



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

9.1.1

Halifax Regional Council
April 8, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: P. MacLellan
Allan MacLellan, Chair
Heritage Advisory Committee

DATE: April 1, 2003

SUBJECT: Case H00103 - Request for De-Registration of Lot # 2, (known as 6957 Armview Avenue) 6941 Tupper Grove, Halifax

ORIGIN

March 26, 2003 Heritage Advisory Committee meeting.

RECOMMENDATION

The Heritage Advisory Committee **recommends** that Regional Council:

- 1) Set the date of Tuesday, May 13, 2003, for a Public Hearing to provide consideration for the de-registration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax; and,
- 2) Approve the deregistration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax, as shown on Map 1 of the staff report dated March 7, 2003.

**PLEASE RETAIN REPORT
FOR PUBLIC HEARING**

BACKGROUND

This matter was discussed at the March 26, 2003 meeting of the Heritage Advisory Committee.

DISCUSSION

See attached draft minute extract of the March 26, 2003 meeting of the Heritage Advisory Committee.

ATTACHMENTS

- 1) Draft minute extract from the March 26, 2003 meeting of the Heritage Advisory Committee.
- 2) Staff report to the Heritage Advisory Committee dated March 7, 2003.

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: Patti Halliday, Legislative Assistant

Report Approved by: Allan MacLellan, Chair, Heritage Advisory Committee

EXTRACT FROM DRAFT MARCH 26, 2003 HERITAGE ADVISORY COMMITTEE MINUTES:

3. REPORTS

3.1 H00103 - Request for De-Registration of Lot # 2, (known as 6957 Armview Avenue) 6941 Tupper Grove, Halifax

- A staff report prepared for Jim Donovan, Manager, Planning Applications, dated March 7, 2003, regarding the above, was before the Committee for its consideration.

With the use of overheads, Mr. Barrett, Heritage Planner, presented the staff report to the Committee.

In response to a question of Mr. Creighton, Mr. Barrett stated the reason for the application for de-registration is that a new building has been constructed on the site and under the approved development agreement the owner has the ability to request the de-registration.

MOVED by Councillor Sue Uteck, , seconded by Mr. Jim Trites, that the Heritage Advisory Committee recommend to Regional Council that:

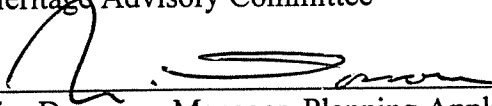
- (a) a public hearing be set to provide consideration for the de-registration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax; and,**
- (b) Regional Council approve the deregistration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax, as shown on Map 1 of the staff report dated March 7, 2003. MOTION PUT AND PASSED UNANIMOUSLY.**

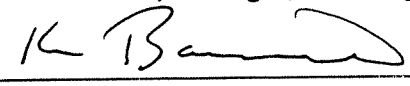


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Heritage Advisory Committee
March 26, 2003

To: Heritage Advisory Committee

Submitted by: 
Jim Donovan, Manager, Planning Applications


Kevin Barrett, Heritage Planner, Planning & Development Services

Date: March 7, 2003

Subject: H00103 - De-registration of Lot #2 (known as 6957 Armview Avenue),
6941 Tupper Grove, Halifax, as a Registered Heritage Property.

STAFF REPORT

ORIGIN

Anthony Metlej has made an application requesting consideration to deregister his property at 6957 Armview Avenue, Halifax.

RECOMMENDATION

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

- (a) a public hearing be set to provide consideration for the deregistration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax; and
- (b) that Regional Council approve the deregistration of Lot #2 (known as 6957 Armview Avenue), 6941 Tupper Grove, Halifax, as shown on Map 1.

BACKGROUND

On February 12, 2003, Anthony Metlej made an application to have his home at 6957 Armview Avenue deregistered (see Attachment 1). The request was made as per an approved Development Agreement (Case 6372, approved April, 1992). This Agreement (Clauses 1 and 2) permitted the creation of two new lots (Lots #1 and 2) on the property known as 6941 Tupper Grove, as well as the ability to deregister these two lots once new buildings were completed (see Attachment 2). Upon review of the file, Lot #1 (known as 6959 Armview Avenue) was deregistered by Council on March 20, 1996, following a public hearing.

Under the Heritage Property Program, all applications for deregistration are made as per a Level 3 Design Review Process. Before such consideration be given, the Municipality's Heritage By-law (H-200), Section 4(1) requires the Heritage Advisory Committee (HAC) to review the application and make a recommendation to Regional Council. This process requires the proposal be reviewed by staff with a recommendation from the Heritage Advisory Committee (HAC). To provide a basis for the review, a staff report is developed that evaluates the proposal and provides a recommendation to the HAC.

As per Section 16(2) of the Heritage Property Act, before Council can consider the deregistration request from the property owner, a public hearing shall be held not less than thirty (30) days after notice of the hearing is served on the registered owner of the municipal heritage property and published in a newspaper circulating in the area.

6941 Tupper Grove

This property, known as the 'Armdale', was built in 1865 for Sir Charles Tupper, Father of Confederation, former Premier of Nova Scotia and Prime Minister of Canada. (see Attachment 3). It was owned and occupied by the Tupper family until 1916, then sold to F. W. Bowes who converted this Victorian home into a hotel, and added two wings to the main house. Currently, the stately home is now used residential apartments, and the grounds have been subdivided with two new residential building lots. The property has been registered since November, 1981.

DISCUSSION

By-Law Number H-200

As defined in the Municipality's By-Law Number H-200, the Heritage Advisory Committee shall advise Council on the deregistration of heritage properties.

Policy Analysis: Section 16, Heritage Property Act - 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,

after holding a public hearing to consider the proposed deregistration.

As per the approved Development Agreement for this property, the owner of Lot #2 (known as 6957 Armview Avenue) has the ability to request the deregistration. Given this lot was created in 1992, and the new structure that was built on this lot was in conformance to the terms of the Agreement, staff feel the request should be supported.

BUDGET IMPLICATIONS

There are no budget implications for this application.

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

Staff recommend the Heritage Advisory Committee provide a positive recommendation to Regional Council. However, should the Heritage Advisory Committee recommend not to deregistration this property, the Report will be forwarded to Regional Council for review.

ATTACHMENTS

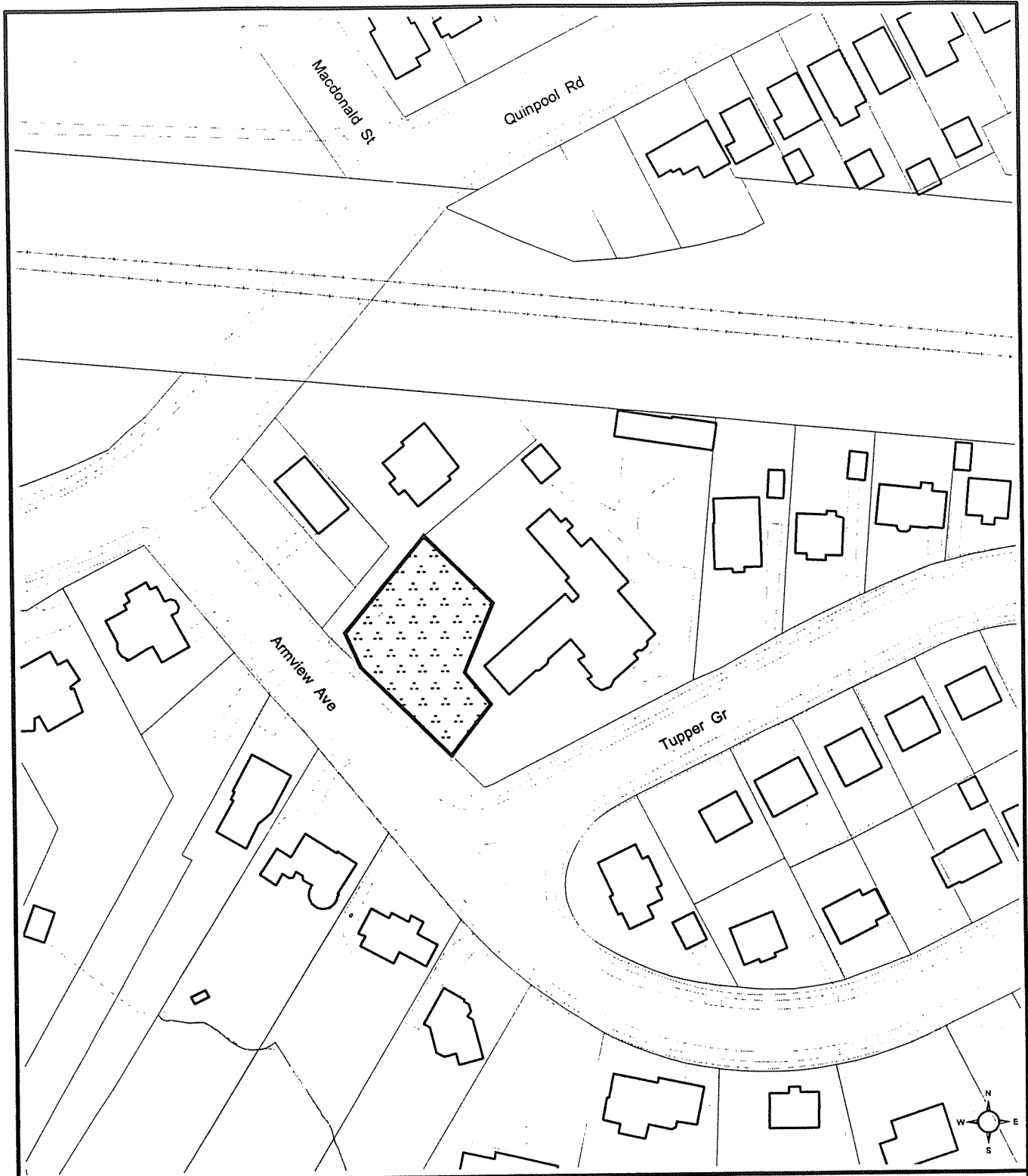
Map 1: Site Plan - 6957 Armview Avenue, Halifax

Attachment 1: Letter from property owner, dated February 12, 2003.


Attachment 2: Excerpt, Development Agreement (Case 6372) - approved, April, 1992.

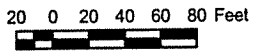
Attachment 3: Photos - 6941 Tupper Grove and 6957 Armview Avenue, Halifax.

Further Information regarding the contents of this report may be obtained by contacting Kevin Barrett, Heritage Planner at 490-4419. For additional copies or information on the report's status, please contact the Municipal Clerk's Office at (tel) 490-4210 or (fax) 490-4208.



Map 1 - Location Map
 6957 Armview Avenue
 Halifax
 Halifax Plan Area

 Subject area under consideration
 for heritage de-registration



HALIFAX
 REGIONAL MUNICIPALITY
 PLANNING AND
 DEVELOPMENT SERVICES

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

BLOIS, NICKERSON & BRYSONBARRISTERS & SOLICITORS
Since 1864

ATTACHMENT # 1

FRANKLYN W. CORDON, Q.C.
S. BRUCE OUTHOUSE, Q.C.
GORDON R. KELLY
COLIN D. BRYSON
GLENN R. ANDERSON
ELIZABETH A. WHELTON
PHILIP S. GRUCHY
KIM A. JOHNSON
JULIE E. SMITH

WILLARD STRUG, Q.C.
ROBERTA J. CLARKE, Q.C.
THOMAS M. MACDONALD
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S. DAVID BRYSON, Q.C., COUNSEL, ret'd

* also of the Ontario Bar

* also of the Newfoundland Bar

February 12, 2003

VIA FACSIMILE: 490-4406

Kevin Barrett
Halifax Regional Municipality

Dear Kevin,

RE: De-registration of 6957 Armview Avenue

Further to our conversation today, kindly accept this as confirmation that our client Anthony Metlej, as owner, would like to have the above noted heritage property de-registered. The property was legally subdivided from the provincial heritage property at 6941 Tupper Grove and a new home was constructed on the lot. By an agreement signed by Mr. Metlej and the City of Halifax in April, 1992, the City on its own motion agreed to make application after the signing of the agreement and the legal subdivision of the property to de-register that portion of the property upon which the new house was constructed.

I trust the foregoing is satisfactory. Please contact me should you require anything further.

Yours truly,

Blois, Nickerson & Bryson



Elias A. Metlej

/eam

Registered:

Book. 5221

1036

Excerpt, Development Agreement (Case 6372) - approved, April, 1992.

ATTACHMENT # 2

1036

THIS AGREEMENT made this 16th day of APRIL, 1992

BETWEEN

ANTHONY METLEJ of Halifax, in the County of Halifax and Province of Nova Scotia (herein referred to as the "Developer")

and

CITY OF HALIFAX, a municipal body corporate (herein referred to as the "City")

APPROVED
AS TO FORM


City Solicitor

WHEREAS the Developer is the registered owner of a property situated at civic number 6941 Tupper Grove (the Historic Tupper House), together with the adjacent properties described as lot one and lot two, as depicted in a survey plan entitled "Plan of Survey of Lot 1, Lot 2 & Lot 3, Subdivision of Lands Conveyed to Anthony Metlej" prepared by R.K. Carrick and dated the 3rd day of September, 1991, which plan is attached hereto as Schedule "A" and forms a part of this Agreement (herein referred to as the "property");

AND WHEREAS the property is registered as a municipal heritage property pursuant to the Heritage Property Act, R.S.N.S. 1989, c. 199;

AND WHEREAS the Developer has an as-of-right potential under the Land Use Bylaw to legally subdivide the registered historic property into three single family lots;

AND WHEREAS the Developer wishes to substantially alter the property by constructing at this time two new single family dwellings;

AND WHEREAS any such alteration to the existing property requires the approval of the Council of the City pursuant to Section 17 of the Heritage Property Act;

AND WHEREAS the City may enter into an Agreement with the owner of a registered municipal heritage property whereby the owner may grant to the City specified rights or incur specified obligations respecting the use, preservation or protection of the heritage property pursuant to Section 20 of the said Act;

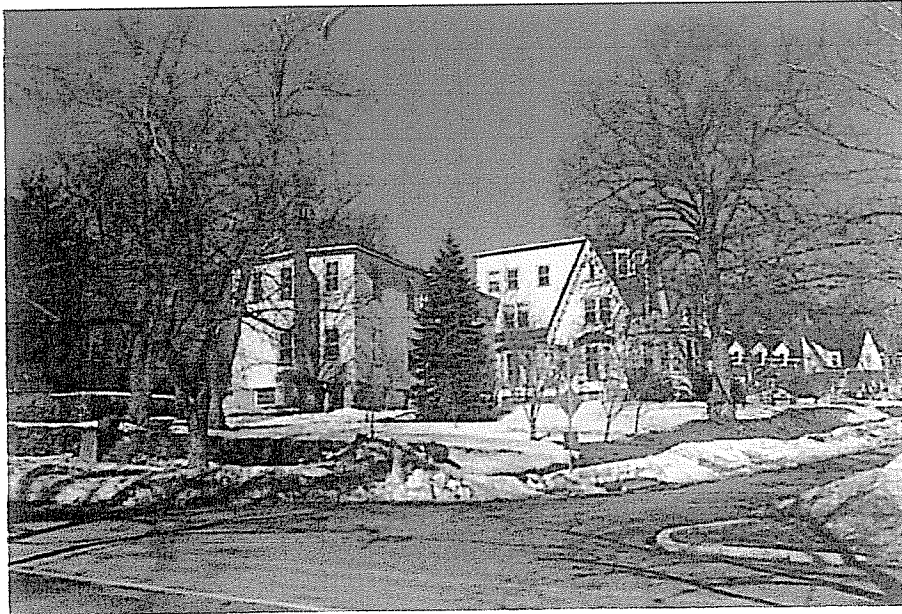
AND WHEREAS after receiving a written report and recommendation from the Heritage Advisory Committee, the Council of the City by resolution adopted the _____ day of _____, 1992, approved the proposal of the Developer to make alterations to the property and the entering into this Agreement by the City;

NOW THEREFORE in consideration of the premises and of the mutual agreements and covenants herein contained the parties hereto agree as follows:

1. The City approves the application of the Developer to substantially alter the property by constructing two new single family dwellings, so long as any and all such alterations are limited to this specified purpose, and in accordance with the design drawings numbered 6372/18732 to 6372/18735 inclusive, which are attached hereto as Schedule "B", forming part of this Agreement.

2. The City of its own motion agrees to make application after the signing of this Agreement and the legal subdivision of the property, to de-register that portion of the property upon which the two new houses are constructed. Advertising fees for notice of deregistration to be paid by developer.

.../2



**6941 Tupper Grove
"Armdale"**



**6957 Armview Avenue
March 7, 2003**