

**December 4, 2020**

Ms. Nancy Martins  
Planning and Housing Committee  
10th floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Dear Ms. Martins:

**Re: Draft OPA 482 Protected Major Transit Station Areas – Finch West Transit Station Area & Sentinel Transit Station Area and Draft OPA 483 Keele Finch Secondary Plan 41-75 Four Winds Drive**

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We are the solicitors for Berncray Holdings Inc. (the “client”), owner of the property located at 41-75 Four Winds Drive.

On behalf of our client we have reviewed the draft Official Plan Amendments of the Protected Major Transit Station Areas for Finch West and Sentinel Transit Station Area (“OPA 482”) and the Keele Finch Secondary Plan (“OPA 483”) as it relates to our client’s lands (hereinafter as “Subject Lands”).

Our client has been involved throughout the public process and has expressed their concerns on the record with the proposed Amendments. Despite these submissions, staff continue in their undoubting direction and accordingly, these concerns remain.

We are therefore providing again our clients’ continuing concerns regarding the proposed OPA 482 and OPA 483 as follows.

### **OPA 482**

The Subject Lands are designated within the Sentinel Transit Station Area with a planned minimum population and employment target of 160 residents and jobs combined per hectare to be achieved collectively within the Sentinel Transit Station Area. We have no objections to the Gross Development Block’s prescribed minimum density of FSI 1.9 and minimum population and employment targets that are required to leverage the existing and planned transit infrastructure made within the Sentinel Transit Station Area.

**Having said this, when combined with the development restrictions proposal in OPA 483, we do not believe that the Major Transit Station Area (“MTSA”) policies of the Growth Plan for the Greater Golden Horseshoe are being appropriately addressed in order to efficiently utilize our clients’ lands and optimize infrastructure investment. We see this as a fundamental omission of the recent work by staff and somewhat surprised by it in light of the commitments otherwise**

**made by the City of Toronto in promoting public transit and intensification within these areas. It is unfortunate to observe the significant public expenditure in public transit to be squandered by a refusal to account for the coordinated endorsement needed for greater intensification in key locations.**

### **OPA 483**

The Subject Lands are located within the Sentinel Node and are highly accessible to existing and planned higher order transit. To this effect, the existing Finch West Subway Station is within a 10 minute walking distance (800 metre radius) and the future Finch West Light Rail Transit (“LRT”) Sentinel Station is within a 5 minute walking distance (500 metre radius).

OPA 483 has designated the Subject Lands as “Mixed Use Areas A” that permit a range of uses, including residential, office, hotel, retail and service uses, and has identified the Subject lands within a “Tall Building” zone. Given the above, the Subject Lands have an important role within the Sentinel Node where intensification and additional housing and employment opportunities can occur to achieve the transit oriented, compact built form vision anticipated for MTSAs.

OPA 483 has set forth a vision to leverage transit investments and to create compact communities. This is to be lauded; however, we have identified the following concerns with the proposed policies as summarized below.

#### **1. Maximum Building Height is Not Warranted**

The City’s supporting rationale in protection of the Downsview Airport operation has concluded an overly restrictive maximum building height benchmark for the Subject Lands of 40 m. We do not agree with the proposed policy that stipulates a maximum building height of 40 metres for the following reasons:

- We are concerned that the aviation study and references used by OPA 483 in developing the maximum building height provisions do not reflect a consensus view of the aviation industry, and has not provided sufficient flexibility to allow for transit supportive building height and density to optimize the invested transit infrastructure.
- The Subject Lands do not fall within the flight path approach surface zone as identified by the Keele Finch Plus Downsview Airport Operation Needs Assessment Executive Summary (prepared by ARUP for the City in October 2016).
- Further, a preliminary evaluation prepared by NAV CANADA on July 28, 2020 regarding our clients’ property has indicated that no impacts are expected with a completed building height at 105.6 m which is notably greater than the OPA 483’s stipulated maximum building height of 40 m for the Subject Lands.

- With the future closing of Downsview Airport anticipated in 2023, which has been acquired in 2018 by the Public Sector Pension Investment Board from Bombardier Inc. for redevelopment purposes, the protection of the flight path appears to be short-sighted as proposed in OPA 483.

**We therefore request that the prescribed maximum building height be further reviewed and revised with reference to the mentioned NAV CANADA's assessment and future closing of Downsview Airport, or at a minimum that a policy be added allowing for greater height than 105.6 m, with the ability to increase the height without the need of an Official Plan Amendment once Downsview Airport closes.**

## **2. Transportation and Servicing Capacity Limitations are Not Apparent**

As per OPA 483, the Subject Lands are within the Sentinel Node that is intended to be a compact area where additional density, use, and activity are to occur. Development in the Keele Finch Secondary Plan area is to leverage the investments in transit, and in our view to also fully utilize and optimize transit infrastructure investment. We understand that one reason for the City to prescribing a maximum building height is to ensure growth does not exceed the existing and planned infrastructure capacity.

We are not aware of any available supporting evidence indicating a limitation on infrastructure capacity that resulted to the conclusion that building heights be restricted. To this end, our clients' civil and traffic engineers have not identified any capacity constraints for a significant redevelopment of their property which would warrant restrictions on the height to 40 m.

OPA 483 specifies that within an "Additional Height Zone", a Cumulative Infrastructure Impact Assessment may be used to demonstrate if adequate servicing capacity is available to accommodate more density and greater building height. This is contrary to the rationale noted above that there is limited servicing capacity that results in the need for a maximum building height restriction to ensure infrastructure capacity remains viable within the area.

**Based on the above we request that the height restriction be increased as noted above and further that the Cumulative Infrastructure Impact Assessment policy requirement be removed.**

## **3. Potential Additional Height Zones Policy Should Apply to the Entire Sentinel Node**

"Potential Additional Height Zones" are identified within the Sentinel Node are primarily limited to the properties at the south corners of Finch Avenue West and Sentinel Road intersection, and the immediate adjacencies to the north and west of the intersection. These areas are predominately developed by existing apartment towers at a height of up to 22 storeys.

The areas covered by the Potential Additional Height Zones are already developed and for heights which already exceed the proposed permitted maximum building height. The application of a Potential Additional Height Zone in this area is therefore not achieving the furthering of intensification within the Sentinel Node.

Further, the “Potential Additional Height Zones” exclude the Subject Lands and properties east of Sentinel Road and north of Finch Avenue West that are still within the Sentinel Node, creating a disproportionate height distribution and development density in this MTSA.

**We request that the Potential Additional Height Zone be extended to the entire Sentinel Node, inclusive of our client’s property.**

#### **4. Setback along Four Winds Drive Do Not Support a Compact Urban Form**

OPA 483 intends to transform Four Winds Drive into a primary street that focuses on creating a pedestrian oriented streetscape experience in support of active uses at grade within the designated “Mixed Use Areas A”. However, OPA 483 requires a significant 10 to 12 m setback above and below grade along Four Winds Drive, in which below grade setback may be reduced if suitable soil depths are provided for trees and landscaping.

This extensive setback at grade does not promote a well-proportioned, active streetwall experience. The existing sidewalk and planting area along the public right-of-way of the Subject Lands already has a cumulative minimum width of 5 m. Requiring further setbacks of this magnitude will impact the establishment of an active and animated building streetwall along Four Winds Drive.

Further this extensive setback is antithesis to the objectives of providing compact, transit supportive built form.

**We therefore request that the prescribed setback distances to be reviewed and revised, including the provision of more appropriate setbacks for the Subject Lands’ frontage along Four Winds Drive to assist in framing a pedestrian oriented street edge experience.**

#### **5. Public Streets and New/Improved Connection Are Not Appropriate**

OPA 483 indicates a conceptual “New/Improved Connection” within the Subject Lands and refers to this as a potential location for an additional public street. There is a significant grade differential between our clients’ site and the adjacent site to the south. Without significant regrading of both sites it is not feasible for a public street to be located in this area. A pedestrian connection is more feasible in this area.

**Based on the above we request that OPA 483 be clarified and revised that the proposed “New/Improved Connection” within the Subject Lands is not a public street and is instead identified as a pedestrian connection.**

#### **6. Community Benefits Contribution (CBC) Policies**

There are significant concerns with the policies respecting height and density bonusing as outlined in OPA 483, given the recent changes to Section 37 of the *Planning Act*. Specifically:

- OPA 483 does not address how the CBC will be applied within the policies as Section 37 becomes phased out.
- OPA 483 states that new development should include Local Community Agreements (“LCA”) but does not indicate that this is part of the CBC.
- OPA 483 currently prescribes a blanket provision that the City is able to secure contributions towards additional community infrastructure and/or parkland to support the proposed additional growth but does not define if this corresponds to the upcoming CBC regime.

**The policies of OPA 483 are not clear or precise relative to their implementation given the recent changes to the *Planning Act*. Further clarification is required in terms of their application, including transitional provisions, in our opinion.**

## 7. Other Matters

We do not oppose mixed of uses within a development, but no market research and economic data have been provided to justify that the 15% total gross floor area requirement for office, institution, and/or cultural uses within the “Potential Additional Height Zones”. Without further justification for this requirement, it is difficult for our client to support such a request, especially given the impact the pandemic has had on the office market.

**We request that this requirement be deleted.**

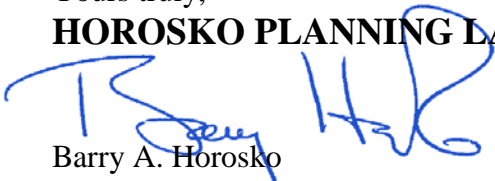
Our client has and will continue to be involved throughout the Secondary Plan process. They are available to meet to further discuss alternative visions and plans for their lands within the Keele Finch Secondary Plan. They believe that a mutually agreeable outcome, which will consider the objectives set out to date by the City, can be achieved while addressing our client’s objectives and concerns.

We therefore believe that it is premature at this point to approve the current proposed OPA 483 for the Keele Finch Secondary Plan prior to arriving at an agreement for the items of concern as identified in this letter.

Thank you.

Yours truly,

**HOROSKO PLANNING LAW**



Barry A. Horosko

cc: Berncray Holdings Inc.  
D. McKay