

MEMORANDUM

TO: Development Services Committee

FROM: Jim Baird, Commissioner of Development Services

PREPARED BY: Regan Hutcheson, Manager - Heritage Planning

DATE: February 13, 2017

SUBJECT: Heritage Permit Application
Shakiba Dilmaghani and Massood Mashdi
149 John Street, Thornhill
Driveway Entrance Gate



RECOMMENDATION:

THAT the staff memo dated February 13, 2017 regarding a Heritage Permit application for a driveway entrance gate at 149 John Street, Thornhill, be received;

AND WHEREAS Heritage Markham and Heritage Staff in their report of December 5, 2016 recommended that the heritage permit application to approve the driveway gate at 149 John Street, Thornhill be denied;

AND WHEREAS the Development Services Committee recommended on December 5, 2016 that the application be referred back to staff to work with the applicants to explore an appropriate, less intrusive gate design, with appropriate materials, to be brought back to the Development Services Committee for consideration;

AND WHEREAS Heritage Staff suggested to the applicant a simple wooden gate mounted on the original iron hinges of the existing masonry piers, based on the physical evidence that there was once a historic driveway gate at 149 John Street (Appendix 'B');

AND WHEREAS the applicant does not support the style of gate recommended by Heritage Section Staff, but is willing to modify the existing metal driveway gate, mounted on the newly installed posts (Appendix 'C');

AND WHEREAS if a metal driveway gate is supported by Council, then Option 2 shown in Appendix 'C' is the preferred approach;

NOW THEREFORE BE IT RESOLVED THAT staff seeks the direction of Council as to whether the metal gate illustrated in Option 2 in Appendix 'C' as proposed by the applicant is supported;

AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

BACKGROUND:

- See the attached Development Services Commission staff report dated December 5, 2016 on the Heritage Permit application and the Development Services Committee resolution from December 5, 2016 (Appendix 'A').
- As recommended by the Development Services Committee, Heritage Section staff met with the owner of 149 John Street on January 10, 2016 to explore different gate options for 149 John Street;
- Heritage Staff recommended that a simple truss style, painted wooden gate, examples of which are shown in Appendix 'B' be mounted on the original iron hinges embedded in the existing stone gate posts located at 149 John Street. This recommendation is based on photographic evidence of a similar style gate used at the Heintzman House (Figure 1 Appendix 'B') and the fact that the historic homes of Thornhill are simple and unpretentious in their design and that a simple wooden gate would support this defining historic characteristic of Thornhill;
- The owners of 149 John Street do not want to replace the existing gate with a wooden gate on the original gate hinges and posts for the following reasons:
 - The financial loss that would be incurred by replacing the existing iron gates and posts;
 - Mounting driveway gates on the original gate hinges and posts would cause vehicles to block the sidewalk while waiting for the gates to open;
 - They feel that a metal gate reflects the evolution of historic Thornhill from a semi-rural village to a modern residential community, of larger homes with similar styled iron fences;
- However, the owner did indicate that they would be willing to compromise by altering the design of the existing gates to a simpler design. Two options are shown in Appendix 'C'.

STAFF COMMENT:

- Staff still prefers that the existing iron gate be removed as per the policy prohibiting driveway gates contained in the Thornhill Heritage Conservation District Plan, and that any replacement gate be made of wood in a simple style reflective of the historic wooden driveway gates shown in Appendix 'B', and be mounted on the original existing gate hardware;
- However, based on the direction of the Development Services Committee, should Council decide to permit an iron driveway gate, Staff would recommend the simple gate design proposed by the applicant as shown in Option 2 Appendix 'C'

Attachments:

Appendix 'A' – Development Services Commission staff report dated December 5, 2016 on the Heritage Permit application and the Development Services Committee resolution

Appendix 'B' – Appropriate wooden driveway gates for the Thornhill Heritage Conservation District as recommended by Heritage Section Staff;

Appendix 'C' – Modification of the existing iron driveway gate as proposed by the owner of 149 John Street;

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Report to: Development Services Committee

Meeting Date: December 5, 2016

SUBJECT: Heritage Permit Application
Shakiba Dilmaghani and Massood Mashadi
149 John Street, Thornhill
Driveway Entrance Gate

PREPARED BY: Regan Hutcheson, Manager, Heritage Planning

RECOMMENDATION:

- 1) That the Planning Department staff report entitled "Heritage Permit Application, 149 John Street, Thornhill, Driveway Entrance Gate", dated December 5, 2016, be received;
- 2) That as recommended by the Heritage Markham Committee, the Heritage Permit Application in support of a driveway gate installed without City approval not be approved;
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

To address the installation of a driveway gate at 149 John Street, Thornhill Heritage Conservation District, and the request by the owners to retain the gate feature.

BACKGROUND:**The property is located within the Thornhill Heritage Conservation District**

The dwelling on the property is a 1 ½ storey detached dwelling constructed in 2013 under a Site Plan Agreement. The property is located in the Thornhill Heritage Conservation District and subject to the policies of the Thornhill Heritage Conservation District Plan, 2007.

An iron gate was installed at the driveway entrance

At the July 2015 meeting of Heritage Markham, staff was contacted by neighbours and made aware of a newly installed iron gate at 149 John St. which was not approved by the City. Staff visited the site and took photographs of the gate (see Figure 1). Staff noted that there were stone gate posts located at the end of the driveway which may have historically supported a gate, but staff has no photographic evidence of a former gate. By-law Enforcement was alerted in early August 2015, attended the property and advised the owners to remove the gate or seek approval from the City.

Heritage District Plan does not permit driveway gates

The Thornhill Heritage Conservation District Plan does not support the installation of gates at driveway entrances. District Policies - Sections 4.5.4 – Driveways (Residential) indicates:

c) Driveway entrances will not be gated;

d) Residential driveways will conform to the Guidelines in Section 9.6.6.

Section 9.6.6 - Driveways provides guidance on driveway widths, use of hammerheads, appropriate materials and further indicates:

(5) Driveway entrances are not to be gated.

Owners have attended two Heritage Markham meetings to support their actions

At the August 2015 meeting of Heritage Markham Committee, this matter was discussed and the committee indicated it did not support a heritage permit application to permit the gate installed without approvals.

In September of 2015, the owners of the property appeared at Heritage Markham and explained to the committee why they installed the gate, including matters of security (a mail box and Japanese Maple were reportedly taken from the property), physical evidence indicating that there had once been a gate, and their misunderstanding that the installation of a gate did not require the approval of the City. The Committee deferred making a decision on whether or not to support the existing gate and instead requested Heritage Section staff to try and search for any evidence of an original gate and what it might have looked like (see Appendix 'A').

In July 2016, the matter was back on the Heritage Markham agenda, but was deferred at the request of the owners. At the August 10, 2016 meeting of Heritage Markham Committee, the owners were in attendance in support of retaining the gate. The owner advised that there was old gate hardware, that the dwelling was a long distance from the street and was shielded by trees, making it a target for theft, and they wanted a gate for security purposes. Heritage Markham Committee recommended that the permit not be supported and that the gate be removed no later than 30 days from the meeting date (See Appendix 'B').

The owners advised staff that they wanted to appeal this matter to Markham Council, but they could not meet until December 2016 as they were travelling outside the country.

OPTIONS/ DISCUSSION:

No evidence of a former gate has been found

Neither Heritage Section staff nor the applicant has been able to locate any photographs indicating a gate existed at this location or illustrating the design of an original gate at 149 John Street. If there ever was a gate in the past, it was likely very simple in design, possibly of wood or wire construction.

Heritage District Plan does not support gated driveways

Historically, driveway gates were not a common feature in the old village of Thornhill (or any of Markham's other historic village communities). The Heritage District Plan's objectives for both new development and landscape treatment strive to ensure changes will enhance the District's heritage character and complement the area's open, village-like type of development. Allowing driveways in the district to be gated would not support these objectives.

Given the policies of the Thornhill Heritage Conservation District Plan and the review and recommendation of this application by the Heritage Markham Committee, staff does not support the installation of the existing gate at 149 John Street.

Heritage Permit review is usually delegated to staff unless the application cannot be supported

Pursuant to the provisions of the *Ontario Heritage Act*, the power to consent to alterations to property designated under the *Act* (Part IV or Part V) has been delegated from Council to the Manager of Heritage Planning as per By-law 2007-67. The objective of delegation of approval authority to a municipal staff member is primarily to streamline the approval of compliant and non-controversial applications for alteration, and to eliminate routine and administrative matters from Council's agendas. The Manager can approve or approve with conditions. In cases, where the Manager does not support the Heritage Permit work, the Manager does not have the power to refuse the application. The following process is followed:

- the application is forwarded to Heritage Markham for review and recommendation; and
- the application is forwarded to Development Services Committee and Council for a decision.

Once Council makes a decision, the applicant also has appeal rights to the Ontario Municipal Board,

FINANCIAL CONSIDERATIONS

Not applicable

HUMAN RESOURCES CONSIDERATIONS

Not applicable

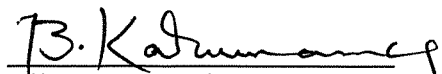
ALIGNMENT WITH STRATEGIC PRIORITIES:

Not applicable

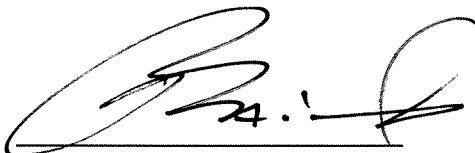
BUSINESS UNITS CONSULTED AND AFFECTED:

Heritage Markham Committee

RECOMMENDED BY:



Biju Karumanchery, M.C.I.P., R.P.P.
Director, Planning & Urban Design



Jim Baird, M.C.I.P., R.P.P.
Commissioner of Development Services

ATTACHMENTS:

Figure 1 – Photograph of Gate Feature

Appendix 'A' – Heritage Markham Extract, September 9, 2015

Appendix 'B' – Heritage Markham Extract, August 10, 2016

File Path: Q:\Development\Heritage\PROPERTY\JOHN\149\DSC Report Dec 5 2016 gate feature.doc

Applicants: Shakiba Dilmaghani and Massood Mashadi

Map:

149 John Street

Thornhill Heritage Conservation District



Figure 1 – Photograph of Gate



Prior to Gate – September 2014



HERITAGE MARKHAM
EXTRACT

APPENDIX A

DATE: September 21
TO: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Heritage Planner

EXTRACT CONTAINING ITEM #5 OF THE NINTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON SEPTEMBER 9, 2015.

5. Heritage Permit Application

149 John Street, Thornhill

Driveway Entrance Gate

File Number: HE 15 169425

Extracts: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Heritage Planner

The Heritage Planner reviewed previous discussions by the Committee regarding a gate that had been installed without a permit at 149 John Street, Thornhill. The owners have submitted an application to permit the installation and it is before the Committee for consideration at this time. Staff referred to the relevant sections of the Thornhill Heritage Conservation District Plan.

Shakiba and Massood Mashadi, owners, made a deputation to display photographs of the gate and to explain that the reason for the installation of the gate is for security and protection against theft. Ms. Mashadi advised that there is evidence that a gate had previously existed and that there is another dwelling on the street with a similar gate. Staff have not been able to locate any archival photographic evidence of a previous gate, to date.

The Committee discussed security issues and the rational for prohibiting driveway gates in the community. Staff was requested to search for evidence of a previous gate.

Heritage Markham Recommends:

That Heritage Markham defers the Heritage Permit Application for a driveway entrance gate at 149 John Street, to the next Heritage Committee meeting, to allow staff to research what type of gate may have originally been installed at 149 John Street.

CARRIED

HERITAGE MARKHAM EXTRACT

DATE: August 17, 2016

APPENDIX B

TO: File
R. Hutcheson, Manager of Heritage Planning
P. Wokral, Heritage Planner

EXTRACT CONTAINING ITEM #4 OF THE EIGHTH HERITAGE MARKHAM
COMMITTEE MEETING HELD ON AUGUST 10, 2016.

4. **Heritage Permit Application,
149 John Street,
Driveway Gate Installed Without Approval (16.11)**
File No. HE 15 169425
Extract: R. Hutcheson, Manager of Heritage Planning
P. Wokral, Heritage Planner
-

The Heritage Planner reviewed this application which was first considered by Heritage Markham in July 2015, for a newly installed iron gate at 149 John Street, which was not approved by the City. He further advised that in September 2015, the property owners appeared before Heritage Markham Committee and provided reasons why the gate was installed which included matters of security, physical evidence indicating that there had once been a gate, and a misunderstanding that the installation of a gate did not require City approval. The Committee deferred making a decision on whether or not to permit the existing gate but requested Heritage Section staff to try and search for any evidence of an original gate or what the original gate might have looked like.

The Heritage Planner advised that neither staff nor the applicant have been able to locate any photographs indicating a gate at this location or showing what an original gate at 149 John Street may have looked like if it ever existed.

Shakiba Dilmaghani, the owner of the property, by way of photographs of gate hardware, advised the Committee that there was a gate previously installed at the property. She also advised the Committee that the dwelling is a long distance from the street and is shielded by trees and shrubs, making it a target for theft. She further advised that the gate was installed for safety and security reasons.

Councillor Valerie Burke advised the applicant that crime prevention workshops had been organized by the Ward Councillor, and that the police are available to advise residents on ways to make their homes less attractive in efforts to avoid theft.

Item #4
Page 2

Heritage Markham Recommends:

That the deputation by Shakiba Dilmaghani, owner of the property, with respect to the heritage permit application for a driveway gate installed without approval at 149 John Street, be received;

That Heritage Markham does not support a heritage permit application to permit the existing gate installed without City approval at 149 John Street; and

That the owners of the property be advised that the iron gate installed at 149 John Street, without City approval be removed no later than 30 days.

CARRIED

THE CORPORATION OF THE CITY OF MARKHAM

EXTRACT CONTAINING ITEM #0013 OF THE DEVELOPMENT SERVICES COMMITTEE OF (Dec 05, 2016)**13. HERITAGE PERMIT APPLICATION SHAKIBA DILMAGHANI AND MASSOOD MASHADI 149 JOHN STREET, THORNHILL DRIVEWAY ENTRANCE GATE (16.11)****Report**

Helen Lepek of Lepek Consulting Inc., representing the applicant, made a presentation to explain the area context and property history of 149 John Street, Thornhill, and to discuss the issue regarding the entrance gate which had been installed without a heritage permit. Several maps and photos of the gate posts were displayed. Ms. Lepek requested support for approval of the gate.

Barry Nelson, representing the Society for the Preservation of Historic Thornhill (SPOHT) spoke in support of the Heritage Markham Committee recommendation to not approve the gate, and provided background on Heritage policies. In response to questions from the Committee, Mr. Nelson advised that, in his opinion, it is possible that a gate existed in the past; however, the gate that has been installed was not of appropriate heritage design or characteristics.

Regan Hutcheson, Manager of Heritage Planning, responded to questions regarding the possible purpose of a previous gate that may have existed, and the possible age of the existing hinges on the gate posts. It was noted that the applicant had relied on a contractor for the installation of the gate, and had not applied for a permit until after it was installed.

The Committee discussed the Heritage District Plan policies that prohibit driveway gates, the lack of archival evidence of a gate at this location, the potential age of the hinges and gate posts, examples of existing gates at other locations (outside the District), security concerns, the potential of setting a precedent, the extensive consultation and work involved in developing the Thornhill Heritage Conservation District Plan, and the extensive work of the Heritage Markham Committee on this issue. There was concern that other, larger properties in the area may be able to use the same argument to install a gate for security purposes.

Some Committee members suggested that the gate was attractive and could be supported on individual merit; however, there was concern that an appropriate heritage design be achieved.

It was suggested to refer this matter back to staff to work with the applicants to explore an appropriate, less intrusive design with appropriate materials and to bring renderings to the Development Services Committee for consideration.

Moved by: Mayor Frank Scarpitti

Seconded by: Regional Councillor Nirmala Armstrong

- 1) That the deputations by Helen Lepek Planning Consultant representing the applicant and Barry Nelson, representing the Society for the Preservation of Historic Thornhill (SPOHT) regarding the Heritage Permit Application for 149 John Street, Thornhill, be received; and,
- 2) That the written submissions by Valerie Tate, Pam Birrell, and Helen Lepek representing the applicant, regarding the Heritage Permit Application for 149 John Street, Thornhill, be received; and,
- 3) That the Planning Department staff report entitled "Heritage Permit Application, 149 John Street, Thornhill, Driveway Entrance Gate", dated December 5, 2016, be received; and,
- 4) That the Heritage Permit Application in support of a driveway gate installed without City approval be referred back to staff to work with the applicants to explore an appropriate design with appropriate materials, and be brought back to the Development Services Committee for consideration; and further,
- 5) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

CARRIED

Appendix 'B'

Illustrations of historic wooden driveway gates recommended by Heritage
Section Staff



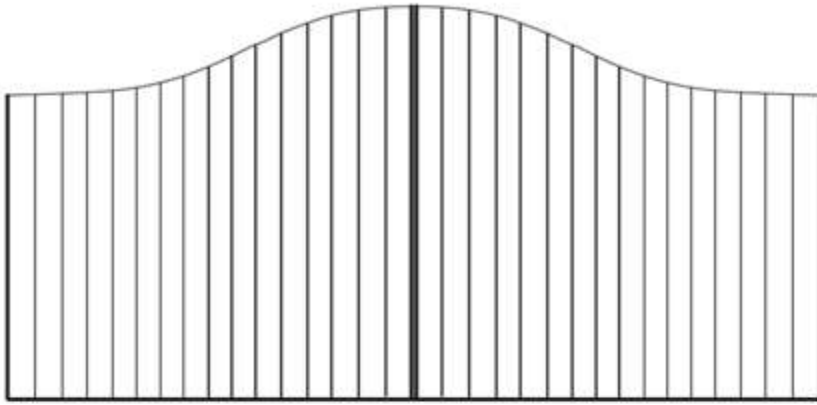
Figure1
Examples of Traditional Wooden
Driveway Gates



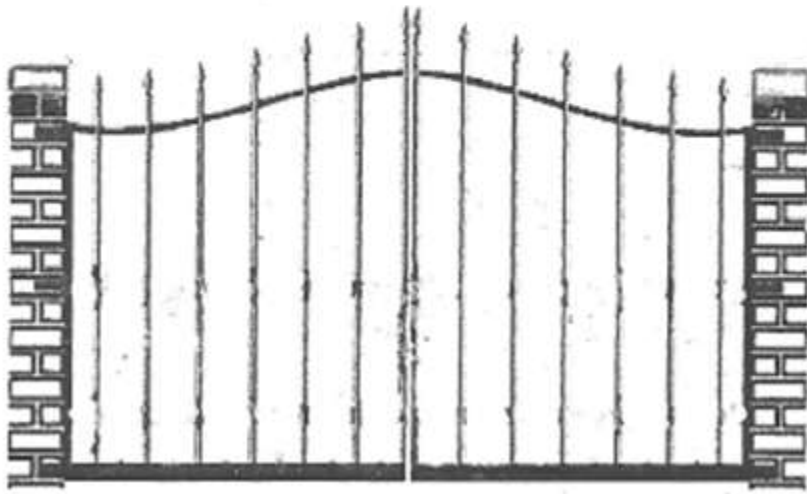
Figure 2-Historic wooden driveway gate at the
Heintzman House (Sunnyside Manor)

Appendix 'C'

Illustrations of how the existing metal gate could be simplified through alterations as proposed by the Owner of 149 John Street



Option 1



Option 2