

February 23, 2018

VIA EMAIL

Mayor John Tory and Members of Council
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: City Clerk

Attention: Mr. Paul Farish, Senior Planner, Strategic Initiatives

Your Worship and Members of Council:

**RE: Midtown in Focus – Yonge-Eglinton Secondary Plan
Jencel Properties Inc.**

We are the lawyers for Jencel Properties Inc. (“**Jencel**”), the owner of the property municipally known as 2245 Yonge Street, which is located on the east side of Yonge Street, just south of Eglinton Avenue (the “**Jencel Property**”).

Both ourselves and our client have actively participated in the Midtown in Focus planning process. Our client was in attendance at the February 1, 2018 Landowners and Developers Consultation meeting and we have reviewed the presentation materials.

The Jencel Property contains a two-storey commercial building with a Tim Horton’s restaurant at grade and a hair salon above, as well as a residential apartment unit at the rear of the second storey. Our client has been considering the ability to redevelop the Jencel Property in light of the City’s ongoing studies in the area, the site-specific development applications at 1 Eglinton Avenue East, and planning policies encouraging complete communities in an area of significant growth pressure.

The proposed draft Yonge-Eglinton Secondary Plan (the “**Secondary Plan**”) speaks to fostering transit-supportive densities through the development of underutilized sites in the Midtown’s core areas and incorporates tall building performance standards to achieve more comprehensive design. Our client has persistently advocated for the need for highly urban sites to be comprehensively planned as part of a City-building exercise in order to optimize land use results on the whole, especially at a critical junction such the Yonge Subway line and the Eglinton Crosstown LRT. Given the intent and vision of the Secondary Plan, stronger policy direction should be given to ensuring appropriate opportunities for under-utilized properties to develop.

In a similar vein, given the policy direction that consideration should be given to the development potential of neighbouring sites, the Secondary Plan should not be used to remove

development rights from one property in order to accommodate another property, in particular in the absence of appropriate coordination or sufficient planning thought given to the eventual build-out of blocks during the planning horizon.

With respect to our comments on the Secondary Plan as it applies to Jencel Property, we attach our previous correspondence dated November 13, 2017 to Planning and Growth Management Committee which includes specific commentary on the draft Secondary Plan policies. In addition to those comments we note the following: Map 21.5 ("sites at development capacity") and Map 21.8 ("no tall building potential or infill potential") appear to identify the Jencel Property as having no additional development potential, while Map 21-11 ("office priority areas") appears to indicate the Jencel Property as an office priority area. The inconsistency in the identification of the Jencel Property as having no additional development potential despite being located in an office priority area highlights our previously expressed concern that it is not clear how the directions set out in the draft Secondary Plan are intended to be implemented on the Jencel Property and at this corner of Yonge-Eglinton generally.

Thank you for your attention to this matter.

Yours truly,

Overland LLP



Per: Christopher J. Tanzola
Partner

Encl.

c. A. Dharamshi (client)



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November 13, 2017

VIA EMAIL

Mayor John Tory and Members of Council
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

**Attention: Nancy Martins,
Planning and Growth Management Committee Administrator**

Your Worship and Members of Council:

**RE: Midtown in Focus: Proposals Report (the "Report")
Item PG24.10**

We are the lawyers for Jencel Properties Inc. ("**Jencel**"), the owner of the property municipally known as 2245 Yonge Street, which is located on the east side of Yonge Street, just south of Eglinton Avenue (the "**Jencel Property**"). The Jencel Property is located at the heart of the Midtown study area and at the Yonge-Eglinton Centre crossroads – at "the geographic centre of the City" as stated in the above-noted Report; the Jencel Property currently contains a two-storey commercial building with a Tim Horton's restaurant at grade and a hair salon above, as well as a single residential apartment unit at the rear of the second storey.

Together with our client, we have been actively engaged in the ongoing planning processes surrounding the Midtown Study Area and the Yonge-Eglinton Centre. Most recently, we wrote to and appeared before Toronto and East York Community Council to express our concerns with the approval of the 1 Eglinton Avenue East development (City File No. 14 266776 STE 22 OZ) ("**1 Eglinton**"). A copy of our correspondence is attached.

Our client has been a vocal and persistent advocate of comprehensive and coordinated development of the south east corner of the Yonge-Eglinton Crossroads, the intersection of these "two great streets" as described in the Report.

For that reason, we are exceedingly disappointed with the Report and with what seems to be City Planning's indifference to the future of both the Jencel Property and the long term comprehensive and coordinated planning of the southeast corner of these "two great streets".

Given one of the recommendations in the Report is for City Planning staff to undertake stakeholder and local property owner consultation, **we are specifically requesting that City Planning meet with our client to discuss the future of the Jencel Property in light of recent planning approvals in the area and in light of the directions set out in the Report**

and the draft Yonge-Eglinton Secondary Plan. We are requesting this specific consultation so that we might understand City Planning's vision for the long term development of the southeast corner of the Yonge Eglinton Crossroads.

In addition, we are also requesting that City Planning be specifically directed to report back to the Planning and Growth Management Committee regarding opportunities for development of the Jencel Property in light of the foregoing.

In terms of specific commentary on the draft Secondary Plan presented via the Report, we note the following:

- The Secondary Plan incorporates tall building performance measures such as maximum 750-square-metre floorplates (Policy 3.3.14) and 12.5-metre setbacks from property lines (Policy 3.3.15), and increased separation requirement above 30 storeys (Policy 3.3.15). The plan also says that City of Toronto urban design guidelines will be used in the review of development proposals (Policy 3.3.32). These requirements and guidelines were not observed in City Council's recent approval of the 1 Eglinton Proposal,¹ with the effect that a tall building of nearly 70 storeys in excess of the 750-square-metre floorplate is to be positioned only 6.8 metres from the boundary of the Jencel Property. City Planning's review of the development proposal actually resulted in the tower being moved *closer* to the property line than originally proposed.
- The Secondary Plan appears to identify the Jencel Property as having no additional development potential on Map 21-5 ("sites at development capacity") and Map 21-8 ("no tall building potential or infill potential") adjacent to a proposed height limit of 70 storeys. Firstly, this ignores the zoned height limit for the Jencel Property of 61 metres. Secondly, if approved, this would appear to crystallize an intention that a 2-storey retail frontage remain at the heart of the Yonge-Eglinton Crossroads past the planning horizon for these lands. This is contrary to Policy 4.4.1, which states the under-utilized sites in the Midtown Cores will be developed to foster transit supportive densities. This is also contrary to the policies regarding the Yonge-Eglinton Crossroads which speak to high quality architecture and design (Policy 4.4.3.1) and a unifying and comprehensive design at the corners of the intersection (Policy 4.4.3.3).
- If, contrary to indication, the intention is that the Jencel Property retains some development potential, the recent approval of the 1 Eglinton proposal is contrary to the intent of the draft Secondary Plan since it leaves the Jencel Property essentially an orphan to be developed on its own:
 - Policy 3.2.11 calls for co-ordinated and shared access and servicing areas between properties;
 - Policy 3.3.12 requires a consideration of the development potential of neighbouring sites;

¹ The 1 Eglinton proposal was approved by City Council at its meeting of November 7, 8, and 9, 2018, but the necessary Zoning By-law Amendment has not yet been enacted.

- o Policy 3.7.4 speaks to improved connectivity and requiring consolidated site access;
- o Policy 5.2 is a specific policy requiring context plans in order to achieve coordinated and orderly development (Policy 5.2.1(d)). Specific reference is made to site circulation, servicing, and loading (Policy 5.2.2).

Taken together, these policies coupled with the recent recommendation for approval of the 1 Eglinton proposal, indicate to us that, at present, City Planning does not to have a coherent vision for the development of the Jencel Property beyond the current two-storey Tim Hortons and hair salon. It is not clear how the principles espoused in the Report or the directions set out in the draft Yonge-Eglinton Secondary Plan are intended to be implemented on this property given these circumstances.

Please provide us with notice of the decision of the Planning and Growth Management Committee, as well as notice of further reports and consideration of this matter by City Planning, the Planning and Growth Management Committee, City Council, and other committees of Council. Our contact information is provided above and below.

Thank you for your attention to this matter.

Yours truly,
Overland LLP



Per. Christopher J. Tanzola
Partner

Encl.
c. A. Dharamshi (Jencel Properties)



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October 13, 2017

VIA EMAIL

Mayor John Tory and Members of Council
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

**Attention: Ellen Devlin
Secretariat, Toronto and East York Community Council**

Your Worship and Members of Council:

**RE: 1 Eglinton Avenue East – Zoning Amendment Application
City File No. 14 266776 STE 22 OZ
Final Staff Report - Item TE27.4**

We are the lawyers for Jencel Properties Inc. ("**Jencel**"), the owner of the property municipally known as 2245 Yonge Street, which is located on the east side of Yonge Street, just south of Eglinton Avenue (the "**Jencel Property**"). The Jencel Property contains a two-storey commercial building with a Tim Horton's restaurant at grade and a hair salon above, as well as a residential apartment unit at the rear of the second storey.

Together with our client, we have been following the progress of the Zoning By-law Amendment application (the "**Application**") for the property at 1 Eglinton Avenue East which is generally located at the southeast corner of Yonge and Eglinton (the "**Development Property**"). The Application seeks approval of a 65-storey mixed use building on the Development Property (the "**Development Proposal**").

We previously provided correspondence in respect of this matter on April 20, 2016 and February 28, 2017. In addition, we have been in attendance at a Community Consultation meeting held on May 12, 2015 and a Design Review Panel presentation on March 10, 2016. Our client made a deputation at the Community Consultation meeting in May 2015. Both ourselves and our client have also actively participated in the Midtown in Focus planning process.

We have reviewed the Final Report, prepared by Planning Staff, dated September 29, 2017, recommending approval of the Application (the "**Staff Report**"). We are disappointed to observe that, despite our client's involvement in and input into the review process for the Application, it does not appear that any of our client's ongoing concerns with the Development Proposal have been addressed. Rather, it appears that our client's concerns have been minimized in the Staff Report.

Our client is concerned with the potential impacts of the Development Proposal on the Jencel Property, particularly the placement of the proposed building and its significant tower element on the Development Property relative to the Jencel Property. By way of background, the tower element of the development was originally positioned approximately 10.7 metres from the common property line to the south. We expressed concern at the time that the siting of the tower element, then at 68 storeys, did not properly relate to the Jencel Property and had significant impacts for the redevelopment potential of both the Jencel Property and the comprehensive development of the southeast quadrant of Yonge and Eglinton. Rather than address this concern in further iterations of the proposal, however, the building's tower element (now reduced to 65 storeys) has since been shifted *closer* to the Jencel Property, so that the proposed tower now sits at only 6.8 metres from the south property line.

The proposed separation distance from the Jencel Site is well below the minimum 12.5 metres setback identified in the Tall Building Design Guidelines and does not provide for an appropriate relationship between the abutting properties. The Staff Report notes that a limiting distance agreement was entered into with the owners of 2239 Yonge Street to allow for the redevelopment of the nearby site at 2221 Yonge Street with a 58-storey tower. However staff's analysis of the appropriateness of the proposed 6.8-metre setback in its context seemingly ignores that the applicant has not secured limiting distance or air rights over the Jencel Property. As noted in our earlier correspondence, there have been no formal discussions between the applicant and our client with respect to securing such rights.

Absent any such arrangements, it is our view that the Staff Report is lacking in its discussion and analysis of why it is appropriate for the proposed development to be excused from the application of the City's Tall Building Urban Design Guidelines with respect to both tower separation and tower floorplate size.

In the same vein, the Staff Report also appears to disregard any future developmental potential for the Jencel Site on its own or as part of a comprehensive development scheme, notwithstanding that it occupies a central location at a major intersection in one of the City's fastest growing nodes, and has a permitted zoned height of 61 metres. Approval of the Application without proper consideration of the development potential of the Jencel Property, brings with it the risk that this important corner will not be developed comprehensively. This would not be good planning. It is important that highly urban sites be comprehensively planned as part of a City-building exercise in order to optimize land use results on the whole, especially at this critical junction of the Yonge Subway line and the Eglinton Crosstown LRT.

Our client met with Planning Staff on June 1, 2017 to discuss the development potential of the Jencel Property. At the meeting, our client shared a preliminary development concept for the Jencel Property. Since that time our client has been working with its consultants in anticipation of a future development application submission. Despite this, the Staff Report fails to adequately consider the matter of the development of the Jencel Property.

Our client also has concerns, consistently expressed as part of the public process to date, with the relationship of the Development Proposal to Cowbell Lane. In particular, our client is concerned with the function and design of vehicular and pedestrian access to the Development

Property given the intensity of use proposed for Cowbell Lane and physical constraints related to the lane. We note that Section 37 funds have been secured for certain unspecified upgrades to Cowbell Lane; however the details of such upgrades have been left to the site plan approval process, which in the normal course has limited scope for the involvement of the general public and neighbouring landowners. The design and function of Cowbell Lane affects all abutting owners and the broader community at Yonge and Eglinton. In our submission, the concerns with Cowbell Lane have not been adequately addressed in the Staff Report, and our previous comments in this regard remain unaddressed.

Notwithstanding the recommendations of the Staff Report, we ask that Toronto and East York Community Council and City Council consider our concerns in the assessment of the Development Proposal and in any decision resulting therefrom. In our view, this would require careful consideration of the Development Proposal's relationship to both the public realm and also to abutting properties, including the Jencel Property, and the implications on the development potential of such properties.

Please provide us with notice of any decision made by the Toronto and East York Community Council, City Council, or any other committee of Council with respect to this matter. Our contact information is set out above and below. We intend to be present to make a deputation at the Public Meeting in this matter.

Yours truly,
Overland LLP



FOR /er: Christopher J. Tanzola
Partner
c. A. Dharamshi (Jencel Properties)