

**City Planning**

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January 24, 2021

Joshua Paul  
Assistant Deputy Minister, Housing Division  
Ministry of Municipal Affairs and Housing  
777 Bay Street, 14<sup>th</sup> Floor  
Toronto, ON M7A 2J3  
[Joshua.Paul@ontario.ca](mailto:Joshua.Paul@ontario.ca)

Dear Assistant Deputy Minister Paul:

On January 20, 2021, the City of Toronto was provided a copy of the Heritage Impact Assessment (October 2020) and Cultural Heritage Documentation Report (November 2020). These documents came about as a result of a request from the Chief Planner & Executive Director, City Planning Gregg Lintern through our letter dated January 19, 2021 and subsequent meeting with the Office of the Provincial Land and Development Facilitator, Senior Government staff, legal counsel and consultants the same day.

The City acknowledges receipt of the Cultural Heritage Documentation Report (CHDR) prepared by Stevens Burgess Architects. While this document has not been subject to a detailed review, the CHDR contains additional information that has helped to inform the City's understanding of the site, previous reports, and the due diligence undertaken to date. It will be referenced within the comments as appropriate.

As an initial observation, it appears that the Province intended to sell these properties for some time now. The HIA, in Section 4.0 indicates that on "September 22, 2020, Treasury Board approved entering into an Agreement of Purchase and Sale with the Purchaser, negotiated over the last several months by Infrastructure Ontario and the Provincial Land and Development Facilitator..".

It is unclear to the City what information and conditions of Purchase and Sale were before Treasury Board during the September meeting and if, demolition was included as one of the conditions. It also appears that both the HIA and the Cultural Heritage Documentation Report were completed after the Treasury Board date. Further clarification would be helpful in terms of the sequence of events that have unfolded.

Without this information, the City is left to conclude that the demolition of the buildings may have already been predetermined and the HIA and Cultural Heritage Documentation Report were completed later in the process.

Please find attached preliminary comments on the attached HIA prepared by Mary L. MacDonald, Senior Manager, Heritage Planning, together with other relevant staff.

### Overview

These preliminary comments have been prepared with reference to MHSTCI Information Bulletin 3, Heritage Impact Assessments for Provincial Heritage Properties. Heritage staff within Infrastructure Ontario (IO) have confirmed that this is the primary document used to guide the preparation of a Heritage Impact Assessment (HIA) for an IO provincial heritage property. The City of Toronto also has a Terms of Reference for HIAs (attached) that provides a useful guide to understand the level of information required by the City to evaluate the impact of proposed activities.

The purpose of the MHSTCI Bulletin is to provide guidance on preparing a Heritage Impact Assessment to meet the requirements of the *Standards and Guidelines for the Conservation Provincial Heritage Properties ("S&Gs")*. Working together with other government legislation, regulations and policies, the S&Gs provide a framework for the consistent protection, maintenance, use and disposal of these properties. They are intended to ensure that decisions about these properties are made in an open and accountable way.

The S&Gs contain a principle that requires the assessment of impact of proposed activities that may affect the cultural heritage value or interest and the *heritage attributes* of a *provincial heritage property* and inform decisions that may affect them.

Provision F.4. requires that, the removal or demolition of any building or structure on a *provincial heritage property* be considered a last resort after all other alternatives have been considered, subject to heritage impact assessment and public engagement. Ministries and prescribed public bodies are required to use best efforts to mitigate loss of cultural heritage value or interest.

### Heritage Impact Assessment Requirements

Under the MHSTCI Information Bulletin 3, Heritage Impact Assessments for Provincial Heritage Properties, "a Heritage Impact Assessment will be prepared when an activity is proposed for a *provincial heritage property* that may affect its cultural heritage value or interest and/or *heritage attributes* and when

- a Strategic Conservation Plan is not yet in place

- the adopted *Strategic Conservation Plan* directs that a Heritage Impact Assessment be prepared for a proposed activity and
- the adopted *Strategic Conservation Plan* did not anticipate or consider in detail the proposed activity or cannot be followed for reasons that were unforeseen when it was completed. "

A Heritage Impact Assessment is a study to determine the impacts of a proposed activity on a *provincial heritage property*. It will recommend options and mitigation measures, consistent with the property's *Strategic Conservation Plan*, in order to reduce negative impacts, and *conserve* its cultural heritage value or interest and must

- be an independent study
- be based on the *Statement of Cultural Heritage Value*
- be prepared by a *qualified person(s)*
- consider impacts to the whole property even if the proposed activity only directly affects a portion of it
- consider and recommend alternatives and mitigation measures that are consistent with the strategies articulated in the *Strategic Conservation Plan* approved by the ministry or prescribed public body and/or MTCS, if it is a *provincial heritage property of provincial significance*
- consider the relevant findings of any archaeological assessment(s) and other technical studies that have been undertaken
- take into account the views of interested persons or communities

### Preliminary Review

The reasons for this report (the "undertaking") are stated as "the advancement of the revitalization of the West Don Lands/Central Waterfront to create density in a transitioning neighbourhood to support existing and planned transit routes." The report then states that, in order to advance this undertaking, retention of the current structures is not envisioned. The decision to demolish as a means to advance increased density is evident in the introduction as being the pre-determined preferred alternative in order to achieve a preferred outcome prior to the development of a Strategic Conservation Plan and Heritage Impact Assessment.

While future sections of the document make reference to select alternative approaches that have been explored in other reports or documents, these studies have not been included. In order to complete a full review of the HIA, the City should be provided with all relevant source documents. A partial list is included as Appendix 1 following these comments.

The HIA notes the absence of a Strategic Conservation Plan for the property.

The following comments follow the requirements of the MHSTCI Information Bulletin 3, *Heritage Impact Assessments for Provincial Heritage Properties*.

#### Independent study

The HIA was prepared by IO and is therefore not independent

#### Statement of Cultural Heritage Value

No Statement of Cultural Heritage Value (SCHV) in accordance with Ontario Regulation 9/06 has been provided.

According to the HIA, the property at 153-185 Eastern Avenue was evaluated for heritage value in 2013 (landscape, built form, archaeology) and has been identified as a Provincial Heritage Property by Infrastructure Ontario/MGCS under the Ministry of Heritage, Sport, Tourism and Culture Industries' (MHSTCI) *Standards & Guidelines for Conservation of Provincial Heritage Properties*. In order to determine heritage value, the evaluation would have used provincial criteria to assess the property for local and provincial significance. Typically, a SCHV would be written to guide future steps in the due diligence process – preparation of a Strategic Conservation Plan, HIA etc.

The evaluation undertaken by IO/MGCS in 2013 that identified the property as a Provincial Heritage Property due to its historical and architectural character as an industrial enclave (though not complete) has not been otherwise used or referenced in the HIA, nor provided to the City for review. The author of the 2013 report was not referenced in the CHDR (November 2020), although the report itself is referred to. The SCHV that is referenced in both the CHDR and the HIA is from the 2004 municipal listing of the property and not the 2013 PHP report. In addition, neither document references the Statement of Significance prepared by Unterman McPhail and contained in the 2006 report for the Ontario Realty Corporation.

The Reasons for Listing prepared in 2004 by the City of Toronto determined that the property at 153-185 Eastern Avenue merits inclusion on the Register for its historic and architectural value as a good example of an industrial enclave in the area adjoining the Don River. This evaluation was undertaken prior to the 2005 amendments to the Ontario Heritage Act subsequent Ontario Regulation 9/06, and the city's use of Ontario Regulation 9/06 for the evaluation of properties for inclusion on the Heritage Register, which it also uses for evaluation properties for listing.

The time period following the preparation of the 2004 Reasons for Listing, the 2006 Statement of Significance, and the 2013 Provincial Heritage Property evaluation has seen a significant amount of change occur within the West Don Lands/Corktown neighbourhoods, and the Lower Don River area generally. A current evaluation of the subject properties within their present-day context – an area within which industrial enclaves with a high degree of integrity have become increasingly rare – and employing current evaluation methods (O. Reg. 9/06) is necessary to fully understand their cultural heritage value.

Therefore, any and all conclusions provided within the document with respect to heritage impacts use outdated and incomplete information, superseded by more recent and comprehensive reports conducted for IO, and so are essentially baseless.

#### Prepared by a *qualified person(s)*

Authorship was not assigned to the document beyond Infrastructure Ontario and appropriate qualifications are not presented or demonstrated. In the absence of substantiating information it is unclear if the HIA was prepared by an independent qualified person.

A person qualified to work on a *provincial heritage property* will demonstrate qualifications and expertise gained through having personally worked on cultural heritage resources in the past (i.e. individual credentials and personal experience must be demonstrated over that of the consulting firm that may employ the individual); expertise that is relevant to the type of resource and the nature of the activity or project being considered and recent experience in the *conservation* of cultural heritage resources (i.e. within the last three to five years).

#### Consideration of impacts to the whole property

As indicated, heritage impacts cannot be appropriately determined without a Statement of Cultural Heritage Value that meets Provincial standards by conforming to O. Reg 9/06. In addition, a cursory review of the impact assessment methodology reveals substantial deficiencies. Initial observations include the absence of a comprehensive description of direct or indirect, positive or negative impacts. While Information Bulletin No. 3 provides extensive examples of impacts to consider, the IO HIA presents brief conclusive statements without substantiating analysis.

Further, what little analysis is provided becomes verbatim from a document prepared by CORE architects that has not been provided to the City. The document is titled: 2020 Core Architects document 153-185 *Eastern Avenue: Brief about the Environmental Remediation and Heritage Strategy*. As the purpose of this referenced document is unclear, and the qualifications of the author have not been demonstrated, references provided within the

HIA are wholly unsuitable to the HIA's purpose. The paragraphs in question provide a very brief conservation strategy for what appears to be a schematic development proposal. Reference to work prepared by Phil Goldsmith about panelization and reconstruction is clearly presented out of context and does not further any understanding of adverse impacts.

### Description of Alternatives and Rationale for Demolition

Part 6 of the Info Bulletin: Considered Alternatives and Mitigation Measures requires that, in cases where the proposed activity will result in the demolition or removal of a building or structure, the HIA must clearly demonstrate:

- The alternative options that were considered and why they were not feasible
- Why the building(s) or structure(s) cannot be adapted to fit new uses
- Why retention and/or modification of the building(s) or structure(s) is not viable
- That demolition or removal is the only viable option, and the last resort

Section 6 of the HIA references site contamination as the primary reason why retention is not viable. It goes on to reference the report prepared by Core Architects as further cause for why adaptive reuse is not viable – namely the need for remediation and the need to meet building code standards, specifically referencing the need to cover undersized trusses with fire-protective drywall or thick mineral-based coatings.

Both code compliance and advising on site remediation issues with respect to heritage properties are extremely specialized fields. Given that the Core Architects report has not been provided, and that the qualifications of the author of HIA have not been disclosed, it is unclear whether or not these issues have been studied by professionals with sufficient expertise to understand the existing condition, fully consider alternative approaches, and to make recommendations that are in keeping with the desired approach of minimal intervention to the property's heritage attributes.

The report prepared by Core Architects has not been provided so a comprehensive review of the findings is not possible; however, the need to undertake site remediation and to bring historic building features to contemporary building code standards are generally neither sufficient rationale for supporting demolition nor unattainable accomplishments as exemplified across the City. If a more detailed site contamination/remediation and existing building conditions report exists beyond what Core Architects has prepared, please provide this documentation as well.

Alternatives and mitigation measures consistent with the strategies articulated in the Strategic Conservation Plan

No Strategic Conservation Plan has been prepared and brief references to alternatives and mitigation measures within the HIA are taken from notes prepared by CORE Architects for some other purpose. Information is completely insufficient for the purposes of an HIA for a Provincial Heritage Property. The relevance of CORE Architects' opinions within the HIA is unclear.

In the absence of a Strategic Conservation Plan, a range of mitigation measures, including but not limited to careful dismantling for the purposes of reconstruction, are not sufficiently described within the HIA. While the HIA provides a description of a panelization process, a form of reconstruction, it does not state that the subject properties have been evaluated to determine whether such an approach is feasible, nor does it commit to this approach. Recent on-site demolition activity would indicate that panelization and careful salvage has not been chosen as a preferred strategy so it is unclear why the HIA presents this as a viable solution within the document. As indicated above, the reference to work undertaken by Phil Goldsmith has been taken out of context from another document that was not provided.

As part of a possible mitigation strategy the HIA recommends that "representation" or "replication" be incorporated into the redevelopment proposal. These terms are not defined and it is unclear what is proposed to be constructed on the site. A mitigation strategy that involves the careful panelization of a heritage building followed by its full or partial reconstruction and incorporation into a development would result in substantially different mitigation than an approach that uses "representation." Representation might involve constructing an entirely new building with materials and massing that references the lost building and does not comprise conservation.

Given the permanent and detrimental impact of the proposal as presented on the property's heritage attributes, should a complete HIA ultimately reach a conclusion in support of demolition, this "representation" and/or "replication" mitigation strategy should be fully explored and described within the HIA. Furthermore, if reconstruction is being recommended as a mitigation approach the HIA should recommend that a detailed Reconstruction Plan be completed by qualified heritage professional in advance of the commencement of construction work. This plan should at a minimum describe the approach that would be used to carefully salvage the heritage fabric, how the fabric will be stored during construction, and how it will be reconstructed.

Consider relevant findings of any archaeological assessment(s) and other technical studies

A Stage 1 Archaeological Assessment report was conducted by Archaeological Services Inc. that included the property parcel associated with 153-185 Eastern Avenue (2003; PIF # P047-017, P047-018, P047-033, and P047-040). The report concluded that the property has been redeveloped numerous times during its history, which has primarily entailed later nineteenth and twentieth century industrial uses, there is no potential for the presence of significant pre-contact or Euro-Canadian archaeological resources.

We are unaware if the City has reviewed this report and concurred with the findings at the time but since the 2003 report was prepared, the City has implemented an Archaeological Management Plan that may have a more refined understanding of site integrity.

Views of interested persons or communities

Based on our information, no community engagement or consultation was undertaken.

Under the S&Gs, ministries and prescribed public bodies are required to engage with and take into account the views of individuals and communities when making decisions about a property's future and when considering alterations that may affect property users (E.5.).

Community engagement protects the public interest in identifying and protecting cultural heritage resources, while helping to ensure that any concerns are identified and appropriately addressed. In the case of Heritage Impact Assessments engagement could include local communities (including Indigenous communities), stakeholders, local government, other ministries and agencies.

According to Information Bulletin No. 3, "Community engagement should provide for early and ongoing dialogue to inform appropriate strategies; explain the purpose of the engagement and how the community's input will be used and respect a community's preferences regarding information exchange (e.g. formal or informal face-to-face meetings, presentations, written communiqués, interviews and surveys)."

Conclusions and recommendations should be shared with the consulted community to allow for further review, consideration and response. Conclusions and recommendations may have to be amended based on the community's response.

Please clarify if any of these action were undertaken.

## Conclusion

The following points summarize the results of this preliminary review and are further articulated in Table 1:

- The HIA was prepared by IO and is therefore not independent;
- There is no evidence that it was prepared by a qualified person(s);
- There is no Statement of Cultural Heritage Value (SCHV) using O.Reg 9/06 despite heritage evaluations of the property in both 2006 and 2013;
- The heritage impact assessment is not founded on a recent SCHV based on provincial criteria ;
- No Strategic Conservation Plan was prepared prior to the HIA;
- The description of potential impacts is deficient due to the absence of a clear conservation strategy, being the purpose of drafting a Strategic Conservation Plan prior choosing between alternatives for conservation approaches;
- There is a lack of clarity about what is being proposed for the site with respect to conservation/ mitigation approaches;
- There is an insufficient review of potential impacts;
- There is an insufficient review of mitigation measures;
- An Archaeological Assessment has been undertaken but might need to be updated in light of the City's AMP;
- There has been no public/community consultation or engagement;
- A number of key documents need to be provided to the City in order for a complete review to be undertaken.

In addition to an HIA being prepared prior to disposal (provision F.4. of the *Standards and Guidelines*) it is not clear how IO has satisfied the other requirements under Part F. Disposal, including:

F.2. "if a provincial heritage property is to leave provincial control, use best efforts to the extent possible in law to ensure the ongoing, legally binding protection of the property's cultural heritage value (such as designation under Part IV of the Act, heritage conservation easement, etc.) in any sale or other disposal agreement. The level of protection should be appropriate to the cultural heritage value of the property"

In its current form, and without supporting documentation, the Heritage Impact Assessment does not demonstrate that the Province has used best efforts to ensure the ongoing, legally binding protection of the property's heritage value, either through Part IV Designation, a heritage conservation easement, or alternative means.

Sincerely,



Gregg Lintern, MCIP, RPP  
Chief Planner and Executive Director  
City Planning Division

Attached: HIA Terms of Reference 2011

Cc: Paula Dill, Provincial Land and Development Facilitator  
Chris Giannekos, Deputy Minister, Ministry of Infrastructure  
Mayor Tory, City of Toronto  
Councillor Wong Tam, Ward 13 – Toronto Centre  
Chris Murray, City Manager, City of Toronto  
Tracey Cook, Deputy City Manager, City Toronto  
Brian Haley, Director, Planning and Tribunal Law, Legal Services  
David Sit, Manager, Community Planning  
Mary MacDonald, Senior Manager, Heritage Planning

## Appendix 1

### List of requested documents

1. Core Architects  
2020 153-185 Eastern Avenue: Brief about the Environmental Remediation and Heritage Strategy.  
  
If a separate site contamination/remediation and Building conditions report exists which examines the level of contamination, why site remediation and heritage conservation cannot occur simultaneously, the structural condition of the existing buildings and the cost of remediation is available, this should be provided as well.
2. Core Architects  
2021 153-185 Eastern Avenue: Architectural Plans and Renderings.
3. Philip Goldsmith Architect  
2020 Description of the disassembly and reconstruction of heritage buildings as a means of conserving a heritage property. Letter/note for Aspen Ridge Homes.
4. Archaeological Services Inc.  
2003 Stage 1 Archaeological Assessment of Ten ORC West Donlands Properties, City of Toronto. CIF # P047-017, P047-018, P047-033, and P-047-040.
5. Commonwealth Historic Resource Management Limited  
2008 Conservation Assessment Windows & Doors B80086 No. 153 Eastern Avenue, B81484 No. 169 Eastern Avenue, B80102 No. 171 Eastern Avenue, B80129 No. 185 Eastern Avenue, West Don Lands, Toronto, Ontario.
6. IO/MGCS  
2013 153-285 Eastern Avenue evaluation for heritage value (landscape, built form, archaeology)
7. Infrastructure Ontario  
2020 Cultural Heritage Evaluation Update Ontario Regulation 9-06 and 10-06 valuation: B80086 No. 153 Eastern Avenue, B81484 No. 169 Eastern Avenue, B80102 No. 171 Eastern, Avenue, B80129 No. 185 Eastern Avenue Toronto, ON M9V 4L8

**Table 1**

Standards and Guidelines and HIA for Provincial Heritage Properties requirements	Heritage Impact Assessment and Policy Deficiencies
Independent Study	Not demonstrated
Prepared by a qualified person(s)	Not demonstrated
Statement of Cultural Heritage Value (SCHV)	Outdated and not based on Ontario Regulation 9.06 criteria
HIA based on current SCHV	Heritage Impact Assessment based on outdated/deficient statement of cultural heritage value
Strategic Conservation Plan (SCP)	Not submitted
Description and review of potential impacts	Deficient due to lack of Strategic Conservation Plan
Description and review of conservation alternatives	Deficient due to lack of Strategic Conservation Plan
Description and review of mitigation measures	Deficient due to lack of Strategic Conservation Plan, clarity and supporting documentation
Description of mitigation measures	Deficient due to lack of Strategic Conservation Plan, clarity and supporting documentation
Consider relevant findings of any archaeological assessment(s) and other technical studies	Archaeological assessment not provided
Views of interested persons or communities	Not demonstrated to date
Municipal engagement	Not demonstrated prior to initiation of demolition, and insufficient documentation provided
F.2 for Provincial Heritage Properties - best efforts	Not demonstrated