

Property Included on the City's Heritage Register - Consideration of Objection for 171 Lowther Avenue

Date: November 14, 2023

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: 11 - University Rosedale

SUMMARY

This report responds to a notice of objection received by the City of Toronto under Section 27 (7) of the Ontario Heritage Act (the "OHA") from the property owner of 171 Lowther Avenue objecting to the inclusion of the subject property on the City's Heritage Register.

Located on the south side of Lowther Avenue at the corner of Dalton Road, between Brunswick Avenue to the west and Walmer Road to the east, the property at 171 Lowther Avenue comprises a two-and-a-half-storey Queen Anne Revival style residential building constructed in 1901.

On July 19, 2023, City Council adopted the staff report TE6.32 that included the property at 171 Lowther Avenue on the City's Heritage Register.

Through Bill 108 and Bill 23, amendments were made to the OHA to establish a process whereby owners can object to a property's listing on the Heritage Register and, should they do so, a subsequent decision on the listing must be made by the municipality. Owners can object to listings at any time. Chapter 103 of the Toronto Municipal Code establishes the process for Council consideration of objections to properties included on the Heritage Register.

As a result of these new processes, City Council must be made aware of such objections on a routine basis so that they may consider the matter and render a final decision. Once Council has decided about the objection, the owner of the property must be notified of Council's decision within 90 days. Council's decision on objections to listing is final and is not subject to appeal.

In the third quarter of 2023, the City received one notice from property owners objecting to the inclusion of one property on the Heritage Register.

Following a review of the objection to listing submitted for this property, staff are of the opinion that the property 171 Lowther Avenue holds cultural heritage value. Staff recommend that Council continue to include this property on the Heritage Register.

RECOMMENDATIONS

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

1. In consideration of the objection pursuant to the Ontario Heritage Act, City Council continue to include the property at 171 Lowther Avenue on the City of Toronto's Heritage Register.

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

On July 16, 2021, City Council adopted By-law 670-2021 amending the City of Toronto Municipal Code Chapter 103, Heritage, in response to the More Homes, More Choice Act and in part established the process the City would follow when responding to owner's notices of objection under Section 27 (7) of the OHA.

<https://www.toronto.ca/legdocs/bylaws/2021/law0670.pdf>

On March 29, 2023, City Council adopted By-law 288-2023 amending the City of Toronto Municipal Code Chapter 103, Heritage, in response to the More Homes Built Faster Act and amended the process the City follows when responding to owner's notices of objection under Section 27 (7) of the OHA.

<https://www.toronto.ca/legdocs/bylaws/2023/law0288.pdf>

On July 19, 2023, City Council adopted TE6.32 and included the property at 171 Lowther Avenue on the City's Heritage Register.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE6.32>

BACKGROUND

Ontario Heritage Act

The Ontario Heritage Act is the key provincial legislation, among other matters, for the identification, protection, management, and wise use of cultural heritage resources, including archaeology in Ontario and within municipal boundaries. This is largely achieved through listing on the Heritage Register, designation of individual properties under Part IV of the OHA, or designation of districts under Part V of the OHA.

Section 27 of the OHA gives municipalities the authority to maintain and add to a publicly accessible Heritage Register. The Heritage Register includes individual heritage properties that have been designated under Part IV, Section 29 of the OHA and properties in a heritage conservation district designated under Part V, Section 41 of the OHA. Prior to Bill 23 amendments to the OHA coming into force on January 1, 2023, Council could also include properties on the Heritage Register that had not been designated but were believed to be of "cultural heritage value or interest." Under the amended Act, Council can include properties on the Heritage Register that have not been designated but are believed to be of "cultural heritage value or interest" and meet one or more of the criteria prescribed under O. Reg 9/06.

Recent Amendments to the OHA establish a process to object to properties listed on the Heritage Register and a subsequent decision of the City in consideration of an objection received by an owner with respect to a listed property at any time.

Non-designated listed properties do not have any protection under the Ontario Heritage Act, except insofar as an owner must give Council at least 60 days' notice of their intention to demolish or remove a structure on the property. This notice provides the City time to conduct further research and evaluation of a listed property to determine if it merits designation under Part IV of the OHA, and therefore warrant conservation, or if the property does not merit listing, and may not be required to be conserved and may be demolished.

Listing a property does not necessarily mean that it will be subsequently designated, which is legally binding and requires owners to seek heritage approval for alterations or demolition. Designation arises in typically common scenarios, such as:

- a property owner gives notice of an intention to demolish the listed building and further evaluation recommends designation
- a listed property is included within a planning application and a Heritage Impact Assessment (HIA) is submitted, confirms the property contains cultural heritage value or interest in accordance with provincial criteria and proposes a subsequent evaluation to direct appropriate conservation measures within the planning approvals process
- a property is not listed on the Heritage Register, but is identified through a planning application as a potential cultural heritage resource that requires further evaluation to determine whether it meets two or more criteria under O. Reg 9/06
- a property owner wishes to take advantage of one of the city's heritage incentive programs and requests further staff evaluation and designation, as appropriate

Statements of Objection under the Ontario Heritage Act

Section 27(8) of the OHA requires that Council consider and decide on notices of objection received from property owners under Section 27 (7) of the OHA. As of January 1, 2023, this requirement applies to all properties that are included on the Heritage Register. An analysis of the prescribed criteria under O. Reg 9/06 is not

required by operation of subsection 1(3) of O. Reg 9/06 if the property was included on the Heritage Register before January 1, 2023.

Should the City Clerk receive an objection under subsection 27(7) of the OHA, Chapter 103-7.3 of the City of Toronto Municipal Code describes the process by which Council will respond. If in the opinion of the Chief Planner there is sufficient time to prepare a report, the Chief Planner will prepare a report to the Planning and Housing Committee on consideration of any objections received for recommendations to Council, on a quarterly basis. Section 27(8) of the OHA requires that once Council has decided on an objection the City shall provide notice of the decision to the property owner within 90 days.

COMMENTS

The OHA requires that owners seeking to object under Section 27(7) of the OHA must serve a notice of objection on the clerk of the municipality setting out the reasons for the objection and all relevant facts. Staff have reviewed notices of objection served by property owners in the third quarter of 2023, along with any other submission materials with relevant information, and provide the following comments.

Staff have reviewed the notice of objection and are of the opinion that it has no bearing on the cultural heritage value of the property.

The subject property at 171 Lowther Avenue is within the West Annex Phase II Heritage Conservation District Study Area and was recommended for further heritage assessment within the West Annex Phase II Historical Context Statement (2022). Staff conducted further evaluation and a recommendation for inclusion on the City's Heritage Register was adopted by Council on July 19, 2023.

The owner has submitted an objection on the following grounds:

- that the listing was intended to delay approval of intended zoning changes
- that if 171 Lowther Avenue merits listing, many other homes in the Annex would as well, and the area should be an HCD, which it is not
- the property at 171 Lowther Avenue has been the subject of heritage reviews which did not consider it to have heritage value.
- that listing will result in additional costs and expenses related to renovations, repairs, and additions could prove prohibitive in keeping the property in good condition.

The objection is appended to this staff report as Attachment 2.

In consideration of the grounds above, Staff note that the listing of the property is not intended to delay any planning application. Rather, heritage listing generally prevents delays by informing owners up front of Council's interest in the cultural heritage value of their property prior to potential change being considered. Further, and as noted in the Listing Statement for 171 Lowther Avenue, the property was identified and recommended for further heritage assessment within the West Annex Phase II Historical Context Statement (December 2022) - a document resulting from a study by a

private heritage consultant that presents a carefully researched understanding of the area's historical development, and which includes a survey of all properties within the boundary to determine which might merit further review and assessment. Neither the presence of other properties with heritage value in the area, or the potential for a heritage conservation district to be studied, precludes individual listing.

Finally, listing on the Heritage Register does not result in any additional burden for property owners with regards to maintenance or repairs to their property, nor will it impact any renovations or additions that do not include the demolition or removal of a structure on the property.

After consideration of the objection to the listing of 171 Lowther Avenue, Staff are of the opinion that the subject property meets the criteria prescribed by Ontario Regulation 9/06 and is believed to hold cultural heritage value or interest. As such, despite the notice of objection, staff recommend that the property should remain listed on the City's Heritage Register.

CONCLUSION

Staff have reviewed the notice of objection submitted by the property owners of 171 Lowther Avenue under Section 27(7) of the OHA. Staff believe that 171 Lowther Avenue holds cultural heritage value or interest. Staff are of the opinion that this property should continue to be listed on the Heritage Register.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning

ATTACHMENTS

Attachment 1 - Listing Statement (Reasons for Inclusion), 171 Lowther Avenue
Attachment 2 - Notice of Objection, 171 Lowther Avenue

Listing Statement (Reasons for Inclusion)

Staff have completed research and evaluation for the property at 171 Lowther Avenue and have determined that the property is believed to have cultural heritage value or interest and meets at least one or more of the criteria prescribed in Ontario Regulation 9/06 for including a non-designated property on a municipal register under Section 27 of the Ontario Heritage Act. The subject property may meet additional criteria which could be informed by community engagement and determined through further research and evaluation.

Listing Statement:

Description: Located on the south side of Lowther Avenue at the corner of Dalton Road, between Brunswick Avenue to the west and Walmer Road to the east, the property at 171 Lowther Avenue comprises a two-and-a-half-storey detached house-form structure.

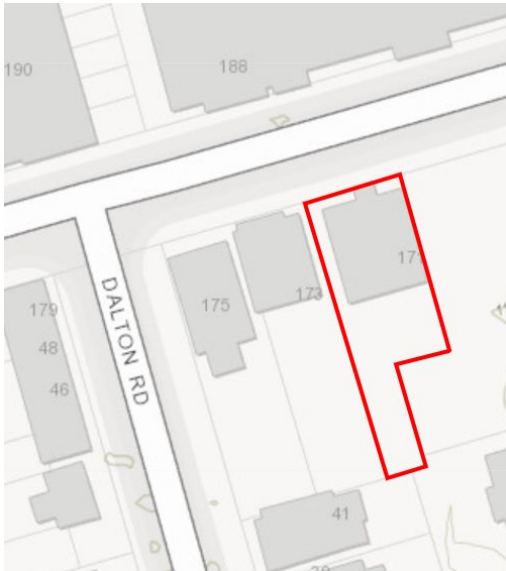
The subject property was recommended for further heritage assessment within the West Annex Phase II Historical Context Statement.

The subject property at 171 Lowther Avenue has cultural heritage value as it meets the following criteria under Ontario Regulation 9/06 of the Ontario Heritage Act:

The property at 171 Lowther Avenue has design value as a representative example of a Queen Anne Revival residential building constructed in 1901. The property has associative value as a former residence of Eugene Coste, a mining engineer renowned for being the first to drill for natural gas in Ontario. Coste was also a president of the Canadian Mining Institute, founder of the Eugene Coste & Company petroleum engineer and geologist consulting firm and was involved in the forming of the Union Gas Company. The subject property has contextual value by maintaining and supporting the residential character of the West Annex neighbourhood, for which Queen Anne Revival is a prevalent architectural style. It is also functionally, visually, and historically linked to its surroundings as a house constructed at the beginning of the West Annex's construction boom.



171 Lowther Avenue, Heritage Planning, 2023



171 Lowther Avenue (indicated in red). Note: This location map is for information purposes only; the exact boundaries of the property are not shown. City of Toronto Mapping.

Notice of Objection
171 Lowther Avenue

ATTACHMENT 2

From: [Louis Reznick](#)
To: [Registrar – City Clerk's Office](#)
Cc: [Shauna Reznick](#)
Subject: [External Sender] notice of property incl in heritage register
Date: August 14, 2023 6:14:58 PM

good day

we rec'd a notice regarding our property 171 Lowther Ave.

we wish to object to the inclusion of the property and have voiced our objection to the intended listing to the (prior) Heritage Advisory Committee.

the reasons include;

a) that the inclusion was only intended to delay approval of our intended zoning changes

b) the claim that the previous owner was of importance and the residential character should be sufficient reason to create this designation should then be applied to just about every other home in the neighborhood, in which event the annex would be designated a heritage district, which it is not

c) the house at 171 lowther had been reviewed previously on at least 2 occasions for inclusion in the heritage registrar and was passed over

d) other neighborhoods in the annex have been designated heritage districts, but this area has not.

we have had a heritage study done which determined that the house, put in simple terms, has no further heritage value than most other homes in the annex area.

e) the additional costs and expenses in dealing with further renovations, repairs, and additions would be burdensome and cause hardships which would or could prove prohibitive in keeping the property in a good condition, as we have since our ownership.

please let us know when this matter comes before any further committee or council so that we may speak to the matter and voice our objections.

thank you.

louis and shauna reznick

Louis Reznick