

September 1, 2017

via email: teycc@toronto.ca

Toronto and East York Community Council
City of Toronto
City Hall
2nd Floor, West Tower
100 Queen Street West
Toronto, ON
M5H 2N2

Attention: Members of Council

Dear Members of the Toronto and East York Community Council:

RE: Item TE26.14 - Designation of King-Spadina Heritage Conservation District under Part V of the *Ontario Heritage Act* September 6, 2017 Community Council meeting

We are legal counsel to ADI Development Group ("ADI"). Our client owns property within the proposed King-Spadina Heritage Conservation District ("HCD") study area and has been involved in the HCD planning process since the initial consultation meetings in 2014.

We have prepared this letter in response to the staff report which recommends that City Council designate by by-law the King-Spadina HCD and further recommends that City Council adopt the proposed King-Spadina HCD Plan as the district plan for the King-Spadina HCD.

As you are aware, following the release of the draft HCD Plan in October, 2016, the City provided a three week window for public comment on the draft HCD Plan. ADI took immediate action to conduct a thorough review and we provided comments on behalf of our client in our letter dated November 14, 2016, which has been enclosed for your ease of reference.

This letter was followed up with requests by our consultants to meet with Heritage Preservation Services staff to discuss our comments. Despite these requests, no meetings

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were scheduled, and to date no response to our letter has been received.

The proposed King-Spadina HCD Plan was released to the public on June 15, 2017 and the Toronto Preservation Board (“TSB”) was being asked to recommend approval of the HCD Plan on June 22, 2017. This one-week review period was woefully insufficient and was contrary to the intent of the *Ontario Heritage Act* to engage the community before adopting a HCD Plan.

Further, we submit that the volume of the Provincial Heritage Tool Kit addressing HCD’s, being, *Heritage Conservation Districts: A Guide to District Designation Under the Ontario Heritage Act*, (the “Guide”) promotes far more meaningful consultation than what has occurred through this process, and advises that public participation is critical to the designation and implementation of a HCD. Specifically, the Guide states:

The key ingredients for a successful HCD are:

- A sound examination of the rationale for district designation, especially for the delineation of district boundaries;
- Active public participation in the designation process;
- A clear and complete designation bylaw; and
- A clear and well-publicized HCD plan and policies to manage change in the district to protect and enhance its unique character.

Further the Guide goes on to state:

Successful implementation of a district will ultimately depend on wide-spread public support for district designation based on a clear understanding of the objectives for designation and appreciation of the proposed HCD plan, policies and guidelines.

Decisions about policies and guidelines need to be made in an open forum, where the benefits of designation and the responsibilities that come with it can be clearly communicated.

Finally the City's own *Heritage Conservation Districts in Toronto - Procedures, Policies and Terms of Reference* states:

Sometimes the City will lead an HCD Study or plan when City Council or staff has recommended that an HCD is desirable. When this happens, the City will ensure that the affected community is engaged in the process prior to all decision points in the study, planning and designation of the HCD.

This document then goes on to state:

Once a[n] HCD Plan is complete, a community meeting will be held to gather feedback about the content and direction of the HCD Plan. The notification for this meeting will be sent by City staff, however this is not the statutory meeting required under the Ontario Heritage Act. The statutory public meeting will be held at the Community Council meeting when the HCD designation and Plan are considered. Despite this, the City believes that consultation with the community prior to Council considering the designation of an HCD is in the best interest of the community, City and property owners. (Emphasis Mine)

Notwithstanding the intent of the *Ontario Heritage Act*, the advice in the Guide and the City's own Procedures, Policies and Terms of Reference, the level of engagement recommended within these documents has not happened in connection with the King-Spadina HCD. This is especially true given that our previous correspondence has not been responded to, meeting requests have gone unanswered and now an inadequate review period has been provided prior to a recommendation being put forward with respect to the proposed HCD boundary and the proposed HCD Plan.

In summary, it remains unfathomable to me why the City is seeking to push this HCD through in such a hurry without the necessary consultation or even the basic courtesy of a response to previously submitted correspondence.

As such, we respectfully request that the TPB recommend that the matter be referred back to staff to appropriately engage with my client and their consultants and to allow for a sufficient period of time for those affected to properly evaluate the draft HCD Plan and ask the necessary questions that arise from such a significant document.

For these reasons our client objects to the HCD designation and the HCD Plan proceeding at this time. Please advise us of any recommendation made by the TPB and provide notice of any future meetings where this matter will be considered.

Yours truly,

WeirFoulds LLP



Denise Baker

DB/mw

Encls.

cc Client

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November 14, 2016

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Ms. Tamara Anson-Cartwright
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and

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100 Queen Street West
Toronto, ON M5H 2N2

Dear Ms. Anson-Cartwright:

RE: KING-SPADINA HERITAGE CONSERVATION DISTRICT (HCD) PLAN

We are legal counsel for ADI Development Group ("ADI"), with the respect to their property located at 135-143 Portland Street, Toronto.

As a conscientious property owner, ADI supports the conservation of heritage resources within the King-Spadina area. To that end, it is submitted that good heritage conservation is rooted in a values-based approach that meaningfully incorporates stakeholder feedback and is founded on consensus. Strategies for managing change should account for a diversity of needs and must be responsive to the evolving character of our multicultural and economically diverse City.

Heritage Conservation Districts ("HCD") can be valuable tools in this regard; however we have concern regarding the use of HCD as an attempt to thwart good planning decisions within various areas throughout the City. Additionally we have significant concerns of the use of HCD to appropriately manage change within an evolving City such as Toronto.

We have listed our general and Site specific concerns with the draft Heritage Conservation District Plan for King-Spadina ("Draft Plan") below and hope they will be addressed in future iterations of the Plan.

1. Inaccurate Characterization of the District

The Draft Plan oversimplifies the character of the District. A wide range of building typologies is evident in King-Spadina beyond the two identified in the Draft Plan, including a substantial number of midrise buildings designed in a contemporary idiom.

Much of the built environment in King-Spadina is a product of the 1990s-era Regeneration Area (RA) Zoning, a planning initiative that is widely celebrated for its success in revitalizing the area. This recent period of development is arguably as important as any other in the history of the District and yet it is only superficially addressed in the Draft Plan.

Although the RA zoning period is directly referenced in the Statement of Cultural Heritage Value for the District, it is not reflected in the description of building typologies or heritage attributes and no contributing properties date to this period. In our view, this is a significant oversight.

2. The Draft Plan Boundary Area

We have concerns regarding the boundary in the Draft Plan. Council authorized a HCD Study for King Spadina through staff report TE18.18 dated August 16, 2012. The staff report that was submitted seeking Council's authorization to conduct the Study showed a study area which included, for the portion of the Study area west of Spadina, only lands south of Adelaide. It did not include the area surrounding my client's lands. There has been no sound rationale put forward as to why the HCD Plan incorporates my client's lands when they were not included in the Study Area.

3. Insubstantial Engagement with Intangible Value

One of the objectives of the plan is to: "Conserve and enhance the social, cultural and community values of the District as a mixed-use area through adaptive reuse of contributing properties to facilitate commercial, cultural and community-based activities."

Similarly, the Statement Of Cultural Heritage Value references social and community value in the District.

While we applaud this recognition of intangible value in the District, there does not appear to have been any effort made to catalogue and evaluate the intangible cultural heritage or "social and community value" of the area. Nor do there seem to be provisions directed at conservation of social and community value. We would recommend more substantial engagement with this topic.

4. Inadequate Public Engagement on the Draft Plan

Consensus is critical to value-based heritage conservation; without it, conservation efforts risk prioritizing policies and guidelines that do not achieve a shared vision for the future of the District. Cultural heritage evaluation should be informed by the perspectives of property owners, residents and occupants of the District; otherwise there is a risk that HCD will represent a "top-down" rather than a community-driven approach to conservation.

Now that the Draft Plan has been released for review, we recommend that the City and their consultants undertake individual interviews with property owners to gather their views on the significance of the district and its intangible cultural heritage value. These meetings would also present an opportunity for the consultants and the City to discuss specific issues that relate to specific sites (as with the Yonge Street HCD consultation process).

We would also recommend that the City establish public workshops with small groups for intensive consultation to discuss and revise the Draft Plan. These workshops should include neighbourhood residents, business owners, property owners, Councillors, resident associations, and other stakeholders.

5. Inadequate Consideration of the Policy Landscape

The policies and guidelines in the Draft Plan represent substantial constraints on future development in a downtown neighbourhood that is critical to meeting density targets in the City. Moreover, the Draft Plan includes only narrow and relatively superficial consideration of the planning framework that will be impacted by the HCD.

We recommend that the Draft Plan be revised to include a thorough discussion and analysis of other related planning tools including the Provincial Policy Statement the Growth Plan, the Official Plan and the zoning by-law and their respective objectives, and how they are interrelated. Potential conflicts should be noted and addressed in a revised draft plan. Specifically, we request that the King-Spadina Secondary Plan be updated and the TO Core study be completed and reviewed by heritage staff and their consultants prior to completion of the King-Spadina HCD Plan.

6. The Inflexibility of Mandatory Design Guidelines

Guidelines in the context of city planning are typically flexible tools. They inform property owners' expectations of what might be permitted on their lands while allowing City Staff to review development applications using their professional judgment.

Mandatory guidelines, like those contained in the Draft Plan, unduly constrain the ability of Staff to provide thoughtful, site-specific responses to development applications. This is in stark contrast to the flexible framework developed by the RA zoning and, in our view, does not lend itself to good heritage conservation practice.

Further, by including mandatory design guidelines, the built form generated by these guidelines will become de facto character defining elements of the District.

7. The Need for a Responsive Review Process

HCDs are powerful planning tools that have significant impacts on private property rights, the built form and the economic vitality of the areas they seek to manage. At the very least, the HCD Plan should be reassessed at minimum every five years to determine their impacts. Other planning tools with the potential for significant impact on the rights of private property owners have not only benefited from a test period during which Staff have applied and evaluated their impacts with the potential to make changes at the end of the test period, but are also required to be reviewed on a relatively frequent basis. We would recommend the same for the City's HCD.

8. Site Specific Matters Pertaining to 135-143 Portland Street (the "Site")

Further to the above, it is concerning that the Draft Plan omits the consideration of the "new" building typology that resulted from the "Kings" zoning initiative. As an example, the description of the heritage attributes in the St. Andrew area (s. 4.3) includes "the continuous rows of residential properties in the Toronto Bay-N-Gable style on Portland Street and Adelaide Street West". The row in which the Site is located is not contiguous as described as there is a modern construction (in both timing and design) in the middle of the row and as such there has been a loss of integrity in this row, as a heritage attribute.

Additionally, the policies in the Draft Plan conflict with the existing zoning for the Site. The Site is located within a large area with a height limit of 23m. However, in the Draft Plan, the policies call for streetwall height of development to not exceed the height established by adjacent contributing properties. As such, the height on this site would be reduced to 2 storeys from approximately 7 storeys. The height reduction together with changes to other performance standards in the zoning by-law including setbacks, collectively represent a significant downzoning of the Site.

My client, together with their Heritage and Planning Consultant team look forward to discussing the aforementioned general and site specific matters with you at your earliest convenience.

Yours truly,

WeirFoulds LLP



Denise Baker

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