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Via Courier and Email to *clerk@toronto.ca*

Mayor and Members of Council
City of Toronto
100 Queen Street West, 10th Floor, West Tower
Toronto, ON M5H 2N2

Attention: Ms. Ulli Watkiss, City Clerk

Dear Sirs/Mesdames:

Re: City Council Item PH10.1- City-Initiated Priority Retail Streets Zoning By-law Amendments

Ryerson University- Letter of Objection

We are the solicitors for Ryerson University ("Ryerson"). We are writing to express concerns on our client's behalf with respect to the proposed amendments to former City of Toronto Zoning By-law No. 438-86, as amended ("**By-law 438-86**") and Comprehensive Zoning By-law No. 569-2013 ("**By-law 569-2013**") relating to "Priority Retail Streets"(the "**Proposed Amendments**") as they affect Ryerson's land interests in the Downtown area.

For reasons discussed herein, Ryerson would not support the Proposed Amendments' approval. As drafted, the Proposed Amendments, in our client's respectful view, are inappropriately restrictive in their application to institutional uses located on priority retail streets. Furthermore, the proposed transitional provisions also require clarification and modification to address the issues raised herein. Ryerson would respectfully request that Council defer its decision regarding the matter to allow time for further stakeholder consultation by staff and in any event, refrain from approving the Proposed Amendments in their present form.

Ryerson's Lands within the Downtown

Ryerson's campus comprises approximately 28 acres of lands, centrally located within the core of the Downtown area. While the main portion of the campus is generally defined by the area bounded by Gerrard Street (north), Yonge Street (west), Jarvis Street (east) and Dundas Street (south), the university's holdings, which comprise both lands owned and leased by Ryerson, also include lands along Bay Street and farther west, extending as far north as College Street and as far south as Shuter and Albert Streets. Portions of these holdings front along a number of priority retail streets subject to the Proposed Amendments, including Yonge Street, Church Street, Bay Street, Dundas Street, and College Street.

Collectively, Ryerson's various properties support diverse functions: in addition to academic and research facilities, Ryerson's lands include student residences, space for performing, broadcasting and visual arts and design, recreational and athletic facilities, centres for student and community life, as well as open spaces used by the larger community, all of which contribute to public life in the Downtown.

Nature of Ryerson's Objections

Several aspects of the Proposed Amendments' application to Ryerson's lands are of concern. Broadly speaking, the Proposed Amendments propose standards that are insufficiently flexible to respond to the specific programmatic requirements of Ryerson's various functions.

Impacts of Minimum Frontage Requirements Street-Related (Retail/Service) Uses

The minimum ground floor frontage requirements for street-related retail/service uses prescribed by the Proposed Amendments - 60% of the lot frontage adjoining a priority retail street, with no more than 15 metres permitted to be occupied for uses such as postsecondary schools, offices, laboratories and other institutional purposes- places significant burdens on publicly-funded institutions. In the context of redevelopment of institutional lands or renewal of existing built resources, the application of the standard results in the loss of a substantial amount of ground floor space that could otherwise be devoted to the university's program needs. While Ryerson acknowledges the 15 metre frontage allowance for post-secondary uses, the mandatory minimum for retail/service uses will still significantly diminish the university's flexibility to deploy floor space to support its mandate. The proposed extension of the priority retail street network to include significant new segments of Church Street and Dundas Street raises immediate concerns in this respect, given Ryerson's proposal for redevelopment for its property at 202 Jarvis Street and 160-166 Dundas Street (northwest corner of Dundas and Jarvis Streets) and planned redevelopment of 136 Dundas Street East (northwest corner of Dundas and Mutual Streets).

As drafted the Proposed Amendments do not provide the programmatic flexibility key to the university's ongoing ability to fulfill its mandate. We note that the implicit requirement for retail, even divorced from specific frontage and glazing provisions, will often invoke other considerations such as loading, which also serve to constrain building design and often create inefficiencies when combined with otherwise institutional buildings with differing requirements.

Limits on 15 m Frontage for Post-Secondary Uses on Street Animation

It is also submitted that the Proposed Amendments inadequately acknowledge the role that institutional uses can play in an animated Downtown. Ground level institutional uses can and often do, in and of themselves, advance the policy objectives of creating animation and enhancing street-level activity that underlie the regulation of uses in the Proposed Amendments. For example, Ryerson's Student Learning Centre building on Yonge Street provides a meeting place for students that encourages pedestrian traffic along the street and stimulates retail/commercial activity on premises of surrounding retailers and restaurants. The Proposed Amendments should therefore be modified to remove the 15 metre frontage restriction on postsecondary school and other institutional uses.

Impacts of Minimum 60% Glazing Requirement

The associated design requirements in the Proposed Amendments that require 60% of the surface area of the building frontage facing priority retail streets to be comprised of doors and windows are also of concern for Ryerson. It is recognized that Ryerson's buildings subject to heritage designation are not subject to the requirement. However, the extensive use of glazing, while perhaps appropriate for the needs for retail space, will be incompatible in certain instances for the program needs of postsecondary and research uses and should not therefore be imposed as a mandatory requirement for ground floor educational institution uses on priority retail streets.

Inadequacy of Transitional Provisions

Ryerson also submits that the transitional provisions included within the Proposed Amendments are also problematic in several respects.

Firstly, it is noted that the transitional language that purports to provide for exemptions from the new development standards relating to priority retail streets is found exclusively in the Proposed Amendment to By-law 569-2013: no parallel provisions for exemptions or other transitional mechanism exists in the Proposed Amendment to By-law 438-86. This omission creates the potential for inconsistent treatments for the same development under two zoning regimes: a proposed development may be exempt from the application of the standards applicable to retail streets pursuant to By-law 569-2013, but still subject to the standards pursuant to By-law 438-86 by virtue of the transitional provisions. As the City continues to require compliance with both zoning regimes while By-law 569-2013 remains under appeal before the Local Planning Appeal Tribunal, the absence of appropriate transitional provisions from the Proposed Amendment to By-law 438-86 could thus potentially operate to prevent building permits from issuing for a development that has previously received rezoning approvals, even where that development otherwise qualifies for exemption pursuant to the Proposed Amendment to By-law 569-2013.

Secondly, the policies respecting transition should be clarified in a manner which is consistent with the recently approved Official Plan Amendment No. 406 (the "**Downtown Plan**"). Policy 1.9 of the Downtown Plan provides a specific transition regime: it effectively indicates that the Plan, inclusive of the retail policies in Policies 6.39- 6.43 that are the basis of the Proposed Amendments, does not apply to development applications deemed to be "complete" prior to the approval of OPA 406 on June 5, 2019:

1.9 This Plan does not apply to applications for official plan amendment, zoning by-law amendment, draft plan of subdivision or condominium approval, site plan approval, consent or minor variance which were complete prior to the approval of this Plan and which are not withdrawn. In-force site specific official plan and/or zoning by-law amendments shall be deemed to conform with this Plan.

The proper operation of the transition provisions is of particular relevance to Ryerson due to the pending official plan and rezoning applications for 202 Jarvis Street and 160-166 Dundas Street East (18 271373 STE 13 OZ). Given that this property's development applications were deemed complete on January 21, 2019 by the City, the proposed redevelopment that they provide for is

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City Clerk - November 25, 2019

not subject to the priority retail policies set out in the Downtown Plan. In Ryerson's submission, the Proposed Amendments should also therefore be modified to provide a clear exemption from their provisions for the redevelopment proposed at 202 Jarvis and 160-166 Dundas Street East.

It is acknowledged that City staff, in a Supplementary Report, dated November 20, 2010 in respect of the Proposed Amendments, have recommended that the Proposed Amendment to By-law 569-2013 be revised to incorporate a new transitional provision (s. 600.20.15.2) that would exempt buildings for which a complete application for zoning by-law amendment was filed on or prior to June 5, 2019. It is noted that similar exemptions are also recommended for buildings that are subject to applications for building permits or minor variances filed on or prior to that date, or minor variance applications filed after June 5, 2019, based on a building permit application filed on or prior to June 5, 2019.

Assuming that Council accepts staff recommendations in respect of these revisions, however, the abovementioned concern respecting the absence of transitional provisions in the Proposed Amendment to By-law 438-86 still remains.

In light of the foregoing concerns with respect to the Proposed Amendments' applications to its lands, our client would respectfully request that Council not approve the instruments at this time.

Our client believes that a number of the concerns raised above may be resolved through the opportunity to discuss the content and form of the Proposed Amendments in further detail with staff. We accordingly ask that Council postpone any decision in the matter to allow for further consultation to take place.

Please provide us with notice of any decision by Council as well as notice of any further consideration of this matter by Council, Community Council or other Committee.

Yours truly,

McCarthy Tétrault LLP

Per:



Cynthia A. MacDougall

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