

June 6, 2018

**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**

**Attention: City Clerk**

Your Worship and Members of Council:

**RE: PG30.4 Midtown in Focus – Final Report  
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 throughout the Midtown in Focus planning process, including numerous written submissions and attendance at various public and stakeholder meetings.

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. A pre-application consultation meeting is scheduled with City Staff on June 19, 2018 to discuss a 14-storey commercial/office building on the Jencel Property and the abutting site at 2239 Yonge Street, owned by the Society of United Professions (Engineers) who have also submitted correspondence in respect of this matter (the “**Society**” and the “**Society’s Property**”).

We have had an opportunity to review some of the documents recently made public by the City in respect of the Midtown in Focus process, including a recently-revised draft of a new Yonge Eglinton Secondary Plan (the “**Secondary Plan**”).

We have reviewed correspondence from other concerned parties and we echo many of the concerns expressed with respect to the Secondary Plan. In particular, we concur that **consideration of the Secondary Plan should be deferred in order to provide for a more appropriate period of review.**

### **Height and Built Form**

We continue to be disappointed with the Secondary Plan's treatment of the Jencel Property and the Society's Property. In particular, the maximum permitted height for these lands is given as 8 stories on Map 21-12, despite their location at the heart of the Secondary Plan area and within the Yonge-Eglinton Crossroads Core Area and within the identified 250-metre radius of the Eglinton Subway Station.

The anomalous identification of these lands for a maximum height of 8 storeys, while all other lands within the immediately relevant context have "tall building" height permissions, including tower permissions of 65 storeys and 58 storeys immediately to the north and south, demonstrates a failure of the Secondary Plan to adequately plan and coordinate growth and development at this important intersection.

It appears that the Secondary Plan assumes that because the sites to the north and south of the Jencel Property/Society's Property have been proposed for tall buildings, that these remaining sites must bear the consequences and that the Jencel Property cannot even develop to its currently zoned height of 61 metres. This is a problem that we identified and attempted to raise with the City throughout the application process for 1 Eglinton Avenue East, the property north of the Jencel Property. Although City Council has endorsed the planning report for 1 Eglinton Avenue East, the amending by-laws for that site have not yet been adopted and the application process is not yet complete.

The 1 Eglinton Avenue East project was supported by the City with a very minimum tower separation of 6.8 metres from the Jencel Property's north property line, rather than the City's typical and commonly applied requirement of a 12.5-metre separation distance to a property line (a built form principle which is espoused within the current Secondary Plan, but which was breached in the approval of the 1 Eglinton Avenue East proposal).

**The Secondary Plan should be revised to provide the Jencel Property and the Society's Property with the same "tall building" height permissions as all other properties within the southeast quadrant of the Yonge-Eglinton Crossroads Core Area.** The deployment of a tall building on these lands should be determined in conjunction with a site-specific application, which, as noted above, will be the subject of a pre-application consultation meeting with City Staff on June 19, 2018.

### **Office Uses**

The proposal for the combined Jencel Property/Society's Property is for office/medical office uses. These are the kinds of uses which are to be encouraged within the Secondary Plan area, particularly at the Yonge-Eglinton Crossroads.

The Secondary Plan envisions that the Core Areas will function as employment nodes with priority given to office uses, among other, in preference to residential intensification. This is particularly true of the Yonge-Eglinton Crossroads, which is at the heart of the Secondary Plan area.

*Mixed Use Area "A"*, which is the proposed lands use designation for both the Jencel Property and the Society's Property, is to be the premier location for major office and other employment uses. Tall buildings are to provide for both new office and non-residential use and/or replacement of existing offices uses.

The proposal for a 14-storey office/medical office building, which will replace a 2-storey building containing a Tim Hortons, a hair salon, and a single residential unit, is entirely consistent with these policies and would contribute to the complete community otherwise envisioned by the Secondary Plan. However, the built form and height policies of the Secondary Plan work contrary to this objective and would effectively sterilize the site for any significant future development. This would be contrary to the Provincial Policy Statement, the Growth Plan, the City's Official Plan, the policies contained within the Secondary Plan itself, and good planning generally.

### **Coordinated Development Through Context Plans**

The Secondary Plan contains a dedicated section highlighting the need for Context Plans to ensure coordinated development (Section 9.3). One of the identified goals of a Context Plan is to "coordinate building placement, separation distances and building heights; demonstrate how the pattern of development and built form will implement the policies of this Plan ..." And immediately following: "demonstrate the orderly development of the context area to the satisfaction of the City."

A coordinated exercise of the type described in Section 9.3 is precisely what Jencel had been asking the City to undertake in the development process for 1 Eglinton Avenue East. This did not take place, with the result that the development of 1 Eglinton Avenue East took place without any regard for coordination with the Jencel Property or the future development potential of the Jencel Property/Society's Property.

The Secondary Plan should not espouse these principles while at the same time they are ignored in practice.

Given the concerns identified, we are requesting that consideration of the Secondary Plan be deferred, in particular as regards the Jencel Property/Society's Property so that appropriate study can be given to the development potential for these lands for office uses at a proposed height in excess of 8 storeys and in light of the City's intention for a tall building at 1 Eglinton Avenue East in close proximity to the boundary of the Jencel Property.

### **Section 26 Approval by Ministry**

We echo and support the submissions made by other legal counsel regarding the very recent determination that this Secondary Plan exercise will proceed by way of a *Planning Act*, section

26 approval to be submitted to the Minister of Municipal Affairs and Housing, and as a consequence being placed outside of the realm of appeals by affected landowners and others. This appears to be an opportunistic use of new statutory provisions resulting from the Bill 139 amendments to the *Planning Act* and does not appear to have been the manner in which this Secondary Plan was originally intended to be brought forward.

Please provide us with notice of the Planning and Growth Management Committee's decision in this matter, the decision of the City Council, and, subject to the comments above, the decision of the Minister of Municipal Affairs and Housing. Please also provide us with notice of any further consideration of this matter by this Committee, any other Committees of Council, and City 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 (client)