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MEMORANDUM

TO: Chair and Members of Community Design Advisory Committee

FROM: Ben Sivak, Community Policy Program Manager, Planning & Development

DATE: June 21, 2021

SUBJECT: Downtown Halifax & Centre Plan – Variations and Built-in Flexibilities

This memo compares the Site Plan Approval (SPA) variations contained in the existing Downtown Halifax Plan to the proposed SPA variations and built-in Land Use By-law (LUB) flexibilities proposed in the Centre Plan Package B planning documents.

Downtown Halifax Plan and Design Manual – Existing Framework:

Within the existing Downtown Halifax Plan, the Design Manual is to be the primary reference used during the design review component of the Site Plan Approval (SPA) process for Downtown Halifax SPA applications. The SPA process consists of two parts:

- Part 1: The *quantitative* elements of an application (maximum height, setbacks, stepbacks, lot coverage, etc.) are subject to approval based on the prescriptive criteria in the Downtown Halifax Land Use By-law; and
- Part 2: The *qualitative* elements of an application (architectural design, streetscape presence, public realm contribution, sustainability, etc.) are subject to a discretionary approval resulting from a design review process.

Within the SPA planning process and framework, the Downtown Halifax Plan and Land Use By-law enable 14 variance categories to vary and modify specific built form requirements, provided that all design criteria and conditions detailed under Section 3.6 of Schedule S-1 of the Design Manual are met.

Comparison Between Existing Downtown Halifax SPA Variances and Proposed Package B Regulations

The following table outlines the 14 variations categories enabled under the existing Downtown Halifax Plan in comparison to the built-in LUB flexibilities and SPA variations proposed under Package B. Overall, staff advise that the comparison shows that most of the existing SPA variations contained in the Downtown Halifax Plan are accommodated within proposed Package B. The main exception, however, is that Package B generally does not include flexibilities or variations related to interior lot line setbacks or tower dimensions.

Downtown Halifax Plan Variations	Centre Plan Built-in Flexibilities and Variations
<p>3.6.1 Streetwall Setback Variance</p> <p>Streetwall setbacks may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the streetwall setback is consistent with the objectives and guidelines of the Design Manual; b) on an existing building, where an addition is to be constructed, the existing structural elements of the building or other similar features are prohibitive in achieving the streetwall setback requirement; or c) the streetwall setback of abutting buildings is such that the streetwall setback would be inconsistent with the character of the street. 	<p>There is no SPA variation ability relating to the streetwall setback requirement; however, the Centre Plan LUB includes built-in flexibilities under Section 130 of Part V, Chapter 3 (Built Form Requirements within the DH Zone). These include:</p> <ul style="list-style-type: none"> • providing exceptions to maximum setback requirements for lots that existed on the coming into force date of the LUB that have a frontage less than 4.0 metres along the streetline; • providing exceptions for transportation or utility easement abuts the streetline; • removing the maximum front or flanking setback requirement for registered heritage properties; and • allowing for the maximum front or flanking setback requirement to be exceeded if an at-grade open space, such as a plaza, is located between a front or flanking lot line and any main building.
<p>3.6.2 Side and Rear Yard Setback Variance</p> <p>Side and rear yard setbacks may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the modified setback is consistent with the objectives and guidelines of the Design Manual; and b) the modification does not negatively impact abutting uses by providing insufficient separation. 	<p>There is no SPA variation ability relating to the side and rear setback requirement. Under Section 131(4), the LUB requires a minimum Side and Rear Setback (interior lot lines) of 5.5 metres for any portion of any main building above the streetwall height that is less than 33.5 metres. For buildings above 33.5 metres in height, the minimum required setback from any side lot line is required to be at least:</p> <ul style="list-style-type: none"> (a) 6.0 metres, if the abutting property is within a DH, CEN-2, CEN-1, UC-2, or UC-1 zone and has a view plane restriction that would not permit the development of a high-rise building; or (b) 11.5 metres elsewhere.

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<p>3.6.3 Streetwall Height Variance</p> <p>Streetwall heights may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the streetwall height is consistent with the objectives and guidelines of the Design Manual; and b) the modification is for a corner element that is used to join streetwalls of differing heights; or c) the streetwall height of abutting buildings is such that the streetwall height would be inconsistent with the character of the street; or d) where a landmark building element is called for pursuant to the Design Manual. 	<p>There is no variation ability relating to the minimum and maximum streetwall height requirement; however, the Centre Plan LUB includes a number of built-in flexibilities under Sections 133, 134 and 135 of Part V, Chapter 3 (Built Form Requirements within the DH Zone). These include provisions for:</p> <ul style="list-style-type: none"> • sites impacted by sloping conditions, where the LUB allows for the maximum streetwall height required to be exceeded by: <ul style="list-style-type: none"> a) 10%, where located on a streetline that has a slope that is between 4% to 8% across the entire width of the streetwall; or b) 20%, where located on a streetline that has a slope that exceeds 8% across the entire width of the streetwall; • registered heritage properties, where the LUB allows for the maximum required streetwall height to be the existing streetwall height of the registered heritage building on the coming into force date of the LUB; and • the LUB allows for exceeding the maximum required streetwall height by 1.5 metres to permit a clear glass guard and railing system or a parapet; • lowering the minimum streetwall height to 8 metres; • allowance for 20% of the streetwall width, up to a max of 8 metres, to be reduced in height to no less than 4.5 metres; • allowance for the minimum streetwall height requirement to be reduced to 3.5 metres, if the slope exceeds 4% across the entire width of the streetwall; • Allowing no streetwall setback for up to 20% of the length of any main building facing each streetline, which effectively enables the streetwall height to extend to the maximum building height.
<p>3.6.4 Streetwall Width Variance</p> <p>Streetwall widths may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the streetwall width is consistent with the objectives and guidelines of the Design Manual; and b) the resulting gap in the streetwall has a clear purpose, is well-designed and makes a positive contribution to the streetscape. 	<p>There is no variation ability relating to the streetwall width requirement; however, the Centre Plan LUB includes built-in flexibilities under Section 136 of Part V, Chapter 3 (Built Form Requirements within the DH Zone). The LUB allows for the streetwall width requirement to be reduced to a maximum of 30%, to enable for up to a 70% gap in the streetwall, if an at-grade open space is provided, such as a plaza or a mid-block pedestrian connection.</p>

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<p>3.6.5 Upper Storey Streetwall Stepback Variance</p> <p>Upper storey streetwall setbacks may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the upper storey streetwall setback is consistent with the objectives and guidelines of the Design Manual; and b) the modification results in a positive benefit such as improved heritage preservation or the remediation of an existing blank building wall. <p>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.</p>	<p>There is no variation ability relating to the upper storey stepback requirement; however, the Centre Plan LUB includes built-in flexibilities under Section 133 of Part V, Chapter 3 (Built Form Requirements within the DH Zone). The LUB allows for the maximum streetwall height to be exceeded by 1.5 metres to permit clear glass guard and railing system or parapet.</p> <p>There are also other provisions, under Section 92 of Part V, Chapter 1 (General Built Form requirements) that allow for encroachments into required setbacks and stepbacks for a number of features, such as balconies, window bays, and eaves.</p> <p>The LUB also includes 2 new variation categories, under Sections 405 and 406 of Part XI, Chapter 1 (Variation Criteria), which are Unique Building Functionality and Unique Building Design. These variations can be utilized to vary a number of built form requirements for specific land uses, including community recreation, cultural, library, major and minor spectator venue, and institutional uses.</p>
<p>3.6.6 Upper Storey Side Yard Stepback Variance</p> <p>The setbacks requirements of this section may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the upper storey side yard stepback is consistent with the objectives and guidelines of the Design Manual; and b) where the height of the building is substantially lower than the maximum permitted building height and the setback reduction is proportional to that lower height; or c) a reduction in setback results in the concealment of an existing blank wall with a new, well- designed structure. 	<p>There is no variation ability relating to the side yard stepback requirement. Under Section 131(4), the LUB requires a minimum Side and Rear Setback (interior lot lines) of 5.5 metres for any portion of any main building above the streetwall height that is less than 33.5 metres. For buildings above 33.5 metres in height, the minimum required setback from any side lot line of at least:</p> <ul style="list-style-type: none"> (a) 6.0 metres, if the abutting property is within a DH, CEN-2, CEN-1, UC-2, or UC-1 zone and has a view plane restriction that would not permit the development of a high-rise building; or (b) 11.5 metres elsewhere.
<p>3.6.7 Maximum Tower Width Variance</p> <p>The maximum tower dimensions may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the maximum tower width is consistent with the objectives and guidelines of the Design Manual; and b) the modification results in a clear public benefit such as the remediation of an existing blank building wall. 	<p>There is no variation ability relating to the maximum tower requirement. Under Section 143, the LUB includes maximum building dimensions requirements for lots located within and outside of the Downtown Halifax Central Blocks (DHCB) Special Area.</p>

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<p>3.6.8 Maximum Height Variance</p> <p>Maximum building height may be subject to modest variance by Site Plan Approval where:</p> <ol style="list-style-type: none"> the maximum height is consistent with the objectives and guidelines of the Design Manual; and the additional building height is for rooftop architectural features and the additional height does not result in an increase in gross floor area; the maximum building height is less than 1.5 metres below the View Plane or Rampart height requirements; where a landmark building element is provided pursuant to the Design Manual; or where the additional height is shown to enable the adaptive re-use of heritage buildings. 	<p>For the maximum building height, the LUB includes a SPA variation ability, as well as built-in flexibilities under Sections 100, 101 of Part V, Chapter 1 (General Built Form Requirements), and Section 127 of Part V, Chapter 3 (Built Form Requirements within the DH Zone).</p> <p><u>Built-in Flexibility</u></p> <p>Section 100 and 101 of the LUB provide allowance for specified rooftop features such as mechanical and rooftop equipment to exceed the maximum building height, provided that the features:</p> <ul style="list-style-type: none"> in total, occupy a maximum of 30% of the main building rooftop area on which they are located; and meet the requirements detailed in Table 8, which identify specific heights, coverage restrictions and minimum setback from roof edge. <p><u>Variation:</u></p> <p>Section 401 under Part IX of Chapter 1 (General Variation Criteria) includes the ability to vary and modify the requirements of the roof edge setbacks of height-exempted rooftop features, subject to the below criteria:</p> <ul style="list-style-type: none"> the variation is to a roof edge that faces a side or rear lot line; the rooftop feature is designed or buffered in such a way to minimize its potential visual impact; and there is no other practical alternative to the requested variation.
<p>3.6.9 Landmark Element Variance</p> <p>Modest encroachments may be considered by variance where the encroachments are demonstrated to result in a greatly improved building design. Examples of possible modest encroachments include architectural features such as balconies, designed roof treatments, porte cocheres and landmark elements such as corner or entry towers.</p> <p>An encroachment envelope is defined below for identified Prominent Visual Terminus sites (see Map 9 in the Land Use By-law), and any corner site including where a sloping condition results in the convergence of two streetwalls of differing heights. This encroachment can be made available where the design of the development demonstrates a consistency with the urban design objectives for these highly visible sites. The width of the encroachment envelope may be up to 20% of the</p>	<p>There is no variation ability for landmark elements; however, the Centre Plan LUB includes built-in flexibilities under Section 44 of Part V, Chapter 1 (General Built Form Requirements). The LUB includes an allowance for internal conversions for identified landmark buildings to any land use listed in the INS zone (Schedule 9).</p> <p>There are also other provisions, under Section 92 of Part V, Chapter 1 (General Built Form requirements) that allow for encroachments into required setbacks and setbacks for a number of features, such as balconies, window bays, and eaves.</p> <p>The LUB also includes 2 new variation categories, under Sections 405 and 406 of Part XI, Chapter 1 (Variation Criteria), which are Unique Building Functionality and Unique Building Design. These variations can be utilized to vary a number of built form requirements for specific land uses, including community recreation, cultural, library, major and minor spectator venue, and institutional uses.</p>

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<p>lot frontage, but shall not exceed 10 metres. The width of the encroachment envelope can extend to the exterior face of the streetwall, or both faces on a corner site, and extend to a height of no more than 6 metres above the height of the building providing it does not protrude through a View Plane or Rampart restriction.</p> <p>Maximum height and envelope requirements may be varied by Site Plan Approval for landmark elements where:</p> <ul style="list-style-type: none"> a) the maximum height is consistent with the objectives and guidelines of the Design Manual; and b) the additional building height is for rooftop architectural features and the additional height does not result in an increase in gross floor area; or c) the maximum building height is less than 1.5 metres below the View Plane or Rampart height requirements; or d) where a landmark building element is provided pursuant to the Design Manual; or e) where the additional height is shown to enable the adaptive re-use of heritage buildings. 	
<p>3.6.10 Precinct 1 (Southern Waterfront) Built Form Variance</p> <p>For lands located in “Schedule W” on Map 1 of the Downtown Halifax Land Use By-law , the built form requirements of Section 11(1) of the LUB and Section 2.10 of Schedule S-1 of the LUB may be varied by Site Plan Approval where the variance will:</p> <ul style="list-style-type: none"> a) fill existing gaps created by vacant properties or parking lots with new development; or b) enhance the public realm in the area, including the extension of the east-west streets between Lower Water Street and the harbour and their intersection with the Halifax Harbour Walk, the pedestrian interface of the proposed building and the Halifax Harbour Walk, provide or improve sidewalks along Lower Water Street, or provide for public or private plazas or parks; or c) frame the open spaces identified above; or d) provide adequate separation between buildings; or e) propose tall and slender towers, where permitted, provided that their placement and design are consistent with the objectives 	<p>There is no variation ability specific to the Halifax Waterfront. However, there are a number of built-in flexibilities that were developed in consultation with Develop Nova Scotia. These items are detailed under the following Parts:</p> <ul style="list-style-type: none"> • Part III, Chapter 4 (Environmental Requirements), • Part V, Chapter 4 (Additional Built Form Requirements within the Waterfront Special Areas), • Part X, Chapter 3 (Waterfront View Corridors), and • Part XIII, Chapter 1 (Motor Vehicle Parking) <p>The regulations are summarized as follows:</p> <ul style="list-style-type: none"> • Allowance for a side setback to be reduced or removed (reduced to 0 m) if the abutting lots are under common ownership and developed over continuous foundation, footing, or underground parking structure, or located within a waterfront view corridor. • Allowance for <u>new</u> harbour-related and marine-related uses to be permitted within the Halifax Waterfront Special Area, in addition to the existing marine-related uses, such as but not limited to tug boat facilities, and

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<p>identified for this precinct and with the Design Manual; or</p> <p>f) ensure Lower Water Street has streetwall and landscaping conditions that emphasize its meandering qualities and emergence as an important street.</p>	<p>excluding those uses from the Harbour edge setback requirement.</p> <ul style="list-style-type: none"> • Allowance for accessory parking lots in the Halifax Waterfront Special Area through revising Schedule 49 (Accessory Parking Prohibition – DH Zone). • Expanded list of exemptions for structures located waterfront view corridors including an exemption for shipping containers that are less than 3 metres in height. • Allowance for the issuance of a development permit for any commercial or institutional uses listed in Tables 1A, 1B, 1C, or 1D and located within the Dartmouth Waterfront (DW) or Halifax Waterfront (HW) Special Areas that are located at an elevation less than 3.2 metres above the Canadian Geodetic Vertical Datum 2013 (CGVD2013) standard (Diagram 2), provided a report by a professional engineer is submitted to the Development Officer identifying measures that will be used to mitigate risks of flood damage and public safety, including confirmation that the proposed development does not increase the risk or hazard for surrounding buildings, adjacent uses, or adjacent coastlines.
<p>3.6.11 Precinct 4 (Lower Central Downtown) Built Form Variance</p> <p>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 Schedule S-1 of the LUB may be varied by Site Plan Approval where the variance will:</p> <ul style="list-style-type: none"> a) Provide for mixed-use high-rise infill development on large opportunity sites; or b) fill existing gaps created by vacant properties or parking lots with new development; or c) develop vacant lots in a way that provides a continuous street wall and uninterrupted pedestrian experiences; or d) provide for animated streetscapes as detailed in the design manual; or e) focus pedestrian activities at sidewalk level through the provision of sidewalks protected from the weather through such means as well-designed canopies and awnings; or f) maintain or enhance the east-west streets to maintain important views between the Citadel and the harbour; or g) provide adequate separation between buildings; or h) ensure Lower Water Street has streetwall and landscaping conditions that emphasize its meandering qualities and emergence as an important street; or i) retain, enhance and protect isolated heritage properties. 	
<p>3.6.12 Landscaped Open Space Variance</p> <p>Landscaped open space requirements may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) The landscaped open space to be provided is consistent with the objectives and guidelines of the Design Manual; and b) The modification does not exceed 10% of the requirement. 	<p>There is no variation ability for landscaped open space requirements. However, the Centre Plan LUB includes built-in flexibilities under Sections 427 and 428 of Part XII, Chapter 1 (General Landscaping Requirements), and Section 430 of Part XII, Chapter 2 (Zone Specific Hard Landscaping or Soft Landscaping Requirements). These items include requirements for:</p> <ul style="list-style-type: none"> • soft landscaping on at least 40% of any main building with a flat roof or flat-roofed addition; • soft landscaping of any portion of a front, flanking, side, or rear yard that is not used for driveways, parking, off-street loading spaces, walkways, wheelchair ramps, stairs, or accessory structures;

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	<ul style="list-style-type: none"> • hard landscaping on flanking or front yards along POC streets with specific materials such as decorative concrete, pavers, or brick;
<p>3.6.14 Prohibited External Cladding Material Variance</p> <p>The use of prohibited external cladding materials may be varied by Site Plan Approval where:</p> <ol style="list-style-type: none"> The objectives and guidelines of the Design Manual are met; The use of the material is necessary for an appropriate architectural embellishment of the building; and The material does not exceed 10% of the total area of the facade. 	<p>There is no variation ability for the use of external cladding materials; however, the Centre Plan LUB includes built-in flexibilities under Section 89 of Part V, Chapter 1 (General Built Form Requirements). The LUB prohibits the use of materials such as vinyl siding, plastic, plywood, unfinished concrete, darkly tinted or mirrored glass and others, in the DH Zone. It also includes an allowance for prohibited external cladding materials that are present on a structure on the coming into force date of the LUB to be replaced with the same or similar materials.</p> <p>For registered heritage properties, Section 398 of Part VIII, Chapter 2 (Design Requirement: Prohibited Cladding Materials) of the LUB also prohibits the use of vinyl siding, plastic, exterior insulation and finish systems where stucco is applied to rigid insulation, standing seam or corrugated metal siding, or cinder block.</p>

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<p>3.6.15 Land Uses at Grade Variance</p> <p>The minimum floor-to-floor height for the ground floor of a building having access at the streetline or Transportation Reserve may be varied by Site Plan Approval where:</p> <ul style="list-style-type: none"> a) the proposed floor-to-floor height of the ground floor is consistent with the objectives and guidelines of the Design Manual; and, b) the proposed floor-to-floor height of the ground floor does not result in a sunken ground floor condition; <p>And at least one of the following:</p> <ul style="list-style-type: none"> c) in the case of the proposed addition to an existing building, the proposed height of the ground floor of the addition matches or is greater than the floor-to-floor height of the ground floor of the existing building; or, d) in the case of a proposed infill building, the floor-to-floor heights of the ground floors of abutting buildings along a common street frontage are such that the required floor-to-floor height for the ground floor of the infill building would be inconsistent with the established character of the street; or, e) in the case of a new building or an addition to an existing building being proposed along a sloping street(s), the site of the proposed new building or the proposed addition to an existing building is constrained by sloping conditions to such a degree that it becomes unfeasible to properly step up or step down the floor plate of the building to meet the slope and would thus result in a ground floor floor-to-floor height at its highest point that would be impractical; or, f) in the case of a new building to be situated on a site located outside of the Central Blocks and off a Pedestrian-Oriented Commercial Street, the floor-to-floor height of the ground floor may be reduced to 3.5 metres if it is to be fully occupied by residential uses. (RC-Mar 26/13;E-Apr 13/13) 	<p>There is no variation ability for the required ground floor height; however, the Centre Plan LUB includes built-in flexibilities to accommodate for lowering the ground-floor height subject to specific criteria under Section 139 of Part V, Chapter 3 (Built Form Requirements within the DH Zone). These items include the following requirements:</p> <ul style="list-style-type: none"> • The required ground floor height shall be at least 4.5 metres, excluding a low-density dwelling use or a grade-related dwelling unit use. • The ground floor height required may be reduced where one of the following conditions applies: <ul style="list-style-type: none"> (a) the ground floor height of a proposed addition is equal to or greater than the ground floor height of the existing building; (b) for a proposed building on a registered heritage property, the ground floor heights of abutting buildings along the same streetline are such that the required ground floor height of the proposed building would be inconsistent with the abutting building; or (c) on a site located outside of the Central Blocks, as shown on LUB schedules, and that is not along a pedestrian-oriented commercial street, the ground floor height requirement may be reduced to 3.5 metres if the ground floor is to be fully occupied by residential uses. • The ground floor requirements do not apply for streetwalls on corner lots located along a streetline or transportation reserve that exceed a slope greater than 8% and extended across the entire width of the streetwall.