

February 17, 2015

Toronto and East York Community Council
c/o City Clerk
City of Toronto
100 Queen Street West
Toronto, ON
M5H 2N2

Denise Baker
Partner
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File No. 16061.00003

Dear Members of Toronto and East York City Council:

Re: Final Report - Downtown East Planning Study - Official Plan Amendment
Item TE4.8- February 18, 2015 Community Council Agenda
Reference Number- 12 294720 SPS 00 OZ

We are the Solicitors for the owners of lands municipally known as 280-290 Jarvis Street, which are located on the west side of Jarvis Street, north of Gerrard Street (the "Lands"). Our clients also own adjacent lands on Mutual Street and Gerrard Street.

We have recently been made aware that the Lands are within the proposed Garden District Official Plan Amendment ("proposed OPA") which will be before Community Council at its meeting of February 18, 2015.

It should be noted that the reason that our client only recently discovered that the Lands were included in the proposed OPA is because the statutory notice that was provided, as well as the Council direction to staff, identified Jarvis Street as the western boundary of the area to which the proposed OPA would apply. The proposed OPA study area did not include any land west of Jarvis Street. It is not known why the statutory notice did not accurately reflect the lands included in the proposed OPA, however, as noted, our clients were unaware until very recently that the proposed OPA included the Lands.

This is of significant concern as our clients have not had the opportunity to participate in the process. Had the statutory notice been accurate and given in accordance with the *Planning Act*, my client and their consultants could have meaningfully participated in the process and raised their concerns in a proactive and constructive manner with staff.

It is also noted that the staff report before the Committee, dated January 22, 2015 (the "Report"), perpetuates the confusion as you will note on page one of the Report that Jarvis Street continues to be identified as the westerly limit of the study area. However Attachment 1 to the Report identifies a different study area that includes the Lands. The result is therefore very misleading in terms of the lands actually affected by the proposed OPA.

We have now had the opportunity to review the proposed OPA on a rush basis and have significant concerns with the policies relating to shadow impacts on Allan Gardens. These concerns include the following:

The Lands are currently zoned CR T4.0 C1.0 R4.0 by zoning by-law 438-86, as amended, which permits mixed-use development with a height of 30 metres (approximately 10 storeys). The new City-wide zoning by-law 569-2013 zones the site CR 4.0 (c1.0; r4.0) SS1 (x2454), with a maximum permitted height of 30 metres.

Policies 3.5 and 3.6 state:

- 3.5 No net new shadows are permitted on Allan Gardens as measured on March 21 and September 21 from 10 a.m. to 6 p.m.
- 3.6 No net new shadows are permitted on conservatory buildings in Allan Gardens or application, as measured on March 21, September 21, June 21 and December 21 at all times of the day.

These policies fail to recognize the current and long standing zoning of the Lands in both the former and new City-wide By-law which would result in some shadow impacts on Allan Gardens.

The proposed OPA should clarify that "no net new shadows" applies to shadows over and above the existing zoning permissions.

Given the problems with the statutory given for the proposed OPA, we request that this matter be deferred until an opportunity has been provided for proper notice to be given, in accordance with the *Planning Act*, and until we have the opportunity to discuss our concerns with staff.

Alternatively, should Council determine that it nevertheless wishes to proceed with this matter, then we respectfully request that policies 3.5 and 3.6 be amended to clarify the intent and recognize the as-of-right zoning permissions. In addition, we strongly recommend that any further notice regarding the proposed OPA include the actual area that is subject to the proposed OPA.

Further, given the lack of proper notice and the limited amount of time to engage in the process, we reserve the right to raise additional concerns with the proposed OPA in the future.

We would be pleased to meet with your staff to discuss our concerns in detail.

Yours truly,

WeirFoulds LLP

A handwritten signature in black ink that reads "DBaker". The signature is written in a cursive, flowing style.

Denise Baker

DB/mw

cc. Client
Laurie McPherson, Bousfields

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