



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 9.1.2**  
**Halifax and West Community Council**  
**November 25, 2014**  
**December 16, 2014**

**TO:** Chair and Members of Halifax and West Community Council

Original Signed

**SUBMITTED BY:**

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Bob Bjerke, Director of Planning and Development

**DATE:** November 6, 2014

**SUBJECT:** Case 19165 – Amendments to the Land Use By-law for Halifax Peninsula  
regarding Rooftop Mechanical Penthouses for University uses

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**ORIGIN**

Application by Dalhousie University

**LEGISLATIVE AUTHORITY**

*HRM Charter*, Part VIII, Planning & Development

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give First Reading to the proposed amendments to the Land Use By-law for Halifax Peninsula to increase the allowable area for rooftop mechanical penthouses that exceed the height requirements of the Land Use By-law in the U-1 and U-2 Zones, as contained in Attachment A of this report, and schedule a public hearing; and
2. Approve the proposed amendments to the Land Use By-law for Halifax Peninsula, as contained in Attachment A of this report.

## **BACKGROUND**

An application has been received by Dalhousie University to amend the Land Use By-law for Halifax Peninsula (LUB) to permit an increase to the allowable area for rooftop mechanical penthouses that exceed the height requirements of the LUB. The proposed amendment would impact those buildings in the U-1 (Low-Density University) and U-2 (High-Density University) zones (see attached maps). Currently, the LUB allows for a height exemption for rooftop penthouses but for only those penthouses that cover less than 10% of the rooftop.

### **Proposal**

Dalhousie is requesting that the allowable percentage of rooftop mechanical penthouses which can exceed the height requirements of the LUB be increased to 30%. Rooftop mechanical equipment for university research buildings is often larger than the equipment needed for residential or commercial uses. Further, over the past several years Dalhousie has been striving to include environmentally efficient equipment on their buildings which often will require a larger foot print than conventional equipment. A similar allowance of 30% exists in the Downtown Halifax LUB. Attachment B outlines the applicant's rationale for the proposed amendments.

### **Location**

The proposed amendment to the LUB would apply to those buildings in the U-1 and U-2 zones where there are maximum height requirements. This includes properties that make up the Dalhousie University, St. Mary's University, and the Atlantic School of Theology Campuses. (see Maps 1A to 3C).

### **Section 71 – Height Exemptions**

Section 71 of the LUB for Halifax Peninsula allows for items such as chimneys, flag poles, elevator enclosures and penthouses that occupy less than 10% of the rooftop area to exceed the required heights of the Land Use By-law. This section applies to all uses in the Halifax Peninsula Plan area that are subject to a height requirement.

In the case of roof top mechanical equipment, any equipment that is above the maximum height requirement must be fully enclosed by a penthouse. Currently, there are no setbacks from the roofline or design requirements within the LUB for such features. Any mechanical equipment that is below a required height does not need to be enclosed and can be developed over the whole rooftop.

### **Enabling Policy**

The subject application is made pursuant to the policies of the Municipal Planning Strategy (MPS) for Halifax. There are several policies throughout the plan that address the need for suitable height and massing near surrounding residential areas.

## **DISCUSSION**

The current limit on the area of rooftop mechanical penthouses which can exceed height requirements has been included in the LUB for Halifax Peninsula since it was adopted in 1950. Since then the need for mechanical equipment, especially in relation to university uses, has increased. The proposed increase from 10% to 30% is considered to be minor in nature and will still ensure that the majority of the rooftop is not covered.

Due to the residential nature of the majority of the surrounding area around the U-1 and U-2 zoned properties, additional provisions have been included to mitigate the visual prominence of the mechanical equipment, as follows:

- Currently, the LUB provision allows for an exemption for penthouses which could include additional floor area for the building. The proposed amendment specifies that the 30% roof top coverage can only apply to "mechanical penthouses".

- Currently, the LUB has no requirements for the placement of water tanks, elevator enclosures and mechanical penthouses. The proposed amendment requires a 10 foot setback or that such features be integrated into the design of the building.

The proposed increase in the allowance of rooftop mechanical penthouses exceeding height requirements will be more reflective of the needs of modern institutional buildings. The proposed amendments will be in keeping with similar provisions in the Downtown Halifax LUB and will also include measures to reduce the visual presence of the mechanical penthouses. As such, the proposed amendment will address the current needs of universities while respecting neighbouring uses.

#### **Districts 7 & 8 Planning Advisory Committee**

This application was presented to the Districts 7 & 8 Planning Advisory Committee (PAC) on July 8, 2014. A report from the PAC will be submitted to Community Council under separate cover.

The PAC expressed no concern regarding the proposed amendment to the LUB.

#### **FINANCIAL IMPLICATIONS**

The HRM costs associated with processing this planning application can be accommodated within the proposed 2014/15 operating budget for C310 Planning & Applications.

#### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through notices posted on the HRM website. A public information meeting (PIM) was not held for this application due to the general nature of the amendments and the limited impact of the changes.

Staff did receive three submissions of concern regarding the waving of the PIM, but did not receive specific comments about the proposed amendments (Attachment C).

A public hearing has to be held by Community Council before it can consider approval of the LUB amendments. Should Community Council decide to proceed with a public hearing on this application, advertisements will be published in the newspaper and placed upon the HRM website. Community Council may request that abutting land owners be notified of the public hearing. HRM's practice is generally not to notify land owners directly in cases of non-site specific amendments to the LUB due to the nature and scope of the amendments. Staff will follow this practice for this application.

The proposed amendments will potentially impact the following stakeholders: local residents and property owners.

#### **ENVIRONMENTAL IMPLICATIONS**

No implications have been identified.

#### **ALTERNATIVES**

1. Halifax and West Community Council may choose to approve the proposed amendments to the LUB for Halifax Peninsula subject to modification. This may necessitate further analysis and a supplementary report. A decision of Council to approve this LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

2. Halifax and West Community Council may choose to refuse the proposed amendments to the LUB for Peninsula Halifax, and in doing so, must provide reasons why doing so would not reasonably carry out the intent of the MPS. A decision of Council to refuse this LUB amendment is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

## **ATTACHMENTS**

Map 1A: GFLUM - Dalhousie University Sexton Campus  
Map 1B: GFLUM - St. Mary's University / Atlantic School of Theology  
Map 1C: GFLUM - Dalhousie University Studley and Carleton Campus  
Map 2A: Zoning - Dalhousie University Sexton Campus  
Map 2B: Zoning - St. Mary's University / Atlantic School of Theology  
Map 2C: Zoning - Dalhousie University Studley and Carleton Campus  
Map 3A: Height Precincts - Dalhousie University Sexton Campus  
Map 3B: Height Precincts - St. Mary's University / Atlantic School of Theology  
Map 3C: Height Precincts - Dalhousie University Studley and Carleton Campus

Attachment A: Proposed Amendments to the Land Use By-law for Halifax Peninsula  
Attachment B: Feb. 24, 2014 Letter from Applicant  
Attachment C: Submissions from the Public

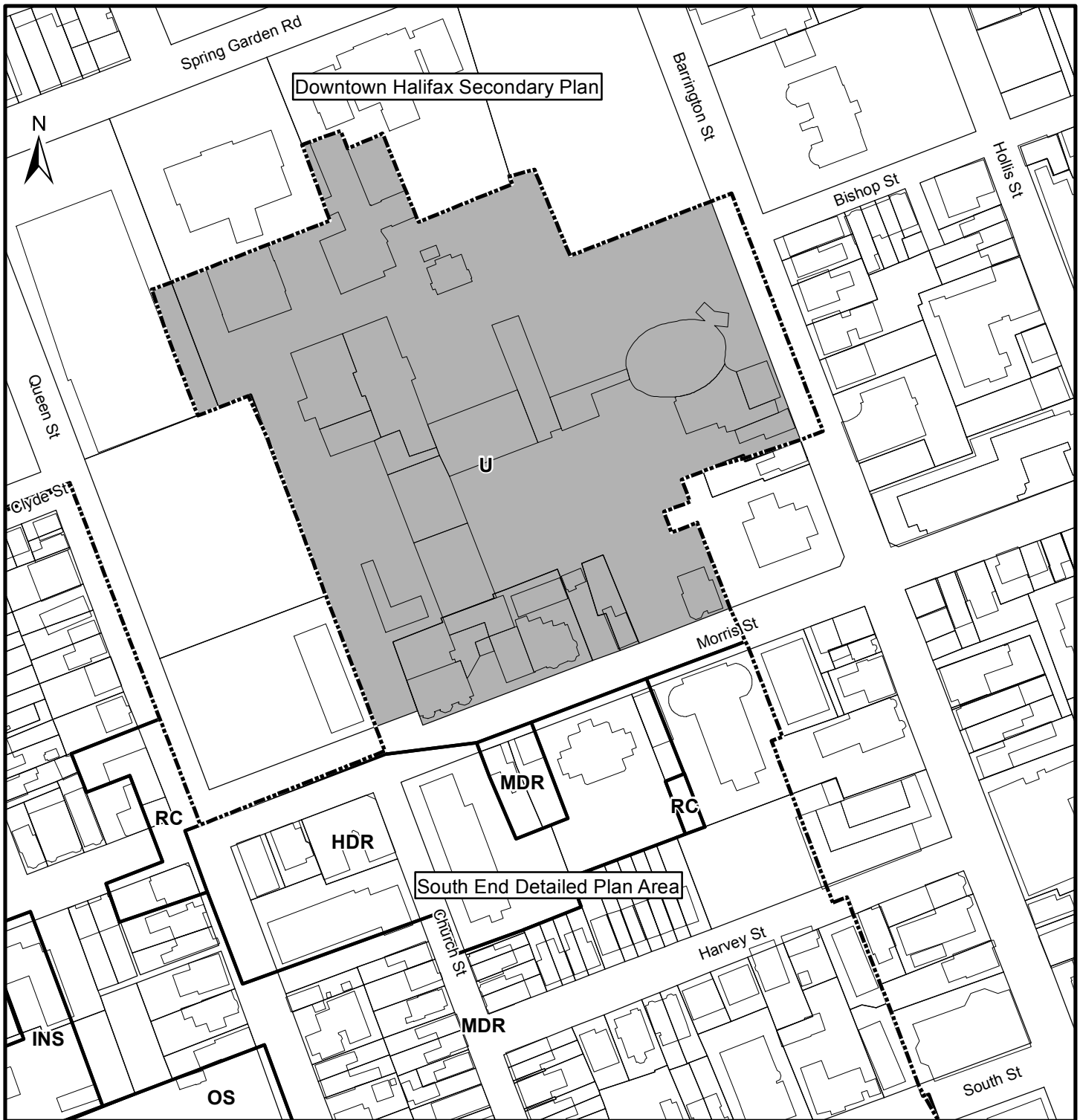
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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Jillian MacLellan, Planner, Development Approvals, 490-4423

Original Signed

Report Approved by: \_\_\_\_\_  
Kelly Denty, Manager of Development Approvals, 490-4800



**Map 1A - GFLUM - Dalhousie University Sexton Campus**

**HALIFAX**

■ U-2 (High-Density University)  
zoned properties

■ U-1 (Low-Density University)  
zoned properties

**Designations - South End**

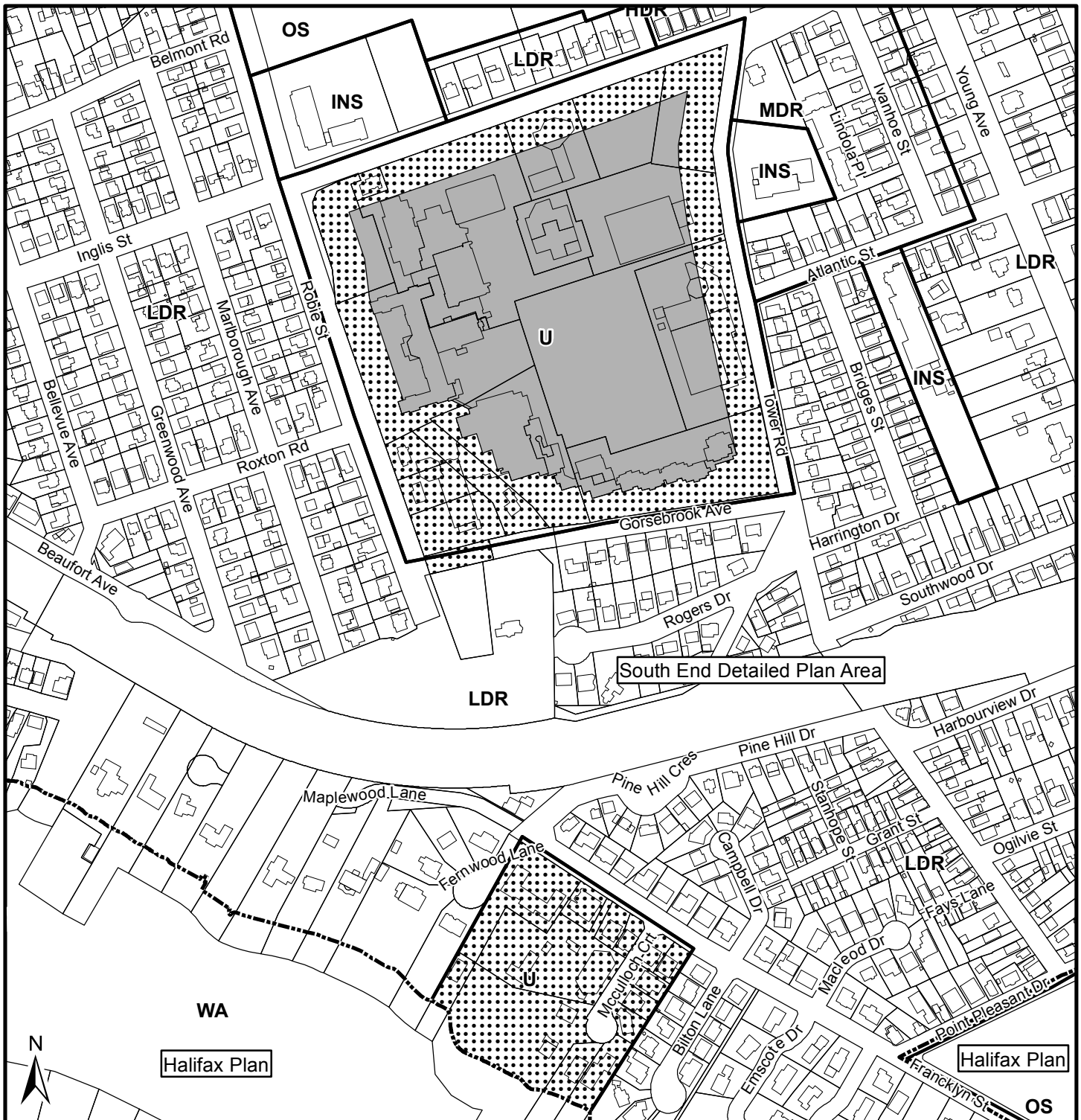
MDR Medium Density Residential  
HDR High Density Residential  
INS Institutional  
OS Open Space  
RC Residential - Commercial Mix  
U University

0 25 50 75 m

This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

HRM does not guarantee the accuracy of any representation on this plan.

Halifax Plan Area  
South End Detailed Plan Area



## Map 1B - GFLUM - St. Mary's University / Atlantic School of Theology

# HALIFAX

U-2 (High-Density University)  
zoned properties

U-1 (Low-Density University)  
zoned properties

### Designations - South End

LDR Low Density Residential  
MDR Medium Density Residential  
INS Institutional  
OS Open Space  
U University

### Designations - Halifax

OS Open Space  
WS Water Access Area

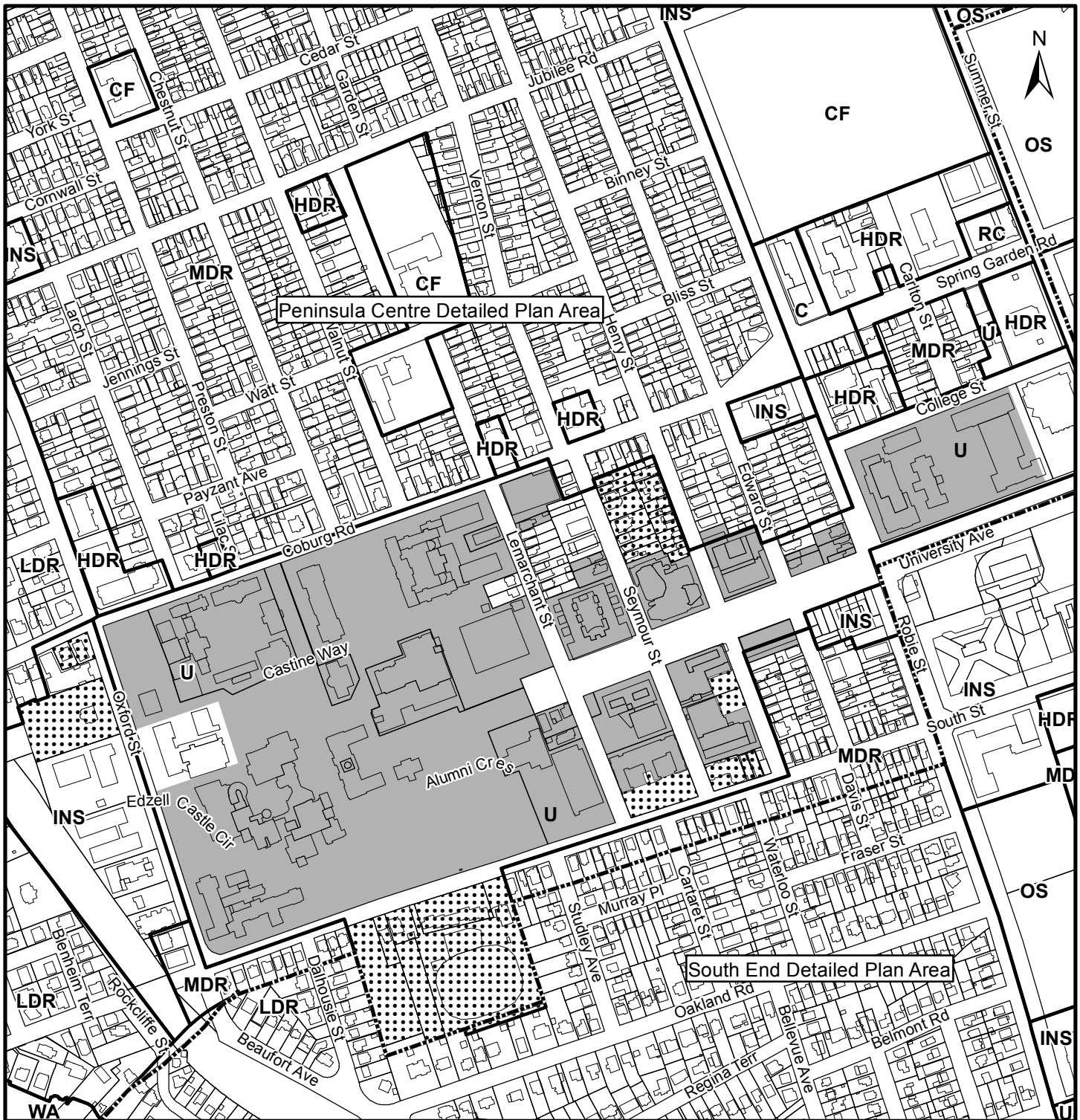
0 50 100 150 m

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a portion of the Generalized Future Land  
Use Map for the plan area indicated.

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Halifax Plan Area  
South End Detailed Plan Area





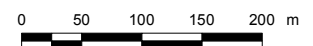
# Map 1C - GFLUM - Dalhousie University Studley and Carleton Campus

HALIFAX

- U-2 (High-Density University) zoned properties
- U-1 (Low-Density University) zoned properties

- Designations - Peninsula Centre**
- LDR Low Density Residential
  - MDR Medium Density Residential
  - HDR High Density Residential
  - C Commercial
  - CF Community Facilities
  - INS Institutional
  - U University

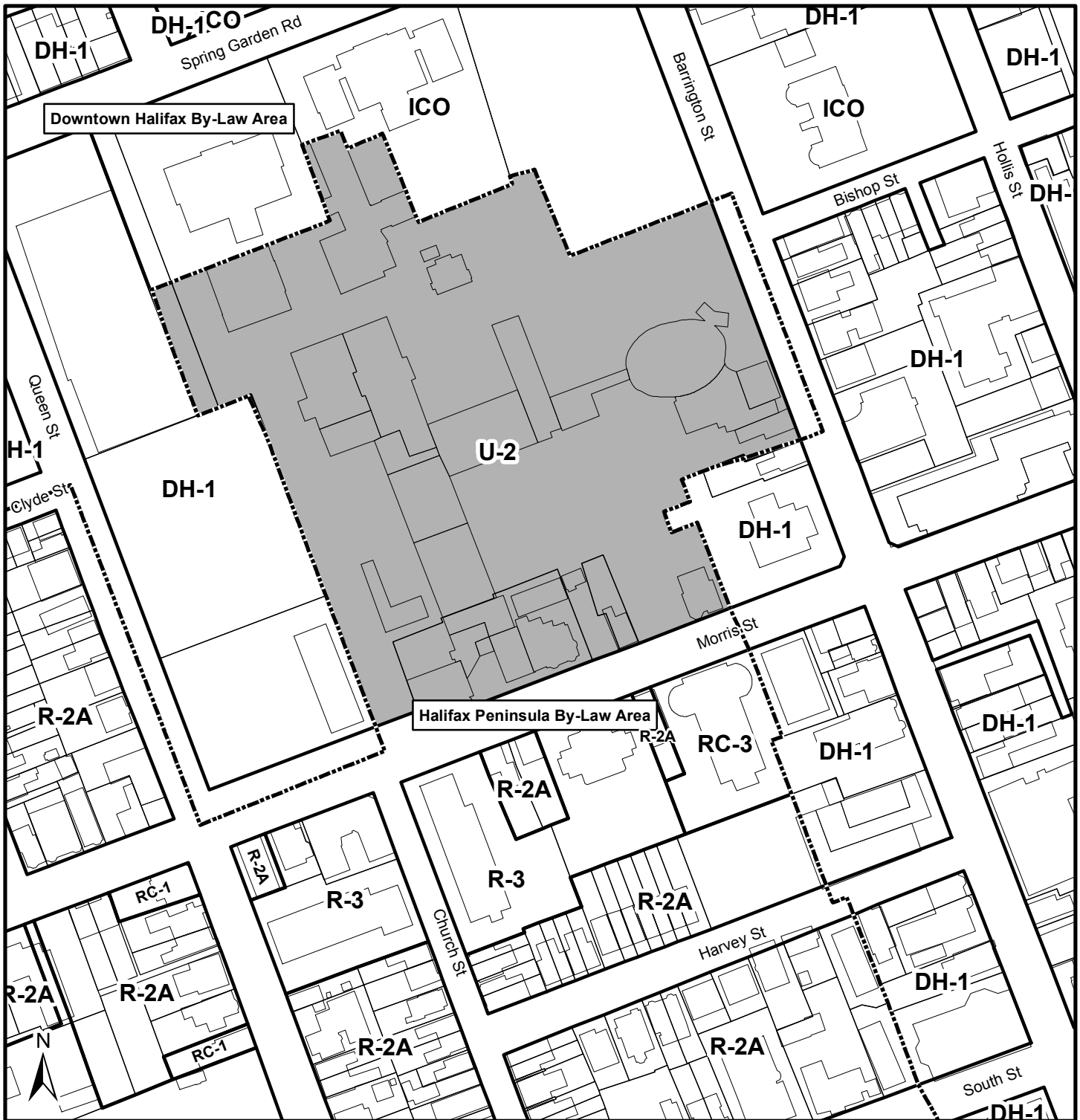
- Designations - South End**
- LDR Low Density Residential
  - INS Institutional
  - OS Open Space



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Halifax Plan Area  
Peninsula Centre Detailed Plan Area



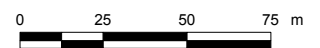
**Map 2A - Zoning - Dalhousie University Sexton Campus**

**HALIFAX**

-  U-2 (High-Density University) zoned properties
-  U-1 (Low-Density University) zoned properties

- Zones - Halifax Peninsula**
- R-2A General Residential Conversion
  - R-3 Multiple Dwelling
  - RC-1 Neighbourhood Commercial
  - U-2 High-Density University

- Zones - Downtown Halifax**
- DH-1 Downtown Halifax
  - ICO Institutional, Cultural and Open Space

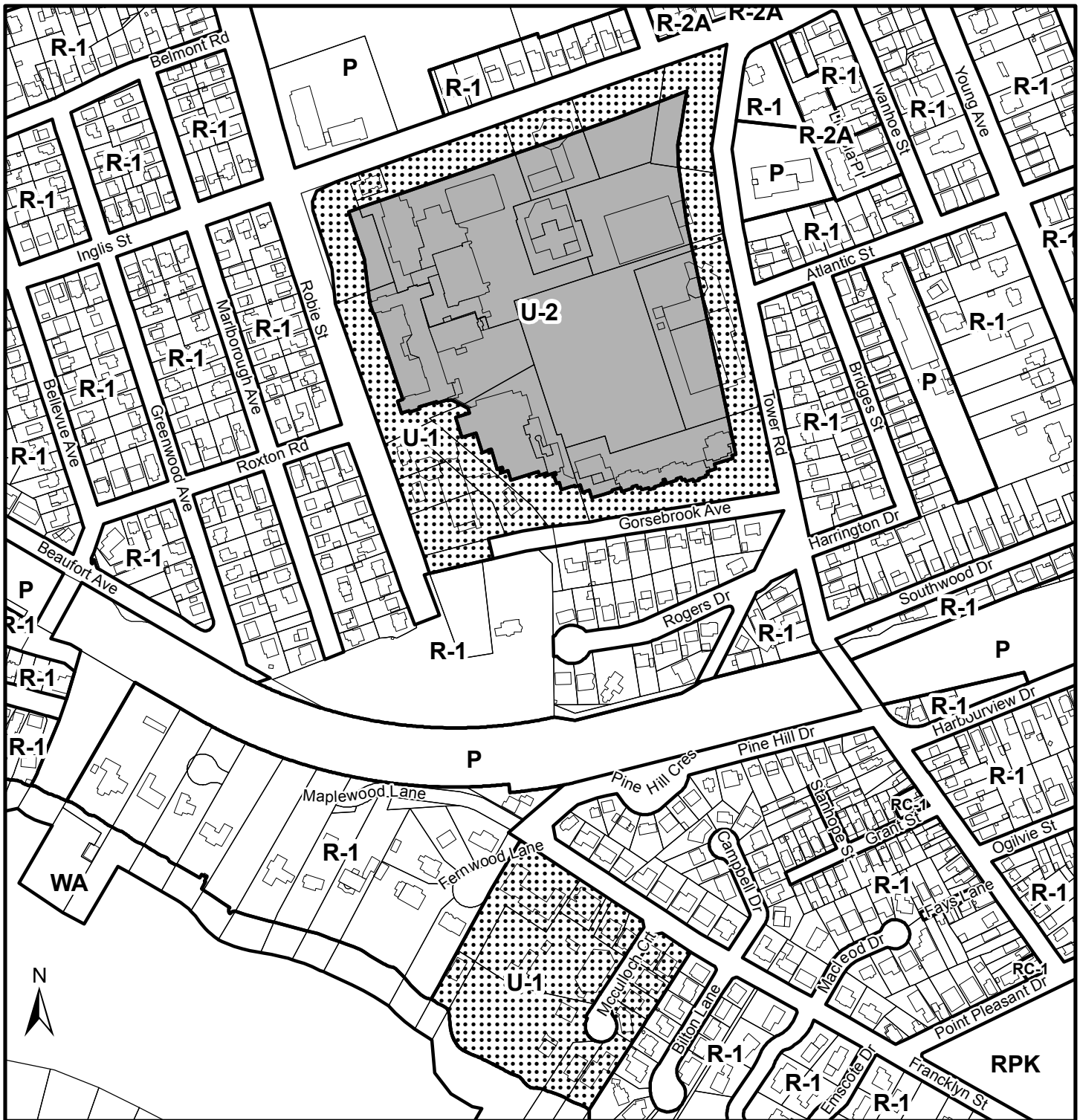


This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

HRM does not guarantee the accuracy of any representation on this plan.



Halifax Peninsula  
Land Use By-Law Area



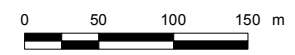


## Map 2B - Zoning - St. Mary's University / Atlantic School of Theology

**HALIFAX**

-  U-2 (High-Density University) zoned properties
-  U-1 (Low-Density University) zoned properties

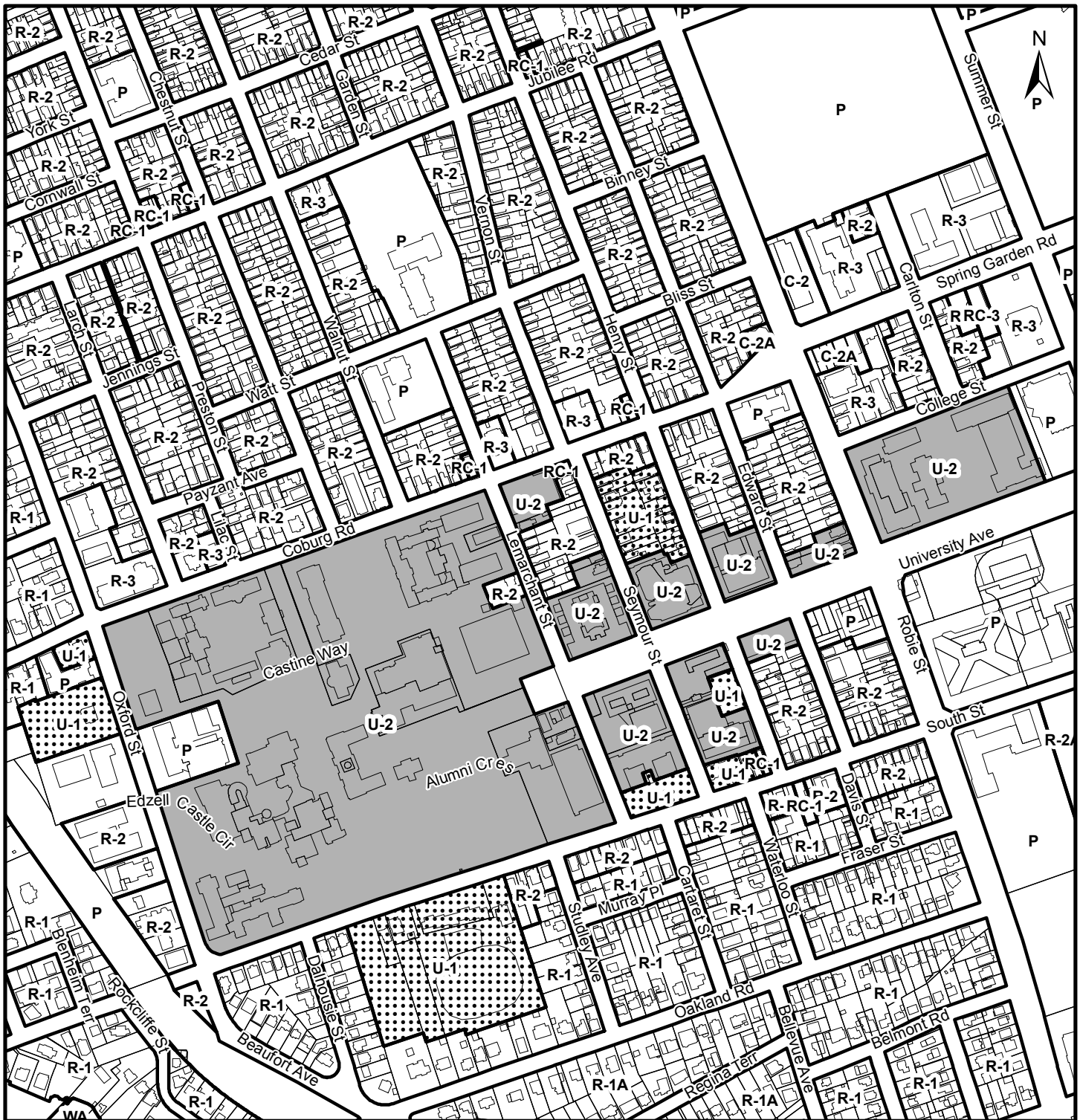
- Zones**
- R-1 Single Family Dwelling
  - R-2A General Residential Conversion
  - P Park and Institutional
  - U-1 Low-Density University
  - U-2 High-Density University
  - WA Water Access



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.



HRM does not guarantee the accuracy of any representation on this plan.

Halifax Peninsula  
Land Use By-Law Area



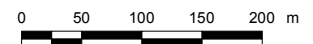
**Map 2C - Zoning - Dalhousie University Studley and Carleton Campus**

**HALIFAX**

-  U-2 (High-Density University) zoned properties
-  U-1 (Low-Density University) zoned properties

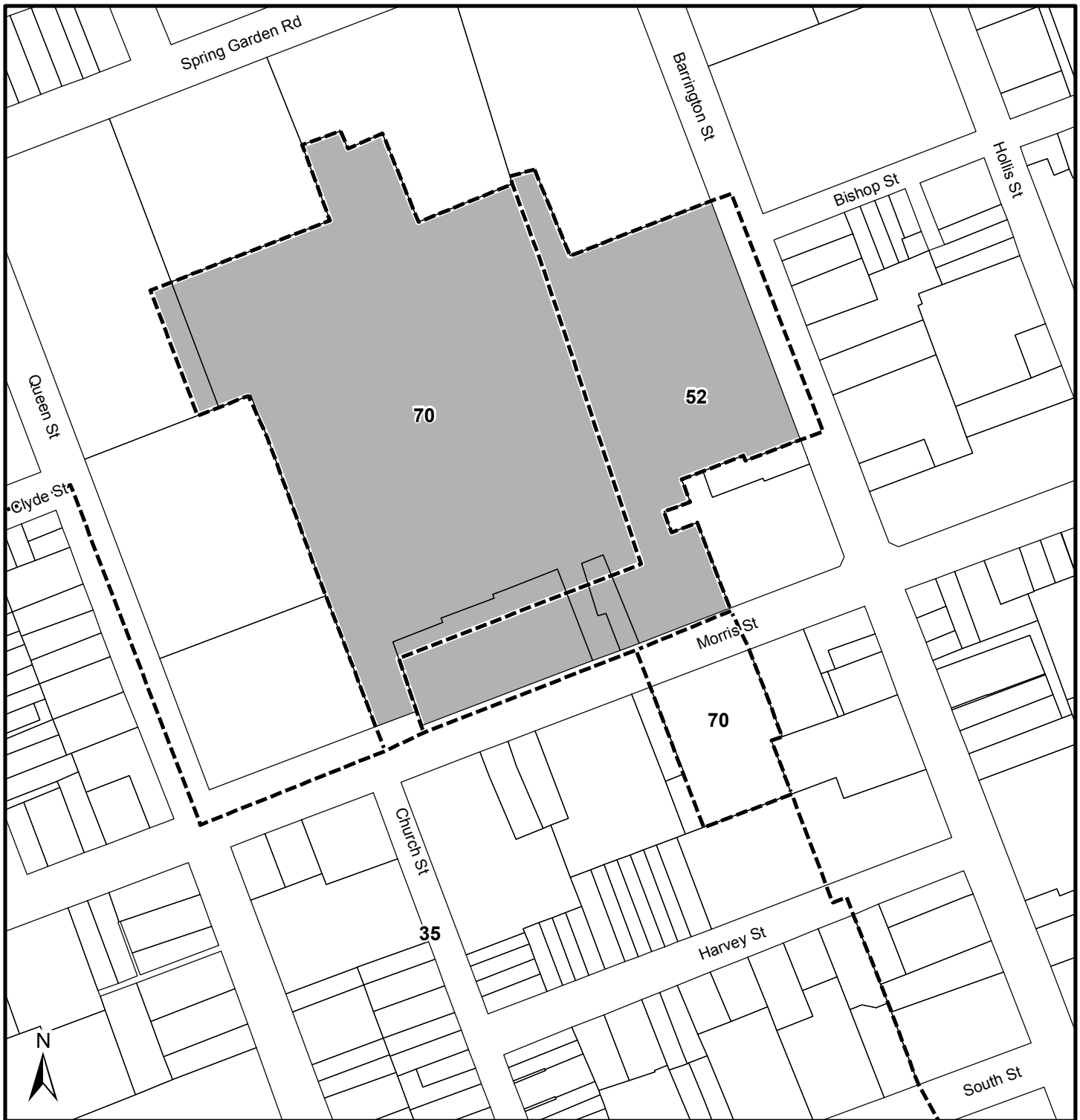
**Zones**

- R-1 Single Family Dwelling
- R-2 General Residential
- R-3 Multiple Dwelling
- R-1A Single Family Dwelling A
- R-2A General Residential Conversion
- RC-1 Neighbourhood Commercial
- RC-3 High Density Residential Minor Commercial
- C-2 General Business
- C-2A Minor Commercial
- P Park and Institutional
- U-1 Low-Density University
- U-2 High-Density University





This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

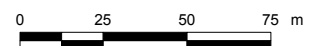
HRM does not guarantee the accuracy of any representation on this plan.



## Map 3A - Height Precincts - Dalhousie University Sexton Campus

**HALIFAX**

-  U-2 (High-Density University) zoned properties
-  U-1 (Low-Density University) zoned properties

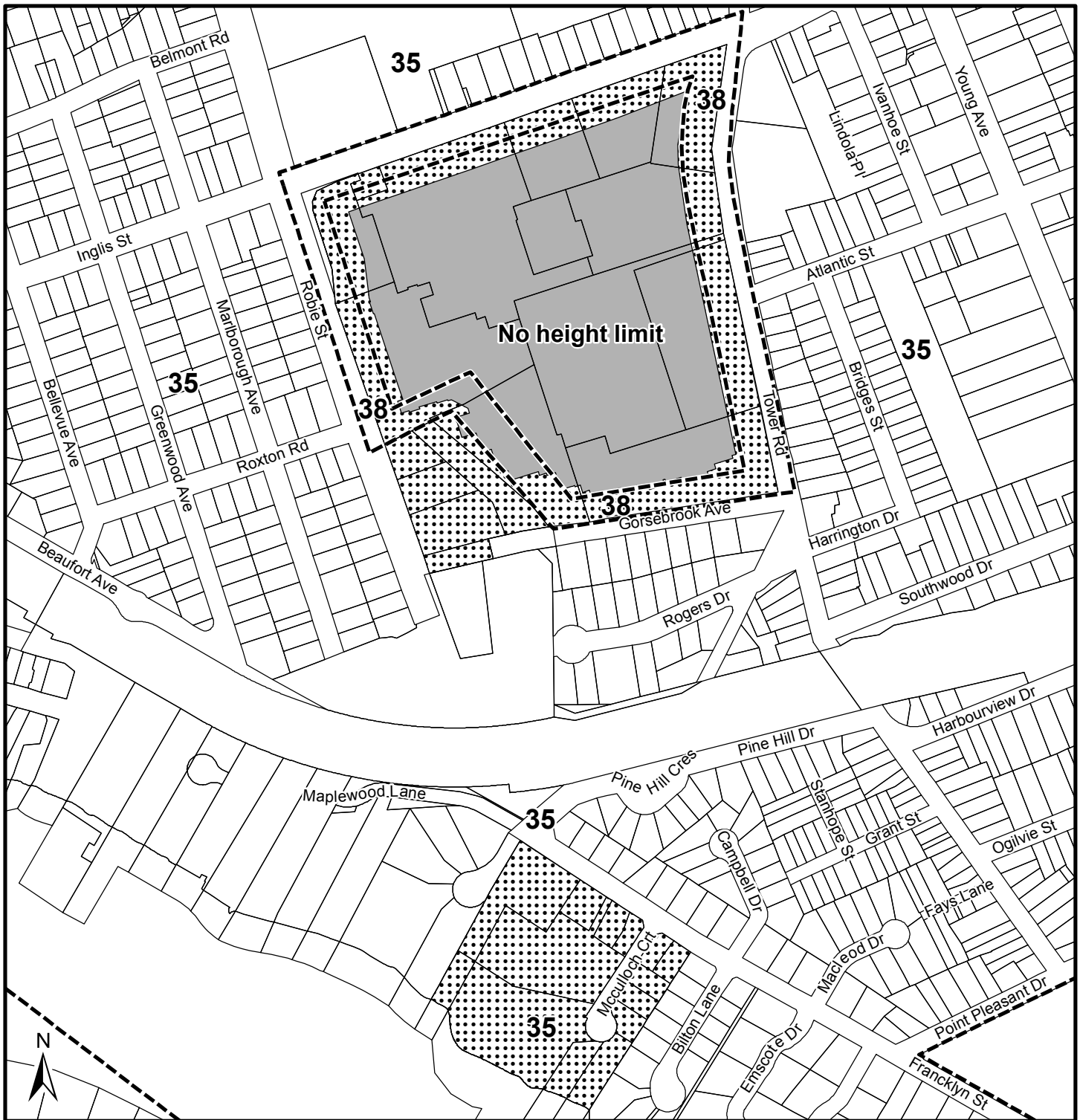


Halifax Peninsula  
Land Use By-Law Area

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# **Map 3B - Height Precincts - St. Mary's University / Atlantic School of Theology**

**HALIFAX**

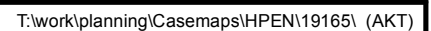
- U-2 (High-Density University) zoned properties
- U-1 (Low-Density University) zoned properties

0 50 100 150 m

Halifax Peninsula  
Land Use By-Law Area

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**Case 19165: ATTACHMENT A**  
**Proposed Amendments to the Land Use By-Law for Halifax Peninsula**

**BE IT ENACTED** by the Community Council of Halifax and West that the Land Use By-Law for Halifax Peninsula is hereby amended as follows:

1. In the U-1 Zone – Low Density University adding the following immediately after Section 70AB(7)

**HEIGHT EXEMPTIONS**

- 70AC(1) Notwithstanding Section 71, height regulations herein set forth shall not apply to church spires, church belfries, chimneys, flagpoles, radio poles, water tanks, elevator enclosures, or mechanical penthouses occupying in the aggregate less than 30 percent of the area of the roof of the building on which they are located, provided that:
- (a) no building or structure shall protrude through a View Plane;
  - (b) no building or structure which is located in Schedule A shall be visible above the Citadel Ramparts as specified by Section 26B; and
  - (c) water tanks, elevator enclosures and penthouses shall be setback from the perimeter of the roofline a minimum of 10 feet or incorporated as an integral part of the building design.

2. In the U-2 Zone – High Density University adding the following immediately after Section 70BC(2)

**HEIGHT EXEMPTIONS**

- 70BD(1) Notwithstanding Section 71, height regulations herein set forth shall not apply to church spires, church belfries, chimneys, flagpoles, radio poles, water tanks, elevator enclosures, or mechanical penthouses occupying in the aggregate less than 30 percent of the area of the roof of the building on which they are located, provided that:
- (a) no building or structure shall protrude through a View Plane;
  - (b) no building or structure which is located in Schedule A shall be visible above the Citadel Ramparts as specified by Section 26B; and
  - (c) water tanks, elevator enclosures and penthouses shall be setback from the perimeter of the roofline a minimum of 10 feet or incorporated as an integral part of the building design.

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 Community Council of Halifax and West 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



*Vice-President  
Finance and Administration*

February 24, 2014

Ms. Jillian MacLellan  
Planner 1, HRM Development Approvals  
Community and Recreation  
Halifax Regional Municipality  
7071 Bayers Road, Suite 2005  
Halifax, NS B3L 2C2

Dear Ms. MacLellan:

**RE: Application for Land Use By-law Amendment**

Dalhousie University is seeking to amend the Halifax Peninsula Land Use By-law to allow greater rooftop mechanical and penthouse areas that exceed the height requirements for new construction projects. Dalhousie is engaged in substantial capital development through implementation of key components of Dalhousie Campus Master Plan – many development projects are being implemented and planned to address Dalhousie's evolving needs. Issues relating to maximum permitted rooftop mechanical and penthouse areas, as per the Halifax Peninsula Land Use Bylaw Section 71, have consistently impacted Dalhousie's ability to construct efficient buildings. Presently, the Halifax Peninsula Land Use By-law does not permit rooftop mechanical and penthouse areas to exceed 10% of the rooftop area if the penthouse exceeds the maximum permitted height.

Rooftop mechanical HVAC units are often enclosed in a penthouse structure to protect the equipment, attain low levels of vibration noise, and create an aesthetically pleasing rooftop feature. The size of HVAC units necessary for a research-intensive university, like Dalhousie, are increasing to address advances in air quality and ventilation standards/codes for new buildings. Also consider that the size of academic-related buildings are increasing to meet expanding enrollment levels and research activities. Building systems are designed to deliver high performance with respect to energy optimization but also climate control and occupant comfort so as a building increases in size so must the building systems.

#### **Precedent**

The Downtown Halifax Land Use By-law permits up to 30% of the rooftop area for penthouses and HVAC equipment. This By-law was adopted in 2009 and responds to the need for greater rooftop areas for building

systems and other elements. The maximum 10% rooftop area permitted in the Halifax Peninsula Land Use By-law was adopted in 1978 and has not undergone an amendment review of Section 71 since adoption.

#### **Request**

Dalhousie requests that HRM consider amending the text Section 71 of the Halifax Peninsula Land Use By-law to allow U-1 and U-2-zoned uses up to 30% of the rooftop area for penthouses. This request is consistent with the regulations in the Downtown Halifax Land Use By-law and does not represent a deviation from good planning practices in Halifax. Other universities that are impacted by this request include St. Mary's University and the Atlantic School of Theology. Our colleague universities have been made aware of this application request and understand that our request impacts their zoning.

The required application fee and completed application form is enclosed. Dalhousie looks forward to next steps on this important process. Thank you.

Sincerely,

Original Signed

Ian Nasbn  
Vice-President  
Finance & Administration (Acting)

**Case 19165: ATTACHMENT C  
Submissions from the Public**

-----Original Message-----

From: Beverly Miller [REDACTED]  
Sent: August-23-14 2:53 PM  
To: Maclellan, Jillian; Floyd Dykeman; [REDACTED] Jeff Lamb';  
[REDACTED] Waye Mason; Watts, Jennifer  
Subject: Development case # 19165

Beverly W. Miller  
[REDACTED]

August 23, 2014

Dear Ms Maclellan:

As a property owner of a home adjoining the Dalhousie campus, I am writing to formally request that a Public Information Meeting on Case #19165 be held to inform property owners within 100'/30 metres of the Dalhousie U1 and U2 zones of the action requested by Dalhousie.

As I noted in a former email, suspending the PIM and using downtown as a prototype for increasing the roof coverage of utilities from 10% to 30% on Dalhousie buildings is not acceptable. The Dalhousie U1 and U2 zones are mostly in residential (including condos) neighbourhoods; an entirely different situation from downtown.

I might also add that the only HRM sign (you referred to 'signs') that I have been able to find re: Case # 19165 is on the fence at the site of the University/Summer St. construction...buried in the centre of the campus (not on the edges where the affected properties are), and, because it is a construction zone, makes it appear that the request is only for that building. I might also add that while the proposed development agreement refers rather obliquely to research facilities, the U1 zone prohibits 'laboratories'.

Your sincerely,

Beverly W. Miller

-----Original Message-----

From: Mary Maddox [REDACTED]  
Sent: August-28-14 3:14 PM  
To: Maclellan, Jillian  
Cc: Beverly Miller  
Subject: Proposed roof utility area increase

Dear Ms Maclellan,

I live directly across from Dalhousie University. The surrounding community is almost 100% residential and this would be a great detriment to the quality of our neighbourhood. On the streets that directly surround Dalhousie there are 2 general stores, a laundromat, and a coffee shop. This definitely does not describe a commercial area. We choose to live downtown to minimize our need for cars, etc. This allotment being requested will be a big mistake. I'm

requesting a public information meeting on issue 19165 because this will affect the surrounding neighbourhoods.

Thank you,  
Mary Maddox

-----Original Message-----

From: Aidan Evans [REDACTED]  
Sent: September-02-14 6:37 PM  
To: Maclellan, Jillian  
Subject: Re: Development case #19165

Aidan Evans  
[REDACTED]

Sept. 2, 2014

Dear Ms Maclellan:

My wife Adele and I currently own 6178 South Street, directly opposite Dalhousie's new Mixed Use Facility building. I recently learned from a neighbour (no communication from HRM) of Dalhousie's request for zoning amendments to allow larger height-limit-exceeding rooftop installations in U1 and U2 zones.

I'm writing to request a Public Information Meeting on case #19165 to properly inform property owners within 30 metres of the Dalhousie U1 and U2 zones about the requested changes. In view of the impending redevelopment of the Eliza Ritchie and Dalplex areas and potential additions near the MUF, this would allow nearby residents time to develop a well informed opinion on the request in advance of a public hearing, should there be one.

Yours sincerely,

Aidan Evans