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Harbour East Community Council
September 10, 2008
Heritage Advisory Committee
September 24, 2008

TO: Chairs and Members of Heritage Advisory Board and Harbour East
Community Council

SUBMITTED BY: Denise Schofield
Denise Schofield, Acting Director of Community Development

DATE: July 15, 2008

SUBJECT: **Case 01006: Dartmouth Municipal Planning Strategy and Land Use
By-law Amendment - Heritage Properties**

ORIGIN

HRM initiated application to amend the Dartmouth Municipal Planning Strategy (MPS) and Land Use By-law (LUB) to permit registered heritage properties to be developed with uses not otherwise permitted by the land use by-law, by development agreement.

RECOMMENDATION

It is recommended that **Harbour East Community Council** recommend that Regional Council:

1. Give first reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B, and schedule a public hearing; and
2. Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachment A and Attachment B.

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

1. Give first reading to the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B, and schedule a public hearing; and
2. Approve the proposed amendments to the Dartmouth Municipal Planning Strategy and Land Use By-law as shown in Attachments A and B.

BACKGROUND

Owners of registered heritage properties have the ability to apply for a development agreement to permit uses other than what is permitted by the land use by-law in two plan areas: Downtown Dartmouth and Halifax (Attachment B). Allowing additional uses on registered heritage properties provides incentive for individuals to register their properties. Preserving our stock of heritage buildings is an important component of the Regional Plan and an essential feature of our city building process. HRM has many significant heritage features and protecting and preserving significant heritage features is a crucial part of maintaining HRM's identity.

Issue

Currently, the Dartmouth Plan does not contain policy similar to that in Downtown Dartmouth and Halifax. This issue was brought to the attention of staff when a land owner requested approval to use his registered heritage property, located in the R-1 zone, as an inn. The owner was informed that this use was not permitted in the R-1 Zone and that there was no policy in the MPS by which Council could consider the use by development agreement. Subsequently, Regional Council initiated a process on June 12, 2007 to consider amending the Dartmouth Municipal Planning Strategy to permit alternate uses for registered heritage properties.

Regional Municipal Planning Strategy

Policy CH-8 (h) (Attachment C) in the Regional Municipal Planning Strategy (RMPS) identifies the relaxation of zoning provisions as a tool to encourage the reuse, restoration and retention of registered heritage properties. This policy directs secondary planning strategies to consider the relaxation of zoning provisions, including the consideration of expanded uses, for registered heritage properties to meet this requirement. The proposed amendment to the Dartmouth MPS would support this policy.

Policy CH-1 (Attachment C) in the RMPS provides additional controls that are designed to protect the heritage integrity of a registered property that is under review for a development agreement. Any development agreement on a registered heritage property proposed under the secondary plan development agreement provisions would have to comply with the requirements of CH-1. This policy provides the direction required to review any alterations or additions to a registered heritage property and ensures that these changes maintain the integrity, and are subordinate to the significant heritage components of the site. As this policy addresses the issues of alterations and additions, the proposed amendment to the Dartmouth MPS does not contain additional criteria for these circumstances and, instead, refers directly to Policy CH-1.

Affected Properties

In the Dartmouth Plan area there are currently 12 registered heritage properties and, in 1986, an inventory was created which identified 54 properties that would be eligible for heritage registration, but, as of yet have not requested registration (Map 1). This amendment currently affects a small number of properties and may encourage the owners of the 54 unregistered properties to register their lands as heritage properties.

DISCUSSION

Heritage Buildings

Heating and maintenance of heritage buildings can be quite costly and can be a deterrent for their retention. They often have old windows, large rooms with high ceilings and a large building footprint and are no longer viable for their original intended use. By providing incentives to maintain these properties, there is an increased likelihood of their long term preservation. Allowing new uses on the property, through the development agreement process, encourages the adaptive reuse of a building that may no longer, for a variety of reasons, be appropriate for the use for which it was originally intended.

Development Agreement Criteria

The proposed policy set is very similar to that which is contained in the Downtown Dartmouth Plan. However, since the Downtown Dartmouth Plan predates the RMPS, and the RMPS contains policy that addresses additions and alterations to registered heritage properties, the criteria from the Downtown Dartmouth Plan which addresses these issues is not included in this proposed amendment.

The proposed Dartmouth MPS amendments would require a review of the following when considering a development agreement on a registered heritage property: traffic generation; noise; hours of operation; parking; lighting; signage and landscaping. These items often generate issues with neighbours when uncontrolled and the development agreement process provides Council with the ability to review and consider how the proposal addresses these issues. Signage, landscaping and parking should also be designed in such a manner that they are in keeping with the heritage character of the building and have limited impacts on neighbours. Further to this, the development agreement process provides for a site by site consideration of the appropriateness of the request.

Council is also directed to review the suitability of the building for the proposed new use. The building should be appropriate for the use intended, in terms of size and layout. If additional residential units are proposed, the adequacy of these units is to be determined.

Policy CH-8 states that secondary plan amendments that allow for a relaxation of zoning provisions for registered heritage properties will be considered where the current use is an impediment to the building's retention, revitalization, rehabilitation or ongoing use of the property. This requirement is captured in the proposed amendments and will provide Council with the ability to evaluate if there is a reason to consider expanded uses on the property.

Public Information Meeting

A public information meeting was held on June 21, 2008 and the minutes are attached in Attachment E.

BUDGET IMPLICATIONS

The costs to process 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, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may choose to approve the amendment to the Dartmouth Municipal Planning Strategy as outlined in this report. This is the recommended alternative for the reasons outlined in the report.
2. Council may choose to refuse the amendment to the Dartmouth Municipal Planning Strategy. A decision by Council to approve or refuse an application to amend its Municipal Planning Strategy is final and is not subject to appeal to the Nova Scotia Utility and Review Board.

ATTACHMENTS

Map 1: Heritage Properties - Dartmouth Plan Area

Map 1A: Heritage Properties - Dartmouth Plan Area - Insets

Attachment "A": Proposed Amendment to the Dartmouth Municipal Planning Strategy

Attachment "B": Proposed Amendment to the Dartmouth Land Use By-law

Attachment "C": Relevant Policies from the Downtown Dartmouth and Halifax Municipal Planning Strategy

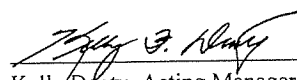
Attachment "D": Relevant Policies from the Regional Municipal Planning Strategy

Attachment "E": Minutes, Public Information Meeting June 25, 2008

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: Jennifer Chapman, Planner 490-3999

Report Approved by:






Kelly Denty, Acting Manager, Planning Services, 490-6011



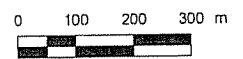
Map 1

**Heritage Properties
Dartmouth Plan Area**

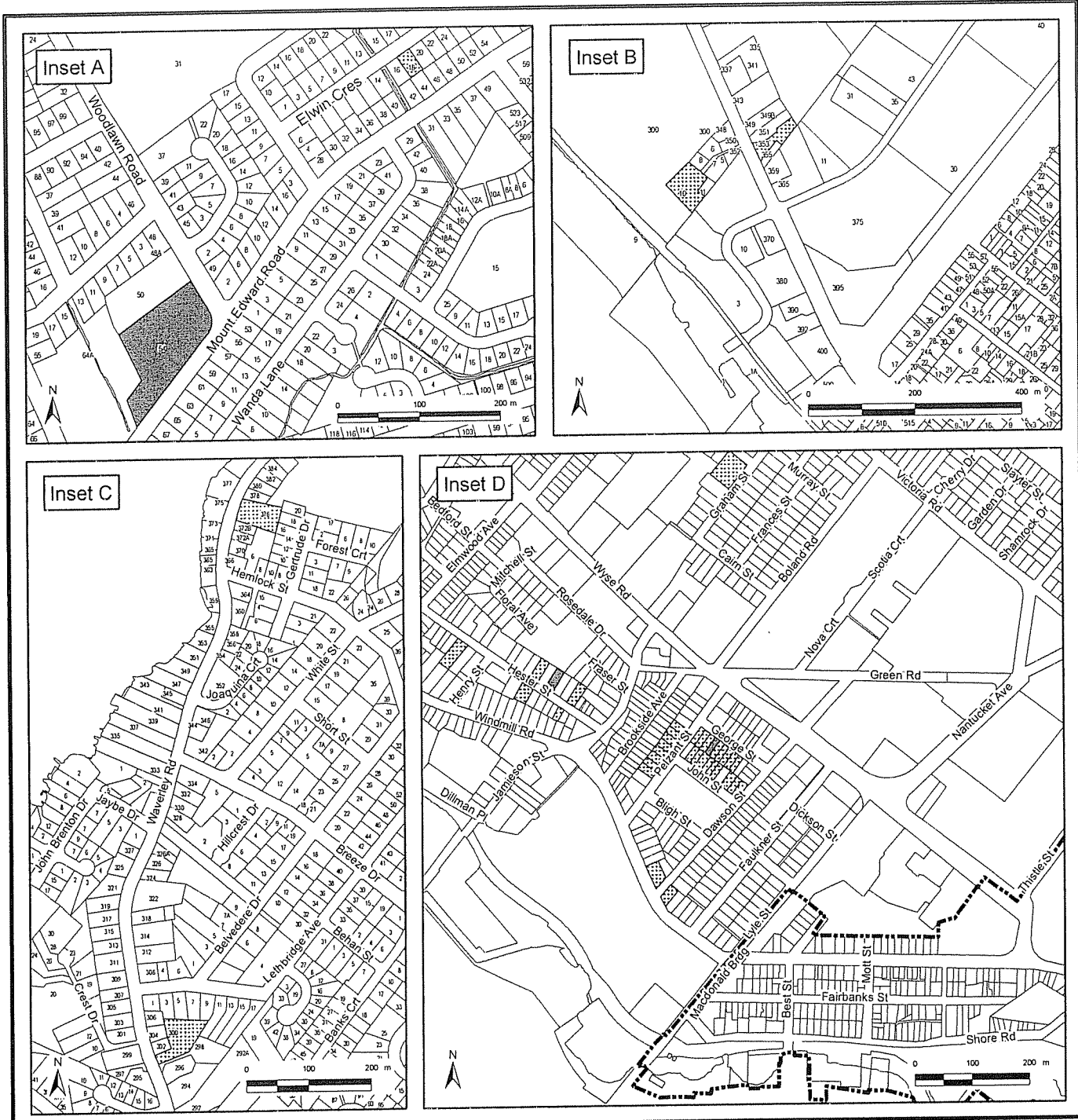
-  Registered Heritage Properties
-  Inventoried 1986 (Not Registered)
-  Downtown Dartmouth Secondary Plan Area boundary

Dartmouth Plan Area

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES






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



Map 1a

Heritage Properties
 Dartmouth Plan Area - Insets

-  Registered Heritage Properties
-  Inventoried 1986 (Not Registered)
-  Downtown Dartmouth Secondary Plan Area boundary

Dartmouth Plan Area



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

Attachment "A"
Proposed Amendment to the Dartmouth Municipal Planning Strategy

BE IT ENACTED by the Regional Council of the Halifax Regional Municipality that the Dartmouth Municipal Planning Strategy is further amended as follows:

1. Adding the following new policy to the Implementation section after Policy IP-14:

Registered Heritage Properties

Council should encourage the reuse, restoration and retention of heritage properties. One method to encourage this is through the relaxation of zoning requirements, including the consideration of uses other than those which are permitted by the land use by-law, for registered heritage properties. To reduce the potential for conflict between these properties and the surrounding area, the development agreement process is the recommended method to consider these expanded uses. Any additions or alterations to the building should be consistent with the policies that address heritage properties as contained in the Regional Municipal Planning Strategy.

IP-15 Council shall consider uses other than those which are permitted by the land use by-law for registered heritage properties, in accordance with the development agreement provisions of the Municipal Government Act. In considering such an agreement, Council shall have regard to the following:

- (a) the present use is an impediment to the building's retention, revitalization, rehabilitation or ongoing use of the property;
- (b) that the building is suitable for conversion, in terms of building size, the nature of the proposed use and/or the size of proposed individual residential units;
- (c) that adequate measures are proposed to minimize impacts on abutting properties and the streetscape as a whole as a result of traffic generation, noise, hours of operation, parking requirements, lighting and signage and such other land use impacts as may be generated as part of a development;
- (d) that the placement and design of parking areas, lighting and signs, and landscaping is in keeping with the heritage character of the building;
- (e) where applicable, the proposal should include an assessment and strategy to protect significant on-site archeological resources which may be impacted by the proposed development;

- (f) the provisions of Policy CH-1 in the Regional Municipal Planning Strategy;
- (g) general maintenance of the development; and
- (h) the provisions of Policy IP-1(c).

THIS IS TO CERTIFY that the amendments to the Municipal Planning Strategy for Dartmouth, as set out above, were passed by a majority vote of the Halifax Regional Council on the ____ day of _____, 2008.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2008.

Julia Horncastle
Acting Municipal Clerk

Attachment "B"
Proposed Amendment to the Dartmouth Land Use By-law

BE IT ENACTED by the Harbour East Community Council of the Halifax Regional Municipality that the Dartmouth Land Use By-law is further amended as follows:

1. Adding the following new subsection after 18S of Part II :

18 T Notwithstanding any other provisions of this By-law, uses other than those which are permitted by this By-law may be permitted by development agreement on registered heritage properties according to the provisions of Policy IP-15.

THIS IS TO CERTIFY that the amendments to the Land Use By-law for Dartmouth, as set out above, were passed by a majority vote of the Harbour East Community Council on the ____ day of _____, 2008.

GIVEN under the hands of the Municipal Clerk and under the Corporate Seal of the Halifax Regional Municipality this ____ day of _____, 2008.

Julia Horncastle
Acting Municipal Clerk

Attachment C
Relevant Policies from the Downtown Dartmouth
and Halifax Municipal Planning Strategy

Downtown Dartmouth

Policy H-10

Council should encourage the reuse, restoration and retention of registered heritage properties within the downtown. One means through which this will be encouraged is by allowing for an increase in development rights for registered heritage properties, where it can be demonstrated that the current use is an impediment to its reuse. Internal conversions of registered heritage properties to accommodate uses not otherwise permitted may be considered through the development agreement process. In considering any requests, the following criteria shall be addressed:

- a) the present use is an impediment to the building's retention;
- b) that the building is suitability for conversion, in terms of building size, the size of proposed individual residential units, and/or the nature of the proposed use;
- c) that adequate measures are proposed to ensure the continued protection of the building as a registered heritage property, and that renovations and additions to the building are consistent with the intent of HRM's "Heritage Building Conservation Standards" as updated from time to time;
- d) that no additions of greater than ten percent (10%) of the footprint area of the building are proposed; and that all additions including wheelchair ramps, fire escapes and emergency exits are designed to be as compatible as possible with the exterior of the building;
- e) that adequate measures are proposed to minimize impacts on abutting properties and the streetscape as a whole as a result of traffic generation, noise, hours of operation, parking requirements and such other land use impacts as may be generated as part of a development;
- f) that the placement and design of parking areas, lighting and signs, and landscaping is in keeping with the heritage character of the building;
- g) where applicable, the proposal should include an assessment and strategy to protect significant on-site archeological resources which may be impacted by the proposed development.

Halifax Municipal Planning Strategy

- 6.8 In any building, part of a building, or on any lot on which a registered heritage building is situated, the owner may apply to the City for a development agreement for any development or change in use not otherwise permitted by the land use designation and zone subject to the following considerations:
- (i) that any registered heritage building covered by the agreement shall not be altered in any way to diminish its heritage value;
 - (ii) that any development must maintain the integrity of any registered heritage property, streetscape or conservation area of which it is part;
 - (iii) that any adjacent uses, particularly residential use are not unduly disrupted as a result of traffic generation, noise, hours of operation, parking requirements and such other land use impacts as may be required as part of a development;
 - (iv) that any development substantially complies with the policies of this plan and in particular the objectives and policies as they relate to heritage resources.

Attachment D
Excerpts from the Regional Municipal Planning Strategy

6.1 BUILT HERITAGE

Built heritage includes structures which contribute to an understanding of heritage and may reveal architectural, cultural, or social-political patterns of local history. Our built heritage is an integral part of the landscape. Heritage structures require recognition, special status and regulations to protect, maintain and restore or rehabilitate them for continued use. HRM will encourage this protection by adopting an expanded region-wide model for heritage protection, by strengthening heritage protection provisions at the community level, and by using a streetscape and district approach to heritage protection rather than looking only at individual buildings.

CH-1 When considering a development agreement application in connection with any municipally registered heritage property, a lot on which a municipally registered heritage building is situated, or a building, part of a building or building site within a heritage conservation district, HRM shall, in addition to the criteria established under the appropriate policies guiding the development agreement under the applicable secondary planning strategy, also give consideration to the following:

- (a) that any municipally registered heritage property covered by the agreement is not altered to diminish its heritage value;
- (b) that the development maintains the integrity of any municipally registered heritage property, streetscape or heritage conservation district of which it is part;
- (c) that significant architectural or landscaping features are not removed or significantly altered;
- (d) that the development observes, promotes and complements the street-level human-scaled building elements established by adjacent structures and streetscapes;
- (e) that the proposal meets the heritage considerations of the appropriate Secondary Planning Strategy as well as any applicable urban design guidelines;
- (f) that redevelopment of a municipally registered heritage property, or any additions thereto shall respect and be subordinate to any municipally registered heritage property on the site by:
 - (i) conserving the heritage value and character-defining elements such that any new work is physically and visually compatible with, subordinate to and distinguishable from the heritage property;
 - (ii) maintaining the essential form and integrity of the heritage property such that they would not be impaired if the new work was to be removed in the future;
 - (iii) placing a new addition on a non-character-defining portion of the structure and limiting its size and scale in relationship to the heritage property; and

- (iv) where a rooftop addition is proposed, setting it back from the wall plane such that it is as inconspicuous as possible when viewed from the public realm; and
- (g) any other matter relating to the impact of the development upon surrounding uses or upon the general community, as contained in Policy IM-15.

6.3 SECONDARY PLANNING STRATEGIES

Through secondary planning strategies and other appropriate means, HRM should retain, preserve, rehabilitate and restore sites, streetscapes, structures and conditions (for example views), which impart a sense of the community's heritage. The focus will be on structures that are relevant to important occasions, eras, or personages, that are architecturally significant, or are of significant age. Where appropriate, to assure the continuing viability of such areas, sites, streetscapes, structures, or conditions, suitable re-uses may be encouraged.

CH-8 To protect HRM's built heritage and cultural landscapes, HRM shall, through secondary planning strategies or other appropriate means, consider:

- (a) designating historically significant buildings, sites, streetscapes and conservation districts for heritage protection;
- (b) using Heritage Conservation Districts as a means to protect and promote the unique built and visual heritage features throughout HRM, and implement incentive programs for those designated Heritage Districts;
- (c) developing heritage design guidelines that complement the heritage character of an area;
- (d) identifying key sites within the Regional Centre where opportunities for exceptional new architecture can be pursued while respecting the heritage character of the surroundings;
- (e) developing mapping and inventories of heritage buildings based on building age, architectural significance, historic events or persons;
- (f) developing mapping, inventories and policies in support of the preservation of cultural landscapes, including, but not limited to:
 - (i) scenic views, and sites of potential archaeological significance;
 - (ii) areas representative of the cultural origins, social heritage and ethnic diversity of local communities;
 - (iii) cemeteries and places of worship;
- (g) strategies for the development of central public spaces and amenities for performing arts, visual arts, and heritage activities, for the incorporation of arts and culture facilities into new civic developments, and for the incorporation of public art, horticultural elements, monuments and commemorative markers into new development;
- (h) strategies to encourage the reuse, restoration, and retention of registered heritage properties and throughout HRM, including but not limited to:

- (i) allowing for a relaxation of zoning requirements for registered heritage properties, such as setback or side yard provisions, permitted uses, or parking requirements, where it can be demonstrated that current limitations are an impediment to the revitalization, rehabilitation, and ongoing use of the property;
 - (ii) allowing for a relaxation of building code requirements through the application of the Alternate Compliance Methods of the *Nova Scotia Building Code Regulations*; and
 - (iii) amending zoning requirements to better reflect the traditional form and placement of heritage buildings and the streetscape typology of the neighbourhood;
- (i) preserving heritage buildings and areas when undertaking municipal public works;
 - (j) prior to selling or otherwise disposing of any surplus municipal property which may have heritage significance, carrying out an evaluation of the property to determine the level of significance, if any. Where the surplus property is of significance, measures should be undertaken to ensure the retention of the building to the greatest reasonable extent through heritage registration, restrictive covenants or other appropriate means;
 - (k) requiring that any applicant for redevelopment of a registered heritage property adjacent to a heritage property, or for development within a heritage district, prepare a heritage impact statement that describes impacts of the development on heritage areas;
 - (l) measures to protect significant viewplanes;
 - (m) identifying scenic entry routes;
 - (n) requiring that if registered heritage properties or structures within a heritage conservation district must be replaced due to age, fire or forces of nature, there be flexibility within the review process to allow reconstruction on the original building footprint and in the original building form by permitting relief from building setbacks, height restrictions, or other conditions that would otherwise change the new structure's location or historic form; and
 - (o) adopting policies to permit incentive or bonus zoning which provide for the preservation and sustainability of heritage buildings.

Attachment "E":
Minutes, Public Information Meeting June 25, 2008

HALIFAX REGIONAL MUNICIPALITY
PUBLIC INFORMATION MEETING
CASE NO.01006 - Plan Amendments for Heritage Properties, Dartmouth

7:00 p.m.

Wednesday, June 25, 2008

Alderney Gate Library, Helen Creighton Room

STAFF IN

ATTENDANCE:

Jennifer Chapman, Planner, HRM Planning Services
Maggie Holm, Planner, HRM Heritage Planning
Tim Burns, Planning Technician, HRM Planning Services
Jennifer Little, Planning Controller, HRM Planning Services

ALSO IN

ATTENDANCE:

Councillor Gloria McCluskey, District 4

PUBLIC IN

ATTENDANCE:

11

The meeting commenced at approximately 7:01 p.m.

1. Opening remarks/Introductions

Ms. Jennifer Chapman introduced herself as the planner guiding this application through the process; Maggie Holm, Planning for Heritage Planning Department; Tim Burns, Planning Technician, HRM Planning Services and Jennifer Little, Planning Controller, HRM Planning Services.

2. Overview of proposal and planning process

This is an application was put forward by HRM to permit uses in registered heritage properties other than what is currently permitted in the zone by development agreement. She explained that the development agreement process allows site specific review of the application and that the development agreement will also provide opportunity for public comment.

Ms. Chapman defined a development agreement and explained that it is a contract between the landowner and the Municipality. It places limits and controls on how the site is developed and is registered with the property and is carried on the deed.

Additional uses for registered heritage properties are currently permitted in the Downtown Dartmouth area and in the Halifax Plan area. However, no policy exists in Dartmouth. The proposal is to include provisions that will minimize impacts on abutting properties and local street due to traffic generation, noise, hours of operation and parking requirements. The placement and design of parking areas, lighting, signs and landscaping will also be reviewed.

The Regional Municipal Planning Strategy addresses alterations to heritage buildings. Policy CH-1 provides additional criteria for development agreements on registered heritage properties. Its goals is to protect the heritage values of the property, to maintain integrity of the property and to ensure that the additions shall respect and be in keeping with the character of the property.

The goals of this process is to encourage the preservation of the existing heritage property by allowing additional uses on registered heritage property as an incentive for people to register.

At this time Ms. Chapman reviewed a slide show of some examples in Halifax of heritage properties that have taken advantage this development agreement process to get additional uses.

Ms. Chapman explained that following this public information meeting, a staff report will be prepared with a recommendation to Regional Council at a public hearing.

3. Questions/Comments

Mr. Jim McShane, **6 Amber Crest explained that** he had made an application three years ago for an apartment building **which** was approved by City Council but, his restaurant request was declined. He submitted a development agreement hoping it be resolved.

Ms. Chapman noted that this proposal is why this request was initiated.

Ms. Linda Forbes, 37 Pleasant Street requested Ms. Chapman review the boundaries

Ms. Chapman reviewed a map of Downtown Dartmouth pointing out the boundaries.

Ms. Carla Dale, 28 Blink Bonnie Terrace asked what region it applies to.

Ms. Chapman pointed out where the policy will apply to.

Ms. Holm explained that there are some heritage homes that are not registered that were identified on a 1986 inventory of Dartmouth properties that are eligible for registration. All these property owners, as well as the owners of registered properties were notified of tonight's public information meeting.

Ms. Dale questioned if there were people that have already been covered in the area that have not been registered.

Ms. Chapman agreed and explained that this policy would only apply to registered properties.

Ms. Dale asked what the incentive would be for those who have not registered to register.

Ms. Holm explained that some incentives would include: financial help with renovations, enable additional uses and potential additions that are not permitted in as of right situations.

Ms. Dale noted that her property is currently outside the zone and asked what the difference would be when applying to rezone a property or to apply for a development agreement for a registered heritage property.

Ms. Chapman explained that for example, if the property was in a largely R1 zone (low density residential housing) and was rezoning to use property as an Inn, it would require a commercial zone, which would likely not receive support for that. Council makes all final decisions/approvals of rezoning requests.

Councillor Gloria McCluskey questioned how many heritage properties are currently registered.

Ms. Holm explained that there are twelve properties as of now.

Mr. Steve Warnock, 32 Dundas asked how many properties were lost over the last couple of years.

Ms. Holm noted that there had been one.

There was some general discussion about community visioning.

Ms. Heather Pitts, 94 Crichton Avenue Dartmouth, questioned the pro's and con's regarding insurance.

Ms. Holm explained that insurance was an issue but, now they work together with Insurance Brokers. Having a heritage property should not affect property insurance rates anymore.

Ms. Putts questioned if the grants are only available for exterior renovations.

Ms. Holm explained that HRM has a very good budget for alterations to the exterior. There are matching grants for up to \$10,000 per every four years with the Province. The Province also has two tax rebate programs.

Ms. Putts asked how long is the registration process.

Ms. Holm explained that it usually takes approximately 3-4 months to register a property.

Ms. Forbes asked what criteria would be used to evaluate applications under the proposed development agreement process.

Ms. Chapman explained the types of things that would be considered when evaluating the use that is being proposed. She added that there is already a policy in place that would evaluate any changes to the building in the Regional Municipality Strategy.

Ms. Forbes asked if the public would have a chance to comment on the criteria.

Ms. Chapman explained that any comments discussed during this meeting or sent to her via email, fax or by phone would be incorporated into her report.

Ms. Holm reviewed again Policy CH-1 and noted that another benefit of having a property registered is to have the ability to speak with a Heritage Property Planner at any time.

Ms. Dale explained that she doesn't feel it to be necessary to register her property.

Ms. Holm explained that her situation could be different from others and may not need the support of the government or other benefits that being registered may provide. Ms. Chapman added that renovations may become very expensive and having support from the Municipality and the Province can be very helpful.

4. Closing comments

Ms. Chapman thanked everyone for coming to the meeting and expressing their comments and concerns.

5. Adjournment

The meeting adjourned at approximately 7:53 p.m.