

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 #2

Report to: Committee of the Whole

Date of meeting: December 2, 2024

Report Number: PDP 57-24

Department(s) Responsible:

Planning and Development Department
(Planning Services)

Submitted by:

R. Saunders, Commissioner of Planning
and Development

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

For additional information, contact:

John Taylor, Director of Planning
Services, 905-444-2908

Dave Johnson, Planner II – Heritage,
905-444-3166

1. Recommendation:

1. That Council mutually agree to the owner's request for further 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 May 31, 2025.

2. Highlights:

- A Notice of Intention to Designate the existing House at 780 Garden Street was issued on December 4th, 2023. The objection period ended on January 3rd, 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.

- An extension was previously allowed (refer to [PDP-06-24](#)) to provide additional time 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.
- The owner is seeking a second extension to the 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.
- This extension, if granted, would allow further time to finalize Site Plan and Subdivision matters, as well as allow the owners to address recent heritage related comments from the Ministry of Citizenship and Multiculturalism (MCM) to update their Cultural Impact Assessment.

3. Background:

During the past few years, Staff consulted with the property owner to designate the Mayfield House under Part IV of the Ontario Heritage Act. The owner has indicated that they are amenable to the designation.

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. 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 would be 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 is located 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).

The owner's request for an extension to the 90-day deadline for passing the By-law to designate, to December 31, 2024, was mutually agreed to by Council in February of 2024 (refer to [PDP-06-24](#)) to allow for Site Plan and Subdivision matters to be finalized so that the designation By-law could be passed.

However, the Site Plan and Subdivision processes have not advanced to a point where the 40R Plan or 40M Plan could be registered, which is required in order to provide a more specific legal description for the portion of the site where the Mayfield House sits. Further, recent comments from the MCM have necessitated a further extension to address archaeological matters.

4. Discussion:

The property owner at 780 Garden Street is seeking a second 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.

The second extension request would also facilitate the owner addressing recent comments from the MCM relating to archeological matters and to have their CHIA updated accordingly (refer to Attachment #1).

Staff are supportive of the extension period to allow for the 40R-Plan and/or 40M-Plan to be registered and to address comments from MCM. 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 imminent, pending resolution of MCM's comments regarding potential archaeological resources.

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 and/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.

Should the extension be granted, as a condition of the extension, there should be no work undertaken that would impact (alter) the Cultural Heritage Value or Interest of the property (i.e. work on the exterior of the building that would impact the reasons for designation).

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 over the course of the extension period. The owner has indicated they continue to be 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