

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee
From: Scott Mathers, MPA, P. Eng.
Deputy City Manager, Planning and Economic Development
Subject: Heritage Alteration Permit application by R. Gilmore at 516
Elizabeth Street, Old East Heritage Conservation District
Date: Monday February 28, 2022

Recommendation

That, on the recommendation of the Director, Planning and Development, with the advice of the Heritage Planner, the application under Section 42 of the *Ontario Heritage Act* seeking retroactive approval for the removal and replacement of the windows on the heritage designated property at 516 Elizabeth Street, within the Old East Heritage Conservation District, **BE PERMITTED** with the following terms and conditions:

- a) The installation of the proposed exterior grilles be installed in a manner that replicates the muntins of the former wood windows;
- b) The windows and exterior grilles be painted to match the existing trim work on the building;
- c) The installation of the proposed exterior grilles be completed within six months of Municipal Council's decision on this Heritage Alteration Permit; and,
- d) The Heritage Alteration Permit be displayed in a location visible from the street until the work is completed.

Executive Summary

During a compliance inspection, unapproved alterations were identified to the heritage designated property at 516 Elizabeth Street, in the Old East Heritage Conservation District. The front windows of the house were removed and replaced without Heritage Alteration Permit approval. To bring the replacement windows into better compliance with the policy and guideline direction of the *Old East Heritage Conservation District Plan and Guidelines*, exterior grilles should be applied to better replicate the muntins of the former wood windows and painted to match the existing trim work. The application of the exterior grilles should be completed by September 22, 2022 (i.e. within six-months of Municipal Council's decision on this Heritage Alteration Permit application).

Linkage to the Corporate Strategic Plan

This recommendation supports the following 2019-2023 Strategic Plan areas of focus:

- Strengthening Our Community:
 - Continuing to conserve London's heritage properties and archaeological resources.

Analysis

1.0 Background Information

1.1 Location

The property at 516 Elizabeth Street is located on the east side of Elizabeth Street, between Lorne Avenue and Dufferin Avenue/Queens Avenue (Appendix A).

1.2 Cultural Heritage Status

The property at 516 Elizabeth Street is located within the Old East Heritage Conservation District, which was designated pursuant to Part V of the *Ontario Heritage Act* by By-law No. L.S.P.-3383-111. The Old East Heritage Conservation District came

into force and effect on September 10, 2006. The property is noted as a C-ranked property within the *Old East Heritage Conservation District Plan*. C-ranked properties are described as being “of value as part of the environment” (Section 4.2, *Old East Heritage Conservation District Study*).

1.3 Description

The house located at 516 Elizabeth Street was built circa 1885. The house is a one-storey vernacular buff brick cottage (Appendix B). It follows the side hall plan type, which features a doorway to one side of the front façade with two window openings on the other side.

The front door was previously replaced. The transom was recently reinstated (Heritage Alteration Permit HAP21-078-D). The front windows were segmented arch two-over-two painted wood sash windows.

2.0 Discussion and Considerations

2.1 Legislative and Policy Framework

Cultural heritage resources are to be conserved and impacts assessed as per the fundamental policies in the *Provincial Policy Statement (2020)*, the *Ontario Heritage Act*, *The London Plan* and the *Official Plan (1989 as amended)*.

2.1.1 Provincial Policy Statement

Heritage Conservation is a matter of provincial interest (Section 2.d, *Planning Act*). The *Provincial Policy Statement (2020)* promotes the wise use and management of cultural heritage resources and directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved” (Policy 2.6.1, *Provincial Policy Statement 2020*).

“Significant” is defined in the *Provincial Policy Statement (2020)* as, “resources that have been determined to have cultural heritage value or interest.” Further, “processes and criteria for determining cultural heritage value or interest are established by the Province under the authority of the *Ontario Heritage Act*.”

Additionally, “conserved” means, “the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained.”

2.1.2 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.

2.1.2.1 Contravention of the Ontario Heritage Act

Pursuant to Section 69(1) of the *Ontario Heritage Act*, failure to comply with any order, direction, or other requirement made under the *Ontario Heritage Act* or contravention of the *Ontario Heritage Act* or its regulations, can result in the laying of charges and fines up to \$50,000 for an individual and \$250,000 for a corporation.

2.1.2.2 Heritage Alteration Permit

Section 42 of the *Ontario Heritage Act* requires that a property owner not alter, or permit the alteration of, the property without obtaining Heritage Alteration Permit approval. The *Ontario Heritage Act* enables Municipal Council to give the applicant of a Heritage Alteration Permit:

- a) The permit applied for;
- b) Notice that the council is refusing the application for the permit; or,
- c) The permit applied for, with terms and conditions attached. (Section 42(4), *Ontario*

Heritage Act)

Municipal Council must make a decision on the heritage alteration permit application within 90 days or the request is deemed permitted (Section 42(4), *Ontario Heritage Act*).

2.1.3 The London Plan/Official Plan

The London Plan is the new official plan for the City of London (Municipal Council adopted, approved by the Ministry of Municipal Affairs and Housing with modifications, and the majority of which is in force and effect).

The policies of *The London Plan* found in the Key Directions and Cultural Heritage chapter support the conservation of London's cultural heritage resources for future generations. To ensure the conservation of significant cultural heritage resources, including properties located within a Heritage Conservation District, the policies of *The London Plan* provide the following direction:

*Policy 594_ * Within heritage conservation districts established in conformity with this chapter, the following policies shall apply:*

- 1. The character of the district shall be maintained by encouraging the retention of existing structures and landscapes that contribute to the character of the district.*
- 2. The design of new development, either as infilling, redevelopment, or as additions to existing buildings, should complement the prevailing character of the area.*
- 3. Regard shall be had at all times to the guidelines and intent of the heritage conservation district plan.*

Policy 596_ A property owner may apply to alter a property within a heritage conservation district. The City may, pursuant to the Ontario Heritage Act, issue a permit to alter the structure. In consultation with the London Advisory Committee on Heritage, the City may delegate approvals for such permits to an authority.

2.1.4 Old East Heritage Conservation District

The *Old East Heritage Conservation District Conservation and Design Guidelines* provides direction for alterations and replacement of and installation of windows within the Old East Heritage Conservation District.

Section 4.2, Alteration, *Old East Heritage Conservation District Plan*:

- Avoid "new" materials and methods of construction if the original is still available.*
- "Restore" wherever possible rather than "replace," particularly for features such as windows, doors, porches, and decorative trim.*
- Where replacement features (e.g. doors, windows, trim) is unavoidable, the replacement components should be of the same general style, size and proportion.*

Section 3.6 Doors and Windows, *Old East Heritage Conservation District Guidelines*:

The replacement of original wood framed windows by vinyl or aluminum clad windows is discouraged. If this is the only reasonable option, the replacement windows should mimic the original windows with respect to style, size and proportion, with a frame that is similar in colour, or can be painted, to match other windows.

Section 4.3.1.f Guidelines for Alterations, *Old East Heritage Conservation District Guidelines*:

Where replacement of features (e.g. doors, windows, trim) is unavoidable, the replacement components should be of the same general style, size and proportions.

2.2 Heritage Alteration Permit (HAP22-006-L)

During a compliance inspection for the transom (HAP21-078-D), staff identified non-compliant alterations. The two front windows were removed and replaced without Heritage Alteration Permit approval.

Staff contacted the property owner and advised of the non-compliance. The property owner subsequently submitted a Heritage Alteration Permit application which was received on January 25, 2022. The property owner has applied for a Heritage Alteration Permit for:

- Retroactive approval of the removal of the painted wood sash windows;
- Retroactive approval for the installation of vinyl sash windows;
- Installation of exterior grilles, to replicate the muntins (fenestration) pattern of the former windows.

As the alterations commenced prior to obtaining Heritage Alteration Permit approval, this application has met the terms and conditions for referral requiring consultation with the London Advisory Committee on Heritage (LACH).

Per Section 42(4) of the *Ontario Heritage Act*, the 90-day timeline for this Heritage Alteration Permit application will expire on April 25, 2022.

3.0 Financial Impact/Considerations

None.

4.0 Key Issues and Considerations

Window removal, replacement or additions on street facing facades are identified as a class of alterations that requires Heritage Alteration Permit approval in Table 7.1 of the *Old East Heritage Conservation District Plan*.

It is unfortunate that the wood windows were removed and replaced without Heritage Alteration Permit approval, particularly as wood windows can be repaired and restored. Restoration, as opposed to replacement, is the preferred approach for windows, doors, porches, decorative trim, and other important elements, identified in the policies and guidelines of the *Old East Heritage Conservation District Plan*.

When considering a Heritage Alteration Permit application for window replacement, the style, size, and proportion are important consideration in accordance with the direction of Section 4.2 of the *Old East Heritage Conservation District Plan* and Section 4.3.1.f of the *Old East Heritage Conservation District Guidelines*. Further, material considerations are pertinent for compliance with Section 3.6 of the *Old East Heritage Conservation District Guidelines*, where vinyl is discouraged as a replacement material.

The replacement windows are similar to the former windows in general size, but not shape as the replacement windows do not replicate the segmented arch of the former wood windows. The replacement windows are the same in style as the former windows, maintaining the sash or hung style which is predominant in the Old East Heritage Conservation District. The replacement windows are somewhat similar in proportion as the former windows, but the faux grilles between the glass panes are of limited success in replicating the two-over-two proportions of the former windows.

The application of exterior grilles replicating the muntin pattern of the former windows as “simulated divided lights,” will bring the replacement windows of the house at 516 Elizabeth Street into better compliance with the policy and guideline direction of the *Old East Heritage Conservation District Plan and Guidelines*. The windows and the exterior grilles should be painted to match the existing trim work of the house. The application of the exterior grilles should be completed within six months of Municipal Council’s approval (anticipated on March 22, 2022), with a deadline of September 22, 2022.

Conclusion

Wood windows should be restored and retained as important heritage attribute of the Old East Heritage Conservation District.

To bring the replacement windows installed on the heritage designated property at 516 Elizabeth Street into better compliance with the policy and guideline direction of the *Old East Heritage Conservation District Plan and Guidelines*, exterior grilles should be applied to the replacement windows to replicate the two-over-two fenestration pattern of the former windows. The exterior grilles should be installed within six months.

Prepared by: Kyle Gonyou, CAHP
Heritage Planner

Reviewed by: Britt O'Hagan, MCIP RPP
Manager, Community Planning, Urban Design and Heritage

Recommended by: Gregg Barrett, AICP
Director, Planning and Development

Submitted by: Scott Mathers, MPA, P. Eng.
Deputy City Manager, Planning and Economic Development

Appendices

Appendix A Property Location

Appendix B Images

Appendix C Heritage Alteration Permit application details

Sources

Corporation of the City of London. *Old East Heritage Conservation District Conservation Plan* 2005.

Corporation of the City of London. *Old East Heritage Conservation District Conservation and Design Guidelines*. 2005.

Corporation of the City of London. *Register of Cultural Heritage Resources*. 2019.

Corporation of the City of London. *The London Plan*. 2019 (consolidated).

Ontario Heritage Act. 2019, c.9, Sched. 11. Retrieved from <https://www.ontario.ca/laws/statute/90o18>.

Appendix A – Property Location

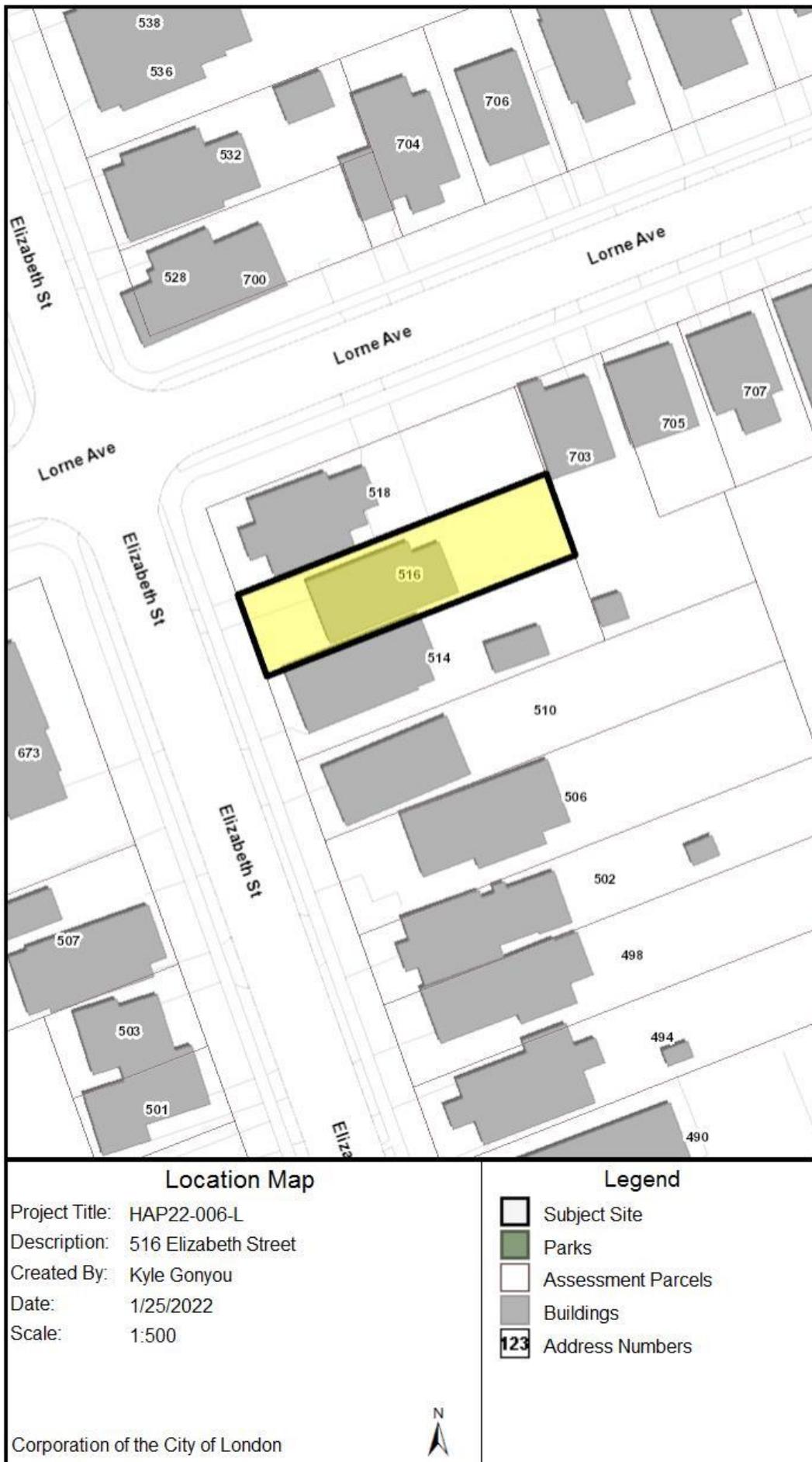


Figure 1: Property location map showing the subject property at 516 Elizabeth Street, located within the Old East Heritage Conservation District.

Appendix B – Images



Image 1: Photograph of the house at 516 Elizabeth Street in 2019.



Image 2: Photograph of the house at 516 Elizabeth Street on April 24, 2020. Note the painted wood, two-over-two wood windows.



Image 3: Photograph of the house at 516 Elizabeth Street on January 13, 2022. Note the reinstated transom and replacement of the front windows.

Appendix C – Heritage Alteration Permit application details

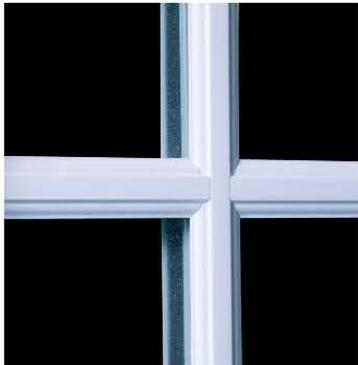
House pre-windows



House with new windows



Exterior grilles added to two cross style windows



Two cross style windows installed

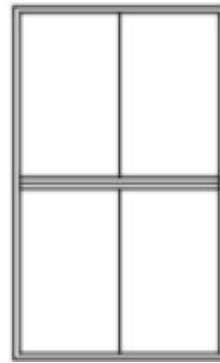


Figure 2: Details submitted as part of the Heritage Alteration Permit application showing the proposed exterior grilles for the replacement windows.