

Delivered via Email

4 July 2018

Members of City Council and Planning and  
Growth Management Committee  
10<sup>th</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Dear Members of Council and Planning and Growth Management Committee:

**Re: Draft Official Plan Amendment No. 405  
Supplementary Staff Report  
Planning and Growth Management Committee Meeting of 5 July 2018**

We are counsel to CAPREIT Limited Partnership (“CAPREIT”) in connection with the Midtown in Focus initiative for the Yonge-Eglinton Secondary Plan area and draft Official Plan Amendment No. 405. As noted in our previous correspondence on this matter, CAPREIT has an interest in multiple properties within the Yonge-Eglinton Secondary Plan area, including 141 Davisville Avenue, 111 Davisville Avenue, 33 Davisville Avenue, 321 Chaplin Crescent, 411 Duplex Avenue/33 Orchard View Boulevard and 124 Broadway Avenue.

By correspondence dated 15 November 2018 and 24 February 2018, we provided detailed comments on the draft official plan amendments, as has CAPREIT’s consultants by correspondence dated 11 May 2018, 28 May 2018 and 6 June 2018 (WND) and 6 June 2018 (LEA).

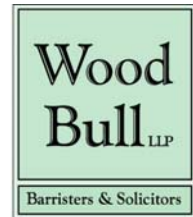
We and WND have now had an opportunity to review the Supplementary Report dated 26 June 2018 and wish to provide additional comments for the Committee and Council’s consideration.

As with previous submissions, these comments are being provided strictly without prejudice to our client’s position that its development application for 141 Davisville Avenue is not subject to the Midtown in Focus initiative or OPA 405 since the amendments post-date the application. In that regard, we attach a copy of a letter dated 3 April 2018 which addresses this issue.

## **General Comments**

The Supplementary Report fails to address many of the comments provided in the previous correspondence listed above, including the detailed tables prepared by WND. Rather, the report focuses on reducing heights and densities in a generalized fashion, without regard for site specific circumstances. This approach does not have appropriate regard for the existing and planned context of

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our client's sites and as such cannot be consistent with the *Provincial Policy Statement 2014* or conform with the *Growth Plan for the Greater Golden Horseshoe 2017*, which speak to intensification in strategic areas such as these as well as transit-supportive development and the provision of a range of housing opportunities.

Furthermore, no rationale has been provided in support of these height reductions.

With respect, this sweeping generalized approach in the Supplementary Report underscores the overarching problem with the draft amendments as a whole - they are overly prescriptive and cautious. Instead of encouraging site specific and contextual analysis that would incentivize more creative and innovative development in this very important area of the City, the draft amendments are imbalanced in favour of defensiveness and caution. Regrettably, this approach does not tend to foster the creation of great places. A better balance is required. CAPREIT welcomes the opportunity to have further dialogue with the City to create that balance in these policies.

WND's comments on the Supplementary Report are found in the attached letter dated 4 July 2018.

### **Transition - 141 Davisville Avenue**

The draft official plan amendment does not provide for any transition of sites that are the subject of existing development applications, such as the one in progress for 141 Davisville Avenue. As a matter of fairness, the proposed new policies and designations should be deferred as they apply to those sites, including 141 Davisville Avenue, to allow the existing applications to be completed pursuant to the planning regime in effect at the time the applications were made.

### **Section 26**

We remain seriously concerned with City staff's apparent continued position that the proposed official plan amendment is a Section 26 amendment.

As outlined in our previous correspondence, the draft official plan amendment cannot reasonably be considered part of the City's five-year review process, and is therefore not properly a Section 26 amendment pursuant to the *Planning Act*. Section 26 should not be used as a tool to shield what is properly a Section 17 amendment from being appealed to the Local Planning Appeal Tribunal. This approach amounts to an abuse of the planning process as contemplated by the *Planning Act*.

Thank you for your continued attention to these matters.



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Yours very truly,

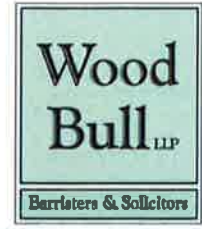
**Wood Bull LLP**

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Johanna R. Shapira

Attach.

JRS/dlg



3 April 2018

**Delivered by Email**

Toronto and East York Community Council  
and City Council  
City of Toronto, City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

Attention: Ellen Devlin, Administrator

Dear Community Council and City Council Members:

**Re: Item No. TE31.55**  
**141 Davisville Avenue - Zoning Amendment Application**  
**Preliminary Report**  
**Toronto and East York Community Council Meeting, 4 April 2018**  
**City File: 17 262355 STE 22 OZ**

We represent 3414493 Canada Inc. and CAPREIT Limited Partnership (together, "CAPREIT") with respect to the above-noted Zoning By-law Amendment application for 141 Davisville Avenue (the "Application"). We write in response to the preliminary staff report dated 12 March 2018 that was issued in connection with the Application (the "Preliminary Report").

Although we would not typically comment on a preliminary report, and CAPREIT has no objection to staff's recommendations in the Preliminary Report, CAPREIT and its consultant team have identified statements in the report that would benefit from clarification and additional information. The purpose of this letter is to provide that clarification and information.

**Pre-Application Consultation (Page 3)**

The Preliminary Report references the pre-application consultation meeting that occurred on 1 May 2017. However, it is important to note that CAPREIT attended two pre-application consultation meetings with staff, both of which occurred before the release of the City's draft amendments to the Yonge-Eglinton Secondary Plan (the "Draft Secondary Plan").

The first pre-application consultation meeting was held on 13 June 2016. CAPREIT and its planning consultants at WND report that the meeting was very constructive and staff were generally supportive of the proposal at that meeting. Neither the Draft Secondary Plan or any other specific policy direction on



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the Midtown in Focus Review had been released at this time. None of the concerns referenced in the Preliminary Report in connection with the 1 May 2017 meeting were raised at the June 2016 meeting.

At the subsequent pre-application consultation meeting on 1 May 2017, the only available public direction on the Midtown in Focus Review was staff's 25 May 2016 Status Report, which among other matters, asked Council to endorse the Draft Built Form Principles attached to that report. Those principles deal with various planning matters including Area Structure, Public Realm and Open Space, Walkability and Comfort, and Heritage and Landmarks (the "Principles"). WND has reviewed those Principles and concluded that the proposed development meet them.

It was only later, in November 2017, that draft official plan policies for the Yonge-Eglinton Secondary Plan (previously defined as the "Draft Secondary Plan") were released for public consultation. Those draft policies introduce the minimum separation distance of 30 metres and other planning parameters that were not included within the broader-based Principles. As such, the concern referenced in the Preliminary Report about separation distances did not form part of the discussion at the 1 May 2017 meeting.

#### **Midtown in Focus Policy Direction (Page 13)**

None of the Draft Secondary Plan policies, including those listed in the Preliminary Report, were released for public consultation at the time that CAPREIT and its consultant team were preparing the Application. The Application was submitted on 14 November 2017, and the Draft Secondary Plan was brought forward to the Planning and Growth Management Committee (the "PGMC") for the first time at its meeting on 15 November 2017. As such, the draft policies themselves were not contemplated by CAPREIT's consultants in the preparation of the Application, and certainly were not part of the pre-application consultation discussions.

To the extent that the Preliminary Report lists draft policies that are "specifically applicable" to the review of the Application, it is important to note again that none of the draft policies were approved at the time the Application was being prepared. As outlined in our letter to the PGMC respecting the Draft Secondary Plan dated 15 November 2017, it is contrary to the principles of fairness to strictly assess an application against policies that have not been approved. It is particularly troublesome where those policies have yet to be subjected to public consultation, a process that may result in significant changes to the policies.

As outlined in our 15 November 2017 letter, and a follow-up letter to staff dated 24 February 2018, our client is particularly concerned about the identification of 141 Davisville Avenue as a "*No Tall Building Potential or Infill Potential*" site in the Draft Secondary Plan. This designation would essentially freeze the site for any development, which is fundamentally at odds with the Application. At no time during its consultations with staff was CAPREIT advised that this designation was being proposed for 141

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Davisville Avenue. Furthermore, for reasons set out in our previous correspondence noted above, this designation is not consistent with existing or emerging official plan policies, nor is it consistent or in conformity with provincial policy.

CAPREIT's concerns and comments regarding the proposed "*No Tall Building Potential or Infill Potential*" designation and the other Draft Secondary Plan policies listed in the Preliminary Report are detailed in our correspondence noted above, copies of which are attached.

### **Toronto Official Plan (Page 10)**

The Preliminary Report references OPA 320, which is intended to strengthen and refine the City's Healthy Neighbourhoods and *Apartment Neighbourhoods* policies, amongst others. It is important to note that a purpose of OPA 320 is to promote the revitalization of older towers (to implement and support the City's Tower Renewal Program) and achieve benefits for existing residents, acknowledging that infill development on some sites in *Apartment Neighbourhoods* will be part of that program. As detailed in WND's Planning Rationale prepared in support of the Application, the proposed development is highly responsive to the proposed policy direction of OPA 320, representing sensitive infill development on a site where there is sufficient space to accommodate the proposed building while providing a good quality of life for existing and new residents.

The Preliminary Report also references Policy 5.2.1.2 of the Official Plan, indicating that no zoning by-law amendment in the area will be made without prior or concurrent adoption of a Secondary Plan. However when one considers Policy 5.2.1.2 in full, it is questionable whether it applies to the Application given that the proposal is not a "large scale development" and there is an in-force Secondary Plan. Moreover, staff have recommended, and Council has directed, that "*the comprehensive update to the Yonge-Eglinton Secondary Plan is necessary prior to rendering a decision on new development applications submitted in the Secondary Plan area after the November 15, 2017 Planning and Growth Management Committee meeting until the adoption of the revised Yonge-Eglinton Secondary Plan*". The Application was submitted on 14 November 2017 and as such is not subject to this directive.

As noted in the Preliminary Report, OPA 289 is currently under appeal at the Ontario Municipal Board; therefore the proposed development is not required to conform with OPA 289 as it is not in force and effect.

### **City-Wide Tall Building Design Guidelines (Page 14)**

As noted in WND's Planning Rationale in support of the Application, the proposed development appropriately considers the key design guidelines set out in the Tall Building Design Guidelines, in particular those guidelines adopted by Council at the time of the submission of the Application,

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including a proposed building tower floor plate of less than 750 square metres and a minimum 25 metre separation distance from the proposed building to the existing building and adjacent tower to the west.

**Concluding Remarks**

We trust that the information included in this letter provides Community Council and City Council with additional clarity on matters identified in the Preliminary Report. As noted above, CAPREIT has no objection to the recommendations as set out in the Preliminary Report.

In the interest of full transparency, we wish to advise you that our client has appealed the Application to the Ontario Municipal Board as a protective measure in the context of the new *Planning Act* regime. Notwithstanding the appeal, CAPREIT's strong preference is to continue to work with City staff and other stakeholders on the Application to create a great development for this site and for the Yonge-Eglinton area.

Yours very truly,

**Wood Bull LLP**

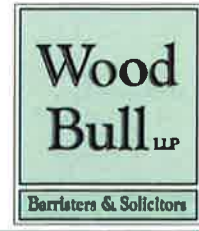
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Johanna R. Shapira

JRS

Attach.





24 February 2018

Sent via E-mail to [Paul.Farish@toronto.ca](mailto:Paul.Farish@toronto.ca)

Paul Farish, Senior Planner  
Strategic Initiatives, City Planning Division  
Metro Hall, 22nd Floor  
55 John Street  
Toronto, Ontario M5V 3C6

Dear Mr. Farish:

**Re: Midtown in Focus: Proposed Yonge-Eglinton Secondary Plan  
Comments of CAPREIT Limited Partnership**

We represent CAPREIT Limited Partnership (“CAPREIT”), the owner of several properties located within the Yonge-Eglinton Secondary Plan area. CAPREIT is one of Canada’s largest residential landlords and owner of a significant number of multi-unit residential rental properties within the City of Toronto.

As part of its mandate to provide safe and happy homes for its thousands of residents, CAPREIT regularly reviews its assets to determine how existing site conditions can be enhanced. In some instances, this includes developing an infill program for a site that not only enhances conditions for existing residents but also increases the number and mix of purpose-built rental units on site. Within the City of Toronto, there are many sites that can accommodate this kind of intensification, particularly where they are close to public transit and existing infrastructure. As a major urban centre located at the heart of the City and serviced by major higher-order transit, the Yonge-Eglinton area offers such opportunities.

CAPREIT and its consultants have been closely following the City’s Midtown in Focus initiatives including the Proposal Report attaching the proposed Yonge-Eglinton Secondary Plan dated November 2017 (the “Draft YESP”). By letter dated 15 November 2017, we set out CAPREIT’s initial concerns with the Draft YESP for consideration by Council and Planning and Growth Management Committee. CAPREIT also participated in the Midtown in Focus: Landowners and Developers’ workshop held on 1 February 2018.

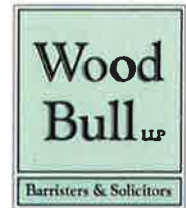
To date, many of CAPREIT’s concerns have not been addressed.

We write on behalf of CAPREIT to provide further comments on the Draft YESP for the City’s consideration, in response to the City’s invitation to do so at the Landowners and Developers’

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workshop. We are providing these comments on an area-wide basis. However, CAPREIT also has concerns about the application of the plan to specific sites within the subject area, including those under its current ownership which include: 141 Davisville Avenue; 111 Davisville Avenue; 33 Davisville Avenue; 321 Chaplin Crescent; 411 Duplex Avenue/33 Orchard View Boulevard; and 124 Broadway Avenue. All of these sites are currently developed with residential rental buildings. The property located at 141 Davisville Avenue is the subject of an active rezoning application (Application No. 17 262355 STE 22 OZ) that seeks permission to add 144 new dwelling units and two guest suites to the site as well as significantly improve indoor and outdoor amenities for the existing residents. CAPREIT has highlighted some of its site-specific concerns below.

CAPREIT is grateful for this opportunity to provide further comments on the Draft YESP and hopes to continue to engage in discussions with the City about how the Draft YESP can be modified to best promote the development of much needed purpose built rental units in one of the City's most vibrant and growing urban centres.

### **Comments**

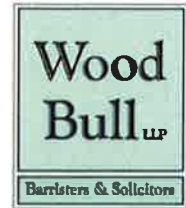
#### ***1. It would be appropriate to add policies that encourage and incentivize the provision of purpose built rental units within the Yonge-Eglinton area.***

As formulated, the Draft YESP does not adequately reflect provincial and municipal policies aimed at providing adequate housing opportunities for residents. The objectives of the Draft YESP start to include this direction in the following section:

*(a) Complete Communities: Midtown will continue to be an inclusive and liveable community that supports the daily needs of people of all ages, incomes and abilities. The complete range of community services, housing choices, building types, community spaces, shopping needs, economic opportunities and parks and natural areas will be available within walking distance. (s. 2.2.(a)) (emphasis added)*

Yet, there is little other policy included in the Draft YESP to support the objective of creating a complete range of housing in the area, including rental units.

The provision of an adequate mix and range of housing is a clear policy directive in both the provincial and municipal planning documents which guide and support the Draft YESP. The *Planning Act* specifically requires the adequate provision of a full range of housing, including affordable housing (see section 2(j)). The *Provincial Policy Statement 2014* requires that, "healthy, livable and safe communities are sustained by accommodating an appropriate range and mix of residential ... [uses] to



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meet long term needs” (see policy 1.1.1 b). The Toronto Official Plan implements these provincial objectives. For example, Section 3.2.1 of the Toronto Official Plan provides that:

*... Current and future residents must be able to access and maintain adequate, affordable and appropriate housing. The City’s quality of life, economic competitiveness, social cohesion, as well as its balance and diversity depend on it.*

*Specific policies are needed when a particular kind of housing, whether it be type, tenure or level of affordability, is not sufficiently supplied by the market to meet demand or maintain diversity in the housing stock. ...*  
(emphasis added)

The Province’s and the City’s goal of encouraging a diversity in the housing stock can be better achieved by adding specific policies that encourage and incentivize purpose built rental units (within a plan that also encourages context-sensitive development).

By encouraging and incentivizing the addition of purpose-built rental units, not only are policy objectives around the provision of housing met, but also policies aimed at improving conditions for existing residents, including those found in OPA 320. In many instances, new development on a site is what allows for significant improvements to existing rental buildings and the addition of significant amenities for existing residents at no cost to those residents. The complimentary relationship between allowing new development and improving existing conditions should be acknowledged in the plan.

Furthermore, although laudable in its objectives of providing a mix of units at a range of affordability, Policies 3.6.2 and 3.6.4 are overly prescriptive, and onerous in the context of the other policies in the plan that restrict the size of development on many sites. Flexibility should be added into these policies to strike an appropriate balance between achieving the mix of unit and affordability objectives, while not deterring development.

***2. The built form policies should be modified to ensure that appropriate and desirable development is not being dis-incentivized or restricted.***

Further to our 15 November 2017 submission, several of the built form policies in the Draft YESP continue to be problematic because they adopt a one-size-fits-all approach, without allowing any site specific consideration. These overly onerous policies effectively dis-incentivize or restrict development on sites that may otherwise achieve appropriate and desirable development.

In this respect, the designation “*No Tall Building Potential or Infill Potential*” is particularly concerning. The proposed designation effectively freezes development on sites with that designation,

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notwithstanding that many of those sites have existing development rights in the Toronto Official Plan and zoning by-law. Many of these sites could be intensified in an appropriate and desirable manner, as and in accordance with the development criteria in the Toronto Official Plan, including the City's most recent policy direction contained in OPA 320. In that respect the designation does not conform with the City's own parent planning policies. There is additional conflict where the sites that are proposed to be designated "*No Tall Building Potential or Infill Potential*" are located within *Major Transit Station Areas*, which are areas that are intended both provincially and municipally for intensification.

It is our understanding that the City identified "*No Tall Building Potential or Infill Potential*" sites by applying a set of general assumptions and standards to the sites within the area (for example, a 750 sm floor plate size for all development and the most restrictive setbacks and separation distances) that do not take into account site specific conditions. Those sites that were not able to accommodate development once all of the assumptions and standards were applied were frozen by this designation. Respectfully, this approach is flawed. It assumes one-size fits-all and removes creativity from the development process.

CAPREIT is also concerned about that policies applicable to sites that are designated "*Tall Building Development Potential*" or "*Infill Development Potential*" are vague and overly restrictive. For example, on sites designated "*Infill Development Potential*", infill around an existing tower may only occur in two forms: (1) a high-rise addition on top of an existing apartment building, and (2) a high-rise addition resulting from a partial demolition of an existing apartment building that is 10 or fewer storeys. What is meant by "high-rise addition"? Why not permit other forms of intensification, provided the other policies in the secondary plan and Toronto Official Plan have been met?

There are several other built form requirements in the Draft YESP that are overly prescriptive and favour a one size fits all approach to development that ultimately does not serve to attract new and creative forms of development into the Yonge-Eglinton area. Flexibility should be added into the built form policies (for example, those prescribing parameters such as setbacks and tower separation, which are discussed in more detail below) and publically accessible open space requirements in order to support creative, vibrant development within one of the City's most important urban centres.

### ***3. The tower separation policies are overly restrictive and rigid.***

Policy 3.3.15 of the Draft YESP requires a tower setback requirement of 12.5 metres to ensure a 25 metre or greater separation distance between the tower portion of a proposed building and an existing or planned tall building. Where heights of the building exceed 30 storeys, the separation distance between tall buildings is proposed to be 'proportionally increased' above the 30<sup>th</sup> storey by reducing the size of the building's floor plate.



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The Draft YESP contains a specific policy for tower separation for sites located within *Apartment Neighbourhoods*. For such sites, policy 4.3.2 requires a minimum separation distance requirement from the tower portion of the proposed building of 15 metres to the applicable property line or 30 metres to an existing or planned tall building, whichever is greater.

Policies 3.3.15 and 4.3.2 are overly restrictive in their uniform application to sites within the plan area. The policies do not allow any site specific consideration to occur in assessing a development proposal, and thus may preclude desirable and appropriate infill development. The appropriate tower separation for a site should be determined contextually on a site specific basis. In this respect, it would be more appropriate to have policies that establish planning criteria that need to be addressed, such as negative impacts from shadow and wind and maintaining sky view, rather than imposing a specific numerical requirement that may be meaningless in terms of impact in some instances, and perhaps even too permissive in others.

It is also concerning that no rationale has been provided for including the 30 metres separation distance requirement for buildings within *Apartment Neighbourhoods*. There is no precedent in the City's existing policies, guidelines or zoning by-laws for this distance. It is also not clear why separation distances need to be increased beyond the 30th storey and what 'proportionally increased' means. Applying what appear to be arbitrary numerical standards is unlikely to result in the kind of creative and innovative development that the Yonge-Eglinton area warrants; a criteria-based approach that assesses negative impacts rather than applying arbitrary numerical standards is preferable to achieve this objective.

Policy 3.3.12 of the Draft YESP is also problematic. This policy provides that where development is proposed that would preclude the achievement of a tall building on an adjacent site in accordance with the policies of the Draft YESP, the development will only be permitted where the development potential of the adjacent site is amended prior to, or concurrently with, a decision on the proposed development. This policy is vague. It is not clear how the City proposes to operate this policy in instances where it is deemed to apply. This needs to be clarified.

#### ***4. The Parkland Policies are overly onerous and/or premature.***

The City is currently engaged in a City-wide parkland strategy that will guide long-term planning for new parks and expansion and improved access to existing parks. The implementation of this strategy is projected to result in a final report to guide long-term planning, prioritization and investment in parkland across the City. Until this report is done, the policies contained in the Draft YESP are premature. This includes policies in the Draft YESP that pertain to on-site/off-site parkland dedication and the proposed alternative parkland rate/cash-in-lieu rate of 0.4 hectares per 300 units.



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The Draft YESP parkland policies require off-site parkland dedication that is in proximity to the development site or a site identified on Map 21-4 prior to the consideration of a cash-in-lieu payment (policy 3.2.38). It is not clear from this policy and the related map where specifically the off-site parkland dedication may be required for a particular development site.

***5. The Community Services and Facilities policies are overly rigid, and the Section 37 rate is excessive.***

The Draft YESP requires development applications to address the requirements for community services and facilities as identified in the Yonge-Eglinton Community Services and Facilities Strategy. It appears this strategy may pre-determine what form of community benefit contribution will need to be made on a site. However, the determination of the form of the community benefit contribution should not be done upfront. Instead, it should be determined collaboratively between the applicant, the City and the community at the time of filing of a development application. This will ensure that the community benefit is relevant to the then needs of the City and community and is of a form that can be accommodated within the proposed development.

The Draft YESP proposes a s.37 monetary contribution rate of 25 per cent of the market value of the gross floor area above the density identified. This rate is excessive and should be re-considered.

***6. The requirements for a Context Plan and Travel Demand Management and Parking Management Plan are overly onerous.***

Policy 5.2 provides that the City may require a Context Plan be submitted as part of the development review and approval process. The requirements for this Context Plan are partially detailed in policy 5.2.2 of the Draft YESP and in draft terms of reference for Context Plans that have been recently released by the City (the "TOR"). It is clear from the TOR that a Context Plan may be required for most, if not all, development proposals.

Although some of the detail in the Context Plan would be provided in a zoning by-law amendment application, some of the detail is more appropriately addressed at the site plan stage. For example, the Context Plan is proposed to include, "strategies to promote a healthy new tree canopy" and "phasing and development of strategies to achieve appropriate infrastructure at each phase of development". Those are not matters that can be appropriately addressed at the zoning stage, and should therefore be deleted.

Furthermore, to the extent that the Context Plan does address zoning by-law elements, it is repetitive of the requirements of a Planning Rationale and Urban Design Report. However, the TOR require that the Context Plan be provided as a separate document from the Planning Rationale and Urban Design Report. This is overly onerous for an applicant. As such, the requirement for the Context Plan should be deleted.



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Policy 3.7.5 requires that a Travel Demand Management and Parking Management Plan be provided with an official plan or zoning by-law amendment applications. The elements of the plans set out in the policy are more appropriately addressed at site plan stage. The Draft YESP should be modified to reflect that.

***7. It would be appropriate to amend site specific elements within the Draft YESP.***

In addition to the above-noted area-wide concerns, CAPREIT has site specific concerns with respect to its properties in the area which it would like to discuss with the City in a fulsome way.

One of the major concerns is that the Draft YESP designates the 141 Davisville Avenue site as “*No Tall Building Potential or Infill Potential*” which is contrary to CAPREIT’s assessment of the site, as reflected in its active rezoning application. The application was prepared and submitted prior to the Draft YESP being brought forward to Council, and none of the reports leading up to the Draft YESP indicated that this site would be “frozen” for development with the Secondary Plan. Nor was there any indication to CAPREIT, in the context of its pre-consultation meetings or other correspondence with staff on the application, that this kind of designation was being contemplated for the site. As such, the Draft YESP designation came as a complete surprise to our client. The designation is completely contrary to the assessment of CAPREIT’s development consultants that an appropriate context-sensitive infill development can be achieved on the site.

An additional major concern is the proposed height restriction of 24-26 storeys at 124 Broadway Avenue. This restriction does not adequately reflect the development potential of this site, and should be modified.

CAPREIT would welcome the opportunity to further discuss the above noted site specific concerns, and others, with the City.

**Conclusion**

Thank you for considering this submission.

CAPREIT acknowledges the significant amount of time and resources that the City has expended on developing the Draft YESP and appreciates some of the laudable planning principles that have been established in the plan. However, it is apparent from the concerns that CAPREIT and others have identified that the plan would benefit from further discussions amongst the City and stakeholders.

CAPREIT and its consultants are continuing to discuss and refine their concerns, and to consider specific modifications to the plan that might achieve both City and landowner objectives, and would

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welcome an opportunity to further collaborate with the City on the plan for this very important urban centre.

Yours very truly,

**Wood Bull LLP**

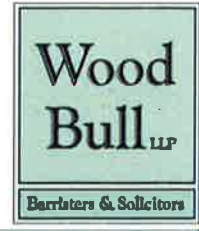
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Johanna R. Shapira

JRS

c. Client





15 November 2017

Sent via E-mail ([pgmc@toronto.ca](mailto:pgmc@toronto.ca))

Members of Council and Planning and Growth Management Committee  
Toronto City Hall  
100 Queen Street West, 10<sup>th</sup> floor, West Tower  
Toronto, ON M5H 2N2

Attention: Ms. Nancy Martins

Dear Members of Council and Planning and Growth Management Committee:

**Re: Item No. PG24.10: Midtown in Focus: Proposals Report  
Planning and Growth Management Committee Meeting, 15 November 2017  
Submissions by CAPREIT Limited Partnership**

We are counsel to CAPREIT Limited Partnership ("CAPREIT"), one of Canada's largest residential landlords and the owner of a number of multi-unit residential properties within the City of Toronto (the "City"), including a number of properties within the Yonge-Eglinton Secondary Plan Area.

CAPREIT is committed to providing good quality homes to its thousands of existing residents and working to create comfortable residential communities in which to live. As part of its mandate, CAPREIT regularly reviews its portfolio to identify opportunities to strategically invest in its existing housing and land stock.

We understand that the Planning and Growth Management Committee will be considering a planning staff report titled *Midtown in Focus: Proposals Report* dated 25 October 2017 (the "Staff Report") at its meeting on 15 November 2017, which deals with future planning for the Yonge-Eglinton secondary planning area. On behalf of CAPREIT, we have reviewed the Staff Report and the draft Yonge-Eglinton Secondary Plan attached to that report (the "Draft Plan") and have identified serious concerns with portions of the Draft Plan as well as staff's recommendations for the implementation of the Draft Plan. We outline those concerns below for the Committee's and Council's consideration.

These comments are preliminary only. CAPREIT's consultants are reviewing the Draft Plan and may bring forward additional comments on the Draft Plan going forward.

#### Application of the Draft Plan

City staff is recommending that Council make no decision on applications made after November 15<sup>th</sup> until a revised Yonge-Eglinton Secondary Plan is adopted. Respectfully, this recommendation is overly



15 November 2017

broad and contrary to the Toronto Official Plan (“OP”) policy that speaks to processing development applications where a Secondary Plan is required. Specifically, Policy 5.2.1(2) speaks only to instances where Council has determined that a Secondary Plan is necessary (in this instance a Secondary Plan already exists) and only restricts zoning by-law amendments that are intended to permit large scale developments.

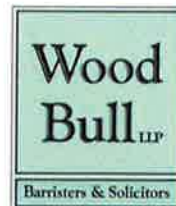
City staff is also recommending that the City “consider and review” existing development applications in the context of the Draft Plan. This approach is contrary to the principles of fairness, which dictate that applications be assessed against policies in force at the time the application is made. This recommendation is particularly troublesome since this is the first time the public is receiving the Draft Plan, and many of the Draft Plan policies have not been part of the policy direction discussed in the consultations to date. Furthermore, the Draft Plan may change significantly as it goes through the public consultation process, making it premature to assess development applications against the Draft Plan.

#### Built Form

There are several built form policies in the Draft Plan that are problematic insofar as they are overly onerous and fail to allow a planning analysis on a site specific contextual basis. For example, the proposed “*No Tall Building Potential or Infill Potential*” designation freezes development on certain sites, many of which have existing development rights in the OP (including OPA 320) and zoning by-laws, and many of which may be intensified in a very desirable form, as established by the development criteria in the OP. Moreover, freezing development on these sites is inconsistent in instances where those same sites are located within a *Major Transit Stations Areas*, which are areas intended for intensification.

Even on sites that are identified for intensification, the form in which that intensification may occur is overly restrictive. For example, on sites designated “*Infill Development Potential*”, infill around existing towers may only occur in two forms: (1) a high-rise addition on top of an existing apartment building, and (2) a high-rise addition resulting from a partial demolition of an existing apartment building that is 10 or fewer storeys. These restrictions discount the fact that intensification might be achievable on these infill sites in accordance with the development criteria in the OP and OPA 320.

In addition, several of the built form requirements in the Draft Plan are overly prescriptive, which favours a one-size-fits all approach to development that limits the ability to achieve development on infill sites in the City, a critical source of intensification in an urban setting. Council should consider adding flexibility to policies prescribing such parameters as setbacks, tower separation distances, minimum percentage of units by bedroom type and publically accessible open space requirements in order to support appropriate intensification on infill sites.



15 November 2017

Housing

The Draft Plan requires that developments containing 60 or more residential units provide a minimum of 10% of the total residential GFA as affordable rental housing. In some circumstances, this requirement may be too onerous. Again, Council should consider adding flexibility into the policies to allow a site specific contextual analysis to occur on infill sites, as well as incentives for developers to build these units.

General

Although there are some laudable planning principles that have emerged in the Draft Plan, CAPREIT is concerned that parts of the policy direction are overly rigid and onerous. Some examples of that are provided above, to name a few. CAPREIT is interested in having further discussions with the City about the issues raised above, and others that may emerge as CAPREIT's consultant team review the Draft Plan.

Request for Notice

On behalf of CAPREIT, we request to be notified of any further community consultations in the processing of the Draft Plan. Notice should be provided to the undersigned, as well as to **Dayna Gilbert at CAPREIT, 11 Church Street, Toronto, ON M5E 1W1.**

Yours very truly,

**Wood Bull LLP**

A handwritten signature in blue ink, reading "Jshapira".

Johanna R. Shapira

JRS/af

c. Client



4 July 2018

City of Toronto  
City Planning, Strategic Initiatives  
Metro Hall, 22nd Floor  
55 John Street  
Toronto ON M5V 3C6

**Attention: Paul Farish, Senior Planner  
and Planning and Growth Management Committee Members**

Dear Members of PGMC and Council:

**RE: Planning and Growth Management Committee Meeting, 5 July 2018  
Item No. PG31.7 – Midtown in Focus: Final Report  
Revisions to Proposed Official Plan Amendment 405  
Yonge-Eglinton Secondary Plan  
Submission by CAPREIT Limited Partnership  
Our File: 18.536**

Walker, Nott, Dragicevic Associates Limited (“WND”) is the planning consultant for CAPREIT Limited Partnership (“CAPREIT”) with respect to a number of properties in the Yonge-Eglinton Secondary Plan Area. CAPREIT and its consultants have been monitoring the work currently being conducted by City staff as part of the Midtown in Focus study and has made a number of submissions to the Committee and City Council including a letter dated 11 May 2018 and, most recently, a letter to Planning and Growth Management Committee dated 6 June 2018. This submission concerns the most recent iteration of the proposed Official Plan Amendment 405 (“draft OPA 405”) and the proposed Yonge-Eglinton Secondary Plan (the “proposed YESP”), as provided in the City Planning Supplementary Report dated 26 June 2018.

In our previous submissions, WND identified a number of areas of concern with draft OPA 405, mainly related to its consistency and conformity with Provincial policy, and the effects that overly prescriptive requirements will have on the developability of certain sites. It is our understanding that there has been no change, beyond technical amendments, to the policies that we have previously identified. Therefore, our concerns with respect to draft OPA 405 and the proposed YESP stand.

### **Building Heights**

We have identified additional concerns with the further revisions that have been outlined in the latest Supplementary staff report. In particular, we are concerned about the new “options” being presented to

Committee and City Council which would further limit the heights of building the Secondary Plan area. These options were presented with no pre-consultation with land owners, and it appears very little if any analysis or justification to support the reduction in height. Furthermore, there was limited time to review the changes before the Planning and Growth Management Committee Meeting.

Option 3, which caps all building heights at between 15 and 20 storeys (including a 15-storey height limit on CAPREIT's site at 124 Broadway Avenue) imposes an arbitrary height limit on buildings that does not take into account unique site characteristics, the surrounding context, or the ability of the site to absorb additional height and density. Option 3 also limits the height on sites that staff has already identified as being capable of accommodating significantly more height in the May 2018 version of the proposed YESP. In the case of 124 Broadway, for instance, the height limit has been reduced from 24-26 storeys to 15 storeys, with no rationale for this change. Option 2 provides a separate potential reduction in the height permissions for the aforementioned site at 20-23 storeys, thus further demonstrating the arbitrary nature of the revisions presented to the Committee and Council through the Supplementary Report.

As identified in previous submissions regarding Section 5.4 of the proposed YESP, these restrictions on building height considered cumulatively with other development restrictions, are not consistent with the Provincial Policy Statement, 2014 ("PPS") and do not conform with the Growth Plan for the Greater Golden Horseshoe, 2017 ("Growth Plan") because they are too prescriptive, fail to create a framework that provides for appropriate development standards that facilitate intensification, and limit development in a major transit station area.

## **Housing**

The addition of the following new policy (after 7.3) regarding affordable housing is also of concern:

*"To provide for an appropriate range and mix of housing, housing that is affordable for low and moderate income households will be encouraged, or required where enabled by legislation, in all development exceeding 80 residential units as follows:*

- *10% of the total residential gross floor area as Affordable Rental Housing; or*
- *15% of the total residential gross floor area as Affordable Ownership Housing; or*
- *a combination of the above."*

Specifically, a policy that requires enabling affordable housing legislation that is pending and thus far does not exist, does not provide certainty for land owners. This uncertainty may discourage development, including the provision of new rental housing, which would not be consistent with the PPS or conform to the Growth Plan with respect to housing policies. We suggest that this policy be modified to remain an "encouraging" policy without reference to enabling legislation.

## **141 Davisville Avenue**

It is our position that the Zoning By-law Amendment application for 141 Davisville Avenue would not be subject to the proposed YESP, as the application was filed on 14 November 2017 and pre-consultation with staff occurred over a series of meetings starting in early 2016. However, setting aside the current

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application, the draft YESP policies that apply to 141 Davisville do not promote appropriate future development of that site, as detailed in our previous letters and tables on this matter. Through our further review of the proposed YESP, WND has identified additional policies that are of concern as they relate to 141 Davisville Avenue. Specifically, Policy 3.2.12 – requiring the addition of a sidewalk on the west side of Pailton Crescent, and the development of a plaza or square at Pailton Crescent and Merton Street – raises concerns with respect to how such a feature would relate to the future redevelopment of 141 Davisville Avenue. Furthermore, Section 2(a) of draft OPA 405 regarding the proposed increased width of the Davisville Avenue right-of-way from 20 metres to 23 metres will significantly impact on the future development potential of the 141 Davisville Avenue site.

Furthermore, Policy 5.3.54 contains limitations to new development in front of the entrance of an existing apartment building. While there is a provision for this form of development to be acceptable subject to development of a pedestrian friendly mews between the existing and new building, the lack of specificity and subjectivity as to what would be considered a “wide, pedestrian-friendly mews” is of concern.

Finally, policy 5.7.3 refers to indoor amenity space being provided in “appropriately scaled rooms”. This policy is vague and it is not clear what impact this may have on future residential development.

It is our concern that the above noted policies, as well as the policies discussed as being of concern in our previous submissions of 11 May 2018 and 6 June 2018, do not allow for the appropriate future development of the site at 141 Davisville Avenue.

Consistent with our previous submissions it is our opinion that these policies, cumulatively with other development restrictions, are not consistent with the PPS and do not conform with the Growth Plan. These policies do not represent appropriate development standards which promote intensification, have the potential to prevent infill development that is capable of providing an appropriate range and mix of housing types, and do not promote transit-supportive development on certain sites that can otherwise be improved with sensitive infill development.

## **Conclusion**

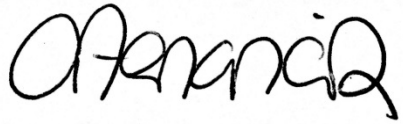
In summary, the previous concerns we have identified with the draft OPA 405 and the proposed YESP remain valid. In addition, we are concerned by the presentation of arbitrary options with respect to height limits that result in further restrictive built form policies, may curtail development that would otherwise be appropriate for sites’ varied characteristics and may prevent the intensification of the Yonge-Eglinton Secondary Plan area in accordance with Provincial policy.

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

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Yours very truly,

**WND associates**  
planning + urban design

A handwritten signature in black ink, appearing to read "A Ferancik". The signature is fluid and cursive, with the first letter "A" being particularly large and stylized.

Andrew Ferancik, MCIP, RPP  
Principal

cc. Dayna Gilbert, CAPREIT Limited Partnership  
Ernest Ng, CAPREIT Limited Partnership  
Johanna Shapira, Wood Bull LLP  
Raj Kehar, Wood Bull LLP