



# Staff Report

## Planning & Development Services – Planning Division

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**Report To:** Council  
**Meeting Date:** April 19, 2021  
**Report Number:** PDS.21.050  
**Title:** Update on an Application to Demolish Designated Heritage Dwelling  
(417014 10th Line)  
**Prepared by:** Denise McCarl, Planner II

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### A. Recommendations

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THAT Council receive Staff Report PDS.21.050, entitled “Update Report – Application to Demolish Designated Heritage Dwelling (417014 10th Line)”;

THAT Council authorize the additional extension of time under the Ontario Heritage Act for a decision on the Application to Demolish a Structure on a Designated Heritage Property, from 132 days to 369 days (December 13, 2021).

### B. Overview

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This report provides a further update on the Application to Demolish a dwelling on property designated as a Heritage property under Part IV of the Ontario Heritage Act. This application is still in process and requires additional time to resolve outstanding issues. Planning staff are seeking to extend the deadline for Council to make a decision on this application, from the previously agreed to April 20, 2021, to instead be extended until December 13, 2021 (the last Council meeting in 2021).

### C. Background

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On January 12, 2021 Council received a staff report PDS.21.001, regarding an application under Section 34 (1) of the Ontario Heritage Act, to demolish a heritage building at the property known as 417014 10th Line. That report outlined the application process and noted that the applicant had already completed a Cultural Heritage Impact Study (CHIS). The CHIS report was sent for Peer Review; some issues were identified as noted in staff Report PDS.21.001. For further reference, Staff Report PDS.21.001 is attached to this report as Attachment #1.

In order to allow the necessary time for the applicant to seek to resolve these issues, Council authorized an extension of time to make a decision on this application to April 20, 2021. Council also requested Town museum staff be permitted to participate in this process by providing additional staff expertise and support for Planning Services. The related Council resolution from January 27, 2021 is attached as Attachment #2. The applicant also agreed to this extension of time.

## **D. Analysis**

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Following the January 27, 2021 Council Resolution, the applicant's Heritage Planning Consultant, MHBC Planning, worked to update their CHIS study and reached out to museum staff. An updated study was provided to the Town on March 15, 2021. This study has been forwarded to the Peer Review for further comment.

Town staff also communicated with the applicant and MHBC Planning through conference call on March 24, 2021, and through this call the applicant has agreed to the extension of time to allow for the outstanding matters to be resolved so that Town staff will be in a position to provide a further Council recommendation on this application.

The applicant's consulting team is also working with Town staff to arrange a property site visit with Town staff, extending the invitation to include museum staff. It is anticipated the site visit will take place in the coming weeks (April/May).

In order to allow the resolution of outstanding matters through the Peer Review process, provide for potential engagement with Museum Staff, and provide for a site visit now that spring weather makes these visits more appropriate, this report recommends a further extension to the timeline for Council to make a decision on this application.

As noted in Staff Report PDS.21.001, Council has a limited time to make a decision. Section 34 (2) requires Council to make a decision within 90 days of receiving a complete application to demolish a Heritage Structure, unless longer period as is agreed upon by the owner and the Council. In making a decision, Council may:

1. consent to the application,
2. consent to the application, subject to such terms and conditions as may be specified by the council, or
3. refuse the application

Once a decision is made by Council a Notice of the Decision must be provided to the owner and to the Ontario Heritage Trust), and published a newspaper having general circulation in the municipality.

If one of the decision options explained above, and the required notice to the applicant, is not completed within 90 days, OR another timeframe agreed by both the applicant and Council, Section 34(4) Ontario Heritage Act legislates that it shall be deemed Council has consented to the application.

## **Conclusions**

In order to seek to reach resolution of the outstanding issues and allow for the noted site visit to take place with Town staff, Planning staff recommend the extension of time to the last Council meeting in 2021 (December 13, 2021). It is not anticipated that such a length of time be required and Planning staff are satisfied with the progress achieved on this file under the circumstances. However, to avoid coming to Council again for further extensions, Planning staff recommend the December 13<sup>th</sup> date for extension. Based on the progress to date, it is

anticipated a decision could come back in May or June 2021 and staff are aware the applicant is also anxious to resolve issues and move this file forward.

## **E. Strategic Priorities**

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### **1. Communication and Engagement**

We will enhance communications and engagement between Town Staff, Town residents and stakeholders

### **3. Community**

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

## **F. Environmental Impacts**

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The recommendations in this report do not have any anticipated Environmental Impacts. Impacts will be more fully assessed in a follow up recommendation report on this application.

## **G. Financial Impacts**

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The recommendations in this report do not have any anticipated Financial Impacts. Impacts will be more fully assessed in a follow up recommendation report on this application.

## **H. In Consultation With**

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None.

## **I. Public Engagement**

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The topic of this Staff Report has not been subject to a Public Meeting or a Public Information Centre, as neither a Public Meeting nor a Public Information Centre are required. Comments regarding this report should be submitted to Denise Whaley, Planner II by email to [Planning@thebluemountains.ca](mailto:Planning@thebluemountains.ca).

## **J. Attached**

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1. PDS.21.001 Update Report - Application to Demolish a Dwelling on a Cultural Heritage Designated Property - (Valleyview Construction)
2. Council Resolution January 27, 2021

Council  
PDS.21.050  
Respectfully submitted,

April 19, 2021  
Page 4 of 5

Denise McCarl, MSc MCIP RPP  
Planner II

Trevor Houghton, MCIP RPP  
Manager of Community Planning

Nathan Westendorp  
Director of Planning and Development Services

For more information, please contact:  
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[planning@thebluemountains.ca](mailto:planning@thebluemountains.ca)  
519-599-3131 extension 262

**Report Approval Details**

|                      |  |
|----------------------|--|
| Document Title:      | PDS.21.050 Update Report - Application to Demolish Heritage Dwelling (417014 10th Line).docx |
| Attachments:         | - Att1 Staff Report.pdf<br>- Att2 P2941 Resolution.pdf                                       |
| Final Approval Date: | Apr 6, 2021  |

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

**Trevor Houghton - Apr 1, 2021 - 4:13 PM**

**Nathan Westendorp - Apr 5, 2021 - 8:52 AM**

**Shawn Everitt - Apr 6, 2021 - 8:00 AM**



# Staff Report

## Planning and Development Services - Planning Division

**Report To:** Committee of the Whole  
**Meeting Date:** January 12, 2020  
**Report Number:** PDS.21.001  
**Subject:** Update Report - Application to Demolish a Dwelling on a Cultural Heritage Designated Property - (Valleyview Construction)  
**Prepared by:** Denise Whaley, Planner II

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### A. Recommendations

THAT Council receive Staff Report PDS.21.001, entitled "Information Report Application to Demolish a Dwelling on a Cultural Heritage Designated Property - (Valleyview Construction)", for the property known as 417014 10th Line; and

THAT Council authorize the extension of time under the Ontario Heritage Act for a decision on the Application to Demolish a Structure on a Designated Heritage Property, from 90 days to 132 days (April 20, 2021).

### B. Overview

This report provides an update on the Application to Demolish a dwelling on property designated as a Heritage property under Part IV of the Ontario Heritage Act. This application is currently in process. Planning staff are seeking a decision from Council on a request to increase the amount of time Council has to make a decision on this application, from 90 to 132 days (an additional six weeks).

### C. Executive Summary

**Application File #:** P2941

**Application Received Date:** November 6, 2020

**Application Deemed Complete Date:** December 9, 2020

**Official Plan Designation:** Special Agriculture

**Zoning Bylaw Category:** Special Agriculture

**Short Term Accommodations:** Not permitted in Special Agriculture

**Location:** 10<sup>th</sup> Line, near the intersection of Fulton Street; west of Clarksburg

Council received an Application under Section 34 (1) of the Ontario Heritage Act to demolish a heritage building at the property known as 417014 10<sup>th</sup> Line. Under the Ontario Heritage Act, the Application requires approval from Council. In support of this Application, the property owner, through their agent, has submitted a Heritage Impact Assessment. A peer review, at the expense of the property owner, has been undertaken on the Assessment which did identify some issues to be resolved. The discussions between the Town, Applicant and the consultants are ongoing.

A second follow up staff report to the Committee of the Whole with final recommendations expected in early 2021.

## D. Background

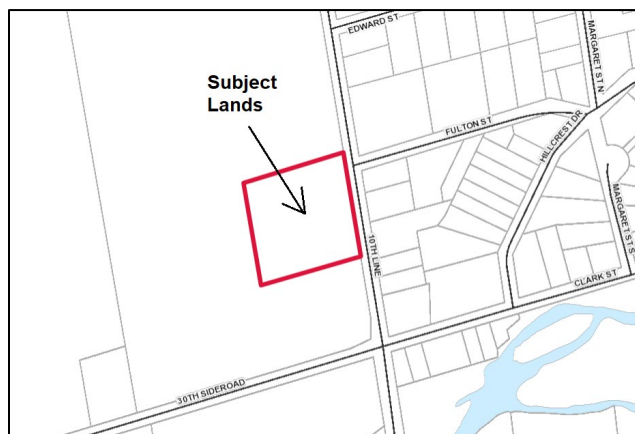
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The applicant, Paul Rogers of Valleyview Construction, contacted Planning Services during the spring of 2020 to discuss the future of the lands, noting the poor condition of the dwelling. Prior to applying for the Demolition Permit, the applicant submitted a Heritage Impact Assessment on May 29, 2020, authored by MHBC Planning.

An Application to demolish a dwelling on a Designated Heritage property was subsequently received by Council at the November 16, 2020 Council meeting. This request was referred to Planning Services at that meeting.

As the Town does not have a Heritage Planning expert on staff (or currently retained), the Heritage Impact Assessment was sent out for external Peer Review at the expense of the applicant. The Peer Review was completed, and provided to the applicant and authors of the Heritage Impact Assessment for their response. Discussions among the applicant, Planning Staff and the consultants are ongoing.

**Figure 1: Location Map**



### Location

The Subject Property, located at 417014 10th Line, is located just west of Clarksburg and approximately 2 hectares (5 acres). The property was severed from the original 80 hectare (200 acres) farm and contains the original farmhouse built in 1872 and includes a pond.

## Previous Request to Remove Heritage Designation

The Town received a previous request by the former property owner's agent, seeking to remove the Heritage Designation on the property (Town File#: P2720). At the time, the property was for sale and the removal of the Heritage Designation was requested because the house was in poor condition and the Designation was viewed as an encumbrance to the potential sale of the property.

Staff Report PDS.19.09 which reviewed that request is attached to this report (Attachment #1), along with the Council Resolution related to that report (Attachment #2). Planning and Building staff conducted a site visit at that time (February 26, 2019) and the details of that inspection are found within the Staff Report PDS.19.09. The staff report recommended refusal of the request to remove the Heritage Designation on the lands, with possible reconsideration of the request with the submission of a Cultural Heritage Impact Statement. At that time the Council supported the staff recommendations.

The property was then sold to the current owner. As a result of the sale, the original application file for removal of the Heritage Designation was closed by the Town.

It should be noted that an earlier and different request to demolish an original Barn on the property was approved by Council in 2016. The barn was demolished in 2017.

## **E. Analysis**

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The Ontario Heritage Act sets out the framework and requirements for Heritage matters, such as designating Heritage properties, repeal of designating by-laws, alteration to properties and so on. The Ontario Heritage Act is applicable law regarding permits under the Ontario Building Code.

Section 34 (1) deals with requests by an owner for demolition of a property designated under Part IV of the Ontario Heritage Act and requires that no owner shall demolish or remove a building or structure on the property (or cause the demolition or removal of a building or structure) receives consent by Council.

After the application is received, a Notice of Receipt is served on the applicant and a 90 day timeline begins for Council to make a decision. within that timeframe, Council must do one of the following:

- 1) consent to the application
- 2) consent to the application, with conditions, or
- 3) refuse the application

The 90 day deadline under the Act for the Council decision ends on March 9, 2021. With the future Council schedule in mind, and upcoming holidays, Planning staff and the applicant have agreed that an extension of time is appropriate, to allow for resolution of any issues that came out of the Peer Review. An additional six (6) weeks (42 days) would extend the deadline to April 20, 2021. It should be noted that the Applicant and Council must jointly agree to this time



extension for it to be valid. A further time extension is also permitted under the Act if the parties agree.

#### Process for this Application

The applicant proactively provided the requested Heritage Impact Assessment earlier this year. This allowed additional time for Planning staff to review the Assessment and outline a process for the Peer Review and the continued processing of this application. However, it is noted that as per the Ontario Heritage Act, an “Application to Demolish” is first required before the Town’s official file could be opened on this matter. If the Application is approved, the Town would also need to publish a Public Notice of Council’s decision and pass a by-law to repeal all or part of the Heritage Designation from the lands.

Attachment 3 to this report, contains a flow chart from the Ontario Heritage Toolkit, outlining the require process for demolishing a heritage structure.

#### Identified Issues

The Peer Review identified some matters that need further clarification, including mitigating measures if the property is demolished. As noted in this report, discussions with the applicant on these matters are ongoing, seeking to resolve these issues.

#### Conclusions

Based on the significant work that the applicant has undertaken to date, and the current discussions on next steps, Planning staff recommend Council authorize the extension of time to make a decision for an additional six weeks (42 days) beyond the current Ontario Heritage Act timeline of 90 days. Staff will then provide a follow-up recommendation report on the matter at an upcoming Committee of the Whole meeting.

## **F. Strategic Priorities**

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### **1. Communications and Engagement**

We will enhance communications and engagement between Town Staff, Town residents and stakeholders.

### **3. Community**

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

### **4. Quality of Life**

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

## **G. Environmental Impacts**

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No impacts are anticipated as a result of this report.

## **H. Financial Impact**

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No financial impacts are anticipated as a result of this report.

## **I. In consultation with**

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Tim Murawsky, Chief Building Official.

## **J. Public Engagement**

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The topic of this Staff Report has not been subject to a Public Meeting or a Public Information Centre, as neither a Public Meeting nor a Public Information Centre are required. Comments regarding this report should be submitted to Denise Whaley, Planner II by email to [Planning@thebluemountains.ca](mailto:Planning@thebluemountains.ca).

## **K. Attached**

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1. Staff Report PDS.19.09
2. Council Resolution of April 1, 2019
3. Flow Chart from the Ontario Heritage Toolkit - Demolition or Removal of Structure

Respectfully submitted,

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Denise Whaley, MSc MCIP RPP  
Planner II

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Trevor Houghton MCIP RPP  
Manager of Community Planning

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Nathan Westendorp, RPP, MCIP  
Director of Planning and Development Services

For more information, please contact:

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# Staff Report

Planning and Development Services – Planning Division

**Report To:** Committee of the Whole  
**Meeting Date:** March 18, 2019  
**Report Number:** PDS.19.09  
**Subject:** Request to remove Heritage Designation for 417014 10<sup>th</sup> Line (Mitchell Farm)  
**Prepared by:** Denise Whaley, Planner II

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## A. Recommendations

THAT Council receive Staff Report PDS.19.00, entitled “Request to remove Heritage Designation for 417014 10<sup>th</sup> Line (Mitchell Farm)”;

AND THAT Council refuse the request to repeal the Heritage Designation By-law 90-33;

AND THAT a Cultural Heritage Impact Statement be required, prior to reconsideration of this matter by Council.

## B. Overview

This report provides follow up information to Council on a request to remove a Heritage Designation under Part IV of the Ontario Heritage Act, for the property known as 417014 10<sup>th</sup> Line (East Part of Lot 31, Concession 11), also known as the Mitchell Farm.

## C. Executive Summary

On January 7, 2019 Council received a letter from Lynda Long regarding the property at 417014 10<sup>th</sup> Line; this letter requested Council to repeal the Heritage Designation by-law. As the Town does not have an application process for such requests, the letter serves as the “application” under the Ontario Heritage Act. Council has a statutory 90-day timeline for consideration of this application under Section 32 (2) of the Ontario Heritage Act and the timeline expires on April 7, 2019 (note this is a Sunday). On expiry, should no decision be made, the council shall be deemed to have consented to the application.

Staff recommend refusal of this request at this time, on the grounds that not enough information is available to determine the impact of repeal of the Heritage Designation By-law, and that repeal will not provide for any mitigation measures resulting in demolition or alteration of the property. Based on a review of the matter, staff recommend that a Cultural

Heritage Impact Assessment be provided to the Town for this property. After that time, Council will be in a better position to consider this request.

## **D. Background**

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On January 7, 2019 Council received a letter from Lynda Long regarding the property at 417014 10<sup>th</sup> Line; this letter requested Council repeal the Heritage Designation by-law that pertains to the property (Attachment 1). As the Town does not have an application process for such requests, the letter served as the “application” under the Ontario Heritage Act.

The letter outlines the poor condition of the property from a maintenance perspective, as well as the presence of mould and asbestos. A number of photographs showing the condition of the dwelling were included with the letter. The letter further explains that the repeal is to allow for a demolition permit. This property is for sale, and Planning and Building staff have received a number of inquiries on it, with particular questions regarding the Heritage Designation and what affect this has on the ability to renovate the house or demolish it. More information about the impacts is in the following Analysis section of this report.

The subject property was designated under Part IV of the Ontario Heritage Act, through the passage of by-law 90-33 (see Attachment 2). The original designation was at the request of the homeowner at the time, Margaret Lind. Staff further understand that some research on the original owner, John Mitchell, was provided by Margaret Lind, to show his significant contribution to the community and the apple industry in the area, as the basis for designation of the property. Interestingly, this by-law was appealed to the Conservation Review Board (CRB) at the time, but was ultimately recommended for approval by the CRB to the Council of the day. The appeal record from the CRB is also attached to this report in Attachment 5.

John Mitchell, was an original apple grower in our region, who operated an experimental fruit farm on the property during the latter half of the 19<sup>th</sup> century. John Mitchell was also one of the original five members who formed the Georgian Bay Fruit Growers Association.

At the time of Heritage Designation, the house contained some significant architectural features, including 12 pane glass windows with glass brought from England (for more information see Attachment 5).

### **Subject Property**

The Subject Property, located at 417014 10<sup>th</sup> Line, is located just west of Clarksburg and approximately 2 hectares (5 acres). The property was severed from the original 80 hectare (200 acres) farm and contains the original farmhouse built in 1872 and a pond.

Figure 1: Location of Subject Property

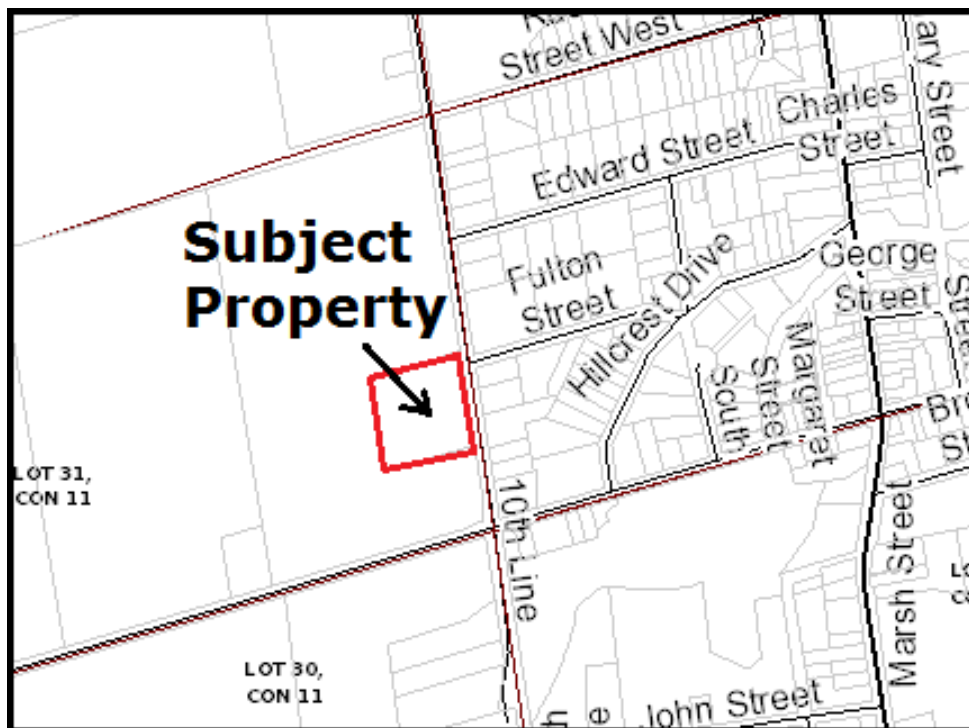
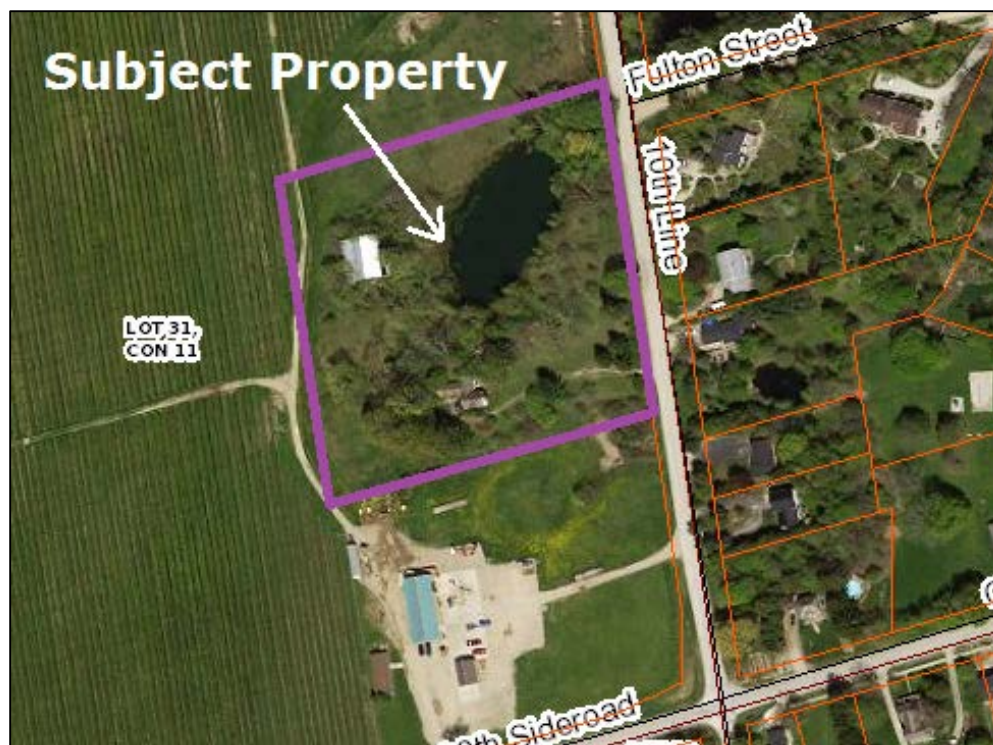


Figure 2: Aerial Photo of Property



## Rights of the Property Owner and/or the Public

The Ontario Heritage Act (referred within this report as the “Act”) provides a framework for the conservation of properties and geographic features or areas that are valued for the important contribution they make to our understanding and appreciation of the history of a place, an event or people. The Act becomes “applicable law” in relation to building permits and protects properties from alteration that would negatively impact its historical value. In the case where a building permit has been applied for on a designated heritage property, the Municipal Council (on the recommendations of a Municipal Heritage Committee, or staff) would have the approval over a “Heritage Permit”. While the Town does not have a heritage permit process, permission from Council would still be required, in lieu of a formal heritage permit.

The Act also outlines the rights of property owners and other members of the public, where they do not agree with the decision of Council on Heritage matters. In the case of a request to repeal the Heritage Designation By-law, the decision of Council is appealable to the Conservation Review Board (CRB). The Conservation Review Board (CRB) is an adjudicative tribunal that, through the mandate provided by the Ontario Heritage Act, considers matters such as the proposed designation of a property, applications for the repeal of a by-law on a specific property and applications to alter a heritage by-law.

The CRB, through the prehearing process and mediation efforts, will attempt to settle the dispute where appropriate. Where a case does not settle and proceeds to hearing, after the hearing, the CRB will provide a recommendation on the matter to the Municipal Council ***who have the final decision*** (or in some cases the Minister of Tourism, Culture and Sport).

The CRB does not hear matters on Demolition or the removal of a building or structure from a protected property as this is within the jurisdiction of the municipal council and, on appeal, the Local Planning Appeals Tribunal (LPAT).

## E. Analysis

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The Town of The Blue Mountains does have a number of Designated Heritage Properties on its Register. However, it does not have a Municipal Heritage Committee, nor is there a clear application process for applying for a Heritage Permit (request to demolish or alter a Designated Property). In light of this, staff have conducted some additional research for Council’s review and consideration, outlined within this staff report. Furthermore, staff are prepared to begin a Heritage Permit Process and framework to ensure clarity for related matters in the future.

### Heritage Designation By-laws

Heritage Designation By-laws under Part IV of the Act protect individual properties and the cultural heritage resources of the buildings or features. These by-law implement the policies of the Provincial Policy Statement and Municipal Official Plans. Features that are protected are generally exterior features, such as architectural features: windows, cornices, turrets; or materials such as wood, stone, stucco and so on. The by-laws also protect the building from

demolition. Interior features are generally not affected and interior renovations are permitted, including modernization of buildings.

At the time of the original by-law in 1990, many Heritage By-laws that were passed by Councils were simple documents, which protected the building from demolition without prior approval from Council, but they did not offer significant details about what exactly was to be protected from alteration, nor exactly how the property was significant.

By-laws designating property under the Ontario Heritage Act based on the standards of today include particular details expressing significance under the categories Historical, Contextual or Architectural Significance. These details must be outlined explicitly in a schedule to the By-law; the Schedule is known as a “Statement of Significance”. The Ontario Heritage Act was updated in 2006 to include Ontario Regulation 9/06: Criteria For Determining Cultural Heritage Value or Interest (Attachment 3). This regulation now makes it easier for administration of Heritage By-laws, through explicit information that would inform decisions on proposed alterations (through Heritage Permits) on Cultural Heritage properties. Some municipalities have updated their Heritage By-law to meet new requirements, especially in situation where there is a Municipal Heritage Committee to research and advise Council on these matters.

In this particular case, the Heritage Designation By-law has some detail in the preamble, but the Statement of Significance information is lacking within the by-law. Should a property owner wish to alter the property by renovation, the types of materials within the building, style or features are not protected from alteration. Planning staff have consulted with the Chief Building Official, Tim Murawsky, in this regard and his opinion is shared with the Planning Staff; only demolition is protected under this by-law. Should a property owner apply for renovations, these would be reviewed as any other Building Permit. Alternatively, if the property owner applies for a demolition permit on a designated Heritage property, the demolition permit would need to be approved by Council.

#### Best Practices Regarding Requests for Repeal of Heritage By-laws

Information on how properties might be evaluated and protected is found in the *Ontario Heritage Toolkit – Designating Heritage Properties: A guide to Municipal Designation of Individual Properties Under the Ontario Heritage Act* (page 31):

In a case where an owner requests a repeal of the bylaw designating the owner’s property, it is important to determine the nature of the owner’s concerns. It is advisable for the municipality, through the Municipal Heritage Committee or municipal staff, to discuss the matter with the owner. Because properties are designated to protect and conserve them for future generations, the repeal of a designation bylaw is a serious matter that should be given careful consideration.

(See the Toolkit on Ministry of Tourism Culture and Sport website: [Ontario Heritage Toolkit](#) )

Generally, outright repeal of Heritage by-laws are not considered where existing buildings are present – the usual process is for the owner to apply for a demolition permit, where the

owner's opinion is the building is unsafe, and renovation not feasible or structurally possible. In these cases, the matter would be referred to the Municipal Heritage Committee, where one exists.

Review of the Act, Provincial Policy Statement (PPS 2014), which provides a policy framework and the applicable Official Plans would be done to determine what policies and legislation are relevant to each individual situation. Municipal Official Plan policies may outline this process in part or fully, and often require a Cultural Heritage Impact Assessment, which may include a Structural Assessment in the case of buildings. A Cultural Heritage Impact Assessment or Cultural Heritage Impact Statement (also known as a CHIS) is a study to determine whether cultural heritage resources or areas of archaeological potential are impacted by proposed development or site alteration. The study can also assist in outlining how the heritage resource will be conserved as part of the redevelopment or site alteration and include mitigating measures. The study could further inform conditions of a demolition permit, should it determine the best recourse is demolition. Following demolition, a repeal by-law to the Heritage Designation would follow to "clean up" the designation by-law, since the resource would no longer be present.

Review of other municipalities' policies for Cultural Heritage Properties and previous CRB cases confirms that consideration for requests for repeal of a designation by-law are not standard, unless the buildings or heritage features are no longer present (as outlined above, through demolition, natural disaster or other significant event). The policies themselves speak to demolition and building permits, where the final use and outcome are known. Table 1 outlines policy direction within three of our neighbouring Municipalities.

**Table 1: Area Municipalities Policy Direction**

| <b>Municipality</b>            | <b>Municipal Heritage Committee?</b> | <b>Official Plan Policies<br/>(Brief summaries)</b>   |
|--------------------------------|--------------------------------------|---|
| <b>Grey Highlands</b>          | Yes                                  | Council may impose as a condition of any <i>development approval</i> the retention and conservation of cultural heritage resources identified within the Municipal Register, or the implementation of appropriate mitigation measures, to minimize the impact of the development on the cultural heritage resource. |
| <b>Municipality of Meaford</b> | Yes                                  | Council may require the submission of a CHIS to support an application for development<br>Requirements for a CHIS are outlined in detail  |
| <b>Town of Collingwood</b>     | Yes                                  | Council may require that all heritage resources to be demolished or significantly altered, are documented for archival purposes with a history, photographic record and measured drawings, prior to demolition or alteration, at the  |



| Municipality | Municipal Heritage Committee? | Official Plan Policies<br>(Brief summaries)  |
|--------------|-------------------------------|--|
|              |                               | <p>responsibility of the applicant in consultation with the Collingwood Heritage Committee</p> <p>Council shall ensure that it has accurate and adequate architectural, structural and economic information to determine the feasibility of rehabilitation and reuse versus demolition, when considering applications to demolish designated heritage resources.</p> <p>Council may defer approval or consideration of development proposals on lands accommodating an identified heritage resource, until the above studies are complete and Council is satisfied that the proposed work, can be undertaken in accordance with the municipality's heritage conservation objectives.</p> |

#### Provincial Policy Statement (PPS 2014)

Section 2.6 of the PPS 2014 addresses cultural heritage matters and requires that significant built heritage resources shall be conserved. Within the PPS, to conserve means the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained under the Ontario Heritage Act. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment. Mitigating measures and/or alternative development approaches can be included in these plans and assessments.

#### Town of The Blue Mountains Official Plan

One of the strategic goals of the Town's Official Plan is to identify, conserve and enhance the Town's cultural heritage resources, whenever practical. Objectives include:

- *Enhance the character* of the Town by protecting and maintaining the Municipality's *cultural heritage resources* and rich heritage for future generations
- Prevent the demolition, destruction, inappropriate alteration or use of designated *cultural heritage resources*
- Ensure that the nature and location of cultural heritage and *archaeological resources* are known and considered before land use decisions are made.

The Town has more specific policies in Section D3 of the Official Plan. Section D3.2.2 on Cultural Heritage Impact Statements, stating that *Council* may require the submission of a CHIS to support an application for *development* if the affected lands are the site of an identified cultural heritage resource or are located in close proximity to an identified cultural heritage resource.

The intent of the CHIS is to determine what impacts the *development* will have on the resource and whether the application for *development* will conform to the goals, objectives and policies of this Plan.

The CHIS shall be in the form of a report undertaken by a qualified professional with expertise in heritage studies, and contain a description of:

- a) the proposed development;
- b) the cultural heritage resource(s) to be affected by the development;
- c) the effects upon the cultural heritage resource(s) by the proposed development;
- d) the measures necessary to mitigate the adverse effects of the development upon the cultural heritage resource(s);
- e) how the proposed development will relate, in terms of height, bulk, massing and presence with identified heritage buildings on the property and in the area;

Prior to considering a development that requires the preparation of a CHIS, Council shall be satisfied that the development will conform to the goals and objectives of this section goals and objectives of this section and will be *compatible*, in terms of height, massing, bulk and scale with adjacent *development*.

#### Details of Staff Site Visit

Town Planner, Denise Whaley and Chief Building Official, Tim Murawsky attended the property on February 26, 2019 to view the general condition of the house. Staff did not enter the house, but reviewed the exterior condition. Staff were able to see the condition of the house and confirm what the pictures show – including lack of long term maintenance. As attending staff are not structural engineers or heritage experts, limited data was collected.

#### Previous Request for Barn Removal

On March 7, 2016 Council received a letter request by Lynda Long. At that time it was a request specifically to allow demolition of the barn on the property, because it was in poor condition. The request was not to repeal the Heritage Designation By-law. Town Planning Staff conducted research on the appropriate tools and process. Ultimately, Council approved request for the demolition of the barn but recognized the significance of the structure by imposing conditions to preserve some of its legacy:

1. That the Owner shall have a Photographic Record completed, to the satisfaction and clearance of Town, at the Owner's sole cost, prior to the demolition and removal of the barn.
2. That the Owner, in consultation with the Town's Community Services Department, shall have an Interpretive Sign for the Mitchell Family designed and installed in Lion's Park in Clarksburg, all to the satisfaction and clearance of the Town, at the Owner's sole cost, prior to the demolition and removal of the barn.
3. That the existing farmhouse will remain designated on the property in accordance with Part IV the Ontario Heritage Act.

4. That the Owner fulfill the above noted conditions within one year of Council's Decision and demolish and remove the said barn, otherwise the approvals will have deemed to have lapsed under Section 34 of the Ontario Heritage Act.

Upon review of the file, staff have not been able to confirm if the photographic record was received or where it has been placed for archival purposes. Furthermore, plaque was not installed, although a payment of \$675 was received by the Town to satisfy this condition. It is our understanding that the barn was ultimately torn down in 2017.

### Staff Analysis

Guiding documents, local policies and best practices would indicate that repeal of a Heritage By-law on the basis of the condition of the building is not advisable. Unlike an application for demolition permit, conditions cannot be applied the repeal. Sufficient information was not provided to this current request for staff to understand the significance of leaving the property unprotected. Review of best practices and the Town's own Official Plan policies indicates the usual process is to request a CHIS prior to consideration. The Study would provide information about the property and mitigation measures should demolition ultimately be required. Staff note, however, that with no clear "application process", each request such as this is reviewed individually. There is merit in creating a clear process moving forward for future requests, including an application process and fees. Planning staff are prepared to undertake this work.

The information provided in Attachment 5 would indicate there was merit in the original application to designate the property and that the buildings and original owner contributed significant cultural heritage resources to this community. However the by-law itself was not submitted to the Provincial Registry, as it does not meet the requirements under the current 2006 Act because the Statement of Significance is missing.

Based on the previous situation of barn demolition, staff do not have a level of comfort that the conditions applied were implemented appropriately. Requesting a photographic record or plaque without clear standards, in the absence of a Municipal Heritage Committee to assist, is not a recommended approach at this time.

The applicant, Ms. Long, has indicated she would be willing to extend the timeline an additional 30 days, however this is not sufficient time to have the CHIS completed and report back to Council on its findings. Should Council refuse the request to repeal the by-law, Ms. Long does have an avenue to appeal this decision to the CRB. The appeal itself may assist all parties further, as the expertise of the CRB would be available. The recommendations of the CRB may include requirement for a CHIS or equivalent, and these recommendations would be brought back to Council again for an ultimate decision.

After review of the information and site visit, staff can appreciate the request to repeal the Heritage By-law. The condition of the house and lack of assurances that Council would ultimately allow a demolition do not provide the level of comfort buyers may be looking for in a home purchase. However, the property owner originally requested the designation and the CRB confirmed there was merit. Without a CHIS, staff and Council cannot fully appreciate the value

of the property and legacy, nor is the Town able to outline the appropriate measures to ensure the legacy is appropriately respected.

Council should also note the difference between simply applying for a demolition permit and request for repeal of the by-law. In the case for a request for demolition permit, while the timeline would be the same, Council could approve a demolition permit with conditions (such as mitigating measures applied to it). A decision to repeal the by-law itself does not have that ability to add conditions to it. In either case, staff recommendation would be the same however; without comprehensive information, such as through the CHIS, it is not clear what the ultimate impact of a decision would be.

### Conclusions

Staff are not able to support the application for repeal of the Heritage By-law at this time based on the limited information available. Recommendation is for refusal, based on the limited timeframe under the Act (90 days, expiring April 7) and current information. However the applicant is encouraged to return for reapplication with the submission of a CHIS, which would include appropriate mitigating measures.

Should Council wish to grant the request for repeal, the matter would be need to be advertised in the newspaper and notice of this intention provided, as outlined in the Act.

## **F. The Blue Mountains Strategic Plan**

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Goal #2: Engage Our Communities & Partners  
Objective #1 Improve External Communication with our Constituents  
Objective #2 Use Technology to Advance Engagement

Goal #3: Support Healthy Lifestyles  
Objective #1 Promote the Town as a Healthy Community  
Objective #4 Commit to Sustainability

## **G. Environmental Impacts**

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Approval of the repeal of a Cultural Heritage By-law could have impacts; however in absence of details, any impacts are not known at this time.

## **H. Financial Impact**

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None at this time.

## **I. In consultation with**

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Tim Murawsky, Chief Building Official; Nathan Westendorp, Director of Planning and Development Services.

## **J. Public Engagement**

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The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre, but the decision to refuse or repeal the Heritage Designation by-law requires public notice by publishing in a newspaper as outlined in this report. Comments regarding this report should be submitted to Denise Whaley through [planning@thebluemountains.ca](mailto:planning@thebluemountains.ca)

## **K. Attached**

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1. Lynda Lind's request Letter
2. Heritage Designation By-law 90-33
3. O.Reg 9/06 (Regulation to the Ontario Heritage Act
4. Ontario Heritage Toolkit - Flow chart (Section 5)
5. Conservation Review Board package – Original Appeal April 15, 1990

Respectfully submitted,

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Denise Whaley  
Planner II

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Nathan Westendorp  
Director of Planning and Development Services

For more information, please contact:  
Denise Whaley  
[planning@thebluemountains.ca](mailto:planning@thebluemountains.ca)  
519-599-3131 extension 262



## Town of The Blue Mountains

32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

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Toll Free: 1-888-BLU-MTNS (1-888-258-6867)

info@thebluemountains.ca • www.thebluemountains.ca

April 1, 2019

Moved by: Odette Bartnicki

Seconded by: Rob Sampson

THAT Council receive Staff Report PDS.19.09, entitled "Request to remove Heritage Designation for 417014 10<sup>th</sup> Line (Mitchell Farm)";

AND THAT Council refuse the request to repeal the Heritage Designation By-law 90-33;

AND THAT a Cultural Heritage Impact Statement be required, prior to reconsideration of this matter by Council, **CARRIED**.

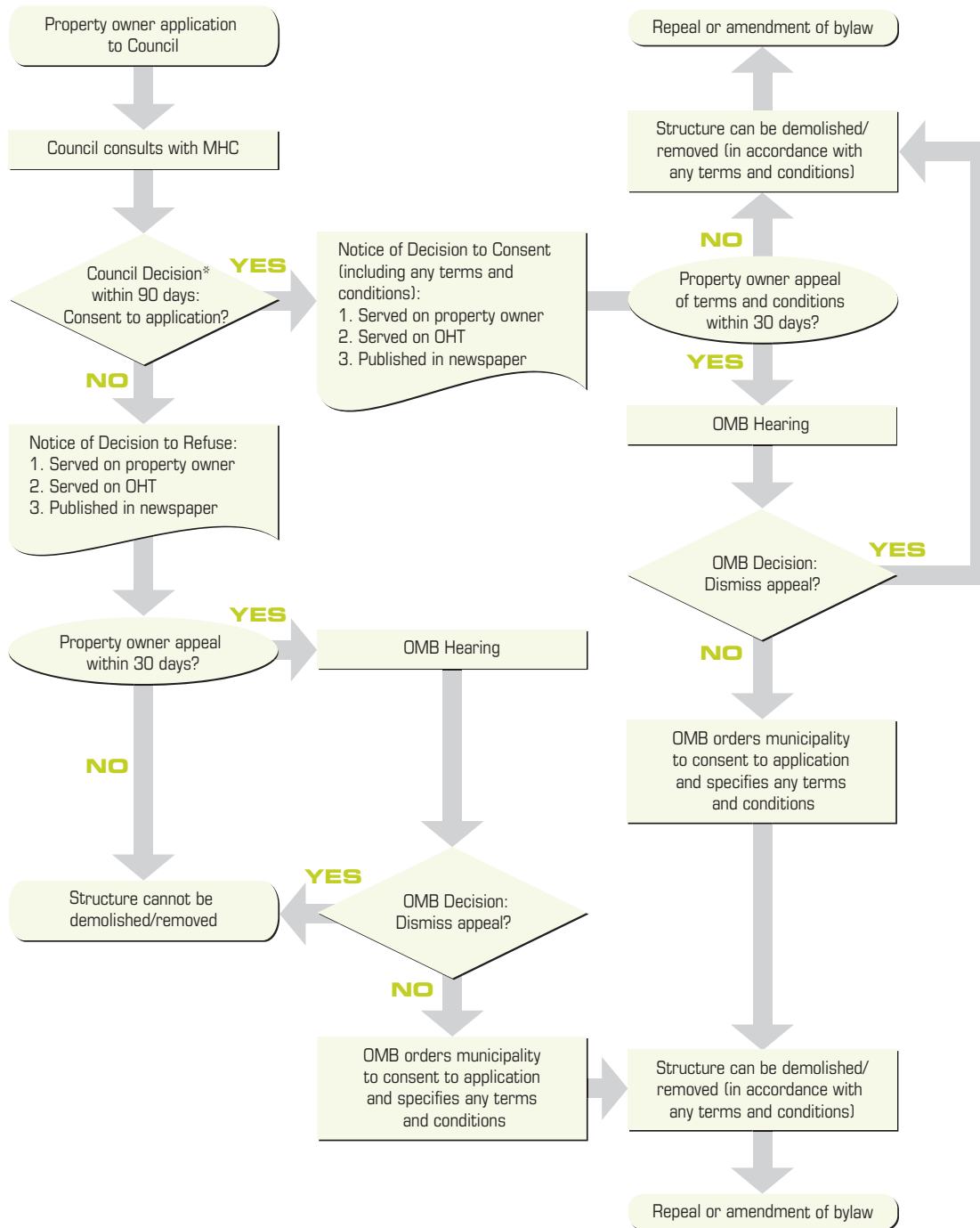
CERTIFIED TO BE A TRUE COPY

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Krista Royal, Deputy Clerk

## 7. Demolition or Removal of Structure

(Section 34, 34.1 & 34.3 of the Ontario Heritage Act)



\* Failure of council to notify the owner within 90 days shall be deemed consent.



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January 27, 2021

Moved by Andrea Matrosovs

Seconded by Paula Hope

THAT Council receive Staff Report PDS.21.001, entitled "Information Report Application to Demolish a Dwelling on a Cultural Heritage Designated Property - (Valleyview Construction)", for the property known as 417014 10th Line; and

THAT Council authorize the extension of time under the Ontario Heritage Act for a decision on the Application to Demolish a Structure on a Designated Heritage Property, from 90 days to 132 days (April 20, 2021);

AND THAT in the interim period, the Curator of the Craigleith Heritage Depot be permitted to visit the site to determine any heritage artefacts that may be preserved from the site, and recommend the best way in which to preserve the architectural and agricultural history of the site,

|                      |     |
|----------------------|-----|
| Councillor Bordignon | Yay |
| Councillor Hope      | Yay |
| Councillor Matrosovs | Yay |
| Deputy Mayor Potter  | Yay |
| Councillor Sampson   | Yay |
| Councillor Uram      | Yay |
| Mayor Soever         | Yay |

The motion is **CARRIED**.

CERTIFIED TO BE A TRUE COPY

A black rectangular box redacting the signature of the Deputy Clerk.

Krista Royal, Deputy Clerk