Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9 Canada
Tel: 416-863-2400 Fax: 416-863-2653

Gerald S. Swinkin
Partner
Dir: 416-863-5845
gerald.swinkin@blakes.com

March 15, 2012

Reference: 79330/2

VIA E-MAIL

Chairman and Members
Etobicoke York Community Council
City of Toronto
Etobicoke Civic Centre
Main Floor, 399 The West Mall
Toronto, ON M9C 2Y2

Re: Sedona (High Park) Development Group Inc.
200 Keele St., 195 & 203 Oakmount Rd. - Agenda Item EY14.2

Dear Chairman and Members:

We are counsel to Sedona (High Park) Development Group Inc. We intend to address Community Council at its meeting on March 20, 2012 with respect to the development proposal of our client with respect to these lands.

This letter is meant to assist Community Council in properly approaching the issues regarding this proposal as the Staff Report dated March 1, 2012 which is before you as prepared by City Planning Dept. staff is woefully inadequate in fairly presenting the issues, facts and applicable policy regarding the matter. We would go so far as to say that the Staff Report exhibits uncharacteristic bias against the proposal and suppresses key facts and material to aid Community Council in coming to a reasoned decision.

To facilitate our response and to highlight the inadequacies of the Staff Report, we will track the Comments portion of the Staff Report by topic heading, which commences on page 12 of the Report:

Planning Act, Provincial Policy Statement and Provincial Plans (page 12)

These are high level documents that have multiple objectives but which aim for the provision of a broad range of housing and to ensure the efficient use of infrastructure and intensification. The Growth Plan for the Greater Golden Horseshoe identifies the whole of the City of Toronto as an Urban Area. The proposal, in seeking to intensify the use of the site and to perpetuate rental housing while at the same time provide affordable market housing is entirely in keeping with all of the aforesaid policy documents. Despite the assertion that the proposal is not consistent with the Provincial policies and does not conform with the Growth Plan nowhere in the Staff Report is there any defensible detailing of these deficiencies.

Official Plan (page 12)

The Staff Report correctly declares that the subject lands are designated *Neighbourhoods* under the Official Plan but only goes on to conclude that the proposal will not respect the existing physical character of the neighbourhood while failing to acknowledge the commentary in Section 4.1 of the Official Plan that specifically deals with properties that differ from the prevailing patterns of lot size, configuration and orientation. The Staff Report also completely neglects to the bring to the attention of Community Council the infill policies in Section 4.1(9) of the Official Plan, and in conjunction with the consideration of achieving the infill goals of the Official Plan the companion built form policies in Section 3.1.2, which have guided the design of this proposal. Furthermore, Section 4.1, Policy 7, anticipates proposals for intensification in Neighbourhoods along major streets. Keele St. is a major street.

Zoning By-law Standards and Compatibility (page 14)

The Staff Report refers to the neighbourhood as being comprised mainly of single and semis. Even though it is located immediately in the vicinity, at 205 Keele St., the Staff Report refers to this 3.5 storey apartment building as an anomaly (page 13). The subject lands are zoned R2, which permits use for apartment buildings. Therefore, the zoning amendment in this instance is not for the purpose of altering a presently permitted use but merely relates to achieving a 4m greater height and an increase in permitted FSI to 1.58.

The Staff Report also does not advise Community Council of the topographic features of the neighbourhood so that Community Council would be aware that the subject lands lie considerably lower than the lands to the north, with the effect that even at the proposed height and density, the proposed buildings will not rise above the tree canopy of the adjoining park and will not rise higher than any residential dwellings to the north or impair their view plane to the south.

Built Form (page 16)

The Staff Report makes a very impassioned point about the proposal representing "a building behind a building" contrary to a provision in the Zoning by-law. In fact, the Staff Report fails to take cognizance of the fact that in actual physical configuration, the proposal is a building beside a building. It was part of the virtue of this site that it abuts the public park and that the occupants would have the benefit of the view of the park. The buildings have been designed to take full advantage of that prospect. Although technically the property fronts onto Keele St. for its lawful public highway access and for the purposes of the zoning by-law, the orientation of the buildings is north/south and in relation to each other, they are side by side. No one in the west building will have the experience of living behind the east building. In fact, had the developer wished to do so, this technical issue could have easily been overcome by creating a minimal link underground between the two buildings. The definition of "lot" in Zoning By-law 438-86, as amended, declares that where two or more buildings or structures have a common basement, whether or not they are also connected above the natural level of the ground, the buildings or structures are deemed to be one building and the parcel of land is a single lot. Both of these buildings are to be constructed with an underground garage and those garages could be linked by some form of passage. That isn't the current design but if it was employed, it would entirely eliminate the "building behind a building" argument.

Furthermore, the Staff Report diminishes the safety value of the positioning of the buildings in this fashion in connection with users of the park. The Staff Report suggests that occupants on the ground floor will not have a clear view of the park in order to function as "eyes on the park/street" (page 17), which is a goal under the Official Plan and CEPTED principles. This completely ignores the fact that occupants in the upper storeys will have clear views of the park and will be able to function in this publicly spirited positive way. Policy 1 of the Built Form policies in Section 3.1.2 specifically directs the location of buildings parallel to the street or "along the edge of a park".

The Natural Environment (page 17)

This is where the Staff Report is most egregious in its omission of material information to Community Council. The Staff Report paints the currently undeveloped portion of the site as a natural habitat which constitutes part of the Urban Forest. In fact, that portion of the property, which is known to staff, is the site of the deposit of fly ash from the incineration operations of the former Village of Swansea. The developer will be obliged to remediate these lands in order to proceed with this development and in doing so, will address an environmental issue which truly belongs to the City as successor to the former Village. This will also have the effect of removing a potential source of contamination to other properties. The developer has proposed as part of the landscaping programme tree planting not only on the site but also on the adjacent City parkland to essentially exceed the number of trees that will have to be removed in order to achieve the site remediation and generally meet the City requirement of a 3:1 replanting ratio.

Rental Housing (page 18)

Notwithstanding that the developer has designed a programme which is entirely consistent with all of the policies of Section 3.2.1(6) of the Official Plan and has the support of existing tenants, the Staff Report has chosen to carp over the fact that the developer is proposing replacement of the 14 3-bedroom units and 1 4-bedroom unit with 15 3-bedroom units. The developer could have chopped up one of the 3-bedroom new units into a 4-bedroom unit in order to slavishly comply but, in truth, there is greater demand and greater utility in having the unit as a properly sized 3-bedroom unit.

Access and Parking (page 20)

The agreement with the adjacent owner to the north regarding use of the right-of-way and driveway improvements was an issue previously but has been since resolved with that neighbour. The developer will now be in a position to create a driveway with proper sight lines to Keele St.

Ravine Control and Tree Protection (page 21)

The Staff Report advises that the mapping to the Ravine Control by-law covers the entire site. That mapping is merely a flag that requires review of the site characteristics in order to determine whether natural features are imperilled. The discussion above under the heading of Natural Environment addresses this issue. In our view, the fact that the lands are subject to the Ravine Control provisions simply means that they will be reviewed and assessed. In this instance, there is no actual ravine and there is an environmental issue which must be remediated.

CONCLUSION

In our submission, the Staff Report before you is very seriously flawed in its analysis and represents very serious omissions in material facts upon which Community Council could make an informed and reasonable decision.

This application is before the Ontario Municipal Board, in our view largely due to the biased attitude of City Planning Staff. We are therefore asking Community Council to completely reconsider the merits of this development proposal with a view to endorsing it in principle and allowing our client to work with the City in order to settle the final details of a development which will bring a valuable completion to these underutilized lands.

Yours very truly,

GSS/ml

Gerald S. Swinkin

c: J. Rego
C. Posocco
R. Glover

22212898.1