

Report to Planning and Environment Committee

To: Chair and Members
Planning and Environment Committee

From: Scott Mathers, MPA, P. Eng.,
Deputy City Manager, Planning and Economic Development

Subject: Update on Heritage Easement Agreement for 39 Carfrae Street, Ward 11

Date: Wednesday, May 22, 2024

Recommendation

That, on the recommendation of the Director, Planning and Development, the following report **BE RECEIVED** for information.

Executive Summary

The property at 39 Carfrae Street is a very significant cultural heritage resource designated pursuant to Part IV of the Ontario Heritage Act and protected by a Heritage Easement Agreement.

In July 2023, Council directed staff to work with the owner of the property to resolve concerns with Schedule “C” and Schedule “D” of the Heritage Easement Agreement. Staff have met and collaborated with the owner to provide further clarity on the heritage attributes that demonstrate the cultural heritage value of the property, and have updated site photographs, documenting the existing conditions of Carfrae Cottage. Staff reported back on the Schedule “C” and Schedule “D” in February and March 2024.

In March 2024, Council directed staff to continue working with the property owner to address outstanding concerns with the remainder of the Heritage Easement Agreement and bring back a report by the end of June 2024. Staff are continuing to work with the property owner and anticipate reaching a resolution in the coming months.

Linkage to the Corporate Strategic Plan

This recommendation supports the following 2023-2027 Strategic Plan area of focus:

- Wellbeing and Safety: London has safe, vibrant, and healthy neighbourhoods and communities.
 - Londoners have a strong sense of belonging and sense of place.
 - Create cultural opportunities that reflects arts, heritage, and diversity of community.

Analysis

1.0 Background Information

The property at 39 Carfrae Street, known as Carfrae Cottage, is designated pursuant to Part IV of the *Ontario Heritage Act* by By-law No. L.S.P.-2978-65 passed in 1988. It was designated for its “historical and architectural value” per the requirements of the *Ontario Heritage Act* at the time of designation.

In 2021, a Heritage Easement Agreement was entered into to protect the significant cultural heritage value of Carfrae Cottage. Heritage Easement Agreements are intended to provide the highest level of protection for significant cultural heritage resources under the *Ontario Heritage Act*. The agreement is registered on the title of the property and is binding on future owners.

Heritage easement agreements establish requirements for maintaining a property, or specific features or attributes of a property. Pursuant to Section 37(5) of the *Ontario*

Heritage Act, in the event of a conflict between a heritage easement agreement and a heritage designating by-law, a heritage easement agreement prevails.

1.1 Previous Reports Related to this Matter

March 10, 2021, Report to London Advisory Committee on Heritage, Heritage Easement Agreement, 39 Carfrae Street: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=78271>.

July 17, 2023, Report to Planning and Environment Committee, Application Pursuant to the Heritage Easement Agreement, 39 Carfrae Street, Ward 11: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=100685>

February 21, 2024, Report to Planning and Environment Committee, Heritage Easement Agreement for 39 Carfrae Street, Ward 11: <https://pub-london.escribemeetings.com/filestream.ashx?DocumentId=106864>

At its March 5, 2024 meeting Municipal Council resolved the following:

That, the following actions be taken with respect to the proposed updated Schedule “C” and Schedule “D” for the Heritage Easement Agreement pursuant to Section 37 of the Ontario Heritage Act for the property located at 39 Carfrae Street:

- a) *the proposed updated Schedule “C” and Schedule “D” appended to the staff report dated February 21, 2024 for the Heritage Easement Agreement pursuant to Section 37 of the Ontario Heritage Act for the property located at 39 Carfrae Street BE APPROVED; and,*
- b) *the Civic Administration BE DIRECTED to work with the applicant to address outstanding concerns with the remainder of the Heritage Easement Agreement and bring back an update by the end of June 2024.*

2.0 Discussion and Considerations

Staff from Legal Services and Planning and Development have been working with the applicant to address outstanding concerns with the remainder of the Heritage Easement Agreement. Staff are continuing to work with the applicant and anticipate reaching a resolution in the coming months and will report back to Committee at the conclusion of these discussions.

While discussions are ongoing, a few additional matters have also arisen. The applicant has since submitted a written request to make alterations to the front porch of Carfrae Cottage and has also requested amendments to the heritage designating by-law. The applicant is in support of the approach to proceed with a future report undertaking a technical amendment to the heritage designating by-law once the Heritage Easement Agreement matters have been resolved.

2.1 Revisions to Delegated Authority By-law

As set out in Section 2.1 (Normal Repairs and Alterations) of the Heritage Easement Agreement, alterations may be requested by the owner in the form of written requests to the City, with the City required to reply within timelines set out in the agreement. When requests are supported by staff, written approval has been provided administratively by the Manager of Heritage and Urban Design, or Manager of Community Planning. This is consistent with Heritage Alteration Permit (HAP) approvals processed pursuant to the Delegated Authority By-Law.

Through a review of the Heritage Easement Agreement, staff have identified that the Delegated Authority By-Law should be updated to include Heritage Easement Agreements. This will help to implement approval processes for alterations pursuant to the agreement. A separate report on the May 22nd Planning and Environment Committee agenda has been prepared regarding administrative approvals on Heritage Easement Agreements. If approved, the direction would result in an amendment to the

Delegated Authority By-law that allows for administrative approvals on Heritage Easement Agreements.

2.2 Technical Amendment to Heritage Designating By-law

The heritage designating by-law for the property at 39 Carfrae Street (L.S.P.-2978-65) was passed in 1988, when Carfrae Cottage was designated. Pursuant to Section 37(5) of the *Ontario Heritage Act*, in the event of a conflict between a heritage easement agreement and a heritage designating by-law, a heritage easement agreement prevails. However, the applicant has requested that the heritage attributes described within the heritage-designating by-law be updated to be consistent with the Statement of Cultural Heritage Value and Heritage Attributes included within Schedule “C” of the Heritage Easement Agreement.

Staff will bring forward a report at the same time as the remainder of the Heritage Easement Agreement to update the heritage attributes identified within the heritage-designating by-law for the property, through a technical amendment process under Section 30(1) of the *Ontario Heritage Act*.

Conclusion

The property at 39 Carfrae Street is a significant cultural heritage resource designated pursuant to Part IV of the *Ontario Heritage Act* and protected by a Heritage Easement Agreement.

In March 2024, Council directed staff to continue working with the property owner to address outstanding concerns with the remainder of the Heritage Easement Agreement and bring back a report by the end of June 2024. Staff are continuing to work with the property owner and anticipate reaching a resolution in the coming months and will bring back a report on the proposed alterations to the Heritage Easement Agreement. Staff will also bring forward a report concurrently to update the heritage attributes identified within the heritage-designating by-law for the property, through a technical amendment process.

Prepared by: Michael Greguol, CAHP
Heritage Planner

Reviewed by: Kevin Edwards, RPP, MCIP
Manager, Community Planning

Recommended by: Heather McNeely, RPP, MCIP
Director, Planning and Development

Submitted by: Scott Mathers, MPA, P. Eng.
Deputy City Manager, Planning and Economic
Development

Appendices

Appendix A Property Location

Sources

Corporation of the City of London. *2023-2027 Strategic Plan*.

Corporation of the City of London. Property file.

Corporation of the City of London. *Register of Cultural Heritage Resources*. 2022.

Corporation of the City of London. *The London Plan*. 2022 (consolidated).

Appendix A – Property Location

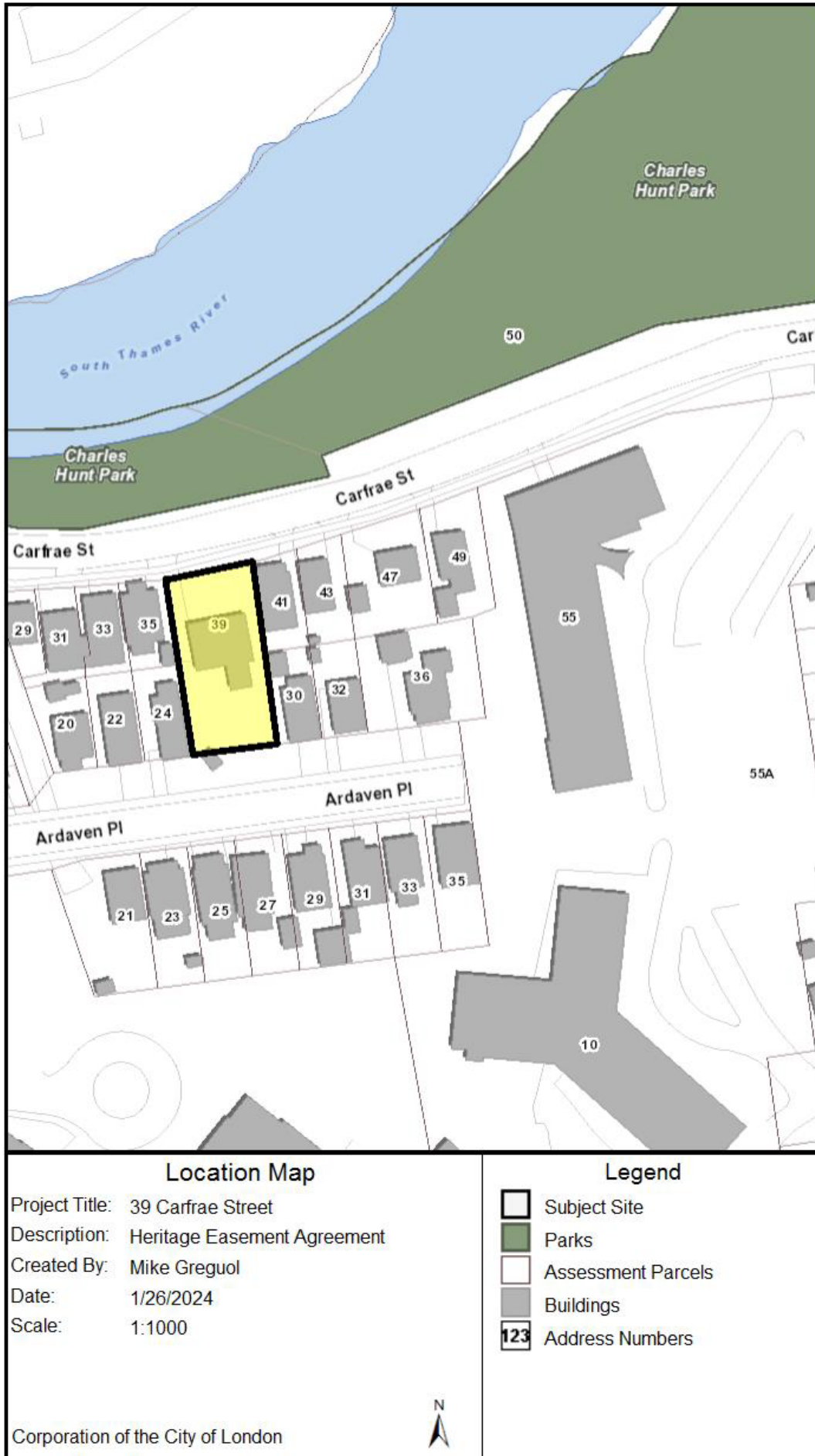


Figure 1: Location Map showing the property located at 39 Carfrae Street.