

HALIFAX

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

Item No. 14.1.10
Halifax Regional Council
October 4, 2016

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé Chief Administrative Officer

Original Signed by 

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: September 28, 2016

SUBJECT: 1721- 1735 Lower Water Street - Limits of Right of Way

ORIGIN

Waterfront Development Corporation Ltd. (WDC) has requested an adjustment to the eastern boundary of the right of way on Lower Water Street to accommodate development of the abutting WDC lands through a partnership with Armour Group Limited (Armour Group).

LEGISLATIVE AUTHORITY

HRM Charter, section 61(3)

(3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.

HRM Charter, Section 318

(1) All streets in the Municipality are vested absolutely in the Municipality.

(2) In so far as is consistent with their use by the public, the Council has full control over the streets in the Municipality.

HRM Charter, section 322

(1) The Council may design, lay out, open, expand, construct, maintain, improve, alter, repair, light, water, clean, and clear streets in the Municipality.

(2) When a street is laid out, opened or expanded, a survey plan shall be filed in the registry...

HRM Charter, section 325, including 325(1)

(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.

HRM Charter, Section 324 (2)

The Municipality may, by by-law, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments.

RECOMMENDATION

It is recommended that Regional Council:

1. Establish a new streetline 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 streetline and the existing streetline, 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.

BACKGROUND

Armour Group, in partnership with WDC, 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. To date, the applicants have provided plans to staff, and pre-application feedback has been provided for the applicant's consideration in advance of a full formal application being submitted.

The current land ownership context adjacent to the project site involves portions of Lower Water Street being located on land owned by WDC, and a portion of land used by WDC for public parking owned by HRM (refer to Attachment "A"). In 2013, the Waterfront Development Corporation approached Municipal staff to re-configure the easterly edge of the right of way of Lower Water Street between Prince and George Streets. At that time, staff indicated that the Municipality would require a right of way approximately 18.3 m wide, which is consistent with the right of way on Lower Water Street south of the Maritime Museum of the Atlantic. The current development proposed by the Armour Group however is not designed to be accommodated within such a right of way.

Consideration of the Queen's Marque Development will be through the site plan approval process, which does not require a separate approval by Council. Within the site plan approval process, assessment of proposals against the quantitative elements contained within the Land Use By-law is completed by the

Development Officer, while qualitative elements of buildings and open spaces are assessed by the Design Review Committee.

As stated previously, the development proposed by Armour Group and WDC is located partially on HRM lands and within the street right of way. As such, an application for site plan approval requires the consent of the Municipality.

DISCUSSION

Existing Site Context

The desired width of the street right of way in this area was previously confirmed by Halifax City Council in 1961 as 21.3 m (70 ft) in this area. The width of the right of way further south along Lower Water St., between Prince St. and Terminal Rd. is 18.3 m (60 ft).

In looking at the existing context of the right of way adjacent to the proposed development, there is a 3 m wide sidewalk on the east side of Lower Water Street, which significantly increases in width at the public parking lot. Within this section, trees and elevated planters exist which improve walkability and provide a buffer between pedestrians and traffic. Attachment B shows renderings of the existing conditions along Lower Water Street.

Like many streets in a mature urban environment, Lower Water Street is a multi-purpose street which is not characterized by any one of the standard classifications in the Municipal Service Systems Design Guidelines. This area has high volumes of tourists, is adjacent to a bus and ferry terminal, is in close proximity to the waterfront, but is also classified as a truck route for container trucks leaving the Port of Halifax.

Municipal Policy

Mobility of pedestrians, cyclists and goods throughout the downtown is key to its continued success and development. Policies in both the Downtown Halifax Secondary Municipal Planning Strategy (SMPS) and the Design Manual aim to provide a high quality walking environment throughout the Downtown, and require a pedestrian scaled streetwall, increased setbacks adjacent prominent open spaces, and consideration for the impact of buildings on wind conditions at street level. Several provisions of both the Urban Design Manual for the Downtown, as well as the Downtown Halifax SMPS relate directly to Lower Water Street:

- The Design Manual for the Downtown requires buildings to “focus pedestrian activities at sidewalk level by providing weather protected sidewalks using well designed canopies and awnings”, and that Lower Water Street be developed with a “continuous streetwall and public realm design”.
- The SMPS requires a continuous, pedestrian scale streetwall along the east side of Lower Water Street, requires the Municipality to consider universal design principles in the design of public spaces in downtown Halifax to promote accessibility for all users in accordance with HRM’s Capital District Streetscape Guidelines and the Transportation & Streetscape Design Functional Plan.

Also included in Attachment B is a depiction of the street when the proposed development is completed.

Details of Applicant Proposal

WDC is the public organization responsible for the stewardship of public space located along the waterfront, their development principles focus on high quality design on the waterfront while integrating well with, and supporting, the surrounding urban fabric.

The building proposed by Armour Group would reduce the width of the street as shown on Attachment “C” by a maximum amount of 1.1m.

In conversations with HRM staff, WDC recognizes that the proposed building siting limits the utility of Lower Water Street in terms of accessibility, cycling, and vehicular intrusions to the pedestrian realm as discussed in the sections of the report below. The Waterfront Development Corporation feels that the overall contribution of the development, inclusive of the economic benefits that it would bring to the Municipality, outweigh any negative impacts the building massing and setback would present.

Given that the context of the majority of Lower Water Street is that of an 18.3 metre wide right of way, this width will be maintained throughout. This would provide an unobstructed distance of 14.2 m, 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. With this said, it is acknowledged that the proposed Queen's Marque development represents a unique opportunity site on the waterfront which has the support of the publicly owned organization responsible for public space on the waterfront. Municipal staff and the developer have since agreed on the approximate limits of the street line abutting the development that would leave a minimum width of 13.1 metres unimpeded right of way measured from the curb on the west side of Lower Water Street (refer to Attachment "C"). Nevertheless it may be possible and is highly desirable to achieve more as the building design progresses.

Reducing the width of the street abutting the development by a maximum reduction of 1.1 m as shown on Attachment "C" is not ideal and will limit future decisions relating to street use, but the proposed right of way width will retain the existing functionality.

For example, a 1.7 m sidewalk is needed to accommodate two wheelchairs passing, or one wheelchair turning around. The building design and right of way width as proposed by the developer would result in a sidewalk approximately 2.0 m in width at the narrowest point. It would not be possible to add a southbound bike lane on Lower Water Street without compromising other features such as street trees, the northbound bike lane, sidewalk width or street furniture. With the foregoing considerations in mind, staff support adjusting the street line over a small length of the frontage to accommodate the development.

As of the writing of this report, HRM has not undertaken a title search of the properties involved, nor has a legal survey been completed. Utility clearances have not been sought. The criteria and process for street closures is established by the HRM Charter, and the disposition of surplus property is governed by Administrative Order 50, The Disposal of Surplus Property Administrative Order. If Site Plan Approval is granted, staff will return to Council having completed the necessary title work and provide Council with options relating to any street closures required, and any potential conveyances. In accordance with the HRM Charter, a survey plan will have to be prepared showing the new streetline.

Conclusion

In the interest of ensuring development can proceed in a timely manner it is recommended that Regional Council give their authorization for a planning application to be submitted on lands partially owned by the Municipality, and that the market conveyances be undertaken as generally illustrated in Attachment "C".

The adjustments to the street right of way are based on the specific elements and features of this development, and only apply to this proposal. It is for this reason that the recommended actions (relocating the street line and carrying out the market conveyances) are conditional on the development receiving site plan approval.

FINANCIAL IMPLICATIONS

The specific financial implications are not known at this time. Financial implications will be contained in a future report to Council prior to the transfer of title to/from the Waterfront Development Corporation and the execution of the related encroachment agreement.

COMMUNITY ENGAGEMENT

Not applicable at this time. If the development progresses, public consultation will be in accordance with the site plan approval processes that have been adopted by Council.

ALTERNATIVES

1. Regional Council take no action at this time, and require any planning application to be located completely on lands owned by non-Municipal entities. This is not recommended for the reasons outlined in this report, and because a portion of the land owned by WDC is within the street limits, and is currently used as a public right of way for Lower Water Street.
2. Regional Council could direct staff to acquire all of the land within the street limits established in 1962 and authorize a permanent encroachment for the building. This is not recommended because the developer has indicated the development cannot accommodate such an encumbrance and they would not be a willing participant if this alternative was selected.

ATTACHMENTS

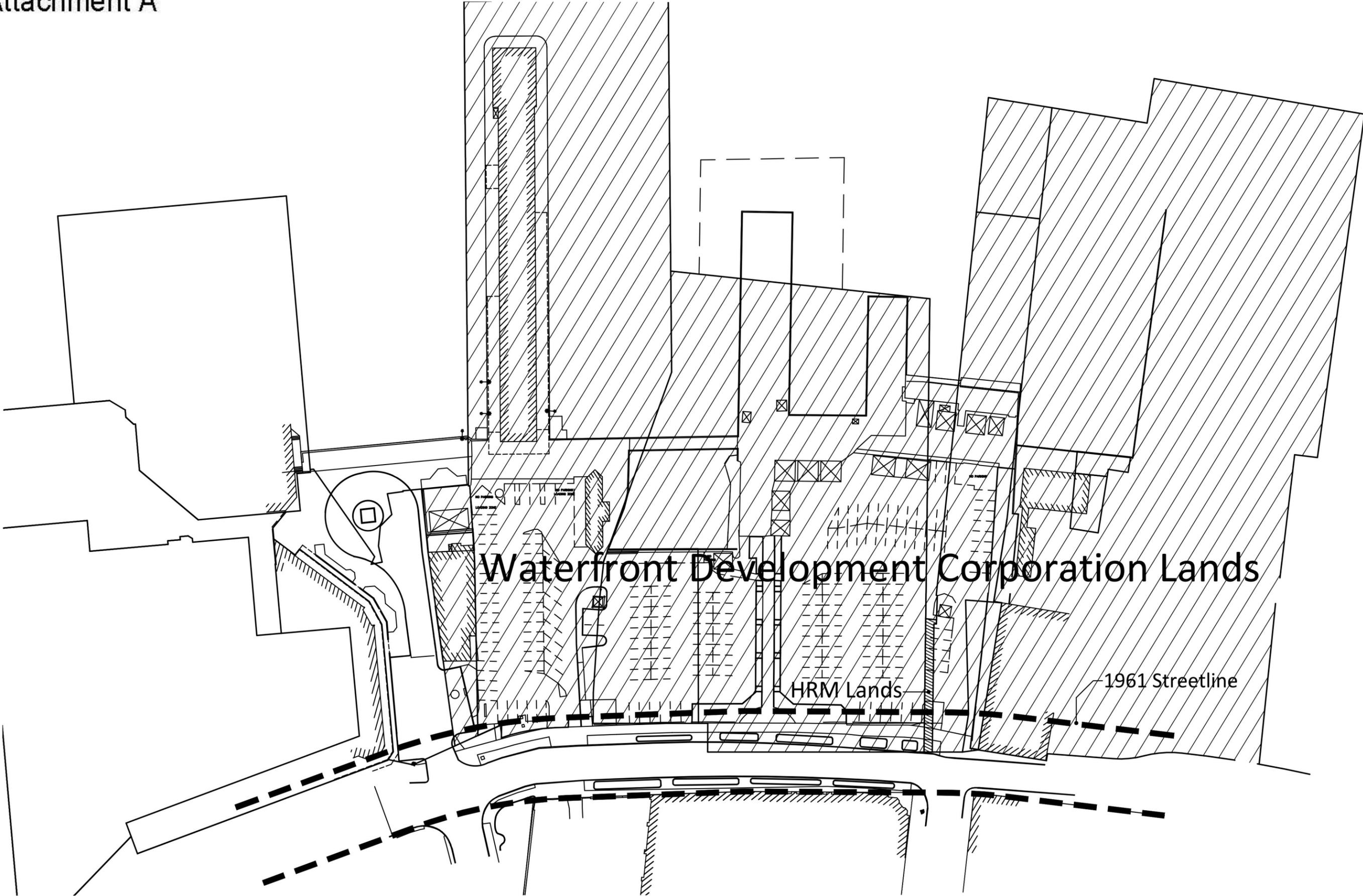
- Attachment A Plan showing existing limits of right of way
Attachment B 3D models showing existing conditions and proposed building mass on Lower Water Street
Attachment C Plan showing proposed limits of right of way

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: Peter Duncan, Manager Infrastructure Planning, 902.490.5449

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

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



Waterfront Development Corporation Lands

HRM Lands

1961 Streetline





HALIFAX JAZZ FESTIVAL

McKelvie's



MARITIME MUSEUM of the ATLANTIC MUSÉE MARITIME de l'ATLANTIQUE

Entrance 1675 Lower Water Street Entrée

NORTH AU NORD
DEUXIÈME
NIVEAU SOCIÉTÉ
DU 11 NOVEMBRE 6
DU 11 NOVEMBRE 6







WRONG
WAY



Attachment C



**NOT FOR
CONSTRUCTION**

NO.	REVISION	DATE

REVISIONS	DATE

A	A - Detail No.
B	B - Drawing No.

PROJECT
QUEENS MARQUE DEVELOPMENT
LOWER WATER STREET
HALIFAX, NS

DRAWING

1. DRAWING IS PROVIDED ON A WITHOUT PREJUDICE BASIS
2. BOUNDARIES SHOWN ARE FOR INFORMATION PURPOSES ONLY AND ARE PENDING VERIFICATION AGAINST LEGAL SURVEY

SCALE NTS	DATE 2016/09/27
--------------	--------------------

DRAWN BY	CHECKED	REVIEWED
----------	---------	----------

APPROVED	DEPT. APPROVAL
----------	----------------

SEAL	SEAL
------	------

DEPT. PROJECT NO.	DRAWING NO.
CONSULTANT'S NO.	XX
TENDER NO.	