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VIA EMAIL [teycc@toronto.ca]

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Toronto and East York Community Council
100 Queen Street West
2nd Floor West
Toronto, ON M5H 2N2

Attention: The Chair and Members of the Toronto and East York Community Council

**RE: Request to Amend the Zoning By-law Application 19 124750 STE 04 OZ
Item No. TE23.9
2946 to 2968 Dundas Street West (the "Subject Site")
Our File No.: 25311-0001**

We are the solicitors for the adjacent property owner with respect to the above-noted matter. The adjacent property directly abuts the Subject Site to the north (the "**Adjacent Property**"). The Adjacent Property has a legal right-of-way over the northern portion of the Subject Site, shown as Parts 2 and 3 in Plan 66R-31284 (the "**ROW**"). The ROW is along the full length of the Adjacent Property.

The owner has been living at the Adjacent Property since 2006. The Adjacent Property consists of a single detached residential dwelling, with a detached garage. The ROW provides the owner with vehicular and pedestrian access from Pacific Avenue to her detached garage and rear yard (east of the garage), in both directions. The ROW also provides the owner access from her detached garage to her rear yard.

The owner has many concerns with the proposed Zoning By-law Amendment application, which proposes to convert two 3-storey mixed use buildings into an 8-storey mixed use building with 102 dwelling units, 852 square metres of retail space, and 1,660 square metres of office space (the "**Proposed Development**"). The owner has been actively raising her concerns with the Applicant and the City since the summer of 2019, including attending community consultation meetings and meetings with the Applicant and the City. However, many of the owner's concerns remain unaddressed.



If approved, the Proposed Development will have significant adverse impacts on the owner's property, inconsistent with the Official Plan for the City of Toronto ("**Toronto Official Plan**"). These significant adverse impacts include, but are not limited to, the following:

- **The ROW will be converted from a two-way lane to a one-way lane:** The Proposed Development proposes that the ROW become a one-way outbound lane to Pacific Avenue. Currently, the owner has two-way directional access on the ROW to access her detached garage and rear yard from Pacific Avenue.
- **The ROW will be converted from a private lane to a public lane:** The Proposed Development proposes to grant the City an access easement for public pedestrian and vehicular use of the ROW, and to provide public connection from Jackson Lane to Pacific Avenue. In essence, the ROW will be converted from a private lane to a public lane, which will lead to a significant increase in traffic on the ROW, and substantially interferes with the owner's use of the ROW.
- **Access to the Adjacent Property's rear yard will be eliminated:** The Proposed Development appears to eliminate the owner's access to her rear yard from the ROW. Currently, the owner has pedestrian and vehicular access to her rear yard from the ROW by opening the fence panels along the east portion of her property.
- **Adverse impacts on privacy:** The Proposed Development will not maintain adequate privacy for the Adjacent Property and the adjacent residential neighbourhood.
- **The Proposed Development is not compatible with adjacent low rise residential uses:** The built form and massing of the Proposed Development is not compatible with the low rise residential uses along Pacific Avenue and Jackson Place. The Proposed Development proposes to double the height permitted under the Zoning By-law (from 14 metres to 28 metres), and to increase the density permitted on the Subject Site from 2.5 to 3.83 times the lot area. The proposed 8-storey building is too intense and large, and is not compatible with adjacent low rise residential dwellings. The set backs and step backs of the building are not sufficient to mitigate these impacts.

The Proposed Development, which infringes on the owner's legal right to use the ROW and adversely impacts the adjacent low rise residential uses, cannot be in keeping with the intent of the Toronto Official Plan, in particular the following policies:



- Policy 2.2.3.4(b) – Proponents of development proposals in Mixed Use Areas on the Avenues will address the larger context and examine the implications for the segment of the Avenue in which the proposed development is located, including considering whether incremental development of the entire Avenue segment would adversely impact any adjacent Neighbourhoods.
- Policy 2.2.3.5 – That development requiring rezoning will not be allowed to proceed prior to completion of an Avenue Study unless the review demonstrates to Council’s satisfaction that subsequent development of the entire Avenue segment will have no adverse impacts within the context and parameters of the review.
- Policy 2.2.3.7 – That any new development respects and reinforces the general physical character of established neighbourhoods.
- Policy 2.3.1 – Development will have to demonstrate a transition in height, scale, and intensity as necessary to ensure that the stability and general amenity of the adjacent neighbourhood areas are not adversely affected.
- Policy 2.3.1.3 – Development in Mixed Use Areas that are adjacent or close to Neighbourhoods will a) be compatible with those Neighbourhoods; b) provide a gradual transition of scale and density; c) maintain adequate light and privacy for residents in Neighbourhoods; f) attenuate resulting traffic and parking impacts on adjacent neighbourhood streets so as not to significantly diminish the residential amenity of those Neighbourhoods.
- Policy 2.3.1.4 – Intensification of land adjacent to neighbourhoods will be carefully controlled so that neighbourhoods are protected from negative impact.
- Policy 3.1.2.1 – New development will frame and support adjacent streets to improve the safety, pedestrian interest and causal views to these spaces.
- Policy 3.1.2.2 – New development will locate and organize vehicle parking, vehicular access to minimize their impact on the property and on surrounding properties, and to improve the safety and attractiveness of adjacent streets.
- Policy 3.1.2.3 – New development will limit its impact on neighbouring streets, parks, open spaces and properties.

The Toronto Official Plan Land Use Map #18, as shown in the staff report dated January 29, 2021, designates the rear portion of the Subject Site where the ROW is located as



Neighbourhoods. Section 4.1 of the Toronto Official Plan states that “Neighbourhoods contain a full range of residential uses within lower scale buildings, as well as parks, schools, local institutions and small-scale stores and shops servicing the needs of area residential.”

The proposed Zoning By-law Amendment proposes to rezone the rear portion of the Subject Site where the ROW is located from Residential District to Mixed-Use District under By-law 438-86, and from Residential to Commercial Residential under By-law 569-2013. The rezoning of the rear portion of the Subject Site from residential uses to commercial/residential uses does not comply with the Toronto Official Plan, as the Toronto Official Plan does not permit mixed uses in Neighbourhoods.

In summary, the Proposed Development infringes on the owner’s legal rights to use the ROW, creates adverse impacts to adjacent residential properties, and is not in keeping with the policy directions of the Official Plan. Therefore, the Proposed Zoning By-law Amendment application should be refused.

Please do not hesitate to contact the undersigned should you require anything further.

Yours truly,

LOOPSTRA NIXON LLP

Per: Steven C. Ferri
SCF/mkn