

November 13, 2017

Barnet H. Kussner
T: 416-947-5079
bkussner@weirfoulds.com

VIA E-MAIL (NYCC@TORONTO.CA)

File 18436.00001

The Chair and Members
North York Community Council
5100 Yonge Street, Main Floor
Toronto, ON M2N 5V7

Attention: Francine Adamo, Community Council Secretariat

Dear Chair and Members of Community Council:

**Re: 110, 114 and 120 Broadway Avenue (the "subject lands")
Zoning By-law Amendment and Rental Housing Demolition Applications
Preliminary Report – October 27, 2017
Reference Nos. 17 218847 NNY 25 OZ and 17 218856 NNY 25 RH**

We act as counsel for the Applicant on the above-noted applications.

We have had an opportunity to review the Preliminary Report prepared by Community Planning Staff – North York District, dated October 27, 2017 (the "**Preliminary Report**") together with our client and its planning consultant, Craig Hunter of Hunter and Associates. We wish to make the following written submissions to Community Council in response to that Report.

As noted in the Preliminary Report, the purpose of these applications is to facilitate a proposed development consisting of a 28-storey building and a 35 storey building on the subject lands, which are located on the north side of Broadway Avenue and east of Redpath Avenue in the Yonge-Eglinton area of the City. The proposed development would consist of 822 residential units, including 121 rental replacement units and 261 parking spaces in two levels of underground parking, with a resulting density of 9.45 times the lot area.

Complete applications for the proposed Zoning By-law Amendment and Rental Housing Demolition were filed back in August 2017. The subject lands are designated "Apartment Neighbourhoods" in the City's Official Plan, and no application for an Official Plan amendment is proposed or required.

The Preliminary Report identifies, under the heading "Issues to be Resolved" starting at the bottom of page 20, a number of concerns which have been identified by City Staff in relation to,

among other things, "the overall scale of the development" and the built form proposed. Respectfully, our client and its consultants do not share the concerns of City Staff in relation to the overall scale of the development. The proposal is consistent with the scale of other development proposals that have been recently approved in the immediate vicinity of the subject lands, with the support of City Staff. Nevertheless, our client and its consultants are committed to working with City Staff in an effort to address and resolve their concerns in relation to the overall scale of the development and other matters identified in the Preliminary Report.

In that regard, our client also does not take issue with any of Recommendations #2-4 on page 2 of the Preliminary Report. Its only objection is in respect of Recommendation #1 - namely, the recommendation that *"Council withhold any approvals on the application until the adoption of the revised Yonge-Eglinton Secondary Plan as part of the City-initiated Midtown in Focus: Growth, Built Form and Infrastructure Review"*.

Our client's objections to that recommendation may be summarized as follows:

1. As noted above, a complete application for the proposed Zoning By-law Amendment was filed back in August 2017 and deemed complete as of August 22, 2017. Under the *Planning Act*, Council is statutorily obligated to make a decision on that application within 120 days, failing which the Act confers the statutory right to file an appeal to the Ontario Municipal Board.
2. From our review of the "Midtown in Focus: Proposals Report" (the **"Proposals Report"**) which will be considered by the City's Planning and Growth Management Committee on November 15, 2017 (copy attached), we note that the proposed new Yonge-Eglinton Secondary Plan is not proposed to come forward for consideration until sometime during the "second quarter of 2018" (i.e., April 2018 at the earliest). On that basis, it appears that Recommendation #1 in the Preliminary Report - if adopted by Community Council and by City Council - would result in the purported deferral of a decision on our client's Zoning By-law Amendment application until well beyond the expiry of the 120-day appeal period. We appreciate that in many instances involving high-density development applications, City Staff and Council are challenged to make a decision within that statutory period and as a result, lack of compliance with the statutory requirement is by no means unusual or unexpected. Respectfully, however, what is unusual and unexpected is for Council to be deliberately directing itself to fail to comply with its statutory obligation, as is being recommended by Staff in this instance.

3. Of equal or greater concern is the stated purpose for which City Staff are making this recommendation – namely, for the purpose of delaying consideration of our client's application until after the proposed new Secondary Plan is approved. As City Staff are no doubt aware, it is a long-standing principle that an applicant for a proposed development is entitled to have its application considered in light of the policy framework in force at the time a complete application is filed. While subsequently adopted policies (such as a new Secondary Plan) may well be matters to which an approval authority can have regard to as part of an emerging policy framework, they cannot form part of the governing policy framework for the purpose of determining conformity with the Official Plan. Recommendation #1 effectively ignores or seeks to circumvent this long-standing principle, which was established as a matter of basic fairness to applicants and a fair balancing of public and private interests.

Finally, we submit that Recommendation #1 in the Preliminary Report is inconsistent with the recommendations contained in the Proposals Report itself. Specifically, Recommendation #3 in the Proposals Report recommends that *"City Council determine 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 until after the November 15, 2017 meeting of the Planning and Growth Management Committee until the adoption of the revised Yonge-Eglinton Secondary Plan"*. Presumably, the intended purpose of that recommendation is to recognise that applications which come forward after the Proposals Report has been considered by PGM have at least some degree of public notice as of that date regarding the City's stated intent and timing regarding the new Secondary Plan, and we assume the November 15th date was deliberately specified in Recommendation #3 in the Proposals Report for that reason.

As noted above, however, our client's application in respect of the subject lands was deemed complete as of August 22, 2017 - *almost 3 full months prior to the November 15th date recommended as the cut-off in the Proposals Report.* It is therefore contrary to and inconsistent with City Staff's own recommendation as set out in the Proposals Report. It amounts to an unwarranted attempt to subject this application to a draft new Secondary Plan even though it was filed long before November 15th - which City Staff are themselves recommending as the appropriate 'cut-off' date.

For all of these reasons, we respectfully submit that if Community Council intends to adopt the recommendations made in the Preliminary Report, it should be amended by deleting Recommendation #1 in its entirety. As noted above, our client has no issue with Recommendations #2-4 in the Preliminary Report.

Thank you in advance for your consideration of these submissions. By copy of this letter, we would ask City Staff to please ensure that we are given notice of the recommendations and decisions of Community Council and City Council on this matter going forward.

Yours truly,

WeirFoulds LLP



Barnet H. Kussner

BHK/ew

c: J. Nanos, Director, Community Planning, North York District
C. Owusu-Gyimah, Senior Planner
C. Hunter, Hunter and Associates
P. Chronis, WeirFoulds LLP
Client

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