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Delivered by Email

The Mayor and Members of Toronto City Council
City of Toronto
2nd Floor, City Hall
100 Queen Street W
Toronto, ON M5H 2N2

Attn: Ms. Ulli S. Watkiss, City Clerk

Dear Mayor Tory and Members of Council:

**Re: TOcore: Updating Tall Building Setbacks in the Downtown – City initiated OPA and Zoning By-law Amendments
Municipality File No.: 16-103066 SPS 00 OZ
Item TE18.7 on the Toronto and East York Community Council, September 7, 2016 Agenda**

We act on behalf of 2160943 Ontario Limited and Prime Properties Inc., collectively the owners of the property municipally known as 331-335 Yonge Street & Gould Street, Toronto (“the Property”). The Property is located at the southeast corner of Yonge St and Gould St. There is significant development potential on this portion of the block and in fact, the Property has been subject of ongoing development proposals. Our client has met with City staff to discuss the development proposal as early as June 2012. Another meeting took place between our client, their architect, their planner and City staff to discuss the proposal in September 2015. As such, City staff has been aware of the development potential of the Property. While our client has not yet filed a development application, they are in the process of refining their design and will be filing an application in the near future.

We have reviewed the Final Staff Report dated May 27, 2016; Supplementary Report dated August 31, 2016; draft Official Plan Amendment (the “draft OPA”) and draft Zoning Amendments for By-law 436-86 and 569-2013 (the “draft ZBAs”) with respect to the above-referenced matter. Our client has a direct interest in this matter and has serious concerns with the draft OPA and draft ZBAs as the Property is located within the boundaries subject to the draft planning instruments. The draft OPA and draft ZBAs will have a negative impact on all tall building sites including our client’s development site. For the reasons set-out below, we request that Council not approve the draft OPA and draft ZBAs.

CONCERNS

We generally agree with the concerns raised by BILD but also have other specific concerns as discussed below.

Tall Buildings Guidelines – Current Policies

Currently, direction on how to evaluate tall buildings and their appropriateness are established in the City of Toronto's Tall Building Design Guidelines, 2013 and the Downtown Tall Buildings: Vision and Supplementary Design Guidelines, 2012 (collectively the "Guidelines"). These are guidelines not meant to determine where tall buildings are permitted but rather to assist with the implementation of Official Plan policy to help ensure that tall buildings, where they are permitted, fit within their context and minimize their local impacts. In particular, the Tall Building Design Guidelines specifically state that, "The Guidelines are intended to provide a degree of certainty and clarity of common interpretation, however, as guidelines; they should also be afforded some flexibility in application, particularly when looked at cumulatively." Furthermore it states that, "In considering whether to permit a tall building on a site-by-site basis, many other planning issues must first be taken into account, including, but not limited to, the site context and availability of adequate infrastructure, public transit, parks, community and cultural services and facilities, schools, and child care facilities. If it is determined that a tall building is supportable, and represents "good planning", these Guidelines will then apply."

The intention of the Guidelines including the setbacks are meant to be flexible and each development site to be looked at in the context of the neighbourhood and on a site-by-site basis. The setback requirements in the draft instruments are a reflection of what is set-out in the Guidelines. The draft ZBAs impose rigid and restrictive setbacks to all tall building sites in the downtown with no distinction of site characteristic, lot size, use, adjacent properties, etc. The City is using a "one-size-fits-all" approach with no clear justification that these setbacks would be appropriate for all tall building sites. There is no consideration that for some sites, based on its location, site layout, site design or use different setbacks (i.e. smaller setbacks) would be more desirable and appropriate. This one-size-fits-all approach is inappropriate and does not represent good land use planning practice.

Unique Site Circumstances

The Property has unique site circumstances that make smaller setbacks appropriate due to its configuration, its location at a corner, legal restrictions on adjoining lands and existing surrounding fully built out low rise developments. The Property is located at the southeast corner of Yonge and Gould Street's. Because of restrictions and agreements registered on title, the owner of the lands to the east and south does not have the right to develop them further. These lands are fully built out at their current height and, in any event of legal restrictions, any tower development on these lands would be impractical. In summary, the Property is bordered on the north and west by road frontages and on the east and south by lands which will not be developed above their current approximate low rise height.

Given this situation, the proposed setback requirements would not be appropriate nor logical in the context of the existing block and neighbourhood. Once a development application is submitted for the Property, the appropriate setbacks should be evaluated based on its unique site location, site size, context of the development block and its surrounding developments.

Furthermore, the draft instruments and the staff reports do not clearly define or describe what constitutes a tall building. Some mid-rise buildings may also be captured by these instruments

which is not the City's intent and would further hinder mid-rise type developments in the Downtown.

In terms of creativity, the provisions in the draft ZBAs will restrict or limit architectural creativity for a development site. It is our respectful recommendation that the setbacks for tall buildings in the Downtown should maintain as guidelines to provide the City and developers guidance and direction on minimizing local impacts and provide flexibility and creativity on a site by site basis.

Staff Report

The Final Staff report states that the policies and performance standards are a starting point in updating the Downtown planning framework and ensuring that future growth positively contributes to the liveability, sustainability and health of Toronto's Downtown. With such restrictions on development for tall buildings in the Downtown, this may limit the ability of developers/architects developing creative solutions and designs of such sites.

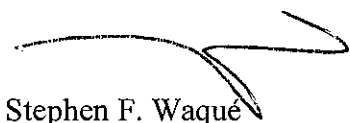
Based on the foregoing, we request that Council not approve the draft OPA and draft ZBAs and that the proposed setbacks for tall buildings in the Downtown remain guidelines.

Additionally, we ask to be notified of any future meetings and/or decision of Committee, Community Council and Council respecting the draft OPA and ZBAs as noted matter.

Should you have any questions do not hesitate to contact the undersigned.

Best regards,

BORDEN LADNER GERVAIS LLP



Stephen F. Waqué

cc: Marilyn Toft, Secretariat Contact
Ellen Devlin, TEYCC, Committee Administrator
client

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