

# Report to London Advisory Committee on Heritage

**To:** Chair and Members  
London Advisory Committee on Heritage  
**From:** John M. Fleming  
Managing Director, City Planning and City Planner  
**Subject:** Amendment to Heritage Designating By-law for 660  
Sunningdale Road East  
**Meeting on:** Wednesday August 14, 2019

## Recommendation

That, on the recommendation of the Managing Director, City Planning and City Planner, with the advice of the Heritage Planner, with respect to the heritage designated property at 660 Sunningdale Road East, the following actions **BE TAKEN**:

- a) Notice **BE GIVEN** under the provisions of Section 30.1(4) of the *Ontario Heritage Act*, R. S. O. 1990, c. O. 18, of Municipal Council's intention to pass a by-law to amend the legal description of the property designated to be of cultural heritage value or interest by By-law No. L.S.P.-3476-474 as defined in Appendix B of this report; and,
- b) Should no appeals be received to Municipal Council's notice of intention to pass a by-law to amend the legal description of the property, a by-law **BE INTRODUCED** at a future meeting of Municipal Council immediately following the end of the appeal period.

**IT BEING NOTED** that should an appeal to Municipal Council's notice of intent to pass a by-law to amend the legal description of the property be received, the City Clerk will refer the appeal to the Conservation Review Board.

## Executive Summary

At its meeting on September 18, 2018, Municipal Council passed the heritage designating by-law to protect the two red clay tile barns located at 660 Sunningdale Road East pursuant to the *Ontario Heritage Act*. An error occurred in the legal description of the property included in the heritage designating by-law and an amendment to the heritage designating by-law is required. This will remove the heritage designating by-law from the title to lands that are now part of a phased development of the property and ensure that the heritage designating by-law can be registered against the appropriate property where the red clay tile barns are located.

It is anticipated that subsequent amendments to the heritage designating by-law may be necessary as future phases of the development of the property are registered. Municipal Council previously amended the legal description of the heritage designating by-law for the property at 660 Sunningdale Road East on March 5, 2019 when a previous phase of the subdivision was registered.

## 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.

#### 1.2 Cultural Heritage Resource

The two red clay tile barns located at 660 Sunningdale Road East are significant cultural heritage resources. The property was evaluated using the criteria of O. Reg. 9/06, and it found that the barns are of cultural heritage value because of their physical/design values and their contextual values. The significance of the barns located at 660

Sunningdale Road East comes from their use of the red clay tile material, the intersection of a material more typically found in industrial structures but applied here in an agricultural form, and their existing location. These materials and forms are authentically displayed in their built form which has significance particularly the rarity of its materials used in this form.

The use of materials and construction method is rare for barns. The red clay tiles, used as the primary cladding material for the barns, is rare and not found elsewhere in the City of London. The use of protruding concrete piers in the construction of the barns is also rare, where barns more typically have concrete or stone foundations, rather than concrete piers, with a timber frame. The application of these materials is more commonly found in industrial applications, such as factory buildings, which makes the barns rare examples of this expression not seen elsewhere in London.

The barns display a degree of craftsmanship in the material qualities of the clay tile. While the variety in grooving, cutting, and colour of the tiles could suggest little regard for the appearance of the building, or the use of seconds, this contributes to the rustic qualities of the barns and were well suited to their original rural context.

The barns represent technical achievement in their combination of industrial materials in an agricultural form that is not seen elsewhere in London.

Contextually, the location and arrangement of the barns on the property, and the relationship between the barns contributes to the property's physical, functional, visual, and historical links to its surroundings.

### **1.3 Cultural Heritage Status**

At its meeting on September 18, 2018, Municipal Council passed By-law No. L.S.P.-3476-474 to designate the property at 660 Sunningdale Road East to be of cultural heritage value or interest pursuant to Section 29 of the *Ontario Heritage Act*.

The passage of the heritage designating by-law was the culmination of a process that commenced in May 2017 and resulted in two separate demolition requests for the (then) heritage listed property. As an outcome of the settlement reached with the property owner regarding the designation of the property under the *Ontario Heritage Act*, only the part of the property where the red clay tile barns are located was intended to be designated under the *Ontario Heritage Act*. To facilitate this, the property owner prepared a reference plan (33R-20149) to recognize the block on which the two red clay tile barns are located within the draft plan of subdivision for the larger property.

The heritage designating by-law, By-law No. L.S.P.-3476-474, was registered against the entire property at 660 Sunningdale Road East. While the location of the red clay tile barns is limited to Part 1 on the reference plan (Plan 33R-20149), Part 1 is not a separate parcel for registration purposes. In an effort to not frustrate the development of the property, it is necessary to remove the heritage designating by-law from the title to the lands that are now in the second phase of the subdivision (Plan 33M-764).

The lands forming part of the first phase of the subdivision (33M-749) were removed from the heritage designating by-law through a technical amendment, following the process pursuant to Section 30.1(2) of the *Ontario Heritage Act*, in By-law No. L.S.P.-3476(a)-71.

### **1.4 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. 6<sup>th</sup> 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. 4<sup>th</sup> 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. 3<sup>rd</sup> Report of the LACH. Re: Notice, 660 Sunningdale Road East.

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

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

April 9, 2014. 5<sup>th</sup> 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.

April 11, 2018. Report to the LACH: Demolition Request of Heritage Designated Property at 660 Sunningdale Road East by: Peter Sergautis.

April 16, 2018. Report to the PEC: Demolition Request of Heritage Designated Property at 660 Sunningdale Road East by: Peter Sergautis.

April 30, 2018. Report to the PEC: Application by Extra Realty Limited, 660 Sunningdale Road East, Applewood Subdivision Phase 1 – Special Provisions.

September 10, 2018. Report to the PEC. Passage of Heritage Designating By-law for 660 Sunningdale Road East.

October 29, 2018. Report to the PEC. 660 Sunningdale Road East, Stormwater Management (SWM) Facility Land Acquisition Agreement.

November 14, 2018. Report to the LACH. Amendment to Heritage Designating By-law for 660 Sunningdale Road East.

February 19, 2019. Report to the PEC. Passage of Amending By-law for Heritage Designated Property at 660 Sunningdale Road East.

## 2.0 Legislative and Policy Framework

### 2.1 Ontario Heritage Act

The *Ontario Heritage Act* enables municipalities to protect properties of cultural heritage value or interest. Properties of cultural heritage value can be protected individually, pursuant to Section 29 of the *Ontario Heritage Act*, or where groups of properties have cultural heritage value together, pursuant to Section 41 of the *Ontario Heritage Act* as a Heritage Conservation District (HCD). Designations pursuant to the *Ontario Heritage Act* are based on real property, not just buildings.

An individual property may be designated pursuant to Section 29 of the *Ontario Heritage Act*. A heritage designating by-law, which includes a statement explaining the cultural heritage value or interest of the property and describes its heritage attributes, is registered on the title of the property. This ensures that the property is protected by the provisions of the *Ontario Heritage Act* even if the property is sold or transferred.

#### 2.2.1 Technical Amendment to a Heritage Designating By-law

Section 30.1(2) of the *Ontario Heritage Act* includes special provisions to amend a heritage designating by-law without requiring its repeal and replacement. These special provisions are only applicable in particular, defined circumstances:

- a) *To clarify or correct the statement explaining the property’s cultural heritage value or interest or the description of the property’s heritage attributes;*
- b) *To correct the legal description of the property; or,*
- c) *To otherwise revise the language of the by-law to make it consistent with the requirements of this Act or the regulations. 2005, c. 6, s. 19.*

One of the major distinctions between the initial passage of a heritage designating by-law or the repeal of a heritage designating by-law, only the owner of the heritage designated property receives notice of Municipal Council’s intention to make an amendment to the heritage designating by-law per Section 30.1(4). Only the property owner is able to appeal an amendment to a heritage designating by-law to the Conservation Review Board (Section 30.1(6)).

Municipal Council is required to consult with its municipal heritage committee, the London Advisory Committee on Heritage (LACH), in advance of passing an amendment to a heritage designating by-law per Section 30.1(5).

This process is visually articulated in a flowchart included in the *Ontario Heritage Toolkit* (Appendix A).

## 3.0 Amendment to Heritage Designating By-law

The City Solicitor’s Office and the City Clerk have advised that it is possible to pursue an amendment to the heritage designating by-law, following the process pursuant to Section 30.1(2) of the *Ontario Heritage Act*. This would entail Municipal Council passing an amending by-law to remove the heritage designating by-law from the title to the lands now in the subdivision and to apply the heritage designating by-law to a parcel of land with the correct legal description so that it can be registered in the Land Registry Office.

The same approach was taken to correct an error in the heritage designating by-law for the Mather’s Cemetery (3551 Colonel Talbot Road) with respect to its municipal address.

An amendment to the heritage designating by-law, By-law No. L.S.P.-3476-474, for the property at 660 Sunningdale Road East should be undertaken pursuant to Section 30.1 of the *Ontario Heritage Act* to correct the legal description within the heritage designating by-law. The correct legal description of the part of the property at 660 Sunningdale Road East with the red clay tile barns can be found in Appendix B.

It is anticipated that subsequent amendments to the heritage designating by-law may be necessary as future phases of the development of the property are registered.

**5.0 Conclusion**

The two red clay barns located at 660 Sunningdale Road East are significant cultural heritage resources and merit designation under the *Ontario Heritage Act*. To ensure their protection and to execute the minutes of settlement as intended, amendment to the legal description in the heritage designating by-law, By-law No. L.S.P.-3476-474, is required.

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Recommended by:	<b>John M. Fleming, MCIP, RPP</b> <b>Managing Director, City Planning and City Planner</b>
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from City Planning.	

August 7, 2019  
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- Appendix A Ministry of Culture, *Ontario Heritage Toolkit: Amendment of Designating By-law (Exception)* (2006)
- Appendix B Legal Description – for part of the property located at 660 Sunningdale Road East

**3. Amendment of Designating Bylaw (Exception)**  
(Section 30.1 (2) to (10) of the Ontario Heritage Act)

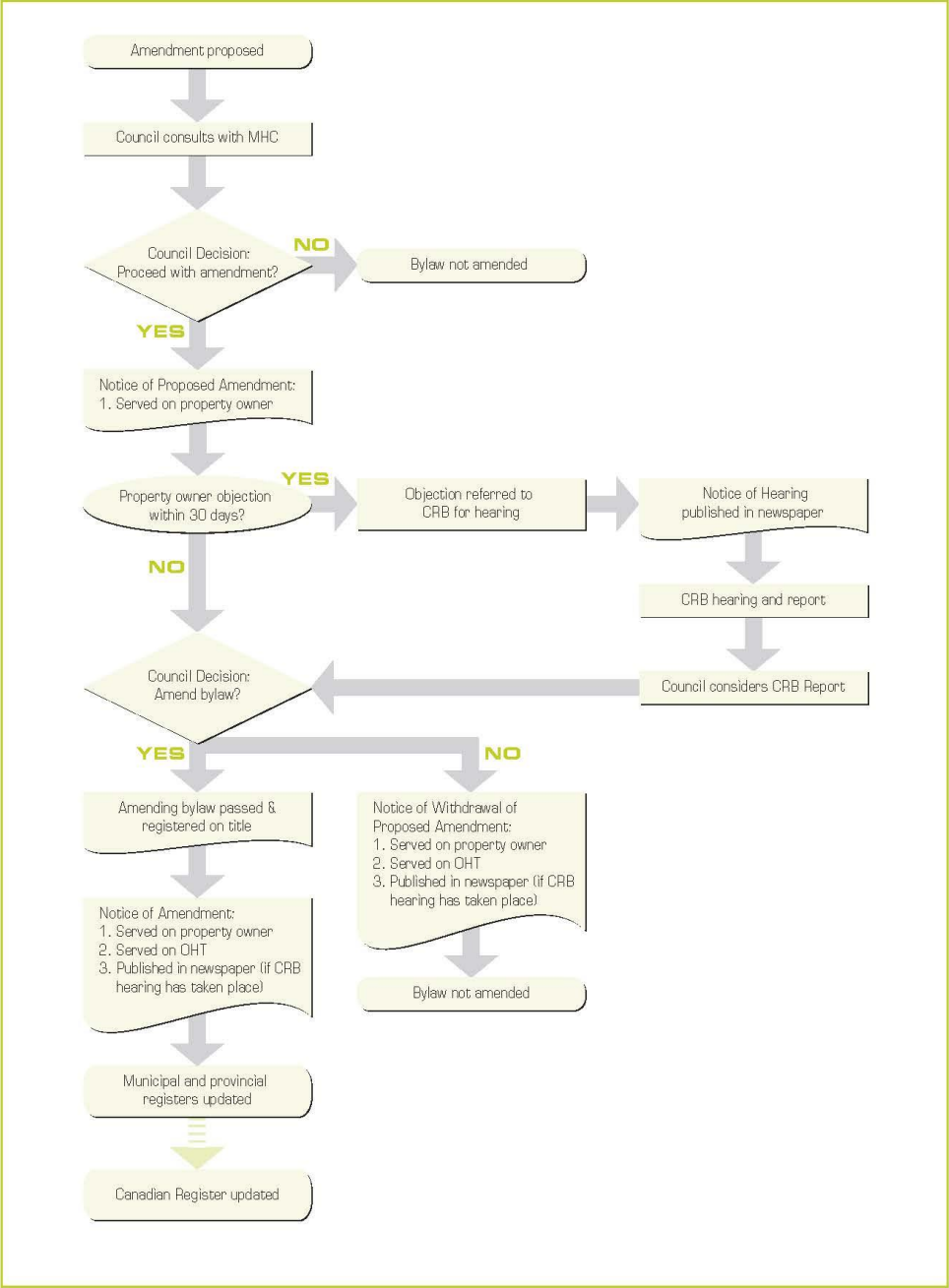


Figure 1: Process to amend a heritage designating by-law pursuant to Section 30.1 of the Ontario Heritage Act (Ministry of Culture, Ontario Heritage Toolkit, Designating Heritage Properties, 2006).

## Appendix B

### **Legal Description – for part of the property located at 660 Sunningdale Road East with the red clay tile barns**

“Part Lot 13, Concession 6, London Township, designated as Part 1, 33R-16565, save and except Plan 33M-749 and Plan 33M-764, s/t easement in gross over Part 4, 33R-19133 as in ER975679, s/t easement in gross over Part 1, 33R-20202 as in ER1204833, London”.