

MEMO / NOTE DE SERVICE



TO	Mayor Watson and Members of Council	
DESTINATAIRE	Maire Watson et Membres du Conseil municipal	
FROM	Stephen Willis, General Manager, Planning, Infrastructure and Economic Development Department And M. Rick O'Connor, City Clerk and Solicitor	Court Curry Manager, Right of Way, Heritage and Urban Design Services 613-580-2424 x22379 Court.Curry@ottawa.ca
EXPÉDITEUR	Stephen Willis, Directeur général, Services de planification, d'infrastructure et de développement économique et M. Rick O'Connor, Greffier municipal et avocat général	Personne ressource : Court Curry Gestionnaire, Services des emprises, du patrimoine et du design urbain 613-580-2424 x22379 Court.Curry@ottawa.ca
DATE	July 5, 2019 5 juillet, 2019	
FILE NUMBER	ACS2019-PIE-GEN-0005	
SUBJECT	Château Laurier Update	
OBJET	Mise à jour sur le Château Laurier	

PURPOSE

The purpose of this memorandum is to provide background information to Council on the planning applications for an addition to the Château Laurier and the potential legal implications for the Notice of Motion introduced on June 26, 2019 and to be considered by Council on July 10, 2019. (attached as Appendix 1).

As a procedural matter, as the decision in respect of the Heritage Permit was made by the former Council, with the required notice having been given, there is no requirement to suspend the Rules of Procedure to consider this motion. The adoption of the motion requires the standard provision of a majority of the Members of Council present and voting.

BACKGROUND

On June 27, 2018, City Council approved the heritage application under the Ontario Heritage Act for the addition at 1 Rideau Street, with several conditions. The approval conditions originated with a motion at Built Heritage Sub-Committee (BHSC) and recommended approval of the addition's height, massing, footprint and landscaping, but directed staff to work with the applicant to make the addition more visually compatible with the existing hotel. The following three elements were made additional conditions of approval of the Heritage Permit:

- a. Meaningfully increasing the use of Indiana limestone cladding on the building exterior to reduce its contrast and enhance its bond with the existing building;
- b. Modifying the addition by sculpting, recessing, and breaking up the unrelieved uniformity of the north façade using elements and forms that are specifically drawn from, and relate to, the existing Château Laurier's rich palette of forms;
- c. Altering the architectural expression on the north, west and east façades to introduce fenestration patterns, details and geometric proportions that are specifically drawn from, and relate to, the existing Château Laurier's elements;

Following Council's approval, the Heritage Permit, with the above conditions, was issued on July 3, 2018, with a three-year expiry date from the date of issuance of the Permit. The authority to determine if the three conditions above were satisfied was delegated to the General Manager, Planning, Infrastructure and Economic Development

Department, and it is the opinion of the Department that the three conditions have been met through the work undertaken since the issuance of the Heritage Permit.

COMPLIANCE WITH THE CONDITIONS OF THE HERITAGE PERMIT

Since receiving a pre-consultation application for this addition in 2015, the Château Laurier file has been led by three key city staff from Planning Services and Right of Way, Heritage and Urban Design. They were supported by their management and legislative and communications support staff. Since 2015 they have attended over 200 meetings with participants including, but not limited to internal staff, proponents and National Capital Commission staff.

Since July 2018, City staff held 16 meetings with the applicant to discuss the numerous improvements needed to satisfy the Heritage Permit conditions. This included a full-day workshop with the architects in their Toronto offices attended by City staff and a return fifth visit to the Urban Design Review Panel in March 2019.

These efforts built upon the previous engagement efforts, including public consultation on the site plan control application which included two public open house sessions, online engagement including a survey tool and a webpage on Ottawa.ca dedicated to the Château Laurier, in addition to the usual posting of on-site signs, notice to community groups, and making the plans and studies available on the Development Application Search web page. As required by the *Ontario Heritage Act*, property owners within 30 metres of the site were notified by letter and offered the opportunity to provide comments on the heritage application to BHSC or Planning Committee. Public comments were also provided directly to the BHSC and Planning Committee in January 2018, June 2018 and June 2019.

Consultation on design included consultation with National Capital Commission, Parks Canada, three Heritage Working Group sessions co-chaired with NCC staff, four Urban Design Review Panel (UDRP) meetings, and three federal Advisory Committee on Planning, Design and Realty (ACPDR) sessions.

As stated in the site plan report [ACS2019-PIE-EDP-0019](#), the following changes were successfully negotiated after Council's issuance of the Heritage Permit:

On condition (a) of the Motion:

- Substantially increasing the amount of Indiana limestone cladding on the addition's three outward-facing façades.

On conditions (b) and (c) of the Motion:

- Redesigning the north façade so that, rather than being one long wall, the façade composition is broken into three unequal parts: an east and west pavilion, and a connector. This composition echoes that of the hotel and its asymmetrical walls;
- Designing the new east and west pavilions to be different from one another in length and setback from the property line to further break down the uniformity of the north façade and reflect the asymmetrical wings of the Château;
- Introducing a tri-partite horizontal division, composed of a base, middle and two-storey top, on all three façades, which reflect the composition and proportions of the historic hotel;
- Introducing interlacing limestone, bronze fins and glass panels between the middle and top portions of the east and west pavilions to reflect the richly detailed cornice of the hotel and the complex connection between it and the roof of the historic building;
- Introducing granite piers on the base of the connector to reflect the granite base of the historic building and its existing pattern of rhythmic openings at grade, and introducing granite slabs at the base of the east and west pavilions and to reflect the use of granite at grade in the 1929 east wing of the hotel;
- Cutting out the corners of the top two floors to create relief, accent the roofline and echo the corner treatment of the historic hotel;
- Adding darker bronze fins to the upper two storeys of the east and west pavilions to echo the Château's dark roof and light walls;
- Creating a large unobscured glass cut-out section on the east (Mackenzie Avenue) façade to reference the building's oriel windows; and
- Spacing the mullions of the base of the west façade to echo the spacing of the ground-floor windows of the hotel.

LEGAL OPINION

The application for a Heritage Permit in respect of the Château Laurier was made pursuant to the *Ontario Heritage Act*, Part IV, section 33. Where such an application is made, the Act provides Council with the following authority:

(4) Within 90 days after the notice of receipt is served on the applicant under subsection (3), the council, after consultation with its municipal heritage committee, if one is established,

(a) shall,

(i) consent to the application,

(ii) consent to the application on terms and conditions, or

(iii) refuse the application; and

(b) shall give notice of its decision to the owner of the property and to the Trust

The decision made by Council in respect of the application for a Heritage Permit for alterations to the Château Laurier is contained within the recitals to the Notice of Motion at Appendix 1 to this memo. Where Council has made its decision in accordance with subsection 33(4), under the legislation in place in June, 2018 the decision is subject to referral by the owner to the Conservation Review Board which is to issue a report and remit the matter to the Council. At that point, Council may confirm or revise its decision. Where no such referral request by the owner is made, there is no further authority in the Act for Council to amend or revoke its decision.

The motion would remove the delegated authority to the General Manager, Planning, Infrastructure and Economic Development Department to determine if the three conditions outlined above have been satisfied. The motion would reverse the staff position that the proponent has met the conditions outlined in the June 27, 2018 motion adopted and provides that the Heritage Permit would therefore be void and of no effect.

In the event that motion is carried, there are likely three options open to the Owner.

1. The Owner could submit a new application under the *Ontario Heritage Act* and a new application for site plan approval. These applications could be based upon the same elevations as submitted to Planning Committee on June 13, 2019, earlier drawings submitted to the City or new drawings. Provided that the provisions of Bill 108 have come into force, both the application under the *Ontario Heritage Act* and the *Planning Act*, would be subject to appeal to the Local Planning Appeal Tribunal. As the nature of the elevations are not known in this scenario, an opinion on the likelihood of the Owner's or the City's success cannot be provided.

2. The Owner could seek a declaration in the Superior Court that the conditions imposed by Council in June, 2018 have been fulfilled. Such a proceeding would be done by a Notice of Application under Rule 14 of the Rules of Civil Procedure.

As stated above, it is the opinion of Planning staff that the conditions outlined in the three specified elements to be changed from the 2018 drawings have been satisfied by the Owner. In order to respond to the Notice of Application, the City would need to retain external planning/heritage professionals to provide affidavit evidence. Further, given the likely scope of the Application and the need for specialized expertise to respond to it, it is expected that external legal counsel would be retained.

It is anticipated that from the time that the Owner filed a Notice of Application to the time that a decision is issued some six to eight months would be required. The total cost to the City for such a proceeding at Superior Court would be anticipated to be approximately \$100,000. Were the City unsuccessful, it would be required to pay a portion of the Owner's legal costs, likely in the range of \$33,000 to \$50,000.

Given the opinion of Planning staff with respect to the conditions, is it very likely that the Owner would be successful in obtain a declaration that the three conditions have been fulfilled.

3. The Owner could appeal the refusal of the Chief Building Official to issue a building permit.

Prior to seeking a building permit, the Owner will need to obtain a minor variance or rezoning in respect of the Heritage Overlay. Such will be subject to appeal to the Local Planning Appeal Tribunal. In the event such is obtained, having received site plan approval, the Owner may apply for a building permit. In the event that the Chief Building Official refuses to issue the building permit on account of Council having approved the motion, the Owner may appeal such refusal to the Superior Court. Again, given the opinion of Planning staff with respect to the conditions, it is very likely that the Owner would be successful with respect to such an appeal. However, because proceeding in this fashion would add to the time to be able to proceed with construction, it is anticipated that the Owner would proceed with option 2 as opposed to this option.

With respect to either option 2 or option 3, should the decision of the Court be appealed, it is expected that a further \$100,000 in costs would be incurred by the City.

Should Members of Council require further information before the Council meeting of July 10, 2019, please contact either of Tim Marc (21444, timothy.marc@ottawa.ca) or Court Curry (22379, Court.Curry@ottawa.ca).

c.c./Senior Leadership Team

SUPPORTING DOCUMENTATION

Appendix 1 – Council Notice of Motion June 26, 2019

Appendix 1

Council Notice of Motion June 26, 2019

Moved by Councillor M. Fleury

Seconded by Councillor J. Leiper

WHEREAS at its meeting of June 27, 2018, Council adopted the following recommendation in respect of the redevelopment of the Château Laurier at 1 Rideau Street:

That Council:

1. approve the application to alter the Château Laurier, 1 Rideau Street, a property designated under Part IV of the Ontario Heritage Act, based on plans received on May 9 and 30, 2018, on the condition that staff be directed to work with the applicant to make the proposed addition more visually compatible with the existing Château Laurier, prior to site plan approval, as follows:
 - a. meaningfully increasing the use of Indiana limestone cladding on the building exterior to reduce its contrast and enhance its bond with the existing building;
 - b. modifying the addition by sculpting, recessing, and breaking up the unrelieved uniformity of the north façade using elements and forms that are specifically drawn from, and relate to, the existing Château Laurier's rich palette of forms;
 - c. altering the architectural expression on the north, west and east façades to introduce fenestration patterns, details and geometric proportions that are specifically drawn from, and relate to, the existing Château Laurier's elements;
 - d. the applicant revise the plans received on May 9 and May 30, 2018 to reflect the design changes outlined above; and,
 - e. the General Manager of the Planning, Infrastructure and Economic Development Department be delegated the authority to approve such design changes to the heritage permit;

WHEREAS the Château Laurier is an iconic, prominent, and much beloved architectural and historic landmark in the City of Ottawa and the National Capital Region;

WHEREAS AS the Château Laurier is a Historic Place designated under Part IV of the Ontario Heritage Act, a National Historic Site, and an irreplaceable element in the visual setting of the Rideau Canal UNESCO World Heritage Site, the Parliamentary Precinct, Major`s Hill Park, Confederation Square and Confederation Boulevard, and;

WHERE AS City Council adopted the Parks Canada’s document ‘Standards and Guidelines for the Conservation of Historic Places in Canada’ in 2008, and;

WHEREAS Standard 11 of that document states that the additions must be “physically and visually compatible with the historic place”; and

WHEREAS “compatible” is generally agreed to mean “able to exist or work together without conflict”;

WHEREAS the proposed addition is not sufficiently visually compatible with the Château Laurier, a historic place; and,

WHEREAS modifications to the design of the proposed addition are necessary to ensure its visual compatibility with the existing Château Laurier, an iconic heritage landmark in the City of Ottawa and the National Capital as per City Council's direction on June 27, 2018;

WHEREAS: the Applicant has failed to respect the subtle verticality of the existing building, by providing a dominant vertical expression in the addition, which fails to be subordinate to the existing building, therefore failing to incorporate the geometric proportions appropriately; and

WHEREAS, the Applicant has failed to meet the conditions set by Council in June 2018, notably the “Modification of the design for visual compatibility with the historic hotel, by referencing such elements as patterns, details and proportions of the Château Laurier by ensuring that the application is compliant with the Standards and Guidelines for the Conservation of Historic Places,

BE IT RESOLVED THAT Council:

1. determines that the applicant has failed to fulfil the conditions imposed by Council in respect of the application for approval to alter at 1 Rideau Street;
2. further determines that as the conditions have not been fulfilled that the conditional heritage permit issued in respect of the Château Laurier redevelopment at 1 Rideau Street is now void and of no effect; and

3. revokes the delegation to the General Manager, Planning, Infrastructure and Economic Development Department to approve design changes.