

April 19, 2017

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Via Email

File 18223.00001

Toronto Preservation Board
2nd floor, West Tower
City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Lourdes Bettencourt

Dear Chair and Members of the Toronto Preservation Board:

Re: PB22.9 – Intention to Designate - 15 Glen Morris Street

We are solicitors for 15 Glen Morris Inc., owners of property located at 15 Glen Morris Street, in the City of Toronto (the "Property"). The Property is located on the south side of Glen Morris Street, between Spadina Avenue and Huron Street. The Property shares a laneway with the Graduate Student Residence at the University of Toronto to the west and the University Early Learning Centre to the east.

We reviewed the Toronto Preservation Board ("TPB") agenda and learned that staff was coming forward with a report recommending that Council state its intention to designate the Property at the TPB meeting of April 20, 2017. We subsequently requested the report from staff and despite the report being dated April 11, 2017, we only received it less than 48 hours in advance of the proposed meeting. As such, the comments in this letter are only to be considered preliminary.

As the authors of the report are undoubtedly aware, the Property was the subject of an Ontario Municipal Board (the "Board") hearing, where the applicant sought Official Plan and Zoning by-law amendments to permit the replacement of the existing dwelling on the Property with an eight storey, 18 unit apartment building (the "Amendments"). The Applicants were successful before the Board, and the Amendments were approved.

Recently, the owners of the Property have had discussions with the City regarding the redevelopment of the Property in accordance with the Board decision. Flowing from those discussions is now a recommendation to Council to issue a notice of intent to designate the Property under the Ontario Heritage Act, R.S.O. 1990 c.O18, (the "Act").

It is clear that this recommendation is nothing more than a bad faith attempt to thwart the decision of the Board to approve the Amendments, and to use the *Act* for a completely improper purpose.

No more is this the case than in this instance, given that the decision of the Board clearly notes at page 3 that:

The City has determined that there is **no heritage significance** for the existing dwelling, which provides housing for students in five bedrooms. (Emphasis mine, extract enclosed)

As such, there is no compelling reason for the City to proceed with a notice of intention to designate the Property, given that a determination has already been made by the City itself that there is no heritage significance for the existing dwelling, which was duly noted in the Board decision, which to our knowledge was not appealed.

Further, it is curious that the staff report that is before the TPB on this matter is entirely silent on the Board decision and the previous determination of the City on the heritage status of the Property. Moreover, the staff report is woefully thin on any reasons for its recommendation. However what is clear is that any reasons for designation that staff are relying upon would have been known at the time the City made its previous determination that there is no heritage significance for the existing dwelling. Further, staff have noted that it has initiated this notice of intent to designate merely to allow more time for considering demolition alternatives, which can only be directly related to discussions held regarding my clients redevelopment plans for the Property, in accordance with the Board decision.

My client has relied upon the decision by the Board and the City's previous determination that there is no heritage significance for the existing dwelling, for their redevelopment plans. Should the City proceed with the heritage designation of the Property in an attempt to thwart the findings of the Board to approve the Amendments, given this unique fact situation, my client will take all legal action necessary to protect their redevelopment rights.

As such, our client objects to the recommendations on the basis that they are not genuine and asks that the TPB not allow the heritage process to be used to thwart a bone fide property redevelopment that has gone through the appropriate process. Specifically, the TPB should not allow itself or the heritage processes to be improperly used to thwart the planning process because in doing so it ultimately undermines good heritage work that the TPB typically undertakes.

Please ensure that the undersigned is copied on any recommendation made by the TPB and is given notice of all future meetings in connection with the Property. Should staff wish to discuss this matter further, please do not hesitate to contact the undersigned.

Yours truly,

WeirFoulds LLP

A handwritten signature in dark ink, appearing to read 'DBaker', written over the printed name 'Denise Baker'.

Denise Baker

DB/mw

cc Client

10358467.1

ISSUE DATE:

Sept. 20, 2005

DECISION/ORDER NO:

2464



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL050355

Uri Shafrir and Masha Etkind Shafrir have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 438-86 of the City of Toronto to rezone lands composed of 15 Glen Morris Street to provide exceptions to the R3Z1.0 zoning provisions to allow a proposed apartment building.

City File No: 12017

OMB File No: Z050047

Uri Shafrir and Masha Etkind Shafrir have appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the City of Toronto to redesignate land respecting 15 Glen Morris Street by introducing a site specific development policy in the Plan II to permit the development of the subject lands for a residential apartment building of up to 25m (8 storeys) in height.

City File No: TE CMB 2002 0017

OMB File No: O050060

Uri Shafrir and Masha Etkind Shafrir have referred to the Ontario Municipal Board under subsection 41(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, determination and settlement of details of a site plan for lands composed of 15 Glen Morris Street, in the City of Toronto

OMB File No. M050084

APPEARANCES:

Parties

Uri Shafrir and Masha Etkind Shafrir

City of Toronto

University of Toronto

Counsel

A. Brown

R. Kallio

S. Makuch

DECISION DELIVERED BY R. ROSSI AND ORDER OF THE BOARD

Uri Shafrir and Masha Etkind Shafrir (the Applicants) have appealed to the Ontario Municipal Board the City of Toronto's failure to enact a proposed Official Plan

Amendment and a Zoning By-law amendment to permit them to replace an existing dwelling located at 15 Glen Morris Street with a proposed, 18-unit, eight-storey apartment building.

Appearing as witnesses for the Applicants were Robert Glover, who provided expert architectural, planning and urban design evidence, and Peter Smith, who provided expert land use planning evidence in support of the proposal.

Appearing as witnesses for the City were Andrea Old, who provided expert urban design evidence, and Elise Hug, who provided expert land use planning evidence in opposition to the proposal.

Appearing as a witness for the University of Toronto was Paul Johnston, who provided expert land use planning evidence in opposition to the proposal.

Area residents provided evidence related to their concerns and all spoke in opposition to the proposal.

On all of the evidence presented, the Board finds that the proposal in its present form is appropriate, conforms to the Official Plans and represents good planning. The reasons follow.

The Official Plan amendment concerns a .30 hectare parcel of land located on the south side of Glen Morris Street, east of Spadina, municipally known as 15 Glen Morris Street, City of Toronto. On the planning evidence presented, the Board finds that the subject property is designated Low Density Residence Area by the existing City of Toronto Official Plan, and is subject to the policies applicable to the Huron-Sussex Area of Special Identity (HS ASI) in the University of Toronto Area Part II Plan. The effect of this amendment would be to introduce a site-specific development policy in the Part II Plan permitting the development of the subject lands for a residential building of up to 25m (eight storeys) in height.

On the planning evidence presented, the Board finds that the subject property is currently zoned R3 Z1.0 by City of Toronto Zoning By-law No. 438-86 as amended. The uses permitted by the current zoning include a wide range of residential uses, including apartment buildings. The maximum permitted residential gross floor area is

limited to 1.0 times the lot area or a maximum of 303.25m². A maximum height of 12m is permitted. The proposed Zoning By-law amendment would permit, as an exception to the R3 Z1.0 zoning, an apartment building containing a maximum of 18 dwelling units. The proposed zoning would permit a maximum total residential gross floor area of 1,850m² and a maximum height of 25m. A minimum of 18 parking spaces would be required, to be provided off-site within 300m. The proposed zoning would also specify requirements for setbacks.

Description of the Proposed Building

Location of the subject property is at 15 Glen Morris Street. The existing dwelling shares a laneway with the Graduate Student Residence (GSR) to its immediate west. The University Early Learning Centre (ELC) sits to the east. The City has determined that there is no heritage significance for the existing dwelling, which provides housing for students in five bedrooms.

The existing house is setback 1.8m from the property line, and the proposed new building will start from the same point. Residential units will face north and south, with a small landscaped area at the rear. The proposed building is only 8.78m wide – the width of a typical house. There are 8.25m from the side wall to the rear wall of the GSR.

There is a 6.3m setback from the property line at the rear; the City requires 7.5m. Mr. Glover is not concerned with the rear yard setback because of developments on either side of the proposed building. In terms of achieving separation, Mr. Glover is of the opinion that it is both adequate and appropriate. While there is a smaller rear yard than what currently exists, he added that the rooftop will serve the function of an amenity open space. The rear yard will provide a visual amenity from the rear apartment unit, and access will be possible from the lobby. He added that rooftop amenity spaces are common in Toronto as opposed to rear yard at grade level. Access to the rooftop is by means of the stairs and elevators.

Windows do not overlook the ELC to the east, and every second unit will have a small bathroom window of opaque glass to make the façade more interesting. The east side of the building will be indented with planting boxes, with windows that will allow access to the planters for care and maintenance of the plants.

The building steps back at the eighth floor on the Glen Morris frontage as part of the transition to the street. As there will be no parking provided on this small site, City Works staff agreed to an arrangement whereby the City will permit leasing the necessary number of parking spaces in three potential neighbouring buildings. Exhibit 1 Tab 11 pp.134-135 indicates that the proposed parking supply is acceptable to the City. As for the impact of this development on street traffic, Mr. Glover advised that anyone with a vehicle will park elsewhere and as the City has found, many residents of this area would not need a car because they live/work/study in the area.

The building elevation at the front goes straight into the building, with no steps. There are residential-type windows and balconies facing the street and an articulated elevator lobby with planters on the east side.

The Character of the Neighbourhood

Urban Designer Glover advised that the neighbourhood has a prevailing Victorian character, but that there other types in the area. The University of Toronto is the major landowner and many residences are rented or leased. Other properties are used for institutional uses. The large John Robarts Library is situated to the east of the site. While this is regarded as a stable area (an ongoing residential neighbourhood), the Part II Plan creates an indirect process for development.

Mr. Glover is of the view that there is a strong need for University to continue to provide student housing. He said that in addition to the University, private owners both inside and outside of the HS ASI have also provided student accommodation over the years, and continue to do so.

Urban Designer Old characterized the HS ASI as a very small area and testified that every lot is important because its size is so small. She cited the map at Exhibit 25 Tab 5 p.132 as evidence of significant pressure on the HS ASI to the immediate east of the Area. She advised the Board that the University of Toronto Plan is 1 of 113 in the City. Only 25 of these plans were brought forward to form part of the new planning documents, and the University of Toronto Plan was brought forward with all of its policies still in place.