

ITEM	6
MANAGER'S REPORT NO.	72
COUNCIL MEETING	1980 11 24

RE: ROYAL OAK FUNERAL CHAPEL
5152 KINGSWAY
(ITEM 12, SUPPLEMENTARY REPORT NO. 62, 1980 OCTOBER 06)

Following is a report from the Director of Planning regarding the above subject.

RECOMMENDATION:

1. THAT the recommendations of the Director of Planning be adopted.

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TO: MUNICIPAL MANAGER 1980 NOVEMBER 18
FROM: DIRECTOR OF PLANNING
SUBJECT: ROYAL OAK FUNERAL CHAPEL
5152 KINGSWAY

RECOMMENDATION:

1. THAT Council authorize the preparation and introduction of a bylaw under the Heritage Conservation Act to designate the house and certain portions of the site at 5152 Kingsway a heritage building and site if an application for a demolition permit is received from the property owner or with the written consent of the property owner.
2. THAT a copy of this report be sent to Harron Bros. and Wales McLelland Development Company Limited.

SUMMARY:

Council on 1980 October 06 adopted two recommendations indicating an intention to preserve the Royal Oak Funeral Chapel, the major trees and portions of the surrounding wall at 5152 Kingsway and support of a Comprehensive Development rezoning which incorporates these structures and trees. This information was conveyed to Wales McLelland Development

Company Limited, an option holder, by letter from the Clerk. On 1980 November 14 Wales McLelland applied for a permit to demolish the house and coach house.

The application must be rejected because the current property owner has declined to give consent to the demolition. It is important that the position of Council with respect to this property be made clear in case this present situation changes for any reason. We therefore recommend that Council indicate that it will proceed with a Heritage Conservation Bylaw if an application to demolish is received from the property owner or with his consent. We continue to recommend Heritage designation only if an application to demolish is received with the authorization of the owner because it would be more advantageous to all concerned to retain the flexibility of the originally recommended Comprehensive Development zoning approach, which would provide for preservation of the valuable heritage elements while permitting development of the balance of the land with compatible buildings and uses at a higher density.

REPORT

1.0 BACKGROUND

Council on 1980 October 06 received Manager's Report No. 62, Supplementary Item 12 and adopted the following:

1. THAT Council advise Wales McLelland Development Company Limited that:
 - a) It is the intention of Council to preserve the Royal Oak Funeral Home, the major trees and portions of the surrounding wall.
 - b) Council is prepared to support a rezoning of the site to Comprehensive Development as detailed in Section 3.3 of this report (Item 6, Municipal Manager's Report No. 56) utilizing C3 criteria.
2. THAT a copy of this report be sent to the Century Park Museum Association.

Council tabled further consideration of recommendation 1(c) which is: "Council will proceed with a bylaw to designate the house and certain portions of the site if an application is received for a demolition permit" because it was assumed that adequate time would be available to do this if an application were to be received.

By a letter from the Municipal Clerk dated 1980 October 08, Wales McLelland Development Company Limited was advised of Council's actions.

On 1980 November 14 Wales McLelland Development Company Limited submitted an application to the Chief Building Inspector for a permit to demolish the house and coach house at 5152 Kingsway.

2.0 DISCUSSION

The application for a demolition permit must be rejected because the current property owner has not consented to the demolition. In a telephone conversation of 1980 November 17 with Harold C. Atchison, Manager of Royal Oak Funeral Chapel, we have learned that Harron Bros. the owner of the property, when approached by Wales McLelland declined to give a letter consenting to the demolition. In another telephone conversation on 1980 November 17 Mr. Earl Atchison, President of Harron Bros. indicated that he did not wish to become involved from a legal point of view due to

concerns related to a possible conflict of interest vis-a-vis the option agreement which Wales McLelland has registered.

If the current owners change their position or if a change of ownership occurs then the retention of the house could be in jeopardy. In order to make the Council position very clear it is being recommended that Council indicate its intention to proceed with a bylaw under the Heritage Conservation Act to designate the house and certain portions of the site at 5152 Kingsway a heritage building and site if an application for a demolition permit is received from the property owner or with the written consent of the property owner. By adopting this recommendation Council's intent will be made clear to the current option holder; that is, a demolition permit will be withheld not only because the current owner does not consent but also because Council has clearly expressed its intention to designate the house and portions of its site a heritage building and site.

If an application for a demolition permit is received from the owner or with his written consent, Section 14 of the Heritage Conservation Act will provide for a temporary delay of demolition for a total period of 90 days while Council considers a Heritage Conservation Bylaw. Section 14 is attached.

We continue to recommend designation under the Heritage Conservation Act only if a demolition permit is applied for by or with the consent of the owner because it would be more advantageous for all parties to have the greater design flexibility of the originally recommended Comprehensive Development zoning rather than fixing the heritage designation prior to the preparation of a redevelopment design.


A. L. Parr,
DIRECTOR OF PLANNING

CBR/gl

Attachment

c.c. Municipal Solicitor
Chief Building Inspector

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HERITAGE CONSERVATION ACT - SECTION 14

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Temporary delay of work

14. (1) Notwithstanding a permit or enactment to the contrary,
- (a) where a building, structure or land having possible heritage significance to a municipality may, in the opinion of the council, be altered, damaged or destroyed, the council may, by resolution, order that, for a period not exceeding 30 days, no person shall alter, damage or destroy the building, structure or land;
 - (b) where a bylaw is introduced in council under section 11, no person shall alter, damage or destroy the building, structure or land under consideration unless the council rejects the bylaw or 60 days pass after the making of the motion and it has not been adopted; and
 - (c) the alteration, damage or destruction of a building, structure or land may be delayed under paragraphs (a) and (b) for a total period not exceeding 90 days.
- (2) Property shall be deemed not to be taken or injuriously affected by an order under subsection (1) (a) or the making of a motion described in subsection (1) (b).

1977-78-14.