



The Corporation of the Town of Tecumseh

Legislative & Clerk Services

To: Mayor and Members of Council

From: Robert Auger, Director Legislative Services & Clerk

Date to Council: March 28, 2023

Report Number: LCS-2023-10

Subject: Town of Tecumseh Heritage Advisory Committee

Recommendations

It is recommended:

That Report LCS-2023-10 Town of Tecumseh Heritage Advisory Committee **be received;**

And that the Town of Tecumseh Heritage Advisory Committee, **be dissolved;**

And further that going forward any requests for heritage listing or designation **be administered** through the Town of Tecumseh Development Services Department.

Background

At the Regular Council Meeting held on December 13, 2022, [Report CAO-2022-11](#) entitled “Non-Statutory Advisory Committee Review” was presented to Council which highlighted an administrative review of the Town’s non-statutory advisory committees. Administration advised that given the recent royal assent of *Bill 23, More Homes Built Faster Act 2022* (Bill 23), a further review of this legislation was needed regarding the *Ontario Heritage Act* (OHA) amendments and the effects on the Town’s Heritage Committee.

Historical Context

Following amalgamation, the Town's Heritage Committee (Committee) was established. The scope of the Committee is to advise Council generally on local heritage matters. While the formation of a Heritage Committee is not itself a statutory requirement, if such a committee is appointed, there is a statutory requirement to consult with it regarding non-designated properties and their listing or removal from the Municipal Register, (the official list of designated and non-designated cultural heritage properties) as per Section 27 (4) of the Ontario Heritage Act (OHA):

Consultation

(4) If the council of a municipality has appointed a municipal heritage committee, the council shall, before including a property that has not been designated under this Part in the register under subsection (3) or removing the reference to such a property from the register, consult with its municipal heritage committee.

Historically, nine (9) members have been appointed to this Committee with each term of Council, along with an allocated staff member to assist with agenda and meeting administration.

Over recent years, the Committee's main role from a Heritage Act perspective has been focused on assisting the Town in the establishment and maintenance of Section 27 Municipal Register Property Listing (hereinafter "Listing") which is a means to formally identify properties that have cultural heritage value or interest to the community. To date there are only a few properties listed on the registry: namely Banwell Cemetery (Banwell Road Black Settlement Area), St. Anne's Church, St. Anne's Cemetery, Baillargeon House, Lacasse Park, Tecumseh & Area Historical Society including Log Cabin and Sheds.

Only one property has proceeded to the next step of moving from the list to being "designated," being the Banwell Road Black Settlement Area. Based on these limited numbers and the fact that no private properties have been placed on the Listing since the Committee's inception, it would seem the Committee's role in this area has been rather limited and/or private properties have not been found which adequately meet the requirements for placement on the Listing.

Pre-Bill 23 Council could issue a notice of intent to designate an individual property pursuant to section 29 of the *OHA*. The pre-Bill 23 process for a historical designation included the following:

- a) Identifying the property as a candidate for designation;
- b) Researching and evaluating the property;
- c) Serving Notice of Intent to Designate with an opportunity for objection;

- d) Passing and registering the designation by-law;
- e) Listing the property on the municipal register, and
- f) Listing on the provincial register.

Pre-Bill 23, in order to complete this process, the municipality had to demonstrate that the property meets one of the criteria defined in O. Reg 9/06 and if able to do so the subject property would receive designation under Part IV of the *OHA*.

Comments

Changes Due to Bill 23

Bill 23, More Homes Built Faster Act, 2022, was introduced at the Provincial Legislature for First Reading on October 25th, 2022. The Bill was passed on November 28, 2022 and received Royal Assent the same day. It is now in effect. Bill 23 implements recommendations from the [Ontario Housing Affordability Task Force Report](#) and introduces extensive changes to a number of Acts and regulations including the *Development Charges Act*, *Planning Act*, *Municipal Act*, the *Ontario Heritage Act* and others.

Bill 23 has the stated aim of increasing housing supply in the Province. With this objective in mind, Schedule 6 of Bill 23 makes several changes (that are now in force and effect) to the OHA with the intent of helping to remove barriers to housing development by upgrading how heritage properties are identified and conserved by municipalities and the Province of Ontario.

There are several key themes in these amendments which are highlighted below:

1. Municipal Register

Changes in Bill 23 related to the Municipal Register include:

- Requiring the Clerk of the municipality to include the “Heritage Registry” with information on both designated and listed properties on an accessible public website. The Town already has its heritage registry showing all designated and listed properties available on the Town’s website;
- Requiring properties that are to be included on the registry to meet a new test for inclusion. This test will require that even a “listed” property now meet one or more of nine prescribed criteria. Further, post-Bill 23, the threshold for designating a property has been elevated through changes to O. Reg 9/06. These changes now require that a property may only be designated if it meets two or more of the nine criteria for determining whether it is of cultural heritage value or interest. As a result any cultural heritage value or interest listed

properties will now require a “reassessment” against what are believed to be more rigorous criteria for determining if a particular property should be on or off the listing and ultimately if it should be designated;

- In addition to the proposal to have listed properties meet a specific set of criteria for inclusion on the register, Bill 23 introduces a time limit for how long a property can remain on the register without being designated. Currently the Town has 5 properties of Cultural Heritage Value or Interest. Previously there was no time limit for remaining on the register. Under Bill 23, the Town will have two years from the date a property is listed to begin the designation process under section 29 of the OHA. If the Town fails to do so within the two-year window, the property will be removed from the register. For the Town of Tecumseh this again means that the Town will have two years to analyse these and any other such properties in the future and make a decision based, on the new criteria, to move forward with designations on these properties or remove them from the register. Again this introduces the need to carefully weigh and make informed/ expert decisions or recommendations against the challenge of a specified timeline and new, more rigorous criteria/regulations;
- In addition to the timeline to move forward a designation on listed properties, any property which has been removed from the register will not be able to be relisted on the register for five years. At present no such provision on relisting is in force;
- All property owners of listed properties will be able to object to the listing of their property regardless of when the property was listed – the grounds for objection have not been defined, nor have appeal limits; and
- Consultation with municipal heritage committees will no longer be required for deletions from the register.

2. Changes in Relation to Criteria for the Designation of Individual Properties:

The changes in Bill 23 related to the Designation of Individual Properties now includes additional criteria for a designation as well as the need to now meet two or more of the criteria to be advanced.

Additionally, Bill 23 applies more stringent provisions requiring properties to be removed from the heritage register if a notice of intent to designate is issued and any of the following occur:

- Council withdraws its notice of intention to designate;
- Council does not pass a by-law designating the property within 120 days after the notice of intention to designate is publicized, or in other prescribed circumstances; or

- A by-law passed by Council is subject to an appeal to the Ontario Land Tribunal, where the Tribunal repeals the by-law or directs that the by-law be repealed; and
- Any property which has been removed from the registry will not be able to be relisted on the registry for five years.

3. Changes in relation to Heritage Conservation Districts:

Under Part V of the OHA, municipalities may designate a grouping of properties that are of local cultural heritage value or interest to form what is known as a Heritage Conservation District (HCD). Different from individual heritage property designations which focus solely on the structures and attributes of one particular property, typically a Heritage Conservation District looks at a grouping of properties and their significance. A Part V designation allows Council to manage and guide change in a specific identified area. Currently, the Town does not have any Heritage Conservation Districts.

The changes in Bill 23 related to HCDs include:

- For the designation of new HCDs, the area defined by the HCD plan will be required to meet prescribed criteria affirming cultural heritage value or interest. These criteria have been established through revisions to O. Reg. 9/06 that align with what is established for the designation of individual properties under section 29 of the Ontario Heritage Act.

Bill 23 and the revisions to O. Reg 9/06 will require Council to follow a specific process should it wish to establish an HCD. Pre-Bill 23, the Act does not provide direction on a process to amend or repeal an HCD or HCD plan. Again, these changes mandated by Bill 23 relating to new HCDs has introduced additional criteria that will require more in-depth or expert review and knowledge of those future regulations and their applicability.

In summary, it would appear that the changes to the OHA are consistent with the primary objective of Bill 23, which was to remove barriers that may be slowing down housing construction.

Heritage Committee

As previously noted, section 28 of the OHA states that the council of a municipality may by by-law establish a municipal heritage committee to advise and assist the Council on matters relating to heritage properties and buildings. While Town Council historically established this Committee to assist the Town with the administration of the Act, the Committee over the past approximately 23 years has only listed five sites and designated just one site. Notwithstanding the good work undertaken by the Committee

to accomplish this, it does raise the question of the need for an additional committee of Council to assist the Town in assessing heritage and whether it is necessary any longer.

Furthermore, it is respectfully submitted that the legislative and regulatory changes made as a result of Bill 23 will now make the role of navigating through the Ontario Heritage Act more challenging. Against the additional backdrop of shorter timelines, determining or making decisions on property designations, property listings, removal from listings, and requests for demolitions will now require a much greater level of knowledge, staff resources and level of analysis than the traditional consultative approach using a committee of community members appointed by Council.

Further, and due to the more restrictive approach that the new legislation takes towards designations, any decisions on heritage matters will also require greater defensibility with any decisions made being based not only on sound or best principles but also accurate interpretation and application of the new legislation, regulations and criteria.

Accordingly, the new legislation demands that the Town's resources be better utilized by placing and shifting to increased reliance on Town staff who can provide and conduct that higher or more in-depth level of analysis in making recommendations to Council on heritage decisions. It is respectfully submitted that the Town planning staff in Development Services can ensure that the requirements of the Act are met, while relying on external expertise in heritage planning if the need arises. The past 23 years of Town experience suggests that there is a relatively low likelihood for the emergence of significant heritage assets for consideration by the Town.

Upon reflection of the preceding, it is believed that the traditional approach to such decisions via the utilization of a Council-appointed committee of community members is no longer considered the most effective and efficient means of meeting the requirements of the Act, particularly given the complexity of the new legislation and the historically limited inventory of heritage assets at the Town.

It is recommended therefore that the Town Heritage Committee be dissolved. If the Town, or a private property owner, wishes to pursue a heritage designation, Town planning staff in Development Services can assist with ensuring compliance with the new legislation requirements when providing recommendations to Council on making heritage decisions.

This recommendation is not to imply that there is no role for public consultation. The legislative process for heritage designations requires a period of public notice, and passing of a by-law which would be presented for Council's consideration at a regular Council meeting. Community heritage groups or persons can certainly continue to consult with Council and Administration throughout the heritage designation process. Notwithstanding this recommendation, Administration acknowledges the contributions of the Heritage Committee to date and thanks each committee member for their participation on this Committee. Accordingly, Administration will invite each heritage

committee member from the 2018-2022 term to the Town's Volunteer Appreciation event to be held on Thursday, April 20, 2023 to honour their service to the Town.

Consultations

Development Services

Financial Implications

The Heritage Committee in previous years had an annual budget of \$2,000 which was eliminated in the 2023 Operating Budget.

Link to Strategic Priorities

Applicable	2019-22 Strategic Priorities
<input type="checkbox"/>	Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.
<input type="checkbox"/>	Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.
<input type="checkbox"/>	Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.
<input checked="" type="checkbox"/>	Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.
<input type="checkbox"/>	Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals.

Communications

Not applicable

Website Social Media News Release Local Newspaper

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Jennifer Alexander, MPA
Deputy Clerk & Manager Legislative Services

Reviewed by:

Robert Auger, LL.B.
Director Legislative Services & Clerk

Reviewed by:

Brian Hillman, MA, MCIP, RPP
Director Development Services

Recommended by:

Margaret Misek-Evans, MCIP, RPP
Chief Administrative Officer

Attachment Number	Attachment Name
None	None