

## **Repeal and Replacement of Bylaw 4M2018 – Designation of the Fairey Terrace as a Municipal Historic Resource**

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### **EXECUTIVE SUMMARY**

This report seeks to repeal and replace Bylaw 4M2018, approved by Council 2018 January 23, which designated the Fairey Terrace (1111 3 ST SE) as a Municipal Historic Resource under the Alberta Historical Resources Act.

Bylaw 4M2018 was subsequently found to contain an error in the legal description for the designated site, preventing registration of the bylaw on the property's certificate of title. Correction of the error requires repealing the existing bylaw and replacing it with a new bylaw including the correct legal description.

Administration is implementing changes to the review process for designation bylaws to prevent similar errors in the future.

### **ADMINISTRATION RECOMMENDATION:**

That the SPC on Planning and Urban Development recommends that Council ADOPT, by bylaw, the proposed designation of the Fairey Terrace as a Municipal Historic Resource and REPEAL Bylaw 4M2018.

### **PREVIOUS COUNCIL DIRECTION / POLICY**

At the 2018 January 23 Public Hearing Meeting of Council, Council approved Bylaw 4M2018, to designate the Fairey Terrace as a Municipal Historic Resource.

### **BACKGROUND**

Through report PUD2018-0047, Council designated the Fairey Terrace as a Municipal Historic Resource. Subsequently, an error was discovered in the bylaw in the legal description for the subject property. This error prevents the designation bylaw (4M2018) from being registered on the property's certificate of title, as required in the Alberta Historical Resources Act.

Preparing reports and proposed historic designation bylaws is a well-established practice for Administration, and processes exist for creating and reviewing their content. In 2016, 8 sites on the *Inventory of Evaluated Historic Resources* were designated as Municipal Historic Resources, and 11 sites were designated in 2017. Draft bylaws use standardised formats and are reviewed internally by Heritage Planning and Law. In confirming the legal details of the property to be designated, both groups reference the current certificate of title accessed through Alberta Registries.

The error in Bylaw 4M2018 was created when an outdated certificate of title was mistakenly ordered from the Alberta Land Titles online service instead of the active title for that land parcel, resulting in a superseded legal description being listed in the bylaw. Although the bylaw draft was reviewed as per standard practice, the certificate of title being referenced was incorrect in this case, and the error was not found until bylaw 4M2018 was to be registered for the property.

### **INVESTIGATION: ALTERNATIVES AND ANALYSIS**

In order for the Fairey Terrace to be designated as a Municipal Historic Resource under the Alberta Historical Resources Act as adopted by Council, the approved bylaw containing the

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error (4M2018) must be repealed and replaced with a bylaw reflecting the current legal description.

Without repeal and replacement of Bylaw 4M2018, the current bylaw will not offer the protection or benefit to the Fairey Terrace under the Alberta Historical Resources Act as intended.

Heritage Planning will implement an additional review of legal description details for all future proposed designation bylaws to avoid further errors of this nature.

### **Stakeholder Engagement, Research and Communication**

Upon identification of the error in Bylaw 4M2018, a representative for the property owner was contacted via phone and email to advise of the situation and the procedure to request repealing and replacing the existing bylaw.

A new 'Notice of Intention' to designate the property per the Alberta Historical Resources Act was received by the property owner 2018 March 5 – satisfying the 60-day notice requirement of the Act.

The owners of Fairey Terrace reviewed the new proposed designation bylaw including the corrected legal description, and have expressed in writing that they are in agreement with it being presented to the SPC on Planning and Urban Development, and Council (Attachment 2).

The Calgary Heritage Authority has expressed support of this new proposed designation bylaw as outlined in Attachment 3 to this report.

### **Strategic Alignment**

N/A

### **Social, Environmental, Economic (External)**

N/A

### **Financial Capacity**

#### ***Current and Future Operating Budget:***

N/A

#### ***Current and Future Capital Budget:***

N/A

### **Risk Assessment**

No risks have been identified in adopting the proposed designation of Fairey Terrace as a Municipal Historic Resource and repealing the existing designation of Fairey Terrace (Bylaw 4M2018). Bylaw 4M2018 was requested by the property owner, and approved by Council.

If this error is not corrected, the designation cannot be registered through Alberta Land Titles and designation as a Municipal Historic Resource will not be completed. This would preclude the property owner from eligibility for conservation incentives that designation provides.

**Planning & Development Report to  
SPC on Planning and Urban Development  
2018 April 30**

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**REASON(S) FOR RECOMMENDATION(S):**

Council previously adopted Bylaw 4M2018 to designate the Fairey Terrace as a Municipal Historic Resource, as formally requested by the owners of the property.

Completing the process of designation under the Alberta Historical Resources Act (Section 26) requires correcting the error identified in Bylaw 4M2018 through repealing and replacing the existing bylaw.

**ATTACHMENT(S)**

1. Attach 1 – Proposed Bylaw
2. Attach 2 – Updated Bylaw Agreement from Owner – PUD2018-0355
3. Attach 3 – Updated Calgary Heritage Authority Letter of Support – PUD2018-0355