ANALOGICA

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City Council
Toronto City Hall
100 Queen Street West
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Attention: Ms Marilyn Toft, Office of the City Clerk

Members of Council:

Re: Agenda Item NY4.1 – Final Report 15-21 Holmes Avenue and Related Matters

The draft zoning by-law proposed by planning staff in their supplementary report dated 14 March 2019 regarding the 15-21 Holmes Avenue development application is defective, does not conform to the Official Plan, and should not be approved in anything like its present form.

While the latest version of the draft zoning by-law proposed by planning staff for the 15-21 Holmes Ave development application, to be considered by City Council at its meeting commencing on 27 March 2019, improves somewhat on staff's previous version, it nevertheless continues to be riddled with drafting deficiencies, including (but by no means limited to) several that render the by-law non-conforming with respect to the Official Plan (both the Toronto Official Plan and the North York Centre Secondary Plan) thereby violating s 24(1) of the Planning Act.

Some, but by no means all, of these deficiencies are listed immediately below:

1. The Gross Floor Area definition does not conform to the specification in s 3.1(b) of the NYCSP in that it excludes from gfa below-grade, general purpose storage and storage lockers (exclusions not allowed by the NYCSP) thereby effectively permitting a larger building that exceeds the density limit(s) prescribed by the NYCSP.[1]

2. The draft by-law arbitrarily sets motor vehicle parking standards, including in particular absurdly low visitor parking standards, that are inappropriately formulated and contrary both to those prescribed in the NYCSP Appendix as well as inconsistent with expert testimony adduced by City legal and planning staff at OMB hearing(s) in support thereof, apparently simply in order to advantage the developer.

3. The draft by-law fails to tie the amount of the required monetary contribution to the market value, based on the land value of density in the North York Centre, of the additional gross floor area to be purchased, as required by s 3.3 of the NYCSP (thereby allowing that amount to be arbitrarily set). Such practices are an open invitation to abuse.

4. The draft by-law does not restrict the s 37 community benefits listed to those authorized by the NYCSP, as required by s 3.3(a) of the Secondary Plan. If the additional, unauthorized items are to be secured (as a legal convenience) by means of the s 37 agreement, then they should be listed in a by-law schedule rather than included in the body of the by-law.

5. The draft by-law makes all of the permitted density - both base and incentive - subject to s 37 of the Planning Act instead of just the incentive density, thereby violating s 3 of the NYCSP and consequently associated s 5.1.1.3 of the Toronto Official Plan.

More generally, this draft by-law (as well as others similarly deficient) violates precepts of good legal drafting, omits information necessary to ensure transparency and accountability, and discriminates against applicants who are prepared to properly conform to the NYCSP provided that its policies are fairly and consistently applied, thereby:

(a) encouraging violation of the Secondary Plan and so rendering it virtually impossible for the City to successfully defend it in adjudicatory proceedings;

(b) effectively precluding those developers who do not seek to get away with anything from successfully competing for development sites within the North York Centre (since they can be outbid by those who count on being able to do so);

(c). needlessly pushing up land prices, and therefore the cost of housing, by bailing out those applicants who over-bid for development sites in the expectation of being allowed to disregard the parameters set by the Secondary Plan; and

(d) consequently facilitating an ever increasing spiral of residential over-development at the expense of adjacent Neighbourhoods while disincentivizing commercial development.[2]

In sum, enactment of this and other like by-laws (and their associated enabling Official Plan Amendments) in anything like the form proposed is contrary to good public policy as well as inimical to the interest of residents in central Willowdale.

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[1]On the other hand, the proposed definition fails (presumably inadvertently) to exclude from gfa (and therefore not count) the area taken up by bicycle parking spaces contained in a parking garage even though that exclusion is allowed by the NYCSP (unlike bicycle spaces

contained in a bicycle room which constitute an incentive that, while exempt from monetary contribution, is nonetheless not excluded from gfa but rather counted in overall gfa).

[2]Since the price of developable land reflects not only its use but also its density, increasing allowable residential density generally increases the price of land and therefore the cost of housing (technically, due to an upward price shift in the supply curve in the long term that typically nullifies any rightward quantity shift in the short term). While City staff recognize that the conversion of employment areas to more monetarily valuable uses must be rigidly controlled in order to have any hope of retaining industrial employment within City boundaries, they fail to recognize that increases in residential density must likewise be controlled in order to have any hope of moderating the price of housing within City boundaries and encouraging commercial development in mixed use areas.

Sincerely,

G.S. Belza

c Councillor John Filion
Catherine LeBlanc-Miller

Edithvale-Yonge Community Association