



Overland LLP  
Christopher J. Tanzola  
Tel: (416) 730-0337 x. 112  
Direct: (416) 730-0645  
Email: ctanzola@overlandllp.ca

October 4, 2016

TE18.7.181

**VIA EMAIL**

Mayor John Tory and Members of Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: City Clerk**

Your Worship and Members of Council:

**RE: City-Initiated Request to Amend the Official Plan and Zoning By-laws  
City File No. 16-103066 SPS 00 OZ  
Item TE18.7  
Jencel 407 Yonge Street Inc.**

We are the lawyers for Jencel 407 Yonge Street Inc., being the owner of the property municipally known as 407 Yonge Street and generally located at the northeast corner of Gerrard Street and Yonge Street (the "**Property**"). The Property is currently occupied by a 2-storey commercial building with at-grade retail uses.

On behalf of our client, we are writing to provide our concerns with the proposed Official Plan Amendment (the "**Proposed OPA**") and Zoning By-law Amendments (the "**Proposed ZB Amendments**"). While we appreciate that City Staff has allowed for additional consultation with the public and attempted to clarify the scope of the Proposed ZB Amendments through its Supplementary Report dated September 6, 2016 (the "**Supplementary Report**"), we remain concerned generally for the reasons set out below.

We also understand that a further report on this matter is expected, but that such report is not yet available.

Based on our review of the Proposed OPA and ZB Amendments, the framework appears to contemplate a "one-size fits all" approach to the review and regulation of the development of tall buildings within the Downtown. In our view, a more flexible framework is required to adequately respond to contexts within the Downtown that provide an appropriate opportunity for tall building typology even though they may not meet the base standard contemplated by the Proposed ZB Amendments. A more flexible approach is required as a matter of growth management in the City, in order to ensure the implementation of provincial policy that requires the optimization of land use and infrastructure.

City staff acknowledges that two-thirds of recent proposals would not comply with the proposed zoning standards. This reflects our concern that the City's position constitutes a general predetermination of tower proposals without the benefit of a more contextual assessment of the various areas that make-up the Downtown. This is contrary to the more contextual/sensitive approach that the City and development community have undertaken for a decade. Such a predetermination fails to acknowledge the evolving nature of development within the Downtown, including in areas that are currently underdeveloped and provide appropriate locations for the level of intensification contemplated by taller buildings despite not fitting a general fabric of land parcels and tower relationships that may exist in other areas of the City.

The above concerns are particularly manifest with proposed Policy 517(B)(iii) of the Proposed OPA, which states that "Not every site in the Downtown can accommodate a tall building." The Proposed OPA references certain criteria that are intended to inform the determination of whether a given site is appropriate for a tall building. The Proposed OPA further states that the implementing zoning by-law will contain "minimum numerical standards" for tall buildings in the Downtown. The general approach appears to be an attempt to enshrine as Official Plan policy what are currently "guidelines" to be considered in the review of a proposed tall building, which contemplates a more rigid application of zoning standards in the place of guidelines. While the guidelines are in some cases very important to assessing and understanding the relationship between a proposed tall building and its surroundings (including in areas outside the Downtown), it may not be appropriate to apply such standards as a matter of underlying zoning to every property within an area as varied and complex as the City's Downtown.

The Proposed OPA contains a standalone policy stating that "As building heights increase, greater lot line setbacks may be required from the tower to the lot line to achieve the intent of Policy B(i) and B(ii)." According to the May 27, 2016 Final Staff Report (the "**Final Report**"), this policy is intended to apply to "super" tall buildings. However, there is no specific standard to implement this policy direction in the Proposed ZB Amendments. Rather, the Final Report states that "Further study on "super" tall buildings is currently underway and additional information and policies are forthcoming." The Supplementary Report has not provided any clarification to date and City Staff are not able to provide specific direction on what the implications of the proposed policy will be. As a result, the public is not able to discern the implications of this proposed policy, and what future zoning amendments Staff may propose moving forward. We respectfully submit that this proposed policy direction is clearly premature.

The proposed framework does not differentiate between land uses. The failure to acknowledge the unique relationships that may exist between towers that contain non-residential uses, or between a residential tower and a non-residential tower, is a clear failure to recognize the different urban contexts that exist in various mixed-use settings. This failure also undermines a general Provincial and City policy objective of encouraging

the development of office employment uses in the Downtown, which we submit requires a more flexible framework than that contemplated by the Proposed OPA and ZB Amendments.

We hereby request notice of City Council's deliberations and decisions in this matter and of any resulting official plan amendment and/or zoning by-law amendment(s).

Thank you for your consideration of this matter.

Yours truly,  
**Overland LLP**



Per: Christopher J. Tanzola  
Partner  
c. A. Dharamshi (Jencel 407 Yonge Street Inc.)