

15 Elm Street - Demolition of a Designated Property

Date: June 17, 2024

To: Toronto Preservation Board

Toronto and East York Community Council

From: Acting Senior Manager, Heritage Planning, Urban Design, City Planning

Wards: 11 - University-Rosedale

SUMMARY

This report recommends that City Council refuse an application under Section 34(1)2 of the Ontario Heritage Act to demolish the heritage building at 15 Elm Street.

On May 10, 2023 City Council stated its intention to designate the subject property under Part IV, Section 29 of the Ontario Heritage Act. At its meeting on July 20, 2023 City Council considered an objection to the designation and affirmed its intention to designate the property at 15 Elm Street and passed Designation By-law 742-2023. The Designation By-law is currently under appeal to the Ontario Land Tribunal.

Located on the south side of Elm Street between Yonge Street and Bay Street, the property at 15 Elm Street contains a 2-storey house-form building completed prior to 1868. The Georgian Revival style property represents a rare surviving example of a Confederation-era house-form building and is part of a broader collection of 19th century dwellings adapted at street level in the early-20th century to accommodate commercial storefronts. This residential/commercial mixed-use typology continues to define the south side of Elm Street between Yonge and Bay streets within the City's historic St. John's Ward ("The Ward") neighbourhood and represents the uniqueness of Elm Street as a destination for locals and visitors alike.

A heritage permit application under Section 34(1)2 of the Act has been submitted to demolish this building to allow for the construction of a new 30 storey mixed-use building at 15-17 Elm Street. This application is associated with Zoning By-law Amendment application 22 202864 STE 11 OZ and Site Plan application 22 202863 STE11 SA for the properties at 15-17 Elm Street. The Zoning By-law Amendment application is also currently under appeal to the Ontario Land Tribunal.

Under the Act, if City Council fails to make a decision on the heritage permit application within 90 days of issuing a notice of a complete application, the application is deemed to be permitted under Section 34 of the Ontario Heritage Act. In this case the applicant must be notified of Council's decision by September 15, 2024.

RECOMMENDATIONS

The Acting Senior Manager, Heritage Planning, Urban Design, City Planning recommends that:

1. City Council refuse the issuance of a demolition permit for the heritage property at 15 Elm Street, in accordance with Section 34(1)2 of the Ontario Heritage Act.
2. If the owner appeals City Council's decision to refuse the issuance of a demolition permit under Section 34(1)2 of the Ontario Heritage Act for the heritage property at 15 Elm Street, City Council authorize the City Solicitor and the necessary City staff to attend the Ontario Land Tribunal hearing in opposition to the appeal.

FINANCIAL IMPACT

City Planning confirms there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

At its May 10, 11 and 12, 2023 meeting, City Council adopted a report from the Chief Planner and Executive Director, "15 Elm Street - Notice of Intention to Designate a Property under Part IV, Section 29 of the Ontario Heritage Act" (PH3.11) and stated its intention to designate the property at 15 Elm Street under Part IV, Section 29 of the Ontario Heritage Act.

<https://secure.toronto.ca/council/agendaitem.do?item=2023.PH3.11>

The City Clerk received a notice of objection on behalf of the property owner within the required timeframe set out in the Act. The Act requires that City Council consider and make a decision on an objection within 90 days from the end of the objection period. On July 20, 2023, City Council considered the objection and affirmed its decision to state its intention to designate the property at 15 Elm Street under Part IV, Section 29 of the Ontario Heritage Act and passed Designation By-law 742-2023.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC8.32>

At its February 6, 2024 meeting, City Council adopted TE10.13 - 15-17 Elm Street - Zoning By-law Amendment Application - Appeal Report which directed the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the current application regarding the Zoning By-law Amendment appeal for the lands at 15-17 Elm Street and to continue discussions with the applicant in an attempt to resolve outstanding issues.

<https://secure.toronto.ca/council/agenda-item.do?item=2024.TE10.13>

BACKGROUND

Heritage Property

Located on the south side of Elm Street between Yonge Street and Bay Street, the property at 15 Elm Street contains a 2-storey house-form building completed prior to 1868. The property is individually designated under Part IV of the Ontario Heritage Act. The Designation By-law 742-2023 is currently under appeal to the Ontario Land Tribunal.

The property is valued as a remaining example of a Confederation-era house-form building designed in the Georgian Revival style which is evident in its red brick construction (since painted), rubble stone foundation and brick, stone and wood detailing. The symmetrically-arranged openings on the upper storey of the principal (north) and east elevations contain masonry sills and segmental-arched brick headers in a soldier course pattern. In 1922-1924, a storefront was added at street level with off-set entrance to the existing residential space above. The residential entrance maintains its wood and glass transom and door surround. This resulting mixed use type of house-form buildings is considered a defining feature of the south side of Elm Street today.

The property is significant as one of the earliest (Confederation-era) surviving house-form buildings constructed on the south side of Elm Street between Yonge and Bay streets. The property embodies part of a significant collection of 19th-century house-form buildings representative of this early period of land development on the block of Elm Street between Yonge and Bay streets within the City's historically significant The Ward and part of the collection of diverse 19th-century building types and uses that have contributed to the unique quality of Elm Street today.

The full statement of significance with identified heritage attributes can be found in Attachment 3 and Designation By-law [742-2023](#).

The subject property is also adjacent to heritage properties located across the street from 14 Elm Street and 18 Elm Street (Part IV designated properties) and adjacent to 13 Elm Street (listed on the City's Heritage Register) to the east.

Proposal

A Zoning By-law Amendment application (under appeal) and Site Plan application has been submitted for the properties at 15-17 Elm Street for the construction of a new 30-storey mixed-use building. In conjunction, the application proposes demolition of all structures on the site, including the designated heritage property at 15 Elm Street.

On April 3, 2024, the City of Toronto received an application to demolish the building at 15 Elm Street under Section 34(1)2 of the Act. On April 29, 2024 the applicant was notified that the application was incomplete as it did not include the submission materials required by the provisions of the Ontario Heritage Act and the City's Municipal Code. On June 14, 2024 the applicant provided the submission materials required for a complete application and on June 17, 2024 the applicant was notified that the application was complete.

Under the Act, if City Council fails to make a decision on the heritage permit application within 90 days of issuing a notice of a complete application, the application is deemed to be permitted under Section 34 of the Ontario Heritage Act. In this case the applicant must be notified of Council's decision by September 15, 2024.

Heritage Planning Framework

Ontario Heritage Act

Section 34 (1) of the Ontario Heritage Act (OHA) states that no owner of a property designated under Section 29 shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situated and receives consent in writing to the demolition or removal.

After receiving a complete application for demolition under Section 34(1)2, City Council is required to issue a notice confirming the complete application to the applicant. Within 90 days of issuing the notice of a complete application, City Council must issue a decision, or else Council will be deemed to have consented to the application.

If Council refuses the permit applied for, or gives the permit with terms and conditions attached, the owner of the property may appeal the decision to the Ontario Land Tribunal (OLT).

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) "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 opportunities for job creation; 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."

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."

Official Plan

Section 3.1.6 of the Official Plan contains a series of heritage conservation policies that apply to the subject property. These include:

Policy 3.1.6.4 directs that 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 as adopted by Council.

Policy 3.1.6.5 directs that 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.

Policy 3.1.6.6 states that the adaptive re-use of properties on the Heritage Register is encouraged consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada.

Policy 3.1.6.26 states that 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.

The Official Plan defines demolition as "the complete destruction of a heritage structure and property from its site, including the disassembly of structures and properties on the Heritage Register for the purpose of reassembly at a later date."

Standards and Guidelines for the Conservation of Historic Places in Canada

In 2008, Toronto City Council adopted the Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada (the "Standards & Guidelines") as the official document guiding decisions on the planning, stewardship and conservation approach for all listed and designated heritage resources within the City of Toronto. <http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-03-03-cc17-dd.pdf>

The Standards and Guidelines include a set of nine fundamental standards for the preservation of heritage properties. The standards establish a philosophical framework and a set of general principles to guide conservation work. All nine of standards apply to the proposed demolition of 15 Elm Street. These include:

- Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable character-defining elements. Do not move a part of an historic place if its current location is a character-defining element.
- Conserve heritage value by adopting an approach calling for minimal intervention.
- Find a use for an historic place that requires minimal or no change to its character-defining elements.
- Evaluate the existing condition of character defining elements to determine the appropriate intervention needed. Use the gentlest means possible for any intervention. Respect heritage value when undertaking an intervention.

COMMENTS

A Cultural Heritage Evaluation Report (CHER) dated December 22, 2022, as well as a Heritage Impact Assessment (HIA) dated August 18, 2022 prepared by ERA Architects Inc. that were submitted in support of a Planning Act application for the subject property were resubmitted with the subject Heritage Permit application for demolition. Heritage Planning staff reviewed these documents as part of their evaluation of the property and subsequently City Council designated the property at 15 Elm Street under Part IV of the Ontario Heritage Act on July 20, 2023.

Notwithstanding the current appeal of the designation and Zoning By-law Amendment application to the Ontario Land Tribunal, a Heritage Permit application under Section 34(1)2 of the Ontario Heritage Act has been submitted to demolish the heritage building at 15 Elm Street.

The covering memo for the heritage permit application states, "In the event that the Designation Appeal is unsuccessful, the Applicant will require permission under the Ontario Heritage Act to demolish or remove the existing building located at 15 Elm Street. Accordingly, this Application is being submitted to ensure that the applicant will be able to proceed with the Development in the event that the Designation Appeal is unsuccessful."

The application states the removal of the existing building located at 15 Elm Street is necessary in order to accommodate the construction of the new development. The proposal is to demolish a significant heritage resource and all of its associated heritage attributes. The Condition Assessment within the HIA does not indicate the condition of the property as the rationale for the building's demolition. Heritage Planning staff are aware of many development projects within Toronto that have included retention of heritage buildings while accommodating new construction and intensification on-site. It has not been demonstrated that the conservation of the heritage building, or substantial parts of the heritage building could not be achieved here.

Good conservation practise, as noted in the Parks Canada Standards and Guidelines for the Conservation of Historic Places in Canada, seeks a minimal intervention approach and says that repairable character-defining elements should not be removed, replaced or substantially altered.

Given the proposed application would result in the demolition of a significant cultural heritage resource, it does not conserve the cultural heritage value of the building at 15 Elm Street; is not consistent with the Provincial Policy Statement; does not conform to the Growth Plan; and does not conform to the City's Official Plan, all of which require cultural heritage resources to be conserved.

CONCLUSION

The proposed complete demolition of the heritage building at 15 Elm Street would remove all vestiges of the existing site's cultural heritage value and attributes. Demolition of designated heritage buildings is contrary to the intent of the PPS, the Official Plan, and the Standards and Guidelines for the Conservation of Historic Places in Canada. The existing building at 15 Elm Street is a significant built heritage resource, and as such it should be conserved.

Staff recommend that Council refuse the proposed demolition application for the reasons outlined in this report.

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ATTACHMENTS

Attachment 1: Location Map
Attachment 2: Photographs
Attachment 3: Statements of Significance

LOCATION MAP
15 ELM STREET

ATTACHMENT 1



This location map is for information purposes only; the exact boundaries of the property is not shown. The red lines indicate the location of the site at 15 Elm Street.

PHOTOGRAPHS
15 ELM STREET

ATTACHMENT 2



Photograph of 15 Elm Street (Heritage Planning, 2023).



Photograph of 15 Elm Street looking east, within its context (Heritage Planning, 2023).

15 ELM STREET**STATEMENT OF SIGNIFICANCE****(REASONS FOR DESIGNATION)**

The property at 15 Elm Street is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural heritage value, and meets Ontario Regulation 9/06, the provincial criteria prescribed for municipal designation under the criteria of design and physical, historical and associative and contextual values.

Description

Located on the south side of Elm Street between Yonge and Bay streets in the City's first immigrant neighbourhood, The Ward, the property at 15 Elm Street contains a 2-storey house form building completed by 1868 and first owned by Irish-Canadian bricklayer, Robert Kennedy, and family.

Design and Physical Value

Built in 1868, the property at 15 Elm Street is valued as a remaining example of a Confederation era house-form building designed in the Georgian Revival style which is evident in its red brick construction, rubble stone foundation and brick, stone and wood detailing. The symmetrically arranged openings on the upper storey of the principal (north) and east elevations contain masonry sills and segmental-arched brick headers in a soldier course pattern. In 1922-1924, a storefront was added at street level with off-set entrance to the existing residential space above. The residential entrance maintains its wood and glass transom and door surround. This resulting mixed use type of house-form buildings is considered a defining feature of the south side of Elm Street today.

Historical and Associative Value

The property is significant as one of the earliest (Confederation-era) surviving houseform buildings constructed on the south side of Elm Street between Yonge and Bay streets in 1868. Since the mid-19th century, Elm Street has continued to provide an understanding of the built form of Toronto's first immigrant neighbourhood, The Ward.

Contextual Value

The property at 15 Elm Street, embodies part of a significant collection of 19th-century houseform buildings representative of this early period of land development on the block of Elm Street between Yonge and Bay streets within the City's historically significant St. John's Ward ("The Ward"), and part of the collection of diverse 19th-century building types and uses that have contributed to the unique quality of Elm Street today. Within the context of a neighbourhood originally developed with mainly residential properties in the mid-to-late 19th century, and on the south side of Elm Street between Yonge and Bay where numerous properties of similar type, scale, placement and setback are already recognized on the City's Heritage Register, the subject property at 15 Elm

Street is valued for its historic, physical and visual links to its surroundings for more than 150 years.

Heritage Attributes

Design and Physical Value

Attributes that contribute to the value of the property at 15 Elm Street as representative of a Confederation-era house-form building designed in the Georgian Revival style include:

- The scale, form and massing of the red brick house-form building with its two-storey rectangular plan
- The rubble stone foundation
- The gable roof and two red brick chimneys located north and south of the gable peak at its western edge
- The principal (north) elevation of the building, which is organized into two bays
- The segmental-arched window openings on the upper storey of the principal (north) and east elevations, with their brick header detailing and masonry sills
- The early 1920s wood and glass transom and door surround at the east end of the principal (north) elevation and leading to the upper storey space
- The early 1920s stringcourse directly above the early storefront and off-set residential entrance on the principal (north) elevation (currently over-clad with wooden boards)

Contextual Value

Attributes that contribute to the contextual value of 15 Elm Street as defining and supporting the character of this portion of Elm Street, and as being historically and visually linked to its surroundings include:

- The setback, placement and orientation of the building on its lot on the south side of Elm Street between Yonge Street and Bay Street, and directly adjacent to Harry Barberian Lane to the east and south of the property