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Matter No. M606-03

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DELIVERED BY EMAIL (pgmc@toronto.ca)

Planning and Growth Management Committee
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Ms. Nancy Martins, Committee Administrator

Dear Chair and Members of the Planning and Growth Management Committee:

RE: PGMC Item No. PG30.4

- **Proposed City-Initiated Official Plan Amendment pertaining to the Yonge-Eglinton Secondary Plan**
- **City File No. 17 25443 NNY 25 OZ**
- **Objection Letter filed on behalf of 1908844 Ontario Inc. and 18 Brownlow Holdings Limited**

We are the solicitors for 1908844 Ontario Inc. and 18 Brownlow Holdings Limited, the owners of the land municipally known as 190-200 Soudan Avenue and 18 Brownlow Avenue in the City of Toronto as shown in Appendix "A" (the "**Site**"). The Site is located on the north side of Soudan Avenue and the west side of Brownlow Avenue within the Yonge-Eglinton Area.

We have reviewed the proposed update to the Yonge-Eglinton Secondary Plan (the "**Proposed OPA**") as it would apply to the Site, and are writing to register concerns with and objections to the Proposed OPA on behalf of our client. These relate to both the substantive policies proposed and the procedural implementation of the Proposed OPA.

For the reasons that follow, we respectfully request that this matter be deferred to allow the public a meaningful opportunity to assess the impacts of these policies, and to allow City Staff to remedy the significant issues that exist within the Proposed OPA in its current form.

Our client's concerns with the Proposed OPA include, but are not limited to, the following:

1. **Policy Concerns with the Proposed Yonge-Eglinton Secondary Plan**

The Proposed OPA identifies the Site as adjacent to the Yonge-Eglinton Centre boundary and within the Secondary Zone of the Yonge- Eglinton and Mount Pleasant Major Transit Station Areas. The Site is designated as *Apartment Neighbourhoods* and is included within the Soudan

Apartment Neighbourhoods Character Area. In addition, the Plan includes a number of policies that would shape the public realm in the vicinity of the Site, as well as the applicable height, built form and massing.

We have reviewed the Proposed OPA and have the following recommendations from a planning policy perspective:

1. Remove the maximum height restrictions on Map 21-6 and introduce more flexible language with regards to the development standards in Section 5.3.
2. Clarify the circumstances that the requirements for community service contributions included in Section 6.5 would be required
3. Clarify that the Soudan Priority Park Area (as identified on Map 21-8) and associated policies in Section 3.3 represents a vision but not a requirement.

These items are expanded on in greater detail below.

(a) Height, Built Form and Massing

Sections 5.3 and 5.4 include policies related to permitted building types, urban design standards and building heights. A portion of the Site fronting onto Soudan Avenue is classified within the Midtown Mid-Rise Category. The Proposed OPA requires a minimum height of four storeys and permits a maximum height of seven storeys, with an opportunity to increase to eight storeys subject to certain shadow and stepping conditions. The Proposed OPA also includes policies that will shape the massing of a new building, including an assignment of heights to each storey, setback and stepback requirements, and limitation of incremental shadows.

In our opinion the policies included in Sections 5.3 and 5.4 are overly prescriptive and do not appreciate the development complexities of each site. A taller building on the Site could achieve appropriate separation distances from the approved and existing tall buildings on the same block, to the west, northwest and north. There should also be greater flexibility in the design of a new building on the Site, with building dimensions determined in response to the site's size and context.

In our opinion, a Secondary Plan, which is part of the Official Plan, should provide the vision for how a site should develop. Detailed massing requirements should be included in a Zoning By-law, which can be amended through a public process on a site-specific basis, with a more focused analysis for the proposal and its potential impacts. Limiting design flexibility also limits creative design solutions that enable a site to develop based on the applicable opportunities and constraints.

(b) Community Service Contributions

Policy 6.5 provides that development may be required to contribute to the delivery of new community service facilities, either in on-site or off-site provisions or by cash contributions. We request that this policy be modified to clarify under what circumstance this requirement would be triggered, and how it may relate to other contribution requests, including Section 37 and parkland dedication requirements. There should be an acknowledgement that contribution requests need to be balanced and prioritized, since not all sites can accommodate all requirements. We also recommend that this policy be modified to identify that the determination of community service contributions will be in consultation with the applicant, and will begin early in the process, as these expectations may impact the form and feasibility of a development.

(c) Parkland Requirement

The portion of the Site fronting onto Soudan Avenue is identified to be part of the Soudan Priority Park Area. In our opinion, the appropriateness of on-site parkland should be evaluated at the time of application, and not prescribed in the Proposed OPA. Any potential on-site parkland should be required with an understanding of the anticipated built form on the site. Accordingly, we would ask that the associated policies in Policy 3.3 be modified to clarify that the Soudan Priority Park Area represents a vision, but not a requirement.

We are continuing to review the Proposed OPA and associated available material. We are also reviewing the impact of other policies included in the Proposed OPA, in the context of future development on this Site. For example, we would like to better understand whether the 80 new units identified in Section 7.1 is an appropriate threshold to apply housing mix requirements, and whether a building could conform to all the amenity space requirements included in Section 5.7.

Policy 5.2.1(1) of the in-force Official Plan Policy identifies that Secondary Plans are to stimulate and guide development, to reurbanize growth areas within the City of Toronto. The importance of intensifying strategic growth areas is prescribed by the Provincial Policy Statement, 2014 (the "PPS") and the Growth Plan for the Greater Horseshoe, 2017 (the "**Growth Plan**"). The Proposed OPA's prescriptive policies may limit development within a major transit station area that is adjacent to an Urban Growth Centre, which does not comply with or conform to these provincial policy documents and does not meet the intent of the Urban Structure of the Official Plan.

Overall, the Proposed OPA contains a number of overly prescriptive policies that unduly restrict development, and that are inconsistent with those of the PPS, and do not conform with those of the Growth Plan, both of which call for intensification within the boundaries of what is proposed to be the Yonge-Eglinton Secondary Plan area.

Furthermore, the overly prescriptive performance and built form standards listed above do not take into account unique site considerations. That, coupled with the requirement to meet all of the performance and built form standards without any flexibility, jeopardize the viability of future development on our client's Site and in the Yonge-Eglinton area as a whole.

Given the above, it is unclear how the proposed policies achieve consistency with the PPS or conformity with the Growth Plan.

2. Procedural Concerns with the Proposed Yonge-Eglinton Secondary Plan

Notwithstanding the significant policy concerns noted above, the adoption of the Proposed Yonge-Eglinton Secondary Plan is being undertaken pursuant to Section 26 of the *Planning Act*, with final approval to be sought from the Minister of Municipal Affairs.

In its Final Report on Midtown in Focus dated May 24, 2018, Staff writes the following:

"The circumstances in Midtown and comprehensive nature of the recommended OPA warrant that the recommended OPA proceed as a component of the City's ongoing five-year review of its Official Plan and an approval under Section 26 of the *Planning Act* given the change in social, economic, environmental, legislative and fiscal circumstances". (emphasis added)

Our client has significant concerns with Staff's position that the Proposed OPA be considered a component of the City's ongoing five-year review of its Official Plan. Until now, there has been

no indication in any reports, public meetings or Council considerations related to Midtown in Focus study or the development of the Proposed OPA, that the Proposed OPA is a component of the City's ongoing five-year review of the Official Plan. It has always been presented as an initiative to bring the current Yonge-Eglinton Secondary Plan up-to-date (Midtown in Focus: Proposals Report from the Acting Chief Planner dated October 25, 2017).

This is especially concerning to our client given the recent changes to the *Planning Act*, in which reliance on approval by the Minister pursuant to Section 26 eliminates any further opportunity for stakeholders, including our client, to challenge any flaws or defects in the plan. The normal rights of appeal are eliminated by virtue of the City now proposing to use Section 26. In our opinion, this constitutes an abuse of process.

Respectfully, the use of this provision to update an existing secondary plan is not in keeping with the intent of Section 26 the *Planning Act*, which is meant to ensure that a municipality prepares a comprehensive update to its Official Plan on a general basis to ensure conformity with provincial plans, has regard for matters of provincial interest and is consistent with the Provincial Policy Statement.

Additionally, the Proposed OPA in its final form was only made available to the public on May 24, 2018, and other key materials, including the City's Staff Report, were only made available to the public only one week prior to this matter being scheduled to be considered by the Planning and Growth Management Committee. Given the use of Section 26 of the *Planning Act*, as recently amended, this does not give our client, or any other interested stakeholder, sufficient time for meaningful consultation, review or revisions.

For these reasons, we urge the Committee to defer consideration of the Proposed OPA for further consultation with impacted landowners. Please accept this letter as notice of our client's objections to all policies, plans, maps or any other parts of the proposed Yonge-Eglinton Secondary Plan that relate in any way to the Site.

We respectfully request notification of any further notices, actions or decisions made by Council, Committees of Council or Community Council respecting this matter.

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

Yours very truly,

Devine Park LLP



Patrick J. Devine
PJD/SHL

Encl.

cc: 1908844 Ontario Inc. and 18 Brownlow Holdings Limited
Louis Tinker and Caitlin Allan, Bousfields

APPENDIX "A"

