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May 18, 2018

Via email to [clerk@toronto.ca](mailto:clerk@toronto.ca) and courier

Mayor and Members of City Council  
City Hall  
12th floor, West Tower  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Marilyn Toft, City Clerk's Office**

Dear Sirs/Mesdames:

**Re: Item PG 29.4 – TOcore Downtown Official Plan Amendment (“OPA No. 406”) including proposed secondary plan for Downtown (Chapter 6, Section 41) (“Downtown Secondary Plan)”)**

We are the solicitors for Deltera Inc. with respect to lands known municipally as 420 Dupont Street and 275 Albany.

Our client's application respecting its proposal for development of the Subject Site was approved with the consent of the City after a comprehensive process including the consideration of a number of other properties along the Dupont Street corridor. The Ontario Municipal Board decision has issued but the necessary Order will not issue until the site plan and a section 37 agreement are finalized to the satisfaction of the City, both being anticipated in the very near future.

The Downtown Plan imposes significant and, we submit, inappropriate new burdens on the Subject Site and does not include transitional provisions to maintain the site specific approval referred to above. Accordingly, our client requests that Council amend the Downtown Plan to exempt the Subject Site. Alternatively, our client requests that Council defer adoption of the Downtown Plan at least insofar as it applies to the Subject Site, so that planning staff can report back to Council on this request prior to adoption.

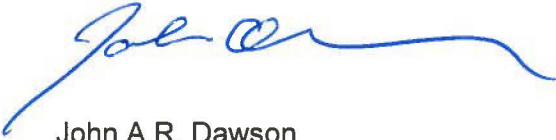
In this respect, please find herewith a letter of even date from our client's land use planning consultants, Bousfields. This enclosure forms part of this letter and our client's submissions to Council. It provides further detail and outlines other concerns with respect to the Downtown Plan.

Please provide us with notice of any Council decision respecting the Downtown Plan, and also of any further consideration by Council, any Committee thereof, or Community Council.

Yours truly,

McCarthy Tétrault LLP

Per:



John A.R. Dawson

JAD/kf



Project No. 1545

May 18, 2018

Toronto City Council  
Toronto City Hall  
100 Queen Street West  
Toronto, ON, M5H 2N2

Your Worship and Members of City Council:

**Re: *Item PG29.4 May 22, 2018 Council Meeting***  
***TOcore: Downtown Plan Official Plan Amendment***  
***420 Dupont Street and 275 Albany Avenue***

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We are the planning consultants for Deltera Inc. with respect to its site at 420 Dupont Street and 275 Albany Avenue, located on the north side of Dupont Street, between Albany Avenue and Howland Avenue (“the subject site”).

On behalf of our client, we filed Official Plan Amendment and Zoning By-law Amendment applications for the site on November 25, 2015 (File #: 15 256733 STE 20 OZ) and a Site Plan Approval application was filed on July 19, 2016 (File #: 16 193621 STE 20 SA) in order to permit a mid-rise mixed-use building, comprised of retail uses on the ground floor and residential units above.

Since the time of our original applications, mediation at the Ontario Municipal Board (“OMB”) took place in January 2016, which ultimately led to a settlement hearing on May 11, 2016, and an OMB decision approving the settlement applications on February 1, 2017. As a result of several settlements along the Dupont Corridor, OPA 271 and By-law 1011-2014 were amended to, among other matters, permit a building height of 9 storeys. At this time, all that is required to bring the approval in to force is the issuance of an Order by the LPAT (as the successor of the OMB), which is conditional on the finalization of the site plan approval and a Section 37 agreement, both of which are anticipated to be imminent.

We have reviewed the draft Downtown Plan Official Plan Amendment (“the Downtown Plan”), which was considered and amended by Planning and Growth Management Committee on May 1, 2018, as well as the Supplementary Staff Report, dated May 14, 2018. We, along with our client, have a number of concerns with the Downtown Plan, which are described below.

The Downtown Plan does not currently include any transition policies or protocols to recognize proposed redevelopments that are in process, and/or were the subject of applications filed prior to the adoption of the Downtown Plan. In this regard, the above-noted applications for the subject site were submitted well in advance of the release of the initial draft of the Downtown Plan in August 2017 and, as such, we would request that the subject site be exempted from the application of the Downtown Plan.

In the event that the subject site is not specifically exempted from the Downtown Plan, it is our opinion that transition provisions should be incorporated into the Downtown Plan so as to ensure that applications that are in process are reviewed on the basis of the planning framework which was in force at the time they were filed. In this regard, the client, consulting team, some neighbourhood stakeholders and City Staff have worked collaboratively for an extensive period of time to arrive at the City and OMB supported built form. The Downtown Plan should not then negate this process, which was well underway prior to its release.

With respect to the merits of the Downtown Plan as it applies to the subject site, is our opinion that it, as currently drafted, is not consistent with the Provincial Policy Statement and does not conform with the Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”). More specifically, the Downtown Plan does not optimize the use of land and infrastructure, particularly as it applies to the subject site.

In this regard, the Downtown Plan does not take into account Provincial policy directions to optimize the use of land and infrastructure, particularly along transit and transportation corridors, and in particular within the Downtown Toronto urban growth centre. In this regard, “optimization” means making something “as fully perfect, functional, or effective as possible”.

In our opinion, the proposed redesignation of the subject site to *Mixed Use Areas 3*, and in particular the associated height restriction to generally not exceed the width of the adjacent street right-of-way, does not make use of land and infrastructure in a way that is efficient or as effective as possible. Furthermore, the height restriction is contrary to the heights permitted in OPA 271 and By-law 1011-2014, which apply to the Dupont Corridor between Ossington Avenue and Kendal Avenue. In this regard, the 9-storey building, approved in principle, is taller than the right-of-way on which it fronts. Under the Downtown Plan, the subject site would be permitted less height/density than what is currently supported by City Staff and permitted in OPA 271 and By-law 1011-2014, resulting in an underutilization of land and infrastructure.

Furthermore, we have concerns with the Mid-Rise Building Policy 9.2.9, which sets out prescriptive numerical standards relating to height, angular planes and rear setback. Fundamentally, the imposition of numerical standards in an Official Plan has the potential to stifle creativity, to unnecessarily trigger the requirement for site-specific official plan amendments, and to create unnecessary technical debates. Such detailed numerical standards are generally inappropriate and undesirable in a policy document and are more appropriately included in a regulatory document (the zoning by-law) or a guideline.

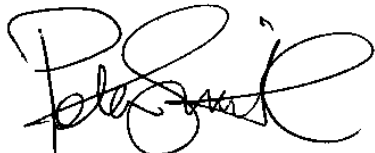
We also have concerns with proposed Policy 11.1, which would require, for developments containing more than 80 residential units, 15% of the units to be two-bedroom units and 10% to be three-bedroom units, and would specify minimum unit sizes of 87 square metres for the two-bedroom units and 100 square metres for the three-bedroom units. Similar to our comments above, such detailed numerical standards are inappropriate in a policy document. We believe that advancing these prescriptive measures without an in-depth review of market demand/supply and income/affordability results in significant risks with respect to housing affordability and could potentially stifle the development of new housing in the Downtown.

The foregoing is not a comprehensive list of all of the concerns that would arise from the application of the Downtown Plan to the subject site. If our request to exempt the subject site from the Downtown Plan is not granted, on behalf of our client, we request that the approval of the Downtown Plan be deferred by Council, at least as it applies to the subject site, so that all of the concerns can be discussed with Planning staff, and the results be reported to Council.

We appreciate your consideration of the foregoing submission. Should you require any additional information, please do not hesitate to contact one of the undersigned.

Yours very truly,

**Bousfields Inc.**



Peter F. Smith, B.E.S., MCIP, RPP



Sasha Lauzon, M.PL., MCIP, RPP

cc: *Barry Brooks, Toronto City Planning*  
*Salvatore Cavarretta, Tridel*  
*John Dawson, McCarthy Tétrault LLP*