

# Town of Whitby

## Staff Report

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### Report Title: 780 Garden Street – Designation of a Property under Part IV, Section 29 of the Ontario Heritage Act - Update

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**Report to:** Committee of the Whole

**Date of meeting:** February 26, 2024

**Report Number:** PDP-06-24

**Department(s) Responsible:**

Planning and Development Department  
(Planning Services)

**Submitted by:**

Roger Saunders, Commissioner of  
Planning and Development

<b>Acknowledged by M. Gaskell, Chief Administrative Officer</b>
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**For additional information, contact:**

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#### 1. Recommendation:

1. That Council mutually agree to the owner's request for an extension of the 90-day deadline under Section 29(8) of the Ontario Heritage Act and Section 1(2) 1. of Ontario Regulation 385/21, for passing the Part IV Heritage Designation By-law for the portion of the property containing the Mayfield House, located at 780 Garden Street in Whitby; and,
2. That the extension be in effect until December 31, 2024.

#### 2. Highlights:

- A Notice of Intention to Designate the existing House at 780 Garden Street was issued on December 4<sup>th</sup>, 2023. The objection period ended on January 3<sup>rd</sup>, 2024 and no objections were received by the Clerk.
- Under Part IV (Section 29) of the Ontario Heritage Act, the deadline for Council to pass a by-law to formally designate the property at 780 Garden St is 90 days from the end of the Objection Period.
- The owner is seeking an extension to the 90-day deadline, through mutual agreement between the owner and Whitby Council, which is permitted under Section 29(8) of the Ontario Heritage Act, and Section 1(2) of Ontario Regulation 385/21.

- The extension, if granted, would allow for the associated Site Plan and/or Subdivision application processes for the adjacent townhouse development on 780 Garden Street to be completed and a 40R-Plan or 40M-Plan for the Block on which the Mayfield House is located to be registered.

### **3. Background:**

During the past few years, Staff consulted with the property owner (discussions; pre-consultations) regarding the designation of the Mayfield House under Part IV of the Ontario Heritage Act. The owner has indicated that they are amenable to the designation (Refer to Attachment #1).

On February 14, 2023, the Heritage Whitby Advisory Committee passed a motion recommending that Council designate the existing Mayfield House at 780 Garden Street

In 2023, the applicant submitted Draft Plan of Subdivision and Zoning By-law Amendment applications (DEV-23-23, SW-2023-02, Z-07-23), which identified retention of the Mayfield House (as a residential or office use) and proposed townhouse development on the remainder of the 780 Garden Street lands.

On November 13, 2023, Staff brought forward a report to Committee of the Whole to begin the Designation process under Part IV of the Ontario Heritage Act for the portion of the 780 Garden Street property on which the existing Mayfield House is located (Refer to staff report [PDP-42-23](#)). On November 27, 2023, Council authorized staff to begin the heritage designation process.

On December 4, 2023, the Notice of Intention to Designate (NOID) was issued on the Town website and was served on the owner and the Ontario Heritage Trust (Refer to Attachment #2). The objection period ended on January 3, 2024, and no objections to the NOID were filed with the Clerk.

Under the Ontario Heritage Act, if there are no objections to the NOID, and if Council wishes to designate a property, the deadline to pass a by-law to designate is 90 days from the end of the objection period.

On January 29, 2024, Council approved the Draft Plan of Subdivision and Zoning Amendment applications. (Refer to staff report [PDP 02-24](#)). The next step is the Site Plan application and approval process, and registration of the Draft Plan of Subdivision.

The legal description for the portion of the property on which the Mayfield House sits and would be designated, needs to be determined through the Site Plan approval process (final 40R plan of survey) or through the Subdivision approval process (registration of the 40M plan).

**4. Discussion:**

The property owner at 780 Garden Street is seeking an extension to the deadline for passing the Designation By-law through mutual agreement between the property owner and Whitby Council, as enabled under Section 29(8) of the Ontario Heritage Act, and Section 1(2) of Ontario Regulation 385/21. The extension would facilitate the registration of a 40R-Plan or 40M-Plan, in order to ensure the portion of the property where the Mayfield House is located is designated, rather than the entirety of the existing property being designated. (refer to Attachment #1)

Staff are supportive of a Council decision to extend this period to allow for the 40R-Plan or 40M-Plan to be registered. As the Subdivision and Zoning applications have been approved, and the Site Plan process is underway, the registration of a 40R-Plan or 40M-Plan identifying the Mayfield House is anticipated this year.

Should an extension not be granted, then the Designation By-law would need to use the current legal description for the entirety of the existing property. An amendment to the Designation By-law would then be required at a later date, to correct the legal description once the 40R-Plan or 40M-Plan has been registered defining the portion of the property containing the Mayfield House. Extension of the deadline would avoid a future amendment to the Designation By-law. Staff will report back to Committee and Council once the 40R-Plan or 40M-Plan is registered and the By-law to designate can be passed using the appropriate legal description for the portion of the property that contains the Mayfield House.

**5. Financial Considerations:**

N/A

**6. Communication and Public Engagement:**

Staff have been consulting with the property owner throughout the development application process and designation process, and the owner has indicated they are amenable to the designation of the portion of the existing property at 780 Garden Street that contains the Mayfield House.

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

At its meeting of February 14th, 2023, HWAC recommended that Council designate 780 Garden Street under Part IV of the Ontario Heritage Act (Refer to [Minutes of HWAC meeting.](#))

**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: Letter from Property Owner

Attachment 2: Notice of Intention to Designate