



**The Corporation of the City of Stratford
Planning and Heritage Sub-committee
Open Session
AGENDA**

Date: Thursday, March 28, 2019

Time: 4:30 P.M.

Location: Council Chamber, City Hall

Sub-committee Present: Councillor Ritsma - Vice Chair Presiding, Councillor Ingram - Chair, Councillor Bunting, Councillor Vassilakos

Staff Present: Ed Dujlovic - Director of Infrastructure and Development Services, Jeff Leunissen - Manager of Development Services, Jodi Akins - Council Clerk Secretary, Jonathan DeWeerd - Chief Building Official

Pages

1. Call to Order

The Vice-Chair to call the meeting to Order.

Councillor Clifford provided regrets for this meeting.

2. Disclosure of Pecuniary Interest and the General Nature Thereof

The *Municipal Conflict of Interest Act* requires any member of Council declaring a pecuniary interest and the general nature thereof, where the interest of a member of Council has not been disclosed by reason of the member's absence from the meeting, to disclose the interest at the first open meeting attended by the member of Council and otherwise comply with the *Act*.

Name, Item and General Nature of Pecuniary Interest

3. Delegations

None scheduled.

4. Report of the Chief Building Official

4.1 Demolition Control By-law (PLA19-006)

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Staff to present the Management Report.

Following the staff report, the Stratford and Area Builder's Association has requested to address Sub-committee on this matter.

Motion by _____

Staff Recommendation: THAT a representative from the Stratford & Area Builder's Association be heard regarding the proposed Demolition Control By-law.

Motion by _____

Staff Recommendation: THAT Council receive the Demolition Control By-law report;

THAT prior to formal approval there is a Public Notification of Council's intent to pass a Demolition Control By-law;

AND THAT following notification Council consider approving the draft Demolition Control By-law.

5. Report of the Manager of Development Services

5.1 Heritage Stratford Resolution-"Non-Designated" Properties for Municipal Heritage Register (PLA19-007)

13 - 16

Motion by _____

Staff Recommendation: THAT Council direct staff to notify the 44 property owners of the Heritage Stratford resolution and inform them of the upcoming public open house;

THAT staff hold a public open house to educate and inform affected property owners and the public on the objectives of including non-designated properties on the Municipal Heritage Register;

AND THAT following the public open house, staff forward a final recommended list of properties to be included on the Municipal Heritage

Registry as non-designated properties for Council's consideration.

6. Project Update

The Manager of Development Services to provide a verbal update on ongoing projects in the City.

7. Advisory Committee/Outside Board Minutes

There are no Advisory Committee/Outside Board minutes to be provided to Sub-committee at this time.

8. Next Sub-committee Meeting

The next Planning and Heritage Sub-committee meeting is April 25, 2019 at 4:30 p.m. in the Council Chamber, City Hall.

9. Adjournment

Meeting Start Time:

Meeting End Time:

Motion by _____

Sub-committee Decision: THAT the Planning and Heritage Sub-committee meeting adjourn.



MANAGEMENT REPORT

Date: March 28, 2019
To: Planning and Heritage Sub-committee
From: Jonathan DeWeerd, Chief Building Official
Report#: PLA19-006
Attachments: None

Title: Demolition Control By-law

Objective: To approve a Demolition Control By-law for the City of Stratford.

Background: At the November 13, 2018 meeting, the previous Council resolved the following regarding the draft demolition by-law:

"THAT Council receive this report and refer the draft By-law to staff to consult with stakeholders and the public, and to return to Council with a by-law for adoption no later than February 2019."

The purpose of Demolition Control By-laws are to give municipal councils some control over the premature demolition of housing stock and ensure that replacement structures are approved and built within a reasonable time frame.

Legislative Framework

The Ontario *Planning Act* gives municipalities the legislative authority to designate an area of the City as a Demolition Control By-law where there is also a Property Standards and Maintenance By-law in effect. The Act limits demolition control by-laws to residential properties, it provides an appeal option if Council refuses to issue a permit or neglects to make a decision within 30 days, it allows for a condition that construction of a new building be substantially complete not less than two years from the date of demolition of the existing building, and it allows for a fine not exceeding \$20,000 for each dwelling unit.

Over the last 5 years, an average of 6.2 dwelling units have been demolished per year. The following table outlines the number of residential demolitions and rebuilds of residential properties.

	Residential Demolitions	Dwellings Rebuilt
2018	6	4
2017	5	3
2016	4	1
2015	8	6
2014	8	7

Note: Building permits were issued for dwelling rebuilds within 6 months for all but 3 properties noted above.

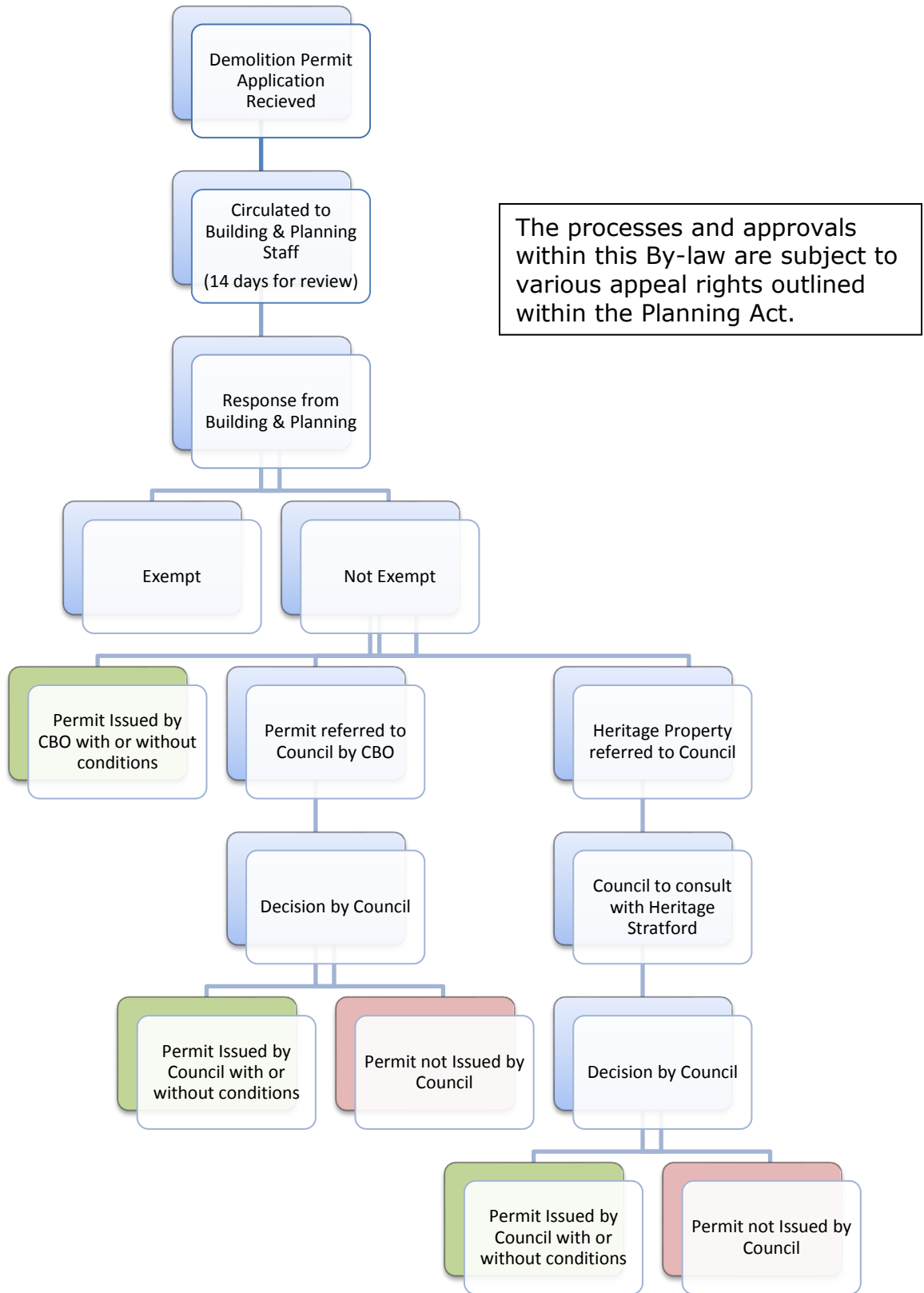
Analysis: Staff was able to meet with Heritage Stratford on January 8, 2019, and Stratford & Area Builders Association (SABA) on February 7, 2019. At both meetings, staff was able to present the draft by-law and receive comments from those in attendance. At each of these meetings, staff encouraged formal comments to be submitted. At the writing of this report, only formal comments were received from Heritage Stratford. Heritage Stratford's comments indicated their general support of the by-law with a few minor suggested edits including that the two year period for reconstruction be extended subject to valid reasons by the applicant, and that exceptions 3(b) and (e) may cause owners of properties to neglect the buildings to justify demolition. The legislation states the permit may be issued on the condition the new building is substantially complete not less than two years from the day the demolition of the existing building has commenced. The legislation also permits, under Section 33(11), a permit holder to apply to Council for relief from conditions if it is not possible to complete the new building within the specified time or if construction of the new building has become not feasible on economic or other grounds.

At the meeting with SABA, representatives expressed concerns with the proposed by-law including whether for 5-6 demolitions per year the City of Stratford even requires a Demolition Control By-law. No written comments were received from SABA. Staff understands that in lieu of formal comments, SABA intends to request to speak directly to Council regarding their concerns with this by-law.

Comments received have been considered by staff and have been incorporated into the Demolition Control By-law herein. Based on the comments received, no significant changes were made to the draft by-law.

The flow chart on the following page shows how Demolition Control Application will be processed. Note: the Demolition Control Application is separate and distinct from a Demolition Permit under the Ontario Building Code.

Demolition Control By-law Process



Staff has also drafted an Application for Demolition Control. The proposed application form would be utilized when collecting and ensuring an application meets the requirements of the Demolition Control By-law. It is believed the application process will generally be as follows:

- Applicant will submit a completed application form to staff in Development Services,
- After receipt of a complete application, it will be circulated for a period of 14 days to Building and Planning staff for comment
 - Should the property be designated under the Ontario Heritage Act, the consideration of a Heritage Permit Application seeking approval for demolition, will be required before a decision on the Demolition Control Application can be made,
- Upon review of all relevant issues, a staff recommendation will be made on whether or not the proposed demolition is supported, supported with conditions, or opposed. The applicant will be advised as to the department's recommendation.
- Depending on the circumstances as outlined in the by-law the application will either be considered and decided by Council, or be considered by the City's Chief Building Official.
- The Chief Building Official may refer a non-Heritage Act designated building to Council for a decision if they believe it to be in the public interest to do so.
- The Planning Act prescribes an appeal procedure whereby the applicant may appeal the City's decision to the Local Planning Appeal Tribunal.

To review, based on a comprehensive review of neighbouring municipalities' Demolition Control by-Laws, a By-law that contains the following was drafted for consideration:

- Designating the entire City of Stratford as a Demolition Control Area;
- Delegating authority to issue demolition permits for residential properties to the Chief Building Official;
- Council will have the authority to refuse demolition permits and to issue demolition permits for residential properties designated under the *Ontario Heritage Act* or listed on the Municipal Heritage Register and those applications referred to Council by the Chief Building Official;
- Outlining which Development Approvals are to be obtained by the applicant prior to the issuance of the Demolition Control Permit;
- Outlining conditions that may be applied to any Demolition Control permit, particularly related to the replacement building construction deadlines and applicable fines, such as \$50,000 per dwelling unit if demolition is commenced prior to a permit being issued under this By-law, and \$20,000 for each dwelling unit demolished and not replaced within a 2 year timespan; and
- Defining any permitted exemptions to the By-law.

Staff is recommending that Council approve the proposed By-law and receive for information the process for demolition permits included in this report.

The attached draft By-law has been prepared with input from the City solicitor.

In addition to a Demolition Control Permit, a Demolition Permit issued under the Building Code Act will also be required where applicable.

Financial Impact: Staff currently process and collect fees for an average of 6.2 dwelling unit demolition permits each year. There will be some additional cost for permits which are referred to Council for consideration and if a charge has to be placed on the tax levy. It is anticipated that the current fees for Demolition permits will adequately cover the costs for this program; however, staff will monitor resources required to implement this By-law and if additional fees are required, they will be requested as part of the Building Permit annual fee review.

Staff Recommendation: THAT Council receive the Demolition Control By-law report;

THAT prior to formal approval there is a Public Notification of Council's intent to pass a Demolition Control By-law;

AND THAT following notification Council consider approving the draft Demolition Control By-law.



Jonathan DeWeerd, Chief Building Official



Ed Dujlovic, Director of Infrastructure and Development Services



Rob Horne, Chief Administrative Officer

Draft Demolition Control By-law

Being a By-law of The Corporation of the City of Stratford pursuant to the *Planning Act, R.S.O. 1990, c. P.13*, as amended, respecting the designation of an area of demolition control and the requirement for a permit for demolition of residential buildings.

WHEREAS authority is given to the Council of The Corporation of the City of Stratford pursuant to Section 33 of the *Planning Act, R.S.O. 1990, c. P.13*, as amended, to designate as an area of demolition control any area within the City of Stratford to which a standards of maintenance and occupancy by-law under Section 15.1 of the *Building Code Act, 1992, S.O. 1992 c.23* applies;

AND WHEREAS Property Standards By-law No. 141-2002 prescribes standards of maintenance and occupancy for all properties in the City of Stratford pursuant to Section 15.1 of the *Building Code Act, 1992, S.O. 1992 c. 23*;

AND WHEREAS authority is given to the Council of The Corporation of the City of Stratford pursuant to Section 33(3) and 33(6) of the *Planning Act, R.S.O. 1990, c. P.13*, to issue or refuse to issue a permit to demolish a residential property;

AND WHEREAS authority is given to the Council of The Corporation of the City of Stratford by Section 23.1 of the *Municipal Act, 2001, S.O. 2001 c.25*, as amended, to delegate its powers and duties to any person, subject to the restrictions set out in Sections 23.2 to 23.5, inclusive, of the *Municipal Act, 2001*;

NOW THEREFORE BE IT ENACTED by the Council of The Corporation of the City of Stratford as follows:

1. In this By-law:

- (a) "Act" means the *Building Code Act, 1992, S.O. 1992, c. 23*, as amended.
- (b) "Chief Building Official" means the Chief Building Official or his/her delegate appointed by by-law of The Corporation of the City of Stratford under subsection 3(2) of the Act for the purposes of enforcement of the Act.

- (c) "City" means the geographic area of the City of Stratford or the municipal corporation, as the context requires;
 - (d) "Council" means the Council of The Corporation of the City of Stratford;
 - (e) "Demolish" or "Demolition" means to do anything in the removal of a building or any material part thereof as defined in Section 1(1) of the Act;
 - (f) "Demolition Permit" means a document issued by The Corporation of the City of Stratford in accordance with the Act indicating that the person has obtained permission pursuant to this by-law to Demolish a Residential Property;
 - (g) "Dwelling Unit" means any property that is used or designated for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;
 - (h) "Residential Property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building;
2. All areas within the boundaries of the City are designated as a demolition control area.
3. No person shall demolish a Residential Property in the City without being issued a Demolition Permit pursuant to the by-law, unless:
- (a) the demolition of a part of the Residential Property does not reduce the number of Dwelling Units in the Residential Property;
 - (b) the Residential Property is not a permitted use under the current zoning by-law;
 - (c) the Residential Property is owned by the City and the Demolition is required for the imminent implementation of a City capital works project previously approved by Council;

- (d) the Residential Property is a mobile home;
 - (e) the Residential Property has been found to be unsafe under Section 15.9 of the Act or to be an immediate danger to the health and safety of any person under Section 15.10 of the Act and a demolition order has been issued under either Section of the Act;
 - (f) the proposed demolition of the Residential Property is necessary to allow for the environmental remediation of the site and completion of a record of site condition as specified by a qualified professional under the *Environmental Protection Act*, R.S.O. 1990, c. E.19, as amended.
 - (g) the residential property is exempt under any provincial or federal statute.
4. Council hereby delegates its authority under subsections 33(3), 33(6) and 33(7) of the *Planning Act* to the Chief Building Official with respect to issuing or refusing Demolition Permits for Residential Properties, with the following exceptions:
- (a) the authority to issue a Demolition Permit for a Residential Property designated under Parts IV or V of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended;
 - (b) the Chief Building Official deems it appropriate at his/her discretion to refer an application to Council for the issuance or refusal of a demolition permit.
5. A Demolition Permit may be subject to the following conditions:
- (a) that the applicant for the Demolition Permit has applied for and received a building permit under Section 8 of the Act for a replacement building on the property;
 - (b) that if the replacement building is not erected within two (2) years of the issuance of the Demolition Permit of the existing Residential Property, the City be paid the sum of [Twenty-Thousand (\$20,000) Dollars] for each Dwelling Unit Demolished, which sum:

- i) the City Clerk is authorized to enter on the collector's roll and collect in like manner as municipal taxes; and
 - ii) is a lien or charge on the property until paid; and
- (c) that the applicant for the Demolition Permit has registered on the title to the property notice of conditions (a) and (b) above in a form satisfactory to the Chief Building Official and City Solicitor.
6. Any person who Demolishes a Residential Property or permits the Demolition of a Residential Property without a Demolition Permit in contravention of this By-law is guilty of an offence and on conviction is liable to a fine of not more than Fifty-Thousand (\$50,000) dollars for each Dwelling Unit contained in the Residential Property, the whole or any portion of which Residential Property has been Demolished.
7. This By-law shall come into force and effect upon the date of the approval of the set fines pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P. 33.

READ a FIRST, SECOND and THIRD TIME and
FINALLY PASSED this the [Xth] day of [XX], 201[X].

Mayor – Daniel B. Mathieson

Clerk – Joan Thomson



MANAGEMENT REPORT

Date: March 28, 2019
To: Planning and Heritage Sub-committee
From: Jeff Leunissen, Manager of Development Services
Report#: PLA19-007
Attachments: None

Title: Heritage Stratford Resolution-“Non-Designated” Properties for Municipal Heritage Register

Objective: To provide background information to the Planning and Heritage Sub-Committee regarding Heritage Stratford’s resolution to list non-designated properties of cultural value or interest to the City Municipal Heritage Register under Section 27(1.2) of *the Ontario Heritage Act* and to set out a process to implement this objective.

Background:

On September 11, 2018, Heritage Stratford resolved the following:

That City Council approve 44 properties to be on the City’s register of properties of heritage value or interest, as authorized by section 27(1.2) of the Ontario Heritage Act;

that the owners of the properties identified for inclusion be given notice of Council’s intent, information about the reasons for and implications of inclusion and an opportunity to decline inclusion; and that

the necessary staff resources be assigned to ensure these recommendations are carried out in a timely manner.

Analysis: Section 27 of the *Ontario Heritage Act* requires every municipality in Ontario to maintain a Municipal Heritage Register of all properties of cultural heritage value or interest. Section 27(1.2) of the *Ontario Heritage Act*, as amended in 2005, allows municipal councils to expand the Municipal Heritage Register to list properties that have not been designated, but that the municipal council believes to be of cultural heritage value or interest. The decision to list a non-designated property on the Municipal Heritage Register

rests with municipal council, upon consultation with its municipal heritage committee, i.e. Heritage Stratford.

The City of Stratford Official Plan contains the framework for including non-designated properties on the Municipal Heritage Register. Section 3.5.5 states: "the Register may include property that has not been designated under the *Ontario Heritage Act* but that Council believes to be of heritage value or interest. Council shall consult with Heritage Stratford prior to making any modifications to the Register involving properties which are not designated. The provisions of the *Ontario Heritage Act* respecting demolition of heritage resources listed in the Register shall apply."

As outlined by Sections 27(3)-(5) of the *Ontario Heritage Act*, owners of non-designated properties listed on the Municipal Heritage Register are required to provide the council of the municipality at least 60 days' notice if they intend to demolish or remove the building or structure. This 60 day period allows staff, the municipal heritage committee and municipal council the opportunity to discuss alternatives to demolition, such as retention or adaptive re-use, it allows time for photo-documentation of the property prior to demolition, or time to proceed with intent to designate the property under the *Ontario Heritage Act*.

The *Ontario Heritage Act* does not define demolition. The *Ontario Building Code Act* does define "demolition" and it is defined as the following: "demolition means to do anything in the removal of a building or any material part thereof." As demolition of a structure or material part thereof requires a permit under the Building Code, demolition referenced in Section 27(3) of the *Ontario Heritage Act* is considered to match demolition as defined by the *Ontario Building Code Act*.

Non-designated properties listed on the Municipal Heritage Register are not subject to Heritage Alteration Permits.

If a demolition or building permit application was received which proposed to remove a building or remove a material part of a building which is listed on the Municipal Heritage Register, the Chief Building Official (CBO) would be prohibited from issuing the permit for 60 days. If only a portion of the building is proposed to be removed, the CBO would be tasked with determining whether or not what is proposed to be removed is reasonably defined to be "a material part" of the building. It is recommended that the CBO discuss with Heritage Stratford or a sub-committee of Heritage Stratford, the extent that "a material part thereof" is considered demolition under the *Ontario Heritage Act*. It is recommended the CBO and Heritage Stratford establish some general guidelines as to what constitutes "material part" prior to Municipal Council passing any by-law adding non-designated properties to the Register.

Process for listing non-designated properties on the Municipal Heritage Register

The process for implementing this initiative began in 2017 when Heritage Stratford engaged the Heritage Resource Centre for the purpose of compiling a list of non-designated properties to be listed on the Municipal Heritage Register. The Heritage

Resource Centre reviewed over 600 properties previously assessed and identified the top 190 properties deemed to have the highest cultural value or significance. The Heritage Resource Centre took pictures of each property and developed a description of the property. The Heritage Resource Centre ultimately identified 44 properties that they deemed to be a priority to be listed on the Municipal Heritage Register.

Additionally, research was conducted by staff on the process used by other municipalities to include non-designated properties on the Municipal Heritage Register.

Based on feedback from the Heritage Resource Centre and research by staff, Heritage Stratford believes it is necessary and beneficial, to notify property owners of the City's intention to list their property on the Municipal Heritage Register as a non-designated property. The *Ontario Heritage Act* does not require communication with property owners or consent to proceed with listing non-designated properties on the Municipal Heritage Register; however, public engagement provides an opportunity to educate property owners on what it means to be included on the Register. It would also provide staff an opportunity to find out which property owners do not want to be on the Register.

Staff support Heritage Stratford's approach and recommends that a public open house be held prior to Council proceeding with the passage of any by-law. Affected property owners would be invited to the open house by letter. Holding a public open house would allow staff and Heritage Stratford to field questions and to further educate the affected property owners and the public on the process and implications of being on the Municipal Heritage Register. It would also provide staff an opportunity to discuss, with affected property owners and the public, material which may be required with a future application. For example, some municipalities require photographs of the affected property with an application.

After the public open house is held, the final step would be to have Council pass a by-law to list the non-designated properties on the Municipal Heritage Register. This is not subject to appeal to any applicable appeal body such as the Conservation Review Board or the Local Planning Appeal Tribunal.

Ultimately, non-designated properties on the Registry will be included on the City's Heritage webpage in a similar way designated properties on the Registry are listed today.

This initiative accomplishes the following:

- it recognizes properties of cultural heritage value in the community,
- promotes knowledge and enhances an understanding of the community's cultural heritage,
- is a planning document that would be consulted by municipal decision makers when reviewing development proposals or building permit applications; and
- is a way to introduce property owners to the *Ontario Heritage Act* and perhaps a desire to have their property designated.

This initiative is an important tool in planning for property conservation that is consistent with Section 2.6 of the Provincial Policy Statement and it is in conformity with Section 3.5.5 of the City of Stratford's Official Plan. The Municipal Heritage Register provides easily accessible information about cultural heritage properties for Council, planning staff, property owners, developers, tourists, educators and the general public; and provides interim protection for a listed property.

Financial Impact: All costs associated with listing non-designated properties on the Municipal Heritage Register are within the existing budget. The cost to notify property owners and conduct a public open house is expected to be less than \$400.

Staff Recommendation: THAT Council direct staff to notify the 44 property owners of the Heritage Stratford resolution and inform them of the upcoming public open house;

THAT staff hold a public open house to educate and inform affected property owners and the public on the objectives of including non-designated properties on the Municipal Heritage Register;

AND THAT following the public open house, staff forward a final recommended list of properties to be included on the Municipal Heritage Registry as non-designated properties for Council's consideration.



Rachel Tucker, Planner



Jeff Leunissen, Manager of Development Services



Rob Horne, Chief Administrative Officer