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**Item No. 4**  
**Halifax Regional Council**  
**May 1, 2012**

**TO:** Mayor Kelly and Members of Halifax Regional Council

Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Brad Anguish, Director, Community & Recreation Services

**DATE:** April 24, 2012

**SUBJECT:** Barrington Street Heritage Conservation District procedures and  
Downtown Halifax (HRMbyDesign) Site Plan Approval Process

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### INFORMATION REPORT

#### ORIGIN

Appeal of the Design Review Committee's March 8, 2012 decision on a development proposal for 1592 Barrington Street, Halifax.

#### BACKGROUND

HRM has received an application to demolish the building at 1592 Barrington Street and construct a new building. The property is within the Barrington Street Heritage Conservation District which means the proposed demolition of the building requires Council approval. The process for Council's consideration of the proposed demolition includes a mandatory public hearing at which any member of the public can speak.

In addition to the above process requirements for demolition of the existing building, the design of the proposed new building must be approved by the Council appointed Design Review Committee (DRC). The process for the DRC's approval of the building design (known as Site Plan Approval) includes an opportunity to appeal the DRC's decision to Council. The appeal process includes a hearing before Council involving the appellant and the applicant only. The proposed building design at 1592 Barrington Street has been reviewed and approved by the DRC and an appeal of that decision has been received.

The appeal of the DRC's design approval is scheduled to be before Council on May 15, 2012. The hearing associated with the building demolition is scheduled to be before Council on May 22, 2012. Separate, detailed reports on each of these items will be provided on those dates.

However, since both these procedures are relatively new, this additional information report is provided in advance of those dates as a summary of these two processes and the steps to be followed during Council's deliberations on May 15<sup>th</sup> and 22<sup>nd</sup> (see flow chart - Attachment A).

## **DISCUSSION**

### **1) Appeal of the DRC Approval of the Proposed New Building Design**

The site plan approval process applies to new building construction in Downtown Halifax and is regulated under the *HRM Charter* and the Downtown Halifax Land Use By-law.

The key components of the process are as follows:

- The proposal is reviewed by the Development Officer to confirm that it meets the standard requirements of the Land Use By-law
- The proposal is assessed by Planning Applications' staff for compliance with the Design Manual adopted under HRM By Design. A staff recommendation is submitted to the Design Review Committee (DRC).
- The DRC evaluates the application against the requirements of the Design Manual and makes a decision to approve, approve with conditions or refuse the proposal.
- Where a proposal is approved, notice is given to all assessed property owners within the Downtown Halifax Secondary Municipal Planning Strategy plan area boundary plus 30 meters. Any assessed owner may then appeal the decision of the DRC to Regional Council.

It must also be noted that, under the HRM Charter, only the decision of the DRC may be appealed to Council. There is no appeal process in place relative to the Development Officer's approval.

### **Appeal Process**

Appeals received through this process must be heard by Council within 60 days unless the parties to the appeal agree otherwise. As the appeal was filed on March 22, 2012, the 60 day time period will lapse on May 21, 2012.

Council must render its decision within 30 days after having heard the appeal. As the appeal hearing is scheduled for May 15, 2012, Council must render their decision on the matter by June 14, 2012.

Where Council hears an appeal of an **approval** by the Design Review Committee, Council shall only hear from:

- 1) The applicant; and
- 2) The appellant(s).

Where Council hears an appeal of a **refusal** by the Design Review Committee, Council shall hear from:

- 1) The applicant; and

- 2) Any assessed owner within the notification area (HRM by Design Downtown Halifax Plan Area plus 30 m – see Attachment B).

The matter before Council on May 15<sup>th</sup> pertains to the appeal of an approval by the DRC. Therefore, Council may only hear from the applicant and the appellant (not the general public) at the hearing.

### **Decision**

In hearing an appeal, Council may make any decision that the Design Review Committee could have made. In the case of Downtown Halifax, this is to say that Council may make any decision in respect of the application of the Design Manual appended to the Downtown Halifax Land Use By-law and any “site plan variances” pursuant to Part 3 of that Manual.

Council may not substitute its decision for that of the development officer in respect of the application of the land use and built form requirements of the Land Use By-law.

The process concludes with the development officer issuing or refusing a development permit in accordance with Council’s ruling on the appeal. A refused development permit may then be appealed to the Nova Scotia Utility & Review Board.

### **2) Building Demolition Approval Process – Barrington Street Heritage Conservation District**

As noted earlier, because of its location within the Conservation District, Council’s approval is required in order to allow the proposed demolition of the existing building. The regulations associated with the Conservation District require that HRM’s Heritage Officer issue a document called a Certificate of Appropriateness for the demolition or removal of any building or structure within the District.

Issuance of the Certificate of Appropriateness is subject to Council’s approval of the proposed demolition. A requirement of the demolition application includes a concept plan for a replacement building, the approval of which is subject to the HRM by Design Downtown Halifax site plan approval process described earlier in this report.

### **Notice**

Community notification is required in advance of Council’s intention to consider an application for a Certificate of Appropriateness. This notification must be published at least once a week for two successive weeks in a newspaper circulating in the area starting at least 21 clear days before the date fixed for the public hearing.

These requirements have been met for the application to be considered on May 22<sup>nd</sup>.

### **Public Hearing**

Where an application includes building demolition, the Heritage Advisory Committee (HAC) reviews the proposal and provides a recommendation to Council relative to the applicable

policies of the Conservation Plan. In addition, the proposal triggers a full public hearing at which Council may hear from any member of the public.

These requirements have been met for the application to be considered on May 22nd.

**Further Appeal – UARB**

As per the provisions of the *Heritage Property Act*, the approval, imposition of conditions on or denial of a Certificate may be appealed to the Nova Scotia Utility and Review Board by the applicant for the Certificate or an aggrieved person within 21 days of the publication of the notice respecting the decision.

Once the further appeal period has expired, the process concludes with the Heritage Officer issuing or denying a Certificate of Appropriateness in accordance with the decision of Council.

**BUDGET IMPLICATIONS**

None.

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

**COMMUNITY ENGAGEMENT**

As outlined in the February 24, 2012 report to the Design Review Committee for Case 17534 and in the February 7, 2012 report to the Heritage Advisory Committee for Case H00364.

**ATTACHMENTS**

- Attachment A: Downtown Halifax Site Plan Approval Process
- Attachment B: Downtown Halifax Site Plan Notification Area

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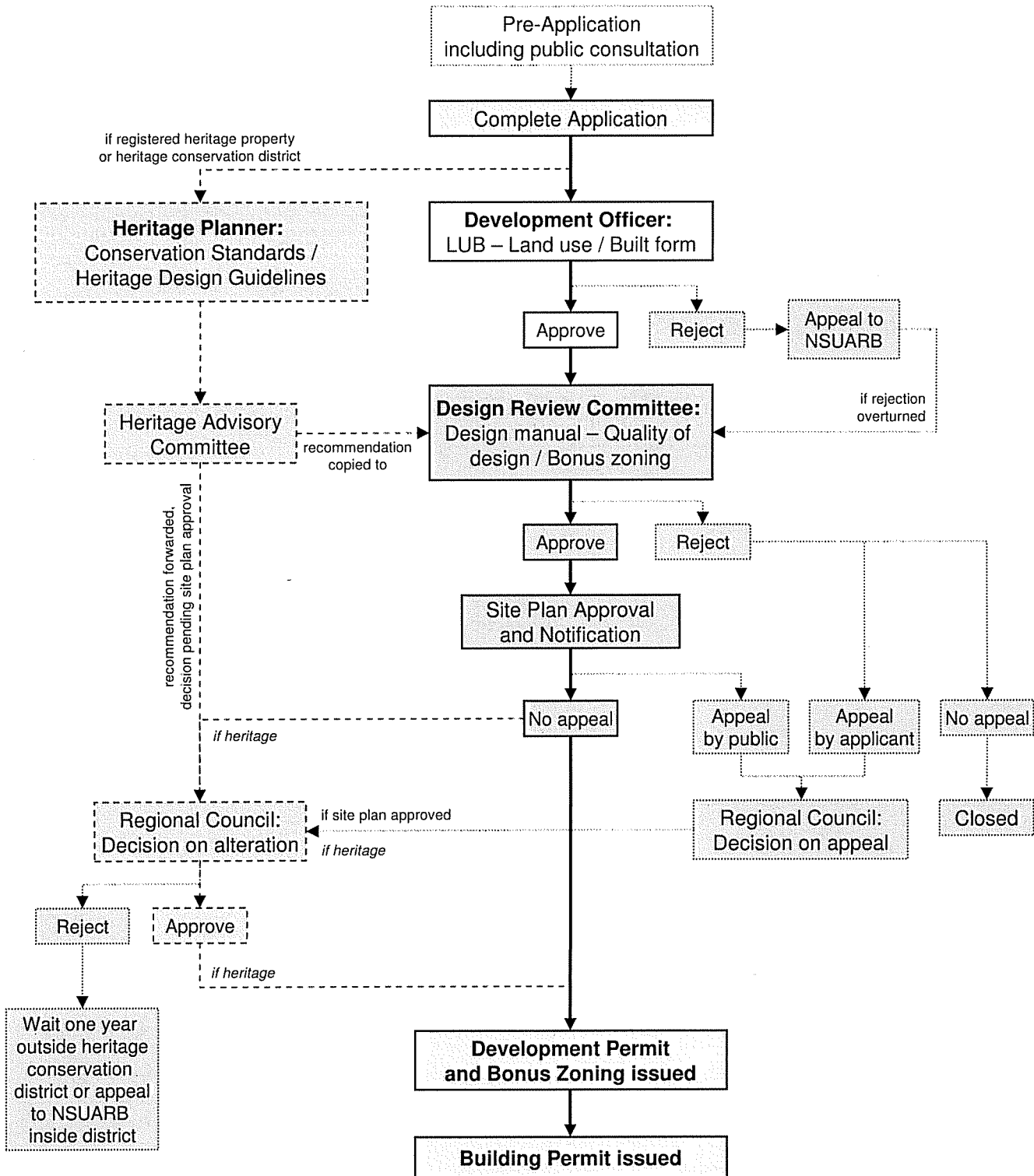
A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared and Approved by: **Original Signed**  
Kelly Denty, A/Manager, Development Approvals, 490-4800

Report Approved by: **Original Signed**  
Marian Tyson, Acting Director of Legal & Risk Management, 490-4219

# Downtown Halifax Site Plan Approval Process

## Substantive Applications



# Attachment B

Downtown Halifax  
Site Plan Approval Process  
Area of Notification

