



Council Report 2014 –02– Community Development

Council Date: **Tuesday, March 4, 2014** IN CAMERA
Subject: **Demolition Control Bylaw** OPEN COUNCIL
- Section 33 Planning Act
Author: **Brenda Guy, Manager of Community Development**

RECOMMENDATION:

That Council receive this report for information.

BACKGROUND:

A motion was passed by Council for staff to review and research the Demolition Control By-law under Section 33 of the Planning Act.

INFORMATION AND DISCUSSION

The purpose of this report is to determine on whether it is desirable for Council to pass a Demolition Control By-law under Section 33 of the Planning Act. A Demolition Control By-law can be blanket across the Town or a portion of lands within the Town.

The question of a Demolition Control By-law was raised upon the issuance of a Demolition Permit under the Ontario Building Code for properties along South Street. A Building Permit was issued as the applicant met the requirements of the Building Code. The subject buildings were not designated as Heritage under the Heritage Act. Under this situation there was no “other applicable law” that the permit could not be issued. It is noted that staff approached the Municipal Heritage Committee who did not deem it desirable to designate any or all of the buildings.

The purpose of this report is to determine the intent and the reasoning behind a Demolition Control By-law and there are other mechanisms such as the Ontario Heritage Act that may better meet the intent of Council.

Planning Act - Demolition Control Bylaw

A Demolition Control Area under Section 33 of the Planning applies to residential areas only. It requires a bylaw to be passed by Council.

Establishment of demolition control area by by-law

(2) When a by-law under section 15.1 of the Building Code Act, 1992 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a

municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless the person is the holder of a demolition permit issued by the council under this section. R.S.O. 1990, c. P.13, s. 33 (2); 1997, c. 24, s. 226 (4).

Demolition Control By-laws appear to be more common in larger urban areas such as Kitchener, Toronto, Waterloo. Some municipalities designate the entire municipality while others define specific areas such as Ottawa. A poll of all the municipalities in Leeds Grenville indicated that no municipality within the geographical area have a Demolition Control by-law. City of Kingston does not have a bylaw either.

For instance, in the City of Ottawa Demolition Control approval is required in a particular area if all three of the following apply; where no building permit for a new building on the site has been issued and where the demolition will result in the elimination of one or more residential dwelling units and where the building to be demolished is located within the specific area. The area that the City defines is located in the former City of Ottawa and was put in place to reduce the amount of time between demolition and new development.

Research indicates that the intent of the Demolition Control Permit would be to:

- maintain the integrity of residential neighbourhoods;
- prevent the premature loss of housing stock;
- avoid the creation of vacant parcels of lands in well-established existing neighbourhoods;
- retain existing residential units until new uses have been considered and redevelopment plans have been approved;
- no building permit for a new building on the site has been issued;
- is located within a study area

Staff have further consulted with the Ministry of Municipal Affairs and Housing with regards to the intent of the Demolition Control Bylaw and information was provided that its' intent is to "*give municipal councils some control over the premature demolition of viable housing stock.*"

Historically, the Town has not faced circumstances whereby demolition is occurring and the Town as a whole is losing on assessment, reducing housing or creating vacant parcels. Demolition permits issued under the Building Code have occurred due to demolition/reconstruction, safety (i.e. fire).

A Building Permit for Demolition under the Ontario Building Code and a Residential Demolition Permit under the Demolition Control Bylaw could be simultaneous.

If Council wished to approve a demolition control, staff would recommend that there could be certain circumstances where Council could delegate the authority to staff. The areas below would be recommended in order to not create an additional step in the process to a property owner:

1. An unsafe building.
2. Demolition for the purposes of a replacement of a dwelling unit. This would occur in an instance where a new permit for construction is submitted. A single family dwelling being demolished and being replaced with another single family dwelling.

3. Lands which are approved for a plan of subdivision, site plan or development permit. Approval has been received.
4. The dwelling unit is vacant, not designated under the Ontario Heritage Act, and securing the building from vandalism is difficult. Property Standard Bylaw.

Ontario Heritage Act – Listing

The Ontario Heritage Act provides two avenues in the preservation of a property. One is by designating a property under the Ontario Heritage Act which is the passing of a by-law along with a background of the heritage aspects of the property and what is specifically designated.

The second is a listing of properties which are of interest. If Council's intent is to preserve or indicate an interest in having a property listed and not necessarily designated, the Ontario Heritage Act provides a mechanism that if a property is identified as being "of interest" then an owner is required to give Council a minimum of 60 days of their intent to demolish or remove a building. This provides Council with an opportunity to decide whether to proceed with a designation under the Ontario Heritage Act.

Both the above are identified as applicable law under the Ontario Building Code.

Currently the Town has 16 designated sites under the Ontario Heritage Act and 7 sites listed. Most of the designated properties are owned by the Town. Any site that is designated must apply to the Heritage Committee to renovate, demolish any building or part of a building that is designated.

Below is an excerpt from the Ontario Heritage Act referencing those properties that are listed as those with interest but not designated under the Act.

Section 29 – Ontario Heritage Act **Restriction on demolition, etc.**

(3) If property included in the register under subsection (1.2) has not been designated under section 29, the owner of the property shall not demolish or remove a building or structure on the property or permit the demolition or removal of the building or structure unless the owner gives the council of the municipality at least 60 days notice in writing of the owner's intention to demolish or remove the building or structure or to permit the demolition or removal of the building or structure. 2006, c. 11, Sched. B, s. 11 (2).

Same

(4) Subsection (3) applies only if the property is included in the register under subsection (1.2) before any application is made for a permit under the *Building Code Act, 1992* to demolish or remove a building or structure located on the property. 2006, c. 11, Sched. B, s. 11 (2).

Same

(5) The notice required by subsection (3) shall be accompanied by such plans and shall set out such information as the council may require. 2006, c. 11, Sched. B, s. 11 (2).

Staff are providing the above for Council consideration as requested.

FINANCIAL:

CONSULTATIONS:

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| <p>APPROVAL</p> | <hr/> <p>Brenda Guy, Manager of Community Development</p> <hr/> <p>Sarah Huskinson, Acting Treasurer <i>Certifies that unless otherwise provided for in this report the funds are contained within the approved Budgets and that the financial transactions are in compliance with Council's own policies and guidelines and the Municipal Act and regulations.</i></p> <hr/> <p>Robert Small, CAO</p> |
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