

Staff Report

Report To: Community Services Community
Report From: Jocelyn Wainwright, Heritage Coordinator
Meeting Date: November 16, 2022
Report Code: CS-22-138
Subject: Update to Heritage Conservation Maintenance Agreement for 861 5th Avenue East (D'Orr LePan House) and Contemplate Future Alteration to Building

Recommendations:

That in consideration of Staff Report CS-22-138 respecting an updated Heritage Conservation and Maintenance Agreement with the Owner of 861 5th Avenue East, the Community Services Committee recommends that City Council:

1. Acknowledges the property owners' intention to construct an addition to the rear of the dwelling, provided the Planning & Heritage Division is satisfied that the addition is consistent with the proposal outlined in this report and is sympathetic in design; and
2. Directs staff to bring forward a by-law to authorize the Mayor and Clerk to execute the amended Heritage Conservation and Maintenance Agreement with Wayne Donald Richardson and Sandra Lee Richardson, the property owner of 861 5th Avenue East.

Highlights:

- The current owner of the designated property located at 861 5th Avenue East, otherwise known as the D'Orr LePan House, has requested to update their existing Heritage Conservation and Maintenance Agreement (HCMA) with the City.
- The property is subject to an existing HCMA approved in 2009.

- The age of the existing agreement and work that has been completed on the building since 2009 warrant an update. The updated HCMA will also allow the property owner to continue participation in the Heritage Property Tax Relief Program.
- The property owner intends to construct an addition to the rear of the building for the purposes of aging in place. The addition is to be sympathetic to the character of the building and has no impact on the identified Heritage Attributes mentioned in this report.

Strategic Plan Alignment:

Legislated review process.

Previous Report/Authority:

[Heritage Property Tax Relief By-law \(2009-148, as amended\)](#)

Background & Proposal:

In 2009, City Council passed [By-law 2009-148](#) to establish a Heritage Property Tax Relief Program. Under the authority of the Municipal Act, the Ontario Heritage Act, and the City's Community Improvement Plan (CIP), the program was developed to provide a tax incentive to promote heritage conservation. The program was continued under the 2020 CIP and is meant to encourage the owners of designated heritage properties to make regular investments in ongoing maintenance. With a continuous case, major restoration projects can be avoided.

The Heritage Property Tax Relief Program provides a maximum of 20 percent (20%) refund to eligible applications on the municipal, education, and County portion of property taxes. In order to be considered eligible, a designated property owner must enter into a legal agreement (either a Heritage Conservation and Maintenance Agreement or an easement agreement) with the City, which details the expectations for the use of the refund. An agreement is required because designation under the Ontario Heritage Act alone does not compel owners to maintain their properties on an ongoing basis. At present, 15 designated properties have active Heritage Conservation and Maintenance Agreements (HCMAs) with the City, and two

(2) have existing easement agreements. There are a total of 17 eligible properties.

The owner of the designated property located at 861 5th Avenue East, known as the D'Orr LePan House, has made a request to update their existing HCMA with the City to recognize work that has been completed on the building since the authorization of the first agreement, provide notice of intention to construct an addition at the rear (east) side of the dwelling and to continue participation in the City's Heritage Property Tax Relief Program.

In accordance with Section 5.2 of the City's [Heritage Property Tax Relief By-law \(2009-148, as amended\)](#), HCMAs are drafted by Staff in coordination with the property owner with recommendations for consideration by the Community Services Committee, acting in its capacity as the Municipal Heritage Committee under the Ontario Heritage Act.

Additionally, this report recognizes the owner's intentions to construct an addition to the rear of the building. The Ontario Heritage Act (s. 33) requires that no property owner designated under Part IV of the Act shall alter their property without written consent to the alteration from the host municipality. Alterations to designated properties, which are likely to affect the property's heritage attributes, are considered through Heritage Permits, which are issued by the City together with the Building Permit for the works.

City By-law 2010-053, being a by-law to delegate authority under the Ontario Heritage Act for the power to consent to the alteration of designated properties, indicates that two of the Heritage Planning Coordinator, Community Planner, and the Director of Community Services may grant approvals under s. 33 of the Ontario Heritage Act to alter designated properties. The by-law also requires that approvals be reported to the Community Services Committee, acting in its capacity as the City's municipal heritage committee.

A site visit was conducted to assess any potential implications to the significant heritage attributes of the home that may incur because of the owner's proposed addition to the rear of the building. Staff determined that the addition would have relatively minor impacts on the Heritage attributes of the home listed in Schedule 'B' of the HCMA. In addition to Building Permits, a Heritage Permit will be required in accordance with Part IV of the *Ontario Heritage Act*, R.S.O. 1990.

The purpose of this report is to present the Committee with the updated HCMA for final approval by City Council and authorization by by-law.

Analysis:

As noted, the property owner of the designated property located at 861 5th Avenue East, known as the D'Orr LePan House, has requested to update their existing HCMA with the City. This property was designated by the City under the Ontario Heritage Act via By-law No. 1983-91 on August 15, 1983, for its architectural and historical value.

The property is subject to an existing HCMA, which was approved on December 21, 2009, and authorized by By-law No. 2009-226. HCMA's, unlike easements, are not registered on property title. Generally, these agreements are intended to be updated every five (5) years but do not expire until the program is terminated or until non-compliance with the program criteria occurs, whichever comes first (see Section 5.3 of [By-law 2009-148](#), as amended).

The updated HCMA includes an updated Conservation and Maintenance Plan (attached as Schedule 'A') describing the current conditions of the building and upcoming/ongoing maintenance works.

The Heritage Conservation and Maintenance Plan within the 2009 HCMA (attached as Schedule 'B') identified the red brick stretcher bond walls, including the raised buff arches, radiating voussoirs surrounding the head of the windows, raised buff quoins, two tall decorated single stack brick chimneys (one being located on the north and the other at the south side of the roof), the truncated hip roof, pediment dormers, wood sash windows, and dormers windows as being in "good" condition. The HCMA has been updated to recognize these current conditions and the ongoing maintenance that will be required to conserve these distinct heritage features. The conservation and maintenance works identified in the updated HCMA will require Heritage Permit(s).

The property owner intends to construct a new single-storey addition to the rear of the building for the purposes of aging in place. The addition is to be sympathetic to the character of the building and has no impact on the identified Heritage Attributes mentioned in this report. The addition would require the partial removal of the rear (east) red brick stretcher bond wall and the complete removal of the rear (east) chimney, gable on the rear

(east) face of the truncated hip roof, and an unoriginal single-storey addition located centrally on the rear (east) wall. The chimney, gable, and single storey addition slated to be removed are not listed as Heritage attributes of the building in Schedule 'B' of the HCMA. The partial removal of the red brick stretcher bond wall on the rear (east) façade to accommodate the proposed addition is anticipated to have a minor impact on the general character of the heritage property and will not detract from the building's historical massing as it appears from the street on 5th Avenue East.

Under Part IV, Sec. 33.1 of the *Ontario Heritage Act*, R.S.O. 1990 (OHA), requires that no owner of a designated property shall alter the property in a way that is likely to affect the property's heritage attributes without first applying for a Heritage Permit and receiving written consent from Council. Due to the partial removal of the red brick stretcher bond wall on the rear (east) façade, a Heritage Permit will be required in accordance with the OHA.

Schedule 'A' of the HCMA (attached as Schedule 'C' of Staff Report CS-22-138, contains a statement of cultural heritage value and a description of the heritage attributes, which has been updated to include updated terminology and up-to-date (2022) photos of the property.

Financial Implications:

There are no financial implications are a result of this report. The updated HCMA will allow the property owner to continue to participate in the Heritage Property Tax Relief Program in 2023 for the 2022 tax year, and subsequent tax years thereafter.

Applications to the Heritage Property Tax Relief Program commence on January 1 of each year. Each application is assessed on its own merits, considering the eligibility criteria outlined in the City's Community Improvement Plan and program-specific guidelines. It requires approval by the Community Services Committee and City Council.

The annual budget for the Heritage Property Tax Relief Program is \$15,000. Refunds are pro-rated when providing a full 20% rebate to all applications would exceed the budget.

Communication Strategy:

The HCMA executed by the Mayor and Clerk will be provided to the property owner for their records.

Designated heritage property owners are provided with information respecting the Heritage Property Tax Relief Program and a reminder to apply in January of each year.

Consultation:

The property owner was consulted in the preparation of the updated HCMA.

Attachments:

Schedule 'A': Updated Heritage Conservation Maintenance Agreement

Schedule 'B': Heritage Conservation and Maintenance Agreement - 2009

Schedule 'C': Updated Statement of Cultural Heritage Value and Description of Heritage Attributes

Recommended by:

Jocelyn Wainwright, BLA, Heritage Coordinator

Reviewed by:

Pam Coulter, BA, RPP, Director of Community Services

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Jocelyn Wainwright, Junior Planner & Heritage Coordinator at jwainwright@owensound.ca or 519-376-4440 ext. 1250.