
AIRD & BERLIS LLP

Barristers and Solicitors

Kim M. Kovar
Direct: 416.865.7769
E-mail: kkovar@airdberlis.com

January 11, 2017

Our File: 135321

BY EMAIL: teycc@toronto.caMs. Ellen Devlin
Administrator
Toronto and East York Community Council
City of Toronto
100 Queen Street West, 2nd Floor
Toronto, ON M5H 2N2

Dear Ms. Devlin:

**Re: Proposed Garden District Heritage Conservation District Plan
TEYCC Agenda Item: TE21.12
307 Sherbourne Street, City of Toronto**

We have recently been retained by Oben Flats Sherbourne GP Inc. Our client is the owner of 307 Sherbourne Street, a vacant (former gas station) site located at the southeast corner of Gerrard Street East and Sherbourne Street.

In April 2015 our client submitted an application to amend the Zoning By-law to permit the redevelopment of the subject site. The development proposed is a 14 storey residential building. The site is designated Mixed-Use Areas and the proposal conforms to the in force Official Plan.

We are writing with respect to the proposed Garden District Heritage Conservation District (“HCD”) Plan. At the time our client’s application was submitted to the City, the site was not recommended to be included within the boundary of the proposed HCD Plan, although it was part of a larger study area. The Planning Staff Report dated June 23, 2014 adopted by Toronto Preservation Board on July 17, 2014 explicitly recommended revisions to the Plan boundary “to more accurately reflect the area’s cultural heritage values and character defining elements” and recommended that 307 Sherbourne Street be excluded. Maps presented at the community consultation meeting held the following February 24, 2015 continued to exclude the site from the proposed HCD Plan.

However, without providing any planning rationale for the revision, the proposed boundary of the HCD Plan being recommended by Staff in their report dated November 24, 2016, which is being considered by TEYCC on January 17, 2017, now includes the subject site.

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In our submission, the inclusion of this vacant site within the boundary of the HCD Plan is neither necessary in order to reflect the area's cultural heritage values and character defining elements nor is it appropriate. As noted above, the Staff Report contains no explanation whatsoever for this boundary revision. We are writing to request that the subject site be excluded from the HCD Plan and that the boundary be revised as originally recommended by the City's heritage consultant and City staff.

In correspondence dated November 26, 2015 and December 2, 2016, our client's concerns were brought to the attention of Heritage Preservation Services staff. It has come to our attention that these letters were not included in the materials presented to the Toronto Preservation Board for its consideration on December 7, 2016. Accordingly, we ask that you kindly include this letter and the above-referenced attachments with the communications to Toronto and East York Community Council when this matter is considered on January 17, 2017, and provide the undersigned with notice of any further meetings related to this matter and of the adoption of any Heritage Conservation District Plan or By-law related to same.

Yours truly,

AIRD & BERLIS LLP

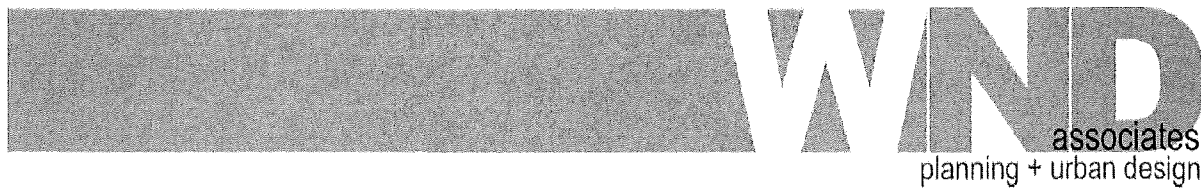


Kim M. Kovar
KMK/jh

cc: Client
R. Dragicevic, WND Associates

encl.

28110778.1



2 December 2016

City of Toronto
Heritage Preservations Services
17th Floor, East Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: **Ms. Sharon Hong**
 Heritage Preservation Services

Dear Ms. Hong,

RE: **GARDEN DISTRICT HERITAGE CONSERVATION DISTRICT PLAN**
 Request to Remove the Property Municipally know as 307
 Sherbourne Street from the Garden District Heritage
 Conservation District Boundary
 307 Sherbourne Street
 City of Toronto
 13.608

On behalf of our client, Oben Flats Sherbourne Inc. ('Oben'), we are providing our comments to you in respect of the October 2016 Garden District Heritage Conservation District Plan ('HCD') which continues to include the Oben property within the boundaries of the HCD.


In our view, the inclusion of the Oben property within the HCD boundary is neither necessary nor appropriate, and should be removed from the HCD boundary, as outlined in the previous letter submitted to Heritage Preservation Services on November 26, 2015 by Mr. Adam Brown, Sherman Brown Barristers and Solicitors. A copy of the November 2015 letter is attached for your consideration.

Oben has continued to work cooperatively with Heritage Preservation Services and Community Planning, and has taken all necessary action to address potential heritage impacts, and will continue to do so through the approval process under the Planning Act.

On our client's behalf, we would respectfully ask that we be provided with any notice of matters related to the HCD and any further meetings or reporting to any committee or Council.

Yours very truly,

WND associates
planning + urban design

A handwritten signature in black ink, appearing to read "Robert A. Dragicevic". The signature is fluid and cursive, with a large initial "R" and "D".

Robert A. Dragicevic, MCIP, RPP
Senior Principal

Sherman♦Brown

—BARRISTERS & SOLICITORS—

November 26, 2015

City of Toronto
Heritage Preservations Services
17th Floor East Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Ms. Sharon Hong, Heritage Preservation Services

Dear Madame:

**Re: Request to Remove the Property Municipally known as 307 SHERBOURNE STREET
from the Garden District Conservation District Plan Boundary**

We have been retained by Oben Flats Sherbourne Inc. ('Oben') with respect to their development proposal located at the south-east corner of Gerrard Street and Sherbourne Street ('property'), which is a vacant property formerly occupied by a service station. We are providing our comments to you in respect of the proposed Garden District Heritage Conservation District Plan ('HCD') which now proposes to include the Oben property within the boundaries of the HCD. In our view, the inclusion of the Oben property within the HCD boundary is neither necessary nor appropriate.

Our client has consulted with City of Toronto Planning staff since mid- 2013, including consultations prior to the acquisition of the property. Formal pre-consultation was undertaken with City staff as part of the rezoning process.

The Oben property is located within the Downtown and Waterfront area, and is designated Mixed Use Areas in the City of Toronto Official Plan, and as discussed below is also subject to the recently adopted Official Plan Amendment No. 82.

Our client filed an application for rezoning of the property to allow for a 13-storey residential apartment building with 94 dwelling units in April 2015. No amendment to the Official Plan is required with respect to the proposed development. The requisite checklist from our Oben's pre-consultation with City Planning staff (provided March 18, 2015) identified supporting documentation required for submission with the application and did not include a requirement for any type of heritage impact report or statement.

By way of background, MHBC initiated a Heritage Conservation District Study for the Garden District ('Study') in the area surrounding the Oben property, as directed by the City in 2012. The

Study included community consultation and targeted stakeholder engagement, an extensive property inventory, historical research, and an evaluation of the area's heritage significance. The Study concluded that its study area merited designation as an HCD. The Study was endorsed by the Toronto Preservation Board on July 17, 2014, and City staff were directed to proceed with an HCD Plan for the district.

The Study recommended the revision of the boundaries of the original study area. The recommended boundary specifically excluded the south-east corner of Gerrard Street and Sherbourne Street (Oben property).

In 2014, the City also undertook an extensive planning study of the Garden District resulting in a new Secondary Plan for the area generally bounded by Jarvis Street, Carlton Street, Sherbourne Street, and Queen Street East. The secondary plan (Official Plan Amendment 82 was recommended for approval by Community Council in March 2015 and approved by full Council in April 2015).

The Oben property was identified as a Tall Building site by the City and the recommendations of staff were subject to public consultation, as required under the Planning Act. There were no submissions made by the public or heritage preservation services in respect to the proposed designation of the Oben property as a Tall Building Site.

Amendment 82 was appealed to the Ontario Municipal Board and the designation of the Oben property was not identified as a concern or issue for anyone from the public or any agency. Throughout the entire secondary plan review process, the HCD work was ongoing in one form or another, and throughout that process there was never consideration or commentary or issues to warrant any different consideration the Oben property.

In our view, the Oben property should be removed from the HCD boundary and excluded as per the consultant's consistent recommendation and advice up to this most recent release of the HCD.

More recently on October 8, 2015, a revised rezoning application was filed by Oben with the City in response to various technical comments received from the circulation of the application by the City's planning division. The technical comments included a request for a Heritage Impact Statement.

The revised submission included a Heritage Impact Statement ('HIS'), prepared by Goldsmith Borgal & Company Ltd. Architects, a qualified heritage architect. In their opinion, the integration of the new development creates no negative impact on the heritage sites in its vicinity and represents an appropriate and reasonable development within its urban and heritage context. The HIS correctly identified that the Oben property was not included within the boundary of the Conservation District Plan.

Now as presented at the latest public meeting (November 16, 2015), the boundaries of the Conservation District are proposed to be altered and the Oben property is shown to be included in the HCD boundaries, without justification and no change in the circumstances of the property or the surroundings.

In our view, the inclusion of the Oben property within the HCD boundary is neither necessary nor appropriate. If there was merit in the inclusion of the Oben property in the HCD boundary, the City's consultant, as early as 2012, would have identified the property for inclusion, not specific exclusion.

As indicated above the Oben property and the development proposal has been assessed by our client's heritage architect in the revised rezoning submission. The table below, which was included in the HIS, addresses the possible effects of the proposed development on the heritage properties based on the City's Terms of Reference for an HIS.

Possible Effect	Assessment
Destruction of any, or part of any, significant heritage attributes or features	The building will be constructed on a vacant site. No destruction, in whole or in part, of any significant heritage attributes or features will occur.
Alteration that is not sympathetic, or is incompatible with the historic fabric and appearance	There will be no alterations to a heritage building. While the building will be adjacent to a Heritage Conservation District, it has been carefully designed to respect the character of adjacent heritage resources while being of its own time and place.
Shadows created that alter the appearance of a heritage attribute or change the viability of an associated natural feature or plantings, such as a garden	Shadows cast by the new development will not have any significant impact on the adjacent HCD, as the new tower is located north of the HCD. Morning shadows will be cast over the southeast corner of Allan Gardens in the fall and spring - the effect

	will be transitory and will have no impact on the viability of the gardens.
Isolation of a heritage attribute from its surrounding environment, context or a significant relationship	No heritage attribute will be isolated from the new development.
Direct or indirect obstruction of significant views or vistas within, from or of built and natural features	There will be no obstruction of significant views or vistas to or from the heritage sites. The building will become a new landmark to the north of the HCD and to the southeast of Allan Gardens.
A change in land use (such as rezoning a church to a multi-unit residence) where the change in use negates the property's cultural heritage value	The building will be constructed on a vacant site, which was formerly a commercial use. The proposed use enhances the cultural heritage value of the adjacent heritage properties.
Land disturbances such as a change in grade that alters soils and drainage patterns	There will be no land disturbances as a result of this development.

Table, Section 6.3 Heritage Impacts, 307 Sherbourne Heritage Impact Statement (7 October 2015), Goldsmith Borgal & Company Ltd.

We believe that Oben has appropriately responded to the heritage considerations related to the development of their property in a manner consistent with the recently approved secondary plan, have taken all necessary action to address potential heritage impacts, and will continue to do so through the approval process under the Planning Act.

We are hopeful that our request will be recommended by staff and adopted by the City so that our client will not be forced in a position where they are required to appeal the approval of the HCD, especially when our client has cooperatively worked with City Staff to date.

On their behalf we would respectfully ask that we be provided with any notice of matters related to the HCD and any further meetings or reporting to any committee or Council.

Yours very truly,



Adam J. Brown
AJB/jn

Cc: Mr. Bob Dragicevic, Walker, Nott, Dragicevic Associates Ltd.
Mr. Julian Battiston, Oben Flats Inc.