

100 Davenport Road - Official Plan Amendment Request for Direction Report

Date:	March 17, 2017
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward 27 – Toronto Centre-Rosedale
Reference Number:	16 132256 STE 27 OZ

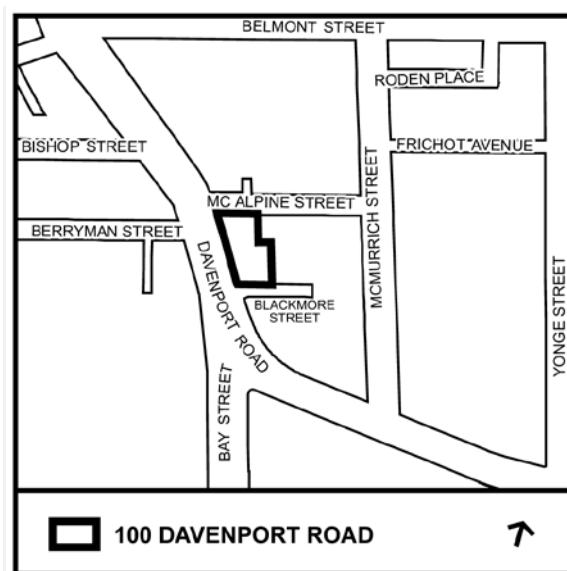
SUMMARY

On March 10, 2016 City Council refused a Zoning By-law Amendment Application (File No. 15 262982 STE 27 OZ) for a 39-storey mixed-use building at 100 Davenport Road. On April 4, 2016 the applicant filed an appeal of City Council's decision to the Ontario Municipal Board.

On March 24, 2016, the applicant submitted a related Official Plan Amendment application, the subject of this report, to permit a 39-storey mixed-use building at 100 Davenport Road, subject to a floor plate size restriction of 500 square metres, and other architectural design controls.

On September 21, 2016 the applicant filed an appeal of the Official Plan Amendment due to Council's failure to make a decision within the time allotted by the *Planning Act*.

The purpose of this report is to seek City Council's direction to oppose the Official Plan Amendment at the Ontario Municipal Board.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to oppose the applicant's appeal respecting the Official Plan Amendment application for 100 Davenport Road (File No. 16 132256 STE 27 OZ), which is related to the Zoning By-law Amendment appeal (File No. 15 262982 STE 27 OZ).

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The site has been the subject of several planning applications and Ontario Municipal Board (OMB) appeals for tall buildings that resulted in the approval of a 3-storey building on the subject site (100 Davenport Road) to the north of a 22-storey tower at 76 Davenport Road. A more detailed explanation of the previous applications is provided below.

2001 Proposal

On August 20, 2001 an application was made to amend the Official Plan and Zoning By-law to permit a 35-storey (106.8-metre) tower at 76 Davenport Road and a 7-storey (22.4-metre) building at 100 Davenport Road stepping down in height towards McAlpine Street to 19.3 metres and 10.4 metres. A Site Plan Control application was also filed. On July 18, 2002, following two community meetings and five working group meetings, the applicant appealed its Official Plan and Zoning By-law Amendment application to the OMB. At its meeting held on October 1, 2 and 3, 2002, Council refused the applications and directed City Legal and appropriate staff to oppose the appeal at the OMB. The staff report can be found here:

<http://www.toronto.ca/legdocs/2002/agendas/council/cc021001/to10rpt/cl020.pdf>

Following the OMB appeal, the application was revised twice and the OMB eventually considered a 28-storey (92.7-metre) tower at 76 Davenport Road and a 3-storey building at 100 Davenport Road. The OMB issued Decision/Order 1063 dated July 31, 2003 dismissing the appeal and refusing the proposal.

2004 Proposal

On November 23, 2004 an application (Option A) was made to amend the Official Plan and Zoning By-law to permit a 19-storey (68-metre) tower at 76 Davenport and a 5-storey (18-metre) building at 100 Davenport Road.

On December 7, 2004 a second application (Option B) was made to amend the Official Plan and Zoning By-law to permit a 23-storey (76-metre) tower at 76 Davenport and a 5-storey (18-metre) building at 100 Davenport Road. Option B consisted of a larger site which included a parcel (Parcel 3) previously approved as townhouses fronting onto a

public lane off Blackmore Street to the south of 100 Davenport Road. Subject to City Council approval to sell the public lane, Option B included Parcel 3 as a Privately Owned Publicly-Accessible Open Space (POPS).

On April 13, 2005, four months after the application submission, the applicant appealed both applications to the OMB due to the lack of a decision by the City. Following the appeal, City Staff held a community meeting and working group meetings in an attempt to resolve and narrow the issues identified. At its meeting on December 5, 6 and 7, 2005, Council directed City Legal and appropriate staff to oppose the appeal at the OMB. The staff report can be found here:

<http://www.toronto.ca/legdocs/2005/agendas/committees/te/te051115/it016.pdf>

In consideration of the development guideline recommended in the staff report (dated October 28, 2005) and adopted by City Council, the proposal was revised by the applicant and presented to the OMB as a 22-storey (69-metre) tower at 76 Davenport Road and 3-storey (11.1-metre) building at 100 Davenport Road.

On June 5, 2006 the OMB issued Decision/Order 1629 approving the revised proposal. The OMB decision and City Council's subsequent approval of the sale of the public laneway resulted in Site Specific By-law 1331-2008 (OMB). Link to By-law:

<http://www.toronto.ca/legdocs/bylaws/2008/law1331.pdf>

Committee of Adjustment

Zoning By-law 1331-2008 (OMB) identifies three parcels: Parcel 1 is 76 Davenport Road; Parcel 2 is 100 Davenport Road; and, Parcel 3 is the POPS which is now part of 76 Davenport Road. Subsequently, there were three Minor Variance applications by the subject applicant which increased the height and density provisions in Site Specific By-law 1331-2008, as they apply to Parcel 1.

On April 22, 2009 (File No. A0247/09TEY) the Committee of Adjustment increased the permitted height from 69 metres to 74.5 metres on Parcel 1.

On April 28, 2010 (File No. A0135/10TEY) the Committee of Adjustment increased the permitted height from 74.5 metres to 85.31 metres, increased the permitted total gross floor area (GFA) from 19,100 square metres to 22,100 square metres, and increased the permitted total residential GFA from 18,000 square metres to 21,590 square metres on Parcel 1.

On October 19, 2011 (File No. A0543/11TEY) the Committee of Adjustment increased the permitted height from 85.31 metres to 88.35 metres on Parcel 1.

2015 Proposal

After a number of Committee of Adjustment applications, the tower at 76 Davenport Road (now known as the 'Florian', 88 Davenport Road) was built to a height of 25 storeys. The 3-storey building at 100 Davenport Road was not built, and the 1-storey building with surface parking continues to occupy the site.

A Zoning By-law Amendment application was submitted (December 9, 2015) for a 39-storey (137-metre) mixed-use building with commercial and retail uses on the first three floors and residential uses above at 100 Davenport Road. A total of 53 residential units, 100 residential parking spaces, 4 residential visitor parking spaces and 10 commercial parking spaces are proposed. A total of 65 bicycle parking spaces are also proposed.

On March 10, 2016, City Council adopted the following:

1. City Council refuse the application for the Zoning By-law Amendment (File No. 15 262982 STE 27 OZ) at 100 Davenport Road for the following reasons:
 - a. the proposal does not conform to the Official Plan;
 - b. the proposal is inconsistent with Council-approved guidelines;
 - c. the proposal does not fit within the existing and planned context for the Bloor-Yorkville and North Midtown Area; and
 - d. the proposal creates adverse shadow impacts on the adjacent lower rise areas.
2. City Council authorize the City Solicitor together with City Planning and other appropriate staff to appear before the Ontario Municipal Board in support of City Council's decision to refuse the application, in the event that the application is appealed to the Ontario Municipal Board.
3. City Council authorize City Planning, in consultation with the Ward Councillor, to secure services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner and Executive Director, City Planning, should the proposal be approved in some form by the Ontario Municipal Board.

ISSUE BACKGROUND

Proposal

An Official Plan Amendment application was made following City Council's refusal of the application to amend the Zoning By-law, because the City determined that the proposal did not conform to the Official Plan.

The applicant's planning consultant, Bousfields Inc., does not agree that an Official Plan Amendment is required. The applicant's cover letter continues to say, "Nonetheless, out of an abundance of caution, and for the reasons outlined in the Bousfields report, we are pleased to submit herewith our Official Plan Amendment application."

The Bousfields report draws three conclusions:

1. The City has been inconsistent in its approach to determining when an Official Plan Amendment will be required.

2. The City has considered other sites that are located outside of the "Height Peak" and "Height Ridge" areas to be suitable for tall buildings. And this proposal is within the height ranges of other towers in those areas.
3. In each case, heights have been determined on the basis of a site-specific analysis that considered a variety of planning and urban design considerations, including transition and built form impacts.

Finally, the opinion provided by Bousfields states: "it is appropriate to allow a greater height on the subject site in the recognition of the subject site's location and the distinctive design and architectural quality of the tower related to its aboriginal significance. The architectural design by Douglas Cardinal, an internationally recognized and award-winning architect, is intended to be distinctive and to create a modern landmark built form that recognizes this significance."

The proposal advanced with the Official Plan Amendment application is the same proposal as the 2015 Zoning By-law Amendment application. The details regarding the 39-storey mixed use building are described in the Refusal Report (February 19, 2016) from the Director, Community Planning, Toronto and East York District. A link to the Refusal Report:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE14.32>

The Official Plan Amendment application proposes to permit a 39-storey mixed-use building, provided that:

- a. the floor plate size of the tower shall be no more than 500 square metres;
- b. the height and architectural design of the building shall be iconic, distinct from other buildings in the area, given its prominent location at the top of Bay Street, and looking from the south, the site represents a View Terminus;
- c. the architectural design of the building will be sympathetic to and promote the history of the site given its location along the original First Nations trail known as *Gete-Onigaming*, Ojiegwe for "the old portage", taking into consideration special architectural features based upon the principles of organic design; and
- d. the high quality of architecture, the design, and the building materials will be secured with the City in an Agreement under Section 37 of the Planning Act and in the associated Site Plan Agreement.

Site and Surrounding Area

The 1,291.7 square-metre irregular-shaped site has frontages on three streets - Davenport Road (46 metres) to the west, McAlpine Street (28 metres) to the north, and Blackmore Street (23 metres) to the south. The east property line jogs between McAlpine Street and Blackmore Street.

A one-storey commercial building with an associated surface parking lot and landscaped area occupies the site. A one-storey freestanding masonry wall is located along the east property line.

Uses and structures near the site include:

- North: of McAlpine Street is a 4-storey commercial building (110 Davenport Road) and clock tower at the visual terminus of Bay Street. The remainder of the block to the north is a retirement and long-term care facility complex (Belmont House, 55 Belmont Street) and landscaped open spaces.
- South: of Blackmore Street is a 25-storey residential tower (The Florian, 88 Davenport Road) and 31-storey residential tower (The Yorkville, 32 Davenport Road). Further south along Bay Street is a 10-storey mixed use building (1331 Bay Street) at the southeast corner of Bay Street and Davenport Road. Adjacent to 1331 Bay Street is 48-58 Scollard Street and 1315-1325 Bay Street, which is subject to a development proposal (15 251277 STE 27 OZ) for a 41-storey (147 metres, including mechanical penthouse) mixed-use building with commercial and retail uses on the first four floors and residential uses above.
- East: on McAlpine Street is the terraced 10-storey residential building (The Domus, 3 McAlpine Street) and associated townhouses along McMurrich Street.
- West: of Bay Street is a 4-storey rental apartment building (95 Davenport Road) at the southwest corner of Davenport Road and Berryman Street. South of the apartment building is the Jesse Ketchum Child Care Centre and School with associated outdoor playgrounds. North of Berryman Street is a 3-storey commercial building (101 Davenport Road) and west along Berryman Street is a low-rise residential neighbourhood.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan designates the subject site as *Mixed Use Areas* and locates it within the *Downtown and Central Waterfront*, as shown on Map 2, the Urban Structure map of the Official Plan. The subject site is adjacent to *Apartment Neighbourhoods* to its east and north. On the west side of Davenport Road are *Neighbourhoods* and *Mixed Use Areas* designations.

The *Mixed Use Areas* designation in the Official Plan provides for a broad range of commercial, residential and institutional uses in single-use or mixed-use buildings, as well as parks and open spaces and utilities.

Development in *Mixed Use Areas* is subject to a number of development criteria including: locate and mass new buildings to provide a transition between areas of different development intensity and scale; provide appropriate setbacks and/or stepping down of heights, particularly towards lower scale *Neighbourhoods*; locate and mass new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods* particularly during the spring and fall equinoxes; provide good site access and circulation and an adequate supply of parking for residents and visitors; provide an attractive, comfortable and safe pedestrian environment; locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and, provide indoor and outdoor recreation space for building residents in every significant multi-unit residential development.

The Built Form policies in the Official Plan (3.1.2) state that new development will be located and organized to fit with its existing and/or planned context. The Built Form Tall Building Policies (3.1.3) state that tall buildings come with larger civic responsibilities and obligations than other buildings. To ensure that tall buildings fit within their existing and/or planned context and limit local impacts, built form principles will be applied to the location and design of tall buildings. Proposals will demonstrate how the building and site design will contribute to and reinforce the overall City structure and relate to the existing and/or planned context.

The Official Plan is intended to be read as a whole.

Site and Area Specific Policy 211 – Bloor Yorkville/North Midtown Area

The City structure for the Bloor-Yorkville/North Midtown Area is provided in Site and Area Specific Policy (SASP) 211 of the Official Plan. SASP 211 in the Official Plan recognizes that the Bloor-Yorkville/North Midtown Area comprises a broad mix of districts with differing intensities, scales and heights in a diversity of building forms. The area includes *Neighbourhoods*, *Apartment Neighbourhoods*, Areas of Special Identity, *Mixed Use Areas*, and open space provided by parks and ravines.

The Bloor-Yorkville/North Midtown Area forms the northern edge of the Downtown and provides for transition in density and scale to surrounding lower rise areas. Height and density generally diminish the further the development site is from the Height Peak (SASP 211, Map 2) at Yonge and Bloor Streets to provide for a transition in scale.

Development along the Height Ridges will be at a lesser height and physical scale than the Bloor/Yonge Height Peak, and in a form compatible with adjacent areas.

The subject site is located north of the Bay Street Height Ridge which ends south of Scollard Street. The northern portions of Avenue Road, Yonge Street and Davenport Road not shown as Height Ridges (SASP 211, Map 2) are intended to have lower heights than areas within the Height Ridges.

Zoning

The former City of Toronto General Zoning By-law 438-86, as amended, currently applies to this site. The city-wide Zoning By-law 569-2013 (under appeal at the OMB) does not apply.

The base zoning map identifies the site as CR T2.0 C2.0 R2.0 with a height limit of 18 metres and a maximum density of 2.0 times the area of the lot. However, zoning by-law 438-86, as amended by site-specific by-law 1331-2008, contains site-specific height, parking and density provisions.

Site-specific by-law 1331-2008 includes both the property at 76 and 100 Davenport Road. The subject site is identified as Parcel 2 with a maximum height of 11.1 metres (plus two 5-metre mechanical penthouses with 4.6 x 12.0 metre and 3.1 x 4.1 metre footprints centred on the site). The total gross floor area on Parcel 2 shall not exceed 2,340 square metres or 1.8 times the area of the lot.

Bloor-Yorkville/North Midtown Urban Design Guidelines

The Bloor –Yorkville/North Midtown Urban Design Guidelines give guidance to improve the physical quality of the area and ensure that its special character is respected in terms of new development. The main planning objectives of the Design Guidelines include:

- enhancement of Areas of Special Identity and historic buildings;
- protection of residential areas from adverse impacts of commercial and/or higher density development;
- improvement of public realm and publicly accessible areas; and
- excellence in urban design, architecture, and landscaping.

The Bloor-Yorkville/North Midtown area is comprised of a number of precincts and corridors, each defined by its attributes in terms of function, built form and character. The subject site is located within the Davenport Bay Precinct. Within this Precinct, new development at the intersection of Davenport Road and Bay Street should be set back 2 metres to allow for a wider sidewalk and streetscaping and be massed to preserve the view terminus on the north side of McAlpine Street.

The Guidelines identify significant views that should be protected and reinforced, as well as locations where visual terminus treatments (building entries, structural elements,

banners, public art) should be located. The property at 110 Davenport Road, with an existing clock tower, is identified as a Visual Terminus Building Treatment. Photo 53 in the Guideline shows the clock tower as the visual terminus treatment at Davenport Road and Bay Street. Figure 20 in the Guideline identifies sites that terminate a view corridor and have strategic locations for public or commercial uses. In this Figure, the terminus location is illustrated at the direction of the clock tower. These terminus treatment sites provide an opportunity to create visual interest from greater distances and if designed with distinction, can act as effective orienting devices where people can gauge their relative location in the district or city.

The site is located at the southeast corner of Davenport Road and McAlpine Street. The Guideline identifies McAlpine Street as a Neighbourhood Street and Davenport Road as an Urban Street. Urban Streets generally have larger buildings that reflect the broad functional importance of the street, like the 25-storey tower at 76 Davenport Road (The Florian, renumbered as 88 Davenport Road). Neighbourhood Streets support stable residential neighbourhoods and should reinforce the residential scale of the street.

76 Davenport Road is identified as a Gateway Treatment site and a Signature Treatment site. Gateway Treatment sites offer an opportunity to provide a sense of entry into the Bloor-Yorkville precincts which can be expressed architecturally, or through lighting, signage (excluding advertising) or art installations. Signature Treatment sites are located at highly visible intersections. These sites offer an opportunity for landmark buildings that should be unique and immediately identifiable.

The Bloor-Yorkville/North Midtown Urban Design Guidelines are available on the City's website at: <http://www.toronto.ca/planning/urbdesign/blooryorkville.htm>

TOcore

TOcore: Planning Downtown is a three-year, inter-divisional study, led by City Planning. Building on Downtown's existing planning framework, TOcore's purpose is to ensure growth positively contributes to Toronto's Downtown as a great place to live, work, learn, play and invest by determining: a) how future growth will be accommodated and shaped, and b) what physical and social infrastructure will be needed, where it will go and how it will be secured.

The new Secondary Plan will update the Downtown planning framework to shape future growth and link growth to the provision of needed infrastructure investments to achieve the city-building vision and policies of Toronto's Official Plan. A series of infrastructure strategies for office, transportation, parks and public realm, community services and facilities, and energy are in development as part of this review, along with a water infrastructure assessment.

City Council adopted the TOcore Proposals Report on December 15, 2016. The Proposals Report provides a vision for Downtown to 2041, five guiding principles and 128 policy directions that will inform the development of the Downtown Secondary Plan. The accompanying staff report also provides updates on the Phase 2 public consultations,

population growth projections for Downtown and the status of infrastructure strategies underway that will support the implementation of the new Downtown Secondary Plan. A draft Secondary Plan will be presented to City Council in Q3 2017.

On October 5-7, 2016, City Council adopted Official Plan Amendment (OPA) 352 – Downtown Tall Building Setback Area (currently under appeal). The purpose of OPA 352 is to establish the policy context for tall building setbacks and separation distances between tower portions of tall buildings Downtown. At the same meeting, City Council adopted area specific Zoning By-laws 1106-2016 and 1107-2016 (also under appeal) which provide the detailed performance standards for portions of buildings above 24 metre in height.

The TOcore website is www.toronto.ca/tocore.

Site Plan Control

The proposal is subject to Site Plan Control. A site plan application has not yet been submitted.

Tall Building Design Guidelines

In May 2013, City Council adopted the updated city-wide Tall Building Design Guidelines and directed City Planning staff to use them in the evaluation of tall building development applications. The Guidelines establish a unified set of performance measures for the evaluation of tall buildings to ensure they fit within their context and minimize their local impacts.

This application is located within an area that is also subject to the Downtown Tall Buildings: Vision and Supplementary Design Guidelines (adopted by City Council in July 2012 and consolidated with the city-wide Tall Building Design Guidelines May 2013). This document identifies where tall buildings belong in Downtown, and establishes a framework to regulate their height, form and contextual relationship to their surroundings. The Downtown Tall Buildings Guidelines also contain heritage principles and performance standards.

The Downtown Vision and Supplementary Design Guidelines should be used together with the city-wide Tall Building Design Guidelines to evaluate tall building proposals in Downtown. The subject site is located north of the Bay Street High Street (Map 1 – High Streets Map) and is not assigned a height range (Map 2 – Downtown Vision Height Map).

Reasons for the Application

An Official Plan Amendment is required because the height of the proposed 39-storey mixed-use building does not comply with the policies in the Official Plan and Site and Area Specific Policy 211.

COMMENTS

This report responds to the comments raised in the Bousfields report (March 2015) and its Planning & Urban Design Rationale report (November 2015) regarding conformity with the Official Plan, which expresses the opinion that an Official Plan Amendment is not required.

Provincial Policy Statement and Provincial Plans

On June 5, 2006 the OMB issued Decision/Order 1629 approving a 22-storey (69-metre) tower at 76 Davenport Road and a 3-storey (11.1-metre) building at 100 Davenport Road (the subject site) resulting in Site Specific By-law 1331-2008 (OMB).

Link to By-law: <http://www.toronto.ca/legdocs/bylaws/2008/law1331.pdf>

In the Board's 2006 decision, the proposal was found to conform to the PPS (2005) and be consistent with the policy direction in the proposed Growth Plan due to the amount of residential intensification at the site. The Board also found that "the stepping down in height from 76 to 100 Davenport is reasonable and represents an appropriate transition and fit with the surrounding area."

The applicant's Planning & Urban Design Rationale (November 2015) finds the "current uses of the subject site represent an underutilization of the land and infrastructure within the Downtown Toronto Urban Growth Centre and in proximity to a number of subway stations. The optimization of density on the subject site is consistent with both good planning practice and overarching Provincial and City policy direction, subject to achieving appropriate built form relationships."

While the existing 1-storey building may represent an underutilization of the site, the 2006 OMB decision considered the overall development which included a 3 and 22 storey building to satisfy the Provincial policy direction regarding intensification and efficient use of infrastructure.

The PPS (Policy 4.7) states that the Official Plan is the most appropriate vehicle for implementing the PPS. Policies identified in the Official Plan require transition down in height to lower built form as does Site and Area Specific Policy 211. The proposed built form does not meet the policies of the Official Plan and therefore is not consistent with the policies of the PPS.

The proposal does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe, which states (Policy 2.2.3 7. f) that all intensification areas will be planned and designed to achieve an appropriate transition of built form to adjacent areas.

The Downtown Urban Growth Centre (UGC) is on track to exceed the Growth Plan's UGC minimum density target of 400 jobs and residents per hectare by 2031. This target is the average for the entire Downtown UGC area, and it is not for any one particular area within Downtown. The proposed development is not required to meet or contribute to the minimum density target for the Downtown UGC since it has already been achieved.

Height

The proposed Draft Official Plan Amendment seeks to permit a 39-storey mixed use building. In 2006 the OMB approved a site specific zoning by-law that permits a maximum 3-storey building at 100 Davenport Road as part of the overall development at 76 and 100 Davenport Road.

In determining the appropriate building heights, the OMB in its 2006 Decision/Order considered the issues of shadowing, the gateway role of the site, and the transition and fit within the surrounding uses. Staff have assessed the current proposal with respect to the same considerations, as discussed below.

Shadow

This proposed OPA would permit a 39-storey tower closer to the *Neighbourhoods* and low-rise areas as identified in the Official Plan, than the 22-storey tower approved by the OMB at 76 Davenport Road in 2006.

The proposed 39-storey tower would have significant shadow impacts on the surrounding *Neighbourhoods* and low-rise areas. The Refusal Report (February 19, 2016) from the Director, Community Planning, Toronto and East York District details Staff's concern regarding the shadow impacts resulting from the proposed tower.

Gateway Role

The question of whether the 76 and 100 Davenport Road site is a gateway site was not disputed at the OMB in 2006. In the 2006 OMB Decision, the Board found that while "it may be inappropriate to assume that all gateways must include height," the City's urban design materials did not exclude height as a possible design element. The Board also acknowledged that "the site sits virtually at the terminus of one major arterial and along the wide sweeping curve of another."

The Bloor-Yorkville /North Midtown Urban Design Guidelines state that new development along Davenport Road, excluding Davenport Terrace, should maintain a 3-5 storey street wall built parallel to the street. Taller portions of proposed buildings, between Bay and McMurrich Streets, should step back from the street wall. New development at the intersection of Davenport Road and Bay Street should also (i) be set back 2 metres to allow for a wider sidewalk and streetscaping and (ii) be massed to preserve the view terminus on the north side of McAlpine Street.

The Bloor-Yorkville/North Midtown Urban Design Guidelines identifies the modern clock tower at 110 Davenport Road (see Photo 53 in the Guidelines) as a visual terminus building at the north end of Bay Street. Furthermore, the Guidelines state that terminus treatment sites should not be considered the singular justification for additional height.

The "gateway" building anticipated in the Guidelines has been constructed at 76 Davenport Road. The planning rationale in the Bousfields report (March 2015), however now proposes the adjacent 100 Davenport Road property as a terminus site with a

"landmark" built form. The Bousfields Planning & Urban Design Rationale (November 2015) states that this is an ideal location for a landmark building that will create a unique addition to the Toronto skyline.

Neither the Official Plan nor the Bloor-Yorkville/North Midtown Urban Design Guidelines identify the subject site at 100 Davenport Road as a "landmark" site. On the contrary, SASP 211 states that "the tallest buildings in the Bloor-Yorkville/North Midtown Area will be located in the 'Height Peak' area in the vicinity of the intersection of Bloor/Yonge Street as shown on Map 2. These higher buildings are a landmark and skyline feature at the intersection of the City's two principal streets and two of its important rapid transit lines." Bay Street and Davenport Road is not a location where building heights should "peak". Rather building heights should be transition down because the subject site is closer to sensitive areas such as *Neighbourhoods*.

The applicant's proposed Official Plan Amendment states that the height and architectural design of the building at 100 Davenport Road shall be iconic, distinct from other buildings in the area, and given its prominent location at the top of Bay Street, and looking from the south, the site represents a view terminus.

The Bloor-Yorkville/North Midtown Urban Design Guidelines does not identify 100 Davenport Road as a site of significance or one that offers an opportunity for signature treatment. Rather, 76 Davenport Road is identified as a local signature treatment site, and the intersections at Yonge and Bloor Streets and Bay and Bloor Streets are identified as city-wide signature treatment sites.

Good design and architecture is a contributing factor in the evaluation of tall buildings, but it is not a rationale for additional height, in and of itself. Official Plan policies 3.1.5.1-53, brought into force by OPA 199 in 2015, state that cultural interpretation offers an opportunity to celebrate our heritage while offering education value. There are many means and opportunities for public education about natural features and history of Indigenous Peoples, including interpretive panels or public art in the public realm or architecture at a different scale.

In summary, no City policies or guidelines identify the subject site at 100 Davenport Road as a terminus site or a landmark site. The modern clock tower located at 110 Davenport Road on the other hand is identified to be the terminus feature, and the tower at 76 Davenport Road is located on the local signature and gateway site.

Transition and Fit

The proposal does not transition or fit within its existing and planned context. The overall intent of the Bloor-Yorkville/North Midtown Urban Design Guidelines, Site and Area Specific Policy 211 and Site Specific Zoning By-law 1331-2008 (OMB) is to transition height and density from the taller buildings in the Height Peak and Height Ridges down to the generally lower and mid-rise built context that surrounds the Bloor-Yorkville /North Midtown area to the north and the west.

This approach to managing new development and built form has successfully mitigated impacts and maintained the gradual change from the Yonge Street and Bloor Street Height Peak to the parks, open spaces, school yard, low-rise commercial and residential neighbourhoods and the mid-rise character along Davenport Road and of the north part of Avenue Road. This serves the overall goal of allowing for intensification in a manner that balances change and growth while preserving the character of the area.

SASP 211 describes the context as the north edge of the Downtown and SASP 211 provides for transition in density and scale towards the boundaries of the Bloor-Yorkville/North Midtown area from the more intensive use and development forms to the south and within the Height Peak at Yonge and Bloor Streets. This transition is important to reinforce the diversity of built form in the Bloor-Yorkville/North Midtown area.

SASP 211 provides direction with respect to height in Bloor-Yorkville/North Midtown stating that height and density permissions generally diminish further from Bloor Street and the northern portions of Avenue Road, Yonge Street and Davenport Road not shown as 'height ridges' and are intended to have lower heights than areas within the height ridges.

The policy and planning direction is that heights will descend in height from south to north. The 39-storey proposal does not conform to that policy direction and vision for the area and is not good planning. Therefore the application should be opposed at the OMB.

There have been a number of towers approved south of the subject site within the Bloor-Yorkville/North Midtown Area since the 2006 OMB decision. These towers, while tall, meet the transition policies in SASP 211. The applicant's OPA proposes to ascend rather than descend in height.

The City has consistently applied the Official Plan policies regarding height transition in this area. In cases where additional height is justifiable but not called for in SASP 211, the City has supported the proposed height through an Official Plan Amendment, such as 21 Avenue Road and 27 Yorkville Avenue. However, staff have recommended refusal of proposals for excessive height contrary to the Official Plan policy, even with an Official Plan Amendment application, such as 33 Avenue Road and 878 Yonge Street.

Section 37

Section 37 of the *Planning Act* allows the City to enter into an agreement with an applicant to grant a height and/or density increase for a particular project that is greater than the zoning by-law would otherwise permit in return for community benefits. Details of a Section 37 Agreement between the applicant and the City are worked out, in consultation with the Ward Councillor, if a project is ultimately considered to be good planning and recommended for approval.

There has been no discussion with the applicant regarding community benefits since the application is not good planning and is recommending that it be opposed at the OMB. The Draft Official Plan Amendment states that the high quality of architecture, the design

and the building materials will be secured in an agreement under Section 37. These details can be secured in a Site Plan Agreement and should not be considered community benefits.

Conclusion

The Official Plan Amendment application to permit a 39-storey building is not appropriate for the site. It does not conform to the Official Plan; is not consistent with the policies of the PPS; is inconsistent with Council-approved guidelines; does not fit within the existing and planned context for the Bloor-Yorkville and North Midtown Area; creates adverse shadow impacts on the adjacent lower rise areas; and, is not good planning. Therefore, this report recommends that the City oppose the applicant's appeal at the OMB regarding the Official Plan Amendment application.

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