

## Committee of the Whole (2) Report

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**DATE:** Tuesday, June 18, 2024

**WARD(S):** 1

**TITLE:** RESPONSE TO NOTICE OF OBJECTION TO THE NOTICE OF INTENT TO DESIGNATE 11151 WESTON ROAD UNDER PART IV OF THE ONTARIO HERITAGE ACT

**FROM:**

Haiqing Xu, Deputy City Manager, Planning and Growth Management

**ACTION:** DECISION

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**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 **to withdraw the Notice of Intent to Designate** the subject property municipally known as 11151 Weston Road (as shown on Attachment 1), 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 11151 Weston Road on April 12, 2024, followed by a Structural Report and a Response to Evaluation Report
- Staff reviewed the objection and supporting materials submitted, and provide response and options herewith
- Staff recommend the City to withdraw the notice of intent to designate 11151 Weston Road.

**Recommendations**

1. That the Notice of Objection to the Notice of Intent to Designate 11151 Weston Road 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 withdraw its decision of January 30, 2024, and its intention to designate the subject property at 11151 Weston Road under Part IV of the *Ontario Heritage Act*;

## **Background**

Cultural Heritage staff submitted a report proposing Designation of the subject property at 11151 Weston Road 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 Peter Bartos (property owner), see Attachment 2. Cultural Heritage staff began communication with the property owner and their consultants on April 18, 2024, and were subsequently invited for a site visit on May 3, 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**

Staff has had continued engagement with the landowner's heritage consultants, discussing the merits of the designation as well as alternative options for retaining the building. Following the site visit, further email communication with staff from Biglieri Group – and an exchange of additional photographs and more documentation (see Attachment 3: [Structural Assessment](#) 28 May 2024) – took place and concluded on May 29, 2024 with the receipt of the Biglieri Group [Response to Evaluation Report](#) (see Attachment 4). The Report challenges each of the staff-listed 5 criteria under O.Reg.9/06.

Staff concurs that the owner-submitted documentation in support of the Objection to Designate successfully challenges 2 out of 5 criteria presented in the staff report (Criterion #2 and #8), partially challenges Criterion #1 and #5 and argues unsuccessfully against the criterion #4 presented in the staff report in support for Designation:

- *Criterion #1: The property has design value or physical value because it is a rare, unique, representative, or early example of a style, type, expression, material, or construction method:*

The argument against this point is based on the existing condition of the structure and incorporation of other architectural style elements into an otherwise Victorian

style. Staff agrees with the argument that staff did not take comparative analysis of this building against other similar buildings and agrees that the building is not a classic representation of a Victorian architectural style but disagrees that because the building is not a classic representative of Victorian style due to addition of other elements from other styles that it does not have design value. On the contrary, this makes it a unique representative of a vernacular style.

- *Criterion #4: The property has historical value or associative value because it has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community*

Staff disagrees with the argument entirely that ownership of the property is not fundamental to establishing historical or associative value – when in fact it is the owners of the property at this location that have shown to be instrumental in the development of the immediate surroundings, both socially and physically within their immediate community and beyond.

- *Criterion #5: The property has historical value or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture:*

Staff agrees with the absence of broader thematic connections and lack of in-depth information, however, staff disagrees with the argument that noting property owners' participation within the community is insufficient – when in fact, the specific individual mentioning of each significant owner of this property and their respective titles and positions within the community are proof of their individual relationships to events and activities within the community over the decades.

Regarding the cost of the repairs of the house, the information provided in the Structural Assessment Report (Attachment 3) has been received and was reviewed by staff. It is staff's conclusion, based on the findings of the Structural Assessment Report, the Response to Evaluation Report, and the site visit and photography undertaken, that the repairs to the foundation can be addressed through installation of proper foundation drainage for a successful rehabilitation. The interior damages, caused by years of property neglect and misuse, are mainly cosmetic and non-structural, and can also be rehabilitated.

Therefore, concerns regarding the cost of physical repairs to the building are not relevant to the objection of whether the property is worthy of designation under the *Ontario Heritage Act*. However, it is important to note once more that designated properties become eligible for future financial incentives, as well as grant and loan programs at Federal and Provincial level, and potentially at municipal level should Vaughan implement such programs or incentives.

## **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 Archives staff, have conducted thorough research and found some merit to the objections stated in the Notice of Objection pertaining to architectural style and era and historical and associative value.

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.
- 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.

## **Financial Impact**

N/A

## **Operational Impact**

N/A

## **Broader Regional Impacts/Considerations**

N/A

## **Conclusion**

Considering the new information provided by the owner's consultant and staff's further evaluation of the information provided, staff believes that the property still meets the minimum eligibility of 2 out of 9 criteria under O.Reg 9/06 of *Ontario Heritage Act* for Part IV designation. However, staff could not find further information on the date of structure and there is a lack of in depth information available regarding the activities or involvement of the significant owners and their impact on broader societal norms, cultural values, or historical developments within the community.

Due to this specific lack of further information, the designation may be challenged at Ontario Land Tribunal – therefore the Manager of Urban Design and Cultural Heritage recommends that Council withdraw the notice of intent to designate 11151 Weston Road 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. Notice of Objection to Designate
3. Structural Assessment
4. Response to Evaluation Report

## **Prepared by**

Nick Borcescu, Senior Heritage Planner, ext. 8191.

Shahrzad Davoudi-Strike, Manager Urban Design and Cultural Services, ext. 8653

Nancy Tuckett, Director of Development Planning, ext. 8529