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Town of Aurora

General Committee Report

No. PDS23-121

Subject: Additional Properties to Consider for Designation under Part IV of the *Ontario Heritage Act*

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Department: Planning and Development Services

Date: October 3, 2023

Recommendation

1. That Report No. PDS23-121 be received; and
2. That staff consult with the owners of the 30 properties outlined in Attachment 1 to receive feedback on the consideration of the properties for designation under Part IV of the *Ontario Heritage Act*; and
3. That staff report back to Council on the feedback received from the owners prior to any further action being pursued, including the authorization and issuance of any potential Notices of Intention to Designate the properties.

Executive Summary

The purpose of this report is to inform Council of 30 currently listed properties that have been identified by staff and the Heritage Advisory Committee as warranting individual designation under Part IV of the *Ontario Heritage Act*. This report recommends initial consultation with the owners and reporting back to Council on the feedback received prior to any Notices of Intention to Designate being authorized and issued.

- MHBC Planning Inc. completed a Heritage Register Review for the Town in 2022.
- As a result of Provincial Bill 23, all listed properties in Ontario will be removed from municipal Heritage Registers on January 1, 2025, unless they are designated.
- Staff and the Heritage Advisory Committee reviewed the Town's remaining listed properties and identified 30 properties that meet the criteria for designation.

- Staff recommend consulting with the owners of the 30 properties and reporting back to Council prior to the authorization and issuance of any Notices of Intention to Designate the properties.

Background

MHBC Planning Inc. completed a Heritage Register Review for the Town in 2022

The Heritage Register Review project evaluated the 374 properties on the Town's Heritage Register to determine which properties should be prioritized for immediate designation, which properties should be removed, and which properties should remain listed. Alongside consultation with the Heritage Advisory Committee, 30 properties were deemed to be prioritized for designation (with these designations already pursued by the Town over the first half of 2023), 57 properties were removed from the Register, and 287 properties remained listed. The Heritage Register Review further recommended that in the course of time, warranting properties from the group of 287 properties remaining listed also be advanced towards designation. Complete information on the Heritage Register Review project was previously presented to Council through report PDS22-042.

The 30 subject properties being considered for designation now as part of this report were part of the group of 287 properties that were initially identified to remain listed by the Heritage Register Review exercise, however, they do qualify for designation based on having moderate to major heritage value. The respective property information sheets from the Heritage Register Review are included as Attachment 1 to this report for further reference and information. Additionally, since being identified to remain listed, recent provincial legislative changes through Bill 23 have also further necessitated the need to advance properties from listed to designated, as further outlined below.

As a result of Provincial Bill 23, all listed properties in Ontario will be removed from municipal Heritage Registers on January 1, 2025, unless they are designated

Bill 23 is omnibus provincial legislation, with updates made to the *Ontario Heritage Act* that will result in all currently listed heritage properties being automatically removed from the Register effective January 1, 2025. In turn, these properties cannot be relisted again for another five years, and any future re-listings will again be subject to a two-year window where they are removed should they not be designated within that time period.

Delisted properties are vulnerable to demolition, as owners would be entitled to apply for demolition permits at any time. The Province through Bill 23 is trying to limit the amount of time that properties are listed for and instead have municipalities maintain

Heritage Registers that ultimately prioritize the designation of properties. Bill 23 was implemented in support of the Province's goal of building more homes, faster, and adding efficiencies to the planning review process.

Analysis

Staff and the Heritage Advisory Committee reviewed the Town's remaining listed properties and identified 30 properties that meet the criteria for designation

The *Ontario Heritage Act* provides criteria for determining cultural heritage value or interest through *Ontario Regulation 9/06*. This Regulation requires that a property must exhibit design/physical, historical/associative, or contextual value to warrant designation. There are three sub-criteria under each of these categories, with a property required to substantially meet two of the nine total criteria in order to qualify for designation. The criteria under *Ontario Regulation 9/06* are:

Design or Physical Value	1. Property is a rare, unique, representative or early example of a style, expression, material or construction method.
	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 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.

Staff and the Heritage Advisory Committee reviewed all the remaining 287 properties that are currently listed on the Town's Heritage Register against the criteria of *Ontario Regulation 9/06* and determined that the following 30 properties qualify for designation:

- 71 Connaught Avenue
- Kennedy Street West – 7, 11, 15, 19, 21, 29
- Spruce Street – 76, 77, 79, 80, 81, 83, 84 85, 87
- Temperance Street – 126, 134, 137, 138, 139, 142, 143
- 59 Tyler Street
- Wellington Street East - 9, 21
- 19, 35 and 37 Wellington Street West (one parcel)
- Yonge Street – 15018, 15120, 15054

These properties largely merit heritage designation not only due to their physical and historical value, but also due to their contextual value, with the vast majority being located within the established 'Old Aurora', downtown, and Town Park neighbourhood areas and contributing to the character of these streetscapes.

Staff recommend consulting with the owners of the 30 properties and reporting back to Council prior to the authorization and issuance of any Notices of Intention to Designate the properties

There are no consultation requirements under the *Ontario Heritage Act* prior to issuing a Notice of Intention to Designate, however, staff are recommending initial consultation and engagement with the owners to allow opportunity for dialogue, information-sharing, and better understanding of the designation process.

Under the *Ontario Heritage Act*, municipalities have a limited 120 day timeline from the issuance of a Notice of Intention to Designate to pass a by-law and designate a property. With this timeline in place, initial consultation with owners in advance of the issuance of a Notice of Intention to Designate allows engagement to occur prior to the legislative clock starting. Then, should a Notice of Intention to Designate ultimately be issued, it also becomes less of a surprise on the homeowner and any questions can be answered proactively beforehand to make the designation process run smoother. Assuming consultation with the owners can occur through 2023 and early 2024, there are no concerns with then designating respective properties over 2024 and prior to the Bill 23 deadline of automatic removal on January 1, 2025.

Once a Notice of Intention to Designate is issued, owners are also entitled to formally object to the Notice within 30 days, and have this objection be presented to Council.

Council can consider the objection and either continue with the designation or withdraw the Notice of Intention to Designate. Council withdrawal automatically results in the property not being designated, and also being removed from the Heritage Register in line with the Bill 23 limitations on properties remaining as 'listed'. Once a designation by-law is passed, owners are also further entitled to appeal the decision within 30 days to the Ontario Land Tribunal.

Overall, heritage designation is largely intended to preserve built heritage and protect properties from demolition and unsympathetic alterations. Designation is not intended to overtly restrict complementary building additions, any interior work, or even the construction of accessory structures. Consultation with owners will also be able to answer any questions pertaining to re-sale value or insurance, with studies on heritage designation showing no negative impact to re-sale values (Shipley, "Heritage Designation and Property Values: Is there an Effect?") and insurance rates not being impacted, as in the event of an unforeseen loss of a building, designation does not require the homeowner to reconstruct or rebuild in the original like manner. There are no special insurance requirements beyond what is ordinarily covered in the event of loss or damage. Consultation with homeowners will be able to answer any related questions about the designation process and what it entails.

Advisory Committee Review

The 30 subject properties were reviewed and recommended for designation by the Town's Heritage Advisory Committee at the meeting held on July 31, 2023. The Heritage Advisory Committee was provided with the entire inventory of the 287 remaining listed heritage properties for review. Staff recommended 29 properties be pursued for designation, with the Heritage Advisory Committee in support and also adding one additional property being 71 Connaught Avenue to also be pursued for designation. 71 Connaught Avenue is associated with Norm and Ada Johnson, of which the Norm Johnson Hall of Education in the Aurora Sports Hall of Fame is named after, with Norm Johnson being a local educator, athlete and veteran. Further details on all 30 properties are also included in Attachment #1 of this report.

Legal Considerations

Changes to the *Ontario Heritage Act* per Bill 23 have significantly altered the permissions around municipal Heritage Registers and specifically the 'listed' status of properties. Under Bill 23, all listed properties will be automatically 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. 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. The province has clarified that delisted properties can still be designated within the 5-year prohibition period after being removed from the Heritage Register, however, once delisted, the property owners would be entitled to apply for and obtain demolition permits. Further, properties that are subject to a 'prescribed event', being once a planning application for a property is deemed complete, can only be designated if they listed first.

Should Council decide to proceed with the designation of any of the subject properties, a Notice of Intention to Designate (the "Notice") will be served on the respective property owners and the Ontario Heritage Trust and published in the local newspaper. Once the Town issues the Notice, the property is protected under the *Ontario Heritage Act* as designated. Any person may object to the Notice within 30 days of its publication.

If there are no objections within the 30 day period, the designation by-law for the subject property must be brought forward to Council for approval within 120 days after the initial date of publication of the Notice.

If there are objections, any person that objects to the proposed designation shall, within 30 days of the publication of the Notice, serve a notice of objection setting out the reason(s) for the objection and all relevant facts. Council shall consider the objection and decide whether or not to withdraw the Notice to designate the property, within 90 days after the end of the 30-day period.

If Council withdraws the Notice, then notice of the withdrawal must be given to the property owner, any person who objected, and the Ontario Heritage Trust and also be published in the local newspaper. If Council decides to not withdraw the Notice thereby continuing with the designation of the property, then the designation by-law for the subject property must be brought forward to Council for approval within 120 days after the date of publication of the Notice. Anyone may appeal the passing of the designating by-law to the Ontario Land Tribunal for a hearing.

If the by-law is not passed within 120 days of the Notice, then the Notice is deemed to be withdrawn and notice of the withdrawal must be given to the property owner, any person who objected and the Trust and published in the local newspaper.

Financial Implications

None.

Communications Considerations

Staff are recommending to undertake initial consultation with each of the 30 respective homeowners prior to any formal Notices of Intention to Designate being authorized for issuance by Council. Staff will prepare letters to each homeowner and offer individual in-person, virtual, or telephone meetings, at the request and preference of the owner, to explain the designation process. The results of the consultation and feedback received by the homeowners will then be reported back to Council prior to any further action including the authorization and issuance of any Notices of Intention to Designate the properties occurring.

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 the objective Celebrating and Promoting our Culture.

Alternatives to the Recommendation

1. That no properties be considered for designation at this time and no consultation with the owners on the designation of the properties be pursued.
2. That Council choose to add or remove any other properties for heritage designation consideration rather than the 30 identified in this report.
3. That Council authorize the issuance of the Notices of Intention to Designate the subject properties without any initial consultation with the owners.

Conclusions

After review by staff and the Heritage Advisory Committee, 30 properties that are currently listed have been identified as meeting the required criteria for designation under the *Ontario Heritage Act*. Staff recommend initial consultation with the respective owners on the designation process and reporting back to Council on the feedback received prior to any formal Notices of Intention to Designate being authorized and issued for the subject properties.

Attachments

Attachment #1 – Heritage Property Information Sheets (30 Additional Properties to Consider for Designation)

Previous Reports

A Memorandum was presented to the Heritage Advisory Committee on July 31, 2023.

Pre-submission Review

Agenda Management Team review on September 14, 2023

Approvals

Approved by Marco Ramunno, Director, Planning and Development Services

Approved by Doug Nadorozny, Chief Administrative Officer