

June 6, 2018

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File 13703.00004

VIA E-MAIL (pgmc@toronto.ca)

The Planning and Growth Management Committee
c/o Nancy Martin, Administrator
City Hall, 10th Floor West
100 Queen Street West
Toronto, ON M5H 2N2

Dear Chair and Members of the Committee:

**Re: Midtown in Focus: Proposed Yonge-Eglinton Secondary Plan
700-730 Mount Pleasant Road, 214-226 Soudan Avenue and 19-21 Brownlow
Avenue, Toronto, PG 30.4**

We are counsel and agents for Wells Gordon Limited (the "Owner") in respect of the assembly of contiguous parcels of properties in the City of Toronto (the "City"), municipally known as 700-730 Mount Pleasant Road, 214-226 Soudan Avenue and 19-21 Brownlow Avenue, City of Toronto (collectively the "Site").

"The application proposes to amend the Zoning By-law to permit the expansion of the existing Briton House Retirement Centre. The proposed expansion consists of a 25-storey tower (88.6 metres including mechanical penthouse) including a 7-storey base building. The proposal would add 123 independent and semi-independent (ownership) retirement dwelling units and 133 assisted nursing rooms to the existing retirement centre.

The Briton House is a well-established North Toronto retirement/nursing home community that has been in operation in the Eglinton/Mt. Pleasant location for over 40 years. The project provides for the updating and expansion of the on-site range of seniors residence and related continuum-of-care choices." (Planning Assessment attached, page 4)

The purpose of this letter is to provide a formal submission to staff, the The Planning and Growth Management Committee and Council on behalf of our client with respect to the proposed Yonge-Eglinton Secondary Plan (the "proposed Secondary Plan"), also known as "Midtown in Focus".

1. **Process: Use of S. 26 of the *Planning Act*:**

We note that the staff has recommended the use of s. 26 of the *Planning Act* rather than by the normal manner of processing of a Secondary Plan of this nature which uses of s. 17 of the *Planning Act*.

As Mr. Stagl notes in the last paragraph of his Planning Assessment, **“OPA No. 405 is not an update or revision to an existing Official Plan for purposes of updating any issues in respect of provincial conformity or consistency considerations. It arises from an area specific study. It is not a conformity exercise since it explicitly relies on an ongoing, but subject, conformity exercise that attempts to retroactively apply that Section 26 umbrella to OPA 405”.**

In summary, the section 26 process is to be used in the case of “revisions” to the City’s Official Plan in response to Provincial Acts and initiatives.

The section 17 process is the section to be used where a proposed Secondary Plan is being “amended”, which is the situation in this case.

It is our submission that use of the section 26 process is an abuse and misuse of the provisions of section 26. Its use will likely result in litigation by parties seeking to establish that the normal and appropriate process of section 17 should be followed in processing proposed OPA 405. Use of this section 26 process will result in the incurring of unnecessary expense to all parties, and in delay of approval of and realization of the objectives for the area stated in the proposed Secondary Plan amendment.

Furthermore, in the case of our clients’ specific application, such delay will unnecessarily hold up development of special needs seniors housing which the City’s and Province’s policies encourage.

Accordingly, we ask the Committee to refer the matter back to staff and direct staff that the proposed Secondary Plan, OPA 405 be processed in the normal manner using the provisions of section 17 of the *Planning Act*.

2. **Comments Respecting the Proposed Official Plan 405**

We have had an opportunity to review the proposed Secondary Plan with our client as well as its independent planning consultant (Paul Stagl of Opus Management Inc.), its urban designers

(Anne McIlroy and Jessica Hawes of Brook McIlroy) and its architect (Julian Jacobs). As a result of that review, we enclose a Planning Assessment document dated June 4, 2018 prepared by Mr. Stagl, which summarizes the assessments and comments of these consultants (the "Assessment"). It sets out a detailed planning and urban design rationale in support of our client's objections and concerns regarding the proposed Secondary Plan, as well as a policy justification to support further intensification of the Site at a substantially greater height and density than what is currently contemplated in the proposed Secondary Plan.

We commend to members of the Committee and staff the analysis and opinions set out in the Assessment in its entirety. In particular, we refer you to the Executive Summary of the Assessment attached to this letter, found at pages 2 and 3, and ask that the Committee and Council adopt our consultants' recommendation in the last paragraph, on page 3, that "the City introduce a resolution directing a Site and Area Specific Policy for the Briton House Retirement Centre and related expansion."

3. **Conclusion:**

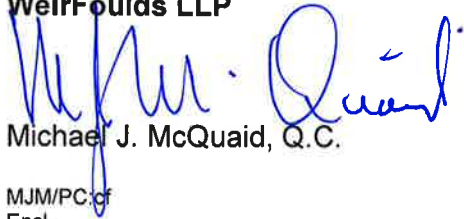
Accordingly, we submit that the proposed OPA should be referred back to staff for further consideration, both with respect to the proposed process intended to be followed and with respect to the substance and planning merits of the policy direction provided in the proposed Secondary Plan.

Our client and its consultants would be pleased to meet with Staff to discuss this submission and explore potential means of resolving our client's concerns prior to finalization and adoption of the proposed Secondary Plan.

Thank you for your consideration of this submission. Should you have any questions or require any additional information, please do not hesitate to contact Paul Chronis, Senior Planner in our office, at (416) 947-5069 or pchronis@weirfoulds.com or the writer at (416) 947-5070 or mcquaid@weirfoulds.com.

Yours very truly,

WeirFoulds LLP



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MJM/PC:cf
Encl.

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Project Manager

Paul Farish (paul.farish@toronto.ca)
Senior Planner

**PLANNING ASSESSMENT
OF
PROPOSED
CITY OF TORONTO MIDTOWN IN FOCUS
Yonge-Eglinton Secondary Plan
DRAFT OPA No. 405**

Related to:
The Briton House Retirement Centre Expansion

**Zoning By-law Amendment Application
Application No. 17 257139 STE 22 OZ**

700 Mount Pleasant Road, City of Toronto
including 700-730 Mt. Pleasant Road, 214-226 Soudan Avenue and 19-21 Brownlow Avenue



Image Source/Credit: Julian Jacobs Architects

June 4, 2018

Executive Summary

This planning assessment has been prepared in consideration of the forthcoming statutory meeting to be held by the Planning and Growth Management Committee respecting the proposed City-Initiated Official Plan Amendment No. 405 pertaining to the Yonge-Eglinton Secondary Plan and specifically in respect of, and focusing on, the current zoning amendment application No. 17 257139 STE 22 OZ for the expansion of The Briton House Retirement Centre located at 700 Mt. Pleasant Road.

The application proposes to amend the Zoning By-law to permit the expansion of the existing Briton House Retirement Centre. The proposed expansion consists of a 25-storey tower (88.6 metres including mechanical penthouse) including a 7-storey base building. The proposal would add 123 independent and semi-independent (ownership) retirement dwelling units to the existing 174 independent units (rental) approved/available in the existing Briton House facility and 133 assisted nursing rooms, all with updated ancillary supporting amenity and service areas, to the existing 62 rooms. All of these nursing room beds will be located within the expansion podium. The expansion will also add an additional 60 employees to the current 150 employees.

The Briton House Retirement Centre expansion application was filed on November 2, 2017 and represents an application filed prior to the adoption of the proposed OPA 405. While the proposed Plan (Amendment No. 405) post-dates the subject application, Briton House has committed itself in discussions with the South Eglinton Ratepayers' and Residents' Association (SERRA) to consider and address the intent of the evolving policies.

While various elements of the proposed policies can most likely be accommodated, the combination of all of the proposed Plan built form policies are prohibitive and leave no flexibility to accommodate and address the unique site and use considerations for the Briton House expansion. The Plan, if applied as currently proposed, could unduly freeze the Briton House expansion for a number of years and delay needed retirement, nursing and seniors housing. For example:

- (a) the "height to Soudan" transition policies are inconsistent with the height identified on Map 21-12 of 14 storeys within a transition context of 21 storeys to the west or 23 storeys from the north;
- (b) the identified height of 14 storeys (Map 21-12) is also inconsistent with the height-related built form parameters identified in the proposed Plan, which would indicate a height in the order of 21 to 25 storeys;
- (c) the proposed Plan does not adequately or appropriately provide for seniors or retirement uses in respect of the description of "Land Use" considerations or in respect of the proposed Housing policies dealing with minimum unit mix or specialized housing;
- (d) the base building (podium) built form parameters (i.e. open space to footprint ratio 55:45, maximum podium height of 4 storeys, etc.) would have the effect of eliminating

approximately 106 of the proposed 133 nursing beds (leaving only approximately 27 beds) and eliminating approximately 45 jobs (leaving only approximately 15 jobs), where 60 jobs are currently being proposed;

- (e) the tower built form parameters (30 metre separation distances, north-south orientation, related sideyards) provides no guidance or recognition in this specific property context for what is to apply in respect of existing buildings or in respect of mid-rise buildings and would result in no tower being achievable on this designated Tall Building site;
- (f) the collective outcome of applying all of the Plan's built form policies on the Briton House Retirement expansion site, where the resulting, compliant, tower configuration would be only an estimated 277 square metres in size, a size that would accommodate a tower core but with no ability to have any units on any of the floors (refer to Figure 3 and 4 below);
- (g) the proposed Plan does not accommodate or appropriately reflect corner lot configurations such that the subject Briton House site carries an additional 10% of its site as a Greenway obligation over the majority of Midtown sites and such that the normal operation of a nursing home or seniors retirement centre pick-up and drop-off as well as outdoor ground floor terrace/recreation areas are required to be given over for both frontages;
- (h) the proposed Plan does not recognize or accommodate the efforts in support of having already created the current lot configuration (at staff's encouragement during pre-consultation meetings) and in fact appears to penalize the corner lot configuration in terms of the related built form policies;
- (i) OPA No. 405 is not an update or revision to an existing Official Plan for purposes of updating any issues in respect of provincial conformity or considerations, it arises from an area specific study and it is not a conformity exercise since it explicitly relies on an ongoing, but subsequent, conformity exercise that attempts to retroactively apply that Section 26 umbrella to OPA 405; and
- (j) within that statutory context, the proposed Plan confirms an intent of implementing specific development applications through Site and Area Specific Policies, however the Plan is not clear on how the statutory 2-year waiting period would be addressed for such an amendment, save for a site-specific resolution by Council, nor is it clear that it would not retroactively apply to the Briton House application, such that, if applied as currently proposed, could unduly freeze the Briton House expansion for a number of years and delay needed retirement, nursing and seniors housing.

The delay or potential inability to provide for special needs housing on a timely basis, resulting from such a policy direction and implementation is contrary to good land use planning and is not consistent with the Provincial Policy Statement or the Growth Plan.

It is recommended that the City introduce a Site and Area Specific Policy for The Briton House Retirement Centre and related expansion.

Overview

This planning assessment has been prepared in consideration of the forthcoming statutory meeting to be held by the Planning and Growth Management Committee respecting the proposed City-Initiated Official Plan Amendment No. 405 pertaining to the Yonge-Eglinton Secondary Plan.

This planning assessment has been undertaken in respect of, and focusing on, the current zoning amendment application No. 17 257139 STE 22 OZ for the expansion of The Briton House Retirement Centre located at 700 Mt. Pleasant Road (refer to Figure 1).

The application proposes to amend the Zoning By-law to permit the expansion of the existing Briton House Retirement Centre. The proposed expansion consists of a 25-storey tower (88.6 metres including mechanical penthouse) including a 7-storey base building. The proposal would add 123 independent and semi-independent (ownership) retirement dwelling units and 133 assisted nursing rooms to the existing retirement centre.

The Briton House is a well-established North Toronto retirement/nursing home community that has been in operation in the Eglinton/Mt. Pleasant location for over 40 years. The project provides for the updating and expansion of the on-site range of seniors residence and related continuum-of-care choices.

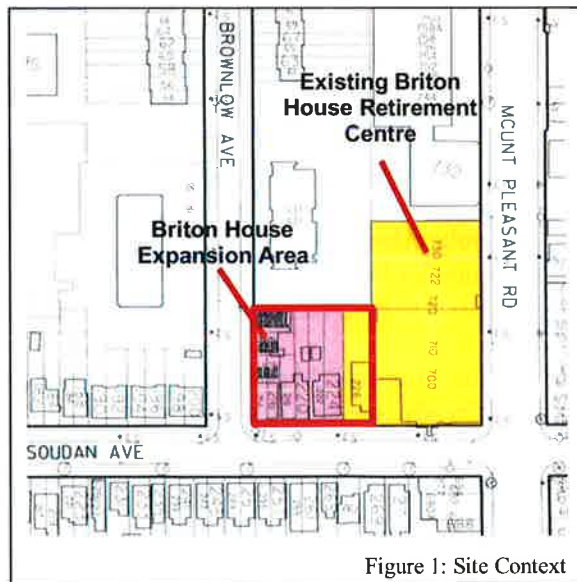


Figure 1: Site Context

The expansion will add 123 independent and semi-independent retirement dwelling units to the existing 174 independent units approved/available in the existing Briton House facility, for a total of 292 on-site seniors units/rooms of varying tenure. The expansion will also add 133 assisted nursing rooms, all with updated ancillary supporting amenity and service areas, to the existing 62 rooms. All of these nursing rooms will be located within the expansion podium.

The expansion will also add an additional 60 employees to the current 150 employees.

A full description of the existing Retirement Centre, its uses, facilities, amenity areas and services is outlined in the Planning Rationale Report dated October 23, 2017, which was filed with the Zoning Amendment Application.

The Briton House Retirement Centre block is uniquely configured within the Yonge-Eglinton context in that it includes two full block corners (refer to Figure 1).

This assessment also had benefit of assessments and input completed by Julian Jacobs, Architects and by Brook McIlroy, Urban Design.

Statutory Context

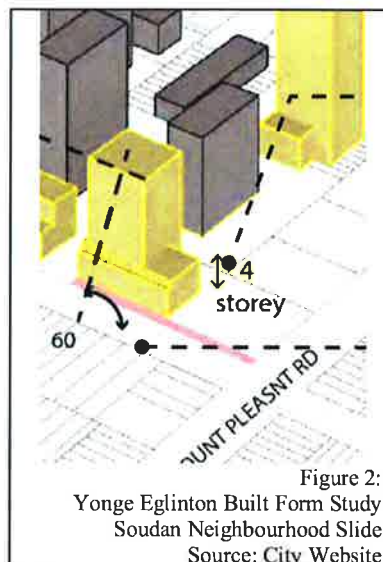
The zoning amendment application No. 17 257139 STE 22 OZ, in support of the Briton House Retirement Centre expansion, was filed with the City of Toronto on November 2, 2017 and represents an application filed prior to the adoption of the proposed OPA 405.

The Midtown in Focus was an ongoing study initiative at the time of pre-application consultations and at the time of filing the subject application. The Midtown in Focus study is a continuation of the Midtown Planning Group initiated in 2012 and which has included work on OPA 253 (Eglinton Connects planning study) and OPA 289 (Parks, Open Space and Streetscape Plan for the Yonge-Eglinton Area).

The study held several open houses, workshops and stakeholder consultation meetings and released several progress reports and presentations, discussing such topics as Yonge-Eglinton profile characteristic, among others.

The most recent open house and workshop prior to the subject application presented a discussion on a Built Form Assessment for various areas within the Centre, including discussions on emerging directions (June 3, 2017).

For the Soudan neighbourhood area, the subject site was identified as an intensification consideration and further identified the need for a 60° angular plane consideration for projects along the north side of Soudan in order to provide a transition to the houses south of Soudan, “matching recently approved buildings” (refer to Figure 2).



While the proposed Plan (Amendment No. 405) post-dates the subject application, Briton House has committed itself in discussions with the South Eglinton Ratepayers' and Residents' Association (SERRA) to consider and address the intent of the evolving policies.

In that regard, the following comments and considerations have been identified, specifically in respect of how the intent of the policies can be successfully applied to the Briton House site.

Proposed Amendment No. 405 – Yonge-Eglinton Secondary Plan

This assessment is based on the proposed Amendment No. 405 made available online on May 18, 2018 (a coloured version), together with additional materials (Staff Report, a black & white version of proposed OPA 405, the Community Services and Facilities Strategy, the Parks and Public Realm Plan and the Public Consultation Summary) posted as part of the Planning and Growth Management Committee Agenda on June 1, 2018.

The Briton House site is designated, in part, as “Mixed Use Area B” (Map 21-4) within the “Mount Pleasant Station Core Area” (Map 21-2) and, in part, as “Apartment Neighbourhood” (Map 21-4) within the “Soudan Midtown Character Area – Apartment Neighbourhood” (Map 21-3).

Over 95% of the subject site is located within 250 metres of the Mount Pleasant Station (Map 21-3), being the primary designated “Station Core Area”.

Both Soudan Avenue and Brownlow Avenue are identified as “Midtown Greenways” (Map 21-6).

The Briton House expansion site is identified as a “Midtown Tall Building” site on Map 21-12. The Map identifies a maximum height Limit of 14 storeys.

Height

The proposed Plan provides insufficient detail or clarity in respect of the expected transition in height to, or along, Soudan (proposed policy 1.3.3(c)).

The wording, whether taken literally as height to Soudan” or taken as implied to be taken along Soudan from west to east (as has been described) is inconsistent with the height identified on Map 21-12 which identifies a maximum height of 14 storeys (refer also to proposed policy 9.4.7) within a transition context of 21 storeys to the west or 23 storeys from the north.

The identified height of 14 storeys (Map 21-12) is also inconsistent with the height-related built form parameters identified in the proposed Plan, which would indicate a height in the order of 21 to 25 storeys.

Retirement Use

The Official Plan provides for and encourages “seniors and nursing homes and long-term care facilities” within the *Neighbourhood* and *Apartment Neighbourhood* designations.

The proposed Plan however does not adequately or appropriately provide for seniors or retirement uses in respect of the description of “Land Use” considerations (proposed policy 2.5), or in respect of the proposed Housing policies dealing with minimum unit mix (proposed policy 7.1) or specialized housing (proposed policy 7.2(b)).

Built Form – Podium

The proposed Plan similarly does not adequately or appropriately recognize the unique two-corner configuration nor the unique “seniors and nursing homes and long-term care facilities” uses in respect of its built form policies.

For example, for the base building (podium) where all of the nursing beds are to be located, the Plan directs a minimum open space to footprint ratio 55:45 (proposed policy 5.3.32), in combination with a maximum podium height of 4 storeys (proposed policy 5.3.34(a)) and a

transitional scale (such as a 45° angular plane) for the podium to the south (proposed policy 5.3.33 (g)) which if applied to the subject Briton House expansion area plan would have the effect of reducing the podium gross floor area by 60%.

More importantly however is that the reduced configuration would no longer accommodate an appropriate, contemporary, floor configuration for nursing beds and would result in eliminating approximately 106 of the proposed 133 nursing beds (leaving only approximately 27 beds) and eliminating approximately 45 jobs (leaving only approximately 15 jobs), where 60 jobs are currently being proposed.

Additionally, unspecified stepbacks for base buildings (proposed policy 5.3.35) would further aggravate any design solution for the Briton House expansion.

While various elements of the proposed policies can most likely be accommodated (i.e. such as base building angular plane considerations), the combination of all of the proposed Plan built form policies leaves no flexibility to accommodate and address the unique site and use considerations for the Briton House expansion.

Built Form – Tower

The proposed Plan provides insufficient detail or clarity in respect tower built form requirements as they would apply to the unique Briton House two-corner configuration or in respect of expanding an existing retirement centre complex.

For example, the Plan requires a minimum tower separation of 30 metres in this location (proposed policy 5.3.45(b)) however the Plan provides no guidance or recognition in this specific policy context for what is to apply in respect of existing buildings or in respect of mid-rise buildings.

We understood from previous discussions with Staff that the existing 12-storey Briton House buildings would be considered as mid-rise buildings and that a 30 metre separation would not apply, however the Plan does not reflect that clarification nor does it provide any guidance in respect of what setbacks or separations are to apply. In fact, based on recent discussions with Community Planning staff in respect of the Briton House application, staff advised that the existing 12-storey Briton House buildings are to be considered as tall buildings and that a 30 metre separation is to apply.

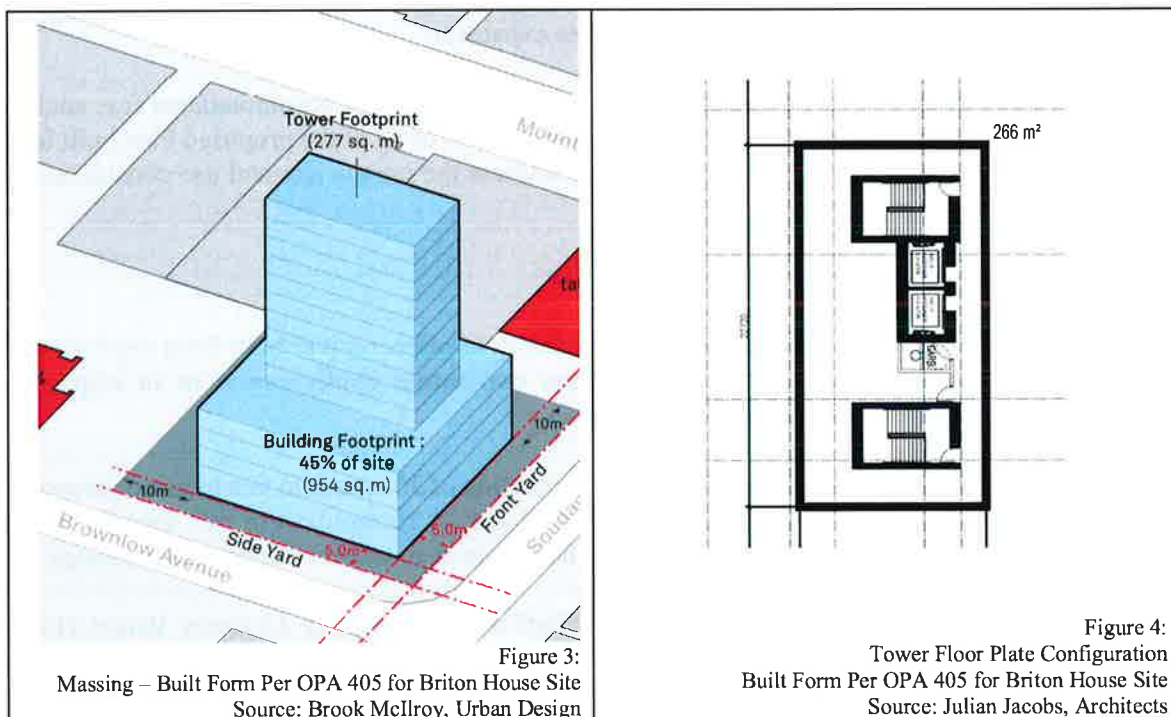
Similarly, Community Planning staff recently advised, in respect of the Briton House application, that the existing building located at 55 Brownlow also requires a 30 metre separation despite the blank wall condition in that location. Community Planning staff also recently advised that irrespective of tower separation considerations, 7.5 metre setbacks for the tower and podium would also apply pursuant to OPA 405.

In the absence of any clarity or policy flexibility, and taken in balance with other tower policy requirements such as a north-south orientation (proposed policy 5.3.44) or related sideyard

policies, the proposed 30 metre tower separations taken at their most literal interpretations would be prohibitive and would result in no tower being achievable on this designated Tall Building site.

Specifically, based on the assessment work by the offices of Julian Jacobs, Architects and Brook McIlroy, Urban Design, Figure 4 illustrates the collective outcome of applying all of the Plan's built form policies on the Briton House Retirement expansion site.

The resulting, compliant, tower configuration would be only an estimated 277 square metres in size (refer to Figure 3), a size that would accommodate a tower core but with no ability to have any units on any of the floors (refer to Figure 4).



While various elements of the proposed policies can most likely be accommodated, the combination of all of the proposed Plan built form policies leaves no flexibility to accommodate and address the considerations for the Briton House expansion.

Greenway

The subject Briton House site carries an additional 10% of its site as a Greenway obligation over the majority of Midtown sites, given that it's a corner site and the Greenway is required on both Soudan Avenue and Brownlow Avenue frontages.

The proposed Plan similarly does not adequately or appropriately recognize the unique two-corner configuration nor the unique “seniors and nursing homes and long-term care facilities” at-grade operations.

Based on recent discussions with Community Planning staff, in respect of the Briton House application, and their interpretations of the OPA 405 Greenway policies, it is clear that the Greenway policies as currently written do not accommodate the normal operation of a nursing home or seniors retirement centre pick-up and drop-off requirements (reflecting limited resident mobility) and do not reflect the normal expected at-grade outdoor ground floor terrace/recreation area requirements, nor do they accommodate the existing and proposed loading/servicing conditions.

Lot Consolidation

The Plan requires lot consolidations in order to provide for orderly development and to prevent piecemeal development (proposed policy 5.3.3).

The current lot assembly for the Briton House expansion area reflects City Staff's encouragement during the initial pre-consultation meetings to consolidate the full Brownlow and Soudan corner, an effort that added approximately 3.5 years to the application process from the first pre-consultation meeting to the preparation of the current application plans.

The Plan does not recognize or accommodate the efforts in support of creating the current lot configuration and in fact appears to penalize the corner lot configuration in terms of the related built for policies.

Section 26 Approval, Secondary Plan Amendments and Site and Area Specific Policies

The Plan contemplates the use of Site and Area Specific Policies to implement specific development applications (refer to proposed policy 5.3.3 and proposed policy 10.4), based on a Section 26 approval.

In respect of a Section 26 approval consideration, the Notice of Special Public Meeting identifies the proposed OPA 405 as an "amendment" rather than as an update or revision. The supporting Staff Report identifies OPA 405 as a "comprehensive new planning framework" for the Yonge-Eglinton area, resulting in a "new Yonge-Eglinton Secondary Plan".

The Staff Report further acknowledges that the City's use of Section 26 in this circumstance relies on the City's subsequent and separate undertaking and completing of its full Growth Plan conformity on a city-wide basis and that OPA 405 can be thus considered as part of its "on-going five-year review".

OPA No. 405 is not an update or revision to an existing Official Plan for purposes of updating any issues in respect of provincial conformity or consistency considerations. It arises from an area specific study. It is not a conformity exercise since it explicitly relies on an ongoing, but subsequent, conformity exercise that attempts to retroactively apply that Section 26 umbrella to OPA 405.

This statutory context is particularly of concern to the Briton House expansion. In order to appropriately apply the intent of the policies to the Briton House site, the Plan appears to indicate the intent of doing so through a Site and Area Specific Policy, however the Plan is not clear on how the statutory 2-year waiting period would be addressed for such an amendment, save for a site-specific resolution by Council, nor is it clear that it would not retroactively apply to the Briton House application.

The Plan, if applied as currently proposed, could unduly freeze the Briton House expansion for a number of years and delay needed retirement, nursing and seniors housing.

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