



Report to: Development Services Committee

Meeting Date: February 22, 2021

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<b>SUBJECT:</b>	Heritage Markham Committee Terms of Reference and By-law (2021)
<b>PREPARED BY:</b>	Regan Hutcheson, Manager, Heritage Planning, ext. 2080
<b>REVIEWED BY:</b>	Ron Blake, Senior Development Manager, ext. 2600

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#### **RECOMMENDATION:**

- 1) That the staff report entitled “Heritage Markham Committee Terms of Reference and By-law (2021)”, dated February 22, 2021, be received;
- 2) That the By-law, attached as Appendix A, be enacted by Council;
- 3) That the Heritage Markham Committee Terms of Reference, attached as Appendix ‘B; be approved;
- 4) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

#### **PURPOSE:**

To approve a new terms of reference and by-law for the Heritage Markham Committee.

#### **BACKGROUND:**

##### **The municipal heritage committee was created in 1975.**

The Heritage Markham Committee was established by by-law in 1975 making it one of the oldest advisory committees in the City (By-law 173-75). A procedural by-law in respect to the operation of the Heritage Markham Committee was approved in 1991 (By-law 54-91). This by-law is now quite dated and does not adequately reflect the current procedures or operations of the Committee. The new Markham Official Plan (2014) also provides additional guidance on the roles and responsibilities of the municipal heritage committee.

##### **Direction was provided to draft an updated terms of reference for the Committee**

In 2017, Development Services Committee received a staff report on the Heritage Markham Committee focused on the issue of conflict of interest and directed staff to undertake a number of tasks including the preparation of a new terms of reference for the Committee. Staff was directed to ensure that the document better identify the characteristics or attributes desired for committee members so the Appointment Committee would fully understand the desired qualifications when considering candidates, and to address the issue of members who may be employed in a heritage related occupation from a conflict of interest perspective.

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**OPTIONS/ DISCUSSION:****A new comprehensive terms of reference and by-law have been prepared**

Heritage Section staff, in consultation with Legal and Clerks staff, has drafted a new Heritage Markham Terms of Reference and By-law. The new version would replace Heritage Markham Procedural By-law 54-91.

The new terms of reference document addresses: the committee's mandate, its statutory and non-statutory roles, organizational issues, meeting protocol, annual budget, role of committee members, role of City staff, reporting method and a glossary of terms.

Section 28 (1) of the *Ontario Heritage Act* indicates that the council of a municipality may by by-law establish a municipal heritage committee to advise and assist the council on matters relating to Part IV (individual designation), matters relating to Part V (heritage conservation district designation) and such other heritage matters as the council may specify by by-law. Markham established Heritage Markham Committee through By-law 173-75 to assist and provide advice on matters related to Part IV and V of the Heritage Act, but not any other non-statutory roles. Council did adopt a Heritage Markham procedural by-law in 1991 that does specify other heritage matters and roles, but as previously noted, this by-law is out of date and needs to be replaced.

The new Terms of Reference are not proposed to be part of a new by-law. The new by-law (attached to this report as appendix A) identifies the general function and mandate of the municipal heritage committee. The terms of reference further refine the committee's mandate and purpose, and addresses its operation, roles and responsibilities. Staff suggest keeping the terms of reference as a separate document which would allow it to be amended in the future by Council resolution without the need for a formal by-law amendment.

Sources used to help prepare these documents included the Ministry of Heritage's "*Guide to Establishing and Sustaining an Effective Municipal Heritage Committee*", our current Heritage Markham procedural by-law; information from Legal Services, and other information provided over the years related to Heritage Markham operations; our Official Plan heritage policies; and Terms of Reference documents from other municipal heritage committees such as Ottawa, Kingston and Oakville.

**Heritage Markham has reviewed the documents and provided comments**

Heritage Markham Committee offered comments on the draft documents on June 10, 2020 and January 13, 2021. See Appendix 'C' for the June 2020 and January 2021 Extracts. Most of the changes were minor edits. The committee did provide feedback on the eligibility of members to chair the meeting and heritage conservation district representation as well as the conflict of interest section. Heritage Markham Committee supports the proposed terms of reference and by-law, as revised.

**Key changes proposed for the Heritage Markham Committee**

The following are the main changes reflected in the terms of reference:

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- a) Non Statutory Role – the non-statutory matters upon which the advice of Heritage Markham will be sought are clearly identified (section 1.3).
- b) Composition of Committee – the Committee will still consist of 10 citizen members and three members of Council. The desired number of citizen members from each major heritage conservation district (or the associated community around those districts) has been reduced from 3 to 2 (for a total of 6 members from these heritage areas). This will allow for 4 citizen members from anywhere inside or outside the municipality in order to attract the best candidates no matter where they may reside. Notwithstanding the above, Council may choose to deviate from the geographic approach, if necessary (section 2.1)
- c) Qualifications – as requested by Council, the characteristics, qualities or skills which are desirable for Heritage Markham Committee members are clearly identified. This information should also assist the Appointment Committee when considering candidates for the Committee. This section also notes that candidates who are employed in a heritage or heritage-related occupation, and who from time to time may have to declare a conflict of interest due to their projects being reviewed by the Committee, will not be disqualified as potential members. (section 2.2)
- d) Chair of Heritage Markham – the document clarifies that any member of Heritage Markham may be elected Chair or Vice Chair, including a member of council appointed to the Committee. (section 2.4)
- e) Meetings – In accordance with legislation, if circumstances warrant and legislation permits, a Heritage Markham meeting may be held in a manner using technology that would not require members to meet in person. (section 3.1)
- f) Consideration of Agenda Items and Deputations – the process is documented to enhance clarity and understanding. (sections 3.5 and 3.6)
- g) Conflict of Interest – the former process allowed members who earn their living in a heritage related profession (and may be required to represent their client at Heritage Markham) to declare a conflict of interest but present the application or matter to Committee and answer any technical questions prior to removing themselves from the meeting. This process has been removed in the new Terms of Reference. After careful consideration of Ontario's current conflict of interest legislation, City staff has concluded that any form of presentation could be construed as an "attempt to influence", which would be contrary to the intent of the legislation. A member who has been retained for a matter before the committee is considered to have a conflict of interest and should have another representative appear before the committee if a presentation is required or to answer questions. (section 3.7)
- h) Safety and Disruptions – disruptive behaviours are defined and appropriate protocols to ensure a safe meeting are documented. (section 3.10)
- i) Roles – the roles and responsibilities of both committee members and staff are clearly defined. (Sections 5 and 6)

j) Reporting Methods – to ensure the recommendations of the Heritage Markham Committee are duly considered and addressed, the reporting methods have been documented.

**Recommendation**

It is recommended that the By-law, attached as Appendix 'A', be enacted and that the Heritage Markham Terms of Reference, attached as Appendix 'B' be approved.

**FINANCIAL CONSIDERATIONS**

Not applicable

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Clerks and Legal staff were consulted. Heritage Markham Committee was consulted.

**RECOMMENDED BY:**

Biju Karumanchery, RPP, MCIP  
Director, Planning & Urban Design

Arvin Prasad, RPP, MCIP  
Commissioner, Development  
Services

**ATTACHMENTS:**

Appendix 'A' – Draft By-law

Appendix 'B' – Heritage Markham Terms of Reference

Appendix 'C' – Heritage Markham Extracts – January 13, 2021 & June 10, 2020

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**Appendix 'A' – Draft By-law****THE CORPORATION OF THE CITY OF MARKHAM  
BY-LAW NUMBER****A By-law in respect to the mandate and operation  
of the City's municipal heritage committee  
(Heritage Markham)**

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WHEREAS the Council of the City of Markham is desirous of fostering an interest in and awareness of the City's cultural heritage resources, as well as providing for the protection, conservation, celebration and commemoration of these resources;

AND WHEREAS Council desires to be advised and assisted in this regard by members of the community with an interest, expertise and knowledge in this area;

AND WHEREAS Council of the Town of Markham did enact By-law 173-75 pursuant to Section 28 of the *Ontario Heritage Act* to establish a Local Architectural Conservation Advisory Committee on October 28, 1975, hereinafter referred to as the Heritage Markham Committee;

AND WHEREAS Council did enact By-law 54-91 on February 26, 1991 to adopt a procedural by-law in respect to the operation of the Heritage Markham Committee;

AND WHEREAS the Province of Ontario amended the *Ontario Heritage Act* in 2002 specifying that every local architectural conservation advisory committee established by the council of a municipality before the day subsection 2 (7) of Schedule F to the *Government Efficiency Act, 2002* comes into force is continued as the municipal heritage committee of the municipality;

AND WHEREAS Council deems it appropriate to adopt a new by-law in respect to the mandate and operation of the City's municipal heritage committee;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM ENACTS AS FOLLOWS:

1. That By-law 54-91 – A By-law in respect to the operation of the Town of Markham Local Architectural Conservation Advisory Committee (Heritage Markham) be repealed;
2. That the function of the Heritage Markham Committee is to advise and assist Council in matters relating to the identification, protection, conservation, use and/or management, celebration and commemoration of cultural heritage resources within the City in such a way that their heritage values, attributes and integrity are retained.
3. That subject to the *Ontario Heritage Act*, R.S.O. 1990, c.O.18, as amended from time to time, and to such limitations and restrictions as Council may herein and hereafter impose either by by-law or resolution, the Heritage Markham Committee shall provide advice to Council on:

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- statutory matters pursuant to the *Ontario Heritage Act* that require the input of a municipal heritage committee, (unless those matters have been delegated to staff through a delegation by-law), and
  - non-statutory matters as identified by Council which involve or affect cultural heritage resources, including but not limited to, review of development and building permit applications and public works; maintaining a heritage register; research, evaluation and classification of properties; protection mechanisms; policy development and review; financial assistance opportunities; and education, promotion and commemoration; and
4. That Terms of Reference for the Heritage Markham Committee shall be adopted to address the mandate and operation of the committee, including but not limited to, the identification of statutory and non-statutory responsibilities, the organization of the committee (such as composition, qualifications, terms of service, officers), the organization of meetings (such as scheduling, sub-committees, agendas, quorum, delegations, conflicts), annual budget, role of committee members, role of City staff and reporting methods.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021

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KIMBERLEY KITTINGHAM, CITY CLERK

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FRANK SCARPITTI, MAYOR

## **Appendix ‘B’ – Terms of Reference**

### **Heritage Markham Committee Terms of Reference**

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**Appendix A – Glossary of Terms**

**Note**

The provisions in this terms of reference shall be interpreted in accordance with the Glossary of Terms, attached as Appendix 'A'.

Approved By Council:

Revisions:



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## **1. Mandate of Heritage Markham Committee**

### **1.1 Municipal Heritage Committee**

- 1.1.1 As authorized under the *Ontario Heritage Act*, in 1975 Markham Council established, through By-law 173-75, a municipal heritage committee.
- 1.1.2 The name of Markham's municipal heritage committee is 'Heritage Markham'.
- 1.1.3 The Heritage Markham Committee is appointed by and is responsible and accountable to Council for the City of Markham ("Markham Council").
- 1.1.4 Markham Council will consult with the Heritage Markham Committee on matters as required by the *Ontario Heritage Act*, the Markham Official Plan, as specified through the passing of a by-law or resolution, and as set out in this Terms of Reference.
- 1.1.5 The Heritage Markham Committee will be guided by the policies and regulations of the *Ontario Heritage Act*, heritage conservation guidelines endorsed by the Province of Ontario, policies in the Markham Official Plan, individual heritage conservation district plans, and heritage policies adopted by Markham Council.
- 1.1.6 The Heritage Markham Committee is an advisory committee. The role of the Committee is to advise and make recommendations on the identification, protection, conservation, use and/or management, celebration and commemoration of cultural heritage resources. All final decisions rest with Markham Council (or a Standing Committee of Council) except where Council has delegated approval authority to municipal staff or to Heritage Markham.

### **1.2 Statutory Role**

- 1.2.1 Markham Council and City staff will seek the advice of the Heritage Markham Committee on the statutory provisions requiring consultation as provided for in the *Ontario Heritage Act*, as amended, including the following:

Under Part IV of the *Act*, to consult with the Heritage Markham Committee:

- before including a property in the Markham Register of Property of Cultural Heritage Value or Interest or removing the reference to such a property from the register;
- before Council passes an intention to designate a property;
- on an application to alter a designated property;
- on an application to amend or repeal a designation by-law;
- on an application to demolish or remove any of a property's heritage attributes as set out in a by-law or any building or structure on the property;

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- before passing a by-law regarding an easement or covenant for the purpose of conservation of property of cultural heritage value or interest;
  - before delegating by by-law Council's power to consent to alterations to property to an employee or official of the municipality.

Under Part V of the *Act*, to consult with the Heritage Markham Committee:

- before undertaking a study of any area of the municipality for the purpose of designating one or more heritage conservation districts;
- on an application to erect a building or structure, demolish or remove a building or structure, or demolish or remove any attribute of the property if the demolition or removal would affect a heritage attribute described in the heritage conservation district plan; (the 'erect' reference is from the new changes in 2020 that are to come into force in 2021)
- before delegating by by-law Council's power to grant permits for the alteration of property situated in a heritage conservation district to an employee or official of the municipality.

### **1.3 Non-Statutory Role**

1.3.1 Markham Council and City staff will seek the advice of the Heritage Markham Committee on non-statutory activities and responsibilities including the following, subject to such limitations and restrictions as Council may herein or hereafter impose either by by-law or resolution. Heritage Markham may:

a) Land Use Planning Applications

- Provide advice to the land use planning process where cultural heritage resources are located on or adjacent to properties that are the subject of development applications including, but not limited to, amendments to the official plan and zoning by-laws, plans of subdivision, site plan control review, consent applications, minor variance applications, and heritage permits.
- Provide advice on natural heritage resources/landscapes if they are considered attributes in support of or associated with a cultural heritage resource.

b) Building Permits

- Provide advice through review and comment on building permits, signage permits and demolition permits affecting cultural heritage resources.

c) Public Works

- Render advice and information related to public works affecting cultural heritage resources.

d) Markham Register of Property of Cultural Heritage Value or Interest

- Identify and recommend properties to be added or deleted from the Register.

- Ensure the Register is maintained, accurate, updated as required and available to the public.

e) Evaluation of Cultural Heritage Resources

- Assist in the research, evaluation and classification of properties as to their cultural heritage significance.

f) Research

- Ensure research and inventory projects are undertaken, as required

g) Protection of Cultural Heritage Resources

- Identify and provide advice on properties that warrant designation and/or further protection, under the *Ontario Heritage Act*.
- Offer advice on proposals affecting or impacting cultural heritage resources on properties in Markham owned or under the control of the municipality, other municipalities, the provincial government and the federal government, including the Rouge National Urban Park.
- Offer advice on heritage conservation plans, heritage impact assessments and other similar documents affecting cultural heritage resources.

h) Policy Development

- Provide advice related to the development, implementation and/or review of policy respecting:
  - the Markham Official Plan; and any Secondary Plans, which include cultural heritage resources;
  - Council's strategic and corporate documents which may impact cultural heritage resources;
  - The development of municipal heritage conservation guidelines, policies, plans and programs.
  - Zoning by-laws which may impact cultural heritage resources.
- Recommend strategies, policies and initiatives in support of heritage conservation in Markham.

i) Funding Assistance

- Advise on the need for or availability of fiscal tools, funding, incentives and financial assistance, such as grants, loans or tax reduction programs, to facilitate the maintenance and conservation of protected properties of cultural heritage significance.
- Advise on the allocation of financial assistance related to existing heritage funding assistance programs.

j) Budget

- Assist in the development of an annual Committee budget for submission to Council through the Planning and Urban Design Department's operational budget.

k) Education, Promotion and Commemoration

- Promote public awareness of heritage conservation initiatives and programs, and engage the local community, as appropriate.
- Assist owners of cultural heritage properties in understanding and undertaking appropriate conservation and maintenance practices.
- Advise and/or inform on new legislation or funding initiatives that affect cultural heritage resources.
- Promote the commemoration of existing cultural heritage resources through means such as interpretive signage programs and designated property plaque programs, and the commemoration of significant cultural heritage resources which have been lost or negatively impacted through forms of interpretation, where appropriate.
- Support and advocate for the implementation of communication and educational programs to foster awareness, appreciation and enjoyment of cultural heritage resources such as in the form of newsletters, publications, website information, walking tours, exhibits, heritage awards programs, workshops and heritage celebrations.
- Support and encourage participation in promotional and educational programs offered by other levels of government or other groups related to cultural heritage resources.
- Cooperate with other public agencies and civic organizations and groups interested in the protection and promotion of cultural heritage resources.
- Encourage salvage, re-use or repurposing material that cannot be incorporated into the cultural heritage resource

l) Other

- Undertake such other duties and responsibilities relating to the City's heritage conservation program as may be assigned to it by Council.
- Keep Council informed of Committee plans and activities through Committee minutes, recommendations and an annual report, as necessary.
- Evaluate the effectiveness of the Committee examining accomplishments, both quantitative and qualitative, as well as areas requiring improvement.

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## **2. Organization of the Committee**

### **2.1 Composition**

- 2.1.1 The Heritage Markham Committee will be comprised of ten (10) citizen members appointed by Council and three (3) members of Council. The Mayor and Deputy Mayor are ex-officio members of the Committee.
- 2.1.2 If possible, the citizen members should be selected on a geographic basis as follows:
- Thornhill Heritage Conservation District or Thornhill community (2 members)
  - Markham Village Heritage Conservation District or Markham Village community (2 members)
  - Unionville Heritage Conservation District or Unionville community (2 members)
  - Members at Large (4 members)

Notwithstanding the above, Council may choose to deviate from this geographic approach, at its discretion.

- 2.1.3 If possible, the Council members on the Heritage Markham Committee should be the Ward Councillors who represent the three largest heritage conservation districts.

### **2.2 Qualifications**

- 2.2.1 A member of the Heritage Markham Committee should possess a demonstrated interest, expertise and/or knowledge of heritage matters based on their profession, education or life experiences. A member should express a dedication and commitment to Markham's heritage conservation program.
- 2.2.2 Qualities or skills which are desirable for Heritage Markham Committee members include those with an interest or experience in:
- Local community history
  - Heritage legislation, matters and programs
  - Heritage related research
  - Historical architecture, design or trades
  - Restoration, conservation and construction approaches
  - Interpreting heritage guidelines and plans
  - Understanding of municipal procedures and legislation
- 2.2.3 The City will consider other approaches to find potential candidates for Heritage Markham Committee, such as contacting professional/heritage organizations,

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recommended candidates, etc. in addition to traditional notices in the newspaper in order to address the specialized skill set desired for committee members.

- 2.2.4 Those responsible for recommending candidates for the Heritage Markham Committee through the appointment process will be guided by the identified qualifications, characteristics and attributes desired for Committee members.
- 2.2.5 Those responsible for recommending candidates for the Heritage Markham Committee will not disqualify those candidates who are employed in a heritage or heritage-related occupation (i.e heritage architect, contractor, lawyer, real estate agent) and from time to time may have a conflict of interest, but may enquire as to the extent to which a candidate expects to be undertaking local work involving heritage properties and whether there are others in their employment who could represent clients at the Committee if the candidate was to be appointed to the Committee.
- 2.2.6 Heritage Markham Committee members act in the capacity of volunteers to the municipality.

### **2.3 Term**

- 2.3.1 Members of the Heritage Markham Committee will typically be appointed by Council for a three (3) year term.
- 2.3.2 Appointments will be staggered to prevent representatives from a specific area of the City from leaving the Committee at the same time. This will also ensure continuity of experience and succession planning.
- 2.3.3 If a member of the Heritage Markham Committee ceases to be a member, then any appointment of a replacement member will be only for the balance of such term, if practical.
- 2.3.4 Members of the Heritage Markham Committee will continue in their role until a successor is appointed by Council. If the member chooses to leave at the end of their identified term, the position will be declared vacant until Council appoints a new member.
- 2.3.5 Members are eligible for re-appointment upon expiry of their term provided that no member is appointed for more than two (2) consecutive terms (total of six years). The member must take a leave from the committee for a minimum of one year prior to re-applying. Council may, at its discretion, waive this requirement.

### **2.4 Chair/Vice Chair**

- 2.4.1 The Heritage Markham Committee will elect a chairperson (Chair) and a vice-chairperson (Vice Chair) from all members, annually at its first meeting of the year, or as soon as practicable. The Manager, Heritage Planning will conduct the elections of Chair and Vice Chair positions. Once the Chair and Vice Chair are elected, the Chair will preside over the remainder of the meeting.

- 2.4.2 The Chair and Vice Chair will retain the position until a successor for each position is elected.
- 2.4.3 The Chair (or Vice Chair) is responsible for the effective and respectful operation of the Heritage Markham Committee. They will ensure that the Committee's discussions and recommendations are within the scope of the Committee's mandate and that the focus of dialogue and debate is from a heritage perspective.
- 2.4.4 Additional responsibilities and duties of the Chair, including meeting protocols (i.e. voting and motions) is provided for in the City's Procedural By-law and any City guidelines for advisory committees, boards and committees. Where the document is silent on a matter, Robert's Rules of Order would apply.
- 2.4.5 If both the Chair and Vice Chair are not present within fifteen minutes after the time for the meeting to begin, the Manager, Heritage Planning will call the meeting to order and will preside for the election of an Acting Chair. While presiding, the Acting Chair will have all the Chair's rights, duties and responsibilities.
- 2.4.6 The Chair (or designate) is the official spokesperson for the Heritage Markham Committee and will represent the Committee at official events, functions and other meetings, when required. See section 3.12 regarding media requests.

### **3. Meetings**

#### **3.1 Schedule**

- 3.1.1 The Heritage Markham Committee will generally meet a minimum of twelve (12) times per year, usually once a month. Additional meetings may be held as required with proper notification.
- 3.1.2 The date and time of the regular meetings will be held on a consistent day, time and location throughout the year (i.e. the second Wednesday of each month beginning at 7:15 pm at the Markham Civic Centre). Established meeting dates will not be changed unless circumstances warrant special consideration.
- 3.1.3 If circumstances warrant and in accordance with applicable legislation, a Heritage Markham Committee meeting may be held in a manner using technology that would not require members to meet in-person.

#### **3.2 Sub-Committees**

- 3.2.1 The Heritage Markham Committee may appoint a sub-committee from its members to investigate, organize and report on any matter related to the Committee's mandate.
- 3.2.2 In addition to any other sub-committees, on an annual basis, the Heritage Markham Committee will form the following sub-committees to meet as required:
- an Architectural Review Sub-Committee comprised of a minimum of three (3) members to address issues and applications requiring detailed analysis, review and consultation with an applicant or proponent. Depending on the issues

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under discussion, other members of the main Committee are welcome to attend and participate.

- A Building Evaluation Sub-Committee comprised of two (2) members and two (2) members of Heritage Section staff to evaluate and classify cultural heritage resources.

3.2.3 Decisions of sub-committees can be made by voting or by consensus.

### **3.3 Agendas**

3.3.1 Meetings of the Heritage Markham Committee will have a formal agenda prepared by the Clerks Department.

3.3.2 The Heritage Markham Committee agenda package will include the minutes from the previous meeting and memorandum from staff on each agenda item. The agenda package will be sent to Committee members at least five (5) days prior to the next Committee meeting.

3.3.3 Members of the Heritage Markham Committee may submit agenda items for inclusion on the agenda.

3.3.4 The Heritage Markham Committee agenda will be posted on the City website.

3.2.4 If required, a Heritage Markham Committee Addendum Agenda comprised of time-sensitive additional items for the Committee's consideration may be prepared. The Committee will determine at its meeting if the Addendum Agenda will be considered.

### **3.4 Quorum and Attendance**

3.4.1 The quorum for the Heritage Markham Committee will seven (7) members being in attendance.

3.4.2 As soon as there is a quorum present, the Chair will call the meeting to order. Where a quorum is not present within fifteen minutes after the hour fixed for a meeting, the Clerk will record the names of the members present. In the absence of a quorum, the meeting may continue, however no motion or recommendation may be made or passed.

3.4.3 Absenteeism and late arrivals by members will be will be subject to the City's Procedural By-law and any City guidelines for advisory committees, boards and committees.

### **3.5 Consideration of Agenda Items**

3.5.1 The Chair will introduce the item on the agenda and ask Heritage Section staff to provide a brief overview, including the suggested staff recommendation for the Committee's consideration.

3.5.2 The Chair will invite those who have asked to provide a deputations to speak (See 3.6). The Chair will ask the applicant or their representative if they wish to provide any



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commentary on the item. Members will be afforded the opportunity to ask questions to those providing commentary on the application or matter. The merits of the application or matter will not be discussed at this time.

- 3.5.3 Discussion of the merits of an application or matter is confined to the members with the support of staff. The Chair will moderate and facilitate discussion and, as a courtesy, will wait until all members have made their comments before adding their own. The Chair will maintain a list of members who have signaled that they wish to speak or ask questions, and the Chair will recognize members in the order in which they signaled their request.
- 3.5.4 The Chair will seek a motion from the members to address the item under consideration. No member will discuss the merits of a motion before it is on the table (moved and seconded). Once discussion has concluded, the Chair will put to a vote the motion and announce the result.
- 3.5.5 Recorded votes are not permitted. Members are required to vote by a show of hands and if a member abstains from voting, the member's vote is considered in the negative. The Chair will vote with other members upon all motions.
- 3.5.6 A tie vote is deemed to be negative and the motion is lost.

### **3.6 Deputations**

- 3.6.1 Applicants and others may make deputations to the Heritage Markham Committee. Applicants may choose not to make a deputation, but instead make themselves available to answer any questions from the Committee when the item is being considered.
- 3.6.2 Deputations should be pre-arranged with staff and will be reflected in the agenda. A request for a deputation once the agenda has been published will only be permitted at the discretion of the Heritage Markham Committee members.
- 3.6.3 The priority in which deputations are heard by the Heritage Markham Committee and the amount of time allocated to the presentation will be as outlined in the City's Procedural By-law and any City guidelines for advisory committees, boards and committees.
- 3.6.4 After a deputation is made to the Heritage Markham Committee and all questions from members are addressed, the individual making the deputation will return to the public gallery and is to remain silent being cognizant that it is now time for the Committee to discuss the issue and make their recommendation. Necessary decorum dictates that all opinions must be respected and speaking from the audience is inappropriate.

### **3.7 Conflict of Interest**

- 3.7.1 Heritage Markham Committee members are subject to will abide by the *Municipal Conflict of Interest Act*.
- 3.7.2 Heritage Markham Committee members will be responsible to seek their own legal advice as to whether they have a conflict of interest with any matter before the

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Committee. The Act refers to both direct and indirect "pecuniary interests". City staff will not provide advice on this matter.

- 3.7.3 The conflict and the nature of the conflict will be declared at the beginning of the meeting and prior to any consideration of the matter on the agenda. Prior to the matter being considered by the Committee, the member with the identified conflict will leave the meeting table and sit in the public gallery area until consideration of the matter is completed. The declaration of a conflict of interest does not affect quorum at the meeting.
- 3.7.4 A Heritage Markham Committee member who has been retained for a matter that is before the Committee is considered to have a conflict of interest and should have another representative appear before the Committee if a presentation is required or to answer questions.
- 3.7.5 Heritage Markham Committee members will not use their status on the Committee for personal, economic or political gain.

### **3.8 Compensation**

- 3.8.1 Citizen members of the Heritage Markham Committee will serve without compensation other than reimbursement of approved expenses incurred while performing duties on behalf of the Committee.

### **3.9 Other Meetings**

- 3.9.1 Heritage Markham Committee members may through a Committee resolution be appointed to represent the Heritage Markham Committee on other committees or working groups created by the municipality or others.
- 3.9.2 Heritage Markham Committee members may wish to attend an information session offered by Heritage Section staff immediately prior to a Heritage Markham Committee meeting. Attendance is voluntary and members can seek further clarification from staff on any agenda issues or applicable policies. The merits of an application or matter will not be discussed and no decisions will be made.

### **3.10 Safety/Disruptions**

- 3.10.1 If at any time prior to, during or after the meeting, the safety of members of the Heritage Markham Committee or others in attendance is at risk, building security personnel (or local police) can be summoned by the Chair or City staff to address the situation and may involve removal of the person from the premises.
- 3.10.2 If a member of the Heritage Markham Committee or others in attendance at the meeting are being disruptive to the operations of the committee, that person will be warned by the Chair to cease the disruptive behavior, and failing to do so, will be asked to leave the meeting room. If they fail to leave, they may be removed from the meeting premises by building security personnel.

Disruptive behaviours may include:

- 
- The use of un-parliamentary or offensive language, including any expressions or statements in debate or in questions that attribute false or undeclared motives to another person, charge another person with being dishonest, be abusive or insulting, or cause disorder;
  - Making a noise or disturbance that prevents others from being able to participate in the meeting;
  - Interruption of a person who is speaking, except if a Member wishes to raise a matter of privilege or a point of order; or
  - Ignoring or disobeying the Chair's decision on questions of order or rules of procedure or interpretation of the Committee's by-law(s) or terms of reference.

### **3.11 Adjournment of Meetings**

3.11.1 Unless otherwise determined by a resolution of the Heritage Markham Committee, the meeting will adjourn no later than 11:00 p.m.

3.11.2 If there is unfinished business on the agenda at the time of adjournment, the Committee shall reconvene at an hour, date and place identified in a resolution detailing where the unfinished business will be considered which may include a special meeting or the next regularly scheduled Heritage Markham meeting.

### **3.12 Media Requests**

3.12.1 All media requests will be coordinated through the City's Corporate Communications Department.

### **3.13 Procedural Matters**

3.13.1 Procedural matters for the Heritage Markham Committee will be subject to the City's Procedural By-law and any City guidelines for advisory committees, boards and committees, unless otherwise specified in this terms of reference.

## **4. Annual Budget**

4.1 The Heritage Markham Committee will develop and recommend an annual budget in a form satisfactory to the Director of Planning and Urban Design.

4.2 The annual budget will identify expenses associated with the operation of the Heritage Markham Committee, and may include among others matters, public education, special events, memberships, meeting refreshments, resource materials and training for members.

4.3 The annual budget allocation will be included as part of the Planning and Urban Design Department's operational budget, and will be administered by the Manager, Heritage Planning, or designate.

## **5. Role of Committee Members**

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- 5.1 Heritage Markham Committee members will attend all scheduled meetings and will notify the Chair or the designated municipal staff liaison if they are unable to attend a meeting.
  - 5.2 Heritage Markham Committee members will read and possess a good understanding of all information supplied to them. If clarification is required on any material provided, the member will consult with staff from the Heritage Section. Members should be familiar with municipal, provincial and federal legislation, policies and programs that apply to cultural heritage resources.
  - 5.3 Heritage Markham Committee members will disclose any conflicts of interest at the beginning of meetings, and adhere to any municipal code of conduct, the City's Procedural By-law and any City guidelines for advisory committees, boards and committees.
  - 5.4 Heritage Markham Committee members will actively participate in and contribute to committee discussion and debate, in a respectful manner and focus their comments on heritage matters currently before the committee.
  - 5.5 Heritage Markham Committee members will endeavor to participate in staff organized site visits to properties identified on the committee agenda, if possible, and as required. When attending site visits, members will conduct themselves in a respectful manner as representatives of the City of Markham, and focus their comments on heritage related matters. Members will not visit private property without the owner's consent. Viewing properties from the public right-of-way is permissible.
  - 5.6 Heritage Markham Committee members will undertake training, as required, to perform and enhance their role as a committee member with expenses to be covered through the Committee's budget.
  - 5.7 Newly appointed Heritage Markham Committee members will undertake an orientation session with Heritage Section staff preferably prior to the member's first Heritage Markham meeting.
  - 5.8 Heritage Markham Committee members will promote and support the protection and conservation of cultural heritage resources and the mandate of the municipal heritage committee.
  - 5.9 Heritage Markham Committee members may assist in the identification and/or recruitment of future candidates for appointment consideration by the City.
  - 5.10 Heritage Markham Committee members as individual appointees do not possess any authority or responsibilities, and the exercise of power is only through the recommendations and/or resolutions of the municipal heritage committee. Any observations or remarks related to Committee business or interpretation of Committee decisions (past or present) from a member (or a former member) are personal comments and should be qualified as such when speaking with others. Members (or former members) are cautioned not to represent themselves as possessing special knowledge or insight as to how the Committee will address a matter.

## **6. Role of City Staff**

### **6.1 Clerks Department**

- 6.1.1 The Clerks Department will be responsible for agenda production and delivery, the recording of Committee minutes, the preparation and distribution of Heritage Markham Committee extracts for each agenda item (for both internal and external recipients) and the forwarding of the Heritage Markham Committee minutes to Council to be received for information purposes.
- 6.1.2 The Heritage Markham Committee recording clerk possesses no voting privileges.
- 6.1.3 The Clerks Department will be responsible for maintaining a permanent record of the previous minutes of Heritage Markham Committee meetings.
- 6.1.4 The Clerks Department will be responsible for the administration of notices of intention to designate properties, appeals related to the notices and the registration of designation by-laws.

### **6.2 Planning and Urban Design Department – Heritage Section**

- 6.2.1 Staff from the Heritage Section of the Planning and Urban Design Department will attend Heritage Markham Committee meetings and provide the Committee with professional planning and heritage advice, technical and procedural assistance, research, and administrative support. Staff will prepare information memos, including suggested recommendations, for Heritage Markham's consideration as part of the agenda package. At the meeting, staff will provide an introduction and overview of agenda items, unless the Committee determines the presentation is not required. Staff will also assist the Committee in educational and outreach projects, if possible.
- 6.2.2 Heritage Section staff will attend sub-committee meetings of the Heritage Markham Committee (i.e. Architectural Review Sub-Committee, Building Evaluation Sub-Committee), as required, and prepare notes from these meetings.
- 6.2.3 Heritage Section staff possesses no voting privileges.
- 6.2.4 Heritage Section staff will ensure that other staff and departments of the municipality, whose responsibilities and actions may impact cultural heritage resources, are aware of the status of these resources, the review and approval process related to alterations, and the role of the Heritage Markham Committee.
- 6.2.5 Heritage Section staff from the Heritage Section of the Planning and Urban Design Department will ensure that Heritage Markham Committee recommendations are forwarded to the appropriate staff at the City, or others as necessary, for consideration and/or action. This will include facilitating the recommendations of the Committee through the preparation of staff reports (see 7.2.2 and 7.3.1).

- 6.2.6 Heritage Section staff will prepare a Heritage Markham annual budget for consideration by the Heritage Markham Committee. Staff will administer the budget once approved by Council.
- 6.2.7 Heritage Section staff will maintain correspondence, files and records related to the operations and activities of the Heritage Markham Committee.
- 6.2.8 Heritage Section staff will conduct the elections of Heritage Markham Committee officers on an annual basis.
- 6.2.9 Heritage Section staff will conduct an orientation session with new members of the Heritage Markham Committee, as required.

## **7. Reporting Method**

### **7.1 Heritage Markham Recommendations**

- 7.1.1 A recommendation on an application or issue approved by the Heritage Markham Committee, will be forwarded to the appropriate municipal department (or to the **Committee of Adjustment**) for attention. If, there are outstanding heritage issues to be addressed, the applicant or proponent will be given the opportunity to modify the application or project. If the issue is satisfactorily addressed, Council approval of the heritage recommendation may not be necessary due to staff's delegated approval authority (see 7.3).
- 7.1.2 If unresolved issues continue to exist (i.e. conflict between what the Heritage Markham Committee has recommended and what the applicant or proponent wishes to undertake), the matter can be forwarded to the Development Services Committee and Council in the form of a staff report for a decision. There, the applicant or proponent may present their case for consideration.

### **7.2 Development Services Committee/Council**

- 7.2.1 The minutes of the Heritage Markham Committee will be forwarded to Council through the Development Services Committee. The minutes are received as information.
- 7.2.2 Development applications (or other matters) that involve a cultural heritage resource and require Development Services Committee/Council approval will include the Heritage Markham Committee's recommendation and advice as part of the staff report. If the Heritage Markham recommendation is contrary to the staff recommendation on the matter, the Heritage Markham Committee's position/recommendation will be noted in the Recommendation section of the staff report and 'received as information' so that Council is aware of the advice from its municipal heritage committee, in addition to the staff recommendation.
- 7.2.3 The Council representatives on the Heritage Markham Committee may also assist in conveying the Committee's issues and recommendations to other members of Council.

### **7.3 Committee of Adjustment**

- 7.3.1 Committee of Adjustment applications such as minor variance or consent (land division) that involve a cultural heritage resource will include the Heritage Markham Committee's recommendation and advice as part of the staff report.

#### **7.4 Delegated Approvals**

- 7.4.1 As per By-law 2007-67, the Manager, Heritage Planning, or designate, is delegated Council's approval authority respecting the granting of consents and approvals for alterations to individually designated properties and properties in heritage conservation districts, including the authority to attach terms and conditions. If the Manager, Heritage Planning has any concerns regarding an application, it will be forwarded to the Heritage Markham Committee for review and if necessary, Development Services Committee/Council for resolution.
- 7.4.2 The requirement for consultation and review with the Heritage Markham Committee for alterations of individually designated properties and properties located within heritage conservation districts that are compliant with accepted policies and guidelines is delegated to the Manager, Heritage Planning, or designate.
- 7.4.3 The Heritage Markham Committee will be informed of any staff approvals for information purposes on the next available Committee agenda.
- 7.4.4 Delegation authority to the Manager, Heritage Planning to approve on behalf of Council does not include the authority to refuse an application to alter a designated property, or the authority to consider applications for demolition or removals of individually designated properties or properties in heritage conservation districts.

## Appendix 'A' – Glossary of Terms

**"Act"** refers to the *Ontario Heritage Act*

**"Agenda"** refers to a list of items to be considered at a meeting arranged in the order in which they are intended to be addressed.

**"Adjourn"** refers to officially ending the meeting.

**"Chair"** refers to the person who presides at the meeting. The Vice-Chair assumes this responsibility in the absence of the Chair.

**"Committee"** refers to the Heritage Markham Committee.

**"Committee of Adjustment"** refers to an appointed committee which is authorized by Council to grant minor variances from the zoning by-law and grant consents for land severances.

**"Council"** refers to The Council of the City of Markham.

**"Cultural Heritage Resources"** refers to built heritage resources (which include significant buildings, structures, monuments, installations or remains associated with architectural, cultural, social, political, economic or military history noted as being important to our community, and may be identified through designation, heritage easement or listing) and cultural heritage landscapes (defined geographical areas of heritage significance that have been modified by human activities and are valued by the a community, examples include heritage conservation districts, villages, parks, main streets, and cemeteries).

**"Designated Property"** refers to property that is protected pursuant to the Ontario Heritage Act either individually or as part of a heritage conservation district.

**"Deputation"** refers to a presentation by one or more individuals regarding a specific agenda item.

**"Development Services Committee"** refers to a standing committee of Council at which Heritage Markham matters are usually addressed.

**"Heritage Conservation Plan"** refers to a document that details how a specific cultural heritage resource can be conserved.

**"Heritage Easement Agreement"** refers to a legal document offering additional protections for a cultural heritage resource. It conveys to its holder the legal right to be involved in decisions concerning the future of a property.

**"Heritage Impact Assessment"** refers to a study to determine if any cultural heritage resources are impacted by a specific proposed development or site alteration, and how the resource can be conserved or the impacts mitigated.



**“Heritage Markham”** refers to Markham’s municipal heritage committee pursuant to the *Ontario Heritage Act*

**“Member”** refers to a member of the Heritage Markham Committee.

**“Minutes”** refers to the official record of the Heritage Markham meeting.

**“Motion”** refers to a formal proposal or recommendation placed before the Committee by one Member (the mover of the motion) for debate and decision.

**“Move”** refers to formally proposing a motion or an amendment. The person who proposes the motion or amendment is called the “mover”. To discuss a specific motion, it must be “moved” and “seconded”.

**“Order”** refers to the behavior in a meeting which allows Members to conduct business without disruption.

**“Order, call the meeting to”** refers to an announcement by the Chair to indicate that the meeting is about to start. Also, can be a way for the Chair to enforce discipline at the meeting if rules have been broken.

**“Quorum”** refers to the minimum number of Members who must be present at a meeting to make the proceedings valid.

**“Register of Property of Cultural Heritage Value or Interest”** or **“Register”** refers to the Markham Register of Property of Cultural Heritage Value or Interest maintained pursuant to the *Ontario Heritage Act* as an inventory of individually designated properties, properties in heritage conservation districts and listed properties.

**“Second”** refers to formally endorsing a motion or amendment after it has been “moved”. The person who formally endorsed the motion or amendment is referred to as the “seconder”. To discuss a specific motion, it must be “moved” and “seconded”.

**“Show of Hands”** refers to the usual manner in which votes are cast. Those for and those against the motion are asked to raise their hands. The hands are counted, the result announced by the Chair, and the motion is declared either carried or lost.

**“Vote, tie”** refers to an equal number of votes for and against a motion.

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**Appendix ‘C’ – Heritage Markham Extracts****HERITAGE MARKHAM****EXTRACT**

DATE: January 26, 2021

TO: R. Hutcheson, Manager of Heritage Planning

EXTRACT CONTAINING ITEM # 7.1 OF THE FIRST HERITAGE MARKHAM  
COMMITTEE MEETING HELD ON JANUARY 13, 2021

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**7.1 REQUEST FOR FEEDBACK****DRAFT HERITAGE MARKHAM TERMS OF REFERENCE AND  
BY-LAW (16.11)**

Regan Hutcheson, Manager of Heritage Planning presented the revised draft to the Heritage Markham Terms of Reference, and explained where changes had occurred since the last version.

Committee reviewed and discussed the most recent revisions to the draft Heritage Markham Terms of Reference. Committee’s comments included:

- changing the suggested number of representatives from each of the three largest heritage conservation districts from one to two citizen members as some members felt that local knowledge was important;
- supporting the ability of councillors to be chair (or vice chair) of the committee, but not limiting the chair position only to members of Council;
- accepting the revised policy on conflict of interest, but reiterating the desire to not discourage professionals in heritage related occupations from applying as members as they do provide useful and practical experience and knowledge.

**Recommendation:**

That Heritage Markham Committee supports the proposed Heritage Markham Terms of Reference and By-law (January 2021 draft), with the following amendments, with additions bolded and omissions strikethrough:

- 1) 2.1.2 - If possible, the citizen members ~~will~~ **should** be selected on a geographic basis as follows:

- 
- Thornhill Heritage Conservation District or Thornhill Community (4 2 Members);
  - Markham Village Heritage Conservation District or Markham Village Community (4 2 Members);
  - Unionville Heritage Conservation District or Unionville Community (4 2 Members);
  - Members at large (7 4 Members).

Notwithstanding the above, Council may choose to deviate from this geographic approach, if necessary.

- 2) 2.4.1 - The Heritage Markham Committee will elect a chair person (Chair) and a vice-chair person (Vice Chair) **from all the members**, annually at its first meeting of the year, or as soon as practicable. The Manager, Heritage Planning will conduct the elections of Chair and Vice Chair positions. Once the Chair and Vice Chair are elected, the Chair will preside over the remainder of the meeting.
- 3) Clause 2.4.2 to be omitted from the Terms of Reference;  
~~2.4.2 The Chair will be one of the members of Council appointed to the Heritage Markham Committee as elected by the entire Committee. The Vice Chair will be elected by all the members and may be any member of the Committee.~~
- 4) 3.4.1 -The quorum for the Heritage Markham Committee will be **seven (7)** members being in attendance.
- 5) 3.74 - A Heritage Markham Committee member ~~who earns their living in a heritage-related occupation and/or~~ who has been retained for a matter that is before the Committee is considered to have a conflict of interest and should have another representative appear before Committee if a presentation is required or to answer questions.
- 6) **Citizen** members of Heritage Markham Committee will serve without compensation other than reimbursement of approved expenses incurred while performing duties on behalf of the Committee.

**Carried**

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**June 10, 2020 Heritage Markham Extract****7.3 REQUEST FOR FEEDBACK****DRAFT HERITAGE MARKHAM TERMS OF REFERENCE AND BY-LAW (16.11)**

Extracts: R. Hutcheson, Manager of Heritage Planning

Regan Hutcheson, presented the draft Heritage Markham Terms of Reference which staff had been directed by Council to develop.

Committee provided the following feedback on the draft Terms of Reference:

1. Mandate of Heritage Markham

- Suggested that natural landscaping be included under the mandate;
- Noted that natural landscaping is covered under the Heritage Conservation Guidelines, which is referenced under 1.1.5;
- Staff agreed to consider including natural landscaping in the Terms of Reference;

1.3 Non-Statutory Role

- Add a bullet under k) Education, Promotion and Commemoration, as follows:
  - Encourage salvage, reuse, or repurposing material that cannot be incorporated into the cultural heritage resource.

2.4 Chair/Vice-Chair

- Correct the spelling of Vice-Chair in 2.4.5 (the “e” in Vice is missing);
- Correct the numbering – the last bullet should read 2.4.6 instead of 2.4.5.
- Add after the Chair “or his designate” in 2.4.6.

3.1 Meetings

- Add the word “generally” before the word meet in 3.1.1.

3.2 Sub-Committee

- Add a clause to this section on how Sub-Committees make decisions, suggesting that decisions can be made by voting on the item or by consensus;

### 3.7 Conflict of Interest

- The Committee discussed the reasons for and against allowing Committee Members to represent their clients at Heritage Markham Committee meetings;
- The Committee requested that the approval of this section be deferred to a future meeting;
- Staff were asked to obtain advice from the City Solicitor on whether a Committee Member could be prohibited from representing their client at Heritage Markham Committee meetings without being challenged under any other legislation.

A Committee Member suggested that this item is not urgent in nature and should not be discussed until the Committee starts to meet in person again at Civic Centre. Staff will seek advice from the Clerk's Office on this matter.

#### Recommendation:

That Heritage Markham Committee supports the proposed Heritage Markham Terms of Reference and By-Law (June 20, 2020 draft) as amended, and excluding section 3.7 Conflict of Interest (which is deferred for further consultation).

**Carried**

#### Recommendation:

That Heritage Markham Committee recommend to Council that the Appointment Committee for Heritage Markham Committee appointments be comprised of the Mayor and Regional Councillor, a minimum of one Heritage Markham Councillor, and a Heritage Planner.

**Carried**

#### Recommendation:

That the Heritage Markham Committee recommends that the discussion on the draft Heritage Markham Committee Terms of Reference -Section 3.7 Conflict of Interest be deferred to a suitable time.

**Carried**