

June 9, 2016

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VIA E-MAIL

File 17637.00001

The Chair and Members  
Toronto and East York Community Council  
City of Toronto  
2nd Floor, West Tower, City Hall  
100 Queen St. W.  
Toronto, ON M5H 2N2

Dear Chair and Members:

**Re: Refusal Report – 390-398 Spadina Road – Zoning Amendment Application  
Toronto and East York Community Council June 14, 2016 Meeting Agenda –  
Item TE17.22**

We act as counsel for Manordale Holdings Limited (“**Manordale**”), which is the registered owner of the property known municipally as 404 Spadina Road, Toronto. The Manordale property is located on the west side of Spadina Road mid-block between Lonsdale Road and Montclair Avenue, in the heart of Forest Hill Village. It is immediately adjacent and to the north of the properties at 390-398 Spadina Road which are the subject of this application.

The Manordale property is known as “Village Apartments” and consists of a 4-storey mixed-use building erected in in 1931, with 4 retail units on the Spadina Road frontage and 31 residential rental units on the rest of the first floor and the upper floors. Since 1995, the property has been listed on the City’s Inventory of Heritage Properties.

We and our client have reviewed the Refusal Report prepared by City Staff dated May 27, 2016 (the “**Refusal Report**”) regarding the proposed redevelopment at 390-398 Spadina Road. We also reviewed the Planning Rationale (April 2015) and other reports filed on behalf of the Applicant, and attended both the previous Community Council meeting in May 2015 as well as the Community Consultation meeting which was held on October 20, 2015.

Given the nature and extent of the concerns that were raised by our client, City Staff and a broad cross-section of the community, our client was most disappointed to see that the applicant has not seen fit to make any modifications whatsoever to either the form or scale of the proposed development.

On behalf of Manordale we support the analysis, conclusions and recommendations as set out in Refusal Report. We also wish to provide the following supplementary comments from our client's standpoint:

**1. The proposed building would have unacceptable impacts on the heritage building at 404 Spadina Road**

Based on a review of the plans and the Planning Rationale provided by the applicant, it appears that the proposed setbacks and stepbacks on the north side of the proposed building are inadequate. The drawings show the 1<sup>st</sup> floor on the north side of the building as a blank wall that abuts the property line. The drawings also show a setback from the north lot line at the 2<sup>nd</sup> and 3<sup>rd</sup> storeys of 2.4 metres, as well as an apparent 3.0 metre setback at the 4<sup>th</sup> and 5<sup>th</sup> floors (although adequate dimensions are not provided on the drawings). At floors 6 to 9, it again appears that balconies extend much closer than 2.4 metres to the north lot line - but once again, dimensions have not been provided.

We note that the Zoning By-law requires a 5.5m setback from the side lot line if the wall has windows, which it does above the first floor in this case. It appears that the Planning Rationale has mistakenly noted that the regulations requires a 5.5m facing distance between windows. Respectfully, we submit that is not correct.

The proposed building does not provide adequate transition to the building at 404 Spadina Road, and will have unacceptable and unmitigated impacts in terms of shadows, sunlight, and privacy. These impacts will results from the lack of appropriate setbacks and stepbacks, which means that there will not be an adequate separation distance between the buildings.

Policies in Section 3.1.2(3) of the Official Plan require that "...New development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties by:

- c) creating appropriate transitions in scale to neighbouring existing and/or planned buildings for the purpose of achieving the objectives of this Plan;
- d) providing for adequate light and privacy;
- e) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas;

Respectfully, we submit that the Applicant does not appear to have given due consideration to these built form policies prescribed by the Official Plan.



Finally, we note that although the proposed building appears to have been treated by the Applicant in certain respects as if it were a Midrise Building, it is in fact a Tall Building pursuant to the City's Urban Design Guidelines. As the Applicant is likely aware, a Tall Building (as defined by the City) would not be considered to be appropriate in this location. The Applicant's own Planning Rationale acknowledges that fact and offers the following explanation:

*"The distinguishing feature between a Mid-rise and Tall building in the City of Toronto is associated with the height of the building as it relates to the right-of-way width. If the building has a proposed height greater than the width of the right-of-way, then it is considered a Tall building. Otherwise, the building is considered a mid-rise building provided it has a height between 3 and 11 storeys. The City has prepared design guideline documents for both Mid-rise and Tall buildings with specific guidelines related to each. Since the proposed development has an overall height [35.5m] greater than the right-of-way width [20m in this case], it is technically a Tall building, however, this is a function of the relatively small right-of-way width than the overall massing and design of the proposed development."*

In our respectful submission, it is simply not a valid land use planning argument to suggest that it is appropriate to put a Tall Building in a Mid-Rise building location because the right-of-way width is too narrow. That appears to be the essence of the planning argument made on behalf of the Applicant in this regard.

## **2. The proposed building lacks respect for the scale, character and form of the heritage building at 404 Spadina Road**

As noted in the Staff Report dated May 22, 2015 which accompanied the Guidelines, what sets this area apart from other neighbourhoods experiencing similar development pressures is its distinct small town character and its ongoing role as the historic commercial district for the former Village of Forest Hill. In our submissions to Community Council regarding the "Forest Hill Village Urban Design Guidelines" dated June 2015, we acknowledged on behalf of our client that building heights greater than 4 storeys may be capable of accommodation in a manner that is compatible with the planned role and function of Forest Hill Village and its distinct character - provided that other key policy objectives are also achieved, such as policies mandating respect for the distinct character of Forest Hill Village as well as respect for the scale, character and form of heritage buildings. In our respectful submission, the redevelopment proposal for 390-398 Spadina Road in its current form falls well short of achieving those objectives in at least 2 key respects.

We refer, in particular, to Section 3.1.5(2) of the City's Official Plan which provides that "...Development adjacent to properties on the City's Inventory of Heritage Properties will respect

*the scale, character and form of the heritage buildings and landscapes.*” Respectfully, we submit that the Applicant does not appear to have given due consideration to this policy requirement in its current proposal.

In this case, we submit that the Applicant ought to have been required to provide a Heritage Impact Assessment (HIA) as part of the required application materials. The Terms of Reference (ToR) for a Heritage Impact Assessment in the City Development Guide (Updated, March 2010) notes that a HIA may be required by staff “...where properties adjacent to a cultural heritage resource are subject to Official Plan Amendment, Zoning By-law Amendment, Plans of Subdivision, Site Plan Control and/or Consent and/or Minor Variance applications”. The ToR further state that, if required, the HIA should include an assessment of any negative impacts the proposed development may have on the cultural heritage resource(s). Negative impacts on a cultural heritage resource(s) as stated in the Ontario Heritage Tool Kit include, but are not limited to, “alteration that is not sympathetic, or is incompatible, with the historic fabric and appearance” of the heritage resource. Accordingly, we submit the requirement for an HIA would have been appropriate in this case.

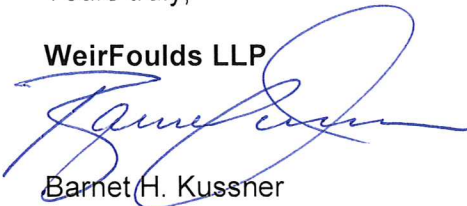
### **3. The accuracy of the sun/shadow study is questionable**

Our client has retained Ralph Bouwmeester, a civil engineer with specific expertise in sun/shadow modeling related to urban development and site planning, to provide advice regarding the potential impacts of the proposed development at 390-398 Spadina Road on the existing building at 404 Spadina Road. Based on his preliminary review, Mr. Bouwmeester has advised that he has concerns that the model does not provide an accurate depiction of the potential impacts on the building at 404 Spadina Road.

Thank you for your consideration of these submissions. We look forward to receipt of Community Council’s recommendation following its meeting on June 14, 2016.

Yours truly,

**WeirFoulds LLP**



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