

RESPONSE TO **PUBLIC** COMMENTS

DOWNTOWN HALIFAX URBAN DESIGN PLAN: PUBLIC HEARING DRAFT

April 7 – May 6, 2009

HRM byDESIGN
Regional Centre Urban Design Study
www.hrmbymdesign.ca

HALIFAX
REGIONAL MUNICIPALITY

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On May 5 and 6, 2009, Halifax Regional Council held a public hearing on the adoption of the "Downtown Halifax Urban Design Plan." This Plan is comprised of the following components:

- The proposed Downtown Halifax Secondary Municipal Planning Strategy
- The proposed Downtown Halifax Land Use By-law
- The proposed Barrington St. Heritage Conservation District Revitalization Plan & By-law; and
- Proposed amendments to the Regional Municipal Planning Strategy, Halifax Municipal Planning Strategy, Halifax Peninsula Land Use By-law, Heritage Property By-law, Building By-law, and Encroachment By-law.

The May 5-6 public hearing generated 137 comments from the public in three distinct categories:

- Requests for amendments to the proposed downtown Halifax Urban Design Plan (62)
- Requests for clarification of the proposed downtown Halifax Urban Design Plan (70)
- Requests for clarification of existing policy (5)

Each one of these 137 comments is addressed in this Response to Public Comments document, which has been posted on the project website on June 2, 2009.

For further information on the Downtown Halifax Urban Design Plan, please visit www.hrmbdesign.ca.

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A. PROPOSED AMENDMENTS TO HRMbyDESIGN POLICY

ISSUE # 1: Lower the heights in the proposed Heritage Conservation Districts - 72 ft is too high.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.3.1 Heights Framework & Policy 9 (p. 21)
- Map 5 Maximum Post-Bonus Heights

Downtown Halifax Land Use By-law

- S. 8(6) - 8(11) Building Height: Maximum Pre-Bonus Heights and Maximum Post-Bonus Heights (p. 22)
- Map 5 Maximum Post-Bonus Heights

DISCUSSION/OPTIONS:

There is a concern that the maximum heights being proposed for the Barrington Street Heritage Conservation District (HCD), as well as future HCDs for both Historic Properties and Barrington South are too high, when compared to the existing allowable heights. Many believe that this will encourage property owners and developers to demolish registered heritage buildings in order to maximize returns on their investments.

Under existing policy, maximum building height throughout the downtown Plan area is arrived at by the interpretation of numerous policies and regulations through the development agreement process. Most times, the Citadel View Planes or Ramparts become the limiting factor. Therefore, staff is of the opinion that the proposed heights within the Barrington Street HCD and the future Historic Properties HCD represent an overall decrease over current allowable heights.

See Issue # 10 of this document for a specific response concerning the proposed Barrington South HCD.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #2: The redevelopment of the Clyde Street parking lots should reflect the heritage nature of Schmidtville.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.3 Precinct 3 Vision (p. 11)

- S. 3.4.10 Development and Design Review Process for Spring Garden Road area (p. 31)
- Map 2 Downtown Precincts

Downtown Halifax Land Use By-law

- S. 8.18 Wind Impact (p. 26)
- Schedule S-2 Wind Assessment Performance Standards
- Map 4 Maximum pre-bonus heights
- Map 5 Maximum post-bonus heights
- Map 6 Streetwall setbacks
- Map 7 Streetwall heights

DISCUSSION/OPTIONS:

The built form rules (maximum building height, streetwall setback, streetwall setback, etc.) that pertain to the Clyde Street parking lots are consistent with those of the Joint Public Lands Plan approved in principal by Council in 2007. In some areas (Dresden Row) the maximum allowable height has been reduced, and other areas have seen a minor increase. Additionally the maximum allowable height of the Clyde Street streetwall has been reduced. Importantly, a process of design review has been added which will ensure, through the application of the principles in the Design Manual and the regulations in the LUB, that an appropriate and exceptional built form results in this area.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 3: Implement all three potential Heritage Conservation Districts immediately.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.2 Vision for Precinct 2: Barrington Street South (p. 11)
- S. 2.3.2 Vision for Precinct 7: Historic Properties (p. 14)
- S. 4 Heritage Conservation (p. 33)
- Map 7 – Heritage Districts

Downtown Halifax Land Use By-law

- S. 12(6) Post Bonus Height Provisions - Bonus Exception for Heritage Buildings (p.31)
- Schedule S-1: S. 2.2 Downtown Precinct Guidelines: Barrington Street South (p. 2)
- Schedule S-1: S. 2.7 Downtown Precinct Guidelines: Historic Properties (p. 5)
- Schedule S-1: S. 4 Heritage Guidelines (p. 30)

DISCUSSION/OPTIONS:

There is a legal process that needs to be undertaken in order to establish a heritage conservation district, as directed by the Heritage Property Act for Nova Scotia. A heritage conservation district plan and by-law must be created, which should include: a heritage character statement; a list of the character defining elements of the district; demolition control policies; policies and guidelines for the design of alterations of existing buildings and the creation of new buildings; and financial incentives to encourage retention and restoration of the building within the district.

Before the plan and by-law are created, both HRM and the Heritage Property Act require that appropriate background studies be conducted of the area, and a public participation process be established, which includes input from a stakeholder steering committee, property owners and the public through public meetings and a hearing.

In order to ensure the protection of the buildings in these two districts, the Urban Design Task Force is recommending that Council make the establishment of these two heritage conservation districts a priority after the adoption of the Downtown Plan. This will help staff direct appropriate resources to this work in upcoming business plans and budgets. It is anticipated that both districts would be established within 18-36 months of downtown plan adoption.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 4: Include stronger demolition controls for heritage properties.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 4.4.1 Strengthening of Demolition Controls (p. 37)
- S. 4.4.2 Co-ordination with Provincial Heritage Strategy (p. 37)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 4.4 Demolition (pp. 11-13)

DISCUSSION/OPTIONS:

Under the Heritage Property Act, registered heritage properties are protected from demolition for only one year. The Province of Nova Scotia is currently undertaking a comprehensive review of the Act within the framework of the Heritage Strategy for Nova Scotia, which will consider changes to demolition controls as part of a larger package of amendments. Policies 35 and 36 of the Downtown Halifax Secondary Municipal Planning Strategy direction HRM to work collaboratively with the Province to strength demolition control for municipally registered heritage properties as part of the Heritage Strategy for Nova Scotia which is expected to be completed in 2013.

The creation of municipal demolition policies is only available through the establishment of a Heritage Conservation District. This has been proposed in the Barrington Street Heritage Conservation Plan within policies 6-12. While these policies are created in part through public consultation, it would be expected that similar policies would be created for the two other proposed conservation districts of Barrington South and the Historic Properties area. Once all three proposed conservation districts have been established, 88 of the 126 currently registered buildings will be protected from demolition. The remaining 38 registrants will still be protected by the current one year delay until such time as the Heritage Property Act is amended in accordance with Policies 35 and 36 referenced above.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #5: HRMbyDesign heritage protection policies should be amended; they are too vague and allow for too many outcomes.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S 4.0 Heritage Conservation (p. 33)

Downtown Halifax Land Use By-law

- Schedule S-1: S. 4.0 New Development in Heritage Contexts (p. 30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- Entire document.

DISCUSSION/OPTIONS:

Existing policies and regulation governing heritage protection and enhancement have increasingly not been producing desired outcomes in downtown Halifax. New policies and regulations are therefore proposed that will ensure clear and predictable outcomes while providing improved protection and enhancement of our heritage resources. The proposed plan will accomplish this by:

- Creating the Barrington Heritage Conservation District.
- Proposing the creation of two additional conservation districts as a council priority.
- Within the districts: substantial new grants and incentives are available; demolition of heritage resources is prohibited except by motion of council; heights are almost universally lowered substantially below what is possible under current policy; new design guidelines are established.
- Outside districts: new design guidelines are established, existing demolition controls are maintained, maximum building heights are generally substantially lowered from what is possible under current policy; Regional Heritage Functional Plan will continue to pursue

improved funding and demolition controls; Density bonusing is used to preserve or enhance heritage buildings.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 6: Remove the 2 proposed HCDs from the plan area (keep them under the DA process) until such time that the HCDs are ready to be adopted.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 4.3 Potential Heritage Conservation Districts & Policy 34 (p. 35)

DISCUSSION/OPTIONS

One of the main goals of the Downtown Halifax Plan is to promote growth and investment in downtown Halifax by creating clarity and predictability in the development approval process. In order to achieve this goal, the Plan proposes two major changes to the current policy and regulatory context. First, the Plan clearly lays out the building development forms (height and massing) that will be expected in the downtown core. Second, it shifts away from development agreements toward a more streamlined approach of site plan approval that will yield development decisions in a six-week time frame.

Removing the two districts being proposed as future HCDs from the plan area until the HCDs themselves are ready to be adopted will only further confuse the development community and the general public. Under this scenario, Downtown Halifax would become fragmented into three separate areas, one of which would fall under a new set of policies, regulations, and the site plan approval process, while the other two areas would maintain the three-decade old set of general and often competing policies, as well as the development agreement process.

It is worthwhile to remind Council at this point that the Waterside project is to be sited in one of the two areas being considered for future HCD designation. Under the existing system, the proposed project was allowed a height of 114 feet. Under the proposed HRMbyDesign height framework, the maximum height that would be allowed in the area is 72 feet, a difference of roughly 40 feet. Therefore, there is nothing to be gained in terms of heritage protection in maintaining the existing system until such time that the HCDs are ready to be adopted.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 7: Aim for Quebec City type of heritage preservation.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

HRMbyDesign staff undertook a review of both the legal and administrative context that governs development in the heritage district of Old Quebec.

Upon completion of the review, it was determined that the legislative context weighs in much heavier in favour of heritage protection in Quebec than it does in Nova Scotia. The power of expropriation, the ability of right of first refusal in property transaction matters, the absence of the right to a demolition permit, and the ability to establish protection areas around registered heritage buildings are just some of the increased powers with respect to heritage protection in Quebec.

However, limiting the discussion of heritage protection to rules and regulations would do a great disservice to understanding the true success that has occurred in preserving the built heritage of Old Quebec. The reality is that both the Government of Quebec and Quebec City have been actively involved in facilitating and supporting restoration work and infill development within the district. In the past 20 years, in excess of \$113 million has been invested in Old Quebec by both levels of government. Furthermore, an additional \$110 million has been spent by the Federal Government in the heritage district over the past 20 years, bringing the total in Old Quebec to \$223 million. Therefore, with greater control over height, massing, and scale has come the required financial support to make restoration and redevelopment economically feasible for private property owners.

The Downtown Halifax Plan area is plainly very different from Old Quebec. The former consists of the Central Business District of a regional municipality, while the heritage district of Old Quebec does not hold such a distinction for its region. Furthermore, the context of the various built environments does not correspond. Old Quebec is as intact as a heritage district could possibly be in North America, while downtown Halifax, dominated by modern development with pockets of heritage buildings, has long ago lost its overall heritage cohesiveness. Although controls over the redevelopment potential of heritage properties in downtown Halifax is highly recommended, Council should be extremely careful in its approach as to not undermine the feasibility of private sector-led restoration and redevelopment projects.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 2: Height

ISSUE #8: Heights on heritage should be lowered so that they are not any higher than the heritage buildings.

DOCUMENTS:

Downtown Halifax Land Use By-law

- Schedule S-1: S. 4.0 New Development in Heritage Contexts (p. 30)
- Map 4 Maximum Pre-bonus Heights
- Map 5 Maximum Post-bonus Heights

DISCUSSION/OPTIONS:

There is a common misapprehension that the proposed Plan increases maximum heights on existing heritage structures, thereby creating an incentive to demolish. With the exception noted in Issue #10 below, the proposed Plan *reduces* maximum heights throughout the downtown study area below what is possible under current policy, and in most areas this height reduction is substantial. Incentive to demolish is therefore reduced by the proposed Plan.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #9: This plan falls short on density and height, we need more height.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 2 – Downtown Halifax Urban Design Vision & Principles (p. 6)
- Chapter 3 – Built Form & Precinct Framework (p. 16)
- S 8.6 – Plan Monitoring (p. 63)

DISCUSSION/OPTIONS:

The “Demand Capacity & Baseline Indicators Study” undertaken by Turner-Drake examines development demand and development capacity over the next 25 years under low, medium and high growth scenarios. Projected demand over the three scenarios ranges from 19.3 million square feet (msf) to 20.9 msf, while projected capacity is over 27 msf. The surplus capacity therefore ranges between 8 msf in the low growth scenario to 6.2 msf in the high growth scenario. Therefore under all three scenarios the study indicates adequate capacity to permit creativity and choice in the development marketplace.

However, the steering committee that was convened to help guide this study has some reservations over some aspects of the methodology used to arrive at future demand. The steering committee has therefore stated that development capacity is adequate for at least the next five years, but that within that time frame the study should be reviewed, and that the Plan’s development capacity should be revised if needed. In this way the Plan is flexible, and through the Plan Monitoring functions built into the plan, is designed to change as required.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 10: Reduce the maximum height in the Barrington South HCD area.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.3.1 Heights Framework (specifically Policy 9; p. 21)
- Map 5 Maximum Post-Bonus Heights

Downtown Halifax Land Use By-law

- S. 8(6) to 8(11) Building Height: Maximum Pre-Bonus Heights and Maximum Post-Bonus Heights (p. 22)
- Map 5 Maximum Post-Bonus Heights

DISCUSSION/OPTIONS:

A concern has been expressed that the maximum building height being proposed for the proposed Barrington South Heritage Conservation District is higher in some cases than the allowable maximum heights permitted under existing policy and regulation. The concern is that an increase in permissible building height may encourage property owners to demolish registered heritage buildings in order to maximize returns on their investments by building taller buildings.

A maximum height of 72' (22m) is being proposed for the Barrington South Heritage Conservation District. Under existing policies, maximum building height throughout the downtown Plan area is arrived at by the interpretation of numerous policies and regulations through the development agreement process. As an exception to that rule, there are 30 registered heritage buildings in the proposed Barrington South HCD which are subject to absolute maximum heights that are lower than the proposed 72' maximum. However it is important to note that under current policy/regulation, maximum building height in this part of downtown is only measured up to the beginning of the top floor, which means that the top floor and any roof structure is exempt from the maximum height. Under proposed policy and regulation, maximum height is calculated to the *top* of the building. This is an important point as the true maximum heights under existing policy are higher than they seem, as the following table illustrates:

Maximum Height in Existing Policy	+ top floor and roof structure (12' - 20')	Maximum Height in Proposed Policy	# of properties affected
70'	82' - 90'	72'	4
52'	64' - 72'	72'	1
45'	57' - 65'	72'	25

As can be seen, the maximum heights for 5 of these buildings are actually being reduced or kept the same, while the other 25 registered heritage buildings will only see a marginal increase in their allowable maximum height (at *most* one storey). It is important to note that if Council *does* decide to reduce the proposed height in the Barrington South HCD, proper care would need to be taken so that the new heights would not be lower than what is currently permitted (second column in table). Any reduction of height below what is currently permitted would be a substantive amendment and would require a second public hearing, in staff’s opinion.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended. The future establishment of the HCD will provide an opportunity to make height adjustments if necessary, based on thorough consultation with individual property owners.

ISSUE #11: 160 feet for the property immediately to the east of the Trillium site (Curry Village) is too high; it should be lowered.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.3 Precinct 3 Vision (p. 11)
- S. 3.4.10 Development and Design Review Process for Spring Garden Road area (p. 31)
- Map 2 Downtown Precincts

Downtown Halifax Land Use By-law

- S. 8.18 Wind Impact (p. 26)
- Schedule S-2 Wind Assessment Performance Standards (p.43)
- Map 4 Maximum pre-bonus heights
- Map 5 Maximum post-bonus heights
- Map 6 Streetwall setbacks
- Map 7 Streetwall heights

DISCUSSION/OPTIONS:

The proposed 160' height in this site is lower than existing buildings to the immediate south (230'), west (213') and east (180'). The proposed height is also in keeping with the Vision for Precinct 3 which is "...to allow for tall buildings on the western blocks of the precinct." This is in keeping with an overall approach to height throughout the plan area, which is to permit tall buildings where they already exist. The western blocks of Precinct 3 are an important part of the Spring Garden Road high-density mixed use urban neighbourhood, and as such are intended to continue to provide additional high density housing opportunities. (It should be noted that a previous draft of the plan set the maximum height in this area at 215', but subsequent shadow studies led to their reduction to 160'.)

The massing rules for new buildings in this area (at-grade setbacks (up to 13' on Clyde), pedestrian scaled streetwall heights (50' on Clyde), upper story stepbacks (min. 10' above streetwall), max. tower widths (120'x80'), min. tower separation distances (80'), etc.) are designed to mitigate negative impact on surrounding neighbourhoods while encouraging high design quality.

The urban design task force studied this area carefully to determine appropriate building form and height. Their conclusions were based on a great deal of public feedback gathered over a considerable period of time. It is felt that the proposed built form approach reflects the wishes of the community in that it balances the need for growth and change in some areas, with the need for protection in others. The plan also offers a balance between providing building capacity to enable the core to densify, with a robust program of public realm improvement.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #12: Heights throughout the study area are too high; they should be lowered.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 2 – Downtown Halifax Urban Design Vision & Principles (p. 6)
- Chapter 3 – Built Form & Precinct Framework (p. 16)

Downtown Halifax Land Use By-law

- Map 4 – Maximum pre-bonus heights
- Map 5 – Maximum post-bonus heights
- Schedule S-1 – Design Manual

DISCUSSION/OPTIONS:

There is a common misapprehension that the proposed Plan increases maximum heights throughout the downtown Plan area above what is possible under current policy and regulation. With the minor

exception noted in Issue #10 above, the proposed Plan *reduces* maximum heights throughout the downtown study area below what is possible under current policy, and in most areas this height reduction is substantial. In this way the proposed Plan will preserve the scale and heritage of the downtown better than is possible under current policy.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 13: Residences should not be permitted above the height that can be reached by a fire truck ladder. Any higher puts the residences in danger in the event of a fire.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Residential buildings exceeding the height of the typical snorkel and ladder fire trucks (6 stories) must be designed with adequate fire protection services (such as sprinkler systems, elevators, ‘stack effect’ or natural ventilation and infiltration, fire and smoke alarms, delayed evacuation, etc). Buildings without these life safety measures cannot be constructed or occupied, and are regulated by the National and Provincial Building Codes.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 14: Change the post bonus height on the St. Matthew’s Church property from 70 to 90 feet.

ISSUE #15: Correct the 35 feet maximum height imposed on the north side of St. Matthew’s Church.

ISSUE/CONCERN:

The congregation of St. Matthew’s Church requires additional revenue to support the maintenance of its heritage building, to support various community services and activities. St. Matthew’s would like to redevelop the land surrounding the historic church.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.3 Bonus Zoning (p.25)

- S. 3.4.4 Exceptions to Building Heights and Massing (p. 26)
- S. 8.6 Plan Monitoring Program (p. 63)
- Map 4 Maximum Pre-bonus Heights
- Map 5 Maximum Post-bonus Heights

DISCUSSION/OPTIONS:

This section will address three related issues outlined in this document, including #14, #15, #51 and #53.

Comments were received from both St. Matthew’s Church (Issue #14 and #15) and St. Mary’s Basilica (Issues #51 and #53) requesting increased flexibility in the plan for future redevelopment of their sites. As is true of many urban churches, Saint Matthew’s and Saint Mary’s have stated they require additional revenue to support the maintenance of their heritage buildings, and to support various community services and activities. To allow both institutions to redevelop the land surrounding their historic churches as they have requested, a change in zoning designation from “Institutional, Cultural and Open Space” (ICO) to “Mixed Use” (DH-1) is required. In staff’s opinion, this change in land use would be considered a substantive amendment and would therefore require a new public hearing.

In the case of St. Matthew’s Church, an increase in maximum building height from 72 feet to 92 feet is also requested. The Urban Design Task Force deliberated on this issue as a result of a previous request by the church during public consultation. The UDTF felt that the additional height on the site was inappropriate for three reasons:

- The site is within a proposed heritage conservation district where the maximum height is generally 72'
- A 92' maximum height would result in new development that overshadows the existing church
- A 92' maximum height would result in new development that overshadows the existing Lieutenant Governor’s Residence.

For these reasons, no additional height is recommended.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #16: The proposed redevelopment of the Cogswell Interchange area should have no height restrictions.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S 2.3.8 Vision for Precinct 8 – Cogswell Area (p. 14)
- S 8.6 – Plan Monitoring (p. 63)

Downtown Halifax Land Use By-law

- Map 4 Maximum pre-bonus heights
- Map 5 Maximum post-bonus heights
- Schedule S-1: S 2.8 Precinct 8 Guidelines (p. 6)

DISCUSSION/OPTIONS:

As a result of the extensive community consultation undertaken during several phases of the downtown plan's development (visioning, urban design framework, reurbanization strategy, downtown plan, etc), the Cogswell area was repeatedly identified as an area appropriate for a concentration tall buildings. As a result of that, the maximum heights in Precinct 8 are established by the existing Citadel Ramparts by-law, which is being carried forward. This will result in maximum building heights of approximately 250' to 300'.

The Urban Design Task Force addressed the question of whether the ramparts by-law should *not* be applied in this precinct in order to allow additional height. Their recommendation on the matter was that *only if* a shortfall of development capacity is identified and agreed upon should the application of the rampart by-law in this precinct be re-examined. The Demand, Capacity and Baseline Indicators Study discussed in Issue #9 above shows that, at least for the near term, there is adequate development capacity in the Plan as-proposed. Should this change, the Plan Monitoring function built into the Plan will respond appropriately.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 17: Increase the heights on 3 of the 4 grandfathered sites (excluding the City Centre Atlantic site) to allow the maximum heights to be governed by the Citadel View Planes or Ramparts rather than HRMbyDesign's post-bonus heights.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6A Transition to this Plan & Policies 90A - 90D (p. 64)

DISCUSSION/OPTIONS:

The DHSMPS already contains policies, which if adopted, would grandfather development agreement applications on file on or before March 31, 2009. The current applications on file are for the Roy Building (Case 01172), the Discovery Centre (Case 01231), City Centre Atlantic (Case 01227) and the one proposed for the corner of Hollis/Morris (Case 01162). These applications will be considered under the existing policy context, which allows the height on these particular sites to be governed by the Citadel View Planes or Ramparts.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #18: Amend the maximum allowable height on the waterfront site of the proposed Queen’s Landing from 31 metres (m) to 34 metres (m), to reflect the plan’s intent of allowing maximum height allowed under the Citadel View Planes.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S 2.3.4 Vision for Precinct 4 Cogswell Area (p. 12)

Downtown Halifax Land Use By-law

- Map 4 Maximum pre-bonus heights
- Map 5 Maximum post-bonus heights
- S. 8(14) View Plane requirements (p. 23)
- Schedule S-1: S. 2.4 Precinct 4 Guidelines (p. 3)

DISCUSSION/OPTIONS:

The proposed 31m height on the waterfront lands between George and Sackville streets undercuts by 1 to 3m the maximum height that would be allowed under the existing view planes # 3 and 4, which will undermine the Queen’s Landing project. The 31m post-bonus height proposed for the area in question was intended to match the height that is available under view planes #3 and #4. A detailed look at the impact of the view planes on this site shows that the correct maximum is 34m. It was never the intent of the Urban Design Task force or the project team to diminish the capacity established by these view planes. An increase of 3 metres will not negatively impact the public interest.

It is noted that Section 8(14) of the proposed Land Use By-law ensures that the maximum height established by the view planes will never be breached.

RECOMMENDATION & REQUIRED AMENDMENT:

Amend the post-bonus maximum height on the waterfront lands to the east of Lower Water Street between the extensions of George and Sackville Streets from 31m to 34m to better align with the maximum heights permitted by view planes # 3 and #4 as was originally intended. Commensurately amend the pre-bonus height to be 85’ (26m).

ISSUE #19: Change the height on 1874 Brunswick Street to reflect the height in the remainder of Precinct 8, which is up to the ramparts height.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.9 Precinct 9 Vision (p. 15)

Downtown Halifax Land Use By-law

- Map 4 Maximum Pre-bonus Heights
- Map 5 Maximum Post-bonus Heights

DISCUSSION/OPTIONS:

The proposed maximum height for the “Blue Cross Building” site on the north-west corner of the intersection of Brunswick Street and Rainnie Drive is currently 75’ (23m). The site owner has requested that the Precinct 8 boundary be redrawn to include the site, and that the maximum height of Precinct 8 be applied. Fulfilling this request would make the maximum height be established by the Ramparts By-law, which could be between 200’ and 250’ (60-75m). Staff has conducted an assessment of the request by using the 3D model, and has concluded that a change of this magnitude would be in violation of the intent of the Plan.

However, the owner has made a valid point that 75’ is too low for this site when compared with abutting sites, and when compared against Plan objectives. As a result of the 3D analysis, staff feels that a modest increase in maximum height to 110’ (34m) would improve the plan. The rationale for this change is as follows:

- The owner currently has a development permit in-hand for a 110’ (34m) building on the site.
- The height of 75’ (23m) that is currently in the Plan was intended to carry forward the intent of “Band A” which restricts the maximum height of structures along the perimeter of the Citadel to 75’ (23m). It is noted that under existing policy Band A does not apply to the subject site.
- The subject site borders the Citadel, but is actually in a significant topographical depression that would actually result in this site appearing lower than the others in the “Band A” area.
- The subject site is between viewplanes, and if built to 110’ (34m) would only intrude into views of the Scotia Square towers and Brunswick Street apartments as viewed from Citadel Hill. No view of the harbour or bridge, whether protected or not, would be impacted.
- The 110’ (34m) building on this site for which a development permit has already been issued has been designed to mask an 8 to 10 story blank concrete wall, with no windows or architectural interest on the existing building to the immediate north of the site. The proposed building would therefore remediate the existing blank wall (supported by the guidelines in the Design Manual), would improve the view of the city from the Citadel (supported by the “Framing Views” of the city as established by the new Plan), and would infill a significant vacant site in the central downtown (supported by the urban design Vision and the Design Manual).

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation to amend the post-bonus maximum height on the subject site to 110' (34m).
Commensurately establish a pre-bonus height of 85' (26m).

TOPIC 3: Development Approvals

ISSUE # 20: Members of the Design Review Committee should be remunerated for their work and members should be of a high quality.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 4(14) Remuneration of Committee Members (p. 11)

DISCUSSION/OPTIONS:

There has been a recommendation to provide remuneration to members of the Design Review Committee in order to attract high quality individuals. Section 4(14) of the DHLUB states the following when it comes to remuneration:

“Each member of the Committee shall serve without remuneration but may be reimbursed for any necessary expenses incurred while engaged in official duties, provided such expenses are approved by Council in advance.”

Staff agrees with the suggestion that it would be appropriate to be able to offer members of the Design Review Committee (DRC) an honourarium for their participation in deliberations and decision-making in the Site Plan Approval process. Staff therefore recommends that the proposed LUB be amended to give Council the option to do so in the future if Council so decides. The rationale for doing so follows:

- The DRC will have the responsibility to grant development approvals for multi-million dollar projects, which is a greater mandate than other HRM boards and committees that act in an advisory capacity.
- DRC members will be highly skilled professionals providing professional opinions and advice on development applications.
- The development approval process is dependant upon the recruitment of these professionals, and an honorarium is an incentive for DRC membership.
- A review of other DRCs across the country shows that members are compensated to varying degrees for their work.

RECOMMENDATION & REQUIRED AMENDMENT:

Section 4(14) of the DHLUB should therefore be amended as follow:

“Each member of the Committee may receive an honorarium at a rate set by Council for each application for which he/she has actively participated in the decision to either approve or refuse. Each member of the Committee may also be reimbursed for any necessary expenses incurred while engaged in official duties, provided such expenses are approved by the Chief Administrative Officer in advance.”

The above amendment is not considered a substantive amendment in staff's opinion, and a second public hearing would therefore not be required.

ISSUE #21: Social planning expertise should be on the Design Review Committee.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.3 Design Review Committee (p. 61)

Downtown Halifax Land Use By-law

- S. 4 Design Review Committee (p. 9)
- Schedule S-1: S. 1.1 Purpose of the Design Manual (p. 1)

DISCUSSION/OPTIONS:

The role and composition of the Design Review Committee (DRC) was the subject of exhaustive consultation with the public and deliberation by the Urban Design Task Force. The Plan currently before Council embodies this consultation and deliberation.

Additionally, Regional Council currently receives advice from as many as 65 Committees of Council on such things as heritage, accessibility, transportation, culture, and the implementation of the Regional Plan. Many of these committees include expertise on matters of social planning. However Council does not as yet receive any advice on the extremely important matter of architectural and public realm design. Additionally, the Housing Affordability Functional Plan mandated in the Regional Plan is underway and will shortly be presented to Council, along with recommendations as to how better provide affordable housing. To broaden the membership and mandate of the DRC would:

- Undermine the mandate of the DRC that, in accordance with what the public has asked for, must have design professionals singly focused on the quality of the built environment through the administration of the design guidelines found in the Design Manual.
- Undermine the intent of the Plan in creating a clear, predictable and timely development approval process.
- Anticipate the findings of the Housing Affordability Functional Plan before they have been made.
- Duplicate advice already received by Council from other committees.
- Be a significant, possibly substantive, departure from what the Urban Design Task Force recommended to Council.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #22: The Design Review Committee should have more citizens-at-large as members. You should put out a call for members for this committee.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.3 Design Review Committee (p. 61)

Downtown Halifax Land Use By-law

- S. 4 Design Review Committee
- Schedule S-1: S. 1.1 – Purpose of the Design Manual (p. 1)

DISCUSSION/OPTIONS:

The Design Review Committee (DRC) membership already includes one citizen-at-large position. This recommendation is to expand the membership to include additional members-at-large.

As discussed in Issue #21 above, the role and composition of the Design Review Committee (DRC) was the subject of exhaustive consultation with the public and deliberation by the Urban Design Task Force. The plan currently before Council embodies the results of this consultation and deliberation.

Regional Council currently receives advice from as many as 65 Committees of Council on such things as heritage, accessibility, transportation, culture, and the implementation of the Regional Plan. However Council does not as yet receive any advice from design professionals on the extremely important matter of architectural and public realm design. To broaden the membership of the DRC would distract the DRC from this duty by:

- Undermining the mandate of the DRC that, in accordance with what the public has asked for, must have design professionals singly focused on the quality of the built environment through the administration of the design guidelines found in the Design Manual.
- Undermining the intent of the Plan in creating a clear, predictable and timely development approval process.
- Duplicating advice already received by Council from other committees.
- Being a significant, possibly substantive, departure from what the Urban Design Task Force recommended to Council.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 23: Right to appeal should be extended to include citizen groups and tenants.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Policy 15 (p.24)
- Policy 16 (p. 25)

Downtown Halifax Land Use By-law

- S. 4(15) Appeal of Committee Decision (p. 11)
- S. 5(15) Site Plan Approval: Notification (p. 14)
- S. 5(16) Site Plan Approval: Notification (p. 14)

DISCUSSION/OPTIONS:

The Halifax Regional Municipality Charter sets out the appeal mechanism for site plan approvals, which is limited to assessed property owners whose properties fall within the greater of thirty metres and the distance set by the land use by-law or by policy of the applicant's property. The Downtown Plan proposes a boundary that encompasses the entire Downtown Plan Area. Verbal and written submissions were received during the public hearing process requesting that tenants and citizen groups also be allowed the right to appeal a decision on a site plan approval in downtown Halifax.

The appeal process for site plan approvals is similar to the appeal process for variances. Only through a Charter amendment could the right of appeal be extended to citizen groups and tenants.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 24: The wording of Policy 90A does not allow grandfathered applications to 'significantly alter' their proposals which could be a result of the public hearing.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Policy 90A (p. 65)

DISCUSSION/OPTIONS:

The concern is whether the current wording of this policy may preclude changes to the proposals which may arise during the course of the application as suggested by HRM staff, the Planning Advisory Committee, the Heritage Advisory Committee, the public and Council.

The intent of the policy is to grandfather development agreement applications in the downtown which were filed on or before March 31, 2009 under the existing Halifax MPS policies and approval process. Typically, development agreement applications evolve through the approval process and it is reasonable to expect that the final proposal on which Council deliberates is somewhat altered from that which was originally submitted. These types of changes are inherent in the process and it is not necessary to make particular reference to them in the policy. The policy does, however, contemplate a proposal's significant alteration or rejection by Council. Under those two particular circumstances, the grandfathering afforded by Policy 90A does not apply.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #25: The Design Review Committee should be advisory to Council.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.3 Design Review Committee (p. 61)

Downtown Halifax Land Use By-law

- S. 4 Design Review Committee
- Schedule S-1: S. 1.1 Purpose of the Design Manual (p. 1)

DISCUSSION/OPTIONS:

Research of Design Review Committees (DRCs) was undertaken for seven Canadian cities with strong design approaches in their development approval processes, similar to what HRM by Design proposes for downtown Halifax. All of the DRC's in the surveyed cities act in an advisory capacity wherein they advise municipal staff, which then make the final decision. No examples of a DRC advising a Council were found. The cities researched were: Montreal, Ottawa, Toronto, Winnipeg, Edmonton, Calgary, and Vancouver.

Under the proposed Site Plan Approval process, each application has two major components. The first covers the *quantitative* aspects of the application such as building height and massing as set out in the proposed Land Use By-law. The Development Officer (DO) will either approve or reject the application's quantitative aspects in an as-of-right model similar to the process used in the Spring Garden Road area with great success for many years.

Only after the DO approves the quantitative height and massing of the application does it then get passed along to the Design Review committee (DRC) for evaluation of its *qualitative* aspects (its design) as set out in the proposed Design Manual. If the DRC approves the qualitative elements, the

DO will then issue a Development Permit. Therefore, under the proposed process the DRC is in effect advising staff, as in the seven Canadian cities listed above.

The major improvement between the proposed Site Plan Application process described above, and the existing and successful Spring Garden Road area as-of-right process, is that a citizen-based Design Review Committee has been added to ensure that:

- Only the highest quality architecture and public space design results, as determined by professional designers.
- There is oversight by a citizen-based body to ensure that the wishes of the community as expressed through the design guidelines and adopted by Council are carried out.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 4: Design & Public Realm

ISSUE # 26: Change rules for exterior cladding (glass) to reduce negative impacts on birds.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 8.20 Prohibited External Cladding Materials (p. 24)
- Schedule S-1: Design Manual
 - S. 3.1 The Streetwall (p. 9)
 - S. 3.2.1 Design of the Streetwall (p. 11)

DISCUSSION/OPTIONS:

It is an unfortunate fact that birds cannot discern glass as a solid object, and will on occasion collide with buildings. This is true for office buildings as well as windows in residential houses. The birds are attracted to vegetation reflected in glass surfaces, or visible through it. Experts agree that the first 12 metres above grade are the largest contributor to bird collision deaths. It is at this height that birds are most likely to see reflected vegetation. Due to vegetation heights, the streetwall is more relevant to this issue than any structure that may be built on top.

Section 8.20 of the DHLUB specifically prohibits the use of darkly tinted or mirrored glass as a building material. Section 3.1 of the Design Manual applies to the streetwall, which can vary from 11 to 21 metres in height. Section 3.1.1(b) prohibits reflective and tinted glazing on the first floor. Other provisions in the streetwall guidelines, such as encouraging awnings and canopies, many windows and doors, and the use of high quality materials such as masonry will greatly reduce the potential for bird collisions. Other mitigation measures, such as turning off building illumination especially during migration season, can be undertaken by the building operator.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 27: Remove the requirement for rooftop open space for all new flat roof buildings.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 8(12) Rooftop Landscaped Open Space (p. 23)
- Schedule S-1: S. 3.3.4 (c) (p. 19)

DISCUSSION/OPTIONS:

During the public hearing process, Dalhousie University submitted a letter regarding Section 8(12) of the DHLUB. Section 8(12) specifies that "all buildings erected or altered, with a flat roof shall provide landscaped open space on those portions of the flat roof not required for architectural features or mechanical equipment." Landscaped open space is itself defined as "any outdoor landscaped area or playground for common use by the occupants of a building, but shall not include space for vehicular access, car parking, areas for the maneuvering of vehicles, or areas covered by any building."

Dalhousie University's concern is that the required landscaped open space would have to be fully accessible. This accessibility would necessitate substantial safety measures and may create financial burdens on potential developments without creating welcoming exterior recreation spaces.

The intention of Section 8(12) is to improve the view of rooftops when seen from high elevations such as Citadel Hill or the bridge. It is actually Section 7(10) that requires accessible landscaped open spaces. Therefore, while fully accessible landscaped rooftops are certainly encouraged, they should not be a mandatory component of the built environment, except when a transfer of landscaped open space is permitted under Section 7(10) of the DHLUB.

RECOMMENDATION & REQUIRED AMENDMENT:

It is recommended that Section 8 of the DHLUB be amended to provide more clarity on the requirements of this provision. It is also recommended that the Table of Contents be amended by replacing the term "Rooftop Landscaped Open Space" with the term "Landscaping for Flat Roofs."

ISSUE # 28: Amend the opening paragraph of S. 4.1 of the Design Manual to incorporate references to using Canada's Federal Standards and Guidelines for Conservation of Historic Buildings in Canada.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 4 Heritage Conservation (p.33)

Downtown Halifax Land Use By-law

- Schedule S-1: S. 4.1 New Development in Heritage Contexts (p.30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 4.2 Heritage Building Conservation Standards (p.10)

DISCUSSION/OPTIONS:

While the Standards and Guidelines for the Conservation of Historic Places in Canada provides sound, practical guidance to achieve good conservation practice, they would be at conflict with the guidance and clear regulation offer by the Design Manual.

Additionally, the Plan proposed to amendment to existing H-200 (Heritage By-law) to formally adopt the HRM Heritage Building Conservation Standards to all registered heritage properties throughout the municipality. The Building Conservation Standards are based on those used by the United States Secretary of the Interior, and are in keeping with the Venice Charter and other internationally recognized conservation principles. Within the Barrington Street Conservation District the HRM Heritage Building Conservation Standards must be met to be granted a Certificate of Appropriateness.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 29: Remove the requirement for properties abutting registered heritage properties, as outlined in the Downtown Halifax Land Use By-law, under Registered Heritage Properties - Abutting Properties.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.3.5 Heritage Character (p. 24)

Downtown Halifax Land Use By-law

- S. 8(5) Built Form Requirements - Registered Heritage Properties: Development on Abutting Property (p.22)

DISCUSSION/OPTIONS:

Properties abutting registered heritage properties should be developed in a manner that is respectful to the heritage resource, and which reinforces the character of the district or immediate area.

The intention in designing buildings in heritage contexts should not be to create a false historic building, but instead the objective is to create a sensitive, well-designed structure that fits into surroundings. It is not necessary to mimic a specific historical era in heritage contexts.

The Design Manual establishes heritage-sensitive design guidelines that relate to the exterior design, streetwall character, building articulation and materials, lighting, etc. Requiring a high level of design adds value not only to the abutting heritage building but also to the entire downtown.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #30: Remove the provision for transportation reserves and replace with provisions that would see permanent structures prohibited within a 50 ft. corridor centred on the mean centre line of the street on lands to the east of Lower Water Street. The maximum streetwall height and upper storey setback provisions of the Plan and By-law should not apply to these view corridors.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S 7.7 Transportation Reserves (p. 59)

Downtown Halifax Land Use By-law

- S 7(18-23) Transportation Reserves (p. 20)
- Map 1 Zoning and Schedule W
- Map 6 Streetwall setbacks
- Map 7 Streetwall heights

DISCUSSION/OPTIONS:

The Waterfront Development Corporation Ltd. (WDCL) has suggested a mechanism for preventing development at the foot of the east west streets (for view preservation) that is more straightforward and easier to administer than the transportation reserve mechanism in the current draft of the plan. Staff is supportive of this revised approach.

The WDCL goes on to request that the protection of views provided through this revised mechanism be the same as the protections afforded under current Halifax MPS policy. This would enable the proposed Queen's Landing project to proceed, as its design was founded on existing policy. Making this change would remove the requirement for at-grade setbacks from the view corridor on waterfront land, and would remove the requirement for upper story building setbacks from the corridors. Staff is also supportive of this approach as the resulting view protection equals view protection under current policy which has worked well, and because it allows Queen's Landing to proceed with rules as WDCL understood them when the project was conceived.

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation to replace the Transportation Reserves with a 50 foot corridor centred on the mean centre line of the east-west streets extended onto the waterfront lands to the east of Lower Water Street and to remove requirements for at-grade setbacks and upper story setbacks from the view corridors.

ISSUE # 31: Schedule S-2 of the Design Manual should be amended to include a shadow assessment to prevent new developments from reducing access to passive solar gain for existing and potential new buildings in their vicinity.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.0 Built Form Framework & Policy 2 (p. 16)
- S. 3.3.2 Building Envelopes & Policy 10 (p. 21)

Downtown Halifax Land Use By-law

- S. 8(6) to 8(11) Building Height: Maximum Pre-Bonus Heights and Maximum Post-Bonus Heights (p. 22)
- S. 9 Streetwalls (p. 26)
- S. 10 Building Setbacks and Stepbacks (p. 27)

DISCUSSION/OPTIONS:

Shadow impacts were taken into account when developing the height and massing framework, which includes:

- I. maximum post-bonus heights for each property in the Plan area;
- II. maximum streetwall heights;
- III. minimum streetwall stepbacks;
- IV. minimum setback requirements from interior lot lines for mid-rise and high-rise components of buildings;
- V. minimum stepback requirements between high-rise portions of adjoining buildings; and,
- VI. maximum width and depth for the high-rise portions of buildings.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 5: Sustainability

ISSUE #32: Complete the Sustainability Functional Plan before adopting this Plan.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.5 Functional Plans (p.5)
- S. 3.4.5 Sustainable Building Design (p.26)
- Policy 20 (p.27)
- S. 8.7 Functional Plans (p.66)
- Policy 91 (p.66)

DISCUSSION/OPTIONS:

The original objective of the Downtown Plan Urban Design Plan was to provide built form guidance through maximum building heights and massing, and a more streamlined development approval process for downtown Halifax. The plan was never intended to be a heritage plan, sustainability plan, housing affordability plan, or transportation plan. However, the UDTF and project staff recognized the integration of these issues with the Downtown Plan and has recommended the initiation of more detailed functional plans on each of these issues, including sustainability, in order to highlight ongoing work on these issues in other areas of HRM, support their intended outcomes, and entrench any advance work possible on these matters within the confines of current legislation.

While it may seem logical to complete functional plans in advance of adopting the Downtown Plan, it simply isn't the most efficient way to address ongoing issues in the downtown. If you wait for every functional plan to be completed before adopting the larger plan, you will continue to lose heritage resources, see lengthy development processes stagnate growth in the downtown, and prolong any regulation with respect to design of buildings and public spaces, which were the original intentions of this plan. Functional plans help guide HRM's ongoing management of strategic initiatives, partnerships and demonstration projects useful to seeing the full potential of larger plans such as this over time.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #33: Keep track of CO2 emissions of downtown buildings through plan monitoring.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6 Plan Monitoring Program (p.63)

- Appendix B

DISCUSSION/OPTIONS:

The suggestion is that as there is no requirement currently in this plan to reduce CO2 emissions from downtown buildings, it is important to begin tracking existing emissions so that any future reductions can be tracked through plan monitoring.

The addition of this type of performance measure would help measure the impact of any future sustainability improvements added to this plan, such as requirements for energy efficient building design. HRM does not currently have the baseline information required to include it as a performance measure for the plan monitoring program. It is anticipated that the proposed Sustainability Functional Plan called for in the DHSMPS would research and analyze this data, at which time it could be added to the Plan's performance measures.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #34: All new buildings must achieve LEED Silver or equivalent before being eligible for bonus zoning.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.3 Bonus Zoning (p.25)
- S. 3.4.5 Sustainable Building Design (p.26)

DISCUSSION/OPTIONS:

The concern is that as there are no mandatory LEED building design standards in this Plan, LEED design standards could be made mandatory for any proposal applying for a height bonus. Rather than have 'exemplary sustainable building practices' as an option under the bonus zoning, it could be an eligibility requirement for any proposal to participate in the bonus zoning program.

The objective of the bonus zoning program is to allow applicants for development to achieve a height bonus as part of an exchange with the municipality for a specific public benefit. As this is the first time a height bonus program has been implemented in HRM, a broad range of options for each site has been provided for consideration in the selection process, one of which is exemplary sustainable building practices.

Requiring LEED building design as a prerequisite for the bonus zoning program does not fit into the scheme established for bonus zoning, through which a public benefit of a specified value must be provided. If LEED were mandatory, applicants would still be required to pay out the cost of other

benefits, the cumulative cost of which would be much more than the investment envisioned by the municipality when this program was first considered. This could also result in deterring some applicants from participating in the program, resulting in no public benefit to the municipality.

The overall objective of HRMbyDesign is to make the development process easier and less prone to appeals and litigation. If LEED were a mandatory requirement then it would open the door to lawsuits if an interested party felt that the standard was not being properly applied. Whether the lawsuit was ultimately successful or not, this delay might have the same effect as current appeals to the NSUARB.

HRMbyDesign does however recognize the importance of sustainable building design and will be requiring all municipally owned buildings to achieve LEED Silver or equivalent.

RECOMMENDATION & REQUIRED AMENDMENT:

No change is recommended.

ISSUE #35: All planning employees should take Natural Step training now and implement in HRMbyDesign.

DOCUMENTS:

N/A

DISCUSSION/OPTIONS:

HRM provides ongoing training to its employees through a course catalogue, which includes Natural Step training. Additionally, HRM's Sustainable Environment Management Office (SEMO) recently purchased over 150 licenses for on-line e-learning courses for The Natural Step and has been actively promoting this training to staff and councillors. More licenses will be purchased as needed.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 36: Take into account more ecological considerations.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p. 5)
- S. 2.1 Guiding Principles (p. 7)
- S. 2.2 The Ten Big Moves (p. 7)

- S. 3.0 Built Form Framework (p. 16)
- S. 3.4.5 Sustainable Building Design & Policies 20 – 23 (p. 26)
- Policy 29(f) Mitigation Measures for Sea Level Rise and Storm Surge Events (p. 30)
- S. 6.8 Sustainable Public Spaces & Policy 70 (p. 54)
- S. 7.2 Active Transportation & Policies 72 and 73 (p. 56)
- S. 8.7 Functional Plans & Policy 91(p. 66)

Downtown Halifax Land Use By-law

- S. 7(12) to 7(15) Residential Uses: Storm Surge Protection (p. 19)
- S. 12(7) Public Benefit Categories (p. 31)
- S. 14(15) Bicycle Parking: Required Number of Spaces (p. 40)
- Schedule S-1: S. 5.1 Sustainable Design (p. 59)
- Schedule S-1: S. 5.2 Sustainability Guidelines (p. 59)

DISCUSSION/OPTIONS:

Sustainable building design is discussed elsewhere in this document. Therefore, the following discussion will be limited to other ecological considerations.

The area covered under the proposed Plan is a built-up urban area with no existing surface watercourses or wetlands. It does however possess a relatively large inventory of street trees. While the Plan is silent on the protection of the street tree resource, the Regional Plan does call for the preparation of an Urban Forest Functional Plan, which is currently underway.

The immediate impact of this Plan on ecological considerations will thus be felt mainly outside the Plan area itself. As development is encouraged to happen in the downtown area, a corresponding amount of sensitive lands in the rest of the Municipality should be spared from the ravages of urban sprawl.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #37: Make green building design mandatory through this plan.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.5 Sustainable Building Design (p.26)

DISCUSSION/OPTIONS:

The suggestion is that sustainable building design should be mandated through the adoption of this plan, through existing provisions in the HRM Charter. This plan is not a sustainable plan and should therefore not be adopted until there are requirements for sustainable building design.

HRM regulates building development and construction practices through the provincial Building Code and the Halifax Regional Municipality Charter (the Charter). Currently the Building Code does not contain any regulation mandating sustainable building design, nor does the Charter.

Section 229(1) of the Charter enables the establishment of policies. However in order to implement a policy through the Land Use By-law (LUB) there must be something in Section 235 of the Charter (the section that outlines the municipality's powers relating to the use of land) that covers the point. In other words, not all policies in the Municipal Planning Strategy (MPS) can be implemented through the LUB. It is only those matters that have been identified in the MPS for implementation through the LUB and for which there is authority in Section 235 for regulation. There is nothing there that relates to the internal design of buildings. There is then no support in the HRM Charter to mandate green building design.

In recognition of the need for sustainable building design requirements for new construction in downtown Halifax and the region as a whole, HRM has been working with the Province to strengthen both the Building Code and the HRM Charter in this area. This cooperative work will be formalized through the initiation of the Sustainability Functional Plan proposed in the Downtown Halifax Secondary MPS, with the changes to the required legislation expected in the next 1-2 years.

In addition, HRMbyDesign is taking the lead on this issue by requiring all municipally owned buildings to achieve LEED Silver or equivalent.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #38: Mandate energy efficient buildings in downtown Halifax.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.5 Sustainable Building Design (p.26)

DISCUSSION/OPTIONS:

The suggestion is that energy efficient building design should be mandated through the adoption of this plan by amending the land use by-law so that new buildings constructed in downtown Halifax are designed to exceed requirements of the Model National Energy Code for buildings by 40%.

Please refer to **Issue #37** of Section B of this document for a full response.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #39: Complete the Sustainability Functional Plan proposed in the Regional Plan adopted in 2006, before adopting this Plan.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

The Regional Plan adopted by Council in 2006 identified 24 functional plans; however this list did not include a regional Sustainability Functional Plan. A Community Energy Functional Plan called for in chapter 7 of the Regional Plan was completed and adopted by Regional Council in 2007. This plan is a guide for decision-making, investment and community form related to energy. It supports HRM's sustainable environment strategic direction through the provision of strategies for energy efficiency, emission reduction and renewable energy options and recommendations.

All ongoing or previously completed work on sustainability has been incorporated into HRMbyDesign's plan. A staff steering committee with representatives from all major business units and divisions including sustainability, transportation, engineering, traffic, etc. have guided the development of this plan from the beginning.

HRMbyDesign's plan does call for a Sustainability Functional Plan in order to formalize ongoing work between HRM and the province to all HRM to mandate green building design. In order for this to occur, HRM requires amendments to existing legislation including the provincial Building Code and the HRM Charter. This work will continue to be led by HRM's Sustainable Environment Management Office.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 6: Transportation & Parking

ISSUE #40: Complete the Transportation Master Plan called for in the Regional Plan and the Transportation & Streetscape Design Functional Plan called for in this Plan, before adopting the Plan.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Policy 51 (p.49)
- S. 7.5 Transportation & Streetscape Design Functional Plan (p.58)
- S. 8.7 Functional Plans (p.66)
- Policy 91 (p. 66)

DISCUSSION/OPTIONS:

The suggestion is that the Transportation Functional Plans called for in both the Regional Plan and HRMbyDesign's Downtown Plan should be completed before adoption of the Downtown Plan to ensure that any impacts on regional or downtown traffic movement are taken into consideration and mitigation efforts put in place.

The Regional Plan adopted by Council in 2006 identified 24 functional plans, including the Transportation Master Plan, which includes several sub-plans such as the Public Transit Functional Plan, the Regional Parking Strategy Functional Plan, the Transportation Demand Management Functional Plan, and the Active Transportation Functional Plan. Two of these four plans are completed with work currently ongoing in the other two areas.

The original objective of the Downtown Plan Urban Design Plan was to provide built form guidance through maximum building heights and massing, and a more streamlined development approval process for downtown Halifax. The plan was never intended to be a heritage plan, sustainability plan, housing affordability plan, or transportation plan. However, the UDTF and project staff recognized the integration of these regional issues with the Downtown Plan and has called for the completion of five functional plans after adoption, including the Transportation & Streetscape Design Functional Plan.

During the writing of the Downtown Plan it was recognized that streetscape design and transportation within the downtown are integrated and therefore need to be studied together. This plan intends to study downtown corridors through a revised street network plan, opportunities for improved public transit connections, and strategies to mitigate the effect of truck traffic on downtown streets.

While it may seem logical to complete these other plans in advance of adopting the Downtown Plan, it simply isn't the most efficient way to address ongoing issues in the downtown. If you wait for every functional plan to be completed before adopting the larger plan, you will continue to lose heritage resources, see lengthy development processes stagnate growth in the downtown, and prolong any

regulation with respect to design of buildings and public spaces, which were the original intentions of this plan.

Functional plans help guide HRM's ongoing management of strategic initiatives, partnerships and demonstration projects useful to seeing the full potential of larger plans such as this over time.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #41: Invest in busing, or widen the Bedford Highway to accommodate additional traffic or bus lanes, instead of the fast ferry.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 7.3 Public Transit (p.56)

DISCUSSION/OPTIONS:

The suggestion is that the expense of launching and maintaining the fast ferry would be much higher than investing more money into buses, particularly from Bedford to downtown.

The Regional Plan identified a future settlement pattern that included major growth centres in Bedford South and Bedford West. These two growth nodes, added on top of existing population in that area will create a large market for trips to downtown Halifax. The largest cost of providing transit service in HRM is the cost of staff. Thus, when the ridership market is high for a particular route such as Bedford-to-Downtown, it is not cost effective to add more buses each with their own driver. The Bedford-to-Downtown market will soon become large enough to justify mass transit systems. In this case, a ferry is much more suited than train, because of the low speeds possible on existing rail lines and the inability to accommodate light rail vehicles with freight trains. Widening the Bedford Highway to accommodate more vehicle traffic also is not fiscally or environmentally practical. The proposed ferry is one component of HRM's integrated public transportation system. Council has recently directed that over the next 12 months municipal staff must investigate the costs and benefits of the fast ferry and alternate transit options.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #42: There is not enough focus on the need for more sustainable transportation infrastructure into and throughout the downtown, including the establishment of more bike paths.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 7.2 Active Transportation (p.56)
- Policy 72 (p.56)

DISCUSSION/OPTIONS:

While this plan's primary objective is to establish built form guidelines and an improved development approvals process for downtown Halifax, the plan does recognize the importance of other key issues such as transportation. Active transportation has been a focus in the municipality since the adoption of the Regional Plan, and an Active Transportation Functional Plan was initiated. The Active Transportation Plan was completed in 2008, and its strategies provide the basis for this Plan's recommendations on the matter. HRM has already made significant investment into active transportation trails including:

- Over 4 million into the Halifax Harbourwalk, which is a continuous trail connecting Halifax and Dartmouth from Point Pleasant Park to Woodside.
- The Barrington Street Heritage Gas Corridor from the MacDonald Bridge to Cornwallis Street is presently being constructed and will represent the main access corridor for bikes downtown.
- The Halifax Urban Greenway is being constructed along the abandoned rail line corridor from Point Pleasant Park to the Rotary. The first phase along Beaufort is going to tender this fall.
- An Active Transportation bridge over the approaches to the Mackay Bridge is being designed.
- Negotiations are nearing completion on the Chester Spur Line, the abandoned rail line from Lakeside to Joseph Howe Drive. A study is currently underway to study the on road/off road connections to the Spur Line and downtown.

To enhance these existing active transportation programs, the following are some key active transportation outcomes outlined in the Downtown Plan:

- the creation of more bicycle infrastructure;
- changes to the street network in the downtown area including the development of one way streets, to increase the potential for on-road bicycle facilities;
- provision of more on-street bicycle parking and requirements for bicycle parking in parking structures;
- pedestrian-oriented streets with wider sidewalks, such as those identified on Map 13a of the proposed Downtown Halifax Secondary MPS, will allow for the strategic placement of bicycle parking. Wider sidewalks are required for the placement of bicycle racks so as not to interfere with pedestrian movements and amenities; and
- bike friendly routes into and throughout the downtown have been identified as seen on Map 13b of the proposed Downtown Halifax Secondary MPS, with more planned for introduction following the realignment of the street network plan.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 7: Housing Affordability

ISSUE #43: Housing affordability and types should be encouraged in any new development to the north and east of Schmidtville.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.3 Precinct 3 Vision (p. 11)
- S 3.4.3 Bonus Zoning (p. 25)
- S. 3.4.10 Development and Design Review Process for Spring Garden area (p. 31)
- S. 5.2 Public Lands and Facilities Development (p. 45)

Downtown Halifax Land Use By-law

- S. 12 Post Bonus Height Provisions (p. 31)
- Schedule S-1: S. 2.3 Precinct 3 Guidelines (p. 3)

DISCUSSION/OPTIONS:

The provision of housing affordability will be considered through HRM’s eventual proposal call for redevelopment of these lands. This is supported Policy 49 in the proposed DHSMPS, which calls for the provision of sustainable building design and housing affordability in the development of publicly owned lands. Therefore this suggestion does not require an amendment to the Plan

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #44: Complete the Housing Affordability Functional Plan called for in the Regional Plan adopted in 2006, before adopting this plan.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.5 Functional Plans (p.5)
- S. 8.7 Functional Plans (p.66)
- Policy 91 (p.66)

DISCUSSION/OPTIONS:

The original objective of the Downtown Plan Urban Design Plan was to provide built form guidance through maximum building heights and massing, and a more streamlined development approval process for downtown Halifax. The plan was never intended to be a heritage plan, sustainability plan, housing affordability plan, or transportation plan. However, the UDTF and project staff recognized the integration of these regional issues with the Downtown Plan and has recommended the prioritization of

two Regional Plan functional plans, including the Housing Affordability Functional Plan, to ensure that any new strategies identified in that functional plan are integrated within the proposed Downtown Plan as soon as possible. This prioritization also serves to highlight ongoing work on these issues in other areas of HRM, support their intended outcomes, and entrench any advance work possible on these matters within the confines of current legislation.

While it may seem logical to complete these other plans in advance of adopting the Downtown Plan, it simply isn't the most efficient way to address ongoing issues in the downtown. Delays in the approval of the downtown plan will postpone the immediately available benefits of the plan in its current form.

Functional plans help guide HRM's ongoing management of strategic initiatives, partnerships and demonstration projects useful to seeing the full potential of larger plans such as this over time.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #45: 5% of all new apartment buildings should be required to provide affordable units.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.3 Bonus Zoning (p. 25)
- S. 5.2 Public Lands and Facilities Development (p. 45)

Downtown Halifax Land Use By-law

- S. 12 Post Bonus Height Provisions (p. 31)

DISCUSSION/OPTIONS:

Creating policy for the provision of affordable housing is not within the mandate of HRMbyDesign's downtown plan, even though the plan has gone some distance toward encouraging its provision through the use of the bonus zoning provisions of the HRM Charter.

Housing affordability is a regional issue, not just a downtown issue. The correct vehicle for the creation of affordable housing policy is therefore the Housing Affordability Functional Plan mandated by the Regional Plan. It is already underway and when completed will make recommendations on how best to provide housing affordability.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 8: Public Engagement & Participation

ISSUE #46: Maintain current democratic rights of citizens to comment on each development proposal.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.1 Site Plan Approval (p. 24)

Downtown Halifax Land Use By-law

- S. 5 (7A) Site Plan Approval: Area of Application

DISCUSSION/OPTIONS:

The commenter states that HRM citizens currently have the right under the development agreement process to attend a public information meeting about the proposal, and participate in a public hearing before Council makes a decision on each proposal. HRMbyDesign is proposing to replace development agreements in downtown Halifax with site plan approval, which reduces public input on individual development applications.

A key objective of this Plan is to implement a more streamlined and efficient development approvals process that will provide clarity and predictability to both citizens and developers about how much and how big new developments can be in downtown Halifax, and how long their approval will take. In order to do that, pre-established maximum building heights and massing rules have been put into the new Land Use By-law. This by-law is the result of significant public consultation over the last year, with a diverse group of thousands of citizens and other key stakeholders. Opportunities for public input into the new development approvals process include:

- notification of property owners in the Downtown Plan Area by way of newspaper ad of the mandatory public consultation;
- mandatory public consultation involving a combination of an open house, public kiosk, and website component, hosted by the applicant in the pre-application phase;
- Design Review Committee and Heritage Advisory Committee (both citizen-based) meetings are open for public observation;
- property owners located within the notification area can appeal an approval to Council, the format of which is like a public hearing;
- applicants can appeal refusals to Council, and subsequently to the Utility and Review Board; and
- this Plan contains an annual and 5-year monitoring and review program, guided by a citizen-based Committee of Council.

Perhaps the most important point to recognize is that for the past 2.5 years, HRMbyDesign has been engaging citizens in the development of a vision and urban design principles for the Regional Centre, with the last 18 months focused solely on a plan for downtown Halifax. The primary opportunity for major public input and participation has been the last 18 months, as part of the public participation and

engagement process on this plan whereby citizens have had the opportunity to say now what they want the downtown to look like over the next 25 years.

After the Plan is adopted, there will still be opportunities for public input (see previous bullets) but the focus of the new process will be *transparency*. This new transparent approach will encourage the public to monitor the development application process to ensure the policies being collaboratively created now are being implemented as intended, and with the intended outcomes.

Finally, this proposed process is more open and provides more opportunities for public participation than some existing approvals processes within the plan area. For example, all of the major developments on and around Spring Garden Road such as the Paramount, the Martello, Artillery Place, Garrison House, Park Lane, and City Centre Atlantic were all approved as-of-right with no application-by-application input from the public. The vision for the area however is contained in the Secondary Planning Strategy for that area, which was developed in cooperation with citizens. What HRMbyDesign is proposing is a middle ground between today's high amount of public participation, and the as-of-right situation on Spring Garden Road, in consideration of the requests of the public to maintain some involvement.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #47: The District #12 PAC should be the plan monitoring body.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6 Plan Monitoring Program (p.63)

DISCUSSION/OPTIONS:

The draft version of the Downtown Plan attached to the February 4, 2009 staff report to Council outlined the plan monitoring program to be implemented following adoption of the Downtown Plan. That version of the plan documents named the existing Regional Plan Advisory Committee as the official body responsible for monitoring the plan's implementation, given their mandate to advise Council on matters related to the Regional Plan, of which HRMbyDesign is a part.

However at the February 18, 2009 meeting of the Urban Design Task Force, the Task Force voted to recommend that Council appoint the Urban Design Task Force as the plan monitoring committee at least for the first two years, to ensure that the valuable experience and knowledge of the plan by the committee members would be carried forward into implementation.

While the District #12 PAC does have a mandate to advise Council on matters of local significance, HRMbyDesign as an outcome of the Regional Plan is deemed by Council to be of regional significance and should be monitored as such.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #48: There should be an opportunity for the public to have a say in bonus zoning.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.3 Bonus Zoning (p.25)

Downtown Halifax Land Use By-law

- S. 4(13)(c) Committee Role (p.11)
- S. 12(9) Public Benefit Agreement (p.32)

DISCUSSION/OPTIONS:

The bonus zoning program proposed by HRMbyDesign is the first such program to be implemented in HRM, even though bonus zoning has always been enabled under the Municipal Government Act (now the HRM Charter). To initiate the process, applicants wishing to participate in the bonus zoning program will need to indicate their intention as part of the overall application. The selection of the public benefit to be associated with each development will be discussed by the Design Review Committee and subsequently recommended to the Development Officer. The Development Officer will take the DRC's recommendation and negotiations with the applicant into consideration of the final decision, which will result in a public benefit agreement being drafted between the applicant and the Municipality as outlined in S. 12(9) of the LUB.

The public will have the opportunity to influence or recommend particular public benefits as part of the mandatory public consultation held prior to the formal application to HRM. As part of site plan approval, the applicant is responsible for hosting a combination of an open house, a public kiosk and a website component in consultation of the public. Written submissions will be part of all three of these types of consultation, and the public would be encouraged to provide input about the type of public benefit that would best suit each proposed development.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

TOPIC 9: World Trade & Convention Centre

ISSUE # 49: Requested amendments to the MPS and LUB relative to the proposed WTCC project to clarify the term ‘publicly-sponsored’ in the context of the convention centre, and that the project may include a multi-unit residential component

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- Policy 90E (p. 65)

Downtown Halifax Land Use By-law

- S. 7 (15A) and 7(15B) (p. 20)

DISCUSSION/OPTIONS:

The requested amendments serve to clarify the building’s full purpose as well as define what is intended by the reference to a ‘publicly-sponsored’ convention centre.

The wording requested in the LUB to guide the Design Review Committee to ‘take into consideration the scope and scale of the project’ is unnecessary. The scale of the project is already accommodated under Appendix B of the By-law and the Design Review Committee’s review is limited to the review of the qualitative elements as provided by section 1.1b of the Design Manual.

RECOMMENDATION & REQUIRED AMENDMENTS:

1. Amend Policy 90E of the MPS to read:

HRM shall, through the land use by-law, establish provisions and requirements to enable the development of a new publicly-sponsored convention centre **together with** retail, hotel, **residential or** office, and underground parking space on the two blocks bounded by Argyle Street, Prince Street, Market Street and Sackville Street.

2. Amend subsection (15A) of section 7 of the LUB to read:

Notwithstanding any provision of this By-law except subsections (14) through (17) of section 8, a publicly-sponsored convention centre **together with** retail, **residential or** office, hotel and underground parking space, may be developed on the two blocks bounded by Argyle Street, Prince Street, Market Street and Sackville Street in accordance with the drawings attached as Appendix "B" to this By-law. **For the purposes of this subsection, “publicly-sponsored convention centre” means an establishment funded by any or all levels of government which is used for the holding of conventions, seminars, workshops, trade shows, meetings or similar activities, and which may include dining and lodging facilities for the use of the participants as well as other compatible accessory facilities.**

TOPIC 10: Other

ISSUE #50: Release the 3-D Model to the public.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

The idea of a comprehensive 3D model was not in the original Request for Proposals and thus has never been a requirement of the project. This idea was conceived well into the project as a way for the project team and UDTF to visualize various built form options. A 3D model has been created that has proved very helpful in this work, however until it is vetted for accuracy it cannot be made available to the public. It was made clear at the commencement of the 3D model creation process that it would be for internal use only, and would only be released after it had been extensively reviewed for accuracy. This continues to be the case. It is HRM's intention to make the model available to everyone for free via our website when it is ready.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 51: Change the zoning of the St. Matthew's Church property to DH-1 Mixed Use.

DOCUMENT:

Downtown Halifax Land Use By-law

- Map 1 Zoning and Schedule

DISCUSSION/OPTIONS:

A request was received from St. Matthew's Church to provide increased flexibility in the plan for future redevelopment of their site. As is true of many urban churches, Saint Matthew's have stated they require additional revenue to support the maintenance of their heritage buildings, and to support various community services and activities. To allow the institution to redevelop the land surrounding their historic church as requested, a change in zoning designation from "Institutional, Cultural and Open Space" (ICO) to "Mixed Use" (DH-1) is required. This change would be a substantive amendment in staff's opinion and would therefore require a new public hearing.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #52: Establish further review of other neighbourhoods identified in the Regional Centre as a priority.

DOCUMENTS:

N/A

DISCUSSION/OPTIONS:

Once the Downtown Halifax Urban Design Plan is approved by Regional Council, HRMbyDesign staff and the Urban Design Task Force will be able to refocus their attention on the whole Regional Centre (Halifax Peninsula and Dartmouth inside the Circumferential Hwy). In order to implement the Regional Centre vision, principles, and reurbanization strategy, the following work will be undertaken by the Urban Design Task Force:

1. the establishment of standards for the provision of complete neighbourhoods as well as guidelines for appropriate infill. These standards and guidelines will guide future neighbourhood plans; and
2. criteria will be developed for Council to use in prioritizing the order in which remaining neighbourhoods will undergo detailed, community-led plans.

The project team's conclusion of these two items is expected in 2009, and will mark the conclusion of HRMbyDesign. A final report will tabled with Council at that time, after which HRM can proceed with the detailed neighbourhood planning in accordance with Council's direction.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 53: Rezone the parking lot on the St. Mary's Basilica site from ICO to DH-1 Mixed Use.

DOCUMENT:

Downtown Halifax Land Use By-law

- Map 1 Zoning and Schedule

DISCUSSION/OPTIONS:

A request was received from St. Mary's Basilica to provide increased flexibility in the plan for future redevelopment of their site. As is true of many urban churches, St. Mary's have stated they require additional revenue to support the maintenance of their heritage buildings, and to support various community services and activities. To allow the institution to redevelop their parking lot, a change in zoning designation from "Institutional, Cultural and Open Space" (ICO) to "Mixed Use" (DH-1) is required. In staff's opinion, this rezoning would be a substantive amendment and a new public hearing would therefore be required.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 54: Include PID 00077073 in the re-designation and re-zoning to University and High-Density University, as part of HRM’s proposed changes to other Dal University properties. This will provide consistent land use controls on the Sexton Campus which is outside the Downtown Plan boundary.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

During the public hearing process, Dalhousie University submitted a letter that requested the rezoning of one of its property located on the Sexton Campus (formerly the Technical University of Nova Scotia Campus). The request was made in an attempt to create a consistent zoning scheme for the portion of the Sexton Campus falling outside the Downtown Halifax Plan boundary.

This property falls outside the Downtown Halifax Plan area and was not part of the list of housekeeping amendments identified in the public hearing notice. Therefore, a change in either its designation or zoning cannot be considered through this process. Staff will contact Dalhousie University’s Facilities Management Department to discuss a future planning application for this site.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 55: Amend the wording of section 8.4 of the MPS to recognize the ongoing ‘Imagine our Schools’ exercise.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.4 Co-operation with External Agencies (p. 62)

DISCUSSION/OPTIONS:

Section 8.4 of the MPS identifies the need for HRM to work with a variety of external agencies to realize the stated goals. These agencies include the Halifax Regional School Board, The Halifax Port Authority, the Waterfront Development Corporation, the Halifax-Dartmouth Bridge Commission and

the provincial and federal governments. Wording is already included in this section of the Plan which highlights the importance of school retention in the downtown and the maintenance of complete neighbourhoods to support the attraction of 16,000 new residents. Additional language in this regard is unnecessary.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 56: Add new performance measures to Appendix B of the MPS to track absorption rates for the urban core versus the suburban areas for office, retail and high density residential development.

ISSUE/CONCERN:

DOCUMENT:

Downtown Secondary Municipal Planning Strategy

- Appendix B: Plan Monitoring Performance Measures

DISCUSSION/OPTIONS:

To determine the success of the Plan in attracting office, retail and residential development in downtown Halifax, it is suggested that we need to compare the development activity for these uses in both the downtown and the suburban business parks areas including Burnside, Bayer's Lake Park and Bedford.

In addition to downtown Halifax, 12 business parks (municipally, provincially and privately operated) located throughout HRM plus the Halifax International Airport serve as major employment centres for the region. Together, they employ tens of thousands of people and are a major component of HRM's economic base. The continued development of business parks within HRM is vital to the economic future of the region.

Annual statistics are prepared on the construction and absorption of office space throughout the Region, upon which will staff will be reporting to the Plan Monitoring Committee in accordance with the "Office Inventory" baseline indicator in Appendix B of the proposed DHSMPS.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 57: Amend Sections 3.6.10 and 3.6.11 of the Design Manual to add a reference to Section 2.10 of the Design Manual as being eligible for variances as granted by the Design Review Committee.

ISSUE/CONCERN:

The ability for the Design Review Committee to vary the built form objectives of section 2.10 of the Design Manual through the provisions of sections 3.6.10 and 3.6.11 needs to be clarified.

DOCUMENT:

Downtown Halifax Land Use By-law

- Schedule S-1: S. 3.6.10 Precinct 1 Built Form Variance (p. 29)
- Schedule S-1: S. 3.6.11 Precinct 4 Built Form Variance (p. 29)

DISCUSSION/OPTIONS:

Generally, the specific built form requirements are stated in the main body of the Land Use By-law and can be varied by the Design Review Committee in accordance with the provisions of the Design Manual. However, Section 2.10 of the Design Manual also contains certain built form requirements. It is the intention that the Design Review Committee be able to consider variances to the built form requirements provided the variances are in keeping with the general intent of the Design Manual.

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation to amend the preamble of Sections 3.6.10 and 3.6.11 of the Design Manual to read:

For lands located in “Schedule W” on Map 1 of the Downtown Halifax Land Use By-law, the built form requirements of Section 11(5) of the LUB and Section 2.10 of this Manual may be varied by Site Plan Approval where the variance will:

ISSUE # 58: Clarify the LUB definition of “building width” so that building articulations and their impact on maximum building face calculations on the waterfront are clarified.

ISSUE/CONCERN:

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 2(s) Definition of Building Width (p. 2)
- Schedule S-1: S. 2.10 k. Downtown Halifax Waterfront (p. 8)

DISCUSSION/OPTIONS:

Long, unbroken runs of building walls at the water's edge are not permitted. To replicate the massing of traditional waterfront finger buildings, the maximum width of a building face abutting the boardwalk or water's edge is 21.5 metres (65'). To avoid any confusion around this objective, the LUB definition of "building width" should be clarified, and new definition of "building face" should be added.

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation to insert a new definition of "building face" and amend the definition of "building width" in the LUB.

ISSUE # 59: Clarify policy intent that the built form variances required to approve the proposed Queen's Landing project are sufficient for consideration and approval by the Design Review Committee.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 8(2) Number of Buildings on a Lot (p. 22)
- Schedule S-1: S. 3.6.11 Precinct 4 Built Form Variance (p. 29)

DISCUSSION/OPTIONS:

The commenter states that the proposed Queen's Landing project on the waterfront between Prince and George Streets will require the approval of variances to the built form requirements. Specifically, the following variances would be necessary:

- the heritage building interface depicted for the Robertson Building is acceptable;
- the building widths for all structures facing the boardwalk would be acceptable provided certain design elements regarding facade alteration are implemented;
- the building heights for all buildings facing the harbourwalk would be acceptable in particular acknowledgement of the specific functional requirements of Sackville Hall may require height variances;
- a setback ratio of 1:1.25 is required under the current concept for the hotel structure and flexibility in this regard will be required; and
- the configuration of structures identified within the complex would not require subdivision to meet the requirements of the LUB.

With the amendment to Sections 3.6.10 and 3.6.11 proposed under Issue # 57, the necessary variances can be accommodated. Staff is unable to predict an outcome to the variance requests but advise that the variances are all within the realm of consideration of the Design Review Committee.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #60: Issues Raised in Heritage Trust Letter, May 8, 2009

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

A letter submitted by the Heritage Trust of Nova Scotia to HRM’s CAO, Dan English, on May 8, 2009, outlined the following concerns with regard to a May 5, 2009 presentation to Council that opened the public hearing on the Downtown Halifax Urban Design Plan. Each concern is responded to individually here:

1. Proposed WTCC towers omitted from “Proposed Policy slides.”

Response: Staff was clear in the verbal presentation to Council on May 5 that the Proposed Policy slides reflected the building massing proposed to Council by the UDTF in their March 12 report, which did not include increased height on the WTCC site.

2. Opposed to use of concept “Existing Policy: Worst Case.”

Response: Staff did not imply that Council would automatically permit the heights shown in the image titled “Existing Policy: Worst Case.” The point of this slide was to demonstrate that this was a “worst case scenario” and how it compares to the proposed maximum heights in HRMbyDesign. Staff’s interpretation of existing policy was based on a careful study of all MPS policies and LUB regulations, as well as past decisions of Council, the UARB and the provincial courts.

3. Comparison of Existing Policy: Worst Case and Proposed Policy is unbalanced.

Response: Council is aware of the height and massing of the four grandfathered development agreement applications and of the proposed new convention centre, as they were the subject of a detailed report on this issue before Council on March 24, 2009. At that meeting detailed 3D model shots were employed to clarify the massing of these buildings for Council. The presentation was clear how the massing differed from the massing proposed by HRMbyDesign. During the May 5 presentation staff provided the caveat in the presentation, which was repeated during questioning, that the “Proposed Policy” images showed the March 12 pre-grandfathering massing.

4. Discrepancy between Existing Policy: Worst Case and Proposed Policy on the Dispensary Building.

Response: The worst case scenario image results from potential new buildings on the blocks between Market and Grafton Streets, where is it staff’s interpretation that taller buildings are possible under current policy (approx. 140’) than under proposed policy (92’ absolute maximum).

5. Heritage Protection inside HCDs is not strengthened by maximum building heights of 72 ft.

Response: The slide titled “Heritage Protection Inside HCDs” refers in general terms to the reduction in maximum possible heights in all three proposed HCDs from what could be possible under the current development agreement process. While there are lower maximum heights for some of the registered heritage buildings in the south Barrington area, heights are being much reduced in both the Barrington Street area and the Historic Properties area, as evidenced by past and recent development agreement application approvals. For example, building heights along Barrington Street within the proposed Barrington Heritage Conservation District could reasonably be expected to go as high as 200’ or more under current policy, whereas they will be strictly limited to 72’ under HRMbyDesign, with the exception of the Birks site, which has a limit of 92’.

6. Error in the Building Height shown on the Joe Howe Building.

Response: This slide was not intended to convey any information about maximum building heights. The stated purpose of this image was to graphically illustrate the bonus zoning provisions of the proposed plan, wherein the uppermost 30% of any given building is only earned by the provision of public benefit. The heights of any buildings in this image are immaterial. Rather what is at issue is the 70% to 30% ratio of the lower to upper portion of the buildings. In the case of this image, the only parameters given to the computer modeler on building heights was that they a) be within the proposed maximum heights, and b) show the 70%-30% split.

7. Inaccurate representation of Proposed Policy on Barrington Street.

Response: The images in question do show roof top additions on two buildings: the Crowe Building, and the Foreign Affair building. The tallest building at the centre of the image is the G.M. Smith building, which HRM records indicate is 60’ tall. Any rooftop addition on the hypothetical infill building staff has shown to the immediate right (south) of the G.M. Smith building could only rise to a maximum height of 72’ when stepped back from the streetwall by 10’. This hypothetical stepped back building mass would only be 12’ higher than the parapet of the G.M. Smith building and would therefore be obscured from view. In any case, this particular image is intended to show “very subtle and appropriately scaled architectural interventions” as clearly stated in the presentation, as opposed to maximum building envelopes as shown in other 3D model images found in the presentation.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #61: Additional Issues Raised in Heritage Trust Letter – May 21, 2009

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

HRM received a letter on May 21, 2009, requesting a response to the following issues related to current and proposed policies and regulations. The following is a list of issues relating to the plan contents or points of clarification not covered elsewhere in the staff report or the remainder of this Response to Public Comments document. For ease of reference, the responses are numbered to correspond to the issue raised in the original letter.

1. HRMbyDesign does not uphold all current view protections.

7(d). Retain existing policy 6.3.1 which protects views from the Citadel by mandating “four traditional storeys” in the area surrounding Citadel Hill.

Response: The proposed downtown plan upholds and strengthens the real view protections found in existing policy and regulation. (See Policy 61 of the proposed DHSMPs, and sections 8(14) and 8(17) of the proposed DHLUB.)

Two existing Halifax MPS policies were often quoted during the public hearing process, as an indication that the heights allowed under HRMbyDesign along Brunswick Street (75 feet) are much higher than those allowed under current policy. The two policies that were mentioned are as follows:

Policy 6.3 The City shall maintain or recreate a sensitive and complimentary setting for Citadel Hill by controlling the height of new development in its vicinity to reflect the historic and traditional scale of development.

Policy 6.3.1 The intent of such height controls shall be to establish a generally low to medium rise character of development in the area of approximately four traditional storeys in height immediately adjacent to Citadel Hill and increasing with distance therefrom.

However, policies 6.3 and 6.3.1 must be read in conjunction with Section 26A of the Halifax Peninsula Land Use By-law, which applies to the area delineated by Duke, Market, Sackville, and Brunswick streets.

26A Notwithstanding Section 58 and 59N(c) in addition to the requirements of Section 47, buildings erected, altered or used in Band A as identified on Zoning Map ZM-17 (Height Precinct Map) shall conform to the following height requirements:

- (i) The basic height of a building shall be 60 ft. This height may be exceeded provided there is one and one half feet of setback from the Brunswick Street and Sackville Street street lines for every foot of additional height above the 60 ft. level. No such setbacks are required from other street lines or property lines;*
- (ii) Notwithstanding the above, no building shall exceed 75 ft. in overall height or penetrate a view plane.*

In comparison, HRMbyDesign allows a maximum height of 75 feet on the blocks contained in the area bounded by Duke, Market, Sackville, and Brunswick streets. However, along Brunswick Street, the maximum streetwall height permitted is 60 feet (18.5 m). Then the building must stepback approximately 10 feet (3m) in order to attain the maximum height of 75 feet. The only difference therefore between the existing Halifax MPS/Peninsula LUB and HRMbyDesign, is the amount of stepback that must be provided in order to reach the maximum height of 75 feet. A comparative summary of the existing and proposed policy outcomes is contained in the table found below.

Comparative Summary of Allowable Heights Along Brunswick Street

Requirement	Existing Plan and LUB	HRMbyDesign
Maximum Building Height	75 ft.	75 ft. (23 m)
Maximum Streetwall Height	60 ft.	60 ft. (18.5 m)
Stepback Rule	1 ½ ft. in setback for each 1 ft. in height	10 ft. (3 m)
Full Stepback to Obtain Maximum Height	22 ½ ft.	10 ft. (3 m)

Below Market Street (as one heads down towards the Harbour), Policy 6.3.1 allows building heights to increase beyond 75 feet. However, unlike the blocks contained in the area bounded by Duke Street, Market Street, Sackville Street, and Brunswick Street, there are no hard and fast rules on how much higher the buildings can go. The Nova Scotia Utility and Review Board (NSUARB) have previously addressed the issue in both the midtown appeal and the Tex-Park appeal.

In the case of the Midtown appeal, the Board considered the matter of appropriate building heights in the vicinity of Citadel Hill concluding:

“The Board agrees with Mr. Porter that a very relevant question is what is a reasonable height of a building that will not overpower the Citadel. On cross-examination, he said it might be 12 storeys at this location. In any event, Mr. Porter’s opinion was, and the Board agrees, that a building which stands 259 feet above sea level, one city block from Citadel Hill, is not reasonably consistent with the policy directions in the M.P.S.” (NSUARB, 2005, pg. 83) (emphasis added)

In the case of Tex-Park appeal, the Board decided that the proposed 27-storey development, located 6 blocks away from Citadel Hill could not be considered as being in the vicinity of the latter.

“Taking into account the provisions of the MPS, and the ordinary meaning of the term “vicinity,” the Board considers that some aspects, at least, of the evidence provided on behalf of the Appellants are not at all consistent with the ordinary meaning of the term “vicinity.”

They may, in fact, reflect, to some degree, the passionately (and, the Board does not doubt, sincerely) held views of the witnesses testifying on behalf of the Appellants, rather than actually reflecting the language of the MPS itself. On the evidence and submissions before it, its review of the MPS and the site visit to the various points referred to elsewhere in this decision, the Board considers it would have no difficulty deciding, on the balance of probabilities, which interpretation it prefers — the Board sees the position put forward by the evidence provided on behalf of HRM and the Developer as the more reasonable. The only matter the Board need decide, however, is whether the Appellants have satisfied the Board that Council’s decision to enter into this development agreement is not reasonably consistent with the MPS, with respect to the matter of vicinity. The Board has no difficulty whatever in finding that the Appellants have so failed.” (NSUARB, 2007, pg. 140)

The Board added the following on the determination of maximum height for the Tex-Park site:

“Under the Halifax MPS, the only fixed upper limits are relatively restricted in scope: the view planes; the four storey reference (City-Wide Policy 6.3.1) with respect to Brunswick Street; the prohibition of a building so high (within the North, Robie, Inglis Streets and Harbour rectangle specified in City-Wide Policy 6.3.2) as to be visible by a person standing on the Citadel Parade Square; and CBD 7.3.1, which fixes the height of buildings on Brunswick Street at 60 feet (although allowing an additional foot of height for every one and half feet of setback), up to an absolute maximum on Brunswick Street of 75feet.

Outside the scope of the above provisions, the decision as to how high a building can be is not fixed by a formula. Mr. McLeod put this succinctly in the course of his examination:

Q. . . . So the further away that you get from the Citadel can buildings increase in height, in your opinion, pursuant to the MPS?

A. Certainly.

Q. Okay. Do you have an opinion as to how much they can increase?

A. That's Council's decision. I do not -- I do not see any policy guidance in the MPS that puts a specific height limit on buildings. I think that Council has this discretion.

[Transcript, February 16, 2007, pp. 2246 and 2236]” (NSUARB, 2007, pg. 152-153)

4. There are protections in current policy for a panoramic view from Citadel Hill.

Response: Some have argued that a panoramic view from Citadel Hill to the Harbour is protected under the current Halifax MPS and have quoted Policy 6.2 (Halifax MPS; City-Wide) in support of their argument. Policy 6.2 states the following:

“The City shall continue to make every effort to preserve or restore those conditions resulting from the physical and economic development pattern of Halifax which impart to Halifax a sense of its history, such as views from Citadel Hill, public access to the Halifax waterfront, and the street pattern of the Halifax Central Business District.”

The Nova Scotia Utility and Review Board (NSUARB), and its predecessor the Municipal Board, have both addressed this issue when dealing with appeals of downtown applications. In its decision on the A.T.C. application, which was proposed for the corner of Sackville and Brunswick (site now occupied by Cambridge Suites), the Municipal Board stated the following:

“It appears clear that the City having adopted its view plane legislation did not intend to preserve a generally open panoramic view of the Harbour from Citadel Hill.” (Municipal Board, 1984, Pg 43) (emphasis added).

The NSUARB further commented on the matter in its decision on the Tex-park appeal:

“In the view of the Board, if it was indeed the intent of HRM Council to protect all existing views of the water, there was a wide range of obvious, and much simpler, remedies available for inclusion in the MPS, any one of which would very easily have achieved the goal (preservation of existing views) which the Appellants insist the MPS is meant to achieve. Council did not choose any of those simple approaches. As the Board has already noted elsewhere, Council originally chose to adopt a limited number of view planes. It did not — even when adding certain later provisions upon which the Appellants urged the Board to place great store — add (as it very easily could have done) additional view planes to fill in all the spaces between the existing ones. This would have made Halifax’s view planes provision continuous. Alternatively, it could have adopted one of the approaches referred to with approval by Mr. Allsopp, such as absolute fixed heights for buildings in all of the areas between the Citadel and the harbour, to ensure that all existing views would remain. Council did not do this, adopting a much more complex, nuanced, approach. Under the Halifax MPS, the only fixed upper limits are relatively restricted in scope: the view planes; the four storey reference (City-Wide Policy 6.3.1) with respect to Brunswick Street; the prohibition of a building so high (within the North, Robie, Inglis Streets and Harbour rectangle specified in City-Wide Policy 6.3.2) as to be visible by a person standing on the Citadel Parade Square; and CBD 7.3.1, which fixes the height of buildings on Brunswick Street at 60 feet (although allowing an additional foot of height for every one and half feet of setback), up to an absolute maximum on Brunswick Street of 75feet.

Outside the scope of the above provisions, the decision as to how high a building can be is not fixed by a formula. Mr. McLeod put this succinctly in the course of his examination:

Q. . . . So the further away that you get from the Citadel can buildings increase in height, in your opinion, pursuant to the MPS?

A. Certainly.

Q. Okay. Do you have an opinion as to how much they can increase?

A. That's Council's decision. I do not -- I do not see any policy guidance in the MPS that puts a specific height limit on buildings. I think that Council has this discretion. [Transcript, February 16, 2007, pp. 2246 and 2236]” (NSUARB, 2007, pg. 152-153)

Both decisions referenced above are clearly in disagreement with the view that the current Halifax MPS affords protection to a panoramic view of the Halifax Harbour from Citadel Hill.

6. Comparison of the 1976 and 2006 Census tables indicates that the number of residents in each of the three tracts (that overlap the downtown study area) have increased under the current policy set.

Response: The Plan documents, and recent presentations made to Council by staff, consistently state that there has been dramatic loss of population from the Halifax Peninsula over the past 35 years. One of the intents of the downtown Plan is to create more opportunities for people to live and work in the downtown, regardless of past trends of census statistics. This approach is in direct response to direction received from the community through public consultation. These aspirations for increased density fall well within the population forecasts established as part of the Regional Plan.

7(e). Continue to apply policy CH-1 from the Regional Plan in downtown Halifax.

Response: Some have argued that Policy CH-1 of the Regional Plan should continue to apply under the proposed Downtown Halifax Plan.

CH-1 When considering a development agreement application in connection with any municipally registered heritage property, a lot on which a municipally registered heritage building is situated, or a building, part of a building or building site within a heritage conservation district, HRM shall, in addition to the criteria established under the appropriate policies guiding the development agreement under the applicable secondary planning strategy, also give consideration to the following:

- (a) that any municipally registered heritage property covered by the agreement is not altered to diminish its heritage value;*
- (b) that the development maintains the integrity of any municipally registered heritage property, streetscape or heritage conservation district of which it is part;*
- (c) that significant architectural or landscaping features are not removed or significantly altered;*
- (d) that the development observes, promotes and complements the street-level human-scaled building elements established by adjacent structures and streetscapes;*
- (e) that the proposal meets the heritage considerations of the appropriate Secondary Planning Strategy as well as any applicable urban design guidelines;*
- (f) that redevelopment of a municipally registered heritage property, or any additions thereto shall respect and be subordinate to any municipally registered heritage property on the site by:
 - (i) conserving the heritage value and character-defining elements such that any new work is physically and visually compatible with, subordinate to and distinguishable from the heritage property;*
 - (ii) maintaining the essential form and integrity of the heritage property such that they would not be impaired if the new work was to be removed in the future;**

- (iii) *placing a new addition on a non-character-defining portion of the structure and limiting its size and scale in relationship to the heritage property; and*
- (iv) *where a rooftop addition is proposed, setting it back from the wall plane such that it is as inconspicuous as possible when viewed from the public realm; and*
- (g) *any other matter relating to the impact of the development upon surrounding uses or upon the general community, as contained in Policy IM-15.*

Policy CH-1 was not carried forward into the proposed Downtown Halifax Plan, as it is not well-suited for a site plan approval process. This is due to its general nature, which often leaves it open to interpretation. While Council can and often does make calls on plan interpretations, it is not a role that should be transferred to staff or a Design Review Committee.

In its place, Policy CH-1 will be replaced by a predictable height and massing framework together with a series of specific general and heritage design guidelines that will certainly achieve the goal that was intended by Policy CH-1. In fact, staff is of the opinion that the outcome under the proposed Downtown Halifax Plan will be much improved than under the current system. The proposed policies, regulations and guidelines will offer a more black and white approach which should provide clarity and predictability to members of Council, the development community, and the general public in terms of what can and can't be allowed to happen when redeveloping a heritage property.

Finally, it is worth mentioning that the NSUARB, in its decision on the Waterside application, made it clear that CH-1 is not a mandatory policy, but one that Council must consider amongst other policies.

“While Ms. Holm and Mr. MacKay interpreted the language in Policy CH-1 as being mandatory in nature, the Board observes that the language in that policy is not mandatory at all. Rather, like many other provisions in the MPS, Policy CH-1 directs Council to simply consider the various heritage related elements of that provision. Moreover, the express words of Policy CH-1 state that the various elements of that policy must be considered in addition to the criteria established under the appropriate policies guiding the development agreement under the applicable secondary planning strategy, including heritage, economic and other types of policies.” (NSUARB, 2009, pg. 65)

7(f). Insert remaining policies listed in the Heritage Policies at Risk from the Trust’s letter of May 1, 2009.

Response: The original objective of the Downtown Plan Urban Design Plan was to provide built form guidance through maximum building heights and massing, and a more streamlined development approval process for downtown Halifax. The plan was never intended to be a heritage plan, sustainability plan, housing affordability plan, or transportation plan. However, in recognition of the need for increased heritage protection in downtown Halifax, the Plan has created a balanced approach to both heritage protection in areas of contiguous heritage significance, while allowing for new growth in other areas of the downtown. This approach reflects the widely shared vision that the majority of HRMbyDesign’s stakeholders have expressed for their downtown over the past eighteen months.

Adopting the additional heritage policies recommended by the Heritage Trust would disturb the careful balance in the plan between economic growth and protection for existing heritage buildings, by putting more weight toward the heritage policies. This is not the intention of the plan and therefore is not a recommended course of action.

7(g). The Trust has submitted concerns about the Plan in four previous letters to the UDTF, however none of these concerns have been addressed.

Response: The Heritage Trust of Nova Scotia (the Trust) has been actively engaged throughout the HRMbyDesign project, and has submitted several detailed letters to the Urban Design Task Force (UDTF) and Regional Council about the Downtown Plan. These submissions proposed, and ultimately influenced changes to all drafts of the Downtown Plan.

In some cases the proposed changes were straightforward and technical in nature. But perhaps more importantly the Trust's commitment to increasing and maximizing heritage protection in the Plan kept a spotlight on the heritage issue with the Task Force at all times throughout the process. The influence of the Trust was therefore important in helping UDTF create and maintain the balance that exists in the Plan between all competing interests, including protecting our heritage resources while encouraging new, well-designed development.

Over the past eighteen months, the UDTF has received countless written submissions on the Downtown Plan from a wide variety of key stakeholder groups and citizens. Although every recommendation for change was not accepted or agreed with, the UDTF relied on this public input to make informed and balanced decisions that reflect the will of the community at large.

A letter was sent to the Heritage Trust in May/April, 2009 detailing the numerous specific impacts the Trust has had on the Plan. This occurred both by the UDTF acting on specific requests for changes, and by the Trust keeping the heritage issue front and centre with the UDTF since the project began. In cases where the UDTF has not acted upon the requested changes it was for the reason that they were found to disrupt the careful balance the Plan strikes, or to otherwise undermine the fundamental objectives of the Plan.

7(h). HRMbyDesign documents should be referred to the District #12 PAC for a clause by clause review.

Response: A resolution of Regional Council dated February 24, 1997 states: "Where Regional Council determines that it wishes to consider the merits of a plan amendment proposal, it shall make a determination as to whether the matter is of local or regional significance." The report accompanying this resolution goes on to say that amendments of *local* significance will be referred to the appropriate Community Council and its Planning Advisory Committee (PAC).

The report also states that Plan amendments of *regional* significance will be brought to Regional Council with a staff recommendation for an appropriate public participation program for Council's consideration. Under this approach it is Regional Council (including any committees of Council as directed by Regional Council) that directly handles the amendments, *not* the Community Councils or

their PACs. The Regional Centre Urban Design Plan (HRMbyDesign), of which the proposed Downtown Plan is a part, was deemed a matter of Regional Significance by Council in the Regional Plan. Council therefore subsequently appointed the Urban Design Task Force as the primary advisory committee, and further sought advice from the Regional Plan Advisory Committee and the Heritage Advisory Committee.

Nonetheless, the District 12 PAC's expertise and experience in downtown planning matters has been recognized through numerous invitations to provide comment upon the Plan. The District 12 PAC has been provided with regular project updates, and its members have been provided with each successive draft of plan documents with an accompanying invitation to provide input. As a result, the PAC did review the proposed Plan, and provided its observations to Council in a report in April/May, 2009.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #62: There is a potential shortfall in growth capacity for office development in the traditional Central Business District (CBD).

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

During the development of the proposed Plan, the Urban Design Task Force discussed establishing areas in the core in which only office uses would be permitted (with some ground floor retail to enliven the sidewalks). However the UDTF ultimately felt that if land were zoned for office-only, that land could sit vacant and unimproved for many years until there was adequate demand. This would be counter to a central objective of the Plan, which is to encourage "filling in the gaps" with development on vacant and under-utilized lands. As a result, the UDTF's final recommendation to Council was that the downtown should be zoned Mixed Use in its entirety (except for some pockets of Institutional, Cultural and Open Space) as this flexible approach was seen as the best route to encouraging new development.

The steering committee that guided the Turner-Drake report included representation from the Greater Halifax Partnership. The steering Committee expressed a similar concern as is being stated in this issue. Ultimately the steering committee agreed that this was not a pressing issue in the first five-year plan review period, but that it should be monitored, with changes made as necessary through the plan monitoring program.

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation to use Plan Monitoring to monitor the distribution of new office development versus residential and retail in the downtown core, and if required, make amendments to the proposed mixed use zoning throughout the study area in the first five years.

B. CLARIFICATION ON HRMbyDESIGN PROPOSED POLICY

TOPIC 1: Heritage

ISSUE # 1: What are the impacts of the new heritage policies on tourism?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3 Downtown Precinct Visions (p. 10)
- S. 3.3.5 Heritage Character (p. 23)
- S. 4 Heritage Conservation (p. 33)
- S. 6 Public Realm (p. 47)

Downtown Halifax Land Use By-law

- S. 11 Precincts: Additional Requirements (p. 29)
- S. 12 Post-Bonus Height Provisions (p. 31)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 2.3 Rationale for Establishing the District (p. 4)
- S. 3 Heritage Value and Character Defining Elements (p. 7)
- S. 4 Conservation & Development Policies (p. 10)
- S. 5 Financial Incentives for Restoration & Revitalization (p. 15)
- S. 6 Public Realm Improvements (p. 17)
- S. 7 Marketing & Retail Recruitment (p. 18)

DISCUSSION/OPTIONS:

There are enormous economic benefits to providing tourists the opportunities to immerse themselves in authentic, high quality heritage neighbourhoods. Tourism creates jobs and provides business opportunities that strengthen the local economy. Tourism is but one of many reasons that downtown Halifax needs a dramatic improvement to the way it protects and enhances its built heritage, and improving heritage protection is a fundamental tenet of HRMbyDesign’s downtown Halifax Plan.

The proposed Plan will put in place HRM’s first ever Heritage Conservation District (Barrington Street). This will make \$3million of public money available for grants and tax incentives over the next 5 years that is expected to generate up to \$12 million in private matching investment in heritage. The Plan also prioritizes the creation of two additional HCDs, which together with the Barrington HCD will create a preserved “heritage heart” for downtown Halifax. These three HCDs protect the most intact remaining heritage areas and will be a great boon to the tourism industry in HRM. 70% of our registered heritage resources are located within these HCD, wherein demolition their demolition may only be permitted by an express motion of Council. Today, an owner need only wait one year to demolish.

ISSUE # 2: The Turner Drake Study and the Halifax Harbour Potential Study by Gardner Pinfold both suggest that there is enough vacant or underutilized land available for redevelopment without sacrificing heritage.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.0 Built Form Framework (p.16)
- S. 4.0 Heritage Conservation (p. 33)
- Map 4 – Maximum Pre-bonus Heights
- Map 5 – Maximum Post-bonus Heights

Downtown Halifax Land Use By-law

- Schedule S-1 (Design Manual): S. 4.0 – New Development in Heritage Contexts (p. 30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- Entire document.

DISCUSSION/OPTIONS:

This is a true statement. The proposed plan does not propose to sacrifice any heritage. On the contrary the proposed plan improves the protection of heritage resources from what is possible under current policy. For greater detail on this, please refer to Section A of this document, specifically Issues #5, #8, #10 and #12.

ISSUE # 3: “HRM by Better Design”, the Heritage Trust plan, is a better alternative to this plan.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Content of Heritage Trust Plan

The alternative plan and land use by-law being proposed by the Heritage Trust includes aspects of pedestrian realm improvements, environmental sustainability, and affordable housing. However, at their core, they remain documents that are highly focused on heritage and view protection to the detriment of other considerations. In order to thrive, downtown Halifax must have the ability to grow and evolve. A plan and by-law that are too heavily focused on heritage preservation in a downtown setting run the risk of stifling growth and even leading to decline. What is needed is a balanced

approach that both retains valuable heritage resources and allows for economic development, such as the proposed Downtown Halifax Urban Design Plan.

Development Approval Framework

The main foundation of the Heritage Trust’s alternative plan is the retention of most of the general and often competing downtown policies of the current Halifax MPS. Furthermore, the Trust is also proposing that the use of development agreements be maintained for some downtown projects.

The current policy context and approval framework for Downtown Halifax are not working properly. It results in tremendous amounts of staff time being expended to process application. It leads to polarizing debates at public meetings and hearings. It ties up many sessions of Council’s valuable time. And it often leads to additional staff time expended unnecessarily preparing for and attending appeal hearings at the Nova Scotia Utility and Review Board (NSUARB). More importantly, however, the current MPS policies do not guarantee good building and urban design in downtown Halifax.

When Council initiated the detailed urban design plan for downtown Halifax, one of its main objectives was to streamline the development approval process and to bring clarity and predictability to building heights and massing. By maintaining development agreements as an approval tool, as well as the bulk of the downtown policies, it is hard to imagine that Council’s goal would be achieved.

Public Consultation

The drafting of the Trust’s alternative plan and by-law did not occur through a formal community-wide public consultation process, but instead represents the view of a single special interest group. On the other hand, the HRMbyDesign process has included a significant public consultation component. Putting aside documents like the HRMbyDesign proposed plan and land use by-law, which have received community-wide input, in favour of a proposal from a single special interest group would do a disservice to the larger community.

ISSUE # 4: There is incentive for the destruction of everything except for the facades of heritage buildings under HRM by Design. Tourists don’t come to see facades; they come to see authenticity.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3 Downtown Precinct Visions (p. 10)
- S. 3.3.5 Heritage Character (p. 23)
- S. 4 Heritage Conservation (p. 33)
- S. 6 Public Realm (p. 47)

Downtown Halifax Land Use By-law

- S. 11 Precincts: Additional Requirements (p. 29)
- S. 12 Post-Bonus Height Provisions (p. 31)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 2.3 Rational for Establishing the District (p. 4)
- S. 3 Heritage Value and Character Defining Elements (p. 7)
- S. 4 Conservation & Development Policies (p. 10)
- S. 5 Financial Incentives for Restoration & Revitalization (p. 15)
- S. 6 Public Realm Improvements (p. 17)
- S. 7 Marketing & Retail Recruitment (p. 18)

DISCUSSION/OPTIONS:

The Barrington Street Heritage Conservation District includes an incentives package that aims to ‘encourage restoration and renovation of buildings in the Barrington Street HCD’. Projects that do not retain the exterior fabric of the heritage buildings will not be eligible for incentives, which is to say, demolition of a building except for its front façade and construction of a new building behind the façade (facadism) will not be supported by incentives. In order to receive financial assistance, the building must be retained.

While other registered heritage buildings outside of the Barrington Street Heritage Conservation District do not have the same degree of incentive to retain the entirety of the building, it is likely that similar requirements would be incorporated into the other two proposed Heritage Conservation Districts. The adoption of all three proposed Districts will provide better protection to 74% of the heritage buildings downtown.

Tourism is about offering a wide range of opportunities to visitors. Most of the built heritage in the downtown area can be classed as ‘authentic’, and the Design Manual provides clear regulations that will shape any new development in a way that is respectful to, and protects our built heritage resources.

ISSUE # 5: This plan will allow developers to assemble land to make larger lots to build taller buildings in the downtown next to heritage.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3 Downtown Precinct Visions (p. 10)
- S. 3.3.5 Heritage Character (p. 23)
- S. 4 Heritage Conservation (p. 33)
- S. 6 Public Realm (p. 47)

Downtown Halifax Land Use By-law

- S. 11 Precincts: Additional Requirements (p. 29)
- S. 12 Post-Bonus Height Provisions (p. 31)
- Schedule S-1 (Design Manual), Chapter 4 - Heritage Design Guidelines (pg. 30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 2.3 Rational for Establishing the District (p. 4)
- S. 3 Heritage Value and Character Defining Elements (p. 7)
- S. 4 Conservation & Development Policies (p. 10)

DISCUSSION/OPTIONS:

With regard to the ability to assemble land, there is no change between existing policy and proposed policy. With regard to building taller buildings next to heritage resources, the plan provides the following protections not available under current policy:

- 70% of registered heritage resources are placed in Heritage Conservation Districts (HCDs) where the maximum height is generally capped at 72.’ For example in the proposed Barrington Street HCD, current policies may permit buildings as tall or taller than 200.’ This is not acceptable in the heritage heart of our downtown. Upon adoption of this plan the maximum heights in the Barrington HCD will be reduced to 72.’
- The proposed Plan provides detailed heritage design guidelines for new development between, next to, or of heritage resources. Such guidance for heritage enhancement does not exist under current policy.
- The overall maximum heights framework throughout the downtown has been established to step down to cherished resources like heritage areas, the waterfront, the Citadel, and low rise residential neighbourhoods.

ISSUE # 6: The area between Dresden Row and Spring Garden Road is a great example of a truly historic area, including the street grid. The quality of this area is compromised by the proposed development above City Centre Atlantic.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6A, Policy 90A (p. 65)

DISCUSSION/OPTIONS:

The proposed development above City Centre Atlantic is not specifically a component of this Plan. The proposal is an application which was made under the existing municipal planning strategy policies. Policy 90A of the Downtown Halifax Secondary MPS provides that applications for development agreements on file on or before March 31, 2009 shall be considered under the policies in effect at the

time the complete application was received. Accordingly, the project must be evaluated under the existing policy framework and Council must render their decision consistent with those policies.

Should the application be withdrawn, significantly altered, or rejected by Council, any new development proposal will be subject to all applicable requirements of the new Downtown Halifax Land Use By-law.

ISSUE # 7: This plan is a thinly veiled demolition permit for heritage buildings in downtown Halifax.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 4 Heritage Conservation (p. 33)

Downtown Halifax Land Use By-law

- S. 8: Built Form Requirements (p. 22)
- S. 11: Precincts - Additional Requirements (p. 29)
- S. 12: Post-Bonus Height Provisions (p. 31)
- Schedule S-1: Downtown Precinct Guidelines (p. 2)
- Schedule S-1: Heritage Design Guidelines (p. 30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 4.4 Demolition (p. 12)
- S. 5.2 New Financial Incentives for the District (p. 16)

DISCUSSION/OPTIONS:

The creation of the Barrington Street Heritage Conservation District, enabled through the Heritage Property Act and Heritage Conservation District Regulations, allows the Municipality to create stronger demolition controls than are presently enabled through the Heritage Property Act.

There are currently 126 municipally registered heritage resources in the downtown plan area. 26 of these fall within the boundary of the Barrington Street Heritage Conservation District, and another 62 fall within the other two HCDs that are prioritized for creation under this plan. When all three districts are established, 88 of the 120 registered buildings will be within HCDs. Within the HCDs proposed by this plan, no heritage resource may be demolished except by express motion of Council. Today, an owner need only wait one year before demolition may proceed.

Until such time as the Heritage Property Act is amended to enable municipalities better demolition controls over individually registered heritage buildings, the best tool available to protect our heritage buildings is the use of Heritage Conservation Districts.

ISSUE # 8: What percentage of registered heritage buildings will be threatened by demolition under this plan?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 4 Heritage Conservation (p. 33)
- S. 4.4 Conservation Outside Heritage Districts (p. 37)

Downtown Halifax Land Use By-law & Design Manual

- S. 8: Built Form Requirements (p. 22)
- S. 11: Precincts - Additional Requirements (p. 29)
- S. 12: Post-Bonus Height Provisions (p. 31)
- Schedule S-1: Downtown Precinct Guidelines (p. 2)
- Schedule S-1: Heritage Design Guidelines (p. 30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 4.4 Demolition (p. 12)
- S. 5.2 New Financial Incentives for the District (p. 16)

DISCUSSION/OPTIONS:

The adoption of this Plan, including the Barrington Street Heritage Conservation District, will immediately protect the 26 registered heritage buildings within its boundary. These registered heritage buildings will not be able to be demolished except by express motion of Regional Council. Today, an owner need only wait one year until demolition is possible.

It is anticipated that the adoption of the other two proposed Heritage Conservation Districts, Barrington South and Historic Properties areas, will strengthen the demolition controls on an additional 62 buildings in the downtown. In total, when all three Heritage Conservation Districts are established, 88 registered heritage buildings will have better demolition protection than they currently have. This means that through the adoption of this plan, and the future establishment of Heritage Conservation Districts, 74% of the registered heritage buildings in the downtown area will have improved demolition controls.

Please refer to Issue #7 above for additional discussion.

ISSUE # 9: Heritage Conservation Districts will be useless when the heritage is gone.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.2 Vision for Precinct 2: Barrington Street South (p. 11)

- S. 2.3.7 Vision for Precinct 7: Historic Properties (p. 14)
- S. 4 Heritage Conservation (p. 33)
- S. 4.4 Conservation Outside Heritage Districts (p. 37)

Downtown Halifax Land Use By-Law

- S. 8(3)(4) Built Form Requirements - Registered Heritage Properties (p. 22)
- S. 8(6)-(11) Building Height: Maximum Pre-bonus Height & Maximum Post-Bonus Height (p.22)
- S. 11 Precincts: Additional Requirements (p. 29)

DISCUSSION/OPTIONS:

It is anticipated that the adoption of the other two proposed Heritage Conservation Districts, Barrington South and the Historic Properties, will strengthen the demolition controls on an additional 63 buildings in the downtown. In total, when all three Heritage Conservation Districts are established, 89 registered heritage buildings will have better demolition protection than they currently have. This means that through the adoption of this plan, and the future establishment of two additional Heritage Conservation Districts, 74 % of the registered heritage buildings in the downtown area will have improved demolition controls.

Under the Heritage Property Act, a Heritage Conservation District is established by the adoption of a heritage conservation district plan and by-law by a municipal council. A conservation plan establishes councils' rationale for the adoption of the district and articulates its policies on pertinent conservation issues and opportunities.

This process requires background studies on the buildings and the area as a whole, public participation, work with stakeholder groups, preparation of a draft plan and by-law, and council must hold a public hearing prior to adoption. The plan and by-law then requires ministerial approval. This process is legislated and will take time. It is anticipated that the two proposed conservation districts will take between 18 and 24 months for adoption. In the interim, the heritage properties within those areas will be subject to current regulations under the Heritage Property Act.

ISSUE # 10: International heritage design guidelines have been completely ignored in this plan.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 4.6 Heritage Building Conservation Standards (p. 39)

DISCUSSION/OPTIONS:

HRM currently uses a set of Heritage Building Conservation Standards based on those used by the United States Secretary of the Interior that are in keeping with internationally recognized conservation

principles and are similar to the Federal (Parks Canada) Standards and Guidelines for the Conservation of Historic Places in Canada.

While the Federal Standards and Guidelines for the Conservation of Historic Places in Canada provide sound, practical guidance to achieve good conservation practice, they would be at conflict with the Design Manual. However, the HRM Heritage Building Conservation Standards are not, and have therefore been chosen as the appropriate conservation tool in this instance.

ISSUE # 11: Alexander Mclean House: you will only have to wait one year to tear it down, and put up a new high rise building. Today it wouldn't be worth someone's time and effort to do this.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.2 Vision for Precinct 2: Barrington Street South (p. 11)
- S. 4 Heritage Conservation (p. 33)

Downtown Halifax Land Use By-Law

- S. 8 (3)(4) Built Form Requirements - Registered Heritage Properties (p. 22)
- S. 8 (6)-(11) Building Height: Maximum Pre-bonus Height & Maximum Post-Bonus Height (p.22)
- S. 11 Precincts: Additional Requirements (p. 29)

DISCUSSION/OPTIONS:

The Alexander Mclean House, located at 1328-32 Hollis Street, is in the proposed Barrington South Heritage Conservation District. Presently, under the Heritage Property Act (HPA), the owners may make an application to demolish and, proceed with demolition after a one year delay. Establishing heritage conservation districts with strong demolition controls, guidelines for alterations, and financial incentives for retention will better protect heritage buildings like the Alexander Mclean House.

These improved protections for heritage buildings, compared to the limited protection currently offered under the HPA, will become a much greater disincentive to demolition. The incentives offered through the creation of heritage conservation districts not only offer stronger demolition control, but also stimulate the revitalization of individual buildings and the areas as a whole.

ISSUE # 12: The heritage protections offered through backfill, infill, setbacks and façade rebuilding are not recognized by Heritage Canada.

DOCUMENT: N/A

DISCUSSION/OPTIONS:

The Heritage Canada Foundation is a national, membership-based, non-profit organization established in 1973 dedicated to promoting the conservation, understanding and appreciation of Canada's built heritage.

While they consider themselves the national voice for heritage conservation, they do not have their own conservation standards. Instead they support other organizations built heritage resources and share ideas about funding to restore heritage buildings.

ISSUE # 13: The Waterside Centre is an example of the outcome of this plan.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.3 Building Height and Massing

Downtown Halifax Land Use By-law

- S. 8 Built Form Requirements (p. 22)
- S. 9 Streetwalls (p. 26)
- S. 10 Building Setbacks and Stepbacks (p. 27)
- Schedule S-1: S. 4.1 New Development in Heritage Contexts (p.30)
- Schedule S-1: S. 4.3 Guidelines for Abutting Developments (p. 36)
- Schedule S-1: S. 4.4 Guidelines for Integrated Developments & Additions (p. 38)

DISCUSSION/OPTIONS:

The Waterside Centre was approved under the existing policy context of both the Halifax Municipal Planning Strategy and the Regional Plan. However, it would not receive approval under the proposed HRMbyDesign Plan, for among other things, its height of 114 feet far exceeds the proposed maximum height for that area of 72 feet.

ISSUE # 14: Many other places enjoy UNESCO status, like Lunenburg. This plan will not allow that.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Only eight natural sites and six cultural sites from Canada appear on the World Heritage List. Old Town Lunenburg was designated as the best surviving example of a planned British colonial settlement in North America. Established in 1753, it has retained its original layout and overall appearance, based

on a rectangular grid pattern drawn up in the home country. The inhabitants have managed to safeguard the city's identity throughout the centuries by preserving the wooden architecture of the houses, some of which date from the 18th century.

To be included on the World Heritage List, sites must be of outstanding universal value and meet at least one out of ten selection criteria. The protection, management, authenticity and integrity of properties are also important considerations.

This Plan will not prohibit downtown Halifax from being nominated as a UNESCO world heritage site. It is unknown, even without this plan, whether downtown Halifax would be successful candidate for World Heritage Listing as the ten selection criteria are very stringent.

ISSUE # 15: Bill 182 was not passed, so the heritage protection in this plan is not enough.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 4 Heritage Conservation (p. 33)
- S. 4.4 Heritage Conservation - Strengthening of Demolition Controls (p. 37)

Downtown Halifax Land Use By-law

- S. 8: Built Form Requirements (p. 22)
- S. 11: Precincts - Additional Requirements (p. 29)
- S. 12: Post-Bonus Height Provisions (p. 31)
- Schedule S-1: Downtown Precinct Guidelines (p. 2)
- Schedule S-1: Heritage Design Guidelines (p. 30)

Barrington Street Heritage Conservation District Revitalization Plan & By-law

- S. 4.4 Demolition (p. 12)
- S. 5.2 New Financial Incentives for the District (p. 16)

DISCUSSION/OPTIONS:

Bill 182 was a request made to the Province in 2008 to amend section 18 of the Heritage Property Act. The amendment would have extended demolition control for individually registered heritage buildings from one year to two years. Unfortunately this Bill was not passed.

Policy 35 of the DHSPS requires that Council “shall continue to encourage the Province of Nova Scotia to amend the Heritage Property Act to strengthen demolition control for registered heritage municipally registered heritage properties.”

Until such time as the Heritage Property Act is amended to enable municipalities to strengthen demolition control over individually registered heritage buildings, the best tool available to protect our

heritage buildings is the use of the Heritage Conservation Districts. Through the adoption of a Heritage Conservation District Plan and By-law, Section 18 no longer applies, and Council is required to ‘create statements of policy with respect to the demolition or removal of buildings or structures within the district.’ In this way Council may choose to create more stringent demolition controls as is the case within the Barrington Street Heritage Conservation District.

ISSUE # 16: There is insufficient regard for our topography - our setting is spectacular with the hill and the water. We should be striving for uniformity in height to achieve a panoramic vision.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 2 - Downtown Halifax Urban Design Vision and Principles (p. 6)

Downtown Halifax Land Use By-law

- Schedule S-1: Chapter 2 – Downtown Precinct Guidelines (p. 2)

DISCUSSION/OPTIONS:

Through the course of the extensive public consultation undertaken during the development of this Plan, many views were expressed as to appropriate distribution of building heights in the downtown. Some residents did express a preference for a completely low-rise downtown wherein the rooftops of low-rise buildings followed the topography. Some residents recommended removing all height limitations in the downtown, including the existing viewplanes. However the majority of citizens were supportive of an approach that maintained the existing viewplane and citadel rampart view protections while permitting taller heights between the viewplanes. This has since come to be known as the distributed heights approach.

It is important to note that even with the distributed heights approach, the proposed Plan does reduce overall building capacity, and maximum achievable building heights throughout most of the downtown. The reduction, for example, of maximum achievable heights along Barrington Street from approximately 200’ in current policy, down to 72’ in proposed policy, better achieves the notion of allowing development to follow the topography.

ISSUE # 17: Proposed height restrictions will hinder development and heritage protection.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.3.1 Heights Framework (p. 21)

Downtown Halifax Land Use By-law

- S. 8(6) to 8(11) Building Height: Maximum Pre-Bonus Heights and Maximum Post-Bonus Heights (p. 22)
- S. 12 Post-Bonus Height Provisions (p. 31)

DISCUSSION/OPTIONS:

Under current policy there is very little explicit guidance for determining the maximum height of buildings in downtown Halifax. Indeed, making such a determination can sometimes involve interpreting up to seventy individual and sometimes conflicting policies. As a result of this lack of clarity development approvals have become lengthy processes vulnerable to appeal and counter appeal.

The Downtown Plan ends this ambiguity. To ensure clarity and predictability of building heights in downtown Halifax, the Plan establishes a rational and balanced maximum heights framework that results from the synthesis of urban design considerations tailored to downtown Halifax. These considerations include:

- Protection of the pedestrian street level experience with a height-to-width ratio of approximately 1:1 which promotes pedestrian scaled development and skyviews and sunlight penetration to the street;
- Reinforcing the existing and desired character of the nine downtown precincts;
- The introduction of Heritage Conservation Districts;
- Respecting the modestly scaled historic block and street pattern;
- A transition in heights to the Citadel, heritage areas, low-rise neighbourhoods and the waterfront;
- Reinforcing a distributed and varied height pattern by directing taller buildings to areas where they already exist;
- Upholding the Citadel View Planes, Ramparts By-law, and Band A requirements from the existing Peninsula Land Use Bylaw; and
- Promoting a positive pedestrian experience.

Maximum building heights are shown on “Map 5: Maximum Post-Bonus Heights” in the Downtown Halifax Land Use By-law. Except for minor relaxation for architectural features, the maximum heights can only be modified through an amendment to the Downtown Halifax Secondary Municipal Planning Strategy.

ISSUE # 18: The Five Fisherman building could be redeveloped to 90 ft tall, which would dwarf City Hall.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.3.6 Vision for Precinct 6: Upper Central Downtown (p. 13)
- S. 3.3.1 Heights Framework (p. 21)
- S. 3.3.2 Building Envelopes (p. 21)
- S. 3.3.4 Streetwall Character (p. 23)

Downtown Halifax Land Use By-law

- S. 8(6) to 8(11) Building Height: Maximum Pre-Bonus Heights and Maximum Post-Bonus Heights (p. 22)
- S. 9 Streetwalls (p. 26)
- S. 10 Building Setbacks and Stepbacks (p. 27)
- S. 12 Post-Bonus Height Provisions (p. 31)
- S. 2.6 Precinct 6: Upper Central Downtown (Schedule S-1: Design Manual; p. 5)

DISCUSSION/OPTIONS:

A development agreement for a building having a height of 90-95 feet was approved on the block containing the Five Fisherman building in the 1980s. While this building was never built, and the development agreement has since been discharged, another building of a similar height could be approved under the existing policy context. That being said, staff is of the opinion that 90 feet is an acceptable height for a building on the block containing the Five Fisherman building and would not be detrimental to the setting of City Hall or the Grand Parade.

TOPIC 2: Development Approvals

ISSUE # 19: The proposed Design Review Committee is a small group with a vested interest that should not have decision making power.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.2: Design Review Committee (p. 25)

Downtown Halifax Land Use By-law

- S. 4 – Design Review Committee (p. 9)
- Schedule S-1: Design Manual

DISCUSSION/OPTIONS:

The Design Review Committee (DRC) will be governed by the HRM Conflict of Interest policy that governs all committees, departments, employees and elected representatives of HRM. Further, DRC members are professionals governed by the canons of ethics of their own professions. DRCs work to great effect in cities around the world and the concern raised in the comment does not appear to be an issue of significance.

ISSUE # 20: This plan gives too much power to the Development Officer and the Design Review Committee, cutting the public out of the process for the most part. Scrutiny is required by the public and Council on this process.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4 Development and Design Review Process (p.24)
- S. 8.6 Plan Monitoring Program (p.63)

Downtown Halifax Land Use By-law

- S. 3 Administration (p.9)

DISCUSSION/OPTIONS:

One of the overall objectives of this Plan was to introduce a more streamlined, expedient development approvals process in downtown Halifax. The introduction of maximum building heights and massing reduces the need to have public discussions on the vision for downtown on a site by site basis. Public oversight now shifts to the design of proposed buildings and open spaces, through: a mandatory public consultation as part of the application process; decisions on major developments by a citizen-based Design Review Committee; citizen appeals of these decisions to Regional Council, a citizen body

elected to represent the larger community; and, the plan monitoring program led by a citizen-based committee appointed by Council.

Research of Design Review Committees (DRCs) was undertaken for seven Canadian cities with strong design approaches in their development approval processes, similar to what HRM by Design proposes for downtown Halifax. All of the DRC's in the surveyed cities act in an advisory capacity wherein they advise municipal staff, which then make the final decision. No examples of a DRC advising a Council were found. The cities researched were: Montreal, Ottawa, Toronto, Winnipeg, Edmonton, Calgary, and Vancouver.

Under the proposed Site Plan Approval process, each application has two major components. The first covers the *quantitative* aspects of the application such as building height and massing as set out in the proposed Land Use By-law. The Development Officer (DO) will either approve or reject the application's quantitative aspects in an as-of-right model similar to the process used in the Spring Garden Road area with great success for many years.

Only after the DO approves the quantitative height and massing of the application does it then get passed along to the Design Review committee (DRC) for evaluation of its *qualitative* aspects (its design) as set out in the proposed Design Manual. If the DRC approves the qualitative elements, the DO will then issue a Development Permit. Therefore, under the proposed process the DRC is in effect advising staff, as in the seven Canadian cities listed above.

The major improvement between the proposed Site Plan Application process described above, and the existing and successful Spring Garden Road area as-of-right process, is that a citizen-based Design Review Committee has been added to ensure that:

- Only the highest quality architecture and public space design results, as determined by professional designers.
- There is oversight by a citizen-based body to ensure that the wishes of the community as expressed through the design guidelines and adopted by Council are carried out.

ISSUE # 21: Members of the Design Review Committee could have a conflict of interest.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.2: Design Review Committee (p. 25)

Downtown Halifax Land Use By-law

- S. 4: Design Review Committee (p. 9)
- Schedule S-1: Design Manual

DISCUSSION/OPTIONS:

The Design Review Committee (DRC) will be governed by the HRM Conflict of Interest policy that governs all committees, departments, employees and elected representatives of HRM. Further, DRC members are professionals governed by the canons of ethics of their own professions. DRCs work to great effect in cities around the world and the concern raised in the comment does not appear to be an issue of significance.

ISSUE # 22: No other Design Review Committee’s in Canada have the role of decision makers.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.2: Design Review Committee (p. 25)

Downtown Halifax Land Use By-law & Design Manual

- S. 4 – Design Review Committee (p. 9)
- Schedule S-1: Design Manual

DISCUSSION/OPTIONS:

The proposed Design Review Committee (DRC) is not a final decision-making body; that authority resides with a Development Officer, who is appointed by Council to administer Council’s land use policies. The steps in an approval are:

- Staff (Development Officer) reviews the *quantitative* aspects of the application (height and mass) for conformance with the Land Use By-law. If approved, the application is passed along to the Design Review Committee.
- The Design Review Committee reviews the *qualitative* aspects of the application (quality of design) for conformance with the Design Manual. If approved the application is referred back to the Development Officer.
- If satisfied with both the quantitative aspects of the application and with the qualitative aspects as advised by the DRC, the Development Officer will issue a Development Permit, which is the final step in the site plan approval process.

For a more detailed discussion of this matter, please refer to **Issue #25** in Section A of this document.

ISSUE # 23: The Design Review Committee could stifle design creativity and be subject to group think and influence.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.2: Design Review Committee (p. 25)

Downtown Halifax Land Use By-law & Design Manual

- S. 4: Design Review Committee (p. 9)
- Schedule S-1: Design Manual

DISCUSSION/OPTIONS:

Neither the Design Review Committee (DRC) or the Design Manual (which they are responsible for administering), will stifle creativity. On the contrary, they are proposed for the very purpose of ensuring that architects and other designers produce the very best possible results. The Design Manual does not attempt to legislate taste. Rather, it simply sets out baseline criteria for the minimum “good behaviour” of architectural and streetscape design.

More and more cities are creating design review committees all the time. The experience has been that designers are compelled to produce better results because of the knowledge that their work will be subject to the scrutiny of their peers in the design professions.

ISSUE #24: Public involvement is too early in the development approval process, and easily ignored.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4 Development and Design Review Process (p.24)

Downtown Halifax Land Use By-law

- S. 3 Administration (p.9)

DISCUSSION/OPTIONS:

One of the overall objectives of this Plan was to introduce a more streamlined, expedient development approvals process in downtown Halifax. The introduction of maximum building heights and massing reduces the need to have public discussions on the vision for downtown on a site by site basis. Public oversight now shifts to the design of proposed buildings and open spaces, through: a mandatory public consultation as part of the application process; decisions on major developments by a citizen-based Design Review Committee; citizen appeals of these decisions to Regional Council, a citizen body

elected to represent the larger community; and, the plan monitoring program led by a citizen-based committee appointed by Council.

The inclusion of the mandatory public consultation as part of the application process was deliberate; to ensure that public input occurred early enough in the process that it could be incorporated as part of a final design. Changes introduced late in the approval process are more costly for the applicant and can cause delays in the process, which makes them less likely to be included.

ISSUE #25: We need true citizen engagement not open houses.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4 Development and Design Review Process (p.24)

Downtown Halifax Land Use By-law

- S. 3 Administration (p.9)

DISCUSSION/OPTIONS:

There are many types of citizen engagement. Opportunities for public participation in the current development approval process include a public information meeting and a public hearing. The public information meeting (PIM) format is known to be effective when dealing with plan and by-law amendments, not on an application by application basis. This PIM is being replaced by a combination of a public kiosk, open house and website component in order to provide a variety of opportunities for a variety of types of people to comment on proposed development applications. This change in process is because not everyone can attend an evening meeting from 6-8 p.m. on a weekday, nor does everyone feel comfortable standing up in front of a crowd to give their opinion into a microphone. However, for those citizens that like that method of providing feedback, there will be opportunities for public posting of their opinions at the open house and on the website forum, which will continue to allow citizens to build upon one another's ideas.

One of the most important points to recognize is that for the past 2.5 years, HRMbyDesign has been engaging citizens in the development of a vision and urban design principles for the Regional Centre, with the last 18 months focused solely on a plan for downtown Halifax. The primary opportunity for major public input and participation has been the last 18 months, as part of the public participation and engagement process on this plan whereby citizens have had the opportunity to say now what they want the downtown to look like over the next 25 years.

After the Plan is adopted, there will still be opportunities for public input but the focus of the new process will be *transparency*. This new transparent approach will encourage the public to monitor the development application process to ensure the policies being collaboratively created now are being implemented as intended, and with the intended outcomes.

Finally, this proposed process is more open and provides more opportunities for public participation than some existing approvals processes within the plan area. For example, all of the major developments on and around Spring Garden Road such as the Paramount, the Martello, Artillery Place, Garrison House, Park Lane, and City Centre Atlantic were all approved as-of-right with no application-by-application input from the public. The vision for the area however is contained in the Secondary Planning Strategy for that area, which was developed in cooperation with citizens. What HRMbyDesign is proposing is a middle ground between today's high amount of public participation, and the as-of-right situation on Spring Garden Road, in consideration of the requests of the public to maintain some involvement.

TOPIC 3: Design & Public Realm

ISSUE # 26: Where are the policies to increase accessibility in the downtown for people with disabilities?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 6.1 Streetscapes (p. 48)
- S. 6.6 Pedestrian Amenity & Comfort (p. 52)
- S. 7.5 Transportation & Streetscape Design Functional Plan (p. 58)
- S. 8.7 Functional Plans (p. 66)

DISCUSSION/OPTIONS:

Sidewalk/crosswalk accessibility issues are currently addressed under the HRM Municipal Service Systems Design Guidelines (also known as the Red Book). The Transportation & Streetscape Design Functional Plan, proposed under the DHSMPS, will be used in part to identify any potential accessibility deficiencies with the current municipal standards and will recommend changes as required. Building accessibility issues, on the other hand, are dealt with under the National Building Code.

ISSUE # 27: There is a link between health and the provision of opportunities for green space and outdoor spaces to be active in, there should be a requirement for more public parks.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 2.2: The Ten Big Movers for Downtown Halifax (#5 & #6) (p. 6)
- S. 3.3.4: Streetwall Character (p. 23)
- S. 6: Public Realm (p. 47)
- S. 7.7: Waterfront View Corridors (p. 59)
- Map 10: Open Spaces

Downtown Halifax Land Use By-law & Design Manual

- S. 7(6)-(11): Landscaped Open Space Requirements (p. 19)
- S. 7(18): Waterfront View Corridors (p. 20)
- S.8(12): Landscaping for Flat Rooftops (p. 23)
- Schedule S-1: Design Manual, Chapters 3.1 & 3.2

DISCUSSION/OPTIONS:

The Plan acknowledges the linkages between health, high quality public spaces, and the vibrancy and attractiveness of a city as a place to live. This approach is rooted in the idea of encouraging ever more people to choose active transportation options (walking, cycling, etc.) rather than cars, by improving the quality of streets and public spaces. Chapter 6 of the proposed Downtown Halifax Secondary Municipal Planning Strategy outlines an approach to more and better public spaces under the headings of: streetscapes; open spaces and connections; gateways, views and visual character; public art; pedestrian amenity and comfort; street festivals; and, sustainable public spaces. Map 6 (Open Spaces) provides guidance on the type and location of existing and potential public spaces. Additionally, the proposed Land Use By-law requires that new open space be required for every new residential unit at the rate of 120 square feet per unit. This open space is for the use of the residents of the structure for which the open space is required. And finally, the proposed Design Manual contains detailed guidance on the quality of the “streetwall” and the public spaces created by new buildings.

ISSUE # 28: We need more public spaces, trees, benches, and better use of green space.

Please refer to **Issue #27** of Section B of this document for a full response.

ISSUE # 29: Do not encourage any new buildings to replicate the design of heritage buildings.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 4.1.2 New Buildings in Heritage Contexts (p. 31)

DISCUSSION/OPTIONS:

The intention when designing new buildings in heritage contexts is not to require the replication of heritage designs, or to create a false sense of heritage. Instead, the objective of the Design Manual is to allow for the creation of sensitive, well-designed new structures and additions that are compatible with the character of the districts and the immediate context.

This is accomplished by designing new buildings, or additions, by taking into account the proportion of buildings in the immediate context and considering a design solution with proportional relationships. This may mean taking design clues from adjacent buildings in terms of the arrangement of windows, the continuation of a cornice line, the use of similar window proportion, the use of similar or compatible materials, or a combination of these tools.

ISSUE # 30: Blank walls should not be allowed.

DOCUMENT:

Downtown Halifax Land Use By-law

- Schedule S-1: Design Manual: S. 3.2 Design of the Streetwall (p. 11)
- Schedule S-1: Design Manual: S. 3.2.5 Sloping Conditions (p. 15)

DISCUSSION/OPTIONS:

This plan does not allow blank walls along pedestrian frontages at grade level, as referred in S. 3.2 and S. 3.2.5 of the Design Manual.

TOPIC 4: Sustainability

ISSUE # 31: This plan reduces opportunities for solar heating. HRM has the greatest potential for using passive solar than any city in Canada in the most important heating months. Work has been done by Solar NS and Dal that well designed and sited buildings of 5-6 storeys can be passively heated by the sun.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p. 5)
- S. 2.1 Guiding Principles (p. 7)
- S. 3.0 Built Form Framework (p. 16)
- S. 3.3 Building Height and Massing (p. 20)
- S. 3.4.3 Bonus Zoning (p. 25)
- S. 3.4.5 Sustainable Building Design (p. 26)
- S. 8.7 Functional Plans (p. 66)

Downtown Halifax Land Use By-law

- S. 8 Built Form Requirements (p. 22)
- S. 9 Streetwalls (p. 26)
- S. 10 Building Setbacks and Stepbacks (p. 27)
- Schedule S-1: Design Manual: S. 5.1 Sustainable Design (p. 59)

DISCUSSION/OPTIONS:

“Passive solar building design uses a structure's windows, walls, and floors to collect, store, and distribute the sun's heat in the winter and reject solar heat in the summer. It can also maximize the use of sunlight for interior illumination.” (Reference: U.S. Department of Energy)

“The technology is called passive solar design, or climatic design. Unlike active solar heating systems, it doesn't involve the use of mechanical and electrical devices such as pumps, fans, or electrical controls to circulate the solar heat. Buildings designed for passive solar incorporate large south-facing windows and construction materials that absorb and slowly release the sun's heat. The longest walls run from east to west. In most climates, passive solar designs also must block intense summer solar heat. They typically incorporate natural ventilation and roof overhangs to block the sun's strongest rays during that season.” (Reference: U.S. Department of Energy)

While the Downtown Halifax Plan does encourage the use of passive solar to heat buildings, this renewal technology may not represent the best option for downtown Halifax. This is due to the fact that the vast majority of downtown buildings typically only have one exposed wall either facing east or west, not the preferred southern exposure. Furthermore, the tight street network, especially in the traditional Central Business District, reduces the solar intake for low rise buildings (even in the absence of tall buildings) due to shadow casting from neighbouring buildings.

ISSUE # 32: High-rise development is not sustainable.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p. 5)
- S. 2.1 Guiding Principles (p. 7)
- S. 3.0 Built Form Framework (p. 16)
- S. 3.4.3 Bonus Zoning (p. 25)
- S. 3.4.5 Sustainable Building Design (p. 26)

Downtown Halifax Land Use By-law

- S. 8(18) Wind Impact (p. 24)
- S. 12(7) Public Benefit Categories (p. 31)
- Schedule S-1: Design Manual: S. 5.1 Sustainable Design (p. 59)
- Schedule S-2: Wind Assessment Performance Standards (p. 43)

DISCUSSION/OPTIONS:

Tall buildings built prior to the 1990's are generally not very sustainable. However, since the early 1990's, there has been an increased awareness of the need to address sustainability issues within the design of tall buildings. Some recent examples of sustainable office high rise designs include One Bryant Park (NYC, USA), the Los Angeles Courthouse (Los Angeles, USA), the Commerzbank Headquarters (Frankfurt, Germany), and Manitoba Hydro Place (Winnipeg, Manitoba). Sustainable residential towers include the Soltaire (NYC, USA) and Faro's sustainable tower in the Netherlands (proposed).

There are many advantages associated to tall buildings, these include:

- Tall buildings reduce land take. For example, accommodating the same number of people in a 20-storey building as in a large building of 5 storeys, requires only a quarter of the land.
- Tall buildings help increase density, which results in more efficient use of existing infrastructure and services, including public transit.
- Restricting tall buildings from the Central Business District and the Spring Garden Road area will only push development to other areas of the Municipality, which are not as well serviced by public transit. This would result in more driving and surface parking lots, thereby consuming more land.

There are also disadvantages associated with tall buildings. Tall buildings in an urban context can suffer from problems with over shading and rights to light, they can be the cause of glare, and they can create wind tunnels. However, good design can overcome all of these issues. This is a central objective of HRMbyDesign.

ISSUE # 33: HRM has made serious commitments around climate change and sustainability yet they are not upheld in HRMbyDesign.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p. 5)
- S. 2.1 Guiding Principles (p. 7)
- S. 2.2 The Ten Big Moves (p. 7)
- S. 3.0 Built Form Framework (p. 16)
- S. 3.4.5 Sustainable Building Design & Policies 20 – 23 (p. 26)
- Policy 29(f) Mitigation Measures for Sea Level Rise and Storm Surge Events (p. 30)
- S. 6.8 Sustainable Public Spaces & Policy 70 (p. 54)
- S. 7.2 Active Transportation & Policies 72 and 73 (p. 56)
- S. 8.7 Functional Plans & Policy 91(p. 66)

Downtown Halifax Land Use By-law

- S. 7(12) to 7(15) Residential Uses: Storm Surge Protection (p. 19)
- S. 12(7) Public Benefit Categories (p. 31)
- S. 14(15) Bicycle Parking: Required Number of Spaces (p. 40)
- Schedule S-1: S. 5.1 Sustainable Design (p. 59)
- Schedule S-1: S. 5.2 Sustainability Guidelines (p. 59)

DISCUSSION/OPTIONS:

Sustainability is woven through every aspect of this Plan. The Plan permits and encourages a large increase in residential density in the downtown by relaxing existing policies that limit residential density and minimum unit size. Every new housing unit built downtown on existing infrastructure is one unit that need not be built on new infrastructure or in undisturbed natural areas on the periphery. Even the most basic residential density in the downtown is many, many times more sustainable than the single-family, large-lot suburban model.

The Plan integrates dense land uses with sustainable transportation options, placing a priority on investment in transit and active transportation infrastructure (buses, bike lanes, streetscapes, etc.) over investment in roads.

The Plan contains policy direction that development on all publicly owned lands should be LEED or LEED equivalent certified. And while HRM does not yet have the authority from the province to require the same from private development, the Plan does contain policy directing HRM to continue working with the province to make those important changes. In the meantime, the Plan's bonus zoning program encourages LEED-style design and construction in exchange for greater building height and densities.

For additional discussion of these issues, please refer to **Issues #32-39** of Section A of this document.

ISSUE # 34: There has not been an adequate environmental impact assessment for such a bold change to our built form.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 3: Built Form and Precinct Framework (p.16)

Downtown Halifax Land Use By-law

- S. 8: Built Form Requirements (p. 22)

DISCUSSION/OPTIONS:

There is a common misapprehension that the proposed Plan increases maximum heights throughout the Downtown Plan Area above what is possible under current policy and regulation. With the minor exception noted in Issue #10 of Section A of this document (and discussed in greater detail in Section D(2) of the June 2 HRMbyDesign staff report), the proposed Plan *reduces* maximum heights throughout the downtown study area below what is possible under current policy, and in most areas this height reduction is substantial. In this way the proposed Plan will preserve the scale and heritage of the downtown better than is possible under current policy.

The major change to the built form that is proposed by the Plan is a change that will result in a more humane downtown. This results from the introduction of mandatory pedestrian-scaled streetwalls (the height of which is generally equal to the width of the street between opposing building faces), above which any further building height must be stepped back by a minimum of 10'. Further, the Plan applies new maximum widths and minimum separation distances for towers. The effect will be to permit greater sun penetration and reduced shadow and window impacts on the pedestrian environment than is possible to require under current policy.

ISSUE #35: There is sufficient legislative power to regulate green building design under the HRM Charter.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.5 Sustainable Building Design (p. 26)

DISCUSSION/OPTIONS:

HRM regulates building development and construction practices through the provincial Building Code and the Halifax Regional Municipality Charter (the Charter). Currently the Building Code does not contain any regulation mandating sustainable building design, nor does the Charter.

Section 229(1) of the Charter enables the establishment of policies. However in order to implement a policy through the Land Use By-law (LUB) there must be something in Section 235 of the Charter (the section that outlines the municipality's powers relating to the use of land) that covers the point. In other words, not all policies in the Municipal Planning Strategy (MPS) can be implemented through the LUB. It is only those matters that have been identified in the MPS for implementation through the LUB and for which there is authority in Section 235 for regulation. There is nothing there that relates to the internal design of buildings. There is then no support in the HRM Charter to mandate green building design.

In recognition of the need for sustainable building design requirements for new construction in downtown Halifax and the region as a whole, HRM has been working with the Province to strengthen both the Building Code and the HRM Charter in this area. This cooperative work will be formalized through the initiation of the Sustainability Functional Plan proposed in the Downtown Halifax Secondary MPS, with the changes to the required legislation expected in the next 1-2 years. In addition, HRMbyDesign is taking the lead on this issue by requiring all municipally owned buildings to achieve LEED Silver or equivalent.

ISSUE # 36: We should be conserving heritage buildings; buildings that have embodied energy already. There are environmental benefits in redeveloping or restoring what we already have.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 4 Heritage Conservation (p. 33)

Downtown Halifax Land Use By-law

- S. 8(3) and 8(4) Registered Heritage Properties (p. 22)
- S. 8(5) Registered Heritage Properties: Development on Abutting Property (p. 22)
- S. 11(7) Precinct 5: Barrington Street Heritage Conservation District (p. 30)
- S. 12(6) Bonus Exception for Registered Heritage Buildings (p. 31)
- S. 12(7) Public Benefit Categories (p. 31)
- Schedule S-1: Design Manual S.4: Heritage Design Guidelines (p. 30)

DISCUSSION/OPTIONS:

Improved protection of heritage buildings is a key objective of the Downtown Plan, and is achieved through the following overarching components:

- (a) Using to the fullest possible extent the **legislative authority** of both the *Halifax Regional Municipality Charter*, for planning policy, zoning and development control, and the *Heritage Property Act*, for heritage property registration, heritage district designation, demolition control, and financial incentives.
- (b) Establishing **heritage conservation districts** with strong demolition control, guidelines for alterations, and financial incentives to encourage conservation and enhancement of district character.
- (c) **Protecting registered heritage resources outside heritage districts** by means of: new built form guidelines for new development next to, or integrated with the heritage resource; by making the Regional Heritage Functional Plan a Council priority for the provision of improved heritage incentives; and, by working with the province to strengthen demolition controls as part of the Heritage Strategy for Nova Scotia.
- (d) Updating the **inventory** of all potential heritage resources in the downtown and encouraging new individual heritage property registrations and heritage district designations.
- (e) Implementing a **bonus zoning program** and a **grants and tax incentives program** to leverage actions in support of heritage protection.
- (f) Enhancing heritage districts by means of complementary **public realm improvements** to streets and open spaces.

ISSUE # 37: Halifax imports 85% of its energy. If you don't take energy into consideration you cannot have sustainability. Energy security can be improved and the greenhouse gas emissions can be reduced.

- 1. Review where your energy is being used.**
 - 2. Reduction of energy used.**
 - 3. Replacement of any insecure sources of energy, preferably environmentally benign.**
 - 4. Restriction of any new sources of energy unless they are environmentally benign.**
- There are studies by Gardner Pinfold that outlines how to do this.**

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p. 5)
- S. 2.1 Guiding Principles (p. 7)
- S. 3.0 Built Form Framework (p. 16)
- S. 3.3 Building Height and Massing (p. 20)
- S. 3.4.3 Bonus Zoning (p. 25)

- S. 3.4.5 Sustainable Building Design (p. 26)
- S. 8.7 Functional Plans (p. 66)

Downtown Halifax Land Use By-law

- S. 12(7) Public Benefit Categories (p. 31)
- Schedule S-1: Design Manual: S. 5.1 Sustainable Design (p. 59)

DISCUSSION/OPTIONS:

Energy security is a critical issue that should concern every organization and individuals in this country, including all three levels of governments. However, the Downtown Halifax Plan is not the proper vehicle to resolve this issue, as it is a document that is primarily concerned with issues of land use and urban design. In fact, the Municipality has no jurisdiction to regulate energy use in non-municipal buildings. Only the provincial government has that power through the adoption of the provincial *Building Code Act*. While not part of the original mandate assigned to the Urban Design Task Force, the proposed Plan does recommend that the Municipality should adopt a Sustainability Functional Plan (Policy 20, p. 27). This functional plan would help in coordinating work with the Province in strengthening existing municipal and provincial regulation in the areas of energy conservation and sustainable building and site design. Energy security can be more properly addressed at that stage.

ISSUE # 38: We need an impact study of the sustainability of this plan, and of the projected residential and commercial growth.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

With regard to an impact study of the sustainability of this plan, please refer to **Issue #34** of Section B of this document.

With regard to the projected residential and commercial growth, the “Demand Capacity & Baseline Indicators Study” undertaken by Turner-Drake examines development demand and development capacity over the next 25 years under low, medium and high growth scenarios. Projected demand over the three scenarios ranges from 19.3 million square feet (msf) to 20.9 msf, while projected capacity is over 27 msf. The surplus capacity therefore ranges between 8 msf in the low growth scenario to 6.2 msf in the high growth scenario.

The pertinent findings of the study include:

- Although HRMbyDesign reduces overall development capacity in the downtown from what is possible under existing policy, the proposed Plan does still provide enough capacity to accommodate all three growth scenarios.

- Too much capacity is a good thing as it permits flexibility, creativity and choice. Too little capacity is bad as it limits choice and dampens growth.

ISSUE #39: Has a carbon impact study been completed yet?

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

A carbon impact study of this plan has not been conducted. The original objective of the Downtown Halifax Urban Design Plan was to provide built form guidance through maximum building heights and massing, and a more streamlined development approval process for downtown Halifax. The plan was never intended to be a heritage plan, sustainability plan, housing affordability plan, or transportation plan. However, the UDTF and project staff recognized the integration of these issues with the Downtown Plan and has recommended the initiation of more detailed functional plans on each of these issues, including sustainability, in order to highlight ongoing work on these issues in other areas of HRM, support their intended outcomes, and entrench any advance work possible on these matters within the confines of current legislation.

The proposed Sustainability Functional Plan will address many issues that directly affect carbon impact, including mandatory green building and site design, and energy conservation and efficiency.

ISSUE # 40: We need a plan that prepares us for the CO2 restrictions that will be coming our way.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.5 Sustainable Building Design & Policy 20 (p. 26)
- S. 8.7 Functional Plans & Policy 91 (p. 66)

DISCUSSION/OPTIONS:

The Community Energy Plan was a corporate initiative to identify and implement cleaner energy sources, which allows the Municipality to meet its energy needs, all the while reducing both financial costs and impacts on the environment. The Community Energy Plan was presented to Council in December of 2007.

The Sustainability Functional Plan (called for the proposed Downtown Plan) is meant to inform a process in which HRM will coordinate work with the Province to strengthened existing municipal and provincial regulation in the areas of energy conservation and sustainable building and site design. The

intention is that the new regulations would apply in the context of both public and private projects. While, it is expected that the Sustainability Functional Plan will primarily lead to changes to the *Building Code Act* and the *Nova Scotia Building Code Regulations*, it is foreseeable that sustainable site preparation practices could be implemented through the Regional Plan and local land use by-laws.

Beyond this, it is HRM's Sustainable Environment Management Office is tasked with oversight for such initiatives as CO2 reduction.

ISSUE #41: Have the gains in energy conservation projected by HRMbyDesign been calculated?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p. 5)

DISCUSSION/OPTIONS:

While there are no direct claims within the Plan documents indicating future gains in energy conservation, the Plan's focus on increasing density within the downtown does indicate future conservation of energy. A sustainable city is one that is densifying to use existing infrastructure and is investing to make walking, cycling and transit appealing alternatives for commuting. HRM is committed to the concept sustainability by facilitating greater densities and intensities of use, showing leadership in the sustainable design of public buildings and spaces, and investing in public transportation. The Plan calls for the initiation of a Sustainability Functional Plan that will aim to achieve mandatory green building design standards and strategies for increasing energy efficiency. In the interim, this Plan encourages project proponents to design, construct, and operate buildings and landscapes in an environmentally responsible manner through the bonus zoning program.

TOPIC 5: Transportation & Parking

ISSUE #42: We need to address connectivity and accessibility through strong public transit and sustainable public transportation.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 7.2 Active Transportation (p.56)
- S. 7.3 Public Transit (p.56)
- S. 7.5 Transportation & Streetscape Design Functional Plan (p.58)

DISCUSSION/OPTIONS:

The original objective of the Downtown Halifax Urban Design Plan was to provide built form guidance through maximum building heights and massing, and a more streamlined development approval process for downtown Halifax. The plan was never intended to be a heritage plan, sustainability plan, housing affordability plan, or transportation plan. However, the UDTF and project staff recognized the integration of these regional issues with the Downtown Plan and has called for the completion of five functional plans after adoption, including the Transportation & Streetscape Design Functional Plan.

These two issues were combined into one functional plan because it was recognized that streetscape design and transportation within the downtown are integrated and therefore need to be studied together. This plan intends to study downtown corridors through a revised street network plan, opportunities for improved public transit connections, and strategies to mitigate the effect of truck traffic on downtown streets.

Prior to the writing of this Plan, the Regional Plan adopted by Council in 2006 identified 24 functional plans, including the Transportation Master Plan, which includes several sub-plans such as the Public Transit Functional Plan, the Regional Parking Strategy Functional Plan, the Transportation Demand Management Functional Plan, and the Active Transportation Functional Plan. Both the Active Transportation Plan and the Regional Parking Strategy are complete, with work ongoing in the other areas. As transportation is a regional issue, it is expected that this work will inform transportation and traffic movement into and throughout the downtown as it is completed.

ISSUE # 43: What will be the impact of the Spring Garden Road Area of a large number of additional units (above City Centre Atlantic)?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6A, Policy 90A (p. 65)

DISCUSSION/OPTIONS:

Please refer to **Issue #8** of Section B of this document for a full response.

ISSUE #44: This plan has no requirements for sustainable transportation.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 7.2 Active Transportation (p.56)
- S. 7.3 Public Transit (p.56)
- S. 7.5 Transportation & Streetscape Design Functional Plan (p.58)

DISCUSSION/OPTIONS:

Please refer to **Issue #42** of Section B of this document for a full response.

ISSUE #45: How will we deal with the truck traffic, which is already a problem in downtown Halifax?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 7.5 Transportation & Streetscape Design Functional Plan (p.58)
- S. 7.4 Freight Movement (p.59)

DISCUSSION/OPTIONS:

Please refer to **Issue #42** of Section B of this document for a full response.

TOPIC 6: Housing Affordability

ISSUE #46: This plan has no requirements for affordable housing in the downtown.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Creating policy for the provision of affordable housing is not within the mandate of HRMbyDesign's downtown plan, even though the plan has gone some distance toward encouraging its provision through the use of the bonus zoning provisions of the HRM Charter. Housing affordability is a regional issue, not just a downtown issue. The correct vehicle for the creation of affordable housing policy is therefore the Housing Affordability Functional Plan mandated by the Regional Plan. It is already underway and when completed will make recommendations on how best to provide housing affordability.

A stakeholder committee will be struck to manage this functional plan, which will include representatives from HRM and other levels of government. The functional plan is expected to address the following:

- (a) A definition of housing affordability for the purpose of regional and local priorities;
- (b) A housing needs assessment and the development of neighbourhood change indicators;
- (c) Creating and monitoring housing affordability targets;
- (d) Best practices from benchmark cities across the country with respect to:
 - implementation mechanisms to ensure a reasonable distribution of adequate, acceptable and affordable housing including financial and non-financial incentives;
 - funding opportunities and partnership possibilities for housing projects;
 - strategies that encourage innovative forms of housing; and
 - accessible and adaptable housing design guidelines.
- (e) Identifying neighbourhoods requiring revitalization through community input and support;
- (f) Identifying possible locations for housing affordability demonstration projects;
- (g) Identifying possible incentives for non-profit and for-profit housing affordability developers such as bonus zoning;
- (h) Investigating the potential of HRM real estate assets and business strategies (acquisition, leasing and sale) to support affordable housing retention and development; and
- (i) A public education and communication tool kit to address a range of housing issues.

ISSUE # 47: No development projects are targeting families now or through HRMbyDesign.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.2.3: Provision of a Mix of Housing Types (p. 19)
- S. 3.4.3: Bonus Zoning (p. 25)

Downtown Halifax Land Use By-law

- Section 7(4): Residential Uses: Dwelling Unit Mix (p. 18)
- Section 12: Post-Bonus Height Provisions (p. 31)

DISCUSSION/OPTIONS:

The proposed Downtown Plan encourages the provision of family housing through two primary mechanisms:

- Every fourth unit provided as part of a residential development must contain a minimum of two bedrooms.
- The bonus zoning program rewards the provision 3+ bedroom units (with directly accessible outdoor amenity space) with additional height and density.

ISSUE #48: This plan could go further to address housing affordability and diversity.

DOCUMENT:

DISCUSSION/OPTIONS:

Please refer to **Issue #46** of Section B of this document for a full response.

TOPIC 7: Public Engagement & Participation

ISSUE # 49: Public health officials were not consulted in this process.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Members of the project team and the Urban Design Task Force met with Capital Health on three occasions during plan development: March 19, 2007, August 1, 2007, and August 21, 2008. These discussions informed the contents of the proposed Plan.

ISSUE # 50: This plan is lacking a permanent, stable area for ongoing discussion of local planning issues such as the Planning & Design Centre.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6 Plan Monitoring Program (p. 63)

Downtown Halifax Land Use By-law

- S. 5(7A) Site Plan Approval: Area of Application (p. 12)

DISCUSSION/OPTIONS:

The proposed Planning & Design Centre, as well as other community groups are certainly encouraged to initiate community-wide dialogue on local planning issues. While these discussions by their nature happen outside the official plan and land use by-law amendment and review processes, they certainly can play a role in advancing new ideas and influencing future policy directions. Notwithstanding the above, the Municipality will continue to lead its own public consultation programs.

ISSUE #51: There is no way for the general public to comment after the public consultation.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

One of the overall objectives of this Plan was to introduce a more streamlined, expedient development approvals process in downtown Halifax. The introduction of maximum building heights and massing

reduces the need to have public discussions on the vision for downtown on a site by site basis. Public oversight now shifts to the design of proposed buildings and open spaces, through: a mandatory public consultation as part of the application process; decisions on major developments by a citizen-based Design Review Committee; citizen appeals of these decisions to Regional Council, a citizen body elected to represent the larger community; and, the plan monitoring program led by a citizen-based committee appointed by Council.

The inclusion of the mandatory public consultation as part of the application process was deliberate; to ensure that public input occurred early enough in the process that it could be incorporated as part of a final design. Changes introduced late in the approval process are more costly for the applicant and can cause delays in the process, which makes them less likely to be included.

One of the most important points to recognize is that for the past 2.5 years, HRMbyDesign has been engaging citizens in the development of a vision and urban design principles for the Regional Centre, with the last 18 months focused solely on a plan for downtown Halifax. The primary opportunity for major public input and participation has been the last 18 months, as part of the public participation and engagement process on this plan whereby citizens have had the opportunity to say now what they want the downtown to look like over the next 25 years.

After the Plan is adopted, there will still be opportunities for public input but the focus of the new process will be *transparency*. This new transparent approach will encourage the public to monitor the development application process to ensure the policies being collaboratively created now are being implemented as intended, and with the intended outcomes.

ISSUE #52: There was no formal role of the District #12 PAC in this process.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

A resolution of Regional Council dated February 24, 1997 states: "Where Regional Council determines that it wishes to consider the merits of a plan amendment proposal, it shall make a determination as to whether the matter is of local or regional significance." The report accompanying this resolution goes on to say that amendments of *local* significance will be referred to the appropriate Community Council and its Planning Advisory Committee (PAC).

The report also states that Plan amendments of *regional* significance will be brought to Regional Council with a staff recommendation for an appropriate public participation program for Council's consideration. Under this approach it is Regional Council (including any committees of Council as directed by Regional Council) that directly handles the amendments, *not* the Community Councils or their PACs. The Regional Centre Urban Design Plan (HRMbyDesign), of which the proposed

Downtown Plan is a part, was deemed a matter of Regional Significance by Council in the Regional Plan. Council therefore subsequently appointed the Urban Design Task Force as the primary advisory committee, and further sought advice from the Regional Plan Advisory Committee and the Heritage Advisory Committee.

Nonetheless, the District 12 PAC's expertise and experience in downtown planning matters has been recognized through numerous invitations to provide comment upon the Plan. The District 12 PAC has been provided with regular project updates, and its members have been provided with each successive draft of plan documents with an accompanying invitation to provide input. As a result, the PAC did review the proposed Plan, and provided its observations to Council in a report in April/May, 2009.

ISSUE #53: Functional plans should be provided to community members.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

All functional plans that have been identified in both the Regional Plan and this Plan are released to the public via the HRM website, and through the Municipal Clerk's office. All functional plans are submitted to Regional Council for approval prior to implementation, at which time the public also has an opportunity to hear a presentation on the proposed functional plan and related implementation strategies.

ISSUE #54: Public consultation has been a myth in this process. The plan is based on staff input not public input.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

HRMbyDesign has engaged thousands of citizens and key stakeholder groups over the past 3 years, from the beginning work focused on the Regional Centre, to the past 18 months that have focused on an urban design plan for downtown Halifax. The public outreach and participation program has included:

- 40 meetings and workshops of the Urban Design Task Force
- 14 presentations, lunch sessions and interim reports to Council
- 4 major forums
- 6 open houses & presentations
- 127 meetings and presentations to various stakeholder groups

- 11 workshops and media briefings
- 2 public review periods for drafts 1 and 2 of the Downtown Halifax Urban Design Plan:
 - Draft 1 public review from April 7-23, 2008 – resulted in 160 individual comments, letters, and emails received by HRM, identifying 112 issues that were analyzed and considered by the UDTF and staff for inclusion in the Plan.
 - Draft 2 public review from Sept.15 – Oct.24, 2008 – resulted in 70 individual comments, letters, and emails received by HRM, identifying 68 issues that were analyzed and considered by the UDTF and staff for inclusion in this final version of the Plan.

Over the past eighteen months, the UDTF has received countless written submissions on the Downtown Plan from a wide variety of key stakeholder groups and citizens. Although every recommendation for change was not accepted or agreed with, the UDTF relied on this public input to make informed and balanced decisions that reflect the will of the community at large.

ISSUE #55: The Public Information Meeting is not enough, there should be a public hearing too.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4 Development and Design Review Process (p. 24)

Downtown Halifax Land Use By-law

- S. 3 Administration (p. 9)

DISCUSSION/OPTIONS:

There are many types of citizen engagement. Opportunities for public participation in the current development approval process include a public information meeting and a public hearing. The public information meeting (PIM) format is known to be effective when dealing with plan and by-law amendments, not on an application by application basis. This PIM is being replaced by a combination of a public kiosk, open house and website component in order to provide a variety of opportunities for a variety of types of people to comment on proposed development applications. This change in process is because not everyone can attend an evening meeting from 6-8 p.m. on a weekday, nor does everyone feel comfortable standing up in front of a crowd to give their opinion into a microphone. However, for those citizens that like that method of providing feedback, there will be opportunities for public posting of their opinions at the open house and on the website forum, which will continue to allow citizens to build upon one another's ideas.

One of the most important points to recognize is that for the past 2.5 years, HRMbyDesign has been engaging citizens in the development of a vision and urban design principles for the Regional Centre, with the last 18 months focused solely on a plan for downtown Halifax. The primary opportunity for major public input and participation has been the last 18 months, as part of the public participation and

engagement process on this plan whereby citizens have had the opportunity to say now what they want the downtown to look like over the next 25 years.

After the Plan is adopted, there will still be opportunities for public input but the focus of the new process will be *transparency*. This new transparent approach will encourage the public to monitor the development application process to ensure the policies being collaboratively created now are being implemented as intended, and with the intended outcomes.

Finally, this proposed process is more open and provides more opportunities for public participation than some existing approvals processes within the plan area. For example, all of the major developments on and around Spring Garden Road such as the Paramount, the Martello, Artillery Place, Garrison House, Park Lane, and City Centre Atlantic were all approved as-of-right with no application-by-application input from the public. The vision for the area however is contained in the Secondary Planning Strategy for that area, which was developed in cooperation with citizens. What HRMbyDesign is proposing is a middle ground between today's high amount of public participation, and the as-of-right situation on Spring Garden Road, in consideration of the requests of the public to maintain some involvement.

ISSUE #56: The UDTF did not have enough representatives from the development community.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

The Urban Design Task Force was appointed by Council in 2006 to guide the evolution of HRMbyDesign and its public participation program. The seventeen member committee includes representatives from Council (3 members), citizens at large, and representatives from various special interest groups including business, development, heritage, sustainability, culture, architecture, and academia. The selection committee for Council aimed to have one representative of the UDTF from each of these groups, along with citizen at large members and members of Council, in order to create a committee that would represent the will of the larger community.

ISSUE #57: The UDTF is not a democratic body; it is an influential body guided by staff.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Please refer to **Issue #56** of Section B of this report for a full response.

ISSUE # 58: Original RFP was overambitious for the budget, where is the accounting of the outcomes from this RFP?

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Total expenditure on consultant studies for HRMbyDesign to-date stand at approximately \$450,000. No analysis has been done as yet on the cost of staff time, meeting venue rentals, advertising, etc. At the close of any major project it is common for the project manager to conduct an assessment of the process, its outcomes, and its cost, as part of a process of continuous improvement of municipal services and maximizing value for public money.

TOPIC 8: World Trade & Convention Centre

ISSUE # 59: The heights of the WTCC in HRMbyDesign are too high, they block the view, the NSUARB and Court of Appeal have already ruled on a rejected Midtown tower.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6A, Policy 90E (p. 65)

Downtown Halifax Land Use By-law

- Subsections (15A) and (15B) of Section 7 (p. 20)

DISCUSSION/OPTIONS:

The Province is considering a public/private partnership for a new World Trade and Convention Centre in downtown Halifax on the two blocks bounded by Argyle Street, Prince Street, Market Street and Sackville Street. Given the significant economic, social and cultural impact on downtown Halifax, the province and the maritime region, Council has specifically requested that the proposed MPS and LUB include specific provisions to enable the development as contemplated. Since Council is changing policy, it is not bound by past decisions concerning this area which were made based on the existing policies.

TOPIC 9: Other

ISSUE #60: Evaluating this plan to see if it will achieve its objectives is difficult from just looking at it.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6 Plan Monitoring (p.63)
- Appendix B – Plan Monitoring Performance Measures

DISCUSSION/OPTIONS:

Evaluation is an important part of any plan, including the proposed Downtown Halifax Secondary MPS. The plan will need to be reviewed periodically to determine the degree of success in achieving its stated goals and objectives. The proposed Plan outlines a process for plan monitoring on an annual, five and ten-year basis, to be guided by a council-appointed, citizen-led committee. This includes using benchmark performance measures to measure and track the progress of the plan in achieving more efficient development approvals, increased residential density in the downtown, more investment into active transportation infrastructure and heritage preservation programs, and many more. A set of performance measures with baseline data has been attached to the Plan in Appendix B.

ISSUE # 61: How have other cities dealt with the issue of landbanking and inflation of real estate values?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.3 Bonus Zoning (p. 25)
- S. 3.4.3(c) and (e) Appropriate Public Benefits (p. 26)
- S. 3.2.3 Provision of a Mix of Housing Types – Policy 8 (p. 20)
- S. 5.2 Public Lands & Facilities Development – Policy 49 (p. 45)
- S. 3.4.1 Site Plan Approval (p. 24)

DISCUSSION/OPTIONS:

Researchers have concluded that public land banking is unlikely to reduce or halt the inflation of real estate values. It is difficult to find a municipality that has purposely undertaken a large scale land banking scheme for this purpose.

The most visible attempt by municipalities to affect real estate affordability is in provisions for affordable housing. The Canada Mortgage and Housing Corporation (CMHC) is an excellent resource for exploring regulatory options. Vancouver has employed a number of techniques to promote the construction and retention of affordable housing. They have enacted inclusionary housing policies

stipulating affordable units in new residential development. The Halifax Regional Municipality is currently undertaking a housing affordability functional plan as mandated by the Regional Plan. It is this functional plan that will yield the greatest improvement to housing affordability as it is exploring a variety of mechanisms, region-wide, to deliver housing affordability that are beyond the purview of a land use plan. However, until the functional plan is created, the DHSMPS does engage the issue. Bonus Zoning encourages the provision of affordable housing. Section 3.4.3 Bonus Zoning in the DHSMPS states what can be considered a public benefit in exchange for incentives. More than 50% of the developable vacant or under-used land in the study area is in public ownership. (This has not been the result of an intentional land banking scheme.) In light of this, policy 8 of the DHSMPS encourages the provision of housing affordability in the redevelopment of publicly owned lands pursuant to policy 49. Policy 49 encourages strategic redevelopment of public lands, and states that it shall be the intention of HRM to pursue agreements with the federal and provincial governments to further goals related to sustainable building design and housing affordability in the tendering of projects for public lands.

The CMHC also points out that a protracted approvals process can add to the final cost of housing units. The same can be said for all development. Surrey, British Columbia undertook a streamlining of their development approvals process in order to spur affordable housing development. S. 3.4.1 Site Plan Approval in the DHSMPS demonstrates how HRMbyDesign will improve clarity, predictability and timeliness in the development approval process.

ISSUE # 62: Rezoning en masse rewards some property owners that bought at existing land values and will redevelop based on the inflated property value.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.2, Policy 4 (p. 19)

DISCUSSION/OPTIONS:

This is always the case when new, wide-sweeping policies are adopted. The application of the DH-1 Zone to most properties in the Plan area enables a broad range of residential, commercial and cultural uses with few restrictions. The built form framework is varied throughout the downtown and provides opportunities for low, mid and high-rise buildings. This combination of land use and building envelopes is intended to provide a range of options for development that supports an overall vision for the area, rather than focus on individual properties.

ISSUE # 63: Great cities retain rental rates that do not price them out of the market.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.2.3 - Provision of a Mix of Housing Types (p. 19)

DISCUSSION/OPTIONS:

The proposed Plan endeavours to encourage housing affordability through several avenues, each of which contribute to reduced housing costs:

- No minimum unit size
- No maximum residential density per acre
- No disincentive to the provision of multi-bedroom units through imbalanced landscaped open space requirements for such units.

However HRMbyDesign at its core is really a land use and design plan. Correctly, it is actually HRM's "Affordable Housing Functional Plan" as mandated in the Regional Plan that will fully address housing affordability issues such as rental rates, units costs, etc. This Functional Plan is underway with an anticipated completion date of 2010-2011.

ISSUE # 64: There is an underlying assumption in HRMbyDesign that office space is required downtown. The Turner Drake Report says that office space is not in demand.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

The Downtown Plan is not based on assumptions of pent-up development demand of any kind. Rather the Plan hopes to encourage demand.

The population increases referred to in the Plan reflect the community's aspirations for densification and growth, and the sustainability benefits that accompany densification. These aspirations are not projections based on statistical analysis. The Plan recognizes the fact that even the most basic residential density is more sustainable than the single-family large-lot suburban model; and, that every housing unit built downtown on existing infrastructure is one that need not be built on new infrastructure on the periphery.

The plan simply responds to the vision the community has expressed for its downtown, which is a vision of a bustling, dynamic and prosperous city that is fighting to regain an enormous and sustained loss of residents and jobs from the peninsula to the suburbs. It's a vision of a downtown where a new

vibrancy results in fewer vacant shop windows, fewer schools under threat of closure, and more people living and working in a 24-hour city.

ISSUE # 65: Original priorities of the project have gone by the wayside, including office of the Capital District.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

The office of the Capital District was dissolved as a result of a corporate restructuring in 2007, with the aim of improving the delivery of municipal services and improving value for public money. This restructuring was outside of the purvue of HRMbyDesign.

ISSUE # 66: What reports are we basing our initial assumptions on? The Greater Halifax Partnership report argued that we need more high rises than HRMbyDesign would allow because of a high demand for office space. The other report is the Turner Drake report, which says there has been no development of office in the downtown over the past 20 years because it isn't profitable to build in the downtown now.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

During the extensive public consultation undertaken during the creation of the proposed downtown plan, many different pints of view were expressed with regard to aspirations for future growth. One segment of the community felt that growth should be limited in the downtown and instead directed to outlying areas. Another segment felt that restrictions of any kind on growth in the downtown should be removed. But the vast majority of community members recognized the importance of a plan that balances the cities historic past with new growth and change. The Plan that is currently being considered by Council is that balanced plan.

This Plan is based on the community's aspirations for growth, and not on a detailed statistical analysis of past trends. Indeed, the Plan aspires to growth in *defiance* of past trends and lower projections. These aspirations are rooted largely in the need to live sustainably by living densely.

For a further discussion of this topic, please refer to **Issues # 33, 34, 38, and 64** of Section B of this document.

ISSUE # 67: Residential Uses: Dwelling Unit Mix (LUB Section 7(4)) - further clarification whether there is any differentiation between traditional residential uses and university-related residential. Student residences operate differently than other multiple unit dwellings and have different requirements. Provide some differentiation of these uses in the plan.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.2.3 Provision of a Mix of Housing Types (p. 19)

Downtown Halifax Land Use By-law

- S. 7(4) Residential Uses: Dwelling Unit Mix (p. 18)

DISCUSSION/OPTIONS:

The dwelling unit mix is to be applied to any apartment-style setting, including those used exclusively for housing students on a university campus. This is due to the fact that the university apartment buildings could eventually be sold off to the private sector for non-student housing, and they should therefore meet the same standards as other multiple unit dwelling. It is important to note, however, that the dwelling unit mix provision of the DHLUB will not be applicable to traditional dorm style settings, as rooms in a traditional dorm would not meet the definition of a dwelling unit (i.e. they must contain a washroom and kitchen facilities).

ISSUE # 68: Definition of Used – the Downtown Halifax Zone contains specific requirements for buildings that are “erected, altered, or used” within that land so zoned. Provide clarification regarding the term “used” as the definition in the LUB is not clear.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 2(ch) Use (p. 8)

DISCUSSION/OPTIONS:

Clause (ch) of Section 2 of the LUB contains the following definition of “Use”:

Use means the purpose for which a building, structure, or premises or part thereof is used or occupied, or intended to be or designed to be used or occupied. "Used" shall include "arranged to be used", "designed to be used", and "intended to be used".

A building may be constructed or altered for a specific purpose. However, it is also quite common for a building to not undergo structural changes but be occupied for a different purpose from that for which it was originally constructed. This is commonly referred to as a “change of use” and it is that activity that is referenced in the LUB when the words “erected, altered, or used” are employed.

ISSUE # 69: Provide further clarification regarding the definition of concrete blocks and darkly tinted glass in the LUB. There is uncertainty which products would be classified as such.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 8(20) - Prohibited External Cladding Materials (pg. 24)
- Schedule S-1: Design Manual: S. 3.3.2 - Materials (p.18)
- Schedule S-1: Design Manual: S. 3.6.14 - Prohibited External Cladding Variances (p. 29)

DISCUSSION/OPTIONS:

Section 8(20) of the proposed LUB sets out a basic list of prohibited materials. More detail is provided in Section 3.3.2 of the Design Manual.

For clarification, these prohibitions are intended to permit poured-in-place concrete, pre-cast concrete, and cast stone, but are intended to prohibit the use of concrete blocks (also known concrete masonry units). Darkly tinted and mirrored glass is prohibited as it creates an impersonal or hostile public realm in which pedestrians feel under observation rather than feeling as if they are interacting with the urban environment. A comparison that is often drawn is the discomfort one feels when speaking with someone wearing mirrored sunglasses. As such, clear glass is preferable to light tints, and glare reduction coatings are preferred.

These prohibitions may be subject to a variance granted by the Design Review Committee within the parameters established by Section 3.6.14 of the Design Manual.

ISSUE #70: There is no regular way of reviewing this plan, it is locked up for 25 years.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 8.6 Plan Monitoring (p.63)
- Appendix B – Plan Monitoring Performance Measures

DISCUSSION/OPTIONS:

Please refer to **Issue #64** of Section B of this document for a full response/

C. CLARIFICATION ON EXISTING POLICY

TOPIC 1: Heritage

ISSUE # 1: Keep heritage policies from the current MPS.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 4 Heritage Conservation (p. 33)

Downtown Halifax Land Use By-law & Design Manual

- S. 8(3) and 8(4) Registered Heritage Properties (p. 22)
- S. 8(5) Registered Heritage Properties: Development on Abutting Property (p. 22)
- S. 11(7) Precinct 5: Barrington Street Heritage Conservation District (p. 30)
- S. 12(6) Bonus Exception for Registered Heritage Buildings (p. 31)
- S. 12(7) Public Benefit Categories (p. 31)
- Schedule S-1: Design Manual: Chapter 4 Heritage Design Guidelines (p. 30)

DISCUSSION/OPTIONS:

The intent of the heritage policies is being carried forward in the Downtown Plan area, but expressed in clearer terms with no reduction in protection for heritage resources.

ISSUE # 2: Some of the interpretations of current policies are contestable.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

It is well known that many of the existing policies applicable in downtown Halifax are subject to conflict and multiple interpretations. That is one of key reasons why Council embarked on the process of developing new planning policies for the downtown. The proposed MPS and LUB for the downtown attempts to create clear and unambiguous policies and development regulations that will minimize incidents of conflict.

ISSUE # 3: Impose stricter guidelines to become a registered municipal heritage property.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 4.5 Heritage Registry (p. 38)

DISCUSSION/OPTIONS:

In preparing the DHSMPS a preliminary review of potential heritage resources was undertaken to determine the extent of building of heritage interest in the downtown. While it was not an exhaustive analysis, it was possible to discern the broad extent of potential heritage resources based on prior inventories, historic, maps, and visual surveys of apparent age and contextual integrity. This work was based on the existing council approved Evaluation Criteria for Registering Heritage Properties in HRM. It is possible that the Regional Heritage Functional Plan could examine the effectiveness of the existing Evaluation Criteria for Registrations through the public consultation process.

ISSUE # 4: Keep the two heritage policies in the Regional Plan: CH-1 and CH-2

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Policy CH-1 relates to matters to be considered during the development agreement process where registered heritage properties are involved. This policy will not apply to development in downtown Halifax as it will follow the site plan approval process instead of the development agreement process.

Similar to Policy CH-1, Policy CH-2 applies to development which abuts registered heritage properties when development agreements, rezonings or secondary planning strategy amendments are being considered.

Both policies are general in nature and were formed prior to the development of the new, detailed plan for downtown Halifax. The new plan and land use by-law contain specific design requirements for development in the various heritage contexts (infill, abutting, and integrated) making these general policies redundant for this area of HRM.

TOPIC 2: Development Approvals

ISSUE # 5: Staff currently find ways to circumvent the process to get around policies to help developers

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

HRM staff are professionals who have the job of interpreting policy as it is written, without reading any bias into it. They work under a professional Code of Ethics that precludes biased interpretations. Some current planning policy can be difficult to interpret given that they can often be contradictory or ambiguously worded. As a result multiple interpretations are possible. The problem is therefore with the existing policy, not with staff's interpretation of it. The fact that multiple interpretations are possible is one of the driving forces behind the proposed downtown Plan. The proposed plan provides clear and unambiguous policy direction delivered through a timely and predictable process. It is anticipated that adoption of this plan will alleviate much of the consternation that has accompanied downtown development in the past.