

## 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 8733 KEELE STREET 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 Notice of Objection to the City's Notice of Intent to Designate (NOID), and to recommend to the Committee of the Whole to not withdraw the Notice of Intent to Designate the subject property municipally known as 8733 Keele Street (as shown on Attachment 1), but to proceed with enacting the By-law to designate 8733 Keele Street, Vaughan, (formerly known as the Zion Evangelical Lutheran Church Parsonage) 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 8733 Keele Street on September 18, 2024
- Clerks received the objection dated September 29, 2024
- Staff has reviewed the objection and recommend Council to proceed to designate 8733 Keele Street 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 8733 Keele Street under Part IV of the *Ontario Heritage Act* (as shown on Attachment 2) be received;
2. THAT Council consider the Notice of Objection dated September 18, 2024, and affirm its decision of May 22, 2024, stating its intention to designate the subject property at 8733 Keele Street under Part IV of the *Ontario Heritage Act*, and
3. THAT the By-law to designate 8733 Keele Street 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 under Part IV of the *Ontario Heritage Act* of the subject property at 8733 Keele Street. This report was reviewed by the Heritage Vaughan Committee, who then advanced the recommendation to Council, on April 24, 2024. This report was reviewed at Committee of the Whole (1) on May 7, 2024, and Council affirmed its Intent to Designate by publishing the intent on May 22, 2024.

One of the notable attributes of 8733 Keele Street is its connection with the Zion Lutheran Evangelical Church which is also moving forward to be designated under Part IV of the Act.

An Objection to Designation was received on September 29, 2024, from Dina Mayr on behalf of Frank Runco as shown on Attachment 2. To date, staff did not receive further information in support of the Letter of Objection.

**The letter of Objection does not dispute the Cultural Heritage value of the property, and only cites concern regarding the City's interest in the property.**

## **Previous Reports/Authority**

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

[Committee of the Whole \(1\) Report No.19](#) – May 7, 2024

[Council meeting](#) – May 22, 2024

## **Analysis and Options**

The Letter of Objection (see Attachment 2) states that the owner objects to the designation solely due to a concern of the City interfering with their ownership, although designation under Part IV still preserves property owner rights under Provincial and Federal law. None of the criteria met under O.Reg.9/06 have been disputed in the letter.

## **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 updated the Statement of Cultural Heritage Value.
- The subject property continues to meet eight (8) 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 Council reaffirm its decision to designate the properties and enact the designation by-law, future appeals of the designation by-law would be heard by the Ontario Land Tribunal 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 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*. The decision of the OLT is binding. 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.

## *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 – none of which have been disputed by the Letter of Objection.

**Should Council decide to withdraw the Intention to Designate, the building will be removed from the City's Municipal Heritage Register and will lose all protection under the Heritage Act. Once removed, it cannot be re-listed on the Register again for five (5) years.**

Please note that:

- 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 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**

N/A

### **Operational Impact**

N/A

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

N/A

### **Conclusion**

Staff recommends that Council proceed with designation since the cultural heritage value of the property is not disputed. 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 meets 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. Consequently, staff does not recommend withdrawing the Notice of Intention to Designate as a responsible conservation approach.

Considering that the property meets eight (8) out of nine (9) criteria under O.Reg 9/06 of *Ontario Heritage Act* for Part IV designation, staff recommends that Council approve the designation of 8733 Keele Street 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.

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

### **Attachments**

1. Location Map
2. Objection Letter
3. Statement of Cultural Heritage Value
4. Pictures of property

### **Prepared by**

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