

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 5, 2017

Item 11, Report No. 21, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on June 5, 2017.

11 REVIEW OF CITY PROCESSES REGARDING APPLICATIONS FOR ALTERATION AND/OR DEMOLITION OF HERITAGE PROPERTIES ALL WARDS

The Committee of the Whole recommends approval of the recommendation contained in the following report of the Deputy City Manager, Planning & Growth Management, Director of Development Planning, dated May 23, 2017:

Recommendation

The Deputy City Manager, Planning & Growth Management, Director of Development Planning, in consultation with the Manager of Urban Design and Cultural Heritage, the Director of Building Standards, Office of the City Clerk, and the Office of the City Solicitor recommend:

1. THAT any heritage permit for demolitions issued by the City of Vaughan contain a condition of approval that the permit is only valid for a period of three (3) years commencing on the date of issuance of the permit;
2. THAT staff be authorized to make changes to the Heritage Permit Process, as required from time to time, to comply with provincial or municipal policy updates and best practices; and
3. THAT the updated City processes be communicated to Stakeholders including, ratepayers organizations, the York Chapter of BILD and the Thornhill Historical and York Pioneer Historical Society, the Kleinburg Business Improvement Association, and included on the City's webpage.

Contribution to Sustainability

This report is consistent with the goals and objectives of *Green Directions Vaughan*, the City's Community Sustainability and Environmental Master Plan, specifically:

How We Live

Goal 4: To create a vibrant community for citizens, business and visitors

Objective 4.1: To foster a city with strong social cohesion, an engaging arts scene, and a clear sense of its culture and heritage

Economic Impact

N/A

Communications Plan

Education and awareness is an important tool to promote the preservation of the City's heritage resources. The City of Vaughan website will be updated to include an easy to read summary of the steps in the heritage permit process, as well as additional links to educational resources and materials. The outcomes of the Heritage Permit Process Review will be presented to the Heritage Vaughan Committee and communicated to Stakeholders including the York Chapter of BILD, ratepayers organizations, the Thornhill Historical Society, the Kleinburg Business Improvement Association and the York Pioneer and Historical Society.

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Purpose

This report provides the results of a staff review of current City processes regarding Heritage Permit Applications for the alteration and/or demolition of heritage properties and seeks Council endorsement for the implementation of an expiry period of three (3) years for a heritage demolition permit. The goals of the review are:

- i) to clarify, streamline and standardize the Heritage Permit Application process with the Site Development application and Building Permit processes, and
- ii) to ensure municipal compliance with the *Ontario Heritage Act* (OHA) and other applicable legislation.

Background - Analysis and Options

Synopsis:

This report provides the outcomes of staff's review of the City processes related to Heritage Permit Applications for the continuous improvement of the City's service and business processes. Through consultation with the Development Planning Department, Building Standards Department, the Office of the City Clerk, and the Office of the City Solicitor, key issues and opportunities for improvement have been identified for the heritage permit process. The Cultural Heritage application processes and materials were reviewed for compliance to the Ontario Heritage Act, Vaughan Official Plan 2010, and benchmarked against practices of surrounding municipalities and The Ontario Heritage Toolkit.

Background

At its meeting on March 24, 2015, Council adopted the recommendations contained in the report of the Commissioner of Planning, Director of Development Planning, and Manager of Urban Design and Cultural Heritage, and the communication from the Commissioner of Planning and the Interim Commissioner of Legal and Administrative Services/City Solicitor. This report included a recommendation that Cultural Heritage staff consult with the Office of the City Solicitor to review current City processes regarding applications for alteration and/or demolition of a heritage property and report back to Council with recommendations to clarify, streamline and standardize the application process and ensure there is appropriate integration with the City's development approval processes and compliance with all applicable legislation including the *Ontario Heritage Act*.

Heritage Legislation and Policy

The *Ontario Heritage Act*, R.S.O. 1990 Ch. O.18 is the enabling legislation that establishes the identification, protection and management of cultural heritage assets. *The Ontario Heritage Act* is separate from other Provincial Acts, and applications under this Act cannot be processed through another application process or other legislation such as the *Planning Act* or the *Building Code Act*.

Under the OHA, a property designated under either Part IV (individual property) or Part V (Heritage Conservation District) requires the Owner of the heritage property to apply to the City for alterations or demolition. In general, a Heritage Permit Application is required for:

- New construction, alteration, or demolition of a Part IV individually designated property (Sections 33 & 34, OHA)
- New construction, alteration or demolition of a Part V designated property (Section 42, OHA)

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Upon receipt of a Heritage Permit Application with the required materials as advised by staff, a Notice of Receipt must be served to the Owner. Within 90 days of the serving the Notice of Receipt, Council, after consultation with the Heritage Vaughan Committee, shall:

- i) consent to the application,
- ii) consent to the application with terms and conditions, or
- iii) refuse the application.

Once a decision has been made, Council must give notice of the decision to the Owner of the Property. The City of Vaughan Delegation By-law 193-2015, as amended by by-law 109-2016 (Attachment #1) delegates the power to consent to alterations to property under subsections 33 and 42 of the OHA to an employee or official of the municipality. The Delegation By-law allows staff to issue permits for the alteration of a property designated under Part IV or V of the OHA. In the City of Vaughan, the Director of Development Planning or their designate is delegated authority to make decisions to consent alterations.

Heritage Permit Applications that may not be delegated to staff or the Heritage Vaughan Committee include demolition and new construction in HCDs, demolition of Part IV properties (Section 34, OHA), or when an application is recommended for refusal by staff and/or the Heritage Vaughan Committee. For these applications, the Heritage Vaughan Committee reviews the application and provides a recommendation to Council which must be approved or refused by Council within the 90 day timeline. If the City does not respond to a complete application within 90 days, the municipality is deemed to have consented to the application. An extension to the 90 day timeline must be agreed upon in writing by both the City and the Owner.

A Registered (or "Listed") property is a different class of heritage property that is included under Section 27 of the OHA which states that: "The clerk of a municipality shall keep a register of property situated in the municipality that is of cultural heritage value or interest". The Municipal Heritage Register may include properties that have not been designated but that Council believes (as stated in the OHA) to be of cultural heritage value or interest and are recognized as heritage properties in the Provincial Policy Statement and in the City's development planning application process. Therefore, the City Register is an important tool for the conservation of heritage properties in the land use planning process. If there is an undesignated property included in the Register, the Owner must provide Council at least 60 days notice in writing of the Owner's intention to demolish or remove the building or structure. Through this process and the policies of the Official Plan, the City may ask for a Heritage Impact Assessment as part of a complete application. This allows the City time to either designate the property to protect it from demolition or to permit the demolition or removal of the building or structure from the property.

A Property of Interest is a property that is identified as a built heritage resource in the City of Vaughan Heritage Properties Inventory. A Property of Interest does not have recognition under the OHA, but may be identified and evaluated through the development approvals process to be added to the municipal Heritage Register or designated. Vaughan Official Plan 2010 (VOP 2010) policy also requires that identified heritage resources not yet listed in the Heritage Register be evaluated and conserved as appropriate through any legislated planning or assessment processes (6.1.2.3). VOP 2010 identifies that Council should endorse the Inventory on a regular basis to maintain an updated list.

City of Vaughan Heritage Permits

A Heritage Permit Application (Attachment #2) must be submitted to the City for all proposed alterations or additions to designated properties legislated under Part IV or Part V of the OHA. A Heritage Permit may be issued by the City and may take one of the following three forms:

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- Heritage Permit unassociated with a development or permit application of any kind
- Heritage Permit associated with a development application, including a Committee of Adjustment application (Minor Variance and Consent)

When a Heritage Permit Application is received as part of a development application, it is important to note that site plan approval legislated under the *Ontario Planning Act* does not include approval of the Heritage Permit. Like a Building Permit legislated by the *Ontario Building Code Act*, Heritage Permits are legislated by the OHA and require a separate approval. There are cases when a Heritage Permit may need to be considered by Council before a Site Development application is considered and still meet the Council decision timelines legislated by the OHA. Council approval of a Heritage Permit does not imply the City of Vaughan will approve the associated Site Development application, but rather it confirms that the built heritage considerations of a development application have been resolved.

- Heritage Permit associated with a Building Permit, Fill Permit, or Sign Permit application

For Building Permit, Fill Permit or Sign Permit applications that require a Heritage Permit, staff determines if the application may be approved through the Delegation By-law, or if it should be reviewed by the Heritage Vaughan Committee and a decision made by Council.

City of Vaughan Heritage Clearance

A Heritage Clearance is required for all demolitions in the City of Vaughan, in addition to the Heritage Permit. The Heritage Clearance Application (Attachment #3) is processed by Cultural Heritage Staff and verifies that the City is satisfied with the demolition proposal and that there are no outstanding cultural heritage concerns. The Heritage Clearance may be issued as part of a development application process or through a simple demolition application that is not part of a development application. The Heritage Clearance Application has proven to be an effective tool for eliminating the premature demolition of heritage properties and provides assurance that appropriate due diligence has been undertaken. If the property is determined to be a heritage property, the Heritage Permit Application is initiated in order to determine the scope of the impact to the heritage property and any further steps required by the OHA or VOP 2010.

Analysis

The following section outlines a series of improvements that have been implemented and are proposed to the Heritage Permit review process permitted under the OHA and within the parameters of the Delegation By-law 193-2015.

In the Heritage Permit Process Review, the Urban Design and Cultural Heritage Division application processes and materials were reviewed for compliance with the OHA, the VOP 2010, and benchmarked against The Ontario Heritage Toolkit and the practices of other municipalities including the cities of Markham, Mississauga, Brampton and Toronto. In consultation with the Development Planning Department, Building Standards Department, the Office of the City Clerk, and the Office of the City Solicitor, the issues identified below and opportunities for improvement to the City's Heritage Permit process have been identified as follows:

1. Coordinating the Heritage Permit Process with the Planning Process

Under the OHA, City of Vaughan Council must make a decision regarding the disposition of a Heritage Permit Application within a 90 day timeline, including permits associated

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with a development planning application. The review of a Heritage Permit Application within the 90 day timeline is typically shorter than the legislated planning application review timelines. The following improvements have been implemented to improve the coordination between the two processes:

- In 2014, the Recreation and Cultural Services Department was restructured and the Cultural Heritage Division became part of the Development Planning Department within the Planning and Growth Management Portfolio. This structural change has harmonized the conservation and development review processes. Cultural heritage submission materials as appropriate to each application are now required earlier in the development review process.
- For complex development applications within HCDs, Cultural Heritage and Development Planning staff require a property Owner to provide a Heritage Conservation District Conformity (HCDC) report early in the development application process to improve the coordination of timing with the planning process. The HCDC report demonstrates how a proposal meets the Objectives, Goals and Guidelines of the HCD, as outlined in Section 41.2 of the OHA.
- A new “Notice of Receipt” (Attachment #4) identifies the date that a Heritage Permit Application is deemed complete by the Cultural Heritage Division and the start of the legislated 90 day review timeline. The Notice of Receipt is served to the Owner via email and, when part of a development application is also copied to the Planner managing the file.
- A Heritage Permit Application is only deemed complete when all required materials are submitted to the City.
- Only a complete application will be forwarded to the Heritage Vaughan Committee for consideration.
- The date marking the end of the 90 day review period is incorporated into all reports to the Heritage Vaughan Committee.
- A new “Heritage Permit Application” form has been created for properties designated under Part IV or Part V of the *Ontario Heritage Act*, in consultation with the Building Standards and Development Planning Departments and the Offices of the City Clerk and City Solicitor. The new form captures additional information including other concurrent applications, and a checklist of submission requirements for an application to be deemed complete.

2. Streamlining the Reporting Process

In consultation with the Offices of the City Clerk, a streamlined reporting process for Heritage Permit Applications has been implemented, in adherence with the municipal reporting process and timing requirements legislated by the OHA, including:

- Heritage Permit reports which meet the criteria for delegated authority are forwarded to Council as information. The Heritage Vaughan Committee reports are included as part of a Committee of the Whole agenda under the Statutory/ad Hoc Committee Agenda heading.
- Reports on matters which require Council consideration contain recommendations from staff and the Heritage Vaughan Committee. The Office of the City Clerk

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prepares a transmittal report to the Committee of the Whole to convey the recommendations. These reports appear as a separate item on a Committee of the Whole agenda and result in an Extract being prepared upon Council's deliberation and decision.

- If required, Cultural Heritage staff advise the Office of the City Clerk prior to a Heritage Vaughan Committee meeting of the need to expedite a specific item to Council, issued as an addendum for Council deliberation within the 90 day timeline.
- The date marking the end of the 90 day review period is incorporated into all applicable Heritage Vaughan Committee and Planning reports.

3. Incremental Loss of Contributing Cultural Heritage Resources

The incremental loss of contributing heritage structures and cultural heritage landscapes within a Heritage Conservation District through infill development gradually impacts the character of the District. The intent of an HCD Plan is not to prevent development within a District, but to conserve and protect the established heritage character, attributes and resources of the District while providing direction for the compatible integration of new development. Vaughan's HCD Plans and VOP 2010 include policies to support the preservation of cultural heritage resources. The implementation of these policies has been strengthened as follows:

General

- The proponent of a development application must demonstrate how a proposed development is consistent with the goals and objectives of the HCD.
- The definition of a HCDC Report, as included on the Pre-Application Consultation (PAC) form, has been updated as follows:

Heritage Conservation District Conformity (HCDC) Report: A report that is prepared for a development proposal on any lands located within a designated Heritage Conservation District as identified in the City's Official Plan to ensure that any development on the lands conform to the Heritage Conservation District Plan and its policies, City of Vaughan Official Plan policies regarding Heritage Conservation Districts and Section 41.2 of the *Ontario Heritage Act*. This HCDC report must be prepared by a heritage professional with expertise relating to the subject heritage resource, and should be registered in the "building specialist" or "planning" category under the Canadian Association of Heritage Professionals.

Contributing Heritage Structures

Currently, the City of Vaughan has not implemented an expiry date for a Demolition Permit issued for a heritage property. Therefore, a Demolition Permit application under the *Ontario Building Code Act* may be submitted for an unlimited number of years after the issuance of the Demolition Permit under the *Ontario Heritage Act*. However, provincial and municipal legislation regarding development planning and heritage matters are routinely reviewed and updated to ensure best practices are being implemented. Therefore, it is recommended that all Heritage Permits going forward contain a condition of approval identifying that the Heritage Permit is valid for a period of three (3) years

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following the date of its' issuance. This 3 year time period will help to ensure that all approved work is in keeping with industry best practices and applicable regulations and policy. Other municipalities, including Brampton, Mississauga, Kingston, Hamilton and Ottawa, utilize demolition permit expiry dates in the range of two to five years. At the conclusion of the 3 year period the Owner would have to reapply.

- Approvals for alterations and demolitions under the OHA attach to the Owner, not the property. Therefore, the City may reconsider pre-existing demolition approvals if ownership of the property has been transferred.
- The Urban Design and Cultural Heritage Division has adopted the Federal "Standards and Guidelines for the Conservation of Historic Places in Canada" as the evaluation methodology for the evaluation of a heritage property to adhere to industry best practices and to be consistent with other Ontario municipalities.

Cultural Heritage Landscapes

The protection of Vaughan's tree canopy has been identified as a Council priority. All four HCDs in Vaughan identify village forests and mature trees as significant attributes of the defining character of the towns and streetscapes. Each HCD Plan addresses the conservation of mature trees, including the recommendation that new construction should be sited away from existing trees for their preservation.

Through the City of Vaughan's Tree By-law 185-2007, a property Owner is required to obtain a Tree Permit to remove any private tree with a trunk circumference equal to or greater than 200mm in diameter and greater than 1.5m in height. In all HCD Plans developed after 2007 (Maple, Thornhill and Woodbridge), tree removal is currently exempt from heritage review only when they are smaller than the tree size identified under the Tree By-law. In the Kleinburg-Nashville HCD, which was approved in 2003, trees are considered a significant, contributing element of the District but there is no specific reference to their removal, as the District was created prior to the creation of the Tree By-law. Although all development applications in a HCD are required to submit an Arborist Report and Tree Preservation Plan, it has come to the City's attention that a number of mature trees in HCDs were being removed prior to the submission of a development application. This process undermines Cultural Heritage staff's ability to promote the conservation of cultural heritage landscapes and tree canopies within the Districts.

Section 6.3.1 of VOP 2010 provides direction that Cultural Heritage Landscapes are to be conserved under the Provincial Policy Statement and that the City will seek opportunities to pursue the protection of cultural and natural heritage resources as a more complete means of conserving Vaughan's heritage resources. The following process improvements will help to achieve this direction:

- Tree Inventory and Assessments and Tree Preservation Plans are included as requirements in the revised Heritage Permit Application form within "Section C: Submitted Documents" to ensure these materials are submitted as part of a complete application, as required.
- Cultural Heritage Division comments and reports include a separate Cultural Heritage Landscape section to underline the importance of the cultural landscape in the HCDs, as it relates to a proposed development.

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4. Design Changes after Building Code Review

The City of Vaughan Building Standards Department undertakes the building code review after a Heritage Permit Application is considered by the Heritage Vaughan Committee. In some cases, the approved Heritage Permit design must be revised to meet the *Ontario Building Code Act*. A significant change to the proposal may require reconsideration by the Heritage Vaughan Committee. The following outlines how staff will identify what revisions qualify as a “significant change” to the design.

- a) A building code review and heritage architect review may be required to be provided by the Owner as part of a complete submission in order to minimize the required design changes after City of Vaughan building code review. This submission requirement is captured in the new Heritage Permit Application Form within “Section C: Submitted Documents”.
- b) All drawings submitted to the Building Standards Department for a Building Permit or resubmitted for minor changes are currently reviewed by the Urban Design and Cultural Heritage Division to ensure that plans match the approved heritage permit plans/ design and to determine whether the requested revisions constitute a “significant change”.
- c) The Urban Design and Cultural Heritage Division and Building Standards Department have developed the following definition of “significant change” to a design:

A “significant change” is defined as a change to a previously approved design or project that will alter the character and/ or heritage value of the subject property from its current form.

Examples of a “significant change” include, but are not limited to:

- changes that result in the unapproved alteration or removal of heritage attributes;
- changes in the building footprint or height greater than 10% of what was previously approved, or higher than the attached or adjacent heritage property provided that the requested change complying with Zoning By-law 1-88 and does not require a Minor Variance or is not otherwise permitted in the HCD Plan;
- material changes to cladding, masonry, roofing, porches, fencing etc;
- addition, removal, resizing or relocation of windows and doors, particularly those visible from the public realm;
- changes in architectural form (i.e. a low, hipped roof transformed into a Second Empire form); and
- the removal of trees, or changes in hard landscaping that were not included in the original Heritage Permit Application.

Examples of changes that would not be considered significant include but are not limited to:

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- change in paint colour or brand;
- the relocation of utilities (hydro meters, air conditioning units) provided that they do not interfere with heritage attributes or changes in landscaping as outlined above; and
- the interior reconfiguration of layout, unless it affects the exterior.

5. Ongoing evaluation of Heritage Permit Process

It is noted, that going forward, these processes may need to be updated to reflect changes in provincial and municipal policies and processes, as well as recognizing the evolving best practices of heritage planning and conservation, as well as investigating opportunities to further coordinate the integration of staff processes. A recommendation is included in this report requesting that staff be authorized to make changes, as required, to further streamline and standardize the Heritage Permit Application process with the Site Development application and Building Permit processes, and to ensure ongoing municipal compliance with the *Ontario Heritage Act* (OHA) and other applicable legislation.

Relationship to Term of Council Service Excellence Strategy Map (2014-2018)

This report meets the following Council priorities:

- Support and promote arts, culture, heritage and sports in the community
- Re-establish the urban tree canopy

Regional Implications

There are no regional implications associated with this report.

Conclusion

Staff recommends approval of this report which outlines the results of a staff review of the current City Heritage Permit Application processes regarding applications for alteration and/or demolition of heritage properties. The report outlines process improvements that clarify and streamline the Heritage Application Review process and includes measures to improve coordination with the City's development approval process and the issuance of a Building Permit, and to ensure consistency and compliance with applicable legislation. The report also includes recommendations to place a three (3) year expiry date on Heritage Permit demolition approvals and to authorize staff to make changes to the review process, as required from time to time, to reflect changes in provincial and municipal policy and best practices.

Attachments

1. City of Vaughan By-laws
 - a) Delegation By-law
 - b) Delegation By-law 2016 update
2. City of Vaughan Heritage Permit Application
3. City of Vaughan Heritage Clearance Application
4. City of Vaughan Notice of Receipt

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(A copy of the attachments referred to in the foregoing have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)