



SUBJECT: Update Report- Proposed Inclusion of Downtown Properties on Burlington's Heritage Register

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-78-22

Wards Affected: 2

File Numbers: N/A

Date to Committee: December 6, 2022

Date to Council: December 13, 2022

Recommendation:

Direct the Director of Community Planning to add the following list of properties to the Municipal Heritage Register and provide notice to the owner of the property within 30 days, pursuant to section 27(5) of the Ontario Heritage Act, R.S.O. 1990, c. O.18;

353-355 Brant St
2010 Maria St
468 Elizabeth St
441 Elizabeth St
436 Pearl S
488 Locust St; and

Authorize the City Clerk to take necessary action if there are any objections in accordance with Section 27(7) of the Ontario Heritage Act, R.S.O. 1990, Chapter 0.18 and report back no later than 120 days after notices are sent out presenting all the objections received; and

Following completion of the Downtown Cultural Heritage Landscapes Study, direct the Director of Community Planning to re-assess the eligibility of the above listed properties for continued inclusion on the Heritage Register and report back to City Council with a recommendation.

PURPOSE:

This report responds to a September 20, 2022 City Council motion directing staff to consult six owners whose properties were nominated for inclusion on the City of Burlington Municipal Register of Cultural Heritage Resources (the “Heritage Register”). The report summarizes staff’s engagement efforts and recommends that the properties be added to the Heritage Register. The six properties were part of a larger list of 24 candidates developed in collaboration with the Heritage Burlington Advisory Committee (the “HBAC”) and drawn from six potential downtown Cultural Heritage Landscapes (CHLs) identified in report number PL-49-22.

Vision to Focus Alignment:

- Increase economic prosperity and community responsive city growth
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Background and Discussion:

Bill 23- The More Homes Built Faster Act, 2022

This report has been prepared under the current version of the *Ontario Heritage Act* (the “OHA”). On October 25, 2022, the Ontario government introduced the *More Homes Built Faster Act, 2022* (Bill 23), which proposes changes to the OHA and eight other Acts related to land development. Staff will be reporting to Council separately on the impact of this bill.

Decision History

On July 5, 2022, the Community Planning, Regulation and Mobility committee (CPRM) considered [staff report PL-49-22 titled Proposed Downtown Cultural Heritage Landscapes Study](#). The report requested authorization to retain a consultant to complete a year-long study of eight potential heritage properties and six potential cultural heritage landscapes identified in a 2019 Cultural Heritage Resource Assessment of the downtown. Council passed a motion authorizing the study and directed Community Planning staff to engage the HBAC and review all properties within each potential CHLs for possible inclusion on the Heritage Register. Consultation with HBAC is also required by the *Ontario Heritage Act* before a property can be added to the Heritage Register. Below is the full text of the motion:

Direct the Director of Community Planning to connect with the Heritage Burlington Advisory Committee to reconvene and review each property in the cultural landscapes to determine which should be added to the Municipal Register; and

Report back to the Community Planning, Regulation & Mobility Committee meeting on September 13, 2022.

Staff developed an initial list of 19 candidate properties and consulted the HBAC on July 27, 2022 (See Appendix D- Heritage Burlington Advisory Committee Minutes- July 27, 2022). HBAC recommended five additional properties, including 441 Elizabeth Street and 436 Pearl Street, to add to staff's list. Staff did not consider the additional properties to be strong candidates, however they were included to be consistent with Council's July 12, 2022 direction to deliver a list of Heritage Register candidates reflecting the combined analysis of staff and HBAC. HBAC's recommendations and evaluation of the subject properties are attached (See Appendix E- Heritage Burlington Advisory Committee-Evaluations Subcommittee Summary Chart).

At the September 13 CPRM meeting staff presented a report recommending 24 properties for the Heritage Register. During the meeting, the Executive Director of the Burlington Downtown Business Association expressed his opinion that owners had not been consulted and the initiative should not proceed without significant outreach. Council then directed staff to notify all owners about the initiative before the September 20th Regular Meeting of Council.

On Friday, September 16th, staff couriered notices to all affected property owners. At the September 20th Council meeting, owners of the following seven properties wrote or delegated to Council opposing the inclusion of their properties on the Heritage Register:

1. 380 Brant Street
2. 372-374 Brant Street
3. 620 Brant Street
4. 426 Burlington Avenue
5. 457 Locust Street
6. 488 Locust Street
7. 524 Locust Street

Council also heard from the chair of the HBAC that the Committee had previously sent 18 of the 24 properties notices that they were being studied for possible inclusion on the Heritage Register. These 18 properties had previously been listed on the Heritage Register as "B-rated" properties before being removed in 2012 pending further study by HBAC.

Ultimately, City Council voted to add the 18 properties who had received HBAC notices to the Heritage Register and directed staff to further consult the remaining six owners and report back to the December 13th City Council meeting. Below is the full text of the motion:

Definitely postpone (defer) the following properties for possible addition to the Heritage Register (PL-59-22) at the City Council meeting on December 13 and consult with the property owners:

- 353-355 Brant St**
- 2010 Maria St**
- 468 Elizabeth St**
- 441 Elizabeth St**
- 436 Pearl St**
- 488 Locust St**

Strategy/process

Staff Consultation Efforts and Objections Received

A more extensive summary of consultation is included in the Engagement Matters section of this report below. In summary, staff have had phone conversations, received correspondence from, or virtually consulted with four owners, as outlined in the below chart. Half of the owners oppose their properties being listed on the Heritage Register (i.e. three of six). The opinion of the other three owners is unknown. The consultation and outreach with each owner are summarized below:

#	Property	Correspondence	Support/Object
1	353-355 Brant Street	Letter- Purolator- Delivered Oct. 15, 2022 Phone call with owners' representative- Oct. 19, 2022	Unknown
2	2010 Maria Street	Letter- Purolator- Delivered Oct. 12, 2022 In-person visit to property and conversation with business owner- Nov. 1, 2022	Unknown
3	468 Elizabeth Street	Letter- Purolator- Delivered Oct. 12, 2022 Emailed owner- Oct. 17, 2022 Virtual consultation meeting with owner's consultant- Nov. 1, 2022	Objects
4	441 Elizabeth Street	Phone call with owner- Oct. 11, 2022 Letter- Purolator- Delivered Oct. 12, 2022	Objects

5	436 Pearl Street	Letter- Purolator- Delivered Oct. 28, 2022	Unknown
6	488 Locust Street	Letter- Purolator- Delivered Oct. 14, 2022 Email correspondence- throughout October Virtual consultation meeting with owner- Nov. 1, 2022	Objects

Property Assessments (See Appendix C- Listing Statements)

1. 353-355 Brant Street

Built before 1910, this two-storey building is believed to have historical value for its age and historical retail use. The building is believed to have architectural value for its original form, scale and massing, segmental arched windows, stone or concrete sills.



Staff had a phone conversation with a representative of the owners on October 19 seeking more information. It is unclear if the owners support or object to the inclusion of the property on the Heritage Register.

2. 2010 Maria Street

This two-storey masonry building is believed to have historical value for its former use as a police station. It is believed to have design value for its mid-century modernist details including long horizontal windows at ground level. The façade is a mix of brick and tile.



Staff visited the site on November 1 and confirmed that the notice had been received. The owners of this property have not submitted any correspondence indicating their opinion about their potential inclusion on the Heritage Register.

3. 468 Elizabeth Street

Built before 1910. This two-storey masonry building has historical value for its age and potential to yield information about Burlington's residential areas in the pre-war period. It is believed to have design value for its vernacular homestead and craftsman details. The house is two bays wide, with entrance positioned at the side of the ground floor. The full width veranda with craftsman style stone base is original. Two-over-two sash windows feature segmental arches.



The owners of this property object to its inclusion on the Heritage Register because they intend to demolish the building and redevelop the site in future.

4. 441 Elizabeth Street

A basic vernacular homestead with a heavily altered façade and minimal distinguishing historic features. One segmental arched window is visible on side elevation. Fire insurance maps indicate it was built after 1924.



On October 11, staff had a phone conversation with the owner of 441 Elizabeth Street and the neighboring property 437 Elizabeth Street, which is already on the Heritage Register. The owner objects to the inclusion of both properties on the Heritage Register, because she believes it will make the properties less attractive to potential buyers. The properties are adjacent to a six-storey residential building in a densifying area of downtown Burlington and the owner believes that the properties could be consolidated into a viable development site.

441 and 437 Elizabeth Street were not originally recommended for inclusion on the Heritage Register, however the HBAC recommends that they be added at least for the duration of the study. 437 Elizabeth Street has a large and unsympathetic addition and 441 Elizabeth Street has suffered two major front façade alterations that removed original window and door openings.

5. 436 Pearl Street

The original portion of this building was built before 1910. The Heritage Burlington Advisory Committee believes this building has some potential historical value due to its local reputation and conversion from a two-storey gable roof house to a popular restaurant. Staff note that the building was extensively altered with ground storey additions, the second storey has been re-clad and no window openings remain.



The owners of this property have not responded to the notice. HBAC recommended that the property be added to the Heritage Register. Although staff believe it is too extensively altered to qualify for the Heritage Register or for heritage designation, it is being recommended based on Council's direction to consult HBAC and report back with a single list of candidate properties. Adding the property to the Register would allow for further study to confirm its importance, which will be important given the conflicting opinions.

6. 488 Locust Street

This property is believed to have historical value for its significant age and potential to yield information about Burlington's residential neighbourhoods before 1910. It is also believed to have architectural value for its Victorian vernacular features including a covered porch, bay window, round arched window in the second-storey gable and two-over-two sash windows.

Current Photo



VICTORIAN VERNACULAR
1850-1880

Asymmetrical façade; main projecting gable often has a bay window.

Polychrome brick construction most common. Sometimes board and batten wood siding (carpenter gothic)

Fieldstone foundations.



Brick chimney, corbelled polychrome.

Steep roof with "gingerbread" trim at gables, often with a decorative finial at the peak.

Segmental arch windows, 2 over 2; optional shutters.

Verandah with turned wood posts and decorative brackets, or trellage.

The owner of this property objects to being listed on the Heritage Register. He purchased the property in March 2022 after checking with the Community Planning department that it was not a heritage property. He states that he would not have purchased the property if it were on the Heritage Register. He intends to eventually demolish and replace the building on site with a 3-storey home for himself and his family.

The owner began the demolition process by submitting a Demolition Clearance Form on March 23, 2022. This form is a screening tool that the City's Building Department uses to identify all approvals needed for a demolition permit. The clearance form technically qualifies as the owner's notice of intention to demolish the property under section 27(9) of the OHA, which ordinarily gives Council 60-days to study a property on the Heritage Register. Because the owner has already fulfilled notice requirements of the OHA, adding the property to the Heritage Register will not delay a demolition permit. Despite this, staff still recommend adding the property to publicly recognize its potential cultural heritage value, the City's interest and to fulfil Official Plan principles 8.1 (a) and (b), which promise that the City will "identify" cultural heritage resources as a starting point for all other

conservation efforts. Adding the property to the Register is also recommended in case the owner sells the property and in anticipation of Bill 23. If passed, Bill 23 would make it impossible to heritage designate a property that is not on the Heritage Register once a Zoning Bylaw, Official Plan Amendment or Site Plan Approval application for that property is deemed complete.

Staff have had phone conversations with the owner, spoken with him at the virtual consultation event on November 3 and corresponded by email. However, the owner of 488 Locust Street remains opposed to the property's inclusion on the Heritage Register. He points out that the property is covered in non-original vinyl siding and altered by rear additions. The porch was re-modelled to provide wheelchair accessibility.

Leaving aside the owner's reasons for buying the property, staff continue to believe 488 Locust is a good candidate for the Heritage Register. The building footprint is largely the same as it was in 1924. The two-over-two divided light windows are appropriate to a Vernacular Victorian style house built before 1912 (see above). Although the porch has been altered with a wheelchair ramp, the rest of the porch has the same design as in the 1950s.

Options Considered

Option 1- Add all six properties to the Heritage Register, re-assess at the end of the study (Recommended)

This option is recommended because it would extend limited, temporary protection to six properties that staff, or the HBAC believe have some cultural heritage value. They are also part of heritage district study areas and the loss of the properties may be harmful to the integrity of the potential districts. Inclusion on the Heritage Register is not necessarily permanent or the first step in heritage designation, since both staff and the HBAC recommend that at the end of the downtown CHL study in late 2023, all properties should be re-assessed for continued inclusion on the Heritage Register. The study is likely to reveal more in-depth historical information about individual properties and areas that could alter the City's opinion of their importance.

Option 2- Add only those properties whose owners do not object to the listing to the Heritage Register (353-355 Brant Street, 2010 Maria Street, 436 Pearl Street) (Not recommended)

Council could choose this option to respect the wishes of the owners of 488 Locust Street, 468 Elizabeth Street and 441 Elizabeth Street. Staff do not recommend this option because it leaves the properties vulnerable to demolition during a year where the areas surrounding the properties are being studied for possible heritage recognition or protection. Between staff and HBAC, all six properties are believed to have some cultural heritage value or potential and losing them could harm the integrity of the overall district.

Option 3- Decline to add any properties to the Heritage Register (Not Recommended)

The six candidate properties have the potential to yield important information about Burlington's history of urban development and land use patterns. This option is not recommended because it would leave six properties in each potential cultural heritage landscape with no protection. This is also not recommended in anticipation of the future impacts of Bill 23, which would prevent the heritage designation of any property not already on the Heritage Register at the time that a development application is deemed "complete".

Financial Matters:

Total Financial Impact

There is no immediate financial impact if Council decides to add the six properties to the Heritage Register, since the decision cannot be appealed to the Ontario Land Tribunal. However, if a demolition permit is submitted in future, Council can choose to retain a consultant to study the property for possible heritage designation, which could cost between \$5,000 and \$10,000 per property.

Source of Funding

Not applicable.

Other Resource Impacts

If any of the six property owners choose to object to Council's decision to list their property on the Heritage Register, staff typically prepare a report providing Council with a recommendation. This would create some indirect staff resource costs.

Climate Implications

Not applicable.

Engagement Matters:

On October 11th, staff couriered notices to the six property owners about the upcoming December 13th City Council meeting. The notice included contact information, frequently asked questions, information about the Heritage Register, and an invitation to attend in-person and virtual consultation events on November 1st and 3rd (see Appendix B- October 11 Notification to Owners). Additionally, staff called or emailed four of the six owners. Two of the owners had no contact information listed with the City apart from their address and could not be reached except by mail.

There were no attendees at the November 1st, in-person, “lunch and learn” consultation event at 414 Locust Street. However, at the November 3rd virtual consultation event, the owner of 488 Locust Street and one heritage consultant representing the owners of 468 Elizabeth Street attended. Staff provided a presentation of the background to the initiative and explained the limited impacts of being on the Heritage Register. The following concerns were raised at the meeting:

- The owners of both properties bought with the intention of demolishing the existing building and redeveloping the site and pointed out that being listed on the Heritage Register creates an impediment to this goal through the 60-day notice requirement and prospect of heritage designation.
- The heritage consultant stated that the owner of 468 Elizabeth Street is concerned about the possibility that the Official Plan contains development policies that apply to Heritage Register properties without distinguishing between heritage designated and non-designated properties. This could deter potential buyers and increase development costs for an owner who now must prepare special studies or adjust their building plans to conserve.
 - Staff confirmed that the Official Plan has at least one such policy, which enables the City to require a Heritage Impact Statement to be submitted with a development application, if the City believes the property is “worthy of designation”, and while being listed on the Heritage Register does not mean a property will meet the criteria for designation, it is an indication the City thinks it could be designated.
- The owner of 488 Locust Street asked if new provincial legislation would make it impossible to add a property to the Heritage Register if a development application was submitted.
 - Staff explained that the new proposed *More Homes Built Faster Act* would prevent a municipality from designating a property that was not yet listed on

the Heritage Register on the date that a development application was deemed complete.

- The owner of 488 Locust Street stated that he believed the alterations to his building made it ineligible for the Heritage Register. These include vinyl siding, rear additions, aluminum windows and a wheelchair ramp.
 - Staff explained the process of reporting to the December 13th meeting and advised the attendees how to participate in the meeting and recommended that they submit letters to clerks@burlington.ca before the meeting.
 - Staff advised the owner of 488 Locust Street about the City's heritage tax rebate program.
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Conclusion:

Staff have made special efforts to engage and consult with each of the six owners of properties Council is considering adding to the Heritage Register during the Downtown Cultural Heritage Landscapes study. Three of the six owners object to the listing, while three have not responded or made their positions known. Staff continue to recommend that the six properties be added to the Heritage Register to give them some limited protection while the consultant team gathers more information about the areas they are part of and completes the Downtown Cultural Heritage Landscapes Study.

Respectfully submitted,

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Appendices:

- A. Notification to owners- Oct. 11, 2022
- B. 488 Locust Street- Correspondence from owner- Oct. 24, 2022
- C. Heritage Property Evaluations
- D. Heritage Burlington Advisory Committee Minutes- July 27, 2022
- E. Heritage Burlington Advisory Committee- Evaluations Subcommittee Summary Chart

Notifications:

Planner to provide names and addresses of affected properties

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.