

SUBJECT: RECOMMENDATION REPORT
Objections to Notices of Intention to Designate – Phase III Properties

PREPARED BY: Evan Manning, Senior Heritage Planner, ext. 2296

REVIEWED BY: Regan Hutcheson, Manager of Heritage Planning, ext. 2080
Stephen Lue, Senior Development Manager, ext. 2520

RECOMMENDATION:

1. THAT the Staff report, dated December 11, 2023, titled "RECOMMENDATION REPORT, Objections to Notices of Intention to Designate – Phase III Properties", be received;
2. THAT the written objections to designation under the *Ontario Heritage Act* as submitted by or on behalf of the property owners of 10690 McCowan Road (Ward 6) and 2972 Elgin Mills Road East (Ward 2), be received as information;
3. THAT Council affirm its intention to designate 10690 McCowan Road (Ward 6): "William Henry Meyer House" under Part IV, Section 29 of the *Ontario Heritage Act* in recognition of its cultural heritage significance;
4. THAT Council affirm its intention to designate 2972 Elgin Mills Road East (Ward 2): "John and Elizabeth Rowbotham House" under Part IV, Section 29 of the *Ontario Heritage Act* in recognition of its cultural heritage significance;
5. THAT the Clerk's Department be authorized to place designation by-laws before Council for adoption;
6. THAT the Clerk's Department be authorized to publish and serve notice of Council's adoption of the designation by-laws as per the requirements of the *Ontario Heritage Act*;
7. AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

This report provides information on objections submitted regarding the third phase of "listed" properties for which Council has stated its intention to designate under Part IV, Section 29 of the *Ontario Heritage Act* (the "Act"), in accordance with the Staff recommendations adopted by Council on October 18, 2023, and noted in the recommendations of this report.

BACKGROUND:***Notice of Council's Intention to Designate has been provided to the Property Owners***

On October 18, 2023, Council stated its intention to designate eight properties under Part IV, Section 29 of the Act. A notice of intention to designate was provided to the property owners and the Ontario Heritage Trust, and was published in accordance with the Act. The objection period ended on November 24, 2023.

The City Clerk received notices of objection by or on behalf of the owners of two of the eight properties within the timeframe as set out in the Act: 10690 McCowan Road (Ward 6) and 2972 Elgin Mills Road East (Ward 2). The Act requires that Council consider and make a decision on an objection within 90 days from the end of the objection period. City Council may decide to withdraw, amend, or affirm its intention to designate. Council has until February 22, 2024, to make a decision on the objections (refer to Appendix 'C' for the letters of objection).

If Council decides not to withdraw a notice of intention to designate a property, Council may pass a by-law designating the property. Council has 120 days from after the date of publication of the notice of intention (October 25, 2023) to pass a designation by-law. Should Council not act within this timeframe, a notice of intention to designate is deemed to be withdrawn. As noted, the deadline is February 22, 2024.

Properties are to be assessed using Provincial Designation Criteria

Ontario Regulation 9/06, as amended, ("O.Reg. 9/06") prescribes criteria for determining a property's cultural heritage value or interest for the purpose of designation. The regulation provides an objective base for the determination and evaluation of resources of cultural heritage value, and ensures the comprehensive, and consistent assessment of value by all Ontario municipalities. Municipal councils are permitted to designate a property to be of cultural heritage value or interest if the property meets two or more of the prescribed criteria (excerpted from O.Reg. 9/06):

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

OPTIONS/ DISCUSSION:

Heritage Section Staff ("Staff") considered the reasons for objection and provide the below brief summary of each objection with Staff's response

10690 McCowan Road

The proposed heritage resource is contained within a future potential development site owned by McCowan Elgin Developments Inc. Through their legal counsel, McCowan Elgin Developments Inc. has objected to designation as they opine that the property does not meet the minimum of two O.Reg. 9/06 criteria required for designation. Staff's extensive research on the property demonstrates that the property exceeds the minimum number of O.Reg. 9/06 criteria for designation. Specifically, Staff find that the property has design/physical value as a fine representative example of a late nineteenth century Gothic Revival farmhouse, and has historical/associative value as it is revealing of the agricultural foundation of Markham Township. Staff also note that McCowan Elgin Developments Inc. did not retain a qualified heritage professional to undertake an evaluation of the historical significance of the property, instead relying on a cursory evaluation undertaken by their legal counsel (Ira T. Kagan of Kagan Shadtti DeMelo Winer Park LLP). Staff note that Mr. Kagan is neither a member of the Canadian Association of Heritage Professionals or the Ontario Professional Planners Institute. As such, Staff question whether a meaningful evaluation of a property's heritage significance has been undertaken. Staff, therefore, remain of the opinion that 10690 McCowan Road is a significant heritage property worthy of Part IV designation.

2972 Elgin Mills Road East

The proposed heritage resource is owned by P&F Meat Products Ltd. who, in their letter of objection, state that "the property does not merit such designation due to its condition, and the loss of many of its original heritage attributes". Contrary to this statement, Staff find that the building is in relatively good condition from a heritage perspective. While decorative elements have been removed and additions constructed, the original building form remains intact and is readily discernable. The reinstatement of lost decorative elements is a common part of conservation work and with a modest amount of effort, the exterior of the building could be restored to its original nineteenth century appearance. Staff also note that the property owner does not contest the historical and contextual significance of the property, as described in the municipally prepared Statement of Significance appended to this report. As such, Staff remain of the opinion that 2972 Elgin Mills Road East is a significant heritage property worthy of Part IV designation, a position substantiated by Staff's extensive research on the property.

The protection and preservation of heritage resources is consistent with City policies

Markham's Official Plan 2014 contains cultural heritage policies related to the protection and conservation of heritage resources that are often a fragile gift from past generations. They are a non-renewable resource, and once lost, are gone forever. Markham understands the importance of safeguarding its cultural heritage resources and uses a number of mechanisms to protect them. Council's policy recognizes their significance by designating individual properties under the Act to ensure that the cultural heritage values and heritage attributes are addressed and protected.

Provincial planning policies support designation

The Provincial Policy Statement, 2020, issued under Section 3 of the *Planning Act* includes cultural heritage policies that indicate significant built heritage resources and significant cultural heritage landscapes shall be conserved. Designation provides a mechanism to achieve the necessary protection.

Designation acknowledges the importance of a cultural heritage resource

Designation signifies to an owner and the broader community that the property contains a significant resource that is important to the community. Designation does not restrict the use of the property or compel restoration. However, it does require an owner to seek approval for property alterations that are likely to affect the heritage attributes described in the designation by-law. Council can also prevent, rather than just delay, the demolition of a resource on a designated heritage property.

The Process and Procedures for Designation under Part IV of the Act are summarized below

- Staff undertake research and evaluate the property under O.Reg. 9/06 to determine whether it should be considered a significant cultural heritage resource worthy of Part IV designation;
- Council is advised by its municipal heritage committee with respect to the cultural heritage value of the property;
- Council may state its Intention to Designate the property under Part IV of the 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;
- Should Council wish to pursue designation, 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 readily accessed location, must be provided with the same details (i.e. the City's website);
- **Following the publication of the notice, interested parties can object to the designation within a 30-day window. If an objection notice is received, Council is required to consider the objection and make a decision whether or not to withdraw the notice of intention to designate;**
- Should Council 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 are notice requirements and 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 by-law. Should no appeal 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 and provide a final decision.

FINANCIAL CONSIDERATIONS:

External heritage consultants may be required to provide evidence at the OLT in support of designation if property owners appeal. External legal services may also be required in the event of any appeals to the OLT. This constitutes a potential future financial cost.

HUMAN RESOURCES CONSIDERATIONS:

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

The protection and preservation of cultural heritage resources is part of the City’s Growth Management strategy.

BUSINESS UNITS CONSULTED AND AFFECTED:

Heritage Markham, Council’s advisory committee on heritage matter, was consulted on the designation proposals. Clerks and Planning and Urban Design Department (Heritage Section) will be responsible for future notice provisions. An appeal to the OLT would involve staff from the Planning and Urban Design (Heritage Section), Legal Services, and Clerks Department.

RECOMMENDED BY:

Giulio Cescato, RPP, MCIP
Director of Planning and Urban Design

Arvin Prasad, MPA, RPP, MCIP
Commissioner of Development Services

APPENDICES:

Appendix ‘A’: Images of the Properties for which Objections have been Received

Appendix ‘B’: Statements of Significance

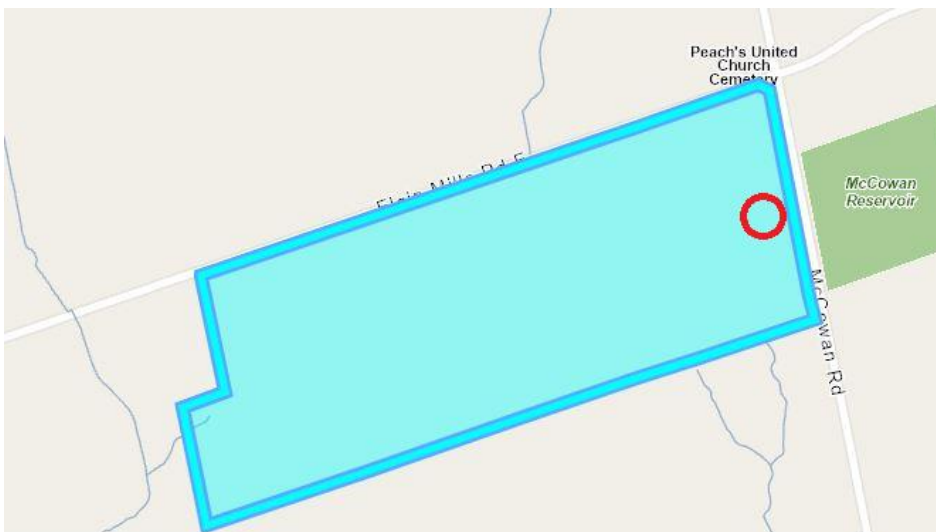
Appendix ‘C’: Letters of Objection

APPENDIX 'A'

Images of the Properties for which Objections have been Received

10690 McCowan Road (Ward 6): “William Henry Meyer House”

Primary Elevation and Property Map



2972 Elgin Mills Road East (Ward 2): “John and Elizabeth Rowbotham House”
Primary Elevation and Property Map



APPENDIX 'B': Statements of Significance

STATEMENT OF SIGNIFICANCE

William Henry Meyer House

10690 McCowan Road
c.1893

The William Henry Meyer 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 William Henry Meyer House is a one-and-a-half store, brick dwelling located on west side of McCowan Road, south of Elgin Mills Road, east of the historic crossroads community of Cashel. The house is oriented eastwards.

Design Value and Physical Value

The William Henry Meyer House has design and physical value as a representative example of a late-nineteenth century Gothic Revival farmhouse. Few significant exterior alterations have been made to the dwelling which still contains its original windows and veranda. The L-shaped plan was associated with the picturesque Gothic Revival and Italianate architectural styles that were popularized through architectural pattern books beginning in the mid-nineteenth century. In rural areas such as Markham Township, stylistic innovations were late to be adopted, and it was not until the last quarter of the nineteenth century that the architecture of the Picturesque began to have a significant influence upon the built-form character of the Township.

Historical Value and Associative Value

The William Henry Meyer House has historical value and associative value, representing the dominant agricultural character of Markham Township, specifically the improvement of nineteenth century farmsteads as the agricultural community progressed past the early settlement phase. In 1892, William Henry Meyer purchased the east 100 acres of Markham Township Lot 25, Concession 6, from Christian L. Hoover and his wife, Susannah, his in-laws. The property contained a two-storey frame farmhouse located at the approximate centre of the lot. Meyer was a member of a Swiss Mennonite family who came to Markham in the 1860s. He was married to Annie Hoover, the daughter of Christian L. Hoover. In the early 1890s, William Henry Meyer established a new farmstead closer to McCowan Road. The farmstead included a substantial, new buff brick farmhouse. After the death of Annie Hoover in 1893, he married Matilda Hoover in 1894. William Henry Meyer sold the farm to a relative, Christian G. Hoover, in 1917. The property remained in the ownership of the Hoover family until 1953.

Contextual Value

The William Henry Meyer House has contextual value as a former farmhouse that has stood on this site, east of the historic crossroads hamlet of Cashel, since the early 1890s. As such, it helps make legible the agricultural tradition of Markham Township.

Heritage Attributes

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

Heritage attributes that convey the property's design value and physical value as a good, representative example of a late nineteenth century L-plan farmhouse designed with the influence of the Gothic Revival style:

- L-shaped plan;
- One-and-a-half storey height;
- Buff brick veneer with projecting brick plinth and radiating brick arches over window openings;
- Medium-pitched cross-gabled roof with overhanging open eaves and steep gabled wall dormer with a pointed-arched 2/2 single-hung window;
- Single-leaf doors within the front veranda;
- Segmentally-headed 2/2 and 1/1 single-hung windows with projecting lugsills;
- Two-storey canted bay window capped by an extension of the gable roof;
- Hip-roofed front veranda supported on slender turned wood posts ornamented with fretwork brackets.

Heritage attributes that convey the property's historical value and associative value, representing the agricultural character of Markham Township, specifically the improvement of nineteenth century farmsteads as the agricultural community progressed past the early settlement phase:

- The dwelling is a tangible reminder of the Meyer family's success in Markham's nineteenth century agricultural economy.

Heritage attributes that convey the property's contextual value as a building that is physically, functionally, visually or historically linked to its surroundings:

- The location of the building facing east, east of the historic crossroads community of Cashel, where it has stood since the early 1890s.

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

- Rear wing and additions.

STATEMENT OF SIGNIFICANCE

John and Elizabeth Rowbotham House

2972 Elgin Mills Road
c.1890

The John and Elizabeth Rowbotham 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 John and Elizabeth Rowbotham House is a one-and-a-half storey frame dwelling located on the north side of Elgin Mills Road, in the historic community of Victoria Square. The house faces south.

Design Value and Physical Value

The John and Elizabeth Rowbotham House has design value and physical value as a representative example of a vernacular, village tradesman's dwelling of the last quarter of the nineteenth century. The house assumed its present form c.1890. It is a vernacular building that does not neatly fit into any stylistic category and is therefore unique within its local context. The L-shaped plan, steep roof pitch of the projecting front section, and the canted bay window, are features often associated with the Gothic Revival style, but there are no specific Gothic Revival decorative details such as pointed-arched windows or bargeboards. The previous porch shown in an archival photograph, along with the canted bay window, provided decorative relief to an otherwise simple village dwelling. Overall, the house retains much of its historic character.

Historical Value and Associative Value

The John and Elizabeth Rowbotham House has historical value and associative value, representing the theme of nineteenth century development within the hamlet of Victoria Square, and the theme of industry, innovation and economic development, as the former residence of John and Elizabeth Rowbotham, built c.1890. John Rowbotham was a wheelwright, carpenter and wagon maker who operated his business in Victoria Square from 1875 to 1915. He learned his trade at William and George Eakin's Unionville Carriage Factory before starting out on his own at Victoria Square, continuing a wheelwright and wagon works established on the property in the 1850s. John Rowbotham sold in 1915, and relocated to Main Street, Stouffville, where he continued to work as a wheelwright until his death in 1943.

Contextual Value

The John and Elizabeth Rowbotham House is one of a number of nineteenth and early twentieth century buildings that are important in defining, maintaining and supporting the character and extent of the historic crossroads hamlet of Victoria Square.

Heritage Attributes

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

Heritage attributes that convey the property's design value and physical value as a representative example of a vernacular, village tradesman's dwelling of the last quarter of the nineteenth century, as modified in the early twentieth century

- L-shaped main block;
- One-and-a-half storey height;
- Single-storey, gable-roofed rear wing with single-stack brick chimney.
- Clapboard siding;
- Cross-gabled roof with overhanging, open eaves;
- Shed-roofed porch in the ell, with closed gable end;
- Single-leaf door within the porch along the east elevation;
- Canted bay window with mansard-roof with fishscale-shaped shingles;
- Existing window openings containing 2/2 and 1/1 single-hung windows.

Heritage attributes that convey the property's historical value and associative value, representing the theme of nineteenth century development of the hamlet of Victoria Square, and the theme of industry, innovation and economic development:

- The dwelling is a tangible reminder of the John and Elizabeth Rowbotham family that historically resided here, and the wheelwright and wagon works that was located on the property.

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 crossroads hamlet of Victoria Square:

- The location of the building facing Elgin Mills Road, within the historic crossroads hamlet of Victoria Square.

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

- Detached garage.

APPENDIX 'C': Letters of Objection

10690 McCowan Road



Kagan | Shastri
DeMelo | Winer | Park
LAWYERS | LLP

IRA T. KAGAN
Tel: 416.368.2100 Ext. 226
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File No: 23456

November 23, 2023

By Email

Ms. Kimberly Kitteringham, City Clerk
City of Markham
101 Town Centre Blvd
Markham Ontario, L3R 9W3

Dear Ms. Kitteringham

Re: **Notice of Objection for the Proposed Designation under Part IV of the Ontario Heritage Act** (the "Act") of 10690 McCowan Road Markham Ontario (the "Property")

We are the solicitors for McCowan Elgin Developments Inc., the registered owner of the Property. Kindly consider this letter as our client's objection to the proposed designation of the Property under the Act.

Our client is a developer which plans to develop the property in due course. The Property is currently listed pursuant to the Act but is not yet designated. As the Property is not unique, not built with high craftsmanship, nor historically significant, **our client opposes the proposed designation under the Act and requests that the City not designate the Property.**

Our client believes that an objective assessment of the Property would confirm that it holds little heritage or cultural significance and is not appropriate for designation under the Act. The Property is comprised of seven buildings, a single detached residence, an open shed, two enclosed sheds and three dilapidated storage buildings. The single detached residence is a yellow-bricked building typical of hundreds, if not thousands, of older homes in and around the province. The single detached residence has been poorly expanded through a number of ill-designed additions. The single detached residence contains characteristics of Gothic Revival as is typical of mid to late 19th

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century homes in Ontario. The Property is surrounded by a range of land uses and has little relationship to the neighborhood or lands.

All properties are evaluated against Ontario Regulation 9/06 under the Act to determine their heritage attributes. The evaluation criteria include:

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.
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.

For a property to be designated under the Act it must meet at least two of the nine criteria above. On any objective standard, the Property fails to meet two of the nine criteria.

The Property is not rare, unique or an early example of an architectural style. Instead, the Property was likely built to a plan contained in a design book. The Property does not present higher craftsmanship or artistic qualities typical of other designated properties under the Act. There is no reason to believe that the Property is of high technical nor scientific achievement. Rather, it is built in the typical style for the given area and constructed of common materials.

The Property was owned by several individuals, none of which are of particular note in the culture or life in Markham. Numerous parties, including several members of the Hoover family, have owned the property since the mid-1800s but there are no significant contributions of note after a review of all publicly listed owners of the Property. A review of these owners does not yield information that would demonstrate that the Property contains meaningful contributions to the understanding of Markham or its culture.

Based upon research it does not appear that the Property was designed by an architect nor does it demonstrate a significant architectural style. Since the single detached residence has been poorly expanded numerous times, it does not provide a contextual value to the character of the area. The Property currently serves as a residential use and provides little if any historical significance or context to the neighborhood or the City of Markham. The surrounding area is a mix of land uses and does not have a discernible heritage character.

Should the City Council pursue designation of the Property further and should it designate it pursuant to Part IV of the Act, our client will have no option but to appeal the designation to the Ontario Land Tribunal and reserves the right to do so. Thank you for considering our client's concerns.

Yours very truly,

KAGAN SHASTRI DeMELO WINER PARK LLP

Ira T. Kagan



Cc: Client

encl: Notice of Intention to Designate

Please Reply to the:

Yorkville Office

2972 Elgin Mills Road East

This email is a notice of objection to the proposed designation of our property at 2972 Elgin Mills Rd. East, under part IV of the Ontario heritage act. In our opinion, the property does not merit such designation due to its condition, and the loss of many of its original heritage to finding attributes.

Regards

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