



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

**10 St Mary Street – Supplemental Report - Zoning
Amendment Application – Demolition of Designated
Heritage Property
Request for Directions**

Date:	June 7, 2016
To:	City Council
From:	City Solicitor
Wards:	Ward 27 – Toronto Centre-Rosedale
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions and this report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	14 208729 STE 27 OZ

SUMMARY

This Report is supplemental to the City Solicitor’s Report of May 31, 2016, regarding a zoning appeal and the associated decision to be made on the issuance of a demolition permit under Section 34 of the *Ontario Heritage Act* for the property at 10 St. Mary Street.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council direct that the information contained in the Confidential Attachment 2 is to remain confidential.

Financial Impact

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

The decision history is set out in the City Solicitor's Report of May 31, 2016.

ISSUE BACKGROUND

The issue background is also set out in the City Solicitor's Report of May 31, 2016. In addition to the attachments to that Report, I am now appending further material as Attachment 1 to this Report, being a copy of the Report dated April 26, 2016, from the Chief Planner regarding the decision to be made on the issuance of a demolition permit under Section 34 of the *Ontario Heritage Act* for the property at 10 St. Mary Street. That Report was before Council at its meeting held on May 3, 4 and 5, 2016, as Item 18.37, but was withdrawn.

A decision on the demolition must now be made at the Council meeting of June 7 and 8, 2016, in association with Council's consideration of the City Solicitor's Report of May 31, 2016.

City Planning staff has also advised that the following errors in dates occurred within the Report dated April 26, 2016, from the Chief Planner and were then incorporated into the City Solicitor's Report of May 31, 2016:

- “1. Decision History – On **April 2, 2015** (~~May 6, 7, & 8, 2015~~) the property at 10. St. Mary Street was designated by City Council under By-law No.353-2015.
2. Proposal Background – On **April 2, 2015** (~~April 4, 2015~~), City Council enacted By-law No. 353-2015 designating the subject property under Part IV of the *Ontario Heritage Act*.
3. First paragraph Page 5 – replace June 16, 2016 with **June 16, 2015**.
4. Second paragraph Page 5 – Accordingly, the City has 90 days from **February 12, 2016** (~~February 12, 2015~~) within which to give notice of its (a) decision on the application.”

PROPOSAL

The proposal is set out in the City Solicitor's Report of May 31, 2016.

COMMENTS

This report is about litigation before the Ontario Municipal Board and contains advice or communications that are subject to solicitor-client privilege. Attachment 2 to this report contains confidential information.

CONTACTS

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SIGNATURE

Kelly Matsumoto for the Interim City Solicitor

ATTACHMENTS

Attachment 1 – Report dated April 26, 2016 from the Chief Planner and Executive Director, City Planning Division regarding the Demolition of a Designated Heritage Property at 10 St. Mary Street
Attachment 2 - Confidential Information

Attachment 1 – Report April 26, 2016 from the Chief Planner regarding the Demolition of 10 St. Mary Street



STAFF REPORT ACTION REQUIRED

Demolition of a Designated Heritage Property – 10 St. Mary Street

Date:	April 26, 2016
To:	City Council
From:	Chief Planner and Executive Director, City Planning Division
Ward:	27 – Toronto Centre-Rosedale
Reference Number:	P:\2016\Cluster B\PLN\City Council\CC16063

SUMMARY

This report recommends that City Council refuse the proposed demolition of the property at 10 St. Mary Street which is designated under Part IV of the *Ontario Heritage Act* by By-law No. 353-2015, enacted by City Council on May 6, 7, & 8, 2015.

If Council fails to give notice of its decision on an application to demolish within 90 days after notice of receipt of the application is served on the applicant, the application is deemed to be permitted under Section 34 of the *Ontario Heritage Act*. City Council must give notice of its decision in accordance with the requirements of the *Ontario Heritage Act* by no later than May 7, 2016.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the issuance of a demolition permit for the heritage property at 10 St. Mary Street, in accordance with Section 34 of the *Ontario Heritage Act*.
2. If the owner appeals City Council's decision to refuse the issuance of a demolition permit under Section 34 of the *Ontario Heritage Act* for the heritage property at 10 St. Mary Street, City Council authorize the City Solicitor and the necessary City staff to attend the Ontario Municipal Board hearing in opposition to the appeal.

Financial Impact

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

DECISION HISTORY

On October 8-11, 2013 City Council adopted Official Plan Amendment 183 – North Downtown Yonge Site and Area Specific Policy and Draft North Downtown Yonge Urban Design Guidelines, which identified the property at 10 St. Mary Street as having potential heritage value.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE25.27>
<http://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-59537.pdf>

On November 19, 2013 the TEYCC adopted Item TE28.89 – Request for Report on the Potential Designation of 10 St. Mary Street. The request was made in order to evaluate the impact of a demolition permit application which had been received by Toronto Buildings.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.TE28.89>

On May 6, 2014 City Council stated its Intention to Designate the property at 10 St. Mary Street.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE31.16>

On February 11, 2015 City Council enacted By-law No. 277-2015 designating the Yonge Street Heritage Conservation District Study Area. The designation restricted demolitions and exterior alterations within the study area boundaries for a period of one year.

<http://www.toronto.ca/legdocs/bylaws/2015/law0277.pdf>

On May 6, 7 & 8, 2015, the property at 10 St. Mary Street was designated by City Council under By-Law No. 353-2015. The designating by-law was brought forward after the appeal period for the designation expired without appeal.

<http://www.toronto.ca/legdocs/bylaws/2015/law0353.pdf>

Following an application to demolish the designated property, on May 28, 2015 the Toronto Preservation Board adopted staff recommendations in a report dated May 27, 2015 to refuse the issuance of a demolition permit for the property at 10 St. Mary Street in accordance with Section 34 of the *Ontario Heritage Act*.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PB5.14>

The May 27, 2015 staff report and letter from the Toronto Preservation Board dated May 29, 2015 were subsequently withdrawn from the June 16, 2015 agenda of the Toronto and East York Community Council since demolitions were already prohibited by the Historic Yonge Street Heritage Conservation District Study Area By-law.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE7.21>

On November 3 & 4, 2015 City Council adopted Item TE11.6 – Request for Directions Report – 10 St. Mary Street – Zoning Amendment Application.
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE11.6>

ISSUE BACKGROUND

Policy Framework

Standards and Guidelines for the Conservation of Historic Places in Canada

In 2008 Toronto City Council adopted the Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada as the official document guiding planning, stewardship and conservation approach for all listed and designated heritage resources within the City of Toronto.

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf>

The following Standards for Preservation, Rehabilitation and Restoration can be applied to the demolition application for 10 St. Mary Street:

- Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable character-defining elements. Do not move a part of an historic place if its current location is a character-defining element.
- Conserve heritage value by adopting an approach calling for minimal intervention.
- Find a use for an historic place that requires minimal or no change to its character-defining elements.

Provincial Policy Statement and Planning Act

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Planning Act and associated Provincial Policy Statement guide development in the Province and they include provincial interests regarding heritage resources as described in the Provincial Policy Statement issued under the authority of Section 3 of the Planning Act. The Planning Act requires that all decisions affecting land use planning matters "shall be consistent with" the Provincial Policy Statement. The Provincial Policy Statement (PPS) provides direction on matters of provincial interest related to land use planning and development, and promotes the provincial policy-led planning system.

Provincial Policy Statement 2.6.1 reads "Significant built heritage resources and significant cultural heritage landscapes shall be conserved".

Ontario Heritage Act

Section 34 (1) of the Ontario Heritage Act (OHA) states that no owner of property designated under section 29 shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situated and receives consent in writing to the demolition or removal. Section 34.1 (1) provides that if Council refuses the permit applied for or gives the permit with terms and conditions attached, the owner of the property may appeal to the Ontario Municipal Board (OMB).

Official Plan

Policy 3.1.5.2 of the Official Plan directs that "Heritage resources on properties listed on the City's Inventory of Heritage Properties will be conserved."

While the City's amended Official Plan policies (OPA199) are in force across the city, the property at 10 St. Mary Street is currently exempt from the new policies as the owner's legal representative filed a site specific appeal of the policies that is under consideration by the Ontario Municipal Board.

Heritage Property Description

Located at the north-west corner of Yonge and St. Mary Streets, the property at 10 St. Mary Street has design, associative and contextual value. The eight-storey building is an excellent example of a mid-century International Style structure. It is historically associated with the architectural partnership of Mathers and Haldenby, whose work contributed significantly to educational, government and commercial institutions in Toronto, across Canada and internationally. The subject property makes an important contribution to the character of the area and is linked to its surroundings as representative of the mid-twentieth century evolution of Yonge Street from a local commercial main street to a commercial area of city-wide importance. The changes to Yonge Street at this time reflected changing lifestyle and business needs, post-war economic expansion, the increased use of automobiles and the separation of work and home. The Yonge subway line also encouraged more intensive development along the City's central spine.

Proposal Background

On November 19, 2013 the Toronto and East York Community Council requested the Acting Director of Urban Design, City Planning Division to evaluate the subject property for possible designation under Part IV of the Ontario Heritage Act. On May 6, 2014 City Council stated its Intention to Designate the property.

Pre-application meetings with a development team for 10 St. Mary Street commenced in December 2013. Staff advised that the property was under review for potential designation under the Ontario Heritage Act and integration of the existing building into the new development was encouraged. On August 19, 2014 a zoning by-law amendment application was received by the City Planning Division showing the heritage building demolished as part of the development proposal. An appeal to the OMB was

subsequently filed by the applicant on the zoning by-law amendment application and city staff received direction from Council to appear in opposition.

On April 4, 2015, City Council enacted By-law No. 353-2015 designating the subject property under Part IV of the Ontario Heritage Act. The applicant submitted an application to demolish the property under the Ontario Heritage Act on May 22, 2015 and the application was deemed complete on May 27, 2015. A staff report recommending refusal of the demolition application was adopted by the Toronto Preservation Board (TPB) at its meeting of May 28, 2015.

The staff report was subsequently withdrawn from the Toronto and East York Community Council meeting of June 16, 2016 when it was determined that the report and recommendations should not have proceeded in light of By-law 277-2015, which designated the area between Davenport Road and College Street as a Heritage Conservation District Study Area and prohibited demolition and exterior alterations for one year.

The applicant was advised by staff that when the Yonge Street HCD Study Area By-law expired on February 11, 2016, the demolition application could be resubmitted at that time or, if a new application was not submitted, staff would treat the application on file as having been received on February 12, 2016. A new demolition application has not been submitted. Accordingly, the City has 90 days from February 12, 2015 within which to give notice of it's a decision on the application.

PROPOSAL

The property at 10 St. Mary Street is currently the subject of a zoning by-law amendment application which involves the full demolition of the existing heritage building and construction of a 42-storey mixed use condominium building with retail at grade.

COMMENTS

The application proposes the full demolition of the heritage building on the property at 10 St. Mary Street.

A building condition assessment prepared by S2S Environmental Inc. dated February 11, 2014 was submitted with the demolition application. The condition assessment presented the conclusion that the subject property appeared to be in fair to good condition.

The proposed demolition of a designated building is not in accordance with the Planning Act, the Provincial Policy Statement and the City's Official Plan, all of which require the conservation of significant heritage resources. In addition, the Council adopted Standards and Guidelines for the Conservation of Historic Places in Canada positions minimal intervention as a guiding standard for heritage properties.

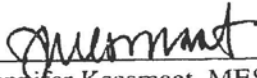
CONCLUSION

The designated heritage property at 10 St. Mary Street has significant cultural heritage value, it makes an important contribution to the character of Yonge Street and it is in good condition. Staff recommend that Council refuse the proposed demolition application for the reasons outlined in this report.

CONTACT

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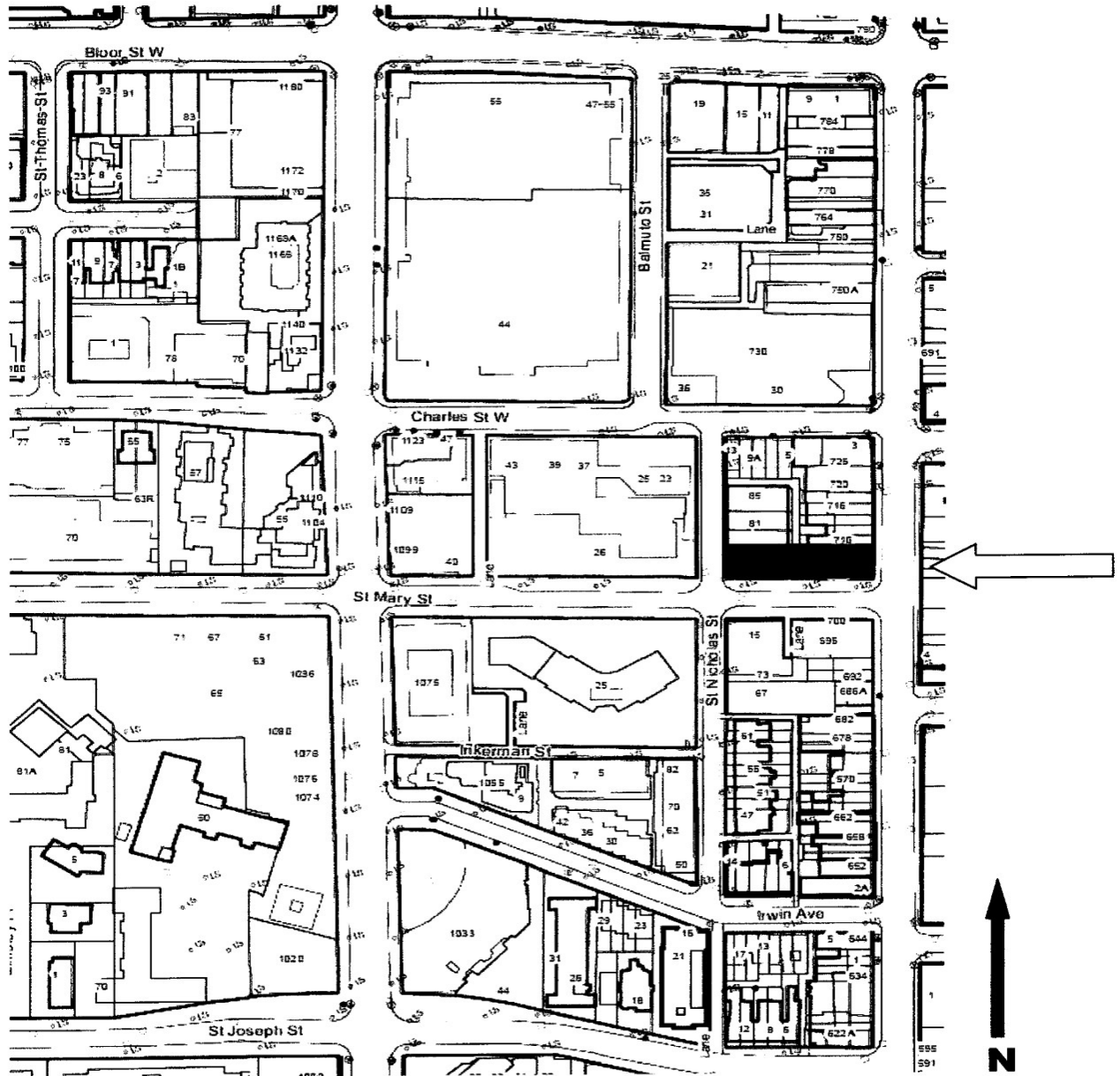
SIGNATURE



Jennifer Keesmaat, MES, MCIP, RPP
Chief Planner and Executive Director
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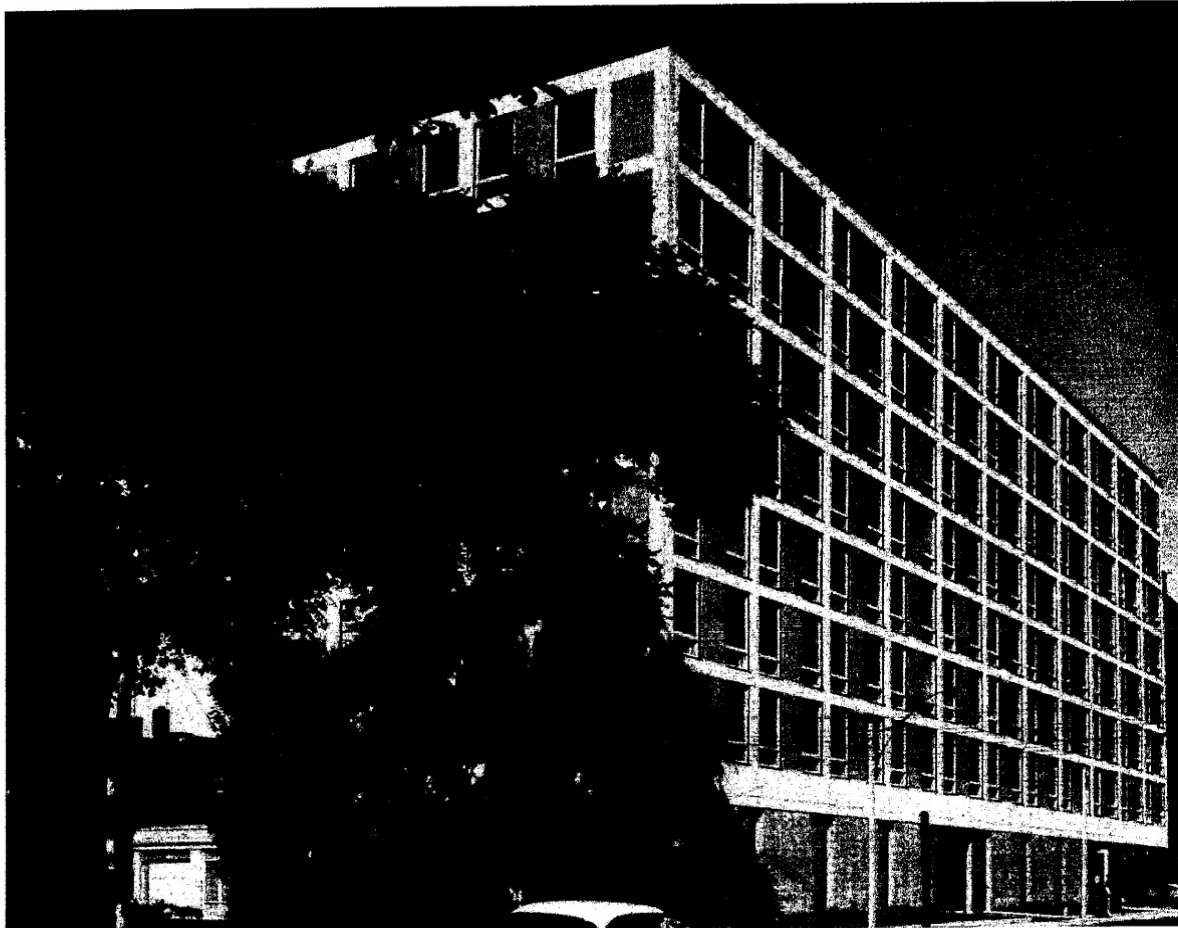
ATTACHMENTS

Attachment 1 – Location Map: 10 St. Mary Street
Attachment 2 – Photograph: 10 St. Mary Street
Attachment 3 – Historic Photograph: 10 St. Mary Street





View looking north-west



c. 1959 view looking east