

MUNICIPAL, PLANNING & DEVELOPMENT LAW

1 May 2018

Sent via E-mail

Members of Council & Planning and Growth Management Committee
City of Toronto
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, Ontario M5H 2N2

Attention: Ms. Nancy Martins

Dear Members of Committee and Council:

**Re: TOcore: Downtown Plan Official Plan Amendment
Item No. PG29.4, Planning and Growth Management Committee Meeting 1 May 2018
Submissions by CAPREIT Limited Partnership**

We are counsel to CAPREIT Limited Partnership (“CAPREIT”), which owns a number of properties that are the subject of the proposed TOcore: Downtown Official Plan Amendment (the “Draft Secondary Plan”). We understand that the latest version of the Draft Secondary Plan, attached to the staff report dated 17 April 2018 (the “Staff Report”), will be considered by the Planning and Growth Management Committee (“PGMC”) at its meeting on 1 May 2018.

We write to express our client’s concerns with the Draft Secondary Plan. We note at the outset that, given the late release of the Staff Report and Draft Secondary Plan, our client has not yet had an opportunity to do a detailed review of the materials with its consultant team. As such, the comments provided below may be supplemented once a detailed review has been completed.

General Submissions

CAPREIT has identified the following general concerns with the Draft Secondary Plan:

- The Built Form policies (see Section 9) are overly prescriptive. When read together as a whole, the policies fail to allow sufficient consideration of site and area-specific constraints and opportunities, and therefore tend to stifle development.
- *Apartment Neighbourhoods* are not listed as lands for which growth is targeted (see Policy 4.2), notwithstanding that existing policies permit and promote compatible infill development on those lands.

Johanna R. Shapira Direct: (416) 203-5631 jshapira@woodbull.ca

65 Queen Street West Suite 1400 Toronto Ontario M5H 2M5 T (416) 203-7160 F (416) 203-8324 www.woodbull.ca

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- The Community Services and Facilities policies (see Section 10) are overly rigid and do not allow sufficient consideration for site and area-specific needs. As such, these policies as drafted may not be achievable or desirable.
- The Housing policies (Section 11) are overly prescriptive and do not allow sufficient consideration for site and area-specific needs and constraints. As such, these policies as drafted may not be achievable or desirable.

For the reasons stated above, it appears that the Draft Secondary Plan in its present form conflicts with existing official plan policy, fails to be consistent with the *Provincial Policy Statement 2014*, and fails to conform with the policies of the *Growth Plan for the Greater Golden Horseshoe 2017* (the “Growth Plan 2017”).

Site-Specific Submission: 100 Wellesley Street East

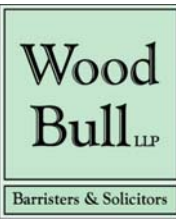
On 14 July 2017, CAPREIT filed a zoning by-law amendment and accompanying rental housing demolition application with the City to facilitate the development of a 10-storey rental residential infill building at 100 Wellesley Street East. The zoning by-law amendment application was appealed to the Ontario Municipal Board (the predecessor to the Local Planning Appeal Tribunal) for City Council’s failure to make a decision.

The Draft Secondary Plan provides no form of transition for active development applications, such as the one for 100 Wellesley Street East. Fairness dictates that properties with such applications be exempt from the new policies to allow the consideration of the applications to unfold within the planning policy regime in place at the time the application was made.

Section 26 Amendment

The Staff Report indicates that the Draft Secondary Plan is ... “*part of the City of Toronto’s Five Year Official Plan Review under Section 26 of the Planning Act, [being] a component of the work program to bring the Official Plan into conformity with the Growth Plan for the Greater Golden Horseshoe 2017 ...*” (p. 1) Staff further indicate that the Ministry of Municipal Affairs has indicated support for the Draft Secondary Plan to be submitted under Section 26 as a “*partial conformity with the Growth Plan*” (p. 17). We have serious concerns with the position that the Draft Secondary Plan is a Section 26 amendment.

Notwithstanding that any decision made on the Draft Secondary Plan must conform with the new Growth Plan 2017, it does not follow that the Draft Secondary Plan forms part of the City’s five year review (the most recent of which began in 2011 and therefore was in the context of the Growth Plan 2006). When the City undertakes its next five year review under Section 26 of the *Planning Act*, it will



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be required to review and revise its Official Plan to ensure that the plan (including the Downtown Secondary Plan) conforms with the Growth Plan 2017 (amongst other matters). That review should not occur in a piecemeal fashion, but rather as a comprehensive application of the Provincial land use planning policies and direction on a City-wide basis.

Our concern is particularly acute given that the Draft Secondary Plan was only recently identified as a Section 26 amendment, at a later stage of the approvals process. Under the new *Planning Act* regime, this approach is seriously prejudicial to our client and all landowners within the subject area.

Request for Notice

We hereby request to be notified of any future meetings of City Council or a Committee of Council where reports related to the Draft Secondary Plan will be considered. We also request to be notified of any decisions of City Council or a Committee of Council respecting those reports.

Conclusions

Given the late release of the Draft Secondary Plan and Staff Report, our client has not had an opportunity to review the Draft Secondary Plan with its consultants in any meaningful way, nor discuss any potential concerns with staff. As such, we respectfully request that the PGMC defer its consideration of the Draft Secondary Plan to allow our client an opportunity to conduct a more comprehensive review and consult with staff on the concerns raised above and others that may arise out of its detailed review.

For the reasons stated above, we also respectfully request that the City reconsider its position that the Downtown Secondary Plan is a Section 26 amendment.

If you have any questions, please do not hesitate to contact the undersigned.

Yours very truly,

Wood Bull LLP

A handwritten signature in blue ink, reading "Jshapira".

Johanna R. Shapira

JRS/af

c. Client