

COMMON COUNCIL REPORT

M&C No.	2022-259
Report Date	August 17, 2022
Meeting Date	August 22, 2022
Service Area	Growth and Community Services

Her Worship Mayor Donna Noade Reardon and Members of Common Council

SUBJECT: Referral report on 111-119 King Street East and additional information for third reading

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Phil Ouellette</i>	<i>Jacqueline Hamilton</i>	<i>John Collin</i>

RECOMMENDATION

Your City Manager recommends that:

1. Common Council provide 3rd reading to the amendment to the Heritage Conservation Areas By-law which removes the properties situated at 111-119 King Street East from the King Street East Heritage Conservation Area.
2. Subject to Council’s approval of 3rd reading recommended at paragraph 1, that the City of Saint John enter into a contractual agreement with J.D. Irving, Limited to secure the proposed public park at 111-119 King Street East as generally in the form of Attachment 1 of M&C 2022-259.
3. Authorize the City Clerk and Mayor Noade Reardon to execute the contractual agreement generally in the form of Attachment 1 of M&C 2022-259.

EXECUTIVE SUMMARY

On July 11th, 2022, Saint John Common Council adopted first and second reading to remove the properties situated at 111-119 King Street East from the King Street East Heritage Conservation Area and referred the draft contractual agreement to the City Manager to consider the Council’s concerns. The rich feedback collected during the public hearing on this matter resulted in reflection and response from City staff and the applicant. As a result, the applicant has submitted a new updated design renderings and as a description of the changes which responds to key concerns raised during the public hearing. In addition, City staff and the applicant have adjusted the draft contractual agreement, which is intended to integrate feedback received during the public hearing.

From staff's perspective, the new adjustments to the applicant's proposal further supports the previous staff recommendation of removing 111-119 King Street East from the Saint John Heritage Conservation Areas By-law. With these changes, staff recommend that Council move forward with third reading of the proposed amendment to the City's Heritage Conservation Areas Bylaw and grant approval to enter into a contractual agreement as amended with J.D. Irving, Limited to secure the proposed public park.

PREVIOUS RESOLUTION

The following was adopted by Common Council during the July 11th public hearing for 111-119 King Street East:

RESOLVED that following items numbered 2 and 3 in the staff recommendation contained in M&C 2022-233 be referred to the City Manager to consider the Council Members' concerns articulated in the meeting:

2. City of Saint John enter into a contractual agreement with J.D. Irving, Limited to secure the proposed public park at 111-119 King Street East as generally in the form of Attachment 4 of M&C 2022-233.
3. Authorize the City Clerk and Mayor Noade Reardon to execute the contractual agreement generally in the form of Attachment 4 of M&C 2022-233.

RESOLVED that as recommended in the submitted report M&C # 2022-233: Application to be removed from the Heritage Conservation Areas Common Council adopt recommendation number 1 in the staff report as follows:

1. Approve the removal of properties situated at 111-119 King Street East from By-Law Number HC-1, the Saint John Conservation Areas By-law.

REPORT

The July 11th, 2022, staff report on 111-119 King Street East recommended in favor of removing the properties from the Saint John Conservation Area By-law, which was supported by an evaluation of the applicant's proposal against five criteria, including:

1. Integrity of the Heritage Program.
2. Integrating of heritage and history into the design of the park.
3. Quality of Park Design.

4. Play SJ, Growth, and the Proposed New Park.
5. Outcome of Denial.

The report recommended that the applicant's request be approved on the basis of the significant new public benefit proposed for the site in the form of a new park proposed to be installed at the owner's expense.

During the public hearing, Common Council received a presentation from staff, the Vice Chair of the Saint John Heritage Development Board, J.D. Irving, Limited as well as feedback from 15 residents, which offered Council insight on a variety of considerations associated with the applicant's proposal. Council's decision, as a result of the July 11th public hearing, was to adopt first and second reading for the removal of the properties situated at 111-119 King Street East from By-Law Number HC-1, but Council also referred the two other components of the July 11th staff recommendation to the City Manager, including: (1) entering into a contractual agreement with J.D. Irving, Limited, and (2) authorize the Clerk and the Mayor to execute the agreement.

As a result of the feedback from the July 11th public hearing and the direction from Council, it was evident from staff that adjustments were needed to the J.D. Irving, Limited proposal prior to returning for third reading. Since this time, staff has worked with the applicant to seek clarification and adjustments to the following concerns raised during the public hearing:

1. The proposed design of the park would benefit from additional integration of historical and heritage facets.
2. The draft agreement would benefit from greater clarity, including the article articulating the applicant's ability to reduce the 20-year maintenance period.

Since the July 11th public hearing, staff has connected on various occasions with the applicant, who has shown a continued determination to respond to the received feedback on their proposal. As Council will recall, the applicant adjusted five components of their initial proposal after receiving input from the Heritage Development Board on June 10th, including, among others, a commitment to maintain the park for 20 years and a September 1st, 2023, completion date.

Over the past month, the applicant has hired a third-party design firm to integrate heritage and historical facets more meaningfully to the design of the proposed playground and historical park. This guidance has resulted in a new design

rendering (see Attachment #2) as well as a submitted description from the applicant of the key changes and features of the new design rendering (see Attachment #3). The updated design from the applicant now includes:

1. The storyboards will capture at least 10 important Saint John historical and heritage facets, including, among others: the first YWCA, recognition of Apple Day from the Saint John Boy Scouts, and recognition of the builder of 111 King Street East – Jacob Paikowsky.
2. A new scaled down replica of the church steeple to create a cornerstone for the playground and historical park, to pay homage to the first Saint John Irish Free Presbyterian Church.
3. Preserve and repurpose at least two elements of the existing building situated at 111 King Street East into the design, including some of the wartime timber (conditional on the quality of the timber) and the stairwell and handrails.
4. Integrate the recognition of books into the design to acknowledge that a library once sat on the site of 111-119 King Street East. This will include the introduction of a mini free library.
5. Integrate the color “red” and “apples” into design to pay homage to the successful campaign of Apple Day by the Saint John Boy Scouts.
6. Integrated brick pavers and granite edging in landscaping, and wood fiber design in the playground pad.
7. Addition of a second smaller play structure for younger children.

In addition to the design alterations, City staff and the applicant have revisited the draft contractual agreement and made changes to respond to the feedback received at July 11th public hearing. The updated draft agreement (see Attachment #1) includes the following changes:

1. New language to clarify that prior to construction, the applicant will provide final plans and drawings of the playground and historical park to City staff for review and comment.
2. The new updated renderings will be included into the agreement as Schedule A, which includes language that the applicant will develop the playground and historical park in accordance with these new updated renderings.
3. The previous section of the agreement that articulated the applicant’s ability to reduce the 20-year maintenance period has been revisited and re-worded. Notable changes include:

- a. Clarity that the applicant will exercise the outlined steps and criteria if such a decision to reduce the maintenance period was deemed necessary.
- b. New language indicating the applicant's commitment to "reasonable security efforts, including periodic monitoring."
- c. Additional clarity that a reduction in the maintenance period would require "repeated instances" of disruption.
- d. The requirement to submit written notice to the City of Saint John in an event the applicant determined a need to reduce the maintenance period, which includes a detailed explanation of why the determination meets the criteria set forth in the contractual agreement.
- e. Upon receipt of the written notification, the City will be granted a "reasonable opportunity to provide input or assistance on possible remediation."

Summary of Recommendation

From staff's perspective, the applicant's adjustments to their proposal to be removed from the King Street East Heritage Conservation Area have, in part, responded to the major concerns raised during the July 11th, 2022, public hearing. The updated renderings depict a more thorough integration of heritage and historical elements into the playground and historical park design and features, which are valuable enhancements from the renderings first shared with the Heritage Development Board in June 2022. Securing these features into the contractual agreement further preserves the City's interests as it relates to this proposal.

The updated contract has much clearer language on the criteria, steps and expectations associated with an unfortunate scenario where there is a reduction in the maintenance period. While the changes uphold the applicant's authority to make this determination as the private landowner of 111-119 King Street East, it also clarifies the City's commitment to respond, and support needed mitigating efforts to resolve future challenges that the park may face. This enhancement to the contract is fitting, as it is in the City's interest to preserve the public benefit of the playground and historical park, and in a scenario that the public benefit is in jeopardy, the City would mobilize a multi-disciplinary group of professional staff to partner with the applicant, respond and deliver resolution. The applicant's commitment to ensure security at the playground and historical park, including periodic monitoring, should offer added comfort to Council and the community of securing the 20-year maintenance period.

Council should also be comforted by the strength and value of the heritage approval process undertaken for this proposal. The approval process is in place to ensure a diversity of perspectives, discussions, and debates, and ultimately to equip Common Council with adequate information to render a strategic decision. The applicant's proposal has received thorough review and adaptation through this process, including:

1. Initial feedback from staff to the applicant, which resulted in preliminary alterations to their submission prior to the Heritage Development Board.
2. Staff analysis and report to the Heritage Development Board.
3. Discussion and recommendation from the Heritage Development Board, which resulted in the applicant adjusting their proposal prior to Council's public hearing.
4. Staff analysis and report to Common Council.
5. Public hearing, discussion, and recommendation from Common Council, which resulted in the applicant adjusting their proposal to respond to the received feedback.

The strength of this approval process, including the valuable input received since June 10th, the applicant's willingness to repeatedly adjust their plans and commitments, and the combination of staff analysis, provides important context to support Council's upcoming decision-making process. While there remains some risk that the park could be removed before the proposed 20-year timeframe, the additional parameters in the proposed contract should provide added clarity and comfort for Council around the commitments being provided by the property owner.

From staff's perspective, the new adjustments to the applicant's proposal further supports the previous staff recommendation of removing 111-119 King Street East from the Saint John Heritage Conservation Areas By-law. The proposal leverages added public benefit for the community, while integrating heritage considerations as part of the site redesign. With these changes, staff recommend that Council move forward with third reading of the proposed amendment to the City's Heritage Conservation Areas Bylaw and grant approval to enter into a contractual agreement as amended with J.D. Irving, Limited to secure the proposed public park.

STRATEGIC ALIGNMENT

The City's heritage program, private sector partnership, and the introduction of new park space supports four of the key categories of Council Priorities 2021-2026, including:

- **Green** – The proposed future use of the properties invites additional green space for public use, while integrating some facets of the existing building in the new park..
- **Grow** – The inclusion of a new playground in close proximity to the urban core of the City will contribute to the City’s value proposition for residents and visitors.
- **Belong** – Through new or expanded parks and quality-of-life offerings, the City expands on opportunities for residents to build meaningful relationships with the landscape and residents in our beautiful community.
- **Perform** – The City’s ability to leverage third-party partnership to deliver new park space in Saint John illustrates the City’s ability to deliver new public benefit to residents without the added costs on the City’s budgets typically associated such an undertaking.

SERVICE AND FINANCIAL OUTCOMES

From an assessment of the design, equipment, demolition among other costs to install the proposed park, staff believe the total cost of the park would likely require an up-front investment of approximately \$500,000 to \$1 million. However, with the rising cost of materials, these projections could be much higher. This is in addition to the annual maintenance of the park, landscaping, liability insurance, equipment renewal, among other operational requirements, which will be the responsibility of the applicant for a minimum of 20 years.

The 2022 property assessment for 111-119 King SE, which contains an existing multiple unit building, was \$259,100. This results in a total of \$7,032.24 in annual revenue to the City of Saint John. In the event Council adopts the staff recommendation found in this report, the assessment for these properties will change, but the new privately owned park (accessible to the public) will be assessed for property taxation, which will also be expected to yield some property tax revenue for the City of Saint John.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

Input was received from City Staff in Growth and Community Services, Public Works and Transportation, General Counsel, and the City Manager’s Office.

ATTACHMENTS

1. Updated draft contract agreement between J.D. Irving, Limited and the City of Saint John to secure the proposed public park at 111-119 King Street East

2. Schedule A of draft contract agreement - Updated design rendering from J.D. Irving, Limited of proposed park at 111-119 King Street East
3. J.D. Irving, Limited description of updated design renderings of proposed park at 111-119 King Street East
4. Staff Report on 111-119 King Street East from July 11th, 2022, including bylaw amendment document, staff presentation, prior conceptual design renderings, prior draft contract agreement, June 10th, 2022, Heritage Development Board report with corresponding attachments