



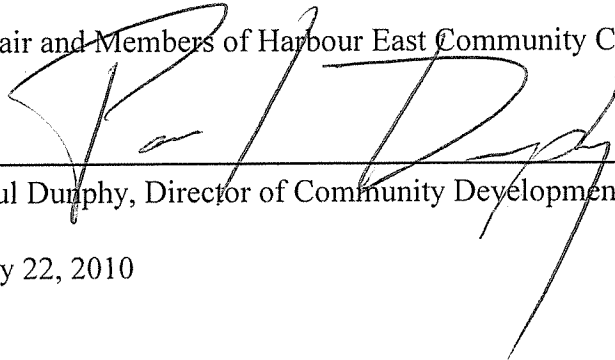
PO Box 1749
Halifax, Nova Scotia
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12.1

Harbour East Community Council
August 5, 2010

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:



Paul Durphy, Director of Community Development

DATE: July 22, 2010

SUBJECT: Case 15952: Development Agreement, Windmill Road, Dartmouth

ORIGIN

An application by Innovation Architects Ltd., for lands of 3030558 Nova Scotia Limited, to enter into a development agreement to permit a 70 unit residential building on lands located between Windmill Road, Basinview Drive, and Wright's Cove in Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. Give Notice of Motion to consider the development agreement as set out in Attachment A of this report, and schedule a public hearing;
2. Approve the proposed development agreement to permit a 70 unit residential building on the subject properties as set out in Attachment A of this report; and
3. 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

Subject Properties

The subject properties are located between Windmill Road, Basinview Drive, and Wright's Cove just southwest of the intersection of Akerley Drive and Windmill Road as illustrated on Map 1. The properties are approximately 129,527 square feet in size, although the Developer plans to conduct a consolidation and subdivision of the parcels that will result in two properties. The proposed residential building and development agreement would apply to Lot 1898AB which is approximately 90,879 square feet as illustrated on Map 3. The remainder property, Lot 1898AA is not subject to the proposed development agreement.

The subject properties are primarily zoned General Industrial (I-2) under the Dartmouth Land Use By-law (LUB) as illustrated on Map 1, although a small portion of the lands are zoned Single Family Dwelling (R-1). The proposed development is located within the Wright's Cove Secondary Plan which was approved by Regional Council in 2009. The properties are split designated Harbour Related Commercial Residential (HRCR) and Highway Commercial (HC) under the Wright's Cove plan as illustrated on Map 2.

The subject properties are located adjacent to several existing commercial businesses located on Windmill Road and the Dartmouth Yacht Club. Also, several single unit dwellings and an office/commercial building are located on Basinview Drive, a private road that abuts the subject parcel.

Proposal

The Developer is proposing a 6 storey, 70 unit residential building located toward the rear of the site and abutting Wright's Cove, Basinview Drive, and an existing single unit dwelling. The proposed concept plan is illustrated on Map 3 and the building elevations are attached to the proposed development agreement (Attachment A). The proposed building also contains 2 guest suites which the development agreement precludes from being constructed or renovated into dwelling units.

Access to the proposed development is solely from Windmill Road and there is no vehicular or pedestrian access via Basinview Drive. Access from two adjacent properties at the end of Basinview Drive is gained over the subject lands and the proposed development agreement ensures that a 15 foot wide access to these properties is maintained.

MPS Policy

Policy WC-4 (Attachment B) enables Council to consider proposals for multi-unit residential buildings within the HRCR designation by development agreement. The policy also enables consideration of other uses such as hotels, offices, restaurants and townhouses by development agreement. The intent of the policy is to enable residential developments while ensuring that the interests of existing commercial and residential uses are addressed.

DISCUSSION

Staff has reviewed the proposal relative to the applicable policies of the Dartmouth MPS (Attachment B). Policy WC-4 sets out specific criteria for developments in the Wright Cove area, while policies IP-5 and IP-1 (c) include more general criteria that apply to all multi-unit building proposals in Dartmouth. The following matters, including all applicable criteria from Policy WC-4, have been identified for more detailed discussion, while a review of additional criteria from policies IP-5 and IP-1(c) are set out in Attachment B.

Setback to Windmill Road

Policy WC-4 indicates that residential developments within the HRCR designation should generally be set back a minimum of 300 feet from Windmill Road so as not to compromise the commercial viability of this corridor. However, Council may allow variances to this setback provided that measures, such as buffering and screening, are undertaken to minimize potential impacts on commercial viability. A small portion of the proposed building is located within the 300 foot setback as illustrated on Map 3. However, the proposed building does not front on Windmill Road and the proposed development agreement requires construction of 6 foot opaque screen along the boundary of the lands and all existing commercial and residential uses that abut the lands.

Building Height

The height of any residential building that is adjacent to a single unit dwelling is limited to 6 storeys. The proposed building is 6 storeys and while limited portions of the underground parking structure are above grade in order to provide vehicular access and where the land slopes to Wright's Cove on the south side of the building, the design includes a flat roof which further limits the vertical scale of the building.

Sea Level Rise and Noise Mitigation

The main floor of the building, which is the lowest habitable floor that will contain dwelling units, is located at an elevation of 6.1 metres (20 feet) above sea level. The Developer has indicated that this elevation provides reasonable protection in relation to estimated sea level rise. The building will be clad with materials, such as masonry, hardi-plank or stucco, and windows with an STC rating of at least 30, that will mitigate noise impacts from harbour related uses.

Waterfront Trail

Development of a trail along the Halifax Harbour, and appropriate access to the trail from new residential developments are HRM objectives set out in Policy EC-8 (Attachment C) of the Regional Municipal Planning Strategy (RMPS). Policy WC-4 of the Wright's Cove Secondary Plan requires that proposals include provisions to accommodate a future waterfront trail. This can occur through trail construction, deeding of lands or easements to HRM or some combination thereof to accommodate the trail corridor. The Developer is proposing the following measures in relation to a future waterfront trail:

- Deed HRM a 12 foot wide primary trail easement that runs from Windmill Road to Wright's Cove and then along the high water mark to the western property boundary. The Developer

- is also proposing to construct a 5 foot wide concrete sidewalk between Windmill Road and the top of the proposed embankment on Wright's Cove (Map 3); and
- Deed a 5 foot wide easement to HRM that runs from the end of the Primary Trail easement at Wright's Cove and along the high water mark and then up along the top of the embankment to the eastern property boundary.

Staff are of the opinion that the proposed primary trail connection between Wright's Cove and Windmill Road is consistent with policies WC-4 and EC-8. However, the waterfront easement proposed by the Developer does not fully satisfy the applicable criteria of Policy WC-4 since it's location at the bottom of a rock embankment renders it a difficult and unlikely location for a future public trail. Staff were not successful in negotiating an alternative solution for the waterfront portion of the walkway easement that would render a future waterfront trail connection more likely.

Unexploded Military Ordinance

Staff and the Developer have met with Defence Construction Canada (DCC) officials to discuss the potential presence of unexploded ammunition resulting from an explosion that occurred at a nearby military installation in the 1940's. While DCC has indicated that it considers this to be a low risk site, the proposed development agreement requires an assessment of the potential presence of military ordinance, and its removal, by DND, prior to development of the site.

Buffering and Compatibility

Policies IP-5 and IP-1c emphasize that new multi-unit buildings should be designed in order to reduce potential impacts on existing uses. The height of the building is limited to 6 storeys and the design includes a flat roof which further minimizes the bulk and vertical scale of the building. Several gable pediments extend several feet above the roof but provide a break in the roof line and impose minimal impact from a height or scale perspective.

The proposed development agreement requires that a minimum 6 foot tall opaque screen be established between the development and all abutting properties. The screen that buffers the project from existing commercial businesses on Windmill Road is a fence while the screen along Basinview Drive and the adjacent residential properties is a combination of fencing and a hedgerow of coniferous plants, a minimum of 6 feet tall. The intent of the screening measures is to prevent access from the Lands to Basinview Drive and the adjacent properties as well as to provide a visual screen at ground level. The building and site are also laid out such that the vehicular entrances to the proposed building are located on the opposite side of the building than the adjacent residential properties and there is no vehicular or pedestrian access provided to Basinview Drive.

The proposed development agreement also establishes controls that will restrict site lighting from being directed to adjacent properties, require that mechanical equipment is screened and that any exposed foundation in excess of 1 metre is architecturally detailed or veneered. The exterior materials of the building also must include brick masonry and stucco or an equivalent and may not include wood or vinyl siding.

Relationship to Adjacent Properties

Survey plans for the proposed subdivision/consolidation of the subject properties indicate that both overhead service lines and private driveways cross a portion of the Lands. The proposed development agreement requires that the Developer register easements for access over a portion of the Lands, as illustrated on Map 3, to the three properties that use this area for access. Any utility or telecommunication lines or system which cross the Lands must either be relocated if they would be impacted by the development, or maintained if they are not impacted by the proposed development.

Infrastructure

Staff have reviewed the proposal in relation to municipal services and infrastructure and are satisfied that the proposed agreement will ensure that the development will comply with all municipal standards and design guidelines.

Conclusion

While staff do not feel that the waterfront trail features proposed by the Developer are sufficient to completely satisfy clause Policy WC-4 (e), it is necessary to consider the proposal comprehensively in relation to all applicable criteria. From this perspective, staff are of the opinion that the proposal satisfies the overall intent of the applicable MPS policies, including Policy WC-4 which was recently established to permit consideration of residential proposals in this area. Therefore, staff recommends that Council approve the proposed development agreement set out in Attachment A.

BUDGET IMPLICATIONS

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

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

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 a Public Information Meeting held on April 12, 2010. A public hearing has to be held by Council before they can consider approval of any amendments.

For the Public Information Meeting, notices were posted on the HRM website, in the newspaper and mailed to property owners within the notification area as shown on Map 1. Attachment D contains a copy of the minutes from the meeting. Should Council decide to proceed with a Public Hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on Map 1.

The proposed development agreement will potentially impact the following stakeholders: local residents, property owners, and businesses.

ALTERNATIVES

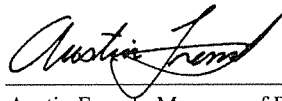
1. Council may choose to approve the proposed development agreement as set out in Attachment A. This is the recommendation of staff for reasons set out in this report.
2. Council may choose to approve the proposed development subject to modifications. This may necessitate further negotiation with the Developer and a second Public Hearing.
3. Council may choose to refuse the proposed development agreement set out in Attachment A, and in doing so, must identify conflict(s) with MPS policy. As indicated in the report, staff are of the opinion that the waterfront trail requirements of Policy WC-4 have not been completely satisfied, but that the proposal conforms with the overall intent of the applicable MPS policies.

ATTACHMENTS

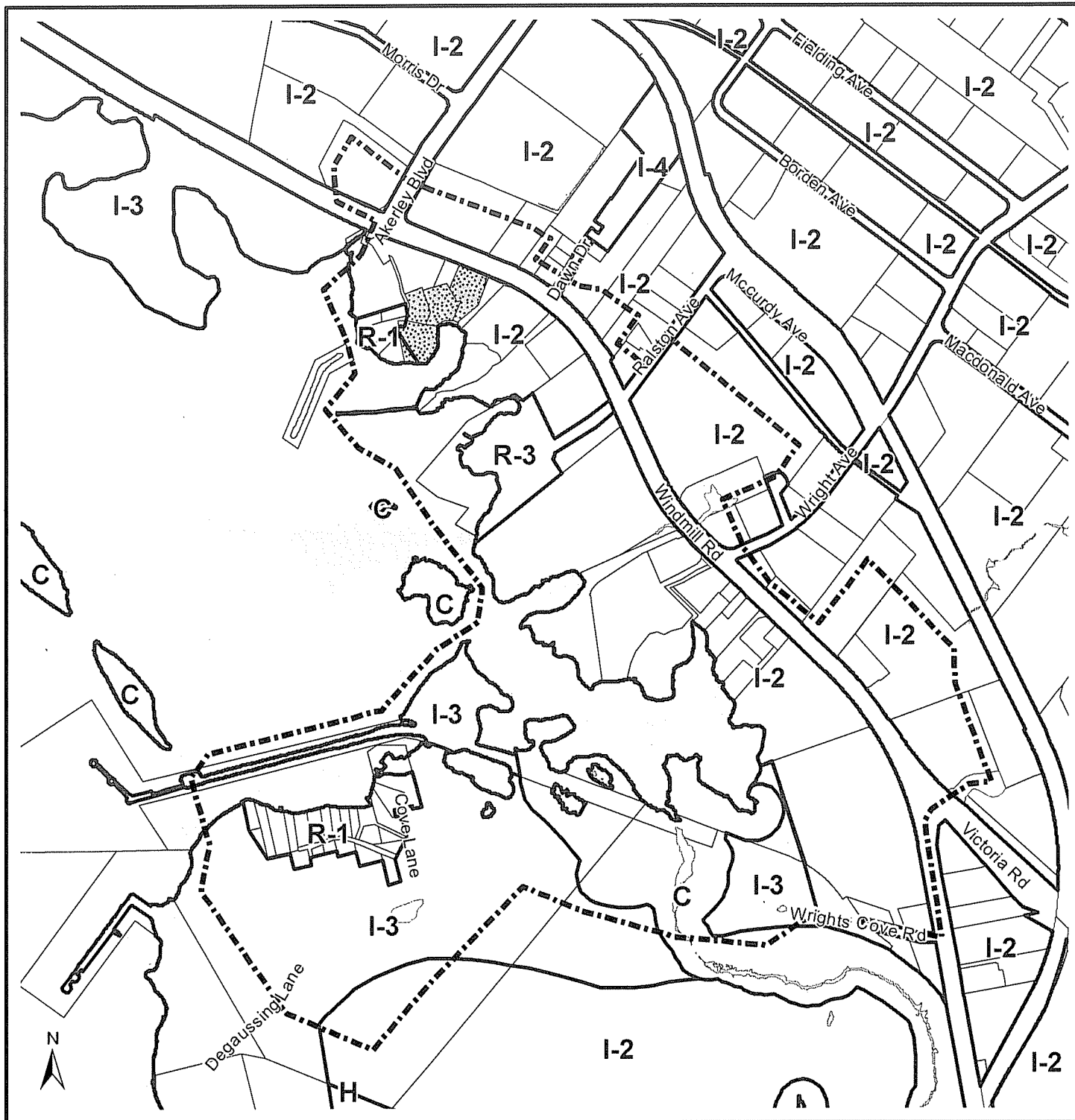
Map 1	Zoning and Location
Map 2	Wright's Cove Generalized Future Land Use Plan
Map 3	Proposed Concept Plan
Attachment A	Proposed Development Agreement
Attachment B	Excerpts from the Dartmouth MPS and Additional Policy Review
Attachment C	Excerpts from the Regional Municipal Planning Strategy
Attachment D	Excerpts from the Dartmouth LUB
Attachment E	Public Information Meeting Minutes
Attachment F	Public Submissions

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by : Joseph Driscoll, Senior Planner, Community Development, 490-3991




Report Approved by: Austin French, Manager of Planning Services, 490-6717



Map 1 - Zoning and Location

PIDs (00099689, 00099705, 00099721, & 00099739)

 Subject Property

 Notification Area

Dartmouth Plan Area

Zone

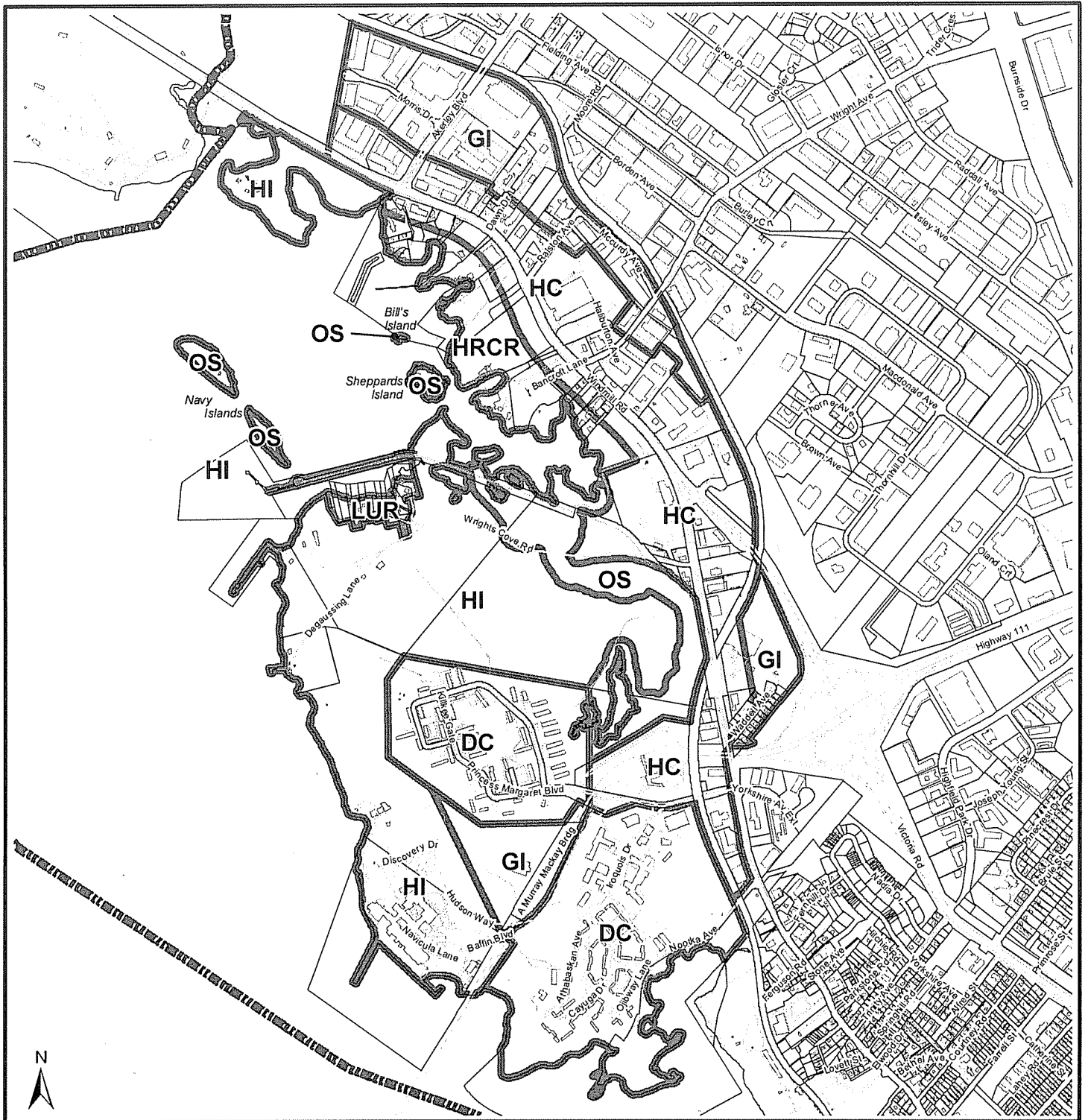
- R-1 Single Family Residential
- R-3 Multiple Family Residential (Medium Density)
- I-1 Light Industrial
- I-3 Harbour Oriented Industrial
- I-4 Salvage
- C Conservation
- H Holding

HALIFAX
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0 60 120 240 360
Meters

This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area

HRM does not guarantee the accuracy of any representation on this plan.



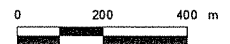
Map 2 Wright's Cove Future Land Use

Map 9V (Schedule WC-1)
of the Dartmouth MPS

Designation

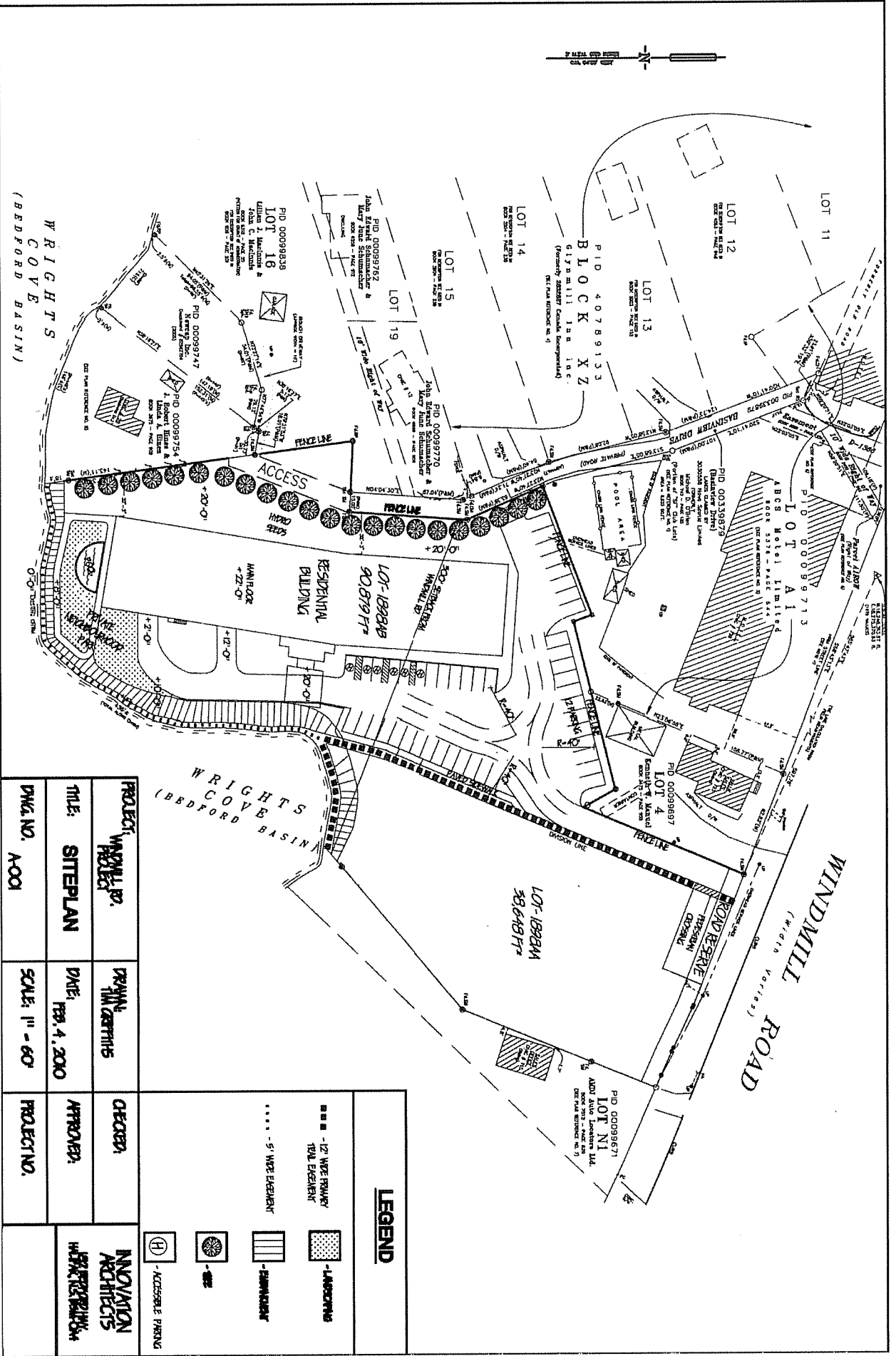
DC	District Centre
GI	General Industrial
HC	Highway Commercial
HI	Harbour Industrial
HRCR	Harbour Related Commercial Residential
LUR	Limited Use Residential
OS	Open Space

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COMMUNITY DEVELOPMENT
PLANNING SERVICES



Dartmouth Plan Area

HRM does not guarantee the accuracy of
any representation on this plan.



Map 3 : Concept Plan

HRM does not guarantee the accuracy of any base information.

July 16, 2010

Case 15952

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PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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

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

1.3 Applicability of Other By-laws, Statutes and Regulations

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

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

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

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

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

PART 2: DEFINITIONS

2.1 All words shall be as defined in the Dartmouth Land Use By-law and the Regional Subdivision By-law, and, if not defined in these documents their customary meaning shall apply.

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 15952:

Schedule A	Legal Description of the Lands(s)
Schedule B	Concept Plan
Schedule C	Building Elevations - Front and Rear
Schedule D	Building Elevations - Right Side
Schedule E	Building Elevation - Left Side

3.2 Requirements Prior to Approval

3.2.1 Final approval of the subdivision/consolidation of Lot 1898AB, as generally illustrated on Schedule B, must be granted prior to the issuance of a Development or Construction Permit. Lot 1898AB shall be a minimum of 90,879 square feet and shall conform with the Legal Description of the Lands set out in Schedule A of this Agreement. The approved plan of subdivision/consolidation for Lot 1898AB shall provide permanent access over the Lands for the benefit of PIDs 00099838, 000099747, and 00099754. This access must be provided by registering an easement or right-of-way for the benefit of these PIDs. The access provided pursuant to this clause shall be unobstructed and a minimum of 15 feet wide, as generally illustrated on Schedule B.

3.2.2 Prior to the issuance of a Development or Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Post applicable securities in accordance with this Agreement;
 - (b) Written confirmation that an assessment, and removal where applicable, of potential unexploded military ordinance(s) (UXOs) has been completed by the Department of National Defense (DND). The Development Officer also may accept written verification that DND is satisfied that no work or assessment related to UXO's is required on the Lands in order to satisfy the terms of this clause; and
 - (d) Verification, to the satisfaction of the Development Officer, that any utility or telecommunication line, system, or structure which is located on, above or underneath the Lands, and which services any other property, shall be relocated, at the expense of the Developer, and installed to a fully operational status and in conformance with all applicable requirements or standards of any applicable regulator and the provider of that utility or telecommunication service or product. Any such utility or telecommunication line, system or structure which is located on, above or underneath the Lands which would not be impacted by the proposed development may be maintained in its current state.
- 3.2.3 Prior to the issuance of a Construction Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Landscaping Plan in accordance with Section 3.8.2 of this Agreement;
 - (b) Lighting Plan in accordance with Section 3.7.2 of this Agreement; and.
 - (c) Verification, to the satisfaction of the Development Officer, that the Developer has provided permanent access over the Lands for the benefit of PIDs 00099838, 000099747, and 00099754. This access may be provided by registering an easement or right-of-way for the benefit of these PIDs, or by another method deemed satisfactory by the Development Officer. The access provided pursuant to this clause shall be unobstructed and a minimum of 15 feet wide.
- 3.2.4 Prior to the issuance of the Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Written confirmation from a Landscape Architect which certifies compliance with the Landscaping Plan required pursuant to section 3.8.2 of this Agreement;
 - (b) Easements for public access to a Primary Trail, and a potential walkway corridor along the highwater mark have been deeded to the Municipality as set out in section 3.14. Construction of a portion of the Primary Trail is also required pursuant to section 3.14;

- (c) Certification from a qualified Professional Engineer indicating that the Developer has complied with the Site Grading Plan and Stormwater Management Measures required pursuant to section 5.1 of this Agreement; and
 - (d) Certification from a qualified Professional Engineer that the Developer has complied with the required Erosion and Sedimentation Control Plan as required pursuant to section 5.2 of this Agreement.
- 3.2.5 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 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.
- 3.2.6 Notwithstanding Section 3.2.5, if relevant securities have been posted in accordance with this Agreement, to the satisfaction of the Development Officer, an Occupancy Permit may be issued.

3.3 General Description of Land Use

- 3.3.1 The use(s) of the Lands permitted by this Agreement are the following:
- (a) A multiple unit residential building that does not exceed 70 dwelling units;
 - (b) The multiple unit residential building referenced in 3.3.1 (a) may contain a maximum of 2 guest suites. The guest suites shall not contain kitchen facilities and shall be constructed so as not to be considered dwelling units; and
 - (c) A publically accessible easement for a waterfront trail and promenade shall be deeded to HRM as generally illustrated on Schedule B. The Developer shall construct a portion of the Primary Trail section of the walkway/promenade, as set out in section 3.14 prior to an Occupancy Permit being issued for the proposed building referenced in section 3.3.1.

3.4 Detailed Provisions for Land Use

- 3.4.1 The Developer shall provide the Development Officer with sufficient information to verify that the proposed development conforms with each of these requirements:
- a) Lot coverage: Lot coverage shall not exceed 25%;
 - b) Height: The multiple-unit residential building shall not exceed 6 storeys in height or exceed the heights above grade illustrated on Schedules C, D and E;

- c) Yard setbacks: No portion of the proposed building shall be located closer than 32 feet to Basinview Drive or any abutting property that contains a single unit dwelling;
- d) Parking: Vehicular and bicycle parking shall be provided in accordance with the Dartmouth Land Use By-law. A minimum of 50% of the required vehicular parking spaces shall be provided within the proposed building; and
- e) Amenity Space: The proposed building shall comply with section 34 (5) of the Dartmouth Land Use By-law with respect to the amount of amenity area that is provided for residents of the building.

3.4.2 Mix of Residential Units

The Developer agrees that the residential building shall contain the following mix of unit types:

- a) 58 dwelling units containing 2 or more bedrooms
- b) 12 dwelling units containing 1 bedroom
- c) 2 guest suites that shall not be designed or constructed so as to be considered dwelling units
- d) Notwithstanding clauses 3.4.2 a) to 3.4.2 c), the Development Officer may authorize a change in the mix of dwelling unit types provided that the number of units containing 2 or more bedrooms is not reduced below 50 units and the number of guest suites does not exceed 2 suites.

3.5 Siting And Architectural Requirements

3.5.1 The Developer agrees that the siting and location of the buildings shall conform with the site plan included with this Agreement as Schedule B and the Building Elevations included as Schedules C, D, and E.

3.5.2 The Developer agrees that the design, form, height and exterior appearance and materials of the building shall conform with the Building Elevations included with this Agreement as Schedules C, D, and E.

3.5.3 The roof of the building shall be flat and shall also include gable pediments as illustrated on Schedules C, D, and E. The gable pediments shall be permitted to extend a maximum of 3 feet above the roof line.

3.5.4 Exterior building materials shall be applied as illustrated on Schedules C, D, and E and shall include the following materials:

- a) Brick or stone masonry;
- b) Stucco, hardi-plank, or concrete split face masonry; and
- c) Balconies shall be comprised of vinyl or metal handrails and frames, and glass or other transparent material if panels are included.

- 3.5.5 Further to subsection 3.5.4, neither wood or vinyl siding are permitted materials on the exterior of the building.
- 3.5.6 The Developer agrees that roof mounted mechanical and/or telecommunication equipment shall be visually integrated into the roof design or screened and shall not be visible from any adjacent properties.
- 3.5.7 Any exposed foundation in excess of 1 metre shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Municipality.
- 3.5.8 All vents, down spouts, flashing, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design. These elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.
- 3.5.9 The building shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from adjacent residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless it is visually integrated into the design and screened.
- 3.5.10 All windows and balcony/patio doors shall minimize noise exposure from commercial and harbour uses to the interior of the dwelling units.

3.6 PARKING, CIRCULATION AND ACCESS

- 3.6.1 The parking area shall be sited as generally illustrated on Schedule B and no outdoor parking space shall be oriented such that it faces any abutting property containing a single unit dwelling.
- 3.6.2 Vehicular and bicycle parking shall be provided in accordance with the Dartmouth Land Use By-law. A minimum of 50% of the required vehicular parking spaces shall be provided within the proposed building.
- 3.6.3 The parking area and driveway shall be hard surfaced with asphalt, concrete, brick pavers or an acceptable equivalent.
- 3.6.4 The limits of the parking area and driveway shall be defined by concrete curb.

3.7 LIGHTING

- 3.7.1 Lighting shall be directed to driveways, parking areas, loading areas, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.7.2 Further to subsection 3.7.1, prior to the issuance of a Construction Permit, the Developer shall prepare a Lighting Plan and submit it to the Development Officer for review to determine compliance with Section 3.7 of this Agreement. The Lighting Plan shall

contain, but shall not be limited to, the following:

- a) The location, on the building and on the premises, of each lighting device; and
- b) A description of the type of proposed illuminating devices, fixtures, lamps, supports, and other devices.

3.7.3 The Lighting Plan and description shall be sufficient to enable the Development Officer to ensure compliance with the requirements of Section 3.7 of this Agreement. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the Developer shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

3.8 LANDSCAPING

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

3.8.2 Landscaping Plan

Prior to the issuance of a Construction Permit, the Developer agrees to provide a Landscaping Plan which complies with the provisions of this section 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, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.

3.8.3 All portions of the Lands not used for structures, parking areas, driveways, curbing, or walkways shall be landscaped except for areas where natural vegetative cover is maintained. Landscaping shall be deemed to include grass, mulch decorative stone or water features, planting beds, trees, bushes, shrubs or other plant material or decorative element deemed acceptable to the Development Officer.

3.8.4 The Landscaping Plan shall include the location, spacing and species of any vegetation required pursuant to sections 3.8 and 3.9 of this Agreement. The Developer shall maintain all landscaping, shrubs, plants, flower beds and trees and shall be replaced any damaged, dead or removed stock.

3.8.5 Compliance with Landscaping Plan

Prior to issuance of the 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 Agreement.

3.8.6 Notwithstanding subsection 3.8.5, the Occupancy Permit may be issued provided that the Developer supplies a security deposit in the amount of 110 percent of the estimated cost

to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.

3.9 Buffering and Screening

- 3.9.1 The Developer agrees to provide a minimum 6 foot tall opaque screen on the Lands, along the boundary of Basinview Drive, the abutting residential property at PID 00099754 and the access driveway for PIDs 00099754, 00099747 and 00099838, as generally illustrated on Schedule B. Provided that the height of the opaque screen is a minimum of six (6) feet, it may consist of a combination of fence and coniferous vegetation provided that a fence of a minimum height of 5 feet is provided along the boundary of Basinview Drive and PID 00099754.
- 3.9.2 If coniferous vegetation is utilized to partially satisfy the requirements of subsection 3.9.1 of this Agreement, the species, location and spacing of the trees shall be sufficient to form a 6 foot tall opaque screen, in the opinion of the Landscape Architect that prepares the Landscaping Plan required pursuant to subsection 3.8.2. As an alternative, the Developer may construct a 6 foot tall opaque fence comprised of solid wood boards, or an acceptable equivalent in the opinion of the Development Officer.
- 3.9.3 The Developer agrees to provide a minimum 6 foot tall opaque screen along the boundary of the commercial properties at PIDS 00099713 and 00099697. Provided that the height of the opaque screen is a minimum of six (6) feet, it may consist of a combination of fence and coniferous vegetation provided that a fence of a minimum height of 5 feet is provided.
- 3.9.4 Maintenance of the opaque screens required pursuant to subsections 3.9.1, 3.9.2 and 3.9.3, consisting of both fence and vegetation, shall be the responsibility of the Developer.
- 3.9.5 No tree or plant required pursuant to Section 3.9 of this Agreement may be removed unless the Development Officer is satisfied that the tree is dead or in severe decline or poses a risk to human safety or property. The Development Officer may require the opinion of a professional qualified to make such a conclusion prior to authorizing the removal of the vegetation. The Municipality shall not be responsible for the cost of retaining this professional assessment and opinion. Furthermore, no vegetation shall be

removed unless it is replaced to the satisfaction of the Development Officer.

- 3.9.6 Existing trees on the Lands may be retained in lieu of new trees provided that they are clearly illustrated on the Landscaping Plan and the Landscape Architect that prepares the Plan is of the opinion that the trees to be retained would survive and thrive following development and removal of some of the surrounding vegetation.
- 3.9.7 Notwithstanding any other provision of this Agreement, the opaque screen required pursuant to section 3.9 of this Agreement shall not impede any access, easement or right of way that is created or established in accordance with clause 3.2.1 of this Agreement.

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 Reinstatement

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

3.11 SIGNS

- 3.11.1 A maximum of one permanent ground sign shall be permitted to identify the residential building on the Lands. The location of such sign shall require the approval of the Development Officer, in consultation with the Development Engineer where applicable. The maximum height of any such sign inclusive of support structures shall not exceed 10 feet (3.05 m) and the face area of any sign shall not exceed 50 square feet (4.65 sq.m.). 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. This section shall not preclude the construction of decorative entrance gates.
- 3.11.2 Further to subsection 3.11.1, no flashing lights shall be incorporated in the sign and any lighting shall be arranged so as not to be directed at neighbouring properties.
- 3.11.3 Notwithstanding subsection 3.11.2, minor directional ground and fascia signs as may be required for vehicular/pedestrian traffic and "way-finding" purposes are permitted.

3.12 TEMPORARY CONSTRUCTION BUILDING

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 Occupancy Permit. The temporary

construction building shall not be located closer to Basinview Drive or adjacent residential properties than the multi-unit building permitted pursuant to this Agreement.

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 as to ensure minimal visual impact from residential properties along Basinview Drive. 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 Any mechanical equipment shall be screened from view from residential properties on Basinview Drive.

3.14 Waterfront Trail

- 3.14.1 The Developer shall deed a 12 foot wide public easement for a Primary Trail corridor to HRM. The easement shall begin at Windmill Road and extend to the high water mark at the bottom of the proposed embankment on Wright's Cove, and then along the high water mark to the eastern most boundary of the property line shared with PID 00099671 as generally illustrated on Schedule B. The Municipality may accept a portion of the Primary Trail intended for the use of cyclists to be located on the driveway, as generally illustrated on Schedule B.
- 3.14.2 The Developer shall construct a 5 foot wide concrete sidewalk between Windmill Road and the top of the embankment within the easement identified in subsection 3.14.1. The sidewalk shall be located as generally illustrated on Schedule B and shall be approved by the Development Officer, in consultation with the Development Engineer.
- 3.14.3 The Developer shall also deed a 5 foot wide public easement to HRM which begins near the end of the Primary Trail easement along Wright's Cove and extends to the southwest boundary of the Lands along the high water mark of Wright's Cove as illustrated on Schedule B.

3.15 Private Neighbourhood Park

- 3.15.1 The Developer shall construct a private neighbourhood park for the benefit of the residents. The park area shall be located as generally illustrated on Schedule B.
- 3.15.2 The private neighbourhood park may contain a swimming pool. The pool may be covered and enclosed provided that all setback and lot coverage requirements established pursuant to this Agreement are met.

- 3.15.3 The private neighbourhood park shall count toward the amenity space required pursuant to clause 3.4.1 (e) of this Agreement.
- 3.15.4 The landscaping and design for the private neighbourhood park shall conform with Section 3.8 of this Agreement.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 Other Approvals

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 sanitary sewer system, water supply system, stormwater sewer and drainage systems, streets, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of HRM and other approval agencies, except as provided herein. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All construction shall be in accordance with Municipal Specifications and By-laws.

4.2 Off-Site Disturbance

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 Site Preparation

The Developer shall not commence clearing, excavation or blasting activities prior to satisfying the Development Officer of conformance with both of the following:

- a) Written confirmation that an assessment, and removal where applicable, of potential unexploded military ordinance(s) (UXOs) has been completed by the Department of National Defense (DND). The Development Officer also may accept written verification that DND is satisfied that no work or assessment related to UXO's is required on the Lands in order to satisfy the terms of this clause.

4.4 Outstanding Site Work

The Municipality may accept securities for the completion of outstanding on-site paving and landscaping work (at the time of issuance of the Occupancy Permit). Such securities shall consist of a security deposit in the amount of 110 percent of the estimated cost to complete the work. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable automatically renewing letter of credit issued by a chartered bank. The security shall be returned to the Developer by the Development Officer when all outstanding work is satisfactorily completed.

4.5 Solid Waste Facilities

- 4.5.1 The building shall include designated space for three stream (refuse, recycling and composting) source separation services. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.
- 4.5.2 Refuse containers and waste compactors shall be screened from public view by means of opaque fencing or masonry walls with suitable landscaping.

4.6 No Access to Basinview Drive

There shall be no vehicular or pedestrian access or connection established from the Lands to Basinview Drive with the exception of the access over the Lands for the benefit of adjacent properties as set out in clause 3.2.1 of this Agreement.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Site Grading Plan and Stormwater Management

No Development Permit shall be issued unless a Site Grading Plan, prepared by a qualified Professional Engineer in accordance with the Municipal Design Guidelines, is submitted to the Municipality. The plan(s) shall identify stormwater management measures to minimize any adverse impacts on adjacent lands or stormwater drainage systems during and after construction.

5.2 Erosion and Sedimentation Control Plan

Prior to the commencement of any onsite works on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated offsite works, the Developer shall have prepared by a Professional Engineer and submitted to the Municipality a detailed Erosion and Sedimentation Control Plan. The plans shall comply with the *Erosion and Sedimentation Control Handbook for Construction Sites* as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other Sections of this Agreement, no work is permitted on the site until the requirements of this clause have been met and implemented.

5.3 Erosion Control

No Occupancy Permit shall be issued unless the entire lot is either fully stabilized with sod or is temporarily stabilized in a manner deemed acceptable to the Municipality. Any temporary stabilization of the lot shall be replaced with final landscaping (top soil and sod) within six (6) months of the issuance of the Occupancy Permit. The owner of the lot shall be responsible for ensuring that any temporary stabilization materials are replaced and/or maintained on an as-required basis to ensure that exposed soil is adequately stabilized at all times.

5.4 Stormwater Management System

The Developer agrees to construct at its own expense the Stormwater Management System associated with the proposed development. The Developer shall provide certification from a Professional Engineer that the system has been constructed in

accordance with the approved design. 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.

5.5 Failure to Conform to Plans

If the Developer fails at any time during any site work or construction to fully conform to the requirements set out under Part 5 of this Agreement, the Municipality shall require that all site and construction works cease, except for works which may be approved by the Development Engineer to ensure compliance with the environmental protection plans.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

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

- (a) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
- (b) The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

6.2 Substantive Amendments

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

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

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

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within 5 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4. Completion of Development

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

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

7.5 Discharge of Agreement

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

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

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

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

8.2 Failure to Comply

If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer 30 days written notice of the failure or default, then in each such case:

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

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2010.

SIGNED, SEALED AND DELIVERED in
the presence of:

3030558 NOVA SCOTIA LIMITED

Per: _____

Per: _____

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

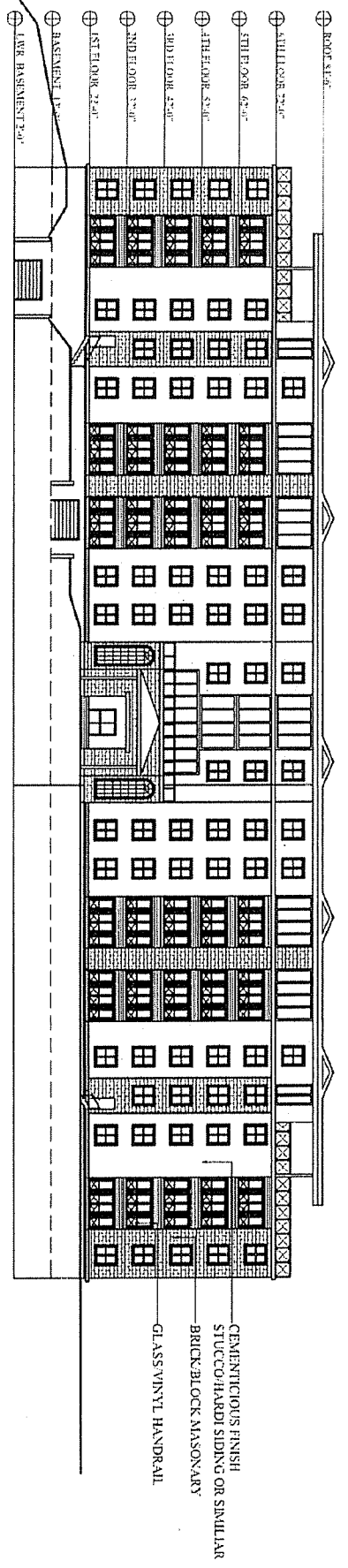
**HALIFAX REGIONAL
MUNICIPALITY**

Per: _____

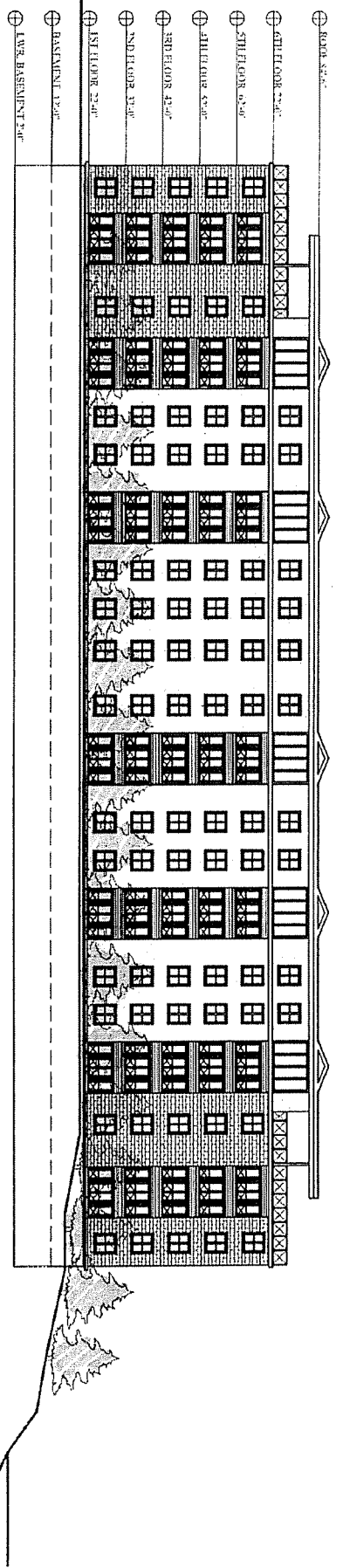
Mayor

Per: _____

Municipal Clerk



FRONT ELEVATION



REAR ELEVATION

Schedule C: Front and Rear Elevations

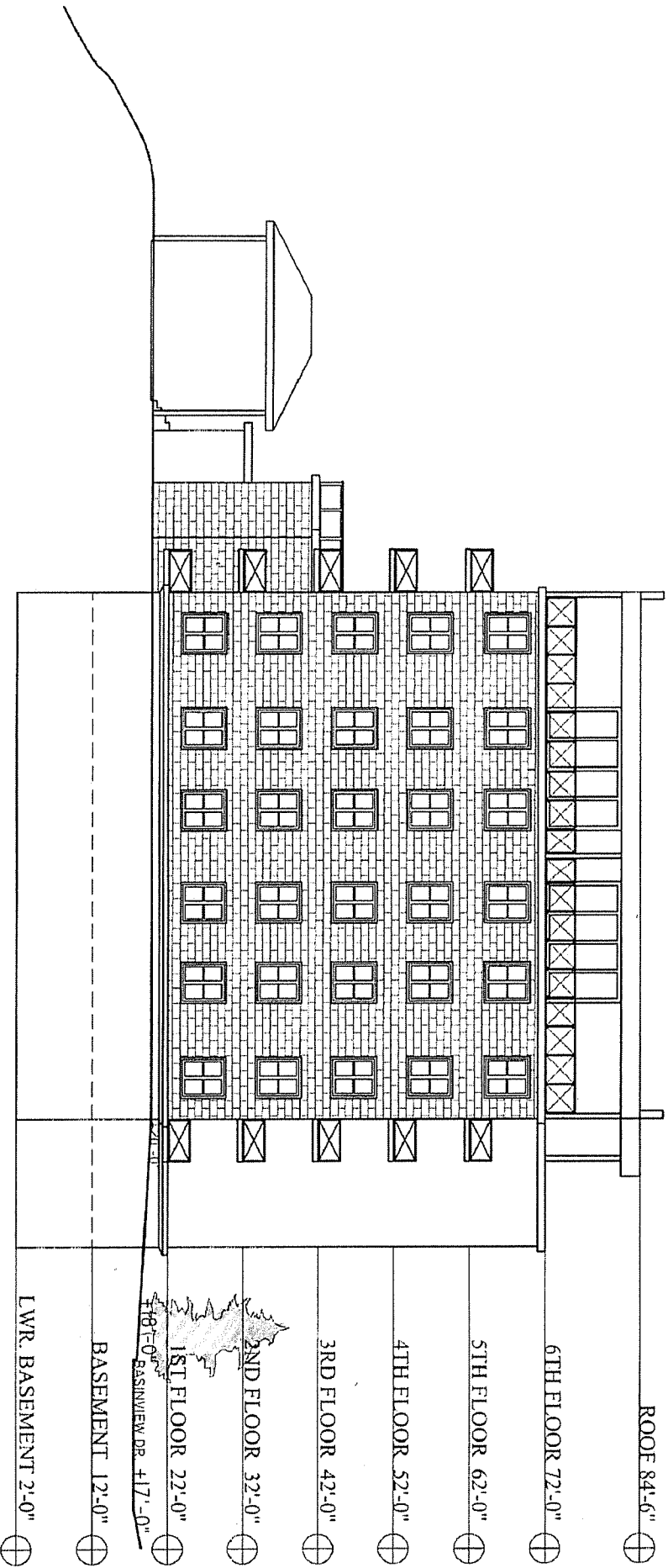
HRM does not guarantee the accuracy of any base information.

July 5, 2010

Case 15952

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RIGHT ELEVATION

Schedule D: Right Side Elevations

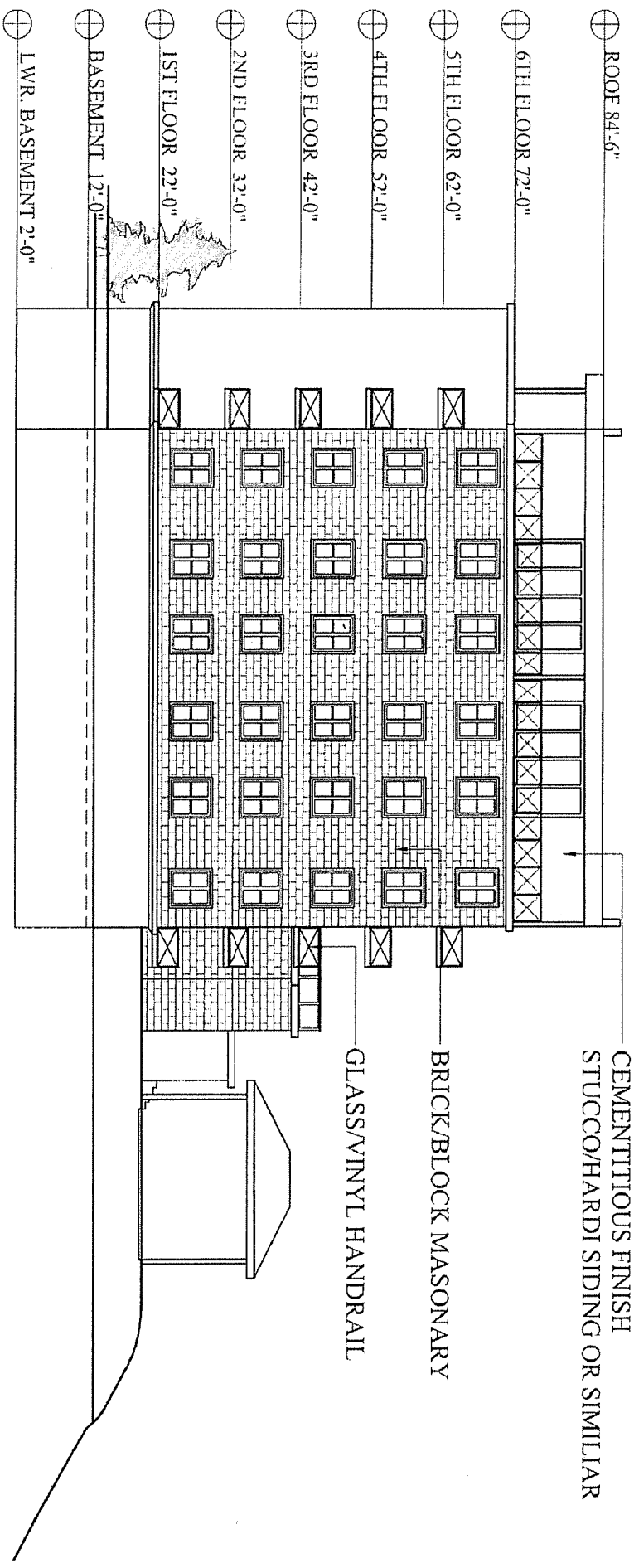
HRM does not guarantee the accuracy of any base information.

July 5, 2010

Case 15952

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LEFT ELEVATION

Schedule E: Left Side Elevations

HRM does not guarantee the accuracy of any base information.

July 5, 2010

Case 15952

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Attachment B: Excerpts from the Dartmouth MPS and Additional Policy Review

Please note: A review of the proposed development relative to the applicable criteria of Policy WC-4 is included in the Discussion section of this report. A review of the proposed development relative to policies IP-5 and IP-1(c) is included within this attachment.

Commercial Designations:

Lands bordering Windmill Road are suitable for highway-related commercial development to benefit from the visibility to passing traffic, but, more general industrial uses, which can be incompatible with highway commercial uses, will be supported on lands within the Burnside Business Park further to the north of the highway.

Lands between the inner-cove shoreline and highway commercial uses are not suitable for many highway commercial uses but offer opportunities for businesses that can take advantage of the harbour views or utilize the more shallow waters of the cove. Residential developments may also be integrated within this area, provided that controls are established to protect the interests of commercial uses and existing residential uses, as well as the new occupants.

Policy WC-3: The Highway Commercial designation is intended to support highway related commercial development on lands bordering Windmill Road. Permitted uses shall include retail and wholesale, restaurants, institutional, offices and existing industrial in conformity with the I-2 zone standards of the Land Use By-law. Amendments to the Land Use By-law may be made to permit uses which are similar to those identified under this policy except that no new residential or industrial uses shall be permitted within this designation. By-law amendments may also be made to revise development standards or approval requirements.

Policy WC-4: Within the Harbour-Related Commercial/Residential designation shown on Schedule WR-1, existing business will be permitted to expand in accordance with the I-2 (General Industrial) Zone provisions of the Land Use By-law. Harbour-related commercial uses, institutional uses, offices, hotels, townhouses, apartment buildings, restaurants and public and private recreation uses may be considered within this designation subject to approval of a development agreement. The following matters shall be considered in any agreement:

- (a) no residential development may be located within 300 feet of the Windmill Road right-of-way except that minor variances to this setback may be considered provided that the development viability of the commercial area is not compromised and effective screening, such as fencing or landscaping, is included to serve as a buffer between the commercial and residential developments;**
- (b) no building shall exceed 16 storeys in height;**
- (c) notwithstanding (b) above, no building shall exceed six (6) storeys**

- in height where the building is proposed to be located on a property abutting, or adjacent to, a property containing a single-unit dwelling in existence at the time of application for a development agreement;
- (d) measures are taken in the building design of residential, institutional or office uses to mitigate noise;
 - (e) where applicable, provision is made for the construction of a publicly accessible waterfront trail across the lands;
 - (f) all development on the lands shall incorporate provisions that mitigate potential damages from coastal flooding and storm-surge events;
 - (g) that a survey be completed by a qualified person, verifying that there is no evidence of unexploded ordnance on and adjacent the subject site, particularly if water-lot infill is being proposed;
 - (h) any development contemplated on Sheppard's Island cover no more than twenty-five percent (25%) of the area of the island, and the trees on the remaining seventy-five percent (75%) area are retained in order to screen development on the island and mainland from harbour-related industrial activities in the outer cove; and
 - (i) the criteria of policy IP-1(c) and IP-5 for any apartment building development.

(o) Apartment Building Development

Careful consideration should be given to the construction of apartment buildings throughout the City. Recently, concerns have been expressed about the exterior design, density, concentration, site treatment, massing and traffic issues as they relate to apartment development. These issues could be addressed by the Development Agreement process and would also permit public involvement in the evaluation of the proposed development.

Policy IP-5 It shall be the intention of City Council to require Development Agreements for apartment building development in R-3, R-4, C-2, MF-1 and GC Zones. Council shall require a site plan, building elevations and perspective drawings for the apartment development indicating such things as the size of the building(s), access & egress to the site, landscaping, amenity space, parking and location of site features such as refuse containers and fuel storage tanks for the building.

In considering the approval of such Agreements, Council shall consider the following criteria:

	Policy	Comment
(a)	adequacy of the exterior design, height, bulk and scale of the new apartment development with respect to its compatibility with the existing neighbourhood;	The proposal includes a 6 storey building which is the maximum height as set out in policy WC-4. The building contains a flat roof design which will reduce it's vertical scale, and is to be clad with a combination of materials which include brick or block masonry and stucco or another cementitious finish.
(b)	adequacy of controls placed on the proposed development to reduce conflict with any adjacent or nearby land uses by reason of:	
(i)	the height, size, bulk, density, lot coverage, lot size and lot frontage of any proposed building;	Controls on the height and bulk of the proposed building are described above. The proposal meets the R-3 (Multiple Family Residential - Medium Density) Zone standards for density and lot coverage. The flag lot frontage configuration was reviewed from an access perspective and staff did not identify any concern. The flag lot design also allows for a larger remainder parcel on Windmill Road which will be developed with industrial/commercial uses in accordance with the Land Use By-law and the Highway Commercial designation of the WCSPS.
(ii)	traffic generation, access to and egress from the site; and	A traffic analysis was submitted by the Developer and was found to meet HRM guidelines. The proposed access/egress to Windmill Road was reviewed by staff and does not represent a concern. There is no access permitted between the subject property and Basinview Drive.
(iii)	parking;	Parking is required pursuant to the requirements of the Land Use By-law, and a minimum of 50% of the required parking must be located within the building.
(c)	adequacy or proximity of schools, recreation areas and other community facilities;	HRM has advised the Halifax Regional School Board of the proposed development for their planning purposes. There are currently limited recreation areas in the immediate vicinity of the proposed development, however the proposed agreement requires that amenity space be provided in accordance with the LUB, a portion of which must include a private neighbourhood park as illustrated on Map 3.

	Policy	Comment
		As set out in the Discussion section of this report, staff are of the opinion that waterfront trail requirements of Policy WC-4 have not been completely satisfied, but that the proposal conforms with the overall intent of the applicable MPS policies. The corridor from Windmill Road to Wright's Cove is consistent with HRM's goals for a waterfront trail in the Wrights Cove area (Policy WC-4), but staff are of the opinion that, although access is provided, that it will be difficult or unlikely for HRM to utilize the proposed easement along the high water mark at the bottom of a future embankment.
(d)	adequacy of transportation networks in, adjacent to, and leading to the development;	Staff have reviewed the proposed access/egress to the site as well as a traffic analysis, prepared a Professional Engineer, and submitted by the Developer
(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;	The proposed agreement requires that amenity space is provided in accordance with the Land Use By-law. Features will include balconies for the dwelling units and a private neighbourhood park. A professional Landscape Architect must prepare the Landscaping Plan and details.
(f)	that mature trees and other natural site features are preserved where possible;	Development of the site will require removal of some vegetation as will the UXO examination required pursuant to the development agreement and Policy WC-4. A 6 foot tall opaque coniferous screen must be planted along the eastern boundary of the property.
(g)	adequacy of buffering from abutting land uses;	A combination of fencing and/or planting is required between the proposed building and existing uses. The fencing/planting must provide for a 6 foot tall opaque screen.
(h)	the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment; and	The proposed agreement requires the submission of a site grading plan(s), identification of stormwater management measures, and erosion controls. These plans must conform with HRM and Provincial standards as well as minimize impacts on adjacent properties.

	Policy	Comment
(i)	the Land Use By-law amendment criteria as set out in Policy IP- 1(c). <u>As amended by By-law C-692, Dec. 4, 1991.</u>	See below.

IP-1(c) Zoning By-law

The Zoning By-law is the principal mechanism by which land use policies shall be implemented. It shall set out zones, permitted uses and development standards which shall reflect the policies of the Municipal Development Plan as per Section 33 (3) of the Planning Act. **The zoning by-law may use site plan approval as a mechanism to regulate various uses. (RC-Sep 8/09;E-Nov 14/09)**

Notwithstanding the above, it shall be the intention of Council not to pre-zone lands outside the development boundary as shown on the Generalized Land Use Plan: Map 9;

Map 9b, 9c, 9d, 9e, 9g, 9h,9i (By-law 633), 9i (By-law 724), 9j, 9q, 9m, 9o, 9p (Portland St), 9p (Craigwood) and 9r (As amended by By-law C-475, Sept. 20, 1983 and By-law C-493, Dec.9, 1983 and By-law C-511, July 6, 1984).

It shall recognize that certain areas are premature for specific zoning classifications by reason of lack of services, public facilities or other constraints. Council shall use the H-zone (Holding Zone). *In the H Zone the permitted types of uses shall be limited in accordance with the Reserve classification in Table 4 (As amended by By-law C-475, Sept. 20, 1983).* In this manner, Council can maintain a comparatively high degree of control, and major development proposals contemplated for such areas shall be processed as zoning amendments.

In considering zoning amendments and contract zoning, Council shall have regard to the following:

	Policy	Comment
(1)	that the proposal is in conformance with the policies and intent of the Municipal Development Plan	The proposal may be considered in accordance with policies WC-4, IP-5, and IP-1c).
(2)	that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal	The agreement includes controls to ensure that the proposed building complies with the height limits established in WC-4 and the density and lot coverage standards of the Land Use By-law for the R-3 (Multiple Family - Medium Density) Zone.

	Policy	Comment
(3)	provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries	The agreement restricts access from the Lands to Basinview Drive and requires a 6 foot tall opaque screen comprised of fencing and coniferous vegetation between the proposed building and existing uses in order to limit access and provide a ground level screen to the proposed development.
(4)	that the proposal is not premature or inappropriate by reason of:	
	(i) the financial capability of the City is to absorb any costs relating to the development	No concerns were identified regarding potential financial implications for HRM.
	(ii) the adequacy of sewer and water services and public utilities	No concerns were identified regarding the capacity of sewer or water.
	(iii) the adequacy and proximity of schools, recreation and other public facilities	<p>HRM has advised the Halifax Regional School Board of the proposed development for their planning purposes. There are currently limited recreation areas in the immediate vicinity of the proposed development, however the proposed agreement requires that amenity space be provided in accordance with the LUB, a portion of which must include a private neighbourhood park as illustrated on Map 3.</p> <p>As set out in the Discussion section of this report, staff are of the opinion that waterfront trail requirements of Policy WC-4 have not been completely satisfied, but that the proposal conforms with the overall intent of the applicable MPS policies. The corridor from Windmill Road to Wright's Cove is consistent with HRM's goals for a waterfront trail in the Wrights Cove area (Policy WC-4), but staff are of the opinion that, although access is provided, that it will be difficult or unlikely for HRM to utilize the proposed easement along the high water mark at the bottom of a future embankment.</p>
	(iv) the adequacy of transportation networks in adjacent to or leading to the development	A traffic analysis and the proposed driveway access were reviewed by staff and no concerns were identified.

	Policy	Comment
	(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas	The proposed agreement includes requirements for site grading, stormwater management and erosion and sedimentation controls in accordance with applicable HRM and Provincial standards.
	(vi) preventing public access to the shorelines or the waterfront	The Developer is proposing to construct a trail corridor from Windmill Road to Wright's Cove and also deed an easement at the high water mark to HRM. The corridor from Windmill Road to Wright's Cove is consistent with HRM's goals for a waterfront trail in the Wrights Cove area (Policy WC-4), but staff are of the opinion that, although access is provided, that it will be difficult or unlikely for HRM to utilize the proposed easement along the high water mark at the bottom of a future embankment.
	(vii) the presence of natural, historical features, buildings or sites	Staff are not aware of any such features on the Lands.
	(viii) create a scattered development pattern requiring extensions to truck facilities and public services while other such facilities remain under utilized	The development would utilize sewer, water and transportation infrastructure that is already in place.
	(ix) the detrimental economic or social effect that it may have on other areas of the City.	Staff are not aware of any potential detrimental effects that the development may pose.
(5)	that the proposal is not an obnoxious use	The proposed use is residential and is not expected to produce any obnoxious impacts.

	Policy	Comment
(6)	that controls by way of agreements or other legal devices are placed on proposed developments to ensure compliance with approved plans and coordination between adjacent or near by land uses and public facilities. Such controls may relate to, but are not limited to, the following:	
	(i) type of use, density, and phasing	The use and density are controlled by the agreement. There is no phasing as the development is comprised of a single building.
	(ii) emissions including air, water, noise	The development is not expected to generate emissions that will warrant controls. However, mechanical equipment must be screened from adjacent properties.
	(iii) traffic generation, access to and egress from the site, and parking	Discussed above.
	(iv) open storage and landscaping	The proposed agreement requires that landscaping measures be planned and certified by a Landscape Architect. Open storage is not permitted.
	(v) provisions for pedestrian movement and safety	The agreement requires that the Developer construct a sidewalk from Windmill Road to the proposed building.

	Policy	Comment
	(vi) management of open space, parks, walkways	<p>There are currently limited recreation areas in the immediate vicinity of the proposed development, however the proposed agreement requires that amenity space be provided in accordance with the LUB, a portion of which must include a private neighbourhood park as illustrated on Map 4.</p> <p>As set out in the Discussion section of this report, staff are of the opinion that waterfront trail requirements of Policy WC-4 have not been completely satisfied, but that the proposal conforms with the overall intent of the applicable MPS policies. The corridor from Windmill Road to Wright's Cove is consistent with HRM's goals for a waterfront trail in the Wrights Cove area (Policy WC-4), but staff are of the opinion that, although access is provided, that it will be difficult or unlikely for HRM to utilize the proposed easement along the high water mark at the bottom of a future embankment.</p>
	(vii) drainage both natural and sub-surface and soil-stability	The proposed agreement includes requirements for site grading, stormwater management and erosion and sedimentation controls in accordance with applicable HRM and Provincial standards
	(viii) performance bonds.	Where applicable, the agreement requires the Developer to provide securities to HRM, that exceed the cost of completing the work . The security is not returned until the work is complete.
(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	No concerns have been identified with regard to these features on the lands. The development will have to comply with all applicable HRM, Provincial and Federal regulations related to watercourses and wetlands.

	Policy	Comment
(8)	that in addition to the public hearing requirements as set out in the Planning Act and City by-laws, all applications for amendments may be aired to the public via the "voluntary" public hearing process established by City Council for the purposes of information exchange between the applicant and residents. This voluntary meeting allows the residents to clearly understand the proposal previous to the formal public hearing before City Council	A Public Information Meeting was held and the proposal cannot be approved unless Council holds a Public Hearing. Both meetings are advertised in the local newspaper and notices are sent directly to local residents.
(9)	that in addition to the foregoing, all zoning amendments are prepared in sufficient detail to provide:	
	(i) Council with a clear indication of the nature of proposed development, and	Complete.
	(ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community	Complete.

	Policy	Comment
(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)	Not applicable.

Attachment C: Excerpts from the Regional Municipal Planning Strategy

EC-7 HRM shall prepare an amendment to this Plan for the area defined by the Halifax Harbour Designation on the Generalized Future Land Use Map (Map 2). The purpose of this amendment shall be to provide specific policies and implementation mechanisms which strive to achieve a sustainable and integrated balance among the various land uses around Halifax Harbour, including marine dependent uses, transportation infrastructure, recreational uses, residential uses, institutional uses, and environmental improvement and protection.

EC- 8 Further to Policy EC-7, Council shall use the following guidelines in preparing detailed policies for the area within the Halifax Harbour Designation:

(c) Recreational Uses

- (i) facilitate, support, plan and develop new parks and trail systems in appropriate locations within the Halifax Harbour Designation (refer to Appendix E and Map 9) including linkages to inland park/trail systems and seek to secure or acquire appropriate waterfront sites for parkland and trail development;
- (ii) integrate trail systems with existing and planned transit corridors and terminals, and to residential neighbourhoods adjacent to the Halifax Harbour Designation;

(d) Residential Uses

- (i) identify appropriate locations within the Halifax Harbour Designation that are suitable for multi-unit or mixed use residential development (refer to Appendix E and Map 9);
- (ii) establish appropriate regulations for site and building development and appropriate planning approval processes for residential development;
- (iii) ensure that any residential development proposals abutting Halifax Harbour include provision for public access to the Harbour and trail/boardwalk development; and

Attachment D: Excerpts from the Dartmouth LUB

PART 4: R-3 (MULTIPLE FAMILY RESIDENTIAL) ZONE - MEDIUM DENSITY

34(1) The following uses only shall be permitted in an R-3 Zone:

- (a) R-1, R-2 and TH uses as herein set out,
- (b) apartment buildings,
- (c) uses accessory to any of the foregoing uses.
- (d) ***lodging houses (As amended by By-law C-657, Feb 2/89)***

34(2) Buildings used for R-1, R-2 and TH uses in an R-3 Zone shall comply with the requirements of an R-1, R-2 or TH Zone respectfully.

34(3) Buildings used for R-3 uses in an R-3 Zone shall comply with the following requirements:

- (a) Lot coverage, maximum - 25%
- (b) Area of site required per dwelling unit:

Type of dwelling unit	Area of site required per dwelling unit
One bedroom and bedsitting room	1,300 sq. ft.
Two or more bedrooms	1,800 sq. ft.

Provided that where the site area is greater than one acre, the area of the site required per dwelling unit shall be:

Type of dwelling unit	Area of site required per dwelling unit
One bedroom and bedsitting room	1,000 sq. ft.
Two or more bedrooms	1,350 sq. ft.

- (c) On all buildings a minimum side and rear yard clearance of 15 feet shall be maintained and if the building is more than fifty feet high on its highest side the sideyards and rearyards shall have a minimum clearance of not less than one half the height of the adjacent side of the building.
- (d) The yard area located between the street line and the minimum setback line shall be landscaped, and the entire site and all buildings maintained in a neat, tidy manner including the trimming and upkeep of landscaped areas.
- (e) ***Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC-Feb 8/05;E-Apr 23/05)***

34(4) No uses other than those permitted in R-1 and R-2 shall be permitted unless the lot area is equal to or greater than ten thousand square feet and unless the street frontage is equal to or greater than one hundred feet.

34(5) All developments including three or more dwelling units shall provide, in addition to the site requirements set out in sub-section (3) of this section, amenity areas of not less than one hundred square feet for each bedsitting room or one bedroom dwelling unit; three hundred square feet for each two bedroom dwelling unit; and 500 square

feet for each three or more bedroom dwelling units. An amenity area shall be a space set aside for recreational purposes such as communal play areas, recreational room, roof decks, balconies, swimming pools and tennis courts. An amenity area shall have no dimension less than thirty feet.

- 34(6) ***Buildings used for lodging house uses shall comply with the requirements of the Lodging House By-law of the City of Dartmouth. (As amended by By-law C-657, Feb 2/89)***

NOTE: Effective December 4, 1991, Multiple family residential developments in the City of Dartmouth are permitted only by development agreement.

PART 13: I-2 ZONE - GENERAL INDUSTRIAL ZONE

- 42(1) The following uses only shall be permitted in a I-2 Zone:
- (a) C-3 uses as herein set out;
 - (i) **except Adult Entertainment uses (RC-Jan 31/06; E-Mar 16/06)**
 - (b) industrial enterprises except obnoxious uses and uses creating a hazard to the public.
 - (c) **cabarets (HECC-Dec 4/08; E-Dec 27/08)**
 - (d) **pawn shops (HECC-Dec 4/08; E-Dec 27/08)**
 - (e) **Within lands designated Highway Commercial on Schedule AA, only permitted C-3 or S zone uses and existing industrial uses shall be permitted.**
 - (f) **Within lands designated Harbour-Related Commercial/Residential on Schedule AA, existing uses shall be permitted and may expand in accordance with the I-2 Zone provisions, but no change of use shall be permitted except in accordance with Clause 18(U) of this By-law. (R-May 26/09; E - July 25/09)**
- 42(2) Buildings used for C-3 uses in an I-2 Zone shall comply with the requirements of a C-3 Zone.
- 42(3) Buildings uses for I-2 uses in an I-2 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet
 - (b) Lot coverage, maximum - 100% if the requirements for 100% lot coverage in the Building By-laws of the City of Dartmouth are met.
 - (c) If lot coverage is not 100%, side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City of Dartmouth.
- 42(4) Any dwelling in existence in this zone at the date this by-law comes into effect may be:
- (a) repaired **and renovated (RC-Oct 2/01; E-Oct 31/01)**
 - (b) increased in size,
 - (c) replaced (**Deleted: RC-Oct 2/01; E-Oct 31/01**)
 - (d) **used for home occupations as per Part 2, Section 23 of this Bylaw, and**
 - (e) **in no event may any repair, renovation, addition, or replacement result in the creation of an additional dwelling unit.**

- 42(5) *A landscaped area of at least ten (10) feet in depth measured at right angles from the property boundary abutting any street(s) shall be provided, except where driveway or sidewalk access is required. This area may be reduced to five (5) feet in depth if the ten (10) foot requirement would result in the development being unable to meet the parking or driving aisle requirements. (HECC-Jul 10/03;E-Aug 3/03)*
- 42(6) *Where the side or rear boundary of a site abuts a residential, park or institutional zone, or existing residential use, the following shall apply:*
- (a) *A minimum yard of 30 feet shall be provided,*
 - (b) *Required yards shall be landscaped, and the entire site and all buildings maintained in a neat, tidy manner including the trimming and upkeep of landscaped areas and the removal of debris and unsightly objects.*
 - (c) *All storage, freightage or trucking yards shall be enclosed or completely screened from the abutting residential, park or institutional zone by buildings, trees, landscaped features, or fences or a combination thereof.*
(RC-Oct 2/01;E-Oct 31/01)

PART 1: R-1 (SINGLE FAMILY RESIDENTIAL) ZONE

- 32(1) The following uses only shall be permitted in an R-1 Zone:
- (a) Single family dwellings;
 - (b) ***places of worship and associated halls; (HECC-Dec 4/08; E-Dec 27/08)***
 - (c) schools, colleges, universities, libraries, art galleries, and museums;
 - (d) public parks and playgrounds;
 - (e) tennis clubs, quoit clubs, lawn bowling clubs, archery clubs, golf clubs;
 - (f) yacht and boating clubs located within 200 feet of the shore of a lake or Halifax Harbour;
 - (g) uses accessory to any of the foregoing uses;
 - (h) **within the Waverley Road designation, expanded home occupations are permitted subject to site plan approval, in accordance with the requirements of Section 23A of the General Provisions. (RC-Sep 8/09;E-Nov 14/09)**
- 32(2) Buildings used for R-1 uses in an R-1 Zone shall comply with the following requirements:
- (a) Lot area minimum - 5,000 square feet
 - (b) Lot coverage maximum - 35 %
 - (c) Side and rear yards shall be provided on each side and at the rear of buildings as provided by the Building By-laws of the City.
 - (d) ***Height Maximum -35 feet on all parcels of land situated within the "Lake Banook Canoe Course Area" as identified on Schedule "W". (RC-Feb 8/05;E-Apr 23/05)***
- 32(3) ***Notwithstanding anything else in this by-law, the following zone requirements shall apply to lots TH-7, TH-8, TH-9, TH-10 and TH-11 on Chinook Court and lots TH-1, TH-2, TH-13, TH-14 and TH-15 on Tutor Court in the Lancaster Ridge Subdivision only:***

- (a) **Zone Requirements:**
- | | |
|-----------------------------|-----------------------------|
| <i>Minimum lot area</i> | <i>3000 square feet</i> |
| <i>Minimum lot frontage</i> | <i>36 feet</i> |
| <i>Minimum front yard</i> | <i>15 feet</i> |
| <i>Minimum side yards</i> | <i>5 feet (one side)</i> |
| <i>For dwelling</i> | <i>10 feet (other side)</i> |
| <i>Minimum rear yard</i> | <i>10 feet</i> |
| <i>Maximum lot coverage</i> | <i>35 per cent</i> |
- (b) *For detached garages and accessory buildings, the minimum setback from any side or rear property line is two (2) feet.*
- (c) *For decks and verandahs, the minimum setback from any side or rear property line is five (5) feet.*
- (d) *Notwithstanding Section 3(a), minimum sideyards, where a dwelling includes an attached garage the minimum sideyard for both sides of the dwelling shall be five (5) feet.*
- (e) *On all lots where there is no attached garage, the driveway shall extend into the sideyard of the lot a minimum of fifteen (15) feet beyond the front wall of the structure.*
- (f) *Where a lot fronts on the outside of a street curve having a radius of one hundred (100) feet or less, the required lot frontage may be reduced to a minimum of 25 feet. (As amended by By-law C-730, Oct 25/95)*
- 32(4) *Notwithstanding anything else in this by-law, the following zone requirements shall apply to all new lots that were approved after October 13, 2001:*
- (1) **Zone Requirements:**
- | | |
|--------------------------|---------------|
| <i>Minimum Side Yard</i> | <i>8 feet</i> |
| <i>Minimum Rear Yard</i> | <i>8 feet</i> |
- (2) *The maximum building eave projection into the minimum required side yard shall be 2 feet (HECC-Nov 1/01; E-Nov 25/01)*
- 32(5) **Notwithstanding clause 32(2) (a) of this By-law, institutional uses permitted in the R-1 Zone shall comply with the following standards:**
- (a) **The lot area minimum for all institutional uses, excluding public parks and playgrounds - 10,000 square feet**
- (i) **Section 19 of this by-law does not apply to institutional uses permitted in the R-1 zone.**
- (b) **For any new or expanded institutional use, the following landscaping provisions shall apply:**
- (i) **Within the front yard area, the first ten (10) feet bordering the road right-of-way shall be fully landscaped, except where driveway or pedestrian access points are required.**
- (ii) **Landscaping shall consist of ground cover and a minimum of one shrub for each fifty (50) square feet of required landscaped area and one tree for every fifty (50) feet of lot width. (HECC-Dec 4/08; E-Dec 27/08)**

- 32(6) **For any R-1 zoned lot abutting Green Bank Court, Cove Lane, or Basinview Drive, no new single family dwellings shall be permitted; but existing single family dwellings and accessory uses may be replaced, repaired, and additions made to in accordance with the R-1 Zone and any other general provision of this By-law. (RC-May 26/09; E-July 25/09)**

Attachment E: Public Meeting Minutes

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING

CASE NO. 15952 -6 Storey Multi-Unit Residential building between Basinview Drive,
Windmill Road and Wrights Cove

7:00 p.m.
Monday, April 12, 2010
Northbrook Community Centre

STAFF IN ATTENDANCE: Joseph Driscoll, Planner, HRM Planning Services
Jennifer Little, Planning Controller, HRM Planning Services
Holly Kent, Planning Technician, HRM

ALSO IN ATTENDANCE: Councillor Jim Smith, District 9

PUBLIC IN ATTENDANCE: 20

The meeting commenced at approximately 7:00 p.m.

Opening Remarks/Introductions/Purpose of Meeting

Councillor Smith, advised everyone that Innovation Architects is proposing to bring forward a development agreement, to permit a six (6) storey multi-unit residential building in the Basinview Drive/Wright's Cove area. He explained that the purpose of the public information meeting is to provide residents with information concerning the proposal and to receive back comments from the residents.

Mr. Driscoll called the meeting to order at approximately 7:00 p.m. in the Northbrook Community Centre. He introduced himself as the planner guiding this application through the process; Councillor Jim Smith, District 9; Holly Kent, Planning Technician, HRM Planning Services and Jennifer Little, Planning Controller, HRM Planning Services.

This is an application by Innovation Architects Ltd. for lands of 3030558 Nova Scotia Limited to enter into a development agreement to permit a 6 storey multi-unit residential building on PIDs 00099689, 00099705, 00099721 and 00099739. The subject properties are located between Basinview Drive, Windmill Road and Wrights Cove (in the vicinity of the Dartmouth Yacht Club).

The purpose of the public information meeting is to identify that HRM has received an application, identify the scope of what the development proposal is, provide the public with an overview of the planning process, and to give the public an opportunity to ask questions and to make comments. He reviewed the agenda for the meeting and defined zoning and a development agreement.

Overview of Application

Mr. Driscoll reviewed a slide of the subject area, noting the following:

- The applicant is proposing a 74 unit building by development agreement
- The current zoning is I-2
- Surrounding uses are residential, a yacht club and commercial uses

Mr. Driscoll explained that the Wrights Cove Secondary Plan was approved by Halifax Regional Council in 2009. Under the new land use policies the subject properties are designated Harbour Related Commercial Residential (HRCR) and Highway Commercial (HC).

He explained that under the Planning Policy, consideration of multi-unit housing is permitted within the HRCR designation by development agreement is subject to the following considerations, among others (Policy WC-4):

- 6 storeys max. if adjacent single unit dwelling(s)
- Residential should be set back 300' from Windmill unless otherwise approved by Council
- Building design mitigates noise and flooding
- Consideration of provisions of waterfront trail
- Precautions against unexploded military ordnance

Presentation of Proposal: KJ Gandhi and Gary Hill, Consultant and Developer

Mr. KJ Gandhi, Innovation Architects, advised that he has been working on this project for approximately 3 years and advised that within this period, the policy has changed. He explained that the proposal would not exceed the maximum of 6 storeys as outlined in the policy. There are now four lots which would be consolidated into two lots, one of which is intended to be commercial and is not included within the development agreement. These lots are currently being discussed with HRM to determine the exact location.

He explained that the residential portion has no access from Basinview Drive. Access from the other side of Basinview is being considered, a 50 foot frontage is required. He explained that in discussion with HRM staff, the commercial and residential sites are permitted to have access to the waterfront and added that there will be future parkland/ walkway which will have access to Basinview Drive and Windmill Road.

Mr. Gandhi explained that in order to keep noise levels to a minimum, specially designed windows and insulation will be used. Reviewing slides, he explained that the 6 storey building will have a flat roof.

To prevent potential risks of flooding, they have met with John Charles, HRM, who has been involved in research that predicts what the waters high mark will be over the next 100 years. Conclusions from this study have show a potential increase in sea level and, as a result, the Applicant is proposing to extend the shoreline toward the high water mark and create an embankment. This area will be landscaped from the high water mark up and will be a good barrier.

Questions/Comments

Councillor Smith explained that he is aware that there may be right-of-way issues between the landowner and the developer as to who owns the portion of land, clarification can be found at the Registry of Deeds.

Mr. Driscoll explained that property ownership is confirmed through the Registry of Deeds and that the Developer has submitted information that indicates that he is the registered owner of the properties in question. He added that there are processes to appeal ownership for anyone who may object but that it is likely a dispute between the private parties.

Councillor Smith asked if there will there be any change of usage to Basinview Drive.

Mr. Driscoll explained that the parcel which is on Basinview Drive is not part of the application, this process will have no impact on Basinview Drive from a planning or land use perspective.

Mr. Ed Schumacher, Dartmouth, explained that because of the fence the Dartmouth yacht Club has in place, the walking trail will only be able to go that far. He asked where the shore barrier will be placed.

Mr. Driscoll explained that regarding the walkway, as individual applications are reviewed, consideration is given for the potential of a walkway in the future and that the pedestrian access to Basinview Drive would be limited until such time as HRM had put together sufficient property or access rights to establish a public trail in the area.

Mr. Gandhi explained that the property line is the high water mark and that the shoreline currently doesn't go that far and, as a result it could be extended to the high water mark.

Mr. Schumacher asked if it is the existing grade shown or if it was the grade from the highway that the applicant is proposing to build the building on.

Mr. Gandhi explained that it is the existing highwater mark.

Mr. Schumacher asked if the plan is to pile rock around the existing grade and to back fill behind it.

Mr. Gandhi agreed and explained that it is required to limit the flooding.

Mr. Schumacher asked what the rental fees will be and what type of renters they are marketing to.

Mr. Gandhi explained that they will be nice apartments and condominiums, they will be equivalent to Harbour Isle.

Mr. Driscoll explained that HRM can not regulate tenure but that sometimes a Developer will provide information about it plans in response to questions.

Mr. Gandhi explained that he can not answer this question as this time.

Mr. Schumacher asked how many apartment units are there and expressed concern about the traffic impact the additional cars will cause on Windmill Road.

Mr. Gandhi explained that there are seventy apartments, he assured that these concerns have been discussed with the Department of Transportation.

Mr. Schumacher expressed concern with the current traffic issues in this area and also expressed concern that with the height of the building, it will block sunlight and natural light onto his property. He explained that he is not in favor of this application and added that it is going to be an unsightly view from his home.

Mr. Gandhi explained that the nearest house is about 55 feet from the building and added that Mr. Schumacher's residents is approximately 90 feet from the building.

Mr. Schumacher explained that in the winter, the sun is very close to the horizon which causes concern. He also expressed concern with this application changing over time from what is presented now to something else later on.

Mr. Gandhi explained that the development will be subject to the details noted in the development agreement.

Mr. Dan Gallina, General Manager of the Dartmouth Yacht Club, reviewed an area on the map, he pointed to an area that at low water is all swamp. He explained that this and up to the highwater mark is owned by the Dartmouth Yacht Club. The Yacht Club may fill in this area so that marinas could be there and also to have a boardwalk, a parking lot and possibly a club house on this location. He explained that the proposed walkway is where the Yacht Club stores its boats. He explained that this is a fenced in area for security reasons. A gate is in place to control access onto the property so they don't have a lot of people crossing through.

Mr. Driscoll thanked Mr. Gallina for providing information regarding their future plans. Within the Policy for Wright's Cove, it talks about looking at the potential future waterfront trails. He explained that Council has the power to determine if this trail will continue or if it may not work. The purpose of this meeting is to review these issues.

A lady in attendance reviewed the slide indicating that there is a wide area with no barrier she explained that it looks like the sidewalk goes through Basinview Drive and asked why it is open?

Mr. Driscoll explained that HRM Parkland Planners reviewed the site as a recreational point of view. Therefore, if there was a trail in the area, residents on Basinview Drive would have the opportunity to walk up to Windmill Road and vice versa. If there is a big concern, this idea will be reviewed further.

A lady in attendance asked why there would be a driveway in the area if Basinview Drive is not needed for the building? It was her understanding that Basinview Drive would not be used to access the building.

Mr. Driscoll confirmed that Basinview Drive is not a part of this application and that the land itself is not subject to the agreement. How it is utilized by the property owner would be a legal matter which needs to be sorted out. At this time, they are proposing this driveway as a secondary, emergency access only.

The lady explained that the people along Basinview Drive do not want this access and added that it is not safe. She questioned who's legal issue this would become. The property owner or the HRM?

Mr. Driscoll explained that he was referring to whether the developer has the right to access Basinview Drive. He explained that staff's goals are not to determine who has access or not through the development agreement.

The lady expressed concern with the traffic impact it may cause and added that this may become a major issue.

The lady also expressed concern about the plans changing, she explained that the changes may be to the liking of the people who live there. She explained that another potential problem is keeping people from walking on the lands of the residents. She explained that they do not want people walking through their properties to get down to the water.

Mr. Driscoll explained that plans can change through the process. If there is a significant change, residents will be notified prior to the public hearing. Once the plan is part of the development agreement and is approved by Council, these plans will not change. Some changes that Harbour Isle has been marketing require amendments to the development agreement which have not been approved. These amendments will have to go through a process similar to this application. The buffer issue can be included within the development agreement to include a combination of hedging, fencing, trees etc. and require certain specs.

The Lady explained that after reviewing the plans, the top level looked really tall.

Mr. Gandhi explained that all the storeys are approximately 10 feet tall, but the top floor is 12 feet.

The Lady asked what the construction materials will be.

Mr. Gandhi explained that it will be built with non-combustible material, not wood.

The lady asked if the material can be cement or brick.

Mr. Gandhi confirmed.

Mr. Driscoll explained that those kinds of elements are specified in the agreement. These will be negotiated with the developers to determine what the exterior materials will be.

Mr. Gallina asked how the developer would feel about filling in the swamp area, which would be used for a club house, winter storage or parking.

Mr. Driscoll explained that the Yacht Club is not subject to the agreement, so the agreement could not control the use of their land anyway.

Mr. Gandhi explained that they certainly can discuss it in the future.

Ms. Mary Schumacher, Dartmouth, explained that she is mystified about the wet land because it is part of the ecosystem. She expressed concern that there is not enough land between Basinview Drive and the water to put a building in of this size.

Mr. Driscoll explained that the proposed building is within the property line.

Ms. Schumacher asked if the small river that runs through that area going to be eliminated.

Mr. Driscoll explained that if there is a watercourse with the site, HRM has no ability to authorize alterations, they fall under Provincial jurisdiction.

Ms. Schumacher asked if this had been reviewed.

Mr. Driscoll explained that staff will review the location of the watercourse again. However, will not have authority to approve the alteration of any watercourse. If a river runs through, it is the responsibility of Provincial Government to regulate any alterations, while HRM has a watercourse setback where development is not permitted. The development agreement links the Applicants ability to be able to go on to the next phase of the application process.

Ms. Schumacher asked if there will be two levels of underground parking and where is that in relation to sea level.

Mr. Gandhi explained that the parking is two feet above sea level. Basinview Drive is 20 feet above sea level.

Mr. Schumacher reviewed the slide of the property and outlined where the wetlands are.

Mr. Driscoll explained that HRM takes any environmental issues very seriously. HRM staff cooperates with the Provincial Department of Environment. The wetland concern can be brought to their attention. There is also an approval process that will have to go through the Department of Environment as well.

Mr. Estabrooks, Dartmouth, asked what the dimensions of this building will be.

Mr. Gandhi explained that it will be 299 feet long and 66 feet wide, the apartments will approximately be about 36 feet wide and will be putting in 1 - 2 bedroom apartments to come up with 70 units.

Mr. Estabrooks explained that there are two level parking garages with the first one starting above sea level; and asked if it wouldn't make this an eight storey building.

Mr. Gandhi explained that the survey plan shows Basinview Drive as being 20 feet above the highwater mark and Windmill Road at about 30 feet.

Mr. Estabrooks asked if the land is currently 6 storeys high or if it will be filled to this height.

Mr. Driscoll explained that they will measure the number of storeys above the finished grade.

Mr. Estabrooks asked if the six storeys will be above the 20 feet.

Mr. Driscoll explained that according to the survey submitted, there is already 20 ft there now, so it will have to be looked at to ensure this is correct.

Mr. Estabrooks explained that it will require a lot of back fill to put in the underground parking lot. It will approximately be 25-30 ft for each parking level.

Mr. Driscoll explained that the plans illustrate that it will be 20 ft for both, your lowest will be two feet above sea level and the tallest level being about 20 feet.

Mr. Estabrooks asked if Basinview Drive will be rezoned to R-1.

Mr. Driscoll explained that Basinview Drive is currently zoned R-1 residential.

Mr. Estabrooks had some zoning inquiries, Mr. Driscoll explained that he would provide him with the appropriate contact to answer his questions.

Mr. Estabrooks expressed concern with the height of the building and also noted that Windmill Road will be very busy.

Mr. Driscoll advised that HRM Traffic has been reviewing different traffic options to upgrade Windmill Road.

Ms. Harriott Schumacher, Dartmouth, explained that she is opposed to this application and expressed concern with the size of the building for this lot. She also addressed concern with traffic, right-of-ways and watercourses.

A Gentleman asked if Basinview Drive is privately or city owned.

Mr. Driscoll explained that it is privately owned.

Mr. Gary Slaunwhite, Dartmouth, asked about the density.

Mr. Gandhi explained that he could not give an exact number but there will be a total of 70 units.

Mr. Driscoll explained that the R-3 Zone of the Dartmouth Land Use By-Laws, the medium density multi-residential zone, sets out the density maximum based on the number of units. This application is within the maximum limit of the Land Use By-Law.

Mr. Slaunwhite indicated that determining the density of the building will set out the expected traffic problems.

Mr. Driscoll explained that the Dartmouth Land-Use Bylaw sets out the density maximum, the issue of traffic is related and a traffic analysis has been submitted by the developer.

Mr. Slaunwhite asked how old is the information used on the traffic report is.

Mr. Driscoll explained that when they submit the traffic report, they have to indicate the study used. If it is too old then HRM requires the developer to do their own traffic counts.

Mr. Slaunwhite explained that the retaining wall indicated on the plot plan will be built beyond the existing shoreline. What will the final revision be compared to on Windmill Road.

Mr. Gandhi explained that the ground floor level of the building will be 10 feet below Windmill Road.

Mr. Slaunwhite explained that they are going to have difficulty getting deep enough for the parking garage.

Mr. Driscoll explained that information provided within the mailout, indicated a website. If there are any changes, staff will post these changes on there. People without internet access can contact the office and the latest documents can be mailed out.

Councillor Smith explained that he will look into the zoning inquiries made by Mr. Estrabooks. He explained that it is his understanding that all existing properties on Basinview are zoned R-1. He added that unfortunately, more information regarding the construction materials and what it will look like weren't specified more prior to the meeting. He asked how staff determines what the materials that will be used and what the building is going to need. Does staff compare to nearby buildings?

Mr. Driscoll explained that the Developer has indicated that they are looking at building material options as being stucco, brick, stone and pre-cast concrete. When the agreement goes to Council, these details should be laid out more specifically. The Developer also has an option to go before Council with an application that staff may not agree with. The staff recommendation will be indicated in the staff report one way or another.

Councillor Smith explained that there are some buildings in the area made out of brick that are not in great condition and asked how can we assure the quality of the building and asked if there are any controls the public has to make it look better.

Mr. Driscoll explained that there is the ability to control the exterior appearance of the building, which includes the materials, roof, pitch of the roof, roofing materials and the color of the building, however HRM does not control the rent fees.

Ms. Schumacher-Cain explained that design and quality of the building will dictate how much the rent will be and what they will expect in return. She asked if things like appliances can be put within the development agreement as well and if the development agreement can be reviewed before it goes to Council.

Mr. Driscoll explained that before it goes forward to Council a draft development agreement can be reviewed by the public. HRM staff can not speculate what the rent will be or what type of appliances will be included. However, the quality of building and its appearance is a concern. It is up to the developer if they choose to provide the public with information about monthly rental amounts and appliances.

Ms. Schumacher-Cain expressed concern with the residents not receiving a very good answer concerning the rent, this makes her feel very uneasy.

Mr. Driscoll explained that there will be a draft development agreement which anyone can read. The plans can also be posted on the website and he encouraged people to contact him if they require further information regarding the process.

Mr. Gandhi complimented the development of Harbour Isle and would like to come up with a similar quality. The building will be 300 ft long having 12 units on each side.

Mr. Schumacher asked how he can compliment Harbour Isle when they are changing their concept. He expressed concern with the applicant not stating who they are marketing this building to. He also expressed concern with another previous application for this site that was submitted to Council. Can this current plan be changed later?

Mr. Driscoll explained that the *Halifax Regional Municipal Charter Act* allows Council to identify specific changes that are non-substantive: this means that they still require Council approval but that Council considers the request without a public hearing. Any other changes, or any new application require a public hearing, and usually, a public meeting. The draft development agreement that Council will consider will include a section that stipulates which amendments are non-substantive.

Mr. Schumacher explained that this is swamp land, there is a 60 ft set back for residential on a swamp and is not permitted to build within that.

Mr. Driscoll explained that there is 60 ft set back for watercourses and does not apply to a wetland unless there is a watercourse within it.

Mr. Schumacher explained that if there is a wet land then there is a watercourse.

Mr. Driscoll explained that is not the case but that the Nova Scotia Government considers applications to alter wetlands.

5. Adjournment

The meeting adjourned at approximately 8:30 p.m.

Attachment F: Public Submissions

April 12, 2010

Dear Mr Driscoll:

Below is an email sent to Mr. Morgan on Feb 16, 2009. All the points remain valid and should be considered when issuing a building permit to Mr. Hill and his associates. Given the scaling down of this project from 13 to 6 storey; I'm sure that the number of occupants has decreased to somewhere south of the 300 mark initially estimated. I am certain that the footprint has changed in order to increase the units to make the project viable. The fact that the project is now within the city's 6 storey requirement and that the number of occupants has decreased are the only positives I can point out at this time.

I was told that the last meeting was stacked with individuals who were all for the project (those present assumed by the Developer)...who probably didn't even know where Basinview Drive was. I was told that the group was a bit hostile toward the residents as well. I just hope intimidating tactics such as these, if they are indeed the actions of the Developer, do not have any bearing on your decision.

This project just doesn't make any sense from a development point of view.

Unfortunately, I will not be able to attend the meeting this evening but I trust you will take my points into consideration before rendering your decision.

Thank you.

Philip Reid

Vice President, Administration
Newfoundland Capital Corporation

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April 19, 2010

Good Morning Joseph:

I would like the comments outlined in my email of April 12, 2010/February 16, 2009 included in the public record.

I would also like to add that I am now more concerned with this project given it is now proposed that it will have full access to Basinview Drive. Several residents voiced their concern regarding this point at the meeting and I was in full agreement with their comments. The Basinview right-of-way cannot sustain the volume of traffic that this Development will produce. Basinview is just that...a Right-of-Way. I believe the taxpayers of Basinview Drive require the HRM's assistance in protecting their investment and the quiet enjoyment of their property.

If this project is given the green light, I believe the 6 foot fence that is proposed along the right side of the property be extended along Basinview to the water which will essentially cut off all access to the Basinview properties and the shore.

If Basinview access is required by the Development/Fire Departments, then I do not believe that this project should be approved. Windmill Road let alone Basinview Drive cannot handle the traffic load, especially during the rush hours. In addition, if the developer has access to Basinview during the construction phase of this project, it will be a total nightmare!

Thanks for your time.

Respectfully submitted;

Phil Reid
Vice President, Administration
Newfoundland Capital Corporation

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February 16, 2009

Dear Mr. Morgan:

Thank you for providing me with the information regarding the development of the Wright's Cove Area and filling me in on what has transpired at the recent meetings concerning the proposed 12 storey apartment/condo development by Gary Hill and Legacy Contracting.

As you are aware, I have several concerns about the construction of this building:

- Who would want to live there? There is no infrastructure for the 300 or more occupants that would live here.

- Windmill Road is already very congested and this would add to the HRM's problems in this regard.
- The proposed development plans for the Wright's Cove Area calls for buildings that cannot exceed 6 storeys.
- The builders informed us at one point that this would be a high class building with rents in the \$1,500 range. They have since backed off and I here \$1,000 tp \$1,200. Given the first of my points, who would live here, leads me to believe that they would be lucky to get \$600-\$800 for this area if not lower.
- There are no green spaces for the occupants with the exception of the properties of the area's home and business owners.
- Our property borders on the DND Munitions Property. In the past, they have detonated several shells that have washed up on shore.

In one instance, they rattled this building to such a degree that prompted me to call DND to tell them where we are located and that it scarred the hell out of some of our staff. They closed the Magazine Hill while they did this but did not inform us or any of the residents. I guarantee you that some of the residents (kids) will find their way to the shore and they will walk it as I have seen others do in the past (neighbor's kids).

- The Developers/Mr. Hill has been upsetting the residents of Basinview...one in particular. They have put survey stakes in his lawn, property he thought he owned for years since the last survey. May I request that the HRM undertake their own survey, if indeed the green light is given, in order to confirm the Developer's survey.
- This building, if approved, should have the appropriate setback from the property line. They plan on putting this building as close as possible to Mr. Hines' property in order to take advantage of as much water front as possible.

The bottom line here is money. The Developers or their supporters have no concern for the residents, businesses or traffic congestion in this area. If you allow them to build here, they will fill the building and sell it to the highest bidder and be done with it. They will attempt to fill it with anyone willing to pay their price and when they find out they can't get their price, the rents will drop in order to support the venture. We will be left to deal with the fallout. I have already mentioned a 6' chain-link fence to protect our property here. That will

not be cheap. If this project is approved, I have no doubt our Company will have to do this to protect our interests.

Thank you for your time and the opportunity to address this issue.

Phil Reid

Phil Reid
Vice President, Administration
Newfoundland Capital Corporation