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May 18, 2018
 File No.: 138852.1001

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
 217 Adelaide Street West, Toronto**

We are counsel to 217 Adelaide Holdings Limited (the "**client**"), owner of the property municipally known as 217 Adelaide Street West, generally located mid-block on the south side of Adelaide Street West between Duncan Street and Simcoe Street (the "**Property**"), and located within the area of the proposed Downtown Plan Official Plan Amendment No. 406 (the "**TOcore OPA**") currently being considered by City Council.

An application for zoning by-law amendment for the Property was filed with the City on June 19, 2015 (File # 15 177189 STE 20 OZ). The development proposal for the Property has been amended to facilitate the development of a 25 storey commercial building with retail, office and hotel uses. The application was appealed to the Local Planning Appeal Tribunal and awaits adjudication.

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

- (i) **Council defer consideration of the Proposed 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 of

Bousfields, dated May 18, 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 significant uncertainty, particularly because the Property is the subject of an active development application that is before LPAT and changing the policy regime mid-process is unfair, unreasonable and would require our 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 the application was 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, dated May 18, 2018.

cc. *Humboldt Properties
Bousfields Inc.*

May 18, 2018

Toronto City Council
Toronto City Hall
100 Queen Street West
Toronto, Ontario 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
217 Adelaide Street West, City of Toronto

We are the planning consultants for 217 Adelaide Holdings Limited with respect to its property at 217 Adelaide Street West, located on the south side of Adelaide, between Simcoe Street and Duncan Street (“the subject site”).

On behalf of our client, we filed a Zoning By-law Amendment application for the site on June 19, 2015 (File: 15 177189 STE 20 OZ) in order to permit a 56-storey residential building. The application was subsequently refused by City Council on December 9, 2015 and appealed to the Ontario Municipal Board, now the Local Planning Appeal Tribunal (“LPAT”) and was assigned File No. PL151030. Since the time of the appeal, the Tribunal has held a number of pre-hearing conferences and a hearing has been scheduled for April 23, 2019.

In the context of the appeal, our client has continued to meet with City staff and adjacent landowners. Following upon such meetings, our client has filed revised plans which it hopes will satisfactorily address the concerns of the City and other parties. Specifically, at the time of the July 2016 pre-hearing conference, it filed plans to permit a 47-storey non-residential (office and hotel) building. More recently, in January 2018, arising from further meetings with staff, revised plans were filed for a 25-storey office and hotel building.

On behalf of our client, 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.

Transition

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 applications for the subject site were 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 the 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 applications that are in process are reviewed on the basis of the planning framework that was in force at the time they were filed. In this regard, the client, consulting team, adjacent property owners and City Staff have worked collaboratively over an extended time period in an attempt to arrive at a satisfactory built form. The Downtown Plan should not negate this process, which was well underway prior to its release.

Consistency/Conformity with Provincial Policies

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

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".

Specifically, based on our review, it is not clear whether proposed Policy 6.11, which specifies that development in the King-Spadina Secondary Plan Area will include uses that complement and enhance the culture sector and support opportunities to grow the culture sector economy, is to be applied on an area-wide basis or a site-by-site basis.

As well, we have concerns with Policy 9.15, which restricts the maximum floorplate size to 750 square metres. Although Policy 9.16 would allow for consideration of increases in the floorplate size for commercial and institutional developments, we are concerned that the policy may be interpreted in an overly restrictive manner with respect to demonstrating "to the City's satisfaction" that shadow, wind, sky view and transition impacts can be mitigated.

Finally, we have concerns with the possible interpretation of Policy 9.26.3, which states that for tall building to tall building relationships, built form adjacencies “will require transition” to the planned context, through the application of a separation distance, orientation of the tower portions of the building, and, as appropriate, through stepping down of heights. Given the context of the subject block, it is our opinion that “transition” (which is typically related to the juxtaposition of different building scales) is not a relevant concept to be applied to “tall to tall” built form adjacencies.

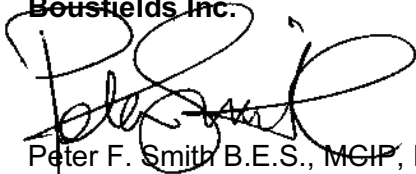
Deferral Request

The foregoing is not a comprehensive list of all the concerns that would arise from the application of the Downtown Plan to the subject site. Based on the concerns which arise from the policies outlined above which could significantly affect the future development of the subject site, 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 me.

Yours very truly,

Bousfields Inc.



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

PFS/kah:jobs

*cc: #Robert Singer, Humbold Properties
Calvin Lantz, Stikeman Elliott LLP*