

TE32.12.8

03 June 2014

Urban Issues Resident Committee, MTCC 901 & 907

44 Gerrard Street West

Toronto, ON M5G 2K2

Please submit this letter to all Councillors

Re.: Toronto City Council Meeting, 10 June 2014

Agenda Item # 2014.TE32.12

Planning Application for: 43, 49 & 51 Gerrard Street West and 695 Bay Street

Reference No.: 11 268259 27 OZ

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Dear Members of Toronto City Council,

We represent the *Urban Issues Resident Committee, MTCC 901 & 907*, located at 44 Gerrard Street West and 711 & 717 Bay Street, known as The Liberties. We were appointed by the Boards of those corporations. The Liberties is located directly across Gerrard Street and immediately north of the site of this Rezoning Application.

We are also owners and residents of The Liberties and are design professionals very familiar with rezoning and development matters.

Our objections to this proposed Rezoning By-law are as follows:

1. It does not conform to the City of Toronto's own Tall Building Design Guidelines (May 2013) and Downtown Tall Buildings: Vision and Supplementary Guidelines (May 2013) in some very basic and key ways. There are also some errors in the proposed By-law in this regard.
2. We were not given the opportunity to address our concerns more fully and directly, as previously promised by the City's Planning staff and the planner for the Applicant, despite having submitted concerns as far back as January 2011 and on several subsequent occasions.

Our main concerns, as outlined in previous correspondences to the City's Planning staff, are:

1. Overall building height and associated shadow and related impacts on College Park and on 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, as defined in the proposed 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)". We will refer to these two documents as the "Guidelines".

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

1. HEIGHT OF THE BUILDING

Per the Guidelines, the range of MAXIMUM heights of any development should be ultimately defined in METERS.*

The Final Report of planning staff indicates the following:

- "The proposed height of the building is 43-storey (121 m)...Staff find the proposed height (121 m) to be appropriate"
- We agree with the 121 m. It was arrived at appropriately, using a real blending of the maximum heights in the same proportion as the frontage on each street, 69% on Gerrard St. and 31% on Bay St.
 $[69\% \times 107 \text{ m}] + [31\% \times 152 \text{ m}] = 121 \text{ m}.$
- However, when coming up with 43 stories, the same appropriate approach was not used. That value is weighted more than half to the higher Bay St. values. It is not proportional. An appropriate proportioning would result in a maximum of 40 storeys.
 $[69\% \times 35 \text{ st.}] + [31\% \times 50 \text{ st.}] = 40 \text{ st.}$
- In the Guidelines, it is a DUAL limitation, with the height in METERS governing over the number of storeys, not vice versa.*
- Maximum height should more accurately be **121 m. (40 storeys)**.
- BOTH LIMITATIONS SHOULD BE REFLECTED IN THE BY-LAW.

** Note: In the Guidelines, the heights given in meters are the primary criteria and limitation. The number of storeys are bracketed and secondary. All other distance measurements are given in meters. Actual height in storeys is too imprecise and variable for this purpose.*

The first ERROR is in the blended calculation of the number of storeys. It should be 40 storeys.

The second ERROR occurs in the actual By-law, on MAP 2, where the 121 meter limit has NOT been carried forward from the Final Report.

The Guidelines allow for a maximum addition of 5 meters for a mechanical penthouse.
The MAXIMUM HEIGHT on Map 2 should therefore be 126 meters. (121 m + 5 m).

On Map 2 it is shown as 138.65 m and 135.65 m. This is an excess of 12.65 meters more than the Guidelines and Staff's FINAL REPORT indicate. There is no rationale or explanation for this major

variance. This is equivalent to an additional 4+ storeys in height regardless of how that height is configured.

2. TOWER SEPARATION DISTANCE FROM ADJOINING TOWER TO THE EAST

The Guidelines are clear that *the minimum* separation space between towers should be **25 meters**. The adjacent Eaton Chelsea Hotel is also a tower, a tall building. 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 Applicant.

In fact, the Guidelines indicate that because the proposed new tower would be of considerable height, the separation space should be *greater than 25 meters*. The proposed By-law indicates a separation of **17 meters** on Map 2.

Contrary to the contention of the Applicant, any as-of-rights contained in existing zoning should not be considered in the rezoning process. While the proposed 17 meter tower separation is more than in the existing zoning, the height, gross floor area and other aspects of the proposed rezoning are excessively more than in the current zoning.

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 (including The Liberties) and the community at large, as identified in the Guidelines and by the Official Plan.

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.

3. TOWER FLOOR PLATE SIZE AND SHAPE

The tower floor plate size above the podium is excessive. The plans that accompanied the application show a proposed tower floor plate of 1,184 m². However, the actual By-law would allow for a floor plate of up to 1,360.8 m².

For building towers above the podium level, the City's Guidelines are very clear. The *maximum floor plate size is to be 750 m² or less*.

This application indicates an average floor plate above podium of **1,184 m²**. This is **58% greater** than the City's recommended maximum.

The proposed zoning by-law would potentially allow a floor plate of **1,360.8 m²**. This is **81.4% greater** than the City's recommended maximum.

Because we brought forward this issue at the Toronto and East York Community Council meeting of May 13, 2014, the decision of the Community Council included a request for "the Chief Planner and Executive Director, City Planning Division to investigate the appropriate floor plate restrictions in the proposed Zoning By-law for inclusion in the Draft Zoning By-law to be submitted to City Council."

We are not aware of what recommendations were made. There is no good planning reason why the *maximum* size provided in the Guidelines should not apply to this application.
It should be 750 m².

ADDITIONAL CONSIDERATIONS

Despite the Applicant indicating the possibility of rental units, there is no obligation to do so.

The consequences of the excessive aspects of this proposal will be 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 proposed 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.

The Guidelines were intended to protect and prevent, while enabling appropriate, not excessive, density and intensification.

RIGHT TO MAXIMUM HEIGHT

While the Applicant 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 m²) 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 as determined (which should be indicated 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 m².

An upper limit of 138.65 meters in height, with a tower separation of 17 meters and a floor plate of 1,184 m², does not meet the standards. It does not even come close. Therefore, the height should rightly 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 permitting only appropriate 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. If not, then it should not be approved by City Council in its current form.

If approved as currently proposed, it will be a **poor precedent** for the application of the Guidelines, as intended, in future.

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

Yours truly,

Russell Scorgie, Architect/Consultant

Blair Scorgie, Urban Planner/Urban Designer
for the Urban Issues Resident Committee, MTCC 901 & 907