


Item No. 9.1 (i)
Halifax Regional Council
September 20, 2011
October 18, 2011

TO: Mayor Kelly and Members of Halifax Regional Council
Original signed by 

SUBMITTED BY: _____
Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer, Operations

DATE: September 12, 2011

SUBJECT: **Case 16466: First Annual Review – Amendments to the Downtown
Halifax Secondary Municipal Planning Strategy and Land Use By-law
(Phase 1 of 2)**

SUPPLEMENTARY REPORT

ORIGIN

- July 21, 2011, staff report to Design Review Committee; and
- September 8, 2011 review by Design Review Committee

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy and the Downtown Halifax Land Use By-law, as contained in Attachments A-1 and B-1 of this report, and schedule a public hearing.
2. Approve the proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy and the Downtown Halifax Land Use By-law, as contained in Attachments A-1 and B-1 of this report.

BACKGROUND

A staff report dated July 21, 2011, was tabled with the Design Review Committee (DRC) on August 11, 2011. The staff report contained proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy (SMPS) and the Downtown Halifax Land Use By-law (LUB) to correct identified errors and omissions, clarify certain policies and land use provisions, and introduce additional flexibility. The amendments are being considered in the context of an annual review exercise contemplated under the Downtown Plan. During deliberations on the amendments package on September 8, 2011, members of the DRC indicated concern with proposed amendments to the requirement for landscaped open space in Precinct 2 – Barrington Street South. The DRC subsequently passed a motion recommending against the proposed amendments to the requirement for landscaped open space in Precinct 2 – Barrington Street South.

DISCUSSION

Staff accepts the recommendation of the DRC in regards to the proposed amendments to the requirement for landscaped open space in Precinct 2 – Barrington Street South.¹ As such, revised amendments to the Downtown Halifax LUB have been prepared, which exclude Precinct 2 from the proposed amendments relative to landscaped open space. Some general housekeeping amendments, however, have been incorporated to clarify the requirements. These are contained in Attachment B-1 of this report.

During the final revision process, staff also identified an issue with the wording used in the proposed land use by-law amendment dealing with non-conforming buildings. The provision has since been revised to exclude the reconstruction of non-conforming buildings. In addition, the word “work” has been replaced with the words “extension, enlargement or alteration”. These revisions have also been incorporated in Attachment B-1.

Finally, no revisions were required to the proposed amendments to the Downtown Halifax SMPS. However, to be clear as to the text of the full package of amendments being proposed, staff has reproduced the SMPS amendments in their entirety under Attachment A-1 of this report.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality’s Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the

¹ Staff will likely revisit this issue during preparation work for the Barrington Street South Heritage Conservation District, which was recommended under the Downtown Halifax Secondary Municipal Planning Strategy.

utilization of Project and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Regional Council may choose to approve the proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy and the Downtown Halifax Land Use By-law, as contained in Attachments A-1 and B-1. This is the recommended course of action.
2. Regional Council may choose to either adopt certain amendments but not others outlined in this report, or alternatively request that additional amendments not identified in this report be made, in which case an additional staff report and public hearing may be required.
3. Regional Council may choose to refuse the proposed amendments to the Downtown Halifax Secondary Municipal Planning Strategy and the Downtown Halifax Land Use By-law, as contained in Attachments A-1 and B-1. Regional Council is under no obligation to amend its MPS and a decision not to amend the MPS.

ATTACHMENTS

Attachment A-1 Proposed Amendments to the Downtown Halifax SMPS
Attachment B-1 Revised Proposed Amendments to the Downtown Halifax LUB

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.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: Luc Ouellet, Senior Planner, 490-3689

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

Financial Approval by: _____
James Cooke, CGA, Director of Finance/CFO, 490-6308

Original Signed

ATTACHMENT A-1 – PROPOSED AMENDMENTS TO THE DOWNTOWN HALIFAX MUNICIPAL PLANNING STRATEGY

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Downtown Halifax Secondary Municipal Planning Strategy is hereby amended as follows:

1. Amend the “TABLE OF CONTENTS” by adding “**3.2.4 Drive-Thrus**” after “3.2.3 Provision of a Mix of Housing Types”.
2. Amend the “TABLE OF CONTENTS” by adding “**8.8 Non-Conforming Buildings**” after “8.7 Functional Plans”.
3. Amend Chapter 3 by adding the following subsection and policy after Policy 8:

3.2.4 Drive-Thrus

Drive-thrus are often seen as a convenient service delivery model within primarily automobile-oriented environments. However, they are not appropriate in a denser and more compact urban context. In order to (1) reduce potential conflicts between pedestrians and automobiles, (2) maintain the built form character of urban neighbourhoods, and (3) protect the aesthetic quality of urban streetscapes, drive-thrus will be prohibited in downtown Halifax.

Policy 8A HRM shall establish provisions within the Land Use By-law to prohibit drive-thrus within downtown Halifax.

4. Amend Policy 18 of Chapter 3 by adding the following clause after clause (i):
 - (j) **the undergrounding of overhead electrical and communication distribution systems.**
5. Amend Chapter 3 by substituting Policy 32 with the following:

Policy 32 It shall be the intention of HRM to ensure through its control of the disposition of the Clyde Street parking lots **and the former Halifax Infirmary property** that their development is beneficial to the commercial well-being of the Spring Garden Road area and the design complements adjacent neighbourhoods. HRM shall initiate a call for proposals for the redevelopment of these lands consistent with the intent of this Plan and the Spring Garden Road/Queen Street Area Joint Public Lands Plan (FOOTNOTE #8). The following criteria shall be considered in the design review of development for those sites:

- (a) the provision for mixed commercial and residential uses with active ground floor uses;

- (b) the redevelopment shall positively contribute to the streetscape in accordance with the provisions of the Design Manual section of the Land Use By-law; and
- (c) public parking in support of Spring Garden Road shall be incorporated within the redevelopment, which at minimum replaces the public parking spaces ~~currently provided on these sites~~, **which existed on the Clyde Street parking lots at the time of the coming into force of this Plan.**

6. Amend Chapter 8 by adding the following section and policy after Policy 91:

8.8 NON-CONFORMING BUILDINGS

The DHSMPS and the DHLUB diverge from previous MPS policies and land use by-law regulations in both approach and intended outcome. It is therefore expected that many existing buildings in downtown Halifax will not conform to the new land use by-law provisions. In order to support the growth aspirations for downtown Halifax, this Plan will allow for the extension, enlargement, and alteration of non-conforming buildings.

Policy 92 It shall be the intention of HRM to allow for the extension, enlargement, and alteration of non-conforming buildings in downtown Halifax.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 20__.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 20__.

Municipal Clerk

ATTACHMENT B-1 – REVISED PROPOSED AMENDMENTS TO THE DOWNTOWN HALIFAX LAND USE BY-LAW

BE IT ENACTED by the Council of the Halifax Regional Municipality that the Downtown Halifax Land Use By-law is hereby amended as follows:

1. Amend the “TABLE OF CONTENTS” to add “**Non-Conforming Buildings**” following “Interpretation of Zoning Boundaries”.
2. Amend the “TABLE OF CONTENTS” to replace “Residential Uses: Precincts 2, 3 and 9 – Landscaped Open Space Requirements” with “**Residential Uses: Precinct 2 – Landscaped Open Space Requirements**”.
3. Amend the “TABLE OF CONTENTS” to add “**Residential Uses: Precincts 3 and 9 – Landscaped Open Space Requirements**” following “**Residential Uses: Precinct 2 – Landscaped Open Space Requirements**”.
4. Amend the “TABLE OF CONTENTS” to add “**Temporary Construction Uses Permitted**” following “Waterfront View Corridors: Abutting Uses”.
5. Amend the “TABLE OF CONTENTS” to add “**Drive-Thrus**” following “Prohibited External Cladding Materials”.
6. Amend section 2 by substituting subsection (k) with the following:
 - (k) *Average grade* means the average finished elevation around the perimeter of the ~~lot~~ **building**.
7. Amend section 2 by substituting subsection (af) with the following:
 - (af) *Flat roof* means a roof that is sloping no greater than ~~4:12~~ **1:10**.
8. Amend section 2 by adding the following subsection following subsection (ab):
 - (aba) *Drive-thru* means a built form established to provide or dispense products or services, through an attendant or a window or an automated machine, to persons remaining in vehicles that are in a designated stacking aisle.
9. Amend section 2 by substituting subsection (bb) with the following:
 - (bb) *Multiple Unit Dwelling* means a building containing ~~four~~ **three** or more dwelling units.
10. Amend section 2 by substituting subsection (bh) with the following:

- (bh) *Projecting sign* means a sign which projects from and is supported by or which extends beyond a wall of a building **or is attached to the underside of the building or canopy.**
11. Amend subsection (2) of section 4 by substituting clause (b) with the following:
- (b) with the exception noted in clause ~~(d)~~**(c)**, only those applicants with professional expertise in the fields of architecture, landscape architecture, urban design, city planning, structural engineering or a similar field shall be eligible as members of the Committee;
12. Amend subsection (2) of section 4 by substituting clause (e) with the following:
- (e) with the exception of the resident at large ~~member~~ **members**, members of the Committee must hold a professional degree in their respective fields;
13. Amend section 5 by substituting subsection (6) with the following:
- (6) ~~In addition to the requirements of sub-section (1), unless~~ **Unless** otherwise specified, all development within the Downtown Halifax Secondary Municipal Planning Strategy plan area boundary, as shown on Map 1, shall be subject to site plan approval ~~by the Development Officer.~~
14. Amend section 5 by substituting subsection (7A) with the following:
- (7A) Prior to ~~an application for site plan approval being submitted~~ **submitting a substantive application for site plan approval**, the applicant shall undertake public consultation concerning the project ~~in a format acceptable to the Development Officer and using a combination of the following three methods~~ **using the following three methods, in a format acceptable to the Development Officer:**
- (a) open house;
- (b) public kiosk; and
- (c) website/online forum.
15. Amend section 6 by adding the following subsection after subsection (4):

Non-Conforming Buildings

- (5) **Where an existing building is deemed to be non-conforming under this By-law, it shall be allowed to be extended, enlarged, or altered as long as the extension, enlargement or alteration complies with this By-law, or a variance is granted by the Design Review Committee.**

16. Amend section 7 by substituting the title before subsection (6) with the following:
Residential Uses: Precincts 2, 3 and 9 – Landscaped Open Space Requirements
17. Amend section 7 by substituting subsection (6) with the following:
- (6) Where any ~~residential~~ building is erected, altered, or used primarily for residential purposes in Precinct 2: Barrington Street South; ~~Precinct 3: Spring Garden Road Area; or Precinct 9: North End Gateway~~, the lot on which such building is located shall contain landscaped open space.
18. Amend section 7 by substituting subsection (8) with the following:
- (8) A minimum of ~~5~~ **11.25** square metres of landscaped open space shall be provided for each ~~person residing in the building~~ **dwelling unit in a building**.
19. Amend section 7 by deleting subsection (9):
- ~~(9) For the purposes of calculating the number of persons residing in a building, the population of each dwelling unit shall equal 2.25 persons.~~
20. Amend section 7 by substituting subsection (10) with the following:
- (10) A maximum of 60% of the landscaped open space requirement may be transferred to the building rooftop, provided that:
- (a) ~~the any~~ rooftop landscaped open space is ~~contiguous and not less than a~~ **minimum of 56** square metres in area; ~~and,~~
- (b) the rooftop landscaped open space is fully accessible for the common use of the occupants of the building; ~~and,~~
- (c) **the rooftop landscaped open space is located on a portion of the roof that is not sloping.**
21. Amend section 7 by adding the following subsections after subsection (11):
- Residential Uses: Precincts 3 and 9 – Landscaped Open Space Requirements**
- (11A) Where any building is erected, altered, or used primarily for residential purposes in Precinct 3: Spring Garden Road Area or Precinct 9: North End Gateway, the lot on which such building is located shall contain landscaped open space.**
- (11B) For the purpose of subsection (11A), *primarily* means more than 50% of the gross floor area is devoted to residential uses, including enclosed space**

serving residents of the building and areas devoted to personal services, such as laundry and waste disposal and common area.

(11C) A minimum of 5 square metres of landscaped open space shall be provided for each dwelling unit in a building.

(11D) The full amount of the landscaped open space requirement may be transferred to the building rooftop, provided that:

(a) any rooftop landscaped open space is a minimum of 56 square metres in area;

(b) the rooftop landscaped open space is fully accessible for the common use of the occupants of the building; and,

(c) the rooftop landscaped open space is located on a portion of the roof that is not sloping.

(11E) The requirements of subsection (11B) may be varied by site plan approval where the relaxation of the requirement is consistent with the Design Manual.

22. Amend section 7 by adding the following subsections after subsection (23):

Temporary Construction Uses Permitted

(24) Nothing in this By-law shall prevent the use of the land or the use or erection of a temporary building or structure which is necessary and accessory to construction in progress, such as a work camp or construction camp, mobile home, sales or rental office, tool or maintenance shed or scaffold, including a shipping container which serves as one of the foregoing, except as a mobile home, sales or rental offices, provided that a development permit has been issued.

(25) A rock crusher may be used at the site of a demolition of a structure or building, or at the site of development permitted pursuant to this By-law, provided a development permit has been issued for such use.

(26) Incidental to a development, a temporary rock crusher may be permitted.

(27) A development permit issued for the use of a temporary rock crusher accessory to demolition of a structure or building pursuant to this By-law or a development pursuant to this By-law shall be valid for any period specified not exceeding sixty (60) days. A development permit issued under this subsection may be renewed for a period not to exceed thirty (30) days at a

time, if a Development Officer determines that an extension of the period is necessary. No rock crusher shall be located or used within three (3) metres of any property boundary.

- (28) A development permit issued for the use of a temporary rock crusher accessory to the construction of primary or secondary services pursuant to the Regional Subdivision By-law shall be valid for any period which does not exceed the construction time schedule specified in the subdivision agreement. No rock crusher for which a permit has been issued under this subsection shall be located or used within sixty (60) metres of any building used for residential or institutional purposes; with the exception of fire stations, police stations, public works facilities, cemeteries, historic sites and monuments, and recreational trails where no rock crusher shall be located or used within three (3) metres of any property boundary.
- (29) Notwithstanding any other provision of this By-law, a temporary rock crusher accessory to construction in progress shall not be used to process material for export to another site nor to process material imported to the site.
- (30) A temporary rock crusher may be used as accessory to demolition in progress to process demolished material for export to another site subject to disposal in accordance with the requirements of this By-law and the C&D Materials Recycling and Disposal License By-law.

23. Amend section 8 by adding the following subsection after subsection (21):

Drive-Thrus

- (22) **Drive-thrus shall be prohibited.**

24. Amend section 11 by substituting subsection (4) with the following:

- (4) On the lands commonly known as the Clyde Street Parking Lots, P.I.D. Nos. 00077875 and 00077438, **a minimum setback of 3 metres above the streetwall shall apply to that portion of a building facing Clyde Street that is a maximum of 28 metres in height.**

~~(a) — a minimum setback of 3 metres above the streetwall shall apply to that portion of a building facing Clyde Street that is a maximum of 28 metres in height;~~

~~(b) — new development shall maintain a minimum of 210 or more parking spaces in total on the two lots; and~~

~~(c) — every application for a development permit shall be accompanied by a statement containing such information as may be deemed necessary by the Development Officer to ensure compliance with the requirements of subsection (b).~~

25. Amend section 11 by adding the following subsection after subsection (4):

(4A) On the lands commonly known as the Clyde Street Parking Lots, P.I.D. Nos. 00077875 and 00077438, as well as the lands commonly known as the former Halifax Infirmary Site, P.I.D. Nos. 40576829:

(a) new development shall maintain a minimum of 210 parking spaces in total on the three lots combined; and

(b) every application for a development permit shall be accompanied by a statement containing such information as may be deemed necessary by the Development Officer to ensure compliance with the requirements of subsection (a).

26. Amend subsection (7) of section 12 by adding the following clause after clause (i):

(j) the undergrounding of overhead electrical and communication distribution systems.

27. Amend subsection (8) of section 13 by substituting clause (a) with the following:

(a) internally-illuminated fascia signs or internally-illuminated awning signs;

28. Amend subsection 4.6.3 of Schedule S-1 (Design Manual) of the Downtown Halifax Land Use By-law by substituting clause (a) with the following:

(a) ~~internally lit box signs~~ internally-illuminated fascia signs or internally lit internally-illuminated awning signs;

29. Amend subsection 4.6.4 of Schedule S-1 (Design Manual) of the Downtown Halifax Land Use By-law by changing the labeling of subsection 4.5.4.6 (Number of signs) found on page 56 to **4.6.4.6**.

30. Amend Map 7 Streetwall Heights, as illustrated in Appendix “B-1”, by adding maximum streetwall heights where they are missing.

THIS IS TO CERTIFY that the by-law of which this is a true copy was duly passed at a duly called meeting of the Council of Halifax Regional Municipality held on the ____ day of _____, A.D., 20__.

GIVEN under the hand of the Municipal Clerk and under the Corporate Seal of the said Municipality this ____ day of _____, A.D., 20__.

Municipal Clerk

Downtown Halifax
Land Use By-Law

**Map 7
Streetwall Heights**



Effective:

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