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Via Email and Courier

Mayor and Members of Council
Toronto City Hall,
10th Floor, West Tower
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Chair and Members of
Planning and Growth Management Committee

Your Worship and Members of Council:

**Re: Report to Planning and Growth Management Committee
dated May 24, 2018
IBMS No. 17 254453 NNY 25 OZ**

And Re: Proposed Official Plan Amendment No. 405 ("OPA 405")

We are the solicitors for Tribute (Soudan Ave) Limited ("Tribute"), a developer which operates in the Midtown area and which has an interest in lands known as 2161 Yonge Street.

Tribute has monitored and participated in various aspects of the "Midtown in Focus" process, and at this juncture remains concerned with many of the proposed policies. We submit that collectively such policies impose significant restrictions on new development which, given the level of existing and planned infrastructure in the area, particularly with respect to transit, render the proposed OPA 405 inconsistent with the Provincial Policy Statement and out of conformity with the Growth Plan for the Greater Golden Horseshoe, 2017 (the "Growth Plan").

Given the breadth of topics addressed by OPA 405 the following represents commentary on selected matters to illustrate the basis for our submission above.

Generally speaking, OPA 405 is premised on an analysis which is over-reliant on existing densities as they relate to specific Growth Plan targets. However, we submit that such targets are minimums and that the clear intent of the collective provincial directives is to optimize the use of land and infrastructure. Thus the proposal in OPA 405 for a prescriptive built form regime in order to limit density at the suggested level is not adequately supported.

A particular issue in this respect are the specific directions for minimum amounts of non-residential redevelopment. Non-residential uses have particular building requirements which differ from residential (floor-to-ceiling height being an obvious example) and often need to be functionally separate from each other and/or residential uses. Thus, for example, the minimum

25% requirement for office, institutional and/or cultural uses that is proposed to apply to tall buildings or large sites in Mixed Use Areas "A" (Policy 2.5.4) will render sites impossible to redevelop at densities commensurate with the optimization of transit infrastructure.

There are also issues with provincial directives respecting complete communities. For example, Policy 2.6.1 would mandate small frontages for commercial uses on Priority Retail Streets. However, a number of important uses which are important to service daily life in a complete community do not use this building size template. A full service food supermarket is an obvious example.

Other issues arise in respect of the proposed new policies respecting parkland. At the outset, we submit that it is inappropriate to purport to require the adoption of an alternative standard for parkland dedication without providing any direction therefor. Furthermore, Policy 3.3.19 should be deleted. If the intent is to provide for the provision of off-site parkland where the City and landowner agree, the policy is not necessary as the existing official plan provides that framework. If the intent is to compel the provision of off-site parkland, then such is clearly inappropriate since it subjects the landowner to indeterminate prejudice, and potentially even the sterilization of the development site, since the owner thereof would be entirely the captive of the whims of the real estate market.

A related issue derives from the policies respecting POPs. It must be clarified that POPs are a community benefit requiring justification pursuant to Policy 5.1.1 of the "parent" Official Plan. There is no justification at law for the City taking this interest in land otherwise. As an aside, we note that policies 3.3.26 (b) and (f) have an inherent inconsistency: "child-specific elements" are not "designed for users of all ages and abilities".

We have commented above on limited aspects of policies affecting built-form. However, further issues attend this general topic given the combination of both uncertain and very prescriptive policies proposed.

As an example of an uncertain directive, Policy 5.1.1(a) requires all development to "create a legible and distinct skyline that reinforces Midtown's Area Structure and permitted building types". We submit that it is impossible to know how to comply therewith. What constitutes legible and distinct? From what vantage point or location is this to be determined? Further, how does a legible and distinct skyline reinforce permitted building types?

Examples of very prescriptive provisions include the numerous specific parameters for height, floor plate size, setbacks, stepbacks and building separation. To vary any one of these specific provision would require an official plan amendment, which, we submit, inappropriately discourages a contextual architectural response to prevailing site conditions. This approach can thus be expected to unnecessarily limit both good architecture and efficient development.

We would further submit that the proposed policies related to residential unit mix and size are also inappropriately prescriptive. An appropriate mix of unit types and sizes will account for such matters as rates of household formation, site constraints and building design, and hard and soft infrastructure. We submit that the responses as may arise now or in future to these and other relevant variables should not be unduly constrained, especially at the outset of what is intended to be a long planning period.

Another issue is that OPA 405 does not provide for site specific exemptions for properties which have been long in process at the City. The applications respecting 2161 Yonge Street have been before the Local Planning Appeal Tribunal since 2017. We submit that this property

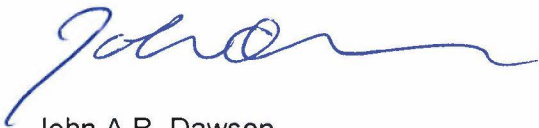
should be exempted from OPA 405 on a site specific basis: it would be unfair to impose a new policy regime at this time.

We have two concluding observations, both of a legal nature. First, we disagree that OPA 405 is appropriately processed under Section 26 of the *Planning Act*. Secondly, the proposed Policy 9.4.5 is clearly intended to be a pure revenue-generating mechanism, and is not grounded in the sort of analysis required under the *Planning Act*.

The foregoing represents a summary articulation of certain of Tribute's key concerns. Tribute would welcome the opportunity for a further dialogue with City officials for the purpose of resolving all its concerns.

Thank you for your attention in this regard.

Yours truly,

A handwritten signature in blue ink, appearing to read "John A.R. Dawson". The signature is fluid and cursive, with a long horizontal stroke at the end.

John A.R. Dawson

JARD/sc