

DECISION/DIRECTION NOTE

Title: Draft Heritage By-Law for Public Consultation

Date Prepared: March 22, 2021

Report To: Committee of the Whole

Councillor and Role: Councillor Maggie Burton, Planning & Development

Ward: N/A

Decision/Direction Required:

To release the draft Heritage By-Law for public review and comment.

Discussion – Background and Current Status:

As background, the City adopted its first Heritage By-Law in 1977, followed by its first St. John's Municipal Plan in 1985 and first St. John's Development Regulations in 1985. The Development Regulations incorporated many of the heritage provisions of the By-Law. Thus, by the 1990s, it was felt that the By-Law was no longer needed, and it was eventually repealed.

During the Envision St. John's review of the Municipal Plan and Development Regulations, staff recognized that a Heritage By-Law would provide better protection of built heritage. A by-law derives its authority from the City of St. John's Act, which has specific provisions for built heritage, whereas the Urban and Rural Planning Act is silent on built heritage. The City Act provides a more secure foundation for heritage protection.

The NL Department of Environment, Climate Change and Municipalities recently gave a provincial release for the draft Envision St. John's Plan and Regulations. Once some revisions are made, Envision will be brought to Council to consider adoption and referral to a commissioner's public hearing. The approval of the Heritage By-Law will be coordinated with approval of Envision St. John's to avoid any gap in heritage regulations.

The draft Heritage By-Law is ready for public review. Staff previously presented to Council on the draft By-Law and comments from that meeting have been incorporated into the attached version. Releasing the By-Law now will allow time for public commentary and ensure that the By-Law is ready when Envision comes forward for final approval by Council. Below is a summary of the changes from the heritage standards in the current St. John's Development Regulations that have been incorporated into the Heritage By-Law, plus proposed next steps.

Heritage Advisory Committee/Built Heritage Experts Panel

Heritage Advisory Committee (HAC) is the term used in the City of St. John's Act, and this must be used in the Heritage By-Law. We can still refer to the HAC as the Built Heritage

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Experts Panel (BHEP). The terms of reference for the BHEP will form Schedule A of the Heritage By-Law.

The draft Heritage By-Law was created in consultation with the Built Heritage Experts Panel. However, since that time members on the BHEP have changed and there are now only two members who were part of the initial consultation. Therefore, it is recommended that Council refer this draft Heritage By-Law to the BHEP for additional consultation.

Heritage Areas

Heritage Areas 1 and 2 remain the same under the new Heritage Area map. Heritage Area 3 is mostly the same except for the Battery area. Staff recommend a new Heritage Area 4 with design standards unique to the Battery neighbourhood. For example, in existing Heritage Areas, windows at the rear of a house are not regulated unless they face a public street. For Heritage Area 4, windows that face St. John's harbour (even at the rear of a house) will be regulated, given the importance of maintaining traditional building forms facing the harbour.

Heritage Reports

A Heritage Report is a new requirement for applications to demolish a Heritage Building, applications to change or revoke the designation of a Heritage Building, and any other application as recommended by the appropriate staff member (termed an "Inspector" in the By-Law). A Heritage Report addresses the anticipated impacts that the proposed work may have on the heritage value of a building, neighbourhood or streetscape. The report informs Council and the public on heritage impacts before Council makes a decision on an application. Heritage Reports will be similar to Land Use Assessment Reports (LUARs); Council will set terms of reference, the applicant will pay for the report by a suitably qualified consultant, and the report will be made public. Sample terms of reference from Waterloo, Ontario, are attached.

Heritage Design Standards

The Heritage Design Standards in the new Heritage By-Law expand on the standards in the current Development Regulations, with additions and clarifications. These include:

- Adding a column for designated Heritage Buildings. These can be located anywhere in the city, including a few that are outside any Heritage Area. Under the current regulations, there are no specific standards for Heritage Buildings.
- For residential buildings, the proposed standards include criteria for dormer windows, metal roofs, solar panels, green roofs (that is, roofs that have landscaping and plantings), heat pumps, and accessory buildings. We recommend allowing roof decks in Heritage Area 1 under certain conditions. We propose requiring that iron fences be maintained for Heritage Buildings and in Heritage Area 1; many fences have been lost over time. Iron fences qualify under the City's Heritage Financial Incentives Program.
- The current standards do not deal with residential garages, and therefore every application with a garage had to be referred to the BHEP and Council for direction. The proposed standards allow consideration for the addition of a garage to an existing building, or for a new development to include a residential garage.
- The standards for non-residential buildings are proposed to include the same design elements which now apply only to residential buildings. These include window styles, rooflines, door styles, and so on. Non-residential building standards now also include

proposed standards for building facades, recessed entries, outdoor service area fencing (such as fences for outdoor eating areas), and banking machines.

- The design standards include a proposed new section for additions to existing buildings and for new developments (residential and non-residential). The current standards give no guidance for a designer. With the proposed standards, new developments will be required to blend with the existing neighbourhood and surrounding buildings. This allows the use of modern elements so long as they reflect the surroundings. For taller buildings, the area from the ground to 18 metres (approximately 4 storeys) high, the base or podium of the building, is most visible at street level. There will be flexibility to relax the standards above 18 metres, where the building will be required to step back. This keeps a traditional streetscape while allowing modern designs above the 4th storey. The wording used in the section is similar to Parks *Canada's Standards & Guidelines for the Conservation of Historic Places in Canada*. Photos are attached for reference, showing examples of how modern additions and new developments can complement older buildings while maintaining the character of a heritage area.
- Council will maintain the ability to exempt the owner of a new building from the Heritage Design Standards.
- Under the current regulations, Council in its discretion may require public notice and/or a public meeting for any application. While this will remain the same under the Envision Development Regulations, staff recommend mandatory public consultation for certain applications involving Heritage Buildings or Heritage Areas. These include:
 - an application to demolish a Heritage Building;
 - an application to amend or revoke the designation of a Heritage Building;
 - an amendment of an existing Heritage Area;
 - the designation of a new Heritage Area; and
 - any other matter where Council so directs.
- Public consultation on heritage applications would be carried out using the procedures of the Development Regulations (public notice, newspaper ads, mailed notices, City website, independent facilitator).

Draft Heritage By-Law - Public Consultation

Staff have prepared an Engage St. John's page which contains Frequently Asked Questions (FAQs) as well as relevant maps and documents. It will show the stages in the By-Law adoption process and where we are in it.

Staff recommend holding two virtual public sessions on the draft Heritage By-Law toward the end of April. Tuesday, April 27th during the daytime and Wednesday, April 28th in the evening have tentatively been set as the dates of the virtual public sessions. This allows time for residents, property owners and organizations to review the matter prior to attending the public sessions. Staff would also set a meeting for owners of designated Heritage Buildings who may have questions. Along with the public information sessions, staff will contact such organizations as the Newfoundland and Labrador Historic Trust, Heritage NL, the NL Association of Architects, and the Canadian Home Builders' Association NL to discuss their specific questions or concerns. Any proposed changes to the By-Law would be brought back to Council for consideration.

Housekeeping Items

There are a few housekeeping items left to do. These include updating the Heritage Buildings list to include Parcel ID numbers, finalizing the design of the maps, and formatting the Heritage Design Standards table.

Key Considerations/Implications:

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Residents and property owners of Heritage Buildings or properties in the Heritage Areas, Heritage NL, the NL Historic Trust, Parks Canada, and residents and business owners of St. John's.
3. Alignment with Strategic Directions/Adopted Plans:
St. John's Strategic Plan - A Sustainable City – Plan for land use and preserve and enhance the natural and built environment where we live.
4. Legal or Policy Implications: Adoption of a Heritage By-Law will derive its authority from the City of St. John's Act, which has specific provisions for built heritage.
5. Privacy Implications: Not applicable.
6. Engagement and Communications Considerations: Draft Heritage By-Law engagement will include the creation of an Engage St. John's page, public information sessions, meetings with Heritage Building owners, and relevant organizations.
7. Human Resource Implications: Not applicable.
8. Procurement Implications: Not applicable.
9. Information Technology Implications: Not applicable.
10. Other Implications: Not applicable.

Recommendation:

That Council advertise the draft Heritage By-Law for public review and comment, refer the draft Heritage By-Law to a virtual Public Meeting chaired by an independent facilitator, and refer the draft Heritage By-Law to the Built Heritage Experts Panel.

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