

May 13, 2015

Planning and Growth Management Committee  
City of Toronto  
100 Queen Street West  
Toronto, Ontario, M5H 2N2

**Attention: Ms. Frances Pritchard, Planning and Growth Committee Administrator**

Dear Chair and Members of the Committee:

**Re: Notice of Concern with the proposed Midtown in Focus - Official Plan Amendment No. 289 as it affects the properties identified in Schedule "A"**

**And Re: Request for Receipt of any and all future reports in respect of the proposed Midtown in Focus - Official Plan Amendment No. 289**

**And Re: Request for Notification of any meetings of Council, Committees of Council, Community Council and/or Public Meetings and/or Community Information Meetings where the proposed Midtown in Focus - Official Plan Amendment No. 289 is to be considered**

**And Re: Request for Notification of the passage of the Proposed Midtown in Focus - Official Plan Amendment No. 289**

**Planning and Growth Management Committee Item No.: PG4.2**

We are the solicitors for a number of property owners (attached as Schedule "A" to this letter) who have acquired sites which are located within the boundaries of the above-referenced official plan amendment. Many of the above noted property owners have either obtained or are in the process of obtaining final approvals in respect of applications for an Official Plan Amendment, Zoning By-law Amendment, Site Plan Approval, Committee of Adjustment approval and/or building permit approval, which properties were acquired in reliance upon the "in force" policies of the City of Toronto Official Plan. While other property owners included in our list have purchased their property, after conducting their due diligence, reviewing the various permissions contained in the "in force" policies and relied on the these policies in purchasing their property.

All of the properties in question, without the inclusion of a "grandfathering clause" to recognize pre-existing approvals and/or applications which are currently being processed, will be significantly impacted by the passage of the proposed official plan amendment. Many of the

property owners in question either had no idea that such guidelines were intended to be “codified” as part of the Official Plan given the significant time which has passed since the acquisition of such properties, with other property owners having conducted an exhaustive review of the “in force” policies, who again, relied upon those “in force” policies prior to making a significant investment into their respective properties.

The nature of the policies we have reviewed to date makes it extremely difficult to fully assess their impact based upon the vagueness of such policies in both their import and application. Nevertheless, we have attempted to provide an initial list of our client’s concerns, with our client’s sincere hope that such concerns can be fully addressed prior to Council proceeding to consider the passage of an implementing amendment. The following sets out our client’s current concerns:

1. Policies 2.16 and 2.17 require mid-block pedestrian connections including, but not limited to, those pedestrian connections identified on Map 21-5. These policies provide no certainty as to where the pedestrian connections will be specifically located, with no due consideration for the practicality of applying such policies to Sites that are not “through sites” (connecting from one street to the next), and as such, may never facilitate the completion of such proposed pedestrian connections;
2. Policies 2.18, 2.20, 2.21, 2.34 and 2.35 generally refer to providing common servicing and access between properties, reducing and eliminating shadows, requiring environmentally sustainable development, monitoring community service facilities and the provision of community benefits, among other things, which policies do not offer any understanding as to the manner in which such policies would be applied. Furthermore, such policies are vague and uncertain, which again, leads to an amendment which cannot offer any affected property owner certainty as to how such policies would be applied, more specifically:
  - a. Policy 2.18 requires access and servicing areas to be coordinated and shared between adjacent properties, with no consideration given to site specific constraints that may restrict shared access between adjacent properties. In light of this, alternate wording should be considered, such as “where appropriate coordinating and sharing access and servicing areas between properties should be encouraged”;
  - b. Policy 2.20 requires no “net new shadow” on Eglinton Park and the expanded Redpath Avenue Parkette, with no justification as to why shadows are not acceptable on parks (including the buildings or parking lots) and no specific times of year/seasons or times of the day noted in the policy. Further detail and explanation should be provided to provide clarity as to the intent of this policy;
  - c. Policy 2.21 requires new development to promote architectural excellence, environmentally sustainable and innovative design, however, it does not provide any benchmarks for so doing. Specifically, as an example, it is not clear whether the proposed amendment is intending to establish a requirement beyond the standard established in the City of Toronto Green Development Standards;

- d. Policy 2.34 proposes the ongoing monitoring of Community Service facilities, however, while one would expect such monitoring would be the responsibility of the City of Toronto, the policy does not clarify who would be responsible for such monitoring; and
  - e. Policy 2.35(a) specifically mentions non-profit licensed child care and flexible, multi-purpose community recreation and/or human services space, however, the list makes no mention of many other community facility uses that would be appropriate in the Yonge-Eglinton area, such as commercial or subsidized licensed child care. Additional clarity should be provided such as after the word “including” adding “but not limited to” to allow for a wider range of facilities to be provided as they are identified throughout the process.
3. Policy 2.23 states that City of Toronto Urban Design Guidelines will be used to inform the review and evaluation of development proposals, with specific mention to the Mid-rise and Tall Building Guidelines. In essence, this policy elevates the importance of City guidelines to give them the status of policies, without any rationale, scrutiny or public process, which specifically conflicts with the City of Toronto Official Plan that states guidelines are not part of the Official Plan unless the Plan has been specifically amended to include them. This policy should be deleted, as no proper review or justification has been provided to support the proposed amendment.
4. Policy 2.27 identifies sites within the “Soudan Avenue Priority Park Area” as a location for a large, contiguous park space, with no consideration or mention of active development applications which are “in the queue”, or consideration of the underlying Official Plan policies that designate the lands “Apartment Neighbourhoods”, or justification as to why this is an appropriate location for a large, contiguous park space.
5. Policy 2.30 identifies a number of parkland priority improvements, but does not specifically identify these priorities as being eligible to be substituted for Parkland Dedication or density incentives. The parkland priority improvement, without being counted towards on-site Parkland Dedication or density incentives, has the potential to “expropriate” a portion of our clients’ sites, without any compensation whatsoever.
6. Map 21-5 identifies a number of “conceptual new streets”, which appears to conflict with the OPA 231 policy requiring the maintenance of office space as the location of at least one of the new roads running through an existing office building. Conceptual New Streets are also being proposed without any supporting justification or policy text outlining how this will be implemented, such as through density incentives/transfers. In light of this, similar to policy 2.30, it has the potential to “expropriate” a portion of our clients’ sites, without any compensation whatsoever.
7. Policies 6.3 and 6.4 require expanded and improved open space and building setbacks. The Midtown in Focus study recommended that on through lots extending north to Roehampton Avenue from Eglinton Avenue, a sidewalk area of between 12 to 18 metres is desired. However, that same study recommended that for properties that do not

extend from Eglinton Avenue to Roehampton Avenue, a sidewalk width of 7.5 metres wide is recommended. Notwithstanding the recommendations noted in the aforementioned study, policy 6.4(b) requires a minimum of 12 metre setback from the property line on the north side of Eglinton Avenue East between Yonge Street and Mount Pleasant Road without any recognition of the reduced setback required in the event the Eglinton Avenue properties do not extend through to Roehampton Avenue.

Along the north side of Eglinton Avenue East, between Yonge Street and Redpath Avenue, there are currently only two through lots in the block, of which one is an office building and the other which is a Toronto Community Housing Corporation-owned residential apartment providing supportive housing options for senior citizens. While the office building may redevelop, it is expected that the senior's apartment building will not be redeveloped within the timeframe of the Midtown in Focus plan. Further detail and explanation should be provided to provide clarity as to the reason for applying the more restrictive requirement with respect to sidewalk setbacks when such increased requirement was not recommended in the Midtown in Focus study.

The required setback of 12 metres is at and above grade which requirement does not provide for any encroachments such as weather and / or wind protection which features would enhance the functionality of the spaces. Further detail should be included in the OPA to allow for pedestrian comfort.

Further to this above grade setback, Policy 6.4 c) will have the effect of requiring the below grade parking structure to be setback a similar to the above grade (12m) by requiring permanent space for trees which would not allow for underground parking below the trees.

8. Policy 6.5 identifies that development adjacent to Yonge Street will be setback 1.5 metres from the property line, with a greater setback requirement required to realize the Yonge Street Squares. The Yonge Street Squares are vaguely identified on Map 21-3 and give no certainty to property owners within the vicinity as to how such policies will be applied. This policy also identifies locations where east-west streets connecting to Yonge Street will be realigned when "opportunities arise", with no certainty to how such policy will be applied.
9. Policies 6.6 and 6.7 identify the "Park Street Loop" and "Midtown Greenways", requiring 7.5 metre setbacks along Broadway Avenue, Roehampton Avenue and Erskine Avenue, with 5 metre setbacks along the other Greenway streets. The policies fail to recognize existing or approved buildings, sites where applications have been submitted to the City or site-specific conditions that prevent such policies from being achieved.
10. It is critical, in proceeding with any area-wide amendment, to provide clarity and appropriate transition policies in order for such landowners to make an informed decision as to the impact of same to protect landowners who have filed applications relying on the in force policies of the Official Plan. The proposed amendment, in and of

itself, fails to address this fundamental principle, and as such, should not proceed without significant consideration of same.

11. There are no transition policies whatsoever, which in essence, render current owners with applications at various stages of the planning, site plan and permit process, unable to properly proceed with their developments with any certainty that such rights will not be adversely affected. For instance, applications which may have been filed, relying upon the "Clergy" principle which requires the "in force" policies to be applied, seem to be ignored by the new proposed amendment. Furthermore, applications for rezoning, which are either in the process of being circulated and/or finally approved with appeals and/or site plan approval pending, are again, potentially retroactively affected by the proposed amendment. Finally, even applications where the zoning is "final and binding", with site plan applications pending resolution and/or building permit applications being processed, are again, subject to an uncertain retroactive result which would have the effect of stopping those application "in their tracks".

In light of the significant efforts and resources invested by our clients in pursuing the approval of various development scenarios on the properties listed in Schedule "A", which proposed and/or approved developments have gone through an extensive due diligence period, we hereby formally request that at the very least, the draft OPA No. 289 be amended to address the above concerns before it is passed, so that our clients' current applications will not be prejudiced by the proposed new Official Plan policies.

We also formally request that the writer, as well as every registered owner listed in Schedule "A", be provided with notice of any meetings of Council, Committees of Council, Community Council or Public Meetings/Community Consultation Meetings where reports related to OPA No. 289, are to be considered. We also respectfully request that both our clients and the writer be forwarded copies of any future reports and/or proposed by-laws affecting our client's lands. Finally, we would respectfully request that both the writer and our clients be notified of the City's passage of any by-law affecting the Sites.

Should you have any questions or require any additional information, please do not hesitate to contact the writer, or Tim Williams, a planner in our office.

Yours very truly,



Adam J. Brown

cc: Property Owners Listed in Schedule 'A'

<b>Municipal Address</b>	<b>Property Owner</b>
132-142 Soudan Avenue and 11-17 Lillian Street	Lash Development Corp. and Longmarsh Estates Inc. Attn: Mr. Serge Mazzuca 10 Kodiak Cres., Suite 200 Toronto ON, M3J 3G5
1674-1684 Bayview Avenue, 701-713 Soudan Avenue and 720 Hillside Avenue East	2400047 Ontario Inc., 2400048 Ontario Inc., 2400050 Ontario Inc., 2400058 Ontario Inc., Soudan Hillside Developments Inc., Melrose Park Investments Limited and Doel Development Corporation Limited Attn: Mr. Jay Brown 38 Berwick Avenue Toronto ON, M5P 1H1
183-195 Roehampton Avenue and 139-145 Redpath Avenue	Red Roe Developments Ltd. Attn: Mr. Matt Young 1202 - 45 St Clair Ave West Toronto, ON M4V 1K9
151-177 Roehampton Avenue and 140-144 Redpath Avenue	CDF Roehampton Inc. Attn: Mr. Matt Young 1202 - 45 St Clair Ave West Toronto, ON M4V 1K9
2131 Yonge Street and 32 Hillside Avenue	2292446 Ontario Limited Attn: Mr. Peter Freed 552 Wellington Street West, Suite 1500 Toronto, ON M5V 2V5
2079-2111 Yonge Street, 12-20 Manor Road East and 1-31, 35-39 Hillside Avenue East	CSG-Yonge Manor Limited and CSG Hillside Limited Attn: Mr. Jordan Rose 100 Scarsdale Road Toronto, Ontario M3B 2R2
333 Eglinton Avenue West	Solray Investments Limited Attn: Mr. Jordan Rose and Mr. Dan Halbert 100 Scarsdale Road Toronto, Ontario M3B 2R2
2263-2285 Yonge Street, 8-10 Eglinton Avenue East and 25-31 Roehampton Avenue	NE Holdings Inc. & Penlim Investments Limited Attn: Mr. Michael Gold 30 Casimir Court Concord ON L4K 4J5
1955-1985 Yonge Street, 18-22 Millwood Road and 3 Belsize Drive	Kilbarry Holding Corp. Attn: Mr. Arnie Lash 1962 Yonge Street, Suite 200 Toronto ON M4S 1Z4

18-30 Erskine Avenue	Erskine Park Holdings Inc. Attn: Mr. Ian MacLeod 50 Confederation Parkway Concord ON, L4K 4T8
95 and 99 Broadway Avenue and 197 Redpath Avenue	Sentinel (Broadway) Holdings Inc. Attn: Mr. Ian MacLeod 50 Confederation Parkway Concord ON, L4K 4T8
85-91 Broadway Avenue and 198 Redpath Avenue	Broadway Holdings Inc. Attn: Mr. Ian MacLeod 50 Confederation Parkway Concord ON, L4K 4T8
45 and 77 Dunfield Avenue	Harold Green Ltd. and Arthur Weinstock Ltd. Attn: Mr. Marco Ventola 20 Eglinton Avenue West, Suite 1700 Toronto ON, M4R 2H1
161 and 173 Eglinton Avenue East	Eglinton Redpath Holdings Inc. and Eglinton Redpath II Holdings Inc. Attn: Mr. Jude Tersigni 4711 Yonge Street, Suite 1400 Toronto, ON M2N 7E4
90 Eglinton Avenue West	90 Eglinton West Holdings Limited Attn: Mr. Miguel Singer 369 Rimrock Road Toronto ON M3J 3G2
90 Eglinton Avenue East	90 Eglinton Avenue Holdings Limited Attn: Mr. Miguel Singer 369 Rimrock Road Toronto ON M3J 3G2
150 Eglinton Avenue East	150 Eglinton Avenue Limited Attn: Mr. Miguel Singer 369 Rimrock Road Toronto ON M3J 3G2
164 Eglinton Avenue East	164 Eglinton Holdings Limited Attn: Mr. Miguel Singer 369 Rimrock Road Toronto ON M3J 3G2
2488 and 2490 Yonge Street	2500 Yonge Street Limited Attn: Mr. Miguel Singer 369 Rimrock Road Toronto ON M3J 3G2
77 Erskine Avenue	77 Erskine Residences Corp. Attn: Mr. Eli Dadouch 1244 Caledonia Road

	Toronto, ON, M6A 2X5
55 Eglinton Avenue East	55 Eglinton Ave. E Ltd. Attn: Mr. Barry & Ian Zagdanski 2700 Dufferin Street, Unit 34 Toronto, ON, M6B 4J3