

A BYLAW TO REPEAL BYLAW 37M2008 WHICH DESIGNATES THE EAU CLAIRE SMOKESTACK AS A MUNICIPAL HISTORIC RESOURCE

EXECUTIVE SUMMARY

The Eau Claire Market site is proposed for re-development, which will include re-design of the surrounding public realm (Attachment 1). On 2015 December 8, Council directed Administration to explore repealing or amending Bylaw 37M2008 that designates the Eau Claire Smokestack as a Municipal Historic Resource, to better enable the proposed development, without the constraint of the smokestack on site. The attached proposed wording for a bylaw (Attachment 2) repeals bylaw 37M2008. The Eau Claire Smokestack dates from 1947 and is a 90-foot high landmark. It was originally part of the Calgary Transit System garages which occupied the site from 1947-88. In 2008 the smokestack was added to the Inventory of Evaluated Historic Resources and designated as a Municipal Historic Resource.

Administration has developed a solution with Harvard Developments, the owner of the smokestack and developer of the Eau Claire Market site to move the smokestack onto a City parcel, immediately adjacent (west) of the Eau Claire Market site (Attachment 3). Upon relocation of the smokestack, The City will assume ownership of the smokestack, while the developer will assume all inspection, maintenance, repair, and restoration responsibilities. Provisions and requirements to protect the smokestack in the interim, to move the smokestack, and to subsequently maintain the smokestack are outlined in two agreements between The City and the developer – a Preservation Agreement and an Access Easement and Maintenance Agreement. After the smokestack is moved to the new proposed location on City lands it will bring forward a bylaw to re-designate the smokestack as a Municipal Historic Resource. This course of action balances the developer's aspirations for the Eau Claire Market site, while conserving the smokestack's landmark status within its historic context.

On 2015 December 8, Council also directed Administration to address the use of the \$300,000 in compensation from the developer in exchange for repeal of the bylaw. Administration proposes to direct these funds to other heritage conservation projects being administered through the existing City of Calgary Historic Resource Conservation Grant Program (Heritage Incentive Reserve).

ADMINISTRATION RECOMMENDATION(S)

That the SPC on Planning and Urban Development recommends that Council:

1. Give first reading to Attachment 2 (the repealing bylaw), and withhold second and third reading until both a Preservation Agreement and an Access Easement and Maintenance Agreement are executed between Harvard Developments and The City and a certified cheque pursuant to the Preservation Agreement has been tendered to The City;
2. Direct that the \$300,000 offered in compensation by Harvard Developments be placed in the Heritage Incentive Reserve to fund the City of Calgary Historic Resource Conservation Grant Program; and
3. Upon the relocation of the smokestack to the new proposed location on City lands,

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direct Administration to prepare a bylaw to re-designate the Eau Claire Smokestack as a Municipal Historic Resource.

**RECOMMENDATION OF THE SPC ON PLANNING AND URBAN DEVELOPMENT, DATED
2017 APRIL 12:**

That Council:

1. Give first reading to **Proposed Bylaw 23M2017** (Attachment 2), and withhold second and third reading until both a Preservation Agreement and an Access Easement and Maintenance Agreement are executed between Harvard Developments and The City and a certified cheque pursuant to the Preservation Agreement has been tendered to The City;
2. Direct that the \$300,000 offered in compensation by Harvard Developments be placed in the Heritage Incentive Reserve to fund the City of Calgary Historic Resource Conservation Grant Program; and
3. Upon the relocation of the smokestack to the new proposed location on City lands, direct Administration to prepare a bylaw to re-designate the Eau Claire Smokestack as a Municipal Historic Resource.

Excerpt from the Minutes of the Regular Meeting of the SPC on Planning and Urban Development, Dated 2017 April 12:

“And further, that the distribution from today’s meeting be attached to the Report prior to being forwarded to Council.”

PREVIOUS COUNCIL DIRECTION / POLICY

On 2015 December 8, Council adopted the following Motion Arising related to the application to redevelop the Eau Claire Market site (Bylaws 35P2015 and 158D2015):

MOTION ARISING, Moved by Councillor Farrell, Seconded by Councillor Keating, that with respect to Report CPC2015-163, Council direct Administration to explore amending or repealing/replacing the municipal historic resource Bylaw 37M2008, if necessary, to relocate and preserve the smokestack at another site within the development and address any compensation which includes incorporation of the offer of the applicant to compensate for the restoration of 1886 cafe.

On 2008 July 14, Council designated the Eau Claire Smokestack as a Municipal Historic Resource.

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BACKGROUND

At a public hearing on 2015 December 8, Council gave first reading to Bylaw 35P2015 and Bylaw 158D2015. These bylaws allow for redevelopment of the Eau Claire Market site. As part of the developer's proposal, there was a desire to move the smokestack from the proposed development site to allow for a more efficient and economic floor plate. Council, through the Motion Arising, directed Administration to investigate options to move the smokestack.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

Administration has been working closely with the developer to respond to Council's direction, as well as to develop a more comprehensive redevelopment strategy for the area around the Eau Claire Market site and a future Green Line station. As part of that overall review, Administration has developed a solution to move the smokestack onto a City-owned parcel, immediately adjacent (west) of the Eau Claire Market site (Attachment 3). The developer will retain inspection, maintenance, repairing, and restoring responsibilities for the smokestack and will be responsible for moving it, but The City will take ownership of it as the Smokestack will be permanently located on a City owned parcel. This solution allows the development to make use of the Eau Claire Market site, without constraint, while retaining the smokestack's landmark presence proximate to its existing, historical context, in a new location 10 meters to the southwest of its existing location.

As this was the first time The City has temporarily removed a designation it was necessary to establish the approach and agreements by which to ensure the intent of the original (2008) heritage designation is preserved in perpetuity.

Upon repeal of Bylaw 37M2008, the smokestack will be protected by a Preservation Agreement executed between The City of Calgary and the developer. This agreement protects the smokestack in its existing location and until the smokestack is relocated to the new location on City lands.

Once the smokestack has moved to City lands, the Preservation Agreement will cease to be effective, and the City will bring forward a bylaw to re-designate the smokestack as a Municipal Historic Resource. A separate Access Easement and Maintenance Agreement, also executed with the developer prior to repeal of Bylaw 37M2008, will obligate the developer or future landowner to maintain the smokestack in perpetuity at the new location on City lands to the satisfaction of The City notwithstanding that it will be located on a City owned parcel.

Matters related specifically to the redevelopment application will be addressed in future reporting on the application itself. It is necessary to address the smokestack issue in advance of that work in order to provide certainty to both the applicant and Administration regarding the ultimate location of the smokestack. This enables the required development permit application to be prepared without having to address multiple smokestack options. This reduces the costs and complexity of application review for both the applicant and Administration.

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Policy Analysis:

Current planning and corporate policies are aligned to this approach. The key objectives related to heritage resources include:

1. The *Municipal Development Plan* supports the conservation and protection of Calgary's historic resources. The plan identifies historic preservation as part of good city building and community identity, and encourages property owners to conserve Calgary's historic resources.
2. The *2020 Sustainability Direction* sets forth an objective for Calgary to become a "diverse and socially inclusive city that respects its heritage and the arts," as well as a strategy to "support the preservation of Calgary's historic resources".
3. The *Heritage Strategy* recommends that identified historic resources should be protected to ensure their preservation. This protection prevents demolition, provides appropriate management of physical interventions and is critical to ensuring effective management of historic resources. To date, 82 properties have been designated as Municipal Historic Resources. There are currently 832 sites on the Inventory of Evaluated Historic Resources, which is maintained by the Calgary Heritage Authority. Designated sites are both City-owned (24 properties including 14 owned by Parks) and privately-owned (58 properties).
4. The *Centre City Plan's* vision and principles support the approach taken with redevelopment of the Eau Claire Market site. Implementation principles include the need to be flexible, to balance a variety of objectives; as well as the harmonious integration of the public realm with new developments. The Plan also encourages the enhancement of 'landmark views', specifically including that of the smokestack, which will become more prominent in the proposed relocation approach.

Together, these principles and policies provide the guidance to evaluate the appropriateness of relocating the smokestack. It is a flexible approach to creating a great public space that enhances both the views toward and the landmark character of the smokestack as the Eau Claire area continues to be built out with new private development and major new public infrastructure.

Design Analysis:

Since Council's 2015 December 8 meeting, Administration has worked with the developer to investigate a number of options, including moving the smokestack to other parts of the Eau Claire Market site (development site), into the Eau Claire Plaza or on to other City owned parcels. In order to assist in evaluating the best options, Administration initiated a comprehensive public realm design exercise for the entire area around the Eau Claire Market site including the following main elements (Attachment 3):

- West Eau Claire Park
- The Regional Pathway

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- Eau Claire Plaza
- The future Green Line Station options
- Barclay Mall/Barclay Parade
- Existing and proposed private developments

While reviewing potential smokestack locations, it became apparent that there was an opportunity to enhance the visibility and landmark character of the smokestack, particularly when viewed from the south and the north. This can be achieved by moving the smokestack approximately 10 metres to the southwest of the existing location. When viewed within the overall public realm system, this small move enables the developer to achieve their objectives to make the most effective use of the ground floor restaurant and patio space proposed at this important corner in the Eau Claire area, while maintaining the smokestack's landmark presence within its historic context.

Redesigning the entire public realm system in the area in conjunction with the design of the Phase 1 Development Permit for the Eau Claire Market site has given Administration the ability to achieve a number of key objectives that make for successful placemaking: inclusion and enhancement of historic resources, provision of highly active edges along public spaces and the preservation of landmarks/icons in the urban landscape. The developer and Administration both share a desire to keep the smokestack as close to the original location as possible because of the character that it adds to the overall development. The proposed relocation provides an opportunity to meet the needs of both The City and the developer, while putting in place the key ingredients for a highly successful public space.

Repealing a historic designation in Calgary is unprecedented. Consequently, Administration has taken steps to address the risks associated with repealing the bylaw as addressed in the risk section of this report.

Compensation Analysis:

As per Council's direction, Administration confirmed the compensation appropriate to moving the smokestack. Based on a review of the proposed development permit, the increase in floor area enabled by the moving of the smokestack is in the order of 6,000 square feet. The City's Real Estate and Development Services Business Unit reviewed a 2016 March 2 valuation proposal submitted by the applicant and it was determined that a value of \$50 per square foot of buildable area is appropriate for the Eau Claire area. On that basis, the applicant has agreed to a total compensation of \$300,000 for heritage conservation purposes. Administration has valued the increase in land value that is created by removing the encumbrance of the smokestack structure from the land; it is not based on the value of the smokestack as a heritage resource. Additionally, the applicant is responsible for the full cost of moving and replacing the smokestack in its new location which is currently estimated to be in the order of \$1.5 million, as well as on-going maintenance costs.

Required Agreements:

The smokestack will remain protected by a Preservation Agreement with the developer in its existing location until moved and in any interim period and location if the smokestack does not

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move directly from existing placement to the new location. If the smokestack does not move directly from the existing location to the new location, then the agreement specifies that once the smokestack is taken down, it must be re-erected within a suitable timeframe to allow completion of construction of the first phase of the redevelopment. The developer's intention is to reconstruct the smokestack in its new location concurrent with the move. The maximum timeframe from the movement of the smokestack to being reconstructed will be three years. The agreement will allow for The City to take a security should the timeframe to reconstruct the smokestack be extended. The agreement also acknowledges that the developer will be responsible for moving the smokestack and all associated costs of moving it; that \$300,000 compensation for heritage conservation purposes will be paid to The City by certified cheque after the first reading, and prior to second and third reading of the passage of the bylaw to repeal Bylaw 37M2008; and that ownership of the smokestack will transfer to The City upon relocation of the smokestack to the new permanent location on City lands. A separate Access Easement and Maintenance Agreement between The City and the developer will obligate Harvard Developments to maintain the smokestack at the new location to the satisfaction of The City. Each of these agreements will be registered on the land title

Use of Compensation:

On 2015 December 8, Council directed Administration to determine the best use of the \$300,000 in compensation from the developer for the restoration of the adjacent 1886 Cafe. Given that the 1886 Cafe is a modest building which is already being rehabilitated, and with other sources of funding available to maintain the building, the building's ability to absorb the \$300,000 in compensation by the applicant is limited. The agreement that will protect the smokestack specifies that compensation offered by the developer will be directed to other heritage conservation projects being administered by The City, through the existing City of Calgary Historic Resource Conservation Grant Program (Heritage Incentive Reserve). This grant program helps to fund the rehabilitation of other municipally designated historic resources.

Stakeholder Engagement, Research and Communication

Administration has consulted with the Calgary Heritage Authority on the specific matter of the smokestack relocation and the use of the \$300,000 in compensation. Administration has involved all major stakeholders in the area including the Eau Claire Community Association and major landowners and developers in discussions regarding the overall public realm design concepts, including the proposed relocation of the smokestack.

Strategic Alignment

The proposed approach supports key objectives of the *Municipal Development Plan, 2020 Sustainability Direction, Centre City Plan* and *Heritage Strategy*. The approach aligns with creating inspiring neighbourhoods, supporting development that contributes to high quality urban design, and community distinctiveness.

Social, Environmental, Economic (External)

The smokestack will continue to provide the following benefits in its existing location or in the proposed location:

Social:

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Historic resources connect us to our past, our future, and to each other. They provide places of learning and places of understanding for all Canadians.

Historic resources are integral to the identity of our community and help to strengthen its distinctiveness. Historic resources add to the beauty, character and visual interest of our urban environment which contributes to the city's liveability and are sources of community pride.

Economic (External):

The smokestack adds character and visual interest to the streetscape which makes economic investment in the area an attractive prospect. Tourists and residents are attracted to areas with historic resources.

Financial Capacity

Current and Future Operating Budget:

Repeal of Bylaw 37M2008 will have no operating budget implications for The City of Calgary. \$300,000 obtained by The City as compensation will be placed in the existing Heritage Incentive Reserve fund which funds the Historic Resource Conservation Grant Program.

Current and Future Capital Budget:

Repeal of Bylaw 37M2008 will have no capital budget implications for The City of Calgary.

Risk Assessment

This development scenario is a unique case where private development is being designed in conjunction with an overall public realm design strategy that requires the balancing of private and public interests. In this particular case, relocating the smokestack achieves private interests, works in concert with proposed public realm design objectives, and retains the smokestack's landmark status close to its original location, and should not be considered as a precedent.

If Bylaw 37M2008 is not repealed, and the smokestack remains protected on its existing location, considerable changes to the proposed development plan would need to be made. These changes would introduce delays that would jeopardize the ability to achieve second and third reading of Bylaws 35P2015 and 58D2015 (the Land Use Bylaw and Area Redevelopment Plan Amendments to enable the Eau Claire Market redevelopment) within the two year time limit from first reading.

REASON(S) FOR RECOMMENDATION(S):

Council has requested that Bylaw 37M2008 be repealed, replaced or amended to allow for greater flexibility in development of the Eau Claire Market site. The recommendations balance Harvard Developments' aspirations for the Eau Claire Market site, with conservation of the smokestack's landmark status within its historic context. Additionally, the proposed solution will advance proposed public realm design objectives for the area and provide \$300,000 in funds to the City's Historic Resource Conservation Grant Program to support heritage conservation initiatives.

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ATTACHMENT(S)

1. Eau Claire Context Map
- 2. Proposed Bylaw 23M2017**
3. Existing and Proposed Locations of the Smokestack
- 4. Distribution: PowerPoint presentation**
- 5. Distribution: Letter from CHA**