



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 13.1.5
Harbour East-Marine Drive Community Council
Special Meeting
March 4, 2021

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

-Original Signed-

SUBMITTED BY:

Kelly Denty, Executive Director of Planning and Development

DATE: February 12, 2021

SUBJECT: **Case 22748: Amending Development Agreement for 30 and 38 Silvers Lane, Eastern Passage**

ORIGIN

Application by Garmar Investments Limited

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development.

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council:

1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A, to allow for the development of lands at 30 and 38 Silvers Lane in Eastern Passage and schedule a public hearing;
2. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A; and
3. Require the amending development agreement be signed by the property owner within 240 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

Garmar Investments Limited is requesting to amend an existing development agreement to enable the development of lands at 30 and 38 Silvers Lane (Block C) in Eastern Passage. The existing agreement negotiated in 2016 allowed development of Block C subject to the as-of-right provisions of the Regional Subdivision By-law (RSBL) and Eastern Passage/Cow Bay Land Use By-law (LUB). However, the text of the development agreement incorrectly referenced the lands resulting in Block C being ineligible for development as originally envisioned by the developer. The development agreement was subsequently amended in 2019 to correct this intent.

Approved land uses on the subject property are currently limited to single unit dwellings due to access restrictions on Silvers Lane. The proposed amendment is to broaden the range of permitted uses on Block C.

Subject Site	30 and 38 Silvers Lane (PID 00400044), Eastern Passage
Location	North of Main Road and abuts Silvers Lane on the west boundary
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Community Commercial (CC) designation in the Eastern Passage/Cow Bay Municipal Planning Strategy (MPS)
Zoning (Map 2)	General Business (C-2) Zone under the Eastern Passage/Cow Bay Land Use By-Law (LUB)
Size of Site	1.94 ha (4.8 acres)
Street Frontage	83.6 m (274 ft.) along Silvers Lane (Schedule A Road under the Regional Subdivision By-law)
Current Land Use(s)	Barn/workshop and vacant land
Surrounding Use(s)	The surrounding area is comprised mainly of residential and small scale commercial uses. Immediate surrounding land uses include: <ul style="list-style-type: none">• South – A mixed use commercial/office building.• West – vacant lands;• North – vacant lands; and• East - low density residential uses.

Existing Development Agreement

The original development agreement (2016) permits two 60-unit buildings on two separate abutting lots which access Main Road through a private driveway (Maps 1 and 2). The agreement proposed that Block C, 30 and 38 Silvers Lane, be developed separately under the regulations of the RSBL and Eastern Passage/Cow Bay LUB. However, the original development agreement did not clearly identify Block C and an amendment was required (2019) to provide for its intended subdivision and development. The existing development agreement only provides for single unit dwellings be developed at Block C. The agreement further requires that these single unit dwellings must directly access Silvers Lane and it excludes other forms of residential uses and commercial uses.

The abutting properties intended to contain the two 60-unit apartment buildings were conveyed to a new property owner and Council recently considered Case 22847 to discharge the original development agreement relative to those lands and enter into a new development agreement. The proposed development agreement provides for two 60-unit apartment buildings with amendments to the construction phasing requirements and modifications to the site layout and landscaping from the original agreement. While that application pertains to the same development agreement document, the proposed amendments have no bearing or impact on the proposed development on Block C.

Proposal Details

The applicant proposes to amend the existing development agreement for Block C to re-define the list of permitted uses and ensure those uses are permitted to access Silvers Lane.

Enabling Policy Context

Policy COM-12 of the Eastern Passage/Cow Bay MPS requires a development agreement for any multiple unit dwelling of 12 or more units. This is the policy framework under which the existing agreement was considered and approved in 2016. These policies remain unchanged today and the considerations apply to the current amendment request to the existing agreement.

Policy COM-2 of the MPS establishes the C-2 (General Business) Zone within the LUB and directs that it be applied to lands within the Community Commercial Designation. The policy indicates that the C-2 Zone shall permit general commercial uses, as well as residential and community uses. Development shall be subject to specific size, scale, building placement, building design and construction, landscaping, signage and parking controls; all of which are embedded within the LUB.

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 providing information and seeking comments through the HRM website, signage posted on the subject site and letters mailed to property owners within the notification area shown on Map 2. The public comment received consisted of two (2) phone calls: one (1) call being a question enquiring if this development proposal was to allow apartments and the other phone call requesting confirmation that Halifax Water upgrades to the watermain were required.

A public hearing must be held by Harbour East-Marine Drive Community Council before they can consider approval of the proposed amending 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.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment B provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Proposed Amending Agreement

Attachment A contains the proposed amending development agreement for the subject site (Block C) and the conditions under which the development may occur. The proposed amending agreement addresses the following matters:

- Allows for the development of the lands known as Block C by limiting uses to specific types and through the regulations of the Eastern Passage/Cow Bay LUB;
- Limits the permitted uses to only those that can safely access the property by way of Silvers Lane; and
- Extension of the commencement of development date to reflect the delay this required amendment has caused.

The commercial uses allowed by the proposed amending development agreement do not completely follow the full scope of C-2 Zone uses permitted under the Eastern Passage/Cow Bay LUB due to safety limitations at the intersection of Silvers Lane, a private roadway, with Main Road.

Prior to the submission of the current proposal, the Block C lands in question benefitted from an access easement over the adjacent lands intended to contain the proposed apartment buildings. This situation provided for two potential access routes to connect Block C to the public road network; one through the

future private driveway over the adjacent land and one through Silvers Lane. However, the alternate access route over the adjacent land was eliminated when the easement was extinguished during the conveyance of the apartment lots to the new owners. This limits the access to the Block C lands to Silver's Lane.

Staff advise that the full range of permitted uses in the underlying zone in the LUB includes some uses that would generate traffic volumes that would negatively impact the intersection of Silvers Lane at Main Road. Accordingly, staff worked with the developer to generate a modified list of uses that responds to the developer's intentions and also provides for ongoing safe vehicle movements at the intersection based on sound engineering practice. The agreed upon acceptable land uses are set out in the proposed amending development agreement.

Extended Timeframe for DA Execution

The COVID-19 pandemic has resulted in difficulties in having legal agreements signed by multiple parties in short periods of time. To recognize this difficulty these unusual circumstances presents, staff are recommending extending the signing period for agreements following a Council approval and completion of the required appeal period. While normally agreements are required to be signed within 120 days, staff recommend doubling this time period to 240 days. This extension would have no impact on the development rights held within the agreement, and the agreement could be executed in a shorter period of time if the situation permits.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. To further ensure land use compatibility and reduce potential traffic concerns on Silver Lane, the amending agreement lists permitted land uses and allows all uses to access Block C via Silvers Lane. Therefore, staff recommend that the Harbour East-Marine Drive Community Council approve the proposed amending development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2020-2021 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amending development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Harbour East-Marine Drive Community Council may choose to approve the proposed amending development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. 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. Harbour East-Marine Drive Community Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Attachment A:	Proposed Amending Development Agreement
Attachment B:	Review of Relevant Eastern Passage/Cow Bay MPS Policies

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Darrell Joudrey, Planner II, 902.225.8630



Map 1 - Generalized Future Land Use

30 & 34 Silvers Lane
Eastern Passage

HALIFAX

-  Subject Property
-  Properties Subject to Existing Development Agreement

- Designation**
- CC Community Commercial
 - CF Community Facility
 - I Industrial



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

The accuracy of any representation on this plan is not guaranteed.

Eastern Passage/Cow Bay
Plan Area



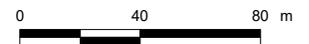
Map 2 - Zoning and Notification

30 & 34 Silvers Lane
Eastern Passage

HALIFAX

-  Subject Property
-  Properties Subject to Existing Development Agreement
-  Area of Notification

- Zone**
- C-2 General Business
 - I-2 General Industry
 - P-2 Community Facility



Eastern Passage/Cow Bay
Land Use By-Law Area

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

The accuracy of any representation on this plan is not guaranteed.

Attachment A

THIS SECOND AMENDING AGREEMENT made this day of **[Insert Month]**, 20__,

BETWEEN:

GARMAR INVESTMENTS LIMITED

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 with PID 00400044 on Silvers Lane, Eastern Passage and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS on October 6, 2016 the Harbour East-Marine Drive Community Council approved an application to enter into a Development Agreement with the Developer, Gary Francis Edwards, and Mary Louise Edwards to allow for two multiple unit dwellings, each containing a maximum of 60 units, on PIDs 00400044 and 00374652 (case number 18599), which said Development Agreement was registered at the Land Registration Office in Halifax on March 8, 2017 as Document Number 110431997 (hereinafter called the "Original Agreement");

AND WHEREAS on December 13, 2018 the Harbour East-Marine Drive Community Council approved amendments to the Original Agreement to allow for the subdivision and development on PIDs 00400044 and 00374652 (case number 21927), pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy COM-12 of the Municipal Planning Strategy for Eastern Passage/Cow Bay, and which said Amending Development Agreement was registered at the Land Registration Office in Halifax on March 14, 2019 (hereinafter called the "First Amending Agreement");

AND WHEREAS on March 15, 2019 Gary Francis Edwards and Mary Louise Edwards conveyed PID 00374652 to the Developer by way of Warranty Deed, which said Warranty Deed was registered at the Land Registration Office in Halifax on June 11, 2019 as Document Number 114596142;

AND WHEREAS on June 11, 2019 a plan of subdivision was registered at the Land Registration Office creating three lots, PID 00400044, PID 00374652 and PID 41466160;

AND WHEREAS on August 28, 2019 the Developer conveyed PIDs 00374652 and 41466160 to Lookout Investments Limited by way of Warranty Deed, which said Warranty Deed was registered at the Land Registration Office in Halifax on September 6, 2019 as Document Number 115078397;

AND WHEREAS the Original Agreement and the First Amending Agreement together comprise the Existing Development Agreement (hereinafter called “the Existing Agreement”);

AND WHEREAS the Developer has requested further amendments to the Existing Agreement to allow for clarification of land uses of Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy COM-12 of the Municipal Planning Strategy for Eastern Passage/Cow Bay (hereinafter called the “Second Amending Agreement”);

AND WHEREAS the Harbour East-Marine Drive Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case 22748;

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

1. Except where specifically varied by this Second Amending Agreement, all other conditions and provisions of the Existing Agreement as amended shall remain in effect.
2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Second Amending Agreement and the Existing Agreement.
3. Section 2.1 of the Existing Agreement shall be amended by inserting the text shown in bold as follows immediately following section 2.1.1:

2.2 Definitions Specific to this Agreement

2.2.1 The following words used in this Agreement shall be defined as follows:

WORKSHOP means a commercial establishment operating out of an accessory building where things are made or repaired or handicrafts are carried on using machines or tools.

4. Section 3.3.1 of the Existing Agreement shall be amended by inserting the text shown in bold as follows:

3.3.6 Notwithstanding subsection 3.3.1, 3.3.2, and 3.3.3, the land uses for Block C shall be as follows:

- (a) **Two (2) two unit dwellings;**
- (b) **Each two unit dwelling may have an accessory building which includes workshop uses;**
- (c) **A workshop as an alternative development to either of the two unit dwellings;**
- (d) **Existing workshop use (car dealership);**
- (e) **Secondary and backyard suites; and**
- (f) **C-2 (General Business) zone uses of the Land Use By-law for Eastern Passage/Cow Bay limited to:**
 - i. **art galleries, studios and workshops;**
 - ii. **service and personal service shops;**

- iii. offices;
- iv. entertainment uses to a maximum 1600 square feet for public use;
- v. parking lots;
- vi. display courts;
- vii. mini-storage warehouse;
- viii. small scale fishing operations;
- ix. single unit dwellings;
- x. townhouses; and
- xi. home business uses in conjunction with permitted dwellings.

3.3.6 The uses listed in 3.3.5 shall be in accordance with the requirements of the Land Use By-law, with the exception of the following:

- (a) a maximum of two two-unit dwellings shall be located on Block C; and**
- (b) the existing workshop commercial use (car dealership) for 30 Silvers Lane.**

5. Subsection 3.7.1 of the Existing Agreement shall be amended by inserting the text shown in bold as follows:

3.7.1 The **multiple-unit** buildings shall be located and oriented as generally illustrated on Schedules B and C inclusive. **The two unit dwellings shall be located and developed on Block C in accordance with the requirements of the C-2 zone of the Land Use By-law for Eastern Passage/Cow Bay. If a workshop building is developed and replaces either of the two (2) two-unit dwellings the building shall be located in accordance with all requirements of the Land Use By-law for Eastern Passage/Cow Bay.**

6. Section 3.9 of the Existing Agreement shall be amended by inserting the following subsections, directly after subsection 3.9.1(b), shown in bold as follows:

- (c) Block C: The two unit dwellings shall provide parking in accordance with the requirements of the Land Use By-law for Eastern Passage/Cow Bay.**
- (d) Block C: If a workshop building is developed and replaces either of the two (2) two-unit dwellings a minimum of two (2) parking spaces shall be provided.**

7. Subsection 3.9.6 of the Existing Agreement shall be amended by deleting subsection 3.9.6 in its entirety and replace the subsection by inserting the text shown in bold as follows:

~~3.9.6 Block C, and any future subdivision thereof, shall be permitted access from Silvers Lane for single unit dwellings~~

3.9.6 Nothing within this Agreement shall prohibit access to Silvers Lane from the properties within Block C.

8. The Existing Agreement shall be amended by deleting Subsection 3.9.7 in its entirety as shown in strikethrough as follows:

~~3.9.7 Any other land uses on Block C, or portions of land subdivided thereof, shall only be permitted access from Main Road over the Common Shared~~

~~Private Driveway on Lot A. A registered easement for pedestrian and vehicular access over the driveway on Lot A in favour of Block C, or portions of land subdivided, shall be required. Additionally, a barrier shall be installed, to the satisfaction of the Development Officer, to restrict access from Block C, or any lot subdivided from it, to Silvers Lane for any land uses other than single unit dwellings. Minor alterations to the required landscaping on Lot A and Lot B shall be permitted to accommodate access from Block C, or portions of land subdivided, to the Common Shared Private Driveway.~~

9. Subsection 7.3.1 of the Existing Agreement shall be amended by deleting text shown in ~~strikeout~~ and inserting the text shown in bold as follows:

7.3.1 In the event that development on the Lands has not commenced within 3 years from the date of registration of the ~~First~~ **Second** Amending Development 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.

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

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Mike Savage, Mayor and Iain MacLean, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

Attachment B – Review of Relevant Eastern Passage/ Cow Bay MPS Policy

Policy Criteria	Comment
<p>COM-2 <i>It shall be the intention of Council to establish a C-2 (General Business) Zone within the Land Use By-Law and apply it to the Community Commercial Designation. The C-2 (General Business) Zone shall permit general commercial uses, as well as residential and community uses. The permitted uses shall reflect the traditional waterfront uses and promote tourist related activities. Development shall be subject to specific size, scale, building placement, building design and construction, landscaping, signage and parking controls, and all commercial uses and multiple residential unit dwellings must have direct access to either Main, Cow Bay or Shore Roads.</i></p>	<p>The subject property is within the Community Commercial Designation and is intended to be developed as-of-right through the regulations of the LUB. Any proposed development will be required to meet the requirements of the zone, which include specific regulations for any permitted use on size, scale, building placement, building design, landscaping, signage and parking controls (except where parking is varied by the DA).</p>

COM-12 <i>Excluding lands on the harbour side of Main and Shore Roads and those lands fronting on Government Wharf Road, multiple unit dwellings with more than 12 dwelling units shall be considered within the Community Commercial Designation by development agreement. In considering any such agreement, Council shall have regard to the following:</i>	
Policy Criteria	Comment
(a) <i>The lot shall have a minimum lot area of 1,858 square metres (20,000 square feet);</i>	Addressed under the existing development agreement and will not change under this amending agreement. Site is in excess of 20,000 square feet.
(b) <i>The lot shall have frontage on a public street;</i>	The subject site, or Block C, shall have frontage on Main Road via Silvers Lane which under the Regional Subdivision By-law is considered a Schedule A road for purpose of allowing subdivision. Section 290(2) of the Charter gives the owner the right to legal access to Silvers Lane: "The owners of lots shown on a plan of subdivision as abutting on a private right-of-way are deemed to have an easement over the private right-of-way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone and other services to the lot".
(c) <i>Access shall be from a public street unless another access is deemed to be acceptable by the Municipal Engineer;</i>	The subject site, or Block C, shall access Main Road via Silvers Lane; a private right-of-way abutting Block C deemed acceptable by Engineering services. It is the responsibility of the property owner to ensure that he has the right to access this private right-of-way. HRM can issue a permit for any of the permitted uses of the ADA as long as the owner can demonstrate that he has legal access.
(d) <i>Buildings shall be a maximum height of 4 storeys and a penthouse, where a penthouse is comprised of mechanical equipment or amenity areas and occupies</i>	Addressed under the existing development agreement and will not change under this amending agreement. The proposed buildings are four storeys in height with a penthouse on the fifth floor which is

	<i>a maximum of 30% of a rooftop area;</i>	comprised of common internal amenity area (approximately 492 sq. m. (5300 sq. ft.) and space for mechanical equipment.
(e)	<i>Buildings shall have a minimum setback from interior lot lines a distance that is equal to half the height of the building, exclusive of penthouses, with greater setbacks and the use of measures such as vegetation, fences, and building massing and design to address impacts on adjacent residential uses;</i>	Addressed under the existing development agreement and will not change under this amending agreement. Setbacks from the buildings to the western interior lot line are a minimum of 6.0 metres (20ft), which is equal to half the height of the building (exclusive of the penthouse). Setbacks along the eastern lot boundary have been enhanced to create areas for parking and to mitigate impacts to existing development. Development is separated and adequately buffered to adjacent lands through fencing and vegetation around the perimeter of the property.
(f)	<i>Buildings shall be of a design that is complementary to the surrounding area;</i>	Addressed under the existing development agreement and will not change under this amending agreement. The design of the proposed buildings are suitable for back land developments and will integrate well into the existing neighbourhood.
(g)	<i>There shall be a mixture of dwelling unit types and sizes;</i>	Addressed under the existing development agreement and will not change under this amending agreement. A range of 1, 2 and 3 bedrooms units are proposed.
(h)	<i>There shall be a maximum density of 36 units per acre;</i>	Addressed under the existing development agreement and will not change under this amending agreement. The proposed density is approximately 30 units per acre.
(i)	<i>There shall be sufficient parking for residents and other uses and the majority of such parking shall be below-grade;</i>	Addressed under the existing development agreement and will not change under this amending agreement. Of the 187 parking space provided 56% (102 spaces) are proposed to be subsurface. The total number of parking spaces is considered adequate to meet residents` parking needs in a suburban context.
(j)	<i>Areas that are not occupied by buildings or parking shall be comprised of landscaping;</i>	Addressed under the existing development agreement and will not change under this amending agreement. The proposal contains landscaped, green areas around the building perimeter and parking areas.
(k)	<i>There shall be sufficient common landscaped open space and amenity areas;</i>	Addressed under the existing development agreement and will not change under this amending agreement. A landscaped area is proposed to service the development. An easement in favour of both buildings (independent of future ownership) is required to enable common access over time.
(l)	<i>Properties that are within the vicinity of the intersection of Main Road, Shore Road, and Cow Bay Road, with sufficient frontage on these roads, shall have buildings with ground floor commercial uses that are consistent with the character of this area, including having buildings situated close to an oriented to these roads, and in such instances consideration shall be given to</i>	Addressed under the existing development agreement and will not change under this amending agreement. The site is a flag lot with narrow frontage on Main Road and is set back some 78.9 metres (259 feet) restricting its direct orientation to the street. Therefore ground floor commercial is not considered suitable for this development.

	<i>reducing the setback provisions of (e); and</i>	
(m)	<i>Provisions of Policy IM-11 (a), (b) and (d).</i>	See below

IM-11		
<i>In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this planning strategy, Council shall have appropriate regard to the following matters:</i>		
	Policy Criteria	Comment
(a)	<i>that the proposal is in conformity with the intent of this planning strategy and with the requirements of all other municipal by-laws and regulations;</i>	The proposed developed meets the intent of the Eastern Passage/ Cow Bay MPS.
(b)	<i>that the proposal is not premature or inappropriate by reason of:</i>	
	<i>(i) the financial capability of the Municipality to absorb any costs relating to the development;</i>	There would be no costs to HRM.
	<i>(ii) the adequacy of sewer and water services;</i>	No concerns were identified regarding the capacity of sewer or water infrastructure. The water and sewer capacity exists but will be re-evaluated at the permitting stage.
	<i>(iii) the adequacy or proximity of school, recreation and other community facilities;</i>	Comments were not provided from HRSB. There are adequate parkland and community facilities within a short distance.
	<i>(iv) the adequacy of road networks leading or adjacent to or within the development; and</i>	There are no concerns relative to traffic generation and the capability of the existing street network to handle this traffic. Development Engineering has accepted the recommendation of the traffic study.
	<i>(v) the potential for damage to or destruction of designated historic buildings and sites.</i>	N/A
(c)	<i>that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	
	<i>(i) type of use;</i>	Residential land uses are adequately screened and separated from low density residential uses. The LUB has regulations regarding screening and separation embedded into the C-2 Zone requirements.
	<i>(ii) height, bulk and lot coverage of any proposed building;</i>	Addressed under the existing development agreement for the multi-unit buildings and will not change under this amending agreement. The LUB has regulations regarding height and lot coverage embedded into the C-2 Zone requirements.

	<i>(iii) traffic generation, access to and egress from the site, and parking;</i>	Addressed under the existing development agreement and will not change under this amending agreement. The proposed amending agreement limits land uses to a specific list that are smaller in scale and generate lower traffic volumes than others listed under the C-2 zone in the Land Use By-law. Development Engineering has accepted the required Traffic Impact Statement and subsequent addendum requested to consider the impact of the specific permitted uses of the ADA on Silvers Lane and its intersection with Main Road.
	<i>(iv) open storage;</i>	No open storage is proposed
	<i>(v) signs; and</i>	Addressed under the existing development agreement and will not change under this amending agreement.
	<i>(vi) any other relevant matter of planning concern.</i>	N/A
<i>(d)</i>	<i>that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding; and</i>	Addressed under the existing development agreement and will not change under this amending agreement. The site is relatively flat with a slight grade. There are no identified watercourses on the site.
<i>(e)</i>	<i>any other relevant matter of planning concern.</i>	N/A
<i>(f)</i>	<i>Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy IC-6", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS. (RC-Jul 2/02;E-Aug 17/02)</i>	N/A