

## **Heritage Conservation Districts in Toronto: Procedures, Policies and Terms of Reference**

<b>Date:</b>	November 18, 2011
<b>To:</b>	Toronto Preservation Board Planning and Growth Management Committee
<b>From:</b>	Chief Planner and Executive Director, City Planning Division
<b>Wards:</b>	All
<b>Reference Number:</b>	pg11050

### **SUMMARY**

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This report recommends that City Council adopt the document *Heritage Conservation Districts in Toronto: Procedures, Policies and Terms of Reference (HCDs in Toronto)* for setting out the procedures, policies and guidelines of the City of Toronto for studying, planning and designating heritage conservation districts (HCDs) under the *Ontario Heritage Act*.

*HCDs in Toronto* creates a fair and transparent process for creating HCDs that results in district plans and designations that are consistent in their conservation expectations and responsive to the unique heritage significance and character of each district. It has been developed in response to significant changes to the *Ontario Heritage Act (OHA)* and the *Provincial Policy Statement* in 2005, as well as the City Council adopted *Standards and Guidelines for the Conservation of Historic Places in Canada*. It incorporates comments received during consultations with the public, heritage professionals and city staff.

### **RECOMMENDATIONS**

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**The City Planning Division recommends that:**

1. City Council adopt *Heritage Conservation Districts in Toronto: Procedures, Policies and Terms of Reference* for the nomination, studying and planning of heritage conservation districts in Toronto.
2. City Council direct staff to develop a prioritization system to determine which potential heritage conservation districts should be undertaken first.

3. City Council direct staff to develop protocols for the review of public works within Heritage Conservation Districts, including alterations within city rights-of-way and the mitigation of damage to archaeological resources, in consultation with relevant City departments, agencies, and utilities.

### **Financial Impact**

There is no direct financial impact as a result of this report. The adoption of *HCDs in Toronto* does not create any obligation for City Council to pay for the study and planning of HCDs, which is typically funded by community groups or Section 37 funds identified for this purpose.

Following the adoption of this report, the designation of additional HCDs (for which this document provides direction) will have a potential impact on staff workload due to the number of properties being added to the City's heritage inventory with each HCD designation. Additional staff may be required for the review and issuance of permits under the OHA, as responses to heritage permit applications have legislated time frames.

### **DECISION HISTORY**

On August 25, 26 and 27, 2010 City Council adopted the following:

1. City Council direct staff to report back to City Council with completed Policies and Terms of Reference for Designating Heritage Conservation Districts (HCDs) in Toronto after scheduling community consultations for interested parties, and the public at large, to obtain their comments and feedback regarding the draft document.
2. City Council request the Chief Planner and Executive Director, City Planning to give consideration in the final report to expanding the notification guidelines to include adjacent property owners, neighbouring resident groups and Local Business Improvement Associations.

The document attached to this report is the result of the consultation directed by City Council and is now titled *Heritage Conservation Districts in Toronto: Procedures, Policies and Terms of Reference*.

City Council on July 12, 2011, adopted the following:

1. City Council request Heritage Preservation Services to undertake the Queen Street East Heritage Conservation District Study on an urgent basis, upon the adoption by City Council of final Heritage Conservation District Policies and Terms of Reference currently being completed by staff.

## **ISSUE BACKGROUND**

*HCDs in Toronto* has been prepared in response to changes to the OHA, Planning Act and Provincial Policy Statement as well as OMB decisions and advice from the Ministry of Tourism and Culture regarding the creation and adoption of HCD Studies and Plans. The procedures, policies and Terms of Reference satisfy the requirements of the OHA to study and plan HCDs, as well as the Planning Act and Provincial Policy Statement that built heritage resources and cultural heritage landscape shall be conserved.

It also addresses Official Plan directions to protect HCDs and conserve heritage resources on properties listed on the inventory of heritage properties. The conservation of HCDs is addressed by district specific plans in addition to the *Standards and Guidelines for the Conservation of Historic Places in Canada*. The relevant legislation, policies and documents are outlined below.

### **Provincial Legislation**

In 2005 the Province of Ontario substantially revised the OHA providing City Council with new powers for protecting heritage resources and implementing minimum requirements under Part V for the study, planning and designation of HCDs. These minimum requirements ensure that a common standard of research and documentation is achieved in each HCD initiated by a municipality. *HCDs in Toronto* is written to act upon these directions and legislation to ensure that they are satisfied in a consistent and predictable manner. Part V of the *OHA* provides City Council with the authority to designate HCDs by by-law.

The Planning Act integrates matters of provincial interest in provincial and municipal planning decisions, and the consideration of cultural heritage features is a stated matter of provincial interest. The Planning Act and related Provincial Policy Statement include a number of provisions relating to heritage conservation. These matters of provincial interest shall be regarded when certain authorities, including the council of a municipality, carry out their responsibilities under the Act.

Section 3 of the Planning Act requires that decisions affecting planning matters shall be consistent with policy statements issued under the Act and directs that "a decision of the council of a municipality, a local board, a planning board, a minister of the Crown and a ministry, board, commission or agency of the government, including the Municipal Board, in respect of the exercise of any authority that affects a planning matter, "shall be consistent" with this policy statement.

Section 2 of the Provincial Policy Statement, Wise Use and Management of Resources, states that "Ontario's long-term prosperity, environmental health, and social well-being depend on protecting natural heritage, water, agricultural, mineral and cultural heritage and archaeological resources for their economic, environmental and social benefits."

Section 2.6 requires that built heritage resources and cultural heritage landscapes shall be conserved and that development adjacent to heritage resources shall be mitigated so as

not to affect the attributes of those resources. It also provides direction for the conservation and documentation of archaeological resources.

## **Official Plan**

Section 3.1.5 of the Official Plan establishes Council's direction with regard to the protection and conservation of heritage resources. The Official Plan directs that:

- Significant heritage resources will be conserved by designating areas with a concentration of heritage resources as Heritage Conservation Districts and adopting conservation and design guidelines to maintain and improve their character; and
- Heritage resources on properties listed on the City's *Inventory of Heritage Properties* will be conserved. A Heritage Impact Statement may be requested for development proposals on a property on the City's *Inventory of Heritage Properties*, and will be required where the development entails an amendment to the Official Plan and/or Zoning By-law. Development adjacent to properties on the City's *Inventory of Heritage Properties* will respect the scale, character and form of the heritage buildings and landscapes.

## **Standards and Guidelines for the Conservation of Historic Places in Canada**

City Council adopted the *Standards and Guidelines for the Conservation of Historic Places in Canada* in March of 2008 for the evaluation of alterations to all listed and designated properties on the City's heritage inventory. As such, they apply to properties in an HCD and will be used in the review of any changes to attributes, character defining features and contributing resources of a district. This is reinforced in the policies of *HCDs in Toronto*.

## **COMMENTS**

The attached document has been prepared in order to streamline the process of creating HCDs in the City and ensures that HCD Studies and Plans are completed in a consistent way that satisfies the requirements of the *OHA*. Guiding principles in the development of *HCDs in Toronto* include establishing transparent and fair requirements for nominators, consistent analysis and conservation intent for all districts while respecting the character and unique fabric of each, and predictability for property owners and developers in terms of what is generally required to alter resources or build in an HCD.

## **Structure and Approach**

*HCDs in Toronto* follows the structure for the study and planning of HCD's as provided for in the *OHA*. It consists of an Introduction followed by Parts I, II and III which are sequential and provide commentary and guidance for nominating, studying and planning HCDs consistent with the Terms of Reference. This is followed by four appendices consisting of comprehensive Terms of Reference for undertaking HCD Studies and Plans as well as a nomination form, built form and landscape survey, and terms of reference for Heritage Advisory Committees. The document also contains policies for nominations, the study and evaluation of HCDs, as well as core conservation policies for every plan.

Archaeology is also thoroughly addressed and *HCDs in Toronto* incorporates requirements for the inclusion of archaeological mapping and policies. The Archaeological Management Plan complements *HCDs in Toronto* for archaeological processes and resources in HCDs.

### **Public Consultation: Results and Changes to the Previous Draft**

Upon reviewing the draft HCD Policies and Terms of Reference in August of 2010, Council directed staff to continue consultation on the draft and prepare a final version for consideration by Council. Consultations were held within the City Planning Division and with professional heritage consultants. A public open house was held in November of 2010.

Feedback was received from all parties. Some of the prominent themes included the consideration of tone, layout/presentation, survey standards, nomination requirements, minimum requirements for plans, funding and emphasis on public participation. These themes have been addressed as follows:

A strong concern was that the original HCD Policy and Terms of Reference were overly prescriptive and not user friendly. As a result, the Terms of Reference were reviewed for opportunities to revise language and a new ‘front end’ was written. Parts I, II and III now address what the Terms of Reference require and discuss the studying and planning of an HCD with language that is more accessible to the public while providing clarity and understanding of the requirements. The requirements in the Terms of Reference have also been reviewed and simplified in a number of areas.

Originally, the draft policy was not laid out or illustrated. Many commenters were concerned that this should be done. The document has been revised to address this concern.

Nomination requirements were raised at the public meeting as being too onerous and difficult for volunteers to complete. Community groups did not want to absorb the expense of hiring a professional to complete a nomination for a potential HCD.

The HCD nomination requirements have been simplified so that they do not require professional assistance and have also been removed from the Terms of Reference. A nomination form has been created (appendix B) and Part I of *HCDs in Toronto* addresses how to organize a nomination for a potential HCD.

There was considerable feedback that built form and landscape survey templates should be created to ensure that data about the resources of the district is collected consistently and to remove the guesswork for the community. A comprehensive survey form and guidelines have been created to provide volunteers with clear guidance on what information should be collected in the Built Form and Landscape Survey (appendix C). The previous draft of the policy required that alteration and infill guidelines be created for all types of alterations to resources and features according to a prescribed list. The

professional heritage consultant group reflected that this was an onerous requirement given that certain HCDs may not require that all types of alterations or infill be addressed.

The document has been revised to provide that: “Sometimes, a full set of policies and guidelines are not required for every resource type in certain HCD Plans. If policies and guidelines that are set out in the Terms of Reference are not required for an HCD Plan then a rationale and recommendations for excluding them should be included in this section of the HCD Study.”

The funding of HCD Studies and Plans has been a consistent concern from community members. The City of Toronto does not fund HCD Studies and Plans and typically relies on community initiatives or Section 37 money to provide necessary funds.

This report does not recommend new funding for HCDs in the City Planning budget, but does acknowledge the Official Plan Amendment to section 37 funding policies that allows those funds to be applied toward the study and planning of potential HCDs. A map has been incorporated into the Official Plan that indicates areas of potential HCDs that are located in zones eligible for section 37 funding for the studying and planning of HCDs.

Particular concern was raised that the draft policies did not recognize the role of community members in the process of creating HCDs, and even went so far as to discourage communities. While this was not the intent of the document, substantial revisions to language and a renewed emphasis on community participation have been incorporated.

This document seeks to encourage community members who are interested in HCDs by providing a clear, plain language understanding of the how an HCD is studied and planned and by celebrating the hard work of communities that have already created HCDs or will create them in the future. The participation of community members is crucial to a successful process and should be encouraged throughout the process.

### **Existing Heritage Conservation Districts and Potential Districts authorized for Study**

Current HCDs will not be retroactively affected by the adoption of *HCDs in Toronto* and remain in full force. However, many HCDs do not have their HCD Plans adopted by by-law. In those instances where it is determined that the district plan for an existing HCD should be adopted by by-law, the plan will need to be reviewed with a qualified consultant to ensure it meets the requirements necessary for staff to recommend adoption of the plan by by-law.

Where an existing HCD plan is reviewed and it is determined that amendments may be required, any additional research and evaluation that is necessary to bring the HCD Plan up to the standard reflected in *HCDs in Toronto* will be undertaken with a professional consultant. The document does not prescribe when existing HCD Plans should be reviewed.

There are also a number of areas in the City that have been authorized by City Council for study as an HCD. Community leaders have been working actively, in some cases for years, to study and plan their areas in anticipation of an HCD designation. Those areas that already have authority to study will be grand parented into the new system by allowing them to make use of the research and analysis that has been completed to date, so long as it satisfies the minimum requirements of the OHA, and the evaluation criteria in section 7 of *HCDs in Toronto*. However, it is expected that the final HCD Plans will reflect the conservation polices and Terms of Reference required by City Council through the adoption of this report. Representatives from each authorized HCD Study Area will need to meet with HPS staff in order to determine how to use work to date and achieve a designation consistent with the intent of this document.

The HCD Study Areas currently authorized for study are:

- Agincourt
- Balmy Beach
- Liberty Village
- St. Lawrence Area, Phase 1
- Toronto Islands
- Weston Area Phase, 2
- Annex (Madison Ave)
- Casa Loma
- Queen Street East
- Summerhill
- West Queen West

As representatives of these areas indicate that they wish to continue with the HCD Study, HPS can advise on requirements and timelines.

### **Amendments to HCD Plans**

*HCDs in Toronto* recommends that HCD Plans be reviewed on a basis prescribed in each HCD Plan. This may result in amendments to an HCD Plan from time to time, where they are warranted and approved by City Council. However, the OHA does not provide a specific mechanism by which to amend HCD Plans, as it does for the amendment of Part IV designations.

To address this, staff recommends that where it is determined following a thorough review that amendments to a HCD Plan are required, such amendments shall be undertaken in a manner that is consistent with section 41.1 of the OHA, for the adoption of heritage conservation district plans. Accordingly, a public meeting will be held and the Toronto Preservation Board, Community Council and City Council will consider amendments to the HCD Plan. If it is determined that significant amendments are required a by-law repealing the existing district plan and enacting a new district plan may be recommended.

## **Next Steps and Prioritizing HCD Studies**

On July 12, 2011, City Council directed that, “City Council request Heritage Preservation Services to undertake the Queen Street East Heritage Conservation District Study on an urgent basis, upon the adoption by City Council of final Heritage Conservation District Policies and Terms of Reference currently being completed by staff.”

Given this direction, the Queen Street East HCD Study Area, already authorized by City Council for study will be the first HCD Study completed under *HCDs in Toronto*. Funding for the study has been secured through Section 37 contributions and an RFP will be issued for the study once City Council has adopted the attached document.

In addition to Queen Street East, there are other HCD Study Areas authorized for study (as indicated above) that are currently waiting for a study to begin including the St. Lawrence Neighbourhood, which should also be considered a priority given its significance to the founding of the City.

### **CONTACT**

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### **SIGNATURE**

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### **ATTACHMENTS**

Attachment 1: Heritage Conservation Districts in Toronto: Procedures, Policies and Terms of Reference