

September 14, 2020

By E-Mail to teycc@toronto.ca

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

Attention: Ellen Devlin, Administrator

Dear Ms. Devlin:

**Re: Proposed Inclusion on the City of Toronto's Heritage Register and Intention to Designate under Part IV, Section 29 of the *Ontario Heritage Act*
661-665 Huron Street, Toronto
Agenda Item TE18.17**

Introduction

We are counsel to 661 Huron Street Inc., the owner of the properties municipally known as 661 and 663-665 Huron Street, Toronto (collectively, the "Properties").

We have reviewed the report prepared by the Senior Manager of Heritage Planning, dated August 7, 2020 (the "Staff Report"), which recommends "that City Council include the [Properties] on the City of Toronto's Heritage Register and state its intention to designate the properties under Part IV, Section 29 of the Ontario Heritage Act for their cultural heritage value". We understand that the Staff Report is to be considered by Toronto and East York Community Council ("TEYCC") at its meeting on September 16, 2020.

For the reasons discussed below, we request that TEYCC defer its consideration of this item to a future meeting. Failing that, we request that TEYCC reject the recommendations set out in the Staff Report.

Background

To appreciate the rationale for our requests above, it is important to understand the background context, much of which has been omitted from the Staff Report.

As far back as April 2018, our client initiated pre-application consultation with City staff to discuss the proposed redevelopment of the Properties. This consultation continued for more than one year, with Heritage staff participating in some of the discussions.

In November 2019, our client submitted zoning by-law amendment and rental housing demolition applications (Application Nos. 19 252606 STE 11 OZ and 19 252611 STE 11 RH) (the “Applications”) to the City of Toronto (the “City”) to permit the demolition of the existing residential buildings on the Properties and their replacement with the development of a new four-storey apartment building containing 48 rental dwelling units (the “Proposed Development”).

Despite the passage of more than 8 months since the Applications had been filed, and despite repeated requests made by our client since early this year, we understand that no substantive comments from Heritage staff had been received in response to the Applications as of early last month. As a result, our client again initiated a request to discuss the Applications with Heritage staff, and a telephone call was finally arranged on August 14, 2020.

We understand that, during that call, Heritage staff did not advise our client that a report recommending designation of the Properties would be considered at the then upcoming meeting of the Toronto Preservation Board (“TPB”), despite the fact that the Staff Report (dated August 7, 2020) had clearly already been prepared. Rather, the first time that our client and its consultants learned of the Staff Report was when a link to the agenda for the August 27, 2020 TPB meeting was sent to our client’s planning consultant by City staff late in the afternoon on August 17, 2020.

Request for Deferral

Given that our client only received notice of staff’s recommendation to designate the Properties and a copy of the Staff Report approximately one week before the TPB meeting, there was no practical opportunity for any discussion between our client, its consultants, and Heritage staff regarding this matter before the TPB meeting. Accordingly, on behalf of 661 Huron Street Inc., we requested that the TPB’s consideration of this item be deferred to a future meeting, in order to provide an opportunity for such discussions to occur. Our request was made in a written submission to the TPB dated August 26, 2020, a copy of which is attached. Unfortunately, and without explanation, the TPB rejected our client’s request to defer the item. Accordingly, we are requesting that TEYCC defer its consideration of this matter to allow an opportunity for discussion to occur.

The Staff Recommendations Should be Rejected

Alternatively, if TEYCC is not prepared to defer its consideration of this item, we request that TEYCC reject the recommendations in the Staff Report.

Of note, our client has still not received formal substantive comments from Heritage staff in response to the Applications. Instead, in the Staff Report, Heritage staff state that “[a]s the application review is ongoing, City staff will have the opportunity [to] share Council’s decision with the property owners to inform revisions of these applications”.

As it has now been approximately 10 months since the Applications were submitted to the City, and roughly 29 months since our client first initiated pre-application consultation with City staff regarding the proposed redevelopment of the Properties, the timing of Heritage staff’s recommendation to designate the Properties under Part IV of the *Ontario Heritage Act* (“OHA”) is extremely prejudicial to our client, and precisely the type of significantly delayed response from municipalities regarding potential heritage designation that recent amendments to the OHA were designed to avoid.

The content and timing of Heritage staff’s recommendations are particularly troubling, bearing in mind that, unlike other properties in the immediate vicinity, the Properties are not even currently listed on the City’s Heritage Register as properties that the City “believes to be of cultural heritage value or interest” under subsection 27(1.2) of the OHA.

Combined with the rather presumptuous statement in the Staff Report that Council’s decision regarding the proposed designation of the Properties under Part IV of the OHA will “inform revisions to the [Applications]”, it is our view that the recommendations of Heritage staff are not justified. Rather, it appears that the staff recommendations are an attempt to frustrate the Proposed Development and/or gain leverage in the ongoing review of the Applications. Either way, this is not an appropriate use of the OHA, and should not be supported by TEYCC.

If Heritage staff has constructive comments to offer in response to the Applications, our client and its consultants would be pleased to receive these. Indeed, our client has been requesting such comments for several months, but thus far to no avail.

Conclusion

For the reasons stated above, we request that TEYCC defer its consideration of this item to a future meeting. Alternatively, if TEYCC is not prepared to defer the item, we request that TEYCC reject the recommendations set out in the Staff Report.

We thank you, in advance, for your consideration of this submission, and we ask to be notified of any decision(s) of TEYCC and/or City Council regarding this matter.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

encl.

copy: Client
Michael Goldberg / Todd Trudelle, Goldberg Group

August 26, 2020

By E-Mail to teycc@toronto.ca

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

Attention: Ellen Devlin, Administrator

Dear Ms. Devlin:

**Re: Proposed Inclusion on the City of Toronto's Heritage Register and Intention to Designate under Part IV, Section 29 of the *Ontario Heritage Act*
661-665 Huron Street, Toronto
Agenda Item PB16.6**

Introduction

We are counsel to 661 Huron Street Inc., the owner of the properties municipally known as 661 and 663-665 Huron Street, Toronto (collectively, the "Properties").

We have reviewed the report prepared by the Senior Manager of Heritage Planning, dated August 7, 2020 (the "Staff Report"), which recommends "that City Council include the [Properties] on the City of Toronto's Heritage Register and state its intention to designate the properties under Part IV, Section 29 of the Ontario Heritage Act for their cultural heritage value". We understand that the Staff Report is to be considered by the Toronto Preservation Board (the "TPB") at its meeting on August 27, 2020.

For the reasons discussed below, we request that the TPB defer its consideration of this item to a future meeting. Failing that, we request that the TPB reject the recommendations set out in the Staff Report.

Background

To appreciate the rationale for our requests above, it is important to understand the background context, much of which has been omitted from the Staff Report.

As far back as April 2018, our client initiated pre-application consultation with City staff to discuss the proposed redevelopment of the Properties. This consultation continued for more than one year, with Heritage staff participating in some of the discussions.

In November 2019, our client submitted zoning by-law amendment and rental housing demolition applications (Application Nos. 19 252606 STE 11 OZ and 19 252611 STE 11 RH) (the “Applications”) to the City of Toronto (the “City”) to permit the demolition of the existing residential buildings on the Properties and their replacement with the development of a new four-storey apartment building containing 48 rental dwelling units (the “Proposed Development”).

Despite the passage of more than 8 months since the Applications had been filed, and despite repeated requests made by our client since early this year, we understand that no substantive comments from Heritage staff had been received in response to the Applications as of earlier this month. As a result, our client again initiated a request to discuss the Applications with Heritage staff, and a telephone call was finally arranged on August 14, 2020.

We understand that, during that recent call, Heritage staff did not advise our client that a report recommending designation of the Properties would be considered at the upcoming TPB meeting, despite the fact that the Staff Report (dated August 7, 2020) had clearly already been prepared. Rather, the first time that our client and its consultants learned of the Staff Report was when a link to the agenda for the August 27, 2020 TPB meeting was sent to our client’s planning consultant by City staff late in the afternoon on August 17, 2020.

Request for Deferral

Given that our client only received notice of staff’s recommendation to designate the Properties and a copy of the Staff Report approximately one week ago, there has been no practical opportunity for any discussion between our client, its consultants, and Heritage staff regarding this matter. Accordingly, on behalf of 661 Huron Street Inc., we request that the TPB’s consideration of this item be deferred to a future meeting, in order to provide an opportunity for such discussions to occur.

The Staff Recommendations Should be Rejected

Alternatively, if the TPB is not prepared to defer its consideration of this item, we request that the TPB reject the recommendations in the Staff Report.

Of note, our client has still not received formal substantive comments from Heritage staff in response to the Applications. Instead, in the Staff Report, Heritage staff state that “[a]s the application review is ongoing, City staff will have the opportunity [to] share Council’s decision with the property owners to inform revisions of these applications”.

As it has now been more than 9 months since the Applications were submitted to the City, and roughly 28 months since our client first initiated pre-application consultation with City staff regarding the proposed redevelopment of the Properties, the timing of Heritage staff's recommendation to designate the Properties under Part IV of the *Ontario Heritage Act* ("OHA") is extremely prejudicial to our client, and precisely the type of significantly delayed response from municipalities regarding potential heritage designation that recent amendments to the OHA were designed to avoid.

The content and timing of Heritage staff's recommendations are particularly troubling, bearing in mind that, unlike other properties in the immediate vicinity, the Properties are not even currently listed on the City's Heritage Register as properties that the City "believes to be of cultural heritage value or interest" under subsection 27(1.2) of the OHA.

Combined with the rather presumptuous statement in the Staff Report that Council's decision regarding the proposed designation of the Properties under Part IV of the OHA will "inform revisions to the [Applications]", it is our view that the recommendations of Heritage staff are not justified. Rather, it appears that the staff recommendations are an attempt to frustrate the Proposed Development and/or gain leverage in the ongoing review of the Applications. Either way, this is not an appropriate use of the OHA, and should not be supported by the TPB.

If Heritage staff has constructive comments to offer in response to the Applications, our client and its consultants would be pleased to receive these. Indeed, our client has been requesting such comments for several months, but thus far to no avail.

Conclusion

For the reasons stated above, we request that the TPB defer its consideration of this item to a future meeting. Alternatively, if the TPB is not prepared to defer the item, we request that the TPB reject the recommendations set out in the Staff Report.

We thank you, in advance, for your consideration of this submission, and we ask to be notified of any decision(s) of the TPB, the Toronto and East York Community Council, and/or City Council regarding this matter.

Yours truly,
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