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Re: Bill 1109 Barristers & Solicitors

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Via Email: clerk@toronto.ca

Toronto City Council
City Hall, West Tower, 2nd Floor
100 Queen St W
Toronto, ON M5H 2N2

Attention: Ulli S. Watkiss, City Clerk, and Marilyn Toft, Manager

Dear City Council Members:

Re: City Council Agenda Item PG29.4; TOcore: Downtown Official Plan Amendment (OPA 406); 342-350 Bloor Street West

We are solicitors for Starbank Developments 350 Corp., the owner of the lands municipally known as 342-350 Bloor Street West and 4-6A Spadina Road (the "Starbank Site"). The Starbank Site is located within the northwest quadrant of the intersection of Bloor Street West and Spadina Avenue, at the intersection of two subway lines.

We are writing to express our client's concern with a last minute amendment to the proposed Downtown Plan that was approved by City Council at its meeting of May 22-24, 2018, which would designate lands on the north side of Bloor Street West between Walmer Road Road and St. George Street (including the Starbank Site) as *Mixed Use Areas 3*, rather than *Mixed Use Areas 2*. As detailed below, this amendment is inconsistent with OPA 365, adopted by City Council just last year, which identified the Starbank Site as part of a height peak and as an appropriate location for a tall building.

Our client is also concerned with the City's proposal to adopt the Downtown Plan under Section 26 of the *Planning Act*.

Substantive Concern

At its meeting of May 22-24, 2018, City Council approved an amendment to the proposed Downtown Plan (OPA 406) that would change the Mixed Use Areas designation on the north side of Bloor Street West between Walmer Road and St. George Street from *Mixed Use Areas 2* to *Mixed Use Areas 3*. This amendment (the "Bloor Street amendment") was not recommended by City Planning Staff (in its final report of April 17), nor by Planning and Growth Management Committee (at its meeting of May 1), but rather was an amendment moved by the local Councillor at the May 22-24 meeting without any public notice.

The *Mixed Use Areas 3* designation is a Main Street designation that anticipates low-rise and mid-rise buildings. By contrast, the *Mixed Use Areas 2* anticipates building typologies that respond to their site context, including low-rise, mid-rise and tall buildings.

OPA 365, adopted by City Council on March 9, 2017, and flowing from the Bloor Corridor/Annex Block Planning Study, identified the Spadina Node, located on Bloor Street West between Walmer Road and Madison Avenue, as a key multi-modal transit hub where it is appropriate to accommodate intensification. The northeast and northwest corners of Bloor Street West and Spadina Road (including the Starbank Site) were identified as a height peak, where towers with a maximum height of 25 storeys are anticipated.

Starbank and others have appealed OPA 365, on the basis that the 25 storey height limit and other policies of OPA 365 are unduly restrictive. However, the identification of the northeast and northwest corners of Bloor Street West and Spadina Road as a height peak, where towers are anticipated, has not been challenged.

The *Mixed Use Areas 3* designation proposed by the Bloor Street amendment is in conflict with the policies of OPA 365 which anticipate a height peak, with towers, at the northeast and northwest corners of Bloor and Spadina. By contrast, the *Mixed Use Areas 2* designation, as recommended by City planning staff, permits tall buildings and is thus consistent with the OPA 365 policies.

Policy 1.6 of the Downtown Plan provides that, in the case of conflict, any policy contained within a Site and Area Specific Policy will take precedence over the Downtown Plan policies. The OPA 365 policies are part of a Site and Area Specific Policy, and thus will prevail over the Bloor Street amendment.

That said, it is inappropriate and misleading to the public for the City to adopt policies as part of the Downtown Plan that are clearly in conflict with the recently adopted OPA 365.

Process Concern

There was no indication in any of the initial TOcore reports that the Downtown Plan would be adopted under Section 26 of the *Planning Act*. The first indication that the City was considering adopting the Downtown Plan under Section 26 was after it became clear that Bill 139 would eliminate rights of appeal with respect to Official Plan amendments processed under this section of the *Planning Act*. The City's proposal to now adopt the Downtown Plan under Section 26 is inappropriate, and a clear attempt to curtail appeal rights.

In particular, the adoption of the Downtown Plan, with the inclusion of the Bloor Street amendment, which would unreasonably and inappropriately suggest that development at a key multi-modal transit hub would be limited to low-rise and mid-rise buildings, cannot properly be seen as a Growth Plan conformity amendment under Section 26 of the *Planning Act*.

Conclusion

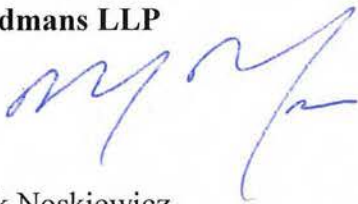
For the above reasons, we urge City Council to not proceed with the adoption of an OPA 406 bill that includes the Bloor Street amendment, as such an action would be inconsistent with OPA 365 and misleading to the public.

Instead, Council should direct a further public meeting, at which time the public can provide comments on the Bloor Street amendment and other last minute amendments considered by City Council at its meeting of May 22-24. Following that public meeting, the City should adopt the Downtown Plan without the Bloor Street amendment, and under Section 17 of the *Planning Act*.

Please provide us with notice of any further reports, decisions or meetings regarding the Downtown Plan (OPA 406).

Yours truly,

Goodmans LLP



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cc. Jay Brown, Starbank