

**M. VIRGINIA MACLEAN, Q.C.**  
**Barrister & Solicitor**



Certified Specialist: Municipal Law - Local Government/  
 Land Use Planning and Development Law

233 Robinson Street  
 Oakville, Ontario L6J 1G5

Tel: 416-365-1998

Fax: 1-800-285-0410

Email: [virginia@virginiamaclean.com](mailto:virginia@virginiamaclean.com)

Website: [www.virginiamaclean.com](http://www.virginiamaclean.com)

City Clerk ,Attention Yvonne Davies  
 Administrator, Scarborough Community Council  
 Scarborough Civic Centre  
 150 Borough Drive  
 Toronto, On M1P 4N7

June 13, 2013

CITY CLERK'S OFFICE  
 SECRETARIAT SECTION  
 2013 JUN 13 P 12:46

BY FAX

Dear Ms. Davies:

Re: City Initiated Official Plan Amendment Application No 12 165924 ESC 42 OZ- Meeting June 18,2013 Scarborough Community Council Morningside Avenue and McNicoll Avenue

This letter is written on behalf of my client Morgate Developments Inc the owner of the land which is the subject of the above described City initiated Official Plan Amendment to redesignate from "Neighbourhoods" to "Employment Areas".

Neither my client nor I will able to attend the public meeting on June 18 .In accordance with the *Planning Act* we would like to submit the following comments on the proposed amendment:

- When this matter first went to the Community Consultation meeting on December 18, 2012 written comments were submitted by Mi-Ko Urban Consulting Inc . Similar written comments were also submitted by the same planning consultant on April 8,2013 .I support and adopt those comments on behalf of my client [ copies are attached hereto].
- The fact that there is a proposed amendment is recognition that the Official Plan designates the lands "Neighbourhoods". My client's parcel is the only parcel affected by the proposed amendment .It was purchased knowing and relying on this designation. The City has not demonstrated a need to proceed with this amendment at this time. It would be both fair and equitable to the owner if the decision on this proposal was deferred to enable the owner a full opportunity to explore all available planning options for development. If the proposed amendment proceeds, the only remedy would be an appeal to the Ontario Municipal Board.

It is my clients sincere desire to avoid an appeal and work with the City's staff.

Yours Very Truly

A handwritten signature in black ink, appearing to read 'M. MacLean', followed by a horizontal line extending to the right.

M. Virginia MacLean, Q.C.L.S.M.

**Mi-Ko Urban Consulting Inc.**  
**16 High Street,**  
**Etobicoke, Ontario,**  
**M8Y 3N8**  
**Tel: (416)230-6935**  
**Fax: (416)253-6569**  
**Email: mikourban@rogers.com**

*By Email*

To: The Council of the City of Toronto  
c/o The City Clerk's Office  
The City of Toronto  
150 Borough Drive,  
Scarborough, Ont.  
M1P 4N7

December 18, 2012

Re: The Southwest Corner of Morningside Avenue and McNicoll Avenue, Toronto  
Proposed City-Initiated Official Plan Amendment  
City File # 12 165924 ESC 42 OZ

Dear Sir/Mesdames;

I am writing in regards to the above proposed amendment on behalf of my client, Morgate Developments Inc. [Morgate], and pursuant to Section 17(24) of the Planning Act, R.S.O. 1990, as amended. Morgate is the owners of the above Lands that are the subject of the amendment.

The Lands is located at the southwest corner of Morningside Avenue and McNicoll Avenue, in the former municipality of Scarborough. It has a lot area of 0.91 ha (2.25 Acres) of land.

**Official Plans:**

*In the City of Toronto's Official Plan [TOP], there are eight Land Use Designations identified, Neighbourhoods; Apartment Neighbourhoods; Parks and Open Space Areas; Utility Corridors; Mixed Use Areas; Employment Areas; Regeneration Areas; and Institutional Areas. The Lands are designated as 'Neighbourhood'.*

*In the Chapter Six Morningside Height Secondary Plan [MHSP], there are four Land Use designations, Neighbourhoods; Employment Areas; Parks and Open Space Areas; Utility Corridors; and Schools. The Plan's land use map, Map 3-1, notes three land use designations, Site and Area Specific Policies; Parks and Open Space Areas; and Neighbourhood Area 'A'. The Lands are in neither of these designations. In addition, the Map does identify the Employment Areas. As such, it is unclear whether or not the lands are designated 'Employment'.*

**Specific Policies:**

**4.1 Neighbourhoods – TOP:**

The intended uses of this designation are primarily for a full range of residential within lower scale buildings. Parks, schools, local institutions; and small-scale stores and shops serving the needs of area residents are also permitted.

**5.6.6. Interpretation – TOP:**

The policies of this Plan apply to areas subject to the Secondary Plans contained in Chapter Six, except in the case of a conflict, the Secondary Plan policy will prevail.

**1.2.2.4 Employment Areas Policy - MHSP:**

The policy identifies the 'lands at the southwest and southeast quadrants of the Morningside Avenue and Finch Avenue East extensions are intended to develop with a wide range of commercial facilities. The maximum site area for the southwest quadrant will be approximately 4 hectares, and for the southeast quadrant, approximately 2 hectares.'

It further identifies that a '1 hectare of land area within the Employment Areas designation, north of the Hydro One R.O.W. is to provide location convenience retail, personal service and professional office facilities'.

However, the Map does not indicate the Employment Areas. Further, along the Hydro One R.O.W. are several parcels of land to which this policy could apply.

**Conclusion:**

Upon the review of the Official Plan and the Secondary Plan and their respective policies, my opinion is as follows:

1. In the Official Plan, the Lands are clearly designated as "Neighbourhood".

In the Chapter Six Secondary Plan, Morningside Heights Secondary Plan, the Lands are not clearly designated.

As such, there is no conflict between the two plans. Where there is no conflict, the Official Plan policies would stand.

2. Notwithstanding the above, I recognize the City's right to amend a Plan within its

jurisdiction. However, there has to be rational reason which is supported by technical studies which would have included but limiting to a "Commercial Needs Study". In addition, there should have been detailed discussions with the affected property owners. The City has provided neither.

This amendment is without the consent of the owners. At this time, they do not want the development rights of their lands to be impeded or diminished. In addition, the City has not provided any rational reason for the amendment. As such, it is my opinion that this amendment is premature.

In closing, I would like to thank you for the opportunity to address my client's concerns in regards to the above. Please keep me apprise of any further developments in this matter.

Thank you.

Mi-Ko Urban Consulting Inc.

Peter Chee, R.P.P, M.C.I.P

Attachments:

1. Excerpts of City of Toronto Official Plan
2. Morningside Heights Secondary Plan

c.c. Morgate  
c.c. Sylvia Mullastz, Planner  
c.c. Renzo Belluz, Bianchi Presta LLP

**Mi-Ko Urban Consulting Inc.**  
**16 High Street,**  
**Etobicoke, Ontario,**  
**M8Y 3N8**  
**Tel: (416)230-6935**  
**Fax: (416)253-6569**  
**Email: mikourban@rogers.com**

*By Email*

April 8, 2013

To: The Council of the City of Toronto  
c/o The City Clerk's Office  
The City of Toronto  
150 Borough Drive,  
Scarborough, Ont.  
M1P 4N7

Re: The Southwest Corner of Morningside Avenue and McNicoll Avenue, Toronto  
Proposed City-Initiated Official Plan Amendment  
City File # 12 165924 ESC 42 OZ

Dear Sir/Mesdames;

I am writing on behalf of Morgate Developments Inc. [Morgate], the owners of the lands subject to the above amendment, to further my letter of December 18, 2012, and pursuant to Section 17(24) of the Planning Act, R.S.O. 1990, as amended.

Upon the review of the current Land Use Map 22 of the City of Toronto's Official Plan [TOP], dated December 2010, these lands are designated Neighbourhood. Further review of the Plan has indicated that the following:

1. Within the **Neighbourhood Designation**, a range of uses which includes a residential uses as well as 'low scale local institutions' and 'small-scale retail uses' [4.1 TOP]
2. The **Employment Areas** are "places of business and economic activity. Uses that support this function consist of: offices, utilities, media facilities, parks, hotels, *retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve the area business and workers*". [4.6 TOP]

Upon the review of the Land Use Plan Map 3-1 of the Morningside Heights Community Secondary Plan, dated June 2006, these lands are not designated.

Upon the review of the zoning bylaw, the Lands are zoned NC (Neighbourhood Commercial) and BP (Business Park).

As such, it is my opinion that the proposed amendment from the current Neighbourhood Designation to Employment Areas would counter Staff's rationale of providing a transition between the existing Tapscott Employment to the west and the existing Morningside residential development to the east. Whereas, the current Neighbourhood Designation allows for the commercial uses that Staff has identified in their report and the zoning bylaw.

Further, if and when my clients wish for a land use change that is counter to the existing zoning bylaw, they will have to make the necessary development applications and provide the required justification in support of such changes. Staff, as of to date, has not provided any technical reports in support of such land use change. As such, this amendment is premature.

In closing, I would like to thank you for the opportunity to address my client's concerns in regards to the above. Please keep me apprised of Council's decision on the matter.

Thank you.

Mi-Ko Urban Consulting Inc.



Peter Chee, R.P.P., M.C.L.P

Attachments:

1. City of Toronto Official Plan Land Use Map 22
2. Morningside Heights Secondary Plan Land Use Plan 3-1

c.c. Morgate  
c.c. Sylvia Mullaste, Planner  
c.c. Renzo Belluz, Bianchi Presta LLP