

The Corporation of the City of Kawartha Lakes
Committee of the Whole Report

Report Number ED2020-018

Meeting Date: September 1, 2020

Title: Amendments to Non-Compliant Heritage By-laws

Description: Amendments to several heritage designation by-laws to bring them into compliance with current legislative requirements

Ward Number: 4 and 8

Author and Title: Emily Turner, Economic Development Officer – Heritage Planning

Recommendation(s):

That Report ED2020-018, **Amendments to Non-Compliant Heritage By-laws**, be received;

That By-laws 2000-24, 2010-091, 2010-092, 2010-093, and 2010-094 be amended to be brought into compliance with the current requirements of the Ontario Heritage Act;

That the necessary amending by-laws be brought forward for adoption; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

Section 30.1 (2) to (10) of the Ontario Heritage Act permits municipalities to make amendments to by-laws to clarify or correct the statement of cultural heritage value, the description of heritage attributes, or legal description of a property and to revise the language of the by-law to make it consistent with the current requirements of the Act or its Regulations. Many of the heritage designation by-laws in Kawartha Lakes were prepared prior to the 2005 amendments to the Ontario Heritage Act and the introduction of Ontario Regulation 9/06 which established provincial criteria for the designation of heritage property and, therefore, do not comply with current requirements for designation by-laws under the Act. Many by-laws prepared after 2005 also do not comply with the requirements of the Act. As a result, they require updating to clarify or correct the statement explaining the property's cultural heritage value or interest and the description of the property's heritage attributes.

Subsection 30.1 (5) requires Council to consult with its Municipal Heritage Committee prior to amending a heritage designation by-law. At its meeting of August 6, 2020, the Kawartha Lakes Municipal Heritage Committee reviewed the proposed by-law amendments and passed the following motion:

KLMHC2020-25

Moved By R. Macklem

Seconded By W. Purdy

That Report KLMHC2020-12, **Heritage By-law Updates**, be received;
and

That the proposed by-law amendments be forwarded to Council for adoption.

Carried

This report addresses that purpose.

Rationale:

In 2018, the City began to undertake the process of identifying and amending heritage designation by-laws that do not meet the current requirements for designation under Part IV S.29 of the Ontario Heritage Act. Regulation 9/06, which establishes criteria for designation under the Act, states that in order to be designated, a property must meet one or more of the following criteria:

1. The property has design or physical value if:
 - i. It is a rare, unique, representative or early example of a style, type, expression, material or construction method;
 - ii. It has a high degree of craftsmanship or artistic merit; or

- iii. It demonstrates a high degree of technical or scientific achievement.
2. The property has historical or associative value if:
 - i. It has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community;
 - ii. It yields, or has potential to yield, information that contributes to an understanding of a community of culture; or
 - iii. It reflects the work or ideas of an architect, artist, building, designer or theorist who is significant to a community.
 3. The property has contextual value if,
 - i. It is important in defining, maintaining or supporting the character of an area;
 - ii. It is physically, functionally, visually or historically linked to its surrounding; or
 - iii. It is a landmark.

Part IV, S.29 of the Act also requires that the municipality must prepare a statement of cultural heritage value, identifying what the significance of the property is based on the Regulation 9/06 criteria, which includes a description of the heritage attributes of the property that must be retained to conserve its cultural heritage value or interest. The identification of heritage attributes to be protected should be a selective process and only contain the principal features that reflect the core heritage value of the property. These requirements and Ontario Regulation 9/06 were introduced as part of a significant overhaul of the Act in 2005.

Many of the City's older by-laws, particularly those which predate amalgamation, do not adequately identify the reasons for designation or do not specify features to be protected. This poses challenges with regard to processing alterations for applications and providing clear direction on conserving the important heritage attributes of a property. By-laws that were passed prior to the 2005 changes to the Act did not have the same requirements at the time they were written and are therefore lacking by current standards. There are also a number of by-laws which were passed after 2005 which do not adequately fulfil the requirements of the Act. Amending the by-laws allows for additional clarity for both staff and property owners and removes ambiguity in older by-laws with regard to what features are protected and the significance of the property. The updating of older by-laws to conform to the requirements of the Act is recognized as a municipal best practice and becomes particularly important when major changes are contemplated to a designated property.

At its meeting of September 25, 2018, Council amended 47 heritage designation by-laws after consultation with property owners and inspections of each property in order to bring them into compliance with the Act. The owners of these properties were consulted regarding the proposed amendments to the by-laws

and appropriate notice has been provided as per the requirements for the amendment of designation by-laws under the Ontario Heritage Act. During the consultation process, owners were able to review and provide comment on the new statements of significance and designated heritage attributes identified in the appended draft by-laws, which goes beyond the consultation and notice requirements under the Act.

At that time, amendments were drafted for five additional properties but were not brought forward to Council. These properties are:

- 4249 Highway 7, Omemee (Emily Cemetery Chapel)
- 56 King Street, Woodville
- 121 King Street, Woodville
- 124 King Street, Woodville
- 145 King Street, Woodville

After following up with the owners in fall 2019, it was determined that the owners believed that their by-laws were being updated in 2018 with the other 47 by-laws which were updated at that time. The proposed amendments were reviewed and approved by the owners in 2018 and included in the appropriate public notice required under the Ontario Heritage Act. Staff believe that these by-laws were overlooked in error when the updated by-laws were brought forward to Council in 2018 and are now bringing them forward for amendment. The Municipal Heritage Committee reviewed these amendments at their meeting of August 6, 2020 and have recommended that the amendments be adopted.

4249 Highway 7 in Omemee was designated by a by-law from the former Township of Emily and is being revised to bring it into compliance with the 2005 changes to the Ontario Heritage Act, including providing a statement of cultural heritage value or interest for the property and more clearly identifying its heritage attributes. The four properties in Woodville were designated in 2010 but require amendments to provide statements of cultural heritage value that accurately reflects the evaluation criteria established by Regulation 9/06 and more technically accurate descriptions of heritage attributes. The content of the amendments does not change the protection of the properties, nor the owners' abilities to make changes to their properties, but rather provide clarity and transparency in the long-term protection of the property and bring these older by-laws into conformity with current legislative requirements.

The proposed amendments and original designating by-laws are appended to this report.

Other Alternatives Considered:

There is no requirement under the Act to update non-compliant by-laws. Council could choose not to amend the designation by-laws for these properties. However, this would mean the by-laws are not fully up to date with regards to the requirements under the Act. From a best practices perspective, this is not a recommended alternative.

Financial/Operation Impacts:

There are costs associated with the registration of designation by-laws on title for each property. These costs are covered under the existing Heritage Planning budget.

Relationship of Recommendation(s) To The 2020-2023 Strategic Plan:

In general, the designation of properties under Part IV of the Ontario Heritage Act supports the strategic priority of an Exceptional Quality of Life by supporting and promoting arts, culture and heritage. Designation recognizes and promotes heritage resources in the municipality and supports long-term heritage conservation and planning.

The amendment of heritage by-laws to reflect current legislative requirements also aligns with the municipality's guiding principle of Open and Transparent because it provides clarity for both property owners and the municipality regarding the heritage attributes of a property and its significance which can inform future decision making.

Consultations:

Municipal Heritage Committee

Attachments:

Appendix A – Township of Emily By-law 2000-14 (4249 Highway 7, Omeme)



Township-of-Emily-By
-Law-2000-14.pdf

Appendix B – Proposed Amendments to By-law 2000-14



2020 Bylaw
Amendment 4249 Hig

Appendix C – By-law 2010-091 (145 King Street, Woodville)



2010-091 Heritage
Designation - 145 King

Appendix D – Proposed Amendments to By-law 2010-091



2020 Bylaw
Amendment 145 King

Appendix E – By-law 2010-092 (56 King Street, Woodville)



2010-092 Heritage
Designation - 56 King

Appendix F – Proposed Amendments to By-law 2010-092



2020 Bylaw
Amendment 56 King

Appendix G – By-law 2010-093 (121 King Street, Woodville)



2010-093 Heritage
Designation - 121 King

Appendix H – Proposed Amendments to By-law 2010-093



2020 Bylaw
Amendment 121 King

Appendix I – By-law 2010-094 (124 King Street, Woodville)



2010-094 Heritage
Designation - 124 King

Appendix J – Proposed Amendments to By-law 2010-094



2020 Bylaw
Amendment 124 King

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