



Project No. 16143

June 6, 2018

Councillor David Shiner, Chair, and Members
Planning and Growth Management Committee
c/o Nancy Martins
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Sirs/Madam:

**Re: *Item PG30.4 - June 7, 2018 Planning and Growth Management Committee
Midtown in Focus: Yonge-Eglinton Secondary Plan OPA
1925-1951 Yonge Street, 22 Davisville Avenue, and 17 and 21 Millwood Road***

We are planning consultants to 2457182 Ontario Inc. and 1644137 Ontario Inc. ("Times Group") with respect to its site at 1925-1951 Yonge Street, 22 Davisville Avenue and 17-21 Millwood Road, located on the east side of Yonge Street, between Davisville Avenue and Millwood Road ("the subject site").

On behalf of our client, we filed an application for an Official Plan Amendment and Zoning By-law Amendment for the subject site on March 29, 2017 (File No. 17 136251 STE 22 OZ) in order to permit two towers, 25 and 34 storeys, with approximately 8,200 square metres of commercial space on the ground, 2nd and 3rd floors.

Section 26

In our opinion, the Yonge-Eglinton Secondary Plan Official Plan Amendment ("Yonge-Eglinton Plan") cannot reasonably be considered to be part of a municipal comprehensive review and/or a provincial plan conformity exercise and, therefore, is not properly subject to Section 26 of the *Planning Act*.

Section 26(3)(a) requires Council to consult with the approval authority (in this case, the Ministry) and with prescribed public bodies with respect to any revisions to the official plan that may be necessary. There is no apparent evidence that the Ministry was consulted with respect to the revisions required as part of the exercise, and even if so, the public has no information on that consultation or its results.

In addition, Section 26(3)(b) requires Council to hold a special public meeting that is open to the public to discuss the revisions to the official plan that may be required. There is no evidence that such a meeting was held. While the special meeting of Council scheduled for June 7, 2018 (i.e. this Planning and Growth Management Committee meeting) purports to be the special public meeting required by Section 26(3)(b), we are of the view that it cannot properly be considered the required statutory meeting as it will not serve as an opportunity for members of the public to provide input on the “revisions that may be required” to bring the Official Plan into conformity with Provincial policies and plans (a meeting that in any event should occur near the beginning of the process).

Furthermore, it is our opinion that the Yonge-Eglinton Plan cannot be considered a provincial conformity exercise, as it is not consistent with the 2014 Provincial Policy Statement (“PPS”) and does not conform with the 2017 Growth Plan for the Greater Golden Horseshoe (“Growth Plan”), both of which contain a number of policies that promote intensification and compact built form, particularly in areas well served by public transit.

Finally, it is our opinion that the Yonge-Eglinton Plan cannot be considered the result of a “municipal comprehensive review” because it does not provide density calculations within the “major transit station areas” and none of the documents presented to the public during and in support of the review process appear to provide any density calculations in terms of job and persons per hectare, as required by the 2017 Growth Plan.

Transition/Exemption

Since the time of submission of the application, we submitted the attached letter on behalf of our client to City Planning dated February 23, 2018, which outlined our concerns with the November 2017 version of the Yonge-Eglinton Plan. Further to that letter, we have reviewed the revised Yonge-Eglinton Plan dated April 30, 2018, and we continue to have a number of planning concerns, as described below.

The Yonge-Eglinton Plan does not currently include any transition policies or protocols to recognize proposed redevelopments that are in process or were the subject of applications filed prior to the adoption of the Yonge-Eglinton Plan. In this regard, the above-noted applications for the subject site pre-dated adoption of the Secondary (as well the November 2017 initial draft) and as such we request that the subject site be exempted from the proposed new Yonge-Eglinton Plan.

In the event that the subject site is not specifically exempted from the Yonge-Eglinton Plan, it is our opinion that transition provisions should be incorporated into the Yonge-Eglinton Plan so as to ensure that development proposals which are the subject of “complete” applications, such as the subject application, are reviewed on the basis of the planning framework that was in force at the time they were filed.

Provincial Consistency and Conformity

With respect to the merits of the Yonge-Eglinton Plan as it applies to the subject site, it is our opinion that, as currently drafted, it is not consistent with the PPS and does not conform with the Growth Plan. More specifically, the Yonge-Eglinton Plan does not optimize the use of land and infrastructure, particularly as it applies to the subject site.

In this regard, the Yonge-Eglinton Plan does not take into account Provincial policy directions to optimize the use of land and infrastructure along transit and transportation corridors, and in particular within “major transit station areas”. In this regard, “optimization” means making something “as fully perfect, functional, or effective as possible”.

Nodal Intensification and Height

In reviewing the Yonge-Eglinton Plan, we are of the opinion that there has been insufficient analysis of intensification around subway stations. Recognizing the land use and transportation planning benefits associated with nodal intensification, planning and future development within the Yonge-Davisville node should seek to provide for intensification and taller building heights around the Yonge-Davisville intersection and within a radius of approximately 250 metres from the Davisville subway station.

As noted in our February 2018 letter, our primary concern is that the Yonge-Eglinton Plan does not properly recognize the importance of intensification on the subject site given its location on the doorstep to the Davisville subway station. In order to be able to accommodate, or exceed the growth and intensification targets set out for the City over the next 15-25 years and, even more critically, to be able to increase the housing supply going forward to help address the affordability problems we collectively face, we will need to take advantage of opportunities to intensify in “major transit station areas”, where people can live and work without relying on a private automobile.

The approach in the Yonge-Eglinton Plan is counter-productive to those objectives. It would restrict, rather than support, the intensification potential of the subject site by imposing a height limit of 14-16 storeys, excluding mechanical penthouse. Fundamentally, it is our opinion that the proposed imposition of numerical height limits (and other such numerical standards) is generally inappropriate and undesirable in a policy document and is more appropriately included in a regulatory document (the zoning by-law) or a guideline.

From a strategic perspective, planning for nodal intensification around key subway stations provides significant potential for integrating land use and transportation planning objectives. There are limited opportunities to optimize intensification on sites in proximity to “major transit station areas” to meet the objectives of the Growth Plan. Sites which are located within immediate proximity of subway stations (such as the subject site) provide an excellent opportunity to maximize the number of potential transit users within walking distance of the station.

The distance to the Davisville subway station should be a key consideration in determining an appropriate height and density for the subject site. In our opinion, the apparent failure to take this consideration into account or to give it proper weight does not conform with the direction in the Growth Plan to maximize the number of potential transit users within walking distance of the station. Instead, the October 15, 2017 staff report appears to consider only the minimum density requirements set out in the Growth Plan.

In this regard, it is noted that the height map in the Yonge-Eglinton Plan (Map 21-14) would permit a height of 14-16 storeys on several other sites along the north side of Merton Street, the furthest being more than 700 metres from the Davisville subway station. In our opinion, the subject site, immediately adjacent to the Davisville subway station, should logically be permitted greater height and density than a site which is located near the northwest corner of Mount Pleasant Road and Merton Street, located more than nine times the distance from the subway station than the subject site.

Proposed Map 21-3 identifies the subject site as being within a Station Area Core. By identifying the subject site with a 14-16 storey height limit, the same height permissions as lands located significantly further from the subway station, and within Secondary Zones, Map 21-3 is contrary to Policy 2.4.2(a)(i) which indicates that “Station Area Core zones”, in which the subject site is located, will have the “highest density, use and activity within the Midtown Transit Station Area” and Policy 1.3.5(b) which states that “new tall buildings will peak at the Yonge Street and Davisville Avenue intersection with heights terracing down in all directions”.

Fundamentally, the subject site is a contextually appropriate location for a tall building (or buildings), significantly taller than the 14 to 16 storeys proposed in the Yonge-Eglinton Plan, for a number of reasons, including its location at the northeast corner of Yonge Street and Davisville Avenue, immediately adjacent to the Davisville Subway Station (within a “Major Transit Station Area - Station Area Core”); its location at the intersection of a Major Arterial road (Yonge) and a Minor Arterial road (Davisville); its overall site size and dimensions; and its proximity to a number of other existing and approved tall buildings in the Yonge-Davisville node.

Other Concerns

1. Mixed Use Areas ‘A’

In our opinion, the designation of the subject site as *Mixed Use Areas ‘A’*, and in particular Policy 2.5.4 requiring a certain proportion of office uses, is inappropriate.

Historically, there have been both residential buildings and non-residential buildings along Yonge Street, which provide a mix of employment and non-employment uses on an overall basis, consistent with the intent that Yonge Street be a mixed-use street. Accordingly, it is not necessary or appropriate to require each new development to provide office, institutional and/or cultural uses, regardless of site constraints and site-specific considerations.

2. Parkland

It is our opinion that proposed Policy 3.3.18, which proposes an alternative parkland dedication rate proportionate with proposed densities, building types, heights, etc., is inappropriate. First, as noted above, the lands located immediately adjacent to the Davisville subway station should be utilized to support nodal intensification around key subway stations rather than requiring a larger parkland dedication in areas where the land is better suited to accommodating growth and maximizing the number of potential transit users within walking distance of the station.

Second, if such policies are to be included in the Official Plan, a comprehensive city-wide study should be required to analyze the impacts and allow the opportunity for broad-based consultation. In this regard, it appears that, contrary to the approach set out in the city-wide (2006) Official Plan, the Yonge-Eglinton Secondary Plan is proposing to defer the important decisions regarding parkland rates to the Section 42 by-law, which has no legal requirement for public notice and consultation nor is it subject to appeal. As set out in provincial guidance documents which were prepared to explain the maximum alternative parkland dedication requirement (i.e. 1 ha / 300 dwelling units for land and 1 ha / 500 dwelling units for cash-in-lieu), the Official Plan must contain policies which justify the rate chosen by the City and those policies are subject to testing through the appeal process. To leave the justification to the Section 42 by-law entirely ignores the direction to have the planning justification tested through the Official Plan policies.

3. Tower Setback

Proposed Policy 5.3.39 would require a minimum of a 3-metre setback above the base building, including balconies. Typically, the 3-metre tower setback above base building is to the tower face, excluding balconies. If such policy is to be included, rather than requiring balconies to also be set back 3 metres, which may result in inset balconies, the wording should be amended to permit balconies within the setback so long as they are designed to accentuate the setback.

4. Tower Floorplate

Proposed Policy 5.3.41 stipulates that residential tower floorplates will not exceed 750 square metres gross construction area, excluding balconies, and that minor increases, such as 5%, may be considered where increases are required to address building structural requirements and where there is additional attention to shape and articulation, and where additional separation distance and setbacks are provided.

In our opinion, additional flexibility should be built into the reasons/conditions set out in this policy regarding minor increases in floorplate size to also permit increases for matters such as providing a significant number of large family-sized units, provision of purpose-built rental units, etc.

5. Floor Heights

Proposed Policy 5.4.4 prescribes height limits based on type of use. As noted above, it is our opinion that such detailed numerical standards are inappropriate and undesirable in a policy document. In our opinion, this policy is overly restrictive and would stifle design creativity and context-specific design responses, and could ultimately create monotony in the visual appearance along the street. In our opinion, this policy should be deleted.

6. Unit Mix / Sizes

We have significant concerns with proposed Policy 7.1, which would require 15% two-bedroom units and 10% three-bedroom units, as well as an additional 15% as a combination of 2- and 3-bedroom units, and would specify minimum unit sizes of 87 square metres for two-bedroom units and 100 square metres for three-bedroom units. As outlined in our February 2018 letter, setting minimum sizes for units will have unintended negative consequences by reducing affordability. We strongly believe that advancing these prescriptive measures without an in-depth review of market demand/supply and income/affordability presents significant risks and could potentially counter affordability objectives that the City is trying to achieve. Moreover, including such detailed criteria in an Official Plan will make it much more difficult for the City to be able to react, in a timely manner, to evolving housing demands over the years. It might have the unintended consequence of requiring an Official Plan Amendment just to slightly adjust the unit mix in a single building.

7. Section 37 Requirements

Finally, it is our opinion that proposed Policy 9.4.5, which provides that the amount of a monetary contribution will be equal to 25% of the incremental market value of the gross floor area, is inappropriate in a number of respects. First, as with the unit size and minimum gross floor area for office, any such policy should be considered on a City-wide basis. Second, a formulaic approach to monetary contributions (Section 37) is not supported by the City's Section 37 implementation guidelines. Third, while the City's practice has been to use a percentage of the incremental increase in land value as a guideline for calculating a Section 37 contribution, that percentage has historically been much less than 25%.

Deferral Request

The foregoing is not a comprehensive list of all of the concerns that would arise from the application of the Yonge-Eglinton Plan to the subject site. If our request to exempt the subject site from the Yonge-Eglinton Plan is not granted, then on behalf of our client, we request that the approval of the Yonge-Eglinton Plan be deferred, at least as it applies to the subject site, so that all of the concerns can be discussed with City 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: *David Driedger, Toronto City Planning*
Hashem Ghadaki, Times Group Corp.
Ira T. Kagan, Kagan Shastri LLP



Project No. 16143

February 23, 2018

Paul Farish
Senior Planner, Strategic Initiatives, City Planning
City of Toronto
Metro Hall, 22nd Floor
55 John Street
Toronto, ON M5V 3C6

Dear Mr. Farish:

**Re: *Midtown in Focus: Proposed Yonge-Eglinton Secondary Plan
1925-1951 Yonge Street, 22 Davisville Avenue, and 17 and 21 Millwood Road***

We are planning consultants to 2457182 Ontario Inc. and 1644137 Ontario Inc. (the Times Group) with respect to the above-noted properties (the “subject site”).

We have reviewed the Proposed Yonge-Eglinton Secondary Plan Update - November 2017 (the “proposed secondary plan”), which was received and endorsed by City Council on December 5, 2017 as a basis for stakeholder and public consultation. We have a number of concerns with the proposed secondary plan, which are described below.

Fundamentally, our concern is that the secondary plan does not properly recognize the importance of intensification on the subject site given its location on the doorstep to the Davisville subway station. In order to be able to accommodate the growth and intensification targets set out for the City over the next 15-25 years and, even more critically, to be able to increase the housing supply going forward to help address the affordability problems we collectively face, we will need to take advantage of opportunities to intensify in “major transit station areas”, where people can live and work without relying on a private automobile.

The approach in the proposed secondary plan is counter-productive to those objectives. It would restrict, rather than support, the intensification potential of the subject site by imposing a height limit of 14-16 storeys, which does not currently exist. In our opinion, the height limit should be removed or increased to allow approval of an appropriate intensification project that is designed to optimize the use of land and infrastructure, while sensitively addressing its surroundings.

In our opinion, the proposed secondary plan, as currently drafted, is not consistent with the Provincial Policy Statement and does not conform with the Growth Plan, more specifically, the

proposed secondary plan does not optimize the use of land and infrastructure, particularly as it applies to the subject site. From a strategic perspective, planning for nodal intensification around key subway stations provides significant potential for integrating land use and transportation planning objectives. There are limited opportunities to optimize intensification on sites in proximity to rapid transit stations to meet the objectives of the Growth Plan. We need to take advantage of rapid transit, and sites in the immediate proximity of subway stations (such as the subject site), in order to maximize the number of potential transit users within walking distance of the station.

The distance to the Davisville subway station should be a key consideration in determining an appropriate height for the subject site. In our opinion, the apparent failure to take this consideration into account or to give it proper weight does not conform with the direction in the Growth Plan to maximize the number of potential transit users within walking distance of the station. Instead, the October 15, 2017 staff report appears to consider only the minimum density requirements set out in the Growth Plan.

Fundamentally, the subject site is a contextually appropriate location for a tall building (or buildings), significantly taller than the 14 to 16 storeys proposed in the proposed secondary plan, for a number of reasons, including its location at the northeast corner of Yonge Street and Davisville Avenue, immediately adjacent to the Davisville Subway Station (within a “Major Transit Station Area - Station Area Core”); its location at the intersection of a Major Arterial road (Yonge) and a Minor Arterial road (Davisville); its overall site size and dimensions; and its proximity to a number of other existing and approved tall buildings in the Yonge-Davisville node.

Despite the fact that Policy 3.1.6(a) of the proposed secondary plan indicates that “Station Area Cores”, in which the subject site is located, “will have the most intense density, use and activity within the major transit station areas...”, the proposed plan shows the same height limit on the subject site (14-16 storeys) as on sites located near Mount Pleasant Road, over 700 metres from the Davisville subway station. The subject site, which is 95 metres walking distance from the Davisville subway station (just over a one-minute walk), should logically be permitted greater height and density than a site which is located more than seven times the distance from the subway station than the subject site.

From a technical policy perspective, the imposition of numerical height limits is generally inappropriate and undesirable in a policy document and is more appropriately included in a regulatory document (the zoning by-law) or a guideline. 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.

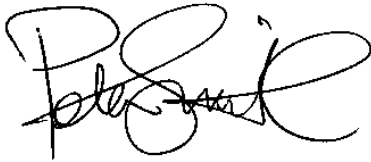
Furthermore, it should be noted that the development application for the subject site was submitted in March 2017, well before the release of the proposed secondary plan in November 2017. As such, it is our opinion that the subject site should be exempt from the new proposed height limits in the secondary plan.

In addition to the above mentioned concerns with respect to the height limit proposed for the subject site, we have identified a number of other general concerns with the proposed secondary plan policies, as set out in Attachment A.

In conclusion, for the reasons outlined above, we request that consideration be given to the deletion of the site-specific height limit, or a significant increase in the height limit, applying to the subject site, and the consideration of concerns outlined in Attachment A, prior to the Final Report to City 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: John Livey, Deputy City Manager
David Driedger, Toronto City Planning
Hashem Ghadaki, Times Group Corp.
Ira T. Kagan, Kagan Shastri LLP*

Attachment A

1. Non-Residential Floor Area

We have concerns with the proposed non-residential floor area policies in 3.1.5 and 3.4.2. It is not clear how, or if, these policies would be applied on a site-by-site basis.

2. Building Setback

Proposed Policy 3.2.24(d) would require a 3.0 metre building setback above and below grade on the north side of Davisville Avenue. It is our opinion that such detailed numerical standards are inappropriate and undesirable in a policy document. The requirement to provide the building setback below grade, in addition to above grade, is unnecessarily restrictive and essentially creates a 3-metre wide no build zone. If such policies are to be included, the below-grade building setback policy should be amended to permit an encroachment within the below grade building setback at a certain depth (e.g. the below-grade building setback should be limited to a depth of 1.2 metres to accommodate sufficient depth for landscaping requirements, but below the 1.2-metre depth, no building setback would be required).

3. Tower Setback

Proposed Policy 3.3.15 would require a minimum of a 12.5 metre tower setback from the side and rear property lines or centre line of an abutting lane. It also requires the separation distance between tall buildings to be proportionally increased (from 25m) above the 30th storey by reducing the size of the tower floor plate. If such policies are to be included, the policy should permit the setback to also be taken from the centre line of an “abutting street” and not just from a lane. As well, an increased separation distance between towers for buildings over 30 storeys is inappropriate and not necessary.

As well, Policy 3.3.17 would require a minimum of a 3-metre stepback above the base building, including balconies. Typically the 3-metre tower stepback above base building is to the tower face, excluding balconies. If such policy is to be included, rather than requiring balconies to also be set back 3-metres, which may result in inset balconies, the wording should be amended to permit balconies within the stepback so long as they are designed to accentuate the stepback.

4. Transition

Proposed Policy 3.3.25 would require a height and scale consistent with the prevailing or planned character of the *Neighbourhood* on any portion of a development site with lands designated *Neighbourhoods*. It is unclear by the wording of this policy whether a development proposal that involves redesignation of a portion of the site from *Neighbourhoods* to *Mixed Use Areas* would be required to retain a prevailing height and scale of the *Neighbourhood* on the portion of the site being redesignated, or if this policy would only apply to lands which are not being redesignated and are to remain *Neighbourhoods*. In this regard, the northeast corner of the subject site is proposed to be redesignated from *Neighbourhoods* to *Mixed Use Areas*. Given that the site is adjacent

to the school yard to the east, there would be no adjacent dwellings; the proposed height and scale on the portion of the site being redesignated would be greater than the prevailing height and scale of the *Neighbourhood*.

5. Retail Unit Depth

Proposed Policy 3.4.5(b) requires retail stores at grade to have a minimum depth of 15 metres. If such a policy is to be included, it should have the words “where possible” added as this requirement may not be achievable in all circumstances.

6. Base Building Height and Angular Plane

Proposed Policy 4.4.4.3 would restrict base building heights along Yonge Street north of Davisville Avenue to a maximum of 2 storeys (approximately 7.5 metres), and would require that the building comply with a 45-degree angular plane taken from a height of 80% of the right-of-way width, and would limit building height to no taller than the width of the right-of-way. This policy should be clarified to include a clause which notes that “unless otherwise shown on Map 21-9” given that the height of a 16-storey building on the subject site would exceed the right-of-way width and would not comply with a 45-degree angular plane. Furthermore, a 2-storey base building height for the subject site is inappropriately low and should be amended to a more appropriate base building height near the corner of Yonge/Davisville and within an “office priority area”.

7. Unit Mix and Minimum Sizes

We have significant concerns with proposed Policy 3.6.2, which would require 30% two-bedroom units and 20% three-bedroom units, and would specify minimum unit sizes of 90 square metres for half of the two-bedroom units and 106 square metres for half of the three-bedroom units. Similar to our comments above, such detailed numerical standards are inappropriate in a policy document. Furthermore, if such policies are to be introduced in the Official Plan, that should be done on a City-wide basis with the requisite comprehensive study and opportunity for broad-based consultation.

8. Affordable Housing

We have similar concerns about the proposed affordable housing provisions in Policy 3.6.4, which would require 10% of the total residential gross floor area as Affordable Rental Housing or 15% of the total residential gross floor area as Affordable Ownership Housing or a combination of the above. Moreover, no definitions are provided for Affordable Rental Housing or Affordable Ownership Housing, and it appears from a review of proposed Section 5.3 that affordable housing would not be an eligible Section 37 contribution, contrary to the City-wide policies in Policy 5.1.1(6) of the Official Plan. Similar to the proposed unit size policy addressed above, if such policies are to be introduced in the Official Plan, it should be done on a City-wide basis with the requisite comprehensive study and opportunity for broad-based consultation.

9. Section 37

Finally, it is our opinion that proposed Policy 5.3.5, which provides that the amount of a monetary Section 37 contribution will be equal to 25% of the incremental market value of

the gross floor area, is inappropriate in a number of respects. First, as with the unit size and affordable housing policies, any such policy should be considered on a City-wide basis. Second, a formulaic approach to Section 37 contribution is specifically rejected in the City's Section 37 implementation guidelines. Third, while the City's practice has been to use a percentage of the incremental increase in land value as a guideline for calculating a Section 37 contribution, that percentage has historically been 7-15% of the increased land value, not 25% of the increased gross floor area.

Lastly, we note an error on Map 21-13 (Pedestrian Network) ,which shows an "existing park" on the subject site, which is not the case. This map should be amended to remove the park on the subject site shown as "existing".