

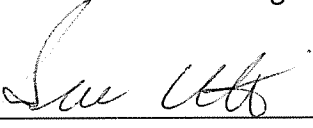
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P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Halifax Regional Council  
October 12, 2004

TO: His Worship Mayor Peter Kelly and  
Members of Halifax Regional Council

FROM:   
Councillor Sue Uteck, Chair  
Peninsula Community Council

DATE: October 5, 2004

SUBJECT: **Case 00572: Amendments to Halifax MPS - Height Precincts, South  
End**

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**ORIGIN**

Peninsula Community Council October 12, 2004.

**RECOMMENDATION**

Peninsula Community Council recommend that Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-Law, as they apply to District 12, as contained in Attachment A and B of the staff report dated August 10, 2004 and schedule a public hearing.
2. Approve the amendments to the Halifax Municipal Planning Strategy as contained in Attachments A and B of the staff report dated August 10, 2004.

## **BACKGROUND**

This matter was considered by the District 12 PAC at a meeting held on September 27, 2004. Peninsula Community Council subsequently approved the recommendation of the District 12 PAC at its meeting held on October 5, 2004.

## **DISCUSSION**

Please see attached report.

## **BUDGET IMPLICATIONS**

N/A

## **FINANCIAL MANAGEMENT/BUSINESS PLAN**

N/A

## **ALTERNATIVES**

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use Bylaw, as they apply to District 12 PAC, and schedule a public hearing.
2. Reject the recommendation of Peninsula Community Council and take no further action in this regard.

## **ATTACHMENTS**

1. September 28, 2004 report from the District 12 PAC

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208. Report prepared by: Sherryl Murphy, Legislative Assistant, 490-6517.
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PO Box 1749  
Halifax, Nova Scotia  
B3J3A5 Canada

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Peninsula Community Council  
October 4, 2004

**TO:** Peninsula Community Council

**SUBMITTED BY:** Gail Harnish / for  
Beverly Miller, Vice Chair  
District 12 Planning Advisory Committee

**DATE:** September 28, 2004

**SUBJECT:** Case 00572: Amendments to Halifax MPS - Height Precincts, South End

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**ORIGIN**

District 12 Planning Advisory Committee meeting - September 27, 2004

**RECOMMENDATION**

The District 12 Planning Advisory Committee recommends that Peninsula Community Council:

1. Recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as they apply to District 12, as contained in Attachments A and B of the staff report dated August 10, 2004, and schedule a public hearing;
2. Recommend that Regional Council approve the amendments to the Halifax Municipal Planning Strategy as contained in Attachments A and B of the staff report dated August 10, 2004.

In support of the motion, it was noted that members of the public make decisions based on the height limits they see on height precinct maps.

**ATTACHMENTS**

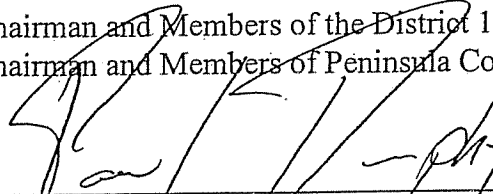
Staff report dated August 10, 2004


Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Gail Harnish, Admin/PAC Coordinator, 490-4937

District 12 Planning Advisory Committee - September 27, 2004  
Peninsula Community Council - October 4, 2004

To: Chairman and Members of the District 12 Planning Advisory Committee  
Chairman and Members of Peninsula Community Council

Submitted by:   
Paul Dunphy, Director of Planning & Development Services

  
Gary Porter, Planner II

Date: August 10, 2004

Subject: Case 00572: Amendment to Halifax MPS - Height Precincts, South End

**ORIGIN:**

Staff

**RECOMMENDATION:**

It is recommended that District 12 Planning Advisory Committee:

1. recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use By-law, as they apply to District 12, as contained in Attachments A and B and schedule a public hearing;
2. recommend that Regional Council approve the amendments to the Halifax Municipal Planning Strategy as contained in Attachments A and B.

It is recommended that Peninsula Community Council:

1. recommend that Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy as contained in Attachment A and the proposed amendments to the Halifax Peninsula Land Use By-law as contained in Attachment B which will increase the height precinct at 5784 - 5802 South Street & 1181 Wellington Street from 65 feet to 70 feet and entrench this and all of the other heights currently established for the South End in Municipal Planning Strategy policy and to schedule a public hearing;
2. recommend that Regional Council approve the amendments to the Halifax Municipal Planning Strategy as contained in Attachment A and the proposed amendments to the Halifax Peninsula Land Use By-law as contained in Attachment B which will increase the height precinct at 5784 - 5802 South Street & 1181 Wellington Street from 65 feet to 70 feet and entrench this and all of the other heights currently established for the South End in Municipal Planning Strategy policy.

PLEASE RETAIN REPORT FOR PUBLIC HEARING

### **Information for District 12 Planning Advisory Committee**

Section V of the Halifax Municipal Planning Strategy (South End Area Plan) applies to portions of Districts 12 and 13. The location of the District 12 boundary is shown on Map 1 for the convenience of the District 12 Planning Advisory Committee. It is also pointed out that the proposed amendment to the land use by-law contained in Attachment B is a housekeeping amendment and applies to properties located District 13. It is also pointed out that 5784 - 5802 South Street & 1181 Wellington Street, where the increase to the height precinct at from 65 feet to 70 feet is requested, are located in District 13 as well.

### **BACKGROUND:**

There are three aspects relating to the determination of the height of a building in the South End.

- The establishment of height precincts through the policies of Section V of the Halifax Municipal Planning Strategy.
- The method of measuring the height permitted in the various Height Precincts and the exemptions thereto.
- The ability of Council to grant development agreements for buildings which would exceed the established Height Precincts.

### **Establishment of height precincts through Municipal Planning Strategy policies**

Height precincts have been established in the land use by-law for much of the South End based on Policy 1.1.1.3 of Section V of the Halifax Municipal Planning Strategy. This policy has been in effect for more than 20 years (see Attachment C). While maximum building height limits for certain specific sites in the South End have been clearly established by policy (4.5.5, 7.2.2.1, 7.2.5.1, 7.5.2, 7.5.3, 7.5.4.1 and 7.8.2), there is less certainty as to the maximum height that could be allowed where such height has been established pursuant to the three criteria in Policy 1.1.1.3. As a result of the proceedings regarding an application to amend the height precinct for 5620 South Street, it became apparent that the community desires greater certainty in Policy 1.1.1.3.

Staff brought this matter forward to Peninsula Community Council which recommended to Regional Council that the current policy be reviewed. At its meeting on May 13, 2003 Halifax Regional Council instructed staff to initiate the process to amend Section V of the Halifax Municipal Planning Strategy with respect to the establishment of height precincts. The staff report dated March 25, 2003 indicated that the purpose of the review is to determine the following:

- if Policy 1.1.1.3 is still appropriate
- whether more of the heights currently established for the South End should be entrenched in MPS policy
- whether all of the heights currently established for the South End should be entrenched in MPS policy
- whether any of the heights now established for the South End should be changed.

A public information meeting was held on October 30, 2003. The minutes of that meeting are included as Attachment E.

### **Height Precincts Defined**

The height precincts in the land use by-law are building height limitations which apply to individual sites or larger areas and take precedent over any height limitation contained in the zone regulating the use of such property. Some zones contain a specific height limit expressed in feet. In this situation, the height precinct is normally the same as the height limit of the zone of the area to which such height precinct applies. However, in some zones, such as R-3 (Multiple Dwelling), U-1 (Low Density University Zone), C-3 (Industrial) and certain U-2 zones (High Density University) there is either no specified height limit or the height limit is variable. The height precinct limits the height of anything constructed in that area regardless of what may otherwise be permitted by the zone.

### **Explanation of Policy 1.1.1.3**

Policy 1.1.1.3 of Section V of the Halifax Municipal Planning Strategy provides for the inclusion of controls in the land use by law, such as height restrictions to ensure that new developments are compatible with existing development in respect to building height (see Attachment C).

Policy 1.1.1.3 has two components. For certain areas within the South End, the height limitation that must be implemented through the land use by law is specifically stated. These are:

- U-1 zones - 35 feet or four storeys
- North east corner of South Street and Robie Street - 80 feet or eight storeys
- Block bounded by University Avenue, South Park Street, South Street and former Tower Road - 55 feet or five storeys, or the height of the former Sir Frederick Fraser School, whichever is greater
- Morris Street between Barrington and Queen Streets - 50 feet or five storeys
- Barrington Street between Morris Street and Spring Garden Road - 50 feet or five storeys
- The remainder of DalTech campus (where there isn't a 50-foot limit) - 70 feet or seven storeys
- South east corner of Queen Street and Spring Garden Road - 70 feet or eight storeys
- C-3 zones within District VIII - 35 feet three storeys (this may be increased to 50 feet or six storeys by development agreement)
- Area bounded by College Street, Summer Street, Spring Garden Road, and South Park Street - no specific height but based on the preservation of the character of the Public Gardens as an open space area.

An amendment to the Municipal Planning Strategy is required in order to change any of the foregoing specific height limits contained in the policy.

For the remainder of the South End, the policy guidance is more general. For this area the height limitations are based on the following three criteria.

- i) consideration of the general form and distribution of land uses;
- ii) a requirement to ensure appropriate development of any given lot; and
- iii) to fulfill an overall policy intent to encourage quality development without undue impact on adjacent land use.

Using these criteria, height limits have been established for the South End and are expressed on ZM-17, the Height Precinct Map which forms part of the Halifax peninsula land use by-law, not the Municipal Planning Strategy. However, those heights established pursuant to the three criteria in Policy 1.1.1.3 can be changed, without amending the MPS, provided the new height still satisfies the three criteria of Policy 1.1.1.3.

### History

Height precincts within the South End were first established in 1983. Since 1983, there have been four applications to amend the Height Precinct Map. All four applications were within the areas where building heights are based on the three criteria in Policy 1.1.1.3. Table 1 summarises these applications.

Table 1

Location	Request	Staff Recommendation	Council Decision	Utility and Review Board	Nova Scotia Court of Appeal
Wellington/ Tower/Inglis Sts.	35 ft. to 55 ft. and 90 ft.	Approval	Approved	n/a	n/a
5230 Tobin St.	45 ft. to 75 ft.	Approval	Refused	Overtured Council's decision	Upheld URB's decision
5206 Tobin St.	45 ft. to 82 ft.	Approval	Refused	n/a	n/a
5620 South St.	100 ft. to 190 ft.	Approval	Approved	Overtured Council's decision	Reinstated Council's decision

As Table 1 illustrates, three of the four applications have resulted in the height precinct map being changed. Two of the applications have gone to the Nova Scotia Court of Appeal. It is clear from the outcome of these applications that, where the heights indicated on the Height Precinct Map have been established pursuant to the three criteria contained in Policy 1.1.1.3, such heights can be changed where it can be demonstrated that the said criteria are still met.

### Measuring the height permitted in the various Height Precincts and the exemptions thereto

The actual height to which a building can be constructed pursuant to a given height precinct, can vary depending upon the zone or location of the property. This is because the starting point is not the same in all cases and there are portions of buildings in certain zones which are not subject to the height limitation set out on the height precinct map.

In the South End, within R-2A zones and the R-1 properties on Brussels Street, McLean Street and a portion of Atlantic Street, the height of a building is measured from the average grade of the

finished ground adjoining the perimeter of the building. For all other zones, the height of a building is measured from the average grade of the finished ground adjoining the building between the building and the fronting street.

For R-2A zones and the R-1 properties on Brussels Street, McLean Street and a portion of Atlantic Street, the height of a building is measured to the highest point of the roof. However, in R-1 (except the properties on Brussels Street, McLean Street and a portion of Atlantic Street) and R-2 Zones, the height of the building is measured to the highest point of the building, exclusive of any non habitable roof. This, in effect, allows a building in a 35 foot height precinct to be approximately 43' (depending on the slope of the roof) high. In all other zones (except R-1, R-2 and R2A), the height of the building is measured to commencement of the top storey. This, in a 35 foot height precinct would allow a building to be approximately 50' (depending on the slope of the roof) high. The height maps which are being added to the MPS clearly show this distinction.

The current regulations with respect to the method of measuring height in the "South End" have resulted from several amendments to the original requirement, adopted in 1983, which, at that time, allowed the top storey of all buildings (including the roof) in any zone, including R-2A, to exceed the height permitted as long as the top storey was partially within the maximum height permitted. The current regulations with respect to the method of measuring height appear to be appropriate and acceptable in this area.

However, there are several "housekeeping" amendments discussed later in this report which will provide clearer policy support for the regulations currently contained in the land use by-law.

#### **Exceeding the established Height Precincts by development agreement.**

Pursuant to MPS policy, the land use by-law contains four provisions<sup>1</sup> where Council may, by development agreement, permit a higher building than allowed by the established height precinct.

- at the periphery of Saint Mary's University campus (94(1)(d) - Policy 7.2.1.1, MPS Section V)
- in the block bounded by College Street, Summer Street, Spring Garden Road and South Park Street (94(1)(i) - Policy 7.5.2.1, MPS Section V)
- for any specific industrial use in areas zoned industrial (94(1)(k) - Policy 7.8.2.1, MPS Section V)
- for any specific residential development in areas zoned industrial (94(1)(l) - Policy 7.8.2.2, MPS Section V)

These provisions have been in the land use by-law since 1983. These provisions are reasonable.

#### **DISCUSSION:**

While there has been considerable interest in how height precincts are established pursuant to MPS policy, how the height of a building is measured and the ability, under certain circumstances to do development agreements to permit a higher building than allowed by the established height precinct still appears

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<sup>1</sup> This does not include site specific development agreement provisions which have been added to the land use by-law for precise building proposals.



to be reasonably acceptable to the public. Therefore, this report will focus on the establishment of height precincts.

### **Rationale for MPS change**

Amendments to the Municipal Planning Strategy are generally not considered unless it can be shown that circumstances have changed since the MPS was adopted which makes the current designation or policy no longer appropriate. This is not the appropriate test in this case.

At the time of adoption of Section V of the MPS, there was a perception on the part of the public that all of the height limits set out on the height precinct map were virtually unchangeable without an amendment to the Municipal Planning Strategy. While this is the case for several specific situations, as mentioned earlier, it has not turned out to be the case for the remainder of the South End where the heights have been based on the three criteria of Policy 1.1.1.3. The rationale for changes to the Municipal Planning Strategy described by this report is to clarify what may have been the intent of the MPS with respect to height precincts in the South End when Section V was initially adopted.

The initiation report identified four questions to be answered as part of this MPS review.

1. Is Policy 1.1.1.3 still appropriate?

Based on input received at the public participation session, the answer to this question is no. The height limits adopted in 1983 to carry out the intent of Policy 1.1.1.3 were arrived at with a great deal of public involvement and there has been a perception that such height limitations were part of the Municipal Planning Strategy and could only be increased in the most unusual of circumstances. This has not proven to be the case as three of the four applications to increase height precincts have resulted in approvals either by Council, the Utility and Review Board or the Nova Scotia Court of Appeal.

2 & 3. Should more of the heights/all of the heights currently established for the South End be entrenched in MPS policy?

The second and third questions are combined as there is clear support, based on the input at the public participation session that all of the heights indicated on the Height Precinct Map should be provided for by specific numerical direction in MPS policy. Attachment A contains proposed amendments to for inclusion in Section V of the Halifax Municipal Planning Strategy which will clearly establish the heights that must be shown on the Height Precinct Map. These amendments also provide that no amendment to the Height Precinct Map may be made without amending the Municipal Planning Strategy. Further, these amendments provide that the heights established by the MPS and shown on the Height Precinct Map may not be exceeded by development agreement except where that ability now exists.

The proposed amendments to the MPS also include maps 2-1 to 2-8 inclusive, which correspond to the eight planning districts in the South End (see Map 2). Maps 2-1 to 2-8 clearly show the heights which have been established pursuant to MPS policy. These heights are identical to the

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heights shown on Zoning Map ZM-17 (Height Precinct Map) with one exception, to be discussed later in this report. Once these proposed amendments are adopted by Regional Council, the heights shown on Map ZM-17 cannot be changed unless Regional Council agrees to amend the MPS. As stated in staff reports dealing with requests to amend the MPS, "Amendments to the Municipal Planning Strategy are completely at the discretion of Council. A decision not to amend the MPS cannot be appealed".

4. Should any of the heights now established for the South End be changed?

At the public participation session no one presented any arguments to lower any of the current height precincts.

One presentation was made by the Armour Group in support of increasing the height precinct on its property at the intersection of South Street and Wellington Street (5784 - 5802 South Street & 1181 Wellington Street - see Map 3). This site is within an area where the permitted height has been established pursuant to the three criteria in Policy 1.1.1.3. Currently, this site is subject to a 65 foot height precinct which will allow an eight storey building (an eight storey building would actually be in the range of 68-72 feet high with a flat roof or higher with a pitched roof. However, due to how height is measured, as discussed on page 4, this height would be permitted in a 65 foot height precinct).

There are a variety of land uses nearby (see Map 4). To the north is the Victoria General Hospital which is 13 floors high. Also at 13 floors is the South Tower apartment building at the east end of this block. Between South Tower and the subject site is Prince Joe Castle, which is a four storey apartment building. To the south on Wellington Street is an older three storey apartment building. The remainder of the area is comprised of older dwellings, some of which have been converted to multiple units. These would primarily be less than 35 feet high.

Based on their preliminary design studies, a nine storey building would provide an opportunity for a greater setback from South Street, a smaller footprint and more open space at grade. This is the preference of Armour Group. However, in order to construct nine storeys, the height precinct would have to be increased by 5 feet. The submission of the Armour Group is included as Attachment F. As a point of clarification, the references to "minor variance" in The Armour Group Limited's letter should read "amendment". It is also noted that part of this site, 5784 - 5790 South Street is subject to a development agreement, under the now repealed Schedule "C", which allows a seven storey apartment building (62.5 feet above South Street to the top of the roof). This agreement does not have an expiry clause.

While Regional Council has instructed staff to proceed with an amendment to the Municipal Planning Strategy, which will likely result in new policies respecting height precincts for the South End, the existing policies are in effect until they are replaced with new policies. Therefore, the existing criteria of Policy 1.1.1.3 is still relevant to the request of the Armour Group.

The following is an analysis of the three criteria in Policy 1.1.1.3 in relation to the request by the Armour Group to increase the height precinct at 5784 - 5802 South Street & 1181 Wellington

Street from 65 feet to 70 feet . As noted above, the height precincts in the South End have the “build through” provision. Just as a 65 foot height precinct will permit a building of 68-72 feet or more, a nine storey building within a 70 foot height precinct will likely be approximately 77 feet high with a flat roof. Therefore, while the following discussion makes reference to 65 and 70 feet, the actual heights will likely be higher, however the difference will be five feet.

*(i) the forms of development and distribution of land uses identified on the Generalized Future Land Use Map of this Plan;*

The Generalized Future Land Use designation of the Armour Group property is High Density Residential (HDR). The High Density Residential designation has been applied to existing apartment buildings and to those sites where it is felt that redevelopment opportunities exist and are appropriate.<sup>2</sup> For those areas where redevelopment opportunities are provided, the height limit is based on an assessment of the impact of new construction on adjacent residential areas.<sup>3</sup> The Armour Group property is a potential redevelopment site.

The primary anticipated land use in areas designated High Density Residential is larger apartment buildings. In Halifax, there are many examples of apartment buildings in excess of ten storeys. Therefore, within a High Density Residential designation it would be expected that the height precinct would allow for taller buildings than allowed in Low and Medium Density designations, which is 35 feet.

A height precinct of 70 feet would satisfy this criterion.

*(ii) the necessity to ensure that appropriate development of any given lot may be secured within the policies of this Plan;*

The site is zoned R-3 and designated High Density Residential by the Municipal Planning Strategy. Within the context of clause (ii) of Policy 1.1.1.3, an apartment building is an “appropriate development”. Therefore, land use is not an issue. The question is whether an additional five feet in height is appropriate.

The angle control regulations of the R-3 zone limits the height of a building proportional to the size of the lot. Therefore, a building which complies with the angle controls, as would be the case at the subject site would be an appropriate development within the meaning of clause ii.

*(iii) to fulfill the policy intent that quality residential, commercial, institutional and industrial environments are maintained and encouraged without undue impact on adjacent land use.*

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<sup>2</sup> Part III South End Detailed Area Plan - May 1981

<sup>3</sup> Part III South End Detailed Area Plan - May 1981

The Municipal Planning Strategy contains policies which encourage growth and policies which encourage protection of existing neighbourhoods. While these are sometimes viewed as competing goals, both can be accomplished by ensuring that sites which have been identified for more intense development be used effectively.

Given that the height limits for redevelopment sites in the South End are “based on an assessment of the impact of new construction on adjacent residential areas” and as a 65 foot height precinct has been established pursuant to Policy 1.1.1.3, it is reasonable to conclude that the 65 foot height precinct results in no undue impact on adjacent land uses. Would an additional five feet in height create undue impacts on adjacent land uses? What additional impacts will result from a marginally taller building?

The number of units which can be located on this site is based on the unit type and lot size. The increase in height will not, in itself, allow any more units on this site than is potentially now possible “as of right” within a 65 foot high building. Therefore, no additional impact on servicing or traffic flows should result from the additional five feet over the “as of right”.

An increase in building height will have some effects in terms of shadowing and possibly alter wind patterns. The Armour Group has not supplied any information in this regard.

Shadows from a building on this site will not fall toward the medium density area to the south. As the number of units will not increase, permitting one additional floor will mean less units per floor and a smaller floor plate. Shadows, while longer, will likely be narrower.

With respect to wind impacts, construction of a building on this site is likely to result in some changes in wind speed at the pedestrian level. However, the issue is whether a new building will result in some changes in wind speed at the pedestrian level over existing conditions. The issue is whether a building which is 70 feet in height will result in any noticeable increases in wind speed at the pedestrian level compared to a building which is 65 feet in height.

The height of a building is not the only variable which influences changes in wind speed. Other factors include the width of a building and its texture (i.e., smooth sides vs indentations, projections, podiums, balconies, etc.). Because this is an “as of right” development site, there is no specific building plan and therefore, no definitive prediction can be made. It is possible to have two different building configurations of the same height which produce different effects on the wind speed at the pedestrian level. It is also possible that a five foot taller building designed to mitigate the wind effects could have a lesser impact than the shorter building if it was of a smooth design.

In staff’s view, with all matters being equal other than a five foot increase in height, it is not likely that there would be a noticeable difference between the two with respect to impact from the wind.

### Housekeeping matters

There is an opportunity to also make several housekeeping amendments to the Municipal Planning Strategy which will improve its clarity.

1. Number of storeys

Policies 7.2.2.1, 7.2.5.1, 7.5.3, 7.5.4.1 and 7.8.2 of Section V currently make reference to the allowable height both in terms of feet and number of storeys. The reference to the number of storeys is unnecessary and has led to confusion. It is adequate and appropriate to express the allowable height in feet as this is the manner in which the policy is implemented in the land use by-law. (See Attachment A, # 5, 6, 7, 8 and 9)

2. Determination of height

There is currently no policy basis for the different methods of determining height in the South End. Policies 7.0.1, 7.0.2 and 7.0.3 have been added to address this. Addition of these policies does not alter the land use by-law provisions with respect to how height is determined. (See Attachment A, # 3)

3. Generalized Future Land Use Map

Policy 9.1 makes reference to the Generalized Future Land Use Map as Map 2. In the draft "South End Detailed Area Plan", the Generalized Future Land Use Map was titled Map 2. However, the Generalized Future Land Use Map for the Halifax Municipal Planning Strategy is identified as Map 9 and the Generalized Future Land Use Maps adopted into the Halifax MPS as part of the "Detailed Area Plan" or "Secondary Planning" process are referred as Maps 9A, 9B, 9C, etc. The Generalized Future Land Use Map for the "South End" area is actually Map 9A. Therefore, Policy 9.1 has been amended to make reference to Map 9A. (See Attachment A, # 10)

4. Generalized Future Land Use Map

Policies 1.4, 1.4.2, 1.4.3, 2.3, 4.3, 4.4 and 4.5, when referring to the Generalized Future Land Use Map, identifies the map as being Map 2. As stated above, this is incorrect. These policies have been amended to delete this reference as it is not necessary. The reference to the Generalized Future Land Use Map being Map 9A in Policy 9.1 is sufficient (See Attachment A, # 2).

5. Zoning Map ZM-17

The Height Precinct Map, ZM-17, was initially adopted as part of the Halifax Peninsula Land Use By-law in 1983 to depict the height precincts which were approved as part of the land use by-law amendments to implement the South End and Peninsula Center Secondary Planning Strategies. It has been amended numerous times to show other height precincts as they are

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approved by Council. The mapping used for ZM-17 is based on aerial photography and does not include property boundaries. The limits of the various height precincts are hand drawn and reflect the technology that was available at the time.

In 1995 the hand drawn zoning maps (ZM-1 to ZM-15) were replaced with the computer generated colour maps based on HRM's geographic information system (GIS). It is not technically feasible to clearly show the different methods of determining height (see page 4), using the current base map. Therefore it is now appropriate to adopt the same GIS based mapping now used for zoning maps, as HRM's official Height Precinct Map and to rescind the current hand drawn maps.

It is important to note that adoption of the GIS based mapping is not intended to change any of the current height precincts. This is simply transferring the existing information to a more legible, accurate and up to date map. A reduced copy of the new ZM-17 is included for Council's information as Map 5. The official copy of ZM-17 will be in colour and at a scale of 1:5000, which results in a map measuring approximately 3' x 4' (see Attachment B #2).

### **Summary and Conclusion**

The recommendations contained in Attachment A will increase the height precinct at 5784 - 5802 South Street & 1181 Wellington Street from 65 to 70 feet and will entrench this and all of the other existing heights, as shown on the height precinct map of the Land Use By-law, in Municipal Planning Strategy policy. With the exception of 5784 - 5802 South Street & 1181 Wellington Street, these changes will not affect anyone's property rights with respect to "as of right" development. The net effect will be that any future request to change any height precinct in Section V of the Municipal Planning Strategy may only be undertaken if Regional Council consents.

As Council is aware, a proponent for an amendment to the Municipal Planning Strategy must show that circumstances have changed in order to make a case that such amendment should be considered. By adopting the amendments included in Attachment A, it will be far more onerous to have any of the height precincts in the South End changed.

### **BUDGET IMPLICATIONS**

None.

### **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

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## ALTERNATIVES

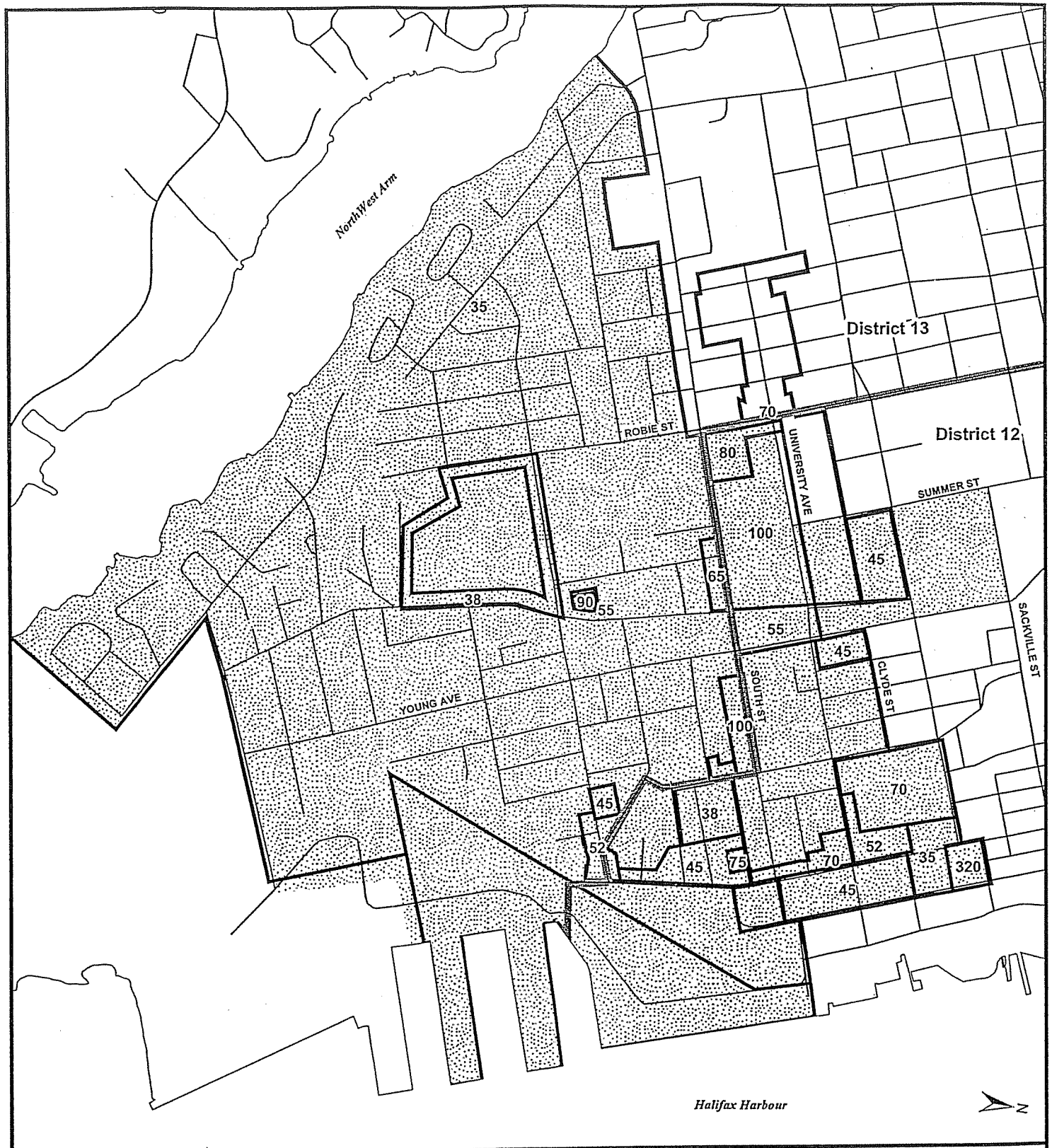
1. Proceed with the suggested amendments to the Halifax Municipal Planning Strategy to entrench the heights currently established for the South End, including the increase to the height precinct for 5784 - 5802 South Street and 1181 Wellington Street, as requested by the Armour Group Limited from 65 feet to 70 feet. in policy. This is the recommended alternative.
2. Refuse the proposed amendments. Amendments to the Municipal Planning Strategy are completely at the discretion of Council. A decision not to amend the MPS cannot be appealed.
3. Proceed with the suggested amendments to Halifax Municipal Planning Strategy to entrench only the heights currently established for the South End in policy and not permit an increase to the height precinct for 5784 - 5802 South Street and 1181 Wellington Street, as requested by the Armour Group Limited from 65 feet to 70 feet.

## ATTACHMENTS:

- Map 1 Height Precincts and District 12-13 boundary
- Map 2 Plan Showing South End Planning Districts
- Map 3 Plan Showing 5784 - 5802 South Street & 1181 Wellington Street.
- Map 4 Area Plan Showing Height Precincts in the Vicinity of the Armour Group Ltd. request
- Map 5 Reduced copy of proposed Height Precinct Map ZM-17
- A Proposed amendments to Halifax Municipal Planning Strategy
- B Proposed amendments to Halifax Peninsula Land Use By-law
- C Excerpts from the Halifax Municipal Planning Strategy
- D Excerpts from the Halifax Peninsula Land Use By-law
- E Minutes of the October 30, 2003 Public Participation meeting
- F Submission from Armour Group Limited

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by Gary Porter, Planning Services, 490-4403.





Map 1 - Height Precincts and District 12/13 Boundary


South End Detailed Area Plan

Note: permitted building heights shown in feet.

Halifax Peninsula By-Law Area

 South End area

 Height precinct boundary

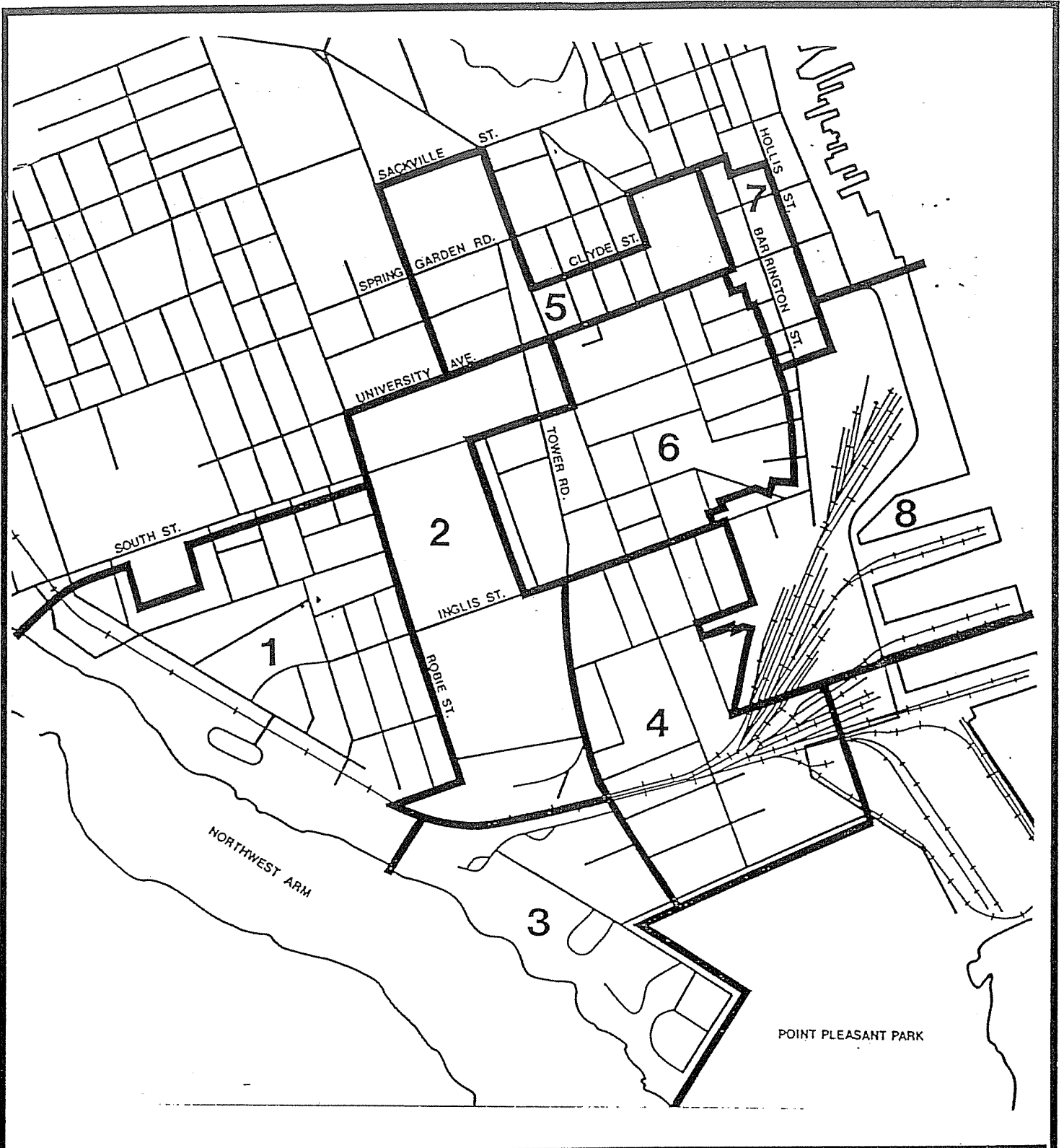
 Polling district boundary



This is an unofficial reproduction of the Height Precinct map (ZM-17) of the Halifax Peninsula By-Law.

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

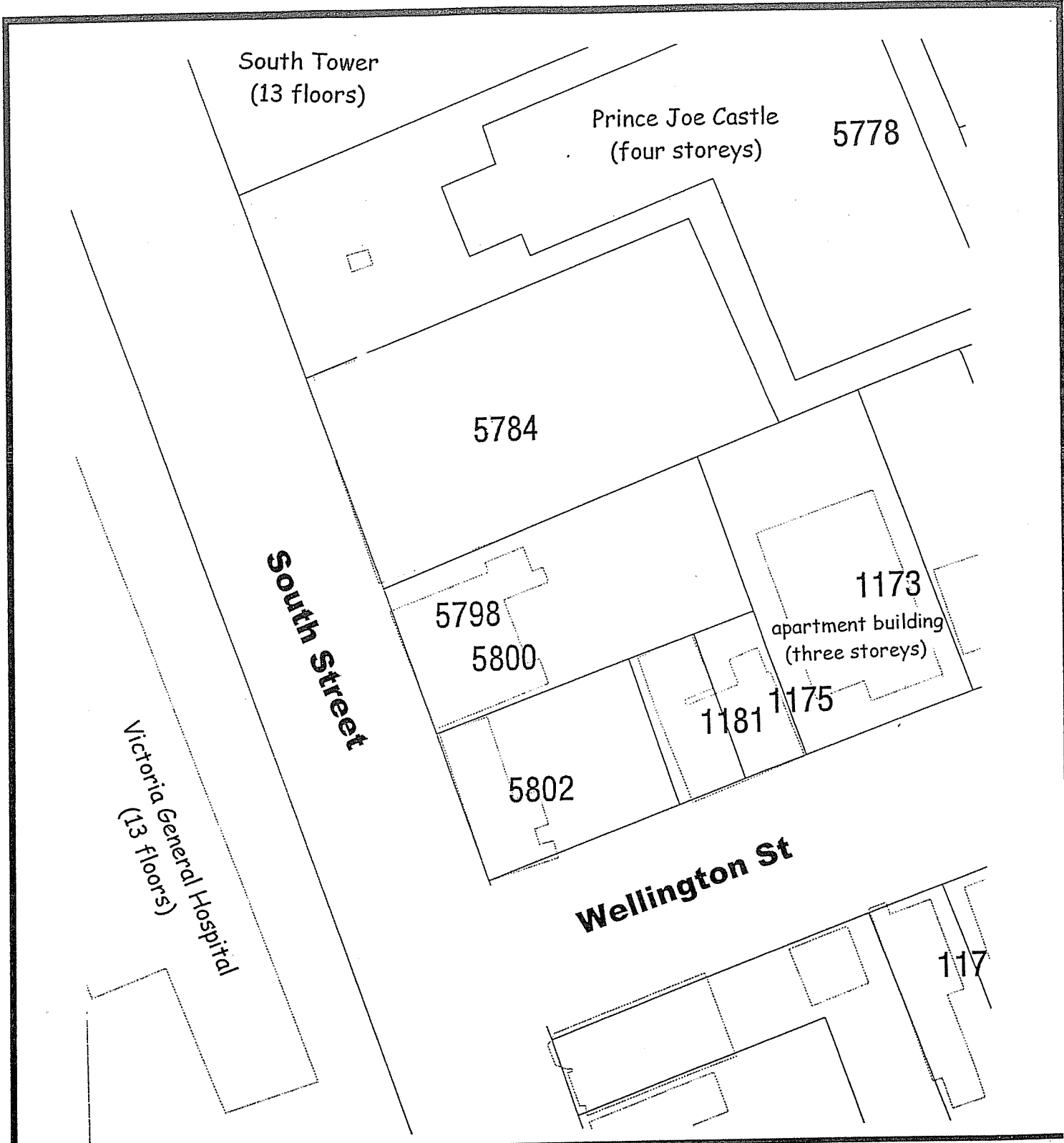




**Map 2**  
**Plan Showing South End Planning Districts**



Planning and Development Services

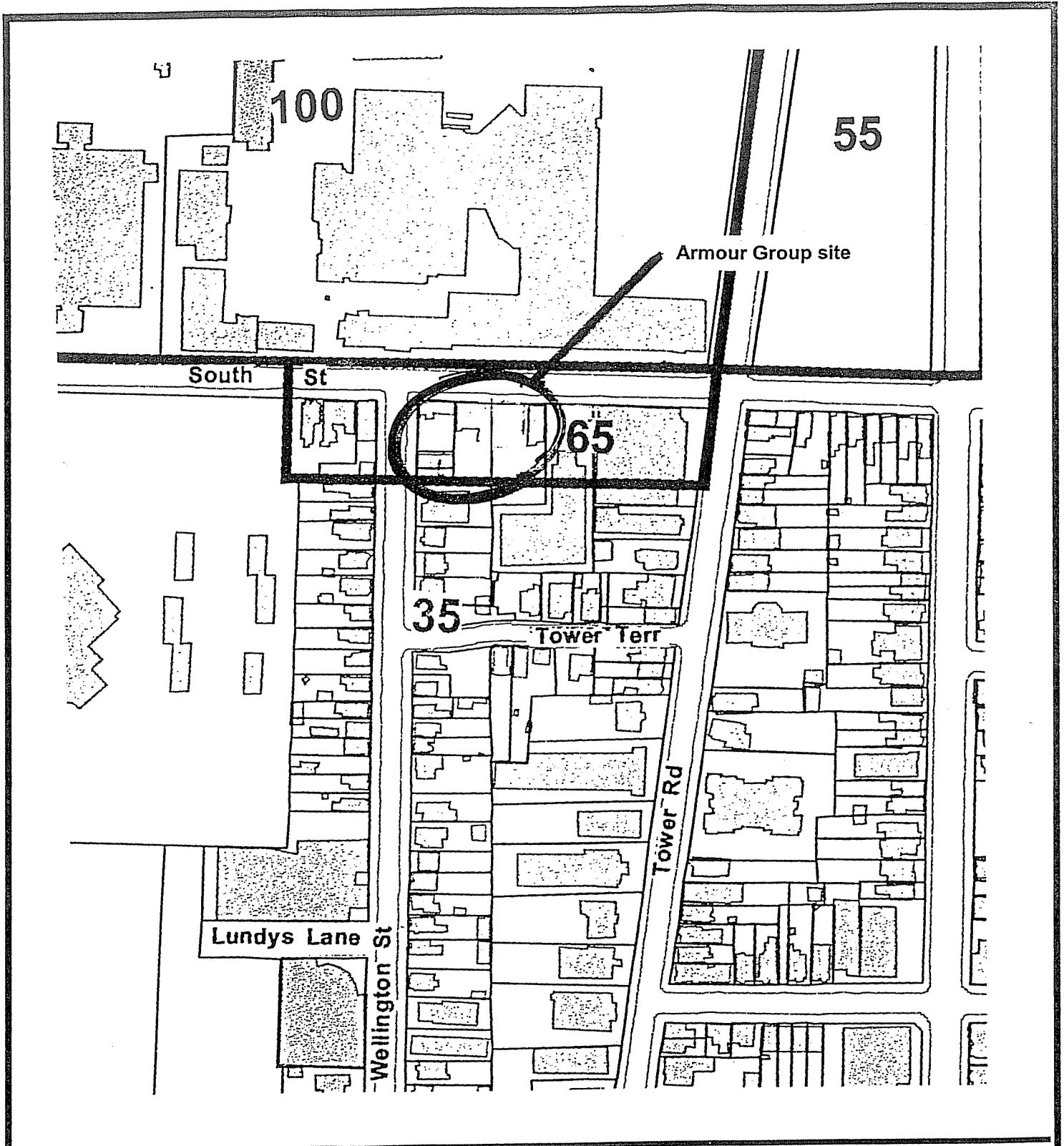


**Map 3**  
 Plan showing  
 5784 - 5802 South Street & 1181 Wellington Street.



**HALIFAX**  
 REGIONAL MUNICIPALITY

Planning and Development Services



**Map 4**  
 Area Plan showing height precincts



Planning and Development Services

**INSET A**  
**Climate Elevations**



Location of the subject site of the subject site on the District map.

Table with 3 columns: Station, Elevation (m), and Elevation (ft). The table lists various stations and their corresponding elevations.

Station	Elevation (m)	Elevation (ft)
1	121.0	397
2	121.0	397
3	121.0	397
4	121.0	397
5	121.0	397
6	121.0	397
7	121.0	397
8	121.0	397
9	121.0	397
10	121.0	397
11	121.0	397
12	121.0	397
13	121.0	397
14	121.0	397
15	121.0	397
16	121.0	397
17	121.0	397
18	121.0	397
19	121.0	397
20	121.0	397
21	121.0	397
22	121.0	397
23	121.0	397
24	121.0	397
25	121.0	397
26	121.0	397
27	121.0	397
28	121.0	397
29	121.0	397
30	121.0	397
31	121.0	397
32	121.0	397
33	121.0	397
34	121.0	397
35	121.0	397
36	121.0	397
37	121.0	397
38	121.0	397
39	121.0	397
40	121.0	397
41	121.0	397
42	121.0	397
43	121.0	397
44	121.0	397
45	121.0	397
46	121.0	397
47	121.0	397
48	121.0	397
49	121.0	397
50	121.0	397
51	121.0	397
52	121.0	397
53	121.0	397
54	121.0	397
55	121.0	397
56	121.0	397
57	121.0	397
58	121.0	397
59	121.0	397
60	121.0	397
61	121.0	397
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71	121.0	397
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73	121.0	397
74	121.0	397
75	121.0	397
76	121.0	397
77	121.0	397
78	121.0	397
79	121.0	397
80	121.0	397
81	121.0	397
82	121.0	397
83	121.0	397
84	121.0	397
85	121.0	397
86	121.0	397
87	121.0	397
88	121.0	397
89	121.0	397
90	121.0	397
91	121.0	397
92	121.0	397
93	121.0	397
94	121.0	397
95	121.0	397
96	121.0	397
97	121.0	397
98	121.0	397
99	121.0	397
100	121.0	397

**HALIFAX**  
 MUNICIPAL DISTRICT  
 DEVELOPMENT SERVICES  
 Scale 1:5000



**ZM-17 Height Precinct Map**

Maximum permitted building height shown in feet. To be interpreted in conjunction with the text and other maps of the Halifax Peninsula Land Use By-Law.

Area where maximum permitted height is measured between the highest point of the roof and the main grade of the finished ground adjoining the building.

Area where maximum permitted height is measured between the top story of a building and the mean grade of the finished ground adjoining the building between the building and the bounding street.

Area where maximum permitted height is measured between the highest point of the roof and the main grade of the finished ground adjoining the building.

Area where maximum permitted height is measured between the top story of a building and the mean grade of the finished ground adjoining the building between the building and the bounding street.

17 August 2004

## Attachment A

### Proposed amendments to Section V of the Halifax Municipal Planning Strategy

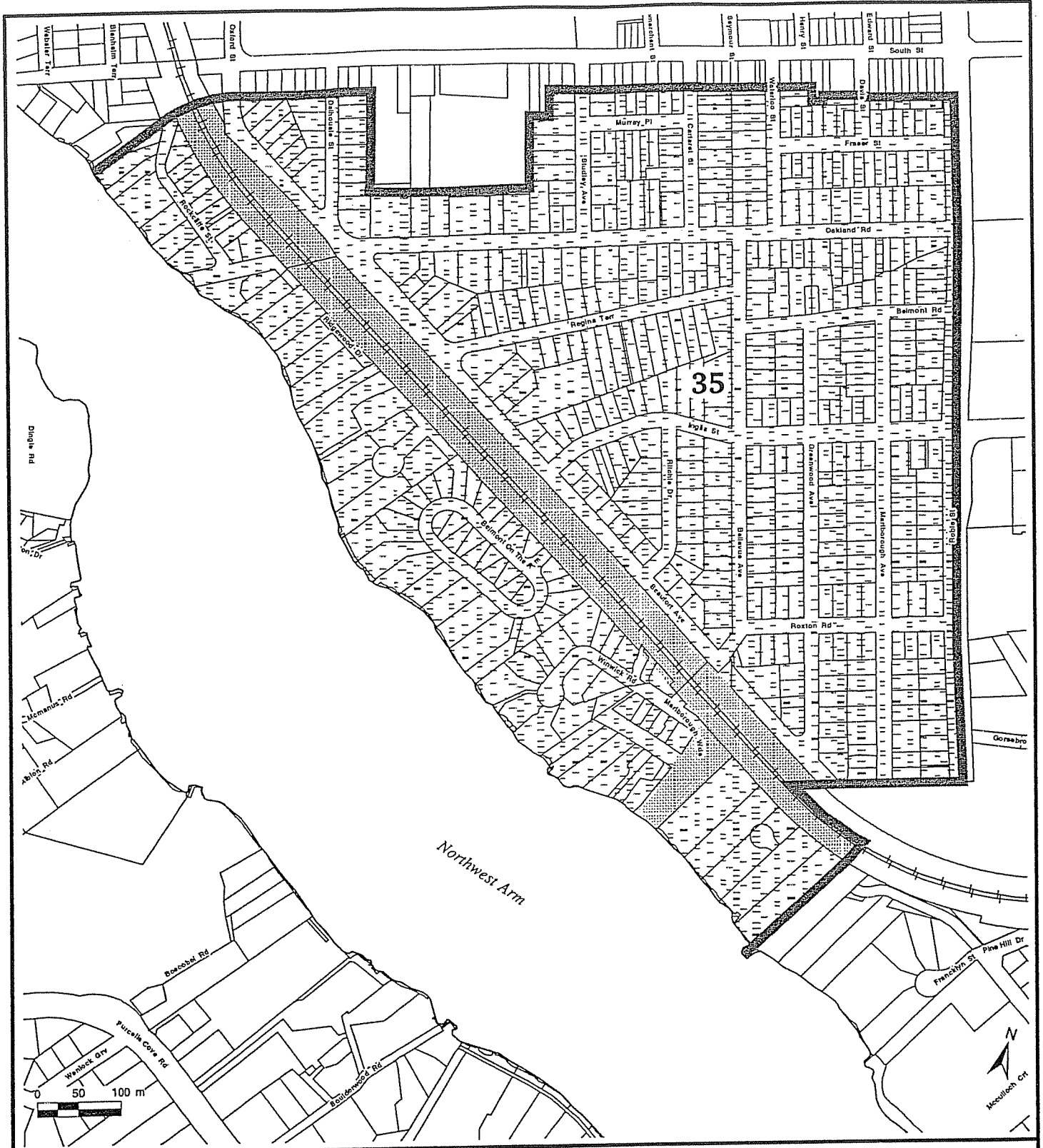
1. Repeal Policy 1.1.1.3.
2. Amend Policies 1.4, 1.4.2, 1.4.3, 2.3, 4.3, 4.4 and 4.5 to delete the reference to Map 2.
3. Immediately following Map 1, add Maps 2-1 to 2-8 inclusive.
4. Immediately preceding Policy 7.1, add the following new policies:
  - 7.0 Height Precincts shall be established by policy in accordance with the general intent for land-use control as defined by the policies of this Plan. These heights are based on:
    - (i) the forms of development and distribution of land uses identified on the Generalized Future Land Use Map of this Plan;
    - (ii) the necessity to ensure that appropriate development of any given lot may be secured within the policies of this Plan; and
    - (ii) to fulfill the policy intent that quality residential, commercial, institutional and industrial environments are maintained and encouraged without undue impact on adjacent land use.

The heights established pursuant to this policy are as shown on Maps 2-1 to 2-8 inclusive.
  - 7.0.1 The Land Use By-law shall require that heights established by Policy 7.0, for properties zoned R-2A and those referred to in Policy 7.4.2, be measured between the highest point of the roof and the mean grade of the finished ground adjoining the building.
  - 7.0.2 The Land Use By-law shall require that heights established by Policy 7.0, for properties zoned R-1, except those referred to in Policy 7.4.2, and R-2, be measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street.
  - 7.0.3 The Land Use By-law shall require that heights established by Policy 7.0, for properties other than those referred to in Policies 7.0.1 and 7.0.2, be measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street.

- 7.0.4 The Land Use By-law shall include a Height Precinct Map to implement the height limits established by Policy 7.0.
- 7.0.5 Any change in the allowable height or any increase in height by a development agreement as shown on Maps 2.1 to 2.8 inclusive, except pursuant to Policies 7.2.1.1, 7.5.2.1, 7.8.2.1 and 7.8.2.2, may be permitted only by amendment to the Municipal Planning Strategy.
4. Amend Policy 7.2.2.1 to read as follows:
- 7.2.2.1 The Land Use Bylaw shall require that the maximum height of any development on the parking lot shall be 80 feet, and a setback of 20 feet shall be required from any street line.
5. Amend Policy 7.2.5.1 to read as follows:
- 7.2.5.1 The Land Use Bylaw shall require that the maximum height of any development on this block shall be 55 feet.
6. Amend Policy 7.5.3 to read as follows:
- 7.5.3 The Land Use Bylaw shall require that the maximum height of any development on the north side of Morris Street between Barrington and Queen Streets or the west side of Barrington Street between Morris Street and Spring Garden Road shall be 52 feet. In the remainder of the Technical University of Nova Scotia campus area and the Halifax Infirmary site, the Land Use Bylaw shall require that the maximum height of any development shall be 70 feet.
7. Amend Policy 7.5.4.1 to read as follows:
- 7.5.4.1 The Municipality shall, on said parking lot:
- (i) amend the Land Use Bylaw to require that the maximum height of any development shall be of 70 feet;
  - (ii) encourage the retention of mature trees; and
  - (iii) require that any new development be set back a minimum of 40 feet from the street line along Spring Garden Road.
8. Amend Policy 7.8.2 to read as follows:
- 7.8.2 The Land Use Bylaw shall require that the maximum height of new industrial development within District VIII, in areas zoned as non-harbour-related industrial, shall be 35 feet.

9. Amend Policy 9.1 to read as follows:

- 9.1 The Generalized Future Land Use Map (Map 9A) shall be considered as the expression of intent of the City of Halifax for a future land use pattern based on the policies outlined in this Plan.



Height Precincts  
District 1

**00** Maximum permitted height in feet

Height-precinct boundary

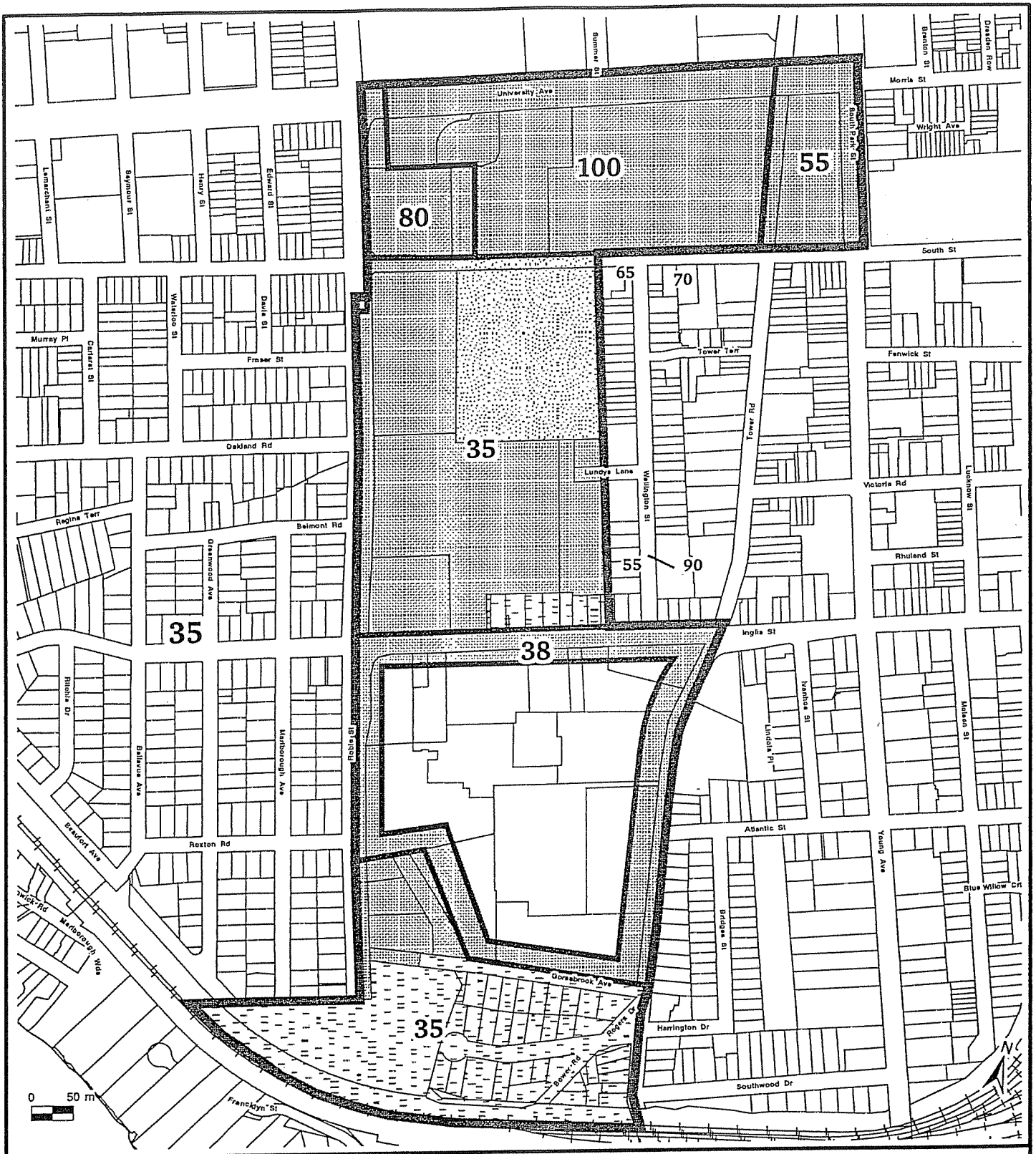
Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street

Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

**HALIFAX**  
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PLANNING AND  
DEVELOPMENT SERVICES





Height Precincts  
District 2

00

Maximum permitted height in feet



Height precinct boundary



Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

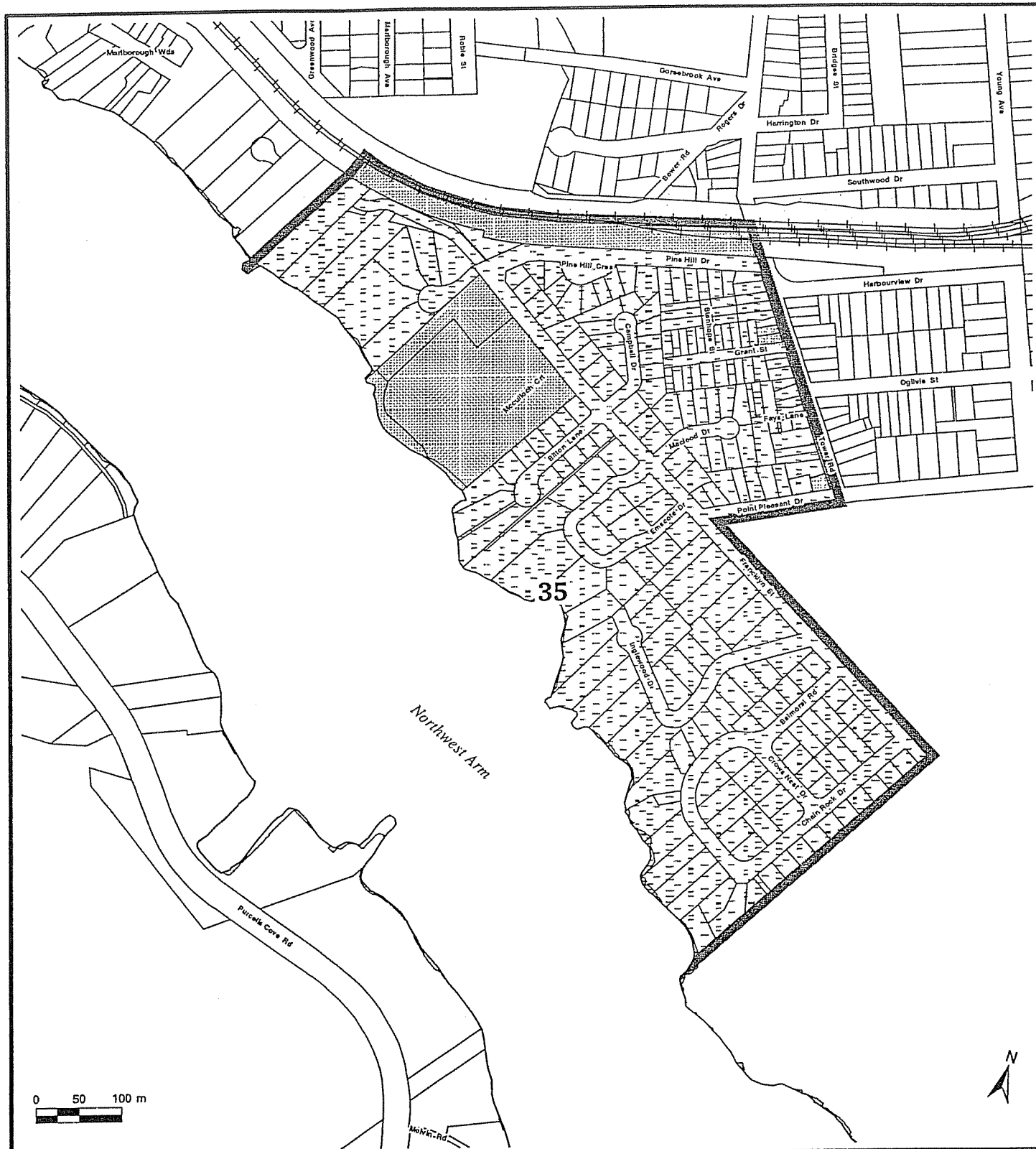


Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street




Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street


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PLANNING AND  
DEVELOPMENT SERVICES





Height Precincts  
District 3

**00** Maximum permitted height in feet

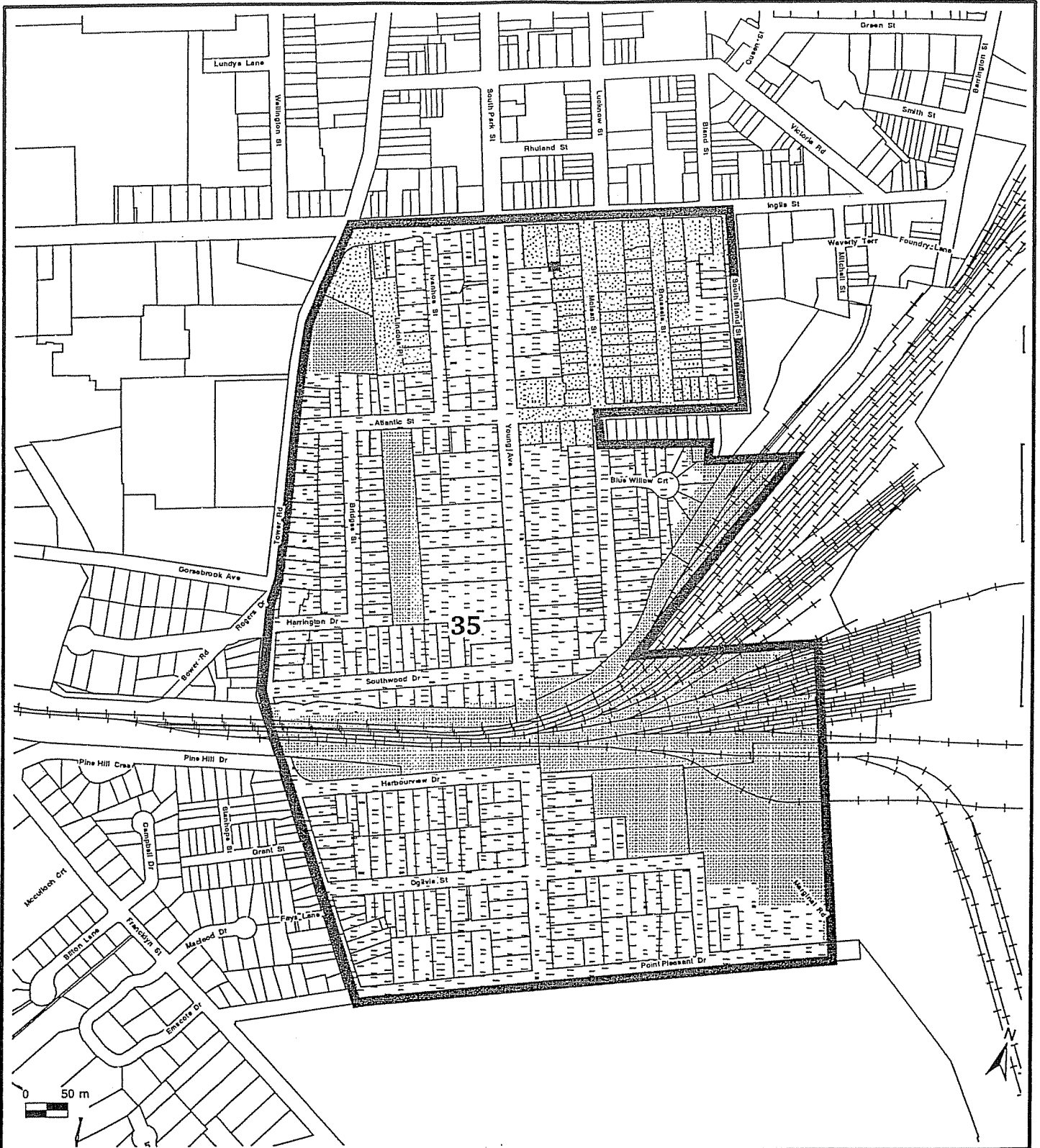
 Height precinct boundary

 Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

 Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street


 Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

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Height Precincts  
District 4

**00** Maximum permitted height in feet

 Height precinct boundary



Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building



Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street



Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

**HALIFAX**  
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Height Precincts  
District 5

00

Maximum permitted height in feet



Height precinct boundary



Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

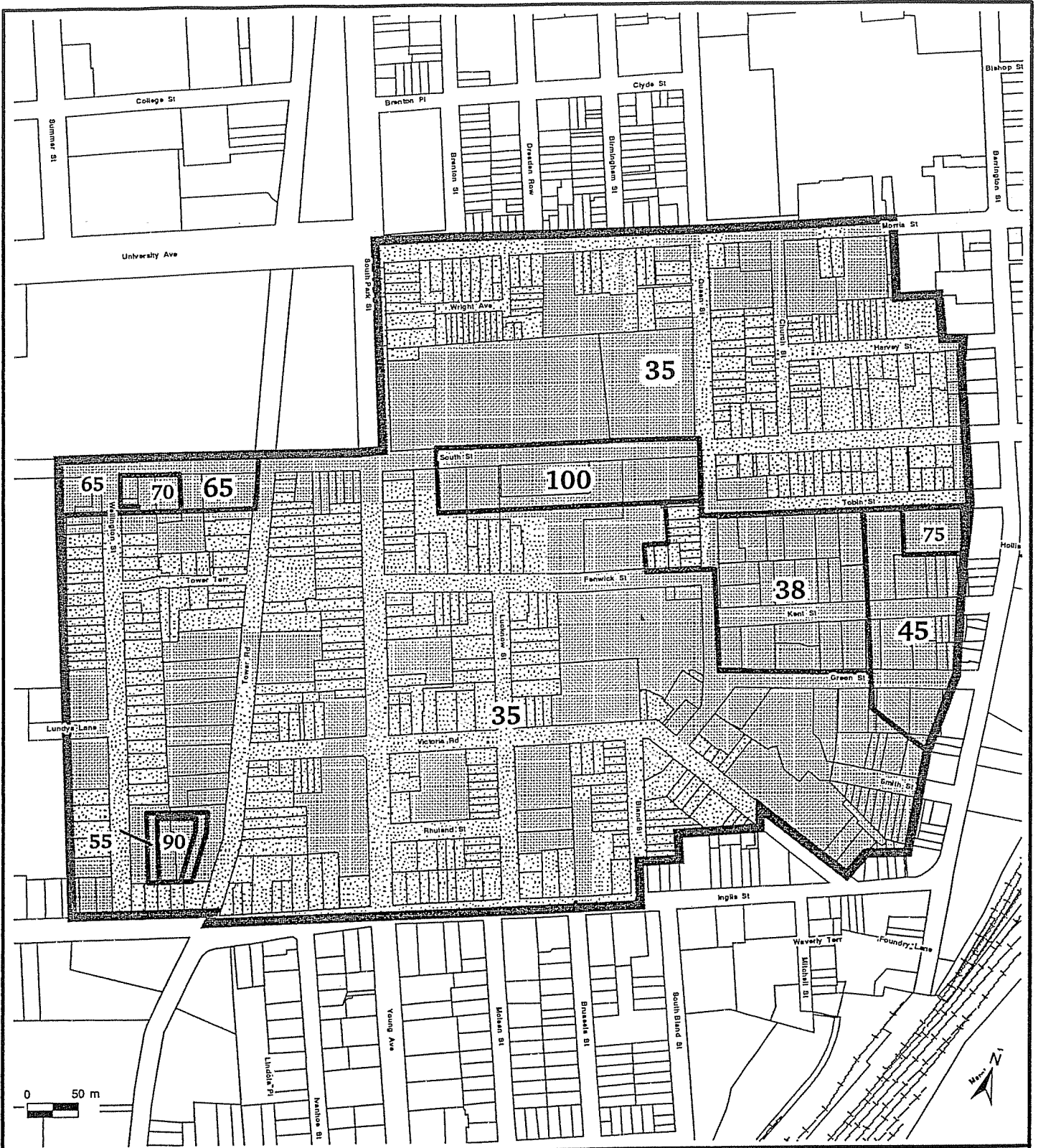


Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street




Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
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Height Precincts  
District 6

- 00** Maximum permitted height in feet
-  Height precinct boundary



Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

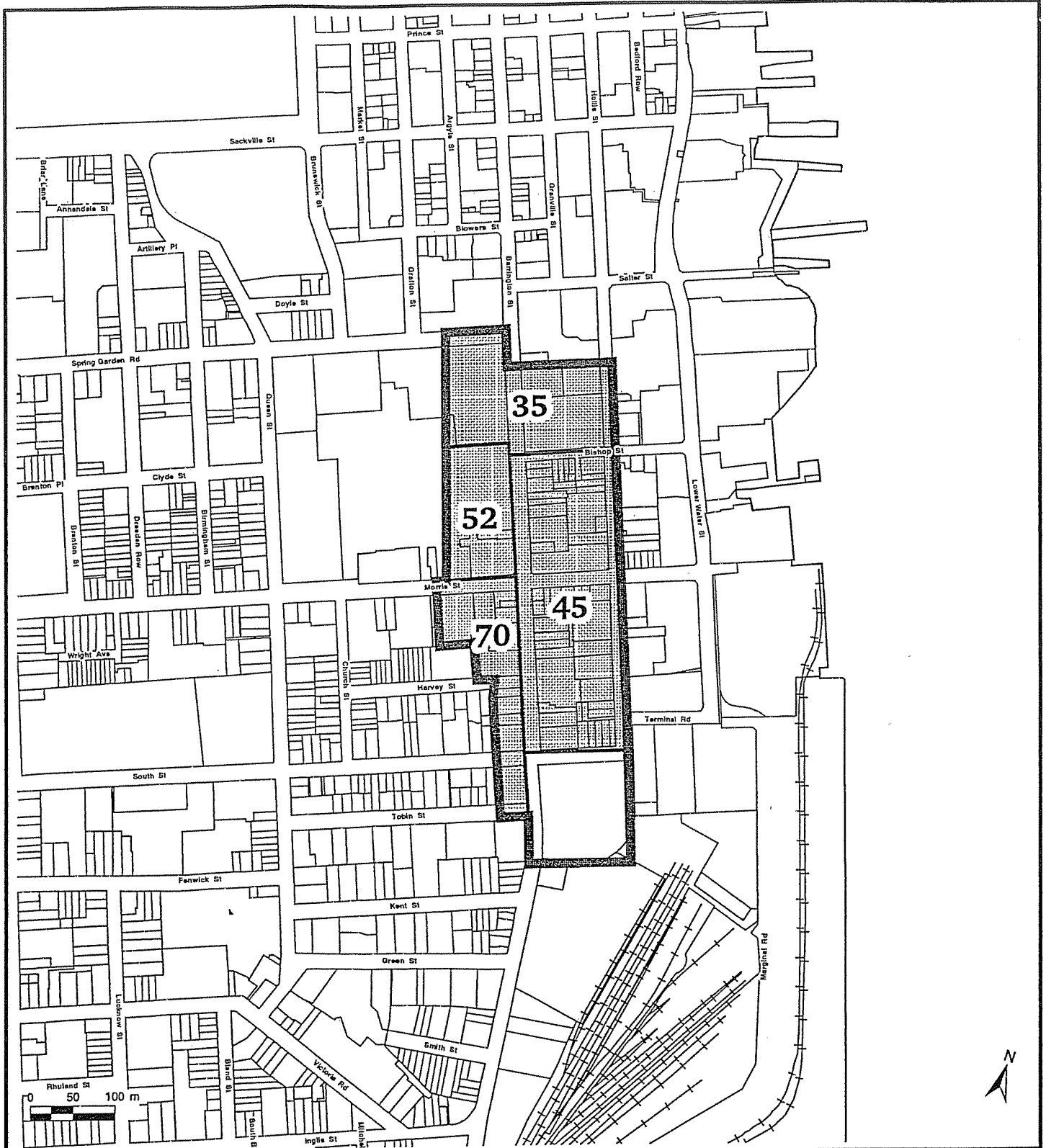


Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street




Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES



Height Precincts  
District 7

**00** Maximum permitted height in feet

 Height precinct boundary



Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

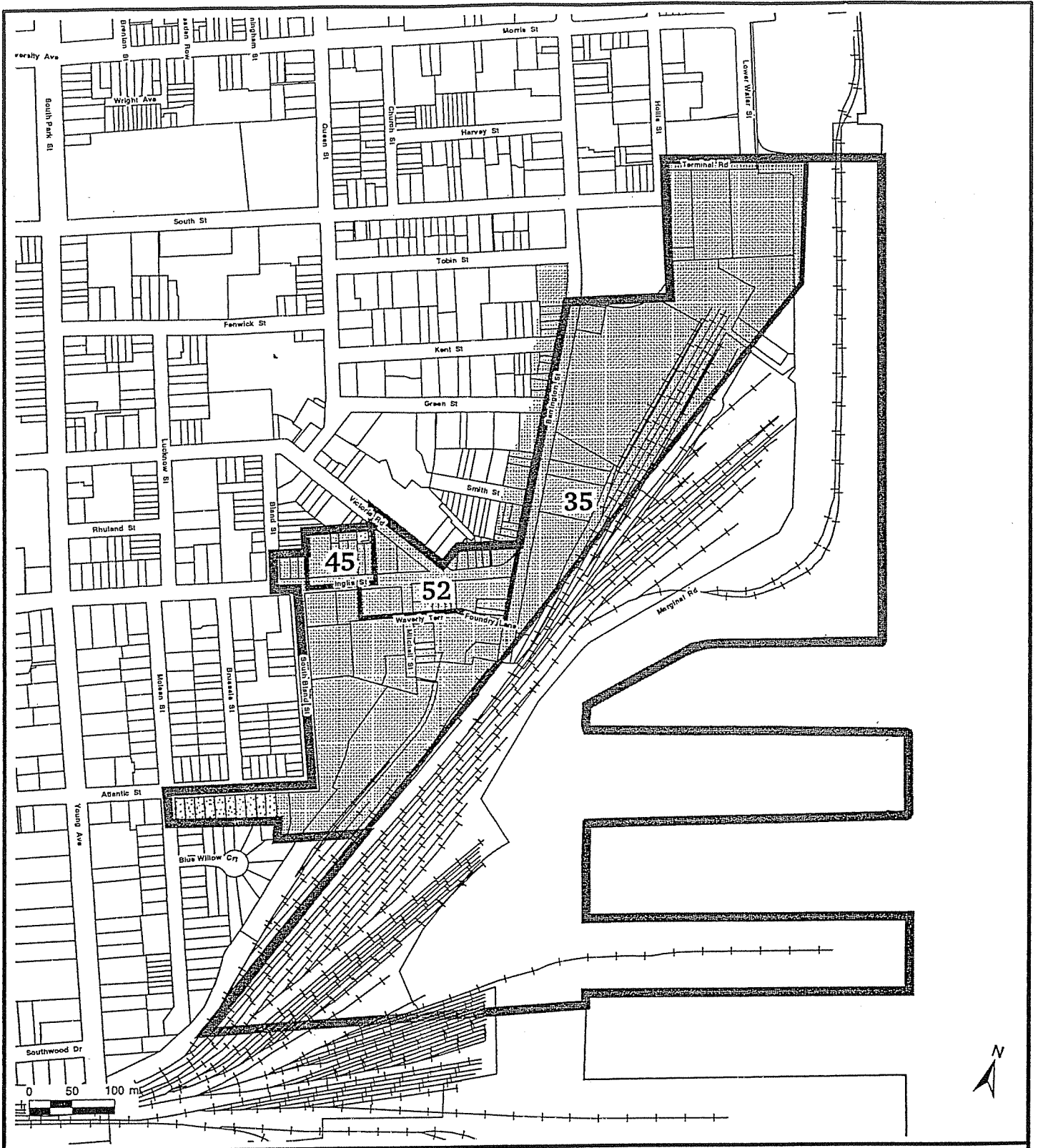


Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street




Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street





Height Precincts  
District 8

**00** Maximum permitted height in feet

 Height-precinct boundary



Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building



Area where maximum permitted height is measured between the highest point of the building, exclusive of any non habitable roof and the mean grade of the finished ground adjoining the building between the building and the fronting street



Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

**HALIFAX**  
REGIONAL MUNICIPALITY  
PLANNING AND  
DEVELOPMENT SERVICES

## **Attachment B**

### **Proposed amendments to the Halifax Peninsula Land Use By-law**

1. Amend the height and lot coverage - Atlantic, Brussels and McLean Streets provision of Section 28 to read as follows:

#### **HEIGHT AND LOT COVERAGE - ATLANTIC, BRUSSELS AND MCLEAN STREETS**

For those properties zoned R-1 on Atlantic Street (east 5660 Atlantic Street), Brussels Street and McLean Street, the maximum permitted height shall be the height shown on ZM-17 and such height shall be determined by the definition "Height" instead of the definition "Height South-End and Peninsula Centre" and the maximum lot coverage shall be 30 percent.

2. Zoning Map ZM-17 (Height Precinct Map) dated April 30, 1987 is repealed and Zoning Map ZM-17 (Height Precinct Map) dated August 12, 2004.



## Attachment C

### Excerpts from Halifax Municipal Planning Strategy

#### Section V - South End Area Plan

- 1.1.1.2 The Zoning Bylaw shall further define elements of scale, proportion, setback and use consistent with the policies of this Plan to ensure compatibility with the districts and neighbourhoods.
- 1.1.1.3 The Zoning Bylaw shall be amended to include height limitations for development in accordance with Policies 4.5.5, 7.2.2.1, 7.2.5.1, 7.5.2, 7.5.3, 7.5.4.1 and 7.8.2 and in accordance with the general intent for land-use control as defined by the policies of this Plan. Where there is not specific guidance by the policies of this Plan for specific height limitations, such limitations shall be included based on:
- (i) the forms of development and distribution of land uses identified on the Generalized Future Land Use Map (Map 2) of this Plan;
  - (ii) the necessity to ensure that appropriate development of any given lot may be secured within the policies of this Plan; and
  - (iii) to fulfill the policy intent that quality residential, commercial, institutional and industrial environments are maintained and encouraged without undue impact on adjacent land use.
- 4.5.5 Pursuant to Policies 4.5.1 and 4.5.2, the City shall amend its Zoning Bylaw to provide for two University Zones: a high-density zone which would allow all university uses, and a low-density zone with a height limitation of 35 feet or four storeys which would allow only university uses which would have minimal impacts on adjacent residential uses.
- 7.2.1 In preparing zoning bylaw regulations to carry out the intent of this Plan, the City shall have regard to the following with respect to Saint Mary's University:
- (i) that university uses which generate substantial activity such as, but not limited to, theatres, auditoriums, laboratories and student union buildings be restricted to the interior of the campus; and
  - (ii) that University uses adjacent to residential areas at the periphery of the campus be limited as to intensity of use, scale, and setback so as to be compatible with and minimize negative impacts on adjacent residential development.
- 7.2.1.1 The City may consider an application for a university use at the periphery of the Saint Mary's University campus under the provisions of Section 33(2)(b) of the Planning Act, where such an application proposes a use, building height, and/or setback not permitted by the Zoning Bylaw and, in consideration of such application by City

Council, have regard for mitigation of negative impacts on and compatibility with adjacent residential areas.

- 7.2.2 The most appropriate reuse of the parking lot west of the Children's Hospital on South Street and Robie Street shall be considered by the City to be institutional.
- 7.2.2.1 The City shall amend its Zoning Bylaw to require that the maximum height of any development on the parking lot shall be 80 feet or eight storeys, and a setback of 20 feet shall be required from any street line.
- 7.2.5.1 The City shall amend its Zoning Bylaw to require that the height of any new developments on this block shall be restricted to 55 feet or five storeys, or the existing height of the Sir Frederick Fraser School, whichever is greater.
- 7.4.2 Notwithstanding Policy 1.4.2.3, for those properties designated as Low Density Residential on the Future Land Use Map of this Plan and fronting on the streets of Atlantic (east of Young Avenue), Brussels and McLean, the Land Use Bylaw shall further define elements of scale, proportion, setbacks, lot size, frontage, coverage and parking consistent with the policies of this Plan to ensure compatibility with the development patterns of this neighbourhood.
- 7.5.2 In the area bounded by College Street, Summer Street, Spring Garden Road, and South Park Street, the City shall amend its Zoning Bylaw to establish height precincts to ensure the preservation of the character of the Public Gardens as an open space area.
- 7.5.2.1 The City may consider an application under the provisions of Section 33(2)(b) of the Planning Act for a development which would exceed the height precinct so established through Policy 7.5.2 above, and, in so doing, the City shall have regard for the amount of shadow cast on the Public Gardens and the potential negative impacts which may arise therefrom.
- 7.5.3 The City shall amend its Zoning Bylaw to require that new university development on Morris Street between Barrington and Queen Streets or Barrington Street between Morris Street and Spring Garden Road shall not exceed five storeys or 50 feet in height. In the remainder of the Technical University of Nova Scotia campus area, the Zoning Bylaw shall permit developments of up to 70 feet in height or seven storeys.
- 7.5.4.1 The City shall, on said parking lot:
- (i) amend its Zoning Bylaw to permit a maximum building height of eight storeys or 70 feet;
  - (ii) encourage the retention of mature trees; and
  - (iii) amend its Zoning Bylaw to require that any new development be set back a minimum of 40 feet from the street line along Spring Garden Road.
-

- 7.6.2 For those properties designated "High Density Residential" fronting on South Street between the Gorsebrook lands and Tower Road, Council may permit, by development agreement, an office of a nonprofit medical or medical and rehabilitative organization to be located at or below the ground floor of a residential structure.
- 7.8.2 Within District VIII, in areas zoned as non-harbour-related industrial, new industrial development shall not exceed 35 feet in height or three storeys, and the City shall amend its Zoning Bylaw to accomplish this intent.
- 7.8.2.1 Pursuant to Policy 7.8.2 above, the City may consider applications for industrial development where such development exceeds the height prescribed under the provisions of Section 33(2)(b) of the Planning Act and, in so doing, the City shall have regard for:
- (i) consistency with Policy Set 3 of this Plan; and
  - (ii) avoidance of significant shadow effects on adjacent residential areas.
- 7.8.2.2 Pursuant to Policy 7.8.2 above, the City may consider applications for residential development where the proposed location is adjacent to existing residential uses under the provisions of Section 33(2)(b), and in so doing the City shall consider as guidelines:
- (i) that the height of the proposed development is limited to 50 feet or six storeys;
  - (ii) that family-type accommodation shall not be a requirement for unit mix in such development; and
  - (iii) that there be adequate buffering from industrial uses which may adjoin the property on which the development is proposed.
- 9.1 The Generalized Future Land Use Map (Map 2) shall be considered as the expression of intent of the City of Halifax for a future land use pattern based on the policies outlined in this Plan.

### **Implementation Policies**

- 3.11 The City shall review all applications to amend the zoning bylaws or the zoning map in such areas for conformity with the policies of this Plan with particular regard in residential areas to Section II, Policy 2.4.

### **Section II - City Wide Policies**

- 2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety

of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.

## Attachment D

### Excerpts from Halifax Peninsula Land Use By-law

#### Definition Section

**"Height South-End and Peninsula Centre Areas"** shall be the height shown on ZM-17, Height Map, said height being the vertical distance of the highest point of the roof above the mean grade of the finished ground adjoining the building between the building and the fronting street. Further, the permitted height may be exceeded to accommodate the top storey of a building if such storey extends through the maximum height permitted, provided that in the R-1 and R-2 Zones only the roof of the building may exceed the height permitted and no additional habitable space is created.

#### R-1 Zone

#### **HEIGHT AND LOT COVERAGE - ATLANTIC, BRUSSELS AND MCLEAN STREETS**

For those properties zoned R-1 on Atlantic Street (east 5660 Atlantic Street), Brussels Street and McLean Street, height shall be determined by the definition "Height" instead of the definition "Height South-End and Peninsula Centre" and the maximum lot coverage shall be 30 percent.

#### R-2A Zone

43 AD ix) Maximum Height

Height of the existing building to a maximum height of 35 feet; and

Height shall be determined by the definition "Height" instead of the definition "Height South-End and Peninsula Centre"

#### Development Agreement Section

#### **SOUTH-END DEVELOPMENT AGREEMENTS**

94(1) In the South End Area, Council may, by development agreement pursuant to Section V of the Municipal Planning Strategy:

#### **Saint Mary's University**

(d) permit any specific university use at the periphery of Saint Mary's University campus in accordance with Policy 7.2.1.1

**College, Summer, Spring Garden and South Park**

- (i) permit any development consistent with the zoning designation in the area bounded by College Street, Summer Street, Spring Garden Road and South Park Street which would not otherwise be permitted by the height requirements of this bylaw in accordance with Policy 7.5.2.1.

**Industrial**

- (k) permit any specific industrial use in area zoned industrial which would not otherwise be permitted by the height requirements of this bylaw in accordance with Policy 7.8.2.1.

**Residential in Industrial**

- (l) permit any specific residential development in areas zoned for areas zoned for industrial development in accordance with Policy 7.8.2.2.

## Attachment E

### Public Information Meeting Minutes

October 30, 2003

In attendance: Gary Porter, Planner II  
Gail Harnish, Planning & Development Services  
Councillor Sloane  
Councillor Uteck

Mr. Gary Porter called the meeting to order at 7:00 p.m. in Halifax Hall, noting the purpose was to discuss height precincts in the South End of the City.

Mr. Porter explained that the Municipal Government Act (MGA) contains enabling legislation and direct legislation. The latter deals with things such as minor variances and non-conforming uses. What we are here to talk about is the municipal planning strategy (MPS) which the MGA allows the Municipality to adopt. It contains statements of policy that guide the Municipality in making decisions on development. The policies are administered through the land use by-law (LUB). We are looking at possibly making some changes to the policy that will eventually be reflected in the LUB. There are height precincts in a variety of areas in the South End. Referencing a map, he pointed out the South End and the different heights.

Mr. Porter displayed the policies in the MPS that apply to the South End with respect to height precincts. This is the authority that we have to enact height precincts. Referencing the map, he noted the properties shown in red are "carved in stone" and cannot be changed without amending the MPS. For the rest of the areas, the MPS contains three criteria on which height is based. For those areas it is somewhat subjective. Since 1982 there have been four applications dealing with amendments to the height precincts. They were all controversial and after the last one we decided there does not appear to be as much acceptance of the policies as there may have been when they were first adopted in 1982/83. We are here tonight to review the current policies.

Mr. Porter noted there are four questions we would like answered:

- is Policy 1.1.1.3 still appropriate?
- should more of the heights currently established for the South End be entrenched in MPS policy, meaning anyone wanting to try to change a height would have to go through the MPS amendment process?
- should all of the heights currently established for the South End be entrenched in MPS policy?  
and
- should any of the heights now established for the South End be changed?

Mr. Porter clarified for Mr. Beverly Miller that the heights for the properties shown in red on the map are already in MPS policy. Any other property shown with a number (height) does not have a corresponding specific policy that sets out that height in the MPS. The height precinct map is the only place where these specific heights are found. These heights are based on the criteria in Policy 1.1.1.3 of the MPS.

Mr. Porter responded to Ms. Brenda Shannon that he was trying to illustrate which of the sites on the height precinct map were entrenched in plan policy. It is not a simple amendment to the height precinct

map; it would mean an amendment to the MPS. If someone wanted to change the height in any of the other areas, it is judged on Policy 1.1.1.3 and if found to comply, the staff recommendation would be positive.

Councillor Uteck pointed out that in order to change the height precincts that are entrenched in MPS policy, the process to change them is about fifteen months long.

An individual questioned how height precincts relate to a development agreement.

Mr. Porter responded that for the properties shown in red, you would not be able to get a development agreement approved which would exceed any of those height limitations because it has to be consistent with MPS policies.

Mr. Alan Parish, 6517 Coburg Road, questioned what the driving force was for reviewing the height precincts - whether it was developers trying to make bigger buildings or the community trying to stop higher buildings? He heard it said there has been opposition to those parts of the plan from the community.

Mr. Porter responded that the driving force was more the latter. There have been four applications and two of them ended up before the Utility and Review Board and as far as the Appeal Court of Nova Scotia. As a result of the opposition to staff's positive recommendations based on the policy, we are getting the message that it is time to revisit the policies. A MPS is adopted with community support so if the community does not support policies any more, then we should revisit them.

Mr. Parish commented that he read the Tsmikilis decision and was familiar with the controversy. It seemed that it was the community coming forward to speak against a higher height and at issue were the three fuzzy clauses in Policy 1.1.1.3 of the South End area plan which allow Council to divert from the existing height restrictions. Mr. Porter confirmed this was the case.

Mr. Chris Beaumont, 5670 Fenwick Street, indicated he thought Mr. Porter had it the wrong way around. It was the community that was opposed to the changes to the height precinct whereas it was implied the community was in favour of them.

Mr. Porter clarified that what he said was that when the plan was adopted, it was done with public consultation and presumably there was a majority that accepted those policies at the time. Staff is saying that now, twenty years later, that level of acceptance is not there, which is why we are looking at it again.

Mr. Beaumont stated he was involved in the South End detailed area planning process back in the 1980s. The actual recommendation that came forward about the height precinct was clearly spelled out on the map. Since then, it has gone fuzzy.

Mr. Porter indicated staff was saying there is not public support for the way things are going with the present rules. This is an opportunity for things to change.

Mr. Dave Faryniuk, 1122 Lucknow Street, stated staff should never have approved the previously referenced applications because they were not within the rules. They are being asked to change the rules. He expressed concern that staff recommended approval and are on the developer's side when they have a set of rules in place. Those four approvals should not have been granted.



Mr. Porter responded that the policy basis in the MPS now allows that to happen. Staff is suggesting that those rules be changed so that it can't happen in the future.

Councillor Uteck pointed out the purpose of tonight's meeting is to find out whether or not members of the public are happy with the stuff entrenched in MPS policy or whether they wanted current regulations strengthened. 5250 Tobin Street was eventually approved for an increase in height precinct from 45' to 70'. Staff recommended approval and the Community Council rejected it because of opposition. The developer appealed the decision to the Utility and Review Board which overturned Council's decision and which was subsequently upheld by the Nova Scotia Court of Appeal. It was proposed that the height precinct for 5206 Tobin Street be increased from 45' to 82'. That request was refused by Community Council. Community Council approved an increase in height precinct for 5620 South Street from 100' to 190'. That decision was overturned by the Utility and Review Board but the Nova Scotia Court of Appeal subsequently reinstated Community Council's decision to approve the increase in height. The requests for an increase in height precinct have been controversial so we are looking for input as to whether or not members of the public wanted the height precinct requirements entrenched in MPS policy.

Ms. Rebecca Jamieson, 5670 Fenwick Street, referenced the comment that acceptance of policies seems to be less than it was. The public supports the height precinct requirements to the extent it can. The public is not aware of the criteria set out in Policy 1.1.1.3 and they are often not clearly informed in the staff reports about the subtleties. Very often they get the opinion that it is the developer's opinion that matters. The public would support the enforcement of the height precincts as they understand them to be.

Mr. Porter indicated we are asking the public if the height precincts should be made more difficult to change by entrenching them in plan policy. In other words, you cannot change any of these numbers (pointing to the map) without going through a change to the MPS. Is this approach preferred for all or some of the heights in the South End?

Mr. Faryniuk referenced the approval to increase the height precinct from 100' to 190' on the building for 5620 South Street and indicated staff should have said no. He further referenced the building at the corner of Queen Street and Victoria Road which they are not talking about because it met all the criteria.

Ms. Beverly Miller, 6182 South Street, referenced the property at 5620 South Street which was to be increased from 100' to 190' and indicated the MPS says 100'. Mr. Porter countered that was not the case.

Ms. Miller commented they look at the map and think that is the case. She felt what they want to do is look at that map and say this is 45' and that is it. She thought the property owners would look at the detailed area plans as a contract. When you buy a house you look around the area to see what the height restrictions are. She felt the 45' should not be changed.

Mr. Porter noted it was being suggested that the numbers should be more difficult to change and they should be in the policy itself which would mean a MPS amendment if somebody felt a height should be changed.

Mr. Parish advised he did not live in this plan area but rather on Coburg Road. He was President of the Heritage Trust of Nova Scotia so that is his bias. The message he would like for staff to take back is that most people are against high buildings in the South End and encouraged that they make it a lot more difficult to put up tall buildings in the South End. They have heritage buildings in the South End, neighbourhoods in the South End, and he thought most people in the city enjoy coming to the South End. It is what they are proud of. In the plan developed twenty years ago it said they wanted more people to

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live on the peninsula which allowed a lot of the development they have seen. It is time to put the brakes on. They do not want the South End to become like Manhattan. They want to maintain their neighbourhoods in the South End. He asked that they make it more difficult to put up any higher buildings in the South End.

Mr. John Lindsay Jr. said he would like it recorded that Mr. Parish raised a most curious point. Although he may have a strongly divergent opinion, the important thing he has done is focus on what the question is and the question has focused on the fact that the City is growing and that we have to provide new homes for these new residents. The growth can be through any number of things but we do have to provide the housing. Where he so strongly disagreed is the concept that Halifax is excellent as it is. We all love it dearly and exactly as it is, and that is a wonderful emotion to hold, but it is completely against the reality of providing additional housing. We will pay costs and we will pay them in a variety of ways. He would say the opposite is needed. They in fact need more people to live on the peninsula. They need it so they can have a stronger transit system, provide a pedestrian environment, support broader transit, bike paths, and provide residential development closest to our major areas of employment which includes the hospitals and universities which provide over half of all the employment in the metro area. They can spend millions to ship people on and off the peninsula or allow housing to occur. He agreed with having height restrictions but felt we should be far less blanket and far more strategic in terms of where heights should be allowed, what potential heritage would be lost, and what arguments are there. We could have lower taxes, broader assessments without additional impact of infrastructure, and have some additional buildings without affecting the entire neighbourhood.

Michael, commented he was hearing the City is growing so they have to build buildings to put people into. If we put the buildings there, people will move into them. We have to decide how many people we want to live in the South End. He accepted the arguments about transit and being close to employment. There are many instances of low rise cities which have successful transportation systems. If people do not have tall buildings to live in the South End, they will live somewhere else.

Mr. Faryniuk indicated they had a presentation by a developer on South Street. He was wanting to know why the development has to be in the South End. Nobody wants to go to Gottingen Street or Agricola Street. There is a line that says in the South End they are better to have these and it is where they are going to put the best developments because they are going to get the most money. The developers don't think they can charge \$200,000 unless it is right across the street from the park.

Councillor Sloane concurred that houses are expensive in the South End but they are also getting expensive in the Central District where she could not afford to buy a home in her own district. There has been some development but it is the "last frontier". They have new low rise condominiums going in. David Zareski and Ross Cantwell are working on their projects. They are on the peninsula.

Mr. Stuart Grossert, 1524 LeMarchant Street, commented that from his limited experience of dealing with these matters it seems the rules are elastic. Maybe they need certain high rise buildings in the City. In some cases, it may be necessary but if there are rules they need to be clearly defined and they live by them. The rules are arbitrary and nobody seems to know. He referenced a situation on Coburg Road where they had certain rules and were told they were superceded by the MGA. They have the MGA and the MPS. There are all these various things and nobody knows what applies to what. He spoke in favour of the rules being clearly defined and firm.

Mr. Hugh Pullen, 6262 Oakland Road, indicated it was his experience that there are two books - the municipal planning strategy in terms of residential zoning and then the height precincts which is a separate

planning strategy. He suggested they eliminate the concept of height precincts and lay it out in one book for all to see. He questioned what kind of influence the Fire Department has on the height of buildings and whether there is a maximum height from which they can rescue somebody. This seems to be a practical problem that has not been addressed.

Mr. Porter commented it is not a situation unique to Halifax. Ladders are only so long. That is why the Building Code requires buildings over a certain height to be non-combustible. Those are the safety factors in place for higher buildings.

Mr. Owen Carrigan, 6112 Coburg Road, indicated that the presence of the two universities and the hospital are an attraction for a large number of younger people. There are all kinds of developers. You start putting high rise buildings throughout the South End and it is not families occupying the apartments. There will be three, four, and five students renting rooms like they do now. Their neighbourhood committee met many times with the administration over the past few years. The last time they brought in documentation of twenty-four illegal rooming houses within the space of a few blocks in the South End. In addition to the height restrictions in place, they would like to see restrictions over the entire South End so that whatever development takes place is reasonable and is in keeping with the existing neighbourhoods and will protect the quality of life. One of the big aspects of Halifax is the South End where families still live and kids go to school.

Mr. Carrigan indicated the developer is talking about taxes. As for lower taxes in the South End, "they're blowing smoke". There are different areas in the South End. There might be areas where a taller building would be more appropriate but generally if you do not put height restrictions in place you will see an ever rising amount of high rise development creeping in. Wherever the money is, is where you will find the developers. If it is not done now, it will destroy the character of the South End. If they do not put a stop to high rise development, there will be one next to the other one, and so on, and you will have a neighbourhood of high rises filled with students renting apartments and you will change the character of the entire area.

Mr. Porter advised there are now height restrictions throughout the whole South End. The question is whether or not these numbers are appropriate, which is part of why we are here this evening.

Mr. Carrigan asked for confirmation that excepting for the red areas, the height restrictions are not written in stone - they can be modified by the developer.

Mr. Porter confirmed that an application could be made to change them. However, it is Council, not the developer who can modify them.

An individual stated they would like to have the rules changed so that whatever applications are made are very difficult to come by, and that they are not automatic like the ones changed already.

Mr. Porter confirmed for Ms. Miller that the properties not identified in red have various zones such as R-1, R-2, R-2A, and some R-3. The height limit for the Victoria General Hospital is 100'.

Mr. Beaumont indicated that a lot of what is being raised was visited in great detail because it was recognized this part of the South End had already accumulated a number of R-3 buildings which were out of character and scale for this area. He referenced Fenwick Tower which never should have happened. The R-2A zone was developed to try and address some of the concerns and it was designed to be against having higher buildings. There was a lot of careful work done whereby there was a lot of logic applied.

The height precinct in some areas is 100' and 60' in others. It was intended to keep things at an appropriate scale. Along South Street there was a huge variation. What was recommended at that time should be revisited to see if it is still appropriate. He felt it was.

Mr. Patrick Atherton, 1104 Lucknow Street, questioned whether, for the large part, the height restriction was 35' except for the areas marked in red where it is extremely difficult to change the restrictions.

Mr. Porter responded that the majority of the South End has a 35' height restriction.

Mr. Artherton commented that the majority of the South End has a height restriction of 35' but there is a loophole. According to certain criteria, a developer can appeal and get a higher height. He was quite happy with the 35'. Everything else should be made red.

Mr. Scott McCrea, 1039 Marlborough Avenue, Armor Group, stated they have a number of properties affected by the South End height precincts in various forms. They believe that if they are going to firmly entrench the heights, which is the view point of the community, then they better ensure those they are entrenching are accurate and correct. For the most part they are comfortable with the height precincts that affect their properties except for one location which they think requires serious consideration.

Mr. McCrea advised that over the past several months they have done architectural studies apart from this process on a piece of land on the corner of South Street and Wellington Street. The land is 25,000 sq.ft. and presently houses a parking lot. The site is zoned R-3 and all the surrounding lands are zoned R-3. Most of the abutting lands are either at or above the existing height precinct. The majority of what happened around that site was already above its general height before the adoption of the South End area detailed plan.

Mr. McCrea indicated they undertook a detailed architectural study of the property and a massing study. He displayed drawings which they produced for an as-of-right development of seven storeys and ninety units, noting it meets all the angle controls and side yards requirements. What shocked them was that the height precinct for this area, which sits at 65', creates such a box to this particular piece of land that there is no architectural freedom. It boxes the mass towards South Street creating a 70' high wall against South Street. To try and change this design was literally impossible. In order to achieve the density, the height precincts literally designed the building for them. They had no flexibility in terms of what was being provided. They do not believe that should be the way planning works. Also, he did not believe that people wanted this sheer wall along South Street. To give a sense of that, they produced this perspective looking east along South Street. They were particularly concerned about the wind effect that would be created down South Street. They would consider it to be a bad development.

Mr. McCrea indicated they then looked at what would be the effect of marginally changing the height precinct in that area. They looked at redesigning the building and creating something far more appropriate for the community. In doing so, they were able to peel back the development from the street and pull back the tower from the corner. It produces a nine storey building, instead of seven storeys, but it is more contextual to the area. Referencing the sketches, he noted these are the projections and the change that is envisioned between the two. It is important to note that they are both ninety unit buildings and from a financial perspective they are the same. They produce the same revenue. Unlike other developments they see, this is one of aesthetics. As part of this process, they will be seeking a minor variation and will be providing that to staff for the lands at the corner of South Street and Wellington Street.

An individual stated they appreciated Mr. McCrea's presentation and were happy the City has the laws to not allow them to have the extra two storeys. Maybe the City would approve it but questioned what they would do in order to get the change approved. He came from a former community where a developer put in a subdivision and they were asked to put in a dry water pipe. They did something to get the variance. He questioned what they would do for the City to ask them to change the height of the building.

Mr. McCrae stated that he wished to clarify there is no financial difference between the ninety units in the two perspectives.

Ms. Miller stated this is not a public information meeting on a specific development. She commented that Mr. McCrae has a piece of land and wants to maximize the use of this land and will ask for changes to do that. Perhaps he paid too much for the land so they have to maximize.

Councillor Uteck thanked Mr. McCrae for his presentation, noting one of the reasons they are at this meeting is to hear what people want and the expectations of Council. Mr. McCrae has identified a parcel of land. We are asking the public to pick pockets where they feel it would be appropriate to entrench the height precinct in MPS policy. She referenced 5620 South Street where the developer can now develop a building with a 60% increase in density. By the time Mr. Tsmikilis finishes on South Street you will not be able to pull up a moving truck to the circular driveway because there will not be one. She encouraged that members of the public identify sections where they feel the height precincts should be entrenched in policy.

Mr. Porter noted that one of the questions being asked tonight is whether or not any of the heights are appropriate.

An individual questioned what is driving this. He expressed concern with them trying to squeeze ninety units into that space.

It was responded that the density permitted on that piece of land (corner of South Street and Wellington Street) is ninety units. It is a question of how you can make ninety units in the best possible building.

An individual stated the reason Councillor Uteck is not getting any flack with the proposal for 5620 South Street is because it is blatantly obvious the density is not enforceable. You cannot tell how many students are living in an apartment.

Mr. Porter clarified that the density is determined by the number of rooms in a building, not the number of people.

An individual commented the wording reflects single occupancy and double occupancy. They all know that double occupancy is four people.

Mr. Porter clarified it is regulated by the size of the units.

Ms. Jamieson stated they know the building will be packed with students regardless of the density. Any given proposal from a developer may seem perfectly reasonable in isolation. Perhaps Mr. McCrea's proposal is, but she would need to hear more about it. It is the cumulative effect in the South End. It is not an appropriate way to do planning. It seems that all the elements in a by-law in this City are a basis of negotiation. All the developer has to do is exceed something by 90% and it is the community having to respond. They would like some assurances that these precincts are enforceable and that it would be very

difficult to change them. It may be that a developer has an aesthetically appropriate design for a piece of property that would require an amendment to the MPS which might be the appropriate approach. They are very concerned about the piece-meal approach.

Mr. Beaumont said they were all so shocked by the fact that a 190' high building was approved when people strongly voiced their disapproval. A new proposal has to be better. A large number of people attended the Utility and Review Board hearings and the public strongly spoke against this. They would much rather have a 100' high building than a 190' high building. It is their only way out. It does not necessarily mean to say it is a solution. They have to compromise in some way. If they look at that property and the 1980 map, the 60' was recommended because it was a compromise. It was recognized that area would be an area in which there would be a transitional scale from the VG Hospital to the surrounding 35'. The 65' was seen to be an appropriate number at the time.

Mr. Carrigan stated the vast majority of people in this room want height restrictions. They come to these meetings year after year and as citizens say the same thing but the City comes back and says what do you really think and we are holding another meeting. He did not know how much clearer they can make it. He looked at Mr. McCrea's presentation. It also illustrates a point. There is a script for developers. It goes as far back as the day when they were fighting Summer Gardens. They have this nice shrubbery and big back yard and wonderful architecture and they all say they are different because they are the good guys. The point is that that will keep on happening. You cannot blame them. A developer is partly an artist and wants to do a piece of work and is bound to be convinced that their situation is different. You either stop it or you don't. He did not know how many times as citizens they have to go these meetings and say the same thing and that it would be nice if the Planning & Development Department was on their side and let the developer fight it instead of them.

Mr. Parish commented he was glad to hear the previous comments. It demonstrates the difficulty of having height restrictions. He said he was in favour of them and most people in this room are in favour of height restrictions. Instead of reviewing just the height restrictions he would urge the planners to review all the planning rules that apply to development and enforce them. There have to be a lot more requirements and a lot more detail. To him it says we need more restrictions on the type of buildings you can build as-of-right.

Mr. Murray Doehler, 6283 Connolly Street, indicated he was interested in the South End, and that he had to be on Council to interpret these laws in 1983. Design controls are what we really want. These height restrictions were put in place as the South End was getting an unprecedented amount of development. He questioned how they would move forward to address those three clauses.

Mr. Beaumont noted there are lots of non-conforming buildings. There was some provision made for rebuilding some buildings under certain circumstances. If for some reason or other, the non-conforming building was to be replaced, they had to abide by the new regulations.

Reference was made to Park Victoria which is over the height at the time. If somebody wanted to rebuild, it would be restricted to 45' in height.

Mr. Porter advised that the MGA protects property owners against damage. If it was damaged by a hurricane, it could be rebuilt back to its original height. However, if somebody decided to knock down the building in question and sell it as a vacant lot, the height restriction is 45'.

Mr. Beaumont indicated that if there are going to be tall buildings, they need to look at things like the wind effect and building standards. Fenwick Towers is totally inadequate. He questioned who sets the standards for tall buildings and whether it was the planning department who approves the plans.

Mr. Porter advised the role of the planning department is with respect to zoning. The construction of buildings falls under the Building Code. Further, there is nothing much we can do out of the ordinary for the as-of-right development where a permit has to be issued if a development meets the requirements of the land use by-law. If a development is not permitted as-of-right, then we can ask for more things such as wind studies.

An individual commented there must be something wrong with the planning process if a person can put something up that is poorly built.

Ms. Jamieson referenced the 190' high building proposed for 5620 South Street and indicated the developer got away without having to do a wind study because it was too expensive. This work can be done on a computer and it is not that expensive and the consequences for that building would be entirely predictable. That is an extremely important thing that affects the quality of the neighbourhood.

Ms. Miller indicated that in response to Mr. Lindsay, she did not think allowing a developer to do what they want on relatively small pieces of land would have much of an effect on their infrastructure but it could have a great impact on the viability of their neighbourhoods. She wanted to reiterate what Mr. Carrigan said in terms of where do we go from here. She questioned whether we are now getting into a discussion with the owner of every one of those pieces of land and start bargaining, or whether they institute the ones that are there now. She questioned what Planning & Development was suggesting would be the next step.

Mr. Porter responded this is an issue that Regional Council has asked us to look at. We are at the public information meeting stage. Following this meeting, we will look at the comments made and make a recommendation. The report will go to the District 12 Planning Advisory Committee (PAC) for comment as well as to the Peninsula Community Council. The matter will ultimately be forwarded to Regional Council for decision. The public hearing is held by Regional Council, at which time there is an opportunity for members of the public to come forward and speak. Regional Council will then make a decision. Regional Council will either approve an amendment to the MPS or will leave the wording as is. There is a requirement that it go to the Minister for review. Once he signs off on it, it will become law.

Councillor Uteck indicated that for the areas of Atlantic Street, Brussels Street, and McLean Street, the neighbourhood got together and amendments were approved to downzone and reduce the height precincts. 921 Brussels Street is completely incompatible with the rest of the street. Sometimes it comes to lot coverage. On her street, McLean Street, there is a big contrast between the development on the left side and the right side.

Ms. Marsha Parker, 1234 Church Street, stated they are under siege. They are always on the defensive and trying to watch what is happening in their neighbourhood. It is not easy living in the South End. It is basically because a lot of neighbourhoods are mis-zoned. She questioned whether the same type of process took place in order to make the changes for the area of McLean Street and how long it took.

Councillor Uteck responded the process took eighteen months. She questioned whether they wanted to see development proceed by development agreement or as-of-right. The issue tonight was for the people to

look around their neighbourhood, talk to their neighbours, and let us know whether or not they think their street is zoned appropriately and if the height precinct is correct. We are always in a catch-up situation.

Ms. Parker commented she has never seen properties change hands the way they have in the past twelve months. They did a survey of her area. It is a three block area. There are only fifty-four owner residents in that area left. The rest are absentee landowners. Some of the taxpayers are perfect but on the other hand when you have two dozen properties changing hands in such a short period of time the developers are coming in. They had a single family house converted to a nine bedroom rooming house.

An individual stated he wished to reiterate his comments in the Coast and let's just decide what sort of society we want to live in and look at all the things that impact our quality of life in the South End. The other thing is that laws are made by the people for the people for the society we want to be. We usually have to compromise, otherwise we will repeat this process every year.

An individual questioned whether there is opportunity for public review at the Planning Advisory Committee level.

Mr. Porter advised that the report, once signed, becomes public.

Ms. Miller stated she understood the District 12 PAC had the option of holding public meetings.

It was indicated that there is a public participation session at the end of the Community Council agenda where members of the public can make a presentation.

Mr. Porter indicated that it would be at least four-six weeks before the report is finalized.

Mr. Faryniuk questioned what the proposal was.

Mr. Porter responded it is a possible amendment to the MPS which could possibly make all these heights carved in stone.

An individual indicated for the record he lived in the West End. He knew a lot of people who lived in the South End and Clayton Park. He stated we all live in one City. The discussion tonight was only by one part of the City. This particular part of the City is under pressure because of its immediate proximity to large employment centres and the universities. It is as if the universities were some evils placed next to them that we have to guard against. If we do not want to have rooming houses, we have to be able to have other places next to the universities.

Mr. Carrigan commented they have a lot of public meetings in the South End. He knew a lot of people and he did not have any objections to students per se. What they object to are the people who come into their area as investors and they circumspect the regulations and plop buildings full of students. It is not the students they complain about. It is the people who own the student accommodation. They can change the ground rules by appealing.

Ms. Miller commented she did not think Mr. Lindsay knew what he was talking about. It is lovely but it is not a reality.

Mr. Doehler asked about the time frame for responding to Regional Council.



Mr. Porter responded that the District 12 PAC meets once a month, the Peninsula Community Council generally meets on the 2<sup>nd</sup> Monday of each month, and Regional Council meets every Tuesday evening. It might be at least six months before any amendments are in effect.

An individual questioned the relevance of this to the area north of South Street.

Mr. Porter responded that anything can be reviewed but the issue was the South End. If there is a willingness to entrench these numbers in the Peninsula area and the people of Peninsula Centre want the same thing to happen, they can let their councillor know.

Ms. Parker noted there are some high R-3 buildings in areas that are not identified in red. She spoke in favour of making them immovable. There are other dangerous positions with R-3 buildings that are negotiable outside of the properties identified in red.

Mr. Porter noted that it is the current situation.

An individual commented he was interested in hearing Mr. McCrea's presentation. He noted the question is not whether there are existing buildings that are higher but for future buildings are we prepared to say that 35' is not negotiable or 65'. That is the question before them.

Ms. Jamieson referenced Policy 1.1.1.3 and its three elements. It seemed to her that one of the problems that has come up is the question of what is appropriate development. The recent experience of the residents of this area is that it has been the developer's call without consulting the community. One possible outcome would be that public input is sought at an earlier stage as to what is considered appropriate development.

Mr. Porter noted that quite a few people are saying the numbers have to be cast in stone, which staff will look at. Maybe it is as simple as saying you cannot change the height precinct map without an amendment to the MPS. The report may contain some options as to different approaches.

Ms. Miller referenced the costs incurred by the City to defend the decision on Mr. Tsmikilis' property and to actually go all the way to the Court of Appeal.

Councillor Uteck pointed out that we were not defending Mr. Tsmikilis but rather were defending their planning decision which was based on MPS policy. She questioned whether members of the public wanted the numbers entrenched in policy, to have the numbers lowered, or to have the numbers higher.

The meeting adjourned at approximately 9:35 p.m.



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July 16, 2004

Mr. Gary Porter, M.C.I.P. Planner II  
Planning & Development Services  
Halifax Regional Municipality  
6960 Mumford Road,  
Halifax, NS Via Courier

Dear Gary

**Re: Case 00572 – South End Height Precincts**

This letter is further to our recent meetings, correspondence and participation in public hearings over the past year concerning the MPS amendments to include South End Height Precincts. We are the owners, through various subsidiaries, of approximately 35,000 sq ft of land fronting South and Wellington Streets, as contained in the enclosed survey. As part of the referenced process, we are requesting a minor variance to the height precinct for this block.

The company has held these lands for many years, including a portion of the lands known as 5784-90 South St., which has been a part of our portfolio for close to twenty-five years. Currently 5784-90 South St. is the subject of Development Agreement Case 3938 approved in February 1982 and amended in September 1986 permitting a 45 unit multi-residential building. While the current Development Agreement would meet the current 65' height precinct, it would not comply with virtually every other zoning requirement in place today including, density, angle controls, parking and landscaped open area.

Since the mid-80's circumstances have changed within the area, resulting in our request before you today. In early 1991, despite our formal appeals, the City granted a variance to the adjacent land-owner at 5778 South St. Case 6277, permitting the eventual construction of an apartment block. This building aggressively confronted our lands at 5784-90 South St. in such a way as to diminish the value of both properties if we were to carry-out the Development Agreement. By the late 1990's, The Armour Group Limited had consolidated the remaining undeveloped lands on South and Wellington Streets. Commencing in early 2003, we began a revised architectural and planning study of our lands both individually and collectively with the inclusion of 5784-90 South St. The first conclusion of this review was that a combined development, while not enhancing density, would render a more controlled massing and allow us to set-back from the unfortunate development of 5778 South St.

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Our preliminary architectural plans for a single development on the site (which are enclosed), were capable of meeting "as of right" all applicable zoning controls. The resulting massing, however, was irreconcilably forced to the minimum set-back on South St due to two limiting factors, the rear-yard angle control and the 65' height precinct. From the elevations and aeriels previously presented, the issue becomes visually obvious; while we can achieve the allotted density "as of right" by building a 7-8 story structure, the building would be only 20' from the street and create an extended wall in-line with the massing of the Victoria General Hospital. The resulting "canyon" and associated wind-tunnel effect are the essence of bad urban design and would not be an enhancement to the neighborhood. The only means of avoiding this rough design and achieving the density allocation is an adjustment in either the rear-yard angle control or the height precinct.

Option 3 of the enclosed preliminary plans expresses a potential building with a minor variance to the height precinct. Given the overall size of the floor plates, one (1) additional story in height permits a significant increase in the amount of setback possible from South St. We believe it to be readily apparent and an objective matter that this limited increase in height relative to its neighbors; the Victoria General Hospital at 12 stories across the street and the residential building 75' away at South and Tower at 12 stories, would be immaterial and result in a significantly better development for the area.

Based on this assessment and on the recommendation of city staff, we have for the past year participated in MPS Case 00572 including presentation at public hearings, correspondence and meetings with planning staff. We are as part of this process, formally requesting a minor variance to the existing South End Height Precinct in accordance with the Municipal Planning Strategy (M.P.S.) and particularly Policy 1.1.1.3 as follows:

- (i) Generalized Future Land Use – The future land use identified for the area is High Density Residential. The proposed use is compatible with this designation and represents one of the last available High Density sites in the area. The South End Detailed Area Plan has established the 65' height as a middle range for portions of South St. as a step down from the 100' height level almost immediately to the East on South St. and the 35' height level applied towards the Children's Hospital. It is clear that with a minor variance to the height of the South and Wellington portion of the 65' height precinct there would still exist a significant step down from the 100' level to the remaining 65' level and in turn the 35' level at the far end of South St. Planning calls for an adjustment in height to be "based on an assessment of the impact new construction would have on adjacent residential areas". The extension of the development by one story will have no impact on shadows on residential areas, which all fall to the V.G. hospital, and will actually enhance the residential neighborhood by minimizing the wind tunnel down South St. and providing more open space.

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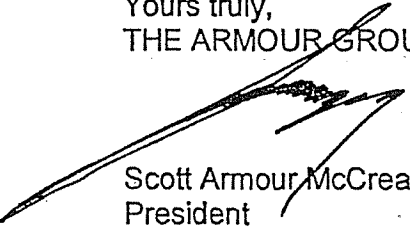
- (ii) Appropriate Development – Extension of the height permissible on the South and Wellington corner by one (1) story will clearly permit a better massing and an increase in the setback of the development. Permitting this minor variance should provide other alternates for the site other than potentially less appropriate developments such as the existing D.A.
- (iii) Fulfill Policy Intent – The proposed height variance meets various segments of the M.P.S policy intent including, appropriate residential infill, development on scale with neighboring buildings, and support of non-family units on the south end peninsula.

Our current architectural plans are at a preliminary stage and the structural system is yet unknown (concrete, steel or hmbro will require different floor to floor heights) and therefore does not permit an exact calculation of the necessary height adjustment required to provide one (1) additional story. While numerous tricks with landscaping and elevations may allow some lead way, we believe that proper developments should not start out bastardizing themselves. Ultimately this serves no ones purpose. Currently, our best estimate is that an additional seven (7) feet would be required to the existing height precinct. While this is our strong preference, we would be willing to risk a five (5) foot adjustment to the height precinct applicable to South and Wellington resulting in a 70' level for the area. We would point out that we believe this to be a mutual risk if this is the direction, as a failure to provide an additional story will materially affect the nature of this development and the area.

Finally, we would clarify that while the lands held by The Armour Group Limited will allow for an "as of right" development and the set back is at the discretion of the developer beyond 20'; if the density can be achieved on the site, it is inconceivable that anyone would not seek to set back the building as far as possible from the Victoria General Hospital. Sometimes there must be some faith put in common sense and good logic.

We trust Planning and Development will look favorably upon this requested variance.

Yours truly,  
THE ARMOUR GROUP LIMITED

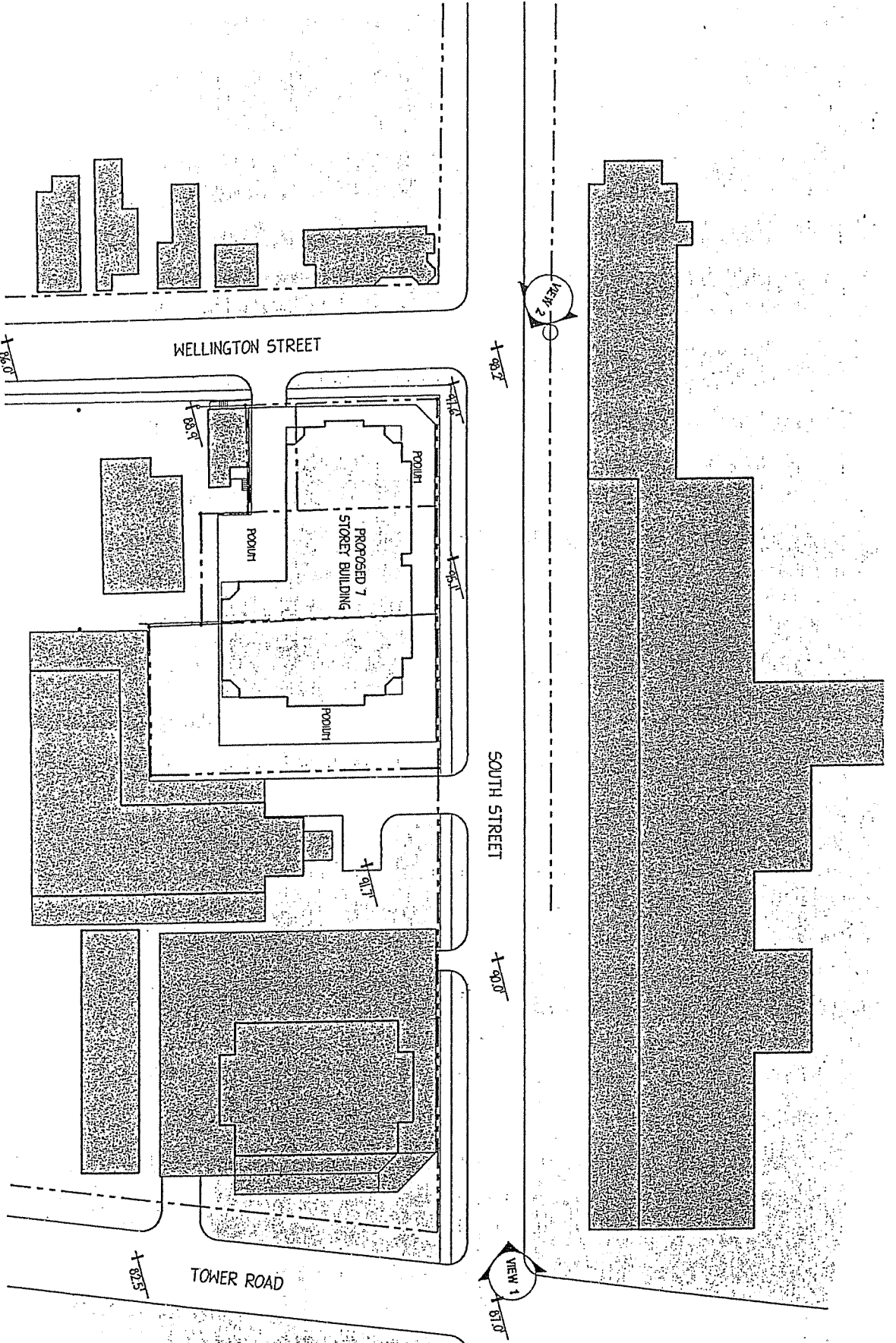


Scott Armour McCrea  
President

Encl.

KASSNER/GOODSPEED ARCHITECTS  
SUITE 207 WESTERN AVENUE  
HALIFAX, NS B3P 2G7, CANADA

PROPOSED RESIDENTIAL DEVELOPMENT  
SOUTH STREET, HALIFAX, NS



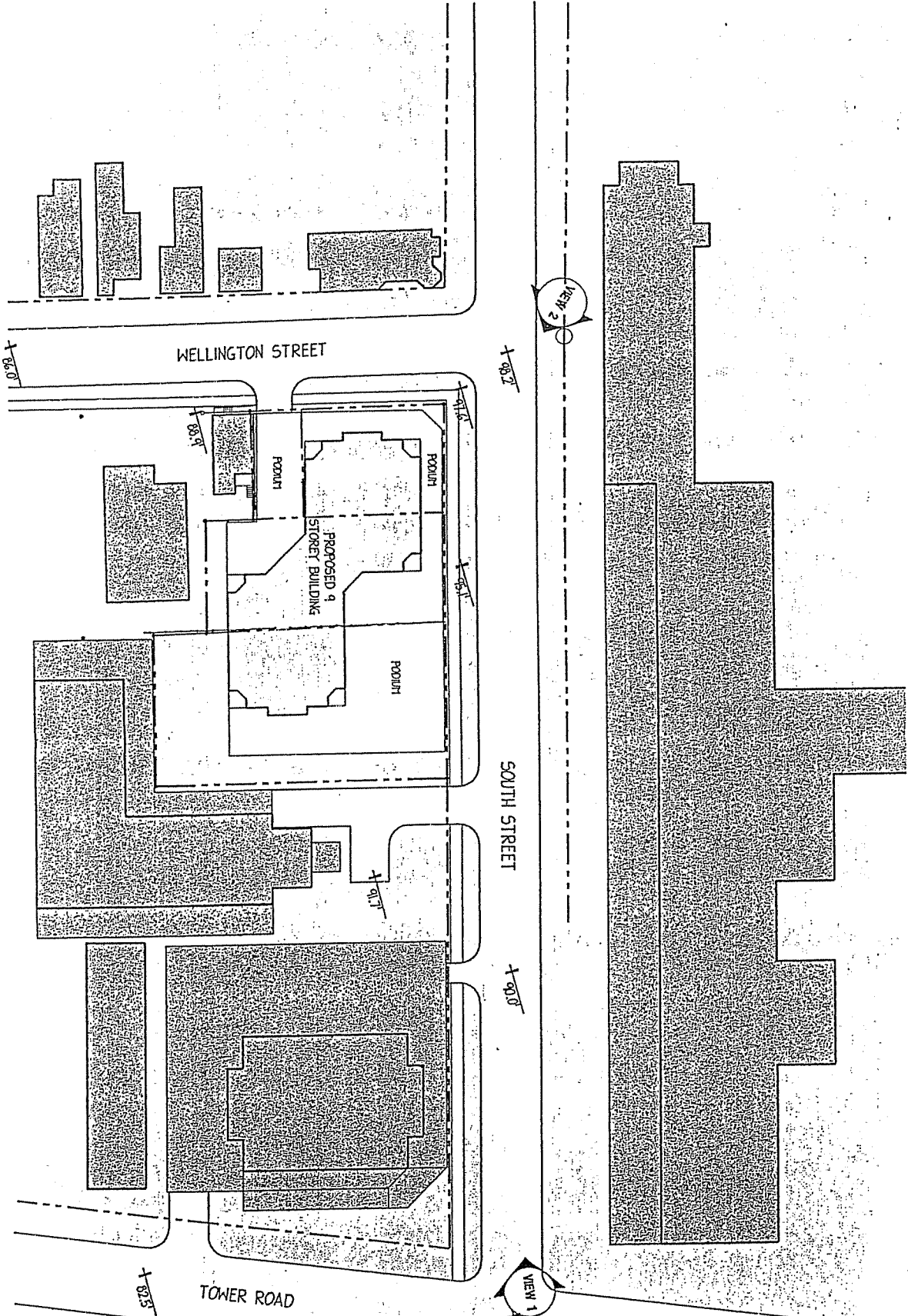
SITE PLA

OPTION

1" = 5'  
Oct 23, 20

KASSNER/GOODSPEED ARCHITECTS  
SHEET: 103  
DATE: 10/23/01

PROPOSED RESIDENTIAL DEVELOPMENT  
SOUTH STREET, HALIFAX, NS



SITE PLA

OPTION

1" = 50'  
Oct 23, 2001