

**Municipality Of Chatham-Kent**

**Community Development**

**Municipal Governance**

**Information Report**

**To:** Mayor and Members of Council  
**From:** Judy Smith, Director Municipal Governance/Clerk  
**Date:** April 3, 2018  
**Subject:** Heritage Designation – 90 Park Street, Community of Chatham

This report is for the information of Council.

**Background**

On March 26, 2018, Attachment 1 of this report was presented to Council. During that meeting, the following motions were both defeated.

**“That By-law 130-2012, a by-law to designate the property located at 90 Park Street, Community of Chatham (City), as being of historical and architectural value or interest, remain in effect.”**

Councillor	Vote	Councillor	Vote
Authier	Yes	Myers	Absent
Bondy	Yes	Pinsonneault	No
Canniff	Yes	Robertson	Yes
Faas	No	Sulman	No
Fluker	Yes	Thompson	No
Herman	Absent	VanDamme	Yes
Leclair	No	Vercouteren	No
B. McGregor	Yes	Wesley	No
C. McGregor	No	Mayor Hope	Yes

Yes Votes: 8  
No Votes: 8

**Motion Defeated**

**"That By-Law 130-2012, designating Haddington Villa, at 90 Park Street, Community of Chatham (City), Part of Park Lot 1, Old Survey, be repealed."**

Councillor	Vote	Councillor	Vote
Authier	No	Myers	Absent
Bondy	No	Pinsonneault	Yes
Canniff	No	Robertson	No
Faas	Yes	Sulman	Yes
Fluker	No	Thompson	Yes
Herman	Absent	VanDamme	No
Leclair	Yes	Vercouteren	Yes
B. McGregor	No	Wesley	Yes
C. McGregor	Yes	Mayor Hope	No

Yes Votes: 8

No Votes: 8

### **Motion Defeated**

The Chief Legal Officer advised Council during the meeting that time was needed for Legal Services to review the motions and return to Council with a legal opinion of the heritage by-law's status on 90 Park Street in Chatham, Ontario.

### **Comments**

Deputations for tonight's meeting will not be received as per the Procedural By-law 125-2016 which states the Clerk may refuse a deputation when there has been at least one public meeting held at which the public was provided the opportunity to make formal presentations on the subject matter.

Comments from the Chief Legal Officer:

The first motion of Council in this matter during the March 26, 2017 meeting was to have the Bylaw "remain in effect". That first motion failed.

The second motion of Council to "repeal the bylaw" also failed.

In my opinion, the Heritage By-law of 90 Park Street, Chatham remains in effect. Should Council wish to change that direction a motion to reconsider will be required.

I recommend that Council reconsider the motion and make a positive decision to either repeal or not repeal so that there is clarity.

In addition, I also remind Council that this decision is a balancing of public and private interests. The public interest is to protect heritage properties and Council must decide which properties have significant historical and heritage value worth preserving. The private interest in this case is to address the property value concerns and economic issues raised by the property owner and whether this should trump the wider community interest in protecting this property. I encourage Council to read the last recommendation of the Conservation Review Board.

**Consultation**

Legal Services and Planning Services were consulted with regard to this report.

**Financial Implications**

There are no financial implications with regard to this report.

Prepared by:

Reviewed by:

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Judy Smith, CMO  
Director Municipal Governance/Clerk

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John Norton  
General Manager, Community Development

Attachments:

Attachment 1 - Planning Services RTC of March 26, 2018

RTC:Community Development/2018 /Municipal Governance/Apr 16 – Heritage Designation – 90 Park Street,  
Community of Chatham

## Municipality Of Chatham-Kent

### Community Development

#### Planning Services

**To:** Mayor and Members of Council

**From:** Ryan Jacques, Planner I

**Date:** February 28, 2018

**Subject:** Heritage Designation By-Law 130-2012  
90 Park Street, Community of Chatham (City)

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#### **Recommendation**

It is recommended that:

1. By-law 130-2012, a by-law to designate the property located at 90 Park Street, Community of Chatham (City), as being of historical and architectural value or interest, remain in effect.

#### **Background**

The property located at 90 Park Street, Community of Chatham (City) is designated under Part IV of the *Ontario Heritage Act* by By-law 130-2012. The following is a summary of actions regarding the designation:

- September 17, 2010 – The owner of 90 Park Street requests that the property be considered for designation under the *Ontario Heritage Act*.
- June 25, 2012 – Designation By-law 130-2012 is passed. 90 Park Street is designated under the *Ontario Heritage Act*.
- August 21, 2015 – The owner of 90 Park Street requests that the designation by-law be repealed to “de-designate” the property.
- October 26, 2015 – Based on the recommendation of the Municipal Heritage Committee, Council refused the owner’s application to repeal the designation by-law.
- November 17, 2015 – In response to Council’s refusal of the application, the owner applied for a hearing before the Conservation Review Board (CRB). The CRB is an adjudicative tribunal of the Province of Ontario that hears disputes on

matters relating to the protection of properties considered to hold cultural heritage value or interest to a municipality, as defined by the *Ontario Heritage Act*.

- January 31, 2017 – A proceeding of the Conservation Review Board (CRB) under Section 32(4) of the *Ontario Heritage Act* (Case No. CRB1510) concluded. The CRB recommended that By-law 130-2012 designating the property not be repealed.
- March 20, 2017 – Council considered the recommendation of the CRB, and directed that administration provide notice of intent to repeal designation by-law 130-2012. Notice was provided in accordance with the *Ontario Heritage Act*.
- April 20-21, 2017 – In response to the Notice, four members of the public applied for a hearing before the CRB.
- February 6, 2018 – A proceeding of the CRB under Section 32(14) of the *Ontario Heritage Act* (Case No. CRB1713) concluded. Once again, the CRB recommended that By-law 130-2012 designating the property not be repealed. A copy of the CRB report is attached as Appendix A.

### **Comments**

As noted above, the recommendation of the CRB is to not repeal Designation By-law No. 130-2012 since the Property continues to hold cultural heritage value or interest on the basis that no evidence was provided demonstrating otherwise. On this basis, Administration is recommending that By-law 130-2012, a by-law to designate the property located at 90 Park Street, Community of Chatham (City), as being of historical and architectural value or interest, not be repealed.

However, unlike Ontario Municipal Board decisions, recommendations of the CRB are not final. The final decision regarding the application is made by Council, upon considering the recommendation of the CRB.

Therefore, Council has two options regarding the repeal of the designation by-law, which are as follows:

1. Repeal the designation by-law – The property is no longer designated under the *Ontario Heritage Act*. Council's decision is final. Should Council consider repealing the designation by-law, it can consider the following motion, and pass the draft by-law attached as Appendix B:

“That the by-law to repeal By-Law 130-2012, designating Haddington Villa, at 90 Park Street, Community of Chatham (City), in Part of Park Lot 1, Old Survey, under Part IV of the *Ontario*

*Heritage Act* for its architectural and historical value or interest, be approved.”

2. Refuse the application – The property remains designated under the *Ontario Heritage Act*. Council’s decision is final.

### **Areas of Strategic Focus and Critical Success Factors**

The recommendation in this report supports the following areas of strategic focus:

- Economic Prosperity:  
Chatham-Kent is an innovative and thriving community with a diversified economy
- A Healthy and Safe Community:  
Chatham-Kent is a healthy and safe community with sustainable population growth
- People and Culture:  
Chatham-Kent is recognized as a culturally vibrant, dynamic, and creative community
- Environmental Sustainability:  
Chatham-Kent is a community that is environmentally sustainable and promotes stewardship of our natural resources

The recommendation in this report supports the following critical success factors:

- Financial Sustainability:  
The Corporation of the Municipality of Chatham-Kent is financially sustainable
- Open, Transparent and Effective Governance:  
The Corporation of the Municipality of Chatham-Kent is open, transparent and effectively governed with efficient and bold, visionary leadership
- Has the potential to support all areas of strategic focus & critical success factors
- Neutral issues (does not support negatively or positively)

### **Consultation**

No other departments were consulted.

### **Financial Implications**

There are no financial implications based on the recommendation.

Prepared by:



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Ryan Jacques, MCIP, RPP  
Planner I, Planning Services

Reviewed by:



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Bruce McAllister, MCIP, RPP  
Director, Planning Services

Reviewed by:

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John Norton  
General Manager  
Community Development

Attachment: Appendix A – Conservation Review Board Case No. 1713 Decision  
Appendix B – Draft By-law to Repeal By-law 130-2012

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Act - Heritage Designation By-law 130-2012.docx