



Committee of the Whole Report

Report Number:	ED2023-004
Meeting Date:	February 7, 2023
Title:	Objection to the Listing of Property – 189 County Road 49, Geographic Township of Verulam
Description:	Objection by the Owner to the Listing of 189 County Road 49 on the City's Heritage Register
Author and Title:	Emily Turner, Economic Development Officer – Heritage Planning

Recommendations:

That Report ED2023-004, **Objection to the Listing of Property - 189 County Road 49, Geographic Township of Verulam**, be received;

That the property be removed on the Heritage Register; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

The City of Kawartha Lakes regularly lists properties on its Heritage Register as properties of cultural heritage value or interest. Listed properties are not designated and are not subject to the same restrictions, such as the requirement to apply for a heritage permit to undertake certain types of alterations, as properties designated under Parts IV and V of the Act. The City is proactive identifying and protecting properties through listing. Properties are identified by staff, members of the Committee and Council, and members of the public.

At the meeting of the Committee of the Whole on June 7, 2022, Council was presented with a list of properties for listing on the Heritage Register. At the Council meeting of June 21, 2022, Council adopted the following resolution:

CR202-198

Moved By Councillor Dunn

Seconded By Councillor Elmslie

That Report ED2022-016, **Listing Properties on the Heritage Register**, be received; and

That the proposed addition of non-designated properties listed in Appendix A to the City of Kawartha Lakes Heritage Register, save and except for the properties located at 1464 Highway 7A, Bethany, 17 John Street, Fenelon Falls, 106 Elm Tree Road, Mariposa and 77-83 William Street North, Lindsay, be approved, as amended.

Carried

Changes made to the Ontario Heritage Act through the More Homes, More Choice Act (2019) came into effect on July 1, 2021. These changes introduced new processes for listing properties on the City's Heritage Register. These include both a statutory notice and a process for property owners to formally object to the listing of their property.

Property owners are notified twice regarding the listing of their property on the Heritage Register, both before and after it is considered by Council. The first of these notices is a courtesy notice, while the second, which provides the information on objecting to the listing, is the statutory notice required by the Act. In order to object to the listing of their property, the owner of a property must serve their objection on the

Clerk of the municipality, in writing, stating that they object to the listing and the reasons why. These are the requirements outlined by subsection 27(7) of the Ontario Heritage Act.

In November 2022, the owner of 189 County Road 49 verbally objected to the inclusion of the property on the Heritage Register in a phone call with staff. In accordance with the requirements under the Ontario Heritage Act, staff advised that the owner was required to a formal notice of objection and provided the owner with the City's standard form for objection to the listing of property. The owner then submitted a notice of objection to the Clerk's Office. The reasons for objection identified in the objection form are as follows:

- The owners object to the property being listed without their permission and consultation;
- The house is not unique as there are other example of this type of house in Kawartha Lakes; and
- They have done updates so that house is not Victorian anymore.

As with the addition of listed properties to the Register, Council makes the decision as to whether or not a property should be removed from the Register following an objection. Council must first consult with its Municipal Heritage Committee prior to making a decision. The Municipal Heritage Committee reviewed the objection at its meeting of January 12, 2023 and made the following motion:

KLMHC2023-012

Moved By T. Richards

Seconded By W. Bateman

That Report KLMHC2023-008, **Objection to the Listing of Property – 189 County Road 49, Geographic Township of Verulam**, be received;

That 189 County Road 49 be removed from the Heritage Register; and

That this recommendation be forwarded to Council for approval.

Carried

This report addresses the objection received by the City.

Rationale:

189 County Road 49 was identified by staff as an eligible property for listing on the Heritage Register. The rationale for listing the property was presented in the report to Council in June 2022 as follows:

189 County Road 49 has cultural heritage value as a representative example of a late Victorian farmhouse in Verulam Township. The property was likely constructed in the 1880s and demonstrates the popular forms used in farmhouse design at this time, including an L-shaped plan, steeply pitched roof, and rounded windows with radiating voussoirs. The property has historical associations with the development of agriculture in Verulam Township and was likely constructed by settler John Cain whose family owned the property from the 1870s to the 1940s. The property demonstrates the evolution of agricultural settlement and growth in prosperity in the township in the later decades of the century. It supports and maintains the rural agricultural character of the area as an extant historic farmstead.

When the notices were provided to the owners, a heritage evaluation matrix was also included in the correspondence. This matrix is attached as Appendix A and demonstrates the property's heritage value in relation to Ontario Regulation 9/06. The excerpt for the property from the Heritage Register is attached as Appendix B.

The objections made by the owners of the property are based on both cultural heritage value and processes items. The items identified by the owners of the property are outlined and discussed below:

- **The owners object to the property being listed without their permission and consultation:** Requiring consent from property owners to provide protection to properties of cultural heritage value runs in contravention to the intent of the Ontario Heritage Act and requiring it has been struck down in the courts. While it is always preferable that owners are in agreement to having their property listed, it is not required by the Act. Similarly, the consultation and notification process regarding listing in Kawartha Lakes goes above and beyond what is required by the Act to give owners multiple opportunities to reach out and discuss the listing of their property with staff.
- **That the house is not unique as there are other example of this type of house in Kawartha Lakes:** This is correct as the house is not unique amongst Victorian farmhouses in Kawartha Lakes but it does provide a representative

example of a certain type of late nineteenth century residential property. This fulfils one of the criteria outlined under Ontario Regulation 9/06.

- **They have done updates so that house is not Victorian anymore:**
Updating a property does not preclude it from having cultural heritage value. Despite the various upgrades the owners have done, the property still retains a range of architectural features, which make it a representative example of a Victorian farmhouse.

At the time the property was listed, municipalities were not required to prove heritage value before listing a property as a property have to at that time only be believed to have heritage value for it to be listed. However, the City's practice was to undertake an evaluation based on Ontario Regulation 9/06 to ensure that each property had clearly identified cultural heritage value; the criteria and the way in which the property fulfils them is identified in the heritage evaluation matrix attached to this report. This both ensured that the City's process was consistent and to provide the owner with a clear evaluation and rationale for listing their property. Amendments to the Ontario Heritage Act through Bill 23, the More Home Built Faster Act (2022) now require that a property be evaluated based on Ontario Regulation 9/06 and fulfil at least one criteria to be listed on the Register, which aligns the City's current practice with the legislation. The property has clearly identified cultural heritage value in relation to O. Reg 9/06 and is in compliance with the current requirements under the Act as it fulfils multiple criteria under the regulation. Generally, staff would recommend that a property with this level of cultural heritage value remain listed on the Register.

However, despite the cultural heritage value of the property, both staff and the Municipal Heritage Committee are supportive of the request to remove the property from the Register due to the recent amendments to the Act made by Bill 23, which limit the time that a property may be listed on the Register. As the property was listed prior to the amendments coming into effect on January 1, 2023, it must either be designated or removed from the Register within two years, meaning that it will automatically be removed from the Register on January 1, 2025, unless it is designated under Part IV of the Ontario Heritage Act prior to this date. While staff will be bringing forward properties on the Register for designation in response to this new requirement under the amendments to the Act, residential properties will not be prioritized unless there is a specific reason to do so, such as a known or anticipated development pressure or if the property is highly unique within Kawartha Lakes. A report detailing the high-level strategic approach to the designation of listed properties will be presented to Council by

the end of Q1 2023, but the approach being proposed by staff will not prioritize properties of this type. Taking that approach into account, it is unlikely that this property will be designated within this timeframe and will automatically be removed from the Register. As there are no known or anticipated development pressures relating to this property, given its location in a rural area away from the waterfront, there is no advantage at this time to leaving the property listed on the Register.

However, should development be anticipated on this site at a future date and Council feels this property should be preserved as part of a new development, the property may be re-listed. There is no prohibition in the Act regarding re-listing a property which has been removed by Council's initiative prior to the two-year period identified in the Register. While staff do not view this as a good approach to cultural heritage management, removing the property from the Register at this time and revisiting it later, if and when required, is a practical alternative available in light of the recent amendments to the Act.

Other Alternatives Considered:

Council may choose to leave the property listed on the Register if it feels that the cultural heritage value of the property outweighs the considerations presented in response to Bill 23, as outlined above. Should Council wish to do so, it can make the following motion:

That Report ED2023-004, **Objection to the Listing of 189 County Road 49, Geographic Township of Verulam**, be received;

That the property remains listed on the Heritage Register; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Alignment to Strategic Priorities

In general, the listing of properties on the Heritage Register supports the strategic priority of An Exceptional Quality of Life by supporting and promoting arts, culture and heritage. Listing properties recognizes and promotes heritage resources in the municipality and supports long-term heritage conservation and planning. It also aligns with the municipality's guiding principle of Open and Transparent because it is a clear

and transparent method of identifying and protecting heritage resources. In general, alignment with the City's strategic priorities would support the retention of the property on the Register, which is not the recommendation contained in this report.

However, the recommendation presented in this report is in response to the practical considerations imposed by the City due to amendments to the Ontario Heritage Act by Bill 23.

Financial/Operation Impacts:

There are no financial or operational impacts as a result of the recommendations of this report.

Consultations:

Property Owner
Clerk's Office
Municipal Heritage Committee

Attachments:

Appendix A – Heritage Evaluation Matrix 189 County Road 49



Adobe Acrobat
Document

Appendix B – Heritage Register Excerpt 189 County Road 49



Adobe Acrobat
Document

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services