



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 10.1.2
Harbour East-Marine Drive Community Council
September 6, 2018 First Reading
October 4, 2018 Public Hearing

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

SUBMITTED BY: Original Signed

Kelly Denty, Director of Planning and Development

Original Signed

Jacques Dubé, Chief Administrative Officer

DATE: August 20, 2018

SUBJECT: **Case 20573: Development Agreement and Discharging Development Agreement for 651 Portland Hills, Dartmouth**

ORIGIN

Application by W. M. Fares Architects

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

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

1. Give notice of motion to consider the proposed Development Agreement, as set out in Attachment A of this report, to develop a 7-storey mixed use building at 651 Portland Hills Drive in Dartmouth, and schedule a public hearing;
2. Approve the proposed Development Agreement, which shall be substantially of the same form as set out in Attachment A of this report;
3. Approve, by resolution, the proposed Discharging Development Agreement, which shall be substantially of the same form as set out in Attachment B of this report; and

4. Require that both the Discharging Development Agreement and Development 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 has applied to enter into a development agreement to permit a 7-storey mixed use building at 651 Portland Hills Drive in Dartmouth. This proposal may be considered under existing Municipal Planning Strategy policies for the site. The CDD zone applied to the lands requires that all development must be in conformance with a development agreement.

Subject Site	651 Portland Hills Drive, Dartmouth
Location	Located within the Portland Hills subdivision in Dartmouth. The subject site is adjacent to the southeast corner of Portland Street and Portland Hills Drive.
Regional Plan Designation	Urban Settlement (US).
Community Plan Designation (Map 1)	Residential under the Dartmouth Municipal Planning Strategy.
Zoning (Map 2)	CDD (Comprehensive Development District) under Dartmouth Land Use By-law.
Size of Site	7,848.08 square metres (84,476 square feet)
Street Frontage	79.25 metres (260 feet)
Current Land Use(s)	Vacant with exception of a developed ingress/egress to an existing parking lot and retaining wall serving the Portland Hills Transit Terminal Park and Ride.
Surrounding Use(s)	The subject site is surrounded by mostly residential and commercial uses. Immediate surrounding uses include: <ul style="list-style-type: none">• Existing commercial development to the north and south;• Portland Hills Transit Park and Ride to the east; and• Approved mixed use development across Portland Hills Drive.

Proposal Details

The applicant is proposing a mixed-use residential/commercial development at 651 Portland Hills Drive. The major aspects of the proposal are as follows:

- 7 storey building;
- Approximately 68 below grade and 55 surface parking spaces;
- Approximately 697 square metres (7500 sq. ft.) of ground floor commercial space plus flexibility to replace residential use off transit driveway with an additional 672 square metres (7240 sq. ft.) of optional commercial use;
- Maximum 75 residential units;
- Approximately 95 square metres (1055 sq. ft.) of indoor amenity space at the 5th floor level;
- Approximately 55 square metres (657 sq. ft.) of outdoor amenity space at the 5th floor level; and
- A request to discharge the Existing Development Agreement and Amending Agreements from the subject site.

History

CDD (Comprehensive Development District) Lands

In July 1997, Regional Council initiated a municipal planning strategy amendment process that would ultimately designate 270 acres of land owned by Clayton Developments Ltd. as a comprehensive development district (see Map 1). A portion of these lands, located between Portland Street and Morris Lake, have been developed and are now known as Portland Estates.

In December 1998, Regional Council, in a separate process, initiated master planning studies in four areas of the Municipality. Morris-Russell Lake was one of those study areas. The purpose of the studies was to provide policy guidance for future development, and to ensure that development occurred in an environmentally sensitive and comprehensive manner. Subsequently CDD policies reflecting these requirements were incorporated within the MPS for this area.

The CDD designation requires that development proposals be considered in consultation with a public participation committee (PPC) composed of local residents, other interested citizens and affected land owners. The PPC, acting as a Planning Advisory Committee, would identify issues and constraints to development, determine alternatives and solutions, and collaborate to produce a concept plan. Beyond establishing a PPC to advise on the initial CDD proposal, Policy H-3(AA) requires that a PPC also be consulted to deal with new development agreements and substantive amendments to CDD agreements. This planning application (Case 20573) for a mixed-use development at 651 Portland Hills Drive in Dartmouth required the involvement of a PPC.

Existing Development Agreement

The lands at Portland Hills Drive known as Parcels PH-4 and PH-5 (see Map 3) extend from Morris Lake east to the boundary of the Innishowen subdivision and north to Portland Street. The development of these lands is subject to the "Portland Hills Concept Plan", prepared under the Morris-Russell Lake Master Development Plan. The area is developed with mixed residential uses, an elementary school and commercial area. The application submitted for 651 Portland Hills Drive is within Parcel PH-4 of the Concept Plan.

In 2000, Harbour East Community Council entered into a development agreement with Clayton Developments to allow residential and commercial mixed-use development for the lands located at 635, 639 and 651 Portland Hills Drive in Dartmouth (see Map 1). Since then, Council has approved three amending agreements as follows:

- Case 00554 (2004) allowed increased acreage, increased number of dwelling units, and prohibited the development of Phase E until Portland Hills Drive connected to Portland Street;
- Case 15925 (2010) allowed an additional two pylon signs, and directional signage; and
- Case 17688 (2014) allowed an eating establishment with accessory lounge area.

Enabling Policy and LUB Context

Enabling MPS Policies

Policies H-3(AA), H-3B(b) and (d) under the CDD section of the MPS and ML-18(p), ML-19(e) under the Morris-Russell Lake Secondary Plan enable Council to consider the development proposal within the Portland Hills CDD. These enabling policies are subject to Implementation Policies IP-1(c), for consideration of any development agreement, and IP-5, for development of multiple unit buildings under the Dartmouth MPS.

LUB/Zoning Context

The lands are zoned CDD which permits residential, commercial, institutional, recreational uses as well as all buildings and equipment associated with extracting water from Morris Lake for the former oil refinery operation. None of these uses may be permitted except in conformity with a development agreement. In order to allow as-of-right development, the CDD zone would have to be replaced with a zone allowing uses without the need for a development agreement.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. 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 November 30, 2017.

Attachment D contains a copy of the minutes from the meeting. The public comments received include the following topics:

- Traffic;
- Pedestrian safety;
- Proposed commercial area; and
- Proposed height.

A public hearing must be held by Harbour East-Marine Drive Community Council before they may consider approval of the proposed development agreement. Should Community 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.

A public hearing is not required for the discharging development agreement, as the *Halifax Regional Municipality Charter* provides a mechanism for the Harbour East Marine Drive Community Council to discharge the existing development agreement. Part VIII, Section 244, identifies that Community Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owner. The Charter does not require a public hearing for the discharging of a development agreement, and it may be accomplished by resolution of Community Council.

The proposal will potentially impact local residents and property owners,

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment C provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Discharge of Existing Development Agreement and Amending Agreements

Currently, the subject lands are regulated under a development agreement approved in 2000 and subsequent amending agreements as noted in this report. The request is to remove the existing suite of documents from the subject lands only so that a new DA may be applied in a specific context and provide clear and effective administration of the document. The existing development agreement will remain in effect for the remainder of the lands in Parcels PH-4 and PH-5.

The proposed DA conforms to applicable policy under the Dartmouth MPS and is closely aligned to the intent of the existing DA in terms of density and land use. This approach creates greater certainty by limiting ambiguity in the interpretation of the agreement that sometimes occurs through the amending documents.

Proposed Development Agreement

Attachment A 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:

- Exterior design, materials and height;
- Permitted number of residential units;
- Permitted location and area of commercial use;
- Location and area of indoor and outdoor private amenity;
- Required number of parking stalls;
- Signage;
- Requirement for a landscaping plan;
- Requirement for Lot Grading and Erosion and Sedimentation Control Plans;

- Changes to the requirements for exterior materials, signage and functional elements are identified as non-substantive amendments; and
- Changes to extend the time for commencement or completion are also identified as non-substantive amendments.

The attached development agreement will permit a mixed-use development, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment C, the following have been identified for detailed discussion.

Building Design and Height

The proposed development agreement controls the appearance of the building by means of Schedules and an "Architectural Requirements" section in the text of the agreement. The building is designed so that the façade at Portland Street inclusive of portions extending around both corners, presents a 4 storey streetwall that transitions in a stepping sequence to a 7-storey height at the eastern property boundary. Locating the greatest height at the less sensitive end of the site enables a low-rise streetwall design response to the low-rise commercial (two storeys at commercial height) on each side as well as the existing and approved buildings across the street. The building form, density and commercial area was guided by existing policies for earlier development. Existing policy regulating built form under the Morris-Russell Lake Plan is limited to the requirement that forms be consistent with similar development in Portland Hills.

Number of Residential Units

Policies H-3B(b) and (d) of the Dartmouth MPS stipulate an overall density for the site of no greater than 8 dwelling units per acre, and that no more than 50% of the dwelling units within a CDD may be apartment units. The proposed development adheres to these standards. In a review of all approved residential developments within the Morris-Russell Lake CDD staff determined that the number of apartment units does not exceed 40% of the total actual number of units within the CDD. Further, the maximum residential density within the Portland Hills CDD is less than half the 8 dwelling units per acre stated in policy.

Flexibility for Location and Area of Commercial Use

Commercial uses are proposed on the ground floor level adjacent the parking off Portland Hills Drive on the Schedules and in the DA text. The Agreement also provides flexibility to allow the ground floor space adjacent to the parking off the Halifax Transit driveway to be used for either residential or commercial uses. This decision would be based on market conditions at time of development construction. The commercial uses within the optional space are limited to local commercial as permitted by the C-1 zone of the Dartmouth LUB.

Harbour East-Marine Drive Public Participation Committee

As required within policy, a Public Participation Committee was formed to assess this proposal. On December 18, 2017, the Harbour East-Marine Drive Public Participation Committee (PPC) recommended that the application be approved. The PPC noted that the reduction of height to 6 storeys from the proposed 7 was a condition of this recommendation.

The Committee had several clauses recommended for inclusion within the development agreement. Most the Committee's conditions focused generally on:

- Encouragement for a reduction in height to 6 storeys;
- Consider exterior amenities to promote active living for residents;
- Consider revised lot grading and drainage to avoid stormwater runoff and subsequent contamination of nearby watercourses;
- Consider hours of operation for the commercial space;
- Consider improving pedestrian safety at peak traffic times by augmenting sidewalk lighting in the area; and
- Consider the existing ground sign to be sufficient and no additional freestanding signage to be required or permitted.

The recommendations of the PPC were incorporated within the proposed development agreement, with the exception of reducing height, adding hours of operation, and augmenting sidewalk lighting to increase pedestrian safety.

Sidewalk Lighting

Sidewalk lighting exists in the locality and there was some discussion at the PIM to supplement the current lighting at Portland Street and Portland Hills Drive for increased pedestrian safety. This was not a recommendation of HRM Traffic Management or Development Engineering staff. Provision of sidewalk lighting is considered an off-site improvement and cannot be required of the Developer through a development agreement process.

Hours of Operation

A DA may regulate such hours but staff advise there is a likelihood that some commercial uses might not conform to arbitrary standardized fixed hours. The applicant has indicated that the regulation of hours of operation were not needed in the DA as there is limited resistance from residential occupants to commercial tenancies as they are less likely to generate noise, odours and less likely to operate at night, especially with no restaurant use permitted.

Building Height

The 7-storey building as permitted by the proposed development agreement is appropriate given the subject site's context and the stepped transition that promotes mediation between the heights of the neighbouring buildings and the Halifax Transit site. There is no prescribed height limit under the Dartmouth MPS CDD or Morris-Russell Lake policies.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The request to discharge the existing agreement and amending agreements and replace them with a new site-specific DA will enable clarity of development requirements. The mixed-use development form, with residential units over ground floor commercial, presents a compatible design response to height, materials and scale in the context of the existing commercial and the approved development across the street. The proposed building will contribute to the consistency of frontages, creating a positive relationship between the buildings at the east side of Portland Hills Drive. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed development agreement.

FINANCIAL IMPLICATIONS

There are no budget 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 proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018-2019 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were identified.

ALTERNATIVES

1. Harbour East-Marine Drive Community Council may choose to approve the discharging agreement and proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Harbour East-Marine Drive Community Council may choose to refuse the proposed development agreement, and retain the existing development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
3. Harbour East-Marine Drive Community Council may choose to refuse the proposed development agreement, and discharge the existing development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

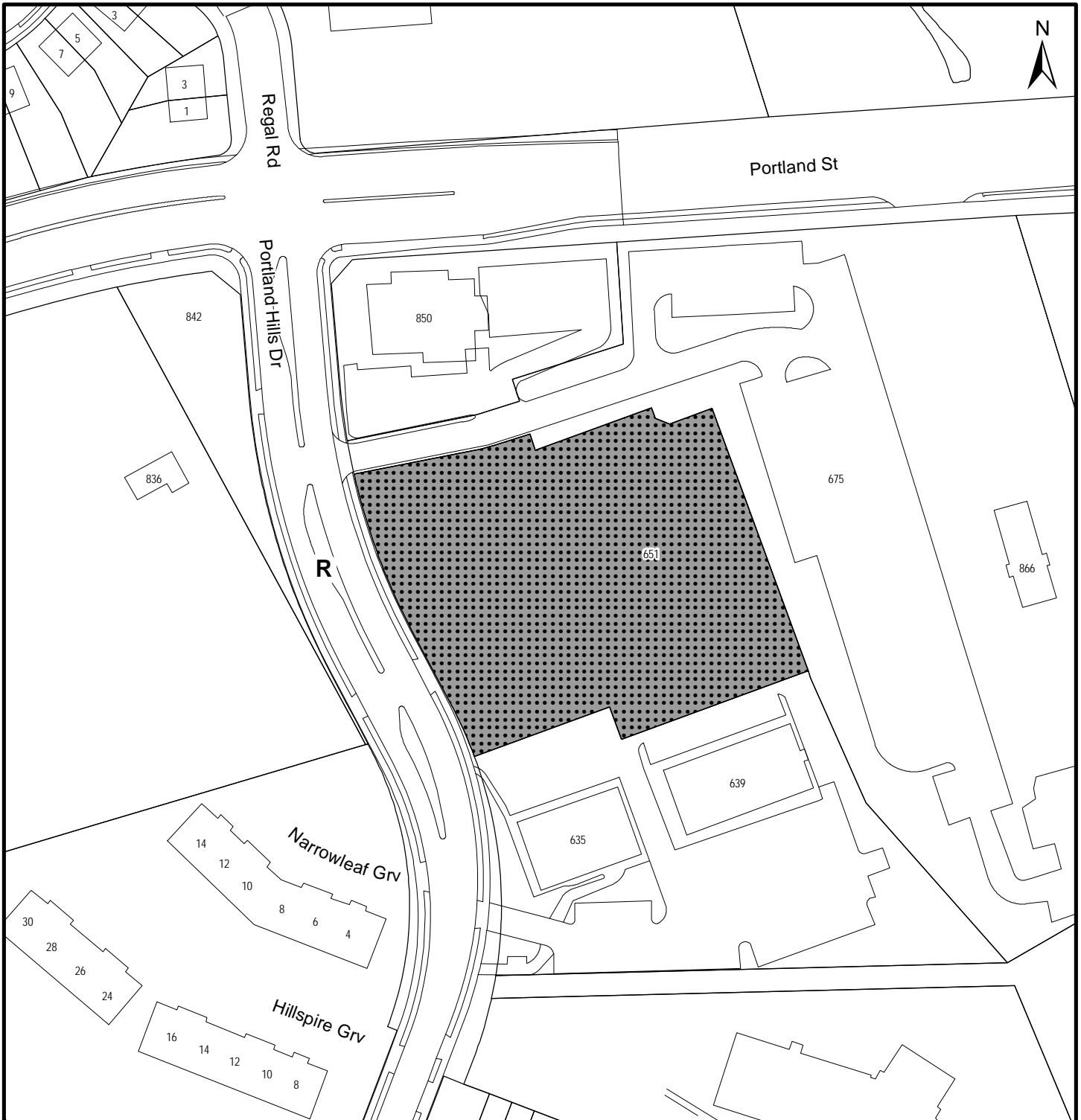
Map 1	Generalized Future Land Use
Map 2	Zoning and Notification Area
Map 3	Area of Application and Existing DA
Attachment A	Proposed Development Agreement
Attachment B	Proposed Discharging Agreement
Attachment C	Review of Relevant Dartmouth MPS Policies
Attachment D	Public Information Meeting Summary
Attachment E	PPC Recommendations

A copy of this report may be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Darrell Joudrey, Planner II, 902.490.4181

Original Signed


Report Approved by: _____
Steven Higgins, Manager Current Planning, 902.490.4382



Map 1 - Generalized Future Land Use

HALIFAX

651 Portland Hills Drive
Dartmouth

 Subject Site

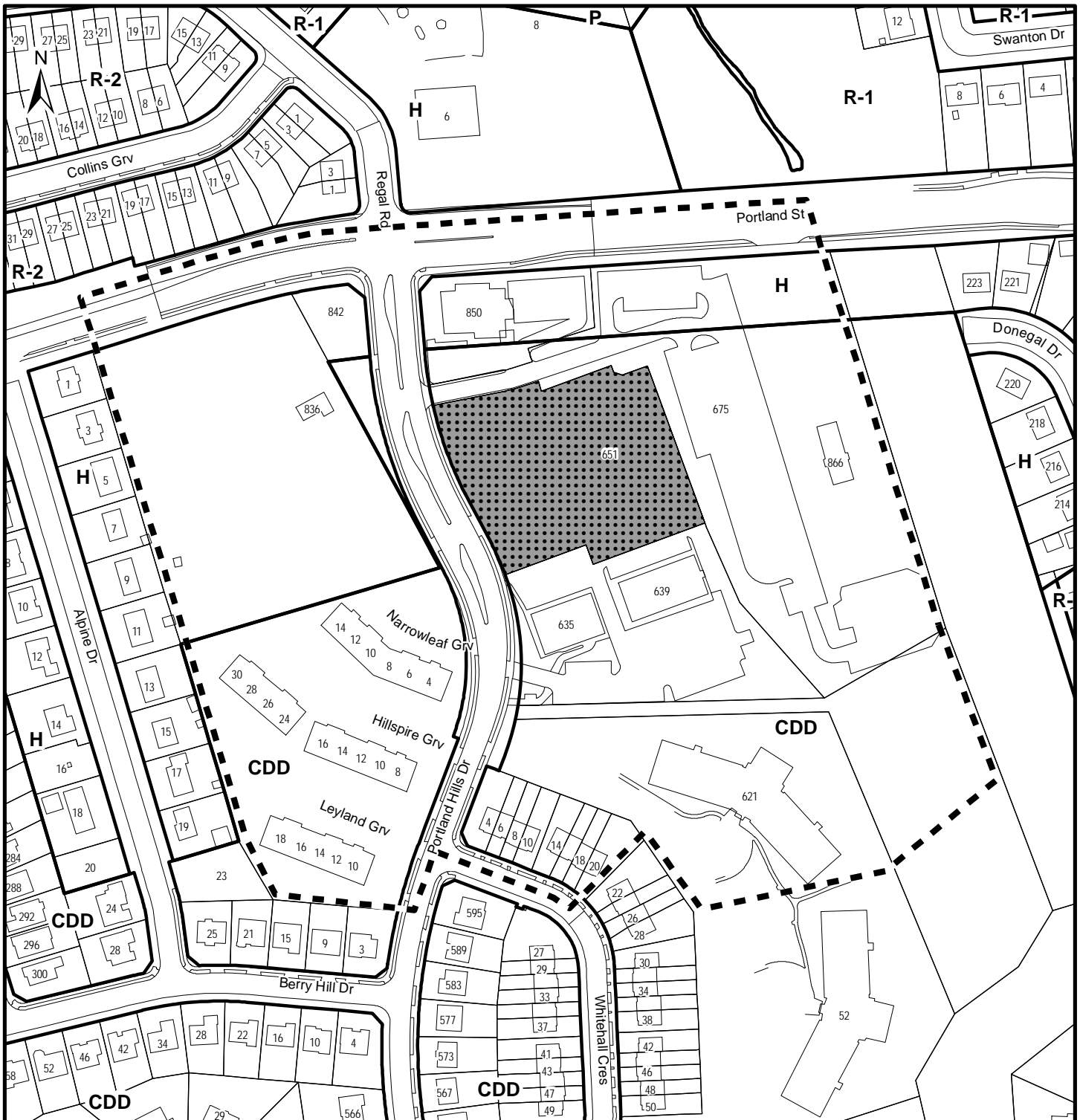
Designations
R Residential



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.

Dartmouth
Plan Area



Map 2 - Zoning and Notification

651 Portland Hills Drive
Dartmouth

-  Subject Site
-  Area of Notification

- Zones**
- R-1 Single Family Residential
 - R-2 Two Family Residential
 - CDD Comprehensive Development District
 - H Holding
 - P Park

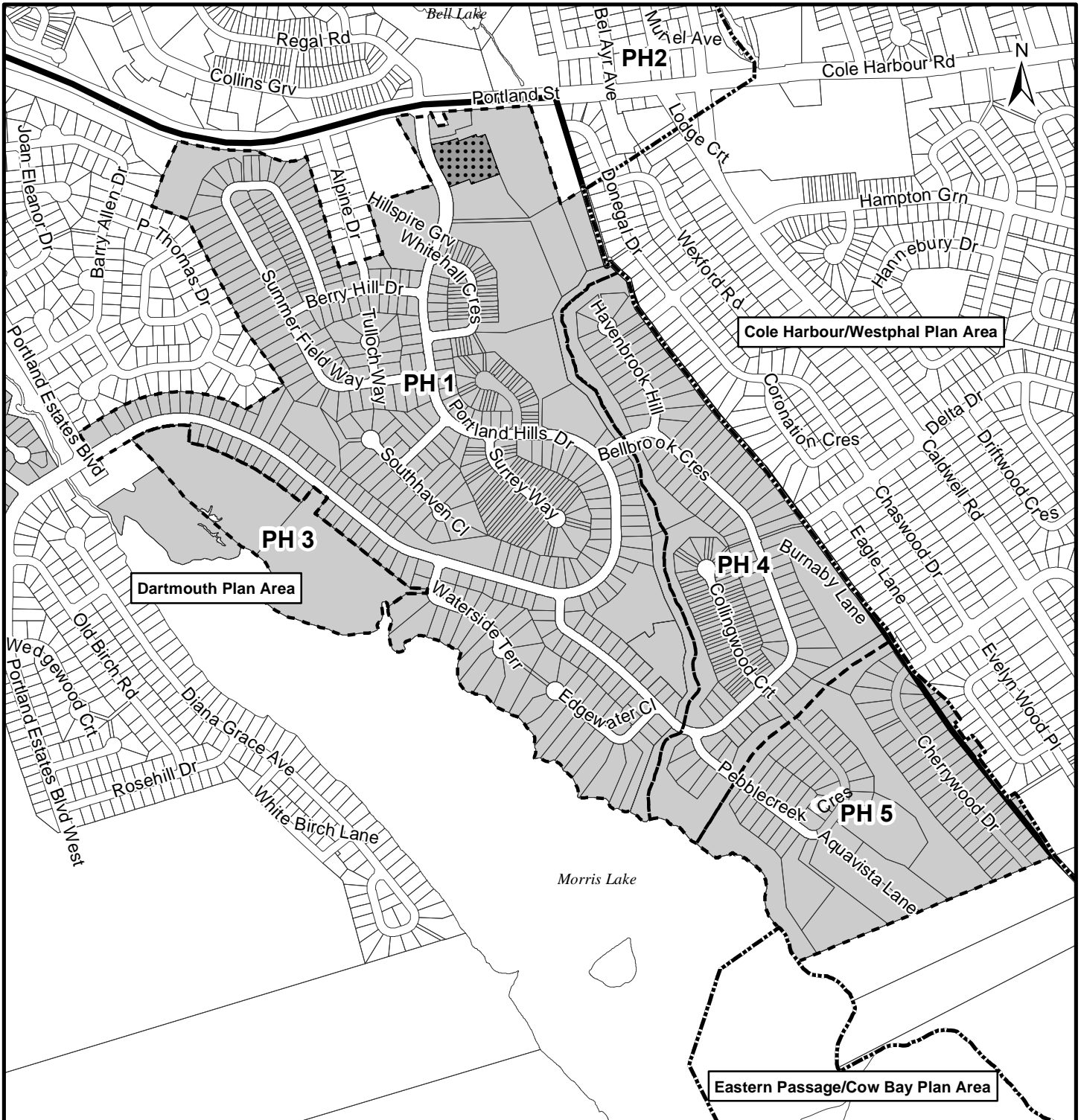


This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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

Dartmouth Land
Use By-Law Area






12 April 2018



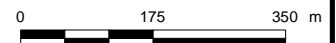
Map 3 - Area of Application; Existing Development Agreement

HALIFAX

PID: 00256420

-  Subject Property
-  Community Plan Boundary
-  Morris-Russell Lake Secondary Plan Boundary
-  Lands Under CDD
-  Morris/Russell Lake Parcel Boundaries

Dartmouth Land
Use By-Law Area



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

Regional Municipality Charter and pursuant to Policies H-3A, H-3B, ML-18(b), ML-18(c) and ML-19(e) of the Dartmouth Municipal Planning Strategy and Sections 1 and 3(Part 27) of the Dartmouth Land Use By-law;

AND WHEREAS at the same meeting the Municipality approved the discharge of the Existing Agreement, First Amending Agreement, Second Amending Agreement and Third Amending Agreement, as they apply to 651 Portland Hills Drive, and which Discharging Agreement was filed in the Land Registry Office as Document Number (insert number), and said discharge to take effect upon the Registration of this new Agreement;

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 20573;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

- 1.2.1 Except as otherwise provided for herein, the development, subdivision and use of the Lands shall comply with the requirements of the Land Use By-law for Dartmouth and the Halifax 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 for Dartmouth to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer and/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 for Dartmouth to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.
- 1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

- 1.5.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

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

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

2.1.1 All words unless otherwise specifically defined herein shall be as defined in the Land Use By-law for Dartmouth and the Regional 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 for residents of the development that are located within the building, including but not limited to, exercise facilities and multi-purpose rooms with associated kitchen facilities; and
- (b) "Outdoor Storage" means the keeping of goods, materials or equipment in a location on the Lands not enclosed by walls and a roof.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

3.1.1 The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 20573:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Level 100 (Ground Floor)
Schedule D	Level 500 (5 th Floor)
Schedule E	South Elevation
Schedule F	East Elevation
Schedule G	North Elevation
Schedule H	West Elevation

3.2 Requirements Prior to Approval

3.2.1 Prior to the issuance of a Development Permit, the Developer shall provide to the Development Officer:

- (a) A detailed Landscape Plan prepared by a Landscape Architect in accordance with Section 3.6 of this Agreement; and
- (b) A Site Disturbance Plan, Erosion and Sedimentation Control Plan: and Site Grading and Stormwater Management Plan prepared by a Professional Engineer and acceptable to the Development Engineer in accordance with Section 5.1 of this Agreement.

3.2.2 Prior to the issuance of the first Municipal Occupancy Permit, the Developer shall provide the Development Officer with certification from a member in good standing of the Canadian Society of Landscape Architects indicating that the Developer has complied with the landscaping provisions of this Agreement.

3.2.3 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any use 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 provisions of this Agreement and the Dartmouth Land Use By-law (except to the extent that the provisions of the Land Use By-law for Dartmouth 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.

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) Multiple unit building use;
- (b) Common amenity space;
- (c) Commercial use on the ground floor;
- (d) Underground and surface parking; and
- (e) Uses accessory to any of the foregoing uses.

3.4 Detailed Provisions for Land Use

3.4.1 Ground floor uses of the multiple unit building accessed by way of Portland Hills Drive parking lot shall be limited to retail commercial uses and shall include a residential entrance lobby.

3.4.2 Ground floor uses of the multiple unit building accessed by way of the Halifax Transit driveway shall be permitted to be either residential or commercial use. Commercial uses permitted shall be as permitted by the C-1 Zone of the Dartmouth Land Use By-law with the exception of restaurant uses.

3.4.3 The floors above the ground floor shall include residential use, indoor and outdoor amenity space at Level 500 (5th Floor) and residential accessory uses only.

3.4.4 A minimum of 697 square metres (7500 square feet) of commercial space shall be provided on the ground floor of the multiple unit building.

3.4.5 A minimum of 95 square metres (1022 square feet) of common Indoor Amenity Space shall be provided at the 5th Floor of the multiple unit building.

3.4.6 A minimum of 55 square metres (592 square feet) of common Outdoor Amenity Space shall be provided at the 5th Floor of the multiple unit building.

3.4.7 A minimum of 68 parking spaces shall be provided in the below grade parking of the multiple unit building.

3.4.8 A minimum of 55 surface parking spaces shall be provided as generally shown on Schedule B of this Agreement.

3.4.9 A maximum of 75 residential dwelling units shall be permitted within the multiple unit building. A minimum 50% of the residential dwelling units shall be 2 bedroom units with dens.

3.4.10 The Developer agrees to ensure the easement over the abutting Halifax Transit driveway off Portland Hills Drive is fulfilled as per the written agreements and kept in place to provide access to the Development on the Lands.

3.5 Architectural Requirements

3.5.1 The building's height, massing, exterior design and materials shall be as shown on the Schedules E through H. Minor changes to the design, form, and exterior materials of the buildings shall be permitted if, in the opinion of the Development Officer, such changes are generally consistent with the Building Elevations included with this Agreement as Schedules E to H.

- 3.5.2 The facades of the multiple unit building facing 639 and 635 Portland Hills Drive, 866 and 675 Portland Hills Drive and 850 Portland Street shall be designed and detailed as the Portland Hills Drive primary façade as shown on Schedule E.
- 3.5.3 The buildings shall be set back from property lines as shown on Schedule B of this Agreement. The property line setbacks may be increased provided the overall massing of the building is generally consistent with Schedule B of this Agreement, subject to detailed review by the Development Officer to ensure compliance with all relevant building codes and by-laws.
- 3.5.4 All guard railings associated with balconies and terraces from the 2nd to 7th Floors of the multiple-unit building shall be made of metal framing with transparent material.
- 3.5.5 Large expanses of blank walls that deteriorate the scale of the pedestrian environment shall not be permitted. The scale of large walls shall be tempered by details in the proposed cladding creating texture, wall patterns and colour/tonal change as identified on the Schedules. The landscape plan may provide for textured plantings and treillage and distinctive landscape features in front of the façades.
- 3.5.6 Exterior building materials shall not include vinyl siding but may include any one or more of the following:
- clay masonry;
 - non-combustible cladding;
 - glass curtain wall with clear or hard coated glass;
 - aluminium mullions;
 - cut stone masonry;
 - random stone masonry; or
 - acceptable equivalent in the opinion of the Development Officer.
- 3.5.7 Any exposed foundation in excess of 0.3 metre (1 foot) in height shall be architecturally detailed, veneered with stone or brick, screened by landscaping, or treated in an equivalent manner acceptable to the Development Officer.
- 3.5.8 Fixed or retractable awnings or canopies are permitted at ground floor levels provided the awnings or canopies are designed as an integral part of the building façade and subject to the requirements of any other applicable by-law, statute or regulation.
- 3.5.9 The size and location of windows and doors shall be as generally shown on Schedules E through H.
- 3.5.10 The Development Officer may allow minor revisions to size, location and placement of doors and windows, as well as balconies on the outside façade of the buildings, as long as it meets the intent of the design.

3.6 Amenity Space and Landscaping

- 3.6.1 The multiple unit building shall include an area of common Indoor Amenity Space having a minimum area of 95 square metres (1022 square feet) at the 5th Floor.
- 3.6.2 A minimum of 55 square metres (592 square feet) of common outdoor amenity space shall be provided at the 5th Floor level of the multiple unit building as shown on Schedule D of this Agreement.
- 3.6.3 Prior to the issuance of a Development Permit, the Developer shall provide a Landscape Plan which complies with the provisions of this section and conforms to the overall intentions of the landscaping shown on the Schedules 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.

- 3.6.4 Construction Details or Manufacturer's Specifications for all constructed landscaping features such as pergolas, benches, etc. shall be noted on the Landscape Plan required by Subsection 3.6.3, and shall describe their design, construction, specifications, hard surface areas, materials and placement.
- 3.6.5 Prior to issuance of the first Occupancy Permit 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 Development Agreement.
- 3.6.6 Notwithstanding Section 3.6.5 where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, the Developer may supply 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.

3.7 Signs

- 3.7.1 Signage shall be limited to the following:
- (a) The existing ground sign, located northwest of the existing vehicular access to the site, shall be the only ground sign permitted on the Lands;
 - (b) Notwithstanding 3.7.1 (a), the Development Officer, in consultation with the Development Engineer, shall permit the existing ground sign be relocated on the Lands provided that the Development Officer is satisfied of compliance with any locational requirements of the Dartmouth Land Use By-law;
 - (c) Signage shall be limited to one (1) per store with the exception that those commercial uses occupying corner spaces shall be permitted a sign at each façade for a total of two (2) signs;
 - (d) Signage shall be generally located at the top of each business façade; and
 - (e) No temporary signage shall be permitted.

3.8 Building and Site Lighting

- 3.8.1 Outdoor lighting shall be directed to driveways, 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 Functional Elements

- 3.9.1 All vents, down spouts, electrical conduits, meters, service connections and other functional

elements shall be treated as integral parts of the design. Where appropriate these elements shall match the colour of the adjacent surface, except where used expressly as an accent.

- 3.9.2 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Portland Hills Drive or adjacent 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.

3.10 Maintenance

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

3.11 Reinstatement

- 3.11.1 All disturbed areas shall be reinstated to original condition or better.

3.12 Outdoor Storage

- 3.12.1 No outdoor storage shall be permitted on the Lands with the exception of products, materials and vehicles during the time of construction.

3.13 Deliveries and Solid Waste Collection

- 3.13.1 The private collection of refuse and recyclables on the Lands shall occur only between the hours of 8:00 a.m. and 7:00 p.m.

- 3.13.2 Commercial delivery vehicles on the Lands shall only be permitted between the hours of 8:00 a.m. and 7:00 p.m.

- 3.13.3 The hours specified under this section shall apply seven (7) days a week.

3.14 Bicycle Facilities

- 3.14.1 The Developer shall provide bicycle parking pursuant to the Dartmouth Land Use By-law.

3.15 Construction/Sales Structure

- 3.15.1 A temporary structure shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The structure shall be removed from the Lands upon the issuance of the last Occupancy Permit.

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 unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.

- 4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer and shall be reinstated, removed, replaced, or relocated by the Developer as directed by the Development Officer in consultation with the Development Engineer.

4.2 Off-Site Disturbance

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

4.3 Solid Waste Facilities

- 4.3.1 Refuse containers and waste compactors shall be confined to the loading areas of each building, and shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping.
- 4.3.2 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal affect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.1.1 Prior to the commencement of any site work on the Lands, including earth movement 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 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 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 and Stormwater Management Plan prepared by a Professional Engineer.
- 5.1.2 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

5.2 Sulphide Bearing Materials

- 5.2.1 The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia

with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

PART 6: VARIANCES AND AMENDMENTS

6.1 Non-Substantive Amendments

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

- (a) Minor changes to the exterior materials as specified in Schedules E through H;
- (b) Changes to the signage requirements as detailed in Section 3.7 or which, in the opinion of the Development Officer, do not conform to Schedules E and H;
- (c) Changes to the functional elements requirements as detailed in Section 3.9 or which in the opinion of the Development Officer do not conform to Schedules E through H;
- (d) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this agreement; and
- (e) The length of time for the completion of the development specified in Section 7.4 of this agreement.

6.2 Substantive Amendments

6.2.1 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*.

6.3 Variances

6.3.1 The variance provisions of the *Halifax Regional Municipality Charter* shall not apply to this Agreement.

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 construction shall mean installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4. Completion of Development and Discharge of Agreement

- 7.4.1 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 Dartmouth Municipal Planning Strategy and Dartmouth Land Use By-law, as may be amended from time to time.
- 7.4.2 If the Developer fails to complete the development after six (6) 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

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

8.2 Failure to Comply

- 8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) 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 defence 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

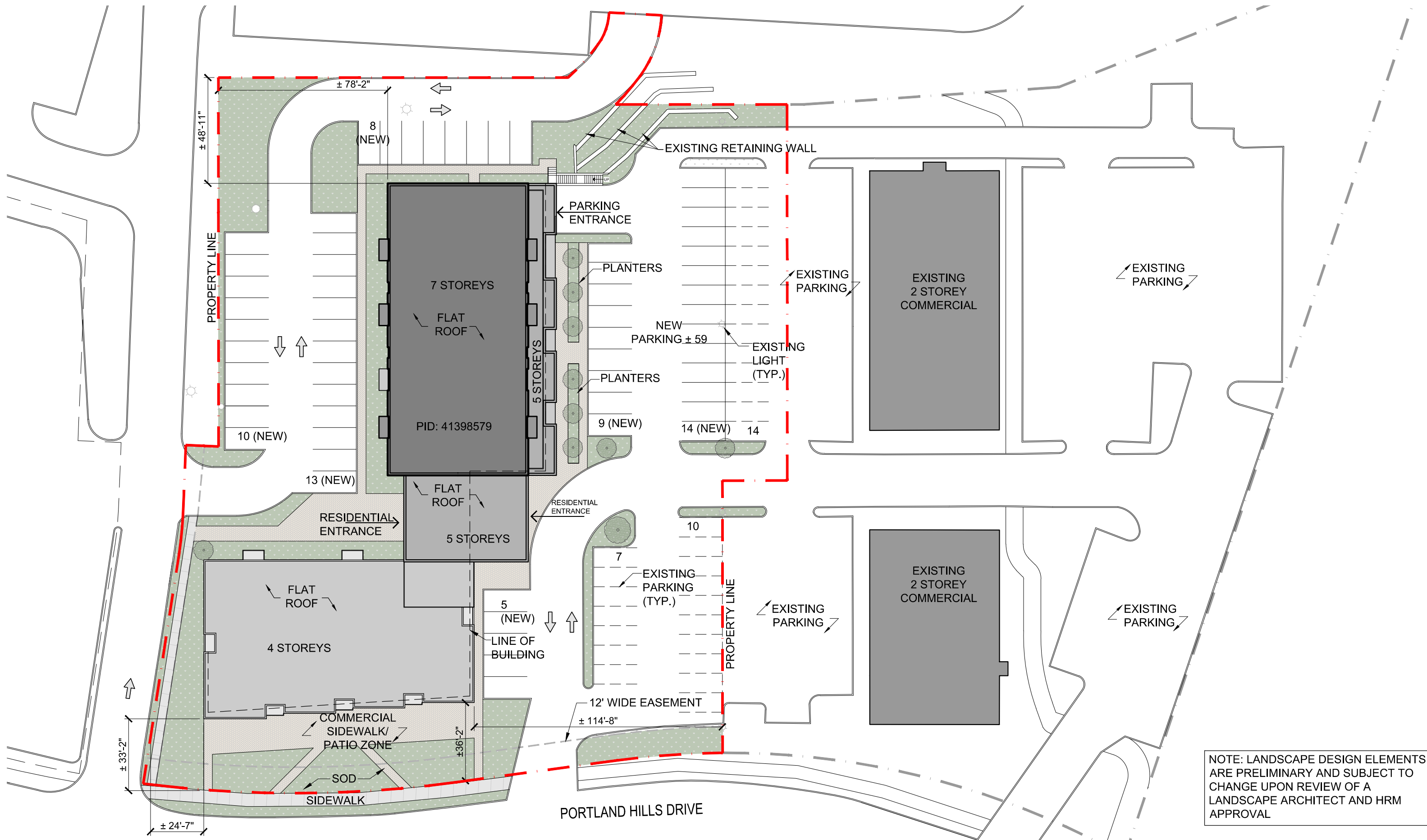
Per: _____

MAYOR

Witness

Per: _____

MUNICIPAL CLERK



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

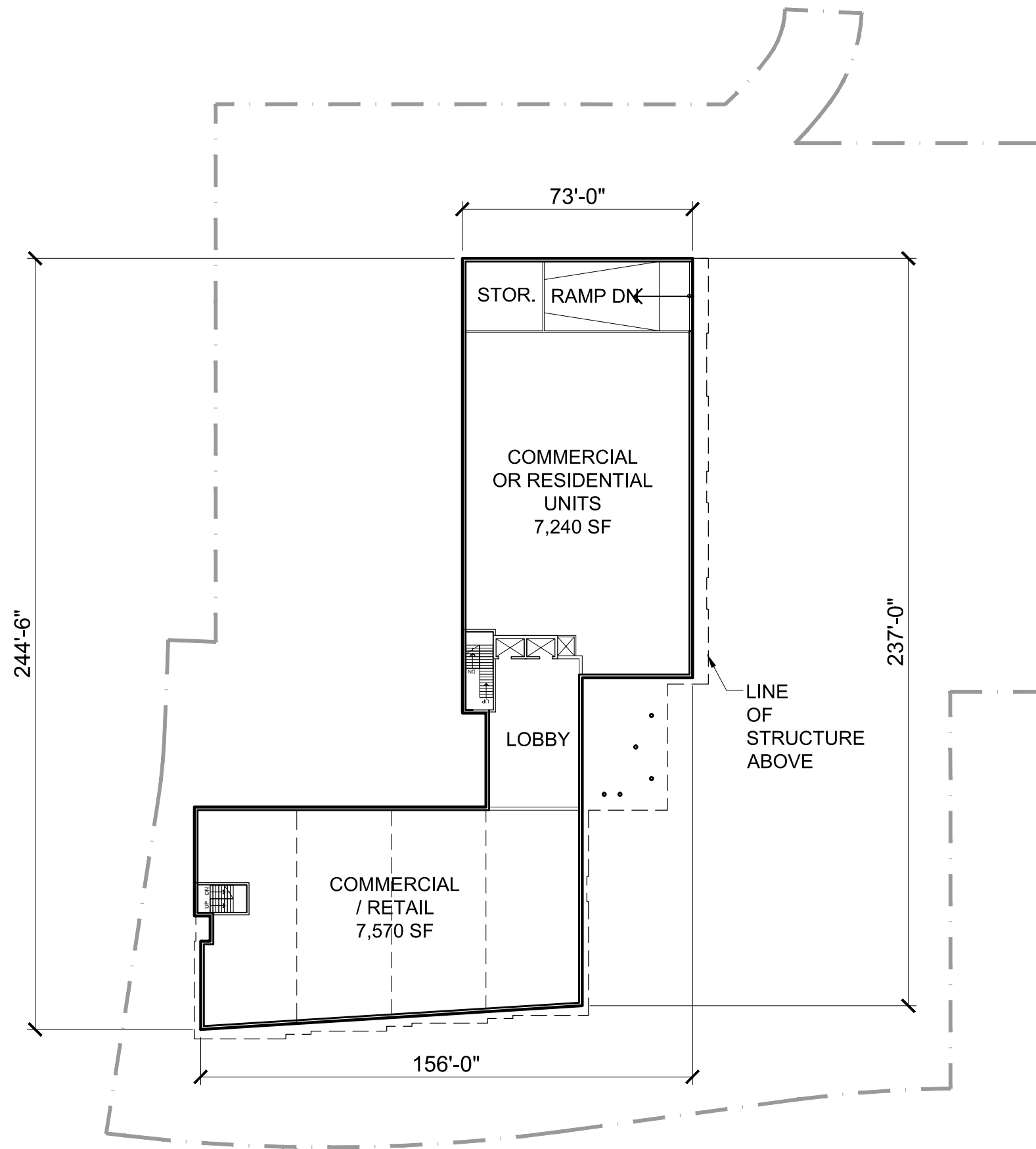
651 PORTLAND HILLS
DARTMOUTH, NS

SCHEDULE B
SITE PLAN

Project No.: 2015.01
Scale: 1" = 40'-0"
Date: 14 May 2018

WM FARES ARCHITECTS

SDP



PORTLAND HILLS

DARTMOUTH, NS

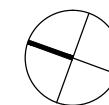
SCHEDULE **A**

LEVEL 100 (Ground Floor)

Project No.: 2016.01

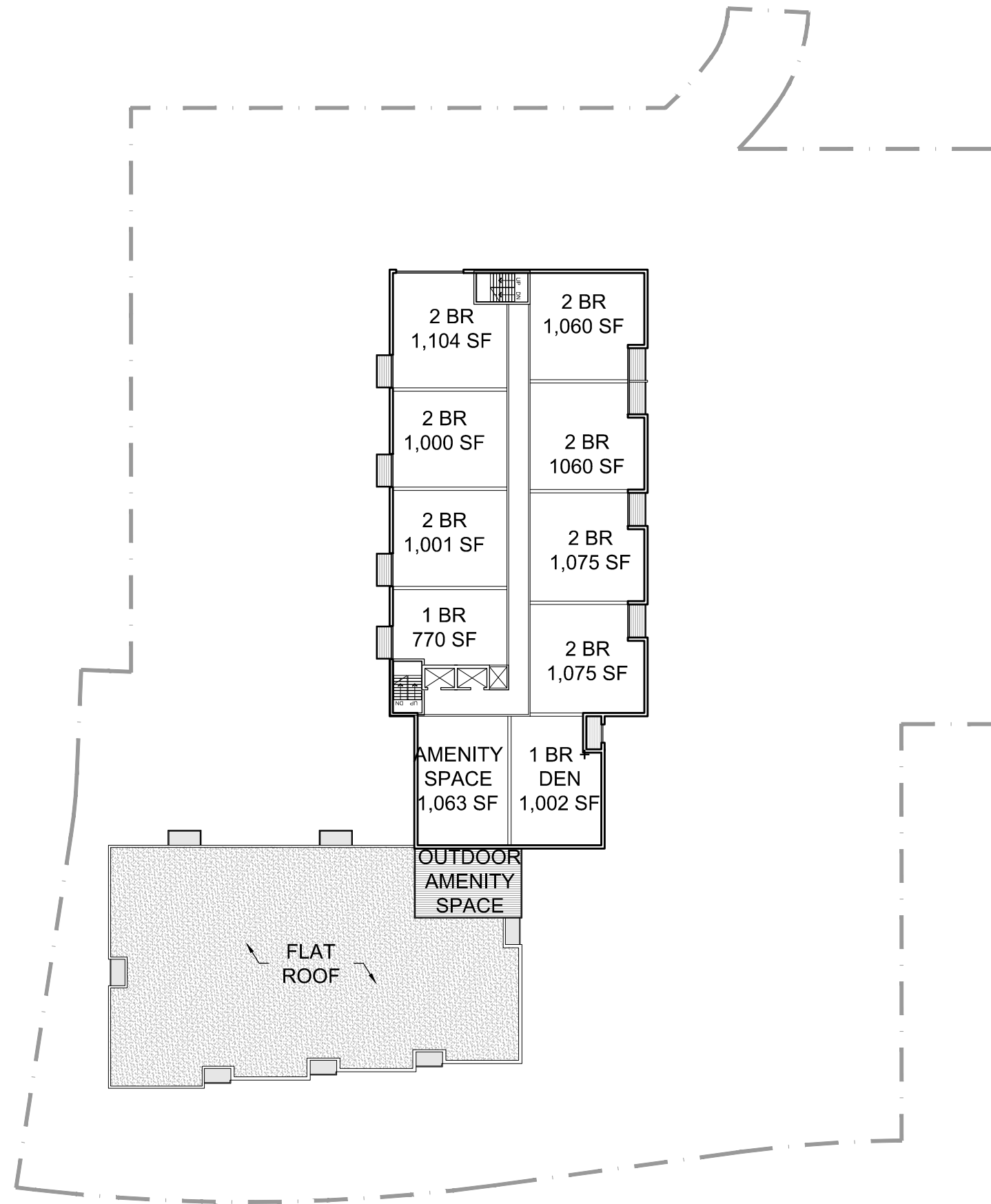
Scale: 1" = 40'-0"

Date: 14 May 2018



WM FARES
ARCHITECTS

A02



PORTLAND HILLS

DARTMOUTH, NS

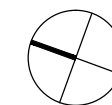
SCHEDULE D

LEVEL 500 (5th Floor)

Project No.: 2016.01

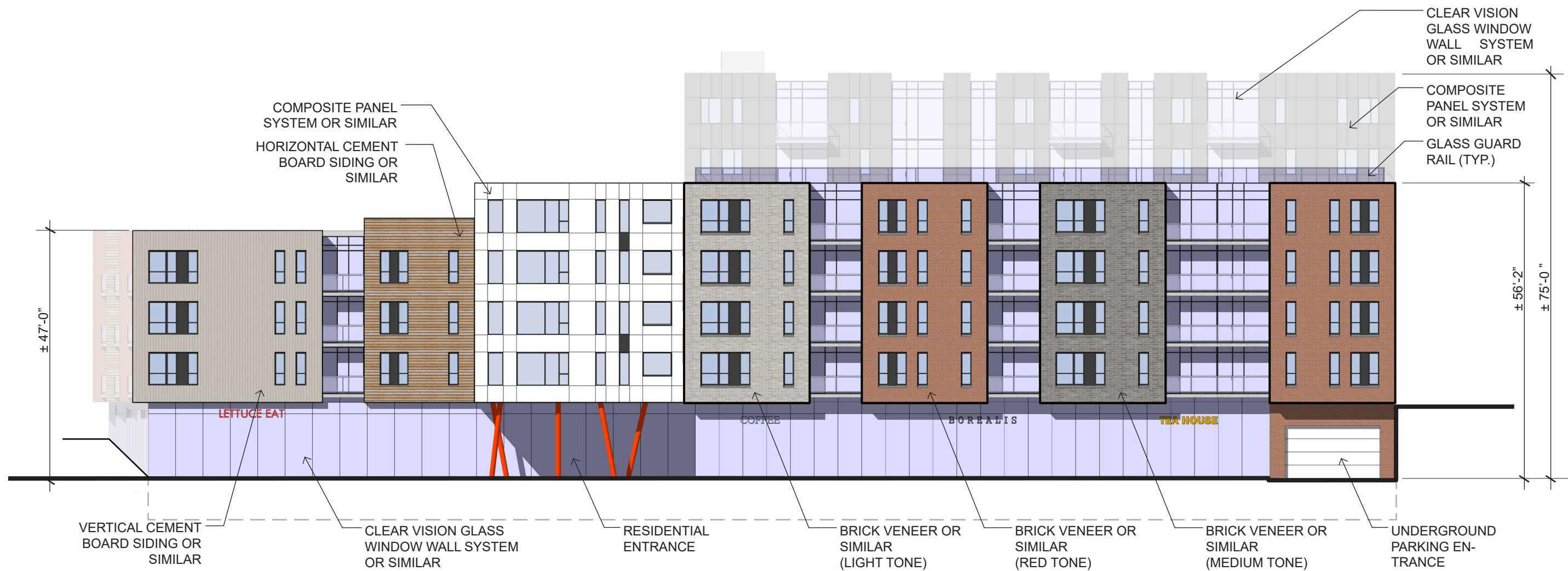
Scale: 1" = 40'-0"

Date: 25 Jul 2018



WM FARES
ARCHITECTS

A05



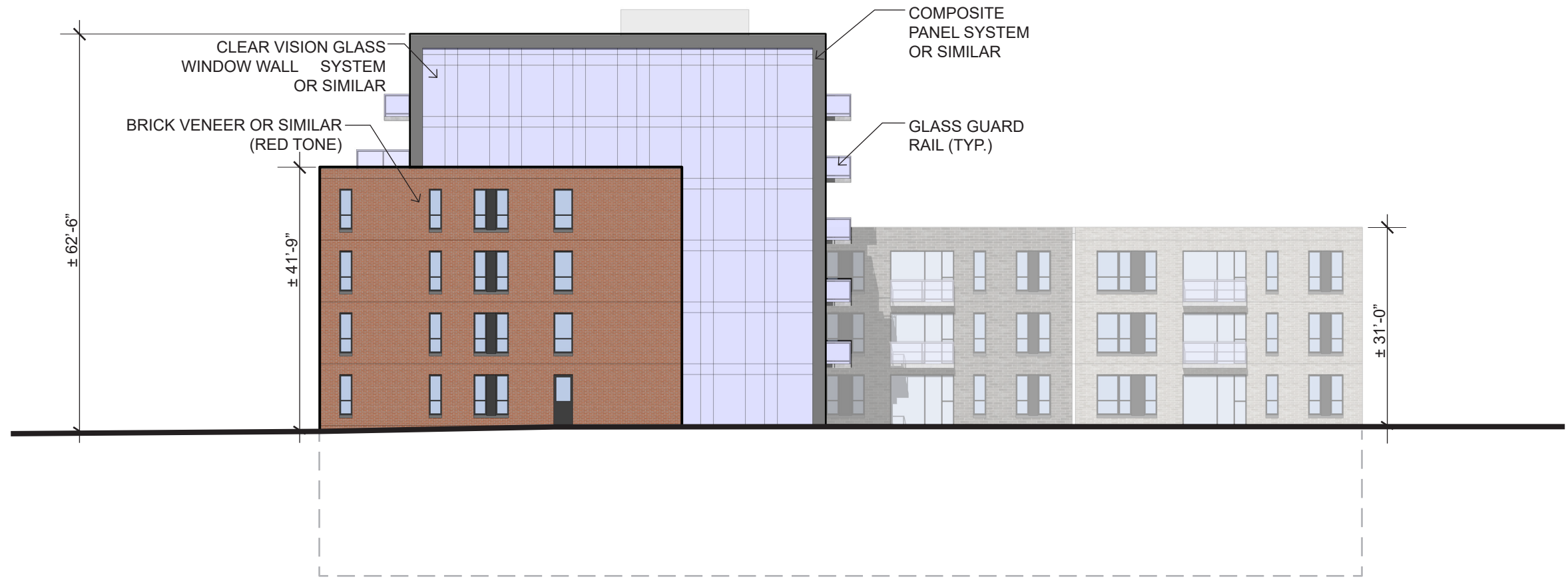
651 PORTLAND HILLS
DARTMOUTH, NS

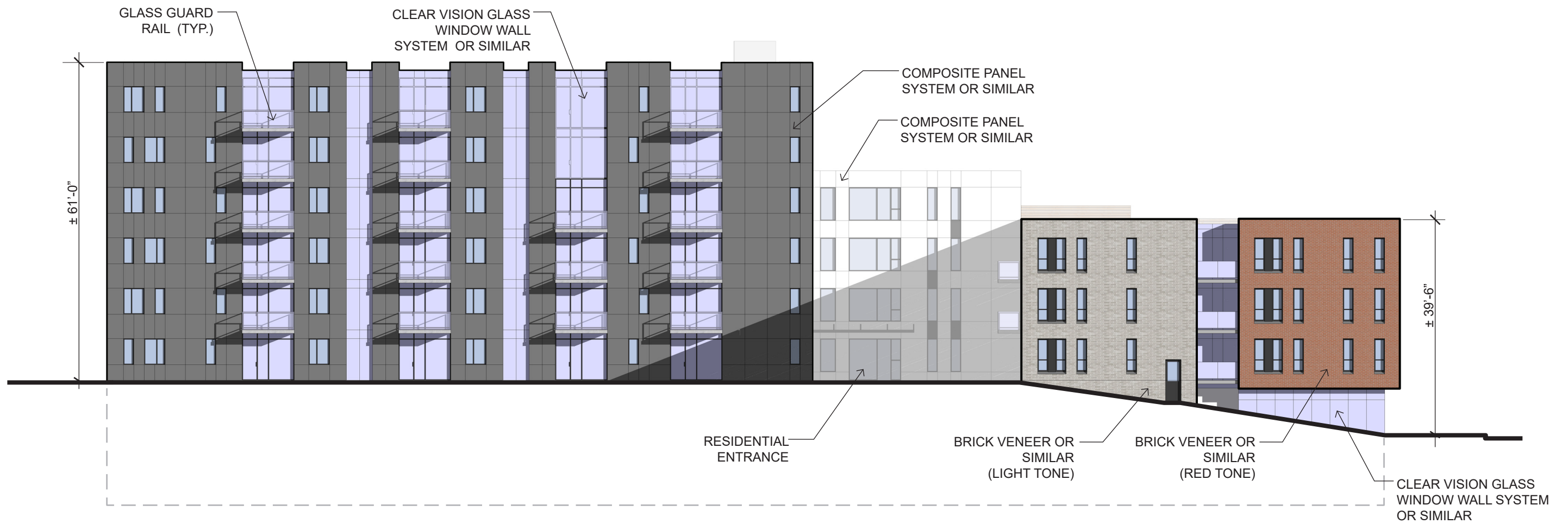
SCHEDULE E
SOUTH ELEVATION

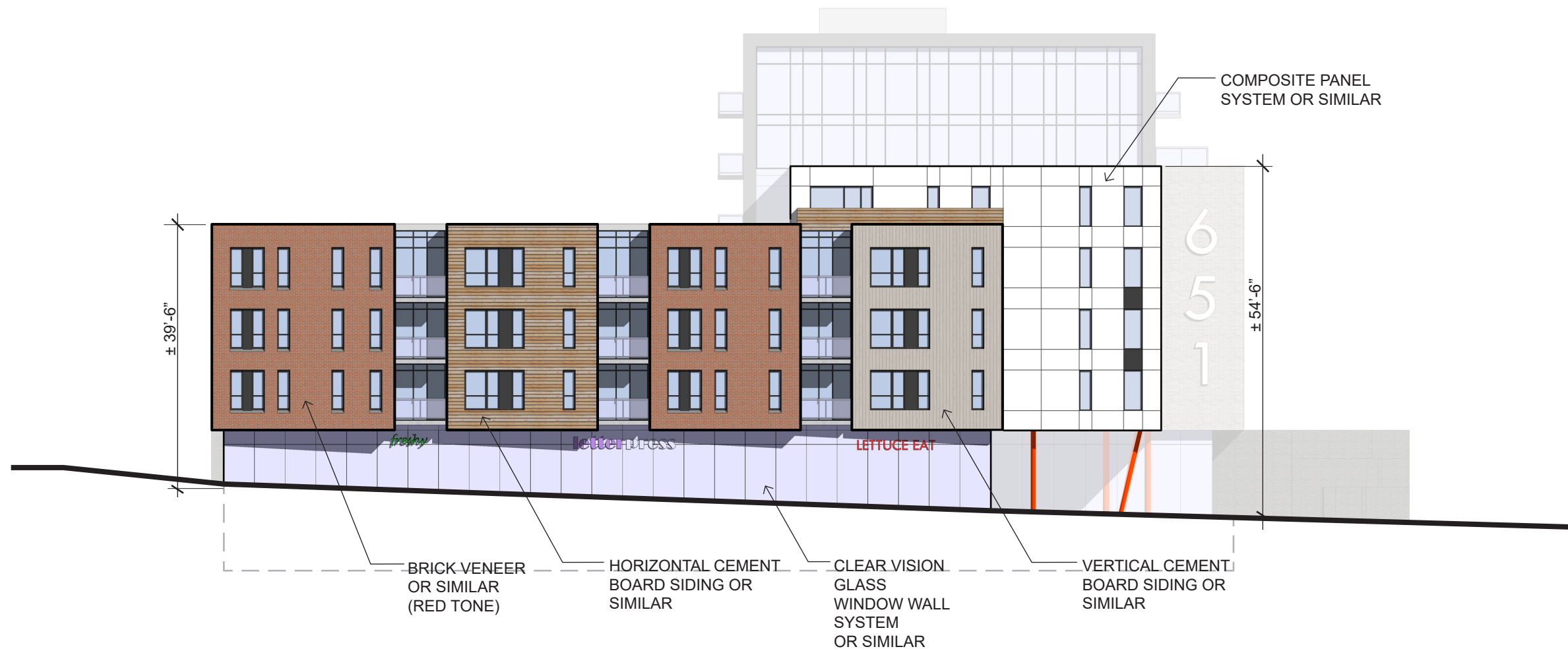
Project No.: 2016.01
Scale: 1" = 20'-0"
Date: 14 May 2018

WM FARES
ARCHITECTS

A07







651 PORTLAND HILLS
DARTMOUTH, NS

SCHEDULE H
WEST ELEVATION

Project No.: 2016.01
Scale: 1" = 20'-0"
Date: 14 May 2018

WM FARES
ARCHITECTS

A10

**ATTACHMENT B
PROPOSED DISCHARGE AGREEMENT**

THIS DISCHARGING AGREEMENT made this day of **[Insert Month]**, 2018,

BETWEEN:

{Insert name of Corporation},
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 651 Portland Hills Drive, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the former Harbour East Community Council approved an application to enter into a development agreement on July 6, 2000 (Municipal Case Number 00251) to allow a multi-phased mixed-use development on a portion of the Lands to the north of Bell Run and which said Development Agreement was registered on August 16, 2000 at the Registry of Deeds in Halifax as Document Number 26019, Book 6615, Pages 657-695 (hereinafter called the "Original Agreement"), and which applies to the Lands;

AND WHEREAS the former Harbour East Community Council approved an application to amend the Original Agreement on February 5, 2004 (Municipal Case Number 00554) to increase the area of land from 93 acres to 131 acres, increase the total number of apartment units, and to permit modifications to the phasing plans, and which said Amending Agreement was registered on March 12, 2004 at the Registry of Deeds in Halifax as Document Number 10022, Book 7633, Pages 384-390 (hereinafter called the "First Amending Agreement"), and which applies to the Lands;

AND WHEREAS the former Harbour East Community Council approved an application to further amend the Original Agreement on May 6, 2010 (Municipal Case Number 15925) to allow two pylon signs in the vicinity of the intersection of Portland Street and Portland Hills Drive, and which said Amending Agreement was registered on August 5, 2010 at the Land Registration Office in Halifax as Document Number 96513982 (hereinafter called the "Second Amending Agreement"), and which applies to the Lands;

AND WHEREAS the former Harbour East Community Council approved an application to further amended the Original Agreement on June 14, 2012 (Municipal Case Number 17688) to allow for Eating Establishments with Accessory Lounge areas within the commercial areas, and which said Amending Agreement was registered on September 24, 2012 at the Land Registration Office in Halifax as Document Number 101594373 (hereinafter called the "Third Amending Agreement"), and which applies to the Lands;

AND WHEREAS the Original Agreement, First Amending Agreement, Second Amending Agreement, and Third Amending Agreement together comprise the Existing Development Agreement (hereinafter called the “ Existing Agreement”);

AND WHEREAS the Developer has been granted an Easement over the HRM parcel that contains the Halifax Transit driveway accessed at Portland Hills Drive to provide access to a portion of the Lands, and which Grant of Easement was registered on May 11, 2006 at the Land Registration Office in Halifax as Document Number 85056878, and which applies to the Lands;

AND WHEREAS Section 244 (2) of the Halifax Charter states that Council may discharge a development agreement, in whole or in part, in accordance with the terms of the agreement or with the concurrence of the property owners;

AND WHEREAS the Developer has requested that the Existing Agreement be discharged from the Lands;

AND WHEREAS the Harbour East Marine Drive Community Council for the Municipality approved this request by resolution at a meeting held on [INSERT DATE], referenced as Municipal Case Number 20573;

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

1. The Existing Agreement is hereby discharged as it applies to the Lands and shall no longer have any force or effect.
2. Any future development of the Lands shall conform with any development agreements for the Lands entered into by the parties and all applicable provisions and requirements of the Dartmouth Land Use By-law, as it may be amended from time to time.

IN WITNESS WHEREOF 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 name of Corporation}

Witness

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

Witness

Per: MAYOR

Per: MUNICIPAL CLERK

Attachment C
Review of Relevant Dartmouth MPS Policy

Policy Excerpt	Staff Evaluation
<u>Future Land Uses</u>	
<p>ML-18 <i>The Future Land Use and Transportation Plan, presented as Map 9N, shall provide overall guidance for land use allocation within this secondary plan area and the following guidelines shall be adhered to in any development agreement application:</i></p>	
<p><i>(p) Parcels PH4 and PH5: These parcels may be developed with a mixture of residential uses consistent with the established pattern of development elsewhere throughout the Portland Hills subdivision;</i></p>	<p>The subject site is located within parcel PH4 that extends from Morris Lake east to Innishowen subdivision and north to Portland Street (see Map 3). The proposed development of apartment type dwellings and commercial use contributes to the mixture of residential uses and is mostly consistent with the established pattern of development throughout the Portland Hills subdivision. In seeking development and design guidance staff referred to direction that was given for two parcels developed earlier on the west side of Russell Lake (Parcels 1 and 2 below) in order to maintain consistency with the established pattern of development elsewhere throughout Portland Hills.</p>
<p><i>(a) Parcel 1: This parcel may be developed with an apartment building not exceeding 84 dwelling units or four stories in height and a commercial building not exceeding 14,000 square feet. Commercial occupancies shall be restricted to local commercial uses, as defined by the Land Use By-law, except that drive through restaurants shall not be permitted. The site design shall give consideration to environmental and aesthetic impacts, as well as the safety and efficiency of traffic movements between the site and Baker Drive. Impervious surfaces shall not exceed 40 percent of the lot;</i></p>	<p>The proposal at 651 Portland Hills Drive, a 7 storey 69 unit mixed use building having c. 14,800 square feet of ground floor commercial space, was guided by this policy direction for an earlier development. The proposal has fewer units developed on more floors than the reference policy and creates a 4 storey streetwall along Portland Hills Drive and locates the 7 storey height at the less sensitive Halifax Transit Park and Ride boundary.</p> <p>Typical commercial uses are listed in the Existing DA (2000) which specifically does not include department stores, home improvement centres, drinking establishments, adult entertainment uses and drive-through restaurants.</p> <p>Impervious surfaces of the proposal do not exceed 23 percent of the lot.</p>
<p><i>(b) Parcel 2: This property may be developed for both multiple-unit buildings not exceeding six habitable floors above underground parking, townhouses or a combination thereof. Provisions shall be made to ensure adequate landscaping, an architectural design that is visually interesting and compatible with the surrounding natural environment, on-site circulation and private amenity spaces. Most of the land along the shoreline shall</i></p>	<p>The proposed mixed use development locates 7 stories over a portion of the below grade parking; transitioning to that height in a stepping sequence from the 4 storey streetwall at Portland Hills Drive. Because the proposal is within the approved density of the Existing Development Agreement (Case 00251. 2000) the additional 1 storey beyond the 6 floors of this guiding policy was not seen as an issue as the existing commercial uses on either side and the Park and Ride site are more tolerant of height than sensitive residential development.</p>

<p><i>be maintained in a natural state in accordance with applicable municipal policies;</i></p>	<p>The proposed development agreement requires a landscape plan be prepared by a landscape architect to create a design response to the site that interfaces with the surrounding context.</p>
<p><u>Density</u></p>	
<p><i>ML-19 The allowable density on parcel 1 shall conform with the requirements of clause (a) of policy ML-18 and the allowable density on parcel 8 shall conform with the requirements of clause (i) of policy ML-18. The density limitation established under clause (d) of policy H-3B shall be applied to the following aggregated parcels:</i></p>	
<p><i>(a) parcels PH4 and PH5.</i></p>	<p>The subject site lies within parcel PH4 and is therefore subject to the density limitation under Policy H-3B(d) (see following).</p>
<p><i>Policy H-3B: In addition to the provisions of Policy H-3A, Council shall consider the following prior to approving any agreement within a CDD:</i></p>	
<p><i>(e) the adequacy of the mix of residential uses to provide a range of housing options in terms of lot characteristics, building and dwelling type and design;</i></p>	<p>The proposal contributes to the range of housing types with apartments over ground floor commercial in a contemporary design.</p>
<p><i>(b) the general guide that the maximum number of apartment units shall not exceed 40% of the total actual number of units within the CDD. Such figure may be increased to a maximum of 50% provided clear advantages are gained within the CDD by means of increased parkland or open space, increased areas of undisturbed terrain and vegetation, decreased amount of impermeable surfaces and/or improved environmental protection or an improved transportation system. (RC- Mar 22/05;E- Apr 23/05)</i></p>	<p>In a review of all approved residential developments within the Morris-Russell Lake CDD staff determined that the number of apartment units does not exceed 40% of the total actual number of units within the CDD.</p>
<p><i>(c) the location and concentration or dispersal of multi-unit residential buildings with respect to impacts on street networks, abutting uses and the physical environment;</i></p>	<p>The location and concentration of multiple unit residential buildings has been carried out under development agreements within the overall concept plan for the CDD lands. The development agreements each required a traffic impact study that was reviewed and accepted by Development Engineering and Traffic Services. This approach has resulted in minimal impact on street networks, abutting uses and the environment.</p>
<p><i>(d) the general guide of a maximum</i></p>	<p>As part of the initial acceptance of this planning</p>

<p><i>residential density of 8 units per gross acre, excluding acreage devoted to commercial use;</i></p>	<p>application staff reviewed existing densities on the developed lands under the CDD. It was determined that of all the approved number of units in the CDD the actual residential density figure is under 4 units per gross acre.</p>
<p><u>Implementation Policies</u></p>	
<p>Policy IP-1(c): In considering zoning amendments and contract zoning, Council shall have regard to the following:</p>	
<p>(1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan</p>	<p>The proposal is in conformance with the policies and intent of the Dartmouth MDP as they relate to the community development of Morris-Russell Lake</p>
<p>(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</p>	<p>The proposal is compatible and consistent with the existing and proposed development form in the area in terms of bulk, scale and height. The proposed building presents a 4 storey streetwall that is not jarring or out of keeping with the two commercial buildings either side. By designing the building to transition to the 7 storey height at the Park and Ride bound the building keeps a small scale presence at the street frontage/pedestrian realm. The proposal is compatible in terms of adjacent use as it is a mixed use, primarily residential building with small scale ground floor commercial located between two commercial developments and another mixed use development across the street.</p>
<p>(3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries</p>	<p>The proposed development agreement contains basic provisions for landscaping and requires a landscape design plan to be prepared by a landscape architect. The plan may address aesthetic or functional concerns such as screening.</p>
<p>(4) that the proposal is not premature or inappropriate by reason of:</p>	
<p>(i) the financial capability of the City is to absorb any costs relating to the development</p>	<p>All costs related to this proposed development will be borne by the Developer.</p>
<p>(ii) the adequacy of sewer and water services and public utilities</p>	<p>Sewer and water services are adequate for this proposal. A wastewater capacity analysis must be prepared at time of permitting.</p>
<p>(iii) the adequacy and proximity of schools, recreation and other public facilities</p>	<p>Halifax Regional School Board (HRSB) must serve any potential increase of school aged children in the schools at that time and that if there is not adequate capacity the students will be assigned to another school within the Board. Please note any</p>

	<p>transportation of students would be provided as per the HRSB's policies.</p> <p>The Portland Hills Park and Ride abuts the subject property to the east and will provide increased opportunity for residents of the proposed development to utilize transit.</p> <p>There are several recreation opportunities in the local area and nearby that will serve the residents of the proposed building.</p>
(iv) the adequacy of transportation in adjacent to or leading to the development	<p>A Traffic Impact Statement (TIS), and an addendum responding to questions from staff, was submitted in support of this proposal. The TIS acknowledges moderate traffic volumes on Portland Hills Drive and concludes that the low numbers of site generated trips (16 entering/20 exiting at AM peak hour; 30 entering/29 exiting at PM peak hour) are not expected to have any significant impact on the level of performance of adjacent streets and intersections or the regional street network. The TIS also concludes the cumulative numbers of trips generated between this proposed development and the approved development on the opposite side of Portland Hills Drive are not expected to have any significant impact on performance of streets or intersections near the proposed developments. HRM Traffic Services has accepted the TIS for this application.</p>
(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas	<p>When the building permit application is made the developer must submit an Erosion and Sedimentation Control Plan in accordance with the Provincial regulations administered by Nova Scotia Environment (NSE) that deals with surface water during and after construction. Any dewatering of the site that occurs during construction from the excavation must be drained in accordance with NSE regulations.</p>
(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 (sic) facilities and public services while other such facilities remain under utilized	<p>This proposal is a type of infill project, in that the surrounding lands have been developed while this site has anticipated an eventual proposal, that does not contribute to a scattered development pattern because it does not require extensions of trunk facilities or public services.</p>
(ix) the detrimental economic or social effect that it may have on other areas of the City.	<p>This project could be economically detrimental on housing prices at the wider housing market area. The proposal could have a potential positive economic and social effect in providing more</p>

	housing, increased fostering of community if the new development is well designed and compliments existing housing (conversely a poorly designed development could fail to foster community) and additional spending in local shops and services.
(5) that the proposal is not an obnoxious use	The proposal is not 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	<p>The mixed use, residential and commercial, is permitted under the designation and the proposed development agreement will specify these permitted land uses.</p> <p>The density for these lands was approved in a 2000 development agreement (Case 00251) and subsequent 2004 amending agreement (Case 00554).</p> <p>Design and development for the proposed building will occur in a single phase and commence as soon as approval is granted and a permit may be obtained. Commencement of development is typically defined in the development agreement as having the footings completed.</p>
(ii) emissions including air, water, noise	<p>All air emissions will meet relevant Provincial regulations made under the Air Quality Regulations, Environment Act and Regulations, Greenhouse Gas Emission Regulations and the Mercury Diversion Standard. Water in and wastewater out will meet all provincial and municipal regulations as administered by Halifax Water. Any federal or provincial approvals, licensing or permitting required will be obtained at time of permitting application.</p> <p>Noise will be subject to the HRM Noise Control By-law.</p>
(iii) traffic generation, access to and egress from the site, and parking	Ingress/egress control at the subject site's access points will meet all HRM street standards. On-site parking is provided for by underground parking and surface parking that will not interfere with any access requirements. A Traffic Impact Statement (TIS) 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 adjacent streets and intersections or the regional street network. The TIS has been reviewed by HRM Traffic Services and they are satisfied that the intersection at Portland Street and Portland Hills Drive will operate within HRM critical limits and the applicant has shown that this particular development has a low impact on intersection operations at Portland Street.
(iv) open storage and landscaping	No open storage is permitted on the subject site. The proposed development agreement includes basic landscaping requirements including a landscape plan to be prepared by a landscape architect.
(iv) provisions for pedestrian movement and safety	The public sidewalk along Portland Hills Drive is connected by walkways to the main façade of the proposed building and they extend around the building to both residential entrances and the commercial aspect of the ground floor. These walkways are separated from the parking area for safety by being raised.
(v) management of open space, parks, walkways	Any private amenity space, walkways or landscaping on the subject site will be under the auspices of the building management.
(vii) drainage both natural and sub-surface and soil-stability	A lot grading plan must be prepared by a Professional Engineer that will address site drainage and slope stabilization. This is in addition to the Erosion and Sedimentation Control Plan required.
(viii) performance bonds	A performance bond option will be available in the Development Agreement for the Developer if landscaping is not completed within the seasonal time frame so that Occupancy Permits may be issued and the landscaping completed at a more favorable time.
(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 subject site is currently rough graded and a steep slope on the eastern bound has a retaining wall in place.
(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 current public participation requirements approved by Regional Council for the planning process compels staff to undertake a form of public engagement occur in the community before the public hearing. This public engagement was held on November 29, 2017. The Dartmouth MPS CDD (Comprehensive Development District) polices also required the establishment of a Public Participation Committee (or Planning Advisory Committee) for

<p>the residents to clearly understand the proposal previous to the formal public hearing before City Council</p>	<p>new DAs or substantive amendments to an existing DA. This PPC was convened and the recommendations form part of this staff report.</p>
<p>(9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:</p>	
<p>(i) Council with a clear indication of the nature of proposed development; and</p>	<p>n. a.</p>
<p>(ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community.</p>	<p>n. a.</p>
<p>(10) <i>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. (RC-Jul 2/02, E-Aug17/02</i></p>	<p>n. a.</p>

<p>Policy IP-5: It shall be the intention of City Council to require Development Agreements for apartment building development in R-3, R-4, C-2, MF-1 and GC Zones. Council shall require a site plan, building elevations and perspective drawings for the apartment development indicating such things as the size of the building(s), access & egress to the site, landscaping, amenity space, parking and location of site features such as refuse containers and fuel storage tanks for the building.</p>	
<p>In considering the approval of such Agreements, Council shall consider the following criteria:</p>	
<p>(a) adequacy of the exterior design, height, bulk and scale of the new apartment development with respect to its compatibility with the existing neighbourhood</p>	<p>The proposed project is a residential commercial mixed-use building to be located between two existing commercial buildings and abuts the Portland Hills Park and Ride. The street façade is a glass curtain wall (ground floor commercial) surmounted by 4 3-storey overhanging forms: a flat "roofed" one at the northwest corner and the others gable "roof" with varying materials. This "broken" block design continues around the southwest corner of the building and extends along the façade on the parking lot. The individualization of these blocks, where the indent is joined by glass railed balconies, provides visual interest and visually reduces the perceived mass of the building on two of the most visible pedestrian facades while allowing for a continuous street and parking lot frontage.</p> <p>From the northeast corner of the street façade the</p>

	<p>form repeats once and then begins a more typical 6 storey residential building façade, which is setback from the Park and Ride access street and a parking lot, facing Portland Street. The façade onto the Park and Ride is almost entirely a glass curtain wall excepting where the end wall of the corner block, returning on the east façade, displays brick or similar material.</p> <p>The 7 storey height of the proposed building is located at the opposite end from the 4 storey streetwall and away from the residential uses across the street. This stepped transition effectively creates a new high point in the locality but positions the height away from the more sensitive residential uses.</p>
(b) adequacy of controls placed on the proposed development to reduce conflict with any adjacent or nearby and uses by reason of:	
(i) the height, size, bulk, density, lot coverage, lot size and lot frontage of any proposed building	Under a development agreement the proposal will be controlled in terms of height, density, design, lot coverage, landscaping, lighting, site access and erosion/sedimentation control through requirements in both text and schedules.
(ii) traffic generation, access to and egress from the site; and	(see IP-1(c)6(iii) above)
(iii) parking	Approximately 73 below grade parking spaces and 59 surface parking spaces are proposed. This does not meet the Dartmouth LUB requirements but promoting walkable neighbourhoods means less reliance on vehicles and not supporting their use with excessive parking requirements where transit and sidewalks exist. The Grade A and B bicycle parking spaces required under the Dartmouth LUB will be required to be shown at time of permitting.
(c) adequacy or proximity of schools, recreation areas and other community facilities	<p>Halifax Regional School Board (HRSB) must serve any potential increase of school aged children in the schools at that time and if there is not adequate capacity the students will be assigned to another school within the Board.</p> <p>HRM Parkland Planning has provided comments and are aware of the proposal and any potential impact from development of the proposed number of units.</p>
(d) adequacy of transportation networks in, adjacent to, and leading to the development	The proposed building will be accessed from an existing driveway on Portland Hills Drive, an access at an existing curb cut on the Portland Hills Park and Ride driveway and a one-way exit driveway with a sidewalk from the site to the Park and Ride.

	<p>A Traffic Impact Study submitted in support of this application concludes that because of the low number of trips generated there is no expectation of significant impact on adjacent streets and intersections or the regional street network. Staff have reviewed the TIS and subsequent addendum and are satisfied the intersection at Portland Street and Portland Hills Drive will operate within HRM critical limits and the proponent has shown this development has a low impact on intersection operations at Portland Street.</p>
<p>(e) adequacy of useable amenity space and attractive landscaping such that the needs of a variety of household types are addressed and the development is aesthetically pleasing</p>	<p>The proposal provides indoor and outdoor amenity space at the 5th floor level. The development agreement will require a landscape design plan be prepared by landscape architect but there is no ground level amenity space.</p>
<p>(f) that mature trees and other natural site features are preserved where possible</p>	<p>There are no existing mature trees or other site features to be preserved.</p>
<p>(g) adequacy of buffering from abutting land uses</p>	<p>There is no proposed buffering from abutting land uses or any required in the DA. Buffering may be provided by means of the development agreement through the required landscaping plan.</p>
<p>(h) the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment</p>	<p>There is a required stormwater management plan that manages surface water drainage to ensure no net change on site. At the time the building permit is applied for the developer must submit an Erosion and Sedimentation Control Plan in accordance with the Provincial regulations administered by Nova Scotia Environment (NSE) that deals with surface water during and after construction. Any dewatering of the site that occurs during construction from the excavation must be drained in accordance with NSE regulations.</p>
<p>(i) the Land Use By-law amendment criteria as set out in Policy IP-1(c). (As amended by By-law C-692, Dec. 4, 1991)</p>	<p>This policy, IP- 1(c) is evaluated above.</p>

Attachment D: Public Information Meeting Summary

HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 20573

The following does not represent a verbatim record of the proceedings of this meeting.

Thursday, November 30, 2017
7:00 p.m.

Cole Harbour Place (Westphal Room) - 51 Forest Hills Pkwy, Dartmouth, NS

STAFF IN

ATTENDANCE: Darrell Joudrey, Planner, HRM Planning
Iain Grant, Planning Technician, HRM Planning
Tara Couvrette, Planning Controller, HRM Planning

ALSO IN

ATTENDANCE: Leo McKenna, Harbour East-Marine Drive Community Council Planning Advisory
Committee Chair
Jacob JeBailey, WM Fares

PUBLIC IN

ATTENDANCE: Approximately 31

The meeting commenced at approximately 7:01 p.m.

Call to order, purpose of meeting – Mr. Joudrey

Mr. Joudrey stated they were the Planner and Facilitators for this application. Mr. Joudrey also introduced; Leo McKenna - HEMDCC Planning Advisory Committee Chair, Tara Couvrette – Planning Controller, Iain Grant - Planning Technician, Jacob JeBailey - WM Fares – applicant, and sends Councillor, Bill Karsten regrets.

Case 20573 - Application from W M Fares for lands at 651 Portland Hills, Dartmouth, to enter into development agreement for mixed use building.

Mr. Joudrey explained; the purpose of the Public Information Meeting (PIM) is: a) to identify that HRM has received a proposal for the site; b) to provide information on the project; c) to explain the Planning Policies and the stages of the Planning Process; d) an opportunity for Staff to receive public feedback regarding the proposal. No decisions are made at this PIM.

1.a) Presentation of Proposal – Darrell Joudrey

Mr. Joudrey provided a brief introduction to the application and then made a presentation to the public outlining the purpose of the meeting, status of the application and the developer's request. Mr. Joudrey outlined the context of the subject lands and the relevant planning policies.

b) Applicants Presentation – Jacob JeBailey

Mr. JeBailey explained what they were looking to do on the site.

2. Questions and Comments

Karen Mader, Portland Hills – wanted to know if this development would be under the 8 units per gross acre. **Mr. Joudrey** explained that the gross acre is determined on the overall area of the Comprehensive Development District (CDD) and this development is well under the 8 units per acre. **Ms. Mader** is concerned about the traffic coming up Portland St. with this development (69 units) and the one across the street (96 units). The traffic is bumper to bumper coming up Portland St. now and wanted to know if another

traffic study was going to be done. **Mr. Joudrey** explained there was a traffic study done for this proposal and it was accepted by traffic services. **Ms. Mader** said that it is hard to believe they accepted it because the traffic is horrendous now and so many people cut through Portland Hills to get back onto Portland Street because of the bumper to bumper traffic coming up the hill. People cut in at Baker Drive or at Superstore to come through Portland Estates and get out at Portland Hills and they speed through there. These two developments will make the traffic that much more overwhelming, Portland Street is stressed already. All the commercial space in the Finbar location has yet to be rented out - why build more commercial space. All that empty space will bring in more vandalism and more chance for trouble.

Kathy Fancy, Narrowleaf Grove – would like to know what was approved in Case 19626. They heard it was approved with modifications but isn't sure what those modifications are and would like to know. **Mr. Joudrey** offered to link all the public documents to that case on this cases website and explained where to find the information on the website and provided his email address if people wanted to email him.

Gerry Urwin, Colby Village – stated that any applications should be made by the registered owner of the property as represented by the applicant so that people can know who the actual owner of the property is whether they are incorporated or not so if they are people can look them up on the registry of joint stock to see what their reputation is. It would be helpful for the presentation if there could be displays on stands in the room so that people, before the meeting, could go around, look and ask questions which would provide some clarification prior to the meeting and may end up saving time. The property is very close to the bus terminal and wanted to know if there was ever any expression of interest by HRM or Transit to purchase this piece of property for more parking and/or use for public transportation. **Mr. Joudrey** explained that Transit, through them, has asked that the developer work with them to have some synchronicity between the existing transit terminal and the proposal. They would like to see some co-work going on between both sides. **Gerry Urwin** said it will be a mess there because the traffic on Portland St is bad already. Two entrances to this development are enter in/out and there are also multiple other entrance/exits on Portland Hills, what are the distances between all these entrances and exits. Will there have to be another set of lights put in because of all this extra traffic and all the entrances and exits. The pedestrian views are very restrictive because they are too limited. They realistically do not show this proposed development in relation to what's already there. You need to have that picture showing how all people will be affected and people on the other side of the street. This will give you a better conceptual vision.

Bill Mader, Portland Hills – stated it is very difficult now to get out because of the traffic coming down and wanted to know if all the traffic from both developments had to turn and come down Portland Hills Drive. **Mr. JeBailey** stated that yes, it did. **Mr. Mader** stated this will make for a much worse traffic problem than the one that already exists. Mr. Mader would like to know why the municipality doesn't do their own traffic study. You can't do a traffic study and not consider the other developments in the area. Everyone that lives here and was at the last meeting doesn't think that the traffic on Portland Street was great yet the traffic studies shows that it is. **Mr. Joudrey** explained how traffic services looks at the studies. The traffic studies that are provided are run through traffic services modeling program to make sure that everything is up to the standards that they use.

Eileen Hartigan-Drohan, Whitehall Crescent – would like to know what kind of view the people in the higher apartments/condos would be looking at. Would they be looking at the roofs of the section in front. Ms. Hartigan-Drohan came because of the interest they had in the building but now they feel the because of all the concerns raised they may no longer be interested in it. How far back does the building go and what do the view from the various balconies look at. Ms. Hartigan-Drohan likes the look of the building just not the possible views. There is concerns about safety because of traffic and people speeding going in a bunch of different directions. **Mr. JeBailey** explained the nature of the building and possible views. Mr. JeBailey also noted that at this stage it is unknown if this will be apartments or condo, the market will determine that.

Mike Casey, owner of Finbar's – stated that more commercial density there would fill the units. They believe in rising tide floats all boats theory. They feel that the traffic here is much better than other parts of the city, i.e.: Bedford, this is just their experience. They would love more people and businesses in the area.

Heather Murray, Jayden Drive – stated they love living in Dartmouth, they have lived in many different areas of the city and they love the sense of community in Dartmouth. It is very different from almost everywhere else they have lived. Ms. Murray is a real estate agent and finds most people love to live in Dartmouth. There is only 1 vacant unit in the commercial space currently on Portland Hills Dr. which is 1 -

800-foot office space everything else is full. In Dartmouth over the last 5-6 years it has gone from every time they wanted to do something, having to go to Halifax to do it to being able to do it in Dartmouth. They are looking to do more of that, being able to stay in the community, support the community, and not have to go elsewhere. They already have a lot of people who want to purchase/rent commercial space in Dartmouth. There is a demand for space in Dartmouth. Ms. Murrey doesn't feel the views from this would be terrible and feels people will love their views. They will be better than what people think.

Mardock Morrison, Summer Field Way – wanted to mention that there are people here that worked very hard on the project that has now been approved that will be across from this development. Unfortunately, that was turned down and we are now concerned that there will be another project that is going to be the same and create the same problems. 165 units (96/69) if you take the average of 1.5-2 people per unit that would be 330-340 people in those two buildings that will add to the congestions that we are all concerned about. Getting in and out of Portland Hills/Portland Street is a nightmare now. Safety, people love to go walking as they should but this will create a safety hazard. School children, you must think about this, people are using shortcuts to get home faster and speeding through Portland Hills. What will the timelines be for the project that is now approved and this one? **Mr. Joudrey** explained that they weren't sure what the timelines were for the one that was previously approved however, this one will probably be another 6 months before it gets to council and then the developer would have to come in for permitting. Depending on how long it takes to prepare the drawings that could take up to 3 years and usually they allow 3-5 years in a development agreement for the permitting processes before they even get the footings and foundation in. **Mr. JeBailey** stated most DA's have a deadline to complete construction. **Mr. Morrison** thinks this project must be very carefully be looked at again because the impact it will have on this community is going to be huge.

Blair Richardson, Alpine Drive – stated that the major concern is traffic. The traffic study that was done for the previous development, this project referenced that study that was done in 2014 and the data for that study was done in 2013 and only projected traffic flow out to 2017 and we are in 2017 now so the data for that other study is already outdated and is based on a flawed premise. It assumed there was going to be an access into the other development from Portland Street. The other traffic study said the traffic is so bad on Portland Street that the only way that development of 96 units could pass is if we played with the timing of the lights to make it within the expectable limits for HRM and this was based on outdated data. People move here to live in the suburbs not to have a high-rise in their backyards looking down on them. There is a strong sense of community in the neighbourhood and we support the businesses. HRM and Councillor Karsten is already on record stating Portland Street is already at capacity. Scale the development to what makes sense for the community and there needs to be a new independent traffic study done not one done by the developer or one done from 5 years ago, that doesn't project the data properly.

Public – stated they were hit by a car when trying to cross Portland Street. They called the traffic department and explained they couldn't make it across when trying to cross the road. They got no satisfaction from the traffic department so they called Councillor Karsten and Councillor Karsten tried and said they could make it across because they have long legs. It is a safety concern because it is a very short light, it is too dangerous.

Darlene Joyce, Hillspire Grove – stated that the traffic coming from the bus terminal out to Portland Hills Drive at the end of the night is backed up. There is no safe pedestrian passage however, you are encouraging people to use transit. It is supposed to be 2-way traffic but a lot of the cars overflow from the park and ride into PetWorks so it is single car coming out of there. It would be nice to have a lane to allow you to turn left down into Portland Hills Drive because you are waiting forever.

Robert Jennings, Old Birch, Portland Estates – Believes the plan is to build a sidewalk to the Metro Transit Centre to help with the safety concerns. **Mr. Joudrey** stated that Metro Transit wants to work with the developer to work on some sort of a connection.

Simon Lake, Dartmouth – thinks it's great to have some density in this area so close to the transit station. It would be important to make sure that the residents would be able to safely access the transit system.

Cathie Ingram, Portland Hills Drive - The sidewalk that is currently by 621 Portland Hills Dr. is not maintained during the winter. From January to March it is not usable because it is not maintained. This is a concern around sidewalks that are developed by the developer of the development.

Bill Darborough, Narrowleaf Grove – Moved to the area 5 years ago, and spoke with Mr. Karsten who assured them that this was to remain a residential property. They were shocked to find out this had changed. They appreciate urban development and thinks it is necessary to the city. Quality of life is what they have in Portland Hills and the Groves and people move there for that reason. It is a very close knit community. There are too many crosses on the road now from people who have died in that area crossing the street. Traffic on Portland St. is bad now and it is going to get worse. The traffic study needs to be updated, that is a certainty. To put more traffic coming up Portland Hills Dr. is going to put a huge impact on the neighbourhood. It will deteriorate the quality of life. People in the area appreciate the quietness and friendliness of the neighbourhood and something like this is an overdevelopment, this is too many people for a residential neighbourhood. It needs to be downscaled a bit. The driveways getting in and out of there are problematic now. Worries about the pedestrians and school kids, it will be very dangerous.

Kathy Fancy, Narrowleaf Grove – wanted to know if the Halifax Transit Garage and route 57 going down Portland Hills Dr. were considered in the previous transit study. That may have a bearing on traffic flow.

Gerry Urwin, Colby Village - stated there was a notice in the paper about a public participation committee looking for applications and they thought this was supposed to deal with any impacts about development in this area. **Mr. Joudrey** explained that there was an advertisement for the public participation committee for this application to which Leo McKenna is the chair and is in attendance.

Mr. McKenna, Chair of the PPC – explained who they are and what their role is. Mr. McKenna also explained why they decided to do this and that there is no opinion formed at this point. Mr. McKenna provide the email address for any feedback leo.mckenna@bellaliant.net

Public – doesn't like all the acronyms, finds it confusing.

Morgan Miller, Fairbanks St. – Loves Dartmouth and wanted to know if the residential and commercial combination isn't approved what else can the developer put there. **Mr. Joudrey** stated the developer can go ahead with what is already approved which was 4 stories on top of a parking garage.

Public – wanted to know what the school capacity is currently. Stated the school is already at capacity, they have had to turn their cafeteria into a music room this year. What is the plan to update the infrastructure? **Mr. Joudrey** explained that they have already requested comment from the Halifax Regional School Board.

Public – would like to know how many 2 bedrooms and how many 3 bedrooms were going to be in this development. **Mr. JeBailey** stated 50% would be 2-3 bedrooms. **Public** – what about across the road. **Mr. Joudrey** stated they weren't sure.

3. Closing Comments

Mr. Joudrey thanked everyone for coming and expressing their comments.

4. Adjournment

The meeting adjourned at approximately 8:40 p.m.



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No.
Harbour East-Marine Drive Community Council
[Meeting date]

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

SUBMITTED BY: _____
Leo McKenna, Chair, Harbour East-Marine Drive Planning Advisory Committee

DATE: July 7, 2018

SUBJECT: Case 20573: 651 Portland Hills Drive Public Participation Committee Report

ORIGIN

- Application by W. M. Fares Architects
- On May 23, 2017 the HEDMCC approved the formation of a Public Participation Committee in accordance with Dartmouth MPS policy H-3(AA)

LEGISLATIVE AUTHORITY

- *Halifax Regional Municipality Charter (HRM Charter)*, Part VIII, Planning & Development
- Dartmouth Municipal Planning Strategy, Policy H-3(AA)

RECOMMENDATION

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

1. Approve the proposal by W. M. Fares Architects to enable a mixed-use development at 651 Portland Hills Drive, Dartmouth.

BACKGROUND

W. M. Fares Architects has applied for a development agreement to enable a mixed use development at 651 Portland Hills Drive in Dartmouth. The lands are part of a Comprehensive Development District (CDD) under the Morris-Russell Lake Secondary Municipal Planning Strategy (SMPS). The policy established land uses are residential and commercial by development agreement.

The CDD lands under the Morris-Russell Lake SMPS extend from the eastern shore of Morris Lake eastward to the Innishowen subdivision and north to Portland Street. A 2000 development agreement (Case 00251) governs the land uses, building forms, development standards, density, environmental aspects and municipal services of the extent of the CDD lands described above. This policy area is comprised of two parcels known as PH-4 and PH-5. The subject lands are located within the PH-4 parcel, which is adjacent Portland Street between Portland Hills Drive and the Portland Hills Park and Ride Transit terminal and is within the area covered by the 2000 DA. In addition to the applicable Morris-Russell Lake policies, the lands are also subject to all relevant CDD and Implementation policies of the Dartmouth MPS.

Policy H-3(AA) requires that Council establish a Public Participation Committee (PPC) upon the Municipality receiving an application to develop lands within a CDD. The PPC is to be composed of residents, interested citizens, affected land owners, proponent and staff. In accordance with s. 216 of the *HRM Charter*, Harbour East-Marine Drive Community Council approved the formation of a PPC at their meeting on June 8, 2017 (<https://www.halifax.ca/sites/default/files/documents/city-hall/community-councils/070608Item16.2rpt.pdf>)

The policy statement directs Council to establish the PPC to deal with new development agreements or substantive amendments to development agreements within a CDD.

The PPC was composed of two members of only which one member participated in the meetings. Staff surmise that a lack of interest in this application, based on long-term posting of the application to the Active Planning Application webpage with no comments and the fact the Clerk's Office twice advertised the PPC membership, was primarily responsible for only two members of the public applying. The sole participating PPC member acted as Chair. Harbour East-Marine Drive PPC met October 17, 2017 and December 13, 2017.

Proposal Details

The proposal would see a 7 storey mixed-use building, containing 69 dwelling units on lands located at 651 Portland Hills Drive, Dartmouth. The design includes 73 below grade parking spaces and an additional 59 spaces within a surface parking lot. There is approximately 14,810 square feet of ground floor commercial area proposed with the flexibility to convert 9,200 square feet of residential space on the second floor to commercial use which would be accessed from the Halifax Transit driveway.

DISCUSSION

The PPC reviewed the proposed development in context with relevant policies of the Dartmouth MPS and the Morris-Russell Lake SMPS, input from the residential community at the PIM, and comments from proposal reviewers. The PPC has found the proposal to be generally consistent with applicable policies, and recommends approval of the application. Below is the justification and rationale for this recommendation, as well as an overview of several key concerns raised throughout the consultation process.

Traffic

The PPC acknowledges there are existing traffic issues in the area, and that there is potential for these issues to be further perpetuated by the proposal. Additionally, there could be a cumulative effect with the recently approved development (Case 19626) on the opposite side of the street from this proposal. At the time of consultation, the Traffic Impact Statement (TIS) submitted in support of this application identified no significant impact on adjacent streets and intersections or on the regional street system. In response to

staff comments an addendum to the TIS was prepared, but was not available at the time of the consultation. Traffic concerns of the Community and PPC include:

- Portland Street is already over-capacity;
- The high concentration of driveways in a very short space on Portland Hills Drive near the intersection with Portland Street from this proposal (using two existing access points) and the recently approved development across the street (two new access points);
- Pedestrian safety at and near the Portland Hills Drive and Portland Street intersection that could be addressed by augmenting sidewalk lighting in the area for pedestrians;
- Difficulty entering and exiting driveways in this area with the increased traffic and concentration; and
- Traffic study not very comprehensive and out of date: not taking into account recent completed and approved developments in the area.

Height

The PPC identifies reducing the proposed building height to the 6 storeys referenced in Policy ML-18(b) as a condition to considering approval of the application for the reasons below:

- At a proposed height of 7 stories the development is significantly higher than the existing two storey commercial buildings on either side and the single storey condominiums on the opposite side of the street;
- Staff noted a policy regarding height not to exceed 6 habitable above underground parking or townhouses but these are architectural features and are actually apartments; and
- The height differential is exacerbated with the location of the property near the top of a hill and the site sloping up from the front to the rear of the lot.

Building Massing

The PPC comments that the building design makes good use of different materials and varying heights to somewhat alleviate massing effect. This notwithstanding, the Committee has the following concerns with regard to massing:

- Neighbours occupying the single storey condominiums across the street expressed that this massing will be imposing from their perspective; and
- Residents across the street also noted that when they purchased their properties, the previously approved development for this development included commercial in a low rise building. Accordingly, some felt that approval of a higher mixed-use development represents an after the fact "change in the rules of the game".

Adequacy of Amenities

Policy IP-5 requires consideration of adequate useable amenity space. The PPC makes the following observation:

- There is very little proposed in the way of active amenities that would promote active living.

Adequacy of Schools

Policy IP-1(c)(4)(iii) asks if the proposal is premature or inappropriate by reason of the adequacy and proximity of schools. With respect to schools, the PPC notes the following:

- The area is served by existing elementary, middle and high schools. While the school board has not replied to a request for comment on the ability to accommodate additional students, the fact that the existing elementary school is already over capacity is well known in the community; and
- Concern exists that this process is proceeding when HRSB has not yet provided comment on the school situation when a large proportion of the residential is designed for "family".

Environmental Impacts

Policies IP-1(c) and IP-5 under the Dartmouth MPS requires Council to consider potential impact causing water body contamination, erosion or sedimentation in the area and natural and subsurface drainage. The Morris-Russell Lake Secondary Plan addresses potential environmental impact and the Existing DA (2000)

contained a number of environmental measures that have been implemented as the lands have been developed. The PPC notes the following environmental matters:

- Lot grading and drainage are important considerations so as to avoid stormwater management issues;
- The development agreement should reflect appropriate engineering design to avoid contamination of nearby water courses; and
- The developer should be required to take steps now to control water runoff from the property that streams onto the existing Portland Hills Drive sidewalk.

Portland Hills Park and Ride Transit Terminal

Policies IP-1(c)(4)(iii) and (iv) and IP-5(c) and (d) speak to proximity of public facilities and adequacy of transportation networks adjacent to or leading to development and are all applicable to the abutting transit terminal and PPC comments:

- The approved development agreement should consider a requirement to build and provide year round maintenance for a pedestrian link to the adjacent transit terminal;
- The development here could restrict the municipality's ability to expand the transit terminal at some future date; and
- Residents of the new development may be affected by the noise of busses operating. This was not an issue when the proposed development was entirely commercial. Thought should be given to whether this will be an immediate concern or could become one as the terminal gets busier or expands hours of operation.

Conclusion

The Harbour East-Marine Drive Public Participation Committee approves of this proposal for a mixed use scheme of this density within the Morris-Russell Lake Secondary Plan area and in close proximity to a Halifax Transit terminal. However, the PPC considers that the height of the building should be decreased from that currently proposed. The PPC does not consider that the application complies with relevant Plan policies for the reasons set out in this report but that a determination by staff could address compliance. Approval by Community Council should be subject to those conditions Council may choose to impose based on their own deliberations and further input from the public.

FINANCIAL IMPLICATIONS

There are no budget implications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies.

ENVIRONMENTAL IMPLICATIONS

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

ALTERNATIVES

The Public Participation Committee did not provide Alternatives.

ATTACHMENTS

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: The Harbour East-Marine Drive Public Participation Committee
