

HALIFAX

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

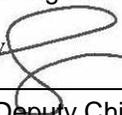
Item No. 14.1.2
Halifax Regional Council
March 7, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

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

Original Signed by 

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: February 21, 2017

SUBJECT: Surplus Property and Street Closure – Lower Water Street, Halifax

ORIGIN

- Request from Waterfront Development Corporation Limited (WDCL), in partnership with Armour Group, to move the existing Street line in front of PID 00003509 Lower Water Street;
- October 4, 2016, Regional Council motion to:
 1. Establish a new streetline on Lower Water Street abutting the Queen's Marque project generally consistent with Attachment "C" of the report dated September 28, 2016, subject to:
 - a. the Queen's Marque project having received Site Plan Approval; and
 - b. the prior closure of those portions of the right-of-way lying between the proposed new streetline and the existing streetline, in accordance with the applicable provisions of the HRM Charter; and
 3. In the event that Site Plan Approval is granted, direct staff to prepare a report for Council's consideration and the report address the applicable requirements of the HRM Charter and Administrative Order 50 and options for the declaration of the land as surplus, classification of the property, closure of the street, and conveyance of the Municipality's interest in the properties to Waterfront Development Corporation.

LEGISLATIVE AUTHORITY

Administrative Order Number 50, the *Disposal of Surplus Real Property Administrative Order*, section 2 as follows:

2 (2) The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories: ...

Remnant

- (d) Properties which are remaining or subdivided lands which:

RECOMMENDATION ON PAGE 2

- (i) by nature of their size or dimensions have limited or no reasonable use;
- (ii) but which may have utility for abutting property owners, and can be disposed under s. 64 of the Charter allowing Council to set a price that is less than market value.

Extraordinary

- (e) Properties having an historic or legal distinction which include conditions or extraordinary process with respect to their preservation or disposal including but not limited to....
 - (iii) streets;

Halifax Regional Municipality Charter, Section 325; Street Closure, as follows:

325 (1) The Council may, by policy, permanently close any street or part of a street and the Council shall hold a public hearing before passing the policy.

(3) The Council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the Municipality.

(4) The notice must set out the time and place of the public hearing at which those in favour or opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.

(6) A copy of the policy passed by the Council, certified by the Clerk under the seal of the Municipality, incorporating a survey or a metes and bounds description of the street that is closed, must be filed in the registry and with the Minister of Transportation and Infrastructure Renewal.

RECOMMENDATION

It is recommended that Halifax Regional Council

1. Declare Parcel WD-2 as shown on Attachment "A" as no longer required for the purposes of the Municipality and surplus to municipal requirements, and categorize it as 'Remnant', as per Administrative Order 50;
2. Declare the portion of the Lower Water Street Right-of-Way in front of PID 00003509, Lower Water Street, as shown on Attachment "A" in yellow, as no longer required for the purposes of the Municipality and surplus to municipal requirements, and categorize it as 'Extraordinary', as per Administrative Order 50.
3. Set a date for a public hearing to consider adopting the proposed Administrative Order SC-84, as contained in Attachment "B", to close a portion of Lower Water Street.
4. Subject to the outcome of the public hearing, adopt Administrative Order SC-84 to close a portion of Lower Water Street that is in front of PID 00003509 Lower Water Street, as shown in yellow on Attachment "A" of this report.

BACKGROUND

The Armour Group, in partnership with WDCL, is proposing to develop the properties at 1721-1735 Lower Water Street, with a 10 story multi-use commercial building with 277 underground parking spaces, known as the Queen's Marque Development.

The official street line along this section of Lower Water Street was confirmed by the former City of Halifax Council on May 11, 1961, as per Official City Plan for Section 18-B. The right-of-way width was established at 21.3 m (70 ft.) The width of the right-of-way further south along Lower Water Street, between Prince Street and Terminal Road is 18.3 m (60 ft.).

The WDCL and Armour Group have requested that Municipal staff re-configure the easterly edge of the right-of-way of Lower Water Street between Prince and George Streets, in front of the proposed Queen's Marque Development. At that time, staff indicated that the Municipality would require a right-of-way approximately 18.3 m (60 ft.) wide, which is consistent with the right-of-way on Lower Water Street south of the Maritime Museum of the Atlantic. However, the current development proposed by the Armour Group would extend outside of the right-of-way.

The majority of Lower Water Street is a 18.3 m (60 ft.) wide right-of-way, which provides an unobstructed distance of 14.2 m (46.6 ft.) measured from the face of the curb on the west side of Lower Water Street. The initial proposal from the developer left an unobstructed right-of-way of 11.7 m (38.4 ft.) which staff could not support.

Municipal staff, WDCL and the Armour Group have subsequently agreed on the approximate limits of the street line abutting the development that would leave a minimum width of 13.1 m (43 ft.) unimpeded right-of-way measured from the curb on the west side of Lower Water Street (refer to Attachment "A").

On October 4, 2016, Regional Council approved the following motions to:

1. Establish a new street line on Lower Water Street abutting the Queen's Marque project, generally consistent with Attachment "C" of this report, subject to:
 - a. the Queen's Marque project having received Site Plan Approval; and
 - b. the prior closure of those portions of the right-of-way lying between the proposed new street line and the existing street line, in accordance with the applicable provisions of the HRM Charter; and
2. Provide the Municipality's consent, as a property owner, to the Waterfront Development Corporation and Armour Group making application for Site Plan Approval for the project known as Queen's Marque, such authority being provided:
 - a. on a without prejudice basis;
 - b. subject to title search and survey; and
 - c. without any commitment with respect to any decision by Council regarding a conveyance of the property; and
3. In the event that Site Plan Approval is granted, direct staff to prepare a report for Council's consideration and the report address the applicable requirements of the HRM Charter and Administrative Order 50 and options for the declaration of the land as surplus, classification of the property, closure of the street, and conveyance of the Municipality's interest in the properties to Waterfront Development Corporation.

DISCUSSION

In the interest of ensuring development can proceed in a timely manner it is recommended that Regional Council Close a portion of the Lower Water Street right-of-way in front of PID 00003509, as per Attachment "A". This proposal is generally consistent with the plan set out in the report considered by Council on October 4, 2016.

It should be noted in this case that adjustments to the street right-of-way are based on the specific elements and features of this specific development design. It is for this reason that the recommended action of relocating the street line was conditional on the development receiving Site Plan Approval.

The Design Review Committee considered the Armour Group's proposal at its meeting on December 1,

2016, and approved the qualitative elements of the substantive site plan approval and also recommended the provision of publically accessible amenity or open space, the provision of public art, and the provision of exemplary sustainable building practices as the public benefit for the post-bonus height. The appeal period expired December 24, 2016. As the development is designed to be partially situated within the existing street right-of-way, municipal permits are not able to be issued until the matter of the street closure is settled. Should Regional Council not approve the partial street closure and transfer title of the lands to the WDCL, the building design would need to be altered and the project would require the approval of another site plan approval application.

Following the completion of the land transaction and prior to the issuance of the development permit, the underlying lots must be consolidated and Regional Council will need to approve the incentive or bonus zoning agreement for the project.

The purpose of this report is to declare the subject portion of the Right of Way surplus to municipal requirements and no longer required for the purposes of the Municipality, categorize it as "Extraordinary" under Administrative Order 50, and to move to close the portion of street right-of-way under Administrative Order SC-84, which is subject to the outcome of the Public Hearing.

At the same time, this report also declares parcel WD-2 surplus and categorizes it as 'Remnant' under Administrative Order 50, as it is of insufficient size or dimensions to be capable of any reasonable use, and is to be conveyed to the abutting property owner (WDCL) and consolidated with their parcel.

FINANCIAL IMPLICATIONS

The market value and recommended settlement is as outlined in the private and Confidential Report dated February 17, 2017.

RISK CONSIDERATION

There are no substantial risks identified with the recommendations of this report.

COMMUNITY ENGAGEMENT

As per Administrative Order 50, the area Councilor was advised of the recommendation to declare the subject property surplus, with an Extraordinary categorization. A public hearing is required also for the closure of this portion of street right-of-way.

ENVIRONMENTAL IMPLICATIONS

No environmental implications were considered in this report. It will be the responsibility of the Purchaser to investigate the environmental conditions of the parcel as part of their due diligence process.

ALTERNATIVES

Halifax Regional Council could refuse to declare the subject parcel as surplus under Administrative Order 50, and retain it as street right-of-way. This is not recommended as it is not required for street purposes in this circumstance.

ATTACHMENTS

Attachment "A" – Plan dated February 7, 2017

Attachment "B" – Administrative Order SC-84

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Tom Crouse, Acquisition & Disposal Manager, Corporate Real Estate, Operations Support
902.490.5931

Report Approved by: _____
Michael Wile, Acting Manager, Corporate Real Estate, Operations Support 902.490.5521

Report Approved by: _____
Peter Stickings, Acting Director, Operations Support 902.490.8237

Report Approved by: _____
Bruce Zvaniga, Director, Transportation & Public Works, 902.490.4855

Report Approved by: _____
Bob Bjerke, Chief Planner & Director, Planning & Development 902.490.1627

Report Approved by: _____
John Traves, Q.C., Director of Legal, Insurance & Risk Management Services
902.490.4226

Original Signed



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Attachment “B”

HALIFAX REGIONAL MUNICIPALITY
ADMINISTRATIVE ORDER NUMBER SC-84

RESPECTING CLOSURE OF A PORTION OF
LOWER WATER STREET, HALIFAX

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of Council of the Halifax Regional Municipality pursuant to Section 325 of the Halifax Regional Municipality Charter Act as follows:

1. A portion of Lower Water Street, Halifax, Nova Scotia more particularly described as parcel WD-1 in Attachment “A”, is hereby closed.

I HEREBY CERTIFY THAT the foregoing Administrative Order was duly adopted by Halifax Regional Council, the ____ day of _____, 2017.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on _____, 2017.

Kevin Arjoon, Municipal Clerk

