



STAFF REPORT ACTION REQUIRED

5 Avonwick Gate – Repeal of a Designating By-law and Demolition of Structures on a Property Designated Under Part IV of the Ontario Heritage Act

Date:	March 31, 2009
To:	Toronto Preservation Board North York Community Council
From:	Director, Policy and Research, City Planning Division
Wards:	Don Valley East – Ward 34
Reference Number:	

SUMMARY

The owners of 5 Avonwick Gate (also known as 60 Rowena Drive) have applied to the City of Toronto to demolish the Senator O'Connor House, garage and outbuilding located at this address. The Senator O'Connor House, garage and outbuilding have been designated by Toronto City Council as having cultural heritage value under Part IV of the Ontario Heritage Act. Through a separate application the property owners have also applied to repeal By-law 221-2009 designating the property under Part IV of the Act.

Under Section 34.1 of the Act an applicant requires Council approval prior to demolishing a designated building. Council has ninety (90) days to respond to both a demolition application and an application to repeal a designating by-law. If Council does not respond to the demolition application by June 4, 2009 Council will be deemed to have consented to the application.

RECOMMENDATIONS

The City Planning Division recommends that:

1. That City Council refuse the application for demolition under Section 34 of the Ontario Heritage Act for the property at 5 Avonwick Gate (Senator Frank O'Connor House, Garage and Outbuilding);

2. If the owner appeals Council's decision to refuse the application for demolition under Section 34 of the Ontario Heritage Act, Council authorize the City solicitor and the necessary City staff to attend at the Ontario Municipal Board hearing in opposition of the appeal;
3. That City Council refuse the application under Section 32 of the Ontario Heritage Act to repeal By-law No. 221-2009 designating the property at 5 Avonwick Gate (Senator Frank O'Connor House, Garage and Outbuilding); and
4. If the owner appeals Council's decision to refuse the application under Section 32 of the Ontario Heritage Act to repeal the designating by-law, the Clerk be directed to refer the matter to the Conservation Review Board.

Financial Impact

There are no financial implications resulting from the adoption of this report. The public notice of refusal to consent to the demolition application will be advertised on the City's web site in accordance with the City of Toronto Act provisions.

DECISION HISTORY

The Toronto Preservation Board (TPB), at its meeting of August 19, 2003, recommended the designation of Senator Frank O'Connor House, garage, and outbuilding in recognition of their cultural resource value or interest. The Midtown Community Council considered the issue on July 31, 2003 and also recommended designation. Subsequently, Council stated its Intention to Designate the property under Part IV of the Ontario Heritage Act (OHA) at its regular meeting of September 22, 23, 24 and 25, 2003.

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030922/ey7rpt/cl037.pdf>

At its meeting of January 27, 28 and 29, 2004 Council granted authority to adopt a Bill to designate the property under the Ontario Heritage Act.

<http://www.toronto.ca/legdocs/2004/agendas/council/cc040127/tn1rpt/cl027.pdf>

ISSUE BACKGROUND

The former City of North York listed the property at 5 Avonwick Gate on its heritage inventory on October 6, 1997. Following amalgamation, the property was included on the City of Toronto Inventory of Heritage Properties, enabling heritage staff to monitor any applications affecting the site and to encourage the retention of the property's heritage attributes. In 2003, City of Toronto staff reviewed a development application for the property and recommended that the Senator Frank O'Connor House, garage, and outbuilding be designated under the Ontario Heritage Act (OHA) to ensure their long term protection.

The property is owned by the Toronto Catholic District School Board. The site contains three heritage buildings associated with Maryvale Farm, the country residence of Senator Frank O'Connor, a noted Canadian businessman, politician and philanthropist who donated the land to the Christian Brothers. Senator O'Connor College School was built on the lands. Since the designation process was initiated in 2003, the original high school

at the west end of the property was demolished and a new school was constructed near the east side of the site, directly north of the Senator Frank O'Connor House, Garage and Outbuilding.

On March 6, 2009 the City of Toronto received an application from the property owner to demolish the Senator O'Connor House, garage and, outbuildings. This application constitutes an application to demolish a property under Section 34(1) of the OHA. On March 17, 2009, the City received a separate application to repeal By-law 221-2009 designating the property under Part IV of the OHA.

COMMENTS

A location map (Attachment No. 1) and photographs (Attachment No. 2) are attached. The photographs show the property in 2003 when the intention to designate was passed, and its current appearance in 2009.

Designating By-law: Legal Description and Survey

Following its meeting of September 22-25, 2003 when City Council stated its intention to designate the property at 5 Avonwick Gate, the Notice of Intention to Designate was served on the property owner and the Ontario Heritage Foundation (now the Ontario Heritage Trust) according to the provisions of Part IV, Section 29 of the Ontario Heritage Act. Objections to designation are required to be served on the City Clerk within 30 days after the publication of the Notice of Intention to Designate. No objections were received by the City.

According to City of Toronto process, after the period for objections ends and if no objections are received, the City Solicitor is authorized to prepare the Bills for the designating by-law. The by-law contains schedules with the legal description and survey for the property. In some instances, designating by-laws do not cover the entire property, but only the portion of the site referenced in the Reasons for Designation. In this way, the heritage values and attributes of the property are protected and monitored, allowing the rest of the site to remain unencumbered. In the case of 5 Avonwick Gate, only the southeast area of the property containing the Senator Frank O'Connor House with the two outbuildings was included in the Reasons.

To register a designating by-law covering only part of a legally-described property, the Provincial Land Registry Office requires a special survey that costs approximately \$1500. Since 2003, more than a dozen properties have been subject to this requirement. However, until 2008 no monies were available in the City's operating budget to pay for this work. The designating by-law for 5 Avonwick Gate was enacted on February 25, 2009 following the completion of the survey. The by-law is attached as Attachment No. 3.

Between 2003 when City Council stated its intention to designate the property, and 2009 when the designating by-law was registered, the property at 5 Avonwick Gate was subject to Section 29 of the Ontario Heritage Act. As a result, the property was treated as though the designating by-law was in place and was subject to Sections 33 and 34

regarding alteration or demolition. The amendments to the Ontario Heritage Act in 2005 did not change this provision, as described in Section 30(2).

Designating By-law: Reasons for Designation

The Reasons for Designation included in Schedule “B” of the designating by-law are the same Reasons submitted to City Council in 2003. Following the amendments to the Ontario Heritage Act in 2005, the provincial government adopted Regulation 9/06 as the provincial criteria prescribed for municipal designations under Part IV, Section 29 of the Act. The criteria are published in the Ontario Heritage Toolkit (Heritage Property Evaluation, page 22). The criteria include a transition passage reading “this Regulation does not apply in respect of a property if notice of intention to designate it was given under subsection 29(1.1) of the Act on or before January 24, 2006.”

Although Regulation 9/06 does not apply to the designation of 5 Avonwick Gate, it is staff’s position that the Reasons for Designation meet the provincial criteria. To warrant designation, a property must meet “one or more” of the criteria under any of, but not necessarily all of the categories of Design/Physical Value, Historical/Associative Value and Contextual Value. Staff do not believe that the Reasons for Designation need to be amended, and the this report should serve as an explanation of the values and heritage attributes for the property at 5 Avonwick Avenue according to Regulation 9/06.

Under Regulation 9/06, “the property has design value or physical value because it *i.* is a rare, unique, representative or early example of a style, type, expression, material of construction method, *ii.* displays a high degree of craftsmanship or artistic merit, or *iii.* demonstrates a high degree of technical or scientific achievement.” The Senator Frank O’Connor House, together with its complementary outbuildings, is a representative example of Georgian Revival architecture, the popular mid 20th century style that is recognized by its adaptation of Classical elements, the preponderance of somber red brick cladding, and the overall symmetry of the design. At 5 Avonwick Gate, the Classical embellishments that are indicative of the Georgian Revival style are applied to the porte cochere, main entrance, and window detailing of the Senator Frank O’Connor House, the west entrance and roof detailing of the garage, and the roof detailing of the outbuilding. The Reasons for Designation for 5 Avonwick Gate relating to the architectural significance of the property described in paragraph 1 fulfill the design criteria under Regulation 9/06.

The second set of criteria in Regulation 9/06 reads that “the property has historical value or associative value because it *i.* has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community, *ii.* it yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or *iii.* demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.” The associative value of the property at 5 Avonwick Gate is addressed in paragraph 1 of the Reasons for Designation. Historically, the property is associated with Senator Frank O’Connor, the noted businessman and philanthropist who commissioned the house and auxiliary buildings at Maryvale Farm prior to his appointment to the Canadian Senate in 1935. In

describing the historical association of the property at 5 Avonwick Gate with Senator O'Connor, the Reasons for Designation meet the associative criteria under Regulation 9/06.

Under the third category, “the property has contextual value because it, *i.* is important in defining, maintaining or supporting the character of an area, *ii.* is physically, functionally, visually or historically linked to its surroundings, or *iii.* is a landmark. While there is no reference in the Reasons for Designation to the contextual value of the property, it would meet Regulation 9/06 for its historical relationship to its surroundings as the surviving built form features from Maryvale Farm following the redevelopment of the remainder of the site. To reflect the spacious setting of the estate buildings, the legal description of the property in the designating by-law captures the open space with trees south and west of the heritage buildings.

The changes to Part IV, Section 29 of the Ontario Heritage Act (2005) include references to the cultural heritage value and heritage attributes of a designated property. The Reasons for Designation in Schedule “B” of the designating by-law for 5 Avonwick Gate refer to the cultural resource value of the property and, in the second and third paragraphs, list the heritage attributes. For the house, the heritage attributes are found on all exterior walls and describe the scale, form and massing of the U-shaped plan and east wing, the materials, the roof and roof detailing, the placement and detailing of the fenestration and main entrance, and the application of Classical detailing. The interior of the house is not referenced and specific features on the west and north wall are excluded. Similarly, the heritage attributes on the adjoining garage and outbuilding are confined to the exteriors of the structures and are comprised of the scale, form and massing, the materials, the roofs and roof details, the entries and fenestration, and the Classical embellishments. The Reasons for Designation for 5 Avonwick Gate reflect the format adopted following the passage of the Ontario Government Efficiency Act, 2002, when the City of Toronto prepared a single statement of reasons for designation for both the notices of intention to designate (for the property owners, Ontario Heritage Foundation (now Trust) and newspaper publication) and the designating by-law.

Notice of the Passing of the Designating By-law

On March 3, 2009, Notice of the Passing of the Designating By-law was served on the Toronto Catholic District School Board and the Ontario Heritage Trust according to Part IV, Section 29 of the Ontario Heritage Act, and advertised on the City of Toronto’s web site. In a letter dated February 24, 2009, the TCDSB objected to the designation. In response, the City Legal Department advised that the Ontario Heritage Act allows appeals to designation within the 30-day period following Council’s Notice of Intention to Designate, which was on November 7, 2003. The TCDSB did not object within that time frame, so an objection to the designation at this time is invalid. It should be noted that during the time when the designation was proceeding, staff were actively negotiating with the TCDSB regarding alterations to and protection of the property at 5 Avonwick Gate, including the provision of a heritage easement agreement. Although Council authorized a heritage easement agreement in September 2003, the TCDSB declined to enter into one and such an agreement cannot be imposed on a property owner.

Property Standards

At the request of the Ward Councillor, Municipal Licensing and Standards and City Planning staff have investigated the property for property standards violations. In response to this investigation the owner will be required to address several property standards issues including foundation repairs and roof work to comply with the Toronto Municipal Code, Chapter 629, Property Standards. The owners will also be required to conduct conservation work to repair deteriorating heritage attributes in accordance with Article V of Chapter 629, Enhanced Property Standards for Designated Properties enacted by City Council on September 27, 2007.

Conclusion

The Senator O'Connor house, garage, and outbuildings have significant cultural heritage value and the applications to demolish the buildings and to repeal the designating by-law should be refused. Staff have consulted with the Ward Councillor and the North York Community Preservation Panel and they are in agreement with the recommendations. The refusal of the application to demolish and the refusal to repeal the designating by-law will ensure that the buildings can be stewarded in the long term for their cultural heritage values.

CONTACT

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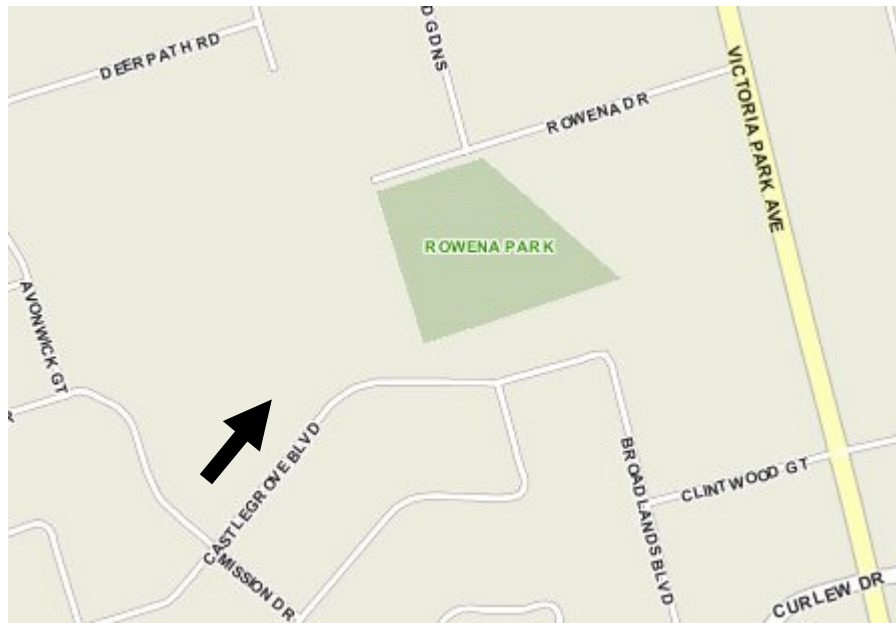
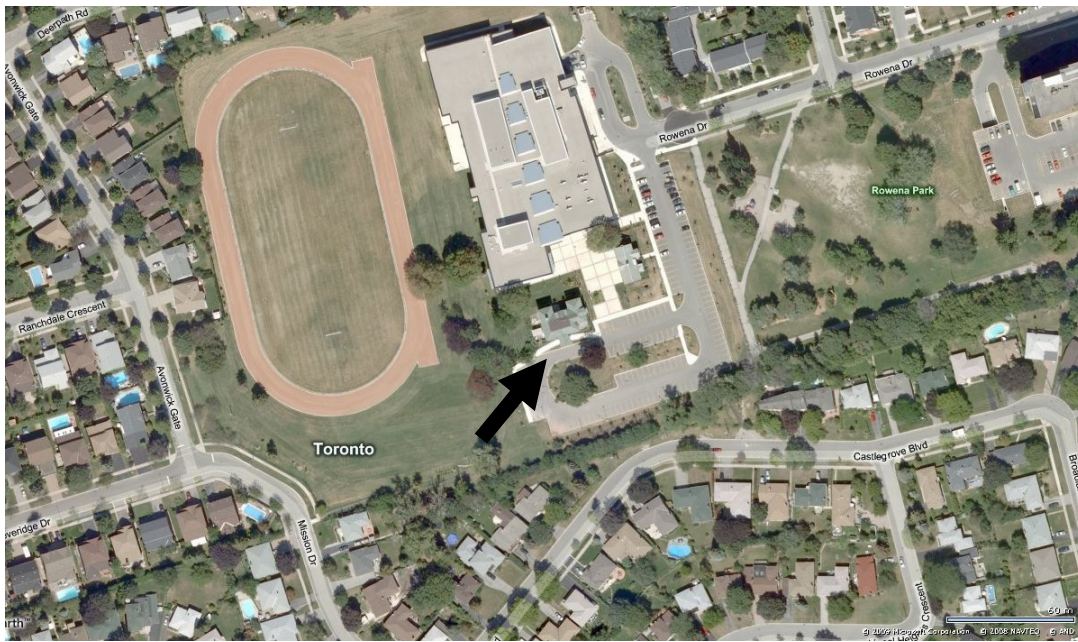
SIGNATURE

Barbara Leonhardt
Director, Policy & Research
City Planning Division

ATTACHMENTS

Attachment No. 1: Location Map
Attachment No. 2: Photographs (2003 & 2009)
Attachment No. 3: Designating By-law 221-2009

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The location map is for information purposes only.
The exact boundaries of the property are not shown.



5 Avonwick Gate, March, 2009



5 Avonwick Gate, 2003

DESIGNATING BY-LAW 221-2009: 5 AVONWICK GATE ATTACHMENT NO. 3

Authority: Midtown Community Council Report 7, Clause 37, as adopted by City of Toronto Council on September 22, 23, 24 and 25, 2003 and Toronto North Community Council Report 1, Clause 27, as adopted by City of Toronto Council on January 27, 28 and 29, 2004

Enacted by Council: February 25, 2009

CITY OF TORONTO

BY-LAW No. 221-2009

To designate the property at 5 Avonwick Gate as being of cultural heritage value or interest.

WHEREAS authority was granted by Council to designate the property at 5 Avonwick Gate (Senator O'Connor House as being of cultural heritage value or interest; and

WHEREAS the *Ontario Heritage Act* authorizes the Council of a municipality to enact by-laws to designate real property, including all the buildings and structures thereon, to be of cultural heritage value or interest; and

WHEREAS the Council of the City of Toronto caused to be served upon the owners of the land and premises known as 5 Avonwick Gate and upon the Ontario Heritage Trust, Notice of Intention to designate the property and caused the Notice of Intention to be published in a newspaper having general circulation in the municipality as required by the *Ontario Heritage Act*; and

WHEREAS the reasons for designation are set out in Schedule "A" to this by-law; and

WHEREAS no notice of objection was served upon the Clerk of the municipality;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The property at 5 Avonwick Gate, more particularly described in Schedule "B" attached to this by-law is designated as being of cultural heritage value or interest.
2. The City Solicitor is authorized to cause a copy of this by-law to be registered against the property described in Schedule "B" to this by-law in the proper Land Registry Office.
3. The City Clerk is authorized to cause a copy of this by-law to be served upon the owners of the property at 5 Avonwick Gate and upon the Ontario Heritage Trust and to cause notice of this by-law to be posted on the City's web site for a period

of 30 days in accordance with Municipal Code Chapter 162, Notice, Public, Article II, § 162-4, Notice requirements under the *Ontario Heritage Act*.

ENACTED AND PASSED this 25th day of February, A.D. 2009.

SANDRA BUSSIN,
Speaker
(Corporate Seal)

ULLI S. WATKISS
City Clerk

SCHEDULE “A”

REASONS FOR DESIGNATION

The property at 5 Avonwick Gate is recommended for designation under Part IV of the *Ontario Heritage Act* for its cultural resource value or interest. The house, garage and outbuilding were constructed in 1932-1933 on Maryvale Farm, the country residence of Frank O’Connor (1885-1939). The founder of Laura Secord Candy Shops, O’Connor was a noted philanthropist who was appointed to the Canadian Senate in 1935. O’Connor willed his farm to the Christian Brothers, a religious order that co-founded Senator O’Connor College School, a co-educational high school, on the site in 1963. The house, with an adjoining garage and outbuilding, faces south from the centre of the campus, which is located north of Lawrence Avenue East and west of Victoria Park Avenue. The property is historically significant for its association with Senator Frank O’Connor and, architecturally, the house and complementary outbuildings are good examples of Georgian Revival styling.

The Senator Frank O’Connor House, Garage and Outbuilding are designed with features of the Georgian Revival style, identified by the symmetrical organization of the door and window openings, red brick cladding, and Classical detailing. Constructed of brick with brick, stone and wood trim, the heritage attributes of the buildings are found on the exterior walls and roofs. The Senator Frank O’Connor House features a U-shaped plan with an east wing. The structure rises 2½ stories beneath a hipped roof with brick chimneys, pedimented dormers, and extended eaves with modillion blocks. The principal (south) façade is marked by a two-storey porte cochere where Corinthian columns and pediments support a Classically detailed gable roof with a pediment. Centred in the first floor, the main entrance has a Classical surround with a transom, sidelights and spoolwork. Cornices with dentils surmount the flat-headed window openings with stone sills in the lower storey. Above a stone band course, the second floor contains flat-headed window openings with multi-paned sash, brick voussoirs and, on the trio above the entry, wood trim. The pattern and detailing of the fenestration continues on the remaining elevations, where the bay window on the east wing, the French doors with transoms and sidelights on the east wing and east and west walls, and the round-arched window on the north wall are important elements. The below-grade entrance on the west side of the house, the fire escape on the west wall, and the rear (north) additions are not included in the Reasons for Designation.

The adjoining garage and outbuilding complement the house with the application of red brick with brick, wood and stone detailing, and the symmetrical placement of flat-headed door and window openings. The 1½-storey garage features an ell-shaped plan under a gable roof with a brick chimney, shed-roof wall dormer, cupola, returned eaves and cornices. On the principal (west) wall, a gabled frontispiece with a Classically detailed door opening and spoolwork is placed beneath a pair of round-arched window openings and a datestone. On either side, stone plaques with fruit motifs surmount pairs of door openings with cornices. A round-arched window opening is found on the rear (east) wall. Rising 1½ stories, the small rectangular outbuilding is similarly detailed, with a gable roof with returned eaves and a pedimented (south) dormer with a round-arched window opening.

SCHEDULE “B”

In the City of Toronto (former City of North York) and Province of Ontario, in the Land Titles Division of the Toronto Registry Office (No. 66), being composed of:

FIRSTLY:

Part of PIN 10107-0147 (LT)

Part of Lot 7 in Concession 4 East of Yonge Street, designated as PART 1 on Plan Job Number 2008-0783

SECONDLY:

PIN 10107-0125 (LT)

Part of Lot 7 in Concession 4 East of Yonge Street, designated as PART 2 on Plan Job Number 2008-0783

THIRDLY:

PIN 10107-0124 (LT)

Part of Lot 7 in Concession 4 East of Yonge Street, designated as PARTS 3 and 4 on Plan Job Number 2008-0783