



# **Corporate** NO: R052

# **Report** COUNCIL DATE: March 6, 2000\_

## **REGULAR COUNCIL**

**TO: Mayor & Council**    **DATE: March 3, 2000**

**FROM: General Manager, Planning & Development**    **FILE: 0525-026**  
**7999-0153-00**

**SUBJECT: Baron von Mackensen House, 9564 - 192 Street**

## **RECOMMENDATION**

The Planning & Development Department recommends that Council:

1. Receive this report as information;
2. Defer the introduction of a Heritage Designation By-law for the Baron von Mackensen House for a further 60 days in order to permit negotiations to continue with the applicant on incorporating the House in the proposed development and to ensure that it is maintained and restored to its original heritage character, subject to the applicant signing the Agreement attached as Appendix "B"; and
3. Instruct staff to bring forward the appropriate protection mechanism for the Baron von Mackensen House prior to the expiry of the extended temporary protection on May 15, 2000.

## **BACKGROUND**

The Baron von Mackensen House (the House), located at 9564 - 192 Street has been noted for its architectural and historical significance that made it a candidate for the Heritage Register. A development application, No. 7999-0153-00, was received on August 4, 1999, to rezone this property from Light Impact Industrial Zone to Comprehensive Development Zone for a mixed use development consisting of warehouses, offices and limited commercial facilities.

On January 10, 2000, Council approved a recommendation of the Heritage Advisory Commission to have the House incorporated in the proposed development and to have it maintained and restored to its original heritage character. An application for a permit to demolish the House was received by the Planning & Development Department on January 14, 2000. In response to this demolition permit application, a report was presented to

Council (R010) on January 17, 2000, and Council approved the following recommendations:

1. To pass a resolution to order temporary protection of the Baron von Mackensen House and subject property.
2. To instruct Planning & Development staff to draft a Heritage Designation By-law to protect the House and an appropriate portion of the site.
3. To instruct staff to report on and recommend a course of action to achieve continuing heritage protection of the House on the site.

## **DISCUSSION**

### **Temporary Protection of the House and Property**

To implement Council's order for temporary protection of the House and surrounding property, Planning & Development staff have withheld issuing a demolition permit. Negotiations have also continued with the applicant. The objectives of these negotiations are for staff and the applicant to find a mutually acceptable way to retain the House in the proposed development, and to ensure that it will be restored and maintained to its original heritage character.

### **Proposed Plan for the Property**

After extensive discussions between staff and the applicant, considering various development options and adaptive re-use of the House, the applicant has now revised the development proposal. The applicant has proposed that a 3,670 square metre (39,500 sq.ft.) mini-storage facility be developed, and that the House be retained at its existing location as a caretaker's residence with a small office included inside the House. The proposed land use is in keeping with the industrial context of the area and the applicant's proposal to keep the House as a caretaker's unit and office represents a positive step towards preserving the House at its current location. Various implementation details have yet to be worked out.

In order to implement this proposal, the Planning & Development Department suggested a Heritage Designation Bylaw, supplemented by a Heritage Revitalization Agreement to define the obligations of the owner to repair and maintain the House, to limit the use of the property to a mini-storage facility, and to grant a relaxation to off-street parking requirements, all without having to rezone the property. However, the applicant has come forward with an alternative proposal that would retain and protect the House by using a Comprehensive Development Zone to permit the mini-storage use and to relax the requirement for off-street parking, and by using a Development Permit to prescribe the heritage character of the House to be protected and maintained. During the discussion, the applicant agreed that a restrictive covenant could be registered on title of the property to ensure that the House will be maintained in good repair and will not be demolished or removed without the consent of the City. Although this approach is not as direct as the Heritage Designation By-law approach, under the circumstances staff consider it an acceptable compromise.

### **Options for Continuing Temporary Protection**

The temporary protection for the House and surrounding property will expire on March 17, 2000. With the progress that has been made in discussions between Planning & Development staff and the applicant, an extension to the temporary protection will be needed to allow for more time to resolve the details of how long-term protection of the House and surrounding property can be achieved within the redevelopment of the site.

Two options for continuing heritage protection are available for Council's consideration. A Heritage Designation By-law could be introduced immediately to provide continuing protection of the site. Alternatively, the owner/applicant can agree to an extension to the temporary heritage protection for a specific period of time.

### **Option 1: Introduction of a Heritage Designation By-law**

The order for temporary heritage protection expires on March 17, 2000. Introduction of a Heritage Designation By-law prior to this date would provide an additional 60 days of protection. During this time, it would be necessary to hold a Public Hearing and achieve Final Adoption of the By-law by the end of the 60 days.

A Heritage Designation By-law for the House and surrounding property has been prepared and reviewed by the City Solicitor (Appendix A).

However, adopting a Heritage Designation By-law without the owner's consent may result in a claim by the owner for compensation for a reduction in market value of the designated property. Introducing the By-law now while a resolution is being discussed between staff and the applicant to achieve long-term protection of the House may be perceived as something less than goodwill in continuing negotiations to finalize the proposed development.

### **Option 2: Extend the Temporary Protection**

An alternative to introducing a Heritage Designation By-law is to obtain the owner's consent to extend the temporary protection. The order for temporary protection was achieved under Section 962(1) of the Municipal Act. Sub-section 962(2) specifies the time period for an order for temporary heritage protection and any allowance for further extension with the owner's consent, as follows:

“(2) An order under subsection (1)

- (a) must specify the time period during which the temporary protection applies, which time period may not be longer than 60 days unless the owner agrees to a longer time period, and
- (b) must not be made more than once in a 2 year period without the agreement of the owner of the property.”

The owner is willing to extend the temporary protection to the House and surrounding property for an additional 60 days, until May 15, 2000. An agreement has been prepared to provide this assurance of temporary protection (Appendix B).

Discussions between Planning & Development staff and the applicant have progressed to the point where heritage protection measures other than a Heritage Designation By-law have been suggested. With the owner's consent to extend the temporary heritage protection, By-law introduction may be deferred while negotiations continue.

## **CONCLUSION**

The agreement of the owner to extend temporary heritage protection of the Baron von Mackensen House and

surrounding property for a further 60 days will allow additional time for Planning & Development staff and the applicant to continue negotiations and finalize the proposed development plan incorporating the House in the development on site. Introduction of a Heritage Designation By-law should be deferred at this time. If staff and the applicant cannot agree on an alternative means of protecting the site, Council would still have the prerogative of introducing a Heritage Designation By-law prior to May 15, 2000. This is in accordance with Council's recommendations of January 10 and 17, 2000. Staff will advise Council on the progress of the negotiations in due course but in any case by early May, 2000.

Murray D. Dinwoodie

General Manager

Planning & Development Department

HM/kms

Appendix A: Heritage Designation By-law

Appendix B: Copy of Signed Agreement to Extend Temporary Protection

c.c. - City Solicitor

- Heritage Advisory Commission

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