Staff Report

To	**City Council**
Service Area	Infrastructure, Development and Environment
Date	Tuesday, February 13, 2024
Subject	**Notice of Objection to Intention to Designate 2187 Gordon Street under Section 29, Part IV of the Ontario Heritage Act**

Recommendation

1. That the Notice of Objection to the intention to designate 2187 Gordon Street dated November 24, 2023 from Turkstra Mazza Associates on behalf of the property owner (2575950 Ontario Ltd.) be received.
2. That the designation by-law for 2187 Gordon Street be approved.

Executive Summary

Purpose of Report

The purpose of this report is to advise Council of the property owner's notice of objection to the intention to designate 2187 Gordon Street and to bring the heritage designation by-law before Council for approval according to the provisions of section 29, Part IV of the Ontario Heritage Act.

Key Findings

A property may be designated under section 29, Part IV of the Ontario Heritage Act if it meets two or more of the criteria used to determine cultural heritage value or interest as set out in Ontario Regulation 9/06 (as amended by O. Reg. 569/22).

The heritage attributes of the barn and farmhouse at 2187 Gordon Street meet six criteria used to determine cultural heritage value or interest as set out in Ontario Regulation 9/06 under the Ontario Heritage Act and therefore the property merits individual heritage designation under the Ontario Heritage Act.

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

The security and deteriorating condition of the James Kidd barn have been major concerns of the City since June of 2021. The property owner's appeal of an outstanding order to comply with the Property Standards By-law is not yet resolved at the time of this report.

Following the collapse of the north wall of the stone slot barn, staff brought a recommendation to Council on October 17, 2023 which resulted in a notice of intention to designate 2187 Gordon Street being published on October 26, 2023. An objection to the intention to designate was received by the City Clerk on November

24, 2023, from Jennifer Meader of Turkstra Mazza Associates on behalf of the property owner (2575950 Ontario Ltd.).

According to section 29, subsections (6-8) of the Ontario Heritage Act, Council has until February 22, 2024, to decide whether to proceed with the designation and, if so, may pass a by-law. The proposed by-law is included in Attachment-4.

Strategic Plan Alignment

The key findings and recommendations of this report align with the 2024-2027 Strategic Plan action 6.1.4 to implement the Cultural Heritage Action Plan and conserve our cultural heritage resources.

Future Guelph Theme

City Building

Future Guelph Objectives

City Building: Improve housing supply

Financial Implications

Costs associated with notices and registration of by-laws are covered by the City's global advertising budget. Additional costs may be incurred if the designation by-law is appealed to the Ontario Land Tribunal.

Report

The security and deteriorating condition of the James Kidd barn have been major concerns of the City since June 2021. The property owner has received professional engineering advice from structural assessments. The property owner's appeal of an outstanding order to comply with the Property Standards By-law is not yet resolved at the time of this report.

Following the collapse of the north wall of the stone slot barn, staff brought a recommendation to Council on October 17, 2023 which resulted in Council publishing a notice of intention to designate 2187 Gordon Street pursuant to section 29, Part IV of the Ontario Heritage Act. The notice of intention to designate was published in the newspaper on October 26, 2023 (Attachment-1) and served on the property owner and the Ontario Heritage Trust on the same date.

The notice of intention to designate stated that any person may send a notice of objection to the proposed designation, before 4 p.m. on November 24, 2023. This notice must be sent to the City Clerk and must set out the reason for the objection and all relevant facts. If a notice of objection is received, Council shall consider the objection and decide whether or not to withdraw the notice of intention to designate the property within 90 days after the end of the 30-day objection period. If Council decides not to withdraw its intention to designate, a heritage designation bylaw must be passed within 120 days after the date of publication of the notice of intention to designate (February 23, 2024). Council must publish a notice of passing of the designation bylaw which is followed by a 30-day appeal period when appeals of the bylaw may be given to the Ontario Land Tribunal for a hearing and decision.

Notice of Objection

A Notice of Objection to the intention to designate 2187 Gordon Street (Attachment-2) was received by the City Clerk on November 24, 2023 from Jennifer Meader of Tukstra Mazza Associates on behalf of the property owner (2575950 Ontario Ltd.).

In the notice of objection, the property owner's legal counsel stated that the owner of the subject property objects to the proposed designation of 2187 Gordon Street for the following reasons [paraphrased for the purposes of this report):

- Land use designations and servicing considerations contemplated by the Clair-Maltby Secondary Plan
- Concern that it is not feasible to retain the farmhouse and the barn in situ and accommodate development.
- Farmhouse and the barn had an agricultural purpose but have not been actively used for decades. This agricultural context will be lost if they sit in situ within a high density residential area.
- Structural condition of the barn is unsafe and not viable.
- Owner's consultants estimate an excessive budget to restore the building to a point intended to limit further damage and deterioration.
- Delay in Intention to Designate; and
- It is premature to consider designation of the subject property.

Staff Response to the Objection

Heritage Planning staff are of the opinion that protection of the significant heritage attributes of the property at 2187 Gordon Street through a heritage designation by-law would not preclude the possible integration of those protected attributes in a balanced, comprehensive, and collaborative consideration of alternative development approaches that account for all of the City's ongoing Planning objectives.

The subject property is listed as non-designated on the Municipal Register of Cultural Heritage Properties under section 27, Part IV of the Ontario Heritage Act. Listing the property on the Municipal Register of Cultural Heritage Properties in 2011 established Council's support for the cultural heritage value of the barn and farmhouse. The property has been identified as one of Heritage Guelph's designation priorities.

The subject property is within the Clair-Maltby Secondary Plan area and identified in the Cultural Heritage Resource Assessment Existing Conditions Report (ASI: Dec 2016, revised June 2017) as containing the barn and farmhouse as built heritage resources. The 2017 report recommended these two buildings as strong candidates for conservation and integration into future land uses in the secondary plan area and that heritage designation should be considered as part of mitigation and/or alternative development approaches to reduce the potential for adverse impacts.

The Cultural Heritage Action Plan (CHAP) was approved by Council in January 2021. The CHAP provided a review and recommendations for the extant farm barns within the City of Guelph that have been listed on the City's Municipal Register of Cultural Heritage Properties. Listing a property on the Municipal Register of Cultural Heritage Properties signals the importance of a cultural heritage resource to the City of Guelph and also requires notice from the owner should a building be proposed for

demolition so that the property can be evaluated for potential heritage designation. Designation under the Ontario Heritage Act is the strongest means by which a municipality in Ontario can protect cultural heritage resources. The CHAP recommended the James Kidd barn at 2187 Gordon Street as a priority for individual designation under the Ontario Heritage Act.

The earliest part of the James Kidd barn is unique as it was constructed as a bank barn in stone with ventilation slots and is now the only building of its kind within the City of Guelph. Other extant examples of this type of barn construction are very rare in the Wellington County and Waterloo Region area. The farmhouse between the barn and Gordon Street was built by John Blair about 1907. What is not typical or common about this house is its method of construction - the exterior walls were constructed with poured-in-place concrete that was rendered (or covered) with a thin stucco finish scored to give the impression of large, cut stone blocks.

Designation of the barn and farmhouse at 2187 Gordon Street aligns with the City of Guelph's Official Plan policies, including:

- Official Plan 2.2.2 (c): Enhance the visual identity of the city through protecting and celebrating the City's cultural heritage resources (page 8)
- Official Plan 4.8 (h): To identify, designate and conserve built heritage resources and cultural heritage landscapes in accordance with Part IV of the Ontario Heritage Act (page 86)
- Official Plan 4.8.1 (18.): The predominant built heritage resources in the periphery of the city are the farmsteads. While there have historically been strong cultural, economic, social and political links between the City of Guelph and its rural neighbours, it is the farming history which sets this area apart from the more heavily urbanized parts of the city. In many cases, the farmsteads are linked to pioneer settlers and other important persons, technologies, architectural styles and developments, or represent the historical development of Guelph and Wellington County. Many are intact examples of early settlement patterns in Wellington County, which survive as a testament to the prosperity and history of this area. These built heritage resources are most deserving of preservation and careful incorporation into developments in accordance with the provisions of this Plan. (page 88)
- Official Plan 4.8.5 (6): Built heritage resources and cultural heritage landscapes that have been listed in the Heritage Register shall be considered for conservation in development applications initiated under the Planning Act, unless the applicant demonstrates to Council in consultation with Heritage Guelph, through a Cultural Heritage Resource Impact Assessment, Scoped Cultural Heritage Resource Impact Assessment or Cultural Heritage Review, that the built heritage resource or cultural heritage landscape is not of cultural heritage value or interest and, therefore, does not meet the criteria for designation under the Ontario Heritage Act (page 91)
- Official Plan 4.8.5 (7): Where a non-designated built heritage resource or cultural heritage landscape is listed in the Heritage Register, the City may require, as a condition of approval of a development application under the Planning Act, a building permit, a partial demolition or change of use, that the proponent enter into agreements to conserve and/or permit to be designated,

by the City, in consultation with Heritage Guelph, the built heritage resource or cultural heritage landscape (page 91)

Staff maintain the opinion (that has been supported by Heritage Guelph, the Cultural Heritage Resource Assessment for the Clair-Maltby Secondary Plan, and the City of Guelph's Cultural Heritage Action Plan) that the James Kidd stone slot barn at 2187 Gordon Street, its heavy timber addition and the Blair farmhouse have significant cultural heritage value with heritage attributes that should be protected by designation under Part IV of the Ontario Heritage Act. Should Council withdraw the Notice of Intention to Designate, the City will not be able to refuse demolition of the barn or house should an application be received on or after January 1, 2025, as the property will be removed from the Municipal Register of Cultural Heritage Properties in accordance with the changes to the Ontario Heritage Act effected by Bill 23.

Council Consideration of Objection

The Ontario Heritage Act, Part IV, Section 29, Subsections 5 – 8 outline the process for objecting to the notice of intention to designate.

Subsection (5) states that an objection setting out the reasons for objections and all relevant facts, may be served to the clerk of a municipality within 30 days of publication of the notice of intention to designate. Subsection (6) states that if a notice of objection has been served, Council shall consider the objection and decide whether or not to withdraw the notice of intention to designate the property within 90 days after the end of the 30-day objection period. In this case Council must decide whether to advance or withdraw its intention to designate before February 23, 2024.

Subsection (7) states that if Council decides to withdraw the notice of intention to designate the property after considering the objection, they shall withdraw the notice by causing a notice of withdrawal. Subsection (8) states that if Council decides not to withdraw the notice of intention to designate the property, Council may pass a by-law designating the property. The by-law must be passed within 120 days after the date of publication of the notice of intention to designate.

In summary according to section 29, subsections (5-8) Council has until February 23, 2024 to decide whether to proceed with the designation and, if so, would need to pass a designation by-law before February 23, 2024.

If Council approves the heritage designation by-law, a notice of passing of the bylaw is required to be published in the newspaper and served on the property owner and the Ontario Heritage Trust. Any person who objects to the by-law may appeal to the Ontario Land Tribunal by giving the Tribunal and the City Clerk, within 30 days after the date of publication of the notice of the by-law passing, a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. The Tribunal shall hold a hearing and make a final decision on the matter.

Consultations and Engagement

At the September 11, 2023 meeting of Heritage Guelph, the Committee passed the following motions:

THAT Heritage Guelph supports the heritage attributes identified for 2187 Gordon Street as outlined in the staff report dated September 11, 2023; and

THAT Heritage Guelph recommends that City Council give notice of its intention to designate 2187 Gordon Street pursuant to Part IV, Section 29 of the Ontario Heritage Act

Heritage Guelph has been advised of the notice of objection from the property owner and that staff are recommending that Council pursue a designation by-law.

Recommendation

Staff recommend that Council continue with its intention to designate 2187 Gordon Street and issue the proposed heritage designation By-law Number (2024) – 20901 (seen in Attachment-4) for 2187 Gordon Street in order to meet the prescribed deadlines of the legislation.

Financial Implications

Costs associated with notices and registration of by-laws are covered the City's global advertising budget. Additional costs may be incurred if the designation bylaw is appealed to the Ontario Land Tribunal.

Attachments

Attachment-1 Notice of Intention to Designate (October 26, 2023)

Attachment-2 Notice of Objection to Intention to Designation (November 24, 2023)

Attachment-3 2187 Gordon Street: Notice of Intention to Designate Staff Report (October 17, 2023)

Attachment-4 By-law (2024) - 20901

Attachment-5 2187 Gordon Street: Notice of Objection Staff Presentation

Departmental Approval

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