



Report to Council

Department: Development Services
Division: Planning
Date: October 21, 2024
Prepared by: Rita Jabbour, RPP, Manager, Planning Services
Report Number: Planning-2024-27
Subject: Heritage Designation for Various Properties within the Town of Essex
Number of Pages: 10 including attachments

Recommendation(s)

That Planning report Planning-2024-27 entitled Heritage Designation for Various Properties within the Town of Essex prepared by Rita Jabbour, RPP, Manager, Planning Services dated October 21, 2024 be received, and,

That the following By-Laws, being By-Laws to designate certain properties within the Town of Essex under Part IV of the Ontario Heritage Act as properties of cultural heritage value or interest, be read a first, second and third time and finally passed on October 21, 2024:

1. **By-Law Number 2375**, being a By-Law to designate the property municipally known as 94 Talbot Street South (Arthur Raines House)
2. **By-Law Number 2376**, being a By-Law to designate the property municipally known as 98 Talbot Street South (Essex United Church Manse)
3. **By-Law Number 2378**, being a By-Law to designate the property municipally known as 21 King Street East (Robert Heaton Building)

4. **By-Law Number 2379**, being a By-Law to designate the property municipally known as 22 King Street West (I. O. O. F. Building)
5. **By-Law Number 2380**, being a By-Law to designate the property municipally known as 314 Queen Street (Station Master's House)
6. **By-Law Number 2381**, being a By-Law to designate the property municipally known as 0 County Road 11 (Gilgal Cemetery)
7. **By-Law Number 2383**, being a By-Law to designate the property municipally known as 9567 County Road 11 (St. Clement Church)

Purpose

A By-Law approved by Council is required to designate a property under Part IV of the Ontario Heritage Act as being a property with cultural heritage value or interest.

Background and Discussion

On August 12, 2024, Council directed administration through resolution **(R24-08-333)** to issue a Notice of Intention to Designate ten (10) properties within the Town of Essex that were found to be of significant cultural heritage value or interest. A description of the properties and their cultural heritage value or interest is described in Planning Report 2024-20 and the accompanying presentation **attached to this report**.

Publication of the Notice was completed in accordance with the process set out in subsection 29 (3) of the Ontario Heritage Act. Accordingly, individual notices were served on the Owner(s) of the properties and the Ontario Heritage Trust, and notice was published in the Harrow News and Essex Free Press (newspapers having general circulation in the Municipality). Notice was also published on the Town of Essex website.

Additional Notification Efforts

To ensure property owners received the Notice, all notices were delivered by registered mail. Nine (9) notices were confirmed as “received”. The Notice for the Gilgal cemetery was returned as “Unclaimed”. Planning staff does not have telephone contact information for individual property owners, however, with the support of Finance staff, Planning obtained telephone numbers for five (5) of the ten (10) property owners. Planning staff attempted a call with all five owners and was able to communicate with three (3). Planning staff was also directly contacted by phone, letter or email upon receipt of the Notice by two (2) of the property owners. In total, Planning has had direct contact with five (5) out of ten (10) property owners. Legislatively, Planning staff has exceeded the requirements for notification.

Notice of Objections Received

A property owner who objects to a Notice of Intention to Designate may serve on the Clerk of a Municipality, a Notice of Objection setting out the reasons for the objection and all relevant facts. If a Notice of Objection is served, Council must consider the Notice and decide as to whether the Notice of Intention to Designate should be withdrawn within 90 days after the end of the 30-day objection period.

Of the ten (10) properties that were issued a Notice of Intent to Designate, Notices of Objection were received by three (3) properties:

1. 102 Talbot Street South (Victorian House)

The Town of Essex is in receipt of a Notice of Objection for 102 Talbot Street South. **A copy of the Notice is attached to this report.** The reasons for the objection are related to recognition and respect for Indigenous rights, the potential impact on property rights and future development, whether the property truly meets the criteria for designation, and the conflict with future municipal planning goals or infrastructure development.

The Notice of Objection has been considered by the Essex Municipal Heritage Committee (EMHC) at their regular meeting on Thursday September 26. The EMHC continues to recommend that the lands and building be designated under the Ontario Heritage Act as the property meets the criteria for designation under Ontario Regulation 9/06 and is an important historical resource in the Essex community.

Comments: When reviewing a Notice of Objection, Council should consider whether any new or relevant information has come to light about the cultural heritage value or interest of the property since the Notice was given and if there are any concerns, inaccuracies or discrepancies or some other issue with the property evaluation or other documentation related to the Notice of Intention to designate raised by one or more objections.

With respects to the Notice of Objection served by the owners of 102 Talbot Street South, the Notice does raise concerns with a lack of consultation with local First Nations Group and the robustness of the criteria but does not identify any concerns, inaccuracies or discrepancies or other issues with the property evaluation or documentation related to the Notice of Intention to Designate.

The Town of Essex has implemented a Heritage Grant program to support owners of designated properties financially for restorations and repairs. The Town of Essex has also streamlined the approval process for heritage alterations by delegating approvals to Planning Services. There is no cost to the owner for a Heritage Alteration permit and the streamlined process ensures there are very minimal delays.

If future municipal infrastructure improvements are required and they will impact these lands and their cultural heritage value, they will be assessed individually.

Administration recommends that a decision on the designation for 102 Talbot Street South be **deferred** until such time it is circulated to the local First Nations for comments.

Administration will also review the evaluation used in supporting the Notice to ensure it continues to meet a minimum of two (2) criteria and will consult with the property owner.

2. 400 County Road 13 (the “Klie Farm”)

The Town of Essex is in receipt of a Notice of Objection for the property located at 400 County Road 13, known as the Klie Farm. **A copy of the Notice is attached to this report.**

The reasons for the objection have been identified as the following:

- The house has been in the Klie Family since it was built and will continue to be for the foreseeable future.
- The property has been maintained for generations and will continue to be maintained without the involvement of the Heritage Committee or designation.
- Noted in the description of the Heritage Attributes was the large white verandah porch and decorative pillars. The porch was added on the house in the 1990s. The house didn't have a front porch before that.
- Noted in the description of the Heritage Attributes are all existing window openings and shutters. The majority of the windows are only a few years old and are covered in storm windows that were installed in the 1970s. The shutters are only decorative.
- In early 2000 a large renovation was made to the house. Roughly 1/3 of the exterior of the building was cement cinderblocks and had a flat roof. During the renovation, the brick was reclaimed from the interior wall and they were able to complete their renovation and improve the historical look around the entire addition of the house.

The Notice of Objection has not yet been considered by the Essex Municipal Heritage Committee (EMHC) as it was received following the regular meeting on Thursday September 26. The Notice will be considered at a future meeting of the Heritage Committee. The property owners will be invited to attend that meeting.

Comments: When reviewing a Notice of Objection, Council should consider whether any new or relevant information has come to light about the cultural heritage value or interest of the property since the Notice was given and if there are any concerns, inaccuracies or

discrepancies or some other issue with the property evaluation or other documentation related to the Notice of Intention to designate raised by one or more objections.

With respects to the Notice of Objection served by the owners of 400 County Road 13, the Notice does raise concerns with accuracies or discrepancies concerning the Heritage Attributes of the property.

Administration recommends that a decision on the Designation of 400 County Road 13 be **deferred** until such time Administration has had an opportunity to review the new information concerning the Heritage Attributes, meet with the property owners, and consult with the Heritage Committee.

3. 0 Ferriss Road (the “Ferriss Cemetery”)

The Town of Essex is in receipt of a Notice of Objection for the property located at 0 Ferriss Road, known as the Ferriss Cemetery. **A copy of the Notice is attached to this report.** The reasons for the objection have been identified as the following:

- The Town of Essex did not undertake any consultations with the property Owners in advance of sending the Notice in contravention of its duty to be accountable, transparent and consider the views of the Owners prior to delivering the Notice.
- The Statement of Cultural Heritage Value or Interest (“Statement”) is deficient and does not comply with the Town’s obligations under the Heritage Act as the Town has failed to provide the Owners with the research and documentary evidence necessary to support the Statement.
- The Town has failed to properly consider the negative impact of the proposed designation on the continuing care of the property/cemetery and the current/future farming activities on the Property.

The Notice of Objection has not yet been considered by the Essex Municipal Heritage Committee (EMHC) as it was received following the regular meeting on Thursday

September 26. The Notice will be considered at a future meeting of the Heritage Committee. The property owners will be invited to attend that meeting.

Comments: When reviewing a Notice of Objection, Council should consider whether any new or relevant information has come to light about the cultural heritage value or interest of the property since the Notice was given and if there are any concerns, inaccuracies or discrepancies or some other issue with the property evaluation or other documentation related to the Notice of Intention to Designate raised by one or more objections.

The Notice of Objection states that the Statement of Cultural Heritage Value is deficient because the Town did not provide the Owners with the research and documentary evidence necessary to support the Statement. The Notice of Objection does not indicate any potential concerns, inaccuracies, or discrepancies with the Statement of Cultural Heritage Value, provided as documentation related to the Notice of Intention to Designate.

The Statement includes a detailed description of how the cemetery meets the prescribed criteria for designation.

The Statement was delivered by registered mail to the property Owner. Although it is best practice, there is no obligation under the Ontario Heritage Act to consult with a property owner prior to issuing a Notice of Intention to Designate. The Owners are formally informed when a Notice of Intention to Designate is issued. They may provide comments in objection of the Notice by serving a Notice of Objection on the Clerk within 30 days of the publication of the Notice of Intention to Designate. The Town has followed the process prescribed under Section 29 of the Ontario Heritage Act and the property Owner, as evidenced by their Notice of Objection, have exercised their right to Object under section 29 of the Act.

There is no obligation under section 29 of the Ontario Heritage Act to provide the Owners with the research and documentary evidence necessary to support the Statement of Cultural Heritage Value. Regardless, administration will provide the Owners with the documentary evidence that supports the information contained in the Statement.

It is not the responsibility of the Town to consider the potential negative impacts of designation on an individual property owner or property when considering a designation. The legislated obligation of Planning authorities, including Council, is to consider the cultural heritage value of the property.

The Owner has not identified any potential concerns with the designation in their Notice. Administration has spoken to the property Owner and their solicitor about the potential impact of the designation on the property and farming activities. Administration has explained to the Applicant and their solicitor that the designation will not impact their ability to continue to farm the lands or construct farm-related structures. The designation will have the effect of further promoting the cultural heritage value of the cemetery and the former East Harrow settlement which may draw interest from the public to visit the site. As with all designated properties under private ownership, trespassing is prohibited and is no way encouraged or promoted by the Town.

Administration recommends that a decision on the designation of the Ferriss Cemetery be **deferred** until such time Administration has had an opportunity to provide the Owners with the supplementary evidence and consult with the Heritage Committee.

Lastly, although not a part of the ten (10) properties that were issued Notice of Intent to Designate as per Council direction on August 12, 2024, the property at 9567 County Road 11, being St. Clement Church, requested in July an extension of time to respond to the Notice of Intention to Designate that was served on June 24, 2024 and to consider a Notice of Objection.

The Roman Catholic Episcopal Corporation of the Diocese of London in Ontario, the legal Owner of the St. Clement Church, has since advised that it will not be filing a Notice of Objection. Their solicitor has advised that this should not be interpreted as the Diocese consenting to the designation, and should only be interpreted as a decision made for practical reasons.

Comments: There has been no new or relevant information that has come to light about the cultural heritage value or interest of the property since the Notice was given and no concerns,

inaccuracies or discrepancies or some other issue with the property evaluation or other documentation related to the Notice of Intention to Designate have been raised.

Administration is recommending that St. Clement Church be designated under the Ontario Heritage Act.

Next Steps

Following adoption of the By-Laws, notice will be served on the Owners and the Ontario Heritage Trust and will be published in the local newspapers. The Owners will have the ability to appeal the By-Law to the Ontario Land Tribunal (OLT) within thirty (30) days of receiving notice. These seven (7) By-laws will be registered against title of the property at the Land Registry Office following the 30-day appeal period, at no cost to the property owner.

Reports to Council will also be brought forward in the future on the remaining three (3) properties following consultations as described above.

Financial Impact

There are costs associated with serving and publishing notice on the Owners and in the local newspapers, and for registering the By-Laws at the land registry office. Costs have been considered in the 2024 budget and will be recouped through the Planning and Zoning and Heritage Committee Operating Budget.

Consultations

Essex Municipal Heritage Committee (EMHC).

Link to Strategic Priorities

- Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- Leverage our Town's competitive advantages to promote jobs and economic investment.
- Take care of our natural environment and strengthen the sense of belonging to everyone who makes Essex "home".
- Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

Report Approval Details

Document Title:	Heritage Designations - Planning-2024-27.docx
Attachments:	<ul style="list-style-type: none">- Notice of Intention to Designate - Planning-2024-20.pdf- Heritage Designation Recommendations.pdf- Heritage Designation Recommendations October 21.pdf- (102 Talbot Street) Notice of Objection_Redacted.pdf- (400 County Road 13) Notice of Objection_Redacted.pdf- (Ferriss Cemetery) Notice of Objection_Redacted.pdf- Bylaw 2375 (94 Talbot Street South).pdf- Bylaw 2376 (98 Talbot Street South).pdf- Bylaw 2378 (21 King Street East).pdf- Bylaw 2379 (22 King Street West).pdf- Bylaw 2380 (314 Queen Street).pdf- Bylaw 2381 (0 County Road 11).pdf- Bylaw 2383 (9567 County Road 11).pdf
Final Approval Date:	Oct 11, 2024

This report and all of its attachments were approved and signed as outlined below:



Lori Chadwick, Director, Development Services - Oct 11, 2024 - 2:36 PM

A handwritten signature in black ink, appearing to read "Doug Sweet". The signature is stylized with a large "D" and "S".

Doug Sweet, Chief Administrative Officer - Oct 11, 2024 - 2:47 PM