



P.O. Box 1749
Halifax, Nova Scotia
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Item No. 10.1.1
Harbour East-Marine Drive Community Council
June 12, 2024
July 4, 2024

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

SUBMITTED BY: **-Original Signed-**

Jacqueline Hamilton Executive Director Planning and Development

DATE: May 3, 2024

SUBJECT: **Case 2023-00376 (formerly Case 23937): Rezoning for 3 and 5 Bruce Street and Development Agreement for 3 and 5 Bruce Street, Dartmouth**

ORIGIN

Application by TEAL Architects + Planners

LEGISLATIVE AUTHORITY

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

Administrative Order Number 48, the *Community Council Administrative Order*:

Harbour East-Marine Drive Community Council

3B. (1) The Harbour East-Marine Drive Community Council may:

[...]

(b) in accordance with section 30(3) of the Charter, amend a land use by-law applicable to their community, except for those shaded areas within the Regional Centre Community Council Area shown on Schedule 4A.

RECOMMENDATION

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

1. Give First Reading to consider approval of the proposed amendment to Schedule A of the Land Use By-law for Dartmouth, as set out in Attachment A of this report, to rezone 3 and 5 Bruce Street, Dartmouth and schedule a public hearing;

RECOMMENDATION CONTINUES ON PAGE 2

2. Give Notice of Motion to consider the proposed development agreement, as set out in Attachment B, to allow a seven storey mixed-use building and schedule a public hearing for the development agreement which shall be held concurrently with that indicated in Recommendation 1;
3. Adopt the amendment to Schedule A of the Land Use By-law for Dartmouth as set out in Attachment A of this report.

Contingent upon the amendment to the Land Use By-law for Dartmouth being approved by Community Council, it is further recommended that Harbour East-Marine Drive Community Council:

4. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment B; and
5. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise, this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

TEAL Architects + Planners has applied to discharge an existing development agreement (1987) from 3 Bruce Street and enter into a new development agreement to allow a seven storey mixed-use building with 78 residential units at 3 and 5 Bruce Street in Dartmouth. The lands are located at the southwest portion of the intersection of Bruce Street and Woodlawn Road.

| | |
|---|--|
| Subject Site | 3 and 5 Bruce Street, Dartmouth; PIDs 00226472 and 00226480 |
| Location | Southwest portion of the intersection of Bruce Street and Woodlawn Road, Dartmouth |
| Regional Plan Designation | Urban Settlement (US) |
| Community Plan Designation (Map 1) | Residential (R) under the Dartmouth Municipal Planning Strategy |
| Zoning (Map 2) | R-1 (Single Family Residential) under the Dartmouth Land Use By-law |
| Size of Site | 1707.37 square metres (18,378 square feet) |
| Street Frontage | 30.5 metres (100 feet) at Woodlawn Road, along 3 Bruce Street; 61 metres (200 feet) at Bruce Street along combined length of both lots |
| Current Land Use(s) | 3 Bruce Street—office furniture sales; 5 Bruce Street—residential dwelling |
| Surrounding Use(s) | Low-rise residential houses on opposite side of Bruce Street; five storey multiple unit residential and parking lot abutting 5 Bruce Street to the southeast; two storey commercial building abutting 3 Bruce Street to the northwest; strip mall and freestanding commercial on opposite side of Woodlawn Road. |

Proposal Details

The proposed development is a seven storey mixed-use building. The major aspects of the proposal are as follows:

- A seven storey mixed-use building with 78 residential units;
- 93.8 square metres (1010 square feet) of indoor amenity space;
- 770 square metres (8290 square feet) of commercial floor area on the ground floor; and
- 40 underground parking spaces with parking ramp access from Bruce Street.

Enabling Policy and LUB Context

The application for a multi-unit building may be considered by Harbour East-Marine Drive Community Council under enabling Policy IP-5 of the Dartmouth Municipal Planning Strategy (MPS) which requires that any building containing more than three units be considered by development agreement.

The subject lands are currently zoned R-1 (Single Family Residential) under the Dartmouth Land Use By-law (LUB). The R-1 zone permits residential uses such as single family dwellings, shared housing, institutional uses such including places of worship and associated halls, schools, colleges, universities, libraries, art galleries and museums, public parks, playgrounds, tennis clubs, lawn bowling clubs, golf clubs, yacht and boating clubs. Multi-unit dwellings are permitted under the R-3 zone, however as noted above, buildings containing more than three units may only be considered by development agreement. This requires the site be rezoned prior to being eligible for consideration of a development agreement. Therefore, Council shall also have regard for the criteria of Policy IP-1(c) in considering this application. As noted in Legislative Authority, HEMCDD has the authority to amend the Land Use By-law, with the exception of lands in the Regional Center. Staff confirm that these lands do not fall within the Regional Center.

Existing Development Agreement

On June 30, 1987 Dartmouth City Council approved a development agreement to allow a neighbourhood convenience store and basement apartment at 3 Bruce Street, Dartmouth. The current use is office furniture sales and there is no longer a residential use. The existing agreement must be discharged upon approval and prior to registration of this proposed agreement. Part VIII, Section 244 of the *Halifax Regional Municipality Charter* empowers the Chief Administrative Officer (CAO) to discharge a development agreement. This request has been forwarded to the CAO through a separate report.

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 active applications website (receiving 208 unique page views), signage posted on the subject site, letters mailed to 25 property owners within the 250 foot notification area and a "Shape Your City" presentation and survey questionnaire (one respondent). The public comments received include the following topics:

- Concern regarding pedestrian safety and vehicular access during construction; and
- Access to underground parking will increase vehicular volume on Bruce Street and become a hazard to pedestrians using the street; and
- Concern regarding traffic queuing on Bruce Street and the intersection with Woodlawn Road.

A public hearing must be held by Harbour East-Marine Drive Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the advertisement on the HRM webpage, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

DISCUSSION

Staff have 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.

Proposed Rezoning

This planning application includes a rezoning of the lands from R-1 (Single Family Residential) to R-3 (Multiple Family Residential) under enabling Implementation Policy I-1(c) of the Dartmouth Municipal Planning Strategy (MPS). Apartment buildings of a scale larger than permitted by the underlying R-3 zone

may be considered by Policy IP-5. Therefore, Council shall also have regard for both Policy IP-1(c) and IP-5 in considering this application.

Proposed Development Agreement

Attachment B 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:

- Architectural requirements to address the compatibility of the proposed building in the local community;
- Schedules containing elevation drawings of the proposed building to ensure the building displays the same character and form as shown to the public and Council;
- Requirement for a landscape plan to create visual interest, cooling effect and screening for the site and proposed building;
- Provisions for lighting, parking and signage;
- Requirement for completion of an Environmental Site Assessment in accordance with applicable Provincial regulations, and confirmation from NS Environment and Climate Change that remediation of the site has been completed; and
- Changes to the proposed development agreement to required landscaping measures, signage provisions, conversion of first level commercial to residential units and the extension of time limits for commencement or completion of the agreement are to be considered non-substantive amendments.

The attached development agreement will permit a seven storey mixed-use development containing 78 residential units, 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 Height and Transitions

The urban built form surrounding the subject site has an inconsistent nature with mixed character, height and lot size. Given the inconsistent nature the area, the addition of a mid-rise building is anticipated to have minimal impact. Policies IP-5 (a) and (b) list height among criteria considerations, to ensure compatibility and reduce conflict with adjacent land uses. The proposed building height is higher than the immediate low-rise area on the opposite side of Bruce Street, however it is similar to the abutting five storey apartment to the south of the subject site. The proposed building (a mid-rise form) addresses the built environment that surrounds the site through the building form, materials, and transitioning efforts. Transitioning was achieved through streetwalls (one storey for the commercial floor height) and second level street wall stepback. The proposed building is not anticipated to visually impact the area where the building form consists largely of a mix of low-rise buildings, varying lot sizes, and occasional taller buildings.

Scale and Mass

There are two aspects of scale: a building's size relative to another building's size, and the size of the elements of a building relative to human scale. Policies IP-1(c)(2) and IP-5(a) requires the consideration of the scale and mass of new development.

Overall, the proposed building is modestly out of scale with the surrounding low-rise neighbourhood with the exception of the existing six storey apartment south of the proposed building. However, in terms of human scale building elements, the various horizontal articulations (the edges of the streetwall, the narrow horizontal lines of the sheathing), the perceived floor lines, vertical windows and recessed balconies of the building give a relatable human scale to pedestrians. Locating the building at the street line reinforces the streetscape, contributing further to the human scale, and assists in creating a quality public realm.

Building mass is the combined effect of the arrangement of the volume and shape of a building in relation to other buildings and spaces. In this infill situation where the urban character already exists, applicable MPS policy directs that the building should be compatible and consistent with adjacent uses and surrounding built form in terms of use, bulk and scale. Policies IP-1(c)(2) and IP-5(a) both speak to

consideration of mass in terms of compatibility with existing buildings while IP-5(b) directs that adequate methods be considered to reduce conflict with adjacent or nearby land uses. Measures to mitigate the visual impact of the building's large mass on neighbouring buildings have been considered such as use of smaller floorplates and height of seven storeys that minimizes the visual bulk of the mass of a building. Reducing visual mass is also achieved by the use of a one storey streetwall and second storey stepbacks. Further, surface articulation across the elevations by the shifting window variety and orientation have been used to mitigate and visually reduce the mass of the building.

Compatibility and Consistent

Policy IP-1(c)(2) directs the proposal to be both compatible and consistent with adjacent uses and the existing locale in terms of the use, bulk, and scale of the proposal. Policy IP-5(a) directs Council to consider the adequacy of the compatibility of the proposed building elements with the existing neighbourhood. Compatibility is not necessarily confined to design elements that are an exact match to that of nearby buildings, but it does mean the proposed building should be sensitive to and relatable in terms of character, continuity and architecture style of adjacent buildings and the surrounding neighbourhood. The proposed development has several attributes that are compatible with the surrounding built form, such as locating the proposed building at the street line and creating relatable human scale (see above). Other compatible attributes include residential use, entrances to the ground floor commercial use that are elevated slightly from the street, and maintaining the existing development pattern. While the building's height and mass are incompatible with the local low-rise built form on the opposite side of Bruce Street those same attributes make it compatible to the adjacent six storey apartment building to the south.

In addition to requiring the proposed building to be compatible, Policy IP-1(c)(2) also requires the proposal to be consistent with adjacent uses and the existing development form of the neighbourhood in terms of the use, bulk, and scale of the proposal. To be consistent, the proposed development as a whole must align with the attributes that contribute to the character, continuity, coherence and architectural types of an urban area. The street trees, open space, building façade treatment and architectural design may be included as attributes. This proposed development provides very little in the way of consistency, as it does not include attributes that fit with the surrounding existing urban form and character. While the proposed building is consistent with surrounding uses and some elements of the existing neighbourhood listed above, it is not consistent in terms of building massing, character or height.

Phase 1 Environmental Site Assessment

The adjacent property, 114 Woodlawn Road, is an identified Contaminated Site through Nova Scotia Environment and Climate Change's Environmental Registry. The applicant has commenced the first step towards an Environment Site Assessment (ESA), in reviewing historical records. During the site visit, multiple potential environmental concerns were observed, such as the presence of oil tanks, mould, and hazardous building materials. The most notable concern is the old above-ground storage tank outside of the commercial property. This tank is almost 20 years old, has no secondary containment, is quite rusted, and a visible sheen was noted on an adjacent puddle. As a result, the recommended approach moving forward would be to develop a proposal to complete a Phase I ESA. If nothing significant is raised within review of the ESA relative to potential contamination of the adjacent property, the ESA will then be focused on the oil tank at 3 Bruce Street. If contaminated, soils may be removed completely in accordance with Provincial ESA standards.

Priorities Plans

In accordance with Policy G-14A of the Halifax Regional Plan, this planning application was assessed against the objectives, policies and actions of the priorities plans, inclusive of the Integrated Mobility Plan, the Halifax Green Network Plan, HalifACT, and Halifax's Inclusive Economic Strategy 2022-2027. While these priority plans often contain policies which were originally intended to apply at a regional level and inform the development of Municipal Planning Strategy policies, there are still components of each plan which can and should be considered on a site-by-site basis. Where conflict between MPS policy and priority plan policy exists, staff must weigh the specificity, age, and intent of each policy, and consider how they

would be applied to a specific geographic context. In this case, the following policies were identified to be most relevant to this application, and as such were used to inform the recommendation within this report:

- 1) The Integrated Mobility Plan recommends pedestrian-oriented site design and human scaled massing at ground level for all new residential multis; recognizes that street trees and plantings contribute to the ecological health of the region and benefits users of the site and local street; notes that special elements to enhance links such as transit links with bus shelters require a high degree of maintenance and should be considered carefully; and promotes consideration of physical space for bicycle sharing programs. The proposed development meets these objectives.

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 proposed building height and scale have been addressed by the applicants' design to achieve a reasonable fit within the existing neighbourhood and is considered compatible. The proposed building mass has been visually reduced using human scaled design elements such as window and surface treatments. Policy IP-1(c) requires the proposal be both compatible and consistent with adjacent uses and development form. Compatibility is an easier test to meet and this proposal does on many aspects but consistency implies overall similarity with many community attributes. This is a much higher bar to achieve, and this proposal cannot be said to be consistent with the massing, character or height of built form in the general area however it is reasonably consistent with some surrounding attributes

The associated parking is located in an underground level accessed from Bruce Street by a ramp alongside the building and no associated traffic or parking issues were identified. A Traffic Impact Statement was submitted in support of the application and reviewed by HRM's Development Engineering and Traffic Services and was accepted by staff. Therefore, staff recommend that Harbour East-Marine Drive Community Council approve the proposed development agreement.

FINANCIAL IMPLICATIONS

The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2024-2025 operating budget for Planning and Development.

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 additional concerns were identified beyond those raised in this report regarding the Phase 1 Environmental Site Assessment requirements for the site.

ALTERNATIVES

1. Harbour East-Marine Drive Community Council may choose to approve the proposed amendment to the Dartmouth Land Use By-law and the 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 the proposed LUB Amendment or development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

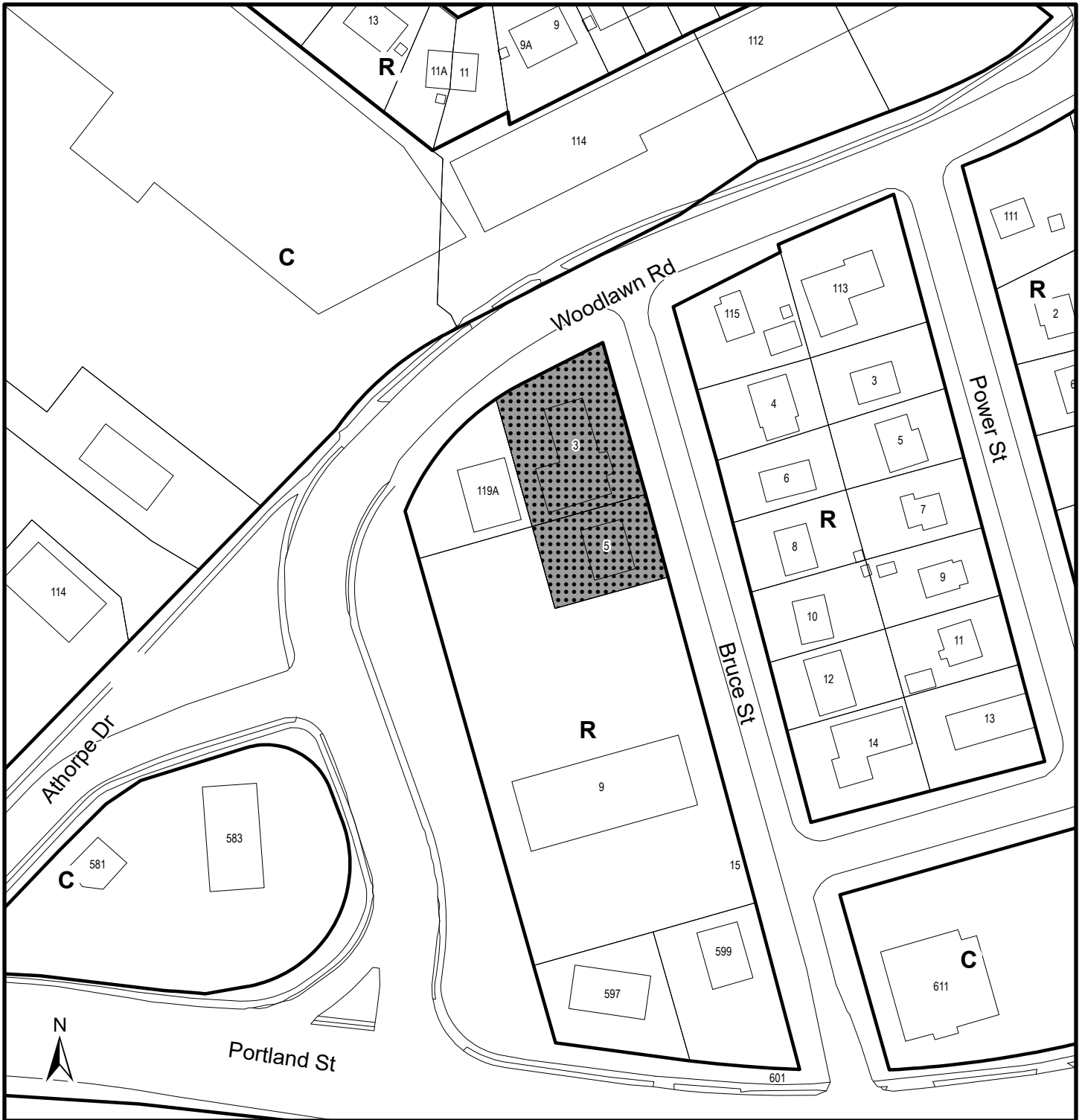
2. Harbour East–Marine Drive Community Council may choose to refuse the proposed amendment to the Dartmouth Land Use By-law and proposed development agreement, and in doing so, must provide reasons why either or both do not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment or 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 |
| Attachment A: | Proposed Amendment to the Dartmouth LUB |
| Attachment B: | Proposed Development Agreement |
| Attachment C: | Review of Relevant MPS Policies |

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: Darrell Joudrey, Planner II, 902.225.8630



Map 1 - Generalized Future Land Use

3 and 5 Bruce Street,
Dartmouth

HALIFAX

 Subject Property

DART

C

Designation

R

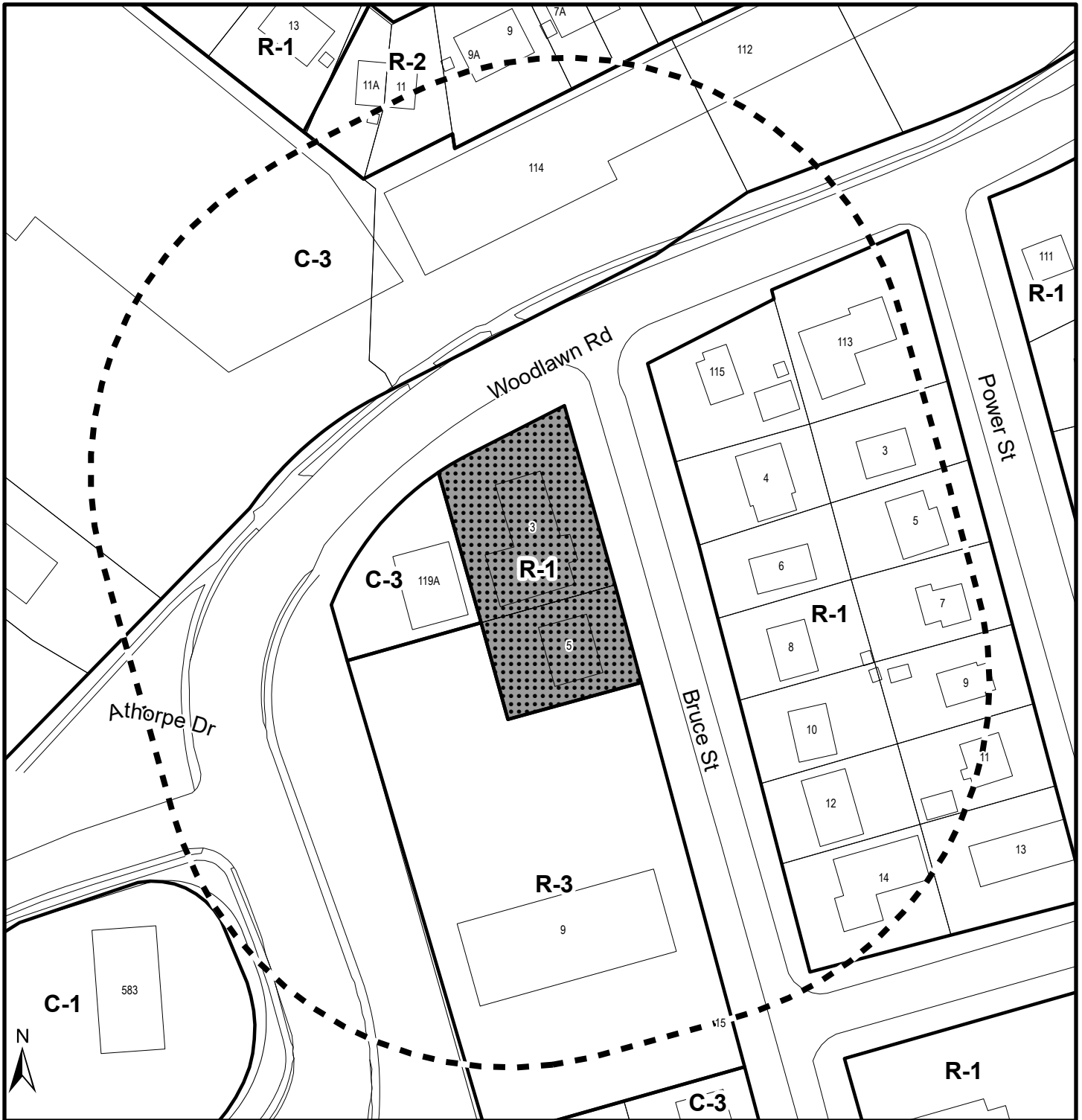
Residential
Commercial



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
Land Use By-Law Area



Map 2 - Zoning and Notification Area

3 and 5 Bruce Street,
Dartmouth

HALIFAX

-  Subject Property
-  Area of Notification

| Zone | |
|------|--|
| DART | R-1 Single Family Residential |
| | R-2 Two Family Residential |
| | R-3 Multiple Family Residential (Medium Density) |
| | C-1 Local Business |
| | C-3 General Business |



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

ATTACHMENT A

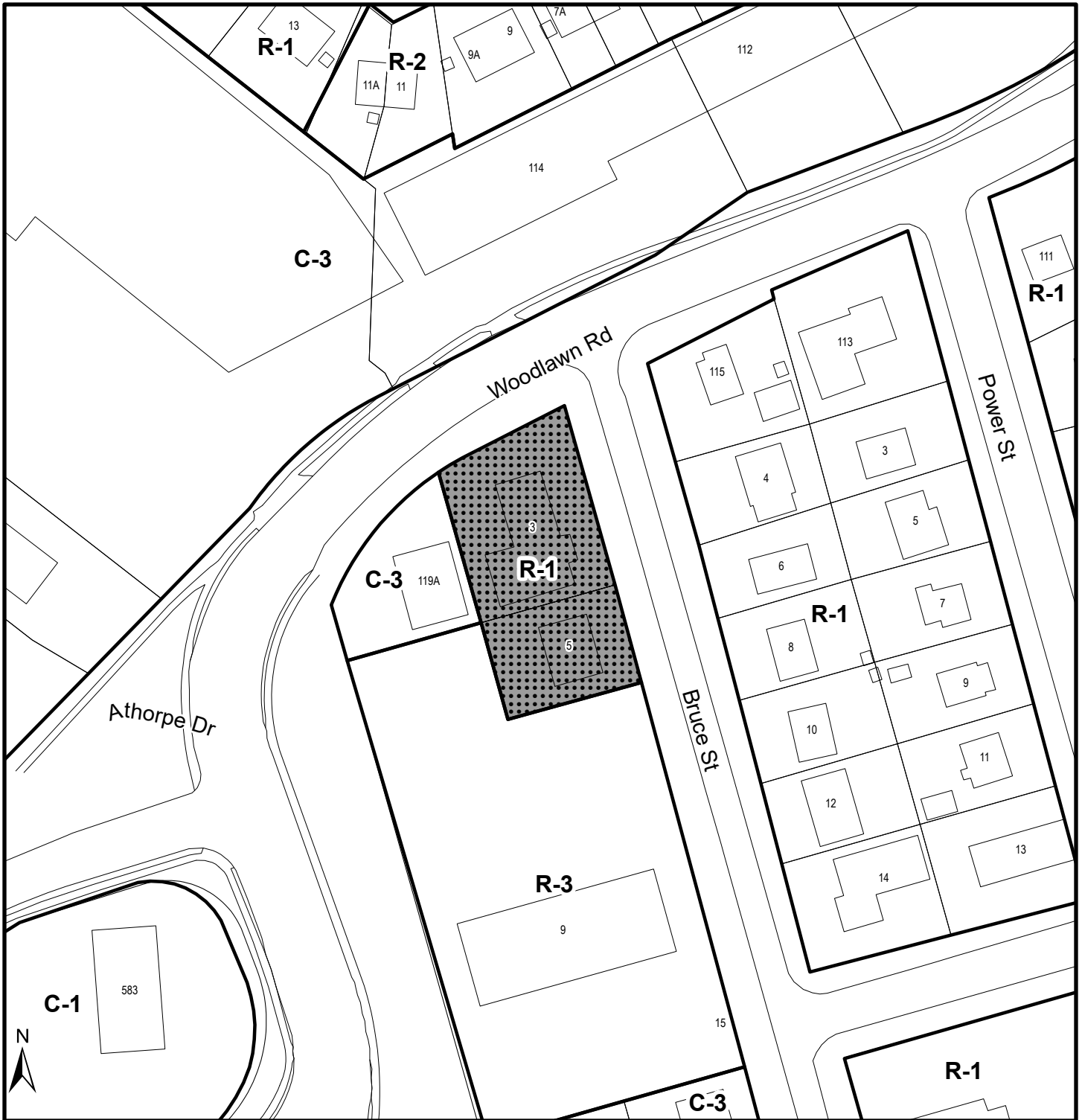
Proposed Amendment to the Land Use By-law for Dartmouth

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

1. Amend Map Schedule 1, the Zoning Map for Dartmouth, by rezoning the property identified as PIDs 00226472 and 00226480, from the Single Family Residential Zone (R-1) to the Multiple Family Residential Zone (R-3), as shown on the attached Schedule A.

I, Iain MacLean, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Harbour East-Marine Drive Community Council held on [DATE], 2024

Iain MacLean
Municipal Clerk



SCHEDULE A

3 and 5 Bruce Street, Dartmouth

HALIFAX

Areas proposed to be rezoned from
 R-1 (Single Family Residential) to
 R-3 (Multiple Family Residential
 (Medium Density))



Zone

| | | |
|------|-----|--|
| | R-1 | Single Family Residential |
| | R-2 | Two Family Residential |
| DART | R-3 | Multiple Family Residential (Medium Density) |
| | C-1 | Local Business |
| | C-3 | General Business |

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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

**Attachment B:
Proposed Development Agreement**

THIS AGREEMENT made this day of **[Insert Month]**, 20__,

BETWEEN:

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

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 3 and 5 Bruce Street, Dartmouth and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a seven (7) storey mixed use building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies IP-1(c) and IP-5 of the Dartmouth Municipal Planning Strategy and Sections 1, 2, and 3 of the Dartmouth Land Use By-law;

AND WHEREAS the Harbour East-Marine Drive Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case 2023-00376 (formerly Case 23937);

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, use and subdivision of the Lands shall comply with the requirements of the Dartmouth Land Use By-law and the Regional Subdivision By-law, as may be amended from time to time.
- 1.2.2 Variances to the requirements of the Dartmouth Land Use By-law shall not be permitted.

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 Dartmouth Land Use By-law to the extent varied by this Agreement), or any provincial or federal statute or regulation and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.
- 1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

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

1.5 Costs, Expenses, Liabilities and Obligations

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

1.6 Provisions Severable

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

1.7 Lands

- 1.7.1 The Developer hereby represents and warrants to the Municipality that the Developer is the owner of the Lands and that all owners of the Lands have entered into this Agreement.

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 Dartmouth Land Use By-law and Regional Subdivision By-law, if not defined in these documents their customary meaning shall apply.

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 2023-00376 (formerly Case 23937):

| | |
|------------|--------------------------------|
| Schedule A | Legal Description of the Lands |
| Schedule B | Site Plan |
| Schedule C | South and North Elevations |
| Schedule D | East and West Elevations |
| Schedule E | Parking Level |
| Schedule F | Level 1 |

3.2 Requirements Prior to Approval

- 3.2.1 Prior to the commencement of any site work, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Plan of Survey of approval Lot Consolidation of PIDs 00226472 and 00226480. This Plan of Survey shall comply with Section 3.7 of this Agreement; and
 - (b) Written confirmation and photograph demonstrating the existing buildings/structures on the Lands have been removed.
- 3.2.2 Prior to the issuance of a Development Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Written confirmation from Nova Scotia Environment that a Phase I ESA has been completed on the Lands in compliance with all applicable Provincial regulations in accordance with Section 5.4 of this Agreement; and
 - (b) A Landscaping Plan which generally complies with Schedule B of this Agreement and the HRM Urban Forest Master Plan.
- 3.2.3 Prior to the issuance of the first Occupancy Permit for the building, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the Landscape Plan.

- (b) Pursuant to section 5.4.1, written confirmation from Nova Scotia Environment that any required environmental remediation has been completed.

3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Dartmouth Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

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

- (a) seven storey mixed use building containing 78 residential units and 770 square metres (8290 square feet) commercial; and
- (b) permitted commercial uses shall comply with those listed under the C-1 (Local Business) Zone uses of the Dartmouth Land Use By-law, as amended from time-to-time.

3.3.2 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the Dartmouth Land Use By-law, as amended from time to time.

3.4 Building Siting

3.4.1 The building's siting and height shall comply to the following:

- (a) the building shall be setback 1.78 metres (five feet and ten inches) from property boundary at Bruce Street, 2.03 metres (six feet and eight inches) from property boundary at Woodlawn Road and 3.66 metres (12 feet) from shared northern property boundary;
- (b) the maximum height of the building shall not exceed 20.73 metres (68 feet) to the top surface of the roof slab; and
- (c) the Development Officer may permit a 5% increase to the provision identified in Subsection 3.4.1(b) provided the intent and all other specific provisions of this Agreement have been adhered to.

3.5 Indoor Amenity Space

3.5.1 A minimum of 93.8 square metres (1010 square feet) of amenity space shall be provided.

3.6 Architectural Requirements

3.6.1 The main entrances to the building shall be emphasized by detailing, changes in materials, and other architectural devices such as, but not limited to, lintels, pediments, pilasters, columns, porticos, overhangs, cornerboards, fascia boards, or an acceptable equivalent approved by the Development Officer. At least one main door shall face Bruce Street. Service entrances shall be integrated into the design of the building and shall not be a predominant feature.

3.6.2 The façade facing Bruce Street shall be designed and detailed as the primary façade. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.

- 3.6.3 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, or offsets in the vertical plane) as identified on the Schedules.
- 3.6.4 Any exposed foundation in excess of 0.12 metres in height and 0.93 square metres in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.
- 3.6.5 Exterior building materials shall not include vinyl siding.
- 3.6.6 All vents, down spouts, flashing, electrical conduits, metres, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be treated to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.6.7 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Bruce Street or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.
- 3.6.8 The ground floor front façade of the building with ground floor commercial uses must be between 50 to 75% windows, doors, or other treatment sufficiently transparent to provide view of the interior of the building. All windows shall be vertical in orientation and proportion, or square, where possible. Windows should be framed with prefinished metal or vinyl.
- 3.6.9 Fixed or retractable awnings are permitted at ground floor levels provided the awnings are designed as an integral part of the building façade.
- 3.6.10 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.
- 3.6.11 Multiple storefronts shall be visually unified through the use of complementary architectural forms, similar materials and colours. Covered walkways, arcades, awnings, open colonnades and similar devices shall be permitted along long facades to provide shelter and encourage pedestrian movement.

3.7 Subdivision of the Lands

- 3.7.1 Subdivision applications shall be submitted to the Development Officer in accordance with the Regional Subdivision By-law and the terms and conditions of this agreement.

3.8 Outdoor Lighting

- 3.8.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.8.2 The building may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

3.9 Landscaping

- 3.9.1 All plant material shall conform to the Canadian Nursery Landscape Association's *Canadian Nursery Stock Standard* (9th Edition).
- 3.9.2 Prior to the issuance of any Development Permit, the Developer agrees to provide a Landscaping Plan which complies with the provisions of this Section and the HRM Urban Forest Master Plan and generally conforms with the overall intentions of the preliminary landscape features shown on Schedule B. The Landscaping Plan shall be prepared by a Landscape Architect (a full member of the Canadian Society of Landscape Architects) and comply with all provisions of this Section.
- 3.9.3 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.
- 3.9.4 Notwithstanding Subsection 3.10.3, 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.
- 3.9.5 All landscaped areas designed to be installed upon any portion of the building must be supported by documentation from a Structural Engineer indicating that the building design is able to support any required drainage or additional weight caused by the landscaped area.

3.10 Maintenance

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

3.11 Signs

- 3.11.1 The sign requirements shall be accordance with the Dartmouth Land Use By-law as amended from time to time and shall only be externally illuminated.
- 3.11.2 Ornamental plants shall be planted and maintained around the entire base of the sign as part of the required landscaping.
- 3.11.3 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the site.

3.11.4 A maximum of one ground sign shall be permitted near the Bruce Street entrance to identify the name of the building. The location of such sign shall require the approval of the Development Officer and Development Engineer. The maximum height of any such sign inclusive of support structures shall not exceed 3.05 metres (10 feet) and the face area of any sign shall not exceed 4.65 square metres (50 square feet). All such signs shall be constructed of natural materials such as wood, stone, brick, enhanced concrete or masonry. The only illumination permitted shall be low wattage, shielded exterior fixtures.

3.12 Temporary Construction Building

3.12.1 A building 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 construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.13 Screening

3.13.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

3.13.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from Bruce Street and residential properties along Bruce Street. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

3.13.3 Mechanical equipment shall be permitted on the roof provided the equipment is screened and not visible from Bruce Street or incorporated into the architectural treatments and roof structure.

3.13.4 Any mechanical equipment shall be screened from view from Bruce Street and Woodlawn Road with a combination of fencing and landscaping elements.

3.14 Hours of Operation

3.14.1 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00am and 10:00pm.

3.14.2 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

3.15 Reinstatement

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

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

- 4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

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 Undergrounding Services

- 4.3.1 All secondary electrical, telephone and cable service to the apartment building shall be underground installation.

4.4 Site Preparation in a Subdivision

- 4.4.1 The Developer shall not commence clearing, excavation or blasting activities required for the installation of primary or secondary services in association with a subdivision prior to receiving final approval of the subdivision design unless otherwise permitted by the Development Officer.

4.5 Solid Waste Facilities

- 4.5.1 The building shall include designated space for five stream commercial waste containers to accommodate source separation program in accordance with By-law S-600 as amended from time to time. This designated space for five (5) waste containers shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with HRM Solid Waste Resources.
- 4.5.2 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.
- 4.5.3 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 effect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

- 5.1.1 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 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.2.1 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 have been issued a Grade Alteration Permit in accordance with By-law G-200 Respecting Grade Alteration and Stormwater Management Associated with Land Development, as amended from time to time.

5.3 Sulphide Bearing Materials

- 5.3.1 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.

5.4 NSE Phase I ESA

- 5.4.1 The Lands at 3 Bruce Street are identified by Nova Scotia Environment (NSE) as having multiple potential environmental concerns. Prior to the issuance of a development permit the Developer must provide to the Development Officer confirmation from NSE that remediation of the site has been completed to a state that will allow residential development.

PART 6: 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 in a matter consistent with the *Halifax Regional Municipality Charter*:
- (a) Changes to the landscaping measures as detailed in Section 3.9 or which, in the opinion of the Development Officer, do not conform with Schedule B;
 - (b) Changes to the signage provisions as detailed in Section 3.11 or which, in the opinion of the Development Officer, do not conform with Schedules B, C, or D;
 - (c) The commercial area on the first floor level may be converted to residential units with no increase in number of parking stalls;
 - (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 granting of an extension to the length of time for the completion of the development as identified 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*.

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 the Chief Administrative Officer for the Municipality.
- 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 three (3) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, the Municipality may consider granting an extension of the commencement of development time period in accordance with Section 6.1, if the Municipality receives a written request from the Developer.

7.4 Completion of Development

- 7.4.1 Upon the completion of the whole development, the Municipality 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) discharge this Agreement and apply appropriate zoning pursuant to the applicable Municipal Planning Strategy and Land Use By law, as may be amended from time to time.
- 7.4.2 For the purpose of this section, completion of development shall mean issuance of an Occupancy Permit.
- 7.4.3 In the event that development on the Lands has not been completed within ten (10) years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

7.5 Discharge of Agreement

- 7.5.1 If the Developer fails to complete the development after 15 years from the date of execution of this Agreement, the Municipality 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 60 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: _____

Print Name: _____

Date Signed: _____

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____

MAYOR

Date Signed: _____

Witness

Per: _____

MUNICIPAL CLERK

Date Signed: _____

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Iain MacLean, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

Attachment C: Review of Relevant MPS Policies

| Halifax Regional Municipal Planning Strategy | |
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| Policy | Staff Comment |
| <p>Policy S-1</p> <p><i>The Urban Settlement Designation, shown on the Generalized Future Land Use Map (Map 2), encompasses those areas where HRM approval for serviced development has been granted and to undeveloped lands to be considered for serviced development over the life of this Plan. Amendments to this Boundary may be considered: (a) where reviews of regional population and housing forecasts have been undertaken and the proposed amendments may assist in achieving the growth targets established by this Plan; and (b) the lands are within or adjacent to a growth centre.</i></p> | <p>The subject site is located within the Woodlawn area shown under Regional Local Growth Centre of Table 3-1. Table 3.1 outlines the types of centres intended for the Urban Settlement and Rural Commuter Designations respectively and the associated design characteristics which are to be supported when preparing secondary planning strategies. The list of design characteristics for Regional Local Growth Centre includes: a mix of medium to high density residential, commercial, institutional and recreation uses; In established residential neighbourhoods, low to medium density residential uses, and pedestrian oriented facades. The proposed seven-storey residential building aligns with providing a mixed of low to medium density residential within a Regional Local Growth Centre.</p> |
| Dartmouth Municipal Planning Strategy: Implementation Policies | |
| Policy | Staff Comment |
| <p>Policy IP-1 (c)</p> <p><i>In considering zoning amendments and contract zoning, Council shall have regard to the following:</i></p> | |
| <p><i>(1) that the proposal is in conformance with the policies and intent of the Municipal Development Plan;</i></p> | <p>The Dartmouth MPS designates the lands at PIDs 00226472 and 00226480 as Residential.</p> <p>The residential designation allows for a variety of land uses including medium density residential as well as limited commercial uses provided, they are in keeping with intent of the area plan (Policy IP-1(c) and IP-5).</p> |
| <p><i>(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;</i></p> | <p>The proposal must meet the dual test of compatibility and consistency with adjacent uses and local development form.</p> <p>The development proposes a mid-rise building of seven-storeys fronting onto Bruce Street. The rear of the proposed building abuts a two-storey commercial building and the west elevation abuts a five-storey apartment building at the parking lot.</p> <p>The proposed uses of the development are residential with ground floor commercial, both of which are consistent with the existing land uses in the area. The proposal includes underground parking.</p> <p>Massing and Scale: The residential neighbourhood to the east is low density in form with most buildings being approximately one storey,</p> |

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| | <p>immediate location opposite Bruce Street especially, and two storeys in height. The community varies in height, scale and bulk overall.</p> <p>Siting and Transition: The proposed development does not transition to the surrounding low-density portions of the neighborhood in a thoughtful, sensitive manner.</p> |
| <p><i>(3) provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries;</i></p> | <p>Access to the site is proposed from Bruce Street, with vehicle access to the parking garage through the west elevation. The submitted site plan indicates combined ingress/egress point located at Bruce Street.</p> |
| <p><i>(4) that the proposal is not premature or inappropriate by reason of:</i></p> | |
| <p><i>(i) the financial capability of the City is to absorb any costs relating to the development;</i></p> | <p>The City will not be financially responsible for costs associated with this development.</p> |
| <p><i>(ii) the adequacy of sewer and water services and public utilities;</i></p> | <p>Halifax Water did not review the proposal, however they will review the application at the permitting stage of development.</p> |
| <p><i>(iii) the adequacy and proximity of schools, recreation and other public facilities</i></p> | <p>The site is in close proximity to the Woodlawn family of schools: Brookhouse Elementary, Ellenvale Junior High and Woodlawn High Schools.</p> <p>The Halifax Regional Centre for Education (HRCE) Long Range Outlook; a 10 year projection for each family of schools under the HRCE, shows all schools in the Woodlawn family of schools currently under capacity now and for the future projections. The Ellenvale Junior High capacity is based on the inclusion of 300 additional modular spaces anticipated to come online in 2023.</p> <p>The <i>Education Act</i> mandates that every person over the age of 5 years and under the age 21 years has the right to attend a public school serving the school region in which that person lives. Where there are no schools located within a walkable distance bussing is provided.</p> <p>The site is close to many local parks and recreation facilities including Woodlawn Park to the northwest, Russell Lake Park to the south and Penhorn Lake Park and Brownlow Park further to the northwest.</p> |
| <p><i>(iv) the adequacy of transportation networks in adjacent to or leading to the development;</i></p> | <p>Development Engineering has reviewed the TIS submitted in support of the application and has accepted the findings and recommendations. The site is in an established and well-developed area of Dartmouth with an existing transportation network.</p> |

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| | <p>See Development Engineering comments under the Advisory Comments section of the team review.</p> <p>The site is serviced by public transit within a short walk and there are existing sidewalks throughout this neighbourhood.</p> |
| <i>(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas;</i> | The site is approximately 370 metres from the nearest body of water, Russell Lake, and 570m from Lake Penhorn and contains no watercourses. |
| <i>(vii) the presence of natural, historical features, buildings or sites;</i> | According to the Regional Plan, Map 9, the subject site is not located in an area of elevated archeological interest. |
| <i>(viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized;</i> | The site is contained within a small footprint and offers no ability to create a scattered development. |
| <i>(ix) the detrimental economic or social effect that it may have on other areas of the City.</i> | This development should have limited impact on other areas of the Municipality. |
| <i>(5) that the proposal is not an obnoxious use;</i> | The proposal is not an obnoxious use, the area is comprised of primarily residential and commercial properties and uses, the development has similar uses to that found within the area, at a different density. |
| <i>(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> | |
| <i>(i) type of use, density, and phasing;</i> | This will be regulated by the development agreement. See other policies for review comments. |
| <i>(ii) emissions including air, water, noise;</i> | No emissions are expected to be created by this development. |
| <i>(iii) traffic generation, access to and egress from the site, and parking;</i> | Site access has been accepted by Engineering as shown in the proposal. |
| <i>(iv) open storage and landscaping;</i> | Provisions will be included within the development agreement to regulate open storage and landscaping. |
| <i>(v) provisions for pedestrian movement and safety;</i> | This refers to on-site pedestrian movement and safety and will be regulated by the development agreement. |

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| <i>(vi) management of open space, parks, walkways;</i> | This refers to the private open space and walkways of the development and will be regulated by the development agreement. |
| <i>(vii) drainage both natural and sub-surface and soil-stability;</i> | This will be regulated by the development agreement through required drainage and lot grading plans that will be provided at permitting time. |
| <i>(viii) performance bonds.</i> | The sole performance bond, for landscaping, will be regulated by the development agreement. |
| <i>(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.</i> | The site is physically suitable for the proposed development. The lands at 3 Bruce Street have been identified for a Phase 1 ESA. |
| <i>(8) that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council</i> | A public meeting was not held as part of community engagement; instead a narrated power point on Shape Your City, with a mail out to notify residents, and online survey were undertaken. |
| <i>(9) that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:</i> | Not applicable |
| <i>(i) Council with a clear indication of the nature of proposed development, and</i> | The applicant has requested zoning the lands from R-1 to R-3 to allow development of a mixed-use building by development agreement. |
| <i>(ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community</i> | Determining the impact of a seven-storey mixed-use building by development agreement will suffice for the determination of the impact for a rezoning of the same lands. |
| <i>(10) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i> | Not applicable |

| Policy | Staff Comment |
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| <p>Policy IP-5</p> <p><i>In considering the approval of such Agreements, Council shall consider the following criteria:</i></p> | |
| <p><i>(a) adequacy of the exterior design, height, bulk and scale of the new apartment development with respect to its compatibility with the existing neighbourhood;</i></p> | <p>The development is compatible with surrounding neighbourhood with regards to height, scale and massing. The local area is made up of low to medium rise residential dwellings with a five storey apartment building abutting 5 Bruce Street. Preliminary review suggests the proposal responds to the character of the surrounding residential neighbourhood.</p> |
| <p><i>(b) adequacy of controls placed on the proposed development to reduce conflict with any adjacent or nearby land uses by reason of:</i></p> | |
| <p><i>(i) the height, size, bulk, density, lot coverage, lot size and lot frontage of any proposed building;</i></p> | <p>The proposed building is taller than the surrounding neighbourhood with the exception of the abutting five-storey building. Height is not out of character for the neighbourhood.</p> |
| <p><i>(ii) traffic generation, access to and egress from the site; and</i></p> | <p>HRM Development Engineering has reviewed and accepted the submitted TIS. No issues were identified.</p> |
| <p><i>(iii) parking;</i></p> | <p>Parking has been provided at a ratio of 0.95 spaces per unit in underground parking.</p> |
| <p><i>(c) adequacy or proximity of schools, recreation areas and other community facilities;</i></p> | <p><i>Please see IP-1(4)(iii) above.</i></p> |
| <p><i>(d) adequacy of transportation networks in, adjacent to, and leading to the development;</i></p> | <p>Development Engineering has reviewed the submitted TIS and accepted the recommendations.</p> |
| <p><i>(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;</i></p> | <p>The landscaping shown on the development plan consists of a concrete podium surrounding the proposed building. Steps connect sidewalk to podium on Bruce Street elevation.</p> |
| <p><i>(f) that mature trees and other natural site features are preserved where possible;</i></p> | <p>There are no trees or natural features on the site.</p> |
| <p><i>(g) adequacy of buffering from abutting land uses;</i></p> | <p>There is no buffering from abutting land uses.</p> |
| <p><i>(h) the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment; and</i></p> | <p>Ground level has not been identified as changing.</p> |
| <p><i>(i) the Land Use By-law amendment criteria as set out in Policy IP-1(c).</i></p> | <p>See above.</p> |