

Harbour East Marine Drive Community Council
December 12, 2013

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

Original signed

SUBMITTED BY: _____
Brad Anguish, Director of Community and Recreation Services

DATE: November 21, 2013

SUBJECT: **Case 18755: Amending Development Agreement - 5 Horizon Court, Dartmouth**

ORIGIN

Application by Dixel Developments Limited.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Harbour East Marine Drive Community Council:

1. Give Notice of Motion to consider the proposed amending development agreement as contained in Attachment A of this report, to allow a 9 storey mixed use building at 5 Horizon Court and schedule a Public Hearing;
2. Approve the proposed amending development agreement as contained in Attachment A of this report, to allow a 9 storey mixed use building at 5 Horizon Court; 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

In 2005, Harbour East Community Council approved a development agreement for 5 Horizon Court, Dartmouth, to enable the development of two, 7-storey multiple unit dwellings with approximately 30,000 square feet of commercial space on the ground floor. The developer, Dixel Development Limited, now wishes to develop two, 9-storey multiple unit dwellings with the flexibility for the ground floor accommodating either commercial or residential units. The proposed changes to the approved buildings are substantive in nature in accordance with Section 3.1 of the existing development agreement and, as such, must be approved by a decision of Harbour East Marine Drive Community Council following a public hearing.

History of the Existing Agreement

In 2005, Council's approval of the development proposal for 5 Horizon Court was appealed to the Nova Scotia Utility and Review Board. Community Council's decision was upheld by the Nova Scotia Utility and Review Board and that decision was then subsequently appealed to the Nova Scotia Court of Appeals where the decision was also upheld.

A development agreement (Planning Application #00728) was registered on the subject property (5 Horizon Court) in 2009 which permits the construction of two buildings containing a total of 168 dwelling units and approximately 30,000 square feet of commercial space. The buildings are 7 storeys in height with 6 residential storeys and a single commercial storey on the ground floor. A combination of underground and surface parking is required, and the buildings are connected by a smaller one storey building containing a common amenity area of about 3,600 square feet at ground level with parking below. Further, the existing agreement permits the consideration of an 8th storey provided the footprint is reduced and the number of units and parking is not increased.

Municipal permits have been issued for the two, 7-storey multiple unit dwellings and one of the buildings is presently under construction. The proposed amendments may be considered with the building under construction as the request does not result in a change to the building footprint.

Proposal

Dixel Developments Limited wishes to amend the existing development agreement to enable (a) the development of two additional storeys to the approved 7-storey building; (b) flexibility of first floor being able to accommodate commercial or residential units; and (c) substantial changes to the architectural design of the building from what was considered and approved by Community Council in 2005. Specifically, the proposal is for a total of 192 residential units and commercial space on first floor with the ability to convert the commercial space to residential units. If the entire first floor is converted to residential units, there would be a total of 214 residential units with no commercial space on the first floor. This proposal has the potential to add 46 residential units to the project and the building footprint and lot coverage is not proposed to change.

Location, Designation, Zoning and Surrounding Land Use

The lands are:

- located off Horizon Court, a private right-of-way off Mic Mac Boulevard, Dartmouth;
- approximately 1.49 hectares (3.69 acres) in area;
- designated Residential under the Dartmouth Municipal Planning Strategy (Map 1) and designated Urban Settlement under the Regional Plan;
- zoned R-3 (Multiple Family Residential - Medium Density) under the Dartmouth Land Use By-law (Map 2);
- near other multiple unit buildings (14 & 18 storey buildings at 7 and 10 Horizon Court) and adjacent the Maybank Field Community Park to the southwest; nearby retail uses such as Kent, Chapters and Mic Mac Mall regional shopping centre;
- adjacent the area known as the Can-Euro lands which was recently approved for a 27- storey residential and commercial mixed unit development; and
- separated from the closest low density R-1 residential communities, to the northwest and northeast, by Woodland Avenue, a four land collector roadway.

Enabling Policy

Within Dartmouth, all multiple unit development is subject to a development agreement in accordance with Policy IP-5 (Attachment B) of the Dartmouth Municipal Planning Strategy (MPS). However, the lands of Dixel Development Limited off Horizon Court (former MTT Lands) are subject to site specific policy (Policy H-18; Attachment B) which allows for the redevelopment of these lands for multiple unit residential use subject to the requirements of Policy IP-5 (Attachment B).

Policy H-18 sets out specific criteria for development on the former MTT lands and also states that notwithstanding the residential designation and R-3 zoning on the lands, office development with associated retail uses may also be considered by development agreement pursuant to Policy IP-1(c) (Attachment B). Policies IP-5 and IP-1(c) include more general criteria that apply to all multiple-unit building proposals in Dartmouth. Under the Regional Municipal Planning Strategy (RMPS), the lands are designated Urban Settlement and are identified as part of the Mic Mac Mall Urban District Centre which encourages a mix of medium to high density residential, commercial, institutional and recreation uses as well as transit oriented development. The boundaries of the Mic Mac Mall Urban District Centre will be established through a secondary planning process which will more specifically determine land uses. Until this occurs, the existing policies of the Dartmouth MPS will guide development in the area.

DISCUSSION

Staff reviewed the proposal relative to the applicable policies of the Dartmouth MPS. Staff is of the opinion the proposal is consistent with all applicable policies. Attachment B provides an evaluation of the proposed amendments to the existing development in relation to these applicable policies. The following issues are being highlighted for more detailed discussion.

Building Scale, Density and Design

The existing development agreement permits two, 7-storey multiple unit dwellings with approximately 30,000 square feet of commercial space on the first floor which, in the opinion of staff, is compatible with the existing neighbourhood from the perspective of exterior design, height, bulk and scale. This opinion is described in detail in the staff report for Planning Application 00728 located at www.halifax.ca/commcoun/hecc/December12005HECC.html. The existing agreement also enables the consideration of an 8th storey as a non-substantive amendment to the agreement, provided the footprint is reduced and the number of units and parking is not increased. The proposal is the consideration of an additional residential storey with the flexibility in the agreement to allow either residential or commercial uses on the ground floor. This would result in an additional 46 units being added to the 168 units approved in the original development agreement.

The site's location makes it desirable for residential development in terms of reuse of a brownfield site, and its proximity to recreational amenities and retail. It is staff's opinion this proposal promotes urban regeneration in that, if approved, it would allow redevelopment of the site to an appropriate level of density that can be sustained by the established local levels of public transport infrastructure, recreation opportunities and commercial uses. Further, the height of the building is limited to 9-storeys and the footprint is guided by the lot coverage. Lot coverage is limited to 26% of the 3.69 acre site (1.48 ha). The building bulk is mitigated by building articulation, balconies, and an inset entrance area which serves to break the scale of the elevations in combination with the proposed varying grey scale colour tile system. The building is also in very close proximity to existing 14 and 18 storey buildings and the recently approved 27 storey building (Can-Euro site). Given the development pattern in the immediate area, the consideration of an additional storey (a 9-storey building) is minor in scale and consistent with the policy intent for the area.

Density

Policy H-18 and its introductory preamble do not speak to a specific numerical or quantitative density for redevelopment of the lands other than to give regard to the R-3 zoning (Attachment B). The preamble provides that a community process carried out in 2000/2001 supports redevelopment for multiple unit residential and/or office uses but that major retail was not desired. The proposed additional storey and units bring the density to 57.9 units per acre compared to the 45.5 units per acre provided by the existing agreement. The proposed density is 34% greater than the R-3 zone threshold yet less than the adjacent developments along Horizon Court (up to 62 units per acre). It is staff's opinion the increased density is in keeping with the surrounding mix of medium to high density residential.

Commercial to Residential on the First Floor

The existing development agreement requires ground floor commercial uses. Policy H-18 permits the consideration of residential and/or commercial development but not large scale retail. The proposed amendment is to enable the ground floor to be developed as totally commercial along a continuum to totally residential as market forces will determine the actual amount of commercial or residential that is viable. Staff believe this flexibility is within the spirit of the policy and is compatible with surrounding land uses.

Spatial Separation, Buffering and Compatibility

The proposed additional storeys do not change the footprint or location of the approved building and therefore should have negligible impact on space between buildings as a result of the unchanged separation distance. Policies IP-5 and IP-1(c) emphasize the importance of ensuring that multi-unit residential buildings are designed so as to reduce potential impacts on adjacent properties and land uses. It is staff's opinion the proposed additional storeys will not impact adjacent properties and land uses as the footprint and location of the building are not changed from the approved building.

Parking

The site has been identified as being within a highly accessible location both in terms of public transit and other sustainable means of transportation, therefore, the consideration of a reduction in required number of parking spaces is warranted. Specifically, the existing development agreement requires a minimum of 260 parking spaces for the 168 dwelling units and ground floor commercial space. The proposed development agreement requires a minimum of 273 parking spaces to accommodate the 192 dwelling units and the residential and/or commercial space on the ground floor. The provision of 273 parking spaces represents a slight reduction from the requirements that would be assigned under the Dartmouth Land Use By-law. Given the transportation alternatives available, such as the site's proximity to public transit and opportunities for active transportation, it is staff's opinion that the total amount of parking to be provided for the development is appropriate.

Traffic Impact and Infrastructure

A traffic impact addendum was prepared for the 2006 traffic impact study provided by the applicant to evaluate potential impacts of the proposal on adjacent streets and intersections. The addendum suggests that street and access capacity is available for the proposed change to the existing development agreement. Staff concurs with the conclusions of the addendum. This proposed development is an example of infill development that will maximize the utilization of existing infrastructure. All infrastructure and services located on the lands shall be designed and constructed according to applicable HRM and Halifax Water standards unless otherwise approved by HRM Development Engineering or Halifax Water. Neither HRM nor Halifax Water will assume ownership of any of the private infrastructure that will service this development.

Conclusion

Staff is of the opinion that the proposed additional two storeys, the flexibility to convert the commercial space to residential units and the changes to the architectural design of the building are consistent with the intent of Policy H-18 regarding residential and commercial uses on the former MTT lands. The proposed changes meet the criteria discussed above, as well as the general evaluative criteria set out in Policies IP-5 and IP-1(c). Therefore, staff recommends that Council enter into the proposed amending development agreement as set out in Attachment A of this report.

FINANCIAL IMPLICATIONS

There are no financial 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.

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 September 9, 2013 (see Attachment C for minutes). Notices of the Public Information Meeting were posted on the HRM Website, in the newspaper, and mailed to property owners within the notification area as shown on Map 2.

A public hearing has to be held by Community Council before they can consider approval of any substantive amendments to the existing development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area will be notified as shown on Map 2.

The proposed development agreement will potentially impact local residents, property owners and adjacent businesses.

ENVIRONMENTAL IMPLICATIONS

No additional concerns have been identified beyond those raised in this report.

ALTERNATIVES

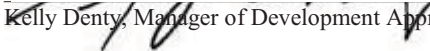
1. Community Council may choose to approve the proposed amending development agreement, as contained in Attachment A of this report. This is the staff recommendation. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Community Council may choose to refuse to approve the amending agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. This is not recommended for the reasons discussed above. A decision of Council to reject this amending agreement, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
3. Community Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant and may require an additional public hearing.

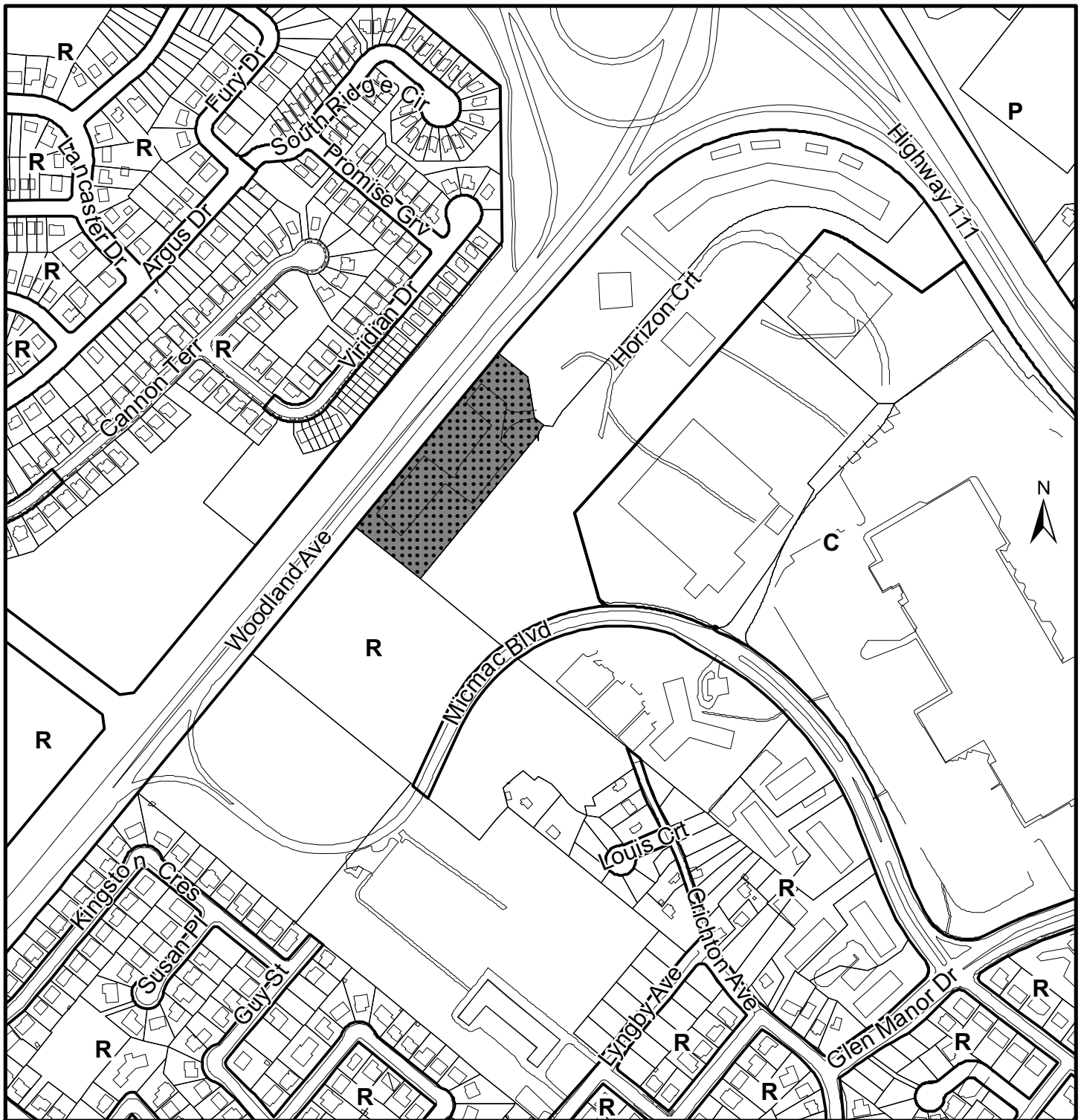
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Amending Development Agreement
Attachment B	Relevant Excerpts from Dartmouth Municipal Planning Strategy
Attachment C	Public Information Meeting Notes

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: Darrell Joudrey, Planner 1, Development Approvals, 490-4181
Original signed

Report Approved by:  Kelly Denty, Manager of Development Approvals, 490-4800



Map 1 - Generalized Future Land Use

5 Horizon Court,
Dartmouth

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS



Subject Lands

Designation

R	Residential
C	Commercial
PO	Park & Open Space

0 37.5 75 150
Meters

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

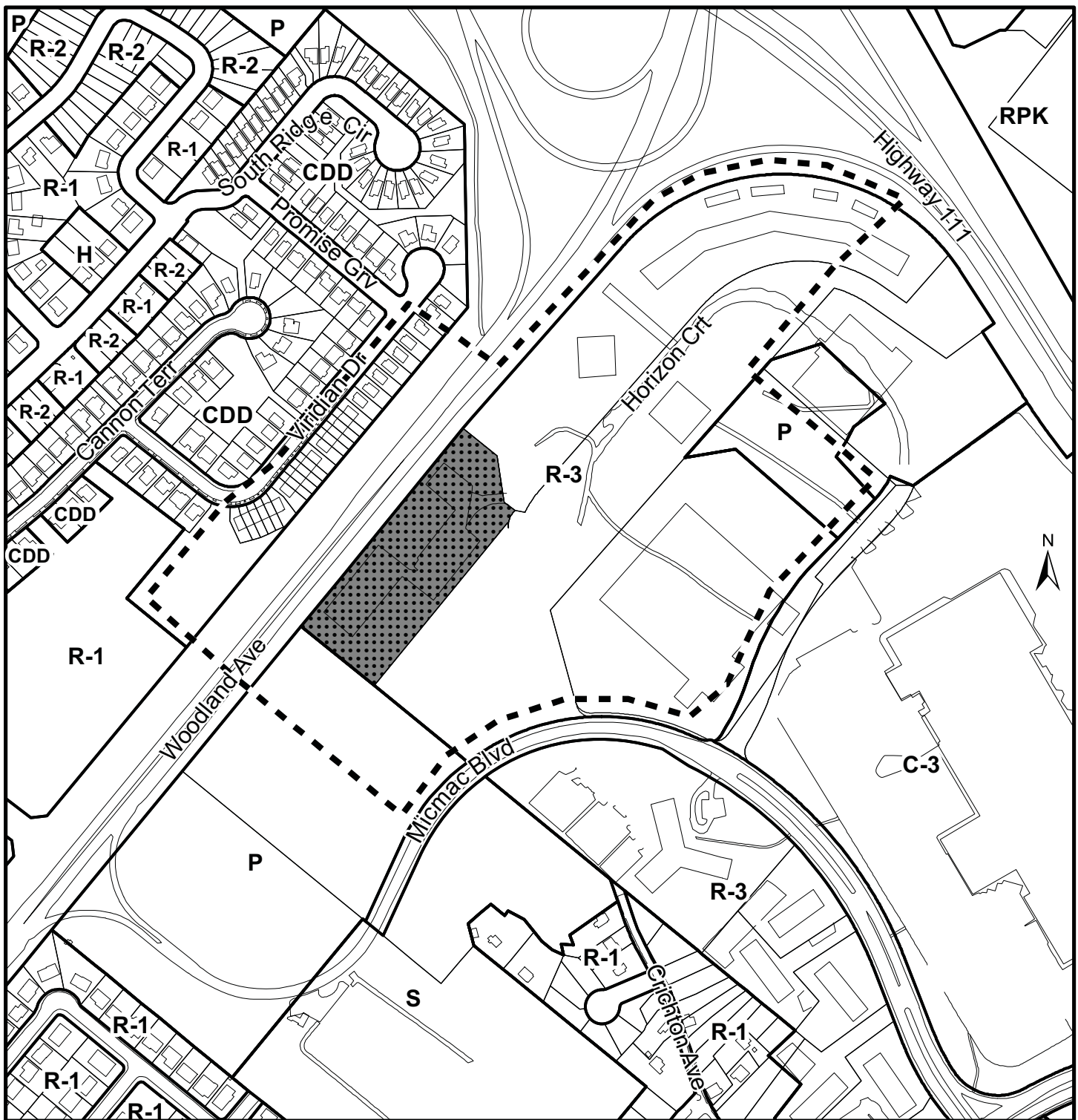
HRM does not guarantee the accuracy of any representation on this plan.

Dartmouth Plan Area

16 August 2013

Case 18755

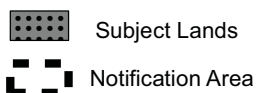
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Map 2 - Zoning and Notification

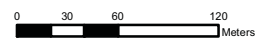
5 Horizon Court,
Dartmouth

HALIFAX
REGIONAL MUNICIPALITY
DEVELOPMENT APPROVALS



Zone

- R-1 Single Family Residential
- R-2 Two Family Residential
- R-3 Multiple Family Residential (Medium Density)
- P Park
- RPK Regional Park
- H Holding
- CDD Comprehensive Development District



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

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

Dartmouth Plan Area

27 August 2013

Case 18755

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Attachment A:
Amending Agreement

THIS FIRST AMENDING DEVELOPMENT AGREEMENT made this day of [Insert Month], 201X,

BETWEEN:

(INSERT DEVELOPER NAME)

a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

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

OF THE SECOND PART

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

AND WHEREAS the Harbour East Community Council approved an application by the Developer to enter into a Development Agreement to allow for the construction of a 7-storey multiple unit residential building with associated commercial space on the Lands on January 5, 2006, referenced as Municipal Case Number 00728, said Agreement was registered at the Land Registration Office in Halifax as Document Number 93255009 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that the Municipality enter into an amending Agreement to allow a 9-storey multiple unit residential building with flexible commercial/residential ground floor uses on the Lands pursuant to the provisions of the Halifax Regional Municipality Charter and pursuant to Policies H-18, IP-5 and IP-1(c) of the Dartmouth Municipal Planning Strategy and Section 18M of the Dartmouth Land Use By-law;

AND WHEREAS the Harbour East Marine Drive Community Council approved said request at a meeting held on XXXXX XX, 20XX, referenced as Municipal Case 18755;

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

The Existing Agreement is amended as follows:

1. Delete Section 2.1 Schedules and replace it with a new Section 2.1 as follows:

2.1 Schedules

The Developer shall develop and use the Lands in a manner which in the opinion of the Development Officer conforms to the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 18755:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule B1	Planting Plan
Schedule C	Building Elevations
Schedule D	Floor Plans: Parking and Ground Floor
Schedule D1	Floor Plans: Second Floor and Roof
Schedule E	Site Servicing Plan: Storm Sewer
Schedule E1	Site Servicing Plan: Water and Sanitary
Schedule F	Site Grading Plan
Schedule G	Storm Management Plan
Schedule H	Sedimentation/ Erosion Control Plan

2. Delete “Schedule A” from the Existing Agreement and replace it with “Schedule A” in this Amending Agreement.
3. Delete “Schedule B” from the Existing Agreement and replace it with “Schedule B” and “Schedule B1” in this Amending Agreement.
4. Delete “Schedule C” from the Existing Agreement and replace it with “Schedule C” in this Amending Agreement.
5. Delete “Schedule D” from the Existing Agreement and replace it with “Schedule D” in this Amending Agreement.
6. Delete “Schedule E” from the Existing Agreement and replace it with “Schedule E” and “Schedule E1” in this Amending Agreement.
7. Delete “Schedule F” from the Existing Agreement and replace it with “Schedule F” in this Amending Agreement.
8. Delete “Schedule G” from the Existing Agreement and replace it with “Schedule G” in this Amending Agreement.
9. Delete “Schedule H” from the Existing Agreement and replace it with “Schedule H” in this Amending Agreement.
10. Delete Section 2.2.1 and replace it with a new Section 2.2.1 as follows:

2.2.1 The use of the Lands permitted by this Agreement, subject to its terms and as generally illustrated on the Schedules attached hereto, is a multiple unit dwelling(s) for a maximum of 214 units with a minimum of 55 two or three bedroom units.

11. In Section 2.2.2 delete the words “no more than 30,000 square feet of ground floor commercial space is permitted” and replace it with the words “**commercial uses may only be permitted on the ground floor and limited to no more than 30,000 square feet of commercial space**”.
12. Delete Section 2.2.3 and replace it with a new Section 2.2.3 as follows:

2.2.3 Notwithstanding 2.2.2, residential uses of up to a maximum of 22 units, in combination with permitted commercial uses or solely residential uses, are permitted on the ground floor provided all other provisions of this agreement are met.”
13. Delete Section 2.2.4 and replace it with a new Section 2.2.4 as follows:

2.2.4 A minimum of 4,400 square feet shall be provided and designated as common internal amenity area set aside for tenant health club, home theatre and social gathering spaces as generally shown on the Schedules.
14. In Section 2.4.1 delete the words “Schedules 'B' through 'D'” and replace it with the words “**the Schedules**”.
15. In Section 2.4.2 add the following words at the end of the Section “**except where varied by this Agreement**”
16. In Section 2.4.3 delete the word and number “seven (7)” and replace it with the word and number “**nine (9)**”.
17. Delete Section 2.4.4 and replace it with a new Section 2.4.4 as follows:

2.4.4 As shown on the Schedules the construction materials shall be predominantly a porcelain tile cladding system. On the towers the general patterning will be random on the corner bays and solid on the middle portions of the building in neutral colours or grey scale variations. The balcony railings will be panelized glass or another similar material. The single storey building linking the towers generally will be coloured glass and aluminum window wall with natural wood accents. The Development Officer may approve modifications to the construction materials and design of the building provided these are minor in nature and serve to improve the overall appearance of the development and further the intent of this Agreement.
18. Delete Section 2.4.5.
19. Delete Section 2.4.6.
20. Delete Section 2.4.7.
21. Delete Section 2.4.8.
22. In Section 2.4.9 delete the numbers “2.4.9” and replace with “**2.4.5**”.

23. In Section 2.6.1 and Section 2.6.2 delete the words “parking for the disabled” and replace it with the words “**barrier free parking**”.
24. In Section 2.6.2 delete the number “125” and replace it with the number “**90**”.
25. In Section 2.6.3 add the words “**and number**” after the words “parking location”.
26. Delete Section 2.6.5 and replace with a new Section 2.6.5 as follows:

2.6.5 Bicycle Parking shall be provided in the amount of 81 Class A bicycle stalls and 20 Class B bicycle stalls and located as indicated on relevant Schedules.

27. In Section 2.8.1 add the words “**and Schedule B1**” after the words “Schedule B”.
28. Delete Section 2.8.2.
29. Delete Section 2.8.3.
30. In Section 2.8.4 delete the numbers “2.8.4” and replace with “**2.8.2**”.
31. In Section 2.8.5 delete the numbers “2.8.5” and replace with “**2.8.3**”.
32. In Section 2.8.6 add the words “**and Schedule B1**” after the words “Schedule B”.
33. Delete Section 2.8.7.
34. In Section 2.8.8 delete the words “or chemical storage (for possible pool).”
35. In Section 2.8.12 delete the words “for each phase” after the words “an occupancy permit”.
36. Delete Section 2.10 and 2.10.1 and replace it with a new Section 2.10 and 2.10.1 as follows:

2.10 Solid Waste Facilities

2.10.1 The building shall include designated space for five stream (refuse, recycling and composting) source separation services in accordance with By-law S-600 as amended from time to time. This designated space for source separation services shall be shown on the building plans and approved by the Development Officer and Building Official in consultation with HRM Solid Waste Resources.

37. In Section 2.12.4 delete the words “any phase of” after the words “time during”.
38. In Section 3.1 (b) delete the words “in the opinion of Council”.
39. This Amending Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

SIGNED, SEALED AND DELIVERED
in the presence of:

(Insert Registered Owner Name)

Witness

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**

Witness

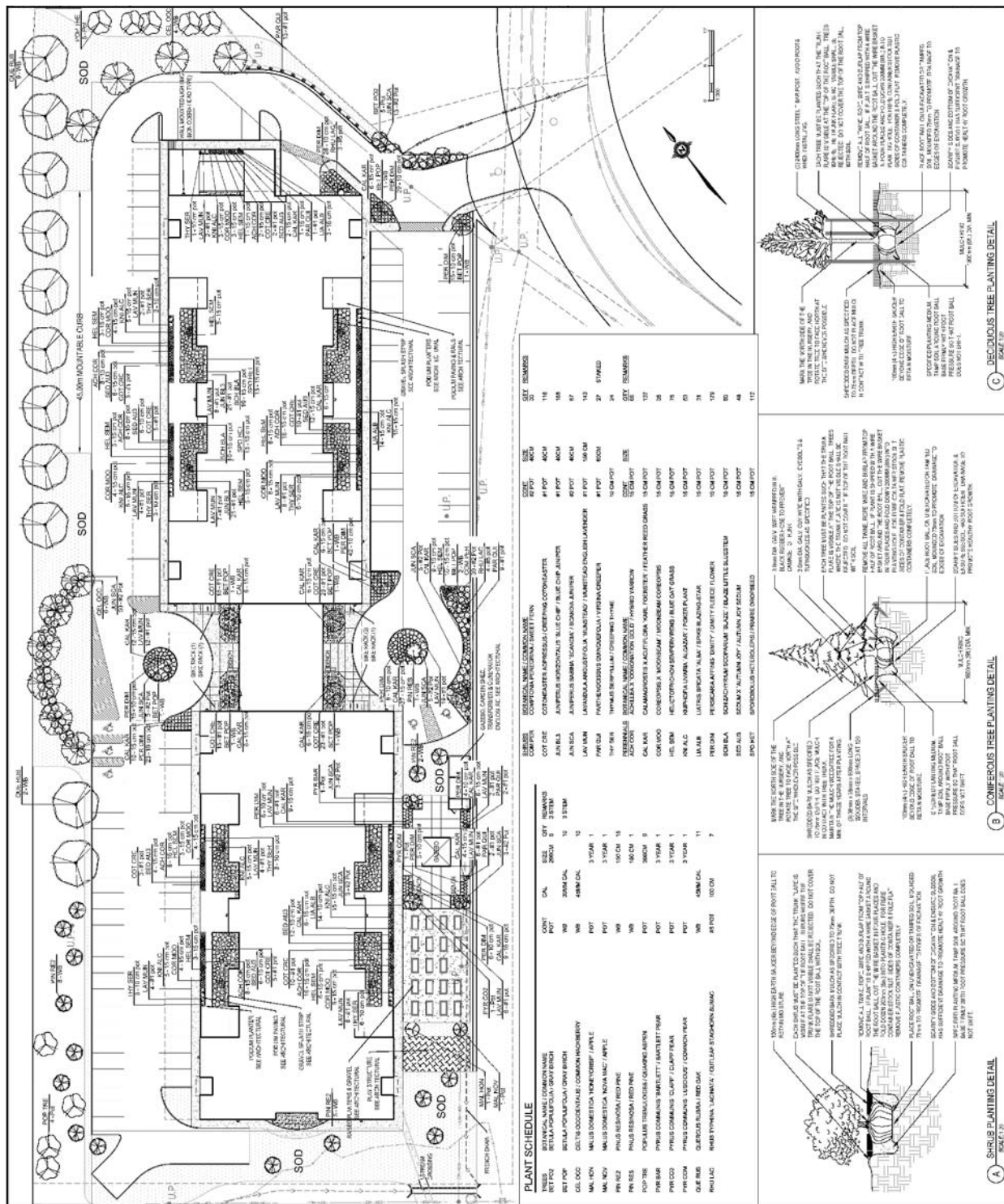
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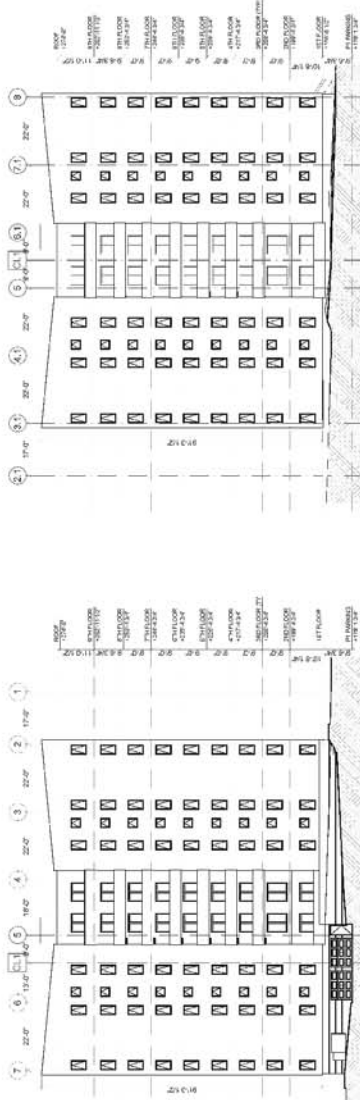
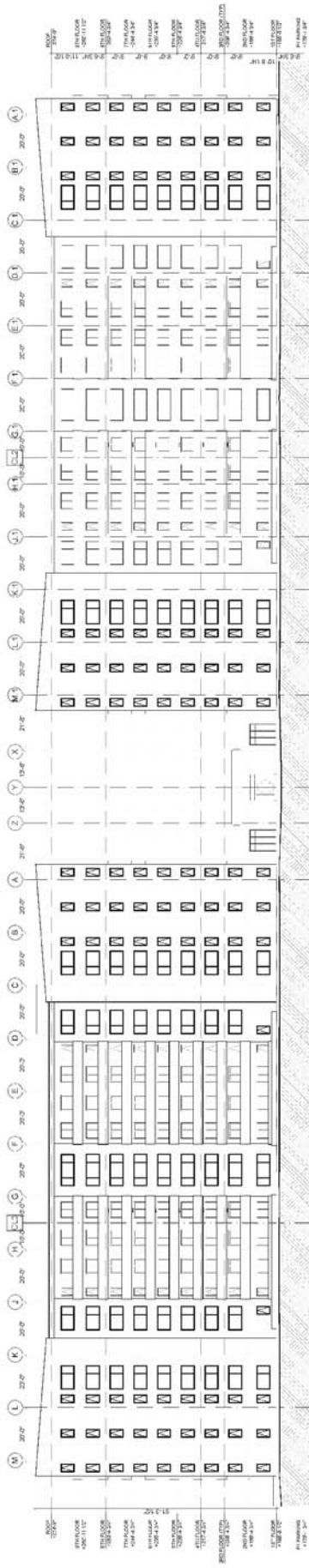
MAYOR

Witness

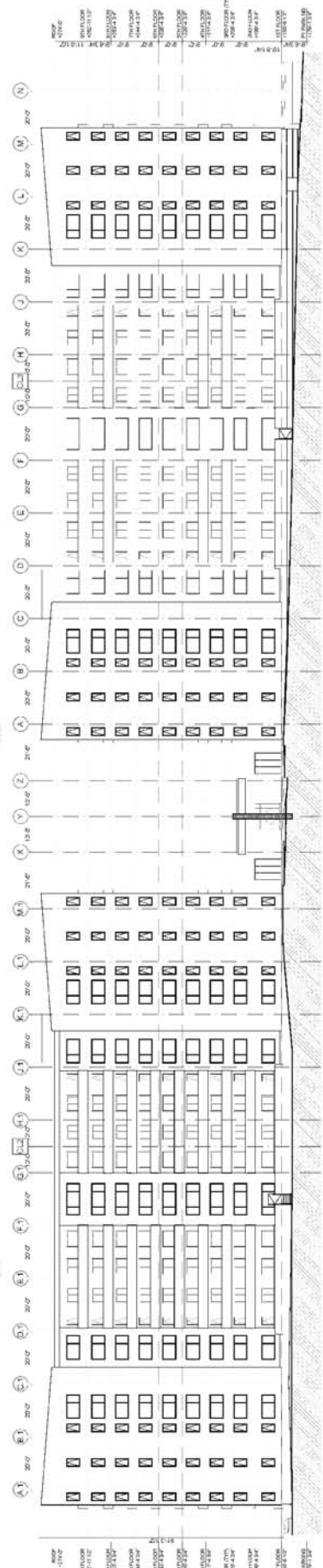
Per: _____

MUNICIPAL CLERK





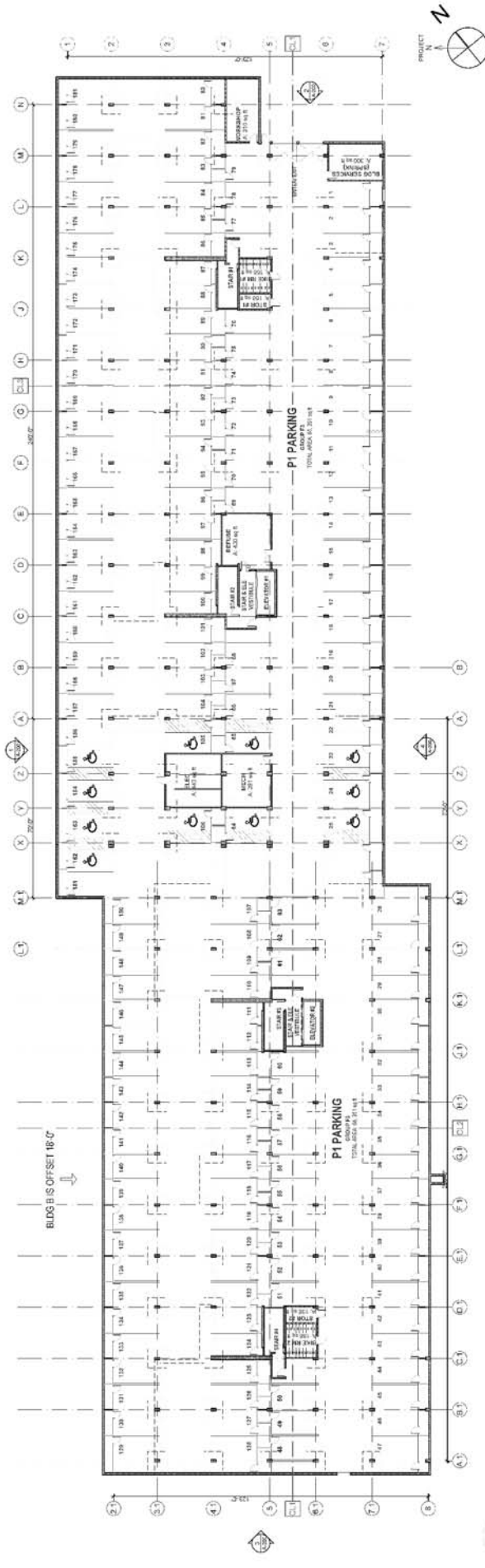
3 KEY WEST ELEVATION - MIC MAC BLVD
SCALE: 1" = 20'



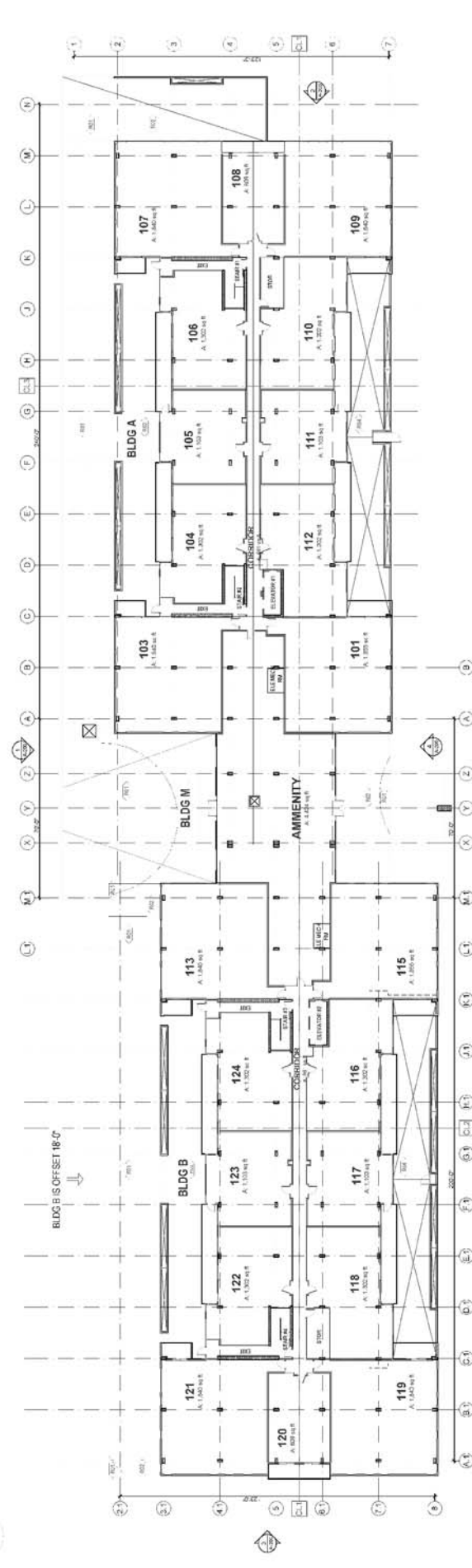
Schedule C Building Elevations



HRM does not guarantee the accuracy of any base information.



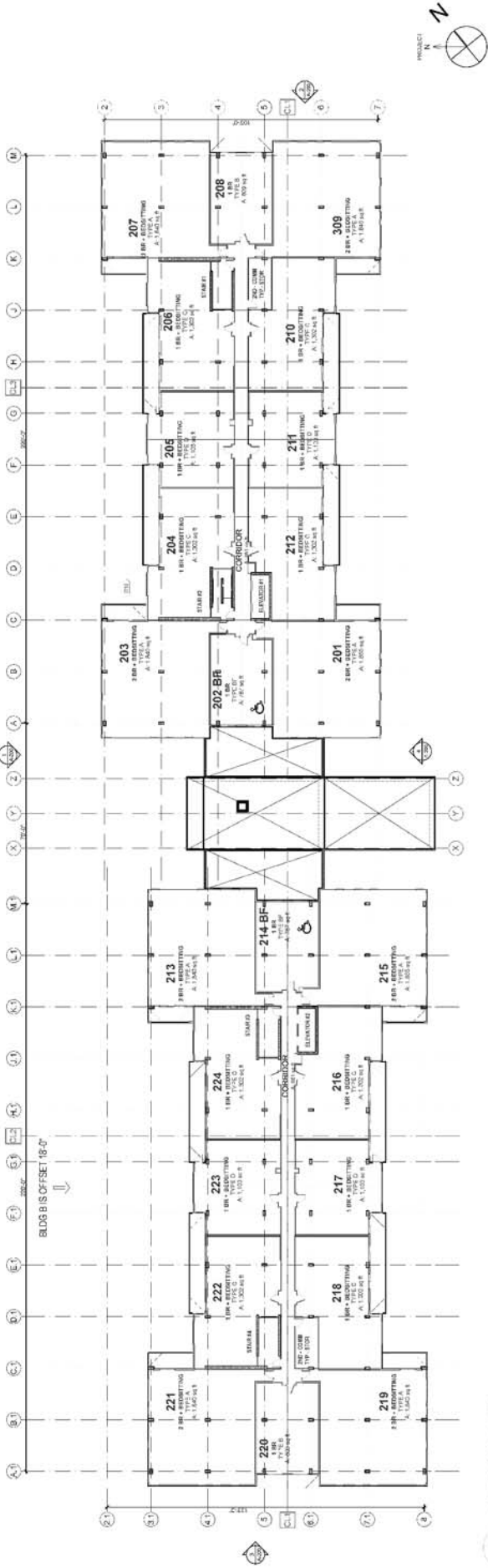
1
A-100
P1 PARKING
SCALE: 1" = 20'



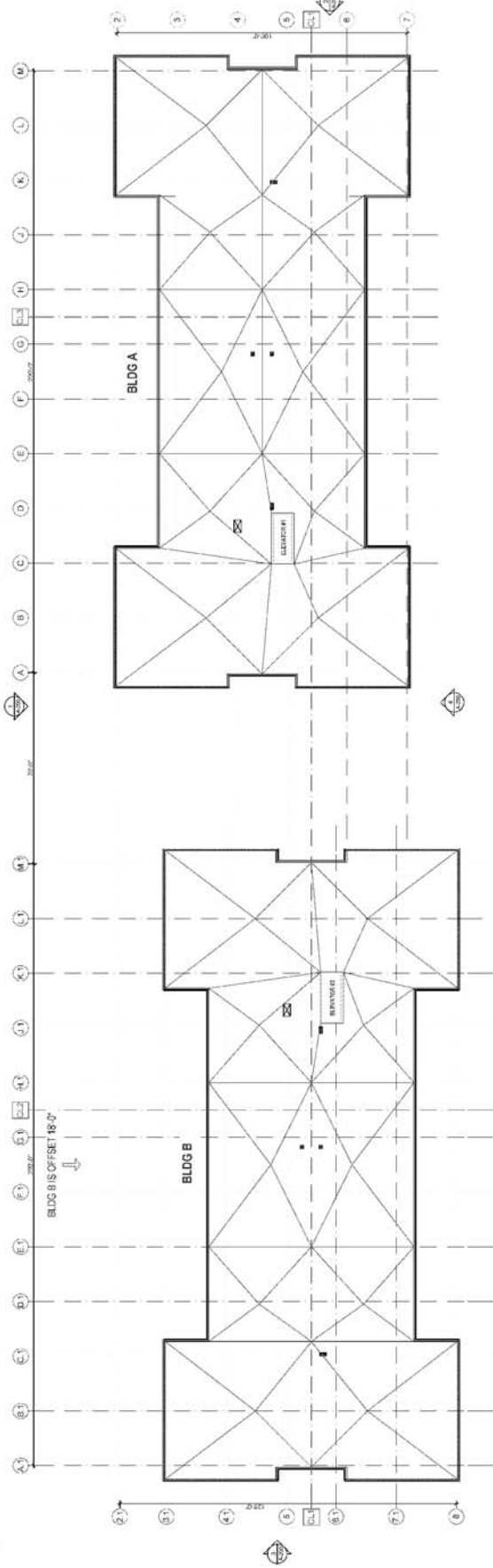
2
A-100
1ST FLOOR
SCALE: 1" = 20'

Schedule D Floor Plans - Parking and Ground

HRM does not guarantee the accuracy of any base information.



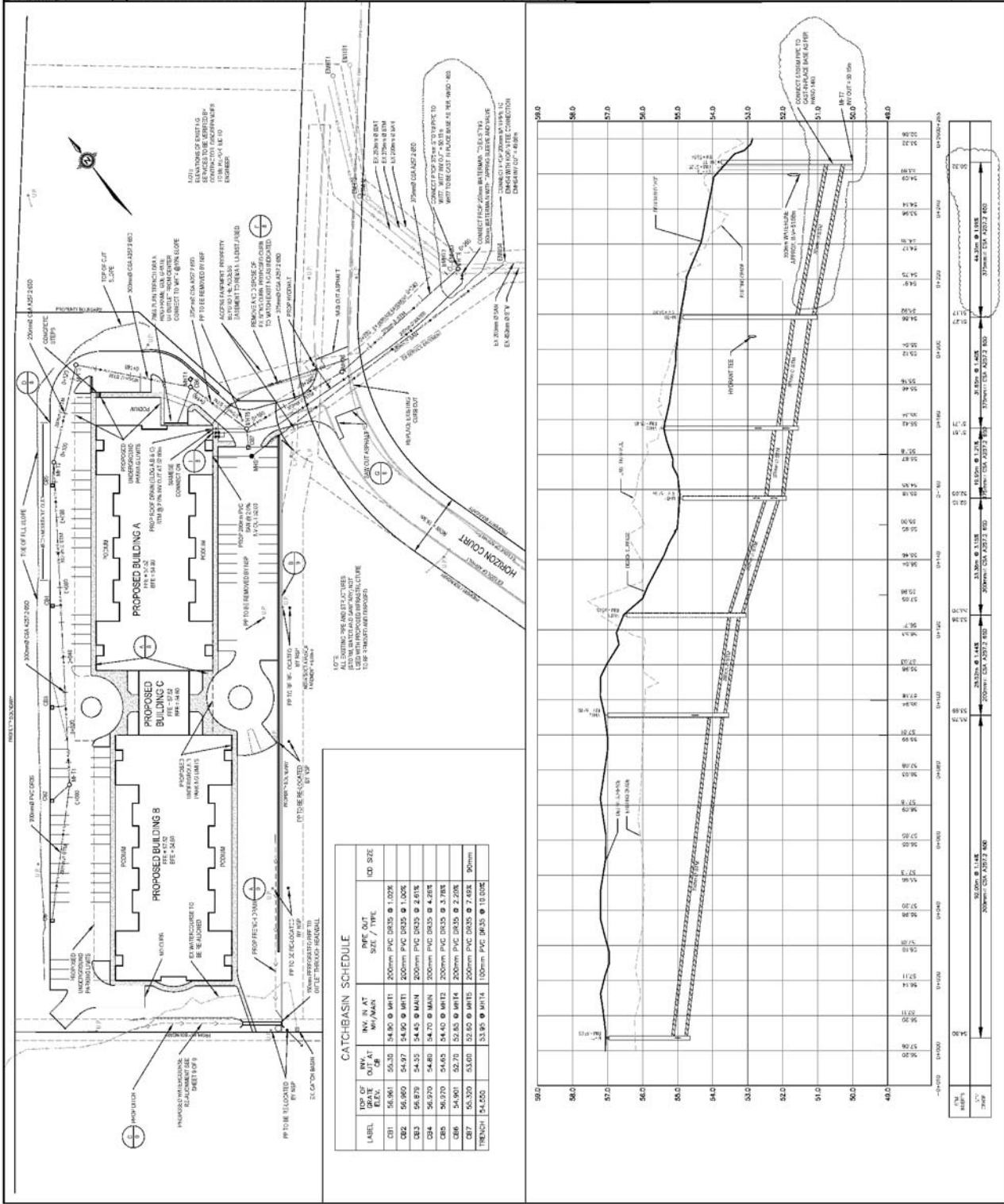
1 2ND FLOOR (TYP)
SCALE: 1" = 20'



2 ROOF
SCALE: 1" = 20'

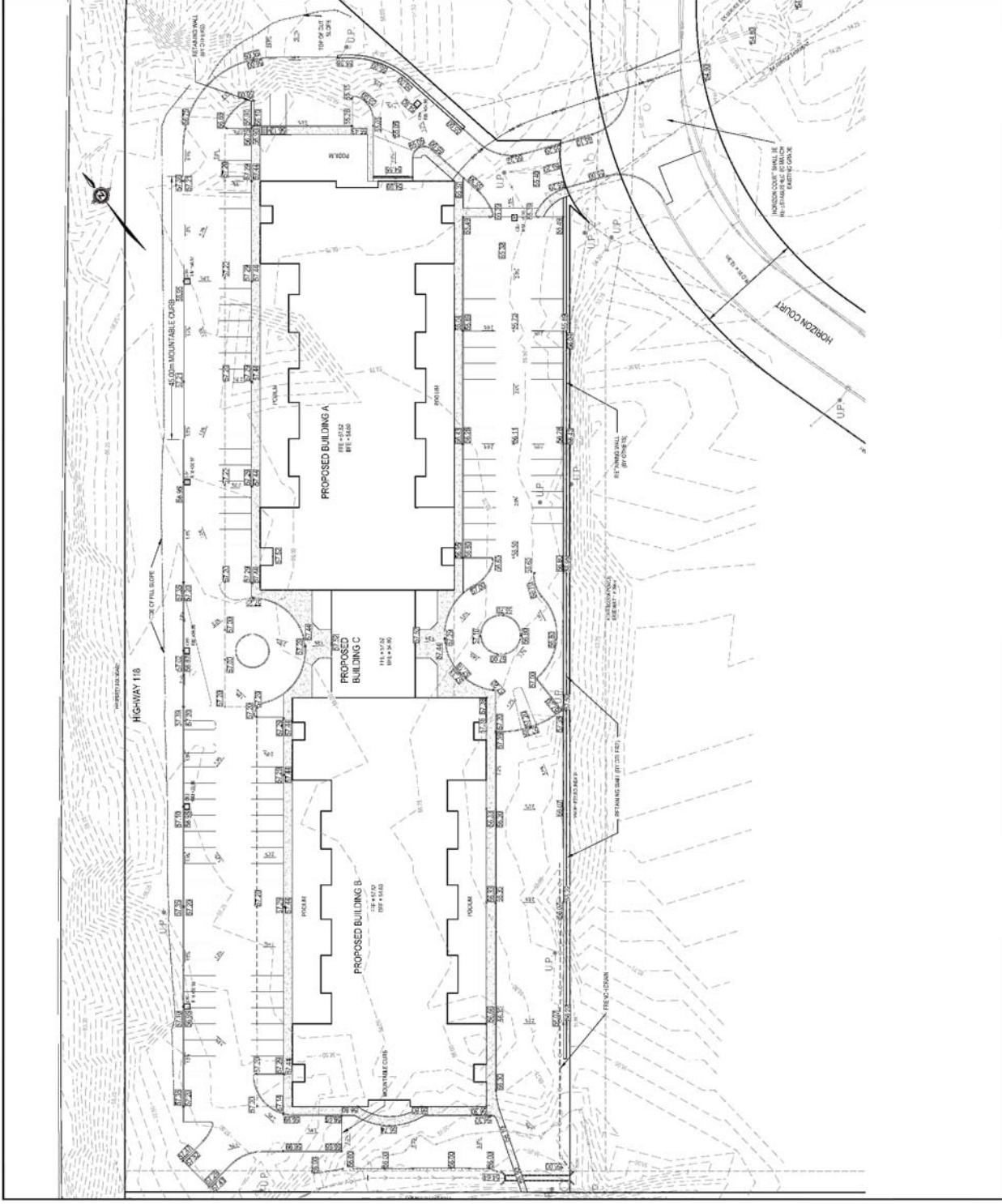
Schedule D1 Floor Plans - Second Floor and Roof

HRM does not guarantee the accuracy of any base information.



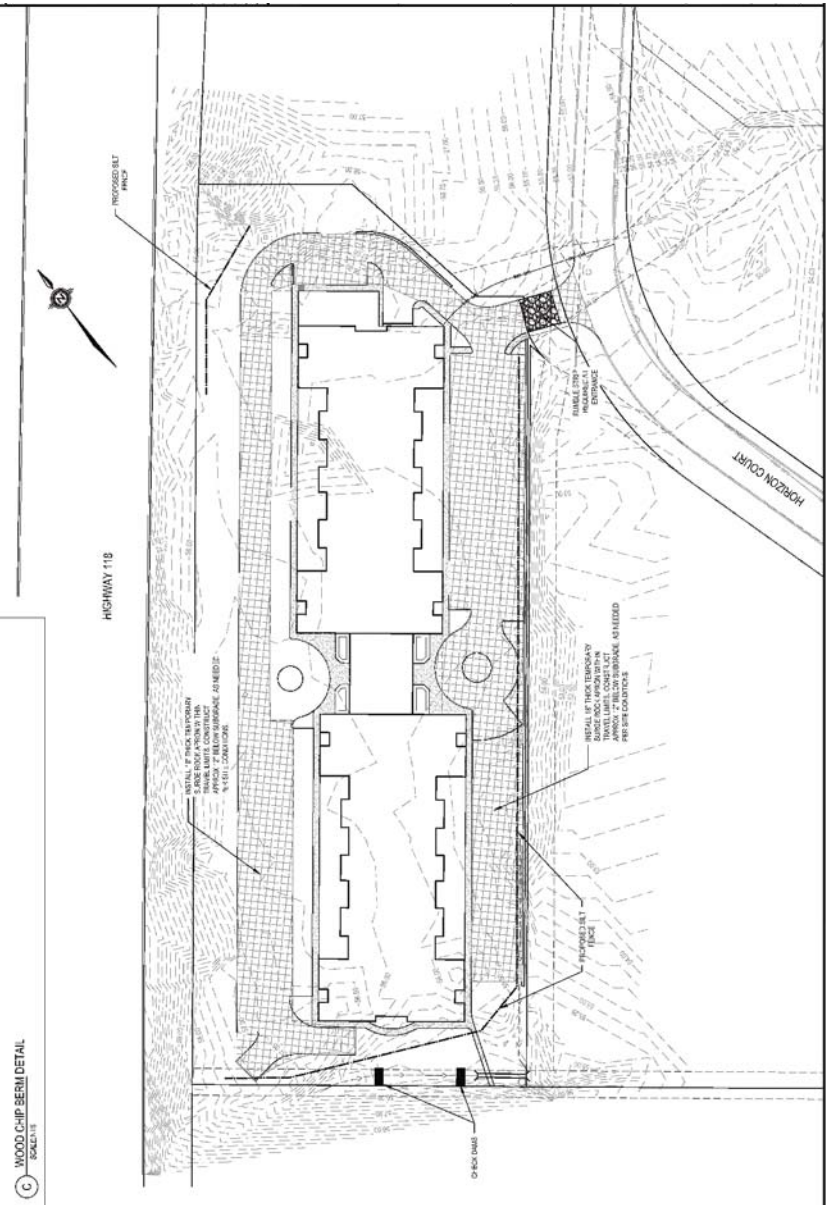
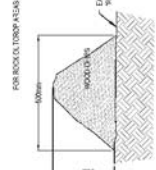
Schedule E Site Servicing Plan - Storm Sewer

HRM does not guarantee the accuracy of any base information.



Schedule F Site Grading Plan

HRM does not guarantee the accuracy of any base information.

[illegible][illegible]

Attachment B: Excerpts from the Dartmouth MPS

Please note: A review of the proposed development relative to the applicable criteria of Policy H-18 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.

(13) MTT Lands - Woodland Avenue (PID No. 40173668)

The Maritime Telephone and Telegraph Dartmouth Works Centre operated at this site for more than twenty years. The large graded site is strategically placed in relation to surrounding residential and commercial development. An opportunity for redevelopment of the site exists given its proximity to Woodland Avenue and Highway No. 111, and the regional shopping facilities at Mic Mac Mall. The community planning process carried out in 2000/01 supports redevelopment for multiple unit residential and/or office uses; however, a major retail facility(s) is not desired by the community. Access to the MTT site requires resolution prior to the consideration of any development proposal. No vehicular access will be allowed from Woodland Avenue.

Policy H-18 *Redevelopment of the former MTT works centre site (PID #40173668) for multiple unit residential use shall be subject to the requirements for Policy IP-5. Notwithstanding the Residential Designation and R-3 zoning, office development with associated (sic) retail uses (sic) including but not limited to small restaurants, pharmacy and/or convenience store may also be considered by development agreement pursuant to the provisions of Policy IP-1(c).*

(RC-Jan 29/02;E-Mar 2/02)

(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 Criteria	Staff 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 is for two additional residential storeys with the flexibility in the agreement to allow the ground floor to become completely residential or partial residential and commercial. The additional one storeys still allow for adequate levels of natural light, skyview and privacy and views to the adjacent streets, parks and properties. The proposed addition does not alter the transition in height from the highway to the existing tall buildings. Building heights and alignments are varied along the strip of land developed as Horizon Court without the nature of true urban edges and with that context in mind the proposed building is compatible with the existing neighbourhood. The building is also in very close proximity to existing 14 and 18 storey buildings and the recently approved 27 storey building (Can-Euro site). Given the development pattern in the immediate area the consideration of an additional storeys (resulting in a 9-storey building) is minor in scale and consistent with the policy intent for the area.
(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;	The height of the building is limited to 9 storeys and the size is guided by the lot coverage. Lot coverage is limited to 26% of the 3.69 acre site. The building bulk is mitigated by building articulation, balconies, inset entrance area.

	Policy Criteria	Staff Comment
	(ii) traffic generation, access to and egress from the site; and	A traffic impact addendum was prepared to revise the 2006 traffic impact study provided by the applicant to evaluate potential impacts of the proposed development on adjacent streets and intersections. The addendum found that 269 mid-rise apartment units could be considered for these lands based on the trip limiting generation estimates from the 2006 study; only 214 dwelling units are requested. The study also concluded that, in addition to 214 residential mid-rise apartment units, that trips generated by 13,900 square feet of office could be accommodated. This scenario could not result as 214 dwelling units represents a total residential build-out of the ground floor with no commercial but suggests what capacity is available should there be a mix of residential and commercial. Staff has accepted the conclusions of the study.
	(iii) parking;	The proposal is for a total of 273 parking spaces. This represents a slight reduction from the requirements of the that would be assigned under the Dartmouth Land Use By-law but it is staff's opinion that the proposed parking allocation is appropriate given the site's proximity to public transit as well as cycling and walking opportunities.
(c)	adequacy or proximity of schools, recreation areas and other community facilities;	The additional 46 units is not anticipated to create a significant demand on local schools, recreation areas or community facilities.
(d)	adequacy of transportation networks in, adjacent to, and leading to the development;	The traffic impact addendum suggests there is adequacy in the transportation network and staff concurs with the conclusions of the study.
(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 existing agreement includes a landscaped space next to Woodland Avenue and landscaped area with raised planting beds/gardens and hardscape area with gazebo near the main entrance. A Landscape Architect has prepared a Planting Plan with detailed design and over 4,000 square feet of interior amenity space is also proposed.
(f)	that mature trees and other natural site features are preserved where possible;	The existing agreement requires planting plan that retain several existing red maples on the site and incorporates them into the landscape design.
(g)	adequacy of buffering from abutting land uses;	The proposed 9 storey building will be adequately buffered by horizontal separation distances from existing tall buildings: The footprint size and location is not changed by the additional storey. Exterior materials and window types of the proposed elevations will reduce potential noise impacts within the dwelling units.

	Policy Criteria	Staff Comment
(h)	the impacts of altering land levels as it relates to drainage, aesthetics and soil stability and slope treatment; and	The existing 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. The developer has Approval from Nova Scotia Environment for a Wetland Alteration on the site and must meet all the terms and conditions of this approval.
(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	Staff Comment
(1)	that the proposal is in conformance with the policies and intent of the Municipal Development Plan	The proposal has been considered in accordance with policies H-18, IP-5, and IP-1(c).

	Policy	Staff Comment
(2)	that the proposal is compatible and consistent with adjacent uses and the existing development form in the area in terms of the use, bulk, and scale of the proposal	The proposed building is adjacent the existing 14 storey and 18 storey multiple unit buildings and the approved 27-storey multiple unit building. It is the opinion of staff the proposal for an additional storey and flexibility with residential/commercial uses on the ground floor is compatible with the development pattern of high density development in the immediate area.
(3)	provisions for buffering, landscaping, screening, and access control to reduce potential incompatibilities with adjacent land uses and traffic arteries	Access to the proposed building is from a private right-of way (Horizon Court) extending north-north east from Mic Mac Boulevard to Glencairn Crescent, which abuts lands of Mic Mac Mall regional shopping centre. A recently approved DA for abutting lands requires that landowner to widen the Horizon Court approach to Mic Mac Boulevard to provide two south bound lanes (a left-through and a right turn lane) and to design and construct a left turn lane on Mic Mac Boulevard to Horizon Court at his cost.
(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	The existing 2005 development agreement on the lands required the developer pay a capital cost contribution towards the costs of upgrading the Mic Mac Boulevard/Highway 111 interchange. The contribution was established through Local Improvement Charges By-law L-113 and was paid in full in 2009. The amount was based on projected traffic volumes from the lands as a proportion of total traffic growth in the area. The existing agreement also required the developer to provide a \$150,000 cash contribution to be utilized for improvements to Maybank Field Community Park.
	(ii) the adequacy of sewer and water services and public utilities	No concerns were identified regarding the capacity of sewer or water based on the proposed addition. This infill development maximizes utilization of existing infrastructure. The private infrastructure required to service this development will be at cost to the developer and ownership will not be assumed by neither HRM or Halifax Water.
	(iii) the adequacy and proximity of schools, recreation and other public facilities	See IP-5(c)

	Policy	Staff Comment
	(iv) the adequacy of transportation networks in adjacent to or leading to the development	See IP-5(b)(ii)
	(v) existing or potential dangers for the contamination of water bodies or courses or the creation of erosion or sedimentation of such areas	The existing 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	There is no shoreline or water frontage associated with this development.
	(vii) the presence of natural, historical features, buildings or sites	Not applicable.
	(viii) create a scattered development pattern requiring extensions to truck (<i>sic</i>) facilities and public services while other such facilities remain under utilized	The development will utilize sewer, water and transportation infrastructure that is already in place; private laterals (domestic water, sanitary, sprinkler) will extend from Horizon Court. This proposed development is an example of urban infill to maximize utilization of existing infrastructure and services.
	(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	Not applicable.
(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 of the proposed development 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 previously above.

	Policy	Staff Comment
	(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 existing agreement requires a pedestrian sidewalk encircling the building through the proposed planting plan.
	(vi) management of open space, parks, walkways	There are various recreation areas in the immediate vicinity of the proposed development, however the existing agreement requires amenity space be provided in accordance with the LUB as well as landscaped areas.
	(vii) drainage both natural and sub-surface and soil-stability	The existing 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 existing 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 out-croppings, 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.
(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 Community Council holds a Public Hearing. Both meetings are advertised in the local newspaper and notices are sent directly to local residents.

	Policy	Staff Comment
(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	Not applicable.
	(ii) permit staff to assess and determine the impact such development would have on the land and the surrounding community	Not applicable.
(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: Public Information Meeting Notes

**HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 18755 – 5 Horizon Court**

**7:00 p.m.
Monday, September 9, 2013
Alderney Gate Library, Helen Creighton Room
90 Alderney Drive, Dartmouth**

STAFF IN

ATTENDANCE: Darrell Joudrey, Planner, Planning Applications
Holly Kent, Planning Technician
Jennifer Purdy, Planning Controller

ALSO IN Councillor Gloria McCluskey, District 5
ATTENDANCE: Louie Lawen, Dixel Developments

PUBLIC IN
ATTENDANCE: 13

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

Opening remarks/Introductions/Purpose of meeting

Mr. Darrell Joudrey, Planner, Planning Applications, called the meeting to order at approximately 7:01 p.m. in the Helen Creighton Room of the Alderney Gate Library, 90 Alderney Drive, Dartmouth.

He introduced himself as the planner guiding this application through the process and also introduced Councillor Gloria McCluskey, District 5; Holly Kent, Planning Technician, HRM Planning Services and Jennifer Purdy, Planning Controller, HRM Planning Services.

Mr. Joudrey advised that the application is by Dixel Developments on lands at 5 Horizon Court, Dartmouth, for substantive amendments to an existing development agreement to allow an increase from 7 floors to 9 floors, flexibility to permit the first floor to be developed entirely as residential units and to permit changes to the architectural elevations and landscape design.

Mr. Joudrey reviewed the application process, noting that the public information meeting is an initial step, whereby HRM reviews and identifies the scope of the application and seeks input from the citizens. The

application will then be brought forward to Harbour East-Marine Drive Community Council which will hold a public hearing at a later date, prior to making a decision on the proposed development.

Presentation on Application

Mr. Joudrey explained that Ollive Developments has an approved development agreement for a 7 storey, 168 unit building; this was approved by Community Council in 2005. The first floor is required to be specific commercial. Ollive Developments, which is under the company name of Dixel Developments, has submitted an application to substantively amend the existing development agreement for a 9 storey building with a maximum of 214 units (including the first floor). They have submitted architectural changes to the elevations with the lot coverage remaining at 26%.

Reviewing a slide of the site, Mr. Joudrey explained that 5 Horizon Court is 3.7 lot acres off of MicMac Boulevard. The designation is residential and zoning is R-3 (Multiple Family Residential – Medium Density).

Mr. Joudrey at this time reviewed Policy H-18 explaining that it provides for redevelopment of R-3 uses of lands at Horizon Court; it allows for consideration of office uses by development agreement with associated retail uses; Policy IP-5 considers apartment building by development agreement and Policy IP-1(c); there are general policy criteria for evaluating development agreements. Mr. Joudrey explained that the original development agreement exceeds its threshold of R-3 zone standard by 14%; request exceeds threshold by 34%. He explained that appropriate areas to locate higher density developments are near high and mid-rise residential; adjacent to 100 series highways; or by existing services such as transit, community recreation and large retail node. The proposed density of the new building is greater than approved R-3 zoning however, less than the highest density permitted under the R-3 zoning.

Louie Lawen, Dixel Developments introduced himself and gave a brief overview of Dixel Developments past and current projects such as: 1530 Birmingham Street; 5144 Morris Street; 17 Irishtown Road; 1078 Tower Road; 1343 Hollis Street; 31 Russell Lake Drive; 1254 Hollis Street and 5251 South Street.

Mr. Lawen reviewed slides of the proposed Avonhurst development showing the view from Horizon, the main entrance canopy, the south lawn, the site plan, floor key plans for the 1st and 2nd floors as well as key elevations. He explained that Avonhurst is a mixed-use building in the heart of Downtown Dartmouth. The residential portion of this development will have 214 condo equivalent units; this will be broken down into 1 bedroom units at 800 to 1100 sq ft; 2 bedroom units at 1400 sq ft and 3 bedroom units at 1600 sq ft. The Commercial portion will be 30,000 sq ft of office/local retail (max 192 residential units) with a total amenity space of 4500 sq ft. He explained that there will be 89 outdoor parking spaces, 184 heated underground parking spaces and 107 bike spaces which will also be underground. The common areas and amenities the development offers are: A fitness Centre; Lounge/Living room are (3 different areas); kitchen and dining area; mailroom; parcel room; building management office on site; boardroom; business centre, theater; workshop; personal storage cages in underground level; raised planters for personal gardens and a gazebo & BBQ area with benches for a park like setting.

Mr. Lawen explained that the main residential entrance will face MicMac Blvd, the stairwell exit doors will face Woodland Avenue, the loading area will also face Woodland Avenue and added

that there will be one underground parking ramp entrance with wheelchair access throughout the site. The proposed materials will include porcelain tile and prodema wood panels; these last longer. There will be landscaped planters throughout the site; glass curtain wall for the main entrance; glass aluminum bypass rails (no edge of slab) with wood panel inserts and will have large windows and doors for living room areas.

He explained that they are in partnership with Efficiency Nova Scotia to design a better and more efficient building. They will be using a natural gas boilers, will have refuse and recycle facilities; 6 stream collection; HRV: 8% efficient heat recover for ventilation; 3 liter toilets; low flow shower faucets and shower heads; computerized control; light control: these lights will turn on only when area is in use (stairways and parking garage) and; expandable spray foam insulation (the best thermal and airtight envelope). Mr. Lawen added that the traffic study has been updated and noted less traffic with only residential use and the wind/shadow study showed no impact. He anticipates site preparation and excavation time being approximately 2 months; there will be minimal rock breaking (now completed) and the removal of 300 ft of overhead lines and poles.

Questions and Answers

A representative from Kent Building Supplies explained that they are in support of the development however; thinks there will be benefits in keeping the commercial component. This would be part of the MicMac Mall business community and would help with the concentration. He explained that there is a lot of competition outside of the particular zone for commercial and thinks that the greater the mass of the concentration the better. He added that the development looks positive and is in favor of it.

Mr. Lawen explained that the commercial component is still there, however in the current market conditions they didn't want to be left with the commercial floor vacant. He explained that they had a hard time filling the commercial portion of a previous development and would rather leave it flexible with the option to change it into residential if they have difficulty renting it. He added that the demand for commercial is difficult.

Mr. Joudrey explained that part of the reason why Dixel Developments was moving the request is because the approved development agreement allows for no residential units on the ground floor whatsoever.

Ms. Grace Beuree, Horizon Court, explained that there is enough commercial in the area and this area is not far from anything that the residents need. She expressed concern with sound barriers and if there was commercial, noise would be more of a concern. As a resident in the area, she is happy with the sound buffers constructed in the building she currently resides in and asked if this development will have the same sound buffers.

Mr. Lawen explained that they currently have a plan for triple glazed windows which are three planes of glass and will help with street noise. Between the units, they have completed research and are building the best wall they can build. There will be 4 layers of drywall with insulation in between them. They will ensure that they are sound proof. He added that there will be air-conditioning, which will allow for residents not to have to open their windows therefore, there will be less distraction.

Ms. Beuree asked how long the process will be.

Mr. Joudrey explained that he will review the process following the questions and answers period.

Mr. Wayne Beuree, Horizon Court expressed concern regarding traffic and explained that with the CanEuro application also being developed will there be another lane put in or having any other access other than the one road with two lanes.

Mr. Lawen explained that with their currently development, there are no improvements planned for Horizon Court. The cutting back of the trees is to accommodate for the reallocation of the overhead lines. During construction, Can-Euro has offered them to use their property for parking to keep the street as clear as possible. Mr. Lawen explained that he believes that with CanEuro's current approved development, there will be some improvements to the intersection of MicMac Blvd and Horizon Court in the future. In 200, during the initial development agreement proposal, the traffic report showed that there would be no significant impact to the traffic. However, when CanEuro's 27 storey building is completed, it will cause more density that their traffic report requested/recommend some improvements. He also explained that this site only has legal access to MicMac Blvd however; Dixel Developments and CanEuro have come to an agreement that residents can use both parking lots. This should decrease traffic impact. He explained that the commercial component creates more traffic versus the residential component.

Mr. Joudrey explained that a traffic impact study has been submitted; however HRM Traffic Services have not yet completed their evaluation yet. He added that the 2000 study that had been completed on Woodland anticipated the development of the CanEuro site as well as this site. He explained that both CanEuro and Dixel Developments have contributed to upgrades on the 111 and 118 highways to handle the additional traffic.

Mr. Beuree asked if there has been any consideration of a traffic light at the end of Horizon Court.

Mr. Joudrey explained that there has been no consideration of that at this time.

Mr. Lawen explained that the only recommendation was a left and right lane when you exit Horizon Court. He added that when entering Horizon Court, there will be another lane for left-hand turns. These improvements are not required to be done until CanEuro's 27 storey building is completed.

Mr. Joudrey added that it will be completed before occupancy permits are issued.

Mr. Joudrey at this time explained that once he has received the team review comments, staff will prepare a staff report which will be brought forward to Community Council for first reading. If Council decides to go forward with the report, a date will be set for the Public Hearing. After the decision of the Public Hearing, there will be a 14 day appeal period with the Nova Scotia Utility and Review Board. If there are no appeals, the development agreement will be signed and registered with the Land Registry Office.

Councillor McCluskey asked where Harbour East-Marine Drive will be holding their meeting regarding this application.

Mr. Joudrey explained that the Public Hearing will take place at the former Council Chambers at 90 Alderney Drive, Dartmouth. Notification of this meeting will be mailed out to those who have already are on the notification mail out or who had signed in during this meeting providing their name and address. An ad will also be placed in the Chronicle Herald two consecutive Saturday's prior to the meeting explaining the date, time and location of the public hearing.

Mr. Tim Keddy, Horizon Court explained that he works with Tim Keddy and asked if the esthetic change of the clouding will be a part of this development regardless of Councils decision.

Mr. Joudrey explained that this is determined as a substantive amendment as well.

Mr. Keddy explained that proposal is more esthetically pleasing than the original one.

Closing Comments

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

Adjournment

The meeting adjourned at approximately 7:57p.m