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February 20, 2023

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February 20, 2023

Sent via email: council@peelregion.ca

Regional Chair and Members of Region of Peel Council
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Dear Mesdames and Sirs:

Re: Agenda Item 15.1 – City of Mississauga Major Transit Station Area Official Plan Amendments 142, 143, 144 and 146: Regional Staff Report and Recommendations

We are counsel to Ahmed Group (1000 Dundas St. E.) Inc. and Ahmed Group (1024 Dundas St. E.) Inc. (together the “**Ahmed Group**”). The Ahmed Group owns the lands known municipally as 1000 and 1024 Dundas Street East, in the City of Mississauga (the “**Subject Lands**”). As Council is aware, our client has plans to redevelop the Subject Lands with purpose-built rental apartment buildings in a mixed-use configuration with commercial uses at-grade (the “**Redevelopment**”). In furtherance of the Redevelopment, the Ahmed Group submitted applications for an Official Plan Amendment (“**OPA**”) and Zoning By-law Amendment (“**ZBLA**”) (collectively, the “**Planning Applications**”) on August 3, 2022. The City deemed the Planning Applications complete on September 1, 2022.

We write on behalf of our client to express serious concerns with respect to the City of Mississauga Official Plan Amendment Nos. 142, 143, 144 and 146 (the “**City OPAs**”) adopted by City Council on August 10, 2022. The City OPAs will come before Regional Council for consideration on February 9, 2023. At that time, Regional Council voted to defer making a decision on the City OPAs until February 23, 2023. Also at the February 9 meeting, Regional Council was presented with a letter from the Minister of Municipal Affairs and Housing (the “**Minister**”) and (the “**Minister’s Second Letter**”). The Minister’s Second Letter confirmed that the inclusion of maximum heights in the City OPAs would be contrary to the Minister-approved Peel Region Official Plan (“**ROP**”).

Given the explicit direction set out in the Minister’s Second Letter, that any endorsement of the City OPAs would not conform with the ROP, we are shocked that Regional Staff have again brought forward the identical recommendations from the February 9 Staff Report, urging Regional Council to approve the City OPAs that are contrary to section 5.6.19.10 of the ROP. In addition, by disregarding the Minister’s direction, Regional Staff deliberately turn their backs on the top-down planning regime that governs planning in Ontario, and ignore the rule of law which, if acted upon, will bring Regional Council into disrepute.

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The City OPAs are further flawed because they continue to designate the Subject Lands as part of the Dixie *Employment Area*. This ignores the fact that the Subject Lands were designated as non-employment lands in the ROP. This designation is also contrary to the Minister's letter dated January 19, 2023 (the "**Minister's First Letter**") that specifically noted that the lands along the Dundas Street corridor are designated for non-employment uses.

Since the City adopted the City OPAs, there have been a number of important changes related to planning for the City and Region that warrant a re-think by the City and Regional staff as to whether the City OPAs represent good planning. First, the Minister issued his decision regarding the ROP with certain modifications pertaining to matters dealt with in the City OPAs. Second, the Province has released new housing targets which mandate that the City accommodate 120,000 new homes by 2031. Third, a new City Council has been sworn in and the new Council has not had the opportunity to consider the City OPAs. Fourth, the Minister's Second Letter dispensed with any doubt about his intention in removing the discretion of lower-tier municipalities to impose height restrictions on development in PMTSAs through the City OPAs.

Our client reached out to Regional Staff requesting a meeting to discuss the City OPAs prior to Regional Council reconsidering the matter. Regrettably, our request was not granted.

As set out in further detail below, the City OPAs are neither consistent, nor in conformity with, provincial planning policy as required by Section 3(5) of the *Planning Act*. In addition, the City OPAs do not conform with the new Regional Official Plan ("**ROP**") that was modified and recently approved by the Minister.

Therefore, we strongly urge Regional Council to refuse to approve the City OPAs and direct Regional staff to modify the City OPAs to conform with the ROP or remit the planning instruments back to City Council for further consideration.

Background

As Council is aware, the three levels of government have made significant investments in transit infrastructure to bring higher-order transit to the Dundas Corridor. Provincial policy direction requires that such investment be optimized to help create complete communities with an emphasis on mixed-use development.

In light of this Provincial mandate, and at the request of our client with City and Regional support, the Growth Secretariat saw fit to remove the Subject Lands from a provincially significant employment zone ("**PSEZ**").

Following removal of the Subject Lands from the PSEZ, at the request of our client and with support from the City, Regional staff did not include the Subject Lands within the Employment Area, Schedule E-4 of the ROP. This approach properly reflected applicable policy direction while providing existing nearby industrial operations with protection from incompatible uses.

Regrettably, the City OPAs ignore both Provincial policy direction and policy direction set out in the ROP by maintaining an employment designation for the Subject Lands. In some instances, the City OPAs go even farther and directly conflict with the ROP.

Land Use

While the ROP removes the Subject Lands from the Regional Employment Area, Map C-7 of OPA 144 designates the Subject Lands such that residential uses are prohibited on those lands. Apart from ignoring policy direction at every level intended to help create vibrant, transit supportive communities, the designation directly conflicts with the ROP. Policy 5.8.16 of the ROP directs local municipalities to designate employment areas in accordance with Schedule E-4. The employment designation also disregards the Minister's First Letter setting out the Province's intention that these lands be used for non-employment purposes.

While Regional staff point to language in the ROP that states that “[l]ocal official plans may also support employment uses outside of Employment Area designations” as support for the proposition that the City can designate additional lands exclusively for employment uses, that proposition is unsupportable. First, that language is found in non-policy, introductory commentary that is not operative and cannot override the operative policies of the ROP. Second, it ignores that the *A Place to Grow Plan* assigns the responsibility of designating all employment lands solely to the Region.

The approach advocated for by Regional staff also ignores the Dundas Connects Master Plan (“**DCMP**”) which contemplates a bold and highly urban corridor with a vibrant mix of uses, including residential, facilitated by transit-supportive intensification.

Should the City not revise its over-arching employment areas mapping to remove the Subject Lands from the *Dixie Employment Area*, the Region should modify Map C-7 of OPA 144 by designating the Subject Lands as *Mixed Use Limited*.

Height Limitations

The maximum height of nine storeys imposed on the Subject Lands and associated policies of the City OPAs are far too restrictive and fail to recognize the existing context as required by the Mississauga Official Plan (“**MOP**”).

In addition, the maximum height and implementing policies of the City OPAs do not conform with the *A Place to Grow Plan* and are inconsistent with the Provincial Policy Statement, both of which promote intensification in and around MTSAs. The City OPAs will also frustrate achievement of the objectives and goals set out in the DCMP which seeks to create a vibrant mixed-use corridor that will maximize the significant investment in transit infrastructure by all three levels of government.

The importance of the direction to promote intensification in and around MTSAs is apparent in the modifications the Minister made to the ROP prior to approving it. Specifically, the Minister deleted language in the ROP that allowed lower-tier municipalities, in planning for their MTSAs, to address maximum heights at their discretion. The only direction in the ROP pertaining to heights for PMTSAs is that lower-tier municipalities are to establish minimum heights. The Minister's Second Letter further confirmed that height limits should not be part of the City OPAs.

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 maximum heights in MTSAs. That is no longer

the case. Under the circumstances, City Council must have an opportunity to consider the City OPAs against the new policy framework that now applies.

Furthermore, even if maximum heights were permitted, the proposed maximums set out in the City OPAs are inappropriate. The maximum heights which are as low as four to nine storeys along large portions of the Dundas Corridor clearly ignore the current provincial and Regional policy direction. Such maximum building heights will not optimize the public investment in higher-order transit, nor maximize development in and around MTSAs. Suppressing building heights, and therefore new housing stock along areas with existing and planned rapid transit within the City will increase growth pressures in areas of the City without such infrastructure and in other area municipalities.

Finally, our client objects to removal of policy 9.2.8 from the MOP which provides that the preferred location of tall buildings is in proximity to planned or existing MTSAs. This policy aligns with Provincial policy direction and should not be deleted from the MOP.

Conclusion

The Province requires that local municipalities implement policies that promote and encourage intensification within and around MTSAs. Regrettably, the City OPAs fail to follow this Provincial directive and disregard the Minister's First Letter and the Minister's Second Letter, as evidenced by Regional Staff's recommendations. We therefore respectfully request that Regional Council refuse to approve the City OPAs and remit them to Regional Staff or the City, with direction to remove the maximum height policies and revise the land use mapping pertaining to the Subject Lands by redesignating them as *Mixed-Use Limited*.

Sincerely,

Gowling WLG (Canada) LLP

s/Peter Gross

Peter Gross

PG

c. Minister of Municipal Affairs and Housing