



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF DEVELOPMENT SERVICES

***Mission Statement:*** As stewards of the Town of Amherstburg, we strive to improve the quality of life of all residents through the delivery of effective, efficient, and affordable services.

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**To:** Mayor and Members of Town Council

**Subject:** Amherstburg Heritage Conservation District Study Area Designation  
By-law

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#### 1. RECOMMENDATION:

It is recommended that:

1. The enactment of a by-law to designate a Heritage Conservation District Study Area, pursuant to Section 40.1 of the Ontario Heritage Act, **BE ENDORSED**; and,
2. **By-law 2024-050**, attached as "Appendix A," being a by-law to enact a Heritage Conservation District Study Area By-law, be taken as having been read three times and finally passed, and the Mayor and Clerk **BE AUTHORIZED** to sign same.

#### 2. BACKGROUND:

On June 6<sup>th</sup>, 2024 the Municipal Heritage Committee endorsed a draft copy of the "Amherstburg Heritage Conservation District Study" prepared by MHBC. The Heritage Committee was presented with two options for endorsing a defined HCD study area. The Heritage Committee endorsed the designation of the study area described as Option 1. That option includes all the "Character Areas" with the exception of the Belle Vue "Character Area."

At the June 25<sup>th</sup>, 2024 meeting of council, Town Council approved the Heritage Conservation District Study Area and adopted the "Amherstburg Heritage Conservation District Study," prepared by MHBC.

### **3. DISCUSSION:**

On June 6<sup>th</sup>, 2024 the Municipal Heritage Committee made a motion to recommend that administration provide options to Town Council to protect the properties within the heritage conservation district boundary.

There are limited options for the protection of properties within the HCD boundary while the HCD Plan is being developed and finalized. The first option would be for Council to designate all the identified “contributing properties” within the study area as Properties of Interest (POI) under Part IV of the Ontario Heritage Act (OHA). This option would require a high level of administrative resources and time. This option would not be reasonable to implement prior to the completion of the HCD Plan.

The second option would be to formally designate the HCD Study Area through a municipal by-law. Section 40.1 of the OHA provides municipalities the option to protect properties within a HCD study area while the plan is being finalized.

The OHA states:

#### ***“Designation of study area***

***40.1 (1) If the council of a municipality undertakes a study under section 40, the council may by by-law designate the area specified in the by-law as a heritage conservation study area for a period of up to one year. 2005, c. 6. s. 29.***

#### ***Same***

***(2) A by-law made under subsection (1) may prohibit or set limitations with respect to,***

- (a) the alteration of property situated in the heritage conservation study area; and***
- (b) the erection, demolition or removal of buildings or structures, or classes of buildings or structures, in the heritage conservation study area. 2005, c. 6. s. 29.”***

The consultant (MHBC) has completed phase 1 of the HCD Study. Phase 2 of the HCD Study will be the development of an HCD Plan. MHBC has completed extensive field work and provided an analysis of the initial study boundary in the “Amherstburg HCD Study” report, dated May 2024, which has been adopted by Council. Through this analysis, MHBC has also identified properties that are classified as “contributing properties.” “Contributing Properties,” are those properties within the HCD that add to the character of the area. Some of these properties are protected because they are designated through Part IV of the OHA. The remainder of the contributing properties are at risk of removal or demolition and do not have any protection. Further, proposed new developments within the study area, prior to the adoption of an HCD Plan, may be designed in a way that is unsympathetic to the character of the area and may have a negative impact on the built cultural heritage of Amherstburg.

## **Rationale for an HCD Study Area By-law**

Strategically, the study area by-law is being recommended at this time to stabilize this area of the Town with regards to the potential removal or demolition of built heritage assets until such time as an HCD Plan is adopted by Town Council, or the lapsing of one year from the date of the adoption of the by-law.

In the recent years, Amherstburg has seen an increase in development. Within the initial study area, the town has a significant number of properties that have been identified in the analysis work completed by MHBC as being “contributing properties.” Section 5.6.2 *Findings of Contributing Analysis of the Amherstburg Heritage Conservation District Study*, dated May 2024, indicates that there are **501** properties within the initial study area, and that **306** of them have been identified as being “contributing.” Contributing properties account for approximately **61%** of the prosperities within the initial study area.

In contrast to the findings of MHBC, the Municipal Heritage Register indicates that there are 151 properties currently on the register within the initial study area boundary. The 151 properties are either designated or properties of interest under Part IV of the OHA. This accounts for approximately **30%** of the properties within the initial study boundary. This means that approximately **31%** of the properties within the initial study boundary are classified as “contributing properties,” but are not on the Heritage Register, and are not protected from removal, demolition, or unsympathetic alteration.

Changes to the OHA, enacted under Bill 23, do not allow for a municipality to pursue heritage designation of a property under Part IV of the OHA once a “prescribed event” has occurred. A “prescribed event” includes a building permit application, such as a demolition permit. Given the changes to the OHA, the properties identified as “contributing” which are not on the Municipal Heritage Register are at risk of removal, demolition, or unsympathetic alteration and the municipality does not have a legislated way to prevent the action from occurring. The proposed HCD Study Area By-law will protect these properties until such time as Council decides whether to adopt the Heritage Conservation District. The completion of the HCD Plan, phase 2 of MHBC’s work plan, is scheduled to be completed in the second quarter of 2025.

## **Ontario Heritage Act**

The OHA is the key piece of legislation for the conservation of heritage resources in Ontario. It regulates, among other things, how municipal councils can identify and protect heritage resources, including archaeological resources, within municipal boundaries. This is largely achieved through designation of individual properties under Part IV, or designation of HCDs under Part V.

Prior to designating an HCD, Council must undertake an HCD study to determine if the area merits designation. Section 40(2) of the OHA identifies the scope and required components of an HCD study. These include: an analysis of the character and appearance of the district; recommendations for the district's boundaries; objectives of the HCD plan; and recommended changes to the Official Plan and municipal by-laws, including zoning by-laws.

The OHA requires an HCD Plan to include "policy statements, guidelines and procedures for achieving the stated objectives and managing change" in the district. An HCD Plan

contains policies and guidelines that are intended to conserve and enhance the cultural heritage value and heritage attributes of the district. These policies and guidelines will inform decisions on alterations, new construction and demolition.

Under section 40.1 of the OHA, municipalities have the option to enact an HCD Study Area By-law while the study is being undertaken. A study area by-law under section 40.1 of the OHA is restricted to a period of up to one year.

### **HCD Study Area By-law Designation**

The proposed HCD Study Area By-law prohibits the erection, demolition or removal of buildings or structures located within the HCD Study Area. The intent of an HCD is to protect existing areas that have cultural heritage value and to guide future development so that they do not have a negative impact on the identified character of the area.

That being said, it is important that the Town balance the need to protect the area being study while still provide a way for developments to move forward. The municipality should not stop development and administration recommends a strategy which would allow for existing developments to continue and provide a path forward for proposed new developments within the study area. The by-law includes some exceptions in order to achieve these goals.

The proposed by-law exemptions include:

<b>Exemption</b>	<b>Rationale</b>
A change to the interior of such legally existing buildings or structures;	HCD's do not regulate interior alterations and restrictions on interior alterations are not appropriate to be included in the by-law.
The repair of a building or structure lawfully existing on the day of passing of this By-law;	Property owners need the ability to continue to maintain and repair buildings and structures. The proposed by-law would allow for repairs to take place.
A change to the façade of such legally existing buildings or structures where that façade does not address a public street or highway;	Alterations to facades that do not address the public right of way will not have an impact on the character of an area or neighbourhood, or negatively impact a potential HCD.
The erection of a legally conforming accessory building or structure;	This exemption will allow for the erection of accessory structures such as detached garages that adhere to the regulations and policies in the Official Plan, the Zoning By-law, or any other applicable municipal by-law.
The erection of a legally conforming secondary dwelling unit;	This exemption will allow for the erection of secondary dwelling units, sometimes referred to as ADU's, which adhere to the regulations and policies in the Official Plan, the Zoning By-law, or any other applicable municipal by-law. Legally

	conforming secondary dwelling units are not permitted in the front yard.
A development on a lot associated with an open building permit which has been issued prior the passage of this By-law;	Developments that have been issued a permit from the Building Department will be able to continue without needing the endorsement of the Heritage Committee.
A development on a lot associated with a Site Plan Control application which has been deemed complete, or registered on title, within the previous three years prior to the passage of this By-law;	Recent development proposals that have gone through the Site Plan Control process will be able to continue without needing the endorsement of the Heritage Committee.
The erection, demolition or removal of buildings or structures within the heritage conservations district study area that has been endorsed by the Municipal Heritage Committee.	This exemption would allow for proposed developments to work with the Heritage Committee to ensure that the proposed development is sympathetic to the character of the study area prior to completion of the HCD Plan.

**4. RISK ANALYSIS:**

There is a moderate to high level of cultural heritage risk associated with this report. The study area contains a significant amount of built heritage assets that contribute to Amherstburg’s history, unique sense of place, social fabric, and economic viability. Approximately 31% of the built heritage assets, within the study area, are considered “contributing properties” and do not have any form of protection from demolition or removal. There is a possibility that some of these assets could be demolished, or that new developments will not be designed in a way that is sympathetic to the character of the area.

**5. FINANCIAL MATTERS:**

There are no financial impacts associated with this report.

**6. CONSULTATIONS:**

The information in this report did not require consultation outside the Development Services Department.

**7. CORPORATE STRATEGIC ALIGNMENT:**

***Vision: Preserving our past while forging our future.***

<i>Amherstburg Community Strategic Plan 2022 - 2026</i>	
<b>PILLAR 1</b> <b>Deliver Trusted &amp; Accountable</b> <b>Local Government</b>	<b>PILLAR 3</b> <b>Encourage Local Economic</b> <b>Prosperity</b>

<ul style="list-style-type: none"> <li><input type="checkbox"/> Improve trust between council and staff, and residents, by strengthening governance and internal accountability structures.</li> <li><input type="checkbox"/> Deliver transparent and efficient financial management.</li> <li><input type="checkbox"/> Increase effective communication and engagement with residents.</li> <li><input type="checkbox"/> Develop our staff team, resources, and workplace culture.</li> <li><input type="checkbox"/> Continue to deliver strong core municipal services.</li> <li><input type="checkbox"/> Ensure Amherstburg is an inclusive accessible and welcoming community committed to reconciliation.</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Encourage development of commercial and industrial lands.</li> <li><input type="checkbox"/> Continue to promote local tourism industry, especially overnight accommodation.</li> <li><input type="checkbox"/> Continue to facilitate downtown development for residents and visitors.</li> <li><input type="checkbox"/> Continue to leverage partnership opportunities with other provincial, federal, and local governments, agencies, and organizations.</li> </ul>
<p style="text-align: center;"><b>PILLAR 2</b></p> <p style="text-align: center;"><b>Invest in Community Amenities and Infrastructure</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Maintain safe, reliable and accessible municipal infrastructure and facilities.</li> <li><input type="checkbox"/> Increase access to recreation opportunities for all ages.</li> <li><input type="checkbox"/> Finalize and execute plans for town-owned lands (e.g. Duffy’s site, Belle Vue)</li> <li><input type="checkbox"/> Create public access to water and waterfront</li> <li><input type="checkbox"/> Prioritize opportunities to reduce environmental impacts of Town operations and increase Town resilience to climate change.</li> </ul>	<p style="text-align: center;"><b>PILLAR 4</b></p> <p style="text-align: center;"><b>Shape Growth Aligned with Local Identity</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Define and communicate a vision for the Town’s future and identity.</li> <li><input type="checkbox"/> Promote and plan for green and “climate change ready” development.</li> <li><input type="checkbox"/> Review and implement policies that promote greater access to diverse housing.</li> <li><input checked="" type="checkbox"/> Protect the Town’s historic sites and heritage.</li> <li><input type="checkbox"/> Preserve the Town’s greenspaces, agricultural lands, and natural environment.</li> </ul>

**8. CONCLUSION:**

The purpose of the proposed HCD Study Area By-law is to protect the integrity of the character areas identified by MHBC while the Town completes the next phase of the HCD project. If an HCD study area by-law is not enacted, potential heritage properties will be at risk of demolition and the heritage value of the area could be diminished before a complete HCD Plan is presented to Council. Administration anticipates that the HCD project will be completed in the second quarter of 2025, prior to the expiration of the study area by-law in one year.




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Adam Coates

**Heritage Planner, Urban Design, and Community Improvement**



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Christopher Aspila  
**Manager of Planning Services**

**AC**

## Report Approval Details

Document Title:	Amherstburg Heritage Conservation District Study Area Designation.docx
Attachments:	- By-law 2024-050.docx
Final Approval Date:	Jun 26, 2024

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

### No Signature found

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