

# Staff Report



Development Services Department

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**REPORT TO:** Heritage Kitchener

**DATE OF MEETING:** January 9, 2024

**SUBMITTED BY:** Garett Stevenson, Director of Development and Housing Approvals,  
519-741-2200 ext. 7070

**PREPARED BY:** Jessica Vieira, Heritage Planner, 519-741-2200 ext. 7041

**DATE OF REPORT:** December 14, 2023

**REPORT NO.:** DSD-2024-022

**SUBJECT:** Municipal Heritage Register Review – January 2024 Update

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## RECOMMENDATION:

That pursuant to Section 29 of the *Ontario Heritage Act*, the cultural heritage value or interest be recognized, and designation pursued for the following properties:

- 33 Eby Street South
- 72 Victoria Street South

## REPORT HIGHLIGHTS:

- The purpose of this report is to recommend pursuing designation under Part IV of the Ontario Heritage Act for two properties that are currently listed as non-designated properties of cultural heritage value or interest on the Municipal Heritage Register.
- The key finding of this report is that the properties possess design/physical, historical/associative, and contextual value and meet the criteria for designation under Ontario Regulation 9/06 (amended through Ontario Regulation 569/22).
- There are no financial implications.
- Community engagement included consultation with the Heritage Kitchener Committee.
- This report supports the delivery of core services.

## BACKGROUND:

On January 1<sup>st</sup>, 2023 amendments to the Ontario Heritage Act (OHA) came into effect through Bill 23, the *More Homes Build Faster Act*. One of the primary changes introduced was the imposition of a new timeline which requires “listed” properties on the Municipal Heritage Register to be evaluated to determine if they meet the criteria for heritage designation before January 1<sup>st</sup>, 2025. Listed properties are properties that have not been designated, but that the municipal Council believes to be of cultural heritage value or interest. The criterion for designation is established by the Provincial Government (Ontario Regulation 9/06, which has now been amended through Ontario Regulation 569/22) and a minimum of two must be met for a property to be eligible for designation.

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

A work plan to address these changes has been developed by Heritage Planning Staff with consultation from the Heritage Kitchener Committee on February 7<sup>th</sup>, 2023. Implementation of the work plan has now commenced. The Architectural Conservancy Ontario North Waterloo Branch have offered assistance in conducting the Municipal Heritage Register Review and have aided Heritage Planning Staff in a review of the properties subject to this report. Below is a summary of the findings for the properties recently reviewed, and recommendations for next steps.

## **REPORT:**

### **Ontario Regulation 569/22 (Amended from Ontario Regulation 9/06)**

Among the changes that were implemented through Bill 23, the Ontario Regulation 9/06 – which is a regulation used to determine the cultural heritage value or interest of a property, was amended through Ontario Regulation 569/22 (O. Reg. 569/22). Where the original regulation had three main categories – design/physical, historical/associative and contextual - with three (3) sub-categories for determining cultural heritage value, the amended regulation now lists all nine (9) criteria independently.

The new regulation has been amended to the following:

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

Also, among the changes brought about by Bill 23 are how properties can now be listed or designated under Part IV of the Ontario Heritage Act. They include:

- Properties would warrant being listed on the City's Municipal Heritage Register if they met **one or more criteria** of O. Reg 9/06 (amended through O. Reg. 569/22).
- Properties could be designated under Part IV of the Ontario Heritage Act if they meet **two or more criteria** of O. Reg 9/06 (amended through O. Reg. 569/22).

Pursuant to O. Reg 9/06 (amended through O. Reg. 569/22), the subject properties meet the following criteria for determining cultural heritage value or interest:

### **33 Eby Street South**

The subject property municipally addressed as 33 Eby Street South meets five of the nine criteria of O. Reg 9/06 (amended through O. Reg. 569/22)

- The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method.
- The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.
- The property has historical or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.
- The property has contextual value because it is important in defining, maintaining or supporting the character of an area.
- The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.

### **72 Victoria Street South**

The subject property municipally addressed as 72 Victoria Street South meets six of the nine criteria of O. Reg 9/06 (amended through O. Reg. 569/22)

- The property has design value or physical value because it is a rare, unique, representative or early example of a style, type, expression, material or construction method.
- The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.
- The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community.
- The property has historical or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.
- The property has contextual value because it is important in defining, maintaining or supporting the character of an area.
- The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.

## **Heritage Kitchener Committee Options**

### **Option 1 – Pursuing Designation for these properties**

Should Heritage Kitchener committee vote to start pursuing designation for these properties, staff will then contact the respective property owners to inform them and to start working with them towards designation. Staff will then bring Notices of Intention to Designate back

to the Committee to initiate the designation process. Should a property owner object to their property being designated, they can submit an appeal to the Ontario Land Tribunal (OLT) to rule on the decision. If the OLT determines that the property should not be designated but remain listed, it will be removed from the Municipal Heritage Register on January 1, 2025.

### Option 2 – Deferring the Designation Process

Should Heritage Kitchener vote to defer the designation process for these properties, they will remain listed on the City's Municipal Heritage Register until January 1, 2025, after which they will have to be removed. The process of designating these properties can be started at any time until January 1, 2025.

### Option 3 – Not Pursuing Designation for these properties

Should Heritage Kitchener vote not to pursue the designation of these properties, they will remain listed on the City's Municipal Heritage Register until January 1, 2025, after which they will be removed. Once removed, these properties will not be able to be re-listed for the next five (5) years i.e. – January 1, 2030.

It should be noted that, per the endorsed work plan, staff are currently undertaking evaluations for high priority properties that are located in areas of the City that are experiencing significant redevelopment.

### **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.

INFORM – This report has been posted to the City's website with the agenda in advance of the council / committee meeting.

CONSULT AND COLLABORATE – The Municipal Heritage Committee (Heritage Kitchener) have been consulted at previous meetings regarding the proposed strategy to review the Municipal Heritage Register of Non-designated Properties and participated in the assessment of the properties subject to this report.

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

- Heritage Kitchener Committee Work Plan 2022-2024 – DSD-2023-053
- Bill 23 – Municipal Heritage Register Review – DSD-2023-225
- Kitchener Municipal Heritage register Review – August Update – DSD-2023-309
- *Ontario Heritage Act, 2022*

**REVIEWED BY:** Natalie Goss, Manager of Policy and Research  
Rosa Bustamante, Director of Planning and Housing Policy/City  
Planner

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

**ATTACHMENTS:**

Attachment A – 33 Eby Street South Statement of Significance

Attachment B – 72 Victoria Street South Statement of Significance