



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

**Item No. 9.1**

**Halifax Regional Council  
October 7, 2014  
November 18, 2014**

**TO:** Mayor Savage and Members of Halifax Regional Council

**SUBMITTED BY:** Original Signed \_\_\_\_\_  
*for* Emma Sampson, Chair, Heritage Advisory Committee

**DATE:** September 25, 2014

**SUBJECT:** Case H00398: Application to Deregister Lot BH-2, a Subdivision of 99  
Ochterloney Street (Henry Elliot House), Dartmouth, a Municipally Registered  
Heritage Property

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**ORIGIN**

Motion passed at the September 24, 2014 Heritage Advisory Committee meeting.

**LEGISLATIVE AUTHORITY**

Section 21 of the Halifax Charter regarding Standing, Special and Advisory Committees.

By-Law H-200 Respecting the Establishment of a Heritage Advisory Committee and a Civic Registry of Heritage Property.

**RECOMMENDATION**

The Heritage Advisory Committee recommends Halifax Regional Council:

1. Set a date for a public hearing to consider the proposed deregistration of Lot BH-2, a subdivision of 99 Ochterloney Street, Dartmouth; and
2. Approve the deregistration of Lot BH-2, as identified in Attachment A of the September 12, 2014 staff report.

## **BACKGROUND**

At the September 24, 2014 Heritage Advisory Committee meeting, staff presented the application by Boris Holdings Incorporated to have Lot BH-2 deregistered as a municipal heritage property. Lot BH-2 had been part of the lands of 99 Ochterloney Street, a registered heritage property (the Henry Elliot House).

On November 14, 2013 Harbour East-Marine Drive Community Council approved a development agreement to permit a seven storey multi-unit building on adjoining lands of the property in question and owned by the applicant. The development agreement included the preservation and maintenance of the Henry Elliot House on these lands. At that time, the proposed development came before the Heritage Advisory Committee and the Committee did not support the proposed development over concern that subdivision of the heritage property would have a significant detrimental impact on the existing house and that the overall scale of the development was incompatible with the heritage property.

## **DISCUSSION**

In the presentation to the Committee, staff reviewed the section of the Heritage Property Act which enables Council to consider deregistration of a heritage property. Staff concluded that under Section 16(1)(b) of the Heritage Property Act, *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*, deregistration of Lot BH-2 would be appropriate, therefore, because it does not contain any character defining elements and it is no longer part of the same parcel as the Henry Elliot House. The Committee agreed with the staff recommendation and passed a motion as noted above.

## **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report. The attached staff report addressed financial implications associated with processing this application.

## **COMMUNITY ENGAGEMENT**

The Heritage Advisory Committee is an advisory committee to Regional Council comprised of 10 volunteer members of the public and two Councillors. The meetings are open to the public and the agendas and minutes are posted at [www.Halifax.ca](http://www.Halifax.ca)

## **ENVIRONMENTAL IMPLICATIONS**

None.

## **ALTERNATIVES**

The Committee did not provide alternatives.

## **ATTACHMENTS**

Attachment 1: Staff report dated September 12, 2014.

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A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.php> 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: Sheilagh Edmonds, Legislative Assistant

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# HALIFAX

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

**Item No.**  
**Heritage Advisory Committee**  
**September 24, 2014**

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

**SUBMITTED BY:** Original Signed  
Brad Anguish, Director, Community & Recreation Services

**DATE:** September 12, 2014

**SUBJECT:** Case H00398: Application to Deregister Lot BH-2, a Subdivision of 99 Ochterloney Street (Henry Elliot House), Dartmouth, a Municipally Registered Heritage Property

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## ORIGIN

Application by Boris Holdings Inc.

## LEGISLATIVE AUTHORITY

*The Heritage Property Act*

## RECOMMENDATION

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

1. Set a date for a public hearing to consider the proposed deregistration of Lot BH-2, a subdivision of 99 Ochterloney Street, Dartmouth; and
2. Approve the deregistration of Lot BH-2, as identified in Attachment A.

## **BACKGROUND**

Boris Holdings Incorporated has applied to have a newly subdivided lot (Lot BH-2), that was until recently part of the lands at 99 Ochterloney Street, Dartmouth, deregistered as a municipal heritage property (Attachment A). 99 Ochterloney Street was registered as a municipal heritage property on November 16, 1982 by the former City of Dartmouth, due to the presence of the historic Henry Elliot House. Although the property has been subdivided into two lots, the heritage designation continues to apply to the original parcel of land.

Boris Holdings owns lands that include 99 Ochterloney Street (now Lots BH-1 and BH-2) and adjoining lands that are to the north (Attachment A). In 2012, it proposed a project for a seven storey multi-unit building and the preservation and maintenance of the Henry Elliot House on these lands. On November 14, 2013, the Harbour East-Marine Drive Community Council approved a development agreement to allow the project (Case #17863). As a final part of the approval process, the company has requested that Regional Council deregister Lot BH-2.

### **Heritage Value and Character Defining Elements**

When the Boris Holdings project was proposed, the heritage value and character defining elements (Attachment B) of the heritage property at 99 Ochterloney were considered. These relate directly to the house, on the basis of its association with historical figures and its architecture. Henry Elliot was a notable architect that designed the house for his son, Alfred Elliot, who was also a prominent Dartmouth citizen and Town Clerk. The building is an asymmetrical variant of the Gothic Revival style and is extravagantly detailed with cornice brackets, a variety of window details and four different bargeboard patterns in the house's gables (Attachment C).

### **Heritage Property Act**

HRM's Heritage Property Program derives its authority from the *Heritage Property Act* which seeks "to provide for the identification, designation, preservation, conservation, protection and rehabilitation of buildings, public-building interiors, structures, streetscapes, cultural landscapes, areas and districts of historic, architectural or cultural value, in both urban and rural areas, and to encourage their continued use".

Section 16 of the *Heritage Property Act* identifies provisions under which Council may consider a proposed deregistration:

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.*

## **DISCUSSION**

Section 16(1)(b) of the *Heritage Property Act* states that Council may consider a proposed deregistration where, "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."

The development agreement application involved the consideration of the impact of the multi-unit development on the Henry Elliot House from a heritage perspective. Although the application was not supported by the Heritage Advisory Committee, it was approved by the Community Council. Through the approval process, Community Council was satisfied that the rear portion of the property at 99 Ochterloney Street did not include any character defining elements that have a bearing on the heritage registration. It was also satisfied that the Henry Elliot House will be preserved and maintained as part of the new development.

### **Conclusion**

In consideration of the foregoing, staff advise that it is appropriate for Regional Council to approve the requested heritage deregistration of Lot BH-2 on the basis that it does not contain any character defining elements and that it is no longer part of the same parcel as the Henry Elliot House.

### **FINANCIAL IMPLICATIONS**

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

### **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing achieved through public accessibility to the required Heritage Advisory Committee meeting.

A public hearing must be held by Regional Council before it may deregister a municipal heritage property. 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.

### **ENVIRONMENTAL IMPLICATIONS**

No concerns identified.

### **ALTERNATIVES**

1. The Heritage Advisory Committee may recommend that Regional Council reject the request for the heritage deregistration of Lot BH-2. The *Heritage Property Act* does not include appeal provisions of Council decisions regarding deregistration. This is not the recommended course of action for the reasons that are outlined in this report. If the heritage registration was to continue to apply to Lot BH-2, approval of a substantial alteration to the heritage property by Regional Council would be necessary to enable the development of the multi-unit building approved under Case 17863.

### **ATTACHMENTS**

Map 1:	Location Map – 99 Ochterloney Street, Dartmouth
Attachment A:	Subdivision Area for Proposed Deregistration
Attachment B:	Heritage Value and Character Defining Elements
Attachment C:	Photographs of Subject Property

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

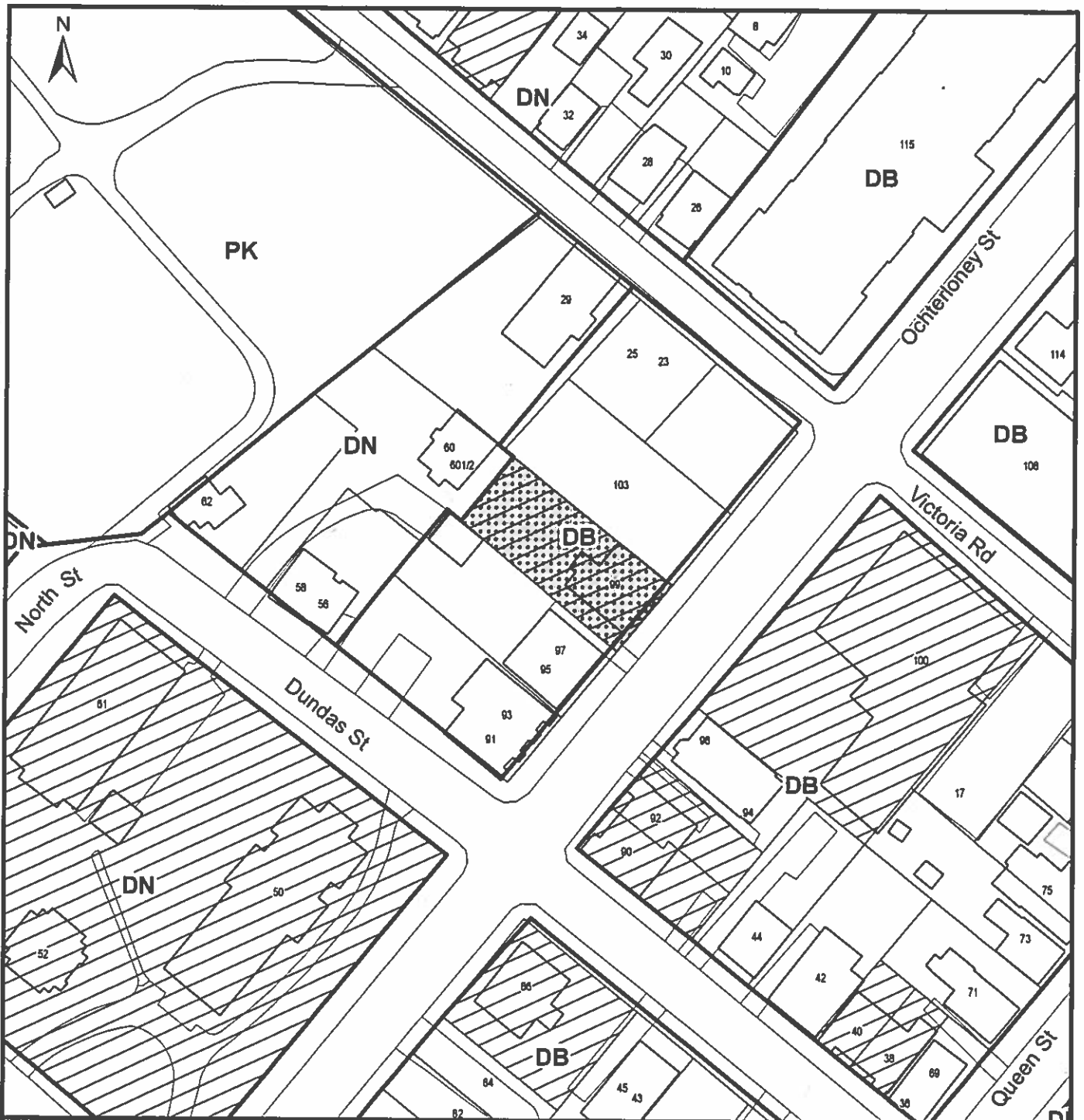
Report Prepared by: Seamus McGreal, Heritage Planner, 902-490-5113

Original Signed

Report Approved by:

 Kelly Dent, Manager of Development Approvals, 902-490-4800

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### Map 1 - Location

99 Ochterloney Street  
Dartmouth

-  Subject Property
-  Municipally Registered Heritage Property

#### Zone

- DB Downtown Business District
- DN Downtown Neighbourhood
- PK Park and Open Space



Downtown Dartmouth  
Land Use By-Law Area

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

03 December 2013

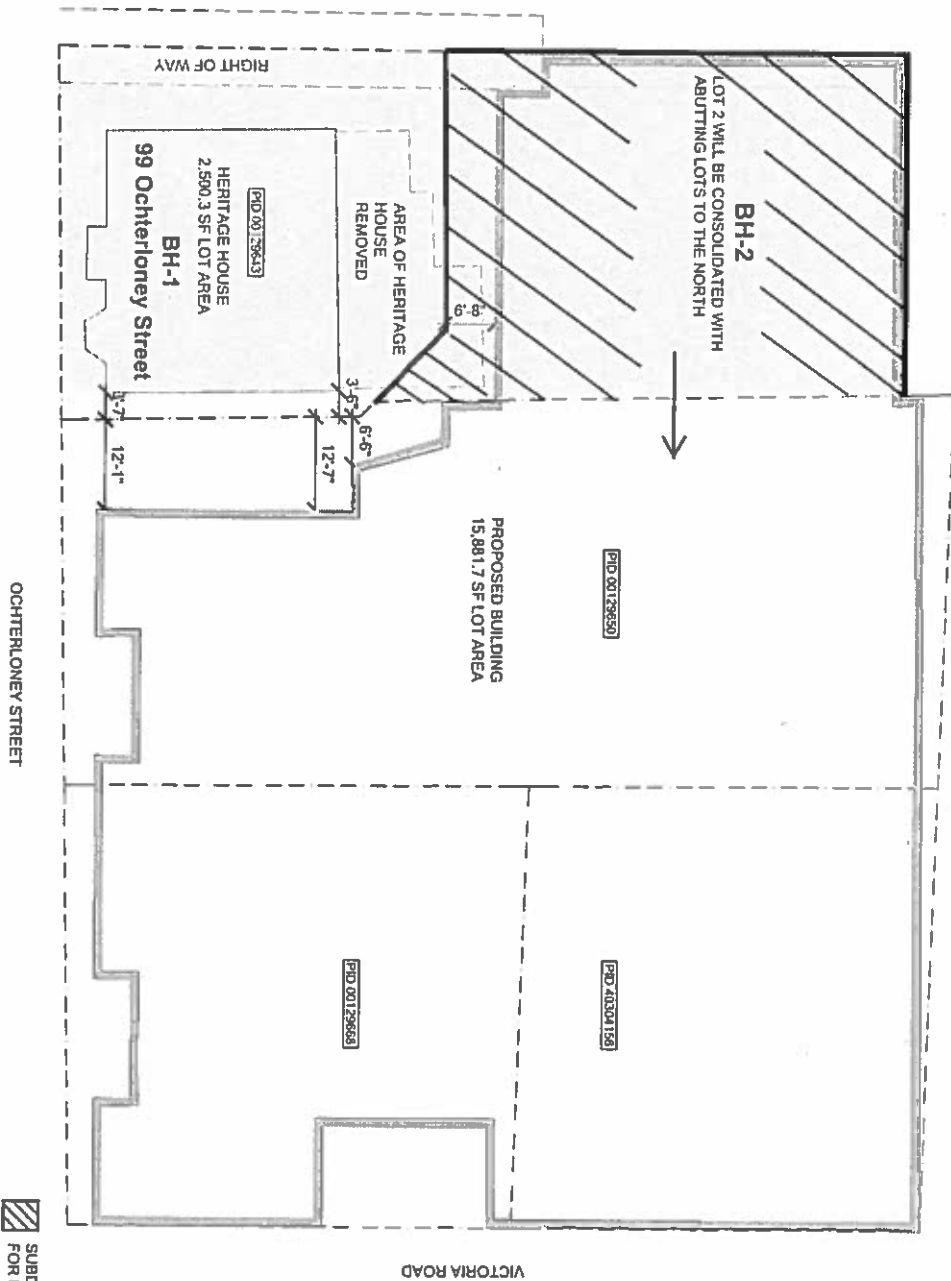
Case H00398

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**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

# ATTACHMENT A

## SUBDIVISION AREA FOR PROPOSED DEREGISTRATION



LOTUS POINT LIVING  
 PROPOSED SUBDIVISION  
 101 OCHTERLONEY STREET  
 DARTMOUTH, NOVA SCOTIA

ALL CONSTRUCTION TO MEET  
 ALL APPLICABLE CODES, BY-LAWS,  
 STANDARDS, ETC.  
 APPROPRIATE DRAINAGES  
 AND ROOF SLOPES

1:1000  
 1/4" = 1'-0"

1:1000  
 1/4" = 1'-0"

PLAN - PROPERTY  
 SUBDIVISION BOUNDARY  
 M.T.S.  
 18 FEB 2014  
 A-1

SUBDIVISION AREA  
 FOR PROPOSED DEREGISTRATION  
 REGISTERED HERITAGE PROPERTY  
 FOOTPRINT OF PROPOSED BUILDING

## ATTACHMENT B

### HERITAGE VALUE AND CHARACTER DEFINING ELEMENTS

#### Heritage Value

The Heritage Property Act defines "heritage value" as *"the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations and embodied in character-defining materials, forms, locations, spatial configurations, uses and cultural associations or meanings."*

The Henry Elliot House is valued for both its architecture and associations with its architect and its first owner. Henry Elliot was one of Dartmouth's most noted architects. His contributions to the architectural landscape of Halifax and Dartmouth include the Union Marine Insurance Company Building, the County Court Jail, the Dartmouth Mechanics Institute, the Universalist Church, and several residences including Alexander James's Evergreen House, and the Oakland. Elliot partnered with other architects at various times in his career, including his brother Edward Elliot and Henry F. Busch. Around 1875, Henry Elliot designed this house for his son, Alfred Elliot. Alfred was a book keeper who became Town Clerk for the Town of Dartmouth in 1875 and was a leading Dartmouth citizen. Alfred lived in the house until his death in 1929.

The Henry Elliot House is also valued for its architecture. The house is an asymmetrical variant of the Gothic Revival style. The house is extravagantly detailed with cornice brackets, a variety of window details and four different bargeboard patterns in the house's gables.

#### Character Defining Elements

Under the Heritage Property Act, the "character-defining elements" of a heritage building are defined as *"the materials, forms, location, spatial configurations, uses and cultural associations or meanings that contribute to heritage value and that must be sustained in order to preserve heritage value."* The following is a list of character-defining elements relating to the architectural significance of the Gothic Revival style of the Henry Elliot House (Attachment C):

- asymmetrical design with wooden clapboard exterior;
- steeply pitched roof with a variety of steeply pitched dormers and cornice brackets under eaves;
- two original brick chimneys located on the rear of the building;
- stone foundation with parged finish;
- four different patterns of bargeboard used in dormer and gables;
- two-storey bay window on front elevation with detailed decorative brackets and quarter-round corner trim;
- tall, narrow one-over-one wooden windows with a variety of window hood moulding styles;
- small Gothic window-shaped vents in side and rear gables near the roof peak;
- front entry panelled door, fanlight and sidelights;
- relationship of house to surrounding residential properties.

**ATTACHMENT C**  
**PHOTOGRAPHS OF SUBJECT PROPERTY**



**Figure 1: The Henry Elliot House (2013) will be preserved in its entirety as part of a development agreement that allows for the construction of a seven storey building to the north and at the rear of the heritage property.**



**Figure 2: Rear of the Henry Elliot House (2007) with two additions that were removed to obtain the required area for subdivision, these were not character defining elements.**



**Figure 3: There are no character defining elements within the new subdivision at the rear of the historic building as it consists of an open space with gravel cover (circled above), previously used for parking (Bing Maps).**