

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

то:	Item No. 4.1 Harbour East-Marine Drive Community Council June 5, 2025 July 3, 2025 Special Meeting Chair and Members of Harbour East-Marine Drive Community Council
FROM:	Jacqueline Hamilton, Executive Director of Planning and Development
DATE:	May 1, 2025
SUBJECT:	PLANAPP 2024-01322: Substantive Amendment to Development Agreement for 112/114 Wyse Road, Dartmouth

#### <u>ORIGIN</u>

Application by Alex Dunphy.

#### EXECUTIVE SUMMARY

This report recommends approval of amendments to an existing development agreement to allow an additional two storeys to an approved 20-storey mixed use building. With this addition, the total number of units will increase to 178. Aside from the additional two storeys, the built form and the minimum ratio of 25% of 2-bedroom units remains unchanged. This proposal is in line with the enabling policy which was specifically created for this site and approved by Regional Council in May of 2024. Staff recommend Harbour East-Marine Drive Community Council approve the proposed amendments to the existing development agreement given the addition of two storeys is reasonably consistent with the intent of the Regional Centre Municipal Planning Strategy and Land Use By-law.

#### RECOMMENDATION

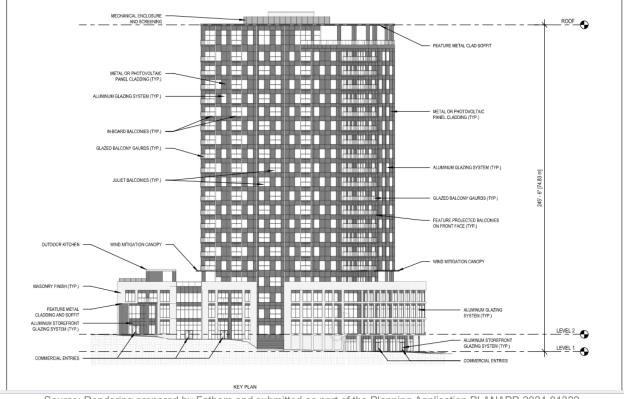
It is recommended that the Harbour East-Marine Drive Community Council:

- 1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A, to allow for two additional storeys to an approved 20-storey mixed use building at 112/114 Wyse Road in Dartmouth, and schedule a public hearing;
- 2. Approve the proposed amending agreement, which shall be substantially of the same form as set out in Attachment A; and
- 3. Require the amending 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

The owner, Alex Dunphy, has applied to allow for an additional two storeys to an already approved 20storey mixed-use development at 112/114 Wyse Road in Dartmouth.

112/114 Wyse Road, Dartmouth	
East corner of Wyse Road and Nantucket Avenue, adjacent	
to the Zatzman Sportsplex	
Urban Settlement (US)	
Centre Designation (CEN) of the Regional Centre Municipal	
Planning Strategy	
Centre 2 (CEN-2) of the Regional Centre Land Use By-law	
1941.7 square metres (20,900 square feet)	
Approx 15.3 metres (50 feet) on Wyse Road	
Commercial Building	
Commercial and Institutional Uses	



Source: Rendering prepared by Fathom and submitted as part of the Planning Application PLANAPP-2024-01322

#### Existing Development Agreement

The original development agreement was approved by the Harbour East – Marine Drive Community Council on <u>August 5, 2021<sup>1</sup></u>. The main aspects of the approved development include a 16-storey residential tower above a 4-storey mixed use podium (total of 20-storey) with 160 residential units with at least 25% of those units having at least 2 bedrooms. The development also includes the commercial/office uses that are permitted within the Centre-2 zone of the Regional Centre Land Use By-Law.

<sup>&</sup>lt;sup>1</sup> <u>https://cdn.halifax.ca/sites/default/files/documents/city-hall/community-councils/210805hemdcc1011.pdf</u>

A non-substantive amendment to the original agreement was approved by the Development Officer on July 31, 2024 to allow for a two year time extension on the commencement and completion of the development on the lands.

#### Enabling Policy and LUB Context

The subject site is regulated by the Regional Centre Municipal Planning Strategy (MPS) and the Regional Centre Land Use By-Law (LUB). In May of 2024, Regional Council approved amendments to the Regional Centre MPS and the Regional Centre LUB as part of a larger package of amendments driven by the Housing Accelerator Fund. One of the amendments included a site-specific policy for the subject lands, Policy IM-33.5 (c), which states:

*"Applications for substantive amendments to certain existing development agreements may be considered under this Policy IM-33.5 for the following matters:* 

(c) if the built form is substantially the same and the ratio of 2-bedroom units, which is at least 25%, is maintained, changes that allow an additional 2 storeys above the maximum permitted building height of 20 storeys on 112 and 114 Wyse Road (Case 22487)"

#### **DISCUSSION**

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

#### **Proposed Development Agreement**

Attachment A contains the proposed amending development agreement for the subject site and the conditions under which the development may occur. The proposed amending development agreement only changes the height by allowing an additional two storeys as envisioned by the enabling policy of the Regional Centre Municipal Planning Strategy. As per the enabling policy, there are no further changes to the built form or any other changes that fall outside of the permissions within the original development agreement. The attached amending development agreement will permit the additional two storeys, subject to the controls of the original development agreement.

#### **Priorities Plans**

In accordance with Policy G-14A of the Halifax Regional Plan, staff considered 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 in making its recommendation to Council. In this case, no specific policies were identified as a conflict.

#### 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 MPS is clear in allowing consideration of a two-storey addition on this specific site through the substantive amendment process. Regional Council approved the specific amendment language at the May 23, 2024 meeting, with which this proposal aligns. Therefore, staff recommend that the 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 amended development agreement. The administration

of the proposed development agreement can be carried out within the approved 2025-2026 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. Regulatory and Appeals Board. Information concerning risks and other implications of adopting the proposed amending development agreement are contained within the Discussion section of this report.

#### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and the Public Participation Administrative Order (2023-002-ADM). The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website and signage posted on the subject site. A total of 26 postcards were mailed to property owners and tenants within the notification area (Map 2). The HRM website received a total of 71 unique page views over the website life, with an average time on page of 29 seconds. Staff received no responses from the public.

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 or courier service, in the event of disruption to regular mail service.

#### **ENVIRONMENTAL IMPLICATIONS**

No environmental implications are identified.

#### LEGISLATIVE AUTHORITY

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

#### **ALTERNATIVES**

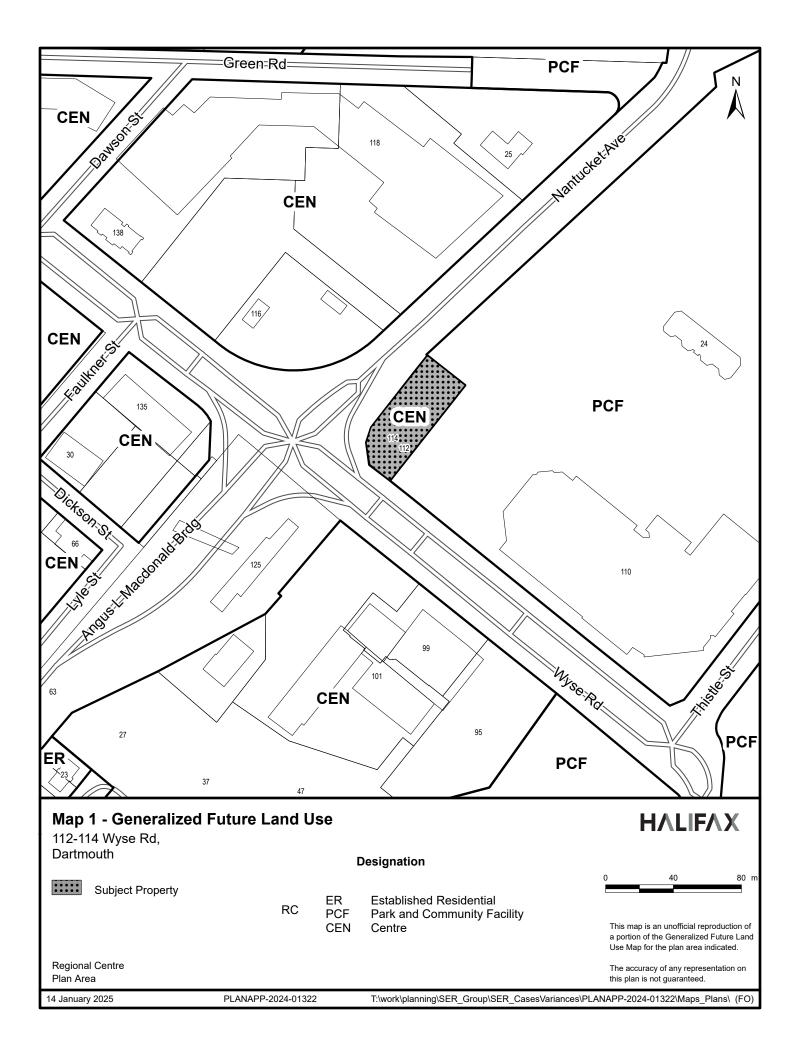
- 1. Harbour East-Marine Drive Community Council may choose to approve the proposed development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve this development agreement is appealable to the N.S. Regulatory and Appeals 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 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. Regulatory and Appeals Board as per Section 262 of the *HRM Charter*.

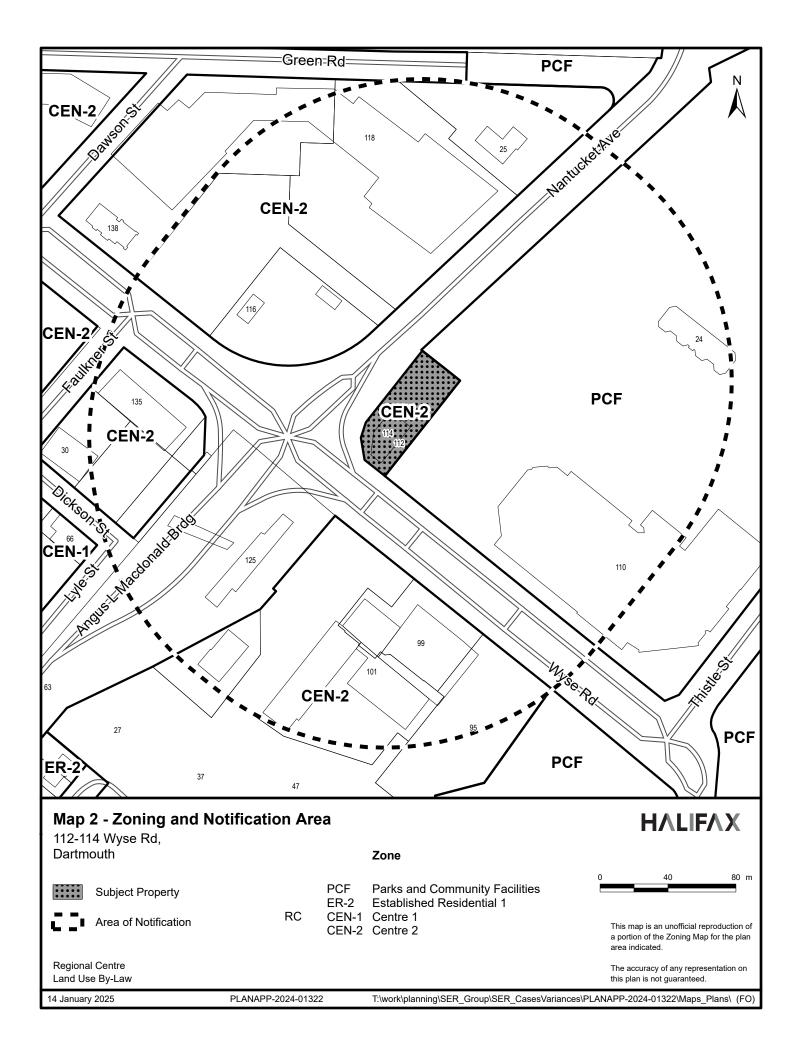
#### **ATTACHMENTS**

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amending Development Agreement
Attachment B:	Review of Relevant MPS Policies

Report Prepared by: Kelly Greenland, Planner II, 902.497.5088

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#### Attachment A: Proposed Amending Development Agreement

THIS SECOND AMENDING AGREEMENT made this day of [Insert Month], 20\_\_,

BETWEEN:

#### 3321506 NOVA SCOTIA LIMITED,

a body corporate, in the Province of Nova Scotia

-and-

#### 3321507 NOVA SCOTIA LIMITED,

a body corporate, in the Province of Nova Scotia (hereinafter collectively 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 112/114 Wyse Road, Dartmouth (PID 00082792) and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** on August 5, 2021, Harbour East - Marine Drive Community Council approved an application to enter into a Development Agreement to allow for a 20-storey mixed use, multi-unit building development on the Lands (municipal case 22487), which said Development Agreement was registered at the Halifax County Land Registration Office in Halifax on October 29, 2021 as Document Number (119543818) (hereinafter called the "Original Agreement");

**AND WHEREAS** on July 31, 2024, the Development Officer approved an application to amend the Original Agreement to allow for a two (2) year extension to the dates of commencement and completion of the development on the Lands (PLANAPP 2024-00850) which said Development Agreement was registered at the Halifax County Land Registration Office on September 11, 2024 as Document Number 124692899 (hereinafter called the "First Amending Agreement");

**AND WHEREAS** the Original Agreement and the First Amending Agreement together comprise the entire agreement between the parties with respect to the development of the Lands (hereinafter called "the Existing Agreement");

**AND WHEREAS** the Developer has requested further amendments to the Existing Agreement to allow for an additional 2-storeys to the approved 20-storey development on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to

Policy IM 33.5 (c) of the Regional Centre Municipal Planning Strategy and Section 498.4 of the Regional Centre 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 PLANAPP 2024-01322;

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

- 1. Except where specifically varied by this Second Amending Agreement, all other conditions and provisions of the Existing Agreement shall remain in effect.
- 2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of the Existing Agreement as amended by this Second Amending Agreement.
- 3. Section 3.1.1 of the Existing Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold, as follows:

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, generally conforms with the following schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 22487 **PLANAPP 2024-01322**:

Schedule A <del>Schedule B</del>	Legal Description of the Lands
Schedule B-1	Site Plan
Schedule C	West Elevation
Schedule C-1	West Elevation
Schedule D	North Elevation
Schedule D-1	North Elevation
Schedule E	East Elevation
Schedule E-1	East Elevation
Schedule F	South Elevation
Schedule F-1	South Elevation
Schedule G	Amenity Space Plan
Schedule G-1	Amenity Space Plan

- 4. The Existing Agreement shall be amended by deleting all text references to Schedule B, Schedule C, Schedule D, Schedule E, Schedule F, and Schedule G and replacing them with reference to Schedules B-1, C-1, D-1, E-1, F-1 and G-1 respectively.
- 5. Section 3.4.1 of the Existing Agreement shall be amended by deleting the text shown in strikeout, and inserting the text shown in bold as follows:
  - 3.4.1(a) the maximum height of the building shall not exceed 69m (20-storeys) 22 storeys, excluding the rooftop mechanical and elevator overrun, as shown on the Schedules of 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:	3321506 NOVA SCOTIA LIMITED
	Per:
Witness	Print Name:
	Position/Title:
	Date Signed:
	3321507 NOVA SCOTIA LIMITED
	Per:
	Print Name:
	Position/Title:
	Date Signed:
<b>SIGNED, DELIVERED AND ATTESTED</b> to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:	HALIFAX REGIONAL MUNICIPALITY
	Per: MAYOR
Witness	Date Signed:
Witness	Per: MUNICIPAL CLERK
	Date Signed:

#### PROVINCE OF NOVA SCOTIA COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, personally came and appeared \_\_\_\_\_\_, the 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

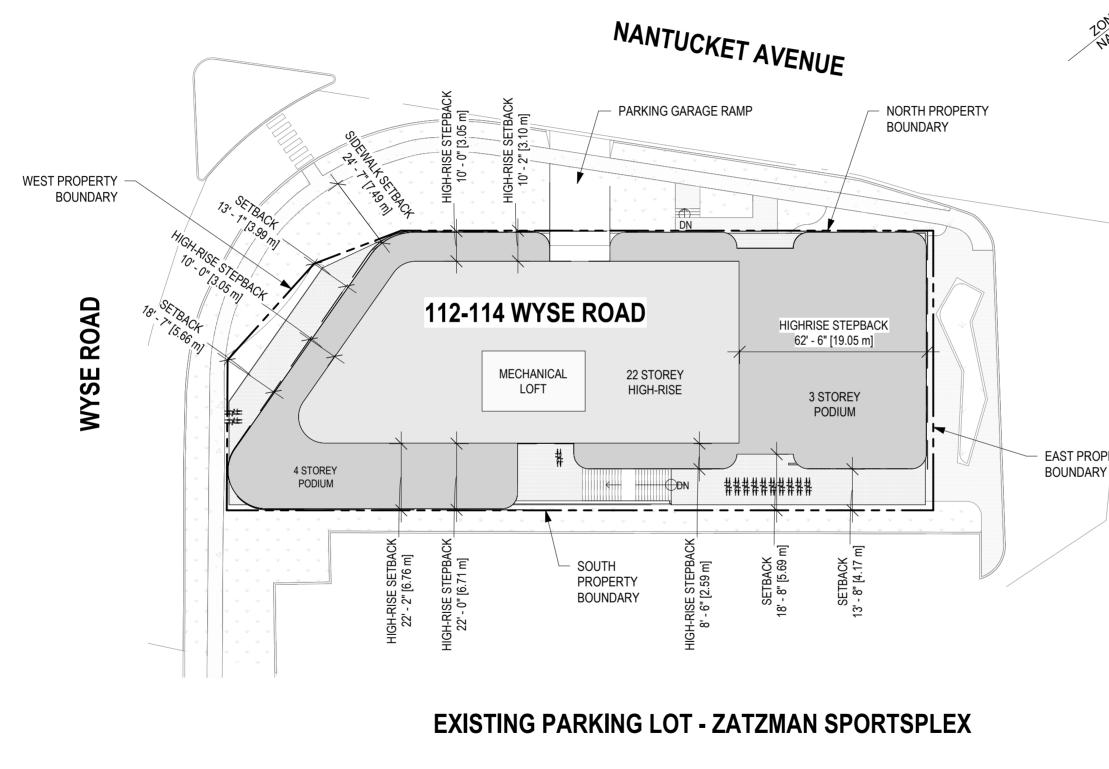
his/her presence.

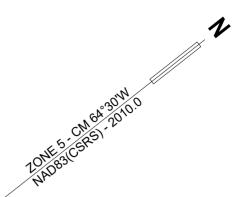
A Commissioner of the Supreme Court of Nova Scotia

#### PROVINCE OF NOVA SCOTIA COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, personally came and appeared \_\_\_\_\_\_, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Andy Fillmore, 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



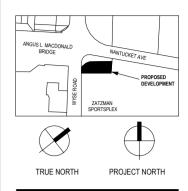


## EAST PROPERTY

# Fathom

#### Fathom Studio fathomstudio.ca

40 King St Dartmouth, NS B2Y 2R4



112 Wyse Road Partnership

### NOT FOR CONSTRUCTION

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Date 2024.07.24 2021.02.12 202.09.30 202.09.22 2019.07.29

## WYSE ROAD DEVELOPMENT

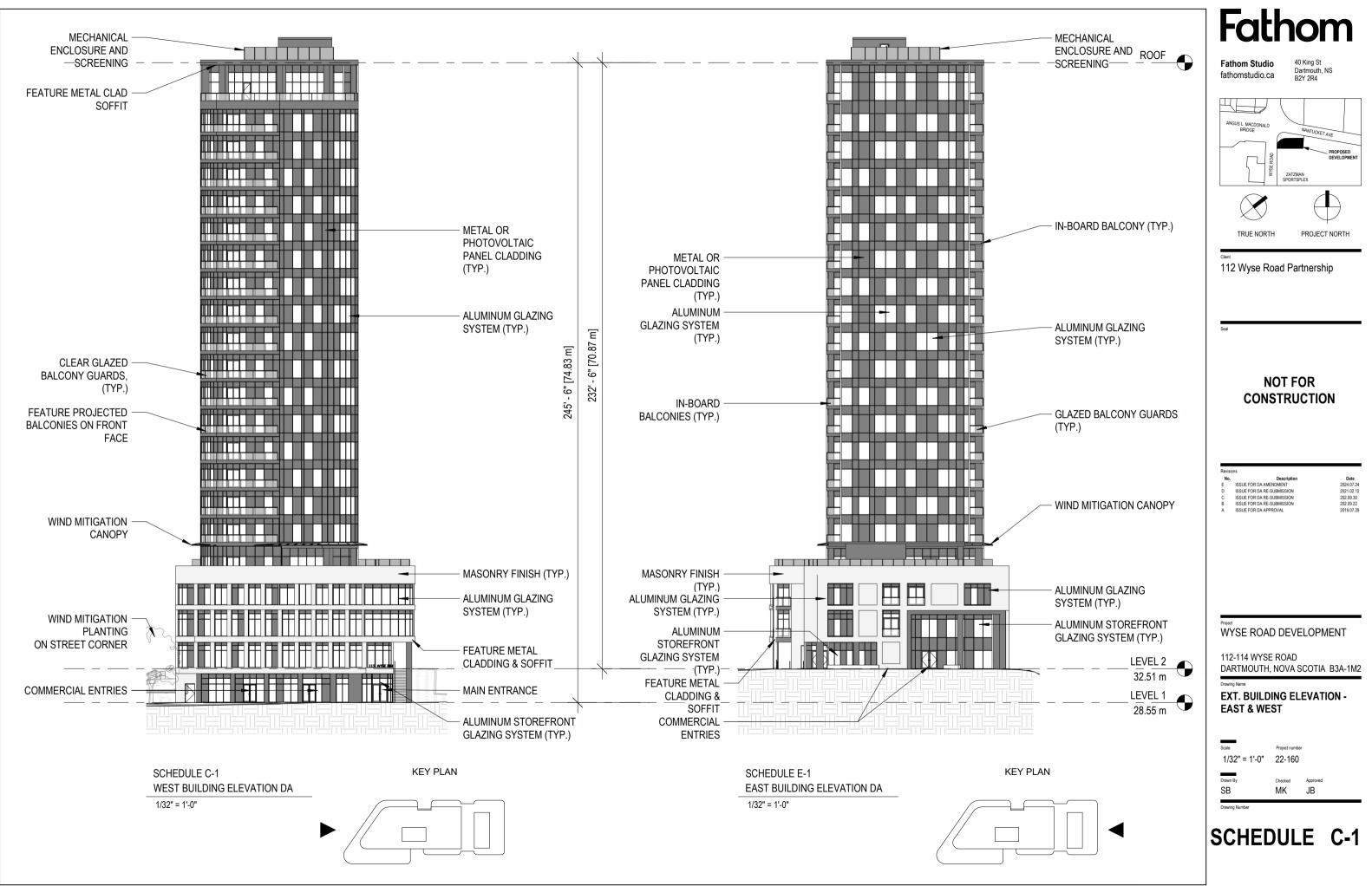
112-114 WYSE ROAD DARTMOUTH, NOVA SCOTIA B3A-1M2 Drawing Name

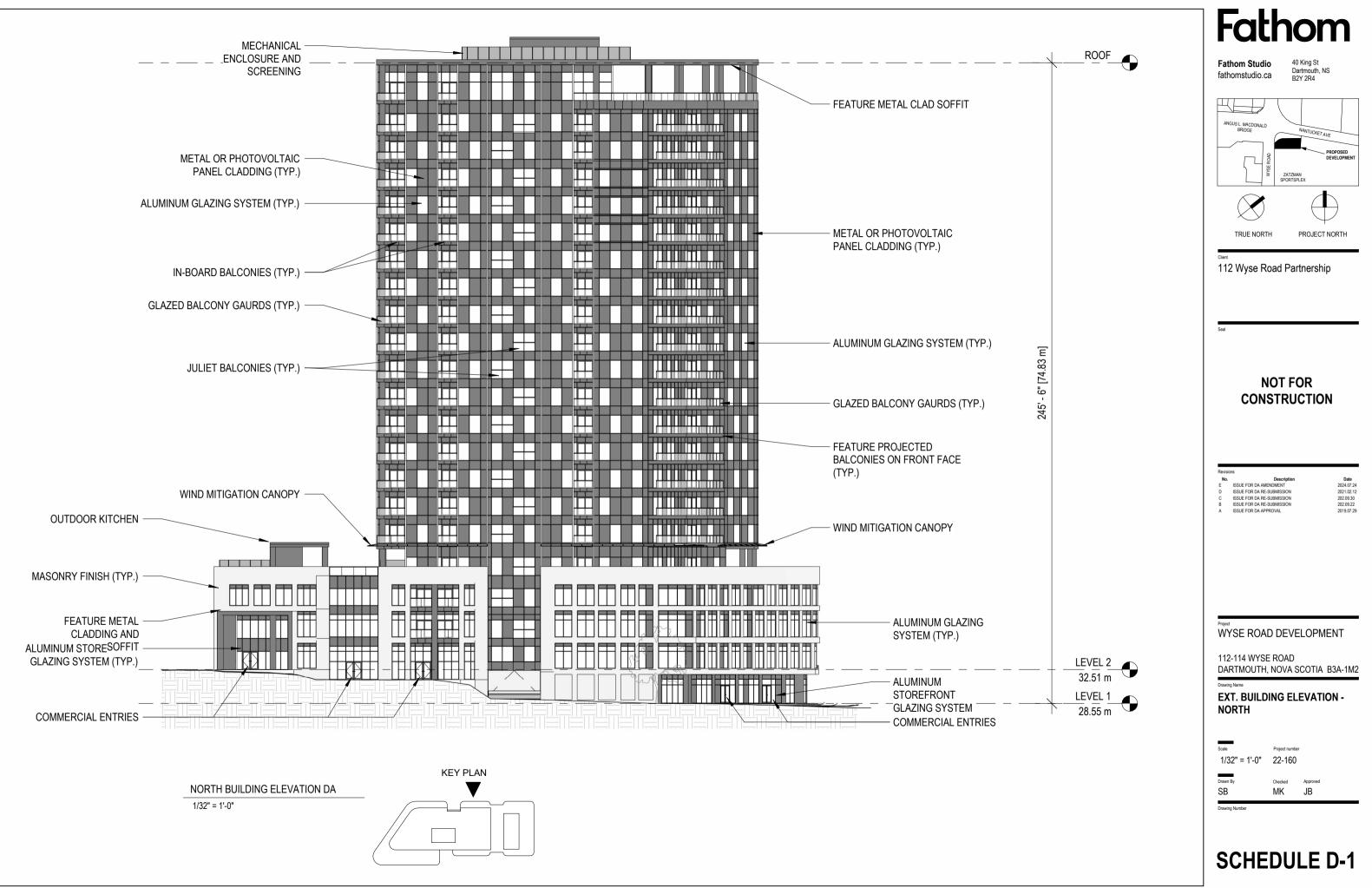
#### SITE PLAN

Scale Project number 1/32" = 1'-0" 22-160 Drawn By Checked Approve SB MK JB

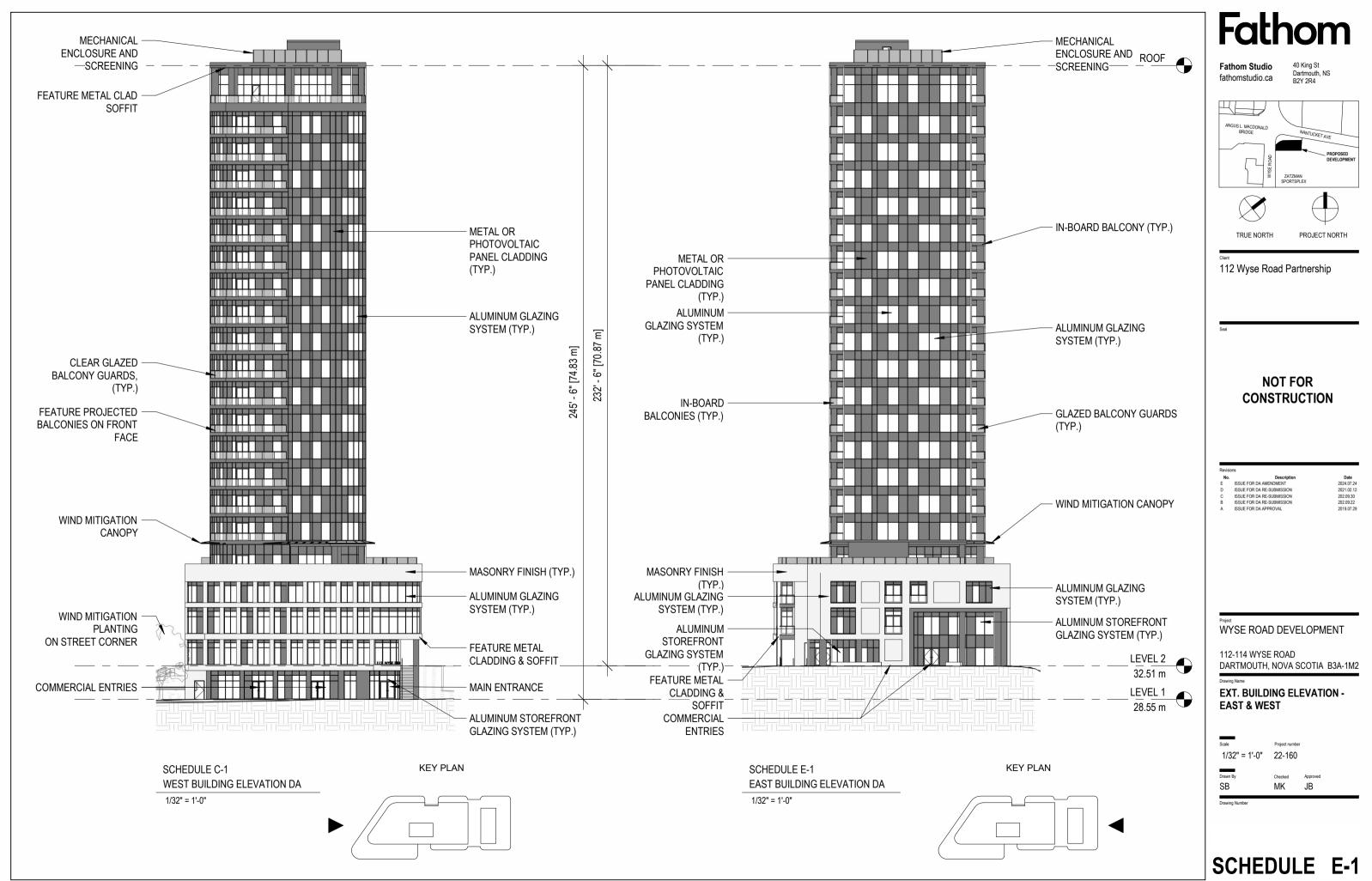
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**SCHEDULE B-1** 

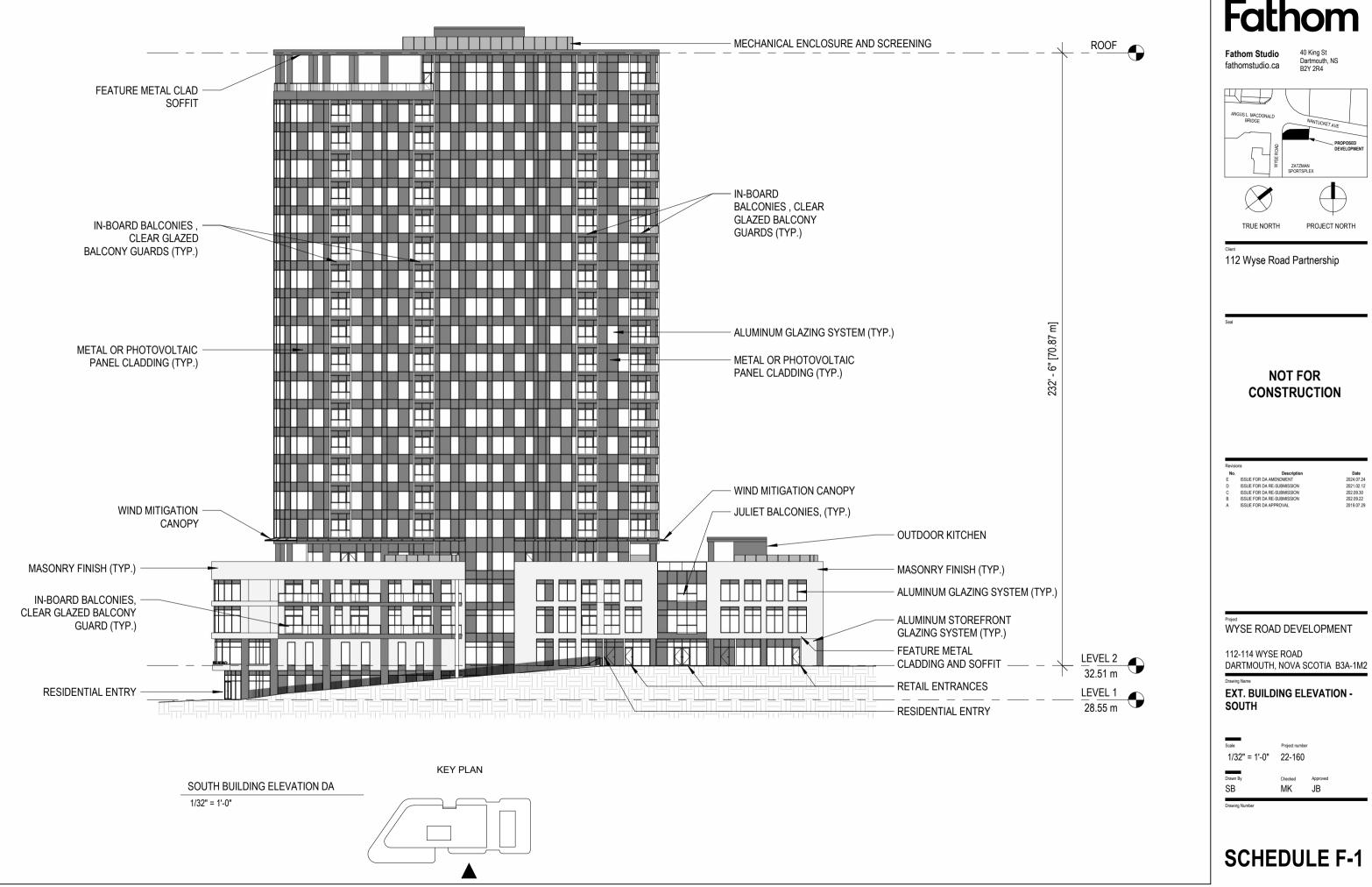




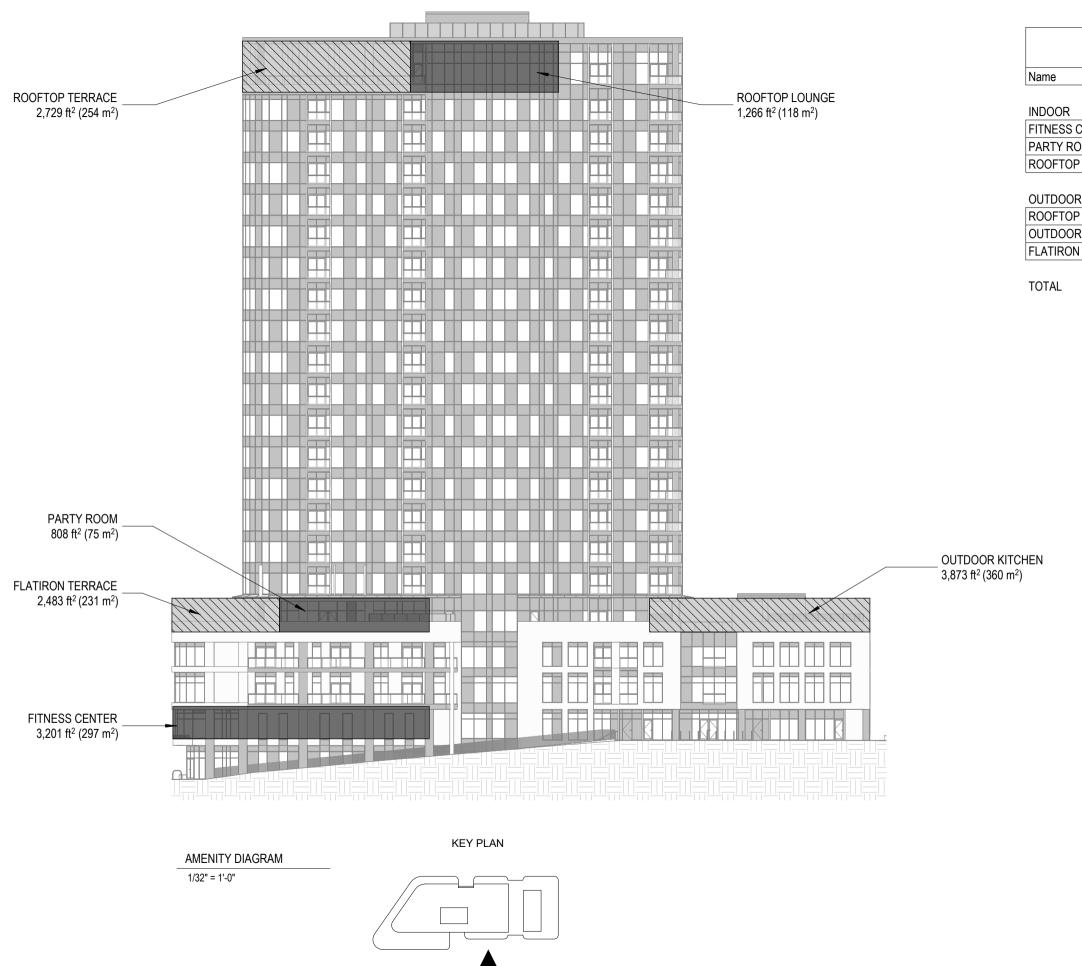
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## Fathom

40 King St Dartmouth, NS B2Y 2R4 Fathom Studio fathomstudio.ca KED ANGUS L. MACDONALD BRIDGE VANTUCKET AVE PROPOSED DEVELOPMEN ZATZMAN SPORTSPLEX  $\uparrow$ X TRUE NORTH PROJECT NORTH

112 Wyse Road Partnership

NOT FOR CONSTRUCTION

Revisio	ns
No.	Description
E	ISSUE FOR DA AMENDMENT
D	ISSUE FOR DA RE-SUBMISSION
С	ISSUE FOR DA RE-SUBMISSION
В	ISSUE FOR DA RE-SUBMISSION
Α	ISSUE FOR DA APPROVAL

Date 2024.07.24 2021.02.12 202.09.30 202.09.22 2019.07.29

## WYSE ROAD DEVELOPMENT

112-114 WYSE ROAD DARTMOUTH, NOVA SCOTIA B3A-1M2 Drawing Name

#### AMENITY DIAGRAM

Scale As indicated

22-160

Project number

Checked Approved MK JB

Drawing Number

Drawn By

SB

**SCHEDULE G-1** 

AMENITY SCHEDULE		
	Area (SF)	Area (SM)

CENTRE	4,482 ft²	416 m <sup>2</sup>
DOM	739 ft²	69 m²
LOUNGE	1,284 ft²	119 m²
	6,505 ft²	604 m²
२		
TERRACE	2,732 ft²	254 m²
R KITCHEN	3,537 ft²	329 m²
I TERRACE	2,456 ft <sup>2</sup>	228 m²
	8,726 ft <sup>2</sup>	811 m²
	15,230 ft <sup>2</sup>	1,415 m²

## AMENITY LEGEND





OUTDOOR AMENITY

## Attachment B – Review of Relevant MPS Policies

Regional Centre Secondary Municipal Planning Strategy			
PART 9: IMPLEMENTATION 9.11 Transition to this Plan			
Policy Staff Comments			
	<b>Policy IM-33.5</b> Applications for substantive amendments to certain existing development agreements may be considered under this Policy IM-33.5 for the following matters:		
(c) if the built form is substantially the same and the ratio of 2-bedroom units, which is 25%, is maintained, changes that allow an additional 2 storeys above the maximum permitted building height of 20 storeys on 112 and 114 Wyse Road (Case 22487).	The built form is substantially the same, and the minimum 25% ratio of 2-bedroom units is maintained. The only alteration to the built form is the additional two stories on the tower portion of the development. No other changes are permitted by this amending agreement.		
9.5 Discretionary Approvals			
<b>Policy IM-7</b> In considering proposals to amend the Land Use By-law, amend the zoning boundaries, or enter into development agreements, Council shall consider that:			
a) the proposal is consistent with the Vision, Core Concepts, Urban Design Goals, and all applicable objectives and policies set out in the Regional Plan and this Plan;	The proposal meets the objectives of Part 9: Implementation and is consistent with the intent of both the Regional Plan and this Regional Centre MPS.		
<ul> <li>b) the proposal is appropriate and not premature by reason of:</li> <li>i) the financial capacity of the Municipality to absorb any costs relating to the development,</li> <li>ii) the adequacy of municipal wastewater facilities, stormwater systems or water</li> <li>distribution systems</li> <li>iii) the proximity of the proposed development to schools, parks, and community facilities, and the capability of these services to absorb any additional demands</li> <li>iv) the adequacy of transportation infrastructure for pedestrians, cyclists, public transit and vehicles for travel to and within the development, and</li> <li>iii) The site is within the Dartmouth High Family of Schools which, according to the HRCE 2022 Outlook, all but Shannon Park is at 99% capacity, however HRCE did not request to review nor</li> </ul>			

v) the impact on registered heritage buildings, heritage streetscapes, and heritage conservation districts;	provide comment. The Education Act mandates that every person over the age of 5 and under 21 has the right to attend public school. While there may be operational challenges, the HRCE will ensure all students are provided access. The site is also has access to recreation facilities, parks, and community facilities. iv) the site is well serviced and in proximity to active transportation, transit, and collector roads/infrastructure. A supplementary TIS letter addressing the additional density was submitted and HRM found the findings acceptable. v) There are no heritage resources in proximity to this development.
c) the subject lands are suitable for development in terms of the steepness of grades, soil and geological conditions, locations of watercourses, wetlands, and susceptibility to flooding;	No concerns identified.
d) that development regulations in the proposed rezoning or development agreement will adequately mitigate potential conflict between the proposed development and nearby land uses, by reason of: i) type of use(s), ii) built form of the proposed building(s), iii) impacts on adjacent uses, including compatibility with adjacent residential neighbourhoods, parks, community facilities, and railway operations, iv) traffic generation, safe access to and egress from the site, and parking, v) open storage and signage, and vi) impacts of lighting, noise, fumes and other emissions.	<ul> <li>i) Uses are regulated by the development agreement.</li> <li>ii) the amending agreement does not alter existing built form requirements, other than the maximum height of the tower at the corner of Wyse Road and Nantucket Avenue.</li> <li>iii) no concerns or additional impacts identified as the proposal is largely substantially the same as the previous proposal.</li> <li>iv) A supplementary TIS letter was submitted to address the increase in density from the original approval. HRM staff found the supplementary letter satisfactory and noted no additional concerns.</li> <li>v) no changes from previous approval.</li> </ul>

## Halifax Regional Municipal Planning Strategy (Regional Plan)

## CHAPTER 3: SETTLEMENT AND HOUSING

<ul> <li>3.1 OBJECTIVES</li> <li>1. Direct growth so as to balance property rights and life-style opportunities with responsible fiscal and environmental management;</li> <li>2. Target at least 75% of new housing units to be located in the Regional Centre and urban communities with at least 25% of new housing</li> </ul>	Staff advise that this proposal is supported by and reasonably consistent with the Regional Centre growth intentions. The proposal brings additional new housing units to the Centre in an area where access to supporting goods, services, facilities, and infrastructure are available.
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units within the Regional Centre over the life of this Plan; 3. Focus new growth in centres where supporting services and infrastructure are already available; 4. Design communities that: (a) are attractive, healthy places to live and have access to the goods, services and facilities needed by residents and support complete neighbourhoods as described in 6.2.2A (v) of this Plan.	
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