


**Harbour East Community Council  
July 7, 2011**

**TO:** Chair and Members of Harbour East Community Council

**SUBMITTED BY:**   
For Paul Dunphy, Director, Community Development

**DATE:** June 22, 2011

**SUBJECT:** Case 16687: MPS/LUB Amendments and Development Agreement for  
Portland Street, Dartmouth

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**ORIGIN**

An application by Michael Napier Architects, for lands of Harbourvista Apartments Ltd., to amend the Downtown Dartmouth Municipal Planning Strategy and Land Use By-law that recognizes existing zoning and to enter into a development agreement for a four storey, 69 unit apartment building that extends over 224, 226 and 228 Portland Street.

**RECOMMENDATION**

It is recommended that Harbour East Community Council:

1. Give Notice of Motion to consider the proposed development agreement as set out in Attachment C of this report and schedule a joint public hearing with Regional Council;
2. Recommend that Halifax Regional Council give First Reading to consider the proposed amendments, as highlighted on Maps 1 and 2 of this report, to the Downtown Dartmouth Municipal Planning Strategy and Land Use By-law as set out in Attachments A and B of this report and schedule a joint public hearing with Harbour East Community Council;
3. Recommend that Halifax Regional Council approve the proposed amendments to the Downtown Dartmouth Municipal Planning Strategy and Land Use By-law to expand the Downtown Business District as set out in Attachments A and B.

### **EXECUTIVE SUMMARY**

Michael Napier Architects have applied to amend the Downtown Dartmouth MPS and LUB to redesignate and rezone lands at 224, 226 and 228 Portland Street to Downtown Business District in order to enable a four storey 69 unit apartment building. Staff are proposing that lands west of the proposed apartment currently zoned Downtown Business District be redesignated to Downtown Business District as well. Policy B-8 allows new apartment buildings to be considered by development agreement in the Downtown Dartmouth Business District and provides criteria for their consideration by Council. The proposed apartment is sensitive to the traditional character of the downtown and is designed to address human scale and compatibility issues. The proposed development agreement minimizes impact on the surrounding streetscapes and neighbouring residential properties by ensuring the entire building is treated in the same architectural manner as the Portland Street façade, requiring a detailed landscaping plan, and allowing the building to be located at the Portland Street sidewalk edge by utilizing underground parking.

### **BACKGROUND**

In 2010, a fire destroyed two residential apartment buildings at 226 and 228 Portland Street (Map 1). The owner of the property, Harbourvista Apartments Ltd., investigated options for redeveloping the lots which included a contiguous parcel of land behind the destroyed buildings plus the lots at 222 and 224 Portland Street. To consider the redevelopment of the subject lands for a multiple unit building, the applicant is requesting an amendment to the MPS/LUB to include all the lands within the Downtown Business designation and zone (Maps 1 and 2). To ensure consistency of development policies and regulations along Portland Street, staff recommended that the lands currently rezoned Downtown Business District west of the subject property to Maitland Street, as applied during the 2000 plan review, be re-designated to Downtown Business District designation.

### **Location, Designation, Zoning and Surrounding Land Use**

The lands are:

- located on the south side of Portland Street about 280 feet west of “Five Corners”;
- approximately 21,172 square feet in area;
- designated Downtown Neighbourhood under Downtown Dartmouth Municipal Planning Strategy (Map 1);
- adjacent Downtown Neighbourhood designated lands west to Maitland Street;
- dual zoned DN (Downtown Neighbourhood) and DB (Downtown Business District) under Downtown Dartmouth Land Use By-law (Map 2); and
- surrounded by land uses zoned DB, west on Portland Street, and DN, east on Portland Street.
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### **Downtown Dartmouth MPS Policy**

The current underlying Municipal Planning Strategy (MPS) land use designation for the subject lands is Downtown Neighbourhood (Map1) but are zoned Downtown Business District (Map 2). The existing designation on the lands does not allow Council to consider a development

agreement on the subject lands for the proposed apartment building. The subject lands must be redesignated to the Downtown Business designation and the Downtown Business District zone applied.

Under the Downtown Dartmouth MPS, proposals for higher density housing that do not meet the standards of the Downtown Business District zone may be considered by Council through the development agreement process in accordance with Policies B-8 and N-5 (Attachment D). Specifically, Policy B-8 requires:

- i) the proposal be sensitive to the traditional character of the downtown;
- ii) buildings to be designed to reinforce a human scale at the streetscape level by stepping back from the street with articulated facades;
- iii) commercial uses are encouraged at the street level of residential buildings; and
- iv) on-site parking should be enclosed.

Generally, the evaluative criteria set out in Policy N-5 is usually considered in the evaluation of development agreement proposals for Neighbourhood Residential Opportunity Sites but Policy B-8 states it shall also be considered for higher density residential proposals.

### **Proposal**

The applicant has requested that the Downtown Business District (DB) designation and zone be applied to all of the subject lands for the proposed development agreement (see Maps 1 and 2). To achieve this goal, the following amendments are required:

<b>Lands to be re-designated to DB Designation</b>	<b>Lands to be re-zoned to DB Zone</b>
222 Portland Street	the rear portions of 226 & 228 Portland Street
the rear portions of 226 & 228 Portland Street	small parcel contiguous to 226 and 228
small parcel contiguous to 226 and 228	

The proposed amendments will allow for consideration of a higher density and larger scale development on the subject lands by development agreement than currently permitted by existing land use designation and zoning

The applicant's proposal is for a 69 unit residential apartment building on the subject lands with a suggested character of two storey attached townhouses fronting on Portland Street, approximately mid-block between Maitland and Albert Streets, stepping back to the main four storey building. The proposed building is an example of residential infill that features:

- a below grade parkade;
- "townhouses" designed to accommodate either commercial or residential occupancy; and
- a façade that continues the traditional streetscape while providing a higher density building.

### **MPS Amendments**

At present, the Downtown Business District zone extends west along Portland Street to Maitland Street from the subject lands. This includes three properties, two fronting on Portland Street containing civic numbers 212, 214 and 218 and the third property fronting on Maitland Street, civic number 28, also zoned Downtown Business District during the 2000 plan review (Map 2). The supporting MPS designation was not applied to the lands described above in 2000 but it is apparent, from review of the 2000 staff report the change should have occurred. Further, the lands on the opposite side of Portland Street are designated and zoned Downtown Business District.

### **DISCUSSION**

Staff has reviewed the proposal relative to the applicable policies of the Downtown Dartmouth MPS (Attachment D). Policy B-8 sets out specific criteria for higher density residential development in the Downtown Business District designation while Policy N-5, intended for medium density housing proposals, contains criteria useful to assess building design standards that reflect the unique character and scale of the neighbourhood. Staff are of the opinion that the proposal is consistent with all applicable policies of the Downtown Dartmouth MPS. The following issues have been identified for detailed discussion.

### **MPS/LUB Amendments**

Before Community Council can consider the proposed multi-unit building, all of the subject lands need to be redesignated and rezoned to Downtown Business. These lands are integral to the proposed development and because of their internal location, could be difficult to redevelop on their own. Staff is of the opinion that there is merit to considering MPS and LUB amendments (Attachments A and B) for these lands, and the lands west from the subject lands to Maitland Street. Lands fronting on the opposite, or north, side of Portland Street are designated and zoned Downtown Business and the approval of the requested amendments for the lands fronting on the south side of Portland would further ensure development occurs in a consistent manner along both sides Portland Street in the subject area.

### **Proposed Development Agreement**

#### *Building Height*

Through the development agreement process the general guideline for permitted height in the Business District zone is five-storeys (Attachment D). The proposal is for a height of only four-storeys in keeping with the general design principle that buildings should be no taller than the street right-of-way is wide – to ensure the perception of height is mitigated. To further mitigate the perception of height the building is stepped back above the second storey at the Portland Street façade to create a comfortable scale for pedestrians at street level.

#### *Density*

The proposed building shall contain 69 residential units which translates to a density of 142 dwelling units per acre. The units are all one bedroom except for 9 two bedroom units. The general guideline for density under Policy B-8 is 100 units per acre to be used as the parameter

for the scale and massing of the proposed development. Staff believes the proposed density is appropriate for Downtown Dartmouth because the design quality, stepbacks and the scale of the building limits the impacts on neighbouring streets and residential properties without the perception of the higher density.

#### *Compatibility*

To address compatibility concerns, the building is designed to recreate the character of three two-storey townhouses along the Portland Street façade. These townhouses are further animated by each having a traditional one-storey storm porch. This architectural articulation, combined with the building's step back above the townhouse units to diminish the mass, contributes to an appropriate human scaled public realm. Further, the proposed design mitigates the impact of the appearance and height of the deep side walls and rear wall, built to the property lines, by treating all elevations of the building with the same architecturally finished surface and character as the Portland Street façade (Schedules F and G). The draft Agreement also seeks to integrate the mechanical penthouse and rooftop equipment functions into the overall building design.

#### *Commercial/Residential Use*

The multi-level townhouses are designed to be used as commercial, as encouraged by Policy B-8 (Attachment D) or residential or a combination of both uses. The draft Agreement provides for all permitted commercial uses in the Downtown Dartmouth Business District zone and home business uses up to 50% of the gross floor area up to a maximum of 650 square feet.

#### *Site Access and Parking*

Two existing driveways at Portland Street will service the proposed development. The driveway on the east side of the proposed development will provide a driveway to the underground parking level. Solid waste pick up from the parking level will be facilitated from this driveway as there is sufficient space to manoeuvre a truck (smaller scaled private service truck) off of Portland Street. The driveway on the west side of the property will provide access to a drop off area and two surface parking spaces. This area is intended to serve as the area for handling moving day "activities". The required Traffic Impact Study, accepted by HRM Traffic Services, shows that both driveways provide adequate sight distances for both Portland Street approaches.

The parking ratio is below 1:1 but as the site has excellent pedestrian and transit services, observed in the Traffic Impact Study, staff are of the opinion that this site is well suited for pedestrian travel and suggests that not all residents will own a vehicle. Six Metro Transit routes provide service on Portland Street and the Downtown Dartmouth commercial area and Alderney Gate Ferry Terminal is also within walking distance to the west on Portland Street. The draft Development Agreement provides for 37 full size, two barrier free and 8 small vehicle appropriate spaces in the underground parking and two surface parking spaces at the west driveway.

*Conclusion*

Staff is of the opinion that the proposed redesignation and rezoning amendments support the existing Downtown Business District zone applied to the subject lands, and the lands west of the subject lands to Maitland Street are consistent with the intent of the Downtown Dartmouth MPS. Further, staff believes the proposed apartment building is consistent with the intent of Policy B-8 regarding higher density residential development within the Downtown Dartmouth Business District Designation. The proposed building meets the criteria of Policy B-8, as discussed above, as well as the general evaluative criteria as set out in Policy N-5. Therefore, staff recommends that Regional Council approve the amendments to the MPS and LUB as set out in Attachments A and B. Upon adoption of the amendments, Community Council can then consider entering into the proposed development agreement as set out in Attachment C.

**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 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 information sharing, achieved through the HRM Website, responses to inquiries, as well as an information/notification sheet that was sent to property owners in the general area of the site giving notice of the Public Information 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 2.

The proposed development agreement will potentially impact local residents and property owners on Portland Street, Maitland Street and adjacent residential uses.

**ALTERNATIVES**

1. Council may choose to approve the proposed amendments to the Downtown Dartmouth MPS and LUB and the proposed development agreement. This is the recommendation of staff for reasons set out in this report.

2. Council may choose to approve the proposed amendments to the Downtown Dartmouth MPS and LUB and the proposed development agreement subject to changes. This could result in a requirement for an additional Public Hearing.
3. Council may choose to approve the proposed amendments to the Downtown Dartmouth MPS and LUB and Community Council could reject the proposed development agreement. If Community Council makes such a decision, it must be based upon a conflict with MPS policies.
4. Council may choose to reject the proposed amendments to the Downtown Dartmouth MPS and LUB. The decision to change MPS policy is at the discretion of Regional Council and that decision cannot be appealed. Such a decision would prohibit Community Council from considering the proposed development agreement.

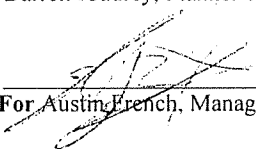
**ATTACHMENTS**

Map 1	Generalized Future Land Use
Map 2	Zoning and Location
Attachment A	Proposed Amendments to the Downtown Dartmouth GFLUM
Attachment B	Proposed Amendments to the Downtown Dartmouth Zoning Map
Attachment C	Proposed Development Agreement
Attachment D	Excerpts from the Downtown Dartmouth MPS
Attachment E	Excerpts from the Downtown Dartmouth LUB
Attachment F	Minutes from Public Information Meeting

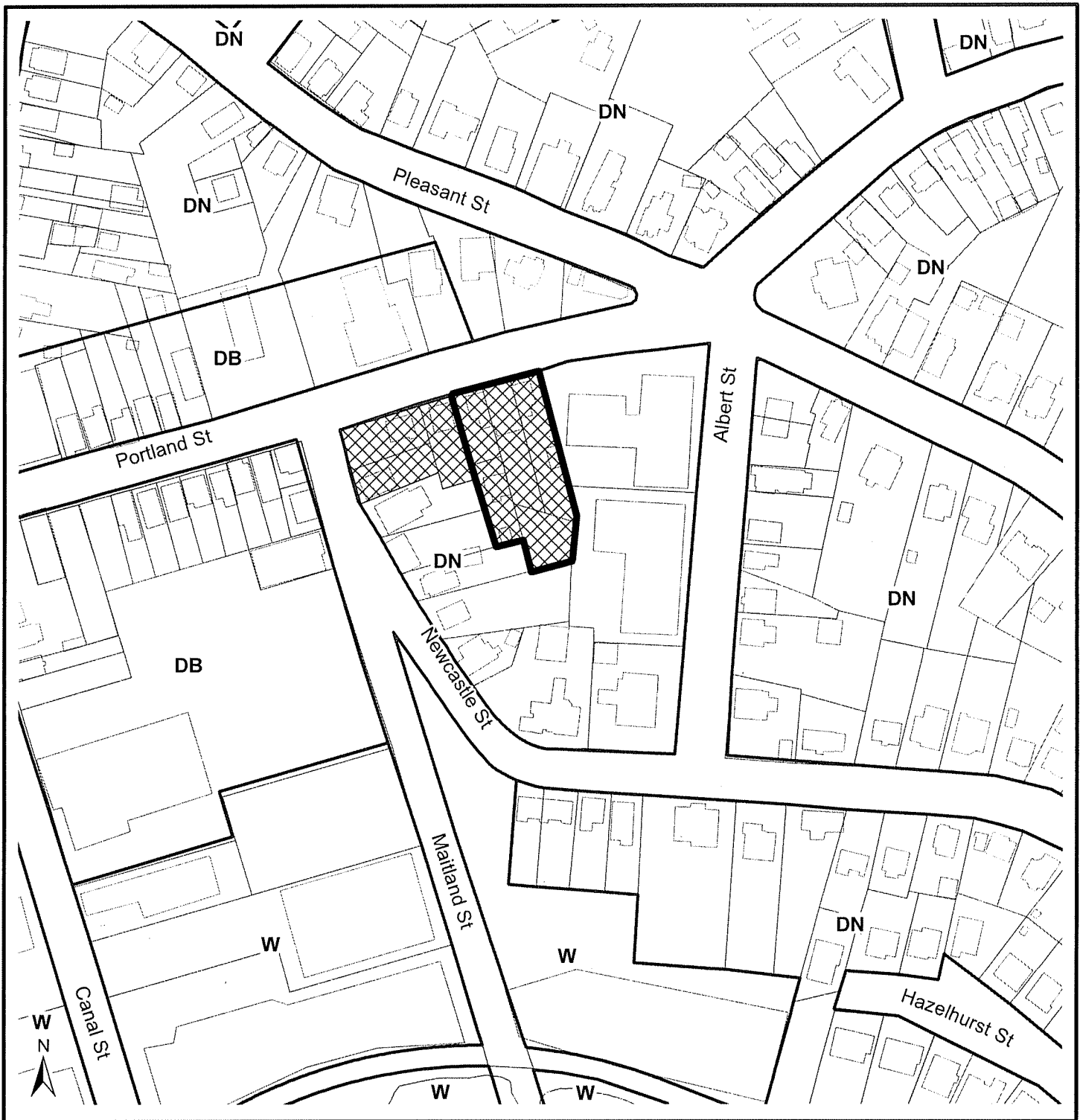
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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Darrell Joudrey, Planner I, 490-4181

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

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**Map 1- Generalized Future Land Use**



Subject Properties For  
Proposed DA



Proposed area to be  
redesignated from DN to DB

**Designation**

DN	Downtown Neighbourhood
DB	Downtown Business District
W	Waterfront

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

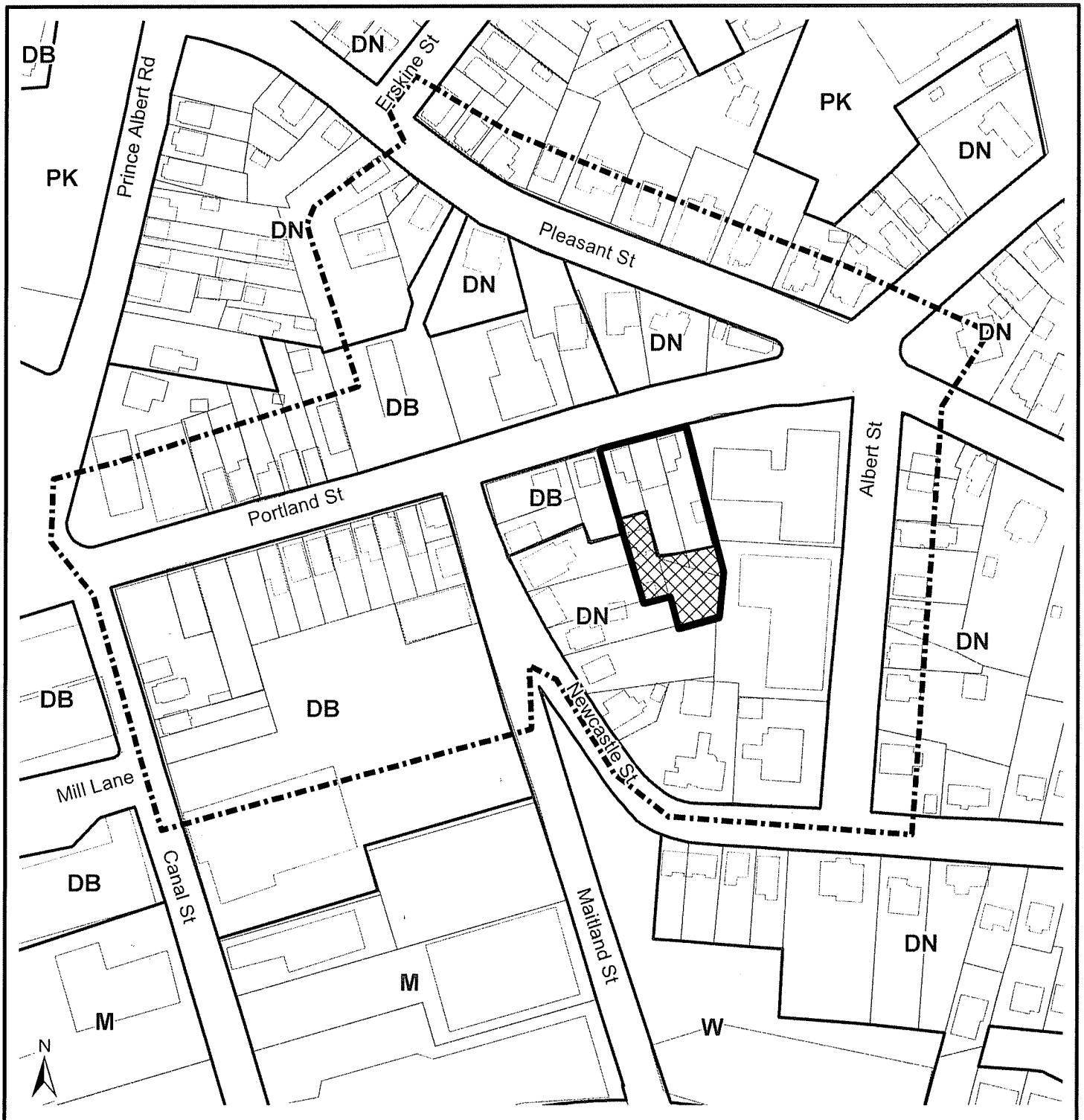
0 50 100 200 300  
Feet

This map is an unofficial reproduction  
of a portion of the Generalized Future  
Land Use Map for the Downtown  
Dartmouth Plan Area




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

Downtown Dartmouth Plan Area





**Map 2- Zoning and Location**

-  Subject Properties For Proposed DA
-  Proposed area to be rezoned from DN to DB
-  Notification Area

Downtown Dartmouth Plan Area

**Zone**

- DN Downtown Neighbourhood
- DB Downtown Business District
- W Waterfront
- M Marine Business
- PK Park and Open Space

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

0 50 100 200 300 Feet

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

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

**Attachment A:**  
**Proposed Amendment to the Downtown Dartmouth Generalized Future Land Use Map**

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Downtown Dartmouth Generalized Future Land Use Map as adopted by the Halifax Regional Council on the 11<sup>th</sup> day of July 2000, A.D. which includes all amendments thereto which have been approved by the Municipality and are in effect as of the 26 day of July, 2008 is hereby further amended as follows:

1. Map 2- Generalized Future Land Use, shall be amended by redesignating those properties situated along Portland Street in Downtown Dartmouth, as illustrated on Schedule A, from Downtown Neighbourhood to Downtown Business District designation.

I HEREBY CERTIFY that the amendments to the Downtown Dartmouth Generalized Future Land Use Map as set out above, were passed by a majority vote of the Halifax Regional Council held on the \_\_\_\_ day of \_\_\_\_\_, 2011.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cathy Mellet  
Acting Municipal Clerk

**Attachment B:**  
**Proposed Amendment to the Downtown Dartmouth Land Use By-law Zoning Map**

BE IT ENACTED by the Halifax Regional Council of the Halifax Regional Municipality that the Downtown Dartmouth Zoning By-law as adopted by the Halifax Regional Council on the 11<sup>th</sup> day of July 2000 which includes all amendments thereto which have been adopted by the Municipality as of the 29<sup>th</sup> day of August, 2009 is hereby further amended as follows:

1. Schedule "A", Downtown Dartmouth Land Use By-law Zoning Map, shall be amended by rezoning those properties situated along Portland Street in Downtown Dartmouth, as illustrated on Schedule B, be rezoned from Downtown Neighbourhood (DN) Zone to Downtown Business District (DB) Zone.

I HEREBY CERTIFY that the amendments to the Downtown Dartmouth Land Use By-law Zoning Map as set out above, were passed by a majority vote of the Halifax Regional Council held on the \_\_\_\_ day of \_\_\_\_\_, 2011.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Cathy Mellet  
Acting Municipal Clerk

## ATTACHMENT C: PROPOSED DEVELOPMENT AGREEMENT

THIS AGREEMENT made this      day of **[Insert Month]**, 2011,

BETWEEN:

**[Insert Name of Corporation/Business]**

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 222, 224, 226 and 228 Portland Street and **[insert-PID]** and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a four storey apartment building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies B-8 and N-5 of the Downtown Dartmouth Municipal Planning Strategy;

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case Number 16687;

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

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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 Downtown 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 Words Not Defined under this Agreement**

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

## **PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS**

### **3.1 Schedules**

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 16687:

Schedule A	Legal Description of the Lands(s)
Schedule B	Concept Plan
Schedule C	Preliminary Plan of Consolidation
Schedule D	Parking Level Floor Plan
Schedule E	Building Elevation – West and North
Schedule F	Building Elevations - East and South

### **3.2 Requirements Prior to Approval**

- 3.2.1 Prior to the issuance of any municipal Permits, the Developer shall complete the consolidation of parcels **[Insert PIDs]** on the Lands to create Lot HA as shown on Schedule C.

- 3.2.2 Prior to the issuance of a Construction Permit, the Developer shall provide a Landscaping Plan in accordance with Section 3.7 of this Agreement to the Development Officer, unless otherwise permitted by the Development Officer.
- 3.2.3 Prior to the issuance of an Occupancy Permit, the Developer shall provide written confirmation from a Landscape Architect (a full member in good standing with the Canadian Society of Landscape Architects), that the Development Officer may accept as sufficient record of compliance with the Landscaping Plan requirements in accordance with Section 3.7 of this Agreement, to the Development Officer, unless otherwise permitted by the Development Officer.
- 3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

### **3.3 General Description of Land Use**

- 3.3.1 The use(s) of the Lands permitted by this Agreement is a commercial/residential building, as generally illustrated on the Schedules, comprised of the following:
- (a) A maximum of 69 dwelling units in a multiple unit residential building not to exceed a height of 4 storeys;
  - (b) A maximum of 3 attached two storey townhouse commercial/dwelling units that may be used for commercial uses permitted in the Downtown Business District zone or home business uses where no more than 50% of the gross floor area, up to a maximum of 650 square feet, shall be devoted to any business use; and
  - (c) A minimum of 9 2-bedroom dwelling units shall be provided within the building.

### **3.4 Siting and Architectural Requirements**

- 3.4.1 The building shall be located and oriented as generally illustrated on Schedule B, and shall comply with the following:
- (a) The building shall front on Portland Street as illustrated on Schedule B;
  - (b) The maximum height of the building shall not exceed 4 habitable storeys and the height elevations indicated on Schedules E and F.

- 3.4.2 The Developer agrees that the design, form, and exterior materials of the building shall, in the opinion of the Development Officer, conform with the Building Elevations included with this Agreement as Schedules E and F.
- 3.4.3 All façades shall be designed and detailed as primary façades. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedule F and G.
- 3.4.4 Roof mounted mechanical equipment shall be visually integrated into the roof design or screened to minimize its visual impact from Portland Street, Maitland Street, Newcastle Street or adjacent residential development. Changes to the rooftop mechanical penthouse, as illustrated on the Schedules E and F, shall be permitted provided that the height and area of the mechanical penthouse is maintained or reduced.
- 3.4.5 The building shall be designed such that telecommunication equipment and mechanical systems (HVAC, exhaust fans, etc.) have minimum visual impact from Portland Street, Maitland Street, Newcastle Street or adjacent residential properties. Furthermore, mechanical equipment or exhaust fans shall be screened as an integral part of the building design. This shall exclude individual residential mechanical systems.
- 3.4.6 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.
- 3.4.7 The building shall include designated space for five stream source separation services. This designated space for source separation services shall be as shown on Schedule D and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.

### **3.5 PARKING, CIRCULATION AND ACCESS**

- 3.5.1 The outdoor surface parking area shall be sited as shown on Schedule B.
- 3.5.2 The outdoor surface parking area shall provide a minimum of 2 parking spaces and shall be hard surfaced with asphalt, concrete or concrete pavers and shall be defined by landscaping or curb.
- 3.5.3 All underground vehicle and bicycle parking required for the multiple unit building shall be located as illustrated on Schedule D.
- 3.5.4 The underground parking area shall provide a minimum of 47 vehicular parking spaces of which:
  - (a) 37 shall be a minimum of 8 feet x 18 feet;
  - (b) 8 shall be a minimum of 6 feet x 15 feet; and
  - (c) 2 shall be barrier free and be a minimum of 12 feet x 18 feet.



- 3.5.5 Signalling devices will be included at each end of the parking garage driveway to indicate that an opposing vehicle is using, or about to use, the ramp.

### **3.6 OUTDOOR LIGHTING**

Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.

### **3.7 LANDSCAPING**

- 3.7.1 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 in the opinion of the Landscape Architect that prepares the Landscaping Plan required pursuant to Section 3.7.2
- 3.7.2 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 provides design details including plantings, hardscaping and furniture for areas identified to be landscaped on Schedule B. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.7.3 All portions of the Lands not used for the structure, parking areas, driveways, curbing, or walkways shall be landscaped. Landscaping shall be deemed to include grass, mulch, decorative stone or water features, planting beds, trees, bushes, shrubs and other plant material or decorative element deemed acceptable by the Development Officer.
- 3.7.4 The Landscaping Plan shall illustrate the location, spacing and species of any vegetation, and location of furniture, planters and lighting. The Developer shall maintain all landscaping, shrubs, plants, flower beds and trees and shall replace any damaged, dead or removed stock.
- 3.7.5 Specifications for all constructed landscaping features such as fencing, retaining walls, pergolas, 5 stream waste disposal facilities, furniture, planters and lighting shall be provided in the Landscaping Plan to the Development Officer, and shall describe their design, construction, specifications, hard surface areas, materials and placement so that they will enhance the design of the building and the character of the surrounding area.
- 3.7.6 The Landscaping Plan shall provide detailed design for all ground level open spaces, podium and any other open spaces as shown on Schedule B. The Landscaping Plan shall specify all model numbers, quantities and manufacturers of site furnishings as well as construction details of landscaping features.
- 3.7.7 Details of any retaining wall systems that exceed a height of 3 feet are to be identified, including the height and type of any fencing proposed in conjunction with it. A

construction detail of any fence and wall combination should be provided and certified by a Professional Engineer.

- 3.7.8 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 Development Agreement.
- 3.7.9 Notwithstanding Section 3.7.8, the Occupancy Permit may be issued provided that the weather and time of year does not allow the completion of the outstanding landscape works and 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.

### **3.8 MAINTENANCE**

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.

### **3.9 SIGNS**

- 3.9.1 The sign requirements shall be accordance with the Downtown Dartmouth Land Use By-law as amended from time to time.
- 3.9.2 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the Lands.
- 3.9.3 Signs shall only be externally illuminated.

### **3.10 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/office building shall be removed from the Lands prior to the occupancy of the last dwelling unit.

### **3.11 HOURS OF OPERATION**

- 3.11.1 Deliveries to the building, and the collection of refuse and recyclables, shall occur only between the hours of 7:00 a.m. and 10:00 p.m.
- 3.11.2 Hours of operation shall conform with all relevant Municipal and Provincial legislation and regulations, as may be amended from time to time.

## **PART 4: BUILDING SERVICES**

- 4.1 All design and construction of primary and secondary service systems shall satisfy Municipal Design Guidelines unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineer prior to undertaking the work.
- 4.2 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 All secondary or primary (as applicable) electrical, telephone and cable service to the building shall be underground installation.
- 4.4 The Municipality may accept securities for the completion of outstanding on-site paving work (at the time of issuance of the first Occupancy Permit) may be permitted. Such securities shall consist of a 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. Should the Developer not complete the on-site paving work within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the work as set out in this 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.

## **PART 5: ENVIRONMENTAL PROTECTION MEASURES**

- 5.1 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. Stormwater shall not be directed to adjacent private property unless private easements are provided in accordance with the most recent edition of the Halifax Water Design and Construction standards.
- 5.2 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 No Occupancy Permit shall be issued unless a Professional Engineer certifies that the entire lot is stabilized in accordance with all applicable standards and regulations of the Province of Nova Scotia and with the terms of this Agreement. Any temporary stabilization of the Lands shall be replaced with final landscaping within six (6) months of the issuance of the Occupancy Permit. The owner of the Lands 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 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 Officer, in consultation with 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) Changes to the exterior sheathing materials of the building;
- (b) Changes to the location and layout of uses as illustrated on Schedule B;
- (c) Changes to permit additional commercial uses within the building;
- (d) An increase in the number of 2 bedroom units permitted in the multiple-unit building provided that the overall number of dwelling units within the multiple-unit building does not exceed 69;

- (e) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement;
- (f) The length of time for the completion of the development as identified in Section 7.5 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 18 months 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 Downtown Dartmouth as may be amended from time to time.

#### **7.5 Discharge of Agreement**

7.5.1 If the Developer fails to complete the development after 3 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 defence based upon the allegation that damages would be an adequate remedy;

- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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:

\_\_\_\_\_  
=====

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

\_\_\_\_\_

**(Insert Registered Owner Name)**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

=====

=

**HALIFAX REGIONAL**  
**MUNICIPALITY**

Per: \_\_\_\_\_

Mayor

Per: \_\_\_\_\_

Municipal Clerk



PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

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

---

A Commissioner of the Supreme Court  
of Nova Scotia

PROVINCE OF NOVA SCOTIA  
COUNTY OF HALIFAX

On this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_, before me, the subscriber personally came and appeared \_\_\_\_\_ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that \_\_\_\_\_, Mayor and \_\_\_\_\_, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in h presence.

---

A Commissioner of the Supreme Court  
of Nova Scotia



**Schedule A - Proposed Amendment to the Downtown Dartmouth Generalized Future Land Use Map**

**Map 2- Downtown Dartmouth Generalized Future Land Use**



Proposed area to be redesignated from DN to DB

**Designation**

DN Downtown Neighbourhood  
DB Downtown Business District  
W Waterfront

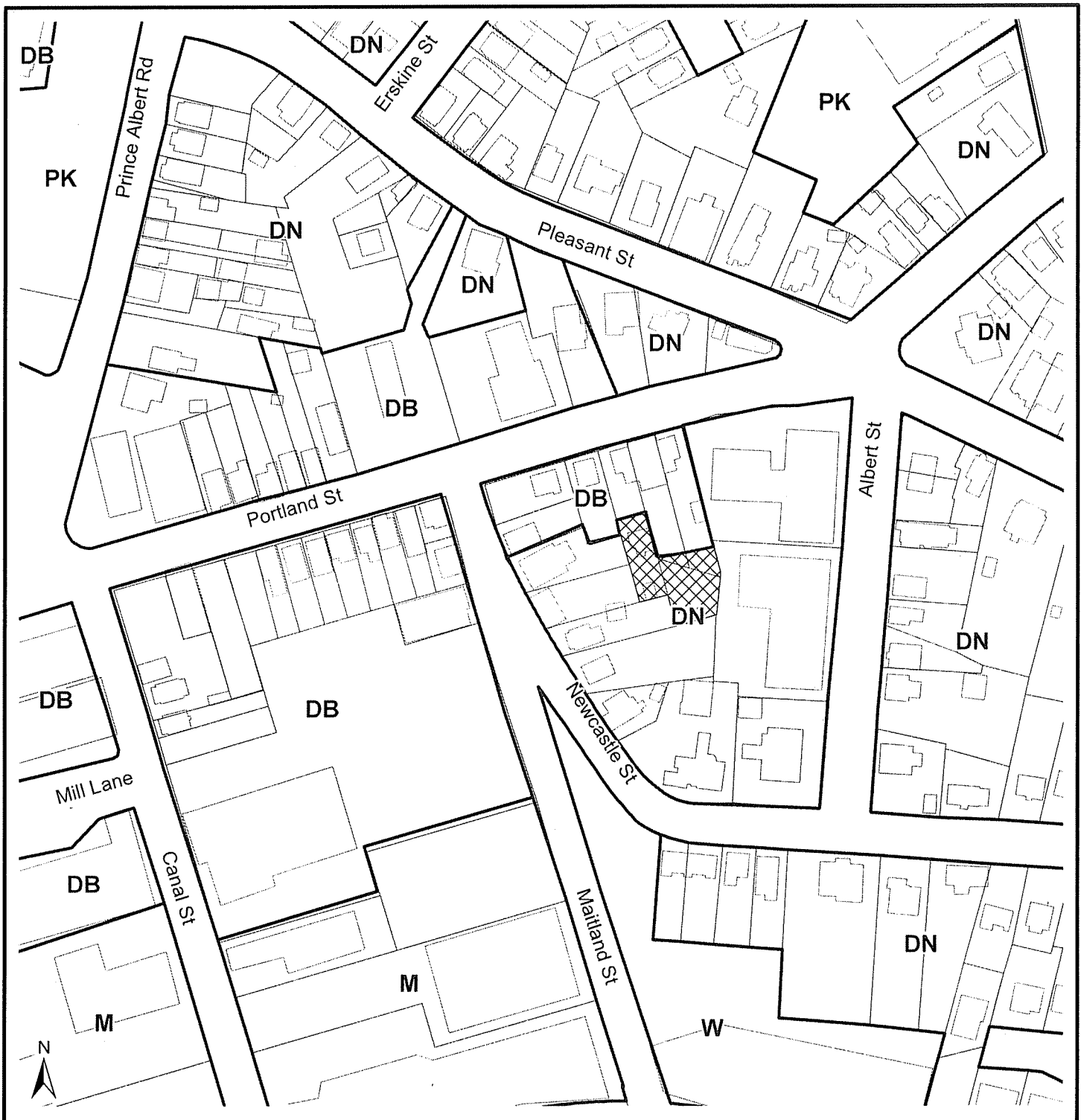
**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

0 50 100 200 300 Feet

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Downtown Dartmouth Plan Area


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

Downtown Dartmouth Plan Area



## Schedule B - Proposed Amendment to the Downtown Dartmouth Land Use By-Law

### Schedule A - Downtown Dartmouth Land Use By-Law

 Proposed area to be rezoned from DN to DB

Downtown Dartmouth Plan Area

#### Zone

DN	Downtown Neighbourhood
DB	Downtown Business District
W	Waterfront
M	Marine Business
PK	Park and Open Space

0 50 100 200 300 Feet

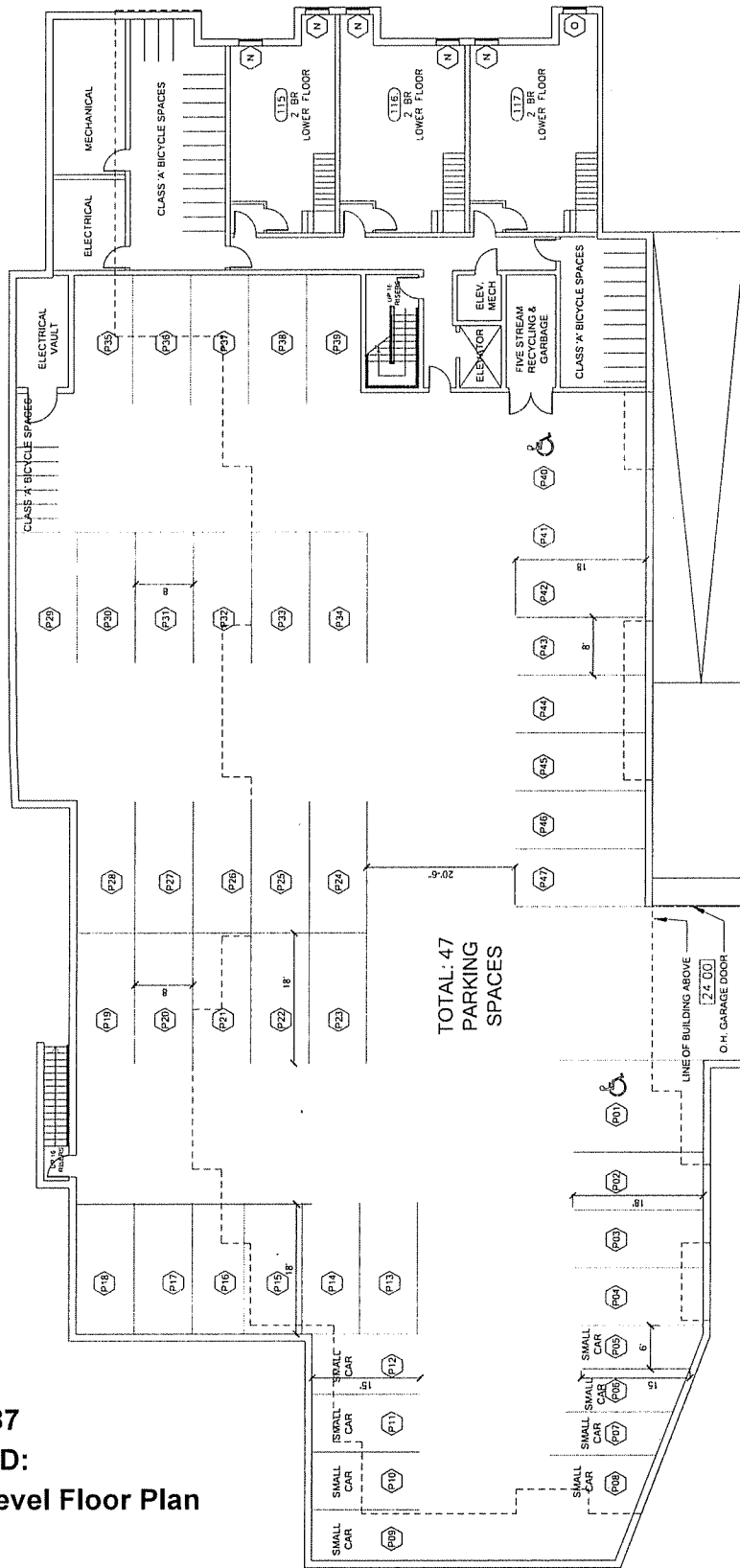
**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

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

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



Case 16687  
Schedule D:  
Parking Level Floor Plan



**HARBOURVISTA APARTMENTS**  
222 PORTLAND STREET  
DARTMOUTH, NOVA SCOTIA



Michael  
Pieper  
Architect

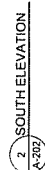
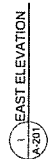
REVISIONS	
NO.	REVISION NUMBER
1	ISSUED FOR D.A. APPLICATION
2	ISSUED WITH REVISIONS

DRAWING  
PARKADE LEVEL

DATE  
APRIL 2010

DRAWING NO.  
A-102

SCALE  
0 5 10 25  
FEET



A-202

1 2 D

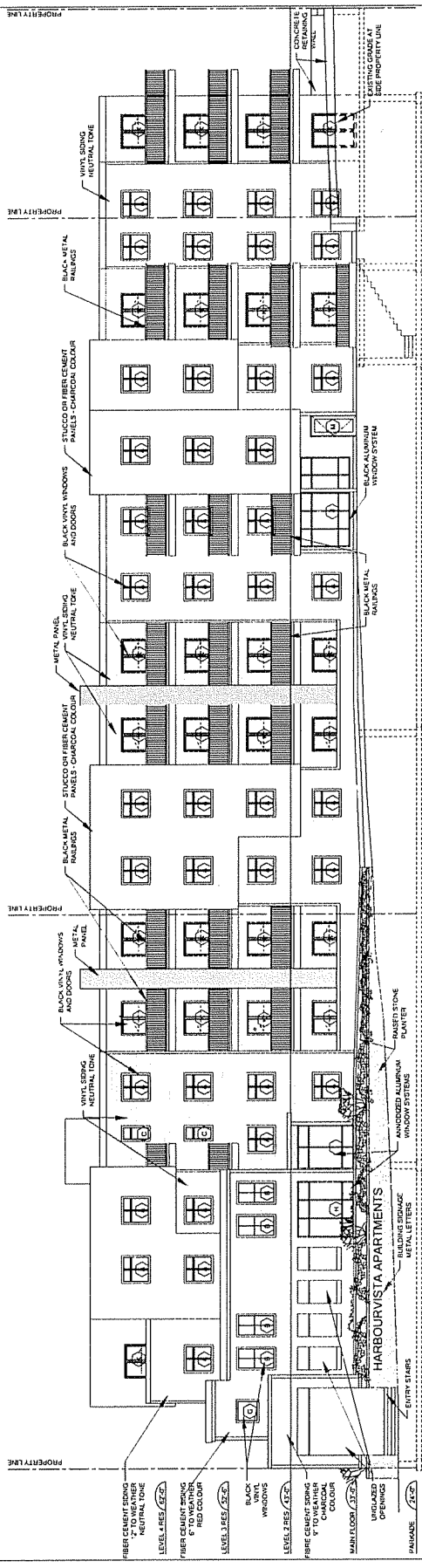
## West and North



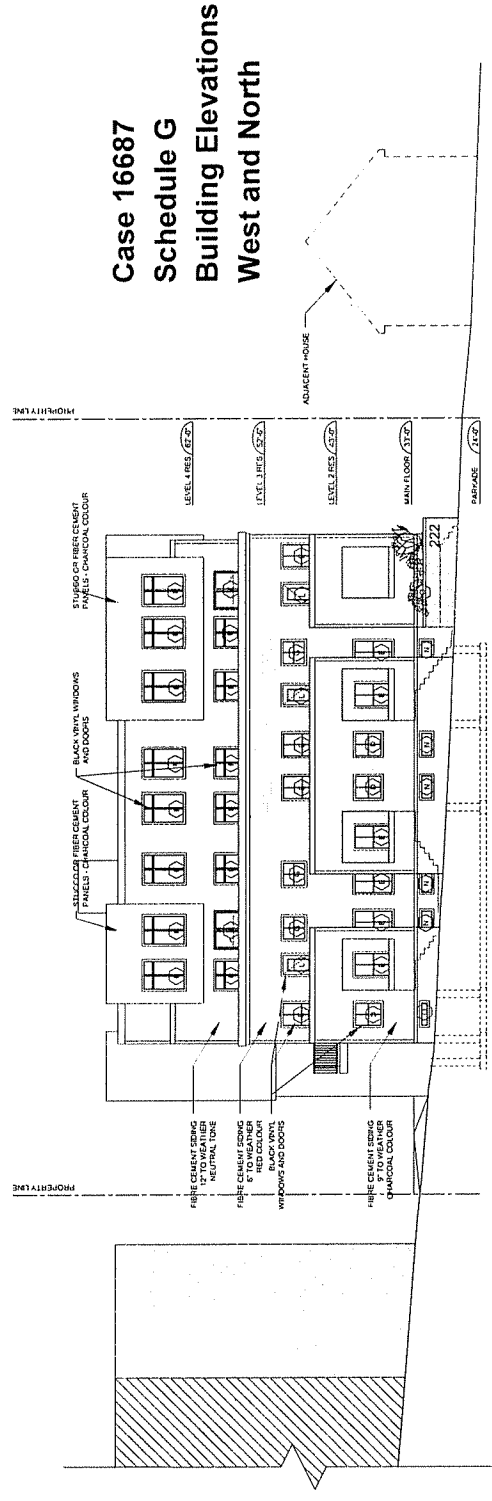
2 NORTH ELEVATION  
(A-201)

222 PORTLAND STREET  
DARTMOUTH, NOVA SCOTIA

<b>HARBOURVISTA APARTMENTS</b> 222 PORTLAND STREET DARTMOUTH, NOVA SCOTIA		<b>MZA</b> MICHAEL PIER		REVISIONS NO.    REVISION NUMBER    DATE 1    ISSUED FOR D.A. APPLICATION    06/12/10 2    ISSUED WITH REVISIONS    22/06/11	DRAWING WEST ELEVATION & NORTH ELEVATION	DATE APRIL 2010
				SCALE 0    5    10    25 FEET	DRAWING NO. A-201	



1 WEST ELEVATION  
A-202 1/8" x 1/8"



2 NORTH ELEVATION  
A-201 1/8" x 1/8"

Case 16687  
Schedule G  
Building Elevations  
West and North

HARBOURVISTA APARTMENTS  
222 PORTLAND STREET  
DARTMOUTH, NOVA SCOTIA



DRAWING			DATE
WEST ELEVATION & NORTH ELEVATION			APRIL 2010
NO.	REVISION NUMBER	DATE	
1	ISSUED FOR D.A. APPLICATION	08/12/10	
2	ISSUED WITH REVISIONS	22/09/11	
SCALE			0 5 10 25 FEET
DRAWING NO.			A-201



## ***Attachment D: Excerpts from the Downtown Dartmouth Municipal Planning Strategy***

### ***Policy B-8***

*Higher density housing proposals that do not meet the standards of the Business District Zone may be considered by Council through the development agreement process. In addition to the general criteria set out in Policy N-5, the following criteria shall be considered by Council in evaluating such proposals:*

1. The residential opportunity sites referenced in Policy B-7 should be given priority for higher density development;
2. *The design of apartment buildings should be sensitive to the traditional character of the downtown and the immediate surroundings. A general guideline of 100 units per acre and 5 storeys shall be utilized as parameters for the scale and massing of development. The following additional criteria apply to the residential opportunity sites:*
  - a) *Up to eight stories may be permitted on Site A provided no greater than 3 stories is permitted on the Edward and North Street elevations;*
  - b) *Up to 10 stories may be permitted on Site C, provided the design of the building is stepped down towards Portland and King Streets.*
  - c) *Up to four stories may be permitted on Site B.*
  - d) *Up to five stories may be permitted on Site D with sensitive treatment along King Street adjacent to existing single family dwellings.*
3. Buildings should be designed to reinforce a human scale streetscape. The stepping back of higher rise buildings away from the street should be considered to avoid a massive building appearance, as should the subdivision of large building facades to create the appearance of several smaller buildings;
4. Commercial or other uses serving the public are encouraged at the street level of residential buildings.
5. Where on-site parking is required, it should be enclosed within a building. Reduced standard laneways may be considered as an alternative means of access to the residential opportunity sites.

### ***Policy N-5***

*In order to achieve the goals of strengthening the neighbourhoods, bringing more people to live downtown, and of providing a variety of housing options with an emphasis on families, additional housing opportunities will be provided for five sites shown on Map 3. The development of medium density housing including townhousing and low-rise apartment buildings may be considered on these sites. The development agreement process will be used to assess individual proposals and set out detailed site and building design standards which reflect the unique character and scale of the neighbourhoods<sup>1</sup>.*

*Council shall consider the following criteria in its evaluation of development agreement proposals under this policy:*

- a) *where suitable, a mix of dwelling types should be achieved including townhousing, apartment*

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<sup>1</sup> The requirements for the development agreement process are set out in the Municipal Government Act and HRM's policy includes requirements for public notification and input and final approval by Council.

*and detached dwelling units. As a target, approximately 25 % of housing should be designed to accommodate families with children;*

*b)reasonable controls should be set out on the bulk, scale, and density of any proposed development to ensure it does not significantly alter the character of the area;*

- i) The preferred form of development is low rise, ground-oriented, medium density housing. Development proposals should be consistent with the surrounding neighbourhood and should not exceed a maximum density of 35 units per net acre<sup>2</sup> and a height of three stories. Minor variations<sup>3</sup> in these limits may be considered where the proposal clearly offers substantial benefits to the neighbourhood in terms of additional open space, landscaping, and urban design amenities or where there are unique site conditions which justify variations in height or density in order to minimize site disturbance.*
- ii) On Site A, only street level townhousing or detached dwellings will be permitted along the King Street corridor to ensure compatibility with adjacent residences. Any apartment buildings should be sited to the northern and western portions of the site towards Alderney Manor and the Dartmouth Common. Minor variations<sup>12</sup> in allowable building heights may be considered for these portions of the site to encourage innovative building design and development which is in keeping with the natural terrain. Appropriate buffers should be provided between any apartment buildings and adjacent dwellings on Edward Street.*
- c) the architecture and external appearance of any proposed buildings should reflect the traditional character of dwellings within the immediate neighbourhood and are in keeping with traditional design principles set out in Policy D-1 of this plan;*
- d) the proposal should not involve the wholesale demolition of existing housing stock;*
- e) where applicable, street corridor views of the harbour should be maintained and enhanced;*
- f) adequate buffers and screening should be provided for any proposed apartment buildings or parking areas from adjacent single family residences, and the attractive fencing and landscaping to enhance privacy should be provided where appropriate;*
- g) adequate landscaping and/or street trees should be provided around the perimeter of the development to enhance the aesthetics of the site;*
- h) adequate recreation and amenity space including play areas for children should be provided where appropriate;*

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<sup>2</sup>Net residential density means a measure of land exclusively in residential use including parking areas but excluding public streets, rights of way and non-residential uses.

**(Regional Council - June 27, 2006 Effective- August 26, 2006)**

<sup>3</sup>Minor as referenced by this policy would mean increases of an additional storey in height or density increases in the range of one to five units per acre.

- i) parking areas should not be located so as to dominate the site. The visual appearance of parking areas should be minimized through use of landscaping treatments, rear yard or enclosed parking, reduced parking standards or other appropriate means;
- j) traffic circulation and access to and from the site should be designed to minimize adverse impacts on adjacent residential uses. **(Regional Council - June 27, 2006 Effective-August 26, 2006)**
- k) *adequate provisions should be made for safe and convenient pedestrian circulation on the site;*
- l) *underground infrastructure services should be adequate to support the development;*
- m) *measures should be proposed to mitigate the impacts of construction on adjacent properties;*
  - i) *Given the extent of surface bedrock on Site A, every effort shall be made to develop the site sensitively with minimal disturbance to the site and surrounding neighbourhood;*
- n) *significant natural and cultural features on the site should be identified and protected where appropriate;*
- o) *adequate measures are incorporated to ensure the development is maintained to a high standard, including all building and site areas and landscaping; and*
- p) *the developer shall make a reasonable effort to collaborate with neighbourhood residents on the design of any proposed development.*

## **Attachment E: Excerpts from Downtown Dartmouth Land Use By-law**

### **DOWNTOWN BUSINESS DISTRICT ZONE**

**10. (1) PURPOSE:** *The Downtown Business District Zone will ensure that development complements the traditional small town character of the community. A broad range of business, institutional, cultural and residential uses are permitted, which reflect a human scale of development.*

#### **(2) PERMITTED USES:**

##### **Commercial Uses:**

Any retail, business, office, entertainment or service use excluding, automotive service and repair outlets, vehicle sales, outdoor display courts (HECC-Sep 5/02;E-Sep 29/02) and drive-through establishments, cabarets, adult entertainment, pawn shops, secondhand shops, (HECC-Mar 6/03;E-Mar 30/03) and any obnoxious use.

##### **Institutional & Cultural Uses**

**Residential Uses:**                      **Single Unit Dwellings**

**Two Unit Dwellings**

**Townhouse Dwellings**

**Rooming Houses to a maximum of six rooms for rent**

**Multiple Unit Dwelling Conversions**

**Multiple Unit Dwellings to a maximum of 24 units**

**Residential uses legally in existence on the effective date of      this bylaw**

**Main Street Corridor:**A ground floor public or commercial presence is required within the Portland Alderney Corridor.

#### **(3) Uses permitted through Site Plan Approval:**

**Townhouses (Deletion - HECC-Sep 5/02;E-Sep 29/02) on reduced standard laneways on four residential opportunity sites *shown on Schedule B*.**

#### **(4) Uses Which May be Considered by Development Agreement:**

**Multiple unit dwelling development greater than 24 units**

**Conversions of registered heritage properties to uses of land not permitted above.**

**Any new construction on the block bounded by the Starr Manufacturing property**

**Larger scale commercial or residential commercial mix projects that do not meet the zone requirements**

**Car oriented uses (HECC-Sep 5/02;E-Sep 29/02)**

**(5) ZONE STANDARDS**

<b>Minimum Lot Area</b>	<b>2500 square feet (232.3 square metres)</b>
<b>Minimum Lot Frontage</b>	<b>25 feet (7.6 metres)</b>
<b>Maximum Lot Coverage</b>	<b>100%</b>
<b>Maximum Front/Flanking Yard</b>	<b>2 feet (0.6 metres)</b>
<b>Side and Rear Yards</b>	<b>Buildings may be built to the lot lines.</b>
<b>Maximum Height Amendment (RC January 6, 2005 - E January 26, 2005)</b>	<b>In accordance with Section 8</b>

**(6) SPECIAL REQUIREMENTS FOR RESIDENTIAL USES:**

**A residential component is required for all new construction except along the Alderney Drive or Portland Street main street corridor.**

**(a) Single, Two Unit and Townhouse Dwellings:**

**For single and two unit dwellings and townhouse dwellings (HECC-Feb 1/01;E-Feb 18/01),the requirements of section 9 shall apply.**

**(b) Multiple Unit Dwelling Conversion:**

**Any building in existence as of the date of adoption of this plan may be converted entirely or partially to multiple unit dwellings provided that all units are a minimum of 500 square feet (46.5 square metres) in floor area, and that at least two thirds of the units contain one or more bedrooms.**

**(c) Multiple Unit Dwellings**

**Maximum Number of Dwelling Units / Lot 24**

**Recreation space shall be set aside for recreational purposes and shall include common recreational areas, play areas, recreational rooms, roof decks, swimming pools & tennis courts.**

**Surface parking areas for multiple unit dwellings required as per section 6 of this bylaw shall be screened from adjacent single, two unit, or townhouse dwellings through opaque fencing and a landscaped buffer strip of a minimum width of five feet (1.5 metres) along all property boundaries abutting the residential use , and balconies or terraces. Such amenity space shall be provided at the rate of 100 square feet per dwelling unit. The Development Officer may reduce this requirement by 25% where the development abuts, or is directly across the street from, public parkland (HECC - Sept 5/02, Effective - Sept 29/02)**

**(7) SITE PLAN APPROVAL REQUIREMENTS FOR TOWNHOUSE OR MULTIPLE UNIT DWELLINGS ON RESIDENTIAL OPPORTUNITY SITES**

All townhouses on the four Residential Opportunity Sites shown on Schedule B of this Bylaw are subject to approval of a site plan. The Development Officer shall approve a site plan where the following matters have been addressed:

- (a) Adequate separation distances shall be provided for townhouses which abut single detached dwellings.
- (b) The front yard setback required for buildings shall be in context with the setbacks of buildings within the immediate neighbourhood.
- (c) Driveways should not be located so as to dominate the front yard of the lot, and the remainder of the front yard not used for parking shall be landscaped.
- (d) Any common parking areas shall be screened from adjacent single unit dwellings and the street by landscaping and/or fencing.
- (e) Landscaping and/or street trees of an adequate caliper shall be provided in the front yard of townhouse dwellings.
- (f) To create additional opportunity for development on designated opportunity sites within the Business District Zone as shown on Schedule B of this Bylaw, provisions are established to permit construction of laneways narrower than the standard public street width to provide access to the development, provided that the laneway is of adequate width to facilitate the safe movement of traffic to and from the site provisions are made to address maintenance of the laneway.
- (g) Measures including lot grading shall be required to adequately dispose of storm and surface water.
- (h) Provisions are established to ensure individual townhouse units and any required site improvements are maintained to a high standard.

**(8) PARKING REQUIREMENTS**

**(a) Required Parking:**

Notwithstanding the parking requirements of Section 6 of this Bylaw, existing buildings may be renovated or their use changed without having to provide parking unless such parking already exists in which case it shall be maintained. New buildings or additions of less than 20,000 square feet (1858 square metres) in floor area constructed within the Portland Alderney Main Street corridor are also exempt from the parking requirements of Section 6 of this bylaw.

**(b) Parking Access:**

No new driveway accesses will be permitted to properties located on Alderney Drive or Portland Street between Alderney Drive and Maitland Street. Access to properties in this area shall only be permitted from adjacent streets except where the driveway provides access to an underground or otherwise enclosed parking structure.

**(9) SPECIAL REQUIREMENTS - VACANT LOTS:**

Where a building is removed except to create a parking lot or to erect a new building, the resulting vacant lot shall be fully graded to sidewalk elevation and landscaped and maintained with grass until such time as appropriate permits are issued and construction commences on a new structure.

**(10) ARCHITECTURAL REQUIREMENTS**

All new buildings shall conform to the architectural requirements of Section 8 of this bylaw.

**(11) LANDSCAPING**

All lot areas not covered by a building or required parking or driveway area shall be landscaped. Landscaping shall consist of at least one nursery stock tree per 20 feet (6.1 meters) of frontage, and one shrub per 100 square feet (9.3 square feet) of landscaped area to be provided.

**(12) STARR MANUFACTURING BLOCK**

Notwithstanding the permitted uses in this zone, all new development within the block bounded by Prince Albert Road, Pine Street extension, and Ochterloney Streets will be subject to the approval of a development agreement. This requirement shall not apply to additions to existing dwellings or construction of accessory buildings for existing residential dwellings.

**(13) USE OF PUBLIC SIDEWALKS**

(a) Sidewalk cafes and restaurants are permitted, subject to any other municipal bylaw or regulation.

(b) No outdoor display on public sidewalks shall be permitted excepting for florist's displays including flowers and plants, grocery produce, clothing displayed on racks, and used books. Any such outdoor display shall not extend more than 2 feet onto a public sidewalk from a building face, and shall conform to all other municipal bylaws including but not limited to the Encroachment Bylaw and the Streets Bylaw as may be amended from time to time.

**(14) OUTDOOR STORAGE AND DISPLAY**

No outdoor storage or display is permitted on properties within the zone, excepting that those items identified under (12) may be displayed. (HECC-Mar 6/03;E-Mar 30/03)

**ARCHITECTURAL DESIGN REQUIREMENTS**

8. (1) *PURPOSE: These design requirements will ensure that new developments blend in with the small scale, traditional architecture which is prevalent in the area, and help maintain the overall character of the community.*

**BUILDING DESIGN:**

(2) The requirements in this section apply to buildings within the Downtown Business District and Waterfront Zones:

**(3) Renovations:**

The Development Officer shall review all development permit applications within the Downtown Business District Zone to determine that all renovation comply generally with the "Facade and Signage Improvements Plan for Downtown Dartmouth". Where an individual building is not addressed in that plan, the following general principles shall be applied:

- (a) that exterior materials are of a traditional nature and design;
- (b) that door and window openings are compatible in proportion with the majority of adjacent and facing buildings;
- (c) that buildings are constructed to the street line or setbacks are consistent with the building setbacks for adjacent properties along the street.
- (d) that the street-level design of any building shall include multiple architectural treatments such as canopies, porches, planters, and other suitable architectural treatments to complement a human-scale, pedestrian environment. (HECC-Sep 5/02;E-Sep 29/02)

**(4) Height:** The height of a building in the Downtown Business District Zone shall be not more than 3 stories within a maximum height of 45 feet from established grade. However, this height may be increased to not more than 5 stories within a maximum height of 70 feet provided that above 3 stories within a maximum height of 45 feet, the building face when fronting a street, is stepped back.

On corner lots where there is a difference in existing grade on each lot frontage at the street line, the height requirement shall be measured from the street frontage with the lower grade.

Further, the maximum permitted height may be exceeded to accommodate a roof on the top storey of a building provided that no additional habitable space is created above the established height limit of 70 feet.

Notwithstanding the aforementioned, chimneys, antennae, flag poles, belltowers, spires, steeples, vents or other roof or building appurtenances extending from the surface of a roof shall not be measured in calculating building height; however, such appurtenances shall not:

- 1) be habitable living space,
- 2) extend more than ten (10) feet above the building height, and;
- 3) in no case shall an appurtenance or structure be permitted to penetrate view planes established in accordance with Schedule C of this by-law.

**Special Requirement --Alderney Drive within the Main Street Corridor**

a) Notwithstanding section 8(4) lots that front on Alderney Drive within the Main Street corridor will not be required to step back. Further, no structure shall be permitted to penetrate a view plane as per Schedule C of this by-law. For clarification, the Main Street corridor includes all properties fronting on Portland Street between Prince Albert Road and Alderney Drive and all properties on the west side of Alderney Drive that are



contained within the Business District Zone. For these properties, architectural features such as canopies or sloping roofs will be required to minimize the impact on the street.  
Amendment (RC January 6, 2005 - E January 26, 2005)

**(5) FACADES**

Commercial and institutional buildings of over 60 feet (18.2 metres) in width parallel to the street shall be similar in appearance of two or more buildings by altering the appearance of the facade or roof in increments no greater than 60 feet (18.2 metres) .

**(6) ROOFS**

Pitched roofs shall have a minimum pitch of 4:12. Dormers and gables are permitted. Mansard roofs shall not project beyond the face of the wall below, except to permit eaves for ventilation.

**(7) CLADDING**

Exterior cladding for new commercial, institutional, multiple unit and townhouse buildings shall consist of bricks, stone, wood shingles, wood siding, wood clapboard, or vinyl siding or a combination thereof. Where vinyl or other synthetic siding is used, it shall have a narrow course width resembling traditional wooden clapboards and windows, doors, and corners must be trimmed in the traditional manner.

**(8) WINDOWS**

Windows, except commercial storefronts at grade, shall be treated as individual openings in the wall surface; continuous bands of horizontal glazing will not be permitted except for storefronts at grade. Windows shall have traditional proportions with the height exceeding the width. Total window area per building front shall not exceed 50 % of the area of the building front.

**(9) DETAILING**

Contrasting architectural detailing shall be provided to enhance the appearance of buildings. Windows, doors, and corners shall be accentuated by trim or other design details (moldings, decorative lintels, pediments, sills, etc.). In the case of brick or block buildings a contrasting colour should be used. Other decorative elements shall also be encouraged.

**(10) LANDSCAPE DESIGN**

**Front and Flanking Yard:**

Any front or flanking yard area, except for that area required for stairs or wheelchair ramps, shall be landscaped. No front yard parking or driving aisles are permitted.

**(11) REMAINING SPACE:**

Any lot area not used for buildings, parking or driving aisles shall be landscaped.

**Attachment F**

**HALIFAX REGIONAL MUNICIPALITY  
PUBLIC INFORMATION MEETING  
CASE NO. 16687 – MPS/LUB AMENDMENTS DOWNTOWN DARTMOUTH**

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**7:00 p.m.  
Monday, May 2, 2011  
Alderney Gate Library, Helen Creighton Room,  
60 Alderney Drive, Dartmouth**

**STAFF IN  
ATTENDANCE:** Darrell Joudrey, Planner, Planning Applications  
Holly Kent, Planning Technician  
Jennifer Little, Planning Controller

**ALSO IN  
ATTENDANCE:** Alan Silverman, Property Owner  
Michael Napier, Consultant  
Councillor Gloria McCluskey, District 1

**PUBLIC IN  
ATTENDANCE:** 11

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The meeting commenced at approximately 7:13 p.m.

**1. Opening remarks/Introductions**

**Mr. Darrell Joudrey, Planning Applications**, called the meeting to order at approximately 7:13 p.m. in the Alderney Gate Library (Helen Creighton Room). Mr. Joudrey introduced Councillor Gloria McCluskey, District 1; Holly Kent, Planning Technician, HRM Planning Services and Jennifer Purdy (Little), Planning Controller, HRM Planning Services.

Mr. Joudrey welcomed residents to the meeting and thanked them for attending. He advised that the purpose of the meeting is to share information with the residents and to receive feedback as well. No decisions will be made during this meeting.

## **2. Overview**

Mr. Joudrey explained that this application has been initiated by Michael Napier Architecture to amend the Municipal Planning Strategy for Downtown Dartmouth to redesignate lands located at 222/226/228 Portland Street from Downtown Neighbourhood to Downtown Business, and to enter into a development agreement for a 69 unit apartment building.

Mr. Joudrey briefly explained what a Municipal Planning Strategy is and explained that there had previously been a fire in 2010 which destroyed the existing apartment buildings at 226/228 Portland Street. The owner wishes to redevelop the lands, the current zoning supports the redevelopment, however he wishes to redevelop more intensely than the designation currently permits.

Mr. Joudrey reviewed a slide showing the Original Streetscape, explaining that the subject property is designated Downtown Neighbourhood and the current land use is vacant. He explained that surrounding areas are designated Downtown Business, the contiguous property to the rear portions of 226 and 228 Portland are part of the application and need to be rezoned to Downtown Business District.

## **3. Overview of Planning Process**

Mr. Joudrey explained that following tonight's public information meeting, a more detailed review of the application will take place. Staff will review the proposal, taking into consideration comments from residents at tonight's meeting. Staff will then bring forward a recommendation report to Harbour East Community Council which will be forwarded to Regional Council for a public hearing on the Municipal Planning Strategy and Land Use By-law amendments and then back to Harbour East Community Council for the Development Agreement decision. There will be the opportunity to appeal Community Council's decision for the development agreement to the Nova Scotia Utility and Review Board.

## **4. Presentation of Proposal**

**Mr. Michael Napier, Michael Napier Architecture**, thanked the residents for coming out to the meeting and reviewed a slide of the subject area. He explained that he was the architect for the Greenvale School project. He explained that he is looking for suggestions from the residents for ideas and possibilities for the new proposal. He reviewed slides showing the following:

Site Context; Site Plan; Existing Photos; Parking Plan, adding that there will be 2 surface parking spots; a slide of the Ground Floor; Second Floor Plan; North Elevation and slides of perspectives. He added that the recycling and garbage will be kept underground, there will be a fitness area as well as a common space area on the roof top terrace for tenants. Each unit will be approximately 600 sq/ft with a balcony and will each have a washer and dryer. He added that they are currently reviewing the possible options of geo-thermal heating and solar options.

#### **4. Questions and Comments**

A member of the residents asked if there will be two driveways side by side.

Mr. Napier explained that yes there are two separate driveways, entry and an exit driveway.

Ms. Elizabeth Macdonald, Dartmouth addressed concern with the large garbage trucks coming in and out of the underground parking area.

Mr. Napier explained that the dumpsters will be smaller than what used to be used, and explained that the trucks will not be driven into the underground parking lot, unless it is a smaller truck. Garbage bins will be emptied twice a week.

Ms. Macdonald explained that she has had different experiences with this and has concerns with the garbage bins being lined up on Portland Street.

Mr. Napier explained that it will be a private carrier/pickup and will be worked out with the service provider.

Ms. Macdonald explained her experience with garbage odour and noise from the pickup. She added that she didn't feel that this application has been thought through.

Mr. Don Forbes, Dartmouth, explained that the design of the application looks good however, has concern with it blocking the view of the Harbour. This is an asset to the neighbourhood but, would like to see it in a smaller scale to blend with the Commercial in the area. He asked if this development meet the setback requirements and also if there are enough parking spaces.

Mr. Napier agreed that it is built to the sidewalk but does not protrude onto the sidewalk. He explained that the parking lot reviewed during this meeting is an older drawing and is actually larger now (47 spaces). The parking spaces meet the current requirements.

Mr. Forbes thought there would be more of a parking requirement for this area.

Mr. Paul Bambridge explained that there doesn't seem to be enough guest parking available.

Mr. Napier explained that there are two exterior quest parking spots available.

Mr. Forbes asked why this is not done through a development agreement process; allowing the city to have more control.

Mr. Joudrey explained that this is being done through a development agreement. The first stage of this application is to approve the amendments to the Municipal Planning Strategy which will allow the application to go through a development agreement process. After tonight's meeting, a detailed review of the application will take place. Staff will review the proposal, take feedback and comments from tonight's meeting and place them into a development agreement. The development agreement will then be brought to Council for a public hearing.

Mr. Bambridge asked if the residents by Mainland care if their properties are rezoned.

Mr. Joudrey explained that those properties were rezoned in 2000. The only change will be the designation. The designation has to change to be the same for the zoning.

At this time, some discussion was held regarding the plan review in 2000 and the area it covered.

Ms. Judy Guppy, Dartmouth, asked how the traffic will get in and out of the site.

Mr. Napier reviewed a slide showing the location of the driveway.

Ms. Guppy expressed concern with the additional traffic on Portland Street.

Mr. Napier explained that a traffic study has been completed which showed a small addition to the traffic flow. He added that they predict that most residents will most likely not own vehicles and will be using other means of transportation.

Mr. Joudrey explained that Traffic Services will be reviewing the site plan as well as the traffic impact study and will provide their comments.

Mr. Guppy asked what special provisions are there to compensate for the increased runoff for this area.

Mr. Napier explained that with the coverage and roof, there will be a lot less runoff. The roof will capture a lot of it and drained into the storm water system.

Ms. Guppy expressed concern regarding the smell of sewer.

Mr. Forbes added that he was very pleased to hear that they are looking into geo-thermal.

Mr. Alan Eaton, explained that this is a positive development for the Community. He suggested that the recyclable pickup and the overnight guest parking spots be further reviewed. He added

concern regarding the additional midday traffic going towards Cole Harbour and Eastern Passage.

Mr. Napier explained that they will review these concerns.

**5. Closing Comments**

Mr. Joudrey thanked the residents for expressing their comments and concerns.

The meeting adjourned at 8:07 pm.