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Date	December 23, 2025
To	Council – January 14, 2026 (Consent Agenda)
From	Owen Jaggard, Director of Legislative Services/Clerk
Report No.	CLRK 01-26
Report Title	Amending the legal description in By-Law 18-83, and required updates

Recommendation

That Report CLRK 01-26 regarding correcting the legal description in By-Law 18-83 be received for information; and,

That Council direct staff to give the prescribed notice of the proposed amendment By-law 02-26, being a by-law to amend By-law 18-83, to correct the legal description of the designated heritage property municipally known as 76 King Street.

That Council direct staff to present the by-law at a future meeting of Council following 30 days after the date of the written notice of the proposed amendment to the property owner, trust, and public per O. Reg. 385/21: GENERAL, Schedule A.

Executive Summary

The owners of 76 King Street and 74 King Street have requested an amendment to By-law 18-83 to ensure the heritage designation applies only to 76 King Street, being the new lot on which the building featuring the heritage features is located. The proposed amendment is supported by staff as an administrative amendment resulting

from a recent severance. This change requires the Town to follow section 29 of the Act as modified for the purposes of subsection 30.1 (1) of the Act (amending a heritage designation).

Background

By-law 18-83 was enacted to designate a property of architectural and/or historical value or interest located at 76 King Street. The by-law's protected heritage attributes, both originally and as amended, related exclusively to the residence situated on 76 King Street and the heritage features associated with that structure.

In August 2023, the Elgin County Land Division Committee approved a severance application (E 58-23), which resulted in the creation of a new parcel municipally known as 74 King Street. As a result of this recent severance, the original property description contained in By-law 18-83 no longer accurately reflects the current parcel configuration.

Currently, 76 King Street and 74 King Street share a property identification number. By-law 18-83 does not distinguish between 76 King Street and 74 King Street. Once this registration is updated, the by-law should also be updated to specify that the heritage designation applies only to the residence located on 76 King Street. This reduces risk of delays and potential confusions for the owner of 74 King Street.

Current Impact

For the context of Council and the public, staff are not of the opinion that the current heritage by-law would substantially impact possible development on 74 King Street as currently in place and registered. The issuance of any building permit on 74 King Street would trigger a necessary review of the file for impact on the designated heritage features of the house on 76 King Street. The likely result of such a review would be the determination that the heritage features of 76 King Street would not be impacted and thus the permit could be issued without triggering additional requirements under the Heritage Act s.33.

At the same time, staff acknowledged the concerns of the property owners and third parties that this could create ambiguity about the possibility of development at 74 King Street. A change in policy or position by the Town in the future could lead to potential impacts, like delays or costs, to the future owners of 74 King Street. Staff acknowledge this risk and are advancing this amendment in agreement with the property owners that this should be corrected.

Analysis

Procedure

The owner of both properties has requested that the by-law be amended to distinguish the designation so that it applies only to 76 King Street, with the exclusion of 74 King

Street. Staff support this request and consider it to be an administrative clean-up to amend the legal description and align the by-law with its original intent.

Under Section 30.1 of the Ontario Heritage Act, Council may amend a designation by-law. As this amendment is necessitated as the result of the creation of a new lot, the amendment may be considered substantive. Staff consider the changes substantive, not qualifying for the exemption of Section 30.1(2). This requires the Town to follow the process established in Heritage Regulation O. Reg. 385/21: GENERAL, Schedule A as follows, with proposed dates for this amendment in brackets:

1. A notice of proposed amendment shall be,
 - a. served on the owner of the property and on the Trust; and
 - b. published in a newspaper having general circulation in the municipality.
(to be completed January 21th)
2. A person who objects to a proposed amendment to a designating by-law shall, within 30 days after the date of publication of the notice of proposed amendment, serve on the clerk of the municipality a notice of objection setting out the reason for the objection and all relevant facts.
(Deadline February 20th, 2025)
3. Opportunity for withdrawal the proposal by the Town, or
4. The Town may pass a by-law amending the by-law designating the property
(scheduled for March 4th, 2026 Council)
5. The Town must cause the following to be served on the owner of the property, on any person who objected under subsection (5) and on the Trust:
 - a. A copy of the amending by-law.
 - b. A notice that any person who objects to the amending by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under paragraph 4, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.
 - c. The Town to publish notice of the amending by-law in a newspaper having general circulation in the municipality, which must provide that any person who objects to the by-law may appeal to the Tribunal by giving the Tribunal and the clerk of the municipality, within 30 days after the date of publication under this paragraph, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee charged by the Tribunal.
(to be completed March 11th, 2026)

6. Without appeal, the amending by-law comes into force on the day following the last day of the period. (*assuming no appeal, to be completed April 10, 2026*)
7. The clerk of a municipality shall ensure that a copy of an amending by-law that comes into force under subsection (18) is registered against the properties affected by the by-law in the appropriate land registry office and that a copy of the registered by-law is served on the Trust.

Heritage Impact

By-law 18-83 has no functional impact on the new lot known as 74 King Street. All heritage attributes and features protected by the by-law relate exclusively to the residence located on 76 King Street.

For the purpose of due diligence, staff have given some consideration to whether the impact of possible development on the lot known as 74 King Street could impact the protected heritage features at 76 King Street. One consideration is the public viewing angles of the designated heritage features. Staff have determined the impact would be minimal. As a corner lot, 76 King Street has substantial visibility from both Pine and King. The most extreme possible development on 74 King Street would have a similar, if less obstructive impact than previously existing trees and vegetation. Additionally, the contents of By-law 18-83 make no specific reference to any viewing angle. Staff have not determined any other possible impact; staff are of the opinion that any heritage related restriction on the 74 King Street is unnecessary. Amending the bylaw to exclude the 74 King Street lot is appropriate and consistent with the intent of By-law 18-83.

By-law 02-26 has been prepared for this purpose and amends By-law 18-83 to specify the correct legal description for 76 King Street, excluding the separate 74 King Street parcel.

Requirement to update old by-laws

The Heritage Act now requires a Council of a municipality proposing to amend a by-law designating property made under section 29 that does not comply with current heritage act requirements in paragraph 2 of subsection 29 (8) for a designating by-law, if any, to include in the amendment such changes as are necessary to ensure that the by-law satisfies those requirements.

Staff have reviewed the by-law and its subsequent amendment with By-law 41-17. To comply with the request from the Property owner, staff believe the following minimum clarifying additions are additionally required for compliance:

First, the by-law needs to identify which of the criteria set out in subsection 1 (2) of Ontario Regulation 9/06 (Criteria for Determining Cultural Heritage Value or Interest) made under the Act are met and must explain how each criterion is met. The following

additions to the Statement of Cultural Heritage Value or Interest are recommended as a preface to the existing section content:

76 King Street has design value or physical value because it is a *rare, unique, representative or early example of a style, type, expression, material or construction method*, as a well-preserved Italianate Villa residence that retains defining architectural form, materials, and detailing.

Further, the property has historical value or associative value because it has *direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community*, through its connection to William E. Bingham and the early development of Aylmer's brick-built commercial and residential character.

Second, the by-law should explain how each heritage attribute contributes to the cultural heritage value or interest of the property. The following additions to the Description of the Heritage Attributes is recommended as a preface to the existing section content:

The heritage attributes identified below contribute to the property's cultural heritage value or interest by (i) expressing the Italianate Villa design: supporting that the property is a *rare, unique, representative or early example of a style, type, expression, material or construction method*; and (ii) maintaining the historic fabric and visual character that reinforces its direct associations with a *theme, event, belief, person, activity, organization or institution that is significant to a community*.

Financial Impact

There are no financial impacts associated with the approval of By-law 02-26. The proposed amendment is administrative in nature and can be accommodated within existing staff resources and operating budgets.

Strategic Priorities

This report supports the goals and objectives set out in [Council's Strategic Pillars](#). The goal it supports includes: Pillar Five – Public Service Excellence by ensuring municipal records and by-laws are accurate and up to date.

Conclusion

By-law 18-83 was intended to designate only the residence located at 76 King Street as being of architectural and/or historical value or interest. Due to a recent severance, and the original property description, the by-law must clarify its application being exclusive to 76 King Street, not 74 King Street. The proposed amending by-law corrects the legal description to reflect the original intent of the designation, and

provides necessary updates as required by the Heritage Act. Staff recommend approval of By-law 02-26 as an administrative correction.

Respectfully submitted,

Owen Jaggard
Director of Legislative Services/Clerk

Heather James
Manager of Planning and Development

Reviewed by Andy Grozelle, Chief Administrative Officer

Appendix

Attachments

1. By-law 02-26
2. Notice to the owner of 76 King Street
3. Designation by municipal by-law, requirements

Follow Up

In adopting this report, what follow up action is required?

- By-law
- Agreement(s)/document(s) to be signed by Mayor and/or Clerk
- Social media/Website update or communication
- Other communication – Specify: