January 15, 2018

Dear Councillor Wong-Tam

RE: PLANNING APPLICATION REFERENCE NO 17 253844 STE 28 OZ
114 & 120 CHURCH STREET AND 59 RICHMOND STREET EAST

This letter is in reference to Site Plan Approval application 17 253844 STE 28 OZ by Madison CM Ltd to allow a new 45-storey (142.9 metre) mixed use building on the properties. The proposal is comprised of a 5-storey (21.3 metre) podium element and two tower elements at 20-storeys and 40-storeys. Commercial uses would be located at grade and on the second floor, with residential uses above. Total gross floor area 42,752.8 square metres, comprised of 40,343.3 square metres of residential gross floor area and 2,409.5 square metres of non-residential gross floor area. A total of 567 residential units are proposed and 129 parking spaces; to amend City of Toronto Zoning By-law 438-86 and City-wide Zoning By-law 569-2013, as proposed, with respect to a 2,016.4 square metre (0.2 hectare) site municipally known as 114 and 120 Church Street and 59 Richmond Street East resulting in a density of 21.2 FSI, which exceeds area city limits by far. By contrast, the Spire’s FSI is 10.46, located at 33 Lombard, across the street.

Introduction

On behalf of the MTCC 1058, aka The Indigo, residents (attached signed petition by the residents), we wish to make you aware of a number of strong concerns and objections that we have regarding the proposed development of this mixed-use building and the proposed Draft Zoning By-Law Amendment City of Toronto Zoning By-law 438-86 and City-wide Zoning By-law 569-2013 under consideration, application number and legal description referenced above.

It is by no means our intention to stop or prevent the future development of the Downtown Core, on the contrary we welcome developing neighbourhoods, making Downtown a vibrant area and fully support TOcore Development Plans as presented to date. Rather we would like to assist in developing and implementing policy and development plans proposed in a manner that achieves, supports and enhances all the
proposed plans, buildings and neighbourhoods and supports local residents and businesses. We believe that a balance can be achieved whereby most of the present negative impacts and risks on the neighbourhood can be mitigated easily and the future TOcore development plans can be met, balancing all these intricately linked objectives and addressing identified gaps and risks.

Since we are immediately adjacent to the site, to the West, these are our immediate concerns:

Setbacks, Density and Height

The in-force zoning by-law applying to the subject site is By-law 438-86, as amended, of the former City of Toronto. The new Citywide Zoning Bylaw No. 569-2013 was enacted by City Council on May 9, 2013; however, it was appealed to the Ontario Municipal Board in its entirety. While portions of the by-law have now been approved by the Board, it is not yet fully in force. By-laws 1106-2016 and 1107-2016 (to amend By-laws 438-86 and 569-2013, respectively) have been appealed to the Ontario Municipal Board by numerous parties and therefore are not in force.

The maximum permitted building heights are 30 metres along the Church Street frontage (applying to the lands zoned CR 4.0) and 46 metres on the western portion of the site (applying to the lands zoned CR 6.0). The By-law requires minimum building heights of 10.5 metres and at least 3 storeys given its location within Policy Area 1 (PA1).

To the west of the subject site, along Lombard Street, is a 26-storey residential building at 50 Lombard Street completed in 1993 (The Indigo), with south facing balconies and exterior rooftop amenity space on Levels 25 and 26. To the east and north are suites with principal windows. Along Lombard Street, there is a 6-storey base expression, with a minimal setback above the 6th floor to the tower above, and a frame extending a storey above the 6th floor. The building has a zero setback along its east and north facades abutting Barbed Wire Lane. The access ramp to the underground parking is located at the northeast corner of the building.

The L-shaped Barbed Wire Lane gains access from Lombard Street immediately west of the subject site, and turns west at a right angle north of the 50 Lombard Street northern property line. At the eastern boundary of 36 Lombard Street, Barbed Wire Lane turns into a private lane, which ultimately connects to the north-south private lane immediately west of 36 Lombard Street. The north-south portion of Barbed Wire Lane is approximately 5.54 metres wide, while the east-west portion is approximately 5.49 metres wide. A lane widening of 0.81 metres is proposed along the east side of the lane as part of the redevelopment of the subject site, as well as a 1.0 metre widening along the north side of the lane. This does not provide adequate separation for appropriate light and privacy issues.

Along Church and Lombard Streets, a 5-storey base will frame the street frontages, with a height of 20.9 metres, reflecting an approximate 1:1 ratio to the abutting 20-metre right-of-way of Church Street and Lombard Street. The 5-storey base building height is also in
keeping with the range of street wall heights along the two streets, including 50 Lombard Street to the west (6 storeys). Along both streets, the base building steps back 3.0 metres to the 45-storey tower. The 3-meter setback for the 45-meter tower is also insufficient and overwhelms the existing residents at 50 Lombard Street providing inadequate light and privacy.

Section 3.1.2 of the Official Plan under Policy 3.1.2(3) states creating appropriate transitions in scale to neighbouring existing and/or planned buildings; providing for adequate light and privacy; adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas.

Policy 3.1.2(5) requires landscaped open space within the development site.

Policy 4.5(2) sets out a number of criteria for development within the Mixed Use Areas designation, including: locating and massing new buildings to provide a transition between areas of different development intensity and scale, through means such as providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale Neighbourhoods.

Policies 6.10, 6.11 and 6.12 require setbacks for development within the Mixed Use Areas 1 designation that will provide for public accessibility, adequate depth for tree planting, achieve a minimum distance of 6.0 metres from the curb to the building face.

The City-Wide Tall Building Design Guidelines are to be used in conjunction with all supplementary guidelines to evaluate all tall building development proposals falling within the Downtown study area boundary.

Specific height limits have not been established for Secondary High Streets, however the Guideline document specifies that Secondary High Streets height ranges will generally be one-third lower than the High Street to which they run parallel. Lombard Street is a Secondary High Streets and Church Street is a High Street.

The Guidelines recommend that tower floor plates be limited to 750 square metres and that tall building towers be set back 12.5 metres from side and rear property lines and provide a separation distance of 25 metres between towers on the same site. Both the Church Street and the Richmond Street must be within the 62 to 107 metre (20 to 35 storey) height range.

Residential/mixed-use intensification on the subject site is NOT supportive of the numerous policy directions articulated in the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe and the City of Toronto Official Plan, and support for intensification on sites which are well served by municipal infrastructure, including higher order public transit, alone thus not support this type of intensification on this site.

**The proposed development does not meet the policies, guidelines or ZBLS in effect.**

The proposed site is as follows:
• While Floors 3-20 are constructed to the west lot line abutting 45 Richmond Street East, there are no windows proposed along this portion of the western building face. Primary windows for these units face north and south, respectively, and state that as such, the 5.5 metre setback does not apply. However to the West is a parking lot with potential for future development of a mid to high-rise that must be taken into consideration.

• The underlying CR zoning standard in By-law 438-86 requires a setback of 5.5 metres from principal residential windows (i.e. windows other than bathroom or kitchen windows) to property lines that are not streets or lanes, and a separation distance of 11.0 metres between facing windows of principal residential rooms on the same site. The proposed site is not compliant.

• Tall Building Design Guidelines recommend a separation distance of 25 metres between tower faces on the same site and a tower setback of 12.5 metres from side and rear property lines or centre line of an abutting lane, measured to the external walls of the building. Above the 3rd floor to the 20th floor, the east face of the building would be set back 3.0 metres from the 124 Church Street property line, including units with east-facing windows and inset balconies which is less than the 5.5 metres required.

• A minimum separation distance of approximately 9.5 metres will be provided to the north-facing units in the residential tower at 50 Lombard Street. The north wall of 50 Lombard is set back approximately 1.5 metres, resulting in a separation distance of approximately 11.0 metres, or 9.5 meters to the property line. The 9.5 metre separation distance is less than the required 11.0 metres.

• The resulting separation distance of approximately 15.8-17.3 metres to the east-facing windows in the residential tower at 50 Lombard Street is less than the desired 25-metre separation distance.

The deficiency in visitor and retail parking is expected and anticipated, to be met with the public parking supply in the nearby area. Public parking supply in the area will be severely limited after both parking lots are developed including the 89 Church Street site.

Conclusions

The current plan completely surrounds the northeast corner of the existing 50 Lombard St. building and creates a deep, dark, narrow space between the buildings. This design has severe implications for half the residents of 50 Lombard St. and for the potential purchasers of certain suites in the new building, such as privacy, access to sunlight, natural light, openness and sky view. See Image below; X = The Indigo from the SW.
A short history of 36-50 Lombard St.

One of the more contentious issues regarding the 114 Church St. development application is the assertion by the developer that 50 Lombard is built right to the lot line.

The developer contends that if that was good enough for 50 Lombard it should be good enough for them to do the same and they can ignore existing or pending legislation.

It is important to understand how the current site plan for 36-50 Lombard evolved.

Documents obtained from Toronto Archives help explain the evolution of the original proposal. There is also a planning file #389125 that would help fill in some of the blanks and is still in the planning department.

Original Proposal

Application #389125 was submitted to the city on June 27, 1989. The original proposal was for a 27-story building containing 129 suites. The applicant was Lombard Tower Development Ltd.
The building was sited 5.5 meters from the property line to the East and 5.49 meters from the property line to the North. This 5.5 meters included a public lane way as well as additional land measuring 2.45 meters on the East Side and .67 meters on the North side that was to be conveyed to the city to expand the lane way.

The Commissioner of Buildings and Inspections indicated that this building would comply with the Zoning By-Law, if the minor variance granted by the OMB upheld the Committee of Adjustment.

**Minor Variance**

The minor variance was to allow the building to envelop an existing “right of way” in the centre of the property.

It appears that historically, this “right of way” allowed two adjacent properties on Richmond St. to access the rear of their properties from Lombard St. The current owners of those two properties applied to the OMB to reject the variance. They also sent letters of objection to the City of Toronto.

We surmise that the adjacent property owners had a legitimate legal argument as Lombard Tower Development Ltd. Submitted a revised proposal on December 29, 1989.

**Revised Proposal**

The revised proposal was for two towers. A 26 story residential tower and a 7 story mixed use building. New drawings were submitted in May and June of 1990...
It is important to note the area between the two towers in diagram 7.

**Minor Variance Revisited**

The minor variance was no longer required as the original “right of way” was now restored between the two buildings. Eventually the matter was withdrawn from the OMB and the two property owners withdrew their claim to the city.

The Commissioner of Buildings and Inspections stated that the submitted data and information indicate that the proposal complies with the Zoning By-Law.

The development was approved by the City of Toronto.

**Historical Information**

This map from 1899 clearly shows the “right of way” did exist and was identical to that now proposed for between the two towers. It also shows that the much narrower Barbed
Wire Lane did exist although it was not named or officially created. Its purpose was to service the Ontario Lead & Barbed Wire Co. Ltd, which occupied land from Lombard St through to Richmond St.

It was also noted that each of the towers was now sited within the footprint of the original historical buildings.

Conclusion

After the revisions the 36-50 Lombard application met the requirements of by-law 438-86 for a 5.5 meter separation. It also complied with other by-law requirements.

The current application for 114 Church should not be allowed to grandfather those approved in 1989.

The 114 Church application should respect the Official Plan Amendment 352, by-laws 1106-2016, 1107-2016 and the TOCore guidelines.

Noise Concerns

While an Environmental Noise Assessment has not been submitted, we have concerns about the noise level from the parking ramp traffic and loading space adjacent to 50 Lombard and will provide comment when the Environmental Noise Assessment is made available. It is interesting to note that there is no requirement for a report on noise pollution.
The “Type G” loading area required for City of Toronto solid waste collection services is located immediately on the east side of Barbed Wire Lane. This will result in very uncomfortable noise conditions for both 50 Lombard St. and the owners of certain units in the new building. The proposed development is deficient one loading area space.

Our experience in the Church Lombard area has been with contractors showing up outside of regulated hours and showing no concern for residents.

Additionally there are two Type “C” loading areas and one retail garbage area adjacent to Barbed Wire Lane that also services the Indigo.

The proposed 7th Floor rooftop amenity area is located less than 7 meters from operable residential windows in 50 Lombard. It could create uncomfortable noise at times.

The proposed 20th floor rooftop amenity area is located less than 10 meters from 50 Lombard St. and could create uncomfortable noise at times.

Other Concerns

- Residential units being built on the 3rd, 4th and 5th floor facing Barbed Wire Lane do not meet the guidelines.
- Assuming that the building will have to allow pets, the developer should develop a pet friendly area. This could be engineered into an area on a rooftop and at grade as part of an expanded POPS developed as a public asset.
- The privately owned public space (POPS) sounds substantial in the written text; however it does not translate well into its built form as viewed in the renderings and architects drawings. It really should be "greener" and larger. We are in full agreement with the submission from The Spire regarding their POPS suggestion.

Construction Plan

There does not seem to be any requirement for a construction plan in the application proposal. Recent experience with the construction of Yonge & Rich has ranged from extreme noise, reduced pedestrian access, a parade of construction vehicles to entire street closures.

- There is also a noticeable increase in dust in the air and dirt on the ground.
- The builder should detail their plan for construction vehicle access and staging.
- The builder should detail their plan for providing pedestrian access.
- The builder should define how construction is planned along Barbed Wire Lane as this lane way provides the only vehicular access to the residents of 50 Lombard St and the occupants of the commercial building at 36 Lombard St.

Barbed Wire Lane also provides the only access to the waste removal loading area for both buildings.

There are also concerns with construction cranes and their swing path.
Conclusions:

The owners of MTCC 1058 are not opposed to development in our growing neighbourhood. We support a balanced, community-based development that not only benefits the private sector but also enhances and promotes accessibility for all. This includes environmentally friendly objectives, infrastructure optimisation and more public spaces.

For us the plan submitted by the Madison Group is like a 45-story curtain of steel and glass being permanently drawn around half of our building. That’s unacceptable.

We believe that with appropriate changes to the design, Madison can still create a stunning cost effective building that is harmonious with our neighbourhood and meets Toronto guidelines.

Yours truly,

The Indigo Residents

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