

HALIFAX

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

Item No. 14.1.4
Halifax Regional Council
February 12, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: January 30, 2019

SUBJECT: **Case 20227: Amended Incentive or Bonus Zoning Agreement - Mixed-Use Development at 5515 Clyde Street, Halifax**

ORIGIN

- December 10, 2015; Design Review Committee approval of the qualitative elements of the substantive site plan application for the mixed-use development on the “Margaretta” site bounded by Dresden Row, Clyde Street and Birmingham Street; and
- Construction Permit Application No.158160

LEGISLATIVE AUTHORITY

- *Halifax Regional Municipality Charter:*
 - Section 245A(1): Where a municipal planning strategy so provides, a land-use by-law may provide for incentive or bonus zoning agreements respecting the HRM by Design Downtown Plan Area;
 - Section 245B(1): The Council may, by resolution, adopt or amend an incentive or bonus zoning agreement; and
 - Section 245C(1): An incentive or bonus zoning agreement is in effect until discharged by the Council.
- Section 12(7), Downtown Halifax Land Use By-law (LUB) (Attachment A)

RECOMMENDATION

It is recommended that Halifax Regional Council adopt, and authorize the Mayor and Clerk to amend and execute the Amending Agreement as provided in Attachment B of this report for the mixed-used development at 5515 Clyde Street, Halifax.

BACKGROUND

On December 10, 2015, the Design Review Committee approved the qualitative elements of a substantive site plan application for a 9-storey mixed-use building at 5515 Clyde Street known as the “Margaretta”.

On April 25, 2017, Regional Council approved an agreement associated with that project for five public parking spaces and public art to be provided as a public benefit to offset additional height proposed for the building. The monetary value of the minimum required public benefit as set out in the Land Use Bylaw was \$199,035.69. The monetary value of the public benefit accepted by Council was \$240,769.25.

The developer has now acquired the adjacent property and has proposed an expansion to the building currently under construction (Attachment C). Approval for the expansion has been granted in accordance with Section 5(11) of the LUB, through the non-substantive site plan approval process.

The expansion of the building results in an increase in the amount of floor space above the approved post bonus height which, in turn, generates a proportional increase in the public benefit contribution required under the Land Use Bylaw. The *Halifax Regional Municipality Charter* requires Council approval of an amended incentive or bonus zoning (public benefit) agreement in response to the proposed building expansion. This report seeks to obtain Council’s approval of the amended agreement (Attachment B).

DISCUSSION

Minimum public benefit contributions are calculated using a formula in the Land Use bylaw. The calculations are based on the amount of floor space in any building above the post bonus height multiplied by a value per 0.1 square meters set out in the bylaw. The results of those calculations are then documented in an “Incentive or Bonus Zoning Agreement”.

Since the completion of the original calculations and the execution of the agreement for this property in 2017, three key components of the calculation process have changed:

1. Floor Area Increase

The floor area above the post bonus height used for calculating the minimum public benefit has increased because of the building expansion. The amount of floor space above the post bonus height level has increased from 4,452.7 sq. m to 5,327.0 sq. m. This is a net increase of 874.2 sq. m that must be accommodated in a revised agreement.

2. Value Per 0.1 Square Meter Increase

The multiplier in the Land Use Bylaw used for calculating the minimum public benefit contribution increased from \$4.47 per 0.1 square meters in 2017 to \$4.70 in 2018 based on NS Consumer Price Index (CPI) changes. As a result, any new floor area approved after 2017 should be calculated at the increased rate and accommodated in a revised agreement; and

3. Increased Parking Space Value

The developer has proposed a different monetary multiplier to calculate the public benefit contribution value for the proposed 5 public parking spaces. The value of the parking spaces was approved in 2017 at \$43,153 per space. The revised proposal indicates a value of \$44,097.85 per space. This equates to an increase in the total theoretical value of the parking contribution of \$4,724.25 since the original approval in 2017. The proposed value of the public art component of the contribution remains unchanged at \$25,000.

Based on the revised building plan incorporating the approved expansion and factoring in the CPI driven changes to the multiplier, the value of the required public benefit for the expanded building has been recalculated to be \$240,127.79. The value of the originally approved public benefit contribution of five public

parking spaces plus public art in the amount of \$25,000 has been recalculated at \$245,489.25. This previously approved contribution exceeds the minimum required contribution by \$5,361.46.

Staff recommend that Regional Council adopt, by resolution, the amended Incentive or Bonus Zoning Agreement as provided in Attachment B of this report for the mixed-use development located at 5515 Clyde Street, Halifax.

FINANCIAL IMPLICATIONS

The HRM costs associated with processing this application can be accommodated within the approved operating budget for C420 Subdivision & Land Use.

RISK CONSIDERATION

There are no risks associated with the recommendation contained within this report.

COMMUNITY ENGAGEMENT

Community Engagement as described by the Community Engagement Strategy is not applicable to the public benefit contribution component of the site plan approval process.

The non-substantive site plan approval process does not include public engagement; however, the original substantive site plan approval did include public engagement and the input of the Design Review Committee concerning the public benefit contribution.

ENVIRONMENTAL IMPLICATIONS

None identified.

ALTERNATIVE

1. Regional Council may choose not to enter into the amended Incentive or Bonus Zoning Agreement as provided in Attachment B of this report. This would delay construction of the project as scheduled, necessitate further submissions by the developer, could require advisement by the Design Review Committee, as well as a supplementary report from staff.

ATTACHMENTS

Attachment A	Section 12 of the LUB- Public Benefit Categories
Attachment B	Amended Incentive or Bonus Zoning Agreement
Attachment C	Site Plan


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: Sean Audas, Principal Planner & Development Officer, 902.490.4402

Report Approved by: Original Signed
Steven Higgins, Manager, Current Planning, 902.490.4382

Financial Approval by: Original Signed by 
Jane Fraser, Director of Finance, Asset Management and ICT/CFO, 902.490.4630

Report Approved by:

Original Signed by 
--

Kelly Denty, Director, Planning and Development, 902.490.4800

Attachment A

Section 12(7) of the LUB - Public Benefit Categories

- (7) Subject to meeting all applicable requirements of this By-law, development pursuant to subsection (1) shall be permitted where the developer provides one or a combination of the following public benefits:
- (a) where the development includes a registered heritage property which is to be maintained, the reservation or enhancement of the heritage resource;
 - (b) the provision of publicly accessible amenity or open space, where a deficiency in such spaces exists;
 - (c) the provision of residential units at a subsidized cost to contribute to housing affordability in the Downtown Halifax Secondary Municipal Planning Strategy plan area;
 - (d) the provision of 3 and 4 bedroom units with direct access to outdoor amenity space;
 - (e) the provision of rental commercial space made available at a subsidized cost for arts or cultural uses;
 - (f) the provision of public art;
 - (g) the provision of public parking facilities, where a deficiency in such facilities exists;
 - (h) investment in public transit or active transportation infrastructure;
 - (i) the provision of exemplary sustainable building practices.
 - (j) the undergrounding of overhead electrical and communication distribution systems.
(RC-Dec 13/11;E-Mar 10/12)**

Attachment B – Proposed Amending Incentive or Bonus Zoning Agreement

THIS AMENDING AGREEMENT made this ____ day of _____, A.D., 2019.

BETWEEN:

CLYDE STREET DEVELOPMENTS LTD., a body corporate,

(hereinafter called the “Developer”)

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

(hereinafter called the “Municipality”)

OF THE SECOND PART

WHEREAS the Developer is the owner of the 5515 Clyde Street, PID 00077875 (the “Property”) and has proposed a Development that exceeds the maximum pre-bonus height identified on Map 4 of the Land Use By-law;

AND WHEREAS Section 12 of the Land Use By-law requires that a Public Benefit be provided on the Property being developed for all or part of any storey of the Development above the Pre-Bonus Height;

AND WHEREAS it is feasible to provide the Public Benefit required by the Land Use Bylaw on the Property being developed;

AND WHEREAS Council has recognized there is a deficiency of public parking facilities on Clyde Street, as set out in Policy 32 of *Downtown Halifax Municipal Planning Strategy*, and subsection 11(4) of the *Land Use By-law*;

AND WHEREAS on April 25, 2017, Council approved an Incentive or Bonus Zoning Agreement which required the Developer to provide for five (5) public parking spaces and public art in the amount of \$25,000.00 at the Property (the “Existing Agreement”).

AND WHEREAS Policy 32(c) of the *Downtown Halifax Municipal Planning Strategy* requires public parking in support of Spring Garden Road to be incorporated within the redevelopment of this Property and the adjacent property at 5481 Clyde Street, PID 00077438 (the “Clyde Street Property”);

AND WHEREAS subsection 11(4) of *Land Use By-law* requires a minimum of 210 public parking spaces in total between the Property and the Clyde Street Property;

AND WHEREAS the Clyde Street Property contains 114 of the 210 public use parking spaces while the Property will contain the remaining 96 parking spaces;

AND WHEREAS on December 10, 2015 the Design Review Committee approved the Development and recommended to the Development Officer of the Municipality the acceptance of Public Art as the Public Benefit for the Development;

THEREFORE, in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. Except where specifically varied by this Amending Agreement, all other terms, conditions and provision of the Existing Agreement shall remain in effect.
2. The Existing Agreement shall be amended by deleting "Schedule A" from the Existing Agreement and replacing it with "Schedule A" in this Amending Agreement;
3. The Existing Agreement shall be amended by deleting "Schedule B" from the Existing Agreement and replace it with "Schedule B" in this Amending Agreement.
4. Section 2 of the Existing Agreement shall be amended by deleting the number '201' and replacing it with the number 210;

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 2019.

SIGNED, SEALED AND DELIVERED in

the presence of

Witness

**CLYDE STREET
DEVELOPMENTS LTD**

Per: _____

Name:

Office held:

Per: _____

Name:

Office held:

SEALED, DELIVERED AND

HALIFAX REGIONAL

ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

MUNICIPALITY

Witness

Per: _____
Mayor

Witness

Per: _____
Clerk

SCHEDULE A

PARCEL SP-6

CLYDE STREET

HALIFAX COUNTY, NOVA SCOTIA

All that certain parcel of land situate, lying and being bounded on the west by Birmingham Street, on the south by Clyde Street, and on the east by Queen Street, Halifax, Halifax County, Nova Scotia; being Parcel SP-6 as shown on a plan titled Plan Showing Lands of The City of Halifax North of Clyde Street between Brenton Street and Queen Street - for Development Purposes, certified by A. A. White, N.S.L.S., dated June 15, 1987, recorded in the Office of the Director of Infrastructure and Asset Management, Design & Construction Services as former City of Halifax Plan No. TT-39-29162, Halifax County Land Registration Office Plan No. 99205669; said Parcel SP-6 being more particularly described as follows:

BEGINNING at the point of intersection of the northern boundary of Clyde Street with the western boundary of Queen Street, as shown on the above noted plan;

THENCE South 69 degrees 00 minutes 25 seconds West along said northern boundary of Clyde Street, a distance of 201.18 feet to the eastern boundary of Birmingham Street;

THENCE North 20 degrees 32 minutes 48 seconds West along said eastern boundary of Birmingham Street, a distance of 163.43 feet to the southwestern corner of lands now or formerly owned by Nora V. Zinn;

THENCE North 68 degrees 32 minutes 27 seconds East along the southern boundary of said lands now or formerly owned by Nora V. Zinn, a distance of 98.88 feet to the southeastern corner of said lands now or formerly owned by Nora V. Zinn;

THENCE North 20 degrees 42 minutes 51 seconds West along the eastern boundary of said lands now or formerly owned by Nora V. Zinn, a distance of 9.82 feet to the southwestern corner of lands now or formerly owned by Robert E. Fredrickson;

THENCE North 68 degrees 32 minutes 27 seconds East along a southern boundary of said lands now or formerly owned by Robert E. Fredrickson, a distance of 56.85 feet to a deflection therein;

THENCE South 20 degrees 42 minutes 32 seconds East along a western boundary of said lands now or formerly owned by Robert E. Fredrickson, a distance of 3.00 feet to a deflection therein;

THENCE North 68 degrees 32 minutes 27 seconds East along a southern boundary of said lands now or formerly owned by Robert E. Fredrickson, a distance of 45.00 feet to the said western boundary of Queen Street;

THENCE South 20 degrees 42 minutes 27 seconds East along said western boundary of Queen Street, a distance of 171.88 feet to the point of Beginning.

PARCEL SP-6 contains an area of 33,869 square feet.

BEARINGS are grid, based on Zone 5, Central Meridian 64 degrees 30 minutes west, of the Nova Scotia 3 degree Modified Transverse Mercator projection.

SUBJECT TO height restrictions with respect to View Plane No. 9 and View Plane No. 10 as shown on the above noted plan.

SUBJECT TO a Development Agreement in favour of the Halifax Regional Municipality as described in document 104517140.

TOGETHER WITH an easement/right of way over PID 77420 and recorded as document number 27598 in book 2414 at page 685.

Oct 16, 2018

Halifax Regional Municipality
 Halifax, NS, B3J 3A5

Attention: Sean Audas, Development Officer, Development Services

Re: Margarettta – Public Benefit Agreement Cost Considerations

Dear Mr. Audas,

The previous approval of this agreement in 2017 under The Land Use By-Law section 12(1) listed the required public benefit categories and established a public benefit value equivalent of \$4.47 for every 0.1 square meters of gross floor area created by extending above the pre-bonus height. The maximum pre-bonus height limit for this project is 22 metres and the maximum post-bonus height is 28 metres.

In the previous council approved post bonus height agreement, required a value of \$199,035.69.

The newer enlarged building has an additional 874.3 square meters. The value of this new additional post bonus height is based on a \$4.70 for every 0.1 square meters for a total additional value of \$41,092.1.

Therefore, the new total required contribution for public benefit shall be \$240,127.79.

Section 12(7) (g) indicates that public parking is a permissible public benefit, as well as section 12(7)(f) provision of public art. As part of the proposed development, Clyde Street Developments Ltd. is prepared to offer (5) underground parking spaces totaling a value of \$220,489.25 or \$44,097.85 per spot for public benefit AND \$25,000.00 in the form of (f), public art for a combined total of \$245,489.25.

The breakdown of the parking cost of this, is as follows:

- Overall land cost: \$11,367,000. Proportionate share based on square footage, attributable to underground parkade: 145,000sf Parkade / Total Gross Floor Area including parkade: 450,000 = 32.2% of land cost = \$3,637,440
- Total value of excavation: \$5,677,000.00 for total parkade
- Total value of concrete in parkade is broken out as follows:
 - a) Formwork cost: \$2,320,000
 - b) Concrete Cost: \$971,003
 - c) Rebar Cost: \$765,503
- Ventilation Cost of CO Fans, Ductwork and Controls: \$105,000
- Electrical \$82,500
- Elevator portion: \$335,300
- Underground Plumbing: \$41,175

Continued on next page.....

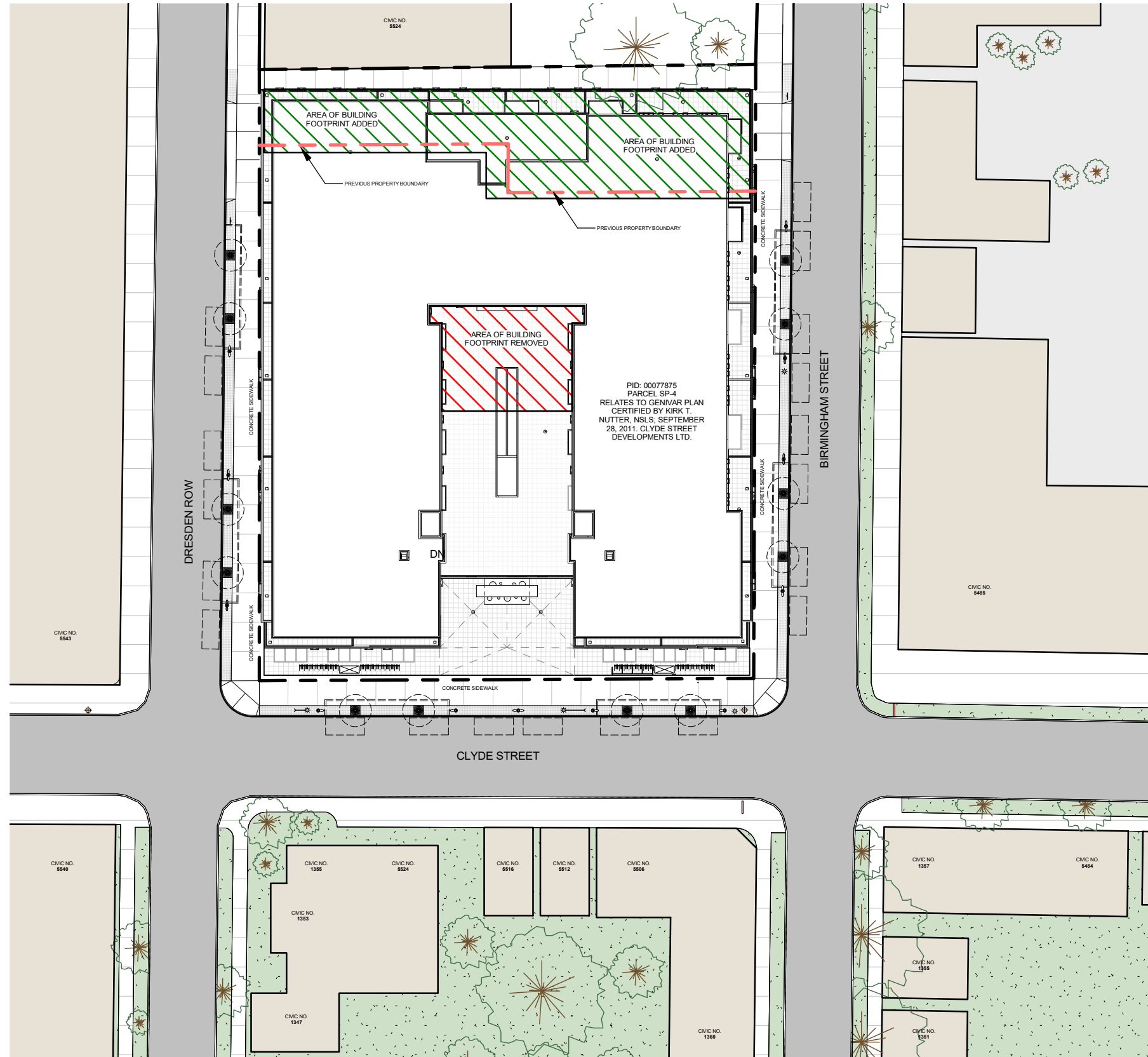
The total cost attributable to the underground parking garage is \$13,934,921. There are 316 parking spots in the three levels of underground parking. Therefore, each spot costs \$44,097.85.

Sincerely,

ORIGINAL SIGNED

Alex Halef
Vice President
Clyde Street Developments Ltd.

Attachment C



WM FARES
ARCHITECTS

THE MARGARETTA
CLYDE STREET DEVELOPMENTS LTD.

1447 DRESDEN ROW, HALIFAX N.S.



STAMP

No.	Description	Date
	Non- Substantive application	30-08-2018

SITE PLAN - FOOTPRINT CHANGES

Project number	2012-33
Date	30-August-2018
Drawn by	CM
Checked by	RS

SDP 101

Scale 1" = 50'-0"