

REPORT

Development Services

To: Mayor Côté and Members of Council **Date:** 9/19/2016

From: Beverly Grieve **File:** 13.2605.40
Director of Development Services

Item #: 314/2016

Subject: Queen's Park Heritage Control Period: Clarification of Scope and Process

RECOMMENDATION

- 1) ***THAT*** Council direct staff to take the next steps to implement the use of the following evaluation steps in the review of Heritage Alteration Permit applications for the Queen's Park Heritage Control Period:
 - a. *Requiring a Heritage Assessment for all demo and major renovation applications; and,*
 - b. *Conducting a maximum density evaluation only for rejected demolition Heritage Alteration Permit applications; and,*
 - c. *Convene a Review Panel for the review of demolition and new building Heritage Alteration Permit applications; and,*
- 2) ***THAT*** Council endorse the interim evaluation criteria for demolition, new building and renovation Heritage Alteration Permits attached to this report, for the term of the Control Period;
- 3) ***THAT*** Council endorse the attached newsletter outlining key facts about the Queen's Park Heritage Control Period, and direct staff to proceed with next steps for distribution; and,
- 4) ***THAT*** the demolition applications for Manitoba Street and College Court be considered in accordance with the evaluation steps outlined in this report.

EXECUTIVE SUMMARY

Given that there has been some confusion regarding the extent to which the Heritage Control Period may act as a “moratorium”, staff has done further legal research which has clarified that a municipal government does not have authority under the Local Government Act to declare such a moratorium, and that the Heritage Control Period is not a moratorium. Council must consider all related demolition Heritage Alteration Permit applications, although Council may reject every one. If the demolition HAP is rejected, staff must work with the applicant to determine how they could achieve the maximum allowable density on their property while at the same time keeping the existing house.

Given this, staff has identified additional evaluation steps for the related HAP evaluation process which would assist staff in providing Council with information for evaluation of future HAP applications. Staff has also drafted interim evaluation criteria for renovation HAPs, demolition HAPs and new building HAPs, which would be used for the term of the Control Period.

Staff has prepared a “newsletter”, which would be mailed to each Queen’s Park address, outlining some of the key facts about the Control Period.

PURPOSE

The purpose of this report is to clarify the extent to which the Heritage Control Period may act as a “moratorium”. The purpose is also to request Council direct staff to proceed with implementing proposed additional evaluation steps for the related Heritage Alteration Permit application process, and interim evaluation criteria, as well as to distribute a newsletter to the neighbourhood about the Control Period.

POLICY, REGULATIONS AND BACKGROUND

A summary of the policy and regulations and past direction that relate to the Heritage Control Period and related Heritage Alteration Permit applications is included in a report elsewhere on the Regular Council agenda, titled: “Consideration of Heritage Alteration Permit Applications During the Heritage Control Period in the Queen’s Park Neighbourhood”.

DISCUSSION

Clarification on the Scope of the Heritage Control Period

Given that there has been some confusion regarding the extent to which the Heritage Control Period may act as a “moratorium”, staff has done further legal research with the City solicitor which has clarified that:

- A municipal government does not have authority under the Local Government Act to declare such a moratorium.
- The Heritage Control Period is not a moratorium.

Instead:

- The Control Period provides the authority for Council to withhold a demolition and/or building permit, an action for which Council otherwise does not have the general authority.
- The means through which Council may withhold the permit is by rejecting the Heritage Alteration Permit required by the Control Period bylaw.
- Council may reject the HAP if Council considers that it is not consistent with the purpose of the Control Period, which is: to control the loss or alteration of dwellings and street character in the neighbourhood while exploring the creation of a Heritage Conservation Area.

In other words, this means that applicants have the right to apply to the City for the necessary HAPs, and Council has an obligation to consider them, but Council has the authority to reject any applications brought forward for consideration on the basis that any change could be deemed to be inconsistent with the purpose of the Control Period. Council could choose to reject every application brought forward during the Control Period. In each case of Council rejecting the demolition HAP application, staff would be required to work with the applicants to determine how they could achieve the maximum allowable density on their property while at the same time keeping the existing house.

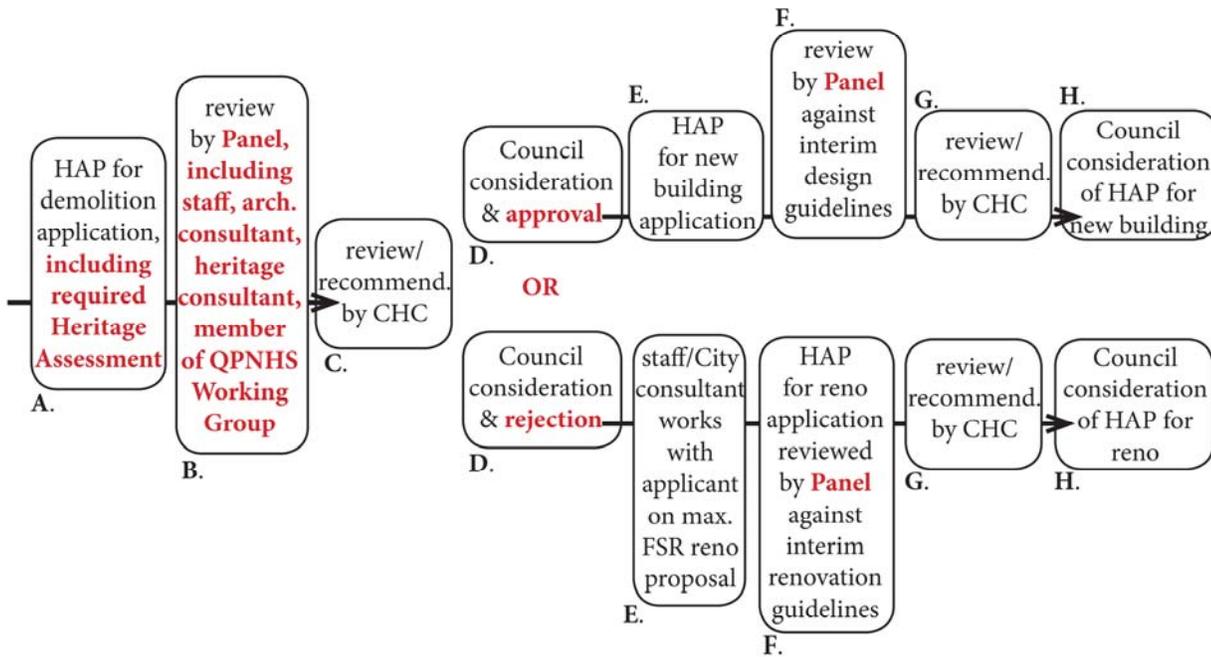
Proposed Heritage Alteration Review Process

The Heritage Control Period provides an opportunity for the City to test-run what could be the process of Heritage Alteration Permit (HAP) evaluation for the future Conservation Area. Although the final level of protection and process would be determined through the Conservation Area work, the process for reviewing applications under the future Conservation Area bylaw would need to be similar to that used for the evaluation of HAPs under the Control Period.

Given this, staff is proposing additional evaluation steps, beyond what is the City’s typical process for HAP review: 1) requirement of a Heritage Assessment, and 2) application

evaluation by a Review Panel established by the City. The proposed process includes the steps illustrated in Figure One, and described below:

Figure 1: Proposed Heritage Alteration Permit Review Process



- A. A demolition application is received, including a Heritage Assessment. The Assessment would be provided by a registered heritage professional as part of the application requirements for all demolition and significant renovation applications. This would cost the applicant in the order of \$1000. Staff would review and confirm the analysis, with the input of a registered heritage professional consultant, as needed.
- B. The application would be reviewed by a Review Panel established by the City, including Planning staff, a heritage planning and/or heritage architect consultant, and a representative of the Queen’s Park Neighbourhood Heritage Study Working Group. This panel would meet once per month to review the demolition and new building HAP applications, and provide their recommendations to Council. The application would be reviewed against interim guidelines (discussed in “Evaluation Criteria” section below).
- C. The application would be reviewed by the Community Heritage Commission with their recommendation going to Council as well.
- D. The application would be considered by Council.

Next Steps If the Application Was Approved by Council

- E. The applicant would need to submit a second HAP application for the new building.
- F. The application would be reviewed by the Review Panel against interim guidelines (discussed in “Evaluation Criteria” section below) and provide their recommendations to Council.

- G. The application would be reviewed by the Community Heritage Commission with their recommendation going to Council as well.
- H. The application would be considered by Council.

Next Steps If the Application Was Not Approved by Council

- E. The City would work with the applicant to identify how the existing density entitlement could be achieved on the site through renovation and addition to the existing building, using interim guidelines (discussed in “Evaluation Criteria” section below).
- F. The application would be reviewed by the Review Panel against interim guidelines (discussed in “Evaluation Criteria” section below) and provide their recommendations to Council.
- G. The application would be reviewed by the Community Heritage Commission with their recommendation going to Council as well.
- H. The application would be considered by Council.

Next Steps

To implement this process, as a next step the City would need to engage two heritage planning and architecture consultants as members of the Review Panel, and to assist with exploring renovation options for demolition HAP applications not approved by Council. Staff would also work with the Working Group to identify a member for the Review Panel.

Evaluation Criteria

Staff has established an interim set of criteria for evaluating Control Period HAPs. One of the purposes of the Conservation Area process is to establish criteria for protection of heritage buildings and design guidelines for new buildings. In the interim, evaluation should be based on the City’s existing policy and regulations, which have previously been supported by the community and endorsed by Council. Staff proposes using the following evaluation criteria:

- 1) **Demolition HAPs:** the application (or heritage assessment provided by the applicants’ consultant, should Council endorse that approach) would be evaluated against criteria drawn from the summary of the neighbourhood heritage value statement that was developed over the last two and a half years by the Queen’s Park Neighbourhood Heritage Study Working Group (Attachment 1).
- 2) **New Building HAPs:** an HAP is required for all new building Building Permits received during the Control Period (i.e. even for those which already a demolition permit issued prior to the Control Period). The architectural drawings would be reviewed against the existing Queen’s Park Historic District Residential Design

Guidelines (Attachment 2, which are being updated as part of the Conservation Area process), as well as the heritage value statement which would speak to the street character aspects which the Working Group has also identified as an important heritage element for protection.

- 3) **Renovation HAPs:** Although this report focuses on demolition and new building HAPs, the criteria for evaluating renovations has also been included for Council's review and comment. These have been compiled from the relevant parts of the Standards and Guidelines for the Conservation of Historic Places in Canada, and City policy and regulations (Attachment 3).

Further detail on how and when these evaluation criteria would be applied is included in the report located in the Regular Council agenda, titled: "Consideration of Heritage Alteration Permit Applications During the Heritage Control Period in the Queen's Park Neighbourhood".

Newsletter

Staff has prepared a "Newsletter" (Attachment 4) which outlines some of the key facts about the Control Period. This newsletter has been reviewed by the Queen's Park Neighbourhood Heritage Study Working Group and their feedback incorporated. The Newsletter would be sent to all addresses in Queen's Park.

OPTIONS

The following options are available for Council's consideration:

- 1) That Council direct staff to take the next steps to implement the use of the following evaluation steps in the review of Heritage Alteration Permit applications for the Queen's Park Heritage Control Period:
 - a. Requiring a Heritage Assessment for all demo and major renovation applications; and,
 - b. Conducting a maximum density evaluation only for rejected demolition Heritage Alteration Permit applications; and,
 - c. Convene a Review Panel for the review of demolition and new building Heritage Alteration Permit applications; and,
- 2) That Council endorse the interim evaluation criteria for demolition, new building and renovation Heritage Alteration Permits attached to this report, for the term of the Control Period; and,

- 3) That Council endorse the attached newsletter outlining key facts about the Queen’s Park Heritage Control Period, and direct staff to proceed with next steps for distribution.
- 4) THAT the demolition applications for Manitoba Street and College Court be considered in accordance with the evaluation steps outlined in this report.
- 5) That Council provide staff with alternative direction.

Staff recommends Options #1,#2, #3 and #4.

ATTACHMENTS

- Attachment 1: Evaluation Criteria for Demolition of HAPs
- Attachment 2: Evaluation Criteria for New Building HAPs
- Attachment 3: Evaluation Criteria for Renovation of HAPs
- Attachment 4: Queen's Park HCP Newsletter

This report has been prepared by
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This report was reviewed by:

Approved for Presentation to Council



Beverly Grieve
Director of Development Services



Lisa Spitale
Chief Administrative Officer