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Town of Aurora

General Committee Report

No. PDS23-040

Subject: Designation of 30 Individual Properties under Part IV of the *Ontario Heritage Act*

Prepared by: Adam Robb, MPL, MCIP, RPP, CAHP, Senior Planner

Department: Planning and Development Services

Date: April 18, 2023

Recommendation

1. That Report No. PDS23-040 be received;
2. That, for the properties whose Notice of Intent to Designate has been withdrawn, Council authorize staff to:
 - Issue the respective Notices of Withdrawal
 - Remove the respective properties from the Town's Heritage Register in accordance with the provisions of Bill 23 and the *Ontario Heritage Act*;
3. That, for the properties where the Notice of Intent to Designate has not been withdrawn, the appropriate designation by-laws be brought back for enactment.

Executive Summary

The purpose of this report is to advise Council of the eight (8) Notices of Objection that have been received regarding Council's decision to designate thirty (30) individual properties for their cultural heritage value or interest under Part IV of the *Ontario Heritage Act* (previous report PDS22-042). Council is required to consider the Notices of Objection, which are attached to this report, and then decide whether to withdraw any of the Notices of Intent to Designate or whether to continue with the designation process.

- In October 2020, MHBC Planning Inc. was retained to conduct a Heritage Register Review for the Town and recommend properties for designation.
- Thirty (30) properties were recommended for designation, with Council approving the recommendations and directing staff to issue Notices of Intent to Designate.

- The Notices of Intent to Designate were issued in accordance with the *Ontario Heritage Act*, with there being opportunity for both objection and appeal.
- There are set criteria for determining cultural heritage value or interest under the *Ontario Heritage Act*, with two of nine criteria to be met to qualify for designation.
- Of the thirty (30) Notices of Intent to Designate that were issued, eight (8) Notices of Objection have been received for consideration by Council, with all eight of the properties being 'listed' on the Town's Heritage Register since at least 1995.
- Council can decide to withdraw their previous decision to pursue designation over any of the subject properties, which would result in the property being removed from the Town's Heritage Register.
- Numerous property owners have also indicated support for the heritage designation, with designation not intended to restrict renovations or complementary additions.

Background

In October 2020, MHBC Planning Inc. was retained to conduct a Heritage Register Review for the Town and recommend properties for designation

Council approved a capital budget to fund a comprehensive review of the Town's Heritage Register in late 2019. By August of 2020, the Town issued an RFP (Bid #202-71-PDS-P) and ultimately awarded the project contract to MHBC Planning Inc. in October 2020. This project was focused on assessing and making recommendations on the heritage value of the 374 properties that were 'listed' on the Town's Heritage Register.

The Heritage Register Review occurred from November 2020 to March 2022, and included multiple phases of evaluation and consultation. As part of the project, review and consultation occurred with the Town's Heritage Advisory Committee, Council, and an appointed Steering Committee comprised of Town staff, some Councillors and members of the Heritage Advisory Committee and a local historian. Ultimately, the recommendation was for fifty-seven (57) properties to be removed, and for thirty (30) properties to be prioritized for designation. The remaining 287 properties were determined to remain as listed on the Register. Further details and a complete summary of the project is also available through previous report PDS22-042.

Thirty (30) properties were recommended for designation, with Council approving the recommendations and directing staff to issue Notices of Intent to Designate

The recommendations of the Heritage Register Review were supported by the Heritage Advisory Committee on May 2, 2022, and then forwarded to Council. Council approved the recommendation to proceed in designating the thirty (30) individual properties in June of 2022 (June 21, 2022, General Committee; June 28, 2022, Council) and authorized staff to issue and serve the respective Notices of Intent to Designate.

The following is a list of these thirty (30) individual properties that were recommended for designation, and note that an asterisk indicates that the subject property owner has submitted a Notice of Objection:

16 Reuben Street *	16-18 Mosley Street
17 Wellington Street East	19 Mosley Street
21 Machell Avenue	21 Victoria Street
31 Tyler Street *	33 Mosley Street *
35 Metcalfe Street	36 Wells Street
41 Wellington Street East *	42 Wellington Street East
50 Mill Street	50 Tyler Street
50 Wellington Street East	53 Mosley Street
53 Wellington Street East	55 Metcalfe Street
56-58 Mosley Street	57 Mosley Street
68 Mosley Street	71 Tyler Street *
73 Kennedy Street West	73 Wellington Street East
77 Wellington Street East	79 Victoria Street
81 Tyler Street *	1978 Vandorf Sideroad *
14314-14378 Yonge Street (Pet Cemetery)	15800 Yonge Street *

The Notices of Intent to Designate were issued in accordance with the *Ontario Heritage Act*, with there being opportunity for both objection and appeal

The thirty (30) individual Notices of Intent to Designate were ultimately issued, served to property owners and the Ontario Heritage Trust, and then published in the newspaper on February 9, 2023. All thirty properties are currently “listed” on the Town’s Heritage Register. Under the *Ontario Heritage Act*, there is a 30-day objection period, which lasted until March 11, 2023, with there being eight (8) Notices of Objection received by property owners for Council’s consideration. The Notice of Intent to Designate is the earliest form of notice required under the Act and all consultation requirements with the Heritage Advisory Committee have been met.

At this point, the Notices of Objection have only been submitted to the Town for consideration by Council. It is at Council’s sole discretion to withdraw any Notices of Intent to Designate. No formal appeal or Ontario Land Tribunal (OLT) process is yet initiated or becomes considered until Council’s actual passing of a designation by-law, wherein there is a new 30-day period to appeal the passing of the designation by-law to the OLT. Council is required to make decisions and to pass designating by-laws within 120 days of February 9, 2023 (the date the Notice of Intent to Designate was published), with this being until June 9, 2023. Otherwise, the Notices are automatically deemed withdrawn and the properties are required to be removed from the Register. Further details on this are also provided under the ‘Legal Considerations’ section of this report.

Analysis**There are set criteria for determining cultural heritage value or interest under the *Ontario Heritage Act*, with two of nine criteria to be met to qualify for designation**

The designation of individual heritage properties occurs under Part IV of the *Ontario Heritage Act*, with there being nine specific criteria for determining cultural heritage value or interest as set out under *O. Reg. 9/06*. In order for a property to be designated under the Act, it has to meet two or more of the nine criteria for determining cultural heritage value or interest (regardless of category).

The nine criteria as listed under *O. Reg. 9/06* of the *Ontario Heritage Act* are as follows:

Design or Physical Value	1. Property is a rare, unique, representative or early example of a style, expression, material or construction method.
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	2. Property displays a high degree of craftsmanship or artistic merit.
	3. Property demonstrates a high degree of technical or scientific achievement.
Historical or Associative Value	4. Property has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to the community.
	5. Property yields, or has the potential to yield, information that contributes to an understanding of a community or culture.
	6. Property demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
Contextual Value	7. Property is important in defining, maintaining, or supporting the character of an area.
	8. Property is physically, functionally, visually or historically linked to its surroundings.
	9. Property is a landmark.

The Heritage Register Review exercise was rooted in an evaluation of the above criteria, with all thirty properties being deemed by the Review to merit designation under *O. Reg 9/06* and the *Ontario Heritage Act*. Generally speaking, the thirty (30) properties recommended for designation are all dated to the early settlement and development of the Town from the 19th and early 20th centuries and help contribute to defining local neighbourhood characters while being representative of early growth pre and post Confederation (1867), as the Town was founded (1854) and incorporated (1888), and during the World War periods. Specific details on each property are also provided based on the respective Notices of Intent to Designate that were issued and are attached to this report.

Of the thirty (30) Notices of Intent to Designate that were issued, eight (8) Notices of Objection have been received for consideration by Council, with all eight of the properties being 'listed' on the Town's Heritage Register since at least 1995

All Notices of Objection have been attached to this report alongside the respective Notices of Intent to Designate that were issued, which outlined the initial reasons for designation as authorized by Council in line with the criteria of the *Ontario Heritage Act*. The thirty (30) properties were evaluated and recommended through the Heritage Register Review and Council to be pursued for designation based on meeting the required criteria, but the Notices of Objection allow opportunity for Council to consider additional information from the owners.

While the merits and circumstances of each Notice of Objection and property are unique and should be considered independently, some general overlapping concerns include potential impacts to re-sale value, as well as concern over potential property restriction. As also outlined further in this report, the designation process however is not intended to limit the ability to renovate or pursue complementary additions.

For greater context on the properties that Notices of Objection were received for, all eight have been 'listed' on the Town's Heritage Register since at least 1995. Additionally, 41 Wellington Street East (Browning House) and 33 Mosley Street (Mechanics Hall) have both been recognized and inventoried by the Town's former Local Architectural Conservation Advisory Committee (LACAC) dating back to 1977-1985. Of the eight properties, particular attention should also be given to the fact that the Mechanics Hall at 33 Mosley was an important early civic institution for the Town and seen as a focal point for culture and community events, and that 1978 Vandorf Sideroad has connection to the Baber family, for whom Harold Baber gave his life in World War I, with his name enshrined in the Aurora War Memorial (brother of owner).

Additional general information on the eight properties is as follows, but full information is available in the attachments with specific consideration to be had for each Notice of Objection that has been submitted:

Property Address	Name/Identifier	Date of Construction	Style	Listed / Identified Since	Plaques
16 Reuben Street	Kennedy Family House	c. 1883	Victorian	HAC - 1995	None

Property Address	Name/Identifier	Date of Construction	Style	Listed / Identified Since	Plaques
31 Tyler Street	Ann Ransom House (also recognized home to David Rogers)	c. 1872	Victorian	HAC - 1995	Yes – issued in 2021
33 Mosley Street	Mechanics Hall	c. 1870	Gothic Revival Institutional	LACAC – 1977-1985	Yes – issued in 1992
41 Wellington Street East	Browning House	c. 1905	Romanesque	LACAC – 1977-1985	Yes – issued in 1993
71 Tyler Street	Johnston House	c. 1886-87	Victorian	HAC - 1995	Yes – issued in 2001
81 Tyler Street	McConnell House	c. 1886	Gothic Revival	HAC - 1995	None
1978 Vandorf Sideroad	Ransom-Baber House	c. 1880	Victorian	HAC - 1995	Yes – issued in 2014
15800 Yonge Street	St. Andrew's College	Moved to Aurora -1926	Georgian Campus Institutional	HAC - 1995	None

Council can decide to withdraw their previous decision to pursue designation over any of the subject properties, which would result in the property being removed from the Town's Heritage Register

Council is to consider the eight (8) Notices of Objection and should any Notice of Intent to Designate be withdrawn, the property is then required to be removed from the Town's Heritage Register, as per the requirements of the updated *Ontario Heritage Act* under Bill 23. The intent of this legislation from the Province is to prevent properties from remaining as "listed" for extended periods of time. If Council is not willing to designate a

property, the Province has deemed this to be justification for the property to be removed from the Heritage Register. Additionally, Bill 23 will result in all currently “listed” heritage properties automatically being removed from the Heritage Register by January 1, 2025 - this being two years after the *Ontario Heritage Act* amendments have taken effect.

To withdraw the Notice of Intent to Designate for a particular property, the following amendment should be moved by a Member of Council;

“That the Notice of Intent to Designate the property located at (street address) be removed”.

Numerous property owners have also indicated support for the heritage designation, with designation not intended to restrict renovations or complementary additions

Aside from the Heritage Conservation District process, the designation of these thirty (30) individual properties represents one of the largest heritage designation initiatives in Town history.

Through the Notice of Intent to Designate process, a number of owners also contacted staff expressing support for the initiative as important in preserving local history, streetscapes, and culture. Numerous property owners appreciated designation as a worthwhile initiative to also ensure the work they themselves have put into their properties is protected over the long-term.

Overall, the heritage designation process is largely about preserving built heritage and protecting properties from demolition. Designation is not intended to overtly restrict complementary building additions, any interior work, or even the building of accessory structures. Property owners expressed support for this recognition.

Advisory Committee Review

The Heritage Advisory Committee and an appointed project Steering Committee were consulted extensively throughout the development of the Heritage Register Review project. As mentioned, the recommendation to pursue designation for the thirty (30) properties was presented and supported by the Heritage Advisory Committee on May 2, 2022, prior to Council reviewing and recommending to proceed with the designations based on report PDS22-042 of June 2022. All requirements to consult with the Town’s Heritage Advisory Committee have been met.

Legal Considerations

In accordance with the *Ontario Heritage Act* (the “Act”), Council is required to consider the objections received and make a decision whether or not to withdraw the Notice to designate the property, within 90 days after the end of the 30-day objection period, or pass a bylaw to designate the property within 120 days after the date of publication of the Notice which in this case for both is June 9, 2023.

Changes to the Act per Bill 23 have significantly altered the permissions around municipal Heritage Registers and specifically the ‘listed’ status of properties. Bill 23 now requires that municipalities designate properties, as any property that is currently ‘listed’ will automatically be removed from the Heritage Register effective January 1, 2025 (two-year window from Bill amendments coming into force). Additionally, listed properties cannot be added back onto the Register for a period of five years after being removed, and there are new objection rights that are available to property owners when properties are listed (objections can be submitted, but no appeal rights). Should a property be listed again at any point in the future, it would also be subject to removal from the Register within two years should it not become designated in that time.

Further, should Council withdraw a Notice of Intent to Designate or not pass a designating by-law within the 120-day window from the publication of a Notice of Intent to Designate, the subject property is automatically removed from the Heritage Register.

With these new parameters in place, the designation of individual properties offers the only option and recourse available to municipalities across Ontario to ensure that demolition permits are not applied for as soon as listed properties are removed from the Register, and that heritage resources are preserved.

Financial Implications

None.

Communications Considerations

Per Council’s recommendation to pursue designation for the thirty (30) properties and authorization to serve and publish the Notices of Intent to Designate, each Notice was served on the respective property owner, served on the Ontario Heritage Trust, and published in the local newspaper effective February 9, 2023. All statutory notice requirements under the *Ontario Heritage Act* have been met.

Should Council withdraw any Notice of Intent to Designate, Notices of Withdrawal will be served on the property owner, any person who objected, and the Ontario Heritage Trust. A publication in the local newspaper will also occur.

Should Council pass a respective designation by-law, a notice of passing with a copy of the by-law alongside a notice of appeal rights will be served on the property owner, any person who objected, and the Ontario Heritage Trust. A notice of passing with appeal rights will also be published in the local newspaper, wherein there is a 30-day period to appeal to the OLT.

Climate Change Considerations

None.

Link to Strategic Plan

The conservation of heritage resources supports the Strategic Plan goal of Supporting an Exceptional Quality of Life for All through its accomplishment in satisfying requirements in objective Celebrating and Promoting our Culture.

Alternative(s) to the Recommendation

That Council choose not to withdraw any Notices of Intent to Designate and in turn proceed with the designation of all thirty (30) individual properties.

Conclusions

Further to Council's direction, and based on the results of the Town's Heritage Register Review, staff issued Notices of Intent to Designate for thirty (30) individual properties. Of these thirty (30) Notices of Intent to Designate that were issued, eight (8) Notices of Objection were received by property owners. These Notices of Objection are attached to this report and are to be considered by Council as part of their decision to withdraw any Notices of Intent to Designate or not. Further to Council's decision, staff will prepare the relevant Notices of Withdrawal or designation by-laws for Council enactment.

Attachments

Information Packages have been prepared for Council's review of each of the properties that submitted a Notice of Objection. These Information Packages include the Notice of

Objection received, the issued Notice of Intent to Designate that was based on the Heritage Register Review exercise, and property photos and any other supplemental imagery on file. Council can consider each package, and specifically the Notice of Objection, as part of their decision to withdraw a Notice of Intent to Designate or not:

Attachment 1 – Information Package with Notice of Objection (16 Reuben St.)

Attachment 2 – Information Package with Notice of Objection (31 Tyler St.)

Attachment 3 – Information Package with Notice of Objection (33 Mosley St.)

Attachment 4 – Information Package with Notice of Objection (41 Wellington St. E)

Attachment 5 – Information Package with Notice of Objection (71 Tyler St.)

Attachment 6 – Information Package with Notice of Objection (81 Tyler St.)

Attachment 7 – Information Package with Notice of Objection (1978 Vandorf Sdrd.)

Attachment 8 – Information Package with Notice of Objection (15800 Yonge St.)

Previous Reports

Previous report PDS22-042 dated June 21, 2022, presented the findings of the Town's Heritage Register Review exercise, with Council authorizing and directing staff to pursue thirty (30) individual properties for designation under the *Ontario Heritage Act*. Council ratification of this decision was made on June 28, 2022.

Pre-submission Review

Agenda Management Team review on March 30, 2023

Approvals

Approved by Marco Ramunno, Director, Planning and Development Services

Approved by Doug Nadorozny, Chief Administrative Officer