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VIA E-MAIL: jdabramo@toronto.ca and htoft@toronto.ca

Mr. Joe D'Abramo, Director (Acting)
Zoning By-law and Environmental Planning
DPS Consultation Team, City Planning Division
Metro Hall, 55 John Street, 22nd Floor
Toronto Ontario M5V 3C6

Public Consultation Process: Reset TO – Towards Neighbourhood Planning
Draft Official Plan Policies for Implementing a Development Permit System

Dear Mr. D'Abramo:

The *Federation of North Toronto Residents' Associations* (FoNTRA) is an umbrella organization currently representing 28 residents' associations. Ever since its inception in 2001, FoNTRA has been critical of the City's generally adopted model of planning – described by one OMB-panel as 'planning by exception' - which relies not only on site-specific amendments to the Zoning By-law but regularly also on site-specific amendments to the Official Plan. Between 2006 and 2010 alone, the new Official Plan has already been amended 120 times – most often for site-specific reasons. Such an approach to planning not only defeats its very purpose by considering development proposals in isolation, it engages planning professionals in reactive exercises at the expense of conducting area-wide planning processes. Accordingly, FoNTRA favours the exploration of alternative approaches to the current ad hoc site-specific approval process which is often directly managed and negotiated by Ward Councillors, not by professional planners. A Development Permit System is one of the alternative approaches worthy of consideration - not for general application across the entire city - but for clearly defined circumstances.

The Staff Report notes that the “*fundamental flaw with the site specific rezoning process is that the cumulative impact of redevelopment is difficult to address.*” While this observation is no doubt true, the fundamental flaw is not inherent in the zoning system itself but in the City's inappropriate application of it. The need for site-specific re-zonings is primarily caused by the City's failure to implement Official Plan policies with correspondingly updated zoning by-laws and its wide-spread practice of purposely maintaining obsolete zoning regulations in order to create opportunities for negotiations of community benefits. More than eleven years after the City's adoption of the new Official Plan in 2002, for example, it has still not produced a comprehensive zoning by-law implementing the new policies. Instead, the City spent more than ten years harmonizing the pre-existing zoning regulations, recently passed as Zoning By-law 569-2013.

In FoNTRA's view, the success or failure of a Development Permit System will depend on a number of critical dimensions addressed below – some of which have been inadequately circumscribed in the proposed Official Plan Amendment:

1. Definition of Development Permit By-law Areas: The Staff Report describes the Development Permit System as “*area-based planning at a neighbourhood scale*” which provides “*certainty of outcome as well as specified community facilities.*” It also says that Policy 1 “*establishes that the entire City is subject to a development permit system but that it will be implemented on an area by area basis*” – a claim, incidentally, that is not explicit in the actual OPA language of Policy 1. FoNTRA believes that a Development Permit System is ideally suited to controlling development in areas of growth and change but that traditional zoning is a superior tool to provide certainty of outcome in stable areas. Accordingly, FoNTRA strongly recommends that the Development Permit System be confined to areas identified in the City’s Official Plan as growth areas, particularly those designated *Downtown, Centres, and Avenues*. Such an approach would also more closely reflect Council’s intent and instruction when the project was initiated last year: “*City Council request the Chief Planner and Executive Director, City Planning to develop a framework for the use of a Development Permit System as a means for managing height.*” [emphasis added]

2. Planning in Neighbourhoods: Low-density residential areas, designated in the Official Plan as *Neighbourhoods*, are the areas least suitable for a Development Permit System: 1) they do not benefit from combining the re-zoning process with the site plan approval process since re-zonings are relatively rare and these uses are exempt from site plan approval; and 2) the dominant form of development applications – Minor Variances considered by the Committee of Adjustment – would suddenly be relegated to a discretionary staff approval process with appeal rights limited to the actual applicant. In FoNTRA’s view, this is a fundamentally unfair and unworkable model.

3. Area-specific Goals, Objectives, and Policies: Section 3.1) (c) of Ontario Regulation 608/06, issued pursuant to section 70.2 of the Planning Act, requires the City to state in the Official Plan the municipality’s goals, objectives and policies for each proposed development permit area. Contrary to this statutory requirement and in direct contradiction to the stated intention of creating area plans that “*reflect local character and distinctiveness,*” the proposed Official Plan Amendment offers a broad-brush, one-size-fits-all single set of goals, objectives, and policies, which implies to reflect the conditions and needs of the city’s entire 630 km² area.

4. Types of Criteria in Development Permit By-laws: Section 3. (1) of Ontario Regulation 686/06 requires that the Official Plan “*sets out the types of criteria that may be included in the development permit by-law for determining whether any class of development or any use of land may be permitted by development permit.*” In FoNTRA’s view, the Draft Official Plan Amendment provides a deficient list. Section 3. (1) of Ontario Regulation 686/06 is subject to Section 24. (2) of the Planning Act which prohibits Council from undertaking any public work or passing any by-laws which do not conform to the Official Plan, as is the case with a zoning by-law. Clear criteria are needed to comply with this requirement. FoNTRA recommends that the Official Plan makes it mandatory for each development permit by-law to specify, at a very minimum, permitted land uses, densities, and building heights. Alternatively, the language of Section 34. (1) 3.4 of the Planning Act may be used.

5. Provision of Specified Facilities: Since the implementation of Development Permit System, even on a limited basis, will be an onerous and incremental process, it is essential that the policies for providing specified facilities under a development permit by-law and those under Section 37 of the Planning Act as part of a rezoning be coordinated and consistent across the city. This requires precise and measurable policies in the Official Plan.

6. Permitted Variations: The proposed Official Plan Amendment provides that a “*development permit system by-law may set out a range of possible variations to the base standards, to a specified maximum ...*” Section 4. (2) of Ontario Regulation 608/06 requires that a development permit by-law “*shall set out a list of minimum and maximum standards for development.*” FoNTRA recommends that the range of variations permitted to be included in development permit by-laws be

set out in the Official Plan. The ranges of variation can differ for land use designations (e.g. *Downtown* vs. *Centres*), for development standards (e.g. density vs. height), or for type of buildings (e.g. office towers vs. residential buildings on Avenues). The experience with the Committee of Adjustment makes it crystal clear that, if the public is to maintain some sort of confidence in the fairness and equity of the planning system, clear city-wide direction for granting variances is urgently needed.

7. Amendments to the Development Permit By-law: FoNTRA fully supports the proposed provisions that development permit by-laws cannot be amended on a site-specific basis and that amendments to development standards can only be considered by Council after five years following the initial approval of the by-law. FoNTRA recommends that the latter provision be expanded to ensure that amendments to development standards can only be considered by Council at intervals of five years going forward. For many years, FoNTRA has advocated similar criteria for any amendments to Official Plans.

8. Delegation of Approval Authority: The Draft Official Plan Amendment provides that Council may delegate its approval authority to the Chief Planner and Executive Director, City Planning. In FoNTRA's view, the circumstances under which Council would be permitted to delegate its approval authority and the scope of such delegation need to be precisely defined in the Official Plan in order to ensure a city-wide consistency. FoNTRA objects to a blanket delegation authority and believes that such a delegation should only apply to minor developments below defined thresholds (e.g. developments with less than 5,000 m² of gross floor area and 25 m in height).

9. Right of Appeal: Section 12. (1) of Ontario Regulation 608/06 restricts the right to appeal a decision on a development application by the approval authority to the Ontario Municipal Board to the applicant itself. All other stakeholders are excluded and their right to appeal is confined to the development permit by-law stage. Since a development permit by-law will never contain the details necessary to envisage the minutiae of individual home improvement projects, this handicap alone renders a Development Permit System inappropriate to low-density residential areas.

In summary, FoNTRA supports the introduction of a Development Permit System - subject to the essential refinements outlined above – for areas designated in the Official Plan as *Downtown*, *Centres*, and *Avenues*. FoNTRA stands ready to provide any clarifications you may require.

Sincerely yours,

George Milbrandt
Co-Chair, FoNTRA
193 Wanless Avenue
Toronto, Ontario
M4N 1W4
del@ican.net

Geoff Kettel
Co-Chair, FoNTRA
129 Hanna Road
Toronto, Ontario
M4G 3N6
gkettel@gmail.com

Copies:

Mayor Rob Ford and Toronto City Council
Ms. Jennifer Keesmaat, Chief Planner and Executive Director
FoNTRA Members and Others

The Federation of North Toronto Residents' Associations (FoNTRA) is a non-profit, volunteer organization comprised of 28 member organizations. Its members, all residents' associations, include at least 170,000 Toronto residents within their boundaries. The 28 residents' associations that make up FoNTRA believe that Ontario and Toronto can and should achieve better development. Its central issue is not *whether* Toronto will grow, but *how*. FoNTRA believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment and social renewal.