

HP24001

ISLAND REGULATORY AND APPEALS COMMISSION

BETWEEN:

**SABHARWAL ATLANTIC HOLDINGS LTD.**

APPELLANT

-and-

**CITY OF CHARLOTTETOWN and  
MINISTER OF FISHERIES, TOURISM, SPORT AND CULTURE**

RESPONDENTS

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**SUBMISSIONS ON BEHALF OF THE  
CITY OF CHARLOTTETOWN**

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## Overview

1. This matter arises out of a Notice of Appeal filed by the Appellant, Sabharwal Atlantic Holdings Ltd. (“Appellant”), dated October 9, 2024, appealing a decision of the Respondent, the City of Charlottetown (“City”), dated September 12, 2024, whereby the City designated the Appellant’s property, identified as 10 Prince Street, PID 336321, Charlottetown (the “Property”), as a Heritage Resource, pursuant to the City’s *Heritage Preservation Bylaw* (“Bylaw”) (the “Designation”).

## Preliminary Issue

2. On December 11, 2024, the Appellant identified two preliminary issues as: (i) whether there was a valid delegation of Ministerial authority under the *Heritage Places Protection Act*, RSPEI 1988, c H-3.1 (the “Act”); and (ii) whether, if there was such a delegation, that the delegation was broad enough to encompass the designation under appeal.
3. On February 20, 2025, in addition to filing a Supplemental Record, the City provided the letter dated October 1, 1998 where then Minister J. Chester Gillan delegated the Minister’s authority under the Act to the City.<sup>1</sup> The City further requested particulars from the Respondent on the two preliminary issues.
4. On or about December 4, 2025, the Appellant advised the Commission and the parties that the preliminary issues would not be pursued and the appeal would be pursued on its merits.
5. While the Appellant does not appear to be pursuing this preliminary issue, it is the City’s position that the Bylaw was properly enacted under the authority of the *Municipal Government Act*, RSPEI 1988, c-12.1 (the “MGA”) pursuant to the City’s authority delegated by Minister J. Chester Gillan by letter dated October 1, 1998.

## Factual Background

6. On or around May, 2023, the Appellant submitted a Design Review Application to the City’s Planning & Heritage Department (the “Department”) to construct a three and a half storey development with three units, two residential units and one commercial unit (the “Application”)<sup>2</sup>.

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<sup>1</sup> Letter dated October 1, 1998 – submitted by the City on November 13, 2024

<sup>2</sup> City Record, Tab 2 [“Record”]

7. The Application triggered the City's Heritage Officer to commence the Temporary Designation process pursuant to section 3.4 of the Bylaw, which provides:

*3.4.1 Where, in the Heritage Officer's opinion, a Heritage Resource with characteristics that may meet the criteria for Designation, is at risk of imminent irreparable or costly damage to the site's heritage nature, the Heritage Officer may, without prior notice, request a temporary Designation by Council.*

8. On October 10, 2023, Council voted to approve a Temporary Designation on the Property<sup>3</sup>.
9. The Temporary Designation is not the subject of the current appeal before the Commission.
10. On or about November 14, 2023, the City obtained a third-party Heritage Assessment Report from Brighter Community Planning & Consulting, which recommended permanent designation of the Property as a Heritage Resource<sup>4</sup>.
11. On or about November 16, 2023, Department staff recommended that Heritage Board and City Council permanently designate the Property as a Heritage Resource<sup>5</sup>.
12. On or about August 26, 2024, Heritage Board recommended Council permanently designate the Property as a Heritage Resource<sup>6</sup>.
13. On or about September 10, 2024, Council voted to permanently designate the Property as a Heritage Resource<sup>7</sup>.

## **Submissions**

### Closed Mind Test

14. The City is an administrative decision-maker and the applicable test concerning bias is the closed-mind test, which was aptly set out by the Supreme Court of Canada in *Old St. Boniface*. *Old St. Boniface* case concerned a planning decision by elected municipal councillors. The Supreme Court recognized that city councillors have

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<sup>3</sup> Record, Tabs 12-13

<sup>4</sup> City Supplemental Record, Tab 58 ["Supp Record"]

<sup>5</sup> Record, Tab 25

<sup>6</sup> Record, Tab 38

<sup>7</sup> Record, Tab 41

been elected by voters to represent particular points of view, the result being that municipal councils fall on the legislative end of the spectrum of administrative bodies and held the test as follows<sup>8</sup>:

*The party alleging disqualifying bias must establish that there is a prejudgment of the matter, in fact, to the extent that any representations at variance with the view, which has been adopted, would be futile. Statements made by individual members of Council while they way very will give rise to an appearance of bias will not satisfy the test unless the court concludes that they are the expression of a final opinion on the matter, which cannot be dislodged.*

15. This was upheld by the Supreme Court in *Newfoundland Telephone Co.* where the Supreme Court of Canada discussed the reasonable apprehension of bias test as versus the closed mind test and their application to administrative bodies. In specific reference to municipal councils, Cory, J. wrote<sup>9</sup>:

*[...] At the other end of the scale are boards with popularly elected members such as those dealing with planning and development whose members are municipal councillors. With those boards, the standard will be much more lenient. In order to disqualify the members a challenging party must establish that there has been a prejudgment of the matter to such an extent that any representations to the contrary would be futile. Administrative boards that deal with matters of policy will be closely comparable to the boards composed of municipal councillors. For those boards, a strict application of a reasonable apprehension of bias as a test might undermine the very role which has been entrusted to them by the Legislature.*

16. A strict application of the reasonable apprehension of bias test is not suited for municipal councillors elected and entrusted by their constituents; rather is reserved for administrative bodies performing an adjudicative function, such as the Island Regulatory and Appeals Commission.
17. Council voted on the Designation and in doing so, was not performing an adjudicative function. Heritage Board made a recommendation to Council, and Council is prescribed authority to administer the Bylaw per the Act. Council was exercising that authority when Council voted in favour of the Designation, which arose out of a recommendation from Department staff and Heritage Board.

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<sup>8</sup> *Old St. Boniface Residents Assn. Inc. v Winnipeg (City)*, [1990] 3 SCR 1170 at para. 94 (“*Old St. Boniface*”)

<sup>9</sup> *Newfoundland Telephone Co. v Newfoundland (Board of Commissioners of Public Utilities)*, 1992 Carswell NFLD 170, [1992] 1 SCR 623 at para. 27 (“*Newfoundland*”)

August 26, 2024 Heritage Board Meeting

18. The decision to permanently designate the Property as a Heritage Resource was not made by the Heritage Board at the August 26, 2024 meeting (“Board Meeting”). Heritage Board recommended to Council to permanently designate the Property as a Heritage Resource<sup>10</sup>. A decision of this type is a decision reserved solely for Council and not for boards and/or committee of Council.
19. The City submits that the evidence does not suggest that Councillor McCabe nor Mayor Brown, or any members of Council, had a closed mind when the Designation was resolved by Council.
20. Prior to voting on the motion to send a recommendation to Council on the Designation, Heritage Board did hear from the Appellant’s representative<sup>11</sup>. In addition, the Board Meeting package, circulated to Heritage Board and Council, in advance of the meeting, included the Appellant’s written submissions and submissions from the Appellant’s counsel<sup>12</sup>.
21. Furthermore, comments made by Mayor Brown and Councillor McCabe at the Board Meeting were comments made during the meeting, in Council Chambers, the very place in which Councillors are permitted to express their informed opinions and advocate for the interests of their ward residents.
22. In *Save Richmond*, Justice Sopinka, in a more egregious case of public statements, found that a municipal councillor who made public statements that he would not change his mind with regard to a residential development despite upcoming public hearings should not be disqualified for bias as to find otherwise would have distorted the democratic process by discouraging politicians from expressing their views openly<sup>13</sup>.
23. The City submits that the comments made by Mayor Brown and Councillor McCabe at the Board Meeting, where a final decision was not made, do not suggest these individuals had a closed mind. They, in fact, were privy to submissions of the Appellant sent in writing to the City and considered the comments made by the Appellant’s representative. Their opinions were informed by what they had read and heard from Department staff and from the Appellant.

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<sup>10</sup> Record, Tab 37, pg. 512

<sup>11</sup> Record, Tab 38, pgs. 518-526

<sup>12</sup> City’s Submissions, Tab A, pg. 44-48

<sup>13</sup> *Save Richmond Farmland Society v Richmond (Township)*, 1990 Carswell BC, [1990] 3 SCR 1213 at para. 13. (“*Save Richmond*”)

“The Designation was put forward based on inappropriate criteria”

24. The process undertaken by the City to pursue the Designation was first initiated by the Heritage Officer in accordance with section 3.4.1 of the Bylaw, permitting a temporary designation, and subsequently, in accordance with section 3.1.1 of the Bylaw.
25. Section 3.4.1 of the Bylaw permits the Heritage Officer to seek a temporary designation when they are of the opinion that a home with characteristics that may meet the criteria for permanent designation, is at risk of imminent irreparable or costly damage. The Heritage Officer’s opinion is succinctly set out in her original report dated August 28, 2023, which reads:

*This report is to make Heritage Board aware of an application for development at 10 Prince Street (PID 336321). The development, if approved, would require the existing building to be removed/demolished. The heritage team is cognizant of the importance of the corner on which the property is located and is aware that efforts to retain this structure can assist in our request to protect similar properties within the City<sup>14</sup>.*

26. The designation process was put forward on exactly the criteria set out in section 3.1.1 of the Bylaw. The section 3.1.1 temporary designation allows the City to undertake the Designation process in accordance with the Bylaw with protections in place to avoid development, alteration or demolition to a property being considered.
27. The Heritage Officer’s Final Report, dated August 26, 2024, which report was circulated to Heritage Board and Council, sets out the Recommendation, Background, Property History, Site Significance and the Policy Framework, concluding by reviewing each consideration set out in section 3.3.1 of the Bylaw (“Final Report”). The Final Report does not discuss the Application beyond reference to the initiation of the process and attachment of the plans included with the Application<sup>15</sup>.

“Undisclosed influence on the “independent” expert”

28. The Designation was a decision made by Council and not by Heritage Board, meaning that comments at Heritage Board should not be taken as determinative. Heritage Board is a place for discussion and consideration. Members of Heritage

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<sup>14</sup> Record, Tab 4, pg. 30

<sup>15</sup> Submissions, Tab C, pgs. 6-48

Board, and subsequently Council, were provided with the Final Report, and an additional report prepared by Brighter Community Planning & Consulting, which is not a required step under the Bylaw (“Brighter Report”).

29. The Brighter Report was circulated to the Heritage Officer and Department Manager on November 10, 2023 – **Supp. Record, Tab 57** – which caused the Heritage Officer and Department Manager to suggest a few minor editorial comments. The final Brighter Report was circulated to the Heritage Officer and Department Manager of November 14, 2024 – **Supp. Record, Tab 58**. The substance and conclusion of the Report are unchanged.
30. Attached at **Tab B** of these submissions is a ‘redlined’ version of the Brighter Report as shared between the Heritage Officer, the Manager of the Department and the author of the Brighter Report. The City submits that the ‘redlined’ amendments and comments demonstrate that the Brighter Report continued to be independent despite the Heritage Officer and Department Manager’s minor suggested amendments.

“Unilateral imposition of a Heritage Designation”

31. The Design Review Application was submitted to the Planning & Heritage Department. Heritage is an essential component of the Department. The Heritage Officer did not arbitrarily exercise discretion – the Heritage Officer was of the opinion that the Property, which Property may meet the characteristics for designation, was at risk of imminent irreparable or costly damage as a result of the Application that would have led to demolition.
32. The Designation was imposed on the Property following a vote from City Council on September 10, 2024<sup>16</sup>.
33. The City processing the Application, then waiting for a Demolition Permit Application to trigger the designation process would have been unfair to the Appellant, costing the Appellant unnecessary time and money. The City commenced the process at its earliest opportunity.

“Council was out of time to impose the Designation”

34. The Bylaw is not the subject of the appeal before the Commission. The Appellant, at paragraphs 211 to 232 of their submissions, appears to be challenging the City’s

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<sup>16</sup> Record, Tab 41

authority under the Bylaw and provisions of the Bylaw itself, suggesting that the Bylaw departs from the *Act* and the *Regulations* where it shouldn't. The Appellant appealed the Designation and not the City's adoption of the Bylaw. Respectfully, the City submits that these submissions should be disregarded by the Commission.

35. In the alternative, the City submits that, per section 9 of the *Act*, the Minister delegated full power to the City of Charlottetown to draft, adopt and administer the Bylaw and in doing so, provided the City with the authority to dictate the terms and provisions of the Bylaw within the parameters of the *Act*. The *Act* does not mandate a 90-day time period from the time of public notice to the time of designation for municipalities and the City was within their authority not to dictate a decision timeline.
36. In the further alternative, the Designation occurring outside the 90-day time period prescribed in the *Act*, not the Bylaw, does not render the Designation null and void.

#### Relief Sought

37. The City respectfully requests that the Commission dismiss the appeal.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of March, 2026.



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**HERITAGE BOARD AGENDA  
NOTICE OF MEETING**

**Monday, August 26, 2024 at 4:00 p.m.**  
*Council Chambers, 2<sup>nd</sup> Floor, City Hall, 199 Queen Street*  
*Live streaming: [www.charlottetown.ca/video](http://www.charlottetown.ca/video)*

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- 1) Call to Order**
- 2) Declaration of Conflicts**
- 3) Approval of Agenda** – Approval of Agenda for Monday, August 26, 2024
- 4) Adoption of Minutes** – Approval of Meeting minutes from Monday, April 29, 2024
- 5) Business arising from Minutes**
- 6) Reports/Discussions:**
  - a) 10 Prince Street (PID#336321)** – Discussion regarding potential heritage designation
- 7) Introduction of New Business**
- 8) Adjournment of Public Session**

**PLANNING AND HERITAGE: HERITAGE BOARD MINUTES**  
**MONDAY, APRIL 29<sup>TH</sup>, 2024 @4:00 PM**  
**COUNCIL CHAMBERS, 2<sup>ND</sup> FLOOR, CITY HALL, 199 QUEEN STREET**  
**Live Streaming: [www.charlottetown.ca/video](http://www.charlottetown.ca/video)**

**Present:** Deputy Mayor Alanna Jankov, Chair      Ken McInnis, RM  
Councillor Norman Beck      Sharon Larter, RM  
Mayor Phillip Brown      Emile Gallant, RM  
Councillor Julie McCabe      Simon Moore, RM  
Tara Maloney, RM  
Lucas MacArthur, RM  
Aaron Stavert, RM

**Also:** Donna Miller-Ayton, Mgr, P&H      Jason Doucette, IO/AA \*  
Todd Saunders, HO      \*minute taker

**Also in attendance:** Eleanor Mohammed, CAO  
Michael Ruus, Director, P&H

**Regrets:** Simon Moore, RM

**1. Call to Order**

Deputy Mayor Jankov called the meeting to order at 4:10 PM

**2. Declaration of Conflicts**

Deputy Mayor Jankov asked if there are any conflicts; there being none, moved to the approval of the Agenda.

**3. Approval of Agenda**

Moved by Councilor Beck and seconded by Councilor McCabe the agenda for Monday, April 29<sup>th</sup>, 2024, be approved.

Moved by Councilor Beck and seconded by Ken McInnis that the Agenda item C) Heritage Awards Discussion, be moved to a closed session per section 119 (c), "*personal information about an identifiable individual, including a municipal employee or an employee of a controlled corporation*"

**CARRIED**

**4. Adoption of Minutes**

Moved by Councilor Beck and seconded by Ken McInnis that the minutes of the meeting on Monday, March 25<sup>th</sup>, 2024, as circulated, be approved.

**CARRIED**

**5. Business arising from Minutes**

There was no business that arose from the minutes.

**6. Reports:**

**a) 112-114 Prince Street (PID# 340646) – Proposed Alterations to Front Entry.**

**Summary:**

- The application is to replace the front entry steps, the ramp and front doors
- The property is a pre-1870's Italianate influenced residence located on the east side of Prince Street between Richmond Street and Grafton Street.
- Currently there is a wooden stair and ramp configuration with stairs running straight from the sidewalk to the two entry doors and a ramp on the left (north) end.
- The proposed design will see the stairs moved to the right (south) side and the ramp remaining at the opposite end.
- The existing concrete base structure is to remain in place with the wooden deck, stairs and ramp removed.
- The new wooden ramp and relocated stairs will be built on the existing concrete structure. It is proposed the two entry doors will be replaced with fiberglass doors with the sidelights moved to the opposite sides of the door to allow for greater access.
- The new handrail will be metal and with horizontal members only to minimize the visual impact. The proposal has minimal impact on the heritage character of the building and staff are recommending Heritage Board approve the proposal.

**Discussion:**

- Ken McInnis asked if there are any elevations of what the doors look like. The Heritage Officer responded that there are no drawings available, but they are to match the existing doors with two panels below and a glass panel above, however they will be reversing the sidelight, meaning if the sidelights are on the outer side, they will be reversed which will allow greater access to get into the building.
- Tara Maloney commented that this seems to be a better design with the steps going down the side for the ramp and opens up the sidewalk.

**MOTION:**

**Moved by Ken McInnis and seconded by Councilor McCabe that the proposed alterations to the main entry at 112-114 Prince Street (PID 340648) be approved.**

**CARRIED**

**b) 215 Richmond Street (PID#340471) – Proposed fire egress replacement.**

**Summary:**

- This is an application from Hensley Green Housing Cooperative to remove the old wooden fire escape stairs and replace with a new steel structure.
- The building is a 1863 Georgian inspired Methodist Mission House which was moved from the south side of Richmond Street across the street to its current location in 1874. It is currently on the north side of Richmond Street between Prince Street and Hensley Street. There are several designated heritage properties in the area.
- The existing wooden fire escape is to be removed. The proposed stairs follow the same configuration as the existing one except its constructed with metal.
- The stairs have a metal handrail and metal balusters, and the stairs will have closed risers. The proposal has minimal impact on the heritage character and staff are recommending Heritage Board approve the proposal.

**Discussion:**

- Mayor Brown asked for confirmation that the stairs were metal for fire regulations and inquired if this is where Fire Services have been going for some time. The Heritage Officer responded that it seems to be the preferred option and not sure if its required but it's definitely the way things are going.
- Tara Maloney asked with regards to the side elevation, if the handrail projects into the sidewalk is that an obstacle for someone walking by. The Heritage Officer responded it wouldn't be permitted to protrude into the sidewalk.

**MOTION:**

**Moved by Ken McInnis and seconded by Tara Maloney that the proposed alterations to the fire egress at 215 Richmond Street (PID340741) be approved.**

**CARRIED**

**Moved by Councillor Beck and seconded by Tara Maloney, RM to move into a closed section as per Section 119 (c) of the Municipal Government Act, “*personal information about an identifiable individual, including a municipal employee or an employee of a controlled corporation;*”.**

Chair Jankov stated there was a decision made in the Closed Session on the recipients of the upcoming Heritage Awards which will be announced Tuesday, May 8<sup>th</sup>, 2024 at noon at City Hall.

**7. New Business**


There was no new business that arose.

**8. Adjournment**

Moved by Tara Maloney and seconded by Ken McInnis that the meeting be adjourned. The meeting was adjourned at 4:40 PM.

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Deputy Mayor Alanna Jankov, Chair

<b>TITLE:</b> 6A - HERITAGE BOARD REPORT PROPOSED HERITAGE DESIGNATION 10 PRINCE STREET (PID #336321) <b>OWNER:</b> SABHARWAL ATLANTIC HOLDINGS, NEW ORLEANS <b>APPLICANT:</b> CITY OF CHARLOTTETOWN		
<b>MEETING DATE:</b> August 26, 2024		<b>Page 1 of 48</b>
<b>DEPARTMENT:</b> Planning & Heritage	<b>ATTACHMENTS:</b> <ul style="list-style-type: none"> <li>A. Location Map</li> <li>B. Property Photos</li> <li>C. Heritage Property Evaluation Form</li> <li>D. Independent Heritage Assessment</li> <li>E. Owners Comments/Objection</li> <li>F. Owner’s Renovation Quote</li> <li>G. Owner’s Legal Representative’s Response</li> </ul>	
<b>SITE INFORMATION:</b> <b>Ward No:</b> 1 – Queens Square <b>Heritage Recognition:</b> Located in the Downtown Mixed-Use Neighbourhood (DMUN) Zone of the 500 Lot Area. <b>Property Use:</b> Retail <b>Neighbouring Heritage Properties:</b> <ul style="list-style-type: none"> <li>• 140 Water Street</li> <li>• 15 Prince Street</li> <li>• 21-23 Prince Street</li> <li>• 26 Prince Street</li> </ul>		

**RECOMMENDATION:**

The Planning and Heritage Department is initiating the inclusion of the property located at 10 Prince Street (PID#336321), on the Inventory of Designated Heritage Resources for the City of Charlottetown. The subject property is located on the east side of Prince Street at the corner of Water Street (see Attachment A) and contains a 1.5-storey dwelling which was constructed circa. 1900 as well as an accessory building. 10 Prince Street sets the tone and makes a first impression on the nature of downtown Charlottetown. Given the ongoing transformation of the waterfront in the eastern end of the downtown, the corner of Prince Street and Water Street has gained significance. Its location at a major pedestrian gateway into the downtown core further enhances its importance.

The proposal to include the subject property on the Inventory of Designated Heritage properties for the City of Charlottetown is considered in accordance with Section 3 (Designation of a Heritage Resource) of the City of Charlottetown Heritage Preservation Bylaw. The proposal is evaluated based on the property's heritage value and the criteria established. The owner objects to the designation of the property.

The Planning and Heritage Department firmly recommends that the Heritage Board recommend to Council that 10 Prince Street (PID#336321) be designated as a Heritage Resource.

**BACKGROUND:**

The property owner, via Sable Arc Architecture, applied to the Planning & Heritage Department for a development permit for this site which would necessitate the demolition/removal of the existing building located in the 500 Lot Area at 10 Prince Street. This building is not a designated heritage resource and is therefore not protected under the Heritage Preservation Bylaw. The proposed development and building design are subject to the design review process.

A temporary designation of 10 Prince Street was discussed by Heritage Board a year ago in August and September 2023, where Heritage Board recommended to Council that a temporary designation be placed on the property. This was supported by City Council at their meeting in October and a temporary designation was imposed on the property, which expired 45 days later in November 2023.

Following a third-party assessment report, on November 16, 2024, a proposal for (permanent) designation of 10 Prince Street was presented to the Heritage Board. The Board supported the recommendation and made a recommendation to the Council to designate the property. This recommendation was reviewed by Council on November 27 where it was deferred. An email (Nov 20, 2023) and following letter (Nov 23, 2023) from the owner's legal counsel requested that the designation be denied. The owner's legal counsel alleged:

1. Inappropriate consideration of potential new development
2. Procedural failures under By-law; and
3. Property not appropriate for designation.

Council moved to defer the application to seek a legal opinion on whether there are consequences for the City if they determine the property should be designated as a Heritage resource given the owner's objection. On November 28, 2023, the owner's legal counsel

forwarded another letter to the Planning & Heritage Department, wherein she suggests that due to procedural errors, the City must cancel the process to designate the property as a Heritage Resource.

Legal Counsel for the City has reviewed all files, processes, bylaws, and case law relevant to this item. The City's legal counsel is of the opinion that the property owner's counsel's position on the City's alleged errors were incorrect.

With respect to the possible consequences for the City if Council was to designate the property as a Heritage resource, a review of the law on "constructive appropriation" concluded the risk to the City to be relatively low.

As a result, the City's legal counsel disagreed with the conclusion of the property owner's legal counsel's correspondence and is of the opinion that the City conducted the Review Process (3.3) in substantial compliance with the Bylaw. They further indicate it is possible IRAC or a judge on judicial review could find one or more of the alleged procedural deficiencies cited to have merit. But it is not probable. The Heritage Board was made aware of the City's legal opinion on March 25, 2024.

This item was returned to City Council in April, where Council passed a resolution to consider the permanent designation of 10 Prince Street and proceeded with a Notice of Intention to Designate.

In May 2024, the owner provided written submissions to the city via their legal counsel objecting to the Notice of Intention to Designate (see Attachment G). The legal counsel's letter provides sixteen ways in which it is stated the City failed to meet its duty of fairness:

- (a) The Planning Department and the Heritage Board failed to provide the Owner with timely and fulsomely informative notice when it initiated the process, at some point before August 28, 2023;*
- (b) The Planning Department and the Heritage Board failed to provide the Owner with the documentation it relied on to support its recommendation, before commencing the designation process;*
- (c) The Planning Department failed to give the Owner a fair and meaningful opportunity to challenge the findings of the Planning Department or its scoring of the Property before commencing the designation process;*

- (d) *The City failed to publish, post and serve notice of the October 10, 2023 temporary designation of the Property according to the requirements at s. 3.4.2 and 3.4.3 of the By-law;*
- (e) *The Heritage Board failed to publish, post and service notice of its intention to designate before making the recommendations to Council on November 16, 2023, and March 25, 2024 according to the requirements of section 3.3.3 and 3.3.4 of the By-Law;*
- (f) *The Planning Department failed to provide a timely and meaningful opportunity for the Owner to make fulsome written submissions to the Heritage Board before its November 16, 2023 meeting - two and a half business days notice is grossly inadequate in the circumstances;*
- (g) *The Planning Department failed to provide any opportunity for the Owner to make fulsome written submissions to the Heritage Board before its March 25, 2024, meeting – in fact, the Owner was not provided with any notice of or opportunity to make submissions at this meeting;*
- (h) *Since making its recommendation on September 25, 2023, without any input from the Owner, the Heritage Board has steadfastly maintained its initial decision with an attitude of absolute closed-mindedness;*
- (i) *The Planning Department, the Heritage Board and Council have all demonstrated clear indicia of close-mindedness;*
- (j) *The Heritage Board, as a decision-maker, demonstrated that it was not open to a fresh evaluation of the evidence and submissions presented to it;*
- (k) *The Heritage Board failed to consider the lack of utility of the Property to the Owner in its current state;*
- (l) *The Heritage Board did not seriously consider the Owner’s ongoing right to deal with the Property as it wishes, without interference from the City, in trying to defeat the Owner’s preferred use of the Property by effecting its own preference through the designation process;*
- (m) *The Heritage Board did not consider the Owner’s reasons for buying the Property and its intention to demolish the building and construct a new building which would include a home for the Owner’s family. Attached as Schedule “A” is a letter from the Owner outlining his intentions for the Property;*
- (n) *The Heritage Board did not consider that restoration of the Property to meet the onerous requirements for a heritage resource would be cost prohibitive to the Owner. Attached as Schedule “B” to this letter is quote from a contractor estimating that the costs to make the necessary renovations to the Property as a heritage resource would be upwards of \$594,000;*
- (o) *The online petition and letters from the public and the heritage award to a former owner of the Property included with the Planning Department’s materials and submitted to the Heritage*

*Board were inappropriate and irrelevant to the designation process and should not have been included or considered;*

*(p) The Owner's objections to the Designation, as outlined in emails to the City and in letters sent on its behalf, dated November 23, 2023 and November 28, 2023, were not given any weight in the Heritage Board's recommendations. Instead, they were callously dismissed without regard to procedural fairness based on an opinion from the City's legal counsel that the risk to the City was "relatively low".*

Legal Counsel for the City of Charlottetown refers to their opinion of February 2024 to counteract these claims. The owner's position relies heavily on the case of Dalhousie v HRM which differs from the case currently under discussion in several ways including the HRM legal framework did not include an ability to temporarily designate the property without prior notice, as well as initiating the designation process after a demolition permit had been issued thereby disentiing the owner for something already granted.

Further, the owner has submitted comments which detail his strong objection to the heritage designation.

- This property was purchased to build a home for his family with four children. The existing one-bedroom design is not suitable. His proposed design involves demolishing and restructuring the property to better suit the family's living needs and will include using a portion of the lower level as a commercial space for their business endeavors while renting out the remainder.
- The owner also alleges the current situation is financially unsustainable. With impending mortgage renewal and rising interest rates, a cap on rent increases makes it financially infeasible to do any other spending on invigorating the property as one-bedroom rental units.

The owner has also submitted a quote for work to improve the property. The costs for the work listed total \$594,401. (Attachment F). It may be noted that designation of a property does not require any work to be undertaken and the designation refers to the exterior of a property only.

The City's legal counsel has reviewed the owner's and their legal counsel's submissions and has provided comments.

**PROPERTY HISTORY:**

Located on the corner of Prince Street and Water Street, 10 Prince Street is a typical Victorian style house with a gable-ell configuration that supports both streetscapes and the heritage character of the area. Records available do not reveal the exact age of the house but its style is consistent with that of a typical home built around 1900. A 1.5 storey wood framed dwelling appears on Goad's Fire Insurance Map of 1903 (updated to 1917). It shows a building with a similar footprint to the main portion of the building (western end). It is possible the eastern section was added later.

The building was occupied as a single-family residence until at least the 1950's. By 1976, Custom Upholstery occupied the space. This was followed by other businesses such as an accounting firm, a jeweler, Truck and Roll Vintage Clothing and now Blank Canvas Art Supplies.

Through a search of land conveyances, directories, and other historical records, we cannot determine when the house at 10 Prince Street was constructed. Surveyor, Joseph Ball lived in a house on the corner of Prince Street and Water Street according to Hutchinson's 1864 Prince Edward Island Directory. Land records indicate that he had leased the land from Mary Williams Lewis in 1854 and in 1873, he and his brother, surveyor, John Ball would own the lot. A search of newspapers indicated that John Ball was leasing a house, coach house and garden on the corner of Prince and Water Streets in 1879. It is not clear if it is the same house. A further search of fires in the area did not indicate that a house was destroyed by fire.

Later land conveyances indicate that Lot 21 in the First 100 would become the property of merchant, William Frances Tidmarsh in 1894 and by 1900, barrister, Eustace Haviland purchased the property for \$1500 dollars indicating that a house was on the property.

Property owners include:

1900 Eustace Haviland barrister sold it to James Wickham, blacksmith for \$1400. Possibly indicates that a house was on the property.

1904 Mrs. Mary Margaret Wickham, wife of blacksmith James Wickham who died intestate, conveyed the land to Patrick Smith, for \$900 dollars.

1906 Robert McLaurin purchased the property from Patrick Smith and his wife for \$1925 dollars indicating there probably was a house there.

1931 Henry and John Parsons (relatives of McLaurin sold the property Helen and Phoebe Robertson

1934 Helen and Phoebe Robertson sold the property to Michael C. Hynes

1958 Helen Hynes & others sold the property to Alfred E Coady. They were related.

1976 Alfred Coady to Marion Coady and Custom Upholstery Limited for \$5.

**SITE SIGNIFICANCE:**

The site encompasses the south-east corner of the block bound by Water Street, Prince Street, King Street and Hillsborough Street. It is located on the southern edge of the center of the city just north of Prince Street wharf - an area which would have been populated early in the city's history. The area surrounding the site has seen some transformation in recent years with the development of both a three-storey and a four-storey condo development on the waterfront. In addition to Founders Hall, the area is dominated by simple wood frame housing and a few residential brick buildings.

Historically the area was a working industrial waterfront with the culmination of the railway service. Housing was largely for the population which served these industries and were modest in scale and style. The area has been transitioning since the 1970's when CADC undertook extensive renovation/restoration work, and the oil tanks were removed from the foot of Prince and Great George Streets.

The downtown 500 lot area is recognized for both the quality and character of its streetscapes. This is due in part to the gridded street and block pattern allowing for a well-connected network. Block sizes are reasonably small, and the gridded layout creates a sense of order and unity resulting in a very walkable area.

Water Street has developed into a main artery in the downtown core linking traffic with the Hillsborough Bridge. Care was taken some years ago to bury power lines along the street edge to beautify the area. Numerous tourists visit the area, and the cruise ship docks offload additional visitors. There is a great deal of pedestrian traffic in the area in the summer months.

There is a large open green space on the south side of Water Street at this corner. Buildings fronting Prince Street have minimal setbacks with approximately ten-foot-deep yards. Between the sidewalk and street is a grassed boulevard.

The area has a mix of uses but is primarily residential. Although not exclusively, residential building forms are typically smaller scale two to three storey wood frame residential buildings. They represent a wide variety of building styles with the general sense that most are of an older/historic nature.

### **POLICY FRAMEWORK:**

#### **City of Charlottetown Official Plan**

##### **4.2.2 Defining our Direction**

*Our policy shall be to provide direction through the Official Plan and regulation through the Zoning By-law for each property within the 500 Lot Area to determine the appropriate degree and design of alteration based upon an evaluation of its heritage attributes. **The ability to demolish properties and buildings and the process and timing of granting demolition permits shall also be dependent upon an assessment of each property's heritage attributes.***

##### **3.7 Capitalizing on Heritage Resources**

***Charlottetown's historic resources are amongst the community's most valuable assets.** ...The buildings and sites which are the physical manifestation of the City's rich history are valuable not only because they are irreplaceable touchstones with the past, but because they can become a valuable economic springboard to the future. **Charlottetown's heritage buildings are one of the most important elements of the City's charm.** They are also an under-utilized resource with considerable economic potential.*

*The City's heritage buildings are not only important as a reflection of Charlottetown's social history, but they are an invaluable backdrop for helping to depict and explain the political evolution of the entire nation. Therefore, **it is crucial that a significant portion of this building stock be restored and protected to buttress Charlottetown's seminal role in the creation of Canada.** There will be no long-lasting foundation for the success of a campaign based upon the municipality's identity as the Birthplace of Confederation unless there is a predominant sense that Charlottetown is an historic city. If done well, this initiative can be parlayed into significant gains for the local economy.*

#### **4.2 A Vibrant Downtown – The 500 Lot Area**

##### **4.2.1 A Starting Point – The Vision:**

*The 500 Lot Area is the City of Charlottetown's historic, cultural, civic and symbolic core and functions as the primary shopping, education, entertainment, recreational, service and employment hub within the City and the larger Region. The area is also a charming historical*

*neighbourhood, home to many residents and visited by thousands of tourists each year. The 500 Lot Area benefits from its waterfront and its inventory of magnificent heritage buildings and features. Through the relevant policies of the CHARLOTTETOWN PLAN, **the City should ensure that future planning actions within the 500 Lot Area continue to protect, restore and build upon the heritage resources in the area.** New development, redevelopment, intensification and changes in land use should not be discouraged as they can have positive influences and make significant contributions to the evolution of the area. However, any proposed changes need to be carefully considered and managed to ensure that they do not undermine or destroy the very elements and qualities that define this area, but rather continue to create a distinct sense of place and contribute to its success.*

#### **4.2.2 Defining Our Direction:**

*1. Our **policy** shall be to recognize each Urban Character Area or neighbourhood, including important streets and streetscapes, civic and cultural elements, heritage resources, squares and parks, public/institutional buildings, gateways and view planes and terminate within the 500 Lot Area, and to establish a new and more detailed Zoning By-Law regime to protect and enhance these resources accordingly.*

*4. Our **objective** is to protect, restore, respect and leverage all Heritage Resources. Our **policy** shall be to recognize that the 500 Lot Area is comprised of an extraordinary concentration of significant heritage buildings, landmarks and streetscapes. These resources play a prominent role in defining its distinct 'sense of place' and should be recognized as the life-blood of the area's civic, cultural and economic well-being and as such need to be protected and restored.*

*Our **policy** shall be to identify and recognize the heritage attributes of these buildings, landmarks and streetscapes related to their age, architectural interest and historical interest through on-going planning, studies, inventories and other municipal initiatives in order to enable adequate and appropriate protection of these heritage resources.*

#### **Heritage Preservation Bylaw Requirements**

3.3.1 The Heritage Board shall consider the Heritage Assessment Report, and any additional information provided by the applicant, if applicable, and shall make a recommendation to Council to consider the Designation of the Heritage Resource or Heritage Preservation Area.

A Heritage Assessment shall take into consideration the following:

1. The age of the Building or Structure;
2. Architectural/archeological/aesthetic value, including but not limited to the following elements:
  - i. Style/tradition;
  - ii. Design/craftsmanship;
  - iii. Setting/streetscape;
  - iv. Integrity;
  - v. Construction methods and materials;
  - vi. Exterior or outward appearance/condition; and
  - vii. Landmark status.
3. The historic value, including but not limited to the following elements:
  - i. Architect/builder;
  - ii. Political/economic influence;
  - iii. Social/cultural influence;
  - iv. Historical context; and
  - v. Association with event/person/activity.

### Heritage Assessment

#### **1. Age:**

The 1878 Panoramic View of Charlottetown shows what appears to be a smaller house on the property, and unless the house was renovated and added to, it appears that 10 Prince Street was constructed later than 1878. The Goad Insurance Map (produced in 1903 and updated to 1917) shows a 1.5 story wood framed house with a similar footprint (including verandah and gabled bay on the south side. It appears that the eastern section of the building has had an addition built on.



It appears that the eastern section of the building has had an addition built on.

Based on this evidence and the age of similar properties in the city, it is reasonable to suggest the home was built circa 1900.

## **2. Architectural Interest:**

### 2.1 Style

The residential late Victorian plain style building at 10 Prince Street (c.1900) is typical of the building stock from this era in the downtown area. It is simple in form, addresses the corner and has a traditional gable end façade. It is not an elaborate architectural style of the period but instead speaks to a simple single-family residence.

The following character-defining elements illustrate the late Victorian plain style of 10 Prince Street:

- The overall massing of the building
- The high gable end facing the street
- The simple, contrasting trim throughout the exterior of the building
- The wooden shingle cladding
- The verandah, with its columns, balustrade and hipped roof
- The plain eaves
- The size and placement of the windows including the plain, stained glass, combinations of single and grouped windows.
- The gable roof lines

### 2.2 Design/craftsmanship

The building exhibits some unique characteristics such as the scalloped shingle patterning at the course line and gable, stained glass windows as well as a side verandah. These are standardized design components applied with attentive craftsmanship.

### 2.3 Setting/streetscape

10 Prince Street bears a strong relationship to the surrounding neighbourhood. The neighbourhood consists of a very consistent one and a half to two and a half-storey scale. Building forms are typically gable roofed, wood frames structures with a primarily residential typology.

Located on the northeast corner of Prince and Water Streets, 10 Prince Street frames the view towards the water from the more northern end of Prince Street. Likewise for the primarily pedestrian traffic moving from the cruise ship wharves, 10 Prince Street sets the tone and makes a first impression on the nature of downtown Charlottetown. The intersection serves to slow both pedestrian and vehicular traffic. It is this point which identifies the entry/exit of the downtown core. The building is an important architectural asset contributing to the heritage character of the surrounding area.

#### 2.4 Integrity

10 Prince Street exhibits a high level of architectural integrity with respect to layout and additions. The house retains its modified ell plan with appropriately designed minimal changes. It exhibits a moderately high level of architectural integrity with respect to condition. Many original elements survive with some obvious changes but sympathetic to the original fabric.

#### 2.5 Construction type or building materials

10 Prince Street is a 1.5-storey building of light frame construction with an ell shaped floor plan. It is built atop a masonry foundation. The outside walls are clad in a combination of plain wooden shingles and scalloped wooden shingles. The roof is clad in metal shingles. This construction type was common during the late 1800s and early 1900s.

#### 2.6 Exterior or outward appearance/condition

10 Prince Street exhibits a moderately high level of architectural integrity with respect to condition. Major elements such as the gable roof, the verandah, and stained-glass window, remain intact, unmodified, and in very good condition. The cedar shingle siding is present on the building including the decorative scalloped shingles. Bracketing at the eaves is in excellent condition and is intact.

The masonry foundation is covered with a plywood sheet but appears to be in acceptable condition, with some possible maintenance required such as repointing. An intact water table assists to ensure water damage is minimized at the foundation level.

As with many heritage homes, some exterior trim work shows significant wear. This has resulted in substantial paint peeling necessitating some repair and repainting. These repairs should be fairly minor in scope. It appears some windows have been replaced while others are older with an exterior aluminum storm in place. Staff hold that this building remains in sufficient condition to be a candidate for successful restoration.

A detached accessory building is in poor condition with significant deterioration occurring particularly along the roof overhang.

#### 2.6 Landmark status

With the ongoing transformation of the waterfront in the eastern end of the downtown, the corner of Prince Street and Water Street has gained significance. This intersection marks a transition from a faster paced vehicular traffic on Water Street to a narrower and slower moving section of Water Street to the west. As a result, the property at 10 Prince Street has become a notable structure, signaling what is to be found in the neighbourhood beyond. 10 Prince Street

provides an indication of the character of the Prince Street neighbourhood. The building is conspicuous and familiar in the context of the immediate neighbourhood.

### **3. Historic value**

#### **3.1 Architect/builder**

Unable to ascertain the architect or builder for the design or construction of the building at 10 Prince Street.

#### **3.2 Political/economic influence**

No known connection with political or economic influences

#### **3.3 Social/cultural influence**

No known connection with social/cultural influences

#### **3.4 Historical context**

One owner was the owner of a sail making business while two others were blacksmiths for the railway – both major industries.

#### **3.5 Association with event/person/activity**

The building has little known connection with a significant person, institution or event. Mrs. Robert McLaren, Michael Hynes, Tony Hansen were previous owners.

### **The Standards and Guidelines for the Conservation of Historic Places in Canada**

<https://www.historicplaces.ca/media/18072/81468-parks-s+g-eng-web2.pdf>

The Standards and Guidelines for the Conservation of Historic Places in Canada (Standards and Guidelines) is the official document guiding planning, stewardship and the conservation approach for designated heritage resources. This building is not designated resource.

### **City of Charlottetown 500 Lot Area Development Standards & Design Guidelines**

<https://www.charlottetown.ca/workspaces/one.aspx?objectid=12052544&contextId=12052176>

The 500 Lot Standards and Guidelines provided an illustrated analysis of the area and approach to consider regarding heritage resources and development. *“This is the heart and soul of the city, where iconic architectural landmarks define its image and where the impression on thousands of visitors is ultimately shaped. More than any other district or neighbourhood in the city, if not the province, the 500 Lot Area is a broadly treasured and shared amenity.”*

### **The City of Charlottetown Community Energy Plan**

The Community Energy Plan includes the following goal: (36.) promote common-sense approaches to waste reduction. The CEP also includes overall emissions reductions targets so,

the case can be made that salvaging a heritage building rather than building new can reduce GHG emissions, supports this argument. Retaining 10 Prince Street and avoiding an entire building becoming construction waste supports this goal.

**City of Charlottetown Strategic Plan** states:

*Continue to respect, preserve and enhance heritage assets while also embracing the principle of adaptive re-use and the circular economy.*

*Make sustainability, community resilience and climate change management and mitigation foundational criteria on which to base all infrastructure investment decisions.*

Again, retaining 10 Prince Street versus its demolition supports these goals.

**ANALYSIS:**

No comments from the public were received following the posting of the Notice of Intention to Designate. Comments were received with respect to the temporary designation. The owner has submitted a letter of objection as has a lawyer acting on behalf of the owner.

The objections focus largely on alleged claims of procedural errors on behalf of the city as well as the building being unsuitable for the current owner. The actual historic integrity of the building remained unchanged throughout this process and continues to exhibit significant historical attributes. Its location at a major pedestrian gateway into the downtown core further enhances its importance. The property is associated with sufficient historical context for inclusion as a Designated Heritage Resource under the City of Charlottetown's Heritage Preservation Bylaw as noted in the independent heritage assessment received in November 2023.

**CONCLUSION:**

The Planning and Heritage Department firmly recommends that the Heritage Board recommend to Council that 10 Prince Street (PID#336321) be designated as a Heritage Resource.

**PRESENTER:**



Todd Saunders  
Heritage Officer

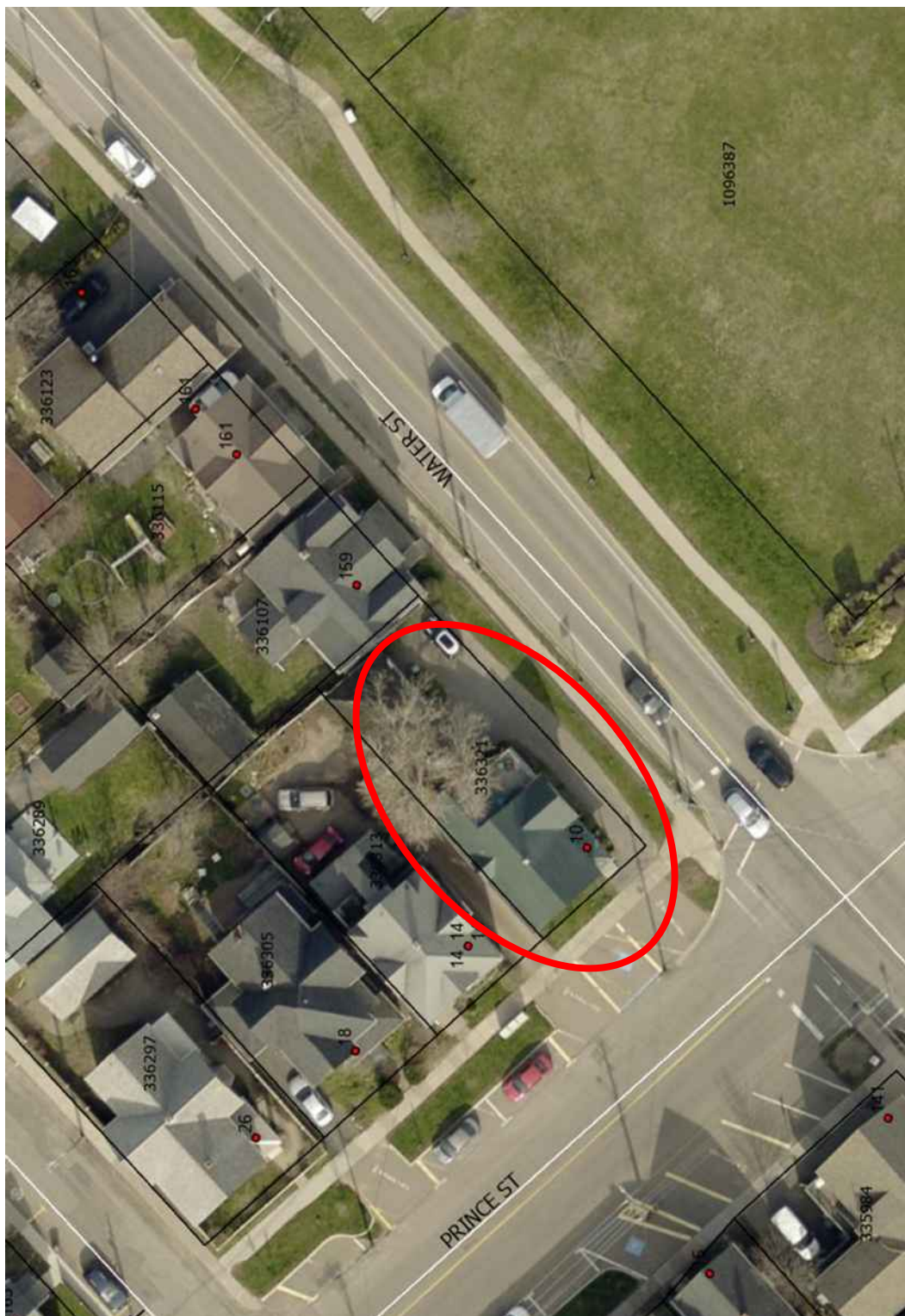
**MANAGER:**



Donna Miller-Ayton  
Manager Planning & Heritage (Policy)

LOCATION MAP

ATTACHMENT A



PROPERTY PHOTOS

ATTACHMENT B



10 Prince Street circa 1970



2023





HERITAGE PROPERTY EVALUATION

ATTACHMENT C



**CIVIC ADDRESS:** 10 Prince Street

**BUILDING NAME:**

**PID#:** 336321

**HERITAGE PRESERVATION BYLAW:**

**CANADIAN REGISTER OF HISTORIC PLACES:**

**PHOTOGRAPH:** August 2023

**DATE:** November 2, 2023



**EVALUATION CRITERIA**

		1841 Pre 1840	1841 to 1870	1871 to 1900	1901 to 1930	1931 to Present
<b>AGE (Maximum 15 points)</b>						
1.1 <u>Date of Construction: circa 1900</u>	15	12	8	5	0	0
<b>ARCHITECTURAL INTEREST (Maximum 65 points)</b>						
	<b>E</b>	<b>VG</b>	<b>G</b>	<b>F</b>	<b>P</b>	
2.1 <u>Style/Tradition: Vernacular</u>	15	10	8	5	2	0
2.2 <u>Construction Materials and Methods:</u>	10	8	5	2	2	0
2.3 <u>Design/Craftsmanship:</u>	10	8	5	2	2	0
2.4 <u>Integrity:</u>	20	10	8	2	2	0
2.5 <u>Exterior Condition:</u>	10	8	5	2	2	0
2.6 <u>Setting/Streetscape:</u>	15	10	8	2	2	0
2.7 <u>Landmark:</u>	10	8	5	2	2	0
<b>HISTORICAL INTEREST (Maximum 20 points)</b>						
3.1 <u>Architect/Builder:</u>	10	8	5	2	0	0
3.2 <u>Person/Institution: Mrs. Robert McLaren, Michael Hynes, Tony Hansen</u>	10	8	5	2	0	0
3.3 <u>Event:</u>	10	8	5	2	0	0
3.4 <u>Historical Context: sail making chandlery , railway blacksmith</u>	10	8	5	2	0	0

**Total Score: 68**

**CLASSIFICATION:**

Grade 1 (80-100 points)  
 Grade 2 (60-79 points)  
 Grade 3 (40-59 points)  
 Ineligible for Designation (20-49 points)  
 Not Important (0-19 points)

**Comments:** \_\_\_\_\_

**Reviewed/Approved By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Change In Classification** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Reason:** \_\_\_\_\_

INDEPENDENT HERITAGE ASSESSMENT

ATTACHMENT D

## HERITAGE ASSESSMENT REPORT

### 10 PRINCE STREET, CHARLOTTETOWN





sutherland@brighterplanning.ca

80 Water Street  
Windsor, NS  
B0N 2T0

PREPARED FOR :

**THE CITY OF CHARLOTTETOWN**

**BY**

**DAWN SUTHERLAND, RPP, MCIP**

**BRIGHTER COMMUNITY PLANNING**

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## 1. Authority and Assumptions

The purpose of the City of Charlottetown Heritage Preservation By-law to preserve, conserve, and protect Heritage Resources within the City. It is enacted under the authority of the *Municipal Government Act* and the *Heritage Places Protection Act* and serves to implement policies of the Official Plan.

Heritage Assessment Reports support decision making when City Council and the Heritage Board are considering designating of a Heritage Resource or Heritage Preservation Area, as required under Part 3.2 of the Heritage Preservation By-law, as amended. Designation is a formal recognition of heritage value. This Heritage Assessment Report describes the heritage value of the proposed Heritage Resource at 10 Prince Street, as evaluated under criteria set out in Part 3.2 Heritage Assessment.

Part 9.13 of the Heritage Preservation By-law defines a Heritage Resource as any building, special historic place, site, streetscape, or area recognized for its historic value and for which its protection may serve a social, economic and/or cultural benefit to the community. The *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010) defines heritage value as the aesthetic, historic, scientific, cultural, social, or spiritual importance or significance for past, present, or future generations. The heritage value of an historic place is embodied in its character-defining materials, forms, location, spatial configurations, uses and cultural associations or meanings. "Historic" usually describes a place, information, or evidence. One speaks of the heritage value of the historic place. Heritage value and historic value are used interchangeably in this By-law. Given that the By-law speaks to Heritage Preservation, the Heritage Assessment Report uses the meaning of heritage value for both terms, where appropriate.

## 2. Background

As a result of an application for a mixed ground floor commercial and multi-unit residential 4-storey building that would involve the demolition or removal of 10 Prince Street, the Heritage Board met on 28 August 2023 and 25 September 2023 to begin the process of inquiring into the heritage value of the property for possible designation as a Heritage Resource. The property is located within the 500 Lot Area, which has design standards but is not a Designated Heritage Preservation Area. As the property is not designated as a Heritage Resource, 10 Prince Street had no heritage protection. The demolition could proceed "as-of-right" under the Zoning and Development By-law if the status quo was maintained.

Part 3.4 of the Heritage Preservation By-law allows Council to approve a temporary Designation on an undesignated Heritage Resource that has characteristics that may

meet the criteria for Designation. On 10 October 2023 Council considered the recommendation from the Planning and Heritage Department (which included the Heritage Officer) for a 45-day temporary Designation to facilitate further assessment and determine the existing property's heritage significance. Council also considered the recommendation for temporary Designation from the Heritage Board in support of Staff's recommendation. Council approved the temporary Designation and provided appropriate notice. The temporary Designation does not permit, moving, altering, developing or demolishing the building for a period of 45 calendar days from the service of the notice. Council may proceed with the designation by posting a notice of intent to designate or let the temporary designation expire. If the notice expires, then the property at 10 Prince Street could then be demolished or removed, pursuant to the Zoning and Development By-law.

It should be noted that under Part 3.1.1 of the Heritage Preservation By-law, the process to designate a Heritage Resource may be initiated by the Heritage Officer and/or Heritage Board, an application by the owner(s), or an interested third party. While the most desirable approach is to have a property owner come forward to request designation, the Heritage Preservation By-law recognizes that there are potential Heritage Resources and Preservation Areas that have heritage value, where it is in the public interest to protect them as there is value for current and future generations.

### 3. History and Context

The home appears to be constructed c. 1900, with a later sympathetic addition. It occupies a prominent corner on the northeast corner of Prince and Water Streets. Water Street functions as an arterial road in the transportation network linking the downtown core to the Hillsborough Bridge. The property heralds the entrance to the 500 Lot Area and acts to delineate the southern boundary. It is located on the south-east corner of the block bound by Water Street, Prince Street, King Street and Hillsborough Street. It abuts the Prince Street wharf area, which has historically been a working waterfront with industrial uses, including the railway. This area north of the wharf has been residential in nature, housing those who worked or were associated with the working waterfront. Today, the Prince Street wharf is used by cruise ships, making the property, corner, and streetscape an important feature to those tourists making their way toward downtown as they travel through the 500 Lot Area. It is an important landmark and part of a cohesive streetscape, shaping community identity and sense of place for local residents, members of the broader community, and visitors. The area surrounding the property has experienced development with three and four-story condominium development. The streetscape is heavily influenced by

simple wood framed homes. Founders' Hall and residential brick buildings are nearby.

The building at 10 Prince Street was originally constructed as a home (one dwelling unit). Given its proximity to the working waterfront and former industrial lands, including the railway, it served as a home for those associated with these industries. Research notes that the home was owned by Robert McLaren, who was involved in ship chandlery (sail making) and blacksmiths who worked at the railway. It was occupied as a home until at least the 1950s. It later was used for commercial activities. By 1976, Custom Upholstery occupied the building. Subsequent commercial uses included accounting offices, jewellers, vintage clothing store, and the current Blank Canvas Art Supply store.

The property is on the boundary and included within the 500 Lot Area, which is recognized for both the quality and character of its streetscapes and original street grid pattern. The immediate area is primarily residential, with some mixed use. The area is historic in nature as the buildings are mostly older and/or have heritage resource elements and represent a range of styles. The style of 10 Prince Street is consistent with other residential buildings as they are mainly two to three-storey wooden buildings.

#### 4. Supporting Official Plan Policies

The Official Plan recognizes and supports the protection of Heritage Resources as among the community's most valuable assets via Part 3.7 Capitalizing on Heritage Resources. It sets out that it is crucial that a significant portion of this building stock be retained, especially as it relates to Charlottetown's role as the birthplace of Confederation. Further, the Vision statements for the 500 Lot Area in Part 4.2.1 sets out that "the City should ensure that future planning actions within the 500 Lot Area continue to protect, restore and build upon the heritage resources in the area." Policy contained in Part 4.2.2 recognizes the importance of streets and streetscapes, heritage resources, gateways and view planes within the 500 Lot Area and establishes a measure of protection within the Zoning By-law.

The Official Plan clearly sets out the objective is to "protect, restore, respect and leverage all Heritage Resources." The policy is powerful with respect to the 500 Lot Area, of which 10 Prince Street is situated. Policy recognizes that the 500 Lot Area is comprised of an extraordinary concentration of significant heritage buildings, landmarks and streetscapes, which need to be protected and restored as they create a sense of place and are the City's lifeblood. Policy also recognizes heritage attributes in order to enable adequate and appropriate protection of these heritage resources. Also, policy enables the "ability to demolish properties and buildings and

the process and timing of granting demolition permits shall also be dependent upon an assessment of each property's heritage attributes." The temporary Designation has afforded decision-makers time to secure an assessment of 10 Prince Street for consideration as a Heritage Resource, worthy of protection under the Heritage Preservation By-law.

It should also be noted that the City of Charlottetown 500 Lot Area Development Standards & Design Guidelines recognizes the 500 Lot Area as a broadly treasured and shared amenity and the "heart and soul" of the City. It sets out that the 500 Lot Area is an "iconic architectural landmark" which shapes the impression of the City for thousands of visitors. The building at 10 Prince Street is within and on the southern boundary of the 500 Lot Area, heralding the entrance to the most important cultural resource for the City.

## 5. Heritage Assessment

### 5. a. The Age of the Building or Structure;

The building appears to be built circa 1900 as it has a typical style and construction of homes built in the early 20th century in the area. It is located along the southern boundary of the 500 Lot Area and appears to be on an original lot. The 1878 Panoramic View of Charlottetown Map shows a two-storey home on the lot. However, Goad's Fire Insurance Map of 1903, with updates to 1917, shows a 1½ storey wood framed house on the northeast corner of Prince and Water Streets, which supports the estimated construction date of the early 20<sup>th</sup> century. The footprint on Goad's Fire Insurance Map suggests that there has been a later addition to the east side of the building, which is likely given its lack of symmetry and varied roof lines on the eastern end.

### b. Architectural/archeological/aesthetic value, including but not limited to the following elements:

#### i. Style/tradition;

The style of the building provides architectural and aesthetic value in several ways. It provides architectural and aesthetic value as an excellent example of the late Victorian plain style, which is unique to the early 1900s era of the City's history. There are no unique architectural features (e.g. widow's walk, bump-outs) but the building does have decorative shingles (scalloped edges). The Planning and Heritage Department report to City Council dated 25 September 2023 regarding temporary designation, sets out the character-defining

elements, which supports the assertion that the building has aesthetic value an excellent example of the late Victorian plain style.

The following character-defining elements illustrate the late Victorian plain style of 10 Prince Street:

- The overall massing of the building
- The high gable end facing the street
- The simple, contrasting trim throughout the exterior of the building
- The wooden shingle cladding
- The verandah, with its columns, balustrade and hipped roof
- The plain eaves
- The size and placement of the windows including the plain, stained glass, combinations of single and grouped windows.
- The gable roof lines

Other character-defining elements include:

- The location of the building on the prominent corner of Water Street and Prince Street.

The style of the building creates value through its physical context in relation to neighbouring designated heritage properties, adding to the heritage character of the neighbourhood and supporting the streetscape. The neighbouring designated properties are 140 Water Street, 15 Prince Street, 21-23 Prince Street, and 26 Prince Street.

There is also heritage value inherent in properties that represent the evolution of the 500 Lot Area. The 500 Lot Area is not a museum. It is vibrant and has a history of resiliency. Protection of vernacular elements, such as housing forms that are representative of significant periods in history, serves to ensure that new residents, visitors, and future generations have access to important heritage resources.

ii. Design/craftsmanship;

The house provides architectural and aesthetic value as the design and craftsmanship are above average in that the building is an excellent example of plain Victorian architecture, having a symmetrical shape with an ell projection and steeply pitched roofs. It has a varied shingle pattern, which includes two bands of scalloped shingles on the Prince Street façade and the ell facing Water Street. The vertically oriented windows appear to be in their original configuration with single windows having a width-to-height ratio of 1:2., with one-over-one glazing. The double windows appear to have proportions 1:2. There are decorative mouldings and a tri-pane transom over the entrance. The

covered porch continues to provide a semi-private space between the entrance and the street.

iii. Setting/streetscape;

The property holds great aesthetic value. Significant alteration that negatively impacts the character defining elements or removal or demolition of the building would negatively impact the streetscape, erode the character of the neighbourhood, and damage the delineation and fabric of the 500 Lot Area. The value of 10 Prince Street lies in its late Victorian plain style architecture and its importance to the Prince Street and Water Street streetscapes given its location on a prominent corner.

The building and lot hold an important place in delineating and defining a special character area at the entrance to the 500 Lot Area. It holds a place of importance on the prominent corner, which is defined by 10 Prince on the northeast corner of Prince and Water Streets, a designated Heritage Resource on the southwest corner, an older building on the northwest corner, and Founders' Hall with public open space on the southeast corner. The corner heralds a transition from the waterfront area into a residential area, which has significant built heritage value. The corner creates a sense of place and visual and community identity. Removal of the building would create a gap in the established streetscape. With the loss of a prominent heritage structure as the anchor, there is a likelihood that other insensitive demolition or alteration will follow, which will contribute to the gradual erosion of the streetscape.

New buildings built under the design guidelines adhere to architectural controls, which serve a different purpose and are much different than the requirements for a Heritage Permit under the Heritage Preservation By-law. The Heritage Preservation By-law provides the best protection for an identified and designated Heritage Resource. Although new buildings adhere to the Design Guidelines, the removal of a building that qualifies as a Heritage Resource will negatively affect the integrity and authenticity of the area, thereby eroding the significance of the site and the prominence and function (e.g., landmark, boundary delineator, heritage character, etc.) of the corner.

Removal or significant alteration is not recommended.

iv. Integrity;

The integrity of the building as a heritage resource is very good. The Goad's Fire Insurance Map of 1903, updated to 1917, shows a smaller footprint that is in keeping with what appears to be the original building. In examining the structure, it appears that there is an addition on the east portion of the

building. The alteration is sensitive yet distinct. The building retains most of its original materials and design features. The building appears to be in good condition, as viewed from the exterior. Some window trim requires maintenance. It occupies the original lot as there is no evidence that would suggest that it has been relocated from another place.

v. Construction methods and materials;

The building has aesthetic value as a representation of early 1900s wooden home construction. The building has wooden construction. The entire building has wooden cladding. The shingles are consistent in size and shape. It appears that the building has not had vinyl siding cladding in the past. The method of construction is identifiable but of little interest.

vi. Exterior or outward appearance/condition; and

The house has aesthetic and architectural value as it appears to be good condition and with the appearance is consistent with the Victorian plain style while complementing other older buildings in the vicinity as well as the designated property on the south-west corner. The addition on the east portion is consistent with the appearance of the original building in terms of material, size, and massing.

The outward appearance of the property is excellent and the condition appears good as well. In this evaluation, the original intactness is more important than maintenance conditions. The proposed demolition or removal is as a result of a proposed redevelopment of the site. No information, reports, or assessments have been provided that indicate that there are issues with the structural integrity of the building.

vii. Landmark status.

There are a number of landmarks throughout Charlottetown. Some are large structures such as the Rodd Hotel or St. Dunstan's Basilica while others can be less prominent or a location such as an intersection used for way finding over the decades. For the purposes of this report, one must interpret and evaluate the heritage value of potential Heritage Resources as it relates to its significance as a landmark. A landmark is a mark used to designate the boundary of land. It can be a prominent identifying feature of the landscape. It is anything that helps one know where they are in space, time, or history. It can be a feature such as a large building or monument, used to help one know where they are.

It can be a building a site with historical significance. Landmarks can reinforce a sense of place and identity.

The buildings fronting on Prince at the north corner of Water Street, 10 Prince and 139/141 Water Street (Water Prince Corner Shop), can be described as a gateway into the 500 Lot Area. 10 Prince Street is conspicuous and familiar in the context of the boundary between the downtown and waterfront with the residential area. It is located on a corner with high visual impact from those leaving the waterfront.

The subject property contributes to the symbolism of Charlottetown's cultural heritage as it visibly marks the entrance to the 500 Lot Area. It serves as a boundary and maintains the intact historic fabric of the 500 Lot Area. Removal or a significant insensitive alteration would dramatically change the function of the corner as a landmark. It currently distinguishes the waterfront area from the 500 Lot Area, marking the boundary of and acting as an entrance to the 500 Lot Area.

The landmark status of the north corner of Prince and Water Streets also relates to its importance as an entryway to the downtown core and an area with amenities that support the nearby residents, tourists, and commercial businesses. Maintaining the integrity of the buildings at the north corner reinforces the landmark status. The federal, provincial and City governments have worked to grow the cruise ship tourism in Charlottetown. The north corner of Prince and Water Streets is the first corner they encounter, which initiates the visitor experience as they travel through the 500 Lot Area toward the downtown to visit shops, restaurants, and attractions such as Province House National Historic Site or the Confederation Centre of the Arts. There has been significant taxpayer investment in the area with the public skating area, Founders' Hall, and waterfront improvements.

c. The historic value, including but not limited to the following elements:

i. Architect/builder;

The architect or builder is unknown.

ii. Political/economic influence;

The building is not intimately associated with people of primary significance to the historical development of Charlottetown, the Province or the Country. It is loosely associated with people of secondary significance Michael Hynes, and Tony Hansen. It is, however, associated with a more prominent owners, Robert

McLauren, who took over the A Kennedy & Co. ship chandlery for his brother-in-law.

iii. Social/cultural influence;

There is no evidence that the property's former owners or close associations have had a social or cultural impact. A cultural influence refers to the impact that a culture, including its values, beliefs, and practises, and norms has in shaping behaviour and perceptions. No person or group has made a significant impact on society.

The building does hold social value. Social value can include connections to places and its people. The building's form and location contribute to a person's understanding of the cultural heritage of area, creating a sense of place and contributing to community identity.

iv. Historical context;

There are two previous owners of the building that are presentative of major industries during two significant periods in the history of Charlottetown. Robert McLauren took over the A Kennedy & Co. ship chandlery for his brother-in-law. McLaren's chandlery represents an essential business and employer during the Age of Sail. The home was also owned by blacksmiths who likely worked at the nearby railway, representing the Age of Rail in Canada.

The property has historic value due to its inclusion in the 500 Lot Area and location as a boundary to the downtown core area, as a representation of housing associated with the working waterfront and industrial area, and as a representation of typical 1900s housing chronicling the evolution of the Charlottetown's built heritage. Located on a prominent corner and heralding the entrance to the 500 Lot Area with several historic homes nearby, it provides architectural stability and cohesiveness to the streetscape.

The property is within the 500 Lot Area. The 500 Lot Area has a concentration of heritage buildings (designated and undesignated), landmarks, and important streetscapes, which contribute to the cohesiveness of the area. The building was constructed circa 1900. Given its age, it is not significant in Charlottetown's role as the birthplace of Confederation. The 500 Lot Area is important not only for its original grid pattern and links to Confederation but also for the range of buildings that characterize Charlottetown's evolution. The 500 Lot Area Plan sets out that within this area, there are gradual transitions between different urban character areas. The property represents built heritage from the early twentieth century.

The property is located north of the Prince Street wharf. People living in this area would have supported the working waterfront in the City's early days and later, the railroad. Homes were modest, yet functional. As with many waterfronts, the waterfront area has transitioned with destination development efforts. Investment in the area includes placemaking for the Founders' Hall property, pedestrian and tourist-oriented improvements, and burying the power lines along Water Street.

v. Association with event/person/activity.

The property holds no historical value as there are no known connections with respect to an association with an historic event, person, or activity. There are no associations with events of primary significance to the historical development of Charlottetown, the Province, or the Country. The building is not associated with the period of Confederation. There are no associations with events of secondary significance either.

## 6. Disclaimer

The report is a desktop evaluation with background information, photos, materials and mapping provided by the City. Independent research and the use of public information also contributed to the analysis. A site visit was not carried out in the preparation of this report.

## 7. Recommendation

Positive recommendation to designate 10 Prince Street as a Heritage Resource.

As a result of the above analysis under the Heritage Preservation By-law, 10 Prince Street is deemed to be an important and significant heritage resource whose demolition or removal would result in damage to the streetscape. It would create a gap in the streetscape. Loss of this resource would damage the integrity and authenticity of the streetscape and 500 Lot Area, reducing the historical prominence of the corner as well.

**The Heritage Building Evaluation Criteria was applied and yielded a score of 68, which has Grade 2 classification, resulting in the property being eligible for Heritage Resource designation.**

**Therefore, 10 Prince Street is positively recommended for designation as a Heritage Resource.**

## 8. Appendices

- 8.A Heritage Building Evaluation Criteria Application
- 8.B Photos and Imagery
- 8.C Goad's Fire Insurance Map of 1903, with updates to 1917
- 8.D 1878 Panoramic Map (excerpt)

**Appendix 8.A Heritage Building Evaluation Criteria Application****Evaluation**

<b>Criteria</b>	<b>Descriptor</b>	<b>Score</b>
<b>A. The age of the Building or Structure</b>	F - 1901 to 1930	5
<b>B. Architectural/archeological/aesthetic value</b>		
i. Style/tradition	G - Considered as an average representative example of a particular style or building tradition	8
ii. Design/craftsmanship	VG - Exhibits some components of exceptional design and/or many of standardized design, all of which were applied with attentive craftsmanship. Few of its quality survive.	8
iii. Setting/streetscape	E - A crucial element in supporting the character of the area.	15
iv. Integrity	VG - Many original elements survive: most wall cladding, roofing, window and door details and other architectural features and details remain. Some obvious changes but sympathetic to original fabric.	10
v. Construction methods and materials	G - Average example of a particular construction method or material.	5
vi. Exterior or outward appearance/condition	VG - No obvious structural problems; minor general deterioration.	8
vii. Landmark status	G - It is conspicuous and familiar in the context of the immediate community neighbourhood or local district.	5

<b>C. The historic value</b>		
i. Architect/Builder	P - Architect or builder is unknown.	0
ii. Person/ Institution	F - Building has little known connection with a significant person or institution.	2
iii. Event	P - No known connection with a significant event.	0
iv. Historical context	F - Little connection with important historical patterns.	2
<b>TOTAL SCORE</b>		<b>68</b>

**Classification**

<b>Grade</b>	<b>Points Range</b>	<b>Score</b>
1	80-100	
2	60-79	68
3	40-59	
Ineligible for Designation	20-49	
Not Important	0-19	

**Conclusion**

The property at 10 Prince Street is eligible for designation as a Heritage Resource.

**Appendix 8.B Photos and Imagery**

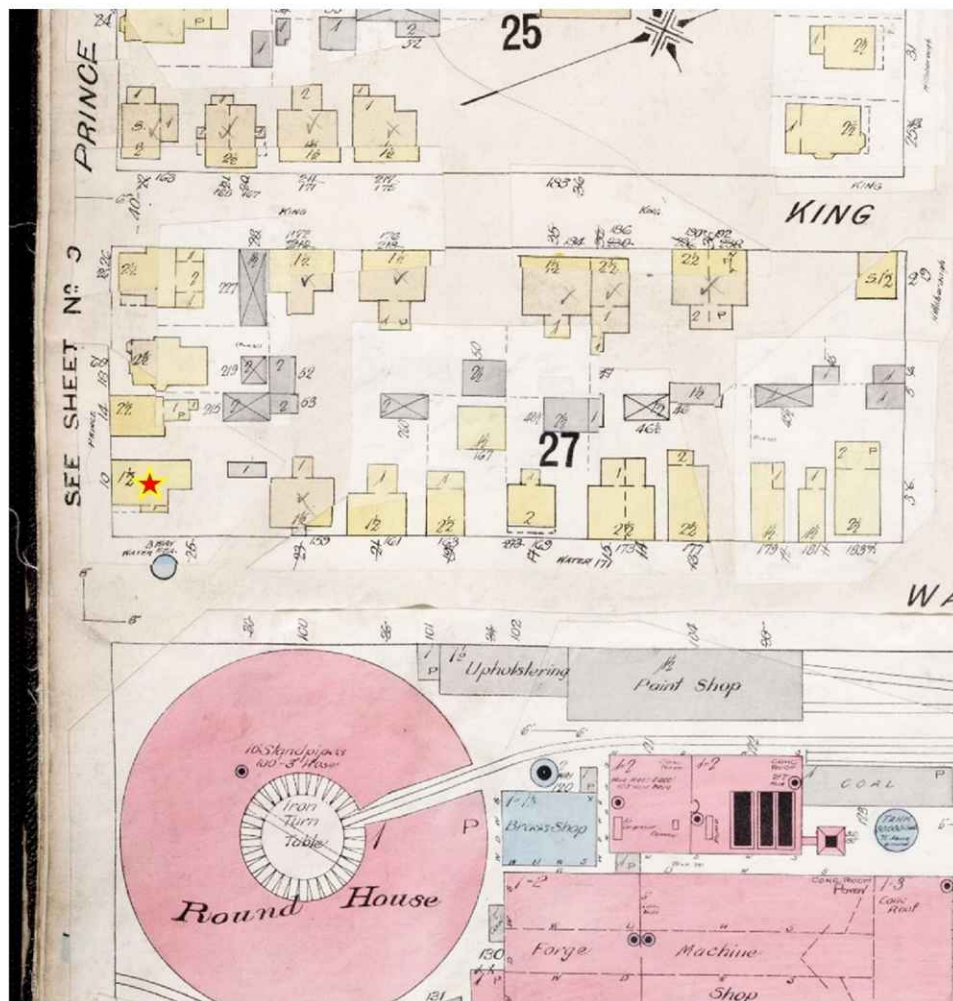


**8.B. 1 Location of 10 Prince Street on the prominent corner of Prince and Water Streets. Source: 2023 Google Imagery**



**8.B. 10 Prince Street showing south and west facades. Source: Planning and Heritage Report dated 25 September 2023**

Appendix 8.C Goad's Fire Insurance Map of 1903, with updates to 1917



★ Location of 10 Prince Street, 1 ½ storey building

Appendix 8.D 1878 Panoramic Map (excerpt)



 Location of 10 Prince Street

## OWNER'S COMMENTS/OBJECTIONS

## ATTACHMENT E

Vivek Sabharwal  
Sabharwal Atlantic Holdings Ltd.  
447 Audubon Street  
New Orleans LA 70118 US

May 31, 2024

City of Charlottetown  
Planning & Heritage Department  
70 Kent Street  
Charlottetown, PE C1A 7K7

Dear Planning & Heritage Department,

I am writing to express my concerns regarding the proposed designation of 10 Prince Street as a heritage resource. As the owner of the property, I feel it is important to convey the reasons why I am strongly objecting to the heritage designation.

Firstly, I would like to emphasize the significance of this property to my family. For over two decades, my family and I have been visiting Prince Edward Island. Although I have been labeled a developer, my intentions in purchasing this property was to build a home for my family. With four children, the proposed building design was carefully crafted with the size of our family in mind. The existing one-bedroom design fails to provide the kind of living situation that we need.

Our proposed plan involves demolishing and reconstructing the property to better accommodate our family's living circumstances. Additionally, we planned to use a portion of the lower level as a commercial space for our business endeavors while renting out the remainder. This dual-purpose usage not only aligns with our personal and professional goals but would also contribute positively to the local economy.

Financially, the current situation is becoming increasingly unsustainable. In its current form, the property is not well suited as either a family home or a rental property. Despite our commitment to the property, we have struggled to recover our initial investment. With our impending mortgage renewal and rising interest rates, our financial strain will only intensify. Moreover, the cap on rent increases imposed by IRAC has made it financially infeasible for us to do any other spending on reinvigorating the property as one-bedroom rental units.

Our proposed strategy of generating income from commercial rentals to sustain the property underscores our commitment to its long-term viability. While we understand that the property is **situated in Charlottetown's historic downtown, we believe our plans help ensure** that the property and the area maintain their relevance and functionality for many more years to come.

I am more than willing to provide any additional information or address any concerns you may have regarding our plans for the property. My goal is to find a mutually beneficial solution that respects the heritage of the area while allowing for responsible and sustainable development.

Thank you for considering our perspective on this matter. I eagerly await your response and remain hopeful for a favorable outcome.

Sincerely,



Dr. Vivek Sabharwal

## OWNER'S RENOVATION QUOTE

## ATTACHMENT F

**Interior of home:**

To renovate upper and lower levels to 1900's era with wide trim on windows and wood wainscotting on walls.

All floors to be stripped complete and install 3" pine flooring.

Cupboards to be designed to 1900's era.

Complete stain and painting on interior.

Interior stairs to be renovated to match era.

**\$318640.00**

**Deck:**

Exterior deck to be renovated and designed to match 1900's era.

**\$18421.00**

Total. **\$594401.00**

## Note:

All debris will be removed from site.

I, Noel Doucette, have been in the construction industry for 50 years. I have worked on older buildings, the interior and exterior from foundation to complete renovation.

Sincerely,

Noel Doucette

## OWNER'S LEGAL REPRESENTATIVE'S RESPONSE

## ATTACHMENT G



65 Grafton Street, P.O. Box 2140  
Charlottetown PE C1A 8B9 Canada tel: 902.892.2485 fax: 902.566.5283  
stewartmckelvey.com

File Reference: SM072843-1

Margaret Anne Walsh  
Direct Dial: 902.629.4547  
mawalsh@stewartmckelvey.com

May 31, 2024

**Via Electronic Mail**

City of Charlottetown  
Planning & Heritage Department  
70 Kent Street  
Charlottetown, PE C1A 7K7

Dear Planning & Heritage Department:

**Re: Property Owner's Objection to Notice of Intention to Designate 10 Prince Street, Charlottetown (PID 336321) as a Heritage Resource**

We act for Sabharwal Atlantic Holdings Ltd. (the "**Owner**") which owns the property located at 10 Prince Street in Charlottetown (PID 336321) (the "**Property**"). This letter outlines the Owner's objections to the designation of the Property as a Heritage Resource.

On April 9, 2024, Council of the City of Charlottetown ("**Council**") approved the following resolution (the "**Resolution**"):

**RESOLVED:**

**That the request to accept Heritage Board's Recommendation and commence the process to designate 10 Prince Street (PID#336321) as a Heritage Resource per section 3.3 of the Heritage Preservation Bylaw be approved.**

This latest Resolution is yet another misguided step in the City's quest to designate 10 Prince Street as a Heritage Resource. Throughout this process, the Planning Department has, and continues to, defy the requirements of the City's Heritage Preservation By-law (the "**By-law**"), the duty of procedural fairness owed to the Owner, and the rights of the Owner to use and develop the Property.

**BACKGROUND**

The Owner purchased the Property in 2014 and submitted a zoning inquiry to the City at that time as part of its due diligence inquiries. The results of the zoning inquiry confirmed that the Property was not a Historic Resource.

Starting in 2021, the Owner worked with the Planning Department on development plans for the Property. The Owner's contractor was advised by Planning Department staff on various occasions that the Property could be demolished and developed, provided that the Lot 500 Area Development Standards & Design Guidelines, and the extensive Design Review Process were complied with. A preliminary set of plans was submitted to the Planning Department for review in 2022. Planning Department staff advised that these plans did not have sufficient detail and instructed the Owner to hire an architect to assist with the development process. The Owner retained an architect to develop a full set of plans for consideration by the Department. The architect met and communicated with Department staff on several occasions to review these plans and incorporate design changes.

CHARLOTTETOWN FREDERICTON HALIFAX MONCTON SAINT JOHN ST. JOHN'S  
4123-4683-8096

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At no point during the design development process was the Owner, the contractor or the architect ever advised by the Planning Department or any of its staff that the Property was considered to have potential historical significance or that the Planning Department was going to initiate a process to have it designated as a Heritage Resource under the By-law. The Owner only learned of the Department's plan to designate the Property in late August 2023 after the Owner's architect stumbled across an agenda for a Heritage Board meeting on the City's website confirming the Department's intentions.

Based on information on the City's website, we understand that, on August 28, 2023, the Planning Department presented an entire report to the Heritage Board which discussed the designation of the Property as a Heritage Resource. On September 25, 2023, the Planning Department recommended that a temporary designation be placed on the Property. The Heritage Board supported this recommendation and brought it to Council at its October 10, 2023 meeting and a temporary designation was imposed.

It was not until Thursday, November 16, 2023 – more than five weeks later – that the Owner was notified, by email from the City, of the temporary designation of the Property. This email then advised the Owner that, if he wished to object to a permanent designation, his written submissions were to be forwarded to the Planning Department by 12:00pm on Tuesday, November 21, a mere two and a half business days after receiving the notice.

It is also worthwhile highlighting the recommendation advanced by the Planning Department and approved by the Heritage Board at its November 16, 2023 meeting (the "**Recommendation**"), which reads as follows:

RECOMMENDATION:

**The Planning and Heritage Department is initiating the inclusion of the property located at 10 Prince Street (PID#336321), on the Inventory of Designated Heritage Resources for the City of Charlottetown.** The subject property is located on the east side of Prince Street at the corner of Water Street (see Attachment A). The property contains a 1.5-storey dwelling which was constructed circa. 1900 as well as an accessory building. The property is surrounded by other residential properties and a number of retail properties, including Founders Hall, Receiver Coffee (Brass Shop) and Water Prince Corner Shop.

The proposal to include the subject property on the Inventory of Designated Heritage properties for the City of Charlottetown is considered in accordance with Section 3 (Designation of a Heritage Resource) of the City of Charlottetown Heritage Preservation Bylaw. The proposal is evaluated based on the property's heritage value and the criteria established. The property owner, via Sable Arc Architecture, has applied for a development permit which would necessitate the demolition/removal of the building.

**Although no written response has been received from the owner or applicant it is generally understood they are not supportive of the proposal to designate.** Charlottetown City Council imposed a temporary 45-day designation on the property on Oct 10, 2023, thus preventing the building's demolition and allowing further investigation to be undertaken. This temporary designation is set to expire on Nov. 24, 2023. [emphasis added]

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**The Planning and Heritage Department recommends that 10 Prince Street (PID#336321) be designated as a Heritage Resource under the Heritage Preservation Bylaw.**

The language of the Recommendation confirms that the Planning Department did not reach out to the Owner or consider any of the Owner's objections when it made its recommendation to designate the Property. The minutes of the meeting do, however, confirm that the Department did consider the results of an online petition, six written responses from the public and a heritage award to a previous owner of the Property together with staff reports and a heritage assessment report which scored the Property with 68 points out of 100.

Our letter to the Planning Department dated November 23, 2023 outlines the Owner's objections to the temporary designation of the Property and details various errors made by the City in approving this designation. In short, the record is clear that: i) the Planning Department considered elements of the new design in making its recommendation which were inappropriate as only the existing historical elements could be considered; ii) the notice of temporary designation, in the appropriate form, was not published, posted or served on the Owner; and, iii) the relatively low score of 68 for the Property on a heritage assessment makes it inappropriate for Designation given the Owner's objections.

Council reviewed the Recommendation at its November 27, 2023 meeting but deferred a decision to seek a legal opinion on the consequences of the Designation given the Owner's objections (notably, the meeting was not delayed to consider the Owner's objections). On March 25, 2024, the Heritage Board again recommended to Council that it designate the Property a Heritage Resource. Council accepted the Heritage Board's recommendation and approved the Resolution in the form set out on the first page hereof.

**RESPONSE TO OPINION OF CITY'S LEGAL COUNSEL'S ON BY-LAW COMPLIANCE**

In our letter dated November 28, 2023, we outline specific issues with the conduct of the Planning Department and the Heritage Board in not following the requirements of the By-law. Our response to the opinion of the City's legal counsel on these points is set out below.

The City's legal counsel suggests that the November 27, 2023 resolution to Council (which was deferred) could be made without notice to or opportunities for submissions from the Owner because it somehow preceded the "permanent designation process." She suggests that this resolution "was the commencement of the process to proceed with permanent designation." The April 9, 2024 Resolution makes a similar assertion that the process to designate 10 Prince Street as a Heritage Resource was 'commenced' by Council on April 9, 2024.

With respect, this position is in conflict with the sections of the By-law outlining how a designation process is to be initiated. The By-law provides, at section 3.1.1, that the process may only be initiated by:

- a. The Heritage Officer and/or Heritage Board;
- b. An application by the property Owners(s); or
- c. An interested third party.

There is no indication in the By-law that the Designation process may be 'commenced' by Council.

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Also, the suggestions that the designation process only started on November 27, 2023 or on April 8, 2024 are also misleading - the Planning Department was clearly considering the designation long before the presentation of its report to the Heritage Board on August 28, 2023.

After a designation process is initiated under section 3.1 of the By-law, a Heritage Officer prepares a Heritage Assessment Report pursuant to section 3.2 of the By-law. This report considers the age of the building, its architectural/archeological/aesthetic value, and its historic value. The next step in the procedure is outlined in section 3.3.1, which reads:

*3.3.1 The Heritage Board shall consider the Heritage Assessment Report and any additional information provided by the applicant, if applicable, and shall make a recommendation to Council **to consider** the Designation of the Heritage Resource or Heritage Preservation Area. [emphasis added]*

Under section 3.3.1., the Heritage Board may only "make a recommendation to Council to consider" a designation. Making this recommendation triggers the notice requirement under sections 3.3.3 and 3.3.4 and the opportunity for an owner to object under section 3.3.5. It is only after proper notice is given, and an owner's objections are considered, that the Heritage Board may exercise its power to recommend that a property be designated under section 3.3.8.

The City's legal counsel suggests that the words "to consider" in section 3.3.1 are inconsequential. We disagree. A recommendation to Council "to consider a designation" is drastically different than an outright recommendation "to designate." Most importantly, as outlined in the caselaw below, and in the plain language of the Bylaw, the Heritage Board cannot make a recommendation to designate a property unless and until it has considered an owner's objections. In this case, the Heritage Board failed to follow the fundamental step of considering the Owner's objections before it made its Recommendation "that 10 Prince Street (PID#336321) be designated as a Heritage Resource."

#### **CASELAW**

In our November 28, 2023 letter, we referred you to the decision of the Nova Scotia Supreme Court in *Dalhousie University v. HRM*, 2023 NSSC 374 ("**Dal v. HRM**"). The facts of that case are strikingly similar to the ones at hand and the court was critical in its review of Halifax Regional Municipality's ("**HRM**") conduct in unilaterally designating a property as a heritage resource without meeting its duty of procedural fairness to the owner.

Dalhousie University ("**Dalhousie**") had purchased a residential property in the City of Halifax with no heritage designation and later filed an application to the HRM to demolish the building on the property. The building was in a state of disrepair and there was no safe economically viable use of the property in its current state. Dalhousie had purchased the property with the intention of demolishing the building and constructing a new, environmentally and economically sustainable building.

After it became aware of Dalhousie's plans to develop the property, HRM's Heritage Advisory Committee (the "**HAC**") took steps to unilaterally designate the property as a heritage property with no notice to the owner. The HRM's staff completed research and prepared a report solely on the heritage value of the property, including current and historic photographs of the building, written summaries of prior owners, and maps and deeds for the property.

Dalhousie, as owner of the property, learned only coincidentally that the HAC had convened an expedited hearing to consider whether it should recommend the designation of the property. No notice of this meeting was provided to Dalhousie. One day before the hearing, Dalhousie was

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provided with a copy of the staff report and was advised that it could not make oral submissions, but could make written submissions. At the expedited hearing, the HAC recommend the designation of the property based on a staff report and a heritage assessment report which scored the building with 64 out of a possible 100 points. The staff report did not consider the issues of cost of the work required to renovate the building as a historic resource or the vitality of the building. The HAC also did not consider the owner's objections when it made its recommendation. HRM council went on to accept HAC's recommendation and designated the property.

The Court in *Dal v. HRM* found that, in making the decision to designate the property, the council was required to seriously consider the purpose for which the owner acquired the property, the owner's proposed use of the property, the vitality of the building and the effect of the proposed designation on the owner, in addition to the heritage value of the property.<sup>1</sup> The Court also found that council had a responsibility to ensure that the recommendation it received from the HAC was made in a fair manner, was not rendered in circumstances where there was a reasonable apprehension of closed-mindedness on behalf of HAC members, and was not based on irrelevant or arbitrary considerations.<sup>2</sup>

The Court summarized the duty of fairness owed to owners in a municipal heritage designation process as including the following elements:

- (a) a municipality is to give an owner timely, fulsome informative and ongoing notice of the process from the outset;
- (b) a municipality is to give an owner the supporting documentation underlying the initiation of the process in a timely manner;
- (c) a municipality is to give an owner a timely and meaningful opportunity to make fulsome written submissions in response to the initiation of the process and the underlying staff reports and supporting documentation;
- (d) a municipality is to give an owner a fair and meaningful opportunity to challenge a planning department's findings or its scoring of a property;
- (e) there must be no indicia of close-mindedness on the part of the municipality.<sup>3</sup>

The Court in *Dal v. HRM* concluded that the unilateral designation of the property by HRM was fundamentally flawed and substantively unreasonable and quashed the designation in its entirety. In doing so, the Court outlined the material factors to be considered by a municipality in designating a property. An application of these factors to the proposed Designation of 10 Prince Street is provided below.

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<sup>1</sup> See paragraphs 38 and 39 *Dalhousie University v. HRM*, 2023 NSSC 374 [*Dal v. HRM*] where the Court stated "*HRM Council was not entitled... to intentionally effectively defeat Dalhousie's pre-existing right to demolish the building, on the basis that... Council preferred another use of the property*" and that "*it was required to have seriously considered the effect of such designation, in relation to the reasonable uses of the property that would remain available to Dalhousie*".

<sup>2</sup> See paragraph 77 of *Dal v. HRM* where the Court stated that "*HRM Council is responsible to ensure... that the recommendation was not rendered in circumstances where there is a reasonable apprehension of closed-mindedness... was not based on irrelevant or arbitrary considerations; or that the HAC failed to consider material relevant considerations.*"

<sup>3</sup> See paragraph 77 of *Dal v. HRM*.

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### Designation of 10 Prince Street

The City of Charlottetown has failed to meet its duty of fairness to the Owner of 10 Prince Street throughout this process from the initiation to the most recent Recommendation to Council. The particulars of these failures are as follows:

- (a) The Planning Department and the Heritage Board failed to provide the Owner with timely and fulsomely informative notice when it initiated the process, at some point before August 28, 2023;<sup>4</sup>
- (b) The Planning Department and the Heritage Board failed to provide the Owner with the documentation it relied on to support its recommendation, before commencing the designation process;<sup>5</sup>
- (c) The Planning Department failed to give the Owner a fair and meaningful opportunity to challenge the findings of the Planning Department or its scoring of the Property before commencing the designation process;
- (d) The City failed to publish, post and serve notice of the October 10, 2023 temporary designation of the Property according to the requirements at s. 3.4.2 and 3.4.3 of the By-law;
- (e) The Heritage Board failed to publish, post and service notice of its intention to designate before making the recommendations to Council on November 16, 2023 and March 25, 2024 according to the requirements of section 3.3.3 and 3.3.4 of the By-Law;
- (f) The Planning Department failed to provide a timely and meaningful opportunity for the Owner to make fulsome written submissions to the Heritage Board before its November 16, 2023 meeting - two and a half business days notice is grossly inadequate in the circumstances;<sup>6</sup>
- (g) The Planning Department failed to provide any opportunity for the Owner to make fulsome written submissions to the Heritage Board before its March 25, 2024 meeting – in fact, the Owner was not provided with any notice of or opportunity to make submissions at this meeting;

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<sup>4</sup> See paragraphs 146 and 161 of *Dal. v. HRM* where the Court found that the City has a duty to provide a property owner with *"timely and fulsomely informative notice of the process being triggered, and this duty continues in an ongoing manner as the process develops"*. The requirement for notice arises once either (1) the City decides to investigate a property for consideration as a heritage resource, or (2) an application for designation concerning the property is filed. This notice is required even absent any express requirement in the statute or bylaws. It is a *"key element of fair process from the start, in all cases."*

<sup>5</sup> See paragraph 146(b) of *Dal. V. HRM* where the Court confirmed that the City has a duty to provide, in a timely manner, the documents which underlie the application to designate, such as the original application, staff reports, or any other communications relevant to the decision.

<sup>6</sup> See paragraph 146(c) of *Dal. v. HRM* where the the Court found that the City must *"at a minimum"* provide *"a timely and meaningful opportunity for the owner to make fulsome written submissions in response to... any staff Report and supporting documentation."*

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- (h) Since making its recommendation on September 25, 2023, without any input from the Owner, the Heritage Board has steadfastly maintained its initial decision with an attitude of absolute closed-mindedness;
- (i) The Planning Department, the Heritage Board and Council have all demonstrated clear indicia of close-mindedness;<sup>7</sup>
- (j) The Heritage Board, as a decision-maker, demonstrated that it was not open to a fresh evaluation of the evidence and submissions presented to it;<sup>8</sup>
- (k) The Heritage Board failed to consider the lack of utility of the Property to the Owner in its current state;<sup>9</sup>
- (l) The Heritage Board did not seriously consider the Owner's ongoing right to deal with the Property as it wishes, without interference from the City, in trying to defeat the Owner's preferred use of the Property by effecting its own preference through the designation process;<sup>10</sup>
- (m) The Heritage Board did not consider the Owner's reasons for buying the Property and its intention to demolish the building and construct a new building which would include a home for the Owner's family. Attached as Schedule "A" is a letter from the Owner outlining his intentions for the Property;
- (n) The Heritage Board did not consider that restoration of the Property to meet the onerous requirements for a heritage resource would be cost prohibitive to the Owner. Attached as Schedule "B" to this letter is quote from a contractor estimating that the costs to make the necessary renovations to the Property as a heritage resource would be upwards of \$594,000;
- (o) The online petition and letters from the public and the heritage award to a former owner of the Property included with the Planning Department's materials and submitted to the Heritage Board were inappropriate and irrelevant to the designation process and should not have been included or considered;<sup>11</sup>
- (p) The Owner's objections to the Designation, as outlined in emails to the City and in letters sent on its behalf, dated November 23, 2023 and November 28, 2023, were not given any weight in the Heritage Board's recommendations. Instead they were

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<sup>7</sup> See paragraph 146(e) of *Dal. v. HRM* where the Court confirmed that the presence of indicia which lead to a reasonable apprehension of closed-mindedness is itself a breach of the duty of fairness in heritage designation processes.

<sup>8</sup> See *McLaren v. Castlegar (City)*, 2011 BCCA 134 at para 37 where the Court of Appeal stated that procedural fairness requires that those holding statutory powers exercise them with an open mind. It is insufficient for a decision-maker to merely not have "irrevocably made up their minds." Rather, they must "be completely open to a fresh evaluation of the evidence and submissions presented to them."

<sup>9</sup> See paragraph 183 of *Dal. v. HRM* where the Court stated "they could have, and should have, considered the lack of utility of the existing residential building to Dalhousie".

<sup>10</sup> See paragraphs 185 and 186 of *Dal. v. HRM* where the Court stated "HRM cannot intend to defeat the owner's preferred use of the property by effecting its own preferred use of the property through the process of inclusion of the property in the HRM Registry of Heritage Property."

<sup>11</sup> See paragraphs 235 and 236 of *Dal. v. HRM* where the Court found that a petition and letters from the public should not have been considered.

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callously dismissed without regard to procedural fairness based on an opinion from the City's legal counsel that the risk to the City was "relatively low".

**IN CLOSING**

The approach taken by the City throughout this designation process has been to reach a decision without input from the Owner, or even without the Owner's awareness that the process was taking place. The City is now asking the Owner to object to decisions after they have already been made and Council's views have been coloured by one-sided submissions.

The rules of natural justice require that government bodies exercise state power with an eye, not only to their own self-interest, but also to the fairness interests of those persons whose rights they hope to infringe. The standards are intentionally high where a municipality unilaterally decides to investigate a property for consideration for a heritage resource designation given the substantial deprivation of property rights that is at stake.

The City's failures to provide notice, documentation, and opportunities for the Owner to respond throughout this process have polluted the entire exercise with a level of gross unfairness and prejudice to the Owner. Council is therefore not in a position to accept the Heritage Board's recommendation and must refuse to designate 10 Prince Street as a Heritage Resource.

Yours truly,

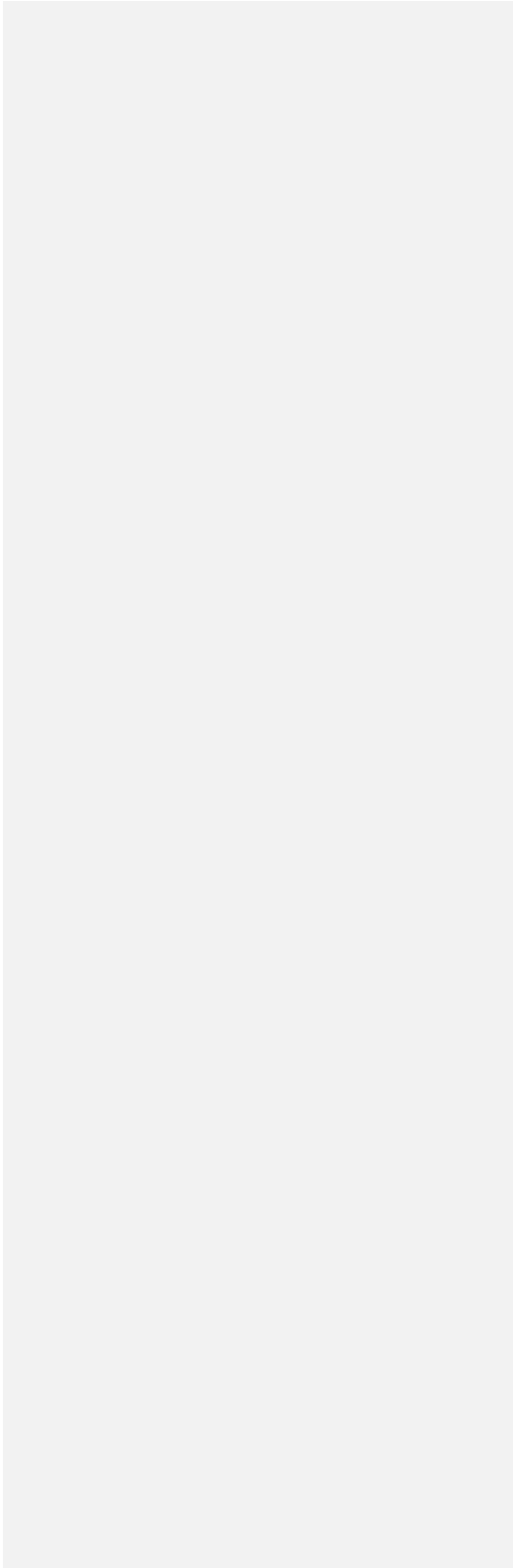
Stewart McKelvey



Margaret Anne Walsh

MAW/bk

Heritage Assessment Report cover





# brighter community

PLANNING & CONSULTING

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PREPARED FOR :  
**Municipality of  
Kingston**

Commented [TS1]: Municipality of Charlottetown

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Disclaimer

Recommendation

Appendices

## 1. Authority and Assumptions

The purpose of the City of Charlottetown Heritage Preservation By-law is to preserve, conserve, and protect Heritage Resources within the City. It is enacted under the authority of the *Municipal Government Act* and the *Heritage Places Protection Act* and serves to implement policies of the Official Plan.

Heritage Assessment Reports support decision making when City Council and the Heritage Board are considering designating of a Heritage Resource or Heritage Preservation Area, as required under Part 3.2 of the Heritage Preservation By-law, as amended. Designation is a formal recognition of heritage value. This Heritage Assessment Report describes the heritage value of the proposed Heritage Resource at 10 Prince Street, as evaluated under criteria set out in Part 3.2 Heritage Assessment [of the Heritage Preservation By-law](#).

Part 9.13 of the Heritage Preservation By-law defines a Heritage Resource as any building, special historic place, site, streetscape, or area recognized for its historic value and for which its protection may serve a social, economic and/or cultural benefit to the community. The *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010) defines heritage value as the aesthetic, historic, scientific, cultural, social, or spiritual importance or significance for past, present, or future generations. The heritage value of an historic place is embodied in its character-defining materials, forms, location, spatial configurations, uses and cultural associations or meanings. "Historic" usually describes a place, information, or evidence. One speaks of the heritage value of the historic place. Heritage value and historic value are used interchangeably in this By-law. Given that the By-law speaks to Heritage Preservation, the Heritage Assessment Report uses the meaning of heritage value for both terms, where appropriate.

## 2. Background

As a result of an application for a mixed ground floor commercial and multi-unit residential 4-storey building that would involve the demolition or removal of 10 Prince Street, the Heritage Board met on 28 August 2023 to begin the process of inquiring into the heritage value of the property for possible designation as a Heritage Resource. The property is located within the 500 Lot Area, which has design standards but is not a Designated Heritage Preservation Area. As such, 10 Prince Street had no heritage protection. The demolition could proceed "as-of-right" under the Zoning and Development By-law if the status quo was maintained.

**Commented [TS2]:** And September 25th

**Commented [MAD3]:** Would you consider adding that it is not a designated heritage resource?

Part 3.4 of the Heritage Preservation By-law allows Council to approve a temporary Designation on an undesignated Heritage Resource that has characteristics that may meet the criteria for Designation. On 25 September 2023 Council considered the recommendation from the Planning and Heritage Department (which included the Heritage Officer) for a 45-day temporary Designation to facilitate further assessment and determine the existing property's heritage significance. Council also considered the recommendation for temporary Designation from the Heritage Board in support of Staff's recommendation. Council approved the temporary Designation and provided appropriate notice. The temporary Designation does not permit, moving, altering, developing or demolishing the building for a period of 45 calendar days from the service of the notice. Council may proceed with the designation by posting a notice of intent to designate or let the temporary designation expire. If the notice expires, then the property at 10 Prince Street could then be demolished or removed, pursuant to the Zoning and Development By-law.

Commented [TS4]: October 10th

It should be noted that under Part 3.1.1 of the Heritage Preservation By-law, the process to designate a Heritage Resource may be initiated by the Heritage Officer and/or Heritage Board, an application by the owner(s), or an interested third party. While the most desirable approach is to have a property owner come forward to request designation, the Heritage Preservation By-law recognizes that there are potential Heritage Resources and Preservation Areas that have heritage value, where it is in the public interest to protect them as there is value for current and future generations.

### 3. History and Context

The home appears to be constructed c. 1900, with a later sympathetic addition. It occupies a prominent corner on the northeast corner of Prince and Water Streets. Water Street functions as an arterial road in the transportation network linking the downtown core to the Hillsborough Bridge. The property heralds the entrance to the 500 Lot Area and acts to delineate the southern boundary. It is located on the south-east corner of the block bound by Water Street, Prince Street, King Street and Hillsborough Street. It abuts the Prince Street wharf area, which has historically been a working waterfront with industrial uses, including the railway. This area north of the wharf has been residential in nature, housing those who worked or were associated with the working waterfront. Today, the Prince Street wharf is used by cruise ships, making the property, corner, and streetscape an important feature to those tourists making their way toward downtown as they travel through the 500 Lot Area. It is an important landmark and part of a cohesive streetscape, shaping community identity and sense of place for local residents, members of the broader community, and visitors. The area surrounding the property has experienced development with three

and four-story condominium development. The streetscape is heavily influenced by simple wood framed homes. Founders' Hall and residential brick buildings are nearby.

The building at 10 Prince Street was originally constructed as a home (one dwelling unit). Given its proximity to the working waterfront and former industrial lands, including the railway, it served as a home for those associated with these industries. Research notes that the home was owned by Robert McLaren, who was involved in ship chandlery (sail making) and blacksmiths who worked at the railway. It was occupied as a home until at least the 1950s. It later was used for commercial activities. By 1976, Custom Upholstery occupied the building. Subsequent commercial uses included accounting offices, jewellers, vintage clothing store, and the current Blank Canvas Art Supply store.

The property is on the boundary and included within the 500 Lot Area, which is recognized for both the quality and character of its streetscapes and original street grid pattern. The immediate area is primarily residential, with some mixed use. The area is historic in nature as the buildings are mostly older and/or have heritage resource elements and represent a range of styles. The style of 10 Prince Street is consistent with other residential buildings as they are mainly two to three-storey wooden buildings.

#### 4. Supporting Official Plan Policies

The Official Plan recognizes and supports the protection of Heritage Resources as among the community's most valuable asset via Part 3.7 Capitalizing on Heritage Resources. It sets out that it is crucial that a significant portion of this building stock be retained, especially as it relates to Charlottetown's role as the birthplace of Confederation. Further, the Vision statements for the 500 Lot Area in Part 4.2.1 sets out that "the City should ensure that future planning actions within the 500 Lot Area continue to protect, restore and build upon the heritage resources in the area." Policy contained in Part 4.2.2 recognizes the importance of streets and streetscapes, heritage resources, gateways and view planes within the 500 Lot Area and establishes a measure of protection within the Zoning By-law.

The Official Plan clearly sets out the objective is to "protect, restore, respect and leverage all Heritage Resources." The policy is powerful with respect to the 500 Lot Area, of which 10 Prince Street is situated. Policy recognizes that the 500 Lot Area is comprised of an extraordinary concentration of significant heritage buildings, landmarks and streetscapes, which need to be protected and restored as they create a sense of place and are the City's lifeblood. Policy also recognizes heritage attributes in order to enable adequate and appropriate protection of these heritage resources. Also policy enables the "ability to demolish properties and buildings and

the process and timing of granting demolition permits shall also be dependent upon an assessment of each property's heritage attributes." The temporary Designation has afforded decision-makers time to secure an assessment of 10 Prince Street for consideration as a Heritage Resource, worthy of protection under the Heritage Preservation By-law.

It should also be noted that the City of Charlottetown 500 Lot Area Development Standards & Design Guidelines recognizes the 500 Lot Area as a broadly treasured and shared amenity and the "heart and soul" of the City. It sets out that the 500 Lot Area is an "iconic architectural landmark" which shapes the impression of the City for thousands of visitors. The building at 10 Prince Street is within and on the southern boundary of the 500 Lot Area, heralding the entrance to the most important cultural resource for the City.

## 5. Heritage Assessment

### 5. a. The Age of the Building or Structure;

The building appears to be built circa 1900 as it has a typical style and construction of homes built in the early 20th century in the area. It is located along the southern boundary of the 500 Lot Area and appears to be on an original lot. The 1878 Panoramic View of Charlottetown Map shows a two-storey home on the lot. However, the Goad's Fire Insurance Map of 1903, with updates to 1917, shows a 1½ storey wood framed house on the north east corner of Prince and Water Streets, which supports the estimated construction date of the early 20<sup>th</sup> century. The footprint on Goad's Fire Insurance Map suggests that there has been a later addition to the east side of building, which is likely given its lack of symmetry and varied roof lines on the eastern end.

### b. Architectural/archeological/aesthetic value, including but not limited to the following elements:

#### i. Style/tradition;

The style of the building provides architectural and aesthetic value in several ways. It provides architectural and aesthetic value as an excellent example of the late Victorian plain style, which is unique to the early 1900s era to the City's history. There are no unique architectural features (e.g. widow's walk, bump-outs) but the building does have decorative shingles (scalloped edges). The Planning and [Development Heritage](#) Department report to City Council dated 25 September 2023 regarding temporary designation, sets out the character-defining elements, which supports the

assertion that the building has aesthetic value an excellent example of the late Victorian plain style.

The following character-defining elements illustrate the late Victorian plain style of 10 Prince Street:

- The overall massing of the building
- The high gable end facing the street
- The simple, contrasting trim throughout the exterior of the building
- The wooden shingle cladding
- The verandah, with its columns, balustrade and hipped roof
- The plain eaves
- The size and placement of the windows including the plain, stained glass, combinations of single and grouped windows.
- The gable roof lines

Other character-defining elements include:

- The location of the building on the prominent corner of Water Street and Prince Street.

The style of the building creates value through its physical context in relation to neighbouring designated heritage properties, adding to the heritage character of the neighbourhood and supporting the streetscape. The neighbouring designated properties are 140 Water Street, 15 Prince Street, 21-23 Prince Street, and 26 Prince Street.

There is also heritage value inherent in properties that represent the evolution of the 500 Lot Area. The 500 Lot Area is not a museum. It is vibrant and has a history of resiliency. Protection of vernacular elements, such as housing forms that are representative of significant periods in history, serve to ensure that new residents, visitors, and future generations have access to important heritage resources.

## ii. Design/craftsmanship;

The house provides architectural and aesthetic value as the design and craftsmanship are above average in that the building is an excellent example of plain Victorian architecture, having a symmetrical shape with an ell projection and steeply pitched roofs. It has a varied shingle pattern, which includes two bands of scalloped shingles on the Prince Street façade and the ell facing Water Street. The vertically oriented windows appear to be in their original configuration with single windows having a width to height ratio of 1:2., with one-over-one glazing. The double windows appear to have proportions 1:2. There are decorative mouldings and a tri-pane transom over the entrance. The covered porch continues to provide a semi-private space between the entrance and the street.

iii. Setting/streetscape;

The property holds great aesthetic value. Significant alteration that negatively impacts the character defining elements or removal or demolition of the building would negatively impact the streetscape, erode the character of the neighbourhood, and damage the delineation and fabric of the 500 Lot Area. The value of 10 Prince Street lies in its late Victorian plain style architecture and its importance to the Prince Street and Water Street streetscapes given its location on a prominent corner.

The building and lot hold an important place in delineating and defining a special character area at the entrance to the 500 Lot Area. It holds a place of importance on the prominent corner, which is defined by 10 Prince on the northeast corner of Prince and Water Streets, a designated Heritage Resource on the southwest corner, an older building on the northwest corner, and Founders' Hall with public open space on the southeast corner. The corner heralds a transition from the waterfront area into a residential area, which has significant built heritage value. The corner creates a sense of place and visual and community identity. Removal of the building would create a gap in the established streetscape. With the loss of a prominent heritage structure as the anchor, there is a likelihood that other insensitive demolition or alteration will follow, which will contribute to the gradual erosion of the streetscape.

New buildings built under the design guidelines adhere to architectural controls, which serve a different purpose and are much different than the requirements for a Heritage Permit under the Heritage Preservation By-law. The Heritage Preservation By-law provides the best protection for an identified and designated Heritage Resource. Although new buildings adhere to the Design Guidelines, the removal of a building that qualifies as a Heritage Resource will negatively affect the integrity and authenticity of the area, thereby eroding the significance of the site and the prominence and function (e.g., landmark, boundary delineator, heritage character, etc.) of the corner.

Removal or significant alteration is not recommended.

iv. Integrity;

The integrity of the building as a heritage resource is very good. The Goad's Fire Insurance Map of 1903 and updated to 1917 shows a smaller footprint that is in keeping with what appears to be the original building. In examining the structure, it appears that there is an addition on the east portion of the building. The alteration is sensitive yet distinct. The building retains most of its original materials and design features. The building appears to be in good condition, as viewed from the exterior.

Some window trim requires maintenance. It occupies the original lot as there is no evidence that would suggest that it has been relocated from another place.

v. Construction methods and materials;

The building has aesthetic value as a representation of early 1900s wooden home construction. The building has wooden construction. The entire building has wooden cladding. The shingles are consistent in size and shape. It appears that the building has not had vinyl siding cladding in the past. The method of construction is identifiable but of little interest.

vi. Exterior or outward appearance/condition; and

The house has aesthetic and architectural value as it appears to be in good condition and with the appearance is consistent with the Victorian plain style while complementing other older buildings in the vicinity as well as the designated property on the southwest corner. The addition on the east portion is consistent with the appearance of the original building in terms of material, size, and massing.

The outward appearance of the property is excellent and the condition appears good as well. In this evaluation, the original intactness is more important than maintenance conditions. The proposed demolition or removal is as a result of a proposed redevelopment of the site. No information, reports, or assessments have been provided that indicate that there are issues with the structural integrity of the building.

vii. Landmark status.

There are a number of landmarks throughout Charlottetown. Some are large structures such as the Rodd Hotel or St. Dunstan's Basilica while others can be less prominent or a location such as an intersection used for way finding over the decades. For the purposes of this report, one must interpret and evaluate the heritage value of potential Heritage Resources as it relates to its significance as a landmark. A landmark is a mark used to designate the boundary of land. It can be a prominent identifying feature of the landscape. It is anything that helps one know where they are in space, time, or history. It can be a feature such as a large building or monument, used to help one know where they are. It can be a building or site with historical significance. Landmarks can reinforce a sense of place and identity.

The buildings fronting on Prince at the north corner of Water Street, 10 Prince and 139/141 Water Street (Water Prince Corner Shop), can be described as a gateway into the 500 Lot Area. 10 Prince Street is conspicuous and familiar in the context of the boundary between the downtown and waterfront with the residential area. It is located on a corner with high visual impact from those leaving the waterfront.

The subject property contributes to the symbolism of Charlottetown's cultural heritage as it visibly marks the entrance to the 500 Lot Area. It serves as a boundary and maintains the intact historic fabric of the 500 Lot Area. Removal or a significant insensitive alteration would dramatically change the function of the corner as a landmark. It currently distinguishes the waterfront area from the 500 Lot Area, marking the boundary of and acting as an entrance to the 500 Lot Area.

The landmark status of the north corner of Prince and Water Streets also relates to its importance as an entryway to the downtown core and an area with amenities that support the nearby residents, tourists, and commercial businesses. Maintaining the integrity of the buildings at the north corner reinforces the landmark status. The federal, provincial and City governments have worked to grow the cruise ship tourism in Charlottetown. The north corner of Prince and Water Streets is the first corner they encounter, which initiates the visitor experience as they travel through the 500 Lot Area toward the downtown to visit shops, restaurants, and attractions such as Province House National Historic Site or the Confederation Centre of the Arts. There has been significant taxpayer investment in the area with the public skating area, Founders' Hall, and waterfront improvements.

c. The historic value, including but not limited to the following elements:

i. Architect/builder;

The architect or builder is unknown.

ii. Political/economic influence;

The building is not intimately associated with people of primary significance to the historical development of Charlottetown, the Province or the Country. It is loosely associated with people of secondary significance Michael Hynes, and Tony Hansen. It is, however, associated with a more prominent owners, Robert McLauren, who took over the A Kennedy & Co. ship chandlery for his brother-in-law.

iii. Social/cultural influence;

There is no evidence that the property's former owners or close associations have had a social or cultural impact. A cultural influence refers to the impact that a culture, including its values, beliefs, and practises, and norms has in shaping behaviour and perceptions. No person or group has made a significant impact on society.

The building does hold social value. Social value can include connections to places and its people. The building's form and location contribute to a person's

understanding of the cultural heritage of area, creating a sense of place and contributing to community identity.

iv. Historical context;

There are two previous owners of the building that are presentative of major industries during two significant periods in the history of Charlottetown. Robert McLauren who took over the A Kennedy & Co. ship chandlery for his brother in law. McLaren's chandlery represents an essential business and employer during the age of sail. The home was also owned by blacksmiths who likely worked at the nearby railway, representing the age of rail in Canada.

The property has historic value due to its inclusion in the 500 Lot Area and location as boundary to the downtown core area, as a representation of housing associated with the working waterfront and industrial area, and as a representation of typical 1900s housing chronicling the evolution of the Charlottetown's built heritage. Located on a prominent corner and heralding the entrance to the 500 Lot Area with several historic homes nearby, it provides architectural stability and cohesiveness to the streetscape.

The property is within the 500 Lot Area. The 500 Lot Area has a concentration of heritage buildings (designated and undesignated), landmarks, and important streetscapes, which contribute to the cohesiveness of the area. The building was constructed circa 1900. Given its age, it is not significant in Charlottetown's role as the birthplace of Confederation. The 500 Lot Area is important not only for its original grid pattern and links to Confederation but also for the range of buildings that characterize Charlottetown's evolution. The 500 Lot Area Plan sets out that within this area, there are gradual transitions between different urban character areas. The property represents built heritage from the early twentieth century.

The property is located north of the Prince Street wharf. People living in this area would have supported the working waterfront in the City's early days and later, the railroad. Homes were modest, yet functional. As with many waterfronts, the waterfront area has transitioned with destination development efforts. Investment in the area includes placemaking for the Founders' Hall property, pedestrian and tourist-oriented improvements, and burying the power lines along Water Street.

v. Association with event/person/activity.

The property holds no historical value as there are no known connections with respect to an association with an historic event, person, or activity. There are no associations with events of primary significance to the historical development of Charlottetown, the Province, or the Country. The building is not associated with the

period of Confederation. There are no associations with events of secondary significance either.

## 6. Disclaimer

The report is a desktop evaluation with background information, photos, materials and mapping provided by the City. Independent research and use of public information also contributed to the analysis. A site visit was not carried out in the preparation of this report.

## 7. Recommendation

Positive recommendation to designate 10 Prince Street as a Heritage Resource.

As a result of the above analysis under the Heritage Preservation By-law, 10 Prince Street is deemed to be an important and significant heritage resource whose demolition or removal would result in damage to the streetscape. It would create a gap in the streetscape. Loss of this resource would damage the integrity and authenticity of the streetscape and 500 Lot Area, reducing the historical prominence of the corner as well.


**Therefore, 10 Prince Street is recommended for designation as a Heritage Resource.**

## 8. Appendices

Photos

Fire Map

Panoramic Map

<b>TITLE: 6A - HERITAGE BOARD REPORT          PROPOSED HERITAGE DESIGNATION          10 PRINCE STREET (PID #336321)          OWNER: SABHARWAL ATLANTIC HOLDINGS , NEW ORLEANS          ARCHITECT/APPLICANT: ROBERT HAGGIS, SABLEARC</b>		
<b>MEETING DATE:</b> March 25, 2024		<b>Page 1 of 22</b>
<b>DEPARTMENT:</b> Planning & Heritage	<b>ATTACHMENTS:</b> A. Location Map B. Property Photos C. Heritage Property Evaluation Form D. PEIM&HF Award & Citation	
<b>SITE INFORMATION:</b> <b>Ward No:</b> 1 – Queens Square <b>Property Use:</b> Retail <b>Heritage Recognition:</b> Temporary Heritage Designation. Located in the Downtown Mixed-Use Neighbourhood (DMUN) Zone of the 500 Lot Area. <b>Neighbouring Heritage Properties:</b> <ul style="list-style-type: none"> <li>• 140 Water Street</li> <li>• 15 Prince Street</li> <li>• 21-23 Prince Street</li> <li>• 26 Prince Street</li> </ul>		

**RECOMMENDATION:**

The Planning and Heritage Department is initiating the inclusion of the property located at 10 Prince Street(PID#336321), on the Inventory of Designated Heritage Resources for the City of Charlottetown. The subject property is located on the east side of Prince Street at the corner of Water Street (see Attachment A). The property contains a 1.5-storey dwelling which was constructed circa. 1900 as well as an accessory building.

The proposal to include the subject property on the Inventory of Designated Heritage properties for the City of Charlottetown is considered in accordance with Section 3 (Designation of a Heritage Resource) of the City of Charlottetown Heritage Preservation Bylaw. The proposal is evaluated based on the property’s heritage value and the criteria established. The property owner, via Sable Arc Architecture, has applied for a development permit which would necessitate

the demolition/removal of the building. The owner is not supportive of the proposal to designate.

The Planning and Heritage Department recommends that 10 Prince Street (PID#336321) be designated as a Heritage Resource under the Heritage Preservation Bylaw.

**BACKGROUND:**

The Planning & Heritage Department has received an application for development of this site which would include the removal/demolition of the existing building located in the 500 Lot Area at 10 Prince Street. This building is not a designated heritage resource and is therefore not protected under the Heritage Preservation Bylaw. Its demolition is considered an “as of right” under the Zoning and Development Bylaw. The proposed development and building design are subject to the design review process.

This item was discussed at the August 28, 2023 meeting of Heritage Board and again at the September 25, 2023 meeting of Heritage Board where staff of the Planning and Heritage Department recommended that the Heritage Board recommend to Council that a temporary designation be placed on 10 Prince Street. Heritage Board supported the recommendation which was supported by City Council at their meeting on October 10, 2023.

Charlottetown City Council imposed a temporary 45-day designation on the property on Oct 10, 2023, thus preventing the building's demolition and allowing further investigation to be undertaken. This temporary designation expired on Nov. 24, 2023.

Following a third-party assessment report, on November 16, 2024, a proposal for (permanent) designation of 10 Prince Street was presented to Heritage Board. The Board supported the recommendation and made a recommendation to Council to designate the property. This recommendation was review by Council on November 27 where it was deferred. An email (Nov 20, 2023) and following letter (Nov 23, 2023) from the owner’s legal counsel requested that the designation be denied. The owner’s legal counsel alleged:

1. Inappropriate consideration of potential new development
2. Procedural failures under By-law; and
3. Property not appropriate for designation.

Council moved to defer the application to seek a legal opinion on whether there are consequences for the City if they determine the property should be designated as a Heritage resource given the owners objection. On November 28, 2023, the owner’s legal counsel

forwarded another letter to the Planning & Heritage Department, wherein she suggests that due to procedural errors, the City must cancel the process to designate the property as a Heritage resource.

Legal Counsel for the City has reviewed all files, processes, bylaws, and case law relevant to this item. The City's legal counsel is of the opinion the property owner's counsel' position on the City's alleged errors were incorrect.

With respect to the possible consequences for the City if Council was to designate the property as a Heritage resource, a review of the law on "constructive appropriation" concluded the risk to the City to be relatively low.

The owner's legal counsel indicates that the process outlined in the Bylaw was not followed for three (3) primary reasons:

1. Section 3.3.1 states that Heritage Board 'shall consider' the Heritage Assessment Report and shall make a recommendation to Council to consider designating the Property as a Heritage Resource. She states that the use of the word 'consider' means that it was inappropriate for staff and Heritage Board to make a recommendation to designate as that's beyond the scope of 'consider'.
2. Section 3.3.3 was not followed as no Notice of intention to Designate has been posted.
3. Sections 3.3.5 and 3.3.8 have not been followed as the Owner was not given the opportunity to provide a written objection to the City .

The City's legal counsel disagree with the position of the owner's legal counsel and are of the opinion that the position outlined in her correspondence is not consistent with the scheme and intent of the bylaw. She is getting ahead of the *permanent designation* process. To further explain:

With respect to section 3.3.1, the use of the word 'consider' does not mean that staff and Heritage Board are not supposed to make a recommendation to Council. The owner's legal counsel submits that the recommendation made by staff and Heritage Board was outside the scope of section 3.3.1. However under the Procedural Bylaw decisions must be made at the Council level after a report and recommendation from the applicable committee, which in turn are typically based on recommendations made by staff. The City's staff are the professional experts in their respective areas and are relied on by Committees and Council because of their expertise. Furthermore, the owner's

legal counsel's assertion was correct, and Council was only to 'consider' designating the Property as a Heritage Resource, then there would be no mechanism to continue the process for permanent designation, which is the posting/publishing of the Notice of Intent to Designate under section 3.3.3. It is the opinion of the City's legal counsel that, 'consider' *in this context* logically means for Council to consider Cttee and staff's recommendation.

Section 3.3.3 states the following:

3.3.3 Before Council Designates a Heritage Resource or Heritage Preservation Area, a Notice of the intention to Designate shall be:

[...]

Had Council passed the Motion to designate the Property as a Heritage Resource at the November 27, 2023 Special Meeting of Council, instead of deferring the motion for a legal opinion, then section 3.3.3 would have been triggered, and a Notice of intent to Designate would in due course have been published and served in accordance with section 3.3.3 and 3.3.4, following which written objections could have been received from the Owner, and other third-parties, if applicable (per section 3.3.5). Following which, Heritage Board would consider the objection(s), along with any further information, per section 3.3.8, and would make a recommendation to Council to: (a) designate the Heritage Resource; (b) amend the Notice of Intention to Designate; or (c) Cancel the intent to designate the Heritage Resource.

The owner's legal counsel assessed the matter as if Council's resolution on November 27, 2023 was the final step towards designation of the Property as a Heritage Resource pursuant to section 3.3.8, and therefore, the City skipped all of the requirements set out in sections 3.3.3 to 3.3.7. That is incorrect. Council's November 27, 2023 resolution, which was deferred pending the receipt of this opinion, was the commencement of the process to proceed with permanent designation of the Property as a Heritage Resource pursuant to section 3.3.

As a result, the City's legal counsel disagrees with the conclusion of the property owner's legal counsel's correspondence and are of the opinion that the City has, to date, conducted the Review Process (3.3) in substantial compliance with the Bylaw. We should add the caveat that it is *possible* IRAC or a judge on judicial review may find one or more of the alleged procedural deficiencies cited to have merit. But, it is not *probable*.

**PROPERTY HISTORY:**

Located on the corner of Prince Street and Water Street, 10 Prince Street is a typical Victorian style house with a gable-ell configuration that supports both streetscapes and the heritage character of the area. Records available do not reveal the exact age of the house but its style is consistent with that of a typical home built around 1900. A 1.5 storey wood framed dwelling appears on Goad's Fire Insurance Map of 1903 (updated to 1917). It shows a building with a similar footprint to the main portion of the building (western end). It is possible the eastern section was added later.

The building was occupied as a single-family residence until at least the 1950's. By 1976, Custom Upholstery occupied the space. This was followed by other businesses such as an accounting firm, a jeweler, Truck and Roll Vintage Clothing and now Blank Canvas Art Supplies.

Through a search of land conveyances, directories, and other historical records, we cannot determine when the house at 10 Prince Street was constructed. Surveyor, Joseph Ball lived in a house on the corner of Prince Street and Water Street according to Hutchinson's 1864 Prince Edward Island Directory. Land records indicate that he had leased the land from Mary Williams Lewis in 1854 and in 1873, he and his brother, surveyor, John Ball would own the lot. A search of newspapers indicated that John Ball was leasing a house, coach house and garden on the corner of Prince and Water Streets in 1879. It is not clear if it is the same house. A further search of fires in the area did not indicate that a house was destroyed by fire.

Later land conveyances indicate that Lot 21 in the First 100 would become the property of merchant, William Frances Tidmarsh in 1894 and by 1900, barrister, Eustace Haviland purchased the property for \$1500 dollars indicating that a house was on the property.

Property owners include:

1900 Eustace Haviland barrister sold it to James Wickham, blacksmith for \$1400. Possibly indicates that a house was on the property.

1904 Mrs. Mary Margaret Wickham, wife of blacksmith James Wickham who died intestate, conveyed the land to Patrick Smith, for \$900 dollars.

1906 Robert McLaurin purchased the property from Patrick Smith and his wife for \$1925 dollars indicating there probably was a house there.

1931 Henry and John Parsons (relatives of McLaurin sold the property Helen and Phoebe Robertson

1934 Helen and Phoebe Robertson sold the property to Michael C. Hynes

1958 Helen Hynes & others sold the property to Alfred E Coady. They were related.

1976 Alfred Coady to Marion Coady and Custom Upholstery Limited for \$5.

### **SITE SIGNIFICANCE**

The site encompasses the south-east corner of the block bound by Water Street, Prince Street, King Street and Hillsborough Street. It is located on the southern edge of the center of the city just north of Prince Street wharf - an area which would have been populated early in the city's history. The area surrounding the site has seen some transformation in recent years with the development of both a three-storey and a four-storey condo development on the waterfront. In addition to Founders Hall, the area is dominated by simple wood frame housing and a few residential brick buildings.

Historically the area was a working industrial waterfront with the culmination of the railway service. Housing was largely for the population which served these industries and were modest in scale and style. The area has been transitioning since the 1970's when CADC undertook extensive renovation/restoration work, and the oil tanks were removed from the foot of Prince and Great George Streets.

The downtown 500 lot area is recognized for both the quality and character of its streetscapes. This is due in part to the gridded street and block pattern allowing for a well-connected network. Block sizes are reasonably small, and the gridded layout creates a sense of order and unity resulting in a very walkable area.

Water Street has developed into a main artery in the downtown core linking traffic with the Hillsborough Bridge. Care was taken some years ago to bury power lines along the street edge to beautify the area. Numerous tourists visit the area, and the cruise ship docks offload additional visitors. There is a great deal of pedestrian traffic in the area in the summer months.

There is a large open green space on the south side of Water Street at this corner. Buildings fronting Prince Street have minimal setbacks with approximately ten-foot-deep yards. Between the sidewalk and street is a grassed boulevard.

The area has a mix of uses but is primarily residential. Although not exclusively, residential building forms are typically smaller scale two to three storey wood frame residential buildings.

They represent a wide variety of building styles with the general sense that most are of an older/historic nature.

### **POLICY FRAMEWORK:**

#### **Heritage Preservation Bylaw Requirements**

3.3.1 The Heritage Board shall consider the Heritage Assessment Report and any additional information provided by the applicant, if applicable, and shall make a recommendation to Council to consider the Designation of the Heritage Resource or Heritage Preservation Area.

A Heritage Assessment shall take into consideration the following:

1. The age of the Building or Structure;
2. Architectural/archeological/aesthetic value, including but not limited to the following elements:
  - i. Style/tradition;
  - ii. Design/craftsmanship;
  - iii. Setting/streetscape;
  - iv. Integrity;
  - v. Construction methods and materials;
  - vi. Exterior or outward appearance/condition; and
  - vii. Landmark status.
3. The historic value, including but not limited to the following elements:
  - i. Architect/builder;
  - ii. Political/economic influence;
  - iii. Social/cultural influence;
  - iv. Historical context; and
  - v. Association with event/person/activity.

## Heritage Assessment

### **1. Age:**

The 1878 Panoramic View of Charlottetown shows what appears to be a smaller house on the property, and unless the house was renovated and added to, it appears that 10 Prince Street was constructed later than 1878. The Goad Insurance Map (produced in 1903 and updated to 1917) shows a 1.5 story wood framed house with a similar footprint (including verandah and gabled bay on the south side. It appears that the eastern section of the building has had an addition built on.



Based on this evidence and the age of similar properties in the city, it is reasonable to suggest the home was built circa 1900.

### **2. Architectural Interest:**

#### 2.1 Style

The residential late Victorian plain style building at 10 Prince Street (c.1900) is typical of the building stock from this era in the downtown area. It is simple in form, addresses the corner and has a traditional gable end façade. It is not an elaborate architectural style of the period but instead speaks to a simple single-family residence.

The following character-defining elements illustrate the late Victorian plain style of 10 Prince Street:

- The overall massing of the building
- The high gable end facing the street
- The simple, contrasting trim throughout the exterior of the building
- The wooden shingle cladding
- The verandah, with its columns, balustrade and hipped roof
- The plain eaves
- The size and placement of the windows including the plain, stained glass, combinations of single and grouped windows.
- The gable roof lines

#### 2.2 Design/craftsmanship

The building exhibits some unique characteristics such as the scalloped shingle patterning at the course line and gable, stained glass windows as well as a side verandah. These are standardized design components applied with attentive craftsmanship.

### 2.3 Setting/streetscape

10 Prince Street bears a strong relationship to the surrounding neighbourhood. The neighbourhood consists of a very consistent one and a half to two and a half-storey scale. Building forms are typically gable roofed, wood frames structures with a primarily residential typology.

Located on the northeast corner of Prince and Water Streets, 10 Prince Street frames the view towards the water from the more northern end of Prince Street. Likewise for the primarily pedestrian traffic moving from the cruise ship wharves, 10 Prince Street sets the tone and makes a first impression on the nature of downtown Charlottetown. The intersection serves to slow both pedestrian and vehicular traffic. It is this point which identifies the entry/exit of the downtown core. The building is an important architectural asset contributing to the heritage character of the surrounding area.

### 2.4 Integrity

10 Prince Street exhibits a high level of architectural integrity with respect to layout and additions. The house retains its modified ell plan with appropriately designed minimal changes. It exhibits a moderately high level of architectural integrity with respect to condition. Many original elements survive with some obvious changes but sympathetic to the original fabric.

### 2.5 Construction type or building materials

10 Prince Street is a 1.5-storey building of light frame construction with an ell shaped floor plan. It is built atop a masonry foundation. The outside walls are clad in a combination of plain wooden shingles and scalloped wooden shingles. The roof is clad in metal shingles. This construction type was common during the late 1800s and early 1900s.

### 2.6 Exterior or outward appearance/condition

10 Prince Street exhibits a moderately high level of architectural integrity with respect to condition. Major elements such as the gable roof, the verandah, and stained glass window, remain intact, unmodified, and in very good condition. The cedar shingle siding is present on the building including the decorative scalloped shingles. Bracketing at the eaves is in excellent condition and is intact.

The masonry foundation is covered with a plywood sheet but appears to be in acceptable condition, with some possible maintenance required such as repointing. An intact water table assists to ensure water damage is minimized at the foundation level.

As with many heritage homes, some exterior trim work shows significant wear. This has resulted in substantial paint peeling necessitating some repair and repainting. These repairs should be fairly minor in scope. It appears some windows have been replaced while others are older with an exterior aluminum storm in place. Staff hold that this building remains in sufficient condition to be a candidate for successful restoration.

A detached accessory building is in poor condition with significant deterioration occurring particularly along the roof overhang.

### 2.6 Landmark status

With the ongoing transformation of the waterfront in the eastern end of the downtown, the corner of Prince Street and Water Street has gained significance. This intersection marks a transition from a faster paced vehicular traffic on Water Street to a narrower and slower moving section of Water Street to the west. As a result, the property at 10 Prince Street has become a notable structure, signaling what is to be found in the neighbourhood beyond. 10 Prince Street provides an indication of the character of the Prince Street neighbourhood. The building is conspicuous and familiar in the context of the immediate neighbourhood.

## **3. Historic value**

### 3.1 Architect/builder

Unable to ascertain the architect or builder for the design or construction of the building at 10 Prince Street.

### 3.2 Political/economic influence

No known connection with political or economic influences

### 3.3 Social/cultural influence

No known connection with social/cultural influences

### 3.4 Historical context

One owner was the owner of a sail making business while two others were blacksmiths for the railway – both major industries.

### 3.5 Association with event/person/activity

The building has little known connection with a significant person, institution or event. Mrs. Robert McLaren, Michael Hynes, Tony Hansen were previous owners.

## City of Charlottetown Official Plan

### 3.7 Capitalizing on Heritage Resources

*Charlottetown's historic resources are amongst the community's most valuable assets. ...The buildings and sites which are the physical manifestation of the City's rich history are valuable not only because they are irreplaceable touchstones with the past, but because they can become a valuable economic springboard to the future. **Charlottetown's heritage buildings are one of the most important elements of the City's charm.** They are also an under-utilized resource with considerable economic potential.*

*The City's heritage buildings are not only important as a reflection of Charlottetown's social history, but they are an invaluable backdrop for helping to depict and explain the political evolution of the entire nation. Therefore, **it is crucial that a significant portion of this building stock be restored and protected to buttress Charlottetown's seminal role in the creation of Canada.** There will be no long-lasting foundation for the success of a campaign based upon the municipality's identity as the Birthplace of Confederation unless there is a predominant sense that Charlottetown is an historic city. If done well, this initiative can be parlayed into significant gains for the local economy.*

### 4.2 A Vibrant Downtown – The 500 Lot Area

#### 4.2.1 A Starting Point – The Vision:

*The 500 Lot Area is the City of Charlottetown's historic, cultural, civic and symbolic core and functions as the primary shopping, education, entertainment, recreational, service and employment hub within the City and the larger Region. The area is also a charming historical neighbourhood, home to many residents and visited by thousands of tourists each year. The 500 Lot Area benefits from its waterfront and its inventory of magnificent heritage buildings and features. Through the relevant policies of the CHARLOTTETOWN PLAN, **the City should ensure that future planning actions within the 500 Lot Area continue to protect, restore and build upon the heritage resources in the area.** New development, redevelopment, intensification and changes in land use should not be discouraged as they can have positive influences and make significant contributions to the evolution of the area. However, any proposed changes need to be carefully considered and managed to ensure that they do not undermine or destroy the very elements and qualities that define this area, but rather continue to create a distinct sense of place and contribute to its success.*

#### 4.2.2 Defining Our Direction:

1. Our **policy** shall be to recognize each Urban Character Area or neighbourhood, including important streets and streetscapes, civic and cultural elements, heritage resources, squares and parks, public/institutional buildings, gateways and view planes and terminate within the 500 Lot Area, and to establish a new and more detailed Zoning By-Law regime to protect and enhance these resources accordingly.

4. Our **objective** is to protect, restore, respect and leverage all Heritage Resources. Our **policy** shall be to recognize that the 500 Lot Area is comprised of an extraordinary concentration of significant heritage buildings, landmarks and streetscapes. These resources play a prominent role in defining its distinct 'sense of place' and should be recognized as the life-blood of the area's civic, cultural and economic well-being and as such need to be protected and restored.

Our **policy** shall be to identify and recognize the heritage attributes of these buildings, landmarks and streetscapes related to their age, architectural interest and historical interest through on-going planning, studies, inventories and other municipal initiatives in order to enable adequate and appropriate protection of these heritage resources.

Our **policy** shall be to provide direction through the Official Plan and regulation through the Zoning By-law for each property within the 500 Lot Area to determine the appropriate degree and design of alterations based upon an evaluation of its heritage attributes. **The ability to demolish properties and buildings and the process and timing of granting demolition permits shall also be dependent upon an assessment of each property's heritage attributes.**

#### **The Standards and Guidelines for the Conservation of Historic Places in Canada**

<https://www.historicplaces.ca/media/18072/81468-parks-s+g-eng-web2.pdf>

The Standards and Guidelines for the Conservation of Historic Places in Canada (Standards and Guidelines) is the official document guiding planning, stewardship and the conservation approach for designated heritage resources. This building is not designated resource.

#### **City of Charlottetown 500 Lot Area Development Standards & Design Guidelines**

<https://www.charlottetown.ca/workspaces/one.aspx?objectid=12052544&contextId=12052176>

The 500 Lot Standards and Guidelines provided an illustrated analysis of the area and approach to consider regarding heritage resources and development. **"This is the heart and soul of the city, where iconic architectural landmarks define its image and where the impression on**

*thousands of visitors is ultimately shaped. More than any other district or neighbourhood in the city, if not the province, the 500 Lot Area is a broadly treasured and shared amenity.”*

### **The City of Charlottetown Community Energy Plan**

The Community Energy Plan includes the following goal: (36.) promote common-sense approaches to waste reduction. The CEP also includes overall emissions reductions targets so, the case can be made that salvaging a heritage building rather than building new can reduce GHG emissions, supports this argument. Retaining 10 Prince Street and avoiding an entire building becoming construction waste supports this goal.

### **City of Charlottetown Strategic Plan** states:

*Continue to respect, preserve and enhance heritage assets while also embracing the principle of adaptive re-use and the circular economy.*

*Make sustainability, community resilience and climate change management and mitigation foundational criteria on which to base all infrastructure investment decisions.*

Again, retaining 10 Prince Street versus its demolition supports these goals.

### **ANALYSIS:**

#### **PUBLIC RESPONSE:**

The recent public notification of the temporary designation of 10 Prince Street resulted in considerable public interest.

- The City received six written responses. **Five of these responses were in favour** of designation while **one anonymous response was not in favour**. (Appendix F)
- An **online petition** was initiated by a member of the public which has garnered **610 signatures** in support of designation. (Appendix G)
- **A request to designate the Prince Street streetscape** from Water Street to King Street on both the east and west sides has been submitted by property owners on this block. It is said that six of the eight property owners of the affected properties are in favour of the streetscape designation. The streetscape proposal provides historical background on the affected properties and the significance in defining the special character of this part of the downtown.

#### **PEIM&HF AWARD:**

It is noted that **10 Prince Street was the recipient of a Prince Edward Island Museum & Heritage Foundation award in 1991**. The property owner at the time, David McCabe ran his upholstery business from the property. Mr. McCabe received the award in recognition of the outstanding contribution to the preservation of PEI's past as a result of the fine restoration of the home and

business. The citation reads ***“for the complete rehabilitation of the corner building at 10 Prince Street, Charlottetown, which houses Custom Upholstery Ltd. Modern siding obscured the late 19<sup>th</sup> century charm of this building before Mr. McCabe reclaimed its lost architectural features while undertaking a major renovation of his business premises and personal space. With the help of the Mainstreet program, he was able to achieve a pleasing and practical harmony for this dual-purpose building. His finished work is an example for lower Prince Street.”***

- Evaluation 2023

An updated evaluation of 10 Prince Street was undertaken in November 2023. This has resulted in a score of **68** versus the 2007 score of 63. The difference is attributed to an additional 5 points for Landmark status, the criteria of which is that it is conspicuous and familiar in the context of the immediate community neighbourhood or local district. It also includes an increase of two points for historical context given one owner’s associations with their own sail making business and the other owners who were blacksmiths for the railway. The exterior condition was reduced by 2 points given minor general deterioration.

- Consultant’s report

- An independent Heritage Consultant was engaged to provide an assessment of the heritage attributes of 10 Prince Street (Appendix H). This report recommends that 10 Prince Street be designated as a Heritage Resource under the Heritage Preservation Bylaw.

10 Prince Street is typical of the building stock from this era in the downtown area. It is simple in form, addresses the corner and has a traditional gable end façade. It is not an elaborate architectural style of the period but instead speaks to a simple single-family residence. The building exhibits some unique characteristics such as the scalloped shingle patterning at the course line and gable, stained glass windows as well as a side verandah.

The building, which dates to circa. 1900 is not old enough to play a role in Charlottetown as the birthplace of Confederation. However, it does add to the scale and ambiance of the area. The building is at the north-east corner of Prince and Water Streets. The north-west corner of the intersection is occupied by an older building, the south-west corner is occupied by designated Heritage Resources while the south-east corner is an open park space. The building does not appear to be in disrepair.

The house has aesthetic value for being an excellent example of the late Victorian plain style, in particular its steeply pitched roofs, decorative shingle patterning, and L shaped configuration. The window locations and proportions are in keeping with the original design.

The house has social value by providing visual information that helps people understand and appreciate the era in which it was built and for contributing to the community's sense of identity. The house provides architectural stability to the neighbourhood and is an important component on the streetscape of older and historic houses of a similar era. This has become a significant corner location in the 500 Lot Area and this property is important in defining the area.

As evidenced, the property at 10 Prince Street exhibits significant historical attributes and is associated with sufficient historical context for inclusion as a Designated Heritage Resource under the City of Charlottetown's Heritage Preservation Bylaw.

**CONCLUSION:**

The Planning and Heritage department staff recommend that the Heritage Board recommend to Council that 10 Prince Street(PID#336321) be designated as a Heritage Resource.

**PRESENTER:**



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Todd Saunders  
Heritage Officer

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**MANAGER:**



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Donna Miller-Ayton  
Manager Planning & Heritage (Policy)

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PROPERTY PHOTOS

ATTACHMENT B



10 Prince Street circa 1970



2023





HERITAGE PROPERTY EVALUATION

ATTACHMENT C



**CHARLOTTETOWN**  
Heritage Building Evaluation Form

CIVIC ADDRESS: 10 Prince Street

BUILDING NAME:

PID#: 336321

HERITAGE PRESERVATION BYLAW:

CANADIAN REGISTER OF HISTORIC PLACES:

PHOTOGRAPH: August 2023

DATE: November 2, 2023



EVALUATION CRITERIA

	Pre 1840	1841 to 1870	1871 to 1900	1901 to 1930	1931 to Present
<b>AGE (Maximum 15 points)</b>					
1.1 Date of Construction: <u>circa 1900</u>	15	12	8	<u>5</u>	0
<b>ARCHITECTURAL INTEREST (Maximum 65 points)</b>					
	<b>E</b>	<b>VG</b>	<b>G</b>	<b>F</b>	<b>P</b>
2.1 Style/Tradition: Vernacular	15	10	<u>8</u>	2	0
2.2 Construction Materials and Methods:	10	8	<u>5</u>	2	0
2.3 Design/Craftsmanship:	10	<u>8</u>	5	2	0
2.4 Integrity:	20	<u>10</u>	8	2	0
2.5 Exterior Condition:	10	<u>8</u>	5	2	0
2.6 Setting/Streetscape:	<u>15</u>	10	8	2	0
2.7 Landmark:	10	8	<u>5</u>	2	0
<b>HISTORICAL INTEREST (Maximum 20 points)</b>					
3.1 Architect/Builder:	10	8	5	2	<u>0</u>
3.2 Person/Institution: Mrs. Robert McLaren, Michael Hynes, Tony Hansen	10	8	5	<u>2</u>	0
3.3 Event:	10	8	5	2	<u>0</u>
3.4 Historical Context: sail making chandlery , railway blacksmith	10	8	5	<u>2</u>	0

**Total Score: 68**

CLASSIFICATION: \_\_\_\_\_ Grade 1 (80-100 points)  
68 \_\_\_\_\_ Grade 2 (60-79 points)  
 \_\_\_\_\_ Grade 3 (40-59 points)  
 \_\_\_\_\_ Ineligible for Designation (20-49 points)  
 \_\_\_\_\_ Not Important (0-19 points)

Comments: \_\_\_\_\_

Reviewed/Approved By: \_\_\_\_\_ Date: \_\_\_\_\_

Change In Classification \_\_\_\_\_ Date: \_\_\_\_\_

Reason: \_\_\_\_\_

PEI MUSEUM &amp; HERITAGE FOUNDATION HERITAGE AWARD 1991

ATTACHMENT D



Beaconsfield, 2 Kent Street, Charlottetown, Prince Edward Island, Canada C1A 1M6  
(902) 892-9127

May 31, 1991

David McCabe  
Custom Upholstery Ltd.  
10 Prince Street  
Charlottetown, PE  
C1A 4P6

Dear Mr. McCabe:

I am very pleased to inform you that you have been selected as recipient of an Architectural Preservation Award for 1991, one of the heritage awards presented annually by the Prince Edward Island Museum & Heritage Foundation in recognition of an outstanding contribution to the preservation of Prince Edward Island's past. Your award is for the fine restoration of your home and business at 10 Prince Street.

The 1991 awards will be presented to the winners by Lieutenant Governor Marion Reid at the annual Awards Banquet being held Wednesday, June 12, at Shaw's Hotel in Brackley Beach. A reception at 6.00 p.m. will be followed by dinner, the evening's guest speaker, Hon. J. Angus MacLean, and the awards ceremony. A brief photo session for all award winners and the Lieutenant Governor will be held immediately following the banquet.

We invite you to attend as our guest to accept your award. If you wish to have friends or family accompany you, tickets may be reserved by phoning 892-9127 (\$16 members, \$18 non-members).

Please accept our congratulations on your award.

Yours truly,

*per/ Karen Kearney*  
David Webber,  
Executive Director



PRINCE EDWARD ISLAND  
**MUSEUM**  
& HERITAGE FOUNDATION

Beaconsfield, 2 Kent Street, Charlottetown, Prince Edward Island, Canada C1A 1M6  
(902) 892-9127

1 9 9 1   H E R I T A G E   A W A R D S

ARCHITECTURAL PRESERVATION AWARD

to David McCabe

for the complete rehabilitation of the corner building at 10 Prince Street, Charlottetown, which houses Custom Upholstery Ltd. Modern siding obscured the late-19th century charm of this building before Mr. McCabe reclaimed its lost architectural features while undertaking a major renovation of his business premises and personal space. With the help of the Mainstreet program, he was able to achieve a pleasing and practical harmony for this dual-purpose building. His finished work is an example for lower Prince Street.