

Design Review Committee
July 11, 2013

TO: Chair and Members of Design Review Committee

SUBMITTED BY: **Original Signed**

for: Brad Anguish, Director, Community and Recreation Services

DATE: July 2, 2013

SUBJECT: **Case 18006: Substantive Site Plan Approval – Mixed-use Development,
Queen, Clyde and Birmingham Streets, Halifax**

ORIGIN

September 13, 2012 approval of the qualitative elements of the substantive site plan application for the mixed-use development of the “Mary-Ann” site bounded by Queen, Clyde and Birmingham Street, Halifax (W. M. Fares Group on behalf of Clyde Street Developments Ltd.)

LEGISLATIVE AUTHORITY

HRM Charter; Part VIII, Planning & Development
Downtown Halifax Land Use By-law

RECOMMENDATION

It is recommended that the Design Review Committee:

1. Recommend that the Development Officer accept, as the post-bonus height public benefit for the development, the provision of public parking facilities.
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BACKGROUND

This application for substantive site plan approval is for a mixed-use development of the southern portion of the block bound by Queen, Clyde and Birmingham Streets, and south of Spring Garden Road, known as the “Mary Ann” site. The site was owned by HRM until September of 2011 and was the subject of a Request for Proposals for its redevelopment in early 2011. It is the first of the three “Sister Sites”, in which the RFP was awarded and one of two lots known as the “Clyde Street parking lots.”

On September 13, 2012, the Design Review Committee (DRC) passed the following motion relative to this development:

“MOVED by Ms. Sinclair, seconded by Ms. Saul that the Design Review Committee:

- Approve the qualitative elements of the substantive site plan approval application for the mixed-use development of the of the “Mary-Ann” site bound by Queen, Clyde and Birmingham Streets, Halifax, as shown on Attachment A;
- Accept the findings of the qualitative wind impact assessment as found in Attachment D; and
- Recommend that the Development Officer accept, as the post-bonus height public benefit for the development, the provision of residential units at a subsidized cost to contribute to housing affordability.

With the following conditions;

- the area on the building between L3 and L6 on drawing A-22, that currently shows concrete masonry painted in light orange, be changed to carry around the brick shown on the sides of the building; and
- the area shown on A-22 that currently indicates concrete masonry painted in light grey be changed to precast panel.

MOTION PUT AND PASSED.”

The approved development for the site comprises a 9-storey mixed-use development with ~~commercial uses on the ground floor and multi-unit residential above, with underground parking.~~
The following highlights the major elements of the proposal:

- Approximately 23,000 square feet of commercial floor space at street level with pedestrian access points along each street and separate residential lobby area;
- approximately 133 residential units on 8 storeys;
- three underground parking levels containing 180 parking spaces;
- residential driveway access to underground parking off Birmingham Street and a service entrance off Queen Street.

With the approval of the DRC last September, the developer has been proceeding with excavation activity on the site in advance of securing construction permits since no permits are required for excavation activity.

Proposed Public Benefit

As the project exceeds the maximum pre-bonus height limitations within the Downtown Halifax Land Use By-law (LUB), a public benefit is required to be provided by the developer. A list of eligible public benefits is found in section 12(7) of the LUB and from that list, the developer proposed that “the provision of residential units at a subsidized cost to contribute to housing affordability in the Downtown Halifax Secondary Municipal Planning Strategy plan area” be the benefit contribution. The LUB contains the following definition:

“2(am) Housing Affordability means all types of housing **whereby the provincial government provides some form of subsidy or rent assistance**, including public, non-profit and co-operative housing, as well as rent supplements for people living in private market housing.” [Emphasis added]

A calculation of the value of the required public benefit is approximately \$147,480. The developer has been working with the Nova Scotia Department of Community Services for a number of months to establish a program which would meet the LUB definition. However, despite their best efforts, it is now clear that such a program is not possible, due to:

- a) the LUB definition of “Housing Affordability” does not align with an existing provincial affordable housing program; and
- b) to create a program that would satisfy the needs of the province, the developer would need to provide security to meet the province’s requirements, which would far exceed the value requirement of the LUB.

HRM’s requirements relative to the value of the public benefit is not congruent with the needs of the province in relation to the level of performance security they require to guarantee the housing program. The province requires security equal to the value of the additional floor space resulting from the bonus height. HRM’s public benefit cost of \$4.33¹ per 0.1 square metre is rather nominal when compared to the province’s requirements. The developer wishes to provide the value of the benefit required by the LUB.

Where the developer is not able to meet the definition of “Housing Affordability” in the Land Use By-Law, they have requested an alternative public benefit category as per Section 12(7)(g); the provision of public parking facilities, where a deficiency in such facilities exists.

Role of the Design Review Committee

Section 4(2) of the LUB requires that the Design Review Committee advise the Development Officer on matters pertaining to bonus zoning in relation to substantive site plan approvals. As the public benefit is proposed to be changed from what was presented to the Committee for design approval last September, the matter is being referred to the DRC for recommendation to the Development Officer.

¹ This represents the annual adjustment to the initial rate of \$4.00 per 0.1 square metre in accordance with the Statistics Canada, Province of Nova Scotia Consumer Price Index.

DISCUSSION

The developer has been attempting in earnest for several months to secure approval from the province relative to the housing affordability matter. It is important to note that this relates only to the public benefit element, as the developer is committed to the requirements outlined in the HRM purchase and sale agreement which requires 10% of the units to be provided at 20% below market value for a period of 15 years.

The developer would like to proceed with changing the public benefit required by the Land Use By-law as this would be the most feasible and expeditious means of achieving a solution to the matter. The rationale for the change is due to the in-congruency between the requirements of HRM and the province. The developer has proposed that a new public benefit be considered; the provision of public parking facilities, where a deficiency in such facilities exists. An overview of the proposal is included in Attachment A of this report.

The Land Use By-law requires that a minimum of 210 parking spaces be provided for the two properties. In addition, the agreement of purchase and sale for this property required the provision of 216 parking spaces. As noted in the proposal, a total of 429 spaces are being provided between two buildings for both public and private usage. The developer has indicated that levels P1 and P2 in both buildings would be used for public parking, resulting in a total of 287 parking spaces. When compared to the requirements of the purchase and sale agreement, a surplus of 71 public parking spaces for the two sites would be provided.

In determining whether a public parking deficiency exists, reference is made to the LUB where a specific provision exists requiring 210 parking spaces be provided for the two properties. There is no requirement in the LUB for parking facilities to be provided, except for these sites. For years, the Sister Sites have housed surface parking to serve the local commercial area. To ensure that no loss of existing parking facilities occurs as a result of the development of the two properties, specific provision was included in the LUB to maintain the existing parking spaces on the sites. This is supported in the Downtown Halifax MPS through Policy 32 which states that, "...public parking in support of Spring Garden Road shall be incorporated within the redevelopment, which at minimum replaces the public parking spaces currently provided on these sites."

The required amount for the public benefit equals \$147, 479.80, based on the requirements outlined in the Land Use By-Law of \$4.33 per 0.1 square metre of gross floor area.

The approximate cost of a parking space is between \$22,000 to \$25,000, based on the required public benefit of \$147,480, which would account for between 5 and 7 parking spaces. The proposal from the developer to provide the additional 71 spaces would far exceed the minimum public benefit requirement. Accordingly, it is recommended that the Design Review Committee recommend that the Development Officer accept the revised public benefit contribution as outlined in this report.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this application can be accommodated within the approved operating budget for C420 Subdivision & Land Use.

COMMUNITY ENGAGEMENT

Community Engagement as described by the Community Engagement Strategy is not applicable to the public benefit contribution component of the site plan approval process.

ALTERNATIVES

1. The Design Review Committee may choose to recommend the alternative post bonus height for public parking, as submitted. This is the recommended course of action.
2. The Design Review Committee may choose to recommend an alternative post bonus height category. This may necessitate further submissions by the applicant, as well as a supplementary report from staff.

ATTACHMENTS

Attachment A Developer's Overview of Post-Bonus Height Public Benefit

A copy of this report can be obtained online at <http://www.halifax.ca/boardscom/DesignReviewCommittee-HRM.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210 or fax 490-4208.

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 Sean Audas, Development Officer, 490-4402

Original Signed

Report Approved by: Kelly Deity, Manager, Development Approvals, 490-4800



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May 27, 2013

**Clyde Street – Marianne Site
Post-Bonus Height Public Benefit**

In response to the Post Bonus Height Public Benefit requirement as stipulated under section 12 of the Downtown Halifax Land Use Bylaw, the developer has opted to utilize the provision of public parking (section 12(7)(g)).

The following outlines our understanding and proposed approach:

- The gross floor area that has been gained as a result of the post bonus height option is 3406 square meters;
- The value of the public benefit that is required as established under section 12 of the Halifax Land Use Bylaw is \$136,240.00;
- The Land Use Bylaw mandates that the developer of the Sister Sites on Clyde Street known as the Marianne and Margaretta sites provide a total of 210 public parking spots between both sites;
- The proposed post-bonus height public benefit will be met by providing public parking which is above and beyond the required 210 parking spots;
- ~~The total number of parking spots to be provided within the 2 buildings is 429 and is~~ broken down as following (see attached parking plans):
 - Mariane Site: 180 parking spots
 - Level P1: 59
 - Level P2: 62
 - Level P3: 59
 - Margaretta Site: 249 parking spots
 - Level P1: 82
 - Level P2: 84
 - Level P3: 83

Attachment A

- The proposed direction by the developer is to provide levels P1 and P2 within both buildings as public parking. This will include a total of 287 parking spots, which exceeds the requirement of the land use bylaw by 77;
- The cost to the developer to create the 77 under-ground public parking spots is \$1,925,000. This is based on a conservative cost of \$25,000/spot. Please note that at a minimum, the required post bonus height public benefit value of 136,240.00 could be achieved by providing 5 additional public spots within the Marianne site.

By providing additional public parking spaces in the Halifax downtown core, we believe that our proposed public benefit meets the requirements of the land use bylaw.

Yours truly,



Cesar Saleh, P.Eng
VP Planning and Design.
W. M. Fares Group











