

Alterations to Designated Heritage Property, Intention to Designate 100 Simcoe Street under Part IV, Section 29 of the Ontario Heritage Act and Authority to Enter into a Heritage Easement Agreement

Date: March 30, 2021

To: Toronto Preservation Board and City Council

From: City Solicitor

Wards: Ward 10 – Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report concerns litigation or potential litigation that affects the City of Toronto.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The purpose of this report is to seek further instruction in relation to a development application for a site that contains a heritage resource that has been identified at 100 Simcoe Street and a related ongoing development appeal at the Local Planning Appeal Tribunal ("LPAT"). An LPAT Case Management Conference has been scheduled for May 3-4.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the instructions in Confidential Attachment 1 and Confidential Appendices "A", "B", and "C" if adopted by City Council, with the balance of the Confidential Attachment 1 to remain confidential as it contains advice which is subject to 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

The property at 100 Simcoe Street was included on the City of Toronto's Heritage Register on March 9, 2017.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE22.18>

At its December 16, 17, 18, 2020 meeting, City Council stated its intention to designate the property at 100 Simcoe Street under Part IV, Section 29 of the Ontario Heritage Act. It has been determined that the property meets Ontario Regulation 9/06, which sets out the criteria prescribed for municipal designation under Part IV, Section 29 of the Ontario Heritage Act, for its design/physical, historical/associative and contextual value. The Notice of Intention to Designate has been issued in accordance with s.29(3) of the Ontario Heritage Act and an appeal against the designation has been received.

<https://www.toronto.ca/legdocs/mmis/2020/te/bgrd/backgroundfile-158463.pdf>

King-Spadina Heritage Conservation District

At its meeting of October 2, 2012, City Council adopted TE18.18, authorizing the study of the King-Spadina neighbourhood as a potential Heritage Conservation District (HCD) under Part V of the Ontario Heritage Act.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.TE18.18>

At its meeting of October 2, 2017, Toronto City Council adopted TE26.14 thereby designating the King-Spadina Heritage Conservation District Plan under Part V of the Ontario Heritage Act as the district plan for the King-Spadina Heritage Conservation District.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE26.14>

The property at 100 Simcoe Street is identified as a contributing heritage property in the King-Spadina HCD Plan based upon its design and contextual values.

This plan is not currently in force and effect as it is the subject of appeal(s) to the LPAT.

Related Development Application

An application was filed with the City in 2016 to permit a zoning by-law amendment for 90 and 100 Simcoe Street (the site), 130 Pearl Street, and 203, 207 and 211 Adelaide Street West to permit a 59-storey mixed-use building with 524 dwelling units, 17,171 square metres of office floor area, and 785 metres of retail floor area. The proposal Report for Action with Confidential Attachment – 100 Simcoe Street

included the demolition of the entirety of the original 1904 building and the 1905 addition, and the adjacent parking garage structure, and their replacement with a 51-storey tower atop an 8-storey base building.

The owner appealed the Zoning By-law Amendment application to the Local Planning Appeal Tribunal (the "LPAT") due to City Council's failure to make a decision on the application within the time prescribed by the Planning Act. At its meeting of July 23, 2018 City Council instructed the City Solicitor and City staff to attend the LPAT in opposition to the Zoning By-law Amendment application:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE34.35>

The owner and the City have continued discussions on the development application as the LPAT process is ongoing.

COMMENTS

The subject property is located on the west side of Simcoe Street and extends the full block between Adelaide Street West and Pearl Street. The site is 2,930 square metres in area with approximately 56.8 metres fronting on Simcoe Street, 51.5 metres on Adelaide Street West and 51.4 metres on Pearl Street. It includes two buildings that occupy the properties at 90 and 100 Simcoe Street, 130 Pearl Street and 203, 207 and 211 Adelaide Street West.

These buildings comprise of an above-grade parking structure that is proposed to be demolished and the 5½-storey mixed-use office and retail building at 100 Simcoe Street. The building at 100 Simcoe Street was originally constructed in 1904 as a warehouse for the engraving and lithography firm Rolph and Clark Limited. In 1905 it was expanded with an addition to the west of the main warehouse. Modifications were made subsequently including changes to the main entrance in 1951 and a 2 storey addition was constructed in 1983 along with alterations to the cladding and entrance. However, much of the original building constructed in 1904 and 1905 remains unmodified.

The site is situated in an area with a diverse range of building types and scales including many historic buildings of lower scale that have been listed on the City's Heritage Register and designated under the Ontario Heritage Act. There are also a number of recently built and proposed mixed-use developments in the area including tall buildings constructed or under review.

2016 Zoning By-law Amendment Proposal

A Zoning By-law Amendment Application was submitted in 2016 proposing a 59-storey (214.5m. including mechanical penthouse) mixed-use building including retail, office and residential uses at 100 and 130 Simcoe Street, 99 Pearl Street, and 203 and 211 Adelaide Street West. The Rolph and Clark Limited Building at 100 Simcoe Street had been identified in the Council approved King-Spadina Heritage Conservation District

Plan as contributing to the heritage character of the area. This heritage building was proposed to be demolished.

The City had issues and concerns regarding the project resulting in the applicant submitting an appeal to the Local Planning Appeal Tribunal.

Adjacent Heritage Context

The project site is adjacent to the following designated and listed properties also identified as contributing in the King Spadina HCD:

- 212 King Street West (Designated Part IV) Union Building, 1907, Darling & Pearson. Listing adopted by City Council on June 20, 1973. Intention to designate adopted by City Council August 26, 2010. Designation bylaw # 1146-2011 passed by City Council on Sept 21 & 22, 2011.
- 214-218 King Street West (Designated Part IV) Canadian General Electric, 1917, (west additions in 1919), Burke, Horwood & White - adopted by City Council on Dec. 10, 1984; Designation by-law enacted by City Council on Nov 20, 2007.
- 180 University Avenue (Designated Part IV): Bishop's Block; c.1830, later known as the Pretzel Bell Tavern; formerly known as 192 Adelaide St W. Adopted by City Council on June 2, 1978. Designation by-law enacted by City Council on Feb. 4, 1980.
- 200 Adelaide Street West (Listed): Canadian Magazine Building, 1913; Burke, Horwood and White, adopted by City Council May 17, 18, 19, 2005. Designated under Part IV of the Ontario Heritage Act.

This report is about ongoing litigation and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by the Preservation Board **in camera**.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 – Confidential Report from City Solicitor

Confidential Appendix A – Confidential Information

Confidential Appendix B – Confidential Information

Confidential Appendix C – Confidential Information