



Council Report

| | |
|--------------------------|--|
| Report Number: | ED2025-017 |
| Meeting Date: | June 24, 2025 |
| Title: | Objection to the Proposed Heritage Designation of 48 Main Street, Village of Bobcaygeon (J.L. Read General Store/The Promoter Building) |
| Description: | Objection from the property owner of 48 Main Street to its designation under Part IV of the Ontario Heritage Act |
| Author and Title: | Emily Turner, Economic Development Officer – Heritage Planning |

Recommendations:

That Report ED2025-017, **Objection to the Proposed Heritage Designation of 48 Main Street, Village of Bobcaygeon (J.L. Read General Store/The Promoter Building)**, be received; and

That a by-law to designate 48 Main 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 March 4, 2025, Council received a recommendation from the Kawartha Lakes Municipal Heritage Committee to designate the property known municipally as 48 Main Street, Village of Bobcaygeon under Part IV of the Ontario Heritage Act. The property is currently listed on the City's Heritage Register and contains a late nineteenth century Italianate commercial building constructed in 1898. The property has cultural heritage value as an important contributing building to the historic landscape of Bobcaygeon's Market Square in which it is located. It also has historic value as the former J.L. Read General Store and through its depiction by Group of Seven artist A.J. Casson in two paintings as part of his broader study of small-town Ontario in the middle decades of the twentieth century. 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 property was brought forward for designation as part of the City's response to Bill 23 (2022) which requires municipalities to review their listed properties and designate those which have cultural heritage value prior to January 1, 2027.

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

Consent Matters

Moved By Councillor Richardson

Seconded By Deputy Mayor McDonald

That all of the proposed recommendations shown in Section 11.1 of the Agenda, save and except for Items 11.1.1, 11.1.5, 11.1.9, 11.1.10, 11.1.11, 11.1.15 and 11.1.16, be approved by the Committee of the Whole in the order that they appear on the Agenda, sequentially numbered and forwarded to Council for consideration at the next Regular Council Meeting.

Carried

11.1.3 ED2025-009

Proposed Heritage Designation of 48 Main Street, Village of Bobcaygeon (J.L. Read General Store/The Promoter Building)

Emily Turner, Economic Development Officer - Heritage Planning

CW2025-051

That Report ED2025-009, **Proposed Heritage Designation of 48 Main Street, Village of Bobcaygeon (J.L. Read General Store/The Promoter Building)**, be received;

That the Municipal Heritage Committee's recommendation to designate 48 Main Street under Part IV of the Ontario Heritage Act as being of cultural heritage value or interest be endorsed;

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

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

Carried

This resolution was ratified at the Council meeting of March 18, 2025. The appropriate notice was issued to the property owner on April 10, 2025 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, general FAQs related to topics such as insurance and grant programs, 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, or publicly-available alternative such as a municipal website, 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 ninety 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 48 Main Street was May 9, 2025. An objection was received by the Clerk's Office from the property owner on May 7, 2025. The notice was served to the Clerk's Office via email, which is permitted under the Act. In order to adhere to the timelines under the Act, the objection must be heard by Council and a designating by-law passed by August 8, 2025. This means that, should Council choose to proceed with the designation, the by-law must be passed at its meeting on July 22, 2025.

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 property owner is of the opinion that the brickwork on the property is in poor condition and requires significant repairs:** While there are certainly repairs that are required on the building, condition and integrity are not factors when evaluating a property for heritage designation as long as it retains the historic physical characteristics.
- **The property owner is of the opinion that the brickwork is the only heritage component remaining:** The brickwork is an important aspect of the physical historic value of the property but there are multiple other extant aspects of the building which identify it as a representative example of an Italianate commercial building under Ontario Regulation 9/06. These include: the recessed Victorian storefront, the fenestration, and the layout and massing of the building as a whole.
- **The property owner notes that there is a restaurant on the east side of the historic building that is of modern construction and should not be included as part of a heritage designation:** Staff are in agreement with the property owner with regard to the modern one-storey structure on the east side of the property which does not have heritage value and was not evaluated as part of the heritage evaluation of the property. Should a by-law be passed to designate this property, wording would be included to identify what aspects of the property are of historic value and which are not, including the one-storey structure.
- **The property owner believes that designation of the property would place a financial burden on them:** While the owners of heritage properties

are required to apply for and receive a heritage permit prior to undertaking exterior work on their property, this does not necessarily mean that there is a financial burden on the owner beyond that which would be reasonably expected for the maintenance and upkeep of an old building. Designation does not require an owner to undertake maintenance or restoration on their property and permits are only required when undertaking certain types of alterations, such as those that might require a building permit or would have an impact on the heritage features of the property. The City offers grants to heritage property owners to offset costs related to restoration and repair projects through the Million Dollar Makeover program.

The owner's full objection is attached to this report as Appendix B but has been redacted to remove the owner's contact information for privacy reasons. The owner also included photographs of the property as noted in the objection which are attached as Appendix C.

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 Bobcaygeon's Market Square.

At its meeting of June 5, 2025, the Kawartha Lakes Municipal Heritage Committee reviewed the objection to the proposed designation and passed the following resolution:

KLMHC2025-061

Moved By S. McCormack

Seconded By I. McKechnie

That Report KLMHC2025-043, **Objection to the Proposed Heritage Designation of 48 Main Street, Village of Bobcaygeon**, 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.

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 1898 to replace an older commercial building on the same location by prominent Bobcaygeon businessman John Landon Read and was initially used as a general store. The property has specific associations with Group of Seven artist A.J. Casson who travelled to Bobcaygeon in the mid-1930s and painted this building twice as part of his decades-long study of small-town Ontario and central Ontario's growing cottage country region. The property has particular significance because it forms part of the historic landscape of Bobcaygeon's Market Square which contains a small collection of historic commercial buildings clustered around the central square that was developed as part of the establishment of the government town site of Rokeby on the north side of the Bobcaygeon River and has a unique historic community value from the rest of Bobcaygeon. A statement of significance for the property as required by the Act, which summarizes the property's cultural heritage value and reasons for designation, is included in the appended Heritage Evaluation Report.

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 or consultation with 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. 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.

The objection does not convincingly demonstrate that the property does not fulfil the criteria established under Ontario Regulation 9/06 and staff and the Municipal Heritage Committee are recommending that the objection be received and a recommendation be made to proceed with passing a designating by-law for this property. 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, 2023, the impact of a withdrawal of intention to designate on a property is as follows:

- The property is automatically removed from the Heritage Register and, should a demolition application be received under the Ontario Building Code Act, the City will not have the ability to refuse the application to demolish.
- 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 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 urban areas. 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 Bobcaygeon settlement 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 Bobcaygeon's Market Square 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 Market Square 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 challenge provincial and local heritage policies. Section 4.6 of the Provincial Planning

Statement (2024) require municipalities to protect and conserve properties with 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 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.

Should Council choose to proceed with the designation of the property, a by-law to designate the property will be brought forward at the July 22 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.

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 ED2025-017, **Objection to the Proposed Heritage Designation of 48 Main Street, Village of Bobcaygeon (J.L. Read General Store/The Promoter Building)**, be received; and

That the notice of intention to designate 48 Main 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. It is also not in alignment with existing City strategic direction regarding the support and protection of the City's historic downtowns.

Alignment to Strategic Priorities

The designation of property under Part IV of the Ontario Heritage Act supports the following goals from the 2024-2027 Council-adopted Strategic Plan:

- A Vibrant and Growing Economy

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. The designation of this property specifically protects a key historic asset in Bobcaygeon's Market Square and the protection of the broader commercial streetscape of the village, while still allowing for new development that supports and complements its historic village character.

The designation of property also aligns with the strategic direction contained in the 2025-2029 Economic Development Strategy. It advances Objective 4.4. (Lead, partner and foster heritage conservation) where the conservation of historic property through designation is identified as an action item to support Strategic Priority 4: Invest in Places of Economic and Cultural Activity. This strategic priority broadly includes the protection of historic properties in downtown areas, including Bobcaygeon's Market Square. The preservation and retention of the City's historic downtowns as key economic assets in Kawartha Lakes is supported throughout the strategy.

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 2025 Heritage Planning budget.

It is possible that there will be additional legal costs if the owner decides to escalate their appeal to the Ontario Land Tribunal.

Consultations:

Property Owner
Municipal Heritage Committee
Manager, Economic Development

Attachments:

Appendix A – Heritage Evaluation Report: 48 Main Street



Adobe Acrobat
Document

Appendix B – Objection Letter: 48 Main Street



Adobe Acrobat
Document

Appendix C – Property Photos (Supplied by the Property Owner)



Adobe Acrobat
Document

Department Head email: lbarrie@kawarthalakes.ca

Department Head: Leah Barrie, Director of Development Services