



CITY OF HAMILTON
PLANNING AND ECONOMIC DEVELOPMENT
 Tourism and Culture

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	May 20, 2015
SUBJECT/REPORT NO:	Sale of Auchmar Estate for Adaptive Re-Use (PED15072) (Ward 8)
WARD(S) AFFECTED:	Ward 8
PREPARED BY:	Raymond Kessler (905) 546-2424 Ext. 7019 Ian Kerr-Wilson (905) 546-2424 Ext. 1747 Anna M. Bradford (905) 546-2424 Ext. 3967
SUBMITTED BY:	Jason Thorne General Manager Planning and Economic Development Department
SIGNATURE:	

RECOMMENDATIONS

- (a) That the Council direction for staff to proceed with the development of a comprehensive operational plan, based on the Proposed Use Concept Profile for the Auchmar Estate (Report PED12193) be rescinded.
- (b) That the Request for Proposals for The Use, Adaptive Re-Use, Conservation, and Management of the Auchmar Estate in the City of Hamilton (Contract Number C3-06-14) be terminated.
- (c) That the Real Estate Section of the Economic Development Division of the Planning and Economic Development Department be authorized and directed to enter into negotiations for the sale of the land and buildings, legally described as Parts 2, 3, 4 and 5 on Plan 62R-15401, with a right of way over Part 1 on Plan 62R-15401, as shown in Appendix "A" attached to Report PED15072, in accordance with the "Procedural By-law for the Sale of Land", being By-law No. 14-204 and substantially on terms and conditions outlined in Appendix "B" attached to Report PED15072, and any such other terms and conditions deemed appropriate by the General Manager, Planning and Economic Development Department.

- (c) That the Manager of Real Estate be authorized to retain the services of an independent qualified appraiser, in good standing with the Appraisal Institute of Canada, to establish a fair market value of the subject property.
- (d) That all costs, including legal, appraisal and real estate, be debited to 10005 – Revolving Fund-Historic Properties.
- (e) That the Manager of Real Estate report back to the General Issues Committee with any potential purchasers that have (i) substantially met the terms and conditions outlined in Appendix “B” attached to Report PED15072, and any such other terms and conditions deemed appropriate by the General Manager, Planning and Economic Development Department, and (ii) entered into an offer to purchase agreement with the City.

EXECUTIVE SUMMARY

At the September 5, 2013 General Issues Committee, staff were directed to proceed with a non-binding Request for Proposals (RFP) for the potential private use and/or sale of the Auchmar Estate (PED13151). Two submissions were received and evaluated by a panel of City staff, Ontario Heritage Trust staff and external heritage consultants. Neither proposal received a passing score, as reported in an Information Update in April 2015 titled *Auchmar Request for Proposal Update*. Staff advised that no further action be taken on these proposals; however, the City has been a steward of the property since 1999 and there is strong support for the sustainable preservation of the estate from the local and heritage communities.

With the backdrop of unsuccessful attempts to address the adaptive re-use of Auchmar, a different approach is required. Staff are recommending that the City initiate a real estate process to identify and secure a buyer for Auchmar (including all structures and property), making any transaction conditional upon a set of terms and conditions outlined herein including the Heritage Conservation Easement held by the Ontario Heritage Trust, the Municipal Heritage Designation and the Statement of Significance developed by the Ontario Heritage Trust, attached to Report PED15072 as Appendixes “D”, “E” and “F” respectively.

Alternatives for Consideration – See Page 5

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no significant additional costs associated with this recommendation. If pursued, a small reduction in operating costs (\$24,000 annually) will be secured and no future capital project requests for the preservation of Auchmar will be required.

Staffing: N/A

Legal: The heritage conservation easement held by the Ontario Heritage Trust is attached to the property. Responsibility to meet the requirements of the easement will be transferred to the owner. Similarly, most conservation work on the property will require a municipal heritage permit. This will be the responsibility of the new owner.

HISTORICAL BACKGROUND

The Auchmar Estate, located at 88 Fennell Avenue West, is a 3.765 hectare (9.5 acre) site owned by the City of Hamilton. The property includes a mid-nineteenth century Ontario Gothic manor house (and associated gardens and outbuildings) built for Isaac Buchanan, a local merchant and politician.

The City of Hamilton acquired Auchmar in 1999. The acquisition followed a negative response from the public for a proposed housing development on the site and support for Auchmar's preservation as a cultural heritage resource. Although extensive stabilization efforts and repairs have been completed, the site is in an un-restored state. The buildings are unoccupied and therefore vulnerable to on-going deterioration and vandalism.

In September 2002, the Committee of the Whole directed staff to issue an RFP for the adaptive re-use and occupation of Auchmar at no cost to the City. Two submissions were received and both were declined as they involved full development of the estate into residential sub-divisions.

In November 2008, Council directed the (then) Culture Division, Community Services Department to complete a business plan for Auchmar, the last step of a comprehensive plan which would guide the site's long term and adaptive re-use (Economic Development and Planning Report 08-021 approved at Council November 12, 2008).

To guide the review of options for Auchmar's use, Council approved a framework to evaluate potential uses on October 13, 2010 (Auchmar Estate – Business Plan (CS10095)).

On October 17 2012, staff were directed to develop and implement a Request for Information (RFI) for the potential private use and/or sale of the Auchmar Estate and to report to the General Issues Committee on the results. Seven submissions were received indicating significant interest and visions for, an adaptive re-use for Auchmar. On that basis, on September 11, 2013, Council directed staff to proceed with a non-binding RFP for the adaptive re-use or sale of the Auchmar Estate (PED13151). The results of the process were communicated to Council in an Information Update dated April 24, 2015. The Update advised that neither proposal was deemed adequate. An alternative strategy to secure the long term sustainability of Auchmar is required.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Ontario Heritage Act, Part IV, Designation By-law 2000-37.

The property is designated by By-law 95-13 under Part IV of the Ontario Heritage Act (OHA). Permits are required for any alterations or additions that affect the Reasons for Designation contained in the By-law. The By-law provides context on the historical and cultural significance of the Auchmar Estate. Permit applications are also required for demolition. The designation identifies for preservation virtually all features of the historic landscape and garden as well as interior and exterior of the heritage structures.

The property is also subject to a Heritage Conservation Easement registered on title and held by the Ontario Heritage Trust (OHT) which protects the landscape features of the site, all buildings and structures, and the interior of the manor house. Any anticipated adaptive re-use of the building(s) and grounds will be subject to the provisions of the OHA and the terms of the OHT easement and will require sensitive implementation. The highest standards in heritage conservation practice and workmanship are also expected in undertaking any repairs or restoration work to identified heritage features.

RELEVANT CONSULTATION

Procurement Section, Financial Services Division, Corporate Services Department

Finance and Administration Division, Corporate Services Department

Legal Services Division, City Manager's Office

Real Estate Section, Economic Development Division, Planning and Economic Development Department

ANALYSIS AND RATIONALE FOR RECOMMENDATIONS

After 15 years, three RFP/RFI public procurement initiatives and numerous unsolicited proposals, it is clear that a different approach to establishing a long term adaptive re-use for Auchmar is needed. Proposals from both public and private interests have either not been successful in the initial stages or not feasible given the requirements of the heritage easements. Traditional procurement processes do not lend themselves well to overcoming the complexity of the property encumbrances and the limited number of capable interested parties.

Staff recommend that the City initiate a more direct, negotiated process consistent with real estate practices to dispose of the Auchmar estate to an individual or group with the commitment and resources to undertake an appropriate adaptive re-use. Real Estate

staff, in collaboration with heritage, planning, finance, and other requisite City experts, would engage potential proponents in appropriate due diligence, collaborative solution-based dialogue, and direct negotiations.

Acting in good faith and with the objective of protecting the City's investment and past stewardship, City staff will provide background information to interested parties to ensure that a prospective owner is aware of the known condition of the property and buildings, and understands the heritage protections which exist. Additionally, a set of pre-conditions have been established to set the framework for any transaction. These conditions will require potential purchasers to:

- Propose adaptive re-uses of the property that are guided by the Council approved Policy Filter for Use of Auchmar Main Building and Grounds;
- Demonstrate the ability to meet the standard of heritage conservation specified in the Municipal Heritage Designation and the Ontario Heritage Trust Heritage Conservation Easement;
- Commit to achieving agreed-to heritage restoration goals within suitable timeframes, and including on-going heritage facilities maintenance;
- Demonstrate the financial capacity to undertake the heritage restoration and maintenance; and,
- Guarantee the undertaking.

ALTERNATIVES FOR CONSIDERATION

Alternative 1 – City restores Auchmar to a reasonable standard and re-issues an RFP

Council could direct that funds are allocated to restore Auchmar to a reasonable and stable standard and issue an RFP for the purchase and/or lease and operation of the site. The successful proponent would be required to propose an adaptive re-use consistent with the heritage protections and a public access requirement could be included.

Financial:

Sufficient capital funding for this alternative has not been approved through the budget process. Detailed cost estimates for the work are not available and will vary depending on the detail design. However, based on previous estimates, approximately \$6 million will be required to restore Auchmar to a reasonable standard prior to any leaseholder modifications based on the approved adaptive re-use.

Staffing:

There are no staffing implications associated with this alternative. No additional staff resources are anticipated.

Legal:

There are no additional legal implications associated with this alternative

Policy:

There are no additional policy implications associated with this alternative

Pros

Historically, the expectation that proponents would bear all or most of the major stabilization and restoration costs has been a significant barrier to participation. Many reasonable and sustainable operating visions have failed because they could not expect to be successful while paying off the large capital start-up costs. By removing that barrier, many more adaptive re-use options (and potential operators) may become viable.

The City could also ensure that the work on the building met an acceptable standard of best practice in historic conservation.

Cons

The cost of this option is not known with precision since all fitting up costs and some modifications specific to a future adaptive re-use would be the responsibility of the future operator. However, it would not be significantly less than the \$6million in the current capital plan. There is also no absolute guarantee that a community group would be available to undertake the long term operation of the site with a use acceptable to the City and community.

Using traditional procurement practices to find a solution to the long-term future of the estate have not been successful – neither should a different outcome be expected with this adaptation. Certain potential proponents with credentials commensurate with a viable undertaking of this nature will not participate in public procurement processes due to their uncertainty, complexity and cost.

This option is not recommended.

ALIGNMENT TO THE 2012 – 2015 STRATEGIC PLAN

Strategic Priority #1

A Prosperous & Healthy Community

WE enhance our image, economy and well-being by demonstrating that Hamilton is a great place to live, work, play and learn.

Strategic Objective

- 1.1 Continue to grow the non-residential tax base.
- 1.2 Continue to prioritize capital infrastructure projects to support managed growth and optimize community benefit.
- 1.6 Enhance Overall Sustainability (financial, economic, social and environmental).

Strategic Priority #2

Valued & Sustainable Services

WE deliver high quality services that meet citizen needs and expectations, in a cost effective and responsible manner.

Strategic Objective

- 2.1 Implement processes to improve services, leverage technology and validate cost effectiveness and efficiencies across the Corporation.
- 2.2 Improve the City's approach to engaging and informing citizens and stakeholders.

Strategic Priority #3

Leadership & Governance

WE work together to ensure we are a government that is respectful towards each other and that the community has confidence and trust in.

Strategic Objective

- 3.1 Engage in a range of inter-governmental relations (IGR) work that will advance partnerships and projects that benefit the City of Hamilton.

APPENDICES AND SCHEDULES ATTACHED

- Appendix 'A' – Plan of the Property
- Appendix 'B' – Terms and Conditions of Sale
- Appendix 'C' – Policy Filter for Use of Auchmar Main Building and Grounds
- Appendix 'D' – Heritage Conservation Easement
- Appendix 'E' – Municipal Heritage Designation
- Appendix 'F' – Statement of Significance

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