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Re: Bill 1109

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Via Email: clerk@toronto.ca

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

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

Dear Mayor Tory and Members of Council:

**Re: Item PG29.4; TOcore: Downtown Official Plan Amendment (OPA 406)
The Bank of Nova Scotia 332 Bloor Street West**

We are solicitors for The Bank of Nova Scotia (the “**Bank**”), the owner of the lands municipally known as 332 Bloor Street West in the City of Toronto (the “**Bank Site**”). The Bank Site is located at the northeast corner of Bloor Street West and Spadina Road and is currently occupied by a Bank of Nova Scotia branch. We are writing to express our clients concerns with the Downtown Official Plan Amendment, OPA 406 (the “**Downtown Plan**”) and the related City process.

1. The Bank shares the City’s view as confirmed by the recent Bloor Corridor/Annex Block Planning Study and approved by City Council in the resultant Official Plan Amendment (“**OPA 365**”), that the Bank Site is located at the height peak of the area known as the “Spadina Node” and is an appropriate location for a tower. The Bank is therefore concerned with a last minute decision, made at the City Council meeting of May 22-24, 2018, without notice, that would designate the Bank Site as *Mixed Use Areas 3*, rather than the staff recommended *Mixed Use Areas 2*. As detailed below, this amendment is inconsistent with OPA 365.
2. The Bank is also concerned with the City’s proposal to adopt the Downtown Plan pursuant to Section 26 of the *Planning Act*.

Substantive Concern:

In addition to its participation in the OPA 365 process, the Bank has been observing the Downtown Plan process, throughout which, both City Planning Staff, and the Planning and Growth Management Committee, have consistently recommended a *Mixed Use Areas 2* designation for the lands on the north side of Bloor Street West between Walmer Road and St. George Street (including the Bank Site) (the “**Bloor Street Lands**”) consistent with Council approved OPA 365.

The Bank was concerned to see that City Council, at its meeting of May 22-24, 2018, approved an amendment to the proposed Downtown Plan that would change the Mixed Use Areas designation of the Bloor Street Lands from *Mixed Use Areas 2* to *Mixed Use Areas 3*. This amendment (the “**Bloor 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 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* designation 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 (including the Bank Site), 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 Bank Site) were identified as a height peak of the Node, where towers with a maximum height of 25 storeys are anticipated.

The Bank and others have appealed OPA 365, on the basis that the 25 storey height limit and other policies of OPA 365 are unduly restrictive. 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 City of Toronto and the parties to the appeal have been working in co-operation and a Local Planning Appeal Tribunal mediation in regard to OPA 365 has been scheduled for October of 2018.

The *Mixed Use Areas 3* designation proposed by the Bloor 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. The *Mixed Use Areas 2* designation, recommended by City Staff and the Planning and Growth Management Committee is consistent with the OPA 365 policies as it permits tall buildings.

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, inconsistent, and more importantly 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 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 believe that City Council should not proceed with the adoption of an OPA 406 bill that includes the Bloor Amendment as such an action would be inconsistent with OPA 365 and misleading to the public.

To allow for proper process and consistent action, Council should direct a further public meeting, at which time the public can provide comments on the Bloor 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 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: David Roberts, The Bank of Nova Scotia