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June 5, 2018

VIA MAIL AND EMAIL

Chair and Members
Planning and Growth Management Committee
City of Toronto
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Attention: Ms. Nancy Martins

VIA EMAIL AND MAIL

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File: 0021362.0782

Dear Chair and Members of the Planning Growth Management Committee:

**Re: Proposed Yonge-Eglinton Secondary Plan (the “Secondary Plan”)
Official Plan Amendment No. 405
Arising out of the Midtown in Focus Study
40 – 44 Broadway Avenue – St. Monica’s Roman Catholic Church**

We are the solicitors for the Roman Catholic Episcopal Corporation for the Diocese of Toronto, in Canada, commonly referred to as the Archdiocese of Toronto (the “Archdiocese”). The Archdiocese is the owner of the St. Monica’s Church Parish property, municipally known as 40 – 44 Broadway Avenue (the “**Church Property**”), located within the Yonge–Eglinton Midtown in Focus Study Area.

This letter updates and supplements our comments to City Council contained in our letter dated February 23, 2018 on the Midtown in Focus Study and Report and the first version of the proposed Yonge–Eglinton Secondary Plan.

Please consider this letter to be written submissions to City Council referenced in subsection 17(24) of the *Planning Act*.

Status of St. Monica's Church

The Church Property currently contains the St. Monica's Church. The Church building is now well over half a century old and the Archdiocese is in a process of determining how to best redevelop the Church Property with input from a third party developer. The design of the site is not complete, but it is clear that St. Monica's Church will remain at this location and that it will be located at grade and at the front of the Church Property where it will continue to interact with, enliven and serve the community.

Planning Analysis and Comments

Attached to this letter is a Planning Assessment of the proposed Secondary Plan prepared by Paul Stagl. The Planning Assessment and this letter deal with the draft Secondary Plan made available on the City's website on May 18, 2018. Please accept the comments and issues raised by Mr. Stagl's Planning Assessment Report as the comments of the Archdiocese with respect to the draft Secondary Plan.

In this letter, we want to highlight the concerns that have arisen since our February 23, 2018 letter and will not repeat comments on issues previously identified. Those issues include: height limits (Map 21-12), built form and performance standards that affect the base (podium) building which will be where St. Monica's Church will be located (including ratio of open space to building footprint, maximum podium heights *etc.*), any policies which may prevent the Church from utilizing architectural expressions that are typical for churches (such as vaulted ceilings and vertical elements like a steeple) or the built form and performance standards which affect towers (including 30 metre separation distances and their interplay with side yard set-backs) and the exportation of separation distances due to the existing zoning by-law amendment application for the abutting property, 55 Erskine Avenue (17 145066 NNY 25 OZ and LPAT Case No. PL171307).

The additional concerns are:

1. The proposed Secondary Plan contains policy provisions regarding *community service facilities* that are insufficiently clear. The definition does not make it clear that places of worship are not to be considered *community service facilities*, even though Planning staff have advised us that is the intention.
2. The Secondary Plan contains policies that affect properties with potential cultural heritage value. Map 21-10 of the Secondary Plan identifies both the Church Property and the Toronto Catholic District School Board's St. Monica's Elementary School at 14 Broadway Avenue as properties with potential cultural heritage value. The Toronto Community Housing property at 28 Broadway Avenue is similarly so identified. The existing Church building has no particular heritage value. The identification of the Church Property as having a potential cultural heritage value is inconsistent with the identification in Map 21-11 of the Church Property as being a property which can be developed as a "Midtown Tall Building". In any event, such identification is unnecessary, as the Archdiocese fully intends that St. Monica's Church will remain in this location, hence its desire to ensure that appropriate policies are put in place for this site.



3. The Secondary Plan's policies regarding park dedication are imprecise and unclear as to whether requirements for conveyances along the Park Street Loop and Greenway setbacks are cumulative or can be combined. If a both a Greenway setback and a parkland conveyance are required by these policies, the effective streetwall's setback would be almost 20 metres from Broadway Avenue, preventing the Church and the entrance to any new mixed use building from engaging properly with Broadway Avenue. Clarification of policies 3.3.8 and 3.3.24, particularly with respect to institutional uses, are therefore needed.
4. The Notice of the Open House and the Special Public Meeting indicates that the Secondary Plan "will be submitted to the Ministry of Municipal Affairs and Housing for approval pursuant to section 26 of the *Planning Act*." It is our client's position that the Midtown in Focus Study and this implementing Secondary Plan does not qualify as an Official Plan revision contemplated by section 26 of the *Planning Act*. As such, those provisions may not be used and Council must conform with all the normal provisions respecting an Official Plan Amendment. Perhaps most importantly, it is our client's view that it is entitled to appeal this Secondary Plan.
5. There is an inconsistency between the Secondary Plan's implementation policies, which call for specific development applications to be implemented through new Site and Area Specific Policies, and section 22 (2.1.1) of the *Planning Act*. Section 22(2.1.1.) prohibits a person or public body from requesting an amendment to a new Secondary Plan for two years after it comes into effect. Given that restriction, the Secondary Plan's policies should not require the use of new Site Specific Official Plan Policies to implement development applications, since none can be made for at least two years from this Secondary Plan from coming into effect. If anyone appeals the Secondary Plan, given the length of time it can take for such an appeal to be resolved and for the Secondary Plan to come into effect, the impact of this provision is to effectively prohibit the St. Monica's Church from being replaced for several years.

The Archdiocese therefore urges the City to consider a site-specific policy regime that addresses all of the concerns raised in both my letters and Mr. Stagl's Planning Analysis. Our client would be pleased to work with Planning staff to find a resolution to these concerns so that appropriate site-specific policies can be introduced prior to adoption of the Secondary Plan.

Thank you for your consideration of our client's concerns and comments.

Yours truly,

MILLER THOMSON LLP

Per:



David Tang
Partner
Encl:



**PLANNING ASSESSMENT
OF
PROPOSED
CITY OF TORONTO MIDTOWN IN FOCUS
Yonge-Eglinton Secondary Plan
DRAFT OPA No. 405**

Related to:
St. Monica's Parish

40 – 44 Broadway Avenue, City of Toronto



June 4, 2018

Executive Summary

This planning assessment has been prepared in consideration of the forthcoming statutory meeting to be held by the Planning and Growth Management Committee respecting the proposed City-Initiated Official Plan Amendment No. 405 pertaining to the Yonge-Eglinton Secondary Plan and specifically on behalf of the Roman Catholic Episcopal Corporation for Diocese of Toronto, in Canada (the “Archdiocese”) in respect of the St. Monica’s Parish property located at 40-44 Broadway Avenue.

This assessment is to be read in conjunction with the submission dated February 23, 2018, filed with City Council through Miller Thomson, LLP, on behalf of the Archdiocese and St. Monica’s Parish (copy attached as Appendix 1 to this Assessment).

St. Monica’s Parish was established in 1906 with the current Church building having been constructed in the late 1950’s. St. Monica’s Parish, with its approximately 700-family congregation, remains as a vibrant and active community of the Roman Catholic faith, located today within a very energetic and growing urban centre.

The Archdiocese and the Parish are looking at how to best serve its and the surrounding community into the future. The construction of a new, contemporary church building, Parish Hall, Rectory and ancillary support space, is contemplated through the redevelopment of the Site as part of a mixed-use redevelopment.

The Archdiocese has reached out to the Ward Councillor, City Planning staff, to Sherwood Park Residents’ Association (SPRA) and to other area resident group representatives about its plans and it has embarked on discussions with potential third-party developers.

A mixed-use residential and Church development application for the St. Monica’s Parish property is expected to be finalized and filed for late 2018.

While the next few months will still involve numerous discussions with a number of stakeholders as the plans for a new St. Monica’s Church are finalized, what is clear at this stage is that St. Monica’s Church will remain in this location and that any redevelopment will include a new Church prominently at the front of the site, where the Church will be able to interact with, enliven and serve its and this community.

While various elements of the proposed OPA No. 405 policies can most likely be accommodated, the combination of all of the proposed Plan built form policies are prohibitive and leave no flexibility to accommodate, address or respond to the unique site and use considerations for the specialty mixed-use St. Monica’s redevelopment.

The proposed policy framework reflects prescriptive built form assumptions, based largely on traditional condominium types of built form parameters, and does not reflect opportunities to work through design solutions between the Church, the residential developer, area resident stakeholders and the City.

The Plan, if applied as currently proposed, could unduly freeze the specialty mixed-use St. Monica's redevelopment. for a number of years and delay a new St. Monica's Church. For example:

- (a) the "height down from the Yonge-Eglinton Crossroads Station" transition policies are inconsistent with the height identified on Map 21-11 of 24 to 26 storeys within a transition context of 32 to 29 storeys to the north-east of the Parish property;
- (b) the identified height of 24 to 26 storeys (Map 21-11) is also inconsistent with the height-related built form parameters identified in the proposed Plan, which would indicate a height greater than 26 storeys could be achieved and be appropriate;
- (c) the proposed Plan does not adequately or appropriately provide for the expected "community service facilities" in respect of Places of Worship, including policies that taken cumulatively, unless clarified, could trigger net replacements, despite prior assurances from Planning staff that Places of Worship are intended to be excluded from the definition of "community service facilities";
- (d) the base building (podium) built form parameters (i.e. open space to footprint ratio 55:45, maximum podium height of 4 storeys, etc.) would have the effect of precluding architectural expressions that are typical Church design considerations, where at a minimum, the proposed policies would not allow for an architectural vertical element (such as a steeple) within the podium nor would the proposed policies accommodate a typical vaulted ceiling of 13 to 15 metres over the main worship area;
- (e) the proposed policies do not appropriately reflect the operational requirements of a mixed institutional (Place of Worship) and residential condominium that will occur within the base building (podium);
- (f) the tower built form parameters (30 metre separation distances, orientation, related side yards, etc.) provides no guidance or recognition in this specific property context for what is to apply in respect of existing buildings or in respect of mid-rise buildings and the proposed Plan does not reflect clarifications previously provided nor does it provide any guidance in respect of what setbacks or separations are to apply;
- (g) the proposed Plan does not provide any guidance in respect of Greenway activities, landscape, building design or the accommodation of expected Church events and celebrations that would spill out onto that Greenway area that are to be encouraged or supported within the expected POPS easement;
- (h) the proposed Plan policies for traditional park conveyances or configurations if applied along the "Park Street Loop" would result in a prohibitive setback and separation of the new St. Monica's Church and the residential condominium entrance, from its Broadway frontage, prominence and identity;

- (i) the proposed identification of the St. Monica's property as having "potential cultural heritage value" is inconsistent with the Plan identifying the property as a "Midtown Tall Building" site, with a maximum height limit of 24 to 26 storeys and should reflect that the requisite Heritage Impact Assessment is to be prepared in balance with the other policies of the Plan (consistent with Official Plan policy 5.6.1.1 which requires that policies are to be appropriately balanced and are to reconcile a range of diverse objectives);
- (j) OPA No. 405 is not an update or revision to an existing Official Plan for purposes of updating any issues in respect of provincial conformity or considerations, it arises from an area specific study and it is not a conformity exercise since it explicitly relies on an ongoing, but subsequent, conformity exercise that attempts to retroactively apply that Section 26 umbrella to OPA 405; and
- (k) within that statutory context, the proposed Plan confirms an intent of implementing specific development applications through Site and Area Specific Policies, however the Plan is not clear on how the statutory 2-year waiting period would be addressed for such an amendment, save for a site-specific resolution by Council, such that, if applied as currently proposed, would unduly freeze the St. Monica's redevelopment for a number of years and delay a new St. Monica's Church.

The delay or potential inability to provide for specialty institutional/residential mixed-use development on a timely basis, resulting from such a policy direction and implementation is contrary to good land use planning and is not consistent with the Provincial Policy Statement or the Growth Plan.

It is recommended that the City introduce a Site and Area Specific Policy for the St. Monica's Parish redevelopment property located at 40-44 Broadway Avenue.

Overview

This planning assessment has been prepared in consideration of the forthcoming statutory meeting to be held by the Planning and Growth Management Committee respecting the proposed City-Initiated Official Plan Amendment No. 405 pertaining to the Yonge-Eglinton Secondary Plan.

This planning assessment has been undertaken on behalf of the Roman Catholic Episcopal Corporation for Diocese of Toronto, in Canada (the “RCEC”) in respect of the St. Monica’s Parish property located at 40-44 Broadway Avenue (refer to Figure 1).

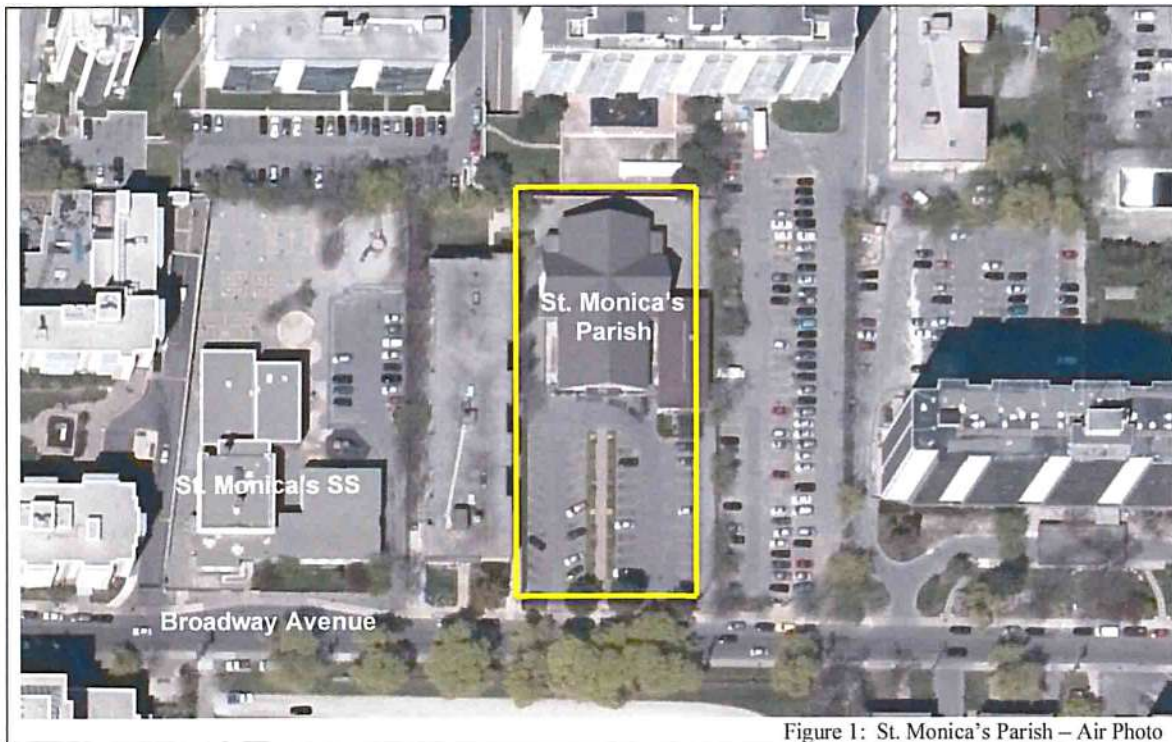


Figure 1: St. Monica's Parish – Air Photo

St. Monica's Parish was established in 1906 and currently has a congregation of approximately 700 families. St. Monica's is the Mother Church of the mid-Toronto parishes of Our Lady Perpetual Help, Blessed Sacrament Parish, St. Anselm's, and Our Lady of the Assumption.

The current Church building was constructed in the late 1950's and St. Monica's Parish remains as a vibrant and active community of the Roman Catholic faith, located today within a very energetic and growing urban centre.

The Archdiocese and the Parish are looking at how to best serve its and the surrounding community into the future. The construction of a new, contemporary church building, Parish Hall, Rectorry and ancillary support space, is contemplated through the redevelopment of the Site as part of a mixed-use redevelopment.

The Archdiocese has reached out to the Ward Councillor, City Planning staff, to Sherwood Park Residents' Association (SPRA) and to other area resident group representatives about its plans and it has embarked on discussions with potential third-party developers.

A mixed-use residential and Church development application for the St. Monica's Parish property is expected to be finalized and filed for late 2018.

While the next few months will still involve numerous discussions with a number of stakeholders as the plans for a new St. Monica's Church are finalized, what is clear at this stage is that St. Monica's Church will remain in this location and that any redevelopment will include a new Church prominently at the front of the site, where the Church will be able to interact with, enliven and serve its and this community.

The Archdiocese and St. Monica's Parish strongly support the vision, mission and goals for the project located within this vibrant urban centre.

Statutory Context

The proposed Yonge-Eglinton Secondary Plan (proposed OPA 405) should guide all development, irrespective of when it is sought, into the best possible development pattern for the entire area. The Secondary Plan should not simply allow for the maximization of massing, floor plates, heights and densities on those properties whose owners have, for whatever reason, already made planning applications to the detriment of remaining parcels.

In that regard, the following comments and considerations have been identified, specifically in respect of how the intent of the policies can and should be successfully applied to the St. Monica's site.

Proposed Amendment No. 405 – Yonge-Eglinton Secondary Plan

This assessment is based on the proposed Amendment No. 405 made available online on May 18, 2018 (a coloured version), together with additional materials (Staff Report, a black & white version of proposed OPA 405, the Community Services and Facilities Strategy, the Parks and Public Realm Plan and the Public Consultation Summary) posted as part of the Planning and Growth Management Committee Agenda on June 1, 2018.

The St. Monica's site is designated as "Apartment Neighbourhood – (B2) Redpath Park Street Loop" (Map 21-2 and Map 21-4).

The site is located within 500 metres (Secondary Zone) of the Yonge-Eglinton Subway Station (Map 21-3).

Broadway Avenue in this location is identified as "Park Street Loop" (Map 21-6 – Public Realm Moves) and is identified as requiring a 7.5 metre setback (Map 21-7 – Setbacks Adjacent Streets).

Broadway Avenue in this location is also identified as a “Primary Street” (Map 21-9 – Midtown Mobility Network). A north-south “New Local Public Street” is identified to be located immediately to the west of the St. Monica’s property and a north-south “Existing Midblock Connection” is identified to be located immediately to the east of the St. Monica’s property (Map 21-9 – Midtown Mobility Network).

St. Monica’s Parish, together with the TCHC property (28 Broadway Avenue) and the TCDSB St. Monica’s Elementary School (14 Broadway Avenue) located to the west of the Parish, are also identified as “Properties with Potential Cultural Heritage Value” (Map 21-10).

The St. Monica’s Parish property is identified as a “Midtown Tall Building” site on Map 21-11. The Map identifies a maximum height limit of 24 to 26 storeys.

Height

The proposed Plan provides insufficient detail or clarity in respect of the expected transition in height down from the Yonge-Eglinton Crossroads Station (proposed policy 1.3.3(b)). The wording is inconsistent with the height identified on Map 21-11 which identifies a maximum height of 24 to 26 storeys (refer also to proposed policy 9.4.7) within a transition context of 32 to 29 storeys to the north-east of the Parish property.

As well, the identified height of 24 to 26 storeys (Map 21-11) is also inconsistent with the height-related built form parameters identified in the proposed Plan, which would indicate a height greater than 26 storeys could be achieved and be appropriate.

Church Uses

The proposed Plan provides insufficient detail or clarity in respect of the expected “community service facilities” as they apply to Places of Worship, (proposed policy 2.2.1(b), proposed policy 2.5.2 (a), proposed policy 6 and proposed policy 9.4.2), including policies that taken cumulatively, unless clarified, could trigger net replacements.

We understood from previous discussions with Planning staff that Places of Worship are intended to be excluded from the definition of “community service facilities”. The wording of the relevant proposed policies should be clarified.

Built Form – Podium

In respect of its built form policies, the proposed Plan similarly does not adequately or appropriately recognize the unique built form requirements for the specialty architecture of a Place of Worship when located within a mixed-use base building (podium) context.

While proposed policy 5.4.2 provides exemptions for Places of Worship in certain circumstances, it simply exempts Churches from the minimum height of four storeys.

We understood from previous discussions with Planning staff that a new St. Monica's Church structure, located within a mixed-use base building (podium) context, would be accommodated with some relief from the maximum podium built form and height requirements (proposed policy 5.3.5 (b) dealing with sideyard setbacks of 7.5 metres, proposed policy 5.3.32 dealing with minimum ratio of open space to footprint of 55:45, proposed policy 5.3.33 dealing with base building height, scale character, proposed policy 5.3.34 dealing with maximum podium heights, proposed policy 5.3.35 dealing with base building streetwall and cornice lines, proposed policy 5.3.38 dealing with additional base building storey setbacks and proposed policy 5.4.6 dealing with a maximum institutional storey height of 5 metres) in order to respect Church architecture and operations.

Specifically, the policies and numeric standards of the proposed Secondary Plan continue to reflect and force development into a standard residential condominium urban form. Flexibility in those standards should be provided to accommodate ecclesiastical or Church architectural elements and greater creativity rather than imposing the uniformity of a conventional mixed-use condominium built-form. They do not respect or accommodate architectural expressions that are typical Church design considerations.

At a minimum, the proposed policies would not allow for an architectural vertical element (such as a steeple) within the podium nor would the proposed policies accommodate a typical vaulted ceiling of 13 to 15 metres over the main worship area.

The comments in this regard, as were highlighted in the submission made to City Council (dated February 23, 2018), continue to apply.

Additionally, the proposed policies do not appropriately reflect the operational requirements of a mixed institutional (Place of Worship) and residential condominium that will occur within the base building (podium).

While various elements of the proposed policies can most likely be accommodated, the combination of all of the proposed Plan built form policies leaves no flexibility to accommodate and address the unique design and use considerations for the specialty architecture and operations for a new St. Monica's Church when located within a mixed-use base building (podium) context.

The wording of the relevant proposed policies should be clarified to ensure that the unique design and operational requirements of a mixed institutional (Place of Worship) and residential condominium can occur on the site and within the base building (podium).

Built Form – Tower

The proposed Plan provides insufficient detail or clarity in respect tower built form requirements as they would apply to the St. Monica's site context.

For example, the Plan requires a minimum tower separation of 30 metres in this location (proposed policy 5.3.45(b)) however the Plan provides no guidance or recognition in this specific policy context for what is to apply in respect of existing buildings or in respect of mid-rise buildings.

We understood from previous discussions with Planning staff that the neighbouring proposal at 55 Erskine Avenue would be considered as a mid-rise building and that a 30 metre separation would not apply, however the Plan does not reflect that clarification nor does it provide any guidance in respect of what setbacks or separations are to apply.

The comments as were highlighted in the submission made to City Council (dated February 23, 2018), continue to apply, particularly in respect of the inequities in setbacks and separation distance policies.

While various elements of the proposed policies can most likely be accommodated, the combination of all of the proposed Plan built form policies leaves no flexibility to accommodate and address the considerations for this property.

Greenway

The subject St. Monica's site carries approximately 8% of its property as a "Park Street Loop" Greenway obligation.

St. Monica's expects that the area in front of the Church will be used in an active manner, with Church events and celebrations spilling out from the building onto that Greenway area and understood from previous discussions with Planning staff that such activities would be encouraged.

The proposed Plan however does not reflect that clarification nor does it provide any guidance in respect of what landscape, activities or building designs might be encouraged to occur within that setback area or shared within the expected POPS easement. A further clarification of the proposed policy 3.1.8 and proposed policy 3.2.5 (a) in respect of private or institutional users would be appropriate.

Parks

The proposed Plan provides for the requirement of on-site parks dedications. However, the proposed Plan is not clear in respect of a potential parks conveyance along the "Park Street Loop", whether or not the Greenway setback can be combined with a parks conveyance, and whether or not developments will be separated from their frontages.

For example, proposed policy 3.3.8 suggests that a parks conveyance would be cumulative to a Greenway setback rather than as a substitute. In that regard, a cumulative setback plus parks conveyance could potentially drive the project streetwall almost 20 metres back from Broadway Avenue and could potentially physically separate the building, in this case the new St. Monica's Church and the residential condominium entrance, from its Broadway frontage, prominence and identity.

Similarly, proposed policy 3.3.24, as might be applied to a traditional parks conveyance or configuration, if applied along the “Park Street Loop” would result in a prohibitive setback and separation of the new St. Monica’s Church and the residential condominium entrance, from its Broadway frontage, prominence and identity.

A further clarification of the proposed policy 3.3.8 and proposed policy 3.3.24 in respect of private or institutional users would be appropriate.

Heritage

The proposed Plan identifies St. Monica’s Parish, together with the TCHC property (28 Broadway Avenue) and the TCDSB St. Monica’s Elementary School (14 Broadway Avenue) located to the west of the Parish, as “Properties with Potential Cultural Heritage Value” (Map 21-10).

The Map 21-10 identification of St. Monica’s as part of a group of “Properties with Potential Cultural Heritage Value” was not supported by a companion report, study or assessment, nor was there any discussion or assessment outlined in the covering Staff Report (dated May 24, 2018), as compared to the report and assessments provided for the 258 main street properties identified in August 2017.

In respect of the Map 21-10 properties that have been shown as “Properties with Potential Cultural Heritage Value”, Staff have instead only recommended that they be directed to later prepare “heritage guidelines and/or best practices for development”.

Official Plans are to be clear in their intent. The Map 21-10 identification and the related heritage policies provide insufficient detail or clarity to a property owner, or to the public, in respect of its intent.

Proposed policy 5.2.3 reflects relief from site and urban design standards of the Plan, however only as it applies to in situ conservation.

The identification of the St. Monica’s property as having “potential cultural heritage value” is inconsistent with the Plan identifying the property as a “Midtown Tall Building” site (Map 21-11), with a maximum height limit of 24 to 26 storeys.

Proposed policy 5.2.4 identifies the need for a Heritage Impact Assessment as part of a complete application for development and in that regard should reflect that the Heritage Impact Assessment is to be prepared in balance with the other policies of the Plan (consistent with Official Plan policy 5.6.1.1 which requires that policies are to be appropriately balanced and are to reconcile a range of diverse objectives).

Section 26, Secondary Plan Amendments and Site and Area Specific Policies

The Plan contemplates the use of Site and Area Specific Policies to implement specific development applications (refer to proposed policy 5.3.3 and proposed policy 10.4), based on a Section 26 approval.

In respect of a Section 26 approval consideration, the Notice of Special Public Meeting identifies the proposed OPA 405 as an “amendment” rather than as an update or revision. The supporting Staff Report identifies OPA 405 as a “comprehensive new planning framework” for the Yonge-Eglinton area, resulting in a “new Yonge-Eglinton Secondary Plan”. The Staff Report further acknowledges that the City’s use of Section 26 in this circumstance relies on the City’s subsequent and separate undertaking and completing of its full Growth Plan conformity on a city-wide basis and that OPA 405 can be thus considered as part of its “on-going five-year review”.

OPA No. 405 is not an update or revision to an existing Official Plan for purposes of updating any issues in respect of provincial conformity or consistency considerations. It arises from an area specific study. It is not a conformity exercise since it explicitly relies on an ongoing, but subsequent, conformity exercise that attempts to retroactively apply that Section 26 umbrella to OPA 405.

This statutory context is particularly of concern to the specialty mixed-use St. Monica’s redevelopment. In order to appropriately apply the intent of the policies to the St. Monica’s property, the Plan appears to indicate the intent of doing so through a Site and Area Specific Policy, however the Plan is not clear on how the statutory 2-year waiting period would be addressed for such an amendment, save for a site-specific resolution by Council.

The Plan, if applied as currently proposed, could unduly freeze the specialty mixed-use St. Monica’s redevelopment for a number of years and delay a new St. Monica’s Church.

Appendix 1
February 23, 2018 Submission



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February 23, 2018

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Toronto, ON M5V 3C6

Dear Mayor Tory and Members of Council:

**Re: Midtown in Focus - Proposed Yonge-Eglinton Secondary Plan Update
40-44 Broadway Avenue – St. Monica's Roman Catholic Church**

We are the solicitors for the Roman Catholic Episcopal Corporation for The Diocese of Toronto, in Canada, which is commonly referred to as the Archdiocese of Toronto (the "Archdiocese"). The Archdiocese is the owner of the St. Monica's Church Parish property, municipally known as 40-44 Broadway Avenue (the "Church Property") located within the Yonge-Eglinton study area.

This letter contains written comments to City Council on the Midtown in Focus Study and report and the proposed Yonge-Eglinton Secondary Plan which accompanied that report. We would ask that our client be notified if the proposed Secondary Plan is adopted with or without revisions pursuant to subsection 17(23) of the *Planning Act*, as amended. We would also ask that this letter be considered the written submissions to City Council referenced in subsection 17(24) of the *Planning Act*.

Background

The St. Monica's Church located on the Church Property was built in the 1950's when the location was considered to be in the "far northern suburbs" of Toronto and designed to serve the needs of Catholics north of St. Clair Avenue. St. Monica's Church is now obviously

located in a much different environment and the church is looking forward to being able to serve the surrounding community differently and better than it can in its current building.

As a result, the Archdiocese is in the process determining how to best redevelop the Church Property with the involvement of a third party developer. It is currently seeking interest from developers and as a result, it has not yet been able to have the required input to determine what form any redevelopment would take. It is still too early for the church to be able to articulate the form even of a new church facility.

What is clear however, is that the church will remain in this location and that any redevelopment will include a new church facility at the front of the site, where the church will be able to interact with, enliven and serve this community.

Inequities in Setback and Separation Distance Policy

The Secondary Plan should guide all development, irrespective of when it is sought, into the best possible development pattern for the entire area. The Secondary Plan should not simply allow for the maximization of massing, floor plates, heights and densities on those properties whose owners have, for whatever reason, already made planning applications to the detriment of remaining parcels.

For example, a zoning by-law amendment application has been made for the abutting property, 55 Erskine Avenue (17 145066 NNY 25 OZ). That application has already been appealed to the Ontario Municipal Board (OMB Case No. PL171307). The 55 Erskine Avenue property immediately abuts our client's site to the north and the west, since it is an L-shaped development parcel that extends southward from its Erskine Avenue frontage to Broadway Avenue. The proposed 12 storey residential tall building is setback only 6.99 meters from the joint property line.

If that building is approved as applied for, the setback and tall building separation provisions of the proposed secondary plan would export a separation distance on the Church Property, likely precluding construction of a tall building on a very substantial portion of the Church Property. Proposed policy 4.3.2 would require either a minimum 15 meter setback from side and rear property lines or a minimum 30 meter separation distance between that proposed building and any existing or planned tall building, whichever is greater.

It is the Archdiocese's view that it is neither equitable nor appropriate for a 30 meter separation distance requirement to be imposed upon any future development on the Church Property in circumstances where less than half of that distance is provided on the 55 Erskine Avenue property. If 55 Erskine Avenue is, due to its size and shape constraints, unable to bear an equal share of an obligation to maintain a 30 meter separation by providing a full 15 metre setback (and it is determined that a reduced setback on the 55 Erskine lands is appropriate) the burden of providing a 30 meter separation distance should not simply be shifted to the Church Property.

We suggest that this policy should be modified with the view of ensuring that appropriate separation distances, which may need to be less than 30 meters, are equitably shared between adjoining landowners. The starting principle might be that reduced side and rear yard setbacks will not disadvantage the development potential of adjoining properties. As drafted, section 4.3.2 would absolutely require the adjoining property to provide the balance



of the 30 metre separation distance if a smaller setback is approved next door. In a comprehensive planning process, no advantage should be given to an earlier rezoning application nor should that property's constraints result in the imposition of the bulk of the separation distance burden on land like the Church Property.

We would also suggest that a 30 metre separation may not be required in all circumstances and that the policy should be consistent with the more broadly worded tower separation distance provisions found in the Tall Buildings Urban Design Guidelines, which are applicable City-wide.

Midrise Building to Tall Building Separation Distance

While the owner of 55 Erskine has sought a tall building (12 stories) it is possible that it will be a midrise building (10 stories or less) which is ultimately approved and built. If a midrise building is approved for 55 Erskine Avenue, our interpretation of the proposed Secondary Plan is that there would no longer be a 15 metre setback requirement for the Church Property nor a 30 metre separation distance requirement between that midrise building and any tall building on the Church Property. We would like confirmation and greater clarity in the policy language that this is indeed the case.

Church Architectural and Operational Needs

Many of the policies and numeric standards in section 4.3 of the proposed Secondary Plan are derived from and will force development into a standard residential condominium urban form. Flexibility in those standards should be provided to accommodate ecclesiastical or church architectural elements and greater creativity rather than imposing the simple uniformity of a conventional condominium building form.

The Roman Catholic Church has a rich history. It has both established ecclesiastical architectural language and forms which classically express the experience of the divine and a willingness to innovate and allow architecture to find new expressions of that relationship.

For example, section 4.3.3 provides that base buildings must not exceed a maximum height of "4 stories (13.5 meters)". While a 13.5 meter podium height may be adequate for a residential condominium's podium, that absolute numerical would not accommodate church architecture which often relies upon vertical elements and height. Applied rigidly, as the current wording requires, this limit prevents creative, striking or evocative ecclesiastical architectural expressions and could be a contravention of our client's freedom of expression/religion. We would suggest that a more appropriate approach which this Secondary Plan should take, as was the case in Zoning By-law 569-2013, is to exempt places of worship from this absolute height restriction.

Interestingly, this type of exemption is provided for in section 4.3.5 already, where the policy to minimize lobby width is excepted for institutional uses. The Archdiocese is thus seeking exemptions which would be consistent with the draft Secondary Plan's recognition that at least some elements of a building require different architectural expressions when the use changes.

The requirements of section 4.3.8, for a fixed ratio of open space to built-form (55:45) does not recognize the community and public functions of a place of worship. St. Monica's



Church building and its fellowship already serves the existing neighbourhood. It contributes to the community's overall wellbeing in a fashion which parallels that of open space or parkland, the securing and preservation of which is a focus of this Secondary Plan. It is in fact effectively already "support[ing] the existing and future population and a high quality of life for people of all ages and abilities" (section 3.2.2 – Area-wide Public Realm Policies). We suggest that an exception to this policy for this existing community asset should be implemented.

The requirements of section 4.3.2 for a minimum 5 meter side yard setback once again imposes a level of uniformity that is particularly inappropriate for Church architecture. While residential apartment buildings are typically constructed with straight walls for efficiency, church architecture values expressing the faith in a physical manner. For a church, an exemption or different standard that recognizes that portions of the building may come closer to the side yard than that requirement is appropriate.

The Secondary Plan contemplates a 7.5 metre front yard setback which in itself is likely acceptable. However, our client expects that the area in front of its church will be used in an active manner, with church events and celebrations spilling out from the building into that area. We recognize that section 3.2.4.(e) references the "provision of forecourts, gardens, plazas and landscaped courtyards" as desirable. We want to ensure that the Official Plan's wording does not preclude landscape and building designs that encourage activities to occur within that setback area nor some structures and we would appreciate an opportunity to discuss how this concern can be best accommodated in the proposed policy language.

Podium Height

We note that there appears to be an ambiguity between 4.3.3 and 4.3.4. While both a tall building and a midrise building's podiums are required to setback at 4 stories, section 4.3.4 (midrise buildings) references the fourth storey as being at an "approximate height of 13.5 meters", while the section 4.3.3 fixes the height numerically at 13.5 meters, without qualification or flexibility. We would suggest that section 4.3.3 should be revised to provide that the podium of a tall building be similarly "4 stories and approximately 13.5 metres".

Overly Prescriptive Provisions

There are a number of provisions in the draft Secondary Plan which are overly prescriptive and do not allow for the appropriate flexibility needed to address site conditions. For example, the height limit found in Map 21-8 of 24-26 storeys is too low because the existing physical context with taller approved buildings in the vicinity, the proximity to an *Avenue*, the Yonge-Eglinton *Centre* and the subway station and the low potential for serious negative impacts allows the Church Property to accommodate additional height and density. The open space ratio provision in section 4.3.8 similarly restricts flexibility to respond to site specific characteristics. The proposed "no net new shadowing" provision that applies to parks and open spaces is very restrictive and we expect will be impractical and unduly onerous, necessitating an Official Plan Amendment for even a square centimetre of new net shadowing for an extra minute. That provision, like the tower floor plate limit of 750 square metres and the minimum tower separation distances, differ from the Tall Building Urban Design Guidelines used elsewhere in the City. Continued use of those Guidelines is preferable and more appropriate. There is also some concern around the provisions



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requiring a specific percentage of two and three bedroom units and affordable housing and the section 37 policies which the residential proponent could better address once the entirety of the development is known and the other advantages to the City and the public interest are established. Allowing flexibility, particularly in a mixed use development where an important community resource is to be retained and improved, is more appropriate.

Provincial Policy and Growth Plan

In general terms and as our comments on specific proposed provisions and standards highlights, the approach of the Secondary Plan to impose strict numeric and site specific limits is unfortunately inconsistent with the policies in the Provincial Policy Statement and do not conform with the provisions of the Growth Plan which promote intensification, resiliency through accommodating institutional (with places of worship specifically mentioned) uses and compact built forms in areas in close proximity to public transit.

Closing

We would be pleased to be able to meet further with you to answer questions, discuss these comments and any additional comments that we might have with respect to the secondary plan. The Archdiocese appreciates the meeting with Mr. Farish in August of 2017 where it was able explain its plans and the process for redevelopment and for his advice at that time. We want to keep you apprised of our progress and look forward to ensuring the Secondary Plan appropriately reflects the opportunity for a mixed-use (residential and institutional) redevelopment. The Archdiocese may wish to provide further comments prior to Council adoption of the Secondary Plan.

If you have any questions please contact us.

Yours truly,

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Per:



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