



Office of the Municipal Auditor General,
The Corporation of the City of Windsor

March 21, 2025

**HERITAGE APPROVALS & ROSELAND GOLF COURSE SHED
AUDITOR GENERAL COMPLAINT INVESTIGATION**

REPORT

Executive Summary

Background

An allegation was received regarding Roseland Golf Course, indicating that in 2008, the demolition of old sheds and the erection of new sheds occurred without a Heritage Permit. In this instance, the City is both the applicant and the regulator.

The Heritage Permit process was not in place at the time of the maintenance shed work related to Roseland Golf Course Administration. At that time Administration was bringing requests for demolition to Council seeking “written consent” under the Ontario Heritage Act. As such, the allegation has been modified to reflect the requirements at that time, which align to the Heritage Act.

Revised allegation: An allegation was received regarding Roseland Golf Course, indicating that in 2008, the demolition of old sheds and the erection of new sheds occurred without a ~~Heritage Permit~~ **Council’s written consent**. In this instance, the City is both the applicant and the regulator.

Investigation Approach

This report examines whether appropriate heritage approvals were obtained for the demolition and reconstruction of structures located on a municipally owned, heritage-designated property.

The investigation was initiated to clarify compliance with the *Ontario Heritage Act*, the relevant City of Windsor by-laws, and internal procedures related to alterations on heritage properties. The focus included work concerning the Roseland Golf Course Maintenance Sheds in late 2008 and early 2009.

The approach involved:

- Verifying the heritage designation status of the property;
- Reviewing City records for permits or approvals issued in relation to the work;
- Assessing whether alternative approvals or documented rationales were in place where formal permits were not found;
- Analyzing legislative and regulatory requirements under the *Ontario Heritage Act* and City by-laws; and
- Evaluating the alignment of administrative actions with those requirements.

As the property in question is municipally owned, the City has a dual responsibility—both as the regulator and as a property owner—to ensure full compliance with provincial heritage legislation and its own policies. This report seeks to support transparency,

accountability and informed decision-making regarding heritage stewardship and approval processes.

Scope Limitation

Given the time when the allegation occurred, investigators could not confirm what general guidance or documentation was published on the City's website in late 2008. As a result, this review could not assess the specific heritage information, instructions, or procedural content that may have been accessible to staff or the public through the City's website during that period.

Summary of Procedures and Findings

Summary of Allegation Investigation Results:

Allegation: An allegation was received regarding Roseland Golf Course, indicating that in 2008, the demolition of old sheds and the erection of new sheds occurred without-Council's written consent. In this instance, the City is both the applicant and the regulator.

Conclusion: Allegation partially warranted.

The new maintenance sheds adhered to the OHA alteration requirements.

The recommendations adopted for demolition/removal of the previous sheds indicate implied approval. They did not have explicit wording indicating that written City Council approval was required to remove/demolish a structure on heritage-designated property as per the OHA. To an independent reviewer, it is unclear if the City Council of the time would have known they were also exercising their authority as the regulator under the OHA for these recommendations.

Recommendations for Administration may be summarized as follows:

1. In the future, any and all removal/demolition of structures on heritage-designated properties should clearly indicate that City Council's approval is being sought for removal/demolition of a structure on heritage-designated property under the OHA.

Contextual Information

Property Under Consideration

The allegation relates to maintenance sheds at the Roseland Golf Course. The building permit drawings refer to the New or Proposed Maintenance Shed.

The paperwork from 2008 does not delineate whether there was a demolition/ removal of the old shed.

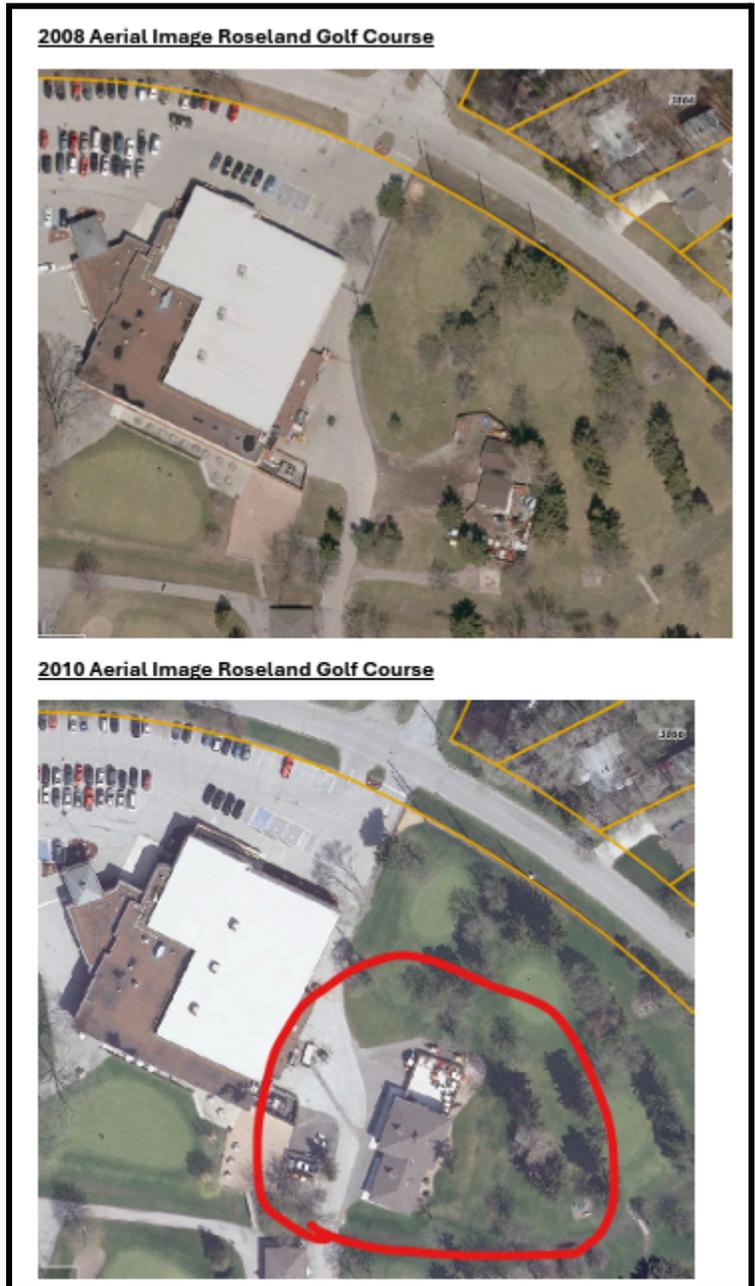
A review of the plans indicates (1) the use of the phrase “new” and “proposed” quite often and (2) some of the drawings indicated that the “new” structure was placed between the old shed and the clubhouse.

The images to the right show the shed in 2010 as being in a different location from the shed in the 2008 image. Further, the size and orientation have changed.

Given the above information, we conclude that a new structure was built, and the old shed was removed at some point before the photo in 2010.

Legislative Authority for Heritage Property Management

In Ontario, the regulation, protection, and alteration of heritage properties are governed primarily by two key statutes: the **Municipal Act, 2001** and the **Ontario Heritage Act (OHA)**. Each plays a distinct but complementary role in defining the responsibilities and authorities of municipalities, including the enactment and enforcement of heritage-related decisions.



The Municipal Act, 2001 provides municipalities with broad powers to govern and manage local affairs, including land use, planning, and the development of by-laws. However, these powers are subject to the constraints and requirements of other provincial legislation, including the Ontario Heritage Act. Where the OHA applies, it takes precedence in heritage matters.

The OHA specifically outlines the processes and obligations related to the identification, designation, alteration, and demolition of heritage properties. Under this Act:

- Municipal councils have the authority to designate properties as having cultural heritage value or interest;
- They are also responsible for reviewing and approving any proposed alterations, demolitions, or removals affecting such properties;

Complementing these legislative frameworks are municipal by-laws, which include formal heritage designation by-laws for individual properties. These by-laws provide the legally binding description of a property's heritage attributes, and any review of proposed changes must consider the wording and intent of these designations.

Application to City-Owned Heritage Properties

When a municipality, such as the City of Windsor, is the owner of a designated heritage property, it is not exempt from the requirements of the OHA or its own heritage by-laws. The City must adhere to the same processes and standards that apply to private property owners. This includes:

- Submitting an application for a Heritage approval before undertaking any demolition, removal, or significant alteration of structures on the property;
- Ensuring that any proposed changes align with the designating by-law and are approved by Council, where required under the OHA;
- Respecting its obligations under its own heritage policies and procedures, including consultation with the Municipal Heritage Committee.

The City must act in accordance with the OHA and its own by-laws, even in situations where it is both the applicant and the regulator. This dual role requires particular attention to transparency, consistency, and statutory compliance.

Summary of Investigation Approach Results

#	Approach	Summary of Key Findings
1	<p>Confirm Heritage Designation Status Verified whether the property in question is formally designated under the <i>Ontario Heritage Act</i> and subject to associated heritage protection requirements.</p>	<p>455 Kennedy Drive West, Roseland Golf Course, was designated a Heritage Property by Bylaw 281-2003 at the time of the allegation's occurrence - 2008/9.</p> <p>As such, it is formally designated under the <i>Ontario Heritage Act</i> and subject to associated heritage protection requirements.</p>
2	<p>Obtain Records and Input from City Administration Requested and reviewed documentation from Administration regarding:</p> <ul style="list-style-type: none"> Heritage permits issued for the demolition and rebuilding of the maintenance sheds in late 2008 and early 2009; and Any heritage approvals related to the removal and construction of sheds at the Roseland Golf Course location. 	<p>Inquired of management, building permit documentation was available, but no explicit Heritage approvals were found.</p> <p>Evidence, an email from the Manager of Planning Policy, indicating that the proposed maintenance building would not impact heritage attributes, was included in the building permit supporting evidence.</p>
3	<p>Assess for Equivalent Approvals or Documented Rationale Where no formal heritage permits were located, determined whether:</p> <ul style="list-style-type: none"> Alternative or equivalent heritage approvals were granted through other mechanisms; or A documented rationale exists explaining why heritage permits were not obtained, particularly in relation to work involving structures situated on 	<p>No other approvals or supporting rationale were noted in the building permit package.</p>

	<p>designated heritage lands.</p>	
<p>4</p>	<p>Review Legislative and Policy Requirements Conducted a review of applicable regulatory and policy frameworks, including:</p> <ul style="list-style-type: none"> ● The <i>Ontario Heritage Act</i>; ● Relevant City of Windsor by-laws and official procedures; and ● City-published materials outlining the permit requirements and approval processes for heritage-designated properties. ● This analysis focused on identifying whether a Heritage Permit—or equivalent approval—was legally required for the type of work undertaken. 	<p><u><i>Ontario Heritage Act</i></u></p> <p>Alteration:</p> <ul style="list-style-type: none"> ● Council’s written approval is required for alterations to designated heritage properties. An exception to this would be where the alteration is not likely to affect the property’s heritage attributes. ● Council may delegate approval powers to the City Planner and other designated authorities. ● The delegation of authority does not bypass the requirement for written consent; instead, it delegates the authority to issue one. <p>Demolition/Removal:</p> <ul style="list-style-type: none"> ● If a property is designated under the Ontario Heritage Act, you must obtain written approval from Council before demolishing any structure on the property. Even if the shed was not mentioned in the heritage designation, its demolition still requires approval from Council (per OHA) and the municipal heritage committee or planning department (per City of Windsor). ● No delegation of authority for such demolition/removal appears to be permitted by Council <p>City of Windsor Website:</p> <ul style="list-style-type: none"> ● Erection, Demolition and Removal require Heritage Permits. This is the current publication and aligns with the OHA, but an investigator cannot determine the website information was as posted in 2008. <p>Bylaws:</p> <ul style="list-style-type: none"> ● The City of Windsor Official Plan• Volume I - Heritage Conservation - 9.3.4.1.b. Requiring any person who proposes to demolish or alter a designated heritage property to submit plans to Council for approval under the Ontario Heritage Act; ● Bylaw 156-2005 was considered but did not clearly define demolition or removal related

		<p>to heritage-designated properties. Bylaw 147-2011 did include such elements, but it came into effect after the point in time of this allegation.</p> <p>The OHA does not explicitly reference "new builds" in all contexts, it is the investigators' understanding that municipalities often interpret the provisions related to alterations and erections to require approval for new construction on heritage properties. This ensures that any new development is sympathetic to and does not detract from the property's heritage attributes. They often fall in as Alterations unless there is a Demolition/Removal and then a new build in the same space.</p> <p>OHA requires a Heritage Permit for Alteration where heritage attributes are likely to be impacted. The approval for such a permit is given by Council; however, Council can delegate alteration approvals to Administration. Where they are not likely to be impacted, such a permit is not required.</p> <p>OHA requires written approval from Council for removing or demolishing any structure on a heritage-designated property.</p> <p>The current City website indicates that Heritage Permits are required for the Erection, Demolition and Removal of structures on heritage-designated property. The Official City plan reiterates the requirement related to Demolition and Removal.</p> <p>The official city plan reinforces compliance with OHA.</p>
<p>5</p>	<p>Evaluate Consistency with Requirements Compared the evidence and explanations provided by Administration against the legislative and procedural requirements to determine whether:</p> <ul style="list-style-type: none"> ● The appropriate approvals were in place at the time of the work; and ● The City, as property 	<p>The new maintenance sheds were located in a new location from the previous sheds. Therefore, they are subject to alteration requirements. As such, Planning was consulted and deemed that the new shed was unlikely to impact heritage attributes. As such, Administration determined there was no requirement for a Heritage approval.</p> <p>This was in accordance with the OHA.</p> <p>The previous maintenance sheds were removed sometime between 2008 and 2010. In June 30, 2008 and October 6, 2008 City Council received and approved two reports with recommendations related</p>

<p>owner, complied with its obligations under the <i>Ontario Heritage Act</i> and its own by-laws.</p>	<p>to these sheds. A review of these two reports indicates the following:</p> <ul style="list-style-type: none"> • The June 30, 2008 report speaks to the recommendation of the time that: <p>“That City Council approve the provision of interim financing in the range of \$600,000 - \$700,000 (subject to final tendering) to Roseland Golf & Curling Club for the construction of a Maintenance Building with to this amount being full repaid with applicable interest from future operating budget surpluses of Roseland Golf & Curling Club.”</p> <p>There is no explicit mention of removing or demolishing the previous sheds. There is a statement in the Background section indicating the new maintenance sheds are to “replace the current garages”.</p> • The October 6, 2008 report speaks to a recommendation regarding the tender's awarding and the approval to enter into an agreement. This report has a more explicit statement: “The existing maintenance building has been in use since 1970 and can not be economically repaired. Additionally, the current structure posed several health and safety risks, which required immediate action. <p>The OHA requires written approval from City Council if a structure is to be removed or demolished on a heritage-designated property, regardless of its impact on heritage attributes. From an independent read of the reports to Council, while there may be implied approval of the removal of the old shed, it is not explicit and there is no mention that Council is approving the removal/demolition of a structure on heritage-designated property as required by the OHA.</p> <p>In this instance, the City is both the applicant and the regulator. A dual role such as this requires particular attention to transparency, consistency, and statutory compliance - special attention must be paid to the principles of equity in enforcement. The assessment process, submissions and approvals should be equivalent to those that would be applied</p>
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		<p>if a private citizen or third party were the applicant under the same circumstances.</p> <p>As such, explicit statements for the removal/demolition of structures on the heritage-designated property as required by OHA should have been included in one of the original Recommendations, ideally the first one.</p>
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Conclusion

Allegation: In 2008/9, the demolition of old sheds and the erection of new sheds occurred at Roseland Golf Course, a heritage-designated property, without a Heritage Permit.

Conclusion: Allegation partially warranted.

The new maintenance sheds adhered to the OHA alteration requirements.

The recommendations adopted for demolition/removal of the previous sheds indicate implied approval. They did not have explicit wording indicating that written City Council approval was required to remove/demolish a structure on heritage-designated property as per the OHA. To an independent reviewer, it is unclear if the City Council of the time would have known they were also exercising their authority as the regulator under the OHA for these recommendations.

Recommendations:

1. Non-compliance Consequences

The OHA requires written approval from City Council if a structure is to be removed or demolished on a heritage-designated property, regardless of its impact on heritage attributes. From an independent read of the reports to Council, while there may be implied approval of the removal of the old shed, it is not explicit and there is no mention that Council is approving the removal/demolition of a structure on heritage-designated property as required by the OHA.

In this instance, the City is both the applicant and the regulator. A dual role such as this requires particular attention to transparency, consistency, and statutory compliance - special attention must be paid to the principles of equity in enforcement. The assessment process, submissions and approvals should be equivalent to those that would be applied if a private citizen or third party were the applicant under the same circumstances.

As such, explicit statements for the removal/demolition of structures on the heritage-designated property as required by OHA should have been included in one of the original Recommendations, ideally the first one.

It is recommended that Administration consider:

1. The Heritage Planner should review the specific findings of this report and the lack of explicit approval for demolition/removal under the OHA. Based on that analysis the Heritage Planner should recommend remedial/consequential action the City should undertake. As part of this analysis and recommendation, it will be essential that the Heritage Planner identifies what would be (with support from what has been done) for similar scenarios where a party other than the City has been, or should have been, the applicant. Essential equivalency with treatment/consequence should be evident.
2. In the future, any and all removal/demolition of structures on heritage-designated properties should clearly indicate that City Council's approval is being sought for removal/demolition of a structure on heritage-designated property under the OHA.

Administration Response
<ol style="list-style-type: none"> 1. No additional action is required. The residential garage structures that were removed had no heritage value and did not have an impact on the heritage features referenced in the Roseland Designation Bylaw. Future process improvements to address the concern that Council may not have understood that their approval to remove the structures was being done under the Ontario Heritage Act are described in response to Recommendation 2 below. 2. In the past, City Council has provided approval for alterations and demolitions on heritage properties via a Council report brought forward by the City's Heritage Planner. Application was made via a letter addressed to the City outlining the desire to alter or demolish a structure on a designated heritage

property or a property located within a Heritage Conservation District (HCD).

A more formal application process and permit were developed as part of the Sandwich Heritage Conservation District that was adopted in 2011. The concept for a Heritage Alteration Permit (Permit or Heritage Permit) is well documented in the Sandwich HCD plan. According to the Sandwich HCD plan, Council's written consent for alteration and/or demolition would come in the form of a Heritage Alteration Permit (HAP). This approach was adopted for all heritage approvals across the city, with the first record of a HAP going to Council in 2013.

This has been the formal process for heritage approvals in the city since, including for City-owned properties. This process will also prevent a situation where Council is presented with a city project that proposes alteration or demolition without it being explicit that they are exercising their responsibilities and authority under the OHA.

The current process for a heritage demolition is for the department that is leading the City project to complete the HAP application form, then submitting it to the Heritage Planner for processing. The Heritage Planner then prepares a recommendation for Council based on the heritage context and according to Heritage Standards, including but not limited to Standards and Guidelines for the Conservation of Historic Places in Canada and other broadly accepted/recognized heritage conservation resources and practices. A Heritage Alteration Permit is issued following Council's approval of the demolition request. The HAP represents City Council's consent under the Ontario Heritage Act. Conversely, the Heritage Alteration Permit is not issued if Council denies the request for demolition.

Additionally, O. Reg. 385/21 came into force on July 1, 2021. The regulation set out new rules to implement the changes made to the Ontario Heritage Act through Bill 108, specifically establishing the minimum requirements for complete applications for demolition or alteration of a protected property.

All of the information related Heritage Alteration Permits, including the City's website have been updated to reflect the O. Reg. 385/21 regulations. The City of Windsor website provides helpful information about what a Heritage Alteration Permit is and when it is applicable. Specifically, a permit is required for specific changes to properties designated under Part IV (individual properties) or Part V (heritage conservation districts) of the Act when an alteration, addition, or demolition is being proposed.

<https://www.citywindsor.ca/residents/planning/plans-and-community-information/know-your-community/heritage-planning/heritage-regulation/heritage-alteration-permit>

Further, the website also the application form and provides some assistance and guidance about how to complete and submit a complete heritage permit application.

<https://www.citywindsor.ca/residents/planning/plans-and-community-information/know-your-community/heritage-planning/heritage-regulation/Application-for-Heritage-Alteration-Permit>

The following link is for the Application Form for Heritage Permit:

https://www.citywindsor.ca/Documents/residents/planning/plans-and-community-information/know-your-community/heritage-planning/heritage-regulation/Heritage%20Permit%20Form%202023-11_FILLABLE.pdf

There is also link to a document that outlines the Heritage Permit process for demolitions and comprehensive list of required information that must accompany a complete application.

<https://www.citywindsor.ca/Documents/residents/planning/plans-and-community-information/know-your-community/heritage-planning/heritage-regulation/Notice%20of%20Intent%20to%20Demolish%20Requirements%202023-11.pdf>

Per past practice for alterations (not demolitions) to heritage properties, certain classes of heritage applications have been addressed by Administration, specifically when the proposed work is:

- 1) considered minor or non-substantive;
- 2) verified by City staff to be acceptable and appropriate to the Heritage context and according to Heritage Standards (including but not limited to Standards and Guidelines for the Conservation of Historic Places in Canada and other broadly accepted/recognized heritage conservation resources and practices); and,
- 3) determined by City staff to not result in negative disruption or displacement to the cultural heritage value or interest of the property, or adversely impact the heritage designation of the property.

This approach has been codified in a more formal way through the City Planner Bylaw 139-2013 which delegates authority to the City Planner to process and consent to categories of alterations to designated heritage properties pursuant to s.33 of the Ontario Heritage Act subject to the criteria list above.

Further, all heritage properties are mapped on the corporate Enterprise Information System (EIS) to allow for easy identification of heritage properties, so that Building Permits for work that would alter or demolish all or part of a heritage property would not be issued prior to seeking the necessary Council approval (i.e. a Heritage Permit). This mapping also allows for city projects on heritage properties to be flagged and the appropriate heritage approvals secured

Responsible Party:		Due Date:	
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