



Committee of the Whole Report

Report Number ED2021-001

Meeting Date: January 12, 2021
Title: Ontario Heritage Act Processes
Description: New Ontario Heritage Act processes as of January 1, 2021
Author and Title: Emily Turner, Economic Development Officer – Heritage Planning

Recommendation(s):

That Report ED2021-001, **Ontario Heritage Act Processes**, be received;

That property owners be provided with notice in advance of the listing of their properties on the Heritage Register in addition to the new statutory notice; 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:

In June 2019, the provincial government passed the More Homes, More Choices Act which made amendments to a number of pieces of planning-related legislation, including the Ontario Heritage Act. The amendments made changes to several heritage-related processes which the municipality undertakes, including the inclusion of property on the Heritage Register as listed properties and the review and approval of alterations to individually designated heritage properties. These amendments came into force on January 1, 2021.

This report addresses two changes to the legislation which may have an immediate impact on the City's heritage program, namely the listing of properties and the approval of alterations to individually designated properties. It also makes recommendations regarding the provision of notices for the listing of properties on the Heritage Register.

Rationale:

Alterations to Individually Designated Properties

Changes have been made to the Act which change the definition of an alteration as opposed to a demolition, which, in turn, change the processes for owners of individually designated properties who wish to make changes to their property. Prior to the amendments, demolition, as defined by Section 34 of the Act, constituted the full or partial demolition or removal of a structure on a designated property, generally interpreted as an action that would require a demolition permit under the Ontario Building Code. The amended Section 34 reads:

34(1) No owner of a property designated under section 29 shall do either of the following, unless the owner applies to the council of the municipality in which the property is situate and received consent in writing to the demolition or removal:

1. Demolish or remove, or permit the demolition or removal of, any of the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29(12)(b) or subsection 29(19), as the case may be.
2. Demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property, whether or not the demolition or removal would affect the property's heritage attributes in the by-law that was required to be registered under clause 29 (12)(b) or subsection 29 (19) as the case may be. 2019, c. 9, Sched. 11, s. 12.

Prior to these amendments, nearly all alterations to individually designated heritage properties were delegated to staff and the Municipal Heritage Committee under the City's delegated authority by-law for heritage properties (By-law 2019-154). The delegation of authority is intended to increase efficiency

in the heritage permitting processes and make it easier for owners of designated properties to make changes to their properties. Alterations to individually designated properties are regulated under Section 33 of the Act which provides for delegated authority to staff. The primary exception was for the demolition or removal of a structure which, under the Act, requires Council approval. The amendments will now require Council to give approval for the removal of any heritage element of a property, as well as the publication of a statutory notice in a local newspaper, following the process for demolitions under Section 34. In practice, applications which fall under this category will be received by staff before proceeding to the Municipal Heritage Committee for a recommendation. The application and committee recommendation will then proceed to Council which can approve or deny the application. The owner may appeal Council's decision to the Local Planning Appeals Tribunal. There is no scope in the Act to delegate authority under Section 34. The amendment will make the alteration application process more onerous for owners who wish to make changes to their heritage property that involve the removal of any heritage attributes.

This amendment does not impact alteration applications for properties which are designated under Part V of the Act as part of a heritage conservation district. It only impacts proposed changes to individually designated properties.

Listing Properties on the Heritage Register

Prior to the amendments, there were no provisions under the Act for notifying owners regarding the listing of their properties on the Heritage Register, nor was there a formal objection and appeals process for owners who did not want their property included on the Register. The amendments now require that an owner be notified within 30 days of having their property listed on the register by Council. If they object to the listing at that time, they may then file an objection with the Clerk of the municipality. The objection is heard by Council which may choose to remove the property from the Register or leave it as a listed property.

Presently, the City notifies owners prior to listing their property on the Heritage Register. This notice is a courtesy notice and designed to provide information, to allow owners to ask questions and for clarification, or to object formally to Council when the staff report detailing the proposed listing is received. The notices are sent because of the following Council resolution from its meeting of December 12, 2017:

CR2017-1051

Moved By Councillor Macklem

Seconded By Councillor Miller

Resolved That Report ED2017-022, **Adding Listed Properties to the Heritage Register**, be received;

That staff be directed to add a Section Two: Properties of Potential Heritage Value or Interest section to the Kawartha Lakes Heritage Property Register;

That the Municipal Heritage Committee identify and include properties of potential heritage interest and value in Section Two of the Heritage Property Register; and

That the property owners be notified of inclusion on the list and of the nature of the listing.

Carried

The notification of owners prior to the inclusion of their property is recognized as a best practice throughout Ontario and has proven effective in Kawartha Lakes in communicating with property owners and educating them about the role of listing in municipal heritage planning. Both staff and the Kawartha Lakes Municipal Heritage Committee are recommending that this practice continue, in addition to the new required statutory notice. At its meeting of November 19, 2020, the Committee passed the following motion:

KLMHC2020-56

Moved By R. Macklem

Seconded By J. Garbutt

That Report KLMHC2020-29, **New Ontario Heritage Act Processes**, be received;

That property owners be provided with notice in advance of the listing of their properties on the Heritage Register in addition to the new statutory notice; and

That this recommendation be forwarded to Council for approval.

Carried

In addition to the new statutory notice, the courtesy notices sent to owners in advance of listing will ensure transparency in City heritage processes and create an open dialogue between the owners of heritage properties and the municipality.

Other Alternatives Considered:

Council could choose not to endorse the provision of a second notice to owners of properties prior to their listing on the heritage register. However, this is not a recommended alternative from the perspective of openness and transparency.

Alignment to Strategic Priorities

The notification of owners prior to the listing of their property on the Heritage Register aligns with the Strategic Priority of Good Government by ensuring transparent decision making and a high level of service and communication to property owners.

Financial/Operation Impacts:

There will be additional costs with mailing extra notices to owners regarding the listing of their properties on the Heritage Register. These costs can be covered by the existing Heritage Planning budget.

Consultations:

Kawartha Lakes Municipal Heritage Committee

Attachments:

n/a

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Department Head: Chris Marshall, Director of Development Services