

4888 Dundas Street West - Alteration of a Property Designated under Part IV of the Ontario Heritage Act and Authority to Enter into a Heritage Easement Agreement - Request for Directions

Date: March 13, 2024

To: Toronto Preservation Board and City Council

From: City Solicitor

Wards: Ward 3 - Etobicoke-Lakeshore

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

On April 28, 2022, a combined Official Plan Amendment and Zoning By-law Amendment application was submitted for a development at 4884-4896 Dundas Street West to permit a 12-storey mixed-use building containing 225 residential units and 1214 square metres of retail space at-grade.

On June 15, 2023 a revised Official Plan Amendment and Zoning By-law Amendment application was submitted to permit a 29-storey mixed-use building containing 395 residential units and a total of 1322 square metres of at-grade retail space along Dundas Street West. In both submissions, the heritage building on site was proposed to be partially retained and relocated.

On June 23, 2023, the applicant appealed the applications to the Ontario Land Tribunal (OLT) citing City Council's failure to make a decision on the applications within the time period prescribed under the *Planning Act*.

On March 8, 2024, the applicant submitted a without prejudice settlement offer (the "Settlement Offer") that included an application under Section 33 of the *Ontario Heritage Act* to alter the on-site heritage resource ("the heritage application"), attached as Public Appendix "A".

The City Solicitor requires further instructions with respect to the heritage application and the upcoming OLT proceedings relating to the Official Plan and Zoning By-law Amendment application appeals.

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.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

City Council included the subject property located at 4888 Dundas Street West on the City of Toronto's Heritage Register in September 2006.

The subject property at 4888 Dundas Street West was designated under Part IV of the *Ontario Heritage Act* on July 20, 2023 through Designation By-law 733-2023, which can be found at the following link:

<https://www.toronto.ca/legdocs/bylaws/2023/law0733.pdf>

On February 6, 2024 City Council considered an Appeal Report from Community Planning and authorized staff to attend the OLT in opposition to the appeals. Council's decision can be found at the following link:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.EY10.5>

COMMENTS

The Settlement Offer proposes a revised built form that will be the subject of a separate report to City Council, whereas this report will consider the heritage applications pursuant to the *Ontario Heritage Act*.

The revised proposal requires approval under Section 33 of the *Ontario Heritage Act* to permit the alteration of a designated heritage property.

Heritage Property

The development site includes the designated heritage property at 4888 Dundas Street West, located midblock on the north side of Dundas Street West between Burnhamthorpe Road and Burnhamthorpe Crescent, within the historic Islington Village.

The property comprises a two-storey house constructed in 1879. The brick house, known as the Musson House, was designed in the Italianate style and is distinguished by its hipped roof and symmetrical facades. The property housed the post office from 1887-1906, while also serving as the residence for postmasters Thomas and Elizabeth Musson. In addition to its continued use as a residence, it contained the local telephone exchange from 1912 to 1925. The polychromatic brick has since been painted on the main façades and a later c.1940s addition is attached to the west side of the house.

The property's full Statement of Significance along with list of heritage attributes can be found in Designation By-law 733-2023.

Conservation Strategy

The conservation strategy for the proposed development involves the relocation of the Musson House approximately 11 metres east and 2 metres north within its property parcel to accommodate the new construction, excavation, and to relocate the property from encroaching within the City's right of way. The building will be relocated and retained as a whole building within the new development.

A combination of restoration and rehabilitation strategies are proposed after the building has been relocated. Alterations are proposed on the west and north elevations that will be retained within the interior of the new construction. New openings are proposed to provide access into the adjacent new construction and select window openings on these elevations are to be infilled with brick. Some rebuilding of the west elevation may be required once the western addition is removed and underlying condition revealed. Restoration of the west elevation would follow the building's original design intent and is further detailed in a Conservation Plan.

Other anticipated conservation work to be detailed in the Conservation Plan includes: removal of paint from the polychromatic brick; masonry repairs; repair, replacement and painting of windows and doors; reinstatement of shutters on the principal elevation; reinstatement of field stone appearance at foundation level; and repairs or replacement of roof, eaves and troughs.

The interior second floor within the Musson House is proposed to be removed. To minimize the visual impact that the proposed double height retail space would have on the historic character and appearance of the historic two-storey house form building, a 1 metre ledge is proposed along the south, east and west interior walls. This will demarcate the original second floor plate and diffuse the consistency of interior light when viewed from the street.

A new accessibility ramp is proposed adjacent to the east elevation of the Musson House to allow for AODA compliant access. The ramp will be further detailed through the Site Plan application process.

New Construction

The new construction is positioned behind and adjacent to the Musson House. No massing or projections are proposed directly above the Musson House. The design of the new construction in the Settlement Offer has been revised to attach to the northwest corner of the Musson House by way of a flat-roofed one-storey transition that connects below eaves of the Musson House. No terraces are proposed atop the one-storey transition. The massing is setback to reveal the northeast and southwest corners of the Musson House. The new building's podium that sits adjacent to the heritage building has been designed to establish a street wall height that corresponds with the height of the Musson House.

The City Solicitor requires further instructions on this matter. This report is about ongoing litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Appendix "A" - Revised Heritage Impact Assessment, dated March 8, 2024
2. Confidential Attachment 1 - Confidential Information