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June 26, 2018

Via Email and Courier

Your Worship and Members of Council
Toronto City Hall,
10th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Dear Sirs/Mesdames:

**Re: Planning Application Number 17 243796 WPS 00 TM
Proposed Official Plan Amendment 419**

**And Re: 111 Pacific Avenue, 255 Glenlake Avenue and
66 Oakmount Road (the "Properties")**

We are solicitors for Minto Properties Inc. ("Minto"), in respect of the above-captioned matter and the Properties.

OPA 419 is proposed as the end product of a broader area study which included community consultation. Minto has participated in this process from the outset.

Walker, Nott, Dragicevic Associates Limited provided preliminary comments to Etobicoke York Community Council as land use planning consultants to Minto. We attach a copy of said letter hereto and we adopt it to form part of our submission to you on Minto's behalf.

However, the WND letter was primarily focussed on an analysis of OPA 419 from the perspective of the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe and a discussion of the overall approach to regulating built form. Accordingly, we would like to take this opportunity to provide some commentary on other issues invoked by OPA 419.

By way of preface, the following represents a general, and admittedly partial, commentary on concerns invoked by OPA 419 as proposed. There are some parts of this initiative which Minto can endorse. However, many other comments that were provided by Minto in the community consultation process remain in our submission, unaddressed. Please consider those comments as part of this submission. Further, we submit that OPA 419 has both substantive and technical (i.e. wording / grammar / structure) shortcomings, which interrelate in some circumstances.

This renders it impractical to articulate each problematic aspect in the forum afforded by Council's potentially final consideration of OPA 419.

Those things said, at the outset, we submit that OPA 419 effectively proposes to characterize the existing broader area conditions as ideal; only benefits are attributed to the existing conditions.

We submit that OPA 419 should be modified to fairly acknowledge the existing reality, which is that existing conditions also include undifferentiated, ill-defined and inefficiently used space at grade, that not all the space at grade is green, and that improvements to social interaction are likely to follow the improved use of such space.

Another concern is with the proposed policy initiatives specifically identifying "views". We submit that in the context of this area such policies actually only lead to ambiguity. For example, a policy supporting a "view" down a street does little, if anything, to assist in understanding what parameters of the view are intended to be considered. Another example, which is particularly problematic, is the proposal that new views of parks and existing heritage properties should be created (putting aside the question of what is meant by an "existing" heritage property). This suggests that building demolition and tree removal are encouraged. The further implication is that tree and/or shrub planting would be discouraged (i.e. vegetation of this sort would block part of the views to, for example, a distant park). This illustrates the inherent problem in defining the view of a distant object as a goal, especially in the vague manner proposed in OPA 419.

In any event, we submit that in this context policies which would propose to provide for views are unnecessary as a better mechanism to address this issue is available, being policies which provide for building setbacks, which can be connected to policies for upgrading the public realm in a sensible and consistent manner.

OPA 419 should also be modified to clarify: where the intent is for the City to take any interest in land; the specifics of the interest to be taken; and to acknowledge that any interest outside of a road widening based on specific right of way widths described in the official plan, or *Planning Act* parkland dedication, would need to be justified pursuant to Section 37 of the *Planning Act*.

Another topic of concern is the proposed prohibition on permanent dewatering respecting new construction. We submit that such a broad prohibition has not been adequately justified and should be removed.

We would also like to take this opportunity to point out that there a number of instances where the probable intent of OPA 419 might not be a concern, but the wording as proposed is problematic. As just one example, policies respecting outdoor amenity spaces are mandatory and, as written, apply to each space individually (as opposed to the collective space for a building or complex of buildings). However these policies only make sense if viewed collectively. Further, they do not permit uses which are seasonal (so for example an outdoor swimming pool would be prohibited), and there is no distinction between private and common outdoor amenity space. As a result, the proposed official plan policy has little, if any, meaning that an affected party can rely on.

We also submit that OPA 419 as proposed, and especially when considered in light of its accompanying study, demonstrates that it was not needed for the purpose of assessing Minto's application for rezoning on the Properties. A review of the topics addressed by the proposed new policies clearly supports the proposition that existing City policies and practice were sufficient in this respect. The parent official plan already has robust policies in respect of the scale and form of development, including but not limited to urban design considerations, and all development applications are reviewed in their context. Thus new policies are not needed to create that direction.

Finally, we also would note, with reference to the "High Park Neighbourhood Area Character Study – Final Report", that if City staff are suggesting that Official Plan Policy 2.3.1.3 somehow allows OPA 419 to serve as policy in the consideration of Minto's zoning by-law amendment application respecting the properties, then we disagree. Such a position does not represent good land use planning and is contrary to law: it is grossly unfair in terms of its procedural implications.

Given the foregoing, including but not limited to the reference above which directs you to Minto's comments in the study process, and given the interrelationships of the proposed policies, Minto would be compelled to object to very significant portions of OPA 419 were it to be adopted as is presently proposed.

Should you wish to discuss the foregoing or this matter generally, please do not hesitate to contact us.

Yours truly,



John A.R. Dawson

JAD/sc

Encl. Letter from Walker, Nott, Dragicevic Associates Limited



5 June 2018

City of Toronto
Etobicoke and York Community Council
Etobicoke Civic Centre
399 The West Mall
Toronto, ON

Attention: Ms. Rosemary MacKenzie

Dear Members of Community Council:

**RE: Item EY 31.4: High Park Apartment Neighbourhood
Character Area Study
Draft Official Plan Amendment 419 and Site and Area
Specific Policy 551
Minto Properties Inc.
Our File: 15.653**

Walker, Nott, Dragicevic Associates Limited (“WND Associates”) is the planning consultant for Minto Properties Inc. (‘Minto’) with respect to the above-noted draft Official Plan Amendment (‘OPA’) and Site and Area Specific Policy (‘SASP’) resulting from the High Park Apartment Neighbourhood Character Area Study (‘Study’). Minto owns and operates a number of rental properties in the High Park area including 111 Pacific Avenue, 255 Glenlake Avenue and 66 Oakmount Road.

A re-zoning application, to intensify the existing properties with additional rental housing, was submitted in February 2017 and appealed to the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board) on August 3rd, 2017. Minto agreed to a second pre-hearing conference prior to the Tribunal’s consideration of the appeal, so that Council would have an opportunity to review the outcome of this Study.

Minto, its consultants and/or legal counsel have been monitoring the City’s High Park Apartment Neighbourhood Character Area Study. Minto participated in the High Park Apartment Neighbourhood Character Area Study Working Group process through meetings held on 9 December 2017 and 5 and 27 February, 9 and 23 April and 7 May 2018. Minto also provided written comments including those dated 16 April 2018 – “High Park Neighbourhood Character Area Study, Working Group #4, Final Draft Metrics Table; 30 April 2018 – “Minto Comments, High Park Apartment Neighbourhood Character Area Study, Working Group #5”; and 11 May 2018 – “Minto Comments on Draft SASP”.

Minto's legal counsel (McCarthy's) also submitted a letter dated 4 April 2018 to the April 4th EYCC Meeting, Item EY29.3 – Status Report – City Initiated High Park Apartment Neighbourhood Area Character Study.

In addition, Minto representatives participated in Town Hall community meetings conducted on 25 October 2017 and 8 March 2018

At the outset of the study, the area development applications (including the Minto application), were explicitly indicated not to be the focus of the Study. However, as the Study progressed, these applications became a focal point of the study process, which Minto submits is appropriate. The Minto application, and other area development applications are now proposed to be considered through Directions Reports provided to Community Council on July 4, 2018.

An overarching area of concern with the draft OPA and SASP is its lack of conformity with the Growth Plan for the Greater Golden Horseshoe, 2017 ('Growth Plan 2017') and consistency with the Provincial Planning Statement, 2014 ('PPS 2014') with respect to appropriate policy to facilitate intensification, redevelopment and compact form, with particular regard to achieving transit-supportive development in proximity to major transit infrastructure. This broad concern stems from the prescriptive development principles, policies and standards which severely and inappropriately restrain intensification on many sites.

The Study Area is in proximity to two transit stations, being approximately 300-400 metres from both the High Park and Keele subway stations. The proposed development is therefore located within two "major transit station areas" as defined by the Growth Plan 2017:

"The area including and around any existing or planned higher order transit station or stop within a settlement area; or the area including and around a major bus depot in an urban core. Major transit station areas generally are defined as the area within an approximate 500 metre radius of a transit station, representing about a 10-minute walk."

The Growth Plan 2017 directs that these areas are intended to accommodate increased residential and employment densities. Section 2.1 of the Growth Plan sets out the following principle:

"It is important to optimize the use of the existing land supply as well as the building and housing stock to avoid further over-designating of land for future urban development. This Plan's emphasis on optimizing the use of the existing urban land supply represents an "intensification first" approach to development and city-building; one which focuses on making better use of our infrastructure and public service facilities, and less on continuously expanding the urban area."

The Study report fails to even acknowledge this Provincial policy directive. While the report suggests a redevelopment potential of an additional 100,000 to 150,000 square metres of gross floor area, no detailed demonstration of this has been provided. Further, there has been no evaluation as to why this estimated floor space is an appropriate level of intensification. In particular, the 500-metre radius around these two major transit station areas would include areas, such as High Park and the low density stable residential areas to the southeast and northeast of the Bloor/Jane intersection, where significant

intensification is not anticipated. Therefore, the northwest quadrant, including the Study Area has a significant role with respect to achieving the density target.

With respect to the Growth Plan, our preliminary review also suggests that the OPA and SASP does not conform to the Growth Plan including, among other matters, the following policies:

- Sections 1.2.1 and 2.2.4, with respect to the Guiding Growth Plan principle of prioritizing intensification and higher density to support transit viability; achieving minimum density targets within major transit station areas; and, to implement directives through **official plan policies and designations, updated zoning and other supporting documents**;
- Section; 2.2.6.1, regarding a range and mix of housing options and densities, and establishing minimum targets for new rental housing supply; and,
- Sections 3.2.1, 3.2.2 and 3.2.3, with respect to the integration of land use planning with transit/transportation infrastructure and planning.

The PPS has a similar thrust; Part IV states:

“Efficient development patterns optimize the use of land, resources and public investment in infrastructure and public service facilities.”

Through this lens, our preliminary review suggests that the OPA and SASP is not consistent with the PPS including, among other matters, the following policies:

- Section 1.1.1, with regards to efficient/cost-effective use of land/infrastructure and accommodation of a range/mix of housing;
- Section 1.1.3.2, respecting land use mix and densities that efficiently use land/infrastructure and which are transit-supportive;
- Section 1.1.3.3, regarding an appropriate location for intensification/redevelopment; and,
- Section 1.4.1 and 1.4.3, respecting the provision of an adequate range and mix of housing types;

As a summary, the following areas of concern with respect to the proposed OPA and SASP have been identified, among other matters, through our preliminary review:

- An emphasis on preserving the existing conditions which is not balanced with the area’s strategic location relative to transit infrastructure, as evidenced for example, through several Goals:
 - c) *Preserve and enhance the park-like setting, generous open space amenity and soft landscaped areas that contribute to the character of the High Park Apartment Neighbourhood.*
 - d) *Respect the existing physical character and enhance the quality of buildings and open space within and adjacent to the High Park Apartment Neighbourhood”*

The foregoing does not acknowledge that a significant portion of the existing space is underutilized, constrained and/or not “park-like”.

Further, the policies do not include a goal discussing the area’s role and function arising from its access/proximity to transit infrastructure.

- The use of overly rigid and inappropriately prescriptive built form and urban design policies as design standards, which would seek to predetermine and impose, by the way of official plan policy rather than guideline, the detailed placement, design, massing, height, open and landscape space, setbacks, and shadow effects of buildings, across the Study Area. Although this type of process may “work” on large vacant sites, it ignores the irregularity of existing sites and buildings and the challenge of infill development. As proposed, it would significantly limit appropriate and more optimal forms of development on larger sites and potentially sterilize infill sites where appropriate and more optimal forms of development could and should be permitted under current Official Plan policy. As an approval process, it would require all building designs not in complete design conformity on a very detailed level, to be approved by way of Official Plan Amendment.
 - The adoption and use of prescriptive built form and urban design policies as the required design standards would mean that the City’s urban design review process would be reduced to the status of a “checklist” of tightly constrained design parameters, for which the only “correct” design solution is complete compliance. As such, this approach would discourage and interfere with the possibility for better progressive and creative architectural and landscape approaches which achieve both the good planning and urban design objectives (including the broader objectives of the Official Plan) that are being sought. This approach also discourages a broader and more expansive urban design conversation with stakeholders and others, including the Urban Design Review Panel.
 - With respect to the enhancing the public realm character of the High Park Neighbourhood, the proposed urban design policies call for the respect of the existing physical character of open space within, and adjacent to, the High Park Apartment Neighbourhood through the provision of additional public park land and “POPS” space. The existing character of open space in this area is that of “Tower in the Park”; a form of development relatively common in Toronto in the post-war years in areas in proximity to subway stations. Essentially slab towers were built as “objects” in an open area of landscaped outdoor space (and some surface parking), and most private parking was located below the surface open space. The urban design failings of this urban design form (especially its lack of building street relationship) led, among other things, to the development of the St Lawrence Neighbourhood in the late 1970’s as a model for more intense mid-scale development related to the street. Recently, versions of this urban design approach have been the basis for the residential redesign and intensification of a number of *Apartment Neighbourhoods* with taller towers, including St Jamestown and Regent Park. What these projects have demonstrated is that the development of a good urban design comprehensive plan in a large infill situation (such as this area) is best achieved by an active urban design process led by principle, recognizing the open space opportunities and constraints created by the existing situation (including the locations of existing below-grade and above-grade structures) and combining the possible new built form and open space changes within the existing context, and not a check list of requirements premised largely on minimizing change to the status quo.
 - The protection of sky views when looking north from High Park; the vague identification of a number of view corridors south to High Park to be protected; and, that development be required to ‘maintain, frame and create views’ to several other parks, open spaces and heritage properties, without adequately defining the parameters of the intended view or the heritage properties in issue.
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- The unit mix should reflect the housing demographics of the area and pre-determination of a unit mix (i.e. 25% 2-bedroom or larger; 10% 3-bedroom) is inappropriate; and,
- Consideration of Section 37 contributions should be comprehensive and include, for example, contribution of on-site publicly-accessible open space as a community benefit.

Minto continues to acknowledge the work of City staff in the preparation of the Proposed OPA and SASP and agree with many of the planning principles that have been established in the documents. However, it is apparent that concerns that have been raised previously by Minto with respect to the overly prescriptive nature of proposed policies have not been adequately addressed by City staff.

Should you have questions regarding this submission or require further information, please contact the undersigned.

Yours very truly,

WND associates
planning + urban design



Wendy Nott, FCIP, RPP
Senior Principal

cc. Client
McCarthys
Consultant Team
