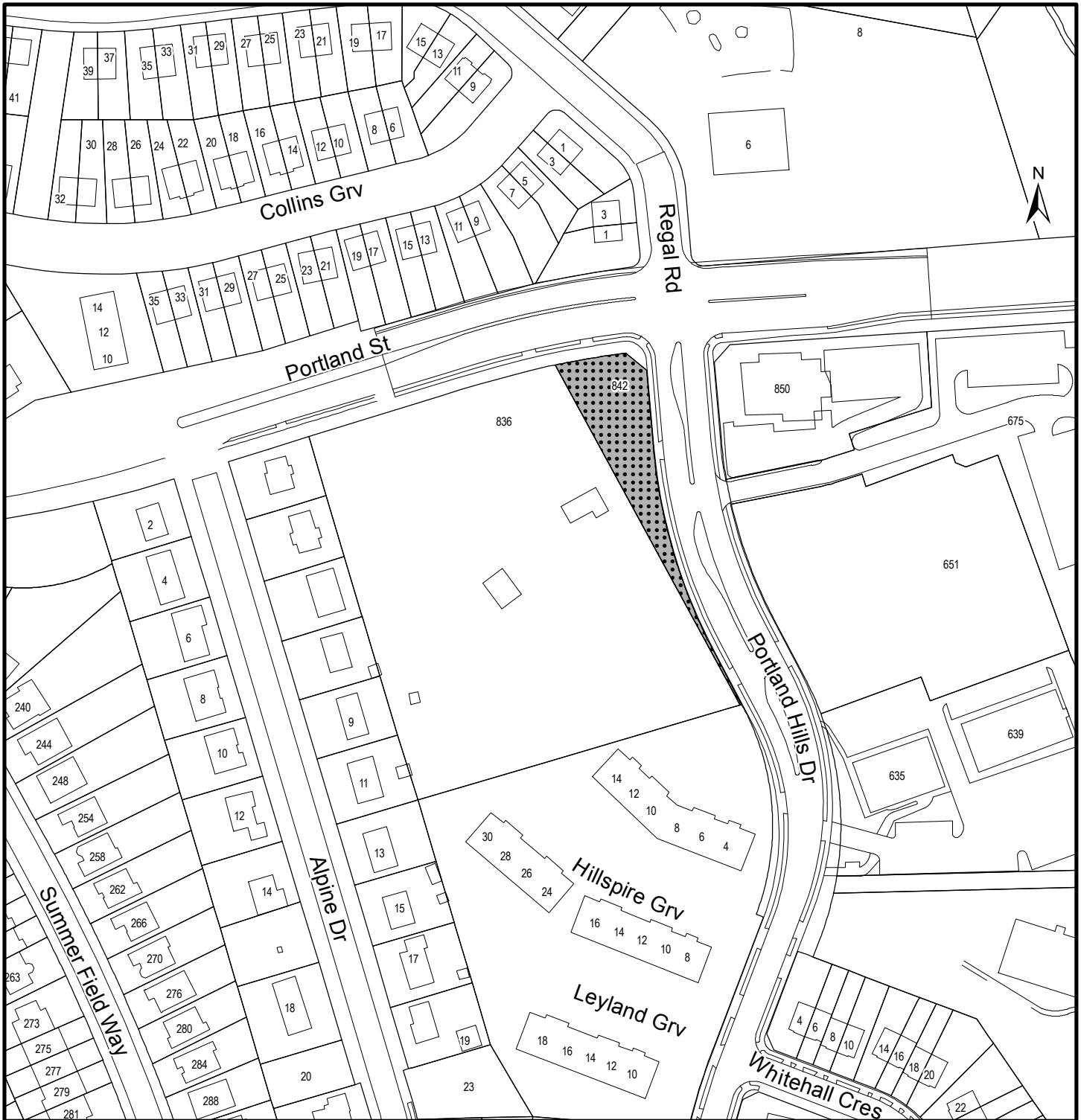
- Zone**
- R-1 Single Family Residential
  - R-2 Two Family Residential
  - TH Town Housing
  - H Holding
  - CDD Comprehensive Development District



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

The accuracy of any representation on this plan is not guaranteed.


Dartmouth Plan Area



**Map 3 - Subject Property Proposed for Discharge of DA**

836, 842 Portland Street,  
Dartmouth

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 Area to be Discharged



Dartmouth  
Plan Area

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

The accuracy of any representation on this plan is not guaranteed.

## Attachment A

### Amendments to the Dartmouth Municipal Planning Strategy

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

1. By amending the Table of Contents to add a new subsection under the section “Chapter 4 – Housing” entitled “Portland Street/ Portland Hills Drive Mixed Use Development” immediately following the subsection “Environmental Protection Mechanisms”.
2. By amending the Residential Designation within the Morris Russel Lake Secondary Planning Strategy sub designation by adding Policy ML-36 immediately following Policy ML-35 as follows:

“Portland Street / Portland Hills Drive Mixed Use Node

Development of a mixed use commercial residential development with direct accessibility to Portland Street is considered desirable to provide strategic local convenience commercial services while establishing a commercial presence at a growing diversified commercial node. Development of the lands, identified as PID #00230821 & 41044793, is supported by the Regional MPS which designates the site as an Urban Local Growth Centre. In addition to a medium scale multiple unit dwelling, Council may consider small scale commercial/office development fronting Portland Street and Portland Hills drive within the Residential Designation of the Morris Russel Lake Secondary Planning Strategy by development agreement.

Policy ML-36

In addition to a medium scale multiple unit residential dwelling, small scale commercial/office development fronting Portland Street and Portland Hills Drive are considered desirable at the southwest corner of Portland Street and Portland Hills Drive (PID #00230821 & 41044793), a key corner site within the within Residential Designation of the Morris Russel Lake Secondary Planning Strategy. Any such development shall be considered by way of development agreement. In considering any such agreement, Council shall have regard to the following:

- (a) That commercial/office buildings are oriented to the street and transit services, and primary entrances are oriented to the sidewalk and primary pedestrian ways;
- (b) That commercial buildings not exceed a height of three storeys;
- (c) That residential buildings not exceed a height of five storeys;
- (d) That adequate recreation and amenity space is provided on the site and within the residential building;
- (e) That pedestrian street level activity is encouraged in proximity to the street through the incorporation of commercial ground floor uses that relate to the street and public realm;
- (f) That residential buildings include underground parking and that the parking podium/building basement is constructed substantially below grade or adequately blended into the site;
- (g) That the development is integrated with and complementary to the surrounding built form, land uses, and abutting residentially-zoned areas through conformance with the site development and architectural standards of the C-2 (General Business) zone of the Dartmouth Land Use By-law;
- (h) that mature tree stands and other natural site features are preserved where possible;

- (i) That traffic related matters such as traffic generation and circulation, sighting distances, site access and egress and pedestrian safety are addressed;
- (j) That access from the lands to Portland Street shall be restricted to right-out movement;
- (k) That lighting shall be designed to provide security, safety, and visual appeal for both pedestrians and vehicles while ensuring minimal impact on adjacent properties; and
- (l) Provisions of Policy IP-1 (c).

I HEREBY CERTIFY that the amendments to the Dartmouth Municipal Planning Strategy, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the      day of      , 2016.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this      day of      2016.

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

**Attachment B**  
**Amendments to the Dartmouth Land Use By-law**

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

1. By adding the following text to Section 2, Part 18, immediately following Part 18W:

“18X Notwithstanding any other provision of this By-law, mixed use development may be considered at the southwest corner of Portland Street and Portland Hills Drive (PIID ##00230821 & 41044793) subject to the provisions of a development agreement in accordance with policy ML-36.”

I HEREBY CERTIFY that the amendments to the Dartmouth Land Use By-law, as set out above, were duly passed by a majority vote of the Halifax Regional Municipal Council at a meeting held on the      day of      , 2016.

GIVEN under the hand of the Clerk and the Corporate Seal of the Halifax Regional Municipality this      day of      2016.

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

**Attachment C  
Proposed Development Agreement**

THIS AGREEMENT made this        day of                    , 2016,

BETWEEN:                                **[Insert Name of Corporation/Business LTD.]**  
a body corporate, in the Province of Nova Scotia  
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at PID# 00230821 and 41044793 along Portland Street and Portland Hills Drive, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East-Marine Drive Community Council of the Halifax Regional Municipality approved an application to enter into a Development Agreement to allow for the planning and design of a mixed use development on the Lands;

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for the development of one (1) mixed use multiple residential building and two (2) commercial/ office buildings on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy ML-36 of the Dartmouth Municipal Planning Strategy and Section 2, Part 18, of the Land Use By-law for Dartmouth;

AND WHEREAS the Harbour East- Marine Drive Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 19626;

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

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## **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.

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

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Dartmouth and the Regional Subdivision By-law, as may be amended from time to time.

### **1.3 Applicability of Other By-laws, Statutes and Regulations**

- 1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

### **1.4 Conflict**

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

### **1.5 Costs, Expenses, Liabilities and Obligations**

- 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**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

### **2.2 Definitions Specific to this Agreement**

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

- (a) **“Indoor Amenity Space”** means common amenity areas located within a multiple unit residential building or a mixed use building, including but not limited to, exercise facilities and multi-purpose rooms with associated kitchen facilities.
- (b) **“Commercial Entertainment Use”** means any building or part of a building which is used for commercial entertainment, amusement or relaxation and without limiting the generality of the foregoing may include a tavern or other beverage room, but excludes Adult Entertainment Uses.
- (c) **“Common Shared Private Driveway”** means a driveway that is not a public street and has not been accepted nor is maintained by the Municipality or the Province.
- (d) **“Common Shared Private Walkway System”** means an integrated walkway system that is not a public sidewalk and has not been accepted nor is maintained by the Municipality or the Province.
- (e) **“Food and grocery stores”** means a store specializing in food products and without limiting the generality of the foregoing includes a grocery store, meat market, fish market, fruit store, candy store, confectionary, nut shop, pet food store, milk store but does not include a butcher shop where animals are slaughtered, or any class of restaurant as defined in this agreement.
- (f) **“Restaurants (excluding drive-through restaurants)”**
  - (i) **“Full Service”** - means a building or part of a building wherein food is prepared and offered for sale to the public primarily for consumption within the building and may include a take-out area which does not exceed ten (10) percent of the gross floor area of the full service restaurant. A full service restaurant is characterized by the provision of table service, including buffet service and may also be licensed to serve alcoholic beverages.
  - (ii) **“Take-out”** means a building or part of a building wherein food is prepared and offered for sale to the public primarily for off-premises consumption and may include a seating area which does not exceed twenty five (25) percent of the gross floor area of the take-out restaurant. A take-out restaurant does not provide the service of delivery to or waiting on tables nor is it licensed to sell alcoholic beverages. Take-out restaurants, however, may provide a home delivery service.
- (g) **“Personal service shops”** means a building or part of a building in which professional or personal services are provided for gain and where the sale of retail goods is only

accessory to the provisions of such service, including, but without limiting the generality of the forgoing, barber shops, beauty shops, tailor shops, laundry and dry-cleaning depots, shoe repair, health and wellness centres, tanning salons, or local offices of professionals providing personal services such as physicians, dentists, lawyers, accountants, or realtors.

- (h) **“Offices (2nd floor only)”** means a room or rooms where business may be transacted, a service performed or consultation given but shall not include the manufacturing of any product or the retail selling of goods. Offices shall only be permitted on the second floor.
- (i) **“Retail Store ”** means a building or part of a building in which goods, wares, merchandise, substances, articles or things are offered for sale directly to the public at retail value.
- (j) **“Health and Wellness Centre”** means a building or part thereof that provides one or a combination of the following: education; rehabilitation; counselling; diagnosis and treatment for a variety of health and wellness issues.

### **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

#### **3.1 Schedules**

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, substantially conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 19626:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Landscaping Plan
Schedule D-D3	Commercial/ Office Building “A” Elevations Elevations (North, East/ West, South)
Schedule E-E3	Commercial/ Office Building “B” Elevations Elevations (North/ South, East, West)
Schedule F-F3	Mixed Use Multiple Unit Residential Building “C” Elevations Elevations (North, East/ West, South)

#### **3.2 Requirements Prior to Permit Approvals**

3.2.1 Prior to the commencement of any tree removal, site grading or excavation, the Developer shall:

- (a) Provide a detailed Site Disturbance Plan, in accordance with this Agreement.
- (b) Provide a detailed design of the Shared Private Driveway as shown in Schedule B and C, in accordance with this Agreement and with the standards of the National Building Code.
- (c) An application for the first Development Permit for a building shall also include the construction of the necessary services, including but not limited to the Shared Private Driveway pursuant to this Agreement.
- (d) Receive approval from the Municipality for a lot consolidation in accordance with Section 3.6.3 of this Agreement.

3.2.2 Prior to Occupancy Permit for any Building, the Developer shall:

- (a) Provide the Development Officer with written certification from a Professional Engineer that all works have been completed in conformance with the approved engineering plans.
- (b) Provide a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed pursuant to the Schedules of this Agreement.

3.2.3 Notwithstanding any other provision of the Agreement, the Developer shall not occupy a dwelling or use the Lands for any 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, the Land Use By-law and the Subdivision By-law (except to the extent that the provisions of the Land Use By-law and Subdivision By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.2.4 Prior to the issuance of a Development Permit for any building, the Developer shall provide to the Development Officer, a detailed Landscape Plan prepared by a Landscape Architect in accordance with this Agreement and acceptable to the Development Officer.

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

3.3.1 The uses of the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, are the following:

- (a) two (2) commercial/office buildings containing commercial uses as defined under this Agreement including the following:
  - (a) food and grocery stores;
  - (b) restaurants (excluding drive-through restaurants);
  - (c) commercial entertainment uses in accordance with Section 3.3.3 of this Agreement;
  - (d) personal service shops;
  - (e) offices (2<sup>nd</sup> floor only);
  - (f) retail and;
  - (g) health clinics;
- (b) one (1) mixed use multiple unit building containing:
  - (a) residential units;
  - (b) ground floor local business uses which shall include:
    - i. food and grocery stores;
    - ii. restaurants (excluding drive-through restaurants);
    - iii. personal service shops; and

iv. retail shops.

(c) accessory uses to the foregoing.

3.3.2 The residential density for the lands shall not exceed 81 dwelling units.

(a) A minimum of 42 two or three bedroom units are required.

3.3.3 Commercial entertainment uses shall not exceed a total gross floor area of 92.9 square metres (1,000 square feet).

### **3.4 Siting and Architectural Requirements**

3.4.1 The location, size and design of the two (2) commercial/ office buildings shall be in conformance with the Schedules of this Agreement. Slight variations to setbacks shall be permitted under the discretion of the Development Officer provided no portion of the building is closer than 3.05 metres (10 feet) to a property line.

3.4.2 The location, size and design of the two (2) commercial/ office buildings and one (1) mixed use multiple unit residential building shall be in conformance with Schedules B through F3 of this Agreement. The maximum height of the commercial/ office buildings shall not exceed three (3) storeys above average grade, not including mechanical equipment and shall not exceed a height of 12.19 metres (40 feet). The maximum height of the mixed use multiple unit residential building shall not exceed five (5) storeys above average grade, not including mechanical equipment, penthouses, enclosed amenity space, and a basement, and shall not exceed a height of 19.51 metres (64 feet). Slight variations to setbacks shall be permitted under the discretion of the Development Officer provided no portion of the building is closer than 3.05 metres (10 feet) to a property line.

3.4.3 The mixed use multiple residential building shall include outdoor Amenity Space for the residents of the building. Outdoor Amenity Space shall be as shown generally on Schedule C and shall be a minimum of 37.16 square metres (4000 square feet).

(a) The mixed use multiple residential building shall include Indoor Amenity Space for the residents of the building. Indoor Amenity Space shall be a minimum of 65 square metres (700 square feet).

3.4.4 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, or offsets in the vertical plane) as identified on the Schedules.

3.4.5 Any exposed foundation in excess of 0.61 metres (2 feet) in height shall be architecturally detailed with stone or brick or treated in an equivalent manner acceptable to the Development Officer.

3.4.6 Exterior building materials shall be as shown on the Schedules.

3.4.7 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match or complement the colour of the adjacent surface.

3.4.8 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from abutting public streets and abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent

residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

### **3.5 Parkland**

3.5.1 Subdivision of the Lands shall be subject to the parkland dedication requirements of the Regional Subdivision By-law.

### **3.6 Subdivision of the Lands**

3.6.1 Subdivision of the Lands shall be in accordance with the C-2 (General Business) Zone requirements of the Dartmouth Land Use By-law.

3.6.2 The properties identified as PID# 00230821 and #41044793 shall be consolidated into one parcel, in accordance with the Regional Subdivision By-law and Section 3.2.1 (d) of this Agreement.

### **3.7 Access, Circulation and Parking (Vehicle and Bicycle)**

3.7.1 Vehicular access to the lands shall be provided by a shared private driveway as generally shown on the Schedules of this Agreement.

3.7.2 The shared private driveway shall comply with the requirements of the National Building Code of Canada.

3.7.3 The shared private driveway shall have a hard finished surface such as asphalt, concrete, interlocking precast paver stones, or an acceptable equivalent in the opinion of the Development Officer.

3.7.4 Driveway access from the Lands to Portland Street shall be restricted to right-out movement;

3.7.5 Pedestrian access to the multiple unit residential building and the commercial/ office buildings shall be provided by a shared private walkway system as generally shown on Schedules B and C of this Agreement.

3.7.6 The shared walkway system shall be a minimum of five (5) feet wide and constructed of concrete or interlocking precast paver stones.

3.7.7 Where the shared private walkway system crosses the shared private driveway or parking area, a change in colour, texture, or material shall be provided to clearly identify a pedestrian crossing.

3.7.8 Vehicle surface parking and loading areas, including all pathways and landscaped areas, shall be provided as generally shown on the Schedules of this Agreement:

(a) Parking dedicated to Buildings A and B shall not be less than 90 spaces

(b) Parking dedicated to Building C shall not be less than 89 spaces

3.7.9 Vehicle surface parking areas shall have a hard finished surface such as asphalt, concrete, interlocking precast paver stones, or an acceptable equivalent in the opinion of the Development Officer. Pathways shown on the Schedules of this Agreement shall be constructed of concrete or interlocking precast paver stones.

3.7.10 The limits of the Common Shared Private Driveway and the vehicle surface parking areas shall be defined by concrete curb.

3.7.11 Bicycle parking for the mixed use building and the multiple unit residential building shall be provided as required by the Dartmouth Land Use By-law, as amended from time to time.

(a) In no case shall bicycle parking reduce the vehicular parking requirement as identified in this Agreement.

### **3.8 Outdoor Lighting**

3.8.1 Lighting required shall be shown on the landscape plan and building drawings prior to the issuance of a Development Permit and shall include the following:

- (a) The Common Shared Private Driveway and Common Shared Private Walkway System, shall be illuminated,
- (b) Required lighting shall be directed away from adjacent lots and buildings and shall use a full cut-off design, and;
- (c) Any additional lighting shall be directed to driveways, pedestrian walkways, parking areas, loading areas, and building entrances and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

### **3.9 Landscaping**

3.9.1 Prior to the issuance of a Development Permit for the mixed use building and the multiple unit residential building, the Developer shall provide a Landscape Plan which complies with the provisions of this section and conforms with the overall intentions of the Landscaping shown on Schedules B and C of this Agreement. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.

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

3.9.3 Prior to the issuance of any Occupancy Permit any a building, the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Agreement.

3.9.4 Notwithstanding Section 3.9.3, an Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its

certification.

- 3.9.5 The Developer agrees to provide plantings sufficient to screen site parking along the western portion of the parking area as identified on Schedule C. The planting shall be a minimum 6 feet in height.
- 3.9.6 The minimum acceptable sizes for each type of plant material proposed on the Landscaping Plan shall be provided, including species list with quantities, size of material, and common and botanical names (species and variety).
- 3.9.7 The minimum acceptable sizes for new plant material shall be as follows:
  - (a) High branching decidus trees at grade: 60 mm (2.36 inches) calliper;
  - (b) Coniferous trees: 1.5 meters (4.92 feet) in height, and;
  - (c) Shrub: 0.6 meters (1.97 feet) in height or spread.
- 3.9.8 No development, tree removal or grade alteration shall be permitted within the Area of Non-Disturbance, as identified on Schedule B, except where approved in writing by the Development Officer to remove fallen timber and dead debris where a fire or safety risk is present, or to remove a tree that is dead, dying or in decline and which represents a danger to private property, public infrastructure or other natural trees and vegetation. Prior to granting approval for such removal, the Development Officer has the discretion to require that the Developer or future property owner, as the case may be, engage a Certified Arborist, Forester or Landscape Architect to certify in writing that the timber or debris poses a fire or safety risk, that the tree poses a danger to people or property, or that it is in severe decline.
- 3.9.9 If trees are removed or tree habitat is damaged beyond repair in the Area of Non-Disturbance, the Developer shall replace each tree removed or damaged with a new tree of minimum size outlined in Section 3.9.7, as directed by the Development Officer, in consultation with the appropriate HRM Business Units. This section applies to trees removed without permission, as well as trees removed with the Development Officer's permission as outlined in Section 3.9.8.
- 3.9.10 Prior to the issuance of a Construction Permit for any site preparation (e.g. tree removal, excavation activity, etc.), the boundary of the Area of Non-Disturbance, as shown on Schedule B, shall be delimited with snow fence, or another appropriate method as approved by the Development Officer. The Developer or the future property owner, as the case may be, shall provide written confirmation to the satisfaction of the Development Officer that the Common Open Space has been appropriately marked. Such demarcations shall be maintained by the Developer or future property owner for the duration of the construction.

### **3.10 Maintenance**

- 3.10.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.
- 3.10.2 All disturbed areas shall be reinstated to original condition or better.
- 3.10.3 Prior to the issuance of an Occupancy Permit, all disturbed areas located in the HRM right-of-way shall be reinstated to original condition or better as determined by the Development Engineer.

### **3.11 Signage**

- 3.11.1 Commercial signage shall be limited to the following:

- (a) A maximum of one (1) ground sign shall be permitted on the Lands in accordance with Schedule B and shall be for the purposes of identifying the commercial buildings;
- (b) Ground sign shall not exceed 1.83 metres (6) feet in height above established grade;
- (c) Ground sign shall be setback a minimum of 3.05 metres (10 feet) from any abutting property;
- (d) Ground sign shall not exceed a sign face width of 3.05 metres (10 feet);
- (e) Ground sign shall not be internally illuminated or backlit;
- (f) Ornamental plants shall be incorporated around the entire base of a ground sign; and
- (g) Directional signage shall be permitted on the Lands, subject to clauses (b) through (f) of this Section.

3.11.2 Residential signage shall be limited to the following:

- (a) A maximum of one (1) ground sign shall be permitted on the Lands in accordance with Schedule B and shall be for the purposes of identifying the commercial residential multiple unit building;
- (b) Ground sign shall not exceed 1.83 metres (6) feet in height above established grade;
- (c) Ground sign shall be setback a minimum of 3.05 metres (10 feet) from any abutting property;
- (d) Ground sign shall not exceed a sign face width of 3.05 metres (10 feet);
- (e) Ground sign shall not be internally illuminated or backlit;
- (f) Ornamental plants shall be incorporated around the entire base of a ground sign;
- (g) Directional signage shall be permitted on the Lands, subject to clauses (b) through (f) of this Section.
- (h) Two (2) wall mounted (fascia) building identification signs may be permitted on the mixed use building. No fascia sign shall exceed 9.29 square metres (100 square feet) in area;
- (i) In addition to the signs permitted by clause (a) of Section 3.12.1, businesses located in a multiple residential building may be permitted a maximum of two (2) wall mounted (fascia) signs. No business fascia sign shall exceed 5.57 square metres (60 square feet) in area; and
- (j) Directional signage shall be permitted on the Lands, subject to clauses (b) through (f).

3.11.3 Construction signage shall be limited to the following:

- (a) Two (2) construction ground signs depicting the name or corporate logo of the Developer shall be permitted on the Lands prior to the issuance of the first Occupancy Permit. Construction ground signs shall be removed prior to the issuance of the last residential occupancy permit.



### **3.12 Screening**

- 3.12.1 Propane tanks and electrical transformers shall be located on the Lands in such a way to ensure minimal visual impact. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.
- 3.12.2 Mechanical equipment shall be permitted on rooftops provided the equipment is screened or incorporated in to the architectural treatments and roof structure.

### **3.13 Hours of Operation**

- 3.13.1 Any restaurant function and commercial entertainment uses shall be permitted to operate between the hours of 7:00 am and 12:00 am.
- 3.13.2 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 10:00pm.
- 3.13.3 For all uses other than a restaurant, hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

## **PART 4: STREETS AND MUNICIPAL SERVICES**

### **4.1 General Provisions**

- 4.1.1 All construction shall conform to the most current edition of the HRM Municipal Design Guidelines and Halifax Water's Design and Construction Specifications and shall receive written approval from the Development Engineer prior to undertaking any work.
- 4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer and shall be reinstated, removed, replaced, or relocated by the Developer as directed by the Development Engineer. Furthermore, the Developer shall be responsible for all costs and work associated with the relocation of on-site/ off-site underground services, overhead wires and traffic signals to accommodate the needs of the development.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

### **5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plans**

- 5.1.1 Prior to the commencement of any site work on the Lands for construction of streets and services, including grade alteration or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall:
  - (a) Submit to the Development Officer a detailed Site Disturbance Plan, prepared, stamped and certified by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;
  - (b) Submit to the Development Officer a detailed Erosion and Sedimentation Control Plan prepared, stamped and certified by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections

of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction; and,

- (c) Submit to the Development Officer a detailed Site Grading Plan prepared, stamped and certified by a Professional Engineer, which shall include an appropriate stormwater management system. The Site Grading Plan shall identify structural and vegetative stormwater management measures, which may include infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers that will minimize adverse impacts on receiving watercourses during and after construction.

## **5.2 Failure to Conform to Plans**

- 5.2.1 If the Developer fails at any time during any site work or construction to fully conform to the approved plans as required under this Agreement, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the environmental protection measures.

## **PART 6: AMENDMENTS**

### **6.1 Non Substantive Amendments**

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

- (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement;
- (b) The length of time for the completion of the development as identified in Section 7.4 of this Agreement;
- (c) Changes to the buildings which in the opinion of the Development Officer do not conform with the Schedules.
- (d) Changes to the requirements related to signage as identified in Section 3.1.1 of this Agreement.

### **6.2 Substantive Amendments**

Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Halifax Regional Municipality Charter.

## **PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

### **7.1 Registration**

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

### **7.2 Subsequent Owners**

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

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

### **7.3 Commencement of Development**

7.3.1 In the event that development on the Lands has not commenced within four (4) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

7.3.2 For the purpose of this section, commencement of development shall mean the issuance of a Construction Permit.

### **7.3.3 Completion of Development**

Upon the completion of the whole development or complete phases of the development, Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement;
- (c) discharge this Agreement; or
- (d) for those portions of the development which are completed, discharge this Agreement and apply appropriate zoning pursuant to the Municipal Planning Strategy for Halifax and Land Use By-law for Halifax Mainland as may be amended from time to time.

### **7.4 Discharge of Agreement**

If the Developer fails to complete the development after seven (7) years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

## **PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT**

### **8.1 Enforcement**

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

### **8.2 Failure to Comply**

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 14 days written notice of the failure or default, then in each such case:

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

**IN WITNESS WHEREAS** the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**(Insert Registered Owner Name)**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

**HALIFAX REGIONAL MUNICIPALITY**

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

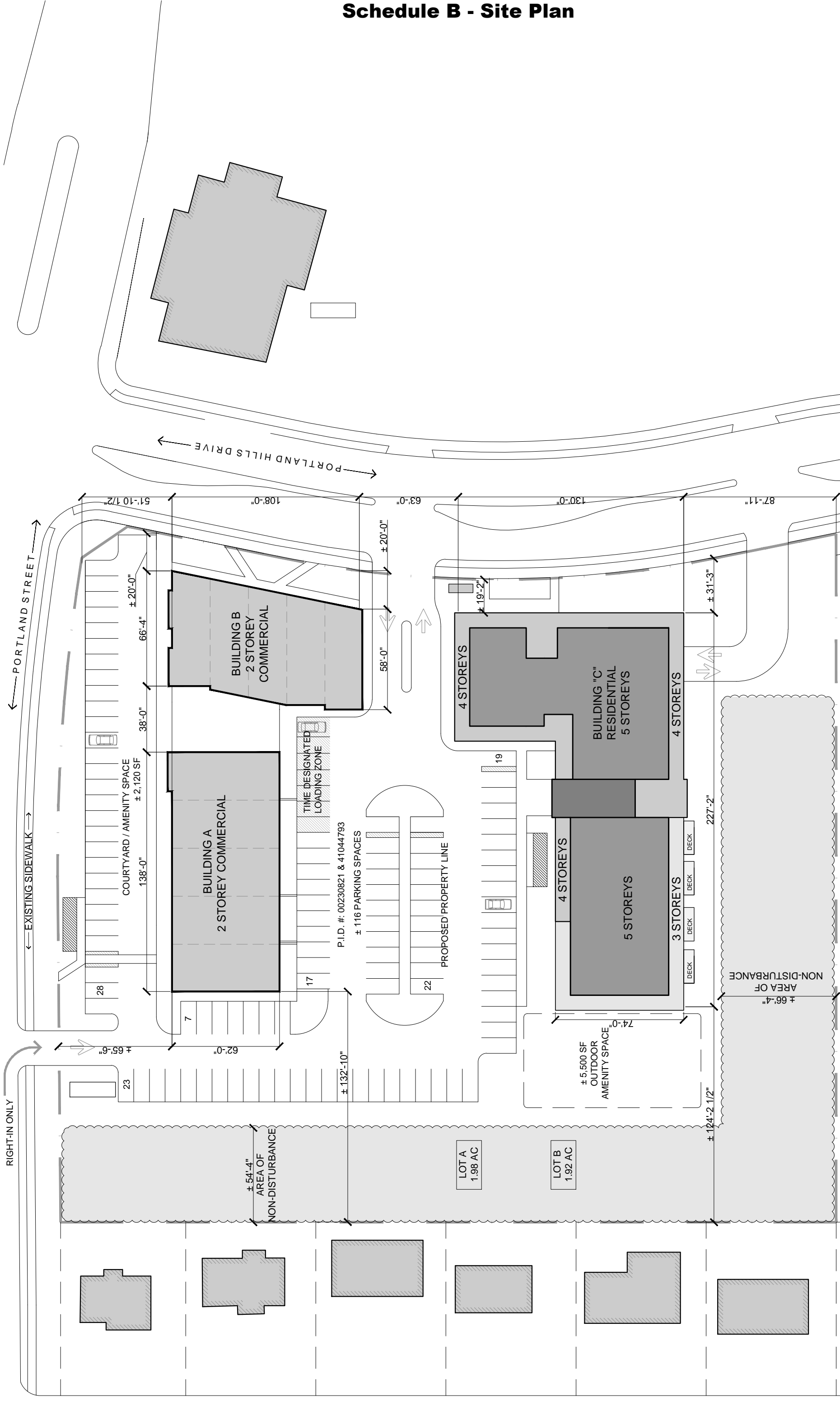
\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Witness

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

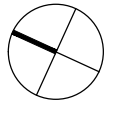
# Schedule B - Site Plan



PORTLAND HILLS  
Dartmouth, NS

## SCHEDULE B SITE PLAN

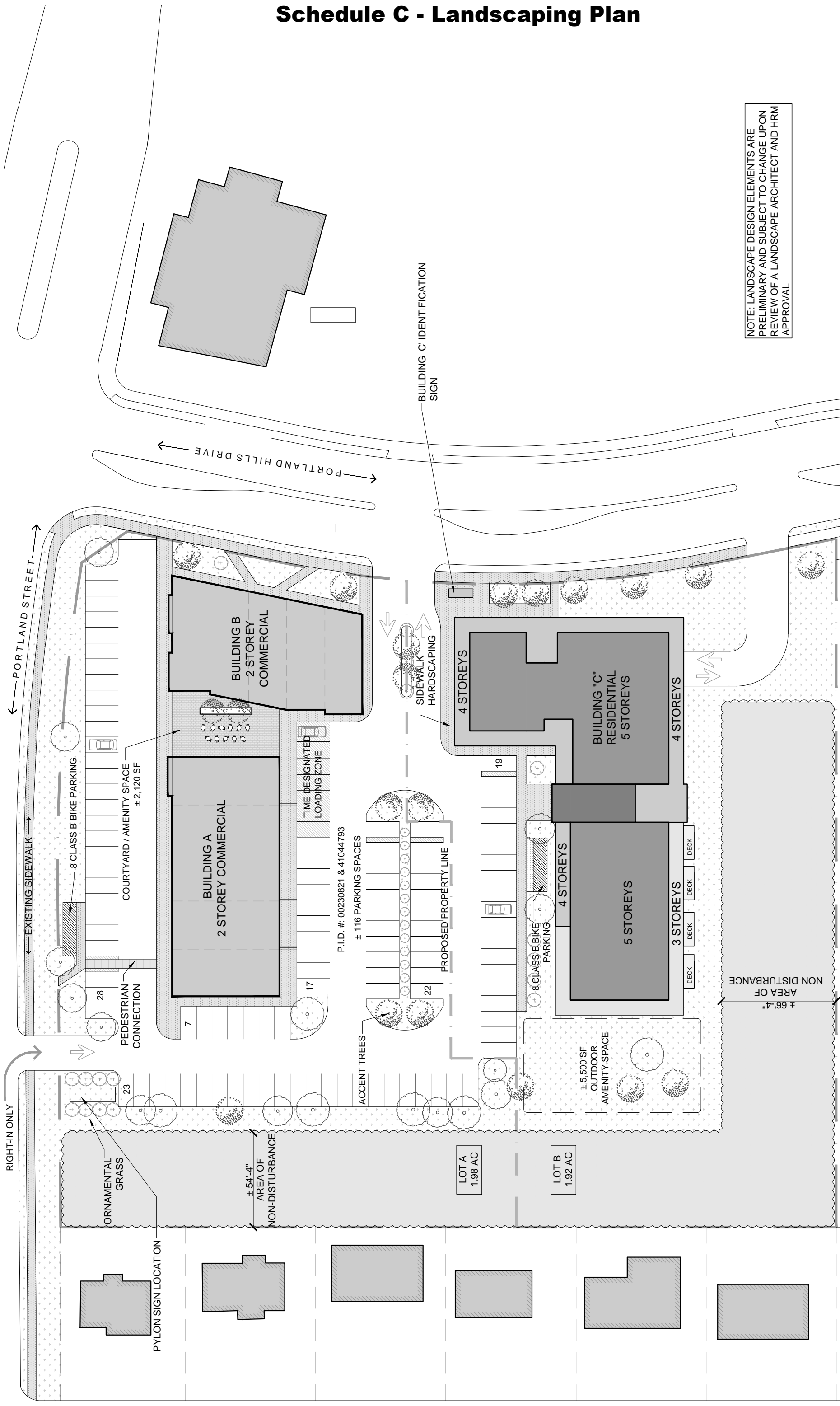
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Date: 10 Jun 2016



WM FARES  
ARCHITECTS

SP01

# Schedule C - Landscaping Plan

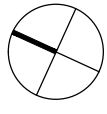


NOTE: LANDSCAPE DESIGN ELEMENTS ARE PRELIMINARY AND SUBJECT TO CHANGE UPON REVIEW OF A LANDSCAPE ARCHITECT AND HRM APPROVAL

PORTLAND HILLS  
Dartmouth, NS

SCHEDULE C  
LANDSCAPING

Project No.: 2013.26  
Scale: 1" = 50'-0"  
Date: 10 Jun 2016



WM FARES  
ARCHITECTS

LP01

Schedule D - Commercial/ Office Building "A" - North Elevations



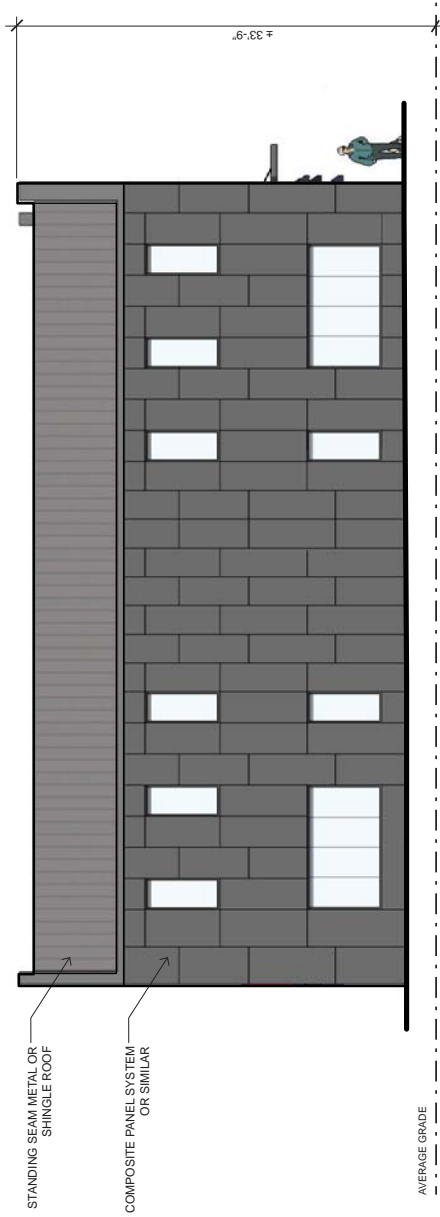
PORTLAND HILLS  
 PORTLAND HILLS, DARTMOUTH, NS

BUILDING A  
 NORTH ELEVATION

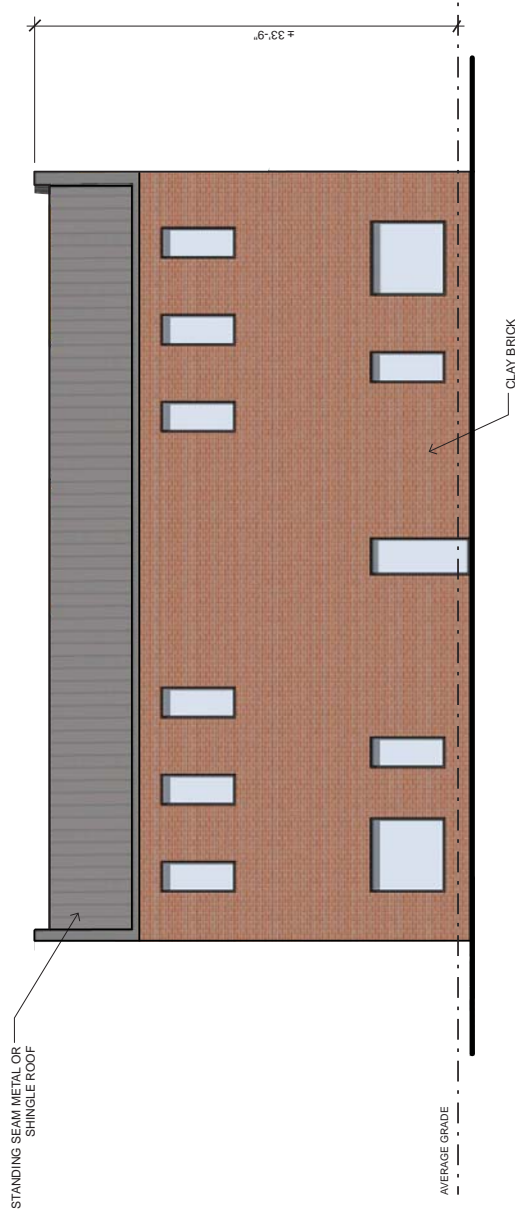
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 Scale: 1" = 10'  
 Date: 11 DEC 2015

WM FARES  
 ARCHITECTS

A3



EAST ELEVATION  
SCALE: 1" = 10'



WEST ELEVATION  
SCALE: 1" = 10'

PORTLAND HILLS  
PORTLAND HILLS, DARTMOUTH, NS

BUILDING A  
EAST & WEST ELEVATION

Project No.: 2013.26  
Scale: 1" = 10'  
Date: 11 DEC 2015

WM PARES  
ARCHITECTS

A5





PORTLAND HILLS

PORTLAND HILLS, DARTMOUTH, NS

BUILDING A  
SOUTH ELEVATION

Project No.: 2013.26  
Scale: 1" = 10'  
Date: 11 DEC 2015

WM PARES  
ARCHITECTS

A4

Schedule E - Commercial/ Office Building "B" - North and South Elevations

A6

WM PARES  
ARCHITECTS

Project No.: 2013.26  
Scale: 1" = 10'  
Date: 11 DEC 2015

BUILDING B  
NORTH & SOUTH ELEVATION

PORTLAND HILLS  
PORTLAND HILLS, DARTMOUTH, NS

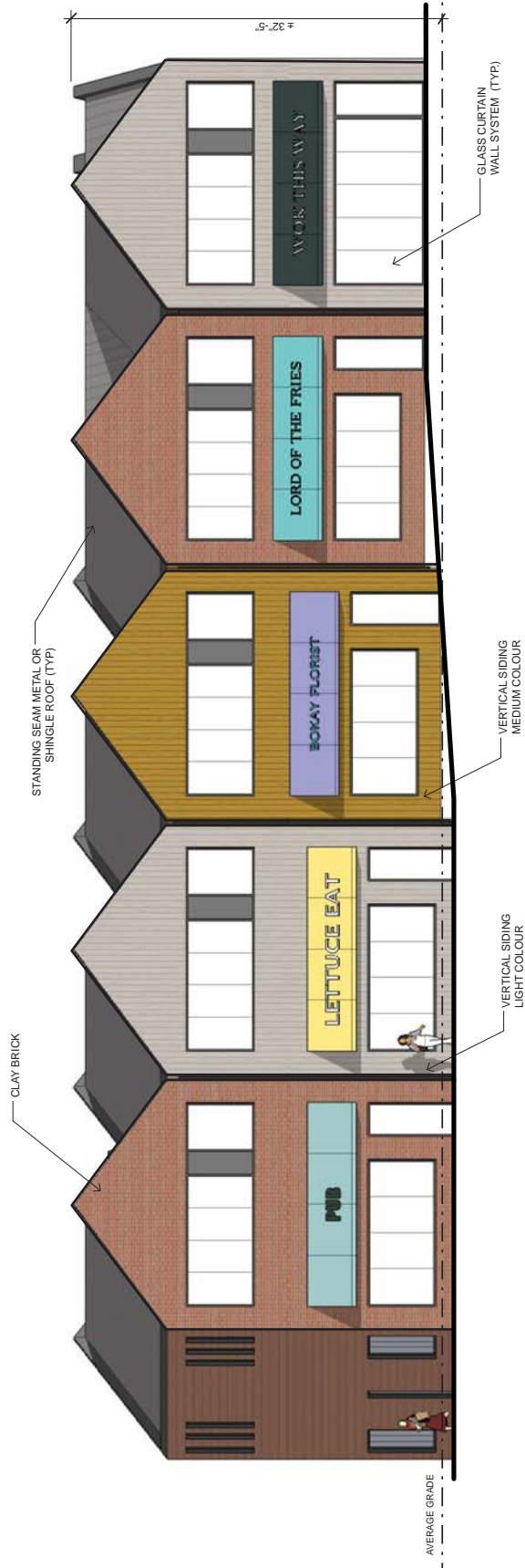


NORTH ELEVATION  
SCALE: 1" = 10'



SOUTH ELEVATION  
SCALE: 1" = 10'

Schedule E2 - Commercial/ Office Building "B" - East Elevations



PORTLAND HILLS

PORTLAND HILLS, DARTMOUTH, NS

BUILDING B  
EAST ELEVATION

Project No.: 2013.26  
Scale: 1" = 10'  
Date: 11 DEC 2015

WM FARES  
ARCHITECTS

A7

Schedule E3 - Commercial/ Office Building "B" - West Elevations



PORTLAND HILLS  
 PORTLAND HILLS, DARTMOUTH, NS

BUILDING B  
 WEST ELEVATION

Project No.: 2013.26  
 Scale: 1" = 10'  
 Date: 11 DEC 2015

WM FARES  
 ARCHITECTS

A8

Schedule F - Mixed Use Multiple Unit Residential Building "C" - North Elevations

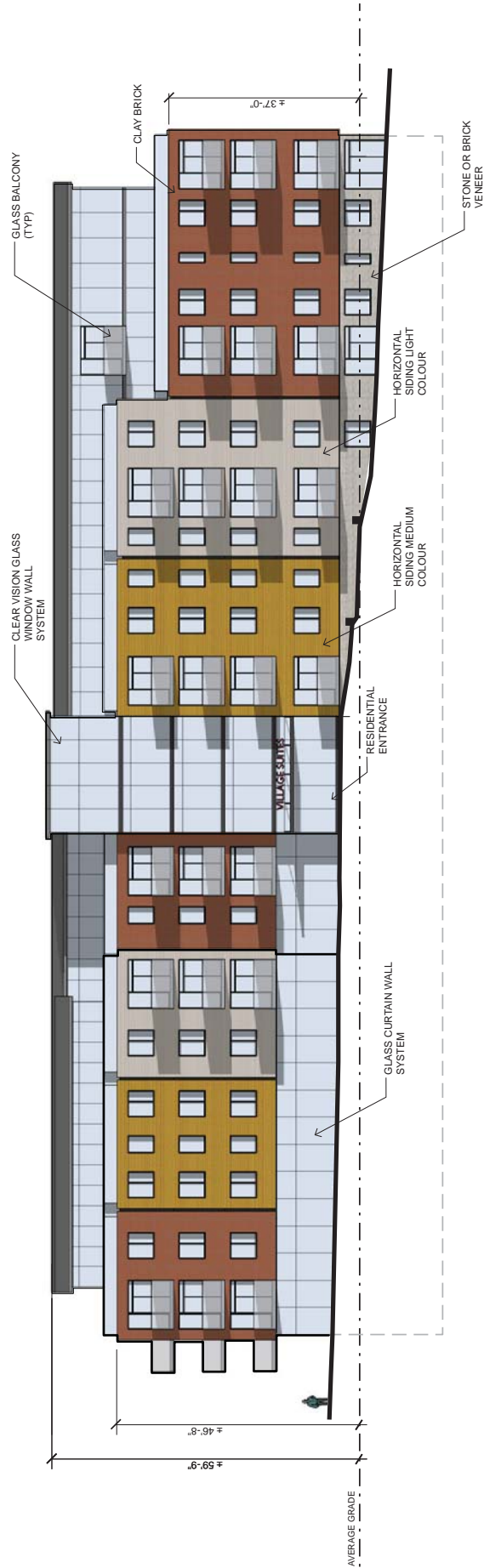
A15

WM FARES  
ARCHITECTS

Project No.: 2013.26  
Scale: 1" = 20'-0"  
Date: 11 DEC 2015

BUILDING C  
NORTH ELEVATION

PORTLAND HILLS  
PORTLAND HILLS, DARTMOUTH, NS



Schedule F2 - Mixed Use Multiple Unit Residential Building "C" - East and West Elevations

A17

WM PARES  
ARCHITECTS

Project No.: 2013.26  
Scale: 1" = 20'-0"  
Date: 11 DEC 2015

BUILDING C  
EAST & WEST ELEVATION

PORTLAND HILLS  
PORTLAND HILLS, DARTMOUTH, NS



WEST ELEVATION  
SCALE: 1" = 20'



EAST ELEVATION  
SCALE: 1" = 20'



PORTLAND HILLS  
 PORTLAND HILLS, DARTMOUTH, NS

BUILDING C  
 SOUTH ELEVATION

Project No.: 2013.26  
 Scale: 1" = 20'-0"  
 Date: 11 DEC 2015

WM FARES  
 ARCHITECTS

A16





AND WHEREAS the Developer has requested that the Existing Development Agreement and Amending Agreements be discharged from the Lands;

AND WHEREAS, pursuant to the procedures and requirements contained in the Halifax Regional Municipality Charter, the Harbour East-Marine Drive Community Council of the Municipality approved this request by resolution at a meeting held on **[INSERT – date]**, referenced as Municipal Case Number 19626;

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

That the Lands are hereby discharged from the Existing Agreement and Amending Agreements.

WITNESS that this Discharging Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

**SIGNED, SEALED AND DELIVERED** in the presence of:

**(Insert Corporation Name and Registered Owner Name)**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_

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

**HALIFAX REGIONAL MUNICIPALITY**

\_\_\_\_\_  
Witness

Per: \_\_\_\_\_  
MAYOR

\_\_\_\_\_  
Witness

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

**Attachment E  
Minutes of Public Information Meeting**

**HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE NO. 19626**

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**6:56 p.m.  
Monday, June 23, 2015  
Woodlawn Public Library, Theatre Room  
31 Eisener Blvd, Dartmouth, NS B2W 0J1**

**STAFF IN**

**ATTENDANCE:**

Shayne Vipond, Senior Planner  
David Hanna, Planning Technician  
Tara Couvrette Planning Controller

**ALSO IN**

**ATTENDANCE:**

Councillor Bill Karsten  
Deputy Mayor Lorelei Nicoll  
Councillor Darren Fisher  
Ken O'Brien – WSP Group, Traffic Engineer  
Jacob JeBailey – Reign Architects, WM Fares Group

**PUBLIC IN**

**ATTENDANCE:**

135

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**1. Commencing of meeting**

Mr. Vipond started the meeting at 6:56 p.m.

**2. Presentation**

**2.1 Case 19626:** An application by to amend the Dartmouth MPS to permit one 6 storey multiple unit dwelling (92 units) and two 1 storey commercial buildings (13675 sq. ft.) at the corner of Portland St. and Portland Hills Drive.

Mr. Vipond made a presentation to the public outlining the purpose of the meeting, status of the application. Mr. Vipond outlined the context of the subject lands, and relevant planning policies and explained the zoning was and what the changes would mean. He then passed the meeting over to Jacob JeBailey to go over the development.

2.2 Mr. JeBailey went over the building design and intent for the property.

Building Features:

- **Lot Area:** 170,371 SF
- **Building Area:** 33,870 SF
- **Site Coverage:** 20%
- **Building A/B :** 2 storeys
- **Building C :** 6 storeys
- **No. of Units:** 92 units
- **Above Grade Parking:** 119
- **Below Grade Parking:** 70
- **Bicycle Locks (exterior):** 18
- **Bicycle Locks (interior):** 37

Mr. Vipond explained to the members of the public the process and ground rules for the meeting. He also explained because of the volume of people there would be a time limit for each person and if there was extra time after everyone had a chance to speak then we would open the floor back up to additional comments and questions. He then opened the floor up to comments.

### 3. Questions and Answers

**A member of the public** asked if there would be an additional meeting due to the time constraints on this meeting and the volume of people.

**Shayne Vipond** stated this would not be the only opportunity to engage in this process. He stated he didn't know if there would be another format like this. There would be an opportunity for the public to speak directly to council and make a presentation to council when they make their decision.

**Alicia Potvin-> 11 Alpine Drive** stated she has been a long time resident of Alpine Drive and her property directly abuts the proposal. The majority of people on the street have been there for 20+ years. The things she worries about are quality of life, noise, light pollution, privacy, safety, traffic implications, and most importantly on Alpine Drive there are people who get frustrated with traffic on Portland Street and they make illegal turns down their street. There are 5 small children that live on the street and many residents with grandkids that visit regularly. This is a real safety concern. Any increase in traffic at all will just exacerbate that problem. Of course she is concerned about the environment as well as personal loses. Should her family not be able to tolerate such and change, should the zoning be change and they decide they have to relocate it would be a financial lose as well as personally because they are really settled in the neighborhood. She feels that the rezoning here doesn't make sense. She understands it is a growth hub and in that way there are certain boxes that can be checked, it is close to public transit and things like that. However, when you look at the geographic location in terms of a very busy Portland Street, and all the access points, which is a huge obstacle that you can't engineer away. The elevations, a 6 storey building is not in keeping with anything that is currently in their neighborhood. There is one much further down

by the lake that is at a much lower elevation that might be 5 storeys but this would be the highest elevation, unprecedented in their community. We are really concerned about water, not just runoff but the springs that go through that property, it is something that needs to be looked at.

**Blair Richardson -> 13 Alpine Drive** stated that he prepared a presentation which he printed off some copies and distributed them. He quoted the MPS policy "Amendments to a MPS are generally not considered unless it can be shown that circumstances have changed since the document was adopted to the extent that the original land use police is no longer appropriate. Site specific amendments, in particular, require significant justification to be considered." Excerpts from HRM Item No. 11.1.12, on cases 18966 and 19281, 2 June 2014. He firmly believes that the current MPS governing the property as residential, which allows for up to 48 units to be built, satisfies the overall planning strategy to increase population density within the city, while maintaining the character of the existing community. Marinating the existing LUB avoids many of the issues that the proposed change to allow commercial and high density development would bring. The key concerns are traffic, water management – Natural water courses, impact of the community, spot zoning and the impact to existing infrastructure. Speaking more specifically to traffic concerns and implications – The intersection at Portland Street and Portland Hills Drive is already very busy especially at rush hour. Proposed change to add an additional 3 entrances (one off Portland Street and two additional off Portland Hills Drive) all very near the intersection would only further disrupt traffic for the community. The increased traffic will forces traffic down Portland Hills Drive thru a school zone which would be a safety issue. It would also increase the frequency of illegal right hand turns onto Alpine Drive in a residential zone, and with small children that is another safety concern. He stated he noticed some flaws in the traffic impact study (TIS); The TIS was based on an outdated 2013 data. The TIS assumed an annual growth rate of only .5% for this intersection. Since 2013 a lot of additional development has occurred within the current CDD district of Portland Hills, including several apartment buildings and businesses.

**Shayne Vipond** stated that because traffic is so important, we have a traffic engineer to speak to those points. At the end of the list of speakers will be ask Mr. O'Brien to speak specifically t traffic. Mr. O'Brien prepared the traffic impact study and the two additional addendums.

**Councillor Bill Karsten** stated that he didn't like the fact that people were getting cut off and asked that there be more time given. He also, would be willing to talk to the folks in planning to see if we can get an extra meeting after we get as many people as possible to speak here tonight. I will lobby or advocate for that.

**Shayne Vipond** stated that that being the case we may run out of time for speakers this evening. He doesn't know if another public information will be held. However, the councillor has indicated that he is going to make an appeal to that so we will see in the future how that will work.

**Blair Richardson -> 13 Alpine Drive** continued with his comments; The TIS only projected traffic flow up to 2017, he would recommend the projection be done far longer into the future at least 5 years after development is scheduled to complete. Traffic simulation used in this study only analyzed the performance of a single intersection in isolation and only two consecutive light cycles, this is very important, (approximately 3 minutes of simulation). The simulation needs to be run for much longer; at minimum the simulation should be run for the full one hour peak traffic in the AM and PM to accurately model the traffic flow. The TIS concluded that "the

intersection is expected to provide good overall performance during 2017, with added site generated trips.” His real word experience and analytical data collected over the past week suggests average delay often far exceeds 120 seconds on average. This equates to a level of service of unacceptable (greater than 80 second delay) “This level is considered to be unacceptable to most drivers; occurs when arrival flow rates exceed the capacity of the intersection.” There were also 2 additional traffic studies that were performed; The Morris-Russell Lake traffic study which concluded the following:

- No further development should be permitted within the Morris-Russell Lake Secondary Plan area until the Shearwater Connector is constructed ro Caldwell Road.
- Current volume-to-capacity ratios at the Baker Drive intersection exceed HRM performance standards.
- Current volume-to-capacity ratios at the Caldwell Road intersection exceed HRM performance standards.

This is a 2012 study performed by your HRM staff. There is is also a excerpt from the current MPS related to traffic; “Without improvements to the areas transportation network, Portland Street was at or near capacity.”

**Michael Potvin -> 11 Alpine Drive** thanked Mr. Karsten for lobbying to have the meeting at the library where it is accessible. He stated water management to be an issue, traffic to be an issue. He stated he has heard a lot of “we would like to” and “if we can” and “possibly” and really what it comes down to is accountability in this process. He stated there is a strategic plan for development in the area which by all accounts is very successful. There is good diversity in the neighborhood, it is multicultural, there are many different social economical structures at work, the community supports itself and it is growing. The strategy arguably is a good one. There is a policy for amending the strategy based on whether it is spot rezoning, largely these measures are supposed to be enacted at a time when we figure there is extraordinary measures or a change needed fundamentally in the plan. He feels what is missing is that he doesn't understand strategy where the accountability lies in terms of saying, if we put a building / structure that in uncharacteristic with the plan we take on risk. He stated they could argue whether the study fully accounts for reality. He stated maybe waste water management is an issue and they start plugging up storm sewers in the bottom of Portland Valley because they are over capacity for the water runoff. There is risk there but what he clearly doesn't understand is the benefit. If there is commercial space there that is already there and underutilized that is already zoned and the permission to build is already there and the buildings have not been built. The commercial that that already exists there has not been filled so why do we put this extra space in there and why do we say we want to minimize impact. He feels that when we do development we should not minimize impact development should be very impactful it should be positive and everybody should clearly see where the benefit lies when we do these things. Particularly if we consider it in an extraordinary measure.

**John Brownrigg -> Summer Field Way** stated that traffic is a big issue on Portland Street. The traffic two ways on Portland Hills Drive will triple or quadruple. I am retired and i don't have to go out at busy times and when he tries to come home on Portland Street, he doesn't he uses the backways. Come up Portland Street you have all of the Caldwell Road traffic blocking the intersection. 12 years ago he lived at the first houses on Alpine Drive and when he went away for the winter to Florida he came back to 20 foundations built and all were full of water. The water had come down the hill and the developer said he would fix it. They had engineers come in and they still have a backyard that they can't plant in that they can only cut grass in. There is a water problem, traffic problem and an environment problem when we need a little bit of a park in this community which the original developer said they would have some Greenland.

**Danny Wood -> 3 Alpine Drive** stated his property abuts this proposed development. He stated his concerns are; the environment, watershed, wild animals, plant and bird protection, the greenspaces and well as the vermin that intrude on their properties anytime there is new development. He stated that he gets quite peaceful enjoyment out of his property. It is and continues to be his understanding that past planners deemed this property to be low density residential. He is sure that what factored into their decision at the time were items like; traffic flow, the surrounding and expected development of the area, as well as the position of this property on the top of a mountain, the ecstasies of new infrastructure on the top of a mountain. He stated there is now a rezoning requires that in his view threatens the ecstasies of the community and the fact that this development looks down on all the properties of Alpine Drive. It does impact the quiet, peaceful and private enjoyment of the properties on Alpine Drive. He is not opposed to development just development that negatively impacts his life, his property and possibly its value, and will introduce many nuisances not limited to, increased traffic, noise, loss of privacy, decrease in safety. Having said the aforementioned he respectfully requests that we deny the rezoning application and force the developer to rethink.

**Phil Elliot -> 12 Swanton Drive** stated he never received notice of tonight's meeting in the mail and feels there is a glitch in HRM's office as they are affected by this development. He stated that he was the Chair of the Morris-Russell Lake master development Plan. He thinks it is important to note what the intent was for this area. He stated that the intent was that with the exception of the one existing commercial property there was to be no more commercial at Portland Hills. It was not designed as a commercial hub. The bus terminal was injected in there. It was zoned neighborhood commercial. Metro Transit has the ability to override any planning decisions. They made the decision unilaterally put a bus terminal in there but there was no intent that that was to be commercial. We meet for a year and a half with all the developers, there were 20 some developers and we meet with the existing residents. He stated they meet with Portland Estates because they were very concerned about environmental issues. One of the most critical issues that he noticed was that ML8 because what was approved by the Deputy Minister of Municipal Affairs in 2000 was ML3. ML3 is substantially different; it included the original things to be done which should be a requirement of any consultant. He also stated they did not want any driveways off of Portland Street. We were aware of the hill and coming up that hill, especially in the winter, when you hit that brow at Alpine Drive at 60 km an hour you are not getting over the brow. In addition the original request is that Alpine Drive be closed; it was kept open for emergency vehicles. It was neighborhood commercial, C-3, there is a whole page of restrictions placed on the development. I think that if that everything that was applied to Creighton Development should be applied to this. The setback that was agreed to between the people of Inishowen and Creighton Development was 125 feet because they were concerned about some of the same things that have been mentioned. There appears to be a lot of actions that staff has not undertaken. They identify that there is to be a harbour east transportation study, this was in 2000 and was promised to be undertaken in 2000 and to his knowledge this has never been done or has never been presented. Where is the neighborhood shortcutting study? It was identified that a neighbor had a shortcutting study for the area north of Portland should be undertaken and that has not been undertaken. He stated he can tell you how bad that is, if traffic shortcutting measures go in short of Portland and if you take 100 cars off that, that's putting a 5% increase on Portland Street. On top of that Metro Transit has already stated they are going increase the frequency of buses and the number of buses going into that terminal. Metro Transit is planning on bringing a buss off Regal Road onto Portland Street. How can you do two intersection and you are missing the middle section the bus terminal. If you have 4 busses coming out of Portland Hills Terminal it is going to fill it. There is a pedestrian crossing there. Right now Portland Street is a barrier between the communities of Portland Hills and north of Portland because of traffic volumes. A few years ago we wanted to put a pedestrian

crossing at the bus terminal lights staff said no because it is going to slow down traffic. We asked what the cost was; \$2700 and they said they wouldn't do it. Miraculously Councillor Karsten here finally got it through.

**Tom Patterson -> 62 Lyngby Ave** explained the history of the property in question. He feels the property is a good idea especially for seniors who want to be close to busses etc.

**John Mullin -> 5 Alpine Drive** stated he can assure everyone that although the trees are high that a lot are deceased and will need to be removed. He feels the curtain line that is purposed is relatively close his piece of property; it is 50 some feet away. The houses going down Alpine Drive were built when septic systems were in use and because of this most houses, although they are now connected to city sewer, they have front yards that were septic fields which pushed most houses to the back of their properties which increases proximity to the proposed development. If the development was R-1 or R-2 this would be a minimal concern. However, with the rezone, in particular the commercial aspect to the rezoning, the noise and the light pollution will be drastically increased for all of the residents. The car lights will continually be shining in as they turn into that parking lot. Also, the commercial development is just not required. The current development in Portland Hills to years to build, it is half empty with a half built retaining wall in the middle. It is either the result of poor planning, poor market analysis or poor demand. He feels the demand is overestimated and a commercial development is not needed in the community. He stated he has an engineering background and he feels there are a few things that WSP neglected.

- The grade in that area is 8%, Alpine Drive is 8% and right up the hill is 8%, right where the entrance is. That is the highest grade in the whole build line. Its terrible
- In the traffic study you have neglected the impact of the queue and the impact of the flow thru traffic when you put an entrance and exit in on Portland Street
- You will have cars that are queueing and cars that are turning and that delay will impact the amount of traffic that can physically get though there in peak periods.
- Winter – no amount of planning can eliminate the fact that traffic has difficulty maneuvering this part of the hill on Portland Street. Traffic entering or exiting will compound an already treacherous period for cars and buses.
- The height – there is nothing that is remotely close to us that is more than 4 storeys. 6 storeys next to single family dwellings in not acceptable, the community does not want that.

**Mike Cullen -> 621 Portland Hills Drive** stated he only found out about the meeting part way through last week and was not notified by mail. He stated has lived on Portland Street for 13 years and 13 years ago he was coming up thru the backside because he couldn't be bothered to deal with the traffic coming up Portland Street and that was 13 years ago. Sense then there has been development on the lower valley side of Portland that has increased traffic flow. It has not changed sense 1988 the traffic going down Portland. What has changed is the continued development in Cole Harbour and down Caldwell Road and Portland Estates. It has increased and increased and increased. If there is an accident traffic comes to a screeching halt and yes if without an accident trying to make a left onto Portland Hills or off of Portland Hills onto Portland Street between 4:30-6:30 is impossible they just fill the intersection and you want to add more to it, totally unacceptable. The other thing is the commercial side of it, he stated he has been in Dartmouth for 66 years and has watched it grow and behind him is the new commercial development and from his condo he could see garbage cans sitting in the back until they fought to have them enclosed with Mr. Karsten help. Then he had to look at crows and seagulls coming in and take the garbage and dump it all over the background and the reply from the developer is

they are not moving the garbage can that is where they are staying. My question to the developer is what is going to be the commercial developments moving into this development? Are they going to be restaurants or stores, where are they going to put their garbage? Are you putting up stop signs coming out of the development or is it going to be free flow?

**Leo McKenna – 8 Alpine Drive** stated this is not an Alpine Drive issue. He stated he is generally pro development density is not a bad thing it is not a four letter word. It is what allows us to have lovely faculties like this we can afford a level of taxation that is reasonable and put places like this together. To have the density we need the infrastructure to support it and right now we do not have the infrastructure to support more density coming out of Portland Street. The infrastructure clearly does not work in the morning or the evening rush hours. The consultants doing the study indicates that the queue length at the 95th percentile just has a little asterisk beside it saying exceeds the max. so we can't measure. So it is already over the max. I appreciate that this is going to be a relatively small degradation in terms of traffic flow on Portland Street but I would ask you to remember that all the degradation happened because of small incremental changes to development on Portland Street. The massing here is just unacceptable. If the 3D depiction had been drawn to scale you would see that 6 storeys next to a single family home is, there is no graduation there. You go from small to really, really large. It is going to appear huge relative to that neighborhood; it's not going to fit very well.

**Virginia Campbell -> Hilltop Terrance** wanted to know if anyone has done a study on the affects this development would have on the three cul-de-sac', Narrowleaf Grove, Hillspire Grove and Leyland Grove. Is there going to be a buffer zone at the end? I think the resident's would like a privacy fence installed at the south and west property lines. That would be the least he could do for us. This development because of the influx of traffic she will no longer be able to live with her windows and doors open, no longer use her house or backyard because of the influx of cars and traffic and people. Cars stopping and going, cars revving up and not being able to get out of her driveway, doesn't sound to hot to her. The present owners who own this property don't take care of the property now; the grass is up to her knees. She wanted to know if the city was bias in favor of the developers and against the present owners of the existing properties.

**Mr. O'Brien** spoke to policy ML8 and some of the traffic concerns that were brought up.

**John Mullin -> 5 Alpine Drive** wanted to know what the effect of grade is on the entrance and exit of speed and what does that do to queue patterns. He doesn't feel that has been taken into account. Also, what effect does different seasons and the weather do? I know your analysis is done to say yes, traffic can flow and we have had a winter where 40-50% of the time traffic couldn't flow and putting an extra obstacle there isn't in anybody's best interest.

**Mr. O'Brien** stated that admittedly we do not do analysis at the time of snow storms. That is not part of the analysis process that has ever been considered. You might say the grade of 8% is steep but compared to most of Halifax 8% is normal.

**John Mullin -> 5 Alpine Drive** stated you have 60km per hour speed limit up that hill so at very best probably a 30-40 km slow down for cars entering vs cars coming at 60km a hour. The difference in speed is going to increase. That difference in speed without an intersection is going to cause accidents. The likelihood of accidents goes up multiple amounts.

**Phil Elliot -> 12 Shawn Drive** stated that based on the information that you were given by HRM, you have taken information provided by others (the 2013 study) to do your analyses.



**Mr. O'Brien** stated that they generally use an HRM encouragement exception (16:21 – Part 2) that is prepared by HRM so in these cases we used the most recently available accounts that HRM can provide and HRM provides those account in relation to how much, I assume, they think the traffic volume can change in certain areas

**Phil Elliot -> 12 Shawn Drive** stated what bothers him is the “I think”. We have a road that we have identified in 2000 as being marginal and HRM’s traffic group could put counters on it and there does not seem to counters being done on a regular basis so we can start looking at the impact. I am not faulting your study, but I think the information is a little bit sketchy. In summary you’ve made a simulation and we don’t live in that simulation. The assumption is that according to HRM guidelines this is ok, this is not ok.

**Councillor Bill Karsten** nobody said this ok, please understand this. This is at the 3<sup>rd</sup> or 4<sup>th</sup> stage of the process nobody at HRM said that this traffic is ok the way it is being presented. This will be reviewed and studied before it goes to council.

**Mr. O'Brien** stated that he wanted to be clear that he didn’t say that HRM accepted what we said. HRM questioned repeatedly and we provided information and when we provided information and there are no more questions flowing back we assumed that they were satisfied.

**Blair Richardson -> 13 Alpine Drive** stated that he understanding that there is a traffic study done over the entire Portland Hills Valley all the way from the Baker Drive intersection to the Caldwell Road intersection from 2001-2011 that showed the traffic at Baker Drive and the Caldwell Road were past the acceptable limits. The ones in between don’t show as being over capacity because people are cutting thru Portland Estates by the school zone because it is too busy on that hill.

**Public** – Wanted to know why the developer is doing the study and not the city. He thinks it would be more objective if the city did the study and not the developer.

**Shayne Vipond** stated the city’s function is to review the material. It is the developer’s responsibility to spend the money. Mr. O'Brien is a professional engineer he is professionally accredited. We rely on experts in every field to have professional accreditation to provide the information to us and we review that that is our function.

**Jacob JeBailey** spoke to storm water management, grading, policies of HRM for storm water management. There may be a slip lane put in to medicate some of the traffic issues.

**Helen Mullin -> 5 Alpine Drive** wanted to know about buffering between the houses on Alpine Drive and the development. She stated they have about 64 trees from the beginning of their home to the middle of that land. You are planning to put a parking lot on the development and you show 57 feet between the end of the parking lot and her kitchen window.

**Jacob JeBailey** explained that the drawings are illustrations and you can’t read true depth. He explained there is a green buffer there and they are planning on retaining it.

**Helen Mullin -> 5 Alpine Drive** stated that she assumes there will be lighting in the parking lot to show peoples way to and from the commercial development.

**Jacob JeBailey** explained that that has not been considered yet.

**Helen Mullin -> 5 Alpine Drive** stated that they are currently trying to sell their home and the real estate agent has told them their selling price if this development goes through will be lowered by 20% so we can't sell our home. If she was to stay there they are going to be looking at parking lights and cars.

**Phil Elliot -> 12 Shawn Drive** wanted clarification on when the CDD was developed. He stated when the CDD was developed the properties along Portland Street and Caldwell Road were excluded because they were zoned residential, that was the reason for it. The assumption was made that they would remain residential.

**Shayne Vipond** stated it isn't included in the CDD therefore is not governed by the policies but it is covered by the Morris – Russell Lake Secondary Planning Strategy.

**Danny Wood -> 3 Alpine Drive** stated the width of the entrance on Portland Street and the depth of the throat would make cars have to stop on a 60km per hour street (Portland Street). Alpine Drive is misrepresented because it should be a right only.

**David Smith -> 5 Josephine Court, Chair of Portland Street Hills and Resident Association** stated that their experience as a residence association over the years in relation to urban development is that they have seen a lot of environmental impact during the development of land. They see a lot of silt in the lakes a lot of mud on the roads and it continues to be a problem. He would like to suggest the developer not look at the minimum standards that are required at these sites, that they set a higher standard and be a good neighbor that way. Whatever the development is that land will be disrupted and it will disrupt the environment and we know that is going to happen.

**Cathy Fancy-> 6 Narrowleaf Grove** stated as part of the Groves (Narrowleaf Grove, Hillspire Grove, and Leyland Grove), there hasn't been anything said in respect to our interests. She wanted Mr. Jabailey to note that Portland Hills Drive is curved coming down and the proposed 2 exits coming out above Narrowleaf Grove and Portland Street I suggest to you that the increased traffic flowing down Portland Hills Drive is going to be dangerous. It is very difficult now because the three Groves are on a curve for the traffic to get out of those streets at any time of the day. Over the winter it is next to impossible because the snow banks extend out 6 feet nearing the center boulevard. She is very concerned about how dangerous this added driveway is going to make it and the accidents it will cause.

**Bill Madder -> Hillspire Grove** wanted to know if when coming out of the development onto Portland Hills Drive can you turn left and right or just right. Going in both directions will make traffic issues even worse. Right now I have to gun it to get out without getting hit. The Groves right now are lovely and quiet.

**Jacob JeBailey** advised left and right.

**Lisa Good -> 621 Portland Hills Drive** stated along Portland Hills Drive as it exists right now, when people make a right hand turn either into 621 Portland Hills or the condo's /townhouses all the traffic behind them is stopped because none of those driveways are wide enough to allow a car to turn into them without causing all the traffic to stop behind them both coming up Portland Hills and coming down Portland Hills. Water - when 639 was allowed to build that complex behind 621 Portland Hills they were allowed to raise themselves up. Every year starting in September to when it freezes the water that comes out of that complex onto Portland Hills Drive is so extensive we end up with a 6 inch flow of solid ice that is there from the beginning of the

snow to the end and you cannot walk on the sidewalk. They were supposed to take care of the water problem and we have to live with it. I don't mind development but I think this is a poor min for right there, it is going to add the potential of another 200 cars coming and going up and down Portland Hills and on and off that drive which is very dangerous. With regards to the woods, I have walked that property and it is full of ragweed there is not a whole lot of trees there that you will be able to save. She wanted to know about the coyote's, pheasants and other wildlife that live on the property, what is going to happen to them?

**Joe Pirro -> who is a Real Estate Agent with Royal LePage Atlantic** he wanted to state that he has had the opportunity to work with the developer, Mr. Clark Wilkins, and that Mr. Wilkins builds a quality products. If the project moves forward he feels that it will enhance the community and it will be an area that the community can be proud of.

**Wendy Jacobs -> 621 Portland Hills Drive** stated that she backs onto the parking lot where Finbar's and the other development is and kids are there skateboarding at 10pm during the whole summer and nobody deals with that. She stated there are garbage trucks coming at 7am banging and clanking and this is what the people on Alpine have to look forward to once that development goes in there. There is nothing there to absorb the noise of all the commercial stuff that is going to happen on that property and what people come and do in those parking lots at night (10-11pm at night) nothing is ever done about it. There will be a lot of noise pollution from this development.

**Michael Potvin-> 11 Alpine Drive** stated his question is largely around the special circumstances around waste water management. I know there is lots of solution like black top vs greenspace. Because this is part of the Morris Lake watershed system, that property is full of underground springs that run off of Bell Lake, when it rains you can latterly see rivers flow and rivers flow down between Alpine. The challenge is when you do the excavation and you look for environmental run-off and silt the ends up into Morris Lake, what experience so you have when considering springs as part of waste water management? Has anyone talked to Halifax Water about what happens if you do engineer away solutions and Bell Lake is emptying into their waste water management system?

**Shayne Vipond** stated all those issues would be contemplated.

**Craig Spencer -> Berry Hill** stated that every day when he comes home from work, when he gets to the top pf Portland Street where Penhorn Mall is, that is where he decides which way to go home. He can see Break Heart Hill from there and can tell what his best route will be, what back route and side streets should he take. It is so bad now that the decision has to be made way back there which way are you going to go home. The wait in that traffic is so long and now you want to add more people to the mix who will have to go into those subdivisions.

**Phil Elliot -> 12 Swanton Drive** had a few comments. If it is going to be zones C-3 then there is no need for the driveway off Portland Street because the purpose of a neighborhood commercial is that it serves the neighborhood it shouldn't serve Portland Street. The developer shows a sign on Portland Street, why is the sign on Portland Street if it is zoned C-3. If you look at what Clayton did on the other side and the signs for Clayton Developments are on Portland Hills Drive. There is a bit of ambiguity in there. I am really concerned about the traffic issue, where is the Shearwater Connection? In 2000, 15 years ago it was recognized and nobody between the federal, provincial governments and municipal departments we cannot seem to get this to go through. Clayton has done their job, they have built the interchange we haven't got it through, and we were very clear in 2000 that that had to be a relief. We built out Portland Hills

and now we are starting to put commercial in and nothing is happening. On top of that there are studies that have not been done. The shortcutting, we see that now. Dorothea Drive, from the studies shows 280 cars at that peak hour that was measured shortcutting obviously but we don't know because the studies have never been done. I think before anything goes ahead we have to start doing some of the studies, we have to get this Shearwater Connector through and then we can start looking at development. Are we going to follow the intent that people who live in this area and moved into this area have continued to want or are we going to start injecting something completely different. He is concerned because they did meet for over a year and a half and we heard from the community and that was the result of the community and now we are starting to change things.

**Helen Davis Mullin – 5 Alpine Drive** wanted to know if there was a record of busses that have broken down on Alpine from the transit authority. She stated there have been instances where cars and busses (4 ways going) have had to come in illegally on Alpine Drive because the grade is so steep that somebody has not been able to make it up Portland Street. Just before Alpine is where you are putting your foot on the gas to try to get up the hill both in the summer and winter and there has been so many people asking to use out phone because they can't get up the hill. She feels we might be going ahead with this a little too quickly and it should be looked into a little longer and also do a study during the wintertime.

**Shayne Vipond** stated no, we do not have records of that. We would have to ask Metro Transit if there are issues.

**Blair Richardson -> 13 Alpine Drive** stated Portland Hills School is over capacity at 401 students and had to convert the music room into classroom space because they don't have enough space to handle all the kids. This high density development would only make that situation worse. The Peninsula average for density is 12 dwellings per acre however; this development has the average density at over 106 dwellings per acre, 10 times that of the Peninsula.

**Jacob JeBailey** stated that there are a total of 92 units so if it is maxed out at 2 people per unit you would be looking at a density of around 52 people per acre. Halifax Mainland the average is 75 people per acre and on the average on the Peninsula not including downtown is 125 people per acre so 52 is very low. This is a low density it is just all packed, we are not taking up the entire site making a large impact on the overall site, and it is compressed.

**Councillor Bill Karsten** thanked everyone for attending. He wanted to make sure everyone feels they have been heard and that people still have the option to email or call with more questions or concerns.

#### **4. Closing Comments**

Mr. Vipond thanked everyone for attending. He encouraged anyone with further questions or comments to contact him.

#### **5. Adjournment**

The meeting adjourned at approximately 8:55 p.m.

**Attachment F**  
**Dartmouth MPS Evaluation of Proposal Against Proposed MPS Policy**

Policy ML-36

In addition to a medium scale multiple unit residential dwelling, small scale commercial/office development fronting Portland Street and Portland Hills Drive are considered desirable at the southwest corner of Portland Street and Portland Hills Drive (PID #00230821 & 41044793), a key corner site within the within Residential Designation of the Morris Russel Lake Secondary Planning Strategy. Any such development shall be considered by way of development agreement. In considering any such agreement, Council shall have regard to the following:

	<b>Policy Criteria</b>	<b>Comment</b>
(a)	That commercial/office buildings are oriented to the street and transit services, and primary entrances are oriented to the sidewalk and primary pedestrian ways;	Sections 3.1 and 3.4.2 of the development agreement (Attachment C) requires that the two proposed commercial/office buildings be sited along Portland Street in close proximity to existing sidewalks.
(b)	That commercial/office buildings not exceed a height of three storeys;	Section 3.4.2 of the development agreement requires that the proposed commercial/office buildings not exceed a height of three stories.
(c)	That residential buildings not exceed a height of five storeys;	Section 3.4.2 of the development agreement requires that the proposed residential building not exceed a height of five stories.
(d)	That adequate recreation and amenity space is provided on the site and within the residential building;	Section 3.4.3 of the development agreement requires that adequate indoor and outdoor amenity space is required as part of the development.
(e)	That pedestrian street level activity is encouraged in proximity to the street through the incorporation of commercial ground floor uses that relate to the street and public realm;	Section 3.3.1 (b) of the development agreement provides a list of permitted ground floor local business uses. Further, Section 3.3.1 requires that office uses be located on the second floor only and not be permitted on the ground floor where select commercial uses are encouraged.
(f)	That residential buildings include underground parking and that the parking podium/building basement is constructed substantially below grade or adequately blended into the site;	Section 3.1 of the development agreement identifies underground parking as part of the proposed residential building. As shown the parking podium is located substantially below grade. Additionally, section 3.4.5 requires that any exposed foundation in excess of 0.61 meters (2 feet) in height shall be architecturally detailed.
(g)	That the development is integrated with and complementary to the surrounding built form, land uses, and abutting residentially-zoned areas through the incorporation of buffering and architectural requirements;	Section 3.4 of the proposed development agreement provides siting and architectural requirements which ensure the proposed development is complimentary to the surrounding built form and abutting residential properties. Further, section 3.9.8 of the development agreement requires the retention of existing mature vegetation along the western and southern property boundaries to serve as a buffer between the proposed development and abutting residential development.

<b>(h)</b>	That mature tree stands and other natural site features are preserved where possible;	Section 3.9.8 of the development agreement requires the retention of existing mature vegetation through the provision of an area of non-disturbance. Removal of vegetation within the area of non-disturbance is prohibited unless in accordance with the requirements of the development agreement.
<b>(i)</b>	That traffic related matters such as traffic generation and circulation, sighting distances, site access and egress and pedestrian safety are addressed;	A Traffic Impact Study submitted in support of the development finds that the vehicle trips generated by the proposed mixed use development is not expected to have any significant impact on the level of performance of the Portland Street/Portland Hills Drive/Regal Road intersection or adjacent streets. The Traffic Impact Study has been reviewed and accepted by HRM Traffic Services. Section 3.7.5 of the development agreement requires the construction of a shared walkway system to provide safe pedestrian access and circulation on the lands.
<b>(j)</b>	That access from the lands to Portland Street shall be restricted to right-out movement;	Section 3.7.4 of the development agreement requires that access from the lands to Portland street be restricted to right-out movement. As shown on Schedule B of the development agreement, driveway access is proposed through a right out movement and no entrance is proposed from Portland Street.
<b>(k)</b>	That lighting shall be designed to provide security, safety, and visual appeal for both pedestrians and vehicles while ensuring minimal impact on adjacent properties; and	Section 3.8 of the development agreement requires that lighting be directed away from adjacent lots and buildings through the required use of full cut-off design. Any additional lighting is required to be directed to driveways, pedestrian walkways, parking areas, loading areas, and building entrances and arranged so as to divert the light away from streets, adjacent lots and buildings.
<b>(l)</b>	Provisions of Policy IP-1 (c)	See below

IP-1(c) - In considering zoning amendments and contract zoning, Council shall have regard to the following:

(1)	that the proposal is in conformance with the policies and intent of the Municipal Development Plan	The proposal is in conformance with aspects and nature of the policies and intent of the Dartmouth MDP.
(2)	that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal	The proposed medium scale residential and small scale commercial is compatible and consistent with adjacent uses and existing development form.
(3)	provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries	The proposed DA will provide buffer screening and landscaping through the required retention of existing mature vegetation. Further, the DA will require that the site access Portland site through a right-out only egress.

(4)	that the proposal is not premature or inappropriate by reason of:	---
(i)	the financial capability of the City is to absorb any costs relating to the development	All costs associated with the proposed development will be the responsibility of the Developer.
(ii)	the adequacy of sewer and water services and public utilities	Halifax Water has provided comments on the proposal and has no issues with capacity of either water or sewer.
(iii)	the adequacy and proximity of schools, recreation and other public facilities	The adequacy and proximity of public facilities such as schools, recreation and other public facilities is adequate.
(iv)	the adequacy of transportation networks in adjacent to or leading to the development	A Traffic Impact Study submitted in support of the development finds that the vehicle trips generated by the proposed mixed use development is not expected to have any significant impact on the level of performance of the Portland Street/Portland Hills Drive/Regal Road intersection or adjacent streets.
(v)	existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas	n/a
(vi)	preventing public access to the shorelines or the waterfront	n/a
(vii)	the presence of natural, historical features, buildings or sites	n/a
(viii)	create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized	Public services are presently in place in the area and need not be extended.
(ix)	the detrimental economic or social effect that it may have on other areas of the City.	It is anticipated that the proposed development will provide moderate cost housing to the neighbourhood.
(5)	that the proposal is not an obnoxious use	The proposed development is not considered an obnoxious use.
(6)	that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:	---
(i)	type of use, density, and phasing	The proposed land use will be controlled by a development agreement as will the number of units which, effectively, is the density. The development agreement will also identify specific uses and assign a maximum floor area as a means to ensure the commercial development reflects a small scale convenience commercial use. Changes to land use or the total number of units, requires a substantive amendment under the terms of the development agreement.
(ii)	emissions including air, water, noise	The development agreement requires

		compliance with all municipal by-laws, laws and statutes including those pertaining to environmental matters.
(iii)	traffic generation, access to and egress from the site, and parking	The Traffic Impact Study prepared in support of the application has been reviewed and accepted by HRM Traffic Services.
(iv)	open storage and landscaping	No open storage is permitted. As proposed in the development agreement, five stream HRM waste recycling containers must be located inside the building. A landscaping plan prepared by a landscape architect is required through the development agreement.
(v)	provisions for pedestrian movement and safety	There are existing sidewalks located along Portland Street and Portland Hills Drive. Pedestrian access across Portland Street is considered a hazard except at designated crossings/intersections.
(vi)	management of open space, parks, walkways	There is a hierarchy of open spaces linked by walkways and trails in close proximity to the proposed development. In addition, the proposed development provides private indoor and outdoor amenity space on the subject lands.
(vii)	drainage both natural and sub-surface and soil-stability	The development agreement requires submission of a site disturbance plan and a detailed erosion and sedimentation control plan. The agreement also requires submission of a site grading plan which includes consideration and implementation of stormwater management measures.
(viii)	performance bonds.	n/a
(7)	suitability of the proposed site in terms of steepness of slope, soil conditions, rock outcroppings, location of watercourses, marshes, swamps, bogs, areas subject to flooding, proximity to major highways, ramps, railroads, or other nuisance factors	The site is suitable to accommodate the proposed development. As part of the development agreement, the proposed development will be required to implement soil erosion control and stormwater management measures.
(8)	that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council	A public information meeting was held as part of this application. Attachment E of this report provides a summary of the meeting and comments received.
(9)	that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:	---
(i)	Council with a clear indication of the nature of proposed development, and	The staff report to Community Council and the proposed development agreement provide a clear picture of the proposed development.



(ii)	permit staff to assess and determine the impact such development would have on the land and the surrounding community	Sufficient detail was provided to evaluate the proposal and potential impact on surrounding lands and the community.
(10)	Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS.	