

DEVELOPMENT APPROVALS & APPEALS

Overview

The current development approvals process in downtown Halifax can be slow moving, and a lack of clarity in key policies leaves it vulnerable to appeal. Development agreements typically take a year or more to negotiate and must go through a public hearing process prior to a decision by Regional Council. Council decisions are appealable to the Nova Scotia Utility and Review Board (NSURB), and it can take a year or more for the Board to reach a decision.

Over the thirty-year history of the existing Municipal Planning Strategy, appeals have typically been launched over building height, compatibility of new development with existing heritage resources, and view protection. The resulting climate of uncertainty has had a negative impact on downtown Halifax's economic competitiveness, and on overall investment and revitalization efforts in the downtown. The time and money expended on lengthy negotiations and appeals is better directed to high quality design and construction, improving the livability of our city.



An Improved Development Approvals Approach for Downtown Halifax

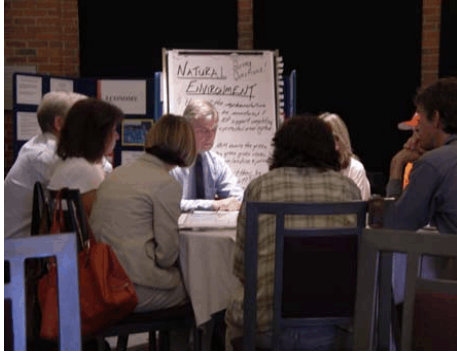
A key element of HRMbyDesign is the introduction of a new Secondary Municipal Planning Strategy and Land Use By-law for downtown Halifax. These innovative documents result in three interconnected improvements to the way we grow our downtown:

1. **Vision:** They establish a broadly supported vision for the downtown - a vision that the community has articulated for itself.
2. **Policy:** This creates regulations that embody the vision. These policies are clear and unambiguous on matters of height, building mass and design considerations.
3. **Process:** They replace the lengthy and unpredictable development agreement process with the timely and predictable site plan approval process. This improvement will ensure the community's vision for its downtown is implemented as accurately and efficiently as possible.

Site Plan Approval

Site plan approval is a regulatory tool enabled under the *Halifax Regional Municipality Charter* that will replace the use of development agreements in downtown Halifax. This process will help to improve clarity, predictability and timelines in the development approval process. Under site plan approval, the approval of any development application will occur in two parts:

- (a) the *quantitative* elements (height and built form) of an application are subject to approval based on the prescriptive criteria in the Land Use By-law;
- (b) the *qualitative* (design) elements of an application are subject to review by the Design Review Committee.



Under this proposed process the Development Officer will be the decision-making authority on building height, massing and setbacks (quantitative elements) as regulated in the Land Use By-law. The Design Review Committee will be the decision-making authority on design-related matters (qualitative elements) as found in the Design Manual.

The site plan approval process for substantive (major) applications will involve the following steps:

- a. Pre-application review with HRM staff.
- b. Newspaper notice of mandatory public consultation with local community.
- c. Public consultation event held; a combination of an open house, informational kiosk, and website content and feedback on the application.
- d. Submission of complete application.
- e. Development Officer review of quantitative elements under the Land Use By-law (built form & bonus zoning).
- f. Referral to the Heritage Advisory Committee (HAC) where the application relates to a registered heritage property or is in a conservation district. HAC recommendations referred to the Design Review Committee.
- g. Design Review Committee (DRC) review of qualitative elements under the Design Manual. Decision within 60 days of receipt of complete application.
- h. Notification of site plan approval to property owners within the notification area (entire DHSMPS plan area) within 7 days of final decision.
- i. Notification of a refusal is issued to applicant only.

Appeals Process

Non-substantive, (minor) site plan approvals are decided on by the Development Officer. These decisions will not be subject to appeal. The Land Use By-law is clear about what types of development applications will be considered non-substantive.

In the event of a substantial site plan application, the Development Officer will still decide on the quantitative aspects of the application, including building height and massing.

In the case of an approval by the Development Officer, the application will be forwarded to the Design Review Committee for a deliberation and decision on the building design. If the application is approved by the Design Review Committee, the applicant and the property owners within the notification area (the entire DHSMPS plan area) are notified of the site plan approval. Any one of the notified property owners can appeal within 14 days of receiving the notice. Council must hear the appeal(s) and render a decision within 60 days. The Development Officer then issues a permit or refuses a permit based on Council's decision.

In the event of a refusal by Council, the applicant may further appeal to the NSUARB. The appeal, however, could only be based on claims of a flawed process.

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