



Corporate NO: R010

Report COUNCIL DATE: January 17, 2000

REGULAR COUNCIL

TO: Mayor & Council **DATE: January 17, 2000**

FROM: General Manager, Planning and Development **FILE: 0525-001**
7999-0153-00

SUBJECT: Application for Demolition of the Baron von Mackensen House 9564 - 192 Street

RECOMMENDATION

The Planning and Development Department recommends that:

1. Receive this report as information;
2. Pass the following resolution to order a temporary protection of the Baron von Mackensen House and the subject property:

“Whereas the property located at 9564 - 192 Street contains an existing house known as the Baron von Mackensen House which is considered to have significant heritage value and is worthy of preservation, and whereas the current owner of the property has submitted an application to demolish the said House, now therefore the Council of the City of Surrey hereby orders that this property at 9564 - 192 Street, Surrey, and the Baron von Mackensen House thereon with its approximate location as identified on the attached Appendix A be temporarily protected for a period of 60 days pursuant to Sections 962 and 965 of the Municipal Act”

3. Instruct staff to draft a Heritage Designation By-law under Section 967 of the Municipal Act to protect the Baron von Mackensen House and an appropriate portion of the subject site; and
4. Instruct the Planning and Development Department to report on and recommend a course of action to achieve continuing heritage protection of the Baron von Mackensen House on the subject property.

BACKGROUND

An application for a permit to demolish the Baron von Mackensen House (the House) located at 9564 - 192 Street was received by the Planning and Development Department on January 14, 2000.

The House is known as “The Castle” which was built around 1900, with an addition made in 1910. It is for its architectural and historical significance that made it a candidate for inclusion in the Heritage Register. Although the house has undergone some alterations to its exterior over the years, it retains much of the original architectural character. (The Heritage Evaluation Worksheet is provided in Appendix B)

The owner submitted a development application, No. 7999-0153-00 on August 4, 1999 to rezone the site from Light Industrial Zone to Comprehensive Development Zone in order to allow a combination of industrial and commercial uses on the site. Due to the existence of the House and its heritage value, the development application was submitted to the Heritage Advisory Commission for comments. At its meeting on October 20, 1999, the Commission recommended that the House be incorporated in the proposed development, by either retaining it at its existing location, or relocating it on the property. The applicant advised, at that time, that he intended to demolish the House rather than preserve it. The Commission's recommendation was finally approved by Council on January 10, 2000.

Staff have communicated Council's decision to, and attempted to discuss various ways of implementation with the applicant's consultant. In response, the applicant and his consultant have now submitted an application for a permit to demolish the house. This application was received on Friday, January 14, 2000.

DISCUSSION

Temporary Protection

Apparently the applicant has chosen to disregard Council's decision and intends to demolish the House for the proposed commercial and industrial development. The City now must find a way to withhold the issuance of the demolition permit so as to allow staff to continue to negotiate with the applicant to implement Council's decision. Fortunately, the Municipal Act contains provisions by which the local government may issue an order for temporary protection of heritage properties. Section 962 states that:

- “(1) A local government may order that real property is subject to temporary protection in accordance with section 965 if the local government considers that
- (a) the property is or may be heritage property, or
 - (b)
- (2) An order under subsection (1)
- (a) must specify the time period during which the temporary protection applies, which time period may not be longer than 60 days unless the owner of the property agrees to a longer time period, and
 - (b) must not be made more than once in a 2 year period
- (3) An order under subsection (1) may do one or more of the following:
- (a) identify landscape features that are subject to the order;
 - (b) specify types of alterations to property that are allowed without obtaining a heritage alteration permit;
 - (c) establish policies regarding the issuance of a heritage alteration permit in relation to the property.”

After an order is made, Section 965 prohibits a person to:

- (1) alter the exterior of a building or structure;

- (2) make a structural change;
- (3) move a building or structure;
- (4) alter, move or take an action that would damage a fixture or feature identified in the authorizing resolution, order or bylaw for the temporary protection; and
- (5) alter, excavate or build on the property.

Under the circumstances, staff recommend that Council pass a resolution to order temporary protection of the House. Since the applicant has not been co-operative in identifying specific portions of the site which should be protected along with the House, the order should apply to the Baron von Mackensen House and the entire property as well, for 60 days within which an appropriate course of action for continuing protection may be sought, or otherwise the demolition permit must be issued.

Further Actions

The Municipal Act provides for several tools by which the House may be protected. These tools include:

(1) Designation of the property as a heritage conservation area in the Official Community Plan under section 971, under which the owner must not alter the building or land unless a heritage alteration permit is granted by the local government; and

(2) Heritage Designation By-law adopted by the local government under Section 967 to protect the property in whole or in part. However the owner is entitled to compensation for the reduction in the market value of the designated property.

Since a Heritage Designation By-law would appear at this time to be an appropriate tool for continuing protection, it is recommended that Council pass a motion to instruct staff to draft the Heritage Designation By-law to indicate Council's intent for continuing protection of the Baron von Mackensen House and any appropriate portion of the site. Staff is also exploring various options with the Legal Services Division, and will forward a report to Council with appropriate recommendations as soon as possible, but in any case, well before the 60 day temporary protection period expires.

Murray D. Dinwoodie

General Manager

HYL/kms Planning and Development

Appendix A: The Subject Site and Approximate Location of the Baron von Mackensen House

Appendix B: Heritage Evaluation Worksheet

c.c. - City Solicitor

 - Heritage Advisory Commission

v:\wp-docs\planning\00data\jan-mar\01170908.hyl

KMS 01/17/00 14:35 PM