

Clause embodied in Report No. 8 of the Toronto East York Community Council, as adopted by the Council of the City of Toronto at its meeting held on November 6, 7 and 8, 2001.

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**Archaeological Study of the First Parliament Site -
265-271 Front Street East and 25 Berkeley Street
(Toronto Centre-Rosedale, Ward 28)**

(City Council on November 6, 7 and 8, 2001, adopted this Clause, without amendment.)

The Toronto East York Community Council recommends that:

- (1) the following report (October 1, 2001) from the Commissioner of Economic Development, Culture and Tourism be adopted; and**
- (2) City Council endorse the creation of a Task Group, as set out in the communication (October 23, 2001) from the Executive Director, Heritage Toronto.**

The Toronto East York Community Council submits the following report (October 1, 2001) from the Commissioner of Economic Development, Culture and Tourism:

Purpose:

To present to Council the findings and conclusions of the archaeological study of the First Parliament site and to recommend a process for managing the conservation of this heritage resource.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that:

- (1) Council receive the report titled “Government Seat to Carwash: The History and Archaeology of Upper Canada’s First and Second Parliament Buildings, 1791 – 1824” August 2001 by Archaeological Services Inc. as fulfilment of the terms of the contract with the archaeological consultant;**

- (2) Council adopt the conclusions of the archaeological assessment conducted by Archaeological Services Inc., dated August 2001, that there is a significant archaeological resource, within the meaning of Section 2.5 of the Provincial Policy Statement issued under the *Planning Act*, that should be preserved on site on the properties known municipally as 265 and 271 Front Street East and 25 Berkeley Street;
- (3) Council direct the Commissioner of Urban Development Services to consider the Provincial Policy Statement and the archaeological consultant's recommendations in any planning or building permit application for 265 and 271 Front Street East and 25 Berkeley Street;
- (4) Council request that the Province of Ontario, in consultation with the City of Toronto and other stakeholders, work towards the protection and commemoration of this significant archaeological resource;
- (5) Council encourage the Province of Ontario to engage the Government of Canada to assist in the protection and commemoration of this internationally significant archaeological resource; and
- (6) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The properties known as 265 and 271 Front Street East and 25 Berkeley Street, shown on Attachment No. 1, have been on the City of Toronto's Inventory of Heritage Properties since 1974 and were designated for historical reasons by City Council under Part IV of the *Ontario Heritage Act* in 1997 (By-law 091-97). These three properties are associated with the First Parliament buildings built in Upper Canada in 1796 – 1797 when York's place as the colonial capital was confirmed. Parliament Street is named for these modest brick buildings that were located close to the lake and protected by a wood blockhouse. In addition to being the site where some of the early formative legislation was passed, the buildings were also the first meeting rooms of the St. James Anglican congregation. The Parliament buildings were razed in 1813 along with the Governor's home at Fort York during the first American occupation and sacking of York in the War of 1812. This action led to the retaliatory torching of the American Congress and White House in Washington by the British in 1814.

Following the war with the United States, the parliament buildings were rebuilt, but suffered a disastrous fire in 1824. These dilapidated structures remained on the site until 1830; however, in 1830 to 1832, the third parliament buildings were erected at Front Street West between John and Simcoe streets. The derelict remains of the second parliament buildings were demolished and in 1838 York's third jail was built on the site to the designs of John G. Howard (demolished in 1887). In the late-nineteenth century the Consumers Gas Company acquired the site and built gasification works serviced by a rail spur. These gas works were demolished in the early 1960s. Today 271 Front Street East and 25 Berkeley Street are used as a car / truck wash and parking lot by Budget Rent-A-Car while the mid-twentieth-century industrial building at 265 Front Street East, the former location of Fuhrman Auto Body, is vacant.

In June 2000, the owner of 265 Front Street East applied for Site Plan Approval to renovate and expand the existing building for use as a car dealership. In the fall of 2000, the owner of 271 Front Street East / 25 Berkeley Street applied for a permit to renovate and re-clad the Budget buildings. At its meeting of October 3, 2000, City Council, in approving Clause 24 of Report No. 9 of the Economic Development and Parks Committee and Clause 41 of Report No. 2 of the Policy and Finance Committee, authorized City staff, in co-operation with the land owners, to retain a provincially-licensed consulting archaeologist to conduct an archaeological impact assessment of the three properties. This assessment was to determine if any archaeological resources from the First Parliament remained on site and how those resources might be impacted by the proposed development applications.

Comments:

Analysis and Findings of the Archaeological Consultant

Following Council's direction, Archaeological Services Inc. was hired. The firm conducted a historical and mapping analysis of the site. Through this analysis, the location of the First Parliament buildings and blockhouse were mapped relative to the site (Attachment No. 2). In addition, the succeeding buildings on the site – the jail (Attachment No. 3) and the gas works (Attachment No. 4) were mapped. This analysis confirmed the location of the First Parliament buildings on this site and suggested the possibility that a portion of the remains of the First Parliament buildings may not have been disturbed by succeeding uses.

Using the map analysis, the archaeologist undertook fieldwork in late October and early November, 2000. This fieldwork consisted of three test trench excavations, identified on Attachment No. 5. No remains from the First Parliament occupation were found in trenches 1 or 3 because of subsequent disturbances. However, in trench 2, shown in Attachment No. 6, the archaeologist found structural and artifactual evidence of early buildings. The structural evidence included fragmented early clay bricks above loose laid limestone footings, charred remains of wooden floor joist and floorboards and patches of limesand mortar. Artifactual evidence consisted of ceramics, window glass, hand wrought nails and faunal evidence consistent with occupation of the site in the late eighteenth and early nineteenth century. The archaeologist concludes:

Together, the historical and archaeological data indicate that the excavation of Trench 2 revealed a small portion of the south wing of the First Parliament building complex. Moreover, the strata evident in the west wall of the north extension suggest that more of this burned feature remains intact under the paved surface. While the structural remains relate to the First Parliament buildings, the early nineteenth century artifacts above the floor may relate to either the first buildings or the subsequent second Parliament buildings. (page 142)

During the excavation, it was apparent that there were substantial archaeological remains on the site that drew considerable media attention and raised public interest in archaeology in the City. After considerable scientific analysis, consultation and additional research, including the dating of artifacts from the excavation, the archaeologist submitted the final report to Culture Division

on August 2, 2001. The owners were given a copy of the report and, on August 17, the Ministry of Tourism, Culture and Recreation received the report.

Recommendations of the Archaeological Consultant

The full conclusions and recommendations from the archaeological assessment are provided as Attachment No. 7. The Archaeological Assessment concludes and recommends that:

- (a) remains of the First Parliament buildings of Upper Canada have been found; the site is of local, provincial and national significance;
- (b) the site be recognised by Canada and the US (War of 1812) for its international significance;
- (c) the site be secured and interpreted to the public at large;
- (d) any future non-archaeological disturbances on the site should be restricted to areas outside of the archaeological potential zones – Attachment No. 5 (Development which would disturb archaeological remains prohibited on portions of the site);
- (e) any subsoil disturbance on the site (outside the archaeological potential zones) should be preceded by licensed archaeological testing and excavation; and
- (f) the archaeological deposits are extremely fragile and any archaeological excavation must be conducted cautiously at a pace consistent with proper identification and documentation.

Management and Protection of the Archaeological Resource

- (i) City of Toronto

During the archaeological excavation, the owner of 271 Front Street East altered the building permit application in order to eliminate any proposed soil disturbance and thus preserve the archaeological resources on that property. There is an outstanding Site Plan Approval application for the property at 265 Front Street East; this application may not disturb any of the archaeological potential zones, but does require disturbance outside of these areas. While the initial application is inactive, the owner is considering a revised and enlarged proposal for another car dealership. The extent of the archaeological disturbance has yet to be determined.

The City should apply the findings of this archaeological study in its review and approval of any application made under the *Planning Act* and any building permit application. In this respect, the City should attempt to prohibit any development which might disturb the archaeological remains on the portion of the site defined by in this study as “Archaeological Potential Zones” as shown in Attachment No. 5 while permitting development in the area beyond, only after archaeological analysis and subject to appropriate mitigation measures. Other than attempting to direct the physical development on the site away from the potential archaeological zones, the City is limited in its ability to respond to the findings of this assessment. The City is not in a position to

secure and interpret this site in a manner consistent with its significance. Should securing the site not be feasible, Council's conclusion that this significant archaeological resource be preserved on site provides additional context for the review of development applications. The legal extent of Council's ability to refine development applications proposing intrusion upon the archaeological resource would have to be determined based upon the specific application before Council at that time.

(ii) Province of Ontario

Provincial involvement in the protection of archaeological resources is referenced in the *Planning Act*, Section 2, where "the conservation of features of significant ...archaeological ... interest" is stated as a matter of provincial interest. The archaeological assessment concludes that this site contains a significant archaeological resource. In addition, archaeology is identified as a provincial interest in the Provincial Policy Statement issued under the *Planning Act*. Policy 2.5 of this Statement declares that "where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site will be permitted." The archaeological assessment recommends preservation on site.

Provincial involvement in the protection of archaeological resources is also specified in the *Ontario Heritage Act*, Part VI, Conservation of Archaeological Resources. The Act provides the Minister of Tourism, Culture and Recreation with jurisdiction for the designation, licensing and conservation of archaeology. The archaeological assessment has been submitted to the Ministry as part of the archaeological licensing review and to determine if the report's recommendations meet with provincial technical and conservation requirements. To date, the Province has not advised if the assessment meets its requirements.

Both the *Planning Act* and the *Ontario Heritage Act* suggest the need for an important Provincial role in determining the future of this significant archaeological resource. Further, this site is Provincially important as the site of the First Parliament buildings for Ontario. Given its location and association with the historic origins of the City of Toronto, it is appropriate that the Province, in consultation with the City, work towards the protection of this significant resource.

(iii) Government of Canada

The archaeological assessment concludes that this site is of national and international significance. Therefore it is appropriate that the Province, together with the City, work with the Government of Canada to explore their potential role in protecting and commemorating the heritage resources of this site.

(iv) Initial Steps and Future Opportunity

The City of Toronto has taken initial steps to recognize the importance of the First Parliament site. In addition to its designation pursuant to Part IV of the *Ontario Heritage Act*, in 1997 City Council adopted a Community Improvement Plan for King-Parliament pursuant to Section 28 of the *Planning Act*. This Plan was subsequently approved by the Province; it identifies the First Parliament site as a proposed Community Improvement Project that warrants commemoration and interpretation. The Community Improvement Plan powers under the Act may be a vehicle of

assistance to the City and the Province in protecting and interpreting this significant archaeological resource.

Both property owners have agreed to contribute money to on-site historical interpretation. The details of the interpretation plan are not yet determined but will be informed by the findings of the archaeological assessment.

Measures to protect this significant archaeological resource are wide, ranging from permitting development as proposed while protecting the archaeological resources to taking more comprehensive measures to explore, define, interpret and celebrate this significant archaeological find. The Province, in conjunction with other levels of government, the property owners and stakeholders, need to explore the opportunities for a vision befitting the significance of this site.

Discussions have been held with staff of the Urban Development Services Department and they concur with the conclusions and recommendations of this report.

Conclusions:

The discovery of important archaeological resources under the pavement of a downtown Toronto parking lot has demonstrated that, even in a highly developed urban context, the archaeological record can survive and contribute to our understanding of Canada's heritage. For the First Parliament Site, the consulting archaeologist has proposed a strategy of in situ preservation / avoidance so that this important physical record of the Nation's history be retained for future study and investigation by archaeologists. Should any further soil disturbance be required, it would be subject to additional archaeological impact assessment and if necessary mitigation process as per Provincial guidelines. However, in order to achieve the full scope of the archaeological assessment's recommendations for this internationally significant site, the Province of Ontario, in consultation with other stakeholders, should explore the opportunities to protect this archaeological resource.

Contact:

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(Attachments referred to in the foregoing report were forwarded to all Members of the Toronto East York Community Council with the agenda for its meeting on October 23, 2001, and copies thereof are on file in the office of the City Clerk.)

The Toronto East York Community Council also submits the following communication (October 23, 2001) from the Executive Director, Heritage Toronto:

Heritage Toronto congratulates both the authors of the report "Government Seat to Carwash: The History and Archaeology of Upper Canada's First and Second Parliament Buildings, 1791-1824" and the City at Toronto for the funding and delivery of a report that brings into sharp focus what

Heritage Toronto has characterized as the “cradle of Ontario’s democracy.” This is a very important achievement for this city’s, this province’s and this country’s heritage.

While Heritage Toronto concurs with the recommendations of the staff report and most especially with the call for the Province of Ontario to take the lead in the protection and commemoration of this significant heritage resource, we believe that the City of Toronto should be prepared to play an active role in bringing this outcome to pass. Creation of the most appropriate commemoration will only occur when the Province, the City, the Federal Government and the stakeholders work together at the same table. That is why Heritage Toronto has already called for the creation a Task Group to shepherd this valuable project.

Although it is very early days, we see the Task Group as having representatives from the principal stakeholders noted above plus others who could influence the private sector to assist with the realization at the project. In saying this, Heritage Toronto is very much aware of the financial constraints facing all levels of government. But we are also aware that the community at large should be encouraged to participate and to “buy into” the project both philosophically and financially.

Consequently, Heritage is asking this council to seriously consider the option of expressing a continuing interest in the project and the need for further steps to be taken to move it forward.

The Toronto East York Community Council reports, for the information of Council, having also had before it during consideration of the foregoing matter, the following communications, and a copy thereof is on file in the office of the City Clerk:

- (October 22, 2001) from Cynthia Wilkey, President, Corktown Resident and Business Association Inc.; and
- (undated) from Rollo Myers, Citizens for the Old Town.

The following persons appeared before the Toronto East York Community Council in connection with the foregoing matter:

- Rick Coburn, Borden Ladner Gervais, LLP;
- Dr. Ron Williamson, Archaeological Services Inc.;
- Rollo Myers, Citizens for the Old Town;
- Dr. Marion Joppe, Ryerson University, School of Hospitality and Tourism; and
- Ernest Buchner, Executive Director, Heritage Toronto.