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**Item No. 9.1.4**  
**Heritage Advisory Committee**  
**January 27, 2021**

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

**SUBMITTED BY:** *-Original Signed-*  
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Kelly Denty, Executive Director, Planning and Development

*-Original Signed-*  
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Jacques Dubé, Chief Administrative Officer

**DATE:** December 22, 2020

**SUBJECT:** **Case H00500: Development of Heritage Properties within South End  
Secondary Plan Area of Halifax Peninsula**

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**ORIGIN**

On October 8, 2019, the following motion of Regional Council was put and passed:

*That Halifax Regional Council requests that the Chief Administrative Officer provide a staff report exploring options for expanding the potential for integrated development on registered heritage properties within the South End Plan Area of the Halifax Secondary Municipal Planning Strategy, with the goal of providing land use policy and standards that supports heritage conservation.*

**LEGISLATIVE AUTHORITY**

*Heritage Property Act, R.S.N.S. 1989, c. 199  
Heritage Conservation Districts Regulations  
By-law H-200, Heritage Property By-law*

**RECOMMENDATION**

It is recommended that the Heritage Advisory Committee recommend that Regional Council direct the Chief Administrative Officer to identify additional heritage conservation district study areas within the South End Secondary Plan Area, as per Option 3 of this report, for potential inclusion in the Regional Centre Secondary Municipal Planning Strategy.

## **BACKGROUND**

On October 8, 2019, Regional Council requested that staff review development policies affecting heritage properties in the South End Secondary Plan Area (South End Area) of Halifax Peninsula. Several developers operating in that area have enquired about Policy 6.8 of the Halifax Secondary Municipal Planning Strategy (SMPS) which enables development agreements on registered heritage properties to encourage their adaptive reuse. Heritage development agreements have been a useful tool in encouraging the retention of heritage buildings and in some cases have encouraged property owners to register their historic homes and buildings rather than demolishing them.

Increasingly, developers in the South End Area have expressed interest in acquiring currently un-registered historic buildings, applying for heritage registration and then using the increased development potential available through Policy 6.8 to preserve and reinvest in the existing heritage building. However, some developers have concerns about applying to register their property without any assurance that a subsequent proposal for redevelopment will be approved.

Staff have been requested to examine the existing land-use incentives (including Policy 6.8) available to owners of historic buildings within the South End Area, with the aim of providing options for improving opportunities for conservation and integrated development on such properties.

### **Existing Development Potential on Heritage Properties within South End Area**

The South End Area (Map 1) currently encompasses 87 registered municipal heritage properties which represents approximately 18% of all municipally registered heritage properties. Staff are estimating that approximately 20% of the low-density residential building stock in the South End Area has some heritage merit, therefore approximately 300 historic buildings may be eligible for heritage designation in this area based on their age and architectural merit.

Within the South End Area, there have been 72 demolition applications between 2015 and 2020 which represents 18% of all demolition permits issued in the Regional Centre during this time (72 out of 412). However, in 2017 and 2018, the percentage of demolition permits reached close to 30% each year. The majority (57%) of the demolition permits issued in this area were for single unit dwellings. Considering the concentration of historic building stock in this area, it is highly likely that many of the demolition applications were for buildings that could have been eligible for heritage registration.

### **Heritage Development Agreement Policy**

Policy 6.8 of the Halifax SMPS allows the municipality to consider a development agreement for any proposed development or change in use on a registered heritage property not otherwise permitted by the land use by-law. This policy seeks to encourage the conservation and rehabilitation of heritage properties through adaptive reuse (Attachment A). This policy has also been found to have the unintended but beneficial effect of encouraging property owners to register their properties so that they can take advantage of the increased development potential.

Several owners of registered heritage properties in the South End Area have recently made use of this development agreement policy. In 2019, a development agreement, issued under this policy, was approved for 5720 Inglis Street. Staff have received development agreement applications under this policy in August and September of 2020 for the adaptive reuse of heritage properties on Tower Road and South Park Street, and inquiries have been received for several other properties.

Centre Plan Package B will be considered for adoption in the second half of 2021 and, if approved, will form part of the Regional Centre Secondary Municipal Planning Strategy. This new planning strategy will apply to the South End Area and proposes to replace Policy 6.8 with a new policy enabling development agreements on registered heritage properties, a draft copy of which is provided in Attachment B.

### Residential Zoning

Under the Halifax Peninsula Land Use By-law, two residential zones encompass most of the South End Area (Map 1) and provide some development potential within registered municipal heritage properties:

- The R-1 (Single Family) Zone encompasses the majority of the South End Area. This Zone limits development to single detached dwellings. However, any residential building which was in existence on October 14<sup>th</sup>, 1982, may be permitted to convert to a maximum of three units.
- The R-2A (General Residential Conversion) Zone encompasses large areas in the northeast portion of the South End Area, near Downtown Halifax. The R-2A Zone allows for the construction of up to four-unit buildings. Many older buildings have been converted into multi-unit buildings under the conversion provisions of the LUB and the R-2A Zone.

Secondary suites, backyard suites, and small shared housing options are also allowed in all residential zones within the municipality.

### Proposed Heritage Conservation Districts (HCD)

In HRM, there are three HCDs (Barrington Street, Old South Suburb, and Schmidville) and each includes policies that conserve heritage properties and allow new, contextually sensitive developments. The Regional Centre Municipal Planning Strategy identifies a potential future HCD within the South End Area, which is centered around South Park Street and Victoria Road (Map 1).

An HCD is a defined area of historic or architectural value that is protected under the *Heritage Property Act* and is implemented through as-of-right regulations governing such things as demolition, exterior alteration and new development. The benefits of the 'as-of-right' development approach is that the outcomes are more predictable, timelines for approval are much shorter than is the case with development agreements and can extend protection to a large number of historic buildings. HCDs can also provide increased development potential as well as strict conservation measures without the need for development agreements.

Properties within proposed HCDs are subject to comparatively restrictive zoning to protect them from potentially inappropriate, large-scale development until an HCD Plan and Bylaw can be considered and approved. Development agreement policies for heritage properties are not enabled within the boundaries of approved HCDs.

### **HRM Conservation Standards and *Heritage Property Act* Procedures**

In 2014, the Municipality adopted the *Standards and Guidelines for the Conservation of Historic Places in Canada, 2<sup>nd</sup> Edition* as municipal policy. These standards include a conservation decision-making process where conservation follows a sequence of actions from *understanding* the heritage property, to *planning* for its conservation and, finally, *intervening* through actions such as maintenance or new construction (Attachment C). Understanding a heritage property or HCD through a registration process (Attachment D), is an essential first step to good conservation practice. Planning is the mechanism that links a comprehensive understanding of a heritage property or HCD with interventions that respect its heritage value. Intervening on a heritage property is the last step in the process. It involves any action that results in a physical change to its character-defining elements.

The Halifax SMPS and Land Use By-law for Halifax Peninsula include policies and regulations for development on heritage properties in the South End Area. A heritage review is required when an application is submitted for a development permit, rezoning or development agreement on a registered municipal heritage property. If a proposed development significantly affects or alters a heritage property, then an application for a substantial alteration may also be required in accordance with the *Heritage Property Act* (Attachment E).

The *Nova Scotia Heritage Property Act* 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". Unfortunately, the *Heritage Property Act* includes a limitation (Section 18) that allows an owner of a registered heritage property to demolish their building after a period of three years. When coupled with increasing development pressure, incentives are needed to supplement the legislation to encourage the conservation of heritage and potential heritage properties. New policies that allow appropriate new development on heritage properties or adaptive re-use of heritage buildings can form part of these measures. These new policies should be considered along with other conservation measures including land use regulations, the provisions of the *Heritage Property Act*, and the HRM Conservation Standards.

## **DISCUSSION**

There are three options to consider for expanding development potential for historic properties within the South End Area with the goal of supporting heritage conservation. Option 1 explores the draft provisions proposed under Centre Plan Package B, including a revised development agreement policy. Option 2 explores the merits and risks associated with expanding development for historic buildings prior to heritage registration. Option 3 explores the potential of identifying new heritage conservation districts.

### **Option 1: Expanding Development Potential Under Centre Plan, Package B**

The draft Centre Plan Package 'B' proposes expanding the current Regional Centre policy that permits expanded development options on heritage properties in the Regional Centre to the heritage properties in the South End Area. These documents are tentatively targeted for review and consideration by Regional Council in the second half of 2021.

#### **Heritage Development Agreement Policy in Draft Centre Plan Package B**

The draft Centre Plan Package 'B' proposes to replace the existing Policy 6.8 with Policy 5.6 (see Attachment B). Like the existing policy, the new policy will allow the Municipality to consider a development agreement for any proposed development or change in use for a registered heritage property not otherwise permitted by the land use by-law provided that the agreement encourages the identification, designation, and conservation of significant heritage resources. The draft policy includes new provisions that allow a development to exceed the maximum heights or floor area ratios identified in the policies of the plan to support the integrity, conservation and adaptive re-use of registered heritage buildings. Both Policy 6.8 and the proposed new policy have gained the interest of property owners and developers and have led to successful developments that balance the conservation of the existing building with the economic benefit of contextually sensitive new development.

#### **Residential Zoning in Draft Centre Plan Package B**

The draft Centre Plan Package 'B' proposes replacing most of the zones within the South End Area with the ER1 (Established Residential 1) Zone. The new proposed Zone closely mirrors the existing zoning, consequently the rate of development is not expected to change significantly under Package B.

### **Option 2: Expanding Development Potential for Historic Buildings Prior to Heritage Registration**

The intent of expanding development potential on heritage properties is to provide the owners with increased flexibility for adaptive re-use projects that can generate revenues to support the conservation of heritage buildings. The merits of expanded development potential can include associated risks to the property if the heritage value and character are negatively impacted by the development. Therefore, processes for due diligence, established under the *Heritage Property Act* and municipal policy, must be observed.

#### **Merits of Expanding Development for Historic Buildings Prior to Heritage Registration**

There is some merit to considering a policy that would allow larger developments on potential heritage properties to support the conservation of older building stock before registering the property as heritage. Such a policy can serve to protect a building threatened with demolition by permitting a desired development on a property without the perceived risk to the owner of registering the property before the development is approved. However, despite the perceived risks, most applications for development

agreements on registered heritage properties, under Policy 6.8, are successful where the proposal is contextually sensitive and consistent with municipal policy. A new residential zone or a new development agreement policy could achieve this goal.

#### Risks of Expanding Development for Historic Buildings Prior to Heritage Registration

The HRM Conservation Standards require that the Municipality follow a sequence of actions from *understanding* a heritage property, to *planning* for its conservation and, finally, *intervening* through actions such as restoration and new construction. A policy that would allow for new construction on a property to support its conservation, before registering the property as heritage would place an intervening action on a potential heritage property ahead of an understanding of its heritage value and planning for its conservation. This process would conflict with the HRM Conservation Standards and processes established under the *Heritage Property Act*, leaving key stakeholders (primarily the Heritage Advisory Committee and Regional Council) out of the decision-making process.

Such a policy would overlook the due diligence afforded to potential heritage properties and registered heritage properties by the *Heritage Property Act*, HRM Heritage By-law H-200, the HRM Conservation Standards, and the design requirements associated with registered heritage properties in the Regional Centre Land Use By-law. These risks also apply to non-heritage planning practices.

Attachment F contains an outline of the risks of such action to the HRM Conservation Standards, heritage registration process, and substantial alteration process.

#### **Option 3: Expanding Development Potential within Heritage Conservation Districts**

The Municipality could identify additional study areas, besides Victoria Road, as future potential heritage conservation districts within the South End Area as part of the Centre Plan. Analysis by staff has determined that the historic building stock exists in large numbers throughout the South End Area which has not been identified for inclusion in future HCDs. An HCD can incorporate architectural design guidelines and requirements that enable appropriate expanded development and provide clear and consistent regulations to help conserve large numbers of heritage buildings without the necessity of registering each property individually.

The Municipality will be preparing new heritage conservation district plans in Downtown Halifax, Downtown Dartmouth, Old North Suburb, and Creighton's Field before it can consider establishing new heritage conservation districts in the South End Area. However, by identifying additional future HCDs within the South End Area under Centre Plan, development potential is regulated such that there is no inappropriate development (and less incentive for demolition) before an HCD Plan is adopted. This initial step can occur relatively quickly as Centre Plan Package B is scheduled for approval later this year. However, based upon Council's direction to deal with Downtown Halifax, Downtown Dartmouth, Old North Suburb, and Creighton's Field HCDs first the adoption of future HCDs plans and by-laws would not occur for at least eight years.

#### **Conclusion**

Of the options outlined in this report, staff is recommending that Regional Council approve Option 3 as it achieves the goal of supporting heritage conservation and expanding development potential for heritage properties within the South End Area. Option 3 (identifying new future HCDs in the South End Area) provides for extended heritage conservation measures to historic buildings, without the requirement for heritage registration, and enables expanded development which is contextually sensitive.

Option 1 (Expanding development under Centre Plan, Package B) is a practical option that provides an expedited solution to support heritage conservation in the South End Area. Subject to prescribed policies to ensure the resulting development is contextually sensitive, the proposed development agreement policy would allow a development to exceed the maximum heights and floor area ratios identified in the secondary municipal planning strategy or land use by-law. This option has already been initiated as part of Package B of Centre Plan.

Option 2 would enable expanded development on historic buildings prior to heritage registration but this option is not viable. This approach presents risks to planning practice as it will conflict with established policies and processes while avoiding the due diligence for heritage conservation provided therein.

### **FINANCIAL IMPLICATIONS**

There are no financial implications. The HRM costs associated with processing this application can be accommodated within the approved 2020/21 operating budget for Cost Centre C340, Social and Heritage Policy.

### **RISK CONSIDERATION**

There are no significant risks associated with the recommendations in this Report. The risks considered rate Moderate due to the potential for affected property owners to object to the recommendations outlined in this report. These risks would be mitigated by appropriate public and stakeholder engagement in keeping with the Municipality's current policies and procedures.

To reach this conclusion, consideration was given to operational, financial, and/or strategic risks.

### **COMMUNITY ENGAGEMENT**

The community engagement process for this project 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.

### **ENVIRONMENTAL IMPLICATIONS**

No concerns identified.

### **ALTERNATIVES**

The Heritage Advisory Committee may recommend that Regional Council:

1. Direct the Chief Administrative Officer not to identify any more future heritage conservation district study areas in the South End Area.
2. Direct the Chief Administrative Officer to identify and research properties in the South End Area that have potential heritage value with the goal of Regional Council considering some or all within HRM's municipal heritage registry.

**ATTACHMENTS**

Map 1 – Location Map: South End Area, Halifax

Attachment A: Halifax Secondary Municipal Planning Strategy, Policy 6.8

Attachment B: Draft Regional Centre Secondary Municipal Planning Strategy, Policy 5.6

Attachment C: Established Processes in the HRM Conservation Standards and Heritage Property Act

Attachment D: Heritage Registration Process

Attachment E: Substantial Alteration Process

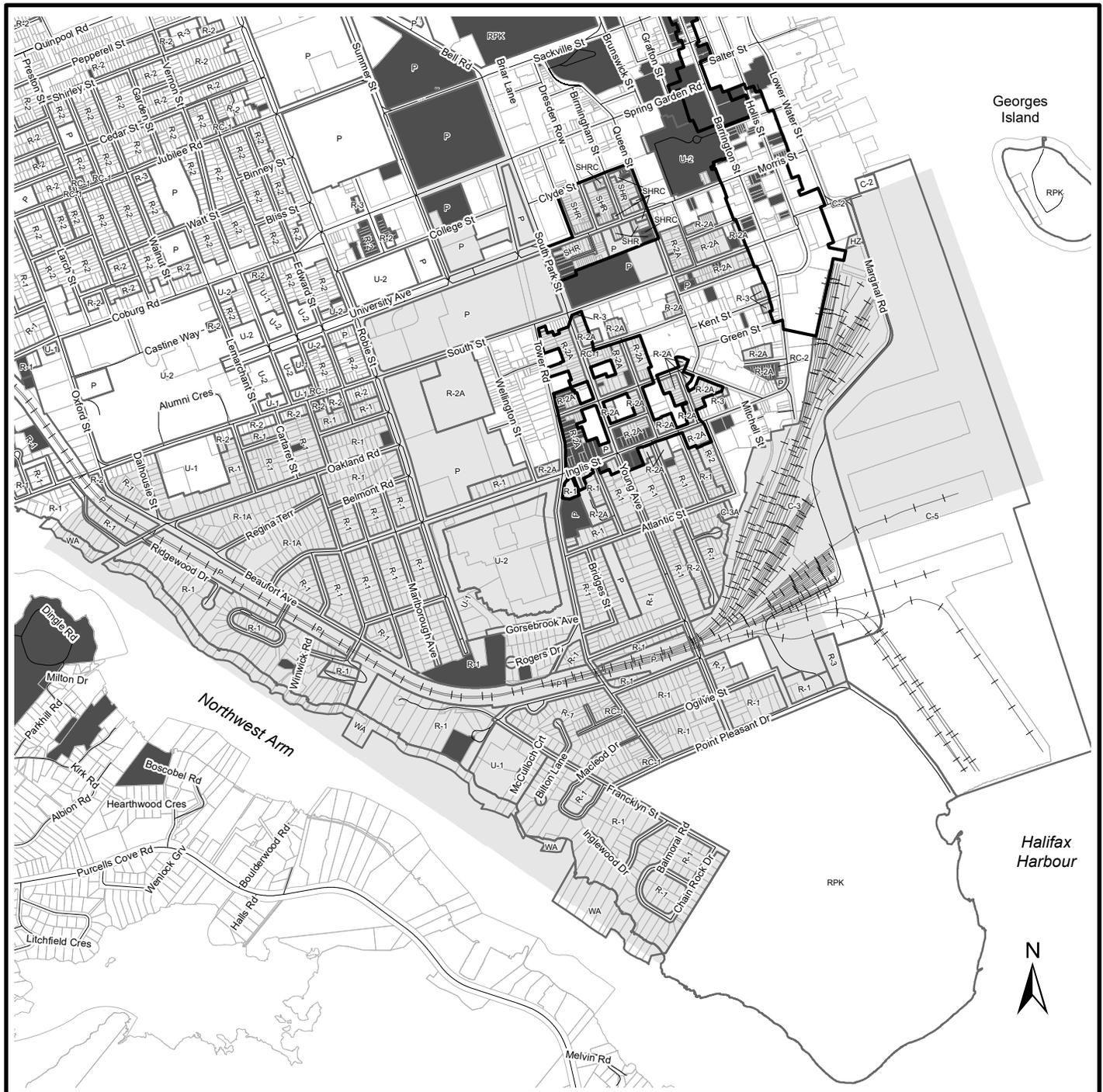
Attachment F: Outline of Risks

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A copy of this report can be obtained online at [halifax.ca](http://halifax.ca) or by contacting the Office of the Municipal Clerk at 902.490.4210.

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## Map 1 - Location Map

South End Area,  
Halifax

-  Registered Heritage Property
-  Heritage Conservation Districts
-  Proposed Heritage Conservation Districts
-  South End Area Plan

Halifax Peninsula Zones - South End Area

- R-1 Single Family Dwelling
- R-1A Single Family Dwelling A
- R-2A General Residential Conversion
- R-3 Multiple Dwelling
- RC-1 Neighbourhood Commercial
- SHR Schmidville Heritage Residential
- SHRC Schmidville Heritage Residential Commercial
- C-3 Industrial
- C-5 Harbour-Related Industrial
- P Park and Institutional
- U-2 High-Density University
- WA Water Access

0 100 200 300 400 500 Meters



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

**ATTACHMENT A**  
**Halifax Secondary Municipal Planning Strategy, Policy 6.8**

- 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 B**  
**Draft Regional Centre Secondary Municipal Planning Strategy, Policy 5.6**

**Policy 5.6**

Subject to Policy 5.19 and Policy 5.20 and outside of the Downtown Halifax Special Area and any Heritage Conservation District, on any property containing a registered heritage building, Council may consider a development agreement for any development or change in use not otherwise permitted by the Land Use-By-law, including a development that exceeds the maximum heights or maximums floor area ratios on Maps 5 and 6 of this Plan, to support the integrity, conservation and adaptive re-use of registered heritage buildings. For a development agreement in accordance with this Policy, Council shall consider that:

- a) any development shall maintain the integrity of any registered heritage property, or streetscape of which it is part;
- b) the impact on adjacent uses, particularly residential uses, is minimized in terms of intensity of use, scale, traffic generation, noise, hours of operation, and such other land use impacts as may be required as part of a development;
- c) the development is reasonably consistent with the policies of this Plan, in particular the objectives and policies as they relate to heritage resources;
- d) any new construction, additions, or renovations on the property meet the heritage conservation design requirements in the Land Use By-law, and the Standards and Guidelines for the Conservation of Historic Places in Canada, 2nd edition;
- e) any new construction, additions, or renovations fronting on a street substantially maintains the predominant streetwall height, setbacks, scale and rhythm of the surrounding properties;
- f) the transition for any new construction, addition or renovation with respect to the scale, form and intensity of abutting uses;
- g) the development complies with Pedestrian Wind Impact and Shadow Impact Assessment Performance Standards of the Land Use By-law;
- h) the quality and extent of the restoration or preservation of the registered heritage property when evaluating proposals for integrated development and adaptive re-use;
- i) that any structures on the site which are not registered heritage buildings be assessed for their heritage value through a Heritage Impact Statement, and if found to have heritage value, must be retained and restored or otherwise integrated into the development so as to preserve their heritage value;
- j) the development complies with policies relating to protected public views and view terminus sites; and
- k) any new construction or addition considers and is reasonably consistent with the criteria of the Urban Design Manual.

## **ATTACHMENT C**

### **Established Processes in the HRM Conservation Standards and Heritage Property Act**

In 2014, the municipality adopted the Standards and Guidelines for the Conservation of Historic Places in Canada, 2<sup>nd</sup> Edition, as its conservation standards. These standards include a conservation decision-making process where conservation follows a sequence of actions from *understanding* the heritage property, to *planning* for its conservation and, finally, *intervening* through actions such as maintenance or new construction.

*Understanding* a heritage property or HCD is an essential first step to good conservation practice. This step involves the identification and designation of municipal heritage properties or heritage conservation districts along with research into the heritage value, character defining elements, condition, and past and current importance of the heritage property or HCD. Developing this understanding involves input from key stakeholders including property owners, Heritage Advisory Committee (HAC), and Regional Council.

*Planning* is the mechanism that links a comprehensive understanding of a heritage property or HCD with interventions that respect its heritage value. Planning for heritage resources combines heritage conservation with other goals such as the needs of property owners. It involves input from stakeholders, including property owners, HAC and Regional Council, on proposed interventions which include substantial alterations or certificates of appropriateness within HCDs.

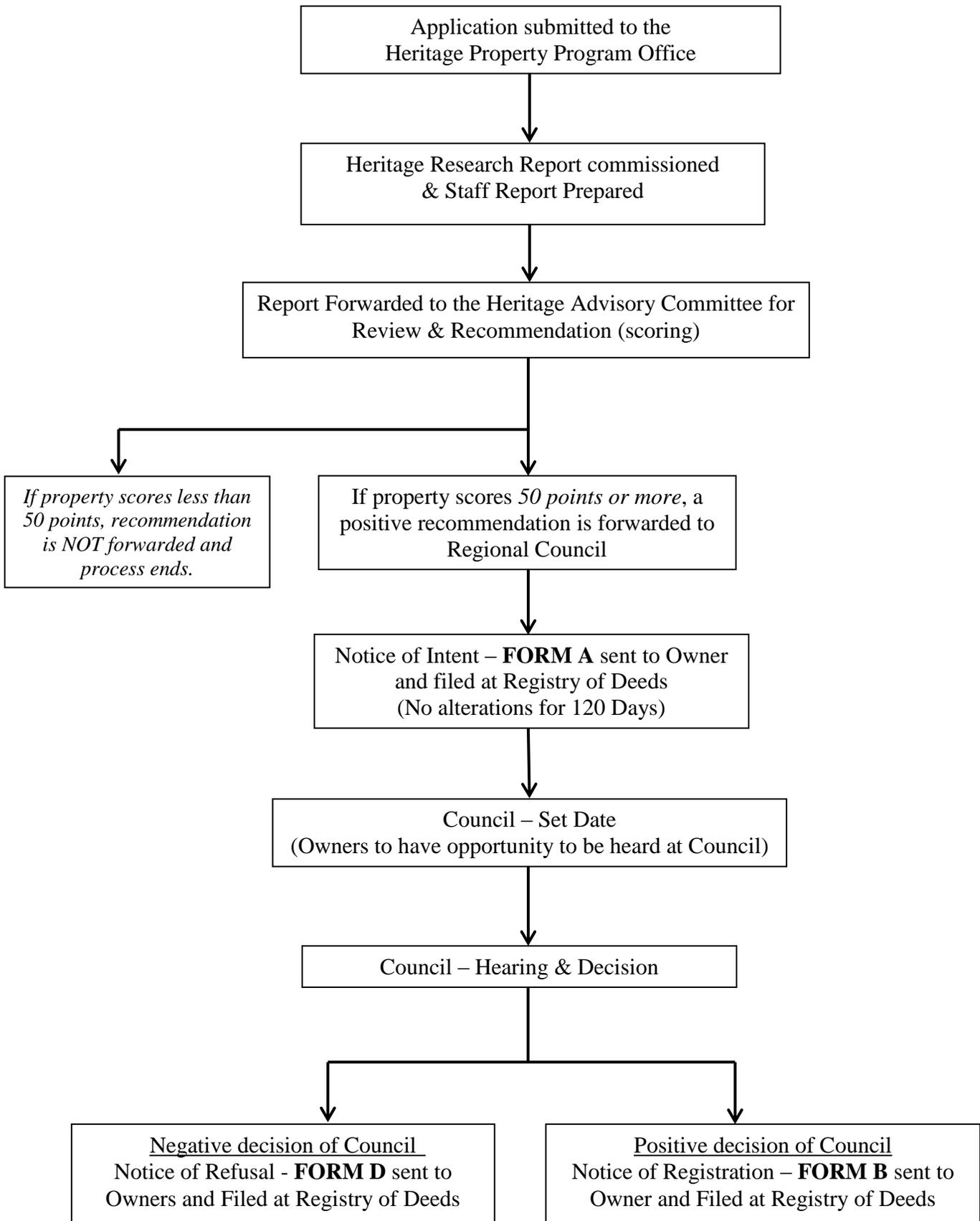
*Intervening* on a heritage property is the last step in the process. It involves any action that results in a physical change to its character-defining elements. This process must respect and protect heritage value. Interventions can include:

- *Preservation* actions that are part of the ongoing maintenance of an historic place; and
- *Rehabilitation* activities related to a new use, addition, or code upgrades.

Preservation is essential to all conservation projects. The standards pertaining to preservation must be considered and applied to rehabilitation projects.

# ATTACHMENT D HERITAGE REGISTRATION PROCESS

(\*As outlined by the Heritage Property Act for Nova Scotia)

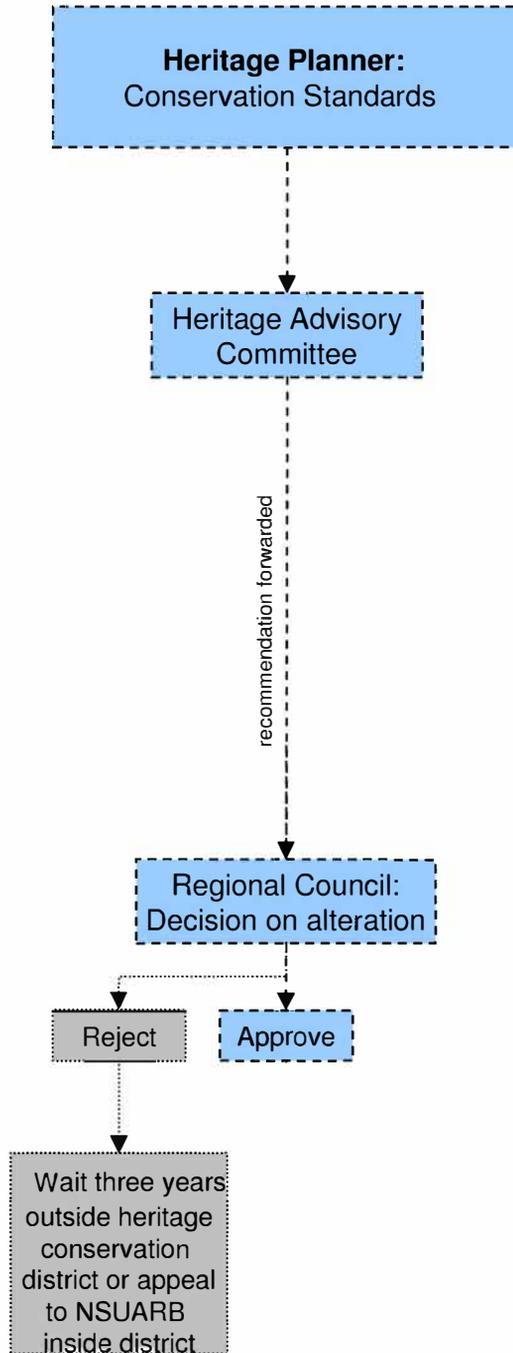


# ATTACHMENT E

## Substantial Alteration Process

Development Services

if registered heritage property  
or heritage conservation district



## **ATTACHMENT F**

### **Outline of Risks**

The following is a summary of the potential risks associated with expanding development rights for potential heritage properties prior to registration, as discussed under option 2 of the staff report. The risks outlined below pertain to the potential for inconsistency with the processes of *understanding*, *planning* and *intervening* which are required under the *Standards and Guidelines* when considering applications to develop or alter registered heritage properties. These processes are further explained in Attachment C.

#### Understanding

In the case of considering a proposal for increased development prior to heritage registration, the following process for due diligence relative to **understanding** the property will not occur:

- The property will not be evaluated under the heritage scoring criteria by the HAC. As such, the property's heritage value will not be fully understood and its eligibility for registration is unconfirmed;
- Regional Council will not consider a recommendation from the HAC, as required by the *Heritage Property Act*;
- Municipal staff will not formally identify the building's character-defining elements in the heritage file or registration documents placed on title.

As a result, any proposed new development which may affect a property's character defining elements will not be subject to proper evaluation or scrutiny.

#### Planning

In terms of **planning** (preparing for and considering appropriate conservation methods associated with alterations to a property), the following process for due diligence will not occur:

- An application for substantial alteration with consideration of the property's character defining elements will not be considered by HAC;
- Regional Council will not consider a recommendation from HAC on the proposed alterations, as required by the *Heritage Property Act*; and
- Regional Council will not decide to approve, reject, or place conditions on the substantial alteration based on a consideration of a property's heritage value.

Under this scenario, HAC and Regional Council will concede their authority to evaluate and approve proposed alterations to a property without the due diligence required under the formal approval process.

#### Intervening

In terms of **intervening** (the act of undertaking alterations to a heritage property), the due diligence provided by the process to *understand* and *plan* for interventions on a heritage property will not inform the intervention itself. Therefore, any new construction on, or alterations to the heritage property may not be appropriate.