

Oak Street Area Fenelon Falls



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Heritage Conservation District Study

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Users' Guide



Frequently Asked Questions

What is a Heritage Conservation District?

It is an area of special character, combining older buildings and their settings that, together, make up a district that has an identifiably distinct “sense of place”. The cultural heritage resources within a district include buildings, structures, cultural landscapes, and areas of archaeological potential. The *Ontario Heritage Act* is special legislation allowing district designation and codifying an area’s “heritage character” in order to protect its heritage attributes.

Why was the Oak Street area selected for study as a Heritage Conservation District?

It is centred on the former Maryboro estate that has historical links to the founding of Fenelon Falls and to the creation of the Trent-Severn waterway. The area is a planned subdivision of the former estate grounds and contains a significant concentration of late 19th and early 20th century residential buildings, many of which are worthy of individual designation.

How would District designation impact residents?

Designation allows the City to manage change within the District by specifying the types of changes that will conserve and enhance the character of the District. Designation also celebrates what is special about the District, building community pride and encouraging compatible improvements to both public and private properties. Proposed changes of a major sort are regulated by the City, using policies and guidelines provided in a Heritage Conservation District Plan.

How does District designation affect changes to my property?

Designation entails a municipal requirement for a heritage permit for any significant change to the public face of your property (i.e. front, sides and roof, but usually not the rear). Routine maintenance is not affected, and professional planning staff work with property owners to provide advice on compatible alterations, using policies and guidelines in the District Plan.

Will the value of my property change?

Studies in Canada and the United States have shown that property values in Heritage Conservation Districts either stay the same or increase.

What are the next steps, and how do I get involved?

The final report is submitted to Council and a decision by Council on whether to proceed with the District Plan and guidelines is made. If Council decides to proceed, then the Plan and guidelines study will take approximately another 6 months, after which Council proceeds with designation. Further public meetings will be held to discuss the draft Plan and guidelines and it will be posted on the City's website. You can also contact the City's project manager responsible for this project, Debra Soule, at (705) 324-9411 x 1498.

Executive Summary



Study purpose

The City of Kawartha Lakes recognizes the economic and social benefits of heritage conservation in enhancing local quality of life and attracting investment. An important initiative in this approach is to identify which parts of the municipality have a high concentration of heritage resources and to seek ways of conserving and enhancing these areas, for the benefit of all residents. The City has chosen downtown Lindsay and the Oak Street residential area of Fenelon Falls as the first of these areas to be examined.

The way to conserve and enhance these areas that has been shown to be most effective is to designate them as a Heritage Conservation District. Using the legislation provided in Part V of the *Ontario Heritage Act*, the municipality can control change in ways that highlight the area's distinct character while encouraging compatible development.

Study method

The City issued a request for proposals in July, 2015 for consulting teams to undertake these two studies. The winning team, led by Bray Heritage of Kingston, Ontario, was retained in September, 2015 and consists of heritage and land use planners, historians, archaeologists, landscape architects and urban designers. Since that time, the team has worked closely with an advisory committee provided by the City consisting of municipal staff and representatives of Heritage Victoria as well as residents of each community. The working method involved site visits over several months, meetings and interviews with local property owners, historians, and staff of local museums and archives. Information has been posted on the City website and the consulting team has provided the City with regular updates on the study progress.

Study content

The studies follow the format required by the Province for such projects. Each includes an inventory of cultural heritage resources (buildings, landscapes, areas of archaeological potential) followed by an evaluation of the cultural heritage value and significance of these as potential contributors to the area's character. The studies provide a chronology of the area's development, highlighting important characteristics in each era of the area's history. Alongside this research is an analysis of the current planning policy framework and of the municipality's capacity to manage Heritage Conservation Districts. The studies then summarize the cultural heritage significance of each area, provide a rationale for District designation, and propose a boundary.

Conclusions and recommendations

The Oak Street area of Fenelon Falls has been determined to meet the Province's criteria for designation as a Heritage Conservation District. Centred on Maryboro Lodge museum and flanked by the Canal, downtown and lake shore, the area has a distinct urban character with many historical associations that are important in the character of the village as a whole. The study recommends that Council proceed with the next step towards designation which is to instruct staff and the consulting team to prepare a Heritage Conservation District Plan. Following further consultation with the public and staff, the City would prepare a by-law to designate the Oak Street area as a Heritage Conservation District under Part V of the *Ontario Heritage Act*. Once the by-law is passed, the City manages change in the District using the policies and guidelines provided in the Heritage Conservation District Plan.

1. Introduction



1.1 Study purpose and approach

Why study?

Although the existing neighbourhood appears to be stable, the village is increasingly popular as a tourism destination as well as a place in which to live. House sales indicate a market for summer homes as well as year-round residences. The downtown commercial area touches the eastern edge and the west and south sides abut important public parkland. Properties close to the Canal and lake are especially valuable and, in other similar communities,

have been the subject of higher density development applications. In that context, it is important for local residents and the municipality to be clear as to what they value about the area and to confirm their goals for the ways in which the area should manage any future development pressure. At least, there should be clarity as to the types of alterations to the existing buildings and landscapes that would support and enhance the area's character.

The Oak Street area's concentration of high quality late 19th and early 20th century residential buildings makes it distinctive, as does the remnant landscape from the former Maryboro estate. Such an intact setting is vulnerable to change that is at odds with the area's character. Defining, recognizing and enhancing this character are primary goals of the heritage district designation process.

The mandate for considering district designation comes from several sources. While designation of a Heritage Conservation District would be a first for the City, the value of the area has been recognized since the creation of a museum in the former Maryboro Lodge. This museum is an important local and regional tourism attraction, and fostering cultural tourism is a key recommendation in the City of Kawartha Lake's Heritage Master Plan. There is also a growing sense within the municipal government that heritage conservation is an important, and necessary, part of planning for the municipality's future.

As stated in the Request for Proposal for this study (p. 22) "Maryboro Lodge is an important heritage asset". Since the Oak Street study area occupies a large part of the former Maryboro estate, the houses and landscape associated with the museum should be considered as important heritage assets also.

In addition, the City is in the process of undertaking a wide range of planning studies (corridors, streetscapes, secondary plans) that will influence future development and affect cultural heritage resources. Ensuring that the heritage conservation district study is part of this process avoids duplication and encourages consensus in the preparation of planning policies and design guidelines.

Study Terms of Reference

The City's scope of work for this study (found in the Request for Proposal, pp. 21-27) follows closely the Provincial Ministry of Tourism, Culture and

Sport's requirements for such studies. The Study is to fulfil the three basic requirements of such efforts, namely, to assess the cultural heritage resources of the study area, judge whether or not such resources qualify the area for designation as a heritage district and, if so, determine a district boundary.

Both the Culture Plan and Heritage Master Plan note the boost heritage conservation gives to municipal efforts to promote economic development. Cultural tourism is a major factor in the competitive success of municipalities today, not only for the revenue it produces from highlighting a community's unique setting and culture, but also for its ability to raise awareness of such features and thus attract potential residents and investors. Fenelon Falls is already well established as a village with many heritage and cultural resources, but it must continue to both conserve and enhance such resources in order to retain its competitive advantage. Protection of the village's key heritage assets via designation is an essential means of doing so, as is building and maintaining support for conservation amongst the population at large.

But how best to apply such support to a complex and challenging project? The proposed District Study and Plan offer many opportunities for support. There are ways that the project can help local residents to articulate the characteristics of the area they wish to conserve and to utilize their talents in ways that both assist the City and educate those participating. The planning process thus becomes two things: a means of producing protective legislation, and a way to put into words and actions the aspects of the Study area that local people value. In the end, the resulting Plan and guidelines not only provide clear policy direction for the City in planning for the area, they also establish a process that can be emulated in designation studies for future candidate areas such as some of the residential neighbourhoods or the commercial core.

What is a heritage conservation district?

A heritage conservation district is a distinctive urban setting that has significant historical and cultural value. Its special character is often a function of the age of its structures, its pattern of development, the history of its occupation, and the land uses it contains. The boundaries may be sharply defined, as along a waterfront, or blurry, as in mixed use areas. The Provincial Ministry of Tourism, Culture and Sport, the agency responsible for heritage planning, defines districts broadly, from a group of buildings to entire settlements. The key is that the defined area has "a concentration of heritage resources with special

character or historical association that distinguishes it from its surroundings” (Ontario Heritage Tool Kit, Heritage Conservation Districts, p. 5).

Heritage districts are not new: they have been widely used in Britain and Europe since the end of WWII, in the United States since the 1950s, and in Canada since the 1970s. They have proven to be effective ways of conserving and enhancing special places while supporting the everyday lives of residents and visitors.

The Tool Kit (op. cit., p. 10) goes on to describe the common characteristics of heritage districts. They are:

- “A concentration of heritage resources” (buildings, sites, structures, landscapes, archaeological sites) that have some common link for reasons of use, aesthetics, socio-cultural or historical association;
- “A framework of structured elements” that provide edges, such as major routes, shorelines, landforms, or land uses;
- “A sense of visual coherence” that is expressed in built form or streetscapes, and;
- “A distinctiveness”, whether tangible or not, that makes the district recognizably different from its surroundings.

Why designate?

The “sense of place” generated by Oak Street is determined by the experience of being in and around its physical setting, that is, the buildings and streetscapes that make up the study area. These “cultural heritage resources”, to use the term found in Provincial planning and heritage legislation, are precious and deserve good stewardship. Designation is a means by which local owners, tenants and residents are able to express pride in their property and in the area as a whole: it is also a way of promoting public appreciation of local history.

Changes brought about by urban intensification, as well as neglect or natural disaster, can threaten these settings and erode local identity. In response to these threats, District designation is one of the most effective heritage planning tools available to Ontario municipalities. While the *Planning Act* handles most of the land development issues, it makes little reference to matters of community identity and heritage. Except where individual properties have been designated under Part IV of the *Ontario Heritage Act*, (in this case, Maryboro Lodge), Oak Street’s buildings and streetscapes

that have evolved over the past century and a half are not protected in any meaningful way by the current policies in the City's Official Plan or Zoning By-law. By contrast, the recently updated Provincial Policy Statement and *Ontario Heritage Act* put the onus on municipalities to conserve "significant" cultural heritage resources, and provide policy tools and procedural guidelines with which to do so. Designation of a district under Part V of the *Ontario Heritage Act* is the means by which a municipality puts these tools and guidelines to use, and fills the policy gap left by the *Planning Act*.

Heritage conservation district designation is not necessarily, as the term may seem to imply, a device for preserving an existing setting. The main focus of district designation is change management. In recognizing the inevitability of change, designation can plan for its best course. Change in an urban setting is the result of conscious action, in the case of renovation or new development, or inaction, in the case of deterioration by neglect. Neighbourhoods can change for the worse, sometimes before people realize it is too late. The "tipping point" has been reached, and the area's "carrying capacity" has been exceeded. A district designation can help identify these critical thresholds and provide policy tools to ensure that they are respected.

At the very least, designation can identify the types of changes that are desirable for conserving and enhancing local character, and those that are not. Property owners get the information they need to make informed choices for improvements, and the municipality gets the guidelines and legislative mandate to regulate changes. In practice, change management in a Heritage Conservation District is seldom imposed from above but, rather, involves an ongoing discussion between property owners and municipal staff/heritage advisory committee members, based on policies and guidelines found in the Heritage Conservation District Plan, as to what the best course of action will be.

There appears to be public support for designation of a heritage district on Oak Street, but some people are concerned. Common issues are the degree of regulation imposed by designation (e.g. "will the City tell me what colour I can paint my house?"). In addition, there is a concern that the City may not be able to manage a Heritage Conservation District once it is designated, due to lack of staff or lack of expertise. The study phase of this process does not deal with the actual regulations on property alterations – these come in the next phase, the Heritage Conservation District Plan and guidelines – but it does comment on the City's current regulatory process and make recommendations for improvements. The degree and type of regulation is something the Heritage

Conservation District Plan and guidelines will address, and is open to discussion. Worries about gentrification and property values can, to some extent, be calmed by reference to the experience of other Ontario municipalities with heritage districts that have maintained diversity and stabilized or improved property values. Concerns about the municipality's institutional capacity can be addressed through updates to the Heritage Master Plan and through direction from Council. And at a very basic level, one benefit of designation is often improved enforcement of existing property standards, an ongoing concern for residents and the municipality alike.

1.2 Study structure

Study method

The City's scope of work for this study (found in the Request for Proposal, pp. 21-27) follows closely the Provincial Ministry of Tourism, Culture and Sport's requirements for such studies. The study is to fulfil the three basic requirements of such efforts, namely, to assess the cultural heritage resources of the study area, judge whether or not such resources qualify the area for designation as a heritage district and, if so, determine a district boundary.

The Study consists of the following components:

- an inventory and evaluation of cultural heritage resources (i.e. all properties within the study area, including buildings, streetscapes, landmarks and open spaces), to be found in the appendices;
- an historical overview of the areas' development;
- an assessment of the regulatory policies currently in place, and those available as alternative policy and planning tools;
- a preliminary assessment of the Town's staff and Municipal Heritage Committee's abilities to manage a potential district;
- revisions to the two existing HCD documents, as needed;
- involvement of the public including public meetings and consultations with property owners, and;
- a rationale for designation, and a proposed district boundary.

In practice, the study team has addressed each of these requirements. The consultants have provided consultation by working with municipal staff, by conducting personal interviews with individuals and groups who represent

each of the many facets of this area, by facilitating public open houses, and by posting the study progress on the City's website and in the local media.

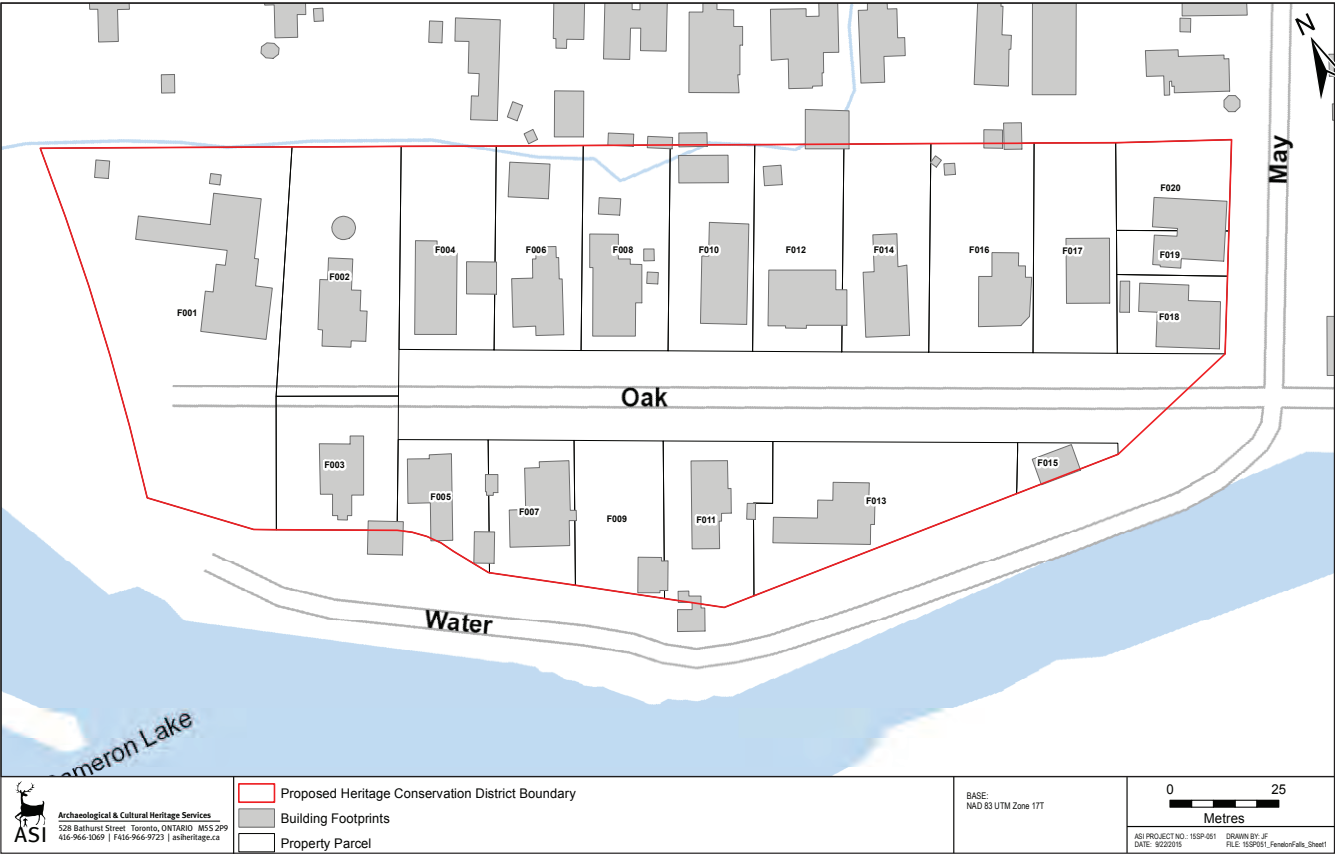
Range of cultural heritage resources studied

The intent of District designation is to see a district as having value for more than the sum of its parts. Rather than assembling a collection of individually fine properties and drawing a boundary around them, a district can - and should - recognize the contribution of both the humble and the grand. Pulling the inventory and evaluation away from a singular focus on buildings is one way to do this. The current *Ontario Heritage Act* and its accompanying Ontario Heritage Tool Kit understand this and open the study scope to include cultural landscapes and archaeological sites. At a more fundamental level, international, federal and Provincial best practices in conservation now address both material and associative values. In other words, the physical setting is seen not only as a valuable artifact but also as a container for culture and a repository of the meanings and values that people have for the places in which they live. As for the history of development in the study area, this report relies on several local histories as well as archival mapping and photographs held in public and private collections.

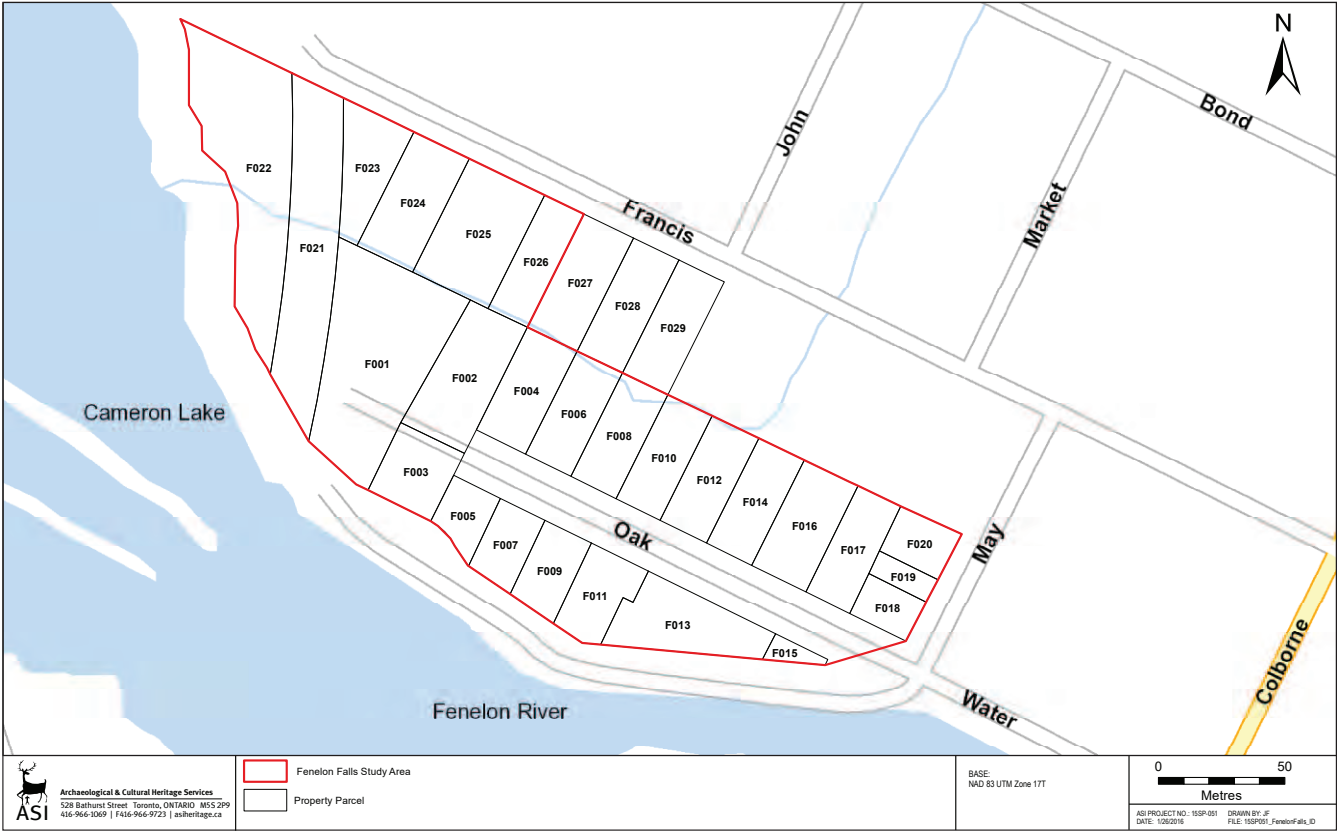
Study area

The study area shown on the schedule attached to the Request for Proposal includes the properties flanking Oak Street and bounded by May Street on the southeast, Water Street on the southwest, the former rail right-of-way on the northwest, and the rear property lines of properties on the southwest side of Francis Street. The study area thus includes the western portion of the former Maryboro estate as it developed into a residential district in the late 19th and early 20th centuries.

As the study progressed, it became apparent that the properties on the western end of Francis Street should also be included in the study area. The reasons for this expanded study area were: inclusion of the former rail right-of-way and areas near the lake shore, both important elements in the historical development and use of the former Maryboro estate, and the addition of the first four properties on Francis Street north of Maryboro Lodge because of their relation to the development of Oak Street and their cohesive streetscape character.



Original study area as in the City RFP



Expanded study area

2. Identifying Cultural Heritage Resources



2.1 Inventory and Research Process

The evaluation of a district's heritage significance sets the terms for its conservation, Evaluation also defines the area's distinctiveness within the context of the larger community of Fenelon Falls and the City of Kawartha Lakes. As in other districts studied, Oak Street's character is a result of its historical evolution, both in terms of the resulting physical setting and the heritage values local residents and visitors have for that setting. If the Oak Street study area is to be deemed worthy of designation as a Heritage Conservation District, then its components must first be described before their potential heritage value can be assessed.

The Request for Proposal issued by the City for this Study (Section 5.7) provides a standard list of elements within the study area that require description prior to assessment. They include the range of components found within the three major categories of cultural heritage resources outlined in the Provincial Policy Statement: built heritage resources; cultural heritage landscapes, and; areas of archaeological potential. Components within each of these categories that should be assessed are described in the

Ontario Heritage Tool Kit within a volume prepared specifically for Heritage Conservation Districts (see Step 5).

The components required by the City were compiled into fields within an inventory template in a digital format. Each field was contained a drop-down menu of elements to be addressed in each property surveyed. Information entered into each of the fields created the inventory in digital form. Being on a digital platform enabled its use on portable computer tablets suited to field work.

The survey itself involved several team members going property-by-property entering information into each of the fields on the digital inventory forms. The pedestrian survey took place on the 16th, 17th, and 18th of October 2015, with additional work on the 24th of November 2015. The process entailed a visual appraisal of each individual property within the proposed boundaries of the study area. After each day of fieldwork, the data was uploaded to a cloud-based server and transferred to Archaeological Service's Geomatics Department where it was compiled, organized, and spatially interpreted. The final inventory information included completed survey forms for each property, including photographs of the property as seen from the street. Each property form was compiled into a pdf file and entered on an Excel spreadsheet so that the information was readily available in future. When transferred to a GIS platform for use by the City, the inventory formed part of a geodatabase with inventory information for each property within the study area.

Alongside the field survey was an historical analysis, the purpose of which was to provide a chronology of the area's development and identify historical associations for individual properties and for the study area as a whole. In the form of a thematic history (see Section 3, below), the review of the area's evolution focused on important periods within that history in which significant changes were made which influenced the physical setting evident today. A thematic history assesses broad trends rather than specific events in order to describe these important periods. The historical research used a variety of sources. Primary amongst these are local histories, in this case including those compiled for the larger municipality as well as for Fenelon Falls. Most useful were maps and photographs held in local collections. Early mapping from the mid-19th century showed the original subdivision plan. Fire insurance plans dating from the early 20th century provided a wealth

of detail on the evolving built form and land uses within the study area. Photographs from these periods provided further detail, including indications of landscape treatments, but they were most useful in showing the character of the study area at various periods of its history. Postcard views, as well as those taken by amateur photographers, revealed local values for place through their choice of subject and view. Combining information from all of these sources brought the major periods of change into focus and began to identify the heritage values for the remaining buildings, landscapes and areas of archaeological potential.

3. The Evolution of the Study Area



The following thematic history is based on several secondary and primary sources supplied by the client and local residents: a local history of Oak Street (Speller and Kuhn, 2004); analysis of mapping and historical photographs; information supplied by Maryboro Lodge museum staff that included maps, archival photos and historical accounts posted on the museum website; and a doctoral thesis on the historical development of the Kawarthas authored by the museum curator (Walker, 2012).

3.1 Early Development (pre-contact to 1830s)

The study area sits at the mouth of the Fenelon River on the southeast shore of Cameron Lake, within the Trent-Severn drainage and canal system. Little is known about the area prior to the arrival of the first European settlers. However, given its situation, the site possibly served as an aboriginal portage route around the falls and as a seasonal use site for temporary encampments. Here the study area would have afforded good opportunities for successful fishing, hunting (for deer attracted by the oak mast/acorns), and acorn gathering. But the land had almost no ability to sustain any form of agriculture. The thin, shaley soil (which is also prone to sporadic flooding) cannot support

much vegetation, but the bur oak found there is one of the few trees able to tolerate these conditions. It grows slowly, so the existing oaks found in the study area may be very old. The surviving oak grove is a rare tree stand on what would have been open meadow forming a natural plain.



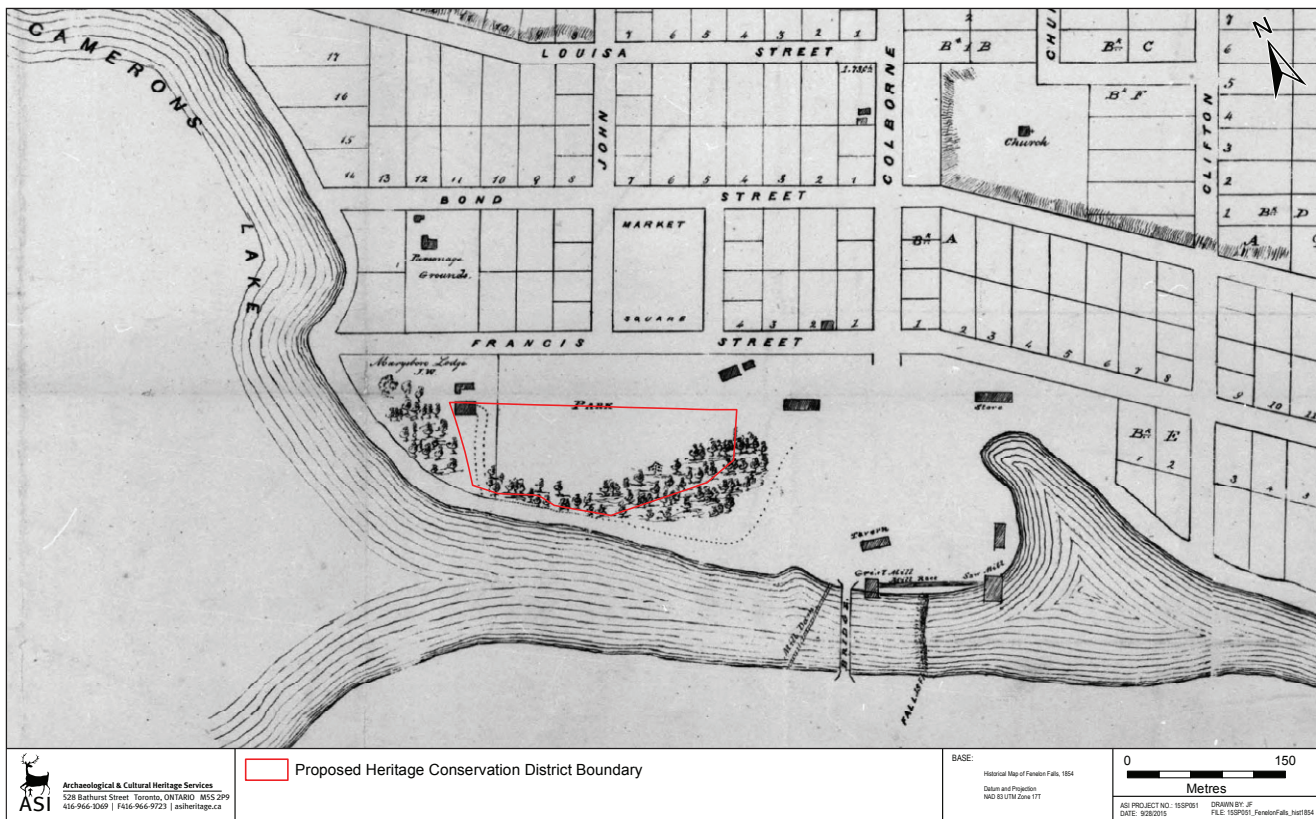
Maryboro Lodge

3.2 Maryboro Estate (1830s-1860s)

It was this unusual setting that attracted the first settlers, who were immigrant gentry from Britain. A picturesque waterfront setting, with a stand of mature oaks set in open ground, fit the prevailing ideal of a rustic scene in what was otherwise a dense tangle of forest and rock in the rest of the region. Two members of the gentry were instrumental in developing the community that became Fenelon Falls and, more specifically, the Maryboro estate. James Wallis was born in Glasgow in 1807 to a wealthy family that owned the Maryborough estate, near Cork in Ireland. As a younger son of the family and thus without likely prospects for inheritance, he came to Upper Canada in the 1820s to make his fortune. With his dream of establishing his own version of a British country estate in the Kawarthas, he concentrated on land speculation and began assembling holdings throughout the region. In 1833, Wallis entered into partnership with Robert Jameson, another expatriate member of the British gentry now turned land speculator. He too was wealthy,

being grandson of the famous Irish distiller John Jameson, and he shared Wallis' hope of establishing his own estate. While Jameson worked on his properties south of the river, Wallis began development of his estate on the north shore. Construction there began almost immediately in 1834 and Maryboro house, named after the Maryborough estate in Ireland, opened in 1837. Fittingly for the finest house in the area, Wallis celebrated the opening with a party.

The two storey house was, like the rest of the estate, a miniature version of an 18th century rural estate in Britain. Without access to good building stone or brick, he constructed the house of squared timber and coated the exterior with rough cast (stucco). Maryboro's white walls then stood out against the dark backdrop of uncleared forest. The house immediately became a landmark at the confluence of lake and river.



Map of Fenelon Falls in 1854. Note the Maryboro estate extending along almost the entire north bank of the river: Oak Street does not exist yet. Credit: Fenelon Falls Museum

Mapping from 1854 shows that the Wallis estate occupied the entire north shore of the river, with the village's grid of streets and blocks ending at the estate's north boundary. Within it, Wallis was able to create a small complex of mills, taverns and shops. He did so out of necessity. The ideal of a successful rural estate fit for the gentry quickly faded in the light of the harsh reality of the struggle to survive in the Canadian wilderness. Wallis and Jameson began to become financially stretched. They had bought huge tracts of land throughout the Kawarthas, gambling on early completion of a canal and the subsequent rise in land values. But the canal was not a government priority. Neither was domestic service an attraction for incoming settlers intent on creating their own farms and businesses. Land could not be sold, affordable hired labour could not be secured, and debts began accumulating. At first, Wallis and Jameson used their money and early arrival in Fenelon Falls to advantage, building the first mills, tavern, store and Church of England. In doing so, they effectively monopolized trade, commerce and culture in the tiny hamlet by the late 1830s and early 1840s. Building a bridge across the river and a corduroy road linking the hamlet to neighbouring settlements also boosted trade and demonstrated their confidence in the future of the village and the Kawartha region.

Wallis laid out the house and grounds in a fashion that was rather grand and showed considerable skill in design. When other settlers were actively destroying the forest in an attempt to establish farms, Wallis left the oak grove largely intact so as to physically enclose his property. While others rushed to clear land and build a rough shelter, he laid out his estate carefully. Taking advantage of the site's southeast-northwest orientation, he placed the house away from the shorelines in the centre of the estate, facing southwest, protected from the prevailing wind yet offering views of the lake under the trees. He cut a view corridor to the river and there built an entrance drive that ran southwest from the house to the river, then east along the shoreline, thus avoiding cutting the existing trees. Screened by the oak grove and an open "park" (shown on the 1854 map; perhaps a preserved or cleared meadow), sited far from the industrial and commercial activities at the falls, he would have had a serene, sunny and sheltered spot for his new home. In its immediate vicinity it is likely that he followed the upper class custom of the time by planting lawns as well as flower and vegetable gardens. Wallis also acted the part of the rural "lord of the manor", hosting church picnics and special suppers at Maryboro (such as his celebration in 1853 of the launch of his steamer *Ogemah*) and acting as informal banker, vicar, justice of the peace and militia officer. As a result, in their heyday, the estate and its owner

offered a rare example of refined living – and of conspicuous consumption - in an otherwise newly occupied and rustic territory.

Something of the appearance of the site at the time Wallis was developing his estate can be found in the diaries of Thomas Need, an early British settler who regularly travelled upriver to the falls in the 1830s. Excerpts from his diary (published in 1838) give a somewhat wistful, picturesque “before-and-after” impression of what he saw near the falls at the east end of the Maryboro estate:

May 20: I confess it was not without deep sorrow I learned that in a few weeks one of the loveliest scenes in the province would be destroyed...

July 13: ...A broad mill-dam was thrown across the stream at the head of the cascade to stem the current and conduct it over the wheels of the mill; the green meadow, which for countless ages has afforded the richest pasture to the wild deer, was now browsed by horses and cattle; and where the little copse of oak had stood, nothing remained but blackened stumps, interspersed with rude unsightly log houses; numbers of workmen were plying their respective trades on the ground; and everything bore the appearance of an active and rising settlement...

By the early 1840s Wallis and Jameson had insufficient revenues from land sales and rents to fund their land speculation, mortgage payments, and developments. In recognition of the slow rate of settlement in the Kawarthas at that time, they severed their partnership in 1841 and continued to divest their landholdings. Jameson returned to Ireland and died soon afterwards. Wallis moved to Peterborough to build an estate there while retaining ownership of Maryboro by acquiring Jameson’s share of the lot. In 1860, however, Wallis could no longer pay the mortgage on the Maryboro property and his creditors foreclosed. What they got was a collection of empty or poorly maintained buildings. The sawmill burned in 1858. Land sales were slow. By the time settlement of the area resumed in the 1860s, the gentry had gone, replaced by a new group of owner-occupiers who, unlike the gentry, sought to establish themselves in the village as business owners and members of the professions.

Following Wallis’ departure, the study area went through several owners. John Freeland acquired the lot that includes the study area in 1864, then sold it to R.C. Smith in 1868, who rented Maryboro house to local tenants. Although the estate property had already been subdivided into residential

lots, the new owners were unable to sell and build on Oak Street for several decades. They had to wait for major changes in the local economy and setting before development there could begin.

3.3 Oak Street Subdivision (1870s-1910)

Development in Fenelon Falls began in earnest once some of those changes occurred. The key improvements included revived and expanded mills, a consolidated commercial core, and a new bridge across the river. The settlement was incorporated as a village in 1875 and it is in mapping of that year that Oak Street is first shown. But construction there would still have to wait for two more important developments: the railway and the Trent-Severn canal. In 1876 the Victoria Railway cut across the west side of the estate and the raised track bed and rails cut off the house property from the Cameron Lake shore. Maryboro estate (and Maryboro Lodge) were now confined to a small lot between the rail line and the new lots laid out flanking Oak Street.



*Railway bridge with Maryboro Lodge visible in the background flanked by a grove of mature oak trees ca. 1880s.
Credit: Fenelon Falls Museum*



*Oak Street area following construction of the Canal.
Credit: Fenelon Falls Museum*

The 1875 map shows the first phase of development in the Maryboro estate. The lakeshore, railway right-of-way and Maryboro Lodge form the west end of the estate. Lots have been laid out north and south of Oak Street, but only those along the south side of Francis have been developed, and gaps appear on the southeast where a stream crosses the street and on the northwest, closest to the railway. Water Street is shown as a continuous shoreline street, curving around from the shoreline of the river to that of the lake, and connecting to the downtown via a dogleg extension of Mary Street. One year after this map was made, however, the railway was completed and Water Street was terminated at the new railway bridge. The rest of the street along Cameron Lake appears to have reverted to vegetation.

Canal construction began in early 1880s, soon after completion of the railway. The work involved blasting to remove rock from the canal bed (the initial efforts sent rocks flying over the village, landing on several downtown buildings).

The canal route also involved a significant change in the former lands of the Maryboro estate. As shown on the 1854 and 1875 maps, the original riverbank below the falls had a small inlet that ran northwest into the edge

of the estate, forming an outlet for the creek that ran down from the higher ground to the north, through Market Square and then southeast to the river. The canal builders used this inlet as the eastern end of the new cut for the canal. In doing so, they sliced off the southeast corner of the estate, forming the diagonal edge of what is now Water Street. The construction entailed removal of 50 oaks: it also created an island upon which the mills and other buildings became isolated from the downtown and from the former estate lands. When the canal finally opened for navigation in 1894, after further rock removal in the riverbed and construction of a new railway swing bridge, Oak Street was now on the far side of a canal, distinct from the industrial and commercial core of the village, and alongside water that was calm instead of boiling rapids. It was now a very desirable development site.

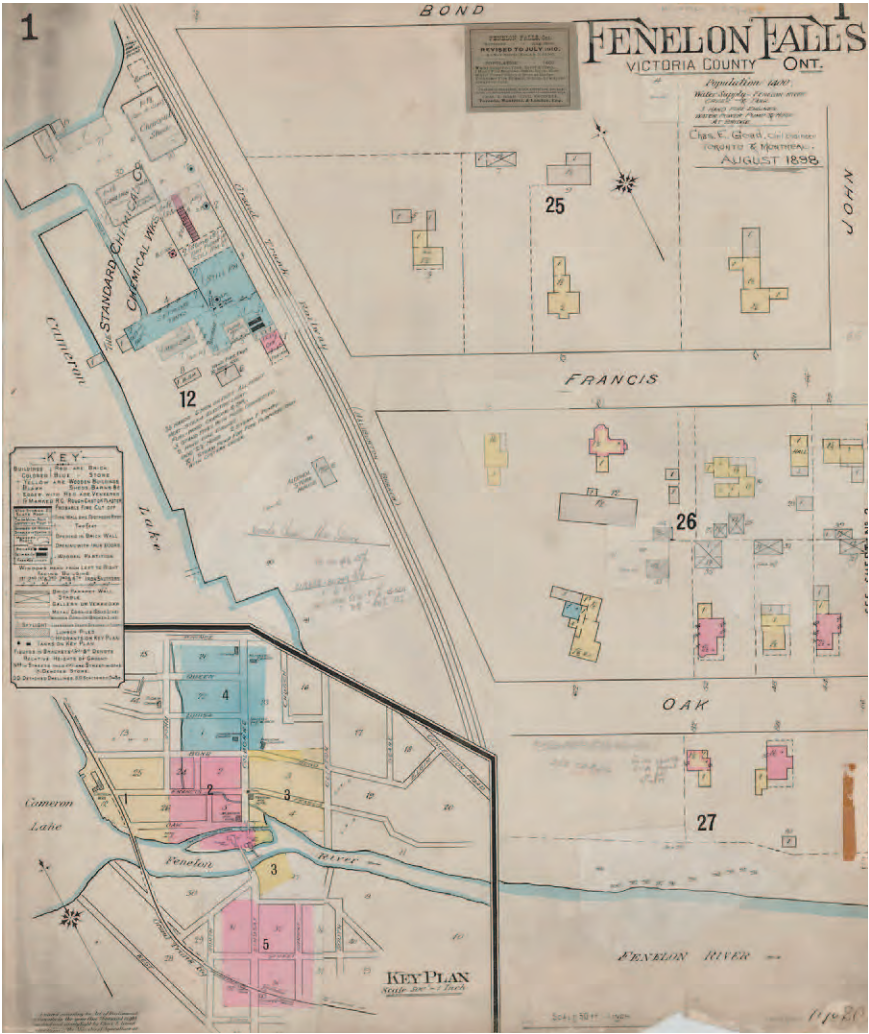
*View towards the falls showing the canal cut and new island as well as the edge of the study area and the former private water tower.
Credit: Private collection*



As soon as the canal opened, the owners of the Oak Street lots began to sell and the first ten lots were sold in 1895. Creating some of these lots meant that the former north-south lane running between Francis Street and the riverside driveway was closed (it may have been on the undeveloped lot just southeast of the lodge shown on the 1875 map). From now on, the main access to Maryboro lodge was from Oak Street, not from the access lane along the river. McVity and Smith, sellers of the lots, had in mind the creation of an exclusive subdivision to rival Francis Street, then considered to be the most prestigious street in the village. By 1896, their hopes were being confirmed by construction of new houses on five of the lots they had recently sold. Three more were built by 1898 and another two by 1904.



Oak Street area in 1910 showing completed development.
Credit: CKLA



Detail of 1910 fire insurance plan showing lake shore and Francis Street properties

Along with house construction came improvements to the landscape and to services. Residents got running water thanks to a private water supply. The 1904 fire insurance plan shows a water tower midway along the canal bank and photographs of the time show that it was fed by a wind-powered pump using water taken directly from the canal. Oak Street also seems to have been the first street in the village to get concrete sidewalks and the houses also benefitted from the village's recently installed hydro-electric power.

The new residents of Oak Street were representative of the area's business and professional elite, and their houses showed their heightened aesthetic taste and level of prosperity. For example, 30 Oak Street is an imposing brick house with a fine verandah, and 37 Oak Street not only has fine detailing but also boasts a 3 storey turret. Their houses were large and shared common styles and, in many cases, building materials. This is not surprising given that they were built at roughly the same time and, in most cases, by one of the few local builders. Many are of brick construction or brick-clad and have a variety of architectural details that suit the predominant Queen Anne style. Similarly, the few wood frame houses are also substantial and have fanciful detailing. With their imported materials, big lawns, generous setbacks, these were houses that spoke of conspicuous consumption, much as Maryboro lodge did in its day.

*Oak Street area ca. 1890s shortly
after construction of the Canal.
Credit: Private collection*



The streetscape of Oak Street matured during these early years. Street tree planting began early, following the fashion of the day which was to plant rows of sugar maples along each side. Houses addressed the street with a verandah seen across a large lawn and a deep setback. The verandahs faced east, towards the town, and sheltered from the prevailing wind. White picket fences seen in early photographs also unified the streetscape visually as well as fulfilling their practical purpose of keeping roving livestock out of private property. The street began as a gravel lane with grass verges and wooden sidewalks: gravel drives persist to this day. Although there was one attempt in 1899 to make Oak Street a through route to join Francis Street, that attempt failed. Oak Street remained an essentially private enclave.

Change came to the lodge as well. Having been tenanted since Wallis left in the 1840s, in 1913 William Abbott purchased Maryboro so that his three sisters could open a “lodge” (boarding house for respectable guests such as ministers, teachers and families). They built four cabins on the west side towards lake, added grass tennis courts on east side and remained in business for almost forty years. During that time the Abbott sisters hosted church picnics and church mission society meetings, served tea on the verandah and, in doing so, attracted boat tours. But they didn’t remain there all year: the draughty house was too cold for winter occupancy so they closed it at the end of the Fall season, to reopen in Spring.

3.4 Stability and Change (WWI-present)

The years following WWI were slow ones for village residents. Growth slackened after the end of the grain and sawmill operations, the departure of canal steamers, and reduced rail traffic. The village population actually fell from 1,312 in 1886 to only 837 in 1920. But a rise in car traffic sparked tourism, as did a shift in the region’s economy towards seasonal tourism activity. With the demise of rail service, the village instead had easy access by road and by private pleasure craft. This opened opportunities for new hotels and for camping along the Cameron Lake shore, and photographs from the 1930s show waterside tenting and picnicking across the railway tracks from Maryboro. Despite the fact that the water there had been choked with wood waste from the former sawmill, swimming at “Sawdust Bottom” remained popular.



*Camping and picnicking on the
Cameron Lake shore ca. 1930s.
Credit: CKLA*



*Oak Street east end ca. 1920s.
Credit: Private collection*

Along Oak Street there were few changes aside from superficial alterations to exteriors. Two new houses were added and one demolished (the site is now occupied by the Chamber of Commerce hut). Municipal services removed the need for a private water supply and the tower was taken down. Increased tourism activity brought commercial uses spilling over from downtown, to the east end of study area. There were improvements made to Water Street: a boat launch and upgrades to the canal as part of the installation of new hydraulic locks in 1965. By this time the Abbott sisters were elderly and unable to operate the lodge. In 1962 they were persuaded to sell Maryboro Lodge to the village for conversion to a museum. Once renovated, the museum became a tourist attraction.



Maryboro Lodge museum

In summary, the study area has evolved from its pre-settlement condition while retaining some fundamental elements. The waterside setting with its oak grove has housing inserted within it and the shoreline altered, but is otherwise essentially unchanged. Development occurred as a result of two visions of an ideal home, both imported from Britain and superimposed on the Kawartha landscape. One was of a rural estate for the gentry; the other of a high quality subdivision for the upper middle class. Oak Street always aspired to be something more than a commonplace residential area, setting itself apart from the norm in a small village. As the home of the local elite, it was designed to impress. After the departure of the gentry, development in the study area was now in hands of the local professionals, farmers and businessmen who did not share the aristocratic ideal of large, agriculturally based rural estates. They were townspeople and small farmers, active as entrepreneurs and civic leaders. It was they who rebuilt neglected infrastructure, focussed their efforts on farming, farm services and lumbering, and built a local community. The study area encapsulates this evolution from wilderness to estate to village, with representative elements from each stage.

*View along Francis Street
towards Cameron Lake*



3.5 Thematic Framework



Oak Street looking west from the Mary Street intersection

These observations can be placed within an interpretive framework of themes and sub-themes that can form the basis for a cultural tourism development strategy, providing the stories, as produced in consultation with local residents, which portray their district, for their own benefit and for that of visitors.

The themes, and their associated sub-themes, can be summarized as follows:

- First peoples
 - Oak grove and river
 - Seasonal use
- Maryboro Estate
 - Immigrant dreams of a new estate for rural gentry
 - Rise and fall of the gentry dream
 - Sale and subdivision
- Railway and canal development
 - Impact on estate lands
- Oak Street's development
 - The new local elite
 - House construction

- Tourism
 - o Camping and the Abbott era
 - o Emerging trends in residency and tourism

In summary, the Oak Street study area has had several periods of growth and decline, in common with the rest of the Kawarthas, where early attempts to create rural estates quickly gave way to more practical efforts to develop viable communities in a wilderness setting. What is distinctive here are the enduring elements of each phase of development, from the early days of Maryboro through to the construction of the railway, canal and, finally, the houses. The district's characteristics of the waterside setting, oak grove, rail corridor, canal, estate house/museum, and the largely intact late Victorian housing, create a distinct ensemble.

4. Planning, Administrative and Funding Context



4.1 Introduction to Heritage Planning Policy

A heritage planning policy and process review is a critical part of a Heritage Conservation District Study. This information helps to identify the existing processes and policies; to identify any strengths or deficiencies of those policies and process; and helps to determine if the existing framework can support designation of a HCD. Second, this review considers how the local policy context has shaped the Study Area and identifies and illustrates any distinct planning patterns.

It is also important to recognize that over the last twenty years, there have been some significant changes in how cultural heritage resources are considered and/ or addressed. Emerging out of the Nara Document on Authenticity (1994), there was a growing recognition that many taken for granted concepts that informed heritage conservation practice (such as authenticity and integrity) needed to be understood as dynamic and context specific terms. The traditional focus on architecture has been questioned by research on cultural landscapes, intangible heritage, and the concepts of community value and identity. Works exemplifying these trends include: the Getty Institute's research project on the Values of Heritage (1998–2005), the adoption of the 1999 Burra Charter (revised 2013); and the growing

recognition of the importance of integrated and holistic models of heritage management such as Parks Canada's CRM Policy and the Cultural Heritage Integrated Management Plan (CHIMP) developed by HerO (Heritage as Opportunity). Today, it is understood that cultural heritage resources are a critical aspect of community identity and sense of place, and contribute to sustainable, resilient, and healthy communities.

Within Ontario, cultural heritage conservation is a matter of Provincial interest. This status is reflected not only by its inclusion in Section 2 of the *Planning Act*, but also through the inclusion of cultural heritage requirements in other Provincial legislation and policies including (but not limited to) the *Provincial Policy Statement* (2014), the *Ontario Heritage Act*, the *Funeral, Burial and Cremation Services Act*, and the *Environmental Assessment Act*. Since 2002, there have also been a number of changes in Provincial legislation to reinforce the values-based approach to heritage conservation, including 2002 changes to the *Government Efficiency Act*, and 2005 changes to the *Ontario Heritage Act*. The purpose of this change was to shift from the traditional architecture-based models of many heritage programs, and embrace a more holistic definition of cultural heritage.

The period has also seen a growing litigiousness associated with heritage conservation. Conservation Review Board (CRB) hearings have become more charged, and more cultural heritage issues can be appealed to the Ontario Municipal Board (OMB). There is a need to ensure that evidence presented in support of cultural heritage identification and protection meets applicable tests of rigour and content. While the Supreme Court of Canada and several lower courts have repeatedly reaffirmed the right of municipalities to protect cultural heritage resources (see *St. Peter's Evangelical Lutheran Church v. Ottawa*, [1982] 2 S.C.R. 616, File No.: 16445; *Toronto College Street Centre Ltd v. Toronto (City)* 1986 (Court of Appeal for Ontario); *Tremblay v. Lakeshore*, 2003 (Divisional Court for Ontario), municipalities have to ensure that their own processes are fair and transparent. For example, an OMB case in Toronto (Ontario Municipal Board O.M.B. File No. PL081065 (M. C. Denhez)) highlighted the importance of consistent definitions. While all OMB cases are technically *de novo*, these cases must interpret the law consistently and in this case the member's comments are relevant.

Don't "conservation, protection and preservation" all mean the same hands-off, frozen-in time approach – akin to "conservation of nature",

or even “conservation of food” (what the Applicant’s Counsel called “Saran-wrap” and “pickling in formaldehyde”)?

No. The Board already advised the Parties, in its PHC Decision of June 18, 2009 that distinctions were to be inferred between “conservation, protection and preservation”... If those three words were intended to be synonymous, there would be no need for all three to be in the Act. As a general rule, different words are presumed to have different meanings.

This finding was subsequently upheld in a judicial appeal.

Under the *Ontario Heritage Act*, a municipality has the authority for Heritage Conservation District designation pursuant to Section 41, Part V of the *Ontario Heritage Act*. Owners’ consent is not required for the creation of a heritage conservation district and there is no requirement for a specific level of community support; still, it is nonetheless good practice to actively engage with the community during the process. It should be noted, however, the *Ontario Heritage Act* is only one tool for heritage conservation, and there is a growing recognition reinforced by findings from various Provincial boards (OMB, CRB) that *Ontario Heritage Act* designation cannot be used to regulate use. Attached as Appendix A is a table illustrating some of the possible tools that can be used for cultural heritage conservation drawing upon different sections of provincial legislation and policy.

4.2 Federal and Provincial Policy Context

The following provides a brief overview of the key applicable Provincial legislation and policies as they apply to heritage conservation districts. It also addresses Parks Canada’s management of the lands along the Trent-Severn Waterway that abut the Study Area. It should be noted that the below does not cover all possible legislation with cultural heritage provisions.

Parks Canada

The Trent-Severn Waterway, which is immediately adjacent to the Study Area, was designated a National Historic Site of Canada in 1929. This is in addition to serving as an active canal system. Parks Canada has specific policy and process requirements for the conservation of cultural heritage resources including its *Guiding Principles and Operational Policies*,

Cultural Resource Management Policy, and Guidelines for the Management of Archaeological Resources. It also has developed a *Management Plan* for the National Historic Site. As part of its management of canal as an active waterway, it has also developed *Policies for In-water and Shoreline Work and Related Activities* (2007). In addition, the waterway underwent a review overseen by the Panel on the Future of the Trent-Severn Waterway (TSW). On April 28, 2008, the Panel submitted a report to the Minister of the Environment outlining 26 recommendations for the future of the Waterway. Parks Canada was directed to take a leadership role in working with all stakeholders to implement the substantive recommendations of the panel to fruition; as of 2015, the process was still ongoing. Being under federal jurisdiction, the municipality has no control over Parks Canada decisions, but being a National Historic Site of Canada, the municipality must ensure that the identified heritage attributes of the site are conserved.

The Municipal Act

The Municipal Act authorizes municipalities to pass by-laws, including by-laws relating to cultural heritage (Section 11 (3) 5.). This is with the understanding that any by-law passed by the municipality cannot be used to frustrate the purpose of any other Act or approval process. As Section 14 (2) states:

14. (1) A by-law is without effect to the extent of any conflict with,
- (a) a provincial or federal Act or a regulation made under such an Act; or
 - (b) an instrument of a legislative nature, including an order, licence or approval, made or issued under a provincial or federal Act or regulation. 2001, c. 25, s. 14.

This is a key policy for the development of Heritage Conservation District Studies and Plans. In essence, it reinforces the importance of ensuring that the focus of a heritage conservation district process is the conservation of cultural heritage values and heritage attributes rather than other matters addressed by other legislation and processes. Put another way, a heritage conservation district process cannot be used to address matters best left to other legislation, such as *Planning Act* or Environmental Assessment processes. It cannot legislate land use and should not be used as a way to oppose land use planning decisions.

The Municipal Act also enables a municipality to establish a program to provide tax incentives for an eligible heritage property (Section 365.2 (1). This is an important enabling tool for municipalities to develop incentives as part of an overall heritage conservation program. The specifics on developing such as program can be reviewed as part of the Ministry of Tourism, Culture, and Sport publication Heritage Property Tax relief, which is available at: <http://www.mtc.gov.on.ca/en/publications/taxguide-e.pdf>

Ontario Heritage Act

One of the key pieces of legislation for heritage conservation in Ontario is the *Ontario Heritage Act*. The Act addresses a variety of different cultural heritage resources, including individual properties, heritage conservation districts, and archaeological resources. It also identifies appeal processes and provisions for enforcement. It provides a variety of tools for the protection of cultural heritage resources, including the following:

- • Heritage easements on the property through the Ontario Heritage Trust under Part II Section 10 of the *Ontario Heritage Act*;
- Listing a property on a municipal heritage register under Part IV Section 27 of the *Ontario Heritage Act*;
- Designation of an individual property under Part IV Section 29 of the *Ontario Heritage Act* by Municipal Council;
- Designation of an individual property under Part IV Section 34.5 of the *Ontario Heritage Act* by the Minister of Tourism, Culture and Sport;
- Municipal or third party easement on a property under Part IV Section 37 of the *Ontario Heritage Act*;
- Designation of a HCD under Part V of the *Ontario Heritage Act*; and,
- Designation of a property for archaeological significance under Part VI Section 52 of the *Ontario Heritage Act* by the Minister of Tourism, Culture and Sport.

Its regulations provide the clarity on what constitutes local and Provincial criteria for designation, what constitutes an archaeological site, archaeological licensing, what properties fall under Provincial jurisdiction, what properties are Provincial historic sites, and grants for museums and historical societies.

HCDs are designated under Part V of the *Ontario Heritage Act*. This section of the *Ontario Heritage Act* states what steps must be taken, and outlines the basic information required for both a HCD Study and Plan. For example, a HCD Study must:

- Examine the character and appearance of the area that is the subject of the study, including buildings, structures and other property features of the area, to determine if the area should be conserved as a HCD;
- Examine and make recommendations as to the geographic boundaries of the Study Area;
- Consider and make recommendations as to the objectives of the designation and the content of the HCD Plan required under Section 41 (1) of the *Ontario Heritage Act*; and,
- Make recommendations as to any changes that will be required to the official plan and to any municipal bylaws, including any zoning bylaws (Section 40 (1) (2) of the *Ontario Heritage Act*).

There are no prescribed Provincial criteria in the evaluation of a potential HCD, nor is there any requirement for a minimum level of community support.

Provided that a municipality has the necessary enabling provisions within its Official Plan, it may designate by by-law the area defined as a HCD and adopt a HCD Plan to guide its change management. The *Ontario Heritage Act* requires a HCD Plan to include:

- A statement of objectives to be achieved in designating the area as a HCD;
- A statement explaining the cultural heritage value or interest of the HCD;
- A description of the heritage attributes of the HCD and of properties in the HCD;
- Policy statements, guidelines and procedures for achieving the stated objectives and managing change in the HCD; and,
- A description of alterations or classes of alterations that are minor in nature and that the owner of a property in the HCD may carry out or permit to be carried out on any part of the property, other than the interior of any structure or building on the property, without obtaining municipal consent (*Ontario Heritage Act* Section 41.1(5)).

As part of the implementation of a plan, although not required, often additional OP, Zoning, and policy changes are recommended.

The requirement of statutory public meetings must also be satisfied before a HCD may be designated (*Ontario Heritage Act*, Section 41.1(6)). An objection to the designation of a HCD may be appealed to the Ontario Municipal Board within 30 days of notice of intention to designate served to property owners and published in a local newspaper (*Ontario Heritage Act* Section 41(4)). The final decision of the Ontario Municipal Board is binding.

A property that is individually designated (pursuant to Part IV, Section 29 of the *Ontario Heritage Act*) may be included within a HCD. The policies of the HCD Plan would prevail with respect to alterations or interventions on the exterior of the property; interior alterations or interventions, if applicable, would remain under the authority of the individual designation. Additionally, in the event of a conflict between the HCD Plan and another municipal by-law that affects the HCD, the HCD Plan shall prevail to the extent of the conflict (*Ontario Heritage Act* Section 42.1(2)).

No owner of property located within a HCD may alter, without obtaining the applicable permission of the designating municipality, or permit to the alteration, of any part of the property (with the exception of the interior of any structure or building on the property), or erect, demolish or remove any building or structure on the property or permit the erection, demolition or removal of such a building or structure (*Ontario Heritage Act* Section 41(1)). The decision of the Council of a municipality or its delegate regarding a Heritage Alteration Permit application must be received within 90 days; Council may consent to the application, consent with conditions, or refuse the application (*Ontario Heritage Act* Section 42(4)). Property owners have the ability to object to or appeal the refusal or the terms and conditions of a Heritage Alteration Permit. Property owners with property designated pursuant to Part V, Section 41 of the *Ontario Heritage Act* may appeal the refusal to the Ontario Municipal Board within 30 days of the notice of refusal.

If a municipality has established a municipal heritage committee, there are specific requirements concerning such a committee's role in the study and management of a potential heritage conservation district. Under the *Ontario Heritage Act*, a municipality may establish a Municipal Heritage Committee to advise and assist the Council on matters relating to the *Ontario Heritage Act* and other such heritage matters as the Council may specify in a by-law or Terms of Reference for the Municipal Heritage Committee (*Ontario*

Heritage Act Section 28). A Municipal Heritage Committee may be consulted as part of the application review process in heritage conservation district, although the Act only requires consultation on demolitions and removals. Still, the review of applications on properties designated under Part V may be permissible if included specifically on a municipality's municipal heritage committee Terms of Reference (TOR).

It is important to note that HCD designations under Part V of the *Ontario Heritage Act* require the adoption by by-law of the Council of a municipality supported by clear policy direction in a Municipality's Official Plan. The *Ontario Heritage Act* states in Section 39.1.1 (1) that the policies of Part V of the *Ontario Heritage Act* do not apply to properties owned or occupied (with right of alteration) by the Provincial Crown or a Prescribed Public Body.

6.1.1 It is also noted the *Ontario Heritage Act* in Section 39.2.1 (2) states the following:

- (2) If a property described in clause 25.2 (2) (b) is included in a heritage conservation study area designated under section 40.1 or in a heritage conservation district designated under section 41, and if there is a conflict between a provision of the heritage standards and guidelines prepared under Part III.1 and a provision in Part V as they apply to that property, the provision in Part V prevails. 2005, c. 6. s. 28.

These contradictory provisions raise key questions concerning the inclusion of properties under the jurisdiction of other levels of government. To this end, in the absence of clear direction, federal and Provincial properties should be considered as being excluded from any HCD, and were possible, excluded from any District boundary mapping.

The Planning Act

The *Planning Act* is the enabling document for municipal and Provincial land use planning and is the authority (Section 3.1) for the Provincial Policy Statement (PPS). The *Planning Act*, combined with the PPS, also provides policy direction on matters of Provincial Interest. The *Planning Act* identifies matters of Provincial interest as including "the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest" (*Planning Act* Part I [2, d]). The adoption of a Community Improvement Area under Section 28 has been used by some municipalities to help conserve its

cultural heritage resources. The *Planning Act* also addresses archaeological resources in Section 34 (1) 3.3 where it authorizes municipalities to pass by-laws that prohibit the use of land and the erecting, locating or using of any class or classes of buildings or structures on land that is the site of a significant archaeological resource; in addition to archaeology, this provision has been used as part of a planning justification in some municipalities to protect a broader range of cultural heritage resources.

Under Section 36, the council of a local municipality may, by the use of the holding symbol “H” (or “h”), specify the use to which lands, buildings or structures may be put at such time in the future as the holding symbol is removed by amendment to the by-law providing there are the appropriate OP provisions. Section 37 of the *Planning Act* authorizes a municipality with appropriate Official Plan provisions to pass Zoning By-laws involving increases in the height or density that would otherwise permitted, in return for the provision of community benefits by the owner. Benefits identified by different municipalities have included heritage conservation (individual properties or studies), public art, affordable housing, recreation centres, child care facilities, park improvements, space for non-profits, and streetscape improvements.

Provincial Policy Statement (2014)

Policies in the PPS set out the Province’s land use vision for Ontario. It states that Ontario’s long-term prosperity, environmental health, and social well-being is dependent on protecting its resources, including its cultural heritage and archaeological resources. All aspects of development and planning throughout the province are required to use approaches that include; managing and promoting growth, economic development, infrastructure, natural heritage and cultural heritage.

Section 2.6 of the PPS specifically addresses cultural heritage and archaeology. As with any other planning-related implementation policies or practices, and recommended changes must be consistent with policies in section 2.6:

- 2.6.1 Significant built heritage resources and significant cultural heritage landscapes shall be conserved.
- 2.6.2 Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

- 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.
- 2.6.4 Planning authorities should consider and promote archaeological management plans and cultural plans in conserving cultural heritage and archaeological resources.
- 2.6.5 Planning authorities shall consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources.

There are several key terms within these policies, including “significance” and “adjacency”. A municipality, in determining significance, shall use tools developed by the Ministry of Tourism, Culture and Sport or as outlined in applicable legislation; however municipal approaches that achieve or exceed the same objectives may also be used. In this instance, a HCD Study is an accepted method of identifying and inventorying cultural heritage resources.

In addition, there are additional policies that would be applicable to the Study area. These include Section 1.5, which recognizes the importance of public spaces, recreational uses, parks, trails and open spaces in achieving healthy, active communities. In addition, Section 1.7 addresses long term economic prosperity, which states that long-term economic prosperity can be supported including: “encouraging a sense of place, by promoting well-designed built form and cultural planning, and by conserving features that help define character, including built heritage resources and cultural heritage landscapes.”

Environmental Assessment Act

The *Environmental Assessment Act* aims to provide for the protection, conservation and wise management of Ontario’s environment. It applies to public activities including projects undertaken by municipalities, public utilities and conservation authorities. An analysis of the environment through an Environmental Assessment includes evaluation of “cultural conditions that include the life of humans or a community” and “any building, structure, machine or other device or thing made by humans” which includes artifacts, places, buildings and structures considered to be potential cultural heritage resources. Where municipal projects such as transportation, water, or sewer

infrastructure projects under Municipal Class Environmental Assessment, may impact heritage structures, cultural landscapes or archaeological sites, these cultural heritage resources are to be identified, assessed and protected from impact.

Conservation Authorities Act

In Ontario, conservation authorities are public sector organizations with the specific mandate to develop and deliver resource management programs that safeguard watersheds. They are governed by the *Conservation Authorities Act*, which is administered by the Ministry of Natural Resources and Forestry. Conservation Authorities may make regulations on lands they own regarding construction, reconstruction, erection or placing of a building or structure and may make regulations over changes to buildings or structures that will have the effect of changing the use or potential use of the building or structure. Conservation Authorities may also make regulations about development on hazardous lands under their jurisdiction. Regulations made by a Conservation Authority may impact property designated under the *Ontario Heritage Act*, however in the event of a conflict the *Ontario Heritage Act* prevails. A section of the Study Area is land under the jurisdiction of the Kawartha Conservation Authority.

Ontario Building Code

Under the Ontario Building Code (OBC), the *Ontario Heritage Act* is considered to be applicable law. In particular, the Chief Building Official cannot issue a permit if it is contrary to applicable law (Section 8 (2) and Section 10(2)) and can issue a conditional permit that does not meet the OBC if it meets applicable law and addition OBC requirements (Section 8 (3)). Regulation 332/12, within its definition of applicable law, includes the following as examples of where the *Ontario Heritage Act* or the conservation of cultural heritage would need to be taken into account:

1.4.1.3. Definition of Applicable Law

(1) For the purposes of clause 8 (2) (a) of the Act, applicable law means,
(a) the statutory requirements in the following provisions with respect to the following matters;

(xiii) subsection 30 (2) of the *Ontario Heritage Act* with respect to a consent of the council of a municipality to the alteration or demolition of a building where the council of the municipality has given a notice of intent to designate the building under subsection 29 (3) of that Act,

- (xiv) section 33 of the *Ontario Heritage Act* with respect to the consent of the council of a municipality for the alteration of property,
- (xv) section 34 of the *Ontario Heritage Act* with respect to the consent of the council of a municipality for the demolition of a building,
- (xvi) section 34.5 of the *Ontario Heritage Act* with respect to the consent of the Minister to the alteration or demolition of a designated building,
- (xvii) subsection 34.7 (2) of the *Ontario Heritage Act* with respect to a consent of the Minister to the alteration or demolition of a building where the Minister has given a notice of intent to designate the building under section 34.6 of that Act,
- (xviii) section 42 of the *Ontario Heritage Act* with respect to the permit given by the council of a municipality for the erection, alteration or demolition of a building,
- (b) the following provisions of Acts and regulations:
 - (vii) subsection 27 (3) of the *Ontario Heritage Act*,
 - (c) regulations made by a conservation authority under clause 28 (1) (c) of the *Conservation Authorities Act* with respect to permission of the authority for the construction of a building or structure if, in the opinion of the authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development,
 - (e) by-laws made under section 40.1 of the *Ontario Heritage Act*,
 - (k) by-laws made under any private Act that prohibit the proposed construction or demolition of the building unless the by-law is complied with.

Ultimately, the OBC recognizes that the provisions of the *Ontario Heritage Act* as applicable law, including the OHA sections relating to HCDs. However, some municipalities do not regulate all interventions (such as doors and windows) or the demolition of agricultural buildings. To address such cases, some municipalities have linked existing permitting software with their Section 27 Register of Heritage Properties to ensure that no properties are missed.

Funeral, Burial and Cremation Services Act

The *Funeral, Burial and Cremation Services Act* addresses heritage by stating that it prevails over Part VI of the *Ontario Heritage Act* (Part XI S. 105) and

outlines the role of the registrar in declaring an aboriginal peoples' burial ground. This act addresses other aspects of heritage including heritage cemeteries through Regulation 30/11.

Regulation 30/11 under the *Funeral, Burial and Cremation Services Act* addresses cultural heritage by requiring consent from the Registrar for applications to establish, alter or increase new or existing cemeteries; by requiring notice be given for applications to close cemeteries that are designated under the *Ontario Heritage Act*; and by requiring a professionally licenced archaeologist under the *Ontario Heritage Act* to investigate the origin of a burial site.

4.3 Regional Heritage Policy Context

Growth Plan for the Greater Golden Horseshoe (2006)

The "Growth Plan" is premised on the assumption that urban growth in the future will proceed with a greater focus on intensification rather than through a pattern of continued greenfield expansion. The intent is to create a more cost-effective form of life cycle costing, create compact and liveable communities, and make efficient use of infrastructure while conserving prime agricultural farmland and natural systems. For each component community the Growth Plan identifies a Built Boundary within which intensification will occur and which must be reflected in all municipal planning documents.

The Growth Plan affects the City of Kawartha Lakes because the City is considered to be part of the outer ring of the Growth Plan area of development pressure. While not part of the inner ring closer to Toronto, the outer ring municipalities are still expected to experience growth over the next two decades. The premise of the Growth Plan is that all municipalities in the inner and outer rings must accommodate their share of development in accordance with Provincial growth projections. As a result, the City of Kawartha Lakes has been granted a reduced target by the Province of its residential development within the Built Boundary (note: the original amount was 40% by 2015, but this was reduced by the Province). The implication for the City of Kawartha Lakes is that, over time, the supply of vacant or underutilized properties within the Built Boundary will become exhausted and development pressure will be put on low density residential neighbourhoods, especially those close to the downtown core. Should this pressure be manifested, there would be land assemblies of existing residential properties

and redevelopment for higher density residential land uses. This could also result in demolition pressures being placed on lower rise heritage building stock for intensification purposes.

Juxtaposed with the policy requirements of the Growth Plan are those of the 2014 Provincial Policy Statement (PPS) in which the conservation of significant cultural heritage resources is mandated for all Ontario municipalities. Striking a balance between cultural heritage conservation and intensification requires careful consideration. There must be a clear articulation in municipal planning documents of the areas within the Built Boundary that are suitable for intensification and those areas that are not. In other words, there will be parts of the municipality, particularly those in the older downtown neighbourhoods and mixed use core, where intensification is either not suitable or must be undertaken in ways that conserve and enhance the existing setting and, especially, its significant cultural heritage resources.

The City of Kawartha Lakes has the opportunity to identify these areas and to provide planning policies and guidelines using two current initiatives: the Secondary Plans and Heritage Conservation District Plans. In the context of the current HCD Studies it is important for intensification to be addressed so that the subsequent HCD Plan can direct development in ways that are compatible with the historic setting and which conserve and enhance the cultural heritage resources within the HCD.

The Oak Street HCD Study area is a low density residential neighbourhood that is situated alongside waterfront property on two sides and next to the commercial downtown on a third. Pressure for lot assembly and higher density redevelopment or infill severances of those properties facing waterfront could increase over time, given the rising demand for prime waterfront property, seniors, retirement, condominium or resort development. As well, infill development within the downtown could begin to encroach on the existing neighbourhood. All of these types of development would negatively impact the heritage attributes of the proposed Oak Street HCD and infill development should be directed elsewhere within the Built Boundary. The Secondary Plan for Fenelon Falls should be used to clearly indicate other areas for infill within the Built Boundary instead of those within a Heritage Conservation District.

The Kawartha Region Conservation Authority

The Kawartha Region Conservation Authority (KRCA), which has jurisdiction over part of the study area, adopted its Plan Review and Regulation Policies Manual (2013 revision) as the key document for considering planning and heritage applications. This document provide an overview of the KRCA's planning mandate, as well as its advisory and regulatory responsibilities and requirements.

As the document states:

It is expected that this manual will be used by KRCA staff; municipal planning, building department, public works, engineering, and community services staff; developers and their agents; and, private landowners who may be seeking approval from the Conservation Authority (CA) under the Conservation Authorities Act (CA Act) or seeking approvals from municipalities under the *Planning Act*. (KRCA, 2013, Executive Summary)

Specifically, the manual was developed to achieve the following:

- Articulate KRCA roles and activities by describing KRCA's local resource management program priorities, its delegated responsibilities applied in representing the Provincial Interest on matters related to the natural hazards component of the Provincial Policy Statement (PPS), its contractual role in the provision of land use planning advice to participating watershed municipalities, and its regulatory authority under the CA Act;
- Consolidate all regulatory and watershed plan review policies of KRCA in one place to offer an up-to-date and complete set of policies and provide KRCA staff with a single document against which to review CA Act permit applications provide plan review services to its municipal partners; and,
- Provide watershed municipalities, applicants and their agents, private landowners and special interest groups with a clear understanding of KRCA's role, mandate and responsibilities regarding CA Act permit applications and in the review of and commenting on municipal planning applications. (KRCA, 2013, Executive Summary)

The focus of the document is on the conservation of natural heritage, and there are limited policies concerning cultural heritage, excepting Policy 3.4.1 (VALLEYLANDS). This policies recognizes archaeological resources as an important cultural heritage resources.

In the case of the Trent Severn Waterway, a National Historic Site of Canada that is located immediately adjacent to the Study Area, the document recognizes Parks Canada's Policies for In-water and Shoreline Work and shares regulatory responsibilities with Parks Canada.

4.4 Local Heritage Policy Context

Cultural heritage is important to the City of Kawartha Lakes and its citizens, and the City is taking some key steps to build a robust heritage program. The City has completed several important studies, such as the document *A 10-Year Cultural Master Plan for the City of Kawartha Lakes* (2013); the *Natural Heritage and Cultural Heritage Policy Paper for Kawartha Lakes Community Based Secondary Plans* (2012), the *Heritage Master Plan* (2012), and a *Heritage Building Inventory* (2007). It is also in the process of re-examining its Section 29, Part IV *Ontario Heritage Act* by-laws to ensure compliance with current requirements, has held education sessions, and initiated a heritage conservation district Study process to consider two parts of the City (Oak Street in Fenelon Falls and Downtown Lindsay) as potential heritage conservation districts. The City has developed Official Plan policies for heritage conservation and has established a Terms of Reference for its municipal heritage committee. What follows is a review of this existing framework. However, it should be noted there have also been recent changes to the Provincial Policy Statement in 2014 updating it to international heritage standards, and several key rulings that merit consideration (as discussed above) that also need to be considered as part of this review.

City of Kawartha Lakes Official Plan (2012)

The City of Kawartha Lakes is a single-tier, amalgamated municipality. The City's Official Plan is the over-arching planning document for the entire municipality. Five of the individual urban settlement areas also have Secondary Plans, though several of these are under appeal and are not in force. The focus of the City's Official Plan is on the principle that the environment is the base upon which all planning activities take place and that it must be considered in all planning decisions. The City has developed key policies concerning the importance of health, safety, and sustainability to community developments (Policy 2.6). These policies are reinforced by the objectives outlined in Policy 28.2.

As part of the OP, the City has recognized the importance of the separating and buffering of uses, particularly between sensitive uses and to prevent adverse effects (Policy 3.8). To achieve this policy, the City has identified a number of possible measures including: landscaping and screening; access controls; considering the range of permitted uses; and creating restrictions on outside storage (Policy 3.8.5). The policy also recognizes that infill, redevelopment, or transition in a mixed use area may have lesser separation distances if an impact assessment has been developed (Policy 3.8.6). The OP also has specific policies concerning water setback and accessory uses that would apply to the Study Area (Policy 3.11).

The OP also recognizes the importance of tourism and community facilities to the community, and the importance of cultural resources, including cultural heritage resources to both tourism development and as key community focal points. (Policy 6.2 and Policy 7). In addition, the OP identified the need to improve both hard and soft services and facilities to improve and protect the health, safety and living environment of the residents of the City, including opportunity for the maintenance, improvement, rehabilitation and redevelopment of community structure (Policy 9.1). This includes the possible development of Community Improvement Plans (Policy 9.3).

The OP also includes policies on Secondary Plans, including criteria that must be considered as part of their development (Policy 31), Property Standards (Policy 34.4.), and the use of the Holding Provision for Zoning (Policy 34.6). The whole of Kawartha Lakes has been established as a Site Plan Control Area (Policy 34.7) and recognizes that capital and public works must be undertaken in accordance with the OP policies (Policy 34.11).

The OP includes a number of policies on culture and heritage (Policy 10). These have been attached as Appendix B. Ultimately, these policies identify the conservation and enhancement of cultural heritage resources as a City goal. Objectives in support of this goal indicate that the City will seek to:

- Conserve and enhance the City's cultural and heritage resources. Features of particular interest include buildings, structures and significant structural remains, areas of unique or rare composition, landscapes of scenic value, artifacts, archaeological sites, cemeteries and burial grounds;

- Raise public awareness and celebrate the history of the community; and,
- Encourage participation and involvement in preservation and restoration efforts and foster the community's understanding and appreciation of the area's heritage resources (Policy 10. 2).

The OP includes specific policies on Archaeological conservation (Policy 10.3); Heritage Victoria (Policy 10.4), and general heritage conservation (Policy 10.5) Appendix A and C include specific provisions for the development of archaeological and heritage studies. In each case, these policies and procedures need to be updated so that definitions of heritage terms, the terms of reference for heritage work, and the type and extent of staff and volunteer support are specified.

While the Official Plan does have general heritage policies, many of these are currently out of date and, in some cases, are contrary to current Provincial requirements. Regardless of whether the municipality chooses to proceed with the creation of Heritage Conservation Districts, many of these Official Plan policies will need to be updated to meet Provincial requirements. To this end, the Heritage Conservation District Study contains general OP policies for heritage to assist the City. In addition, the *Ontario Heritage Act* requires municipal Official Plans to contain specific policies to enable the creation of Heritage Conservation Districts: these policies cannot be in Secondary Plans (such Plans are an extension of the Official Plan). Recommended wording for such a policy has also been prepared as part of the current Study.

There is also an existing Official Plan for the Village of Fenelon Falls. Reflective of its time, this document contains almost no heritage policies. Like the Official Plan for the City of Kawartha Lakes, this document requires updating; recommended policies have been developed and included as part of this Study.

Appendix C contains draft Official Plan policies for both the City of Kawartha Lakes and the Village of Fenelon Falls OPs. These documents will need to be reviewed by staff and will need to undergo the OPA process prior to their adoption. In addition, specific policy changes have also been recommended are included in Appendix C.

The Natural Heritage and Cultural Heritage Policy Paper for Kawartha Lakes Community Based Secondary Plans (2012)

The Natural Heritage and Cultural Heritage Policy Paper for Kawartha Lakes Community Based Secondary Plans (2012), developed by Dillon Consulting, was written as a policy paper in support of the creation of new Secondary Plans for several settlement areas within the City. As the document states:

The Secondary Plans will identify effective and efficient development patterns and opportunities, and will take into account current municipal conditions, reflect Provincial land use planning policy as outlined in the Provincial Policy Statement 2005 (PPS), and co-ordinate with and implement the policies of the City of Kawartha Lakes Official Plan. (Dillon Consulting, 2012, 1).

In particular, the purpose of this policy paper was review and discuss the relevant legislation and policies, as well as any issues that need to be addressed in the development of the amendment to the City's Official Plan and the Secondary Plans for the communities of Lindsay, Bobcaygeon, Fenelon Falls, Omemee and Woodville. The paper provided several key recommendations:

- Policy Direction #10: That the Secondary Plans contain policies on the establishment of Heritage Conservation Districts and on the retention of cultural heritage resources, whenever possible. The Districts would also contain policies encouraging and supporting the revitalization of downtowns. Policies should support the inclusion of the input from landowners when designating the Districts.
- Policy Direction #11: The Official Plan and Secondary Plans should encourage the listing and designation of cultural heritage resources as a means of protection and conservation, which is permitted under the *Ontario Heritage Act*.
- Policy Direction #12: That the Secondary Plans include policies preventing the demolition, destruction, inappropriate alteration or use of designated heritage properties.
- Policy Direction #13: That the Secondary Plans bring forward the recommendations of the Heritage Master Plan for the City of Kawartha Lakes which apply to the Settlement Areas.
- Policy Direction #14: That the Official Plan and Secondary Plans contain policies on the preparation of heritage impact assessments. The Plans should provide guidance to staff and Council when reviewing applications or development on or adjacent to a property with a

heritage designation or located within a Heritage District. The policies should indicate when the assessments are required, who is qualified to prepare it, the scope of the assessment and the inclusion of the recommendations of the assessment on the development proposal.

- Policy Direction #15: That the Official Plan and Secondary Plans contain policies on the inclusion of mitigative measures and/or alternative development approaches in development applications, when the development or site alteration is on or adjacent to a heritage property.

The paper also includes Community specific policies:

FENELON FALLS

Policy Directions #10 to #15: In Fenelon Falls, these policy directions will focus on the creation of a Heritage Conservation District in the downtown area and (on) encouraging the protection of heritage properties. The City should develop a business plan and an action plan in collaboration with the property owners, Heritage Victoria and other volunteer organizations in order to encourage the preservation and protection of the rich cultural heritage resources in the community. The City should also work with Parks Canada in order to enhance the areas surrounding the Trent Severn Waterway, to improve the existing and/or create additional accommodations for residents and visitors (i.e. comfort stations, benches, trail connections, dockings, etc.).

This document was created to support the Official Plan update in 2012 and many of its recommendations are still relevant. However, since that time, there have been changes to the Provincial Policy Statement that mandate greater protection for cultural heritage resources. The current Heritage Conservation District Study addresses these changes.

Secondary Plans

As mentioned previously, draft Secondary Plans have been created for several communities, including Lindsay and Fenelon Falls (City of Kawartha Lakes Official Plan Amendments No. 016 (Lindsay Secondary Plan) and City of Kawartha Lakes Official Plan Amendments No. 015 (Fenelon Falls Secondary Plan)). As of the date of this HCD Study, these secondary plans in their entirety are under appeal at the Ontario Municipal Board. This Study does not contain an analysis of the proposed Secondary Plan for Fenelon

Falls because any specific recommendations would need to stem from the Heritage Conservation District Plan and be supported by updated heritage policies in the City's Official Plan.

Zoning

The current zoning for the Study Area in Fenelon Falls does not necessarily support the conservation of heritage character. Parking requirements may not respond to pressures from visitor traffic to the museum and may necessitate traffic control measures. The R5 zoning permits apartment buildings that, if not contained within an existing dwelling as is currently the case, could permit larger scale development. The adjacent C1 zoning reflects the commercial encroachment already present and is not a desirable trend. Current setback requirements may conflict with the established pattern of property development (i.e. requiring greater, or lesser, setbacks than those which characterize the current setting). Finally, there is issue with potential lot consolidation. The R5 zoning category, on its own or if combined with the C1 zoning immediately towards the downtown, could be a means of permitting larger scale development through creation of larger development parcels. While the current municipal Official Plan does contain policies that recognize the need for variances in some circumstances, there should be explicit OP policies that allow for variances that conserve heritage character within a Heritage Conservation District, in concert with policies in a Heritage Conservation District Plan.

Streetscape Design Guidelines

The Streetscape and Façade Design Guidelines for Fenelon Falls was approved by Council at the January 26th, 2016 meeting. The Guidelines would need to be considered as part of any HCD Plan and Guidelines to ensure consistency.

Heritage Master Plan

The 2012 City of Kawartha Lakes Heritage Master Plan was developed to "foster and promote the intrinsic value of local heritage" (Fortin, 2012, 3). In particular, the plan identified several objectives:

- Defining and profiling the cultural heritage assets of the City of Kawartha Lakes to create a "starting point" or baseline on which to build a sense of place and an effective strategy

- Developing a “scorecard” for the current management of these assets, measured against federal and Provincial guidelines
- Creating a long term strategy to “identify, research, collect, protect, conserve and promote” built and cultural heritage
- Determining the most effective organizational format within the City and the volunteer sector to guide this long term strategy
- Evaluating how this Heritage Master Plan fits within the overall municipal planning framework and how it relates to other plans
- Connecting the Heritage Master Plan to long-term community and economic goals

This document, while received by the Municipality, was not formally adopted. Given that much of its content and many of its recommendations remain relevant, Council should adopt this Plan.

A 10-Year Cultural Master Plan for the City of Kawartha Lakes

The City’s Cultural Master Plan was developed with the overarching goal of engaging community residents, partners and stakeholders in the process of cultural assets identification and management. (City of Kawartha Lakes, 2013, 3).

Specific objectives for the Plan include:

- Implementing a process that engages the community broadly in identifying and profiling cultural assets as well as helping identify future cultural needs and opportunities
- Completing an inventory of cultural assets
- Identifying the strengths, weaknesses, opportunities and challenges affecting cultural development in Kawartha Lakes
- Ensuring the effective integration of the Cultural Master Plan with key City strategies and missions
- Building capacity to integrate culture into ongoing Municipal planning and decision-making
- Developing a strong implementation plan that will ensure the success of the project and deliver the desired economic and community outcomes (City of Kawartha Lakes, 2013, 3-4)

The plan included specific implementation recommendations. This document, while received by the Municipality, was not formally adopted.

As with the Heritage Master Plan, the Cultural Master Plan should also be adopted by Council.

Integrated Community Sustainability Plan (2014)

In 2014, the City of Kawartha Lakes completed its Integrated Community Sustainability Plan (ICSP). The purpose of the plan was to develop key actions to help transform the City into a more successful, desirable, and sustainable place. Cultural heritage was identified as a key component of making the City as sustainable community, as exemplified by its Cultural and Heritage Vision:

The City of Kawartha Lakes is a community where the arts, culture and heritage of its citizens will be recognized, preserved, honoured and celebrated. The vision will be supported by the municipality through policies, procedures, financial and other resources. Without history and culture to touch, to understand, to appreciate, we don't have a future (Kawartha Lakes, 2014, 73).

In support of this vision, three goals were identified, as were specific actions. In terms of the goals, the following were recommended:

- establish a strategic approach to identify, research, collect, protect, conserve and promote the cultural assets of the City
- develop a plan to leverage these assets in ways that help grow the economy and enhance quality of life
- strengthen networking and collaboration among cultural organizations and activities. (Kawartha Lakes, 2014, 75).

Particularly germane to this HCD Study, the plan also recommended the hiring of full time staff for the cultural sector (including heritage) as an essential action (Kawartha Lakes, 2014, 76).

Property Standards

The City has two by-laws that address property standards issues. These include BY-LAW 2002 - 119: A By-law to Regulate and Govern the Standards for Maintaining and Occupying property within Kawartha Lakes and BY-LAW 2014-026 : By-law to require the Owners of Yards within Kawartha Lakes to Clean and Clear Them. As permitted under the *Ontario Heritage Act*, there should be specific wording for each of these by-laws that supports conservation of cultural heritage resources.

Heritage Victoria

The City has established a municipal heritage committee under the authority of the Ontario Heritage Act. The committee is known as Heritage Victoria and its mandate is to advise Council on all matters relating to the legal designation and conservation of property of cultural value or interest. The committee is currently addressing a backlog of listings and designation by-laws and is contributing to the advisory committee on the Heritage Conservation District Study. Given the many heritage-related initiatives the City is undertaking, the committee will need training in the use and interpretation of the Provincial heritage legislation and in the various tasks mandated to the heritage committee, such as listing and designating properties and review of such documents as heritage permit applications and heritage impact statements. In addition, the committee's terms of reference should be updated to meet Provincial requirements. Some recommended changes have been attached as Appendix D.

Heritage Staffing

Currently there is one FTE contract position addressing cultural heritage issues and that person operates within the Economic Development Division. The person in this position is also responsible for working with Heritage Victoria and for policy development. This position has technical support from the Planning Division for specific issues. In terms of the municipality's ability to manage heritage conservation, it will be important in future to ensure that the City has sufficient heritage staff to manage the anticipated workload generated by the various heritage-related policy initiatives it is currently undertaking. At the very least, the FTE contract position should be made permanent and that person should be given additional support (e.g. by seasonal contract staff) to undertake such important tasks as inventory, research and updating of the Heritage Register. The Heritage Master Plan provides a number of recommendations relating to the City's institutional capacity for managing heritage: these should be reviewed and, where still applicable, implemented.

Implementation Framework

Currently the City does not have an *Ontario Heritage Act* Permit Process, or Heritage Impact Assessment requirements, or a delegated authority by-law for heritage approvals, or heritage funding and grants for property owners. All of these management tools must be established as soon as possible. As for funding, at the very least, the City should establish a façade

grant program, initially under a Community Improvement Plan. Also under a Community Improvement Plan are incentives for heritage conservation such as relief of property taxes for an initial period while conservation work is being undertaken on the property. Although there are no current sources of heritage conservation funding from either the Provincial or federal governments, municipalities are able establish grants and loans for work on designated heritage properties. In the current funding context, however, much of the work undertaken on heritage properties is funded primarily by the property owner, aided wherever possible by the municipality, but the intent is to enhance property values and support the character of the neighbourhood.

5. Evaluating Heritage Resources



5.1 Evaluation Method

The study area (as expanded) contains 26 properties (plus the municipal right-of-way), most of which date from the late-19th century. Of these, only Maryboro Lodge has been designated under Part IV of the *Ontario Heritage Act* for “architectural and historical value and interest” (By-law 79-6 of the

Village of Fenelon Falls). The inventory and historical research conducted for this HCD Study have shown that there are other properties that may also have heritage significance on their own. However, the point of a District Study is to assess the significance of the whole ensemble of buildings and landscapes – of place - not just individual properties.

The evaluation is not an arbitrary process. It uses the definitions of cultural heritage resources found in the Provincial Policy Statement (2014). These are quoted below:

Built heritage resource: means a building, structure, monument, installation or any manufactured remnant that contributes to a property's cultural heritage value or interest as defined by a community, including an Aboriginal community. Built heritage resources are generally located on property that has been designated under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers.

Cultural heritage landscape: means a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community. The area may involve features such as structures, spaces, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Examples may include, but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*; villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways, viewsheds, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities (e.g. a National Historic Site or District designation, or a UNESCO World Heritage Site).

Areas of archaeological potential: means areas with the likelihood to contain archaeological resources. Methods to identify archaeological potential are established by the Province, but municipal approaches which achieve the same objectives may also be used. The *Ontario Heritage Act* requires archaeological potential to be confirmed through archaeological fieldwork.

Added to this set of definitions is another, related, category: intangible heritage resources. This category highlights the non-material, associative heritage resources that arise from values integral with human experience

of a place. While often spiritual in character, such as a cemetery or church, they are also common to locations used for traditional community events and ceremonies, and relate to other ways in which subjective aspects of heritage attributes are described.

With these definitions in mind, the evaluation process assesses these resources under the categories provided by the Provincial Ministry of Tourism, Culture and Sport. These are listed in the Ontario Heritage Tool Kit volume for Heritage Conservation Districts, Section 3, Step 5. Using information gathered in the first part of the Study, the following is a summary evaluation of the cultural heritage resources of the study area.

5.2 Built Heritage Resources

Historical association

The most tangible evidence of the study area's origins is the surviving estate house – Maryboro Lodge. Its associations with the early 19th century development by British gentry is important both locally and regionally as a remnant of that era of development in the Kawarthas. The Oak Street area is part of the larger estate property developed by Wallis and its later subdivision continues the trend of land speculation and settlement that he began. The study area also contains evidence of the important developments in regional transport – the railway and the Trent-Severn canal – as well as the development of tourism. The residential development of the Oak Street area is also of local importance because of its associations with local events (special ceremonies, teas on the Lodge lawns) and prominent local citizens. The conservation of Maryboro Lodge and its conversion into a community museum are indications of ongoing community support for local culture. Finally, the insertion of housing within a grove of bur oaks is a link to the pre-settlement conditions of oak savannah and, by implication, potential pre-contact Aboriginal use.

Architecture

The study area offers examples of two major architectural styles from the early and late 19th century. Maryboro Lodge is a good example of a Classical design with Gothic Revival influences, indicative of Wallis' use of what would have been, during the 1830s and 1840s, the latest architectural styles for upper class residential design in the UK. Similarly, the predominantly Queen Anne eclectic styles found in the housing in the Oak Street subdivision follows

the popular upper middle class styles found in urban Canada and the US during the late 19th century. The more Modernist-inspired infill found within the study area is also a reflection of common residential design from the post-WWII period in Canada and the US.

Vernacular design

Few 19th century buildings were architect-designed. The Lodge and the later houses followed established designs provided by gentleman amateurs (such as Wallis) and master builders using training acquired as apprentices and by following designs found in pattern books of popular house plans. The local builders interpreted these standard designs to fit local conditions and to meet the functional and financial requirements of their owner/clients. As a result, each house within the study area is a variation on an established pattern. Outbuildings usually were strictly utilitarian structures but some, like the modified garages facing Water Street, show whimsical elements that express their owner's character.

Integrity

The study area has a relatively high degree of integrity. Maryboro Lodge is essentially unchanged on its exterior as are most of the 19th and early 20th century houses. The structures added to the museum property have been moved to the site from elsewhere and restored/rehabilitated for museum use. In the area as a whole, there are two newer infill houses and there are two earlier houses shown on the fire insurance plans at the eastern end of Oak Street that have since been demolished and replaced by the Chamber of Commerce office and by commercial structures on the northwest corner of Oak and May Streets.

Architectural details

The eclectic Queen Anne style supplies many decorative touches to the rooflines, cornices, window and door surrounds of the Oak Street houses. Special elements such as engaged towers are also evidence of the free use of details as embellishments to the blocky massing of these buildings. Maryboro Lodge is designed in a more restrained earlier style but has some wooden detailing in the porch and gable ends as modest indications of Gothic Revival influences.

Landmark status or group value

Maryboro Lodge was, and is, a local landmark, visible from the river/Canal and partially visible at the end of Oak Street's western vista. The Oak Street subdivision of houses designed and built in roughly the same period created a distinct enclave within Fenelon Falls. The study area as a whole is visible from the main highway entrance to the village as well as from the Canal, the lake shore and the rail corridor.

5.3 Cultural Heritage Landscapes

Landscape and public open spaces

The grounds of Maryboro Lodge have always been a place for public events, first for celebrations organized by Wallis to mark the completion of the house and the launch of his boat, later as part of the tourist operation run by the Abbott sisters. The later use of the Cameron Lake shore as a day use and camping site expanded the amount of public open space available for use, as did the creation of the Canalside roadway and boat launch on Water Street. Oak Street and Water Street are both dead ends and so they encourage pedestrian use as does the former rail corridor, now a walking and cycling trail. Oak Street is paved (asphalt) with rolled curbs and interlocking paver sidewalks. Private driveways are predominantly gravelled.

Overall spatial pattern

The study area is formally arranged. Maryboro Lodge is oriented to face the river/Canal and was originally separated from the industrial and commercial core of the village by an open "park" fringed by the existing oak grove. The insertion of the rail corridor and Canal defined the spatial pattern further, as did the mid-19th century subdivision of the estate into residential lots. A pattern of commercial uses on the east end of the study area emerged in the mid-20th century.

Land use

The study area evolved from a rural estate to an estate residential subdivision, with major interventions caused by the construction of the railway and Canal. Commercial uses included expansion of the village commercial core into the eastern edge of the study area as well as conversion of one property to a bed and breakfast operation. The Lodge and the lake shore were tourist operations in the early –mid-20th century.

Circulation network and pattern

When the estate was first developed, the main access from the Lodge to the industrial and commercial core was along what is now Water Street. Initial plans for the development of the former estate lands also showed Water Street continuing along the riverbank and around the lake shore, but these were changed due to the insertion of the railway corridor that terminated Water Street. Similarly, when Oak Street was laid out, it terminated at the rail corridor. Francis Street was able to loop north but aside from a laneway adjacent to the Lodge that once linked Oak and Francis Streets, Oak Street has been a dead end street. May Street was linked to Water Street once the village street system was extended to the former estate lands.

Boundary and other linear features

The study area is bounded by the Cameron Lake shore and rail corridor, by Francis Street and May Street, and by Water Street and the Canal. May Street marks the transition from the downtown commercial core to the residential district of which the study area is part.

Site arrangements

Not applicable in this urban setting.

Vegetation patterns

The Lodge and later housing has been inserted within a pre-existing grove of bur oaks. Canal construction in the mid-19th century removed a substantial portion of the early grove on the eastern corner of the study area. Oak Street has remnants of sugar maple street tree plantings and more recent tree installations continue the pattern of street tree plantings. Individual house lots have generous yards and lawns with informal ornamental shrub, tree and annual/perennial landscaping.

Historic views

The earliest planned view was (and is) southwest from Maryboro Lodge to the river/Canal (and the reverse view from the water and far shore). The other views are west to the lake, southeast along Water and Oak Streets towards the area of the bridge, beyond which is the river gorge containing the falls and former mills (these are not visible from the study area). Commercial buildings in the downtown are also visible in this direction. In the opposite direction is an axial view west along Oak Street to the Maryboro Lodge grounds, rail trail and lake.



Maple street trees with bur oaks behind



Hand-painted sign on Water Street



View from Maryboro Lodge to Cameron Lake



View along Oak Street towards downtown



Architectural details



View along Water Street towards the former railway bridge and Cameron Lake

Overall, the Oak Street study area generally has elements of a designed landscape (the original estate) but is essentially an evolved static cultural landscape (to use the categories in the Ontario Heritage Tool Kit).

5.4 Archaeological and Intangible Heritage Resources

Areas of archaeological potential

Archaeological resources, in the form of artifacts, have the potential to link thematically between the time before European settlers arrived and the early settlement period. In order to determine if any such artifacts may still be found in the study area, a preliminary analysis of the archaeological potential was undertaken as part of the HCD Study. The analysis showed that almost the entire area retains some potential for the presence of archaeological resources related to either the Aboriginal occupations of the area or the early Euro-Canadian development of the Village of Fenelon Falls. The intensity of development within the study area since the early 1800s has altered the landscape so much that archaeological resources there may have been disturbed if not lost.

Intangible heritage resources

As has been noted in the foregoing evaluation, there are many aspects of the study area that are important to local residents and visitors because of what did, or does now, take place there. The activities, events and their associated memories constitute intangible elements of local character and are also important heritage resources. In the study area, aside from personal connections to individual houses, intangible resources in the present and past would include community events at Maryboro, teas on the lawn, picnicking and camping on the lake shore, use of the boat launch and canal moorings, strolling along Oak and Water Streets, walking and cycling along the rail trail, and swimming nearby at Sawdust Bottom.

6. Heritage Character



6.1 Defining heritage character

Historical research and discussions with local residents both help define the heritage character of the Oak Street area. The historical record identifies many distinctive aspects of the area's beginnings and evolution. Comments from local residents reveal a strong affiliation with the physical setting and for the variety of experiences the Oak Street area offers. The challenge at this stage of the District study is to take the evidence from history, and the many views about what makes this area distinctive, and place them within an analytical framework within which decisions about designation can be based.

6.1.1 Common district characteristics and types

This process has been made simpler through the efforts of the Ministry of Tourism, Culture and Sport in defining the common characteristics of heritage districts. As described in the Ontario Heritage Tool Kit, these general

characteristics may include the following four characteristics, each of which is found in the study area as a whole:

- A concentration of heritage buildings, sites, structures, designed landscapes, natural landscapes that are linked by aesthetic, historical and socio-cultural contexts or use.

(the study area contains a concentration of elements of the natural landscape (oak grove), designed landscapes (early estate and planned subdivision) that are integral to the historical development of Fenelon Falls)

- A framework of structured elements including major natural features such as topography, land form, landscapes, water courses and built form such as pathways and street patterns, landmarks, nodes or intersections, approaches and edges.

(the study area is bounded by the canal and lake shore, adjacent streets and straddles Oak Street)

- A sense of visual coherence through the use of such elements as building scale, mass, height, material, proportion, colour, etc. that convey a distinct sense of time or place.

(the study area is a compact residential subdivision of similar house sizes and materials, with the surviving house from the former estate)

- A distinctiveness which enables districts to be recognized and distinguishable from their surroundings or from neighbouring areas.

(the museum, the oak grove and the collection of houses of similar age and style sets this area apart from the rest of the village and is distinctive within the City).

6.1.2 Heritage character of the study area

This study area is small and consistent enough to have a heritage character that represents the area as a whole. Although only the museum has been designated by the municipality as a heritage property (under Part IV of the *Ontario Heritage Act*), the area of the former Maryboro estate that forms the Oak Street residential subdivision is a distinct setting within the village (the adjacent Trent-Severn Canal is also a National Historic Site of Canada). As portrayed in the few early photographs and postcards, Oak Street is seen as an enclave of substantial homes on large lots interspersed with bur oaks. The Canal is usually shown in the foreground, with boat traffic. The unpaved street, wooden sidewalks and picket fences complete the image of a suburban domestic landscape.

Today the scene is very similar, save for improvements to the street and individual properties. This consistency of visual character, combined with Oak Street's strong historical associations, help support consideration of the study area for District designation.

The first step in building a rationale for designation is to define heritage character, using the terminology found in the *Ontario Heritage Act*: a Statement of Historical Value or Interest, and a list of Heritage Attributes.

6.1.3 Statement of Cultural Heritage Value or Interest

The Oak Street study area is a rare example of an early 19th century rural estate in the Kawartha Lakes region that was redeveloped as a planned residential subdivision in the late 19th and early 20th century. It has heritage value because its landscape contains the following elements: part of an oak grove which was incorporated into the rural estate; the original estate house and its immediate grounds; the planned subdivision of high quality late Victorian homes established along Oak Street; and the adjacent Trent-Severn Canal and former rail corridor. The Oak Street area's overall heritage value lies in its collection of individually important properties and in its combination of these resources within a designed landscape.

A summary of the heritage attributes that were considered to be most important in the evaluation phase of the study is provided below:

- Surviving trees from a rare, possibly pre-settlement grove of bur oaks
- Original estate house (Maryboro Lodge), now a museum
- View corridor from façade of Lodge/museum towards river/Canal
- View corridor from May Street towards museum property/rail corridor/lake
- View corridor (E-W) along Water Street
- Right-of-way of former railway and approach to bridge
- Lake shore public open space (camping, picnicking)
- Canal infrastructure, including swing bridge (all on Parks Canada property)
- Water Street (original estate access route)
- Maple street tree plantings

- Significant associations with important persons in the community's history (Wallis and prominent late 19th and early 20th century local business and professional persons who were instrumental in the development of Fenelon Falls)
- High quality architecture with good representative examples of late 19th century period styles found in Ontario at that time
- Architectural details (porches, verandahs, decorative woodwork, towers and bays)
- Brick and frame construction and cladding
- Consistent building massing and lot size
- Predominance of single, detached dwellings
- Historical associations with potential pre-contact Aboriginal use, Wallis estate, early navigation, early railways, early tourism (Canal steam and pleasure craft, lakeside camping, Lodge guest house), founding of Fenelon Falls, public use of Lodge grounds for special events.

7. Meeting the Criteria for Designation

7.1 Criteria

From the foregoing descriptions of heritage character, it is evident that the study area contains many of the characteristics that qualify it for designation as a Heritage Conservation District under Part V of the *Ontario Heritage Act*.

7.2 Reasons for Designation

Before recommending District designation, it should be made clear that designation does not entail freezing the district in time. Rather, designation is a form of change management that allows communities to control the rate and type of change within the district. With this definition in mind, the rationale for designation can be summarized as follows:

- The Oak Street study area is a discrete district with significant heritage character in the form of built heritage resources, cultural landscapes, areas of archaeological potential, and associations with important people and events in the municipality's history.
- The inventory and evaluation of the study area have shown that these heritage resources merit conservation.
- The area is valuable because its heritage resources are largely intact and the district as a whole retains a distinct character.
- The area shows evidence of the major stages of its evolution.
- Provincial planning policies require conservation of significant cultural heritage resources.
- The area is stable but has potential for intensification and redevelopment that could affect the cultural heritage resources.
- There is public support for designation.
- The museum is a popular tourist destination and designation would support its mission and ongoing viability.
- District designation has proven to be the best policy tool available to Ontario municipalities for meeting their conservation goals and objectives.

8. Meeting the Criteria for Establishing a Boundary

8.1 Criteria

Determining the appropriate boundary for the expanded HCD requires careful consideration of the heritage character as well as the extent of cultural heritage resources within different parts of the Study area.

As a point of departure, the Provincial Tool Kit outlines criteria for determining a boundary. They include:

- Historic factors
- Visual factors
- Physical features
- Legal or planning factors

8.2 Options Considered

The study area boundary provided in the Request for Proposal included the properties flanking Oak Street. As a result of the research conducted in the initial stages of the Study, there appeared to be good reasons for expanding the boundary to include some properties on the margins of Oak Street. These included a few properties on the western end of Francis Street that abutted the rear yard of the museum, the rail corridor (now a linear open space), the lake shore, and the portions of Water Street in municipal ownership. By contrast, there seemed to be merit in considering reducing the study boundary to remove the commercial properties along May Street and on the easternmost end of Oak Street.

In considering these options, it should be kept in mind that properties abutting the HCD District boundary have some degree of municipal regulation. This regulatory power is granted under the umbrella planning policies set by the Province in the Provincial Policy Statement (PPS). Section 2.6 of the PPS deals with cultural heritage resources and requires adjacent properties to be developed in ways that are compatible with the heritage character of the properties next to it, within the HCD. The specific policy is quoted below, in sub-section 2.6.3:

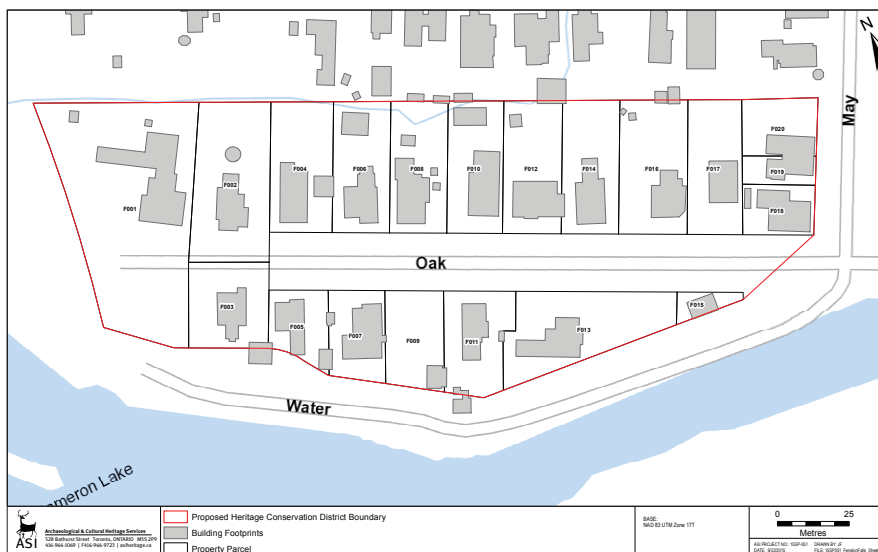
Development and site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site

alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

Mitigative measures and/or alternative development approaches may be required in order to conserve the heritage attributes of the protected heritage property affected by the adjacent development or site alteration.

For clarity, the majority of the terms used in this policy are defined in the PPS glossary. So, “adjacent lands” means “those lands contiguous to a protected heritage property”, and “protected heritage property” is defined as “real property designated under Parts IV, V or VI of the *Ontario Heritage Act*”.

In practice, the adjacency provisions of the PPS allow municipalities to have the option of requiring an assessment of the potential effects of a proposed development on the heritage attributes of the Heritage Conservation District. Those attributes are general, as is shown in Section 7 of this Study, but they still require a compatible response (the Part IV designated property within the District may have more specific and detailed heritage attributes that must be addressed). In most municipalities, the study requested of proponents is a heritage impact study, prepared by a qualified heritage professional (usually a member of the Canadian Association of Heritage Professionals). Such studies describe the heritage attributes of the affected portion of the District, describe the proposed development, and assess the potential impacts of that development on the heritage attributes, all before recommending a conservation and development approach that may include mitigative actions or development options.



Study boundary in RFP

8.3 Boundary Option #1: RFP Version

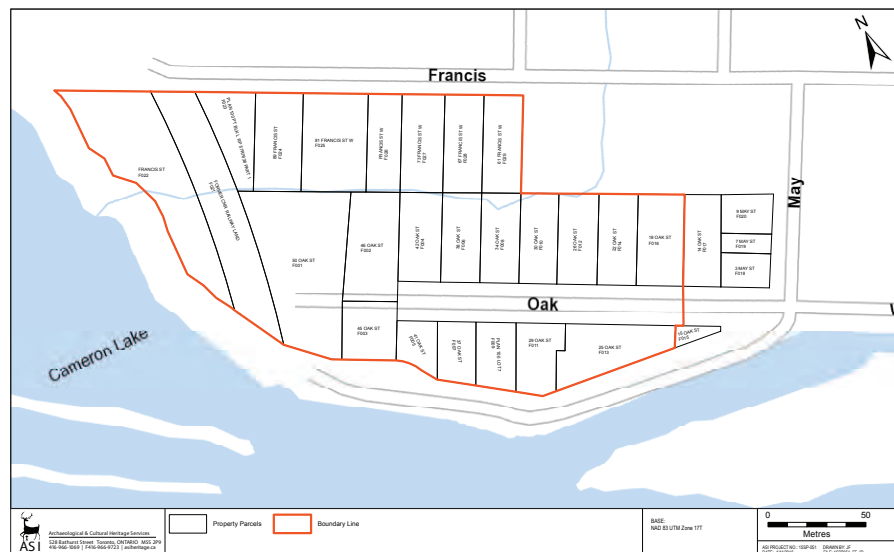
Advantages

This option captures the essential elements of the area's character that are found in properties flanking Oak Street and the Lodge property and reflects the City's initial intent for District designation. All properties have frontage on Oak Street, with the exception of those facing May Street. The smaller number of properties within this boundary also reduces the workload of City staff and volunteer committee members.

Disadvantages

Staying within the RFP boundary misses an opportunity to provide a better physical and historical context for the study area. It leaves out the rail corridor and lake shore as well as the coherent grouping of houses on Francis Street that were part of the first phase of the subdivision of the Wallis estate. The inclusion of the commercial properties and the information office on the east end of the study area raises issues of incompatible built form, use and historical association. Properties outside of the HCD (and not adjacent to its boundary) will have no additional measures to protect them from unsympathetic change beyond the general policies in the Official Plan (and Zoning By-law).

Boundary option #2



8.4 Boundary Option #2: Revisions to Add and Subtract Properties

Advantages

This option provides components of the existing setting that include a much more comprehensive range of cultural heritage resources (material and associative) that relate to each stage of the area's evolution, rather than just the estate and later phase of residential construction. With these additional properties, the potential HCD can offer a more complete picture of the heritage significance of the individual properties and of the District as a whole. Exclusion of the eastern commercial and municipal properties better focuses the District on the predominant residential character and on the Oak Street streetscape's characteristic massing and built form. Moving the boundary to about the Parks Canada lands ensures the integrity of the Canal-side landscape.

Disadvantages

Inclusion of the Francis Street properties means that only a few properties on one side of that street are part of the District. Similarly, inclusion of the rail corridor and lake shore requires an arbitrary boundary line at the top of bank and on the extension of the Francis Street right-of-way. Inclusion of lands abutting the lake and Canal also entails meeting any adjacency requirements of the federal, Provincial and municipal agencies responsible for those lands.

Both of these options have merited consideration and have generated public comment. Keeping in mind that HCDs can always be modified in future, or new HCDs added, the choice of the first option still allows the municipality scope for extending the District in a later phase.

8.5 Proposed Boundary

Both of these options have merited consideration and have generated public comment. The recommended boundary is the second option, for the reasons stated. It meets the goals set out by the City in the RFP while addressing comments from local residents and reflecting the results of research undertaken during this Study.

The proposed boundary addresses the Provincial criteria for boundary delineation as follows:

- Historic factors: incorporates the key physical components that represent the District's evolution
- Visual factors: includes the key architectural styles and elements, landscapes and view corridors
- Physical factors: uses major changes in land use, topography and building type to define its edges
- Legal or planning factors: follows the general boundaries of the original Oak Street subdivision and is confined to lands owned municipally or in private hands

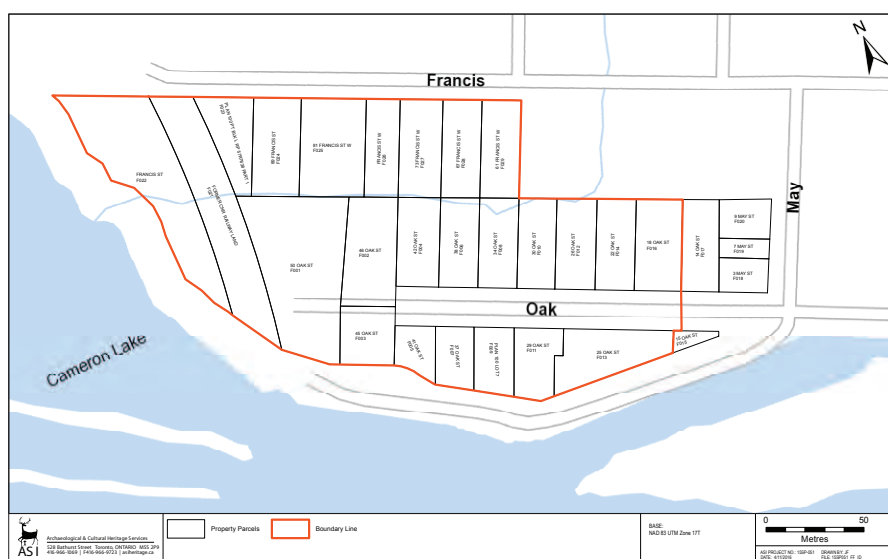
9. Conclusions and Recommendations

9.1 Conclusions

The City has identified the Oak Street area as a part of the municipality, and especially as a component of Fenelon Falls, that merits consideration for designation as a Heritage Conservation District. Only District designation can ensure that changes to the area are managed in ways that are compatible with area character.

The current Study has confirmed the worth of these intentions and concluded that designation as a Heritage Conservation District is the best way for the municipality to conserve the area's cultural heritage resources. The Study is the first step in describing the area's heritage character and identifying the various heritage resources that comprise it. The next step is to prepare a Heritage Conservation District Plan in which are contained the policies and guidelines required to properly manage conservation and development.

In conclusion, this Study recommends that the Study area, as described in the chosen option and shown on the accompanying map, be designated as a Heritage Conservation District under Part V of the Ontario Heritage Act, and that Council authorize staff to proceed with preparation of a Heritage Conservation District Plan.



Boundary option #2

9.2 Recommendations

1. It is recognized that the Oak Street Area, as defined here, is of heritage significance for the following reasons:

- Surviving trees from a rare, possibly pre-settlement grove of bur oaks
- Original estate house (Maryboro Lodge), now a museum
- View corridor from façade of Lodge/museum towards river/Canal
- View corridor from May Street towards museum property/rail corridor/lake
- View corridor (E-W) along Water Street
- Right-of-way of former railway and approach to bridge
- Lake shore public open space (camping, picnicking)
- Canal infrastructure, including swing bridge (on Parks Canada property)
- Water Street (original estate access route)
- Maple street tree plantings
- Significant associations with important persons in the community's history (Wallis and prominent late 19th and early 20th century local business and professional persons who were instrumental in the development of Fenelon Falls)
- High quality architecture with good representative examples of late 19th century period styles found in Ontario at that time
- Architectural details (porches, verandahs, decorative woodwork, towers and bays)
- Brick and frame construction and cladding
- Consistent building massing and lot size
- Predominance of single, detached dwellings
- Historical associations with potential pre-contact aboriginal use, Wallis estate, early navigation, early railways, early tourism (Canal steam and pleasure craft, lakeside camping, Lodge guest house), founding of Fenelon Falls, public use of Lodge grounds for special events

The area's heritage value lies both in its collection of individually important properties and in its combination of these resources within a compact urban form. The area has value because of properties that represent key stages

of the village's development, because the area is relatively unchanged, homogeneous and intact, and because it offers examples of some of the best buildings and residential streetscapes in Fenelon Falls.

2. It is recognized that the character of the study area conforms to the characteristics of heritage conservation districts, as defined by the Ministry of Tourism, Culture and Sport in the Ontario Heritage Tool Kit, in the following ways:

- A concentration of a wide range of heritage resources, linked by aesthetic, historical and socio-cultural contexts and use;
- A framework of structuring elements;
- A sense of visual coherence, and;
- A distinctiveness that enables the area to be recognized and distinguishable from neighbouring areas.

3. That the Oak Street Area, as defined on the accompanying map (Boundary option #2), should be designated as a Heritage Conservation District under Part V of the Ontario Heritage Act.

4. That Council should authorize staff to proceed with the preparation of a District Plan and guidelines.

5. The City should support the following initiatives to strengthen the ability of volunteers to assist in the ongoing inventory, evaluation and stewardship of cultural heritage resources within the study area:

- Training in research, inventory and evaluation of heritage properties, using the template shown in this study, and in accordance with the Historic Places Initiative and updating, as needed, the existing municipal Heritage Register;
- Research and collection of information, including maps and personal documents, on the historical evolution of the Oak Street Area;
- In-kind donations, of time and materials, to projects aimed at improving the public realm (e.g. tree planting) that follow guidelines provided as part of any Heritage Conservation District Plan, and;
- Participation in issue-based sub-committees addressing such concerns as property maintenance, parking and access, and tree preservation.

Appendices

A. Planning and Heritage Tools

B. Current City of Kawartha Lakes Official Plan
Heritage Policies

C. Recommended Official Plan Amendments and
Policies

D. Proposed Terms of Reference for Heritage Victoria

E. Cultural Heritage Resource Inventory and Evaluation

F. Acknowledgements and Meetings

G. Bibliography

A. Planning and Heritage Tools

<i>Under the Ontario Heritage Act</i>	
<ul style="list-style-type: none"> Designation of an archaeological site under Part VI 	In cooperation with the province, archaeological sites can be protected under Part IV of the Ontario Heritage Act. However, very few sites have been designated to date, and these sites tend to be very significant.
<ul style="list-style-type: none"> Designation of a District under Part V 	Under the <i>Ontario Heritage Act</i> , a municipality or any part of it, may be designated as a Heritage Conservation District. In order to become a district, it must be studied in accordance with OHA and any local requirements and it must be proved that there is sufficient reason from a cultural heritage perspective. If a study reveals that an area does have cultural heritage value, a plan must be developed in accordance with the requirements of the Act. An HCD cannot regulate use.
<ul style="list-style-type: none"> Designation of individual properties under Section 34.5, Part IV 	Under the <i>Ontario Heritage Act</i> , individual properties (and the heritage attributes related to that property) may be designated as being of Provincial Significance (meeting the criteria of O.Reg 10/06) by the Minister of Tourism, Culture, and Sport.
<ul style="list-style-type: none"> Designation of individual properties under Section 29, Part IV 	Under the <i>Ontario Heritage Act</i> , individual properties (and the heritage attributes related to that property) may be designated by a local municipality.
<ul style="list-style-type: none"> Listing individual properties under Section 27 	Where a property is in the process of being designated under Part IV or Part V of the OHA, or where a property is not considered to have sufficient value for a Section 29, Part IV designation, municipalities can formally add the property to its Heritage Register. Known colloquially as 'listing', this form of recognition effectively provides demolition control for 60 days; depending on the specific policies of a municipality. Including a property on a Register can also result in additional review and management requirements; also the 2014 PPS provides additional protections for 'listed' properties by referring to properties on official registers under its definition of 'significant' and stating that some properties may not be formally evaluated.'
<ul style="list-style-type: none"> Easements/ Maintenance Agreements 	Heritage Easement Agreements and Maintenance Agreements are another set of tools used to protect cultural heritage resources. An easement is an agreement that is entered into between the property owner and the municipality or Province and registered on title. A Heritage Easement Agreement typically identifies heritage attributes that are to be retained in perpetuity and may also set out permitted alterations and development. A Maintenance Agreement is similar, but may or may not be registered on title. An Easement or Maintenance Agreement is required in Ontario in order to receive Provincial Tax Refunds for heritage properties.

Under the Planning Act

<ul style="list-style-type: none"> Official Plan policies 	<p>An Official Plan is a statement of goals, objectives and policies for growth and development for a community for a 20 year period.</p> <p>In some instances, revisions to an Official Plan may result in a strengthened framework for heritage conservation planning such as ensuring there are adequate policies regarding adjacent properties or heritage impact assessment; changes to an OP can also address contradictions between existing policies by providing a clear policy direction. Further, as an Official Plan is issued under the Planning Act, a wider range of issues can be addressed, such as views and use.</p> <p>There are several issues that could be considered in particular.</p> <ol style="list-style-type: none"> 1) Views: While views can be addressed partially under the Ontario Heritage Act, their applicability is limited by property or district boundaries. The creation of specific OP policies that identifying specific views (which may or may not be heritage specific) allows for the wider protection of views, view cones, and viewsheds. 2) Use: Changes to the identified land-uses (and the necessary subsequent changes within the zoning by-law) can facilitate the protection of cultural heritage resources in specific circumstances. 3) If changes are necessary to the existing overarching heritage conservation planning policy framework for the community. These could include enhancing existing definitions, and creating new policies, such as Section 36, Section 37 or Section 28 Planning Act policies.
<ul style="list-style-type: none"> Secondary Plan 	<p>Area and secondary plans provide specific policies for areas identified within an Official Plan as requiring more detailed direction on topics such as land use, infrastructure, the natural environment, transportation and urban design. In some instances, a review of the identified issues as part of a Heritage Conservation District process reveals that a secondary plan is a more appropriate instrument to regulate change within a specific area. Again, like an Official Plan, a secondary plan can address issues of use. It can also include broader policies around urban form and design than can an HCD Plan.</p>
<ul style="list-style-type: none"> Zoning and Form Based Zoning 	<p>The purpose of a zoning by-law is to provide specific controls on land use. Specifically, a zoning by-law outlines how land may be used; where buildings and other structures can be located; the types of buildings that are permitted and how they may be used; and, the lot sizes and dimensions, parking requirements, building heights and setbacks from the street. One of the key purposes of zoning is to put an Official Plan into effect.</p> <p>More recently, form-based zoning has emerged as an alternative to more traditional types of zoning. It is a type of zoning that emphasizes the physical character of development. This type of zoning focuses on “how development relates to the context of the surrounding community, especially the relationships between buildings and the street, pedestrians and vehicles, and public and private spaces” (CMAP, 2013, 9.) This type of zoning puts a greater emphasis</p>

	on design, resulting in greater predictability about the visual aspects of changes in a community.
<ul style="list-style-type: none"> • Create policies for Neighbourhood/ Heritage Character Areas 	<p>A Neighbourhood Character Area policy is typically integrated into an Official Plan or Secondary Plan. Focused less on the heritage aspects of a community, this type of policy seeks to consider a neighbourhood's sense of place, treating its public and private realms as a collective whole. This type of policy considers how the features of an area result in a particular character by assessing its key attributes, uses, and characteristics, the relationship between them, and how they play out in the physical realm.</p> <p>A Heritage Character Area is similar but instead focuses more specifically on the heritage attributes. It has been used in some communities as an alternative to a full heritage conservation district plan.</p>
<ul style="list-style-type: none"> • Design Guidelines 	<p>Design guidelines can apply across an entire city or within a specific area. District or Area-Specific Urban Design Guidelines may focus on a particular property, block, neighbourhood or broader area, such as the development of an entire civic centre or new community and public spaces. Some of the guidelines focus on urban design matters, while others include design and other planning-related issues. They can be used to discuss issues such as infill, intensifications, new construction, streetscapes, accessibility, and how to integrate the natural/ built environments. As opposed to Heritage Conservation District Guidelines, general design guidelines tend to focus on broader design issues (although they can include sections on heritage conservation).</p>
<ul style="list-style-type: none"> • Community Improvement Plan 	<p>A Community Improvement Plan (CIP) provides tools that allows a municipality to direct funds and implement policy initiatives toward a specifically defined area within its boundaries. Authorized under Section 28 of the Planning Act, when existing OP policies are in place, a municipality can use CIPs to encourage rehabilitation initiatives and/or stimulate development, promote place-making, and promote brownfield redevelopment. Financial tools available include tax assistance, grants or loans. CIPs are often used to promote private sector development.</p>

Other Tools

<ul style="list-style-type: none"> • Use of other legislation: The Municipal Act 	<p>The Municipal Act grants municipalities the authority to pass by-laws, including by-laws respecting heritage (Section 11 (3) 5.). However Section 14 (2) of the Municipal Act specifies that in a conflict between a by-law and an Act, regulation or instrument where the by-law frustrates the purpose of the Act, regulation or instrument, the by-law will be without effect.</p> <p>The Municipal Act also enables a municipality to establish a program to provide tax incentives for an eligible heritage property (Section 365.2 (1)). An eligible heritage property is one that is designated under Part IV of the Ontario Heritage Act, is part of a Heritage Conservation District under Part V of the Ontario Heritage Act, is subject to an easement agreement under Section 37 of the Ontario Heritage Act, is subject to an easement agreement with the Ontario Heritage Trust under section 22 of the Ontario Heritage Act, is subject to an agreement with the local municipality in which it is located respecting the ‘preservation’ and maintenance of the property and that complies with additional eligibility criteria set out in the by-law created by the municipality allowing tax incentives for heritage properties under the Municipal Act.</p>
<ul style="list-style-type: none"> • Use of Other Legislation: The Ontario Building Code 	<p>Under Ontario Building Code (OBC), the Ontario Heritage Act is considered applicable law. In particular, the CBO cannot issue a permit if it is contrary to applicable law (Section 8 (2) and Section 10(2)) and can issue a conditional permit that does not meet the Ontario Building Code if it meets applicable law and additional OBC requirements (Section 8 (3)).</p> <p>With regard to the definition of applicable law, O. Reg 332/12 specifically states what is covered.</p>
<ul style="list-style-type: none"> • Use of Other Legislation: Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c. 33 	<p>The Funeral, Burial and Cremation Services Act addresses human remains (including their discovery) and cemeteries. It is a key piece of legislation that should be considered when addressing a cultural heritage resources that does or could contain human remains.</p>
<ul style="list-style-type: none"> • Use of Other Legislation: Environmental Assessment Act 	<p>Under the Environmental Assessment Act, “environment” is understood to mean:</p> <ul style="list-style-type: none"> a) Air, land or water, b) Plant and animal life, including human life, c) The social, economic and cultural conditions that include the life of humans or a community, d) any building, structure, machine or other device or thing made by humans, e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities, or f) any part or combination of the foregoing and the interrelationship between any two or more of them, in or of Ontario.

	<p>Cultural heritage conservation within the Environmental Assessment Act ensures that cultural heritage resources will be conserved in municipal projects. Cultural heritage resources with the potential to be impacted by transportation, water or sewage infrastructure projects, for example, will be identified, assessed, and protected from impact by various conservation tools available.</p> <p>The Environmental Assessment Act aims to provide for the protection, conservation and wise management of Ontario's environment. It applies to all public activities including projects undertaken by municipalities, public utilities and conservation authorities. An analysis of the environment through an Environmental Assessment includes evaluation of "cultural conditions that include the life of humans or a community" and "any building, structure, machine or other device or thing made by humans" which includes artifacts, places, buildings and structures considered to be potential cultural heritage resources. Where municipal projects such as transportation, water, or sewer infrastructure projects under Municipal Class Environmental Assessment, may impact heritage properties, cultural landscapes or archaeological sites, these cultural heritage resources are to be identified, assessed and protected from impact.</p>
<ul style="list-style-type: none"> • Modification to site alteration or foundation permit by-laws 	<p>The addition of policies into these by-laws can ensure that cultural heritage resources are addressed in advance of any work that may occur on a property.</p>
<ul style="list-style-type: none"> • The development of interpretative plans or heritage master plans. 	<p>The current legislative environment does not yet address intangible heritage or lost heritage effectively nor does it give express instruction or direction on interpretation. These tools help to identify why cultural heritage resources are important and provide tools to that end.</p>
<ul style="list-style-type: none"> • Demolition Control By-laws 	<p>Some municipalities include properties on their Heritage Register as properties that have demolition control to provide added protection.</p>

B. Current City of Kawartha Lakes Official Plan Heritage Policies

10. CULTURE AND HERITAGE

10.1. GOAL

Encourage the conservation and enhancement of cultural heritage resources.

10.2. OBJECTIVES

- a) To conserve and enhance the City's cultural and heritage resources. Features of particular interest include buildings, structures and significant structural remains, areas of unique or rare composition, landscapes of scenic value, artifacts, archaeological sites, cemeteries and burial grounds.
- b) To raise public awareness and celebrate the history of the community.
- c) To encourage participation and involvement in preservation and restoration efforts and foster the community's understanding and appreciation of the area's heritage resources.

10.3. ARCHAEOLOGICAL CONSERVATION

- a) The City will continue to notify recognized archaeological conservation agencies and First Nations of relevant requests for planning approvals with respect to such matters as Official Plan and zoning amendments, subdivision and condominium applications, and applications for site plan approval;
- b) The City intends to allow recognized archaeological conservation agencies an opportunity to comment on the archaeological potential of development and redevelopment sites;
- c) The City intends to facilitate dialogue among the agencies, private interests and the City with respect to the discovery and identification of archaeological resources.

10.4. HERITAGE VICTORIA

- a) The Ontario Heritage Act provides for the creation of a Municipal Heritage Committee. Within the City of Kawartha Lakes, it is known as Heritage Victoria (formerly the City of Kawartha Lakes Local Architectural Conservation Advisory Committee). Heritage Victoria advises and assists Council on matters concerning conservation and designation of buildings of historic or architectural value. **This may include the designation of individual properties as well as the designation of a group of properties as a Heritage Conservation District.** In addition, the committee will undertake a public education initiative and establish criteria to manage an inventory database of the City's current and candidate heritage resources.

10.5. HERITAGE

- a) The City shall encourage the conservation and preservation of its significant built heritage resources, significant cultural heritage landscapes and significant archaeological resources.
- b) Through the review of development applications, the City shall require archaeological assessment by an archaeologist licensed by the Province where identified archaeological resources exist or where the potential for such resources exist.
- c) Development in areas considered to be of architectural or historical value shall have regard for the conservation and preservation of architecture or historic buildings, features or sites therein.

- d) The City recognizes that the City's heritage resources include individual buildings, group of buildings, streetscapes, neighbourhoods, landscaping and landmarks. For the purpose of this section, the term "building" is considered to include both buildings and structures and the term "conserve" is generally considered to mean retention of the existing form, material and integrity of site.
- e) The City shall consider a range of conservation and preservation tools if significant archaeological sites are to be protected in-situ, including the use of archaeological zoning bylaws, site plan control agreements and conservation easements.
- f) The City shall require development proponents to conserve such resources through preservation in-situ, documentation, avoidance and/or removal.
- g) The City shall ensure land development adjacent to protected heritage properties are not adversely impacting identified heritage attributes of these properties.
- h) The City shall apply the provisions of the Cemeteries Act and its regulations when marked and unmarked cemeteries or burial places are encountered during development, assessment or any excavation activity.
- i) The City shall encourage comprehensive cultural heritage resource mapping, archaeological resource mapping, heritage master planning and other heritage site inventories for the City;
- j) The City shall seek the advice of the Province regarding cultural heritage conservation matters when appropriate.

C. Recommended Official Plan Amendments and Policies

- 1) **OP Policies Enabling the creation of heritage conservation districts.** While Dillon recommended the inclusion of policies in both the Official Plan and Secondary Plans for the creation of heritage conservation district, the Ontario Heritage Act requires that Official Plan policies be in place.

41. (1) Where there is in effect in a municipality an official plan that contains provisions relating to the establishment of heritage conservation districts, the council of the municipality may by by-law designate the municipality or any defined area or areas thereof as a heritage conservation district

Further, by limiting policies to a Secondary Plan areas, which tend to be more urbanized, the municipality may be preventing itself from considering rural heritage conservation districts, or as recommended in the Integrated Community Sustainability Plan, natural heritage conservation districts. To this end the following policy is recommended for inclusion within the City of Kawartha Lakes' Official Plan, possibly in Section 10.5.

The City will investigate areas of the City for consideration as heritage conservation districts. This analysis will be consistent with the requirements of Part V of the Ontario Heritage Act. Where it is determined that an area is eligible for designation as a heritage conservation district, and the process moves onto the Plan and Guidelines phase, any Plan and Guidelines document prepared must be consistent with the requirements of Part V of the *Ontario Heritage Act*. Candidate areas to be analyzed including, but are not limited, to the following:

- Fenelon Falls (Oak Street)
- Fenelon Falls (Downtown)
- Lindsay (Downtown)
- Bobcaygeon (Downtown)
- Omemee (Main Street Area)
- Woodville (Main Street Area)
- Kinmount (Main Street Area)
- Sturgeon Point

This policy would need to be put in place in order for any heritage conservation district plan and guideline to be implemented.

- 2) **New OP Policies:** Further, since the City's OP was created, a new Provincial Policy Statement was issued in 2014. In addition, some of the recommendations provided in *The Natural Heritage and Cultural Heritage Policy Paper for Kawartha Lakes Community Based Secondary Plans (2012)* should also be implemented. Recommended changes to the existing City of Kawartha Lakes' OP policies (as well as the Town of Lindsay OP) and definitions are as follows:

City of Kawartha Lakes OP 10. CULTURE AND HERITAGE 10.1. GOAL

Encourage the conservation and enhancement of cultural heritage resources.

10.2. OBJECTIVES

- a) To conserve and enhance the City's cultural heritage resources.
- b) To raise public awareness and celebrate the history of the community.
- c) To encourage participation and involvement in conservation efforts and foster the community's understanding and appreciation of the area's cultural heritage resources.

10.3. ARCHAEOLOGICAL CONSERVATION

- a) Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.
- b) Any archaeological assessment report prepared on an area located within Kawartha Lakes must be filed with the City at the time the report is filed with the Provincial Government.
- c) It is the policy of the City to keep confidential the existence and location of archaeological sites to protect against vandalism, disturbance, and the inappropriate removal of resources.
- d) The City will consider the development of an Archaeological Management Plan
- e) The City shall consider the interests of Aboriginal communities in conserving archaeological resources.

10.5. HERITAGE CONSERVATION:

- a) Cultural heritage resources of significant cultural heritage value or interest shall be identified, protected, and conserved.
- b) The City of Kawartha Lakes shall not permit the demolition, destruction or alteration or reuse of cultural heritage resources that results in the loss of identified cultural heritage values or interest and/or identified heritage attributes. If there is no other option, prior to the demolition or alteration of a cultural heritage resource, documentation shall be required of the property to the satisfaction of the City, and any appropriate advisory committee.
- c) Cultural heritage resources shall be maintained in situ and in a manner that prevents deterioration and conserves the identified cultural heritage values or interest and/or identified heritage attributes of the cultural heritage resource.
- d) The City shall use the tools available to it under the *Municipal Act*, the *Planning Act*, the *Environmental Assessment Act*, and the *Ontario Heritage Act* to conserve cultural heritage resources.
- e) The municipal shall maintain a Register of Heritage Properties as per the requirements of the *Ontario Heritage Act*.
- f) Public works shall conserve cultural heritage resources.
- g) The City shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.
- h) The City may require that a heritage impact assessment be prepared by a qualified person to the satisfaction of the City for any development or site alteration that has the potential to impact a cultural heritage resource.

- i) The City shall lead the community in the management of its cultural heritage resources by providing good examples of proper heritage stewardship in the care and management of the municipally owned heritage properties
- j) The City shall consider the interests of Aboriginal communities in conserving cultural heritage resources.
- k) The City shall use heritage easements as a means of protecting significant *cultural heritage resources*, where appropriate.
- l) The City shall consider a range of conservation and planning tools to conserve cultural heritage resources.
- m) The City shall apply the provisions of the *Funeral, Burial and Cremation Services Act* and its regulations when marked and unmarked cemeteries or burial places are encountered during development, assessment or any excavation activity.
- n) The City shall seek the advice of the Province regarding heritage conservation matters when appropriate.

36.1. APPENDIX A - BACKGROUND STUDIES

Stage 1: background study and property inspection

The consultant archaeologist determines whether there is potential for archaeological sites on the property. He or she reviews geographic, land use and historical information for the property and the relevant surrounding area, visits the property to inspect its current condition and contacts this ministry to find out whether or not there are any known archaeological sites on or near the property. A Stage 2 assessment is required when the consultant archaeologist identifies areas of archaeological potential.

Stage 2: property assessment

The consultant archaeologist surveys the land to identify any archaeological resources on the property being developed. For a ploughed field, he or she will walk back and forth over it looking for artifacts on the surface. In forests, overgrown pasture areas or any other places that cannot be ploughed, he or she will dig parallel rows of small holes, called test pits, down to sterile subsoil at regular intervals and sift the soil to look for artifacts. He or she may use other strategies if properties are paved, covered in fill or have deeply buried former topsoils (such as floodplains or former sand dunes). The consultant archaeologist will help determine whether any archaeological resources found are of sufficient cultural heritage value or interest to require Stage 3 assessment.

Stage 3: site-specific assessment

This stage is for all archaeological sites that may be of cultural heritage value or interest. The consultant archaeologist accurately determines the size of the archaeological site, evaluates its cultural heritage value or interest and, where necessary, makes recommendations for Stage 4 mitigation strategies. To this end, he or she conducts further background research and fieldwork that expands the information gathered in Stage 2. He or she maps the spatial limits of a site and acquires further information about the site's characteristics by excavating one-metre by one-metre square test units across the site. Based on circumstances, some sites, for example ones that have been paved or are deeply buried, may require specialized methods of assessment.

Stage 4: mitigation of development impacts

This stage involves implementing conservation strategies for archaeological sites that are of cultural heritage value or interest. Determining the best approach for conserving the site may include reviewing possible strategies with the development proponent, the municipality or other approval authority, Aboriginal communities, and other heritage stakeholders.

Additional Notes:

The City should develop/revise the following definitions in relation to cultural heritage. Many of these terms are defined in whole or in part in existing legislation or policy, but can be enhanced or modified slightly.

- Adjacent
- Alter
- Statement of Cultural Heritage Value or Interest
- Areas of archaeological potential
- Archaeological fieldwork
- Archaeological resources
- Archaeological site
- Artifact
- Built heritage resource
- Conservation/ Conserved
- Cultural Heritage Resource
- Heritage attributes
- Marine archaeological site
- Protected heritage property
- Significant:

In addition the City should consider adding in revisions to the following Policy sections to link more directly with cultural heritage conservation.

- Policy 9.1
- Policy 9.3
- Policy 31
- Policy 34.4
- Policy 34.6
- Policy 34.7
- Policy 34.11

Village of Fenelon Falls

With the exception of policies relating to the main core and a Community Improvement Area, there are no heritage policies. While this does reflect planning practice at the time this Plan was written, this does not reflect current PPS and OHA language and requirements. To this end the following changes are recommended:

Section 2.2.2

Under Section 2.2.2, add the following:

h. Through heritage conservation

Section 2.8.1

Under Section 2.8.1, add the following:

g. To ensure the conservation of *cultural heritage resources*. [Define]

Section 3.6.3

Under Section 3.6.3, revised clause f as follows:

f. Through the conservation of *cultural heritage resources* in accordance with Provincial requirements. Innovative Building Design and layout will be encouraged.

Section 6.2

Under Section 6.2, add the following:

xi. A concentration of *cultural heritage resources*. [Define]

Section 6.4

Under Section 6.4, revised clause viii as follows:

viii. By using the tools available for heritage conservation under the *Ontario Heritage Act*, the *Municipal Act*, and the *Planning Act*.

New Section 7.4: Heritage Conservation

It is the policy of the municipality that:

- a) Cultural heritage resources of significant cultural heritage value or interest shall be identified, protected, and conserved.
- b) The municipality shall investigate areas of the municipality for consideration as heritage conservation districts. This analysis shall be consistent with the requirements of Part V of the *Ontario Heritage Act*. Where it is determined that an area is eligible for designation as a heritage conservation district, and the process moves onto the Plan and Guidelines phase, any Plan and Guidelines document prepared must be consistent with the requirements of Part V of the *Ontario Heritage Act*. Candidate areas to be analyzed including, but are not limited, to the following:
 - a. Fenelon Falls (Oak Street)
 - b. Fenelon Falls (Downtown)
- c) The municipality shall not permit the demolition, destruction or alteration or reuse of *cultural heritage resources* that results in the loss of identified cultural heritage values or interest and/or identified heritage attributes. If there is no other option, prior to the demolition or alteration of a

cultural heritage resource, documentation will be required of the property to the satisfaction of the municipality, and any appropriate advisory committee.

- d) *Cultural heritage resources* shall be maintained in situ and in a manner that prevents deterioration and conserves the identified cultural heritage values or interest and/or identified heritage attributes of the *cultural heritage resource*.
- e) The municipality shall use the tools available to it under the *Municipal Act*, the *Planning Act*, the *Environmental Assessment Act*, and the *Ontario Heritage Act* to conserve *cultural heritage resources*.
- f) The municipality shall create and maintain a municipal heritage committee to advise on matters of cultural heritage.
- g) The municipal shall maintain a Register of Heritage Properties as per the requirements of the *Ontario Heritage Act*.
- h) Public works shall conserve *cultural heritage resources*.
- i) The municipality shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.
- j) The municipality may require that a heritage impact assessment be prepared by a qualified person to the satisfaction of the municipality for any development or site alteration that has the potential to impact a *cultural heritage resource*.
- k) The municipality shall lead the community in the management of its *cultural heritage resources* by providing good examples of proper heritage stewardship in the care and management of the municipally owned heritage properties.
- l) The municipality shall consider the interests of Aboriginal communities in conserving *cultural heritage resources*, including archaeological resources, as well as for the protection of human remains.
- m) The municipality shall consider using heritage easements as a means to protect significant *cultural heritage resources*, where appropriate.
- n) The municipality shall consider a range of conservation and planning tools to conserve *cultural heritage resources*.
- o) The municipality shall apply the provisions of the *Funeral, Burial and Cremation Services Act* and its regulations when marked and unmarked cemeteries or burial places are encountered during development, assessment or any excavation activity.
- p) The municipality shall seek the advice of the Province regarding heritage conservation matters when appropriate.
- q) Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.

- r) Any archaeological assessment report prepared on an area located within the City of Kawartha Lakes must be filed with the municipality at the time the report is filed with the Provincial Government.
 - s) It is the policy of the municipality to keep confidential the existence and location of archaeological sites to protect against vandalism, disturbance, and the inappropriate removal of resources.
 - t) The municipality shall consider the development of an Archaeological Management Plan.
- 3) **Creation of a Heritage Permit Application System:** Under the *Ontario Heritage Act*, changes to heritage properties require a review to ensure that any proposed works will not have a negative effect on identified heritage values or heritage attributes. To this end, the development of a formal *Application for Alteration under the Ontario Heritage Act* form and process helps to effectively manage application submissions and review. As part of this process, the municipality should explore the development of a delegated authority by-law for staff approvals of specific works, and should develop a specific definition of 'maintenance.' The definition of maintenance is recommended as maintenance does not require any approvals nor do works that have no impact on identified heritage values or heritage attributes.
- 4) **Creation of Heritage Impact Assessment Terms of Reference.** HIAs have become key tools across the province. It is a study design to assess the impact of a proposed development or site alteration on cultural heritage resources and to recommend an overall approach to the conservation of the cultural heritage value of the resources. There are numerous models in place across the province, but in general, they should include the following information as a minimum

1) Introduction to Development Site

A basic overview of the property including a site plan of the existing conditions, area/size, general topography and physical description, and a description of the cultural heritage resources on site. The site is clearly and precisely defined using the municipal address, legal description, and assessment roll. The physical context of the subject property, including its immediate neighbourhood, adjacent properties, adjacent heritage interests, and physical features is described. The name and contact information for the proponents (developer/owner) should be included (separated out if HIA is published due to FOI legislation).

2) Background Research and Analysis

This includes a written and visual analysis of the site's cultural heritage value and an overview of the site's history completed in the previous phase. This can be attached as an Appendix. If the property is already designated or part of an HCD, this should be scoped accordingly. The purpose of the HIA at this stage should not be overly focused on the history of the property, but on its heritage values and heritage attributes.

3) Policy Review

A review of applicable legislation and policy related to the property should be provided. The analysis must consider provincial legislation/policy and municipal policies/bylaws. This review does not address all policies/legislation, but is instead focused on the applicable policies/legislation as they apply to heritage conservation. This is particularly germane if the HIA is being prepared as part of Planning Act application.

4) Statement of Cultural Heritage Value and Heritage Attributes

The HIA should include the Statement of Cultural Heritage Value and Heritage Attributes for the property developed in the first phase.

5) Assessment of Existing Conditions

It is recommended the report outlines the existing conditions of the site and heritage attributes, particularly if the statement of cultural heritage value or the listing of the heritage attributes is older. This should include photos and/or drawings where appropriate.

6) Description of the Proposed Development or Site Alteration

The overall project including any physical site alteration proposed should be described. A written summary of the proposed development or site alterations is included. Site plans showing context and architectural drawings, showing all four elevations of the proposed development must be included for alterations and new construction where there is potential for impact.

7) Impact of Development or Site Alterations

Positive and negative impacts of the proposed alterations on the heritage attributes and any adjacent heritage properties or identified cultural heritage landscape should be described.

8) Considered Alternatives and Mitigation Strategies

Where there is to be a significant impact that will affect the cultural heritage value(s) or heritage attributes of the property, the report must provide a detailed discussion and description of alternative conservation options that have been considered for the site as well as which option is preferred and why. A summary of conservation principles and how they will be used must be included. These conservation principles may be found in publications such as the Parks Canada – Standards and Guidelines for the Conservation of Historic Places in Canada. (It should be noted that the option to use different heritage conservation standards is appropriate where applicable.) If there is no significant impact, there must be a clear statement why there is no impact.

9) Recommendations and Next Steps

The report should provide the client and municipality with a clear statement of whether the development is appropriate, define any reservations and recommendations, and outline next steps for work on the property.

The HIA should also include:

- a statement concerning when any field work was undertaken and who the consultant contacted as part of the process.
- a bio of the person(s) including their accreditation who prepared the report
- a list of persons contacted and references used

The Terms of Reference of an HIA should be adopted by Council either by Resolution, By-law, or as Part of the Official Plan. There should be specific references to the HIA in the Official Plan and any Secondary Plan as a possible required study.

- 5) **Property Standard By-laws Amendments:** Changes to the Ontario Heritage Act now enable municipalities to include specific provisions in their property standards by-laws for the conservation of cultural heritage resources, including their heritage attributes. To this end, it is recommended that the municipality include a provision within both of its by-laws to the following effect:

If property is protected under the *Ontario Heritage Act*, the owner will ensure that identified heritage attributes are conserved in accordance with not only this by-law, but also in accordance with the requirements of the Ontario Heritage Act. Works on properties protected under the *Ontario Heritage Act* may require an *Application for Alteration under the Ontario Heritage Act*.

D. Proposed Terms of Reference for Heritage Victoria

Heritage Victoria: It is recommended that the Terms of Heritage Victoria be revisited and updated. In particular, the term LACAC has not been used since 2002, and specific language around 'municipal heritage committee' should be included. Specifically, the following changes should be made:

1. Section 28 of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18 provides that the council of a municipality may establish a local advisory committee to be known as **a municipal heritage committee** to advise and assist the council on all matters relating to ~~Parts IV and V of the Ontario Heritage Act~~.
2. The Council considers it advisable to establish a **municipal heritage** committee for Kawartha Lakes.
- 1.01 **Definitions:** In this by-law:
 - (a) **"Heritage Victoria Committee" or "Heritage Victoria"** means the **municipal heritage committee** established by this By-law pursuant to the *Ontario Heritage Act*.
- 2.01 **Establishment:** A **municipal heritage** committee as contemplated by the Ontario Heritage Act is established for the City, to be known as "Heritage Victoria".
- 2.02 **Mission and Objectives:** Heritage Victoria, is a volunteer Municipal Heritage Committee (MHC) appointed by Council to assist and provide guidance on **cultural** heritage matters. ~~In particular, Heritage Victoria will review and establish criteria, and recommend candidate sites of historic value and interest for designation under the Ontario Heritage Act. [This sentence is contrary to the Ontario Heritage Act; the criteria for designation is predetermined via O.Reg 9/06.]~~
Heritage Conservation is a method of **identifying, protecting, and promoting** the heritage of our community through the protection of **cultural heritage resources**.
Heritage Victoria will advise Council on matters relating to **the Ontario Heritage Act**. *[There are a number of additional sections of the OHA which may benefit from a MHC comment]*
- 2.06 **Resources:** **Economic Development**, Development Services, Planning Division and/or the Clerk's Office will provide support in the form of advice, day-to-day liaison with the City, updates on program and promotional ideas and initial assistance in their implementation to the degree resources are available. The Departments will also assist in the preparation and submission of budget requests/grant submissions if needed.

- 2.07 **Staff Assigned:** Staff from **Economic Development and/or** Development Services, Planning Division and/or the Clerk's office will be available to assist Heritage Victoria as outlined under "Resources" and to attend meetings of Heritage Victoria upon request, but will not constitute a voting member.
- 3.01 **Meetings:** The Heritage Victoria Committee shall hold a minimum of **eight (8)** meetings in each calendar year. *[There is a 90 day limit on Council to respond to an Application for Alteration, otherwise it is automatically considered approved. In addition, demolitions under the Ontario Heritage Act for Section 27 properties necessitate a 60 day response from Council.]*
- ~~4.01 **Evaluation:** Heritage Victoria shall establish criteria for the evaluation of properties of architectural and/or historical value or interest. *[This sentence is contrary to the Ontario Heritage Act; the criteria for designation is predetermined via O.Reg 9/06.]*~~
- 4.02 ~~**List:** Heritage Victoria shall prepare and maintain a list of properties and areas worthy of conservation. *[This sentence is contrary to the Ontario Heritage Act; the Clerk must maintain the Register. New recommended wording has be provided below.]*~~
Register: The Municipality shall maintain a Register in accordance with Section 27 of the Ontario Heritage Act. Heritage Victoria will provide suggestions on possible additions to this register.
- 4.03 **Advice:** Heritage Victoria shall provide advice to Council on the means of conserving heritage properties and areas. Heritage Victoria shall advise Council with respect to current heritage conservation legislation and programs. The Heritage Victoria Committee shall advise Council with respect to all matters covered by **the Ontario Heritage Act.**

E. Cultural Heritage Resource Inventory and Evaluation

A (i) Built heritage and cultural landscape

The built heritage and cultural landscape inventory will be provided as a separate document due to its large size.

A (ii) Archaeological Potential

Archaeological site means any property that contains an artifact or any other physical evidence of past human activity that is of cultural heritage value or interest. **Artifact** means any object, material or substance that is made, modified, used deposited or affected by human action and is of cultural heritage value. **Areas of archaeological potential** means areas with the likelihood to contain archaeological resources. Methods to identify archaeological potential are established by the Province, through the Ministry of Tourism, Culture and Sport's 2011 *Standards and Guidelines for Consultant Archaeologists*. This document identifies a series of generic criteria that should be used to identify areas of archaeological potential, including physiography and distance to water and landscape integrity. The location and distribution of known archaeological sites are also important considerations.

For the purposes of the Fenelon Falls HCD study, the identification of archaeological potential was based primarily on proximity to water and soil drainage. A request was made to the Ministry of Tourism, Culture and Sport for records of all archaeological sites registered in the Ontario Archaeological Site Database in the City of Kawartha Lakes. The closest site to the Fenelon Falls HCD is BdGq-9, an Early Archaic campsite located roughly 500m from the study area. The distance of the site makes it unlikely that its presence would affect the archaeological potential in the HCD study area positively or negatively.

Attention was then turned to overall distribution of all registered sites within the City of Kawartha Lakes, of which there are 162, to identify trends or patterns in registered site location. Eighty-seven of the 162 sites represent pre-contact Aboriginal sites that constitute more than an isolated find of an artifact and so are suggestive of a deliberate occupation of that particular place rather than the random loss or discard of an item. Of these 87 sites 64 (74%) fall within 250 m of a water source, indicating that this represents a reasonable threshold for archaeological potential modeling purposes.

By virtue of its location on the Trent River, a preliminary 250 m water buffer results in 100% coverage of the Fenelon Falls HCD study area. This is not, in and of itself, a particularly useful characterization of the true archaeological potential of the HCD.

The next step, therefore, was to examine available soil survey data. The Fenelon Falls HCD sits on well drained loam soil. Because there are no mapped areas of poorly drained soil that would be less attractive to settlement, the soils criterion has no impact on the archaeological potential zone.

The final step in the process was to examine existing conditions within the study area to identify, at a general level, those areas where modern development activities have resulted in such drastic alterations to the landscape that they would have removed any archaeological resources that may have been present. This was accomplished through review of current and historical mapping and aerial photography. On this basis, lands currently or formerly occupied by major roadways, railway lines, and twentieth-century building footprints, etc. were removed from consideration. On this basis, approximately 64% of the landmass of the Fenelon Falls HCD study area is deemed to retain potential for the presence of archaeological resources related to either the Aboriginal occupations of the area or the early Euro-Canadian development of the town.

F. Acknowledgements and Meetings

Acknowledgements

The Study team would like to thank the following persons and groups for their contributions to the Study. Debra Soule of the City was constantly supportive, as were Chris Marshall, Rebecca Mustard, Doug Carroll and Richard Holy. The members of the Study Advisory Committee offered valuable advice and were a liaison with their constituents. Others who the consultants were advised to contact and who provided historical background, archival information and comments on heritage character included:

- Glenn Walker (Fenelon Falls Museum)
- Chris Handley (Handley Lumber)
- Chad Buchner (Trent-Severn Waterway/Parks Canada)
- Melissa Dokis (Curve Lake First Nation)
- Anne Taylor, Tom Cowie (Hiawatha First Nation)
- The staff and owners of Sweet Bottoms Café

Special thanks also to Andrea Koteles of the City Archives for a wealth of historical information and imagery.

Meetings

Several client and public meetings for the Oak Street HCD Study were held during the course of the Study. These included:

- 11 September, 2015: start-up meeting with the client
- 21 September, 2015: meeting with the Advisory Committee
- 17 October, 2015: meeting with Oak Street residents (at Maryboro Lodge)
- 14 November, 2015: meeting with Oak Street residents (at Sweet Bottoms café)
- 28 January, 2016: meeting with the Oak Street residents (at the Fenelon Falls community centre)
- 24 April, 2016: meeting with Oak Street residents (at Sweet Bottoms café)
- 25 April, 2016: meeting with Advisory Committee; meeting with City Planning and heritage staff

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