



An agency of the Government of Ontario

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June 8, 2021

Carrie Brooks-Joiner
Director, Tourism and Culture
City of Hamilton
28 James Street North
Hamilton, Ontario
L8R 2K1

By Email

Dear Carrie Brooks-Joiner:

I am writing to you regarding the Balfour (Chedoke) Estate Adaptive Rehabilitation proposal by Cardus to adapt and use as offices the Chedoke Estate, a Trust-owned heritage property subject to an agreement with the City of Hamilton, for a term that extends to the end of the Trust's agreement with the City of Hamilton in 2039.

It is the Trust's understanding that, at this point, the City of Hamilton is seeking from the Trust approval in principle for Cardus' proposal with respect to potential heritage impacts on the property.

As you know, Trust staff have met with City of Hamilton staff and representatives from Cardus on a regular basis to discuss the heritage conservation impacts of the proposal. We met with City staff on February 24, June 9, and September 9, 2020 and with City staff and representatives from Cardus on July 27, November 23, December 15, 2020, April 19 and 21, 2021.

Trust staff wrote to City staff on August 1, 2019 to provide preliminary conditions which would have to be met in any forthcoming proposal from Cardus' discussions with the City of Hamilton. The conditions were:

- That the City of Hamilton remain as the Trust's operating partner for the term of the agreement without assigning sublease control to a third party;
- That any interventions conform with the Standards and Guidelines for the Conservation of Historic Places in Canada;
- That the City of Hamilton remain as project manager to oversee any capital changes proposed as part of the project (subject to Trust approval);

- That the prime consultant for the project be an architect with demonstrated experience in conservation work on National Historic Sites.

The Trust also provided guiding principles to frame the conservation approach for the Chedoke Estate. The guiding principles were set out in correspondence of December 16, 2019. The principles are:

- Significant architectural/ archaeological/ natural heritage and cultural landscape features of the property shall be conserved/ including the picturesque landscape that depends on the deliberate placement of landscape features, groupings of trees and vegetation/ and open lawn. Alterations to heritage features must take into consideration the integrated nature of these components and respect and protect their heritage values.
- Opportunities for revenue generation and new operating models will be considered, but not at the expense of the site's heritage value.
- A range of public education and interpretative opportunities that meet the highest standards are inclusive and respect all periods of the site's history should be provided.
- Public access to the property should be encouraged and provided where it is appropriate.
- Indigenous engagement shall be incorporated into any planning and decision-making for the property.
- Collections associated with the property shall be protected and housed on-site with opportunities for interpretation and access.
- Decisions regarding use and any changes to the property shall be undertaken in a collaborative and inclusive manner that takes into consideration the objectives and goals of the parties and stakeholders involved.

The framework for decision-making used by the Trust is established under the Ontario Heritage Act. The Trust has adopted Parks Canada's Standards and Guidelines for the Conservation of Historic Places in Canada (S&Gs) and as a prescribed public body under Part III.1 of the Ontario Heritage Act, the Trust also complies with the Standards and Guidelines for the Conservation of Provincial Heritage Properties. The Trust also follows the guidelines of international charters and agreements for the conservation of heritage.

Cardus submitted to the City of Hamilton a package of information regarding its proposal on July 27, 2020. This request followed on the report by EVOQ which was prepared for the City recommending a detailed assessment of the required building code upgrades and interventions.

The new material identified that the proposed use was changed from residential retreat to office and meeting space. The material provided additional information but did not provide a complete description of the interventions that would be required to meet Ontario Building Code requirements for this occupancy or a conservation plan. On October 10, 2020 Trust staff advised the City that the latest information provided to the City by Cardus did not include an analysis of the proposal by the City's Building Official, which would identify whether the change of use of the building and changes required to meet Building Code could be achieved without irreversible damage to the heritage building fabric. On November 24, 2020 Cardus submitted to the City's Chief Building Official a building permit application for review purposes only.

On February 26, 2021 the City's Chief Building Official confirmed in writing that, at this point in time, Cardus' proposal complies with the Ontario Building Code noting that "Reaching full compliance with the Ontario Building Code required the submission of an Alternative Solution (regulated process within the OBC) regarding Life and Safety within the building. Sufficiency of compliance was reached through the provision of a fire alarm system throughout the building with smoke detection in every room including the basement." The City's Chief Building Official further noted that "While the submission meets the OBC, neither my team or I can comment on whether the work can be achieved without irreversible damage to the heritage building fabric – such is beyond me and our team's area of expertise." The City's Chief Building Official further advised that City staff have completed a zoning analysis of the proposal and have confirmed that the proposed use is in compliance with the local Hamilton Zoning By-law.

This information related to the Ontario Building Code, including the written concurrence of the City's Chief Building Official with respect to compliance with the Ontario Building Code, was fundamentally important to the Trust in undertaking review of the proposal. In the Trust's view, this information demonstrated the proposal to occupy the building in the manner presented could be implemented without having to propose major interventions on the building that would result in an irreversible loss of heritage fabric.

Based on the conclusions of the Chief Building Official of the City of Hamilton, the Trust is satisfied that the proposed use is permissible from a building code perspective and may achieve compliance under the Ontario Building Code.

The Trust is also satisfied that the proponent is aware of, and has agreed to follow, the Trust's conservation approach for Chedoke Estate, which is one of minimal intervention and a light touch. This is particularly important where the proposed interventions interface with existing building fabric. Specialized knowledge and experience is necessary in developing and implementing an appropriate conservation approach. The Trust is satisfied that Cardus has brought on to its team sufficient experienced heritage professionals to support this work.

Based on the November 24, 2020 materials Cardus submitted to the City's Chief Building Official, the Trust therefore, in relation to the potential heritage impacts on the property, approves in principle the proposed use of the property subject to the following conditions:

- That any interventions conform with the Standard and Guidelines for the Conservation of Historic Places in Canada;
- The Trust requires that the City of Hamilton remain as the Trust's operating partner for the term of the agreement without assigning sublease control to a third party. Under the terms of a licence agreement with the City of Hamilton (dated December 11, 1979) the City has the responsibility to care for and manage the property. This includes responsibility for the financial costs of maintaining Chedoke and allows the City to make repairs, renovate and alter the property subject to Trust approval. That agreement ran from 1979 until 2009 at which point it was renewed for an additional 30 years expiring in 2039, consistent with the renewal terms set out in the original agreement;

- That the City of Hamilton remain as project manager to oversee any capital changes proposed as part of the project (subject to Trust approval);
- That Baseline Documentation Reports are prepared at Cardus's expense, and managed by the City of Hamilton to the satisfaction of the Trust prepared prior to any interventions taking place on the property, and after approved alterations have been completed as part of this overall project;
- That a Conservation Plan is prepared at Cardus's expense, and managed by the City of Hamilton to the satisfaction of the Trust including:
 - Description of conservation measures and associated costs to be completed as part of the initial project for Cardus's occupation of the property,
 - A detailed list of capital work and estimated costs required over the term of Cardus's occupation of the property to address oncoming capital and conservation needs to be managed by the City of Hamilton,
 - Maintenance plan for day-to-day operational needs of the property for the duration of Cardus's occupation of the property.

It is recommended that the City of Hamilton consider creating a reserve fund to be managed by the City as project manager to support ongoing capital and operational needs of the property as identified in the approved Conservation Plan.

There are outstanding issues that are still in discussion and for which the proponent is developing further materials for the Trust's review. The Trust's approval in principle for the proposed use of the property is thus also subject to the following issues being resolved through further discussions:

- the proposed air conditioning installation and the method of interface between new construction and heritage elements;
- details of collections storage; and
- public access to the site.

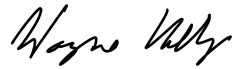
Furthermore, any change to the scope of interventions proposed by the proponent and subject to this approval in principle, would require further discussion and approval, including any proposal to further intensify the use of the property or alter any landscape features.

This letter provides support in principle for the approach Cardus is proposing to take on the property. Before any work is undertaken to implement this project, Cardus will be required to receive full Trust approval for its project. In addition to satisfying the conditions outlined above in this letter, Cardus must submit to the Trust for final approval the complete package of supporting documents including all final drawings, specifications and reports or any materials requested to adequately demonstrate the planned projects for the property.

The Trust is committed to the long-term conservation of Chedoke Estate. Chedoke is in good condition and has high integrity in terms of the buildings' heritage fabric. The Trust is seeking to ensure that the use of the property is in keeping with the property's heritage values and maintains and enhances its cultural heritage landscape. I trust this information is helpful. If you

should have any questions about the conditions in this letter, please contact me at
wayne.kelly@heritagetrust.on.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne Kelly". The signature is written in a cursive, flowing style.

Wayne Kelly

Director, Heritage Programs and Operations

Enclosures



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August 1, 2019

Ian Kerr-Wilson
Manager, Heritage Resource Management
City of Hamilton
71 Main Street West
Hamilton, Ontario L8P 4Y5

Dear Mr. Kerr-Wilson:

I am following up on recent discussions between Trust staff and City staff with respect to a proposal for the Chedoke Estate, which is owned by the Ontario Heritage Trust. The Trust has a good relationship with the City of Hamilton, built in part through the management of numerous heritage cultural easements. We are also pleased to have a longstanding operating agreement with the City of Hamilton for the preservation of the Chedoke Estate. The work that the City has done to conserve the physical heritage resources of the site and recently to introduce low-impact uses bodes well for the long-term integrity of the property. The preservation of the lands and premises including the historical, architectural and aesthetic character of the buildings is the Trust's overall goal.

The Trust has recently been provided a copy of a proposal from the charitable organization Cardus to the City of Hamilton for an adaptive re-use project at Chedoke Estate. It envisions converting the building to a retreat, with an as-yet-to-be-determined combination of short-term residential lodging, meeting space, office use and support facilities. The proposed term of occupancy is through 2039. Although it is still at a conceptual stage, the proposal would represent a milestone change in the evolution of Chedoke worthy of circumspect consideration.

In the Trust's experience, the conversion of a residential building to public use usually requires substantial physical interventions to meet regulatory health and safety, building code, access and amenities required of a public building. Precise detail of program uses is key to determining whether a proposed use is compatible or detrimental to the heritage building being adapted. The information provided in the Cardus proposal is not sufficient for the Trust to make this determination.

Should the City of Hamilton choose to pursue further investigation of the Cardus proposal, the Trust would commit to provide additional review and comments as required. However, further consideration by the Trust would require that the following conditions be met.

- The City will continue to be the Trust's operating partner and shall retain control of the property for the duration of the agreement.
- Planning, design and construction associated with the adaptive re-use must conform with Parks Canada's Standards and Guidelines for the Conservation of Historic Places in Canada. The Trust has adopted these standards for all work undertaken at Trust-owned heritage sites.

.../2

- Pursuant to the current operating agreement between the Ontario Heritage Trust and the City of Hamilton, and by established precedent, the City must be the Project Manager for any work undertaken, working in cooperation with the Trust as the approval authority.
- The prime consultant for the project must be an architect with demonstrated experience in conservation work at national historic sites, managing an interdisciplinary team of sub-consultants having similar experience.

The Trust appreciates the need to develop viable new uses for Chedoke Estate and we look forward to working with city staff towards that end.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Wayne Kelly', is written above the typed name.

Wayne Kelly
Director, Heritage Programs and Operations



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December 16, 2019

Jason Thorne
GM Planning & Economic Development
City of Hamilton
71 Main Street West, 7th Floor
Hamilton, Ontario L8P 4Y5

Dear Mr. Thorne:

On November 20, 2019, the Ontario Heritage Trust (Trust) received a copy of the Functional Plan submitted to the City of Hamilton (City) on November 15, 2019 by Cardus in support of their proposal to adapt the Chedoke Estate in Hamilton to their administrative headquarters. The Trust understands that the City's General Issues Committee passed a motion on September 18, 2019 that directed City staff to seek a preliminary opinion from the Trust on the proposal to identify any preliminary or potential concerns that the Trust may have with the proposed use.

In our letter of August 1, 2019 to the Manager of Heritage Resource Management, the Trust agreed to provide additional review and comment on this proposal provided that certain conditions were met. These conditions include:

- The City will continue to be the Trust's operating partner and shall retain control of the property for the duration of the agreement.
- Planning, design and construction associated with the adaptive re-use must conform with Parks Canada's *Standards and Guidelines for the Conservation of Historic Places in Canada*. The Trust has adopted these standards for all work undertaken at Trust-owned heritage sites.
- Pursuant to the current operating agreement between the Ontario Heritage Trust and the City of Hamilton, and by established precedent, the City must be the Project Manager for any work undertaken, working in cooperation with the Trust as the approval authority.
- The prime consultant for the project must be an architect with demonstrated experience in conservation work at national historic sites, managing an inter-disciplinary team of sub-consultants having similar experience.

The Trust requires clarity from the City on how these conditions will be met.

The Trust has a mandate to protect Ontario's rich and diverse cultural and natural heritage. The Trust has adopted the *Standards and Guidelines for the Conservation of Historic Places in Canada* and respects international charters for the conservation of cultural heritage resources including the Appleton and Burra charters, and as a prescribed public body under Part III.1 of the Ontario Heritage Act, the Trust complies with the *Standards and Guidelines for the Conservation of Provincial Heritage Properties*.

The Trust has prepared a set of guiding principles for Chedoke that will be used in reviewing this proposal to ensure the conservation of the property's heritage values. These principles are as follows:

- Significant architectural, archaeological, natural heritage and cultural landscape features of the property shall be conserved, including the picturesque landscape that depends on the deliberate placement of landscape features, groupings of trees and vegetation, and open lawn. Alterations to heritage features must take into consideration the integrated nature of these components and respect and protect their heritage values.
- Opportunities for revenue generation and new operating models will be considered, but not at the expense of the site's heritage value.
- A range of public education and interpretative opportunities that meet the highest standards are inclusive and respect all periods of the site's history should be provided.
- Public access to the property should be encouraged and provided where it is appropriate.
- Indigenous engagement shall be incorporated into any planning and decision-making for the property.
- Collections associated with the property shall be protected and housed on-site with opportunities for interpretation and access.
- Decisions regarding use and any changes to the property shall be undertaken in a collaborative and inclusive manner that takes into consideration the objectives and goals of the parties and stakeholders involved.

The Trust has completed a preliminary review of the Functional Plan provided on November 20, 2019.

The Functional Plan proposes converting Chedoke House into the proponent's administrative headquarters with conference facilities and a retreat centre including limited overnight accommodation. The plan proposes the use of all three floors with a maximum occupancy of 72 persons. This represents a significant intensification of use for what is currently and has historically been a single-family residential building.

Fundamental information is missing from the Functional Plan related to the Ontario Building Code compliance, including fire safety and accessibility. These are not details that can be addressed at a later date. The Trust will require this information and the written concurrence of the Chief Building Official before undertaking further review and before approving any sub-lease arrangement between the City and the proponent.

In summary, the Trust does not have sufficient information at this time to complete a full review of the proposal. The Trust requires clarity and more detailed analysis on how the conditions communicated to the City on August 1, 2019 will be met.

We look forward to your written response addressing the concerns and requirements contained in this letter.

Regards,



Beth Hanna
Chief Executive Officer

Copy: Carrie Brooks-Joiner, Director, Tourism & Culture, City of Hamilton



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VIA EMAIL

October 8, 2020

Carrie Brooks-Joiner
Director, Tourism & Culture, City of Hamilton
28 James Street North, 2nd Floor
Hamilton
L8R 2K1

Dear Ms. Brooks-Joiner:

Re: Cardus Proposal for Chedoke

I am writing to you regarding the Balfour (Chedoke) Estate Adaptive Rehabilitation proposal submitted by Cardus to the Ontario Heritage Trust (Trust) and City of Hamilton (City) and dated July 23, 2020.

The submitted documentation is part of an ongoing discussion initiated by Cardus in 2019 whereby Chedoke, a Trust-owned heritage property subject to an agreement with the City of Hamilton, would be adapted to Cardus's offices.

The current proposal before the Trust and the City was meant to address concerns previously conveyed in a letter from the Trust dated February 19, 2020. In that letter, we indicated that the current proposal required additional information in order to fully understand the requirements around Cardus's proposed use of the property.

In the Trust's previous letters of August 1, 2019, December 16, 2019, February 18, 2020 and February 19, 2020, the Trust expressed its willingness to work with City staff in their discussions with the proponent. To that end Trust staff has held a number of meetings with City staff and also participated in a meeting held by the City with representatives from Cardus on July 27, 2020 to share information on the Trust's conservation approach. While that meeting was important in giving the Trust an opportunity to describe its conservation requirements, Cardus provided their updated plan for the site just prior to the meeting. Presenting this material to the Trust before the meeting was held resulted in there being no amendment to the proponent's plan to align with the Trust's conservation requirements.

As you know, the Trust has adopted Parks Canada's *Standards and Guidelines for the Conservation of Historic Places in Canada* (S&Gs) and as a prescribed public body

under Part 111.1 of the *Ontario Heritage Act*, the Trust also complies with the *Standards and Guidelines for the Conservation of Provincial Heritage Properties*. We noted these standards and guidelines in our earlier correspondence. The Conservation Approach provided by Cardus does not provide details of how the building would function or what interventions will be required to implement the plan. But the materials provided broaden the Trust's understanding of what use is generally intended and the impacts anticipated to the site.

Trust staff has reviewed the most recent set of materials submitted by Cardus through the lens of these guiding documents. The proponent has suggested a recommended approach of Rehabilitation be used at Chedoke Estate. A Rehabilitation approach will not go far enough to conserve the building and cultural landscape given the high integrity and good condition of the house and grounds. Such an approach would greatly impact the conservation of the site's heritage value through a program of intense and likely irreversible intervention.

Currently, Chedoke is in good condition and has high integrity in terms of the building's heritage fabric. An approach of Rehabilitation as described in the submitted documents, allows for irreversible change to the structure in order to accommodate the intended new use. While the current use of the site may not be as intensive as it could be, the current operating model of the site is consistent with the building's historic use as a private residence. Alterations required in order to accommodate a more intense use for the site have not been clearly articulated in the materials submitted. This information is essential to understanding a conservation approach, in particular where the interventions interface with existing building fabric.

At present, the Trust anticipates the alterations required by the Ontario Building Code to change the use of the building from Group C Residential categorization to Group D Business and Personal Services Occupancy would have significant impacts on the heritage building fabric of the building. Still outstanding is an analysis of the proposal by the City's Building Official, which would identify whether the changes required to meet Building Code can be achieved without irreversible damage to the heritage building fabric.

In previous correspondence the Trust has requested fundamental information related to Ontario Building Code compliance and the written concurrence of the City's Chief Building Official. This request followed on the report by EVOQ which was prepared for the City recommending a detailed assessment of the required building code upgrades and interventions. The Conservation Approach provided by Cardus fails to address these requirements.

The Trust will continue to work with the City to explore conservation-based solutions that could be undertaken at Chedoke. Unfortunately, the rehabilitation proposal dated July 24, 2020 reflects a fundamental lack of understanding of the overall conservation approach and crucial information has not been provided regarding Building Code compliance. This information is still required to provide practical solutions to move this conversation forward.

If you have any questions regarding this letter please contact me at 416-882-5610 or via e-mail at wayne.kelly@heritagetrust.on.ca.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Wayne Kelly". The signature is written in a cursive, flowing style.

Wayne Kelly
Director, Heritage Programs and Operations (A)

Email copy:

Jason Thorne, GM Planning & Economic Development, City of Hamilton