

Committee of the Whole (2) Report

DATE: Tuesday, June 18, 2024

WARD(S): 4

TITLE: RESPONSE TO NOTICE OF OBJECTION TO THE NOTICE OF INTENT TO DESIGNATE 8785 DUFFERIN STREET 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 8785 Dufferin Street (as shown on Attachment 1), but to proceed with enacting the By-law to designate The Cober Dunkard Church at 8785 Dufferin Street, 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 May 15, 2024
- Staff reviewed the objection, and provide response and options herewith
- Staff recommend the City proceed to designate 8785 Dufferin Street 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 8785 Dufferin Street 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 May 15, 2024, and affirm its decision of March 26, 2024, stating its intention to designate the subject property at 8785 Dufferin Street under Part IV of the *Ontario Heritage Act*;
3. That the By-law to designate 8785 Dufferin Street 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 8785 Dufferin Street for Heritage Vaughan Committee recommendation to City Council, on February 28, 2024. This was reviewed at Committee of the Whole (1) on March 19, 2024, and Council affirmed its Intent to Designate by publishing the intent on March 26, 2024.

An Objection to Designation was received on May 15, 2024, from the Trustees of the Cober Church (property owners), see Attachment 2. Cultural Heritage staff opened communications with the property owners on May 24, 2024.

Previous Reports/Authority

[Heritage Vaughan Committee](#) – February 28, 2024

[Committee of the Whole \(2\)](#) – March 19, 2024

[Council meeting](#) – March 26, 2024

Analysis and Options

The Letter of Objection (see Attachment 2) states that the owners primarily object on basis of some inaccuracies in the City's documentation as initially presented. Cultural Heritage Staff, together with Councillor Ainsworth, were invited and attended a site visit and meeting with the Trustees on May 29, 2024 for explanations and extended discussions on the merits of designation.

Staff has had continued conversation with the Trustees via email following the site meeting, and additional clarification was provided as requested. In particular, the following points of concern have been addressed by staff:

1. the address of the cemetery (City-owned) remains 8799 Dufferin; the property parcel containing the Cober Dunkard Church was assigned the street address of 8785 Dufferin shortly after the conveyance of the cemetery to the City.
2. the Cober Dunkard Church has never been owned by the City, contrary to the erroneous statement on the property's Listing – this error was addressed in the staff report that is part of the Intent to Designate report (pg.4).

3. The Trustees have not objected to any of the 5 criteria listed in the staff report, but they maintain objection to designation solely on grounds of personal preference rather than basis in law.

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 5 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. Without designation, the property is vulnerable to losing its cultural identity and the associated social, heritage, environmental, informational, and aesthetic values.

Considering that the property meets 5 out of 9 criteria under O.Reg 9/06 of *Ontario Heritage Act* for Part IV designation, and none of the criteria were challenged by the Trustees of Cober Church, the Manager of Urban Design and Cultural Heritage recommends that Council approve the designation of 8785 Dufferin Street 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. Letter of Objection

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