



SUBJECT: Eligibility of 488 Locust Street for heritage designation

TO: Mayor and Members of Council

FROM: Community Planning Department

Report Number: PL-23-23

Wards Affected: 2

File Numbers: N/A

Date to Committee: February 28, 2023

Date to Council: March 21, 2023

Recommendation:

State an intention to designate the property at 488 Locust Street under Part IV, Section 29 of the Ontario Heritage Act in accordance with the Heritage Evaluation of 488 Locust Street prepared by ARA Associates Inc., dated February 6, 2023; and

Direct the Director of Community Planning to provide notice of Council's intention to designate 488 Locust Street, in accordance with section 29 (3) and 29 (4) of the Ontario Heritage Act; and

Direct the City Clerk to present the draft designation by-law to Council for approval within 120 days after the date of publication of the notice of intention to designate 488 Locust Street, provided there is no objection or withdrawal; and

Direct the City Clerk to take the necessary actions in the event of any objection to the notice of intention to designate pursuant to Part IV of the Ontario Heritage Act, sections 29 (5) and 29 (6).

PURPOSE:

The purpose of this report is to fulfill a Council direction from Dec. 13, 2022 and present the findings of a cultural heritage evaluation report assessing the eligibility of 488 Locust St. for heritage designation under section 29 of the *Ontario Heritage Act* (OHA) (see Appendix A- Heritage Evaluation of 488 Locust St. by Archaeological Research

Associates Ltd). The report also presents the Heritage Burlington Advisory Committee's recommendation about the property from their meeting on Feb. 8, 2023.

Vision to Focus Alignment:

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

On December 13, 2022 City Council passed the following motion:

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 St

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 O.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; and

Direct staff to conduct an assessment of the heritage value of 488 Locust Street and report back to CPRM in February. (SD-28-22)

Staff retained Archaeological Research Associates Ltd. (ARA) to conduct the assessment.

The owner of this property objects to heritage designation. 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 three-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, the property does not have any protection from demolition.

Strategy/process

Heritage Designation Process

Under Part IV of the Ontario Heritage Act, the City can designate a property using a municipal bylaw provided that the property meets prescribed criteria for determining whether a property is of cultural heritage value or interest. There are nine prescribed criteria found in Ontario Regulation 9/06.

If the property meets at least two of the criteria, a statement is prepared defining the property's heritage value, its character-defining heritage attributes and how each attribute contributes to the cultural heritage value or interest of the property. The heritage committee must be consulted before Council can issue a "notice of intention to designate", which is served on the owner and published in a newspaper. The owner can object to the City's notice of intention to designate, requiring Council to reconsider its original decision. If Council considers the objection, but decides not to withdraw the notice, it can proceed to pass a designation bylaw. The City must then serve the bylaw on the owner and publish notice of the bylaw in a newspaper. After notice is published, anyone who objects to the bylaw can submit an appeal to the Ontario Land Tribunal by giving the Tribunal and the City Clerk notice of the appeal accompanied by the rationale for their objection.

Once the property is designated, the owner must apply to Council for permission to demolish or alter the property's heritage attributes. Through the Delegated Authority By-law (By-law 07-2022, Schedule C), Council has delegated to Community Planning staff the authority to approve heritage permits for alterations. Only Council may refuse a heritage permit for alteration or decide if it should be demolished or removed. Once the designation process is completed, the owner must receive Council permission to demolish their building or alter the property's heritage attributes.

Eligibility of 488 Locust St. for Heritage Designation

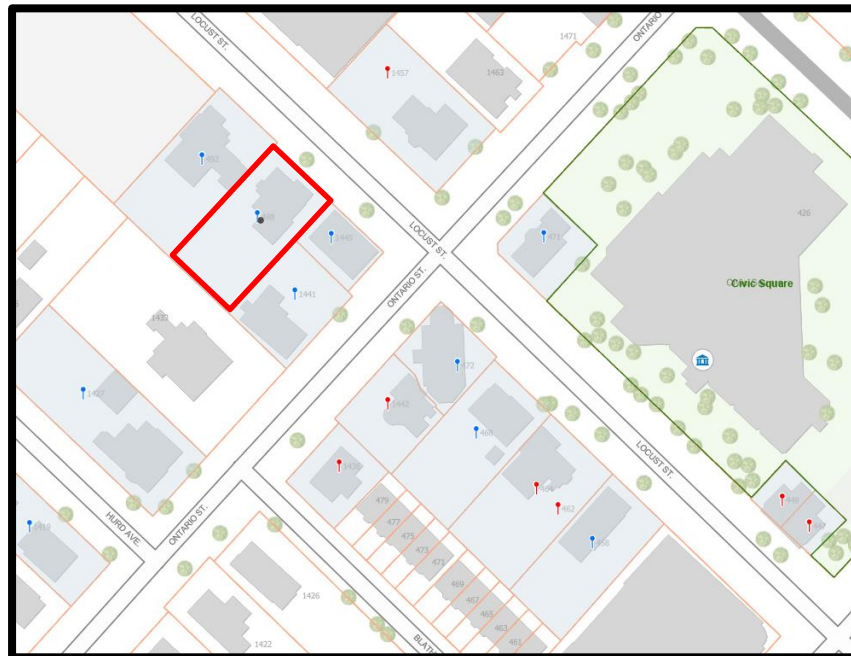
The heritage consultant recommends the property for heritage designation because it meets two criteria for heritage designation. Below is the heritage consultant's rationale for designation under each category of designation criteria.

Criteria 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.

488 Locust St. is a representative example of the Gothic Revival style. The one-and-a-half storey L-shaped plan house has a cross gable roof, large front gable end and central gable peaks which is typical of Gothic Revival structures. The bay windows, and arched window openings within the central gable peaks are also typical of the Gothic Revival style. Furthermore, the massing, roofline and fenestration of the structure strongly indicate Gothic Revival origins.

Criteria 7: The property has contextual value because it is important in defining, maintaining or supporting the character of an area.

The consultant has found that 488 Locust St. supports the character of Locust Street, which is described as a late 19th-early 20th century residential streetscape with one- to two-and-a-half storey residential buildings of primarily brick construction and with modest setbacks along the street. The property exhibits setback and massing consistent with the Locust streetscape and is one of a row of heritage properties on the west side of Locust Street (see below).



The consultant concludes that the property is not the best-preserved example of a gothic revival cottage and notes the following alterations:

- Vinyl siding
- Stone foundation parging
- Removed or covered wooden window moulds

- All windows (except basement windows) are replacement rectangular vinyl windows, including within the arched window openings
- Rear kitchen wing has been modified and extended to include an upper level (interior site visit might confirm details); and
- Large gable end window opening on southwest elevation may be modified (an interior site).

If Council decided to proceed with heritage designation, the exterior features of the building would be protected:



City of Burlington Official Plan (1997)

Heritage policies are found in Part II, section Section 8 of the City's Official Plan, 1997. Principle 8.1(a) states: "Cultural heritage resources of significant cultural heritage value shall be identified, and conserved." While the consultant has found that 488 Locust Street St. has cultural heritage value, it was not considered to have "significant" value under any criteria. The City is therefore not compelled to heritage designate this property. However, the Heritage Conservation Designation portion of section 8 does not require that a property have significant value to be conserved. Policy 8.3.4 (a) simply states that "the designation of individual cultural heritage properties and cultural heritage landscapes under the provisions of *The Ontario Heritage Act* shall be pursued to implement the cultural heritage conservation objectives and policies of this Plan."

City of Burlington Official Plan (2020)

The City's new Official Plan (2020), which is under appeal, does not include any objective compelling the City to designate resources of exceptional or "significant" cultural heritage

value. Like the current in-force Official Plan, the Official Plan, 2020 states that “the designation of cultural heritage resources under the provisions of *The Ontario Heritage Act*, will be pursued to implement the objectives and policies of this Plan.” (Policy 3.5.2(4)).

Options Considered

Option 1- State a Notice of Intention to Designate the Property

According to the consultant, 488 Locust St. meets at least two criteria under O.Reg 9/06, and can be designated by the City under section 29 (1) of the *Ontario Heritage Act*. Council could choose this option if it agrees that the house merits individual designation for its architectural style and contribution to the character of the potential cultural heritage landscape of Locust Street.

Option 2- Do not pursue heritage designation and remove property from the Heritage Register

Council could choose this option if it disagrees with the consultant’s finding that the property meets the heritage designation criteria. For example, if Council does not agree that the property is important in supporting the character of Locust Street, then the property could only meet one criteria under O.Reg 9/06 and become ineligible for heritage designation.

Financial Matters:

Total Financial Impact

The cost for the City to hire a consultant to study 488 Locust Street on an accelerated timeline was \$9,237.75 (GST included).

If the City chooses to heritage designate the property, the owner will become eligible to apply for the annual Heritage Property Tax Rebate Program, in which eligible residential properties receive a 40% rebate on their property taxes, including City, regional and school board components.

The owner will also have the right to appeal the designation to the Ontario Land Tribunal. Defending the designation would require the City to retain its heritage consultant ARA Associates Inc., to appear before the tribunal, creating additional costs for the City.

Source of Funding

Community Planning 2023 department budget.

Other Resource Impacts

Not applicable.

Climate Implications

Not applicable.

Engagement Matters:

Staff presented the statement of significance for 488 Locust St. to the Heritage Burlington Advisory Committee at their meeting of Feb. 8, 2023. Members agreed that the property contributes to the historic character of Locust Street and should be designated except for the rear elevation and rear additions, which have been heavily altered:

Whereas 488 Locust Street meets the criteria for determining cultural heritage value or interest under Ontario Regulation 9/06 and is well suited as a contributing property in the cultural heritage landscape of Locust Street, the Heritage Burlington Advisory Committee recommends that City Council proceed to designate the property under section 29 of the Ontario Heritage Act, while excluding the rear elevation and existing additions from the list of heritage attributes.

Conclusion:

The cultural heritage evaluation has concluded that 488 Locust St. meets at least two criteria for heritage designation under O.Reg 9/06 and is eligible for heritage designation. The property is a representative example of a gothic vernacular cottage and is important in supporting the historic character of Locust Street. It is one of a series of seven heritage properties on the west side of the street, and part of a larger group of 12 between Elgin Street and Caroline Street.

Respectfully submitted,

John O'Reilly, MCIP, RPP, CAHP
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Appendices:

- A. Statement of Significance and Appendices for 488 Locust St. by Archaeological Research Associates Ltd. (ARA) (PL-23-23)
- B. Correspondence from owner dated Oct. 20, 2022 (PL-23-23)

Notifications:

Property owner

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.