



## Committee of the Whole Report

Report Number ED2020-021

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**Meeting Date:** October 6, 2020

**Title:** Correction of Legal Descriptions in Heritage By-laws

**Description:** Correction of incorrect legal description in several heritage designation by-laws

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

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### Recommendation(s):

**That** Report ED2020-021, **Correction of Legal Descriptions in Heritage By-laws**, be received;

**That** staff be directed to proceed with the process to amend the legal descriptions in the heritage designation by-laws for 37 Colborne Street, 13 Lindsay Street, 2 Lindsay Street South, 17025 Simcoe Street and 45 Russell Street West, including the preparation and circulation of the notices required under the Ontario Heritage Act and the preparation of the amending by-laws;

**That** the amending by-laws be brought forward to Council at the next Regular Council meeting following the end of the notice period.

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## **Background:**

Section 30.1 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. Amendments to the legal descriptions of properties may be required due to error in the original description, to update the legal description of older by-laws, or as a result of a severance, lot consolidation, or development agreement.

There are five designation by-laws which were passed by the City of Kawartha Lakes in 2018 where, after passage, the legal description was found to be incorrect. As a result, these by-laws have not been registered on title for the subject properties. These properties are:

- 37 Colborne Street, Fenelon Falls (Old Post Office), By-law 2018-142
- 13 Lindsay Street, Fenelon Falls, By-law 2018-143
- 2 Lindsay Street South, Lindsay (Academy Theatre), By-law 2018-163
- 17025 Simcoe Street, Manilla (Manilla Library), By-law 2018-178
- 45 Russell Street West, Lindsay (St. Paul's Anglican Church), By-law 2018-167

The by-laws for these properties are attached as Appendices A through E.

In order to register the by-laws on title for these properties, Council must amend the designating by-laws under the process required by Section 30.1 of the Act. Under this section of the Act, Council must consult with its Municipal Heritage Committee regarding the proposed amendments and serve notice on the owners of the property regarding the proposed amendment and its purpose. After the notice is served and the notice period elapsed, Council may then pass an amending by-law to correct the legal description.

At its meeting of September 10, 2020, the Kawartha Lakes Municipal Heritage Committee reviewed the proposed amendments, as required by the Act, and passed the following motion:

**KLMHC2020-35**

**Moved By** R. Macklem

**Seconded By** W. Purdy

**That** Report KLMHC2020-18, **Heritage By-law Amendments**, be received; and

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

**Carried**

This report addresses that direction.

### **Rationale:**

In 2018, the City updated 47 heritage designation by-laws to bring them into compliance with current requirements under the Ontario Heritage Act. Staff undertook a process which involved extensive consultation with property owners and the drafting of new designation by-laws with clear statements of cultural heritage value and detailed descriptions of the properties' heritage attributes. These amended by-laws were passed by Council at its meeting of September 25, 2018.

In the summer of 2019, staff were informed that the legal descriptions for a number of properties, noted above, were incorrect on the by-laws that had been passed by Council in 2018. As a result, the by-laws for the affected properties have not been registered on title as required by subsection 29(6) of the Ontario Heritage Act. Correct legal descriptions for these properties have now been identified. In order to register the by-laws on title for the properties, corrections to the legal descriptions are required. Correcting the legal descriptions requires an amendment to the designating by-laws.

In addition to the incorrect legal descriptions, the address of 13 Lindsay Street in Fenelon Falls was identified as 15 Lindsay Street and requires correction to reflect the accurate municipal address of the designated property. The reason for this discrepancy appears to be a severance in 2001 which removed a vacant portion of land from the property. This vacant portion, which is now addressed as 15 Lindsay Street, is currently owned by Hydro One. Under Ontario Regulation 157/10, Hydro One is a prescribed public body under the Ontario Heritage Act and, therefore, properties owned by the utility cannot be designated under Part IV of the Act. The property at 13 Lindsay Street contains the building identified as having historic value in both the original by-law, Village of Fenelon Falls By-law 1979-7, and the updated by-law, By-law 2018-143. This property is owned by a private owner. When the severance occurred, a by-law (By-law 2001-172) was passed to amend the legal description to reflect the new boundaries of the designated properties, but the correct municipal addresses for each property were not clarified at that time, nor was it corrected when the updated by-law was passed in 2018.

The proposed amendments do not change the content of the affected designation by-laws nor have any additional ramifications for the owners of the property, beyond ensuring that the technical information in the designating by-laws is correct and that they are registered on title. If the legal descriptions for these properties are not amended, they are not able to be registered on title for the subject properties. As a result, a title search performed on the property would only identify the older designation by-laws, and not their updated versions. This is

a significant issue with regard to transparency and ensuring that any by-law registered on title is up to date and accurate. At the same time, the registration of designating by-laws on title of the subject properties is required by subsection 29(6) of the Act and, therefore, the City needs to ensure a correct legal description is included in its designation by-laws in order to fulfil this requirement under the Act.

### **Other Alternatives Considered:**

There are no recommended alternatives.

### **Alignment to Strategic Priorities**

The recommendations of this report support the strategic priority an Exceptional Quality of Life by supporting and promoting arts, cultural and heritage. The designation of property support heritage preservation in the municipality in general. The recommendations also support the strategic priority of Good Government by streamlining by-laws, policies and processes. The amendment of these by-laws ensures clarity and accuracy in the City's existing designation by-laws.

### **Financial/Operation Impacts:**

There are no financial or operational impacts resulting from the recommendations of this report.

### **Consultations:**

Municipal Heritage Committee  
Deputy Clerk  
Manager, Realty Services

### **Attachments:**

Appendix A – By-law 2018-142, 37 Colborne Street, Fenelon Falls (Old Post Office



2018-142-37-Colborn  
e-Street-Fenelon-Falls

Appendix B – By-law 2018-143, 13 Lindsay Street, Fenelon Falls



2018-143-15-Lindsay-  
St-Fenelon-Falls-Amer

Appendix C – By-law 2018-163, 2 Lindsay Street South, Lindsay (Academy Theatre)



2018-163-2-Lindsay-S  
t-S-Lindsay-Amended

Appendix D – By-law 2018-178, 17025 Simcoe Street, Manilla (Manilla Library)



2018-178 17025  
Simcoe St Manilla Am

Appendix E – By-law 2018-167, 45 Russell Street West, Lindsay (St. Paul's Anglican Church)



2018-167-45-Russell-  
St-W-Lindsay-Amende

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**Department Head:** Chris Marshall, Director of Development Services