

CITY OF ST. JOHN'S



MEMORANDUM

Department of Planning

December 28, 2005

Memorandum to: His Worship the Mayor and Members of Council

Re: **Council Directive R2005-12-12/31**
The Battery Hotel
Signal Hill Road (Ward 2)

At the Regular Meeting of Council held on December 12, 2005, Councillor Coombs gave the following Notice of Motion:

“TAKE NOTICE that I will at the next Public Meeting of Council, move to exempt the Battery Hotel from the Battery Guidelines Study so as to allow the redevelopment application to proceed under the current zoning with the footprint of 3.5 Floor Area Ratio, including parking.”

This memorandum has been prepared by staff to provide background information to Council on the Battery Development Guidelines Study, the status of the present application to redevelop the Battery Hotel site and the provisions of the St. John's Municipal Plan and the St. John's Development Regulations as they pertain to the Battery Hotel site, and to provide a recommendation to Council respecting the Notice-of-Motion noted above.

While it is certainly in order for Council to remove the Battery Hotel site from the Battery Development Guidelines Study if Council decides that this is an appropriate step, it should be noted that in order to allow a new development with a Floor Area Ratio of 3.5 at this site, that it would be necessary to undertake text amendments to both the St. John's Municipal Plan and the St. John's Development Regulations which currently allow a maximum Floor Area Ratio of 2.0 at the site. Because staff have not seen any plans for the new condominium hotel proposed to be built at the site, staff have not been able to determine what the Floor Area Ratio of the new development would be. It should be noted that parking areas are not included when calculating the Floor Area Ratio.

NOTICE OF MOTION

Take Notice, that I will at the next Public Meeting of Council, move to exempt the Battery Hotel from the Battery Guidelines Study so as to allow the redevelopment application to proceed under the current zoning with the footprint of 3.5 Floor Area Ratio, including parking.



Councillor Keith Coombs

radio@nt16.com

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The Battery Development Guidelines Study-A Summary of the Preparation of the Report

Two studies undertaken on behalf of the City in the last several years, the "Downtown St. John's Strategy for Economic Development and Heritage Preservation" (the "Downtown Strategy") and the St. John's Heritage Areas, Heritage Buildings and Public Views Study ("the Heritage and Views Study") referenced the importance of the Battery area as a good place to live and as a tourism resource for the City. The Heritage and Views Study identified the Battery as an area which needs special attention because of its unique character and the increasing number of applications to develop and redevelop properties in the area.

At its Regular Meeting of October 27, 2003, Council authorized that the PHB Group Inc., a local architectural consulting firm, be engaged to undertake a view plane-development guidelines study on behalf of the City respecting the Battery area. The purpose of the study was to:

- a) to rationalize the ongoing types of development applications for the Battery area;
- b) to protect and enhance existing public views and open spaces;
- c) to protect existing private views and privacy; and
- d) to ensure that rules and regulations are fair and explicit for existing and future property owners.

At its Regular Meeting of January 19, 2004, Council agreed to place a temporary moratorium on applications for significant new developments or redevelopments of properties in the Battery area pending the completion of the Battery study report.

At Council's direction, a public meeting was held on the findings/recommendations of the Battery Development Guidelines Study on June 29, 2004. As information, it should be noted that Council's decision to place a temporary moratorium on development in the Battery and to subsequently hold a public meeting on the Battery Development Guidelines Study

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was advertised on the City's website and in a local newspaper. Notices on both the temporary moratorium and the public meeting were mailed to property owners in the Battery area identified on the City's assessment role, including the Battery Hotel.

At its Regular Meeting of August 23, 2004, Council accepted a recommendation from the Planning and Housing Committee that staff and the PHB Group Inc. complete their individual meetings with property owners in the Battery area who requested the opportunity for individual consultations on the Battery study report. Council also accepted a recommendation from the Planning and Housing Committee that applications for the Battery area be processed using the study report as guidelines until such time as a final decision was made by Council on approval of the study.

At its meeting of July 5, 2005, the Planning and Housing Committee considered a report from the Department of Planning which summarized the recommendations of the Battery study report along with an appendix from the PHB Group Inc. which provided information and specific recommendations pertaining to individual consultations with property owners in the Battery area. At its Regular Meeting of July 12, 2005, Council accepted a recommendation from the Planning and Housing Committee that Council approve the Battery Development Guidelines Study and that City staff be directed to undertake any necessary amendments to the St. John's Municipal Plan and the St. John's Development Regulations to formally implement the recommendations of the report. These amendments are now being prepared by staff.

The Battery Development Guidelines Study-References to the Battery Hotel Site

The Battery Development Guidelines Study notes that other than the Battery Hotel and two or three existing homes, buildings do not break the horizon of the Battery hillside. There is a reference in the report that there is a concern that development in areas off Signal Hill Road could create a new and different feel on the Battery skyline. The report notes that in order to protect the image of the Battery, the main principle is that a building can be added to if it does not visually stand out by being:

- 1) bigger than the norm (out of scale);

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- 2) out of proportion;
- 3) on the skyline or along the hillside; and
- 4) brightly colored or otherwise in contrast with neighbours.

The study report reviewed all properties in the Battery and made recommendations as to whether or not each specific property should be allowed to expand through a footprint and height control overlay. The study report suggests that in the case where a property owner wants to expand or build in excess of the recommended footprint and building height control overlay, that the onus should be on the property owner to demonstrate through a Land Use Assessment Report that it is an acceptable development.

The report recommends that the Battery Hotel not be allowed to expand vertically or horizontally.

The report also recommended that the City consider adding parts of the Battery area to a new heritage area proposed to be called the Battery Heritage Area. The report suggested a list of criteria for the new heritage area based on some of the criteria proposed to be used in the City's existing Heritage Area 3. The report does not recommend that the Battery Hotel site be included in the proposed new heritage area.

As information, the recommendations of the Battery study as they pertain to the proposed restrictions on building height and bulk increases to the existing Battery Hotel, were referenced in the staff report which was included in the agenda for the meeting of the Planning and Housing Committee held on July 5, 2005 and the Regular Meeting of Council held on July 12, 2005 at which time Council approved the study report.

St. John's Municipal Plan

The Battery Hotel site is located in a Commercial General District under the St. John's Municipal Plan. The Battery Hotel site is also included in the Planning Area 2 Planning Area Development Plan-"East End, Battery, Quidi Vidi Village" which forms part of the St. John's

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Municipal Plan. The Municipal Plan notes that the objectives for Planning Area 2 are to preserve and enhance:

1. Landmarks, heritage buildings, historic landscapes, natural features and recreation facilities;
2. Views of Signal Hill and Quidi Vidi Lake; and
3. Residential neighbourhoods.

With particular reference to the Battery neighbourhood, the Municipal Plan notes that new buildings in this neighbourhood, regardless of the zone and the use, shall visually harmonize with the natural and built environment of the Battery.

St. John's Development Regulations

The Battery Hotel site is zoned Commercial Office Hotel (COH) under the Development Regulations. This zone allows a hotel as a Permitted Use. The zone also allows a residential-commercial development as a Permitted Use. The COH Zone allows a maximum building height of ten (10) storeys (not exceeding 40 metres), a maximum floor area ratio of 2.0 and a maximum lot coverage of 50%.

As information, the existing Battery Hotel development has the following estimated dimensions;

- a. Site area of approximately 18,280 square metres;
- b. Existing Building Footprint of 3,995 square metres;
- c. Gross Floor Area of the existing Hotel building is 11,900 square metres;
- d. Floor Area Ratio of the existing Hotel building is 0.65; and
- e. Lot Coverage of the existing Hotel building is approximately 22 percent.

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The St. John's Development Regulations provide that before approval can be issued for any non-residential development with a floor area in excess of 1000 square metres that is located in or adjacent to a Residential Land Use District, that a Land Use Assessment Report must be undertaken under terms of reference approved by Council. The Battery Hotel site is located adjacent to Residential Land Use Districts. The Development Regulations also provide that Council may require a Land Use Assessment Report to evaluate any proposed land use, development and/or situation that affects the policies contained in the St. John's Municipal Plan.

The St. John's Development Regulations provide that Council may defer decisions on development applications and/or applications for amendments to the Development Regulations within a specified area of the city where Council has directed that a planning study or other similar study pertaining to the future use and development of the specified area be undertaken.

Current Development Application for the Battery Hotel Site

In late August 2005, an application was submitted to the City by Mr. Rick Butler to construct a new two hundred (200) suite condominium hotel consisting of studio, one-bedroom, two-bedroom and three-bedroom apartments including a restaurant, fitness facility, spa and lap pool. As information, it should be noted that the City's Development Team met with the applicant's agent prior to the submission of the formal application and advised the agent of the recommendations of the Battery Development Guidelines Study respecting the Battery Hotel site.

No plans/drawings of the proposed new development were provided with the application. In early September, 2005, City staff requested that the applicant provide a preliminary site plan of the proposed development showing the location of all proposed buildings on the site, off-street parking, access/egress points, landscaping details, etc. along with preliminary building elevations of the proposed new building. To date, this information has not been submitted to the City. In September 2005, the applicant advised in writing that it is proposed to demolish the existing building and to replace it with a ten (10) storey terraced building. The new building is proposed to begin at Signal Hill and terrace downward floor by

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floor toward the Harbour, until it declines to one (1) storey in height at the property boundary closest to the Harbour. The applicant advised that the new building will follow the property contours and the plan is to expand the foot print to 3.5 acres, leaving a buffer zone around the perimeter of the full property. The applicant also advised that the new building will be constructed of glass and stone similar to the Geo Centre. **Please see the attached correspondence dated September 21, 2005 from the applicant.**

City staff met with the applicant, his legal representative and the legal representative for the current owner of the Battery Hotel in October, 2005. At that meeting, staff outlined the background and the rationale for the recommendations of the Battery Development Guidelines Study as pertaining to the Battery Hotel. It was suggested by staff that the applicant engage local architectural consulting advice to prepare a preliminary plan indicating basic details on the proposed height and massing of the new building. To date, this requested information has not been submitted to the City.

As the proposed development would have a floor area in excess of 1000 square metres and is a residential-commercial development which is proposed to be located adjacent to Residential Land Use Districts in the Battery, a Land Use Assessment Report would have to be prepared for the project under terms of reference approved by Council.

Summary/Recommendation

The Battery Development Guidelines Study was undertaken at the direction of Council in order to provide advice to the City on dealing with the increasing number of development applications being received for the Battery area and to ensure development would meet the intent of the policies of the St. John's Municipal Plan respecting the Battery area. The study was also undertaken with the objective of protecting public and private views looking towards the Battery area from other parts of the City, from within the Battery area looking towards other parts of the City, and within the Battery itself. Council approved the recommendations of the study in July of 2005 and directed that amendments be prepared for the City's Municipal Plan and Development Regulations to implement the recommendations of the report.

If the Battery Hotel site is removed from the Battery Development Guidelines Study, development of the site would then be subject only to the provisions of the St. John's Municipal Plan and the St. John's Development Regulations. The effect of this action could potentially be the construction of a ten (10) storey building on the Signal Hill skyline which

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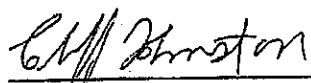
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would compete with Signal Hill and Cabot Tower which are the most prominent landmarks in the Province. It is the opinion of staff that a building of this magnitude could potentially conflict with the policies of the Municipal Plan for the Battery area and the recommendations of the Battery Development Guidelines Study.

In order to ensure continuity with the objectives and policies of the City's Municipal Plan, it is recommended that the Battery Hotel site not be excluded from the Battery Development Guideline Study area.

It is also recommended that the applicant be urged to submit a preliminary plan for the proposed Condominium Hotel as per standard practice for new developments. This preliminary plan should show information on the proposed height and massing of the new building. City staff would then review this information and work with the applicant to determine if it is possible to allow a reasonable redevelopment of the Battery Hotel site which takes into consideration the unique physical setting of the property while also attaining the objectives of the Municipal Plan and the Battery Development Guidelines Study. It may be possible that the development being proposed by the applicant can be permitted while still achieving the City's land use planning objectives for the Battery area.



Cliff Johnston, MCIP
Director of Planning

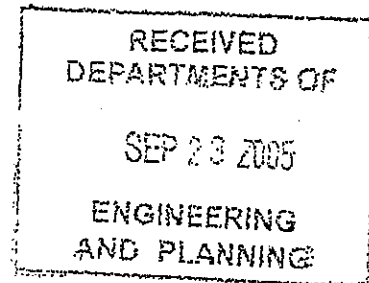
CJ/tb

Rick Butler
The Estates on Signal Hill
14 Maple Street
St. John's, NL
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September 21, 2005

Cliff Johnston, MCIP
Director of Planning
City of St. John's
P.O. Box 908
St. John's, NL
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B-17-S-25



Dear Mr. Johnston:

Further to your correspondence of September 12, 2005, re The Battery Development Guideline Study, please note the following with respect to alterations to The Battery Hotel property:

1. You state on page two of your letter: "The Battery Hotel is located in a Commercial Office Hotel (COH) Zone under the St. John's Development Regulations. The use zone scheduled for the COH Zone notes that maximum building height is as determined by the St. John's Municipal Plan but shall not exceed ten (10) storeys (not exceeding 40 meters)." It is my intention to demolish the existing structure and replace it with a ten (10) storey (terraced) Condominium Hotel.
2. Said ten storey structure will begin at Signal Hill and terrace downward floor by floor, toward the Harbour, until it declines to one storey in height at the harbour adjacent edge of the property line. The building will follow the contours of the land, working with the terrain to ensure an aesthetically pleasing structure.
3. The plan is to expand the foot print to 3.5 acres, leaving a buffer zone around the perimeter of the full property, while gracefully accommodating the construction of the new 200 unit structure. I am requesting the City's approval for this enlarged 3.5 acre footprint.
4. The new 200 unit Condo-Hotel will be constructed of glass and stone-- similar in concept to the Johnson Geo Centre near the property on Signal Hill.

It is my clear understanding that the Battery property on Signal Hill enjoys a longstanding commercial zoning from the city of St. John's that permits property development of up to ten (10) storeys in height. This zoning is a farsighted policy

decision on the part of the city which took into account future development such as the one I am planning.

Please rest assured that I shall work closely with your department so that the final design (within these parameters) will be aesthetically pleasing and a credit to the city.

I would appreciate your bringing forward my requests to the St. John's Municipal Council prior to Council making its decision respecting the proposed amendments outlined in your correspondence of September 12.

Sincerely,

Rick Butler