

October 18, 2019

By E-Mail to *teycc@toronto.ca*

Toronto Preservation Board
City of Toronto
2nd Floor, West Tower, City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Ellen Devlin, Administrator

Dear Ms. Devlin:

**Re: Demolition of a Property Subject to a Notice of Intention to Designate
Under Part IV, Section 29 of the *Ontario Heritage Act*
206 Russell Hill Road, City of Toronto
Agenda Item PB10.1**

We are counsel to 2515496 Ontario Inc., the owner of the lands municipally known as 206 Russell Hill Road, Toronto (the "Lands").

On August 26, 2019, on behalf of our client, we made an application under section 34 of the *Ontario Heritage Act* (the "OHA") for consent to the demolition of the existing vacant house and detached garage on the Lands (the "Application"). The covering letter to the Application is enclosed. The Application was deemed complete by the Senior Manager of Heritage Preservation Services (the "Senior Manager") on September 3, 2019.

We have reviewed the report prepared by the Senior Manager, dated September 27, 2019 (the "Staff Report"), recommending that the Application be refused, which we understand will be considered by the Toronto Preservation Board (the "Board") at its meeting on October 21, 2019.

The Staff Report is seriously deficient and the analysis leading to the recommendations is fundamentally flawed. Accordingly, we request that the Board reject the staff recommendations and, instead, that it recommend to City Council the approval of the Application.

Among other things, the Staff Report fails to provide the Board with, or even make mention of, the Heritage Memorandum prepared by our client's heritage consultant,

ERA Architects Inc. (“ERA”), dated August 23, 2019 (the “Heritage Memorandum”), which was filed with the City in support of the Application.

Whereas the Staff Report refers to the building condition assessment report prepared by ERA, it omits any reference to the Heritage Memorandum in which ERA confirmed that it has “no concern with the proposed demolition of the existing structures on the property”.

In support of its conclusions, among other things, ERA noted the following:

- (a) “... the Statement of Significance and List of Heritage Attributes are imprecise and do not demonstrate that designation of 206 Russell Hill Road is warranted”;
- (b) The Period Revival category of architecture is “neither unique nor uncommon in the Canadian context”;
- (c) “Although the Statement of Significance describes Ewart G. Wilson as a noted architect, it is not evident that Ewart Wilson was a particularly noted or prominent architect”;
- (d) “... it is difficult to ascertain how [the property’s] location in proximity to Sir Winston Churchill Park and St. Clair Avenue West contributes to its cultural heritage value, particularly since the Statement of Significance does not provide sufficient detail or evidence describing why these characteristics are significant or how these characteristics contribute to the cultural heritage value of the property”; and
- (e) “... there are concerns with regards to the timing of the proposed designation of this property”.

ERA summarized its conclusions in the Heritage Memorandum in the following manner:

“Ultimately, it is our opinion that the designation of 206 Russell Hill Road is inappropriate as proposed by the City. The Statement of Significance for the property does not provide sufficient justification for designation since it is overly general, does not accurately describe the building’s architectural style, overstates the prominence of the building’s architect, Ewart G. Wilson, and does not clearly describe the significance of the building’s relationship to Sir Winston Churchill Park and St. Clair Avenue West. Additionally, the timing of designation is unusual, since an application for zoning bylaw amendment and site plan approval was submitted approximately one year before HPS recommended designation of the property.”

Attached is a copy of the Heritage Memorandum, and we request that a copy be provided to all members of the Board in advance of the meeting.

The Staff Report is also highly selective in its identification of relevant policies in both the applicable provincial planning policy documents and the City's Official Plan. In doing so, the Staff Report fails to properly consider all applicable policies in its evaluation of the Application, including numerous policies that would support the proposed redevelopment of the Lands, as explicitly required by those policy documents.

Given the lateness of the proposed designation of the Lands relative to our client's filing of its redevelopment applications with the City in May 2018, together with staff's reliance on that proposed designation to recommend refusal of the Application and the deficiencies identified above, it is apparent that the actions that have been taken by the City have been designed to attempt to frustrate our client's redevelopment proposal for the Lands.

We trust that the Board will give due consideration to these submissions. My colleague, Kyle Gossen, will be in attendance at the meeting on October 21, 2019 to speak to this matter and address any questions that the members of the Board may have.

Yours truly,
DAVIES HOWE LLP

Mark R. Flowers
Professional Corporation

encl.

copy: Client
Michael McClelland / Julie Tyndorf, ERA Architects Inc.
Michael Goldberg / Michelle Charkow, Goldberg Group

August 26, 2019

By Same Day Courier and Email to *Mary.MacDonald@toronto.ca*

Mary MacDonald, Senior Manager
Heritage Preservation Services
City Planning, Urban Design
City Hall, 17th Floor, East Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Ms. MacDonald:

**Re: Application to Demolish Buildings or Structures under Part IV, Section 34
of the *Ontario Heritage Act* (the "OHA")
206 Russell Hill Road, Toronto**

We are counsel to 2515496 Ontario Inc., the owner of the lands municipally known as 206 Russell Hill Road, Toronto (the "Lands").

At a meeting of City of Toronto (the "City") Council held on June 18 and 19, 2019, City Council added the Lands to the City's Heritage Register and stated its intention to designate the Lands under Part IV, Section 29 of the OHA.

Our client received a copy of the City's "Notice of Intention to Designate" on June 24, 2019.

By letter dated July 22, 2019, we filed a notice of objection to the proposed designation of the Lands, pursuant to subsection 29(5) of the OHA. That letter, enclosed as Attachment 3, sets out the background relevant to the Lands and the intention to designate the Lands under the OHA.

Our client wishes to demolish the existing vacant house and the detached garage on the Lands (the "Existing Buildings").

Subsection 30(2) of the OHA provides that section 34 of the OHA applies with necessary modifications once notice of intention to designate the property is given.

However, it is not known to our client whether the "Notice of Intention to Designate" has been "published in a newspaper having general circulation in the municipality", as required by subsection 29(3) of the OHA. Therefore, it is not known whether subsection 30(2) of the OHA has taken effect.

If subsection 30(2) of the OHA has taken effect (which we do not admit by submitting this application), we are making an application to demolish the Existing Buildings pursuant to subsection 34(1) of the OHA.

The reasons for the proposed demolition of the Existing Buildings include the following:

- Our client wishes to redevelop the Lands. It is currently in the process of seeking approval of a Zoning By-law Amendment and a Site Plan Approval application, to permit a townhouse development containing four dwelling units on the Lands (the "Townhouse Proposal").
- The City's proposal to designate the Lands under section 29 of the OHA was made with the intention of frustrating the redevelopment of the Lands, coming shortly after our client submitted an application to demolish the existing vacant house pursuant to the *Building Code Act*.
- The City first raised cultural heritage issues in respect of the Lands nearly nine months after the applications for the Townhouse Proposal had been submitted to the City, and only in response to comments from local residents.
- City Council deprived our client of an opportunity to make submissions regarding the proposed designation of the Lands to the Toronto and East York Community Council, and instead stated its intention to designate the Lands under the OHA without notice to our client and without due process.
- In 2005, the Lands were part of an area considered for inclusion in a study area for potential designation as a Heritage Conservation District under Part V of the OHA. Notwithstanding this, the City ultimately did not include any property on the west side of Russell Hill Road, including the Lands, in the Casa Loma Heritage Conservation District Preliminary Study Area.
- As concluded in the enclosed Heritage Memorandum prepared by ERA Architects Inc.:

Ultimately, it is our opinion that the designation of 206 Russell Hill Road is inappropriate as proposed by the City. The Statement of Significance for the property does not provide sufficient justification for designation since it is overly general, does not accurately describe the building's architectural style, overstates the prominence of the building's architect, Ewart G. Wilson, and does not clearly describe the significance of the building's relationship to Sir Winston Churchill Park and St. Clair Avenue West. Additionally, the timing of designation is unusual, since an application for zoning bylaw amendment and site plan approval was submitted approximately one year before HPS recommended designation of the property.

- ERA Architects Inc. has no concern with the proposed demolition of the Existing Buildings, and does not believe that a conservation plan should be required to support demolition.

In accordance with subsection 34(1.1) of the OHA and §103-4.2 of Chapter 103 of the City's Municipal Code, the following materials are enclosed:

- Attachment 1: Completed application form;
- Attachment 2: A survey of the Lands, dated August 20, 2019, showing all existing structures on the Lands;
- Attachment 3: Notice of Objection to Intention to Designate 206 Russell Hill Road, dated July 22, 2019;
- Attachment 4: A Heritage Memorandum, dated August 23, 2019, prepared by ERA Architects Inc.;
- Attachment 5: A building condition assessment, dated August 23, 2019, prepared by ERA Architects Inc.; and
- Attachment 6: Full colour photographs of each elevation of the Existing Buildings, all of which are labeled, dated and identified as to orientation.

We look forward to receiving a notice of receipt from the City in accordance with subsection 34(1.2) of the OHA.

This application is being made without prejudice to our client's position in the application to the Superior Court of Justice bearing court file number CV-19-00623315-0000. Through the Court application, our client is seeking a declaration that it may demolish the existing vacant house, a declaration that the City's Notice of Intention to Designate the Lands is void, if it ever took effect, and other relief.

Should you have any questions, please do not hesitate to contact me or my colleague, Kyle Gossen.

Yours truly,
DAVIES HOWE LLP

Professional Corporation

MRF:KG
encl.



ERA Architects Inc.
#600-625 Church St
Toronto ON, M4Y 2G1

HERITAGE MEMORANDUM

Subject: NOTICE OF INTENTION TO DESIGNATE &
APPLICATION FOR DEMOLITION

Issued To: Mark Flowers, Davies Howe LLP
425 Adelaide Street West, 10th Floor
Toronto, ON M5V 3C1
416-977-7088

Memo #:01

Project: 206 Russell Hill Road, Toronto

Project #: 19-176-01

Prepared By: MM/JT/OA

Date Issued: August 23, 2019

ERA Architects Inc. ("ERA") has been retained by 2515496 Ontario Inc. to review the Notice of Intention to Designate, including the Reasons for Designation/Statement of Significance for 206 Russell Hill Road, Toronto, dated June 21, 2019 and to assist with an application for demolition under Section 34 of the Ontario Heritage Act (OHA). The Notice of Intention to Designate was issued following an application submitted by the owner on April 5, 2019 to demolish the existing structure at 206 Russell Hill Road and an application submitted on May 7, 2018 for a zoning bylaw amendment and site plan approval in support of a development proposal to replace the existing structure with four 3-storey townhomes.

ERA is of the opinion that the Statement of Significance and List of Heritage Attributes are imprecise and do not demonstrate that designation of 206 Russell Hill Road is warranted for the following reasons:

1. STATEMENT OF SIGNIFICANCE & LIST OF HERITAGE ATTRIBUTES

The Statement of Significance is overly general and does not provide an appropriate evaluation of the potential cultural heritage value of the property. As written, the Statement of Significance could be applied to many buildings in the neighbourhood and in the city that were built during a similar period. For example, the Statement of Significance identifies the "scale, form and massing of the 2 1/2-storey plan" as a heritage attribute. However, additional detail is not provided to describe the significance of the 2 1/2-storey plan or how the building's 2 1/2-storey plan contributes to the property's cultural heritage value. In fact, a 2 1/2-storey plan is not a unique feature and could be attributed to the majority of buildings located on Russell Hill Road and in the surrounding neighbourhood, the vast majority of which are not designated under the OHA.

The heritage attributes listed in the Statement of Significance provide a description of features rather than an identification of features that embody the described cultural heritage value of the property. For example, "the north side elevation with the secondary entrance and the wood detailing" is listed as a heritage attribute. It is unclear how these features contribute to the cultural heritage value of the property and why this attribute is significant.



2. ARCHITECTURAL STYLE

The Statement of Significance notes that “206 Russell Hill Road is valued for its design as a well-crafted example of the Period Revival, one of the most popular styles for upscale residential architecture in the World War I era...” However, Period Revival is not a specific architectural “style”, but a general category used to describe architecture that incorporates historical features and this category ranges broadly from 1840 to 1940. It is neither unique nor uncommon in the Canadian context. Typically, the Period Revival category can be seen in styles such as: Gothic Revival, Colonial Revival, Queen Anne Revival, and Tudor Revival, which are all common architectural styles illustrated in older homes throughout the city.

The Statement of Significance also notes that the building displays “...detailing inspired by the Arts and Crafts Movement.” However, Arts & Crafts is not considered in itself a revivalist style, in that it attempted to create a new and innovative architectural tradition. Significant examples of the style include the works of Greene & Greene in Pasadena, the works of Charles Voysey in England, or more locally, some of the work of Eden Smith in Toronto.

3. SIGNIFICANCE OF EWART G. WILSON

Although the Statement of Significance describes Ewart G. Wilson as a noted architect, it is not evident that Ewart Wilson was a particularly noted or prominent architect, as he is only mentioned in the Royal Architectural Institute of Canada (RAIC) Journal in his obituary and his obituary does not list any architectural awards. A review of his architectural works revealed that of 16 identifiable works, only three are individually designated heritage properties under Part IV, Section 29 of the OHA. 200 Russell Hill Road, one of the individually designated properties, is located directly south of 206 Russell Hill Road, but the structure on that property was recently demolished to accommodate a new residential apartment development. It should be noted that the designation of 206 Russell Hill Road was not initiated when the adjacent property was demolished. Of Ewart Wilson’s two remaining Part IV designated properties, neither are residential.

4. CONTEXTUAL RELATIONSHIP TO SIR WINSTON CHURCHILL PARK & SURROUNDINGS

The Statement of Significance describes the visual and physical link to Sir Winston Churchill Park as part of the cultural heritage value of the property, stating that 206 Russell Hill Road is “...visually and physically linked to its location on an elevated site adjoining Sir Winston Churchill Park.” The List of Heritage Attributes also includes: “[t]he setback, placement and orientation of the building on the west side of the street, south of St. Clair Avenue West and adjoining Sir Winston Churchill Park.” The significance of these connections is unclear given the location of the property in relation to the park and street. In its location, 206 Russell Hill Road is screened from view on all sides by trees and other vegetation, limiting a visual connection from the property to the park and street. Thus, it is difficult to ascertain how its location in proximity to Sir Winston Churchill Park and St. Clair Avenue West contributes to its cultural heritage value, particularly since the Statement of Significance does not provide sufficient detail or evidence describing why these characteristics are significant or how these characteristics contribute to the cultural heritage value of the property. Further, the park-facing (west) elevation of the building is not referenced as a heritage attribute. Since the park-facing elevation is not identified as a heritage attribute, the Statement of Significance does not sufficiently justify the significance or cultural heritage value of the property’s connection to the park.



206 Russell Hill Road's location adjacent to Sir Winston Churchill Park is not unique or uncommon, as a number of homes along Russell Hill Road and within the South Hill neighbourhood abut the park. Of the residential properties adjoining the park, none have existing structures that are individually designated under the OHA.

The Statement of Significance also notes that 206 Russell Hill Road is associated with the origins of the South Hill community, however this could be applied to the majority of residential properties within the South Hill neighbourhood, the vast majority of which are not designated under the OHA.

APPLICATION REVIEW PROCESS

ERA is also of the opinion that there are concerns with regards to the timing of the proposed designation of this property. On May 7, 2018, an application for a zoning bylaw amendment and site plan approval was submitted, proposing to remove the existing structures at 206 Russell Hill Road and replace them with four 3-storey townhomes. Heritage Preservation Services (HPS) provided formal comments regarding archaeological interests on July 11, 2018. A preliminary staff report dated January 29, 2019 indicated that the property's heritage status was discussed at a community consultation meeting on December 17, 2018. The South Hill Homeowners Association also suggested that the neighbourhood be considered for a possible Heritage Conservation District (HCD). In July 2018, the City released the Casa Loma HCD Study for the neighbouring area bounded by Bathurst Street, St. Clair Avenue West, the Davenport escarpment, and Spadina Road, including Ardwood Gates and Glen Edyth Drive and Place. The study area was defined in 2005 and does not include 206 Russell Hill Road or the adjacent properties along Russell Hill Road.

HPS did not provide comments recommending designation until April 29, 2019, after a demolition permit application was submitted on April 5, 2019 seeking to demolish the existing structure at 206 Russell Hill Road. On May 22, 2019, over one year after the initial redevelopment applications were submitted, HPS issued a Staff Report recommending designation of the property under Part IV, Section 29 of the Ontario Heritage Act. After adoption by the Toronto Preservation Board on May 29, 2019, the Staff Report was scheduled to be reviewed at the Toronto and East York Community Council (TEYCC) meeting on June 25, 2019. However, on June 18, 2019, Toronto City Council voted to remove the item from the TEYCC agenda and adopted the Staff Report recommendations to designate 206 Russell Hill Road.

NOTICE OF INTENTION TO DESIGNATE

Ultimately, it is our opinion that the designation of 206 Russell Hill Road is inappropriate as proposed by the City. The Statement of Significance for the property does not provide sufficient justification for designation since it is overly general, does not accurately describe the building's architectural style, overstates the prominence of the building's architect, Ewart G. Wilson, and does not clearly describe the significance of the building's relationship to Sir Winston Churchill Park and St. Clair Avenue West. Additionally, the timing of designation is unusual, since an application for zoning bylaw amendment and site plan approval was submitted approximately one year before HPS recommended designation of the property.



ERA Architects Inc.
#600-625 Church St
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APPLICATION FOR DEMOLITION

ERA has no concern with the proposed demolition of the existing structures on the property. A conservation plan should not be required to support demolition.

Please do not hesitate to contact the undersigned should you have any further questions regarding the contents of this Heritage Memorandum.

Sincerely,

Michael McClelland, Principal
E.R.A. Architects Inc.