

Marilyn Toft - RE: Rezoning Application for 43 Gerrard Street West

TE32.12.7

**From:** Russ Scorgie <[REDACTED]>  
**To:** "hmadi@toronto.ca" <hmadi@toronto.ca>, "jkeesma@toronto.ca" <jkeesma@tor...  
**Date:** 05/21/2014 11:56 AM  
**Subject:** RE: Rezoning Application for 43 Gerrard Street West  
**Attachments:** 43 Gerrard Rezoning - Follow-up - Rezoning 20 May 2014.pdf

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Further to our previous letter and our presentation at the Toronto and East York Community Council Meeting held on May 13, 2014, attached is a follow-up letter on this matter.

As you will recall, we represent the residents of MTCC 901 and 907, known as The Liberties, located immediately to the north of the site. We remain very concerned about the proposed rezoning application for 43, 49 and 51 Gerrard Street West & 695 Bay Street. We strongly believe that the City's own Guidelines for Tall Buildings are being circumvented. This is not only poor planning by the City, it is also a poor precedent in terms of appropriate utilization of the City's own Guidelines that could well have significant impacts elsewhere.

We had been promised two years ago that prior to a revised proposal being presented, we would have the opportunity to discuss the matters with the proponent. We were also lead to believe by the City's Planning Staff that there would be a further public presentation for discussion prior to the preparation of a zoning By-law. Neither of these occurred.

As matters stand, we cannot support the proposed By-law and will continue to oppose it on Planning grounds. We acknowledge that a redevelopment of this site is inevitable. We could support a proposal that substantially complies with the Guidelines. What is being proposed is not appropriate.

We plan to escalate our opposition and have strong support from residents of The Liberties. There is interest from the press, who would like to discuss this matter with us. One interview is planned for early next week. Before doing so, we felt it important to give you the opportunity to discuss this further with us.

Yours truly,

Russell Scorgie  
 for the Urban Issues Resident Committee, MTCC 901 & 907

20 May 2014

44 Gerrard Street West, 1806 & 1010  
Toronto, ON M5G 2K2

Gregg Lintern, Director, Community Planning, Toronto and East York District  
City Planning Division  
100 Queen Street West, Floor 18 E  
Toronto, Ontario M5H 2N2

**Re.: Planning Application for: 43, 49 & 51 Gerrard Street West and 695 Bay Street**  
**Reference No.: 11 268259 27 OZ**

Dear Mr. Lintern,

We represent the residents of MTCC 901 and MTCC 907, located at 44 Gerrard Street West and 711 & 717 Bay Street, known as The Liberties. The Liberties consists of 544 units, including many families. We have a major frontage on Gerrard Street, immediately north of this proposed development, facing its most dominant side and its effects. We will bear the brunt of any negative impacts.

This letter is a follow-up to our letter to you dated 12 May 2012 in which we outlined our concerns with respect to this application. The draft By-law was presented at the Toronto and East York Community Council on 13 May 2014 and passed with amendments.

We were given a revised version of the proposed By-law at the meeting, presumably incorporating wording from the legal staff, but without some of the amendments. To date, we do not have a copy of the proposed amended By-law. We request a copy of the current amended version of the By-law and an indication of when it is intended to go before City Council for final approval.

While there are other concerns, as outlined in our previous correspondence, our main concerns continue to be:

1. Overall building height and associated shadow and related impacts on College Park and The Liberties;
2. Tower separation distance from the adjacent Eaton Chelsea Hotel tower to the east; and
3. Tower floor plate size and shape.

These aspects in the proposed current By-law do not conform to the most fundamental standards of the City of Toronto's "Tall Buildings Design Guidelines (May 2013)" and "Downtown Tall Buildings: Vision and Supplementary Design Guidelines (May 2013)" in very important and significant ways. We will refer to these two documents as the "Guidelines".

The rationales provided by the developer and city staff in support of circumventing the City's Guidelines in this regard are weak and inappropriate.

## 1. HEIGHT OF THE BUILDING

A more detailed rationale was provided in our previous letter.

While the By-law identifies a maximum of 43 stories, the actual maximum height of the building is specified in *meters above grade* and is identified on Map 2 of the proposed By-law. There is a major inconsistency. The 43 stories is perhaps an important constraint. However, two buildings of 43 storeys can vary radically in actual height.

The Guidelines specify a *height in meters* as the major determining factor. The number of stories is important, but secondary to the actual height. The specific height ranges in the Guidelines are given *in meters* and the corresponding approximate number of stories are bracketed. This is the intent of the Guidelines. It is also common sense.

The problem is that the height specified on Map 2 of the proposed By-law is 138.65 meters and 135.65 meters. The Planning Staff's final report arrived at a recommended maximum building height of 121 meters. This is close to an appropriate value as a blend of the maximums for Gerrard Street and Bay Street.

In addition, the Guidelines allow for an additional *maximum* of 5 meters above the *maximum building height* for a mechanical penthouse. The *maximum height* in the proposed By-law on Map 2 should therefore be **121 m + 5 m = 126 m**.

With a proposed maximum height of 138.65 meters, there is an unexplained **additional 12.65** meters of height allowed in the By-law that is above what is recommended by the Guidelines. This is also not consistent with the Planning Staff's own determinations and conclusions of 121 meters in its Final Report of April 25, 2014. Even at 43 stories, the current allowable height is potentially the same height as a 47-storey building.

The maximum height of the building should be 121 meters and the building with penthouse should be 126 meters. These are the values that should be identified on Map 2 of the proposed By-law.

In our earlier letter, we outlined other related issues that we believe have not been appropriately addressed. These include the shadow impacts on College Park and aspects of the design that unnecessarily compound rather than mitigate that problem including the sloped roof design and the massing of the mechanical penthouse.

The intent of the Guidelines are being circumvented in the proposed By-law.

## 2. TOWER SEPARATION DISTANCE FROM ADJOINING TOWER TO THE EAST

The Guidelines are clear that *the minimum* separations space between towers should be 25 meters. The adjacent Eaton Chelsea Hotel is also a tower. There is no indication that the hotel will be redeveloped in the near future, thereby enabling part of the required 25 meter separation required, as suggested by the proponent.

In fact, the Guidelines indicate that because the proposed new tower would have of considerable height, the separation space should be *greater than 25 meters*.

While the west wall of the hotel is a blank wall, the reason and need for the 25 meters separation is also for the benefit of neighbours and the community at large, as identified in the Guidelines.

There is no good planning reason why the 25 meters cannot be achieved. The site is not constrained, demonstrated by the significant tower floor size.

The intent of the Guidelines are being circumvented in the proposed By-law.

## 3. TOWER FLOOR PLATE SIZE AND SHAPE

The tower floor plate size above the podium is excessive. It may be that the amendment placed some minor restriction on the size. We understood this to be 1,184 m<sup>2</sup>.

For building towers above the podium level, the City's Guidelines are very clear.

The *maximum floor plate size is to be 750 m<sup>2</sup> or less*.

This application indicates an average floor plate above podium of 1,184 m<sup>2</sup>.

This is **58% greater** than the City's recommended maximum.

There is no good planning reason why the *maximum* size should not apply to this application.

The site specific zoning currently in place is for office uses. This has been used as rationale for a larger floor plate. However, office use is entirely different and does require a larger floor plate to be viable. Residential developments do not.

The existing By-law is for an entirely different land use. It should not influence or be a factor in the rezoning consideration for a residential rezoning. The two are not directly comparable.

The intent of the Guidelines are being circumvented in the proposed By-law.

## ADDITIONAL ISSUES

A number of other issues were raised in our previous letter. These remain. Following are some additional issues.

It would appear that much has been made about the "family" aspects of this proposal. While the unit mix is one that might promote this, it is not a rationale to circumvent other planning issues. The applicant has also floated the idea that the building *might* consist of rental units. However, there is

no obligation in the By-law for this. In addition, the aspects currently within the By-law that appear to promote family units are relatively easily change in future, by way of a minor variance.

Even so, these combined considerations do not constitute proper justification for the proposed massing of the development under consideration.

Furthermore, the negative consequences of the excessive aspects of this proposal would likely have a negative impact on existing family sized units already in adjacent buildings, including The Liberties.

The site is not constrained in any way that would prevent the applicant from achieving its proposed intentions while still adhering to all of the requirements of the Guidelines.

#### IMPACTS

The excesses of each of the above, permitted in this By-law as it currently stands, will have a negative and detriment impact on the residents of The Liberties, the immediate neighbourhood and public usage of the area and College Park.

**Negative impacts include a significant excess of shade and shadow, loss of sky view, loss of sunlight penetration and increased wind-tunnel effect at street level. All of these "rights" are outlined in the Guidelines and are a major reason for its existence. The negative impacts imposed on neighbours and the public are in excess of what should be expected by virtue of the City's own Guidelines.**

These negative impacts will diminish the liveability of this area of the City, one of many with similar initiatives. The Guidelines were intended to protect and prevent, while enabling appropriate, not excessive, density and intensification.

#### RIGHT TO MAXIMUM HEIGHT

While the proponent has agreed to a significant and important contribution to very worthwhile city and local initiatives as "community benefits" per the City's "Implementation Guidelines for Section 37 of the Planning Act and Protocol for Negotiating Section 37 Community Benefits", these "community benefits" were not intended to permit applicants to exceed Guideline MAXIMUMS.

Rather, the intent of the Guidelines is that only WITH appropriate "community benefits" AND having met all other aspects of the Guidelines (building tower separation of 25 m+ and tower floor plate not exceeding 750 m<sup>2</sup>) AND having "*performed to the highest architectural and built form design standards*" SHOULD the "*upper height limit stated as part of any height range*" be considered.

In other words, the upper maximum height of 126 meters (which should be on Map 2) should only be considered in this By-law *if* the separation distance is at least 25 meters and the floor plate is no more than 750 m<sup>2</sup>.

An upper limit of 138.65 meters in height, with a tower separation of 17meters and a floor plate of 1,184 m<sup>2</sup>, does not meet the standards. The height should be considerably less than 126 meters.

## SUMMARY

We would have expected a better application of the City's own Guidelines. We feel strongly that the City's Planning Staff and Councillors have allowed circumvention of the Guidelines intended to protect neighbours and the public while allowing appropriately controlled development in keeping with larger goals and policies.

We have been let down. We hope that some further modifications can be made to correct the situation prior to final approval by the City.

We would also like to note that we were promised a meeting with the developer and city planning staff two years ago, before a revised proposal was brought forward. This did not happen. We would appreciate this opportunity prior to consideration of the proposed By-law for council approval. We would also appreciate an opportunity to review the submitted shadow studies that have not been made public.

Yours truly,

Russell Scorgie, Architect/Consultant  
*for Urban Issues Resident Committee, MTCC 901 & 907*

Blair Scorgie, Urban Planner/Urban Designer

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