

ISSUE DATE:

**September 10,  
2012**



PL120328

**Ontario Municipal Board  
Commission des affaires municipales de l'Ontario**

KCAP College Inc. has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment of the City of Toronto Zoning By-law No. 438-86, as amended, to rezone land municipally known as 245 & 251 College Street and 39 & 40 Glasgow Street to permit the development of a 24-storey mixed-use academic residence building  
O.M.B. File No.: PL120328

**APPEARANCES:**

**Parties**

KCAP College Inc.

City of Toronto

Bailey and Company Inc.

Laura Bowman  
The Grange Community Association  
Harbord Village Association  
The Annex Residents Association  
The Huron-Sussex Residents Association  
Jenny Friedland  
Julie Lam

Martin Zimmerman

**Counsel\*/Agent**

D. Bronskill\* and N. Stawbitz\*

G. McKay\*

C. Lantz\*

C. Campbell\*

**MEMORANDUM OF ORAL DECISION DELIVERED BY J.V. ZUIDEMA ON  
AUGUST 9, 2012 AND ORDER OF THE BOARD**

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A first pre-hearing conference (PHC) was held on this matter. KCAP College Inc. (the Applicant) appealed to the Board the failure of City Council to make a decision on its Zoning By-law Amendment application within the statutory timeframe in pursuant to subsection 34(11) of the *Planning Act* (Act). The application was for a Zoning By-law

Amendment to permit a development of a mixed-use academic residence of 24 storeys (the proposal) to be located at 245 and 251 College Street and 39 and 40 Glasgow Street (the subject property) in the City of Toronto (City).

The original application for Zoning By-law Amendment was filed with the City on August 13, 2010. Following several community meetings and in response to the concerns expressed by the community and the local Councillor, the Applicant undertook redesign exercises and submitted a revised plan on September 27, 2011. The Applicant contended that the proposal was for a high quality and architecturally distinguished mixed-use academic residence of 24 storeys with approximately 759 beds for students, 331 bicycle spaces, 1,044 square metres of indoor amenity space and approximately 1,800 square metres of retail space. The total density proposed was 12.1 floor space index (FSI).

The property is designated Mixed Use Areas and Neighbourhoods under City of Toronto Official Plan and is zoned MRC T2.5 C1.0 R2.5 in the City Zoning By-law 438-86. No statutory public meeting had been scheduled.

The Applicant viewed the subject application as providing a significant opportunity for intensification in proximity to a pre-eminent education institution to address the growing problem of a lack of student beds. As well, the Applicant believed the proposed intensification implements the provisions of the Provincial Policy Statement, the Places to Grow Plan and complies with the City's Official Plan. Despite these efforts, the Applicant submitted that the proposal remains unacceptable to the City. As such, the Applicant appealed to the Ontario Municipal Board (Board) after 19 months following the initial submission.

A number of individuals sought and were granted participant status. Those listed as participants will be required to abide by the Procedural Order, which will be prepared in due course, and which governs the conduct of the hearing. Participants are provided an opportunity to give evidence but cannot call or cross-examine other witnesses, or make opening and closing submissions. They are not liable for costs, should an award be made but they cannot bring motions, except one requesting to elevate their status to that of party.

Following the hearing of submissions from the parties, a further PHC request was made and granted. The next PHC will take place on November 28, 2012 commencing at 10 a.m. at the Board's Offices. The Board expects that a draft Procedural Order would have been circulated amongst the parties and such a draft will be presented to the Board for approval. The Procedural Order will set out the obligations and responsibilities of the parties and participants throughout the hearing.

Hearing dates were also scheduled. A request for about 15 days was made. The hearing has been set for March 18th to April 12th, 2013; however the Board will not sit on Good Friday (March 29th), Easter Monday (April 1st) or April 8th, 9th, or 10th as those are Board meeting dates.

Participants Farhia Farah for the University of Toronto Students' Union and Ted Belke for the Toronto Public Library located at 239 College Street, are required to provide written authorizations to the other parties and the Board concerning their representation of those organizations. The Board requires confirmation that these individuals have been given proper authority to speak on behalf of their respective organizations.

Martin Zimmerman is required to provide confirmation of the name and contact information of his lawyer to all other parties to the Board by September 30, 2012. He advised the Board that he will be retaining legal counsel for this matter.

I am neither seized for the next PHC nor for the hearing. These are the Board's directions.

"J.V. Zuidema"

J.V. ZUIDEMA  
Vice Chair