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DELIVERED BY EMAIL (etcc@toronto.ca)

Etobicoke York Community Council
Etobicoke Civic Centre
Main floor, 399 The West Mall
Toronto, ON M9C 2Y2

Attention: Ms. Rosemary MacKenzie, Secretariat

Dear Members of Community Council:

RE: EY32.16 – Request for Directions Report

35, 41-63, 65 and 95 High Park Avenue and 66 and 102-116 Pacific Avenue - Official Plan and Zoning By-law Amendment and Rental Housing Demolition Applications

We are the solicitors for GWL Realty Advisors and 1213763 Ontario Inc. (together, "**GWLRA**"). GWL Realty Advisors acts as agent for 1213763 Ontario Inc., which in turn is the registered owner of the property municipally known as 35, 41 to 63, 65, 95 High Park Avenue and 66 and 102 to 116 Pacific Avenue (the "**Subject Site**").

We, along with our client and its consultants, have noted the release of the Request for Directions Report from the Director, Community Planning, Etobicoke York District (the "**Staff Report**") respecting our client's site-specific Official Plan and Zoning By-law Amendment and Rental Housing Demolition Applications (the "**Applications**"), which was only made available online on June 29, 2018.

On behalf of our client, this letter has been prepared to convey our collective concerns with the Staff Report and the recommendations it proposes.

APPLICATION BACKGROUND

Our client began the development approval application process in 2016. The redevelopment proposal for the Subject Site was the subject of a pre-consultation meeting held with City Planning

staff on December 14, 2016. At the request of the Planning Department, our client was required to undertake a Block Study for the entire High Park Apartment Neighbourhood. The study was intended to inform long term planning decisions. Our client's planning consultants, Bousfields Inc., undertook this study and filed it with the original application.

By letter dated December 28, 2016, we submitted our client's applications for an Official Plan Amendment and a Zoning By-law Amendment with respect to the Subject Site (the "**Applications**"), under City File No. 16 271597 WET 13 OZ. On January 31, 2017, the City issued a Notice of Complete Application deeming the Applications complete as of December 29, 2016.

City Planning staff prepared a Preliminary Report dated March 17, 2017 in respect of the Applications. This report was considered by Etobicoke York Community Council on April 4, 2017. Community Council adopted City Planning staff's recommendations in the Preliminary Report, including the scheduling of a community consultation meeting. The recommendations were further considered by City Council on April 26 to 28, 2017, at which time City Council added a request for City Planning staff to undertake an area-based character study (the "Character Study") and to report on the findings. A Community Consultation meeting for the Applications was subsequently held on May 18, 2017.

In response to requests from staff and City Council's direction in April 2017, our client agreed to put the site-specific Applications on hold and participate in what was proposed to be a fair, transparent area-based character study (the "**Character Study**"). GWLRA has attended each working group session held as part of the Character Study, and prepared submissions in response to requests for feedback or "homework" at each opportunity to do so. Our client's participation included attendance at Working Group Sessions on December 9, 2017, and February 5, February 27, April 9, April 23, and May 7, 2018, as well as the submission of feedback and "homework" on December 15, 2017, and March 5, March 21, April 24, and May 16, 2018.

Notwithstanding these efforts, undertaken in good faith, it is our concern that the process was not in fact an open and transparent one, and we (along with our client and its consultants) have significant concerns with the resulting planning instruments that were proposed. These concerns were set out in a previous letter to Etobicoke York Community Council, dated June 9, 2018. In spite of the noted issues with both the consultation process and the resulting planning instruments, Community Council adopted the recommendations of staff respecting the Area-Based Character Study in the form of Official Plan Amendment No. 419 ("**OPA 419**") and Site and Area Specific Policy No. 551 ("**SASP 551**").

As noted in the Staff Report, the Applications were appealed to the Ontario Municipal Board (as it then was) on August 25, 2017. The appeals were made pursuant to subsections 22(7) and 34(11) of the *Planning Act* for Council's failure to make decisions within the statutory timeframes. It should be noted that these appeals are "legacy appeals", and are not subject to the Bill 139 statutory amendments. A prehearing conference was held on January 31, 2018, and a further prehearing conference has been scheduled for August 14, 2018.

CONCERNS WITH REQUEST FOR DIRECTIONS REPORT

Based in part on the above application and appeal history, we have a number of concerns with the conclusions reached in the Staff Report, and with the resulting recommendations being forwarded to Etobicoke York Community Council. These concerns are as follows:

1. We strongly disagree with the analysis and conclusions reached in the Staff Report respecting the appropriate Official Plan policies and guidelines by which the Applications should be assessed. The Applications pre-date OPA 419 and SASP 551 by nearly a year and a half. Even the Ontario Municipal Board appeals of the Applications pre-dated Council's adoption of these instruments by ten months. Notwithstanding our client's good faith participation in the Character Study, it has been consistently communicated to City Planning staff that such participation did not constitute an agreement to be bound by a new or different planning context or policies. It would be patently unjust for SASP 551 to now apply to the site, when our client has invested years of time, effort and resources into preparing, supporting and submitting a development programme for the site in conformity with different policies that are actually in force and effect.

Based on both established caselaw, and principles of justice and fairness, the appropriate Official Plan policies to be applied to the site and the Applications are those that were in place at the time of submission of the Applications.

2. We also strongly disagree with the analysis and conclusions reached in the Staff Report respecting the planning merits of the Applications. The Subject Site is in close proximity to two subway stations, and these lands are situated at the heart of a cluster of tall buildings. The Applications propose a significant improvement to the availability of dedicated, purpose-built rental housing, for which the City has elsewhere noted a serious shortage. Moreover, contrary to staff's expressed views on the built form and heights proposed in the Applications, the heights of the proposed buildings are in keeping with the height context for the area, and designed so as to minimize adverse impacts on nearby Neighbourhoods and parks, including both High Park and Lithuania Park.
3. The Staff Report expresses concerns over the size of the retail area being requested, and states that "the material submitted in support of the application does not provide enough information to understand impact on this neighbourhood", and further asserts that a retail impact study would be necessary to understand impact. No previous comments circulated by City staff requested or required this additional information, nor was there any indication provided to the applicant, our client, or its consultants that additional information was needed by City staff. These comments in the Staff Report are the first instance that this issue has been raised.
4. Parks, Forestry and Recreation staff previously advised as follows, in a memorandum to our client dated December 22, 2017:

Proposal for Dedication of Parkland

In accordance with Chapter 415, Article III of the Toronto Municipal Code, the applicant is required to satisfy the parkland dedication requirement through cash-in-lieu. The residential nature of this proposal is subject to a 10% parkland dedication.

The value of the cash-in-lieu of parkland dedication will be appraised through Real Estate Services. Payment will be required prior to the issuance of the first above grade building permit. Any replacement rental units will be exempt from Parkland Dedication requirements.

In stark contrast, under the heading of "Open Space/Parkland" in the Staff Report, City staff are now proposing to require a parkland dedication in the amount of 15% of the net land area. As with the comments on retail impact, this is the first time that the applicant is hearing that the City wishes to require an on-site dedication, rather than payment-in-lieu of parkland.

We strongly disagree with the new on-site parkland dedication requirement, particularly given the Site's proximity to High Park, which is the largest park in the City of Toronto. We also question the need for on-site parkland dedication in light of the City's decision to re-designate lands to the south of the Subject Site as parkland.

Moreover, even beyond the City's reversal of position, we question the proposed application of a 15% limit on any payment or dedication requirement, as the area to be redeveloped is less than 1 hectare in size, and therefore a cap of 10% should apply.


CONCLUSIONS

Notwithstanding the concerns set out in this letter, our client remains prepared to work with City staff to determine whether a resolution can be reached on these outstanding matters. GWLRA has been in consistent communication with City staff on housing related matters throughout the application process, and will continue to engage in further dialogue with staff on the Rental Housing Demolition Application. We are also prepared to participate in LPAT mediation with the City to explore potential options for resolution. Furthermore, we are prepared to engage in discussions with City staff on an appropriate Section 37 package, as well as appropriate conditions for the issuance of the rental housing demolition permit including an appropriate Tenant Assistance and Relocation Package.

We request to be added to the City's notice list in this matter, and to receive notification of any decisions of Community Council or City Council regarding this matter.

If you have any questions regarding the above, please do not hesitate to contact me at 416.645.4572 or by email at jason.park@devinepark.com.

Yours very truly,
Devine Park LLP


Jason Park
AGF/JIP

cc: 1213763 Ontario Inc.