



# **Corporate** NO: R079

# **Report** COUNCIL DATE: April 9, 2001

## **REGULAR COUNCIL**

**TO: Mayor & Council** DATE: **April 4, 2001**

**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. Instruct the City Clerk to introduce a Heritage Designation By-law (Appendix C) for the Baron von Mackensen House and surrounding property located at 9564 - 192 Street and a date be set for Public Hearing;
3. Instruct the City Clerk to forward a copy of this report to the owner of the subject property, Salute Enterprises Ltd.; and
4. Refer this report to the Heritage Advisory Commission for comments prior to the Public Hearing.

## **INTENT**

This report is intended to provide Council with an update on the status of the proposed development on the property at 9564 - 192 Street and to request Council's consideration of a Heritage Designation By-law to achieve continued long term protection of the Baron von Mackensen House on the subject property. Such a By-law is being proposed as a result of the owner's unwillingness to extend the temporary protection period for the Baron von Mackensen House when it expires on April 14, 2001.

## **BACKGROUND**

On January 10, 2000 Council approved the recommendation of the Heritage Advisory Commission to have the Baron von Mackensen House, (noted for its architectural and historical significance), incorporated in the proposed development for the subject site at 9564 – 192 Street in Port Kells (Appendix A).

On January 14, 2000, the owner (Salute Enterprises Ltd.) applied for a demolition permit to demolish the Baron von Mackensen House.

On January 17, 2000 Council passed a resolution to order a temporary protection of the Baron von Mackensen House and the subject property for a period of 60 days pursuant to Sections 962 and 965 of the Local Government Act (Corporate Report R010, Council Res. R00-96) (Appendix B).

On March 6, 2000, with the consent of the owner, Council approved the extension of the temporary protection period for a further 60 days from March 17, 2000 to May 17, 2000 (Corporate Report R052, Council Resolution R00-516). A further 60-day extension of the temporary protection from May 17, 2000 to July 14, 2000 was approved by Council on May 8, 2000 (Corporate Report R107, Council Res. R00-1129).

At the Regular Council – Public Hearing Meeting on July 25, 2000, Council granted Third Reading of Rezoning By-law No. 14075 to rezone the subject property from Light Impact Industrial Zone (IL) to Comprehensive Development Zone (CD) to allow the development of a mini-storage facility and an office/caretaker's unit in the existing, historical Baron von Mackensen House. The temporary protection period for the Baron von Mackensen House was extended for an additional 90 days to October 14, 2000 (Council Res. R00-1727).

On October 2, 2000, Council considered Corporate Report R219 and granted an additional six-month extension of the temporary protection period from October 14, 2000 to April 14, 2001 (Council Res. R00-2251).

## **DISCUSSION**

On March 5, 2001, a registered letter was sent to the owner requesting written response as to the status of the proposed development on the subject site and whether they intended to continue with the application. The applicant (Towncor Development Corp.) informed staff on March 16, 2001 that, due to economic reasons, the owner would not be pursuing the mini-warehouse proposal or any other development proposals at this time. The applicant requested consideration of a long term extension of the temporary protection of the House. However, on March 29, 2001, the owner verbally advised City staff that upon further consideration they are not prepared to extend the temporary protection for the House. (A revised agreement providing a one year extension of the temporary protection was sent to the owner for execution, but it has not to date been executed and returned to the City.)

In view of the owner's latest advice that he is not willing to extend the temporary protection period for the Baron von Mackensen House, there are two options available to the City:

### **Option 1: Allow the Temporary Protection of the House to Expire**

Under this option the City would simply allow the temporary protection of the House to expire. Under this option, the owner could apply to demolish the existing house after April 14, 2001, which is when the current temporary protection period expires. The City would document the architectural and historical significance of the House for the Surrey Museum.

Under Sub-section 962(2) of the Local Government Act, an order for temporary protection must not be made more than once in a 2-year period without the agreement of the owner of the property. Therefore, once the

temporary protection expires on April 14, 2001, the City cannot pass another temporary protection order to protect the House and surrounding property, until January 17, 2002 which is two years after the first order was adopted by Council.

## **Option 2: Introduction of a Heritage Designation By-law**

Under this option, to provide long term continued protection after the temporary protection of the House expires on April 14, 2001, Council could introduce a Heritage Designation By-law pursuant to Part 27 of the Local Government Act, prior to April 14, 2001. Introduction of the By-law automatically provides an additional 60 days of protection from the date of by-law introduction. During the 60 day period, it would be necessary to hold a Public Hearing and achieve Final Adoption of the Heritage Designation By-law to provide on-going protection of the house and site.

A Heritage Designation By-law for the House and surrounding property has been prepared and reviewed by the City Solicitor (Appendix C). It should be noted, however, that adopting a Heritage Designation By-law without the owner's consent may result in a claim by the owner for the City to pay compensation in the amount of the reduction in market value of the designated property. In some cases, such a claim could result in the City acquiring the property from the owner.

If the Heritage Designation By-law is adopted and the subject property is still privately owned, other financial ramifications for the City include financial assistance for the upkeep of the house and property tax reductions. Under the Municipal Heritage Sites Financial Compensation By-law, 1983, No. 7692, as amended, owners of privately-owned buildings and properties protected by a heritage designation by-law may apply through the Heritage Advisory Commission for up to \$3,000 per year as a matching grant to restore, rehabilitate or maintain the exterior of the building. All applications for financial assistance will be administered by the Heritage Advisory Commission and will be subject to Council approval.

Pursuant to Section 342 of the Local Government Act, Council may by by-law exempt all or part of a protected heritage property from municipal property taxes. A policy approved by Council in May 1989 allows private owners of buildings protected by a heritage designation by-law to qualify for an annual 50% reduction in the taxable assessed value starting from the next calendar year after the by-law is adopted. It is noted that the 50% exemption applies to the property tax only, and not City sewer, water and garbage collection charges. Approval by Council will be required every year for the property tax reduction.

## **CONCLUSION**

The temporary protection period for the Baron von Mackensen House will expire on April 14, 2001. Due to economic reasons, the owner is not pursuing the mini-warehouse development proposal which had been given consideration by Council during 2000, or any alternative development proposal at this time. The owner has advised that he is not prepared to extend the temporary protection period for the Baron von Mackensen House and surrounding property when the current temporary protection period expires on April 14, 2001. There are two optional approaches which the City may consider. The City could allow the temporary protection period to expire and risk losing the subject house. Alternatively, the City could introduce a heritage designation by-law that would provide on-going long-term protection to the house and site but may have financial consequences to the City. To implement Council's previous decision to preserve the Baron von Mackensen House on site, it is recommended that Council instruct the City Clerk to introduce a Heritage Designation By-law to achieve continued long term protection of the House. However, adopting a Heritage Designation By-law without the owner's consent may result in a claim from the owner for loss of value in the designated property.

The introduction of the Heritage Designation By-law will automatically provide an additional 60 day protection period. This will allow staff time to explore other preservation options, including adaptive uses for the house and related cost implications. It will also allow time for Council to refer the matter to the Heritage Advisory Commission at its meeting on April 18, 2001 to provide advice back to Council prior to the Public Hearing for the subject By-law. A report will be submitted to Council for consideration before the expiry of the 60 day period, and at that time Council will need to decide whether the Heritage Designation By-law should be adopted.

Murray D. Dinwoodie  
General Manager  
Planning & Development Department

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Appendix A: Application Site and Location of Existing House

Appendix B: Corporate Report R010

Appendix C: Draft Heritage Designation By-law

c.c. - City Solicitor

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