

August 12, 2024

By Courier and Email to *lloney@haltonhills.ca*

Town of Halton Hills, Town Clerk
1 Halton Hills Drive
Halton Hills, Ontario
L7G 5G2

Attention: Laura Loney, Manager of Heritage Planning

Dear Ms. Loney:

Re: Notice of Objection by 2088217 Ontario Inc. to the “Re-Issuance of the Notice of Intention to Designate” Land in the Town of Halton Hills Municipally Known as 49 Eastern Avenue, Acton Under Section 29(1), Part IV of the *Ontario Heritage Act*

Background

We are counsel to 2088217 Ontario Inc. (“208”), the owner of the property municipally known as 49 Eastern Avenue, Acton in the Town of Halton Hills (the “Property”). The Property is approximately 1.1 acres (0.45 ha) in size, with approximately 75 metres of frontage along Eastern Avenue, and is currently occupied with a commercial use.

208 received from the Town of Halton Hills (the “Town”) a Notice of Intention to Designate the Property under Section 29(1), Part IV of the *Ontario Heritage Act* (the “OHA”), dated June 6, 2024 (the “NOID”). In response, on behalf of 208, we served on the Town a Notice of Objection dated July 5, 2024, a copy of which is attached. In that Notice of Objection, we provided reasons for 208’s objection to the NOID, including the fact that the NOID failed to comply with the requirements of the OHA.

In what appears to have been prepared in response to the Notice of Objection dated July 5, 2024, the Town delivered what it refers to as a “Re-issuance of the Notice of Intention to Designate”, dated July 11, 2024, a copy of which is attached (the “Re-issued NOID”).

There is no provision in the OHA that contemplates the “re-issuance” of a notice of intention to designate, and especially where the “original” notice of intention to designate is already subject to a notice of objection, which sets in motion a prescribed process under section 29 of the OHA.

Accordingly, we maintain that the Re-issued NOID is without legal authority and therefore fundamentally flawed. Nonetheless, out of an abundance of caution, 208 is objecting to the Re-issued NOID.

Notice of Objection and Reasons

On behalf of 208, we are hereby providing notice of objection to the Re-issued NOID in accordance with subsection 29(5) of the *OHA*.

The reasons for the objection to the Re-issued NOID include the following:

1. **The Re-issued NOID Does Not Comply with the *OHA***

As noted above, there is no provision in the *OHA* that contemplates the “re-issuance” of a notice of intention to designate, particularly after a notice of objection has been served in response to the “original” notice of intention to designate.

Notably, under subsection 29(1) of the *OHA*, a municipality may designate a property to be of cultural heritage value or interest only where, among other things, “the designation is made in accordance with the process set out in this section”. A key step in that process is the giving of a notice of intention to designate, and not the subsequent “re-issuance” of a notice of intention to designate following service of a notice of objection. Thus, any attempt by the Town to rely upon the Re-issued NOID in support of a subsequent by-law to designate the Property would not be in accordance with the process set out in section 29 of the *OHA*.

2. **The Town has Failed to Properly Justify the Proposed Designation**

We understand that the Property has been listed on the Town’s Heritage Register since 2016 and that, until very recently, the Town had not taken any steps to designate the Property under Part IV of the *OHA*.

According to the staff report dated April 18, 2024 (the “Staff Report”), which recommended the issuance of the original NOID, the Property has been researched and evaluated by Town staff “as part of the Council-approved Heritage Register prioritization strategy to respond to *Bill 23, More Homes Built Faster Act, 2022*”, noting that “Bill 23 stipulates that municipalities have a two-year window to determine whether properties on the Heritage Register warrant designation under the Ontario Heritage Act. If not so designated after two years, properties must be removed from the Heritage Register”.

The fact that the Property may otherwise be removed from the Heritage Register is not a sufficient reason to designate the Property under Part IV of the *OHA*. In any event, subsequent to the preparation of the Staff Report, *Bill 200, Homeowner*

Protection Act, 2024 received Royal Assent, which had the effect of extending the prior “two-year window” by an additional two years, to January 1, 2027, or such later date as may be prescribed.

The Staff Report also asserts that the Property meets the Ontario Regulation 9/06 criteria for designation under Part IV of the *OHA*. However, the mere fact that a property *may* satisfy the criteria for designation under Ontario Regulation 9/06 does not, in and of itself, warrant designation under the *OHA*.

Further, 208 challenges the analysis undertaken by Town staff in relation to its assessment of the Property against the Ontario Regulation 9/06 criteria. For example, the Staff Report fails to properly acknowledge the significant alterations that have been made to the former industrial building on the Property over a number of years. There is a lack of comparative analysis concerning the structure, and there has been no detailed assessment or chronology of building alterations since 1899. In addition, although the Staff Report contends that certain building elements display a “high degree of craftsmanship”, 208 challenges that assertion. Moreover, the Staff Report makes a number of conclusions in the absence of sufficient analysis and/or evidence, including the assertions that the Property “demonstrates or reflects the work or ideas of an architect, artist, builder, designer, or theorist who is significant to a community” and that the existing building on the Property is “important in defining the character of the area”, while recognizing that it is “an isolated remnant of the former industrial landscape”.

3. The Statement of Cultural Heritage Value or Interest and the Description of the Heritage Attributes of the Property are Inappropriate

There are several problems with the Statement of Cultural Heritage Value or Interest in the Re-issued NOID, including the following:

- (a) The referenced association with George Beardmore is inappropriate as he had died by the time that the building was constructed;
- (b) The reference to Thomas Maxted is unsubstantiated. There is no comparative analysis regarding Mr. Maxted's specific contribution to the building, or whether he had a significant impact on the design of the building;
- (c) The reference to the Property's association with the evolution of railway transportation is overstated; and
- (d) The fact that the Property has operated as a “tourist destination and commercial outlet” for many years is not a matter of cultural heritage value or interest warranting designation.

Likewise, there are numerous problems with the description of the heritage attributes in the Re-issued NOID, including the following:

- (a) With respect to “the setback, location and orientation of the building along Eastern Avenue ...”, there is virtually no setback from the property line and the specific location/orientation of the building is a fact of circumstance and does not contribute to cultural heritage value or interest;
- (b) Despite the assertion that the building is on a “rubble stone foundation”, it appears that in many places the foundation is concrete;
- (c) The reference to “the materials”, followed by what appears to be a non-exclusive list, is vague and improperly open-ended;
- (d) The level of detail concerning the brickwork and the openings on existing elevations does not accurately reflect the evolved nature of the building, nor the relatively poor condition of the brickwork in various locations that may require repair or replacement; and
- (e) The interior woodwork and beams appear to have been constructed using standard approaches and do not warrant identification as a heritage attribute.

4. The Town has Failed to Balance the Proposed Designation with Other Provincial and Municipal Planning Policy Objectives

The Staff Report has a singular focus on the proposed designation of the Property relative to the criteria set out in Ontario Regulation 9/06 and is silent with respect to other relevant provincial and municipal planning policy objectives.

Notably, there is no mention in the Staff Report of any consideration having been given to the potential impact of the proposed designation on the potential for future redevelopment of the Property. This is particularly important where the Property is located within an urban settlement area and a Major Transit Station Area (being located adjacent to the Acton Go Station), and designated as part of the *Downtown Redevelopment Sub-Area* of Acton in the Town’s Official Plan, all of which would support mixed-use redevelopment of the Property.

Accordingly, 208 has significant concerns with the proposed designation and the impact that it may have on future redevelopment of the Property, especially where the Re-issued NOID has described the heritage attributes of the Property as including such broad characteristics as the “setback, location and orientation” and the “scale, form and massing” of the existing building, architectural features on all of the building elevations, and even interior elements of the building.

Conclusion

In light of the above, we request that Town Council consider this objection and withdraw the Re-issued NOID.

Kindly ensure that we receive notice of any future staff report and/or public meeting regarding this matter.

In the meantime, please do not hesitate to contact us if you have any questions regarding this notice of objection, or if you require anything further.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

encl.

copy: Client
Ryan Guetter, Weston Consulting

July 5, 2024

By Courier and Email to *lloney@haltonhills.ca*

Town of Halton Hills, Town Clerk
1 Halton Hills Drive
Halton Hills, Ontario
L7G 5G2

Attention: Laura Loney, Manager of Heritage Planning

Dear Ms. Loney:

Re: Notice of Objection by 2088217 Ontario Inc. to the Notice of Intention to Designate Land in the Town of Halton Hills Municipally Known as 49 Eastern Avenue, Acton Under Section 29(1), Part IV of the *Ontario Heritage Act*

Background

We are counsel to 2088217 Ontario Inc. (“208”), the owner of the property municipally known as 49 Eastern Avenue, Acton in the Town of Halton Hills (the “Property”). The Property is approximately 1.1 acres (0.45 ha) in size, with approximately 75 metres of frontage along Eastern Avenue, and is currently occupied with a commercial use.

208 received from the Town of Halton Hills (the “Town”) a Notice of Intention to Designate the Property under Section 29(1), Part IV of the *Ontario Heritage Act* (the “OHA”), dated June 6, 2024 (the “NOID”). A copy of the NOID that was served on 208 is attached for reference.

Notice of Objection and Reasons

On behalf of 208, we are hereby providing notice of objection to the NOID in accordance with subsection 29(5) of the *OHA*.

The reasons for the objection to the NOID include the following:

1. **The NOID Fails to Comply with the *OHA***

Subsection 29(4) of the *OHA* identifies the required contents of a notice of intention to designate that is served on the owner of property, which includes, among other things:

- (b) a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property; ... [emphasis added]

In this instance, the NOID that was served on 208 does not include a “description of the heritage attributes of the property” and, accordingly, the NOID fails to comply with the requirements of the *OHA*. This deficiency in the NOID is fatal, given that the council of a municipality may only designate a property to be of cultural heritage value or interest where the designation is made in accordance with the process set out in section 29 of the *OHA*. Consequently, on this basis alone, the Town must withdraw the NOID.

2. The Town has Failed to Properly Justify the Proposed Designation

We understand that the Property has been listed on the Town’s Heritage Register since 2016 and that, until now, the Town has not taken any steps to designate the Property under Part IV of the *OHA*.

According to the staff report dated April 18, 2024 (the “Staff Report”), which recommended the issuance of the NOID, the Property has been researched and evaluated by Town staff “as part of the Council-approved Heritage Register prioritization strategy to respond to *Bill 23, More Homes Built Faster Act, 2022*”, noting that “Bill 23 stipulates that municipalities have a two-year window to determine whether properties on the Heritage Register warrant designation under the Ontario Heritage Act. If not so designated after two years, properties must be removed from the Heritage Register”.

The fact that the Property may otherwise be removed from the Heritage Register is not sufficient reason to designate the Property under Part IV of the *OHA*. In any event, subsequent to the preparation of the Staff Report, *Bill 200, Homeowner Protection Act, 2024* received Royal Assent, which had the effect of extending the prior “two-year window” by an additional two years, to January 1, 2027, or such later date as may be prescribed.

The Staff Report also asserts that the Property meets the Ontario Regulation 9/06 criteria for designation under Part IV of the *OHA*. However, the mere fact that a property *may* satisfy the criteria for designation under Ontario Regulation 9/06 does not, in and of itself, warrant designation under the *OHA*.

Further, 208 challenges the analysis undertaken by Town staff in relation to its assessment of the Property against the Ontario Regulation 9/06 criteria. For example, the Staff Report fails to properly acknowledge the significant alterations that have been made to the former industrial building on the Property over a number of years. In addition, although the Staff Report contends that certain

building elements display a “high degree of craftsmanship”, 208 challenges that assertion. Moreover, the Staff Report makes a number of conclusions in the absence of sufficient analysis and/or evidence, including the assertions that the Property “demonstrates or reflects the work or ideas of an architect, artist, builder, designer, or theorist who is significant to a community” and that the existing building on the Property is “important in defining the character of the area”, while recognizing that it is “an isolated remnant of the former industrial landscape”.

3. The Town has Failed to Balance the Proposed Designation with Other Provincial and Municipal Planning Policy Objectives

The Staff Report has a singular focus on the proposed designation of the Property relative to the criteria set out in Ontario Regulation 9/06 and is silent with respect to other relevant provincial and municipal planning policy objectives.

Notably, there is no mention in the Staff Report of any consideration having been given to the potential impact of the proposed designation on the potential for future redevelopment of the Property. This is particularly important where the Property is located within an urban settlement area and a Major Transit Station Area (being located adjacent to the Acton Go Station), and designated as part of the *Downtown Redevelopment Sub-Area* of Acton in the Town’s Official Plan, all of which would support mixed-use redevelopment of the Property.

Accordingly, 208 has significant concerns with the proposed designation and the impact that it may have on future redevelopment of the Property, especially where the Staff Report has identified potential heritage attributes as including such broad characteristics as the “setback, location and orientation” and the “scale, form and massing” of the existing building, architectural features on all of the building elevations, and even interior elements of the building, recognizing that this list of potential heritage attributes was not carried forward into the NOID.

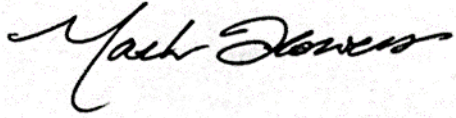
Conclusion

In light of the above, we request that Town Council consider this objection and withdraw the NOID.

Kindly ensure that we receive notice of any future staff report and/or public meeting regarding this matter.

In the meantime, please do not hesitate to contact us if you have any questions regarding this notice of objection, or if you require anything further.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

encl.

copy: Client
Ryan Guetter, Weston Consulting



2088217 Ontario Inc
49 Eastern Avenue
ACTON, ON, L7J 2E6

June 5, 2024

Dear Property Owner:

Re: Notice for 49 Eastern Avenue, Acton for Part IV Designation

The Notice of Intention to Designate the property at 49 Eastern Avenue, Acton (Hide House) will be posted on the Town of Halton Hills website June 6, 2024 (see attached). If no appeals were received within the 30-day appeal period. The designation by-law will go before Council. You will be notified prior to the Council meeting.

If you have any questions, please do not hesitate to contact me or Laura Loney, Manager of Heritage Planning lloney@haltonhills.ca.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Linda Bateson'.

Linda Bateson
Senior Administrative & Heritage Planning Coordinator
905-873-2600 ext. 2291
lindab@haltonhills.ca
haltonhills.ca

1 Halton Hills Drive, Halton Hills, Ontario L7G 5G2

NOTICE OF INTENTION TO DESIGNATE

Under the Ontario Heritage Act

IN THE MATTER OF THE ONTARIO HERITAGE ACT AND IN THE MATTER OF the lands in the Town of Halton Hills known municipally as 49 Eastern Avenue, Acton, legally described as "PT LT 309, PL 1098, PT 2 20R14597; HALTON HILLS", Regional Municipality of Halton, and known as the Hide House.

NOTICE IS HEREBY GIVEN that the Town of Halton Hills intends to designate the property at 49 Eastern Avenue, Acton under Section 29(1), Part IV of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18.



JUNE 6, 2024



Statement of Cultural Heritage Value or Interest:

The property at 49 Eastern Avenue has historical and associative value due to its direct association with the development of the tanning industry in Acton and within Ontario, as well its associations with the evolution of railway transportation. The Hide House was built as a warehouse for the Beardmore & Co. Tannery, at the time the largest Tannery in the British Empire and a major employer in the Town of Acton with almost 6,500 people working for the company at its peak. The property is directly associated with the Beardmore Family and with its owner George Beardmore, who established the Beardmore & Co. Tannery. The Beardmore family also built employee housing, operated a co-operative store, tennis courts, a bowling green, a golf course, boathouse, and an outdoor arena on Frederick Street within the community of Acton.

Further information respecting the Statement of Cultural Heritage Value or Interest and proposed designation of 49 Eastern Avenue, Acton (refer to Report PD-2024-030) is available by contacting Laura Loney, Manager of Heritage Planning for the Town of Halton Hills at 905-873-2600 x 2358 or by email at lloney@haltonhills.ca.

Any person may, by July 6, 2024 (within 30 days after the date of the publication of this notice) serve written notice of objection to the proposed designation with Laura Loney together with a statement for the objection and all relevant facts.

Dated at the Town of Halton Hills this 6th day of June 2024.

Laura Loney, Manager of Heritage Planning, Planning and Development,
The Corporation of the Town of Halton Hills,
1 Halton Hills Drive, Halton Hills, ON L7G 5G2.

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UNDER THE ONTARIO HERITAGE ACT

Re-issuance of the Notice of Intention to Designate



JULY 11, 2024



IN THE MATTER OF THE ONTARIO HERITAGE ACT AND IN THE MATTER OF the lands in the Town of Halton Hills known municipally as 49 Eastern Avenue, Acton, legally described as "PT LT 309, PL 1098, PT 2 20R14597; HALTON HILLS", Regional Municipality of Halton, and known as the Hide House.

NOTICE IS HEREBY GIVEN that the Town of Halton Hills intends to designate the property at 49 Eastern Avenue, Acton under Section 29(1), Part IV of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18.

Statement of Cultural Heritage Value or Interest:

The property at 49 Eastern Avenue has historical and associative value due to its direct association with the development of the tanning industry in Acton and within Ontario, as well its associations with the evolution of railway transportation. The Hide House was built as a warehouse for the Beardmore & Co. Tannery, at the time the largest Tannery in the British Empire and a major employer in the Town of Acton with almost 6,500 people working for the company at its peak. The property is directly associated with the Beardmore Family and with its owner George Beardmore, who established the Beardmore & Co. Tannery. The Beardmore family also built employee housing, operated a co-operative store, tennis courts, a bowling green, a golf course, boathouse, and an outdoor arena on Frederick Street within the community of Acton.

Since its adaptive re-use in the 1980s, the site has operated as a tourist destination and commercial outlet, formerly known as the Olde Hide House and now the Hide House.

The brickwork on the Hide House was completed by local bricklayer and builder Thomas Maxted, who also undertook work on many other significant buildings in the area including Norval Presbyterian Church and Manse, Acton's Presbyterian and Baptist churches, Georgetown High School, and Robert Noble's Flour Mills.

Following research and evaluation according to Ontario Regulation 9/06, it has been determined that the property at 49 Eastern Avenue has physical and design, historical and associative, and contextual value and therefore meets Ontario Regulation 9/06 criteria for determining cultural heritage value or interest.

Description of the Heritage Attributes of the Property

The heritage attributes of the property at 49 Eastern Avenue are identified as follows:

- The setback, location, and orientation of the existing building along Eastern Avenue and adjacent to the rail corridor in the community of Acton, Town of Halton Hills;



UNDER THE ONTARIO HERITAGE ACT

Re-Issuance of the Notice of Intention to Designate

- The scale, form, and massing of the existing one-to-two-storey building on a rubble stone foundation with butterfly or inverted-pitch roof;
- The materials, including red brick cladding and detailing, brick construction in varied patterns throughout, heavy timber frame construction and wooden trusses on the interior;
- On the north elevation:
 - The three-bay elevation with symmetrically placed former loading bays;
 - Segmentally arched brick voussoirs and brick stringcourses;
 - Basket-weave pattern in the tympanum of the central bay;
 - Brickwork in common bond and a variation of English Garden Wall bond;
- On the east elevation:
 - The original brick exterior wall with brick pilasters where visible beyond existing additions;
- On the south elevation:
 - The loading bay opening (currently infilled) with segmentally arched brick voussoirs centered beneath the gable peak at the east end of the elevation;
 - The brick exterior (currently modified openings along this elevation);
- On the west elevation:
 - The brick exterior with brick pilasters along the elevation; and,
- On the interior, the heavy timber frame beams and trusses within the existing roof structure.

The interior spaces (apart from the timber-frame structure that is visible including heavy wooden trusses) and openings that have been modified over time along each elevation have not been identified as heritage attributes. Given the nature of an industrial warehouse, it is not unusual that several new openings have been introduced and that others have been infilled over time.

Further information respecting the Statement of Cultural Heritage Value or Interest and proposed designation of 49 Eastern Avenue, Acton. Report **PD-2024-030** is available by contacting Laura Loney, Manager of Heritage Planning for the Town of Halton Hills at 905-873-2600 x 2358 or by email at lloney@haltonhills.ca

Any person may, by August 10, 2024 (within 30 days after the date of the publication of this notice) serve written notice of objection to the proposed designation with Laura Loney together with a statement for the objection and all relevant facts.

Dated at the Town of Halton Hills this 11th day of July 2024.

Laura Loney, Manager of Heritage Planning, Planning and Development, The Corporation of the Town of Halton Hills, 1 Halton Hills Drive, Halton Hills, ON L7G 5G2.

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