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May 18, 2018
 File No.: 137187.1006

By E-mail
 clerk@toronto.ca

City Council
 City Hall
 100 Queen Street West
 Toronto, ON M5H 2N2

Attention: Ms. Marilyn Toft, City Clerk Secretariat

Dear Members of City Council:

**Re: PG29.4 TOcore: Downtown Plan Official Plan Amendment
 18-32 Eastern Avenue, 1 Gilead Place & 2 Sackville Street, Toronto**

We are counsel to Alterra-Finer Corktown Ltd., owner of the property municipally known as 18-32 Eastern Avenue, 1 Gilead Place and 2 Sackville Street, generally located on the north side of Eastern Avenue, between Gilead Place and Sackville Street, (the "**Property**") and is located within the area of the proposed Downtown Plan Official Plan Amendment No. 406 (the "**TOcore OPA**") currently being considered by City Council.

For the reasons set forth in this letter and the attached Planning Opinion letter, we strongly urge that:

- (i) **Council defer consideration of the TOcore OPA;**
- (ii) **Council direct City Planning staff to conduct further consultation as it relates to, among other things, the Policy Revisions and Map Revisions in Attachments 1 and 2 of the Supplementary Staff Report, exemption and transition issues and site specific issues; and**
- (iii) **That City Planning staff report directly to City Council with any further recommendations, such report to be made available to the public as required by Section 26 of the *Planning Act*.**

Policy Concerns with the TOCore OPA

Our client and their consulting planner reviewed the TOcore OPA as well as the Supplementary Staff Report, dated May 14, 2018. A number of concerns with the TOcore OPA have arisen based on this review which are further documented in the attached Planning Opinion letter by Peter F. Smith and Sasha Lauzon of Bousfields Inc., dated May 17, 2018. In general, policies included in the TOcore OPA that are of concern to our client include:

- Introduction of new land use designations (Mixed Use Areas 1, 2, 3, & 4) which enact use restrictions, built form standards and various other supplemental regulations; and

- Prescriptive performance and built form standards which include but are not limited to; mandatory residential unit mix, type, and size; and building heights and setbacks.

Such restrictions, performance and built form standards are excessively prescriptive and restrict intensification on the Property that is otherwise targeted for growth. The imposition of these standardized regulations also limits opportunities for contextually appropriate development variations, architectural creativity that may achieve the same objectives and provides no flexibility for a wide array of irregularly shaped lots and lot conditions.

For such reasons, the TOcore OPA is inconsistent with the Provincial Policy Statement, 2014 and fails to conform to the Growth Plan for the Greater Golden Horseshoe, 2017.

Procedural Concerns with the TOCore OPA

City staff advise that that the TOcore OPA policies will be used to evaluate current and future development applications in the TOcore OPA area. This statement is vague and creates uncertainty, particularly:

- (i) because the Property is the subject of an active development application and changing the policy regime mid-process is unfair, unreasonable and will require the client to revise their application to demonstrate conformity which represents added expense, delay and the potential loss of development permissions.

We are concerned about the potential prejudices that may result by using the TOcore OPA to evaluate current and future development applications for the Property. The TOcore OPA also does not include any transition policies or protocols to recognize applications/redevelopment proposals that are in process or that should be exempted from the application of the TOcore OPA.

In the event that the Property is not specifically exempted from the TOcore OPA, transition provisions should be incorporated into the TOcore OPA so as to ensure that the Property that is the subject of a complete application should be reviewed on the basis of the planning framework which was in force at the time they were filed, and that future applications for the Property, such as site plan approval and minor variance, should be exempt from conformity with the TOcore OPA.

Statutory Notice Requirements Not Met

For an Official Plan Amendment under Section 26 of the *Planning Act*, information and material relevant to the amendment must be made publicly available at least 20 days before the Public Meeting. We note that the Supplementary Staff Report, dated May 14, 2018, which itemizes staff and PGMC's recommended amendments to the TOcore OPA, has not been the subject of a Public Meeting and has been released only seven days before the TOcore OPA is to proceed to Council for a decision, contrary to Section 26 of the *Planning Act*. Many of the proposed changes are substantive and our clients have not been given sufficient time to review and consider the impact of such changes.

Because of the excessively prescriptive performance and built form standards included in the TOcore OPA, the TOcore OPA is more regulatory than visionary and the TOcore OPA directly negates intensification in areas otherwise targeted for growth.

The City's powers to approve the TOcore OPA are powerful and extraordinary and the only safeguard against abuse of those powers is proper and meaningful consultation. Providing the public sufficient time and notice to review and comment on the City's final proposed changes to the TOcore OPA, and for those comments to be considered by Council in their decision-making is a fundamental component of meaningful consultation —for which one week is simply inadequate.

Conclusion

For the reasons expressed in this letter as well as those included in the attached Planning Opinion letter, we ask that consideration of the TOcore OPA be deferred by Council to allow the public sufficient time to consider and respond to the supplemental staff recommendations, as well as for staff to address the concerns raised by our client, which engage matters of Provincial policy and procedural fairness.

Please provide us with notice of all upcoming meetings of Council and Committees of Council at which the TOcore OPA will be considered, and we ask to be provided with notice of Council's decision and the Ministry of Municipal Affairs' decision with respect to this item.

Yours truly,



Calvin Lantz
Partner

*Certified Specialist in Municipal Law
(Land Use Planning and Development)*
CL/nla

Attachment: Planning Opinion letter, prepared by Peter F. Smith and Sasha Lauzon of Bousfields Inc., dated May 17, 2018.

cc. *Alterra-Finer Corktown Ltd.
Bousfields Inc.*



Project No. 1637

May 17, 2018

Toronto City Council
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Mr. Mayor and Members of City Council:

Re: *Item PG29.4 May 22, 2018 Council Meeting*
TOcore: Downtown Plan Official Plan Amendment
18-32 Eastern Avenue, 1 Gilead Place & 2 Sackville Street

We are the planning consultants for Alterra-Finer Corktown Ltd. with respect to its site at 18-32 Eastern Avenue, 1 Gilead Place and 2 Sackville Street, located on the north side of Eastern Avenue, between Gilead Place and Sackville Street ("the subject site").

We have reviewed the draft Downtown Plan Official Plan Amendment ("the Downtown Plan"), which was considered and amended by Planning and Growth Management Committee on May 1, 2018, as well as the Supplementary Staff Report, dated May 14, 2018. We, along with our client, have a number of concerns with the Downtown Plan, which are described below.

It is our opinion that the Downtown Plan, as currently drafted, is not consistent with the Provincial Policy Statement 2014 (the "PPS") and does not conform with the Growth Plan for the Greater Golden Horseshoe 2017 (the "Growth Plan"). More specifically, the Downtown Plan does not optimize the use of land and infrastructure, particularly as it applies to the subject site.

Site-Specific Applications

On behalf of our client, we filed an application for an Official Plan Amendment and Zoning By-law Amendment on September 1, 2016 (File: 16 216777 STE 28 OZ) in order to permit a mid-rise mixed-use building, comprised of ground floor retail and residential units above. Since the time of our original application, we have worked closely with City of Toronto Staff to come to an agreement with City staff regarding an appropriate built form. The revised proposal is for a 12-storey mixed-use building, plus mechanical penthouse. The Request for Directions Report, dated April 30, 2018, recommended that City Council authorize staff to attend the Local Planning Appeal Tribunal in support of the revised proposal, subject to a number of conditions.

Consistency and Conformity

In our opinion, the redesignation of the subject site in the Downtown Plan is not consistent with the PPS and does not conform with the Growth Plan. In this regard, the proposed redesignation of the subject site to *Mixed Use Areas 3*, and in particular the associated height restriction to generally not exceed the width of the adjacent street right-of-way, does not make use of land and infrastructure in a way that is efficient or as effective as possible. Specifically, the proposed 12-storey building, which is supported by City Staff, is taller than the adjacent right-of-way. Under the Downtown Plan, the subject site would be permitted less height/density than what is currently supported by City Staff, resulting in an underutilization of land and infrastructure, contrary to Provincial policy directions.

One of the key policy directions expressed in the PPS is to build strong communities by promoting efficient development and land use patterns. To that end, the PPS contains a number of policies that promote intensification, redevelopment and compact built form, particularly in areas well served by public transit. Policy 1.1.3.2 of the PPS supports densities and a mix of land uses which efficiently use land, resources, infrastructure and public service facilities, and which are transit-supportive where transit is planned, exists or may be developed. The efficient use of infrastructure (particularly public transit) is a key element of provincial policy (PPS Policy 1.6).

In this regard, the Downtown Plan does not take into account Provincial policy directions to optimize the use of land and infrastructure, particularly along transit and transportation corridors, and in particular within the Downtown Toronto urban growth centre and in "major transit station areas". In this regard, "optimization" means making something "as fully perfect, functional, or effective as possible".

Other Concerns

We have concerns with the Mid-Rise Building Policy 9.2.9, which sets out prescriptive numerical standards relating to height, angular planes and rear setback. Fundamentally, the imposition of numerical standards in an Official Plan has the potential to stifle creativity, to unnecessarily trigger the requirement for site-specific official plan amendments, and to create unnecessary technical debates. Such detailed numerical standards are generally inappropriate and undesirable in a policy document and are more appropriately included in a regulatory document (the zoning by-law) or a guideline.

Furthermore, we also have significant concerns with proposed Policy 6.8 applying to the King-Spadina and King-Parliament Secondary Plan Areas, which would require the greater of: the replacement of all existing non-residential gross floor area or, a minimum of 25% of the total gross floor area as non-residential uses. The policy, as currently drafted, provides no flexibility to take into account site size, site-specific conditions, or the impacts that non-residential uses may have on built form.

We also have concerns with proposed Policy 11.1, which would require, for developments containing more than 80 residential units, 15% of the units to be two-bedroom units and 10% to be three-bedroom units, and would specify minimum unit sizes of 87 square metres for the two-bedroom units and 100 square metres for the three-bedroom units. Similar to our comments above, such detailed numerical standards are inappropriate in a policy document. We believe that advancing these prescriptive measures without an in-depth review of market demand/supply and income/affordability results in

significant risks with respect to housing affordability and could potentially stifle the development of new housing in the Downtown.

Exemption/Transition Request

It is noted that, the Downtown Plan does not currently include any transition policies or protocols to recognize proposed redevelopments that are in process, and/or were the subject of applications filed prior to the adoption of the Downtown Plan. In this regard, the above-noted application for the subject site was submitted well in advance of the release of the initial draft of the Downtown Plan in August 2017 and as such, we would request that the subject site be exempted from the application of Downtown Plan.

In the event that the subject site is not specifically exempted from the Downtown Plan, it is our opinion that transition provisions should be incorporated into the Downtown Plan so as to ensure that development proposal which are the subject of "complete" applications are reviewed on the basis of the planning framework which was in force at the time they were filed. In this regard, the client, consulting team, some neighbourhood stakeholders, and City Staff have worked collaboratively for an extensive period of time to arrive at the supported built form. The Downtown Plan should not then negate this process which was well underway prior to its release.

Deferral Request

The foregoing is not a comprehensive list of all of the concerns that would arise from the application of the Downtown Plan to the subject site. If our request to exempt the subject site from the Downtown Plan is not granted, on behalf of our client, we request that the approval of the Downtown Plan be deferred by Council, at least as it applies to the subject site, so that all of the concerns can be discussed with Planning staff, and the results be reported to Council.

We appreciate your consideration of the foregoing submission. Should you require any additional information, please do not hesitate to contact one of the undersigned.

Yours very truly,

Bousfields Inc.



Peter F. Smith, B.E.S., MCIP, RPP



Sasha Lauzon, M.PL., MCIP, RPP

cc: *Jennifer Renaud, City Planning*
Robert Cooper, Alterra
Calvin Lantz, Stikeman Elliott LLP