

Options for Regulating Heritage and Architectural Design

Date	March 3, 2021
To	Regina Planning Commission
From	City Planning & Community Development
Service Area	Planning & Development Services
Item No.	RPC21-28

RECOMMENDATION

Regina Planning Commission recommends that City Council:

1. Remove CR20-94 from the List of Outstanding Items for City Council.
2. Receive and file this report.

ISSUE

At its meeting on August 13, 2020 (RPC20-27), the Regina Planning Commission (RPC) directed Administration to bring back an informational report respecting options for regulating heritage and architectural design. This direction was put into the following motion at the August 26, 2020 (CR20-74), City Council meeting:

“... provide a report to Council in Q1 2021 with a detailed plan to protect the historical and architectural value of designated heritage conservation areas with architectural controls for the Crescents Neighbourhood to ensure compatible infill, pursuant to sec. 73 of The Planning and Development Act, 2007 and outlined in Design Regina, Section D8, 10,8, Map 8, Potential Heritage Conservation Districts.”

The above noted matter relates to a broader discussion regarding heritage and architectural design. Whether a property warrants additional regulation and what the optimal regulatory “tool” is, are important considerations, as the issue affects individual property rights and a community’s relationship to its built-environment. Selecting the optimal tool will depend on the objectives, public input and the degree of additional regulation deemed appropriate.

Regulating heritage and architectural design is potentially relevant for many neighbourhoods within and adjacent to the City Centre area. However, the particular concerns will likely differ; therefore, the implementation of appropriate regulation should be based on comprehensive review and consultation, which occurs, commonly, through a planning process, such as a Neighbourhood Plan review.

The intent of this report is to respond to the above noted direction by providing an overview of regulatory and process options that can inform initiatives to explore the potential for heritage and architectural design regulation at a community level.

Note: For the purpose of this report:

- “Built-Form” can be defined as: The design of a building and its relationship to the street: building size, orientation, setbacks, architectural detail, etc.
- “Architectural Detail” can be defined as: The elements of a building that define its exterior appearance: color, material, fenestration (configuration of windows, doors), overall design theme, etc. (Architectural Detail is a component of built-form.)
- “Heritage” can be defined as: Aspects of a property, or group of properties, that is of interest, to the City and/ or community residents, for its architectural, historical, cultural, aesthetic value, etc.

IMPACTS

Financial Impacts

None with respect to the recommendation of this report.

Should the City explore or pursue comprehensive regulatory measures for protecting properties regarded as important for heritage value or architectural design, this would require public engagement and may require the services of a qualified consultant and associated costs. The level of engagement and expert involvement would be assessed and determined on a case-by-case basis.

Accessibility Impacts

None with respect to this report.

Policy/Strategic Impact

Official Community Plan

Implementing regulatory measures to protect properties regarded as important for heritage value or architectural design is supported by *Design Regina: The Official Community Plan Bylaw No. 2013-48* (OCP). The OCP provides high-level, long-term policy direction, across the city, for such matters as: growth and development; the provision of infrastructure and community services; social, cultural and environmental matters, etc. Regarding heritage and architectural design, there are several key policies:

- Section D5 - Policy 7.8.6 requires that future neighbourhood plan(s) for the City Center include guidelines for heritage conservation, architecture and urban design.
- Section D8 - Policy 10.3 requires the City to identify, evaluate, conserve and protect historic places identified on Map 8 – Cultural Resources.
- Section D8 - Policy 10.5 encourages owners to voluntarily seek heritage designation for qualifying properties.
- Section D8 - Policy 10.8 requires the City to evaluate the areas conceptually identified in Map 8 – Cultural Resources for potential Heritage Conservation District designation.
- Section E - Policy 14.56 requires the City to consider supporting the use of the Architectural Control District in the following contexts: preserve architectural character of an area; aesthetic enhancement; prevent undesirable design features; support “green building” design.

Neighbourhood Plans

Implementing regulatory measures to protect properties regarded as important for heritage value or architectural design is supported by several neighbourhood plans. Neighbourhood plans are used to guide growth and development at a community/neighbourhood scale and form part of Part B of the OCP. Regarding heritage and architectural design, the applicable neighbourhood plans and associated policy are as follows:

Cathedral NP Section 2.6	Encourages the implementation of a Heritage Conservation District, especially areas east of Elphinstone Street; Victoria Avenue corridor and, “of particular interest”, the Crescents area.
Warehouse NP Section 1.5.2 (c)(i)	Encourages that new development complement the “...design features of the existing and related historic structures and streetscape...”
Yards NP Section 5.2(c)	Requires that new buildings fronting Dewdney Avenue shall complement the design of the historic buildings in Warehouse District.
Downtown NP Policy 27	Requires City to develop new design guidelines for the existing Victoria Park Heritage Conservations District and to study and consider an expansion to this heritage conservations district.
Transition NP Section 3.3.2(3)	Encourages protection of homes along College Avenue via Heritage Conservation District designation; Section 4.6(1) encourages City to consider applying Municipal Heritage Property designation to list of potential heritage properties included in Appendix.

The City is currently embarking on a program (referred to as the “Neighbourhood Plan Program”) to develop new neighbourhood plans for 31 communities, which will provide policy for directing land-use and built-form (considered by Priorities and Planning Committee February 20, 2019 – PPC19-2). Through this process, existing neighbourhood

plans, including those noted above, will be reviewed and replaced, and the issue of built-form, including opportunities for supporting compatible infill development, will be reviewed within each of the neighbourhoods. The sequencing and prioritization of new neighbourhood plans is based on a schedule that formed part of the above noted Committee report.

Regina Cultural Plan

The Cultural Plan, approved in 2016, establishes high-level, long-term policy respecting the City's cultural objectives, which includes the arts, heritage, cultural diversity, community identity and sense-of-place (architectural design factors into this category). One of three overarching goals of the Cultural Plan is to *commemorate and celebrate Regina's Cultural Heritage*, including objectives to demonstrate leadership through the management of the Heritage Conservation Program, conserve cultural heritage resources and ensure new development contributes to sense-of-place. Regarding heritage and architectural design, the Cultural Plan includes three key actions:

- Use Zoning Bylaw development standards to protect local area character (near-term).
- Identify potential for heritage designation through neighbourhood plans (mid-term).
- Implement Heritage Conservation Districts, Architectural Control Districts, or Direct Control Districts to protect potential heritage areas identified in the OCP and consider other areas (long-term).

OTHER OPTIONS

Alternative options would be:

1. As the City Council motion made specific reference to the "Crescents", City Council could direct Administration to review opportunities to regulate heritage and/ or architectural design pertaining to the Cathedral Neighbourhood (including the "Crescents") as part of the Neighbourhood Plan Program.

(The Cathedral Neighbourhood Plan is scheduled as the 10th plan to be addressed – corresponding, approximately, to year 2024-2025.)

As a variant to Option 1, City Council could direct that the start of the Cathedral Neighbourhood Plan review be advanced. Advancing review of this Plan would delay the preparation of neighbourhood plans for communities preceding in the schedule.

2. Direct Administration to review opportunities to regulate heritage and/ or architectural design pertaining to areas of the city, as specified by City Council (outside of the Neighbourhood Plan Program),
3. Other direction, as determined by Council.

COMMUNICATIONS

This report is an informational item only, based on an initial assessment; therefore, no communication with external parties was deemed necessary. However, Administration did send notice of this report to the Cathedral Area Community Association, the Lakeview Community Association, Heritage Community Association, Heritage Regina, the Provincial Heritage Review Board, and the Saskatchewan Architectural Heritage Society.

DISCUSSION

Regulatory Options

Municipalities in Saskatchewan are authorized to regulate new and existing development from the perspective of heritage and architectural design using a range of “tools” authorized through *The Heritage Property Act* (HP Act) and *The Planning and Development Act, 2007* (P&D Act). The appropriate regulatory tool will depend on the objectives, public input, legality, administrative considerations and the degree of additional regulation deemed to be appropriate. Key questions when considering the appropriate regulatory tool include:

- Is the issue about particular architectural themes or styles, or is it more about form and massing (e.g. height, setbacks, etc.)?
- Is the issue about preserving particular architectural themes or styles, or is it more about preventing specific features?
- Is the intent to preserve original buildings for their heritage value and prevent demolition? Or, is demolition okay, as long as certain architectural objectives are respected in new buildings?
- Is the objective to support land-use and built-form diversity while still also ensuring overall compatibility?

The following regulatory tools represent a range of options for addressing the above-noted scenarios (listed in order of “regulatory intensity” – from least to most intense).

Conventional Zoning Districts (CZD)

CZDs apply across the city and are used to regulate typical development standards: land-use, lot size, building size/ height, setbacks, etc. CZDs are administered through the Zoning Bylaw and are authorized by the OCP and, ultimately, the P&D Act. In terms of regulating built-form, CZDs are ideal where the intent is to support diversity and procedural efficiency while still ensuring consistent massing and height along a streetscape. Features:

- Cannot regulate heritage or architectural design matters, as per P&D Act.
- Neighbourhood plans can include direction for regulating typical development standards.

- CZDs are relatively easy to implement and administer.

To date, a key accomplishment is the new Zoning Bylaw and the *Residential Infill Development Overlay Zone* (RID Zone) that is included. This new zone includes measures to help ensure that residential infill better integrates with existing buildings, including a requirement that the height of new buildings (infill) not exceed the average building height along the block or 8.5 metres – whichever is greater. Most of the lower density residential zones allow buildings to be up to 11 metres in height (this height limit dates back to the City's first Zoning Bylaw – 1927); however, much of the older building stock, beyond the Downtown, does not exceed 8.5 metres, and much is even more modestly scaled.

Architectural Control Districts (ACD)

ACDs are used to regulate the architectural design of buildings and are administered through the Zoning Bylaw and OCP guidelines and authorized by the P&D Act. ACDs are ideal where the City or a developer wants to support a particular architectural design, or range of design options, or an established theme in a particular area. Normally, the existing, or proposed, area would have consistent, identifiable architectural features deemed desirable. An ACD can also focus on architectural features that are not desired. Features:

- Specially crafted for a particular area, used to regulate the exterior appearance of a building: colour, material, fenestration, overall design theme, etc.
- Must be in accordance with OCP (e.g. neighbourhood plan) guidelines and the architectural standards of a zoning bylaw.
- A developer can appeal a decision of City Council regarding conditions or permit denial.
- The Council may delegate decision authority to the “development officer.”
- Not an effective tool for protecting an original building from demolition.

The only example of an ACD, within the city, applies to the “Former Diocese of Qu’Appelle Lands”. The intent of this ACD is to: “...preserve the physical character of the Former Diocese of Qu’Appelle Lands... requiring that any new development shall adhere to one of three traditional architectural styles: Tudor, Colonial, or Craftsman.” The Former Diocese of Qu’Appelle Neighbourhood Plan provides the enabling OCP guidelines.

Direct Control Districts (DCD)

DCDs are used to regulate land-use, architectural design, site and development standards and site servicing and are crafted for a particular area deemed to be special or unique. DCDs are administered through the Zoning Bylaw and OCP guidelines and authorized by the P&D Act. A DCD is ideal where the City wants to ensure a high level of land-use and/ or architectural design compatibility – this is potentially achieved by applying regulatory requirements that are “tailored” to a particular development proposal. An example might be: areas where there is a broad mix of architectural styles, but also an expectation that new development meets high aesthetic standards and respects the form and design of adjacent

development. Decisions could be based on OCP guidelines instead of specific, detailed architectural standards found in a zoning bylaw. Features:

- Must be in accordance with OCP (e.g. neighbourhood plan) guidelines.
- Allows Council to apply unique, “tailor-made” regulations to development proposals on a case-by-case basis (enforced via permits and development agreements).
- A developer can appeal a decision of City Council regarding conditions or permit denial.
- City Council may delegate decision authority to the “development officer.”
- Not an effective tool for protecting an original building from demolition.

An example of a DCD, within the city, is the Downtown Direct Control District – this is used to regulate land-use, site design, architectural design, etc. for development located in the downtown. The Downtown Neighbourhood Plan provides the enabling OCP guidelines.

Municipal Heritage Property (MHP) & Heritage Conservation Districts (HCD)

MHP and HCD designations are used to regulate the demolition or alteration of heritage properties and are administered through a heritage bylaw and authorized by the Heritage Property Act (HP Act). Heritage designation is ideal where there is a single property (MHP), or an area, including buildings, landscaping and streetscapes (HCD), that complies with a municipality’s heritage objectives or evaluation and where there is a desire to retain original building(s) and where the designation is voluntary. Features:

- MHP designation applies to individual properties and buildings, while HCD designation can apply to a whole area, including buildings, landscaping, streetscapes, etc.
- Used to protect properties with heritage value from inappropriate alteration; demolition.
- “Heritage property”: “...property that is of interest for its architectural, historical, cultural, environmental, archaeological, paleontological, aesthetic or scientific value ...”
- Designation requires formal registration of an interest against the title of every property to which the protection is intended to apply.
- Decisions relating to applications to alter a designated heritage property can be delegated to a Council committee or to Administration.
- In the event that there is an objection to a denial of a demolition or alteration, which is escalated to the Heritage Review Board, City Council has final say regarding applications to alter or demolish property.

HCDs are usually reserved for special areas with outstanding heritage value. An example might be where buildings, streets and landscaping, combined, have significant heritage value, or where there is a group of original buildings dating back to a specific historic period

and where the area is deemed uniquely representative of the historic period. The only example of a HCD, within the city, is the Victoria Park Heritage Conservation District.

Implementation Options

In terms of exploring and potentially enacting regulations aimed at protecting properties with heritage or architectural value, there are several options, as follows:

1. Apply Municipal Heritage Property designation on a case-by-case basis.

Consideration of designation may arise through an application to alter or demolish a property that may possess heritage value (whether it has previously been identified in the City's Heritage Inventory or not) or may arise through a proactive City initiative or may arise, voluntarily, through the landowners initiative.

Although the OCP encourages owners to seek heritage designation for qualifying properties voluntarily, the *Heritage Property Act* authorizes a municipality to intervene where a Mayor is of the opinion that a person is engaged in any activity that is considered likely to result in damage or destruction to any potential heritage property. The Mayor may issue a temporary stop order requiring that person to cease the activity. The temporary stop order may be made for a period of not more than 60 days to allow the Council to designate the property.

2. Consider heritage and built-form through the Neighbourhood Plan Program.

The City is currently embarking on a "Neighbourhood Plan Program" to develop new neighbourhood plans for 31 communities, which will provide policy for directing land-use and built-form. Through this, Administration will engage in consultation with residents regarding land-use and built-form, including infill. Note:

- First four plans apply to: Al Ritchie; Hillsdale; Whitmore Park; North Central.
- New plans for Warehouse District and Cathedral Neighbourhood are scheduled as 8th and 10th new plans, respectively, corresponding to year 2024-2025.
- The Downtown Neighbourhood Plan will be reviewed sometime after 2025.

The implementation of ACDs and DCDs requires that corresponding guidelines be established within the OCP; therefore, the neighbourhood plans, which form part of the OCP, provide an effective platform for pursuing these tools. Neighbourhood plans can also provide guidance regarding heritage matters.

The existing RID Zone can be used to help ensure that infill development better integrates by controlling form and size (e.g. height). In many cases, form and size are the primary matters of concern, as opposed to a particular architecture style. Through the Neighbourhood Plan Program, Administration will engage residents to see what their concerns might be regarding heritage and architectural design. The RID Zone, or similar instrument, will be an important tool for supporting built-form objectives.

3. Direction from Council to investigate particular areas.

Should Council choose, Administration can examine regulatory options for a particular area(s) outside of the Neighbourhood Plan Program schedule. Enacting new regulation to protect areas with multiple properties that potentially possess heritage or architectural value can be a significant undertaking, and the process often involves the following:

- Analysis to determine what areas may qualify for regulation; why they qualify; appropriate tools and prioritization schedule.
- Public engagement, as the issue affects both individual property rights and a community's relationship to its built-environment.
- The services of a qualified historian or architect.
- In the case of an ACD or DCD, the preparation of OCP guidelines.
- In the case of an ACD, detailed architectural standards and technical drawings.

Should this option be pursued, Administration will prepare a report outlining a recommended strategy, or options, for pursuing heritage or architectural design related regulations, as well as implications for other related work.

Alternatively, residents or community associations may choose to lead initiatives regarding heritage and/ or architectural design protection (e.g. proposed heritage designation or Zoning Bylaw amendment [ACD; DCD]) and the Administration would review this.

Conclusion

Regulations relating to heritage and architectural design are optimally applied where it has been determined, through analysis and consultation, that a particular property or area qualifies for or warrants such additional regulation.

- Regulations relating to architectural design are optimally applied where the buildings of a particular area share similar design traits or themes deemed to be important or where particular design traits are discouraged.

The ACD tool is optimal where the focus is on the exterior of the building and where there is a desire to apply specific, pre-identified architectural standards.

The DCD tool is optimal where there is a desire to exercise flexibility and to apply regulations on a case-by-case basis based on OCP guidelines. DCDs can also address land-use, site design and site servicing.

These tools are subject to appeal. If the desire is to preserve an original building(s), heritage designation should be pursued.

- Regulations relating to heritage are optimally applied where the desire is to preserve a property or area (the original building[s]) and where the property or area meets a municipality's heritage objectives and evaluation.

The MHP designation is used for individual properties; whereas, the HCD tool is used

for multiple properties and, potentially, landscaping and streetscapes.

Regina's mature neighbourhoods, within the City Centre and immediately beyond, are noteworthy for their architectural diversity. This diversity may be regarded as an appealing quality and also a catalyst for thoughtful discussion about preservation and change. Through the Neighbourhood Plan Program, community consultation regarding these issues will be undertaken.

DECISION HISTORY

On August 23, 2020, Council directed Administration to prepare a bylaw to designate 56 Angus Crescent as a Municipal Heritage Property and to provide a report to Council in Q1 of 2021 with a detailed plan to protect the historical and architectural value of designated heritage conservation areas, with architectural controls for the Crescents Neighbourhood to ensure compatible infill (CR20-74).

At its meeting on February 10, 2021, City Council considered a report (CM21-1) and decided not to designate the 56 Angus Crescent property and withdrew the associated proposed bylaw (Bylaw No. 2020-68).

Respectfully Submitted,



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2/17/2021

Respectfully Submitted,



Diana Hawryluk, Executive Director, City Planning & Community Dev.

2/24/2021

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