

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 type of properties can be designated?

A variety of 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 which includes the identification 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.

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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?

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

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