

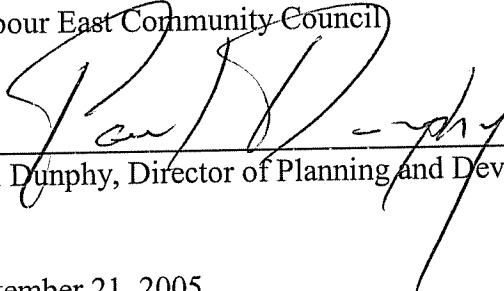


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

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Harbour East Community Council
October 6, 2005

TO: Harbour East Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning and Development Services

DATE: September 21, 2005

SUBJECT: Case # 00807: Amendment to Development Agreement - Horizon Court, Dartmouth

ORIGIN

Application by Can-Euro Investment Ltd to amend the existing development agreement to permit two additional dwelling units for a total of 150 apartment units for the second high rise apartment building tower on Horizon Court, Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council:

- 1. Give Notice of Motion to consider the attached development agreement and to schedule the public hearing for November 3, 2005;**
- 2. Approve the amending development agreement, attached to this report as Attachment A, to allow for two additional apartment units for a total of 150 apartment units in the proposed apartment building, changes to parcel consolidation requirements and minor changes to the elevations of the building on lands located on Horizon Court, Dartmouth; and,**
- 3. Require that the amending development agreement be signed within 120 days or any extension thereof granted by Council on request of the applicant from the date of final approval by Council and any other bodies as necessary whichever approval is later, including applicable appeal periods, otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

BACKGROUND AND DISCUSSION:

The Existing Development Agreement

1. On October 6, 2003, Harbour East Community Council approved a development agreement application by Can-Euro Investments Ltd. to construct an 18-storey apartment building containing up to 142 dwelling units on lands bounded by Woodland Avenue to the west, Highway 111 to the north and the Mic Mac Mall complex to the east.
2. On May 6, 2004 Harbour East Community Council approved an amendment to that development agreement to permit 6 additional units and minor modification in building facade and design.

Other Developments on the Site

In 1986, Can-Euro Investment Ltd. received approval for the construction of a 16-storey 124 unit apartment building located on Horizon Court, which is a private road. In 1993, the low-rise, 86-unit Garden Stone Estates was constructed. The two existing buildings are subject to separate development agreements.

Density

Through the Woodland Avenue East planning study in 2000/2001, the remaining lands of Can Euro were all zoned to the R-3 (Medium Density Residential) Zone. Based on the area of the lands, it was estimated at the time that approximately 300 additional residential units could be developed.

Proposed Amendments

Amendments to the development agreement are requested and summarized as follows:

1. *Increase the number of permitted apartment units from 148 units to 150 units.*

The 19th floor of the apartment building was originally reserved to accommodate the building's mechanical requirements. However, it was determined that space allocated on the 19th floor was substantially greater than required. At the time it was considered that the space would better accommodate a social room and fitness room facility. However it has recently been decided that the mechanical equipment can be located in the basement level of the building, making space available for a fitness facility, social room and two additional apartment units. To make this change, the number of units permitted would have to be increased to a total of 150 units. This increase will not substantially impact allowable density and would simply be subtracted from the maximum density permitted in subsequent development.

2. *Increase the minimum number of permitted parking spaces from 185 to 188 parking spaces.*

Parking would be increased from a minimum of 185 parking spaces to a minimum of 188 parking spaces to accommodate the additional two units, which meets the land use by-law requirement of

1.25 spaces per unit. This will not result in changes to the volume, size, height or elevations of the building.

Staff consider the proposed change as minor and therefore recommend that Council approve the requested amendments, as presented in Attachment 1.

Public Consultation

The existing development agreement requires that all amendments proposed thereto be considered “substantial”, therefore requiring a public hearing and Council approval. In 2003, the tower proposal was subject to thorough public consultation and notification processes which generated minimal resident concerns. Consequently, the public information meeting component for this amendment was waived at the Councillor’s discretion.

BUDGET IMPLICATIONS:

There are no budget implications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:

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

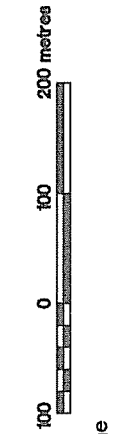
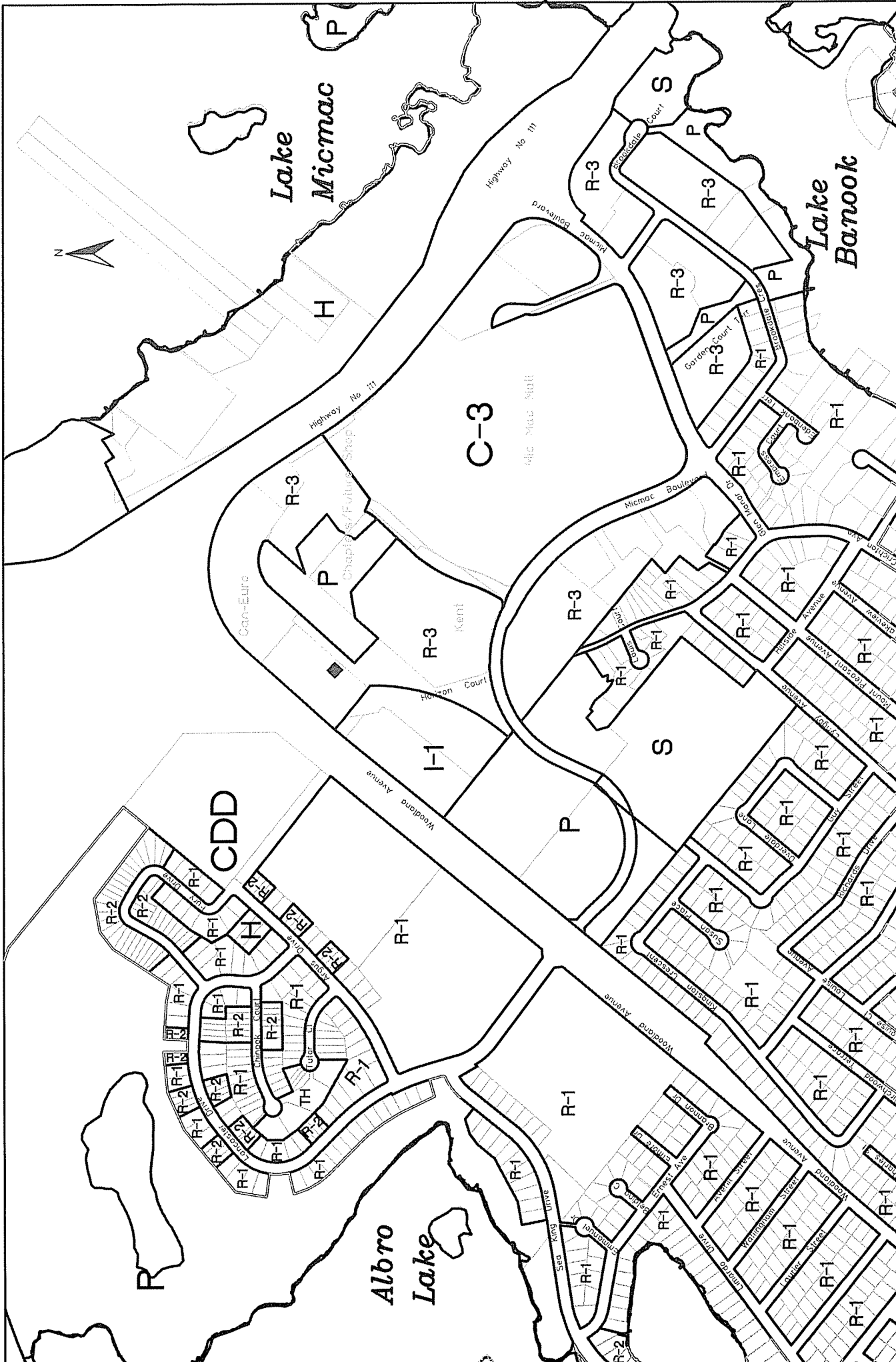
ALTERNATIVES:

1. Community Council may approve the proposed amendments to the development agreement. This is the staff recommendation.
2. Council may choose not to approve the proposed amendments. This is not recommended for reasons described above.

ATTACHMENTS:

Map 1: Location Map
Attachment A: Amending Agreement

Further information regarding the contents of this report may be obtained by contacting Shayne Vipond, Planner, at 490-4335.
For additional copies or for information on the report’s status, please contact the Office of the Municipal Clerk at 490-4234 or 490-4208 (FAX).



- Map 1**
Location + Zoning
7 Horizon Court
- Proposed Building**
- R-1 Single Family Residential Zone
 - R-2 Two Family Residential Zone
 - R-3 Multiple Family Residential Zone
 - TH Townhouse Zone
 - CDD Comprehensive Development District
 - C-3 General Business Zone
 - I-1 Light Industrial Zone
 - P Park Zone
 - S Institutional Zone
 - H Holding Zone

Attachment A

THIS AMENDING AGREEMENT made this day of , 2005,

BETWEEN:

CAN EURO INVESTMENTS LIMITED
a body corporate, in the County of Halifax
("the Developer")

OF THE FIRST PART

HALIFAX REGIONAL MUNICIPALITY
a body corporate, in the County of Halifax,
Province of Nova Scotia ("the Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located on Mic Mac Boulevard (PID 40661589), Dartmouth, Nova Scotia, and which said lands are more particularly described in Schedule 'A' to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Parties have previously entered into a Development Agreement to allow for the construction of multiple unit residential buildings on the Lands, the said agreement being recorded at the Registry of Deeds at Halifax in Book No. 7533 at Pages 726-747 ("the Existing Agreement");

AND WHEREAS the Developer has requested that the Municipality amend the Existing Development Agreement, referenced as Municipal Case 00807, to permit an increase in the number of dwelling units within the building and design changes to the elevations of the building on the Lands pursuant to the provisions of the Municipal Government Act and the Municipal Planning Strategy and Land Use By-law for Dartmouth;

AND WHEREAS Harbour East Community Council approved this request at a meeting held on _____, 2005 (referenced as Municipal Case 00807);

THEREFORE in consideration of the mutual benefits from the covenants contained herein, the Parties agree as follows:

1. **Deleting reference to “148 units” in Section 2.2.1 and replacing it with “150 units”**
3. **Deleting reference to “one hundred and eighty-five (185) parking spaces” in section 2.4.1 and replacing it with “one hundred and eighty-eight (188) parking spaces”.**

3. **Deleting reference to “148 unit building” in Section 2.5.6 and replacing it with “150 unit building”.**
4. **Deleting reference to “148 unit building” in Sub-section 2.7.4(i) and replacing it with “150 unit building”.**
5. **All other terms of the Existing Agreement shall remain in full force and effect.**
6. **This Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.**

IN WITNESS WHEREOF the parties hereto have hereunto set hands and seals to this Amending Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED) CAN EURO INVESTMENTS LIMITED
in the presence of)

Per _____) Per _____
)
)
) Per _____

Sealed, Delivered and Attested by the) Halifax Regional Municipality
proper signing officers of Halifax)
Regional Municipality duly authorized)
on that behalf in the presence of) Per _____
) Mayor

Per _____) Per _____
Municipal Clerk