

January 30, 2017

Our File No.: 170299

Via Email: clerk@toronto.ca

Toronto City Council
12th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Marilyn Toft, City Clerk

Dear Councillors:

**Re: Agenda Item TE21.12
Proposed Garden District Heritage Conservation District Plan**

We are solicitors for the owners of the properties known municipally in the City of Toronto as 319, 321 and 323 Jarvis Street (the "Subject Properties"). We are writing to express our client's concerns with respect to the proposed Garden District Heritage Conservation District Plan (the "HCD Plan").

Statement of Objectives

Given the importance of the Statement of Objectives in the HCD Plan as it informs the statutory test in section 41.2 of the Ontario Heritage Act, the objectives set out in Section 3.0 must be clear and concise in their application and consistent with the policy direction of the Official Plan for the area. For example, the Subject Properties are clearly noted as an appropriate location for a tall building by Official Plan Amendment No. 82. Section 3.0 should be revised to indicate that new high-rise development will be encouraged at appropriate locations in or near the HCD Plan area and deemed to conform to the objectives of the HCD Plan.

Vague Notion of Adjacency

We acknowledge that the Subject Properties do not fall within the boundaries of the HCD Plan. However, numerous statements in the HCD Plan are vague and could easily be interpreted as limiting the development potential of properties even if they are outside the boundaries of the HCD Plan. In particular, we are concerned that there is insufficient guidance to determine whether the Subject Properties would be considered as adjacent to the HCD Plan, especially certain policies and guidelines in the HCD Plan.

Vague Notion of Conservation

Our client's concern with the vague notion of adjacency is compounded by specific policies and guidelines in the HCD Plan. For example, the policies proposed to apply to Allan Gardens are extremely vague. First, as drafted, they would appear not to be limited to properties within the boundaries of the HCD Plan. Second, they incorporate by reference external reports, which are not policies or guidelines, and appear to suggest that these expert reports are somehow incorporated into the HCD Plan. Third, the HCD Plan refers to the landscape function of Allan Gardens but provides little guidance as to whether this function is limited to the landscaped area of Allan Gardens or includes other buildings contained within Allan Gardens.

Outstanding Appeals of OPA 82

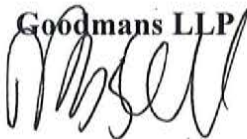
We understand there are outstanding appeals before the Ontario Municipal Board (the "Board") in respect of Garden District Site and Area Specific Policy No. 461, adopted by the City in April 2015 as Official Plan Amendment No. 82 ("OPA 82"), which applies to a broader geographic area than the HCD Plan and which includes the Subject Properties. In reviewing both the HCD Plan and OPA 82, as an overall observation, our client is concerned that the HCD Plan includes many objectives and policies which are difficult to reconcile with OPA 82. This creates significant uncertainty and undermines the underlying policy objectives for both OPA 82 and the HCD Plan.

We understand that appellants of OPA 82 may be seeking the consolidation of any appeals of the HCD Plan with the appeals of OPA 82. Our client would certainly have an interest in both matters and, in the event City Council adopts the HCD Plan, our client intends to appeal the HCD Plan and seek party status to the Board hearing regarding OPA 82 as part of any consolidated hearing event to ensure that its interests are appropriately protected.

We trust that these comments will be of assistance as City Council considers this matter.

Yours truly,

Goodmans LLP



David Bronskill

DJB/

cc: Client

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