

Mr. Donovan said they would not.

Councillor Hendsbee asked what the retail value of the single family dwellings would be.

Mr. Donovan said he did not have a figure but it was his understanding that they are below \$100,000.

Councillor Ball asked if any attention was paid to the CDD by the local planning committee of Eastern Passage/Cow Bay.

Mr. Donovan said he believes there were some meetings held within the community on that but were not attended by staff. He said the local planning group was advised that there was a proposal being considered.

Councillor Ball said it is his understanding that the local planning committee approved the CDD zone within the Eastern Passage/Cow Bay plan.

Mr. Donovan said this had been previously approved by council as part of a package of amendments that went through in 1990/91 in regards to service boundary.

Councillor Ball said he understands there were no responses from Eastern Passage/Cow Bay Residents Association concerning that at that time. He asked if it would have been possible, in the CDD, for a commercial mix.

Mr. Donovan said under that policy there is provision that allows council to consider a CDD development agreement. The policy allows for consideration of a local commercial use. He said therefore a site could be designated.

Councillor Ball asked if there are any large parcels of land in the proximity of this proposed CDD development and who may own this land.

Mr. Donovan said he has not done a land ownership survey. He said they did a list of the abutting property owners prior to this hearing to send notification to. He said there are about forty property owners.

Councillor Ball said he feels it would be very relevant to have a list of the abutting property owners circulated to council so that council could have it relative to some of the speakers and how it may be impacted.

Mr. Donovan said he had not indicated how the property would be serviced. He said there would be an internal servicing system with gravity sewer and force main to the Cow Bay Road and eventually to Quigleys Corner versus the construction of a sewage main down the

Cow Bay Road. He said there are two options one internally versus another externally. The developer has opted with the internal approach.

Councillor Barnet said part 12 of the amendments states "matters that are deemed not substantial may be approved by resolution of municipal council". Under Section 12.4 it states "land owners within 250 feet of the property will be notified". He said he would like to know if this is 250 feet of the properties that are being changed or 250 feet of the CDD area.

Mr. Donovan said they had discussed this at the PAC level and the staff position is that it would vary depending on the actual application. If someone within the centre of the development was proposing some sort of change that was affecting his or her neighbours then those people immediately surrounding would be advised such as a redistribution of lots, a reconfiguration of roadway. He said most of the items that are discussed in there relate to a difference in the overall design. He said it would be sent to the same list of people who were notified of tonight's public hearing. He said if you look at Section 12.2 those are overall changes that really affect the area outlying the development. He said minor variations to the architectural design of a two unit dwelling then the property owners immediately abutting would be notified. He said amendments have to be considered by council and have to go to council for approval. He said there has to be a resolution of council to approve any of those types of matters. He said that section is intended to just notify people who may be affected by the minor amendment that can come forward.

Councillor Cooper asked under the normal CDD provisions are there not commercial developments in CDD.

Mr. Donovan said he does not think there is a necessity for commercial component but there is provision to consider one. In this case the applicant did not put one forward. Staff did not feel it was necessarily a element that was dictated by the development given the fact that there is a liquor store and a strip mall towards Quigleys Corner. The Armcrest CDD provided for a 5,000 square foot commercial component.

Councillor Cooper said if a CDD had commercial development the effect of that would be to reduce the overall densities of the acreage involved.

Mr. Donovan said it would probably remove a lot or two but not substantially.

Councillor Cooper said if the CDD had a fairly substantial commercial development it would, in fact, reduce the density of the lands involved.

Mr. Donovan said it would if it was inside the CDD.

Councillor Cooper asked with these lands being developed at R-1 how many houses or units would be able to put on the property.

Mr. Donovan said with 5.5 units per acre spread out over 130 acres it would translate to approximately 731 dwelling units in theory.

Councillor Cooper said approximately the same number of dwelling units could be put on two thirds of the original properties involved. He said the density in that developed portion is fairly high compared to what it would have been.

Mr. Donovan said it is about 20 persons per acre in the centre area whereas, if it was spread out overall throughout the development, it would be somewhat less than that, about 15 to 17.

Councillor Cooper said the report mentions school facilities for the community. He confirmed with Mr. Donovan that the school board said it will be two or three years before they could accommodate another school. He asked what would happen in the meantime.

Mr. Donovan confirmed this. He said the existing school would have to serve the development that is occurring there presently. He said he does not know at what point the critical mass would be reached. He said he does not have that information. He said there are options available such as portable classrooms.

Councillor Cooper asked if there were any internal areas set aside for tot lots, etc.

Mr. Donovan said a minimum area of 2,000 sq. ft. which has been sodded, fenced and graded would have to be provided for tot lots in certain areas. He said the application was referred to the Department of National Defence for comment as the development site is located in an approach to the runway site for Shearwater and some concern was expressed by the Department of National Defence in that regard. He said there are terms, outlined in part 11, to address the concerns with respect to noise from aircraft and the height of buildings to safeguard the community with respect to glide paths for the airport. He said other areas of Dartmouth and Portland Estates are affected by the operations of CFB Shearwater. The architectural requirements for this development are outlined in section 11.3. He said this outlines some soundproofing measures that have to be incorporated within the construction of all buildings to minimize the impact of noise and vibration for any buildings constructed on the site. Prior to the issuance of an occupancy permit the municipality will be looking for certification from the builder that those provisions are in place.

SPEAKERS IN FAVOUR

Mr. Barry Zwicker spoke in favour of the application. He said he worked for the Engineering and Planning consultants for the Armoyan Group. He said they did inherit an earlier plan which became the starting point with to the design exercise for this site. Several concerns came about as a result of their approach to this particular parcel of land. The first concern was that there are areas where they have concern with respect to actually developing within. He said those areas have been identified as the conservation areas. The first principal they looked at was assessing those lands in terms of their capability and desirability for development. He said right away they started dealing with less land area that, in their opinion, would be the best parcels of land to actually direct development. The second area of concern was the concern with respect to the proximity to the Shearwater airport. As a result of correspondence between county staff and Shearwater a concern was expressed. He said he personally had contacted Shearwater to be assured that the distance this site is located from the airport is outside of the area of concern with respect to no development. The concern expressed from Shearwater had to do with the height of the buildings. The higher the building the greater impact with respect to noise and closeness to the flight path. This has been addressed through additional building requirements to ensure that there is a higher level of sound insulation and a different approach to the building and construction. He said this is acknowledging the fact that there is a high level of noise to deal with. He said there are no requirements that that federal agency were able to put forward that suggested that this site was not developable.

He said the area is a potential for development based on all of the policies, by-laws and guidelines that Halifax County has in place for the community of Eastern Passage. From that perspective you can look at the ability to service these areas from a sewage flow point of view and design flow that is utilized throughout the county and you ultimately end up with a potential for approximately 731 dwelling units on 130 acres of land. He said the Armoyan proposal is for 618 units made up of a mix of single family homes which range from 36, 40, 54 and 60 ft. in width and a range of areas that relate to that width. He said there are a significant number of the lots that are 6,000 sq. ft. in area and they are primarily located along the collector roads being proposed within the development. This project is being put forward to attempt to satisfy a portion of the market that is looking for affordable alternatives. He said Eastern Passage is a desirable place to live. It has seen a considerable amount of development in the last number of years. He said the infrastructure is there the capacity is there is varying degrees to handle additional development.

He said the site is zoned and designated as a comprehensive development district. That designation and zone allows for a range of housing types and the potential for commercial uses. He said they have chosen not to include commercial uses within this

proposal. He said there are other areas that are more suitable for commercial development. This site is more appropriate for residential development and to include a commercial component may cause more problems with respect to traffic generation and create an attraction of vehicles into that area where it is unnecessary.

Some of the concerns expressed during the early stages related to some of the existing development that is in the Eastern Passage area now. If they were looking at semi detached or two family units they have to be more concerned with off street parking. There has to be more concern with how the units are designed so that a situation is not created where everything will look the same. He indicated two types of housing that would be provided in the areas designated for semi detached and single family. He said if there is a variance from this indicative design that is being proposed there will be a public process by which the developer and council will have to go through in order to enable that to occur.

The site planning was also a concern with respect to off street parking, with respect to drainage, lot coverage and side yards, etc. He said off street parking will be available and houses are properly separated with respect to building code requirements. He said the percentage coverage is maintained. The heights of the buildings are maintained. The sideyard separations are as per code to ensure that what is being put in will be an asset to the community and the people who will ultimately live there.

The conservation area is a large area. This provides a buffer in some area. He said this project is anticipated to take between ten and fourteen years to complete.

The areas generally drains towards a brook heading towards Cow Bay. Sanitary sewer exists at present to a point on the Cow Bay Road. It is gravity feed. The lower section of Cow Bay Road is not serviced because it falls away towards the salt water and cannot be serviced easily by gravity. In order for the first home to be built a sewage pumping station has to be constructed in the lowest area of the development so it will ultimately accept all of the flows by gravity to the pump. He said that is a significant investment because it is designed to handle the entire 618 units. He said the storm water systems utilize the conservation area and Smelt Brook. He said during construction they will be attempting to ensure that the quality of the water, as it leaves the construction site, is controlled in some fashion so that it does not detrimentally affect the quality of the water that exists in Smelt Brook at the present time.

There are three or four active playground areas and the remaining area is identified as open space and conservation. Each of the active playground areas varies in size.

He said they have concerns with the way the development agreement

is worded. He said in committing to this plan they want to ensure that both parties are committing to something that will ultimately be workable and will achieve the objectives of a successful and desirable community. He said section 7.5 of the agreement deals with the developers commitment to share in the upgrading of the Quigleys Corner pumping station. He said the developer is a strong supporter of cost sharing to ensure that the pumping station ultimately gets upgraded. He said there are approximately 250 acres of land that is inside the serviceable boundary in Eastern Passage. This site is 130 acres in size. The estimated cost for upgrading the pumping station is \$130,000. If you divide the total acreage into the acreage they have and multiplied it by that number you come up with a figure of \$67,600. He said they are concerned that this reflects acre and not actual usage. Because they have not utilized the complete potential of 18 persons per acre on this site they would like council to give serious consideration to modifying that number to reflect the actual usage that they propose to put it to based on 618 units. He said what they are proposing is that the \$676. per lot on the first 100 lots be amended to state that the figure should be \$571.50 per lot based on the first 100 or total contribution be \$57,150. as their share of the upgrading of the Quigleys Corner pumping station based on projected usage. He said they are making this suggestion because they are putting a ceiling on the number of units available.

The second area of concern is in part 13 clause 13.1. He said this a clause that would kick in in the event that there was a problem with the ongoing administration of the actual development agreement. There are remedies within the planning act to deal with infractions of by-laws. As long as the reference to the planning is referred to as the enabling clause to put some form of remedy in the agreement they have not problem. He said the difference between what is being proposed and what he is suggesting is that clause 120 puts an onus on somebody to prove that there has been a violation. He said the way this is presently written, there is no obligation.

He said clause 14.2 is also a concern. He said it deals with a situation of the council, by resolution, discharging the agreement and what regulation would be in place for these lands upon the discharge of the agreement. He said their position is that the planning act is very clear. The land use by-law and municipal planning strategy is very clear. No development can go on on this 130 acre parcel unless there is a development agreement in place. He said if the development agreement is discharged no development can happen. Clause 14.2 suggests that even after the development agreement is being discharged single family development could happen as long as single family rules were followed. He said he feels this is outside of the ability of this development agreement and outside the municipal land use by-law and planning strategy. He said they are suggesting that immediately after the word effect the rest be stricken. He this simply says that at some point in

time council may have to discharge the agreement period. He said what that means that in order for development to start up again a new development agreement would have to be negotiated or go through a rezoning process and rezone the land something other than CDD in the future.

He said within the two Appendix attachments to the agreement there are several clauses that as a result of discussion between engineers within their firm and Halifax County it is believed that the agreement would be in a more enforceable and more reflective of engineering standards that are presently being used within the county if they were to be changed.

He said in their opinion the proposal is consistent with the municipal planning strategy and land use by-law. It is sensitive to the environmental issues that exist on that site. It is a reasonable approach to the development of the land. It is within the development boundary. It is consistent with policies. He said the development agreement with suggested modifications would be an agreement that the Armoyan Group would be prepared to enter into and work towards a successful development in Eastern Passage.

QUESTIONS FROM COUNCIL

Mayor Lichter asked with regards to the points outlined did the Armoyan Group deal with those during negotiations with staff.

Mr. Zwicker said they have within the last week.

Mayor Lichter asked if those items were there prior to that time.

Mr. Zwicker said they were within the proposal.

Mayor Lichter asked why they had not dealt with those items at that time.

Mr. Zwicker said that because of the nature of the process and the details that are built into the appendix they were concerned about the details of the engineering specs that were being put into that.

Mayor Lichter said council is used to having a development agreement between two parties negotiated and then when the finished product comes to council for a public hearing then council does not have to start to adjust those items. He said tonight what is going to be heard besides opposition to the entire concept also all kinds of amendments to be included from the applicant to a product that appears to be, with each amendment, more and more flawed.

Councillor Ball said he is surprised at the last several points because this was dealt with in PAC and it was suggested that the developer along with staff sit down and massage some to the details. He said it was his understanding that there would be an

agreement when it came to council. He asked if the developer was objecting to the \$100.00 per day penalty clause.

Mr. Zwicker said they were not objecting to the penalty clause but there is no defence in the way it is presently written.

Councillor Ball said if the municipality alleged there was a breach of contract then in that circumstance it would be a substantive breach for this to kick in. He said a breach would be challenged in a court of law and is this what the clause is saying.

Mr. Crooks said, in his opinion, that is what this is saying. He said the response to the developer would simply be that in the event of a suggestion that \$100. a day penalty had been triggered would be to decline to respond to that in which event, the matter would have to be settled by litigation and determined in the normal course.

Councillor Ball said that would be his argument that the developer would pay this amount without a court order saying so. He asked Mr. Zwicker in the development process he has, if the property was zoned R-2 and some of the lots were 35 or 36 feet on single dwellings if they were to join two houses at the hip would there be anything wrong with it.

Mr. Zwicker said no.

Councillor Ball said the density, if it was R-2, the lot sizes would not be significantly any different. The only thing that would have been done is separated the buildings. He said the mix in terms of density would be proportionately the same.

Mr. Zwicker said it would be comparable. He said under the rights and remedies clause there is still the potential for litigation to occur. He said he would question why a clause would be built into the development agreement, have both parties agree to it, knowing they are going to violate it and not pay the fine. It makes more sense to structure these clauses so that they are agreeable to both parties and create a working document so that there is a process there that is enabled through the act.

Councillor Ball said if there is no hope of ever violating the contract then the penalty clause would not scare them.

Councillor Hendsbee asked what price range these homes would be in.

Mr. Armoyn said the retail value of the lots would be difficult to determine right now until they find out the exact cost of the infrastructure that has to be put in. After they do the final design and tender the job they will find out how much it is going to cost. He said they would be approximately be between \$18,500. and \$23,000. He said a 40 ft. lot would be approximately \$21 - \$24

thousand. He said the larger lots would be approximately \$26 - \$28 thousand. R-2 lots would be \$32,500. He said homes would range from \$76,000.

Councillor Hendsbee asked what variances of units are they working with. Was there a minimum as well as a maximum number of lots that could be developed.

Mr. Armoyan said that when he bought the land it was zoned CDD. He said the minimum could be less than the 618. He said in this plan there is a set number of housing types they will be doing. He said the land has the sewer capacity to allow for 731 units.

Mr. Doug Forbes, a real estate agent and resident of Eastern Passage spoke in favour. He said he is not speaking as a real estate agent. He said he has looked at the plans and he feels that the house prices may be higher than those quoted by Mr. Armoyan. He said the two storey houses with a full basement are more expensive to construct than a bungalow semi which is utilizing the basement as part of the living accommodations. He said the houses will be in his opinion close to \$100,000 in price. He said he believes that there is an entry market level needed for buyers. He said there are many young couples that need homes.

Nora Landry, Cole Harbour, spoke in favour of the application. She said the public, at present, has no enjoyment of the land as it is in its present state. This development offers and increase in revenue for the community by way of property taxes and local business in the area. She said there is high density housing in the area in the form of mobile home parks and townhouses. She said R-2 housing is a fact of life in all growing communities located close to cities. She said this project offers 30% of its area as parkland and open space and has plan for sidewalks. Arguments for problems with the parking could be made for any subdivision in the Halifax County area. She said most new homes have virtually maintenance free exteriors ensuring a quality presentation of the streets. Most people do not purchase homes to allow them to become run down and derelict. She said with regards to schools all developing communities must mix plans for future schools in their budget. She said she does not feel this development should be held responsible for that. New homes bring increased values for existing homes and developments such as these should be encouraged.

Mr. George Noble, 1944 Shore Road, Eastern Passage spoke in favour of the application. He said he was a member of the planning committee in 1982. He said he is ex president of the Eastern Passage Ratepayers. He said the community has grown from a small village to a recognized part of the metro area as a result of sewer and water. He said the problem with the height of duplexes will be eliminated in this agreement as it calls for split level duplexes which are much more appealing. He said this project is different from the Briarwood plan. He said this subdivision offers

affordable homes. It includes sidewalks, pathways and fenced areas and other benefits.

Kirk Ross spoke in favour of the development. He there is very little land within the development boundaries that falls within the description of affordable. He said this is one of them. He said the increase in population is of benefit to the residents who will ultimately be the recipient of more services being located in the immediate vicinity. He said it will benefit the municipality with increased tax revenue. He said more housing starts are needed which in turn provides work for the subtrades.

Ed Veniot, Cole Harbour spoke in favour of the application. He said this is not a project that will be a repeat of the Briarwood subdivision. He this development will result in a rise in real estate value which will benefit the entire area.

Kevin McCullough spoke in favour of the application. He said he has been a resident of the area for thirteen years and have witnessed the growth of the community. He said many benefits have been realized as a result of this growth. The increased tax base has allowed them to increase their existing sports facilities. Further growth will enhance the various organizations and ensure their future. During the past several years 89% of constructed houses on water and sewage, in the area, have been duplexes. Some examples are the houses along Shore Road and Caldwell. Mr. Armoian's development will provide the most single houses the community will see in many years to come. The land was bought on a CDD zoning and he has compromised a great deal from the original proposal. He said such growth will result in such amenities as a high school, shopping mall, recreational facilities and a permanent police substation. He said he feels very positive results will be realized from this development.

SPEAKERS IN OPPOSITION

Michael Hourihan, president of the Ratepayers Association, spoke in opposition to the application. He said they are not against the project only certain aspects of the project. He said they are not against duplexes but against the mix of duplexes within the community. He said this situation sees the councillor on one side of the issue and many of the residents opposed to the project on the other. He said a petition with signatures of 1413 residents opposed to the project was circulated. He said this represents a significant dissatisfaction, in the community, with the project as proposed. He said there have been three public information meetings and several meetings with the planning committee and the executive of the ratepayers association. With each change in the plan the residents had more opportunity to appreciate the complexities of the project and the effects it could have on the community. He said there was a lot of relief felt by the community when it was advised that the R-0 had disappeared. He said concern

was still expressed with the number of small lots. He said with the cooperation of the developer and the county a meeting was held on October 24th dealing specifically with Heritage Hills.

He said many questions were raised such as the width of the streets, whether or not the wires would be above ground, would the sewer be running down Cow Bay Road or would it be down through the middle of the project, where will the street lights be, etc. He said those questions were dealt with by Mr. Zwicker and others. He said the majority of speakers at the meeting were speaking to concerns that were not so adequately addressed as the technical matters. Some of these concerns were the conservation lands, why small lots were needed in this subdivision where they were not needed in any other project in the area, why is the minimum lot size in the proposal set at 5800 square feet and 6000. A concern came with regards to an increase in vandalism that could potentially occur with the increase in population. He said a concern was whether or not an increase in housing increase or decrease the amount of vandalism. He said with such small lots there is a concern with regards to snow removal and what to do with the accumulated snow. He asked if perspective buyers know they are in the impact zone for a military airport on the main landing approach of the most used runway.

He said there are a large number of starter homes in Eastern Passage. He said what the community is missing is the move up homes. He said people move from the community to other areas when they are in a position to buy a bigger home. He said they are concerned with traffic congestion on Cow Bay and especially at Quigleys Corner. He said at the community meeting only the proponents of the proposal and Councillor Deveaux spoke in favour of the project. He said such things as traffic controls and additional schools will be addressed when there is a requirement.

Councillor Deveaux said the CDD was approved in 1991 and substantiated by the ratepayers and the planning committee in 1992 when the official plan change came about. He said he would hate to have a development held up because of proposed vandalism because this would mean that no development would take place anywhere. He said a lot of the concerns expressed are as a result of what happened in Briarwood. He said the main problem was drainage and the engineering department has made changes to the drainage requirements which hopefully won't reoccur in this subdivision. He said no one can guarantee that there won't be a problem of some kind in the construction process. He said schools are not built until there is a need. He said a project, that is deemed to be a feasible project, should not be held up because the highways may be a bit smaller than they should be at the time. He said there was concern expressed about the streets within the subdivision but the fire chief approved them. He said it has been his experience that people sign a petition to satisfy the person at the door. He asked Mr. Hourihan if he at any time felt he could support this plan.

Mr. Hourihan said it is his understanding that this is the first CDD for that area to reach the public hearing stage. He said the Keel Development CDD had apartment buildings and semi detached. He said the issue he spoke about was undersized lots. He said he could support the project but he is not sure if he can support the project as a representative of the community because from the public meetings he has attended the community would not want him to do this on their behalf. He said as the downtown business coordinator he represents the businesses located on Quigleys Corner. These businesses will see some increase in business with people moving into the area. He said this development will increase the community size by approximately 25% and there are still commercial areas open that will attract some of the more larger stores. He said there is a concern that some of the smaller business will lose.

Councillor Deveaux said Mr. Hourihan had mentioned the 0 lots and the 30 ft. frontage lots which Mr. Armojan had originally included as part of the plan. He said he was had not been in agreement with those and he has eliminated them. He said Mr. Armojan has made a number of appearances at community meetings and has made a number of concessions from what had been originally proposed.

Councillor Ball asked if any consideration had been given to remove the CDD from the municipal development plan by the local planning committee.

Mr. Hourihan said he had not been part of the planning process.

Councillor Ball asked if Mr. Hourihan was in favour of apartment building development in the Eastern Passage/Cow Bay area but the reason it did not take place was because of lack of funding from financial cooperations.

Mr. Hourihan said that there are very few apartment units in Eastern Passage and they are probably needed and currently one cannot get financing for an apartment building.

Councillor Ball asked Mr. Hourihan if he would have any objections to them.

Mr. Hourihan said he personally would not have any objections but he cannot say that on behalf of the association.

Councillor Ball asked if Mr. Hourihan was personally in favour of the CDD as proposed.

Mr. Hourihan said he is in favour of a CDD which complies with the municipal planning strategy.

Councillor Ball said this complies with the municipal planning strategy because a CDD was permitted within municipal development

in area. He said it is not a non compliance CDD. He asked if it was Mr. Hourihan's belief that the only stake holders in a CDD development are those who are born and bred in the Eastern Passage/Cow Bay area.

Mr. Hourihan said the statement indicating that his family had been members of the community over several generations was to indicate to who he was and what his commitment was to the community.

Councillor Ball asked if Mr. Hourihan felt that persons who do not have the extensive roots that he might have are less committed to the community.

Mr. Hourihan said he defended many of the new people into the area especially those who came to the area serving in the Canadian armed forces, one of whom was councillor Deveaux. He said they have said in their public statements that they are not against development. The community will continue to thrive only if new people move into the area.

Councillor Ball said that the presentation says that a large increase in population will result in increased vandalism. He said this indicates that any kind of development that brings in a large number of people the net result and immediate reaction is that those people moving in are going to cause immediate vandalism to the area.

Mr. Hourihan said this was a concern of the meeting.

Councillor Ball said the glass repair bill at the school was subsequent to the meeting.

Mr. Hourihan said that is correct.

Councillor Brill asked if Mr. Hourihan knew what the ceiling was for aircraft.

Mr. Hourihan said he does not know. He said this was addressed to Mr. Skora of the Planning Department in april by the base commander of Shearwater.

Councillor Brill asked what the concern of the base commander was.

Mr. Skora was to provide a copy of the letter from the base commander regarding his concerns to the mayor and the mayor indicated that if the information was pertinent he would share this with council.

Councillor Hendsbee said that he felt in Mr. Hourihan's presentation he was more in favour of apartment buildings and semi's rather than single family homes.

Mr. Hourihan said that his reference to apartment buildings was only to contrast the Keel proposal with this one and indicate that they were both at two different times and that if economic times had been the same this meeting would be talking about apartment buildings.

Councillor Hendsbee asked why he had a preference for apartment buildings versus private homes.

Mr. Hourihan said he did not say this. He said they have not considered it because apartment buildings do not come before a public hearing.

Councillor Peters asked if there was a concern with regards to lower income people.

Mr. Hourihan said he wrote the presentation having seen the previous drafts which indicated prices would be more modest. He said assessments for a 1200 sq. ft. bungalow on a serviced 15000 ft. lot are in the \$85,000. range and he did not know why these much smaller lots would go for \$100,000.

Councillor Peters asked if he was concerned at that time with lower income homes coming into the area in a large area.

Mr. Hourihan said yes for the density.

Mr. Tom Harmes, planning committee chairman, Eastern Passage/Cow Bay spoke to council. He said he has been an active member of community organizations over the past thirty years. He said he is addressing the Heritage Hills proposal as a member of the community and not because they are opposed to this development but to certain aspects of the project mainly the undersized lots. They feel these will adversely affect the community and their way of life. Pages 4 and 5 of the municipal planning strategy refers to Eastern Passage and Cow Bay as being relatively small and distinct communities within the metropolitan region. This separate identity is reinforced by the presence of CFB Shearwater between the communities and the city of Dartmouth and by limited road access serving public and major industries. The regional distinctiveness of the communities is also reinforced perceptually by the expectations and attitudes of residents and by the long standing interpretation of the area by an essentially rural form of government.

The physical characteristic makes them quite unique from other areas where residential areas tend to blend with one another. He said the residents have enjoyed a lifestyle influenced by the proximity to the ocean, a fishing community, and proximity to industrial employers in the area. Many families trace their ancestry to many settlers to the area. Many more have moved to the area based on the experiences of family and friends that this is a

good place to live. The greatest attraction to many has been the distinctive semi rural lifestyle. Great concern was expressed when in the eighties large tracks of lands were developed at a pace greater than ever experienced in the past. In 1981 single family dwellings made up 74% of the housing mix. By 1992 this number had fallen to 45%. Since there are few apartment units the bulk of the remaining 55% is semi detached.

Many of the residents spent many volunteer hours over several years in providing input for this 1992 revision of the MPS which has been adopted by council and approved by the Department of Municipal Affairs. The chief concerns were the ratio of single family duplex housing and to the number of housing units in a given area. Both of these concerns have been written into the recent MPS which calls for R-1 lots to be at least 6,000 sq. ft. in size and establishes an objective of 70% single family housing for the community. A project of this size may make this objective impossible to achieve.

Page 24 of the final report of the planning act review committee states that the contract zoning is a method to instill some flexibility or additional control in the by-law and is not to be used to circumvent the restriction of the zoning by-law. He said it is hoped this will be considered in council's decision. He said the planning act in section 56 dictates that they by-laws providing for the establishment of a CDD shall identify matters that council shall consider prior to the approval of the agreement for the development of a CDD. Following this policy UR-13 on page 58 of the MPS states that conditions under which the CDD could be set aside. Paragraph D reads "where the development provides for a mix of housing types it does not detract from the general residential character of the community". There are presently no undersized lots in the community. He said they feel that paragraph D is not being considered as the proposal calls for 53% of the project to consist of undersized family lots. Paragraph F of the same policy says that development is consistent with the general policies of this planning strategy and it will further its intent.

He said the MPS clearly states that 6,000 sq. ft. lot size is policy for serviced lots in the area. Only 24% of the single family lots proposed come close to meeting this minimum requirement. He said they are concerned that this development as proposed will change the community drastically to the point that it will effect the way of living as well as the precept that Eastern Passage/Cow Bay is a unique and distinctive rural community. He said this concern is brought about by the many undersized lots that is proposed for this development. He said they agree with many aspects of the proposal. He said even the number of lots do not concern them greatly but the overcrowding of the homes on small lots is not consistent with the plan for this area. He said they realize that the developers project must be viable and rewarding but does it have to be at the expense of the community and the municipality that will have to endure shortcomings long after the

developer has been relieved of his encumbrance. He said they ask that council and staff renegotiate this proposal, not to turn it down outright, but to reconsider the issues of undersized lots so that the community can enjoy this development in phases as an enhancement to the community.

Councillor Ball asked if there was any consideration ever given to remove the CDD from the municipal development plan.

Mr. Harmes said the answer is no.

Councillor Ball said knowing full well that a CDD was there in that plan the local planning committee knew that this would afford some kind of a mix to take place in that plan.

Mr. Harmes said they did.

Councillor Ball said Mr. Harmes alluded to the fact that there are no undersized lots in the area and was this referring to the serviced area.

Mr. Harmes said he is referring to requests for undersized lots in new development. He said he realized from their studies that there are some undersized lots.

Councillor Ball said he feels it should be clarified that in new development that has taken place there has been no undersized lots. But to say that there are no undersized lots in the area might be stretching it.

Mr. Harmes said it is rather technical but he would agree with councillor Ball.

Councillor Ball asked if development of 1,000 single unit homes in the area would change the distinctness of the community.

Mr. Harmes said he does not think 1,000 units would but he feels undersized lots would. He said he made no mention of the number of lots.

Councillor Ball said there was a concern at one time that Colby Village was going to use up the capacity of the Eastern Passage plant and what can be done to prevent any more development in Cole Harbour so that the development would take place in Eastern Passage. He said development sometimes takes place based on being market driven. Now that Eastern Passage is in the position to be market driven for some form of development and this development which can utilize the capacity within that plant, for the community of Eastern Passage/Cow Bay, there appears to be opposition by the same people who wanted to have a hold put on Cole Harbour and Colby Village so that Eastern Passage could get developed. Councillor Ball asked if Mr. Harmes if he owned any land adjacent to the

development.

Mr. Harmes said he did not.

Councillor Ball said he would like the record to show that all he did was ask, if in the proximity of that development, Mr. Harmes had any property. He said he will ask every speaker that comes forward, for one concern only, because he would like to have a full appreciation of where every speaker is coming from in relation to the development.

Mayor Lichter said he would request that every speaker indicate this automatically.

Councillor Deveaux said it was indicated by Mr. Donovan that the CDD does meet the requirements. He said Mr. Harmes had expressed concerns about the smaller lots and it may change the lifestyle of the community. He asked Mr. Harmes what he meant by this.

Mr. Harmes said he has tried to give a scenario as to how the community is situated. He said it is separate from Dartmouth metropolitan area physically by industrial holdings and Shearwater. He said that is not about to change in the short term. It leaves the community by itself and, as a result, growth or lack of has resulted. He said if the community developed at a pace that is unaccustomed to then it will affect the community lifestyle. He said there is a problem with undersized lots.

Councillor Deveaux the CDD was approved by the Ratepayers Association in the plan change. He said a CDD offers more protection as to what can be constructed. He said it is an innovative plan, one that offers a varied type of home for people cannot afford large homes. He said he was opposed to "0" lot lines and 32 foot lots. He said this is a first for the community to have sidewalks, fenced in walkways, fenced in recreation areas and other amenities which has never been in the community before.

Councillor Giffin asked Mr. Harmes if he has ever gone to Armcrest or Millwood to take a look at these small lots. He said those houses were not unattractive and there was adequate space.

Mr. Harmes said he had been out there on several occasions and he said that it does look attractive. He said the today there is congestion and the residents are not happy with the development.

Deputy Mayor Bates said he is surprised by this presentation. He said previously the Cole Harbour area had tried to get some serviceable boundary and at that time they had difficulty with Mr. Harmes group. He said the Housing Corporation is putting a development in Forest Hills and some of the lots are less than what is proposed here. He said Cole Harbour/Westphal is running out of serviceable area and he asked Mr. Harmes if he would be interested

in renegotiating that arrangement that was made some years ago so they could take on this kind of a project. He said there are going to be a lot of tax dollars come into the community.

Mr. Harmes said he does not have the right to say they will give up that developable land. He said they are not suggesting they do not want development and they are not suggesting they don't want the 130 acres developed. He said he has asked that the number of undersized lots be renegotiated.

Councillor Cooper asked if the community during discussions have ever been told that the community had to accept, under CDD, reduced lot sizing.

Mr. Harmes said the community does not have a lot of decision making into a CDD. He said he is not against it. He said when a CDD was proposed by Keel Developments that plan was only a concept plan and never got to the decision making stages.

Councillor Cooper said the fact that Mr. Harmes is a representative of the community. He asked Mr. Harmes if the community understood that they have to accept reduced lot sizes in a CDD rather than having the ability to continue to oppose reduced lot sizes. He asked if the community has ever accepted that it is necessary to have reduced lot sizes.

Mr. Harmes said they were never told and he was never aware that part of this agreement would be 32 or 34 foot lots because in the agreement they very strongly suggested at least 60 foot lots.

Councillor Rankin said he does not understand what Mr. Harmes is meaning by undersized lots because by CDD you accept an accommodation of certain things including lot sizes.

Councillor Deveaux said a CDD in his understanding indicates that changes can take place which may be in opposition to what the local plan indicates. He said if it is determined to be innovative then offer various opportunities such as the plan which is being presented here this evening. He said in May of 1991 after the agreement was made to expand the treatment plant and subsequently the serviceable area was expanded down to the river, there was a letter sent to Mr. Harmes at that time. He said that went through as a CDD and went through his committee when the changes in the development plan were approved.

Mr. Harmes said they are an authorized group and they do believe they are representing the people. He said he stated that they had no opposition to the CDD as they knew of it and as it was proposed by Keel. He said they saw no problem with the initial development proposal because there were not lots under 6,000 sq. ft. and nothing under 60 ft. frontage. He said they had no reason to oppose that and therefore did not respond. He said he did receive

the correspondence and was aware.

Mayor Lichter said his involvement in planning matters and his understanding of CDD's was always that any community group that wanted 6,000 sq. ft. lots, in any particular area, with single family dwellings, could simply say zone this area R-1. He said when it was stated CDD it simply meant "give this area special consideration that is something less than that R-1".

Mayor Lichter said the letter to Mr. Skora from CFB Shearwater addresses four points. The base commander asked the following questions: 1) will there be only single family type dwellings; 2) will there be some high rise multiple family dwellings; 3) the proximity of the proposed development to the centre line of runway 16 and 34 and 4) residents would be subject to extremely high noise and vibration levels from aircraft departing runway 16 and also the noise and vibration levels from departing high performance aircraft would likely prove intolerable for residents of the development.

Elizabeth Quinn, Cow Bay. He said she help in the development of the first municipal development plan. She said she is not in favour of the development as it is presently presented. She said this is the first time, to her knowledge, that CDD zoning is used for new development in the district. She said when the CDD was explained to the public participation committee members it was that you could have control of what goes in a CDD. She said during the last couple of meetings in the community, the councillor has echoed that phrase. She said it seems now that the CDD zoning has become a mechanism that gives a developer a chance to pay no attention to a planning strategy and violate the zoning by-laws. She said all this time had not been spent to put together a municipal planning strategy and by-laws and then throw them out. She said if there has to be development the size of Heritage Hills let it be development on regular size R-1 lots with no change to the conservation areas since those conservation areas have been identified as not suited for development in the staff report. He said if council's concern is that the development does not use sewage treatment plant capacity to its greatest efficiency, she would suggest that the developer take the unused capacity of this development and apply it to properties in the neighbouring district.

Guy Spavold, 162 Briarwood Drive, Eastern Passage. He said he has been a resident of Eastern Passage for approximately two years. He said he likes the area he lives. He said he is a member of the planning committee of the Eastern Passage Ratepayers association and has been in that position for approximately six months. He said the petition that was circulated had approximately 1400 signatures in opposition to the development. He said his comments will be from his personal perspective. He said when he moved into the area he had wanted to move to the area. He said there is a community feeling in the Eastern Passage area. He said when they

decided to move to the area there was too much high density development in the way of semi detached dwellings. He said he feels that if the present density of the community increases it could threaten the distinctiveness.

He referenced the MPS for Eastern Passage and Cow Bay. He referenced page 4, 9, 11, 12 and 49. He said from his reading of the MPS the concern is with density and not semi detached dwelling. He said when this MPS was adopted in 1992 it was adopted at a time when R-1 properties in the community had gone from 74% of the houses in 1981 to 45% of the houses in 1992. He said 60% of the proposed housing is high density those being the C,D,E, and F lots. He said 40% is close to low density. Some of them are R-1 but some may not be. He said there is not a 70/30 mix between low density and high density for this proposal as is required in the MPS. He said the planning act requires council to consider the items set out in item IM-11 of the planning strategy before it approves this proposal. He said IM-11A requires that council consider that the proposal is in conformity with the intent of this planning strategy and with the requirement of all other municipal by-laws and regulations. He said this means it goes beyond a mere agreement between the county and the developer because this is something that has to go beyond a pure freedom of negotiation or contract in that council must consider before approving the agreement that the proposed agreement is in conformity with this planning strategy.

He asked how can a development that is 60% high density be in conformity with the planning strategy which requires high density of only 30%. He said the proposal has 70% single unit dwellings and that is how the issue of density is gotten around. He said he feels this is a mistake in the way that this MPS is looked at. Does this protect the distinctiveness of the community. He said he does not believe this proposal provides support for solid residential community. He said the community needs more low density housing as is contained in the MPS. He said the figures are now 55% high density 45% low density. The target figure is 70% low density 30% high density and he does not see how this can go towards providing for the solid residential community base which the MPS envisages because this will not improve that situation.

He said the solution as he sees it is that the A and B lots under this proposal are close enough to R-1 lots to be R-1 lots and it makes little difference to him about how the remaining 30% of higher density housing, whether semi's or small buildings on small lots. His proposal would be to allow the property to be developed 70% in the A and B lots, 30% in the D and F lots, leave the conservation areas and if there is any unused sewage capacity then allow the developer to take that sewage capacity wherever he can best use it. He said a development should not be forced on the community which is contrary to the municipal planning strategy and will not enhance the community.

Bob Horne spoke in opposition to the application. He said he is not a land owner in the area of this development. He said he is concerned with the high density of this proposal. He said the area had a higher density of duplexes than any other area. He said when the MPS was made up the planning committee of the day saw fit to provide for basement apartments. He said it was all zoned R-2 at that time to accommodate those basement apartments. He said back in the 1980's there was a demand for semi detached housing and developers saw Eastern Passage as a good place to build them with R-2 zoning. He said consequently there is not a very high number of semi detached homes in Eastern Passage proper. He said if anyone who owns a semi wants to upgrade has to leave the area or go to an unserviced area in Cow Bay. He said what is needed is an area where residents that own semi's can upgrade within the community. He said the MPS does make reference to the high density of semi's and the intent was that in future that lands that weren't zoned R-2 would become R-1 to try to bring the mix down to a 70/30. He said he would like to see that no more semi's be built until that mix is accomplished.

He said when he was on the planning committee there was a planner from the county help in formulating this plan. He said a CDD came up and at the time they thought the CDD was good and they would have some say in the development. He said they would like to have R-1's. He said they thought it would be a way in which they could have some control over development. He said he is not against development but against the development as it stands. He said he would like to see more low density development.

Councillor Ball said Mr. Horne had indicated that people who live in semi detached housing are having difficulty finding single unit dwelling in that area and as a result have to move away from the community. He asked what Mr. Horne's definition of a single unit dwelling.

Mr. Horne said he is referring to a single family home on a 60 by 100 foot lot.

Councillor Deveaux said a number of years ago people were complaining about mobile homes. He said when duplexes were built a stigma was attached to them. He said it wasn't a duplex but the size of the duplex. He said there is now an opportunity to allow people to have an affordable single family home. He said people know what they are buying. It may be a little smaller lot but the houses are very presentable. He said these houses and lots may be a little smaller but they still offer the privacy of a single family home.

Mr. Terry Horner, spoke in opposition to the application. He said he has been a resident of the area for three years as a permanent resident. He said he has lived in the Briarwood subdivision for the last two years. He said they like Eastern Passage/Cow Bay they

decided to rent their home in the Subdivision and buy a house in the area because of the identity, the way of life and what the community has to offer. He said he attended the last public meeting to find out what this was about. He said he is at this meeting because he is opposed to it. He said having lived in Briarwood subdivision he sees problems when it comes to snow removal in some of these small areas. He said the front lots are very small and they are not very wide lots and eventually, if there is any large amount of snowfall, there will be a problem with snow removal. He said he is also concerned that if this is approved tonight in its present form he is worried that down the road it will be setting a precedent. He said there will not be the chance for public input to oppose it again. He said there are a large number of people who attended the public meeting and a lot of people were very distressed. He said the majority of people opposed to the CDD spoke at that meeting. He said he feels that a lot of people voiced their opposition, but because it was held in council chamber and not in Eastern Passage, there is a relatively small turnout at this meeting.

He said Eastern Passage needs more single family dwellings. He said he would like to see 60 foot lots. He said there has to be room for compromise. He said as a result of all the public meetings the majority of people are upset over the small lots. He suggested that the county go back and take another look at this. He said Eastern Passage has a lot to offer. He said he likes the area because of its proximity to the city, the air is clean, he knows all his neighbours. He said it has a small town feel to it. He said he feels if you get into developments like this you are going to lose that feel and that identity.

Councillor Ball asked what he considered to be a rural area. Does he consider Eastern Passage a rural area.

Mr. Horner said he considers Cow Bay to be a rural area. He said he considers Eastern Passage to be a rural area because of the fact that there are no traffic lights, there are no large shopping centres, there is not a high number of people living in the area. He said he looks at a lot size as being 60 by 100.

Councillor Ball said he was asking if 6,000 sq. ft. is rural in nature.

Councillor Deveaux said there is nothing to say that the rural atmosphere is going to change if a certain type of development is approved within the community. He said when sewer and water goes in the ground in a community they are there to be made use of. He said you can't put millions of dollars worth of sewer lines in the ground and turn down development which, in this case, is a much better plan that was originally proposed for that CDD.

Mr. Horner said he understands that tax dollars have to be created

and he is not opposed to development. He said water and sewer is needed in the recreation area at the ballfield.

Mayor Lichter said Mr. Horner had made the comment that the public hearing is not being held in Eastern Passage and consequently the number of people who would have been there haven't come here. He said Councillor Deveaux has moved that the public hearing be held in the community but when the vote was taken council decided to vote against it. He said a courtesy bus was provided. He said nobody tried to make it difficult for the residents to attend the meeting.

Mr. Horner said his point is that the public meeting was held and a number of people who had concerns vented their concerns there thereby diffusing a lot of the concerns being heard tonight. He said he is here to make sure that some people who went to that public meeting actually came here to oppose this.

Mr. Robert Naugle, 1899 Shore Road spoke in opposition to the application. He said he is opposed to high density because it will cause overcrowding. He said parking is going to be a problem and school will be a problem because compact housing in concentrated levels will subject Eastern Passage to a higher risk of adolescent crime level and mischief. He said the developers are not concerned with the aftermath of the workmanship, once they are gone the residents are left to live with it. He said he is not in favour of the high density.

Mr. Bill Stanbrook spoke in opposition to the application. He said he is in favour of good development that will allow the community to grow; however, after sitting on the planning committee during the development of the new plan and trying to address past mistakes identified by community members, he does not see this as a good development for Eastern Passage. He said when the CDD was originally asked for by Keel Developments for this land it came to the planning committee for comments. With the help from a staff person considerable time was spent on the Keel plan with regards to what were the pros and cons of a CDD. He said those meeting left him with the impression that the CDD would allow the mix of any form of residential property found within the land use by-law. He said the plan does not have 36, 40 or 54 ft. wide R-1 lots. He said in section UR-13 of the MPS it says "council shall regard to the following: (d) that where the development provides for a mix of housing types it does not detract from the general residential character of the community and (f) that the development consistent with the general policies of this planning strategy and further its intent". He said this plan does not meet either of those requirements.

He said density and capacity is referred to as the same thing. He said the whole land area of the CDD may indicate that it should allow 628 units. He said in the end the density for the actual

area built on will lead to narrow sideyards, small front and back yards, no place to put the snow in winter and the feeling of overcrowding. He said without proper space, personal as in yards and community as in green areas and parks, there will be problems. He said he would urge the removal of the R-1 and ensure that the lots meet the 60 by 100 ft. minimum as laid out in the plan.

Councillor Ball asked why Mr. Stanbrook associates development with crime.

Mr. Stanbrook said any time you increase the population you are going to get more problems.

Councillor Ball asked if he was saying that by restricting development you are restricting crime.

Mr. Stanbrook said he did not say to restrict development just get rid of the smaller lots. He said if you start crowding people in you will have problems. He said this is his opinion.

Mr. Donald Houdak, Cow Bay, spoke in opposition to the application. He said no one is against development but they are against the density. He said this development is right at the end of the Shearwater runway. He said to put a development of that density in that area is poor planning. He said if a plane should crash at the end of the runway it will be a disaster because of the density. He said proper planning would develop that land less densely in that area.

Councillor Deveaux said Portland Estates had the same warning several years ago and they went ahead. He said there are lots of areas that live within air flights of airports. He said the people who buy these houses know where they are going to live. He said they have the choice of knowing that before they purchase.

Councillor Fralick asked Mr. Houdak if he had been at any of the public participation sessions.

Mr. Houdak said that yes he had been.

Councillor Fralick asked if there were more people at the public participation sessions than what is in the gallery this evening.

Mr. Houdak said yes there had been more people, approximately 150. He said it does not make sense to develop that area that densely. He said Shearwater has said this is a potential impact area. He said this means if a plane goes down in the area it will be a disaster.

Mayor Lichter said he would like the record to show that council has the petition with approximately 1400 names on it. He said in addition there was also a letter from Mr. Neil Bowlby, dated

October 28, 1993, in opposition to the application. A letter from Murdock McKinnon, dated November 4, 1993, in support of the development. A letter from Mrs. Quinn. A letter from the Athletic Association.

REBUTTAL BY APPLICANT

Mr. Zwicker said there doesn't seem to be a concern with the development in general. There doesn't seem to be opposition in looking at uses other than single family homes. It appears to be with respect to the size of the lots that are less than 54 feet in width and around the issue of density. The issue of density came up with the last number of speakers and he did not deal with it specifically but this may fall in the realm of new evidence. He said the City of Halifax considers high density to be anything from 40 units an acre and up. He said when you talk medium density they are dealing with between 15 and 25 units per acre. Low density is considered to something in the range of four units to eight units per acre. He said the ends of the ranges don't necessarily match because they are descriptions so that when somebody refers to one of their strategies and says they are talking high density they can be talking between 60 and 70 units and acre in Halifax. In Dartmouth they are talking 25 or 30 units and acre and in the Town of Bedford they are talking 15 units an acre. Low density falls in the range of 4 to 8, medium - 15 to 25 and high - 40 to 75. He said their development as proposed comes out to 4.7 units per gross acre. He said if a net calculation was used, taking out all the conservation area, it is 6.18 units per acre. He said this is a low density development.

He said this proposal is considerably less dense than the densest section of the existing built up portion of Eastern Passage. He said one of the objectives of this development plan is to provide for a range of development or housing options within in a reasonable price range within the context of Eastern Passage and within the context of Metro. He said they feel they have provided very good, high quality, very interesting design and still have been able to achieve a level of affordability for people to enter into the housing market. It also allows people to move up within the housing market. He said there are a number of lots that are six thousand square feet plus that are in the range of fifty five feet to sixty feet plus in terms of frontage. He said that is equal in size to any other family lot that is available in metro. He said anyone who is looking to move within their housing market from a semi or a mobile home will have a number of options to consider with respect to this development that is not presently available in the market at the present time.

He said there were some lots that were less than sixty feet of frontage in the initial Keel Development project.

Councillor Deveaux said Mr. Armoyan has made a number of

compromises since this came forward. He asked Mr. Armoyan if he would be willing to make some compromises with regards to the plan that would bring about more agreeable acknowledgement from those who may still be in opposition.

Mayor Lichter said he feels this is something that would have to be dealt with in the negotiating process.

Councillor Deveaux said he is aware that this could not be approved at this meeting but it would give council and the people in the audience some indication of how he is willing to compromise.

Mr. Armoyan said this CDD process started approximately one year ago. He said they called the residents association to inform them that they had purchased the land and would like to meet with them to inform them of what their plans were. He said it took approximately four meetings and the plans were changed along the way. He said the plan had been changed quite a bit over the past year to address concerns. He said this process has taken over a year. He said they will consider eliminating the thirty six foot lots subject to all being two types of lots in the subdivision, forty foot and sixty foot. He said all the fifty four foot lots and all the thirty six foot lots would be forty foot lots and the sixty foot lots would remain. He said all the R-2 lots have to be sixty four feet instead of sixty four and seventy.

He said Eastern Passage has land within the serviceable boundary and it is very difficult to service that land based on a rural concept. It is prohibitive to do that with the services that are there. He said there is entry level housing and as financial situations improve people can move up without having to move away from the subdivision. He said he is happy with the plan the way it is and if he has to proceed on that basis he is willing to do so. He said he is willing to compromise subject to certain conditions.

Councillor Deveaux asked what would be involved in looking at the compromises that Mr. Armoyan has suggested.

Mayor Lichter said council would have to deal with this application. Depending on the outcome of this application, council would then have to direct staff to enter into negotiations with the applicant for a new development agreement which would have to be readvertised, a new public hearing called and dealt with the same way as it is being dealt with tonight.

Mayor Lichter said this meeting cannot deal with anything that is a substantial change from what was being proposed and what was advertised.

Councillor Deveaux asked how long it would take for things to be prepared for another public hearing.

Mr. Donovan said the rezoning aspect of this was intended to address some minor mapping deficiencies. He said they wanted to have the two little areas rezoned and that was part of the recommendation. He said that was not advertised. He said in his view if you restricted the discussion at a public hearing to the rezoning then that rezoning could be heard at a very early date. He said they would suggest December 13. He said that date would have to be approved at this hearing in order for the advertisement to be placed in the paper. He said that was assuming there would be no amendments to this development agreement tonight. If the development agreement was to proceed as is to some future date where council could then defer its consideration of the development agreement as is to that date on December 13 at which time the rezonings could be dealt with as well. He said the matter can be considered and the decision made by council on the development agreement as well that night because the decision could be deferred to that date which all members of the public would be aware of. If there are some substantive changes made to the agreement as a result of tonight's meeting or subsequent to that he can't guarantee an early delivery of a development agreement and an advertisement. He said it is not as easy as delivering a development agreement to council on December 13, it means renegotiating certain aspects of the agreement, having new maps drawn up and having some approvals, in principal, between various departments prior to Friday. He said he feels it should go through Planning Advisory Committee again before coming back to council.

Mayor Lichter said because of the two small pieces that have to be rezoned, and were not advertised, council cannot deal with this development agreement tonight. He said he would suggest that the advertisement would go out for December 13 for those two pieces that have to be rezoned and in the meantime staff prepare a report on some of the requests that have been made by the Armoyan Group, many of the requests that have been made by the citizens of Eastern Passage and report back to council, on that same date, as to what is seen as the best possible approach for council. If at that time it is recommended to reject it and start over to renegotiate it then council will deal with that issue. If it is recommended that council debate what has been heard and make a decision then council will have to proceed.

Councillor Ball said the PAC has dealt substantively with this issue for a long period of time and if it is going to be referred and deferred then that committee should take another look at it. He said he believes council has to defer the matter of making a decision tonight to December 13th and council can either make a decision on the 13th to either endorse this plan or reject the plan. He said if it is to reject the plan for whatever reason then go from that point.

It was moved by Councillor Ball, seconded by Councillor Peters:

"THAT THE ITEM BE DEFERRED TO A DECISION ON THIS PARTICULAR COMPREHENSIVE DEVELOPMENT DISTRICT TO DECEMBER 13, 1993 AS IS ADVERTISED IN CONJUNCTION WITH THE ADVERTISING FOR THE REZONING OF THE PROPERTY UNDERSTANDING THAT THE PUBLIC HEARING PORTION OF THIS PART IS OVER AND THAT THE ONLY THING THAT COUNCIL WILL BE ADDRESSING, IN TERMS OF A PUBLIC HEARING, WILL BE THE TWO REZONING MATTERS AND COUNCIL MAKE A DECISION THAT NIGHT ON THIS DEVELOPMENT AGREEMENT ONE WAY OR ANOTHER"

Motion withdrawn.

Councillor Merrigan said he would like to have staff and PAC take a look at the issue to see if they could make an alternate recommendation.

Mayor Lichter said councillors who have been in attendance have heard what people have to say. He said they have to make up their minds as to what they are going to do with the presentations and those councillors not in attendance cannot vote on the issue.

Councillor Merrigan asked if the agreement can be rejected as it stands.

Mayor Lichter said it can be rejected as it stands with expressed reasons.

Councillor Merrigan said he does not see the point of waiting until December 13th to make a decision on something that are said to be housekeeping items. He said he feels a motion to reject should be placed on the floor. He said if the motion of rejection does not pass then go to the 13th and deal with the items at that time. He said if it is rejected then between now and then it can be worked on to try and find another compromise.

Mayor Lichter said the solicitor pointed out "with expressed reason" in order to get either motion of approval or a motion of rejection. Expressed reason will come out of a full debate only. It is unjust to do it any other way.

Councillor Deveaux said taking into consideration the compromise that Mr. Armoyan has indicated he does not want to lose track of that. He said regardless of what happens this evening he would still would like to see something put in place where his proposed changes could be brought about or at least put to a public hearing. He said he feels Mr. Armoyan has come up with a good compromise.

Mayor Lichter said he does not think it is impossible.

Councillor Deveaux asked what procedure would have to be followed to have this looked at.