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 6181 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 6181 Major Mackenzie Drive (as shown on Attachment 1), but to proceed with enacting the By-law to designate The Neil McGillivray House at 6181 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 6181 Major Mackenzie Drive on March 28, 2024
- Staff reviewed the objection, and provide response and options herewith
- Staff recommend the City proceed to designate 6181 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 6181 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 March 28, 2024, and affirm its decision of October 17, 2023, stating its intention to designate the subject property at 6181 Major Mackenzie Drive under Part IV of the *Ontario Heritage Act*;
3. That the By-law to designate 6181 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 6181 Major Mackenzie Drive for Heritage Vaughan Committee recommendation to City Council, on September 20, 2023. This was reviewed at Committee of the Whole (2) on October 11, 2023, and Council affirmed its Intent to Designate by publishing the intent on October 17, 2023.

An Objection to Designation was received on March 28, 2024, from Mary Molony (U-Pak, VP Finance, property owners), see Attachment 2. Cultural Heritage staff had communication with the property owners, their lawyers and their heritage consultants on April 3, 2024.

Previous Reports/Authority

Heritage Vaughan Committee – September 20, 2023
Committee of the Whole (2) – October 11, 2023
Council meeting – October 17, 2023

Analysis and Options

The Letter of Objection (see Attachment 2) identifies that the property (lands) has been extensively altered over the last several decades and proposes possible structural damage to the built heritage resource. Following several meetings and conversations with the landowner's team, it was concluded that the process of property expropriation by York Region resulted in an unfortunate lack of communication with the City regarding the proposed development works planned for the greater area including this property. The only communication staff has recorded is a response to proposed siteworks and alterations in March 2020, in response to questions from Mandy Ng (mng@loonix.com) – and all subsequent site alterations were carried out without City review.

Staff has continued engagement with the landowner's team including representative from York Region. discussing the merits of designation as well as alternative options. Conversations culminated with the submission of a Building Condition Assessment (see Attachment 3) and a Heritage Assessment Report (see Attachment 4) on May 28, 2024 through the landowners' team lawyer.

Staff has reviewed the Letter of Objection and the two reports, and concurs with their findings – in particular, the following:

- ❑ that the majority of all structures on site are structurally sound
- ❑ that the most valuable built heritage resource is identified as Building A
- ❑ that buildings identified as “C” and “D” have minimal cultural heritage value
- ❑ that additions to the sides of the “rear addition” also have minimal cultural heritage value
- ❑ that the property maintains “significant architectural significance and is a good example of a Classical Revival farmhouse style, including the interiors”
- ❑ that relocation is the main preferred means of conservation, if maintain the structure(s) in-situ proves to not be a feasible option

However, staff disputes the suggestion that the “rear addition” (identified as “Building B” in the Heritage Assessment Report) is “not related to the original 1865 house” – and directs attention to the report’s own findings (pg. 88) in which a rear addition is shown to be part of the architecture of this building’s style as supported by the provided visual and bibliography reference (see “A Cheap Farm House,” The Canada Farmer 1, no. 22 (November 15, 1864): 341. Canadiana). Staff contends that the existing rear addition is of a younger age than the main house, but it is still related to the building regardless of age.

In addition, staff agrees that the main building could not feasibly be moved together with the rear addition as one element, for fear of extensive structural damages. However, staff proposes that – should relocation be deemed mandatory – each of the two structures be moved separately and then re-attached on new foundations in the relocated position to maintain historical and architectural completeness.

Overall, the Heritage Assessment Report supports staff’s findings for cultural heritage value, and designation merit. None of the submitted material challenges the 6 criteria identified by staff in the Proposed Designation report and attachments.

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 6 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 6 out of 9 criteria under O.Reg 9/06 of *Ontario Heritage Act* for Part IV designation, without direct challenge by the landowner's submitted material, as well as multiple conversation with landowner to consider relocation of the house on site to accommodate the proposed subdivision, the Manager of Urban Design and Cultural Heritage recommends that Council approve the designation of 6181 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. Letter of Objection
3. Building Condition Assessment
4. Heritage Assessment Report
5. Deputation Requests

Prepared by

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