

Natalie Ast
Associate
Direct 416-730-0387
Cell 416-831-9295
nast@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca

October 18, 2024

VIA EMAIL & COURIER

City of Vaughan
Vaughan City Hall
2141 Major Mackenzie Dr. W
Vaughan, ON L6A 1T1

Attention: Todd Coles, City Clerk

Dear Sirs/Mesdames:

RE: 12000 Pine Valley Drive
Notice of Objection by Lorwood Holdings Incorporated to the Notice of Intention
to Designate issued by the City of Vaughan on September 18, 2024
Ontario Heritage Act, Section 29(5)

We are the solicitors for Lorwood Holdings Incorporated (the “**Owner**”), being the Owner of the property municipally known as 12000 Pine Valley Drive (the “**Site**”).

On September 18, 2024, the City of Vaughan issued a Notice of Intention to Designate the Site under Part IV, Section 29 of the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended (the “**Notice of Intention**”). On behalf of our client, we hereby object to the Notice of Intention pursuant to Section 29(5) of the *Ontario Heritage Act* (the “**Notice of Objection**”). Our general reasons in support of the Notice of Objection are set out on a preliminary basis below.

Timing

As further discussed below, we note that the Heritage Vaughan Committee Report dated May 29, 2024 (the “**Heritage Report**”) is **incorrect** that this matter must be dealt with by City Council by January 1, 2025. As a result of legislative amendments in effect since June 6, 2024, **City Council has until January 1, 2027** to determine whether the Site should be designated under the *Ontario Heritage Act*.

This fact should have been brought to the attention of Committee of the Whole or City Council by City Staff after June 6, 2024.

Taken together with our comments regarding the proposed Highway 413 and the balance of our objections, we urge City Council to request updated and correcting information from City Staff.

Background

The Subject Site

The Site is located to the west of Pine Valley Drive, south of King Vaughan Road, north of Kirby Road in the City of Vaughan.

The Site is currently occupied by a farmhouse, built in 1857 (the “**Building**”) according to the Heritage Report. The surrounding lands are currently used for farming purposes.

The Site was historically occupied by a number of private landowners for farming, and was acquired by the current Owner in 1988. The Owner inherited a tenant at the time of sale, however, the Building has not been occupied since 2004, and the structure is used for well water access for the agricultural farm uses on Site. It should be noted that the adjacent property, 12100 Pine Valley Drive is also owned by a related owner, and occupied by a single family dwelling, used as a family home.

Attachment 2 to the Heritage Report, the Statement of Cultural Heritage Value (the “**Statement**”), details a history of previous owners, characterizing them as “early settlers” of some importance to the community; however the Statement neglects to mention the current ownership of over 35 years, the continuous farm uses, and the contributions of the current Owner’s significant role in shaping the City of Vaughan’s landscape and contributing to its growth and fabric, instead, referring very dismissively to the current Owner as a “speculator”.

Changes to Section 27(16) of the Ontario Heritage Act

We understand that the Heritage Report was considered by the Heritage Vaughan Committee Agenda on May 29, 2024, following which, the recommendations were adopted by City Council on June 25, 2024. We note that at the time this matter was considered by Heritage Vaughan Committee on May 29, 2024, Section 27(16) of the *Ontario Heritage Act* read as follows:

“Section 27(16): In the case of a property included in the register under a predecessor of subsection (3), as of December 31, 2022, the council of a municipality shall remove the property from the register if the council of the municipality does not give a notice of intention to designate the property under subsection 29 (1) on or before **January 1, 2025.**” (*emphasis added*)

On June 6, 2024, the Ontario Legislature amended Section 27(16) to provide that in the case of a property that was included in the register as of December 31, 2022, the municipality shall remove the property from the register if it does not give a notice of intention to designate the property on or before **January 1, 2027.**

As of June 6, 2024 and as it reads currently, Section 27(16) of the *Ontario Heritage Act* states as follows:

“**Section 27(16):** In the case of a property included in the register under a predecessor of subsection (3), as of December 31, 2022, the council of a

municipality shall remove the property from the register if the council of the municipality does not give a notice of intention to designate the property under subsection 29 (1) on or before **January 1, 2027** or such later date as may be prescribed.” (*emphasis added*)

For further background, this change was made through Bill 200, the *Homeowner Protection Act, 2024*, S.O. 2024, c. 18 - Bill 200 (“**Bill 200**”), which amended Section 27(16) of the *Ontario Heritage Act*. The amendments to Schedule 2 (i.e. with respect to the *Ontario Heritage Act*) including the change to Section 27(16) came into force the day Bill 200 reached Royal Assent, which occurred on June 6, 2024 as noted above.

At the time the Heritage Vaughan Committee considered this matter, it appeared that Council only had until January 1, 2025 to give a notice of intention to designate the property, however, as of June 6, 2024, that deadline has now been pushed forward to at least January 1, 2027. This important change in legislation and the process for designating properties included on the register should be brought to the attention of Council, who were not made aware of this change in the June 18, 2024 Committee of the Whole Report.

Reasons for Objection

The Notice of Intention states that the Site is worthy of designation under Part IV on the basis that the Site has cultural heritage value or interest. Our client’s objection to the Notice of Intention to designate is set out below:

Designation is Overly Broad

From a general position, the Notice of Intention, Heritage Report and its attachments including the Statement appear to be a desktop study of the Site and Building. For example, some of the current photos included in Attachment 4 are sourced from Google Maps, while other photos are undated and unattributed. The bibliography included in the Statement only refers to six sources, including general sources for Georgian architecture in Ontario and two sources from the “Find a Grave” website, indicating a lack of more thorough and detailed research.

Further, the designation purports to apply to the entirety of the Site, which is a sizeable, active farm site, where the Building itself occupies only a small portion of the land. Our client objects to the designation of the entire Site, as the farm lands surrounding the Building do not exhibit design or physical value, historical or associative value, nor contextual value.

Both the Heritage Report and Statement focus their analysis on the Building’s architectural features and its contextual setback on the lot. We submit that this may lead to confusion as to whether the entirety of the Site, including the surrounding farm lands, has cultural heritage significant that is proposed to be protected by the designation. Is the intention to protect the Building, or the Building and the driveway portion of the Site including this setback, or something else. We submit that if designation is proposed, more specificity is required, as the Site continues to be used for evolving farming uses.

No Mention of Highway 413

The Notice of Intention and Heritage Report also neglect to mention the Site's position as being within an area of study by the Ministry of Transportation for the GTA West Transportation Corridor for the proposed Highway 413 highway and transit corridor. In the absence of any consideration or even mention of the future Highway 413, the Heritage Report and the Statement must be considered to be incomplete.

It is unclear whether Staff have neglected to study this important and urgent regional planning context, or if there is an intention to influence decisions with respect to Highway 413 by designating properties that fall along its path. It also begs the question as to whether there is any utility in designating this Site, due to its geographical position in the direct path of the proposed highway.

In general, the Heritage Report, Statement, and Notice of Intention lack the detailed study required for Council to consider the Site and Building's context and value as a potential heritage resource.

Design or Physical Value

O.Reg 09/06 states that a property has design value or physical value if it satisfies one or more of the following three criteria:

- i. It is a rare, unique, representative or early example of a style, type, expression, material or construction method;
- ii. It displays a high degree of craftsmanship or artistic merit; or,
- iii. It demonstrates a high degree of technical or scientific achievement.

The Heritage Report confirms that the Site does not qualify under criteria (ii) and (iii) above. The stated criteria that the Staff Report relies on for design or physical value is (i).

Similarly, the Notice of Intention and Statement suggests that the Site's design and physical heritage attributes include that it is an example of a rectangular stone Georgian farmhouse. The Statement describes the following attributes:

"The upper half of the building has vertical wooden panels that have been painted blue. Though there have been changes, the structures still maintain its Georgian elements. There is a 1-storey portion of the building that extends from the south-facing wall. The west facing elevation has a 2-storey porch, and there are windows on both levels. In addition, the upper and ground level porches have columns that are evenly spaced. The east facing elevation (towards Pine Valley Drive) contains a stone chimney. This elevation also has four symmetrically placed windows; two windows on the ground level, and two on the upper level. Additionally, the north facing elevation has a symmetrical arrangement of six windows: three at the ground level, and three on the upper level."

These physical features repeat a common issue with this proposed list of heritage attributes in that they include characteristics of Georgian farmhouses generally, without substantiating that the Building rises to the level of significant cultural heritage resource worthy of conservation. Otherwise put, the characteristics do not display a rare, unique, representative or early example of an architectural style, type, expression, material or construction method that rises to the level worthy of designation and conservation. It is also unclear how the architectural characteristics described rises to the level of a design feature that contributes to the understanding and appreciation of the history of a place, an event or people, given the location of the feature is located down a private drive and is not generally accessible to the public.

The Statement and Notice of Intention further detail that the Building was originally 1-1/2 storey Georgian stone building, but the roof was raised sometime in 1924-1926 to a 2-storey home. These buildings have been altered over the years, and its current uninhabited state further undermines its integrity as a rare, unique, representative, or early example of stone Georgian farmhouse. The physical change that has occurred on the Site is acknowledged in the Heritage Report; it is odd to say that the Site's heritage value is that it has changed over time.

Historical or Associative Value

O.Reg 09/06 states that a property has historical or associative value if it meets one or more of the following three criteria:

- i. It has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
- ii. It yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
- iii. It demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.

The Heritage Report confirms that the Site does not qualify under criteria (iii) above. The stated criteria that the Staff Report relies on for historical or associative value is (i) and (ii).

It is unclear from the Heritage Report and the Statement how the Site and Building satisfy the two identified criteria, in that these sections of the Heritage Report and Statement are largely a chronological summary of the various ownerships and their contributions. The Statement provides some context tying in the historical or associative value of the Building, with respect to the Bryson family that carried out alterations to adapt to the needs of a family, which we submit is further evidence that the Site and Building have evolved over the years.

As noted above, the historical or associative value analysis has not considered the Site and Building's current uses by the Owner for over 35 years, providing an incomplete picture with respect to this potential designation.

Contextual Value

O.Reg 09/06 states that a property has contextual value if it meets one or more of the following three criteria:

- i. it is important in defining, maintaining or supporting the character of an area;
- ii. it is physically, functionally, visually or historically linked to its surroundings; or,
- iii. it is a landmark.

The Staff Report confirms that the Site does not qualify under criteria (i) or (iii) above. The stated criteria that the Staff Report relies on for contextual value is (ii).

The Heritage Report states that “The structure is setback on the lot and is located at the end of a long drive.” We submit that all buildings will inherently have a spatial relationship to a roadway. There is nothing unique about the existing building located setback along a long driveway that constitutes a “contextual value” worthy of heritage designation and conservation.

For these reasons, our client requests that City Council consider this Notice of Objection to the proposed designation, and make a decision to withdraw the Notice of Intention to designate the Site. Please send notice of any decision in respect of this matter and all required notices under the *Ontario Heritage Act* to both the Owner of the Site and to the undersigned. Should you require any further information, documentation, or any other thing to constitute this Notice of Objection, please advise the undersigned forthwith, or in her absence Chris Tanzola (ctanzola@overlandllp.ca or 416-730-0645)

Yours truly,

Overland LLP



Per: Natalie Ast
Associate