

HALIFAX

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

Item No. 9.3i
Halifax Regional Council
March 20, 2018

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: February 2, 2018

SUBJECT: **Case 18966: Post Public Hearing Supplementary Report for 6009 and 6017
Quinpool Road, Halifax**

SUPPLEMENTARY REPORT

ORIGIN

On January 17, 2018 the following motion of Regional Council was put and passed regarding item 11.1:

“To defer the matter and direct staff to prepare a supplementary report which outlines options and proposed MPS and LUB amendments for provisions for incentive or bonus zoning to be added to the policies applicable to 6009-6017 Quinpool Road, Halifax, which would allow for an increase to the overall allowable maximum height from 62 meters to 78 meters through the provision of affordable housing units and other enhancements such as those raised at the public hearing as the contribution for any incentive or bonus zoning applicable to the development, and report back to Council no later than March 20, 2018.”

LEGISLATIVE AUTHORITY

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

BACKGROUND

Following the conclusion of the January 16, 2018 public hearing for site-specific MPS policy which would permit the application of a development agreement for a 62-metre-tall building on the property at 6009-6017 Quinpool Road, Halifax, Regional Council passed the following motion requesting a supplementary report”

“To defer the matter and direct staff to prepare a supplementary report which outlines options and proposed MPS and LUB amendments for provisions for incentive or bonus zoning to be added to the policies applicable to 6009-6017 Quinpool Road, Halifax, which would allow for an increase to the overall allowable maximum height from 62 meters to 78 meters through the provision of affordable housing units and other enhancements such as those raised at the public hearing as the contribution for any incentive or bonus zoning applicable to the development, and report back to Council no later than March 20, 2018.”

Incentive or Bonus Zoning

The *HRM Charter* allows Council to utilize the tool of incentive or bonus zoning throughout all areas of the HRM by Design Downtown Plan Area and the Centre Plan Area, inclusive of the subject site at 6007-6017 Quinpool Road, provided the municipal planning strategy contains policy on the matter. The term “Incentive or bonus zoning” is defined in the *Charter* as “...requirements that permit the relaxation of certain requirements if an applicant exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements.”

Bonus zoning is also referred to as density bonusing and both terms are used interchangeably in this report. A qualifier of using the bonus zoning tool stated in the *Charter* is that the land use by-law must require the inclusion of affordable housing as the public benefit contribution for the proposed development. No other components are identified as requirements, leaving Council with flexibility to identify amenities they determine appropriate for a developer to include in exchange for increased development rights.

Bonus Zoning and the Centre Plan

Through its development, the draft Centre Plan has been clear in its intent to expand the use of bonus zoning from its existing use in Downtown Halifax to throughout the Regional Centre. Key to this exercise is an aim to improve the bonus zoning program to achieve better public benefits such that added density will result in corresponding public benefits to the current and future residents of neighbourhoods that are experiencing development pressure. In making its decision concerning the application of bonus zoning to this proposal, Council should be aware of the proposed approach to bonus zoning that is contained in the draft Centre Plan Package “A” documents. That noted, Council may decide to adopt a specific bonus zoning program for this site.

Proposed Bonus Zoning Approach

In 2015, a Density Bonusing Study¹ was undertaken to help inform decisions that would need to be made surrounding implementation, bonusing rates, and required public amenities. This study was extremely helpful in outlining the bonusing systems utilized by other municipalities, their benefits and pitfalls, and identifying an approach specific to the Regional Centre. The study contains a number of recommendations and identified that in the case of the existing Downtown Halifax bonusing program, the value created by allowing increased height and density was significantly greater than the value of public benefit realized.

To help address this, current land values for various geographical areas of the Regional Centre should be used to establish value created through the density bonusing program. Each value area would have a clearly established rate to be charged for additional density (measured in gross buildable square meters), representing a significant increase in value achieved. Once the value of the additional density is established, the associated public benefit(s) would be determined from a list of available options.

¹ Teal Architects, Toderian Urban Works, Cantwell & Company Ltd., Coriolis Consulting Corp., *Halifax Regional Municipality Density Bonusing Study*, October 2015

This would allow developers to reliably forecast the financial implications of seeking additional density.

Based on the Study's recommendations, the Centre Plan's proposed bonus zoning approach would see a public benefit contribution equal to the value of the total building floor area, in excess of a certain minimum threshold, multiplied by a percentage of the current land area value based on a project's location. At least 75% of the resulting contribution would be dedicated to affordable housing units, while a smaller proportion would go towards conservation of a registered heritage building, publicly accessible space, affordable community or cultural indoor space, public art or cash-in-lieu.

Gross Floor Area Ratio

In the proposed system of development regulation within the draft Centre Plan, density is limited both by an overall maximum Gross Floor Area Ratio (GFAR) as well as an overall maximum height. It's important to note that it is intended that neither of these standards may be exceeded regardless of the amount or type of amenity that is being proposed. The maximum GFARs and heights could only be exceeded by an amendment process and not through the contribution of additional amenity. Density bonusing is proposed to be required for all developments which exceed a GFAR of 3.5 for their site. This is different from the approach currently used in Downtown Halifax where a public benefit contribution must only be provided for the total gross floor area between the maximum "pre-bonus" and "post-bonus" heights. Projects that do not exceed the pre-bonus height are not required to provide a public benefit contribution.

GFAR is calculated by taking the total square footage within a building and dividing it into the overall area of the lot on which that building is proposed. The maximum GFARs range from a low of 1.75 to a high of 8.00. As a rule of thumb, a GFAR of 3.5 is approximately equivalent to a midrise building of 6-8 storeys on many sites within the Regional Centre. This was done purposefully to encourage the development of buildings of the mid-rise scale referred to as the "missing middle" of housing, while still allowing for tower development in appropriate locations and contexts.

Within the draft Centre Plan, GFAR is used as a tool to regulate development throughout the Centre, Corridor, Future Growth Node, and Higher Order Residential designations. These 4 designations are the areas where most new residential growth is anticipated, and were selected purposefully given their ability to contain that growth in contextually appropriate buildings. These 4 designations form "Package A" of the Centre Plan are currently the subject of public consultation over the months of March, April, and May. Portions of Quinpool Road are identified as a "Centre" while portions of Robie Street are identified as a "Corridor" within the draft plan.

Land Values and Bonus Zoning Rates

The proposed bonusing rate represent 67% of the average market value of residential real estate within various geographic areas across the Regional Centre. The Density Bonusing Study contemplated a variety of percentages at which to require bonusing, however arrived at 67% of the anticipated increased value or "land lift" being created, following review of best practice examples across Canadian Municipalities. As stated within the Study; "In considering the options of 50%, 67%, or 75% of the land lift, the consulting team recommends that the 67% figure be used, leaving one third of the land lift as incentive for developers to take advantage of the Density Bonus Program, in addition to construction profit." In the case of the Quinpool and Robie area, a rate of \$174 / square metre was identified as a proposed bonusing rate.

DISCUSSION

Staff have previously advised that the appropriate maximum height of a building at this location is 62 metres, or approximately 20 storeys. That advice aside, Council has requested information concerning options and proposed amendments to allow an increase in height to 78 metres (25 storeys) through the provision of a bonus zoning program that could realize the provision of affordable housing units and other enhancements such as improved ground level amenities for the project. Staff advise that a key principle of density bonusing as a tool is that the provision of public amenities does not rationalize increased building heights or densities over and above those deemed contextually appropriate. In the draft Centre

Plan policies, density bonusing above the maximum height and density stipulated is not possible. Regardless, should Council choose to consider permitting additional height on this site through density bonusing, the following sets out the various options for their consideration. In any event, consideration of a building exceeding 62 metres in height and with site-specific density bonusing policies and regulations will require an additional public hearing.

Option1: Bonus Zoning Above 3.5 GFAR

In the case of 6009-6017 Quinpool Road, the draft Centre Plan proposes a maximum height of 20 storeys and a maximum GFAR of 8.0. This contrasts to the original request of the applicant which was 29 storeys and approximately 12.96 GFAR and a 25 storey building with a GFAR of about 11.6. Notwithstanding the fact that neither a 25 nor 29 storey building are contemplated for this site within the draft Centre Plan, as a general requirement, the draft Centre Plan sets out that bonus zoning is to be required for all density in excess of 3.5 FAR. Staff have completed calculation estimates for the value of density bonusing which would be required if the Draft Centre Plan policies were to be applied. The details of these calculations can be found in Attachment A - Table 2 of this report. At the rate of \$174/ square metre, a public benefit value totaling approximately \$3,271,548 would be required if density bonusing was applied to all square footage above a threshold of 3.5 GFAR.

The draft density bonusing provisions in the Centre Plan also include provisions for the form the affordable housing will take as well as the rate at which rent is discounted from market value. The intent of the program would see the value realized over a 15-year period whereby the average market rents of the affordable housing units are reduced by 40%. A summary of the affordable housing calculation as set out under the draft Centre Plan can be found in Attachment A – Table 4 of this report. If all of this bonusing zoning value were to be spent on reduced rent affordable housing units, and the standards explained above were to be implemented, this would equate to 36 affordable housing units within the project.

Option 2: Bonus Zoning for 5 Additional Storeys

Notwithstanding consideration of the draft Centre Plan's density bonusing program which proposes to require bonusing above a GFAR level of 3.5, Council may wish to require density bonusing beginning at the height proposed by the applicant. This was the request contained within Council's motion. In that scenario, density bonusing would be required for all development above the 20th storey for a total of 5 storeys. Staff have estimated the required density bonusing contribution under this method with the details of these calculations being found in Attachment A – Table 3 of this report. At the same rate of \$174/ square metre, the resulting bonus would total \$698,610. This value would equate to approximately 7 affordable housing units under the assumptions described earlier in this report.

Option 3: Increased Pedestrian Space / Publicly Accessible Amenity Space

The proposal before Council is for enabling planning policy, not a development agreement containing the detailed specifics of the development. Matters pertaining to the details of ground level design have yet to be determined, however, Council may choose to include detail concerning this within the proposed MPS amendments.

While the current development proposal situates the building only 2-5 feet from the property lines along Robie and Quinpool, the HRM-owned right-of-way adjacent to the property contains space approximately 3.9 metres in depth on the Robie Street elevation and 2.9 metres in depth on the Quinpool Road elevation when measured between the inside edge of the existing sidewalk and curb. While these depths are ample if used exclusively for sidewalk, this space also needs to accommodate transit infrastructure, power poles, street trees, road signage, mail boxes, traffic signal boxes, and an assortment of other street furniture.

Robie Street has been identified as a transit priority corridor within the recently approved Integrated Mobility Plan (IMP). This classification means that streetscaping improvements could be taking place in the near future as a result of potential changes to the use of the right of way. Staff undertook public engagement in February 2018 on the Robie Street corridor, and the results of this engagement have not

yet been integrated into draft proposals. With this said, no proposals that were consulted on involved acquiring additional lands on the western edge of Robie Street at Quinpool Road.

Additional improvements with the pedestrian and transit user experience in mind are anticipated on Robie Street in the coming years as per the direction of the IMP. This would be consistent with the proposal of the applicant for a transit shelter to be integrated into the building design at the northeast edge of their site. It should be noted that while this transit shelter amenity has been proposed by the applicant, it is not explicitly required within the draft MPS policy which was the subject of the public hearing on January 16, 2018.

Some flexibility is contemplated in the draft Centre Plan for Council to receive amenities outside of affordable housing. For example, in cases where the required density bonusing equates to less than a full affordable housing unit, cash can be taken by the Municipality to be spent on affordable housing projects elsewhere in the Municipality. Draft regulations require a minimum of 75% of the value of a density bonus be dedicated to affordable housing units. If 25% of the value of the density bonus were to be directed to the provision of other amenities, the likes of which were discussed at the January 2018 public hearing, a total of \$837,244 could be allocated towards their provision, using the \$174 / square metre rate noted earlier. Amenities outside of affordable housing listed as being acceptable in the draft Centre Plan include conservation of registered heritage buildings, publicly accessible amenity or open spaces, affordable community or cultural indoor space, and public art.

The intent of the draft Centre Plan in including publicly accessible amenity or open spaces as public benefits was to encourage the provision of plazas or parkettes within privately owned space so as to add to the existing network of public open spaces within areas where increased densities are being proposed. This notwithstanding, it is possible to include an expanded setback on the ground floor of the proposed building as counting towards "publicly accessible open space". The difficulty in bonusing for these types of spaces is that their value is typically calculated as the construction costs for the amenity itself. An expanded sidewalk would be relatively inexpensive to construct, and as such not require a large portion of the required bonus. However, if the value of the expanded sidewalk also included the theoretical value of floorspace that would otherwise be located in its space (i.e., 4-7 storeys of podium above a sidewalk level 1.5 metres deep along 3 street frontages) the value of this space would be substantial. The applicant has advised that the latter was their preferred method of calculating the value of additional sidewalk width. The draft Centre Plan proposes using construction value as a way of calculating the value of the public benefit, and this is the recommended method of measurement should Council decide to move forward with allowing this provision. In this system, a construction cost estimate would need to be prepared and submitted to the municipality by a Professional Quantity Surveyor.

An alternative to the above would be to require an increased setback for the building along the street frontages where an expanded sidewalk is desired. While this space would not be owned and maintained by the Municipality, it would still function as increased width adding to pedestrian comfort along both street frontages. Further, requiring the building to be setback, but not requiring HRM ownership of the land would still allow the applicant to construct a parkade beneath the expanded sidewalk, thus impacting the viability of the project from both an operations and financial perspective to a lesser extent. If an expanded sidewalk along the Robie Street elevation is desired, Council could require that the building at the ground floor be setback the desired distance from the property line. The building would still be allowed to cantilever above this pedestrian space for its upper floors. As an example, an additional 2 metres of setback would equate to an approximate width of 4.9 metres (16 feet) on Robie Street or 5.8 metres (19 feet) on Quinpool Road when measured between the inside edge of the existing sidewalk and curb.

Option 4: Alternate Bonusing Options

Undergrounding overhead services adjacent to the project was considered as a possible public benefit during the discussion at the public hearing. Underground electrical and communication distribution systems is one of 10 public benefits currently included in the Downtown Halifax Land Use By-law from which developers may choose when proposing incentive or bonus zoning for their projects. With this said, the Density Bonusing Study emphasized the limited potential for achieving public benefit in certain types of density bonusing, therefore suggesting a more focused list of public benefit categories. The Study

recommended not including undergrounding in future amenity programs, and included the following as a rationale:

“Given the relatively limited potential for public benefit achievement available even if the other recommendations in this report are supported, the HRM should not be providing density bonuses for any items that do not have a strong, compelling connection to the goals of the city and the public interest, and for any items that can be achieved through other means, including regulations.”

As such, staff advise that this type of amenity should not be included as a density bonusing provision in this site-specific context.

Should Council decide to proceed with Options 3, or 4, specific direction would need to be provided to staff to draft the MPS and LUB amendments as appropriate. Any of these options would need to be in addition to the provision of affordable housing if the density bonusing tool is used.

Potential Risks to Site-Specific Bonus Zoning Application

Council should be cautioned that a certain measure of risk exists in applying draft policies and by-law provisions which were written in the context of a new Land Use By-law and Municipal Planning Strategy without the benefit of a comprehensive public vetting. These are expanded within the Risk section of this report. In addition to this, there may exist some issue with regard to equity amongst other planning applications currently within the review process.

There are a number of existing site-specific applications for MPS amendments within the Regional Centre, including the property directly adjacent to this site – Case 19281 located at 2032-2050 Robie Street, for which Council has directed be processed concurrently while the Centre Plan process moves forward. While Council direction on these applications was to assess their conformance against the Centre Plan Direction Document finalized in June 2017, these applications do not involve the provision of community amenities in exchange for increased densities. Applying density bonusing to these projects was considered by staff at an earlier date, however it was determined that the fairest approach would be to consider the new density bonusing program through the Centre Plan process holistically and not through individual applications. If Council were to require contribution of a community amenity for Case 18966, it would be the only MPS amendment thus far required to make such a contribution.

Conclusion and Next Steps

The density bonusing program and rate as described earlier in this report are consistent with the draft Centre Plan policies. This is representative of density bonusing best practices of Canadian municipalities but also acknowledges HRM's unique regulatory framework relative to the authority granted to it within the *HRM Charter*. While the resulting public benefit contribution of approximately \$3,271,548 may seem large, this is representative of the 45% increase in GFAR that a 25 storey building would bring to the site. The Centre Plan proposes a GFAR of 8.0 for this site, the highest GFAR within the Plan.

Staff have advised that the appropriate maximum height of a building at this location is 62 metres, or approximately 20 storeys. A key principle of density bonusing is that the provision of public amenities does not rationalize increased heights or densities over and above those deemed contextually appropriate. That notwithstanding, if Council chooses to consider additional height on this site, staff advise that bonusing in a manner consistent with the draft Centre Plan as described in Option 1 above is the appropriate path forward.

Council has held a public hearing on a proposed MPS policy which would allow a 20 storey mixed-use building on the subject site through a subsequent development agreement process. If Council wishes to proceed with consideration of a building exceeding 20 storeys in height then it may defeat the motion currently on the floor and consider moving forward based on the draft motion provided in Attachment B, along with specific direction as to the components of the desired density bonusing program for the project. In that instance, a new first reading of the proposed MPS and LUB amendments and another public hearing would be required.

Notwithstanding the robust discussion already had by Council on this issue, given the number of variables at play, staff requires additional direction before crafting new proposed policies for the site. Attachment B outlines a draft Council motion, and the decisions required of Council in advance of authoring the amending MPS & LUB documents. Following this process will also allow staff to consult with the applicant prior to preparing a bonusing program for the site. This could help to provide Council with additional clarity surrounding the cost of various amenities as seen from the perspective of the developer.

Alternatively, Council could decide to allow the Centre Plan to govern development of the site by defeating the motion before them, and considering the site in the scope of the entire Regional Centre at a future public hearing on new a Regional Centre Land Use By-law and Secondary Municipal Planning Strategy.

FINANCIAL IMPLICATIONS

There are no financial implications of this report. Although Density Bonusing can provide public benefit and support municipal objectives, it has no impact on the financial position of the Municipality.

The HRM costs associated with processing this planning application can be accommodated within the 2017/18 operating budget for C310 Urban and Rural Planning Application.

RISK CONSIDERATION

Density bonusing outside of the Downtown Halifax MPS area is new to the Municipality. Currently, at the direction of the Community Design Advisory Committee, the Centre Plan team is engaging the public and community stakeholders on the draft density bonusing policies, provisions, and processes to assess their appropriateness and ensure enforceability. As this consultation is still ongoing, challenges and risks do exist in applying portions of the draft policy to a single property. Density bonusing programs require processes for oversight, mechanisms to ensure enforceability, up to date bonusing rates, amongst other components. While finalizing all of these is underway within the Centre plan, not all have been completed.

In retrofitting complex policies which were meant to be part of a new land use by-law into MPS policies intended for a single property, it is possible that staff have not accounted for every possible circumstance within the attached proposed policies. Typically, in drafting new regulations, public and stakeholder vetting is beneficial not only from the perspective of ensuring the ideas within the policies are understood, but also to identify inconsistencies and errors within the documents and ensure enforceability before they are approved and applied. In this circumstance, this exercise is underway, but not yet complete. Accordingly, there is potential for some risk in proceeding with introducing a new program that has not had the benefit of a complete vetting.

COMMUNITY ENGAGEMENT

Given that a public hearing has already taken place on this application, no further public consultation has taken place since Council requested this supplementary report.

ATTACHMENTS

Attachment A	Bonusing Calculation Summary Tables
Attachment B	Draft Council Motion and Decision Points

Report Prepared by: Carl Purvis, Planning Applications Program Manager, 902.490.4797

Report Approved by: Steven Higgins, Manager of Current Planning, 902.490.4382

Financial Approval by: Jerry Blackwood, Acting Director of Finance and Asset Management/CFO, 902.490.6308

Report Approved by: Kelly Denty, Acting Director Planning & Development, 902.490.4800

Attachment A – Bonusing Calculation Summary Tables

Table 1

Proposed Development Statistics	
Overall Estimated Gross Floor Area of 25 storey building	290,000 sq. ft.
Site Area	25,035 sq. ft.
Gross Floor Area Ratio (GFAR)	11.6 GFAR

Table 2

Estimated Density Bonus Required for Option 1 (Beginning at 3.5 GFAR - Attachment A)	
Density Allowed Before Bonus Zoning is Required (Below 3.5 GFAR)	25,035 sq. ft. x 3.5 = 87,622 sq. ft.
Amount of Area for which Bonus is Required	290,000 sq. ft. – 87,622 sq. ft. = 202,378 sq. ft. (18,802 sq. m)
Value Calculation of Density Bonus	18,802 sq. m x \$174 Bonus Rate = \$3,271,548

Table 3

Estimated Density Bonus Required for Option 2 (5 Additional Storeys - Attachment B Policy)	
Estimated Floor Area in Floors 21-25	43,220 sq ft (4,015 sq m)
Value Calculation of Density Bonus	4,015 sq m x \$174 Bonus Rate = \$698,610

Table 4

Draft Centre Plan Affordable Housing Bonus Zoning Policy Summary	
Percentage of Total Bonus Value Required to be Spent in Affordable Housing	75% x \$3,271,548 = \$2,453,661
Anticipated Average Market Rent	\$1,250
Affordable Housing Rent	60% of the anticipated average market rent
\$ value of Reduced Rent / Unit	\$1,250 / Month x 40% = \$500
Duration of Bonusing Agreement Requiring Reduced Rent	15 Years (180 months)
Number of Affordable Housing Units @75% of the required bonus	\$2,453,661 ÷ 500 ÷ 180 = 27 units
Number of Affordable Housing Units @100% of the required bonus	\$3,271,548 ÷ 500 ÷ 180 = 36 units

Attachment B – Draft Council Motion and Decision Points

The following draft motion is provided for Council's consideration.

Decisions concerning items in **bolded text** are required to enable staff to draft the formal amendment documents.

That Halifax Regional Council direct staff to prepare amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use By-law to incorporate within the draft amendments included within the January 20, 2017 staff report for Case 18966 regarding 6009 and 6017 Quinpool Road, Halifax for a development no greater than **78 metres** in height, require incentive or bonus zoning based on the following criteria:

- a) a **density** exceeding **3.5 Gross Floor Area Ratio (GFAR)** (Report Option 1); or
- b) a **height** exceeding **62 metres** (Report Option 2); or
- c) **another threshold** as directed by Council; and
- d) the bonus zoning rate to be applied to the site which shall be **174 per square metre**; and
- e) **affordable housing** shall be a component of the required bonusing public benefit contribution:
 - a. at a proportion of at least **75% of the bonus zoning value** to be spent on affordable housing with an emphasis on units **within the building**; or
 - b. at a proportion of at least **75% of the bonus zoning value** to be spent on a contribution to a **Municipal affordable housing fund**; or
 - c. a requirement that **another specific proportion as directed by Regional Council** of the bonus zoning value be spent on affordable housing units within the building or a contribution to a Municipal affordable housing fund; and
- f) for the **value of bonus zoning not spent on the provision of affordable housing units**, the **remaining bonus value** shall be contributed to the Municipality as **cash-in-lieu** or provided as one or more of the following:
 - a. increased pedestrian space; and/or
 - b. publicly accessible spaces (i.e.,; plazas); and/or
 - c. undergrounding overhead services; and/or
 - d. another option as indicated by Regional Council.