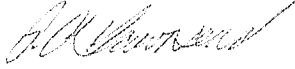


Peninsula Community Council
February 13, 2011

TO: Chair and Members of Peninsula Community Council

SUBMITTED BY: 
Phillip Townsend, Director, Planning and Infrastructure

DATE: January 26, 2012

SUBJECT: Interim Land Use By-Law Changes for Schmidville

INFORMATION REPORT

ORIGIN

On June 13, the Peninsula Community Council passed the following motion:

“MOVED by Councillor Uteck, seconded by Councillor Watts that staff, in consultation with Legal Services, provide a report outlining development controls that could be immediately put in place in the historic area of Schmidville, until such time that it is slated for review as a heritage conservation district.”

BACKGROUND

Schmidville is an historic area within the South End of Halifax that is generally located, as shown on Map 1 of Attachment A.

Friends of Schmidville is a community group that has made requests that Council initiate a project to establish a heritage conservation district for Schmidville, most recently through a presentation to the Peninsula Community Council at a meeting on June 13, 2011. At the meeting, it was noted that such a project was not foreseen in the immediate future as a result of competing priorities to establish heritage conservation districts in other areas. In response to this, the Peninsula Community Council has asked if there are possible planning amendments that might serve to prevent possible inappropriate development as an interim measure.

The idea of establishing a heritage conservation district has been promoted in the past and was the subject of an information report to Regional Council in 2009 (Attachment A).

DISCUSSION

Heritage conservation district by-laws typically control demolitions and the alteration of the heritage character defining elements of buildings, which in addition to major features, may also include doors, windows, corner boards, trim and other detailed building elements. Land use by-laws *may* control the appearance of buildings but they are typically cumbersome at addressing such detailed features. Furthermore, the amount of work in devising a land use by-law scheme to address these matters would be equal to that which would be required to establish a heritage conservation district.

In the absence of a heritage conservation district, it might be reasonable to amend a land use by-law if current zoning allowances were not effective for the area and resulting in demolitions or inappropriate changes to buildings. This does not appear to be the case in Schmidtville.

South of Clyde Street, Schmidtville is almost exclusively in the R-2A Zone; a zone which is designed to promote the retention of existing dwellings while allowing for additions that are primarily to the rear of buildings. Based on a review of building permit activity over the past five years, it is observed that there have been no demolitions and the vast majority of permits have been for renovations that have not seemingly led to the removal of heritage character defining elements from buildings. This circumstance does not negate the identified need to proceed with a project to establish a heritage conservation district. Schmidtville is an area of HRM that should have special heritage regulations to address its built-form character. However, Land Use By-Law amendments are not viewed as being necessary or appropriate.

Land Use By-Law Amendment Options

If seen as desirable to proceed with planning amendments, HRM could enact land use by-law measures, supported by municipal planning strategy policies, which could prevent new buildings, additions and even the alteration of fine details of buildings, except by development agreement. Proposals would then be evaluated against criteria that would serve to ensure that additions or alterations are consistent with the character of an existing building. This would, however, result in considerable expenses and relatively lengthy processes to undertake what in the area, at least over the past five years, has seemingly been reasonable renovations. It is also important to note that pursuant to the section of the HRM Charter that governs what may be controlled through land use policies and regulations, the demolition of buildings could not be addressed.

Planning amendments that might serve to prevent possible inappropriate changes to buildings in Schmidtville, as an interim measure, simply do not seem to be warranted at this time.

Concerns about Planning Policy and Regulation Changes

Part of the rationale behind the Friends of Schmidtville's desire to establish a heritage conservation district, is to gain an additional measure of protection against any future proposals for the wholesale demolition of dwellings to accommodate a large residential or commercial development. Any such proposals would necessitate significant changes to HRM's planning policies and regulations, that Regional Council would have complete discretion in considering. Given the recognized desire to establish a heritage conservation district, it is difficult to understand why such amendments would be initiated.

Priority for a Schmidtville Heritage Conservation District

Project work on establishing a Schmidtville heritage conservation district is not underway at this time, as heritage staff are focused on completing preliminary work for possible heritage conservation districts for the Barrington South and Historic Properties areas, pursuant to the priorities set-out in the Downtown Secondary Municipal Planning Strategy. At this time, staff resources are concentrating on the Regional Centre Plan. It is envisioned that the priority for establishing a heritage conservation district for Schmidtville will be discussed through the Regional Plan review process.

Consultation with Legal Services

Pursuant to the motion of Council, this report was prepared in consultation with Legal Services.

BUDGET IMPLICATIONS

The costs associated with this planning 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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

Community engagement for the writing of this report has been limited to the review of submissions from the Friends of Schmidtville and other background reports and presentations. Considerable community engagement will occur at the time in which the project to establish a potential heritage conservation district is initiated.

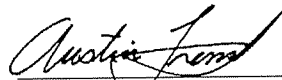
ATTACHMENTS

Attachment A, February 3, 2009, Information Report

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

Report Prepared by: Richard Harvey, Senior Planner, 490-5637

Financial Approval by:



Austin French, Manager of Planning Services, 490-6717

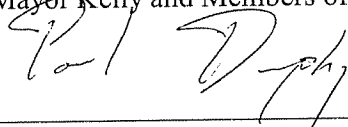


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Item No. 4
Halifax Regional Council
February 17, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Paul Dunphy, Director of Community Development

DATE: February 3, 2009

SUBJECT: Schmidtville: Request for MPS amendment

INFORMATION REPORT

ORIGIN

September 16, 2008 motion of Regional Council (item #12.1) that staff “provide documentation to amend the Municipal Planning Strategy for the Schmidtville area of District 12 to a Residential Comprehensive Development District and instruct staff to include the Friends of Schmidtville group in the public participation program.”

BACKGROUND

Schmidtville

Schmidtville is one of Halifax's most intact historic neighbourhoods. Bordered by Clyde, Morris, Brenton and Queen Streets, the three-block area has many houses dating back to the early 19th Century and has a distinct historic character and urban form. There are a number of historic, "mirror image" Georgian cottages and town houses and numerous other early buildings. Most are architecturally intact and there have been only a few modern renovations and new developments. Of the roughly 85 historic buildings in the three-block area, only five are registered heritage properties.

In September 2008, "The Friends of Schmidtville" (a not-for-profit-society) was formed with the purpose of preserving and enhancing the unique character of the neighbourhood and ensuring a liveable community for all residents. The meeting was attended by about 60 area residents as well as the Councillor for the area, Councillor Sloane.

Existing Protection under the Halifax MPS & LUB

Except for the Clyde Street parking lots, the entire Schmidtville area is situated in the South End Plan Area and is subject to a height precinct of 35 feet. This already provides a basic level of protection from out-of-scale new development. The bulk of the area is designated and zoned for medium density residential use, which permits single unit homes, interior conversion into apartments, and small scale residential infill development. This is very much in line with the existing character of the area in terms of land use. There are also three existing mixed commercial/residential uses which are permitted to be re-developed by development agreement but, again, the height of any new development is limited to 35 feet.

The Clyde Street parking lots are located in the Spring Garden Road Commercial Area and are designated and zoned for medium density residential and minor commercial use as-of-right. Policies for the area also enable the parking lots to be re-developed by development agreement provided that any development is of a scale and design that is "compatible with surrounding neighbourhoods".

Schmidtville Needs More Protection

At the September 2008 meeting of The Friends of Schmidtville, the issue of protecting Schmidtville was discussed. The area of concern encompasses the three Old Schmidtville blocks, the adjacent blocks along Morris Street and Wright Avenue, and the Clyde Street parking lots, as shown on Map 1. The group, along with Councillor Sloane, is requesting Council to apply a Comprehensive Development District (CDD) designation to Schmidtville. It appears that the request was made based on the model of the Brunswick Street CDD, which was established in 1998 to facilitate redevelopment of the former Alexandra School site on the block bounded by Brunswick, Cornwallis and Maitland Streets and Portland Place. In that case, policies for the CDD included design guidelines to ensure compatibility of new development on the vacant site with nearby heritage buildings. The recently completed "Brickyard" development was undertaken within those guidelines.

DISCUSSION***Comprehensive Development District (CDD)***

A Comprehensive Development District (CDD) is a planning tool intended for large sites to be developed as a unit, in a coordinated way, by development agreement. It is most often used for large, vacant sites. The advantage of the CDD approach is that it can place very tight control on new development through the development agreement process. However, it cannot regulate demolition of existing buildings. It is also less appropriate in an established neighbourhood such as Schmidville where the bulk of the area is occupied by existing buildings on small lots in separate ownerships. CDD designation is not the most effective regulatory tool in these circumstances.

HRMbyDesign (Downtown Halifax Secondary MPS and LUB)

HRMbyDesign is scheduled for adoption in mid-2009 which will result in a new Downtown Halifax Secondary (DHS) MPS and LUB. In that document, the Spring Garden Road Commercial Area, including the Clyde Street parking lots will be included in the Downtown Plan Area. Under the new scheme, built form requirements and design guidelines will place a height limit of 70 feet (or 90 ft., post bonus) on any new development on the parking lots, and will require such development to transition down in scale and intensity, so as to respect and reinforce the existing character of Schmidville. The Schmidville neighbourhood itself will remain outside the Downtown Plan area (i.e., remain in the existing South End Plan Area) and will remain subject to the 35 ft. height precinct discussed above.

Following adoption of the DHS MPS and LUB, HRMbyDesign will resume work on the larger Regional Centre Urban Design Study. This will involve further public consultation and visioning, possibly on an area-by-area basis, and it is within this context that consideration will be given to the establishment of new development controls for Schmidville. HRMbyDesign will potentially provide Schmidville with new controls quicker than any other HRM initiative. Council could also consider at a later date, under the HRMbyDesign initiative, a Heritage Conservation District for Schmidville.

Heritage Conservation District

A Heritage Conservation District (HCD) would enable the adoption of demolition control, design guidelines for architectural alterations and new buildings, and financial incentives to encourage restoration. The statutory process for establishing a HCD involves background studies, public consultation, and formal adoption of a HCD Plan and By-law. HRM also has a formal process for public participation in the HCD planning process, which involves input from the Heritage Advisory Committee and Stakeholder Steering Committees. The process begins with a formal request from the community to Regional Council.

The HCD approach could potentially provide the community with the level of protection it desires. However, the proposed Plan already identifies Historic Properties and South Barrington Street areas as potential HCDs, and places high priority on their establishment. Due to staff resources and

**Schmidtville: Request for MPS
Amendment**

- 4 -

February 17, 2009

existing priorities, it is unlikely that a HCD would be established for Schmidtville in the immediate future.

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.

ATTACHMENTS

- Map 1: Area of concern expressed by Schmidtville Residents Association
- Attachment 1: Heritage Conservation District Adoption Process
- Attachment 2: Resolution regarding a Public Participation Program for the Adoption of a Municipal Heritage Conservation Plan and By-law related to the Establishment of a Heritage Conservation District

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 : Bill Plaskett, Heritage Planner, 490-4663

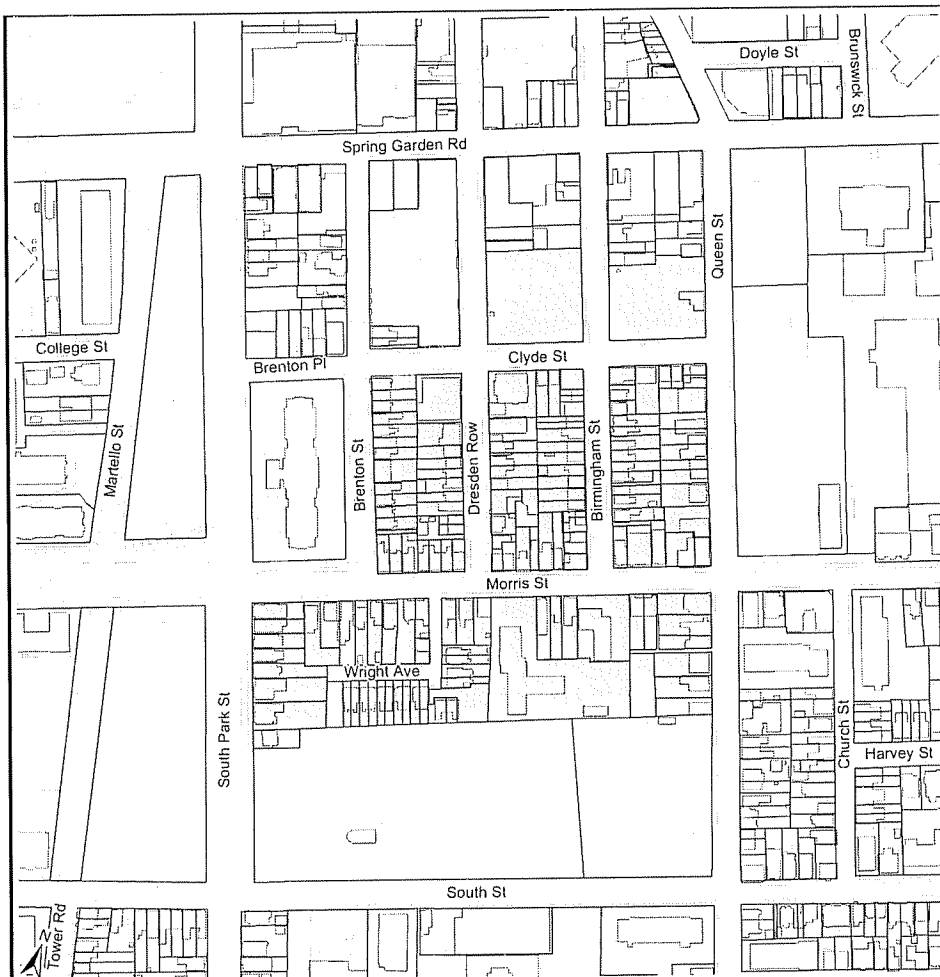


Report Approved by: _____
Austin French, Manager, Planning Services, 490-6717

**Schmidville: Request for
Comprehensive Development District**

MAP 1

Area of Concern expressed by Schmidville Residents Association

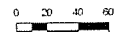


Map 1

Information Report
Schmidville
Request for Comprehensive
Development District

Area of Concern
expressed by
Schmidville Residents

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES



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

**Schmidville: Request for
Comprehensive Development District**

ATTACHMENT 1

HERITAGE CONSERVATION DISTRICT ADOPTION PROCESS

Statutory procedure for establishing a Heritage Conservation District under the Heritage Property Act:

Council:

1. adopts a public participation program by resolution;
2. undertakes background studies (to rationalize the proposed District), provides public access to studies, and submits studies to Minister. Minister has 60 days to declare studies sufficient or prescribe additional studies;
3. prepares a draft Heritage Conservation Plan and By-law;
4. secures public input on a draft Heritage Conservation Plan and By-law;
5. gives notice of intention to adopt a Heritage Conservation Plan and By-law and hold a public hearing by newspaper advertisements on two successive weeks and by ordinary mail or personal service to all property owners, 21 days prior to date of public hearing;
6. on date of publication of first notice of intention, a 120 day restriction begins on the issuance of development permits and building permits that are or may be in conflict with the proposed Conservation Plan and By-law. If the Plan and By-law do not come into effect within 120 days, such permits may be issued provided that they meet all other applicable by-laws;
7. provides public access to the proposed Conservation Plan and By-law;
8. after holding public hearing, adopts the Conservation Plan and By-law by majority vote and submits it to the Minister for approval, with documentation regarding compliance with the statutory planning process;
9. Minister approves the Conservation Plan and By-law. Council gives notice of approval in newspaper and files document in Registry of Deeds; and
10. Conservation Plan and By-law come into effect when approved by the Minister.

**Schmidville: Request for
Comprehensive Development District**

ATTACHMENT 2

RESOLUTION REGARDING:

A Public Participation Program for the Adoption of a Municipal Heritage Conservation Plan and By-law Related to the Establishment of a Heritage Conservation District

Be it resolved that the Council of Halifax Regional Municipality does hereby adopt the following public participation program pursuant to Section 6 (1) (i) of the Heritage Property Act, Statutes of Nova Scotia, 1989, Chapter 199.

1. All requests for a Heritage Conservation District shall be directed to Regional Council for preliminary review. Where Regional Council determines that the request has merit:
 - (a) The request shall be forwarded to municipal staff for preparation of a report and recommendation to the Heritage Advisory Committee.
 - (b) Where the HAC determines that a heritage conservation district should be considered a recommendation shall be made to Regional Council to initiate the planning process for the adoption of a Heritage Conservation Plan and By-law.

2. Where Regional Council determines that it wishes to further consider the adoption of a Heritage Conservation District the case shall be referred to the Heritage Advisory Committee who shall implement the following public participation procedure(s):
 - (a) The Heritage Advisory Committee shall establish a Stakeholder Steering Committee according to the *Terms of Reference: Heritage Conservation District Steering Committee*, outlined in "Attachment 1" of this resolution.
 - (b) The Heritage Advisory Committee in conjunction with municipal staff may implement an opinion survey to gain direct input of property owners within the proposed Heritage Conservation District boundaries into the draft Heritage Conservation Plan and By-law using a proven survey method.
 - (c) The Heritage Advisory Committee in conjunction with municipal staff, shall hold a minimum of two (2) public meetings concerning the proposed Heritage Conservation Plan and By-law at key stages of the planning process to provide information to public stakeholders and seek input into the proposed Heritage Conservation Plan and By-law.
 - (d) The following public meeting notification procedures shall apply:

**Schmidtville: Request for
Comprehensive Development District**

- (i) Notice of the public meeting at which the Heritage Conservation District shall be discussed shall be published in a newspaper circulating in the area affected a minimum of fourteen (14) days prior to the meeting. The notice shall indicate the time, date and place of the meeting and the location and hours during which written material concerning the proposed Heritage Conservation Plan and By-law may be inspected by members of the public.
 - (ii) Written notification of the meeting shall be forwarded to all property owners, businesses and tenants within the District a minimum of fourteen (14) days prior to the meeting.
 - (e) Minutes of the public meeting(s) and all related written submissions and staff reports shall be forwarded to Regional Council.
 - (f) The Heritage Advisory Committee shall forward its recommendation(s) and all related information to Regional Council.
3. Council shall give notice of intention to adopt a Heritage Conservation Plan and By-law and hold a public hearing by newspaper advertisements on two successive weeks and by ordinary mail or personal service to all property owners, 21 days prior to date of hearing.
 4. Nothing in this resolution shall preclude Regional Council from taking other measures as deemed necessary to obtain public opinion regarding the adoption of a Heritage Conservation Plan and By-law.
 5. Any amendments to a municipal planning strategy and land use by-law required to support or implement a Heritage Conservation Plan and By-law shall be undertaken in accordance with Halifax Regional Council's Resolution Respecting Public Participation.