

June 6, 2018

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VIA E-MAIL - PGMC@TORONTO.CA

File 18436.00001

Chair David Shiner and Members
Planning and Growth Management Committee
City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Nancy Martins, Secretariat

Dear Chair and Members of the Committee:

Re: PG 30.4 - Midtown in Focus: Final Report

A. Introduction

We act as counsel for the owners of the following properties (collectively the "**Redpath Lands**"):

1. 227 Redpath Avenue – 227 Redpath Inc.;
2. 229 Redpath Avenue – 229 Redpath Inc.;
3. 231 Redpath Avenue – 231 Redpath Inc. (under agreement of purchase and sale); and
4. 233 Redpath Avenue – 233 Redpath Inc. (under agreement of purchase and sale).

The Redpath Lands are all located on the east side of Redpath Ave. between Broadway Ave. and Erskine Ave., within the Yonge-Eglinton Secondary Plan area of the City. The Redpath Lands are currently comprised of two house form buildings which are two storeys in height, containing a total of four semi-detached dwellings. The Redpath Lands are surrounded by both existing and proposed additional high-rise residential buildings, and it is inevitable that they will also be redeveloped in due course.

B. Submissions Regarding the Proposed Secondary Plan

At the outset, our clients are particularly concerned about the apparent efforts on the part of City Staff to characterize this process as part of a Municipal Comprehensive Review, and their associated recommendation to seek to have the proposed Official Plan Amendment approved

by the Minister pursuant to Section 26 of the *Planning Act*. In our respectful submission, this constitutes a belated after-the-fact attempt, apparently undertaken in concert with Staff at the Ministry of Municipal Affairs, to recast this process as something which was clearly not intended until long after it was already well underway. We presume that the primary motivation for this belated initiative is an attempt to take advantage of recent amendments to the *Planning Act* which effectively enable Section 26 Official Plan updates to be immunized from statutory rights of appeal to the Tribunal under section 17 of the *Planning Act*.

In our respectful submission, this amounts to a subversion of the planning process as envisioned by the *Planning Act* and it should not be condoned by the Committee or Council. It would be particularly ironic if the City chose to seek the Minister's approval of the proposed amendments after years of asserting the need for the City to have greater autonomy and independence from Queen's Park. If Council is satisfied with the proposed revisions to the Secondary Plan and is prepared to adopt them on that basis, it should have the fortitude and resolve to defend those amendments on any subsequent appeals before the Tribunal, rather than shielding itself under the cloak of the Minister.

With respect to the merits of the Proposed Secondary Plan as it applies to the Site, is our opinion that, as currently drafted, the proposed Secondary Plan is not consistent with the Provincial Policy Statement, 2014 and does not conform with the Growth Plan for the Greater Golden Horseshoe (the "**Growth Plan**"). More specifically, the Proposed Secondary Plan does not optimize the use of land and infrastructure, both generally and particularly as it applies to the Site.

In particular, the Proposed Secondary Plan does not take into account specific 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".

Of particular concern in this regard is the proposed maximum height limit of 8 storeys that would apply to the Redpath Lands, as shown on Map 21-11 (attached). In our respectful submission, this would unduly restrict, rather than support, the intensification potential of the Site. Greater height and density should be permitted on the Redpath Lands to allow for appropriate intensification given its locational context (between and across from sites proposed for substantially greater building heights, and within a short walk from the Eglinton-Yonge subway/LRT station as well as three major transit routes). In this regard, we submit that retaining this small pocket of lands strictly for lower mid-rise buildings does not represent good planning and is not forward-thinking.

From a broader 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. The proximity to the Eglinton-Yonge subway/LRT station should be a key consideration in determining an appropriate height (and resulting density) for the Site. In our submission, 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 existing and planned transit facilities. Instead, the October 15, 2017 Staff Report appears to consider only the minimum density requirements set out in the Growth Plan.

Our clients also have concerns with the revised unit mix and minimum unit size policy, Policy 7.1, which would require 15% two-bedroom units and 10% three-bedroom units, as well as an additional 15% for 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. 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.

Finally, our clients have concerns with the revised monetary contributions policy, 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 several 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 much less than 25%.

Please note that the foregoing is not intended as a comprehensive list of all of the concerns that would arise from the application of the proposed Secondary Plan as it applies to the Site, but rather as a summary of the primary issues and concerns as identified to date.

C. Summary

For all of these reasons, it is our respectful submission that the revisions to the Yonge-Eglinton Secondary Plan as proposed in the Midtown in Focus: Final Report should not be recommended for approval by the Committee. Instead, we submit that the proposed OPA

should be referred back to Staff for further consideration, both with respect to the proposed process intended to be followed and with respect to the substance and planning merits of the policy direction provided in the revised Secondary Plan.

Thank you for the opportunity to provide these written submissions. Please ensure that we are provided written notice of the Committee's recommendations and any subsequent decisions made by City Council in respect of these matters.

Yours truly,

WeirFoulds LLP



Barnet H. Kussner

BHK/ew

c: Clients
C. Hunter, Hunter & Associates Ltd.

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Yonge-Eglinton Secondary Plan
 MAP 21-11 Permitted Building Types and Height Limits

- | | | | |
|---|---|---|--------------|
| Midtown Low-rise | Midtown Tall Buildings | No Additional Infill Capacity | Not to Scale |
| Midtown Low-rise (Approved/Constructed) | Midtown Tall Buildings (Approved/Constructed) | No Additional Storeys on Top of Existing Building | |
| Midtown Mid-rise | Midtown Infill Apartment Neighbourhood Building | Special Study Areas | |
| Midtown Mid-rise (Approved/Constructed) | Midtown Infill Apartment High Street Building | Maximum Height Limits | |