



STAFF REPORT ACTION REQUIRED

679 Warden Avenue – Intention to Designate, Part IV, *Ontario Heritage Act*

Date:	April 16, 2007
To:	Toronto Preservation Board Scarborough Community Council
From:	Director, Policy and Research, City Planning Division
Wards:	Scarborough Southwest – Ward 35
Reference Number:	

SUMMARY

This report recommends that City Council state its intention to designate the property at 679 Warden Avenue (Bell Estate) under Part IV of the *Ontario Heritage Act*.

The property at 679 Warden Avenue is listed on the City of Toronto Inventory of Heritage Properties. A heritage easement agreement between the property owners and the City of Toronto was registered on title on May 26, 2006. City Legal has advised that any property with a heritage easement agreement should also be designated under Part IV of the *Ontario Heritage Act* to allow the Chief Building Official to refuse to issue a permit on the basis of lack of conformity with applicable law.

RECOMMENDATIONS

City Planning Division recommends that

1. City Council state its intention to designate the property at 679 Warden Avenue (Bell Estate) under Part IV of the *Ontario Heritage Act*;
2. If there are no objections to the designation in accordance with Section 26(6) of the *Ontario Heritage Act*, the solicitor be authorized to introduce the Bills in Council designating the property under Part IV of the *Ontario Heritage Act*;
3. If there are objections in accordance with Section 29(7) of the *Ontario Heritage Act*, the Clerk be directed to refer the proposed designation for which there is an objection to the Conservation Review Board; and

4. The appropriate City Officials be authorized and directed to take necessary action to give effect thereto.

Financial Impact

There are no financial implications resulting from the adoption of this report. The public Notice of Intention to Designate will be advertised on the City's web site in accordance with the City of Toronto Act provisions.

ISSUE BACKGROUND

There are over 40 properties with Heritage Easement Agreements in place or pending that are being recommended for designation under Part IV of the *Ontario Heritage Act*. 42 of the properties are within the wards covered by the Toronto and East York Community Council.

Two remaining properties are located in Wards 5 and 35, and separate reports for those properties will be considered by the Toronto Preservation Board at its meeting of June 4, 2007 and by the respective Community Councils on June 26, 2007.

A heritage easement agreement is a voluntary agreement between the City and a property owner and is considered the strongest form of protection for heritage properties because it is registered on title and usually runs in perpetuity. 44 properties with heritage easement agreements are not currently designated under Part IV of the *Ontario Heritage Act*.

City Legal advises that when the City's Chief Building Official (CBO) receives a permit application, Toronto Building cannot refuse to issue the permit unless to do so would contravene the *Building Code Act*, the building code or any other "applicable law." In the *Building Code Act* (Section 22), heritage easement agreements are not referenced as "applicable law" and cannot be used as grounds to refuse a permit. However, in the *Building Code Act*, the *Ontario Heritage Act* is referenced as applicable law concerning designation, and the CBO can refuse to issue a permit where to do so would conflict with the designation.

For this reason, it is important that the properties with heritage easement agreements in place or in progress also be protected under Part IV of the *Ontario Heritage Act*. In addition, designation is a requirement to be eligible for the City's heritage property tax rebate program.

The heritage easement agreement already in place for 679 Warden Avenue describes the "heritage attributes" of the property that the owner has agreed to preserve. In this case, the heritage easement agreement was negotiated as part of a development agreement that resulted in changes to the property. Only the portion of the property containing the house form building known historically as the Bell Estate (Thornbeck-Bell House) is being recommended for designation.

The Reasons for Designation attached (Attachment No. 3) describes the same heritage attributes identified in the heritage easement agreements. As a result, the City is not imposing any additional restrictions on the property owner.

COMMENTS

The property at 679 Warden Avenue is worthy of designation under Part IV of the *Ontario Heritage Act* for its cultural heritage value or interest, and meets the criteria for municipal designation prescribed by the Province of Ontario. Located on the east side of Warden Avenue, south of St. Clair Avenue East, the Bell Estate (Thornbeck-Bell House) is an important surviving example of a 19th century farmhouse in Scarborough that is an early example of Georgian architecture updated with Gothic Revival features.

A location map (Attachment No. 1) and photograph (Attachment No. 2) are attached. The Reasons for Designation (Attachment No. 3) are intended to be posted on the City of Toronto's web site and served on the owners of the properties and the Ontario Heritage Trust according to the provisions of the *Ontario Heritage Act*. The Reasons for Designation include a statement of the cultural heritage value of the property with a description of its heritage attributes.

This report recommends that City Council state its intention to designate the property at 679 Warden Avenue (Bell Estate) under Part IV of the *Ontario Heritage Act*.

CONTACT

Denise Gendron
Manager, Heritage Preservation Services
Tel: 416-338-1075
Fax: 416-392-1973
E-mail: dgendron@toronto.ca

SIGNATURE

Barbara Leonhardt
Director, Policy and Research

ATTACHMENTS

Attachment No. 1: Location Map
Attachment No. 2: Photograph
Attachment No. 3: Reasons for Designation