



P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 13.1.2
Halifax and West Community Council
August 7, 2018

TO: Chair and Members of Halifax and West Community Council

-Original Signed-

SUBMITTED BY:

Kelly Denty, Director, Planning and Development

-Original Signed-

John Traves, Q.C., Acting Chief Administrative Officer

DATE: June 21, 2018

SUBJECT: **Case 20360: Land Use Bylaw Amendment and Development Agreement for Young and Demone Streets, Halifax**

ORIGIN

Application by WM Fares

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Give First Reading to consider approval of the proposed amendment to Map ZM-2 the Land Use Bylaw for Halifax Peninsula, as set out in Attachment A, to include a parcel of land on Young Street (PID 00004283), Halifax, in Schedule Q and schedule a public hearing;
2. Give notice of motion to consider the proposed development agreement, as set out in Attachment B, to allow for a ten-storey building, and schedule a public hearing. The public hearing for the development agreement shall be held concurrently with that indicated in Recommendation 1; and
3. Adopt the amendment to Map ZM-2 of the Land Use Bylaw for Halifax Peninsula, as set out in Attachment A of this report.

Contingent upon the amendment to the Land Use By-law for Halifax Peninsula being approved by Community Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Halifax and West Community Council:

1. Approve the proposed development agreement, which shall be substantially of the same form as set out in Attachment B of this report; and
2. Require that the development agreement be signed by the property owner within 120, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

WM Fares on behalf of M.G.B.E. Real Estate Enterprises Limited is applying to add a parcel of land to Schedule Q of the Halifax Peninsula Land Use By-law and enter into a development agreement to enable the development of a ten-storey building located midblock with frontage on both Young and Demone Streets.

Subject Site	PID 00004283
Location	East of Robie Street, West of Agricola, between Young Street and Demone Street, Halifax.
Regional Plan Designation	Urban Settlement
Community Plan Designation (Map 1)	Major Commercial
Zoning (Map 2)	C-2 (General Business) Zone
Size of Site	2,908.5 sq. m (31,307 sq. ft.)
Street Frontage	64.95 m on Young Street, 52.29 m on Demone Street
Current Land Use(s)	Parking, tavern, vacant
Surrounding Use(s)	Commercial, residential, industrial

Proposal Details

The applicant proposes to construct a ten-storey mixed-use building. The major aspects of the proposal are as follows:

- Proposal contains 146 units with ground floor commercial;
- 146 interior parking spaces and 3 surface parking spots;
- Approximately 49,256 sq. m (161,600 sq. ft.) of gross floor area; and
- Approximately 910 sq. m (9,800 sq. ft.) of commercial floor area.

Enabling Policy and LUB Context

The subject property is designated Major Commercial under the Halifax Municipal Planning Strategy (MPS), and is zoned C-2 (General Business) Zone under the Land Use By-law for Halifax Peninsula (LUB). The development of the property is also regulated by the Peninsula North Secondary Planning Strategy. The current zoning permits commercial buildings up to 24.4 m (80 feet) in height, with an allowance for additional height if stepped back from the property lines above 24.4 m (80 feet).

Policies 2.3.1, 2.3.2 and 2.3.3 of Section XI of the Halifax MPS allow Community Council to consider residential or mixed-use buildings for lands located within this commercial designation through the development agreement process. This development agreement process is, however, only allowed once the lands are identified in Schedule Q of the Land Use By-law. The provisions of Schedule Q were established to address the challenge of introducing new residential uses into existing commercial and industrial areas by negotiating, on a site by site basis, the conditions of a development agreement including:

- the creation of an adequate environment for residential living on sites which may be surrounded by commercial and industrial uses; and
- providing for the continued operation of adjacent commercial and industrial uses without being encumbered by new residential uses.

A large portion of Schedule Q is currently applied on the west side of Robie Street between Young Street and North Street, but it has also been applied to select sites in general proximity to the subject property (Map 3). The policy is intended to control the potential land use conflicts, ensure adequate road connections, provide high quality design and have appropriate, high quality amenity space.

Approval Process

The approval process for this application involves two steps:

- i) First, Halifax and West Community Council must consider and, if deemed appropriate, approve the land use bylaw amendment to add the lands shown on Attachment A to Schedule Q; and
- ii) Second, Halifax and West Community Council must consider and, if deemed appropriate, approve the proposed development agreement once the land use bylaw amendment is in effect.

Notwithstanding the two-stage approval process, a single public hearing can be held by Community Council to consider both the proposed land use bylaw amendment and the development agreement. However, subsequent to the completion of the hearing process, the proposed land use bylaw amendment must be approved by Community Council and in effect prior to a decision on the on the development agreement. Both decisions are subject to appeal to the N.S. Utility and Review Board.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public open house held on October 4th, 2017. Attachment D contains a copy of the notes from the meeting. The public comments received include the following topics:

- Appreciate the design of the building;
- Pleased with the proposed height; and
- Concerns about parking and traffic currently in the neighbourhood.

A public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed rezoning and development agreement. Should Halifax and West Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment C provides an evaluation of the proposed land use bylaw amendment and development agreement in relation to the relevant MPS policies.

Land Use Bylaw Amendment (Schedule Q)

Policy 2.3.1 provides evaluation criteria to consider in the application of Schedule Q. The policy intent is to enable development agreements to facilitate reinvestment in commercial and residential properties with a focus on reducing the potential for conflict between commercial and residential uses. Identifying these

lands within Schedule Q allows for the consideration of residential uses by development agreement which grants Community Council greater control and predictability on the site and building design to help reduce the potential for land use and design conflicts.

Proposed Development Agreement

Attachment B contains the proposed development agreement for the subject site and the conditions under which the development may occur. The proposed development agreement addresses the following matters:

- Allows for a 10 storey multi-unit residential building with ground floor commercial uses;
- Requires 146 interior parking spaces;
- Requires a minimum of 50% of the units be two or more bedrooms;
- Require a minimum of 110 square metres of indoor amenity space, which shall include space above ground with access to outdoor amenity space;
- Require a minimum of 340 square metres of outdoor amenity space;
- Controls on building siting, massing, exterior design and materials;
- Require landscaping plan which will include landscaping along the Demone St frontage, south-western and north- eastern property boundaries; and
- Non-substantive amendments include the granting of an extension to the date of commencement, length of time for completion of the development and changes to the unit mix.

The attached development agreement will permit a mixed-use building, subject to the controls identified above. Of the matters addressed by the proposed development agreement to satisfy the MPS criteria as shown in Attachment C, the following have been identified for detailed discussion.

Building Massing and Design

The building is well articulated and utilizes materials, colours and recesses to define the space and break up the massing. The building is well defined into a base, middle and top, and materials have been chosen to visually lighten the appearance of the top. The portions of the building that front on a street are made of glass and light colours to reduce the visual impact of the building.

The building is proposed in an area that transitions from commercial and industrial use, to a more stable low density residential neighbourhood. The height of this building steps down as it approaches Young Street, providing that transition to the existing R-2 neighbourhood.

Amenity Space

Policy 2.3.1 directs Council to consider the quality of the amenity space being provided in the development agreement. The development agreement is structured to ensure that the amenity space is provided in desirable locations within the building and is sized appropriately. To respond to this, the development agreement requires a minimum of 110 square metres of indoor amenity space. The development agreement also requires that any room used for indoor amenity space be a minimum size of 40 square metres. It further states that this space is required to be located on the second floor or higher, and have direct access to outdoor amenity spaces.

Parking

The building is providing parking at a rate of 1.28 spaces per unit. This is expected to be sufficient for the proposed building and will generate limited impacts on street parking in the surrounding area. This building is well located with bus service provided every 10 minutes or better on Robie Street and every 15 minutes on Gottingen Street.

Halifax Peninsula Planning Advisory Committee

On October 23, 2017, the Halifax Peninsula Planning Advisory Committee (PAC) recommended that the application be approved. HPPAC identified the following items at the meeting:

- Found that the building transitioned to the surrounding area appropriately;
- Concerned about traffic in the area, but did not wish to see an increase in parking in the building;
- Would like to see a wind study;

- Concerned about the proximity of the building to the residential building at the north-east;
- Concerned about the safety of the pedestrian walkways; and
- Supportive of the design at the street level.

In response to comments of the PAC, the applicant provided a wind statement. Findings of the wind study indicated that the design of the building will not have a significant wind impact on pedestrians. The design of the building includes frequent setbacks and modulation which greatly reduces the impact of the building on wind conditions at the street level. Wind conditions are worsened by large flat areas of building that direct wind downward. Breaking up the massing as this building has, by using a variety of setbacks should mitigate the wind impacts on pedestrians.

HPPAC expressed interest about extending the pathway, shown at the southern portion of the site, through the entire site, however the applicant was concerned that it would create safety issues for building tenants by having an open pathway through the site. The pedestrian access that was discussed at PAC is meant to provide emergency access out of the building and is not a primary access and egress point for the building.

The applicant did not move the building away from the residential building to the north-east. The building proposal includes a 3-storey podium which is 1 metre (3.3 ft.) to the side property line. The 6-storey portion of the building is setback 4m (13 ft.) to the property line. Under the existing zone, no side yard setbacks would be required, and staff advise that the proposed setbacks are appropriate for the context.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that the proposal is reasonably consistent with the intent of the MPS. The design of the building, the amenity space and the proposed uses are well thought out and consistent with the surrounding area. Therefore, staff recommend that the Halifax and West Community Council approve the proposed land use bylaw amendment and development agreement.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2018-2019 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed LUB amendments and development agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amendment to the Land Use By-law for Halifax Peninsula and the proposed development agreement subject to

modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve the proposed LUB Amendment or development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

2. Halifax and West Community Council may choose to refuse the proposed amendment to the Land Use By-law for Halifax Peninsula and proposed development agreement, and in doing so, must provide reasons why either or both do not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed LUB amendment or development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification Area
Map 3:	Existing Schedule Q's
Attachment A:	Proposed Land Use Bylaw amendment
Attachment B:	Proposed Development Agreement
Attachment C:	Review of Relevant MPS Policies
Attachment D:	Public Open House Meeting Notes

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Jennifer Chapman, Planner III, 902.490.3999

-Original Signed-

Report Approved by: Carl Purvis, Acting Manager, Current Planning, 902.490.4797
