



**STAFF REPORT
ACTION REQUIRED**

550 Gerrard Street East (Old Don Jail)- Refusal of Alterations to a Designated Heritage Property with a Heritage Easement Agreement

Date:	October 10, 2008
To:	Toronto Preservation Board Toronto and East York Community Council
From:	Director, Policy and Research, City Planning Division
Wards:	Ward 30 – Toronto-Danforth
Reference Number:	

SUMMARY

This report recommends the refusal of a request made by Bridgepoint Health for alteration to the Old Don Jail building in order to remove and not reinstate, following stabilization and rehabilitation of the windows, iron bars on the three elevations of that section of the central pavilion on the south side of the Old Don Jail building. Staff is not opposed to an associated request to permanently remove the window bars from selected windows on that section of the central pavilion on the north side of the Old Don Jail building. Heritage Preservation Services staff advise the iron bars are identified in the Reasons for Designation in the designating By-law for this property, as well as in the Reasons for Identification in the 2002 Heritage Easement Agreement between the City and the Riverdale Centre for Continuing Care (now Bridgepoint Health), as important heritage features. The removal of window bars is a permitted alteration under the terms of the City’s Heritage Easement Agreement with the exception of the window bars located on the central pavilion, as specifically noted in the Agreement.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the request for alteration to the designated Old Don Jail building (550 Gerrard Street East) made by Bridgepoint Health to remove and not reinstate, following stabilization and rehabilitation of the windows, the iron bars on the three elevations of that section of the central pavilion on the south side of the Old Don Jail building, as illustrated on Attachment No. 3a and also refuse any variation of such request that would permit permanent removal of bars from windows on any elevation of the south section of the central pavilion;
2. City Council approve the request for alteration to the designated Old Don Jail building (550 Gerrard Street East) made by Bridgepoint Health to permit the permanent removal of iron bars from selected windows on the north section of the central pavilion as illustrated on Attachment Nos. 3b and 3d;
3. City Council authorize amendment to the Heritage Easement Agreement between the owner and the City, dated March 25, 2002, as follows:
 - a. amend Schedule “F” (“Permitted Alterations”) to reflect that, subject to other applicable provisions of the Agreement, removal of window bars is a permitted alteration with the exception of the iron bars located on the south section of the central pavilion only and not the central pavilion in its entirety
 - b. amend associated provisions of Schedule “E” (“Heritage Conservation Principles”) to reflect that the owners intent with respect to the use of the various parts of the Building as having been clarified and no further review is required in connection with reinstatement of window bars on the south section of the central pavilion
4. City Council authorize City Officials to take all necessary action to give effect to the foregoing, including execution of any necessary agreement satisfactory to the City Solicitor.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The Old Don Jail was designated by City Council under Part IV of the Ontario Heritage Act by By-law No. 410-2000. At the time, the provincial government was selling the property and the designation was intended to reinforce Council’s interest in preserving this architecturally and historically significant building. Heritage Easement Agreements were subsequently entered into between the new owner, the Riverdale Centre for Continuing Care (now Bridgepoint Health) and the City (dated March 25, 2002 being the “City HEA”), and between the owner and the Province of Ontario (dated March 8, 2002 being the “Provincial HEA”). The City HEA applies only to the Old Don Jail whereas

the Provincial HEA includes the associated Governor's House and Gatekeeper's House, also designated heritage properties.

In 2004 Bridgepoint Health submitted a comprehensive redevelopment proposal that included land owned by the City as well as by Bridgepoint Health. A series of land exchanges and transfers with the City were contemplated for a development envisioning a new state of the art hospital together with the adaptive reuse of the Old Don Jail, a new City park as a forecourt to the Old Don Jail, adaptive reuse of the Gatekeeper's House and Governor's House, new City streets and four redevelopment parcels. The Official Plan and Zoning Amendments were approved by City Council and were subsequently upheld by the Ontario Municipal Board (By-law Nos. 156-2002 and 157-2002). Subdivision approval was also obtained. The lands are subject to a holding provision pending completion of certain requirements, including arrangements or amendments to heritage agreements necessary to facilitate the development proposed (ie. adjustment of property boundaries, updating).

ISSUE BACKGROUND

Historically the Old Don Jail is among the most important public buildings erected in Toronto during the mid-19th century and is an integral part of the history and development of the City of Toronto and of Canada's penal system. It was the largest of the reforming prisons of its time in North America. Constructed between 1859 and 1864, the building is an excellent example of Renaissance Revival styling, highlighted by the craftsmanship of its stone detailing. The styling and mass of the building, with rusticated stonework and barred windows, supports its purpose and emphasizes its perceived impregnability. A balanced axial plan includes a centre block (or central pavilion) that includes a central rotunda, a 3½ storey section on the north side of the building and a projecting 4 storey section on the south side of the building. In the Reasons for Designation, particular attention is given to the principal (south) façade of the centre block which is organized into five bays and clad in sandstone. Among the architectural features of the building specifically identified are the wood windows with iron bars (Attachment Nos. 1a-1c).

At the time that Bridgepoint purchased the Old Don Jail and entered into the City HEA there were no detailed plans for adaptive reuse but it was acknowledged that to some extent, demolition, construction, alteration and remodelling would be required. The City HEA includes specific permitted alterations and identifies principles of heritage conservation for the Old Don Jail to be applied to future development proposals.

Bridgepoint Health is now in the process of finalizing the details of its proposal and has made application for site plan approval in connection with the first phase of redevelopment. The first phase includes the construction of the new hospital and necessary infrastructure as well as the integration of the designated Old Don Jail building. A Heritage Impact Statement Update (November 29, 2007), and an Exterior Building Condition Assessment (May 2008) for the Old Don Jail, both prepared by ERA Architects Inc., were submitted as part of the site plan application for consideration by

Heritage Preservation Services staff. Staff considers some of the proposed changes to the Old Don Jail to be outside the parameters of permitted alterations contemplated in the City HEA; specifically, the removal of iron bars from windows on what is referred to as the central pavilion.

Approval Provisions

The City HEA provides the policy framework for the consideration of alterations to the Old Don Jail building. Section 2.2 contemplates alterations on written approval of the City. Section 2.3, entitled “Permitted Alterations and Development”, specifies that no approval is required for the permitted alterations identified in Schedule “F” (Permitted Alterations), with such modifications as are reasonable, provided that detailed plans are submitted and the Chief Planner is satisfied that the alterations and construction are consistent with Schedule “E” (Heritage Conservation Principles). The relevant provisions from the text of the City HEA, Schedule “B” (Reasons for Identification), Schedule “E” and Schedule “F”, are attached for information (Attachment No. 2).

Schedule “F” provides that, subject to section 2.3 and the Heritage Conservation Principles in Schedule “E”, removal of window bars is a permitted alteration “with the exception of the iron bars located on the central pavilion”. The central pavilion is understood to include the three elevations of those sections of the centre block on both the north and south sides of the Old Don Jail building. Given the specific exclusion of the central pavilion from the Permitted Alterations (Schedule “F”) as pertaining to the removal of window bars, Heritage Preservation Services staff and the Chief Planner and Executive Director, consider the request to remove the window bars in this location to be outside the parameters of the City HEA, and therefore requires the approval of Council under the provisions of the City HEA and the Ontario Heritage Act.

Proposed Alteration

As part of its adaptive re-use, Bridgepoint Health is requesting permission to alter the Old Don Jail by removing (without reinstatement), the window bars on the three elevations of the central pavilion (south section), as well as from the north elevation of the central pavilion (north section). These are not permitted alterations under the provisions of the City HEA. As a less preferred alternative the applicant proposes reinstatement of the bars on the east and west elevations only of the central pavilion (south section).

Permanent removal of all other window bars on the Don Jail is proposed with the exception of the bars on the basement windows and the windows on the east and west elevations of each of: the Gun Tower, the Gallows Tower, and the central pavilion (north section)(Attachment Nos. 3a-d, 9). These bars are proposed to be retained or reinstated, in accordance with the requirements of the Provincial HEA.

The primary concern raised by Bridgepoint Health and reason for the request to remove the bars from the central pavilion, particularly the south section, is the visual impact of the bars on the prominent public face of the building which, in their opinion, “undermines the overall vision for Bridgepoint Health as a community of care and wellness and will

have a negative impact on all members of the Bridgepoint Health community” (Attachment No. 4).

In addition, in a letter dated September 29, 2008 (Attachment No. 5), ERA Architects Inc., raises technical issues in developing an operable configuration for the bars on the larger windows of the central pavilion (south section) that will reproduce their original appearance and can safely be removed for window cleaning.

Generally, rusting of the window bars as a result of water migration has caused considerable damage to the stone sills which are in varying stages of deterioration on the windows throughout the Don Jail. In the Exterior Building Condition Assessment report, dated May 2008 prepared by ERA Architects Inc., it is recommended that the bars be removed with as many stone sills, jambs and lintels retained as possible and the necessary pinning and patching work completed. The report further recommends that the bars could be reinstalled in desired locations after all masonry repairs have been completed. Fabrication in hollow tube stainless steel to reduce the weight of the bars, and a suggested “lift off” method of installation is proposed to replicate the bars, therefore eliminating the embedment of the security bars into the stone” (Attachment No. 6). This detail is not considered by ERA to be a viable option for replication of the bars on the larger windows of the central pavilion due to the size of the bar assemblies.

COMMENTS

Staff has considered the requested alteration to the window bars by Bridgepoint Health in the context of the specific site plan proposal, the provisions of the City HEA and the comments received from the Ontario Heritage Trust as outlined below.

Redevelopment of Bridgepoint Hospital

The site plan proposes a new hospital adjacent to the Jail with a central court and primary access to the new hospital on the north side of the Old Don Jail building (Attachment No. 7). Views to the Don Jail from inside the new hospital will be entirely to the north side of the heritage building (Attachment No.1b). In accordance with the Provincial Heritage Easement Agreement on this property, staff is recommending that bars not be required on the north elevation of the central pavilion (north section), and that Schedule “F” of the City HEA be amended to include this as a permitted alteration. This will reduce the number of bars that can be viewed from the new hospital.

Staff understand that Bridgepoint Health will be using the Old Don Jail building primarily for administrative, research and support purposes. Acknowledging the considerable investment that Bridgepoint Health will be making to the restoration of the building generally, and in the interpretation of features interior to the Jail (jail cells, rotunda), the public’s view of the Old Don Jail from Gerrard Street still remains paramount to the heritage interpretation of this important resource by the broader public. Throughout the negotiations with Bridgepoint Health, protecting the public view to the principle south façade of the Old Don Jail was a primary concern of the City (Attachment No. 8). Securing the City park as a forecourt to the Don Jail was a major achievement to

preserving this view. Reinstating bars on the central pavilion (south section) as the terminus to this view across the City park, is a critical extension of this site planning objective and one which allows for the honest expression of the original purpose and use of this important civic building.

City Heritage Easement Agreement

The Heritage Conservation Principles contained in Schedule “E” are provided in the Agreement as guidelines with respect to any alterations, renovations, demolition, or other change to any feature of the Don Jail Building. Section 3.3 Principles of Heritage Interpretation, identifies the following as a key principle to be considered in interpreting the property:

“Specific elements related to the historic jail use, such as the window bars, death row or the gallows, are acknowledged as important heritage features.”

Section 4.0 Intervention Principles and Guidelines provides direction in the consideration of any changes to the fabric of the Old Don Jail and as such is worth restating here in its entirety:

“ In establishing guidelines that can practically govern development, alteration and reuse of the Don Jail building, the basic approach should fundamentally respect the elements of heritage significance of the building and its setting. The distinguishing features, as described in the Reasons for Identification (Schedule “B”) and the photographs contained in Schedule “C”, should be retained with the least possible intervention necessary to accommodate the Owner’s uses. However, a new use to contemporary standards will require change. It is important that the management of any such changes not mar or destroy elements of high heritage significance, whether they be part of the site character, the plan or features of the exterior and interior architecture.”

Further in Schedule “E”. Section 4.5 Facades, the following statements reinforce both the significance of the central pavilion and the iron bars:

“The south façade was designed to be and remains today the classic example which expresses the public perception of an “important civic building”. Any alterations to the south façade could seriously damage the harmony and texture of the original design.”

“Iron bars on windows identify the original purpose of the building and as such have heritage value.”

4.5.2.1. “The south façade was designed to be and remains today the classic example which expresses the public perception of an ‘important civic building’. Any alterations to the south façade could seriously damage the harmony and texture of the original design.”

- 4.5.2.2. “Iron bars on windows identify the original purpose of the building and as such have heritage value.”
- 4.5.3.4 “The removal of iron bars on the windows would be a loss of a feature that identifies the building’s original heritage significance. The preservation of the iron bars and associated bars on the central pavilion should be maintained. However, the iron bars pose a serious challenge for a hospital, nursing home and retirement living centre. The parties agree, following clarification of the Owner’s intent and respect to various parts of the Building, that they will review this item to take into account the impact of the bars on persons to be served by the building in its new use.”

Staff has reviewed the issue of reinstating window bars on the central pavilion as directed by s. 4.5.3.4 above, and are of the opinion that the bars are an integral part of the fabric of this building and have significant heritage value. It is the view of Staff that the City HEA provides clear direction with respect to the prominence of the south section of the central pavilion and its importance to the interpretation of the Old Don Jail building. As such, an alteration that permits removal, without reinstatement, of the iron bars from any window in that location should not be permitted. Staff is, however, based on the submissions of the applicant, prepared to agree to the removal of bars from selected windows on the north section of the central pavilion, as requested.

Provincial Heritage Easement Agreement

The Provincial HEA allows for the removal of the window bars on the Old Don Jail except for the basement windows; and those windows located on the east and west walls of the Gallows, the central pavilion and Guntower (s 2.3). The applicant has agreed to retain or reinstate bars in these locations.

Except for the basement windows, the Provincial HEA does not protect the bars on the south side of the Old Don Jail, including the south section of the central pavilion. The Ontario Heritage Trust has however stated the following in response to the applicant’s requested alteration:

“...it is the position of the Trust that, even when not specifically identified in the easement agreement, all the bars have heritage value as they are a defining characteristic of the penal institution. We would encourage the City to secure the protection of bars elsewhere on the property where feasible; this is particularly so in high profile locations such as the South centre pavilion or adjacent to the otherwise protected gallows and death row walls where a high level of sensitivity of preservation is warranted.”

The Ontario Heritage Trust does not support the replacement of the iron bars with replicas. This issue and details regarding the reinstatement of the bars will require further discussion amongst the Ontario Heritage Trust, Heritage Preservation Services staff, and the applicant based on a clear understanding of the levels of deterioration, maintenance

issues and alternative conservation approaches. In this regard, City staff is not convinced that the technical issues raised by the applicant preclude the reinstatement of bars on the south section of the central pavilion.

Conclusions

The Old Don Jail is among the most important public buildings erected in Toronto in the mid-19th century. Heritage Preservation Services staff and the Chief Planner and Executive Director, consider the request to remove window bars from any part of the central pavilion to be outside the parameters of the City HEA, and therefore requiring the approval of Council. To be consistent with the spirit and intent of the City HEA, Staff is recommending that Council refuse the requested alteration to remove and not reinstate window bars on the three elevations of the south section of the central pavilion facing Gerrard Street. Staff do not oppose the removal of the iron bars from selected windows within the north section of the central pavilion.

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SIGNATURE

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ATTACHMENTS

Attachment No. 1(a-d) - Photographs
Attachment No. 2 – City Heritage Easement Agreement (excerpts)
Attachment No. 3(a-d) - Proposed Locations for Bar Reinstatement
Attachment No. 4 – letter, McCarthy Tetrault, September 29, 2008
Attachment No. 5 – letter, ERA Architects Inc., September 29, 2008
Attachment No. 6 – Bar Reinstallation Detail
Attachment No. 7 – Proposed Site Plan, Bridgepoint Hospital

Attachment No. 8 – Schedule “D”, City Heritage Easement Agreement
Attachment No. 9 – letter, ERA Architects, Inc., October 8, 2008