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Via Email to council@peelregion.ca

The Council of the Regional Municipality of Peel
 Regional Administrative Headquarters
 10 Peel Centre Drive, Suite A
 Brampton, Ontario

RECEIVED

February 6, 2023

REGION OF PEEL
 OFFICE OF THE REGIONAL CLERK

Attention: Chair and Members of Council

Dear Sirs/Mesdames:

Re: Agenda Item 13.1 – City of Mississauga Major Transit Station Area Official Plan Amendments 142, 143, 144 and 146: Regional Staff Review and Recommendations Submission by MPCT DIF 70 Park Street East LP, by its general partner MPCT DIF 70 Park Street East GP Inc., on behalf of 70 Park Street East Inc. City of Mississauga Official Plan Amendment Nos. 142, 143, 144 and 146.

We are solicitors for the owner of the property known municipally in the City of Mississauga (the “City”) as 23, 25, 27, 29 and 31 Helene Street North, 53 Queen Street East, and 70 Park Street East (the “Property”). We write on behalf of our client to express its strong objections to the City Official Plan amendments that are before Regional Council (the “City OPAs”).

As outlined further below, the City OPAs suffer from fundamental flaws that undermine Regional objectives, policy direction in the newly-approved Region of Peel Official Plan (the “ROP”), and explicit direction that the Minister of Municipal Affairs (the “Minister”) provided in modifying the ROP. In particular, the proposed approach of including height limits within certain PMTSAs contravenes Ministerial modifications to the ROP and, if approved, would result in the need to accommodate more housing in other areas of the Region that are less able to accommodate it. Furthermore, Regional staff have not even evaluated whether the height policies conform to provincial policy or the ROP, as they have inappropriately limited the scope of their review to ensuring minimum densities are met.

In addition, we note that changes in circumstances since City Council first adopted the City OPAs make it unfair and inappropriate to approve the City OPAs without giving City Council a further opportunity to consider them. In particular:

- The version of the ROP that Council used to evaluate the City OPAs at the time of adoption has now been superseded with an approved version that is different in important ways following the Minister’s modifications;

REFERRAL TO _____
 RECOMMENDED _____
 DIRECTION REQUIRED _____
 RECEIPT RECOMMENDED _____

- The Province has released new housing targets which call for the City to accommodate 120,000 new homes by 2031, which has significant implications on the amount of intensification to be accommodated within the City's major transit station areas ("MTSAs"); and
- As a result of the intervening election, City Council as currently constituted has not had an opportunity to consider the City OPAs (which were adopted by the previous Council with different members).

In these circumstances, our client strongly urges Regional Council to refuse to approve the City OPAs and remit them to the City for further consideration.

The Policies Pertaining to Maximum Heights are Inappropriate

Our client has particular concerns with the policies in the City OPAs providing direction on heights and the maximum heights identified in the associated mapping. The imposition of maximum heights does not conform with provincial policy or direction provided from the Minister in approving the ROP. Further, Regional staff appear to have a fundamental misapprehension about the role of the Region as approval authority. This misunderstanding appears to be the basis for Regional staff not recommending changes to the aspects of the City OPAs relating to maximum heights.

The Maximum Height Policies do not Conform with Provincial or Regional Policy

Both the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe promote intensification, particularly around transit stations, to facilitate complete communities that leverage public investment in transit and reduce reliance on vehicles. Under provincial policy, it is not enough simply to allow some degree of intensification in these areas – the Growth Plan provides that it is imperative that existing and planned transit be optimized to support more compact built form and ensure growth is accommodated in the right locations. The ROP mirrors this direction. Policy 5.4.18.6 provides that the Region's objective is "[t]o optimize all intensification opportunities across the Region and maximize development within Strategic Growth Areas."

The importance of the direction to optimize MTSAs is apparent in the modifications the Minister made to the ROP before approving it. Specifically, the Minister struck language in the ROP that required lower-tier municipalities, in planning for their MTSAs, to address maximum heights at their discretion. Following the Minister's modification, the only direction in the ROP pertaining to heights for PMTSAs is that lower-tier municipalities are to establish minimum heights. Indeed, the direction to provide for minimum heights in MTSAs is the only reference to building height in the entirety of the ROP.

Importantly, the City OPAs were adopted before the Minister had reviewed and modified the ROP. Accordingly, at the time the City OPAs were adopted, the ROP policies that City Council was evaluating the City OPAs against permitted the imposition of maximum heights in MTSAs. It no longer does so. In these circumstances, at a minimum, City Council must have an opportunity to consider the City OPAs against the new policy framework that now applies, including in light of the Minister's removal of policy language in the ROP pertaining to maximum heights.

Furthermore, even if maximum heights were permitted, the proposed maximums set out in the City OPAs are inappropriate. The maximum heights are woefully unresponsive to both provincial and Regional policy direction. Maximum building heights at these levels do not optimize the public investment in higher-order transit, nor do they maximize development within MTSAs as strategic growth areas. Suppressing building heights, and therefore new housing stock, to such an extent along areas with existing and planned rapid transit within the City will have knock-on effects elsewhere in the Region, increasing growth pressures in areas of the City without such infrastructure and in other municipalities. The City OPAs cannot be considered to conform with provincial or Regional policy and therefore must not be approved.

One specific example of how the City OPAs run counter to provincial and Regional policy objectives is how OPA 144 effectively brings forward, and also refers directly back to, by references on Schedule 11, the Port Credit LAP height regime that has been in place since 2014. This is clearly inconsistent with the current policy framework and direction.

Regional Staff Appear to Misunderstand the Region's Role as Approval Authority

Unfortunately, Regional staff have sidestepped the critical issues relating to the maximum height policies in their report to Regional Council. The report indicates that building heights “only become a matter of Regional interest if” they indicate that “the minimum densities in the [ROP] have not been adequately planned for.” This represents a fundamental misunderstanding of the Region's role as approval authority for the City OPAs.

Under the *Planning Act*, the Region, as approval authority, must be satisfied that the City OPAs conform with provincial policy and the ROP in order to approve them. The Region cannot only concern itself with minimum densities. It must ensure conformity with all aspects of applicable policy. Section 3(5) of the *Planning Act* requires Regional Council's decision to be consistent and conform with provincial policy. Further, section 17(34.1) of the *Planning Act* specifically prohibits the Region from approving the City OPAs if they do not conform with the ROP.

Based on the staff report before Regional Council, it appears that staff have not even evaluated whether the policies in the City OPAs pertaining to maximum building height conform with direction in the ROP, including the direction to optimize all intensification opportunities in the Region and maximize development within strategic growth areas. As outlined above, it is plain that the maximum height policies do not achieve conformity. Regional Council cannot approve the City OPAs in these circumstances.

Conclusion

The imperative of optimizing available supply of land to support complete, mixed-use communities in the vicinity of higher-order transit is clear, both in provincial policy and the ROP. Unfortunately, the City OPAs do not adequately reflect this fundamental direction. In these circumstances, and in light of the substantial changes in circumstances since City Council (as previously constituted) adopted the City OPAs, our client urges Regional Council to refuse to approve the City OPAs and remit them to the City, with direction to reconsider the maximum height policies.

We appreciate the opportunity to provide these comments and thank Council for its consideration.

Yours truly,

Goodmans LLP

A handwritten signature in blue ink, appearing to read 'Rodney Gill', is shown on a light-colored rectangular background.

Rodney Gill
RJG/

cc: Client

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