

December 3, 2024

Via E-Mail – teycc@toronto.ca

Toronto and East York Community Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Cathrine Regan, Committee Administrator**

Dear Chair Moise and Members of Community Council:

**Re: Item 2024.TE18.10 - Designation of the West Queen West Heritage Conservation District Plan under Part V of the *Ontario Heritage Act* 1186-1198 Queen Street West**

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We are the solicitors for 2326506 Ontario Inc. and 2373212 Ontario Inc. (collectively, the “**Owners**”), the owners for the properties municipally known as 1186-1198 Queen Street West in the City of Toronto (the “**Subject Lands**”). The Subject Lands are located on the north side of Queen Street West, on the block bounded by Northcote Avenue to the east and Gladstone Avenue to the west. The Subject Lands fall within the boundaries of the proposed West Queen West Heritage Conservation District (the “**HCD**”).

The Owners, along with their heritage consultants at ERA Architects Inc. (“**ERA**”), have been actively involved in the consultation process for the proposed HCD. Attached hereto is a Heritage Memorandum (dated September 24, 2024) prepared by ERA and addressed to Mr. Pourya Nazemi, Senior Heritage Planner for the City of Toronto. The Memorandum comments on the draft version of the proposed HCD plan presented at a Local Advisory Committee Meeting and a Community Consultation Meeting.

The Memorandum raised two specific comments related to the proposed HCD Plan:

- The use of the word ‘preservation’ rather than the more appropriate ‘conservation’ in Policy 6.10.3 relating to alterations to contributing properties. This comment has been addressed in the most recent iteration of the proposed HCD plan that has been forwarded for the Committee’s consideration. The Owners greatly appreciate City Staff’s attention to this matter; and
- The prescriptive nature of policies 6.11.5 and 6.11.7, requiring a minimum setback of 5 metres above the streetwall height, and an additional 3 metre setback above a height of 16.5 metres fronting onto Queen Street West for new development and additions above contributing properties. These policies remain in the current version of the proposed HCD plan.

As noted in ERA’s Memorandum, the prescriptive approach in policies 6.11.5 and 6.11.7 is inconsistent with similar policies in the local Site and Area Specific Policy for Parkdale Main Street and West Queen West (“**OPA 445**”) which was recently approved via settlement at the Ontario

Land Tribunal in November 2023. OPA 445 includes stepback policies stating that new buildings and additions to existing buildings will generally provide stepbacks of 5 metres above the streetwall and generally provide additional stepbacks at heights above 16.5 metres (Policy 5.4). Just as outlined in the proposed HCD plan, OPA 445 introduces the same built form expectation of a 5 metres stepback with an additional stepback above 16.5 metres – however OPA 445 provides the flexibility for developments to determine appropriate numerical stepbacks on a site-by-site basis. Not including such flexibility in the proposed HCD plan will prevent creative and sensitive built form from taking shape, in line with other developments in the immediate area. The Tribunal's decision on the St. Lawrence Heritage Conservation District found that the conservation of heritage resources could be achieved without such prescriptive policies and gave the City clear direction for their removal from the plan. This approach was subsequently replicated in the Tribunal-approved King-Spadina and Historic Yonge Street Heritage Conservation Districts, which were the result of settlements with property owners and the Building Industry and Land Development Association who raised similar concerns about prescriptive built form policies.

In our view, the proposed HCD plan should be revised for consistency with OPA 445, in order to ensure a cohesive vision for the West Queen West area. This flexible approach will allow for much-needed units to be built consistent with built developments in the area. The Owners welcome the opportunity to continue to engage with the City with respect to the above.

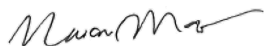
Finally, we respectfully request that Community Council recommend that the matter be referred back to staff so that the concerns outlined herein can be addressed in a revised draft HCD plan.

We ask to be provided with notice of any future meetings related to this matter and for notice of adoption of any HCD resulting therefrom.

Thank you for your consideration of this request.

Yours truly,

AIRD & BERLIS LLP



Naomi Mares

NM/ke

CC Client  
Philip Evans and Samantha Irvine, ERA

Encl.

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CM:62647074.1

# Attachment 1



ERA Architects Inc.  
#600-625 Church St  
Toronto ON, M4Y 2G1

## HERITAGE MEMORANDUM

**Issued To:** Pourya Nazemi  
Heritage Planning  
City of Toronto  
[Pourya.Nazemi@toronto.ca](mailto:Pourya.Nazemi@toronto.ca)

**Date:** September 24, 2024

**Subject:** West Queen West Heritage Conservation District Plan

**Project #:** 20-297

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This memo comments on the draft West Queen West Heritage Conservation District (WQW HCD) Plan policies and guidelines presented at the Local Advisory Committee Meeting #2 on August 1, 2024, and the Community Consultation Meeting #4 on September 10, 2024. It has been prepared on behalf of 2326506 Ontario Inc. and 2373212 Ontario Inc.

West Queen West contains a collection of historic main street commercial and landmark buildings, which contribute to the area's unique and distinctive character. Its downtown location, proximity to transit infrastructure and community facilities also make it a prime location for development and intensification. Managing change here requires careful balance between protecting heritage resources and fostering the neighbourhood's potential to support growth. Maintaining the identity of West Queen West as a vibrant destination for dining, shopping and leisure activities is also crucial to its long-term success.

The planning policy framework for Queen Street West between Bathurst Street and Roncesvalles Avenue was recently established by Official Plan Amendment No. 445 (OPA 445), which was adopted by City Council on September 30, 2020, and appealed to the Ontario Land Tribunal (OLT). In October 2023, City Council supported a settlement, and a revised OPA 445 By-law was approved at OLT in November 2023.

Among the provisions of OPA 445 are policies intended to regulate built form along Queen Street West, including restrictions on building heights and setback requirements for new construction. These provisions are intended to ensure that new development and additions to existing buildings are located and massed to be compatible with the low-scale streetwall character of Queen Street West. Specifically, OPA 445 requires a minimum 5 metre setback above a streetwall with additional setbacks generally provided above heights of 16.5 metres.

In this way, OPA 445 regulates the compatibility of new buildings with the existing character of the West Queen West area. In fact, the specific stated purpose of the site and area specific policies in OPA 445 is to "support opportunities for compatible growth and change while conserving and enhancing Queen Street West's historic character and sense of place" (1(1.1(a))). The Tribunal, in its decision to partially allow the appeals to OPA 445 opined that "the conservation and promotion of cultural heritage resources will be supported by Modified OPA 445" (para. 17) and, further, "[w]ith respect to the West Queen West and

Parkdale Mainstreet areas, modified OPA 445 provides consistent guidance for development which will reinforce the existing main street character and sense of place” (para. 18).

In this context, providing additional prescriptive massing policies for the same area in an HCD Plan is neither necessary nor appropriate. The proposed WQW HCD massing policies, which mandate a minimum 5m stepback above the streetwall (6.11.5) and an additional 3m stepback above a height of 16.5m (6.11.7), should be removed from the HCD Plan. In addition to duplicating the in-force planning policy with a more rigid form of regulation, which does not permit variance or amendment, these policies enforce a singular built-form approach to all “contributing” properties in the District, omitting an important step in the heritage conservation decision-making process: detailed site-specific study and analysis prior to planning for change. The same can be said about the prescriptive policies for non-contributing policies (7.6.5 and 7.6.6).

Even within Districts that share a common historic character, there is no one-size-fits-all approach to the rehabilitation and adaptive reuse of heritage buildings, or designing new buildings adjacent to heritage buildings. Detailed site-specific study and analysis is essential, as good heritage conservation practice requires that heritage professionals make decisions that respond to the value of each individual site and its surroundings. Historic neighbourhoods and heritage buildings are complex, and every building and site should be considered its accordance with its own unique circumstances.

*The Standards and Guidelines for the Conservation of Historic Places in Canada* (“Standards and Guidelines”) emphasize the importance of considering all relevant issues and objectives when change is proposed for a heritage resource. One of the framing principles in the Standards and Guidelines is that heritage conservation planning “*should consider all factors affecting the future of a place, including the needs of the owners and users, community interests, the potential for environmental impacts, available resources and external constraints*” (p. 3).

The Standards and Guidelines further provide that good heritage planning results from understanding a heritage resource, then evaluating all potential options for its future, to arrive at an outcome that best balances the desired objectives. This ensures a balanced outcome that respects the historic context while allowing for thoughtful and innovative design solutions; rather than unduly restricting creative design. While we agree that the study and evaluation of historic neighbourhoods can generate common solutions to *building conservation* issues, analysis of what might be considered compatible in terms of new construction and built-form is a complex process requiring many different inputs, including practical considerations that go far beyond what might be considered in an HCD Plan.

The proposed WQW HCD massing policies are prescriptive and do not allow for any additional inputs to shape new construction: they simply mandate a highly constrained one-size-fits-all approach to design. In this way, the provisions do not adequately support the Standards and Guidelines phased decision-making process, skipping a crucial step to good heritage practice and design. The WQW HCD Plan should offer the flexibility to determine an appropriate site-specific strategy using the City’s existing tools, including Heritage Impact Assessments and Conservation Plans.

Additionally, draft policy 6.10.3 should be revised to replace the term “preservation” with “conservation”, to provide greater flexibility in adaptive reuse and design.

*6.10.3 Alterations to contributing properties shall include the preservation of the District's heritage attributes.*

"Preservation" is a far narrower concept than "conservation". The terms are defined in the Standards and Guidelines as follows:

*Preservation: The action or process of protecting, maintaining, and/or stabilizing the existing materials, form, and integrity of a historic place or of an individual component, while protecting its heritage value.*

*Conservation: All actions or processes that are aimed at safeguarding the character defining elements of a cultural resource so as to retain its heritage value and extend its physical life. This may involve "Preservation," "Rehabilitation," "Restoration," or a combination of these actions or processes.*

The HCD Plan should not mandate the "preservation" of heritage attributes. Instead, policy 6.10.3 should require the "conservation" of heritage attributes, which may be achieved in many ways, preservation being just one approach.

The recommended approaches and revisions outlined in this memo align with the recent OLT approved HCD Plans for St. Lawrence Neighbourhood (2021), King-Spadina (2024) and Historic Yonge Street (2024). These HCD Plans do not include prescriptive policies or mandate the preservation of heritage attributes.

As a final comment, we recommend the draft HCD Plan's policy and guideline language be reviewed for clarity and simplicity to improve the readability and future use of the Plan.

#### Summary of Comments

- Remove prescriptive massing policies
- Avoid mandating the "preservation" of heritage attributes (revise to require their "conservation")
- Review policy and guideline language to improve readability

If you have any questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, consisting of a stylized 'P' and 'E' followed by a horizontal line.

Philip Evans

Principal, ERA