

July 4, 2018

Our File No.: 000031

**Via Email (pgmc@toronto.ca)**

Planning & Growth Management Committee  
10<sup>th</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Nancy Martins, Secretariat**

Dear Sirs/Mesdames:

**Re: Item PG31.7 – Midtown in Focus: Final Report**

We are writing to express concerns of various clients regarding the draft Official Plan Amendment (the “**Draft OPA**”) as it would apply to the lands listed in the attached schedule (the “**Properties**”).<sup>1</sup>

**Summary Request**

We have significant concerns with the public process and would urge the Planning and Growth Management Committee (“**PGMC**”) to consider the following recommendations to enable all members of the public, including our clients, a fair and reasonable opportunity to provide comments regarding the Draft OPA prior to its consideration and potential adoption by City Council:

1. PGMC should provide its direction regarding the three options for the Draft OPA presented in the recently released staff report;
2. PGMC should direct the preparation of an updated version of the Draft OPA, which incorporates the recommended option and other directed revisions to the Draft OPA from the previous PGMC meeting;
3. PGMC should direct release of the updated version of the Draft OPA for review and comment by all members of the public, including our clients; and

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<sup>1</sup> Please note that our previous letter to PGMC provided a similar schedule. The schedule attached to this letter has been updated to add and/or correct certain municipal addresses.

4. PGMC should direct a statutory public meeting to consider comments regarding the updated (and presumably final) version of the Draft OPA.

All of this should occur in advance of this matter moving forward to City Council, especially given the ongoing and invalid use of Section 26 of the *Planning Act* for consideration of this matter.

### **Fairness and Prejudice**

As noted above, the Draft OPA presented at the previous PGMC meeting is anticipated to be amended at the upcoming PGMC meeting such that there is no current consolidated version of the Draft OPA available for review and comment. These various options have only been recently released with the accompanying staff report, which prevents an opportunity for meaningful review and comment in advance of tomorrow's meeting.

This approach means that the City has not provided adequate information and material, including a consolidated version of the Draft OPA, to the public with sufficient and fair opportunity for review and comment.

### **Lack of Transition**

Many of the Properties are subject to ongoing planning processes – from pre-application consultation to approvals in principle – and could be prejudiced by the proposed approach of the City to the enactment of the Draft OPA. Our clients are concerned that the Draft OPA will result in a land use planning framework for the Properties that does not conform with the Growth Plan for the Greater Golden Horseshoe (2017) (the “**Growth Plan**”). For example, in certain instances, the Draft OPA would propose land use designations and/or heights that do not correspond to the existing or planned context, which represent a significant underutilization of lands that should be intensified. Further, the proposed heights may still change as a result of tomorrow's PGMC meeting.

As proposed, the Draft OPA provides no form of transition for redevelopment proposals, such as those in progress for some of the Properties, and certain new policies or proposed land use designation changes should be deferred to allow those planning processes to be completed pursuant to the policy regime currently in place.

This concern regarding transition is compounded by the suggestion in the accompanying staff report that the Draft OPA is now a component of the City's ongoing five-year review of its Official Plan and an approval under section 26 of the *Planning Act*, even though it had not previously been treated as such by the City.

**Invalid Use of Section 26**

As you know, I attended the previous PGMC meeting and made a deputation raising concerns regarding the recent decision of City staff to treat the Draft OPA as a component of the City's ongoing five-year review of its Official Plan and an approval under section 26 of the *Planning Act*. I have reviewed the PGMC decision from that meeting (the "**Decision**"). While the Decision requested a further report on whether potential amendments to the Draft OPA conform with the Growth Plan, the Decision did not request a further report on the recent staff decision to recommend that City Council consider the Draft OPA under section 26 of the *Planning Act*.

As stated in our previous correspondence to PGMC, we have reviewed previous staff reports and Council decisions related to this matter and find no indication that the Draft OPA would be a component of the City's ongoing five-year review of its Official Plan. Instead, Midtown in Focus has always been presented as an update to an area-specific Secondary Plan and not part of any municipal review. Given that Midtown in Focus was not initiated under section 26 of the *Planning Act*, the resulting Draft OPA is not part of an official plan review or conformity exercise.

Further, even the staff report itself concludes that future work is required through a subsequent official plan amendment to achieve full Growth Plan conformity. With respect, there is no such test in the *Planning Act* for "partial conformity", especially if the intention is now to proceed pursuant to section 26 of the *Planning Act*. If it is the City's intention to treat the Draft OPA as part of a conformity exercise, then the City should undertake a full and complete municipal comprehensive review that considers all mandatory aspects of the Growth Plan.

The ongoing intention of the City to consider the Draft OPA pursuant to section 26 of the *Planning Act* is invalid and will likely mean that this matter is resolved through legal action. Our clients would prefer to resolve this matter without such potential legal action and would welcome an opportunity to review such options with City staff in advance of a decision by City Council.

Please also accept this letter as our clients' request for notice regarding any decision made in respect of this matter.

Yours truly,

**Goodmans LLP**

For

David Bronskill



DJB/  
cc: Clients

**LIST OF PROPERTIES**

22 Balliol Street

100 Broadway Avenue

117-127 Broadway Avenue

75 Eglinton Avenue East

90 Eglinton Avenue East

150 Eglinton Avenue East

160 Eglinton Avenue East

164 Eglinton Avenue East

50-60 Eglinton Avenue West

90 Eglinton Avenue West

115-117 Merton Street

276-290 Merton Street

39-41 Roehampton Avenue

89-101 Roehampton Avenue

2100-2110 Yonge Street

2128 Yonge Street

2398-2444 Yonge Street

2490-2514 Yonge Street, 10-20 Castlefield Avenue & 565-567 Duplex Avenue

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