



April 30, 2018

BY E-MAIL - pgmc@toronto.ca

Planning and Growth Management Committee
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON, M5H 2N2

sleisk@casselsbrock.com

tel: 416.869.5411

fax: 416.640.3218

file # 20030-13

Attention: Nancy Martins, Secretariat Contact

Dear Members of the Planning and Growth Management Committee:

**Re: TOcore: Downtown Plan Official Plan Amendment
Item PG29.4 | Planning and Growth Management Committee | May 1, 2018
Request for Deferral**

We are the solicitors for BRMS L.P. (“**Barney River**”), the manager and representative owner of several properties across the City of Toronto, many of which are located within the area encompassed by the proposed TOcore. On behalf of Barney River, we filed correspondence with Strategic Initiatives, Policy and Analysis, City Planning Division on January 18, 2018 setting out our client’s concerns with the August 18, 2017 draft of the proposed Downtown Plan. Our client has reviewed the materials that form Item PG29.4 and has continued concerns about the plan being advanced, which now comprises part of Official Plan Amendment No. 406 (“**OPA 406**”) and Secondary Plan 41 – Downtown Plan (the “**Secondary Plan**”).

The policies proposed in OPA 406 and the Secondary Plan largely disincentivize growth and development within Toronto’s downtown. It is our position that these policies will increase affordability issues, restrict housing supply, decrease livability for all who use Toronto’s downtown, and discourage the achievement of the City’s vision as set out in Section 2 of the Secondary Plan. This has been echoed in the significant concerns raised with the TOcore proposals to date by the development industry, and is particularly troubling when viewed in light of provincial policy. Both the Growth Plan for the Greater Golden Horseshoe and the Provincial Policy Statement direct growth to Toronto’s downtown; yet, OPA 406 and the Secondary Plan rebuff these policies, making them contrary to the *Planning Act*.

Barney River asks that the Planning and Growth Management Committee defer consideration of Item PG29.4 until such time as these concerns have been addressed and OPA 406 and the Secondary Plan are revised accordingly. Barney River has the following, among other, concerns:

- The Secondary Plan still does not clearly indicate what “Development” or “New Development” includes. As many of the new obligations proposed would cause significant hardship and be inappropriate for minor additions or site alterations, clarification is required.



- Policies 3.10, and 6.1-6.2 – These policies prioritize non-residential uses within the *Financial District*. However, they do not recognize that some locations, including those along the waterfront, are not conducive to long-term employment growth but better suited perhaps for other purposes including residential. The Central Waterfront Secondary Plan lands should be excluded from the *Financial District*.
- Policies 5.3 - 5.5, sidebar – What is meant by a “Complete Community Assessment” remains unclear. Further clarification is required. The requirement for further study being prepared by the City prior to any site-specific recommendations being made to Council may unnecessarily delay the processing of an application and impact the affordability of residential units eventually brought on market contrary to the provincial and municipal goals of affordability. Finally, depending upon the meaning of “Development”, such a requirement might be extremely burdensome.
- Policy 6.8 – Requiring non-residential replacement or a minimum of 25% non-residential uses in all development in King-Spadina and King-Parliament inappropriately limits residential uses on many streets that are not major thoroughfares, but rather have less significant pedestrian and retail presence. Properties fronting solely on such streets may be appropriate locations for significant residential development and poor locations for non-residential development.
- Policy 6.24 – This policy requires a “high proportion” of non-residential uses within new mixed-use developments in *Mixed Use Area 1*-designated lands. There may be site-specific contexts where a “high proportion” of residential use is more appropriate. This policy unnecessarily serves to restrict residential development.
- Policy 6.35 – This policy provides that, within 500 metres of a planned rapid transit station, increases to as-of-right development may not occur prior to the City undertaking a study to determine a Site and Area Specific Policy. This may unnecessarily delay the processing of applications in these areas, and will restrict the positive growth the City is surely looking to incentivize in these areas, amplifying affordability issues. It is also unclear where precisely the planned rapid transit stations will be located, so there is no clear delineation of the boundaries to which this policy would apply.
- Policy 6.41 – It is unclear how the City intends to require that first-responder facilities be considered as part of a development. It is beyond the City’s authority to require land be conveyed for this purpose.
- Policy 7.34 – The requirement to provide trees as part of any development ignores site-specific conditions. In certain areas of the Downtown, there may be no room for the provision of trees.
- Policy 7.36 – This policy ignores that permits to remove certain trees may be obtained where appropriate, and should be revised accordingly.
- Policy 9.18 – The requirement to not cast *net-new shadow* during certain windows on parks and open spaces indicated on Map 41-13 is extremely prohibitive of development

in locations which are targets for growth under provincial policy. We recommend that this policy be revised to prevent adverse shadow impacts.

- Policy 10.3 – It is unclear how development will be required to contribute to the delivery of community service facilities. The City's authority for this requirement and how it will relate to section 37 agreements is unknown.
- Policies 11.1 - 11.4 – Policies dictating larger units in all cases and requiring dwelling room replacement remains contrary to the City's desire to encourage affordable housing. These requirements do not appropriately take into account market needs. Increasingly onerous requirements will only serve to limit development and create greater affordability concerns. We are also concerned with the City's suggestion that it can regulate the interior spaces of developments.
- Policy 14.15 – This policy is ambiguous about how Community Benefit Agreements are related to section 37 agreements. Further clarity as to the scope and authority for these policies is required.

Please provide us with written notice of all further steps in this matter.

Yours truly,

Cassels Brock & Blackwell LLP



Signe Leisk

SL/CEG
Encl.



January 18, 2018

BY E-MAIL

Strategic Initiatives, Policy and Analysis, City Planning
Division
Metro Hall
55 John Street, 22nd Floor
Toronto, ON

sleisk@casselsbrock.com

tel: 416.869.5411

fax: 416.640.3218

file # 20030-13

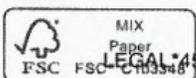
Attention: Andrew Farncombe, Project Manager
Ann-Marie Nasr, Manager

Dear Sirs/Mesdames:

Re: TOcore Proposed Downtown Plan dated August 18, 2017

We are the solicitors for BRMS L.P. (“**Barney River**”), the manager and representative owner of several properties across the City of Toronto, many of which are located within the area encompassed by the proposed TOcore. Our client has reviewed the TOcore policies advanced in the City’s August 18, 2017 proposal, the TOcore Proposed Downtown Plan (the “**Plan**”), and has the following concerns:

- The Plan does not clearly indicate what “Development” or “New Development” includes. As many of the new obligations proposed are onerous and would be inappropriate for minor additions or site alteration, clarification is required.
- Policies 5.3, 5.5, sidebar - Development will be required to prepare a Complete Community Assessment. This requirement for further study is inappropriate. The further study required in these policies is too broad and is akin to a secondary plan, which is the appropriate mechanism for this form of study. Further, more information should be provided around what is involved with a Complete Community Assessment. To the extent a study has not yet been performed within an area, the requirement for a Complete Community Assessment may unnecessarily delay the processing of an application and impact the affordability of residential units eventually brought on market. Finally, depending upon the meaning of “Development”, such a requirement might be extremely onerous.
- Policies 6.6 and 6.17-6.19 - The Plan proposes strict restrictions on shadow on surrounding streets, certain identified parks and open spaces, and school yards, that will severely restrict development potential of some sites within the Downtown. These policies should be amended to reflect consideration of site specific context.



135062.2

Cassels Brock & Blackwell LLP

2100 Scotia Plaza, 40 King Street West, Toronto, ON Canada M5H 3C2
tel 416 869 5300 fax 416 360 8877 www.casselsbrock.com

- Policies 6.11 and 6.13 - Development in lands with certain designations must be set back from any property line adjacent to a street by at least 6 metres, and policies provide that in certain circumstances more than 6 metres is warranted. In several areas of the downtown, this is not practical and severely restricts the built form landscape. In particular, this is inappropriate for properties with frontage on John Street, such as our client's lands at 50 John Street, as John Street is not noted on Map 5 as a Great Street or on Map 15 as a street along which a priority cycling route will be located. Further, this would significantly reduce the developable area of a property. A consideration of site-specific context should be pursued.
- Policy 8.31 – This policy provides that, within 500 metres of a planned rapid transit station, increases to as-of-right development may not occur prior to the City undertaking a study to determine a Site and Area Specific Policy. This may unnecessarily delay the processing of applications in these areas, and will restrict the positive growth the City is surely looking to incentivize in these areas, amplifying affordability issues. It is also unclear where precisely the planned rapid transit stations will be located, so there is no clear delineation of the boundaries to which this policy would apply.
- Policies 8.32-8.35 – Several streets, including John Street, have been designated Priority Retail Streets, with new design requirements for retail and service commercial space. The retail and service commercial requirements prohibit any redevelopment from including residential units or amenity space at ground level. These policies should be amended to allow for site-specific considerations.
- Policy 9.8 - Development will be required to include a child care centre where it can be accommodated on the site, regardless of the size of a development or proposed land use. There are a myriad of contexts where this policy would not be appropriate and/or cannot be accommodated on site. This policy also does not appropriately recognize how a proposal should proceed where a child care centre is located within close proximity. Depending upon the definition of "Development", this might also be an unnecessarily onerous requirement on relatively minor site alterations. Further clarification and specificity is required.
- Policy 9.14, sidebar - Policies related to the Community Benefit Agreement are unclear. How do these relate to s. 37 agreements? Further clarity as to the scope and authority for these policies is required.
- Policies 11.2 and 11.4 - The 2- and 3-bedroom requirements are contrary to the City's desire to encourage affordable housing. These requirements and the affordable rental/ownership housing requirements do not appropriately take into account market needs. Further, we recommend that incentives be provided to facilitate these requirements. Increasingly onerous requirements will only serve to limit development and create greater affordability concerns.



Thank you for your consideration of these comments. Please provide us with written notice of all further steps in this matter.

Yours truly,

Cassels Brock & Blackwell LLP

A handwritten signature in black ink, appearing to read "Signe Leisk". The signature is fluid and cursive, with a prominent initial 'S' and a long, sweeping tail.

Signe Leisk

SL/CEG