

APPENDIX A

RESPONSE MEMO TO HRM STAFF COMMENTS





CASE 23905 – RESPONSE MEMO TO HRM STAFF COMMENTS NON-SUBSTANTIVE DEVELOPMENT AGREEMENT AMENDMENT APPLICATION 21 OCEANVIEW SCHOOL ROAD

October 20, 2022

The following table provides answers to questions asked by HRM's reviewing departments dated July 7, 2022.

RESPONSE TO COMMENTS PRIOR TO COMMUNITY ENGAGEMENT

QUESTIONS/COMMENTS	RESPONSE
<p>Planning Comments</p> <p>1. <i>Of the uses requested by the application, only the following can be recommended as "service industry or manufacturing operation" industrial uses:</i></p> <ul style="list-style-type: none">○ <i>Any manufacturing, processing, assembly or warehouse operation which is not obnoxious, and which is conducted and wholly contained within a building;</i>○ <i>Services Industries - Defined as: means a building or part of a building in which the primary includes, as a minor or accessory function, the provision of supplies, merchandise or wares directly related to the services provided, and without limiting the generality of the foregoing, may include a public garage including an engine and body repair shop, a printing establishment, a laundry or cleaning establishment, a wholesale bakery, a paint shop, plumbing shop, sheet metal shop, a truck depot and similar uses.</i>○ <i>Welding, plumbing and heating, electrical, carpentry and other special trade contracting services and shops; and</i>○ <i>Auto repair and body shops / automotive repair outlet.</i> <p><i>Of the uses requested by the application, the following are not recommended as they do not fall under 'service industry or manufacturing operation' and therefore cannot be considered under clause 19 of the Agreement:</i></p>	<p>1. On behalf of the applicant, it is requested that additional information be provided regarding why <i>service shops</i> are not a recommended permitted use. As noted within the response from HRM, the recommendation for permitted uses is that they must fall under the <i>service industry or manufacturing operation</i> industrial use. Please provide additional information why a <i>service shop</i> use would not fall under the <i>service industry or manufacturing operation</i> industrial use, but a <i>service industry</i> use would.</p> <p>Clause 19 of the First Amending Agreement indicates that a <i>change of permitted use for the Property to any service industry or manufacturing operation which, in the opinion of Council, is considered similar in nature to the use permitted under this Agreement</i>. Service Shop is defined in the Eastern Passage/Cow Bay Land Use By-law as, <i>means a building or part of a building used for the sale and repair of household articles and shall include radio, television and appliance repair shops but shall not include industrial or manufacturing of motor vehicle shops</i>. Based on the definition noted, it can be argued that a <i>service shop</i> use would be considered similar in nature to the other uses recommended at part of this application, for example, special trade contracting</p>

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- *Equipment sale and rental outlets;*
- *Service Shops; and*
- *Any activity related to the automotive trade except a salvage yard.*

2. *As the intention of this application is to allow a greater range of industrial uses, a greater degree of site buffering is required in order to limit possible future conflict with the surrounding community uses. It is requested that buffering of outdoor storage be improved by introducing a requirement that an effective year-round visual buffer be provided between any outdoor storage and Oceanview School Road and the abutting school site. Below is a section from the Dartmouth Land Use Bylaw containing a requirement which is similar to what may be appropriate here.*

Please indicate if the following requirement can be met or provide rationale for an alternative if required.

(i) a landscaped buffer shall be provided for any new or expanded commercial, industrial or institutional use, including but not limited to: buildings; parking lots; outdoor display; or open storage to be located adjacent to any property zoned or used for residential or community uses. The landscaped buffer shall consist of:

(i) a grassed area with a minimum depth of twenty (20) feet along the entire length of the adjacent property line and containing a vegetation screen consisting of at least two staggered rows of coniferous trees or other vegetation that may be approved by the Development Officer which are at least six (6) feet in height and at a maximum spacing of eight (8) feet on centre;

(ii) notwithstanding Subsection 15(i) (1), the grassed landscaped area may be reduced to ten (10) feet where an opaque fence of at least six (6) feet in height is provided along the common property boundary. The grassed landscaped area shall contain a mix of nursery-stock trees at a maximum spacing of ten (10) feet on centre, or a mix of shrubs at a spacing of six (6) feet on centre, or a combination of nursery-stock trees and shrubs at the required spacing.

(iii) no structures, parking, storage or open display shall be permitted within the landscaped area.

services and shops.

The applicant is supportive of removing *equipment sale rental outlets* as well as *any activity related to the automotive trade except a salvage yard* from the list of requested permitted uses under the substantive development agreement amendment application.

2. The Original Agreement under Clause 9 requires that *the developer shall maintain in good repair the existing perimeter fence which defines the limits of the property*. Further, Clause 10 of the Original Agreement indicates that *no outdoor storage or display of any materials, products or machinery shall be permitted within the parking or driveway areas as illustrated by Schedule "B", and any materials or products which are stored above the height of the fence elsewhere on the Property shall be kept in a neat and tidy appearance and stored in a manner so as not to create hazard or endanger the uses of abutting streets and properties*. The developer is currently satisfying both of these requirements.

In response to the request made to provide further year-round visual buffering between the subject site and the adjacent school and Oceanview School Road, the example landscaping buffering requirement provided would not be feasible on the subject site as it would impede with the developers existing operations. The site has been operating as an industrial use since the Original Development Agreement dated May 9, 1989. Further, the requested permitted uses are required to be considered similar in nature as per Clause 19 of the First Amending Agreement. As the requested permitted uses are in keeping of similar nature with the existing industrial uses on the site, it can be argued that an increase in conflict would not be expected between the subject site and the adjacent school and Oceanview School Road.

However, the landowner is suggesting that an option to improve the visual buffer between the subject site and the adjacent school would be to install a privacy screen on the existing chain link fence that abuts Oceanview Elementary. Furthermore, the landowner is also suggesting that trees could be planted in front of the existing buildings where adjacent to Oceanview School Road. The existing buildings currently act as a visual buffer from the Road and the existing outdoor storage, and the addition of trees would further improve the visual buffer.

Engineering Comments

1. *It has been determined that a Traffic Impact Study prepared by a qualified engineer is required in order to review this request. The study must take into account the "worst case scenario" meaning the most traffic intensive use being considered. The study must also consider adjacent activities such as the fire station, schools and seniors housing.*

1. Please refer to Attachment B: Traffic Impact Statement.

RESPONSE TO ADDITIONAL/ADVISORY COMMENTS

QUESTIONS/COMMENTS

RESPONSE

Planning Comments

1. *Please be aware that due to recent Provincial changes to municipal planning processes, this request will now be considered by a Development Officer of the Municipality. The request no longer needs to be seen by Council.*
2. *Provided that this amendment request is approved, after an amending development agreement becomes in effect, the appropriate permits must be obtained in order to legally occupy any use which is enabled by the amending agreement.*

1. Acknowledged.
2. Acknowledged.

HRM Parkland Planning Comments

1. *The Planning Rationale indicates any proposed industrial use will not be obnoxious and wholly contained/conducted within the building and not involve bulk storage of combustible material. Due to the site's proximity to parkland, schools and places of public assembly, these conditions must be strictly adhered to and enforced.*

1. Acknowledged.