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February 2, 2024

DELIVERED BY EMAIL
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Toronto City Council
City Hall
100 Queen Street West
Toronto ON M5H 2N2

Dear Members of Council:

**Re: Toronto City Council – February 6, 2024 Meeting
Item PH9.12 - 78, 80 and 86 Mimico Avenue - Notice of Intention to Designate a
Property under Part IV, Section 29 of the Ontario Heritage Act (Ward 3)
Comment Letter on behalf of Owner of 78 and 80 Mimico Avenue, Toronto**

We are legal counsel to 2490917 Ontario Inc., the registered owner of 78 and 80 Mimico Avenue, Toronto (“**Subject Properties**”).

We write to request that the Toronto City Council refuse Staff’s recommendations or, at a minimum, defer a decision on this matter until the Owner has had an opportunity to discuss alternative options with City staff, retain a heritage consultant, prepare a heritage impact assessment and provide a meaningful response to the City’s January 9, 2024 Staff Report. This letter sets out options to proceed in a more collaborative manner than the approach taken by the City to date.

We provided written and oral submissions at the January 18, 2024 meeting of the Toronto Preservation Board. Our written submission sets out the history of this matter in greater detail.

There is no urgency to proceed with this item and it should, at a minimum, be deferred. The City has hurriedly advanced this item in January 2023 and has not afforded the Owner a meaningful opportunity to respond to City staff’s report and recommendation. There is a real likelihood that, if City Council adopts this item, it will impair the ability to introduce much-needed housing in this area while preserving buildings that do not merit designation under the *Ontario Heritage Act*.

The Owner is Preparing a Planning Act Application for 78 and 80 Mimico

The Owner is currently engaged in the pre-application process with the City with a view to redeveloping the Subject Properties as a residential development. The City hosted the mandatory pre-application consultation meeting with the Owner's consultants on December 12, 2023. The City provided the provided the Planning Application Checklist Package on January 15, 2024.

We anticipate the Owner will submit a complete application in Q2 2024. Importantly, it is the notice of complete application that triggers the timelines under the *Ontario Heritage Act* discussed in the City Staff Report and below.

78 and 80 Mimico Should Not be Designated under the Ontario Heritage Act

The City Staff Report does not reveal a unique or compelling reason to designate the Subject Properties under the *Ontario Heritage Act*. On the contrary, the Staff Report indicates the properties are merely "representative examples" of a building typology and relies on the collective characteristics of the Subject Properties to justify individual designation. When balancing the potential negative impacts on the ability to increase housing supply in the City, one must ask whether *these* representative examples are so important that they must be protected.

While the *Ontario Heritage Act* imposes timelines in which the City can issue a notice of intention to designate after a notice of complete application under the Planning Act has been issued, there are opportunities for the applicant to agree to extend or exempt those timelines. The City has not explored those options with the Owner.

If City Council feels compelled to register the heritage value of the Subject Properties, listing the properties pursuant to s. 27 of the *Ontario Heritage Act* is the more appropriate course of action.

78 Mimico is Unsafe and the City has Recommended Demolition

In December 2023, a City Building Inspector (Etobicoke-York District) attended at the Subject Properties and ordered the demolition of 78 Mimico. While the Building Inspector did not issue a written order to demolish the building, it was their view that the demolition of 78 Mimico should proceed without delay and no later than January 15, 2024.

Issuing a notice of intention to designate will not remedy the immediate safety concerns regarding 78 Mimico. Refusing Staff's recommendations or deferring a decision to recommend a notice of intent to designate the Subject Properties will permit an opportunity for City staff and the Owner to address any such concerns in the context of the redevelopment proposal and to further explore the cultural heritage value of the Subject Properties.

Conclusion

The City is now, after years of inaction, moving with great haste towards an undesirable outcome for the Subject Properties and, specifically, 78 and 80 Mimico. The City's approach in this case is all the more troubling given the direct, negative implications it will have on the Owner's ability to redevelop these dilapidated, underutilized properties to create badly-needed, new housing options in the City.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in blue ink, appearing to read "Lee English", is positioned below the company name.

Lee English

LE/

cc Client
Councillor Amber Morley