

North York Community Council

From: Christopher Tanzola <ctanzola@overlandllp.ca>
Sent: November 29, 2019 3:41 PM
To: North York Community Council; Clerk
Cc: Michael Cara
Subject: Item NY11.6 -- Inclusion on City of Toronto's Heritage Register -- Don Mills Crossing Properties
Attachments: foresters ltr toronto preservation board re heritage register signed november 8 2019.pdf

We represent The Independent Order of Foresters, the owner of the property at 789 Don Mills Road.

Please see our attached correspondence, previously submitted to the Toronto Preservation Board on November 12, 2019 (Item PB11.8) at which time was deferred.

We have had some discussion with City of Toronto Staff since the deferral. We intend to make a deputation to the Toronto Preservation Board on December 2, 2019 requesting that our client's property at 789 Don Mills not be included on the Heritage Register at this time. We also intend to make a deputation to North York Community Council on December 3, 2019 along the same lines.

Please include "Michael Cara, Overland LLP" on the list of deputants for Item NY11.6.

Thank you,
Chris

Overland LLP
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From: Christopher Tanzola
Sent: Friday, November 08, 2019 11:33 AM
To: 'teycc@toronto.ca'; Clerk@toronto.ca
Cc: Ian Collins (icollins@foresters.com); Michael Cara
Subject: Item PB11.8 -- Inclusion on City of Toronto's Heritage Register -- Don Mills Crossing Properties

Please see our correspondence attached. We intend to be present to make a deputation on November 12, 2019. Please include "Michael Cara, Overland LLP" on the list of deputants.

Thanks,
Chris

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November 8, 2019

VIA EMAIL

Toronto Preservation Board
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Ellen Devlin, Committee Administrator

Attention: City Clerk

Dear Sirs/Mesdames:

RE: Item PB11.8 – Inclusion on the City of Toronto’s Heritage Register – Don Mills Crossing Properties – Notice of Pending Report

We are the lawyers for The Independent Order of Foresters (“**Foresters**”), the owner of the property at 789-793 Don Mills Road (the “**Foresters Property**”), which is located in the southeast quadrant of the Don Mills Road and Eglinton Avenue East Intersection.

We have been involved on behalf of Foresters in a number of recent planning processes involving the Foresters Property and surrounding lands, including Official Plan Amendment Nos. 231, 238, and 404, and the development of the lands at 1185 Eglinton Avenue East.

We received a notice by way of email on Tuesday, November 5 that the above-captioned report would be considered by the Toronto Preservation Board on November 12. The report is only a notice of a pending report. There are extremely few details publicly available. As of the writing of this letter, there is no publicly available list of the properties to be included on the City’s Heritage Register, and there is no public report providing the substantive basis for the recommendations that will be put to the Toronto Preservation Board on November 12.

Through our own follow-up inquiries, we understand that the Foresters Property is among those being recommended for inclusion on the Heritage Register.

In April 2019, at the time the Don Mills Crossing Secondary Plan was being considered for adoption, we provided written correspondence (attached) and attended the Planning and Housing Committee’s public meeting to make a deputation to that committee. Although we supported the Don Mills Crossing Secondary Plan generally, we indicated our serious concerns with the prospect of according heritage status to the Foresters Property in the absence of a more detailed understanding of the basis for that status, in the absence of any direct discussions with our client – the owner and operator of the property – and in the absence of any

understanding of how according heritage status might impact or influence the ongoing commercial/office operations on the Foresters Property or the future redevelopment of the lands, which is clearly anticipated and encouraged by the Don Mills Crossing Secondary Plan.

We note that all other commercial/office properties in this quadrant have either been demolished or converted to residential condominiums in the past decade or so. The Foresters building is now the only remaining office property at the southeast corner of Don Mills Road and Eglinton Avenue East. Given City policies that require office replacement in any redevelopment scenario (which are under appeal), it is imperative that the ability to maintain a healthy and active office campus be taken into account when the potential for heritage protection is being considered. This includes the requirements that this facility will have for reinvestment and revitalization over time, as well as flexibility to access the redevelopment potential of the site, which is recognized and planned for in the Don Mills Crossing Secondary Plan.

However, since April 2019, there has been no follow-up discussion with our client; no additional information has been provided to us; and none of the concerns indicated in our April 2019 letter and summarized above have been addressed.

Furthermore, at this time, a report supposedly recommending inclusion of the Foresters Property (and others) on the Heritage Register is coming forward for adoption, and – on the eve of the Toronto Preservation Board's consideration of that recommendation – there is no substantive public information available. Indeed, there is not even a publicly available list of the properties being considered. Not only are the landowner's legitimate expectations about matters that affect its property being impacted, but the Toronto Preservation Board's ability to make an informed decision is too.

We have raised this concern with the local councillor, and hope to have an opportunity for a substantive discussion about these matters in the near future.

In these circumstances, we would ask that this item be deferred, or in any event that the recommendation to include the Foresters Property on the City's Heritage Register not be supported by the Toronto Preservation Board.

We intend to be present at the Toronto Preservation Board's meeting to address this item. Please provide us with written notice of the decision in this matter and the consideration of this item by any other committee of City Council. Our contact information is provided herein.

Yours truly,
Overland LLP



Per: Christopher J. Tanzola
Partner
c. I. Collins (Foresters)



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April 3, 2019

VIA EMAIL

Mayor John Tory and Members of Council
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Planning and Housing Committee

Attention: City Clerk

Your Worship and Members of City Council:

RE: PH4.1 – Don Mills Crossing Final Report

We are the lawyers for The Independent Order of Foresters ("**Foresters**"), the owner of the property at 789-793 Don Mills Road (the "**Foresters Property**"), which is located in the southeast quadrant of the Don Mills Road and Eglinton Avenue East Intersection.

We have been involved on behalf of Foresters in a number of recent planning processes involving the Foresters Property and surrounding lands, including Official Plan Amendment Nos. 231 and 238, and the development of the lands at 1185 Eglinton Avenue East.

Most recently, together with our client and our client's lands use planning consultant, we have been involved in the Don Mills Crossing Secondary Plan (the "**Secondary Plan**") process, including by making written submissions, by attending at the recent Open House, and by meeting with and providing comments directly to City of Toronto Planning Staff as part of the landowner consultations on the Secondary Plan.

We have now had the opportunity, together with our client and its consultant, to review the latest draft Secondary Plan that is being presented to the Planning and Housing Committee (the "**Committee**") and which we understand will then be presented to City Council. We have also reviewed the other reports that are being presented to the Committee in conjunction with the Secondary Plan.

Secondary Plan

Further to our June 6, 2018 correspondence, we continue to have concerns about the policies of the Secondary Plan regarding views and vistas to the Foresters building, including the requirements for submission of a Heritage Impact Assessment, as well as the identification of the Foresters Property as a "visual point of interest" and a "view corridors" site, as neither of those terms is defined in the Secondary Plan. The cultural heritage value of the Foresters

Property has not been a topic in our discussions with City Staff and we have concerns with the Cultural Heritage Resource Assessment that accompanies the Secondary Plan, as elaborated below.

We are supportive of the modifications to the Secondary Plan which have revised the density allocations in the southeast quadrant of the Don Mills-Eglinton intersection. In particular, we support the separation of the CreateTO development parcel from the balance of the quadrant, which we understand will ensure that the development proposal for those lands does not appropriate to itself an unbalanced share of the future overall development capacity in this area.

We also support the identification of the Foresters Property and immediately surrounding lands as a "Context Plan" area, again excluding the CreateTO site. The requirement for a context plan for development of the balance of the quadrant is a useful tool for determining the distribution of density and built form for lands that have redevelopment potential. In particular, the use of a context plan will assist in determining an appropriate massing on the Foresters Property, which may include both new and existing buildings, including the development of tall buildings on both sides of Foresters Lane.

In this regard, we have been advised and understand that the Secondary Plan recognizes the potential for a tall building located immediately to the east of the existing Foresters office building on the west side of Foresters Lane (in the location of the current structured parking garage), in addition to a tower on the east side of Foresters Lane (in the location of the current surface parking lot). While no specific height is identified on the west side of Foresters Lane on Map 40-7 to the Secondary Plan, it delineates the entirety of that site as being a "tall building location". Further, we understand that heights in the range of those shown for other tall buildings in the quadrant (e.g., 23 st, 28 st, 29 st, 31 st) could be considered and that this assumption formed part of the area analysis in arriving at overall density permissions for the quadrant. Although the specific height and massing, as well as the distribution of density for any new development on the Foresters Property would be addressed in greater detail through a context plan exercise, it could be useful to clarify this intention in the Secondary Plan when it is presented to City Council.

Cultural Heritage Resource Assessment

We have also now had an opportunity to review the Cultural Heritage Resource Assessment prepared for the City by ASI. We understand that this report is being recommended for further study by City Planning Staff and could result in future recommendations to City Council regarding the cultural heritage status of various properties, including the Foresters Property.

In particular, the report by ASI contains a recommendation that the Foresters Property be listed on the City of Toronto's Heritage Register. This recommendation is made by the consultant without any input from or explanation provided to Foresters as the property owner. The implications of a heritage listing or potential future heritage designation on an active commercial office building and campus that is acknowledged by the City Staff to have significant future development potential should involve more rigorous and balanced assessment of not only the supposed heritage value but also of the implications of such actions on the long term

functionality and vitality of this property and the broader area. This assessment must involve direct discussion and dialogue with Foresters as the property owner and primary occupant of the building.

Before any of the heritage-related recommendations are taken up by the Committee or by City Council, we would appreciate the opportunity for further discussion with City Staff.

We thank City Staff for the dialogue we have had to date. We wish to see that productive dialogue continue as the Secondary Plan moves forward.

Thank you for your attention to these submissions. Representatives of Foresters will be present at the Public Meeting on April 4, 2019.

Please provide us with notice of the Committee's and City Council's decision in this matter and of any further reports, meetings, public meetings, or open houses in respect of the Secondary Plan or matters affecting the Foresters Property. Our contact information is provided herein.

Yours truly,
Overland LLP



Per: Christopher J. Tanzola
Partner

c. I. Collins (Foresters)
B. Hall (Planning Partnership)