

# TE19.5.9

**LANA MCINNIS & JÖRG BOLLMANN**

912-80 Mill Street  
Toronto, Ontario, Canada M5A 4T3

October 14<sup>th</sup>, 2020

**TO:**

CITY OF TORONTO CITY CLERK  
C/O Toronto-East York Community Council Ellen Devlin, Secretariat  
2nd floor, West Tower, City Hall  
100 Queen St. W.  
Toronto, ON M5H 2N2

**Re:** Development Planning application for 373 Front Street East and 90 Mill Street  
Planning Application Number: 19 228307 STE 13 OZ; Oct 15<sup>th</sup> 2020 Community Council

**Meeting item TE19.5**

Delivered by Email ([teycc@toronto.ca](mailto:teycc@toronto.ca))

Dear Secretariat, Toronto-East York Community Council,

We have been residents of the Distillery District since 2007. We made the conscience decision to move into this area as we were inspired by the City's vision for the neighbourhood outlined in the City-endorsed West Don Lands Block Plan 2006 (WDL Block Plan 2006) that is currently partially realized as the Pan Am Athletes' Village.

From our point of view, the proposed development at 373 Front Street East and 90 Mill Street, Planning Application Number: 19 228307 STE 13 OZ, AKA Block 3, 4, 7 of the WDL Block Plan 2006 deviates significantly in built form, set-backs, heights and density from the City-endorsed WDL Block Plan 2006 and the internationally recognized and award winning Public Realm Master Plan 2011 for the West Don Lands (*West Don Lands, 2017–2018 Global Awards for Excellence Winner*).

These significant deviations have not only a direct negative impact on our current living quality, as our unit will be deprived of direct sunlight by the new development and exposed to increased noise levels, but also bears a high risk of long lasting negative social economic effects for the whole neighbourhood including the Distillery District and the Canary District. Enclosed courtyards, as proposed for the new development, are notoriously known as breeding grounds for crime and constitute by no means **Good City Planning**.

Therefore, we hereby give notice in writing as residents of 80 Mill Street that we oppose the proposed development in its current form with the intention to appeal the development to LPAT.

In the following section, we outline our specific concerns, a) with respect to the proposed development and b) with respect to the process as to how the public and individual residents have been provided with information about the development. In this respect, we hope the Council/City will provide some answers to several questions with regards to the overall decision making process that has been raised by numerous residents.

## **Part 1 — Concerns with respect to the by-law amendment**

**Light & Building Height:** The buildings along the proposed new east-west street and along Trinity Street will cast a direct shadow on our 9<sup>th</sup> floor unit and balcony, reducing the duration of direct sunlight in the late afternoon/early evening from about 1 hour and 45 minutes to 1 hour and 15 minutes at the beginning of spring and fall – and from about five hours to about four hours in summer (June 20<sup>th</sup>). This is the time of day and season where we enjoy our balcony after a long working day. Please note that the impact on lower level units in 70 and 80 Mill Street will be even more severe (**up to 55 % reduction of direct sunlight**). This reduction in direct sunlight is unacceptable as sufficient daylight is important for healthy living conditions and is especially important for the disabled or elderly individuals who do not have regular access to the outdoors and rely on a sufficient amount of daylight for their health and well-being. In this respect, the current pandemic has dramatically shown us the importance of private access to the outdoors and sunlight. It escapes us that the proposed development has **NO private** balconies for residents where they can safely enjoy the outdoors although to the best of our knowledge all other buildings, except those with affordable housing in the neighbourhood, for example at Cooperage Street, have balconies.

Having said that, the courtyard (POPS) and many of the respective courtyard facing units of the new development receive very little direct sunlight during most of the year rendering the courtyard basically useless as an enjoyable public space, especially after work hours from 5 – 8 pm (see attached simulations, Appendix I). Please note that the proposed building heights and building orientations of the WDL Block Plan 2006 would not significantly decrease the direct sunlight for most residents in 70 and 80 Mill Street and the new development. We therefore suggest to either revert to the original WDL Block Plan 2006 or limit the overall building heights to 26m according to by-law 438-86 and add balconies to each unit of the proposed development.

**Traffic Safety and Noise:** The proposed new east-west street that runs between the new development and the existing buildings at 70 and 80 Mill Street, will not only increase the already high noise levels for residents but it bears a significant safety risk as the applicant and the City did not provide a reasonable concept as to how residents of 70 and 80 Mill street can safely enter and exit their parking garage.

In addition, the access to Cherry Street from the newly proposed street without installing an additional traffic light adds another risk for residents and especially bicycle riders as Cherry St.

is a priority cycling route. The numerous incidents where cars are turning left/North onto the streetcar tracks from Mill street and the awkward/dangerous left turn from Cherry onto Front street, demonstrates that City planners do not fully comprehend the dangerous consequences of their inadequate planning.

We therefore propose that the street design follows the L-shaped concept as proposed in the 2011 Precinct Plan (see attached appendix II) where there is a dead end / pedestrian area starting at the 70/80 mill garage exit towards Cherry Street and separated by retractable bollards. In this way, not only can residents safely exit the parking garage, but this will also allow for 70 Mill to safely move their garbage bins towards the joint garbage pick-up area at 80 Mill Street. The area would only be accessible to garbage trucks and moving/delivery trucks.

**Density:** We greatly appreciate the efforts of the City **to FINALLY build affordable housing**, but affordable housing should be livable housing. In this respect, the proposed high density development is not aligned with the surrounding buildings in the area. Furthermore, the high density in combination with the POPs/courtyard design might lead to unwanted social and economic impacts in the Distillery community. There are very good examples of affordable housing communities in our city, such as the Esplanade area, where open community spaces and sufficient distance between buildings have been inclusively considered. The WDL Block Plan 2006 followed this basic concept. We therefore propose that the development of Blocks 3 and 4 adheres to the 2011 Precinct Plan and the WDL Block Plan 2006 with respect to building heights, set-backs and configuration/orientation of the buildings. Specifically, for Blocks 3 and 4:

- Only low rise (max. 5-story 21 m) buildings in the north-south direction (as seen in the Canary District) positioned to minimize the visual impact on the existing building at 70 and 80 Mill Street.
- Only mid-rise (max. 8-story, 30 m) buildings in the east-west direction on front street.
- No additional mid-rise buildings on the south side of block 3 & 4 facing 70 and 80 Mill Street, with an east-west orientation.

**Specifically, for block 7:** Increase the current distance of ~5.5 m between 80 Mill Street and 90 Mill Street to a minimum of 11m as outlined in a 2017 LPAT Tribunal decision with respect to the distance between 70 Mill Street and 60 Mill Street (for details see LPAT tribunal decision files PL151116; PL151118; **(1)**) and reduce the building height to 26 m maximum in line with by-law 438-86. As a courtesy to residents of 80 Mill Street, a park or a maximum two-story building that does not obstruct the view and negatively affect the privacy of 80 Mill Street residents would be preferable.

## **Part 2 — Questions to the council**

**It would be great if the City could answer the following questions:**

1. The original tender for the WDL property Block 3, 4, 7 listed an allowed density of ~ 550,000sqf/51,096m<sup>2</sup> gross floor area **(2)**. However, the actual density of the proposed development is 80,800m<sup>2</sup> **(3)**.

**Wouldn't a tender/bidding process require accurate information in order to receive the best bid for publicly owned land?**

**Would it not be considered unfair to other potential bidders to significantly change the allowed density after the bidding process is closed and the contract is signed?**

2. The City-endorsed WDL Block Plan 2006 and the internationally recognized and award winning Public Realm Master Plan for the West Don Lands (*West Don Lands, 2017–2018 Global Awards for Excellence Winner*) has been used by government agencies, such as Waterfront Toronto, to showcase City planning and gain public consent on proposed developments, as well as by developers to advertise and showcase the WDL developments to potential investors.

**Does the significant deviation from the advertised WDL Plans (WDL Block Plan 2006, Precinct plan 2011) constitute as false advertisement and thus could be potentially illegal as many people purchased property in the WDL area based on said City endorsed plans?**

3. Toronto City planning supports the deviation from the original WDL Plans and allows the applicant to increase the heights and density significantly beyond the limits outlined in by-law 438-86 and the WDL Block Plan 2006 if the applicant pays a cash contribution (section 37 provision). Although the use of section 37 has been recently reviewed by the City due to incoherent use, it appears to still be a major city planning instrument in Toronto and it reminds residents of similar decision making instruments frequently used in colloquially called banana republics.

**Why is the City providing the developer with a property tax reduction for the affordable housing units on one hand, and on the other hand, the city is taking a cash**

**contribution for the increased density?** This makes very little sense, especially as it appears that the City/Province requested the increased density in the first place. The developer had originally planned for ~480 units in April 2019 **(4)**, already 105 units more than in WDL Block Plan 2006 (the current application lists 870 units).

**Is the application of section 37 aligned with the ethical values of individual City councilors? How is the City council planning to explain to residents that paying for increased density is not “legalized corruption” (5)** and does not “*violate the concept of the rule of law -- the idea that law, not individual lawmakers, is supreme, and which the Supreme Court of Canada has stated is a fundamental postulate of our constitutional structure.*” **(5)**.

Affordable housing cannot be the explanation for the increased density of Block 3, 4, 7, otherwise the density of Block 8 that is following the WDL Block plan 2006 and currently under construction, would have been increased as well! From our point of view, citizens of a Democratic country have the right to understand the law, and the

law should be predictable, certain and equally applied **(5)**. Most importantly, the rule of **law should NOT be buyable!** From our point of view, all these basic rights of citizens are potentially violated by the application of Section 37 and we fear that it will further erode the trust and confidence of residents that the City is actually working in their best interest.

4. Towards the former questions. **Why is the City paying millions of tax payer dollars to establish by-laws and city plans such as the WDL Block Plan 2006 and the Public Realm Master Plan 2011 or the King-Parliament Secondary Review, if these plans are a mere suggestion and amendments can be bought by developers or potentially used by politicians to elevate their political profile? In this context, what is the point of the ad-hoc city planning in Toronto? Again, meeting increasing housing demands cannot be the answer!** The increase of population in Toronto was foreseeable for decades and the housing crisis could have been avoided with proper long-term City planning as opposed to ad-hoc patchwork planning that might cause unforeseeable socio-economic problems. It would surprise us if the planners involved in the WDL Block Plan 2006 and Public Realm Master Plan 2011 were not taking the future population growth into account as it appears to be an inclusively considered plan.

5. The expression "Affordable housing" in the context of the proposed development is misleading the public as it is based on the Average Market Rent and not on the average household income.
  - 70% of the units of the proposed development can be rented out at whatever the developer thinks is appropriate = above the Average Market Rent!
  - 30% affordable housing is required with the following stipulations:

50% of the 30% affordable housing units should be rented at 100% Average Market Rent (AMR); 40% is at 80% of the Average Market Rent; 10% is at 40% of the Average Market Rent;

The past years have demonstrated that the average rent is increasing much faster than any income increases, and a so-called affordable unit in the proposed development will be soon unaffordable even for residents with a mid-range income.

**Why didn't the City define Affordable housing as based on 30% of the average household income (generally excepted rule of thumb), especially considering that there is no rent control in place in Toronto?**

6. From the publicly available information, the developer aimed for 480 units during the first presentation at the Waterfront Design Panel **(4)**. These are already 105 units more than outlined in the original WDL Block Plan 2006 (375 units).  
**Why was the developer encouraged to almost double the density in their subsequent presentations to now 870 units? Why didn't the City insist at this early stage to adhere to**

**the original WDL Block Plan 2006? Did the City encourage the higher density, and if so, why did Henry Tang refer us and other residents to the developer to explain the more than doubled density?**

7. According to City planner Melanie Melnyk, City Planning Division (pers. Com. virtual meeting WDLC June 18<sup>th</sup> 2020) the WDL Block Plan 2006 and Public Realm Master Plan Plan 2011 are used by City planning as the planning framework for the West Don Lands and therefore will be exempt from the King-Parliament Secondary Plan as there are already very detailed plans available that should be adhered to. If this is correct, **WHY is the proposed development NOT adhering to building heights, density, set backs, built form and street design as outlined in the WDL block plan 2006 and the Public Realm Master Plan 2011?**
8. **How does the City ensure that it is receiving actual neighbourhood opinions when consulting the WDLC and the GWNA and not the opinions of individuals that may or may not have a conflict of interest or are lobbyists?** This question has been raised by our neighbours after we asked our neighbourhood associations (GWNA and the WDLC) to distribute information concerning the development and to solicit broad neighbourhood feedback using an online questionnaire that we created. Both requests were not only declined, but posts on the GWNA Facebook page with information concerning the development were apparently removed by the GWNA. We already raised these concerns with Councilor Wong-Tam (C/O Megan Poole) and Henry Tang (City Planning) and shared the respective WDLC/GWNA correspondence. We see our concerns now confirmed as the GWNA and the WDLC claim in their letters to Council **(6)** that they represent the opinion of 80 and 70 Mill residents with respect to overall massing, density and envelope of the development. Their statement is incorrect as de-facto 70 plus residents of 80 and 70 Mill street took issue with the overall massing, density and building envelope of the new development documented in two surveys provided to the Working Group, city and developer. According to the correspondence between us and the GWNA and the WDLC, both organizations do not solicit information from the neighbourhood and to the best of our knowledge they did not solicit any opinion with respect to the new development from ALL residents in 70 and 80 Mill street.
9. Last but not least, we were unsuccessful in receiving a copy of the lease contract and information on the bidding process for Blocks 3, 4, 7 after multiple requests to Henry Tang. **Is this contract/information considered confidential? If not, how do we obtain a copy?** The difficulties that we experienced to obtain accurate information about the development raises serious concerns as to whether the City is able to act in the best interest of its residents.

We trust that you share our concerns and support our proposal to adhere to the original precinct plans for the West Don Lands.

Sincerely,



**Lana McInnis & Dr. Jörg Bollmann**

912-80 Mill Street, Toronto ON M5A4T3

Reference:

- (1) <https://www.canlii.org/en/on/onomb/doc/2017/2017canlii43891/2017canlii43891.html>  
(Accessed 10/13/2020)
- (2) [http://tdsa.ca/wp-content/uploads/2017/09/Development\\_Lands\\_Offering\\_PAHLP\\_Marketing\\_Flyer.pdf](http://tdsa.ca/wp-content/uploads/2017/09/Development_Lands_Offering_PAHLP_Marketing_Flyer.pdf)
- (3) <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE19.5>
- (4) [https://www.waterfronttoronto.ca/nbe/wcm/connect/waterfront/33520435-329d-48e5-b286-87bd32bf66de/19.04.26\\_March+2019+DRP+Minutes+-+adopted.pdf?MOD=AJPERES&CONVERT\\_TO=url&CACHEID=33520435-329d-48e5-b286-87bd32bf66de](https://www.waterfronttoronto.ca/nbe/wcm/connect/waterfront/33520435-329d-48e5-b286-87bd32bf66de/19.04.26_March+2019+DRP+Minutes+-+adopted.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=33520435-329d-48e5-b286-87bd32bf66de)
- (5) Makuch, Stanley M. and Schuman, Matthew. "Have We Legalized Corruption? The Impacts of Expanding Municipal Authority Without Safeguards in Toronto and Ontario." Osgoode Hall Law Journal 53.1 (2015) : 301-333.  
<https://digitalcommons.osgoode.yorku.ca/ohlj/vol53/iss1/9>
- (6) <https://www.toronto.ca/legdocs/mmis/2020/te/comm/communicationfile-121659.pdf>

Appendix I Shadow simulation

Appendix II WDL Block plan 2006 and Public Realm Master plan 2011



Appendix I — A



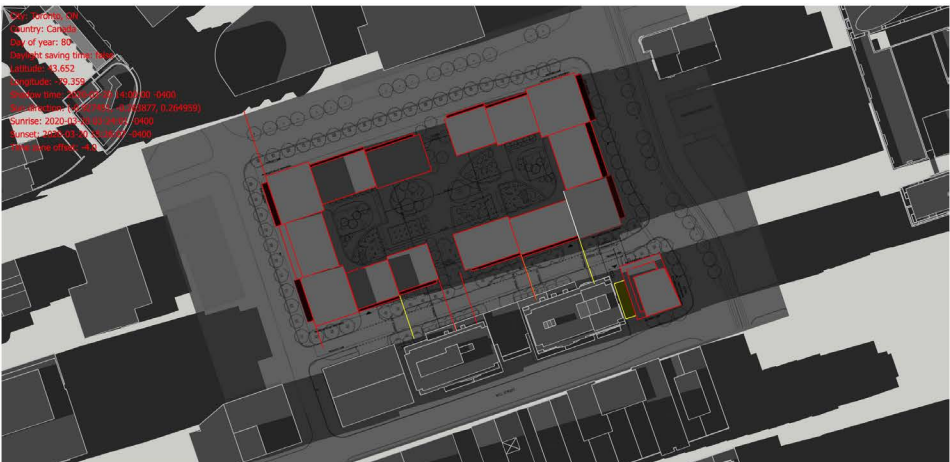
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March 20, 2020  
**2:00 PM**



March 20, 2020  
**5:00 PM**



March 20, 2020  
**6:00 PM**  
**(sunset 7:26 PM)**



Appendix I — B



June 20, 2020  
**12:00 PM**



June 20, 2020  
**2:00 PM**



June 20, 2020  
**5:00 PM**



June 20, 2020  
**6:00 PM**  
**(sunset 8:56 PM)**

Appendix I — C



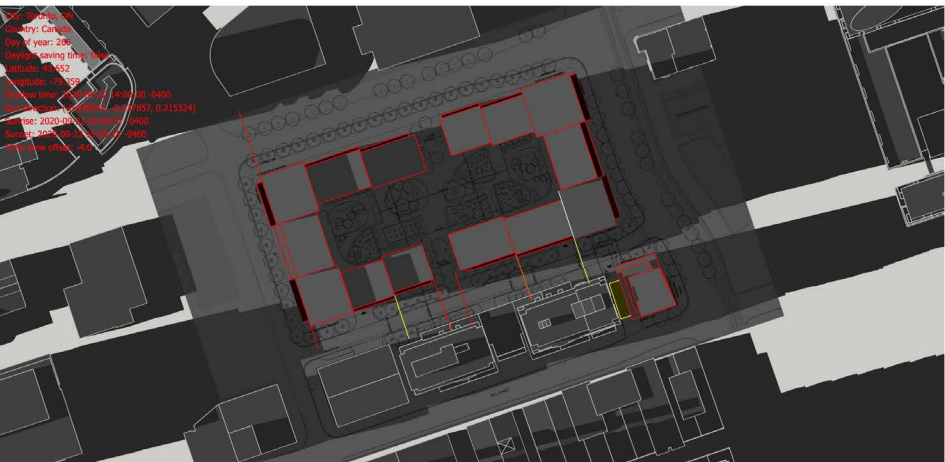
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Sept 22, 2020  
**2:00 PM**



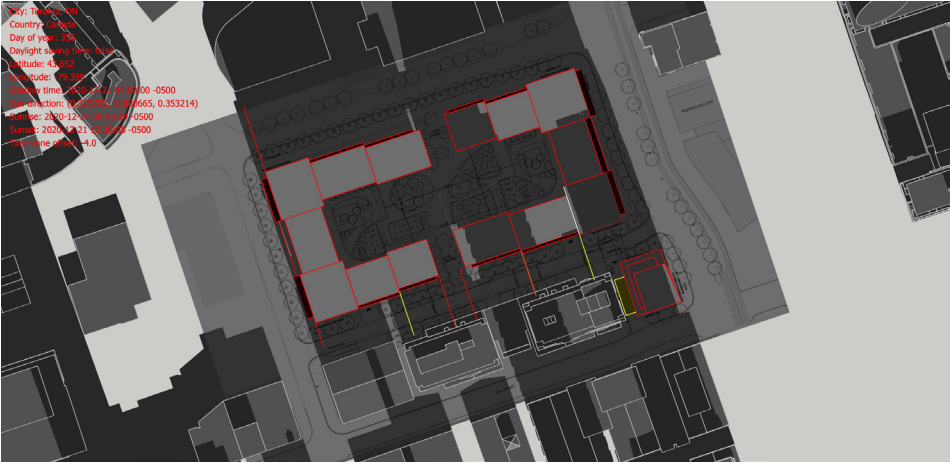
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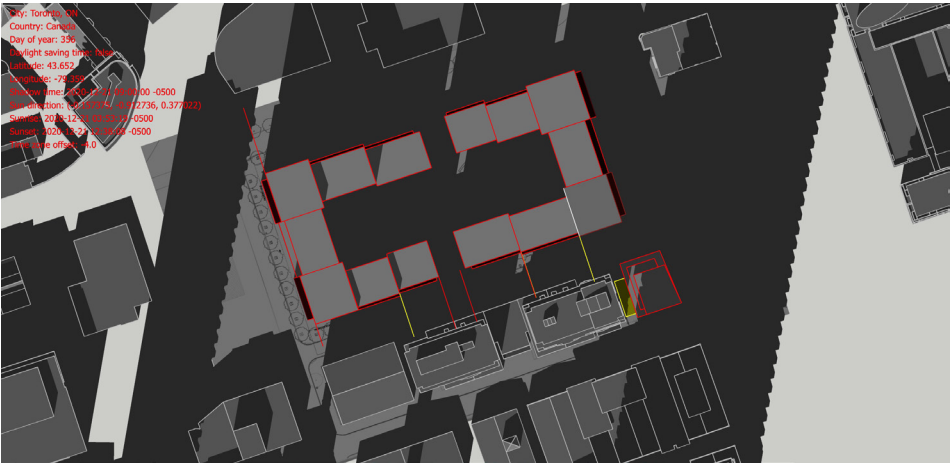
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**6:00 PM**  
**(sunset 7:15 PM)**



Appendix I — D



Dec 21, 2020  
12:00 PM



Dec 21, 2020  
2:00 PM

Appendix II

