

July 3, 2018

By E-Mail to *teycc@toronto.ca*

Toronto and East York Community Council
Toronto City Hall, 2nd Floor, West Tower
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Ellen Devlin, Committee Secretariat

Dear Ms. Devlin:

**Re: 175 Elizabeth Street - Official Plan and Zoning By-law Amendment
Applications - Final Report
TEYCC Agenda Item TE34.19**

Background

We are counsel to KS 700 Bay Street Inc. ("KS"), the owner of lands municipally known as 700 Bay Street and 77 Gerrard Street West in the City of Toronto (the "KS Lands"). The KS Lands occupy the entirety of the block bounded by Elizabeth Street on the west, Gerrard Street West on the north, Bay Street on the east, and Walton Street on the south.

The KS Lands are currently occupied by a 24-storey mixed use building, and a new 32-storey rental apartment building is currently under construction on the western portion of the KS Lands. The new residential building being constructed on the western portion of the KS Lands will have south facing windows from principal rooms, including both bedrooms and living/dining areas.

On behalf of KS, we are writing to express our client's concerns with certain aspects of the proposed development of a new 22-storey tower for institutional use at 175 Elizabeth Street (the "Subject Lands"), which is immediately south of the western portion of the KS Lands.

The proposed development of the Subject Lands is the subject of a final report from the Acting Director, Community Planning, Toronto and East York District, dated June 15, 2018 (the "Staff Report"), which is to be considered by Toronto and East York Community Council at its meeting on July 4, 2018.

Our client has actively participated in the public planning process regarding the proposed development, and the Staff Report acknowledges that one of the concerns raised at the community consultation meeting was the tower separation between the proposed development and the existing and proposed towers to the north of the Subject Lands (i.e. on the KS Lands).

Although the Staff Report recommends approval of amendments to the applicable zoning by-laws to permit the proposed development, the draft zoning by-law amendments are not publicly available at this time.

In any event, the Staff Report indicates that the proposed tower separation from the buildings on the KS Lands would only be approximately 15 metres, which is of particular concern to our client.

Although the Staff Report acknowledges that the proposed tower separation from the KS Lands would be deficient in relation to recommended minimums in the City's Tall Building Design Guidelines (the "TBDG") and would not meet the minimum setback provisions of the new Downtown Tall Buildings Setbacks By-laws, City Planning staff nonetheless conclude that they are satisfied with the proposed separation and that the proposed development has "adequate regard for the City's Tall Buildings Guidelines and policies and is acceptable in this particular instance".

Built Form Policies and Tall Building Design Guidelines

Within the City's Official Plan, the built form policies include direction for new development to provide for adequate light and privacy for adjacent buildings. Similarly, the built form policies for tall buildings direct that the floor plate size and shape for the tower portion of a tall building shall be designed with appropriate dimensions for the site, and that towers are to be located and oriented in a manner that properly considers the relationship with adjacent buildings.

In support of such policies, the Council adopted the TBDG in 2013, which are designed to "assist with the implementation of Official Plan policy to help ensure that tall buildings, where they are permitted, fit within their context and minimize their local impacts".

One of the directions in the TBDG is to "avoid big, boxy, dominant massing, and large, elongated or slab-like floor plates" when designing tall buildings. Accordingly, Section 3.2.1 of the TBDG indicates that the tower floor plate should be limited to 750 sm or less per floor. Admittedly, the TBDG do provide some flexibility for a larger floor plate size on a site-specific basis, including in the case of institutional buildings, but that is only where "adequate tower separation, setbacks, and stepbacks are achieved".

In the case of the proposed development, none of the above criteria are met. The proposed development does not provide adequate tower separation to the KS Lands,

and the massing of the proposed development fails to incorporate any meaningful setbacks or setbacks.

Section 3.2.3 of the TBDG provides more specific direction when considering larger tower floor plate sizes and appropriate tower separation distances: “Where taller buildings or larger floor plates are proposed, provide greater setbacks and separation distances proportionate to increases in building size and height. For larger floor plates, use the widest dimension of the tower floor plate as a guide to determine adequate tower setbacks and separation”. In the case of the proposed development, it appears that the typical tower floor plate is approximately 70 m (north-south) by 29 m (east-west).

Accordingly, based on the direction from the TBDG, an adequate tower separation for the proposed building could be as much as 70 metres. In fact, even using the much shorter dimension of the proposed floor plate of approximately 29 m, the proposed tower separation is still roughly only half that distance.

Meanwhile, in seeking to justify the reduced tower separation, the applicant has focussed only on the issue of privacy. More specifically, in its Planning and Urban Design Rationale report in support of the applications, the applicant’s planner addressed the proposed tower separation by stating that the reduced separation distance is “mitigated by the difference in uses between the north and south sides of Walton. SickKids’ institutional buildings on the south side of Walton will primarily be occupied during the work day, whereas the residential uses in the 700 Bay building will primarily be occupied at night time, addressing privacy considerations for residents of 700 Bay”.

With respect, privacy is but one of the concerns associated with a reduced tower separation and, in any event, it is not clear what information the applicant’s planning consultant is relying upon in support of its position regarding the anticipated temporal use of the buildings on a day-by-day basis and how that might limit potential adverse impacts. We are not aware of any City policy or guideline regarding appropriate built form transition that contemplates such assumptions.

Similarly, the applicant’s planner appears to rely upon the proposed institutional use of the building on the Subject Lands as mitigating potential concerns related to the proposed tower separation distance. Although there may be less concern regarding privacy issues where two non-residential buildings face one another, that is not the case here. Privacy concerns for the occupants of a residential building may be equally important where the building faces a non-residential building; in fact, in some cases, one could reasonably expect that the concerns may be even greater. Further, as it relates to potential built form impacts, such as maintaining adequate light and sky view for residents on the KS Lands, it is unclear how the proposed institutional use of the building on the Subject Lands would have any bearing whatsoever on such impacts.

Conclusion


For these reasons, our client cannot support the proposed development in its current form, and we therefore request that Community Council not adopt the recommendations in the Staff Report.

In an effort to resolve the concerns in a timely manner, we request that Community Council direct City staff to initiate a meeting with our client and the applicant in the coming weeks, with a view toward identifying potential revisions to the proposed development that would address the concerns of our client, and to then have City Planning staff report directly to City Council at its meeting on July 23, 2018 regarding the outcome of such meeting(s).

We thank Community Council for its consideration of this submission.

Kindly ensure that we are notified of any decision(s) made by Community Council and/or City Council regarding this item.

Yours truly,
DAVIES HOWE LLP



for: Mark R. Flowers
Professional Corporation

copy: Client
Jason Brander, City Planning Division, City of Toronto