

Committee of the Whole (2) Report

DATE: Tuesday, June 18, 2024

WARD(S): 1

TITLE: RESPONSE TO NOTICE OF OBJECTION TO THE NOTICE OF INTENT TO DESIGNATE 1078 MAJOR MACKENZIE DRIVE UNDER PART IV OF THE ONTARIO HERITAGE ACT

FROM:

Haiqing Xu, Deputy City Manager, Planning and Growth Management

ACTION: DECISION

Purpose

To provide Council with information, analysis, and options regarding the Notice of Objection to the City's Notice of Intent to Designate (NOID), and to recommend to the Committee of the Whole **not to withdraw the Notice of Intent to Designate** the subject property municipally known as 1078 Major Mackenzie Drive (as shown on Attachment 1), but to proceed with enacting the By-law to designate The Peter Patterson House at 1078 Major Mackenzie Drive, Vaughan, under Part IV of the *Ontario Heritage Act*.

Report Highlights

- The Owner(s) served a Notice of Objection to the Notice of Intent to Designate 1078 Major Mackenzie Drive on April 12, 2024.
- Staff reviewed the objection, and has made revisions to the designation documents in consultation with the Owner's representatives.
- Staff recommend the City proceed to designate 1078 Major Mackenzie Drive and approve the Designation By-law under Part IV of the *Ontario Heritage Act*.

Recommendations

1. That the Notice of Objection to the Notice of Intent to Designate 1078 Major Mackenzie Drive under Part IV of the *Ontario Heritage Act* (as shown on Attachment 2) be received;

2. That City Council consider the Notice of Objection dated April 12, 2024, and affirm its decision of January 30, 2024, stating its intention to designate the subject property at 1078 Major Mackenzie Drive under Part IV of the *Ontario Heritage Act*;
3. That the By-law to designate 1078 Major Mackenzie Drive under Part IV of the *Ontario Heritage Act*, which will be prepared in a form satisfactory to the City, be approved and enacted by City Council.

Background

Cultural Heritage staff submitted a report proposing Designation of the subject property at 1078 Major Mackenzie Drive for Heritage Vaughan Committee recommendation to City Council, on November 23, 2023. This was reviewed at Committee of the Whole (1) on January 23, 2024, and Council affirmed its Intent to Designate by publishing the intent on January 30, 2024.

An Objection to Designation was received on April 12, 2024, from David Tang (Miller Thompson LLP, lawyers for the property owner), see Attachment 2. Cultural Heritage staff opened communications with the property owner's lawyers and their heritage consultants on April 26, 2024.

Previous Reports/Authority

[Heritage Vaughan Committee](#) – November 23, 2023

[Committee of the Whole \(1\) Report No.1](#) – January 23, 2024

[Council meeting](#) – January 30, 2024

Analysis and Options

The Letter of Objection (see Attachment 2) states that the owner objects only to select elements identified in the Statement of Cultural Heritage Significance as presented with the staff report and identifies which specific elements are petitioned to be removed from the designation consideration.

Staff has had continued engagement with the landowner's heritage consultants, discussing the merits of designation as well as alternative options, including the possibility of amending the by-law under Section 30 (1).2 of the Act in the future. Revisions to the Statement of Cultural Heritage Significance were made in accordance with the request and conversations with the heritage consultants (see Attachment 3). Additional supporting information is provided in Attachment 4.

ALTERNATIVES FOR CONSIDERATION

Under Section 29 (6) of the *Ontario Heritage Act*, City Council may decide whether or not to withdraw the Notice of Intent to Designate the property. A Notice of Intent to Designate was served onto the property owner(s) and was published on the City's

website. By withdrawing the Notice of Intent to Designate, a Notice of Withdrawal would be served onto the owner(s) and a copy would be posted on the City's website.

1. Decline the Notice of Objection

By declining the objection, Council affirms the City's decision to designate the property and adopt the Designation By-law. The goal of designation is to ensure the City encourage the rehabilitation, renovation and restoration of built heritage resources to appropriately manage, conserve and protect Vaughan's cultural heritage.

- Cultural Heritage staff, in collaboration with the owner's heritage consultants, have revised the Statement of Cultural Heritage Value.
- The subject property continues to meet 8 of the 9 possible criteria under O.Reg. 9/06 where a minimum of only 2 criteria are required for designation candidacy.
- Protection of the property is consistent with both provincial, regional, and local policy which directs the City must conserve significant built heritage resources.

Should the designation proceed, the Owner(s) may appeal the designating by-law to the Ontario Land Tribunal (OLT) once the designating by-law has been passed, notice has been provided, and by-law has been published in accordance with Section 29(8) of the *Ontario Heritage Act*. Through an appeal under s. 29 of the OHA, there is an opportunity for heritage attributes to be modified during the appeal process, should the OLT deem it appropriate. The decision of the OLT is binding.

2. Withdraw the Notice of Intent to Designate

Council could choose this option if it is convinced by the Notice of Objection claim that the building does not possess the cultural heritage value identified by Cultural Heritage staff. It should also be noted that should Council decide not to proceed with a Notice of Intention to Designate, that the building will be removed from the City's Municipal Heritage Register. Once removed, it cannot be re-listed on the Register again for five (5) years, i.e., January 1, 2032.

- Designation does not restrict the legal use of property, prohibit alterations and additions, does not restrict the sale of a property, and has been demonstrated to increase its resale value.
- Designation ensures the City's ability to manage change to the heritage attributes of the subject property through the Heritage Permit process.
- Without designation, the subject property stands at risk of losing its cultural identity, and the heritage, environmental, informational, and aesthetic values.

Staff does not consider withdrawing the Notice of Intention to Designate the subject property to be a responsible conservation measure. By withdrawing the Notice of Intention to Designate, the City would be unable to provide long-term management, conservation, and legal protection to this significant cultural heritage resource and would not fulfil the legal mandate established by existing municipal and provincial policies.

Financial Impact

N/A

Operational Impact

N/A

Broader Regional Impacts/Considerations

N/A

Conclusion

Withdrawing the Notice of Intention to Designate would deprive the City of its capacity to enact long-term management, conservation, and legal safeguards for this significant cultural heritage asset.

Designation is essential for the City to effectively oversee proposed changes to the heritage attributes of the property through the Heritage Permit process. Without designation, this property is vulnerable to losing its cultural identity and the associated social, heritage, environmental, informational, and aesthetic values and the accumulation of loss of heritage properties will erode Vaughan's connections to its longstanding communities and history. Consequently, staff does not recommend withdrawing the Notice of Intention to Designate as a responsible conservation approach.

Considering that the property meets 8 out of 9 criteria under O.Reg 9/06 of *Ontario Heritage Act* for Part IV designation, and revisions have been made to the Statement of Cultural Heritage Significance and the location map to better identify the location of Heritage Resource in consultation with the Owner's representatives, the Manager of Urban Design and Cultural Heritage recommends that Council approve the designation of 1078 Major Mackenzie Drive under Part IV of the *Ontario Heritage Act*.

For more information, contact Shahrzad Davoudi-Strike, Manager of Urban Design and Cultural Heritage, ext. 8653.

Attachments

1. Location Map
2. Objection Letter
3. Statement of Cultural Heritage Value revised
4. 1980 Architectural statement on file

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