

December 10, 2021

Delivered by Email

City of Guelph
1 Carden Street
Guelph, ON N1H 3A1
ATTN: Mayor Guthrie and Council

**Re: Notice of Intention to Designate 919 York Road under Section 29 of the OHA;
Dec. 13, 2021 Council Meeting – Agenda Item 4.4;
Our Client: Brodie Limited (file: 52021-010)**

SmithValeriotte Law Firm LLP (“SV Law”) acts for Brodie Limited, the owner of the property known municipally as 895 and 919 York Road. While these two properties are merged on title under a single PIN, both our client and the City’s records refer to the eastern portion of the property (zoned SC.1-48 and developed with a commercial building and parking lot) as ‘919 York Road’, and the western portion (zoned P.1-1 and containing the structures currently listed in the Municipal Register) as 895 York Road. Given this distinction, we question why staff have referred to the property as 919 York Rd. in the Staff Report proposing designation of this property.

Our client strenuously opposes designation of any portion of the property (895 or 919 York Road) under the *Ontario Heritage Act*. Our client acquired the property in 2011 from the Royal Canadian Legion, and the farmhouse at issue was in a significant state of disrepair when it was acquired. The former farmhouse itself has never been occupied during our client’s ownership and the interior of the property is inhabitable, with no kitchen or washrooms and with significant structural safety issues. Because of the parkland zoning on the property, occupation as a single detached dwelling is precluded. Under the P.1-1 zoning, the house can only be used for a ‘clubhouse’ which, practically speaking is an impossibility given modern requirements for parking, accessibility, and other requirements of an assembly occupancy under the *Building Code*. The proposed comprehensive zoning by-law update proposes to further downzone this property to a ‘natural heritage’ zone, removing even the ability to use the property as a clubhouse.

There is a current demolition application on file for this property, which was triggered by a Property Standards Order issued on July 13, 2021. That order required my client to demolish the property or alternatively to fix the roof in accordance with the Property Standards By-law. As the cost of repairing the roof exceeds the value of the property at 895 York Road, my client elected the demolition route and made an application, which in turn has triggered a review by Heritage Guelph and the current designation recommendation. With all due respect to Staff, there seems to be a mistaken impression that demolition of

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a *listed* structure cannot occur without the property first being de-listed from the municipal register of cultural heritage properties. Strictly speaking, that isn't correct, and the only applicable law that would apply to any demolition is the 60-day requirement to provide notice of an intention to demolish a listed structure.

Should Council seek to designate this property, my client will have no choice but to repair the roof and ensure compliance with the requirements of the City's property standards by-law, but otherwise mothball the building to sit in perpetuity in a boarded-up state. There is a better solution:

My client is more than willing to convey the western portion of the property containing three listed structures (i.e. 895 York Road) to the City for \$1. From there, the City could designate the property at its discretion without opposition, and could work with partner organizations to restore the structures as part of the Reformatory Cultural Heritage Landscape. If the City is interested in further discussions about a mutually agreeable path forward for these structures, my client is happy to meet. In the meantime, any Part IV designation should be deferred, and my client will withdraw its demolition application and take no further steps to seek any demolition pending a Council decision on acquisition.

If this property had any utility as a single-family residence, there would be a reason to restore and preserve the farmhouse. Unfortunately, with no viable after-use, no reasonable private property owner can afford to preserve and restore a building for the sake of it. Forced-entry is an ongoing problem at this property, and despite extensive fortification efforts by our clients, there is a concern that a fire or structural collapse could seriously injure or kill someone trespassing in the building. The best solution for everyone is to have the property acquired by the City and restored for public uses (i.e. a museum).

Council will recall that it recently made a decision to allow the demolition of another listed property at 797 Victoria Rd. North. That property had similar safety concerns, and had a Fire Inspection order issued against it, not dissimilar to the Property Standards Order issued against 895 York Road. It should be noted that while Council failed to consult with Heritage Guelph prior to *de-listing* the property, as noted above de-listing isn't actually a prerequisite for issuing a demolition permit. The main difference between 797 Victoria Rd. North and 895 York Road is that the property on Victoria had, until only a few years ago, been tenanted. The GRCA stopped leasing out that building for residential tenancy purposes, and it fell into disrepair and became a target for vandals. 895 York Road, on the other hand, doesn't have the option of being used for *any* practical purpose. Restoring the property with no viable after-use is not a fair ask of a private owner and sends the message that public sector owners such as the GRCA are held to a lesser standard. We implore you to defer any decision on designation, and direct staff to engage in discussions with our client regarding acquisition of the western portion of the property.

Yours Very Truly,
SMITHVALERIOTE LAW FIRM LLP
PER:



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