

Report to Planning & Environment Committee

To: Chair and Members
Planning & Environment Committee
From: John M. Fleming
Managing Director, Planning and City Planner
Subject: Demolition Request of Heritage Designated Property at 660
Sunningdale Road East By: Peter Sergautis
Public Participation Meeting on: Monday April 16, 2018

Recommendation

That, on the recommendation of the Managing Director, Planning & City Planner, with the advice of the Heritage Planner, the request for the demolition of the heritage designated property located at 660 Sunningdale Road East **BE REFUSED**.

Executive Summary

Summary of Request

The property owner has requested consent of Municipal Council to demolish the remaining two red clay tile barns located at 660 Sunningdale Road East.

Purpose and the Effect of Recommended Action

The purpose of the recommended action is to refuse the demolition request. The effect of the recommended action is retain the two red clay tile barns located at 660 Sunningdale Road East, which are significant cultural heritage resources.

Rationale of Recommended Action

No new information was submitted which affects the evaluation of the property undertaken in July 2017 which recommended designation of the property pursuant to Section 29 of the *Ontario Heritage Act*. Despite ongoing resolution discussions between staff and the Applicant, once a demolition request has been received, the *Ontario Heritage Act* does not provide any mechanism to withdraw a request. Even if a settlement were achieved whereby the Applicant's intent was to abandon the demolition request, Municipal Council would still have to either consent or reject the request, or the *Ontario Heritage Act* deems the request to be consented. Therefore, this demolition request should be refused.

Analysis

1.0 Background

1.1 Property Location

The property at 660 Sunningdale Road East is on the northwest corner of Sunningdale Road East and Adelaide Street North (Appendix A). The property is located at the northern boundary of the City of London and abuts the Municipality of Middlesex Centre. The property is part of the former London Township that was annexed by the City of London in 1993.

1.2 Cultural Heritage Status

The property has been included on the *Inventory of Heritage Resources* since 1997. The *Inventory of Heritage Resources* was adopted as the Register pursuant to Section 27 of the *Ontario Heritage Act* in 2007. 660 Sunningdale Road East is identified as a Priority 2 resource and is considered to have potential cultural heritage value or interest.

On August 24, 2017, Municipal Council published its Notice of Intent to Designate the

property to be of cultural heritage value in *The Londoner*. The Notice of Intent to Designate was subsequently appealed to the Conservation Review Board (CRB) by the property owner. Pursuant to Section 30(1) of the *Ontario Heritage Act*, the property is treated as if it were designated until the appeal is resolved.

1.3 Previous Reports

March 2, 1999. Municipal Council resolved that the lands be excluded from the Uplands Community Plan and be added to the Stoney Creek Community Plan be refused.

May 12, 1999. 6th Report of the LACH, Report of the Stewardship Sub-Committee of the LACH, re: discussion of 660 Sunningdale barns.

January 30, 2002. Report of the Stewardship Sub-Committee of the LACH, re: Uplands North Area Plan.

February 27, 2002. Report of the Stewardship Sub-Committee of the LACH, re: Uplands North Area Plan.

June 12, 2002. Monthly Report of the Heritage Planner to LACH Members, re: 660 Sunningdale Road East.

April 30, 2003. Report of the Stewardship Sub-Committee of the LACH, re: Uplands North Area Plan.

May 7, 2003. Memorandum from the Stewardship Sub-Committee of the LACH, re: Uplands North Area Plan.

June 9, 2003. Report to the Planning Committee recommending adoption of the Uplands North Area Plan.

August 7, 2007. Report to Planning Committee regarding 660 Sunningdale Road East (39T-99513/Z-5723).

March 11, 2009. 4th Report of the LACH. Re: Notice, 660 Sunningdale Road East.

May 6, 2009. Report to the Planning Committee regarding tree cutting on the property.

June 22, 2009. Report to the Planning Committee regarding the status of the subdivision/file.

October 10, 2010. 3rd Report of the LACH. Re: Notice, 660 Sunningdale Road East.

October 8, 2013. Report to the PEC. 39T-09501/OZ-7683.

March 12, 2014. 4th Report of the LACH. Re: Notice, 660 Sunningdale Road East.

April 9, 2014. 5th Report of the LACH. Re: Notice, 660 Sunningdale Road East.

July 28, 2014. Report to the PEC. 39T-09501/OZ-7638.

July 12, 2017. Report to the LACH. Request for Demolition of Heritage Listed Property at 660 Sunningdale Road East by: Peter Sergautis.

July 17, 2017. Report to the PEC. Request for Demolition of Heritage Listed Property at 660 Sunningdale Road East by: Peter Sergautis.

January 22, 2018. Report to the PEC: Application by Extra Realty Limited, 660 Sunningdale Road East, Applewood Subdivision, Public Participation Meeting.

2.0 Legislative/Policy Framework

2.1 Provincial Policy Statement

Section 2.6.1 of the *Provincial Policy Statement* (2014) directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved.” “Significant” is defined in the *Provincial Policy Statement* (2014) as, in regards to cultural heritage and archaeology, “resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, and event, or a people.”

2.2 Ontario Heritage Act

Section 29 of the *Ontario Heritage Act* enables municipalities to designate properties to be of cultural heritage value or interest. Section 29 of the *Ontario Heritage Act* also establishes consultation, notification, and process requirements, as well as a process to appeal the designation of a property. Appeals to the Notice of Intent to Designate a property pursuant to Section 29 of the *Ontario Heritage Act* are referred to the Conservation Review Board (CRB).

Interim protection is afforded to properties that are subject to a Notice of Intent to Designate, but which designations have been appealed to the CRB. Section 30(2) of the *Ontario Heritage Act* states:

Sections 33 and 34 apply with necessary modifications to property as of the day notice of intent to designate the property is given under subsection 29 (3) as though the designation process were complete and the property had been designated under section 29. 2005, c. 6, s. 18.

Therefore the provisions of the *Ontario Heritage Act* that protect properties designated under Section 29 of the *Ontario Heritage Act* also apply to those properties subject to a Notice of Intent to Designate. This requires Heritage Alteration Permit approval for alterations that are “likely to affect the property’s heritage attributes” of the property (pursuant to Section 33 of the *Ontario Heritage Act*), as well as the provisions under Section 34 of the *Ontario Heritage Act* regarding demolition requests for heritage designated properties.

Pursuant to Section 34(1) of the *Ontario Heritage Act*,

No owner of property designated under Section 29 shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the demolition or removal. 2002, c. 18, Sched. F, s. 2 (18); 2005, c. 6, s. 22 (1).

Municipal Council has 90-days to respond to a demolition request for a heritage designated property (Section 34(2), *Ontario Heritage Act*). Within those 90-days, and following consultation with its municipal heritage committee, Municipal Council may:

- i) Consent to the demolition application;
- ii) Consent to the demolition application, subject to terms and conditions as may be specified; or
- iii) Refuse the application.

Notice to the property owner and Ontario Heritage Trust is required, and the municipality is required to publish its decision in a newspaper.

Should Municipal Council not respond within the legislated 90-day timeline, the application is deemed to have been consent (Section 34(4), *Ontario Heritage Act*). The refusal or terms and conditions attached to a consent may be appealed to the Ontario Municipal Board (OMB). The OMB was replaced by the Local Planning Appeals Tribunal (LPAT) on April 3, 2018.

2.3 Official Plan/The London Plan

Chapter 13 (Heritage of the City of London’s *Official Plan* (1989, as amended) recognizes that properties of cultural heritage value or interest:

Provide physical and cultural links to the original settlement of the area and to specific periods or events in the development of the City. These properties, both individually and collectively, contribute in a very significant way to the identity of the City. They also assist in instilling civic pride, benefitting the local economy by attracting visitors to the City, and favourably influencing the decisions of those contemplating new investment or residence in the City.

The objectives of Chapter 13 (Heritage) support the conservation of heritage resources, including encouraging new development, redevelopment, and public works to be sensitive to, and in harmony with, the City's heritage resources (Policy 13.1.iii). This direction is also supported by the policies of *The London Plan* (adopted 2016); *The London Plan* has greater consideration for potential cultural heritage resources that are listed, but not designated under the *Ontario Heritage Act*, through planning processes.

3.0 Demolition Request

3.1 Previous Demolition Request

Action to demolish the largest of the three barns at 660 Sunningdale Road East commenced in early May 2017. A complaint from the community made the City aware of the demolition activities at the property. A letter advising the property owner of their obligations of Section 27(3) of the *Ontario Heritage Act*, to provide Municipal Council 60 days' notice of the property owner's intention to demolish the building or structure on the heritage listed property, was sent to the property owner on May 11, 2017. Demolition activities subsequently ceased, but a substantial portion of Barn 1 has already been removed. A demolition permit is not required to demolish a barn under the *Ontario Building Code Act*; however, this does not change the obligations of property owners regarding Section 27(3) of the *Ontario Heritage Act* for heritage listed properties.

Following a meeting with the property owner, a request for the demolition of the (then) heritage listed property was received on June 9, 2017. The London Advisory Committee on Heritage (LACH) was consulted at its meeting on July 12, 2017, and a public participation meeting was held at the Planning & Environment Committee meeting on July 17, 2017. At its meeting on July 25, 2017, Municipal Council resolved to issue its Notice of Intent to Designate the property to be of cultural heritage value or interest for the two red clay tile barns pursuant to Section 29(3) of the *Ontario Heritage Act*. Notice was served on the property owner and Ontario Heritage Trust, and published in *The Londoner* on August 24, 2017. The property owner appealed the Notice of Intent to Designate the property at 660 Sunningdale Road East to the Conservation Review Board (CRB) on August 31, 2017.

The largest red clay tile barn has been subsequently demolished.

3.2 Demolition Request

As the property at 660 Sunningdale Road East is treated as if it were designated (per Section 30(1) of the *Ontario Heritage Act*), consent from Municipal Council is required to demolish a building or structure on the property.

Through their solicitor, the property owner submitted a demolition request for the remaining two red clay tile barns at 660 Sunningdale Road East on February 14, 2018. Municipal Council must respond to this current demolition request within 90-days or the demolition request is deemed consented. The 90-day timeline will expire on May 15, 2018.

4.0 Analysis

4.1 Appeal to the Conservation Review Board

The property owner appealed Municipal Council's Notice of Intent to Designate the property to the Conservation Review Board. Both the City and the property owner have made efforts to resolve the appeal. A proposed settlement will be considered by the

Planning & Environment Committee at its meeting on April 16, 2018 and Municipal Council at its meeting on April 24, 2018.

4.2 Demolition Request

The *Ontario Heritage Act* does not articulate a process by which a demolition request pursuant to Section 34 of the *Ontario Heritage Act* may be withdrawn. Therefore, it is essential that the normal processes be followed to ensure that there are no grounds which could result in the loss of the two red clay tile barns. Even if a settlement were achieved whereby the Applicant's intent was to abandon the demolition request, Municipal Council would still have to either consent or reject the request, or the *Ontario Heritage Act* deems the request to be consented.

No new information was presented as part of the demolition request that could affect the evaluation of the property's cultural heritage value or interest as articulated in the July 2017 staff reports to the LACH and to the PEC, which were used by Municipal Council to issue their Notice of Intent to Desigate. The two remaining red clay tile barns are significant cultural heritage resources that have met the mandated criteria for designation per O. Reg. 9/06. The demolition request for the two remaining red clay tile barns should be refused.

4.3 Heritage Community Improvement Plan

The Heritage Community Improvement Plan (Heritage CIP) offers two grant programs to address some of the financial impacts of heritage conservation by offering incentives that promote building rehabilitation in conjunction with new development. The Tax Increment Grant provides the registered owner a refund on the increase in the municipal portion of the property tax ensuing from a reassessment as a result of a development or rehabilitation project related to an intensification or change of use which incorporates a designated heritage property. The second incentive is a Development Charges Equivalent Grant which is issued when a designated heritage property is preserved and rehabilitated in conjunction with a development project relating to an intensification or change of use.

A property must be designated under the *Ontario Heritage Act* to be able to access the grant programs of the Heritage CIP. Both the Development Charges Equivalent Grant and Tax Increment Grant could be leveraged to assist with heritage conservation work for the two red clay tile barns at 660 Sunningdale Road East, once designated. These programs are only applicable to the two red clay tile barns and the real property on which they are located.

5.0 Conclusion

The cultural heritage evaluation of 660 Sunningdale Road East, completed in July 2017, found the two (remaining) red clay tile barns met the criteria for designation under the *Ontario Heritage Act*. As Municipal Council's Notice of Intent to Designate the property was appealed to the Conservation Review Board, the property is treated as if it were designated until the appeal is resolved. No new information was submitted which affects the evaluation of the cultural heritage value or interest of the barns, and therefore this demolition request should be refused.

This report was prepared with the assistance of A. Anderson, Solicitor.

Prepared by:	Kyle Gonyou, CAHP Heritage Planner
Submitted by:	Gregg Barrett AICP Manager, Long Range Planning and Research
Recommended by:	John M. Fleming, MCIP, RPP Managing Director, Planning and City Planner

April 10, 2018
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Appendix A – Maps

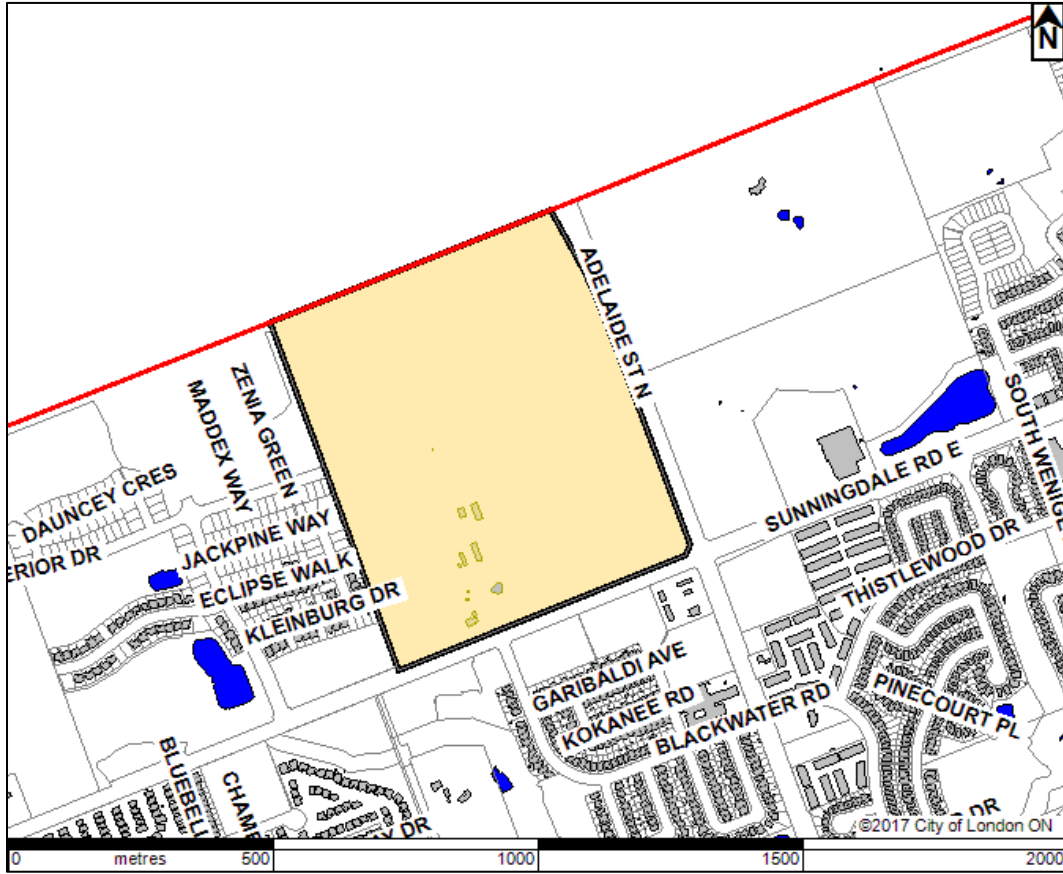


Figure 1: Property location of 660 Sunningdale Road East.



Figure 2: Detail of the property located at 660 Sunningdale Road East identifying Barn 1, Barn 2, and Barn 3. Note: Barn 1 has been demolished.

Appendix B – Images



Image 1: View of Barn 2 located at 660 Sunningdale Road East looking northeast. Barn 2 has three ventilators along the ridge of its roof.



Image 2: View of Barn 3 located at 660 Sunningdale Road East looking southwest. Barn 3 has two ventilators along the ridge of its roof.