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MEMORANDUM

TO: Chair, Members of the Design Advisory Committee
CC: Haruka Aoyama, Legislative Assistant, DAC
FROM: Erin MacIntyre, Program Manager of Land Development & Subdivision
DATE: Nov 13, 2020
SUBJECT: Discussion Items Requested by the Design Advisory Committee

At its September meetings, the Design Advisory Committee requested discussion and feedback from staff on three items of interest:

- 1) Discussion of Potential Bylaw Changes to Provide Public Open House Materials to the Design Advisory Committee
 - Staff provides the following comments for discussion on the assumption that the committee wishes to assess the results of the applicant's community open-house and to take that information into account when providing advice to the Development Officer as part of the application approval process
 - The fundamental structure of the Regional Centre Plan and Bylaw is founded on a modified "by-right" approval process based on detailed bylaw requirements developed through a prolonged and extensive public engagement process. The theory behind this approach is that the community is extensively engaged on the development of regulations which are then universally and equally applied to each individual application with minimal additional engagement unless the application proposes a change to the regulations. This results in a reduced process burden on each individual application. However, it must be acknowledged that it also reduces or eliminates application-specific public processes. Under these circumstances, if an applicant submits a proposal that complies with the requirements in the bylaw, then the owner has a lawful right to that Site Plan Approval and the associated permits. Accordingly, HRM has an obligation to issue those approvals.
 - The obligation on the applicant to engage the community is a mandated step in the process that is intended to provide the applicant with input that could inform the project design in advance of a final application. It must be acknowledged that the applicant is under no obligation to incorporate comments from the community open-house as long as the proposal meets the minimum requirements in the bylaw. It's worth noting that DAC recommendation is required for both Level II and Level III Site Plan Approval applications, but only Level III applications are required to complete a public open house event. The results of the meeting are only required to be submitted as part of a full

application for site plan approval along with DAC's recommendation, but the open house is not required to be held in advance of the project's presentation to the Committee.

- The approval process also includes a mandatory review by the Design Advisory Committee. The statutory approval authority for Site Plan Approvals and the associated Development Permits is the Development Officer. The bylaw has been structured to create the Design Advisory Committee whose role is to provide advice to the Development Officer on the detailed design related components of the land use bylaw. That role is a technical review process with the purpose being to provide the Development Officer with a "second set of eyes" with expertise in the bylaw in order to ensure the regulations are being applied in a correct and consistent manner.
- Both the Development Officer and the Design Advisory Committee should be careful to avoid being influenced by public input with respect to the assessment of any individual application. Those proposals must be assessed solely based on compliance with the bylaw. That being said, if the committee wishes to provide additional input to the Development Officer that goes beyond assessing the application's level of compliance with the bylaw, it should feel free to do so in the context of that input being advisory in nature. Compliance with that additional commentary will not be a condition of approval.

Hopefully the comments above help to put the current process in context. Under these circumstances, the outcomes of the community open-house process have not been set out as information required to be presented to the DAC in order to inform their advice to the Development Officer. Changing the regulations to make this mandatory would likely require amendments to the Regional Centre Secondary Municipal Planning Strategy and Land Use Bylaw. Presently, Regional Council has directed staff to not consider any further amendment to these documents until the next phase of that program comes forward (Centre Plan Package B).

2) Discussion of Potential Options to Report the Outcome of Site Plan Approvals to the Design Advisory Committee

- Approved plans are available to be viewed once a permit is issued. If the Committee wishes to view of the approved plans for any particular project that had appeared, those plans can be made available at the Committee's request. The committee should note that the timing of permits and commencement of construction is entirely at that the discretion of the applicant and it is not unusual for long periods of time to elapse between process approval and permit issuance / construction.
- While there is currently no technological capacity to provide a routine regular update to the committee that would include distribution of electronic plans, we are on the precipice of implementing new technology that may have some capacity to self generate a regular update. We will explore that possibility as the system comes on-line and we become more familiar with its capacity.

3) Discussion of Potential Options to Provide Preview Packages of Upcoming Developments which may require Design Advisory Committee site line review

- A standing list of sites for which a pre-application is in process can be added to the Committee's agenda.