

Appendix H.4 – Heritage Impact Assessment Report – Thomas Morley House

*Kennedy Road Environmental Assessment between
Steeles Avenue and Major Mackenzie Drive*





GOLDER

REPORT

**Thomas Morley House, 7779-81 Kennedy Road, City of
Markham, Ontario**

Heritage Impact Assessment

Submitted to:

Laura Chong, B.E.S., MCIP

HDR Inc.

100 York Boulevard, Suite 300

Richmond Hill, ON

L4B 1J8

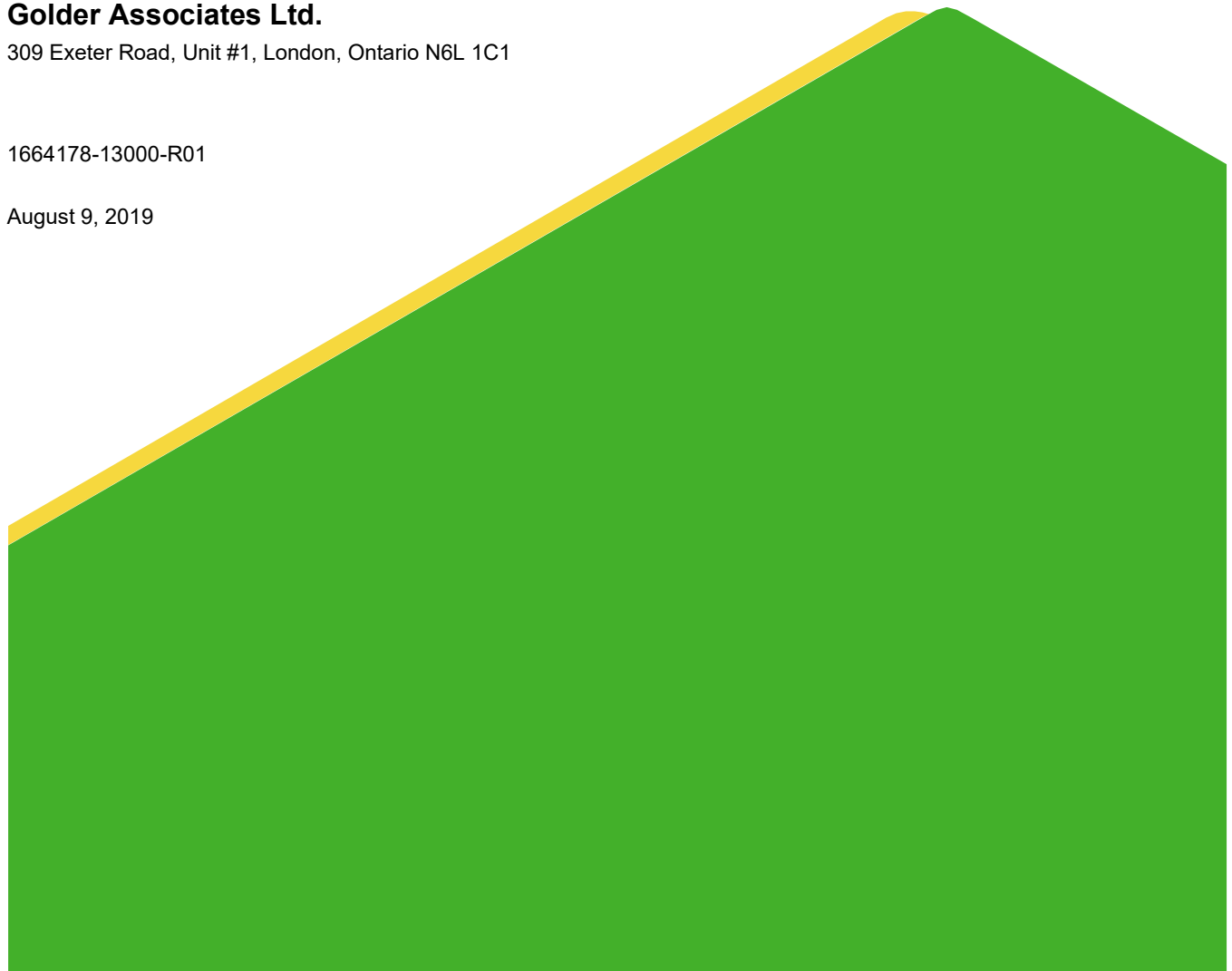
Submitted by:

Golder Associates Ltd.

309 Exeter Road, Unit #1, London, Ontario N6L 1C1

1664178-13000-R01

August 9, 2019



Distribution List

1 e-copy: HDR Inc.

1 e-copy: Golder Associates Ltd.

Personnel

Project Director	Andrew Balasundaram, B.Sc., M.Sc., Principal, Senior Materials and Pavements Engineer
Project Manager	Steven Jagdat, M.A.Sc., P.Eng., Associate, Pavement and Materials Engineer
Task Manager	Henry Cary, Ph.D., CAHP, RPA, Cultural Heritage Specialist
Research	Elizabeth Cushing, M.Pl., Cultural Heritage Specialist
Field Investigations	Ragavan Nithiyantham, M.A., CAHP, Cultural Heritage Specialist
Report Production	Elizabeth Cushing, M.Pl. Ragavan Nithiyantham, M.A., CAHP Henry Cary, Ph.D., CAHP, RPA Liz Yildiz, Environmental Group Administrator
Maps & Illustrations	Zachary Bush, GIS Technician
Senior Review	Hugh Daechsel, M.A., Principal, Senior Archaeologist

Executive Summary

The Executive Summary highlights key points from the report only; for complete information and findings, as well as the limitations, the reader should examine the complete report.

In 2017, HDR Inc. (HDR) retained Golder Associates Ltd. (Golder) on behalf of the Regional Municipality of York to conduct a Cultural Heritage Assessment Report (CHAR) for the Kennedy Road Municipal Class Environmental Assessment in the City of Markham, Ontario. Within the study area, which followed the Kennedy Road right-of-way between Steeles Avenue East and Major Mackenzie Drive East, Golder identified 18 designated, listed and inventoried properties of known or potential cultural heritage value or interest and one potential cultural heritage landscape. From these findings, Golder recommended that property specific Cultural Heritage Evaluation Reports (CHERs) or Heritage Impact Assessments (HIAs) be conducted.

Following these recommendations, HDR retained Golder in October 2018 to conduct a HIA for 7779-81 Kennedy Road ('the property'). The property is designated under Part IV of the *Ontario Heritage Act* and includes a storey-and-a-half wood plank house known locally as Thomas Morley House. A Heritage Easement has been issued on the property, which identifies the house as being of historical and architectural significance and lists the owner's responsibilities in terms of the maintenance of the property. Constructed in 1851, the three-room Georgian cottage with Classic Revival features is associated with shoemaker Thomas Morley and is one of the few surviving buildings of the former hamlet of Hagerman's Corners.

The HIA was initiated to determine the impacts of general design options to widen Kennedy Road, which may include encroaching on the property. The Region is considering five options:

- Option 1: Avoid encroachment on 7779-81 Kennedy Road and Thomas Morley House;
- Option 2: Demolish the west Retaining Wall and partially encroach on 7779-81 Kennedy Road, then reconstruct the retaining wall at or near the west façade of Thomas Morley House;
- Option 3: Demolish the West Wing and South Porch of Thomas Morley House and partially encroach on 7779-81 Kennedy Road;
- Option 4: Relocate Thomas Morley House east on its existing lot or to a new site and encroach on 7779-81 Kennedy Road; or,
- Option 5: Demolish all components of Thomas Morley House and encroach on 7779-81 Kennedy Road.

Following guidelines provided by the Ministry of Tourism, Culture and Sport (MTCS), the City of Markham and Canada's Historic Places *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010), this HIA identifies the heritage policies applicable to new development and describes the property's geography, history and built and landscape features. From this understanding of the property—which did not include accessing the interior of Thomas Morley House—the potential impacts resulting from the five options were assessed with conservation actions identified for each option.

Overall, Golder determined that:

- Option 1 will result in the least amount of adverse impact to the identified heritage attributes of Thomas Morley House but may not be feasible due to road design constraints.

- Option 2 will involve removal of the retaining wall and alteration of the current property boundaries; however, the retaining wall is not identified as a heritage attribute.
- Option 3 will involve demolishing a heritage attribute of Thomas Morley House (the West Wing with South Porch), but may provide an opportunity to reconstruct the original west façade of its main block;
- Option 4 would retain the built heritage resource of Thomas Morley House intact though may significantly affect its authenticity, *heritage integrity* (or ability to convey its cultural heritage significance), and its historic and visual linkages with Hagerman's Corners; and,
- Option 5 would result in the loss of Thomas Morley House as a valued cultural heritage resource and one of the last reminders of the historic Hagerman's Corners community.

Based on these findings, the following mitigation measures for each option have been identified:

Option	Design Phase	Construction Phase	Operation Phase
1	<ul style="list-style-type: none"> ■ No mitigation measures required. 	<ul style="list-style-type: none"> ■ Establish site controls & communication; and, ■ Monitor for vibration impact during all adjacent construction within a 60 m radius of the house. 	<ul style="list-style-type: none"> ■ Conduct periodic vibration impact monitoring.
2	<ul style="list-style-type: none"> ■ Conduct an engineering study to identify options for rebuilding the retaining wall at or near the footprint of the house. 	<ul style="list-style-type: none"> ■ Establish site controls & communication; ■ Create a temporary physical barrier; and, ■ Monitor for vibration impact during all adjacent construction within a 60 m radius of the house. 	<ul style="list-style-type: none"> ■ Create a permanent physical barrier; and, ■ Conduct periodic vibration impact monitoring.
3	<ul style="list-style-type: none"> ■ Prepare a heritage documentation report prior to the demolition of the West Wing with South Porch. ■ Prepare a heritage conservation plan to guide the partial demolition and 	<ul style="list-style-type: none"> ■ Establish site controls & communication; ■ Create a temporary physical barrier; and, ■ Monitor for vibration impact during all adjacent construction within a 60 m radius of the house. 	<ul style="list-style-type: none"> ■ Create a permanent physical barrier; and, ■ Conduct periodic vibration impact monitoring.

Option	Design Phase	Construction Phase	Operation Phase
	rehabilitation of Thomas Morley House.		
4	<ul style="list-style-type: none"> ■ Prepare a heritage conservation plan to guide the relocation of Thomas Morley House to further east on its existing lot or to a new site. 	<ul style="list-style-type: none"> ■ No mitigation measures required. 	<ul style="list-style-type: none"> ■ No mitigation measures required.
5	<ul style="list-style-type: none"> ■ Conduct a heritage documentation report; and, ■ Commemorate Thomas Morley House through interpretive signage. 	<ul style="list-style-type: none"> ■ No mitigation measures required. 	<ul style="list-style-type: none"> ■ No mitigation measures required.

Study Limitations

Golder has prepared this report in a manner consistent with the guidelines developed by the Ministry of Tourism, Culture and Sport (MTCS), subject to the time limits and physical constraints applicable to this report. No other warranty, expressed or implied, is made.

This report has been prepared for the specific site, design objective, developments and purpose described to Golder by HDR Inc. (the Client). The factual data, interpretations and recommendations pertain to a specific project as described in this report and are not applicable to any other project or site location.

The information, recommendations and opinions expressed in this report are for the sole benefit of the Client. No other party may use or rely on this report or any portion thereof without Golder's express written consent. If the report was prepared to be included for a specific permit application process, then upon the reasonable request of the Client, Golder may authorize in writing the use of this report by the regulatory agency as an Approved User for the specific and identified purpose of the applicable permit review process. Any other use of this report by others is prohibited and is without responsibility to Golder. The report, all plans, data, drawings and other documents as well as electronic media prepared by Golder are considered its professional work product and shall remain the copyright property of Golder, who authorizes only the Client and Approved Users to make copies of the report but only in such quantities as are reasonably necessary for the use of the report by those parties. The Client and Approved Users may not give, lend, sell or otherwise make available the report or any portion thereof to any other party without the express written permission of Golder. The Client acknowledges the electronic media is susceptible to unauthorized modification, deterioration and incompatibility and therefore the Client cannot rely upon the electronic media versions of Golder's report or other work products.

Unless otherwise stated, the suggestions, recommendations and opinions given in this report are intended only for the guidance of the Client in the design of the specific project.

Table of Contents

1.0 INTRODUCTION	1
2.0 SCOPE AND METHOD	3
2.1 Record of Consultation.....	4
3.0 POLICY FRAMEWORK.....	5
3.1 Federal and International Heritage Policies	5
3.2 Provincial Legislation & Policies.....	5
3.2.1 Planning Act and Provincial Policy Statement	5
3.2.2 The Ontario Heritage Act and Ontario Regulation 9/06	6
3.2.3 Provincial Heritage Conservation Guidance	7
3.3 Municipal Heritage Policies	8
3.3.1 City of Markham's <i>Official Plan</i>	8
4.0 GEOGRAPHICAL AND HISTORICAL CONTEXT	10
4.1 Geographic Context	10
4.2 Historical Context	10
4.2.1 York County	10
4.2.2 Township of Markham.....	11
4.2.3 7779-81 Kennedy Road, Thomas Morley House.....	13
5.0 EXISTING CONDITIONS	18
5.1 Setting	18
5.2 Built Environment: Thomas Morley House.....	20
5.2.1 Main Block.....	23
5.2.2 West Wing with South Porch	25
5.2.3 East Wing.....	28
5.2.4 Retaining Wall	30
5.3 Physical Condition.....	30
6.0 CULTURAL HERITAGE VALUE OR INTEREST	33

6.1	Description of Property – 7779-81 Kennedy Road	33
6.2	Statement of Cultural Heritage Value or Interest	33
6.3	Description of Heritage Attributes	33
7.0	IMPACT ASSESSMENT	34
7.1	Proposed Development.....	34
7.2	Impact Assessment.....	34
8.0	CONSIDERATION OF ALTERNATIVES & RECOMMENDATIONS	40
8.1	Option 1 Mitigation Measures	40
8.2	Option 2 Mitigation Measures	40
8.3	Option 3 Mitigation Measures	42
8.4	Option 4 Mitigation Measures	42
8.5	Option 5 Mitigation Measures	42
9.0	SUMMARY STATEMENT & CONSERVATION RECOMMENDATIONS	44
10.0	REFERENCES	48

TABLES

Table 1: Results of Consultation.....	4
Table 2: Physical Condition Assessment.	30
Table 3: Assessment of direct and indirect adverse impacts resulting from the proposed options to develop the property.	36

FIGURES

Figure 1: Location Map.....	2
Figure 2: The single front survey system, used from 1783 to 1818. As depicted here, each lot is 200 acres (Ac.), created from surveying 19 chains by 105.27 chains (1 chain = 66 feet/ 20.12 metres; Dean & Matthews 1969:99)	11
Figure 3: Portion of Tremaine's 1860 Map of the County of York and 1878 Illustrated Historical Atlas of the County of York, Miles & Co..	15
Figure 4: 1914, 1936, 1943 and 1974 Topographical Maps.	16
Figure 5: Plaque commemorating Hagerman's Corners, located at the northwest corner of the Kennedy Road and 14 th Avenue intersection.	17
Figure 6: Kennedy Road facing north, with Thomas Morley House to the right.	18

Figure 7: Kennedy Road facing south towards the 14th Avenue intersection.....	19
Figure 8: Hagerman East Cemetery, located to the north of Thomas Morley House.	19
Figure 9: Plaque commemorating Hagerman's Corners with Thomas Morley house in the background.	20
Figure 10: North façade of the Thomas Morley House.	21
Figure 11: North and west façades of the Thomas Morley House.	21
Figure 12: West and south façades of the Thomas Morley House.	22
Figure 13: East and north façades of the Thomas Morley House.	22
Figure 14: Concrete parging on the Main Block foundation.	23
Figure 15: South end wall of the Main Block.	24
Figure 16: One leaf, panelled main entrance on the west façade of Main Block.	24
Figure 17: Random rubble fieldstone foundation of the West Wing.	25
Figure 18: Offset cross-gable roof on the south façade of West Wing.....	26
Figure 19: Typical two-over-two, double-hung wood window.....	26
Figure 20: South Porch with decorated posts on the south façade.....	27
Figure 21: South façade of East Wing with cross-gable and east end wall with low gable and cornice returns.	28
Figure 22: East end wall and north façade of the East Wing.	29
Figure 23: Thomas Morley House with retaining wall to the right.....	30
Figure 24: Soffit and fascia at the south gable of the Main Block.	32

APPENDICES

APPENDIX A

Thomas Morley House Designation By-law

APPENDIX B

Heritage Easement Agreement - 7779 Kennedy Road

1.0 INTRODUCTION

In 2017, HDR Inc. (HDR) retained Golder Associates Ltd. (Golder) on behalf of the Regional Municipality of York to conduct a Cultural Heritage Assessment Report (CHAR) for the Kennedy Road Municipal Class Environmental Assessment in the City of Markham, Ontario (Figure 1). Within the study area, which followed the Kennedy Road right-of-way between Steeles Avenue East and Major Mackenzie Drive East, Golder identified 18 designated, listed and inventoried properties of known or potential cultural heritage value or interest and one potential cultural heritage landscape. From these findings, Golder recommended that property specific Cultural Heritage Evaluation Reports (CHERs) or Heritage Impact Assessments (HIAs) be conducted.

Following these recommendations, HDR retained Golder in October 2018 to conduct a Heritage Impact Assessment (HIA) for 7779-81 Kennedy Road ('the property'). The property is designated under Part IV of the *Ontario Heritage Act* (OHA) and includes a storey-and-a-half wood plank house known locally as Thomas Morley House. A Heritage Easement has been issued on the property, which identifies the house as being of historical and architectural significance and lists the owner's responsibilities in terms of the maintenance of the property. Constructed in 1851, the three-room Georgian cottage with Classic Revival features is associated with shoemaker Thomas Morley and is one of the few surviving buildings of the former hamlet of Hagerman's Corners.

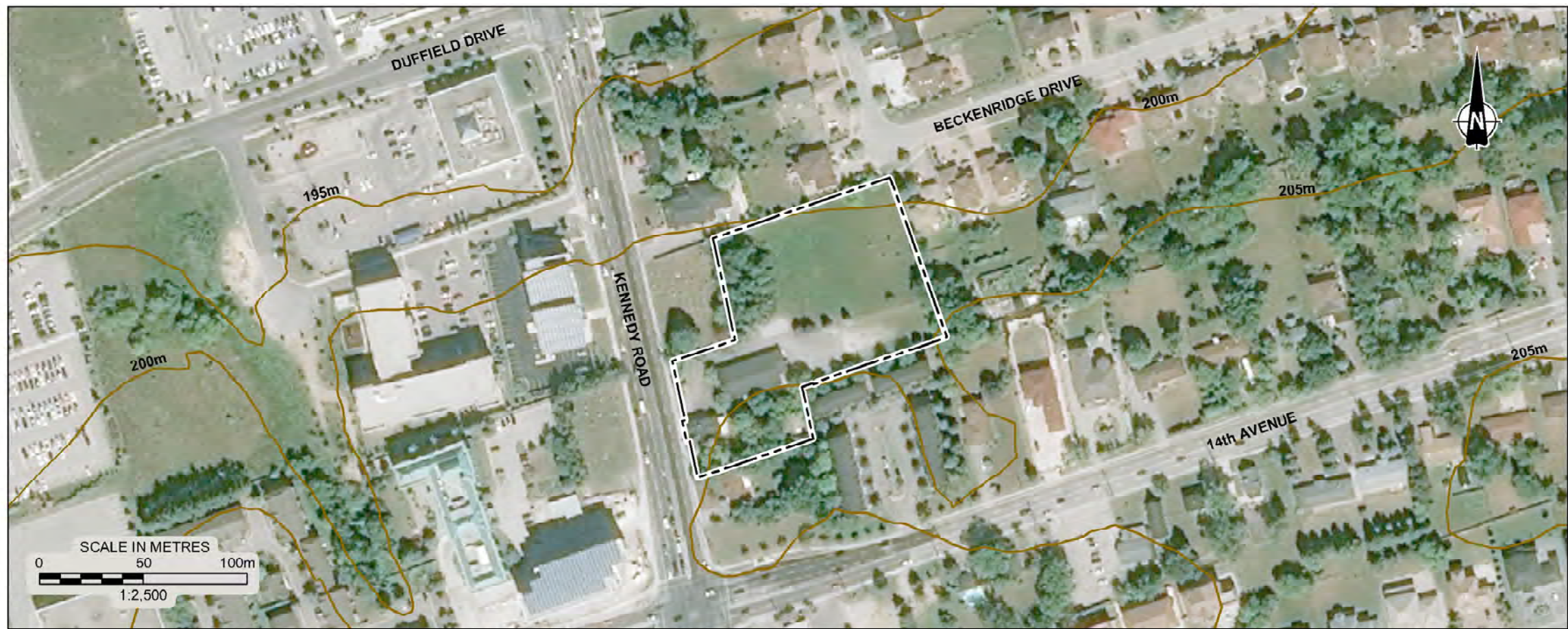
The HIA was initiated to determine the impacts of general design options to widen Kennedy Road. The Region is considering five options:

- Option 1: Avoid encroachment on 7779-81 Kennedy Road and Thomas Morley House;
- Option 2: Demolish the west Retaining Wall and partially encroach on 7779-81 Kennedy Road, then reconstruct the retaining wall at or near the west façade of Thomas Morley House;
- Option 3: Demolish the West Wing with South Porch of Thomas Morley House and partially encroach on 7779-81 Kennedy Road;
- Option 4: Relocate Thomas Morley House east on its existing lot or to a new site and encroach on 7779-81 Kennedy Road; or,
- Option 5: Demolish all components of Thomas Morley House and encroach on 7779-81 Kennedy Road.

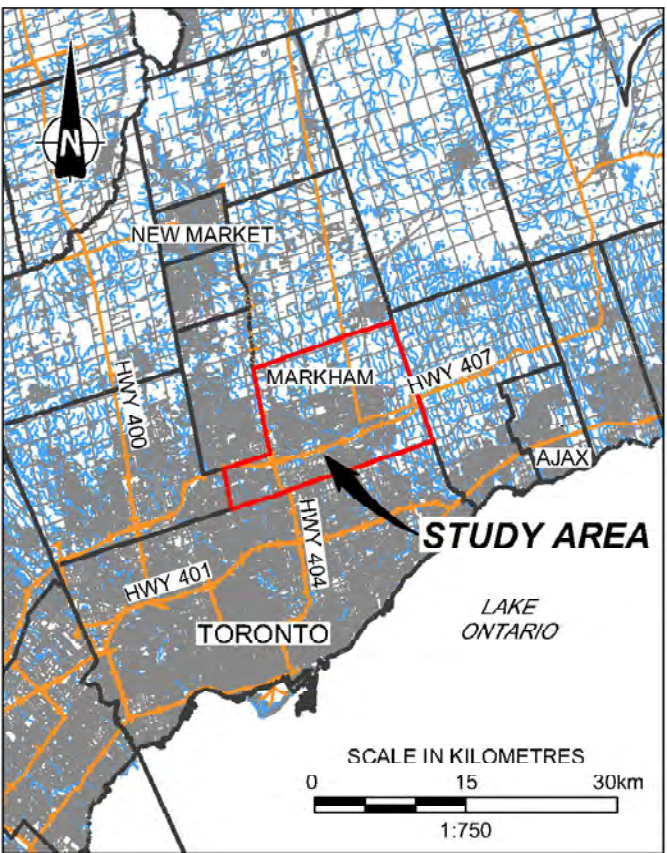
Following guidelines provided by the Ministry of Tourism, Culture and Sport (MTCS), the City of Markham and Canada's Historic Places *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010), this HIA provides:

- A background on the purpose and requirements of an HIA, and the methods used to investigate cultural heritage resources;
- An overview of the property's geographic context and its documentary and structural history;
- An inventory of built and landscape elements on the property, including a statement of cultural heritage value or interest (CHVI);
- A description of the proposed development and an assessment of potential adverse impacts resulting from each proposed development option; and,
- Recommendations for future action.

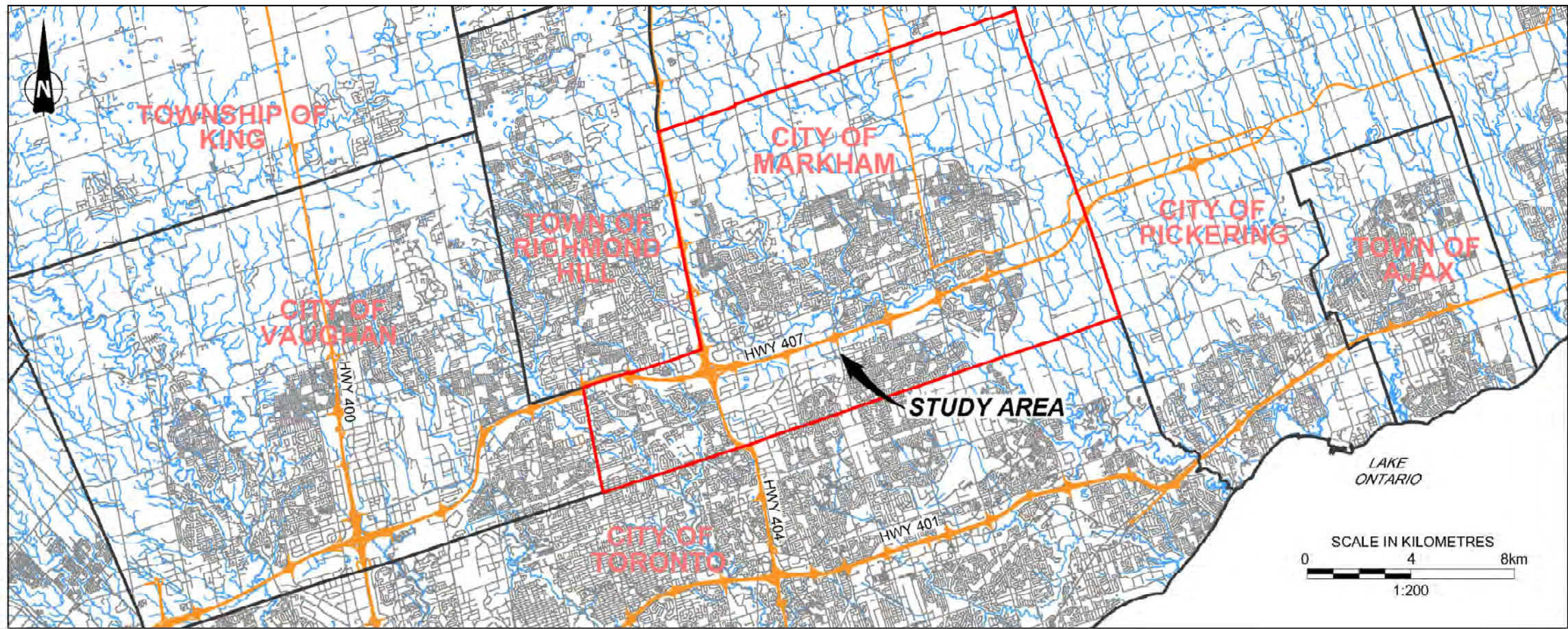
Client: HDR Inc.
Original Format is Tabloid 279mm x 432mm
35mm
Nov 26, 2018 - 2:18pm
Drawing File: 1664178-R02001.dwg



BING AERIAL IMAGERY and OBM MAPPING



KEY PLAN



REGIONAL MAP

LEGEND

- APPROXIMATE STUDY AREA
- CITY OF MARKHAM BOUNDARY
- TOWNSHIP/MUNICIPALITY BOUNDARY
- MARKHAM TOWNSHIP/MUNICIPALITY

REFERENCE

DRAWING BASED ON MNR LIO, OBTAINED 2017, PRODUCED BY GOLDER ASSOCIATES LTD UNDER LICENCE FROM ONTARIO MINISTRY OF NATURAL RESOURCES, © QUEENS PRINTER 2017;
BING AERIAL IMAGE AS OF NOVEMBER 22, 2018 (IMAGE DATE UNKNOWN);
AND CANMAP STREETFILES V2008.4.

NOTES

THIS DRAWING IS SCHEMATIC ONLY AND IS TO BE READ IN CONJUNCTION WITH ACCOMPANYING TEXT.
ALL LOCATIONS ARE APPROXIMATE.

PROJECT			
HERITAGE IMPACT ASSESSMENT THOMAS MORLEY HOUSE, 7779-81 KENNEDY ROAD CITY OF MARKHAM, ONTARIO			
TITLE			
LOCATION MAP			
PROJECT No. 1664178		FILE No. 1664178-R02001	
SCALE AS SHOWN		REV.	
GOLDER		FIGURE 1	

2.0 SCOPE AND METHOD

To conduct this HIA, Golder:

- Reviewed applicable municipal heritage policies and consulted with local municipal planners responsible for heritage;
- Conducted field investigations to document the property's heritage attributes, and to understand the wider built and landscape context;
- Assessed the impact of the proposed development on any heritage attributes using provincial guidelines and municipal policies; and,
- Developed recommendations for future action based on international, federal, provincial, and municipal conservation guidance.

A variety of archival and published sources, including historic maps, land registry and census data, municipal government documents, and research articles were compiled from online sources to create a land use history of the property.

Field investigations were conducted by Cultural Heritage Specialist Ragavan Nithiyantham on October 12, 2018 and included accessing and photographing all elements of the property and its wider context. A *Canadian Inventory of Historic Buildings Recording Form* (Parks Canada Agency 1980) was used to document the property's structures, and the setting was recorded in written notes. The interior was not accessed as it was beyond the scope of the impact assessment for this protected heritage property.

The proposed development was assessed for adverse direct and indirect impacts using the guidance provided in the *MTCS Ontario Heritage Tool Kit: Heritage Resources in the Land Use Planning Process* (for a detailed description of these impacts see Section 7.2). Several widely recognized provincial, national and international manuals related to determining impacts and conservation of cultural heritage resources were also consulted for 'best practice' approaches, including:

- *The Ontario Heritage Tool Kit* (5 volumes, MTCS 2006);
- *Information Bulletin 3: Heritage Impact Assessments for Provincial Heritage Properties* (MTCS 2017);
- *Standards and Guidelines for the Conservation of Historic Places in Canada* (Canada's Historic Places 2010);
- *Well-Preserved: The Ontario Heritage Foundation's Manual of Principles and Practice for Architectural Conservation* (Fram 2003); and,
- *Informed Conservation: Understanding Historic Buildings and their Landscapes for Conservation* (Clark 2001).

2.1 Record of Consultation

Table 1 summarizes the results from consultation undertaken for this HIA.

Table 1: Results of Consultation

Contact	Date of Email and Response	Response
Leanne Wu, Policy & Research, Heritage, City of Markham	November 13 th , 2018. Golder requested any historical information on the property.	Email received: November 14 th , 2018. The City provided scanned documents on the history of the property.
Regan Hutcheson, Manager, Heritage Planning and Heritage Districts Development, Development Services Commission, City of Markham	December 12 th , 2018. Golder provided a summary of preliminary options for the property and requested input.	Email received: December 12 th , 2018. The City advised they would review and follow up. Email received: December 19, 2018. The City provided comments and feedback on the preliminary and preferred options.

3.0 POLICY FRAMEWORK

Cultural heritage resources are recognized, protected, and managed through several provincial and municipal planning and policy regimes, as well as guidance developed at the federal level. Although these policies have varying levels of priority, all are considered for decision-making in the cultural heritage environment.

3.1 Federal and International Heritage Policies

No federal heritage policies apply to the property, but many provincial and municipal policies align in approach to the Canada's Historic Places *Standards and Guidelines for the Conservation of Historic Places in Canada* (Canada's Historic Places 2010), which was drafted in response to international and national agreements such as the 1964 *International Charter for the Conservation and Restoration of Monuments and Sites (Venice Charter)*, 1979 *Australia ICOMOS Charter for Places of Cultural Significance (Burra Charter)*, updated 2013), and 1983 *Canadian Appleton Charter for the Protection and Enhancement of the Built Environment*. The national *Standards and Guidelines* defines three conservation 'treatments' — preservation, rehabilitation, and restoration— and outlines the process, and required and recommended actions, to meet the objectives for each treatment for a range of cultural heritage resources.

At the international level, the International Council on Monuments and Sites (ICOMOS) has developed guidance on heritage impact assessments for world heritage properties, which also provide 'best practice' approaches for all historic assets (ICOMOS 2011).

3.2 Provincial Legislation & Policies

3.2.1 Planning Act and Provincial Policy Statement

In Ontario, the *Planning Act* and associated *Provincial Policy Statement, 2014* (PPS 2014) provide the legislative imperative for heritage conservation in land use planning. Both documents identify conservation of resources of significant architectural, cultural, historical, archaeological, or scientific interest as a Provincial interest, and PPS 2014 further recognizes that protecting cultural heritage and archaeological resources has economic, environmental, and social benefits, and contributes to the long-term prosperity, environmental health, and social well-being of Ontarians. The *Planning Act* serves to integrate this interest with planning decisions at the provincial and municipal level, and states that all decisions affecting land use planning 'shall be consistent with' PPS 2014.

Two sections of the PPS 2014 recognize the importance of identifying and evaluating built heritage and cultural heritage landscapes:

- Section 2.6.1 – 'Significant built heritage resources and significant heritage landscapes shall be conserved'; and,
- Section 2.6.3 – 'Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.'

PPS 2014 defines **significant** as resources 'determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people', and this determination can either be based on the provincial criteria prescribed in *Ontario Regulation 9/06 (O. Reg. 9/06)* and *Ontario Regulation 10/06* or by 'municipal approaches that achieve or exceed the same objective'. This definition also stresses that because not all resources may be 'identified and inventoried by official sources', the significance of some resources 'can only be determined after evaluation.'

Adjacent lands are defined as ‘those lands contiguous to a protected heritage property or as otherwise defined in the municipal official plan’. Built heritage resources, cultural heritage landscapes, heritage attributes, and protected heritage property are also defined in the PPS:

- **Built heritage resources:** a building, structure, monument, installation or any manufactured remnant that contributes to a property’s cultural heritage value or interest as identified by a community, including an Aboriginal [Indigenous] community. Built heritage resources are generally located on property that has been designated under Parts IV or V of the *Ontario Heritage Act*, or included on local, provincial and/or federal registers.
- **Cultural heritage landscapes:** a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal [Indigenous] community. The area may involve features such as structures, spaces, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Examples may include, but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*; villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways, viewsheds, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities (e.g. a National Historic Site or District designation, or a UNESCO World Heritage Site).
- **Heritage attribute:** the principal features or elements that contribute to a *protected heritage property’s* cultural heritage value or interest, and may include the property’s built or manufactured elements, as well as natural landforms, vegetation, water features, and its visual setting (including significant views or vistas to or from a *protected heritage property*).
- **Protected heritage property:** property designated under Parts IV, V or VI of the *Ontario Heritage Act*; property subject to a heritage conservation easement under Parts II or IV of the *Ontario Heritage Act*; property identified by the Province and prescribed public bodies as provincial heritage property under the *Standards and Guidelines for Conservation of Provincial Heritage Properties*; property protected under federal legislation, and UNESCO World Heritage Sites.

For municipalities, PPS 2014 is implemented through an ‘Official Plan’, which may outline further heritage policies (see Section 3.3.1).

3.2.2 The Ontario Heritage Act and Ontario Regulation 9/06

The Province and municipalities are enabled to conserve significant individual properties and areas through the *Ontario Heritage Act* (OHA). Under Part III of the OHA, compliance with the *Standards and Guidelines for the Conservation of Provincial Heritage Properties* is mandatory for Provincially owned and administered heritage properties and holds the same authority for ministries and prescribed public bodies as a Management Board or Cabinet directive.

For municipalities, Part IV and Part V of the OHA enables councils to ‘designate’ individual properties (Part IV), or properties within a Heritage Conservation District (HCD) (Part V), as being of ‘cultural heritage value or interest’ (CHVI). Evaluation for CHVI under the OHA is guided by *Ontario Regulation 9/06*, which prescribes the *criteria for determining cultural heritage value or interest*.

The criteria are as follows:

- 1) The property has **design value or physical value** because it:
 - i) Is a rare, unique, representative or early example of a style, type, expression, material or construction method;
 - ii) Displays a high degree of craftsmanship or artistic merit; or,
 - i) Demonstrates a high degree of technical or scientific achievement.
- 2) The property has **historic value or associative value** because it:
 - i) Has direct associations with a theme, event, belief, person, activity, organization, or institution that is significant to a community;
 - ii) Yields, or has the potential to yield information that contributes to an understanding of a community or culture; or,
 - iii) Demonstrates or reflects the work or ideas of an architect, artist, builder, designer, or theorist who is significant to a community.
- 3) The property has **contextual value** because it:
 - i) Is important in defining, maintaining or supporting the character of an area;
 - ii) Is physically, functionally, visually or historically linked to its surroundings; or,
 - iii) Is a landmark.

If a property meets one or more of these criteria, it may be eligible for designation under Part IV, Section 29 of the *OHA*. Designated properties, which are formally described¹ and recognized through by-law, must then be included on a 'Register' maintained by the municipal clerk. At a secondary level, a municipality may 'list' a property on the register to indicate its potential CHVI. Importantly, designation or listing in most cases applies to the entire property, not only individual structures or features. The City of Markham maintains a heritage register that indicates properties designated under Part IV and Part V of the *OHA* and Listed properties.

3.2.3 Provincial Heritage Conservation Guidance

As mentioned above, heritage conservation on provincial properties must comply with the MTCS *Standards and Guidelines for the Conservation of Provincial Heritage Properties*, but this document can also be used as a 'best practice' guide for evaluating cultural heritage resources not under provincial jurisdiction. For example, the *Standards and Guidelines for the Conservation of Provincial Heritage Properties – Heritage Identification & Evaluation Process* (MTCS 2014) provides detailed explanations of the *O. Reg. 9/06* criteria and its application, while *Info Bulletin 3: Heritage Impact Assessments for Provincial Heritage Properties* describes how to organize the sections of an HIA and the range of possible impacts and mitigation measures.

To advise municipalities, organizations, and individuals on identifying, evaluating, and assessing impact to built heritage resources and cultural heritage landscapes is provided in the *Ontario Heritage Tool Kit* series. Of these, *Heritage Resources in the Land Use Planning Process* (MTCS 2005) defines an HIA as:

¹ The *OHA* defines 'heritage attributes' slightly differently than PPS 2014; in the former, heritage attributes 'means, in relation to real property, and to the buildings and structures on the real property, the attributes of the property, buildings and structures that contribute to their cultural heritage value or interest'.

‘a study to determine if any cultural resources (including those previously identified and those found as part of the site assessment) are impacted by a specific proposed development or site alteration. It can also demonstrate how the cultural resource will be conserved in the context of redevelopment or site alteration. Mitigative or avoidance measures or alternative development or site alteration approaches may be recommended.’

Advice on how to organize the sections of an HIA is provided in the MTCS document, although municipalities may also draft their own terms of reference. The *Heritage Resources in the Land Use Planning Process* also outlines a number of direct and indirect adverse impacts to be considered when assessing the effects of a proposed development on a cultural heritage resource, as well as mitigation options (see Section 7.0).

Determining the optimal conservation or mitigation strategy is further guided by the MTCS *Eight guiding principles in the conservation of historic properties* (2012), which encourage respect for:

- 1) Documentary evidence (restoration should not be based on conjecture);
- 2) Original location (do not move buildings unless there is no other means to save them since any change in site diminishes heritage value considerably);
- 3) Historic material (follow ‘minimal intervention’ and repair or conserve building materials rather than replace them);
- 4) Original fabric (repair with like materials);
- 5) Building history (do not destroy later additions to reproduce a single period);
- 6) Reversibility (any alterations should be reversible);
- 7) Legibility (new work should be distinguishable from old); and,
- 8) Maintenance (historic places should be continually maintained).

The *Ontario Heritage Tool Kit* partially, but not entirely, supersedes earlier MTCS advice. Criteria to identify cultural landscapes is provided in greater detail in the *Guidelines on the Man-Made Heritage Component of Environmental Assessments* (1980:7), while recording and documentation procedures are outlined in the *Guideline for Preparing the Cultural Heritage Resource Component of Environmental Assessments* (1992:3-7).

3.3 Municipal Heritage Policies

3.3.1 City of Markham’s Official Plan

The City’s *Official Plan*, or *Planning Markham’s Future*, adopted in 2013 and last consolidated in June 2014, informs decisions on issues such as future land use, physical development, growth, and change within the City limits until 2031. Section 4.5 of the *Official Plan* addresses the goals and policies for ‘cultural heritage resources’, which are defined in the glossary (Section 11-8) as ‘built heritage resources, archaeological resources, cultural heritage landscapes and intangible heritage such as traditions, ceremonies, attitudes, beliefs, stories, games and language that are valued for the important contribution they make to our understanding of the history of a place, an event, or a people.’

The City’s objectives for cultural heritage are articulated in several subsections of Section 4.5, of which the following are relevant:

- Sec. 4.5.3.1 - To protect and conserve cultural heritage resources generally in accordance with the *Standards and Guidelines for the Conservation of Historic Places in Canada*, the *Venice Charter*, the *Appleton Charter for the Protection and Enhancement of the Built Environment* and other recognized heritage protocols and standards;
- Sec. 4.5.3.3 - To use secondary plans, zoning by-laws, subdivision and site plan control agreements, signage by-laws, and other municipal controls, to ensure that development within or adjacent to cultural heritage resources is designed, sited or regulated so as to protect and mitigate any negative visual and physical impact on the heritage attributes of the resource, including considerations such as scale, massing, height, building orientation and location relative to the resource;
- Sec. 4.5.3.4 - To impose conditions of approval where cultural heritage resources are to be affected to ensure the continued protection of the resource;
- Sec. 4.4.3.5 - To require, where considered appropriate, the preparation of a heritage impact assessment or a heritage conservation plan, prepared by a qualified heritage conservation professional, for any proposed alteration, construction or development involving, adjacent to or in the immediate vicinity of a property on the Register of Property of Culture Heritage Value or Interest to ensure that there will be no adverse impacts caused to the resource or its heritage attributes; and,
- Sec. 4.5.4.6 - To identify and evaluate all cultural heritage resources, and where necessary ensure that suitable conservation and/or mitigation measures, are applied to:
 - a) address the impact of any municipal or provincial public works or other development or site alteration activities;
 - b) retain existing pavement widths and streetscape configurations where they contribute to the cultural heritage value of a heritage conservation district.

Cultural heritage is also addressed in many other sections of the *Official Plan*. In Section 6.1.2 there is the statement that development in the 'public realm' should 'incorporate cultural heritage features', and in Section 6.1.3.2 that the City will 'design and arrange streets and blocks to create a sense of identity through the treatment of natural/cultural heritage and architectural features, built form, massing, scale, site layout and orientation, and by incorporating diverse streetscape elements.' Consideration of cultural heritage resources in road widening is specifically addressed in Section 10.8.1.8:

- That unequal or reduced widening may be required where topographic features, public lands, historic buildings or other cultural heritage resources such as archaeological features, significant environmental concerns or other unique conditions necessitate taking a greater widening or the total widening on one side of the existing street right-of-way.

4.0 GEOGRAPHICAL AND HISTORICAL CONTEXT

4.1 Geographic Context

The property is within the 'Peel Plain' physiographic region, as described by Chapman and Putnam (1984:174):

The Peel plain is a level-to-undulating tract of clay soils covering 300 square miles across the central portions of the Regional Municipalities of York, Peel and Halton. The general elevation is from 500 to 750 feet a.s.l. and there is a gradual and fairly uniform slope toward Lake Ontario. Across this plain the Credit, Humber, Don and Rouge Rivers have cut deep valleys, as have other streams such as the Bronte, Oakville and Etobicoke Creeks.

Soils of the area are predominantly imperfectly drained clay soils and the topography can be characterized as rolling, with general slope to the south toward Lake Ontario approximately 15 kilometres to the south.

In reference to cultural boundaries and features, the property was formerly located on Lot 6, Concession 6 in the Township of Markham, York County, and was amalgamated into the Regional Municipality of York in 1971. It is located approximately 0.09 km northeast from the 14th Avenue and Kennedy Road intersection and on a larger block bound on the north and east by Beckenridge Drive, Kennedy Road to the west and 14th Avenue to the south.

4.2 Historical Context

4.2.1 York County

Following the Toronto Purchase of 1787, today's southern Ontario was within the old Province of Quebec and divided into four political districts: Lunenburg, Mechlenburg, Nassau, and Hesse. These became part of the Province of Upper Canada in 1791, and renamed the Eastern, Midland, Home, and Western Districts, respectively. The Study Area was within the former Nassau District, then later the Home District, which originally included all lands between an arbitrary line on the west running north from Long Point on Lake Erie to Georgian Bay, and a line on the east running north from Presqu'île Point on Lake Ontario to the Ottawa River. Each district was further subdivided into counties and townships.

As was the case with most counties along the north shore of Lake Ontario, initial European settlement was by discharged soldiers and refugees displaced by the American War of Independence. The influx of new settlers created a high demand for land in the County of York, but measures were taken to acknowledge service and loyalty to the Crown. Military men and United Empire Loyalists (UEL) received title to land with little or no stipulation that it be cleared or improved, and those who received land grants were referred to as 'official' or non-resident patentees. Lots in the County of York were typically granted in 200-acre parcels but less or more could be received based on social status.

Settlers who had not served in the military or were UEL were referred to as 'unofficial' and had to meet strict conditions to attain title to lands. This included requirements to clear, fence and make fit for cultivation 10 acres of an awarded lot, cut down and remove all timber at the lot front to a width of 33 feet, and erect a house with a shingled roof and a minimum dimension of 16 by 20 feet. All of this had to be accomplished within two years. The 33-foot clearance specification was half a chain (66 feet), or the distance set aside for roads between concessions. It was further required that this 33-foot area be rendered smooth. Due to these strict regulations, and the fees incurred for clerks and officials, many were unable to receive full title to their lands and abandoned their lots (Johnson 1973:43).

The combined effect of official settlers failing to clear land, and the restrictions on unofficial settlers, resulted in large tracks of inaccessible and unimproved land being owned either by absentee landlords residing in York, or by early land holding companies who received title to additional lands for every settler they recruited to the area (Johnson 1973:43). Both carried out a form of indentured servitude that exploited new immigrants, a practice Governor Sir John Graves Simcoe attempted to end in 1796 (Johnson 1973:40-41).

Not surprisingly, the system had also hampered population growth. In many cases immigrants chose to move further north to counties where land was being freely granted. For example, in 1805 the population of Whitby Township was just 104 and Pickering Township only 96, while the population in the Township of Markham numbered 889 (Johnson 1973: 45).

Following the War of 1812, a new set of land grants was offered to veterans. Unlike the early military grants, these new grants were limited to 100 acres and each family was provided with provisions for a year and farm implements. Unofficial settlers, however, were still subject to improvement conditions, which included clearing farmland and building county roads (Johnson 1973). Nevertheless, settlement in York County grew slowly.

In 1849 the County of York was subdivided to form the counties of York, Ontario, and Peel, although these continued to be governed as a single unit until January 1, 1854 (Miles and Co. 1878). York County was to include ten townships —Georgina, North Gwillimbury, East Gwillimbury, King, Whitchurch, Vaughan, Markham, Etobicoke, North York, and Scarboro. In 1971, the County of York was replaced by the Regional Municipality of York, and in 2016 boasted a population of 1,109,909 (Statistics Canada 2016).

4.2.2 Township of Markham

The former Township of Markham, named in honour of the Archbishop of York William Markham (1720-1806), was first surveyed by Abraham Iredell in 1793 as part of the larger survey of the County of York (Rayburn 1997:208; Gentilcore & Donkin 1973). Iredell employed the single-front method, where only the concessions were surveyed and lots of 120 to 200 acres were delineated to be five times as long as they were wide (Schott 1981:77-93; Figure 2). In Markham Township, the concession lines were oriented south to north, with the side roads crossing from west to east (McIlwraith 1999:54).

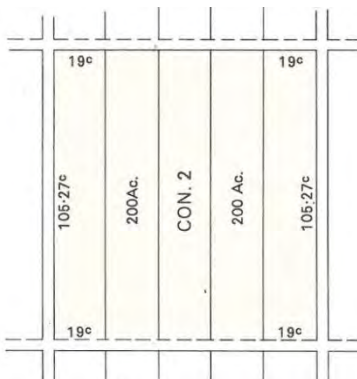


Figure 2: The single front survey system, used from 1783 to 1818. As depicted here, each lot is 200 acres (Ac.), created from surveying 19 chains by 105.27 chains (1 chain = 66 feet/ 20.12 metres; Dean & Matthews 1969:99)

Ten concessions were laid out 1¼ miles (2 km) apart, running from Yonge Street and Vaughan Township in the west to Pickering Township in the east, and were divided into by six side roads, also 1¼ miles apart.

At the time of the survey, these side roads were little more than blazes on trees indicating where the roads would eventually be opened. The Township was bounded by the Whitchurch Town Line (Gormley Sideroad) on the north, Yonge Street on the west, the Scarborough Town Line (now Steeles Avenue) on the south and Pickering Township on the west. The 1791 *Constitutional Act* decreed that a seventh-part of all lands be reserved for the Clergy reserve, and in 1792 Simcoe similarly retained a seventh-part of all lands for the Crown. With the exception of lots fronting Yonge Street, this left two of every seven lots in Markham Township as Crown and Clergy Reserves, a system that hindered settlement since it blocked access to water sources and left roads adjacent to the Reserve lots undeveloped (Champion 1979:9). It was not until the mid-1800s were both the Crown and Clergy lots released and sold to private owners.

The first major wave of European settlement in Markham Township was led by William Moll Berczy² (b. 1744, d. 1813), a German merchant and painter who recruited over 200 people from northern Germany to settle in the Genesee area of New York State on behalf of the British-based Genesee Association (Stagg 1983). The first group of settlers arrived in America in 1792 and spent the next two years in legal battles to access to the land and supplies they had been promised. To remedy the situation, Berczy assisted with the formation of the German Company intent on acquiring land in Upper Canada. In 1794, the German Company was granted 64,000 acres (25,900 ha) west of the Grand River, with the promise of more land once the original grant was settled. The settlers travelled to Newark (Niagara-on-the-Lake) in June of 1794 only to be informed that Simcoe had reneged on the agreement and they were now to settle in Markham Township. Approximately 190 German Company settlers, including some Pennsylvanians who had joined Berczy's group as they traveled, spent the winter of 1794 camping in the thick forests of Markham Township and suffered over the next two years, with several dying of starvation (Champion 1979:13).

Markham Township's other early settlers were French *émigrés* and Pennsylvania Dutch. The former included a group of approximately thirty aristocrats who had fled the French Revolution. In 1799 the *émigrés* had settled on lots fronting Yonge Street in Markham Township but by 1815 — with the exception of Laurent Quetton St. George, who prospered through trade connections with local First Nations and other settlers— all of the *émigrés* had returned to France (Champion 1979:26). The German or German-speaking Swiss known as the 'Pennsylvania Dutch' (a derivation of *Düütsch* or *Deutsch*) had come to America in the late 17th century and began migrating to Upper Canada at the end of the 18th century. Most settled in the eastern half of Markham Township and were Mennonites with communal, self-sufficient communities well adapted to face the hardships of early settlement in Ontario (Champion 1979:27). Other settlers in early Markham Township were primarily American or English, Irish and Scots.

Early roads in Markham Township tended to follow the natural topography rather than the survey lines. It was not until the early 20th century, with the increase in large engineering works, that many of these roads were straightened, and iron and concrete bridges were built across the Rouge River and its associated tributaries. In 1817 there were fourteen grist and saw mills in the Township, twelve of which were on the Rouge River, and two on the Don (Champion 1979:116). Three wool dressing mills were running by 1824 and the number of grist and saw mills had increased to fifteen, and at mid-century there were twenty-seven sawmills and thirteen grist mills. The farm productivity recorded for the township in 1849 was 150,000 bushels of wheat, 11,000 bushels of barley, 7,000 bushels of rye, 145,000 bushels of oats, 45,000 bushels of peas, 55,000 bushels of potatoes, 3,000 bushels of turnips and 3,000 tons of hay. (Robinson 1885 Part II:120), while in 1881 productivity had increased to 110,050

² He was also known as Johann Albrecht Ulrich Moll, Wilhelm Albert Ulrich von Mollo, and Albert-Guillaume Berczy.

bushels of wheat, 199,181 bushels of barley, 271,851 bushels of oats, 55,954 bushels of peas and beans, 10,280 bushels of corn, 89,671 bushels of potatoes, 122,312 bushels of turnips, 118,397 bushels of other root crops, and 10,598 tons of hay (Robinson 1885 Part II:120). During the last quarter of the 19th century, 70% of the land was under tillage, a little over 10% was under pasture, and 2% per cent was devoted to orchards. Only 10% still held forest, mainly beech, maple and basswood with some areas of pine.

The population numbered 5,698 in 1842, 6,868 in 1850, and 8,152 in 1871 (Robinson 1885 Part II:121). Only 6,375 inhabitants were listed for 1881, but this did not include those in the now incorporated villages of Markham, Richmond Hill and Stouffville. York County was abolished in 1971 and replaced by the Regional Municipality of York. The same year the northern portion of the Township of Markham was annexed into Richmond Hill (a town since 1957) and the newly formed Town of Whitchurch-Stouffville (an amalgamation of the former Township of Whitchurch and the former Village of Stouffville), while the southern portion of the Township of Markham became the City of Markham.

4.2.3 7779-81 Kennedy Road, Thomas Morley House

The property is legally described as CON 6 PT LT 6 65R6899 PT 1 in the City of Markham, with a civic address of 7779-81 Kennedy Road. The property is designated under Part IV of the *Ontario Heritage Act* (By-law 37-93; APPENDIX A) and is included on the City of Markham's *Register* as Thomas Morley House, a Georgian style cottage with Classical Revival features constructed in 1851. The property is protected under a heritage easement (APPENDIX B). The following historical summary is excerpted from the Designation By-law or the Heritage Easement Agreement.

Thomas Morley, an English-born shoemaker, purchased the ¼ acre village lot, part of Lot 6 Concession 6, from James Fairless in 1857 (Figure 3). Fairless was the operator of the general store at Hagerman Corners. It was one of several small parcels created from the western frontage of the west 100 acres of Lot 6 in the 1840s (City of Markham 2007). Morley resided on the property with his wife Elizabeth until 1920, and all their children died in infancy. By the 1850s, the crossroads hamlet was a busy place with a cluster of businesses and a Methodist Church.

Topographical maps from the 20th century show little change to the area (Figure 4). After a series of residential owners, the property was converted to a Chinese Lutheran Church pending the construction of a larger, purpose-built place of worship in the 1980s.

The house was constructed as a modest three-room Georgian style cottage with Classic Revival features (City of Markham 1993). In the late 19th century, Morley added the projecting front wing, giving it a Gothic Revival style appearance. Of particular note are the returned eaves on the north and south gable ends of the original block and the original two-over-two double hung rectangular windows. The Thomas Morley House provides a good example of a typical dwelling found in a 19th century rural crossroads village (City of Markham 1993; City of Markham 2007).

Thomas Morley House is one of the few remaining tangible reminders of the hamlet of Hagerman's Corners. A plaque commemorating Hagerman's Corners located near the intersection of Kennedy Road and Fourteenth Avenue reads:

The historic crossroads hamlet of Hagerman's Corners, centered around Kennedy Road and Fourteenth Avenue, was named for Nicholas Hagerman, a son of Berczy settler John Hagerman. The family was

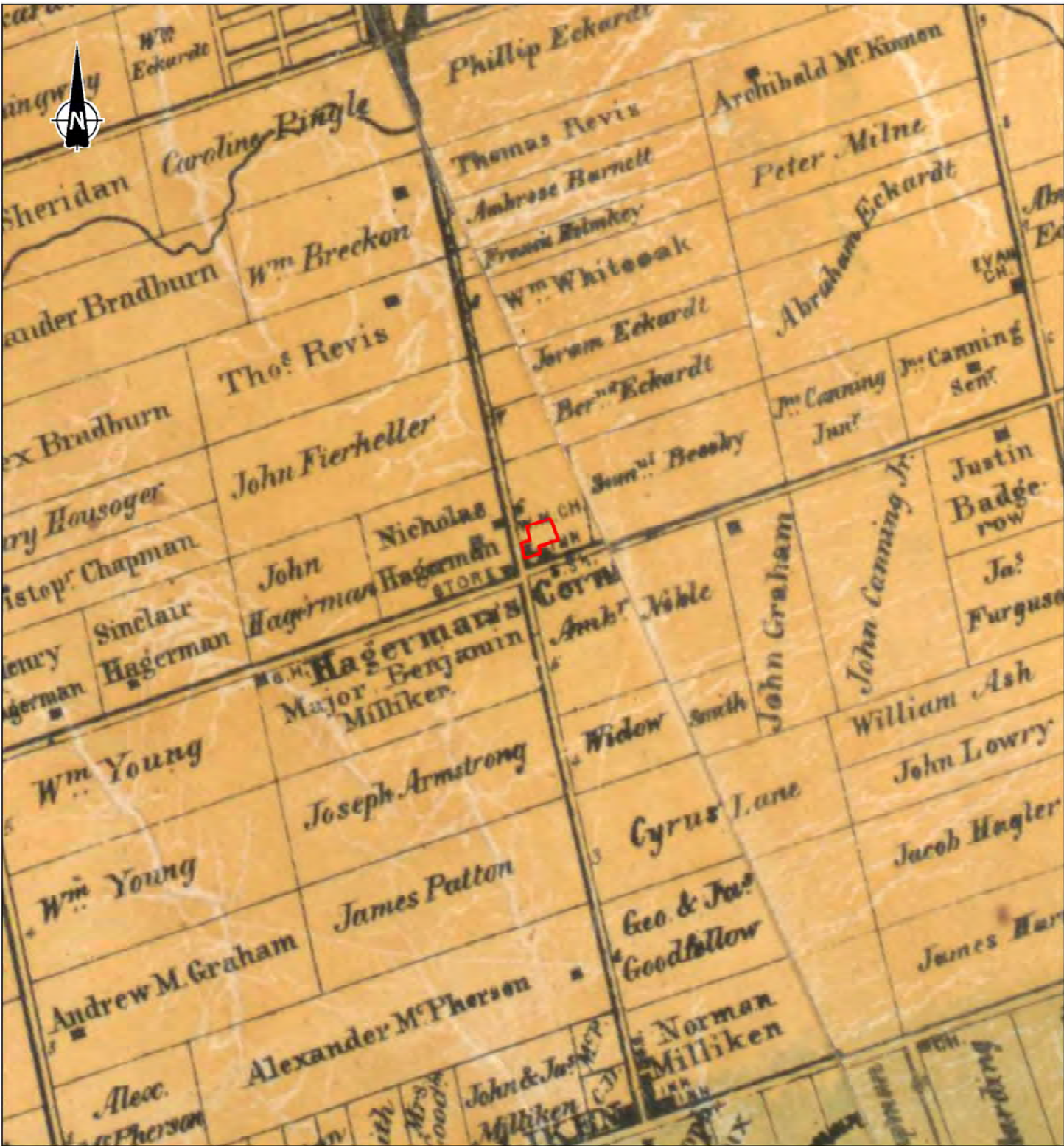
established in the area by 1803. Initially the neighbourhood consisted of farms, but over time, a community focus of businesses, industries and institutions developed around the intersection.

A tavern was built on the north-east corner that became known as the Beehive Hotel. A cabinet maker's shop occupied the south east corner, first operated by William Woodall, and then by Christopher Chant, who later relocated to Unionville. When a post office was opened here in 1873, it was located in the James Fairless general store at the north west corner. The store was a long-time local landmark, with the Galloway family being the proprietors from 1906 into the 1960s. By 1849, a Wesleyan Methodist church was built to the north of the store, and a cemetery was established there that remains one of the most visible remnants of the early days of the hamlet.

Urbanization has altered the former rural character of Hagerman's Corners, with the old landmarks at the four corners all removed by time. Some old residences have been preserved and restored in the midst of modern development, including the home of Nicholas Hagerman Jr. at 60 Maple Park Way, and the Major Benjamin Milliken House at 7710 Kennedy Road (Figure 5).

Client: HDR Inc.
Drawing File: 664178-020003.dwg
Jan 03, 2019 - 4:52pm
25mm
Original Format is Tableid 279mm x 432mm

TREMAINE'S 1860 MAP



HISTORICAL ATLAS 1878



LEGEND

APPROXIMATE STUDY AREA

REFERENCE

DRAWING BASED ON TREMAINE, GEORGE R., 1860, TREMAINE'S MAP OF THE COUNTY OF YORK. GEORGE C. TREMAINE., TORONTO; AND MILES & CO., 1878, ILLUSTRATED HISTORICAL ATLAS OF THE COUNTY OF YORK. MILES & CO., TORONTO.

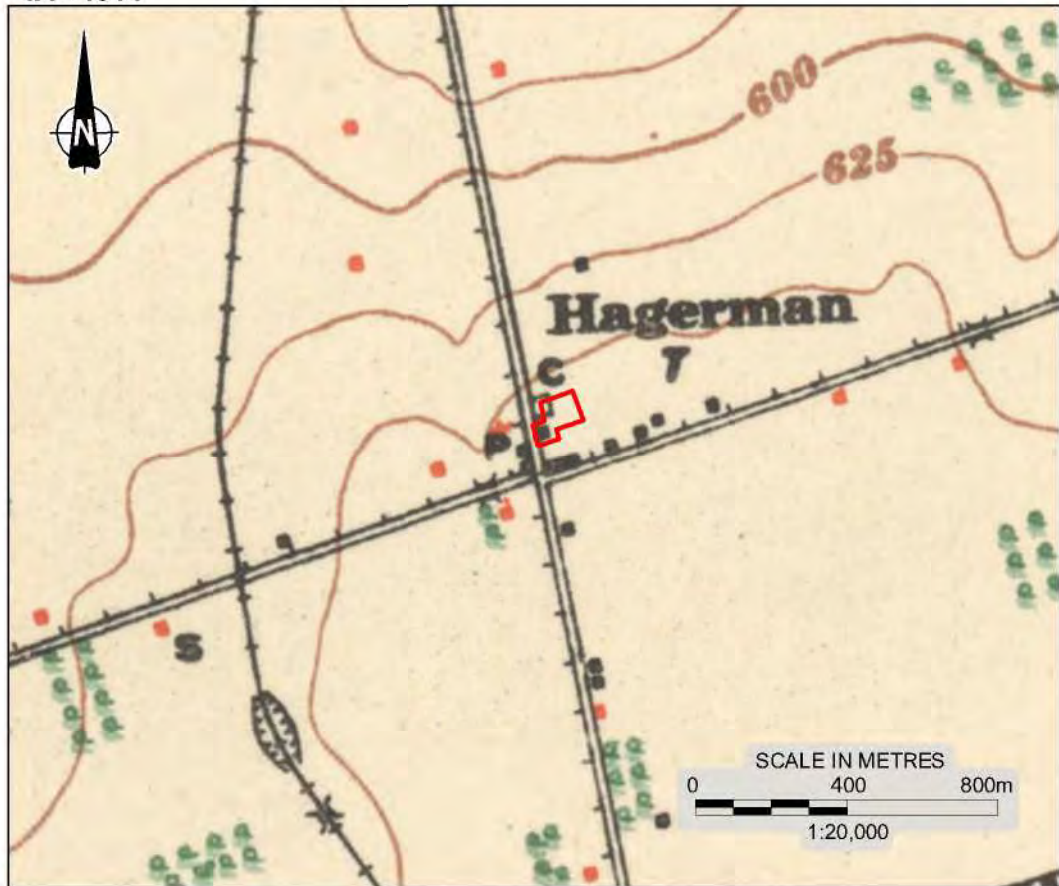
NOTES

THIS DRAWING IS SCHEMATIC ONLY AND IS TO BE READ IN CONJUNCTION WITH ACCOMPANYING TEXT. ALL LOCATIONS ARE APPROXIMATE.

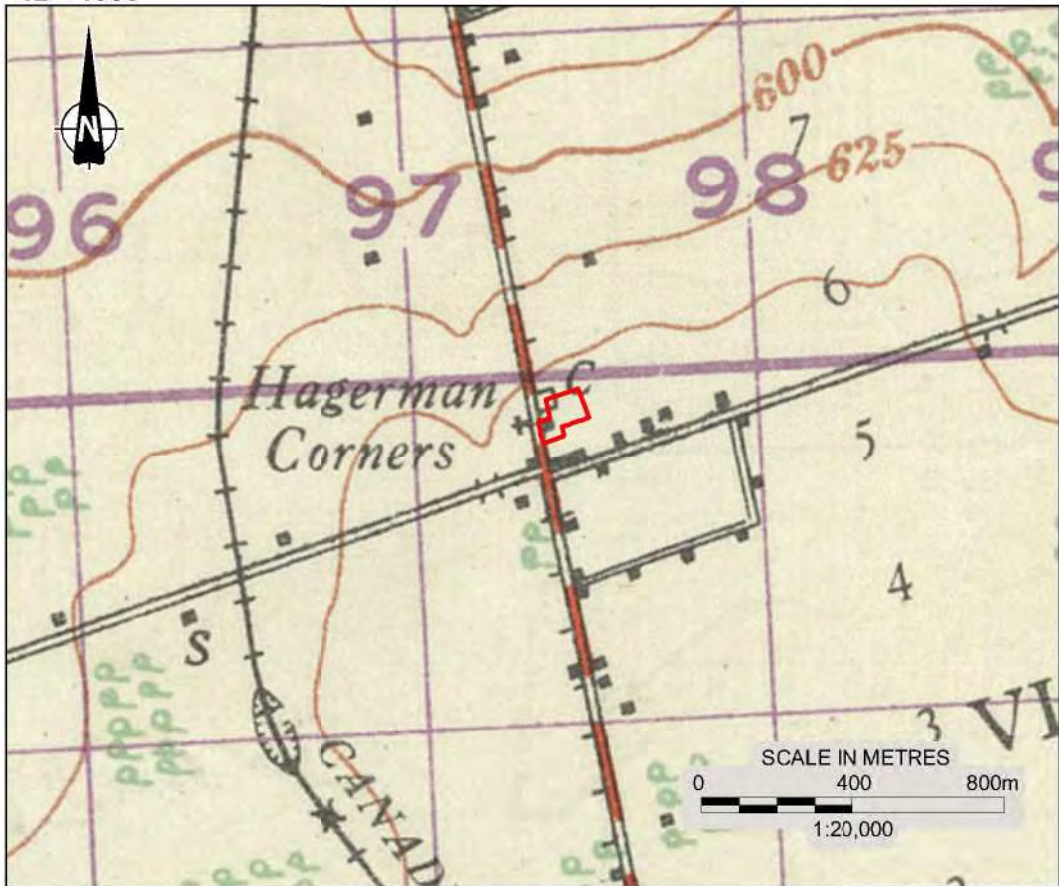
PROJECT		HERITAGE IMPACT ASSESSMENT THOMAS MORLEY HOUSE, 7779-81 KENNEDY ROAD CITY OF MARKHAM, ONTARIO	
TITLE		PORTION OF TREMAINE'S 1860 MAP OF THE COUNTY OF YORK AND 1878 ILLUSTRATED HISTORICAL ATLAS OF THE COUNTY OF YORK, MILES & CO.	
PROJECT No.		1064178	FILE No. 1064178-R02003
SCALE		2:1	N.T.S. REV.
CHECK		Jan 3/19	
GOLDER		FIGURE 3	

Client: HDR Inc.
Drawing file: 1664178-R02004.dwg
Nov 26, 2018 - 2:22pm
25mm
Original Format is Tabloid 279mm x 432mm

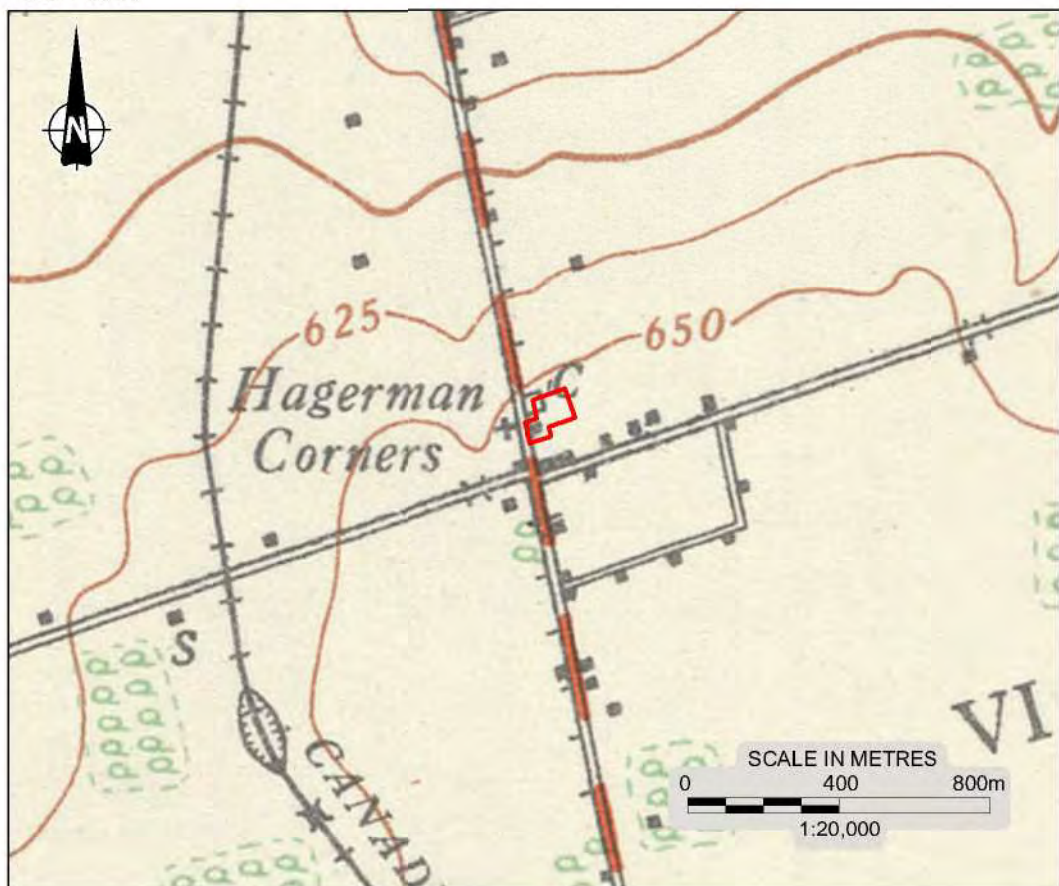
4A - 1914



4B - 1936



4C - 1943



4D - 1974



LEGEND

APPROXIMATE STUDY AREA

REFERENCE

DRAWING BASED ON DEPARTMENT OF NATIONAL DEFENCE, 1914, 1936 AND 1943, MARKHAM, SHEET 30 M/14. SCALE 1:63,360;
DEPARTMENT OF ENERGY, MINES AND RESOURCES, 1974, MARKHAM, SHEET 30 M/14C. SCALE 1:50,000;

NOTES

THIS DRAWING IS SCHEMATIC ONLY AND IS TO BE READ IN CONJUNCTION WITH ACCOMPANYING TEXT.
ALL LOCATIONS ARE APPROXIMATE.


PROJECT		HERITAGE IMPACT ASSESSMENT THOMAS MORLEY HOUSE, 7779-81 KENNEDY ROAD CITY OF MARKHAM, ONTARIO	
TITLE		1914, 1936, 1943 AND 1974 TOPOGRAPHICAL MAPS	
	PROJECT No.	1664178	FILE No. 1664178-R02004
	CADD	ZJB	Nov 26/18
	CHECK		
	SCALE		AS SHOWN
			REV.
		FIGURE 4	



Figure 5: Plaque commemorating Hagerman's Corners, located at the northwest corner of the Kennedy Road and 14th Avenue intersection.

5.0 EXISTING CONDITIONS

5.1 Setting

The setting can be characterized as mixed-use urban, typified by a mix of single family dwellings with setback from the right-of-way on the east side, and modern commercial and residential developments on the west side (Figure 6 and Figure 7). The current land use designation for the property is O2(H): Urban Residential. Traffic along Kennedy Road is two lanes in each direction with a centre turning lane and regular width sidewalks on either side of the street (approx. 1.5 m). In some locations along Kennedy Road there is a small grass median between the roadway and sidewalk.

The property's topography north from the property slopes from approximately 205 m asl (above sea level; at the property) to 190 m asl. The topography going south and east to west is relatively flat. Some mature vegetation lines the south and northwest property lines. Cemeteries are located to the immediate north and west (Hagerman East Cemetery and Hagerman West Cemetery, respectively; Figure 8).

A retaining wall separates the property from the public right-of-way. Kennedy Montessori School is northeast of the property. Parking lots associated with the School are located to the east and north. A plaque commemorating the historic hamlet of Hagerman's Corners is located to the southwest of the property (Figure 9).

Thomas Morley House is located along the west property line and is setback approximately 3 m from the public right-of-way, separated by a concrete retaining wall. The minimal setback from the street provides clear views into and outward from the property.



Figure 6: Kennedy Road facing north, with Thomas Morley House to the right.



Figure 7: Kennedy Road facing south towards the 14th Avenue intersection.



Figure 8: Hagerman East Cemetery, located to the north of Thomas Morley House.



Figure 9: Plaque commemorating Hagerman's Corners with Thomas Morley house in the background.

5.2 Built Environment: Thomas Morley House

Thomas Morley House is a single-detached, one-and-a-half storey and two-bay building with a rectangular plan. It is composed of a Main Block, West Wing with South Porch, East Wing and Retaining Wall.

The house is constructed in the Georgian cottage style with Classic Revival features, popular in Ontario from 1784 to 1860 (Blumenson 1990: 5-12 and 28-36). The structure was built in a number of phases, as evident through the foundation construction. Its earliest core is the Main Block, currently located at the centre of the structure. The West Wing with South Porch is believed to have been initiated during the 19th century, with the east wing added in the 20th century. Both of these components appear to be influenced by the Gothic Revival style, as evidenced by the cross gables and higher pitch roof. In Ontario, early Gothic Revival buildings (1830-1900) shared a similar form with classical Georgian and Neoclassical styles and were distinguished by their 'add-on' Gothic details, and often were finished with vertical boards and battens (Blumenson 1990:37).

The exterior of the house is described in further detail below. As mentioned above, the interior was not accessed.



Figure 10: North façade of the Thomas Morley House.



Figure 11: North and west façades of the Thomas Morley House.



Figure 12: West and south façades of the Thomas Morley House.



Figure 13: East and north façades of the Thomas Morley House.

5.2.1 Main Block

The Main Block sits on a stone foundation parged with concrete (Figure 14). The exterior is clad in wood vertical plank board with minimal details. Over the north-south oriented long walls is a low gable asphalt shingled roof with returned eaves (Figure 15). All the windows are tall, with flat heads, plain trim and two-over-two sashes. A single-leaf panelled door fills the off-centre entrance on the west façade, and it has a flat head and moulded wood architrave (Figure 16).



Figure 14: Concrete parging on the Main Block foundation.



Figure 15: South end wall of the Main Block.



Figure 16: One leaf, panelled main entrance on the west façade of Main Block.

5.2.2 West Wing with South Porch

The West Wing sits on a random rubble fieldstone foundation (Figure 17). All façades are clad in wood vertical plank board with minimal details. The medium gable roof is clad with asphalt shingles and has projecting metal eaves and plain fascia and soffit, with an offset gable located on the south façade (Figure 18). A single brick chimney is located to the offset front left. Fenestration is irregular, and most windows are tall, two-over-two with flat heads, plain wood trim and plain slip sill (Figure 19). The South Porch is open with decorated posts (Figure 20).



Figure 17: Random rubble fieldstone foundation of the West Wing.



Figure 18: Offset cross-gable roof on the south façade of West Wing.



Figure 19: Typical two-over-two, double-hung wood window.



Figure 20: South Porch with decorated posts on the south façade.

5.2.3 East Wing

The East Wing sits on a foundation faced with concrete and has the same wood vertical plank board cladding as the rest of the structure. The east façade has a low gable roof with returned eaves, with cross gables on the north and south façades. Windows are two-over-two sash with a flat head and plain trim. Two entrances are located on the east end wall, both of which are vinyl and glazed. A single-leaf entrance is on the north portion of the end wall while in the south portion is a double-leaf entrance (Figure 21). Straight concrete stairs with no railings lead to each entrance.



Figure 21: South façade of East Wing with cross-gable and east end wall with low gable and cornice returns.



Figure 22: East end wall and north façade of the East Wing.

5.2.4 Retaining Wall

A retaining wall is approximately 2 m west of the West Wing (Figure 23). It is constructed of large concrete blocks and runs approximately 11 m along the boundary of the public right-of-way boundary, angling at the curve of driveways to the north and south.



Figure 23: Thomas Morley House with retaining wall to the right.

5.3 Physical Condition

The condition assessment presented in Table 2 summarizes an extensive checklist developed by Historic England (Watt 2010: 356-361). Please note that these observations are based solely on superficial visual inspection and should not be considered a structural engineering assessment.

Table 2: Physical Condition Assessment.

Element	Observed Conditions
General structure	<ul style="list-style-type: none"> Overall, the exterior of the house appears to be in good condition.
Roof	<ul style="list-style-type: none"> The asphalt shingle roof appears to be in good condition.

Element	Observed Conditions
	<ul style="list-style-type: none"> No areas of visible damage on roof, fascia or soffits (Figure 24).
Rainwater disposal	<ul style="list-style-type: none"> All gutters and downpipes appear to be in good condition.
Walls, foundations & chimneys, exterior features	<ul style="list-style-type: none"> The fieldstone foundation does not show evidence of cracking. The concrete foundation appears to be in fair condition (Figure 14). The chimney appears to be in fair condition. Wood vertical boards are in good condition. The South Porch is in good condition.
Windows & doors	<ul style="list-style-type: none"> All wood windows appear to be in good condition. Exterior doors are in good condition.
Building services	<ul style="list-style-type: none"> All building services are operational and in good condition.
Site & environment	<ul style="list-style-type: none"> Majority of property is paved parking lot with modern structure to the rear of the building.
General environment	<ul style="list-style-type: none"> Overall stable condition.



Figure 24: Soffit and fascia at the south gable of the Main Block.

6.0 CULTURAL HERITAGE VALUE OR INTEREST

Although Thomas Morley House was protected in 1993 through By-law 37-93 (APPENDIX A), its recognition predates the 2005 amendments to the *Ontario Heritage Act*, which prescribe that a 'Statement of Cultural Heritage Value or Interest' (SCHVI) be prepared that includes:

- An adequate description of the property so that it may be readily ascertained;
- A statement explaining the cultural heritage value or interest of the property; and,
- A description of the heritage attributes of the property.

To address this, the following SCHVI is proposed below that uses much of the information provided in the original designating by-law. It is important to note that the house is further protected by a Heritage Easement enacted in 2007 (APPENDIX B).

6.1 Description of Property – 7779-81 Kennedy Road

The Thomas Morley House is located at 7779-81 Kennedy Road, bound by Kennedy Road to the west, 14th Avenue to the south and Beckenridge Drive to the north and east. Originally owned by Thomas Morley, an English-born shoemaker, the house is part of an institutional complex and surrounded by mixed-use buildings.

6.2 Statement of Cultural Heritage Value or Interest

7779-81 Kennedy Road (Thomas Morley House) is of cultural heritage value or interest (CHVI) for its design or physical value, historical or associative value and contextual value. Constructed in 1851 for Thomas and Elizabeth Morley in the Georgian style, the house is composed of a three-room cottage with returned eaves on the north and south gables and two-over-two single hung rectangular windows. The rear of the house is gabled and has Gothic Revival style influences. The house is a good example of a typical dwelling found in a 19th century rural crossroads village and is one of the few remaining tangible remainders of the historic hamlet of Hagerman's Corners.

6.3 Description of Heritage Attributes

Key attributes that reflect the cultural heritage value of the house include its:

- One-and-a-half storey residence with:
 - L-shaped form;
 - Fieldstone foundation;
 - Classic Revival style altered to the Gothic Revival Style;
 - Wood vertical tongue and groove board cladding;
 - Two-over-two single hung wood rectangular windows;
 - Wood window frames and projecting wood window sills; and,
 - Returned eaves on the north and south gables and medium gable roof.

7.0 IMPACT ASSESSMENT

7.1 Proposed Development

A detailed design has not yet been developed for this section of Kennedy Road, but in general will involve widening to accommodate an additional lane in both directions. To inform decision-making, five options were considered:

- Option 1: Avoid encroachment on 7779-81 Kennedy Road and Thomas Morley House;
- Option 2: Demolish the west retaining wall and partially encroach on 7779-81 Kennedy Road, then reconstruct the retaining wall at or near the west façade of Thomas Morley House;
- Option 3: Demolish the West Wing with South Porch of Thomas Morley House and partially encroach on 7779-81 Kennedy Road;
- Option 4: Relocate Thomas Morley House east on its existing lot or to a new site and encroach on 7779-81 Kennedy Road; or,
- Option 5: Demolish all components of Thomas Morley House and encroach on 7779-81 Kennedy Road.

7.2 Impact Assessment

To determine the effects a development or site alteration may have on known or identified built heritage resources or cultural heritage landscapes, the MTCS *Heritage Resources in the Land Use Planning Process* advises that the following direct and indirect adverse impacts be considered:

- Direct Impacts
 - Destruction of any, or part of any, significant heritage attributes or features; and,
 - Alteration that is not sympathetic or is incompatible with the historic fabric and appearance.
- Indirect impacts
 - Shadows created that alter the appearance of a heritage attribute or change the viability of a natural feature or plantings, such as a garden;
 - Isolation of a heritage attribute from its surrounding environment, context or a significant relationship;
 - Direct or indirect obstruction of significant views or vistas within, from or of built and natural features; and,
 - A change in land use such as rezoning a battlefield from open space to residential use, allowing new development or site alteration to fill in the formerly open spaces.

Other potential impacts associated with the proposed development may also be considered. Historic structures, particularly those built in masonry, are susceptible to damage from vibration caused by pavement breakers, plate compactors, utility excavations and increased heavy vehicular traffic in the immediate vicinity. Like any structure, they are also threatened by collisions with heavy machinery or subsidence from utility line failures (Randl 2001: 3-6).

Although the MTCS *Heritage Resources in the Land Use Planning Process* identifies types of impact, it does not advise on how to describe its nature or extent. For this the MTCS *Guideline for Preparing the Cultural Heritage Resource Component of Environmental Assessments* (1990:8) provides criteria of:

- Magnitude (amount of physical alteration or destruction that can be expected)
- Severity (the irreversibility or reversibility of an impact)
- Duration (the length of time an adverse impact persists)
- Frequency (the number of times an impact can be expected)
- Range (the spatial distribution, widespread or site specific, of an adverse impact)
- Diversity (the number of different kinds of activities to affect a heritage resource)

Since the MTCS *Guideline* guidance, nor any other Canadian source of guidance, does not include advice to describe magnitude, the ranking provided in the UK Highways Agency *Design Manual for Roads and Bridges* [DMRB]: *Volume 11*, HA 208/07 (2007: A6/11) is used here. Despite its title, the DMRB provides a general methodology for measuring the nature and extent of impact to cultural resources in urban and rural contexts and is the only assessment method to be published by a UK government department (Bond & Worthing 2016:167). Similar ranking systems have been adopted by agencies across the world, such as the International Council on Monuments and Sites (ICOMOS 2011), the Irish Environmental Protection Agency (reproduced in Kalman 2014:286), and New Zealand Transport Agency (2015).

The DMRB impact assessment ranking is:

- Major
 - Change to key historic building elements, such that the resource is totally altered. Comprehensive changes to the setting.
- Moderate
 - Change to many key historic building elements, such that the resource is significantly modified.
 - Changes to the setting of an historic building, such that it is significantly modified.
- Minor
 - Change to key historic building elements, such that the asset is slightly different.
 - Change to the setting of an historic building, such that it is noticeably changed.
- Negligible
 - Slight changes to historic building elements or setting that hardly affect it.
- No impact
 - No change to fabric or setting.

An assessment of impacts resulting from the proposed development on the property's heritage attributes is presented in Table 3.

Table 3: Assessment of direct and indirect adverse impacts resulting from the proposed options to develop the property.

Proposed Option	Analysis of Impact	Mitigations Required (Yes/No)
<i>Option 1: Avoid encroachment on 7779-81 Kennedy Road and Thomas Morley House</i>	<p>Since the property and Thomas Morley House will be avoided under this option, the effects of the road construction will be limited to indirect impacts to the setting that are irreversible, permanent, frequent and site-specific, but will have a negligible effect overall. Views to and from Hagerman's Corners will not be blocked or restricted, and the house will retain its prominence in the streetscape.</p> <p>However, during the construction phase, heavy equipment work within 60 m of the structure could result in infrequent, site-specific vibration impacts ranging in severity from minor and reversible to major and irreversible. The building is also at potential risk of partial or total loss if a construction vehicle accidentally collides with it. These impacts can be mitigated through site controls and vibration monitoring.</p> <p>During the operation phase of the widened road, there is potential that the house will be infrequently impacted by continuous low-level vibration from heavy vehicles such as busses. Due to minimal setback, the house is also at risk of partial or total loss if a vehicle accidentally leaves the road and collides with the building.</p> <p>It is recognized that this option may not be feasible to ensure road safety and operability.</p>	<p><u>Detailed Design Phase</u></p> <ul style="list-style-type: none"> ■ No mitigation measures required <p><u>Construction Phase</u></p> <ul style="list-style-type: none"> ■ Yes (see Section 8.0) <p><u>Operation Phase</u></p> <ul style="list-style-type: none"> ■ Yes (see Section 8.0)
<i>Option 2: Partially encroach on 7779-81 Kennedy Road and reconstruct retaining wall or construct pedestal foundation for Thomas Morley House</i>	<p>This option will directly impact the property as encroachment for the road construction will require demolition of the retaining wall currently 2 m away from the west façade of the building footprint and alteration of the current property boundaries. This will be an overall minor effect as the retaining wall is not an identified heritage attribute of the property. Views to and from Hagerman's Corner will not be blocked or restricted and the house will retain some prominence in the streetscape.</p> <p>During the construction phase, heavy equipment work within 60 m of the structure could result in infrequent, site-specific vibration impacts ranging in severity from minor and reversible to</p>	<p><u>Detailed Design Phase</u></p> <ul style="list-style-type: none"> ■ No mitigation measures required <p><u>Construction Phase</u></p> <ul style="list-style-type: none"> ■ Yes (see Section 8.0)

Proposed Option	Analysis of Impact	Mitigations Required (Yes/No)
	<p>major and irreversible. These impacts can be mitigated through site controls and vibration monitoring.</p> <p>If a compatible permanent barrier such as a fieldstone wall cannot be built within a 2 m radius of the building footprint, it may be possible to expose and stabilize the foundation of the west end wall of west wing. However, this option carries a potential risk of the structure collapsing as well as other design, maintenance, and aesthetic issues.</p>	<p><u>Operation Phase</u></p> <p>■ Yes (see Section 8.0)</p>
<p>Option 3: Demolish the Retaining Wall and West Wing with South Porch of Thomas Morley House and partially encroach on 7779-81 Kennedy Road</p>	<p>This option will directly impact Thomas Morley House as encroachment for the road construction will require demolition of the structure's West Wing and South Porch. This option would result in destruction and alteration of a protected heritage property and its heritage attributes. This irreversible, permanent, widespread and single event represents a major adverse change to the property's setting and built heritage resource, as well as the streetscape and to a tangible reminder of Hagerman's Corners.</p> <p>This option will result in major change to Thomas Morley House that will reduce its <i>heritage integrity</i>. In a heritage conservation context, the concept of integrity is linked not with structural condition, but rather to the literal definition of 'wholeness' or 'honesty' of a place. The US National Park Service (1995:44) define integrity as 'the ability of a property to convey its significance', while other guidance suggests that integrity instead be measured by understanding how much of the asset is 'complete' or changed from its original or 'valued subsequent configuration' (Historic England 2008:45; Kalman 2014:203). It is also counter to the MTCS guiding principle of 'respect for building history'. Nevertheless, partial demolition provides an opportunity to rehabilitate the structure. As outlined in Canada's Historic Places <i>Standards & Guidelines</i>, rehabilitation and adaptive re-use can 'revitalize' a historic place and would ensure that the Main Block – the heritage attribute with the highest level of importance – and East Wing are retained and conserved.</p> <p>During the construction phase, heavy equipment work within 60 m of the rehabilitated structure could result in infrequent, site-specific vibration impacts ranging in severity from minor and</p>	<p><u>Detailed Design Phase</u></p> <p>■ Yes (see Section 8.0)</p> <p><u>Construction Phase</u></p> <p>■ Yes (see Section 8.0)</p> <p><u>Operation Phase</u></p> <p>■ Yes (see Section 8.0)</p>

Proposed Option	Analysis of Impact	Mitigations Required (Yes/No)
	<p>reversible to major and irreversible. The building is also at potential risk of partial or total loss if a construction vehicle accidentally collides with it. These impacts can be mitigating through site controls and vibration monitoring.</p> <p>During the operation phase of the widened road, there is potential that Thomas Morley House will be frequently impacted by continuous low-level vibration from heavy vehicles such as busses. The house will also have minimal setback, putting it at potential risk of partial or total loss if a vehicle accidentally leaves the road and collides with the building.</p>	
<p>Option 4: Relocate Thomas Morley House east on its current lot or to a new site and encroach on 7779-81 Kennedy Road</p>	<p>Undertaking the option to move the house elsewhere on the property to another nearby lot would result in direct and indirect impacts to the built heritage resource and protected heritage property that are irreversible, permanent, will occur once, are widespread and overall represent a major change. Historical connections to the historic Hagerman's Corners may be lost, and the house would no longer be prominent on the streetscape and visually connected to Hagerman's Corners.</p> <p>Nevertheless, relocation would retain the building's heritage attributes and present an opportunity for rehabilitation and adaptive reuse. It is not a 'minimal intervention' approach as advocated by Canada's Historic Places <i>Standards & Guidelines</i> nor follow the MTCS guiding principle of 'respect for original location' but would conserve the structure with 'progressive authenticity', one representing 'successive adaption of historic places over time' (Jerome 2008:4). Depending on the site selected, vibration and potential collision impacts that may occur during the road construction or operation will be avoided.</p>	<p><u>Detailed Design Phase</u></p> <p>■ Yes (see Section 8.0)</p> <p><u>Construction Phase</u></p> <p>■ No mitigation measures required</p> <p><u>Operation Phase</u></p> <p>■ No mitigation measures required</p>
<p>Option 5: Demolish all components of Thomas</p>	<p>Full demolition and encroachment would result in destruction and alteration of a protected heritage property and all its heritage attributes. This irreversible, permanent, widespread and</p>	<p><u>Detailed Design Phase</u></p>

Proposed Option	Analysis of Impact	Mitigations Required (Yes/No)
<i>Morley House and encroach on 7779-81 Kennedy Road</i>	<p>single occurrence represent a major adverse change to the property's setting and built heritage resource, as well as the streetscape and tangible reminders of Hagerman's Corners. Through demolition, a tangible example of mid-19th century architecture would be lost, resulting in further attrition to the City's heritage property building stock.</p> <p>As a designated property under Part IV of the <i>Ontario Heritage Act</i>, the deregistration and demolition process would be lengthy and subject to critique from the City and general public. Although the designation is tied to the real property, the property's heritage attributes are primarily linked to Thomas Morley House; once the built heritage resource is removed, no subsequent mitigations would be required.</p>	<p>■ Yes (see Section 8.0)</p> <p><u>Construction Phase</u></p> <p>■ No mitigation measures required</p> <p><u>Operation Phase</u></p> <p>■ No mitigation measures required</p>

8.0 CONSIDERATION OF ALTERNATIVES & RECOMMENDATIONS

- Each option requires specific mitigation measures at the design, construction and operation phases which are outlined in the following sub-sections.

8.1 Option 1 Mitigation Measures

If this option is deemed feasible during the detailed design phase, the following mitigation measures should be implemented during the construction phase:

- **Establish site controls & communication.**
 - The property and specifically the footprint of the house should be clearly marked on project mapping and communicated to all project personnel for avoidance during design, construction and subsequent operation.
- **Monitor for vibration impact during all adjacent construction within a 60 m radius of the house.**
 - Continuous ground vibration monitoring should be carried out near the foundations of the house using a digital seismograph capable of measuring and recording ground vibration intensities in digital format in each of three (3) orthogonal directions. The instrument should also be equipped with a wireless cellular modem for remote access and transmission of data.
 - The installed instrument should be programmed to record continuously, providing peak ground vibration levels at a specified time interval (e.g. 5 minutes) as well as waveform signatures of any ground vibrations exceeding a threshold level that would be determined during monitoring. The instrument should also be programmed to provide a warning should the peak ground vibration level exceed the guideline limits specified. In the event of either a threshold trigger or exceedance warning, data would be retrieved remotely and forwarded to designated recipients.

During the operation phase, the following mitigation measures should be implemented:

- **Conduct periodic vibration impact monitoring.**
 - Periodic inspections (quarterly to yearly) should be conducted to determine if the house is being impacted by vibrations caused during operation of the road and associated construction. This can employ low cost methods such as periodic visual inspection for cracking in the foundation, then establishing measurement points when cracks are found. If cracking is discovered, then periodic inspections should increase in frequency and may require further study and interventions.

8.2 Option 2 Mitigation Measures

If Option 1 is not feasible due to road design constraints, the following mitigation measures should be implemented during the design phase:

- **Conduct an engineering study to identify options for rebuilding the retaining wall at or near the footprint of the house.**
 - An engineering study should be conducted to determine the feasibility of replacing the retaining wall or an exposed foundation. The results of this engineering study will determine further action or selection of other options.

The following mitigation measures should be implemented during the construction phase:

■ **Establish site controls & communication.**

- The property and specifically the footprint of the house should be clearly marked on project mapping and communicated to all project personnel for avoidance during design, construction and subsequent operation.

■ **Create a physical barrier.**

- Temporary fencing should be erected at the west lot line to ensure that all excavation, installation and associated vehicle traffic during construction or subsequent operational work will not encroach on the protected heritage property.
- Precast concrete traffic barriers should also be placed around the West Wing with South Porch to prevent accidental collision with construction vehicles.

■ **Monitor for vibration impact during all adjacent construction within a 60 m radius of the house.**

- Continuous ground vibration monitoring should be carried out near the foundations of the house using a digital seismograph capable of measuring and recording ground vibration intensities in digital format in each of three (3) orthogonal directions. The instrument should also be equipped with a wireless cellular modem for remote access and transmission of data.
- The installed instrument should be programmed to record continuously, providing peak ground vibration levels at a specified time interval (e.g. 5 minutes) as well as waveform signatures of any ground vibrations exceeding a threshold level that would be determined during monitoring. The instrument should also be programmed to provide a warning should the peak ground vibration level exceed the guideline limits specified. In the event of either a threshold trigger or exceedance warning, data would be retrieved remotely and forwarded to designated recipients.

During the operation phase, the following mitigation measures should be implemented:

■ **Create a physical barrier.**

- A permanent, new retaining wall should be placed near the house footprint to transition the existing slope and prevent vehicles colliding with the structure. The new retaining wall should be compatible with Thomas Morley House, using materials such as field stone. If an adequate distance cannot be obtained, the foundation of Thomas Morley House could be exposed and stabilized, although this may require additional buttressing or other new construction.

■ **Conduct periodic vibration impact monitoring.**

- Periodic inspections (quarterly to yearly) should be conducted to determine if the house is being impacted by vibrations caused during operation of the road and associated construction. This can employ low cost methods such as periodic visual inspection for cracking in the foundation, then establishing measurement points when cracks are found. If cracking is discovered, then periodic inspections should increase in frequency and may require further study and interventions.

8.3 Option 3 Mitigation Measures

If partial demolition and reconstruction is selected, the following mitigation measures should be implemented during the detailed design phase:

- **Prepare a heritage conservation plan.**

- A heritage conservation plan will outline the preferred and secondary treatments (i.e. preservation, rehabilitation or restoration) for the property as a whole, guide recording and demolition of the West Wing with South Porch and identify the required actions and trades for each conservation treatment. It will also provide an implementation schedule and recommendations for long-term sustainability of the property.
- The heritage conservation plan will serve as additional documentation for partial demolition and heritage permits issued by the City.

- **Conduct a heritage documentation report for the West Wing with South Porch.**

- Through a detailed heritage documentation report, the heritage attributes of the West Wing with South Porch would be recorded in digital photographs, measured drawings and written notes. Often called 'preservation by record', a heritage documentation report prior to demolition of the West Wing with South Porch would assist in ensuring the construction, architecture, evolution and history of Thomas Morley House is recorded.
- The heritage documentation report will serve as additional documentation for partial demolition and heritage permits issued by the City.

Once the partial demolition is complete and rehabilitation of the Main Block and East Wing is underway, during the road construction and operation phases the same actions listed under Option 1 should be carried out.

8.4 Option 4 Mitigation Measures

If relocation is pursued, the following mitigation measure will be required:

- **Prepare a heritage conservation plan.**

- A heritage conservation plan will aid in identifying a suitable new site, guide the recording and rehabilitation of the house, then outline the preferred and secondary conservation treatments (i.e. preservation, rehabilitation or restoration) for the property as a whole. It will identify the required actions and trades required for each conservation treatment and provide an implementation schedule and recommendations to ensure the property's long-term sustainability.
- The heritage conservation plan will serve as additional documentation for heritage permits issued by the City.

8.5 Option 5 Mitigation Measures

If the detailed design phase identifies no other options, the demolition of Thomas Morley House will require the following mitigation measures:

■ **Conduct a heritage documentation report.**

- Through a detailed heritage documentation report all the property's heritage attributes would be recorded in digital photographs, measured drawings, and written notes. Often called 'preservation by record', heritage documentation prior to demolition is the least desirable conservation option yet is appropriate in cases where the structural or heritage integrity of a structure is poor, and it is prohibitively expensive or impractical to stabilize to a safe level. It may also be an option when there is a large stock of other surviving or more representative examples. Through detailed investigations, the construction, architecture and history of the property would become an example for comparative studies and inform both future heritage assessments and academic study of the area.
- The heritage documentation report will serve as additional documentation for demolition and heritage permits issued by the City. To initiate a demolition request for a property individually designated under the *Ontario Heritage Act*, all procedures outlined in Section 34 of the *Act* must be followed. A demolition application must be reviewed by Heritage Markham and its recommendation addressed by Markham Council within 90 days of the official receipt letter's date. In some cases, staff and Council will negotiate alternative solutions and if no agreement can be reached, Council can refuse to approve demolition or removal.

■ **Commemorate Thomas Morley House through interpretive signage.**

- Although the built heritage resource would be removed, a reminder of its history and significance can be retained through an interpretive panel. The placement and design of this panel can take many forms as appropriate to the setting but at a minimum should clearly express the significance of the property to the City of Markham as outlined in the SCHVI.

9.0 SUMMARY STATEMENT & CONSERVATION RECOMMENDATIONS

In 2017, HDR retained Golder on behalf of the Regional Municipality of York to conduct a CHAR for the Kennedy Road Municipal Class Environmental Assessment in the City of Markham, Ontario. Within the study area, which followed the Kennedy Road right-of-way between Steeles Avenue East and Major Mackenzie Drive East, Golder identified 18 designated, listed and inventoried properties of known or potential cultural heritage value or interest and one potential cultural heritage landscape. From these findings, Golder recommended that property specific CHERs or HIAs be conducted.

Following these recommendations, HDR retained Golder in October 2018 to conduct a HIA for 7779-81 Kennedy Road. The property is designated under Part IV of the *OHA* and includes a storey-and-a-half wood plank house known locally as Thomas Morley House. A Heritage Easement has been issued on the property, which identifies the house as being of historical and architectural significance and lists the owner's responsibilities in terms of the maintenance of the property. Constructed in 1851, the three-room Georgian cottage with Classic Revival features is associated with shoemaker Thomas Morley and is one of the few surviving buildings of the former hamlet of Hagerman's Corners. The HIA was initiated to determine the impacts of general design options to widen Kennedy Road, which may include encroaching on the property. The Region is considering five options:

- Option 1: Avoid encroachment on 7779-81 Kennedy Road and Thomas Morley House;
- Option 2: Demolish the west Retaining Wall and partially encroach on 7779-81 Kennedy Road, then reconstruct the retaining wall at or near the west façade of Thomas Morley House;
- Option 3: Demolish the West Wing and South Porch of Thomas Morley House and partially encroach on 7779-81 Kennedy Road;
- Option 4: Relocate Thomas Morley House east on its existing lot or to a new site and encroach on 7779-81 Kennedy Road; or,
- Option 5: Demolish all components of Thomas Morley House and encroach on 7779-81 Kennedy Road.

Following guidelines provided by the Ministry of Tourism, Culture and Sport (MTCS), the City of Markham and Canada's Historic Places *Standards and Guidelines for the Conservation of Historic Places in Canada* (2010), this HIA identifies the heritage policies applicable to new development and describes the property's geography, history and built and landscape features. From this understanding of the property—which did not include accessing the interior of Thomas Morley House—the potential impacts resulting from the five options were assessed with conservation actions identified for each option.

Overall, Golder determined that:

- Option 1 will result in the least amount of adverse impact to the identified heritage attributes of Thomas Morley House but may not be feasible due to road design constraints.
- Option 2 will involve removal of the retaining wall and alteration of the current property boundaries; however, the retaining wall is not identified as a heritage attribute.
- Option 3 will involve demolishing a heritage attribute of Thomas Morley House (the West Wing with South Porch), but may provide an opportunity to reconstruct the original west façade of its main block;

- Option 4 would retain the built heritage resource of Thomas Morley House intact though may significantly affect its authenticity, *heritage integrity* (or ability to convey its cultural heritage significance), and its historic and visual linkages with Hagerman's Corners; and,
- Option 5 would result in the loss of Thomas Morley House as a valued cultural heritage resource and one of the last reminders of the historic Hagerman's Corners community.

Based on these findings, the following mitigation measures for each option have been identified:

Option	Design Phase	Construction Phase	Operation Phase
1	<ul style="list-style-type: none"> ■ No mitigation measures required. 	<ul style="list-style-type: none"> ■ Establish site controls & communication; and, ■ Monitor for vibration impact during all adjacent construction within a 60 m radius of the house. 	<ul style="list-style-type: none"> ■ Conduct periodic vibration impact monitoring.
2	<ul style="list-style-type: none"> ■ Conduct an engineering study to identify options for rebuilding the retaining wall at or near the footprint of the house. 	<ul style="list-style-type: none"> ■ Establish site controls & communication; ■ Create a temporary physical barrier; and, ■ Monitor for vibration impact during all adjacent construction within a 60 m radius of the house. 	<ul style="list-style-type: none"> ■ Create a permanent physical barrier; and, ■ Conduct periodic vibration impact monitoring.
3	<ul style="list-style-type: none"> ■ Prepare a heritage documentation report prior to the demolition of the West Wing with South Porch. ■ Prepare a heritage conservation plan to guide the partial demolition and rehabilitation of Thomas Morley House. 	<ul style="list-style-type: none"> ■ Establish site controls & communication; ■ Create a temporary physical barrier; and, ■ Monitor for vibration impact during all adjacent construction within a 60 m radius of the house. 	<ul style="list-style-type: none"> ■ Create a permanent physical barrier; and, ■ Conduct periodic vibration impact monitoring.
4	<ul style="list-style-type: none"> ■ Prepare a heritage conservation plan to guide the relocation of 	<ul style="list-style-type: none"> ■ No mitigation measures required. 	<ul style="list-style-type: none"> ■ No mitigation measures required.

Option	Design Phase	Construction Phase	Operation Phase
	Thomas Morley House to further east on its existing lot or to a new site.		
5	<ul style="list-style-type: none"> ■ Conduct a heritage documentation report; and, ■ Commemorate Thomas Morley House through interpretive signage. 	<ul style="list-style-type: none"> ■ No mitigation measures required. 	<ul style="list-style-type: none"> ■ No mitigation measures required.

Signature Page

This Report was authored under a Subconsultant Agreement between HDR and Golder for the Regional Municipality of York's ("Owner") projects. The Report is provided to HDR and Regional Municipality of York for their use, utilizing their judgment, in fulfilling a portion of HDR's particular scope of work. No other party may rely upon this report, or any portion thereof, without Golder's express written consent and any reliance of the reports by others will be at that user's sole risk and liability, notwithstanding that they may have received this Report through an appropriate user. In addition, Golder shall not be liable for any use of the Report for any purpose other than that for which the same was originally prepared or provided by Golder, or any improper use of this Report, or to any party other than HDR.

GOLDER ASSOCIATES LTD.

Henry Cary, Ph.D., CAHP, RPA
Cultural Heritage Specialist

Hugh Daechsel, M.A.
Principal, Senior Archaeologist

HC/EC/HJD/ly/mp

Golder and the G logo are trademarks of Golder Associates Corporation

10.0 REFERENCES

Blumenson, John

1990 *Ontario Architecture: A Guide to Styles and Building Terms, 1784 to Present*. Fitzhenry & Whiteside, Toronto.

Canada's Historic Places

2010 *Standards and Guidelines for the Conservation of Historic Places in Canada*. Second Edition. Canada's Historic Places, Ottawa.

Champion, Isabel

1979 *Markham 1793-1900*. Markham Historical Society, Markham.

Chapman, Lyman John and Donald F. Putnam

1984 *The Physiography of Southern Ontario*. 3rd ed. Ontario Geological Survey Special Volume 2. Ontario Ministry of Natural Resources, Toronto.

City of Markham

1993 By-law No. 37-93. *A by-law to designate a certain property as being of Historic and/or Architectural value or interest* (9 March).

2007 Heritage Easement Agreement. *Instrument Number YR975564* (24 April).

2014 Official Plan. Electronic Resource: <https://www.markham.ca/wps/portal/home/business/planning/official-plan/01-official-plan>

Dean, W.G. and G.J. Matthews

1969 *Economic Atlas of Ontario*. University of Toronto Press, Toronto.

Fram, Mark

2003 *Well-Preserved: The Ontario Heritage Foundation's Manual of Principles and Practice for Architectural Conservation*. Boston Mills Press, Erin, Ontario.

Gentilcore, R. Louis, and Kate Donkin

1973 *Land Surveys of Southern Ontario: An Introduction and Index to the Field Notebooks of the Ontario Land Surveyors 1784-1859*. Cartographica, Monograph No. 8. Toronto: BV Gutsell, Department of Geography, York University.

Government of Ontario

2014 *Provincial Planning Statement, Under the Planning Act*. Ministry of Municipal Affairs and Housing, Toronto.

2014 *Code of Practice: Preparing, Reviewing and Using Class Environmental Assessments in Ontario*. Ministry of the Environment, Toronto.

2014 *Provincial Planning Statement 2014*. Electronic document: <http://www.mah.gov.on.ca/Page215.aspx>

2014 *Standards and Guidelines for the Conservation of Provincial Heritage Properties*. Ministry of Tourism, Culture and Sport, Toronto.

1990 *The Planning Act*. Electronic document: <https://www.ontario.ca/laws/statute/90p13?search=planning+act>

1990b *Ontario Heritage Act*. Electronic document:

<https://www.ontario.ca/laws/statute/90o18?search=heritage+act>

Historic England

2008 *Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment*. Historic England, London.

Hubka, Thomas C.

2013 *Houses without Names: Architectural Nomenclature and the Classification of America's Common Houses*. University of Tennessee Press, Knoxville.

Jerome, Pamela.

2008 An Introduction to Authenticity in Preservation. *APT Bulletin* 39(2/3): 3-7.

Johnson, L.

1973 *History of the County of Ontario*. Whitby, Ontario.

Kalman, Harold

2014 *Heritage Planning: Principles and Process*. Routledge, New York.

McIlwraith, Thomas F.

1999 *Looking for Old Ontario: Two Centuries of Landscape Change*. University of Toronto Press, Toronto.

1995 The Ontario Country Road as a Cultural Resource. *The Canadian Geographer* 39(4):323-335.

Miles & Co.

1878 Illustrated Historical Atlas of the County of York [Online]. Accessed from:
<http://oldtorontomaps.blogspot.com/2013/01/1878-illustrated-historical-atlas-of.html>

Ministry of Tourism, Culture and Sport (MTCS)

2016 *Criteria for Evaluating Potential for Built Heritage Resources and Cultural Heritage Landscapes: A Checklist for the Non-Specialist*. Ministry of Tourism, Culture and Sport, Toronto.

2006 *Ontario Heritage Tool Kit: Heritage Property Evaluation – A Guide to Listing, Researching, and Evaluating Cultural Heritage Property in Ontario Communities*. Ministry of Tourism, Culture and Sport, Toronto.

Ontario Heritage Tool Kit: Heritage Resources in the Land Use Planning Process. Ministry of Tourism, Culture and Sport, Toronto.

Ontario Heritage Tool Kit: Designating Heritage Properties: A Guide to Municipal Designation of Individual Properties Under the Ontario Heritage Act. Ministry of Tourism, Culture and Sport, Toronto.
Ontario Heritage Tool Kit: Heritage Conservation Districts: A Guide to Designation Under the Ontario Heritage Act. Ministry of Tourism, Culture and Sport, Toronto.

1992 *Guideline for Preparing the Cultural Heritage Resource Component of Environmental Assessments*. Ministry of Tourism, Culture and Sport, Toronto.

1980 *Guidelines on the Man-Made Heritage Component of Environmental Assessments*. Ministry of Tourism, Culture and Sport, Toronto.

Parks Canada Agency

1980 *Canadian Inventory of Historic Building Exterior Recording Training Manual*. Parks Canada, Ottawa.

Randl, Chad

2010 Protecting a Historic Structure during Adjacent Construction. *Preservation Tech Notes, No. 3*. US National Park Service, Washington.

Rayburn, Alan.

1997 *Place Names of Ontario*. University of Toronto Press, Toronto.

Schott, Carl.

1981 The Survey Methods [translated. by Andrew Burghardt]. *Canadian Geographer* Vol. 25, Issue 1, 77–93.

Statistics Canada

2016 Census Profiles. Accessed November 2018 at www.statscan.gc.ca.

US National Park Service

1995 National Register Bulletin: How to Apply the National Register Criteria for Evaluation. US Department for the Interior, National Park Service, Cultural Resources, Washington, DC.

APPENDIX A

Thomas Morley Designation
By-law 37-93

THE CORPORATION OF THE TOWN OF MARKHAM

BY-LAW NUMBER 37-93

A by-law to designate a certain property as
being of Historic and/or Architectural
value or interest

WHEREAS Section 29, Subsection 6 of the Ontario Heritage Act, Chapter 0.18, R.S.O. 1990 authorizes the Council of a municipality to enact by-laws to designate a real property, including all the buildings and structures thereon, to be of historic and/or architectural value or interest;

AND WHEREAS the Council of the Corporation of the Town of Markham has caused to be served on the owners of the lands and premises at:

Toronto Chinese Lutheran Church
7781 Kennedy Road
Markham, Ontario
L3R 2C8

and upon the Ontario Heritage Foundation, notice of intention to designate The Thomas Morley House, 7781 Kennedy Road, Markham, and has caused such notice of intention to be published in a newspaper having a general circulation in the municipality once for each of three consecutive weeks;

AND WHEREAS the reasons for designation are set out in Schedule 'A', attached hereto and forming part of this by-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. THAT the following real property, being The Thomas Morley House, municipally known as 7781 Kennedy Road, Markham, is hereby designated as being of historic and/or architectural value or interest;

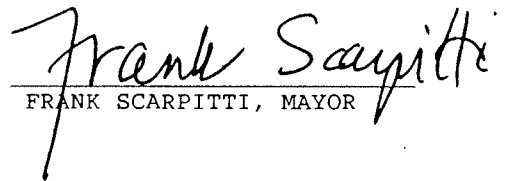
2. THAT the Town Solicitor is hereby authorized to cause a copy of this by-law to be registered against the property described herein in the Land Registry Office.

READ A FIRST AND SECOND TIME THIS 9TH DAY OF MARCH, 1993.

READ A THIRD AND FINAL TIME THIS 9TH DAY OF MARCH, 1993.



BOB VANIZZA, CLERK



FRANK SCARPITTI, MAYOR

THE THOMAS MORLEY HOUSE

The Thomas Morley House is recommended for designation under Part IV of the Ontario Heritage Act because of its architectural, historical and contextual significance.

Thomas Morley, a shoemaker, purchased this 1/4 acre village lot from James Fairless in 1857 and continued to reside here with his wife Elizabeth, until 1920. The house was originally constructed as a very modest three-room Georgian cottage with Classic Revival features. Subsequent owners have expanded the structure giving it a Gothic Revival appearance. Of particular note are the returned eaves on the north and south gable ends of the original section and the original 2/2 double hung, rectangular windows.

The Thomas Morley House is one of the very few surviving built reminders of the former hamlet of Hagerman's Corners. It also provides a very good example of a typical dwelling found in a 19th Century rural crossroads village.

SCHEDULE 'B' to BY-LAW NO. 37-93

Legal Description

ALL AND SINGULAR THAT certain parcel or tract of land and premises situate, lying and being in the Town of Markham, in the Regional Municipality of York, and being composed of Part of Lot 6, Concession 6, Designated as part 1 on Reference Plan 65R-6899, in the Town of Markham, in the Regional Municipality of York.

APPENDIX B

Heritage Easement Agreement –
7779 Kennedy Road

MEMORANDUM

MEMO: Clerks
George Duncan, Heritage Planner
Zoning Examiner
Sandy Oxley, Assessment Administrator
Dale Watterson/Michelle Perry, Finance

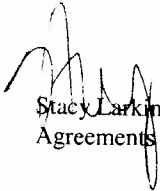
FROM: Stacy Larkin, Agreements Administration Clerk

DATE: April 24, 2007

RE: 2097358 Ontario Inc.
Heritage Easement Agreement
7779 Kennedy Road
Legal File No. 07 0606 PA 0046



Please find attached a copy of the above noted agreement for your files. This agreement was registered on April 24, 2007 as Instrument Number YR975564.


Stacy Larkin
Agreements Administration Clerk

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Town to the Owner (the receipt of which is hereby acknowledged), and for other valuable consideration, and in further consideration of the granting of the easements herein and in further consideration of the mutual covenants and restrictions hereinafter set forth, the Owner and the Town agree to abide by the following covenants, easements and restrictions which shall run with the Property forever.

1.0 REASONS FOR IDENTIFICATION

1.1 Statement of Reasons

The Owner and the Town agree that for the purposes of this Agreement the following statement (hereinafter called the "Reasons for Identification") sets out the reasons why the Building has been identified by the Town as having historic and architectural significance:

Historical and Architectural Reasons:

Thomas Morley, an English-born shoemaker, purchased this ¼ acre village lot, part of Lot 6, Concession 6, from James Fairless in 1857. It was one of several small parcels created from the western frontage of the west 100 acres of Lot 6 in the 1840s. Fairless was the operator of the general store at Hagerman's Corners. By the 1850s, the crossroads hamlet was a busy place with a cluster of businesses and a Methodist Church.

Thomas Morley continued to reside here with his wife, Elizabeth, until 1920. Their only children died in infancy. After a series of residential owners, the house was converted to a Chinese Lutheran Church pending the construction of a larger, purpose-built place of worship in the 1980s.

The Morley House is one the very few remaining tangible reminders of the historic hamlet of Hagerman's Corners. It is a good example of a typical dwelling found in a rural crossroads village. The house was originally constructed as a modest one and a half storey Georgian cottage with Classic Revival features. In the late 19th century, Morley added the projecting front wing in the vernacular Gothic Revival style.

Significant Architectural Attributes to be Conserved:

- L-shaped form of the historical building
- vertical wood tongue and groove siding
- shed-roofed front porch with chamfered wood posts
- fieldstone foundation
- single hung wood windows with 2 over 2 and 1 over 1 glazing
- wood window frames and projecting wood window sills
- gable roof with projecting eaves, wood bedmould, and Gothic Revival gable on front wing

- gable roof with projecting eaves with returns on the earlier north-south wing
- restored wood front door

1.2 **Photographs Relevant to Duties of the Owner**

The Owner acknowledges that a set of dated photographs, hereinafter referred to collectively as "the Photographs", document the state of the Building as of the date of execution of this Agreement. The original photographs, numbered HA 07 108442, HA 07 108442 and HA 07 108442, dated January 19, 2007 will be kept on file at the Town's offices or such other location as the Town may determine, and may be examined at any time upon reasonable notice to the Town. The Photographs generally depict certain significant features of the appearance or the construction of the Building and the Reasons for Identification and the Photographs shall be referred to in determining the duties of the Owner under this Agreement.

When alterations are made to the Building pursuant to paragraph 2.1 and/or 2.2, the Owner shall within ninety (90) days of completion of such alterations, and at the Owner's expense, provide to the Town new photographs taken from the same vantage point and identifying the same features of the appearance or construction as the original photographs. Such photographs shall be dated and filed with the Town. The Town shall number the said photographs which shall replace the original Photographs and all references in this agreement to the Photographs shall be deemed to refer to such new replacement photographs.

2.0 **DUTIES OF OWNER**

2.1 **Normal Repairs and Alterations**

The Owner shall not, except as hereinafter set forth, without the prior written approval of the Town, undertake or permit any demolition, construction, alteration, remodelling or any other thing or act which would materially affect the features of the appearance or construction of the Building as set out in the "Reasons for Identification" and as may be depicted in the copies of the Photographs on file or drawings and other documents attached hereto. The approval required to be obtained from the Town herein shall be deemed to have been given upon the failure of the Town to respond in writing to a written request for it within ninety (90) days of receiving such request at its address as set out in paragraph 7.1 of this Agreement. If the approval of the Town is given or deemed to be given under this paragraph, the Owner, in undertaking or permitting the construction, alteration, remodelling or other thing or act so approved of, shall use materials approved by the Town.

2.2 Insurance

The Owner shall at all times during the currency of this Agreement keep the Building insured against normal perils that are coverable by fire and extended coverage insurance in an amount equal to the replacement cost of the Building. Upon execution of this agreement, the Owner shall deliver to the Town a letter or certificate, in a form and from an insurance company, agent or broker acceptable to the Town, which letter or certificate shall state as follows:

"This will confirm that (name of insurer) has issued to the Owner a valid insurance policy which insures the Building against normal perils that are coverable by fire and extended coverage insurance in an amount equal to the replacement cost of the Building".

The Owner further agrees to provide written evidence of the renewal of such policy at least 3 weeks prior to the expiration date of the policy, in a form satisfactory to the Town. If the Owner fails to so insure the Building, or if any such insurance on the Building is cancelled, the Town may effect such insurance as the Town deems necessary and any sum paid in so doing shall forthwith be paid by the Owner to the Town, or if not shall be a debt due and owing to the Town and recoverable from the Owner by action in a court of law. All proceeds receivable by the Owner under any fire and extended coverage insurance policy or policies on the Building shall, on the written demand and in accordance with the requirements of the Town, be applied to replacement, rebuilding, restoration or repair of the Building to the fullest extent possible having regard to the Reasons for Identification, the particular nature of the Building and the cost of such work.

2.3 Damage or Destruction

The Owner shall notify the Town of any damage or destruction to the Building within ten (10) clear days of such damage or destruction occurring. In the event that the Building is damaged or destroyed and the replacement, rebuilding, restoration or repair of it is impractical because of the financial costs involved, or because of the particular nature of the Building, the Owner shall, in writing within forty (40) days of the giving by the Owner of notice of such damage or destruction, request written approval by the Town to demolish the Building, in accordance with paragraph 2.1. If the approval of the Town is given or deemed to be given, the Owner shall be entitled to retain any proceeds from the insurance hereinbefore mentioned and to demolish the Building.

2.4 Reconstruction by Owner

If the Owner has not requested the approval to demolish referred to in paragraph 2.3 or if the Town does not give the approval to demolish referred to in paragraph 2.3, the Owner shall replace, rebuild, restore or repair the Building so as to effect the complete restoration of the Building. Before the commencement of such work, the Owner shall submit all plans and specifications for the

replacement, rebuilding, restoration or repair of the Building to the Town for its written approval within one hundred and thirty-five (135) days of the damage or destruction occurring to the Building. A refusal by the Town to approve any plans and specifications may be based upon choice of materials, appearance, architectural style or any other ground or grounds including, but not limited to, purely aesthetic grounds, and the determination of the Town shall be final. The Owner shall not commence or cause restorative work to be commenced before receiving the written approval of the Town of the plans and specifications for it, and such restorative work shall be performed upon such terms and conditions as the Town may stipulate. Such approval shall be deemed to have been received upon failure of the Town to respond in writing to a written request for it within ninety (90) days of the receipt of such request by the Town. The Owner shall cause all replacement, rebuilding, restoration and repair work on the Building to be commenced within thirty (30) days of the approval by the Town of the plans and specifications for it and to be completed within nine (9) months of commencement, or as soon as possible thereafter if factors beyond their control prevent completion within the said nine (9) months, and the Owner shall cause all such work to conform to the plans and specifications approved of and terms and conditions stipulated by the Town.

2.5 Failure of the Owner to Reconstruct

In the event that a request to demolish is not submitted or is refused pursuant to the provision of paragraph 2.3 and the Owner fails to submit plans and specifications pursuant to paragraph 2.4 which are acceptable to the Town within one hundred and thirty-five (135) days of the damage or destruction occurring to the Building, the Town may prepare its own set of plans and specifications. The Owner shall have thirty (30) days from receiving a copy of such plans and specifications to notify the Town in writing that it intends to replace, rebuild, restore or repair the Building in accordance with those plans and specifications.

If the Owner does not so notify the Town within the said thirty (30) days, the Town may enter onto the property and proceed with replacing, rebuilding, restoring or repairing the building so as to effect the complete restoration of the building. The Owner shall reimburse the Town for all expenses incurred by the Town in carrying out such work.

2.6 Maintenance of the Building

The Owner shall at all times maintain the Building in as good and as sound a state of repair as a prudent owner would normally do, so that no deterioration in the Building's condition and appearance shall take place, including, without limiting the generality of the foregoing, taking all reasonable measures to secure and protect the Building from vandalism, fire and damage from inclement weather.

2.7 Signs, Structures, Etc.

The Owner shall not erect or permit the erection on the Property or on the Building of any signs, awnings, television aerials or other objects of a similar nature without the prior written approval of the Town. Such approval may, in the sole discretion of the Town and for any reason which the Town considers necessary, be refused, provided that with respect to signage to identify the occupant(s) of the Building from time to time, the approval of the Town shall not be unreasonably withheld, having regard to its use of the Building, the Reasons for Identification and the Photographs.

2.8 No Act of Waste

The Owner shall not commit or permit any act of waste on the Property. In respect to the subject lands, the Owner shall not, except with the prior written approval of the Town:

- (a) grant any easement or right-of-way which would adversely affect the easement hereby granted;
- (b) erect or remove or permit the erection or removal of any building, sign, fence or other structure of any type whatsoever;
- (c) allow the dumping of soil, rubbish, ashes, garbage, waste or other unsightly, hazardous or offensive materials of any type or description;
- (d) except for the maintenance of existing improvements, allow any changes in the general appearance or topography of the lands, including and without limiting the generality of the foregoing, the construction of drainage ditches, transmission towers and lines, and other similar undertakings as well as the excavation, dredging or removal of loam, gravel, soil, rock, sand or other materials;
- (e) allow the planting of trees, shrubs or other vegetation which would have the effect of (i) reducing the aesthetic value of the Building or the Property or (ii) causing any damage to the Building;
- (f) allow any activities, actions or uses detrimental or adverse to water conservation, erosion control and soil conservation; and
- (g) allow the removal, destruction or cutting of trees, shrubs or vegetation except as may be necessary for (i) the prevention or treatment of disease or (ii) other good husbandry practices.

2.9 Breach of Owner's Obligations

If the Town, in its sole discretion, is of the opinion that the Owner has neglected or refused to perform any of its obligations set out in this Agreement, the Town may, in addition to any of its other legal or equitable remedies, serve on the Owner a notice setting out particulars of the breach and of the Town's estimated maximum costs of remedying the breach. The Owner shall have thirty (30) days from receipt of such notice to remedy the breach or make arrangements satisfactory to the Town for remedying the breach.

If within those thirty (30) days the Owner has not remedied the breach or made arrangements satisfactory to the Town for remedying the breach, or if the Owner does not carry out the said arrangements within a reasonable period of time, of which the Town shall be the sole and final judge, the Town may enter upon the Property and may carry out the Owner's obligations and the Owner shall reimburse the Town for all expenses incurred thereby. Such expenses incurred by the Town shall, until paid to it by the Owner, be a debt owed by the Town and recoverable by the Town by action in a court of law.

2.10 Waiver

The failure of the Town at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Town of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time.

2.11 Extension of Time

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Town, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

2.12 Emergencies

Notwithstanding the provisions of paragraph 2.1, it is understood and agreed that the Owner may undertake such temporary measures in respect of the Building as are:

- (1) in keeping with the intentions of this Agreement;

- (2) consistent with the conservation of the Building, and
- (3) reasonably necessary to deal with an emergency which puts the security or integrity of the Building or occupants of the Building at risk of damage,

provided that the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, or re-enacted from time to time is complied with and, where time permits, the staff of the Heritage Section, Development Services Commission, is consulted.

3.0 Use of Property

The Owner expressly reserves for itself, its representatives, heirs, successors and assigns the right to continue the use of the Property for all purposes not inconsistent with this Agreement.

4.0 Inspection by Town at All Reasonable Times

The Town or its representatives shall be permitted at all reasonable times to enter upon and inspect the Property and the Building upon prior written notice to the Owner of at least twenty-four (24) hours.

5.0 Notice of Easement

5.1 Plaque

The Owner agrees to allow the Town to erect a plaque on the Building, in a tasteful manner and at the Town's expense, indicating that the Town holds a conservation easement on the Property.

5.2 Publicity

The Owner agrees to allow the Town to publicize the existence of the easement.

6.0 Proper Covenants Not to Terminate

The Owner and the Town agree that all covenants, easements and restrictions contained in this Agreement shall be severable, and that should any covenant, easement or restriction in this Agreement be declared invalid or unenforceable, the remaining covenants, easements and restrictions shall not terminate thereby.

7.0 Notice

7.1 Addresses of Parties

Any notices to be given under this Agreement shall be delivered to the parties at their respective addresses. The respective addresses of the parties for such purposes presently are as follows:

The Owner:

141 Highgate Drive
Markham, Ontario
L3R 3S6

The Town:

The Corporation of the Town of Markham
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

The parties agree to notify each other immediately, in writing, of any changes of address from those set out above.

7.2 Service in Person or by Mail Except Where Postal Service is Interrupted

Except in the event of an interruption in the postal service, any notices to be given under this Agreement shall be delivered in person or sent by prepaid registered mail addressed to the parties at their respective addresses as set out in paragraph 7.1. In the event that a notice is delivered in person, the party receiving the notice shall forthwith indicate receipt of the notice by signing a form of acknowledgement of receipt, and in that event, the notice shall be deemed to have been received on the date on which the form of acknowledgement of receipt was signed. In the event that a party refuses to sign an acknowledgement of receipt of the notice, the person delivering the notice may swear an affidavit of service, and the notice shall be presumed to have been received on the date of service as set out in such affidavit. In the event that a notice is sent by prepaid registered mail, it shall be deemed to have been received on the second clear day following the day on which the notice was sent.

7.3 Service Where Postal Service is Interrupted

In the event of any interruption in the postal service, notice may be given to either party at its respective address as set out in paragraph 7.1, either in person or by special courier. The party receiving the notice shall indicate the receipt of it by signing a form of acknowledgement of receipt, and the notice shall be deemed to have been received on the date on which the form of acknowledgement of receipt was signed. In the event that either party refuses to sign an

acknowledgement of receipt of the notice, the person delivering the notice may swear an affidavit of service, and the notice shall be presumed to have been received on the date of service as set out in such affidavit.

8.0 No Extraneous Agreements Between the Parties

Except as set out herein, this written Agreement embodies the entire agreement of the parties with regard to the matters dealt with herein, and no understandings or agreements, verbal or otherwise, exist between the parties except as herein expressly set out.

9.0 Subsequent Instruments

9.1 Subsequent Instruments to Contain These Provisions

Notice of these covenants, easements and restrictions shall be inserted by the Owner in any subsequent deed or other legal instrument by which it divests itself either of the fee simple title to or of its possessory interest in the Property or the Building.

9.2 Notice to Municipality

The Owner shall immediately notify the Town in the event that it divests itself of the fee simple title to or of its possessory interest in the Property or the Building.

10.0 Interpretation

10.1 The headings in the body of this Agreement form no part of the Agreement but shall be deemed to be inserted for convenience of reference only.

10.2 This Agreement shall be construed with all changes in number and gender as may be required by the context.

11.0 Covenants to Run With the Property

The covenants, easements and restrictions set out in this Agreement shall run with the Property and shall enure to the benefit of and be binding upon the Owner and upon the Town and their respective heirs, executors, administrators, successors and assigns as the case may be.

12.0 Term of Agreement

Notwithstanding any other provision of this Agreement, the term of this Agreement shall end on the date of receipt of approval to demolish pursuant to paragraph 2.3.

13.0 General

13.1 The Owner hereby agrees to procure and provide to the Town any postponement agreements which the Town Solicitor considers necessary to ensure that this Agreement shall have a priority over any other interest in the Property.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested by their respective proper signing officers in that behalf duly authorized.

SIGNED, SEALED AND DELIVERED

) 2097358 ONTARIO INC.
)
)
)
)

) Name: MARINA YAN

) Title: PRESIDENT

) I have Authority to bind the corporation
)
)

) Name:

) Title:
)
)
)
)
)

) THE CORPORATION OF THE TOWN
) OF MARKHAM
)
)
)
)
)
)
)

) Frank Scarpitti
) MAYOR - FRANK SCARPITTI
)
)
)
)
)
)
)
)

) Sheila Birrell
) CLERK - SHEILA BIRRELL
)
)
)
)



APPROVED TOWN OF MARKHAM	
RESOLUTION #	13
DATE	DSC REPORT # 40
DATE	2007-08-21 SEPT. 3/07
C.W.	

SCHEDULE "A"

ALL AND SINGULAR THAT certain parcel or tract of land and premises situate, lying and being in the Town of Markham, in the Regional Municipality of York, and being composed of Part of Lot 6, Concession 6, designated as Part 1, Plan 65R-6899, except Part 1, Plan 65R-14253.

PIN 02962-0036 (LT)

THIS EASEMENT AGREEMENT made this 3rd day of April, 2007.

B E T W E E N:

2097358 ONTARIO INC.
(hereinafter called the "Owner")

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF MARKHAM
(hereinafter called the "Town")

OF THE SECOND PART

WHEREAS the Owner is the owner of certain lands and premises situated in the Town of Markham in the Regional Municipality of York and Province of Ontario, and municipally known as 7779 Kennedy Road, Markham (hereinafter called the "Property"), and more particularly described in Schedule "A" attached hereto and which there is "The Thomas Morley House" (hereinafter called the "Building");

AND WHEREAS one of the purposes of the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, is to support, encourage and facilitate the conservation, protection and preservation of the heritage of Ontario;

AND WHEREAS by Subsection 37(1) of the *Ontario Heritage Act*, the Town is entitled to enter into easements or covenants with owners of real property, or interests therein, for the conservation of buildings of historic or architectural value or interest;

AND WHEREAS by Subsection 37(3) of the *Ontario Heritage Act*, such covenants and easements entered into by the Town when registered in the proper Land Registry Office against the real property affected by them shall run with the real property and may, whether positive or negative in nature, be enforced by the Town or its assignee against the owners or any subsequent owners of the real property, even where the Town owns no other land which would be accommodated or benefitted by such covenants and easements;

AND WHEREAS the Owner and the Town desire to conserve the present historical, architectural, contextual, aesthetic, scenic and heritage characteristics and conditions of the Building on the Property as set out in the "Reasons for Identification" ;

AND WHEREAS to this end, the Owner and the Town agree to enter into this Easement Agreement (hereinafter called the "Agreement");



golder.com