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Heritage Permit Application – 214 to 218 Main Street South Staff Report to Council

Report Number: 2021-52

Department(s): Planning and Building Services

Author(s): Devon Morton, Planner, Committee of Adjustment and Cultural Heritage

Meeting Date: July 19, 2021

Recommendations

1. That the report entitled Heritage Permit Application – 214 to 218 Main Street South dated July 19, 2021 be received; and,
2. That Staff be authorized and directed to take one of the following actions:
 - a) Grant the applicant the permit applied for;
 - b) Grant the applicant the permit applied for with terms and conditions attached;
 - c) Provide the applicant notice that the application for the permit is refused;
 - d) Take no action.

Purpose

The purpose of this Staff Report is to advise Council of their statutory obligations, under the Ontario Heritage Act, pertaining to the timelines provided to issue Heritage Permits within the Lower Main Street South Heritage Conservation District (HCD).

This Staff Report further advises Council that a deferral in excess of ninety (90) days is not deemed a 'decision' under the Ontario Heritage Act, and that a non-decision results in granting of the Heritage Permit as applied for.

Furthermore, this Staff Report highlights four (4) options available to Council in making their decision.

Background

As per the regular Heritage Permit process, the applicant's Heritage Permit Application was deemed complete and formally circulated to the Lower Main Street South Advisory Group (LMSSAG) for review and comment on April 26, 2021. Positive feedback and supportive comments were received through the formal circulation process.

The formal circulation process was completed a second time on June 1st, 2021 to ensure the LMSSAG understood the full extent of the proposal and the effect of approval. At this time, the proposal was also updated to include the repainting of the front facade. Positive feedback and supportive comments were received through the second and final formal circulation process.

The matter was subsequently discussed at the June 14th, 2021 Committee of the Whole meeting. At this meeting, staff were directed to defer any decision on the Heritage Permit pending the outcome of a comprehensive policy analysis of elevated street-fronting terraces in the HCD.

To date, the requested Heritage Permit has not been granted.

Discussion

Based on the below, municipal Councils are provided 90 days to render a decision once an application for a Heritage Permit within the HCD has been deemed complete and notice has been served to the applicant. At the expiry of 90 days, if no decision is made, the Heritage Permit is granted as applied for.

Subsection 42(5) of the Ontario Heritage Act states,

"If the council fails to do any of the things mentioned in subsection (4) within the time period mentioned in subsection (4), the council shall be deemed to have given the applicant the permit applied for. 2002, c. 18, Sched. F, s. 2 (26)."

Subsection 42(4) of the Ontario Heritage Act states,

"Within 90 days after the notice of receipt is served on the applicant under subsection (3) or within such longer period as is agreed upon by the applicant and the council, the council may give the applicant,

- (a) the permit applied for;*
- (b) notice that the council is refusing the application for the permit; or*
- (c) the permit applied for, with terms and conditions attached."*

The applicant's application for a Heritage Permit was deemed complete and notice was served on Monday, April 26, 2021. **As such, if no decision is made by Friday, July 23rd, 2021, the Heritage Permit would be granted as applied for.**

Council has four (4) options available in making a decision. These options are outlined below:

1. Grant the applicant the permit applied for;
2. Grant the applicant the permit applied for with terms and conditions attached;
3. Provide the applicant notice that the application for the permit is refused;
4. Take no action

The implications of the options identified above are as follows respectively:

1. The applicant may proceed with the proposal in accordance with the approved plans.
2. The applicant may proceed with the proposal in accordance with the approved plans and conditions or the applicant may appeal the conditions to the Ontario Land Tribunal.
3. The applicant may accept the decision or appeal the decision to the Ontario Land Tribunal.
4. The Heritage Permit is granted as applied for

Conclusion

Pursuant to the Ontario Heritage Act, municipal Councils are provided 90 days to render a decision once an application for a Heritage Permit within a HCD has been deemed complete and notice has been served.

If a decision is not made by Friday, July 23rd, 2021, the Heritage Permit requested for 214 to 218 Main Street South would be granted as applied for.

Business Plan and Strategic Plan Linkages

Extraordinary Places and Spaces: Creating the environment for an engaged, accessible, inclusive community.

Consultation

Heritage Permit application was circulated to the Lower Main Street South Advisory Group for review and comment.

Human Resource Considerations

None.

Budget Impact

Should the decision of Council be appealed to the Ontario Land Tribunal, there may be associated costs.

Attachments

Location Diagram

Approval

Adrian Cammaert, Manager of Planning Services

Jason Unger, Director of Planning and Building Services

Peter Noehammer, Commissioner of Development Infrastructure Services

Contact

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