

May 4, 2021

MGP File: 21-2986

Toronto City Council
100 Queen Street West
Toronto, Ontario M5H 2N21

via email: councilmeeting@toronto.ca

Attention: Ms. Marilyn Toft, Secretariat

Dear Ms. Toft:

**RE: Item TE24.9 – 244-260 Church St Development Application - Letter of Objection
City File No. 20 124315 STE 13 OZ
91 Dundas Street East, City of Toronto**

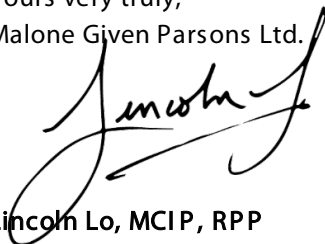
Malone Given Parsons Ltd. ("MGP") are the land use planners for 647020 Ontario Limited (herein referred to "647 Ontario"), the owner of the property municipally known as 91 Dundas Street East in the City of Toronto ("Subject Lands").

647 Ontario has been an active participant through the development process for the lands immediately abutting it at 244-260 Church Street (City File No. 20 124315 STE 13 OZ) as shown in Figure 1. 647 Ontario has expressed their opposition to this proposed development through correspondence dated November 12, 2020, January 21, 2021 and April 20, 2021, which are all attached to this letter.

We have reviewed the proposed development that is being recommended for approval at City Council and it continues to infringe on the existing site functions. The proposed redevelopment severely limits the as-of-right development potential of the Subject Lands and is not designed in consistency with the Tall Building Design Guidelines.

In accordance with the written submissions, we continue to object to the approval of the proposed redevelopment at 244-260 Church Street.

Yours very truly,
Malone Given Parsons Ltd.



**Lincoln Lo, MCIP, RPP
Principal**

*Attn: Correspondence prepared by Gowling WLG (Canada) Inc. dated November 12, 2020
Correspondence prepared by Gowling WLG (Canada) Inc. dated January 21, 2021
Correspondence prepared by Malone Given Parsons Ltd. dated April 20, 2021*

November 12, 2020

SENT VIA EMAIL

 **Peter Gross**
Certified Specialist Municipal Law:
Land Use Planning and Development
Direct +1 416 862 4459

Derek Waltho
City of Toronto, City Hall
100 Queen Street West
18th Floor, East Tower
Toronto ON M5H 2N2

Dear Mr. Waltho:

**Re: 91 Dundas Street East
Development Proposal – 244 Church Street (Application Number 20 124315 STE 13 OZ)
Letter of Objection**

We are counsel to 647020 Ontario Limited (“647”), the owner of 91 Dundas Street East, Toronto (“91 Dundas”).

91 Dundas is occupied by a two-storey building that has been in its present location for approximately 60 years. 647 has owned the property since 1989 and has, over time, used the building for various purposes including a restaurant and second floor dwelling unit. The building occupies the entire parcel as it is built out to the property lines. There are three existing windows on the second floor of the south elevation, which have historically been part of a dwelling unit (See Figure 1 attached).

We write to provide preliminary comments with respect to a zoning by-law amendment application by 250 Church Limited Partnership (the “**Proponent**”) to amend City of Toronto Zoning By-law 569-2013 and the former City of Toronto Zoning By-law 438-86 (the “**Application**”) with respect to lands located at 242, 244, 250, 254, 258, 260 and 262 Church Street (the “**Development Lands**”). The purpose and effect of the Application is to permit a 54 storey mixed use building on the Development Lands (the “**Proposal**”). 91 Dundas is adjacent to the Development Lands, sharing two property lines at the northwest corner of the Development Lands (See Figures 2 and 3 attached).

We have reviewed the Proponent’s Application materials dated March 2020. For the reasons summarized below, our client objects to the Proposal as it would negatively impact the current functioning of 91 Dundas as well our client’s ability to redevelop the property

Negative Impacts to Current Site Function

The in-force zoning for the Development Lands requires a 5.5 metre setback from the shared property lines with 91 Dundas. However, the Application requests zoning relief in the form of a 0 metre setback from all shared property lines with 91 Dundas. If approved, the Proposal would completely block the three large existing windows on the south elevation of 91 Dundas from having any light or sky-view.

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Gowling WLG (Canada) LLP is a member of Gowling WLG, an international law firm which consists of independent and autonomous entities providing services around the world. Our structure is explained in more detail at gowlingwlg.com/legal.

In addition, services for 91 Dundas in the form of a drainage pipe running along the south elevation the building that has been in place for decades would be completely obstructed.

Negative Impacts to Future Redevelopment

Not only does the Proposal fail to meet the minimal setbacks required by the in-force zoning by-law, the Proposal fails to adhere to the City's Tall Building Design Guidelines ("**TBDG**"), fails to conform with the Council-approved Official Plan Amendment No. 352 ("**OPA 352**") and By-laws 1106-2016 and 1107-2016 enacted by Council in 2016. While these planning instruments remain under appeal at the Local Planning Appeal Tribunal ("**LPAT**"), there is no outstanding appeal with respect to the Development Lands and the City should not disregard OPA 352 and By-laws 1106-2016 and 1107-2017 in its evaluation of the Proposal.

The TBDG requires a 12.5 metre setback on the Development Lands from the shared lot line.

In addition, OPA 352 provides:

Tall building development that occurs in the area governed by this SASP will provide setbacks from the lot lines to the tower portion of the building so that individual tall buildings on a site and the cumulative effect of multiple tall buildings within a block contribute to building strong healthy communities by fitting in with the existing and/or planned context.

By siting the 54 storey tower directly on the property lines at southeast corner of 91 Dundas, the Proposal utterly fails to fit in with the existing context and therefore does not conform with OPA 352.

By-laws 1106-2016 and 1107-2016 require that the tower portion of the Proposal be set back 12.5 metres from a lot line having no abutting street or lane. The Proposal sets the tower directly on the shared property lines with 91 Dundas, with no setback.

The failure to provide any setbacks whatever between the tower on the Development Lands and 91 Dundas will eliminate our client's existing development rights or expansion of those rights through appropriate planning applications. The Proponent will thereby accrue additional development rights at our client's cost, resulting in "first out of the gate" planning that OPA 352 seeks to prevent.

Our client intends to redevelop 91 Dundas. To date, our client has retained an architect, prepared concept plans and had a Pre-Consultation Meeting with City staff to discuss a redevelopment proposal. The proposal was also reviewed by City staff through the Preliminary Project Review process. While the exact timing of redevelopment is uncertain due to the current COVID-19 pandemic, we note that 91 Dundas enjoys as-of-right zoning permissions allow for a building height of 30 metres.

Based on the grounds identified above, we object to the current Proposal for the Development Lands. As also noted above, these are our preliminary comments. We intend to provide further comments as the Proposal evolves.

Sincerely,

Gowling WLG (Canada) LLP



Peter Gross

PG

Figure 1: South elevation of 91 Dundas St. E from the existing parking lot to the rear



Figure 3: Rendering showing lack of setback from 91 Dundas St. E



91 Dundas St. E



2 Storey Podium – 0 setback



5 Storey Podium – 0 setback



54 Storey Tower – 0 setback

January 21, 2021

SENT VIA EMAIL

 **Peter Gross**
Certified Specialist Municipal Law:
Land Use Planning and Development
Direct +1 416 862 4459

Derek Waltho
City of Toronto, City Hall
100 Queen Street West
18th Floor, East Tower
Toronto ON M5H 2N2

Dear Mr. Waltho:

**Re: 91 Dundas Street East
Development Proposal – 244 Church Street (Application Number 20 124315 STE 13 OZ)
Letter of Objection**

As you are aware, we are counsel to 647020 Ontario Limited (“**647**”), the owner of 91 Dundas Street East, Toronto (“**91 Dundas**”). This letter of objection follows our first letter of objection, dated November 12, 2020, written in response to the original zoning by-law amendment application (the “**Application**”) submission by 250 Church Limited Partnership (the “**Proponent**”) with respect to lands located at 242, 244, 250, 254, 258, 260 and 262 Church Street (the “**Development Lands**”).

We have reviewed the Proponent’s revised Application materials dated December 2020 (the “**Revised Submission**”). For the reasons summarized below, our client objects to the proposal as it would negatively impact the current functioning of 91 Dundas as well our client’s ability to redevelop the property.

Negative Impacts to Current Site Function

The in-force zoning for the Development Lands requires a 5.5 metre setback from the shared property lines with 91 Dundas. However, the Application requests zoning relief in the form of a 0 metre setback from all shared property lines with 91 Dundas. The Revised Submission proposes a 3.0 metre second and third story setback along the south elevation of 91 Dundas, to prevent blocking the second storey windows located at 91 Dundas along its shared southern property line with the Development Lands. While the Revised Submission allows the windows on 91 Dundas to not be blocked completely, it does not respect Official Plan policies that require Tall Buildings to provide adequate natural sunlight and sky views to adjacent properties.

In addition, services for 91 Dundas in the form of a drainage pipe running along the south elevation the building that has been in place for decades would need to be relocated.

Negative Impacts to Future Redevelopment

Not only does the proposal fail to meet the minimal setbacks required by the in-force zoning by-law, the Proposal fails to adhere to the City’s Tall Building Design Guidelines (“**TBDG**”), fails to conform with the

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Council-approved Official Plan Amendment No. 352 (“**OPA 352**”) and By-laws 1106-2016 and 1107-2016 enacted by Council in 2016. While these planning instruments remain under appeal at the Local Planning Appeal Tribunal (“**LPAT**”), there is no outstanding appeal with respect to the Development Lands and the City should not disregard OPA 352 and By-laws 1106-2016 and 1107-2017 in its evaluation of the Proposal.

The TBDG requires a 12.5 metre setback on the Development Lands from the shared lot line with 91 Dundas.

In addition, OPA 352 provides:

Tall building development that occurs in the area governed by this SASP will provide setbacks from the lot lines to the tower portion of the building so that individual tall buildings on a site and the cumulative effect of multiple tall buildings within a block contribute to building strong healthy communities by fitting in with the existing and/or planned context.

By siting the 52 storey tower directly on the property lines at southeast corner of 91 Dundas, the proposal utterly fails to fit in with the existing context and therefore does not conform with OPA 352.

In addition, By-laws 1106-2016 and 1107-2016 require that the tower portion of the proposal be set back 12.5 metres from a lot line having no abutting street or lane. The proposal sets the tower directly on the shared property lines with 91 Dundas, with no setback.

The failure to provide any setbacks whatever between the tower on the Development Lands and 91 Dundas will eliminate our client’s existing development rights or expansion of those rights through appropriate planning applications. The Proponent will thereby accrue additional development rights at our client’s cost, resulting in “first out of the gate” planning that OPA 352 seeks to prevent.

We note that the Revised Submission includes the notation “Blank Wall” along the shared property lines, however, the notation is only noted from the Mezzanine Level to Level 8. We request that the “Blank Wall” notation continue to Level 15, to preserve the future development rights of 91 Dundas.

Conclusion

Based on the grounds identified above, we object to the Revised Submission for the Development Lands. As also noted above, these are our preliminary comments. We intend to provide further comments as the Proposal evolves.

Sincerely,

Gowling WLG (Canada) LLP



Peter Gross

PG

April 20, 2021

MGP File: 21-2986

Toronto and East York Community Council
100 Queen Street West
Toronto, Ontario M5H 2N21

via email: teycc@toronto.ca

Attention: Ms. Ellen Devlin, Secretariat

Dear Ms. Devlin:

**RE: Item TE24.9 – 244-260 Church St Development Application - Letter of Objection
City File No. 20 124315 STE 13 OZ
91 Dundas Street East, City of Toronto**

Malone Given Parsons Ltd. (“MGP”) are the land use planners for 647020 Ontario Limited (herein referred to “647 Ontario”), the owner of the property municipally known as 91 Dundas Street East in the City of Toronto (“Subject Lands”).

647 Ontario has been an active participant through the development process for the lands immediately abutting it at 244-260 Church Street (City File No. 20 124315 STE 13 OZ) as shown in Figure 1. 647 Ontario has expressed their opposition to this proposed development through correspondence dated November 12, 2020 and January 21, 2021.

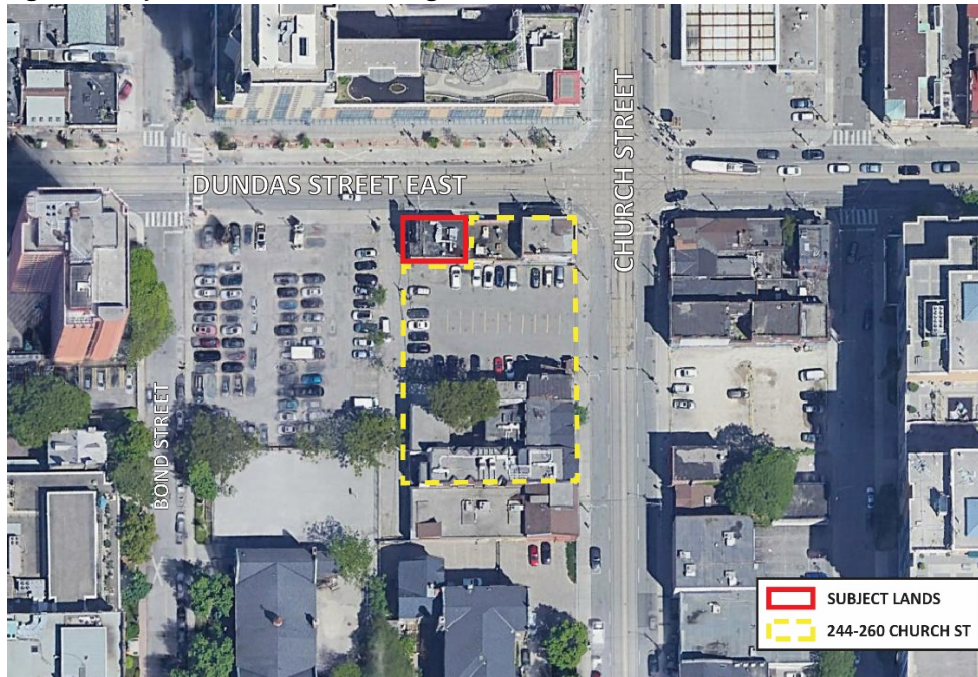
We have reviewed the proposed development that is being recommended for approval at City Council and it continues to infringe on the existing site functions.

The proposed redevelopment severely limits the as-of-right development potential of the Subject Lands and is not designed in consistency with the Tall Building Design Guidelines.

Subject Lands

The Subject Lands are located on the south side of Dundas Street East, west of Church Street and immediately adjacent to the proposed development at 244-260 Church Street. The lands are currently occupied by a 2-storey building that is built-out to the property lines and has been located on the site for over 60 years.

Figure 1: Subject Lands and Surrounding Context



Currently a restaurant is located in the existing building occupying both floors. A dwelling unit has historically occupied the second floor and it is intended to be used for one in the future once the current restaurant use vacates the building. Three large floor to ceiling windows are located on the second storey at the south facing portion of the building that provides sunlight and skyview to the second floor. In addition, a drainage pipe runs along the south building façade.

Development at 244-260 Church Street Infringes on the Site Function

The proposed redevelopment at 244-260 Church Street sites the building with a 0-metre setback on all shared property lines with the Subject Lands. This siting does not have regard to the existing function and usability of the Subject Lands.

The northern façade of the proposed redevelopment provides a 0-metre setback at the ground floor before providing a 3m setback at the mezzanine and 2nd floor where it abuts the southern façade of the existing building on the Subject Lands. However, the proposed redevelopment returns to a 0-metre setback at the third floor and above. This will continue to block the vast majority of sunlight and skyview enjoyed by the existing dwelling. This is contrary to numerous policies and guidelines within the Official Plan, Downtown Plan (Secondary Plan 41) and Tall Building Design Guidelines (“TBDG”). As an example, the Downtown Plan (Policy 9.14) states:

Development will be located and massed to define and frame the edges of the public realm with good street proportion, providing for comfortable sun and wind conditions on the public realm and neighbouring properties by stepping back building mass and/or limiting building floorplates above the streetwall height to allow daylight and sunlight to penetrate to the street and lower building levels [emphasis added].

The proposed redevelopment at 244-260 Church Street does not provide an adequate step back of its building mass from the Subject Lands in order to allow the penetration of daylight and sunlight.

Furthermore, the proposed redevelopment will completely obstruct access to the drainage pipe along the southern façade of the existing building on the Subject Lands. This will result in the required reconfiguration of drainage services for the existing building.

Severely Limits the Future Development Potential of Subject Lands

The Subject Lands are designated Mixed Use Areas in the Toronto Official Plan and Mixed Use Areas 1 – Growth in the Downtown Plan (Secondary Plan 41). These areas are to be the focus of growth with the greatest heights and largest proportions of non-residential use.

The Subject Lands are currently zoned Commercial Residential (CR 4.0 c2.0; r4.0 SS1 x2166) in Toronto Zoning Bylaw 569-2013. This zone permits a maximum height of 30-metres.

Given the above, the Subject Lands is where growth is intended to be located and are afforded as-of-right development permissions to build to a maximum height of 30-metres, subject to the other zoning provisions and in-force policy documents. 647 Ontario has already initiated the process to redevelop the Subject Lands having attended a Pre-Consultation Meeting with the City on September 18, 2020

We do not have an immediate concern with the height and density proposed through the development of 244-260 Church Street. However, we do have a concern with the siting of the tower and the proposed 0m setback where it abuts the southern façade of the Subject Lands.

The proposed 0-metre setback will cause immediate negative impacts to the existing function of the site (resulting in the relocation of drainage services) and severely limits the potential for the Subject Lands to densify. While the existing building on the Subject Lands is a two-storey building, they have as-of-right permissions to build up-to 30-metres. The proposed 0-metre setback from the development of 244-260 Church Street restricts the full redevelopment potential of the Subject Lands and essentially removes its as-of-right zoning permissions.

Development of 244-260 Church Street is not consistent with the City's TBDG

As it applies to the proposed development of 244-260 Church Street, the TBDG contains policies that recommend a 12.5 metre building setback from the centreline of a laneway and 12.5 metres from a shared property line (Section 3.2.3). This policy is rippled through in the 2016 Council approved Official Plan Amendment and Zoning Bylaw Amendments to update tall building setbacks in the Downtown (OPA 352 and Zoning By-laws 1106-2016 and 1107-2016).

While the proposed redevelopment provides the 12.5 metre setback from the laneway, it completely fails to do so on the shared property line with the Subject Lands. In providing a 0m setback to the Subject Lands, the redevelopment is not providing sufficient separation distance to preserve the full future development potential on the Subject Lands.

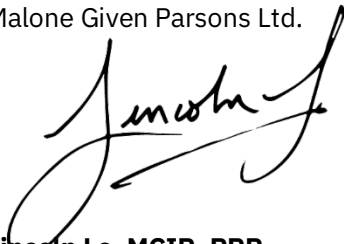
The proposed tower placement of the 244-260 Church Street redevelopment restricts the Subject Lands' ability to develop in a similar manner and will cause excessive shadowing, diminished sky views, loss of privacy and limited interior daylighting on the current site (as noted above) and on any future redevelopment plan.

Conclusion

It is our opinion that the City should not approve the proposed redevelopment as contemplated. The proposed redevelopment has impacts on the site functions of the Subject Lands and severely limits its future development potential. The increased zoning permissions requested from the proposed development should not come at the expense of the development potential of the Subject Lands. Furthermore, the proposed development is not consistent with, nor conforms (as applicable) to in-force City planning policy documents.

We are concerned that the comments that have been expressed to date have not been taken into consideration for the proposed redevelopment that is being recommended for approval.

Yours very truly,
Malone Given Parsons Ltd.

A handwritten signature in black ink, appearing to read "Lincoln Lo", with a large, stylized flourish extending from the end of the signature.

Lincoln Lo, MCIP, RPP
Principal