



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

221, 225 and 227 Sterling Road - Request for Direction Report

Date: April 6, 2023

To: Toronto Preservation Board and City Council

From: City Solicitor

Wards: Ward 9 - Davenport

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 Ontario Land Tribunal ("OLT").

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 to this report from the City Solicitor, if adopted by City Council, only at the discretion of the City Solicitor.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report 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

At its meeting of July 28 and 29, 2020, City Council directed the Chief Planner and Executive Director, City Planning to undertake an area study for the area generally bounded by Bloor Street West to the north, St. Helen's Avenue to the east, the Kitchener GO Rail corridor to the west, and Sterling Road to the south to develop a planning framework, including: an evaluation of appropriate built form, transportation and pedestrian networks, an overall public realm strategy including parks and open spaces, and potential heritage sites. An Official Plan Amendment or a Site and Area Specific Policy to implement the findings of the Planning Framework would be addressed as a second phase of the Study.

[Agenda Item History - 2020.TE16.77 \(toronto.ca\)](#)

At its meeting on July 14, 2021, City Council endorsed the City-initiated Bloor Street West: St. Helen's Avenue to Perth Avenue Planning Framework. The Planning Framework included a summary of the Bloor Street Study CHRA: St. Helen's Avenue to Perth Avenue, including a list of thirteen properties identified as having heritage potential.

[Agenda Item History - 2021.TE26.31 \(toronto.ca\)](#)

On September 9, 2021, Toronto and East York Community Council adopted a Preliminary Report on the Zoning By-law Amendment, Draft Plan of Subdivision, and Rental Housing Demolition applications for the lands at 221, 225 and 227 Sterling Road and directed staff to conduct a community consultation meeting with an expanded notification area.

[Agenda Item History - 2021.TE27.21 \(toronto.ca\)](#)

On May 11 and 12, 2022, City Council stated its intention to designate the property at 221 Sterling Road (including active entrances at 225 and 227 Sterling Road) under Part IV, Section 29 of the *Ontario Heritage Act*.

[Agenda Item History - 2022.PH33.17 \(toronto.ca\)](#)

On August 15, 2022, City Council affirmed its decision to state its intention to designate the property at 221 Sterling Road (including active entrances at 225 and 227 Sterling Road) under Part IV, Section 29 of the *Ontario Heritage Act* as set out in the City Council decision for Item [2022.PH33.17](#) on May 11 and 12, 2022, and authorized the City Solicitor to introduce the Bill designating the property at 221 Sterling Road (including active entrances at 225 and 227 Sterling Road) under Part IV, Section 29 of the *Ontario Heritage Act*. Therefore, 221 Sterling Road (including active entrances at 225 and 227 Sterling Road) is protected under the *Ontario Heritage Act*.

[Agenda Item History - 2022.CC48.1 \(toronto.ca\)](#)

On December 14 and 15, 2022, City Council directed the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the appeals regarding the Zoning By-law Amendment and Draft Plan of Subdivision applications for the lands at 221, 225 and 227 Sterling Road, and to continue discussions with the applicant in an attempt to resolve the issues outlined in the report (November 14, 2022) from the Acting Director, Community Planning, Toronto and East York District.

[Agenda Item History - 2023.TE1.2 \(toronto.ca\)](#)

COMMENTS

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

Overview

The property at 221 Sterling Road comprises a complex of adjoining one- and two-storey brick structures, constructed incrementally in c. 1914-1918, c. 1924-1939, and c. 1954-1965. Originally part of a site developed alongside the Grand Trunk Railway tracks for the Fairbanks-Morse Canadian Manufacturing Company Ltd., the property served a variety of industrial uses through the 1980s. It reflects the history of industrial development along Sterling Road within the lower Junction Triangle and Brockton Village areas, and contributes to a concentration of former industrial buildings, many of which now have cultural functions.

The property is a rare and unique example of an evolved manufacturing complex that has been adaptively reused to support the arts. The complex has gained prominence since the 1980s as a hub of cultural activities, housing a number of creative organizations, studios, rehearsal and performance spaces for visual artists, artisans, dancers, circus performers, and other creators. It is one of the last such facilities remaining in Toronto.

Heritage Planning staff determined that the property at 221 Sterling Road meets Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the *Ontario Heritage Act*, for its physical, historical/associative, and contextual values.

City Council stated its intention to designate the property at 221 Sterling Road (including active entrances at 225 and 227 Sterling Road) under Part IV, Section 29 of the *Ontario Heritage Act* in May, 2022. Thereafter, the City received an objection to the Notice of Intention to Designate on behalf of the property owner within the statutory timeline. Staff reviewed the objections raised by the owner and were of the opinion that despite these objections, the property meets Ontario Regulation 9/06, the criteria prescribed for municipal designation under Part IV, Section 29 of the *Ontario Heritage Act*.

On August 15, 2022, City Council affirmed its decision to state its intention to designate the property at 221 Sterling Road (including active entrances at 225 and 227 Sterling Road) under Part IV, Section 29 of the *Ontario Heritage Act*, and enacted designation [By-law 1130-2022](#).

On May 7, 2021, Zoning By-law Amendment and Draft Plan of Subdivision applications were submitted for the properties at 221, 225 and 227 Sterling Road seeking to permit the redevelopment of the lands with three residential buildings having heights of 20, 25 and 29-storeys and collectively containing 892 residential units. A Rental Housing Demolition application was also submitted to permit the demolition of the existing rental units.

A Heritage Impact Assessment is required for all development applications that affect listed and designated properties and will be considered when determining how a heritage property is to be conserved.

On May 30, 2022, the owner appealed the Zoning By-law Amendment and Draft Plan of Subdivision applications to the Ontario Land Tribunal (the "OLT") as a result of City Council not making a decision on the applications within the timeframes legislated by the *Planning Act*. The City Solicitor will be seeking City Council instructions with respect to those appeals in a companion report.

On February 10, 2023, the applicant submitted a heritage permit application, dated January 30, 2023, (contained in Public Appendix "A" to this Report), along with revised Architectural Plans and Drawings prepared by Turner Fleisher Architects Inc., and dated February 1, 2023 (attached as Public Appendix "B" to "D" to this Report), and a Revised Heritage Impact Assessment prepared by Goldsmith Borgal & Company Ltd. Architects ("GBCA Architects"), dated February 10, 2023, for the properties at 221, 225 and 227 Sterling Road, Toronto (contained in Public Appendix "A") (the "Heritage Application").

The proposed heritage permit application seeks permission under Sections 33 and 34(1)1 of the *Ontario Heritage Act* to alter and remove heritage attributes at the former Fairbanks-Morse Canadian Manufacturing Company building at 221 Sterling Road, to facilitate the construction of three new residential buildings. The proposal is to conserve and rehabilitate portions of the façades of the oldest parts of the former Fairbanks-Morse Canadian Manufacturing Company building at 221 Sterling Road (referred to as Building C in the Heritage Impact Assessment).

The heritage attributes that are proposed to be removed in Building C are some original window and door openings, the original 18 foot to 20 foot ceilings with exposed structural beams, the original skylights and the rail lines that remain on the interior of some units.

Legislative and 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 3.1.6 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 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.

Site

The subject site is located south of Bloor Street West and west of the Metrolinx Barrie GO rail corridor and is accessible by a private driveway that extends south of Ruttan Street. The subject site has an area of 10,935 square metres, a width that varies between approximately 68 and 92 metres, and a depth of approximately 143 metres.

The subject site is comprised of one- to two-storey industrial, factor-style buildings occupied by a number of non-residential uses, residential units, and live-work units. It is a unique example of an evolved manufacturing complex that has been adaptively reused to support the arts and has gained prominence since the 1980s as a hub for cultural activities, housing a number of creative organizations, studios, rehearsal spaces, and performance venues for visual artists, artisans, dancers, circus performers, and other creators.

CONCLUSION

The City Solicitor requires further instructions. This report contains information regarding litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client and litigation privilege. Confidential Attachment 1 contains confidential information and 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 Appendix "A" - Heritage Permit Application, dated January 30, 2023
2. Public Appendix "B" - Architectural Plans and Drawings prepared by Turner Fleisher Architects Inc., and dated February 1, 2023
3. Public Appendix "C" - Development Site Location Map, and Plans Drawings and Renderings
4. Public Appendix "D" - Conservation Strategy plans and drawings prepared by Goldsmith Borgal & Company Architects dated February 10, 2023
5. Confidential Attachment 1 - Confidential Recommendations and Confidential Information