

WILL SAY STATEMENT
Nick Borcescu, CAHP, MRAIC

I am the Senior Heritage Planner for the City of Vaughan, employed in the Development Planning Department since April 2019. As the Senior Heritage Planner, I process development applications and heritage permits for properties located within Vaughan's Heritage Conservation Districts.

The City of Vaughan is committed to protecting the cultural heritage resources within the municipality and relies on the *Ontario Heritage Act*, R.S.O. 1990, c. O.18 ("*Ontario Heritage Act*"), to provide the tools to meet this objective.

The property at 51 Napier Street in Kleinburg is designated under Part V of the *Ontario Heritage Act* (By-law No. 019-2023, 184-2003, and 183-2003) within the Kleinburg-Nashville Heritage Conservation District. The purpose of the District Plan is to help ensure the conservation of Kleinburg's heritage resources and unique character. The subject property at 51 Napier Street has a 19th century Victorian style residence with an adjacent 20th century detached garage.

All properties within the Kleinburg-Nashville Heritage Conservation District boundaries are designated under Part V of the *Ontario Heritage Act* and the heritage district designation is registered on property title in order to provide notice of the heritage designation to the owner or purchasers.

Pursuant to the *Ontario Heritage Act*, no property owner of a property situated within a heritage conservation district shall demolish or remove a building or structure without approved permits. Staff ensure that policies contained within the Kleinburg-Nashville Heritage Conservation District Plan are implemented through the various types of development applications. If a property owner alters a property without consent from the City, it can negatively impact the overall heritage character of the district.

It is my opinion that an offence under the *Ontario Heritage Act* has been committed at 51 Napier Street in Kleinburg within the City of Vaughan. The owner of 51 Napier Street has not obtained a 'permit' from the municipality issued under the *Ontario Heritage Act* to "*demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property*", contrary to section 42(1)(4) of the *Ontario Heritage Act*.

The proposal submitted and presented to Heritage Vaughan called for the demolition only of the existing garage at the rear of the property, the restoration of the existing building including a raising of the clear height of the upper floor (and constructing an identical roof to existing), and the construction of a new attached garage. Design for the additions is planned to have similar roof pitches compatible with the Victorian style heritage house. The owner and architect have been made aware of the designation and its protection requirements prior to, during, and following the presentation to the Heritage Vaughan Committee as well as through documentation provided by their own heritage consultant, in the Cultural Heritage Impact Assessment submitted by the applicant as part of their submission.

On 04 August 2022 the property owner applied for and received the Heritage Permit HP.2022.011.00 for the "proposed demolition of the existing detached garage and restoration consisting of raising of the

upper floor ceiling height (and new roof) and the construction of a new attached garage to the existing contributing house located at 51 Napier Street in the Kleinburg-Nashville Heritage Conservation District” as approved by City Council following the recommendation by staff through Heritage Vaughan Committee. The permit highlights include the following wording:

- The proposal consists of a complete interior renovation, a raising of the ceiling clearance on the upper floor, and addition of an attached garage
- The existing building is considered ‘contributing’
- The proposed construction is in keeping with the Objectives, Policies and Guidelines of the Kleinburg-Nashville Heritage Conservation District Plan

On 15 June 2023, I was made aware (by email) of the alleged complete demolition of the building on the subject property. I arrived on site at noon on 19 June 2023 and met with Mario Barone, the property owner – who, at the time, identified himself as the contractor of the project – and I visually inspected the site. I noted to Mr. Barone that all remnants of the heritage structure had been illegally removed from the site (including all doors, windows, cladding, structure, and even the soil itself underneath the house), with the exception of a partial foundation wall, several rotted beams, and what was described to me visually as “a lot of the joists” but which I could not personally inspect as they were inaccessible due to a property-wide hole in the ground that appeared to be from edge-to-edge laterally across the property lines, and fully stretching to the rear property line.

I took digital photos of the site conditions, that are time and date stamped, and followed up with an email report containing the site photos and my visual observations of the site.

Subsequently, I set up a 90min meeting between city staff members and the site owner as well as the owner’s architectural team, for the following day at 3:00pm on 20 June 2023 in the Development Planning Boardroom. Minutes of the meeting were distributed by email to the meeting attendees.

City of Vaughan’s By-law and Compliance, Licensing & Permit Services Department initiated an investigation into the matter.



Date: 20 July 2023

Nick Borcescu, CAHP, MRAIC
Senior Heritage Planner
City of Vaughan Development Planning Department

CULTURAL HERITAGE IMPACT ASSESSMENT

51 Napier Street
Kleinburg-Nashville Heritage Conservation District, Vaughan, Ontario, Canada
7 April 2022
Prepared by: MW HALL CORPORATION

Vaughan. The property at 51 Napier was recently sold to the present owner as a family residence for purposes of redevelopment.

3.2 Context and Setting of the Subject Property

There are other heritage buildings in the vicinity of 51 Napier Street. The majority of the houses on Napier are not individually Designated or Listed structures. The core area of the designated heritage district, essentially a commercial centre is located along Islington Avenue. Within the vicinity of 51 Napier Street there are three 1½ storey Victorian era residences with more recent additions on Napier Street. All other residences on the street are a mixture of more contemporary eras and styles. There are only residential structures on Napier Street.

Section 9.2.1 of The Kleinberg-Nashville Heritage Conservation District Study and Plan identifies various architectural styles that would be in keeping with the Conservation Study. Existing residences on the street are a mixture of 19th and 20th century styles.

3.3 Architectural Evaluation of the Subject Property

The existing 19th century Victorian style house on the property is planned to be retained. It is in excellent condition and is well maintained with the Victorian style elements. A 20th century addition of garages to the north of the heritage house was constructed in faux Victorian style.

3.4 Redevelopment Proposal for the Subject Land and Potential Impacts on Identified Heritage Resources

Planned redevelopment of the 51 Napier Street property is to provide additions to the two-storey residence with two ground level garage parking entered from the driveway facing Napier Street. To address the issue of fit within the architectural guidelines for the district, the planned house has a steeply pitched roof, small paned windows, a symmetrically placed main/front entry and some Victorian detailing. Side façades of the house are generally consistent with the front façade of the residential building and have little or no distinguishing architectural character.

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3.9 Impact of Development and Mitigation Measures Summary

<i>Potential Negative Impact</i>	<i>Assessment</i>
<ul style="list-style-type: none">• <i>destruction of any, or part of any, significant attributes or features</i>	<i>no destruction of any part of significant <u>heritage</u> attributes or feature is proposed</i>
<ul style="list-style-type: none">• <i>isolation of a heritage attribute from its surrounding environment, context, or a significant relationship</i>	<i>not applicable</i>
<ul style="list-style-type: none">• <i>a change in land use where the change in use negates the property's cultural heritage value</i>	<i>not applicable</i>
<ul style="list-style-type: none">• <i>siting, massing, and scale</i>	<i>planned improvements are consistent with the heritage district</i>
<ul style="list-style-type: none">• <i>design that is sympathetic with adjacent properties</i>	<i>proposed building design fits requirements noted to be sympathetic with structures within the heritage district and represents an architectural style at 51 Napier Street which is in keeping with the Heritage District</i>

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4.0 RECOMMENDATIONS

We are of the opinion that planned changes to the property at 51 Napier Street, located within the Kleinburg-Nashville Designated Heritage District, are consistent with the Kleinburg-Nashville Heritage District Conservation Plan and Guidelines established for changes within the District. Consideration was given to other changes implemented following establishment of the heritage district, especially along Napier Street. Intensification of development in this area is consistent with the Official Plan and policies of the City of Vaughan and with the Province of Ontario.

Section 2 of the Ontario Planning Act indicates that City of Vaughan shall have regard to matters of Provincial Interest such as conservation of features of significant architectural, cultural, historical, archeological, or scientific interest. In addition, Section 3 of the Planning Act requires that the decision of Council shall be consistent with the Provincial Policy Statements (PPS 2014) and (PPS 238 2019).

Policy 2.6.3 of the PPS requires that "...Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved."

"Conserved" means the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archeological resources in a manner that ensures their cultural heritage value or interest is retained under the Ontario Heritage Act."

The existing property at 51 Napier Street contains one built heritage resource that has cultural heritage value or interest under the Ontario Heritage Act. It is our opinion that design of the planned residence additions on the northern lot at 51 Napier Street are consistent with maintenance of the Kleinburg-Nashville Conservation District plan and guidelines and makes a positive contribution to the District.

Offences and restoration costs

69 (1) Subject to subsection (2), every person who,

- (a) knowingly, furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1990, c. O.18, s. 69 (1).

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$250,000 and not as provided therein. R.S.O. 1990, c. O.18, s. 69 (2).

Exception

(3) Despite subsections (1) and (2), if a person is convicted of the offence of contravening section 34 or 34.5, demolishing or removing a building, structure or heritage attribute in contravention of section 42 or contravening subsection 48 (1) or if a director or officer of a corporation is convicted of knowingly concurring in such an act by the corporation, the maximum fine that may be imposed is \$1,000,000. 2005, c. 6, s. 44 (2); 2019, c. 9, Sched. 11, s. 23.

Property altered in contravention of the Act

(5) Subsection (5.1) applies if,

- (a) property designated under Part IV is altered in contravention of section 33 or 34.5; or
- (b) property located in a heritage conservation district designated under Part V is altered in contravention of section 42. 2009, c. 33, Sched. 11, s. 6 (22).

Recovery of restoration costs

(5.1) In addition to any other penalty imposed under this Act, the council of the municipality or the Minister, as the case may be, may restore the property described in subsection (5) as nearly as possible to its previous condition, if it is practicable to do so, and may recover the cost of the restoration from the owner of the property. 2009, c. 33, Sched. 11, s. 6 (22).

Exception

(5.2) Despite subsection (5.1), the council of the municipality or the Minister shall not restore the property if,
(a) in the opinion of the council or the Minister, the property is in an unsafe condition or incapable of repair;
or
(b) the alteration was carried out for reasons of public health or safety or for the preservation of the property. 2009, c. 33, Sched. 11, s. 6 (22).

Idem

(6) For the purpose of subsection (5), the council of a municipality may authorize any person in writing to enter on the property to carry out restorations. R.S.O. 1990, c. O.18, s. 69 (6); 2002, c. 18, Sched. F, s. 2 (47).

Section Amendments with date in force (d/m/y)