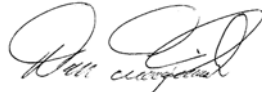


Halifax Regional Council
October 21, 2008

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: October 16, 2008

SUBJECT: Case 01114: Development Agreement - Duke, Hollis & Upper Water

SUPPLEMENTARY REPORT

ORIGIN

- Application by the Armour Group Limited to consider, by development agreement, the redevelopment of 1855-1873 Hollis Street, 1860-1870 Upper Water Street and 5143 Duke Street, Halifax, to allow for a 9-storey retail/office building with underground parking.
- September 9 and 16, 2008 public hearing.
- September 22, 2008 Supplementary Report addressing questions raised during the public hearing.
- Letter dated September 26, 2008 from the Armour Group to Halifax Regional Council proposing alterations to the design of the project and municipal tax deferral.
- September 30, 2008 Council deferred debate to facilitate discussions between the Armour Group and Heritage Trust of Nova Scotia.

RECOMMENDATIONS

It is recommended that Halifax Regional Council approve:

1. The draft development agreement, as contained in Attachment A of the June 16, 2008 staff report, to allow for the redevelopment of 1855-1873 Hollis Street, 1860-1870 Upper Water Street and 5143 Duke Street, Halifax.
2. The amendments to the June 16, 2008 draft development agreement as contained in Attachment "A" of the July 11, 2008 staff report.

RECOMMENDATIONS CONTINUED ON PAGE 2

3. The replacement of Schedule “D” of the June 16, 2008, draft development agreement with the schedule contained in Attachment “B” of the July 11, 2008 staff report.
4. The replacement of Schedule “E” of the June 16, 2008, draft development agreement with the schedule contained in Attachment “C” of the July 11, 2008, staff report.
5. Require that the development agreement be signed and returned within 120 days, or any extension thereof granted by Regional Council on request of the Developer, from the date of final approval by Regional Council or any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.
6. The demolition of the Imperial Oil building located at 1860 Upper Water Street.

BACKGROUND

At the September 16th Regional Council meeting, Council instructed staff to prepare a supplementary report addressing questions raised by the public and members of Council during the public hearing and debate following the hearing. A supplementary report was tabled with Council on September 30th.

Following the public hearing, Armour Group proposed reducing the height of the building and changing the exterior of the addition from glass to brick. These proposals were provided for Council’s consideration as a potential compromise. The proposed changes are contingent upon municipal tax relief. The tax relief is for the purpose of addressing construction costs related to reconstructing the brick facades of the existing buildings and a lower projected revenue for the project resulting from a reduction in the number of storeys (see Attachment “A”).

At the September 30th Regional Council meeting, Council deferred further discussion of this development proposal until October 21, 2008 to allow time for discussion between Armour Group and Heritage Trust of Nova Scotia.

This supplementary report is intended to:

- report on the outcome of discussions between Armour Group and Heritage Trust;
- comment on the tax incentives proposed by Armour Group; and
- correct omissions from the September 22nd report on the total assessed value for the subject site.

Additionally, it has come to the attention of staff that the motion to approve the proposal on September 16th was incomplete in that it did not include reference to the demolition of 1860 Upper Water Street. To correct this, it will be necessary for Council to amend the existing motion prior to voting on the matter.

DISCUSSION

Armour Group and Heritage Trust Discussions

A meeting between Armour Group and Heritage Trust to discuss Armour Group's proposed compromise was held on October 15th. Staff attended the meeting for the purpose of reporting the outcome to Council.

Heritage Trust does not endorse the modifications proposed by Armour Group. The Trust indicated that they may be prepared to support:

- a one storey rooftop addition to the Imperial Oil building provided such development maintains a portion of the existing roof structure of the Imperial Oil building and is sufficiently setback from the streetwall so as to be as inconspicuous as possible; and
- a new, infill building at an appropriate scale (i.e., 3 - 4 storeys) on the through lot adjacent to the Morse's Tea building.

The idea of a land exchange was also discussed. Armour Group indicated that they may be willing to consider such a proposal after Council has made a decision on its current application. Armour Group indicated that they did not wish to enter into any further negotiations which extend beyond the life of the current council.

Financial Assistance

What is being proposed?

Armour Group has proposed that the height of the project could be reduced "by 1 or even perhaps 2 stories" and still remain economically feasible. This is contingent upon Council rebating a "significant percentage" of the tax increase resulting from the development for a period of 5 years after completion of the building. In subsequent discussions with Armour, they indicated that the required reduction in taxes would be 54% for the five-year period. This would translate into approximately \$540,000.

Should HRM provide tax relief for this development?

The concept of providing tax incentives for developing heritage properties is reasonable. In fact Regional Council recently endorsed this concept for the proposed Barrington Street Heritage District. If tax incentives are considered for the Armour project they should be based upon the same principles which will be applied to Barrington Street properties as well as the criteria set out in the *Heritage Property Act* for tax relief.

The *Heritage Property Act* states that financial assistance is to be tied to “restoration or renovation” of a heritage property. In order to be eligible for tax incentives for “restoration or renovation”:

- Armour Group’s project would have to retain the existing buildings in their entirety;
- Since Armour Group’s project only retains the facades of the buildings behind which an entirely new nine storey building will be constructed, the development would not be eligible for tax incentive funding; and
- The scale of tax relief suggested by Armour is well in excess of what is being contemplated for property owners in the proposed Barrington Street Conservation District.

“Best Efforts” Clause

Armour Group’s proposal emphasizes that negotiating the amount of tax relief would occur after approval of the development at its proposed nine storey height through a mutual “best efforts” clause to be included in the development agreement. It is implicit in this proposal that if the tax rebate negotiation fails and a mutually acceptable level of financial assistance is not agreed to, then Armour would be able to proceed with the approved nine storey development.

As noted above, the Armour Group’s project is inconsistent with the tax incentive requirements of the Heritage Property Act and the proposed Barrington Street Heritage District. Based upon this, there is no reasonable likelihood that the Municipality and Armour Group will be able to negotiate a mutually agreeable tax incentive package for this project. It is recommended that Regional Council not include a “best efforts” clause in the proposed development agreement.

Assessed Value

The assessed values provided in the September 22, 2008 supplementary staff report were incorrect. The following is a listing of the individual properties, which make up the subject site, together with their respective 2008 assessed value:

- 1870 Upper Water Street, assessed at \$169,000;
- 1860 Upper Water Street, assessed at \$605,800;
- 1855-1859 Hollis Street, assessed at \$365,300;
- 1861-1863 Hollis Street, assessed at \$175,000;
- 1865 Hollis Street, assessed at \$400,000; and
- 1873 Hollis Street, assessed at \$350,000.¹

Total 2008 assessed value = \$2,065,100

¹ The September 22nd report had omitted the assessed values for 1861-1863 Hollis Street and 1865 Hollis Street.

BUDGET IMPLICATIONS

None.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

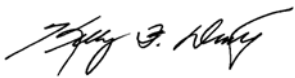
1. Regional Council may choose to approve the entire development agreement, as contained in Attachment "A" of the June 16 staff report and as subsequently amended. This is the recommended course of action.
2. Regional Council may choose to alter the terms of the development agreement. This may necessitate further negotiations with the Developer, and may require an additional public hearing.
3. Regional Council may choose to refuse the entire development agreement. Pursuant to Section 230(6) of the *Municipal Government Act*, Council must provide reasons for this refusal, based on the policies of the MPS.

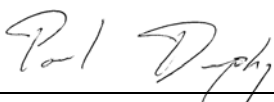
ATTACHMENTS

Attachment A Letter from the Armour Group dated September 26, 2008

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.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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Bill Plaskett, Heritage Planner, 490-4663

Report Approved by: 
Kelly Denty, Acting Manager, Planning Services, 490-6011

Report Approved by: 
Paul Dunphy, Director, Community Development



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PHONE 422-4424
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September 26, 2008

The Honourable Mayor & Councillors
c/o Office of the Municipal Clerk
City Hall
1841 Argyle St., Main Floor
Halifax, NS B3J 3A5

RE: Waterside Centre

Throughout the lengthy Contract Development process that we have been engaged in with you and your Staff, we have been assured that our proposal meets all the relevant Policies of HRM. At the final Pre-Application meeting in Dec./07 we were confident that it met not only the present Policies but the intent of the future HRM-By-Design Policies.

There are, however, several matters brought up by members of Council that appear to require our input and position. There appears to be some reluctance to approve this project based on design considerations not Policy.

- 1) There appears to be concern by some that the glass exterior is not Halifax. There are clearly professional opinions and City Policies which support glass and HRM-By-Design gives further specific support to glass. The glass has significant advantages in the Green Building Leed™ program with “daylightings” reducing lighting costs by 30%. Using glass and sea water as the primary source of heating and cooling reduces the total energy usage by between 60%-70%.

If it is the wish of Council, we are fully prepared to build Waterside Centre with a brick exterior cladding similar to Founders Square. You have advised, however, that Council may not be able to make this decision without the whole process being repeated and that Staff would have to recommend against brick based on the existing Policies, thus opening a decision to Appeal. This would appear to place us in a catch 22 scenario.

- 2) HRM Policies clearly contemplate rooftop additions for heritage buildings. The very basic planning consideration for this Policy is to allow this type of redevelopment to provide the financial means to preserve the heritage buildings or their facades. This may not be well understood by some members of your Council. HRM-By-Design's Heritage Design Guidelines (Section 4.4 page 38) fully sets out the principal and the reason. Your Staff Report does not set out the planning principals behind CH-1(f) which contemplates rooftop additions and does not set out the reasoning as set out in HRM-By-Design ie: so that they are not lost to deterioration or demolition.

We have estimated that the financial costs of restoring the heritage buildings represents a \$1.6 Million premium cost. This cost will be significantly higher if in the end the Imperial Oil Building must be rebuilt. These extra costs must be carried in the development costs of the project and based on an 80,000 square foot development this represents a very significant premium, as in reality most of these costs must be carried by the rooftop addition of 6 stories containing 57,000 sq. ft. of new office space.

One view of the proposed project from Upper Water Street which has been focused on by the opposition shows the addition as 7 stories. The Imperial Oil Building which is only a 2 storey structure results in the ratio of new to old that may be viewed as excessive by some.

If Council believes that more flexibility and compromise is necessary, we are with significant apprehension, prepared to agree to a mutual "best efforts" clause that, IF THE CONTRACT DEVELOPMENT IS APPROVED BY COUNCIL, Armour will work with HRM Staff to explore a mutually acceptable means of financial support that would, subject to approval by Council of the financial support, allow Armour to reduce the overall height of the Waterside Centre Building by 1 or even perhaps 2 stories. A 2 storey reduction will be much more difficult to support financially and further reduction impossible, as the development costs per square foot of the remaining space offsets the gains as we reduce the building area.

The financial feasibility of Waterside Centre as proposed with a 57,000 sq. ft. "rooftop" is very thin with the economic rent required for the project to be successful being 22% more than the present rent for Class A Office Space in the Downtown.

Reducing the square footage of the rooftop addition drives up the square footage costs of the remainder as there is a significant portion of the total development costs (excluding land) that are only impacted in a small way by dropping a floor or two.

We have completed a review of a 1½ storey reduction in the rooftop addition which reduces the new construction by 23% to 44,000 sq. ft. Our calculations indicate that through rebate of a significant percentage of the tax increase resulting from the development of the project over a period of 5 years after completion the economic feasibility of the project could be maintained and the market rentals required to make the project viable would not have to be significantly increased.

While we wish to show flexibility, we are concerned with the possible negative fallout. We understand some members of Council wish to provide tax incentive measures to support restoration of heritage buildings, which is a present Policy and is a centerpiece of HRM-By-Design. We are fearful, however, that if this is not dealt with carefully by HRM and Council more negative implications for Armour would unfairly result.

We do not believe that there are any Provincial or Federal Grant Programs that would give any meaningful financial support to this project. Over the 35 year history of Historic Properties, the only public money provided, by any level of Government to any of the buildings, was that provided by the Government of Canada to restore and upgrade the 7 Federally Registered Historic Waterfront Buildings.

After 2 ½ years of dealing with HRM Staff, etc., on this project and the investment of very significant monies, I do not want to propose by this letter ideas which would require the entire lengthy process to be repeated and if our proposal cannot be dealt with so that approval can be given by this Council, the proposal to deal with design should be considered null and void.

Sincerely,

Yours very truly,
The Armour Group Limited


A.M. (Ben) McCrea, P.Eng.
Chairman
BM/cb