



Corporation of the City of Cambridge
Special Council Meeting
No. 03-21

Thursday, January 28, 2021
Virtual Meeting
5:00 p.m.
AGENDA

Due to COVID-19 and recommendations by Waterloo Region Public Health to exercise social distancing, members of the public are invited to submit written comments or requests to delegate via telephone related to items on the agenda.

The public wishing to speak at Council may complete an online [Delegation Request form](#) no later than 12:00 p.m. on the day of the meeting for Special Council Meetings occurring at 5:00 p.m. and no later than 12:00 p.m. the day before the meeting for Special Council –Statutory Public Meetings occurring at 10:00 a.m.

All written delegation submissions will be provided to the Mayor and Council prior to the meeting, and will form part of the public record.

This special council meeting is being held in regard to the recent emergency demolition order issued by the Chief Building Official on the property known as the former Preston Springs Hotel at 102 Fountain Street South. Council will discuss reports from staff focusing on an update from the Chief Building Official on events leading up to the order, and existing heritage protection and conservations practices including options to enhance and strengthen processes particularly for privately owned heritage structures.

Meeting Called to Order

Disclosure of Pecuniary Interest

Consideration of Reports

Community Development

1. 21-056(CD) Preston Springs Site History re: Emergency Order

2. 21-048 (CD) Preserving and Protecting Heritage in Cambridge

PP. 12 - 29

Unfinished Business

Notice of Motion

Confirmatory By-law

21-005 Being a by-law to confirm the proceedings of the Council of the Corporation
of the City of Cambridge

Close of Meeting

To: COUNCIL

Meeting Date: 01/28/21

Subject: Preston Springs Site History re: Emergency Order

Submitted By: Dennis Purcell, Chief Building Officer

Prepared By: Dennis Purcell, Chief Building Officer

Report No.: 21-056(CD)

File No.: C1101

Recommendation

THAT Report 21-056(CD) Preston Springs Site History re: Emergency Order be received for information.

Executive Summary

Purpose

This report is provided as information to Council on recent events surrounding the site at 102 Fountain Street South known as the Preston Springs Hotel.

It is intended to provide a summary of recent events and activities on site related to the issuance of an Emergency Order in December 2020 and subsequent demolition of the building.

Key Findings

Under the Building Code Act of 1992, the Chief Building Officer had the authority and the imperative to issue an Emergency Order for the property at 102 Fountain Street South in order to protect the public from a significant public safety risk.

Financial Implications

The City will initially incur the cost of the demolition. An estimate for the demolition was provided in the amount of \$200,000. The final cost of the demolition will be recovered from the property owner, upon confirmation of the Emergency Order at the Superior Court of Justice. The City will pursue 100% recovery of costs incurred, subject to approval by the Superior Court of Justice.

Background

The private property at 102 Fountain Street South, known as the Preston Springs Hotel and designated as a heritage property under Part IV of the *Ontario Heritage Act*, had been boarded-up, vacant and exposed to the elements for 30 years.

Over that period, the City had endeavoured to work with several owners and proposals to restore the dilapidated building. However, a viable solution proved complicated and cost-prohibitive. Furthermore, there had been significant issues in terms of structural deterioration, safety, vandalism, trespassing, and other ongoing challenges of securing the building. These issues contributed to the condition of the property which was in an advanced state of deterioration and structural decay.

Cambridge is a city rich with history and architecture, and it is always the City's preference to work with private owners to preserve its past and to respect heritage designations.

The following is a chronology of what occurred leading up to the issuance of an Emergency Order under s. 15.10 of the *Building Code Act, 1992*:

- **November 6, 2019** - Minimum Standards Order was issued to the owner for an engineer's report assessing structural soundness.
- **December 16, 2019** - engineer's report was submitted to the City and shown to the Chief Building Official.
 - The CBO arranged to have a peer review of the report completed by a separate engineering firm.
- **January 8, 2020** - the CBO attends the site with engineers to inspect the structure.
- **January 13, 2020** - separate engineer's report received confirming the findings of initial engineering report submitted to Property Standards Officer.
- **January 22, 2020** - the Chief Building Official (CBO) issued an unsafe order on the property. Based on the two independent engineering reports that identified numerous concerns with respect to the deterioration of the building, unsafe conditions, security issues and significant challenges to addressing those concerns and conditions, and that recommended demolition, the Chief Building Official determined that demolition of the structure was the necessary action to be taken to address public safety:
 - This order directed the owner to obtain a demolition permit, comply with the *Ontario Heritage Act*, and remove the structure.

- The heritage designation needed to be removed to allow for the issuance of a demolition permit.
 - Conditions of the demolition permit included a salvage plan for any relevant heritage attributes.
 - Processes under the *Ontario Heritage Act* were considered in the timing of the unsafe order to be complied with by the end of June 2020.
- **January 28, 2020** - the CBO presented a report for Council outlining the significant concerns and structural issues at the property. Council voted to repeal the heritage designation for the Preston Springs Hotel property. This commenced a 30-day notice period for the public to file objections.
 - **February 20, 2020** - MHAC considered report 20-041(CD) from the CBO respecting the existing condition of the building at 102 Fountain St. S., and the Order to Remedy an Unsafe Building issued with a direction to demolish. MHAC passed a resolution indicating that the Preston Springs Hotel still has cultural heritage value.
 - **March 6, 2020** - the 30-day notice period to file an objection ended. The ACO Cambridge opposed the de-designation and filed an appeal with the province's Conservation Review Board for a hearing. The City again ordered the owner to make the property secure during this period.
 - **August 7, 2020** - the CBO received an email from the lawyer for the owner, submitting an application under subsection 34(1) of the *Ontario Heritage Act* to the City which requested that Council consent to the demolition of the Preston Springs Hotel.
 - **October 21, 2020** - The Conservation Review Board held a pre-hearing place. At that time no official hearing date had been assigned to review the ACO's appeal.
 - **November 3, 2020** - Council met to discuss owner's demolition application. Council was required to make a decision within 90 days of receiving the application.
 - After a review of the City's Official Plan it was further determined that there existed a restriction on Council's ability to deal with the application. The Official Plan requires Council to de-designate the property before any demolition can take place.

- Due to the process already underway with the CRB and the restrictions under the Official Plan, Council decided not to consent to the owner's request to demolish.
 - The owner intended to appeal the decision of Council to the Local Planning Appeal Tribunal (LPAT).
- **November 8, 2020** - The CBO conducted a site visit with a structural engineer for an updated status of the structure. The owner, the owner's engineer were accompanied by two officers from Cambridge Fire Department at the site.
 - **November 13, 2020** - A subsequent engineer's report received by the CBO reiterated what was set out in the previous engineer's reports, namely, the advanced state of deterioration of the building, its security challenges and a call for demolition of the structure.
 - **December 2, 2020** – In consultation with the City Solicitor, the CBO received an external legal opinion supporting the CBO's authority and ability to issue an Emergency Order. The opinion further clarified that while the preservation of heritage and the protection of public safety are both important societal goals, it was not the intent of the legislation to allow buildings to endanger the health and safety of people in an attempt to protect heritage.
 - **December 10, 2020** - Fire Order issued to owner to secure the property. Fire Prevention officers were doing weekly perimeter walks of the structure and reported breaches in the securing of the structure.
 - **December 21, 2020** – The CBO met with members of corporate leadership to inform them of his decision to issue an Emergency Order to protect public safety and to explain the process of an Emergency Order.
 - It was further discussed as to steps required to inform Council of the decision prior to the issuance of the order and a communication plan.
 - **December 23, 2020** – The CBO met with Council to inform members of his decision to issue an Emergency Order.
 - **December 24, 2020** - The CBO exercises his authority under s. 15.10 of the *Building Code Act, 1992* to issue an Emergency Order to proceed with the demolition of the vacant building on Fountain Street St. S, to ensure public safety.
 - The Emergency Order was served to the owner the morning of December 24.
 - The City issued a media release immediately following the issuance of the Emergency Order.
 - The CBO described the building as an immediate threat to public safety and cited the most recent engineering report which reiterated the structural concerns, as well as persistent and recurring security breaches.

- Further directs that a heritage salvage plan completed by the firm McCallum Sather that specializes in heritage conservation, be followed. Their heritage team reviewed the building to create a historic record and provided direction as to which items should be saved for historical significance
 - The demolition contractor, with experience in cultural heritage demolition, salvaged the entrance door, fountain, retrieved stonework around the fireplace, window trim and selected millwork, the bannisters from the main lobby staircase, stone wall, pilaster at the front entrance, and mosaic tile.
 - The tower was not identified in the salvage plan nor was part of the original structure – it was a replica constructed of light gauge steel around 1999.
 - This is a private property and the owner owns these elements. However, the City will be working with the owner to find options to preserve these pieces.
- **December 31, 2020** - Arrangements were made with the Region and the City's Roads Division to remove traffic lights and close the intersection at Fountain St. S. and King St. to allow the demolition to commence.
 - Security was posted at the site 24/7 during the course of the demolition. Despite this additional security measure in place, it was reported that 4 teenagers were observed the night before demolition started, running from within the structure towards Shantz Hill.
 - A handful of vocal protestors attended the site. Later that morning one of the protestors showed the CBO on their phone a document they claimed was an injunction. The document was emailed to the CBO. It was a court endorsement (not a formal injunction) obtained on an *ex parte* (without notice) basis. Legal advice was provided that the CBO in good faith should halt further demolition until the situation was clarified. The court endorsement indicated an interim injunction (in effect until January 8, 2021) would be granted subject to the ACO providing an undertaking as to damages and submitting a sworn affidavit. The City's external solicitors contacted legal counsel for the ACO requesting a case conference before the judge who had issued the endorsement. Before the case conference could be arranged, the ACO solicitor notified the court that the application of the injunction would be withdrawn and abandoned. Demolition continued later that afternoon.
- **January 4, 2021** - The structure is completely demolished. The road was reopened by 9 pm with one lane closure remaining to accommodate a clean-up of the site which is estimated to take approximately 4 weeks.

Analysis

Strategic Alignment

PEOPLE To actively engage, inform and create opportunities for people to participate in community building – making Cambridge a better place to live, work, play and learn for all.

Goal #1 - Community Wellbeing

Objective 1.1 Work with partners to create a safe, inclusive and accessible city.

Public safety remains the primary responsibility of the City. The Emergency Order was issued to remove an extremely dangerous situation and to secure the safety of the public.

Comments

Operational Issues:

Due to the unsafe condition of the structure, approaching winter weather, its proximity to a public roadway and the ongoing challenges of securing the structure from determined trespassers, there was an immediate danger to the health and safety of the public. This danger extends to emergency personnel, first responders and City staff.

Under section 15.10 of the *Building Code Act, 1992*, where there is immediate danger, an Emergency Order may be made by the CBO, who has the independent statutory authority to take any measures necessary to terminate the danger. The CBO is required to apply to the Superior Court of Justice for an order to confirm the Emergency Order and the court will hold a hearing for that purpose.

The courts have recognized that both the *Ontario Heritage Act* and the *Building Code Act, 1992* should be construed purposively and liberally to give full effect to their purposes:

- The primary purpose of the *Ontario Heritage Act* has been identified as allowing municipalities to effectively preserve Ontario's heritage.
- The primary purpose of the *Building Code Act, 1992* has been identified as promoting and protecting public safety in respect of buildings.
- While both are important societal goals, it cannot have been the intent of the legislation to allow buildings to endanger the health and safety of people in an attempt to protect heritage.

The CBO exercised his authority under the *Building Code Act, 1992* to issue an Emergency Order and proceed with demolition of the structure to remove an extremely dangerous situation and to secure the safety of the public. The CBO was on-site all day, every day of the demolition and in constant communication with the contractor and corporate leadership. The CBO was always available to the media and did several interviews. Each day, the CBO interacted with many residents who had gathered at the site to observe the demolition.

Corporate Impact:

The demolition of the Preston Springs Hotel has been polarizing and has elicited much response from the media and the community. While there has been much support for the action, there are members of the community, and particularly in the heritage community, who are most upset about the action taken and have been very vocal in their criticism of Mayor, Council and the CBO.

The loss of this local iconic structure is being mourned. It is challenging to strike an exact balance between preserving heritage and protecting public safety. One must give way to the other in some instances. Opportunity will be taken corporately to review what can be done so that structures of heritage significance are not left to a point where emergency enforcement action remains the only option.

Existing Policy/By-Law

Applicable provincial legislation includes the *Building Code Act, 1992*

Financial Impact

The City will initially incur the cost of the demolition. An estimate for the demolition was provided in the amount of \$200,000. The final cost of the demolition will be recovered from the property owner, upon confirmation of the Emergency Order at the Superior Court of Justice. The City will pursue 100% recovery of costs incurred, subject to approval by the Superior Court of Justice.

Under section 15.10 of the *Building Code Act*, the CBO must apply to the Superior Court of Justice for an order confirming the Emergency Order. In disposing of the application, the court has the power to confirm, modify or rescind the order and to determine whether the amount spent on measures to terminate the danger may be recovered in whole, part or not at all. The CBO will be in a position to apply to Superior Court upon receipt of final invoice for the demolition.

Public Input

The emergency order and demolition has generated significant media coverage and input from the public.

This report is posted publicly as part of the report process.

Internal/External Consultation

Internal:

Building Services, Planning Services, Engineering, Legal Services, City leadership; City Council, Cambridge Fire

External:

Building owner, structural engineer, outside counsel, outside heritage conservation consultants

Conclusion

The burden of the decision made to issue an Emergency Order was an extremely heavy one and was made with the utmost of consideration, consultation and legal advice. The structure at 102 Fountain St. S. was in an advanced state of deterioration and was declared to be unsafe by the CBO in January 2020. Based on two independent structural engineer reports, the action called for – to remedy the unsafe condition – entailed demolition, which initiated processes under the *Ontario Heritage Act* to de-designate the building before demolition could occur. Every effort had been made to respect the heritage processes but the danger to the public and the responsibility borne by the CBO to protect public safety did not take a hiatus as the building continued to be unsafe and present security challenges. A determined faction of the community continued to break into the building. Given these realities, there was grave concern of the structure going through another winter and the approach of harsh winter weather that would exacerbate the break-ins and lead to a further deterioration and damage of the structure. All of these factors, weighed together, presented an immediate danger to the public. Preserving heritage is important and valuable to the community but not at the expense of public safety. Delays to the demolition of the unsafe structure increased the circumstances of, not “if”, but “when”, someone was going to be seriously injured or tragically killed.

Signature

Division Approval



Reviewed by the CFO

Reviewed by Legal Services

Name: Dennis Purcell
Title: Chief Building Officer

Departmental Approval



Name: Hardy Bromberg

Title: Deputy City Manager, Community Development

City Manager Approval



Name: David Calder

Title: City Manager

Attachments

- N/A



To: COUNCIL

Meeting Date: 01/28/21

Subject: Preserving and Protecting Heritage in Cambridge

Submitted By: Hardy Bromberg, Deputy City Manager – Community Development

Prepared By: Elaine Brunn Shaw, Chief Planner and Hardy Bromberg, Deputy City Manager – Community Development

Report No.: 21-048(CD)

File No.: R01.06

Recommendations

THAT Report 21-048(CD): Preserving and Protecting Heritage in Cambridge be received;

AND THAT Council consider additional options related to heritage conservation as outlined in the report.

Executive Summary

Purpose

In light of a recent emergency demolition order in the interest of public safety on the privately-owned Preston Springs property, which had been boarded up and vacant for 30 years, staff is providing Council with a report on current heritage practices.

- The purpose of this report is to summarize the resources the City of Cambridge contributes towards protecting and supporting heritage assets within the community;
- Outline the various tools the City of Cambridge uses to encourage the private sector in preserving additional heritage assets; and
- Provide Council with additional options to further protect and preserve these heritage assets in an effort to avoid emergency enforcement measures.

Key Findings

- The City of Cambridge is filled with history, heritage and architecture. The City is proud of our historic buildings and has worked hard to maintain them.
- The City has invested \$24,020,218 since 2010 preserving and maintaining the most significant heritage structures within the community, which equates to an annual investment of \$2,402,022.
- The City of Cambridge owns or manages 26 properties on the Heritage Register.
- The City of Cambridge has 1004 properties listed under the Heritage Act, as well as three Heritage Conservation Districts and one Cultural Heritage Landscape.
- Several options are included in this report for Council's information to expand, strengthen and protect the heritage portfolio.
- If Council wishes to explore these options, staff would report back to Council with recommendations.

Financial Implications

This report provides financial information about the status and implementation of the:

- Heritage Conservation Reserve Fund – balance of \$70,400 as of December 31, 2020.
- Heritage Grants administered by the Municipal Heritage Advisory Committee (MHAC) – annual amount of \$30,000 in previous years which has been reduced as a one-time cost containment measure to \$15,000 in 2021 due to unused funding in earlier years. At the time of writing of this report only one property owner has expressed interest in applying for funding by the January 31, 2021 deadline.
- Development Charges By-law's exemption of development charges for designated heritage properties
- The feasibility of establishing and implementing a Heritage Tax Rebate Program
- An additional full-time Senior Planner Heritage position

Background

This section examines the current heritage resources and programs adopted by Council to support and preserve those heritage attributes which make the City of Cambridge unique. The City's investment in heritage takes place in two areas: (1) Capital

investments on City-owned heritage assets; and (2) Support to private property owners of heritage assets in the community

Investments in City-owned heritage buildings

The City of Cambridge is fortunate to own some important cultural heritage resources including the Historic City Hall, the Hespeler Library (Idea Exchange), Riverside Park Gates, the Old Galt Post Office and David Durward & Arts Centre. Preservation of these assets involves capital investment by the City.

The following is a summary of works that the City has undertaken on City-owned properties in the past decade.

- Old Post Office purchase and restoration: \$15,205,567
- Historic City Hall restorations: \$3,988,588
- Hespeler Town Centre: \$374,193
- Mountview Cemetery: \$305,197
- Fire Hall Museum and Education Centre: \$1,205,000
- David Durward & Arts Centre: \$416,304
- Galt Little Theatre: \$305,369
- Preston Dam (Riverside Dam): \$1,020,000
- Purchase of Old Hespeler Post Office (Fashion Museum): \$1,200,000

The total cost of all of the above projects was \$24,020,218.

In addition to these capital investments over the past 10 years, the City's capital project forecast currently includes an additional \$10,892,000 between 2021-2030.

Support to Private Property Owners of Heritage Buildings in the Community

Under the current provincial legislation, there is no obligation for a property owner to undertake work beyond maintaining the building in a good state of repair, but any property owner can potentially take advantage of the City opportunities for support.

City supports the preservation and restoration of private property assets through:

- (a) Municipal Heritage Advisory Committee
- (b) Heritage Grant Funding
- (c) Maintaining a Heritage Register
- (d) The City's Planning Framework

(e) Heritage Conservation Easements

Municipal Heritage Advisory Committee

The City of Cambridge has appointed a MHAC since 1976, when it was known as the Local Architectural Conservation Advisory Committee (LACAC).

Generally, the (MHAC) assists Council to conserve our cultural heritage resources. Members of the Committee, which is made up of nine members of the public and one Council representative, participate in decision-making processes related to heritage conservation and designation and make recommendations to Council about items such as:

- Designation of heritage properties
- Including properties on the City's Heritage Register as designated properties or listed properties of interest (non-designated)
- Proposed alterations to designated properties
- Proposed building demolitions on designated or listed properties of interest
- Various studies with heritage considerations

An annual report and work plan are prepared and recommended by MHAC for approval by Council.

Heritage Grant Funding

Since 2004, the City provides to private property owners a Heritage Grant program to financially support heritage restoration work on properties that are designated under the Ontario Heritage Act. The City funds the grant, and the funds are administered through the MHAC). The grants are to be used for the acquisition, preservation and ongoing rehabilitation of heritage facilities or items of architectural/cultural significance and must be matched by the property owner. In recent years \$30,000 in grant funding has been available but not fully spent due to low number of applications. This year the grant program has \$15,000 allocated through the City's operating budget based upon the grant fund not being fully utilized and our pandemic cost containment plan.

Any unspent funds from this program are transferred to the Heritage Conservation Reserve Fund at year end.

In addition to the MHAC grant, funding may be available to some owners of designated properties through the:

- City's Building Revitalization Program which provides funding for façade improvements to buildings in the core areas. Designated heritage properties may be eligible for additional funding under this Program.

- Waterloo Regional Heritage Foundation. That Foundation receives an annual per-capita allocation from the Regional Municipality of Waterloo, for investment in heritage-related initiatives.

Heritage Register

The Ontario Heritage Act was created in 1975 to allow municipal councils to protect heritage properties within their boundaries. Designations protected against some inappropriate changes to the properties. The City of Cambridge voted in its first individual designation in 1977, for the Preston Public School at 601 Duke Street. Since then there have been about 140 individual designations, including 4 repeals. In 1985 Council approved the City's first heritage conservation district (HCD) for the south side of Main Street between Water Street and Ainslie Street; Council has since approved two more districts: Blair Village HCD, effective 2002, and Dickson Hill HCD City-owned lands in 2005. Copies of the District Plans and associated mapping are posted on the City's website.

The Register also includes non-designated, or "listed" properties. An "Inventory" was started in the late 1980s. Official Plan policies were in place by the late 1990s for Council to approve properties on the list. The Ontario Heritage Act was amended in 2005 to allow councils to prohibit demolition of designated properties, and also to review demolition of non-designated properties listed on a heritage register.

Currently the City's Heritage Register includes 1004 properties:

- 148 for individual designations
- 193 in heritage conservation districts
- 658 for individual listings as properties of interest (including 2 that have pending designations)
- Seven in the Black Bridge Cultural Heritage Landscape that are not otherwise designated or listed

Council approved the creation of the Black Bridge Cultural Heritage Landscape (CHL) in 2016 as an amendment to the City's Official Plan. This CHL was created as a result of an environmental assessment for Black Bridge Road and Townline Road to conduct infrastructure improvements for the Black Bridge area. The CHL provides an opportunity for heritage reviews of any future proposed development in this area including detailed design of any new infrastructure required as an outcome of the environmental assessment.

Once a property is designated, it means that the property is protected from demolition and alteration until a review can be done by staff, the Municipal Heritage Advisory Committee and Council through the applicable application process. Emergency Orders issued under the Ontario Building Code are exempt from this process in the interest of public safety. Designation also is a tool to recognize important local cultural heritage assets which in turn helps to foster a strong sense of community. It also makes these properties eligible for Heritage Grants, waiving of development charges and other financial programs.

Additionally, including non-designated properties on the Register helps to identify places which may yield potential cultural heritage value to warrant designation in the future. Cultural heritage resources throughout Cambridge also assists with guiding such activities as industry, tourism and other commercial uses and residences.

The City's Planning Framework

The City's land use planning framework also enables it to preserve non-City-owned heritage assets through the means of heritage studies, the Official Plan, and the Development Charges By-Law.

Heritage Studies:

Heritage studies are beneficial for identifying buildings within a specific geographic area that have cultural heritage significance. Identifying such buildings and properties then provides the City with the opportunity to approach property owners about including their land on the Heritage Register. The compilation of the heritage assessments may also encourage property owners to voluntarily request their property be designated under the Heritage Act or included on the Register as a listed property of interest.

Currently, Council has approved two such studies:

- a) Galt Core for a Heritage Conservation District - \$152,000 capital project currently underway. An information report about the terms of reference for that study is scheduled to be included on the February 16, 2021 Council meeting.
- b) East Galt Heritage Conservation District Study – a \$100,000 capital project which will build on the previous research started by the University of Waterloo to include information suitable for preparation of a heritage conservation district and individual architectural assessments as required by the Ontario Heritage Act.

In addition, two additional studies for a Heritage Master Plan Review & Update (2022) and a Heritage Character Area Study (Hespeler) (2024), are proposed in the capital forecast.

Official Plan:

The Official Plan is the City's policy document that guides the review of planning applications and long-range studies/environmental assessments. The current City Official Plan was adopted by Council in 2012.

Chapter 4 in the Official Plan relates to Cultural Heritage Resources This chapter provides guidance for the conservation of cultural heritage resources through the following:

- Designating properties under Part IV (individual) or Part V (HCDs) under the Ontario Heritage Act;
- Designating Cultural Heritage Landscapes through the Official Plan;
- Adding non-designated properties to the Register;
- The role of the Municipal Heritage Advisory Committee (MHAC); and
- The requirement of a Cultural Heritage Impact Assessment (CHIA) for a development application involving a property on the Heritage Register.

In accordance with the Planning Act, the City is proposing to undertake a review of the City's Official Plan in 2022 which includes Chapter 4.

Development Charges By-Law:

Council has approved the City's Development Charges By-law 19-094 which permits an exemption from development charges for various types of development and/or redevelopment of land or buildings where a building has been designated under the Ontario Heritage Act. In addition, a development allowance equivalent to the floor area for non-residential uses or number of units for residential uses, within an existing Designated heritage building, shall be credited to any additional development or re-development on the property provided the existing Designated building is retained and is an integral part of the development or redevelopment of the property. Any type of residential or non-residential development could qualify if the designated building is retained and additional floor area is added through an addition to the designated building or in a separate building on the same property while still also utilizing the designed building on the site.

Although there is no history of the private sector taking advantage of this type of exemption, it continues to be a financial incentive available to developers for the preservation of heritage buildings within the City.

Heritage Conservation Easements:

According to the Ontario Heritage Trust's website, designating properties under the Heritage Act cannot prevent demolition or loss due to neglect. The Trust goes on to suggest that a conservation easement is stronger, more comprehensive and more flexible than a designation. It is a private agreement registered on title to a heritage property that provides additional control over how the heritage asset is maintained. It also ensures adequate demolition control. And an easement can be tailor-made to suit the unique heritage character of the resource it protects.

An example of heritage conservation easement in place in Cambridge is for 102 Fountain St S, the former Preston Springs site as part of an earlier \$100,000 financial contribution from the City to a previous owner for improvements to the building (steel roof and stucco exterior façade). Although the use of an easement was ultimately not successful in this situation, the option of this tool remains available.

It is important to note that easements may impact the property owner's ability to obtain future financing, depending upon the lending institutions requirements making renovations or redevelopment of the property more challenging.

Analysis

Strategic Alignment

PLACE: To take care of, celebrate and share the great features in Cambridge that we love and mean the most to us.

Goal #3 - Arts, Culture, Heritage and Architecture

Objective 3.2 Conserve and make positive contributions to our heritage districts and buildings throughout the community.

This report identifies the various ways in which the City contributes to the conservation and restoration of many City-owned and privately-owned properties with cultural heritage significance.

Comments

The Background section of this report has provided a review of the investment, policies and grants that the City employs in order to preserve its heritage assets and support private property owners in the preservation of such assets.

Staff are putting forth options to consider should Council wish to expand and strengthen the scope of support and tools available to the City in its work in this area:

- 1) Review the Heritage Master Plan

- 2) Review approach for adding properties to the heritage register
- 3) Consider a heritage permit system
- 4) Review Site Plan Approval Process involving heritage properties
- 5) Review contributions to the Heritage Conservation Reserve Fund
- 6) Review the heritage grant program and strategies to promote participation
- 7) Consider a Heritage Tax Rebate Program
- 8) Expand the City staff resources with heritage expertise
- 9) Review the City's Property Standards By-Law incorporating designated heritage properties
- 10) Review Capital Maintenance schedule for City-owned heritage properties
- 11) Report Back on Changes to Provincial Legislation and Review Opportunities Therein

Each of these options is explored in more detail below:

1) Review the Heritage Master Plan

In September 2008 Council adopted a city-wide Heritage Master Plan. The Plan outlines a strategy for conserving Cambridge's Built Heritage Resources by identifying, valuing and protecting them. The recommendations from the Master Plan are carried out through MHAC's annual work plan. The City could include an update to this Master Plan in the proposed capital budget for 2022, which would update this strategy and provide recommendations for implementation.

2) Review Approach for Adding Properties to the Heritage Register

On November 6, 2018 Council chose a process for listing additional properties on the Heritage Properties Register. City staff would research a potential property before meeting with the property owner to discuss proceeding to designate the property or including the property as a property of interest on the Heritage Register. This results in the designation of approximately four properties per year as some property owners are not interested in proceeding despite time spent on the research. To potentially increase the number of designations, staff would propose reaching out to the owners prior to resources spent on research to determine which owners are willing to designate. This would save time and resources researching properties in which the current owner is not interested in a designation and may result in additional designations per year by concentrating resources to those interested property owners.

3) Consider a Heritage Permit System

In 2018, Council approved terms of reference for a heritage permit process study. As noted in the terms of reference for the study:

The purpose of this study is to identify the tools and policies that would best assist with long term heritage conservation of all designated properties in the city. The Study will determine if the City should implement a Heritage Permit process under the Ontario Heritage Act.

If a property owner wishes to make alterations to the exterior of a designated building, the owner is encouraged to contact the Senior Planner – Heritage to discuss the proposal. The Ontario Heritage Act states that a property owner must receive a “permit” to make alterations to their designated property. Currently, the City of Cambridge issues permits for alterations to designated properties through the building permit system under the Ontario Building Code Act (Building Code). However, some types of exterior work do not require a building permit under the Building Code. For example, changing roof materials, cladding materials or windows do not require a building permit, but are considered alterations under the Ontario Heritage Act. The objective of this review will determine how the City can review requests to alter a heritage building which is not regulated under the Ontario Building Code. The pros and cons of a heritage permit process will be examined as part of the analysis.

This project was planned to be resourced by sequencing it with two other significant heritage projects - the Galt Core Heritage Conservation District Study and Plan and the East Galt Heritage Conservation District Study. Once those are complete, staff planned to move forward with the heritage permit process review.

4) Review Site Plan Approval Process Involving Heritage Properties

By-law 68-10 was passed on April 19, 2010 to designate the City of Cambridge as a site plan control area and appoint site plan control officers. This by-law permits the Commissioner of Planning (now Chief Planner) to approve plans and drawings, impose conditions of approval and sign agreements for site plan control.

In cases where a development application such as an Official Plan and/or Zoning Amendment affects a cultural heritage resource, Council has the option of passing a resolution requiring the related site plan application to be brought to Council for a future decision.

In addition, where a Committee of Adjustment application affects a cultural heritage resource, Council has the option of passing a resolution requiring the related site plan application to be brought to Council for a future decision.

The result would be the site plan would permit input from the public, and require Council to provide the final site plan approval.

5) Review Contribution to the Heritage Conservation Reserve Fund

In recognition of the value of heritage properties in the City, a Heritage Conservation Reserve Fund was previously established for the purpose of investing in architectural conservation. The Reserve Fund has an estimated balance of \$70,400 as of December 31, 2020.

The current sources of revenue to the reserve fund include contributions from the operating budget, interest income and unspent funds in the annual heritage grant program. As per the City's Reserve and Reserve Fund By-law 19-144, the reserve fund is used for the acquisition, preservation and ongoing rehabilitation of heritage facilities or items of architectural or cultural significance. In the past three years one project has been funded from the reserve fund for the installation of a stained-glass window at Central Presbyterian Church.

Annual contributions of approximately \$12,000 over the past ten years have been made to the Heritage Conservation Reserve Fund. However, this continued level of contribution in future years may not be considered sufficient for future acquisitions, preservation and ongoing rehabilitation of heritage facilities or items of architectural or cultural significance.

A review of the City's reserves and reserve funds will be undertaken in 2021 to determine an appropriate target balance and to develop a strategy to ensure reserves and reserve funds are adequately funded to meet future obligations. This could include proposing a strategy for increasing the annual contribution to this Fund, as well as a variety of ways it can be disbursed for both City assets and privately-owned assets.

6) Review the Heritage Grants program and Strategies to Promote Participation

Cambridge has a long history of financially assisting owners of designated heritage properties with projects that conserve their properties. The City was doing this in 1981, six years before the Province of Ontario introduced their designated properties grant program which ran for eight years. The Heritage Grant Fund is part of the City's annual operating budget. It has been set at \$30,000 annually since 2004, except for 2021 as a pandemic cost containment measure, which reduced this year's operating budget by \$15,000.

Uptake of the heritage grant program has not fully utilized funding in previous years. The City could review the parameters around this program and look at potential changes to increase uptake within the community.

7) Consider a Heritage Tax Rebate Program

Under section 365.2 of the Municipal Act, a local municipality may establish a program to provide tax reductions or refunds for eligible heritage property that are designated under Part IV of the Ontario Heritage Act or are part of a heritage conservation district under Part V of the Ontario Heritage Act.

The Program allows a local municipality to provide a reduction or refund between 10 and 40 percent of the taxes for municipal and school purposes to the portion of the building or structure that is eligible.

In 2002, MHAC established a Task Force to look at the possibility of creating a Heritage Tax Rebate Program. The Task Force looked at the financial implications to the municipality and decided against creating such a program at that time. Instead, Cambridge City Council determined that a grant programme, funded up to \$30,000 through the Operating Budget would be appropriate. This grant programme has been in place since 2004.

A survey of other municipalities has been undertaken to determine if this section of the Municipal Act is being used in practice. A number of examples of Heritage Tax Rebate Programs have been found that could be used to develop a program for the City of Cambridge that will provide incentive for heritage enhancements of public infrastructure. Consideration of this opportunity would require further analysis by City staff.

8) Expand City Staff Resources with Heritage Expertise

Currently, the City has internal resources of one Senior Planner Heritage who is generally responsible for:

- Review and commenting on development applications affecting properties with cultural heritage significance such as official plan and zoning amendments, plans of subdivision, site plans, land severances and minor variances
- Clearing conditions of approval relating to heritage matters
- Review and sign off on building permits for designated heritage buildings
- Maintaining the City's Heritage Register of designated and listed properties of interest
- Preparing reports for Municipal Heritage Advisory Committee and Council consideration related to heritage matters
- Review of Heritage Impact Assessments

- Providing support for the Municipal Heritage Advisory Committee
- Reviewing and commenting on various studies such as environmental assessments and Light Rail Transit
- Responding to public enquiries related to heritage matters
- Project managing heritage studies as required

If Council is to consider adding resources to the Heritage portfolio, the added position could be responsible for the following over the next two to three years:

- Oversee completion of the remainder of the Galt Core Heritage Conservation District Study and Plan to the end of 2021. The current contract position expires in early April 2021. An information report will be included on the February 16, 2020 Council meeting about the terms of reference for that study, work plan and associated timelines.
- Complete the required analysis and make recommendations about a heritage permit process in 2021/2022 depending upon the outcome of regulations for the Ontario Heritage Act to implement Bill 108.
- Develop a priorities list of "properties at risk" for adding additional properties to the City's Heritage Register and completing the necessary evaluation to prepare reports for the Municipal Heritage Advisory Committee's and Council's consideration.
- Project manage of the City's Heritage Master Plan review in 2022.
- Prepare marketing information in consultation with the City's communications staff to encourage more awareness about the heritage grants program
- Act as another resource for review of heritage policies for the 2022 Official Plan review, in addition to the City's current Senior Planner Heritage.
- Assist the current Senior Planner Heritage on heritage-related matters as needed

The cost implications of an additional position for a Senior Planner Heritage is \$118,200 for salary & benefits at Step 1 of the pay grid.

9) Review the City's Property Standards By-Law incorporating designated heritage properties

The City of Cambridge's Property Standards By-law 181-04 is established pursuant to the provincial Building Code Act, 1992, S.O. 1992, c. 23 and

prescribes minimum standards for the maintenance and occupancy of buildings, structures, and surrounding lands.

The Property Standards By-law addresses the following areas of existing buildings and structures:

- Property maintenance, and accessory buildings or structures
- Building standards
- Standards for residential occupancy
- Standards for building services, systems and facilities
- Vacant buildings

When making decisions about enforcement actions, officers must consider the relevant legislation and what authority staff have to take that action. Each by-law that staff enforces is associated with enabling legislation that sets out the regulatory framework for enforcements.

City staff will be completing a review of the current Property Standards By-law that may assist in mitigating potential demolition of designated heritage properties in the City by private property owners.

Incorporating Designated Heritage properties in the Property Standards By-law can ensure that repairs and maintenance needed to conserve the heritage attributes of designated buildings are done and in a way that does not detract from the heritage and architectural integrity of the building.

Amending existing property standards to include enhanced minimum standards for designated heritage buildings would assist in protecting and maintaining those buildings' heritage attributes.

10) Review Capital Maintenance Schedule of City Owned Heritage Properties

City staff could undertake a building assessment of current city owned heritage properties to update the planned capital maintenance program. This would provide up to date information prioritizing the capital investments on existing city owned heritage properties to ensure adequate care and maintenance is being provided to those assets.

11) Report Back on Changes to Provincial Legislation and Review Opportunities Therein

As previously mentioned in this report, in 2020 the Provincial Government introduced Bill 108. One of the goals of Bill 108 was to increase the consistency, transparency and efficiency of municipal decision making under the Ontario Heritage Act (OHA), in order to support increasing Ontario's housing supply.

Once proclaimed, the amendments to the OHA will change municipal processes for identifying, designating and managing proposed changes to properties of cultural heritage value or interest, including objection and appeals processes.

Staff recommend a follow up report to Council when this legislation has been finalized.

Summary

In summary, there are several options for the City to consider for the future:

- 1) Review the Heritage Master Plan
- 2) Review approach for adding properties to the heritage register
- 3) Consider a heritage permit system
- 4) Review Site Plan Approval Process involving heritage properties
- 5) Review contributions to the Heritage Conservation Reserve Fund
- 6) Review the heritage grant program and strategies to promote participation
- 7) Consider a Heritage Tax Rebate Program
- 8) Expand the City staff resources with heritage expertise
- 9) Review of the City's Property Standards By-Law incorporating Designated Heritage Properties
- 10) Review Capital Maintenance schedule for City-owned heritage properties
- 11) Report Back on Changes to Provincial Legislation and Review Opportunities Therein

Staff will review these options in greater detail and return to Council with more detailed recommendations and to report on the associated resourcing implications.

Existing Policy/By-Law

Official Plan:

Chapter 4 in the City's Official Plan relates to Cultural Heritage Resources.

Ontario Heritage Act:

In 2020 the Provincial Government introduced Bill 108. One of the goals of Bill 108 was to increase the consistency, transparency and efficiency of municipal decision making under the Ontario Heritage Act (OHA), in order to support increasing Ontario's housing supply.

Once proclaimed, the amendments to the OHA will change municipal processes for identifying, designating and managing proposed changes to properties of cultural heritage value or interest, including objection and appeals processes. Implementation of the amendments requires additional details to be prescribed through regulation. At this time of writing this report those regulations had not been enacted.

The OHA amendments and along with the proposed regulation are intended to align municipal decisions in the heritage conservation process with Planning Act processes, promote early identification and protection of heritage properties, and improve clarity for property owners and development proponents.

Municipal Act:

Section 2 and 3 of the Municipal Act permit a lower tier municipality to pass by-laws about certain matters. Section 3 specifically permits lower tier municipalities to pass by-laws relating to heritage.

Property Standards By-law:

The City of Cambridge's Property Standards By-law 181-04 is established pursuant to the provincial Building Code Act, 1992, S.O. 1992, c. 23 and prescribes minimum standards for the maintenance and occupancy of buildings, structures, and surrounding lands.

Financial Impact

There are a number of financial incentives and tools currently in place to support the preservation and ongoing rehabilitation of heritage facilities, or items of architectural or cultural significance, within the City.

The Heritage Grants program allocates \$30,000 annually to provide financial assistance to owners of designated heritage properties to help pay for conservation and restoration work on these designated properties. Any unspent funds at the end of each year are transferred to the Heritage Conservation Reserve Fund to be used for the acquisition, preservation and ongoing rehabilitation of heritage facilities or items of architectural or cultural significance in the City. This reserve fund receives approximately \$12,000 in annual contributions from unspent grant funds and interest income. The current balance is \$70,400 as of December 31, 2020.

Another financial incentive is provided through the City's Development Charges By-law which allows for an exemption from development charges for various types of development and/or redevelopment of land or buildings where a building has been designated under the Ontario Heritage Act.

In addition to these tools and incentives that are currently in place, there are other options Council may consider implementing to provide a greater variety of options to

enhance the City's heritage infrastructure such as increasing contributions to the Heritage Conservation Reserve fund through a dedicated contribution from the annual budget or a surcharge on specific capital projects, or implementing a Heritage Tax Rebate Program similar to other municipalities in the province. If Council chooses, these tools and incentives could be further analyzed and presented to Council for consideration in the near future.

Future Staffing Resources

If Council were to proceed with an additional full-time Senior Planner Heritage position the operating impact would be in the amount of \$118,200 for salary & benefits at Step 1 of the pay grid funded from the tax base.

Public Input

Posted publicly as part of the report process.

Internal/External Consultation

This report has been prepared in consultation with the following Divisions and Sections: Finance; Facilities; Legal and, Clerks – Municipal By-law Compliance.

Conclusion

This report identifies the various ways in which the City contributes to the conservation and restoration of many City-owned and privately-owned properties with cultural heritage significance.

Over the past decade, the City of Cambridge has contributed \$2,402,022 annually towards heritage conservation and preservation, for a total of \$24,020,218.

In an effort to further strengthen the protection of heritage properties, staff will initiate a review of our property standards by-law, as well as report back in the coming months to Council on the various recommendations in this report.

Signature

Division Approval

N/A

Name:

Title:

Departmental Approval



Reviewed by the CFO

Reviewed by Legal Services

Name: Hardy Bromberg

Title: Deputy City Manager, Community Development

City Manager Approval



Name: David Calder

Title: City Manager

Attachments

None.