



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

**To:** Council  
**From:** Director of Development Services  
**Subject:** 276 Sandwich Road Heritage Protection Update

**File No.:** 6800-20-276 Sandwich  
**Date:** November 22, 2023

### PURPOSE:

Council received correspondence from Brendon Johnson at the regular Council meeting held August 30, 2023 regarding Sandwich Manor, a property located at 276 Sandwich Road and identified in Courtenay's heritage registry. Council passed the following motion:

"THAT Council direct staff to return with a report on Brendon Johnson's request to protect Sandwich Manor from demolition."

### BACKGROUND:

This property is one of 20 sites listed on the City of Courtenay Heritage Registry, this list has been submitted to the Provincial Heritage Registry which does not protect the sites. The Local Government Act (LGA) Part 15-Heritage Conservation provides management tools that a municipality can utilize when a site is listed on the provincial registry and is being considered for development or demolition. The legislation does not give the City the authority to automatically prevent the owner of the property from developing, redeveloping, or demolishing the building.

There is no current development application for 276 Sandwich Road but there has been redevelopment interest expressed to staff. Staff are in conversations with the agent of the property owner.

### DISCUSSION

Municipal Councils are empowered by the *Community Charter* to engage in heritage conservation services and to use the land use tools provided in *Part 15 -Heritage Conservation*, in the *Local Government Act*.

Section 598 of the *Local Government Act (LGA)* authorizes municipalities to establish a community heritage register which is an official listing of properties identified by a local government as having heritage value or character. The property located at 276 Sandwich Road is listed in the City's Community Heritage Register (*as seen in Attachment No. 2*).

#### ***Community Heritage Register (non-protected)***

A property's inclusion in the Community Heritage Register confers no formal local, provincial or federal government protection. The property owner is to be notified when confirming this registry and encourage the property owner to work with staff to ensure its use, density and function can be the best it can be the zone in the Zoning Bylaw.

A Community Heritage Registry is:

- Is a planning tool, to identify properties considered of heritage value.

- Must be adopted by Council resolution.
- Has legal status in the LGA.
- Provides access to management tools in the LGA and Community Charter

A Community Heritage Registry does not:

- Place a limit on the changes a property owner may make to a historic place;
- Require agreement from the property owner to include a historic place on a heritage register;
- Constitute any other formal protection of a historic place; and
- Create financial liability for a local government

The City of Courtenay Heritage Register has 20 sites and has a Statement of Significance (SOS) for each place that has a description, heritage values and character. This is used to guide discussions with the property owner when considering a development application but staff has limited tools when places are not protected through a Bylaw or in a designated Heritage Conservation Area. Tools available to the City are:

- Staff has the option to discuss proposed alterations and available options.
- Building or development approvals may be temporarily delayed until the next Council meeting by Council order.
- Demolition permits may be temporarily delayed until next Council meeting or until a building permit and any other necessary approvals have been issued in regards to the alteration or redevelopment of the site.
- An impact assessment may be required if a proposed development might have a negative impact on a heritage resource.
- There is a 60-day limit which allows staff to collect information and conduct an inspection on heritage features.
- Staff prepares a report prior to 60-day temporary protection period ends.
- Can not use the management tools more than once in a two-year period for the same property.

Some municipalities have adopted policies that provide incentives to property owners who wish to retain and upgrade buildings as part of the development approval process. This would include but not limited to; equivalency provisions in the BC Building code; municipal grants; tax exception; density bonusing; and façade improvement programs. The City does not have these tools in place at this time.

### ***Heritage Protection Tools (protected)***

As noted, inclusion of Sandwich Manor in Courtenay's Community Heritage Registry does not provide formal protection, nor is the property protected by other means. Local governments have a number of legal tools at their disposal to protect the heritage properties and buildings. They include:

#### ***Heritage Designation Bylaw***

The bylaw is adopted, with or without the owner's consent, in order to protect a building, structure or other heritage feature and can also be used to protect specific interior features or a landscaping feature. The bylaw can prohibit exterior alterations including structural changes, the moving of a structure, excavation or other actions that would damage the protected features. The City has adopted bylaws to protect the following City properties/buildings:

- Sandwich War Memorial Cairn (*Bylaw No. 1391, 1985*)
- Native Sons Hall (*Bylaw No. 1454, 1987*)
- Courtenay Railway Station (*Bylaw No. 2456, 2007*)

#### *Heritage Conservation Covenant*

Allows a local government or a heritage organization to negotiate terms of a contractual agreement with a property owner to protect a site, but cannot vary siting, use, or density.

#### *Heritage Revitalization Agreement*

A voluntary written agreement negotiated by a local government and an owner of heritage property. A Heritage Revitalization Agreement outlines the duties, obligations, and benefits negotiated by both parties to the agreement.

#### *Heritage Alteration Permit (HAP)*

An Official Community Plan (OCP) may designate an area as a heritage conservation area and the requirements for a HAP would apply to the conservation area. HAP's are used most frequently for properties: that are designated; on a heritage conservation area schedule, protected by a heritage revitalization agreement; protected by a heritage conservation covenant or other sites protected under the *Heritage Conservation Act*. If a conflict arises the HAP takes precedent over a bylaw. The HAP can be used to supplement bylaws and land use regulations including: a land use permit or land use designation, a bylaw under Division 11 [Subdivision and Development: Requirement and Other Related Matters] and a bylaw under Division 19 [Development Costs Recovery].

#### *Heritage Conservation Area.*

Local governments can define special areas in the OCP to provide long-term protection to a distinctive heritage area. Heritage conservation areas may require a heritage alteration permit for: subdivision, additions, new construction, and the alteration of a building, structure, land, or feature.

Given there is no development application submitted and the property is not protected under the LGA, staff recommend that they work with the applicant on any proposal to redevelop the property utilizing the statement of significance to inform the development. At this point there is no development approval application submitted to the City so utilizing other management tools in the LGA is not relevant at this time.

In order to protect the property a Heritage Designation Bylaw would be required and the legislative process followed. The City would need to engage a Heritage Conservation consultant to assist in this process and determine if the property could be protected under the legislation. Budget would be required for this task.

#### **POLICY ANALYSIS:**

OCP Bylaw No. 3070 recognizes three heritage neighbourhoods including the Old Orchard, Terminal, and the 40 houses neighbourhoods whose heritage values are reinforced through form and character design guidelines. None of these neighbourhoods are formally protected, and only 40 Houses neighbourhood is listed on the Community Heritage Registry.

An objective in the OCP is to identify, preserve, protect and celebrate community cultural and heritage assets through the following policies:

- Promote awareness and conservation of the heritage of Courtenay through official designation and public educational programs (Policy ACH 14).
- Preserve, protect, and manage historic sites, structures, and landscapes in the city following the standards and guidelines for the conservation of historic places in Canada or relevant best management practices (Policy ACH 15).
- Through the Heritage Alteration Permit process, ensure that repairs or renovations be carried out without compromising Character Defining Elements, while improving energy efficiency and reducing greenhouse gas emissions (Policy ACH 16)

These policies have not yet been implemented and would require the development of a Heritage Management Plan which would seek to establish heritage conservation areas and the heritage alteration permit process.

#### **FINANCIAL IMPLICATIONS:**

A heritage management plan would be in the range of \$50,000 to \$70,000. This is not in the budget or current work plan. There are grant opportunities available through Heritage BC's Heritage Legacy Fund.

#### **ADMINISTRATIVE IMPLICATIONS:**

A heritage management plan would include support from Parks, Recreation and Culture along with Public Works. This is currently not in the work plan or budget.

#### **STRATEGIC PRIORITIES REFERENCE:**

A heritage management plan would complement a Strategic Cultural Plan. This initiative addresses the following strategic priorities:

- Arts, Culture, and Heritage - Complete Strategic Cultural Plan
- Arts, Culture, and Heritage - Implement Strategic Cultural Plan

#### **PUBLIC ENGAGEMENT:**

A communication and engagement plan would form part of the heritage management plan.

The Heritage Advisory Commission reviewed a pre-application development proposal at their May 2022 meeting, and passed recommendation:

“The HAC would expect that the redevelopment of the site will take historical value of the building into consideration, and it will ensure the new building will incorporate those elements in the plan.”

Moved by L. Burns, seconded by L. Grant Carried

At the November 27, 2022 HAC meeting the applicant presented a pre-application development proposal that incorporated the heritage design elements. The HAC recommended that the building be retained into the development plans.

**OPTIONS:**

1. THAT Council receive this report for information and direct staff to work with the property owner to address the statement of significance in any proposed development application.
2. THAT Council provide alternative direction to staff.

**ATTACHMENTS:**

1. Letter to City Council from Brendan Johnson
2. Statement of Significance, 276 Sandwich Road, City Heritage Register.

Prepared by: Dana Beatson, Planner

Reviewed by: Nancy Gothard, Manager of Long Range Planning  
Marianne Wade, Director of Development Services

Concurrence: Geoff Garbutt, M.Pl., MCIP, RPP, City Manager (CAO)