

GOLDBERG GROUP LAND USE PLANNING AND DEVELOPMENT  
2098 AVENUE ROAD, TORONTO, ONTARIO M5M 4A8  
TEL: 416-322-6364 FAX: 416-932-9327



MICHAELS. GOLDBERG MCIP, RPP  
*mgoldberg@goldberggroup.ca*  
(416) 322-6364 EXT. 2100

June 26, 2018

Marilyn Toft  
Toronto City Council Secretariat  
100 Queen Street West  
12<sup>th</sup> Floor, West Tower, City Hall  
Toronto, ON  
M5H 2N2

Dear Madame:

**RE: North York Community Council Item NY21.4  
Refusal Report – Official Plan Amendment and Zoning By-law Amendment  
Applications – 5400 Yonge Street and 15 Horsham Avenue  
File No.: 18 106120 NNY 23 OZ**

We are the planning consultants for 5400 Yonge Holdings Limited, the owner of the lands located on the southwest quadrant of Yonge Street and Horsham Avenue, municipally known as 5400 Yonge Street and 15 Horsham Avenue (the “subject site”).

An application for Official Plan Amendment (OPA) and Zoning By-law Amendment (ZBA) was submitted on January 17, 2018 to facilitate the redevelopment of the subject site with a new 32-storey mixed-use building with an “L” shaped 4-storey podium. This application was deemed complete on February 21, 2018.

A report prepared by Community Planning Staff, dated May 29, 2018 (the “Refusal Report”), recommends that the proposed OPA and ZBA applications for the subject site be refused. The Refusal Report was adopted by North York Community Council on June 6, 2018 without amendments. We understand that the Refusal Report is being considered by City Council at its meeting of June 26, 2018.

The purpose to this correspondence is to provide our planning response to the issues raised in the staff report.

Initially, we note that no public consultation meeting was held prior to staff issuing their refusal report, no additional consultation occurred between planning staff and the owners, and no formal comments were received from Transportation Staff and Urban Design staff.

The Refusal Report states that the proposed development is not consistent with the Provincial Policy Statement (2014), does not conform with the Growth Plan for the Greater Golden Horseshow (2017) and does not confirm with the policies of the City of Toronto Official Plan (City OP) and the North York Secondary Plan.

Please find below our planning response to issues identified in the Refusal Report.

## **A. PROVINCIAL POLICY STATEMENT & PROVINCIAL PLANS**

The following statements from pages 16 and 17 of the Refusal Report are shown below:

1. *“The Growth Plan (2017) contains policies related to setting minimum intensification targets throughout delineated built-up areas (Section 2.2.2.4). The proposed development does not conform with Section 2.2.2.4.b) of the Growth Plan as it does not represent an appropriate scale of development.”*
2. *“The proposed development is not consistent with the PPS and does not conform to the Growth Plan because the proposed density, height, and office replacement do not meet the implementing policies and guidelines in the Official Plan, NYCSP and Tall Buildings Guidelines.”*
3. *“The proposal's increase in density has not adequately addressed these infrastructure issues and transportation strategies.”*
4. *“It also directs retail and office uses will be to locations that support active transportation and have existing or planned transit (2.2.5.3). These objectives are implemented through Official Plan policies (OPA 231) which the proposal does not meet for office replacement.”*
5. *“The PPS promotes healthy, active communities through planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity (1.5.1; 1.1.3.2.a.4). This is also achieved through planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parklands, public spaces, and open space areas (1.5.1). The proposal does not provide a public park on site and does not address opportunities to improve pedestrian connections and active transportation.”*
6. *“The PPS supports the planning for a densities and a mix of land uses, together with the identification of appropriate locations and promotion of opportunities for intensification and redevelopment in Policies 1.1.3.2 and 1.1.3.3. This needs to account for the availability of suitable existing or planned infrastructure. As well, the transportation strategies in the PPS include support for active transportation and the use of TDM measures. The proposal's increase in density has not adequately addressed these infrastructure issues and transportation strategies.”*

Section 2.2.2.4.b of the Growth Plan speaks to municipalities identifying minimum intensification targets throughout delineated built-up areas which will provide for appropriate type and scale of development and transition of built form to adjacent areas. The proposed development is located within the North York Centre, a designated Urban Growth Centre pursuant to the Growth Plan, where a significant amount of population is targeted. The minimum targets are only minimum where the Growth Plan encourages municipalities to exceed such minimums. The scale of this proposal was determined through an evaluation of the area context together with due regard to architectural and urban design measures to enable a good design on the subject site. In addition, the proposed 32-storey tower is located in an area that is evolving with many tall, mixed-use towers. In particular, two 28-storey towers are located on the east side of Yonge Street and a 30-storey tower was immediately approved southwest of the subject site (within the same block).

Section 2.2.5.3 of the Growth Plan speaks to promoting economic development by directing retail and office uses to locations that support *active transportation* and have existing or planned transit. The proposed development is replacing 70% of the existing office space and is proposing to provide retail along the Yonge Street frontage and a portion of the Horsham frontage. The combined office and retail floor space proposed amounts to a total non-residential replacement of over 96% of the existing non-residential floor space.

With respect to infrastructure and transportation issues, the OPA and ZBA applications included Functional Servicing/Stormwater Management Report and a Transportation Impact Report. Formal comments from Transportation staff were never received and comments from Development Engineering were received on March 13, 2018. As such, we have not been provided with an opportunity to respond to comments to address these topic areas. In the opinions of our co-consultants, these issues can be adequately addressed and do not represent a constraint on the density proposed.

Of particular importance in relation to consistency with the PPS and conformity with the Growth Plan is Section 4.7 of the PPS which in part states:

“...In order to protect provincial interests, planning authorities shall keep their official plans up-to-date with this Provincial Policy Statement. The policies of this Provincial Policy Statement continue to apply after adoption and approval of an official plan.”

In this regard, the NYCSP is, in our opinion, out of date and has not been updated since the approval of the current PPS and Growth Plan. Therefore, this Official Plan Amendment application must be evaluated in the context of current provincial policy direction of optimization and an “intensification first” approach to planning. To simply say that this OPA application does not conform to provincial plans because it does not conform to the City’s OP ignore current Provincial policy direction of optimization. In our opinion, to redevelop the subject site at the density prescriptions of the existing NYCSP would result in an under-utilization of the subject site, which is adverse to the policy directives of both the PPS and the Growth Plan 2017.

## **B. CITY OF TORONTO OFFICIAL PLAN – OFFICE REPLACEMENT**

The Refusal Report states that while the proposed development “meets the broad objectives for the Mixed Use Areas designation, it does not meet some of the objectives in the Official Plan regarding economic health and office replacement in the Centres.”

The Refusal Report goes on further to make the following statement on page 18 regarding OPA 231:

- *“The proposal has 1607 square metres of office space (1731.31 square metres including the office lobby). The applicant identifies the existing office space as occupying an area of 2537 square metres. While further review of these figures is required to confirm the amount of office replacement being proposed, using the applicant’s figures, the proposal provides for approximately 70% replacement. Although OPA 231’s office replacement policies are under appeal and not in full force and effect, the policies represent Council’s long-term land use planning direction. The proposal does not meet the office replacement policy objective.”*

OPA 231 proposes to require that new development on sites within a *Centre* be required to increase existing office space where a minimum of 1,000 square metres of office space already exists. As stated in our Planning Report, this policy is not currently in force since OPA 231 is under appeal and is therefore subject to change.

In addition, the proposal includes a new office space replacement of approximately 70%, which contributes to the replacement intent of the proposed policy in OPA 231.

### **C. NORTH YORK CENTRE SECONDARY PLAN**

The Refusal Report concludes that the proposed OPA and ZBA does not conform to the policies of the North York Centre Secondary Plan (“NYCSP”) and discusses several areas of non-compliance:

#### **Density**

- *“The scale of development for this Mixed Use Areas G has been established through specific density maximums in the NYCSP. The proposal is out of scale with the existing and planned context as envisioned by the Official Plan.” (Page 18)*

The subject site is located in the NYCSP and is designated *Mixed Use Area* in the City OP. As a *Mixed Use Areas* land use designation, this broader secondary plan area, including the subject site, is an important growth area of high density, high-rise, transit-supportive, mixed-use developments, including residential and employment uses. As previously mentioned, tall buildings are located immediately to the north, south, east, and west of the subject site. The proposed 32-storey mixed-use building is appropriate within the given site context. Provincial policy directs optimization of the site and infrastructure and the OPA application is intended to amend the prescriptions of the NYCSP to enable this policy object to be achieved. Otherwise, the density is being artificially constrained.

The Refusal Report goes on further to state that the NYCSP does not contemplate densities as high as 8.02 FSI.

- *“The NYCSP identifies the subject lands as an area for mixed-used development. 5400 Yonge has a permitted density up to 3.75 times the area of the lot or Floor Space Index (FSI), and up to 4.98 with density incentives. The 15 Horsham site has had much of its density removed and reallocated through previous approvals. The applications are to permit additional height to 100 metres and additional density to 8.02 times the lot area. The scale of intensification proposed is not anticipated in the NYCSP.” (Page 19)*
- *“In considering the proposed site-specific amendments to the Secondary Plan, Policy 1.14 states the City will be satisfied that the proposed amendment is minor in nature and local in scope, and that it does not materially alter provisions of the Secondary Plan dealing with boundaries, land use, density, and height or built form. The proposed FSI of 8.02 times the area of the lot represents a significant increase in density from the permitted density maximum limit of 2.6 times the lot area under current provisions and the density of 4.98 times the area of the lot, without the historical density transfers.” (Page 19)*

It is our opinion that the numerically based conclusion from the Refusal Report does not properly take into consideration the location of the subject site within an *Urban Growth Centre*, along a *Higher Order Transit* corridor, and within a *Mixed Use Area* designation, all where higher densities and tall buildings are contemplated and currently exist. The numerical calculation provided in the Refusal Report is predicated on outdated policies which this OPA application is intended to remedy. All sites need to be reviewed through this lens to ensure that the compact and optimized form is the outcome of the redevelopment and so that the subject site does not become an under-utilized site within an Urban Growth Centre.

The Refusal Report goes on further to state that the proposed FSI of 8.02 is not contemplated in the NYCSP. On Page 21, the Refusal Report states that “this proposal is not appropriate under the current framework” and that “the proposed density request is an overextension of the density permissions contemplated in the North York Secondary Plan.” This is what the OPA application is intended to remedy.

It should be emphasized that there is a very direct link between density and provincial policy that recommends the optimization of land use and infrastructure. The NYCSP has maintained its core policies since its original adoption by the former City Council of the former City of North York in September 1997. With no substantive changes to the policies, the NYCSP and its vision for the lands to which it applies has remained generally the same over the past 21 years despite Planning Act reviews and bringing into effect new Provincial (PPS and Growth Plan) and municipal policy initiatives. Since the adoption of the NYCSP, new policy initiatives include, among others: three versions of the Provincial Policy Statement (1997, 2005 and 2014); the Growth Plan (2006 and 2017); the City of Toronto Official Plan (2006); and the Metrolinx Regional Transportation Master Plan.

In our view, the density policies of the NYCSP do not accommodate sufficient growth for the subject site to properly implement the Centres policies of the City OP, or the policies of the PPS and the Growth Plan. The outcome of the current density policies is, in our opinion, an under-utilization of the subject site within an Urban Growth Centre where the greatest heights and densities are contemplated within the Growth Plan.

### **Height**

The NYCSP permits a maximum building height of 87m on the subject site whereas the proposal is for a 100 m building (106m with the mechanical penthouse). The following statements were made in the Refusal Report regarding the additional requested height:

- *“The proposed increase in height that results in a density increase is not consistent with the NYCSP. While there are considerations for site-specific amendments for height or evaluating other amendments “minor in nature and local in scope”, the plan emphasizes: “Nothing herein will be interpreted or applied so as to encourage, facilitate or justify any increase in density beyond the limits specified in Section 3 of this Secondary Plan.” (Page 19)*

It is important to note that the height limits of the NYCSP pre-date the establishment of the City's Tall Building Guidelines which establish general recommended principles to guide, among other matters, the massing of tall buildings and spatial separations between towers. Prior to the City's Tall Building Guidelines, residential buildings were permitted to be closer together and floorplates were larger. Under the Tall Building Guidelines, larger separation distances are now encouraged and a recommended maximum size of residential tower

floorplates has been reduced to a maximum of 750 sq. m. The proposed 32-storey tower element is consistent with this standard. The Tall Building Guidelines have in part influenced the more recent trend in the last decade of building residential towers taller and more slender. This is also true for the subject proposal as density is achieved in this regard with a higher building.

The Refusal Report brings up other areas of concern:

- *“The applicant does not justify the following aspects of the proposed height: the tower height in relation to the topography and local height skyline for North York Centre; the appropriateness of the proposed tower being the tallest building in the local area/block in relation to transition in heights from south to north; and the shadow impacts on the public realm of streets, parks and open spaces and adjacent Neighbourhoods. The current application demonstrates a tower shadow that intrudes deeper into Neighbourhoods than other tall buildings to the south in the early morning at both the spring and fall equinoxes.” (Page 21)*

With respect to the height transitions, there are numerous taller towers located along Yonge Street that exceed the tower heights of other buildings further south along Yonge Street. At 32 storeys the proposed tower is not an unusual height for North York Centre. This proposal also fully conforms with the 45 degree angular plane from the closest Neighbourhoods area.

In particular, the southeast corner of Yonge and Byng Street is comprised of a 30-storey building with a 31-storey building fronting onto Doris Avenue immediately southeast. Further south, on the south side of Northtown Way are two 28-storey towers. Further north along Yonge Street, there are two approved towers of 32- and 34-storeys at 5799-5915 Yonge Street. These towers exceed the existing heights of approximately 26-storeys at the southeast and southwest quadrants of Yonge and Finch Avenue.

With respect to the proposed 32-storey tower being the largest in the block, there is only one other tower in the block at the southwest quadrant. This tower has an approved height of 30-storeys or 92 metres. The southeast quadrant of the block is improved with the St. George on Yonge Anglican Church of Canada. The remaining parcels in the block are 5372-5376 Yonge Street.

The Refusal Report only makes the above vague reference to sun/shadowing being an issue on the *Neighbourhoods* designation. The subject site does not immediately abut any *Neighbourhoods* or *Apartment Neighbourhoods*. The closest area designated *Neighbourhoods* is located west of the subject site, adjacent to Beecroft Road. As discussed in our Planning Report, the proposed tower only shadows the *Neighbourhoods* on the west side of Beecroft Road between 9:18AM and 10:18AM during the spring and fall equinoxes. No shadowing of the *Neighbourhoods* occurs during the summer solstice. Based on the above, the shadow impacts are not of a magnitude that would limit the ability of the site to accommodate the proposed 32-storey building. Shadows, in our opinion, are adequately limited.

#### **D. BUILT FORM AND STREETScape**

With respect to the built form and streetscape statements in the Refusal Report, no formal comments were received from Urban Design staff. As such, no opportunity has been

provided for the owner/applicant to formally address urban design comments with a resubmission.

We disagree with the following comments from the Refusal Report:

- *“The proposal does not provide an analysis of the block context to address the site organization and built form objectives of the Official Plan, North York Centre Secondary Plan and Tall Buildings Guidelines.”* (Page 22)
- *“A comprehensive block plan needs to be prepared to deal with, among other things, park size and location as identified by PF&R, residual lots fronting on Yonge Street adjacent to the site, and pedestrian and cycling connections.”* (Page 23)

A block plan was not formally requested on the pre-application checklist and the applications were deemed complete. The application should not be criticized for not providing something that was not requested. However, the application submission included a Context Plan that outlined the immediate area context, including the whole block. This plan demonstrated setbacks between the proposed tower and adjacent towers, clearly showing that the subject site is capable of accommodating a tower and other elements of the proposal, including its site organization.

The Refusal Report goes on further to question tower setbacks. In particular it states:

- *“The applicant has identified that the proposed tower is setback 12.5 m from the south property line as per the Tall Building Guidelines. However, the 12.5 m tower setback identified at the south needs to be confirmed as the plans show that the tower does not fully meet this setback.”* (Page 23)
- *“With respect to the local context, other tower separation distances to surrounding sites and tall buildings ranging between 30-48 m have been identified by the applicant. Consideration needs to be given to whether it is appropriate to require an increased separation distance between towers in order to better fit with the local context. Other outstanding issues include potential park location, sun/shadow, wind impacts, and setback from Yonge Street.”* (Page 23)

The architectural plans clearly show a 12.5 m tower setback from the south side yard. The proposed tower complies with this guideline requirement.

Additional tower separation is not warranted in this instance since the proposed tower exceeds the minimum required tower-to-tower separation distance of 25 m. The proposed tower element has been thoughtfully placed at the northeast corner of the subject site, along Yonge Street and Horsham Avenue, addressing the corner. Shifting the tower south will restrict development opportunities for the lands immediately south while shifting the tower westwards will move it closer to those lands designated *Neighbourhoods* and thus adversely influencing shadowing.

The Refusal Report also takes issue with certain proposed setbacks and setbacks:

- *“The NYCSP sets out built form policies to provide appropriate scale and massing of buildings in relation to the specific context and edge condition of each development or redevelopment site. There are specific policies regarding how buildings relate to*

*the street and there are issues with how the proposal meets these objectives, including:*

- *Tower setback along Yonge Street to be increased to 10.0 metres from the base building for two thirds of the building frontage (NYCSP Policy 5.3.2h);*
- *Minimum building setback along Horsham between 1.5 – 3.0 metres (or greater) to accommodate grade change, canopies or other elements on private lands (NYCSP Policy 5.3.5.a); and*
- *Tower setback on Horsham Avenue and Canterbury Place to be at least 3 m where the building height exceeds 12 metres (NYCSP Policy 5.3.5.b)."*  
(Page 23)

The proposed development generally meets these setback requirements. While the tower is setback 2.7 m from the base, the tower will be setback 10m from the Yonge Street frontage. In addition, the base building along Horsham Avenue provides for a setback between 0.3m and 2.6m while the tower is setback 2.18m from the base building.

The Refusal Report also makes reference to Reimagining Yonge Street, a Municipal Class Environmental Assessment Study which is currently under review and subject to change. Any requirements for a planted median along Yonge Street can be accommodated and should not be cited as a reason to recommend refusal of the proposal given the lack of opportunity provided for the owner/applicant to respond to these urban design comments.

#### **E. PARKLAND DEDICATION**

The Refusal Report makes several references to a requested parkland dedication on the subject site not being fulfilled. Specifically the Refusal Report states:

- *"The NYCSP policies on Parks and Open Space recognize that additional parkland and open space are needed to serve the employment and residential growth provided for by the Secondary Plan (6.1.b). The NYCSP parks and open space plan is conceptual in nature in that the final determination of parks, open space and recreational needs will be made as development proceeds. Parks staff have determined that parkland dedication is the preferred implementation strategy for this site (6.3.d.iii). The proposal does not provide parkland dedication and instead proposes a privately owned publicly-accessible space (POPS)." (Page 19)*
- *"The applicant is required to satisfy the parkland dedication requirement through an on-site dedication. The park is to have frontage on Horsham Avenue." (Page 24)*

City staff are requesting an on-site parkland dedication of 324 square metres (3,487 sq. ft.) at the corner of Canterbury Place and Horsham Avenue. In order to provide an underground garage that can accommodate the proposed 269 vehicle parking spaces, the entire area of the subject site below grade is required. As a result, the owner is proposing a POPS in the same location parkland is being requested by staff. The POPS will have a total area of 338 square metres (3,638 sq. ft.), or 14 square metres (150 sq. ft.) larger than what City staff are requesting. The proposed POPS area is comprised of landscaped open space and occupies the length of frontage along Canterbury Place, exclusive of the proposed rear driveway. The POPS includes both softscape and hardscape landscaping comprised of a grassy area, a



play/exercise area, tree plantings along the Canterbury frontage, and bench seating to promote passive activity. The POPS also includes an area of dense tree plantings.

We request that discussions continue about whether the outright parkland dedication be required, whether a POPS can alternatively be provided, or, whether a stratified park can be provided to enable the parking garage to be located beneath the park area.

The proposed POPS will function exactly like a public park but will allow for a better below grade parking garage layout and maintenance work to be carried out on a regular basis by the future condominium corporation rather than the City of Toronto.

#### **F. COMMUNITY SERVICES AND FACILITIES ASSESSMENT**

With respect to comments regarding the Community Services and Facilities Study ("CSFS"), we did not receive any formal comments from the City Planning until the Refusal Report was issued on May 29, 2018.

The comments received in the Refusal Report cannot be properly addressed given the inadequate time provided prior to the City Council meeting on June 26, 2018. While additional information can easily be provided regarding social services in the area, use of the Douglas Snow Aquatic Centre, and the status of future improvements at the North York Centre Library, we have not been provided with an opportunity to formally address these comments. In particular, it should be noted that the Refusal Report makes reference to a lack of information regarding the ongoing renovation at the North York Centre Library. Our CSFS clearly makes reference to the extensive ongoing renovation and provides details on the new upgrades to the library.

With respect to providing additional community services or Section 37 contribution, such discussion would ordinarily take place once the built form issues have been resolved. To date, there have been no discussions with staff or the local Councillor regarding Section 37 contributions.

#### **G. SERVICING AND INFRASTRUCTURE CAPACITY**

With respect to servicing and infrastructure capacity issues, the Refusal Report notes that the applicants engineering consultants have made errors in their calculations.

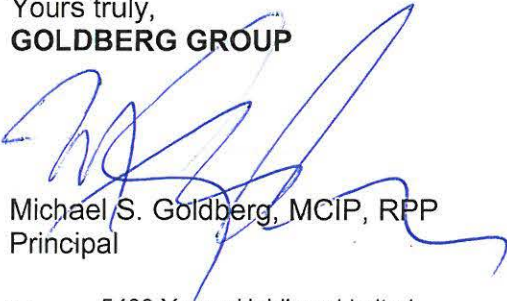
We received the comments from Development Engineering (dated March 12, 2018) on March 13, 2018. At that time, we were not aware that City planning staff would be preparing a Refusal Report and thus have not had the opportunity to respond to comments from Development Engineering accordingly.

#### **H. TRANSPORTATION AND PARKING**

Formal comments from the City's Transportation Department were never received. Any issues raised in the Refusal Report were previously not communicated to the owner/applicant and therefore no opportunity to respond to these comments was provided.

Thank you for considering our response comments to the Refusal Report.

Yours truly,  
**GOLDBERG GROUP**



Michael S. Goldberg, MCIP, RPP  
Principal

cc. 5400 Yonge Holdings Limited