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February 7, 2023

By Email: Regional.clerk@peelregion.ca

Aretha Adams
 Regional Clerk
 Region of Peel
 10 Peel Centre Drive
 Ste. A
 Brampton, ON
 L6T 4B9

Dear Ms. Adams:

Re: Mississauga MTSA OPAs 142, 143, 144, 146

We act for Almega Asset Management Inc., the proponents of a proposed mixed use development project for the property municipally known as 60 Dundas Street East, in the City of Mississauga (“the **Site**”). The Site is located within the proposed Cooksville Go Major Transit Station Area (“**MTSA**”) pursuant to Mississauga Official Plan Amendment 144 (“**OPA 144**”).

Our client, through its land use planning consultant, previously provided written comments on proposed OPA 144. A copy of that written correspondence is enclosed with this letter.

As well, the Site is located within the Urban Area of the Regional of Peel as per the Peel Region Official Plan (“**ROPA**”) which was adopted by Regional Council on April 28, 2022, through By-law 20-2022. Accordingly, the Site has been identified within one of the Region’s delineated Urban Growth Centres on Schedule E- 1 (Regional Structure) and E-3 (The Growth Plan Policy Areas in Peel) of the ROPA.

The Site is also within a Strategic Growth Area due to its location within a “Primary or Secondary Major Transit Station Area” on Schedule E-2 (Strategic Growth Areas), and is located within a “Primary Major Transit Station Area” on Schedule E-5 (Major Transit Station Areas), which is specifically related to planned stations DUN-10 (Dundas Bus Rapid Transit) and HLRT-5 (Hurontario Light Rail Transit) which is expected to be completed in fall 2024. In addition, the Site is located within a 5-minute walk of DUN-12, which is the Kirwin Ave / Camilla Rd MTSA on the Dundas Bus Rapid Transit line. All these MTSAs are “Primary”.

These are all areas where growth, intensification, and developments at transit-supportive densities are directed within both the Region and City.

The Minister Modified ROPA To Remove Height Maximums in OPA144

On November 4, 2022, the Minister of Municipal Affairs and Housing issued a decision on the new ROPA. 44 modifications to ROPA were made by the Minister, including a modification to ROPA policy 5.6.19.10 (e) to remove the discretion of a local municipality to prescribe maximum building heights within an MTSA:

REFERRAL TO _____
 RECOMMENDED _____
 DIRECTION REQUIRED _____
 RECEIPT RECOMMENDED _____

10. Policy 5.6.19.10 e) is modified so that it reads:

the minimum height for land uses within the *Major Transit Station Area*, ~~maximum heights may be established at the discretion of the local municipality;~~

Despite the Minister's clear direction that local municipalities within ROPA are not intended to have the power to prescribe maximum heights within an MTSA, Regional Staff are recommending approval of OPA 144, inclusive of policies and schedules which prescribe maximum heights within an MTSA. This recommendation should not be adopted by Regional Council, because OPA 144, currently drafted, does not conform with ROPA.

MTSA Maximum Height Policies Do Not Conform with ROPA

In accordance with subsection 17(34.1) of the *Planning Act*, Regional Council shall not approve any part of OPA 144 if it does not, in Council's opinion, conform with the ROPA. On behalf of our client, we submit that OPA 144, as currently drafted, does not conform with ROPA.

The Minister modified ROPA policy 5.6.19.10 (e) to remove municipal discretion to prescribe maximum heights within an MTSA. This modification is consistent with a clear legislative and policy direction from the province aimed at increasing overall housing supply, and encouraging transit-oriented development. Arbitrary height limitations, such as those proposed in OPA 144, conflict with provincial direction by artificially limiting the development potential, and thus housing opportunities, for sites that are otherwise entirely appropriate for developments with tall buildings at transit-supportive densities.

For example, our client's proposed development for the Site will result in 1,009 new units. In contrast, if the proposed height limitation of 3-16 storeys were implemented, the proposed design would net far fewer units, bringing the total number of units within the proposed floor plates down to approximately 697, a loss of just over 31%. Not only is this a less efficient use of land within the urban built-up area, and within a MTSA, this is a significant loss to the overall housing that could be appropriately accommodated on Site.

Height maximums within an MTSA are inconsistent with provincial policy in general, and inconsistent with the Minister's intention specifically for ROPA, as expressed through his modifications to ROPA.

In their report dated February 9, 2023, Regional Planning Staff offered the following position in respect of the Ministerial modification to ROPA policy 5.6.19.10 (e):

The Province's modifications to the Region's adopted MTSA-related policies included removal of text that clarified the legislative authority of the local municipalities to establish maximum densities and maximum building heights in MTSAs at their discretion. Although the policy reference has been removed, there are no Provincial policies that preclude local municipalities from including maximum building heights or densities and therefore continues to permit the City's OPAs to include maximum building heights.

This position fails to assign any policy or interpretive weight to the Minister's modification of policy 5.6.19.10 (e). Instead, Regional Staff treat the express deletion of language by the Minister as

being little more than a Ministerial exercise of drafting concision. This is not a reasonable or appropriate interpretation of the Ministerial modification to ROPA, nor does it conform with the ROPA interpretation policies.

ROPA policy 7.3.5 provides that “the policies contained within this Plan seek to provide the full intentions of Regional Council in planning for the Region. Where differences of opinion arise as to the meaning of any part of the plan, **or in determining the significance of any action and the appropriate reaction required under the policies** in this plan, an interpretation will be made by Regional Council” [emphasis added].

This interpretive policy directs that Council carefully consider the implications of the Ministerial modification – not casually disregard it.

Yet, in effect, Regional Staff are taking the position that the Minister’s modification to ROPA is of no significance, and that the appropriate reaction to the Minister’s decision is to give it virtually no weight whatsoever. We submit that Council must exercise its discretion to have appropriate regard to the Minister’s decision, and its impact on how to interpret ROPA, when considering whether OPA 144 conforms with ROPA. We submit that the only reasonable interpretation results in a modification to OPA 144 to remove maximum building height prescriptions, as the Minister intended.

Conclusion

For the reasons set out above, and on behalf of our client, we submit that Regional Council should modify OPA 144 to remove all policies and schedules which prescribe maximum building heights within an MTSA.

We appreciate the opportunity to provide comments as part of Council’s consideration of this matter, and we request to be notified of Council’s decision.

Yours truly,

AIRD & BERLIS LLP



Matthew Helfand
MH:tp

Enclosure

Cc: Hon. Steve Clark, Minister of Municipal Affairs and Housing
Bousfields Inc.
Client

52012638.2





BOUSFIELDS INC.

January 21, 2022

Planning and Development Committee
City of Mississauga
300 City Centre Drive
Mississauga, Ontario L5B 3C1

Dear Members of the Committee:

Re: Comments relating to Downtown Fairview, Cooksville and Hospital Policy Review-Draft Official Plan Amendment and Built Form Standards

On behalf of our client, Almega Asset Management (Almega), which is a Mississauga-based private equity investment, development and asset management company, we are providing comments to you in relation to proposed amendments to Mississauga's Official Plan (MOP) for three communities along Hurontario Street, which are identified as Downtown Fairview, Cooksville and Hospital Character Areas. The City has started this planning initiative due to the proposed Hurontario Light Rail Transit (LRT) line and forecasted increases in the population and employment in these areas.

Almega currently owns a commercial plaza site located on the south side of Dundas Street, east of Hurontario Street, municipally known as 60 Dundas Street East (the subject site). Almega proposes to redevelop and revitalize the subject site with a mixed-use development, incorporating intensification of new housing opportunities and a new public park to complement increased pedestrian access to the adjacent Cooksville Creek. The subject site is located within the Downtown Cooksville Character Area which would be affected by these proposed MOP amendments.

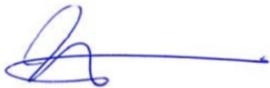
While we recognize that City staff will need to undertake further analysis on how these Character Areas will be impacted with the introduction of higher order transit, we believe certain issues which have been raised by the City's Corporate Report, dated December 23, 2021, merit further discussion and consideration.

Firstly, the proposed building height restrictions on Map 12-4.2 provide for a maximum of 3 to 16 storeys on the subject site. This height restriction does not appear to recognize that the Dundas Street East corridor, especially within the Downtown Cooksville Character Area, will also see higher order transit with the proposed Dundas bus rapid transit (BRT) service which will run in an east-west configuration from the City of Hamilton to the Kipling Transit Hub in the City of Toronto. As such, it is our view that increased heights should be considered at the subject site.

We also seek additional clarity with respect to Policy 12.4.8.2.1, which requires the planned function of the non-residential components to be maintained or replaced, as well as Policy 12.4.7.4, which would restrict vehicular access to Dundas. We also note that there is an existing pedestrian trail along Cooksville Creek that will be enhanced by the new park space proposed for the subject site. In our view, the gateway to this trail would benefit from a signalized intersection to allow safe pedestrian crossing.

The comments provided are intended to assist in our ongoing discussions with staff as we proceed with an application to revitalize the subject site. We look forward to continuing to engage with City staff and officials to ensure these Amendments are drafted to meet the needs of both Mississauga residents and business-owners.

Yours truly,
Bousfields Inc.



Michael Bissett, MCIP, RPP

- c. Marianne Cassin, Mississauga Planning
- Adam Lucas, Mississauga Planning
- Jodi Shpigel, Almega