

June 13, 2023

Our File No.: 160869

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Mayor and Members of Council
City of Toronto
Toronto City Hall
13th Floor West,
100 Queen Street West
Toronto, ON M5H 2N2

ATTENTION: Sylwia Przewdziecki, Manager, Council Secretariat Support, City Council

Dear Mayor and Members of Council:

**Re: TEY5.11 – 33 and 39 Davies Avenue – Decision Report - Refusal
Zoning By-law Amendment Application
Municipal File No.: 21 161284 STE 14 OZ**

We are legal counsel to Davies Ave Holdings Inc. and 39 Davies Ave Holdings Inc. (the “**Owners**”), the owners of the lands municipally known as 33 and 39 Davies Avenue in the City of Toronto (the “**Site**”). The Owners submitted a zoning by-law amendment application on May 27, 2021 to permit the construction of a new 19-storey office building on the Site (Municipal File No.: 21 161284 STE 14 OZ) (the “**Application**”). A Preliminary Report dated October 26, 2021 was considered by Toronto and East York Community Council (“**TEYCC**”) on November 24, 2021 and a Community Consultation Meeting was held on March 29, 2022. In response to comments from City staff and the Community Consultation Meeting, the Application has been significantly revised, including lowering the height of the office building to 15-storeys.

The Site is located on the east side of Davies Avenue on a block bounded by Davies Avenue to the west, Matilda Street to the north, Thompson Street to the south and Carroll N. Thompson Laneway and Joel Weeks Park to the east, within the Riverside neighbourhood. The Site is 1,329.3 square metres in size and is currently occupied by a two-storey commercial studio at 33 Davies Avenue and a surface parking lot at 39 Davies Avenue. The Site is in a highly visible and accessible location, overlooking the Don Valley Parkway and adjacent to Downtown Toronto. It is also separated from more sensitive low-rise Neighbourhoods designated properties further east. The Site is well-served by existing streetcar routes, and is located within the recent City Council-adopted Protected Major Transit Station Area (“**PMTSA**”) for Leslieville Station along the future Ontario Line. The Site is also located in close proximity to East Harbour Station also along the future Ontario Line, which is intended to include a GO Train interchange. Because of these features, the Site is a unique opportunity to create significant higher density Class A office space in a central location well serviced by existing and planned transit.

On May 24, 2023, the Owners appealed the Application to the Ontario Land Tribunal (the “**OLT**” or “**Tribunal**”) as a result of Council’s failure to make a decision (the “**Appeal**”). The Tribunal has acknowledged receipt of the Appeal, which has been ascribed OLT Case Number OLT-23-000481.

We are writing with respect to the “Decision Report – Refusal” submitted by the Director of Community Planning, Toronto and East York District and dated May 1, 2023 (the “**Refusal Report**”). Despite our client’s consistent efforts to work with City staff and the significant amendments that the Owners have already made to the Applications to address their comments, in the Refusal Report City staff have recommended refusal of the Application. Notwithstanding that this Application has already been appealed to the Tribunal, the Refusal Report and its recommendations are scheduled to be considered by City Council at its meeting on June 14, 2023 as Item TE5.11.

The Owners are surprised by the recommendations of the Refusal Report, particularly since during the past two years our client has made substantial efforts to amend the Application to address City staff’s comments. This Application is proposing to provide much needed new office space in a location that is well accessed by existing and planned public transit. In addition, the proposed new office building will be located within the City Council-approved Leslieville Station PMTSA along the under construction Ontario Line, and will provide important jobs density to that major transit station area.

As noted earlier, following the Community Consultation Meeting and extensive discussions with City Staff, our client’s planning consultants Urban Strategies Inc. filed a revised submission on January 13, 2023. The revised submission included a number of significant modifications from to the design of the proposed office building, including most notably the following:

- Improvements to the proposed office building’s interface with Carroll N. Thompson Laneway and Joel Weeks Park by relocating the servicing and parking access from the eastern side of the Site to Davies Avenue on the western side of the Site;
- Consolidating the multiple ground floor lobbies into one single lobby facing east, providing greater animation and an active use fronting onto the Joel Weeks Park;
- Eliminating the north laneway in favour of an internal mid-block connection through the lobby and expanded the lobby space to the north along with a consolidated core, which in turn mitigated adverse impact on the park and allowed for a double-height ground floor area with potential for a co-working or community space overlooking the park;
- Revising the massing by introducing a 3-metre stepback from the south façade above the 5th floor, and reoriented the two stepbacks from the east façade onto the south façade above the 13th and 15th floors, in order to optimize the development potential of the properties immediately south of the Site. The stepbacks are all intended to be used as terraces, providing 648 square metres of outdoor amenity space for office workers in the building;
- Reducing the height of the office building from 19 storeys (92 metres) to 15 storeys (73.5 metres), and sculpted the massing in order to minimize the shadow impact on the playground and splash pad at Joel Weeks Park. Along with the built form changes detailed

above, these revisions ensure that the playground and most other areas of the park receive no more than 2 to 3 additional hours of shadow in March, September and June; and

- Providing a Block Plan analysis in order to ensure the proposal fits into a comprehensive vision for the block.

The above noted changes that have already been made to the Application sufficiently address the issues raised by City Staff in the Refusal Report. In addition, for the reasons articulated in the supporting materials and reports submitted with the Application, the proposed office building has been demonstrated to meet the principles of good planning and urban design, conforms to both the Official Plan and the Growth Plan for the Greater Golden Horseshoe, and is consistent with the Provincial Policy Statement.

Notwithstanding that the authority to decide on the Application is now vested with the OLT as a result of the Appeal, we strongly request City Council to not adopt the recommendations to refuse the Application set out in the Refusal Report. Rather, for the reasons set out above, and in consideration of the significant planning merits of this Application, we request that City Council alternatively instruct the City Solicitor to attend the Tribunal in support of the office building development or, in the alternative, instruct staff to continue working with our client in an effort to resolve the subject appeal.

We trust the above is satisfactory and should you require any further information, please do not hesitate to contact the undersigned or my partner Alexander Suriano at asuriano@airdberlis.com.

AIRD & BERLIS LLP



Sidonia J. Tomasella

SJT/NM/AS/cb
Encls.

cc: Willie Macrae, Acting Director Community Planning, Toronto and East York District
Client

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