

# Staff Report



Development Services Department

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**REPORT TO:** Heritage Kitchener

**DATE OF MEETING:** October 3, 2023

**SUBMITTED BY:** Garrett Stevenson, Manager of Development Review, 519-741-2200 ext. 7070

**PREPARED BY:** Victoria Grohn, Heritage Planner, 519-741-2200 ext. 7041

**WARD(S) INVOLVED:** Ward 2

**DATE OF REPORT:** September 8, 2023

**REPORT NO.:** DSD-2023-412

**SUBJECT:** Notice of Intention to Designate 28 Burgetz Avenue under Part IV of the Ontario Heritage Act

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## RECOMMENDATION:

**That pursuant to Section 29 of the *Ontario Heritage Act*, the Clerk be directed to publish a Notice of Intention to Designate the property municipally addressed as 28 Burgetz Avenue as being of cultural heritage value or interest.**

## REPORT HIGHLIGHTS:

- The purpose of this report is to request that Council pass a Notice of Intention to Designate 28 Burgetz Avenue under Part IV of the *Ontario Heritage Act*.
- The key finding of this report is that 28 Burgetz Avenue meets 3 out of the 9 criteria for designation under *Ontario Regulation 9/06* (amended by Regulation 569/22) and has been confirmed to be a significant heritage resource.
- There are no financial implications.
- Community engagement included informing residents by posting this report with the agenda in advance of the Heritage Kitchener Committee meeting, consulting with the owner regarding designation of this property, and consultation with Heritage Kitchener. In addition, should Council choose to give notice of its intention to designate, such notice will be served to the owner and the Ontario Heritage Trust, and published in the local newspaper.
- This report supports the delivery of core services.

## BACKGROUND:

The property municipally addressed as 28 Burgetz Avenue is located on the north side of Burgetz Avenue between Thaler Avenue and Kinzie Avenue. The subject lands are not listed or designated under the *Ontario Heritage Act* but contain a 19<sup>th</sup> century two-storey log house. The existence of the structure was unknown until 2018 when the then-owner planned to demolish the entire dwelling and redevelop the lands. Upon discovery of the log

\*\*\* This information is available in accessible formats upon request. \*\*\*  
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

structure, the then-owner completed a Heritage Impact Assessment (HIA) and Conservation Plan (CP) and proposed to retain the log house in-situ.



**Figure 1: Location Map of 28 Burgetz Avenue**

The HIA and CP, both prepared by MHBC Planning in 2018, were submitted in support of Committee of Adjustment application B2019-020 in order to facilitate the severance of a lot containing the log house and retain the balance of the lands for future development. The HIA concluded that the log house located on the subject property is a significant cultural heritage resource and meets the criteria for designation under Part IV of the *Ontario Heritage Act*.



**Figure 2: 28 Burgetz Avenue**

One of the conditions of approval of Committee of Adjustment application B2019-020 is that the owner shall enter into an agreement with the City of Kitchener that is registered on title of the severed lands and that following completion of building renovations contemplated under Building Permit 19-101721, that the owner agrees that the property containing the log house be designated under Part IV of the *Ontario Heritage Act*. The building renovations contemplated under Building Permit 19-101721 were completed in 2020.

In keeping with the agreement registered on title of the property, the City of Kitchener is pursuing designation of the property containing the log house under Part IV of the *Ontario Heritage Act*.

## **REPORT:**

Identifying and protecting cultural heritage resources within the City of Kitchener is an important part of planning for the future, and helping to guide change while conserving the buildings, structures, and landscapes that give the City of Kitchener its unique identity. The City plays a critical role in the conservation of cultural heritage resources. The designation of property under the *Ontario Heritage Act* is the main tool to provide long-term protection of cultural heritage resources for future generations. Designation recognizes the importance of a property to the local community; protects the property's cultural heritage value; encourages good stewardship and conservation; and promotes knowledge and understanding about the property. Designation not only publicly recognizes and promotes awareness, but it also provides a process for ensuring that changes to a property are appropriately managed and that these changes respect the property's cultural heritage value and interest.

The property municipally addressed as 28 Burgetz Avenue is recognized for its design/physical and historical/associative values and satisfies 3 out of the 9 criteria of *Ontario Regulation 9/06*. In accordance with the conclusions and findings of the HIA, the subject property has lost the majority of its contextual value. While the existing log house remains on the subject lands, it is no longer associated with a working agricultural landscape. The evaluation, as included in the HIA, has been summarized in the Table below (Table 1).

Ontario Regulation 9/06	28 Burgetz Avenue (log house)	
<b>1. Design/Physical Value</b>		
i. Rare, unique, representative or early example of a style, type, expression, material or construction method	✓	Rare, representative, and early example of early 19 <sup>th</sup> century log construction in Waterloo County.
ii. Displays high degree of craftsmanship or artistic merit	✗	Is constructed with typical/representative construction methods of the early 19 <sup>th</sup> century.
iii. Demonstrates high degree of technical or scientific achievement	✗	Is constructed with typical/representative construction methods of the early 19 <sup>th</sup> century.
<b>2. Historical/associative value</b>		
i. Direct associations with a theme, event, belief, person, activity, organization, institution that is significant	✓	Directly associated with the theme of early 19 <sup>th</sup> century settlement of Waterloo Township and Waterloo County.
ii. Yields, or has potential to yield information that contributes to an understanding of a community or culture	✓	Contributes to the understanding of the early settlement of Lot 54 of the German Company Tract.
iii. Demonstrates or reflects the work or ideas of an architect, artist, builder, designer, or theorist who is significant to the community.	✗	(architect/builder cannot be conclusively determined)
<b>3. Contextual value</b>		
i. Important in defining, maintaining or supporting the character of an area	✗	(context has changed significantly and the building has been altered in such a way that it does not define, maintain, or support the character of the area)
ii. Physically, functionally, visually, or historically linked to its surroundings	✗	The building is historically linked to its surroundings as part of the former Burgetz farmstead, but is no longer a significant attribute of the building due to the significant alteration of the surrounding landscape.
iii. Is a landmark	✗	(not identified as a local landmark/exterior attributes have been covered for an extended period of time)

**Table 1 – Cultural Heritage Evaluation as included in the HIA (source: MHBC)**

### Design/Physical Value

The building on the property located at 28 Burgetz Avenue has significant design/physical value. Many original log houses indicative of the first wave of Euro-Canadian settlement have been removed from the landscape, and the construction of this building is a rare, representative, and early example of early 19<sup>th</sup> century log construction in Waterloo County. The original log house was constructed using hand hewn squared logs laid on top of each other horizontally with mortar and horsehair chinking.

### Historical/Associative Value

The property located at 28 Burgetz Avenue has significant historical/associative value related to the theme of early agricultural settlement of Waterloo Township. The subject lands are associated with members of the Burgetz family, having held ownership of part of Lot 54 of the German Company Tract for 119 years (since land was first purchased by

Allen Burgetz in 1899). The property includes an early 19<sup>th</sup> century log house which may aid in understanding the early history of the community.

### **Heritage Attributes**

The heritage attributes of the log house are:

- Overall 2-storey massing;
- Squared-log construction with horsehair and mortar chinking; and
- Original door and window openings.

### **STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

### **FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

### **COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City’s website with the agenda in advance of the Heritage Kitchener committee meeting.

CONSULT – Heritage Planning staff have consulted with the owner regarding implementation of the recommendations of the HIA, including designation under the *Ontario Heritage Act*.

Section 29(2) of the *Ontario Heritage Act* requires Council to consult with the Municipal Heritage Committee (Heritage Kitchener) before giving notice of its intention to designate a property. Heritage Kitchener will be consulted via circulation and consideration of this report (see INFORM above). Members of the community will be informed via circulation of this report to Heritage Kitchener and via formal consideration by Council. In addition, should Council choose to give notice of its intention to designate, such notice will be served on the property owner and the Ontario Heritage Trust, and published in the local newspaper (The Record). Once notice has been served, the owner has the right of appeal to the Ontario Land Tribunal. It should be noted that should Council decide not to proceed with a Notice of Intention to Designate, that the building will remain on the City’s Municipal Heritage Register until January 1, 2025, after which it will be removed according to the changes enacted by Bill 23. Once removed, it cannot re-listed on the Register again for five (5) years, i.e. January 1, 2030.

### **PREVIOUS REPORTS/AUTHORITIES:**

- *Ontario Heritage Act, 2022*
- *DSD-19-128*
- *DSD-20-030*

**APPROVED BY:** Justin Readman, General Manager, Development Services

**ATTACHMENTS:**

Attachment A – Proposed Statement of Significance for 28 Burgetz Avenue