

COUNCIL REPORT

M&C No.	2019-195
Report Date	July 24, 2019
Meeting Date	July 29, 2019
Service Area	Growth and Community Development Services

His Worship Mayor Don Darling and Members of Common Council

SUBJECT: Request to Set Public Hearing Date - Updated Heritage Conservation Areas By-Law [Phase One]

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
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RECOMMENDATION

Your City Manager recommends that Common Council approve the necessary advertising for the Public Hearing to be held on September 9, 2019 to consider the proposed Phase One revisions to the *Saint John Heritage Conservation Areas By-Law* [HC-1].

EXECUTIVE SUMMARY

This report will provide a high-level introduction to the first suite of proposed revisions to the Heritage By-Law that will result in increased clarity, efficiency, and flexibility for heritage property owners, as well as three external requests for by-law amendments. A more detailed report on the revisions and the amendments will be submitted for the proposed September 9 Public Hearing.

A second phase of amendments to the Heritage By-Law will be presented to Council in coordination with the adoption of the Central Peninsula Plan. This second phase addresses infill development and is facilitated by policy updates to the City's Municipal Plan and amendments to the Zoning By-Law. The Central Peninsula Plan is expected to be adopted by the end of the year.

PREVIOUS RESOLUTION

N/A

STRATEGIC ALIGNMENT

The proposed changes to the *Saint John Heritage Conservation Areas By-Law* align with Common Council's 2016-2020 priorities to support a Vibrant, Safe City through the modernization of Heritage Conservation processes, as well as a Valued Service Delivery through customer-focused services and a culture of continuous improvement.

REPORT

Common Council has recognized the need for improvements to the *Saint John Heritage Conservation Areas By-Law* (Heritage By-Law), and has formalized that need by including the modernization of the Heritage By-Law in the 2016-2020 Common Council Priorities. In removing barriers to development through this modernization, the City will move forward its goals of creating density and growing the residential tax base, further solidifying its Heritage Conservation Areas as desirable, attractive places to live, work and play.

With full adoption of the Phase one and two Heritage By-law revisions, Council will have enacted a modernized regulatory framework which ensures strong stewardship of heritage resources, while encouraging investment in this key growth area of the City.

Updating the Heritage By-law began with formal stakeholder engagements organized in the second half of 2017, in conjunction with the development of the Central Peninsula Plan to identify areas of improvement for the By-Law. These engagements were followed by a series of focus groups, workshops with the Heritage Development Board, and a comprehensive review of the Heritage By-Law by Taylor Hazell Architects. Collectively, these engagements highlighted the need for **clarity**, **efficiency** and most importantly, **flexibility** in the Heritage By-Law and its administration, while still protecting the valuable integrity of the City's built heritage.

The positive trend leading to these proposed revisions started with amendments to the Heritage By-Law in 2017 which gave authorization to the Heritage Officer to approve a wide range of heritage permit applications, without going to the Heritage Development Board. The continually increasing scope of Heritage Officer permit approvals has resulted in faster turnaround times that have demonstrated a marked increase in customer satisfaction with service delivery. In 2019, over 55% of Heritage Permit applications have been processed by the Heritage Officer, instead of being reviewed by the Heritage Development Board. This sees permits issued typically within a week, rather than waiting for up to one month for the next Board meeting.

PROPOSED REVISIONS

The Phase One revisions that are proposed to be brought forward for Public Hearing on September 9th, 2019 come in four main parts. The revisions that have resulted from the by-law review form the largest part, with three external amendment requests included in this suite for reasons of both timing and policy review.

1. Heritage By-Law Phase One Revisions
2. External Amendment Requests
 - a. Request for Removal from Designation: King Street West Heritage Conservation Area
 - b. Request for Designation: 152 Watson Street
 - c. Request for Site-Specific Amendment: The Telegraph

The Phase Two amendments will replace the current infill standards with new infill guidelines. This will follow the adoption timeline of the Central Peninsula Plan which is currently proposed to begin September 2019, and does not form part of this report.

1. IMPROVEMENTS TO THE PROGRAM

Revisions to the Heritage By-Law are proposed in three main categories: housekeeping, non-visible façades, and demolition.

Housekeeping

Definitions have been revised to align the Heritage By-Law with other related municipal and provincial legislation, primarily the *Local Governance Act* and the *Heritage Conservation Act*. There has also been the addition and removal of definitions where required based on changes to other sections of the Heritage By-Law itself.

Non-Visible Façades

To aid in achieving the goals of **efficiency** and **flexibility** in the Heritage By-Law, a key facet of the proposed revisions is an increase in the number of exemptions from Heritage permitting. The most important exemptions are in non-visible areas of buildings, being the rears of buildings and portions of sidewalls. In these areas, the following items will no longer require a heritage permit:

- Window and door replacements, with no change in the size of the opening;
- Decks, stairs, and fire escapes;
- Fences;
- Cladding, except masonry.

This group of exemptions was determined based on two reasons: they are some of the most common applications made, and they are easily reversible, posing minimal impact on the integrity of a heritage property. With these items proposed to be outside of the scope of the Heritage By-Law, property owners will be able to begin improvements on their own schedules and with their choice of modern or traditional materials. This ensures the conservation of the City's public-facing heritage while enabling contemporary options in backyard and private spaces should property owners so choose. Major alterations in these areas, such as additions, partial demolitions or change in openings, will continue to follow the current permitting process for the time being. It is worth noting that the Heritage Board and staff have, over the last few years, been increasingly flexible in enabling the use of more modern materials on public facing facades and continue to explore further areas of improvement.

Demolition

Improving the **clarity** of the Heritage By-Law, the process for obtaining a demolition permit has been streamlined and strengthened with set expectations for the two available application paths: 'no public benefit' and listing the property for sale.

The application path for 'no public benefit' (formerly 'incompatibility') has been reworked with clearer standards for making that determination. The application path requiring the listing of a property for sale has been made more contemporary with current real estate practices and is designed to help increase the likelihood of a "second chance" for a building:

- Easier determination of list price, in place of appraisers;
- Requiring a 12-month listing period, and,
- Establishing more visible advertisement for listed properties, both on the building itself and on the City website.

It is also proposed that the Board be given the ability, in accordance with the *Heritage Conservation Act* and in alignment with the Building By-Law, to require if it deems necessary the detailed reconstruction of any designated building demolished illegally. While the Heritage By-Law will still cede to any requirements of the 'Dangerous & Vacant Building Program,' this will act as a deterrent to those who would consider not complying with process and procedure.

2. EXTERNAL AMENDMENT REQUESTS

Three external requests for amendments to the Heritage By-Law have been submitted. These requests have been worked into the proposed amendments primarily due to timing and the link to by-law policy matters.

- a. The first requested amendment is to remove the designation for all properties in the King Street West Heritage Conservation Area. The area, originally 11 properties designated in 2007 through resident initiative, saw the removal of designation for two properties by Common Council in recent years: the rectory for St. George's Church in 2014 and St. George's Church itself in 2016. With these removals, and due to negligible participation in both the Heritage Permit process and the Heritage Grant Program since the establishment of the area in 2007, the prospect of removing the heritage designation has been considered a strong possibility. Further, a petition for the dissolution of the Area was submitted by a property owner from the King Street West Heritage Conservation Area in September 2018, and upon consultation with all other property owners, only one expressed a desire to retain a designation. In keeping with the staff recommendation, the Heritage Development Board is recommending to Common Council to approve the removal of the designation for those nine properties within the King Street West Heritage Conservation Area.

- b. The second requested amendment is for the designation of 152 Watson Street, a single building two blocks south of King Street West. While Staff has encouraged the applicant to pursue a Provincial designation, it has been a planned change in policy as part of the Heritage By-Law revisions to be clear that the program's intent is to focus on collections of significant properties instead of individual designations. The overwhelming success of the Heritage Conservation program has been exemplified in larger, denser areas such as the Trinity Royal Heritage Conservation Area, with limited spot designation typically best suited to public buildings of community importance. The revisions to the Heritage By-Law have confirmed the intent to focus on designation of areas, not single sites. In keeping with the staff recommendation, the Heritage Development Board is recommending to Common Council to deny designating 152 Watson Street as a Heritage Conservation Area.

- c. The third requested amendment is a site-specific amendment for The Telegraph, a proposed six-storey wood-framed development on the current Saint John Parking Commission lot at the corner of Canterbury Street and Grannan Street. Based on the current infill standards in the Heritage By-Law, an amendment is being requested for the height standard alone to allow for an additional few metres beyond the maximum height that is prescribed through the By-Law. This item is being reviewed by the Heritage Development Board at its August 7th meeting, with its recommendation to Common Council to follow for consideration at the September 9th Public Hearing with the rest of the Heritage By-Law revisions. All other standards will be reviewed by the Heritage Development Board through regular permit applications.

CENTRAL PENINSULA PLAN

The Central Peninsula Plan (the Plan) will address the approach to height in the Central Peninsula as well as provide further clarity around development and design processes. Council and the public reviewed a preliminary draft of the Plan in the spring of 2018. Substantial feedback was received suggesting needed improvements around the readability and usability of the documents. Staff has reformatted the Plan to be responsive to the community while maintaining its action-oriented, growth-focused vision. These improvements capture the growing momentum in the Central Peninsula and unlock the potential for catalytic growth. The Plan is currently being prepared for the legislative adoption process which is intended to begin in September in coordination with the Public Hearing for the first phase of Heritage By-Law revisions.

CONCLUSION

The *Saint John Heritage Conservation Areas By-Law* has and will continue to provide for appropriate development and the conservation of historic buildings within the City. Making regular improvements to the Heritage By-Law, particularly when these improvements aid in valued service delivery, will ensure the long-term success of the Heritage Conservation program and, more importantly, the Heritage Conservation Areas themselves. By coordinating this modernization with the larger vision of the Central Peninsula Plan, the City will be setting the stage for transformative change now and for years to come.

SERVICE AND FINANCIAL OUTCOMES

The proposed increase in exemptions from heritage permitting requirements will remove barriers and improve timelines for heritage property owners by reducing the number of permits required.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

The Legal Department has provided legal support to the process and has reviewed the proposed changes.

The Heritage Development Board supports the setting of a Public Hearing for the proposed revisions and will be providing its formal recommendation following the August 7th, 2019 Heritage Development Board meeting.

ATTACHMENTS

None