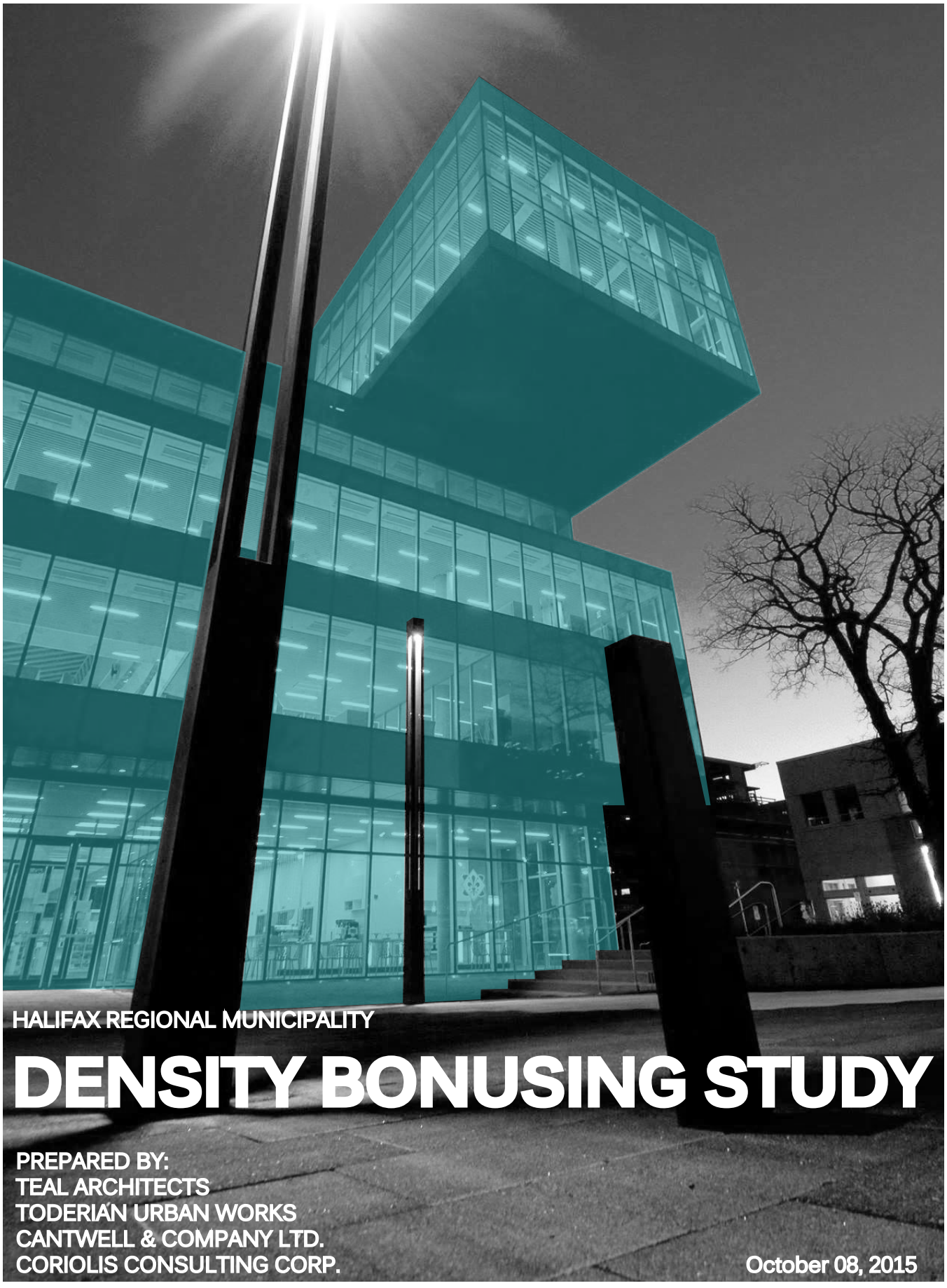

HALIFAX REGIONAL MUNICIPALITY

DENSITY BONUSING STUDY

PREPARED BY:
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October 08, 2015

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Light Art • Vancouver, BC http://tinyurl.com/qduzto5

Executive Summary

A Density Bonus is an increase in built area in exchange for public amenities and/or benefits that contribute to the livability and proper planning of the neighbourhood affected by the resulting increase in density. Municipal permission is given via pre-zoning or site-specific agreements.

Halifax Regional Municipality (HRM) has been practicing density bonusing in Downtown Halifax since 2009. Until recently this was the only area where the HRM Charter permitted density bonusing. The last round of amendments to the Charter has enabled HRM to extend this practice to the Centre Plan area that comprises the entire Halifax peninsula plus Dartmouth lands inside the Circumferential Highway. The area covers 33 square kilometres with a wide variety of residential, retail, commercial, institutional and recreation activities, and a multitude of building types to accommodate them.

This study provides thoroughly researched answers to four questions:

1. Is HRM getting the best value out of density bonusing as a planning tool?

2. What can be learned from other municipalities that have had successes and challenges using density bonusing?

3. How can density bonusing be improved in order to achieve more/better public benefits?

4. How should density bonusing be expanded and implemented within the Centre Plan Area?

Questions 1 and 2 were addressed in parallel.

In response to question 1, this study demonstrates that the Density Bonusing practices being implemented in Downtown Halifax are not as effective as they might be in obtaining public amenities and/or benefits that contribute to the livability of the community. That conclusion was drawn after examining the seven incentive or bonus zoning agreement completed or in progress in the Halifax Downtown area over the past five years. The value created by allowing increased height and density was significantly greater than the value of public benefit realized.

To answer question 2, a detailed assessment of density bonusing policies and practices in 14 cities in Canada, the US, the UK, Australia and New Zealand was conducted, and observations were sorted into nine categories. These observations were transformed into principles for effective density bonusing programs, and finally, recommendations were tailored to the current situation for Halifax's Downtown and Centre Plan areas.

To address questions 3 and 4, the main features of the recommended approach are:

- To adopt a Land Values Area Map for The Halifax Regional Centre as a first step for establishing value created through the density bonusing program.

- Each value area would have a clearly established rate to be charged for additional density (measured in gross buildable square meters), representing a significant increase in value achieved.

- Once the value of the additional density is established, the associated public benefit(s) would be determined from a list of available options.

- In most cases within existing zoning, senior staff within HRM would use the rate and establish the form of public benefit. The result of the process would not need Council approval. For most projects, the development community would be able to reliably forecast the financial implications of seeking additional density.

- For some projects processed through a discretionary approvals process, such as by Development Agreement, the additional density and value may be negotiated through an appraisal and assessment system, and approved by Regional Council.

- For the recommended density bonusing program to be successful, a new culture of decision making and authority must evolve. To support this culture, HRM staff training and some re-organisation of decision-making is necessary.

The details of, and rationale for, the recommendations are developed and presented in the following report.

TEAL Architects // project management, research, integration and presentation within a consistent framework

Toderian Urban Works // expert advice regarding density bonusing policies and practices

Cantwell & Company with Coriolis // analysis and forecasting of economic & financial implications and outcomes

Halifax Public Library

5440 Spring Garden Road
Approved 2011
Added Density Bonus Area: 1,404sm

1.0 Introduction

1.1 Why This Study

Density bonusing is a planning tool that enables municipalities to achieve public benefits while allowing increased density at supportable levels and in desirable locations. Halifax Regional Municipality (HRM) has used density bonusing as a planning tool in Downtown Halifax since 2009 and was granted permission in 2014 to use density bonusing in the Centre Plan Area. Through the use of density bonusing, various amenities and other positive public outcomes, referred to as "public benefits", have been achieved, including amenity space, heritage preservation/restoration and LEED-certified sustainable buildings. As of June 2015, seven projects have provided public benefits, which have been or will soon be accepted by the Municipality from the developer through a bonus zoning agreement. These benefits total nearly $1.4 million in public value. While some of these projects have already been completed, others are still in the pre-construction phase. These and other benefits represent investments for the public interest that may not have been achieved without the use of density bonusing.

As an increasingly common planning tool, density bonusing has been used in various cities nationally and internationally, with each example providing valuable lessons that can be instructive in improving Halifax's existing system. The intent of this study is to evaluate the existing density bonusing system in use in Downtown Halifax, while also considering how best to extend density bonusing to the Centre Plan Area.

The key questions asked while completing this study were:

1. Is HRM getting the best value out of density bonusing as a planning tool?
2. What can we learn from other municipalities that have had successes and challenges using density bonusing?
3. How can density bonusing be improved in order to achieve more/better public benefits?
4. How should density bonusing be expanded and implemented within the Centre Plan Area?

1.2 Study Methods

The study methods used to complete this project are described below, listed in stages one through six;

Stage One: HRM Density Bonusing Policy Review

This stage involved a review of HRM's municipal documents as they refer or relate to density bonusing or "incentive or bonus zoning" as it is called in these documents.

- The Halifax Regional Municipality Charter
- Downtown Halifax Secondary Municipal Planning Strategy (DHSMPS)
- Downtown Halifax Land Use By-law (DHLUB) and Schedule S-1: Design Manual

Municipal Planning Strategies and Land Use By-laws that currently apply to the Centre Plan Area were not reviewed as these documents do not contain density bonusing policies.

A review of HRM's various development charges was also completed at this stage. The review was used to inform a graphical comparison of density bonusing and other sources, as a means of funding costs associated with growth.

Stage Two: Best Practice Review

For this study, a review of over 14 cities was conducted. The approach was based on lessons or "principles" that could be learned from multiple cities. This approach allowed for a broader review of more cities than could have been covered with a typical case study approach. The cities considered and the conclusion drawn are included in Section 3.0.

Stage Three: Review Enacted Incentive or Bonus Zoning Agreements

The following projects were reviewed as example cases where the developer participated in HRM's density bonusing system. Six of these projects are completed or are under construction. For the example of 22nd Commerce Square, a bonus zoning agreement has not been finalized so public benefits that were proposed at the site-plan approval stage were considered.

1. Halifax Central Library (5440 Spring Garden Road)
2. TD Bank (1785 Barrington Street)
3. Mary Ann site (1452 Queen Street)
4. Winsby's site (5504 Spring Garden Road)
5. The Dillon (5268 Sackville Street)
6. The Maple (1583 Hollis Street)
7. 22nd Commerce Square (George and Granville)

Interviews were conducted with the developers of all seven projects. Their perspectives and insights into the density bonusing system were considered in the development of policy recommendations.

Stage Four: Derive and Map "Value Areas"

Value areas were determined based on expert understanding of property values in the Regional Centre. Distinct areas were identified by drawing boundaries between areas with higher and lower property values. These value areas can be used in the application of varying flat rates for bonus zoning calculations. Originally, a map of 19 distinct value areas was created. This finer-grained version was converted to a more large-grained map containing seven areas to allow for easier implementation of the Density Bonusing Program.

Stage Five: Financial Impact of Density Bonusing

A financial impact of the use of density bonusing in the Centre Plan and Downtown Halifax Area over the next 10 years has been projected using a variety of assumptions. Assumptions relate to housing demand, employment rates, interest rates, density bonus floor area amounts, density bonus rate charged, building uses and residential unit sizes, as listed in Section 5.0.

Stage Six: Recommendations

Nine topics (A through I) were derived throughout stages one through four of the methods. The topics cover the aspects of density bonusing programs.

Recommendation topics are in Section 6.0 under the following titles:

A Culture, Capacity and Communication

B Density Bonus System Approach: Fixed Rate for Downtown Halifax

C Density Bonus System Approach: Fixed Rate for Centre Plan Area

D Density Bonus System Approach: Negotiations and Rezonings

E Streamlining the Density Bonus Approving Authority

F Who Chooses Public Benefits

G Public Benefits Achievable Through Density Bonusing

H Setting Base + Maximum Densities

I Additional Recommendations

1.3 Report Organization

This report is in six chapters and provides the background, methods and recommendations that have formed the study of HRM's current and potential Density Bonus Program. Since density bonus programs deliver on several aspects, each of these aspects are used to guide the information in this report and are:

- Culture, Capacity and Communication
- Density Bonus System Approach: Fixed versus Negotiated Rates
- Streamlining the Density Bonus Approving Authority
- Who Chooses Public Benefits
- Public Benefits Achievable Through Density Bonusing
- Setting Base + Maximum Densities
- Additional Recommendations

Generally, these aspects structure Sections 3.0 Learning from Other Municipalities, 4.0 HRM's Existing Density Bonus Program and 6.0 Recommendations (with some expansion to the aspect called 'Density Bonus System Approach').

More specifically, Section 2.0 answers the question, 'What is density bonusing?' It describes why public amenities should be collected as the city densifies. It also lists and compares the various sources of funds used to pay for the costs of growth. Section 2.0 describes how Density Bonus contributions are collected upon development: using either a fixed-rate or negotiated rate and whether the program considers development to be any addition in floor area ratio (FAR), or in height only.

'Section 3.0 Learning from Other Municipalities' uses an alternative approach to studying directly comparable cities as it emphasises the issues that cities face when implementing density bonus programs. This review delivered the aspects of density bonus programs that have formed the headers used to frame Sections 4.0, 5.0 and 6.0. The Section provides general observations on cities' density bonus programs, and has derived principles of effective density bonus programs.

'Section 4.0 HRM's Existing Density Bonus Program' provides a review of HRM's density bonusing program as it currently exists. The review includes three elements: a summary of policies that enable the tool, an overview of development projects that have achieved

density bonusing and structured observations on the system from the team and from the local development industry.

'Section 5.0 Deriving the Value of Density in the Regional Centre' delivers an understanding of the land values in the Halifax Regional Centre. Included is a moderately fine-grained map showing areas of congruent land value in HRM, proposed density bonus values, and a projection of the value of density bonusing to HRM 2016 - 2025.

'Section 6.0 Recommendations' lists recommendations to HRM on the aspects of density bonus programs used to structure this report. Each recommendation is prefaced with a short summary of the conditions that contributed to the recommendation, options and a short discussion leading to the recommendation. Conditions, options and discussions are derived from the work completed in Methods Stages 1-4.

Halifax Central Library • Halifax, NS

TD Building Expansion

1785 Barrington Street
Approved 2011
Added Density Bonus Area: 4,952 sqm

2.0 What is Density Bonusing?

Density Bonus: is essentially an increase in built area in exchange for public amenities and/or benefits, which contribute to the liveability and proper planning of the neighbourhood affected by the resulting denser population. Municipal permission is given via pre-zoning or site specific agreements.

The HRM Charter uses the term "incentive or bonus zoning" to describe density bonus in HRM and defines it as "requirements that permit the relaxation of certain requirements if an applicant exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements". Municipal permission is granted by site plan approval (SPA) and entering into an incentive or bonus zoning agreement (IBZA).

When done well, increases in built form and population density can be a vital ingredient for the success of a city in many ways. Density supports more "complete" and mixed-use communities, where people can walk to their jobs, nearby shops, cafes and restaurants because of the proximity that density creates. Well designed density supports communities where walking, biking and public transit are both viable and delightful. It supports more active lifestyles as trips by walking or biking become more practical and enjoyable, and driving becomes less so. It supports social interaction and equity, economic activity, human creativity, and more sustainable living by, among other things, reducing our carbon footprint.

Concerns around 'too much density' can be addressed or mitigated through an emphasis on proper design as a first requirement, and a discussion of appropriate amenities and services to meet the needs of denser populations. In fact, density is often required to ensure that these services and amenities can be provided in such a way where the costs can be distributed among many people. A clear example of this is public transit. The argument could be made that HRM does not have enough density in much of the urban area to support resilient, sustainable and healthy neighbourhoods.

Density Bonusing gives cities an opportunity to ensure, as much as possible, that added density will result in corresponding public benefits to the current and future residents of neighbourhoods that are experiencing development pressure. The intent of any density bonus system is to ensure that density is accompanied by the amenities and public benefits that support successful densification. In short, density bonusing is a potentially powerful tool intended to facilitate smart growth and good planning.

Many Density Bonus Programs enable bonus density to be expressed in additional floor area throughout a building volume prescribed by a land use by-law, not just additional floor area through additional building height. Floor area is typically measured by the floor area ratio (FAR), which is the total gross floor area divided by the lot area. The pros and cons of measuring volume or just height are as shown.

	Volume (FAR)	Height
Pros	Highly flexible; precise; easily translatable into systems such as density bonusing and other value creation tools, especially when getting into nuances such as density transfer or the calculation of value when density is "shifted" within a site.	Simple to measure, enforce, and explain.
Cons	Can be perceived as more "complex" and harder to explain.	Does not permit sensible additions to occur other than on top of the building, which may or may not always be the best place, or sensible. More challenging to use in contexts where height is less of a dominant factor (e.g. areas outside of the downtown).

Figure 1. Pros and Cons of measuring volume and height.

TD Bank Barrington Street Expansion • Halifax, NS

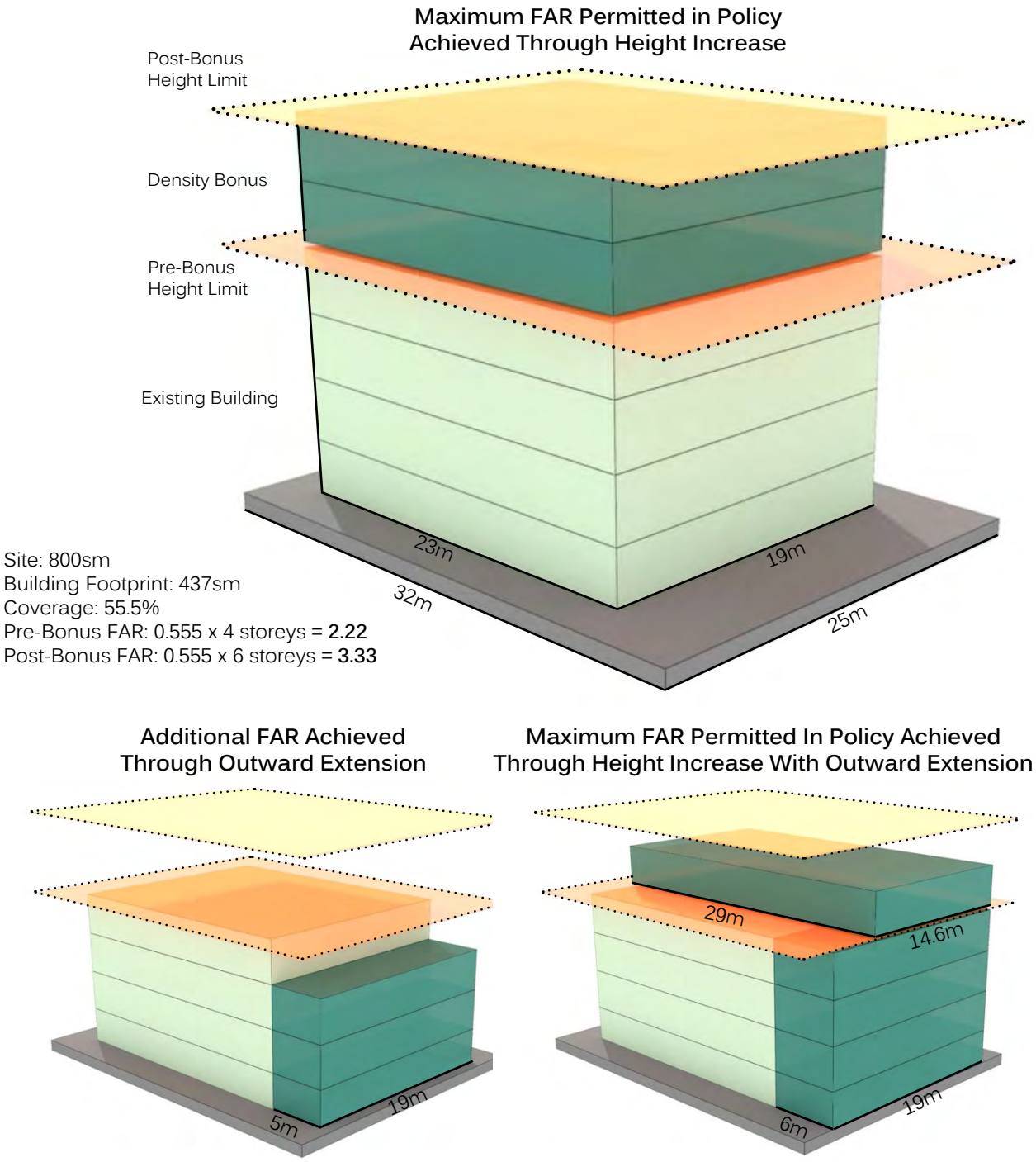

Figure 2. Floor Area Ratio (FAR) achieved through height or outward extension.

Additional density in the form of FAR may be used not only in additional building height. The figures below express how a density bonus program may direct additional density upward (in height) and/or outward. To note, additional density must conform to the setbacks, stepback and other requirements of a land use by-law that shape the total building volume (for reasons specific to the regulating municipality).

There are, broadly speaking, two generalized approaches to calculating contributions from density bonusing systems: flat-rate systems and negotiated programs. Both systems can be used by one municipality. The pros and cons of each of these systems are shown in the continuum below and described further on the following pages.

CASE - BY - CASE
BEST PUBLIC BENEFIT OUTCOME, MOST ONEROUS ON DEVELOPERS

HYBRID SYSTEM

STANDARD VALUE AREAS
SOME PUBLIC BENEFIT OUTCOME, LEAST ONEROUS ON DEVELOPERS

NEGOTIATED WITH PRO FORMA	NEGOTIATED WITHOUT PRO FORMA	EITHER FLATRATE OR NEGOTIATED SYSTEM USED	FLATRATE FOR SMALLER VALUE AREAS (MANY)	FLATRATE FOR LARGER VALUE AREAS (FEW)
• Municipality calculates public benefit using numbers shown in a project pro forma • Longer process time • Most accurate account of bonus charges	• Municipality makes estimates of developers' costs • Negotiation based on estimates of costs and benefits needed • Longer process time		• More value areas reduces the range of land value that the flat rate is based • More opportunity to realise full cost of public benefits to accomodate density than with fewer areas • Somewhat onerous to update	• Fast process • Easy to update • Most opportunity to miss value capture for public benefits

Figure 3. Density Bonus System Types.

2.1 Prezoned Density Bonusing (using a flat rate)

In a **pre-zoned** system, the ability to increase building density beyond the as-of-right floor area ratio (FAR), or height, is established in Provincial legislation and Municipal policy. Additional density is charged at a determined flat rate. Zones (building scale and uses) eligible to receive density bonusing are likewise established in Provincial and/or Municipal policy, as is the list of appropriate amenities and benefits to be collected by the Municipality. Corresponding density is pre-established on a per square metre (sm) basis.

The flat rate, or formulaic amenity contribution, is based on land values within geographic areas defined by the Municipality. Amenity contributions are collected using this rate. No site-specific value calculations of "land lift", or negotiations, are needed to determine the contribution amount. The "land lift" refers to the increase in value of the land after a decision of the municipality, and usually excludes a figure for reasonable developer profit.

The advantage of a pre-zoned approach is that individual applications do not require a rezoning, development agreement or similar Council-approved process, with corresponding costs, delays, and potential political uncertainty. The advantage of flat rate systems is that they are easy to use and are predictable. A flat rate can be anticipated by land purchasers and thus included in land value assumptions. Flat rate systems are usually preferred by the land development industry, and in some cases by municipal staff.

The disadvantages of pre-zoned approaches are that these approaches tend to be simple and prescriptive due to a need for the zoning system to be easily implemented, legally defendable and able to be implemented without Council oversight. This corresponds with potential lost flexibility and lost opportunities for greater achievement of public benefits and value. The disadvantage of a flat rate system is that the flat (fixed) amount is often set fairly low (within the range of land values in the area) because of the need to be "reasonable" in order to allow the viability of more projects in the flat rate area, or corresponding density bonusing policy area. The phrase "leaving public value money on the table" is often used to describe the observation that flat rate systems tend to collect a relatively low amount of public value compared to site-specific negotiated systems.

2.2 Negotiated Amenity Contributions (usually at rezoning or development agreement)

The alternative to flat rates within pre-existing density bonus zones is to negotiate the amenity contribution for individual sites - an approach usually used in the context of developer-initiated rezoning.

This site-specific negotiated approach means the value of the amenity contribution is tailored to each project, which takes more work but results in a public benefit package tailored to the financial and other characteristics of each project.

The site-specific negotiated approach typically proceeds in five steps:

1. The value of the site under existing zoning is determined.
2. The value of the site after rezoning is

determined. This value is presumably equal to or larger than the value under existing zoning, or the developer would not be interested in rezoning.

3. The cost of obtaining the rezoning is calculated (application fees, consulting fees, holding costs if rezoning takes longer than the development approval process for sites not requiring rezoning, any new infrastructure costs imposed on the project as conditions of rezoning). These are out of pocket costs for the developer and must be accounted for in the analysis.
4. The difference (i.e. "after" value minus rezoning costs and "before" value) is the net lift in land value that results from the rezoning.
5. The value of the amenity contribution is a target percentage of this lift (referred to elsewhere in this Study as the 'coefficient'). The target is often in the range of 75% (noting that "reasonable developer profit" has been factored into the calculations, so developer profit is already built in), so that some of the lift is left in the project and available as incentive to land owners to sell their sites or incentive for developers to seek rezoning.

Determining the value under existing zoning is usually simple. The value can be estimated using comparable sales evidence for similar development sites or can be estimated using a residual land analysis, which is a model of the financial performance of the project (sometimes called a pro forma) which estimates all revenues from the development, deducts all hard and soft costs except land, deducts an allowance for developer profit, and shows the amount a developer can afford to pay for the land. A robust analysis uses a residual analysis calibrated by using actual comparable sales evidence where available.

Determining the value after rezoning can be done using comparable sales evidence (if available) or residual land analysis. The value after rezoning takes into account all changes in allowable use, density, height, or other factors that affect the value of the site.

This approach requires a current and accurate understanding of land values and development economics. Some municipalities rely on the developer to submit a pro forma and they then review this pro forma with in-house staff or with outside consultants (depending on the depth of in-house expertise). Other municipalities have internal expertise or retain outside consultants to produce the analysis and then review it with the developer.

The main **advantages of this site-specific negotiated approach** are:

- The value and composition of the public benefits package is tailored to the site. As a result, the value and the nature of the benefits received is optimized because there is no need to set a generic target rate that must work in financial terms for all sites. In general, the total value of amenities achieved by the municipality will be higher than under a fixed rate system.
- The value of the amenities is determined at rezoning, so it reflects current market values. Fixed rates are often somewhat out of date, even when they are being regularly updated.
- There is greater flexibility in choosing a mix of cash-in-lieu and on-site amenities, whereas fixed rate systems often yield only cash.

The main **disadvantages of this site-specific negotiated approach** are:

- The approach requires more effort on the part of the municipality and the developer to determine the amenity package.
- There is some uncertainty for developers. While they can estimate the likely amenity contribution based on recent precedents and their own calculations of land lift, the actual contribution is not determined until well into the rezoning process. In contrast, fixed rates are known at the outset (i.e. when the developer is buying the site).
- There can be resistance on the part of developers, who may not be willing to share project information. This can be overcome by the municipality having access to its own expertise. To some extent, this objection is a 'red herring'. Fixed rate systems also require the municipality to have a good understanding of market conditions, project economics, and land values in order to set the rates appropriately, although this knowledge is admittedly more market-wide than project-specific.

2.3 Urban Land Economics Rationale for Density Bonusing

When a developer acquires a property, the developer is buying both the land and the development entitlements attached to the land. These entitlements are usually in the form of zoning or some other permission. The amount that a developer is willing to pay for property is in large part a function of the type and amount of development that they expect would likely be approved, and the anticipated financial performance of that development in the context of existing and anticipated future markets.

Where there is a well-considered and calibrated density bonusing system, developments are able to proceed viably, often with greater planning and political certainty and predictability. This latter advantage is due to an improved public and political sentiment around density increases when it is known that valued benefits are being achieved at the same time. An overall more resilient and attractive development market evolves due to consistently higher quality development and amenity outcomes.

In financial terms, developments are able to contribute amenities and public benefits when additional density is granted, because of the real and often significant financial value that such density represents. Some simple numerical examples can be used to explain the relationship between density and land value and to show how adding density generates value that can be used to fund public benefits.

Table 1 shows a simplified financial analysis for two hypothetical sites that are similar except for allowable density. In both cases, examples assume that the form of development is mid- to high-rise residential rental housing. The developer is also assumed to be building the project to hold as an income-producing asset (i.e. an apartment building, not condominiums for sale) and is focused on annual cash flow.

The land in Scenario B is more valuable than the land in Scenario A because it allows for a larger project. Note that the land value per unit is the same in both cases because the contribution of each unit to land value is based on its rental income and its costs. These are assumed to be the same in each case. As indicated in the notes, as long as the

project does not exceed market demand (e.g. the ability of the market to absorb units), larger projects tend to be less expensive to build and operate, thereby skewing the results of Scenario B likely higher than shown.

These figures can be used to show the financial implications of rezoning/post-bonus height/ development agreement to increase density.

Tables 2 and 3 show the minimum 100-unit site in three different scenarios:

- Scenario A. The base case, in which the site is zoned to allow 100 units (e.g. Scenario A from the previous example).
- Scenario B. The same site receives a rezoning/post-bonus height/development agreement to allow 125 units, based on the current amenity contribution rate of $4.40 per 0.1sm ($4.00 as adjusted).
- Scenario C. The same site receives a rezoning/post-bonus height/development agreement to allow 125 units, with a new amenity contribution rate based on 75% of the actual value of the additional density.

As shown in Scenario B, much of the lift in land value created by the rezoning/post-bonus height/ development agreement is available to the developer. Where does this extra money "go"? There are two possibilities. If the developer is able to acquire the site for the indicated value of $3,590,909, then the extra value becomes a higher return for the developer. Alternatively - and more likely - landowners will see that profit may be made from lands that may achieve an increase in density. Landowners will demand higher prices for land. In effect, land lift uncaptured by

TD Bank Barrington Expansion • Halifax, NS

amenity contribution will put upward pressure on land values.

Scenario C shows that a municipality can capture more of the lift without impairing the financial performance of the project. The target rate of return is achieved, the developer pays market value for land (based on the original zone), there is some portion of the lift ($124,432) available to the developer, and the municipality achieves more amenities. These scenarios show that it is possible to design a density bonus program that is attractive to developers, that does not reduce land values, and that yields more community amenity. Note that the above example also shows that if the cost of a rezoning/post-bonus height/development agreement (e.g. application fees, consulting costs, risk, time) becomes too high, and then the system cannot work. Density bonus development approvals costs needs to take place in an approvals context with little approvals risk, reasonable costs, and reasonable time frames.

Where such offered density is considered unattractive to the market, it is often due to mistakes in the creation or operating of the density bonus system. Such potential mistakes might include setting base densities too high; creating public expectations that exceed the private sector value represented in the density; creating delays in the approval process and/or uncertainty that represents a greater cost or perceived risk than the anticipated value created.

Occasionally the argument is made that cities should forgo tools like density bonusing, and possibly other municipal charges and fees, in order to create a perceived or real “incentive” for development. This can be a reasonable position in cases where redevelopment is not yet financially attractive under existing zoning and current market conditions. Additional density is used as a method to “tip the financial balance in favor of redevelopment” (although this assumes that more density is actually attractive in the current market conditions). However, where redevelopment is viable, such an “incentive” argument to waiving municipal fees or density bonusing is neither necessary nor prudent.

Table 1: Calculation of Land Value per Unit			
	Scenario A	Scenario B	Comments
Allowable development potential	100 2-bed rental units at 1,000sf each	125 2-bed rental units at 1,000sf each	Scenario B has more units than A due to the Incentive or Bonus Zoning Agreement.
Average monthly rent per unit	$1,450	$1,450	
Annual gross revenue per unit	$17,400	$17,400	
Annual operating expenses per unit	$5,800	$5,800	
Net Operating Income (NOI) per unit per year	$11,600	$11,600	NOI is the return to the developer/investor for the investment.
Total annual NOI from project	$1,160,000	$1,450,000	NOI could be higher per unit for Scenario B due to building efficiencies (cost of superintendent, etc. are fixed)
Target rate of return per year (Capitalization Rate)	5.5%	5.5%	This is the minimum return the developer is seeking. It is related to interest rates and would increase as interest rates increase.
Project value (Net Operating Income divided by the cap rate or rate of return)	**$21,090,909**	$26,363,636	This the most that can be spent to build this project and still achieve a 5.5% return. In A, $21,090,909 x 5.5% = $1,160,000 (the annual NOI).
Construction cost of the project, assuming all-in hard and soft cost of $175,000 per unit	**$17,500,000**	$21,875,000	In actual fact, the construction cost per unit should get lower as the project gets larger (within limits), as fixed costs such as project management, foundations and roofs are spread over more apartment units.
Land value (total project value when complete minus the cost of construction.)	**$3,590,909**	$4,488,636	$897,727
Land value per unit	**$35,909**	$35,909	

Table 2: Calculation of Land Lift to Developer - Rental Project			
	Scenario A 100 units, as-of-right (no rezoning/post-bonus height/DA), no amenity contribution	Scenario B rezoning/post-bonus height/DA to allow 125 units, with amenity contribution of $4.40 per 0.1sm of additional density	Scenario C rezoning/post-bonus height/DA to allow 125 units, with amenity contribution based on 75% of value of additional density
Allowable development potential (Number of 2-bed rental units at 1,000sf each)	100	125	125
Total annual Net Operating Income (see previous Figure for calculations)	$1,160,000	$1,450,000	$1,450,000
Project value (see previous Figure for calculations)	$21,090,909	$26,363,636	$26,363,636
Less construction cost	($17,500,000)	($21,875,000)	($21,875,000)
Less land acquisition at market value under existing zone	($3,590,909)	($3,590,909)	($3,590,909)
Less amenity contribution	$0	($110,000)	($673,295)
Amenity contribution description (See above)	$0 (no rezoning/post-bonus height/DA)	25 extra units x 92.9sm each x $4.40 per 0.1sm	25 extra units x $35,909 per unit land value times 75% coefficient
Less other development approvals costs	**$0 (no rezoning/post-bonus height/DA)**	($100,000)	($100,000)
Equals land lift available to developer	**$0**	$687,727	$124,432
Land lift description	**There is no land lift because there is no rezoning/post-bonus height/DA**	Project value minus construction cost, land value, amenity contribution and development approvals costs	Project value minus construction cost, land value, amenity contribution and development approvals costs

Table 3: Calculation of Land Lift to Developer - Condominium Project			
	Scenario A 100 units, as-of-right (no rezoning/post-bonus height/DA), no amenity contribution	Scenario B rezoning/post-bonus height/DA to allow 125 units, with amenity contribution of $4.40 per 0.1sm of additional density	Scenario C rezoning/post-bonus height/DA to allow 125 units, with amenity contribution based on 75% of value of additional density
Allowable development potential (Number of 2-bed rental units at 1,000sf each)	100	125	125
Total sf of Building for Sale (1,000sf net per unit)	100,000	125,000	125,000
Condo Sales Proceeds ($350 per sf less 6% sales costs for broker and legal)	$32,900,000	$41,125,000	$41,125,000
Less Construction Cost of $225 per sf (includes Condo registration fees)	($22,500,000)	($28,125,000)	($28,125,000)
Less land acquisition at market value under existing zoning	($3,590,909)	($3,590,909)	($3,590,909)
Less amenity contribution	$0	($110,000)	($673,295)
Amenity contribution description (See above)	$0 (no rezoning/post-bonus height/DA)	25 extra units x 92.9sm each x $4.40 per 0.1sm	25 extra units x $35,909 per unit land value times 75% coefficient
Less other development approvals costs	**$0 (no rezoning/post-bonus height/DA)**	($100,000)	($100,000)
Less Developer Profit Margin - 20% of Sales	**($6,580,000)**	($8,225,000)	($8,225,000)
Equals land lift available to developer	**$229,091**	$1,074,091	$510,795
Land lift description	**There is no land lift because there is no rezoning/post-bonus height/DA**	Value minus construction cost, land value, amenity contribution and rezoning/post-bonus height/DA costs	Value minus construction cost, land value, amenity contribution and rezoning/post-bonus height/DA costs

2.4 Density Bonusing in the Context of Financing Municipal Services (HRM Context)

As every Canadian city-region, HRM is struggling to keep up with infrastructure and amenity needs as new development occurs to accommodate its growing population. Municipalities have begun to improve the economic analysis and full cost accounting associated with alternative growth patterns. Such municipalities are understanding the financial consequences of how and where growth occurs and how it may be financed over time.

This review of the Municipality's density bonusing approach should be considered in the context of all of HRM's funding sources and regulatory tools that are used to accommodate growing communities. A sketch of the sources for funding public amenities is shown in Figure 4 and described on the following page.

The density bonus tool is the only tool that works specifically to fund public amenities and benefits in the neighbourhoods that attract additional people. Unlike development agreement benefits, density bonus funds can be used off of the sites where development occurs. Density bonus funds can be used for amenities and benefits that are social in nature, as identified by the community through the Municipality.

Prior to the use of bonus zoning in Downtown Halifax, development agreements were often used as a means for ensuring that public amenities accompanied extra density. However, this method of negotiating the built form and the amenity to be provided was unpredictable. The benefits achieved were not in response to added density such as those found in the Density Bonus Program under the Downtown Halifax SMPS. Benefits mostly included improved soft landscaping, and improved public realm such as on-site greenspace, hardscapes, more articulation of entrances, accessible green roofs and streetscaping contributions such as boulevards on site abutting the fronting street. These benefits were negotiated in response to loose definitions of 'character of the street' and open space calculations found in standard zones, among other policies and standard zone requirements. The development agreement process also encouraged speculation and risk among the development community, which resulted in much of Halifax's downtown redevelopment potential being unrealized or "left on the table."[1] To date, the Development Agreement process continues to be the main way to achieve redevelopment outside of the Downtown Plan Area.

Most infrastructure charges are not applied to redevelopment in urban areas. Likewise, parkland dedication only applies when three or more properties are created by subdividing land.

Property taxes and user fees fund many Municipal operations and are not always sufficient to fund all aspects of good planning required to accommodate 'livable density' in higher-density areas of a city.

1 It is said that the regulatory certainty that came with the Downtown Halifax Secondary Municipal Planning Strategy (e.g. heights prescribed for each property, land uses open, commercial ground level, streetwalls prescribed) enabled developers to know easily the risks and rewards of developing within this Plan Area (Downtown Halifax). Since 2009, the rate of development in this Area boomed to a level unseen in the last 50 years.

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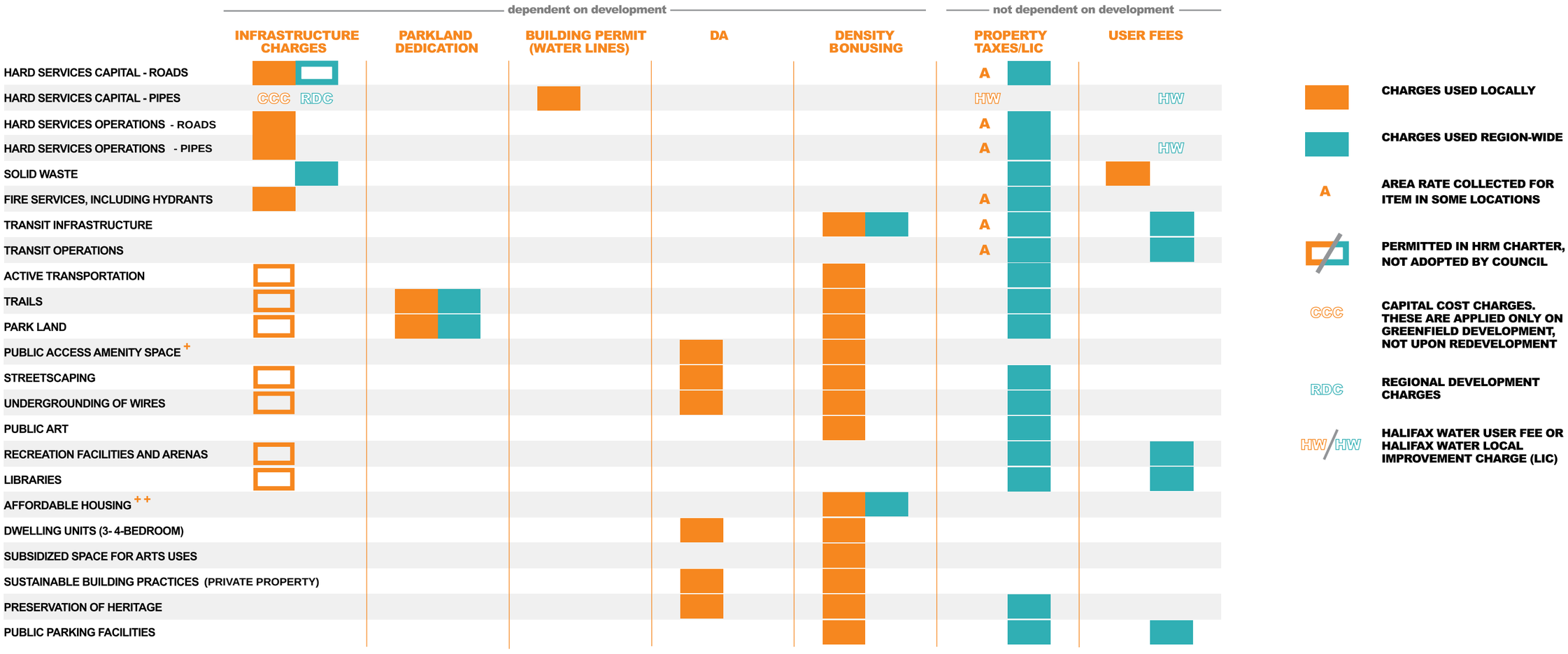
WAYS TO FUND COMMUNITY AMENITIES AND SERVICES IN HRM



INFRASTRUCTURE CHARGES	Charges that are intended to cover the growth-related capital costs associated with new built form development.
PARKLAND DEDICATION	A charge levied at the time of subdivision of land that creates more than three new properties and is equal to the market rate of 10% of the land value, or cash-in-lieu.
BUILDING PERMIT (WATER LINES)	Charges for water lines are collected at the time of applying for a Building Permit and are pursuant to Halifax Water rates.
DA (DEVELOPMENT AGREEMENT)	A planning process that allows developers to negotiate the possible built form on their property, pursuant to planning policy, and may enable the HRM to negotiate public benefit in lieu of additional built form or population density.
DENSITY BONUSING	A charge levied in cases where development exceeds allowable built form volume, pursuant to planning policy and in the Centre Plan Area, and is measured either by a flat rate applied to additional floorspace or by a negotiated rate, and collected in the form of an amenity (e.g. affordable housing, public art, daycare, etc.) or cash-in-lieu.
PROPERTY TAXES/LIC	Charges levied on property based on the taxable assessed value of the property multiplied by the applicable tax rate. Local Improvement Charges (LIC) are levied by Council for municipal infrastructure such as streets, curbs, gutters, sidewalks, etc that benefit a specific area.
USER FEES	Charges levied from individuals upon their use of a municipal service (e.g. open swim pass, transit fare, water fees, etc.)
+	May include plazas, rooftop amenity space or landscaped space accessible to the public on private land.
+ +	mandatory transfer of Municipal funds to the Province

Figure 4. Ways to fund community amenities and services in HRM.


The Dillon
Market & Sackville Streets
Approved 2014
Density Bonus Area: 877sm

3.0 Learning From Policies and Practices in Other Municipalities

A common practice for studies of density bonusing is to describe, assess and compare the successes of a series of municipalities that are considered comparable or similar in some way to the municipality being studied. However, it should be noted that relatively few "small or medium sized" Canadian cities have extensive experience with density bonusing systems. It is more important to assess the relative comparability of the system elements than it is to focus on the size of the municipality, which in some ways can be a "red herring".

This Study uses an alternative approach - emphasizing issues rather than cities. This approach allows lessons to be drawn from more municipalities than in the common approach, which usually focuses on 4-5 cities. It is anticipated that the results of this study will be more specifically useful to the Halifax discussion.

A review of the density bonusing systems used in the municipalities listed below was used to create the Observations of Density Bonusing Programs portion of this Chapter. The system elements of the municipalities listed below were assessed relative to our understanding of the existing and potential systems applicable to the Halifax context:

- Auckland, New Zealand
- Calgary, AB, Canada
- Edmonton, AB, Canada
- London, England, United Kingdom
- London, ON, Canada
- New York City, NY, USA
- North Vancouver, BC, Canada
- Ottawa, ON, Canada
- San Francisco, CA, USA
- Saskatoon, SK, Canada
- Seattle, WA, USA
- Sydney, NSW, Australia
- Toronto, ON, Canada
- Vancouver, BC, Canada
- Multiple municipalities in Metro Vancouver Region, BC, Canada

It can be noted that virtually all cities studied see the density bonusing program as having been successful, and key to successful and effective urban planning. Even those cities with relatively unambitious programs see the results as valuable, and most of these cities have intentions to grow their program in the short term. All cities are seeking creative ways to "do more with less" given the many fiscal, infrastructure and amenity challenges they face, for more successful, sustainable, livable and affordable cities as they densify.

3.1 Principles of Effective Density Bonusing Programs

Principles of effective density bonus programs are derived from the observations on various program in North America and abroad. Each principle below is grouped under one of these seven topics

- Culture, Capacity and Communication (Recommendation A)
- Density Bonus System Approach: Fixed versus Negotiated Rates (Recommendation B, C, and D)
- Streamlining the Density Bonus Approving Authority (Recommendation E)
- Who Chooses Public Benefits (Recommendation F)
- Public Benefits Achievable Through Density Bonusing (Recommendation G)
- Setting Base + Maximum Densities (Recommendation H)

The Dillon • Halifax, NS

These seven topics are seen again in Section 4.0 HRM's Existing Density Bonus System, and in Section 6.0 Recommendations. The chart below shows how these aspects of density bonus programs create recommendations for a program that both establishes value created and decides what to do with value created:

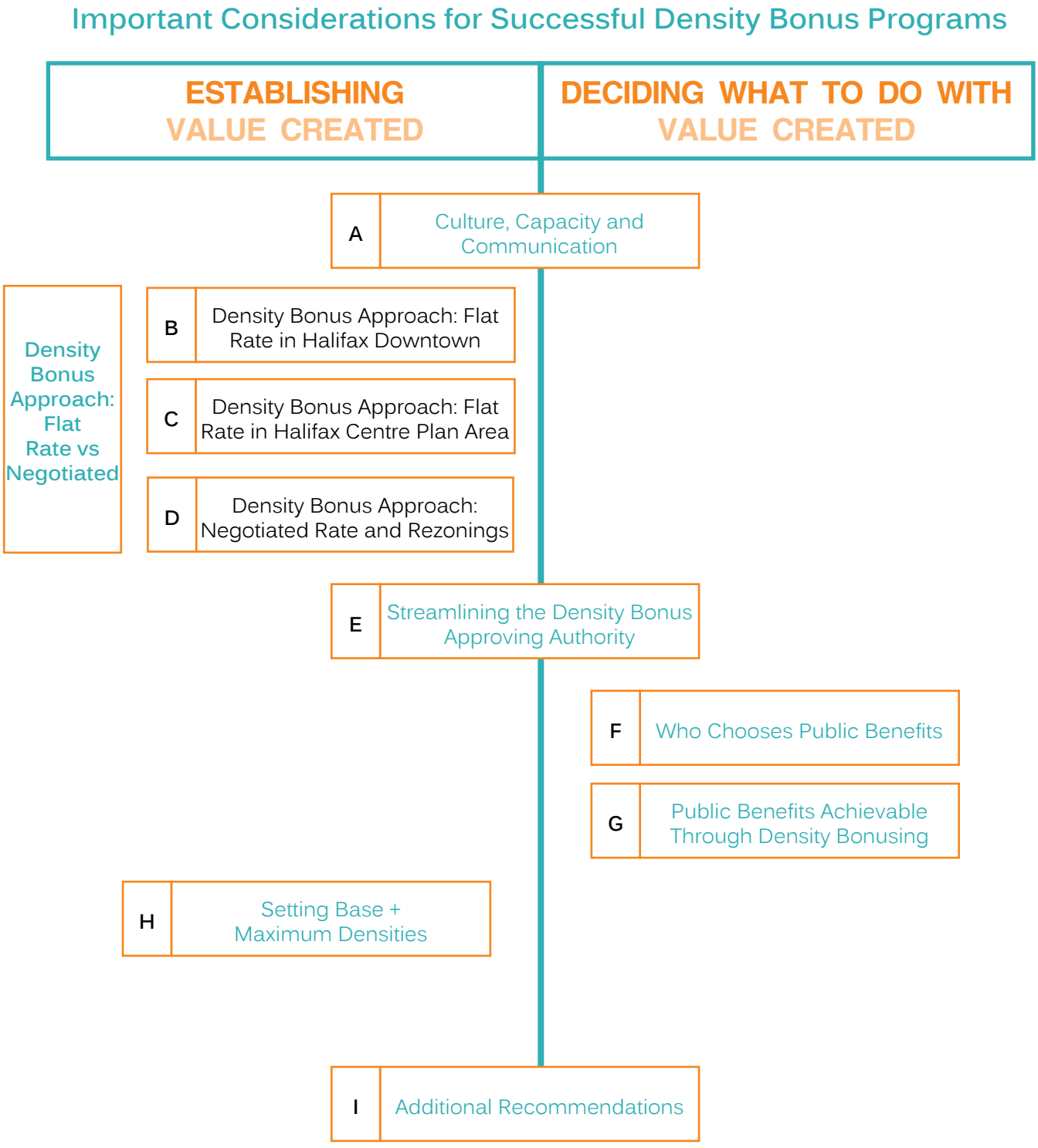


Figure 5. Aspects of Density Bonus Programs.

Culture, Capacity and Communication
(See Recommendation A)

1. A successful density bonus program needs both a smart system (implementation tool), as well as strong communication, culture, and capacity to successfully implement the tool.

2. Municipal staff members must not be so afraid of legal challenge that they block the Municipality's ability to achieve significant public value. Focus should be on mitigating successful potential challenges through smart systems and operations.

3. Program approaches that leave significant public value on the table should not be excluded simply because the municipality's culture is that "we don't currently do something" or don't have the staff skills. Consider whether hiring new, experienced staff could lead to millions more in public value.

4. Effective program elements should not be forgone simply because they are administratively complex. If the public interest value is worth it, it's worth an administrative complexity.

5. Report on and celebrate your annual aggregate successes.

6. The results of the density bonus system should always be defendable as good planning, and should never be perceived as "selling zoning."

Density Bonus System Approach: Fixed versus Negotiated Rates
(See Recommendations B, C, D)

7. A successful density bonus program involves both bonuses within existing zoning, and through rezonings.
8. The program should be as transparent and predictable as is strategically reasonable, but not as much as possible.

Streamlining the Density Bonus Approving Authority
(See Recommendation E)

9. The program should be as impervious to politics as possible, especially on the amount collected, but also on the benefit achieved. It should be professional, consistent and credible. Note that the results need not be the same, but the process should be consistent.

Who Chooses Public Benefits
(See Recommendation F)

10. A long list of bonusable items is not advisable, and developers should not be permitted to choose their contribution from the list. Identify the benefits needed, preferably in policy, and let the developer and the community make suggestions, with the Municipality making discretionary decisions.

Public Benefits Achievable Through Density Bonusing
(See Recommendation G)

11. Bonusing can apply to any form of "land lift" – eg density, height, use, parking relaxations, etc.
12. Benefits packages described in bonus

zoning agreements should be balanced between amenities and benefits, which are not always the same thing.

13. In general, in-kind benefits yield better value per dollar than cash-in-lieu.

14. Benefit contributions should not pay for benefits or amenities that the community would have (or should have) gotten anyway through capital budgets.

15. Density should not be exchanged for benefits or amenities that the market would produce anyway.

16. Sunset clauses should be considered for benefits/amenities placed on the Municipality's list of appropriate benefits/amenities, where appropriate.

17. There should be a recognizable "nexus" and a sense of "proportionality" between the density granted and the public benefits achieved.

18. If the density granted is permanent, the public benefit should in most cases be permanent, too.

Setting Base + Maximum Densities
(See Recommendation H)

19. Base densities should not be set so high that the program becomes unattractive. If base density has to be too high, the Municipality must either have the will to downzone, or be honest about the lack of real potential of the program.

20. An abundance of density should not be permitted in the land use policy to the point that a timely critical mass of localized development cannot be created that would allow for the achievement of timely local amenities to be achieved. This is considered "spreading yourself too thin".

21. In some cities, there can be debates between whether public lands should be exempt from density bonusing. This could inflate the real estate value that the Municipality can achieve from a land sale, with such revenues usually going into general revenue and often not being assigned back to the lands in question in the form of amenities. The alternative is that public lands should be subject to the same density bonus expectations as private lands. Observation suggests that it is better to apply density bonusing to public lands, so that value can be captured back into appropriate supportive amenities and related benefits when density increases, rather than going to general revenues.

22. The interest in achieving public benefits (allowing more density in a project) should not supercede good urban design review would support. The right design should be determined first, then calculated back to derive the contribution for benefits. In other words, "Don't let the tail wag the dog."

Cloud Gardens • Toronto, ON

3.2 Observations on Example Density Bonusing Programs

The observations below are based on an examination of selected relevant Density Bonus Programs nationally and internationally. They lead to the Principles presented in Section 3.1 of this report.

Culture, Capacity and Communication
(See Recommendation A)

- Arguably, **the most important element differentiating successful and unsuccessful density bonusing programs is the corporate culture of the municipality** in question. This includes the successful positioning of the density bonusing program within the corporate structure and "mind-set," including how it is perceived by senior staff and elected officials, and the way departments work together to identify shared definitions of success rather than establish "turf wars." It also powerfully relates to the general culture of "risk aversion" around fear of legal challenge, etc, within the civil service.

- **Municipalities can be separated into two categories: those who see a lack of specific legal permission as a barrier, and those who see a lack of specific legal restriction as an opportunity**. By nature, successful density bonusing carries with it elements of risk - perception, political and administrative capacity, and legal uncertainties. Municipalities that have failed to develop density bonus programs, or that have built programs with limited success, have often let the fear of risk stand in the way of experimentation, creativity and innovation.

  The commonality between failures especially connects to perceived legal risk relative to the legislative basis of density bonusing. Often, municipalities believe that successful density bonus programs result from more enabling legislation. Although this is sometimes the case, the difference more often results from a willingness and ability to identify and avoid potentially successful legal challenges. If a theoretically possible legal challenge is likely to be unsuccessful, the risk should be taken. Risk is mitigated with thorough consideration of the Program details and the establishment of a smart, strategic operating culture.

- **The majority of cities using density bonusing do not conduct an annual accounting of aggregate public benefit values achieved through density bonusing**, although this is changing quickly as cities see the benefit of this from those that are doing it. The City of Vancouver was likely the first municipality to initiate such an annual reporting program, with the first such annual report beginning in 2010. The intention of this reporting was to add more transparency, and also to celebrate and 'market' the aggregate benefits of the program.

- **Any Municipal decision that creates value for private land can be potentially leveraged for public benefit, such as a desire for reduced parking requirements**. Vancouver's system is possibly the most robust in considering many elements that add value, including density, height, land uses, parking relaxations, and even increases in value when potential 'shifts' to more valuable locations within a site.

Cities consider "value capture" systems as a revenue generation tool, while density bonusing is about proper and positive planning considerations being addressed as density increases. It is not considered a revenue generating tool. In some cases the lines have been blurred or confused between density bonusing, other 'incentives', floorspace exemptions, density transfers (with no corresponding increase in density), and value capture systems. The distinction between value capture and density bonusing is particularly important because in many jurisdictions, legislation specifically notes that density bonusing cannot be used as a revenue generation tool.

Vancouver International Film Center • Vancouver, BC
Developers of the Brava tower paid $5.0 towards the construction and operating costs the VIFC tvo increase FAR from 5.0 to 8.08.

Density Bonus System Approach: Fixed versus Negotiated Rates
(See Recommendation B, C, D)

- **More cities have established fixed, non-negotiable density bonusing rates, and fewer cities have established negotiated rates**. This is sometimes due to concerns about staff skill sets and capacity, but more often it is a result of an unwillingness by the Municipality to be seen as encumbering the bonus system with more complex negotiations, for fear of "scaring off development." With those cities that use the fixed rate system, it is generally understood that they are achieving lower levels of public benefit value and less flexibility for public outcomes. Nevertheless, these cities consider this acceptable relative to the concerns associated with more complex and financially successful systems.

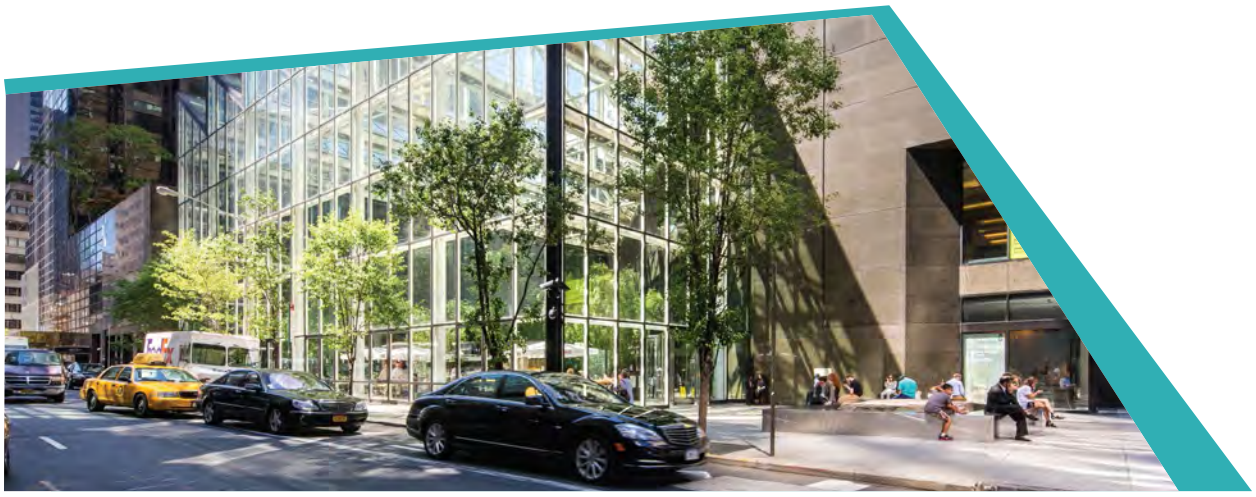
- **In cities that use flat rate systems, the number of value zones can vary considerably**. Some cities have many "fine grained" value zones reflecting fairly frequent shifts or variations in value, while others carry only a few zones. For example, in Vancouver, the Municipality considered breaking a single urban corridor into 3-5 value zones, while in Ottawa there are only two official zones for the whole city – inner urban and outer urban, with the rates being updated annually. In Ottawa's case, properties outside these two zones may have individual appraisals undertaken, but no applicants have taken the opportunity to use this appraisal system outside the 2 zones. The City of Ottawa recognizes that the resulting figures set in these two zones need to be fairly low by necessity.

- **Most Programs review flat rate amounts either every year or every two years**. Some cities, such as Seattle, have run into difficulties with flat rate fees that are considered too high for the market, but fall behind on updating them and do not have a mechanism or process in place to address the issue in a timely way.

- **The majority of density bonus systems emphasize opportunities through rezoning rather than just through building density bonusing into pre-existing zoning categories**. Metro Vancouver Region (a 'hot bed' of density bonusing with almost all of the 20+ municipalities using it in some form) has some of the rare municipalities that make use of a combination of flat rate and negotiated systems in different parts of the cities. In recent years, the emphasis has been moving more toward flat rate over negotiated approaches, with the City of Vancouver being the notable exception.

Streamlining the Density Bonus Approving Authority
(See Recommendation E)

- **In most Canadian systems outside of Ontario, negotiations involving rezonings are managed by staff with ultimate Council approval, and consistent and deliberate efforts are taken to remove politics from the negotiations and debates**, as it can make the system significantly less predictable and consistent, and more vulnerable to legal challenge. Both Toronto and Ottawa have high levels of involvement by ward councillors in the negotiation of specific benefits (and even in the case of the amount). In the case of both cities, this has occasionally led to perception and legal challenges, including appeals and even audits.



590 Madison Avenue • New York City, NY
A public atrium and through block at the IBM building in New York was provided for additional height and density.

Who Chooses Public Benefits
(See Recommendation F)

- **Relatively few cities have as-of-right density bonus benefit options chosen solely by the developer from a list,** and those that do (mostly in the United States) have been moving to discretionary and/or negotiated incentives that can ensure a higher quality outcome and higher priority benefits. For example, both New York and Auckland previously gave density bonuses as-of-right for things like public plazas or through-block links, and were getting very poorly designed results before they changed the as-of-right system to a discretionary system with high design expectations.

- **Many cities seek to ensure that policy (regional or community level) provides direction regarding what the municipal priorities are for amenities and benefits**, such as New York, Calgary and Vancouver. The intent is that benefits are documented within plans ahead of time where possible (either strictly, as in the cases of Calgary and New York, or generally as in the case of Vancouver). In Vancouver's case, policy educates the negotiations on the right benefits for each project, after also considering developer suggestions and community requests. In Ottawa, community groups are encouraged to compile a list of community priorities annually.

Public Benefits Achievable Through Density Bonusing
(See Recommendation G)

- **Most cities have focused density bonus objectives toward a small number (e.g. approximately 5) of potential bonusable benefits**. Some cities that had longer lists have recently made efforts to shorten them in order to focus the program for greater success and less 'dilution'. New York City, for example, learned the hard way about the importance of avoiding "competing incentives" or "layering on" municipal goals in a way that dilutes the effectiveness of each. These problems resulted in a general failure of the density bonus system in the 1960s and 1970s, and the Municipality has more recently sought to focus bonusing efforts in a given area toward two primary public benefits with a 50-50 split.

- **Most cities seek to use density bonusing specifically to achieve public goals where regulatory powers are considered weak or nonexistent**. The thought process often involves what is sometimes called the "but for" argument – "but for" this density bonus, the municipality probably would not be able to achieve a specific public interest result through other means, such as regulation and/or market education. A prime example of this is density bonusing for green design. Some municipalities have concluded they are not in a position to regulate green design, and thus create incentives for it or wait for the market to do it without incentives. Others have chosen to use regulation to regulate green design, especially in the context of rezoning (e.g. Vancouver, who since 2010 requires all buildings subject to rezonings to meet LEED Gold equivalency by policy, noting that the Municipality is not obligated to grant rezonings). Still other cities have allowed green design bonusing for a specific time period to allow the industry time to adjust and learn,

but are now in the process of phasing out such bonuses given that the marketplace has "caught up to the idea."

- **'Sunset clauses' may be used on debatable public benefits, such as green design**. In some cases, cities have admitted that they have kept public benefits on the books that they no longer even considered desirable. But once a bonus is established, some cities have difficulty with the political will to phase such benefits out. In Auckland, for example, the Municipality used to give a bonus for escalators, which has only recently been phased out in favor of supporting a longer-standing urban design best practice - designs that support urban health and active transportation (e.g. emphasizing stairs). Sunset clauses allow a municipality to give warning that a benefit category will only apply for a short/defined period of time. In the case of green design for example, the market is expected to include green design without such a bonus once the sunset clause applies.

- **Many American cities have inclusionary zoning programs in addition to density bonusing**, which require a percentage of rental or below-market ownership units in each new development. This explains why many density bonusing programs in the United States have affordable housing as less of a factor in their density bonusing systems. For example, San Francisco requires that 12% of units in every new development represent affordable housing, or cash-in-lieu, prior to considering density bonusing.

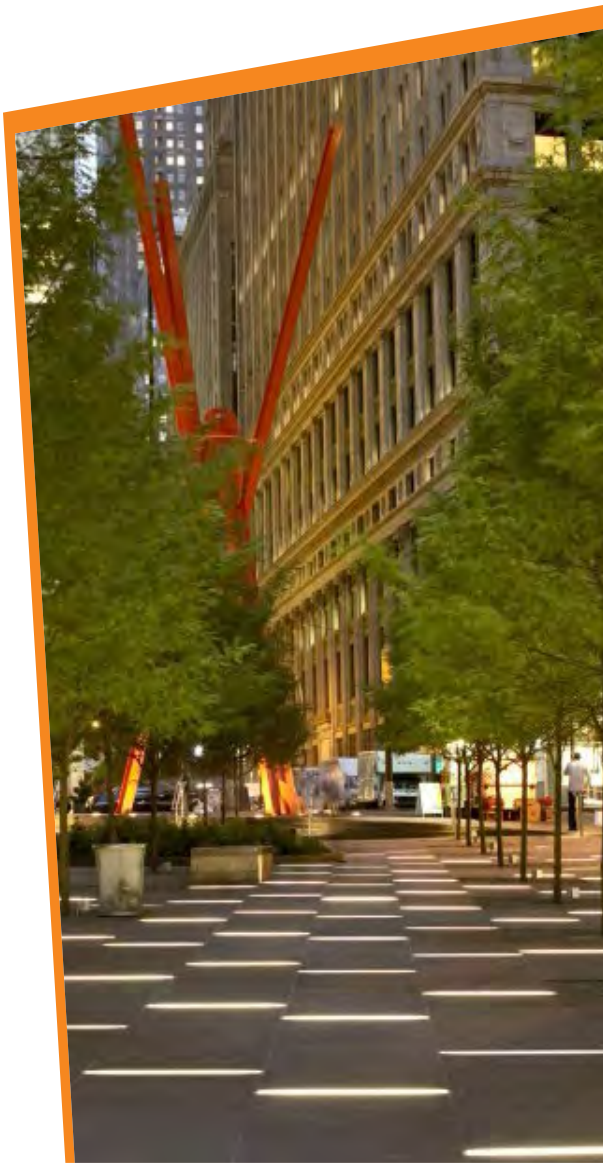
- **Most municipalities ensure that there is a balance between things that the public perceive to be a benefit but not an amenity (e.g. affordable housing, which is a form of, and possibly a benefit of density, rather than an amenity that mitigates the impacts of density), and "true" amenities that can help mitigate density such as parks or civic facilities**. The City of London, UK, for example, currently requires that 30% of the density bonus "planning obligation" fixed amount goes to affordable housing. Seattle has one of the only programs that emphasizes affordable housing as either a majority or the entirety of the public benefit contribution. Their priority has changed occasionally to match the priorities of incoming councils – prior to the affordability focus, the previous emphasis was on arts and culture benefits. On the other extreme, other programs specifically omit affordable housing as a bonusable item, considering housing to be the purview of higher levels of government, and the use of a municipal tool to achieve it to be a form of 'downloading.'

- **Many density bonus programs show that developers prefer to give cash-in-lieu for affordable housing rather than integrate affordable housing units into a new market-rate development**. In cities where such a mix occurs, like in Toronto, the mix has been either required or forcefully negotiated by the Municipality. Such mixing can lead to unforeseen challenges, such as the so called "poor door" controversy in New York City where relatively poorly designed separate entrances to affordable units are built.

- **In programs where the developer either has the choice of public benefits, or the ability to make suggestions in the**

negotiation, developer preferences are usually those that would add value to their project, such as nearby park upgrades, streetscape upgrades, daycare facilities, heritage features (if easily integrated into a new design), and other beautification efforts. Many programs show that developers rarely suggest social amenities such as affordable housing or social service needs, both because of the ownership and operation challenges of these benefits, in addition to the perceived negative impacts on project marketing.

- **Almost every density bonus program considers a planning connection, or nexus, between the densities granted and the amenities/benefits achieved, to be generally necessary, at least for a significant portion of any benefit package. This expectation is often not applied or monitored rigorously however**. Many legislative structures that enable density bonusing overtly require such a nexus, while others emphasize it as a best practice to ensure the program is successful, credible and defendable politically, publicly, and legally. Seattle has even gone as far as completing an initial "nexus study," which attempts upfront to establish/determine how the required amenities offset or mitigate the impacts of increased density. When this nexus is maintained, developers, community members and other stakeholders generally can 'connect the dots' and see the value and benefit achieved with/through density. When done well, it can significantly change the overall public perception of density.



Zuccotti Park • New York City, NY
Another example of a public space which was donated by developers as a density bonus. The land is owned and maintained privately, but is intended for open public use.

Setting Base + Maximum Densities
(See Recommendation H)

- In many cities, **a critical element of the success of programs was the amount of base density initially "allowed" prior to density bonusing being considered**. For example, the initial density bonusing system in Downtown Calgary, which preceded the more successful system later developed for the adjacent Beltline community, has been considered largely unsuccessful because the base densities initially allowed were so high that additional density through bonusing was not seen to be attractive. The City was not prepared to undergo the controversial political process of downzoning, thus density bonusing has been a relative non-factor in Downtown Calgary, despite being available for many years. This illustrates that the best time to establish bonusing systems is when appropriate land uses and heights are initially considered, with careful consideration to not set the base densities too high. If appropriate densities were not set initially to support density bonusing, the municipality's willingness to consider downzoning as part of a density bonusing system creation (as cities like Vancouver did) will need to be determined. **Downzoning in Canada is not a matter of legal ability - it is a matter of political will**.

- **Cities often do not set a maximum density permissible with density bonusing, especially when it is through rezonings, allowing urban design analysis to determine the ultimate density with better design influencing the outcome**. This can add design flexibility, but can also result in challenges including lack of clarity for communities and developers alike. **More cities are recently tending to set both a base and a maximum permissible density in policy**, as Halifax currently does in its Downtown. For example, both Sydney and Auckland allow a base FAR in the City Centre of 8.0, and a maximum density including bonuses of 13.0 FAR. The advantage of this is that it provides clarity for all parties including the community, and helps provide certainty relative to determining land value.

- **Restrictive eligibility criteria (size of project or form of development) for buildings to participate in a municipal density bonus program presents lost opportunities to collect public benefit value, and may be creating unforeseen consequences**. Nevertheless, such restrictions are often considered 'strategic' relative to local concerns. In Ottawa for example, where density bonusing is authorized in provincial planning legislation through 'Section 37 agreements' (referencing the section of the Act that enables them), the threshold for Section 37 benefits are building projects of at least 7000 m² in size. The City notes that this minimum building size threshold is intended to exempt smaller low and midrise projects so as not to deter/'disincentivise' such development. Further, Section 37 only applies to development applications where the requested height or density represents a 25% or greater increase over what is permitted as of right in zoning.

- **Most cities take very seriously the danger of a perception that the achievement of public benefits in return for density might drive up**

density beyond what would normally be supported or appropriate relative to good urban design principles. This is primarily an issue where maximum bonusable densities or heights have not been established. In Vancouver, this issue has been often referred to as "letting the tail wag the dog." It has significant risk associated with it, both politically and legally. It is essentially a 'problem that comes with success,' given that the risk of this happening increases the more successful the system is at achieving valuable public benefits. In Vancouver, in recent years, concerns around this perceived risk have become so prevalent in the minds of some community activists and urban designers, that the density bonus system has begun to be attacked as a result.

- **Most bonus programs focus on building density (FAR)**, while a few such as Saskatoon, Seattle, San Francisco and Auckland consider both FAR and height. Some systems go even beyond density and height. It is relatively rare for density bonus systems to focus just on height, and not on density (except indirectly), as in the case of Halifax.

Allen Lambert Galleria • Toronto, ON
The atrium at BCE place was designed by Santiago Calatrava and was funded by developers through height and density bonusing.

Additional Recommendations
(See Recommendation I)

- **Many cities include heritage preservation and restoration as a density bonus item**, as Halifax does, but details vary on the amount of flexibility that can be applied. Some cities allow just on-site heritage preservation as Halifax currently does. On-site heritage preservation can be a challenge if the location of the heritage building makes retaining the feature, plus adding additional density, difficult to achieve. In many circumstances the heritage feature will be lost.

- **Some cities allow density transfer across property lines, across intervening streets or within neighborhoods to enable/ support the preservation of heritage features**. This is sometimes permitted only if all the subject lands in question are owned by the same party and/or if coordinating property owners are involved in the same application at the same time. The transfer of density adds greater flexibility for preserving heritage features while still accommodating additional density. The density in question may be "new" density, or transferred density potential from one site to another. A challenge remains if the timing of density transfer applications do not align and/or if property ownership is not all in the same hands. To address this, the City of Ottawa, for example, allows for a cash contribution to be assembled that allows the City to purchase and restore nearby off-site heritage features outside of the processing of a particular application.

- **Some cities allow the creation of a flexible "density bank" to manage the transfer of heritage-related density**, such as Vancouver and Sydney. A density bank allows new density potential to be created by an applicant through the restoration of the heritage feature, and then sold later to developers to be developed on other sites. This density bank tool has been essential in preserving Vancouver's heritage, especially in heritage areas such as Gastown where new density actually can not be 'landed' according to policy because of heritage scale concerns. Each level of complexity in density transfer systems can lead to administrative challenges but it is undeniable that additional levels of flexibility result in exponentially greater heritage preservation achievement.

- **Programs vary as to whether the public benefit is taken into Municipal ownership or permanently given to another organisation to manage or own**, through legal agreement or other mechanism, as an alternative to the municipality taking responsibility. In the case of cities like Vancouver, the general approach in past years has been to take ownership, however in recent years efforts are being made to diversify the approach given the costs and risks sometimes assumed with ownership, such as common area costs and liability. The challenge, however, is the ensuring of control over time/permanently through agreements or other mechanisms, which often municipal legal departments would rather not enter into.

Light Art • Vancouver, BC
This exhibit of multicolored light and fog is a public art piece by Diana Thater. The project is part of the Shaw building by Westbank developments.

Mary Ann Development

1452 Queen Street
Approved 2012
Density Bonus Area: 3,406sm

4.0 Halifax Regional Municipality's Existing Density Bonus Program

This Section provides detail on Provincial and Municipal policies that frame Halifax Regional Municipality's (HRM)'s current Density Bonus Program.

4.1 Density Bonusing in Provincial Legislation and HRM Municipal Policy

QUICK FACTS

Density Bonusing in Nova Scotia and the HRM Charter

- HRM received legislative permission to use density bonusing in 2008 - for Downtown Halifax only
- HRM is the only municipality in Nova Scotia to have a Municipally-enabled density bonusing program actively in use. The Town of Bridgewater has municipal enabling policy that has yet been used in development.
- HRM received legislative permission to use density bonusing for the Centre Plan Area in 2014
- Cash in lieu of benefit is permitted (as of January 4, 2014)
- The HRM Charter lists requirements of incentive or bonus zoning agreements, Council's role in such Agreements, powers of the Municipal Land Use By-laws, among other parameters, as seen in Sections 245A - 245C and others

Current HRM Land Use By-law

- Municipal policy allows density bonusing in the Downtown Halifax Plan area only. This is likely to change when HRM adopts a new Secondary Municipal Planning Strategy (SMPS) and Land Use By-Law (LUB) for the Centre Plan Area.
- Developers choose which benefit to provide, selected from 10 "public benefit categories" in the Downtown Halifax LUB
- Benefit may be located on or off site
- Transfer/sale of density (e.g. from heritage properties) is not permitted
- Benefit must equal $4.00 (plus inflation) per 0.1 square metre of floor area in storeys above pre bonus height
- There are 10 categories of acceptable public benefits (listed on page 49)
- Benefits are currently contracted using an incentive or bonus zoning agreement (IBZA) through the Site Plan Approval (SPA) process
- Public Hearing is not required to complete an IBZA
- IBZAs must be approved by a vote of HRM Regional Council (by resolution)
- Council may discharge IBZAs
- HRM Mayor and Clerk must sign IBZAs

Density bonusing is permitted through the HRM Charter within HRM's Centre Plan Area and Downtown Halifax Plan Area. It is enabled in Municipal policy for Downtown Halifax but is currently not enabled within the Centre Plan Area.

At the Municipal level, the Downtown Halifax Secondary Municipal Planning Strategy (DHSMPS; policy document) and the Downtown Halifax Land Use By-law (DHLUB; prescriptive requirements) guide and prescribe the use of density bonusing in Downtown Halifax. Density bonusing in Downtown Halifax is permitted on eligible sites in the form of building height bonuses as described in the DHLUB and shown on the map in Appendix 02 of this report. Eligible sites were determined through community consultation while considering important planning policy such as view planes, shadowing, proportions and Heritage protection. Rather than allow unlimited height on eligible sites, maximum 'Pre-Bonus' and 'Post-Bonus' heights were set.

The Post-Bonus Height is the building height the community believes to be appropriate only when accompanied with new amenities to support the growing neighbourhood. In granting this added height and density[2], the Municipality achieves both the various public interest advantages of density, along with public value in the form of amenities and benefits that support successful densification. The Pre-Bonus Heights are the maximum building heights determined by the community to be able to appropriately accommodate new development while using existing or likely amenities. The Post-Bonus Heights are between 6 and 15 metres, or 3 to 5 storeys, higher than the 'Pre-Bonus Heights'[3]. In some cases a view-plane reduces the permitted height of a new building further than the height shown on the Post-Bonus Height Map in the DHLUB.

HRM's Density Bonus Program is based on a 'pre-zoned, flat rate' approach. The nature of the flat rate approach compared to other approaches, is explained in Section 2.0 of this report. The rate the developer is charged is an amount of public benefit equal to $4.00 per 0.1 square metre (sm) of floor area, as adjusted, in each storey above 'post bonus height' received, as described in the DHLUB. This rate is adjusted for inflation on an annual term using Statistics Canada Consumer Price Index for Nova Scotia. $4.00/0.1sm is a base rate which was set in 2009.

In exchange for added density, a developer may provide an 'in-kind' benefit on site or may provide cash-in-lieu where the benefit is to be provided off site. Determining and finalising the public benefit to be achieved begins upon the developer's application to the HRM Planning office for a 'Substantive Site-Plan Approval' application as part of the Site Plan Approval (SPA) process[4]. The value

2 Additional height achieved through the Density Bonus Program is subject to the form-based requirements of the DHLUB.

3 Downtown Halifax Land Use By-law. 2009. Halifax Regional Municipality. https://www.halifax.ca/planning/documents/DowntownHalifax_LUB.pdf

4 All development in Downtown Halifax area is must first be approved after undergoing HRM's Site-plan Approval development application process unless it is on the short list of 'exemptions' (found in the DHLUB). Applications may be either a 'Substantive Application' or a 'Non-substantive Application'. Only Substantive Applications include a review by the DRC. If the proposed development is considered a 'Non-Substantive Application' a review by DRC is not required. Any project that proposes added height - therefore all projects that enter into an IBZA - are considered 'Substantive Applications'.

of the developer's proposed benefit is shown in a letter from the developer and reviewed by Municipal Staff during the application review phase.

Below is the list of 10 public benefits currently shown in the DHLUB from which developers may offer when proposing an incentive or bonus zoning agreement with the Municipality:

- the preservation or enhancement of the heritage resource where the development includes a registered heritage property which is to be maintained
- publicly accessible amenity or open space where a deficiency in such spaces exists
- residential units at a subsidized cost[5]
- 3 and 4 bedroom units with direct access to outdoor amenity space
- rental commercial space made available at a subsidized cost for arts or cultural uses
- public art
- public parking facilities where a deficiency in such facilities exists
- investment in public transit or active transportation infrastructure
- exemplary sustainable building practices[6]
- undergrounded electrical and communication distribution systems

Achieving the Post-Bonus Height in HRM's current Density Bonus Program requires the developer to enter into a incentive or bonus zoning agreement (IBZA) with the Municipality also through the SPA process[7]. Developers must enter into an IBZA when any portion of a storey protrudes above the pre-bonus height. An IBZA is the contract that details the benefit the developer will provide the Municipality for the growing community. While the decision to approve the SPA and certain variances does not require a public hearing or Council decision, an IBZA must be approved by Council, in the form of a resolution - no public hearing is required. There is no possibility of appeal of a Council decision regarding incentive or bonus zoning agreements.

The SPA process and IBZA process overlap. Decisions from one process may impinge on a decision from the other. This interplay of processes is shown and described on the following page.

5 In other words, affordable housing.

6 Specific expectations are apparently undefined in the by-law, including the required standard ie LEED Gold, or requirements to actually register/certify rather than simply "build to standard". Note that this is for private lands only as Municipal buildings are required to acheive (at a minimum) LEED Silver certification.

7 Through the SPA process, development applications are reviewed by a Design Review Committee (DRC) for compliance with the Design Manual (Schedule S-1 to the DHLUB). A public consultation program must be completed to achieve a SPA.

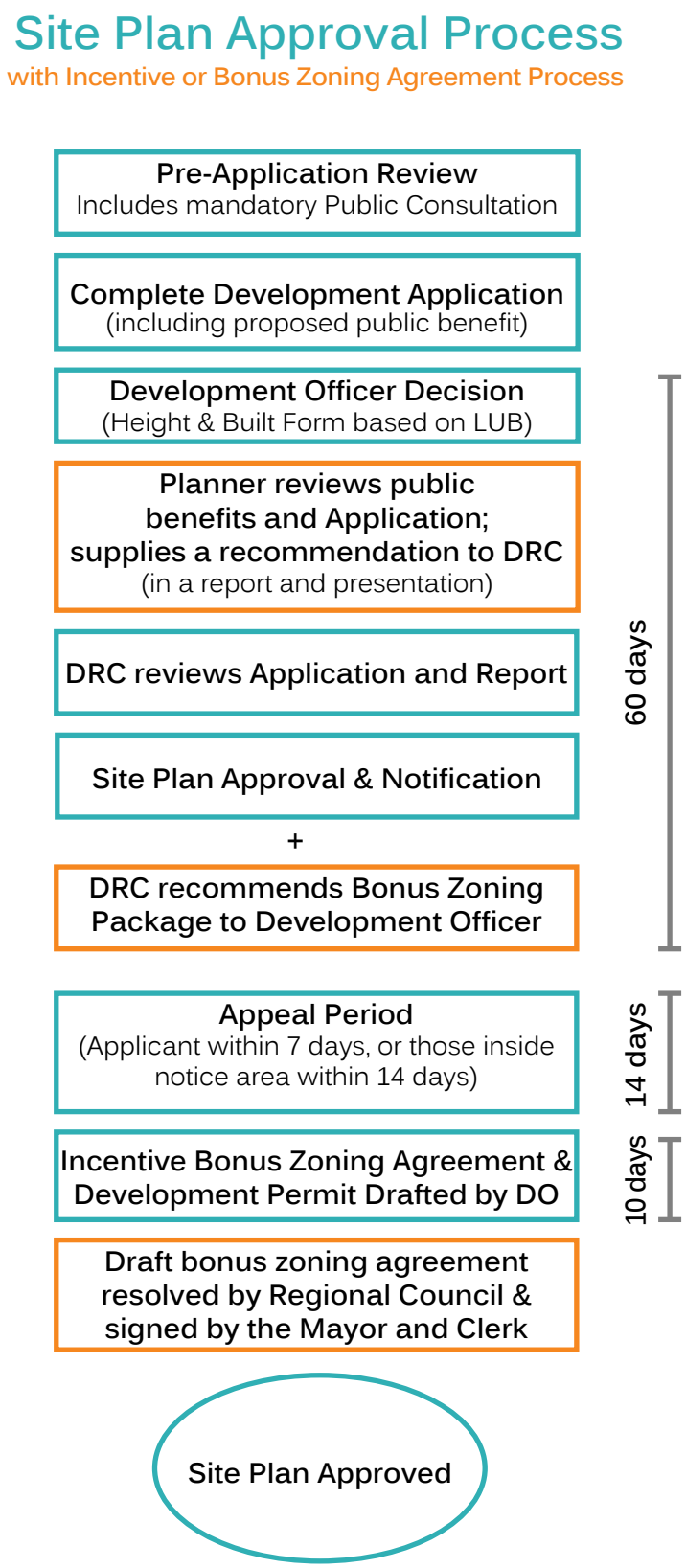


Figure 6. Incentive or Bonus Zoning Agreements in the Site Plan Approval Process.

A detailed description of how IBZAs are completed within the SPA process is:

1. The developer submits an application including drawings of the proposed building and proposed public benefit or benefits.
2. A planner reviews the public benefit portion of the proposal and makes a recommendation regarding the proposed benefit in a report.
3. The planner's report is reviewed by the Design Review Committee (DRC).
4. The DRC has the opportunity to comment on the entire proposal - as it relates to items found in the DHLUB Schedule 1: Design Manual. This includes the ability to comment on the proposed public benefit and recommend changes or alternative benefits as it deems appropriate.
5. The DRC recommends a SPA application for approval, which includes a recommendation for the public benefit. (The public benefit is not guaranteed until an incentive or bonus zoning agreement is drafted and is approved by Regional Council).
6. An IBZA is drafted by a development officer after considering the DRC's recommendation.
7. The draft IBZA is resolved by Regional Council and signed by the Mayor and Clerk. (A public hearing is not required and there is no municipal appeal process for the IBZA.)
8. The IBZA must be executed prior to the issuance of a Development Permit.
9. A Development Permit is issued.

Council's Role in Incentive or Bonus Zoning Agreements[8]

- Council's role in IBZAs is identified in Sections 31A and 245B of the HRM Charter.
- Council is required to vote on incentive or bonus zoning agreements (IBZA)
- IBZAs are drafted between the developer and the Development Officer.
- Council votes by resolution, not during a public hearing, to approve IBZAs
- Municipal Mayor and Clerk must sign IBZAs.
- IBZAs are completed following a Site Plan Approval (SPA). SPAs are voted on by a Design Review Committee (DRC), not Council unless an SPA is appealed.
- IBZAs may not be appealed (to Council or any other body)
- An IBZA is completed before receiving both a Development Permit and a Building Permit.

While the HRM Charter allows for the decision to approve an IBZA to be delegated to a development officer, there is currently no provision in the DHLUB to do so. All IBZAs must currently be approved by Council.

It is important to note the advantages that come with less Council involvement in the approval of each IBZA. These include fewer costs to the applicant and to the Municipality, shorter approval times, and reduced redundancy in the role of Council. The calculation of public benefit contributions, and the categories of public benefits listed in the Land Use By-law are ultimately approved by Council at the time of approving the Land Use By-law.

8 In this Section Council refers to both HRM Regional Council and any Community Council.

Affordable Housing in HRM's Density Bonus Policy

When the current density bonusing program for Downtown Halifax was being developed, affordable housing was seen as an obvious public benefit and it was included in the Land Use By-law. This matched the DHSMPS which stated in Policy 8 that "HRM shall encourage the provision of affordable residential units in Downtown Halifax through the bonus zoning provisions of this Plan." Earlier this year, HRM contracted an Affordable Housing Needs Assessment Study to better understand how Municipal programs and policies can address the shortage of affordable housing in Halifax.

The Regional Plan, completed in 2014, lists affordable housing as an essential part of complete neighbourhoods, one of the "guiding principles" for the Regional Centre. As is noted in the Plan, HRM recognizes that additional systems and capacities may need to be developed if the Municipality is to play a key role in providing and monitoring affordable units.

The Provincial government is the primary overseer of affordable housing in Nova Scotia, however, the Municipality has the ability to influence the provision of affordable housing through the use of planning policies and land use by-laws. Municipalities in Nova Scotia are required by the Statements of Provincial Interest to include in planning documents policies that address affordable housing.

While Affordable housing has been listed as an eligible public benefit category since density bonusing was first enabled, it remains one of the benefits that has not been achieved to date. With limited means for addressing the issue of affordable housing, density bonusing is a tool that the Municipality can use to increase the availability of affordable housing in Halifax.

Of the development projects that have used density bonusing to date, one project was originally proposed to include affordable units as a public benefit, however, there were some challenges associated with securing the affordable units. A low rate for calculating benefit contributions ($4.00 per 0.1sm as adjusted), as well as no requirement in the DHLUB to provide affordable housing were two factors that resulted in the developer opting for another benefit category. On one side there was a relatively high cost to the developer of providing affordable units and on the other side there was no power for the Municipality to demand the units. Additional challenges arose from the lack of a definition of "affordable housing" and a Municipal program to monitor the units and eligibility of tenants[9].

Since then, a Charter amendment (enacted Feb. 4, 2014) allowed for density bonusing to be used in the Centre Plan Area and requires that affordable housing (or cash-in-lieu) is provided as a portion of the public benefit for all density bonusing projects. The amendment also included a definition of affordable housing which reads as follows: "'affordable housing' means housing in the Centre Plan Area that meets the needs of a variety of households in the low to moderate income range." The requirement that affordable housing must be provided as a part of all density bonusing projects only applies to the Centre Plan Area and not Downtown Halifax. These changes to the Charter, as well as adjustments to the density bonusing

9 Design Review Committee minutes July 11, 2013

program may help to ensure that affordable housing units result from the density bonusing program.

4.2 HRM Density Bonusing Program in Practice

Amenities/Benefits Achieved by HRM in Past Bonus Zoning Agreements

Since the introduction of the Downtown Halifax Secondary Municipal Planning Strategy and Land Use By-Law (DHLUB), 24 development projects have been reviewed by the Design Review Committee (DRC) and 13 projects have been eligible to receive added height (density) in exchange for public benefit. All Site Plan Approval (SPA) projects are shown in Tables 4 and 6. Five of the 13 projects eligible for a height (density) increase were for façade improvements, renovations or small additions and therefore did not require an incentive or bonus zoning agreement (IBZA). Of the remaining nine projects eligible for a height (density) increase only one project (Citadel Inn redevelopment) did not apply to achieve the extra height.

The seven Agreements enabled 32,395 additional square metres (sm) of development in Downtown Halifax. While the majority of these Agreements were for multi-family residential, there was also a public library and an office building. To date, all incentive or bonus zoning agreements were based on in-kind benefits rather than cash-in-lieu, and all benefits have been provided within the project site rather than off-site. The seven projects that received a density bonus each provided benefits from one or more of the benefit categories. Benefits were offered from four of the 10 categories of benefits.

Heritage (H)

Preservation or Enhancement of the heritage resource
- provided in 2 projects -

Amenity Space (A)

Publicly accessible amenity or open space
- provided in 2 projects -

Parking (P)

Public Parking facilities where a deficiency in such facilities exists
- provided in 2 projects -

Sustainable Buildings (S)

Exemplary sustainable building practices
- provided in 4 projects -

The remaining six categories of benefits have not been chosen by applicants as of yet. The following pages chronicle the background behind the decisions to request each type of benefit through the IBZA for each qualifying project noted in Table 4.

Table 4: Public Benefits Achieved from Downtown Halifax Density Bonus Program 2009 - 2015						
Project	Approval Date	Pre-Bonus Height	Bonus Height	Land Use Added	Added Floor Area (sm)	Benefits Achieved
1. Halifax Central Library - 5440 Spring Garden Road (Case 17136)	2011	22m	28m	Public Space	1,404	Provision of publicly accessible amenity or open space, where a deficiency in such spaces exists (value $670,000)
2. TD Bank - 1785 Barrington Street (Case 17186)	2011	49m	(view plane)	Office Space	4,952	Preservation of heritage resource and provision of exemplary sustainable building practices (value TBD)
3. Mary Ann - 1452 Queen Street (Case 18006)	2012	22m	28m	Residential	3,406	7 public parking spaces (value: $22,000 - $25,000 each)
4. Winsby's - 5504 Spring Garden Road (Case 18465)	2013	22m	25m	Residential	289	Energy and water saving strategies (value: $55,000)
5. 22nd Commerce Square - George and Granville Streets (Case 19046)	2014	49m	(view plane)	Mixed Use	16,999	Preservation of heritage buildings, publicly accessible amenity space, LEED Platinum (value: TBD)
6. The Dillon - Market and Sackville Streets (Case 19156)	2014	22m	28m	Residential	877	Sustainable building practices: retention of facade and reuse of building materials (value: $400,000)
7. The Maple - 1583 Hollis Street (Case 19148)	2015	51m	66m	Residential	4,468	Pursuit of LEED Gold (value: $225,000)
TOTAL					32,395	

Detailed Review of Past Bonus Density Agreements

Based on the DHLUB, HRM calculated an aggregate density bonus benefit of $1,397,554. Of this total, the majority of the money was allocated to 'preservation or enhancement of the heritage resource', although 'sustainable building design' was the most popular benefit attained by number of projects (5 projects). In the descriptions below the 'value' is the *actual* value of the benefit and the minimum requirement is the calculation derived from the Downtown Halifax LUB. These calculations are shown in full in Table 6.

A P

Project 1 - Halifax Central Library (July 2011)
Benefit: Provision of publicly accessible amenity or open space, where a deficiency in such spaces exists (value: $670,000)

This was the first project to be approved for bonus density. Unlike all other projects to date, this was a Municipally-funded project and therefore did not rely on the same economic conditions as other projects. The building itself is a public amenity, however, the outdoor amenity space was considered to be the official public benefit contribution for the purposes of the density bonusing program.

H S

Project 2 - Barrington TD Bank Tower (September 2011)
Benefit: Preservation of heritage resource and provision of exemplary sustainable building practices (value: TBD)

This was the first privately-funded project to be approved and completed under the density bonusing program. While the required benefit contribution was relatively high compared to some of the later projects, the benefits provided (sustainable building practices and heritage preservation) easily exceeded the required contribution of $198,080.

P

Project 3 - Mary Ann (September 2012)
Benefit: 7 parking spaces (value: $22,000 – $25,000 each). An original proposal of affordable housing was withdrawn.

The original proposal for the Mary-Ann site included a public benefit contribution of affordable units. However, despite efforts by the developer and municipal and provincial government departments, the density bonusing program at that time did not enable a smooth and predictable process for pursuing that particular benefit category. Public parking represented an option for the developer that presented fewer barriers and reduced costs in terms of time and financial resources.

S

Project 4 - 5504 Spring Garden Rd. (May 2013)
Benefit: Energy and water saving strategies (value: $55,000)

The initial calculation of benefit required was based on $4.00 per 0.1sm and was less than $12,000. Because the requirement was so low, there were limited options for public benefits. Planning staff recommended a benefit that would make the "best use" of the limited funds: energy and water saving strategies[10]. Because

10 Interview with HRM Planner (09 July 2015)

the use of the available funds would have resulted in a minimal contribution to the public realm, the final report that was submitted to Regional Council by the Development Officer included the original suggested benefit of energy and water savings strategies with a value of more than that of the required benefit, which came to $12,716 when adjusted for the then current rate of $4.40 per 0.1sm.

H S

Project 5 - 22nd Commerce Square
(February 2014)
Benefit: preservation of heritage buildings, publicly accessible amenity space, LEED Platinum (value: unknown)

The exact value of the benefits achieved is not yet determined as an IBZA has not been finalized. The value of heritage preservation and LEED Platinum design is estimated to "far exceed" the minimum requirement of $747,946[11]. The planner who reviewed the case saw the benefits as being appropriate for the site, particularly regarding heritage preservation and public amenity space. Sustainable building design (LEED Platinum) was less significant as it would likely have been provided without the incentive of bonus height/density.

S

Project 6 - The Dillon (April 2014)
Benefit: Sustainable building practices - retention of façade and reuse of building materials (value: $400,000)

The benefit proposed for this project falls under the category of sustainable building practices and exceeds the minimum requirement of $38,580. While the building was not a municipally registered heritage building, the design includes the retention of the original facade, however, it could not be considered under the category of "preservation of a heritage building", but did fit within the parameters of "sustainable building practices" and could therefore be counted as the public benefit contribution.

S

Project 7 - The Maple (April 2015)
Benefit: Pursuit of LEED Gold (value: $225,000)

The public benefit that was initially proposed for this development included a mid-block pedestrian connection and LEED Gold design. An easement on the property was required to ensure that the pedestrian connection would be maintained, however, due to delays in the legal process of granting HRM an easement for the connection, this portion of public benefit was removed from the bonus zoning agreement. The value of LEED Gold alone was greater than the minimum required benefit and so it was accepted as the only required public benefit. A mid-block connection would have been an "appropriate" benefit as there is specific policy in the MPS that indicates a mid-block pedestrian connection is a desirable element of new development, particularly one such as this where a large portion of the block is being developed. While the site-plan approval still shows the building design as including the pedestrian connection, there is no agreement to ensure that it is maintained and continues to be publicly accessible as a pedestrian right-of-way[12].

11 Comments from HRM Planner (30 June 2015)

12 Interview with HRM Planner (8 July 2015)

4.3 Observations on HRM's Existing Density Bonus Program

This subsection is displayed in three parts that each list observations on how HRM's current Density Bonus Program is functioning:

- general observations
- local development industry observations
  - developers
  - appraisers

General Observations

General observations on the current density bonusing program are provided here and are sorted into similar headings as were used to categorize lessons from Section 3.0 Learning From Other Municipalities.

Culture, Capacity and Communication (See Recommendation A)

Observation #1: HRM's corporate culture is not fully coordinated with or supportive of the Density Bonusing Program.

There appears to be limited communication, limited shared corporate capacity, inconsistent or confusing language, and malaligned procedures (both within HRM, and between HRM and external parties) regarding the existing density bonusing program, and the opportunities, challenges, needs and priorities around managing a new, more successful density bonusing program. Considerable corporate attention will need to be given to address these weaknesses as a new program is developed and operated. Otherwise HRM will face challenges ranging from less than ideal outcomes (with significant public value opportunities lost), to more significant political and legal discord and confusion.

Observation #2: Current staff capacity supports the existing flat-rate system for Downtown Halifax.

The use of a flat-rate system within the context of pre-zoned lands has worked reasonably well in Downtown Halifax. It is also noted that current skill sets within HRM do not lend themselves to conducting assessment or pro forma based site specific land lift negotiations as a part of a non-flat rate system (although senior municipal staff suggest that they are open-minded to enhancing staff skills/capacities to allow for such, if it could add significant value in what the HRM can achieve). It is unlikely that there would be interest, or benefit, in reconsidering the pre-zoned flat rate system in Downtown Halifax specifically, to a negotiated density bonus system like those seen in other cities and described elsewhere in this report.

Observation #3: The Municipality does not keep an account of or report on total benefits achieved.

In the current program, Staff reports for resulting applications do not have a standardized format for transparently calculating and reporting on the value of benefits achieved relative to density granted, that would make annual aggregating of benefits values achieved an easy exercise. Also, the Municipality does not currently complete an annual report of total benefit values achieved over multiple projects during a calendar year, an exercise that other density bonusing cities have recently begun to undertake.

Density Bonus System Approach: Fixed versus Negotiated Rates
(See Recommendations B, C and D)

Observation #4: Alternative forms of land-lift are not currently being considered for density bonusing in Downtown Halifax.

There are currently no community amenity negotiations/density bonusing system applicable to rezoning applications, or similar Council-approved processes such as development agreements. A significant amount of density has been granted through such processes.

In some cases applicants have even offered to provide public benefits that would be considered attractive to the community or elected officials, but staff have been unable to accommodate such offers in a transparent and consistent way given the absence of a related system. This is a significant case of "leaving public value on the table" to the detriment of successful densification and the broader public interest.

Cities with effective and successful density bonus systems make particular use of *rezoning processes* for the achievement of supporting public benefits, as there is often considerable land lift being considered by Council in the form of increased density and height. However, this significant opportunity has not, up until now, been part of HRM's discussions regarding density bonusing.

Other potential "lift" circumstances include changes in land use from a less profitable to a more profitable use, such as industrial to commercial, or even such requests as parking relaxations, which in other cities are used to negotiate positive public interest and mitigating outcomes such as carsharing spaces or enhanced bike parking facilities.

Observation #5: A height-based system has worked well in Downtown Halifax, but may not work as well outside of the Downtown.

A height-based system has worked reasonably well in the Downtown Halifax context, where height is usually the primary consideration. However in other parts of the city, building mass may raise issues that are more height-neutral or at least not height-driven. This is especially the case where mid and lower-rise buildings are the norm, and there is an interest in more site-specific building articulation relative to a variety of adjacent land contexts.

The focus of the current Density Bonusing Program on height, rather than a measure that measures both density and height, runs the risk of encouraging efforts to maximize density in unusual ways in order to fit under the pre-bonus height limit. Corresponding urban design issues include lower floor to floor heights (especially the ground floor which can have particular issues in mixed use buildings with commercial/retail bases), and building "boxiness." These concerns can be addressed or mitigated through other strongly enforced regulations such as minimum floor heights, building step-backs above certain floors, and so on, which HRM has been using.

During questioning of Staff, it was suggested that urban design problems have not been occurring as a result of such squashing, and indeed, such tendencies can occur outside of a density bonusing program whenever there are strict height limits established. However, a more specific and deliberate dialogue and investigation on the effects of height limits, bonus-related or otherwise, on urban design

performance would be valuable, in particular to determine if additional urban design-related regulations are needed to mitigate the results. Alternative approaches that emphasize density (FAR) and height rather than just height, can change the dynamics involved in such considerations. For example, where density is the more dominant factor, negotiations may more easily allow for benefits that take up a portion of the site, such as corner plazas.

The flat rate approach appears to be working well in this specific context. Given the importance of heights in Downtown Halifax, the logic of continuing to use a height-based approach to bonus density in this context is apparent. In the interim, the flat rate system is predictable, easy to calculate and well understood.

The expansion of the Density Bonusing Program to the broader Centre Plan Area beyond Downtown Halifax introduces both new opportunities for the HRM, and new questions. Staff have expressed an open-mindedness to density bonus programs that are different than the height/density flat rate system currently used (and recommended to continue) in Downtown Halifax. Staff have also expressed an interest in considering floor-area ratio (FAR)-based density policies in the creation of the Centre Plan, which could open up new options for modified density bonus approaches using FAR.

At this stage, the ultimate policy approaches to be used in the Centre Plan are unclear. However it is assumed that increased density potential, and corresponding density bonus approaches, will be built into zoning, limiting the need for individual rezoning applications. In conclusion, a flat rate system for density bonusing is likely most appropriate in the short term, with negotiated approaches used only where individual rezoning applications or similar processes requesting Council approval for different density/height/uses are requested. Over time an FAR-based approach may be developed for density in HRM which could provide some advantages.

Streamlining the Density Bonus Approving

Zuccotti Plaza • New York City, NY
an example of Privately Owned Public Space (POPS)

Authority
(See Recommendation E)

Observation #6: The current requirement for incentive or bonus zoning agreements to go to Council, represents a time delay, a cost and a potential perceived uncertainty in the system for applicants.

Also, this requirement is a potential confusion or frustration for all parties, including Council. Most (if not all) programs that work within the existing zoning, do so largely based on the advantage of not having to go to Council, with the corresponding benefit in time, costs and political certainty. Thus the need to do so in the HRM program is likely a weakness in the intended attractiveness of the program. Further, given that the program allows the applicants to select the benefits, given the flat rate nature of the amount involved, it is unclear what Council is expected to deliberate on in considering such an Agreement.

In such circumstances, Council may feel they are expected to "rubber stamp" such Agreements, a perception that can lead to frustration on the part of Council. This is particularly true if members of the public are opposed to a project and choose to oppose the corresponding incentive or bonus zoning agreement.

Who Chooses Public Benefits
(See Recommendation F)

Observation #7: There is little power for staff to influence whether on-site or off-site benefits are provided.

The current Density Bonus Program in the Downtown suggests a preference for on-site benefits over cash-in-lieu. Expressing such a preference however, could lead to scenarios where on-site benefits are deemed feasible, but are not considered optimal or preferred by the Municipality. Site specific considerations may lead the Municipality to conclude that the location in question is not ideal for a benefit, or that such a benefit would be "more expensive" and thus use more benefit capacity if it is constructed on-site. In short, there are many advantages to having developers construct and "house" amenities, including financial benefits, however the Municipality should be able to decide, without pressure from the enabling policy, which is in the best interest of the Municipality and the public. In the case of the financial benefits of taking the benefit on-site, the Municipality might consider establishing a slightly higher cash-in-lieu rate per square metre than the rate for in-kind, to compensate for that financial advantage.

Observation #8: Applicants are allowed to choose the public benefit to be provided, making municipal prioritization of public benefits impossible.

The combination of a low amount of collected public value, a long list of choices, AND the ability of the applicant to choose the benefits that will be provided, makes it especially difficult for HRM to focus energy on achieving prioritised public outcomes. This is especially true when cash-in-lieu is taken and must be spent for the purpose which it is taken for, but the slow accumulation of funds makes the timing of delivery of benefits frustratingly long.

In addition, the developer's ability to choose means that the HRM may end up with poorly located benefits, "gold plated" benefits where they are provided in developments where they are particularly expensive (and use up a lot of benefit capacity), or simply that the lowest

priorities are taken while the highest priorities fall behind. Also applicants understandably have the tendency to select benefits that most enhance the marketability of their project, as opposed to benefits that might be most needed by the community. In addition, when applicants are choosing the specific benefits, it weakens a municipality's ability to ensure a "nexus" or planning relationship between the density granted and the specific benefit achieved. The vast majority of cities studied do not allow the applicant to choose, but rather encourage the applicant to make suggestions (and express concerns if applicable); encourage the community to express preferences both in the development of area-specific plans or policy, or in consultation on specific development applications; and refer to municipal priorities as a starting point in the identification of priority benefits connected to a specific development. After considering all three of these inputs, the Municipality usually determines the benefits package.

Furthermore, municipalities often seek to "balance" the real and perceived value that is created with each benefit package, so that applicants, the community, and Municipal administration/Municipal Council all feel they have benefited from the resulting package. When balanced well, all parties see the additional density as being well supported and beneficial to all involved. When done poorly, or when outcomes are driven just by one party in the process (e.g. the Applicant), positive perceptions of the process, program and results are much less likely.

Public Benefits Achievable Through Density Bonusing

(See Recommendation G)

Observation #9: The current list of eligible benefit categories is much longer than those of most other density bonusing programs studied.

Combined with the relatively small amount of public value being achieved in the current program, HRM allows a larger list of 10 public benefit categories, which is considerably more than those found in most cities. There is a significant risk that the program is "spread too thin," representing an unfocused "wish list," and making it difficult to make notable gains or successes in priority categories (As the saying goes, "if everything is a priority, nothing is a priority"). Although long lists were likely originally seen as providing flexibility, it has been realized that they can weaken focussed achievement. Several cities that have had similarly large lists of bonusable items have recently "consolidated" or shortened their list, to focus their energies on the highest priorities. In doing so, such cities have particularly removed bonusable items that have questionable value to the municipality's stated goals (in HRM's case, the example of additional public parking could be reconsidered given the Municipality's transportation and active mobility goals); are being achieved without incentives (in HRM's case, green building practices); or could be achieved through other means including regulation, policy or other programs (once again, green building practices, 3-4 bedroom units through policy as many Canadian cities have recently undertaken, or public art which is often realized through specific programs). Where certain benefit options are difficult to end abruptly, cities are considering techniques

such as "sunset clauses" to assist with phasing them out.

Observation #10: Daycare facilities are not included in the list of benefit categories.

It is noted that one of the more common and popular categories of amenities/benefits used in other municipalities, daycare facilities, does not appear to be available.

Observation #11: The flat rate amount currently used in Downtown Halifax is too low.

A review of the benefits achieved through the incentive or bonus zoning agreements approved to date, summarized elsewhere in this report, illustrates that the amounts of value created through the existing program are often too small to correspond with attractive on-site opportunities. As of June 2015, seven bonus zoning agreements have been approved or reviewed, with a total applicable value of benefits of nearly $1.4 million. Although this is a significant amount, it reflects a relatively small achievement when compared to other density bonusing programs, even after factoring relative size and economic activity in cities. The flat rate amount established, initially intended to "not scare off development," has likely had the effect of inflating land value expectations, and has certainly resulted in limiting the success of the density bonusing program in matching new density with the amenities and benefits that support successful densification. The HRM has in effect been "leaving public value on the table" that, rather than shoring up the viability of development or incentivising development activity, has likely been raising the expected value of land being sold to developers, and resulted in lost public value opportunities.

Observation #12: HRM faces risks associated with a large gap between the value of density bonuses and the value of benefits achieved.

In cities where redevelopment is considered reasonably financially attractive, there are compelling reasons for trying to balance the cost of the public benefits with the value of the density. If the cost of public benefits expected by the HRM is significantly less than the value of the bonus density, there are two potential concerns:

First, if the amenity expectation is very low, the Municipality may grant considerable additional density but achieve little in the form of public benefits. This has the effect of undermining the success of increased density from an urban planning perspective, and may also undermine the market performance and stability of the area.

Second, the gap between the costs of the amenities and the value of the density bonus will, over time, simply be capitalized into land values. In other words, developers will have to pay more for land, and the additional profit will go into the pockets of the sellers of land rather than to the HRM in the form of public benefits that support the successful density. Generally speaking, any land lift from increased density not captured by the municipality as amenity will be captured by land value.

Setting Base + Maximum Densities
(See Recommendation H)

Observation #13: Smaller developments may represent missed benefits if they are excluded from the Density Bonusing Program.

In the creation of a new Density Bonusing Program for the Centre Plan area, a key policy question will be at what scale of development does a density bonus program "kick in" and begin to apply? Staff have expressed a concern that requiring smaller developments to provide public benefits, even at a relatively simple flat rate, could represent a disincentive to the achievement of such strategically important scales and forms - however, as noted previously in this report, a simple and well understood density bonusing program need not affect the viability of developments when experienced builders or developers are involved. Thus scales such as mid-rise, stacked townhouses, and even rowhouses can reasonably accommodate such a program. However, economic analysis is needed to determine if such low-rise forms represent a land lift relative to the "base" value of single family detached (SFD) homes. If not, as SFD homes can be quite valuable, there is no purpose to applying density bonusing to such scales. However, it should be noted that such economic conditions may change over time, and the Municipality should inform the community that wherever the scale line is drawn now for which scales are included in the Density Bonusing Program, such a line may change later as economic conditions change.

Observation #14: Setting base densities too high does not appear to be an issue in the Downtown Halifax and Centre Plan areas.

A critical element of the success of density bonusing programs is that base permissible densities are not set too high. If they are, cities are often faced with the difficult choice of either settling for a relatively unsuccessful and ineffective program, or downzoning to facilitate a successful program. Downzoning is legally permitted, and in fact has been done by some cities that now have successful programs, but can be seen as politically unattractive. Preliminary review and discussions with Staff suggest that this is generally not an issue with current density permissions. A robust consideration of this issue is not in the scope of the current study - thus Staff should continue to review this issue as further land use processes continue, and further economic analysis is conducted. In addition, as new densities are established in upcoming policy and zoning, the need to be sure not to set base densities too high for a successful density bonusing program should remain top-of-mind.

Observation #15: Halifax may have too much density potential spread too thin.

Although a detailed understanding of the evolving land use planning intentions of Staff in the Centre Plan process and other planning initiatives is out of scope for the current study, the sense that the consulting team has gotten through conversations with Staff is that there might be an evolving issue of too much density potential being established, representing potential supply decades beyond the life/time frame of a particular plan. Although land use advice is also beyond the scope of the current study, we note that one of the many downsides of over-designating density potential and not providing a phasing policy to determine "what comes first," is that development can wind up being spread thin, with corresponding thin-ness of contributions for public benefits, such that accumulation of

funds for specific amenities can be scattered, diluted and frustratingly slow.

Additional Principles
(See Recommendation I)

Observation #16:The Municipality currently does not allow density transfers across adjacent sites or sites owned or controlled by the same applicant.

Cloud Garden • Toronto, ON

In the case of heritage preservation/ restoration, the Municipality does not currently allow the creation of density potential through heritage restoration that can be "landed" elsewhere in the future through a "density bank" approach. This means that in sites that are heavily constrained by an on-site heritage feature, there is limited ability to retain the feature using the density bonusing tool.

Local Development Industry Perspectives

In order to assess how the real estate development industry viewed the current Density Bonus Program, interviews were conducted with real estate developers or developer representatives who have participated in existing bonus zoning agreements.
Developers and their representatives were asked about their experience in negotiating a bonus zoning agreement with HRM; what they liked about the current program; and what they would like to change about the current program. The results of the discussions will be presented in aggregate as responders were assured their privacy.

The following observations were aggregated from the developer interview group:

Program location: The rationale behind the Density Bonus Program makes sense - to provide public benefits in return for greater density. However the implementation of the Density Bonus Program is considered very poor. One applicant thought the concept of the program was so good that it should be expanded to include the suburbs (if

HRM continues to enable medium to high density communities in suburban locations). Interviewees like the fact that the density bonus program gives the public a different perspective on more density in their neighbourhoods.

Selection of benefit: Applicants cited a number of instances where the policy intent of the Density Bonus Program could not be implemented on their site, due to either a lack of coordination between HRM and the Province, or because HRM staff were unwilling to deviate from the "letter of the by-law." These developers had to offer a different benefit in exchange for the added density they proposed.

Clarity of process: Applicants liked that the value of the density bonus is simple to understand and easy to calculate: the measure is to multiply every 0.1sm of bonus space by the published rate.

Program is optional: Several applicants indicated they like that the current program's density bonus mechanism is optional - applicants may request additional density should the economics and circumstances warrant it.

Funding public benefits: There was some criticism that the current program did not generate enough funds to make any substantial impact. It was noted that better community benefits may be achieved by using funds pooled from several development projects. In other words, they thought the current program was functioning on a piecemeal basis.

Restrictive aspects: One applicant thought that the Land Use By-law (LUB) was too specific (too formulaic), and did not allow HRM staff to exercise good judgment or common sense. To overcome this, he thought the LUB should have some sort of omnibus statement that would allow most things to be varied based on a collective review by HRM staff.

Benefit types and their implications: The applicants were asked to comment on each of the current 10 benefits listed in the LUB, and whether or not they were appropriate. Virtually all respondents agreed that LEED was becoming standard practice, and therefore did not provide much of a benefit to the surrounding community. Many also disagreed with the inclusion of 3- and 4-bedroom units with direct access to outdoor amenity space, as they considered this an intrusion into the marketplace by HRM. They also indicated that if the policy intent of 3- and 4-bedroom units is to encourage more families to live in the Regional Centre , it will not work because such units would typically be expensive, and the HRM would not be able to regulate against students renting them (or condo owners renting to students instead of families).

Selecting a benefit to provide: One applicant thought that the public input associated with the Site-Plan Approval process provided valuable insight into specific public amenities that might be appropriate for the proposed development. Many supported the idea of a "public benefits masterplan" and hoped that such planning could be used to help streamline the system, especially for smaller projects that don't warrant the same level of review. One applicant felt strongly that HRM should be "driving the bus" - that HRM Staff should be indicating exactly where and how bonus zoning funds should be spent.

Appraisers

In addition to the formal interviews described above, general research and conversations with appraisers and other market perspectives were conducted in order to ensure that the project team's understanding of local market conditions and perspectives were as up-to-date and accurate as possible.

Value Areas and Program rates:
Overwhelmingly, all parties agreed that having one land value for the Regional Centre makes no sense. There was also acknowledgement that the current land value identified in the LUB is fairly low relative to the market value of land.

Updating Value Areas and Program rates:
Most thought that the values should be updated every 3 to 5 years. A suggestion was made that a CPI inflator could be used to provide annual updates between periodic valuations, thus limiting the number of times the values had to be updated.

Land value speculation: Most thought that developers were bidding on redevelopment sites based on how much density they thought they could get approved. This expectation of density is a function of what HRM is allowing on similar sites nearby. In other words, by up-zoning properties, HRM is creating upward pressure on land values.

Most thought that the existing Density Bonus Program has not had a big impact on land values so far but some could not form an opinion because there has not been enough sales activity on sites eligible for density bonusing. One interviewee thought the Density Bonus Program has actually stabilized land values because all bidders on a property have the same information (and know the maximum height possible).

All interviewees agreed that a rational developer would assume the post-bonus density build out when bidding on sites eligible for density bonusing. They agreed they would deduct the cost of the density bonus from what the build-out the market could support[13].

13 Applying land valuation theory and the current rate of $4.40 per 0.1sm, this means that virtually all of the post bonus density value is being allocated to the current landowner.

Zuccotti Plaza • New York City, NY


22nd Commerce Square
Goerge and Granville Streets
Approved 2014
Density Bonus Area: 16,999sm

5.0 Deriving the Value of Density in the Regional Centre

5.1 Land Value Areas within the Regional Centre

Each 'Land Value Area' shown on the map in Figure presents properties in which the cost of land fits within a determinable range per a unit of measure. For this report, the unit of measure of the land is per 0.1sm of buildable floor area[14]. Each Land Value Area is represented by the average cost of land per buildable 0.1sm.

Seven Land Value Areas have been identified through a detailed review of land values in the Regional Centre and from development industry feedback. Each Area contains the raw data needed to make recommendations in this study[15], most notably the flat rate per 0.1sm. A large amount of new development activity is anticipated at the Cogswell Interchange and Shannon Park sites within the next 10 years. Land Value Areas have been created specifically for these locations in order to capture the anticipated differences in real estate value compared to the values of surrounding real estate development.

It is not advisable to develop a density bonus program for the Centre Plan area using one Land Value Area[16]. The effect of using one area would be that the density bonus rate charged for additional density would be considered within a wider range of land prices and could possibly be based on the least expensive land price in the Area. If a low rate were used it would be in an attempt to capture public benefit alongside additional density in a desirable location (as identified by the Municipality) of which the land cost is lower than that in the rest of the area. A density bonus program with one Value Area can leave millions of dollars of potential public benefit unrealised from the lands that could actually support a higher density bonus rate per 0.1 square metre (sm).

The boundaries of each Value Area are shown on the map in Figure 7 and described below:

1. **South End Halifax.** Except the lands north of Duke Street, (Cogswell Redevelopment Area) this area includes the remainder of the Downtown Halifax SMPS lands and all lands south of Pepperell Street, which is a block south of Quinpool Road. South End Halifax includes the entire Citadel Hill.

2. **Cogswell Redevelopment Area**. All lands within the Cogswell Interchange Redevelopment Area, which is bounded at the south by Duke Street, to the west by the Citadel Hill and Brunswick Street, to the North by Cogswell Street and Cunard Street, and to the East by the Halifax Harbour.

3. **North End Halifax**. All lands on the Halifax Peninsula north of Pepperell Street, Quinpool Road, the Citadel Hill, Cogswell Street and Cunard Street.

4. **Shannon Park**. All lands within the Shannon Park area, which is bounded to the east by the railroad west of Windmill

14 0.1sm is a metric number that approximates one square foot.

15 Areas that will be enabled for Density Bonusing, if any, will be decided by HRM representatives following the completion of this Study and may or may not follow the boundaries shown on the Real Estate Values map.

16 This assumes there will be more than one location within the Centre Plan Area chosen by Municipal staff whereby properties will be eligible for additional density under the Density Bonus Program.

‘Land Value Areas’ - Regional Centre

Figure 7. Map showing Land Value Areas in the Regional Centre.

Road, to the north by the MacKay Bridge and to the south by the Halifax Harbour.

5. **North Dartmouth**. All lands in the Dartmouth portion of the Regional Centre (except Shannon Park); north of Park Street, Dahlia Street and Woodland Avenue; and to the west of the Circumferential Highway.

6. **Downtown Dartmouth / Mic Mac + Penhorn Malls**. This includes all of the lands in Downtown Dartmouth and lands surrounding Lake Banook and the Mic Mac and Penhorn Malls. This area is bounded to the north by the Circumferential Highway, to the east by Portland Street and Old Ferry Road, to the south by the Halifax Harbour and to the west by the boundary of the North Dartmouth Area.

7. **Woodside**. All lands in the area bounded at the north by Portland Street and Old Ferry Road, to the east by the Circumferential Highway, to the south by the Circumferential Highway and the Halifax Harbour and to the west by the Halifax Harbour.

Calculation of Density Bonus Values

The new figures recommended both for South End Halifax and elsewhere in the city would be set in part through the use of a "coefficient," or a percent of the anticipated increased value or "land lift" being created that would be captured by the HRM as public benefits. While the coefficient is the element of the value-based flat rate system that is the most strategic in its selection – there is no "right answer" as to which coefficient HRM should use. If a high percentage is selected, more public value may be achieved across a range of projects, however it increases the possibility that a portion of projects may conclude that the density bonusing option is not financially attractive, thereby passing on the opportunity for additional height and density. If on the other hand a too-low percentage is selected, HRM will perpetuate the current system, where the aggregate amount of benefits collected is not larger enough to effect any meaningful impact (i.e. the general public will not see that there is enough value in the trade off between allowed height and new public amenities). While some may be concerned about the potential for developers to not use the bonus density offered, this is a voluntarily system, and no developer will be forced to take advantage of it. As new pricing for the bonus density space is unveiled, the market will slowly adjust so that land prices to existing owners are reduced by the increased premium paid to HRM (i.e. a developer can only pay a certain amount for land, and any increase in the cost of the incentive or bonus zoning agreement will be taken out of the base value of the land). This will counterbalance the escalation in land values seen since the implementation of the Downtown Halifax SMPS, as existing land owners have benefited unreasonably from the allocation of increased heights in the plan's new height precincts.

In the process of assigning a value to land in each of the value precincts, we have identified a low and high value and averaged the two into one fixed value point. This average is then multiplied by three different value coefficients (e.g. 50%, 67% and 75%) in order to assess a single land value that could be used across each zone. The coefficient reduces the land value used in order to reduce or eliminate the risk that a developer would contest the valuation. This is not dissimilar to the

approach that the Property Valuation Services Corporation (PVSC) takes when assessing a property in Nova Scotia for tax assessment purposes, although the coefficients do vary.

The use of coefficients for the purpose of creating a single land value is consistent with what is done in other communities in Canada that have density bonusing programs. The recommendation of a higher value coefficient is consistent with the rate used in more ambitious and successful density bonus programs such as that in Vancouver. While some Ontario communities use a lower value coefficient, these are generally seen as less effective/sucessful programs so are not considered "models," and Halifax has substantially less development and has lower land values, therefore using a lower coefficient would result in dramatically less public benefits. This could potentially put the program at risk as residents question what they are getting in return for greater density.

There is no single "right answer" relative to the coefficient selected (although there are clear advantages and consequences to any given choice), and it is difficult to discuss clear "comparables" with other cities given that their conditions differ widely in both their economic/political/cultural/regulatory context, and the related details of their density bonus systems. As an example, in cases where a city makes different decisions in details such as the size and number of value zones in their system, this difference would mean a need to take a different approach to the coefficient reflecting the different range of values, and corresponding risk to the attractiveness of the program. For this reason, a straight comparison of the different coefficients used in other cities would be at best unhelpful, and at worst, misleading.

22nd Commerce Square • Halifax, NS

In the Halifax context, it is a combination of the details of our specific systems recommendations (e.g. a higher number of value zones than other cities, thus a greater confidence in the locational accuracy of the numbers generated); the general confidence in the economic considerations in this study; the feedback received though discussions with industry and appraisers; the confidence in the local real estate system's ability to "absorb" the figures involved; and the lessons learned from other systems (where "failure" can include a failure to collect the amounts of public value that were initially achievable), that together lead to a reasonably ambitious recommendation for the coefficient.

Interestingly, during the stakeholder interviews, several developers expressed a concern that the current program is not producing enough public benefit to justify the program, and they wanted to see a more concentrated effort at creating larger public projects that justified the use of the program. This study suggests that the proposed values and value coefficients strike the right balance between encouraging developers to use the program, and creating enough benefit to ensure the public is satisfied with the trade off between density and public benefits.

Proposed Density Bonus Values by Proposed Value Area

One caveat for Table 5 is that it is predicated on multi-family residential housing as the land use associated with the additional density. Given the dearth of new office building construction in the central core over the past two decades, the exclusion of office space in this table is not likely to create a problem, and could be addressed by a site specific appraisal for density bonus cases involving office space.

Table 5: Potential Flat Rate Value Options by Value Area

					Rate for Density Bonus		
Area	Name of Area	Residential Low per 0.1sm	Residential High per 0.1sm	Average Market Value	50%	67%	75%
1	South End Halifax	$32	$48	$40	$20	$26.80	$30
2	Cogswell Redevelopment Lands	$32	$48	$40	$20	$26.80	$30
3	North End Halifax	$22	$30	$26	$13	$17.40	$19.50
4	Shannon Park	$16	$27	$22	$11	$14.70	$16.50
5	North Dartmouth	$5	$11	$8	$4	$5.40	$6.00
6	Downtown Dartmouth + Mic Mac/Penhorn	$16	$32	$24	$12	$16.10	$18.00
7	Woodside	$5	$11	$8	$4	$5.40	$6.00

Overall, the matrix indicates that the value per buildable 0.1 square meter (sm) ranges from a low of $5 to $11 per 0.1sm in Woodside and North Dartmouth, to a high of $32 to $48 per 0.1sm in the South End Halifax. After the application of the coefficient, the proposed rate in South End Halifax ranges from $20 to $30 per 0.1sm. For the South End, selecting the middle coefficient option with a value of $26.80 per 0.1sm means the proposed rate is much higher than the current rate of $4.40 per 0.1sm, but still justifiable relative to recent real estate activity (e.g. the Alexander residential

Table 6: Public Benefit Value vs. Market Value from 2009 - 2015 by Potential Flat Rates

Project / Developer	Incremental Floor Area (sm)	HRM Value per 0.1sm	HRM Calculated Benefit	Market Value of Benefit at 50%	Market Value of Benefit at 67%	Market Value of Benefit at 75%
Market Value per 0.1sm				$20.00	$26.80	$30.00
1. Halifax Central Library - 5440 Spring Garden Road	1,404	$4.00	$56,160	$280,800	$379,272	$421,200
2. TD Bank - 1785 Barrington Street	4,952	$4.00	$198,080	$990,400	$1,327,136	$1,485,600
3. Mary Ann - 1452 Queen Street	3,406	$4.33	$147,480	$681,200	$912,808	$1,021,800
4. Winsby's - 5504 Spring Garden Road	289	$4.40	$12,716	$57,800	$77,452	$86,700
5. 22nd Commerce Square - George and Granville Streets	16,999	$4.40	$747,946	$3,399,755	$4,555,671	$5,099,632
6. The Dillon - Market and Sackville Streets	877	$4.40	$38,580	$175,364	$234,987	$263,045
7. The Maple - 1583 Hollis Street	4,468	$4.40	$196,592	$893,600	$1,197,424	$1,340,400
TOTAL Value of Density Bonus	32,395		**$1,397,554**	**$6,478,919**	**$8,681,750**	**$9,718,377**
Diffrence between HRM Actual and Projected Market Value				($5,081,365)	($7,284,196)	($8,320,823)

tower at the Brewery Market was just sold for $45 per 0.1sm, while the St. David's land lease on Brunswick Street was valued at $40.35 per buildable 0.1sm).

An example of the potential value of density bonusing in the South End Halifax Value Zone is shown in Table 6.

Applying the potential value of $26.80 per 0.1sm (67%), the seven completed Agreements could have generated a total of $8,681,750 of public value to the community, a difference of $7,284,196 when compared to what was achieved.

5.2 Projection of the Value of Density Bonusing in the Halifax Regional Centre 2016 - 2025

Quantifying the financial benefit to HRM of a revised density bonus program is a task that would consider many factors that each depend on various specific conditions in order to be assumed. HRM's request was to calculate the benefit for the Downtown Halifax SMPS area, however quantifying small areas is problematic as allocating demand to specific areas of the city can create extreme inaccuracy.
As an alternative, a forecast of the bonus density benefits to the Regional Centre is provided (e.g. Downtown Halifax and the Centre Plan Area). This larger area of geography increases the level of certainty for the allocation of where new multi-family housing is built, despite there being several other problems with this type of forecast.

Potential issues that will erode the certainty of any projection must be asked and issue includes several variables:

Is the housing forecast accurate? Low interest rates have been the driving force behind most construction projects over the past 5 to 8 years. Although the recent pullback of the Chinese economy almost assures that global growth, and therefore interest rates, will stay low, any major increases in interest rates would most certainly curtail the volume of new construction seen across the country. In addition to interest rates, notwithstanding the start of the Irving Shipyard contract, employment growth has been very low for the past few years, and without a major uptick in employment growth, total housing starts (including multi-family housing) could under-perform relative to the level seen over the past five years. Finally, low interest rates are only effective as long as CMHC is willing to issue Certificates of Mortgage Insurance on new housing projects. Although vacancy rates in Halifax have risen just past 4%, this is still considered a balanced market from a national perspective (e.g. in the case of the market favouring the landlord versus the renter). On balance, CMHC is likely to continue underwriting new projects until the vacancy rate hits 6 to 7%, or the private sector pulls back due to the perceived risk associated with increased vacancies.

Will we continue to see increasing market share for multi-family units relative to total housing demand? Twenty years ago, single family housing starts dominated the housing market - accounting for more than two thirds of all housing starts. During the past five years, multi-family housing has accounted for the majority of all housing starts. Is this shift a temporary phenomenon or a permanent shift? As density bonus amenities are typically derived from multi-family housing starts, any shift back to single family demand could

reduce the stream of projected amenity benefits.

What is a reasonable allocation of demand to the Regional Centre ? The first Regional Plan estimated that 25% of all housing construction would occur in the Regional Centre, while another 50% would occur in the Suburbs and the remaining 25% would occur in the Rural Commutershed. Until recently, the Regional Centre has greatly underperformed that target, with the allocation being as low as 15%. Nevertheless, Halifax is catching up with the trend towards urbanization that is occurring elsewhere in Canada, and there is a virtual boom in new multi-family construction occurring Downtown Halifax. According to statistics compiled for this report, there are almost 2,000 units of multi-family housing currently under construction in the Regional Centre, with another 1,000 apartment starts possible over the next 12 to 24 months. This is a major shift from past development patterns. Does this new growth represent a one time spurt to catch up with pent-up demand, or a major shift that will see a much larger percentage of multi-family units built in the Regional Centre over the coming decades?

Will new apartment starts draw from the pool of currently approved units, or will they be derived from new planning approvals? Construction of a new multi-family housing project does not mean that HRM will get density bonus revenue. For example, the original 1,500 units at Kings Wharf in Dartmouth and many other projects have been approved through the development agreement process[17], and did not generally contribute the public benefit that will contribute to the livability of these denser neighbourhoods.

Given the volume of units that are currently pre-approved in the Regional Centre, it will likely take 5 to 8 years before most of those units have worked their way through the system, and the density bonus provisions will become more common. As well, as-of-right applications will continue to skirt the provisions of any new bonus density by-laws.

If a new density bonus agreement is struck, what percentage increase over the base density will HRM allow? A projection of this number would require an estimate of overall increase in floor area derived as a percentage of the base density. Two extra floors on a five storey building is a 40% increase in density, while two extra floors on a 15 storey building is just a 13% increase.

The above discussion shows that there are many variables involved and it was necessary to make a number of broad assumptions in order to produce this projection. Ultimately,

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17 This is other than such items in the existing development agreement, if any.

the numbers should be taken only as a representation of one potential scenario among many.

These assumptions were used to make a projection of density bonus revenue over the proposed planning period:

- Housing demand, employment and interest rates stay constant for the next 5 to 10 years;
- The allocation of housing demand to the Regional Centre increases to 40% of the total for HRM;
- The average density bonus is 20% of the base building;
- The average new unit is 115sm in size;
- Fifty percent (50%) of all new units built over the next decade have already been approved by HRM, so there will be no density bonus amenities for this construction activity, unless it has already been negotiated in a bonus zoning agreement.

Taking all of the above-recorded assumptions into account, we can make the following projection for the first 6.85 or 7 years of the planning horizon (e.g. the period in which the Halifax market is still working through the pent-up supply of pre-approved units).

If 50% of the 539 units built per year were already approved, then only the remaining 270 units would be eligible for an incentive or bonus zoning agreement. We have assumed that 85% of these new approved units would be subject to, and would agree to, a density bonus. For each of the 229 units that are constructed, we assume that each unit is approximately 115sm, which generates 26,335sm of gross space. We then assume that the developer enters into an incentive or bonus zoning agreement with HRM for an average of an additional 20% space, or 5,267sm per year. Assuming an average value of $215 per square meter, the average annual value of density bonus amenities would be approximately $1.1 million per year for the first seven years (until the inventory of approved units is built out), and could double for each year after that, totaling about $14.3 million over the 10 year projection period.


The Maple
1583 Hollis Street
Approved 2015
Added Density Bonus Area: 4,468sm

6.0 Recommendations

Points to Remember When Reviewing Recommendations

Having considered the observations in Section 4.0 and information learned through numerous meetings with Staff throughout this Study, we note that the adoption of any recommendations should consider the following existing conditions and challenges:

- The existing skill sets and capacity of municipal staff;
- The confirmed willingness of HRM Staff leadership to expand and grow staff skill sets and capacities where opportunities exist to achieve greater public value – in essence, where there could be a strong "return on investment" from efforts made to expand skills and capacity;
- The existing legal limitations of municipalities, including HRM, in the Province of Nova Scotia;
- The confirmed willingness of staff leadership to request changes to the existing legal framework when the ability to achieve public benefits is improved with such changes.

The following recommendations are listed under each of the topics described in Section 3.0 Learning from Other Municipalities and 4.0 HRM's Current Density Bonus Program. The topic called 'Density Bonus System: Fixed versus Negotiated Rate' is broken into three parts for the recommendations in this Section

A Culture, Capacity, and Communication

Background/Existing Conditions:

As discussed elsewhere in this report, HRM is still relatively 'new' to the culture, techniques and challenges of successful density bonusing (as are most medium-sized Canadian cities. Thus, the techniques and mechanisms for corporate coordination/communication, capacity-building/skill set strengthening, etc. around density bonusing are currently either under-resourced or non-existent. As the bonusing program expands, it will be critical to devote appropriate leadership/staff time, effort and funding toward improved understanding, training, communications etc. to ensure that opportunities for public value are not lost, and the program is not jeopardized.

Options:

1. Develop broad cultural opportunities including events or speakers open to/ targeted to Council, staff, the development industry and the public on density bonusing and its role in successful city-making;

2. Develop a media/communications strategy for local conventional and social media regarding the results and successes of density bonusing as a city-making tool and program. Celebrate your successes!

3. Develop training options for elected officials and staff, potentially including sending staff to land economics-based programs or courses and/or density bonus specific offerings; and creating local/in-house training opportunities for staff by bringing trained professionals to HRM for both initial and periodic training.

4. Organize a workshop-based training program for key staff from various affected departments timed prior to the launch of the new/expanded Density Bonus Program.

Discussion:

Experience and observations suggest that the level of success with density bonusing programs, and the avoidance of issues such as legal challenges or issues with political perception, can be strongly influenced by the amount of corporate energy and resources put into culture, capacity and communication. The undertaking of this Study process itself represents a turning point in these areas for HRM, and can provide the catalyst for a new corporate appreciation of these needs. It will be important that the momentum created by this study within HRM continues.

Recommendations:

A1 That Staff organize, and appropriately resource, training workshops within the first 4 months of the operation of the new Density Bonus Program. These should include staff from various affected departments, for training, communication, and an effective cultural understanding of such issues as how the Density Bonus Program operates; its specific/proper language and terminology; its operation relative to its legal basis and its relationship to proper planning; its political, community and development industry perceptions and nuances; and so on. Similarly, separate workshops with Council should be organized.

After the first year of operation of the new

system, periodic training and capacity should be undertaken combined with an annual reporting of program successes and challenges.

A2 That a corporate "Public Benefits Committee" or similar structure be established to consider/determine the corporate priorities for public benefits that will be negotiated in the context of individual applications and the development of area policy. Leadership from all departments involved with the various public benefits achievable through the Density Bonus Program should participate in the Committee, with representatives of high enough position (ie directors, managers) that an informed and authoritative recommendation/decision can be made. The Committee should be chaired by the Planning Department, as ultimately the recommendation must be positioned in the context of a proper planning recommendation.

A3 That a standardized section of Planning Application Reports presented to Council be developed to consistently explain and quantify the application density bonusing in a clear, legible way, having consideration for the need to keep some information proprietary.

A4 That an Annual Density Bonusing Report be prepared by Staff or outside consultants and presented to Council, documenting the quantifiable and qualitative successes, failures and challenges of the system over multiple projects.

B Density Bonus System Approach: Fixed Rate for Downtown Halifax

Background/Existing Condition:

Economic analysis undertaken by our consulting team suggests that the value of additional density created is much higher than the current rate of $4.40 per 0.1 square metres that is being charged in the form of required benefit contributions, indicating a high of $32 to $48 per 0.1sm. After the application of the coefficient, the proposed rate in Downtown Halifax ranges from $20 to $30 per 0.1 buildable square meters.

The new figures recommended both in the Downtown and elsewhere in the city would be set in part through the use of a "coefficient," or a percent of the anticipated increased value or "land lift" being created that would be captured back by the HRM in public value in the form of public benefits. The coefficient is the element of the value-based flat rate system that is most strategic in its selection – there is no "right answer" to the proper coefficient.

If a high percent is selected, more public value may be achieved across projects, however it increases the possibility that a portion of projects may conclude that the density bonusing option is not financially attractive, and pass on the opportunity for additional height and density. If on the other hand a low percent is selected, more projects would likely take advantage of the additional density and height, however the city would have "left potential public value on the table," collecting less public benefits and amenities to support the additional density granted, by forgoing potential contributions to public benefits. As explained elsewhere in this report, such a forgoing of contributions wouldn't necessarily

improve developer profitability, but rather would likely be factored into the transaction price of lands.

When applying the new figures in the flat rate system, HRM may consider either an immediate application of the new figures, or a phasing in of the increase over time.

Options:

1. Continue to use a flat rate system of density bonusing, using the height-based system currently in place.

2. Continue to consider options for floor area ratio (FAR)–based approaches in the future as HRM considers the use of FAR in future planning.

3. Establish a coefficient with options ranging from 50% of the land lift, to 67%, to 75% of the land lift.

4. Immediately increase the flat rate amount to that which is reasonable and justifiable given the economic analysis completed in this process.

5. "Phase in" the flat rate increase in order to soften the economic implications of the flat rate change, over a clear and relatively short time (ie 50% immediately, 100% at the end of the first year of operation).

Discussion:

It would be both reasonable and advantageous for HRM to immediately increase the amount collected to reflect market/value considerations. Given the economic analysis contained in this report, there should be no significant impact on the viability of projects (noting that the Density Bonus Program is voluntary), or on the attractiveness of the program, given that meaningful and attractive value would still be created for proponents.

Given the flat rate system of the Density Bonus Program, the reasonably fine-grained nature of the value zones used to establish the value ranges, and the relative small risk associated with additional density in the Downtown Halifax context, a higher coefficient is justifiable in the Downtown Halifax context. In considering the options of 50%, 67%, or 75% of the land lift, the consulting team recommends that the 67% figure be used, leaving a one third of the land lift as incentive for developers to take advantage of the Density Bonus Progxram, in addition to construction profit.

With regard to phasing, the consulting team's observation is that there is no economic/viability rationale or need for such phasing, as the new figures are based on reasonable market/value inputs.

Such phasing, when it is used, is usually in the context of political concerns around perceived 'fairness,' or more specifically where significant or unusual land transactions have occurred such that a credible case can be made that, had developers understood an imminent change in the Density Bonus Program fee was going to occur, transactions would have been significantly different such that density bonusing may be no longer viable/attractive as a result.

It is recognized that where such phasing occurs, it can often lead to rushes to submit applications prior to phased increase trigger-dates, even if applications are premature or ill-conceived. It is further recognized that phasing

results in a loss of public value achieved, undermining the ability to achieve amenities and benefits that support additional density.

Given that the Density Bonus Program is voluntary and the new figures are based on an understanding of market conditions, no such phasing is considered necessary in this circumstance.

Recommendations:

B1 That an immediate increase in the amount of the flat rate density bonus for the Downtown area be implemented, to a figure representing a reasonable percentage of the average "land lift" appropriate for that density. Based on the economic analysis conducted by the consulting team, such figures should be $26.80 per 0.1sm based on a 67% coefficient. It is further recommended that this figure and others in the new expanded Density Bonus Program be adjusted each year based on the construction index, and that the overall economic circumstances underpinning the system be reviewed a minimum of once every 2 years to determine if larger adjustments are necessary.

C Density Bonus Approach for Centre Plan Area (excludes Downtown Halifax)

Background/Existing Condition:

As with the Downtown Halifax Program, economic analysis for the Centre Plan area has been conducted including the identification of value zones with varying development values. Overall, the matrix developed in Section 5.0 indicates that the value per buildable 0.1 square meter ranges from a low of $5 to $11 per 0.1sm in Woodside and North Dartmouth, to a high of $32 to $48 per 0.1sm in Downtown Halifax.
Similar conditions apply in this context relative to the coefficient used to calculate the figures (see discussion in Section 'B' above)

Options:

1. Establish a flat rate system of density bonusing using base and maximum heights and/or densities, depending on the techniques used in the Centre Plan.

2. Consider options for floor area ratio (FAR)–based approaches as HRM considers the use of FAR in future planning.

3. Establish a coefficient with options ranging from one-half of the land lift, to 67%, to 75% (3/4ths) of the land lift.

4. Immediately establish the full flat rate amount to that which is reasonable and justifiable given the economic analysis completed in this process.

5. "Phase in" the flat rate increase in order to soften the economic implications of the flat rate change, over a clear and relatively short time (e.g. 50% immediately, 100% at the end of the first year of operation).

Discussion:

As with the current Density Bonus Program, the use of a flat rate system is logical in the context of density bonusing established within the zoning that will ultimately be created relative to the Centre Plan. A negotiated system should be used in the context of rezoning applications.
Also as with the current Density Bonus Program, no phase-in period is necessary in this Centre Plan context, and a reasonably

high coefficient relative to the land lift is justifiable.

Recommendations:

C1 That for the new density bonusing system for the Centre Plan Area, a flat rate system be used where a density bonusing system is created within established pre-zoning, with no phase-in period, and with a figure that varies by value zone as established in this report using the 67% coefficient. The initial figures for the various value zones are recommended as shown in the chart below. It is further recommended that this figures be adjusted each year based on the construction index, and that the overall economic circumstances underpinning the system be reviewed a minimum of once every 2 years to determine if larger adjustments are necessary.

D Density Bonus System Approach: Negotiations and Rezonings

Background/Existing Condition:

Currently, in areas outside of Downtown Halifax, rezoning applications or similar Council-approved processes are negotiated by staff and considered by Council with no organized approach to achieving public benefits as a component of the process. The amount of height/density and corresponding land value created can be (and has been) quite significant, and anecdotal evidence from staff suggests that even where developers have had an interest in volunteering public benefits as part of a proposal, staff have had no mechanism or sanctioned approach to consider such offerings.

It is likely that HRM has missed out on

Table 5. Potential Flat Rate Value Options by Value Area (repeat)

					Value for Density Bonus		
Area	Name of Area	Residential Low per 0.1sm	Residential High per 0.1sm	Average Market Value	50%	67%	75%
1	South End Halifax	$32	$48	$40	$20	$26.80	$30
2	Cogswell Redevelopment Lands	$32	$48	$40	$20	$26.80	$30
3	North End Halifax	$22	$30	$26	$13	$17.40	$19.50
4	Shannon Park	$16	$27	$22	$11	$14.70	$16.50
5	North Dartmouth	$5	$11	$8	$4	$5.40	$6.00
6	Downtown Dartmouth + Mic Mac/Penhorn	$16	$32	$24	$12	$16.10	$18.00
7	Woodside	$5	$11	$8	$4	$5.40	$6.00

significant public benefit value as a result of this lack of a density bonusing program through rezonings. Although the consulting team has been advised that density bonusing through rezonings is not specifically referenced in current Provincial legislation, the consulting team notes that other jurisdictions with a similar lack of specific enabling legislations have built highly successful density bonus systems relating to rezonings, based on the premise/observation that Council is not required to grant rezoning applications for more density/height, especially in advance of policy or area-wide rezonings, and further that the negotiation of public benefits as part of rezonings is a part of good planning being achieved through discretionary applications.

Options:

1. Continue to forgo density bonusing in future development applications requesting a rezoning or similar process of Council consideration of additional height/ density or alternative land uses.

2. Establish a policy of voluntary negotiated public benefit contributions through such rezonings, based on an assessment-based approach to calculating land lift increases on a case-by-case basis.

Discussion:

Density bonusing through rezonings specifically is one of the most significant generators of public benefits supporting density increases available in many cities known to the consulting team. It is a significant lost opportunity for HRM that public benefits are not negotiated in the context of such applications.

Recommendations:

D1 That for applications to change land use, increase height and/or density, or in other ways increase the value of land through a discretionary decision of Council such as through development agreements, a new density bonus policy be established to achieve supporting public benefits and amenities that relate to such a proposed change in land use. This new program is recommended to be based not on a flat rate, but on a negotiated appraisal/land assessment system.

E Streamlining the Density Bonus System Approval Authority

Background/Existing Condition:

As discussed previously in this report, the existing Density Bonus Program requires that incentive or bonus zoning agreements be considered by Council, even when the bonus is enabled by existing zoning and a rezoning is not required. It is the general observation of the consulting team that other municipalities who have built density bonusing into existing zoning, do not require Council consideration of the results. The need to have Council consider the incentive or bonus zoning agreement adds time, costs and uncertainty to a project, all of which can be dis-incentives to applicants choosing to take advantage of the Density Bonusing Program.

Options:

1. Continue to have Council consider bonus zoning agreements;

2. Have Council delegate authority for bonus zoning agreements to staff, either the Director of Planning or the City Manager.

Discussion:

Delegating the authority for bonus zoning agreements from Council to senior staff would cut steps and time from the process, would improve political and procedural certainty and reduce risk (real and perceived) for applicants, would streamline and focus staff resources, and would ultimately make the density bonusing program more attractive to applicants.

Recommendations:

E1 It is recommended that for density bonusing within existing zoning HRM Council delegate authority for the approval of incentive or bonus zoning agreements to an appropriate authority(ies) comprised of senior Staff. This will remove the need for such Agreements to go to Council for approval.

F Who Chooses Public Benefits

Background/Existing Condition:

Background/Existing Condition:

In the current system, the applicant is able to choose the public benefit(s) that they will contribute in return for bonus density from the list authorized by the HRM. As noted previously in this report, this approach, when combined with other current weaknesses in the system, makes it highly challenging for the city to prioritize, and ultimately achieve, strategically valuable and contextually successful public benefit outcomes.

It is noted that Provincial legislation now requires that a portion of all density bonus packages be made up of affordable housing. The Province does not specify the exact portion or nature of the affordable housing contribution required.

Options:

1. Continue to allow developers to select public benefits, albeit based on a higher fee and a shorter/amended list of potential benefits as outlined in other recommendations.

2. Initiate a new approach where applicants can suggest and express a preference for certain benefits, to be considered by staff relative to suggestions made by the community during public consultation and relative to contextualized priorities established by HRM in plans, policies or studies. Staff would ultimately select the public benefits that would be requested in return for the bonus density.

3. For the affordable housing component, a set minimum percent of each density bonus package be established, with the ability to increase the affordable housing contribution based on the normal considerations of the public benefit process within HRM Council as outlined in recommendations in Section ‘A’.

Discussion:

In order to significantly improve the perceived and real success of the Density Bonus Program moving forward, it is important that HRM take ownership of the identification of strategic benefits achieved on a project-by-project basis, and overall. Wherever possible, priorities for public benefits on an area basis should be identified in advance, as discussed in Recommendation A. Whether such priorities have been identified or not, consideration

should be given to recommendations/ requests by applicants and the community. The program should result in "wins" for HRM, the community and the developer.
On the issue of valuing public benefits that are offered and accepted, the quality of the benefit must be acceptable to the Municipality and may be subject to discretionary design review. For example, if a public plaza or space is offered, but the location or design is not sufficiently high quality and/or "public" in perceived access and use, the Municipality may reject it; may insist on design changes until it is legitimately perceived as a high quality, fully public asset; or may only agree to count a portion of the full cost of the feature toward the density bonus calculation. In short, the benefit received should be high quality relative to the value granted, and public in its use and enjoyment where possible.

When valuing an offered benefit, applicants would usually provide a cost estimate/budget, which would be reviewed by appropriate staff. If an external consultant is needed to verify the accurate costing of the benefit, the cost of such advice may be added into the costing of the benefit.

On the issue of a portion of all density bonus packages being made up of affordable housing, the preferred approach would be a set % of each package in the form of cash-in-lieu would be collected, and that such a percent should reflect a relatively small percent, ie 20-25%, of the overall package so as to leave capacity for achievements that are considered amenities that mitigate the effects of density increases by the community and developers (as discussed elsewhere in this report). In specific projects where on-site affordable housing is considered attractive to the Municipality, the percentage of the overall package may exceed the 25% consistent figure, however the balance with amenities should still be considered.

Recommendations:

F1 That the existing practice of allowing applicants to select the proposed public benefits, be replaced with a system that seeks input/suggestions from applicants and the general public during applications; considers identified city priorities established in policies, studies or plans; considers the appropriateness and costs/benefits of options on particular sites; and ultimately enables an assigned authority to decide on a supportable benefits package that seeks to find real and perceived shared "wins" from all parties. In the case of density bonusing within existing zoning, the authority would be that delegated to approve agreements by Council as per Recommendation E1. In the case of new rezoning-based density bonusing as per Recommendation C1, the authority would be Council.

G Public Benefits Achievable Through Density Bonusing

Background/Existing Conditions:

The existing list of bonusable items is quite long (10 items) and includes items with questionable public value or achievable through other means. In particular, the following bonusable items are of interest for discussion:

- green building practices;
- additional public parking;
- 3-4 bedroom units;

In addition, it is noted that a common

bonusable item in other jurisdictions, daycare facilities, is not currently included.

Other municipalities have made robust use of density bonusing for daycare construction, and in some cases even for operating funds, although implementation details vary. In most cases, the municipality takes ownership of the space for daycare , and provides the space to operators for $1 or other nominal fee. Other cities have considered other ownership models such as having the developer maintain ownership and commit to provide the space for daycare at a set rate, in order for the municipality to avoid costs (e.g. common area costs) and risks of ownership. In each case, issues of risk versus certainty are debated by the municipality. Details such as level of fit and finish can vary, bearing in mind that the more cost expected of developers, the more density value would be provided in return.

Many cities with density bonusing have gone through the process of re-prioritizing and removing bonusing items from their list, based on new perspectives on public interest, as well as changing perspectives on what is possible using other tools. It is noted that, should the HRM accept our recommendation to have staff select the public benefits for a project rather than the applicant, then the list length and contents becomes less important as HRM can focus and prioritize. However, it would still be beneficial to focus the list for clarity among all parties in the program.

If the HRM wishes to remove a bonusable item from the list, but has concerns with doing so abruptly, techniques such as “sunset clauses” can assist with phasing them out.

Options:

1. Leave the 10 item list as-is for the foreseeable future, noting that if other recommendations are followed, the Municipality will make the decision on which are selected on a project basis.

2. Add “daycare facilities” to the list of options. Conduct a costing/feasibility analysis to determine a standard approach to ownership, fit and finish and other operational details, and possibly include a review of what other cities have done with such details.

3. Remove “green building practices” from the list, replacing it with a new approach outside the density bonus system of removing barriers to green design in by-laws, standards, and processes.

4. Potentially retain a bonus specifically for the highest performing green building outcomes, specifically defined, such as LEED Gold or greater (registered and certified) residential buildings or mixed-use buildings containing housing (noting that LEED Gold for commercial buildings is considered standard and need not be bonused for). If this bonus is retained, a sunset clause may be appropriate.

5. Remove “3-4 bedroom units” from the list, replacing it with a policy of a minimum percentage of family-friendly housing requirements such as those passed by an increasing number of municipalities.

6. Remove “additional public parking” from the list, reflecting the interest to emphasize walking, biking and public transit in the HRM. Replace with parking requirements if necessary.

7. Remove the option regarding undergrounding of services.

Discussion:
Given the relatively limited potential for public benefit achievement available even if the other recommendations in this report are supported, the HRM should not be providing density bonuses for any items that do not have a strong, compelling connection to the goals of the city and the public interest, and for any items that can be achieved through other means, including regulations.

Green design has become a regular component of building practices, particularly in commercial buildings. In residential buildings, improved green performance might be achieved through a combination of of other tools, including regulation of certain building practices; other incentives; the removal of barriers to green design in by-laws and practices; etc. Since LEED designations are only awarded after the building is completed it is not clear how a density bonus can be awarded at the Development Approval Stage. HRM's current expectatins for green performance in return for bonus density is unclear and inconsistent.

Recommendations:

G1 Immediately remove "green building practices" as a bonusable item for commercial buildings, and replace the existing green building bonusable item for residential and mixed-use buildings (including housing) with a bonus for LEED Gold buildings where commitments to register and certify are established by Agreement. This latter bonus should have a 3 year sunset clause, where at 3 years after the establishment of the new system, Council can consider whether the marketplace has evolved such that a bonus is no longer necessary.

G2 Commit to conduct a full review of by-laws/regulations/standards for building practices to identify and change existing barriers to green design, and identify incentives for green design that can be built into such regulations.

G3 Add "daycare facilities" as a bonusable item.

G4 Remove "additional public parking" and the undergrounding of services as bonusable items.

G5 Conduct a policy study for family friendly housing including a policy requirement for the number of units with multiple bedrooms, and remove the "3-4 bedroom unit" bonusable item.

H Setting Base + Maximum Densities

Background/Existing Conditions:

The existing downtown area policy establishes a base and maximum height, and by extension, corresponding density. Applicants can increase from the base to the maximum height by participating in the density bonusing program.

In the Centre Plan Area planning, for base and maximum densities will be a key consideration in the eventual policy. As discussed elsewhere in this Study, the establishment of base heights and/or densities that are initially "too high" is one of the most common reasons for failure of density bonus programs, in that the additional density offered in the density bonus system is not considered attractive

relative to the base densities permitted without density bonusing. In such cases, the resulting densities may or may not be considered reasonable planning, depending on whether they were considered acceptable with or without supporting amenities and the achievement of other public benefits or goals.

Options:

1. Continue to utilize the existing base and maximum densities in Downtown Halifax.

2. When in the future, land use and heights in Downtown Halifax are next assessed, in updating or reconsidering existing downtown development policy, include an economic assessment of the base and maximum densities for the purposes of an optimally operating density bonus system.

3. In the creation of Centre Plan Area planning policies, include an economic analysis of base and maximum densities for the purposes of optimally calibrating an ultimate density bonus system.

Discussion:

As discussed elsewhere in this report, the existing heights and densities established in the Downtown Halifax area appear, based on conversations with staff, to be working relatively well relative to the potential for a successfully operating density bonus system. However, it is beyond the scope of this exercise to specifically assess the market conditions and project viability of Downtown Halifax projects to come to a conclusion on whether too much base height and corresponding density was established in past land-use planning decisions. Although an immediate review doesn't appear necessary, HRM would be well advised to assess this issue with more specific analysis when land use is next considered.

As the HRM competes further planning for the Centre Plan area, it will be important to conduct associated economic analysis in coordination with urban design and land use analysis. Among other things, this would be to ensure that base densities are set at a reasonable level relative to project viability and sound planning principles, while also ensuring that the related density bonus systems will be considered attractive to proponents, and amenities and benefits that support higher densities can be achieved.

Recommendations:

H1 Continue to use the existing Downtown Halifax base and maximum heights in the context of the implementation of the many recommendations in this report;

H2 As planning policy proceeds for the Centre Plan Area, include a specific economic analysis of base and maximum height/density options to ensure base and bonus density viability, and the essential attractiveness of the density bonusing system. Among other things, this is to ensure that the base densities set are not too might to make for a viable and attractive density bonus system.

I Additional Recommendations:

I1 It is recommended that no preference be established in policy for cash-in-lieu or in-kind public benefit contributions, but rather that the conditions of specific negotiations be considered and the Municipality to determine which approach is most favourable to HRM.

I2 It is recommended that HRM consider the economic consequences of cash-in-lieu approach to the successful delivery of public benefits, and if it is determined that there is an economic consequence to accepting a cash-in-lieu contribution, the Municipality may consider an appropriate difference in flat rate amount in such circumstances.
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I3 That in the case of heritage preservation and restoration, additional flexibility be considered in the new density bonus systems, allowing density transfers off site within neighbourhoods or defined areas, and potentially a heritage “density bank,” to allow for a more effective tool for heritage preservation.

Winsby's Development

5504 Spring Garden Road
Approved 2013
Added Density Bonus Area: 289sm

Appendix 01: Glossary

affordable housing

(From the HRM Charter for bonus zoning agreements in the Centre Plan Area) "Housing in the Centre Plan Area that meets the needs of a variety of households in the low to moderate income range"

as-of-right development

A building and site design that meets the requirements of a land use by-law and other planning regulations and policies.

bonus zoning

see Density Bonusing

Centre Plan Area

The area delineated in Map B of Appendix 02 and as defined by the HRM Charter. The Centre Plan Area includes all land inside the Regional Centre excluding the Downtown Halifax Plan Area.

density bank

A density bank is a municipally empowered program that allows bonus density to be created through the restoration of a heritage feature, to then be sold at a later time to others in order for the density to be built on other sites.

Density Bonusing

General term used to describe any system where added density (measured in floor area, height, etc.) is permitted where a public benefit is provided by an applicant according to a municipality's density bonus program. Programs usually pre-zoned or negotiated systems.

Design Manual

Document known as Schedule S-1 of the Downtown Halifax Land Use By-Law that provides qualitative guidance and requirements relating to the design of new developments within Downtown Halifax.

Design Review Committee (DRC)

A committee appointed by Council tasked with reviewing Substantive Site Plan Applications for compliance with the Downtown Halifax Land Use By-Law's Design Manual.

Development Agreement (DA)

An agreement that is negotiated between a developer and the Municipality and which contractually binds the developer or subsequent property owners to develop their property according to a set of site-specific land use and design provisions.

Downtown Halifax

Area delineated as 'Downtown Halifax' in Map B of Appendix 02 of this report and as described by the Downtown Halifax Secondary Municipal Planning Strategy and Land Use By-law.

downzoning

Rezoning property to a zone under which the allowable density or height of development is less than currently permitted.

flat rate

A monetary expectation to be provided to the Municipality in return for additional height and corresponding density. A rate is set in policy and is established on a per square metre basis - no complete site-specific value calculations of "land lift", or other negotiations, are needed to determine the contribution amount upon

development proposal.

HRM (Halifax Regional Municipality)

Formal name of the geographic area encompassing the former municipalities of Halifax, Dartmouth, Bedford, and the County of Halifax, which were amalgamated as a single municipal unit on April 1, 1996 and recently branded as “Halifax”. The term may also refer to employees (staff) and elected officials of HRM.

HRMbyDesign

The branding for the Secondary Municipal Planning Strategy (SMPS) and Land Use By-Law (LUB) for Downtown Halifax completed in 2009, and the Halifax Regional Centre Plan (SMPS and LUB).

Heritage Advisory Committee (HAC)

An HRM committee that reports to Regional Council and the HRM on matters related to municipal heritage buildings, policies and other matters conducive to the effective carrying out of the intent and purpose of the Heritage Property Act of Nova Scotia and HRM By-law H-200 Respecting the Establishment of a HAC and a Civic Registry of Heritage Property.

Incentive or Bonus Zoning Agreement (IBZA)

Contract between a developer and HRM that describes the benefit to be provided by the developer in exchange for bonus density.

land lift

The increase in land value that would occur if there was an increase in height or density beyond a base identified in the planning zone.

LEED (Leadership in Energy and Environmental Design)

A rating system for sustainable buildings and neighbourhoods, monitored in Canada by the Canada Green Building Council (CaGBC)

Land Use By-law (LUB)

A set of directly implementable requrements that can be enforced by Development Officers in HRM. LUBs are associated with a Municipal Planning Strategy (or Secondary Municipal Planning Strategy) and guide the form of building development and other aspects of city-making.

MPS or SMPS (Municipal Planning Strategy or Secondary Municipal Planning Strategy)

A MPS is a policy document that guides HRM planners and councils in planning-related recommendations and/or decisions in a specific geographic area. A SMPS is typically secondary to a MPS in a heirarchy of regulation, such as being secondary to the Regional Plan.

nexus

The planning relationship between 'this density' and 'that public benefit.'

Precinct

One of nine areas within Downtown Halifax, identified in Downtown Halifax Secondary Municipal Planning Strategy as having a distinct character. Specific design requirements (outlined in the Design Manual) apply to developments within each of the different Precincts.

Public Amenity

A public good that directly or indirectly contributes to the liveability and/or enjoyment of a neighbourhood and is typically used by residents within its catchment area (e.g. daycare, public art, green space, special public spaces,

outdoor furniture, etc). Not all public benefits are considered amenities.

Public Benefit (1)

Term used in the Downtown Halifax Secondary Municipal Planning Strategy to refer to public amenities and benefits to be provided by developers in exchange for bonus density. The LUB lists 10 Public Benefits that are considered acceptable.

Public Benefit (2)

A public good or interest that addresses or supports a public need, and may or may not contribute to the liveability of a neighbourhood (e.g. heritage protection, affordable housing, contribution to transit services, etc.)

Regional Centre

The Halifax Peninsula and the area of Dartmouth inside the circumferential highway, which totals an area of 33.5 sq. km.

rezoning

An amendment to the zoning map which changes the zone classification applied to a site or area. Rezonings are discretionary approvals granted by Council.

Site Plan Approval (SPA)

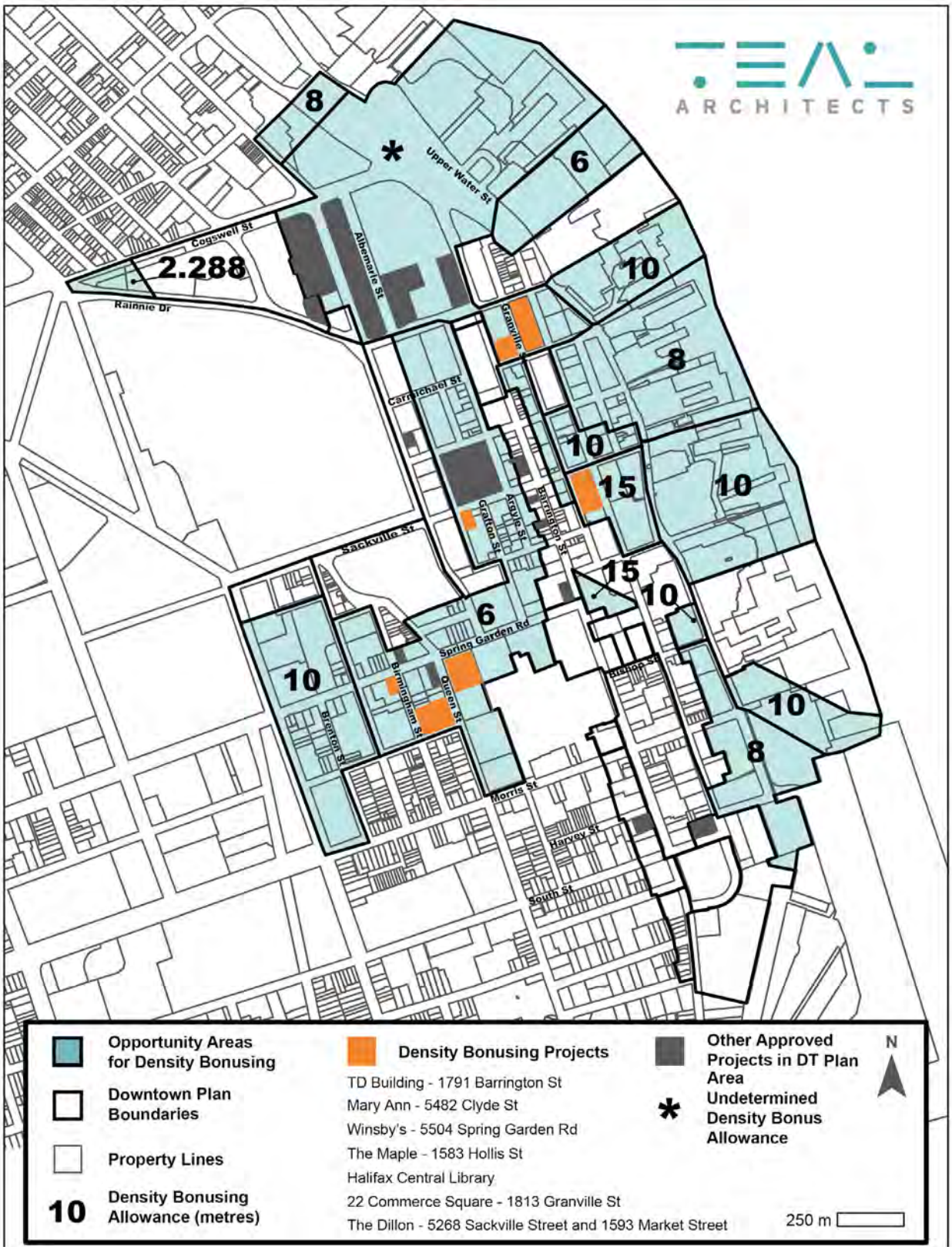
The mechanism used by HRM Planning to achieve development rights in Downtown Halifax. SPAs are approved by vote by the DRC and more definitively consider qualitative aspects of development proposals than does the Development Agreement process.

Urban Design Task Force

The Urban Design Task Force was established in 2006 to advise Regional Council and staff during the planning and implementation of the Downtown SMPS and LUB and Centre Plan SMPS and LUB.

Appendix 02: Maps

Map A: Substantive Site Plan Approval Projects in Downtown Halifax



Map B: Centre Plan Area Map

Appendix 03: History of Density Bonusing in HRM

2007

June 27, 2007
Mention of "amenity funds" as an alternative to development agreement processes by Urban Design Taskforce.

December 19, 2007
Mention of "height bonusing" to preserve heritage buildings by Urban Design Taskforce.

2008

March 05, 2008
Presentation by Greater Halifax Partnership recommending: "Allow development agreements with additional height bonuses based on the developer's ability to meet other public policy objectives where there is additional capacity to build beyond height guidelines up to viewplanes"

May 23, 2008
Province introduces legislation providing HRM with its own charter.

At the same time, legislation was introduced to permit the Municipality to regulate and use density bonusing as a tool to collect funds for public amenities.

2009

January 13, 2009
HRM By Design is in effect, enacted by Province through Bill 181: An Act to Implement HRM by Design passed November 24, 2008.

June 16, 2009
Regional Council approves the Downtown Halifax Secondary MPS, LUB. Appoints Urban Design Task Force to monitor the SMPS.

June 23, 2009
HRM staff recommendations to Province that restrictions on Centre Plan Area related to Density Bonusing be removed from the HRM Charter and that HRM should have the authority to accept cash-in-lieu dedications to facilitate the development of a capital reserve for general public realm improvements, including transit and active transportation facilities.

2010

2011

August 11, 2011
Central Library development approved

September 08, 2011
Barrington TD Bank Tower development approved

2012

April 23, 2012
Legislative Amendment Request from Mayor Peter Kelly to SNSMR Minister John MacDonnell to expand authorisation to use density bonusing in the entire Municipality, in addition to Downtown Halifax, for the purpose of receiving in exchange: affordable housing, streetscape improvements, open space improvements incentive for brownfield redevelopment.

September 13, 2012
Mary Ann development approved

2013

May 07, 2013
Provincial news release regarding legislation introduced by John MacDonell, Minister of SNSMR, that will amend the HRM Charter to give the Municipality authority to use bonus zoning and site plan approval throughout the Regional Centre in addition to Downtown Halifax

May 08, 2013
Presentation by Law Amendments Committee to the Province regarding Density Bonusing in HRM Regional Centre

May 09, 2013
Bill to amend the HRM Charter to permit bonus zoning agreements in the Centre Plan Area and require the inclusion of affordable housing as a contribution for bonus zoning for a development in the Centre Plan Area, among other authorisations.

May 09, 2013
5504 Spring Garden Rd development approved

2014

February 04, 2014
Charter amendment to allow bonus zoning and site planning tools in Centre Plan Area come into effect

February 20, 2014
22nd Commerce Square development approved

April 10, 2014
The Dillon development approved

2015

April 19, 2015
The Maple (1583 Hollis) development approved

History of Density Bonusing in HRM

Density bonusing in Halifax has a relatively short "official" working history of six years. This history follows three years of research and discussion on the subject by Halifax's Urban Design Task Force[1][2][3]. Prior to the introduction of a legislatively-enabled Density Bonusing Program for Downtown Halifax, public benefit types were limited in variety and benefits on private land were only achieved through informal negotiation between the Municipality and the developer through the development agreement process (excepting for the preservation of Heritage through various Heritage preservation policies and programs).

Between the years 2006 - 2008, the Urban Design Task Force oversaw the drafting of the Downtown Halifax Secondary Municipal Planning Strategy (DHSMPS) and Downtown Halifax Land Use By-Law (DHLUB), through a process that was branded as HRMbyDesign. This award-winning plan ties together eight topics: form based codes, sustainability, transportation, affordability, public realm, expenditure of public money, heritage approach and density bonusing. But at the time, the HRM required permission from the Province to use density bonusing as a tool to collect amenities and public benefits. This legislative authority was subsequently granted in the HRM Charter[4]. Permission to use density bonusing in Downtown Halifax was granted alongside the introduction of the HRM Charter on May 23, 2008. It is regulated at the Municipal level by the DHSMPS and DHLUB. The DHSMPS and DHLUB came into effect on October 24, 2009 and the SPA process replaced as-of-right development approvals and Development Agreements (DAs) in the Downtown Halifax area.

The overall success of the DHSMPS and DHLUB led to an unprecedented number of development projects in Halifax's Downtown. There was a high uptake on bonus zoning; developers of all but one site eligible for density bonusing used the tool since bonus zoning was enabled. This provided the Municipality with added purpose to re-engage the Province on the topic of density bonusing. This time, to be considered for the Centre Plan Area[5]

1 Urban Design Task Force Meeting Minutes June 27, 2007. Halifax Regional Municipality. http://www.halifax.ca/boardscom/udtf/070627.pdf

2 Urban Design Task Force Meeting Minute December 19, 2007. Halifax Regional Municipality. http://www.halifax.ca/boardscom/udtf/documents/071219.pdf

3 Urban Design Task Force Meeting Minutes January 13, 2008. Halifax Regional Municipality. http://www.halifax.ca/boardscom/udtf/documents/UDTF080305.pdf

4 HRM Charter. 2008 (as amended). Province of Nova Scotia. http://nslegislature.ca/legc/sol/solh.htm

5 The Centre Plan Area is defined in the HRM Charter as the Halifax Peninsula and Dartmouth within the Circumferential Highway without the Downtown Halifax area. These two areas create the Regional Centre, as defined in the 2006 Regional Plan.

Bill 83[6] was passed on May 9, 2013 and came into effect on February 4, 2014. The Charter as amended granted permission to the Municipality to control the following aspects of a Density Bonus Program for the Centre Plan Area:

- items the Land Use By-Law must identify, such as:

  i. the developments subject to an incentive or incentive or bonus zoning agreement

  ii. the areas where the developments may be located

  iii. the matters that the Council may consider before approving an incentive or incentive or bonus zoning agreement

  iv. the method to be used to determine the contribution for incentive or bonus zoning

- no requirement for public hearing before signing a bonus zoning agreement (note: public consultation for Site Plan Approval is completed prior to finalising Bonus Zoning Agreement for the subject site)

- Affordable Housing - or cash-in-lieu of affordable housing - must be a portion of the benefit received through bonus zoning agreements completed within the Centre Plan Area (excludes Downtown Halifax)

- Cash-in-lieu may be collected for any public benefit and must be used for its intended purpose (e.g. for public benefit as listed in the Land Use By-law)

- Incentive or bonus zoning agreements must be signed by the Mayor and Municipal Clerk

- there is no ability to appeal bonus zoning agreements once signed

The affordable housing portion of the benefit could be provided either in kind (on site) or the equivalent value could be paid in cash. To ensure that affordable housing would be provided, the Charter stipulates that any cash must be used for the intention for which it was received. However it does not stipulate how much of public benefits "packages" must be made up of such housing.

Currently, HRM only makes use of a limited density bonusing approach in within the context of existing zoning. The HRM does not negotiate public benefits or amenities in the context of rezoning applications, or through comparable processes in the Halifax context such as Development Agreements[7].

6 Bill 83, An Act to Amend Chapter 39 of the Acts of 2008, the Halifax Regional Municipality Charter; http://nslegislature.ca/legc/bills/61st_5th/3rd_read/b083.htm

7 This is important, since many of the most successful density bonus programs in cities across Canada and globally actually focus on the rezoning process as the primary opportunity for the successful negotiation of public value when additional density is considered. This is because rezoning applications often are where the most significant densities over and above anticipated base densities are proposed. The negotiation of benefits and amenities is generally seen as legally defendable, since applicants are not entitled to be granted increases in density through rezoning applications.

Appendix 04: Professional Disclaimer

This document may contain estimates and forecasts of future growth and urban development prospects, estimates of the financial performance of possible future urban development projects, opinions regarding the likelihood of approval of development projects, and recommendations regarding development strategy or municipal policy. All such estimates, forecasts, opinions, and recommendations are based in part on forecasts and assumptions regarding population change, economic growth, policy, market conditions, development costs and other variables.

The assumptions, estimates, forecasts, opinions, and recommendations are based on interpreting past trends, gauging current conditions, and making judgments about the future. As with all judgments concerning future trends and events, however, there is uncertainty and risk that conditions change or unanticipated circumstances occur such that actual events turn out differently than as anticipated in this document, which is intended to be used as a reasonable indicator of potential outcomes rather than as a precise prediction of future events.

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