

Delegated Inclusion of Listed Properties on the Heritage Register in 2023

Date: December 28, 2023

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

Section 103-8.7 D. of the City of Toronto Municipal Code requires the Chief Planner to prepare a report for information to City Council on the properties included in the Heritage Register in 2023 as listed properties through the delegated authority of the Chief Planner. This report also reviews the performance and process of administering the delegated authority of including properties in the Heritage Register.

In 2023, six properties on three development sites were listed in the Heritage Register using the Chief Planner's delegated authority. One property municipally known as 409 Huron Street has been designated under Section 29 of the Ontario Heritage Act (OHA). The remaining five properties identified below have not yet been designated under the OHA:

6-8 Cawthra Square
10-12 Cawthra Square
100 Borough Drive

The delegated authority to list properties in the Heritage Register has successfully contributed to the City's timely response to development applications, and has ensured that Council is not precluded from considering whether a property merits designation under 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 meeting on March 29, 2023, City Council considered a report from the City Manager and the Chief Planner and Executive Director, City Planning "Implementing Bill 23 - Amendments to the Heritage Act and Proposed Amendments to the Municipal Code: Chapter 103 - Heritage". Council adopted recommendations to amend City of Toronto Municipal Code Chapter 103, Heritage, including to grant the Chief Planner focused delegated authority to list properties in the Heritage Register according to prescribed criteria. Council also directed the Chief Planner and Executive Director, City Planning, as part of the first annual report required under Section 103-8.7D of City of Toronto Municipal Code Chapter 103, to report on the performance and process of administering the delegated authority of listing.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH2.11>

COMMENTS

On January 1, 2023, amendments to the OHA through Bill 23 were proclaimed into force, requiring significant changes to how the City conserves its cultural heritage resources, particularly with respect to listing properties in the Heritage Register. The OHA amendments placed restrictions on Council's ability to designate a property that is subject to a development application, if the property is not listed in the City's Heritage Register before a notice of complete application is issued by City Clerks. Given the very limited time available to list a property involved in a development application, and the limitations of scheduled committee and council meetings needed to adopt a listing, this provision placed the largest immediate risk before Council.

As an initial response to Bill 23, staff recommended that Council delegate focused administrative authority to the Chief Planner and Executive Director, City Planning to ensure that Council can make timely and informed decisions with respect to land use planning and heritage conservation. Authority was delegated to the Chief Planner and Executive Director on March 29, 2023 to include a property in the Heritage Register when:

- that property is believed to be of cultural heritage value and where it meets at least two of the Provincial Criteria for holding cultural heritage value or interest (the amended OHA requires a property to meet one criterion)
- when it is subject to a privately initiated Official Plan Amendment, Zoning By-law Amendment, and/or Draft Plan of Subdivision application

Council also directed the Chief Planner to report annually on those properties listed in the Heritage Register using delegated authority. As part of PH2.11, Council also directed the Chief Planner to report on the performance and process of administering the delegated authority of listing as part of the first report.

Properties Included in the Heritage Register by Delegated Authority

In 2023, six properties on three development sites met the prescribed criteria for inclusion in the Heritage Register through delegated authority, and were listed accordingly. As prescribed in Chapter 103 of the City of Toronto Municipal Code Section 103-8.7D, properties listed under delegated authority are not included in this report if they have subsequently been designated under the Ontario Heritage Act. One property municipally known as 409 Huron Street has since been designated under Section 29 of the OHA.

The remaining five properties included on the Heritage Register through delegated authority in 2023 are:

6-8 Cawthra Square
10-12 Cawthra Square
100 Borough Drive

A notice of decision to include each of these subject properties on the Heritage Register is publicly available at <https://www.toronto.ca/city-government/planning-development/heritage-preservation/delegated-listing>.

The properties at 6-8 and 10-12 Cawthra Square are within a single proposed development site. Listing the subject properties through delegated authority successfully completed the listing process prior to a notice of complete application, thereby preserving Council's right to consider the possible future designation of the four properties. Staff continue to work with the applicant, who has provided a waiver allowing City Council to consider the properties for designation before the end of Q1 2024.

The property at 100 Borough Drive was included on the Heritage Register as a listed property through delegated authority in the final weeks of 2023. An OPA/Rezoning application was received on October 19, 2023. A notice of incomplete application was issued on November 11, 2023. A revised submission is expected at any time. Further research and evaluation of the property will be reviewed in accordance with the timelines under the OHA.

Review of Delegated Authority to List Properties in the Heritage Register

The delegated authority to list properties in the Heritage Register has successfully allowed staff to meet the challenge it was designed to address: to list properties in the Heritage Register that are subject to an Official Plan Amendment, Plan of Subdivision, and/or Rezoning application under the Planning Act, and before a notice of complete application is issued by City Clerks. This very specific challenge resulted from an amendment to the OHA under Bill 23 which requires that, to preserve Council's right to make a decision regarding designation, if that property is subject to a privately initiated Official Plan Amendment, Plan of Subdivision, and/or Rezoning application under the Planning Act, the property must be listed in the Heritage Register prior to notice of complete application.

Following Council's decision, staff established a clear process for a delegated listing which moved through research and evaluation to the consideration of the listing by the Chief Planner to providing the established notice requirement under the OHA.

Delegated authority has successfully allowed the City to list properties in the Heritage Register within the very restricted and sometimes unpredictable window of time between the date of submission of an application to the City and notice of complete application. In the cases of all six of the properties listed by delegated authority in 2023, regulations under Bill 23 put at risk Council's opportunity to consider whether the subject properties merited designation under the OHA.

Listing in the Heritage Register through delegated authority has been used appropriately in the focused circumstances described above. The criteria prescribed in Section 103-8.7D of City of Toronto Municipal Code have worked well to ensure that only those properties at immediate and clear risk of not meeting the timelines prescribed by Bill 23 have used the delegated authority process. The remaining 50 properties listed in the Heritage Register in 2023 were listed without an active application, and therefore followed the process of a staff report recommending listing, which moved through the Toronto Preservation Board to Community Council or Planning and Housing Committee, to Council.

The listing of properties in the Heritage Register through delegated authority has successfully contributed to the City's timely response to prescribed applications, and has ensured that, in very specific circumstances, Council is not precluded from considering whether a property merits designation or not under section 29 of the OHA.

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SIGNATURE

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