

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: *Heather Ternoway*

Heather Ternoway, Chair
District 12 Planning Advisory Committee

DATE: April 28, 2009

SUBJECT: **Regional Centre Urban Design Study - Downtown Halifax Urban Design Plan**

ORIGIN

District 12 Planning Advisory Committee meeting - April 27, 2009

RECOMMENDATION

MOVED by Katherine Perrott, seconded by Clary Kempton, that the District 12 Planning Advisory Committee issue a formal report and make a presentation to Regional Council about the Downtown Halifax Urban Design Plan under the headings of positive improvements, concerns about the proposed plan, and issues and circumstances the Committee feels should be strengthened in the Plan.

Positive improvements:

Strengthening the plan and policies to realize the goal of having more people and more families living in the downtown, which must be supported by stronger language around investing and retaining local downtown schools and other essential institutions.

Encouraging high quality development through the specification of building materials that are acceptable and unacceptable in the downtown.

Providing clearer and more precise policies and language that clarify much of the ambiguity and subjectivity of terms.

Including a mandatory PIM as part of the site plan approval and design review process.

Developing a more predictable approvals process that provides clarity.

Areas of concern with the proposed plan:

Limiting public input in the process after the PIM. Only property owners in the notification area would be able to appeal a decision to Regional Council, and would exclude community groups and organizations.

Not recognizing the voice of tenants, particularly in terms of notification.

Deferring essential aspects of a successful downtown plan to the development of functional plans. There are no clear priorities and timelines in terms of when these plans would be developed.

The disconnect between the downtown urban design plan and other independent aspects of planning, such as transportation systems, active transportation, sustainability, cultural plan and affordable housing.

Specific issues and circumstances that should be strengthened:

Heritage protection. Pleased to see the proposal for Heritage Conservation Districts but the plan should be enhanced to provide protection for existing heritage buildings. Could include a provision to allow for relocation as a bonus opportunity.

Demolition controls. The plan needs to have stronger demolition controls.

Blank walls. The plan should include clearer definitions and policy requirements to ensure new buildings built in the downtown are not allowed to be built with blank walls.

Public participation. There should be more opportunities for meaningful and ongoing participation in plan reviews, monitoring and implementation. There should be more clarity on the role and standing of individuals and community organizations.

Plan monitoring. Given the PAC already has a mandate to review secondary plans, projects and proposals, it is felt the PAC should take on the responsibilities of the Plan Monitoring Committee as opposed to the Regional Plan Advisory Committee.

Ongoing role of the PAC. Concerned the Committee did not have a formal role in the development of the plan, however, they would be comfortable addressing these concerns regarding their exclusion from the process parallel with the current public hearing deliberations. In order to pursue this, they are requesting a meeting with the Mayor to discuss the continuance of the PAC beyond the adoption of the Plan, the role of the PAC in pending secondary plan reviews for the south and north ends of the district, and the role of the PAC in the development and review of the functional plans.

MOTION PUT AND PASSED.

ATTACHMENTS

Report from Heather Ternoway, Chair, District 12 Planning Advisory Committee

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937

Halifax Regional Council
May 5, 2009

To: Mayor Kelly and Members of Halifax Regional Council

Submitted by: *Heather Ternoway*

Heather Ternoway, Chair
District 12 Planning Advisory Committee

Date: April 28, 2009

Subject: Regional Centre Urban Design Study –
Downtown Halifax Urban Design Plan

ORIGIN

Discussion on this matter occurred at the most recent meeting of the District 12 Planning Advisory Committee (PAC) on April 27, 2009. Since the initiation of the Regional Centre Urban Design Study in 2006, District 12 PAC has taken a keen interest in the process. In fact, it is within our mandate to provide recommendations to Regional Council on plan amendments, secondary plan development, rezonings and development applications within District 12. We firmly believe that our committee should have been a formal part of the development and review of the Downtown Halifax Urban Design Plan, despite the current position of staff and legal counsel (as outlined in a letter from Mary Ellen Donovan to the PAC dated April 23, 2009). Given our mandate, we still feel that it is both important and appropriate to provide recommendations and a written report to Council for their consideration at the Public Hearing scheduled for May 5, 2009.

RECOMMENDATION

The District 12 PAC is recommending that they issue a formal report and make a presentation to Regional Council about the Downtown Halifax Urban Design Plan under the headings of positive improvements, concerns about the proposed plan, and issues and circumstances the Committee feels should be strengthened in the Plan.

BACKGROUND / DISCUSSION

The District 12 Planning Advisory Committee supports and endorses in general the Regional Centre Urban Design Study – Downtown Halifax Urban Design Plan, as presented in the package mailed to committee members by staff on April 15, 2009.

In this latest package, the PAC has been invited to make comments on the Plan at the May 5, 2009 Public Hearing. Through discussion at our April 27, 2009 meeting, the committee was in agreement that in addition to an oral presentation at the public hearing, an official report and recommendations to Council outlining our position would be important at this stage in the process.

As per our Terms of Reference, the District 12 PAC advises Regional Council on all plan amendments, rezoning, land use by-law amendments and development agreement applications throughout District 12, which extends from Inglis Street in the south to North Street in the north, including all of downtown Halifax and Spring Garden Road.

Despite numerous requests [see below for detailed chronology] from the PAC to have an official role in the development and review of the proposed Plan since the initiation of HRM by Design, as is within our mandate, the District 12 PAC has not played an official role in the process. Because of our commitment and ongoing attempts (through staff and council) to be included, waiting patiently to hear back from staff and council about our role in the process, until now we have not articulated a formal committee position on any aspect of HRM by Design or the proposed Downtown Plan.

Detailed chronology of correspondence initiated by the District 12 PAC, including responses from staff, UDTF and the Mayor, regarding HRM by Design:

- HRM by Design project overview provided by staff at March 20, 2006 PAC meeting;
- Letter dated October 24, 2006 from the Chair to Andy Fillmore requesting that a member of the District PAC be appointed to the Urban Design Task Force;
- HRM by Design project update provided by staff at January 22, 2007 PAC meeting;
- Letter dated March 11, 2008 from the Vice Chair to UDTF asking for the opportunity to be involved in the review process;
- Letter dated April 14, 2008 from Paul Dunphy to the Chair thanking the committee for their interest and outlining why they would not be asked to formally respond to the amendment package;
- Copies of Draft 1 Downtown Halifax Plan documents to PAC members on April 14, 2008;
- Letter dated April 23, 2008 from the Vice Chair to Paul Dunphy (copied to the Mayor) which attached the Committee's Terms of Reference and asked for the PAC to be formally involved in the review of the Downtown Plan documents;
- Letter dated April 24, 2008 from the Mayor acknowledging receipt of letter to Paul Dunphy and encouraging the Committee to participate at the public hearing;
- Letter dated April 30, 2008 from the Chair to the Mayor (as a follow up to his letter dated April 24, 2008 which responded to his c.c. on the letter to Paul Dunphy) asking to be involved in the review of the plan;
- Letter dated June 12, 2008 from Dale Godsoe, Chair of the UDTF, to the PAC with a written project update and invitation to comment;
- Letter dated August 4, 2008 from the Chair to Paul Dunphy asking to be given a formal opportunity to be involved in the review of any documents being prepared;
- Letter dated February 24, 2009 from Vice Chair to Mayor and Council asking Council to direct the UDTF and staff to have the District 12 PAC review and formally advise Council on the Plan before it's sent to public hearing;

- Memorandum and information package including the final draft of the Plan, dated April 15, 2009 from Andy Fillmore to the District 12 PAC, inviting members to comment on the Plan at the public hearing;
- Letter dated April 23, 2009 from Mary Ellen Donovan in response to District 12 PAC request to review the HRMbyDesign Downtown Plan

District 12 PAC was established by Peninsula Community Council (PCC) in April 2003, and since then has provided numerous recommendations and reports to both PCC and Regional Council on proposed plan amendments and development agreements. Over the last six years, our members have gained significant experience in downtown planning and development issues.

In the evaluation of projects and plan amendments, using the current policies (MPS and LUB), we have experienced some recurring issues that have led to greater confusion in the approvals process, from the standpoint of committee members, the public and the development community. We are encouraged that the proposed Downtown Halifax Urban Design Plan addresses some of the issues we have encountered in the application of current policies. That being said, our committee also has some concerns that relate to the Plan as presented that should be addressed and strengthened before Regional Council formally adopts the Plan.

In addition to our recommendations, we would like to share some of our insights into the Plan. This includes commentary on some of the positive aspects of the Plan that we are excited about and feel are an improvement over current policies and by-laws. In addition, we present some areas of concern with the Plan as proposed. We then share some specific areas within the Plan that we feel should be strengthened to address some of the circumstances and difficulties the committee has encountered over the last six years. Finally, this report expresses our commitment to working with Council to define the ongoing role for the District 12 PAC beyond the adoption of the Halifax Downtown Urban Design Plan.

POSITIVE IMPROVEMENTS on current policies and processes:

- Strengthening the Plan and policies to realize the goal of having *more people and more families living in the downtown*. This intention must be supported, however, by stronger language around investing in and retaining local downtown schools and other essential institutions. Additional emphasis on the provision of affordable housing in the Plan is required to achieve this goal.
- Encouraging high quality development through the *specification of building materials* that are (and that are not) acceptable for construction in the downtown [Downtown Halifax Land Use By-Law, Built Form Requirements: Prohibited Exterior Cladding Materials]
- Providing *clearer and more precise policies and language* that clarify much of the ambiguity and subjectivity of terms used in the current planning strategy (e.g. compatible, adjacent, etc.), and providing guidelines to show what should be built. The current policies are reasonably clear, but we still end up with uncertainty and negotiations in the development agreement process. More clarity in the process is positive (e.g. establishing maximum heights as opposed to creating a broad window of heights to be negotiated on a site-by-site basis through development agreements), since there is too much room in the current policy for speculation and interpretation.

- Including a *mandatory Public Information Meeting (PIM)* as part of the site plan approval and design review process. In previous drafts of the Plan this part of the process was discretionary on the part of the applicant, limiting or even eliminating the window for public information and comment within the process. While the District 12 PAC advocates for increased opportunities for public input and engagement in the process, the mandatory PIM is a step in the right direction.
- Developing a *more predictable* approvals and appeals process, for citizens, Council and developers. The clarity provided by process outlined in the Plan, however, excludes citizens and Council beyond the Public Information Meeting so while the process *is* more predictable, it does not embody a commitment to openness and transparency that is needed to ensure that people are aware of what is being proposed and can have a voice in the process.

AREAS OF CONCERN with the proposed Halifax Downtown Urban Design Plan:

- *Limiting public input* in the process after the PIM; following this mandatory meeting, there is no formal requirement to provide the public with information, updates or an opportunity to comment on proposed developments. Only property owners in the Downtown notification area will be able to appeal a Design Review Board decision to Regional Council. We have concerns that this process excludes community groups and other organizations from the process.
- *Not recognizing the voice of tenants.* More broadly, we are concerned that tenants are not considered in any HRM policies on notification. HRM by Design still has the opportunity to lead the way in redefining all citizens as having an equal voice in the process, not just property owners.
- *Deferring essential aspects* of a successful Downtown Plan to the eventual development of *Functional Plans*. We encourage Regional Council to direct staff to complete (or at minimum initiate) the proposed functional plans before the Plan is adopted. If Council determines this is not advisable, clear priorities, timelines and a process by which these plans will be developed must be provided to reassure community members that these functional plans and secondary plan reviews will happen.
- *Disconnect between Halifax Downtown Urban Design Plan and other interdependent aspects of planning*, including but not limited to: transportation systems, active transportation, sustainability, cultural plan and affordable housing. There remains a tremendous opportunity to encourage the development of affordable housing through the proposed bonus system. We feel that if HRM does not currently have the authority to include specific requirements for affordable housing or sustainability measures, for example, then we need to get this support and/or authority from the province.

Specific issues and circumstances that should be STRENGTHENED:

1. Heritage Protection.

While we are encouraged that the new Plan proposes significant Heritage Conservation Districts, it is important to establish all of these districts along with the adoption of the

Plan, not just the Barrington Street HCD. We urge Council to implement the Barrington Street Conservation District immediately, however we are concerned that the other proposed HCDs, as well as the new heritage guidelines, have no specified timeline or priority within the Plan and should be developed presently to reduce speculation or loss of current heritage resources.

In addition, we feel that policies within the plan should be strengthened to provide enhanced protection for existing heritage buildings. One example would be to include provisions for heritage building relocation as a bonus opportunity. As a committee we have expressed concern in the past that the reduction in property assessment following a demolition can be an incentive to demolish potential heritage buildings. A reduction in the municipal tax rate for registered heritage buildings could be a potential financial incentive for retaining existing structures.

2. **Demolition controls.**

The Plan needs to include stronger demolition controls. The Plan perpetuates the current demolition “waiting period” of one year, after which any building including a registered heritage property can be torn down. We have seen too many buildings demolished unnecessarily, and without public input. The Plan should include more clear and strict provisions for demolition control. We recognize that some of this control may require collaboration with the province to implement tools such as property assessments and more strict demolition controls to encourage the retention, rehabilitation and restoration of existing buildings. We propose a demolition review process whereby an administrative body such as Regional Council or the proposed Design Review Board must approve the issuance of demolition permits.

3. **Blank walls.**

The Plan should include clearer definitions and policy requirements to ensure that new buildings in the downtown are not allowed to be built with blank walls. We have encountered several development proposals that propose at least one blank wall abutting the property line, in order to comply with building code requirements in the event that another building is constructed on the next lot. Increasing the lateral setback from the property line for sites within key visual corridors, as outlined in the Plan, as well as requirements for fenestration, could be useful tools in ensuring that blank walls cannot be proposed or built under the proposed Plan.

4. **Public participation.**

Under the current policies and public participation requirements, there are at least two opportunities for citizens, community groups and committees to have a voice in and access to the approvals process; these are the Public Information Meeting and the Public Hearing. Additionally, citizens are able to obtain detailed information about development proposals through staff reports; we feel that clear and complete information should continue to be provided to all those interested.

We also urge Council to include more opportunities for meaningful and ongoing participation in plan reviews, monitoring and implementation under the new Plan. In addition to the open houses, public kiosks and website improvements proposed in Attachment “L” of the Supplementary Report (April 7, 2009), HRM should explore ways of transforming public engagement in the implementation of this Plan. Specifically, there

should be more clarity on the role and standing of individuals, community organizations, citizens' groups and lobby groups within the process. We feel that all members of our community should have a hand in determining the quality of developments and new policies.

5. **Plan monitoring.**

We feel that it is important to ensure that monitoring of the Halifax Downtown Urban Design Plan happens in a timely manner, and is assigned to the appropriate committee(s). As such, before Council approves the Plan, we recommend that clear timelines and responsibilities for monitoring be included. We agree that the Urban Design Task Force should play a role in this process, especially over the first two years of Plan implementation. Given that District 12 PAC already has a mandate to review secondary plans, projects and proposals and provide advice to Council on matters related to downtown (which has both regional and local significance), we feel that it would be more appropriate for the District 12 PAC to take on the responsibilities of the Plan Monitoring Committee, as opposed to the Regional Plan Advisory Committee which deals with matters of regional significance.

ONGOING ROLE for the District 12 Planning Advisory Committee:

Another area of importance that has emerged in our review of this Plan is the future role of our committee. As a Council appointed advisory committee, our Terms of Reference assume a continued role within District 12, including the Downtown. We continue to have concerns that the PAC did not have a formal role in the Regional Centre Urban Design Study, given that the downtown is an area of both local and regional concern. Our Terms of Reference clearly indicate that the PAC should be involved in local plan, policy and project evaluation and development. Particularly when Regional Council directed staff and the consultants to focus more specifically on the Downtown and developing a new secondary plan, the District 12 PAC should have been formally engaged. Despite this, however, we would be comfortable addressing these concerns regarding our exclusion from the process in parallel to the current public hearing deliberations on the Halifax Downtown Urban Design Plan.

In order to pursue this, we request a meeting with the Mayor to discuss:

- The continuance of the District 12 PAC beyond the adoption of the Halifax Downtown Urban Design Plan.
- The role of the PAC in pending secondary plan reviews for the south and north ends of our District, including clarity on the timeline for review of these plans.
- The role of the PAC in the development and review of functional plans specified in the Halifax Downtown Urban Design Plan, including timelines for these plans.

Thank you for Council's consideration of the District 12 Planning Advisory Committee's commentary on the proposed Plan. We endorse the spirit and intent of the Plan, and hope that our suggestions for strengthening and improving certain aspects of the Plan enable it to live up to its bold ambitions of creating a more vibrant, livable downtown.

Report Prepared by: Heather Ternoway, Chair, District 12 Planning Advisory Committee