

September 8, 2023

VIA EMAIL – clerkspublic@markham.ca

City of Markham
Development Services Committee
101 Town Centre Boulevard
Markham ON L3R 9W3

Dear Sirs:

**Re: Trinison Management Corp. – Managers of the Summerlane Realty Corp. Lands
10224 Highway 48, Markham, Ontario
Proposed Designation Under Part IV of the Ontario Heritage Act - Request for Deferral**

Please be advised that Aird Berlis LLP represents Trinison Management Corporation ("Trinison") which manages the Summerlane Realty Corp. lands located at 10224 Highway 48, immediately north of the intersection of Highway 48 and Major Mackenzie Road East.

Our client is in receipt of a Notice of the City of Markham's intention to designate the property pursuant to Part IV of the *Ontario Heritage Act* (the "OHA"). This Notice was received on August 18, 2023, a mere 3 weeks prior to the meeting of the Development Services Committee on September 11, 2023 to consider this matter. The purpose of this correspondence is to (1) **formally request an opportunity to depute** before the Development Services Committee at its meeting of September 11, 2023 in respect of Agenda Item 7.3 (2) as it relates to the property at 10224 Highway 48 and (2) **request a deferral** of any consideration and/or decision in respect of the issuance of a Notice of Intent to Designate pursuant to Part IV of the *Ontario Heritage Act*.

Our client seeks a deferral so as to have a reasonable opportunity to continue its discussions with local community groups, the details of which are provided below, and to engage with Markham Staff, including Heritage and Development Services, on options for the future adaptive use of the existing building on the property. Given the very short notice of this matter being considered by the Development Services Committee, our client has not been able to conclude this work despite its best efforts.

As part of its deferral request, Trinison commits to meeting with Markham Staff in January, 2024 to provide an update on progress of its due diligence process and to obtain input from staff on potential uses and opportunities for the existing built resource on the property. This deferral will, in our respectful submission, allow Trinison to undertake its consultation with the community and advance its due diligence, without any prejudice to Markham's interests.

Site and Area Context

The property at 10224 Highway 48 is approximately 103.49 acres in gross area with substantial frontage on Highway 48, to the north of Major Mackenzie Road East.

The lands are part of a series of holdings northwest of this important intersection which are located within the area known as Upper Markham Village, designated as New Community Area in the Regional Official Plan which received approval by the Minister of Municipal Affairs and Housing in November 2022. Our client, together with other members of the Upper Markham Landowners' Group in the area, have already held a pre pre-consultation meeting at the end of August of this year with the formal Pre-Consultation Meeting scheduled for October 3, 2023 with Markham Staff to commence the Secondary Plan process for this area. The subject property, and the area in which it is situated, is planned for growth and development.

The portion of the site which appears to be of potential heritage interest based on the Notice received from Markham occupies an area of approximately 281.25 m² which includes a 2 m buffer around the footprint of the existing dwelling. . Given the building's present location and the fact that any Designation By-law adopted pursuant to Part IV of the OHA will apply to the entire land holding the fact of the designation at this time will necessarily add to the complexity of any development process. In our view, it is premature to proceed with the designation at this time and in advance of the necessary Secondary Plan process which should be undertaken.

On-Going Consultation with Local Community & the Opportunity for Adaptive Reuse

Following the approval of the Regional Official Plan by the Minister which has identified this property and the immediate area as an area of development and growth, Trinison began to explore opportunities to ensure the adaptive reuse of the existing residential building. This was informed by our client's prior experience in other municipalities integrating historic buildings into the community, often through relocation to more suitable locations.

In this case, Trinison has identified a unique opportunity to work with the immediate community to explore an adaptive reuse of the existing building. Our client and an institutional landowner within 1 km of the Summerlane property commenced discussions in early 2023 to explore options for relocation and adaptive reuse of the building. Our client has commenced a due diligence process as part of these discussions at its own cost , including survey work assessing servicing options and other preliminary matters.

Concerns with Statement of Significance & Effect of Any Designation

As noted above, Trinison only received notice of this matter less than 3 weeks ago. Upon receipt our client immediately sought an opportunity to meet with Markham Heritage staff to provide them with details on the work done to date to explore this exciting adaptive reuse opportunity. Our client was able to meet briefly with staff on September 6th.

The very next day, our client received email correspondence from Markham Heritage staff which suggests that the effect of a Part IV designation will not have a material impact on any consideration to a relocation and adaptive reuse opportunity with the community. The email also indicated there would be no prejudice to our client if the designation proceeded at this time. This is, of course, legally, and factually incorrect.

A Part IV designation triggers the requirement for permits under the OHA and the preparation of expert reports and assessments which would otherwise not be required for a listed property. Further, the fact of a designation under Part IV and any decision by Markham following designation to grant permits to alter the heritage property are decisions which can only be made following a public process and which themselves are subject to objection and appeal to the Ontario Land Tribunal.

All of this adds unnecessary cost, potential delay which results in further costs, and risk to the process our client has engaged in with the community in good faith. Moreover, it is not necessary at this time as the property remains as a listed property on the Heritage Register and no permit to demolish can be issued without appropriate notice to the City which in turn provides an opportunity to move immediately to commence the designation process.

Summary and Request

In summary, our client only received Notice of this meeting on August 18, 2023, and has not been provided with a reasonable or fair opportunity to review the Reasons for Designation set out in the Notice nor the implications of the proposed designation on its interests and those of the community with which it is engaged at this very time in exploring adaptive reuse options for the building.

Moreover, and particularly in this case, the landowner has already commenced a due diligence process in consultant with an institutional landowner in the immediate community. A deferral provides an opportunity over a reasonable period to continue to advance that process and receive meaningful and productive input from Markham Staff.

A deferral will not prejudice the ability of Markham to make further decisions in accordance with the timeframes as set out in the *Ontario Heritage Act*.

We will attend the meeting of the Development Services Committee on September 11, 2023 to provide a deputation on this matter and to answer any questions. We appreciate the opportunity to do so on behalf of our client.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello
EPKC/gg
c: Client

54223999.1

September 8, 2023

VIA EMAIL – clerkspublic@markham.ca

City of Markham
Development Services Committee
101 Town Centre Boulevard
Markham ON L3R 9W3

Dear Sirs:

**Re: 10159 McCowan Road, Markham
Proposed Designation under Part IV of the Ontario Heritage Act**

Please be advised that Aird Berlis LLP represents Markham MMM North Development Corporation in respect of its lands located within the Upper Markham Village and, more specifically, known as 10159 McCowan Road.

The purpose of this correspondence is to (1) **formally request an opportunity to depute** before the Development Services Committee at its meeting of September 11, 2023 in respect of Agenda Item 7.3 (2) as it relates to the property at 10159 McCowan Road and (2) **request a deferral** of any consideration and/or decision in respect of the issuance of a Notice of Intent to Designate pursuant to Part IV of the *Ontario Heritage Act*.

Site and Area Context

The property at 10159 McCowan Road is more than 50 ac in size with extensive frontage along McCowan Road, to the north of Major Mackenzie Road East. The lands are part of a series of holdings northeast of this important intersection which are all located within the Upper Markham Village, as designated in the Regional Official Plan which received approval by the Minister of Municipal Affairs and Housing as recently as November 2022. Our client, together with other members of the landowners' group in the area, have already held pre-consultation meetings in September of this year Markham Staff to commence the Secondary Plan process for this area. The subject property, and the area in which it is situated, is planned for growth and development.

Concerns with Statement of Significance & Reasons for Designation

As noted above, our client only received notice of this matter less than 3 weeks ago. It immediately engaged heritage experts to review the Statement of Significance and Reasons for Designation contained in the Notice issued by Markham and to begin to assess the implications of a designation. Importantly, and particularly given the timing of the notice, our client's heritage experts have yet to be able to complete basic due diligence on this matter such as a site visit or archival research. That work is ongoing and must be completed for our client to be apprised of the merits of the proposed designation.

However, our client's heritage experts have, based on their limited review, identified preliminary concerns with the Statement of Significance, including how certain locational aspects of the heritage resource are described as well as the identification of criteria pursuant to Ontario Regulation 9/06.

Summary and Request

In summary, our client only received Notice of this meeting on August 18, 2023, and has not been provided with a reasonable or fair opportunity to review the Reasons for Designation set out in the Notice nor the implications of the proposed designation on its interests.

We appreciate that the amendments to the *Ontario Heritage Act* through Bill 23 has resulted in the need for municipalities to undertake a careful review of the properties contained on their Heritage Register; that exercise cannot be at the sake of the a reasonable process which affords landowners a fair opportunity to understand and respond to a proposed designation pursuant to Part IV.

In these circumstances, a deferral will allow our client and its heritage consultants to review and consider this matter and to properly consult with Markham staff. A deferral will not unduly prejudice the ability of Markham to make further decisions in accordance with the timeframes as set out in the *Ontario Heritage Act*.

We will attend the meeting of the Development Services Committee to provide a deputation on this matter and to answer any questions. We appreciate the opportunity to do so on behalf of our client.

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello
EPKC/gg

cc: Client
MHBC Planning
54186120.1

From:

Sent: Sunday, September 10, 2023 4:52 PM

To: Mayor Scarpitti <MayorScarpitti@markham.ca>; Councillor, Andrew Keyes - Markham <akeyes@markham.ca>

Cc:

Subject: Notification of Possible Premature By-Laws - Heritage Act Designations (81 Dickson Hill)

Importance: High

Dear Mayor Scarpitti and Counsellor Keyes,

I am writing to advise you that I am concerned that your Heritage staff may have inadvertently made an error in having matters brought before counsel on September 12th for a by-law to be passed prior to the enabling provision under the Ontario Heritage Act, R.S.O. 1990, c. O.18 allowing for that to happen.

I understand the Heritage department's desire to preserve the history of Markham and to protect the Greenbelt however that may not take place outside of the legal requirements.

I am not a lawyer nor an expert on municipal law and therefore I apologize in advance if I am incorrect in my analyses.

I am a property owner at 81 Dickson Hill Road in Ward 5 and was served a Notice of Intention to designate my property under the Heritage Act. (Attachment A). I put together and served an objection in the limited time available to do so and served it on the clerk's office by email yesterday. I now believe that objection incomplete and void as I was given inadequate notice (Attachment B). In my objection I had been seeking an adjournment to better prepare. I also briefly outlined the grounds for the objection in that of the six elements that were identified by the City as contextual components five of them were incorrect or unclear. In addition, I also sought copies of the applicable by-law and prescribed criteria for designation as I was unable to find them on the website.

However, since I submitted that objection having further reviewed the Heritage Act, I determined that Council has no authority to pass a by-law under the Heritage Act for designation on September 12th as it is premature.

Specifically the letter containing the Notice I received was dated August 14th, 2023. The Heritage Act Part IV at section 29(3) requires:

29 (3) Notice of intention to designate under subsection (1) shall be,
(a) served on the owner of the property and on the Trust; [bold mine]

The Heritage Act subsequently defines service by regular mail at section 67(3):

67 (3) Subject to subsection (5), service or delivery of a document by mail is effective five days after the day the document is mailed. 2009, c. 33, Sched. 11, s. 6 (20). [bold mine]

Therefore, my Notice , dated August 14th, could not be deemed served until August 19th. August 19th being a Saturday though deemed service by regular mail would not have been until August 21st.

The Heritage Act enables municipal councils to pass by-laws to designate a heritage property pursuant to section 29(8) of the Act:

29 (8) If no notice of objection is served within the 30-day period under subsection (5) or a notice of objection is served within that period but the council decides not to withdraw the notice of intention to designate the property, the council may pass a by-law designating the property, provided the following requirements are satisfied: [bold mine]

As mentioned, my notice was not deemed served (per the above) until August 21st, 2023. It follows then that 30 days from August 21st is September 20th. Therefore, as set out in section 29(8) a by-law could not be passed in the instance of no objection until September 21st. While I did file an objection it was hastily put together and incomplete as the letter from the City indicated in the Notice I had only until the 12th of September to complete the objection. I would contend that my incomplete objection in which I requested an adjournment does not constitute an objection having been made per s. 29(8) as the notice was invalid containing direction to object within a period of less than 30 days. Because the Notice itself shortened the objection period to well under 30 days I would further submit that it renders the Notice null and void and a new Notice must be served.

As mentioned above I am not a lawyer nor am I an expert in municipal law and therefore I have copied the Minister of Heritage and the Ontario Land Tribunal so that they may provide me with guidance if my analyses is incorrect. I have also copied our family lawyer only so that there is an independent record of this correspondence.

The Notice I received from the City also mentioned that there were 155 properties to be addressed at by-law. I am assuming I am not the only one that did not receive timely notice and therefore any of those properties that have a Heritage Designation by-law passed on the 12th the by-law would have no force and effect.

I have not contacted the media now as I believe in offering the City an opportunity to rectify this internally. I am requesting that the city withdraw all proposed by-laws of heritage designation to be heard on Tuesday the 12th wherein improper Notice was provided.

I respectfully request that I receive a reply about this deputation prior to 3 PM on Monday September 11th. This is not meant to be an ultimatum and I do not see it as such. I will need from 3 PM onwards to properly be prepared for the council meeting and to provide complete information to CTV News Toronto / Barrie in the event I do not hear from the city.

Thank you.

Yours truly,

Jennifer Gallichan
81 Dickson Hill Road
Markham, ON
L3P 3J3

Att:

A – Notice 81 Dickson Hill
B – Preliminary Objection

August 14, 2023

Jennifer and Ian Gallichan

81 Dickson Hill Road

Markham, Ontario

L3P 3J3

Dear Ms. and Mr. Gallichan:

PROPOSED DESIGNATION UNDER PART IV OF THE *ONTARIO HERITAGE ACT*

Our cultural heritage is what we value from the past, and what we want to conserve for future generations. Markham is committed to identifying and protecting places in our community that have significant cultural heritage value through the designation of properties under the *Ontario Heritage Act*. To date, the City has over 250 individually designated properties and four heritage conservation districts.

In pursuit of this objective, and as the result of extensive research, we are proposing to designate your property under Part IV of the *Ontario Heritage Act*. Your property is currently "listed" on the City's Heritage Register in recognition of its heritage significance. The purpose of designation is to formally acknowledge the importance of the property to the community and protect it for the benefit of future generations. To that end, designation provides a mechanism to prevent demolition or major alterations to your property that would either remove or dilute its cultural heritage value, a tool that does not exist if a property is "listed".

It is important to note that designation under the *Ontario Heritage Act* does not mean that changes cannot be made to your property, or that the City can compel you to make any changes, only that exterior alterations will be evaluated by the City against a description of your property's heritage attributes to ensure that they are complementary to its heritage value. The identification of heritage attributes, as required as part of a future designation by-law for your property, provides clarity as to which elements contribute to its cultural heritage value, and is useful as a guide to generally understand which components of the property can and cannot be altered. Interior alterations can be made without heritage review, just like any other property owner in Markham.

Why has the City decided to designate your property?

Normally a property is protected under the *Ontario Heritage Act* when it is contained within an active development site, such as the construction of a new subdivision, or when a demolition permit has been submitted and Council, based on recommendations from Heritage Section staff, prevents removal through Part IV designation. This approach has worked well for many years, and the City was content to continue to operate in this manner, but recent provincial legislation has necessitated a change in approach.

The Provincial Government's Bill 23, also known as the *More Homes Built Faster Act*, requires all "listed" properties on a municipal heritage register, such as Markham's Heritage Register, to be either designated within a two-year period beginning January 1, 2023, or be removed from the register. Should a "listed" property be removed as a result of this deadline, it cannot be "re-listed" for a five-year period. Should a property not be designated within the two-year time period and be removed from the register, the City would have no mechanism to prevent demolition or detrimental alteration requests. As a result, the City has initiated a program to research, evaluate and designate all significant "listed" properties in Markham to avoid their potential loss. This program involves a review of over 155 properties.

To help understand what designation entails, included with this letter please find a brief fact sheet that we hope will answer many of your questions, and make you aware of its benefits, including the opportunity for property tax rebates and grant assistance that is only available to the owners of designated heritage properties. We have also attached a copy of the draft Statement of Significance which is proposed to be included within the future designation by-law. A detailed Research Report on your property is available upon request.

While Heritage Section staff (with the assistance of Heritage Markham, our municipal heritage committee) can recommend designation, the final decision rests with Markham Council. As a next step, designation of your property will be considered by the Development Services Committee and Council on September 12. Should you wish, you are welcome to attend either remotely via Zoom or in-person in the Council Chamber at the Civic Centre. If you wish to make a deputation, please register prior to the start of the meeting by emailing the Clerks department at clerkspublic@markham.ca with your full name, contact information, and the item on which you wish to speak.

Should you have any questions, or would like to arrange a call to discuss any of your concerns, please do not hesitate to contact me at emanning@markham.ca

Thank you for your cooperation in preserving such an important part of Markham's history.

Sincerely,



Evan Manning

Senior Heritage Planner

Heritage Section – Planning and Urban Design Department

Development Services Commission

STATEMENT OF SIGNIFICANCE

Dickson Hill Mill House

81 Dickson Hill Road

c.1864

The Dickson Hill Mill House is recommended for designation under Part IV, Section 29 of the Ontario Heritage Act as a property of cultural heritage value or interest, as described in the following Statement of Significance.

Description of Property

The Dickson Hill Mill House is a one-and-a-half storey, frame dwelling located on the east side of Dickson Hill Road, in the historic community of Dickson Hill. The house faces south.

Design Value and Physical Value

The Dickson Hill Mill House has design value and physical value as a representative example of a mid-nineteenth century vernacular dwelling designed with the influence of the Georgian architectural tradition. It is a modest, vernacular building, without ornamentation, designed to meet the needs of the owners or operators of the flouring mill. The symmetrical plan and rational, formal design follows the Georgian architectural tradition that continued to influence vernacular architecture in old Ontario long after the historic Georgian period ended in 1830. Although the Dickson Hill Mill House has been modified, the main rectangular block of the mid-nineteenth century building retains a good degree of its historical character. An early 20th century veranda illustrates the evolution of the dwelling.

Historical Value and Associative Value

The Dickson Hill Mill House has historical value and associative value, representing the theme of industry, innovation and economic development because of its association with the Dickson Hill Mill, an important local industry that operated from 1842 until 1954, and with the Dickson family, owners from 1842 to 1870. John Dickson was a Scottish-born millwright. He and his business partner Robert McNair leased a sawmill and flouring mill on the site of Bruce's Mill, now part of the Town of Whitchurch-Stouffville, from the 1830s to the early 1840s. When the lease expired, John Dickson built a flouring mill on the Little Rouge River on the west quarter of Lot 30, Concession 8 in 1842. Two frame houses were constructed on the property in association with the mill, occupied by the owners and operators of the business, representing the theme of housing provided for workers in local industries in a rural setting. Dickson formally purchased the mill property from Henry Wideman in 1844. The establishment of the mill was significant to the area, and the community became known Dickson's Hill, or Dickson Hill. The mill passed out of the ownership of the Dickson family in 1870, after which it passed through the hands of a series of owners. The Dickson Hill Mill House, said to date from 1864, was sold by the last owner and operator of the mill, William A. Jones, in 1951. The mill ceased operation in 1954 when Hurricane Hazel damaged the mill pond dam.

Contextual Value

The Dickson Hill Mill House has contextual value as one of several heritage buildings that are important in defining, maintaining and supporting the character and extent of the historic hamlet of Dickson Hill. The house is located on a large property within the hamlet, a residential enclave which has evolved since the mid-twentieth century but otherwise has generally maintained its character despite suburban growth. The Dickson Hill Mill House has particular contextual value within the historic hamlet of Dickson Hill due to its position next door to the remnant of John Dickson's flouring mill of c.1842 at 87 Dickson Hill Road.

Heritage Attributes

Character-defining attributes that embody the cultural heritage value of the Dickson Hill Mill House are organized by their respective Ontario Regulation 9/06, as amended, criteria below:

Heritage attributes that convey the property's design value and physical value as a representative example of a mid-nineteenth century vernacular dwelling designed with the influence of the Georgian architectural tradition:

- Main, or south block of the existing dwelling, with its rectangular plan and one-and-a-half storey height;
- Board and batten siding;
- Medium-pitched gable roof with open, overhanging eaves;
- 3-bay configuration of the west (primary) elevation;
- Centre, single-leaf front door along the west elevation;
- Existing window openings, with their upright rectangular shape.

Heritage attributes that convey the property's design value and physical value as a representative example of the building's design evolution:

- 20th century front veranda with wood posts on stone and concrete walls

Heritage attributes that convey the property's historical value and associative value, representing the theme of industry, innovation and economic development, and the theme of housing being provided for workers in local industries as the former residence of the owners and operators of the Dickson Hill Mill:

- The dwelling is a tangible reminder of the owners and operators of the Dickson Hill Mill, an important industrial activity which helped anchor the small community.

Heritage attributes that convey the property's contextual value as a building that is important in defining, maintaining and supporting the character and extent of the historic hamlet of Dickson Hill:

- The location of the building facing south within the historic hamlet of Dickson Hill.

Attributes of the property that are not considered to be of cultural heritage value, or are otherwise not included in the Statement of Significance:

- Modern windows and doors;
- Non-functional window shutters;
- Rear addition.

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How does designation impact a property?

Designation does not restrict the use or sale of a property, compel an owner to make alterations, or require the owner to open it to the public. It does require the owner to obtain approval through a Heritage

Permit for any exterior alterations or additions. The identification of heritage attributes, as required as part of the designation by-law for the property, provides clarity as to which elements contribute to its cultural heritage value, and is useful as a guide to generally understand which components of the property are protected. Interior alterations can be made without heritage review unless they impact an identified heritage attribute (this is rare).

What happens if requested alterations are not approved?

If Council denies a Heritage Permit application, the owner can appeal to the OLT. A hearing is held and the OLT can approve the application with or without conditions, or refuse the application.

What about demolition?

Council can deny a demolition permit for a building or structure on a designated property. If Council refuses to approve an application for demolition, the owner may appeal to the OLT. After holding a hearing, the OLT can approve the application with or without conditions, or refuse the application.

How are designated properties identified and celebrated?

To celebrate the designation of an individual property, Markham has traditionally provided a bronze plaque that is mounted on the property with the owner's consent. The plaque indicates the name of the building's first occupant and the date of construction. The designation by-law is also registered on title to the property and is included on the City's Register of Property of Cultural Heritage Value or Interest.

Does designation affect the property value?

Studies on Ontario's heritage designated properties have revealed above-average performance in terms of property value changes, as well as resistance to market downturns. A study of 3,000 designated properties in 24 Ontario communities found that:

- Designation did not have a negative impact on property values;
- The rate of sale of designated properties was as good or better than the general market;
- The value of heritage properties tended to resist downturns in the general market

What are the benefits of owning a designated property?

The City is appreciative of the time, money and effort spent in maintaining a heritage property and offers financial assistance to owners of designated properties. Currently, there are three programs offered by the City:

Heritage Property Tax Refund

Receive an annual property tax refund to help offset the additional costs associated with conserving a designated property. Municipal and education tax components can be reduced by 30%. To be eligible for tax relief, the property must be designated under the Ontario Heritage Act and be subject to a registered Heritage Easement Agreement (HEA)

Designated Heritage Property Grant Program

Restore heritage features or replicate lost features on a designated property using this matching grant program which can provide up to \$5,000 in funding.

Commercial Façade Improvement Grant Program

Obtain matching grants of up to \$15,000 to assist in the restoration or improvement to exteriors of individually designated commercial properties.

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In addition to financial assistance, staff can assist in providing general restoration advice and guidance on completing maintenance and alterations that are appropriate and help celebrate the heritage value of the property

How to obtain additional information

Should you have any questions or require further clarification, please contact:

City of Markham
Heritage Section, Planning & Urban Design Department
101 Town Centre Blvd
Markham, ON L3R 9W3
heritage@markham.ca

Designation Program Co-ordination
Evan Manning, Senior Heritage Planner
emanning@markham.ca

**"Heritage Matters...in Markham"
is a series of information brochures
on heritage planning topics.**

Revised August 2023

Heritage Matters...in MARKHAM

Individual Property Designation

One of the most important tools Markham uses to protect places of heritage significance is through designation under Part IV of the Ontario Heritage Act. Designation provides an enhanced level of demolition control and ensures that the property cannot be altered in a manner that would detrimentally affect its identified heritage attributes.

What can be designated?

A variety of features on properties can be designated including:

- Buildings and structures;
- Archaeological sites and ruins;
- Cultural heritage landscapes (e.g. parks, gardens and/or natural landscapes);
- Cemeteries and monuments.

How does the process for designation begin?

Based on a request from an owner, or at the initiation of the City, research is undertaken to understand the architectural and historical context of the property (or series of properties). Based on this research, and in consultation with the Heritage Markham Committee, an advisory body on heritage-related matters, Staff determine whether the property is a significant cultural heritage resources warranting designation under Part IV of the Ontario Heritage Act. Note that while Staff can recommend designation, only Council can authorize it.

What criteria are used to support designation?

The Ontario Government has prescribed criteria for determining a property's cultural heritage value or interest for the purpose of designation (known as Ontario Regulation 9/06). Municipal councils are permitted to designate a property to be of cultural heritage value or interest if the property meets at least two of the prescribed criteria.

The purpose of the regulation is to provide an objective base for the determination and evaluation of resources of cultural heritage value. The criteria are essentially a test against which properties can be judged; the stronger the characteristics of the property compared to the standard, the greater the property's cultural heritage value. The criteria address design, historical and contextual value:

1. *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.*
2. *The property has design value or physical value because it displays a high degree of craftsmanship or artistic merit.*
3. *The property has design value or physical value because it demonstrates a high degree of technical or scientific achievement.*
4. *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.*
5. *The property has historical value or associative value because it yields, or has the potential to yield, information that contributes to an understanding of a community or culture.*
6. *The property has historical value or associative value because it demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.*
7. *The property has contextual value because it is important in defining, maintaining or supporting the character of an area.*

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8. *The property has contextual value because it is physically, functionally, visually or historically linked to its surroundings.*

9. *The property has contextual value because it is a landmark.*

Who prepares the designation material?

Heritage Section staff usually prepare the designation research report and accompanying Statement of Significance (inclusive of heritage attributes). The Statement of Significance describes the heritage importance of the property while the heritage attributes identify which elements of the property represent that value. While the research report is prepared to determine if a property warrants designation, the Statement of Significance is prepared once Staff are in support of designation and is included in the Council-adopted by-law which formally designates the property. In some cases, materials are supplied by the property owner or heritage consultants in support of designation.

Can a property be designated without the owner's support?

In those instances where the property owner does not support designation, Council can choose to designate without the owner's permission. As per the Ontario Heritage Act, a property's cultural heritage value is the measure for designation, rather than the consent of the owner.

Does Council have the final say?

A property owner has time-limited appeal rights should they wish to object to Council's intention to designate their property under Part IV of the Ontario Heritage Act. Note the final decision rests with the Ontario Land Tribunal in the event of an appeal.

The following is an outline of the designation process and the points in which objection to designation can formally be made:

- Council supports an intention to designate a property under Part IV of the Ontario Heritage Act and is to include a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property;
- Notice must be provided to the owner and the Ontario Heritage Trust that includes a description of the cultural heritage value of the property. A notice, either published in a local newspaper or posted digitally in a location that can be readily accessed, must be provided with the same details;
- Following the publication of the notice, there is a 30-day window in which interested parties, including the property owner, can object to the designation. This notice in opposition to designation must set out the reason for the objection. If a notice of objection has been served to the municipality, Council is required to consider the objection and make a decision whether or not to withdraw the notice of intention to designate;
- Should Council wish to proceed with designation, it must pass a by-law to that effect within 120 days of the date in which the notice was published. There is a 30-day appeal period following Council adoption of the by-law in which interested parties can serve notice to the municipality and the Ontario Land Tribunal (OLT) of their objection to the designation. Should no objection be received within the 30-day time period, the designation by-law comes into force. Should an objection be received, an OLT hearing date is set to examine the merits of the objection.

Saturday September 9th, 2023

City Clerk
City of Markham
101 Town Centre Blvd.
Markham, ON
L3R 9W3

BY EMAIL TO: clerkspublic@markham.ca MPettit@markham.ca emanning@markham.ca

SUBJECT: OBJECTION – Heritage Act Designation – 81 Dickson Hill Road

Dear Clerk City of Markham,

I am officially filing an objection to the designation of the property at 81 Dickson Hill Road in the City of Markham as a heritage property. I file my objection in accordance with section 29(5) of Part IV of the Ontario Heritage Act.

I request an adjournment of the proceeding in regard to this matter which is currently to be addressed by council on September 12th based upon the following:

- 1) I was on vacation away from town from August 1st through to August 21st.
- 2) I returned on the 21st from vacation early because my 88 year old father was admitted to hospital at Mackenzie Health Richmond Hill suffering from multiple ailments including dementia. As I am a Power of Attorney and substitute decision maker for my father I had to be in attendance at Mackenzie Health from my date of return to the 28th at all hours that Doctors would be attending him.
- 3) In addition, my spouse and co-owner of the subject residence was admitted to hospital and subsequently is receiving ongoing treatment where he remains at this time.

I did not receive notice in a timely fashion and as a result I have not had time to provide a complete well researched response.

Further, I have searched the City of Markham's website and only found only a "legal summary" of the by-law and not the by-law itself. I also have not found on the City's website the prescribed criteria as required in the Heritage Act which may or may not be in the by-law itself or an addendum to the by-law to be able to prepare a fulsome objection.

The objection itself is based on errors contained within the narrative description of the property prepared by the City's Heritage staff sent to me included with the Notice. The following is a preliminary summary of those errors as a more detailed response can not be provided at this time without a copy of the by-law and "criteria" as well as my having insufficient time to prepare and obtain further information:

- i) Board and Batten was replaced on the house in 1985 when the previous owner eliminated urea formaldehyde insulation.
- ii) The ½ story was added about 50 years after the original house and is therefore not part of the 1864 house.

- iii) The medium pitched gable roof was also not part of the original structure.
- iv) The wooden posts on the front veranda have been replaced due to rotten wood and are no longer original.
- v) The fact that the structure is south facing has no significance in the absence of the prescribed criteria in the by-law.

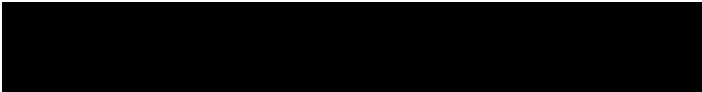
I am prepared to provide further details when given an opportunity to do so.

Please acknowledge receipt of the objection by way of e-mail response to the undersigned.

Thank you for your consideration of this deputation in advance.

Yours Truly,

Jennifer Gallichan
81 Dickson Hill Road
Markham, ON
L3P 3J3



From: Paul Oberst

Sent: Saturday, September 9, 2023 11:53 AM

To: Clerks Public <clerkspublic@markham.ca>

Cc: Tom

Subject: Development Services Committee Meeting No. 20 | September 11, 2023 |

I am writing concerning **item 7.3 sub 3: intention to designate 2972 Elgin Mills Road** (Ward 2),

I am a professional heritage consultant, and I have been engaged by the owner, P&F Meat Products Ltd, to provide heritage advice for contesting the designation of this property. I call your attention to a defect in the notice the owner received (attached), which incorrectly gave the date of the Committee meeting as Sept 12.

On behalf of the owner, **I request that this matter be deferred** for the following reasons:

- The error regarding the date of the Committee meeting in the notice sent to the owner (attached),
- The owner has two other listed properties in the vicinity of this property. We request that this item be deferred until it is clear whether they will also be proposed for designation, in order to facilitate and co-ordinate our responses.

I will also submit a **request to speak form**.

Please acknowledge receipt of this e-mail, and thank you for your attention.

Paul Durfee Oberst B.Arch.(hons) CAHP
professional heritage consultant and architect (retired)