



PO Box 1749
Halifax, Nova Scotia
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Item No. 3(ii)

Halifax Regional Council
March 24, 2009
Committee of the Whole
March 31, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

A handwritten signature in cursive script, appearing to read "Dan English".

SUBMITTED BY:

Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: March 13, 2009

SUBJECT: **Case 01249: MPS/LUB Amendments - Heritage Trust Alternative Proposal for Downtown Halifax**

ORIGIN

Request by the Heritage Trust of Nova Scotia to amend the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw for an area containing the Central Business District, the Halifax Waterfront Development Area, the Spring Garden Road Commercial Area Plan, and portions of the South End Area Plan and the Peninsula North Secondary Planning Strategy, as an alternative to the upcoming HRMbyDesign Plan.

RECOMMENDATION

It is recommended that Regional Council not initiate amendments to the Halifax Municipal Planning Strategy and Halifax Peninsula Land Use Bylaw requested by the Heritage Trust of Nova Scotia.

BACKGROUND

The Heritage Trust of Nova Scotia has, on a number of occasions, publicly voiced its concern with certain fundamental aspects of the proposed HRM by Design Plan for Downtown Halifax. Recently, it approached the Urban Design Task Force (UDTF), the Regional Plan Advisory Committee (RPAC), and the Heritage Advisory Committee (HAC) with an alternative plan to the one developed through the HRM by Design project. None of the committees supported the Heritage Trust proposal. All three committees have recommended that Council approve the HRM by Design amendments that have been presented at public meetings. Previous to this application, the Trust has also circulated its proposal for an alternative plan to all members of Regional Council.

The Heritage Trust is now requesting that Regional Council officially initiate an MPS amendment process to consider their alternative plan for downtown Halifax (see Map 1 for affected area). The documents submitted for Council's consideration are the same as those submitted to the UDTF, the RPAC, and the HAC (see Attachments A through F).

DISCUSSION

Regional Council will soon receive the draft HRM by Design Plan for Downtown Halifax. The HRM by Design project has included substantial public participation. As part of the Plan adoption process, Regional Council will schedule a public hearing to consider oral and written submissions from all interested parties. During this process people will have an opportunity to speak for or against the proposed HRM by Design amendments.

The proposed Heritage Trust amendments differ from the proposed HRM by Design amendments in several significant areas. These include, but are not limited to, expansion of the Citadel view planes, lower building heights and retention of the development agreement process. It does not make sense to initiate an MPS amendment process to consider these amendments while the HRM by Design amendments are still being considered and discussed by the public. The two proposals have such significant differences that if Council were to allow both proposals to be considered simultaneously, it would cause a great deal of public confusion. It is also unreasonable at this point to reject the proposed HRM by Design amendments without a public hearing and simultaneously initiate the Heritage Trust's requested amendments. The most reasonable course of action is to consider the proposed HRM by Design amendments at a public hearing. Council can hear from both critics and supporters of the proposed Plan. At the conclusion of this process, if Council cannot support the proposed HRM by Design amendments, a discussion will be required as to where the Municipality goes next. Depending upon the reasons for rejecting the draft Plan, this may or may not include consideration of the Heritage Trust request.

It should be noted that if Council rejects Heritage Trust's request to initiate an MPS amendment process that this decision cannot be appealed to the Utility and Review Board. Initiation of Plan amendment processes are at Council's discretion.

BUDGET IMPLICATIONS

The HRM costs associated with processing this application can be accommodated within the approved operating budget for C310.

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.

ALTERNATIVES

Regional Council may choose:

1. Not to proceed with the requested amendments. This is the recommended course of action.
2. To authorize initiation of an MPS/LUB amendment process to apply a new planning and regulatory regime for Downtown Halifax being proposed by the Heritage Trust of Nova Scotia. This is not recommended for reasons outlined above.

ATTACHMENTS

Map 1	Affected Area
Attachment A	Letter from Applicant
Attachment B	Proposed Framework for Downtown Halifax Design Plan
Attachment C	Proposed Amendments to the Halifax Municipal Planning Strategy
Attachment D	Proposed Amendments to the Halifax Peninsula Land Use By-law
Attachment E	Proposed As-of-Right Heights
Attachment F	Proposed Maximum Heights

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

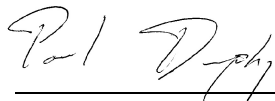
Report Prepared by: Luc Ouellet, Planner I, 490-3689

Report Approved by:



Austin French, Manager of Planning Services, 490-6717

Report Approved by:

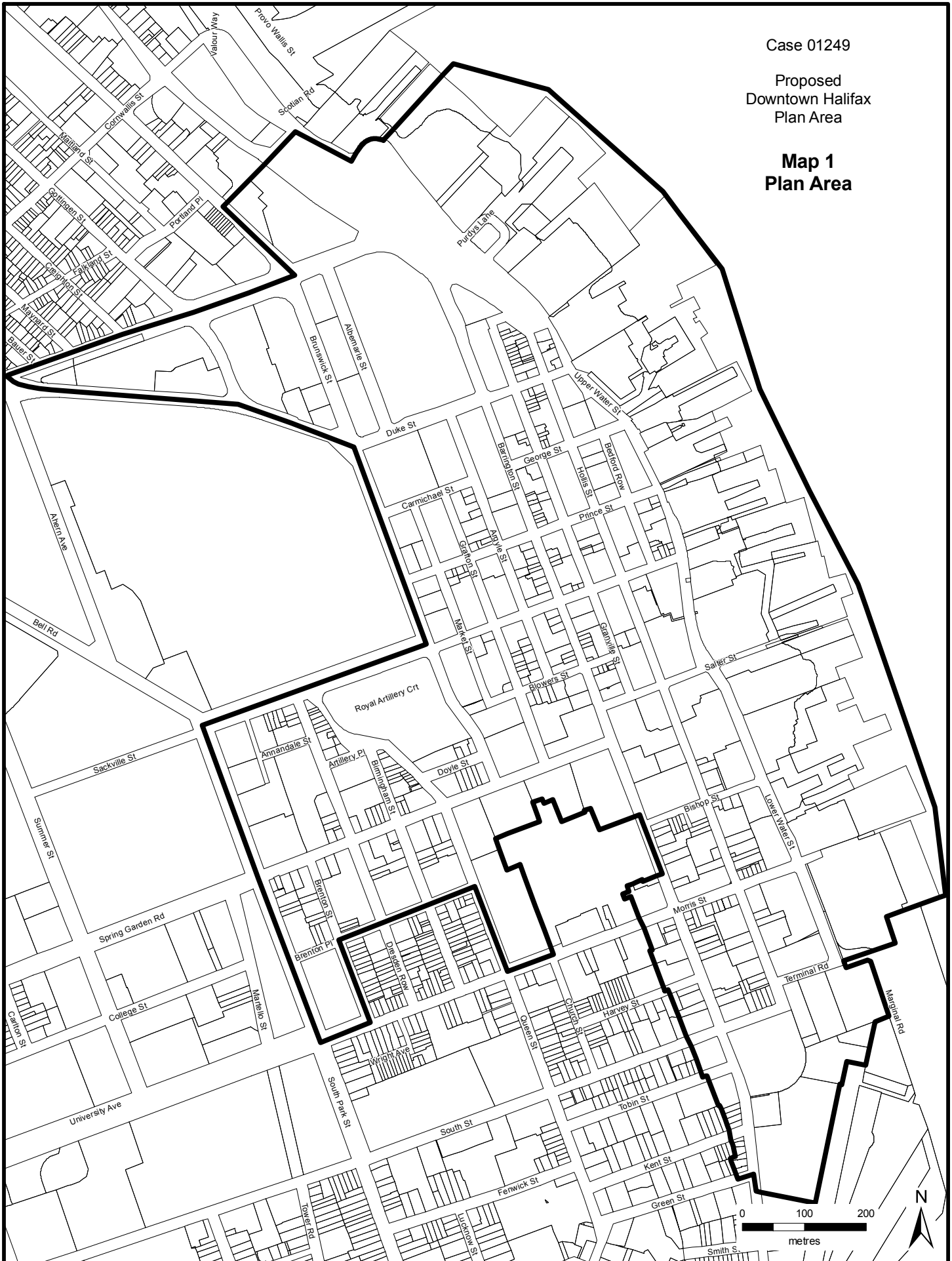


Paul Dunphy, Director of Community Development, 490-4933

Case 01249

Proposed
Downtown Halifax
Plan Area

Map 1 Plan Area





Attachment A

Mr. Richard Harvey
Planning Applications
Community Development
Halifax Regional Municipality

Dear Mr. Harvey:

This letter is an application to amend the Halifax Municipal Planning Strategy and the Peninsula Land Use By-law for the area of downtown Halifax shown on the attached maps. This is an area that contains about 120 registered heritage properties. The amendments are intended to provide continued protection for these heritage assets, to provide for review of the design of new developments in the area and to provide greater clarity for developers, investors and the public.

Where there are heritage properties, the plan will provide for height limits that are similar to the existing as-of-right height limits, and that are also similar to the heights of the heritage buildings. The plan calls for the immediate adoption of the Barrington Street Heritage Conservation District Revitalization Plan, as approved in principle by HRM Council in January 2006. It calls for a start to the process of considering six more heritage conservation districts, to include and provide permanent protection for all of the registered heritage buildings downtown. The designs of new buildings will be reviewed to ensure that they complement any adjacent heritage buildings.

The plan will continue to protect views of Halifax harbour from Citadel Hill, including some views outside view planes, such as the view of George's Island from the roadway and the view of the Citadel North neighbourhood.

The plan will provide an attractive environment for pedestrians, by ensuring heritage buildings are retained, by providing for attractive buildings on vacant lots, by preventing unsafe winds, by providing sunlit sidewalks and views of the sky, and by providing interest and activity at street level.

The plan will require the provision of housing for families, with access to landscaping. Affordable housing will be encouraged through retention of existing buildings and by requiring that a quarter of the units in large new developments be affordable.

Sustainable development will be required by allowing natural light to reach occupants of buildings and by improving facilities for cyclists. The plan will prevent new surface parking lots and the use of unsustainable materials for exterior cladding. The plan would avoid damage to buildings by rising sea levels, storm

surges and drifting snow. For larger developments, the plan will require energy efficiency and will promote renewable energy systems, the use of local materials and the installation of green roofs.

The plan introduces a new as-of-right height map. On heritage properties and adjacent sites, the heights are similar to the heights of the heritage buildings, in order to protect them from demolition and replacement by a larger structure. On vacant lots, the heights are higher than current as-of-right heights, in order to encourage development of these sites. For developments at or below these heights, the design of each proposed development will be reviewed. This review will be conducted by the Heritage Advisory Committee for heritage buildings or sites abutting heritage buildings or for proposals in heritage conservation districts. For other sites, the Planning Advisory Committee will conduct the review.

For development proposals above the as-of-right heights, an accelerated development agreement process will be applied. A new maximum heights map will protect key views from Citadel Hill and will allow for tall buildings near the Cogswell Street interchange and near South Park Street. The two new height maps will provide greater certainty and predictability for developers and the public. Between the heights on these maps, Council will exercise discretion, guided by the policies in the existing planning strategy and the proposed new design plan. The public will retain rights to notice, to information, to be heard and to appeal.

Compared to the present system, this plan is intended to provide more clarity, more comprehensive design review and speedier outcomes. The plan builds upon the strengths of the existing plan and land-use by-law. It represents an evolution, but introduces several new ideas. It is concise, just 13 pages long, easy to understand and easy to implement.

The plan covers the same land area as HRMbyDesign and can be considered as a better alternative to HRMbyDesign. HRMbyDesign has a number of fatal flaws, from the point of view of Heritage Trust. It would greatly increase the as-of-right heights, putting heritage buildings and views outside view planes at risk. It would eliminate or bypass many excellent policies in the existing plan. It would reduce the rights of the public.

Please read our plan. Please let us know if you have questions or comments (494 3334). I hope you will be able to recommend that HRM Council give this plan first reading and schedule a public hearing.

Thank you for your consideration.

Sincerely,

Phil Pacey
President
Heritage Trust of Nova Scotia
PO Box 36111
RPO Spring Garden
Halifax, B3J 3S9
February 27, 2009

Framework for a Better Design Plan for Downtown Halifax

1. As-of-right and Maximum Height Maps:

New as-of-right and maximum height maps are attached.

2. Development Control Procedures:

Development agreements would continue to control larger or unusual developments. The time from application to Council decision would be reduced by having preparation of a staff report, and review by the District 12 Planning Advisory Committee and Heritage Advisory Committee occur at the same time, in about a six-week period. The matter would then go to Peninsula Community Council or Regional Council for decision. The members of the public would retain their rights to notice, to information, to be heard and to appeal. Small developments would first have qualitative aspects of the design considered in a site plan approval by the Heritage Advisory Committee or Planning Advisory Committee. The height and size of the development would be tested for compliance with the land use by-law by a development officer.

3. Design Plan for Downtown Halifax:

This is a new secondary planning strategy, attached as Appendix A. It will enable the adoption of new regulations in a revised Land Use By-law. It calls for the adoption of heritage conservation districts. It contains policies protecting heritage buildings, views from Citadel Hill, neighbourhoods and the environment. The Regional Municipal Planning Strategy, Halifax Municipal Planning Strategy, Central Business District Objectives and Policies, Halifax Waterfront Development Area Objectives and Policies, South End Area Plan and Spring Garden Road Commercial Area Plan will remain in effect. In case of conflict between these strategies, the more stringent would apply.

4. Amendments to the Peninsula Halifax Land Use By-law:

These amendments, attached as Appendix B, provide for a new schedule for Downtown Halifax. This will replace the present schedules for the downtown, waterfront and Spring Garden Road areas. Height limits on heritage properties will be similar to the heights of heritage buildings. Height limits will also protect views from the Citadel and proposed heritage conservation districts. On vacant land or past or future development sites, as-of-right height limits will be increased. Beyond the as-of-right heights, or for unusual uses, development agreements will continue to be required. Maximum heights will also be set, except in the Cogswell Street Interchange area and near South Park Street.

5. Heritage Conservation Districts:

Seven heritage conservation districts will be created, with expanded boundaries to include all 126 registered heritage properties. The Barrington Street Historic District Revitalization Plan, approved in principle three years ago by HRM Council, will be adopted.

A Design Plan for Downtown
Appendix A:

This plan has been prepared by the Heritage Trust of Nova Scotia. The Plan is intended to satisfy in part the direction in the Regional Municipal Planning Strategy, Policy EC-3, which requires preparation of a Regional Centre Urban Design Study. The Plan helps define character areas, precincts, and other components of urban design. The Design Plan sets out the design objective for the overall urban form, with regard to character, continuity, enclosure, quality of the public realm, movement, legibility, diversity and adaptability.

This Plan relates to the central part of the Capital District, including the Central Business District, Waterfront Development Area, Old South End, and Spring Garden Road Commercial Area, as shown on the maps.

It is intended that HRM Council would adopt this Plan as a Secondary Planning Strategy to the Regional Municipal Planning Strategy and Halifax Municipal Planning Strategy. This Plan is intended to provide more detailed policies for the area on the maps. It is intended that existing Secondary Planning Strategies will remain in effect. These Strategies include the Halifax Municipal Planning Strategy, particularly Section I, Basic Approach and Overall Objective, Section II, City-wide Objectives and Policies; Section III, Central Business District Objectives and Policies; Section IV, Halifax Waterfront Development Area - Objectives and Policies; Section V, South End Area Plan - Objectives and Policies; Section IX - Spring Garden Road Commercial Area Plan - Objectives and Policies; Section XI, Peninsula North; and the Implementation Policies. Policy EC-2 and subsection 5.1.2 of the Regional Municipal Planning Strategy, mandating development agreements in the Spring Garden Road area, would be superceded and deleted.

A new policy would be inserted in Section II, the City-Wide Objectives and Policies of the Halifax Municipal Planning Strategy, to link this Plan with the Strategy:

8.13: HRM shall promote excellence in urban design in downtown Halifax by means of Section XVI, the Design Plan for Downtown.

Section XVI of the Halifax Municipal Planning Strategy, the Design Plan for Downtown:

Heritage:

H-1: The municipality shall prepare, consider, and adopt heritage conservation district plans under the Heritage Property Act, in order to provide stronger protection for registered heritage properties and their environs.

(a) At the same time as the adoption of this Plan, the municipality shall adopt the Barrington Street Historic District Revitalization Plan, approved in principle by Regional Council in January, 2006.

(b) The municipality shall promptly prepare heritage conservation district plans for the following areas:

(i) the Historic Properties Area, from the west side of Barrington Street to the harbour, from Buckingham Street to Duke Street, but including the adjacent heritage buildings to the south of Duke Street.

(ii) the Old South Suburb, including buildings on Hollis, Bishop, Morris, South, and Barrington Streets, from the Brewery to the train station.

(iii) Province House Square, including buildings on Prince Street, down to the harbour, and buildings on Granville, George and Hollis Streets.

(iv) the monument district, including the Courthouse, the Memorial Library, St. David's Church, and St. Mary's Boys and Girls Schools.

(v) the Citadel district, including Citadel Hill, Royal Artillery Park and buildings across Brunswick, Sackville and Queen Streets from these parks.

(vi) Argyle Street.

H-2: The municipality shall protect heritage buildings using the powers in the Heritage Property Act, and also by limiting the potential sizes of buildings on the heritage properties and in their environs through the Land Use By-law. In particular, the as-of-right height limit on a block shall be set to reflect the height of the lowest heritage building on the block. Regulations shall state that taller buildings may only proceed subject to a development agreement. Agreements shall require the preservation of any heritage building on the site, in accordance with the provisions of Policy CH-1 in the Regional Municipal Planning Strategy. The maximum cornice height of a new building shall be set to reflect the cornice height of abutting heritage buildings. The first storey of a new building shall have the same height as the first storey of an abutting heritage building.

H-3: The municipality shall continue to provide grants for the repair of the exteriors of registered heritage properties and for buildings in heritage conservation districts and shall provide tax credits for exterior repairs and for interior work that is necessary to ensure the continued viability of such buildings.

H-4: The exterior architectural design of new buildings should be complementary to any adjacent registered heritage properties; in such instances, the careful use of materials, colour, proportion, and the rhythm established by surface and structural elements should reinforce those same aspects of the heritage properties.

H-5: The municipality shall continue to encourage the Province to strengthen demolition control for registered heritage properties.

H-6: The municipality shall apply the Heritage Building Conservation Standards when considering applications to alter the external appearance of registered heritage properties.

Views:

V-1: The municipality shall protect views of Halifax harbour from the roadway around Citadel Hill by limiting the maximum heights of buildings. In particular, the visual connection between pedestrians on the roadway and George's Island shall be maintained.

V-2: The municipality shall limit heights between Rainnie Drive and Cogswell Street to maintain a visual connection between Citadel Hill and the Citadel North neighbourhood.

V-3: Roof-top mechanical equipment should be integrated into a single, well-designed structure.

Pedestrian Realm:

P-1: The municipality shall attempt to protect pedestrians from unsafe winds by requiring applications for any development exceeding 60 feet in height to provide a wind impact assessment and by refusing applications where the assessment indicates there would be an increase in the incidence of unsafe winds.

P-2: The municipality shall attempt to maximize the amount of sunlight reaching sidewalks and open spaces and to maximize the amount of sky viewed by pedestrians by limiting the maximum cornice heights of buildings and by requiring the upper portions of buildings to be set back from street lines and lot lines.

P-3: The municipality shall not permit uses except retail and related uses on the ground floors of buildings in the commercial portions of Spring Garden Road, Barrington Street and the Granville Mall, and along the waterfront boardwalk, in order to provide interest and activity for pedestrians. Blank walls shall not be permitted and glazing and articulation shall be required.

P-4: Buildings should be placed close to the sidewalk, except for institutional uses, which should be set back from the sidewalk. The exception does not apply to the Nova Scotia College of Art and Design Granville Street campus.

P-5: Development in the areas considered shall be consistent with the Spring Garden Road/Queen Street Area Joint Public Lands Plan.

P-6: The municipality shall support Argyle Street primarily for sidewalk cafes, street performances, and other street-oriented uses and shall discourage vehicular, through traffic on this street.

P-7: The municipality shall require the installation of underground wiring in association with new developments.

P-8: Traffic calming measures such as chicanes, meridians and plinths for art installations should be included in pedestrian-oriented street layouts to increase safety for pedestrians and cyclists.

P-9: The municipality shall consider conversion of a block of a pedestrian-priority street into a hybrid, festival street with fewer curbs and other obstructions to pedestrian movement.

P-10: The municipality may permit pedways to be constructed to join developments across a street, provided the pedway is constructed underground.

Housing:

R-1: The municipality shall require the provision of at least one family-type housing unit, as defined in the South End Area Plan, for every three non-family units in any new residential building having four or more units.

R-2: In large developments requiring a development agreement, the municipality shall require the provision of one unit of affordable housing for every four housing units in the development. There should be no visual distinction between affordable units and other units.

R-3: Landscaped open space shall be provided for residential developments outside the Central Business District. Family-type units should have direct access to open space.

R-4: The municipality shall encourage the retention of existing units of affordable housing.

Environment:

E-1: The municipality shall promote the conservation of energy and the reduction of the emission of greenhouse gases. For large developments requiring a development agreement, the municipality shall require calculations of the amount of energy to be consumed and the amount of greenhouse gases to be produced both in constructing the development and on an annual basis during operation of the development. Annual building energy consumption should be less than 0.79 Gigajoules per square metre of gross floor area for commercial buildings and 0.31 Gigajoules per square metre for residential buildings.

E-2: The municipality shall, wherever possible, promote the construction and use of renewable energy systems for new developments. These include earth-, air-, and water-source heat pumps, photo-voltaic panels, wind turbines and solar collectors. The municipality shall preserve the access of properties to sunlight by limiting the height and scale of proposed developments that would block sunlight from reaching neighbouring properties. Buildings should be oriented and designed to take advantage of opportunities for passive solar heating and natural lighting.

E-3: The municipality shall not require the provision of parking spaces in individual developments and shall prevent the establishment of new surface parking lots.

E-4: The municipality shall improve facilities for cyclists, including provision of bike lanes, directional signs for cyclists, bike lockers, bicycle parking in public areas and at transit terminals, and provisions for bicycles on buses.

E-5: The municipality shall prohibit the use for exterior cladding and site landscaping of materials with high life-cycle energy costs, those whose manufacture produces large amounts of greenhouse gases, and those which release large amounts of volatile organic compounds, where alternatives can be shown to exist.

E-6: The municipality shall encourage the retention of the fabric of existing buildings and shall give preference to building materials that are produced in the Maritime Provinces, in order to reduce the consumption of energy in transporting the materials.

E-7: The municipality shall discourage building developments with a floor plate wider than 120 feet, to maintain access to natural light for building users.

E-8: The municipality shall encourage the construction of green roofs on new developments.

E-9: The municipality shall promote the inclusion of individual innovative sustainable design strategies in new developments.

E-10: The municipality shall prevent snow loads from new buildings from damaging existing buildings by requiring taller portions of new buildings to be set back from lot lines.

E-11: To prevent damage from rising sea levels and storm surges, the municipality shall not permit occupancy of buildings to the east of Water Street with a floor level within eight feet of the high water mark or within 40 feet horizontally from the high water mark.

Implementation:

IM-1: For the areas identified on the maps, the municipality shall establish such development control regulations as are necessary to implement the policies of this Plan.

IM-2: The municipality shall amend the Land Use By-law to reflect the intent of this Plan.

IM-3: Within the area on the maps, no development permit shall be issued for a development of a greater height than that shown on the As-of-Right Heights Map, or for a parking garage, except under a development agreement pursuant to the Halifax Charter.

IM-4: Council shall consider applications for development agreements expeditiously. Public notice shall be given of a public information meeting soon after the application is complete. The application shall be referred to the Planning Advisory Committee and Heritage Advisory Committee, which will make recommendations soon after the public information meeting. As soon as the reports of these committees and a staff report are available, public notice shall be given of a public hearing.

IM-5: In entering into agreements pursuant to Policy IM-3, Council shall be guided by the policies in this Plan and in the Regional Municipal Planning Strategy and relevant portions of other Secondary Planning Strategies, and shall not enter into agreements that are inconsistent with the policies of these plans.

IM-6: Council shall place a time limit of not more than five years on development agreements.

IM-7: Within the area on the maps, no development permit shall be issued for a development of a height less than or equal to that shown on the As-of-Right Heights Map, except following acceptance of an application for a site plan approval.

IM-8: The municipality shall establish regulations for site plan approvals, including providing for

rights of the public to notification, to information, to be heard and to appeal, and providing for the matters to be considered and for a decision by the Heritage Advisory Committee, for registered heritage properties, properties in a heritage conservation district or proposed heritage conservation district, or properties abutting these properties, and for decision by the Planning Advisory Committee for other properties. The matters to be considered shall be qualitative aspects of the

design and landscaping of the proposed development. These matters shall be reviewed for compliance with qualitative aspects of the Municipal Planning Strategy, the Building Conservation Standards for heritage properties, and any other standards and guidelines adopted by the municipality.

IM-9: The municipality shall ask the Legislature to amend the Charter to allow for time limits on site plan approvals, so that changes in municipal regulations may be applied to new applications for development permits.

IM-10: In the event of a conflict between this Plan and the Regional Municipal Planning Strategy or another Secondary Planning Strategy, the more stringent shall prevail.

Implementation Policies 3.5.1, 3.5.2, 3.5.3, 3.5.4, 3.5.5, 3.5.6, 3.18 and 3.18.1 of the Halifax Municipal Planning Strategy are deleted.

Amendments to the Land Use By-Law - Peninsula Area
Appendix B

The Map of Schedules shall be amended by adding Schedule "R", which shall be the same as the area in the two maps attached.

The current Height Precinct Map shall be amended by adding the heights on the attached As-of-Right Heights Map. In some cases these heights will replace heights on the current height precinct map.

The attached new Maximum Heights Map shall be adopted.

Delete the provisions for Schedules F, G and J, and the present Sections 84, 85, 86, 87, 94(1)(h), 94(1)(p), 97, 97A, 97B, and 100(1).

Insert a new Clause 81, as follows:

81 In any area shown as Schedule "R", any use shall be permitted that is permitted by the zoning designation of such area, provided that:

(a) The heights of buildings shall not exceed the heights shown on the attached Height Precinct Map,

(b) No parking garage shall be permitted.

(c) No parking lot shall be permitted.

(d) On a lot that is a registered heritage property at the date of adoption of this clause, the maximum height shall be the height of any building on the registered heritage property at the date of adoption of this clause.

(e) The maximum cornice height shall be 50 feet, with the following exceptions:

(i) On Spring Garden Road and South Park Street, the maximum cornice height shall be 55 feet,

(ii) On the portions of Brunswick Street and Sackville Street facing the Halifax Citadel National Historic Park, the maximum cornice height shall be 40 feet,

(iii) On Clyde Street and on Queen Street between Morris Street and an extension of the centerline of Clyde Street, the maximum cornice height shall be 30 feet, and

(iv) On lots which are registered heritage properties at the date of adoption of this clause, and on lots with a street frontage abutting such registered heritage properties, the maximum cornice height shall be the cornice height of any building on the registered heritage property at the date of adoption of this clause.

(f) Portions of buildings above the cornice height shall be set back from the street line by one foot for every two feet of height above the cornice, except that, on Spring Garden Road, South Park Street and Clyde Street, and on Queen Street between the extension of Clyde Street and Morris Street, the set back shall be three feet for every two feet of height above the cornice. Where an addition is constructed on the roof of a registered heritage building, it shall be set back one foot from the cornice for every foot of height above the cornice, except as provided in a heritage conservation district by-law.

- (g) The first storey of a new building shall maintain the same height as the first storey of any abutting heritage building.
- (h) Any building or building addition resulting in a height exceeding 60 feet shall only be permitted following consideration of its wind impact pursuant to Clause 82.
- (j) Any portion of a building exceeding 110 feet in height shall be set back 25 feet from all lot lines and shall have a maximum width of 125 feet. Lower portions of buildings shall have one dimension, width or depth, that does not exceed 120 feet.
- (k) Where a building is constructed, or where an increase in building height is proposed, on a lot abutting a lot with an existing building, portions of the new or altered building within 16.5 feet of the existing building shall not exceed the height of the existing building.
- (l) The following exterior cladding materials shall be prohibited: plastic, including vinyl siding, plywood, concrete, exterior insulation and finish systems where stucco is applied to rigid insulation, metal siding utilizing exposed fasteners, darkly tinted or mirrored glass, and non-wooden framed windows on registered heritage properties or properties located within a heritage conservation district.
- (m) Only those uses listed below shall be permitted on the ground floor of a building in a C-2 zone immediately abutting Barrington Street north of Salter Street, Spring Garden Road west of Brunswick Street, and the block of Granville Street between Duke and Buckingham Streets: banks and related uses, cultural uses, eating establishments, licensed alcohol establishments, personal service uses, retail uses and uses accessory to the foregoing. The first storey, facing the street, shall have at least 50% glazing. Notwithstanding this sub-section, pedestrian entrances and lobbies associated with any permitted C-2 use may face and have access to these streets.
- (n) On the ground floor of a building facing a street or facing the high water mark, blank walls shall not be permitted, nor shall any mechanical or utility functions (vents, trash vestibules, propane vestibules, etc.) be permitted.
- (o) The ground floor of a building constructed for a commercial use shall have a maximum set back from the street line of two feet.
- (p) Buildings erected as multiple unit dwellings shall be required to include at least one dwelling unit containing not less than two bedrooms for every three dwelling units, or part thereof, containing less than two bedrooms.
- (q) Residential uses shall have direct access to the exterior ground level separate from any non-residential use.
- (r) Residential uses outside the Central Business District shall provide at least 110 square feet of landscaped open space for each residential unit.
- (s) The owner of a building hereafter erected for use as an apartment house shall not be required to provide accommodation for the parking or storage of motor vehicles.
- (y) Council may, after public hearing and by resolution, approve any specific development requested which would not otherwise be permitted by Sections 81(a) or (b), provided that no approval shall be given inconsistent with the Municipal Planning Strategy, or inconsistent with Sections 7, 24, 26A, 26B, 81(c) to 81(s), 82, 84, or 85 of this by-law and that no approval shall be given for a building with a height greater than that on the Maximum Heights Map.
- (z) Approval by Council under subsection (y) above shall only be granted subject to the condition that the registered owner of the land upon which the development is to occur shall enter into an agreement with Council containing such terms and conditions as Council may direct.

82. Any application for a development permit or development agreement in Schedule R that would result in a building exceeding 60 feet in height shall be accompanied by a wind impact assessment prepared by a qualified professional. The wind impact assessment shall address the impact of the proposed development on parks, plazas, sidewalks, pedestrian walkways, building entrances, and private amenity spaces within a distance from the lot equal to the height of the proposed building. The assessment shall address winds with the existing buildings and features on the lot and on lots within a distance equal to the height of the proposed building. The assessment shall also address winds with the proposed development in place. The assessment shall estimate the possible occurrence of unsafe winds in the above-noted areas, and shall describe the methodology and standards used in the assessment. A permit shall not be granted if the assessment indicates that there would be an increase in the incidence of unsafe winds in the above-noted areas.

84. For lands in the portion of Schedule R to the east of Lower Water Street and Upper Water Street, the following additional provisions shall apply:

- (a) No occupied portion of a building shall be less than an eight-foot elevation above the ordinary high water mark.
- (b) No building shall be constructed less than 40 feet from the ordinary high water mark.
- (c) An exterior building wall facing the ordinary high water mark shall have a maximum height of 40 feet. Portions of a building farther from the high water mark may increase in height by one foot for every foot that the portion of the building is farther from the high water mark.
- (d) The width of a building face parallel to the ordinary high water mark shall not exceed 70 feet.

85(a) An application for a development permit that does not require a development agreement in Schedule R shall be preceded by an application for site plan approval. Notwithstanding this subsection, repairs, changes to the interiors of buildings, replacement of damaged or deteriorated features, accessory buildings and structures, signs, decks, lighting, and changes to landscaping shall not require site plan approval.

(b) Before submitting an application for site plan approval, an applicant shall hold a public information meeting.

(c) Notification of the public information meeting shall be given to owners of property within 30 metres, or three times the height of the proposed development, whichever is greater, from the boundaries of the site of the development, and shall be published in a newspaper circulating in the area, and shall be posted on the HRM web site. The notification shall be at least seven days before the date of the meeting, and shall give the location and date of the meeting.

(d) An application for site plan approval shall include a ground plan, showing lot lines, the location of structures, utilities, vehicle access, parking, landscaping, walkways, etc., and four elevations of any structure to be erected or substantially altered in exterior appearance. The application shall describe the materials and colours to be used. The application shall be accompanied by a fee, to be set by the Council.

(e) When an application for site plan approval has been received, the municipality shall give notice to property owners, and in a newspaper, and on the web site, in the same manner as described in subsection (c). The notice shall indicate the place where and times when the public may inspect the application and the address to which written comments may be sent, and the date of a meeting of the Planning Advisory Committee or Heritage Advisory Committee at which the matter will first be considered.

(f) The municipality shall refer the application and any written comments from the public to the Planning Advisory Committee. If the site includes a registered heritage property, abuts a registered heritage property, or is located in a heritage conservation district, the application shall instead be referred to the Heritage Advisory Committee.

(g) The Committee shall consider the following matters: colour, quality and choice of materials, compatibility with adjacent buildings, proportions, sizes and shapes of windows, placement of doors and windows, proportion of window to wall, texture, roof shape, quality of architectural detailing, and chimneys. The Heritage Advisory Committee shall also consider matters addressed in the Heritage Building Conservation Standards and any applicable heritage conservation district plan. The Committee shall decide if the application should be accepted or refused and shall present its decision to the development officer.

(h) The Committee shall not consider the proposed use of the property nor quantitative matters covered by other sections of this by-law, such as height or lot coverage.

(i) If the application is rejected, the development officer shall notify the applicant in writing. If the application is accepted, the development officer shall give notice to property owners, and in a newspaper and on the web site, in the same manner as in subsection (c). The notice shall indicate that the matter may be appealed to Council by an interested person, and shall give instructions for filing an appeal.

(j) Following any appeals, or in the absence of an appeal, if the application is accepted, the applicant may enter into an undertaking to carry out the development in the manner described and may apply for a development permit. The undertaking shall address the matters considered under subsection (g) and shall not address those listed under subsection (h).

Add the following to the definitions section of the Land Use By-law:

Cornice height means the vertical distance between the top of a vertical building wall, closest to a street and facing a street, and the mean grade of the street abutting the property.

Historic norms on a height map shall mean the height of a building existing on the site or of a building that can be shown to have existed on the site in the past.

