

Francine Adamo

From: Geoff Kettel <gkettel@gmail.com>
Sent: Monday, January 16, 2017 2:18 PM
To: Francine Adamo; Councillor Burnside; Councillor Augimeri; Councillor Shiner; Councillor Minnan-Wong; Councillor Pasternak; Councillor Jaye Robinson; Councillor Filion; Councillor Colle; Councillor Carroll; Councillor Perruzza
Cc: Jennifer Keesmaat; Joe Nanos; Kerri Voumvakis; Willie Macrae; John Andreevski; Fripp, Carol Burtin
Subject: NY 19.27 Preliminary Report - Official Plan Amendment Application - 815-845 Eglinton Avenue East
Attachments: 815-845 Eglinton Ave East LPOA Comments on City's Preliminary Report Jan 2017.pdf

Dear Ms Adamo

The attached letter is submitted for tomorrow's NYCC meeting

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Regards

Geoff Kettel and Carol Burtin Fripp
Co-Presidents LPOA

Leaside Property Owners Association Incorporated
1601 Bayview Avenue, P.O. Box 43582
Toronto ON M4G 3B0

January 16, 2017

North York Community Council
North York Civic Centre
Main floor, 5100 Yonge St.
Toronto, ON. M2N 5V7
Attention: Francine Adamo, Secretariat

Re: NY 19.27 Preliminary Report - Official Plan Amendment Application - 815-845 Eglinton Avenue East (Ward 26)

Dear Chair Augimeri and Community Council Members:

The Leaside Property Owners' Association submits the following comments with respect to the above noted Official Plan Amendment application Reference Number: 16 210199 NNY 26 OZ.

Our primary concern is that an Official Plan Amendment is developed, refined and approved for the subject property either in advance of or concurrent with a rezoning application, prior to any significant development being permitted on the site.

The Development Application

“This application proposes the redevelopment of the existing 3.46 hectare (8.8 acre) site at the southeast corner of Eglinton Avenue East and Laird Drive. The proposal consists of a total gross floor area of approximately 132,941 square metres, including 16,132 square metres of retail, 116,107 square metres of residential uses (1,435 dwelling units), a new public park (0.34 ha), privately-owned publicly accessible space (POPS 1,687 square metres), community space (701 square metres) and a network of public and private streets. The proposal includes 7 buildings with heights of 6, 8, 9 and 12 storeys along Laird Drive and Eglinton Avenue East and a 26 storey and two 34-storey buildings towards the southeast portion of the site. The overall floor space index proposed for this project is 3.7 times the area of the lot”. (Preliminary Report, p. 1).

Detailed Comments

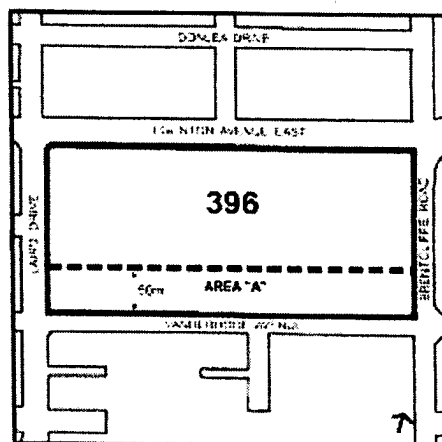
1. Official Plan Context

a) Land Use Re-designations by the City and Subsequent Appeals

The subject lands were designated Employment Areas in the City of Toronto Official Plan. The City adopted Official Plan Amendment No. 231 (December 18, 2013) which proposed to change, among other matters, the designation on the subject parcel from Employment Areas to “Mixed Use Areas” and “General Employment Areas”. Amendment No. 231 also proposed to introduce the following Site and Area Specific Policy 396 to the lands bounded by Eglinton Avenue East, Brentcliffe Road, Vanderhoof Avenue and Laird Drive.

'396. Lands bounded by Eglinton Avenue East, Brentcliffe Road, Vanderhoof Avenue and Laird Drive

- a) *General Employment Area* uses in Area "A" are limited to those that are compatible with residential and sensitive non-residential uses permitted in the adjacent *Mixed Use Areas* and *Neighbourhoods*.



- b) Major retail developments with 6,000 square metres of retail floor area are not permitted in Area "A".
- c) Development on the *Mixed Use Area* land that includes residential units is required to also increase the non-residential gross floor area on the lands shown as Site and Area Specific Policy No. 396.
- d) Given the presence of industries to the south and southeast of the lands, a study of noise, dust, odour and other industrial related impacts is required prior to the approval of residential development and/or sensitive non-residential uses on the *Mixed Use Area* lands so that appropriate design standards and building heights can be determined for buildings containing residential and/or sensitive non-residential uses.'

Official Plan Amendment No. 231 also introduced a host of policy changes which would impact new development within the proposed Core and General Employment Areas, Mixed Use Areas and other areas of the City such as those covered by certain secondary plans.

On July 9, 2014, the Ministry of Municipal Affairs approved much of proposed Official Plan Amendment 231, including the proposed “Mixed Use Areas” and “General Employment Areas” designations, and Site and Area Specific Policy 396 affecting the applicant’s lands.

b) Appeals of Official Plan Land Use Re-designations and Policies to the OMB

RioCan has appealed to the OMB in regard to OPA 231 and related policies, as follows:

- (1) submitting that the whole of the site should be re-designated to Mixed Use Areas from Employment Areas and
- (2) that SASP 396 is unnecessary.

(For details see Appendix 1)

c) OMB Partial Approval of Official Plan Amendment No. 231

On June 22, 2015, the Ontario Municipal Board approved part of Official Plan Amendment No. 231. In so doing, it approved the “Mixed Use Areas” designation on the northern portion of the subject property, but not the “General Employment Areas” designation on the southerly 50 metres abutting Vanderhoof Avenue, which is still pending.

Comment 1: Implications of Appeals to OMB and OMB Partial Approval of OPA 231

Obviously the aforementioned appeals regarding Official Plan Amendment 231 and related policies, and the OMB’s June 22, 2015 decision leave uncertainty as to the status of the subject lands, i.e. whether the southern 50 M. of 939 Eglinton Ave East will be designated “General Employment Areas”, whether the policies set out for Site and Area Specific Policy No. 396 will apply, and whether the other relevant policies contained in OPA 231, such as the office replacement policies, will apply.

2. Current Approved Official Plan Policies

In considering the proposed Official Plan Amendment, the following current Official Plan policies are particularly relevant.

a) “2.2 STRUCTURING GROWTH IN THE CITY: INTEGRATING LAND USE AND TRANSPORTATION

.....
Policies

.....

- 2. Growth will be directed to the Centre, Avenues, Employment Areas and the Downtown as shown on Map 2 in order to:
 - a) use municipal land, infrastructure and services efficiently; etc.”

Comment 2: OP Policy 2.2 Structuring Growth in the City: Integrating Land Use and Transportation

815-845 Eglinton Avenue East is not within a Centre or an area identified as an “Avenue” in the Official Plan. As such it is not identified as an area where massive residential growth such as proposed by the subject application is contemplated.

b) “3.1.3 BUILT FORM – TALL BUILDINGS

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Paragraphs 3 and 4:

When poorly located and designed, tall buildings can physically and visually overwhelm adjacent streets, parks and neighbourhoods. They can block sunlight, views of the sky and create uncomfortable wind conditions in adjacent streets, parks and open space and create traffic congestion. The open space created on poorly designed sites is often residual, unsafe and uncomfortable to use.

Tall buildings are only one form of intensification. Most of the proposed intensification in this Plan is anticipated to be achieved with street oriented, grade related or mid-rise building types that define and support sunny, comfortable and vital streets, parks and open spaces. Tall buildings, typically buildings whose height is greater than the width of the adjacent road allowance, are generally limited to parts of the Downtown, Centres, and other areas in which they are permitted by a Secondary Plan, an area specific policy, a comprehensive zoning by-law, site specific policies in effect as of the approval date of this Official Plan, or site specific zoning that pre-dates approval of this Plan. Tall buildings will only be permitted in other areas on the basis of appropriate planning justification consistent with the policies of this Plan

Policies:

.....

2. Tall building proposals will address key urban design considerations, including:
 - a) meeting the built form principles of this Plan;
 - b) demonstrating how the proposed building and site design will contribute to and reinforce the overall City structure;
 - c) demonstrating how the proposed building and site design relate to the existing and/or planned context;
 - d) taking into account the relationship of the site to topography and other tall buildings;
 - e) providing high quality, comfortable and usable publicly accessible open space areas; and
 - f) meeting the other goals and objectives of this Plan”.

Comment 3: OP Policy 3.13 Built Form – Tall Buildings

While the proposed development falls within the area covered by Site and Area Specific Policy No. 396, there is nothing in the policies introduced for this area (previously quoted) that specifically provides for tall buildings on the subject lands.

c) **“3.2.1 HOUSING**

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Policies

1. A full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods, will be provided and maintained to meet the current and future needs of residents. A full range of housing includes: ownership and rental housing, affordable and mid-range rental and ownership housing, shared and/or congregated-living housing arrangements, supportive housing, emergency and transitional housing for homeless people and at-risk groups, housing that meets the needs of people with physical disabilities and housing that makes more efficient use of the existing housing stock.

.....”

Comment 4: OP Policy 3.2.1 Housing

The proposed 1,435 residential units are to be located in three mid-rise buildings (6, 8 and 9 storeys) and four tall buildings (12, 26, 34 and 34 storeys). This residential “form” appears to fall far short of the intent of OP Housing Policy 1.

d) **“3.3 BUILDING NEW NEIGHBOURHOODS**

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Policies

1. New neighbourhoods will have a comprehensive planning framework reflecting the Plan’s city-wide goals as well as the local context. The framework should include:
 - a) the pattern of streets, development blocks, open spaces and other infrastructure;
 - b) the mix and location of land uses;
 - c) a strategy to provide parkland and to protect, enhance or restore natural heritage;
 - d) a strategy to provide community services and local institutions; and
 - e) a strategy to provide affordable housing.
2. New neighbourhoods will be viable as communities. They should have:
 - a) a community focal point within easy walking distance of the neighbourhood’s residents and workers;

- b) a fine grain of interconnected streets and pedestrian routes that define development blocks;
 - c) a mix of uses and a range of building types;
 - d) high quality parks, community recreation centres, open space and public buildings; and
 - e) services and facilities that meet the needs of residents, workers and visitors.
3. New neighbourhoods will be carefully integrated into the surrounding fabric of the City. They will have:
- a) good access to transit and good connections to the surrounding streets and open spaces;
 - b) uses and building scales that are compatible with surrounding development;
 - c) community services and parks that fit within the wider system; and
 - d) a housing mix that contributes to the full range of housing”.

Comment 5: OP Policy 3.3 Building New Neighbourhoods

Given the Policies of section 3.3, consideration of any rezoning request involving the redevelopment of 815-845 Eglinton Ave East would be premature and not in conformity with the policies of the Official Plan pending completion of the proposed Laird Focus Area Study. The Laird Focus Area Study is essential to develop detailed planning policy to guide the proposed redevelopment.

e) “4.5 Mixed Use Areas

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Paragraph 3

Not all Mixed Use Areas will experience the same scale or intensity of development. The highest buildings and greatest intensity will typically occur Downtown, particularly in the Financial District, The Centres will develop at differing scales and densities, set out in their respective Secondary Plans and zoning by-laws, reflecting the context of their surroundings and transportation infrastructure. Development along the Avenues will generally be at much lower scale than in the Downtown and most often at a lower scale than in the Centres.

Policies

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2. In Mixed Use Areas development will:

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- c) locate and mass new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives of this Plan, through means such as providing appropriate setbacks and/or stepping down heights, particularly towards lower scale Neighbourhoods;
- d) locate and mass new buildings so as to adequately limit shadow impacts on adjacent Neighbourhoods, particularly during the spring and fall equinoxes;

.....”.

Comment 6: OP Policy 4.5 Mixed Use Areas

As reflected in paragraph three of the “Mixed Use Areas” Policies, the Official Plan envisages a decline in residential density as one goes from the Downtown, to the Centres, to the Avenues, and then to other “Mixed Use Areas”. As the City generally associates mid-rise development as being appropriate for the areas identified as Avenues, the proposed 26, 34 and 34 storey residential “tall building development” is completely contrary to what the Official Plan envisions for Mixed Use Areas, particularly for those not designated as an Avenue.

3. Other Comments

Comment 7: Linkages with existing community

As the proposed Official Plan amendment is developed, thought needs to be given to pedestrian, bicycle and vehicular linkages with the surrounding community, particularly linkages with the extensive commercial area to the south. It is critical that redevelopment within the Laird Focus Area be successfully meshed with the surrounding community to create an efficient, vibrant new entity. Leaside residents want to see a thoughtful, planned approach, not a continuation of the “one-offs” of the past.

In the development of the subject property, care needs to be taken to ensure that negative impacts on the industrial lands to the south are minimized. For example, recent increases in traffic volumes through the business park are making it difficult for some industries to get raw materials in and finished product out in a timely fashion.

Comment 8: Parks and Open Space

The current proposal locates the park and privately-owned publicly accessible space in the General Employment lands along the southern boundary of the property. Obviously this would remove the possibility of using these lands for significant employment generating uses. Thought needs to be given to how parks on the proposed site can complement other park facilities in the area including those on the 939 Eglinton East site.

Recommendations:

The LPOA recommends:

- that City Planning Division’s recommendation that “Staff be directed to review this application in conjunction with the Laird in Focus Planning Study” be accepted;
- that the City defer the processing of any related rezoning application until the Laird Focus Area Study has been completed and a detailed set of OFFICIAL PLAN, SECONDARY PLAN and/or COMMUNITY DEVELOPMENT PERMIT POLICIES has been adopted to properly guide the redevelopment of the subject property.

It is clearly the intent of the Official Plan that detailed policies be in place to guide the type of development proposed and adopting any related rezoning without such policies would be in violation of section 24 (1) of the Planning Act which reads: “24. (1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith”.

As the redevelopment of the proposed site will have a major impact on the residents of Leaside, the LPOA further recommends:

- that notice of the community consultation meeting be given to the entire community, not just to landowners and residents within 120 metres of the site.

Geoff Kettel and Carol Burtin Fripp
Co-Presidents

c.c. Councillor John Burnside, Ward 26
Jennifer Keesmaat, Chief Planner and Executive Director, City Planning Div.
Joe Nanos, Director, Community Planning, North York District
Kerri Voumvakis, Director, Strategic Initiatives, City Planning

Appendix 1

Relevant OMB Appeals re OPA 231 and Related Policies

1. In a letter dated July 24, 2014, **Joel D. Farber (of Fogler Rubinoff)** lodged an appeal to the OMB of the Ministry's decision on OP Amd 231 on behalf of **RioKim Holdings (Ontario) Inc., the owners of 815-845 Eglinton Ave East**. The basis of the Farber appeal set out in Schedule A to his appeal is as follows:

"The Entire Site Should Be Designated Mixed Use

1. The Appellant supports the conversion of the majority of the subject site to Mixed Use Areas as provided for in OPA 231. However, the Appellant submits that the entirety of the site should be re-designated to Mixed Use Areas (i.e. the southerly 50 m depth of the site should be re-designated).
2. The lands immediately to the south of the RioKim site are approved for and developing with large scale commercial facilities that are compatible with, and will be enhanced by, permitting the entirety of the RioKim site to be developed under a Mixed Use Area land designation.
3. There is no need for the proposed 50m "buffer" on the subject lands given that there are no adjacent existing or proposed land uses that would conflict with a mixed use development over the entirety of the RioKim site. Furthermore, proposed Site and Area Specific Policy 396 (d) contains sufficient policy protection to ensure that any mixed use development on the RioKim site is developed in a manner that is compatible with any non-residential uses within the Leaside employment area.
4. It is not appropriate to leave a 50 m strip within an employment area designation as the proposed "buffer" area will unduly restrict consideration of alternative development options for the site. In order to implement the proposed buffer strip, OPA 231 restricts uses that are otherwise permitted in the proposed General Employment land use designation.

Site and Area Specific Policy 396

5. Policy 396 (a) is unnecessary as the entirety of the RioKim site is appropriately designated Mixed Use Area.
6. Policy 396 (b) is unnecessary as the entirety of the RioKim site is appropriately designated Mixed Use Area. Further and in the alternative, the entirety of the RioKim site is presently zoned for and developed with a large scale retail development. Large scale retail development has also been approved to the south of the RioKim site on the east side of Laird. Accordingly, there is no

planning justification for the imposition of a cap on the scale of retailing on any portion of the RioKim site.

7. Policy (c) presents an unnecessary and unjustifiable planning constraint to development of the RioKim site and other lands subject to proposed Site and Area Specific Policy 396. At present, the RioKim site is developed with approximately 133,000 square feet of commercial space. Depending on the nature of development ultimately proposed for the RioKim site, maintenance of the existing non-residential floor space may not be achievable, either in the various phases of development or in the ultimate development proposal. Furthermore, there is uncertainty in the subject policy as to implementation over the entire area subject thereto, which extends over parcel boundaries.
 8. Policy (d) uses the term “other industrial related impacts” in connection with study requirements to support a mixed use development application. There is considerable uncertainty in the said term and the policy should be amended to list precisely the studies required”.
2. In a letter dated July 28, 2014, **Adam J. Brown (of Sherman–Brown)** lodged an appeal to the OMB of the Ministry’s decision on OP Amd 231 as it relates to the **properties municipally known as 939 Eglinton Ave East and 815-845 Eglinton Ave East**. The text of his letter reads as follows:

“We are the solicitors for 939GP Inc., the owner of the property municipally known as 939 Eglinton Avenue East (the “Diamondcorp Site”), who have recently entered into an agreement in respect of the properties municipally known as 815-845 Eglinton Avenue East (the “RioCan Site”), which is intended to facilitate a comprehensive redevelopment proposal that will implement the City’s vision for this important transportation hub. At its meeting on December 16-18, 2013, City Council adopted Official Plan Amendment No. 231 (“OPA 231”) which, among other things, re-designated the north portion of our clients Sites from an “Employment Area” to a “Mixed Use Area” and the south 50m of the Sites to a “General Employment Area”.

Over the past number of years, there have been significant changes to both provincial and local planning policies, including the approval of the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe and the City’s Official Plan, all of which are currently undergoing an extensive review in respect of the Employment Uses Policies. In addition, in the past year, the City has approved the Eglinton Crosstown LRT transit plan, which results in the underground portion to be located along the northern boundary of the Sites, with a new station located well within a 500m radius of the Site. In fact, the secondary entrance to that station is proposed to be located on the RioCan Site, and it is the intention of our clients to integrate this station entrance into a true mixed-use building.

This development concept follows the policies the City has recently endorsed as part of the Eglinton Connects Planning Study, which Planning Study encourages the integration of LRT stations into new mixed-use developments.

On November 14, 2013, the solicitor representing the RioCan Site submitted a letter to the City of Toronto's Planning and Growth Management Committee, which raised concerns about the policies affecting the RioCan Site included in OPA 231. In separate letters filed by the writer to the Planning and Growth Management Committee on November 12, 2013 and to the Ministry of Municipal Affairs and Housing on April 24, 2014 (attached hereto), we also raised concerns about the same policies as they affected the Diamondcorp Site. Since this time, City Council approved OPA 231 without addressing our client's concerns, and adopted the implementing by-law (By-law 1714-2013) at the December 16-18, 2013 City Council meeting.

There is no need for a "buffer" on the Sites given that there are no adjacent existing or proposed land uses that would conflict with a mixed use development over the entire Sites. A "Mixed Use" designation over the entirety of the Sites is a more appropriate designation, with no requirement for an Employment designation on the southern portion of the Sites.

While our clients are considering a comprehensive development which includes employment generating uses, it is respectfully submitted that the policies approved by City Council on December 18, 2013 and subsequently by the Ministry of Municipal Affairs and Housing on July 9, 2014, raise concerns which will not provide the flexibility to achieve the ultimate development scenario that will most effectively meet the City's transportation and planning objectives. Given the locational attributes of the two Sites and in light of the significant efforts and resources invested by our client, we hereby file the written appeal pursuant to Section 17(16) of the Planning Act".

3. In a second letter dated July 28, 2014, **Adam J. Brown, on behalf of a host of property owners, including those of 815-845 Eglinton Ave East and 939 Eglinton Ave East**, lodged an appeal against the "Office Replacement Policy" in OPA 231 (involves Mixed Use and other lands). Part of Mr. Brown's letter reads as follows:

"Upon our original review of the proposed OPA No. 231, we provided our concerns in writing to the Planning and Growth Management Committee in a letter dated November 18, 2013 and again in a letter to the Ministry of Municipal Affairs on January 16, 2014. Since this time, both City Council and the Minister of Municipal Affairs and Housing approved OPA No. 231, without addressing our clients' original concerns. The following is a review of our clients' current concerns, which were not addressed prior to the adoption of OPA No. 231.

1. OPA 231 includes a policy (#9 on pgs. 11-12 of the Official Plan Amendment – the ‘Office Replacement Policy’) that requires any building with 1000m² of existing gross floor area used for ‘office purposes’ in ‘Mixed Use Areas’ or ‘Regeneration Areas’ within the ‘Downtown and Central Waterfront’, a ‘Centre’, or within 500 m of an existing, planned or approved transit station (subway, LRT and GO Transit), to ‘increase’ the gross floor area used for office purposes in any future redevelopment of the property, with no ‘transition’ or ‘grandfathering’ clauses whatsoever. This language is extremely vague and does not provide clarity to our various clients as to how such policy will be applied. For example, no explanation or definition is provided for how ‘office purposes’ or what amount of additional gross floor area is considered an ‘increase’. Furthermore, the determination of the distance used to determine ‘proximity to transit stations’ (especially those stations which are only approved and ‘funded’) is also uncertain.
2. The owners of properties within the area impacted by the policies of OPA 231 have been actively involved in the processing of their respective applications with City Staff and/or City Council and/or the Committee of Adjustment. As such, it is only fair to acknowledge such involvement by providing an overriding exemption for properties where the owners have expended significant time and money in pursuing their various approvals by filing any of the above-referenced applications. In addition, OPA 231 does not provide appropriate and comprehensive ‘grandfathering’ or ‘transition’ clauses to recognize applications which are ‘in the queue’, when the details of such site plans have been known and/or commented on by the City. By implementing an Office Replacement Policy that is vague, future property owners will be uncertain with the application of ‘office’ uses in the areas described above.
3. Even our clients who have no ‘formal’ application filed with the City, placed a land value on their properties ‘prior to acquisition’, which land values would be significantly reduced by the imposition of a request to maintain office uses which are not financially viable. The Office Replacement Policy is in direct conflict with not only the Provincial Policy Statement and Growth Plan for the Greater Golden Horseshoe, it is in conflict with the City’s own Official Plan. The existing Provincial and Municipal Policies which are intended to promote intensification in the areas noted above are now targeted by the Office Replacement Policy.
4. Furthermore, the adoption of the Office Replacement Policy will be a disincentive to both redevelopment and rejuvenation of the areas, which again is in direct conflict with provincial policies and the Official Plan. A different approach is necessary if the City has a desire to ‘promote’ office development. An example of this would be to provide a density incentive to an applicant who agreed to replace and/or introduce new office uses, rather than making it a requirement. Exempting office density from the calculation

of the total gross floor area of a development and allowing a greater height when such office density is included as part of the development is a more appropriate way in which to further the City's goals without adversely affecting the sale of such properties.

We would respectfully suggest that the City's goals will not be achieved by the newly adopted Office Replacement Policy, and instead, will create a disincentive to develop properties designated as 'Mixed Use Areas'. In light of the significant funds invested by our clients in the acquisition of such properties listed in Schedule 'A', which proposed and/or approved developments have yet to obtain final site specific zoning by-laws and/or building permits, we hereby file the within appeal pursuant to Section 17(36) of the Planning Act".