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Heritage Advisory Committee
August 28, 2013

TO: Chair and Members of Heritage Advisory Committee

SUBMITTED BY: Original signed by

Brad Anguish, Director of Community and Recreation Services

DATE: August 16, 2013

SUBJECT: Case 17863: Development Agreement – corner of Ochterloney Street
and Victoria Road, Dartmouth

ORIGIN

Application by Michael Napier Architecture

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter; Part VIII, Planning & Development

RECOMMENDATION

It is recommended that the Heritage Advisory Committee recommend that Harbour East-Marine Drive Community Council:

1. Give Notice of Motion to consider the proposed development agreement as set out in Attachment A of this report to allow a development consisting of up to 52 residential units plus commercial space on lands located on the corner of Ochterloney Street and Victoria Road in Dartmouth, and schedule a Public Hearing;
2. Approve the proposed development agreement as set out in Attachment A of this report; and
3. Require the agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The site of the proposed development consists of four parcels of land, located at the corner of Ochterloney Street and Victoria Road as shown on Map 1. Buildings have been demolished on three of the parcels, while a registered municipal heritage property remains on the fourth parcel. The Downtown Business District (DB) Zone which applies to each of the lots allows for as-of-right commercial and residential development, to maximum limits of 24 units per building, a maximum height of 5 storeys, and a maximum overall height of 70 feet. The Downtown Dartmouth Municipal Planning Strategy (MPS), through Policy B-8, establishes that larger scale developments which exceed any of these limits may only be considered through the development agreement process. The applicant is therefore seeking approval of a development agreement under this policy to allow a larger scale development.

Proposal

The applicant is seeking approval to construct a seven storey building with a penthouse including ground floor commercial or residential space, depending on market demands. The initial proposal was for dedicated ground floor commercial space plus 51 residential units on the upper floors, however, it has been revised and now includes a maximum of 52 residential units including 4 ground floor residential units. These ground floor residential units could alternatively be used as commercial space, which would reduce the overall number of residential units. All parking is proposed to be included within the building in a two level parking garage. The registered heritage property would be subdivided and reduced in lot area, however, the heritage building would remain. The applicant is proposing to restore the exterior of the heritage building, remove a non-historic addition from the rear, and to replace an external stairway.

Location, Designation, and Zoning

The site:

- consists of four individual parcels. Two parcels front on Ochterloney Street; one is a corner lot with frontage on both Ochterloney Street and Victoria Road, and the other has frontage only on Victoria Road. Together, the four parcels comprise approximately 157 feet of frontage on Ochterloney Street and 114 feet on Victoria Road;
- is approximately 0.17 hectares (0.42 acres) in area;
- is designated Downtown Business under the Downtown Dartmouth MPS (Map 1);
- is zoned Downtown Business District (DB) under the Downtown Dartmouth Land Use By-law (LUB) (Map 2), and
- includes 99 Ochterloney Street which is a municipally registered heritage property, designated under the *Heritage Property Act*.

Surrounding Land Uses

The site is within a low rise, mixed use streetscape. Specifically, lands to the west are designated and zoned Downtown Neighbourhood and developed with low and medium density, 2 storey residential uses. Lands along each side of Ochterloney Street are within the Downtown Business designation and are primarily developed with older homes, some of which have been converted into commercial and apartment uses. Across Victoria Road is a four storey, 44-unit building. First Baptist Church is located on the opposite side of Ochterloney Street and is a municipally

registered heritage property. There are several other registered properties in the area (Map 2).

Enabling Local MPS Policy and LUB Standards

The Downtown Dartmouth MPS and LUB:

- seeks to revitalize the business district by building on its strengths, by promoting a lively, people-friendly atmosphere and by increasing the number of residents through the provision of a mix of quality housing. The MPS establishes a goal for major residential intensification, seeking to add another 4000 residents in order to support a revitalized business community;
- allows as of right development of up to 5 storeys and 70 feet in height, with up to 24 units per building; and
- provides that buildings of greater scale or with more than 24 units may be considered through the development agreement process, pursuant to Policy B-8.

Regional MPS Context

The Regional Municipal Planning Strategy (Regional MPS) provides high level intent for land use as follows:

- the entire site is designated Urban Settlement and are situated in the Regional Centre. This is the urban core of HRM, where a mix of medium to high density residential development, with extensive commercial, institutional and recreation uses as well as transit oriented development is intended; and
- the entire lands are within the Capital District Secondary Designation, which recognizes the economic, social and cultural significance of the downtown cores of Dartmouth and Halifax.

Heritage

One of the applicant's four properties, 99 Ochterloney Street (Map 1), is a municipally registered heritage property. The property, known as Henry Elliot House, was built in 1875 and was registered as a municipal heritage property by the former City of Dartmouth in 1982. The property is of significance because of the prominence of Henry Elliot as a local architect, and because of key, character-defining elements of the building:

- asymmetrical Gothic Revival design with wooden clapboard exterior;
- steeply pitched roof with a variety of steeply pitched dormers and cornice brackets under eaves;
- two original brick chimneys located on the rear of the building;
- four different patterns of bargeboard used in dormer and gables;
- two-storey bay window on front elevation with detailed decorative brackets and quarter-round corner trim;
- tall, narrow one-over-one wooden windows with a variety of window hood moulding styles;
- small, Gothic window-shaped vents in side and rear gables near the roof peak; and
- front entry panelled door, fanlight and sidelights.

The rear half of this registered heritage property is proposed to be subdivided and consolidated with the other parcels, while the house (Henry Elliot House) would be retained on its own

smaller lot. No alterations to the building are proposed as part of this project, although the developer intends to, at a later date, propose the removal of a non-historic addition from the rear of the building and the replacement of a side exterior staircase.

Role of HAC

Policy CH-2 (Attachment C) of the Regional MPS establishes evaluation criteria for Council's consideration where a proposed development abuts a heritage property. The Heritage Advisory Committee (HAC) is to review the proposal only relative to the criteria of Policy CH-2, and provide a recommendation to Community Council.

DISCUSSION

The proposal has been reviewed relative to the applicable policies of both the Downtown Dartmouth MPS and the RMPS. The proposal is consistent with all applicable policies. Attachments B, C and D provide a detailed evaluation of the proposal in relation to the applicable policies. The following issues are being highlighted for more detailed discussion.

Building Height

The proposal is for seven storeys in height above Ochterloney Street, plus a penthouse on approximately half of the roof. The height of the front building wall would be approximately 72 feet above Ochterloney Street, plus an additional 10 feet for the penthouse which is recessed from the primary exterior walls, except where it merges with an architectural feature on the primary facade. The total height (excluding roof-mounted mechanical systems) is about 80 feet, which exceeds the LUB maximum height of 70 feet. The height of the building along Victoria Road is less, due to the sharp change in grade as the street climbs a hill. The height of the proposed building is well mitigated through the provision of stepbacks, modulation of upper floors, and variations in cladding materials and colours.

Building Massing and Streetwall Height

The proposed massing for the buildings reflects good urban design principles and satisfies the design criteria of MPS policy (Attachment B). This is achieved by presenting a streetwall height consistent with that established by existing buildings on the block, in the form of a two storey townhouse-style presence along Ochterloney Street, which wraps around the corner of Victoria Road where it then transitions to a three storey streetwall. The underground parking garage is cut into the slope that rises to the rear behind the site, and built generally to the property lines. The second floor of the building, which is at grade with abutting properties on Victoria Road and Dundas Street, is setback between 2.4m and 3.4m (8 and 11 feet) from these properties. Stepbacks of upper floors are provided from the adjacent property at 97 Ochterloney Street. The separation achieved by these setbacks and stepbacks is adequate (Attachment A – Schedules B and D).

Architectural Design, Finishes and Details

The proposal addresses the policy criteria regarding general quality and appearance and these are implemented through the development agreement by excluding vinyl and steel siding and by specifying the following materials, with complementary colours:

- clapboard style siding;
- wood accents at building entrances;
- traditional brick; and
- aluminum panel and glass accents on the Ochterloney Street and Victoria Road frontages.

Landscaping and Amenity Space

The proposed development includes landscaping at grade on both street frontages and behind the registered heritage building. The penthouse and common roof area will serve as shared amenity space. Most units have balconies or terraces, which provide further amenity space consistent with the Land Use By-law requirement of 100 square feet per unit.

Housing Mix

The development agreement requires a mix of housing types. Overall, the development agreement requires a minimum of 30 2-bedroom units and sets a maximum of 22 1-bedroom units. The development agreement allows that at the development permit stage the Development Officer may grant a maximum 10% variation while Council, through the non-substantial amendment process may consider greater variations. This achieves the policy goal of ensuring a mix of larger units to potentially appeal to families.

Heritage Policy Review

No alterations to the heritage building are proposed as part of this proposal, although the developer, at a later date, intends to propose the removal of a non-historic addition from the rear of the building and the replacement of a side exterior staircase. That proposal will be considered through HRM's standard process and will be evaluated based on the building's character defining elements and the Building Conservation Standards of the *Heritage Property By-law*.

Policy CH-2 of the Regional MPS applies where an application requiring a development agreement abuts a registered heritage property, and establishes review criteria. The review by HAC of this proposal is limited to the criteria of this policy. The policy does not intend that new buildings try to mimic heritage buildings, nor does it limit height. Rather, it addresses the relationship between a new building and a heritage building, with emphasis placed on the pedestrian realm. The pedestrian realm can extend up as far as five floors depending on the characteristics of the street as defined by the cornice line of existing buildings.. In this case, the two storey height of the heritage building, and of other existing buildings, establishes the pedestrian realm as being within the first two storeys. For higher floors above the pedestrian realm, mitigation of the effects of height is sought by the policy.

It is staff's view that the proposed building satisfies Policy CH-2. A detailed discussion is provided in Attachment C. The primary criteria are addressed by the proposal as follows:

- Landscaped setbacks of the proposed building from Ochterloney Street are provided, to reflect the front yard conditions of the heritage property and of the streetscape,
- A two storey streetwall is provided to reflect that established by the heritage property and other buildings on the block,
- Fine scaled design elements and complementary materials are included to be consistent with the structural rhythm established along the street, and

- The potential impacts of those floors above the pedestrian realm are appropriately mitigated through greater setbacks and varied cladding which break up the massing visually, and
- The subdivision of the heritage property can be considered by staff as a non-substantial alteration to the property, and will not require approval of Regional Council.

Conclusion

The proposal meets the criteria of Policies B-8 and N-5 of the Downtown Dartmouth MPS and Policies CH-2 and IM-15 of the Regional MPS. Approval of the development agreement as contained in Attachment A will be consistent with the policy goals for downtown redevelopment and intensification while also satisfying policy intent for urban design and heritage protection. The terms of the development agreement require that the project be built as presented in the schedules.

FINANCIAL IMPLICATIONS

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

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 August 30, 2012 (see Attachment E for minutes). Notices of the Public Information Meeting were posted on the HRM website, placed 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 a 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 shown on Map 2 will be notified of the hearing by regular mail.

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

ENVIRONMENTAL IMPLICATIONS

The proposal meets all relevant environmental policies contained in the MPS documents. Please refer to Attachments B, C, and D of this report for further information.

ALTERNATIVES

The Heritage Advisory Committee could recommend that Community Council:

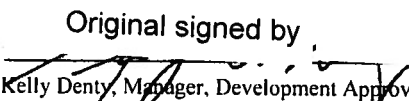
1. Approve the proposed development agreement, as contained in Attachment A of this report. This is the staff recommendation. A decision of Council to approve this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse to approve the development 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 development 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. Approve the proposed development agreement subject to modifications. This may necessitate further negotiation with the applicant and may require an additional public hearing.

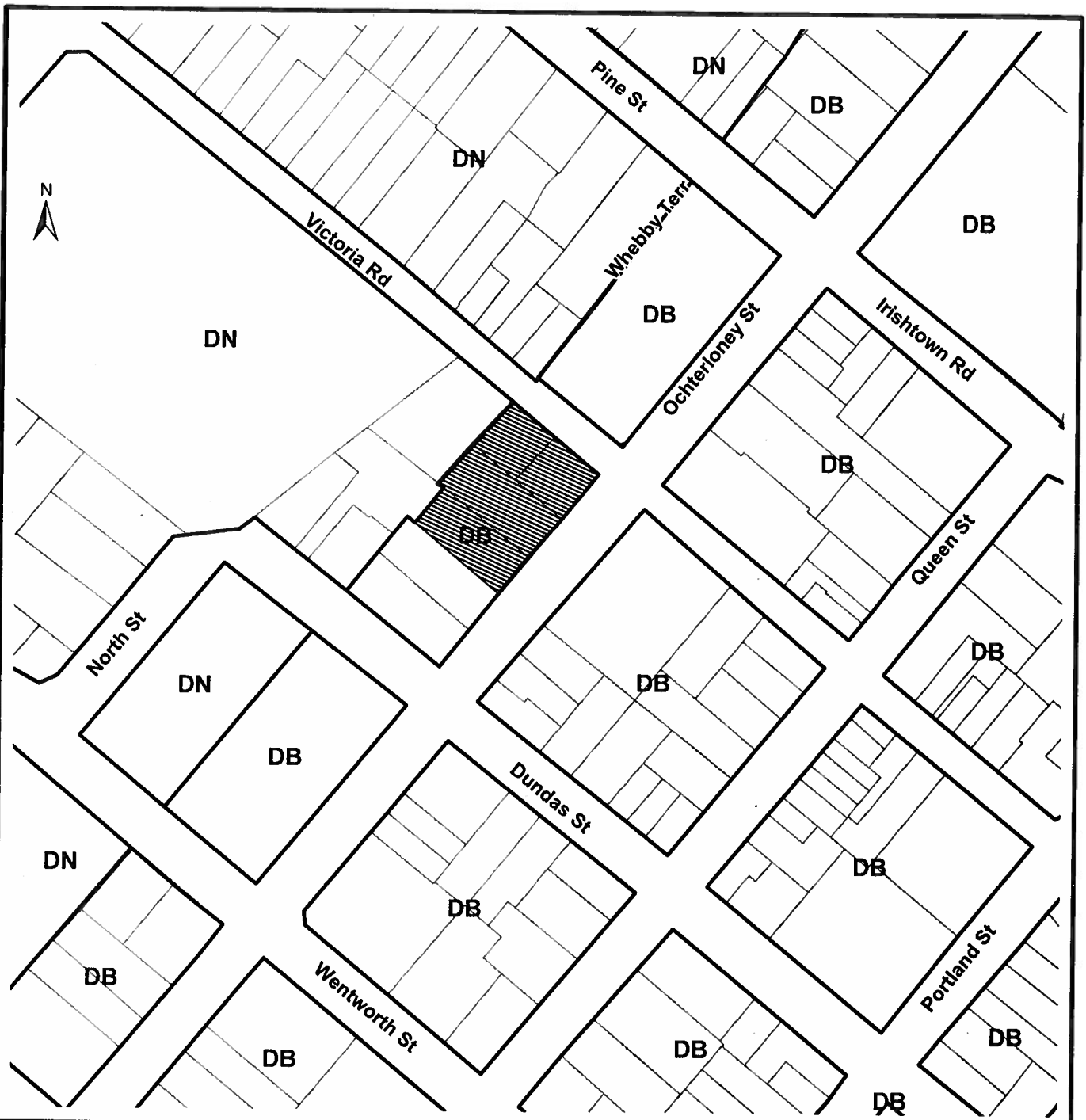
ATTACHMENTS

Map 1	Generalized Future Land Use
Map 2	Zoning and Notification
Attachment A	Proposed Development Agreement
Attachment B	Downtown Dartmouth Policies B-8, N-5 and D-1 and Policy Evaluation
Attachment C	Regional MPS Policy CH-2 and Policy Evaluation
Attachment D	Regional MPS Policy IM-15 and Policy Evaluation
Attachment E	Minutes from the Public Information Meeting

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: Mitch Dickey, Planner, 490-5719

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



Map 1 - Generalized Future Land Use

99, 103 and 105 Ochterloney Street

 Subject Property

Designation

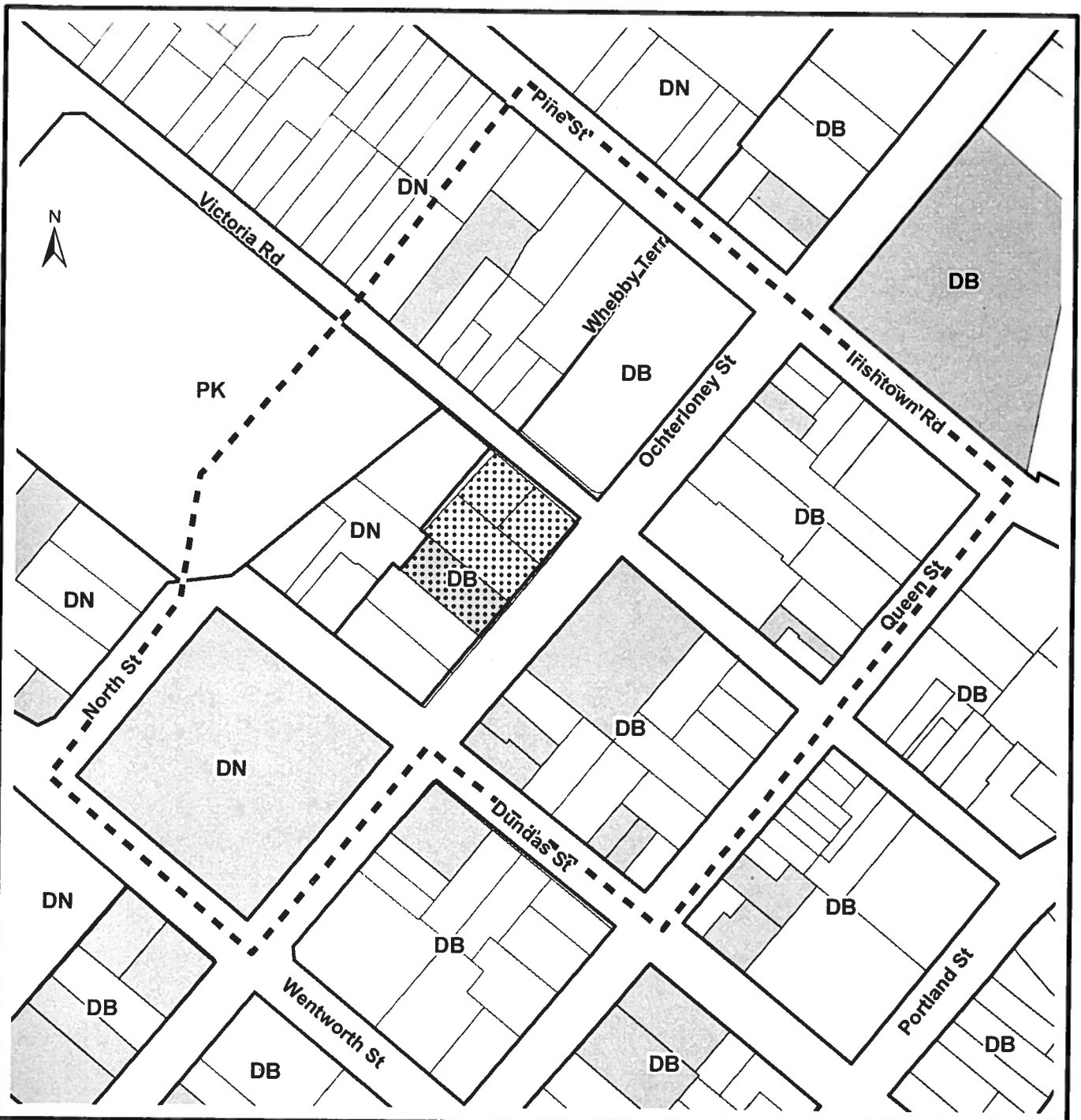
DN Downtown Neighbourhood
 DB Downtown Business District

Downtown Dartmouth Plan Area






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.



Map 2 - Zoning and Notification

99, 103 and 105 Ochterloney Street

-  Subject Property
-  Notification Area
-  Registered Heritage Properties

Zoning

- DN Downtown Neighbourhood
- DB Downtown Business District
- PK Park and Open Space

Downtown Dartmouth Plan Area



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 Development Agreement

THIS AGREEMENT made this day of [Insert Month], 20113,

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 on Ochterloney Street and Victoria Road in Dartmouth, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Lands include 99 Ochterloney Street which is registered in the Halifax Regional Municipality Registry of Heritage Property pursuant to the Nova Scotia Heritage Property Act, R.S., c. 199, s. 1. and to Halifax Regional Municipality Bylaw H-200 (the Heritage Property Bylaw);

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow a development consisting of up to 52 residential units with possible ground-floor commercial space in a seven storey plus penthouse building on the Lands, and the retention of the registered heritage building at 99 Ochterloney Street, pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy B-8 of the Downtown Dartmouth Municipal Planning Strategy and pursuant to Policy CH-2 of the Regional Municipal Planning Strategy;

AND WHEREAS Section 17 of the *Heritage Property Act* states that municipal heritage property shall not be substantially altered in exterior appearance or demolished without the approval of the Municipality;

AND WHEREAS Section 18 of the *Heritage Property Act* states that notwithstanding Section 17, where the owner of municipal heritage property has made an application for permission to alter the exterior appearance of or demolish the property and the application is not approved, the owner may make the alteration or carry out the demolition at any time after three years from the date of the application, provided that the alteration or demolition shall not be undertaken more than four years after the date of the application;

AND WHEREAS Section 20 of the *Heritage Property Act* authorizes a Municipal Council to enter into agreements with the owners of municipal heritage properties respecting their use, preservation and protection;

AND WHEREAS the Harbour East-Marine Drive Community Council of the Municipality, at its meeting on [Insert - Date], approved the said Agreement subject to the registered owner of the Lands described herein entering into this Agreement, referenced as Municipal Case Number 17863;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

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 Bylaw, 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 to the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 17863:

Schedule A	Legal Description of the Lands
Schedule B	Site and Landscaping Plan
Schedule C	Main Floor Plan
Schedules D1 to D4	Elevation Drawings

3.2 Requirements Prior to Approval

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

- (a) A Lighting Plan in accordance with Section 3.6 of this Agreement;
- (b) A Landscaping Plan in accordance with Section 3.7 of this Agreement.

3.2.2 At the time of issuance of an Occupancy Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- (a) Written confirmation from a qualified professional which the Development Officer may accept as sufficient record of compliance with the lighting requirements as set out in Section 3.6 of this Agreement;
- (b) Written confirmation from a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) that the Development

Officer may accept as sufficient record of compliance with the landscaping requirements as set out in Section 3.7 of this Agreement.

3.2.3 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Proposed Residential Building on the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality.

3.2.4 The Municipality shall not issue any Development Permit until Final Subdivision Approval has been granted for subdivision of the Lands pursuant to Section 3.9.

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are two buildings, as generally illustrated on the Schedules, comprised of the following:

- (a) a maximum of 52 residential units in the Proposed Residential Building, except that where one or more of the main floor units, shown on Schedule C as "Live/Work" space, is used for solely commercial purposes, the total number of residential units shall be reduced accordingly;
- (b) ground floor commercial or combined Live/Work commercial/residential space as shown on Schedule C;
- (c) a maximum of 2 units in the Heritage Building as shown of Schedule B; and
- (d) underground parking with no surface spaces permitted.

3.3.2 Further to Section 3.3.1, each of the buildings shall conform to the following:

- (a) The Building designated on Schedule B as 'Proposed Residential Building' shall be a multiple unit residential building which:
 - (i) shall not exceed seven floors plus penthouse above grade at Ochterloney Street;
 - (ii) shall not contain more than 52 residential units;
 - (ii) may, at ground floor, contain either residential space or commercial space as permitted within the Downtown Business Zone of the Downtown Dartmouth Land Use By-law as amended from time to time; and
 - (iii) conform with Schedules B, C and D1 to D4 regarding the siting and design of the building.

- (b) The Building designated on Schedule B as “Heritage Property”:
 - (i) shall not be demolished or undergo alterations to its exterior appearance in any manner without the written consent of the Halifax Regional Municipality. The Owner further expressly waives its rights under Section 18 of the Heritage Property Act to make any alteration or carry out demolition as provided therein;
 - (ii) may contain no more than two residential units; and
 - (iii) may also be used partially or entirely for non-residential uses permitted within the Downtown Business Zone of the Downtown Dartmouth Land Use By-law.

3.3.3 *Mix of Residential Units*

The Developer agrees that the “Proposed Residential Building” shall contain the following mix of unit types to a maximum of 52 units:

- (a) a minimum of 30 two-bedroom units; and
- (b) a maximum of 22 one-bedroom units;

3.3.4 Notwithstanding 3.3.3, the Development Officer may vary the overall distribution between unit types by up to 10% of the mix of units required, provided the maximum allowable number of dwelling units is not exceeded.

3.4 **Siting and Architectural Requirements for Proposed Residential Building**

3.4.1 The Proposed Residential Building shall be located as illustrated on Schedule B.

3.4.2 All façades shall be designed and detailed as primary façades, with detailing and finishes as shown in Schedules D1 to D4 to fully extend around the building.

3.4.3 The exterior cladding, architectural detailing and colours shall, in the opinion of the Development Officer, conform to that shown on the Schedules.

3.4.4 Any exposed foundation in excess of 0.5 metres (1.6 feet) in height shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.

3.4.5 Roof mounted mechanical and/or telecommunication equipment shall be visually integrated into the roof design or screened and shall not be visible from any abutting public street or adjacent residential development.

3.4.6 All vents, down spouts, flashing, electrical conduits, meters, service connections, and other functional elements shall be treated as integral parts of the design. Where appropriate these elements shall be painted to match the colour of the adjacent surface, except where used expressly as an accent.

3.5 **Parking**

Parking for residential uses in the Proposed Residential Building shall be provided at a rate of 0.75 spaces per unit. Parking for any commercial space is not required. All parking shall be provided within the buildings. No outdoor or surface parking shall be permitted.

3.6 **Outdoor Lighting**

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

3.6.2 **Lighting Plan**

Further to subsection 3.6.1, prior to the issuance of a Development Permit, the Developer shall prepare a Lighting Plan and submit it to the Development Officer for review to determine compliance with Subsection 3.6.1 of this Agreement. The Lighting Plan shall contain, but shall not be limited to, the following:

- (a) The location, on the building and on the premises, of each lighting device; and
- (b) Consideration of illumination of the character defining elements of the Heritage Building such as the gable roof with bargeboard and the entranceway. These elements should be illuminated to showcase the heritage property at night and to ensure the heritage building is not subordinate to the new building that may be illuminated at night; and
- (c) A description of the type of proposed illuminating devices, fixtures, lamps, supports, and other devices.

3.6.3 The Lighting Plan and description shall be sufficient to enable the Development Officer to ensure compliance with the requirements of Subsection 3.6.1 of this Agreement. If such plan and description cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the Developer shall submit evidence of compliance by certified test reports as performed by a recognized testing lab.

3.7 Landscaping

3.7.1 *Landscaping Plan*

Prior to the issuance of a Development Permit, the Developer agrees to provide a Landscaping Plan which complies with the provisions of this section and conforms to the preliminary landscape features as shown on Schedule B. The Landscaping Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.

3.7.2 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 plans required pursuant to Subsection 3.7.1.

3.7.3 All portions of the Lands not used for structures, parking areas, driveways, curbing, or walkways shall be landscaped except for areas where natural vegetative cover is maintained.

3.7.4 The Landscaping Plan shall include the location, spacing and species of any vegetation. The Developer shall maintain all landscaping, shrubs, plants, flower beds and trees and shall replace any damaged, dead or removed stock.

3.7.5 Planting materials shall be selected for their ability to survive in their specific location relative to such factors including, but not limited to, sunlight/shade conditions, or rooftop and sea exposure conditions.

3.7.6 *Construction or Manufacturer's Details*

Specifications for all constructed landscaping features such as fencing, retaining walls, pergolas, stream waste disposal facilities, benches, and lighting shall be provided 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 individual buildings and the character of the surrounding area.

3.7.7 The Landscaping Plan shall provide details of all ground level open spaces, private park, courtyards and rooftop gardens and open spaces as shown on the attached Schedules. The plan shall specify all model numbers, quantities and manufacturers of site furnishings as well as construction details of landscaping features (pergolas, benches, etc.).

- 3.7.8 Retaining walls shall be constructed of a decorative precast concrete or modular stone retaining wall system or an acceptable equivalent in the opinion of the Development Officer.
- 3.7.9 Details of any retaining wall system that exceeds a height of 0.9 m (3 feet) are to be identified, including the height and type of any associated fencing. A construction detail of any fence and wall combination over 0.9 m in height shall be provided and certified by a Professional Engineer.
- 3.7.10 Utility equipment and devices such as metering equipment, transformer boxes, power lines, and conduit equipment boxes shall be shown on the Landscaping Plan, and integrated or screened so as to not detract from the visual building character or architectural integrity of 99 Ochterloney Street.
- 3.7.11 *Compliance with Landscaping Plan*
Prior to issuance of the Occupancy Permit, where the weather or time of year allows, the Developer shall submit to the Development Officer a letter, prepared by a member in good standing of the Canadian Society of Landscape Architects, certifying that all landscaping has been completed according to the terms of this Agreement.
- 3.7.12 Notwithstanding subsection 3.7.11, where the weather and time of year does not allow the completion of the outstanding landscape works, the Developer may supply a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within six 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. This also applies to the structural integrity of the heritage building and its character defining elements.

3.9 Subdivision of Lands

The Developer shall, prior to issuance of any Development Permit, consolidate the Lands into a single parcel, except that the existing Heritage Building at 99 Ochterloney Street shall remain on its own parcel. The lot area and street frontage of the lot which is to contain the Heritage Building shall conform to the requirements of the Downtown Business Zone.

3.10 Signs

All signs shall conform to the requirements of the Downtown Dartmouth Land Use Bylaw.

3.11 Amenity Space

3.11.1 Amenity space for the benefit of the residents of each building shall be provided in accordance with the requirements of the Downtown Dartmouth Land Use By-law.

3.11.2 Further to Subsection 3.11.1 the required amenity space may include, but not be limited to, balconies, common recreational areas, fitness areas, gardens, play areas, recreational rooms, roof decks, swimming pools, tennis courts and common libraries and conservatories.

3.12 Solid Waste Facilities

3.12.1 The Proposed Residential Building shall include designated space for five stream source separation services as generally shown on Schedule C and consistent with the *Solid Waste Resource Collection and Disposal By-Law*. This designated space for source separation services shall be shown on the final building plans and approved by the Development Officer and Building Inspector in consultation with Solid Waste Resources.

3.12.2 Refuse containers and waste compactors for the Proposed Residential Building shall be confined to the interior of the building, and accessed through the parking garage entrance only.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1.1 All construction shall conform to the most current edition of the HRM Municipal Design

Guidelines and Halifax Water's Design and Construction Specifications unless otherwise varied by this Agreement and shall receive written approval from the Development Engineer prior to undertaking any work.

- 4.1.2 Any disturbance to existing off-site infrastructure resulting from the development, including 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 Engineer. Furthermore, the Developer shall be responsible for all costs and work associated with the relocation of onsite/off-site underground services, overhead wires and traffic signals to accommodate the needs of the development.

4.2 Removal of Former Driveways

Three former driveway entrances to the Lands from Ochterloney Street to the Lands shall be removed and replaced with curb and sidewalk to standard municipal specifications. Three street trees shall be provided in this area, to standard municipal specifications.

PART 5: AMENDMENTS

5.1 Non Substantive Amendments

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council:

- (a) Alterations to the requirements for exterior design and materials of the buildings as established by Section 3.4;
- (b) Provision of additional commercial space beyond that enabled by Section 3.3;
- (c) Alterations to the residential unit type and mix established by Subsection 3.3.4;
- (d) A reduction in the parking requirement below the threshold set out in Section 3.5;
- (e) Alterations to the landscaping plan required under Section 3.7;
- (f) Changes to the lot area and frontage requirements for the registered municipal heritage property as 99 Ochterloney Street;
- (g) Provision of outdoor seating related to any commercial use;
- (h) The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
- (i) The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

5.2 Substantive Amendments

Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 6: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

6.1 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.

6.2 Subsequent Owners

6.2.1 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.

6.2.2 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).

6.3 Commencement of Development

6.3.1 In the event that development on the Lands has not commenced within 3 years from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

6.3.2 For the purposes of this section, commencement of development shall mean installation of the footings and foundation for the Proposed Residential Building.

6.3.3 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.

6.4. 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.

6.5 Discharge of Agreement

If the Developer fails to complete the development within 5 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 7: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

7.1 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.

7.2 Failure to Comply

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

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing

such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;

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

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

HALIFAX REGIONAL MUNICIPALITY

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

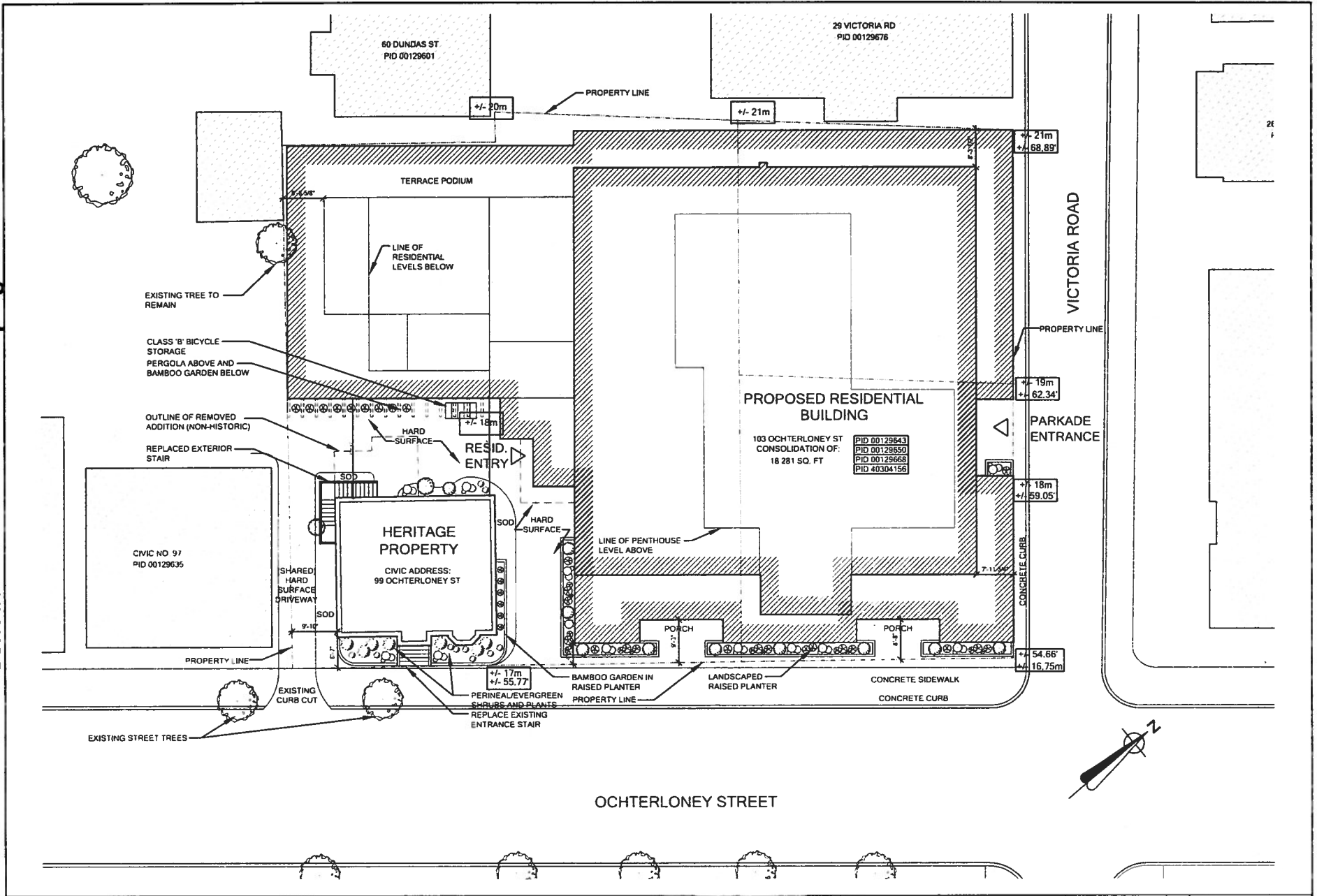
Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

Schedule B Site and Landscaping Plan



LOTUS POINT LIVING
 PROPOSED CONSTRUCTION
 103 OCHTERLONEY STREET
 DARTMOUTH, NOVA SCOTIA

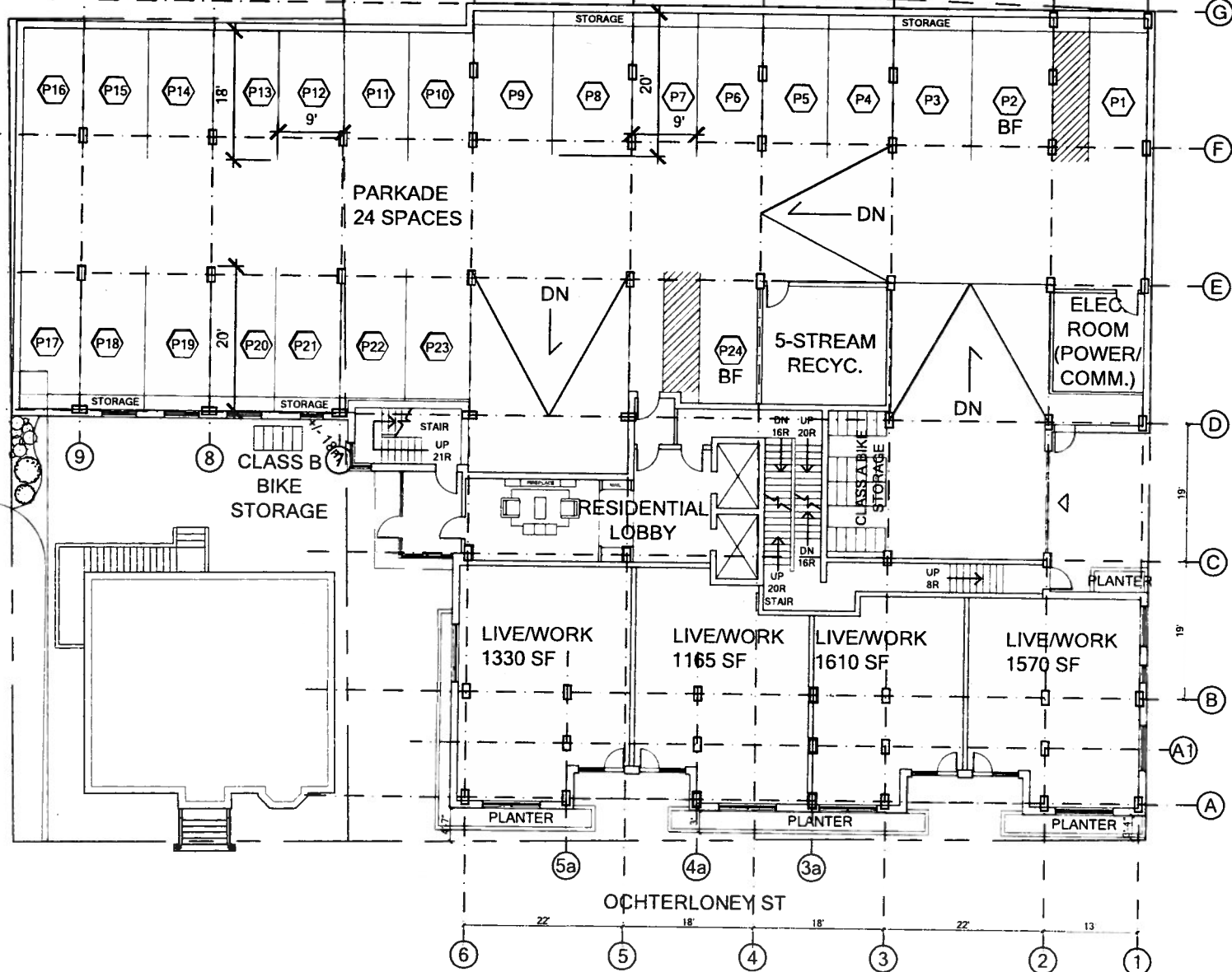


ARCHITECTURE

REVISIONS		
NO.	REVISION NUMBER	D/M/Y
5	ISSUED FOR DA	13APR12
6	ISSUED FOR DA WITH REVISIONS	07MAY12
7	ISSUED FOR DA WITH REVISIONS	15APR13
8	ISSUED FOR DA	21MAY13

DRAWING		DATE
LANDSCAPE		MAY 21 2013
SCALE	1" = 32'-0"	DRAWING NO.
		A-1B

Schedule C Main Floor Layout



LOTUS POINT LIVING
 PROPOSED CONSTRUCTION
 103 OCHTERLONEY STREET
 DARTMOUTH, NOVA SCOTIA



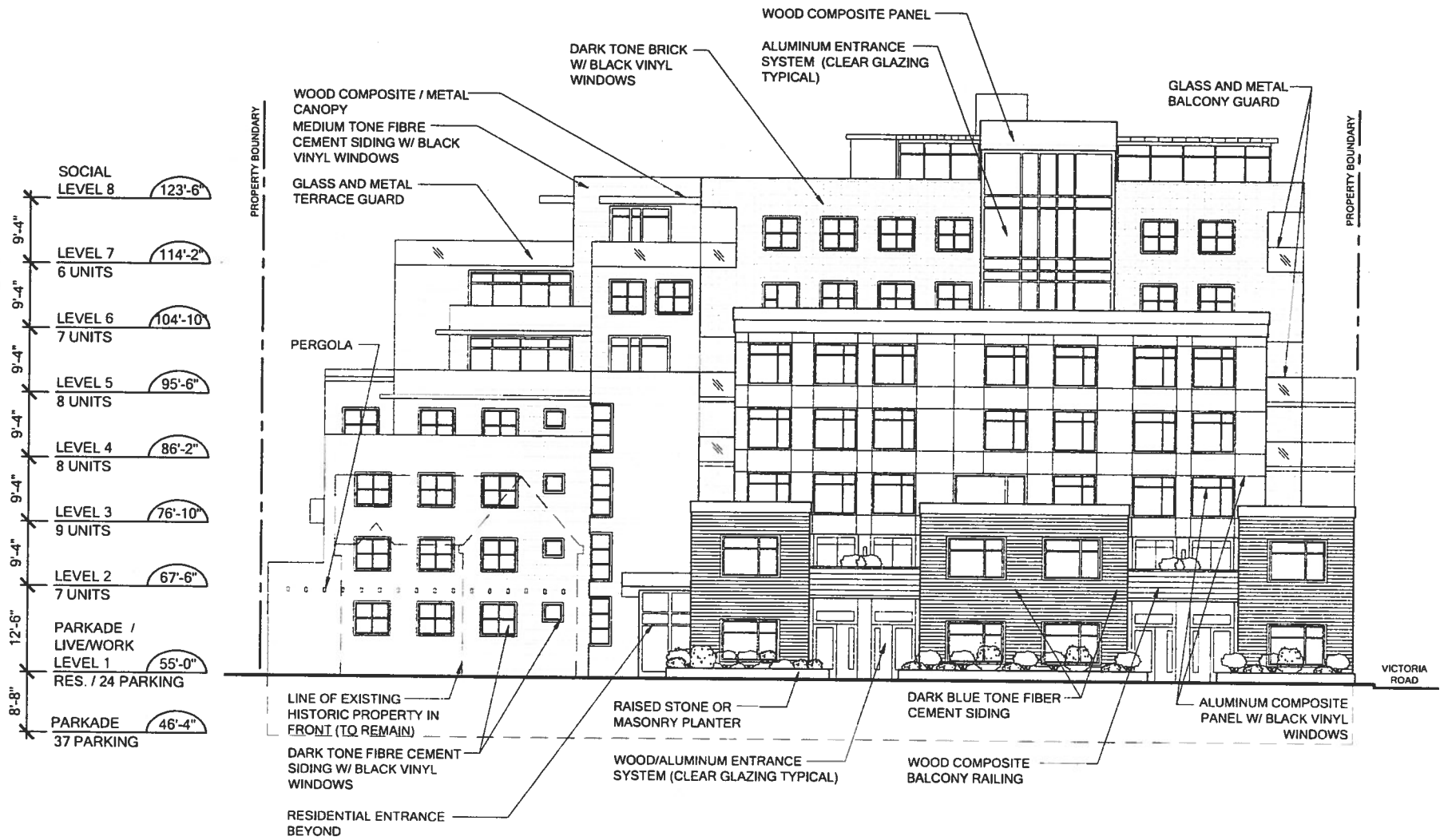
**M
A
A**
 ARCHITECTURE

REVISIONS		
NO.	REVISION NUMBER	D/M/Y
4	ISSUED FOR REVIEW	05APR12
5	ISSUED FOR DA	13APR12
6	ISSUED FOR DA WITH REVISIONS	07MAY12
7	ISSUED FOR DA WITH REVISIONS	19JUN13

DRAWING
 RESIDENTIAL /
 PARKADE - LEVEL 1
 SCALE
 NOT TO SCALE

DATE
 MAY 07 2012
 DRAWING NO.
A-3

Schedule D1 Elevation Drawing

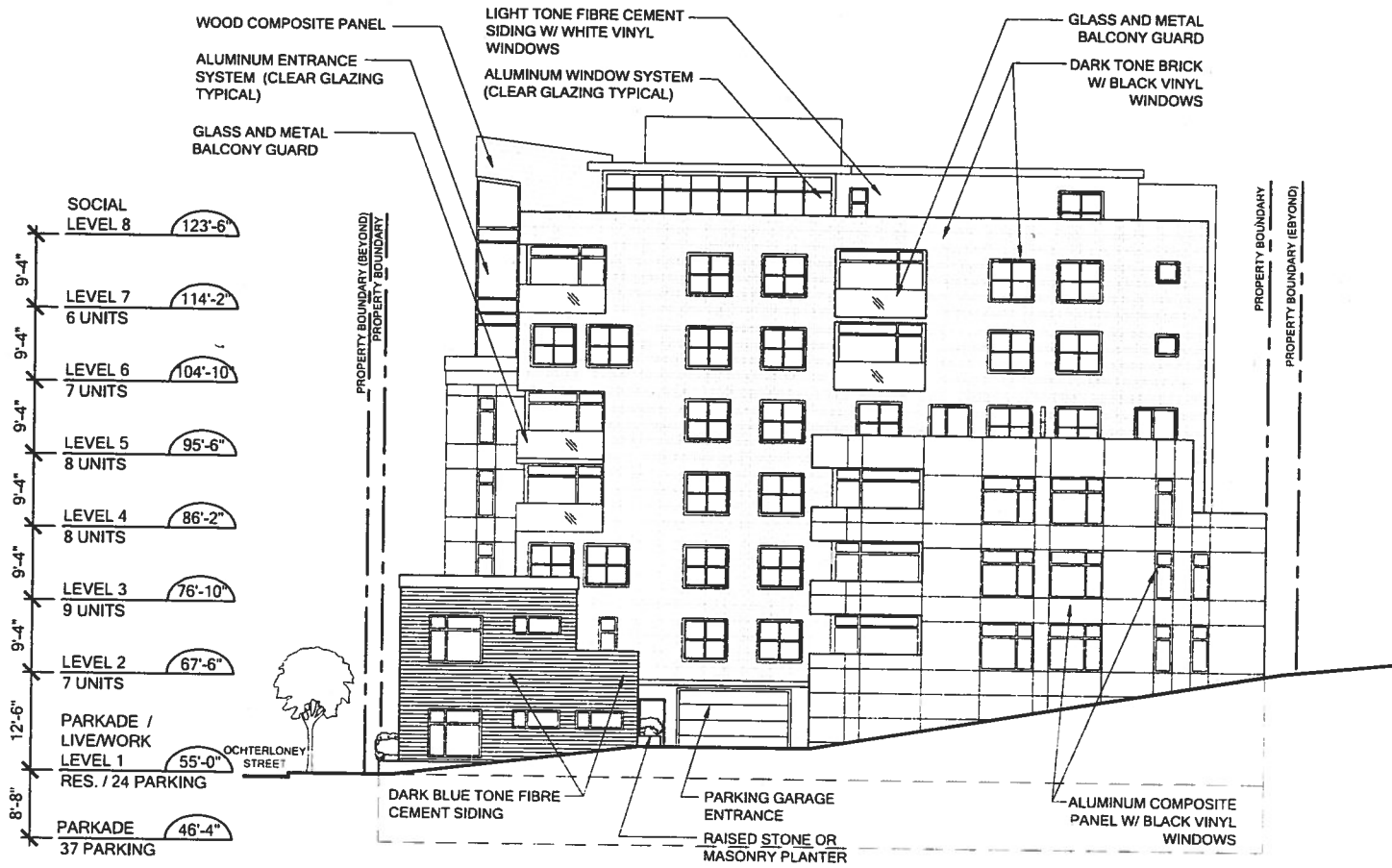


LOTUS POINT LIVING
 PROPOSED CONSTRUCTION
 103 OCHTERLONEY STREET
 DARTMOUTH, NOVA SCOTIA



REVISIONS			DRAWING EAST ELEVATION	DATE APRIL 13 2012
NO.	REVISION NUMBER	D/M/Y		
3	ISSUED FOR REVIEW	16MAR12	SCALE NOT TO SCALE	DRAWING NO. A-10
4	ISSUED FOR REVIEW	05APR12		
5	ISSUED FOR DA	13APR12		
6	ISSUED FOR DA WITH REVISIONS	19JUN13		

Schedule D2 Elevation Drawing

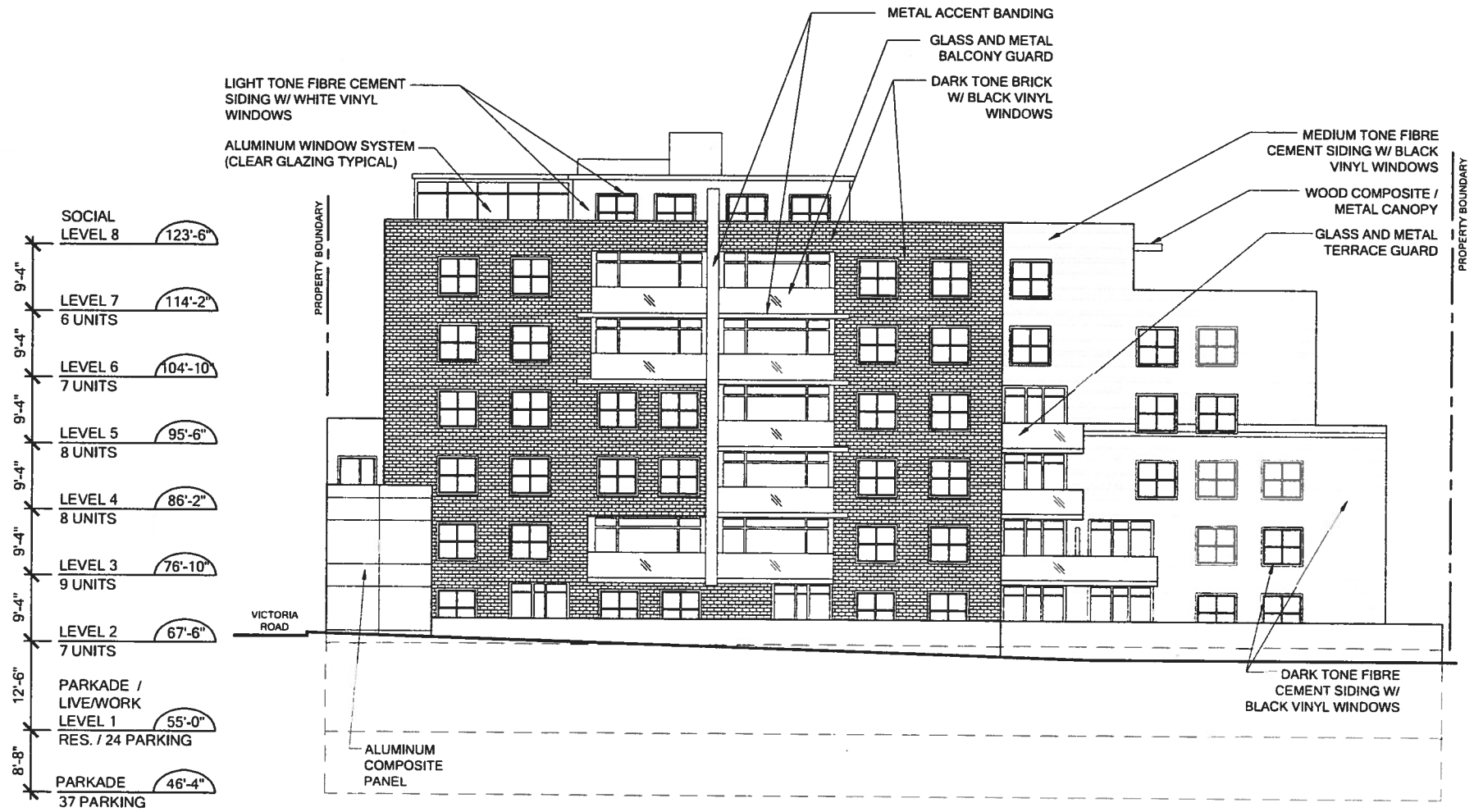


LOTUS POINT LIVING
 PROPOSED CONSTRUCTION
 103 OCHTERLONEY STREET
 DARTMOUTH, NOVA SCOTIA



REVISIONS			DRAWING	DATE
NO.	REVISION NUMBER	D/M/Y	NORTH ELEVATION	APRIL 13 2012
3	ISSUED FOR REVIEW	16MAR12	SCALE	DRAWING NO
4	ISSUED FOR REVIEW	05APR12		
5	ISSUED FOR DA	13APR12	NOT TO SCALE	A-11
6	ISSUED FOR DA WITH REVISIONS	19JUN13		

Schedule D3 Elevation Drawing



LOTUS POINT LIVING

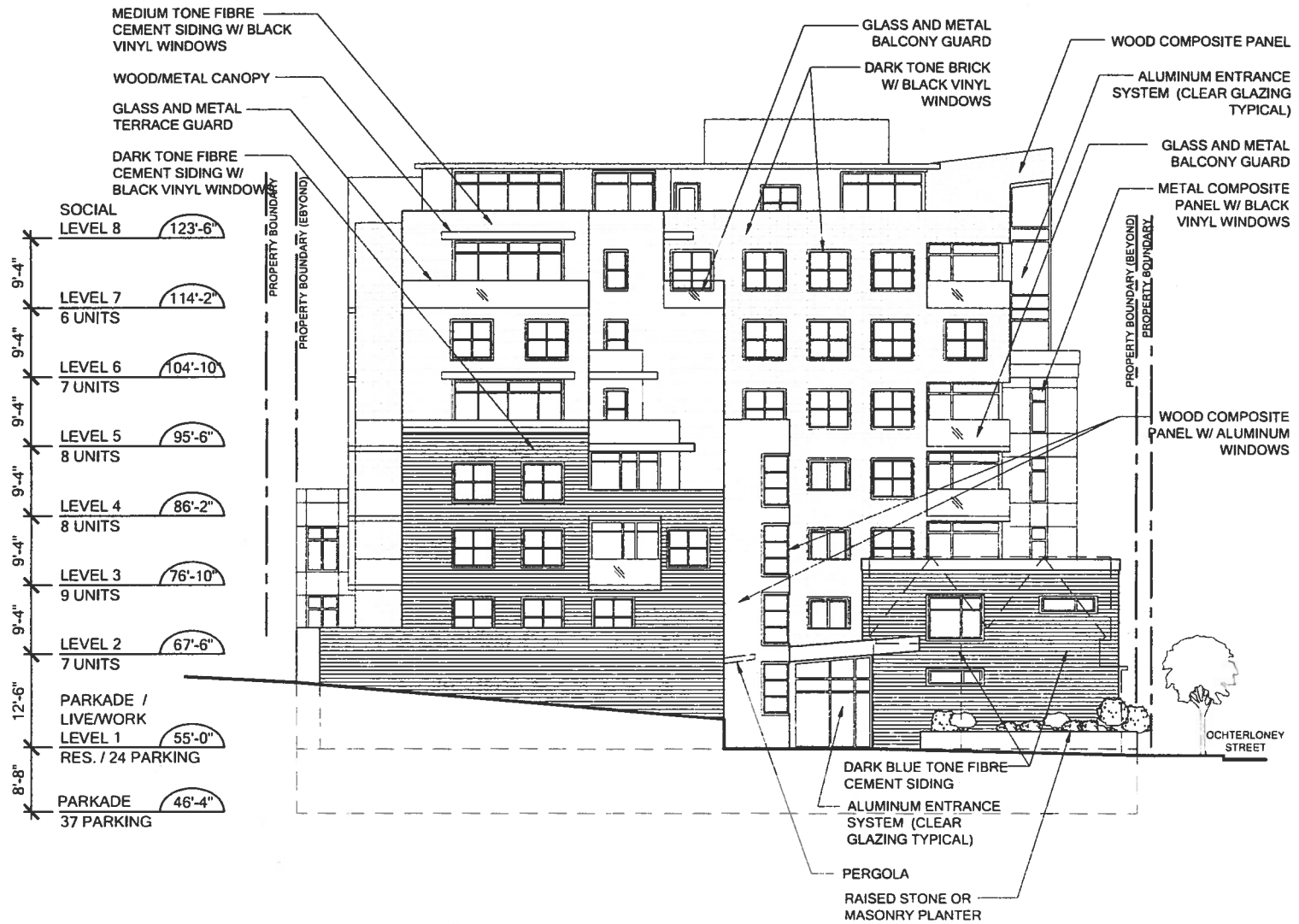
PROPOSED CONSTRUCTION
 103 OCHTERLONEY STREET
 DARTMOUTH, NOVA SCOTIA



REVISIONS		
NO.	REVISION NUMBER	DATE
3	ISSUED FOR REVIEW	16MAR12
4	ISSUED FOR REVIEW	05APR12
5	ISSUED FOR DA	13APR12
6	ISSUED FOR DA WITH REVISIONS	19JUN13

DRAWING	DATE
WEST ELEVATION	APRIL 13 2012
SCALE	DRAWING NO.
NOT TO SCALE	A-12

Schedule D4 Elevation Drawing



LOTUS POINT LIVING
 PROPOSED CONSTRUCTION
 103 OCHTERLONEY STREET
 DARTMOUTH, NOVA SCOTIA



REVISIONS			DRAWING	DATE
NO.	REVISION NUMBER	D/M/Y	SOUTH ELEVATION	APRIL 13 2012
3	ISSUED FOR REVIEW	16MAR12	SCALE NOT TO SCALE	DRAWING NO. A-13
4	ISSUED FOR REVIEW	05APR12		
5	ISSUED FOR DA	13APR12		
6	ISSUED FOR DA WITH REVISIONS	19JUN13		

Attachment B
Downtown Dartmouth Policies B-8, N-5 and D-1 and Policy Evaluation

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:

POLICY CRITERIA B-8	STAFF COMMENT
1. The residential opportunity sites referenced in Policy B-7 should be given priority for higher density development;	Two of these four opportunity sites have already been developed, development permits issued for a third, and a concept for the fourth finalized. New sites such as the subject lands should therefore be considered 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.	The proposed design demonstrates sensitivity in terms of height, massing, and construction materials. The proposed density is approximately 127 units per acre, which is appropriate as the 52 units are consistent with densities which can be achieved though as of right development and because the built form represents a substantial improvement over what occur on an as of right basis. The height only slightly exceeds that which is permitted as of right within the DB Zone, and this additional height is well mitigated through the use of stepbacks of upper floors and through variations in cladding materials which substantially reduces the apparent massing. Criteria a) through d) do not apply as they are specific to designated opportunity sites.

<p>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;</p>	<p>The proposed building presents a two storey townhouse-style streetwall, with stepbacks for upper floors, which reinforces the pedestrian environment. The facades are well articulated with varied bays and recesses which meets the goal of breaking up the building faces.</p>
<p>4. Commercial or other uses serving the public are encouraged at the street level of residential buildings.</p>	<p>The development agreement provides that ground floor space can be used for commercial space, however the applicant advises there is no market demand for such space. Therefore the agreement provides for residential use at the ground floor, which can be changed to commercial space, should the market support this in the future.</p>
<p>5. Where on-site parking is required, it should be enclosed within a building.</p>	<p>All parking is provided within the building in a 2 level parking garage.</p>
<p>6. Reduced standard laneways may be considered as an alternative means of access to the residential opportunity sites.</p>	<p>Not applicable.</p>

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

POLICY CRITERIA N-5	STAFF COMMENT
<p>a) where suitable, a mix of dwelling types should be achieved including townhousing, apartment and detached dwelling units. As a target, approximately 25% of housing should be designed to accommodate families with children;</p>	<p>The development agreement requires a minimum of 30, 2-bedroom units. This ensures that a majority of the 52 units are larger, with greater potential to attract families.</p>
<p>b) reasonable controls should be set out on the bulk, scale, and density of any proposed</p>	<p>These criteria are addressed in the discussions under Policy B-8 and Policy CH-2.</p>

<p>development to ensure it does not significantly alter the character of the area;</p> <p>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 and a height of three stories. Minor variations 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.</p> <p>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 variations¹² 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.</p>	<p>i) and ii) This policy is intended to cover matters not addressed under the Business District chapter (Section 4.2) of the MPS and Policy B-8 in particular. The Business District policies and the Land Use Bylaw enable mid rise, high density development. Therefore the guidelines of Policy N-5 regarding height and density are not applicable in this case.</p>
<p>c) the architecture and external appearance of any proposed buildings should reflect the traditional character of dwellings within the immediate neighbourhood and are in</p>	<p>This criteria is addressed in the discussions under Policy B-8 and Policy CH-2.</p>

	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;	Two commercial buildings and one rooming house were demolished prior to this application being submitted. The existing heritage building on the site with its two residential units is being retained.
e)	where applicable, street corridor views of the harbour should be maintained and enhanced;	Not applicable.
f)	adequate buffers and screening should be provided for any proposed apartment buildings or parking areas from adjacent single family residences, and attractive fencing and landscaping to enhance privacy should be provided where appropriate;	There are no adjacent single family residences, adjacent properties are used for two unit and multiple unit dwellings. However, setbacks and landscaping mitigate the effects of the development on adjacent multiple unit dwellings.
g)	adequate landscaping and/or street trees should be provided around the perimeter of the development to enhance the aesthetics of the site;	Extensive landscaping including new street trees will be provided along the Ochterloney Street frontage, with some planting on Victoria Road. A landscaped courtyard will be created between the new building and the heritage building. Where there are abutting properties, the lower level of the building will be built generally to the property lines as allowed by the DB zone, so there will be no formal landscaping in these areas.
h)	adequate recreation and amenity space including play areas for children should be provided where appropriate;	The development agreement requires the provision of adequate amenity space as required by the Land Use Bylaw, at the rate of 100 square feet per unit. This can include balconies, roof decks and common rooms. The proposal includes a common roof deck which would provide the majority of amenity space, as well as balconies and terraces.
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;	All parking is located within the building.
j)	traffic circulation and access to and from the site should be designed to minimize adverse impacts on adjacent residential uses	The proposed driveway access to the parking garage is to be off Victoria Road as required by By-law S-300 The Streets Bylaw. The proposed driveway is anticipated to have a lesser impact than the possible as of right commercial development on the site.
k)	adequate provisions should be made for safe and convenient pedestrian circulation	There are no concerns with pedestrian access to the site, as it has direct access to existing HRM sidewalks.

on the site;	
l) underground infrastructure services should be adequate to support the development;	Underground infrastructure services are adequate to support this development.
m) measures should be proposed to mitigate the impacts of construction on adjacent properties;	Any major construction project will create some degree of impact on adjacent properties. Bylaw N-200 'The Noise Bylaw' limits hours of construction, with the intent of mitigating impacts.
n) significant natural and cultural features on the site should be identified and protected where appropriate;	A registered municipal heritage property on the site is to be retained and no other significant features are known. The Nova Scotia Museum may require an archaeological assessment of the site prior to construction in order to determine the potential for impact on underground historic resources.
o) adequate measures are incorporated to ensure the development is maintained to a high standard, including all building and site areas and landscaping; and	The development agreement requires maintenance of the building and landscaping.
p) the developer shall make a reasonable effort to collaborate with neighbourhood residents on the design of any proposed development.	A public information meeting was held and nearby property owners were given the ability to comment on the proposed design. Revisions to the proposal were made, in part to address comments made by the public.

Policy D-1

HRM should ensure that a high quality of urban design is provided for all major developments in the downtown area. To achieve this objective Council shall adopt the following design guidelines for consideration in the design and renovation of buildings and spaces in the downtown area:

a) The scale, massing, and grain of future development should reflect the downtown's role as a 'people place' and respect its historic, small town character. While specific direction is provided in each of the various policy sections within this plan, in general three to five storeys is the desired scale of development.	This is addressed under Policy B-8.
b) The traditional street grid pattern and grain of development should be maintained and re-established in new and existing	Not applicable.

development.	
c) Building facades should maintain a consistent street edge except to provide access to rear parking areas. The use of interesting colour for building facades should be encouraged where it is complementary to the streetscape to add a sense of vibrancy to the area.	This is addressed under Policy B-8.
d) The exterior architectural design of new buildings should be complementary to adjacent buildings of historic or landmark significance in terms of the building height and materials, rhythm, colour, and proportion of the building design elements. Traditional building materials such as wood shingle and brick and preferred. Architectural design details should be provided to encourage visual interest.	This is addressed under Policy B-8.
e) Development should be oriented to pedestrians rather than cars. Surface parking areas should be designed to minimize the visual impact on the streetscape.	This is addressed under Policy B-8.
f) Microclimate issues such as wind, solar orientation, and shadowing should be considered and capitalized upon in all new development or major renovation projects.	This is addressed under Policy B-8.
g) Pedestrian street level activity should be encouraged in all development through the incorporation of outdoor cafes, ground floor uses, and uses that are open beyond daytime hours of operation. Consideration should be given to weather protection for pedestrians through use of decorative canopies and awnings.	This is addressed under Policy B-8.
h) Public art should be provided on or adjacent to buildings.	There is legal authority under the HRM Charter to require public art.
i) Opportunities to experience nature should be provided to soften the urban setting	Landscaping is to be provided at grade to create a

	through the incorporation of roof top gardens, flower boxes, community gardens for vacant lots, and through the use of greenways through the business core.	soft edge along the public sidewalk.
j)	Important views from public parks and streets should be respected in the design and configuration of development, especially harbour and east-west street corridor views.	No designated views are affected by this development.
k)	Pedestrian circulation and access should be an important consideration of all development. In particular, public access to the water;s edge should be protected and enhanced where possible.	Not applicable.
l)	A high quality of design should be required for streetscape elements and furniture.	This is addressed under Policy B-8.
m)	Public safety should be a consideration in the design of new buildings to ensure the design of public spaces does not create opportunities for crime at any time, with special attention paid to placement and intensity of lighting, visibility, directional signage, and land uses which will provide opportunities for eyes on the street through incorporation of residential development and street level activity after normal working hours.	A lighting plan is required as part of the development agreement.

Attachment C

Regional MPS Policy CH-2 and Policy Evaluation

CH-2 For lands abutting federally, provincially or municipally registered heritage structures, HRM shall, when reviewing applications for development agreements, rezonings and amendments pursuant to secondary planning strategies, or when reviewing the provision of utilities for said lands, consider a range of design solutions and architectural expressions that are compatible with the abutting federally, provincially or municipally registered heritage structures by considering the following:

POLICY CRITERIA CH-2	STAFF COMMENT
(a) ensuring that new developments respect the building scale, massing, proportions, profile and building character of abutting federally, provincially or municipally registered heritage structures by ensuring that they:	The proposal satisfies this criteria as follows:
(i) incorporate fine-scaled architectural detailing and human-scaled building elements within the pedestrian realm;	On the lower two floors along Ochterloney Street and adjacent to the heritage building, narrow course clapboard is to be used, with composite wood providing additional interest around entryways. Substantial window openings are provided, and landscaped planters provide a transition from the sidewalk. These materials complement the traditional streetscape character. The proposed courtyard will provide additional visual interest.
(ii) consider, within the pedestrian realm, the structural rhythm (i.e., expression of floor lines, structural bays, etc.) of abutting federally, provincially or municipally registered heritage structures; and	The lower two floors along Ochterloney Street adjacent to the heritage building are defined by a cornice line at the approximate height of the heritage building. This reflects the traditional streetwall height. A cornice line along Ochterloney Street and adjacent to the heritage building carries the existing streetwall entirely along the block face between Dundas Street and Victoria Road.
(iii) any additional building height proposed above the pedestrian realm mitigate its impact upon the pedestrian realm by incorporating design solutions, such as setbacks from the street wall and modulation of building massing, to help reduce its apparent scale;	A cornice line provides a clear break between the pedestrian realm and the upper floors of the proposed building. Upper floors are well set back from the streetwall, mitigating the apparent effect of the upper floors. The building massing is also modulated, and the cladding materials and colours vary which further mitigates the effects of height.
(b) the siting of new developments such that their footprints respect the existing development pattern by:	

<p>(i) physically orienting new structures to the street in a similar fashion to existing federally, provincially or municipally registered heritage structures to preserve a consistent street wall; and</p>	<p>The proposed building has a setback consistent with that of the heritage property and others on this block, to ensure a respectful streetwall.</p>
<p>(ii) respecting the existing front and side yard setbacks of the street or heritage conservation district including permitting exceptions to the front yard requirements of the applicable land use by-laws where existing front yard requirements would detract from the heritage values of the streetscape;</p>	<p>The land use bylaw establishes maximum setbacks from streets for as of right development of 0.6 m (2 feet). However as discussed under criteria (i) above the proposed building is setback a greater distance in deference to the existing streetscape character, providing increased visibility of the heritage structure.</p>
<p>(c) minimizing shadowing on public open spaces;</p>	<p>There are no nearby public open spaces that would be affected by shadows.</p>
<p>(d) complementing historic fabric and open space qualities of the existing streetscape;</p>	<p>The building setbacks respect and complement the existing streetscape. The design of the buildings within the pedestrian realm responds appropriately to the character of older buildings on the street. The proposed buildings include considerable landscaping such as tree and shrub plantings, which will contribute to the established street (Section 3.4 of development agreement).</p>
<p>(e) minimizing the loss of landscaped open space;</p>	<p>There is no landscaped space being lost. An overgrown lot is being replaced with a building that will include new landscaping.</p>
<p>(f) ensuring that parking facilities (surface lots, residential garages, stand-alone parking and parking components as part of larger developments) are compatible with abutting federally, provincially or municipally registered heritage structures;</p>	<p>All parking is contained within the proposed new buildings, and therefore screened from view (Section 3.4 of development agreement).</p>
<p>(g) placing utility equipment and devices such as metering equipment, transformer boxes, power lines, and conduit equipment boxes in locations which do not detract from the visual building character or architectural integrity of</p>	<p>The development agreement requires that such equipment be hidden or fully screened (Section 3.7.12 of development agreement).</p>

the heritage resource;	
(h) having the proposal meet the heritage considerations of the appropriate Secondary Planning Strategy, as well as any applicable urban design guidelines; and	The Downtown Dartmouth MPS outlines design guidelines and controls to apply in all contexts. These criteria are satisfied by the detailed conditions of the development agreement.
(i) any other matter relating to the impact of the development upon surrounding uses or upon the general community, as contained in Policy IM-15.	This is addressed in Attachment D. There are no concerns.

For the purposes of Policy CH-2, the following definitions apply:

1. "Abutting" means adjoining and includes properties having a common boundary or a building or buildings that share at least one wall. Properties are not abutting where they share only one boundary point as opposed to a boundary line.
2. "Building scale" means a building's size relative to another building's size, or the size of one building's elements relative to another building's elements.
3. "Massing" means the way in which a building's gross cubic volume is distributed upon the site, which parts are higher, lower, wider, or narrower.
4. "Proportion" means the relationship of two or more dimensions, such as the ratio of width to height of a window or the ratio of width to height of a building or the ratio of the height of one building to another.
5. "Profile" means a building's cross-sectional shape or the shape of its outline.
6. "Building character" means the combined effect of all of the architectural elements of a building or a group of buildings.
7. "Human-scaled building elements" means a range of building details from small (masonry units, doorknobs, window muntins, etc.) to medium (doors, windows, awnings, balconies, railings, signs, etc.) to large (expression of floor lines, expression of structural bays, cornice lines, etc.).
8. "Street wall" means the vertical plane parallel to the street in which the front building facades of the majority of the buildings along a street are located.
9. "Pedestrian realm" means the volume of space enclosed by the horizontal plane of the street and sidewalks, and the vertical planes of the facing streetwalls. The height of this volume is determined by the height of the base of the adjacent buildings as defined by a major cornice line or by the point at which a building's massing is first stepped-back from the streetwall. Where cornice lines or setbacks do not exist, the height will be generally two to five stories, as appropriate.

**Attachment D
 Regional MPS Policy IM-15 and Policy Evaluation**

IM-15 In considering development agreements or amendments to land use by-laws, in addition to all other criteria as set out in various policies of this Plan, HRM shall consider the following:

POLICY IM-15	STAFF COMMENT
(a) that the proposal is not premature or inappropriate by reason of:	
(i) the financial capability of HRM to absorb any costs relating to the development;	The development would not generate any costs to HRM.
(ii) the adequacy of municipal wastewater facilities, storm water systems or water distribution systems;	Existing infrastructure can accommodate the proposed development.
(iii) the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands;	The proposed development is in close proximity to all levels of schools, where there is ample capacity for students. The lands are located near a variety of parks and recreation and community facilities.
(iv) the adequacy of road networks leading to or within the development;	The area road network can accommodate traffic generated by the proposed development, with no modifications needed.
(v) the potential for damage to or for destruction of designated historic buildings and sites;	The development agreement requires the retention of the registered municipal heritage property at 99 Ochterloney Street, and other than a subdivision of the property does not permit any alterations to the building except as may be permitted under Bylaw H-200 'The Heritage Bylaw'. An archaeological assessment may be required by the Nova Scotia Museum under the Special Places Protection Act prior to any excavation being commenced.
(b) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:	
(i) type of use;	The type and scale of use are similar to others within the area. Commercial uses are limited to those permitted in the DB zone. The development agreement contains strong design controls on architecture, materials, landscaping, and setbacks that mitigate

	conflicts. In the Regional MPS context, the use is appropriate for the Capital District as envisioned under Table 3-1 of the RMPS re the Regional Centre.
(ii) height, bulk and lot coverage of any proposed building;	As discussed under Policy B-8 the height is acceptable. Appropriate setbacks of above grade portions of the proposed building are provided, with adequate setbacks of upper floors that mitigate the effects of the development. Policy CH-2 also addresses these criteria adjacent to a heritage building. Refer to that evaluation for further discussion.
(iii) traffic generation, access to and egress from the site, and parking;	A traffic impact study demonstrated that traffic generation from the lands can be accommodated by the existing road network and that the proposed parking garage entrance to Victoria Road is acceptable. Given the site's urban core location, its proximity to multiple bus routes and a 5 minute walk to the ferry, a reduction in parking requirements to 0.75 spaces per unit is appropriate although the applicant proposes a higher ratio. This compares to 0.5 spaces per unit in downtown Halifax. All parking for both the new and existing buildings will be contained within the new building, contributing to a more attractive site.
(iv) open storage;	No open storage is proposed.
(v) signs; and	Commercial signage for the ground floor space will be as per the Downtown Dartmouth LUB standard. This is acceptable.
(c) that the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.	The general subject area is known to contain sulphide (acid) bearing slates, and there is slate on this site which will require excavation. Any acid bearing slates must be dealt with in accordance with the requirements of the Nova Scotia Department of Environment and Labour.

Attachment E
Minutes from Public Information Meeting

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO. 17863

7:00 p.m.
Thursday, August 30, 2012
Alderney Gate Library, Helen Creighton Room
90 Alderney Drive, Dartmouth

STAFF IN

ATTENDANCE: Darrell Joudrey, Planner, Planning Applications
Hilary Campbell, Planning Technician
Jennifer Little, Planning Controller

ALSO IN
ATTENDANCE: Councillor Gloria McCluskey, District 5
Councillor Darren Fisher, District 6

PUBLIC IN
ATTENDANCE: 54

The meeting commenced at approximately 7:02 p.m.

Opening remarks/Introductions/Purpose of meeting

Mr. Darrell Joudrey, Planner, Planning Applications, called the meeting to order at approximately 7:02 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 Councilor Gloria McCluskey, District 5; Councilor Darren Fisher, District 6; Hilary Campbell, Planning Technician, HRM Planning Services and Jennifer Little, Planning Controller, HRM Planning Services.

Mr. Joudrey advised that the application Application is by Michael Napier Architecture, for lands at 99, 103 and 105 Ochterloney Street, Dartmouth, to enter into a development agreement to permit a 7 storey 50 unit multiple unit residential building with commercial space at the ground floor.

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 neighborhood. The application will then be brought forward to the Heritage Advisory Committee and to Harbour East Community Council which will hold a public hearing at a later date, prior to making a decision on the proposed development.

Presentation on Application

Reviewing a slide of the subject property, Mr. Joudrey explained that the plan area was Downtown Dartmouth and under that plan the lands were designated Downtown Business District with the Downtown Business District zone applied. The current land use is vacant with the exception of the heritage property. The Downtown Dartmouth zone, under Policy B-3, allows Council to consider projects beyond the zone provisions by development agreement. This is a negotiated contract between HRM and the developer. Policy B-3 contains policy criteria that a development agreement would be subject to such as: area character, pedestrian scale - where a mixed use building is not to exceed 5 to 7 stories, ground floor commercial is encouraged, design elements reinforce human scale and enhance street level activity, parking does not distract from the streetscape and where adequate consideration is given to landscape design.

Mr. Joudrey went on to explain Policy B-8 of the Dartmouth MPS which sets out criteria for considerations of higher density housing proposals and the policy criteria requires Council to consider design that is sensitive to traditional downtown and surrounding area and that the buildings reinforce human scale at street level. Policy B-8 has a general guideline of 100 units per acre – in this case it would be equivalent to 42 units for the subject lands and the request is for 51 units. Further, Policy B-8 encourages commercial at ground level and the enclosure of required parking.

Mr. Joudrey continued with a brief synopsis of the Urban Design Policy D-1 and Heritage Policy H-7 from the Dartmouth MPS, as well as the Cultural and Heritage Policy CH-1 from the Regional MPS. Mr. Joudrey reviewed some of the details of the Urban Design policy considerations: the project must address massing, scale and grain; it should maintain or re-establish the traditional street grid; complement adjacent heritage buildings; orient development to pedestrians; consider microclimates; encourage street level activity; consider public safety; incorporate rooftop gardens, public art; respect views from parks and streets and provide high quality streetscape elements. Mr. Joudrey explained that the Heritage Policy required that proposals for development agreements involving exterior alterations on adjacent heritage properties shall be forwarded to the Heritage Advisory Committee. The Regional Plan Policy CH-1 criteria requests Council to consider that heritage properties not be altered to diminish heritage value; maintain integrity of any heritage property; significant architectural or landscape features are not removed or altered; the development promotes and complements street level human scaled building elements and that the proposal meets local heritage policies and urban design guidelines.

Michael Napier, Applicant thanked the residents for coming to the meeting and gave a brief explanation of the number of projects he has completed over the years in Downtown Dartmouth adding that this development will create prime opportunities. He introduced Dean Hartman and explained that he has bought the heritage property and has been working hard at fixing it up.

Dean Hartman, Property Owner introduced himself explaining that he has been a resident since 1978 and has great pride in the area. He explained that he has been working steady and has spent a lot of money on the interior of the heritage building.

Mr. Napier reviewed a slide of the proposal explaining that the massing and shape of windows are similar to the heritage property. He reviewed a slide showing the development from the west side showing two units and explained that there will be a zen garden. They will be keeping the original foundation and building around it. He added that there are four properties that will be consolidated all into one. He explained that the developer could put 24 units as of right however, they feel this opportunity also allows for the opportunity to protect the heritage building. They plan on changing the color of the heritage property and will be doing upgrades to the exterior and windows to better blend in with this development so it will all be viewed as one. Mr. Napier reviewed the area that will be the residential walking area; area from the west view and the view down Victoria facing the harbor. He explained that they have designed the building to step down, so that when it gets down to the heritage property, it is the same size. He explained that the top floor will be a common area for tenants that will have a fitness center that overlooks the harbor and the parkland to serve the residents is off of Victoria Street. There will be two levels of underground parking which will accommodate 61 parking spaces. He explained that this is slightly under the suggested amount, but with the location of the property being downtown and the ferry right there, he doesn't suspect this to be an issue. He added that this will include 5 guest spots and there will also be a provision for the commercial portion. Mr. Napier explained that a wind study is also available on the website and can answer any questions or concerns regarding that tonight.

Questions and Answers

Mr. Gregory Wright, Dartmouth explained that he has been a Dartmouth resident his whole life and is very proud to be from Dartmouth and feels very fortunate to be living at his current address that it is a very unique property. He explained that it is a great neighbourhood and understands why anyone would want to live in the Downtown Dartmouth area however, can not support this application. He explained that after reviewing the Downtown Dartmouth Land Use By-Law, he has identified some items with respect to the proposed development which do not meet the by-law as described:

“Architectural Design requirements:

8.(1) Propose: 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” he explained that this development is not small scale and is over double the maximum occupancy requirement of 24.

“8. (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”. He added that this development is 7 stories.

“Downtown Business District Zone

10. (10) Architectural Requirements

All new buildings shall conform to the architectural requirements of Section 8 of this by-law.

General Provisions

5.(18) One Residential Building Per Lot

There shall be no more than one building containing residential uses per lot, excepting multiple unit and townhouse dwellings in the DB zone”. He asked if the existing heritage house located at 99 Ochterloney Street can exist on the same property as the proposed development and if the property has to be subdivided, will it meet the minimum standard for lot size set out in the Land Use By-Law.

“Parking Requirements

6. (1)(f) for general retail, trade and service, food store service, commercial, shopping centers, etc., in excess of 3000 square feet of gross floor area, two parking spaces for each 1000 square feet of floor area shall be provided; except the retail space located on Portland Street and Alderney Drive shall be exempt from this requirement” He addressed concern with the proposed commercial development will only have street parking due to the footprint of the development. He explained that Ochterloney Street is becoming very difficult to navigate and has had several encounters with parking on both sides forcing him to dangerously cross centerline with oncoming traffic to navigate through the area. He suggested the City consider the parking situation and the hazards they may be creating. He also addressed concern regarding excessive winds due to wind tunneling or unusual snow accumulation on and around the property and requested to see a wind model. He explained that his house is located in a low lying area and with all the rain and snow melt from the rock ledge naturally moves across his property, he asked for assurance that he will not encounter localized flooding on this property due to the obstruction of the natural flow in the area. He also asked for assurance that with the rooftop patios and the accumulation of snow on the rooftop patios that may cause damage or personal injury from the possibility of falling snow or ice during snow removal on these patios. He addressed concern with the construction and requested assurance that his property will be protected from damage due to the construction techniques used. He added that his property’s water and sewer services will also be impacted by this development and requested assurance that the services will be maintained without any cost to him or impacts to the value of the home. He explained that he is not against development of the properties but can not support this particular development. It does not meet several of the local By-Laws and he does not believe it will improve the neighbourhood. He expressed concern with this development having a negative impact on his property.

Mr. Joudrey explained that two buildings per lot can be considered through the development agreement process. He explained that a wind study is not an unreasonable thing to ask but have been requesting wind assessments for the majority of high-rise buildings proposed. He also explained that the development agreement requires a storm water management plan be submitted to HRM and that the amount of water that falls on the site has to be dealt with on the site; Engineering Services takes this very seriously. He added that Halifax Water will be also reviewing the application and will be evaluating any sanitary sewer concerns to surrounding properties.

Mr. Walter Regan, Sackville Rivers Association explained that they are trying to organize the daylighting of Saw Mill River. Over the next number of years, there are at least 10,000 people moving into Downtown Dartmouth, including this project. He explained that Shubenacadie Canal must be rehabilitated and Saw Mill River daylighted from Lake Banook to the Harbour. He believes that this project should help do this.

Mr. Joe Landry, Dartmouth explained that there has been a lot of good points raised especially the wind impact concerns. He explained that he is in favor of this development however, has some concern with traffic explaining that the intersection on Victoria Road is busy and will be even busier once schools and universities come back in. He asked what studies have been done for the additional traffic. There currently are safety concerns with pedestrians and in the school area.

Mr. Joudrey explained that a traffic impact study prepared by the applicant that will be reviewed by HRM Traffic Services.

Mr. Landry asked what the cost of the units will be.

Mr. Dean Hartman explained that they are looking at top quality for a good value and would like them to be affordable for the aging population. However, is not sure at this time how much they will be.

Mr. Napier explained that 95% of the traffic isn't from the Downtown Dartmouth area and is hoping that in 50 years there will not be any fuel.

Ms. Sherry Spicer explained that she has lived in the area most of her life and would like to speak in support of the development. She works at Kings Wharf and understands the concerns of the public however, is very confident with HRM's processes. She explained that Downtown Dartmouth needs as much (development) as it can get and would like to keep this positive attitude. She added that she works closely with Mr. Napier and Mr. Dean Hartman and assured that they deliver above the bar.

Ms. Beverley Annand, Dartmouth agreed with Mr. Wright's concerns. She explained that she is in support of development of Downtown Dartmouth however, addressed concern with traffic and explained that on Sundays when church service is over, it is dangerous. She also addressed concern with lack of parking and this is also dangerous. She does not see how this area can accommodate any additional traffic or parking requirements. She explained that tying the window shapes of a heritage property to a new development is in keeping with the intentions of staying true to the characteristics of the neighbourhood.

Mr. David LeBlanc, 115 Ochterloney Street, addressed concern with this development having another transformer on Ochterloney Street.

Mr. Napier explained that this development will have an underground electrical box and there will not be a transformer associated with the building.

Mr. Clark Wilkins, Dartmouth explained that he has lived in the area for 40 years and explained that Dartmouth needs development and lots of it. He agrees with the concerns of the public however, explained that the professionals will deal with the concerns before final approval. He explained that it is a nice looking building.

Mr. Trevor Parsons, Dartmouth explained that he has an office on Portland Street and congratulated the developer and the Architect for the design of this development. He feels that this is an important development because it shows that you can go beyond the as-of-right development and still do something nice like this. At this time he spoke regarding the development on Irishtown Road explaining that he is not in favor of that development. He added that if the developer tries to mimic the surrounding properties, there will be a mistake made however; in this case, the development is complimenting the heritage property. He also added that he does not have any concerns with the traffic and explained that he walks to work to and from most days and does not see any issues. He explained that in his building some of the residents do not have cars, or have them and do not use them because of the alternative travel means, such as the ferry. He asked what exterior material will be used.

Mr. Napier explained that there will be a variety of products used however, haven't confirmed exactly what. He added that some of the development will be stone-like materials and assured that they will be using the best products they can find, that will last in this climate.

Ms. Erin (name not recorded) Dartmouth explained that she has lived in the area all of her life and explained that with all the new development in Downtown Dartmouth, where will the lower income, affordable housing be. She addressed concern with the low income people being pushed out of the area.

Mr. Joudrey explained that this concern has been brought up by Regional Council and is currently being reviewed through the RP+5 (Regional Plan Review). A functional plan was required to be prepared by the next review looking at affordable housing policies throughout HRM.

Mr. Colin May, Dartmouth explained that he has been a resident since 1970 and has been active within the Community. He explained that the City was in the process of selling the old Police Station however, the conditions were that the church have to agree to the design and that the neighbourhood would have to agree on the design as well. He addressed concern with the lack of public participation and the developers proposing the finished product.

Mr. Napier explained that there have been several meeting where they have met with the residents and Councillors, however, does not have the names and locations available at this meeting.

Mr. May addressed concern for a young couple who live on Victoria Road only receiving notice of this meeting a week prior to and some have not received notice at all. He asked what the radius is surrounding the property in which residents will receive public notices.

Mr. Joudrey explained that it is standard to send notice within 250 feet however, if too many commercial buildings are captured, they expand the area.

Mr. May expressed concern with nobody knowing about this meeting in the apartment building. He also addressed concerns with the shadow this building is going to cause. At this time, Mr. May inserted his own slides of the Victoria Road location and he addressed parking concerns. He also addressed concern with the building being too close to one property and explained that he has reviewed the Registry of Deeds and asked what the distance is from the property line to the development. He explained that this development will take away from the natural lighting and will devalue the properties.

Mr. Napier explained that he doesn't have the exact dimension of the distance between the property and development.

Mr. May commented that the Land Use By-Law needs to be amended and looked at by the residents. He has concern with this application bringing additional development of this scale.

Mr. Napier agreed that there is an issue with notifying tenants because the notice is delivered to the owners of the properties. He also explained that the Municipal Planning Strategy was implemented in 2000 and has been the vision for Downtown Dartmouth.

Mr. May explained that the vision should be to bring more families and there is nothing in terms of housing, there are threats of schools closing and there need to be more discussions regarding lower income families and the concern with them being pushed out.

Mr. Ian Smith, Dartmouth explained that he doesn't live in the Downtown Dartmouth area however, would like to. He explained that no matter where you live, there are traffic concerns: the heavy traffic flow is inevitable. He added that he is excited about this development.

Gentleman from the audience asked how many commercial spots will there be.

Mr. Napier explained that it will depend on tenants; it can be subdivided depending on whose interested.

The gentleman asked if there are any restrictions as to what kind of commercial can go in there.

Mr. Napier explained that it will fall under the Downtown By-Law and there are restrictions on Pawn Shops or bars.

Ms. Lisa MacDormand, Seabright, explained that she owns the property next to the heritage property and has concerns with the property lines. She asked if there will be any fencing and explained that she shares a driveway with the heritage property and asked to speak with the developer after the meeting. She also requested more photographs of the shadow study.

Mr. Gordon (name not recorded) asked if there will be any 3 bedroom units. He addressed concern with traffic on the one-way street.

Mr. Napier explained that there are 4 one-bedrooms; 12 one-bedrooms with den; 19 two-bedrooms and 16 two-bedrooms with den. These could be called three bedrooms however, in most cases it's used as a den.

Councillor McCluskey explained that she is here tonight to listen to the comments and concerns from the residents and will remain neutral until it is brought to Council for a decision.

Mr. Napier recited a quote from the 2000 Municipal Planning Strategy that "it is reasonable to expect that Downtown Dartmouth could achieve a population of 10,000 residents by year 2020". He explained that this is not that far off.

It was asked by a member of the public what the timeframe will be.

Mr. Joudrey explained that HRM's process will be approximately 10 months before it gets submitted to Harbour East Community Council.

Mr. Napier explained that the actual development usually takes between 16-18 months.

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 8:37 p.m.