

Huron East Administration

To: Mayor MacLellan and Members of Council
From: Brad Dietrich C.B.O.
Date: May 7, 2024
Subject: Repeal of Heritage Designation under By-Law 18-1985 re 31 Goderich Street, West, Seaforth

Recommendation:

That Council receive this report regarding the heritage repeal request for 31 Goderich Street, West, Seaforth for information purposes;

And further that Council deliberates and renders a decision regarding the acceptance or rejection of the request for repeal, taking into consideration the factors presented below.

Background:

Under the *Ontario Heritage Act*, municipalities can designate and de-designate heritage properties. Section 32(1) of the *Ontario Heritage Act* provides that an owner of a property designated under Part IV may apply to the Council of the municipality to repeal the heritage designating by-law or part thereof.

By-law 18 for 1985 was a by-law to designate 31 Goderich Street, West, Seaforth as a property of historic and architectural interest because of its unique decorative embellishments and early ornamental gardens. More particularly the designation includes the following:

The stucco finish, bargeboard trim, finial, windows and shutters, front porch with its curved roof including railings, top deck and decorative trim, front entrance including the door, sidelights and transom, the westerly side gable including its trim, window and finial.

The grounds landscaping and ornamental gardens are included in this designation.

Shrubbery, floral plants and other greenery are to be kept in locations and proportions as at present.

The cobblestone planters are also included in this designation and are to be retained/maintained in their present location.



Figure 1 - 31 Goderich St. West, Seaforth - Circa 2023

On April 23, 2024, Warren and Betty Small, owners of 31 Goderich Street, West, Seaforth (a designated property) submitted a request to repeal the heritage designation.

Discussion:

The recognition of heritage properties serves as a means of publicly acknowledging the significance of a property to a community and facilitates the preservation of these places for the benefit of both present and future generations. The property in question has gradually deteriorated over time, with the front porch roof, top deck, and supports deteriorating to a point where they pose structural hazards and are beyond repair. Additionally, the cobblestone planters are still present but require substantial restoration. Furthermore, the shutters, landscaping, and ornamental gardens have not been maintained in line with the requirements set forth in the 1985 designation.

The request to repeal the heritage designation emerged following the demolition of the front porch, roof, and top deck, and the subsequent application for a building permit to construct a new porch with a dormer. However, the proposed design does not align with the heritage features protected under by-law 18-1985.

The building permit has yet to be issued, prompting an order for the contractor to cease work until consultations between the Heritage Committee, Council, and Building Department have been conducted.

It is important to note that when a municipality intends to designate or de-designate a property under the *Ontario Heritage Act*, municipalities are required to consult with the

municipal heritage committee, where one has been appointed. The Huron East Heritage Advisory Committee reviewed the request at its meeting on May 1, 2024 and recommends to Council that the request be accepted and that the Clerk of the Municipality be directed to issue a Notice of Intention to Repeal By-law 18-1985, as prescribed in the Ontario Heritage Act. The recommendation of the committee was unanimous:

“Given that most of the heritage features have vanished and/or changed, there seems to be little justification for their continued designation. The committee views this as the most prudent approach to preserve positive relations with the homeowners.”

Council is required to render a decision regarding the acceptance or rejection of the request for repeal, taking into consideration the aforementioned factors. If Council accepts the request for repeal, a Notice of Intention to Repeal must be served on the property owner, *Ontario Land Tribunal* and published in the newspaper. Conversely, if Council rejects the request for repeal, a Notice of Decision must be served on the property owner and *Ontario Land Tribunal*.

Once the decision has been made, any objections to the decision are required to be served on the Clerk within 30 days. If no notice of objection is received, Council has two options:

1. Pass a by-law repealing the designation of the property; or
2. Withdraw their notice of intention to repeal the designation of the property.

If a notice of objection has been served, upon expiration of the 30-day period, Council is required to refer the matter to the *Ontario Land Tribunal* for a hearing. The *Ontario Land Tribunal* hears disputes on matters relating to the protection of properties considered to hold cultural heritage value or interest to a municipality or to the Minister of Sport, Tourism and Culture Industries, as defined by the *Ontario Heritage Act*. The Board will make recommendations to Council based on the evidence it hears. The municipality would incur costs should any matter be referred to the *Ontario Land Tribunal*.

As set out above, if Council is desirous of repealing By-law 18-1985 and de-designating 31 Goderich Street, West, Seaforth, the initiating step would be for Council to direct the Clerk to prepare and provide Council's Notice of Intention.

Others Consulted:

Meaghan McCallum, Planning and Operations Coordinator

Budget Impacts:

None at this time.

Signatures:

A handwritten signature in blue ink, appearing to read "Brad Dietrich". The signature is written in a cursive style with a large initial "B".

Brad Dietrich, CBO

