

June 6, 2018

Our File No.: 180156

Via Email

Planning & Growth Management Committee
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Nancy Martins, Secretariat (pgmc@toronto.ca)

Dear Sirs/Mesdames:

Re: Item PG30.4 – Midtown in Focus

We are solicitors for the owners of the property known municipally as 2128 Yonge Street (the “**Property**”), who has an active redevelopment application in respect of the Property. This letter is intended to supplement the general letter from the undersigned to Planning and Growth Management Committee and to provide more detailed comments regarding the draft Official Plan Amendment (the “**Draft OPA**”) as it would apply to the Property.

Comments

1. Height/Density

Our client’s primary concern is that the Draft OPA does not appropriately recognize the intensification potential of the Property. The Draft OPA would assign heights (in storeys) to various properties within the boundaries of the Draft OPA, with a height of 8-storeys assigned to the Property. Our client has been provided with no supporting material or justification for this proposed height, which does not appropriately implement the in-force policy framework at the Provincial and City levels, both of which strongly support the intensification of the Property, or recognize the Property’s excellent proximity to higher-order transit.

We note that the area identified on Map 21-2 as a “Core” and labelled as “Yonge-Eglinton Crossroads” would be extended south of Soudan Avenue on the east side of Yonge Street opposite the Property, with corresponding heights assigned for this block. Further, this opposite block would be designated as “Mixed Use Areas A”, while the Property would be designated as “Mixed Use Areas C”. Our client submits that the Property should receive similar treatment, meaning that it should be included within the Core area labelled as “Yonge-Eglinton Crossroads” and designated as “Mixed Use Areas A”.

2. Public Benefits vs. Section 37

The Draft OPA contains new policies regarding “public benefits” that have an unclear relationship with the current Official Plan policies regarding potential Section 37 contributions. It would appear that Section 9.4 is intended to institute a new policy approach to Section 37, but this is not clear on the face of these policies. Further, the opening language of Policy 9.4.1 would relate the provision of “specified facilities, services and matters” to increased heights and/or densities provided for by the Draft OPA, when Section 37 is a matter to be addressed through zoning by-law amendments.

Our client is also concerned with the new policy approach, which is not clear or predictable in the policies as currently proposed. The Draft OPA would appear to monetize additional density for the City through a cash payment equal to 25 percent of the “market value of the gross floor area above the density identified”. Leaving aside a policy justification for a cash payment based on 25% of the market value, this section provides no additional guidance on how to calculate market value except to indicate this “refers to the land value of density”. Moreover, this would suggest that the nexus for determining public benefits is not based on the potential impact of the increased density but only on the monetary value of that density.

Our understanding is that a similar policy was proposed for the Downtown Secondary Plan, but was removed from the final draft. Instead, City Council has directed a study to consider an appropriate approach to Section 37 policy that would provide clarity and consistency related to increases in height and density in calculating Section 37 community benefit contributions.

3. Other Proposed Standards

Our client has specific comments in respect of other proposed policies:

- Policies 2.5.4 and 2.5.7 should be modified to allow flexibility in the provision of office, institutional and/or cultural uses in proposed developments that might technically constitute a “tall building” but cannot reasonably accommodate the stringent minimum requirements for such uses.
- Policy 3.3.25 would require the provision of privately owned publicly-accessible spaces (POPs) through the development process. POPS should not be required, but should be considered on a site-specific basis.
- Policy 5.3.45 should be modified to allow flexibility in the provision of separation distances in proposed developments that might technically constitute a “tall building” but do not warrant the full extent of the required tower separation distances.

4. Lack of Transition

The lack of transition in the Draft OPA is concerning given the stated intention of staff to seek approval of the Draft OPA pursuant to Section 26 of the *Planning Act*. (Our other correspondence provides comments regarding this inappropriate use of Section 26.)

We trust that appropriate transition policies will be advanced that recognize the well-established legal principle that an application should be evaluated pursuant to the approved policy regime in place at the time the application is filed.

Please also accept this letter as our client's specific request for notice regarding any decision made in respect of this matter as it may related to the Property.

Yours truly,

Goodmans LLP



David Bronskill

DJB/

cc: Clients