



**STAFF REPORT
ACTION REQUIRED**

**Pan Am Field Hockey Centre – University of Toronto
Back Campus Fields Project**

Date:	June 11, 2013
To:	City Council
From:	City Manager
Wards:	All
Reference Number:	

SUMMARY

This report provides information and recommendations relevant to Council's consideration of the potential designation of the Back Campus at the University of Toronto as a Cultural Heritage Landscape under Part IV of the *Ontario Heritage Act* and the impact such a designation could have on the Pan Am Field Hockey Centre / Back Campus Fields Project, which is scheduled to begin construction on July 1, 2013.

More specifically, this report:

- identifies anticipated reputational, legal and financial implications associated with such a designation given Toronto's role as the Host City of the 2015 Pan American / Parapan American Games, and various contractual agreements and commitments made by Games partners; and
- conveys the initial analysis and recommendations of Heritage Preservation Services regarding the merit of designating the University of Toronto's Back Campus as a Cultural Heritage Landscape.

Council is advised that any decision by the City at this time which would prevent the Back Campus Fields Project from proceeding at this site:

- will negatively impact Toronto's reputation as a responsible host of major international (sport) events;

- will undermine the strong working relationships the City has developed with various Pan Am partners; and
- could result in litigation which, regardless of the outcome, would cast the City and its Pan Am partners in a negative light, further undermining public confidence in the Games and damaging the reputation of all parties concerned.

Accordingly, this report recommends that Council affirm its support for the Pan Am Field Hockey Centre / Back Campus Fields Project at the University of Toronto, including the use of artificial turf at this location.

Council is also advised that, based on its preliminary research and evaluation of the merits of designating the property as a Cultural Heritage Landscape, Heritage Preservation Services:

- agrees that the University of Toronto Back Campus has cultural heritage value in a broader context;
- suggests that the Back Campus should be considered for designation as part of a larger Cultural Heritage Landscape (under Part IV, Section 29 of the *Ontario Heritage Act*) in context with University College and the Front Campus;
- notes a critical distinction between the historic uses of the Front Campus and Back Campus which is germane to the nature and implications of any potential designation, with the former primarily functioning as an "open and ceremonial space" and the latter as an "open playing field";
- concludes that any applicable designation ensure that the Front Campus be preserved as "natural green space" (i.e. grass not turf) while what is most critical for the Back Campus is that it remain an "open playing field" with views to and from the surrounding university buildings and street, and trees to the west, south, and north sides of the site; and
- recommends that Council direct staff to report back on the potential heritage designation of the property, inclusive of the relevant distinction between the historic uses of the Front and Back Campuses and noting the significance of the Back Campus as an open playing field, upon completion of the Pan Am Field Hockey Centre / Back Campus Fields Project.

In summary, adopting this report's recommendations will (i) allow the Back Campus Fields Project to proceed, (ii) avoid the potential for \$10+ million in losses by public institutions and corresponding legal claims, (iii) advance a process which may lead to the designation of the Front and Back Campuses and University College as a Cultural Heritage Landscape, noting the relevant distinction between the historic uses of the Front and Back Campuses and the significance of the Back Campus as an open playing field;

and (iv) encourage the involvement of relevant stakeholders in efforts to monitor and assess the impact of the Back Campus Fields Projects.

RECOMMENDATIONS

The City Manager recommends that City Council:

1. Affirm its support for the Pan Am Field Hockey Centre / Back Campus Fields Project at the University of Toronto, including the use of artificial turf at this location.
2. Direct the City Manager to write to the University of Toronto and request that it:
 - (i) establish appropriate mechanisms to monitor potential impacts of the Back Campus Fields Project across a range of indicators (i.e. environmental, health, social, access, heritage, urban planning and design, economic, etc.) on an on-going basis;
 - (ii) conduct a formal independent, evidenced-based assessment of the project after 5 years to determine whether it has had any significant detrimental impacts (drawing on data gathered through on-going monitoring of the project) and to recommend, as appropriate, measures to mitigate or correct any such impacts; and
 - (iii) create a project liaison and impact monitoring committee comprised of University of Toronto students, faculty, officials and alumni; local residents, representatives from local residents associations and/or the local City Councillor; and representatives from the Parks, Forestry & Recreation and City Planning divisions with a mandate, among other matters, to set the terms of reference for and select an independent consultant(s) to undertake the comprehensive project impact assessment after 5 years.
3. Direct staff to report on the potential heritage designation under Part IV, Section 29 of the *Ontario Heritage Act* of University College, the Front Campus and the Back Campus, noting the relevant distinction between the historic uses of the Front and Back Campuses and the significance of the Back Campus as an open playing field, upon completion of the Pan Am Field Hockey Centre / Back Campus Fields Project.

FINANCIAL IMPACT

The University of Toronto has served formal notice that the City of Toronto faces a potential legal claim for damages that could exceed \$10M if Council proceeds to designate the Back Campus as a Cultural Heritage Landscape under Part IV of the *Ontario Heritage Act* in a manner which prevents the construction of the Pan Am Field Hockey Centre/Back Campus Fields Project.

Under the terms of the Pan Am Games Multi-Party Agreement (the "MPA"), the Province has agreed to indemnify the City against losses in relation to "the use or occupancy, in connection with the Games, of any lands, buildings, fixtures and/or Facilities" unless the loss is caused by the City's negligence, default or wilful misconduct. Accordingly, provided that the City does not engage in negligence, default or wilful misconduct (which includes acting in bad faith) with respect to the matter at hand, the indemnification provision of the MPA would apply if the University were to pursue a legal claim against the City.

In its notice, the University alleges that the City is acting in bad faith in that the City is acting without proper notice or consultation, has not given the University an opportunity to respond and has taken into account irrelevant or unfounded considerations. It is the opinion of Legal Services that this matter is properly before Council and accordingly advises that the financial risks to the City with respect to a potential claim by the University are low.

Nevertheless, it is worth noting that because the University of Toronto, Province of Ontario and City of Toronto are all public institutions, any direct financial losses associated with a breach of contract and/or cancellation of the Back Campus Fields Project, along with the transactional costs of potential litigation associated therewith, will reduce the collective financial capacity of the University, Province and City to invest in Toronto in general and the TORONTO 2015 Pan/Parapan American Games in particular, likely crowding out public investment that would otherwise benefit Toronto residents and businesses.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In December 2008, City Council endorsed Toronto's participation in a bid to host the 2015 Pan /Parapan American Games. The bid itself was initiated, funded and led by the Government of Ontario, which also agreed to serve as the financial guarantor of any Games related deficit should the bid succeed and Toronto be awarded the right to host the Games.

A Field Hockey Centre Project on the St. George campus at the University of Toronto was one of the projects listed in the Bid Book submitted to the Pan American Sports Organization (PASO) for its consideration along with other supporting candidature material.

In February 2009, Council authorized the City Manager to negotiate, approve and execute on the City's behalf a Multi-Party Agreement with the Federal and Provincial governments and other key Games partners. The MPA identifies the Field Hockey Centre Project at the University of Toronto as one of the Games' capital projects to be funded through a cost-sharing arrangement wherein the Federal government covers 56% of the project's total capital costs and the facility owner is responsible for 44% of the capital costs.

Relevant staff reports related to Toronto's support for the bid to host the 2015 Pan/Parapan Am Games are available at:

- <http://www.toronto.ca/legdocs/mmis/2008/ex/bgrd/backgroundfile-16632.pdf>
- <http://www.toronto.ca/legdocs/mmis/2009/ex/bgrd/backgroundfile-18591.pdf>

At its meeting on May 14, 2013 Toronto and East York Community Council (TEYCC) endorsed the recommendations of item TE24.83. Subsequently, at its meeting on May 29, 2013 the Toronto Preservation Board (TPB) endorsed identical recommendations through its consideration of item PB23.11. In both cases, the item was introduced as new business and considered without City staff input or review. The key recommendation endorsed by TEYCC and TPB which is now before Council is that:

City Council state an intention to designate University of Toronto Back Campus, between University College and Hoskin Avenue, as a Cultural Heritage Landscape, under Part IV, Section 29 of the Ontario Act.

The background materials considered at these meetings and the resulting decision documents can be viewed, respectively, at:

- <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE24.83>
- <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PB23.11>

ISSUE BACKGROUND

2015 Pan/Parapan American Games

In November 2009, the Pan American Sports Organization ("PASO") awarded Toronto the right to host the 2015 Games. Shortly thereafter, a not-for-profit organization, the Toronto Organizing Committee for the 2015 Pan American and Parapan American Games ("TO2015") was established with a mandate to plan, organize, promote, finance, and stage the 2015 Games.

The Pan/Parapan American Games are one of the world's largest international multi-sport events, held every four years for athletes of the 41 member nations of PASO and 28 member nations of the Americas Paralympic Committee (the "APC"). The Pan American Games are comprised of all Olympic Summer Games sports, as well as traditional Pan American sports, while the Parapan American Games are comprised of the majority of Paralympic Summer Games sports.

The 2015 Games are expected to draw 10,000 athletes and officials and up to 250,000 visitors to the Toronto region. Training and competition venues for the 51 sports that will be featured at the TORONTO 2015 Games will be located in 13 municipalities across the Greater Golden Horseshoe.

The MPA defines the rights and responsibilities of TO2015, the Canadian Olympic and Paralympic Committees, the Provincial and Federal governments, and the City of Toronto with respect to the governance, funding and delivery of the Games. Through so-called "Joinder Agreements" more than a dozen municipalities and several universities, including the University of Toronto, are also signatories to the MPA and are bound by, and enjoy the benefit of, many of its provisions.

Back Campus Fields Project

Discussions between the University of Toronto and TO2015 regarding the Field Hockey Centre Project, and the Back Campus location as the site on the St. George Campus for this project, started in early 2010.

Between 2010 and early 2012, as part of the project development process, a number of consultations were undertaken by University officials before formal approval of the \$9.5M project was granted by the University's Governing Council on April 11, 2012. Presentations, consultations and/or meetings about the project were held with:

- the University's Design Review Committee
- the Neighbourhood Liaison Committee
- Council on Athletics and Recreation
- Council on Student Services
- Hart House, University College and U of T's Students' Union

As with most other Pan Am Games related capital project, Infrastructure Ontario ("IO") is the designated project manager and procurement agent for the Back Campus Fields Project. On April 18, 2012, the University, IO and TO2015 executed a Memorandum of Understanding for the project. A Facility Agreement for the project was subsequently signed in August, 2012

IO employs a fixed-price RFP model for Pan Am capital projects in which bidding consortia arrange their own project financing and effectively guarantee project delivery by a certain date in return for payment. IO bundled the Back Campus Fields Project with

two other projects (construction of the Markham Pan Am Centre and a retrofit of the Etobicoke Olympium). The successful proponent, Bondfield Construction, was awarded the contract in August 2012.

In addition to providing critical support for the 2015 Pan/Parapan Am Games by serving as the venue for field hockey (Pan Am Games) and five-a-side and seven-a-side football (Parapan Am Games) competitions, the key long-term benefits and attributes of the Back Campus Fields Project identified by the University are that it will:

- improve playing time (by 300%), quality of play, and player safety for all levels of sport and recreation users, helping to address the ever growing demand for field time from both students (3000 of whom participate in intramural field sports) and the broader community;
- maintain the Back Campus as an open space and its 100+ year tradition as a site of playing fields; and
- provide opportunities for additional landscaped pathways, plantings, benching and other features that create new possibilities for enjoying the Back Campus because the proposed new playing fields will actually sit on a smaller footprint than the current fields.

Questions and concerns about potential environmental and social impacts of the project, as well as its aesthetics, started to be raised in November, 2012 by members of the University community (faculty and students) and local residents.

Over the past several weeks, a community group known as "Keep the Back Campus Green" has gathered 5000 signatures on an online petition which requests Toronto City Council to designate the Back Campus as a "Cultural Heritage Landscape", and preserve the site as an open space and vibrant green field which will support the diverse activities of Toronto residents, community members and students.

When it considered item PB 23.11 as new business at its meeting on May 29, 2013 the Toronto Preservation Board received 24 communications and heard from 18 deputants, a majority of whom supported the recommendation for Council to state its intent to designate the site as a Cultural Heritage Landscape.

COMMENTS

Impact on Toronto's Reputation and Relationship with Games Partners

It is a privilege for Toronto to serve as the Host City of the 2015 Pan/Parapan American Games, the world's third largest international multi-sport event.

Since winning the bid in 2009, the City has been working in close partnership with TO2015, the Governments of Ontario and Canada, more than a dozen municipalities throughout southern Ontario, the University of Toronto and other stakeholders to prepare for the Games.

While Toronto's approved financial investment of up to \$96.5M (in nine capital projects) is modest relative to the Games' \$1.44B budget, the City has a very significant reputational stake in supporting a successful event. Indeed, more than any other partner or stakeholder, the City of Toronto's name – its good name – is attached to the TORONTO 2015 Pan/Parapan American Games.

Operational planning is on track and the Games' extensive capital program is on time and under budget. The Athletes' Village in the West Don Lands is more than 50% complete, and almost all of the other capital projects needed for the Games, including the new Toronto Pan Am Sport Centre in Scarborough, are underway. As these impressive new facilities rise from the ground, public awareness and interest in the Games grows.

Furthermore, to date, there has been a high degree of cooperation and demonstrated good-will amongst Games partners. Any major issues posing potential risks to one or more of the partners have been flagged in a timely manner and resolved using creativity, the use of good data, and with reference to sound public policy principles and the various Games related legal agreements, including the MPA.

Given this context, and with construction of the Back Campus Fields Project scheduled to start on July 1, 2013, Council is advised that designating the site as a Cultural Heritage Landscape in a manner which jeopardizes the project:

- will negatively impact Toronto's reputation as a responsible host of major international (sport) events
- will undermine the strong working relationships the City has developed with various Pan Am partners
- could result in litigation which, regardless of the outcome, would cast the City and its Pan Am partners in a negative light, further undermining public confidence and damaging the reputation of all parties concerned.

As indicated previously in the Financial Impact section, the University of Toronto has served formal notice that the City of Toronto faces a potential legal claim for damages that could exceed \$10M if Council proceeds to designate the Back Campus as a Cultural Heritage Landscape under Part IV of the *Ontario Heritage Act* in a manner which prevents the construction of the Pan Am Field Hockey Centre/Back Campus Fields Project.

Provided that the City does not engage in negligence, default or wilful misconduct with respect to the matter at hand, the indemnification provision of the MPA would apply, protecting the City's direct financial interests. Indirectly, however, any costs ultimately borne by the University, Province or City associated with the cancellation of the Field Hockey Centre Project will reduce the collective financial capacity of these institutions to invest in Toronto in general and the TORONTO 2015 Pan/Parapan American Games in particular, effectively crowding out public investment that would otherwise benefit Toronto residents and businesses

It must also be noted that the standard of conduct to remain in good standing with the law is quite distinct from the standard required to maintain public, inter-governmental and international confidence.

University of Toronto Back Campus: Cultural Heritage Value

Staff from the City of Toronto's Heritage Preservation Services unit have reviewed the documents prepared by "Keep the Back Campus Green" to support a designation of the University of Toronto Back Campus as a Cultural Heritage Landscape. While staff agree that the University of Toronto Back Campus has cultural heritage value, staff is of the opinion that it does not merit designation on its own, but rather that the University of Toronto Back Campus is part of a larger Cultural Heritage Landscape in context with University College and the Front Campus that is worthy of designation under Part IV, Section 29 of the *Ontario Heritage Act*.

The University of Toronto's St. George Campus contains nearly 200 buildings, structures and monuments, 36 of which are currently listed on the City of Toronto Inventory of Heritage Properties, with 13 also designated as individual properties under Part IV, Section 29 of the Ontario Heritage Act. The University of Toronto Back Campus is not currently listed or designated, although it is adjoined by a number of heritage properties, including University College, Hart House and Soldiers' Tower, Wycliffe College, Trinity College and Massey College that are viewed across its open space.

University College with its Front and Back Campuses is at the historical centre of the St. George Campus. When the campus opened in the 1850s in a pastoral setting beyond the city centre, the notable architects Cumberland and Storm placed University College in open space. It became an instant landmark in Toronto that was rebuilt following an 1890 fire. University College was listed on the City of Toronto's inaugural heritage inventory and was declared a National Historic Site by the Government of Canada in 1968 for its architecture, historical associations and "its prominent siting at the top of a green in the heart of the University of Toronto campus."

The Front Campus is significant as an open and ceremonial space on the St. George Campus. Across its open space, University College terminates the vista north from College Street along King's College Road, a view that is identified on the list of important views and vistas for conservation in the new Heritage Policies for Toronto's Official Plan (OPA 199). The Front Campus is a focal point for ceremonial occasions at

the university and its open landscaped natural green space is an important part of the character of the place.

In contrast, the Back Campus has primarily functioned as a sports field and was briefly the location of a gymnasium. The cultural heritage value of the University of Toronto Back Campus also lies in its context to University College. Since the 1850s, it has welcomed both intramural and casual sports and informal recreational activities and, during times of conflict, provided an area for military training and staging.

Preliminary research and evaluation indicates that the attributes of the Back Campus include the open playing field with the views to and from the surrounding university buildings and streets, the grove of English elm trees on the west side, and the important collection of trees set in green space along its edges flanking Hoskin Avenue and Tower Road.

Research to date into the historic significance of the Back Campus does not identify the grass as an attribute to be conserved. However, staff have determined that the grass is a significant attribute of the Front Campus, related to its value as an open, designed and ceremonial space, which should be conserved at that location.

University College with its Front and Back Campuses stands as the centrepiece of the University of Toronto's St. George Campus. To fully document and protect this important part of the city, it is recommended that Council:

- Direct staff to report on the potential heritage designation under Part IV, Section 29 of the *Ontario Heritage Act* of University College, the Front Campus and the Back Campus, noting the relevant distinction between the historic uses of the Front and Back Campuses and the significance of the Back Campus as an open playing field, upon completion of the Pan Am Field Hockey Centre / Back Campus Fields Project.

University of Toronto Secondary Plan

In addition to the analysis provided above, the City of Toronto Official Plan Secondary Plan for the University of Toronto also identifies a network of heritage landscapes in sections 2.3 and 3.1.1 that includes both the Front and Back Campuses.

Although these areas were identified in the secondary plan, they were never subsequently designated under the *Ontario Heritage Act* for their cultural heritage value. The evaluation by staff contained within this report identifies the open space attributes of the Front and Back Campus that are also contained within the Secondary Plan.

The University of Toronto Secondary Plan also identifies that "the preservation, maintenance, and where possible, the extension and enhancement of the role and function of the . . . open space systems, will be encouraged." To that end, the ground cover that is used on the Back Campus should continue to encourage the variety of functions that the

back campus is currently used for, including athletic, cultural and recreational activities. The active playing surface's colour, texture and layout (i.e. marking) is an integral part how the Back Campus will be used after the Pan Am Games.

Additionally, the University has indicated that it has recently completed a new Master Plan which it will be seeking to have the City adopt as a new Secondary Plan. The University has indicated that this initiative will include additional heritage studies.

Conclusion

With few if any exceptions, the various health, access, sport and recreation, environmental and social impacts of the Back Campus Fields Project suggested by the project's opponents and proponents lend themselves to objective measurement and evaluation.

Assuming the project goes ahead this summer as planned, high quality data about its impacts – positive and negative -- could be gathered, evaluated and used to inform any future decisions about the Back Campus. If the evidence ultimately suggests that the negative impacts of the project significantly outweigh its benefits, it would be possible to replace the synthetic turf required for the Field Hockey pitches with grass or make other modifications.

Conversely, if Council elects now to state its intent to designate the site a Cultural Heritage Landscape in a way which does not allow the project to go forward, the negative impacts on the Toronto's international reputation and its relationship with Games partners will be real, costly, and irreversible.

In light of these considerations, it is recommended that City Council both:

- Affirm its support for the Pan Am Field Hockey Centre / Back Campus Fields Project at the University of Toronto, including the use of artificial turf at this location, and
- Direct the City Manager to write to the University of Toronto and request that it:
 - (i) establish appropriate mechanisms to monitor potential impacts of the Back Campus Fields Project across a range of indicators (i.e. environmental, health, social, access, heritage, urban planning and design, economic, etc.) on an on-going basis;
 - (ii) conduct a formal independent, evidenced-based assessment of the project after 5 years to determine whether it has had any significant detrimental impacts (drawing on data gathered through on-going monitoring of the project) and to recommend, as appropriate, measures to mitigate or correct such impacts, and;

- (iii) create a project liaison and impact monitoring committee comprised of University of Toronto students, faculty, officials and alumni; local residents, representatives from local residents associations and/or the local City Councillor; and representatives from the City's Parks, Forestry & Recreation and City Planning divisions with a mandate, among other matters, to set the terms of reference for and select the independent consultant(s) to undertake the comprehensive project impact assessment after 5 years.

CONTACT

Tobias Novogrodsky, Senior Advisor, Corporate Initiatives & 2015 Pan Am Games
City Manager's Office, Tel. (416) 392-9688, Email: tnovogr@toronto.ca

Scott Barrett, Senior Coordinator, Heritage Preservation Services
Tel. (416) 338-1083, Email: sbarret3@toronto.ca

Shirley Mathi, Solicitor, Legal Services
Tel. (416) 392-2989, Email: smathi@toronto.ca

Jasmin Stein, Solicitor, Legal Services
Tel. (416) 392-7226, Email: jstein@toronto.ca

SIGNATURE

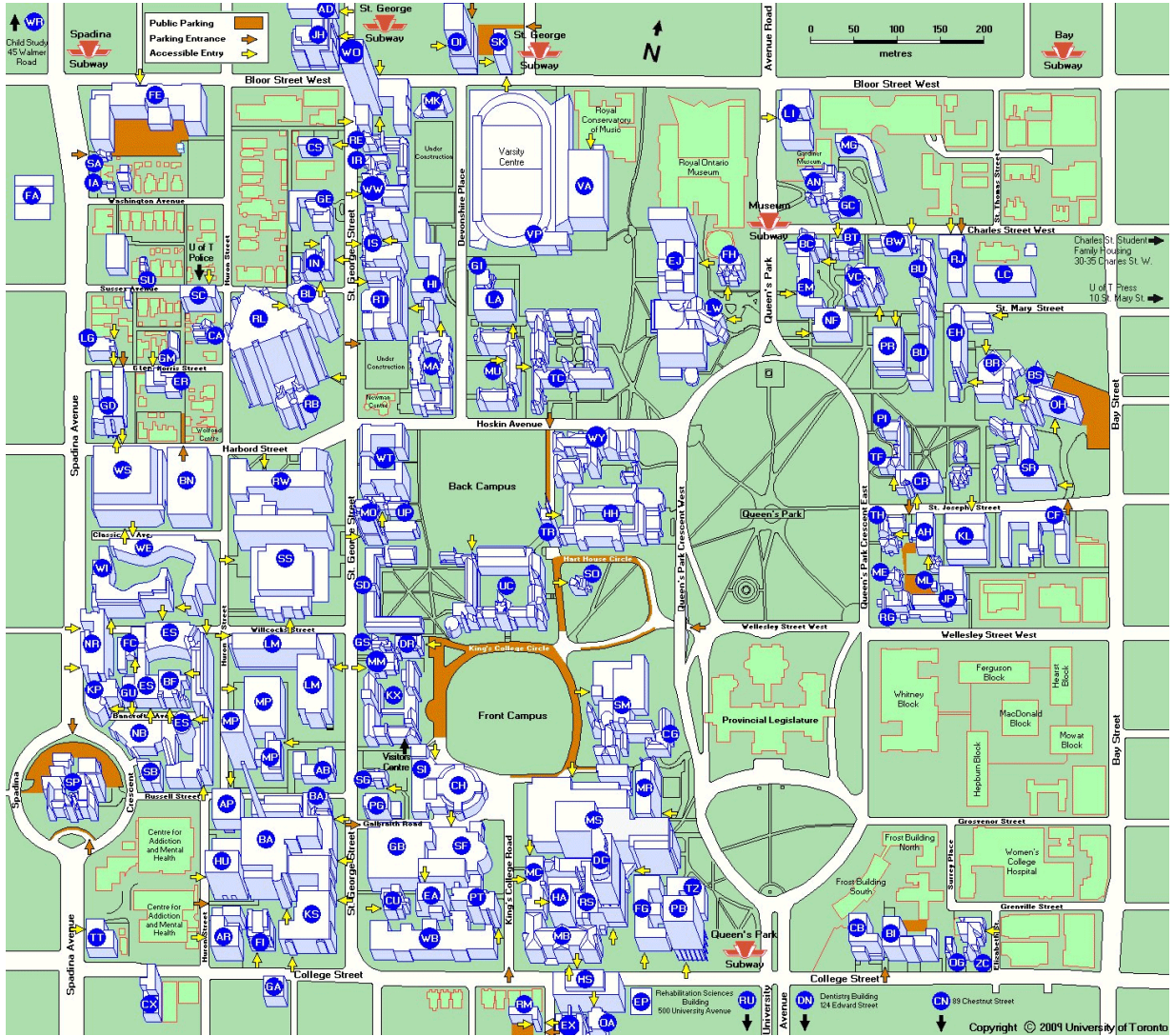
Joseph P. Pennachetti

ATTACHMENTS

1. Map of University of Toronto's St. George Campus
2. Area of Potential Cultural Heritage Landscape Reviewed by Staff

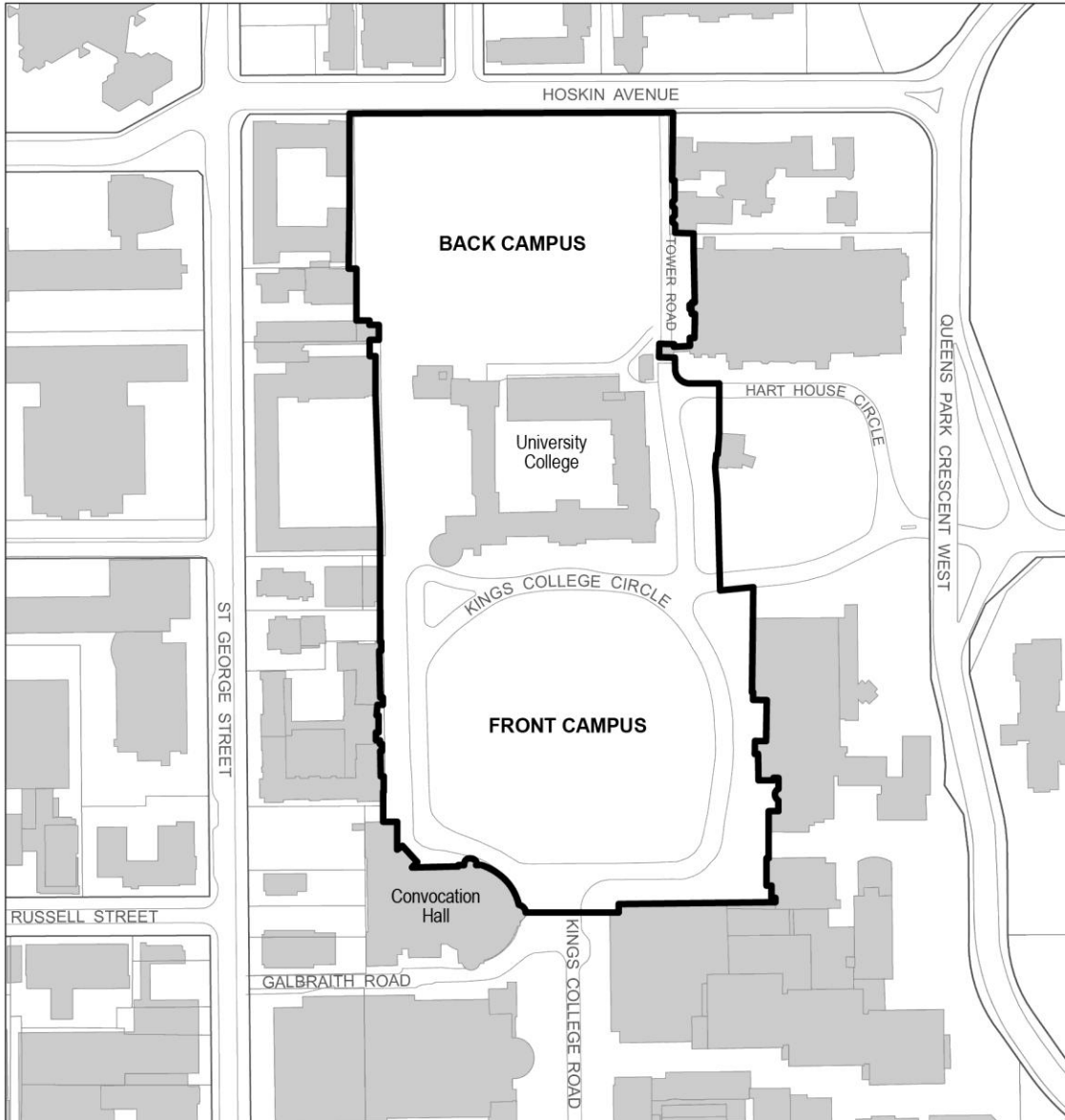
Attachment 1

Map of the University of Toronto, St. George Campus



Attachment 2

Area of Potential Cultural Heritage Landscape Reviewed by Staff



 **TORONTO** City Planning

Potential Cultural Heritage Landscape reviewed by staff

University of Toronto

 Area of Proposed Designation under the Ontario Heritage Act


Not to Scale
06/11/2013