**Submission to the Government of Ontario on the new Ottawa Official Plan**

**February 10, 2022**

This is a submission from representatives of five community associations in Ottawa – Sandy Hill, Rockcliffe Park, New Edinburgh, the Glebe, and Lowertown. There is a total of 15 heritage conservation districts in these communities. We have worked closely together on this submission and have sought clarification from Ottawa city staff on the intended meaning of key provisions with respect to heritage protection in the new Ottawa Official Plan.

We understand that the Ontario government assesses municipal official plans with respect primarily to **“matters of provincial interest”**. We are proposing changes to the Ottawa Official Plan in order to:

1. Better serve the provincial interest set out in the **Ontario Planning Act** at S. 2(d) **“*the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest*”.**

2. Better ensure that the Ottawa OP meets the requirement in the **Provincial Policy Statement** at 2.6.1 that **“*Significant built heritage resources* and *significant cultural heritage landscapes shall be* *conserved”***.

3. Clarify the intent of the heritage provisions – as revealed in discussions with city staff – so that they are not open to misinterpretation.

One recurring challenge to our heritage districts is unclear or equivocal language which leaves room for conflicting and/or unintended interpretations. We believe that the Ottawa OP can and should be strengthened to better stand up to these challenges.

**1.** **Heritage conservation districts (HCDs) and intensification**

**S. 4.5.2 (3)** Current wording: Heritage designation is, in part, intended to ensure contextually appropriate development and is not intended to discourage intensification or limit housing choice. Elements of the built form, including height, scale and massing, of such development shallensure that the defined cultural heritage value and attributes of the property or HCD will be conserved, while balancing the intensification objectives outlined throughout this Plan.

**Proposed wording**: Heritage designation is intended to ensure that all development is contextually appropriate. It is not intended to discourage intensification or limit housing choice if it is contextually appropriate. To ensure contextually appropriate development, elements of built form, including height, scale and massing of development shall conserve the defined cultural heritage value and attributes of the property or HCD.

**Rationale**: The proposed wording clarifies that heritage is **not** a shield against all and any intensification, but that to be permitted, any intensification in a heritage conservation district must be contextually appropriate and this is achieved by ensuring that elements of built form conserve the cultural heritage value and attributes as defined in heritage conservation plans. The current wording fails to do this – the final clause “while balancing the intensification objectives outlined throughout this Plan” readily invites an interpretation that once having determined from a heritage plan what constitutes contextually appropriate development, this is not definitive – this can be compromised or undermined or set asideby “balancing” this against intensification goals.

In a letter dated December 10, 2021 to Heritage Ottawa, copied to Dan Ethier of the Ontario government, Ottawa planning manager Alain Miguelez stated that the clause “while balancing the intensification objectives outlined throughout this Plan” is important in order to prevent heritage acting as “a shield against intensification”. On January 24, 2022, we met with Miguelez and Lesley Collins (Ottawa heritage staff), to seek clarification of the intent and meaning of S. 4.5.2 (3). We explained that we were not seeking a ban on intensification in heritage districts, but a shield against intensification which is not contextually appropriate, as defined in our heritage plans. **They agreed that this is the intent – intensification that is not contextually appropriate as defined in heritage plans should not be permitted, while other is.**

**Our proposed wording accurately reflects this shared intent. The current wording does not.**

The current wording, if not changed, would invite a range of arguments to get around the provisions of heritage plans – and re-define what is and is not acceptable intensification in these neighbourhoods. City staff and councillors, development applicants and their planners and lawyers, and tribunals would be left to interpret what “balancing” heritage conservation with/against intensification means. Heritage conservation plans would be undermined; heritage conservation would be undermined.

This lack of clarity must be corrected. Words matter. The **PPS** says that significant heritage resources and landscapes **shall be conserved**. Our proposed wording accomplishes this. The current wording does not.

**2. Lot sizes and patterns**

The size and pattern of lots is commonly cited as part of heritage character in the plans of HCDs in Ottawa. For example, the New Edinburgh plan states that one of the objectives of new development is “To ensure the 19th century pattern of lot development is maintained and respected.” The Briarcliffe plan says “The existing lot pattern will be retained” as “essential to the cultural heritage value of Briarcliffe”. The Rockcliffe Park plan says “The retention of existing lots, large and small, is important to the preservation of the character of the HCD. New lots created through severance or by joining smaller lots together shall be consistent with the general lot sizes within the associated streetscape and the zoning bylaw in force at the time in order to respect the character of the associated streetscape.” The intent and meaning of these provisions is clear without any of the plans or the Ontario Heritage Act or the OP defining “lot”.

The city of Ottawa has undermined these provisions by imposing the definition of “lot” found in the Ottawa zoning by-law: ***“****Lot means all contiguous land under one ownership*”. This means that purchase of contiguous properties can destroy established lot patterns and sizes, and dramatically change the heritage character of streetscapes. It is clearly not an acceptable definition of “lot” for HCD plans.

**Proposed wording**: The Ottawa OP should state in section 4.5 on Cultural Heritage and Archeology (p. 89) that “Where established lot sizes and patterns form part of the heritage character of HCDs, contiguous land under one ownership does not create a new lot if this would result in a lot that differs from the established lot sizes and pattern in the associated streetscape.”

**3. The definition of “property”**

The Ontario Heritage Act defines “property”: *“Property shall mean real property and includes all buildings and structures thereon and includes a cultural heritage landscape.”*  It is important to the proper interpretation of HCD plans that this definition be respected. This has not always been the case. **The definition from the Ontario Heritage Act should be included in the Ottawa OP.**

**4. The definition of “adjacent lands”**

The Provincial Policy Statement provides for protection of heritage properties from inappropriate development on adjacent lands. It states:

2.6.3: “*Development and site alteration may be permitted on adjacent lands to protected heritage property 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.”* It defines “adjacent lands” in 2.6.3 as “*those lands contiguous to a protected heritage property or as otherwise defined in the municipal official plan*”.

Restricting the definition of “adjacent lands” in the context of heritage protection to “lands contiguous” or “lands abutting” a protected heritage property robs most HCDs of protection from unsympathetic development on adjacent lands. In cases where the boundaries of HCDs consist of the roads bordering the HCD, adjacent lands are across the street – not abutting or contiguous.

The PPS specifies that a municipal official plan can provide its own definition of “adjacent lands” that differs from “contiguous”. The Toronto OP, for example, does so.

**Proposed wording**: To provide Ottawa’s HCDs with the protection envisaged by the PPS, we propose that the Ottawa OP state in section 4.5 on Cultural Heritage and Archeology (p. 89) that

*“*Adjacent lands” means those lands adjoining a property in a HCD or lands that are across from or near to a property in a HCD and separated by land used as a private or public road, lane, trail, right-of-way, walkway, green space, or park.

(This definition is a shorter form of the definition provided in the Toronto OP.)

In closing, we all work very hard to do what we can to ensure that our respective heritage conservation districts are conserved as part of the historic fabric of Ottawa, of Ontario, and of Canada. We are deeply experienced with respect to the challenges this entails. The proposals we have made are, we believe, essential but modest. We ask the Government of Ontario to make the proposed changes to the Ottawa Official Plan. Importantly, this will serve a provincial interest clearly specified in legislation.

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Representing one heritage conservation district