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## **Bill 23 - Non-Designated Heritage Properties Staff Report to Council**

Report Number: 2024-28

Department(s): Planning and Building Services

Author(s): Umar Mahmood, Planner, Committee of Adjustment and Cultural Heritage

Meeting Date: May 27, 2024

### **Recommendations**

1. That the report entitled Bill 23 – Non-Designated Heritage Properties dated May 27, 2024 received; and,
2. That the list of 49 Priority Properties is received; and,
3. That Staff be instructed to proceed to issue a Notice of Intention to Designate (NOID) to all properties on the Priority List should they meet the Provincial designation criteria after further evaluation; and,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

### **Purpose**

The purpose of this report is to bring forward a list of 49 properties (hereafter referred to as the Priority List) that staff are recommending proceed to designation under Part IV of the *Ontario Heritage Act*.

### **Background**

In November of 2022, the provincial government enacted Bill 23, known as the *More Homes, Built Faster Act*. This legislation brought forth comprehensive changes to land use planning throughout Ontario. Regarding cultural heritage, Schedule 6 of the Bill made changes to the *Ontario Heritage Act*. These revisions took effect on January 1, 2023, and municipalities are mandated to adhere to these changes. One of the key changes involves municipal lists of non-designated heritage properties.

Bill 23 – Non-Designated Heritage Properties

## Discussion

### Bill 23 and Removal from Non-Designated Heritage List

Many municipalities across the province, including Newmarket, maintain a list of non-designated heritage properties. These are properties that have been found to hold cultural heritage significance, but they are not formally designated under Parts IV or V of the *Ontario Heritage Act* (and therefore are not “designated”). These non-designated heritage properties have no specific alteration restrictions, but owners of such properties must provide Council with 60 days of notice if demolition is intended. If the Town received a demolition request, the Town would then evaluate the property and determine if full designation of the property is warranted. Currently the Town has 367 non-designated heritage properties on its register.

Notable changes for non-designated heritage properties include:

- Mandatory removal from the Non-Designated Heritage Register two years from listing, or from the date the amendments came into effect (January 1, 2023)
- Municipalities must also remove a property from the Non-Designated Register if Council issues a Notice of Intention to Designate but fails to pass a designating by-law within 120 days.

The major change resulting from Bill 23 is that properties currently on the non-designated heritage register will be automatically removed from the register on January 1, 2025, if they are not designated by that point. This new legislation is effectively forcing municipalities to assess their non-designated lists and move forward with designation where warranted. If not, these properties will be removed from the non-designated list and lose heritage protection.

Bill 23 also changed criteria for meeting designation. Properties must meet two or more of the criteria set out in O.Reg. 9/06 to be designated (attachment 1), whereas previously only one of the nine criteria had to be met for a property to be designated.

### Work Completed to Date to Respond to Bill 23

In February 2023 the Town retained the services of Archaeological Research Associates Ltd. (ARA) to complete a review of the Town’s 367 properties that are on the non-designated heritage list. A memo has been provided (attachment 2) outlining their methodology and review. A table outlining the specific criteria for each property is also provided (attachment 3).

As part of the review, ARA’s methodology included looking at all available architectural, historical and feature-based information included in the non-designated heritage registry for each property to ascertain if the property meets more than one criteria under O.Reg.

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9/06 (attachment 3), prioritization of the property based on material integrity, and the risk factors of potential redevelopment.

Of the 367 properties on the non-designated heritage list, a total of 49 (approximately 13%) were flagged as potentially meeting the designation criteria. These 49 properties were further categorized into priority levels 1 to 3. The 49 properties, regardless of priority level, comprise the Priority List for designation.

Out of the 49 properties on the Priority List:

- 13 properties are categorized as priority 1
- 15 properties are categorized as priority 2
- 21 properties are categorized as priority 3

Staff have prepared a summary document of the 49 properties, separated by category level, including a photo, date of construction, value/importance of the property, and identification of any significant features, (attachment 4).

## Mapping

For reference, staff have prepared mapping that identifies the locations of all 367 non-designated heritage properties currently on the Town's Non-Designated Heritage Register (attachment 5), as well as the 49 priority properties flagged for designation (attachment 6).

## Public Notification

On March 4<sup>th</sup>, 2024, all owners of the 49 priority properties were notified by mail of the project's commencement and specifically that the Town will be reviewing their property to see if it meets provincial criteria for heritage designation (attachment 7).

On March 19<sup>th</sup>, 2024, Heritage Newmarket Advisory Committee was consulted as per the requirements of the *Ontario Heritage Act*. The Priority List was brought forward to Heritage Newmarket Advisory Committee. The Committee provided comments on the properties and recommended proceeding with the Priority List.

On April 17<sup>th</sup>, 2024, letters were hand delivered to the priority properties.

## Next Steps and Timing

Should staff be directed to proceed with designation of the 49 properties on the Priority List, as per this report's recommendation, the following action items will be undertaken:

1. ARA prepares designation reports for the 49 properties on the Priority List

2. Staff prepare and send statutory Notice of Intention to Designate (NOID) to all 49 property owners should they meet the Provincial designation criteria after further evaluation – Q3 2024
3. Staff Recommendation Report for properties recommended for advancing a designation by-law; accompanied by applicable appended objection letters (public deputation opportunity) – Q4 2024
4. Staff prepare by-laws for each property – Q4 2024
5. Council passes Designation By-laws, within 120 days of sending NOID – Q4 2024
6. Town sends Notice of Passing property owners
7. 30-day appeal period commences

Although the work to be completed is a significant undertaking of staff time and resources, staff is on track to meet the January 1, 2025 deadline.

## **Conclusion**

In response to Bill 23, the Town has undertaken a review of the 367 properties currently on its Non-designated Heritage Registry. Heritage Newmarket Advisory Committee has been consulted. The review has resulted in the identification of 49 properties (approximately 13%) that have met potential for designation. Full designation reports will be required to determine if the property meets the criteria for individual Heritage Designation under Part IV of the OHA. After the completion of designation reports, Town Staff will be in a position to begin the process of designating properties as per the process laid out in the *Ontario Heritage Act*.

Staff are working quickly to meet the timing requirements imposed by Bill 23, as any properties left on the non-designated heritage list on January 1, 2025 will be automatically removed from the list by provincial legislation.

## **Business Plan and Strategic Plan Linkages**

- Extraordinary places and spaces

## **Consultation**

On March 19<sup>th</sup>, 2024, Heritage Newmarket Advisory Committee was consulted as per the requirements of the *Ontario Heritage Act*.

## **Human Resource Considerations**

None.

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## **Budget Impact**

The Town is paying fees associated with retaining ARA consultants for their research work and preparation of the designation reports for the 49 properties on the Priority List.

## **Attachments**

Attachment 1 – O.Reg 9/06 - Criteria for Determining Cultural Heritage Value or Interest

Attachment 2 – High-Level Ranking of Listed Properties Memo, Archeological Research and Associates.

Attachment 3 – ARA – Non-Designated Properties List (Excel file)

Attachment 4 – 49 Priority Properties

Attachment 5 – GIS Mapping Non-Designated Heritage Properties

Attachment 6 – GIS Mapping of the 49 Priority Properties

Attachment 7 – Letter for 49 Priority Property owners

## **Submitted by**

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## **Approved for Submission**

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