



By-law 2023-142

A By-Law to Amend Procedures For Processing Permit Applications under the Ontario Heritage Act

WHEREAS on December 13, 2023, Council approved By-law 2023-20 – A By-law to Establish Procedures For Processing Permit Applications pursuant to the Ontario Heritage Act;

AND WHEREAS Council is desirous to further clarify and establish procedures for processing and administering permit applications under the Act including the relocation of heritage buildings and the retention of heritage buildings in new development;

NOW THEREFORE the Council of the Corporation of the City of Markham ENACTS as follows:

1. That By-law 2023-20, Part V, Clause 10 be amended as follows:
 - “d. Relocation of a Heritage Building including additions, *alterations*, accessory buildings, site layout and landscaping on a *designated heritage property* as per Schedule ‘D’,
 - e. Retention of a Heritage Building including additions, *alterations*, accessory buildings, site layout and landscaping on a *designated heritage property* as part of a new development or on a new lot or block within a plan of subdivision as per Schedule ‘E’ ”;
2. That By-law 2023-20 be amended by the inclusion of Appendix ‘A’ as Schedule “D” of By-Law 2023-20 and Appendix ‘B’, as Schedule “E” of By-Law 2023-20;
3. That By-law 2023-20, Part VIII, Clause 39 be deleted and replaced with the following Clause 39:

“For new construction, additions or alterations on residential *designated heritage property* involving more than ten dwelling units or non-residential *designated*

heritage property, the *Permit* requirements, including any terms and conditions, shall typically be included in the Planning Act approval document if available or if necessary, in a separate *Permit* document.”

4. That the effective date of this By-law is September 27, 2023.

Read a first, second, and third time and passed on September 27, 2023.

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

Appendix ‘A’

Schedule ‘D’ to By-law 2023-20

Process Requirements for a Relocated Heritage Building - Major Heritage Permit Application

The Heritage Permit application process can only be used on a *designated heritage property*. However, when a Heritage Building is relocated, the receiving lot is typically not a *designated heritage property* unless it is within a heritage conservation district. This issue can affect a heritage building being relocated to Markham Heritage Estates subdivision or a heritage building being relocated elsewhere in the community.

Relocation of a Heritage Building from original location to new location

- a) Where the City has received satisfactory evidence that the Heritage Building will be relocated to the new location owned by a different owner (i.e. through being provided with a letter agreement or bill of sale between the original owner and the owner of the new location and/or a signed Agreement of Purchase and Sale for the acquisition of a new lot in Markham Heritage Estates subdivision), Council may enact a “conditional” Designation By-Law describing both the original location of the Heritage Building and the new location where it will be moved.
- b) The conditional Designation By-law shall indicate in the recitals that the Heritage Building is currently on the original site (include the legal description and municipal address of the original site) and will be relocated to the new lot (include the legal description and municipal address of the lot to be acquired). In the case of Markham Heritage Estates, it would be the new lot that the purchaser has agreed to acquire from the City. The Designation By-law shall indicate that it will not be in effect until such time that the Heritage Building is relocated to the lot being acquired. The Designation By-law shall not be registered on the original site, but will be registered on the new location after the Heritage Building has been relocated.
- c) If Council has enacted such conditional Designation By-Law, the City may issue a Major Heritage Permit for the removal and restoration of the Heritage Building before the actual Designation By-Law is in effect.

Appendix B

Schedule 'E' to By-law 2023-20

Process Requirement for Retention of a Heritage Building in a New Development/Plan of Subdivision- Major Heritage Permit Application

A Heritage Building may be required by Council to be retained within a new development or plan of subdivision as a condition of development approval, and the designation of the Heritage Building pursuant to the *Ontario Heritage Act* is required. As this undertaking is required prior to final approval of the plan of subdivision or any phase thereof, there is usually no separate legal description for the property which is to be designated as the plan of subdivision is not yet registered. There is desire to not register a Designation By-law on title to the entire property being developed.

The following procedure allows the Designation By-law to be enacted by Council and registered, and the Major Heritage Permit application to be submitted and processed.

- a) The City will prepare the draft Designation By-law (or an existing Designation By-law will be amended).
- b) The Owner of the property will provide at its expense a legal survey of the Heritage Building parcel (R-Plan) to facilitate the registration of the Designation By-law on the newly created/proposed lot.
- c) The Designation By-law (or amending By-law) with the new legal description as provided by the R-Plan will be enacted by Council and registered on title.
- d) A Major Heritage Permit Application can then be submitted and processed to comply with the conditions of draft plan approval or the associated Development or Subdivision Agreement requirements.