

# Town of Whitby

## Staff Report

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### Report Title: 780 Garden Street – Notice of Intention to Designate a Property under Part IV, Section 29 of the Ontario Heritage Act

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**Report to:** Committee of the Whole

**Date of meeting:** November 13, 2023

**Report Number:** PDP 42-23

**Department(s) Responsible:**

Planning and Development Department  
(Planning Services)

**Submitted by:**

Roger Saunders, Commissioner of  
Planning and Development

**Acknowledged by M. Gaskell,  
Chief Administrative Officer**

**For additional information, contact:**

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#### 1. Recommendation:

1. That a Notice of Intention to Designate the property identified as the Mayfield House, located at 780 Garden Street in Whitby, be published per section 29 (1.1) of the Ontario Heritage Act, R.S.O. 1990 c. O.18, as amended;
2. That, after the 30-day Objection period has passed per Section 29 (6) of the Ontario Heritage Act, Council consider passing a by-law designating the property under Part IV, Section 29 of the Ontario Heritage Act; and,
3. That, after the passing of the by-law, if no appeals to the Tribunal are received during the 30-day appeal period per Section 29 (12) of the Ontario Heritage Act, and the designation by-law comes into full force and effect under Part IV of the Ontario Heritage Act, that a commemorative plaque be installed in a form and location to the satisfaction of the Senior Manager, Policy & Heritage Planning, or designate.

**2. Highlights:**

- The Mayfield House, municipally addressed as 780 Garden Street, is located on the north west corner of Garden Street and Manning Road, and has been identified by staff and the Heritage Whitby Advisory Committee as a potential candidate for Part IV designation under the Ontario Heritage Act (the Act).
- In September 2023, the Town received Zoning By-law Amendment and Draft Plan of Subdivision applications for a townhouse development proposal, which would retain the existing single-detached house (the Mayfield House) for a residential and/or office use, yet to be determined.
- A Cultural Heritage Impact Assessment and Statement of Significance have been prepared by the applicant's Heritage Consultant, which demonstrates that the Mayfield House meets two (2) or more criteria required for designation under the Act and its regulations.
- Staff have consulted with the property owner and are proposing heritage designation, as designating properties under the Act ensures that properties of cultural heritage value and interest within the Town are protected, preserved and maintained for future generations.
- The Part IV designation would apply to the portion of the property on which the Mayfield House is located, and not the remaining portion where the townhouse development is proposed.

**3. Background:**

Zoning By-law Amendment and Draft Plan of Subdivision applications under the Planning Act have been submitted to permit the redevelopment of the subject land at 780 Garden Street (refer to Attachment #1 and Attachment #2), for which a Statutory Public Meeting is anticipated to be held on December 6, 2023.

The purpose of the proposed Planning Act applications is to permit both residential as well as professional office space uses within the existing single-detached house (the Mayfield House, also known as the John Thomson House), as well as to permit the construction of townhouse units on the remainder of the subject land.

Currently, 780 Garden Street is listed on the Town's Municipal Heritage Register, which provides some protection for the property if demolition is proposed. However, a Part IV individual designation under the Ontario Heritage Act provides further protection and requires a heritage permit for work on the structure that may impact its significant heritage attributes.

A Cultural Heritage Impact Assessment (CHIA) report, completed by Architects Rasch Eckler Associates Ltd. was submitted as part of the Planning Act applications, outlining how the existing house would be retained, as well as how the existing house meets the criteria for determining designation under the Act.

Refer to Attachment #3 for excerpts from the CHIA. The full CHIA report is available to review through the Planning Division.

Staff have also consulted with the property owner and their Planning Consultant on designation of the property under Part IV of the Ontario Heritage Act.

### **Ontario Heritage Act – Part IV Designation**

Under the Ontario Heritage Act, a property may be designated under Part IV, Section 29, if it meets two or more of the nine prescribed criteria of Ontario Regulation 9/06 (Refer to Attachment #4). Part IV designations are for individual properties, whereas Part V designations are for Heritage Conservation Districts.

Part IV designations related to certain Planning Act applications trigger a "Prescribed Event", which refers to applications for Official Plan Amendments, Zoning By-law Amendments, and Draft Plans of Subdivision. Section 29(1.2) of the Ontario Heritage Act requires that a Council give notice of its intention to designate a property within 90 days after the Clerk gives notice of a complete Zoning By-law Amendment, Official Plan Amendment and/or Draft Plan of Subdivision application.

The Town issued a complete application notice on October 6<sup>th</sup>, 2023 for the Zoning By-law Amendment and Draft Plan of Subdivision applications submitted for 780 Garden Street. The 90-day deadline for Council to issue a Notice of Intention to Designate (NOID) is January 4<sup>th</sup>, 2024. However, sufficient time must be included for the Town Clerk to serve the NOID on the property owner and for it to be published in a newspaper with general circulation in the municipality.

## **4. Discussion:**

At its meeting of February 14<sup>th</sup>, 2023, the Heritage Whitby Advisory Committee (HWAC) recommended that Council designate 780 Garden Street under Part IV of the Ontario Heritage Act. Refer to HWAC [meeting minutes](#) for more information.

Designation of individual properties under Part IV of the Act plays a vital role in ensuring that the history of the Town of Whitby is preserved, present and visible through the protection of known and built heritage resources. The Provincial Policy Statement (2020) states that significant built heritage resources and significant cultural heritage landscapes shall be conserved. The intent of designating a property under the Act is to ensure adequate maintenance, sympathetic additions and protection from future demolition.

The house at 780 Garden is described as a two-storey with attic, stone building using Kingston Limestone and was constructed in 1845 for the Thomson family. The Cultural Heritage Impact Assessment notes that its style is a demonstration of Scottish settler traditions, and is a typical form of the Georgian style tradition.

The applicant's Cultural Heritage Impact Assessment (CHIA) and Statement of Significance assessed the Mayfield House against Ontario Regulation 9/06 of the Ontario Heritage Act, by which a property must meet two or more of the nine criteria. (Refer to Attachments #3, #4 and #5 for further context).

Based on the applicant's CHIA, 780 Garden Street meets 6 criteria relating to design/physical, historical/associative, and contextual values as summarized in the table below:

O.Reg 9/06 Criteria		Assessment (Yes/No)	780 Garden St. (Rationale)
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.	Yes	The house has design/physical value that is unique to its time or surroundings, as follows: <ul style="list-style-type: none"> <li>• Georgian architectural style.</li> <li>• Constructed entirely of Kingston limestone.</li> <li>• Construction method associated with Scottish Settlers.</li> <li>• Limestone is in original condition and is one of the only remaining examples in area.</li> </ul>
2	The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.	Yes	The house has design/physical value because the decorative elements used for the subject property display a high degree of craftsmanship, as seen in the finishing details of the house along with its vernacular character.
3	The property has design value or physical value because it demonstrates a high degree of technical or scientific achievement.	No	The existing materials and assembly found on the structure, including its subsequent alterations and additions, do not reflect an innovative form 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,	Yes	The subject land has historical associations directly linked to John Thomson and his family and more recently, Jim Flaherty and Christine Elliott and their family.

	organization or institution that is significant to a community.		
5	The property has historical value or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.	Yes	The subject lands have a direct contribution to the culture of the surrounding community, as the preserved heritage house provides a built commemoration of Whitby's history, which contributes to an understanding of the community's past.
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.	No	No architect, artist, builder, or theorist is associated with the subject property.
7	The property has contextual value because it is important in defining, maintaining or supporting the character of an area.	No	The context of the heritage house is no longer defined by the farmland character which defined this intersection.
8	The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.	Yes	The subject property is historically linked to its surroundings through the period of its construction and location in the Town of Whitby.

9	The property has contextual value because it is a landmark.	Yes	The heritage house's prominent visibility along Garden Street and Manning Road allows the property to maintain distinctive vistas from the streets within the residential area.
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Based on the CHIA's assessment, the subject property has design, physical, historical and associative value and would merit a Part IV designation under the Act.

Staff have discussed the results of the CHIA's assessment and the designation process with the property owner and their Planning Consultant. Staff were also informed that the existing house was subject to internal water damage during late September/early October 2023, and that the applicant will provide a copy of the remediation report, including information on any internal repairs required to prevent further damage.

**Next Steps**

A draft Designation By-law has been prepared for consideration by Council and will inform the Notice of Intention to Designate (NOID) (Refer to attachment #5).

Should Council wish to designate the Mayfield House, the NOID will be served on the property owner and published in the newspaper with general circulation in the municipality, which is subject to a 30-day objection period to Council.

Following the 30-day objection period, Council would consider any objections and then provide a decision to either pass the designation by-law or withdraw the NOID.

Should Council support passing the designation by-law, a further 30-day appeal period to the Ontario Land Tribunal would commence. If no appeals are received during that period, the by-law will be deemed to be in full force and effect, and the property would be designated under Part IV of the Ontario Heritage Act.

Once designated, staff would also arrange for a plaque to be installed on site to provide an understanding of this historic place.

**5. Financial Considerations:**

Allotted budget from the Heritage Whitby Advisory Committee account is utilized for the associated notices and designation plaque.

**6. Communication and Public Engagement:**

Should Council support the request to designate the Mayfield House located at 780 Garden Street, then the Town of Whitby is required to issue a public Notice of Intention to Designate (NOID) under Section 29(1.1) of the Ontario Heritage Act to proceed. The notice period provides an opportunity for input from the public within 30 days from when the NOID is published. Additionally, Council's final decision on the designation by-law can be appealed to the Ontario Land Tribunal.

**7. Input from Departments/Sources:**

At its meeting of February 14<sup>th</sup>, 2023, HWAC recommended that Council designate 780 Garden Street under Part IV of the Ontario Heritage Act. This report has also been reviewed by the Legal Services Division of the Legal and Enforcement Services Department.

**8. Strategic Priorities:**

Protecting heritage properties supports Pillar #1 of the Community Strategic Plan, Whitby Neighbourhoods, by promoting and strengthening the local arts, culture, heritage and the creative sector.

Heritage conservation further supports Pillar #2, Whitby's Natural and Built Environment, by enhancing community connectivity and beautification.

**9. Attachments:**

Attachment #1: Location Sketch

Attachment #2: Aerial Context Map

Attachment #3: Excerpt of Cultural Heritage Impact Assessment and Statement of Significance

Attachment #4: Excerpt of Ontario Regulation 9/06

Attachment #5: Draft Designation By-law for 780 Garden Street.