



Barristers & Solicitors

Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

Telephone: 416.979.2211
Facsimile: 416.979.1234
goodmans.ca

Direct Line: 416.597.5160
iandres@goodmans.ca

September 18, 2024

Our File No.: 201717

Via Email: etcc@toronto.ca

Etobicoke York Community Council
Toronto City Hall
2nd Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Nancy Martins

Dear Sirs/Mesdames:

**Re: Item EY16.1 – 3400 Weston Road and 2405 Finch Avenue West
Official Plan and Zoning By-law Amendment Applications – Approval Report**

We are solicitors for Medallion Realty Holdings Limited (“**Medallion**”), the owner of lands known municipally as 3400 Weston Road and 2405 Finch Avenue West (the “**Properties**”) which are the subject of official plan and zoning by-law amendment applications to permit the infill development of a 30-storey residential tower and podium alongside the two existing 26-storey rental apartment buildings which are proposed to be retained and improved (the “**Applications**”).

The Applications are recommended for approval pursuant to a report from the Director, Community Planning dated September 11, 2024 (the “**Staff Report**”).

While Medallion appreciates the positive Staff Report, we are writing on its behalf to express its concern with two specific aspects of the official plan amendment (“**Proposed OPA**”) and zoning by-law amendment (“**Proposed ZBA**”) recommended for approval.

Requirement to Provide Daycare Facility

While Medallion intends to provide a daycare facility within the podium of the new development, as discussed with City staff, it is not appropriate for this to be included as a condition or requirement of development within either the Proposed OPA or the Proposed ZBA.

Indeed, any policy or provision which purports to require the delivery of a child care program or service (or any similar social facility) in connection with a proposed development is contrary to section 59.1 of the *Development Charges Act, 1997*, which expressly prohibits municipalities from imposing such requirements.

Moreover, since section 37 of the *Planning Act* was amended to eliminate height and density bonusing and to establish a community benefits charge regime in its place, municipalities are no longer entitled to require the provision of facilities, services or matters in return for increases in the height or density of development. While we acknowledge that the old section 37 regime was in effect when the Emery Village Secondary Plan was adopted, the policies therein which encourage the development of community services and facilities through height and density incentives (including the policy which permits a certain maximum height and density on the Properties if a social facility is provided) are no longer applicable.

If the City wishes to secure the provision of a day care facility within the proposed development, the appropriate means of doing so is to formally recognize it as an in-kind contribution pursuant to subsection 37(6) of the current *Planning Act*, such that the value of such facility would be deducted from the community benefit charge that Medallion would otherwise be required to pay pursuant to subsection 37(8).

To be clear, Medallion still intends to include a daycare facility in its development and the Proposed ZBA should continue to permit the day nursery use, with associated standards for an adjacent dedicated outdoor play area in the event a day nursery is provided. However, the planning instruments should not create a situation where the new building will no longer conform to the Official Plan or comply with the site-specific zoning in the event the daycare facility ceases to operate, for whatever reason.

Therefore, the Proposed OPA and the Proposed ZBA should not impose a minimum gross floor area requirement in connection with the day nursery. Policy 13.4.1(a) should be deleted from the Proposed OPA and clause 4(K)(iii) should be deleted from the Proposed ZBA before the by-laws are enacted by City Council. In addition, clause 4(O) should either be deleted or modified such that the requirement for an adjoining dedicated outdoor play area with a minimum size of 470 m² only applies if a day nursery is operating on the Properties.

Maximum Number of Dwelling Units

It is also inappropriate for the Proposed ZBA to restrict the number of dwelling units within the proposed new building. Although the architectural plans currently show 403 dwelling units, it is possible that the interior demising may change and units may be divided and/or combined in accordance with market demand. So long as the minimum percentage of two and three bedroom units are being provided, there is no reason for the City to otherwise control or restrict the interior unit configuration. It would be extremely inefficient and costly for Medallion to have to pursue a minor variance application if its final plans contain 404 dwelling units.

If the City is serious about delivering much-needed purpose-built rental housing, it must not impose arbitrary and pointless restrictions such as this overall unit cap. Accordingly, clause 4(P)(i) should be deleted from the Proposed ZBA before the by-law is enacted by City Council.

Summary

As noted above, Medallion is pleased that City staff are supportive of its Applications and it appreciates the favourable staff report. However, the Proposed OPA and Proposed ZBA should not include a mandatory requirement to provide a social facility or day nursery, nor should the Proposed ZBA include an arbitrary unit cap.

Thank you for considering these comments. Please also accept this letter as our request for notice of any decision made in respect of this matter.

Yours truly,

Goodmans LLP



Ian Andres
IA/rr

cc: Luka Kot, Medallion
Mike Dror and Anna Wynveen, Bousfields