



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Alterations to a Heritage Property and Authority to Enter into a Heritage Easement Agreement - 1354, 1358 and 1360 Queen Street West

Date: May 27, 2022
To: Toronto Preservation Board and City Council
From: City Solicitor
Wards: Parkdale-High Park, Ward 4

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 instruction with respect to an application to alter a property that Council has designated under the Ontario Heritage Act. The designation was originally appealed to the Ontario Land Tribunal ("OLT"), but the owner has since withdrawn the appeal of the designation. The owner has provided a revised development proposal that depicts the retention of the heritage designated buildings. An OLT hearing has been scheduled with respect to the rezoning appeal for April 3-19, 2023.

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 if adopted by City Council, with the balance of Confidential Attachment 1 to remain confidential as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The properties at 1354, 1358, and 1360 Queen Street West were initially identified as contributing to the cultural heritage value of the area during the West Queen West Heritage Conservation District Study (HCD) report, which was accepted by the Toronto Preservation Board in June 2017.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PB24.2>

The properties at 1354, 1358, and 1360 Queen Street West were included on the City of Toronto's Heritage Register on December 16, 2020.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE21.18>

On July 14, 15, and 16, 2021, Council stated its intention to designate the properties at 1354, 1358, and 1360 Queen Street West under Part IV, Section 29 of the Ontario Heritage Act.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE26.20>

On November 9, 2021 City Council considered a further report from Heritage Planning concerning the letter of objection received by the City. Council decided to proceed with the designation of the properties. Designation by-law 937-2021 was adopted by Council.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH27.9>

Council's designation was appealed to the Ontario Land Tribunal by the owner.

On April 25, 2022, a "With Prejudice Settlement Offer" or resubmission was submitted to the City. As part of that offer the owner agreed to withdraw their OLT appeal of the designation. The OHA Designation Appeal was withdrawn on April 28, 2022. The designation by-laws are now in force.

BACKGROUND

The properties at 1354, 1358, and 1360 Queen Street West are important in defining, maintaining, and supporting the character of the historic Village of Parkdale. Located at the corner of Queen Street West and Brock Avenue, 1354 Queen Street West is comprised of a three-storey brick and stone, rectangular-form building with two-bays

fronting Queen Street West and was constructed in c.1881 by J. C. Mussen as part of a business block that he erected west of the toll-gate at present-day Brock Avenue.

To the west are 1358 and 1360 Queen Street West, which contain two, two-storey rectangular-form buildings, that were also likely constructed as part of the J. C. Mussen Block in c.1881. Together these buildings are valued as representative examples of the Italianate style (See Public Attachments 1 and 2).

In conjunction with the submitted Official Plan and Zoning By-Law Amendment Applications, the revised development currently proposes to construct an 11-storey mixed-use building with ground floor retail and residential units above. The project would incorporate the heritage facades into the project and provide for both a five metre step back at the entire Queen Street West frontage, above the heritage properties and for a 3 metre frontage at the Brock Street frontage above the corner heritage property.

Area and Heritage Context

The properties are located at the northwest corner of Queen Street West and Brock Avenue in the historical Village of Parkdale. The property at 1354 Queen Street West is a three-storey brick and stone building and is of the main street commercial block building type. It consists of two-bays. The neighbouring properties at 1358 and 1360 Queen Street West are both two-storey brick and stone buildings and are also of the main street commercial block building type. 1358 Queen Street West consists of one-bay and 1360 Queen Street West, of three-bays. The Main Street Commercial Block building typology is closely related to the main street commercial row, however, the primary difference is the scale and design of the commercial block. They are generally larger in width and height and of a singular architectural design in which several individual units are integrated to appear to be part of a larger building complex.

The properties at 1354, 1358, and 1360 Queen Street West are fashioned in the Italianate architectural style, which gained popularity in Ontario during the mid-nineteenth century and was frequently applied to commercial buildings. The Italianate architectural style is characterized by the stylization and exaggeration of select features, often times with motifs being repeated several times across buildings (See Public Attachment 4).

Immediately to the east of the subject properties on the north side of Queen Street West are properties of a similar period, scale, and architectural style, which are also listed on the City of Toronto's Heritage Register. On the south side of the street across from the subject properties between Dunn and Cowan Avenues is the old Police Station (1932), which is listed on the City of Toronto's Heritage Register, and the designated MacMillan Storage Company Moving and Storage (1892).

Outside of the immediate context, the portion of Queen Street West located in the historic Village of Parkdale west of Dufferin Street contains a number of significant late-nineteenth and early-twentieth-century buildings that contribute to the area's character. Numerous properties were identified through the Queen Street West Planning Study and subsequently listed on the City of Toronto's Heritage Register in December 2020.

Development Proposal

On September 29, 2020, Official Plan and Zoning By-law Amendment applications were submitted for the properties at 1358-1360 and 1354-1356 Queen Street West and 8-10, 12 and 14 Brock Avenue, proposing to amend the Official Plan, Zoning By-law 569-2013 and Zoning By-law 438-86 to permit the construction of a new nine-storey mixed-use building. This initial application conserved the heritage properties at 1358 and 1360 Queen Street West, but demolished the corner heritage property at 1354 Queen Street West. The application was appealed to the Ontario Land Tribunal (the "OLT") on March 5, 2021.

A With Prejudice Settlement Offer dated April 25, 2022 proposes to construct an 11-storey mixed-use at the site, increasing the height from the original proposal by two stories. In terms of heritage conservation, the most salient change is the proposed conservation of the corner property at 1354 Queen Street West (See Public Attachment 3).

Conservation Strategy for the Revised Proposal

The conservation objective for the project is to retain the primary (south) façades of 1354-1360 Queen Street West and the east façade of 1354 Queen Street West in situ, while accommodating intensification of the Development Site.

The proposed conservation strategy will include a repair scope to address the items identified in the condition assessment. The ground floor storefront of 1354 Queen Street West is proposed to be reconstructed to reference a configuration typical of 1950s commercial main streets, which includes an illuminated sign box and corner window. Additionally, the existing heritage cornice on the east façade will be repaired. Archival photos, materials, physical evidence, and other documentation, if available, will be used to inform the conservation approach.

The ground floor storefronts of 1358-1360 Queen Street West are proposed to be reconstructed to reference a configuration typical of late 19th century Victorian commercial main streets. Archival photographs, physical evidence in-situ, and other documentation, if available, will be used to inform the conservation approach.

1354 Queen Street West will undergo material restoration beginning with the removal of EIFS stucco from the heritage façade. This will be followed by masonry repair and application of colourwash and tuckpointing treatment to the brickwork.

All windows in the retained façades of 1354-1360 Queen Street West will be replaced based on archival information to match historic condition. Furthermore, new contemporary single height glazing will be installed at the first storey on the east façade of 1354 Queen Street West. New contemporary double height glazing are proposed to be installed at the second and third storey on the east façade of 1354 Queen Street West.

On the south elevation, the proposed development incorporates a 5.0 metre stepback above both the two storey heritage properties at 1358-1360 Queen Street and the three storey corner property at 1360 Queen street West. There will be no cantilever element. At the east elevation of 1354 Queen Street West along the Brock Street façade, there will be a 4.2 metre step back at fourth floor level that decreases to 3 metre at fifth floor level and above. (See Public Attachment 3)

Heritage Planning Policy Framework

The Planning Act

The Planning Act guides development in the Province of Ontario. It 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” and 2(r) refers “to a built form that is well designed and provides for a sense of place.”

The Provincial Policy Statement (2020)

The Provincial Policy Statement (2020) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs;
- protecting people, property and community resources by directing development away from natural or human-made hazards; and
- conservation of cultural heritage and archaeology.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the Planning Act and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.6 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

Policy 2.6.1 of the PPS directs that "Significant built heritage resources and significant cultural heritage landscapes shall be conserved." Properties included on the City's Heritage Register are considered to be significant in this context. "Conserved" is defined in the PPS as "the identification, protection, management and use of built heritage resources in a manner that ensures their cultural heritage value or interest is retained under the Ontario Heritage Act."

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."

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans.

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

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) (the "Growth Plan (2020)") came into effect on May 16, 2019 and was amended through an Order in Council that came into effect on August 28, 2020. This plan replaces the previous Growth Plan for the Greater Golden Horseshoe, 2017. The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part.

The Growth Plan (2020) builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2020) take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

In accordance with Section 3 of the Planning Act all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

Policy 4.2.7.1 of the Growth Plan states that "Cultural Heritage Resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas."

Toronto Official Plan

This application has been reviewed against the policies of the City of Toronto Official Plan. The Plan provides the policy framework for heritage conservation in the City. The following Official Plan policies apply to the proposed alterations:

3.1.5.4: "Properties on the Heritage Register will be conserved and maintained consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada, as revised from time to time and adopted by Council."

3.1.5.5: "Proposed alterations, development, and/or public works on or adjacent to, a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained, prior to work commencing on the property and to the satisfaction of the City."

3.1.5.6: "The adaptive re-use of properties on the Heritage Register is encouraged for new uses permitted in the applicable Official Plan land use designation, consistent with the "Standards and Guidelines for the Conservation of Historic Places in Canada."

3.1.5.16: "Properties on the Heritage Register and publicly known archaeological sites and artifacts will be promoted through educational programs, museums, local celebrations and other programming opportunities."

3.1.5.26: "New construction on, or adjacent to, a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it."

3.1.5.27: "Where it is supported by the cultural heritage values and attributes of a property on the Heritage Register, the conservation of whole or substantial portions of buildings, structures and landscapes on those properties is desirable and encouraged. The retention of façades alone is discouraged."

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

Standards and Guidelines

The Standards and Guidelines for the Conservation of Historic Places in Canada (the "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. The General Standards (1-9) the Standards for Rehabilitation (10-12), and the Standards for Restoration (13-14) apply to this project.

The Standards and Guidelines can be accessed here:

<http://www.historicplaces.ca/media/18072/81468-parks-s+g-eng-web2.pdf>

COMMENTS

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 **in camera**.

CONTACT

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SIGNATURE

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City Solicitor

ATTACHMENTS

Public Attachment 1 - Location Map
Public Attachment 2 - Photographs of Site
Public Attachment 3 - With Prejudice Architectural Drawings and Renderings that accompany the offer dated April 25, 2022
Public Attachment 4 - Statements of Significance and Attributes for Properties

Confidential Attachment 1 - Confidential Report from City Solicitor