

September 30, 2019

To: His Worship the Mayor
And Members of City Council

Re: Bylaw 2019-7, being the Bylaw to Designate the Cook Residence at 3160 Albert Street as
Municipal Heritage Property - Report from the Saskatchewan Heritage Foundation
Review Board

RECOMMENDATION

That Option 4 to engage a consultant to undertake an invasive home inspection be approved and that a subsequent report be submitted to City Council detailing the outcome of the inspection.

CONCLUSION

After conducting a public hearing pursuant to *The Heritage Property Act*, the Saskatchewan Heritage Foundation Review Board (Board) has submitted its report (Board's Report) to City Council, stating its recommendations with respect to the objection to the designation of 3160 Albert Street as municipal heritage property. In the Board's Report, the Board found that the Cook Residence has heritage, architectural, historical, cultural and aesthetic value, based on the reasons outlined in the Statement of Significance prepared by Donald Luxton and Associates however, the Board has also reflected on and considered use and condition of the building in the process of preparing their report. Due to conflicting information regarding the condition of the home, the final recommendation of the Board is as follows:

“the Board recommends that prior to making the decision to designate the Cook Residence a heritage property, the City of Regina and Lien and Gourgaris commission a mutually agreed upon unbiased neutral third party to undertake an *invasive* home inspection to determine the condition of the home and provide a more reliable cost estimate of restoring the Cook Residence. Once this has been completed, it will allow the City of Regina to better apply their viability assessment within their Heritage Property Designation Criteria to determine the realistic feasibility of rehabilitating the Cook Residence and fairly determine whether it warrants designations as a Municipal Heritage Property”.

The Board's recommendation is non-binding and City Council retains sole discretion to withdraw, amend, adopt or table Bylaw 2019-7. As such, Administration seeks direction from City Council on four options provided in this report. Options include withdrawing designation; proceeding with designation bylaw as originally presented; modifying the designation bylaw; or proceeding with the Board's recommendation. In evaluation of the options, Administration recommends that the City of Regina (City) and owners proceed with the invasive home inspection as recommended by the Board. Administration has met with the owners to discuss this

approach and has identified terms and conditions that would apply to the invasive home building evaluation as described in this report.

BACKGROUND

On November 29, 2018, Administration received a demolition permit application from Ledcor Construction, on behalf of the property owners Carmen Lien and Adriana Gourgarris, to demolish the home on the property located at 3160 Albert Street (Cook Residence). The demolition permit was temporarily denied allowing City Council to determine if the property should be designated as a Municipal Heritage Property pursuant to *The Heritage Property Act*.

On January 28, 2019 (CR19-4) City Council directed the Administration to issue and serve a notice of intention to designate the property located at 3160 Albert Street (Cook Residence) as Municipal Heritage Property and to remove the property from the Heritage Holding Bylaw upon designation. The Notice of Intention to Designate was subsequently served, registered as an interest against the title to the Property, and published in the Regina Leader Post on February 8, 2019.

On March 21, 2019, City Council was served with a formal Notice of Objection to Designate by the property owners, objecting to the proposed designation of the property as a Municipal Heritage Property. In addition to the Notice of Objection, City Council received other written submissions and communications in relation to the proposed designation by professionals and members of the public.

On receipt of the objection(s) and pursuant to *The Heritage Property Act*, at its meeting on March 25, 2019, City Council adopted the following resolution,

“Be it resolved that proposed Bylaw 2019-7 and all related correspondence and notices of objection received in relation thereto shall be referred to the provincial review board for a hearing and report and the City Clerk is directed to notify all applicable parties of the referral in accordance with *The Heritage Property Act*”.

Accordingly, the proposed Bylaw 2019-7, *Bylaw to Designate the Cook Residence at 3160 Albert Street as Municipal Heritage Property* was tabled pending City Council receiving and being able to consider the Board’s Report.

Submittal items and material were prepared and presented to the Board by the City and on May 2, 2019, the hearing was conducted by the Board. In addition to the City’s submission, seven other written submissions were received and the Board heard a verbal testimony from the City, the property owners and five additional presenters. On May 31, 2019, Administration received the Board’s Report, which is attached as Appendix A-5.

In its recommendation, the Board did not identify a suggested “upper financial limit” upon which the City would base its decision to either proceed with designation or authorize demolition. In this regard, on June 5, 2019, the City respectfully requested that the Board provide its suggested financial parameters, without prejudice, to facilitate a fulsome discussion at City Council. The

Board responded on June 12, 2019 that it felt that it was beyond its role to establish the cost at which investment in the property is not financially viable.

For background, on March 25, 2019, City Council approved the Heritage Inventory Policy (CR19-20) along with new evaluation criteria and assessment methods. A Thematic Framework, which outlines the themes that represent the history of Regina, was also approved. This replaces *Bylaw No. 8912 - A Bylaw of the City of Regina to Deny a Permit for the Alteration or Demolition of Properties That the Council of the City of Regina May Wish to Designate as Municipal Heritage Properties* (Heritage Holding Bylaw), which was repealed.

DISCUSSION

Only City Council has the authority, pursuant to *The Heritage Property Act*, to designate Municipal Heritage Properties. Administration has undertaken a review of the options available for City Council, which are as follows:

Option 1: Withdraw Bylaw 2019-7 to Designate the Cook Residence at 3160 Albert Street as Municipal Heritage Property:

In accordance with *The Heritage Property Act*, at any time prior to passing a proposed Municipal Heritage Property bylaw to designate a property, City Council may withdraw the bylaw. After withdrawing the bylaw, the interest registered against the title of the property would be discharged. Should City Council withdraw Bylaw 2019-7, the permit for the demolition of the Cook Residence at 3160 Albert Street would be issued. Any future development on site would be guided by policies within *Design Regina: The Official Community Plan Bylaw No. 2013-48* (OCP) and regulated by the provisions of *Regina Zoning Bylaw No. 9250* (Zoning Bylaw) or subsequent zoning bylaws. The property is currently within the R1- Residential Detached Zone, which is intended to provide low density residential development opportunities.

Option 2: Approve Bylaw 2019-7 to Designate the Cook Residence at 3160 Albert Street as Municipal Heritage Property as Previously Presented at March 25, 2019 City Council Meeting:

Based on its own evaluation of the significant heritage value of the Cook Residence at 3160 Albert Street and having considered the Board's Report, in accordance with *The Heritage Property Act*, City Council may designate the property as a municipal heritage property based on the draft bylaw as submitted to City Council at its March 25, 2019 meeting, without amendment. To proceed with this option, City Council would need a majority of councillors to support the introduction and approval of three readings of Bylaw 2019-7, in accordance with the normal process for adoption of bylaw.

As a Municipal Heritage Property, the site would be protected from demolition. Further, subsequent applications to permit proposed alterations to the property would require approval through the Heritage Alteration Permit process to ensure the Character-Defining Elements (CDE's) described in the designating bylaw are conserved.

If the property is designated a Municipal Heritage Property, the owner is eligible to submit a conservation plan and apply for property tax exemption through the Heritage Building Rehabilitation Program. The tax exemption for the property could be in an amount equal to the

lesser of 50 per cent of eligible costs for the work completed or the total property taxes payable on the property for 10 years.

The potential annual property tax exemption based on estimated 2019 figures could be \$10,688.66, which is distributed as follows:

- Municipal portion: \$6075.20
- Education portion: \$3533.31
- Library portion: \$562.75
- Laneways and Local Improvements: \$517.40

Option 3: Approve Bylaw 2019-7 to Designate the Cook Residence at 3160 Albert Street as Municipal Heritage Property with Suggested Amendments Provided by the Owner:

Similar to Option 2, City Council could designate the property as a Municipal Heritage Property by adopting Bylaw 2019-7 after approving any amendments that City Council deems appropriate. This option allows for City Council to amend Bylaw 2019-7 prior to approval.

Following the March 25, 2019 City Council meeting, the property owner contacted the Administration to discuss possible amendments to Bylaw 2019-7, specifically related to the Character Defining Elements. The Administration has considered the recommended changes by the owner to the Character Defining Elements in the event that the building is designated as outlined in Section 3 of the proposed Bylaw 2019-7 for consideration:

1. *Residential form, scale, and massing as expressed by its: irregular plan; multiple gable rooflines; and two-storey flat roof tower.*
2. *Tudor Revival style elements such as: Fort William tapestry brick veneer with cream mortar; stucco cladding; and half timbering; jettied upper storey supported by decorative wood brackets; recessed front entryway; built up corner boards; brick window sills; tower with crenelated parapet; and twisted, multi-flue chimneys.*
3. *Front entryway featuring: Tyndall stone door surround and original oak front door with strap hinges and hardware.*
4. *Chimneys including: two external brick chimneys with Tyndall stone caps, cast iron bracket, multiple twisted flues and concrete pots.*

This approach would amend Bylaw 2019-7 by replacing the previous Character Defining Elements with those listed above. These proposed amendments strike a balance between the items identified in the Statement of Significance and the needs of the property owner as it excludes certain Character Defining Elements that the property owner views would be onerous to conserve in a renovation of the property or which can be protected to similar degree through other regulation.

The items recommended to be removed include:

1. The location of the residence on the lot within the Lakeview neighbourhood.

2. Two storey building height with full basement and sunroom projection.
3. Wood frame construction and concrete foundation.
4. Multiple gable roof lines and dormers, steeped pitched roofs with low eaves, open soffits with exposed rafter tails, pointed wooden bargeboards with drop wood finials in the gable peaks.
5. All window elements including leaded glass windows and transoms.
6. Front entry elements such as Tyndall stone steps, the canopy formed by gabled main roof with closed tongue and groove soffit, decorative wood brackets and engaged wood post.

As a Municipal Heritage Property, the site would be protected from demolition and the property tax exemptions as outlined in Option 2 would also apply to this option. Any changes to the building would be assessed through the Heritage Alteration Permit process, which would address any impacts related to the character defining elements.

Option 4: Table Bylaw 2019-7 to Designate the Cook Residence at 3160 Albert Street as Municipal Heritage Property Until Home Inspection is Conducted (Recommended):

In response to the Board's recommendation, City Council can table Bylaw 2019-7 until such time as the City and the property owners commission a mutually agreed upon unbiased neutral third party to undertake an *invasive* home inspection to determine the condition of the home and provide a more reliable cost estimate of restoring the Cook Residence at 3160 Albert Street. The City has received a letter from legal counsel for the property owners agreeing to proceed with an invasive home inspection, subject to agreement by City Council.

In follow up to the Board's decision, should Council pursue Option 4 as described above, the recommended terms and conditions of the study are as follows:

- The study shall assess the physical integrity of the Building Envelope (BE), which includes the foundation, structural walls, exterior, and roof of the Building as well as any elements that pose risk to Life and Safety (LS). The study shall also recommend any remedial actions required to address BE and LS and associated projected costs to complete this remedial work to an acceptable condition.
- The work shall be performed by a structural engineer(s) (the Professional) that has demonstrated experience to the satisfaction of the City and Carmen Lien and Adriana Gourgaris (the Owners) in undertaking an invasive home and building inspection and in building engineering expertise as identified above. It is preferred that the Professional also have knowledge of Regina soil conditions and their effects on the built form.
- The Professional shall be from a firm located outside of the province of Saskatchewan.
- The invasive home inspection of the BE and LS may include the removal of elements such as flooring and drywall/plaster to enable the review of structural elements such as

foundation, exterior, roof, windows and doors. It will be up to the professional performing the work to determine the extent of the structure that needs to be exposed for the inspection to be satisfactorily completed.

- The analysis performed by the professional shall be provided in a report on the findings including if there are any unsafe conditions or imminent dangers as well as any conditions related to the structure that could pose a threat to its livability in the next 15 years.
- The report shall identify any items that will need to be mitigated to secure life safety issues in the short (within 5 years), medium (10 – 15 years), and long term (greater than 15 years).
- The report shall identify areas of remediation and the projected cost estimates for remediating any LS conditions (what is needed to have acceptable living condition) or imminent dangers to the BE (foundation, exterior, roof, windows and door) and provide estimates on how long (in years) the recommended remediation will extend the livability of the building.
- The cost associated with the study shall be split 50/50 between the City and the Owners with the maximum cost to the City of Regina not exceeding \$5,000.
- A representative from a representative stakeholder group be determined and included in the review process.

While the Board's recommendation is clear with respect to recommending the engagement of a third party it does not provide clear direction with respect to considering and balancing the property's stated heritage value with its current use and condition. The Board's recommendation does not identify a suggested "upper financial limit" upon which the City would base its decision to either proceed with designation or authorize demolition. The City currently does not have a policy around the financial viability. As such, the owner approached the Administration to consider a formula to address potential consideration of an upper financial limit.

The communication from the owner indicated that in the terms of conducting and completing the feasibility study of 3160 Albert Street, the consultant provides two options of costs:

1. Restoration of the full property to a "basic" finishing standard the frame up the context of the full magnitude to the property owner
2. The cost of the restoration of the only the BE and LS items.

The property owner has further requested that the following be considered for the study:

- When determining if the property is feasible with only considering the BE and LS, there should be context that demonstrates the value of those items as part of the full Property Value (PV). To determine the PV, the owner suggested using the City of Regina

Assessment value used for determining property taxes, as the current assessment is viewed to be accurate by the industry for determining current market value of a property.

- The owner further indicated that the Regina & Region Home Builders' Association (RRHBA) published a report of the break down of a new home in Regina. They determined that the cost of BE is roughly 20 per cent of the new home.
(<https://smartergrowthregina.ca/affordability/cost-to-construct-a-new-home/>).

The report from the RRHBA are for current new homes, which relevant when determining the feasibility of a home existing property.

- The owner has indicated that a fair compromise that should satisfy all parties is that in the case of Heritage Properties, if the value of the BE should exceed 40 per cent of the PV; the Heritage Designation should be completely voluntary and at the full discretion of the property owner.
- The owner advised that they derived the 40 per cent by doubling the 20 per cent indicated in the RRHBA report mentioned above for only the BE items.
- The assessed value is currently \$899,600. Using this formula, the upper limits of cost would be \$359,840.

Administration informed the owner that this proposal by the owner would be presented in this report but that the decision on this lies with Council and may be determined by Council in the broader context of the invasive home inspection review and subsequent report.

Based on the information provided in the options above, the Administration recommends that Option 4 be approved and that the Administration be directed to work with the owners to secure a third party invasive home inspection and to report back to City Council on the outcome of the study.

The City's Evaluation Method:

On March 25, 2019, City Council approved a new Heritage Inventory Policy (CR19-20) with new evaluation methods and tools.

The previous evaluation method included the criteria of usability, which is not part of the new evaluation method. Administration determined that it is hard to place value on potential viable use for a building in the present and rapidly shifting context of property development (e.g. current zoning, potential for re-use, quality of underground utility services, and cost of rehabilitation versus recycling). The potential for development and the related costs of that development depends on tenant/owner needs, which makes it hard to rate one heritage property higher than another.

The previous evaluation method included the criteria of integrity and the present exterior and interior condition, which was largely retained and included in the new evaluation criteria. The new criteria still includes the assessment of the original location for a building (i.e. higher value if it has not been moved), alterations made to a building (i.e. higher value if there are fewer

alterations), and the condition of a building exterior (i.e. higher value if the exterior retains integrity). The new criteria does not include the assessment of the condition of a building interior (i.e. finishes) and the condition of the grounds. The evaluation of a building's condition is based on integrity. Integrity refers to the degree to which the heritage value of the building is still evident and can be understood and appreciated (e.g. the degree to which the original design of the building can be discerned). If considerable change to the place has occurred, the significance may not be readily identifiable.

RECOMMENDATION IMPLICATIONS

Financial Implications

Financial implications for each option are outlined in the discussion section and are summarized below:

- Option 1: No financial implications.
- Option 2: If the property is designated a Municipal Heritage Property, the owner can apply for tax exemption through the Heritage Building Rehabilitation Program. The Tax Exemption for the property could be in an amount equal to the lesser of 50 per cent of eligible costs for the work completed or the total property taxes payable on the property for 10 years.
- Option 3: If the property is designated a Municipal Heritage Property, the owner is able to apply for tax exemption through the Heritage Building Rehabilitation Program. The Tax Exemption for the property could be in an amount equal to the lesser of 50 per cent of eligible costs for the work completed or an amount equal to the total property taxes payable on the property for 10 years.
- Option 4: The upset cost to the City to participate in the engagement of the third property consultant is \$5,000.

Environmental Implications

Conservation of the building contributes to the City's broader policy objective under the OCP of promoting environmentally sustainable development by conserving the built environment and optimising the use of existing infrastructure.

Policy and/or Strategic Implications

Policies contained within Part A of the OCP with respect to culture and heritage include:

Section D8: Culture

Goal 1 – Support Cultural Development and Cultural Heritage: Enhance quality of life and strengthen community identity and cohesion through supporting cultural development and cultural heritage

- 10.2 Consider cultural development, cultural resources and the impact of historic places in all areas of municipal planning and decision making.
- 10.3 Identify, evaluate, conserve and protect Cultural Heritage, Historic Places, and cultural resources, including but not limited to Public Arts.
- 10.5 Encourage owners to protect historic places through good stewardship and voluntarily designating their property for listing on Historic Property Register.

One of the goals in the OCP is to support cultural development and cultural heritage, including support for the protection, conservation and maintenance of historic places; however, the OCP does not provide any further guidance for determining if the subject property is a historic place.

Accessibility Implications

None with respect to this report.

COMMUNICATIONS

Information on the proposed demolition and the heritage value of the property was circulated to Heritage Regina, the Architectural Heritage Society of Saskatchewan and the Lakeview Community Association on December 10, 2018.

The owner, applicant and other interested parties received copies of the reports for the January 9, 2019 Regina Planning Commission and January 28, 2019 and March 25, 2019 City Council meetings and were notified of the meetings to appear as delegations or provide written comments.

The notice of intention was published in The Regina Leader Post on February 8, 2019.

The owner, applicant and other interested parties were invited to provide submittal items and material to the Board and had the opportunity to provide verbal testimony at the May 2, 2019 Board hearing.

On May 31, 2019, the Board report was released to the owner, applicant and other interested parties, as well as the City.

DELEGATED AUTHORITY

The options contained in this report require City Council consideration and approval.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Fred Searle', written in a cursive style.

Fred Searle, Director
Planning & Development Services Department

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Diana Hawryluk', written in a cursive style.

Diana Hawryluk, Executive Director
City Planning & Community Development Division

Report prepared by:
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