

# Committee of the Whole (1) Report

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**DATE:** Tuesday, November 5, 2024

**WARD:** 1

**TITLE: NOTICE OF OBJECTION TO THE NOTICE OF INTENT TO DESIGNATE KIRBY HOUSE LOCATED AT 2480 KIRBY 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 Council not to withdraw the Notice of Intent to Designate the subject property municipally known as 2480 Kirby Road located on the north side of Kirby Road between Jane Street and Keele Street (as shown on Attachment 1), but to proceed with enacting the By-law to designate the property at 2480 Kirby Road, 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 2480 Kirby Road, a 2 storey bi-colour brick house from the 1870's.
- Staff reviewed the objection and provided response and options.
- The subject property meets 8 out of 9 criteria under O.Reg.9/06 and is literally the historic basis for the name of the road.
- Staff recommend the City proceed to designate 2480 Kirby Road 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 2480 Kirby Road under Part IV of the *Ontario Heritage Act* (as shown on Attachment 2) be received;

2. That Council consider the Notice of Objection dated August 6, 2024, and affirm its decision of May 22, 2024, stating its intention to designate the subject property at 2480 Kirby Road under Part IV of the *Ontario Heritage Act*, and
3. That the By-law to designate 2480 Kirby Road 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**

2480 Kirby Road has been a recognized significant heritage building since 2005 as a Listed property under Section 27 of the *Ontario Heritage Act*. City staff research on the subject property has confirmed that the cultural heritage value of 2480 Kirby Road **meets 8 out of 9 criteria** set out under OHA Regulation 9/06 for physical, associative and contextual cultural heritage value (where the minimum requirement is 2 criteria). A complete designation report that outlines these values was presented to Heritage Vaughan Committee, recommended to Committee of the Whole, and approved by City Council.

This Report notifies Council of the Notice of Objection from the owner of 2480 Kirby Road to the Notice of Intent to Designate the property and recommends that Council proceed with enacting the by-law to designate 2480 Kirby Road under Part IV of the *Ontario Heritage Act*.

## **Previous Reports/Authority**

[Heritage Vaughan Committee report](#) – 24 April 2024.

[Committee of the Whole report](#) – 7 May 2024.

[City Council minutes](#) – 22 May 2024.

## **Analysis and Options**

On August 6, 2024, the City Clerk received by email (see Attachment 2) a Notice of Objection to the Notice of Intent to Designate the subject property at 2480 Kirby Road, from Humphries Planning Group Inc. on behalf of 1411069 Ontario Inc., the owner of the subject property. Under Section 29(6) of the *Ontario Heritage Act*, all objections must be considered by Council, who may choose whether or not to withdraw its Notice of Intent to Designate.

The objection disputes the heritage value of 2480 Kirby Road based solely on the physical condition of the building (based on visual inspection) without providing any additional information or documentation to substantiate that claim – and does not challenge the merits of the property's 8 out of 9 criteria for cultural and heritage value beyond a statement of disagreement. The objection letter laments the advanced state of disrepair of the structure with no documentation or supporting materials accompanying the Notice of Objection letter.

The only objection appears to be based around the deteriorated state of the vacant building. Staff has reached out multiple times asking for documentations to substantiate the claims and to offer suggestions for a number of remediation programs including apprenticeship and specialized trades workshops, seminars, and other curricula that could make use of the present condition of the site to provide hands-on didactic restoration and conservation activities on site, at no cost to the owner(s) and for the responsible stewardship of this heritage resource. However, the owner(s) and their agent(s) have not responded. In addressing the continued deterioration of the building, staff noted repeatedly in writing that proposed demolition will not be entertained on the sole basis of its current physical condition as it is an unoccupied building posing no identified safety concerns.

In addition, it should be noted that By-law Enforcement has visited the property and has an active open case for infractions under applicable by-laws as related to the *Ontario Heritage Act* and the Vaughan Official Plan due to the current conditions of neglect.

Should Council reaffirm its decision to designate the properties and enact the designation by-law, any future appeals of the designation by-law would be heard by the Ontario Land Tribunal. The Ontario Land Tribunal considers a number of matters, such as the proposed designation of a property as having cultural heritage value or interest, however, according to the Ontario Land Tribunal Appeal Guide:

*“The OLT does not hear matters on costs of physical maintenance, repairs, or any proposed work related to the actual condition of the property (or structure), as these are outside the scope of the evaluation of cultural heritage value or interest.”*

Therefore, any 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 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.

The report and documentation provided by staff for the proposed designation outlined 8 out of the 9 possible criteria under O.eg. 9/06; the minimum requirement for designation is meeting only 2 criteria. In preparing this response to the Notice of Objection, Cultural Heritage staff – with the assistance of Archives staff – has conducted a more thorough evaluation of the property, and a full assessment of the sole point of contention stated in the Objection Letter.

### 1. DESIGN OR PHYSICAL VALUE

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	X
▪ displays high degree of craftsmanship or artistic merit	X
▪ demonstrates high degree of scientific or technical achievement	N/A

Originally built in the 1870's, the 2-storey, bi-colour brick building is an excellent representative and surviving example of the Gothic Cottage style that directly reflects the prevailing ideas of developing Canadian rural architecture that emerged in the 1860's and 1870's. It is an example of such a cottage being built as is – that is, the 2-storey kitchen tail was likely built as part of the original structure and there have been no further additions or removals of the house affecting its massing or footprint since it was originally built.

These identified 2 criteria were not disputed by the Notice of Objection Letter.

### 2. HISTORICAL OR ASSOCIATIVE VALUE

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	X
▪ yields, or has the potential to yield, information that contributes to an understanding of a community or culture	X
▪ demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community	X

Associated with the Kirby family, a family originally from Yorkshire, England and became established in the 1830's Vaughan. Significant in the local Methodist community, becoming a circuit rider for the church and a trustee of the Hope school (S.S. 5). Joseph Kirby, his son became a multi term Councillor for Vaughan Township.

These identified 3 criteria were not disputed by the Notice of Objection Letter.

### 3. CONTEXTUAL VALUE

The property has contextual value because it is	
▪ important in defining, maintaining or supporting the character of an area	X
▪ physically, functionally, visually or historically linked to its surroundings	X
▪ a landmark	X

The property at 2480 Kirby Road 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. It is one of the remaining residential properties associated with the hamlet of Hope and is literally the historic basis for the name of the road.

These identified 3 criteria were not disputed by the Notice of Objection Letter.

### **Financial Impact**

There are no financial impacts associated with this report.

### **Operational Impact**

There are no operational impacts associated with this report.

### **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, thus failing to meet the legal requirements of sustainable stewardship outlined in municipal and provincial policies. 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, the property is vulnerable to losing its cultural identity and the associated social, heritage, environmental, informational, and aesthetic values. Consequently, staff does not recommend withdrawing the Notice of Intention to Designate as a responsible conservation approach.

Staff finds that, as supported by additional archival documentation, the subject property holds cultural heritage value and **meets 8 of the 9 criteria** set out under the *Ontario Heritage Act* by the Province of Ontario Regulation 9/06 for the minimum two categories of design/physical, historical/associative and contextual value. Accordingly, staff recommends Council proceed with enacting the By-law to designate The Kirby House at 2480 Kirby Road, Vaughan, under Part IV of the *Ontario Heritage Act*.

**For more information**, please contact Nick Borcescu, Senior Heritage Planner, ext. 8191.

### **Attachments**

1. 2480 Kirby – Location Map
2. 2480 Kirby – Notice of Objection Letter
3. 2480 Kirby – Site Photos May 2024

### **Prepared by**

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