

Village of Port Stanley  
Heritage Conservation District Study

**Part B:**  
**Heritage Conservation District**  
**Municipal Implementation**

## **1.0 INTRODUCTION**

Successful implementation of a heritage conservation district and the management of change within a district is typically achieved through the review and approval of heritage permit applications under Section 42 of the *Ontario Heritage Act*. There are other mechanisms, tools and actions both under the *Ontario Heritage Act* as well as other Ontario statutes, such as the *Planning Act*, that also can help complement municipal heritage initiatives. The successful implementation of the Port Stanley Heritage Conservation District will rely on other initiatives and planning policies that directly support or provide a framework for focussing and implementing district conservation efforts. A number of initiatives are proposed in the following sections, including matters relating to building height and zoning by-law provisions, delegation of heritage permit approvals and a municipal grants program.

## **2.0 PLANNING POLICIES AND ISSUES**

### **2.1 Introduction**

As part of the preparation of the Port Stanley Heritage Conservation District Plan and Guidelines, a review was undertaken of municipal official plan policies in order to identify any significant conflicts or inconsistencies between the conservation initiatives anticipated in the District Plan and those broader municipal objectives and strategies contained in the Municipality of Central Elgin's Official Plan that provide the long term planning framework for development and land use until 2029. The results of the analysis are contained in the following sections with recommendations for further action contained at the end of the section

### **2.2 Municipal heritage conservation policies**

Municipal heritage conservation policies are generally found within Section 2.4, *Cultural Heritage and Archaeology*, of the Municipality of Central Elgin's Official Plan. These policies intend to encourage the identification, preservation and enhancement of the municipality's cultural heritage and archaeological legacy. The policies include reference to the designation of heritage conservation districts and properties as well as direction to prepare heritage impact assessments within 120 metres of a "protected heritage property", including property designated under Part V of the *Ontario Heritage Act*, i.e., located in a heritage conservation district.

There are no changes recommended to these policies at this time. As part of any five year review of the Official Plan, however, these policies should be reviewed and evaluated as to their effectiveness in protecting the character of the Port Stanley Heritage Conservation District. Where heritage impact assessments are required by a municipality it is usual to adopt supporting guidelines that assist proponents in the preparation of such assessments. These include guidance on providing appropriate descriptions of the proposed development and the anticipated effects, if any, on the adjacent heritage features. Where adverse effects are identified, the proponent is required to describe appropriate mitigation measures that lessen any potential adverse impacts.

The Municipality of Central Elgin's Official Plan does not contain a glossary of words, terms or phrases and defers to common usage or the *Provincial Policy Statement, 2005* to provide these as needed in interpreting the Official Plan. For the requirement to prepare a heritage impact assessment or analysis (HIA), Section 2.6.3 of the *Provincial Policy Statement, 2005*, (PPS) prepared pursuant to the *Planning Act* provides for the evaluation and assessment of development adjacent to designated property as follows:

"2.6.3 *Development and site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.*

Mitigative measures and/or alternative development approaches may be required in order to conserve the *heritage attributes* of the *protected heritage property* affected by the adjacent *development or site alteration.*"

Supporting definitions accompany the PPS and assist in the interpretation of these cultural heritage management policies as follows:

**Adjacent lands:** means...

- b) *for the purposes of policy 2.6.3, those lands contiguous to a protected heritage property or as otherwise defined in the municipal official plan.*

**Heritage attributes:** *means the principal features, characteristics, context and appearance that contribute to the cultural heritage significance of a protected heritage property.*

**Protected heritage property:** *means real property designated under Parts IV, V or VI of the Ontario Heritage Act; heritage conservation easement property under Parts II or IV of the Ontario Heritage Act; and property that is the subject of a covenant or agreement between the owner of a property and a conservation body or level of government, registered on title and executed with the primary purpose of preserving, conserving and maintaining a cultural heritage feature or resource, or preventing its destruction, demolition or loss*

The PPS direction contained in Section 2.6.3 as well as the Municipality of Central Elgin Official Plan can be summarized as requiring the following activities to be undertaken:

An **evaluation** of the proposed *development* or site alteration that affects *protected heritage property on adjacent lands*;

A **demonstration** that the *heritage attributes* of the *protected heritage property* will be conserved as part of the proposed *development* and site alteration; and,

A commitment to **mitigative measures and/or alternative development** approaches in order to conserve the *heritage attributes* of the *protected heritage property* affected by the adjacent *development* or *site alteration*.

At the time of the next Official Plan review, it is advised that in order to more fully round out the ideas and approach provided in the PPS, HIA guidelines be prepared and adopted, especially in the context of the Port Stanley Heritage Conservation District.

### **2.3 Municipal official plan policies for the community of Port Stanley**

Specific policies addressing the planning and development of the community of Port Stanley are found in Section 4.6.6 of the Municipality of Central Elgin's Official Plan. The policies addressing the waterfront, harbour, commercial uses and marinas anticipate or encourage, to varying degrees, a number of important development and design themes. These include the development of pedestrian linkages and opportunities for active transportation, maintaining and providing public access and views, and encouraging a high standard of building and landscape design. There is no direct acknowledgement of the prospective designation of a heritage conservation district nor explicit heritage conservation direction aside from policy 4.6.6.6 (d) which states that within lands designated General Commercial "Because of their contribution to the village, buildings and structures of historic or architectural interest in the Community shall be preserved where feasible as part of any proposed re-use of those facilities."

Accordingly, if designation of a portion of Port Stanley proceeds under Part V of the *Ontario Heritage Act*, it would be a sound and reasonable course of planning action (aside from the adoption of a heritage conservation district plan), to have complementary policies in the Official Plan that recognize district designation and re-iterate key conservation objectives for the district. These are provided in the following recommendation.

#### **2.4 Recommendation 1: Port Stanley Heritage Conservation District Official Plan provisions**

It is recommended that a new schedule G5 and the following policies be incorporated into the Municipality of Central Elgin's Official Plan as policy 4.6.6.10:

##### "4.6.6.10 Port Stanley Heritage Conservation District

- a) The Port Stanley Heritage Conservation District, shown on Schedule G5 to this Plan, is designated under Part V of the *Ontario Heritage Act*. The purpose of this designation is to conserve and protect the unique heritage character of Port Stanley including its residential, commercial, cottage, creek, harbour and beachfront areas and supporting cultural heritage buildings, structures and spaces. Any development within these areas shall encourage the continuing use of heritage properties or the adaptive re-use of such properties and the appropriate placement of new additions or alterations that do not adversely affect heritage building fabric, decorative features or architectural detailing. Within the Port Stanley Heritage Conservation District Council shall be guided in its decision-making by the Port Stanley Heritage Conservation District Plan.
- b) While new development is encouraged on vacant or under-utilized properties, no properties of cultural heritage value will be demolished in order to enable such development.
- c) Notwithstanding policies respecting the Port Stanley Harbour contained in Subsection 4.6.6.4, any new construction shall avoid the introduction of long, linear blocks of unbroken or unarticulated facades. Emphasis shall be placed on the creation of singular building units with articulated components and a variety of building materials that will be constructed in a manner avoiding the creation of long continuous wall facades that prohibit or cut off views of the harbour, creek, beach or surrounding table lands and their accompanying tree-covered slopes.
- d) Notwithstanding the policies respecting commercial uses permitted in Section 4.3, Commercial Designations, and Subsection 4.6.6.6 Port Stanley Commercial Uses, within the Port Stanley Heritage Conservation District all permitted commercial uses that are to be located within heritage structures originally constructed as residences or other non-commercial heritage structures shall retain their external residential built form and appearance.
- e) In addition, permitted commercial uses that are to be located on lots that are residential in appearance and are characterised by traditional residential landscaping, including grassed areas, hedges, domestic shrubs and other plantings, shall only be required to provide landscaping, parking, loading, vehicle circulation, garbage collection and other facilities where they do not result in the loss of existing heritage

building fabric or the loss of traditional residential settings such as existing landscaped yards and traditional entrances and driveways. The installation of plantings, fences and trees shall be encouraged as screening devices. The introduction of new parking areas, new accesses, berms, screen walls and other non-residential screening mechanisms shall be avoided.

- f) In order to advance the implementation of streetscape improvements, pedestrian walkways and parking considerations, Council will consider undertaking and adopting a streetscape management plan program that will provide a mechanism to integrate public realm improvements within the Community of Port Stanley and the Port Stanley Heritage Conservation District.”

### **3.0 ZONING BY-LAW**

#### **3.1 Introduction**

It has been noted in the Statement of Cultural Heritage Value that Port Stanley is situated in a low-lying area of the Kettle Creek valley and surrounded by table lands that do not constitute part of the designated Heritage Conservation District. Analysis undertaken to describe the built form of the district and its related heritage character concluded that the majority of buildings in the original Port Stanley Heritage Conservation District study area are:

- less than two storeys in height;
- approximately forty-seven per cent (47%) are single storey;
- twenty-seven per cent (27%) are one-and-a-half storeys;
- approximately 16 per cent (16%) are two storeys;
- approximately 10 per cent (10%) are more than two storeys.

Review of building heights in the prospective Port Stanley Heritage Conservation District revealed that approximately 96% of residential buildings were two storeys or less, 85% of commercial buildings were two storeys or less, and those buildings immediately along the east side of Kettle Creek adjacent to Main Street were predominantly three to three and a half stories in height.

Accordingly, the overall character of Port Stanley is one of low profile built form on a relatively low-lying area of land.

By-law Number 1507 contains the zoning provisions for the Port Stanley area generally, including the Port Stanley Heritage Conservation District, and recognizes many of the existing uses of buildings and land. The review of the zoning by-law as part of the review of various planning provisions did not reveal any major conflicts between the provisions of the by-law and those anticipated objectives for the Port Stanley Heritage Conservation District area, except for the potential issue of height.

The zones comprise a variety of building heights that are generally 2-3 storeys in height for the residential and commercial zones. Some commercial zones permit up to a 10 m height, and the industrial zones contain no building height regulations. Aside from the existing commercial development in the harbour area between Main Street and Kettle Creek and the silos located on the west side of Kettle Creek the maximum height provisions appear excessive in relation to the existing character of development. The permitted building height in the zoning provisions has the potential to create tall buildings such as the construction of a flat-roofed, 2-3-storey building that would be out of keeping with many of the smaller dwellings.

The *Ontario Heritage Act* (Subsection 41.2(1)(b)) provides that where a heritage conservation district plan is in effect the council of a municipality may not “pass a by-law for any purpose that is contrary to the objectives set out in the plan”. The Act also provides that where there is a conflict between a heritage conservation district plan and a municipal by-law that affects the designated district “the plan prevails to the extent of the conflict”.

In an effort to ensure that there is neither confusion nor conflict respecting the matter of building height within the district it may be addressed in a variety of ways:

- a) At the time of adopting the designating by-law and heritage conservation district plan it can be asserted that as of that date the maximum building height for all existing buildings and structures is the height existing at the time of the passing of the by-law. No provisions would be made to allow any increase in height, either through a variance, by-law amendment or a Council approved heritage permit.
- b) At the time of adopting the designating by-law and heritage conservation district plan it can be asserted that as of that date the maximum building height is that existing at the time of the passing of the by-law **or only as later allowed through a Council approved heritage permit under Part V of the Ontario Heritage Act** for such height increase but not to exceed 4 storeys or 12 metres.

### **3.2 Recommendation 2: Determining appropriate building height**

Given the alternative ways of addressing the matter of height within the Port Stanley Heritage Conservation District it is advised that the adoption of alternative (b) above is a preferred method of regulating matters of height. As and when the Municipality of Central Elgin adopts a new comprehensive zoning by-law or pursues another course of action such as amendments to the existing zoning by-law it is recommended that:

The Municipality of Central Elgin will at the time of adopting the designating by-law and heritage conservation district plan confirm that the maximum permitted building height at the time of the passing of the by-law will be that existing at the time of the passing by-law **or** as later permitted through a Council approved heritage permit under Part V of the *Ontario Heritage Act* for such height increase but not to exceed 4 storeys or 12 metres.

## **4.0 PLANNING AND DEVELOPMENT APPLICATIONS**

### **4.1 Background**

In some instances building or district permits within the Port Stanley heritage conservation district may be preceded by applications for a planning approval pursuant to the *Planning Act*, e.g., plans of subdivisions, severances, minor variances, etc. These planning applications may involve development that has the potential to affect the character of the district. It is important that appropriate heritage planning input be gained at the earliest opportunity, prior to any approvals that may compromise consideration of a heritage permit application, later in the approvals process.

### **4.2 Recommendation 3: Planning and development applications**

It is recommended that where any application or proposal for one of the following is located within or partially within the designated district:

- a variance or a consent;
- a plan of subdivision;
- zoning amendment;
- road closure;
- road widening; or
- any public works and improvements by a municipal authority or local utility,

that the municipal heritage committee will be consulted and provide advice on the appropriateness of the application given the intent of the Port Stanley Heritage Conservation District Guidelines.

## **5.0 SITE PLAN CONTROL**

### **5.1 Background**

Site plan control applies to all of those lands within the Port Stanley Heritage Conservation District. Plans or drawings must be submitted in support of a site plan application and may be approved subject to certain conditions including such matters as:

- widening of highways,
- access ramps and curbs,
- parking facilities and driveways,
- walkways,
- facilities for persons with disabilities,
- lighting facilities,
- walls, fences, hedges, trees, shrubs or groundcover,
- garbage facilities,
- easements, and
- grading and provisions for the disposal of water from property

Whereas heritage conservation district designation is concerned primarily with the details of protecting the character of heritage properties, site plan control focuses on the acceptable development of the overall property and adjacent public realm, typically seeking to ensure that an acceptable standard of site amenity and maintenance is achieved.

### **5.2 Recommendation 4: Site plan applications and heritage permits**

In order to ensure that there is no duplication between site plan applications and heritage permit applications the following process for review is recommended:

- i) applications for approvals under site plan control and permit approval under district designation should be treated as individual applications.
- ii) wherever possible both applications should be submitted together at the same time and considered within the time period (or as otherwise extended and agreed to by the applicant) permitted under subsection 41 (12) of the *Planning Act*, (see also section vi below).
- iii) an application under the provisions of the *Ontario Heritage Act* should address all matters relating to the detailed design, alteration and construction of buildings, structures and other property alterations.
- iv) an application for site plan approval should address all matters relating to the conceptual design and specific location of buildings and structures and all other site considerations usually required by the Municipality.
- v) both applications should be considered in the context of the policies and guidelines provided in the pertinent sections of this heritage conservation district plan and appropriate conditions applied to each application if necessary.
- vi) if applications for site plan approval are submitted separately any requested permit under the *Ontario Heritage Act* should be determined first and the applicable site plans suitably annotated to include a note referencing the heritage permit number, date of approval and details of any granted alterations.

## **6.0 SIGN BY-LAW**

### **6.1 Introduction**

The Municipality of Central Elgin has not adopted a municipal sign by-law to regulate the size, appearance, materials and the placement of signs on property within the Municipality. In some instances the placement of freestanding signs are regulated through Zoning By-law amendments on a site-by-site basis.

Typically, sign by-laws make numerous provisions respecting the type, design, size, area and location of signage depending on the property types and nature of the land use, amongst other matters. Given the complexity of such provisions and the specific characteristics and idiosyncrasies of non-heritage and heritage buildings in such a unique heritage conservation district as Port Stanley, there appears to be no immediate benefit to enacting a specific by-law for Port Stanley in the near future.

This is especially the case within a designated heritage conservation district where alterations to property, i.e., the installation of any form of signage, is subject to potential regulation under the *Ontario Heritage Act*, unless specifically exempted (See Section 5 of the Port Stanley Heritage Conservation District Plan and Guidelines).

Any new signage proposed within the Port Stanley Heritage Conservation District (unless subject to exemption) will be considered through submission of a Heritage Permit application under Part V of the *Ontario Heritage Act* within the guidelines of the Port Stanley Heritage Conservation District Plan.

### **6.2 Recommendation 5: Regulation of signage**

It is recommended that for the purposes of considering signage installation the Municipality of Central Elgin will utilize the Heritage Permit application process under the *Ontario Heritage Act* for the installation of fascia, projecting and ground signs and no charge will be levied for any application for the installation of signage within the Port Stanley Heritage Conservation District.

## **7.0 STREETScape MANAGEMENT PLANS, WAYFINDING AND PUBLIC IMPROVEMENTS**

### **7.1 Introduction**

The Port Stanley Heritage Conservation District is characterised by a variety of landscaping elements and features as well as a corresponding variety in more recent or contemporary design elements. An important consideration in any heritage conservation district that is diverse in its character, as with Port Stanley, is to co-ordinate public realm design initiatives within and along the various streets, roads, alleys and pathways. One way of achieving a long term, co-ordinated strategy is by means of a streetscape management plan.

Streetscape management plans are used in many municipalities in Ontario as a means of providing a broad design strategy and context for future physical, above-ground, improvements in the public realm, i.e., the public road right-of-way and other publicly owned spaces. Usually management plans also contain urban design principles and guidance on design intent that together provide a bridge between the general policy provisions of the Official Plans and specific detailed design drawings and specifications necessary for implementation.

In addition to streetscape management plans there are also a number of other singular “improvements” that can enhance the heritage setting of streets and their component buildings and spaces. Due to municipal priorities and constraints, however, and in the absence of a streetscape plan, programs for wayfinding, lighting strategies and street tree plantings can be pursued as important enhancement schemes in their own right. Accordingly, the Municipality of Central Elgin will pursue the following initiatives.

### **7.2 Streetscape management plan**

In the specific context of Port Stanley and the Port Stanley Heritage Conservation District a streetscape management plan for the district and the broader community should be able to assist in complementing heritage conservation initiatives by:

- articulating a long-term vision for enhancing the pedestrian amenity and image of Port Stanley;
- strengthening linkages to the Lake Erie beaches shore front, harbour and Kettle Creek, from the adjacent commercial and residential areas;
- identifying key civic spaces and priority areas for specific streetscape treatment in order to enhance the character and sense of place within Port Stanley; and
- establishing a high standard of design within public spaces as a model for private sector initiatives.

A key principle for considering municipal improvements as part of streetscape management plans that should drive and accompany most streetscape initiatives is the notion of undertaking streetscape improvements (typically above-ground work) in a co-ordinated manner at the same time as any required infrastructural improvements (under-ground work) or when other major public development is planned. This often assists in reducing implementation costs and unnecessary disruptions to adjacent property owners, business operations, vehicular traffic and pedestrians. Co-ordination of these activities should be typically undertaken as part of the Municipality of Central Elgin’s annual capital improvements budget process. Due to the long

term horizon of most municipal budgeting processes, most streetscape management plans should also adopt a similarly longer-term approach.

A streetscape management plan is intended to serve as a design guide and future inspiration for preliminary, functional and detail design of most municipal capital projects within the community. The guidelines and recommendations of a streetscape plan are to be carefully reviewed on a case-by-case basis in conjunction with all applicable provincial laws and Municipal by-laws, policies and standards relating to the public road allowance. Additionally, some public improvements may have to fulfill requirements of Ontario's Municipal Class Environment Assessment processes and these are guided by costs and magnitude and scale of anticipated environmental effects. The prospect of a future comprehensive secondary plan for the Greater Harbour Area provides an opportunity to consider streetscape design as well.

Typically a streetscape management plan in a commercial tourist area with adjacent residential uses should address a variety of matters that fall within the public realm including:

- the type, width and materials for use in road and sidewalk construction such as concrete, imprinted asphalt and pavers,
- the appropriateness of installing grassed boulevards,
- the type of light poles and luminaires, especially in the consideration of "standard" or "off the shelf" units or the installation of special, custom designed for signature locations either of contemporary design or heritage motifs,
- the appropriateness of planting in-ground street trees and installing tree grates especially in areas where underground services may be affected,
- installation of traffic calming devices such as bump-outs or speed humps,
- the appropriateness of guard-rails, pedestrian fences or other safety features,
- planters,
- street signage,
- kiosks,
- waste receptacles,
- bus shelters,
- bicycle racks, and
- public art.

### **7.3 Recommendation 6: A Port Stanley Streetscape Management Plan**

It is recommended that the Municipality of Central Elgin consider undertaking the implementation of a Port Stanley Streetscape Management Plan as future municipal budgets allow.

### **7.4 Wayfinding**

Regardless of whether the Municipality of Central Elgin proceeds to adopt and implement a streetscape management plan, there are several components of a streetscape management plan that may be considered separately, within the specific context of Port Stanley, in establishing a successful streetscape dynamic including matters such as on street parking

provisions, traffic calming, lighting, street trees, and wayfinding. These various components may sometimes be addressed independently as separate design studies.

Given the direction and policy guidance in the Municipality of Central Elgin's Official Plan for Port Stanley, with emphasis on pedestrian linkages, public access, community activity, active transportation, planned integration and walkways, the matter of "wayfinding", becomes increasingly important as a mechanism that is capable of complementing and implementing these various initiatives. These complementary and supportive features such as well designed directional signage or other wayfinding tools such as sidewalk directional markings, pathway markings, icons or design motifs on lamp standards kiosks or in shop windows, to enable pedestrians and other users to navigate their way around Port Stanley and gain access to shops, beaches, the harbour and Kettle Creek. Wayfinding strategies are important for two key reasons:

- ***The creation of meaningful links***

The desire to create meaningful links from the commercial core area to the lakefront, harbor and creek is especially important to be able to guide tourists, visitors and local residents along safe and interesting pathways that showcase important places such as information plaques, heritage buildings and sites, cultural features, marinas, streetscapes and parks.

- ***Providing a comprehensive approach***

A comprehensive wayfinding strategy is required for a co-ordinated approach that avoids "piece-mealing" (people, organizations, municipalities or businesses undertaking un-coordinated, although well-intentioned initiatives) and encourages a consistent design philosophy in a wayfinding system. The use of colour-coded street sign plates, icon or motif inspired directional signs (waves for the lake, sails for the harbor and marinas and so on), imprinted sidewalk patterns or colour-coded municipal and Port Stanley Business Improvement Area kiosks help establish clarity in the commercial, tourist and recreational environment.

## **7.5 Recommendation 7: District wayfinding**

It is recommended that either as part of a streetscape management plan or as a separate initiative the Municipality of Central Elgin consider the implementation of a comprehensive wayfinding system for the Port Stanley Heritage Conservation District with particular attention given to establishing linkages with the commercial area, the lake front, harbor and Kettle Creek.

## **8.0 HERITAGE CONSERVATION AND FINANCIAL INCENTIVES**

### **8.1 Introduction**

In many jurisdictions where heritage conservation activities are pursued to appropriately manage cultural heritage resources, it is not unusual to find two key components that assist in successful implementation: firstly, a system for regulating change to the cultural heritage resource usually through a formal process of designation and subsequent permit approval and secondly, a complementary program of financial assistance to assist in conserving valued heritage resource building fabric, features and materials. Balancing the traditional “carrot and stick” approach to conservation is usually an uneven process with regulation remaining relatively consistent while financial incentives varying, often dependent on municipal or provincial budget commitments that may change from year to year.

The authority to provide financial incentives to heritage resource conservation is established under both the *Ontario Heritage Act* and the *Municipal Act*. Sections 39 and 45 of the *Ontario Heritage Act* provide that municipalities may establish by-laws to make grants or loans to owners of designated heritage properties and Section 365.2 of the *Municipal Act* makes provisions for enabling municipal tax rebates to such properties.

MHBC staff undertook a review of potential financial incentives that could be implemented by the Municipality of Central Elgin for properties within the Port Stanley Heritage Conservation District. Through discussions with the Heritage Conservation District Steering Committee, it was determined that the implementation of additional financial incentives would not be pursued by the Municipality at this time.

## **9.0 HERITAGE PERMIT APPLICATION FORM AND APPROVALS PROCESS**

### **9.1 Introduction**

The efficient administration of a heritage conservation district relies on both clear guidelines as well as a complementary system of processing heritage permit applications for alterations to property, the erection of buildings and structures and the demolition or removals of buildings and structures. Section 42 (1) of the *Ontario Heritage Act* requires that none of the foregoing may be undertaken “unless the owner obtains a permit from the municipality to do so”.

Section 42(3) also requires that where Council receives such an application a notice of receipt shall be served on the applicant. Notice of receipt essentially starts the formal maximum 90 day review process during which a decision must be made by Council. Only with the adoption of a heritage permit application form can a permit be appropriately tracked and processed from submission to decision.

Additionally, Section 8 (2) (a) of the *Ontario Building Code Act* provides that the chief building official of a municipality shall issue a building permit under the Act unless

*“the proposed building, construction or demolition will contravene this Act, the building code or any other applicable law”*

*Ontario Regulation 350/06* under the *Building Code Act* contains a series of provisions respecting the definition of applicable law and subsection 1.4.1.3(1)(xix) states that for the purposes of section 8 of the Act, *applicable law* means,

*“Section 42 of the Ontario Heritage Act with respect to the permit given by the council of a municipality for the erection, alteration or demolition of a building,”*

This reinforces the concept of a heritage permit under the *Ontario Heritage Act* being distinct and separate from that of a building permit under the *Building Code Act*.

### **9.2 Recommendation 9: Heritage permit application forms**

It is recommended that a heritage permit application form be prepared for use by the Municipality of Central Elgin under both Parts IV and V of the *Ontario Heritage Act* to allow for traceable processing and determination of permits. It is also recommended that no fee be charged for processing heritage permit applications.

### **9.3 Delegated approval authority for alterations**

Section 42 (16) of the *Ontario Heritage Act* provides for the delegation of Council’s authority to grant permits for the alteration of property in a designated heritage conservation district to an employee or official of the municipality. The Municipality of Central Elgin has not enacted such a by-law. The granting of permit approvals for alterations by municipal staff is considered to be a means of expeditiously processing permits and substantially reducing reports and reporting time to Council for decision making. Such action also assists in enhancing customer service and the provision of municipal services in an expeditious and efficient manner. It must be noted that delegation of approvals does not extend to the construction of new buildings or structures or the demolition of buildings and structures.

An example of a potential draft by-law is provided below for illustrative purposes only:

**Municipality of Central Elgin**

**By-law Number** \_\_\_\_\_

Being a by-law to delegate to the [NAMED POSITION] certain assigned council authority under the *Ontario Heritage Act* for the power to consent to permits for the alteration of designated property

**Whereas** pursuant to subsections 33(1) and 33(4) of the *Ontario Heritage Act*, R.S.O. 1990, Chapter O.18, as amended (hereinafter referred to as "the *Ontario Heritage Act*"), the Council of the Municipality of Central Elgin is the decision-maker in respect to the consent of alterations to designated heritage property under Part IV of the *Ontario Heritage Act*

**and whereas** pursuant to subsection 42(4) of the *Ontario Heritage Act*, the Council of the Municipality of Central Elgin is the decision-maker in respect to the granting of permits for the alteration of property within a heritage conservation district under Part V of the *Ontario Heritage Act*

**and whereas** pursuant to subsection 33(15) of the *Ontario Heritage Act* the Council of a municipality may by by-law delegate the power to consent to alterations to property to an employee or official of the municipality after having consulted with its municipal heritage committee;

**and whereas** pursuant to subsection 42(16) of the *Ontario Heritage Act* the Council of a municipality may by by-law delegate the power to grant permits for the alteration of property situated in a heritage conservation district designated under Part V to an employee or official of the municipality after having consulted with its municipal heritage committee;

**and whereas** pursuant to subsections 33(15) and 42(16) of the *Ontario Heritage Act* the Council of the Municipality of Central Elgin consulted with its municipal heritage committee on [Month-Day-Year]

**now therefore** the Council of the Municipality of Central Elgin enacts as follows:

1. That the Council hereby delegates to the [NAMED POSITION] all power respecting the granting of consents and approvals which was assigned to Council under subsections 33(1), 33(4) and 42(4) of the *Ontario Heritage Act* including the authority to attach terms and conditions.

2. The delegated powers in Section 1 do not include the power to refuse an application. Where the [NAMED POSITION] would refuse an application if he or she had the power, he or she shall so advise Council who retains all decision-making power in relation to that application.

3. That the [NAMED POSITION] is authorized to undertake all acts necessary to carry out the authority vested in the [NAMED POSITION] pursuant to this By-law, including affixing his/her signature as required to all documents.

4. That when the [NAMED POSITION] is absent through illness or vacation or his/her office is vacant, then the [SECOND NAMED POSITION] shall act in the place and stead of the [NAMED POSITION]. While so acting, the [SECOND NAMED POSITION] has and may exercise all the rights, powers and authority of the [NAMED POSITION] as delegated by this By-law

5. This By-law shall come into force and effect on the date of its passing and enactment.

**9.4 Recommendation 10: Enacting a delegation by-law for heritage permit approvals**  
It is recommended that the Municipality of Central Elgin enact a delegation by-law under the *Ontario Heritage Act*.

## **10.0 PROCESS AND THE MUNICIPALITY OF CENTRAL ELGIN MUNICIPAL HERITAGE COMMITTEE (HERITAGE CENTRAL ELGIN)**

### **10.1 Introduction**

The *Ontario Heritage Act* enables municipalities to establish municipal heritage committees to advise on matters under the *Ontario Heritage Act*, amongst other things. Part IV of the Act which addresses the designation of individual properties and the management of change through the review and approval of heritage permit applications provides a specific role for a municipality's heritage committee both in the property designation process and in advising on applications for alterations and demolition.

In Part V of the Act which addresses the designation of heritage conservation districts the role of the municipal heritage committee is relatively restricted. Specific direction is given in the preparation of a heritage conservation district plan and the involvement of the municipal heritage committee, yet there is no specific requirement for heritage committee action in the processing and determination of permit applications for alteration under Part V of the Act. The Act does provide that committee is to be consulted on all applications for demolition or removal.

A review of the Municipality of Central Elgin's web page indicates that the Municipal Heritage Committee:

- helps preserve and recognize the built and natural heritage that define Central Elgin and its past;
- has inventoried a variety of heritage buildings that contribute to the unique character of the community;
- has assisted the municipality in designating thirteen (13) heritage buildings and a heritage cemetery, as well as assigning eleven (11) heritage properties to the municipal register of properties of cultural heritage value or interest; and
- assists in the review of additions and alteration to designated properties under Part IV of the *Ontario Heritage Act*.

The committee is made up of representatives from each Ward of the Municipality of Central Elgin, as well as interested members of the municipality and a council representative. The Committee meets on the second Wednesday of every other month usually at Sparta United Church at 7:30 pm. Port Stanley is located in Ward 1 and is currently represented by two (2) members.

The Committee comprises an executive of the Chairman, Vice-Chair, Treasurer, and Secretary together with several other interested citizens that attend meetings as well as representatives from local historical and heritage societies in Central Elgin.

### **10.2 The function and role of an advisory committee**

Whether legislated or not, many municipalities utilise municipal heritage committees or sometimes purposefully created district advisory committees to provide expertise and to advise on heritage permit applications within Part V designated heritage conservation districts. It is also usual to try and ensure that collective interests within a designated district are somehow

represented not simply the heritage interests alone, i.e., business interests, tourism, property owner interests and so on.

Given the community-driven nature of conservation activities to date, it is considered that the current municipal heritage committee continue as the primary adviser to Council (or its delegated authority) on the determination of heritage permit applications within the context of the previously recommended action in the preceding Section 9 of this report.

**10.3 Recommendation 11: The role of the Municipal Heritage Committee (Heritage Central Elgin)**

- a) It is recommended that the Municipality of Central Elgin's Municipal Heritage Committee, otherwise known as Heritage Central Elgin, assume the role of primary heritage adviser to Council in providing comments and recommendations on matters relating to the management of the Port Stanley Heritage Conservation District and to the consideration of any related heritage permit applications.
- b) It is recommended that the effectiveness of the Municipal Heritage Committee be monitored to ensure that the interests of the Port Stanley community are appropriately represented in its advisory role to Council and consideration given to amending the Committee membership if deemed appropriate.

## **11.0 BED AND BREAKFAST ACCOMMODATION**

### **11.1 Background**

Many special heritage areas are attractive to visitors and often develop a variety of services and facilities to better serve the visiting clientele. As elsewhere in Ontario, it is now customary, particularly along the Lake Erie shoreline and the rural hinterland to enhance and diversify the visitor and tourist experience.

This clearly creates business opportunities, boosts local employment and enhances economic growth and development. The establishment of “bed and breakfast” accommodations in historical settlements, particularly well-established residential areas in particularly scenic port or lakeside settings, now play a significant role in providing an alternative to traditional hotel or motel accommodation and hence enhancing economic spin-off effects. Such establishments in Port Stanley appear to have been incorporated successfully into existing residential buildings with signage being well-designed and discrete.

Within Port Stanley “bed and breakfast” establishments have been permitted through the use of site-specific Zoning By-law regulations, subject to certain restrictions, including: only being located in a single detached dwelling, and providing generally 3-4 rooms for rental.

The establishment of “bed and breakfast” accommodation unless suitably planned for, has the potential to contribute to the attrition of those heritage attributes that define the character of the Port Stanley Heritage Conservation District. These impacts effects could include:

- the contribution to on-street parking, and perceived or actual traffic and parking congestion;
- the provision of off-street parking resulting in the loss of soft landscaping and trees in favour of hard parking surfaces;
- introduction of permanent signage into traditional residential areas; and,
- changes to building fabric including installation of additional entrances, fire escapes, larger “picture” windows and satellite dishes.

It is not the intent of the *Port Stanley Heritage Conservation District Plan and Guidelines* to halt or hinder the establishment of “bed and breakfast” facilities. Building and landscaping guidelines should be consulted with a particular view to providing required parking spaces at the side or rear of the dwelling with no major alterations being made to principal building facades and fabric in order to provide “bed and breakfast” facilities or services.

### **11.2 Recommendation 12: Bed and breakfast facilities**

It is recommended that the Municipality of Central Elgin monitor the establishment of “bed and breakfast” facilities, over the next five years, to identify and assess potential impacts on the individual character of buildings and the heritage character of individual streetscapes and amend the guidelines in the Port Stanley Heritage Conservation District Plan and Guidelines if necessary.



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