



# SMITHS FALLS

RISE AT THE FALLS

## Report # 2024-054

To: Mayor and Council

From: Karl Grenke, Manager of Development Services

Date: April 18, 2024

Committee of the Whole Date: April 22, 2024

Title: Heritage Act Authorization regarding 25 Old Mill Road

☐ For Direction

☐ For Information

☒ For Adoption

☒ Attachments: 2 Pages

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**Recommendation:** That Council passes a resolution under Part IV of the Ontario Heritage Act authorizing the demolition of the structures located at 25 Old Mill Road, subject to conditions as recommended by the Municipal Heritage Act outlined in this report.

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**Purpose:** Further to Council's direction to staff March 11<sup>th</sup> to proceed with the demolition of the former Water Treatment Plant under the Town's insurance policy, this report advises Council of the requirements under the Ontario Heritage Act and recommends conditions arising from Municipal Heritage Committee consultation.

**Background:** In 1977 Council designated the property containing the former Waterworks building at Old Mill Road as containing cultural heritage value or interest. The designation by-law, which was updated in 2022 to align with current legislative standards, recognized the contextual value of the site to the Town's history and defined building-specific attributes for each of the four connected buildings on the site.

In May 2023 a catastrophic fire significantly damaged the structure. A structural engineer retained by the Town's insurance provider recommended immediate demolition of the structure. Council subsequently obtained a second opinion from another engineer that found that stabilization of the damaged structure appears to be feasible, with a cost that may be comparable to demolition, subject to certain unknowns. At that time and since then, Town staff continued extensive consultation with the Town's insurance provider to clarify the coverage they would be able to provide, which would help inform Council's ultimate decision as to whether to proceed with demolition or stabilize. Insurance eventually confirmed that the scope of the policy would cover demolition and debris removal only. The alternative out of scope arrangement would allow the Town to self-manage the loss and potentially save the 1868 stone structure, however transfer all liabilities associated with the work to the Town. On March 11, Council directed staff to advance a claim with our insurer for the complete demolition of the structure based on the potential risk and liability to the Town.

Prior to the issuance of a demolition permit by the Chief Building Official, the property owner (Town) is obligated to satisfy applicable law under the Building Code, which includes authorization under Part IV of the Ontario Heritage Act. Under the Act, the Owner of a designated property cannot demolish or remove a building on the property, unless the Owner applies to Council to do so. Section 34(4.2) under Part IV of the Act requires Council to consult with the Municipal Heritage Committee (if one exists) prior to

making a decision as to whether to authorize the demolition (See *Ontario Heritage Act Excerpt – Appendix A*). The Act does not state how the consultation shall occur. MHC's role is advisory, with the final decision being Council's. Council's decision is typically encapsulated in a resolution and the Act allows Council to establish whatever conditions are deemed appropriate. Council's decision must be posted in a newspaper and served with the Heritage Trust.

The Municipal Heritage Committee has discussed this property several times since the fire and reports and recommendations from the Committee were presented to Council shortly after the fire on May 15 (Report #2023-069) and on August 23 (Report #2023-097) following receipt of the second engineer's report. Both reports communicated the Committee's desire to seek alternatives to a full demolition if possible. With complete information from insurance informing Council's ultimate direction to pursue a claim, On April 9, the Municipal Heritage Committee unanimously adopted the following resolution, which was moved by J. Davis and seconded by C. McGuire:

***WHEREAS 25 Old Mill Road is a designated heritage property situated on what was originally known as Jason Island, and thus is part of a cultural heritage landscape which includes the Rideau Canal UNESCO World Heritage Site, the designated Wood Mill Complex, the stone arch dam, and the stone arch bridge on Beckwith Street;***

***WHEREAS The property is part of the study area for the proposed Downtown Heritage Conservation District;***

***AND WHEREAS Heritage attributes of the site can be seen as a positive inspiration guiding the development of a great place, rather than a hindrance to development;***

***THEREFORE the Smiths Falls Municipal Heritage Committee hereby resolves that in the event that Town Council authorizes the demolition of the structures on the property pursuant to Part IV of the Ontario Heritage Act, such approval be accompanied by the following conditions:***

- 1. That all stone, masonry and other heritage-defining elements of the structures be salvaged and stored in a safe and secure manner;***
- 2. That prior to demolition, all cultural heritage resources to be removed are documented through an appropriate assessment for archival purpose(s) with a history, photographic record and measured drawings including the use of photogrammetry in accordance with industry standards;***
- 3. That Council establish the appropriate planning tools at the time of the sale of the land or its future development to establish an expectation that new development is appropriately sympathetic to the heritage context of this area and appropriately re-uses material in a manner that is consistent with heritage best practices;***
- 4. The Municipal Heritage Committee be consulted and provided the opportunity to provide feedback on the design of any new building before it is finalized;***

**Analysis and Options:** While Council has given direction to staff to take the steps with insurance leading to demolition, Heritage Act approval must still be given before

demolition can occur, which is initiated through an application that contains the appropriate background information required by the Heritage Act regulations. The Municipal Heritage Committee's terms of reference as well as the Ontario Heritage Act gives the Committee the mandate to advise Council on proposed alterations or building demolitions on heritage properties. The recommended conditions reflected MHC's desire to document and commemorate the history of this site as best as possible if demolition is inevitable. The second condition of MHC's resolution supports Policy ER-3.21 of the Town's Official Plan which requires professional assessment in advance of demolition or alteration and "*that all cultural heritage resources to be demolished or significantly altered are documented through the Assessment for archival purposed with a history, photographic record and measured drawings prior to the demolition [...].*" This is to ensure that the history and design of the buildings are recorded as best as possible for posterity and would be included within the scope of the demolition activities. The third condition expresses a principle that would guide the Town's expectations relating to future development, with the exact mechanism to be determined prior to any sale being completed.

At this time Council is in position to consider granting approval under the Heritage Act for demolition of the structures at 25 Old Mill Road, which would be in addition to any other requirements of the Ontario Building Code prior to a demolition permit being issued.

The following three options are being presented for Council's consideration:

1. (Recommended) Pass a resolution authorizing the demolition of the structures on the property described as 25 Old Mill Road subject to the following conditions:
  - *That all stone, masonry and other heritage-defining elements of the structures be salvaged and stored in a safe and secure manner;*
  - *That prior to demolition, all cultural heritage resources to be removed are documented through an appropriate assessment for archival purpose(s) with a history, photographic record and measured drawings including the use of photogrammetry in accordance with industry standards;*
  - *That Council establish the appropriate planning tools at the time of the sale of the land or its future development to establish an expectation that new development is appropriately sympathetic to the heritage context of this area and appropriately re-uses material in a manner that is consistent with heritage best practices;*
  - *The Municipal Heritage Committee be consulted and provided the opportunity to provide feedback on the design of any new building before it is finalized;*
2. Pass a resolution authorizing the demolition of the structures on the property described as 25 Old Mill Road without conditions or with different conditions (as directed by Council)
3. Do not pass a resolution authorizing the demolition of the structures on the property described as 25 Old Mill Road.

**Budget/Financial Implications:** To be determined through negotiations with the insurance provider.

**Link to Strategic Plan:** N/A

**Existing Policy:** Ontario Heritage Act (Part IV); Town Official Plan

**Consultations:** Municipal Heritage Committee; Director of Community Services

**Attachments:** Ontario Heritage Act Excerpt – Sec. 34

**Notes/Action (space for Council Member's notes):**

Respectfully Submitted:

*Original signed by*

Karl Grenke RPP, MCIP  
Manager of Development Services

Approved for agenda by CAO:

*Original signed by*

Malcolm Morris, CMO  
Chief Administrative Officer

## **Appendix A – Ontario Heritage Act Excerpt – Sec. 34**

### **Demolition or removal**

**34** (1) No owner of property designated under section 29 shall do either of the following, unless the owner applies to the council of the municipality in which the property is situate and receives consent in writing to the demolition or removal:

1. Demolish or remove, or permit the demolition or removal of, any of the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), as the case may be.
  2. Demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property, whether or not the demolition or removal would affect the property's heritage attributes, as set out in the description of the property's heritage attributes in the by-law that was required to be registered under clause 29 (12) (b) or subsection 29 (19), as the case may be.
- 2019, c. 9, Sched. 11, s. 12.

(1.1), (1.2) REPEALED: 2019, c. 9, Sched. 11, s. 12.

### **Application**

(2) An application under subsection (1) shall be accompanied by the prescribed information and material. 2019, c. 9, Sched. 11, s. 12.

### **Other information**

(3) A council may require that an applicant provide any other information or material that the council considers it may need. 2019, c. 9, Sched. 11, s. 12.

### **Notice confirming complete application**

(4) The council shall, upon receiving all information and material required under subsections (2) and (3), if any, serve a notice on the applicant informing the applicant that the application is complete. 2019, c. 9, Sched. 11, s. 12.

### **Notification re completeness of application**

(4.1) The council may, at any time, notify the applicant of the information and material required under subsection (2) or (3) that has been provided, if any, and any information and material under those subsections that has not been provided. 2019, c. 9, Sched. 11, s. 12.

### **Decision of council**

(4.2) The council, after consultation with its municipal heritage committee, if one is established, and within the time period determined under subsection (4.3),

(a) shall,

(i) consent to the application,

(ii) consent to the application, subject to such terms and conditions as may be specified by the council, or

(iii) refuse the application;

(b) shall serve notice of its decision on the owner of the property and on the Trust; and

(c) shall publish its decision in a newspaper having general circulation in the municipality. 2019, c. 9, Sched. 11, s. 12.