

May 15, 2017

Barnet H. Kussner
T: 416-947-5079
bkussner@weirfoulds.com

VIA E-MAIL (kevin.friedrich@toronto.ca)

File 18342.00001

Kevin Friedrich, Planner
City of Toronto
Community Planning, Toronto and East York District
2nd Floor, West Tower, City Hall
100 Queen St. W.
Toronto, ON M5H 2N2

Dear Mr. Friedrich:

Re: Zoning Amendment Application 16 259549 STE 27 OZ - 183-189 Avenue Road and 109-111 Pears Avenue, Toronto

Introduction

We are counsel for J & H Altman Holdings Limited ("**J & H**"), the owner of properties municipally known as 177 and 181 Avenue Road (the "**J & H Properties**"), in the City of Toronto (the "**City**").

We have reviewed the Preliminary Report prepared by Planning Staff dated March 9, 2017 (the "**Report**") in respect of the current development proposal (the "**Proposal**") for 183-189 Avenue Road and 109-111 Pears Avenue (collectively the "**Site**") and have been briefed by our client on the recent Community Consultation Meeting regarding the Proposal. We understand that the Proposal seeks to amend the Zoning By-law to permit an 11-storey mixed-use building with 443 m² of at-grade retail and 7,118 m² of residential floor resulting, comprising a total density of 6.45 times the area of the lot. Among other project details, the proposal includes 23 dwelling units and 41 parking spaces within a two-level underground parking garage.

In the Report, Staff have identified significant issues to be resolved in relation to the Proposal. They include performance standards related to the Avenues and Mid-Rise Design Guidelines, compatibility and building relationships. Notably, one of the numerous planning issues identified in the Report that is of particular importance to our client (although by no means the only planning issue) is the "appropriateness of the south façade located 0 metres from the lot line with multiple openings".

Given the physical location of the J & H Properties in relation to the Site, their proximity (with 181 Avenue Road immediately abutting the Site to the south), and their close functional

relationship to the Site, it is clear that our client's existing buildings will be among the existing uses most directly impacted by the Proposal. It is for these reasons that our client has instructed us to provide this submission to you in advance of any Final Report, to ensure that Staff are made aware of the adverse impacts anticipated as a result of the Proposal in its current form soon as early as in the planning process as possible.

Our client wishes to make it clear that it endorses the principle of intensification and supports appropriate reinvestment and redevelopment along main streets such as Avenue Road. However, in this instance it is our respectful submission that the Proposal in its current form should not be recommended for approval for the reasons that follow.

The Proposal

We have reviewed the Planning & Urban Design Rationale report prepared by Bousfields Inc. dated December 2016, filed in support of the Proposal. Included in that report is the description respecting the south façade, which is proposed to be set back 1.0 metre from the south property line with no window openings on the ground floor and mezzanine level. Above the ground and mezzanine floors, the proposed windows on the 2nd and 3rd floors are anticipated to be small secondary windows. The report suggests that these would be higher than the height of the adjacent building at 181 Avenue Road (owned by J & H), which will limit any potential light, view and privacy impacts (“LVP”).

It is noted that the south façade of the proposed building consists of a 10-storey wall with a 2.3 metre step back at floors 11 and 12, and a further step back at the mechanical penthouse level. The south façade is proposed to include windows starting at the third level. Each unit will have access to at least one balcony or terrace that projects beyond the walls main walls in the laneway, which includes large planters for tree planting making the balconies active space. Some terraces on both the east and west façades appear to wrap around and have a partial southern exposure.

The Planning & Urban Design Rationale concludes with the opinion that the proposed building would not result in any unacceptable LVP impacts on adjacent buildings. In our respectful submission, however, that opinion is at odds with and not supported by the actual built form proposed. Of particular note, the proposed southerly setback does not provide an appropriate level of transition and is inconsistent with the policies of the City's Official Plan encouraging transition between areas of different development intensity and scale. In addition, the proposal will have significant implications for the redevelopment of the J & H Properties, for the reasons detailed below.

As Staff are aware, the properties at 181 and 183 Avenue Road are subject to historic mutual rights-of-way in favour of one another for purposes of pedestrian access. Those rights-of-way are registered on title and are 2 feet in width on each property, for a total width of 4 feet. At present the rights-of-way are used for pedestrian access to and from Avenue Road. However, our client is concerned that the Proposal, in its current form, would result in a significant “overburdening” of that easement which was never contemplated at the time it was granted. The substantial increase in pedestrian movements would have significant adverse impacts on our client’s property, including impeding the exit routes from the building. It also raises issues respecting health and safety concerns associated with fire and ambulance access.

The J & H Properties

The J & H Properties lie immediately south of the Site (in the case of 181 Avenue Road) and two properties further to the south (in the case of 177 Avenue Road). The two properties are separated by another property which is attached to 181 Avenue Road and known as 179 Avenue Road, which is separately owned. Further to the south of 177 Avenue Road is 175 Avenue Road, a former bank building located at the corner of Avenue Road and Davenport Road which is currently used as a fitness facility. We understand the owner of that property also has concerns with the Proposal in its current form.

Collectively, these four parcels make up the balance of the block along Avenue Road between the Site and Davenport Road. The four parcels share the same Official Plan designation and use permissions under applicable zoning. From a logical redevelopment standpoint, it can be envisaged that over time these four parcels may well be redeveloped as one comprehensive site.

As indicated above, separating the properties at 181 and 183 Avenue Road is a 4-foot wide pedestrian mutual right-of-way shared between the properties. This pedestrian right-of-way provides low level usage by the two buildings. 181 Avenue Road has existing door openings used by tenants.

The existing built form of the entire block south of the commercial parking lot to Davenport Road is a 3-storey built form, consistent with the description in the Report.

Specific Areas of Concern

Based on the current Proposal and the abutting built form, our client has substantial concerns with the following development implications and impacts:

1. The proposed southern setback is inadequate both from the perspective of the associated impacts on the mutual right-of-way and from an LVP standpoint. The CR Zone prescribes a side yard setback of 5.5 metres as the minimum acceptable standard. When applied as intended by the Zoning By-law, it would result in a separation distance of 11 metres once the J & H Properties are redeveloped. Without this separation distance, the objectives of the Mid-Rise Guidelines are not met. More importantly, the effect of the Proposal would be to unduly constrain and limit the ability of the J & H Properties to meet their planned future objectives and enable more expansive development rights on the Site at the expense of appropriate redevelopment on the balance of the block. Should the proposal not provide the minimum 5.5 metre setback, it will be incumbent on the balance of the block to accommodate the appropriate LVP entirely on its own site. As a matter of good land use planning, we submit this is not an appropriate means of ensuring that the burdens of known site limitation are equitably shared so as to achieve the fulfillment of sound City-building objectives.
2. The Built Form policies in the Official Plan require new development to be located and organized in a fashion that fits with its existing and/or planned context. In this instance, however, the proposed massing on the Site is not deployed on the Site in a manner that provides a meaningful transition between areas of different development intensity, measured either from the existing or future potential on the J & H Properties. As such, the Proposal fails to achieve the objectives of the Official Plan by not providing their proportionate share of the south side yard setback of a minimum of 5.5 metres measured to the shared property line.
3. Respectfully, it is largely an irrelevant consideration whether the south facing windows contemplated by the Proposal are “small secondary windows” – the minimum setback of 5.5 meters would apply regardless of window size. Perhaps a lesser standard could be considered if they were either kitchen or bathroom windows, but that is not the case. Further amplifying this concern is the fact that the Proposal promotes the active use of balconies/terraces with the integrated modular planning and landscaping system. For these additional reasons, without the minimum required setback, the proposed south facade is incompatible with both the existing and future potential built form on the J & H Properties.

4. We have also reviewed the shadow diagrams filed in support of the Proposal. It would appear to us that, in part, the applicant has attempted to minimize the impacts on Ramsden Park at the expense of the southerly side yard setback. The Proposal, in its current form, represents overbuilding. A much narrower building envelope would be more appropriate that addresses shadow impact on the park while maintaining an appropriate southerly setback of 5.5 metres.
5. The historic mutual right-of-way has not been designed to accommodate the extra foot traffic being promoted through the Proposal linking Avenue Road with the rear laneway and public road system to the east. Overburdening the easement will create issues of safety. From a legal standpoint, we question the legality of a unilateral decision to redevelop along the mutual right-of-way without our client's consent.
6. Of further concern is that the redevelopment of the Site proposes two levels of underground parking. Since the construction of those facilities will almost certainly require drilling some form of caissons or piles, there is a significant concern that any levels of transmitted construction vibrations (and subsequent increase of truck traffic on the laneway) will cause substantial nuisance and disturbance for the adjoining properties and their occupants.

Summary

In summary, our client has a number of significant issues and concerns arising from the proposal redevelopment of the Site in its current form. In our respectful submission, many of these concerns have not been comprehensively considered or evaluated by the Applicant to date.

It is our client's hope and expectation that Staff will undertake a thorough, detailed and critical review of the Proposal in light of our client's expressed concerns as set out above. Those concerns were raised by our client and others during the Community Consultation Process. In our submission, they clearly warrant careful consideration and further consultation with affected stakeholders, ultimately to ensure that fundamental questions of land use compatibility are appropriately addressed and resolved in a fair, reasonable and appropriate manner consistent with the City-building objectives embodied in the City's Official Plan.

Our client would welcome the opportunity to engage in a dialogue with City Staff, Councillor Wong-Tam, other area stakeholders and the Applicant's representatives. At present, it is our client's position remains that the Proposal represents an inappropriate overdevelopment of the

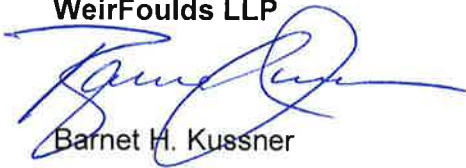
Site and would not allow for an appropriate interrelationship with the existing built form or planned redevelopment opportunities along the balance of the Avenue Road block. However, our client is hopeful that a further dialogue could result in a better understanding and appreciation of the opportunities and constraints arising from the Site and its surrounding land use context, ultimately to the benefit of all stakeholders and the broader public interest.

Please accept this submission prior to consideration of the proposal by Community Council and City Council, pursuant to the requirements of the *Planning Act*. Our client reserves the right to make further submissions as part of any further processing of the proposal. In that regard, we ask that we be provided with any future Staff Reports as well as Notices of public meetings or decisions by Community Council or City Council in accordance with the *Planning Act*.

Thank you for your ongoing attention to this matter. If you have any questions or would like to discuss our client's concerns further, please do not hesitate to contact our Senior Planner, Paul Chronis at (416) 460-0038 or by email at pchronis@weirfoulds.com.

Yours truly,

WeirFoulds LLP



Barnet H. Kussner

BHK/PC:cf

cc: Client
Councillor Wong-Tam
Gregg Lintern, Director, Community Planning, Toronto and East York District
Kim Kovar, Aird & Berlis LLP

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