

## Council Report

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<b>Report Number:</b>	<b>ED2024-032</b>
<b>Meeting Date:</b>	July 23, 2024
<b>Title:</b>	<b>Objection to the Proposed Heritage Designation of 97 King Street, Village of Woodville</b>
<b>Description:</b>	Objection from the property owner of 97 King Street to its designation under Part IV of the Ontario Heritage Act
<b>Author and Title:</b>	Emily Turner, Economic Development Officer – Heritage Planning

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### Recommendations:

**That** Report ED2024-032, **Objection to the Proposed Heritage Designation of 97 King Street, Village of Woodville**, be received; and

**That** a by-law to designate 97 King Street be brought forward at the next available Council meeting for adoption.

**Department Head:** \_\_\_\_\_

**Financial/Legal/HR/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

**Background:**

The City of Kawartha Lakes designates properties under Part IV of the Ontario Heritage Act. Properties are recommended for designation by their owners, members of the public, local organizations, the Municipal Heritage Committee, Council or staff. Properties proposed for designation are reviewed by the Municipal Heritage Committee, as required by subsection 29(2) of the Ontario Heritage Act, and their recommendation is brought forward to Council under the cover of a staff report.

At the Committee of the Whole Meeting of April 9, 2024, Council received a recommendation from the Kawartha Lakes Municipal Heritage Committee to designate the property known municipally as 97 King Street, Village of Woodville under Part IV of the Ontario Heritage Act. The property is currently listed on the City's Heritage Register and contains an Italianate commercial building constructed in 1892. The property has cultural heritage value as an anchor historic commercial building in downtown Woodville, located at the intersection of King Street and Agnes Street. It helps define the historic downtown character of King Street in the centre of the village as part of a small collection of extant nineteenth century commercial buildings in the community. It also has historic value as the former home of the Loyal Orange Lodge, which used the upper floor of the building as a meeting hall and had a substantial influence in late nineteenth and early twentieth century life in Woodville. A heritage evaluation report outlining the cultural heritage value of the property under Ontario Regulation 9/06 was prepared for the property and is attached as Appendix A of this report.

The proposed designation of the property was precipitated due to amendments made to the Ontario Heritage Act under Bill 23, the More Homes Built Faster Act (2022). These amendments now require municipalities to designate listed properties or remove them from the Register within two years of the amendments coming into effect. Practically, this means that, in order for municipalities to provide heritage protection to their cultural heritage resources as is required by provincial land use planning policy, they must be designated under Part IV of the Act. The amendments came into effect on January 1, 2023. The deadline to review and designate listed properties on the Heritage Register was originally January 1, 2025 but this deadline has recently been extended to January 1, 2027 to allow municipalities additional time to undertake this task.

Upon reviewing the staff report and Municipal Heritage Committee recommendation, Council adopted the following resolution:

**CR2024-189**

**That** Report ED2024-016, **Proposed Heritage Designation of 97 King Street, Village of Woodville**, be received;

**That** the Municipal Heritage Committee's recommendation to designate 97 King Street under Part IV of the Ontario Heritage Act as being of cultural heritage value or interest be endorsed; and

**That** staff be authorized to proceed with the process to designate the subject properties under Part IV of the Ontario Heritage Act, including the preparation and circulation of Notices of Intention to Designate, and preparation of the designating by-laws.

**Carried**

This resolution was ratified at the Council meeting of April 30, 2024. A notice of intention to designate was issued to the property owner on May 10, 2024 and a public notice was posted on the City's website. The notice issued to the property owner includes information regarding heritage designation, the impact of Bill 23 on heritage protection in Ontario, an invitation for the property owner to engage with staff on the designation process and information regarding objecting to the designation, as well as a copy of the heritage evaluation report for the property.

Under subsections 29(5)-(6) of the Act, any person may object to the designation of the property within thirty days of the publication of the notice of intention to designate in the newspaper by serving the Clerk a notice of objection, including any information relevant to their rationale for objection. Once an objection is received, it must be reviewed by Council, with a recommendation from the Municipal Heritage Committee, within 90 days of the end of the objection period. Council may, at that time, choose either to withdraw the notice of intention to designate or proceed to pass a by-law designating the property. The by-law must be passed within 120 days of the publication of the notice of intention to designate. Should any person object to the passage of the by-law, they may appeal the designation to the Ontario Land Tribunal.

The deadline for receiving objections to the proposed designation of 97 King Street was June 9, 2024. An objection was received by the Clerk's Office from the property owner on June 4, 2024 with a letter dated May 21, 2024. This objection was initially sent to the Economic Development Officer – Heritage Planning on May 21 who advised the property owner that objections needed to be sent to the Clerk's Office. The property

owner subsequently forwarded the objection to the Clerk's Office as required under the Ontario Heritage Act. The property owner outlined a number of reasons for objection which are discussed more fully below. Staff are not supportive of the objection due to the high level of cultural heritage value of this property, specifically related to its integral value as part of the historic streetscape of downtown Woodville.

At its meeting of July 4, 2024, the Kawartha Lakes Municipal Heritage Committee reviewed the objection to the proposed designation and passed the following resolution:

**KLMHC2024-068**

**Moved By** J. Hartman

**Seconded By** S. McCormack

**That** Report KLMHC2024-044, **Objection to the Proposed Heritage Designation of 97 King Street, Village of Woodville**, be received;

**That** the objection not be supported and a by-law passed to designate the property; and

**That** this recommendation be forwarded to Council for approval.

**Carried**

This report presents the objection received from the property owner and the background information necessary for Council to consider the objection and make a decision regarding proceeding with the designation of the property. Under the timelines established in the Ontario Heritage Act, Council must make a decision regarding the objection within 90 days of the end of the notice period on June 9 and, should it decide to proceed with the designation, pass the by-law within 120 days of the issuance of the notice of intention to designate noted above. The deadline for both of these timelines falls on September 7, 2024, meaning that a by-law to designate the property must come before Council at its meeting on August 27. A notice has been sent to the property owner informing them that the objection has been received and that it will be reviewed at the July 23 Council meeting.

**Rationale:**

Staff and the Municipal Heritage Committee are not supportive of the objection by the property owner because of the cultural heritage value of the property as identified through evaluation under Ontario Regulation 9/06. The subject property was constructed in 1892 to replace an older commercial building in the same location and was initially used as a dry goods store, followed by several grocery-related businesses

before being converted into a restaurant in 1959. The upper storey of the building was used by the Loyal Orange Lodge and the International Order of Oddfellows as a meeting hall in the late nineteenth and early twentieth century. The property has particular significance because it forms part of the historic streetscape of downtown Woodville which contains a small collection of commercial buildings from the late nineteenth and early twentieth century which define the core of the village and its historic small-town character. A statement of significance for the property as required by the Act, which summarizes the property's cultural heritage value and reasons for designation, can be found below.

## **97 King Street Statement of Significance**

### **Design and Physical Value**

97 King Street has design and physical value as a representative example of an Italianate commercial building and the largest extant example of this architectural style in Woodville. The building, which was constructed in 1892, demonstrates key features of this style which was the most popular architectural style for downtown commercial buildings in Ontario throughout the second half of the nineteenth century. These features include its two-storey construction, ground floor storefronts, upper storey windows and decorative brickwork and it is representative of the execution of this style in Woodville in the later decades of the nineteenth century.

### **Historical and Associative Value**

97 King Street has historical and associative value through its historic relationship with the development of Woodville as a local commercial centre in the late nineteenth century and the village's economic growth. As a downtown commercial property occupied by a range of historic businesses, the property speaks to the economic growth of the community in the late nineteenth century. The property also has historical associations with two local fraternal organizations, the Loyal Orange Lodge and the International Order of Oddfellows, who were both active in Woodville throughout the late nineteenth and early twentieth century. The property was used by both these organizations and yields information regarding their role in Woodville and the surrounding area around the turn of the twentieth century.

### **Contextual Value**

97 King Street has contextual value as a contributing feature to Woodville's historic downtown. The property is historically and visually linked to its surroundings as part of the commercial core of the community where it forms part of a collection of nineteenth century commercial properties constructed during the height of Woodville's nineteenth century growth. The downtown area includes a variety of commercial structures dating

from about 1870 to 1900 and, taken together, these form a cohesive downtown landscape. In addition to its contribution to the downtown, it helps define the overall character of Woodville as a hamlet area within the wider rural landscape.

While any person may object to the designation of a property and request Council reconsider a designation, the Ontario Heritage Act does not require consent from an owner of a property for designation to occur. The purpose of the Act in the designation of individual property is to balance the interests of the public and the community, with the ability of the owner to object to a proposed heritage designation. As discussed more fully below, provincial policy requires municipalities to conserve their significant heritage resources because of the community benefit from the preservation of historic properties.

In 2003, an Ontario Divisional Court held in the case of Tremblay vs. Lakeshore (Town) that requiring an owner's consent for the designation of property was not consistent with the intent of the Act, indicating that a Council of a municipality should consider the designation of a property that fulfils the criteria outlined under Ontario Regulation 9/06 whether or not an owner supports it. Effectively, consideration for designation should be based solely on whether or not a property fulfils the criteria for heritage designation (Ontario Regulation 9/06) and can be considered a significant cultural heritage resource. In order to be considered a significant heritage resource, a property must fulfil two of the nine criteria outlined in the regulation. Council may not request or require consent from a property owner to designate a property, but may consider an objection if the objection convincingly demonstrates that the property does not fulfil the criteria under Ontario Regulation 9/06.

In their objection, the property owner outlined a number of reasons for objecting to the designation. Summaries of the objections, and further explanation by staff, are outlined below:

- **The exterior façade has been modified many times:** While there have been changes to the façade of the building, particularly with regard to the ground floor storefront, the key characteristics of the building that define its architectural style remain extant. In particular, these include the massing of the building and its architectural details on the second storey of the building which are unique in Woodville.
- **The exterior is in need of repairs and the owner does not want to approach the Municipal Heritage Committee every time they need to do work on the property:** The City does not regulate repairs to heritage designated properties. In general, heritage permits are only required when

changes are made to a property that will impact its heritage value, such as the removal of heritage elements, changes that require a Building permit, and commercial signage. The vast majority of work that heritage property owners might undertake on their property, including roofing, masonry repairs, painting and minor repairs, do not require a heritage permit and are not regulated by the City.

- **Designation will result in a financial loss on the property when it is sold:** Staff recognize that it is always a concern for property owners to retain value in their property. Given this broad concern, a variety of studies have been undertaken in both Ontario and other Canadian jurisdictions to gauge the impact of heritage designation on property value. It has been found that, generally, heritage designation has no impact on property value, either positive or negative, and that the value of the property is driven largely by other market factors. It is unlikely that the designation of this property will result in a decrease in its market value.

The owner's full objection is attached to this report as Appendix B.

This objection does not convincingly demonstrate that the property does not fulfil the criteria established under Ontario Regulation 9/06 and staff are recommending that the objection be received and Council proceed with passing a designating by-law for this property at the next available Council meeting. The property owner may object to the passage of this by-law and such an objection would be heard by the Ontario Land Tribunal.

Should Council choose to withdraw the notice of intention to designate, the property will be left with no statutory heritage protection. Under the amendments to the Ontario Heritage Act made by Bill 23 which came into effect on January 1, the impact of a withdrawal of intention to designate on a property is as follows:

- The property is automatically removed from the Heritage Register.
- The City may not include the property on the Heritage Register for five years.
- Should an application under the Planning Act be received for this property, the City may not designate the property to prevent demolition or request studies, such as a heritage impact assessment, to gauge the impact of the proposed development on the heritage property or request mitigating measures, as it will not be designated or included on the Register.

While it does not appear that the current owner of the property imminently intends to sell or redevelop the property, the property is a potential site for redevelopment as it is

located within one of the City's existing hamlets. The City's Official Plan (2012) directs new development to settlement areas in the City, which would include this property as it is located within the Woodville Hamlet Settlement Area boundary. The withdrawal of the intention to designate from the property would leave the City with no tools to ensure that the property remains in situ as a defining feature of downtown Woodville and unable to fulfil its obligations related to the preservation of heritage properties under provincial and local land use planning policy. There is also the potential for the City to receive other applications for adjacent properties in downtown Woodville and the removal of heritage protection for this property would also leave the City unable to request heritage-related studies for other new development to ensure that any new buildings erected in the village support and maintain the broader historic character of the village.

The withdrawal of the notice of intention to designate for the property would also be in opposition to provincial and local heritage policies. Section 2.6 of the Provincial Policy Statement (2020) and Section 4.2.7. of the Growth Plan for the Greater Golden Horseshoe (2019) both require municipalities to protect and conserve properties with local, provincial and national heritage value through the mechanisms available through land use planning legislation and policy, including the designation of property under Part IV of the Ontario Heritage Act. The Growth Plan, in particular, notes that the intention of heritage preservation and its associated policies is "to foster a sense of place and benefit communities" which is particularly relevant for this property because it is located in downtown Woodville and forms part of the village's historic downtown streetscape. The City of Kawartha Lakes Official Plan (2012) also requires the City to identify, protect and conserve properties with significant cultural heritage value or interest in the municipality through the tools available to it, including designation under Part IV of the Act. Similarly, with the enactment of Bill 23, municipalities received direction from the province to review their Heritage Registers and designate properties of cultural heritage value and the withdrawal of the notice of intention to designate would be in direct opposition to that provincial directive.

In addition to its architectural and historic value, this property was selected for designation due to its value in supporting the historic downtown streetscape of King Street in Woodville. While there has been a larger focus on protecting the heritage character of the City's larger urban centres, the downtowns of smaller hamlets and villages require similar support and consideration in ensuring vitality in these commercial areas.

Should Council choose to proceed with the designation of the property, a by-law to designate the property will be brought forward at the August 27 Council meeting in



order to adhere to the timelines established under the Ontario Heritage Act. Staff will consult with the property owner regarding the contents of the by-law prior to its presentation to Council for adoption. Staff have traditionally invited property owners to consult on the contents of the designating by-law for their property prior to its adoption to try and ensure that the owner is comfortable with the contents of the by-law and will also do so with regard to this property.

### **Other Alternatives Considered:**

Council may choose to support the property owner's objection and direct staff to withdraw the notice of intention to designate. Should Council choose this course of action, it could make the following motion:

**That** Report ED2024-032, **Objection to the Proposed Heritage Designation of 97 King Street, Village of Woodville**, be received; and

**That** the notice of intention to designate 97 King Street be withdrawn.

Staff are not supportive of this recommendation as it both leaves a significant heritage resource in Kawartha Lakes with no statutory protection and is in direct opposition to provincial and local heritage policy and the provincial direction in relation to listed properties as enacted through Bill 23.

### **Alignment to Strategic Priorities**

The designation of property under Part IV of the Ontario Heritage Act supports the following goals from the Council-adopted Strategic Plan:

- A Vibrant and Growing Economy

Designation of 97 King Street supports downtown revitalization, intensification and beautification by protecting a key historic asset in downtown Woodville and the protection of the broader streetscape of the village, while still allowing for new development that supports and complements its historic village character.

The designation of property under the Ontario Heritage Act is a core function of the heritage planning program offered as part of the City's economic development and business development programming which has been identified as one of the priority area's action items. Further, the designation of commercial properties in downtown areas advances the action item to support downtown revitalization, intensification and

beautification by providing recognition and protection to historic commercial properties that contribute to the unique character of Kawartha Lakes' downtowns.

### **Financial/Operation Impacts:**

There will be costs associated with the provision of public notice and for the registration of the designation by-law associated with this application which are included in the 2024 Heritage Planning budget.

It is possible that there will be legal fees if the owner decides to escalate their appeal to the Ontario Land Tribunal or if there is an additional third-party objection to the designation.

### **Consultations:**

Property Owner  
Municipal Heritage Committee  
Clerk's Office

### **Attachments:**

Appendix A – Heritage Evaluation Report: 97 King Street



Adobe Acrobat  
Document

Appendix B – Objection Letter: 97 King Street



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**Department Head:** Leah Barrie, Director of Development Services