

MEMORANDUM

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Communication

CW(1) – November 5, 2024

Item No. 2

TO: 1411069 Ontario Inc.
Tony Gugleitti
President
1 & 2 Bradwick Drive
Concord, ON

CC: Rosemarie Humphries
Humphries Planning Group Inc.

FROM: LHC Heritage Planning & Archaeology Inc.

DATE: 23 October 2024

RE: **REVIEW OF THE NOTICE OF INTENTION TO DESIGNATE DOCUMENTATION FOR
2480 KIRBY ROAD IN THE CITY OF VAUGHAN, ONTARIO**

LHC Heritage Planning & Archaeology Inc. (LHC) was retained in August 2024 by 1411069 Ontario Inc. (the Owner) of 2480 Kirby Road (the Property) to review a Notice of Intention to Designate (NOID) issued by the City of Vaughan (the City) and supporting documentation for the NOID.

On 30 July 2024, the Office of the City Clerk issued a NOID under the *Ontario Heritage Act (OHA)* to designate the Property under Part IV Section 29 of the *OHA*. On 06 August 2024, Humphries Planning Group Inc. sent a letter of objection to the City on behalf of the Owner.

According to Section 29(6) of the *OHA*, municipal Council has 90 days after the end of the 30-day period (30 days from NOID is 29 August 2024 plus 90 days is 27 November 2024) to decide regarding whether or not to withdraw the NOID.

1 NOID REVIEW

The *OHA* includes specific requirements for a NOID. Section 29(4) of the *OHA* includes three content requirements for a NOID served on an owner, and states:

- Notice of intention to designate property that is served on the owner of property and on the Trust under clause (3) (a) shall contain,
- (a) an adequate description of the property so that it may be readily ascertained;
 - (b) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property; and

(c) a statement that notice of objection to the notice of intention to designate the property may be served on the clerk within 30 days after the date of publication of the notice of intention in a newspaper of general circulation in the municipality under clause (3) (b). 2005, c. 6, s. 17 (2); 2019, c. 9, Sched. 11, s. 7 (4).

LHC's review of the NOID finds that it does not include an adequate description of the property [Section 29(4a)]. Since the *OHA* does not define what an adequate description of the property includes, guidance from the *Ontario Heritage Tool Kit Designating Heritage Properties (Tool Kit)* informs LHC's understanding of what should be included in the NOID. The *Tool Kit* states that:

The *Description of Property* describes the general character of the property and identifies those aspects of the property to which the designation applies. In addition to providing information so that the location of the property can be identified (i.e. municipal address and neighbourhood if appropriate), it should outline the principal resources that form part of the designation (i.e. buildings, structures, landscapes, remains, etc.) and identify an discernable boundaries.¹

The NOID includes the municipal address but does not include a description of its general character or specifically identify those aspects of the property to which the designation applies. It also does not specify the principal resources, although it can be inferred that the house on the property is the focus of the designation. The NOID does not describe discernable boundaries.

The NOID includes a statement explaining the cultural heritage value or interest of the property [Section 29(4b)] in the section titled "Reasons for Proposed Designation". However, the NOID itself does not include a description of heritage attributes of the property. It references an 11 April 2024 Heritage Vaughan report with a statement of cultural heritage value, but all the required information is not included in the NOID itself. The NOID is not clear about what details a heritage designation by-law would contain and what heritage attributes must be conserved to conserve the heritage value of the property.

2 11 APRIL 2024 HERITAGE VAUGHAN COMMITTEE REPORT - REVIEW

The Heritage Vaughan Committee Report proposes and recommends the designation of the Property. It includes the municipal address and legal description of the Property, and an evaluation against the criteria for determining cultural heritage value or interest from *Ontario Regulation 9/06 (O. Reg. 9/06)*. The evaluation indicates that the property meets 8 of the 9 criteria. In LHC's professional opinion, it is highly unusual for a property like this one to meet so many of the criteria.

¹ Province of Ontario, Ontario Heritage Tool Kit, Designating Heritage Properties, 2006, 15.

The evaluation utilizes the common approach of grouping the criteria into three main categories: design or physical value, historical or associative value, and contextual value.

It includes a brief discussion or explanation following each group of criteria. Additional detail is included in a Statement of Cultural Heritage Value included as Attachment 2 to the report. The evaluation for physical value or design value indicates that the City believes the Property meets two of the three criteria, criteria 1 and 2. It makes a case that the property is “an excellent representative and surviving example of the Gothic Cottage style”, which may support the property in meeting criterion 1. However, the evaluation finds that the Property demonstrates a high degree of craftsmanship or artistic merit (criterion 2) but there is no discussion of how it meets the criterion. In LHC’s professional experience, a visit to the building—usually including interior access—and detailed photographic documentation of the entire building(s) and potential heritage attributes would be required to determine if the Property demonstrates craftsmanship. Attachment 3 includes two windshield survey images and a Google Streetview image; however, these images only depict the façade from a distance and are insufficient for determining potential for craftsmanship. Review of recent site photographs and an on site review of the exterior on 12 September 2024 suggests that while the building does exhibit a number of decorative elements including buff on red brickwork (*i.e.*, headers, quoins and banding) and decorative wooden bargeboard along the central gable peak, these elements and the patterns are relatively standard in examples of dichromatic brick Gothic Cottage architecture across Ontario. Further, the application of these simple and widely used patterns did not require a higher than usual application of skill on the part of the bricklayer.²

The evaluation indicates that the City believes the Property meets all three of the historical value or associative value criteria, criteria 4 through 6. However, the discussion following the historical value or associative value criteria only makes a case for criterion 4. There is information that identifies William and Joseph Kirby as historically significant and connected to the Property which could support it meeting criterion 4. The description includes supporting information about the potential significance of William Kirby. There is some confusion in the reference to Joseph Kirby, as LHC’s preliminary research suggests that James H. Kirby was a township councillor and reeve, not Joseph. It is unknown if J.H. Kirby went by both James and Joseph, or if there may be conflicting historical references. The report only states that he was a multi-term councillor in Vaughan Township. It does not **directly** connect him to the Property while serving on Township Council or confirm that he lived at the Property during his time in office. There is no discussion on how the Property yields or has the potential to yield information that contributes to an understanding of a community or culture (criterion 5). There is no discussion on how the Property reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community (criterion 6). An architect, artist, builder,

² T. Ritchie. “Notes on dichromatic brickwork in Ontario,” *Association for Preservation Technology Bulletin*, 11, 2, pp. 60-75, 1979.

designer, or theorist were not identified for this Property. It is unusual – although not impossible – for a specific architect, artist, builder, designer, or theorist to be associated with a rural farmhouse since the intent of the *Canadian Farmer* and other architectural design booklets was to provide broad access to these styles and allow anyone to construct one for themselves.

The discussion of contextual value criteria indicates that the City believes the Property meets all three of the contextual value criteria, criteria 7 through 9. The discussion does not specify how the Property meets these criteria except to describe it as a longstanding landmark (criterion 9). The report mentions that the Property is the “namesake property” of Kirby Road, without expanding on what that means and mentions that it is one of the remaining residential properties associated with the Hamlet of Hope, without explaining how this demonstrates that it meets any of the *O. Reg. 9/06* criteria or how the property supports, maintains or defines the character of the area (criterion 7). Limited information about the context of the Property is presented but there is no analysis describing how the Property supports, defines, or maintains the character of the area or how it is physically, functionally, visually, or historically linked to its surroundings.

In LHC’s professional opinion this report does not provide adequate support for the conclusions.

3 STATEMENT OF CULTURAL HERITAGE VALUE - REVIEW

A Statement of Cultural Heritage Value is attached to the Heritage Vaughan report. This statement includes the address; legal description of the Property; a brief overview of the Property and discussion for architectural/physical value, historical/associative value, and contextual value; a Summary of Cultural Heritage Value that appears to be a list of heritage attributes and associations; and a bibliography/resources.

The overview describes the Property as located in the community of the Hamlet of Hope. However, it appears that this was a rural property outside of the hamlet and it is understood that the hamlet no longer exists. The statement does not describe the property sufficiently for the reader to understand where it is, what it includes, or what the boundaries may be. Furthermore, the overview describes the property condition as fair; however, there is no supporting information or images to verify this assessment. It is unclear how condition was determined or if whomever prepared this document visited the Property for this assessment.

The discussions of architectural/physical value, historical/associative value, and contextual value are more detailed than the information included in the main Heritage Vaughan report. The discussion includes a description of the house and limited historical information but does not include citations linking the information to the bibliography or list of resources consulted. It is unclear exactly where the information came from, its relevance, or the quality of the source material.

The document states “He [William Kirby] was recognized as a significant local pioneer. His son Joseph H would go on to not only inherit the Kirby Farm, but also served on the Vaughan Township Councils for several terms.” This is an example of a statement that is not referenced

and does not include objective analysis to confirm William's significance to the community. The statement also does not include details on the significance Joseph Kirby (James Kirby) had while on Township Council, or if he lived at or farmed the Property while also serving on Council. This information may be relevant to the background and evaluation of the Property, but the documents do not effectively link information to the evaluation.

The discussion of contextual value describes the disappearance of the hamlet of Hope and asserts that this Property is a remaining piece of the hamlet. The statement also describes how the buildings in the hamlet disappeared over time. From this description, it appears that this Property was rural, outside of the hamlet, and increasingly isolated from any historic context associated with the hamlet as tangible evidence of it disappeared over time. Therefore, without much more information, context and landscape analysis the report does not make an effective case that the Property is historically linked to the hamlet of Hope.

The discussion of contextual value also asserts that the Property is a landmark because it is the only property with significant structures along the road. Review of Kirby Road between Dufferin Street and Jane Street (focussing on the area around Keele Street and Kirby Road, which was formerly the hamlet of Hope) did not identify a definable character supported or maintained by the former farmhouse at 2480 Kirby Road. Along Kirby Road is a mix of trees, berms, residential subdivisions, cultivated fields without notable agricultural structures or features (e.g., barns, silos). The farmhouse itself is partially shielded from view along the road by large coniferous trees. From Kirby Road, other aspects of the golf course on the property are equally prominent. There is no information indicating that this property is or was used in wayfinding. The discussion of the Property as a landmark is not supported by sources.

The summary of cultural heritage value includes a bullet list of physical features and historic facts about the Property. A list of heritage attributes should be physical features of the Property that are key to understanding its cultural heritage value or interest. The list of physical features appears to be used as a list of potential heritage attributes. However, this list does not explain how they connect to each of the relevant criteria from *O. Reg. 9/06* as required by *Ontario Regulation 385/21 (O. Reg. 9/06)* if they are to be used in a designation By-law. This list also includes speculation regarding the originality of wood frame windows. Since heritage attributes are supposed to be the key physical features that must be retained to conserve cultural heritage value or interest, it is inappropriate to speculate about originality. This kind of discussion is better suited for research summaries. Furthermore, many of the features listed are imprecise. For example, it is unknown if "the stone laid foundation" is rubble, coursed, cut or if it is a crawlspace or full basement. There is concern that the vague nature of how features of the house are described introduces potential for different interpretations around conservation which make planning for change, maintenance, or rehabilitation challenging.

The summary of contextual value states "the property is a longstanding landmark in the area and is the namesake property of Kirby Road, and its location and orientation in relation to Kirby Road is important in establishing that connection". This description as a landmark contains

multiple ideas. It is unclear if only the house, the entire Property, or any natural or landscape elements are considered part of the landmark. The vague description raises questions such as: How does the orientation and location of the Property or house on Kirby Road establish a connection? Was the road named for the Property or –as seems likely—for one or more of the Kirby family members? How is this property any more of a landmark than any other older agricultural property in the rural areas of the City? In LHC’s professional opinion, more analysis is required to evaluate the historical significance of the context around the Property.

Furthermore, the Statement of Cultural Heritage Value would benefit from a map or site plan illustrating where the City finds that cultural heritage value is located on the Property. It would also benefit from a section that clearly states which parts of the Property the City finds do not have cultural heritage value or interest.

4 CONCLUSION

In LHC’s professional opinion, the NOID and supporting information in the report to Heritage Vaughan and attached Statement of Cultural Heritage Value is incomplete and includes insufficient analysis and supporting materials. It is unclear exactly how many of the criteria from *O. Reg. 9/06* are met by the Property. LHC would recommend a much more detailed research and evaluation report be prepared before the City considers designation of this Property. Furthermore, the information in the 11 April 2024 report to Heritage Vaughan, the Statement of Cultural Heritage Value, and the NOID are different and it is unclear what details a heritage designation by-law would contain and how heritage attributes connect to each of the criteria from *O. Reg. 9/06*. This creates significant uncertainty around management of the Property.

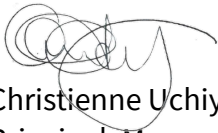
As described in this Statement of Cultural Heritage Value, the list of what appears to be heritage attributes would be difficult to work with from a heritage planning standpoint and does not enable the owner to clearly understand what needs to be conserved to conserve cultural heritage value on this Property.

LHC recommends additional research and analysis of the Property be completed –with clearly referenced sources—to clearly identify which criteria from *O. Reg 9/06* it may meet. If evaluation finds that the Property still meets criteria for designation, a NOID should be prepared that includes all information required by the *OHA* for NOIDs and also includes all information required by *O. Reg. 385/21* for designation By-laws so that the NOID can serve as a draft By-law and the owner can very clearly understand the relevant implications.

SIGNATURES



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