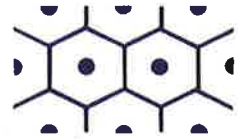


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# *newsletter*

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## Update

We are currently reviewing our mailing list. Newsletter is directed to a broadly based group located, principally, in Nova Scotia and Prince Edward Island. They include property owners and investors, developers, real estate brokers, appraisers, planners, mortgage and trust officers, lawyers and accountants. Since they are such a catholic body, there is no central source that we can use to update our mailing list. In fact, we attempt to keep it current from our own knowledge of the real estate industry and by diligently following newspaper announcements. However, approximately one-third of our 700 readers change every year and it is also necessary to carry out an annual review. This is achieved through a telephone poll and a review of the telephone directory yellow pages. If you want to ensure that you continue to receive Newsletter, please drop us a line or telephone our secretary, Gertie (429-1811).

## Land Use Planning

### The Motherhood Issue

Planning, like race, language and religion, is something which never receives proper scrutiny by the public. The case for it is so clear that, as with the other topics mentioned, there is a reluctance to explore its negative aspects since the party doing so runs the risk of being labelled a red neck, bigot, greedy developer, or other equally repugnant aphorism. The positive aspects of planning are easily depicted in terms of black and white; its negative aspects are various shades of grey and being much more subtle, are less susceptible to debate since they are easily exposed to ridicule in public forum. Unfortunately the only time they do appear to receive exposure is when an individual property owner is restricted in the existing or proposed use of his property. It is then a case of the planned against the people, self interest versus public interest; "unfortunate for Joe Blow but as long as it doesn't affect us, why should we worry".

We do have planning procedures which are designed to give Joe Blow his say when the plan was being prepared. They are diligently followed by earnest and hardworking planners anxious, nay craving, for public input. Unfortunately, they are generally attended by the same group of people month after month. Joe Blow wasn't there because he didn't think it would affect him and anyway, the only time he's ever had to speak in public was at his wedding and he's not anxious to repeat that experience again (the speech, not the wedding).

### Downzoning - Expropriation by Stealth or Private Sacrifice for Public Good?

As population pressures increase and urbanization compounds the problem, we continually seek a rational way of balancing our conflicting needs for land. The Greeks started it and it's a sobering thought that it has taken us 2,000 years to reach our present position. There is little doubt that the first faltering steps produced zoning maps designed to offend nobody and please everybody.

The present readjustments of those maps are attempts in part to rectify earlier sins, as well as to attune them to changed circumstances, demands and land use patterns.

The efforts of the City of Halifax are atypical:

### View Planes

The first major downzoning of recent years was the View Plane legislation. Designed to protect views of Halifax Harbour from Citadel Hill, it was so obviously well motivated that it struck an enthusiastic and responsive chord with the citizens at large. However, the effect of the View Plane legislation was to redistribute property values (Newsletter Vol. 1, No. 5) by decreasing the value of land below the View Planes, thus increasing it elsewhere. The View Plane issue did receive a substantial public airing. Indeed, at the public meetings we attended, the principal concern appeared to be whether the proposed View Planes adequately protected the views of the Harbour. We do not recall any study designed to determine if the unfortunate property owners below the View Planes should receive compensation for the loss of their redevelopment rights.

### Municipal Development Plan

The long heralded Municipal Development Plan also removes a portion of the property owner's bundle of property rights. Areas of the City, and this includes a major part of it, which require detailed area planning are placed in a 'hold' position or are subject to height restrictions pending production of a Detailed Area Plan. These restrictions are included in Schedules which now form part of the Zoning By-Law. Thus, land in much of the South End (Peninsula of Halifax), for example, cannot be redeveloped with buildings having a greater height than 35 ft. (10.7 m) without Council approval, no matter what their present zoning. Since this is an interim measure to gain time while a Detailed Area Plan is produced, it is difficult to fault it. However, the Detailed Area Plans in their present draft often presage future downzoning; for example, commercial to residential, high density residential to low, and so on. The Old South End Detailed Area Plan now produced for public discussion in draft form, also includes a height restriction of 45 ft. (13.72 m) for certain areas. It also envisages new types of hybrid residential/commercial zoning. In certain cases, these will replace the present "General Commercial C-2" zone with what is effectively a multiple family zone with commercial space on the ground floor (RC-3 Zone), subject to a height restriction of 45 ft. (13.72 m). In many cases this will result in a decrease in the value of the property, coupled with a countermanding increase in the value of other property rezoned upwards or unaffected by the zoning changes.

### Compensation for Downzoning - Betterment Tax for Upzoning?

There is no provision in the present Provincial Planning Act to compensate a property owner for losses incurred because of downzoning. Indeed it is specifically excluded. A brief was submitted recently to the Planning Act Review Committee by the Nova Scotia Chapter of the Appraisal Institute of Canada advocating this type of compensation. The brief also suggested that the owner of the land be given the opportunity of selling his property to the local planning authority if the downzoning had resulted in it having no remaining beneficial use. In theory of course, compensation for downzoning should be funded by a betterment tax imposed on the property owners who have been upzoned. A similar type of betterment has been attempted in the United Kingdom. In our humble opinion, it has been a dismal failure.

### Compuval

Straddled by a View Plane? Help is at hand! We now have a computer program which calculates the allowable building height under a View Plane, given the location of the land (northing/easting), height of the land above Canadian Geodetic Datum, and View Plane number. This program is especially useful for a sloping site where it is necessary to calculate the permitted building height above existing ground level at several points on the lot.