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November 20, 2013

Mayor and Members of Council
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto ON M5H 2N2

Attention: Planning and Growth Management Committee

Your Worship and Members of Council:

**Re: Official Plan / Municipal Comprehensive Review and
Re: Reference Number P:\2013\Cluster B\PLN\PGMd PG 13084 (the "Staff Report")
Re: Proposed Draft Official Plan Amendment No. 231**

We are the solicitors for Silvercore Inc. ("Silvercore"), the owner of lands municipally known as 5799-5915 Yonge Street, 45 and 53 Cummer Avenue, 46 and 47 Averill Crescent, in the City of Toronto (being the Newtonbrook Plaza and adjacent lands). Our client has now had the opportunity to review the Staff Report and would like to provide preliminary comments thereon, including the proposed new policies.

Our client is very concerned with, and objects to, proposed policies (Policies 3.5.1.6 and 3.5.1.9) which would purport to require the increase, or at least the maintenance, of the existing amount of non-residential gross floor area in the redevelopment of sites designated Mixed Use Areas within Centres and in other identified circumstances.

This policy would appear to serve to enable conditional zoning, where the development of uses for which there is market demand subsidizes the development, and perhaps the on-going maintenance, of a use for which insufficient demand exists to justify its development otherwise.

Silvercore submits that this is inappropriate. Further it has not been proven to be necessary. Silvercore has developed office properties and is an office landlord. A developer who is forced to provide space that is likely to be uneconomic, is effectively being encouraged to provide the least expensive product in order to minimize the risk of loss. This will have implications for what is marketable in the balance of the mixed-use development in question and thus will affect the development in its entirety. Alternatively, a developer might seek to extract a higher subsidy from the proposed residential development to better finance the uneconomic commercial use, which approach creates its own problems, not least the pressure it places on affordability. The problem is of course exacerbated, where residential and non-residential are to be combined in a single building, by the increase in construction costs engendered by the differing building requirements for office commercial and residential development.

A second particular concern of our client is the proposed direction for street related retail to have "a fine grain of entrances" (Policy 3.5.3.3) and that the size of commercial units be

controlled (Policy 3.5.3.5) based on the application of a list of widely varying parameters. This would appear to be another proposal to compel the financial subsidization otherwise of uneconomic space, since the intent is to "provide local opportunities for small businesses".

In any event, Silvercore submits that retail users which have a format/floorplate larger than can be serviced by a frontage of one or two area-typical window bays can serve an important role in providing retail services and amenity in an area, and should not be the subject of *a priori* official plan restrictions.

Another concern of our client deals with the directions in the proposed Policy 3.5.3.6 which apply to the redevelopment of retail uses in Mixed Use Areas.

The non-policy wording in Section 3.5.3 already contains an acknowledgment that official plan policies encouraging the provision of a use, in this case, retail, should not go so far as to effectively require subsidization by other economic uses. However, this is not directly reflected in the policies themselves. Silvercore submits that the reference to "feasible and appropriate" in Policy 3.5.3.6 should explicitly tie into the direction that such retail use(s) should be "commercially viable" as set out in the introductory wording in Section 3.5.3.

Silvercore views the above issues as fundamental. We submit that in the context of a comprehensive review it is appropriate to provide additional opportunities for input to the specific policy wording under consideration. In the absence of a further consultative process it is Silvercore's request that each of Policies 3.5.1.9, 3.5.3.3, 3.5.3.5 and 3.5.3.6 and the second sentence in 3.5.1.6 be deleted. Silvercore submits however that a further consultative process would better serve public policy: the inter-relationships between polices can be better canvassed, and the result likely to be a better-integrated and more robust policy framework.

Please provide us, on Silvercore's behalf, with notice of any further consideration of the matters herein by any Community Council, Council or any Committee thereof.

Thank you for your attention in this regard.

Yours truly,



John A.R. Dawson

JAD/sc
Encl.