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**VIA DELIVERY AND EMAIL**

Mayor John Tory and Members of Council  
City of Toronto  
c/o The Clerk  
100 Queen Street West, 13<sup>th</sup> floor  
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File No. 0021362.0782

**VIA EMAIL AND MAIL**

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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



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,

**MILLER THOMSON LLP**

Per:



David Tang  
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DT/II

cc: Mr. David Finnegan  
Mr. Paul Stagl

