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Heritage Advisory Committee  
December 10, 2014

**TO:** Chair and Members of the Heritage Advisory Committee  
Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Bob Bjerke, Director, Planning and Development Services

**DATE:** November 21, 2014

**SUBJECT:** Case: H00405: Deregistration of 1245 Webster Terrace, Halifax

**ORIGIN**

Request by Mr. Duncan Harvie

**LEGISLATIVE AUTHORITY**

*The Heritage Property Act*

**RECOMMENDATION**

It is recommended that the Heritage Advisory Committee recommend that Regional Council:

1. Set a public hearing date to consider the deregistration; and
2. Deregister 1245 Webster Terrace (Lot 2-CD), Halifax as a municipal heritage property.

## **BACKGROUND**

A request has been made by Duncan Harvie on behalf of the property owners, Victoria Anne Harwood and Lee Fraser Harwood as Trustees for the Harwood Principal Residence Holdings Trust, to deregister 1245 Webster Terrace, Halifax as a municipal heritage property (Map 1). The subject property was registered by the former City of Halifax following a Council meeting on December 11, 1981, and is subject to a heritage agreement approved by Council on April 23, 1996 (document #37517). The owners are requesting the heritage designation be removed as per the provisions of the heritage agreement. To remove the heritage registration on the property, Council must hold a public hearing in accordance with the *Heritage Property Act*.

### Heritage Agreement

The April 23, 1996 heritage agreement (document #37517) permitted for the subdivision of the property, thus creating 4 new single family dwelling lots, and one remainder lot for the historic house known as the Sir Sandford Fleming Lodge. The agreement outlines the design criteria for the new dwellings, a tree retention plan, and limits height of the new buildings.

Additionally, the heritage agreement provides for the permanent protection of the Lodge whereby the owners have permanently waived section 18 (application to alter or demolish) of the *Heritage Property Act*, and they are “obligated to maintain the exterior of the main lodge as may be reasonable required”.

Subsequently, there have been two amending agreements as follows:

- On July 17, 1996, Regional Council approved amendments to the heritage agreement (document #36153) permitting an increase in the number of new single family dwelling lots from 4 to 6, and required that a one acre parcel of land be retained surrounding the historic Sir Sandford Fleming Lodge to provide a better historical context; and
- On June 17, 1997, Regional Council approved a second amending agreement (document #16388) permitting the consolidation of Lot 2-C and Lot 2-D into one new single family lot (Lot 2-CD), thereby reducing the total number of new single family dwelling lots from 6 to 5.

In addition to permitting the subdivision of the land, the heritage agreement also required the municipality to de-register each of the new, single family lots upon meeting two conditions: 1) a building permit must be issued, and 2) the new dwelling must be construction to a ‘weather tight’ condition. To date, all but one of the new, single family lots have been de-registered:

- On November 18, 1997, Regional Council approved the deregistration of Lot 2B-1;
- On March 9, 1999, Regional Council approved the deregistration of Lot 2E-3; and
- On January 18, 2000, Regional Council approved the deregistration of Lots 2E-2 and 2A-1.

The only remaining lot that has not been de-registered is the consolidated Lot 2-CD (1245 Webster Terrace), which is the subject of this report.

### Heritage Property Act

Section 16 of the *Heritage Property Act* outlines the process and conditions that must be met when considering a deregistration request, and states:

*“Deregistration of municipal heritage property:  
16 (1) On the application of an owner of a municipal heritage property or on its own motion,  
the council may deregister a municipal heritage property where:*

*(a) the property has been destroyed or damaged by any cause; or*

*(b) the continued registration of the property appears to the council to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner, after holding a public hearing to consider the proposed deregistration.*

*(2) Such a public hearing shall be held not less than thirty days after a notice of the hearing is served on the registered owner of the municipal heritage property and published in a newspaper circulating in the area.*

*(3) Where a municipal heritage property is deregistered, the council shall cause notice of the deregistration to be sent to the registered owner of the property and a copy thereof to be deposited in the registry of deeds for the registration district in which the property is situate. R.S., c. 199, s. 16; 2010, c. 54, s. 12.”*

## **DISCUSSION**

Staff advise that clause 16(1)(b) of the *Heritage Property Act* was satisfied when Council approved the original 1996 heritage agreement. It determined that the continue registration of the single family dwelling lots would be inappropriate once the construction of new dwellings had occurred. A new dwelling has been built on Lot 2-CD (1245 Webster Terrace), and as such the proposed deregistration is consistent with the agreement and should be approved.

The conditions outlined in the 1996 heritage agreement have been met: a building permit was issued in June of 2000, and a new dwelling has been constructed. The current owners are asking that the municipality fulfill the terms of the agreement and approve the request to deregister the property.

Staff have reviewed the request to deregister 1245 Webster Terrace and have determined that the request is consistent and in accordance with the existing agreement and the *Heritage Property Act*.

## **FINANCIAL IMPLICATIONS**

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

## **COMMUNITY ENGAGEMENT**

Community engagement, as described by the Community Engagement Strategy, is not applicable to this process. The procedure for public consultation is mandated by the *Heritage Property Act*. Council may consider the proposed deregistration after advertising and holding a public hearing on the matter.

## **ALTERNATIVES**

The Heritage Advisory Committee could recommendation that 1245 Webster Terrace not be deregistered; however, this would be contrary to the provision of the heritage agreement.

**ATTACHMENTS**

Map 1:            Location Map

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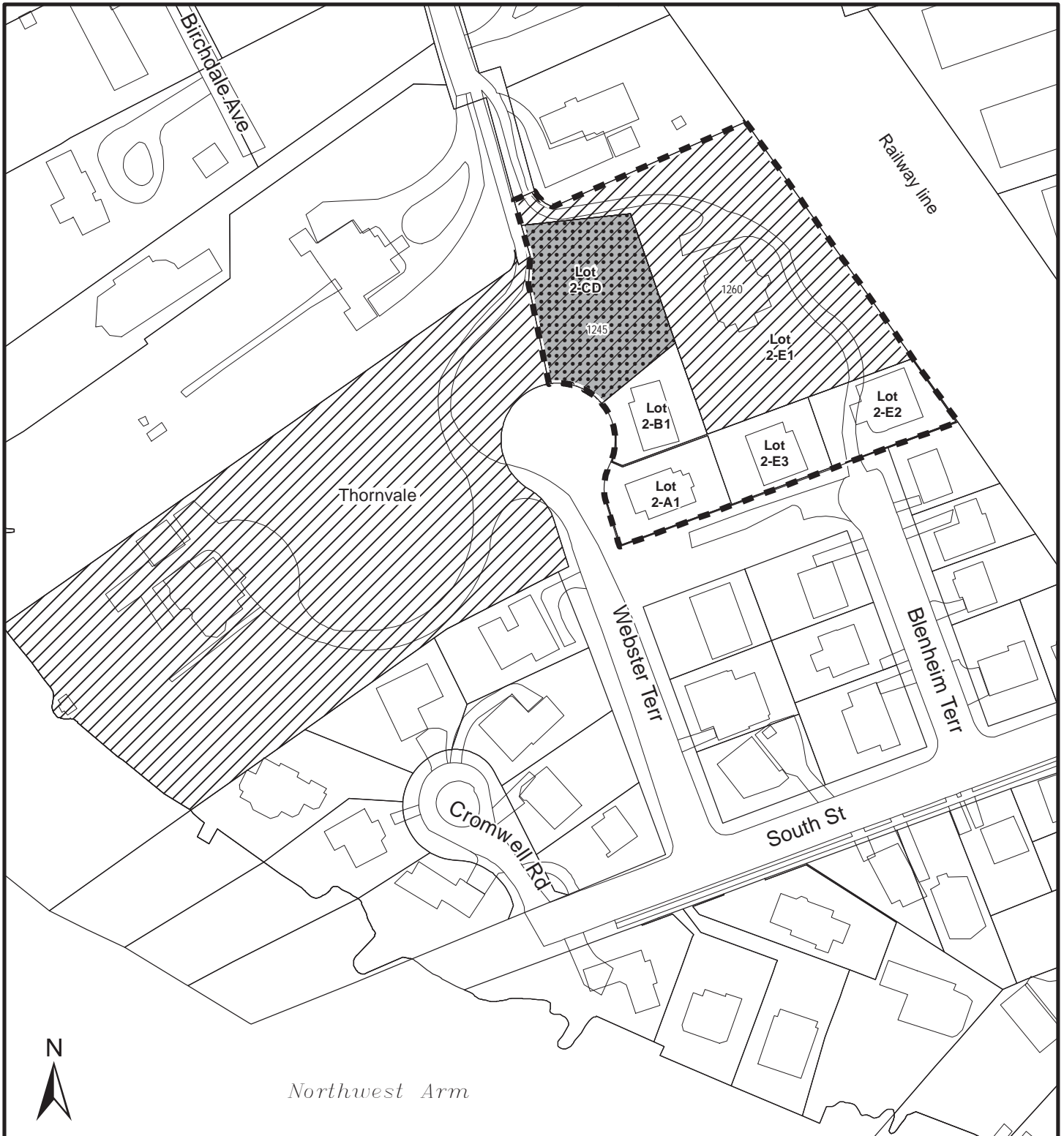
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at (902) 490-4210, or Fax (902) 490-4208.

Report Prepared by:        Maggie Holm, Heritage Planner, (902) 490-4419

**Original Signed**




Report Approved by:        \_\_\_\_\_  
   Kelly Denty, Manager of Development Approvals, (902) 490-4800

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### Map 1 - Location

1245 Webster Terrace

-  Area to be deregistered (Lot 2-CD)
-  Existing Municipally Registered Heritage Properties
-  Original Sir Sanford Fleming Lodge property

Halifax Peninsula  
Land Use By-Law Area

**HALIFAX**



The accuracy of any representation on this plan is not guaranteed.