

10 and 10A Dawes Road - Request for Direction Report

Date: April 28, 2021

To: Toronto Preservation Board and City Council

From: City Solicitor

Wards: Ward 19 - Beaches - East York

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

The purpose of this report is to seek further instruction in relation to a development application for a site that contains heritage resources, and a related ongoing appeal at the Local Planning Appeal Tribunal ("LPAT").

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council state its intention to designate the properties at 10 and 10A Dawes Road under Part IV, Section 29 of the Ontario Heritage Act in accordance with the Statement of Significance: 10 and 10A Dawes Road (Reasons for Designation) attached as Public Appendix "D" to the report (April 28, 2021) from the City Solicitor.
2. If there are no objections to the designation, City Council authorize the City Solicitor to introduce the Bill in City Council designating the property under Part IV, Section 29 of the Ontario Heritage Act.
3. If there are objections in accordance with the Ontario Heritage Act, City Council direct the City Clerk to refer the designation to the Conservation Review Board.

4. If the designation is referred to the Conservation Review Board, City Council authorize the City Solicitor and appropriate staff to attend any hearing held by the Conservation Review Board in support of City Council's decision on the designation of the property.
5. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (April 28, 2021) from the City Solicitor.
6. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B" and Confidential Appendix "C", to the report (April 28, 2021) from the City Solicitor, if adopted by City Council, only at the discretion of the City Solicitor.
7. City Council direct that all other information contained in Confidential Attachment 1 to the report (April 28, 2021) from the City Solicitor is to remain confidential, as it contains advice which is subject to litigation and solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On December 16, 2020, the properties at 10 and 10A Dawes Road were included on the City of Toronto's Heritage Register.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE21.22>

On March 10, 2021, City Council directed the City Solicitor and City Staff to attend the Local Planning Appeal Tribunal to oppose the applicant's appeal respecting the Zoning By-law Amendment for 10-30 Dawes Road. City Council's decision may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE23.27>

COMMENTS

This report has been prepared in consultation with staff from City Planning and Heritage Planning.

Overview

The properties at 10 and 10A Dawes Road are located on the west side of Dawes Road at the southern terminus of the road, south of Danforth Avenue and north of the railway corridor. They were formerly a single property spanning three lots at 10 Dawes Road but were severed to become 10 and 10A Dawes Road in 1964. Historically, the area at the corner of Danforth Avenue and Dawes Road was the location of several historic

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settlements with inns, hotels, and stores, including the village of Dawes' Corners in 1850, followed by Smith's Corner in the 1860s, Little York and Coleman's Corner in the 1880s, and the Town of East Toronto in 1903.

10A Dawes Road, the earlier of the two structures, is comprised of a two-and-a-half-storey brick building fronting Dawes Road with a one-storey attached brick building at the rear. The property was constructed in c.1895 and originally functioned as a grist and flour mill with the one-storey attached building at the rear housing the steam mechanism that powered the mill. It was likely originally occupied by the East Toronto Milling Company. 10 Dawes Road, which was constructed in 1905 to the south of 10A Dawes Road, is comprised of a three-storey building fronting Dawes Road. It is concrete and stucco at grade level with the upper-storeys and headspace clad in corrugated metal. At the rear is a one-storey concrete block addition and a one-storey metal clad addition. This property originally housed the grain elevator. The Chalmers Milling Company owned and operated out of 10 and 10A Dawes Road from 1905 until the properties were sold to the Elizabeth Flour & Seed Milling Co. in 1952. The company continued to occupy the properties at 10A and 10 Dawes Road for 29-years until they were sold and adaptively reused in 1981 and 2007 respectively. More recently, the Silver Mill Gallery, which offered programs for Toronto's emerging digital artists, occupied the space at 10 Dawes Road.

The property at 10 Dawes Road was identified as a heritage potential property in the April 2019 Draft Urban Design Guidelines for Danforth Avenue.

Public Attachment 1 and Public Appendices A to D to this report provide the detailed justification for designating the properties and 10 and 10A Dawes Road under Part IV, Section 29 of the Ontario Heritage Act for their cultural heritage value.

Policy Framework

Planning Act

The Planning Act and the associated Provincial Policy Statement guide development in the Province. The Act states that municipalities must have regard for matters of provincial interest. Section 2(d) specifically refers to "the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest."

Provincial Policy Statement

The Provincial Policy Statement (PPS) directs through Policy 2.6.1 that significant built heritage resources shall be conserved. Properties designated under the *Ontario Heritage Act* are considered to be significant.

Policy 2.6.3 states that "Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved."

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan (2020) directs through Policy 4.2.7.1 the conservation of cultural heritage resources, particularly in strategic growth areas such as the Downtown Urban Growth Centre.

Official Plan

Section 3.1.5 of the City of Toronto's Official Plan provides the policy framework for heritage conservation in the City and includes 53 heritage policies. Many of these policies are directly relevant to the proposed development.

The Standards and Guidelines for the Conservation of Historic Places in Canada

The Standards and Guidelines The Standards and Guidelines for the Conservation of Historic Places in Canada (Standards and Guidelines) is the official document guiding planning, stewardship and the conservation approach for all listed and designated heritage resources within the City of Toronto.

Site

The development site is located on the west side of Dawes Road, and to the east, south and north sides of existing Guest Avenue, forming a triangle of land with the southern terminus at the south end of Dawes Road, where it will merge with the rerouted Guest Avenue extension. It includes four buildings that occupy the properties from 10 to 30 Dawes Road. The site is situated in an area with the immediate vicinity characterised by two- to three-storey commercial or institutional buildings, with a main railway corridor to the south and Danforth Avenue to the north.

The properties at 10 and 10A Dawes Road are located at the southern tip of the triangular development site and located within the East End-Danforth neighbourhood, in what has historically been a mixed industrial and residential area.

The Zoning By-law Amendment Application

The Zoning By-law Amendment application was submitted for the property at 10-30 Dawes Road (the "Site") to permit two towers atop a shared base building comprising residential, retail, office and day care uses (the "Application"). The north tall building was proposed to be 24 storeys, and the south tall building would be 41 storeys. Together, a total of 616 units were proposed with a total gross floor area of 47,469 square metres. While early discussions proposed moving the silo structure at 10 Dawes Road south, physically separated from the proposed development, and demolition of the mill building at 10A Dawes Road, the December 1, 2020 Heritage Impact Assessment proposed the complete retention of 10 and partial retention of 10A Dawes Road in situ.

On November 6, 2020, the Applicant appealed the Application to the Local Planning Appeal Tribunal (the "LPAT") due to Council's failure to make a decision on the Application within the timeframe prescribed by the Planning Act.

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CONCLUSION

The City Solicitor requires further instructions. Part of his report is about litigation before the Local Planning Appeal Tribunal and contains advice or communications that are subject to solicitor-client and litigation privilege. Confidential Attachment and Confidential Appendices "A" to "C" this report contain confidential information advice and should be considered by the Preservation Board and City Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Justification for designating the properties and 10 and 10A Dawes Road under Part IV, Section 29 of the Ontario Heritage Act for their cultural heritage value
2. Public Appendix "A" to Public Attachment 1 - Designation Location
3. Public Appendix "B" to Public Attachment 1 - Designation Maps and Photographs
4. Public Appendix "C" to Public Attachment 1 - Designation Research and Evaluation
5. Public Appendix "D" to Public Attachment 1 - Statement of Significance
6. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
7. Confidential Appendix "A" to Confidential Attachment 1 - Confidential Information
8. Confidential Appendix "B" to Confidential Attachment 1 - Confidential Information
9. Confidential Appendix "C" to Confidential Attachment 1 - Confidential Information