

# Committee of the Whole (1) Report

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**DATE:** Tuesday, December 3, 2024

**WARD:** 1

**TITLE: RESPONSE TO NOTICE OF OBJECTION TO THE NOTICE OF INTENT TO DESIGNATE PROPERTY LOCATED AT 12195 HIGHWAY 27 UNDER PART IV OF THE ONTARIO HERITAGE ACT**

**FROM:**

Haiqing Xu, Deputy City Manager, Planning, Growth Management and Housing Delivery

**ACTION:** DECISION

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**Purpose**

To provide Council with information, analysis, and options regarding the Request for Deferral in response to the City's Notice of Intent to Designate (NOID), and recommend to Council to not withdraw the Notice of Intent to Designate the subject property municipally known as 12195 Highway 27 (as shown on Attachment 1), but to proceed with enacting the By-law to designate the McCutcheon Farm at 12195 Highway 27, Vaughan, under Part IV of the *Ontario Heritage Act*.

**Report Highlights**

- The Owner(s) served a Request for Deferral in response to the Notice of Intent to Designate 12195 Highway 27 on October 18, 2024.
- Under the *Ontario Heritage Act* there is no option to defer the Notice of Intent, so staff interpreted the letter as a Notice of Objection.
- Staff reviewed the Request for Deferral, and provide response and options herewith.
- Staff recommend Council to proceed to designate 12195 Highway 27 and approve the Designation By-law under Part IV of the *Ontario Heritage Act*.

**Recommendations**

1. THAT the Request for Deferral in response to the Notice of Intent to Designate 12195 Highway 27 under Part IV of the *Ontario Heritage Act* (as shown on Attachment 2) be received;

2. THAT Council consider the Request for Deferral dated October 18, 2024, and affirm its decision of June 25, 2024, stating its intention to designate the subject property at 12195 Highway 27 under Part IV of the *Ontario Heritage Act*, and
3. THAT the By-law to designate 12195 Highway 27 under Part IV of the *Ontario Heritage Act*, which will be prepared in a form satisfactory to the city, be approved and enacted by Council.

## **Background**

Cultural Heritage staff submitted a report proposing the Designation of the subject property at 12195 Highway 27 under Part IV of the *Ontario Heritage Act*. This report was reviewed by the Heritage Vaughan Committee, who submitted the recommendation to City Council on Wednesday May 29, 2024. This was reviewed at Committee of the Whole (2) on June 18, 2024, and Council affirmed its Intent to Designate by publishing the intent on September 18, 2024.

A Request for Deferral letter in response to the Notice of Intent to Designate 12195 Highway 27 was received on October 18, 2024, via email and courier, from Eileen Costello of Aird & Berlis LLP, on behalf of the owner (as shown on Attachment 2).

**Under the *Ontario Heritage Act*, there is no option to defer the Notice of Intent, so staff interpreted the letter as a Notice of Objection.**

Cultural Heritage staff proceeded to open communications with the property owner's agents on October 21, 2024, within the timeframe set by the Act, Cultural Heritage staff was unsuccessful in having the request withdrawn. However, the mentioned parties were receptive to an amendment of the boundary line.

This Report notifies Council of the Request for Deferral from the owner of 12195 Highway 27 to the Notice of Intent to Designate the property and recommends that Council proceed with enacting the by-law to designate 12195 Highway 27 under Part IV of the *Ontario Heritage Act*.

## **Previous Reports/Authority**

[Heritage Vaughan Committee report](#) – May 29, 2024.

[Committee of the Whole report](#) – June 18, 2024.

[City Council minutes](#) – June 25, 2024.

## **Analysis and Options**

Staff met virtually with the owner's lawyer and parties on October 21, 2024, and brought forward the suggestion of amending the designation boundary line to focus on the building itself (the most important heritage resource) and immediately-surrounding landscape features – and not the entirety of the site. Staff also informed the mentioned

parties that no mechanism exists within the *Ontario Heritage Act* that would allow the Notice of Intent to Designate 12195 Highway 27 to be deferred, and therefore the Request for Deferral was treated as a Notice of Objection. Given the limited timeframe set by the Act, Cultural Heritage staff was unable to achieve agreement for withdrawal of the Request for Deferral. However, the mentioned parties accepted the mediation alternative described above.

The report and documentation provided by staff for the proposed designation outlined three (3) out of the nine (9) possible criteria under O. Reg. 9/06; the minimum requirement for designation is meeting only two (2) criteria. Further analysis identifies that a 4<sup>th</sup> criterion is met, as this is a “rare, unique, representative or early example of a style, type, expression, material or construction method” structure.

### 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

This section is not disputed by the Request for Deferral.

### 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

This section is not disputed by the Request for Deferral.

### 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	N/A

This section is not disputed by the Request for Deferral.

### ALTERNATIVES FOR CONSIDERATION

Under Section 29 (6) of the *Ontario Heritage Act*, 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 have proposed a revised boundary line, specifically outlining the heritage attribute (as seen on Attachment 1) with the intention of focusing onto the heritage attributes as vital to the designation characteristics.
- The subject property meets four (4) of the nine (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 section 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 automatically, and all protection under S.27 of the *Ontario Heritage Act* will be lost. 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.
- Designation makes the property eligible for any grants and other financial programs available municipally, provincially, and federally.

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.

### **Financial Impact**

There are no requirements for new funding associated with this report.

### **Operational Impact**

There are no operational impacts associated with this report.

### **Broader Regional Impacts/Considerations**

There are no broader Regional impacts or considerations.

### **Conclusion**

Staff recommends that Council proceed with designation. 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. Moving forward with the designation would meet the policies of the Official Plan and the Priority and Goals of the 2022-2026 Strategic Goal, specifically that of City Building, Community Wellbeing and Environmental Sustainability.

Designation under the *Ontario Heritage Act* is essential for the City to effectively oversee proposed changes to the heritage attributes of the property through the Heritage Permit process. Without designation, this property is vulnerable to losing its cultural identity and the associated social, heritage, environmental, informational, and aesthetic values and the accumulation of loss of heritage properties will erode Vaughan's connections to its longstanding communities and history. Staff does not recommend withdrawing the Notice of Intention to Designate as withdrawal will cause the property to be removed from the municipal heritage register and would prevent it from being listed for another five (5) years.

Staff recommends that Council proceed with designation while taking in to account the recommendation of staff to amend the designation boundary lines to reflect the heritage resources present on the property (the building) and its immediately surrounding landscape features.

Considering that the property meets four (4) out of nine (9) criteria under O.Reg 9/06 of *Ontario Heritage Act* for Part IV designation, and revisions are proposed as presented to the landowner's representatives, the Manager of Urban Design and Cultural Heritage recommends that Council approve the designation of 12195 Highway 27 under Part IV of the *Ontario Heritage Act*.

If Council adopts the recommendations in the staff report, a by-law designating the Property to be of cultural heritage value or interest would then be prepared to be passed by Council. Once passed, the designation by-law may be appealed to the Tribunal within 30 days of the by-law being published on the City's website. The notice of appeal would need to set out the objection to the by-law and the reasons in support of the objection.

After holding a hearing, the Tribunal may dismiss the appeal or allow the appeal in whole or in part and repeal the by-law or amend the by-law. Alternatively, if the appeal is allowed, the Tribunal may direct Council to repeal the by-law or amend the by-law in accordance with the Tribunal's order. The decision of the OLT is binding.

**For more information**, contact Shahrzad Davoudi-Strike, Senior Manager of Development Planning, ext. 8653.

### **Attachments**

1. Location Map.
2. Request for Deferral Letter.
3. Statement of Cultural Heritage Value.
4. Site Photographs.

### **Prepared by**

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