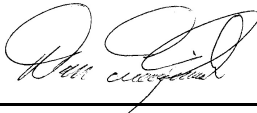


TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: May 25, 2009

SUBJECT: **HRMbyDesign - Downtown Halifax Urban Design Plan**

SUPPLEMENTARY REPORT

ORIGIN

- Staff recommendation report to the Urban Design Task Force, Regional Plan Advisory Committee, and Heritage Advisory Committee dated February 4, 2009
- Urban Design Task Force report to Regional Council dated March 12, 2009
- Heritage Advisory Committee report to Regional Council dated March 12, 2009
- Regional Plan Advisory Committee report to Regional Council dated February 19, 2009
- Committee of the Whole meetings March 24 & 31, 2009, Regional Council motions March 31, 2009
- Supplementary report dated April 2, 2009
- Regional Council First Reading given April 7, 2009
- Supplementary report to Council dated April 8, 2009
- Public Hearing held and closed May 5 and 6, 2009
- Council debate and requests for clarification and further information May 12, 2009

RECOMMENDATION

It is recommended that Regional Council:

1. Approve the proposed Downtown Halifax Secondary Municipal Planning Strategy, as contained in Attachment A-1 of the February 4, 2009 report, and as amended under Attachments "A, B, C, E, F, G, H, J, M, and P" of the April 2, 2009 report, and as further amended under Attachment "C" of this report.
2. Approve the proposed Downtown Halifax Land Use By-law, as contained in Attachment A-2 of the February 4, 2009 report, and as amended under Attachments "D, I, K, and N" of the April 2, 2009 report, and as further amended under Attachment "D" of this report.

RECOMMENDATIONS CONTINUED ON PAGE 2

3. Approve the proposed Barrington Street Heritage Conservation District Revitalization Plan & By-law, as contained in Attachment A-3 of the February 4, 2009 report.
4. Approve the proposed amendments to the Regional Municipal Planning Strategy, as contained in Attachment B-1 of the February 4, 2009 report.
5. Approve the proposed amendments to the Halifax Municipal Planning Strategy, as contained in Attachment B-2 of the February 4, 2009 report.
6. Approve the proposed amendments to the Halifax Peninsula Land Use By-law, as contained in Attachment B-3 of the February 4, 2009 report.
7. Approve the proposed amendments to the Heritage Property By-law (By-law H-200), as contained in Attachment B-4 of the February 4, 2009 report.
8. Approve the proposed amendment to the Heritage Conservation District (Barrington Street) By-law, as contained in Attachment "E" of this report.
9. Approve the proposed amendments to the Building By-law (By-law B-201), as contained in Attachment B-5 of the February 4, 2009 report.
10. Approve the proposed amendments to the Encroachment By-law (By-law E-200), as contained in Attachment B-6 of the February 4, 2009 report.
11. Appoint the Urban Design Task Force as the Plan monitoring body discussed in Section 8.6 of the proposed Downtown Halifax Secondary Municipal Planning Strategy for a period of two years or until Council decides otherwise.

EXECUTIVE SUMMARY

This report supplements the staff reports tabled with Regional Council on March 24, 2009, and April 7, 2009. On May 5-6, 2009, Regional Council held a public hearing on the adoption of the Downtown Halifax Urban Design Plan, which is comprised of the following:

- 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 145 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 (75)
- Requests for clarification of existing policy (8)

Each one of these 145 comments will be addressed in a Response to Public Comments document that will be posted on the project website prior to Council's June 2, 2009 debate on Plan adoption.

Additionally, Council's May 12, 2009 discussion following the public hearing generated approximately 27 comments from councillors. It is noted that all 27 councillor comments and all 62 public requests for amendments are discussed in Attachments A and B, respectively.

Because the subject of this supplementary report is proposed changes to the Downtown Halifax Urban Design Plan prior to adoption, and not existing policy, this report will only address the 27 comments received from councillors regarding proposed changes to the Plan, and the 62 public comments regarding proposed changes to the Plan. In addition, this report presents a series of minor housekeeping amendments and corrections recommended by staff for Council's consideration. Finally, this report briefly discusses three issues for which no amendments are recommended. The structure of this report is therefore:

- A. Amendments Requested by Regional Council
- B. Amendments Requested by the Public through the Public Hearing Process
- C. Housekeeping Amendments Proposed by Staff
- D. Issues for Discussion

Each request for an amendment to the Plan, whether from Council or from the public, was analyzed for consistency with the vision for the downtown, and to determine if the proposed amendment would be considered non-substantive or substantive. In any case where Council chooses to make a substantive amendment, a new public hearing process would have to be initiated, significantly delaying adoption of the Plan, the commencement of its associated functional plans, and the adoption of the proposed heritage conservation districts. For these reasons, staff is recommending that no substantive amendments be made.

BACKGROUND

Since the commencement of this Plan, it has been recognized that there is a need for a new approach to development approvals in downtown Halifax that will provide clear and concise policies and regulations delivered through a timely and predictable decision-making process. In particular, conflicting economic development and heritage conservation policies in the Halifax MPS need to be resolved by predetermining maximum building heights and massing. Further, the community expects excellence in design, which requires a comprehensive urban design approach as opposed to the current piecemeal site-by-site approach. In other words, the status quo is not acceptable.

One example of the difficulty with the current policy framework is the varying interpretations of "Band A." In this example, current MPS policy suggests that the maximum height be "four traditional stories," but the regulation in the existing Land Use By-law, under which development is actually regulated, says the maximum height is actually higher, at 75 feet. This is but one example that illustrates the importance of moving forward from a policy environment where there are conflicting interpretations at the staff level, at Council, and by the public, about how to balance

conflicting policies. In contrast, the proposed Downtown Halifax Urban Design Plan sheds those layers of complexity and ambiguity, by providing simple, effective and easily implementable policies and regulations.

The proposed Downtown Halifax Urban Design Plan was tabled with Regional Council on April 7, 2009. This Plan is comprised of three new planning documents and a series amendments to existing documents as follows:

- The proposed Downtown Halifax Secondary Municipal Planning Strategy
- The proposed Downtown Halifax Land Use By-law
- The proposed Barrington Street Heritage Conservation District Revitalization Plan & By-law
- 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.

Regional Council held a public hearing to receive comment on these documents and amendments on May 5-6, 2009. On May 12, 2009 Regional Council held further discussion and directed staff to draft a supplementary report to respond to issues raised by the public during the public hearing, and by Council during their subsequent discussion. This supplementary report will assist Council in their final deliberations and ultimate vote on adoption of the Downtown Halifax Urban Design Plan.

DISCUSSION

The following is a list of amendments that are being recommended by staff to Council for approval. None of the recommended amendments are substantive in staff's opinion, and therefore would not require a new public hearing.

A. AMENDMENTS REQUESTED BY REGIONAL COUNCIL

On May 12, 2009, Regional Council made a number of requests for clarification or further information with regard to the proposed Downtown Halifax Urban Design Plan. Responses to each of these requests are outlined in the Response to Councillor Comments document included as Attachment "A" of this report. Below is the staff recommendation resulting from those requests:

- 1. Expand the membership of the Design Review Committee to include members with specific expertise in community social analysis, energy efficient building design, and traffic and transportation patterns. (Attachment A, Issue #8)**

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 make-up of the DRC currently before Council embodies this consultation and deliberation. As well, it is noted that the members of design review committees across the country are design professionals.

Regional Council currently receives advice from as many as 65 Committees of Council on such matters as heritage, accessibility, transportation, culture, and the implementation of the Regional Plan. Many of these committees include expertise on matters of social planning, transportation and the environment. However, Council does not as yet receive any advice on the extremely important matter of architectural and public realm design. It is therefore not recommended to alter the DRC membership to include specific expertise in community social analysis, and traffic and transportation patterns.

However, adjusting the membership to require, where possible, that one or more of the architect members be a certified professional in sustainable building design and construction, would be an improvement to the Plan.

Staff are recommending that the membership criteria of the Design Review Committee be amended to require, where possible, that at least one of the architect members be a certified professional in sustainable building design and construction, as outlined in Attachment “D” (Item #1) of this report.

B. AMENDMENTS REQUESTED THROUGH PUBLIC HEARING PROCESS

A number of proposed amendments were raised through verbal and written submissions during the May 5 - 6, 2009 Regional Council public hearing on the proposed Downtown Halifax Urban Design Plan. Responses to these amendments are included as Attachment “B” of this report. Below are the staff recommendations resulting from those requests:

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

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

Staff are recommending that the post-bonus maximum height be amended 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, as included in Attachments “C-1” and “D-1” of this report.

Commensurately amend the pre-bonus height to be 85' (26m), as included in Attachments "C-2" and "D-2" of this report.

2. Change the height on 1874 Brunswick Street to reflect the height in the remainder of Precinct 8, which is up to the ramparts height. (Attachment B, Issue #19)

The proposed maximum height for the "Blue Cross Building" site on the north-west corner of the intersection of Brunswick Street and Rainnie Drive (1874 Brunswick Street) is currently 75' (23m). The site owner has requested that the maximum height of the remainder of Precinct 8 be applied to this site. Fulfilling this request would make the maximum height on the subject site 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 feel 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).

Staff are recommending that the post-bonus maximum height be amended on the subject site to 110' (34m), as included in Attachments "C-1" and "D-1" of this report. Also to commensurately

establish a pre-bonus height of 85' (26m), as included in Attachments "C-2" and "D-2" of this report.

3. Members of the Design Review Committee should be remunerated for their work and members should be of a high quality. (Attachment B, Issue #20)

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 recommend 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 would be an incentive for DRC membership.
- A review of other DRCs across the country shows that members are compensated to varying degrees for their work.

It is recommended that Section 4(14) of the proposed Downtown Halifax LUB be amended to give Council the option to establish an honourarium for DRC members, as outlined in Attachment "D" (Item #4) of this report.

4. Clarify the requirement for rooftop landscaping on all new flat roof buildings. (Attachment B, Issue #27)

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 manoeuvring 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.

It is recommended that Section 8(12) of the DHLUB be amended to provide more clarity on the requirements of this provision, as described in Attachment “D” (Item #5) of this report.

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”, as outlined in Attachment “D” (Item #6) of this report.

- 5. 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 stepback provisions of the Plan and By-law should not apply to these view corridors. (Attachment B, Issue #30)**

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 are 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 storey building stepbacks from the corridors. Staff are also supportive of this approach as the resulting view protections are equal to view protections 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.

Staff are recommending 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 storey stepbacks from the view corridors, as described in Attachments “C” (Item #3 through #7) and “D” (Item #7 through #16) of this report.

6. Requested amendments to the proposed DHSMPS and DHLUB relative to the proposed WTCC project. (Attachment B, Issue #49)

The requested amendments serve to clarify the building's full purpose as well as define what is intended by the reference to a 'publically-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.

Staff are recommending to amend Policy 90E of the proposed DHSMPS as described in Attachment "C" (Item #8) of this report.

Staff are also recommending in favour of the amendments to subsection (15A) of section 7 of the proposed DHLUB as outlined in Attachment "D" (Item #17) of this report.

7. 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. (Attachment B, Issue #57)

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.

Staff are recommending to amend Sections 3.6.10 and 3.6.11 of the Design Manual as outlined in Attachment "D" (Item #18) of this report.

8. Amend the LUB definition of "building width" and add a definition of "building face" so that building articulations and their impact on maximum building face calculations in Schedule W (the waterfront) are clarified. (Attachment B, Issue #58)

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.

Staff are recommending to insert a new definition of “building face” and to amend the definition of “building width” in the LUB as outlined in Attachment “D” (Item #19 and #20) of this report.

9. Lands within “Schedule W” (the waterfront) will not be subject to Section 8 (2) of the proposed DHLUB. (Attachment B, Issue #59)

Schedule W has been established to recognize the irregular lot configuration of lands on the waterfront between Water Street and Halifax Harbour as shown on Map 1 of the DHLUB. Section 8(2) of the DHLUB limits the number of main buildings per lot to one, which is contrary to the traditional development pattern on the waterfront. Therefore lands within Schedule W should be exempt from 8(2).

Staff recommends that lands within Schedule W not be subject to 8(2) of the DHLUB as outlined in Attachment “D” (Item #27) of this report.

C. HOUSEKEEPING AMENDMENTS PROPOSED BY STAFF

Amendments to the proposed Downtown Halifax Secondary Municipal Planning Strategy (DHSMPS)

1. Corrections to Appendix A – Streetscape Typologies

To direct streetscape improvements that better reflect the vision for the downtown, staff have identified some minor corrections to this appendix, which are included as Attachment “C-4” of this report.

2. Corrections to Map 9 – Streetscape Typologies

To direct streetscape improvements that better reflect the vision for the downtown, staff have identified some minor corrections to Map 9 of the proposed DHSMPS, which are included as Attachment “C-5” of this report.

3. Correction to Map 6 - Heritage Resources

This map needs to be updated to reflect the recent heritage designation removal from 1870 Upper Water Street in Halifax. Also, the map needs to be amended to add the historic HMC Dockyard Clock at the terminus of George Street (Chebucto Landing). The amended map is provided in Attachment “C-6” of this report.

Amendments to the proposed Downtown Halifax Land Use By-law (DHLUB)

4. Correction to Table of Contents

Amend the “Table of Contents” of the DHLUB as outlined in Attachment “D” (Item #21) of this report, to add “Publically-Sponsored Convention Centre” between “Residential Uses: Storm Surge Protection” and “Institutional, Cultural & Open Space Zone (ICO)”.

5. Correction to Section 7

Amend Section 7 of the DHLUB to add a title for Subsection 15A (“Publically-Sponsored Convention Centre”), as included in Attachment “D” (Item #22) of this report.

6. Corrections to Map 1 - Zoning and Schedule

Amend the title of Map 1 of the DHLUB from “Zoning and Schedule” to “Zoning and Schedule W”.

Staff also recommend to amend the proposed zoning designation for the site of the new central public library. The draft Pre-development Assessment report for the new Central Public Library identifies a concern with the proposed Institutional, Cultural and Open Space (ICO) zoning on the site that Council has identified as for the new library. The concern is valid in that the ICO zone will limit the ability for the new library to fulfill its objective to be a mixed-use building with retail, restaurant and possibly other commercial uses. The ICO zoning therefore may reduce the potential financial return from this mix of uses, thereby increasing the burden of funding from other sources. Staff do not see any negative impact to changing the zoning of this site to DH-1 (mixed use), and therefore recommend this change.

Both of these amendments are shown on the amended map in Attachment “D-3” of this report.

7. Unpainted or unstained wood

A new guideline respecting the use of unpainted or unstained wood should be added under section “3.3.2 – Materials” of Schedule 1: Design Manual of the proposed DHLUB, as described in Attachment “D” (Item #24) of this report.

8. Correction to Section 3.6.4 of Schedule S-1 of the Land Use By-law

The end of section 3.6.4 of Schedule S-1 (Design Manual) incorrectly contains a note to the reader that is intended to be part of the subsequent section (3.6.5). It should therefore be deleted from 3.6.4 as outlined in Attachment “D” (Item #25) of this report.

9. Correction to Section 3.6.5 of Schedule S-1 of the Land Use By-law

The end of section 3.6.5 of Schedule S-1 (Design Manual) should contain a note to the reader as described in Attachment "D" (Item #26) of this report.

10. Correction to Section 2.1 of Schedule S-1 of the Land Use By-law

Section 2.1 of Schedule S-1 (Design Manual) should contain a requirement consistent with section 2.4 which states that development in Precinct 1: Southern Waterfront shall adhere to section 2.10 of the Design Manual. The amendment is included in Attachment "D" (Item #28) of this report.

Amendments to other HRM By-laws

11. Amendment to the Heritage Conservation District (Barrington Street) By-Law

The proposed Heritage Conservation District (Barrington Street) By-law H-500 provides that substantive development applications be referred to the Heritage Advisory Committee (HAC) for review and recommendation to the Heritage Officer. It has recently been determined that the *Heritage Property Act* does not authorize the HAC to act in an advisory capacity to staff.

Rather than refer the application to HAC for review and recommendation, the Heritage Officer alone will review and approve substantive development applications in accordance with the requirements set out in the By-law. This change has no effect on the development approval process as has been previously described. The approval of the Heritage Officer would work in line with the site plan approval process which includes the decision of the Design Review Committee. It should be noted that, outside of the Heritage Conservation District, Council is responsible for approving substantive alterations to heritage properties and HAC will continue to advise them in this regard. The necessary amendment to By-law H-500 is provided in Attachment "E" (Item #1) of this report.

D. OTHER ISSUES FOR CONSIDERATION

1. Discuss amending the \$4/sq.ft charge to achieve extra height for bonus zoning to something more in the medium range; consider \$12/sq.ft. (Issue #7 - Response to Councillor Comments)

Note: Should Council choose to substantially increase the proposed bonus zoning charges, this would be considered a substantive amendment and would require a new public hearing in staff's opinion.

Downtown Halifax has seen limited development in recent years. One of the intentions of HRM by Design is to precipitate growth and change by creating a positive downtown development climate. Keeping the per square foot charge for bonus zoning relatively low was intentional in order not to stifle any development that may burgeon after the adoption of this Plan's development processes. In looking at other Canadian cities that employ bonus zoning, the Urban Design Task Force felt it prudent to implement a bonusing charge at the lower end of the national spectrum, hence \$4/s.f.

Any increases in fees as a result of bonus zoning in residential projects are likely to be passed on to the resident, potentially negatively impacting housing affordability. It should be noted that HRM already recoups many other development fees that are used in the delivery of public services and benefits. These fees include:

- Application fees
- Capital Cost Contribution charges
- Waste water treatment charges
- Solid Waste charges
- Sewer Redevelopment charges
- Streets and Services charges
- Various inspection fees

To put this in context, in the example of the recently approved Trillium project the permitting fees above amounted to approximately \$315,000. Under the proposed bonus zoning program the development would have been charged an additional \$145,000 to achieve its post-bonus maximum height, bringing the total to approximately \$460,000 in fees. Interestingly, the Trillium has commissioned a public art piece with a budget of \$75,000, which is about 50% of what would have been required for public benefit under the new Plan (\$145,000).

It should also be pointed that the development of publically owned lands presents a unique opportunity to dramatically increase the provision of public benefit. According to the Turner-Drake report, 53% of the developable land in the downtown study area is in public ownership. For this reason Section 5.2 (Policy 49) of the proposed DHSMPs calls for cooperation amongst the three levels of government to ensure the provision of public amenity, housing affordability, and green design/construction in the development of publically owned lands. Development of the municipally owned Clyde Street parking lots, and the Cogswell Interchange lands are primary examples of this, wherein HRM will be in a position to require extensive public benefit well beyond that afforded by the bonus zoning program.

In a separate report to Council at a later date, staff will recommend that the HRM Charter be amended to permit the municipality to establish a Capital Reserve with fees collected under the

bonus zoning system. If the Province approves this, it may trigger a review of the bonus zoning program.

Staff recommend that Plan Monitoring be used to monitor the effectiveness of the bonus zoning program, and, if required, commission a detailed study to determine improvements or increases to the program.

2. Discuss lowering the proposed maximum building heights in the proposed Barrington South Heritage Conservation District to more closely align with existing policy. (Issue #10 - Response to Public Comments)

Note: Should Council choose to reduce building heights below what is permitted by current policy, this would be considered a substantive amendment and would require a new public hearing in staff's opinion.

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 uniform maximum height of 72' (22m) is being proposed throughout 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 calculation. 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.

Staff recommend that **no change** be made to the proposed plan with regard to maximum building heights in this area. Rather, the future establishment of the HCD will provide an opportunity to make height adjustments if necessary, based on thorough consultation with individual property owners.

3. Impact of Adoption of the Downtown Halifax Plan on the remainder of the Regional Centre

The Downtown Halifax Urban Design Plan currently before Regional Council for consideration is limited in its effect to the Downtown Plan Area as outlined on Map 1 of the proposed Downtown Halifax Secondary Municipal Planning Strategy. The proposed Plan and By-law, along with associated amendments to existing policies and regulations, therefore only have effect within the Downtown Plan Area. All policies, regulations and procedures currently in effect for Regional Centre areas *outside* of the Downtown Plan Area will remain unchanged. (A minor exception to this are several minor housekeeping corrections to the current LUB's generalized future land use map on the periphery of the plan area, and one rezoning on the Dalhousie Sexton campus to bring uniformity to the campus. These housekeeping amendments were addressed in the staff report tabled with Council on March 24, 2009.)

Should the Downtown Halifax Urban Design Plan be approved by Regional Council, HRM by Design project staff and the Urban Design Task Force (UDTF) 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, (already approved in principal by Council) the following work will be undertaken by the UDTF:

- 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
- 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. Only as a result of that future detailed planning, and its corresponding public consultations, will any changes be made that affect those areas.

BUDGET IMPLICATIONS

Public Realm Capital Investment Priorities

The Downtown Halifax Urban Design Plan is a long term, 25-year plan that calls for both public and private investment. It is a blueprint for strategic capital investment spending on streetscapes, public open spaces, the waterfront, and our natural and built heritage resources. It will be implemented as part of HRM's budget, and through collaboration with private partners and other levels of government.

Some key priorities to be considered by Council over the next five years that will benefit the downtown plan area include:

- investment in the revitalization of heritage buildings on Barrington Street through the Barrington Street Heritage Conservation District Financial Incentives Program, as outlined below;
- streetscape improvements along Barrington Street, Spring Garden Road and Quinpool Road;
- improvements to regional and downtown public transit services including the proposed Downtown Shuttle, Rural Transit Express and Fast Ferry from Bedford;
- the Cogswell Master Planning Study; and
- other public realm capital projects contained in the Plan as Council may direct.

Barrington Street Heritage Conservation District Financial Incentives

Grant program

A grant program budget in the amount of \$200,000 will be included in the approved 2009/10 municipal budget. Sources of funds for 2009 are as follows:

- \$50,000 allocation from account C310-8004 (the existing Heritage Incentives Program);
- \$50,000 allocation from account Q312 (Cultural Development Reserve); and
- \$100,000 from an approved budget increase.

Allocation of \$50,000 from C310-8004 is justified because the existing Heritage Incentives Program already makes funds available to registered properties on Barrington Street, and it makes sense to allocate a portion of the existing \$150,000 heritage incentives budget specifically to the new Barrington Street HCD Program.

Allocation of \$50,000 from Q312 is justified because the Cultural Development Reserve is now designed to support all culture and heritage programs in the Municipality. From a strategic point

of view, the allocation of funds to the Barrington Incentives program will visibly encourage the community to care for its heritage assets and, in so doing, will lessen the onus on HRM to retain examples of the same types of heritage buildings. This in turn will create options for HRM to dispose of some of its buildings and thereby reduce overall capital and operating costs. Budgets and sources of grant funding for Years 2-5 (fiscal 2010-2013) will be recommended based on anticipated levels of restoration activity extrapolated from activity and program take-up in 2009.

Permit Fee Waiver

The cost of permit fee waivers will depend on the level of renovation activity. At maximum, it is expected to be no more than about \$15,000 per year. This is a fraction of 1% of HRM's total revenue from permit fees and will be absorbed through C430-4903.

Tax Credit program

- The tax credit component will become operational in fiscal 2010/11, the second year of the incentives program.
- A tax credit budget and sources of funding will be presented for consideration by Council as part of the 2010/11 budget process.
- The recommended budget will be based on 15% of the value of eligible work carried out in 2009. Based on consultants estimates, this is expected at maximum to be in the range of \$400,000. Staff will provide recommendations at that time regarding how this is to be budgeted for in terms of existing revenue and postponed revenue.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Regional Council may choose to approve the recommendations.
2. Regional Council may choose not to approve the recommendations.
3. Regional Council may choose to make further changes to the documents under consideration.

ATTACHMENTS

Attachment A: Response to Councillor Comments

Attachment B: Response to Public Comments

Attachment C: Amendments to the proposed Downtown Halifax Secondary Municipal Planning Strategy

Attachment D: Amendments to the proposed Downtown Halifax Land Use By-law

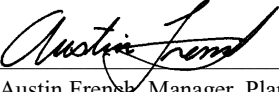
Attachment E: Amendment to the Heritage Conservation District (Barrington Street)By-law

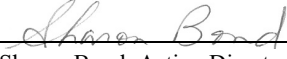
Attachment F: Regional Plan Functional Plans - Status Update


Attachment G: HRMbyDesign Downtown Halifax Proposed Functional Plans

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.

Report Prepared by: Andy Fillmore, Acting Supervisor, Heritage & Design, 490-6495

Report Approved by: 
Austin French, Manager, Planning Services, 490-6717

Report Approved by: 
Sharon Bond, Acting Director, Community Development, 490-4800

Financial Approval by: 
Catherine Sanderson, Senior Manager, Financial Services, 490-1562

ATTACHMENT "A"

RESPONSE TO
COUNCILLOR
COMMENTS

DOWNTOWN HALIFAX URBAN DESIGN
PLAN: PUBLIC HEARING DRAFT

May 12, 2009

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

HALIFAX
REGIONAL MUNICIPALITY

Updated May 27, 2009

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Councillor Lund – District 23 (con't)	ISSUE #24: Due to the amount of further work required in functional plans, it should be spelled out in the documents. Council should be provided with a schedule for when the functional plans would be completed and expected dates for regulatory changes.	23
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ISSUE # 1 (Councillor Younger): Discuss the difference between the Community Energy Plan and the proposed Sustainability Functional Plan. Also discuss if energy efficiency and green building design should be included in a local plan such as this or if it is a regional issue and should therefore be examined under the Regional Plan.

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 meant as a corporate initiative to identify and implement cleaner energy sources, which would allow 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, on the other hand, 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.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 2 (Councillor Smith): Discuss the impact of Council changing the heights in one of the HCDs from 72 ft. to the existing 40 ft. height limit. Would this be considered a substantive change?

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

DISCUSSION/OPTIONS:

As part of the Downtown Halifax Plan approval process, Council will be deciding to either approve or reject the Barrington Street Heritage Conservation District (HCD). In addition, the DHSMPs recommends two other areas for future consideration as HCDs (Historic Properties and Barrington South).

None of the three areas mentioned above have existing height limits of 40 feet. The majority of the area covered by the proposed Barrington Street HCD falls under Schedule F, which requires a development agreement for any development greater than 40 feet in height. The area identified as Historic Properties falls under either Schedule F or Schedule J, which itself requires a development agreement for any development greater than 25 feet in height. For both these areas, maximum building height is arrived at by the interpretation of numerous policies and regulations.

Barrington South is the only area that has specified height limits, which range between 45 and 70 feet. 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. This typically adds an additional 12 to 20 feet to the total height of the structure. This is an important point as the true maximum heights under existing policy in Barrington South are higher than they seem. Under proposed/regulation, maximum height will be calculated to the top of the building.

A lowering of the maximum height from 72 feet to 40 feet for any of these three proposed or future HCDs would be a substantive amendment requiring a second public hearing, in staff's opinion. This is due to the fact that none of the three areas currently restrict heights to 40 feet. All allow higher heights either through the as-of-right process or by development agreement. Therefore, a reduction to 40 feet would be considered a reduction of property rights over what is both currently allowed and what was presented to Council during the public hearing process. Please refer to Section D(2) of the June 2 staff report for more detail.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #3 (Councillor Blumenthal): How can we increase sustainability in this Plan?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 1.4 The Importance of Sustainability (p.5)
- S. 3.4.5 Sustainable Building Design (p.26)
- Policies 20 – 23 (pp.27-28)

DISCUSSION/OPTIONS:

As stated in S. 1.4 of the proposed Downtown Halifax Secondary Municipal Planning Strategy, sustainability is a fundamental underpinning of the design approach to the Regional Centre and downtown Halifax.

Sustainable building design however, is not a requirement of this Plan or any other MPS in Nova Scotia for that matter, because of a lack of regulatory authority. HRM regulates new construction through the HRM Charter and the provincial Building Code, neither of which contain the required provisions to mandate green building design. As a result, work is already underway with the Province to strengthen existing legislation to allow HRM to require sustainable building and site design and energy conservation. This work will be formalized through the proposed Sustainability Functional Plan to be undertaken by HRM's Sustainable Environment Management Office following adoption of this Plan.

In addition to stronger legislation, increased sustainability will be achieved through the bonus zoning program, and the selection of 'exemplary sustainable building practices' as a public benefit. While this is only one of nine options available, it is likely to grow more popular as the market demands this type of building. Already HRM is seeing LEED Silver or equivalent building designs through proposed or approved development agreement applications in downtown Halifax, including all four of the grandfathered applications and the proposed new World Trade and Convention Centre.

Finally, this plan demonstrates HRM's commitment to the concept of sustainability by facilitating greater densities and intensities of use, showing leadership in the sustainable design of municipally owned buildings and public spaces, and investing in public transportation.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 4 (Councillor Blumenthal): Outline the role of Council in the proposed process under site plan approval in comparison to the current process.

DOCUMENTS:

Downtown Halifax Land Secondary Municipal Planning Strategy

- S. 3.4 Development and Design Review Process (p. 24)
- S. 8.6 Plan Monitoring (p. 63)
- S. 8.6.1 Amendments to this Plan (p. 63)

Downtown Halifax Land Use By-law

- S. 4(15) Appeal of Committee Decision (p. 11)

DISCUSSION/OPTIONS:

Under the proposed Plan Council has four critical areas of authority:

1. By adoption of this plan Council creates clear, predictable and widely agreed upon regulation that is easily interpreted and enforced.
2. Council will review and approve or reject all applications for demolition of heritage structures.
3. Council will replace the Utility and Review Board as the appeal body for development decisions, enabling Council to ensure their policies are being implemented as they intended.
4. Council will be the ultimate decision-maker on all plan amendments going forward.

The following chart summarizes the major differences in Council’s role between current and proposed policy as it pertains to development approval:

Application Type	Existing Policy	Proposed Policy
Minor Applications	<u>As-of-right development:</u> The Development Officer (staff, not Council) is responsible for making a final decision on buildings under the development agreement height trigger of 25 or 40 ft. in the plan area. There is no appeal of as-of-right development.	<u>Non-substantive Site Plan Approval:</u> The Development Officer (staff, not Council) is responsible for making a final decision on buildings based on the requirements of the LUB. This does not include new construction. There is no appeal of non-substantive developments.
Major Applications	<u>Development Agreements:</u> Regional Council is responsible for making a final decision on Development Agreement applications.	<u>Substantive Site Plan Approval:</u> The Design Review Committee makes final decisions on the <i>qualitative</i> aspects of the application governed by the Design Manual, and the Development Officer makes final decisions on the <i>quantitative</i> aspects of the application governed by the LUB.
Appeals	Appeals of Council decisions are considered and decided on by the Nova Scotia Utility and Review Board.	Appeals of DRC decisions are considered and decided on by Council.

		<p>Appeals of Council decisions <u>by the applicant only</u>, are considered and decided on by the Nova Scotia Utility and Review Board.</p>
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*Note: There is no change proposed to citizens’ common law rights to a judicial review.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #5 (Councillor Sloane): Outline timeframes for initiating and completing all Regional Plan functional plans and the new ones proposed by HRMbyDesign.

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:

HRM first introduced functional plans during the creation of the Regional Plan, adopted by Council in 2006, to effectively manage and execute more detailed work on a variety of issues following adoption of the larger planning strategy framework. The original intention of HRMbyDesign was to create an urban design plan that would produce new built form and design rules as part of a streamlined development approvals process in downtown Halifax. The other detailed work identified for functional plans is not required right now to implement the new built form and design rules proposed in the Downtown Plan. HRM can implement the new development approval process now, and continue to incorporate new strategies for improving transportation, sustainability and housing affordability as a result of the functional plans over the first five years of the larger plan.

The Regional Plan described the purpose of functional plans as:

“The purpose of a functional plan is to guide the management of the Municipality as defined in the Municipal Government Act. They do not represent land use policy but rather HRM’s intent to create detailed management guides for setting budgets for programs, services and facilities consistent with the implementation of this Plan. Functional Plans will also guide HRM in the ongoing management of strategic initiatives, partnerships and demonstration projects useful to seeing the full potential of this Plan realized over time.”

The Regional Plan identified 21 functional plans to be undertaken following adoption of the plan, related to many of the issues examined in the plan from culture and heritage to

transportation. Some of the functional plans are operational or program-related and guide daily management decisions such as HRM’s Business Unit Plans. Others include specific details of facility design and location.

The Regional Plan functional plans are at various stages of completion, including 3 that are completed and approved by Council, and several others that are partially, or nearing completion. Attachment “F” of the June 2, 2009 staff report contains a comprehensive list outlining the purpose, business unit responsibility, status, and expected completion date of each Regional Plan functional plan.

A similar list of the five functional plans proposed in the Downtown Halifax Secondary MPS is in Attachment “G” of the June 2, 2009 staff report , which outlines each plan’s purpose, business unit responsible and expected initiation and completion time lines.

The Urban Design Task Force has also recommended that Council prioritize two of the Regional Plan functional plans over the others, as they will address two key issues being faced in downtown Halifax and the Regional Centre: heritage and housing affordability.

a. Heritage

Heritage issues in downtown Halifax will be addressed through the following two activities:

- i. The Regional Heritage Functional Plan called for in the Regional Plan will develop policies, strategies, and programs to protect and enhance built, cultural and natural heritage by encouraging conservation, preservation, and sustainable use. Specifically, financial incentives and stronger demolition control mechanisms for heritage properties outside of heritage conservation districts will be examined to complement heritage protection measures already outlined in this Plan.

Proposed Timeline for Completion: 18-36 months

- ii. Establishment of two other Heritage Conservation Districts (HCD)– as recommended by Council, the establishment of these two additional HCDs in downtown Halifax will effectively protect 70% of registered heritage properties in downtown Halifax. These protections will be in the form of stronger demolition controls and a financial incentives program to encourage restoration within the district.

Proposed Timeline for Completion: 18-36 months

Resources to complete both the functional plan and the establishment of the two other HCDs over the next 18-36 months are currently accounted for in the 2009/10 capital and operating budgets. Some research and background studies associated with these two activities would be contracted out to provide necessary support to existing planning staff, who will manage public consultation and policy and by-law writing.

In addition to the resources required to complete these projects, significant public consultations will need to be undertaken, in consideration of the implications on property rights as a result of this process. The Heritage Property Act outlines the requirements for public consultations during the establishment of an HCD. HRM and the Heritage Advisory Committee will play leading roles in the public consultation program for the Regional Heritage Functional Plan.

b. Housing Affordability

While housing affordability is a regional issue, the focus on this issue during the evolution of the Downtown Plan has highlighted the urgency for early completion of the Housing Affordability Functional Plan proposed in the Regional Plan. Work on this plan has already been initiated, including the completion of the background study “Employment, Housing and Population” as an update to the previous draft of that study in 2004.

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.

Proposed Timeline for Completion: 18-36 months

Resources to complete the functional plan over the next 18-36 months are currently accounted for in the 2009/10 capital and operating budgets. Research and background studies associated with these two activities may be contracted out to provide necessary support to existing planning staff.

In addition to the resources required to complete the plan, significant public consultations will need to be undertaken, in consideration of the implications on property rights as a result of this process. The stakeholder committee will cooperate with HRM to lead the public consultation program required for this functional plan.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #6 (Councillor Uteck): Comments on the Heseltine Report mentioned during the public hearing.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Staff has reviewed the report titled: What's Appealing: A Brief Comparison of Planning Appeals Across Canada, which was prepared and presented by John Heseltine as part of the 2007 Atlantic Planners Institute Conference, and which was referenced by some speakers during the HRMbyDesign public hearing process. Staff has also spoken with Mr. Heseltine about his report since the public hearing.

According to Mr. Heseltine, the 2007 report quoted in the HRMbyDesign public hearing was an early draft of an article which has recently been held for publication by Plan Canada (a quarterly publication of the Canadian Institute of Planners). Because of its status as "held for publication," Mr. Heseltine is unable to circulate the article publicly at this time. He did indicate however that some of the data contained in the original report was "preliminary" and has since been revised. For example, in the original report, Mr. Heseltine had assigned an annual average of 1,223 planning appeals to the Commission Municipale du Quebec (provincial appeal body in Quebec). However, Mr. Heseltine later discovered that there was a substantial error with the Quebec data. The annual average number of appeals assigned to the Commission Municipal du Quebec has since been revised downward by Mr. Heseltine to 12 appeals, which is the same number attributed to the Nova Scotia Utility and Review Board (NSUARB).

With regard to the Province of Ontario, a close reading of the Heseltine report shows that the Ontario Municipal Board (OMB) is able to hear appeals on a much wider range of planning related matters (plan amendments, site plans, subdivisions, minor variances, etc) than can the NSUARB. Mr. Heseltine also did not provide a breakdown on the number of appeals lodged for each type of planning related matter, so based on information currently in-hand it is impossible to properly compare (i.e. apples-to-apples) the per capita rate of appeal for development agreements between Nova Scotia and Ontario.

In the past 5 years, for example, there have been three major appeals of Council’s decisions on development agreements in downtown Halifax (Midtown, Tex-Park, and Waterside). In all three cases, the primary focus of the appeal was on height and massing. And out of these three appeals, two resulted in reversals of Council’s decisions (Midtown and Waterside).

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 7 (Councillor Watts): Discuss amending the \$4/sq.ft charge to achieve extra height for bonus zoning to something more in the medium range; consider \$12/sq.ft.

DOCUMENTS:

Downtown Halifax Land Secondary Municipal Planning Strategy

- S. 3.4.3 Density Bonusing (p. 25)
- S. 5.2 Public Lands & Facilities Development (p. 45)
- S. 8.6 Plan Monitoring (p. 63)

Downtown Halifax Land Use By-law

- S. 12(1) Post Bonus Height Provisions (p. 31)

DISCUSSION/OPTIONS:

Downtown Halifax has seen limited development in recent years. One of the intentions of HRM by Design is to precipitate growth and change by creating a positive downtown development climate. Keeping the per square foot charge for bonus zoning relatively low was intentional in order not to stifle any development that may burgeon after the adoption of this Plan’s development processes. In looking at other Canadian cities that employ bonus zoning, the Urban Design task Force felt it prudent to implement a bonusing charge at the lower end of the national spectrum, hence \$4/s.f.

Any increases in fees as a result of bonus zoning in residential projects are likely to be passed on to the resident, potentially negatively impacting housing affordability. It should be noted that HRM already recoups many other development fees that are used in the delivery of public services and benefits. These fees include:

- Application fees
- Capital Cost Contribution charges
- Waste water treatment charges
- Solid Waste charges
- Sewer Redevelopment charges
- Streets and Services charges
- Various inspection fees

To put this in context, in the example of the recently approved Trillium project the permitting fees alone amounted to approximately \$315,000. Under the proposed bonus zoning program the development would have been charged an additional \$145,000 to achieve its post-bonus maximum height, bringing the total to approximately \$460,000 in fees. Interestingly, the Trillium has commissioned a public art piece with a budget of \$75,000, which is about 50% of what would have been required for public benefit under the new Plan (\$145,000).

It should also be pointed that the development of publicly owned lands presents a unique opportunity to dramatically increase the provision of public benefit. According to the Turner-Drake report, 53% of the developable land in the downtown study area is in public ownership. For this reason Section 5.2 (Policy 49) of the proposed DHSMPs calls for cooperation amongst the three levels of government to ensure the provision of public amenity, housing affordability, and green design/construction in the development of publicly owned lands. Development of the municipally owned Clyde Street parking lots, and the Cogswell Interchange lands are primary examples of this, wherein HRM will be in a position to require extensive public benefit well beyond that afforded by the bonus zoning program.

In a separate report to Council at a later date, staff will recommend that the HRM Charter be amended to permit the municipality to establish a Capital Reserve with fees collected under the bonus zoning system. If the Province approves this, it may trigger a review of the bonus zoning program.

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation to use Plan Monitoring to monitor the effectiveness of the bonus zoning program, and, if required, commission a detailed study to determine improvements or increases to the program.

ISSUE #8 (Councillor Watts): Expand the membership of the Design Review Committee to include members with specific expertise in community social analysis, energy efficient building design, and traffic and transportation patterns.

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 make-up of the DRC currently before Council embodies this consultation and deliberation. As well, it is noted that the members of design review committees across the country are design professionals.

Regional Council currently receives advice from as many as 65 Committees of Council on such matters as heritage, accessibility, transportation, culture, and the implementation of the Regional Plan. Many of these committees include expertise on matters of social planning, transportation and the environment. However, Council does not as yet receive any advice on the extremely important matter of architectural and public realm design. It is therefore not recommended to alter DRC membership to include specific expertise in community social analysis, and traffic and transportation patterns.

However the idea of adjusting the membership to require, where possible, that one or more of the architect members be a certified professional in sustainable building design and construction, would be an improvement.

RECOMMENDATION & REQUIRED AMENDMENT:

Recommendation that the membership criteria of the Design Review Committee be amended to require, where possible, that at least one of the architect members be a certified professional in sustainable building design and construction.

ISSUE #9 (Councillor Watts): Change the proposed development approval process from site plan approval to the existing development agreement process in the interim, until such time that all functional plans are completed and the 2 other HCDS are in place.

DOCUMENTS:

N/A

DISCUSSION/OPTIONS:

The Downtown Halifax Plan recommends five new functional plans, and it prioritizes two additional functional plans from the Regional Plan for a total of seven functional plans. The completion of these seven functional plans could take up to two years or more. Completion of the two additional Heritage Conservation Districts will take 18 - 24 months to complete if undertaken concurrently. If we wait for that work to be done prior to Plan adoption a number of issues will persist:

- Development may continue to be repelled from the downtown by a controversial process.

- The Barrington Heritage Conservation District will be delayed by at least another two years and disinvestment and decay will continue.
- Development that does occur downtown will proceed without the benefit of an excellent set of design guidelines that community has high expectations for.
- This is a substantive change that would require a new public hearing.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #10 (Councillor Watts): Clarify the impact of adopting this plan in the downtown, on the other neighbourhoods in the Regional Centre. What is the status of the previous public consultation that was Regional Centre focused?

DOCUMENTS:

N/A

DISCUSSION/OPTIONS:

There will be no tangible impact on the surrounding neighbourhoods. That is, all policies, regulations and procedures currently in effect outside of the downtown study area will be unchanged. However an intangible effect of this Plan on those neighbourhoods will be one of a more vibrant and liveable downtown increasing the prosperity of the region and increased provision of the ability to live near workplaces.

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 # 11 (Councillor Watts): What will be the role of the Design Review Committee outside of downtown Halifax?

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

The Design Review Committee, if accepted by Council, will only have jurisdiction over the Downtown Halifax Plan area.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

**ISSUE #12 (Councillor Watts): Amend the supplementary report of April 7:
a. delete page 27 Attachment D and Attachment D-1 or;
b. amend page 27 Attachment D to include that the heights for the convention centre must follow the heights as defined in the precinct by HRMbyDesign and to eliminate the heights in the drawings of Attachment D**

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- S 8.6A – Transition to this Plan (p. 64)

Downtown Halifax Land Use By-law

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

DISCUSSION/OPTIONS:

On April 7, 2009 Regional Council passed a motion approving the accommodation of the proposed new World Trade and Convention Centre in the proposed Plan and By-law.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE # 13 (Councillor Watts): Amend the height limits for the following buildings in specific precincts to the following heights:

Precinct 2:

-Heights be at a maximum of 13.7 metres (both maps 4 and 5)

Precinct 4:

1695 Hollis, 5136 Prince, 5144 Prince, 5138 Prince, 1675 Bedford and 1684 Lower Water height to be set at a maximum of 11 metres.

-1674 and 1682 Hollis height to be set at a maximum of 16 metres

-Robertson Henderson on east side of Lower Water height to be set at 10.4 metres

-1724 Granville height to be set at 13 metres

-1796, 1813, and 1819 Granville, 5162 Duke, 1820 Hollis and 5171 George height to be set at 12 metres.

Precinct 6:

-Block of Prince, Brunswick, Market and Sackville be set at 13.8 metres

-Block of Market, Prince, Grafton and Sackville be set at 15.8 metres

-Block of Grafton, Prince, Argyle and Sackville be set at 18.4 metres

-St. Mary's Boys and Girls schools on Grafton be set at 13.7 metres

-1669, 1706, 1726 and 1740 Argyle be set at 13.7 metres.

Precinct 7:

-Block of Duke, Granville, Buckingham and Hollis be set at a height of 15 metres.

-Waterfront warehouses on east side of Lower Water Street be set at a height of 12 metres.

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 of the Response to Public Comments document (discussed in greater detail in Section D(2) of the June 2 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.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #14 (Councillor Watts): Maintain heights of heritage buildings by setting the maximum height of any heritage building as the actual current height of said heritage building.

DOCUMENTS:

Downtown Halifax Land Use By-law

- Schedule S-1: Chapter 4 – 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 minor exception noted in Issue #10 of the Response to Public Comments document (discussed in greater detail in Section D(2) of the June 2 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. Incentive to demolish is therefore reduced by the proposed Plan.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #15 (Councillor Watts): Amend 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% in keeping with the recommended sustainability design guidelines in the Design Manual.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

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

DISCUSSION/OPTIONS:

As members of the public also made this request, please see below for a detailed response included as Issue #38 of the Response to Public Comment document, below:

ISSUE #38 (Public Comments): Mandate energy efficient buildings in downtown Halifax.

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 #16 (Councillor Watts): Clarification: the Plan's definitions of gross or net high, medium, or low densities.

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 1.4 – The Importance of Sustainability (p. 5)
- Chapter 2 – Downtown Halifax Urban Design Vision & Principles (p. 6)
- Chapter 5 – Economic Development (p. 42)

DISCUSSION/OPTIONS:

The Plan does not employ these terms in any technical sense. Rather the emphasis is generally on increasing density overall in recognition of several critical factors:

- Population loss from the peninsula over the last 35 years (nearly 30%).

- Sustainability benefits of increasing residential and employment density in areas served by existing hard and soft infrastructure
- Sustainability benefits realized by the fact that every job or home in the downtown means one less job or home created in an unserved suburban green field
- Economic benefits derived from a dense mix of uses and people in a walkable, 24-hour city.
- The urbanized core of HRM currently has extremely low density, which is actually similar to the *suburban* densities of other Canadian cities.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #17 (Councillor Watts): Clarification on population stats:

- a. “Depopulation”: does the depopulation of the peninsula over the past 3 decades support the decrease in population of the downtown - what are the figures for the downtown and the peninsula over a 30-year comparison.**
- b. If the population is now lower in the downtown, where did the additional people live in the past?**
- c. Clarify the population of 25,000 students attending HRM universities - where do they live, are they included in the census data?**
- d. What is the impact of smaller families on decrease in population density on the peninsula?**
- e. Does HRMbyDesign suggest that calculations for number of residential units in the downtown are based on 1.4 persons per unit? If this is true what is the rationale for this figure and how does it relate to anticipated jobs, services and retail? How does this relate to the goal of attracting more families downtown?**
- f. The Regional Plan suggests an increase in population of 25,000 people for the whole Regional Centre over the next 25 years, not just for the peninsula. What is the rationale for accommodating 16,000 of this increase in downtown Halifax in the context of proposed increases or decreases in other parts of the Regional Centre? How much of the remaining 9000 will be located where? How much vacant or underused land is there within walking distance of downtown Halifax or by a ferry ride? Would this land accommodate even more than the remaining 9000 and in high density low rise buildings?**

DOCUMENTS:

Downtown Halifax Secondary Municipal Planning Strategy

- Chapter 1.4 – The Importance of Sustainability (p. 5)
- Chapter 2 – Downtown Halifax Urban Design Vision & Principles (p. 6)
- Chapter 5 – Economic Development (p. 42)

DISCUSSION/OPTIONS:

The proposed plan is an urban design plan concerned primarily with the vibrancy and beauty of downtown. That is, improvements to the quality of architecture and public

space design and the usability of the policies and processes that shape the built the environment, attracting higher concentrations of people and activity.

The population increases referred to in the Plan reflect the community's *aspirations* for densification and growth, and the sustainability benefits that attend densification. These aspirations are *not* projections based on statistical analysis. The community's aspirations are based on the facts 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.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #18 (Councillor Watts): Clarification: what is the total of land currently available for development in the downtown and how much of this land has HRM already issued building permits.

DOCUMENTS:

N/A

DISCUSSION/OPTIONS:

The Turner-Drake report states that in the next 25 years the 40 sites available for development within the downtown study area could generate the following:

- 13,555,719 s.f. of development if 100% residential
 - 10,281,313 s.f. of development if 100% commercial
- (The report does not provide projections for a mix of the two.)

HRM has issued development and building permits for **793,000** s.f. of this capacity.

HRM has issued Development Agreements for **1,408,902** s.f. of this capacity.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #19 (Councillor Adams): What is the impact on the view planes of all 4 of the grandfathered development agreement applications?

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

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

DISCUSSION/OPTIONS:

The 4 grandfathered development agreement applications will proceed under the policies in effect at the time the complete applications were received, which includes view planes and ramparts regulations. Therefore there will be no impact on the view planes.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #20 (Councillor Harvey): What are the timelines for the establishment of the two proposed Heritage Conservation Districts?

ISSUE/CONCERN:

There is a concern that development and demolition pressures will threaten the heritage resources in the two proposed conservation districts, Barrington Street South and Historic Properties, until the Heritage Conservation Districts are established.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

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

The statutory process for establishing a conservation district requires the following steps be taken:

- Council adopt a public participation program by resolution;
- Begin public participation process;
- Council undertake background studies, and have them approved by the Minister
- Council prepare draft conservation plan and by-law;
- Council give notice of intention to adopt conservation plan and by-law
- Council provides public access to plan and by-law;
- After public hearing plan and by-law submitted to Minister for approval;

- Minster approves conservation plan and by-law by notice in newspaper and files documents in Registry of Deeds.

Public participation allows the public an opportunity to be involved in the planning process, but also that the proposed conservation plan and by-law is understood and supported by the community.

Part of the background studies required should include an overview of the settlement history, evolution of the district, analysis of the urban form and architectural character, analysis of the setting, and discussion of the conservation and development issues. Funds are included in the 2009/10 capital and operating budgets for required background studies.

It is anticipated that even with these additional resources directed toward the establishment of the two conservation districts they would take between 18 and 36 months for adoption.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #21 (Councillor Lund): Incorporate suggested wording from Ecology Action Centre regarding green building sustainability initiatives.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Both of the amendments proposed by the EAC have been discussed and analyzed by HRM Legal Services and Planning Services staff as part of the Response to Public Comments document. For convenience, Issues #34 and #38 of that document are included below:

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

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.

ISSUE #38 (Public Comments): Mandate energy efficient buildings in downtown Halifax.

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 #22 (Councillor Lund): Include motherhood statements in HRMbyDesign referring to ongoing work of the Province to amend the Building Code to incorporate green building design.

DOCUMENT:

Downtown Halifax Secondary Municipal Planning Strategy

- S. 3.4.5 Sustainable Building Design (pp.26-28)

DISCUSSION/OPTIONS:

The proposed Downtown Halifax Secondary MPS does include statements about formalizing and continuing ongoing work with the Province to strengthen existing legislation to allow HRM to mandate sustainable building design, in S. 3.4.5 and Policy 20. This work will be formalized through the initiation of the Sustainability Functional Plan, to be led by HRM’s Sustainable Environment Management Office.

Policies 23 and 49 of the Plan also state the Municipality’s intention to work with other levels of government to establish LEED equivalent standards for the development of publicly owned lands in the downtown.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #23 (Councillor Lund): Promote green rooftops in the bonus zoning program, particularly along sight lines from Citadel Hill.

DOCUMENT:

Downtown Halifax Land Use By-law

- S. 8(12) Rooftop Landscaped Open Space (p.23)
- Schedule S-1: S. 3.3.4 Roof Line and Roofscapes (p.19)

DISCUSSION/OPTIONS:

Rooftop landscaping is already required for all flat roof buildings under S. 8(12) of the proposed Downtown Halifax Land Use By-law, for the portion of the flat roof not

required for architectural features or mechanical equipment. A flat roof is defined as having a pitch less than 1:12.

In addition, in recognition of the importance of views of the city and its buildings from higher elevations such as Citadel Hill, the Design Manual section of the LUB, S. 3.3.4, includes specific design guidelines for roof lines and roofscapes. This includes special treatment for landscaping roofs within precincts visible from Citadel Hill (precincts 3, 5, 6) to encourage living green roofs.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #24 (Councillor Lund): Due to the amount of further work required in functional plans, it should be spelled out in the documents. Also, Council should be provided with a schedule for when the functional plans would be completed and expected dates for regulatory changes.

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:

Functional plans were first introduced to HRM through the Regional Plan as a way to create intense, detailed management guides for setting budgets for programs, services and facilities consistent with the implementation of the larger plan. The concept of functional plans is outlined in the proposed Downtown Halifax Secondary Municipal Planning Strategy under sections 1.5 and 8.7.

The Regional Plan identified 24 functional plans for completion of more detailed work following its adoption. The Downtown Plan identifies a further 5 functional plans, including:

- Cogswell Interchange Master Plan;
- Sustainability Functional Plan;
- Downtown Halifax Open Space Functional Plan;
- Transportation & Streetscape Design Functional Plan; and
- Downtown Halifax Capital Investment Functional Plan.

The proposed Downtown Halifax Secondary Municipal Planning Strategy introduces each functional plan, with a policy outlining the scope of work expected to be undertaken. However, no detailed time lines indicating completion of these functional

plans is included in the plan, as that is an annual decision of Council during the budget and business planning process.

Following Council’s request for an update and schedule of the completion of the 24 Regional Plan functional plans and the 5 proposed HRMbyDesign functional plans, staff has provided this information in Attachments “F” and “G” of the June 2, 2009 staff report.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

ISSUE #25 (Councillor Lund): Address the concern about overshadowing houses in Schmitville.

DOCUMENTS:

Downtown Halifax Land 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 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 where stepped back from Clyde Street. 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.

The proposed building massing 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 #26 (Councillor Lund): Public involvement opportunities should be extended to allow the public an additional opportunity later in the process, particularly at Design Review Committees.

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 (p. 12)

DISCUSSION/OPTIONS:

As members of the public also made this request, please see a detailed response to this comment as outlined in Issue #46 of the Response to Public Comment document, below:

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

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 #27 (Councillor Lund): Tax relief should be considered for any properties considering preserving a heritage resource as part of the redevelopment. For example, no tax the first year and gradually increase tax over a five-year period to market value.

ISSUE/CONCERN:

A negative effect of heritage restoration work is that often property values increase after extensive restoration work. The assessed value of the property then increases resulting in higher taxes levied against the property. This is often seen as a disincentive to maintaining a heritage property.

DOCUMENT:

N/A

DISCUSSION/OPTIONS:

Tax relief is generally not tied to any conditions, and therefore is less successful in accomplishing good heritage conservation. Tax incentive programs are a more common approach allowing conditions to be placed on a temporary forgiveness or tax credit.

Within the Barrington Street Heritage Conservation District tax incentives are being used for the first time in HRM. This was only done after a consultant study was undertaken to clarify the level of needed restoration, and the anticipated amount of uptake by property owners. The tax incentive program is anticipated to run for five years, and if successful Council could choose to extend similar programs to other heritage properties in HRM.

The tax incentive program for Barrington Street Conservation District should operate as a pilot program. At the same time staff can begin the necessary examination of how to extend appropriate tax incentives to other heritage properties (within conservation districts and individual properties). This would allow the necessary time to study and determine the level of needed restoration for specific areas, and what the anticipated amount of uptake by property owners might be. Once the level of need and uptake are known, tax incentive programs can be formulated for those specific areas, and the cost to the municipality calculated. Council may then budget for these programs during annual budget proceedings.

RECOMMENDATION & REQUIRED AMENDMENT:

No changes are recommended.

Attachment "B"

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

Updated May 28, 2009

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TOPIC 1: HERITAGE

ISSUE # 1: Lower the heights in the proposed HCDs - 72 feet 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 Schmidville.

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 stepback 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 stepbacks 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 stepbacks 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%.

Same as Issue #37, see previous discussion.

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 Schmidville.

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: 7.Amend Sections #.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 stepback 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:

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[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.

ATTACHMENT “C”

Amendments to the proposed Downtown Halifax Secondary Municipal Planning Strategy

1. By removing "Map 4 - Pre-Bonus Heights" and replacing it with the revised "Map 4 - Pre-Bonus Heights" as shown on Attachment “C-1” of this report.
2. By removing "Map 5 - Post-Bonus Heights" and replacing it with the revised "Map 5 - Post-Bonus Heights" as shown on Attachment “C-2” of this report.
3. By replacing the words "Transportation Reserve" in the Table of Contents with the words "Waterfront View Corridors".
4. By replacing the words "transportation reserve" with the words "waterfront view corridors" in subsection (a) of Section 6.4.
5. By replacing the words "transportation reserve" with the words "waterfront view corridors" in Policy 61.
6. By replacing Section 7.7 with the following:

7.7 WATERFRONT VIEW CORRIDORS

To maintain the road and open space system, as well as to accommodate alternative means of transportation within existing corridors, it is essential to identify and retain corridors significant to the integrity of the public realm. The continuation of the east-west routes onto the waterfront lands preserves the views to the Harbour as well as provides links to waterfront amenities such as plazas and open spaces located at the foot of the corridors. Therefore it is important to preserve the corridors as they have been identified in the Land Use By-law through the creation of waterfront view corridors.

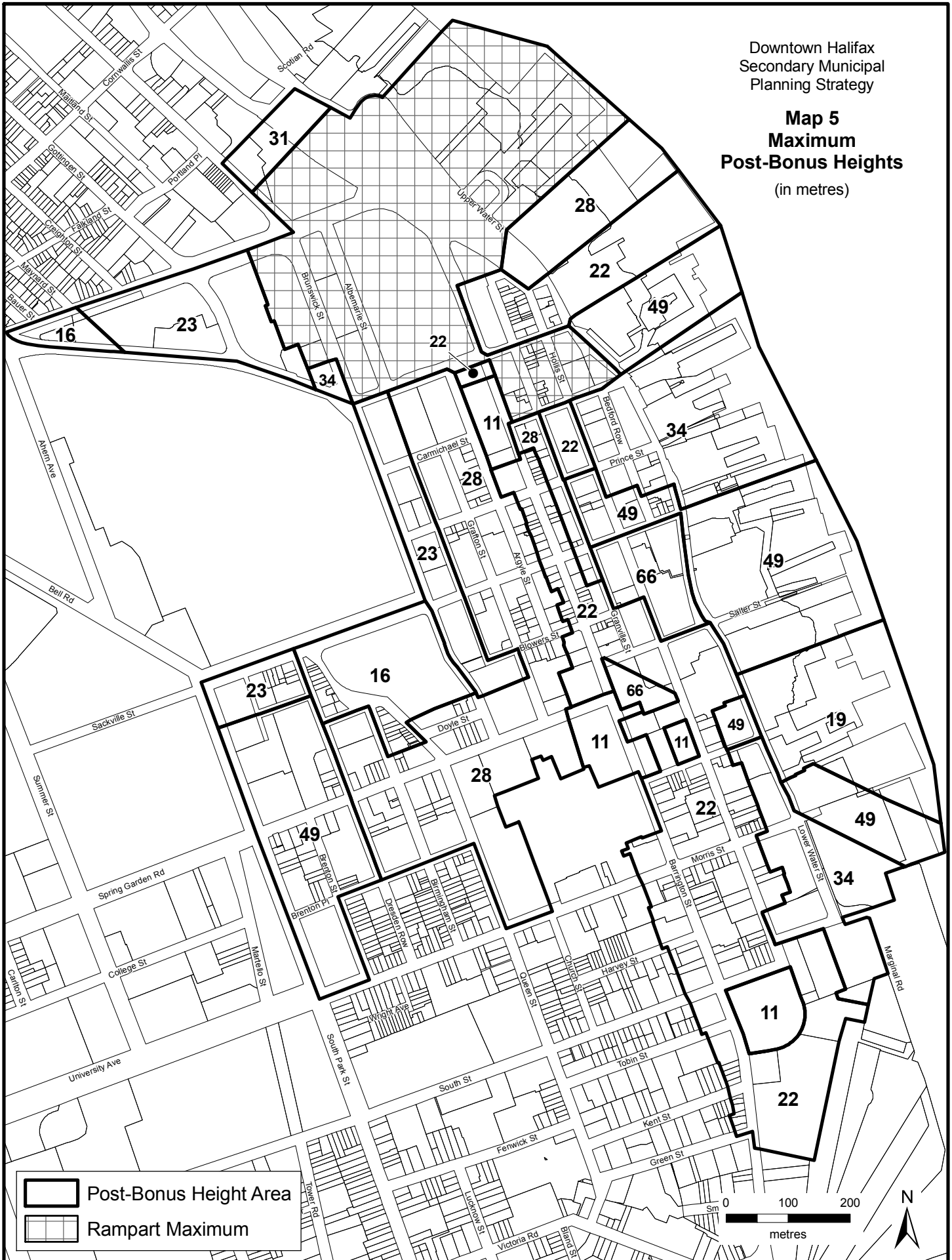
Policy 78 Further to Policy 61, HRM shall, through the Land Use By-law, provide for the preservation of future public access the waterfront view corridors as shown on Map 13a.

7. By replacing Map 13a with the version shown on Attachment "C-3" of this report.
8. By replacing the word "including" with the words "together with" and inserting the words "residential or" before the word "office" in Policy 90E.
9. By removing “Appendix A - Streetscape Typologies” and replacing it with the revised “Appendix A - Streetscape Typologies” as shown on Attachment “C-4” of this report.

10. By removing "Map 9 - Streetscape Typologies" and replacing it with the revised "Map 9 - Streetscape Typologies" as shown on Attachment "C-5" of this report.
11. By removing "Map 6 - Heritage Resources" and replacing it with the revised "Map 6 - Heritage Resources" as shown on Attachment "C-6" of this report.

Downtown Halifax
Secondary Municipal
Planning Strategy

Map 5
Maximum
Post-Bonus Heights
(in metres)



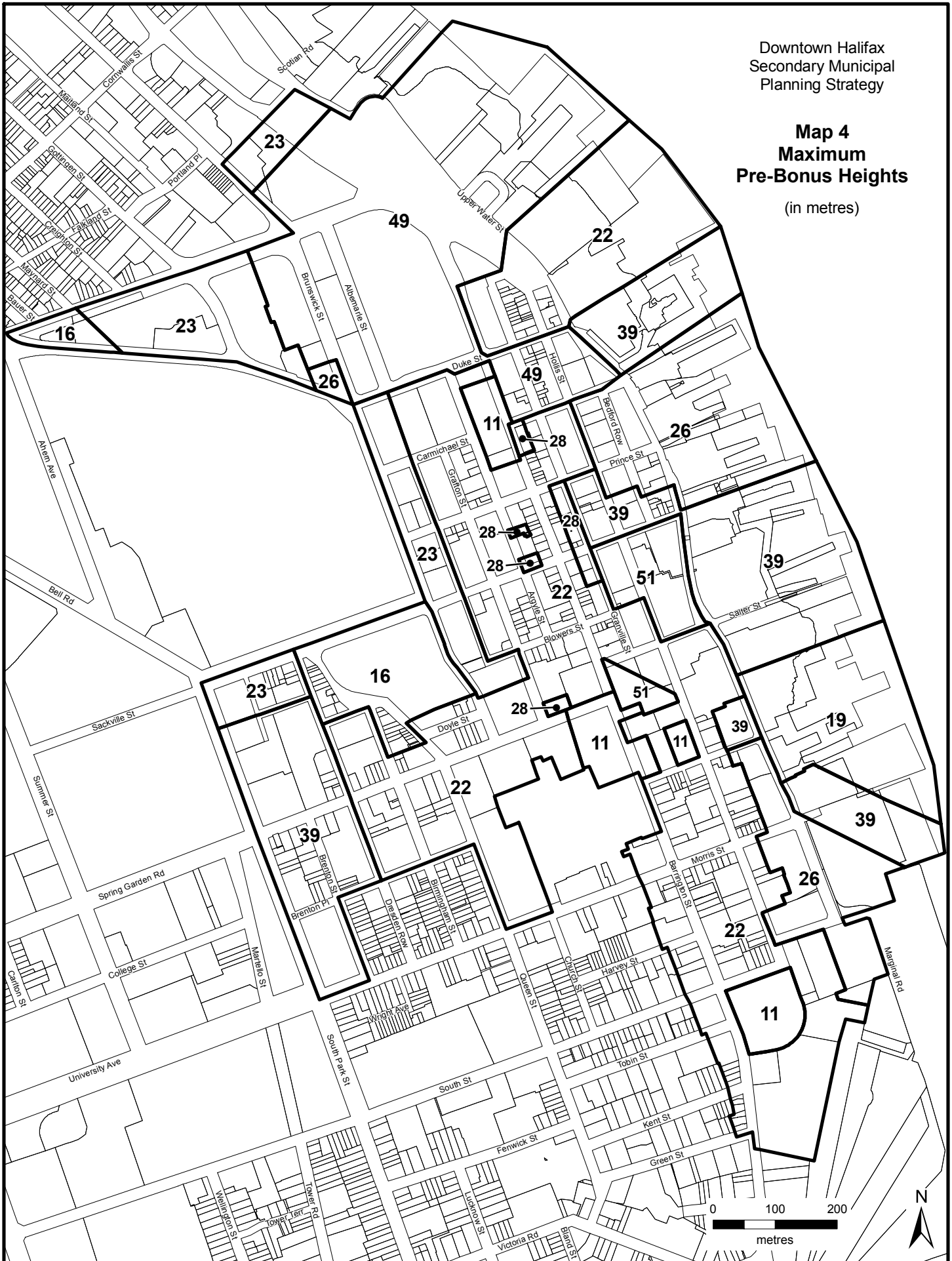
Effective:

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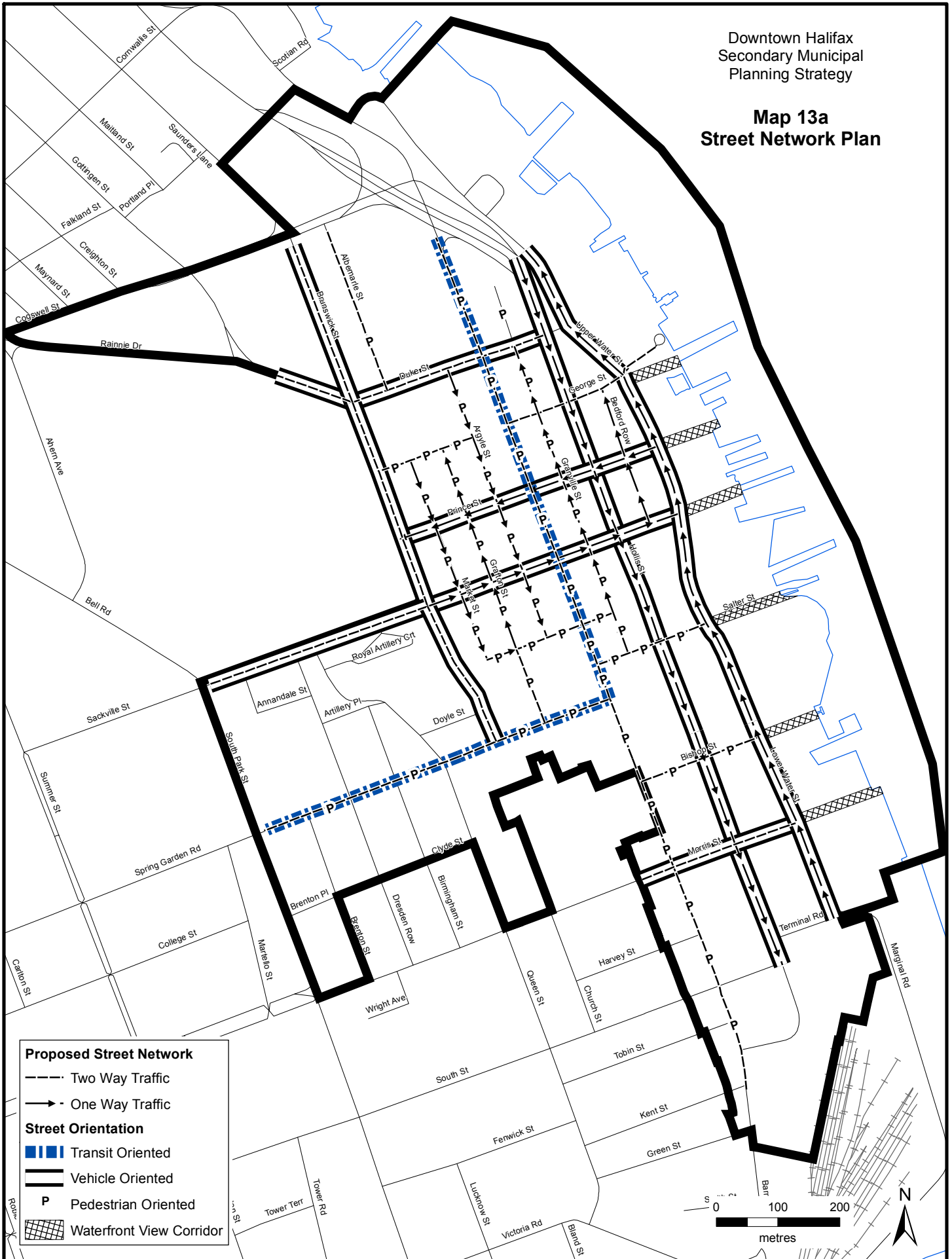
Downtown Halifax
Secondary Municipal
Planning Strategy

**Map 4
Maximum
Pre-Bonus Heights**

(in metres)



**Map 13a
Street Network Plan**

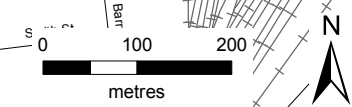


Proposed Street Network

- Two Way Traffic
- One Way Traffic

Street Orientation

- ▬ Transit Oriented
- ▬ Vehicle Oriented
- P Pedestrian Oriented
- ▨ Waterfront View Corridor

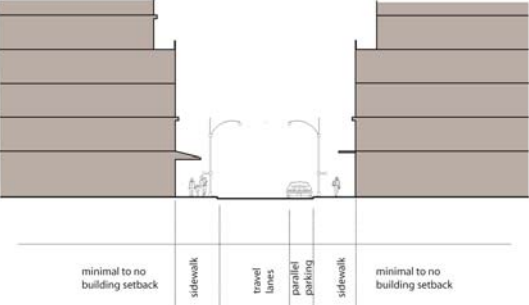
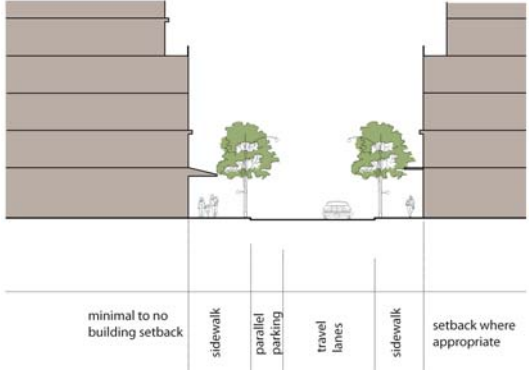


Attachment C-4


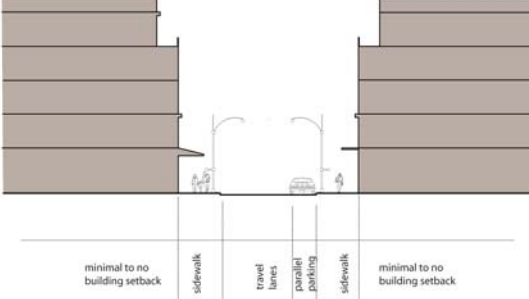
APPENDIX A STREETSCAPE TYPOLOGIES

Streetscape Typology	Primary Purpose	Defining Features	Cross Section
<p>1. Avenues (Barrington and Spring Garden)</p>	<p>Avenues are the primary pedestrian-oriented shopping streets in downtown. They are also focused on the provision of public transit.</p>	<ul style="list-style-type: none"> • Broad, distinctively paved sidewalks and crosswalks • Sidewalk ‘bump-outs’ at intersections • Unique lighting, banners and furnishing • Trees/landscaping where possible • Roadway width reduced to minimum requirements • Well designed transit stops 	
<p>2. Civic Avenue (Hollis Street, South Park Street, vicinity of Spring Garden Road/ Barrington intersection, Cogswell Street, portion of Gottingen)</p>	<p>The primary north-south connection (Hollis Street) linking major civic and cultural attractions including Cornwallis Park. Linking landmark buildings in park-like settings on the eastern end of Spring Garden Road and along a portion of Barrington Street. Linking the Halifax Commons to the downtown and waterfront (Cogswell & Gottingen Streets). Linking Citadel to Public Gardens and Victoria Park (South Park Street). Linking Victoria Park to the site of the future Central Public Library on the old Infirmary site (Clyde St.)</p>	<ul style="list-style-type: none"> • Iconic view termini and landmarks • Distinctive paving in “civic” vocabulary along sidewalks, at crosswalks and across the roadway at strategic civic locations (Cornwallis Park, Government House, Province House/Gallery, Provincial Courthouse, Memorial Library, Clyde Street, future Flatiron Plaza) • Where paving extends across the roadway, it should seamlessly integrate with adjacent public space treatments • Sidewalk ‘bump-outs’ at intersections • Unique lighting, banners and furnishing • Trees/landscaping where possible 	

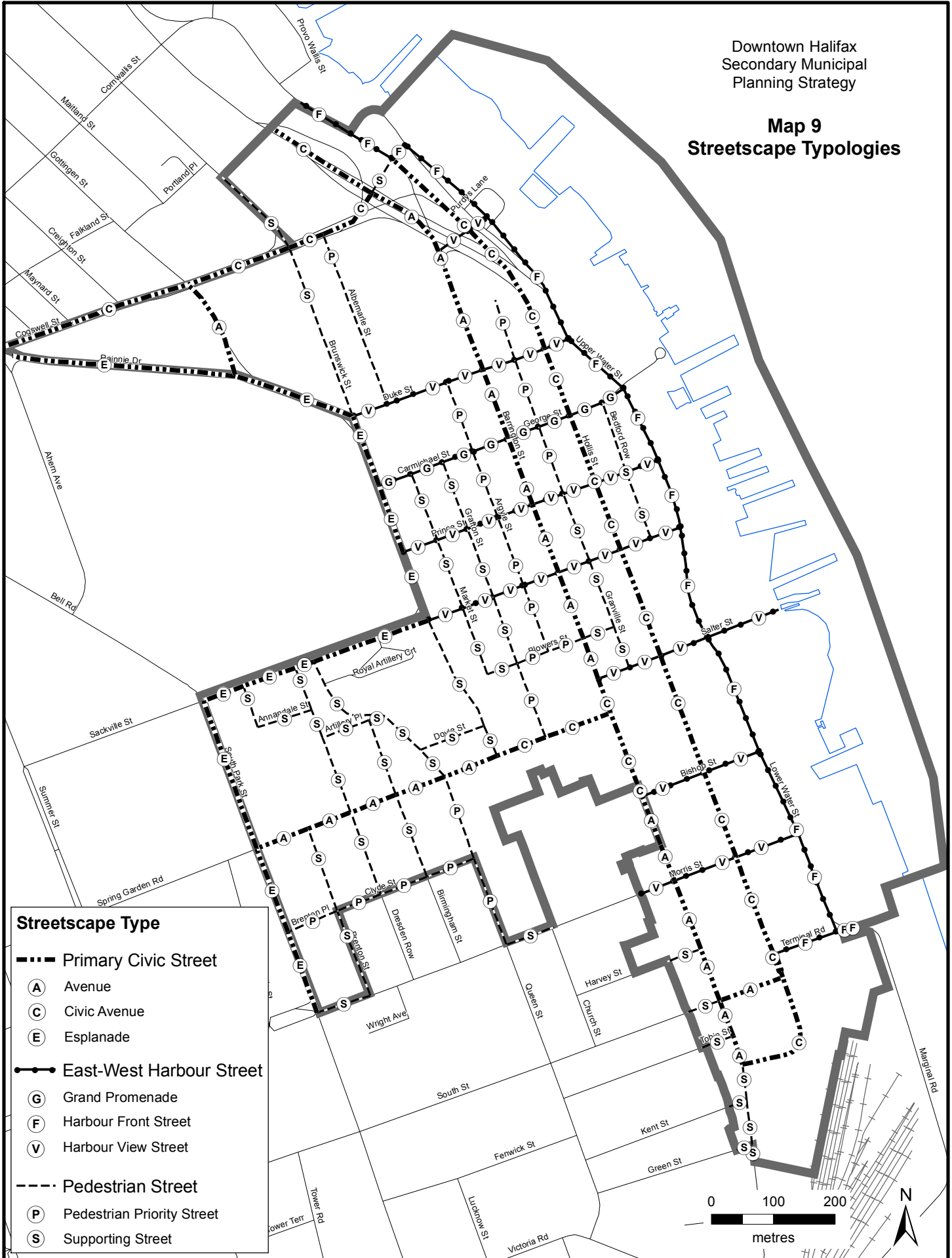
Streetscape Typology	Primary Purpose	Defining Features	Cross Section
<p>3. Grand Promenade (Carmichael and George)</p>	<p>The Grand Promenade is the symbolic historic visual axis linking the Old Town Clock to the harbour. It is downtown's primary east-west pedestrian connection linking major civic and cultural attractions along it. Of all the streets in downtown Halifax this corridor has the greatest potential to become an iconic symbol of the city and a showcase of the best of urban design and civic pride.</p>	<ul style="list-style-type: none"> • Continuous, distinctive, feature paving extending across the entire right of way to building faces, including across intersections. Feature paving should extend from the Citadel to the waterfront promenade. Paving to appear as a plaza treatment without curbs, while accommodating pedestrian safety considerations • An expanded sidewalk on the north side in conjunction with a double row of street trees • Unique lighting, banners and furnishing • Vertical elements should help define the sidewalk edge on the north side • Visual landmark termini at each end • Should define the “civic” language of streetscape design and elements for downtown Halifax, to be consistent with other civic public realm initiatives (see Citadel to Harbour Streets and Civic Avenue) 	

Streetscape Typology	Primary Purpose	Defining Features	Cross Section
<p>4. Harbour View Streets (Duke Street, Prince Street, Sackville Street, Salter Street, Bishop Street, Morris Street)</p>	<p>Harbour View Streets are east-west streets that provide key visual and physical links between the waterfront and the downtown and feature protected 'window' views of the harbour at their eastern ends</p>	<ul style="list-style-type: none"> • Waterfront plazas and public art landmarks at harbour termini • Distinctive sidewalk & crosswalk paving in a "civic" vocabulary similar to Grand Parade • Sidewalk 'bump-outs' at intersections • Unique lighting, banners and furnishing • Trees/landscaping wherever possible • A "water-view" language of streetscape design and elements 	 <p>The diagram shows a street cross-section with buildings on both sides. From left to right, the zones are: 'minimal to no building setback', 'sidewalk', 'travel lanes', 'parallel parking', 'sidewalk', and 'minimal to no building setback'. A car is shown in the travel lanes, and a person is walking on the sidewalk.</p>
<p>5. Harbourfront Streets (Upper Water, Lower Water and Marginal Road)</p>	<p>These streets form the primary north-south connection serving the Waterfront and accessing waterfront related attractions and open spaces.</p>	<ul style="list-style-type: none"> • An irregular alignment affording opportunities for creating visual interest, view termini, and varied spaces along its length • Distinctive sidewalk and crosswalk paving • Special paving treatment extended across the roadway and seamlessly integrated with waterfront plazas • Sidewalk 'bump-outs' at intersections • Unique lighting, banners and furnishing that associate with the waterfront • Continuous street trees within the right of way, reinforced with additional rows of trees on private property wherever possible • Should define the "water-view" language of streetscape design and elements for downtown Halifax, to be consistent with other civic public realm initiatives (see Harbour View Streets) 	 <p>The diagram shows a street cross-section with buildings on both sides. From left to right, the zones are: 'minimal to no building setback', 'sidewalk', 'parallel parking', 'travel lanes', 'sidewalk', and 'setback where appropriate'. Two trees are shown in the travel lanes area, and a car is shown in the travel lanes.</p>

Streetscape Typology	Primary Purpose	Defining Features	Cross Section
<p>6. Esplanades (Sackville, Brunswick Rainnie)</p>	<p>Esplanades are streets that front the Citadel. Historically, the name ‘esplanade’ was given to the open area between the city and/or fortress walls.</p>	<ul style="list-style-type: none"> • A series of modest Esplanade Plazas corresponding to the ends of streets that lead to the Citadel and that may include public art, heritage interpretive features, wayfinding, pedestrian seating and special paving treatments • Plazas should link with sidewalks and be ‘trail heads’ for walkways and stairs that lead to the Citadel • Distinctive sidewalk & crosswalk paving • Sidewalk ‘bump-outs’ at intersections • A continuous double row of street trees where possible on the city-side of the streets • High quality stone retaining walls on the Citadel side, particularly at plazas • Unique lighting, banners and furnishing that associate with the Citadel • Other landscaping treatments where possible 	

Streetscape Typology	Primary Purpose	Defining Features	Cross Section
<p>7. Pedestrian Priority Streets (Argyle, Market, Grafton, Blowers, Granville, Bedford, Dresden, Birmingham, Brenton, Artillery, Doyle, etc.)</p>	<p>Pedestrian priority streets have existing or potential important pedestrian-oriented functions and/or connections to pedestrian destinations and which don't accommodate significant vehicular traffic. These are the "background" streets of the downtown, of which there are many.</p>	<ul style="list-style-type: none"> • Occasional use of distinctive paving across the entire roadway (i.e. Argyle Street) extended to adjacent animated building faces. Paving to appear as a plaza treatment without curbs while accommodating pedestrian safety considerations • Broadened sidewalks to enable continuous street trees • Roadway width reduced to minimum requirements • Unique lighting, banners and furnishing • Fixtures that can close segments of the streets off from vehicular traffic for occasional street festivals, markets and other events. 	 <p>The diagram shows a street cross-section with buildings on both sides. The sidewalk is wide and contains several trees. The roadway includes travel lanes and parallel parking. Labels below the diagram indicate: 'setback where appropriate' on the left, 'sidewalk', 'travel lanes', 'parallel parking', 'sidewalk', and 'minimal to no building setback' on the right.</p>
<p>8. Supporting Streets (All remaining streets in the downtown Halifax Plan area.)</p>	<p>Supporting Streets provide the armature upon which the other streetscape typologies rest. Excellence in design and function are equally important on these streets as on the others. They must be designed and constructed to a high standard befitting the importance of their role in downtown Halifax.</p>	<ul style="list-style-type: none"> • Distinctive sidewalk and crosswalk paving • Widened sidewalks wherever possible. • Sidewalk 'bump-outs' at intersections • Unique lighting, banners and furnishing • Trees/landscaping wherever possible 	 <p>The diagram shows a street cross-section with buildings on both sides. The sidewalk is wide and contains several trees. The roadway includes travel lanes and parallel parking. Labels below the diagram indicate: 'minimal to no building setback' on the left, 'sidewalk', 'travel lanes', 'parallel parking', 'sidewalk', and 'minimal to no building setback' on the right.</p>

**Map 9
Streetscape Typologies**



**Map 6
Heritage Resources**



ATTACHMENT “D”

Amendments to the proposed Downtown Halifax Land Use By-law

1. By inserting the following new sub-subsection immediately following sub-subsection (c) of subsection (2) of Section 4:

"4(2)(d) Where possible at least one member with professional expertise in architecture should be an accredited professional in sustainable building design and construction."

And by appropriately renumbering the subsequent sub-subsections of subsection (2) of Section 4.

2. By removing "Map 5 - Post-Bonus Heights" and replacing it with the revised "Map 5 - Post-Bonus Heights" as shown on Attachment "D-1" of this report.
3. By removing "Map 4 - Pre-Bonus Heights" and replacing it with the revised "Map 4 - Pre-Bonus Heights" as shown on Attachment "D-2" of this report.
4. By replacing Section 4(14) with the following:

“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.”

5. By replacing the title and contents of subsection (12) of Section 8 with the following:

"Landscaping for Flat Rooftops

(12) All buildings erected or altered, with a flat roof shall provide a fully landscaped area on those portions of the flat roof not required for architectural features or mechanical equipment. These landscaped areas need not be fully accessible except where they are provided pursuant to the requirements of subsection (10) of section 7."

6. By amending the “Table of Contents” by replacing the term “Rooftop Landscaped Open Space” with the term “Landscaping for Flat Rooftops”.
7. By replacing the words "Transportation Reserve (TR)" in the Table of Contents with the words "Waterfront View Corridors".

8. By replacing the words "Transportation Reserve: Abutting Uses" in the Table of Contents with the words "Waterfront View Corridors: Abutting Uses".
9. By replacing the words "Transportation Reserve (TR)" before subsection (18) of Section 7 with the words "Waterfront View Corridors".
10. By replacing subsections (18) and (19) of Section 7 with the following:
 - "(18) To preserve waterfront view corridors, every structure shall be setback a minimum of 7.62 metres from the mean centre line of the prolongation of George Street, Prince Street, Sackville Street, Salter Street, Bishop Street and Morris Streets from their intersection with Lower Water Street and extending eastward to the ordinary high water mark of Halifax Harbour or the eastern boundary of any water lot, whichever is greater.
 - (19) Every application for a development permit for a building or structure to be erected abutting the waterfront view corridors of subsection (18) shall furnish such plans and data as the Development Officer shall require to determine that the proposed building or structure will meet the required setbacks."
11. By deleting subsections (20) and (21) of Section 7.
12. By replacing the words "Transportation Reserve (TR): Abutting Uses" before subsection (22) of Section 7 with the words "Waterfront View Corridors: Abutting Uses".
13. By replacing the words "Transportation Reserve, as identified on Map 1" in subsection (22) of Section 7 with the words "waterfront view corridor, as identified in subsection (18)".
14. By replacing the words "Transportation Reserve" with the words "waterfront view corridor, as identified in subsection (18)" in subsection (23) of Section 7.
15. By replacing the words "active transportation reserves" with the words "waterfront view corridors" in Section 2.10 e. of Schedule S-1: Design Manual.
16. By replacing Maps 1, 6 and 7 with the versions shown on Attachments D-3, D-4 and D-5 of this report.
17. By replacing subsection (15A) of Section 7 with the following:
 - "(15A) Notwithstanding any provision of this By-law except subsections (14) through (17) of section 8, a publically-sponsored convention centre together with retail, hotel, residential or office, 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, "publically-sponsored convention centre" means an establishment funded or otherwise financially supported 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."

18. By replacing the preambles of Sections 3.6.10 and 3.6.11 of Schedule S-1 (Design Manual) with the following:

"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 Downtown Halifax Land Use By-law and Section 2.10 of Schedule S-1 (Design Manual) of the Downtown Halifax Land Use By-law may be varied by Site Plan Approval where the variance will:"

19. By replacing subsection (s) of Section 2 with the following:

"*Building width* means the total horizontal distance between the outermost edges of the building wall or walls facing a street or public open space."

20. By adding the following new definition following subsection (q) of Section 2:

"(qa) *Building face* means that portion of a building facade which is separated from other portions of the same facade by recesses or offsets a minimum of 0.5m in depth."

21. By amending the "Table of Contents" to add "Publically-Sponsored Convention Centre" between "Residential Uses: Storm Surge Protection" and "Institutional, Cultural & Open Space Zone (ICO)".

22. By amending subsection (15A) of Section 7 to add the title "Publically-Sponsored Convention Centre".

23. By removing "Map 1 - Zoning and Schedule" and replacing it with the revised "Map 1 - Zoning and Schedule W" as shown on Attachment "D-3" of this report.

24. By inserting the following new subsection immediately following subsection (i) of section 3.3.2 of Schedule S-1 (Design Manual):

"(k) Unpainted or unstained wood, including pressure-treated wood, is prohibited as a building material for permanent decks, balconies, patios, verandas, porches, railings and other similar architectural embellishments. This guideline does not apply to seasonal

sidewalk cafes."

25. By removing the note to the reader that appears at the end of Section 3.6.4 of Schedule S-1.
26. By replacing the “; or” at the end of Section 3.6.5 (b) with a period, and by adding the following note to the reader at the end of Section 3.6.5:

"NOTE: In cases where the maximum streetwall height is within two storeys of the maximum building height, the Design Review Committee may reduce the maximum streetwall height to ensure an appropriate proportion of streetwall height to upper building height."

27. By adding the following text immediately following the word "lot" in subsection (2) of Section 8:

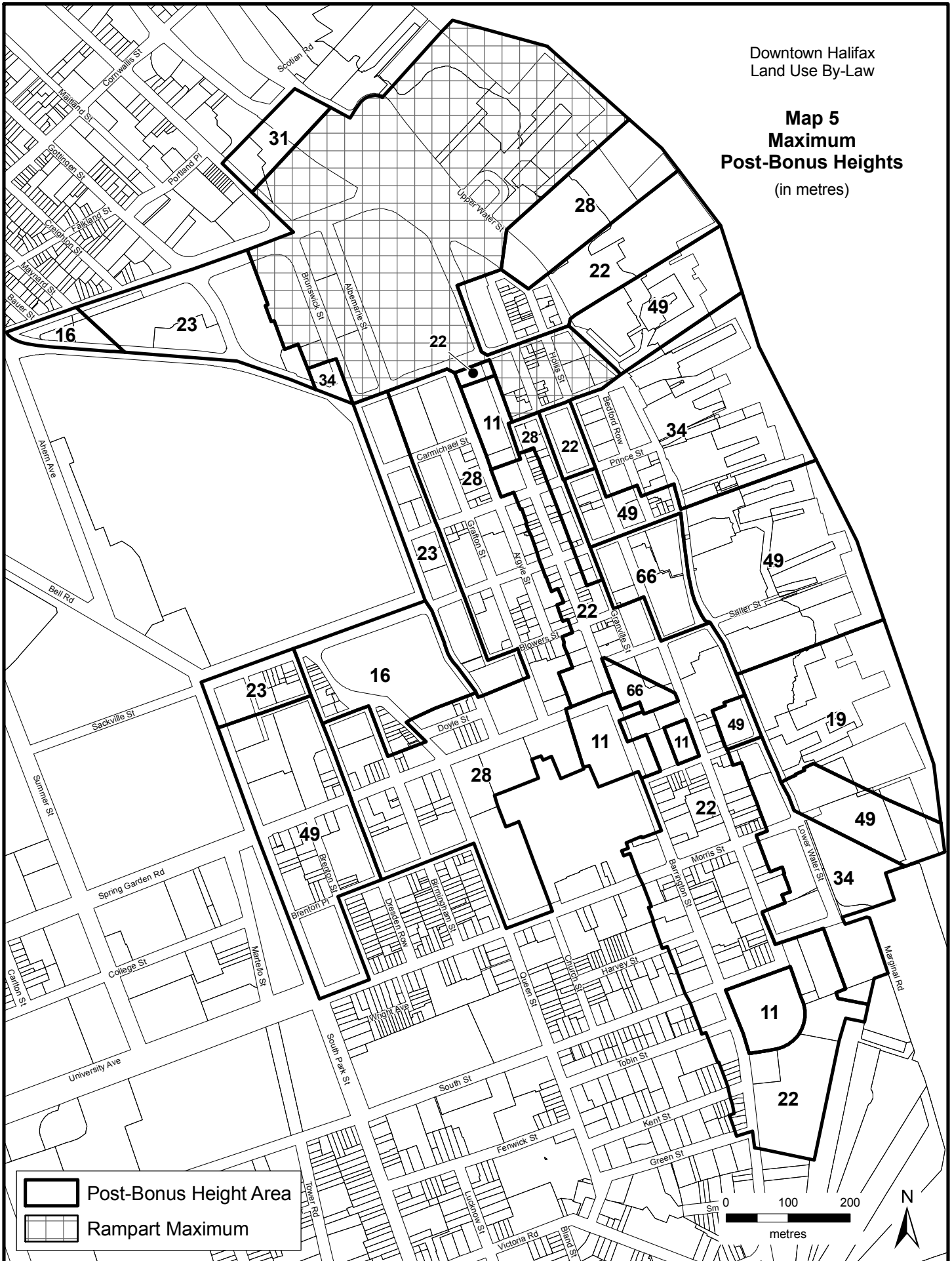
", except that this provision shall not apply to development in Schedule W."

28. By adding the following new subsection immediately following subsection e. of section 2.1 of Schedule S-1 (Design Manual):

"f. New waterfront development shall adhere to Section 2.10 of the Design Manual."

Downtown Halifax
Land Use By-Law

Map 5
Maximum
Post-Bonus Heights
(in metres)

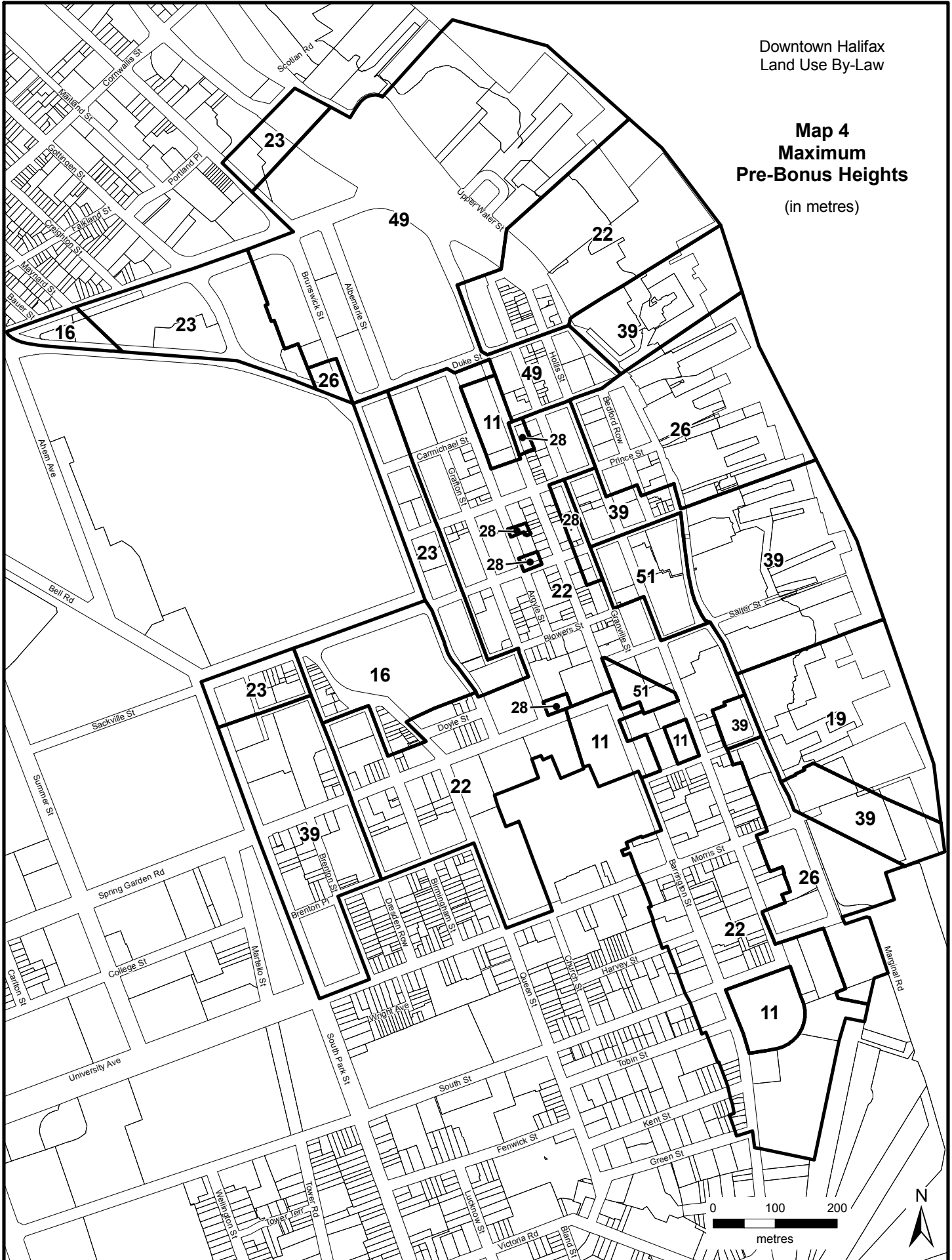


Effective:

Note: Effective date does not indicate date of data creation.

Downtown Halifax
Land Use By-Law

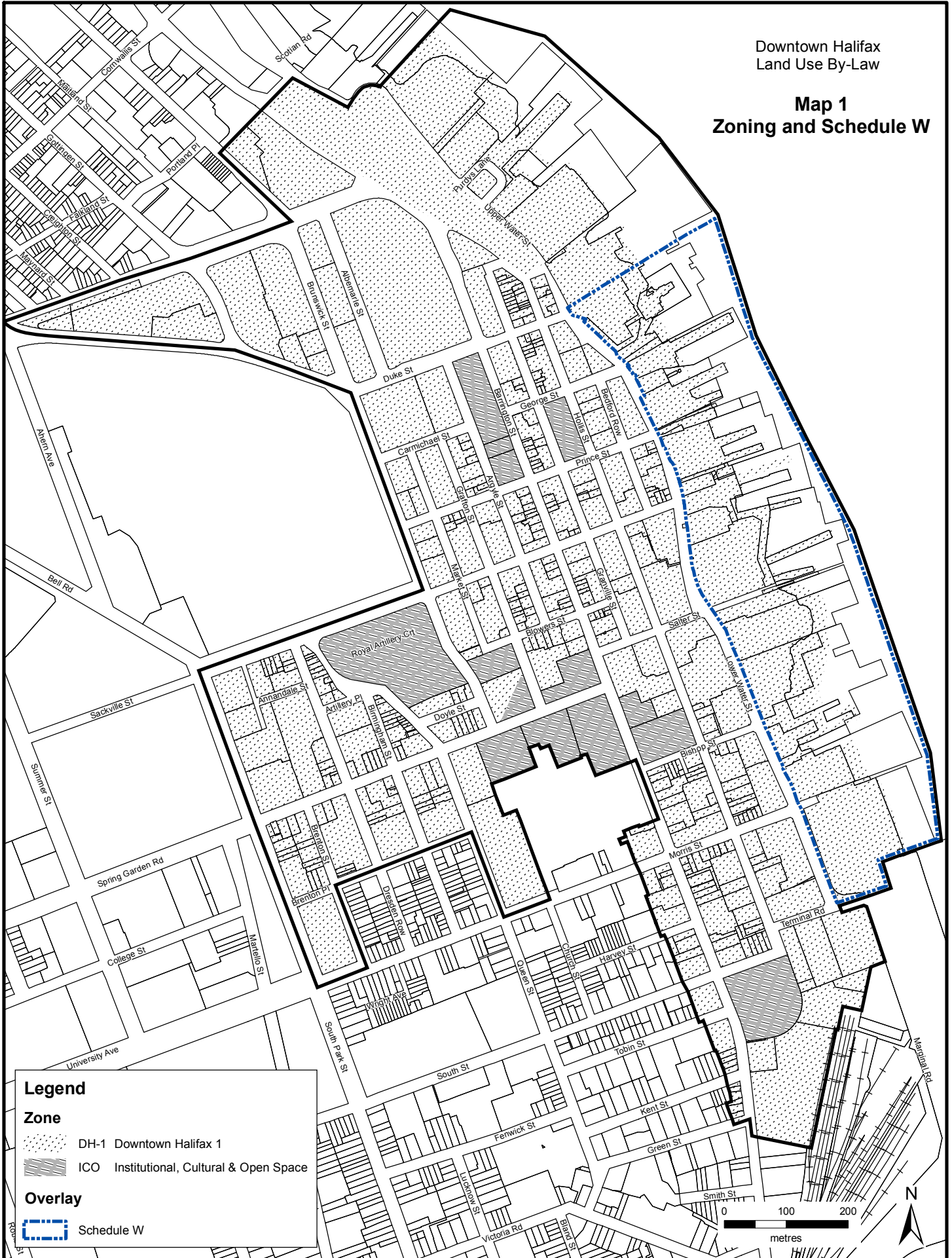
Map 4
Maximum
Pre-Bonus Heights
(in metres)



Effective:

Note: Effective date does not indicate date of data creation.

Map 1
Zoning and Schedule W



**Map 6
Streetwall
Setbacks**



Downtown Halifax
Land Use By-Law

Map 7 Streetwall Heights



Effective:

Note: Effective date does not indicate date of data creation.

ATTACHMENT “E”

Amendments to the Heritage Conservation District (Barrington Street) By-law

1. By deleting subsection (8) of Section 5 and renumbering subsections (9) and (9A) as (8) and (9), respectively.

ATTACHMENT “F”

Regional Plan Functional Plans - Status Update

May 22, 2009

Policy No.	Functional Plan	Lead Business Unit	Status	Estimated Completion
E-18	Water Quality Monitoring FP	IAM	Near completion	2009/10
E-19	Open Space FP	IAM	On-going	2010/11
E-20	Urban Forest FP	IAM	Near completion	2009/10
E-21	Potential Hazards to Development FP	IAM and CD	Components underway	2010/11
E-22	Emission Reduction FP	IAM	Complete	-
S-39	Opportunity Sites FP	CD	On-going	2010
S-40	Affordable Housing	CD	Components Underway	2010/11
T-6	Transportation Master Plan FP	IAM	On-going or Complete	2010/11
EC-18	Capital District Public Infrastructure FP	CD	On-going	2010
EC-19	Urban Design Guidelines FP	CD	On-going	2009
EC-20	Halifax Harbour FP	CD	On-going	2010
EC-21	Business Parks Development FP	TPW/CD	Part I (Macro Analysis and Burnside Area) Complete and approved. Part II (Bayers Lake Area) Near Completion. Report to Council Spring 09	2009
EC-22	Finance FP	Finance and IAM	On-going	2010/11

ATTACHMENT “F”

Regional Plan Functional Plans - Status Update

May 22, 2009

Policy No.	Functional Plan	Lead Business Unit	Status	Estimated Completion
CH-12	Cultural FP	CD	Complete	-
CH-13	Heritage FP	CD	Components Underway	2010/11
SU-26	Wastewater Management FP	Halifax Water	Underway	2010/11
SU-28	Stormwater Management FP	IAM	Not commenced	2010/11
SU- 29	Underground Utilities FP	IAM/TPW/Halifax Water	On-going	2010
SU-30	Community Energy FP	IAM	Complete and approved	-
SU-31	Communications Towers/Antennas FP	CD	Not commenced	2010/11
G-4	Communication and Public Education FP	CD	On-going	2010/11

ATTACHMENT “G”

HRMbyDesign Downtown Halifax Proposed Functional Plans

Policy No.	Functional Plan	Lead Business Unit	Scope of Work	Estimated Completion
#20	Sustainability Functional Plan	IAM	To formalize ongoing work between HRM and the Province to strengthen provisions in the HRM Charter and the provincial Building Code with respect to energy conservation, and mandating sustainable building and site design.	2010/11
#50	Cogswell Interchange Functional Plan	IAM	On February 26, 2008, Council approved the initiation of planning and design work in support of the redevelopment of the Cogswell Interchange. HRM IAM staff are preparing to issue a Request for Proposals to initiate the Cogswell Interchange Master Plan.	2010/11

ATTACHMENT “G”

HRMbyDesign Downtown Halifax Proposed Functional Plans

Policy No.	Functional Plan	Lead Business Unit	Scope of Work	Estimated Completion
#51	Transportation & Streetscape Design Functional Plan	IAM	<p>This plan will create design plans to implement the specific public realm objectives of this Plan, including improved designs for sidewalks and increased pedestrian and active transportation amenities. It will also identify necessary amendments to the Municipal Service Systems Design Guidelines. The streetscape part of the functional plan will be guided by previous studies including the Capital District Streetscaping Design Guidelines and the Spring Garden Road/Queen Street Joint Public Lands Plan.</p> <p>The transportation section of the plan will promote enhanced transit service for downtown Halifax and address the following matters:</p> <ul style="list-style-type: none"> (a) designation of corridors for transit; (b) the Street Network Plan as designated on Map 13a of the DHSMPS; (c) provisions for funding mechanisms to support alternate modes of transportation; and (d) measures to mitigate the impacts of truck traffic on downtown streets. <p>Previous studies that will inform this work include the Active Transportation Plan, the Regional Parking Strategy Functional Plan, and the Transportation Master Plan.</p>	2010/11

ATTACHMENT “G”

HRMbyDesign Downtown Halifax Proposed Functional Plans

Policy No.	Functional Plan	Lead Business Unit	Scope of Work	Estimated Completion
#56	Downtown Halifax Open Space Functional Plan	IAM	This plan will establish design parameters to ensure the scale, design and level of amenities of these open spaces reflect their intended function and use. This plan will be informed by ongoing work in the Regional Plan Open Space Functional Plan and the Urban Forest Functional Plan.	2010/11
#82	Capital Investment Functional Plan	IAM & TPW	This plan will outline and prioritize all of the areas where future public investment is necessary to support the goals and objectives of the Downtown Plan, including a multi-year implementation schedule.	2010/11