

ANSWERS TO QUESTIONS RECEIVED AFTER
THE JANUARY 13TH PUBLIC INFORMATION SESSION ABOUT
MAKING LOWER MAIN STREET SOUTH A HERITAGE CONSERVATION DISTRICT

In February 2009, answers to questions and replies to comments received following the first public information session on December 11, 2008 were compiled and distributed. At the second public information session on January 13, 2010, property owners and business owners in the proposed district as well as the general public were invited to comment on the draft heritage conservation district plan for Lower Main Street South. Questions at the January 13th session, at a meeting of the Business Improvement Area and from individuals are answered below.

Question: Are there alternatives to district designation?

1. Individual Property Designation

About two-thirds of the buildings in the proposed Lower Main Street South heritage conservation district are classified as “historic buildings” in the draft heritage conservation district plan (see answer below for a full explanation of the building classification system). They are among the oldest buildings in the district. Of these, only four have been protected as individual properties designated under Part IV of the *Ontario Heritage Act*. Council’s practice has been to designate individual properties only with the owner’s consent (requiring a property owner’s consent as a pre-condition to designation was found inconsistent with the *Ontario Heritage Act* in a decision by the Ontario Superior Court of Justice in 2003).

If Council were to proceed with the individual designation of the many district properties containing “historic buildings,” any objection to any of the intended designations must be referred to the Conservation Review Board for mediation or a hearing. The Conservation Review Board makes a report to Council with non-binding recommendations after the conclusion of the hearing. Council’s decision on each designation is final.

2. Section 27 Listing of Non-designated Properties

The municipality is obliged under Section 27 of the *Ontario Heritage Act* to keep a register of property that is designated. The register may also include properties that have not been designated but that Council believes to be of cultural heritage value or interest. Many municipalities have added properties that are not designated to their heritage registers.

When a property owner wishes to demolish or remove a building from a property that is not designated but listed on the register, the owner cannot do so immediately but must give Council at least 60 days written notice. The delay offers time to assess the property for designation and to explore alternatives to demolition.

If Council were to provide properties with this limited form of protection, it would be appropriate to include at a minimum the buildings that are classified as historic buildings in the draft heritage conservation district plan.

3. Site Plan Control

Site plan control under the *Planning Act* is a process where applications for new commercial, industrial, multiple residential and institutional development are scrutinized by several departments and agencies. Site plan control applies only to new buildings or additions and alterations that increase size or usability.

Many facade improvements and building renovations that can have drastic effects on the conservation of existing buildings would not be subject to site plan control. Nor would applications for building demolition or removal.

4. Zoning

Zoning under the *Planning Act* is a general planning tool for regulating land use and development standards for new construction. Basic matters such as a building's height, size, and placement on its lot are covered under the zoning by-law. The new zoning by-law for Newmarket sets a downtown zone specifically addressing Main Street South between Ontario and Water Streets. The by-law sets a minimum building height of two storeys for new construction and a maximum height of three storeys. It also provides for building to the lot line. These development standards are helpful, but very limited, in their ability to integrate new buildings into the street's existing historical context.

5. Heritage Conservation District Plan

A heritage conservation district plan does more than protect individual historic buildings. District designation takes a comprehensive approach to preservation and enhancement on a district-wide basis. It provides a policy framework not only for the district's historic buildings but also for the public realm. The significance of a heritage conservation district extends beyond the district's historic buildings to embrace the setting and surroundings for those buildings – buildings that are not historic, streets, landscapes and views. A heritage conservation district covers all the district's buildings and its important spaces. The heritage conservation district plan ensures that development activity across the district is reviewed consistently to ensure that changes contribute to the district's historic character.

A heritage conservation district in downtown Newmarket is supported by the policies in the Town's official plan. The Vision articulated in the Town's cultural master plan also supports a heritage conservation district. The lack of a heritage conservation district has been identified as a weakness with regard to cultural development. District designation can assist in establishing downtown Newmarket as a cultural destination.

6. Conclusions

Methods other than district designation can partially meet the goal of revitalizing Lower Main Street South while preserving its historic character. Council has tools for guiding the character of new development and significant additions. For physical changes to existing buildings, the Town can use its financial incentive programs to encourage improvements that conserve the historic building stock and complement the historic area. Council can delay the demolition of historic buildings listed on the heritage register, but cannot prevent demolition without heritage designation, either under Part IV or Part V of the *Ontario Heritage Act*. None of the alternate methods – individual property designation, Section 27 listing, site plan control or zoning – can protect Lower Main Street South in a comprehensive manner as a heritage conservation district plan is meant to do.

Question: Can designation be done on an individual property basis?

Answer: When the Province enacted the *Ontario Heritage Act* in 1974, municipalities were enabled to 1) recognize and protect individual properties that have historical or architectural value under Part IV of the Act or 2) recognize and protect historic areas under Part V.

Part IV designation is meant for properties that are singularly important in the landscape or townscape. They may have outstanding interiors as well as valuable exteriors, and their interior spaces may be identified in the designation by-law.

Interior spaces cannot be protected through Part V district designation. That's because conserving the character of a place is the purpose behind establishing a heritage conservation district. Designation of a heritage conservation district establishes a framework through which physical changes to the historic area can be assessed and guided so that they contribute to, and do not detract from, the area's integrity and character. Proposals by private property owners and proposals for public works by the municipality are reviewed against a heritage conservation district plan to ensure that change contributes to the district's character. The heritage conservation district plan addresses all the properties in an historic area as well

as the streets, public lands and views – in other words, the features of historic interest along with the supporting context for those features.

In the heritage conservation district study conducted in 2008 and 2009, it was confirmed that Main Street South below the crest of the hill to Water Street is arguably the most historic street in Newmarket and one of the most visually interesting main streets in the Toronto region.

Question: Is there money still in the grant/incentive program for the downtown?

Answer: Since 2004, the Town has offered an impressive suite of programs in support of building improvements in downtown Newmarket. In 2009, Town Council extended the financial incentive programs past their initial end date of December 31, 2008. The Town has allocated \$133,649.00 for its share of incentive program funding during the 2010 fiscal year. For every dollar the Town has invested over the last six years, the private sector has invested an additional \$3.38. The new and better stores and services that have opened up on Lower Main Street South since 2004 are further evidence of the programs' success.

Question: What are the consultants' positions on the Community Urban Space Project and Old Town Hall renovation? Can the design of the Community Urban Space Project and for Old Town Hall be modified?

Answer: The Town engaged Peter Stewart, partner in George Robb Architect, and Paul Dilse, heritage planning consultant, to conduct the heritage conservation district study and prepare the heritage conservation district plan. The Town did not enlarge the scope of their work to include review of the designs for the Community Urban Space Project and Old Town Hall renovation. The Town was advised by a consulting team for CUSP and by architects for Old Town Hall. For Old Town Hall, which is designated under Part IV of the *Ontario Heritage Act*, the municipal heritage committee (called Heritage Newmarket) reviewed the design and endorsed it in November 2009.

The CUSP design is complete, and construction of the new urban park continues to progress. The focus of Stage 1 is on building the new parking lot that will run along the perimeter of the urban park; and as such, Doug Duncan Drive will remain closed until September 2010 to facilitate this. The outdoor components of the project are expected to be complete by March 2011. The internal and external renovations to the community centre are expected to be complete in the fall next year.

At a special Committee of the Whole meeting on June 14, Council discussed next steps and priorities for the Old Town Hall renovation plan. After considering input from the public and in light of budget constraints, Council voted in favour of a modified renovation plan. This includes a smaller ground-floor addition than originally proposed and second-floor washrooms and change rooms. It also involves some exterior work in keeping with the historic nature of the building, a patio and exterior landscaping. Moving forward, it is expected that the revised architectural design and Class A estimate will take approximately five months before proceeding to the construction tender phase. The Old Town Hall Task Force continues to meet and will be planning further public consultation in the near future.

Question: What are the requirements for solar panels?

Answer: Exempted from heritage review in the draft heritage conservation district plan is the installation of mechanical or electrical equipment that is away from public view. Alteration of building roofline or skyline by rooftop equipment is subject to heritage review. The object is to install solar panels that are discreet. It is conceivable that building parapets can hide equipment such as solar panels on flat roofs. District designation is not about preventing change. Energy conservation and heritage conservation are both important policy objectives.

Question: What happens if someone does something without a [heritage] permit? Consequences?

Answer: To ensure fairness to all property owners in the proposed district, the Town will enforce the requirements of the heritage conservation district plan – using the provisions of the *Ontario Heritage Act*, *Planning Act*, *Municipal Act* or *Building Code Act* – when a property owner willfully, without a heritage permit, undertakes work that is listed among the eleven types of work requiring heritage review.

Question: How do you anticipate real estate values to be impacted? Is there a dip in the value of buildings before they start to rise?

In 1998, Dr. Robert Shipley and Shannon Bernstein published a study for the Ontario Government on trends in property values for properties designated under the *Ontario Heritage Act*. They concluded that designated properties tend to perform as well as other properties, or better than average, in the local real estate market. They also reported that designated properties tend to resist market downturns. They recommended a broader and more detailed investigation of the effects of district designation on property value.

In 2009, the Heritage Resources Centre at the University of Waterloo where Dr. Shipley is the director studied sales trends in 32 heritage conservation districts designated before 1993. In the report prepared for the Architectural Conservancy of Ontario, Dr. Shipley's team concluded that 78 per cent of the districts' properties with sales histories showed above average or average trajectories.

Question: What is the experience with disputes in other heritage conservation districts?

In a June 2005 article written for *The Record* (Kitchener), Paul Dilse cited Kitchener, where three heritage conservation districts had been designated, as an example. Every heritage permit application for building alteration had been approved without resort to appeal.

The *Ontario Heritage Act* provides for a property owner to appeal to the Ontario Municipal Board when a heritage permit is refused or given with terms and conditions attached. Given the experience in other heritage conservation districts, the need to appeal is likely remote. The policies and guidelines in the heritage conservation district plan set out clearly what is expected.

The proposed review procedure for heritage permit applications is designed to provide guidance to district property owners from the beginning of each project. Members of the Lower Main Street South Advisory Group – composed of key Town staff, a representative of Heritage Newmarket, a rep from the Business Improvement Area board and others Town Council may appoint – will meet the applicant in person, on site if at all possible, before the filing of an application. The applicant will get initial advice or feedback on the proposed project, help in charting the process for making a heritage permit application and any other application required by the Town, and information about Town financial incentives and technical assistance.

Question: How many commercial district designations are there in Ontario?

Answer: According to statistics compiled by the provincial government in November 2009, 29 of the 91 heritage conservation districts in Ontario are primarily commercial in their land use. These include: King Street East in Cobourg, the downtown core of Collingwood, Market Square in Kingston, Markham Village, Unionville, Queen and Picton Streets in Niagara-on-the-Lake, downtown Orangeville, Byward Market in Ottawa, Walton Street in Port Hope, the downtown core of Stratford, Queen Street West in Toronto and Kleinburg-Nashville in Vaughan.

Question: Would security cameras be allowed on the front facade of a building on Main?

Answer: As with solar panels, the object is to make the security camera as inconspicuous as possible without limiting its function.

Question: Are only ‘touristy’ type businesses permitted within the district?

Answer: The existing zoning covering most of the proposed district permits a wide range of commercial and institutional uses, accessory buildings and uses, and apartments in combination with the permitted commercial or institutional uses. Under the draft heritage conservation district plan, the wide range of uses would be maintained.

The Town has recently gone through a comprehensive review of the zoning by-law, and the new comprehensive by-law is nearing final approval by the Ontario Municipal Board. The Downtown Urban Centre zone in the new comprehensive by-law for the entire Town broadens the permitted uses in the district. A wide range of uses typical of downtown areas support a wide range of market responses.

One of the economic opportunities for Lower Main Street South is day trip shopping, dining, entertainment, sightseeing and recreation for residents of the Toronto region – the most populous area in Canada. Designating and publicizing Lower Main Street South as a heritage conservation district will serve to draw day tourists as well as locals interested in a traditional main street experience. The strategic plan for cultural development in Newmarket identified the lack of heritage conservation districts as a weakness, and designation of Lower Main Street South would address this.

Question: Are all buildings restricted from demolition? Are all buildings within the district treated the same?

Answer: All properties within the proposed district are designated under the *Ontario Heritage Act*.

Any proposed demolition of a building or part of a building, such as a building facade, will require heritage review.

Different classes of buildings within the district are described in the draft heritage conservation district plan. For buildings classified as historic, the draft heritage conservation district plan indicates that the Town will support their retention. If a property owner proposes to demolish or remove an historic building, a heritage impact assessment will be prepared to ascertain whether there are alternatives to demolition or removal. For buildings that are classified as compatible with historic buildings and the district’s architectural patterns, the draft plan indicates the Town will support the replacement of these complementary buildings only when the new design demonstrates even greater harmony with adjacent and nearby historic buildings than the existing complementary building. For buildings classified as neither historic nor complementary, the draft plan indicates the Town will support the redesign or replacement of these other existing buildings to create new two- or three-storey buildings that conform to the district’s architectural patterns, are in harmony with adjacent and nearby historic buildings, and meet the plan’s policies and guidelines for new construction.

Question: What are the costs for a [heritage] permit?

Answer: There will be no fee for a heritage permit.

Question: Can you expand further on the possible extension of Millard Avenue?

The current conceptual options that have been before the Committee of the Whole for lands east of Millard Avenue do not contemplate its extension.

Question: Does our residence being included in the heritage conservation district allow the Town of Newmarket easier access to expropriate our property?

Answer: The powers of expropriation have nothing to do with district designation.

Question: What benefit is there if our residence is included within the boundaries of the proposed district? What negatives/restrictions are there with our residence being

included particularly as it is a “brown” building? If my “brown” residence is in the heritage conservation district, would this affect a rezoning request? What would be involved if we wanted to apply for commercial zoning currently or if we were in the designated heritage conservation district? How will the value of my residence be impacted by inclusion in the heritage conservation district?

Answer: Within the proposed district, only the properties at the east end of Millard Avenue are zoned for single-family detached dwellings. The bungalows there are well-maintained. Classified as neither historic nor complementary (coloured brown on the map), their continued maintenance is recommended in the draft heritage conservation district plan.

If the property owners at some point wish to consider developing the lands at the east end of Millard Avenue, the Town will support the rezoning of the properties at 476 Millard Avenue, 479 Millard Avenue if a convincing case can be made for more intensive land use at a maximum building height of three storeys. In the meantime, these residential property owners, as well as any property owner in the district, would be eligible for an annual heritage tax rebate amounting to 40 per cent off the municipal and school taxes on their district property. Judging from the experience in other heritage conservation districts, property value should stay the same or rise. Of course, the value of rezoned land would be higher still.

Question: Do we have the choice of not being included in the heritage conservation district?

Answer: For the heritage conservation district study, rational boundaries were established for the heritage conservation district which is centred on the historic commercial street that is vital to the cultural identity of Newmarket. The crest of the hill marks the proposed district’s northern boundary. The Holland River or the contour lines framing its floodplain form the eastern boundary. West of the proposed district is an historic low-density residential neighbourhood. The Water Street streetscape at the foot of Main Street South spans the proposed district’s southern limits.

If individual properties within the proposed district were omitted, there would be gaps in the protected area. The excluded properties would operate outside of the policies of the heritage conservation district plan, diminishing its effectiveness in maintaining the district’s historic character.

Question: Does Part V district designation supersede the existing Part IV designations?

Answer: Four singularly important properties in the proposed district were designated under Part IV of the *Ontario Heritage Act* – the Old Registry Office, Christian Baptist Church, the Old Post Office and the Old Town Hall. Part V of the *Ontario Heritage Act* allows for the inclusion of Part IV properties within a heritage conservation district. Part IV properties are subject to the goal and objectives, policies, guidelines and implementation strategy of the heritage conservation district plan. There is no reason to repeal the Part IV designation by-laws when the area is designated a heritage conservation district.

Question: Did the Town of Newmarket enact a study area by-law?

Answer: As it the customary practice in Ontario, the Town opted to forego enacting a study area by-law that would have placed restrictions on property owners.

Question: How does Lower Main Street South compare in age and historic architectural retention to other southern Ontario communities and specifically to commercial heritage conservation districts?

Answer: Because its origin is related to the course of the ancient Rouge Trail and the location of Newmarket’s first mill, store, etc., Lower Main Street South has a very early history. Elizabeth Simcoe’s sketch map of 1793 pinpoints York (Toronto) and Newmarket – indicating the latter’s importance in the

interior of Southern Ontario. The building at 261 Main Street South contains remnants from The Willows, the trading post of fur trader William Roe.

Some other historic areas that have been protected as heritage conservation districts have been more successful than Newmarket in preserving historic buildings. In some cases, the degree of architectural integrity found in the designated commercial districts is the result of years of concerted effort. Designation of the Lower Main Street South heritage conservation district would foster better management of the heritage resource.

For its topography and scenic views, Lower Main Street South is unsurpassed.

Question: Do we know which buildings are our oldest frame buildings and when they can be dated to?

Answer: A series of historic plans (1862, 1910, 1924 and 1959) reveal the construction of surviving buildings in the proposed district – whether they are frame, brick, or concrete block. An interesting frame block from the mid-nineteenth century is located at 184 Main Street South, adjacent to the Old Post Office.

Question: Is there an alternate location within the proposed heritage conservation district where activities programmed for Market Square North and Market Square South could occur?

Answer: The traditional market square was beside Old Town Hall, which used to serve as a market building. In the draft heritage conservation district plan, the space is called Market Square South. The new market square is called Market Square North. In drafting the heritage conservation district plan, it was felt that a fuller program of activities in the squares would draw residents to the district and to its shops and services. Because of the displacement of parking spaces at the Community Urban Space Project, activities considered for the squares will be redirected to the lands immediately to the east of the proposed district.

Question: Should there be a greater focus of funding for Cedar Street facades?

Answer: The nine financial incentive programs that the Town offers apply to eligible improvements proposed for Cedar Street facades as well as Main Street facades.

Question: What are the average costs per square foot for restoration of brick that is covered by paint, parging, EIFS and synthetic siding?

The average cost per square foot for removal of paint from brick is \$5 to \$10, depending whether there is paint residue left after the first application. The average cost per square foot for removal of parging over brick is \$10-plus. Parging products vary, and costs escalate with the number of times coats of it have been applied. The average cost per square foot for removal of EIFS from brick is \$10 to \$20, depending whether it is installed with adhesives or with mechanical screw-type fasteners. The average cost per square foot for removal of synthetic siding from brick is \$4. When paint, parging, EIFS, synthetic siding or other harmful covering is removed, the underlying brick may require repointing of masonry joints, selected replacement of brick units, and filling holes bored in brick or joints. The average cost per square foot to repoint brick is \$35.

Question: Is there an available list of qualified contractors for the area?

Answer: The Town does not recommend contractors for work on historic buildings by making a list of firms available. However, the Canadian Association of Heritage Professionals (CAHP) maintains an on-line

directory of building specialists, some of whom are contractors. Many CAHP members are resident in the Toronto region. Hiring a contractor who is experienced in the conservation of historic buildings is not necessarily more expensive than getting a contractor who doesn't specialize in historic buildings. Qualified contractors have the benefit of their experience.

Question: Could a building owner choose to repair an existing finish, e.g., repaint EIFS, and stay within the district guidelines?

Answer: Painting of non-masonry surfaces is exempt from heritage review, but removal of parging, EIFS, siding or a facade screen from walls or installation of new wall material to replace or cover existing wall material requires heritage review.

Using the example of repainting External Insulation and Finish System, there would be little advantage to the building owner by temporarily and partially covering up cracks in a broken surface where water can penetrate. As the draft heritage conservation district plan's guidelines on masonry conservation state, the damage from trapped moisture or from the installation of framework can be irreversible. The guidelines are practical, technically sound, and supportive of conserving the district's clay brick cladding which is a defining characteristic of the district.

Question: What forms of encouragement for investment in building improvement, other than financial incentives, would you recommend?

Answer: In addition to the nine financial incentive programs, the Town currently provides preliminary technical advice to property owners. The Town's current tax relief program is available for properties both under Part IV (Individual Designation) and Part V (District Designation) under the Heritage Act. For major restoration projects, improving the Water Street boulevard or implementing a program of signs and displays on historical themes for storefronts, the Town will seek funding partners over the plan's long term.

Question: Should financial incentives be weighted and focused towards restoration of Christian Baptist Church and the John Cawthra Sr. House?

Answer: The draft plan states that buildings classified as historic will have priority over complementary and other existing buildings for funding, and the highest priority is the restoration of Christian Baptist Church and the John Cawthra Sr. House at either pole of Lower Main Street South. The Town will seek funding partners in the larger Newmarket community, other levels of government, or foundations and corporations to augment or supplement its financial incentive programs.

Question: How would public access to the Holland River be achieved south of Timothy Street on the east side of Main?

Answer: One of the easiest ways of linking the Tom Taylor Trail along the Holland River to Cedar Street and Main Street South buildings is by erecting trail signs that direct pedestrians and bicyclists to the district's shops and cafes.

Question: Who will be responsible for the erection and ongoing maintenance of the contemplated ground sign providing a directory of stores and services to pedestrians entering the district at its southern end?

Answer: The directory is part of a larger improvement project in the Water Street boulevard. To accomplish the project, the Town will need to work with the property owner at 261 Main Street South and invite any willing partners, such as the Business Improvement Area and Newmarket Horticultural Society. The project's design, execution and maintenance program are not worked out in detail, but the project is outlined in a policy of the draft plan.

Question: Will the Town discontinue use of winter salt within the proposed district? If so, what safe alternatives are there?

Answer: The draft plan does not include a policy on road or sidewalk deicing. Any deicing chemical increases the freeze/thaw cycle in masonry walls. The issue has been flagged, and will be directed to the Public Works Services Department.

Question: Is there a timeframe for sidewalk widening at the northeast corner of Water and Main Streets and along Cedar Street?

Answer: The heritage conservation district plan is meant for implementation over the long term. In keeping with customary practice, an implementation schedule is not part of the plan. The draft plan includes a commitment from the Town to review progress in implementing the plan's policies and carrying out the implementation strategy within five years of the plan coming into force. A well-written heritage conservation district plan can last 20 years.

Question: In Section 4.4.5 of the draft heritage conservation district plan, could the word "may" be replaced by "will" in the following policy: The Town, in co-operation with the Province, may erect attractive signs directing motorists northbound on Highway 404 to the Lower Main Street South Heritage Conservation District, leading them from the highway, along Mulock Drive and on Bayview Avenue to clearly marked parking lots on the Community Urban Space Project?

Answer: When the plan was drafted, the modal verb "may" was preferred over "will" since the policy is dependent on co-operation with the Province.

Question: To what extent do other municipalities invest in their heritage conservation districts, specifically those that are primarily commercial and public use? Is an annual budget generally established? Are there any guidelines or rules of thumb for how much the Town needs to commit financially to a heritage conservation district? How have other communities addressed facade restoration?

Answer: According to the 2009 study of heritage conservation districts, funding was not available to property owners in most of the 32 surveyed districts. Funding in cities such as Hamilton and Ottawa were felt to help enhance their districts.

The nine financial incentive programs offered by the Town are generous. To spend Town money wisely and leverage the most from public investment, a single plan that all can refer to has been wanting. The heritage conservation district plan sets out a course of action over the long term. The plan's framework provides a known environment for investment by property owners. The plan also moves toward involving non-profit and corporate partners in the district's revitalization. Two outstanding cases of restoration in historic areas (described in the plan's guidelines) point to a winning combination of government policy, strategic restorations by non-profit societies and private-sector investment.

When revitalization is the goal as it for Lower Main Street South, municipal incentives are proven effective.

Question: Was the condition of the brick walls at Old Town Hall assessed before the renovation design? Was a heritage impact assessment prepared for the Old Town Hall alterations?

Answer: The draft heritage conservation district plan contains a guideline about assessing the physical

condition of the brick walls at Old Town Hall. The Town has not yet made use of heritage impact assessments. If the heritage conservation district plan is adopted, the plan's policies and guidelines will have effect. A condition assessment and heritage impact assessment at Old Town Hall were not required when the contract was let for renovation of Old Town Hall.

Question: Would the proposed Lower Main Street South Advisory Group replace the Newmarket Downtown Development Subcommittee in the administration of the incentives program?

Answer: In the draft heritage conservation district plan, the purpose of the Lower Main Street South Advisory Group rests in the review of heritage permit applications. The Newmarket Downtown Development Subcommittee processes applications for funding from the financial incentive programs.