



## REPORT

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**TO:** Mayor Lawlor and Members of Council

**FROM:** Laura Loney, Manager of Heritage Planning

**DATE:** June 21, 2024

**REPORT NO.:** PD-2024-052

**SUBJECT:** Objection to a Notice of Intention to Designate under Part IV, Section 29 of the OHA – 499 Guelph Street

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### RECOMMENDATION:

THAT Report No. PD-2024-052 dated June 21, 2024 regarding Objection to a Notice of Intention to Designate under Part IV, Section 29 of the OHA – 499 Guelph Street be received;

AND FURTHER THAT Council decline the request to withdraw the Notice of Intention to Designate for the property at 499 Guelph Street as attached in Appendix C;

AND FURTHER THAT the By-law to designate the subject property at 499 Guelph Street, as attached in Appendix D, be passed;

AND FURTHER THAT, in the event that this matter is appealed to the Ontario Land Tribunal, Council authorize staff to engage legal counsel as required and to attend any hearings in opposition to the appeal.

### KEY POINTS:

The following are key points for consideration with respect to this report:

- On May 6, 2024, Council adopted staff's recommendations to issue a Notice of Intention to Designate (NOID) for the property at 499 Guelph Street through Report PD-2024-026 "Intention to Designate under Part IV, Section 29 of the Ontario Heritage Act – 499 Guelph Street" (Appendix A). A NOID was subsequently posted on the Town's website and served on the owner of the subject property in accordance with requirements under the *Ontario Heritage Act*.

- Staff received a formal letter of objection via email from the current owner, the Trustee Board for the Presbyterian Church of Canada, on June 15, 2024, and an additional objection via email on behalf of the Presbytery of Brampton (Appendix C). Council has 90 days from the end of the 30-day NOID period to decide whether to withdraw the NOID or to pass a by-law to designate the subject property (by September 14, 2024).
- Staff have reviewed the reasons for objection to the NOID and are of the opinion that the designation should move forward as previously determined by Council, and that Council pass a By-law to designate the subject property in accordance with the draft By-law in Appendix D, ensuring consistency with the adoption of Report PD-2024-026 and the Town's intention to designate the property at 499 Guelph Street.
- Should the proposed designation be appealed to the Ontario Land Tribunal (OLT), staff are recommending that Council direct staff to engage legal counsel and attend any subsequent hearings or meetings required.

## **BACKGROUND AND DISCUSSION:**

### **Background**

The property at 499 Guelph Street was originally listed on the Town's Heritage Register during Phase 2 of the Town's Heritage Register Process (2011) and was identified as a good example of a Gothic Revival style church building, associated with the religious history of Norval and with Lucy Maud Montgomery and Reverend Ewan MacDonald (Appendix E).

At the February 12, 2024, R meeting of Council, staff were directed by Council to prioritize the subject property at 499 Guelph Street for research and evaluation as part of the Town's Council-approved Heritage Register prioritization strategy to respond to *Bill 23, More Homes, Built Faster Act, 2022*<sup>1</sup>.

Following a fulsome research and evaluation process by staff, on March 20, 2024, Heritage Halton Hills considered the Research and Evaluation Report (Appendix B) for the subject property and recommended that the property be designated. On April 15, 2024, Council considered Report PD-2024-026 entitled "Intention to Designate under Part IV, Section 29 of the Ontario Heritage Act – 499 Guelph Street (Appendix A) and adopted staff's recommendations to issue a Notice of Intention to Designate the property; this decision was ratified at the following Council meeting of May 6, 2024.

Notice of Intention to Designate (NOID) was provided to the owner and publicly through the Town's website on May 16, 2024, indicating that any person had 30 days from the date of notice to serve written notice of objection to the proposed designation. Staff

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<sup>1</sup> Bill 23 stipulates that municipalities have a two-year window to determine whether properties on the Heritage Register warrant designation under the Ontario Heritage Act. If not so designated after two years, properties must be removed from the Heritage Register.

received a formal letter of objection via email from the current owner (the Trustee Board for the Presbyterian Church of Canada) on June 15, 2024, and an additional objection via email on behalf of the Presbytery of Brampton on June 16 (Appendix C).

## **Ontario Heritage Act Requirements**

Section 29(6) of the *Ontario Heritage Act* indicates that “If a notice of objection has been served under subsection (5), the council of the municipality shall consider the objection and make a decision whether or not to withdraw the notice of intention to designate the property within 90 days after the end of the 30-day period under subsection (5). 2019, c. 9, Sched. 11, s. 7 (6).”

## **Summary of Identified Issues & Response to Letters of Objection**

The Notices of Objection received for the NOID (Appendix C) identify the parties’ objections to the designation process, including the evolution of the church building and its living history, perceived concerns about new ownership, impacts of a designation on continued worship, lack of communication, and the prioritization of this designation. Staff have summarized and provided responses to these issues below.

### Identified Issue: Physical Evolution

The owner notes that church building has evolved since its construction in 1878, and that it will continue to evolve. Designation could prevent the building from serving as a living presence in the community.

#### *Staff Position:*

Staff acknowledge that continued use of any building over time almost always necessitates alterations to that building. Despite this, the existing c.1878 structure has retained its significant cultural heritage value since its construction while undergoing changes to ensure its continued use.

Staff have discussed the implications of designation with the owner and have noted that designation does not limit an owner’s ability to make changes to the property. Designation will allow staff, and the Town, input where identified heritage attributes may be impacted as part of a heritage permit, building permit, or development application for the subject property. Changes and alterations to designated properties, as with any property over its lifetime, are expected as part of their continued and evolving use over time.

### Identified Issue: Designation Timing & Impacts for New Owners

Referencing an article in Halton Hills Today dated April 16, 2024, the owner questions whether the Town will welcome new arrivals to the community given the concerns expressed by Council regarding the intentions of future owners.

The Presbytery has also identified its confusion as to why the property has been prioritized when there have been no significant alterations or applications to demolish the existing building.

*Staff Position:*

Designation of the subject property, and the inherent identification and conservation of the heritage attributes of the property, allows the continued conservation of this important cultural heritage resource regardless of future changes in ownership. Should the proposed use of the property change in future, designation will ensure staff, and the Town, are able to work with future owners to conserve what is significant while managing that change.

Staff were directed by Council to prioritize the Research and Evaluation of the subject property in February 2024.

Identified Issue: Insurance

Concerns have been raised by Trustees of the church relating to obtaining insurance for a designated heritage property.

*Staff Position:*

All of the Town's designated properties are fully insured. Staff have also identified that insurance costs should not be impacted through a designation process. There is no additional legal requirement for a designated property owner to replace lost heritage attributes. While property owners may choose to seek full replacement coverage for their properties, designated property owners are not obligated to have this additional coverage.

Identified Issue: Communication

The owner has identified a perceived lack of communication and due diligence on behalf of the Town in this process.

*Staff Response:*

Following Council's direction on February 12, 2024, on February 15, 2024, staff sent a letter to the address for the owner on file with the Town, the office for the Presbyterian Church of Canada (PCC), advising them of Council's direction. Regrettably, staff understand that a community member advised the Trustees that this process had begun before staff's communications had reached them through the PCC. Staff subsequently had several conversations with church representatives and Trustees prior to and following the March 20, 2024, meeting of Heritage Halton Hills, and prior to and following the April 15, 2024, meeting of Council.

Staff also note that the legislated notice requirements for designations under Part IV of the *Ontario Heritage Act* are required only *after* a Council decision to issue

a Notice of Intention to Designate; however, staff do their best to engage owners as early in the process as possible to ensure transparency and engagement in the process.

### **Comments and Next Steps**

In light of the above, and in keeping with the recommendations of Report No. PD-2024-026 (Appendix A), staff remain of the opinion that the property at 499 Guelph Street warrants designation under the *Ontario Heritage Act* to ensure its long-term conservation as one of the Town's unique and valuable cultural heritage resources. Staff continue to work with designated property owners to manage change while demonstrating a continued commitment to balancing conservation with the necessary evolution of their properties.

Should Council adopt staff's recommendations, the By-law for the subject property should be passed to designate the property at 499 Guelph Street as shown in Appendix D. Any person who objects to the by-law has 30 days from the date of the notice given for the passage of this by-law to appeal to the Ontario Land Tribunal. Should no objection be received, the by-law will come into force and be registered on title for the subject property. Should the owner appeal Council's decision to the OLT, staff are recommending that they be directed to engage legal counsel and attend any hearings as required in support of the designation of the subject property.

### **STRATEGIC PLAN ALIGNMENT:**

This report identifies natural areas and heritage as one of the Town's Strategic priorities.

### **RELATIONSHIP TO CLIMATE CHANGE:**

This report is administrative in nature and does not directly impact or address climate change and the Town's Net Zero target.

### **PUBLIC ENGAGEMENT:**

Public Engagement was not needed as this report is administrative in nature.

### **INTERNAL CONSULTATION:**

Heritage Halton Hills was consulted in the preparation of this report.

**FINANCIAL IMPLICATIONS:**

This report will be funded through an existing approved budget source.

Should Council adopt staff's recommendations and pass a by-law to designate the property under Part IV, Section 29 of the *Ontario Heritage Act* at the July 8, 2024 meeting of Council, and should an objection to the by-law be received within 30 days after the date of publication of that notice, this objection would result in a hearing at the Ontario Land Tribunal which would have associated financial implications in terms of legal support.

Reviewed and approved by,

Bronwyn Parker, Director of Planning Policy

John Linhardt, Commissioner of Planning & Development

Chris Mills, Chief Administrative Officer