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Item No. 10.1.1
Harbour East - Marine Drive Community Council
March 27, 2023
April 20, 2023

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

SUBMITTED BY: *- Original Signed -*

Kelly Denty, Executive Director of Planning and Development

DATE: February 13, 2023

SUBJECT: **Case 24573: Development Agreement for 519 Cow Bay Road, Eastern Passage**

ORIGIN

Application by ROMS KAIG Spryfield Ltd.

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 development agreement, as set out in Attachment A of this report, to allow a 2-storey 12-unit residential building at 519 Cow Bay Road, Eastern Passage, and schedule a public hearing;
2. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the development 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

ROMS KAIG Spryfield Ltd, on behalf of the property owner, has applied to develop a multi-unit residential building containing 12 units through the development agreement process at 519 Cow Bay Road, Eastern Passage.

Subject Site	519 Cow Bay Road, Eastern Passage (PID 40082422)
Location	South side of Cow Bay Road between Forestgate Drive and Midyat Court
Regional Plan Designation	Urban Settlement (US)
Community Plan Designation (Map 1)	Urban Residential Designation (UR), Eastern Passage/Cow Bay Municipal Planning Strategy (MPS)
Zoning (Map 2)	Two Unit Dwelling (R-2) Zone, Eastern Passage/Cow Bay Land Use By-law (LUB)
Size of Site	Approximately 2,072 sq. m (22,303 sq. ft.)
Street Frontage	Approximately 27.5 m (90 ft.)
Current Land Use(s)	A single-unit dwelling
Surrounding Use(s)	The surrounding neighborhood primarily consists of single-unit and semi-detached dwellings. To the southwest of the property, there are some larger 2-storey semi-detached dwellings along Cow Bay Road, Midyat Court and Delcraft Court. Eastern Passage Education Centre is about 200 metres southeast of the subject site.

Proposal Details

The applicant proposes to develop a 2-storey 12-unit residential building at 519 Cow Bay Road, Eastern Passage. The major aspects of the proposed development are as follows:

- 2-storey residential development that contains 12 units;
- The design contains 1 two-bedroom plus den unit, 3 two-bedroom units, 4 one-bedroom plus den units, and 4 one-bedroom units (one barrier-free);
- Balcony or patio for each proposed unit;
- 16 at-grade vehicle parking spaces accessed via a two-way driveway directly from Cow Bay Road; and
- 10 Class B and Class A bicycle parking spaces

Enabling Policy and LUB Context

The subject property is designated Urban Residential Designation (UR) under Eastern Passage/Cow Bay MPS (Map 1) and zoned Two Unit Dwelling (R-2) Zone under Eastern Passage/Cow Bay LUB (Map 2). The R-2 Zone permits single unit dwellings, two unit dwellings, shared housing, day cares, home offices, bed and breakfasts and open space uses.

The proposed development agreement is enabled by Policy UR-8 of Eastern Passage/Cow Bay MPS. Policy UR-8 enables the development of small scale multiple unit dwellings while ensuring the proposed development is in keeping with the low density character of the surrounding neighborhood. The policy speaks to a variety of factors to be considered by Council, including maximum number of dwelling units permitted, the height, bulk, and lot coverage of the building, landscaping, amenity space, parking area and driveway area capacity. Additional criteria for Council's consideration are provided in Implementation Policy IM-11. Attachment B contains the full list and analysis of all relevant MPS policies.

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. The case webpage has received 1,987 unique pageviews between its posting on October 21, 2022 and January 9, 2023. Average time spent viewing this application page is 5 min 15 seconds. Additionally, 181 factsheets were mailed to property owners and tenants within the 500 foot notification area (Map 2).

In total, 7 community members/families have reached out and provided comments on the proposal since it was advertised through various methods. The comments and concerns raised by the community members/families are summarized as below:

- Increased traffic volumes will worsen the traffic congestion on Cow Bay Road and nearby intersections;
- The proposed 16 parking spaces is not enough for the scale of the development and will increase demand for more on-street parking;
- The proposed development being a multi-unit could result in increased potential damage to the neighboring properties, including loss of privacy, decreased property resale value, increased crime, violence, noise and rodent issues.
- The loss of existing vegetation at the back of the property and its affect on the natural environment; and
- The existing infrastructure does not have the capacity to support this multi-unit development, including water and sewage.

A public hearing must be held by Harbour East - Marine Drive Community Council before they can consider approval of the proposed development agreement. Should Community Council decide to proceed with a public hearing on this application, in addition to a notice of the hearing published on the Municipality's website at least seven days before the date of the public hearing, property owners and tenants 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 Eastern Passage/Cow Bay MPS. Attachment B provides an evaluation of the proposed development agreement in relation to the relevant MPS policies.

Proposed Development Agreement

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

- Permitted uses are limited to a maximum of twelve-unit residential building;
- Built form is limited to that shown in the agreement schedules;
- Building height and lot coverage are limited to a maximum of 10.7 metres (35 feet) and 35% respectively;
- Controls on the architectural details;
- Parking area design, driveway access and screening along property lines;
- Retaining existing landscaping and vegetation; and
- Non-substantive changes are limited to minor changes to architectural, parking and landscaping requirements, and the granting of an extension to dates of commencement and completion of the development.

The attached development agreement will permit the development of a 2-storey, 12-unit residential building, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment B, the following have been identified for detailed discussion.

Lot Coverage, Setbacks, Building Height and Bulk

The lot size of the subject property is 2,072 m² and the proposed building has a footprint of 454 m², making the lot coverage 21.9%. Despite the building footprint being larger than its surrounding single-unit and semi-detached dwellings, the lot coverage (21.9%) is still well below the 35% maximum lot coverage requirement of underlying R-2 Zone.

The proposed side yard setback is 4.5 m compared to the typical R-2 Zone requirement of 3.0 m minimum. The proposed minimum rear yard (south corner) setback is 9.1 m compared to R-2 Zone requirement of 3.0 m minimum. This provides adequacy of separation distances from the low-density neighboring properties.

The majority of the existing neighborhood surrounding the subject property is occupied by buildings with pitched roofs, between 1-2 storeys in height. The proposed 12-unit building was intentionally kept to two storeys in height to keep it in character with neighbouring buildings. The proposed building height is 9.0 m compared to the R-2 Zone height requirement of 10.7 m maximum, which makes its height reasonably compatible with adjacent uses.

Policy UR-8 allows Council to consider multiple unit dwellings that are small scale and in keeping with the low-density character of the surrounding area. Staff advise that the proposed building design fits into the small scale multi-unit development category and is reasonably compatible with its surrounding neighborhood considering its proposed lot coverage, setback and building height all meet the requirements of the underlying R-2 zone.

Extra measures within the development agreement have been put in place to reduce the development's impact on surrounding neighborhood:

- a) The main building will be situated far back from the street;
- b) A minimum of 6 metres existing vegetation and landscaping along the rear property line will be retained;
- c) Opaque screening will be installed to provide visual screening from the parking area; and
- d) Landscaping will be provided all along the property line with additional trees and shrubs added at various locations.

Traffic and Parking

A Traffic Impact Statement (TIS) was submitted by the applicant. The traffic impact statement suggests that the expected new vehicle trips generated by the proposed development are expected to have a negligible impact on the existing traffic operations on the adjacent streets and intersections. As such, there is expected to be sufficient residual capacity along the Cow Bay Road corridor to accommodate the expected increase in traffic associated with the proposed development. The statement was reviewed by HRM engineering staff and determined to be acceptable.

Existing MPS policy directs Council to consider if the parking area is adequate while addressing potential impacts on adjacent development and meeting residents needs. The proposed 16 parking spaces for 12-unit residential development is slightly higher than one space per unit but lower than the LUB required 1.5 space per unit for multi-unit development. Staff advise that it is suitable to provide a lower minimum parking supply rate as this proposed development is located along a transit route and Active Transportation path. This also helps promote the use of sustainable transportation modes other than single-occupant commuter vehicles.

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 Eastern Passage/Cow Bay MPS. The proposed development agreement permits a 2-storey 12-unit residential building while ensuring that there are appropriate controls to reasonably mitigate land use compatibility issues. In conclusion, the proposal development agreement

will potentially have minimal impact on local residents and property owners while providing various housing options for the neighborhood. Therefore, staff recommend that the Harbour East - Marine Drive Community Council approve the proposed 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 proposed 2023-2024 operating budget for Planning and Development.

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 development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those raised in this report.

ALTERNATIVES

1. Harbour East - Marine Drive Community Council may choose to approve the proposed 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 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 Development Agreement
Attachment B:	Review of Relevant Policies from Eastern Passage/Cow Bay MPS

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: Yanan Gou, Planner II, 782.641.5657



Map 1 - Generalized Future Land Use

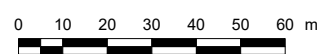
519 Cow Bay Road
Eastern Passage

HALIFAX

 Subject Property

Designation

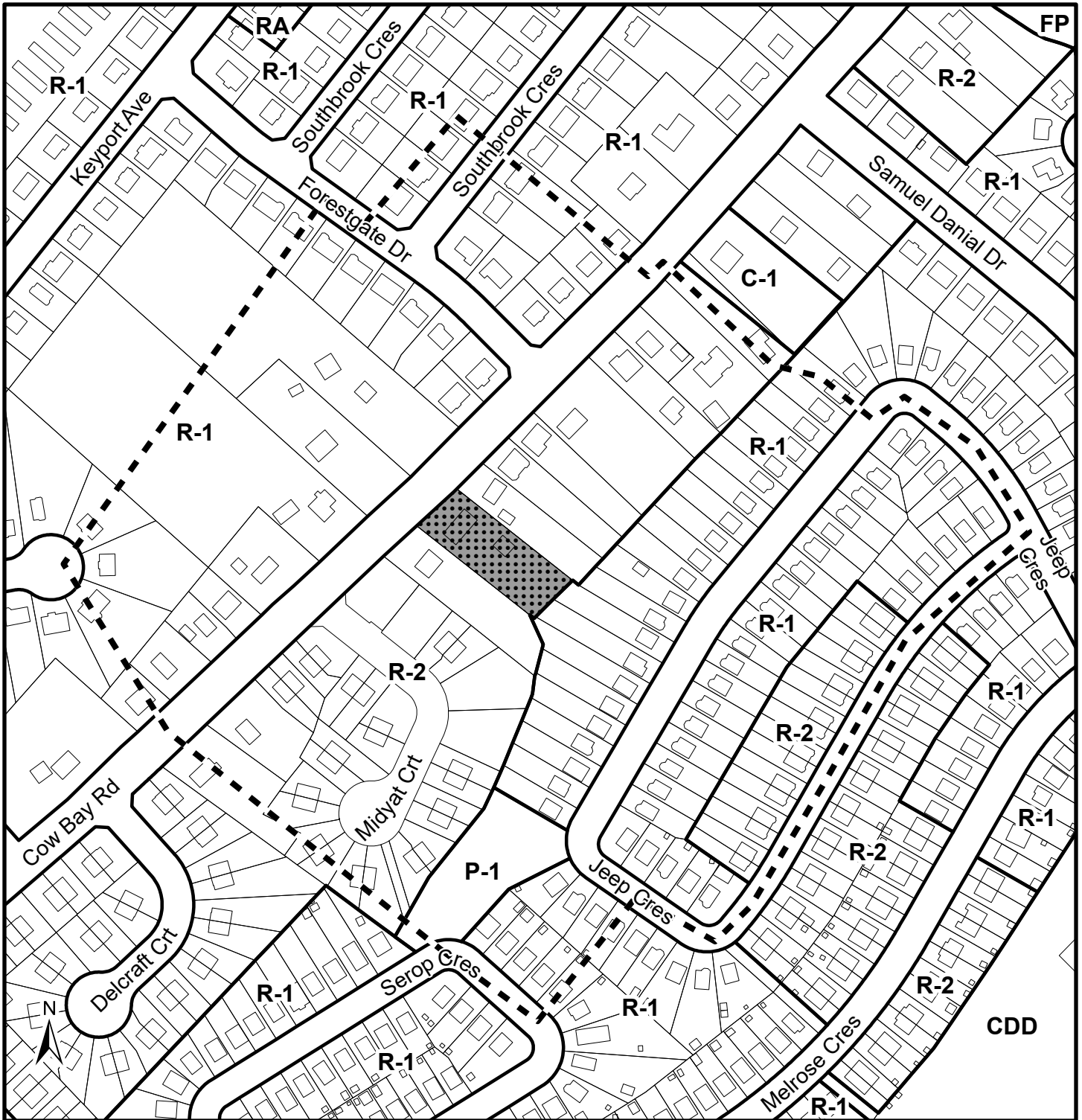
UR Urban Residential



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 Area

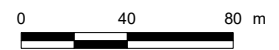
519 Cow Bay Road
Eastern Passage

-  Subject Property
-  Area of Notification

Eastern Passage/Cow Bay
Land Use By-Law Area

Zone

- C-1 Local Business
- CDD Comprehensive Development District
- FP Floodplain
- P-1 Community Facility
- R-1 Single Unit Dwelling
- R-2 Two Unit Dwelling
- RA Rural 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: Proposed Development Agreement

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

BETWEEN:

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 519 Cow Bay Road, Eastern Passage and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for the development of a 2-storey 12-unit residential building on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies UR-5, UR-8 and Implementation Policy IM-11 of the Eastern Passage/Cow Bay Municipal Planning Strategy and Parts 2, 4, 5, 8, 27 of the Eastern Passage/Cow Bay Land Use By-law;

AND WHEREAS the Harbour East - Marine Drive Community Council approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case 24573;

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

- 1.1.1 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

- 1.2.1 Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the applicable Land Use By-law and the Regional Subdivision By-law, as amended from time to time.
- 1.2.2 Variances to the requirements of the applicable Land Use By-law shall not be permitted in accordance with the *Halifax Regional Municipality Charter*.

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

- 1.5.1 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

- 1.6.1 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.

1.7 Lands

- 1.7.1 The Developer hereby represents and warrants to the Municipality that the Developer is the owner of the Lands and that all owners of the Lands have entered into this Agreement.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

- 2.1.1 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

- 3.1.1 The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number 24573:

Schedule A	Legal Description of the Lands
Schedule B	Site Plan
Schedule C	Building Elevations

3.2 Requirements Prior to Approval

- 3.2.1 Prior to beginning any site work or issuance of a Lot Grading Permit, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:
- (a) Post securities in accordance with Section 3.9 of this Agreement;
 - (b) Written confirmation and photographs demonstrating the existing buildings/structures on the Lands have been removed.
- 3.2.2 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) Landscape Plan in accordance with Section 3.9 of this Agreement.
- 3.2.3 Prior to the issuance of the first Occupancy Permit for the building, 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 Landscape Plan.
- 3.2.4 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Lands for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

3.3.1 The use(s) of the Lands permitted by this Agreement are the following:

- (a) A 2-storey, multiple-unit dwelling containing a maximum of twelve (12) dwelling units; and
- (b) Accessory uses, pursuant to the Land Use By-law, as amended from time to time.

3.3.2 The Development Officer may permit unenclosed structures attached to a main building such as verandas, decks, porches, steps, and mobility disabled ramps to be located within the required minimum front, side and rear yards in conformance with the provisions of the Eastern Passage/Cow Bay Land Use By-law, as amended from time to time.

3.4 Built Form

3.4.1 The building's siting, bulk and scale shall generally comply with schedule B and C and the following:

- (a) lot coverage shall not exceed 35%;
- (b) all portions of the building above grade are a minimum of 4.0 metres (13 feet) from the north and south property line, and a minimum of 9.0 metres (30 feet) from the rear property line; and
- (c) the maximum height of the building shall not exceed 10.7 metres (35 feet).

3.5 Architectural Requirements

3.5.1 The main entrances to building shall be emphasized by detailing, changes in materials, and other architectural devices such as but not limited to lintels, pediments, pilasters, columns, porticos, overhangs, corner boards, fascia boards or an acceptable equivalent approved by the Development Officer. Service entrances shall be integrated into the design of the building and shall not be a predominate feature.

3.5.2 The façades facing the Cow Bay Road shall be designed and detailed as primary façade. Further, architectural treatment shall be continued around all sides of the building as identified on the Schedules.

3.5.3 Large blank or unadorned walls shall not be permitted. The scale of large walls shall be tempered by the introduction of artwork, such as murals, textural plantings and trellises, and architectural detail to create shadow lines (implied windows, cornice lines, or offsets in the vertical plane) as identified on the Schedules.

3.5.4 Any exposed foundation in excess of 0.254 metres (10 inches) in height and 0.93 square metres (10 square feet) in total area shall be architecturally detailed, veneered with stone or brick or treated in an equivalent manner acceptable to the Development Officer.

3.5.5 All vents, down spouts, flashing, electrical conduits, metres, 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.

3.5.6 Buildings shall be designed such that the mechanical systems (HVAC, exhaust fans, etc.) are not visible from Cow Bay Road or abutting residential properties. Furthermore, no mechanical equipment or exhaust fans shall be located between the building and the adjacent residential properties unless screened as an integral part of the building design and noise reduction measures are implemented. This shall exclude individual residential mechanical systems.

- 3.5.7 All roof mounted mechanical or telecommunication equipment shall be visually integrated into the roof design or screened from public view.

3.6 Amenity Space

- 3.6.1 Each residential unit shall be provided a balcony with a minimum area of 2.5 square metres (27 square feet).
- 3.6.2 All outdoor amenity space shall be designed to have both soft and hard landscaping elements, as defined in the Land Use By-law.
- 3.6.3 All landscape areas designed to be installed upon any portion of the building must be supported by documentation from a Structural Engineer indicating that the building design is able to support any required drainage or additional weight caused by the landscaped area.

3.7 Parking, Circulation and Access

- 3.7.1 The parking area shall be sited as shown on Schedule B. The parking area shall maintain setbacks from the property lines as shown on the plan.
- 3.7.2 The parking area shall be hard surfaced or gravelled, and the limits of the parking area shall be defined by fencing or landscaping or curb.
- 3.7.3 Bicycle parking shall be provided as shown on schedule B.
- 3.7.4 Opaque wood fencing or masonry wall shall be located along northeast and southwest property line extending the length of the surface parking area, to be no less than 1.8 metres (6 feet) in height.
- 3.7.5 A pedestrian pathway shall be developed in the general location shown on Schedule B. The pedestrian pathway shall be a minimum of 1.25 metres in width.

3.8 Outdoor Lighting

- 3.8.1 Lighting shall be directed to driveways, parking areas, loading area, building entrances and walkways and shall be arranged so as to divert the light away from streets, adjacent lots and buildings.
- 3.8.2 The building may be illuminated for visual effect provided such illumination is directed away from streets, adjacent lots and buildings and does not flash, move or vary in intensity such that it creates a hazard to public safety.

3.9 Landscaping

- 3.9.1 Existing landscaping and vegetation buffer of a minimum 6 metres (20 feet) in width along the rear property line abutting the residential uses, shall be retained as generally shown on schedule B.
- 3.9.2 Any disturbance to existing landscaping and vegetation buffer at the rear of the property as generally shown on schedule B, shall be reinstated to original condition or better, which shall consist of at least one coniferous tree 1.5 metres (5 feet) in height for every 4 square metres (43 square feet).
- 3.9.3 Minimum acceptable sizes of new plant material outside of the landscape and vegetation buffer shall be as follows:
- (a) Deciduous trees – 60 mm caliper;

- (b) Coniferous trees – 1.5 metres (5 feet) in height; and
- (c) Shrubs – 0.6 metre (2 feet) in height or spread.

- 3.9.4 All plant material shall conform to the Canadian Nursery Landscape Association's Canadian Nursery Stock Standard (ninth edition or newer).
- 3.9.5 Prior to the issuance of a Development Permit, the Developer agrees to provide Landscape Plan that comply with the provisions of this section. The Landscape Plan shall be prepared by a Landscape Architect (a full member, in good standing with Canadian Society of Landscape Architects) and comply with all provisions of this section.
- 3.9.6 Prior to issuance of the first Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.
- 3.9.7 Notwithstanding Section 3.2.3, where the weather and time of year do not allow the completion of the outstanding landscape works prior to the issuance of the Occupancy Permit, 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 twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.
- 3.9.8 All landscape areas designed to be installed upon any portion of the building must be supported by documentation from a Structural Engineer indicating that the building design is able to support any required drainage or additional weight caused by the landscaped area.

3.10 Maintenance

- 3.10.1 The Developer shall maintain and keep in good repair all portions of the development on the Lands, including but not limited to, the exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and the maintenance of all landscaping including the replacement of damaged or dead plant stock, trimming and litter control, garbage removal and snow and ice control, salting of walkways and driveways.
- 3.10.2 All disturbed areas of the Lands shall be reinstated to original condition or better.

3.11 Signs

- 3.11.1 The sign requirements shall be accordance with the Eastern Passage/Cow Bay Land Use By-law as amended from time to time.
- 3.11.2 Ornamental plants shall be planted and maintained around the entire base of the sign as part of the required landscaping.
- 3.11.3 Signs depicting the name or corporate logo of the Developer shall be permitted while a sales office is located on the site.

3.11.4 Signs shall only be externally illuminated.

3.12 Temporary Construction Building

3.12.1 A building shall be permitted on the Lands for the purpose of housing equipment, materials and office related matters relating to the construction and sale of the development in accordance with this Agreement. The construction building shall be removed from the Lands prior to the issuance of the last Occupancy Permit.

3.13 Screening

3.13.1 Refuse containers located outside the building shall be fully screened from adjacent properties and from streets by means of opaque fencing or masonry walls with suitable landscaping.

3.13.2 Propane tanks and electrical transformers shall be located on the site in such a way to ensure minimal visual impact from the Cow Bay Road and residential properties along the property line. These facilities shall be secured in accordance with the applicable approval agencies and screened by means of opaque fencing or masonry walls with suitable landscaping.

3.13.3 Mechanical equipment shall be permitted on the roof provided the equipment is screened and not visible from the Cow Bay Road or incorporated into the architectural treatments and roof structure.

3.13.4 Any mechanical equipment shall be screened from view from Cow Bay Road with a combination of fencing and landscaping elements.

3.14 Reinstatement

3.14.1 All disturbed areas shall be reinstated to original condition or better.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 General Provisions

4.1.1 All design and construction of primary and secondary service systems shall satisfy the most current edition of the Municipal Design Guidelines and Halifax Water Design and Construction Specifications unless otherwise provided for in this Agreement and shall receive written approval from the Development Engineering prior to undertaking the work.

4.2 Off-Site Disturbance

4.2.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Development Engineer.

4.3 Undergrounding Services

4.3.1 All secondary or primary (as applicable) electrical, telephone and cable service to the building shall be underground installation.

4.4 Solid Waste Facilities

- 4.4.1 The building shall include designated space for five stream commercial waste containers (1. Garbage, 2. Blue Bag Recyclables, 3. Paper, 4. Corrugated Cardboard, and 5. Organics) to accommodate source separation program in accordance with By-law S-600 as amended from time to time. This designated space for five (5) waste containers shall be shown on the building plans and approved by the Development Officer in consultation with HRM Solid Waste Resources.
- 4.4.2 Refuse containers and waste compactors shall be screened from public view where necessary by means of opaque fencing or masonry walls with suitable landscaping.
- 4.4.3 All refuse and recycling materials shall be contained within a building, or within suitable containers which are fully screened from view from any street or sidewalk. Further, consideration shall be given to locating of all refuse and recycling material to ensure minimal effect on abutting property owners by means of opaque fencing or masonry walls with suitable landscaping.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Private Storm Water Facilities

- 5.1.1 All private storm water facilities shall be maintained in good order in order to maintain full storage capacity by the owner of the lot on which they are situated.

5.2 Stormwater Management Plans and Erosion and Sedimentation Control Plan

- 5.2.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall have been issued a Grade Alteration Permit in accordance with By-law G-200 Respecting Grade Alteration and Stormwater Management Associated with Land Development, as amended from time to time.

5.3 Sulphide Bearing Materials

- 5.3.1 The Developer agrees to comply with the legislation and regulations of the Province of Nova Scotia with regards to the handling, removal, and disposal of sulphide bearing materials, which may be found on the Lands.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended in a matter consistent with the *Halifax Regional Municipality Charter*:
 - (a) Minor changes to the architectural requirements as detailed in Section 3.5 (and related schedules) or which, in the opinion of the Development Officer, do not conform with Schedule C;
 - (b) Minor changes to the parking requirements as detailed in Section 3.7 (and related schedules) or which, in the opinion of the Development Officer, do not conform with Schedule B;
 - (c) Minor changes to the landscaping requirements as detailed in Section 3.9 (and related schedules) or which, in the opinion of the Development Officer, do not conform with Schedule B;
 - (d) The granting of an extension to the date of commencement of construction as identified in Section 7.3.1 of this Agreement; and

- (a) The granting of an extension to the length of time for the completion of the development as identified in Section 7.4.3 of this Agreement.

6.2 Substantive Amendments

- 6.2.1 Amendments to any matters not identified under Section 6.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

- 7.1.1 A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

7.2 Subsequent Owners

- 7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by the Chief Administrative Officer for the Municipality.
- 7.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

7.3 Commencement of Development

- 7.3.1 In the event that development on the Lands has not commenced within three (3) years from the date of registration of this Agreement at the Land Registry Office in Halifax, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.
- 7.3.2 For the purpose of this section, commencement of development shall mean installation of the footings and foundation for the proposed building.
- 7.3.3 For the purpose of this section, the Municipality 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 prior to the expiry of the commencement of development time period.

7.4 Completion of Development

- 7.4.1 Upon the completion of the whole development, the Municipality 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;
- 7.4.2 For the purpose of this section, completion of development shall mean issuance of an Occupancy Permit.

7.4.3 In the event that development on the Lands has not been completed within six (6) years from the date of registration of this Agreement at the Registry Office in Halifax, as indicated herein, the Lands shall conform with the provisions of the Land Use By-law.

7.5 Discharge of Agreement

7.5.1 If the Developer fails to complete the development after six (6) years from the date of execution of this Agreement, the Municipality may review this Agreement, in whole or in part, and may:

- (a) retain the Agreement in its present form;
- (b) negotiate a new Agreement; or
- (c) discharge this Agreement.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

8.1.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty-four hours of receiving such a request.

8.2 Failure to Comply

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

- (a) The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
- (b) The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the *Assessment Act*;
- (c) The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- (d) In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.

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

Print Name: _____

Date Signed: _____

(Insert Registered Owner Name)

Witness

Print Name: _____

Date Signed: _____

=====

=====

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Date signed: _____

Witness

Per: _____
MUNICIPAL CLERK

Date signed: _____

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

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

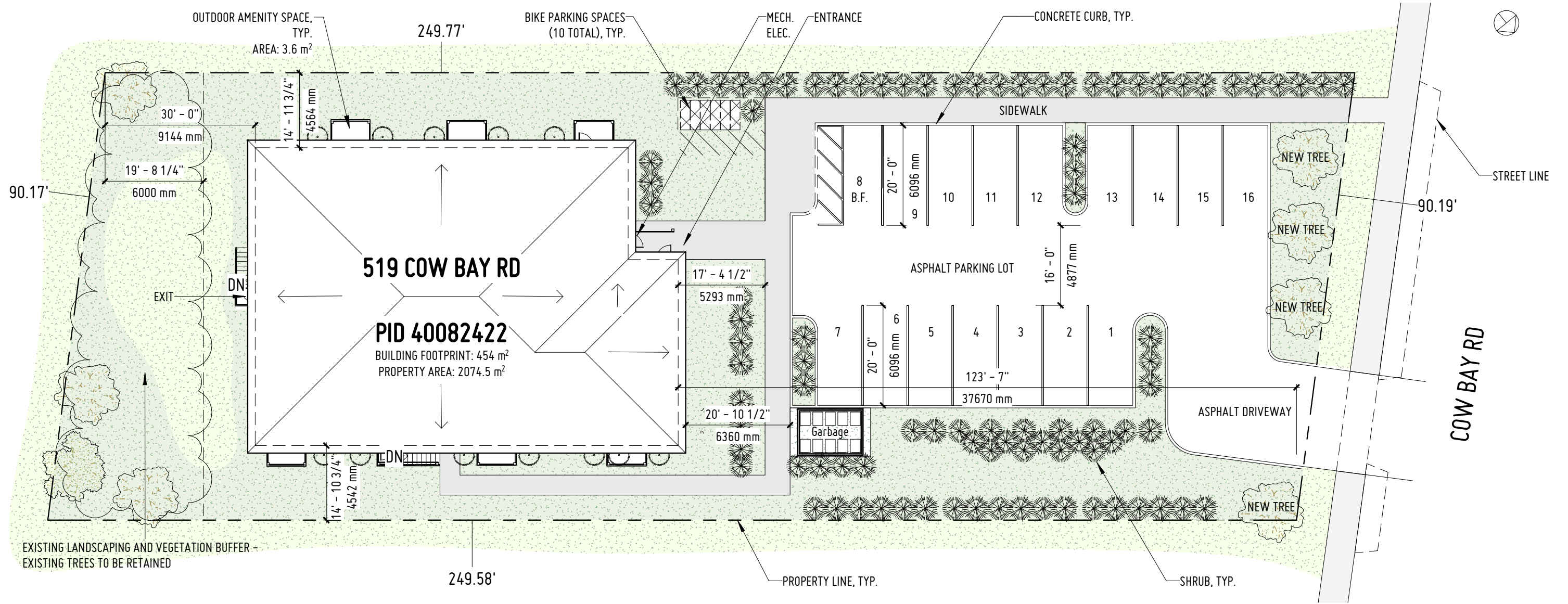
A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me 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

Schedule B: Site Plan



1 Site & Landscaping Plan
1 : 240

LEGEND	
	PROPERTY LINE
	BUILDING PERIMETER
	BIKE PARKING
	GRASS, LANDSCAPING
	CONCRETE SIDEWALK



Project: 519 COW BAY ROAD
Subject: Site & Landscaping Plan

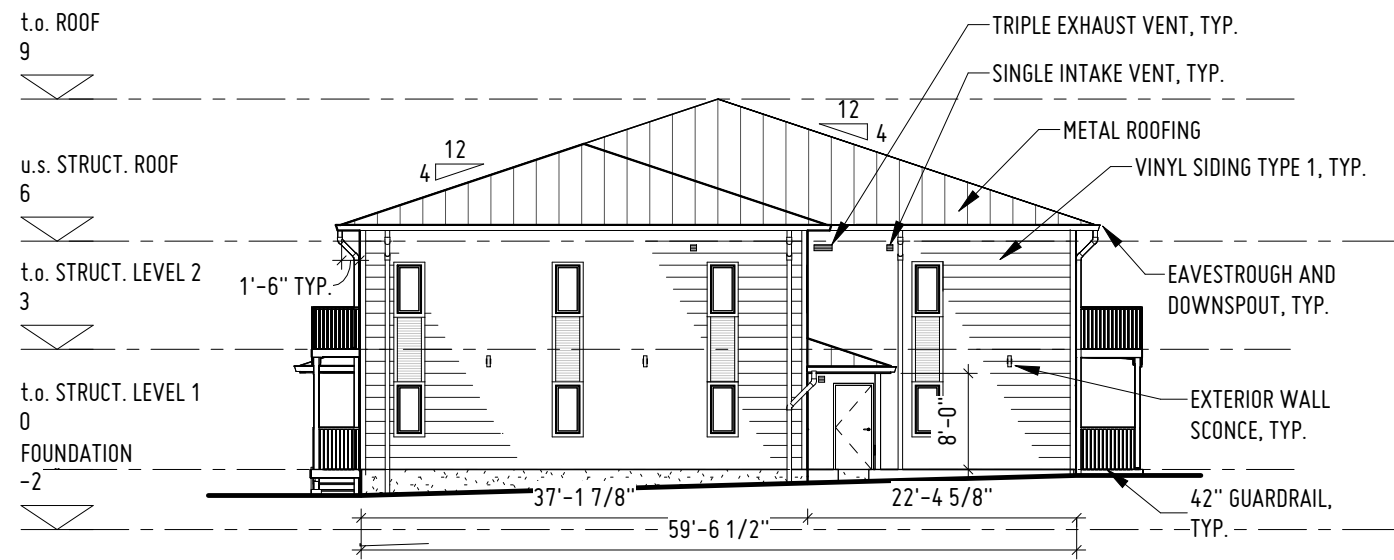
Seal

1	15 SEP 2022	Issued for meeting with HRM
2	14 OCT 2022	Issued for DA
3	02 DEC 2022	Issued for DA
4	26 JAN 2023	Issued for DA
5		
6		

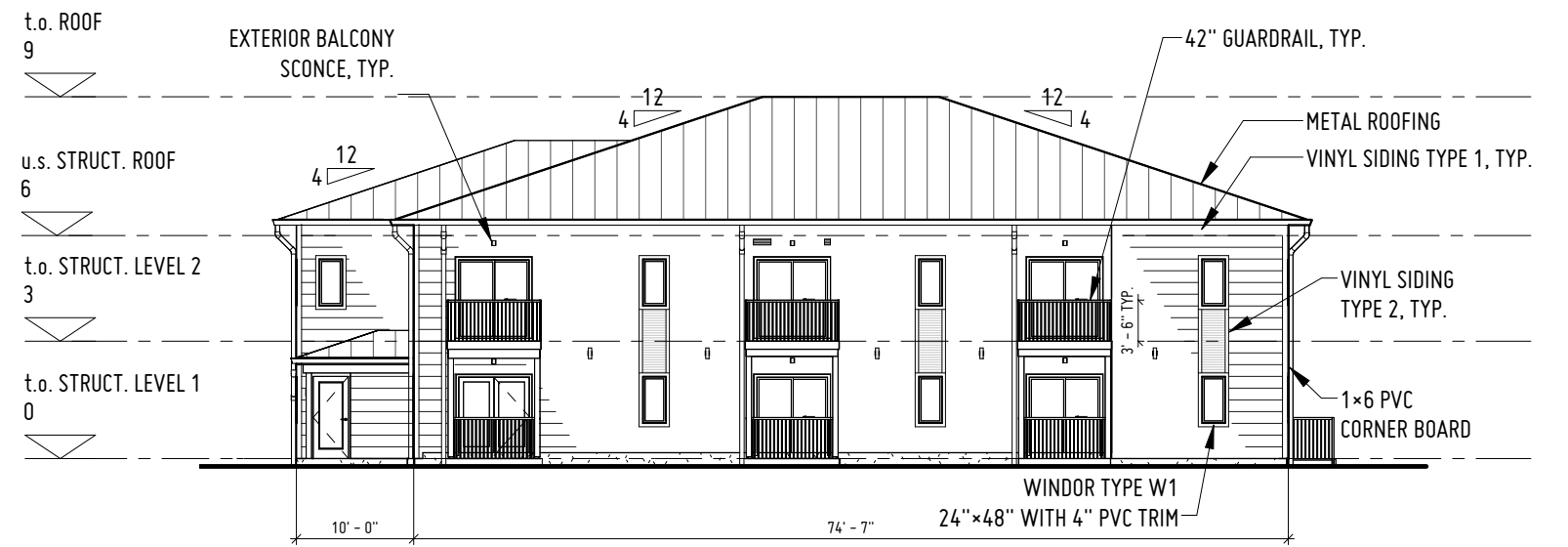
Date: 12/02/22
Scale: As indicated
Drawn: RG
Client Project No.
JAL Project No. 2020030

3001

Schedule C: Building Elevations



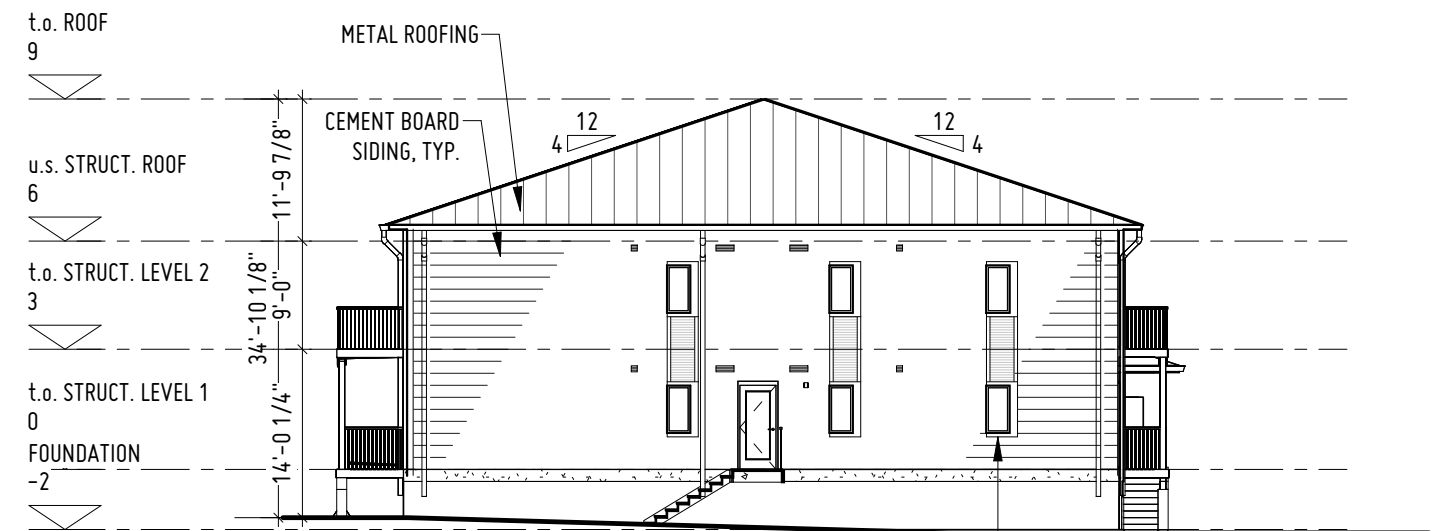
1 North Elevation
1 : 192



2 West Elevation
1 : 192



3 East Elevation
1 : 192



4 South Elevation
1 : 192

Seal

1	15 SEP 2022	Issued for meeting with HRM
2	14 OCT 2022	Issued for DA
3	02 DEC 2022	Issued for DA
4	26 JAN 2023	Issued for DA
5		
6		

Attachment B
Review of Relevant Policies from the Eastern Passage/Cow Bay MPS

Policy UR-8

Notwithstanding Policy UR-2, it shall be the intention of Council to consider permitting multiple unit dwellings within the Urban Residential Designation which are of a small scale and in keeping with the low-density character of the surrounding area, according to the development agreement provisions of the Planning Act. In considering such agreements, Council shall have regard to the following:

<p>a. that the maximum number of dwelling units shall not exceed twelve (12).</p>	<p>No concerns. The proposed number of units is 12.</p>
<p>b. the adequacy of separation distances from low density residential developments.</p>	<p>No concerns. The proposed side yard setback is 4.5 metres compared to R-2 zone requirements of minimum 3.0 metres. The proposed minimum rear yard (south corner) setback is 9.1 metres compared to R-2 zone requirements 3.0 metres minimum.</p> <p>This development is not expected to cause overlooking/privacy issues to the existing neighborhood as:</p> <ul style="list-style-type: none"> ● The existing neighbourhood is mostly comprised of 1-2 storey dwellings. The proposed dwelling is a 2-storey building, which is consistent with the height of the existing neighborhood and is not expected to cause substantially different amounts of overlooking. ● The proposed development will have adequate setback to mitigate potential issues caused by overlooking.
<p>c. that the height, bulk, lot coverage and appearance of any building is compatible with adjacent land uses.</p>	<p>No concerns. The height, bulk, lot coverage and appearance of the proposed development is reasonably compatible with adjacent land uses.</p> <p>The proposed 12-unit building was intentionally kept to two storeys in height to keep in character with neighbouring buildings. The proposed building height is 9.0 metres compared to the R-2 zone height requirement of maximum 10.7 metres.</p> <p>The two storey volume is not significantly larger than the semi-detached dwellings at the intersection of Cow Bay Road and Midyat Ct. The mass is on the larger side of the</p>

	<p>neighborhood but still reasonably consistent with adjacent land uses.</p> <p>The lot coverage for the project is 21.9%, which is below the 35% allowable lot coverage outlined in the Land Use By-Laws for R2 properties in this plan area.</p> <p>The building has a pitched roof which is characteristic of the area and suited to the environmental conditions of this coastal community.</p>
<p>d. that site design features, including landscaping, amenity areas, parking areas and driveways are of an adequate size and design to address potential impacts on adjacent development and to provide for the needs of residents of the development.</p>	<p>The proposed development is surrounded by landscaping space all along the property line except the driveway access. Shrubs and new trees are proposed at various locations of the site to provide visual segregation from adjacent properties and Cow Bay Road. Each residential unit has a balcony or patio as private amenity space. The proposed landscaping and amenity space as shown on the site plan seems to be adequate for the 12-unit development and the development agreement will require a landscaping plan at permitting stage.</p> <p>According to the site plan, there will be 16 parking spaces for the proposed 12 dwelling units. The Eastern Passage/Cow Bay Land Use Bylaw requires 1.5 parking spaces per unit, which would result in a total of 18 spaces. Parking Services has reviewed the proposal and recommended parking requirements be lower than 1 space per unit.</p> <p>To reduce the development impact on adjacent properties, the proposed building is set back from the street with a parking area in the front to allow more landscaping between the building and the property lines. This design decision to put the parking at the front rather than the rear of the property minimises the paved surface that would be required for additional driveways. It also provides an opportunity to keep some of the natural vegetation that exists at the rear of the property. This additional landscaping will in turn help with stormwater management and provide the tenants with a better view from their units.</p> <p>The existing driveway is proposed to remain its current location. To accommodate the traffic flow of the future residents, the</p>

	<p>driveway within the property has been redesigned to accommodate a 2-way driveway leading to the front parking space. The proposed development has direct access to Cow Bay Road.</p>
<p>e. that municipal central services are available and capable of supporting the development.</p>	<p>The proposed development is within the service area. Halifax Water has reviewed the proposal and did not have any concerns with the adequacy of water services. The adequacy of water services will be confirmed at the permitting stage.</p>
<p>f. that appropriate controls are established to address environmental concerns, including stormwater controls based on a report from the appropriate municipal, provincial or federal government authority.</p>	<p>Stormwater controls will be established for the subject site at permitting application process and will be required by the proposed development agreement. All drainage shall be in accordance to By-law G200 and L400.</p> <p>All applicable municipal and provincial stormwater management regulations will be administered.</p>
<p>g. that the development has direct access to a minor or major collector road as defined on Map 3 - Transportation.</p>	<p>No concerns. The proposed development has direct access to Cow Bay Road, which is a major collector road as defined on Map 3 - Transportation of the Eastern Passage-Cow Bay MPS.</p>
<p>h. the impact on traffic circulation and, in particular, the adequacy of sighting distances and entrances and exits to the site.</p>	<p>The proposed site plan has on-grade parking, with 16 vehicle parking spaces. The existing driveway is proposed to remain its current location. The parking is accessed via the existing driveway from Cow Bay Road.</p> <p>The applicant has submitted a Traffic Impact Statement (TIS) for review. Development Engineering has reviewed the TIS and did not have any concerns on the traffic impact from a 12-unit dwelling.</p>
<p>i. the general maintenance of the development; and</p>	<p>The proposed development agreement will contain a requirement for maintenance of the development.</p>
<p>j. the provisions of Policy IM-11.</p>	<p>See Policy IM-11 below.</p>

Policy UR-5

It shall be the intention of Council to establish a general objective of 70:30 as a housing mixture ratio between single unit dwellings and other types of residential dwellings units within the Plan Area.

As of December 2022, the built ratio of single unit dwellings (including mobile homes) to all other types of dwellings was 61:39. This application does not include single unit dwellings and is a 12-unit dwelling only; therefore, it is of little help to achieve the general objective of 70:30 at the moment.

However, the ratio of low density (single unit) housing to higher density housing of 70:30 was established as a general target for achieving an overall housing mix in the Plan Area. It does not preclude the submission of an application and is intended to provide direction in the consideration of each individual proposal.

The 70:30 housing mixture ratio has been carefully considered by planning staff in regard to the built ratio and the developer's proposal. As the area is predominantly low density (single unit) dwellings, the addition of a small multi-unit dwelling to provide more housing choices/mixture is in general a good planning practice.

It is the Council that will determine if the proposal is reasonably consistent with the plan policy.

Policy IM-11

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:

(a) 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;

The proposed development reasonably conforms with the intent of the Eastern Passage – Cow Bay Municipal Planning Strategy and requirements of other applicable HRM By-laws and regulations.

(b) that the proposal is not premature or inappropriate by reason of:

(i) the financial capability of the Municipality to absorb any costs relating to the development;

(i) No concerns. HRM is not expected to incur any costs as result of this proposed development.

(ii) The adequacy of sewerage and water services will be confirmed at the permitting stage. Halifax Water has reviewed the

(ii) the adequacy of sewerage and water services;

(iii) the adequacy or proximity of school, recreation or other community facilities;

(iv) the adequacy of road networks leading or adjacent to or within the development; and

(v) the potential for damage to or for destruction of designated historic buildings and sites.

proposal and did not have any concerns with the adequacy of water services.

(iii) HRCE is mandated to provide education to persons over the age of five years and under the age of 21, who reside within HRCE school boundary.

Information has been circulated to HRCE and they have no concerns regarding the impact of the proposal to the school system.

(iv) Development Engineering and Traffic Management has reviewed the TIS and did not have any concerns on the traffic impact from a 12-unit dwelling.

(v) No concerns. No historic buildings identified on the subject property. See comments from the NS Department of Communities, Culture, Tourism, and Heritage.

<p>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p> <p>(i) type of use;</p> <p>(ii) height, bulk and lot coverage of any proposed building;</p> <p>(iii) traffic generation, access to and egress from the site, and parking;</p> <p>(iv) open storage;</p> <p>(v) signs; and</p> <p>(vi) any other relevant matter of planning concern.</p>	<p>(i) Residential dwellings are the prevalent adjacent and surrounding use. The proposed development is a two-storey 12-unit residential dwelling. This proposed small-scale low-density multi-unit use is reasonably keeping with the use of the neighbouring properties</p> <p>(ii) see comments under policy policy UR-8.</p> <p>(iii) Development Engineering and Traffic Management has reviewed the TIS and did not have any concerns on the traffic impact from a 12-unit dwelling.</p> <p>The existing driveway is proposed to remain its current location. The driveway within the property has been redesigned to accommodate a 2-way driveway leading to a front parking space. The proposed development has direct access to Cow Bay Road.</p> <p>There are 16 parking spaces for the proposed 12 dwelling units. The Eastern Passage/Cow Bay Land Use Bylaw required 1.5 parking spaces per unit, which would result in a total of 18 spaces. Parking Services has reviewed the proposal and recommended parking requirements be lower than 1 space per unit.</p> <p>(iv) No open storage has been proposed.</p> <p>(v) Signage shall be permitted per the requirements of Eastern Passage/Cow Bay Land Use Bylaw except where varied by the development agreement.</p> <p>(vi) None identified.</p>
<p>(d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding.</p>	<p>The proposed subject lands are mostly flat. This proposal is an infill development, so there are no concerns regarding steepness of grades, soil and geological conditions.</p> <p>The subject property is not close to any watercourses, marshes or bogs.</p> <p>The subject property is not within any 1:20 or 1:100 floodplain zone.</p>

(e) 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)

No concerns. Planning staff is not aware of any holding zone established on the subject site.