

To: COUNCIL

Meeting Date: 10/8/2024

Subject: 24-056-CD: Delegated Authority By-law to Consent to Heritage Permits under the Ontario Heritage Act

Submitted By: Bob Bjerke, Chief Planner

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Report No.: 24-056-CD

File No.: R01.01.155

Wards Affected: All Wards

RECOMMENDATION(S):

THAT Report 24-056-CD Delegated Authority By-law to Consent to Heritage Permits under the Ontario Heritage Act be received;

AND THAT Council approve the proposed authority to consent to certain alterations to properties designated under the Ontario Heritage Act to the Chief Planner or their designate, subject to consultation with MHAC;

AND THAT the Draft By-law, attached as Appendix A to this report, be enacted by Council;

AND FURTHER THAT staff be directed to take the necessary steps following the passage of the by-law to ensure its implementation.

EXECUTIVE SUMMARY:

Purpose

The purpose of this report is to request that Council approve and enact the proposed delegated authority by-law to consent to the approval of minor alterations to designated properties by the Chief Planner, or their designate, subject to consultation with the Municipal Heritage Advisory Committee (MHAC).

Key Findings

- In accordance with the Ontario Heritage Act and the Municipal Act, Council can delegate certain authority to staff.

- Heritage Planning staff are proposing the delegation of minor heritage permits to staff; excluding major work, demolitions, and permit refusals.
- The delegation of minor heritage permits will save significant staff time by streamlining our processes, reducing the number of reports to Council, and enabling Heritage Planning staff to focus on other priorities, including Part IV and V designations.
- The delegation of minor heritage permits will also mean reduced wait times for the public to receive permit approvals.
- All delegated heritage permits would still be reviewed, as per current procedures, by MHAC within the legislative timelines permitted under the Ontario Heritage Act.
- All delegated heritage approvals would remain subject to Council's approved policies and guidelines, including Official Plan policies and heritage conservation district studies and plans.

Financial Implications

Although there are no direct financial implications to the City as a result of this report, the proposed delegated authority by-law would result in more efficient use of staff time and resources.

STRATEGIC ALIGNMENT:

☐ Strategic Action

Objective(s): Not Applicable

Strategic Action: Not Applicable

OR

☒ Core Service

Program: Community Development

Core Service: Heritage Conservation

BACKGROUND:

Under Sections 33 and 42 of the Ontario Heritage Act, the power to consent to alterations to property designated under Part IV or V can be delegated to staff, provided that MHAC has been consulted on the delegation of approval authority.

Delegated authority by-laws are tools that are commonly used by municipalities across Ontario. Several examples of municipalities with successful delegated authority by-laws in place for heritage permits include Guelph, Hamilton, Kitchener, Markham, Mississauga, Oakville, Richmond Hill, and Waterloo. A full list of municipalities employing delegated authority by-laws can be found in the Analysis section below.

The Ontario Heritage Act currently allows only 90 days for Council to make a decision on a heritage permit application, upon confirmation of a complete application. This restricted timeline was one of the measures that was introduced as part of the More Homes Built Faster Act (Bill 23) in an effort to decrease development approval timelines. Issuing heritage permits within the legislated 90-day timeline, while ensuring committee consultation, is a challenge for municipalities across Ontario, including at the City of Cambridge.

ANALYSIS:

Delegating minor heritage approvals to staff will enable the City to provide good customer service to the public, reduce unnecessary wait times for applicants, and better direct staff resources to properties and projects requiring staff attention, including Part IV and V designations.

Delegated Authority in Other Municipalities

Delegated authority by-laws are commonly used by municipalities across the province to streamline heritage planning processes. Heritage Planning staff have canvassed heritage planners across Ontario to compare processes and compile a list of responses showing the approach of various other municipalities, including those that employ a delegated authority by-law for heritage permits. The responses have been organized in Table 1 below.

Table 1: Delegated Authority in Other Jurisdictions

Municipality	Alteration process	Delegation by-law?	Approval authority scope
Kitchener	Heritage permit application form	Yes	Delegated authority given when heritage planning staff recommends approval, when refusal is recommended by staff, heritage committee comments and the final decision rests with Council.
Waterloo	Heritage permit application form	Yes	Heritage staff and the chair of the heritage committee can approve minor alterations

Municipality	Alteration process	Delegation by-law?	Approval authority scope
Waterloo	Heritage permit application form	Yes	within 10 business days of submission.
Mississauga	Heritage permit application form	Yes	Delegated authority for applications once the heritage committee has been consulted. Delegated authority does not include the right to refuse an application for an alteration. Where the Director refuses an application, he or she shall advise Council who retains all decision-making power for the application.
Guelph	Heritage permit application form	Yes	Minor and major applications of alteration are approved by delegated authority. This delegation excludes applications for demolitions and new buildings/structures. The delegate does not have the authority to refuse heritage permit applications, which would go to Council.
Vaughan	Heritage permit application form	Yes	Minor alterations, and additions are delegated to staff with advice from the heritage committee. Demolition or new construction is not delegated.
Windsor	Heritage permit application form	Yes	Minor heritage permits are approved through delegated authority. Major permits require review from the Development and Heritage Standing Committee and approval from Council.
Hamilton	Heritage permit application form	Yes	Delegated authority to staff, except in the case where an application is refused, in which case approval authority remains with Council.

Municipality	Alteration process	Delegation by-law?	Approval authority scope
Burlington	Heritage permit application form	Yes	Delegated authority to approve, with conditions as needed, alteration applications to staff. The heritage committee must be consulted. Council retains authority when the Director advises to refuse an alteration(s).
Kingston	Heritage permit application form	Yes	Delegated authority to staff for heritage permit applications for Part IV designated properties. Applications for alterations to Part V designated properties require Council approval. A Council decision is also required if an applicant does not agree with the permit recommendations or conditions supported by staff and the heritage committee. Some minor alterations can be approved without heritage committee review.
Ottawa	Heritage permit application form	Yes	Delegated authority for minor heritage permit applications and for heritage permit applications considered emergency applications.
Brampton	Heritage permit application form	Yes	Delegated authority to consent to alterations to designated properties if Council has no scheduled meetings before the expiration of 90 days from receipt, in the case of emergency applications, and for minor interior alterations.
Brantford	Heritage permit application form	Yes	Delegated authority for minor heritage permits. Major heritage permits approved by the heritage committee. Denial recommendations go to Council.

Municipality	Alteration process	Delegation by-law?	Approval authority scope
St. Catharines	Heritage permit application form	Yes	Delegated authority to Director of Planning and Building Services for all permit applications except for applications for demolition.
Oakville	Heritage permit application form	Yes	Delegated authority to Director of Planning Services when alterations are supported and minor (specific activities are listed). For major applications, or when staff recommends refusing the application, Council approval is required.
Richmond Hill	Heritage permit application form	Yes	Delegated authority to staff with some alteration permits, Council decision required for major alterations. Unclear on demolitions and refusals.
Markham	Heritage permit application form	Yes	Delegated authority to Heritage Section staff for non-controversial heritage permits.
Peterborough	Heritage permit application form	Yes	Delegated authority to staff for minor alterations. Major alterations to the property and demolition proposals are decided by Council.
Newmarket	Heritage permit application form	Yes	Delegated authority to staff for some alteration permits, Council decision required for major alterations.
Barrie	No application form in place	No	No formal heritage permit process in place and no delegated authority.
Goderich	Heritage permit application form	No	Council approval only, no delegated authority to staff.
Oshawa	Heritage permit	No	If alterations are proposed that impact the reasons for designation Council approval

Municipality	Alteration process	Delegation by-law?	Approval authority scope
	application form		is required. For listed properties, MHAC comments on the building permit application.
Milton	Heritage permit application form	No	Council approval only, no delegated authority to staff.

The majority of municipalities that provided responses employ delegated authority by-laws within their heritage permit process. Of the 23 municipalities who provided responses, 19 (or 83%) currently have delegated approval processes in place. As demonstrated in the table above, most large municipalities of comparable size and population to Cambridge have delegated authority by-laws in place. The type of alterations that are delegated tend to be minor alterations, non-controversial alterations, and approvals. Generally, where Heritage Planning staff are not supportive of the alteration, the decision rests with Council and is not delegated to staff.

Proposed Heritage Permit Process

The proposed Heritage Permit process is outlined in Figure 1 below:

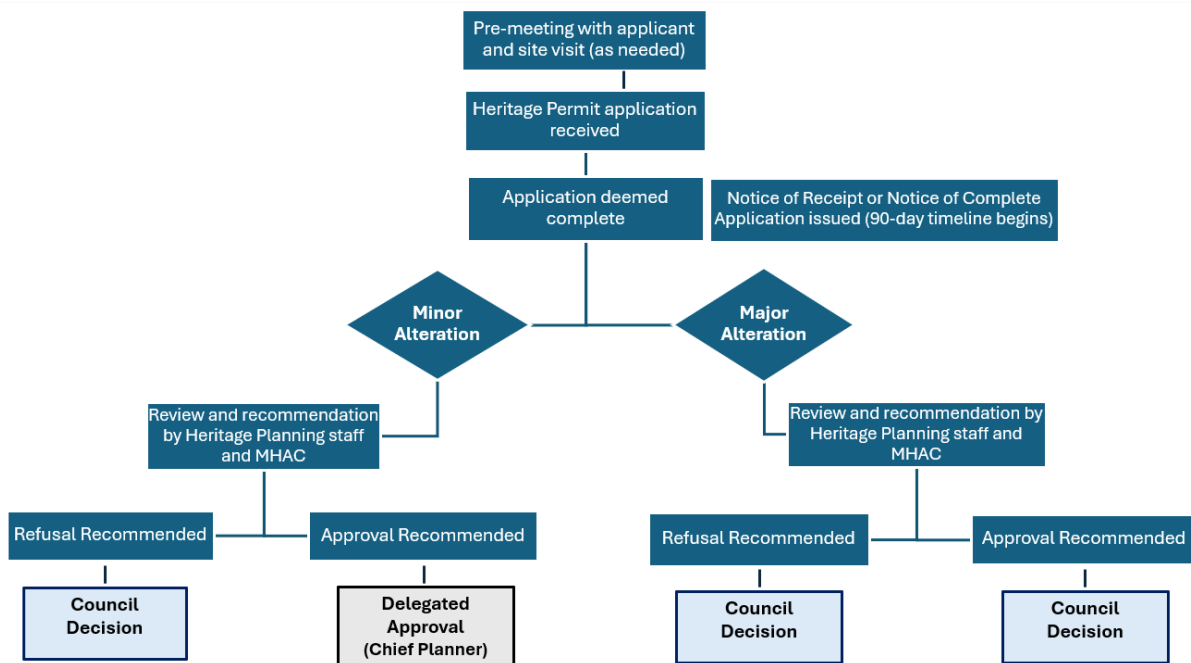


Figure 1: Proposed Heritage Permit Process

Heritage Planning staff are proposing that minor alterations to designated heritage properties be delegated to the Chief Planner or their designate, including the following:

- Repair or restoration of windows, doors, chimneys, verandahs, roof material, cladding, or other external elements;
- New signage;
- Refinishing exterior heritage elements;
- Additions that do not remove identified cultural heritage attributes;
- Construction of a new building or structure on a Part IV designated property without any identified cultural heritage value or interest;
- Maintenance or upkeep that may require a permit;
- Sheds, porches, decks, and steps;
- New signage;
- Landscape modifications within an HCD (soft landscaping, such as plantings, is exempt); and
- Any other forms of minor alteration not listed.

Heritage Planning staff are proposing that major alterations to designated heritage properties are not delegated to the Chief Planner or their designate, including the following:

- Removing any identified cultural heritage attributes;
- Demolition of any building or structure within an HCD;
- Demolition of a building or structure on a Part IV designated property that has been identified to have cultural heritage value or interest; and
- Construction of a new building or structure within an HCD.

In addition, alterations that meet any one of the following situations are not proposed to be delegated to the Chief Planner or their designate:

- Cases where staff have recommended heritage permit refusal; and
- Cases where MHAC does not support staff recommendations.

It should be noted that under this proposed by-law the Chief Planner or their designate retains the authority to refer any heritage permit application to Council, at their discretion. It should also be noted that all timelines applicable to heritage permits within the Ontario Heritage Act would continue to apply to all applications, whether eligible for delegated approval or requiring full Council approval. All delegated heritage permit applications would still be reviewed, as per current procedures, by MHAC and MHAC would retain the ability to comment on all heritage permit applications and associated studies or plans.

Not all alterations to designated properties require heritage permit applications. The following alterations are exempt from the review process:

1. All interior work, except where specifically designated by designation by-law or easement passed under the Ontario Heritage Act.
2. Landscaping which does not require heavy machinery, and which will not significantly alter the appearance or character of the property.
3. Basic and routine maintenance, as determined on a case-by-case basis by Heritage Planning staff.
4. Minor exterior alterations as may be described within individual heritage conservation district plans as required by Section 41.1 of the Ontario Heritage Act.
5. Replacement of non-heritage features or materials with the same material (eg. replacing asphalt roofing material with new asphalt roofing material).

It should also be noted that all delegated heritage approvals would remain subject to Council's approved policies and guidelines, including Official Plan policies and heritage conservation district plans.

Heritage Permit Approval Data

Within the City of Cambridge, a total of seventeen (17) heritage permit applications were received between January 2022 and April 2024, as outlined in Table 2 below. Of these applications, all were reviewed by MHAC. A total of fifteen (15), or 88%, were approved by Council, with recommendations from Heritage Planning staff, with support from MHAC. Two (2) were placed on hold due to Council concerns and zero (0) were refused by Council. The two applications that were placed on hold were connected to Engineering projects that required additional consideration given their connections to capital projects at the City. From 2022 to 2024, all minor Heritage Permit applications, as recommended by staff, were approved by Council.

With the proposed delegated authority by-law in place, ten (10) of the seventeen (17) heritage permit applications submitted, or 58%, would have been delegated to staff for approval, in consultation with MHAC over the fifteen-month period.

This demonstrates that the proposed delegated authority by-law would not change the outcome of Heritage Permit decisions within the City of Cambridge. Based on the review of historic decisions between 2022 and 2024, decisions made on Heritage Permits are expected to be unchanged with the newly proposed process in place. Instead, having a delegated authority process in place would lessen the number of

Council reports being prepared by Heritage Planning staff, streamline approvals, and allow for Heritage Planning staff to direct efforts towards other heritage activities.

Table 2: Heritage Permit Applications Between November 2022 and April 2024

Property Address	Designation Status	Proposal	Council Decision	Eligible for Delegated Approval?
30 Park Hill Road West (Dickson Park)	Part V (Dickson Hill)	Grandstand improvements	Approved	Yes
99 Wentworth Avenue (Victoria Park)	Part V (Dickson Hill)	Installation of permanent netting system in park	Approved	Yes
18 Main Street	Part IV	Replacing exterior windows, door, and light fixtures	Approved	Yes
16 Blenheim Road	Part IV	Repairing damaged fence and posts	Approved	Yes
4800 Fountain Street North	Part IV	Construction of landscape feature with salvaged stone	Approved	Yes
29 Main Street	Part V (Main Street)	Alteration of storefront	Approved	Yes
33 Main Street	Part V (Main Street)	Alteration of storefront	Approved	Yes
38 Lansdowne Road North	Part IV	Addition to dwelling in rear yard	Approved	Yes
71 Cowan Boulevard	Part IV	Replacement of cedar shake roof material with asphalt	Approved	Yes

223 King Street East	Part IV	Installation of wheelchair ramp and window replacement	Approved	Yes
49 Meadowcreek Lane	Part V (Blair Village)	Construction of new detached dwelling	Approved	No
56 Morningside Drive	Part V (Blair Village)	Demolition detached dwelling and construction of new detached dwelling	Approved	No
91 Old Mill Road	Part V (Blair Village)	Demolition and construction of new house	Approved	No
82 Langdon Drive	Part V (Blair Village)	Construction of new detached dwelling	Approved	No
45 Blair Road	Part V (Dickson Hill)	Demolition and replacement of stone retaining wall	On hold	No
Dickson Hill globe lights	Part V (Dickson Hill)	Replacement of globe lights	On hold	No
415 Water Street South	Part IV	Replacing frame garage, replacing windows and doors	Approved	No

EXISTING POLICY / BY-LAW(S):

Ontario Heritage Act (R.S.O. 1990, c. O.18)

Alteration of property (Part IV)

Delegation of council's consent

33(15) The power to consent to alterations to property under this section may be delegated by by-law by the council of a municipality to an employee or official of the

municipality if the council has established a municipal heritage committee and has consulted with the committee prior to delegating the power. 2019, c. 9, Sched. 11, s. 11.

Scope of delegation

33(16) A by-law that delegates the council's power to consent to alterations to a municipal employee or official may delegate the power with respect to all alterations or with respect to such classes of alterations as are described in the by-law. 2019, c. 9, Sched. 11, s. 11.

Erection, demolition, etc. (Part V)

Delegation

42(16) The council of a municipality may delegate by by-law its power to grant permits for the alteration of property situated in a heritage conservation district designated under this Part to an employee or official of the municipality if the council has established a municipal heritage committee and consulted with it before the delegation. 2005, c. 6, s. 32 (6).

Same

42(17) A by-law under subsection (16) may specify the alterations or classes of alterations in respect of which power to grant permits is delegated to the employee or official of the municipality. 2005, c. 6, s. 32 (6).

FINANCIAL IMPACT:

Although there are no direct financial implications to the City as a result of this report, the proposed delegated authority by-law would result in more efficient use of staff time and resources.

PUBLIC VALUE:

Transparency

The Council agenda is posted on the City's website as part of the reporting process.

Sustainability

The City of Cambridge supports sustainability by encouraging adaptive reuse of heritage properties wherever possible.

ADVISORY COMMITTEE INPUT:

Heritage Planning staff consulted with the Municipal Heritage Advisory Committee on April 18, 2024, through report 24-007(MHAC) which included an initial draft of the proposed bylaw. The final version of the bylaw is attached to this report.

The Committee provided the following recommendations to Council:

THAT Report 24-007 (MHAC) Delegated Authority By-law for Heritage Permits be received;

AND THAT the Municipal Heritage Advisory Committee (MHAC) recommend that Council approve the proposed power to consent to certain alterations to properties designated under the Ontario Heritage Act to the Chief Planner, subject to consultation with MHAC;

AND FURTHER THAT the Draft By-law, attached as Appendix A to Report 24-007 (MHAC), be supported by MHAC.

PUBLIC INPUT:

Meetings of Council are open to the public via the City's YouTube channel.

INTERNAL / EXTERNAL CONSULTATION:

Heritage planning staff have liaised with staff from the Legal Services Division in crafting the delegated authority by-law.

CONCLUSION:

For the reasons outlined in this report, Heritage Planning staff recommend that Council approve the proposed delegated authority by-law to consent to minor heritage permits for the approval of alterations to designated properties, by the Chief Planner or their designate. The new, proposed delegated approval process would significantly reduce the amount of time spent by Heritage Planning staff in the preparation, processing and review of reports, and the amount of time spent by Council in the review of staff reports. This will allow Heritage Planning staff to focus on other heritage activities. This streamlining would also have a positive impact on the public perception of heritage planning and its various approval processes, while continuing to support the conservation of Cambridge's significant cultural heritage resources.

REPORT IMPACTS:

Agreement: **No**

By-law: **Yes**

Budget Amendment: **No**

Policy: **No**

APPROVALS:

This report has gone through the appropriate workflow and has been reviewed and or approved by the following as required:

Director

Deputy City Manager

Chief Financial Officer

City Solicitor

City Manager

ATTACHMENTS:

1. 24-056-CD Appendix A – Draft Delegated Authority By-law for Heritage Permits