



***TOWN OF AURORA  
ADDITIONAL ITEMS  
FOR SPECIAL COUNCIL – PUBLIC PLANNING  
MEETING***

***Wednesday, April 23, 2014  
7 p.m.  
Council Chambers***

- **Additional Information to Item 1 – PL14-032  
Memo from the Director of Legal & Legislative Services/Town Solicitor  
Re: Southeast Old Aurora Heritage Conservation District Study – Additional  
Information**

## **MEMORANDUM**

**DATE:** April 23, 2014  
**TO:** Mayor Dawe and Members of Council  
**FROM:** Warren Mar, Director of Legal & Legislative Services/Town Solicitor  
**RE:** Southeast Old Aurora Heritage Conservation District Study –  
Additional Information

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This memo is in response to a request to clarify the facts about a number of issues that have come up with regards to the possible Southeast Old Aurora Heritage Conservation District (the “HCD”) and its related Study. Ms. Hicks presentation after my discussion of this memo will review what is a heritage conservation district, how we got to this point (i.e., the Study background), and the level of public consultation that has taken place so far. Mr. Bray will be speaking about the HCD and the next steps in the process.

Before addressing a number of the facts and issues that have arisen regarding the HCD, I did want to address a concern regarding the appropriate timeframe for public input.

To be clear, public consultation has happened, and will happen, throughout the entire process of developing the HCD. However, in accordance with the HCD toolkit provided by the Province, and at the time that the Study was undertaken, the public is to be consulted. As Ms. Hicks will show, this did take place, and Council can see the great interest in this matter here tonight. This is the time to hear the public’s comments and concerns about the HCD, the HCD Study, and the next steps.

And again, this is but the first step. Before proceeding to the next steps, Council needs to review and approve the Study, agree that the identified Study area is worthy of district designation under the *Ontario Heritage Act*, and direct staff and the consultant to proceed with developing the HCD Plan for the area identified in the Study. This Phase 2 would entail additional and more detailed public consultation in order to prepare a draft HCD Plan which reflects the needs of the community.

However, that is not what staff are proposing tonight to Council. As you can see from the recommendations in the report and the main motion on the table before Council tonight, staff are only asking that Council receive the Planning report for information, and receive the comments of the delegates tonight for information.

That is all. Nothing else. Should Council adopt these recommendations, this will “pause” the process. These recommendations, if adopted by Council, effectively do not allow staff to proceed with the next phase of the process, and so nothing else will be

done with regards to the Southeast Old Aurora area until Council says otherwise. This will allow Council time to review the matter at its discretion, while taking no further action at this time.

In the future, among other options, Council could possibly order the HCD Study to be revised, order more public consultation, request a further staff report on the matter, tell staff to start over again, or simply never raise the matter again. It will be at Council's discretion on how they wish to proceed.

Having dealt with the matter of the recommendations before Council tonight, and before Ms. Hicks and Mr. Bray speak about the HCD process and the study, I did want to return to addressing a number of issues about the HCD.

## 1. Property Ownership and Property Owner Rights

While local residents expressed concerns that the Town would be a "co-owner" of their property if they were to become designated as part of the HCD, the *Ontario Heritage Act* does not impose any such legal implications of shared ownership.

Designation as a district under the *Ontario Heritage Act* does not detract from the rights of property owners. It does, however, require owners to conform to the policies of the *Ontario Heritage Act* for designated districts under Part V of the *Ontario Heritage Act*. What does that mean for property owners? In summary, under s. 42 of the *Ontario Heritage Act*, an owner would be required to obtain a permit from the Town before he or she:

- altered any part of the property, other than the interior of any structure or building on the property; or
- erected, demolished or removed any building or structure on the property.

There is also an exception that the owner of a property situated in a designated heritage conservation district may, without obtaining a permit from the Town, carry out such minor alterations or classes of alterations as are described and permitted in the HCD Plan.

## 2. Designated (Part IV) vs. Designated District (Part V)

There has been some discussion about the use of the term "designated". To many, it signifies the highest level of heritage protection available under the *Ontario Heritage Act*, as provided for in Part IV of the *Ontario Heritage Act*. But the term "designated" has two meanings in the Act: "designated" under Part IV, and "designated" under Part V. The Part IV designation is the type of site specific property designation that you may see that identifies certain items of cultural heritage value or interest on a particular property. Council last night (April 22, 2014) passed a designation by-law for the Aurora Armoury that specifies a number of these heritage items on the property.

The word "designated" also applies to properties within a district under Part V of the *Ontario Heritage Act*. This just means that properties are designated as falling within a heritage district. It does not mean that the property itself is designated under Part IV, or

that specific items of cultural heritage value or interest are protected by a specific by-law on a specific property. As such, and as noted previously, the property restrictions under Part V for a heritage conservation district are comparatively less onerous than the property restrictions under Part IV.

### 3. Insurance

With regards to insurance, there has been concern that having a property in the HCD will make it difficult for an owner to obtain property insurance, or increase the owner's insurance premiums. According to the Province, being in the HCD will not affect an owner's insurance premium. But practically speaking, there is no way for the Province to ensure that doesn't happen. The insurance market is made up of private companies, each of which may have different requirements for insuring properties in the HCD. Being in the HCD may matter to some insurers and the coverage they provide, while it may not matter to others. It is difficult to solve that issue tonight with any definitive answer, as the determination of insurance will depend on many different factors that are specific to each property, such as out-dated wiring and heating systems.

### 4. Property Values

Research indicates that property values within heritage conservation districts will stay the same or increase. Certainly the cachet and attractiveness of living in the HCD may be attractive to some buyers, and marketed effectively by real estate agents, could be more profitable for homeowners. But there is no way to guarantee that will happen, and is dependent on numerous specific factors to a property, such as the number of bedrooms, age of wiring, quality of the HVAC system, floor space, curb appeal, quaintness of the architecture, undesirable neighbours, general real estate market fluctuations, and dozens of other factors. Being in the HCD will just be another factor for a potential buyer to take into account when they are shopping for a property.

### 5. Heritage Permits

Heritage Permits are required for classes or types of alterations of work within a heritage conservation district which can be seen from the street. Minor forms of work, repairs, and regular maintenance do not require Heritage Permits. Types of work requiring a Heritage Permit also usually require other approvals and permits, such as building permits, rezoning, site plans and minor variances. These permit requirements potentially apply to all properties in the Town of Aurora – even those not in the HCD. Heritage Permits are supplementary to these approvals, and are required in order to ensure that the proposed works are in keeping with the identified character of the HCD.

Heritage Permits come at no cost to property owners, and are typically processed in six (6) weeks if they are submitted to the Heritage Advisory Committee and Council for approval. Some forms of work requiring a Heritage Permit (such as the replacement of siding, doors, and windows) may be approved by staff as per the delegation by-law assigning certain Council authority under the *Ontario Heritage Act* to Heritage Planning staff (By-law Number 5365-11). Applications eligible for this approval process are typically processed in a few days.

A total of seventeen (17) Heritage Permit applications for the Northeast Old Aurora Heritage Conservation District (which was designated in 2006) were submitted to the Town between 2011 and 2014. All seventeen (17) Heritage Permit applications were approved.

#### 6. "Opting Out" of the HCD Study Boundary and Revisions

Before the by-law designating the HCD is passed, the HCD boundary can be altered to exclude (or include) a property or groups of properties. However, such alterations should avoid the "swiss cheese effect" of cutting properties out of the HCD, and any such alteration should help to administer the HCD Plan and avoid unfair distribution of the HCD Plan policies. As such, it is preferred that revisions be made to the edges of the HCD boundary. This is considered a best heritage practice, as the nature of the HCD is to focus on the area as a whole.

The Phase 1 HCD Study report has already recommended areas for inclusion and exclusion of the proposed boundary. The Southeast Old Aurora Heritage Conservation District Sub-Committee has recently engaged in further discussions surrounding the topic of additional revisions to the boundary. The boundary for the HCD can be altered up until the time the designation by-law is passed.

#### 7. Permitted Alterations

The guidelines and policies of any heritage conservation district Plan are made through the process of consultation with local residents. Plans focus on the general appearance of the streetscape to ensure that the identified heritage character is conserved and enhanced. This can include streetscapes, vistas, mature trees, and open spaces, for example. The Plan will outline classes of work and types of alterations that do not require approval by way of a Heritage Permit.

#### 8. "Contributing" and "Non-Contributing" Properties

The HCD will include both "contributing" and "non-contributing" properties. Appropriate guidelines for both types of properties will be included in the HCD Plan. Non-contributing properties are not necessarily held to the same standards as those which are contributing and can have more significant alterations made without a Heritage Permit, providing that such changes maintain or enhance the HCD character.

I trust that the foregoing information will be of assistance to Council in its consideration of the matter.

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Warren Mar  
Director of Legal & Legislative Services/Town Solicitor