

33 and 37 Maitland Street - Proposed Designation By-Law under Part IV, Section 29 of the Ontario Heritage Act – Consideration of Objection

Date: October 26, 2023

To: City Council

From: Chief Planner and Executive Director, City Planning

Wards: Ward 13 – Toronto Centre

SUMMARY

This report recommends that City Council affirm its decision of July 19, 2023 (Item CC8.28) stating its intention to designate the properties at 33 and 37 Maitland Street under Part IV, Section 29 of the Ontario Heritage Act (the "Act"). The City has received an objection to the notice of intention to designate on behalf of the property owner within the required statutory timeframe.

The subject properties are adjacent to each other on the south side of Maitland Street between Yonge Street and Church Street in the Church - Wellesley Village.

33 Maitland Street, known as "The Biltmore Apartments," is a three-storey, apartment building designed with a brick exterior and Arts and Crafts influences, completed in 1928. City Council included the properties on the Heritage Register on February 7, 2023.

The objector is of the opinion that 33 Maitland Street is "not an appropriate candidate for designation under Part IV, Section 29 of the Ontario Heritage Act. "

The property immediately to the east at 37 Maitland Street is a rare example in Toronto of a Georgian-style villa with Italianate influences dating from 1858. Characteristic of the Georgian style, the property displays a formal but understated symmetrical, red brick façade as well as a low hipped roof with tall symmetrical chimneys at each end. The property was included on the City of Toronto's Heritage Inventory (now the Heritage Register) in 1974. The objector is of the opinion that that the rear and side extensions and additions "are not prominent design features with significant cultural heritage value."

For both 33 and 37 Maitland Street, the objection asserts that the reasons for designation are "overly broad" and suggests that it is inappropriate to refer "to a character area that is informed by other properties beyond the property that is proposed for designation."

Staff have reviewed the objections raised on behalf of the owner and remain of the opinion that despite these objections, the properties 33 and 37 Maitland Street meet Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the Act under all three categories of design and physical, historical and associative, and contextual values. As such, staff are of the opinion that both properties should be designated.

Designation enables City Council to review proposed alterations for the property, enforce heritage property standards and maintenance, and refuse demolition.

City Council has until November 21, 2023, 90 days from the date of the end of the objection period, or 120 days from the issuance of the Notice of Intention to Designate to make a decision on this objection as per the timeline under the Act.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. City Council affirm its decision to state its intention to designate the property at 33 Maitland Street under Part IV, Section 29 of the Ontario Heritage Act as set out in City Council Decision Item CC8.28 on July 19, 2023.
2. City Council affirm its decision to state its intention to designate the property at 37 Maitland Street under Part IV, Section 29 of the Ontario Heritage Act as set out in City Council Decision Item CC8.28 on July 19, 2023.
3. City Council authorize the City Solicitor to introduce the bills in City Council designating the properties at 33 and 37 Maitland Street under Part IV, Section 29 of the Ontario Heritage Act.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

At its July 19, 2023 meeting, City Council adopted a report from the Chief Planner and Executive Director, "33 and 37 Maitland Street - Notice of Intention to Designate a Property under Part IV, Section 29 of the Ontario Heritage Act" (CC8.28) and stated its intention to designate each of the properties at 33 and 37 Maitland Street under Part IV, Section 29 of the Ontario Heritage Act. [Agenda Item History - 2023.CC8.28 \(toronto.ca\)](#)

BACKGROUND

City Council has stated its intention to designate the subject properties under Part IV, Section 29 of the Ontario Heritage Act. A notice of intention to designate was served on the property owners and the Ontario Heritage Trust, and was published in accordance with the Act. The objection period ended on August 24, 2023.

The City Clerk received a notice of objection for the properties at 33 and 37 Maitland Street prepared by Overland LLP on behalf of the property owner within the required timeframe set out in the Act. The Act requires that City Council consider and make a decision on an objection within 90 days from the end of the objection period. City Council may decide to withdraw, amend, or affirm its intention to designate. City Council has until November 21, 2023, to make a decision on the objection.

COMMENTS

Ontario Regulation 9/06 requires that a property needs to meet two of the nine criteria in order to qualify for designation under Part IV, Section 29 of the Ontario Heritage Act.

Staff have reviewed the notice of objection dated August 24, 2023 and prepared by Overland LLP. A copy of the notice of objection is included as Attachment 1 to this report.

The Statement of Significance (Reasons for Designation) for each property, adopted by City Council as part of Item CC8.28, is appended to this report as Attachments 2 and 3.

The objector is of the opinion that 33 Maitland Street (the “Biltmore” Apartments) is “not an appropriate candidate for designation under Part IV of the Ontario Heritage Act “, with demolition of the property having “minimal cultural heritage impact “. The objection asserts that retention of 33 Maitland Street would undermine the proposed conservation of 37 Maitland Street.

For 37 Maitland Street specifically, the objection notice asserts that the rear and side extensions and additions “are not prominent design features with significant cultural heritage value.”

For both 33 and 37 Maitland Street, the objection asserts that the reasons for designation are “overly broad” and suggests that it is inappropriate to refer “to a character area that is informed by other properties beyond the property that is proposed for designation”. The objection also notes that the contextual value identifies “what appear, on their face, to be physical features of the existing buildings rather than the contextual characteristics that warrant designation”. Further that the proposed designation includes elements that are “in need of repair or replacement”.

As part of the evaluation process, staff reviewed the Cultural Heritage Evaluation Report (CHER) for the properties dated June 20, 2022, prepared by GBCA Architects and

submitted in support of a Planning Act application for the subject property, as well as a Heritage Impact Assessment (HIA) dated September 6, 2022.

Staff have re-examined the Statement of Significance (Reasons for Designation) for both 33 and 37 Maitland Street. Ontario Regulation 9/06 requires that a property only needs to meet two of the nine criteria. Staff maintain the position that both properties meet the criteria prescribed by Ontario Regulation 9/06 of the Act with each property meeting three of nine required criteria, with one criteria each under the categories of Design or Physical Value; Historical or Associative Value; and Contextual Value. Further, the heritage impact assessment dated September 6, 2022 prepared by GBCA Architects agrees that 33 Maitland Street meets two criteria, which meets the provincial minimum requirement for designation.

For 33 Maitland Street, the CHER and HIA agree with staff's opinion that the property has design or physical value and historical value for yielding, or the potential to yield, information that contributes to an understanding of a community or culture. The objection does not dispute that 33 Maitland Street meets these two criteria.

The objection questions the contextual value of the property and asserts that the “reasons for designation also refer to a character area that is informed by other properties beyond the property that is proposed for designation.”

Criteria 7 and 8 for contextual value in Ontario Regulation 9/06 state that:

7. The property has contextual value because it is important in defining, maintaining or supporting the character of an area.
8. The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.

The assessment of contextual value requires that the property defines, supports or maintains the character of an area or it is physically, functionally, visually or historically linked to its surroundings.

In staff's opinion, the properties at both 33 and 37 Maitland Street have contextual value for helping to define, maintain and support the character of the area. The properties meet these criteria because there is a large number of heritage properties on the street and in the area which are listed or designated on Toronto's Heritage Register. Further, in 2018, ERA Architects prepared an independent study of the area that identifies the buildings to be in one of three district character areas within the Church-Wellesley Village area formed by concentrations of historic apartment buildings in the area and confirms a continuity of heritage character in these three areas. City Council further affirmed support of the contextual value of this immediate area when on July 19, 2023 (item PH5.11) it stated a Notice of Intention to Designate a property across the street at 42 Maitland Street (the “Maitland Apartments”).

In regard to the assertions made in the objection notice that the features listed under the Contextual Value sections for 33 and 37 Maitland Street are physical features rather than contextual features, staff maintain the opinion that these features are heritage

attributes of the buildings themselves and define, support and maintain the historic visual and residential character of the street.

The objection also states that the proposed designation includes elements of the properties that are “in need of repair or replacement”. The fact that a property may need to be rehabilitated, restored or repaired does not affect the eligibility of designation of a property. The *Standards and Guidelines for the Conservation of Historic Places in Canada* contemplates that good conservation practices allows for attributes to be conserved, repaired and replaced. It is typical that heritage properties have elements which require repair and replacement.

The objection also questions that the rear and side extensions and additions of 37 Maitland Street “are not prominent design features with significant cultural heritage value”. Staff maintain the opinion that the rear and side extensions contribute to the heritage value of the property and support the heritage attribute of the two-storey, rectangular form, scale and massing of the main portion of the building. Further, the rear extension closest to the house is likely original to the development of the house, being built at the same time, while a further rear extension predates 1880 and is compatible in finish. The side extension is possibly an (early) addition or may in fact be part of the original design. The extension contributes to the design and heritage value of the house. The inference that heritage value is only limited to the primary and/or original portions of heritage buildings is not accepted heritage practice in all instances.

While the objection raises some concerns with 37 Maitland Street, there is no strong objection to designating that property under the Ontario Heritage Act. The objection states that “to the extent that designation is pursued for the property at 37 Maitland Street, the Reasons for Designation should be refined in conjunction with the review of the Proposed Development, the supporting HIA and the final determination of the Applications.” In staff’s opinion, this relates to changes to the properties pursued through a development application, not whether the property has cultural heritage value or not in accordance with the prescribed criteria. The appropriateness of future alterations will be considered within a separate OHA application process.

The Ontario Heritage Act prescribes the process of designation of a property and provides for the alteration of a heritage property under Part IV of the Act. The Act also prescribes criteria under Ontario Regulations 9/06 required to be evaluated to determine whether a property has cultural heritage value or interest and therefore should be recommended for designation under the Act. Planning Act applications do not determine the cultural heritage value or interest of a heritage property nor are they included in criteria for the evaluation or determination of cultural heritage value. Instead, Planning Act applications are informed by the designation by-laws and cultural heritage value or interest determined under the Act, such that a determination can be made whether the level of intervention and conservation proposed for a designated property is appropriate. In other words, the designation of a property under Part IV of the Act does not reflect the future state of a property with respect to any specific development application.

Following designation under Part IV of the Act, the appropriateness of any proposed intervention to a heritage property is determined through an alteration or demolition application under Section 33 and Section 34 of the Act. To reach this understanding, it

is necessary to first understand the cultural heritage value of a property prior to planning for change and considering interventions to the heritage property.

The sequential approach described above is consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada and is also consistent with the intent of the changes to the Provincial Policy Statement (2020), which clarify that determination of the cultural heritage value of a property, in accordance with the Act, should be undertaken prior to the application of heritage conservation policies to a particular planning application.

The subject properties are included in a Zoning By-law Amendment application (22203333STE13 OZ) currently under consideration by the City. The Zoning By-law Amendment application proposes demolition of the property at 33 Maitland Street. An application for demolition of the building under Section 34 of the Act has not been made to the City.

Should Council affirm its intention to designate, the City Solicitor will introduce the designating by-laws to Council under Section 29 of the Act. Once Council has passed the designating by-laws, notice has been provided, and the by-law has been published in accordance with the Act, an appeal may be made to the Ontario Land Tribunal in accordance with the Act. The Ontario Land Tribunal Decision is binding.

CONCLUSION

The properties at 33 and 37 Maitland Street meet Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the Ontario Heritage Act, under all three categories of design/physical, historical/associative, and contextual values. As such, despite the notice of objection, these properties should be designated.

CONTACT

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SIGNATURE

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City Planning

ATTACHMENTS

Attachment 1 – Letter of Objection – 33 and 37 Maitland Street

Attachment 2 - Statement of Significance (Reasons for Designation) – 33 Maitland Street

Attachment 3 - Statement of Significance (Reasons for Designation) – 37 Maitland Street

Attachment 4 – Photographs

**STATEMENT OF SIGNIFICANCE
(REASONS FOR DESIGNATION)**

The property at 33 Maitland Street, is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural value and meets Regulation 9/06, the provincial criteria prescribed for municipal designation under the categories of design/physical, historical/ associative and contextual value.

Description

The property at 33 Maitland Street is located in Toronto's Church-Wellesley neighbourhood, on the south side of Maitland Street, mid-block between Yonge and Church Streets. It contains a two-storey apartment building inspired by Art and Crafts movement design and was completed in 1928. The property continues to serve as a multi-residential function.

Statement of Cultural Heritage Value

The building is stylistically representative of Arts and Crafts movement design adapted to a small-scale apartment building of the early 20th century. Characteristic of Arts and Crafts design, the 37-unit building features front gables which contained half-timbered finishes and open eaves with exposed rafters (both subsequently covered). Its Don Valley, reddish-brown brick, facades differentiated with buff-brick lintels and upper-storey window surrounds, and stone quoins, bands and sills.

Such apartment buildings were constructed in a traditional or period revival style of architecture to imbue a sense of domesticity into the design, and to blend into established neighbourhoods, making their development less obtrusive and less objectionable to area residents. Notably, the quoins and polychromatic brickwork reference the adjacent historic house at 37 Maitland Street and may have been an effort to complement its neighbour.

The property at 33 Maitland Street also contributes to an understanding of the social and developmental history of the area north of the city core in the early twentieth century, when the area consisting of largely of detached residences, villas and substantial suburban properties was significantly redeveloped c. 1910-30 as a zone concentrated with apartment buildings. What had been developed as an affluent suburban area saw an influx of middle and working class residents seeking accommodations to rent rather than to own in close proximity to downtown.

Maitland Street retains a significant degree of late-nineteenth and early-twentieth century character. Within a two-block stretch, Maitland Street is occupied by a total of nine apartment buildings dating from 1910 to 1930, including the subject property. All of the buildings are two to four storeys in height of masonry finish. The subject property is integral to this collection of historic buildings in defining, maintaining and supporting the character of the area between Jarvis and Yonge Street. The building contributes to one of the three distinct concentrations of such buildings in the area. Six of these apartment buildings on Maitland Street are between Yonge and Church Streets, while the other

three properties are between Church and Jarvis Streets. Of these, The Biltmore apartments at 33 Maitland Street, and The Maitlands apartment buildings at 36 and 42 Maitland Street, were listed on Toronto's Heritage Register in 2023 and 1973 respectively.

Further contributing to the historic character of the street are six designated structures which are located at 99-113 Maitland Street, between Church and Jarvis Streets: the semi-detached William J. Hill Houses at #99-101(1888), two Patrick McBrine Houses at #103 (1872) and #105 (1871), the Society of Friends Meeting House at #111 (1911), and the Alexander Crombie House at #113 (1871).

Heritage Attributes

Design or Physical Value

Attributes that contribute to the value of the property at 33 Maitland Street being a stylistically representative example of Arts and Crafts:

- The three-storey, T-shaped form, scale and massing of the building with a short façade and long rear extension
- The front facing roof profiles comprising a side gable roof with front-facing cross gables; the flat roof profile of the rear extension
- The exterior materials of the primary façades comprising the reddish-brown brick cladding differentiated with buff-brick lintels and upper-storey window surrounds, and stone quoins, bands and sills; the reddish brown brick finish of the side and rear facades
- The regular fenestration of the building comprising rectangular flat-headed windows throughout the building, and symmetrically arranged on the main façade

Historic and Associative Value

Attributes that contribute to the value of the property at 33 Maitland Street for contributing to yielding an understanding of the social and developmental history of the area:

- The location on Maitland Street within the concentration of apartment buildings in the Church-Wellesley Village area
- The early twentieth-century apartment building typology

Contextual Value

Attributes that contribute to the contextual value of the property at 33 Maitland Street as defining, supporting and maintaining the historic visual and residential character of Maitland Street:

- The location on Maitland Street, between Yonge and Jarvis Streets, creating a concentration of historic apartment buildings and other listed and designated properties recognized by the City of Toronto
- The complimentary three-storey height and masonry finish
- The traditional stylistic architectural finish

STATEMENT OF SIGNIFICANCE**(REASONS FOR DESIGNATION)**

The property at 37 Maitland Street, is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural value and meets Regulation 9/06, the provincial criteria prescribed for municipal designation under the categories of design/physical, historical/ associative and contextual value.

Description

The property at 37 Maitland Street is located in Toronto's Church-Wellesley neighbourhood, on the south side of Maitland Street, mid-block between Yonge and Church Streets. It contains a two-storey Georgian-style building with Italianate influences that was constructed as a residence in 1858. The property now serves as commercial offices.

Statement of Cultural Heritage Value

The property is a rare example in Toronto of a Georgian-style villa with Italianate influences dating from 1858. Few residences of the period and in the style exist in the Church-Wellesley or downtown areas of the city. Characteristic of the Georgian style, the property displays a formal but understated symmetrical, red brick façade as well as a low hipped roof with tall symmetrical chimneys at each end. Italianate influences include long main floor windows, the flat central portion of the roof, segmental arched and curved window openings, and the glazed and panelled double doors. The polychromatic buff-brick detailing comprising quoins and lintels is also characteristic of Italianate design. Extensions on the side and rear of the house are finished with compatible detailing and matching materials to that of the main portion of the structure. A small side entrance porch with distinctive, curved-slope roof further contributes to, and individualizes the design. Historically, front and west elevation verandahs as well as ground level French windows (doors) to the floor would have helped to comprise a picturesque villa appearance.

The property at 37 Maitland Street also contributes to an understanding of the social and developmental history of the area north of the city core in the mid-Nineteenth century, when the sparsely populated area consisted largely of detached residences and small villas, such as the subject property. In that era, the affluent began to favour building suburban residences outside of the city core, with the subject property recalling such development. Accordingly, the English-born first owner of the house, Samuel George (1792-1874), is simply listed in period references as a "gentleman". The property survives as the only such property on Maitland Street and thereby provides tangible insight into the physical and demographic character of the area in the mid-nineteenth century.

Additionally, the property is important in maintaining and supporting the historic character of Maitland Street. Between Yonge and Jarvis streets, Maitland Street has significant heritage character containing six designated structures - five of which are

houses - which are located at 99-113 Maitland Street, between Church and Jarvis Streets: the semi-detached William J. Hill Houses at #99-101(1888), two Patrick McBriene Houses at #103 (1872) and #105 (1871), the Society of Friends Meeting House at #111 (1911), and the Alexander Crombie House at #113 (1871). The subject property contributes to this collection of historic properties on Maitland Street.

Further contributing to Maitland Street's significant late-nineteenth and early-twentieth century character are nine apartment buildings dating from 1910 to 1930. Six of these apartment buildings are between Yonge and Church Streets, while the other three properties are between Church and Jarvis Streets. Of these, The Biltmore Apartments at 33 Maitland Street, and The Maitlands apartment buildings at 36 and 42 Maitland Street, were listed on Toronto's Heritage Register in 2023 and 1973 respectively.

Heritage Attributes

Design or Physical Value

Attributes that contribute to the value of the property at 37 Maitland Street as being a rare example of Georgian-style design, with Italianate influences:

- The two-storey, rectangular form, scale and massing of the main portion of the buildings; the one-storey porch extension on the side; and the two-storey, rectangular, gabled-roof rear extension
- The roof profiles comprising a low, hipped roof on the main portion of the building with flat central portion, and the two, tall, symmetrical chimneys at each end; the curved slope roof of the side porch; and the gable roof of the rear extension
- The exterior materials comprising polychromatic brickwork with reddish orange brick being the main material and with buff-coloured brick comprising the quoins, window lintels, and band; sandstone window sills, and the reddish beige brick cladding of the later rear extension
- The regular fenestration of the building comprising square, segmental-arched and round headed windows and being symmetrically arranged on the main façade, with long main-level, front façade windows to the floor
- The panelled and glazed porch-entrance double doors

Historic and Associative Value

Attributes that contribute to the value of the property at 37 Maitland Street for contributing to yielding an understanding of the social and developmental history of the area:

- The location on the south side of Maitland Street, north of the city's historic core
- The villa character, with Georgian-style design incorporating Italianate influences

Contextual Value

Attributes that contribute to the contextual value of the property at 37 Maitland Street as defining, supporting and maintaining the historic visual and residential character of Maitland Street:

- The location on Maitland Street, between Yonge and Jarvis Streets, creating a concentration of historic apartment buildings and other listed and designated properties recognized by the City of Toronto
- The building's placement on Maitland Street with similar setback and orientation to the street as the other historic buildings on the street
- The two-story plan
- Historic Georgian-style design with Italianate influence
- The brick construction



33 Maitland Street (left); 37 Maitland Street (right) (Heritage Planning, 2023)