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Attention: Committee Secretary, Bradley Bartlett

Dear Members of Council:

**Re: Sherway Area Secondary Plan –
Item EY 9.1 – Final Report
Home Depot of Canada Inc.
Etobicoke York Community Council – October 10, 2019**

We are the solicitors for Home Depot of Canada Inc. ("**Home Depot**"). Home Depot owns and operates a store at one of the larger parcels of land within the Sherway Study Area, 193 North Queen Street (the "**Property**"). We are writing on behalf of Home Depot to provide comments on the most recent revision of the Sherway Area Secondary Plan (the "**Secondary Plan**") which is being recommended for Council adoption at the upcoming October 10, 2019 Etobicoke York Community Council meeting.

Home Depot appreciates the initiative that the City has undertaken to establish a long term vision for this area. However, we are writing to ensure that Home Depot's long-term interests are taken into consideration and reflected in the final Secondary Plan policies and associated maps/schedules. The following comments with respect to the Secondary Plan should lead to a reconsideration of the mapping and policies and would ask that Community Council or Council defer final consideration of the Secondary Plan and ask its planning staff to revise the Secondary Plan in consultation with Home Depot to address the following concerns:

Home Depot Intends to Remain

1. Home Depot's planning consultants, MHBC, have previously provided three comment letters (July 23, 2015, July 4, 2016 and June 27, 2019) on behalf of Home Depot with respect to the Sherway Area Study and Secondary Plan. Home Depot wants to acknowledge and express its appreciation of the City staff's efforts to respond to those letters by introducing a new "Interim Uses" section to the Secondary Plan (Policies 11.17 and 11.18) to recognize and permit existing uses and limited expansions. This is a good step forward, but is unfortunately still too

restrictive and fails to plan for the reality that our client's use will continue for a long time.

2. Instead of limiting expansions to 10% of the total gross floor area ("**GFA**") which may exist on the date of adoption of this Plan, Home Depot believes the use should be clearly recognized as an integral part of the neighbourhood until it is no longer needed and the Property is comprehensively redeveloped. In the decades that Home Depot will remain on the site, it must be able to adapt to changes in demand as the surrounding area is redeveloped and home owners move in. Home Depot's products and services may need to change. In that period of time, the manner in which those are provided or delivered is likely to change and may involve separate buildings, pad or out-parcel facilities and other retailing models which may develop in that period.
3. The approach that the Secondary Plan should use is the dual designation (not split designation) of the Property. It would be designated as both **Interim** Mixed Use Area "C" – Retail, pending a comprehensive redevelopment of the Property for a different use, at which time the second, and ultimate designation of the Property as Mixed Use Area "A" – Residential, would be fully recognized. The Secondary Plan should clearly establish both the ultimate designation, Mixed Use Area "A"-Residential at this time and the Interim Mixed Use Area "C", with policies that determine when the Mixed Use Area "A" policies supercede those of the Interim designation. We would be pleased to work with your staff on the content of those policies.
4. This approach allows clarity and flexibility for the lengthy interim period when Home Depot will continue to serve the surrounding area. At the same time, it recognizes that the use will eventually disappear, perhaps as the last parcel within the Secondary Planning Area to redevelop.
5. The Secondary Plan's policies which apply to Mixed Use Area "C" - Retail designated lands are more reflective of the reality of this retail use remaining in place for the foreseeable future. The maximum Floor Space Index ("**FSI**") permitted for the Retail Mixed Use Area (0.5) is consistent with the existing Home Depot store, which is already at 0.29 across the entire Property. What exists is already well above the 0.2 times permitted for retail and service commercial uses (together) under the policies applicable to the Mixed Use Area B" – Office Commercial designation. The Mixed Use Area "B" – Office Commercial designation of the Property immediately creates non-conformity of the Secondary Plan by the existing Home Depot facilities.
6. Recognizing that the Home Depot will remain in place for some time as the Secondary Planning Area is redeveloped and will need to coexist with the new residential developments, the Secondary Plan should contain a policy that requires any future redevelopments to both demonstrate compatibility with the existing Home Depot store prior to being rezoned and ensure that mitigation measures are implemented to address any identified compatibility issues.



Section 3 (Structure) & Section 9 (Mobility – Transit)

1. Road patterns for the Queensway Mixed Use District within which the Property is located are shown on Map 43-2 (Structure Plan) and Map 43-3 (Streets and Block Plan) with corresponding policies 3.1 to 3.5. Those patterns do not reflect land ownerships nor the likely redevelopment opportunities for the District and are inappropriate. The road patterns would be better controlled through appropriate policy language setting out objectives for those patterns, but could less desirably be represented in a way that is more consistent with land ownership patterns.
2. It is recognized that if a conceptual road pattern for the District remains in those maps, Policy 9.3 states: *“Streets identified as Flexible should be oriented and located as conceptually shown on Map 43-3, with exact locations to be determined through the development application approval process to the satisfaction of the City.”* This policy should also specifically provide that a proposed “New Street” can be eliminated should a future redevelopment application process determine that these streets are not warranted, nor required.

Section 4 (Parks, Open Spaces and the Public Realm)

1. Bill 108’s provisions for community benefit charges and the elimination of the alternative parkland dedication standard render the policies and the mapping of “New Park – Desired Locations” obsolete. Either the City will purchase or expropriate park parcels using monies contributed as community benefit charges or (much less likely) the City will require dedication of a maximum of 5% of the area of the land developed for residential purposes.
2. In the first case the location of those expropriated/purchased parcels will be entirely within the City’s control and do not need to be shown in the Secondary Plan. Indeed, showing them grants the City no advantage since it cannot force a landowner to sell.
3. In the second scenario, the new park locations should be identified and quantified so they do not exceed the maximum amount which could be required of landowners pursuant to the new legislation. Absent that calculation, justification and clarity about the size of the park parcels there should be no identification of amorphous park sites. There is no longer any justification for the park parcels being locational rather than delineated since the amount that can be obtained will no longer vary based upon what is finally approved.
4. The placement of seven “New Park-Preferred Location” symbols on Maps 43-2, 43-4, and 43-6 is no longer consistent with the *Planning Act*.
5. In any event, the placement of two “New Park-Preferred Location” symbols within the Queensway Mixed Use District and particularly on the Property are inappropriate and unjustified.



6. There are already detailed park locational criteria in Policies 4.2 to 4.8 which, with appropriate revision to reflect the Bill 108 changes, provide enough direction on where parkland should be expropriated/purchased or required in the smaller amounts, as now provided for in the *Planning Act*.
7. Policy 4.9 states: *“In addition to any parkland dedications, within each of the Precincts described in Section 10 of this Plan, a minimum of 10 per cent of the gross site area will be open space, which may include Privately Owned Publicly-Accessible Spaces and outdoor amenity areas at grade level, but excluding streets and driveways.”* This attempt to seek and obtain the equivalent of parkland when the *Planning Act* has now expressed defined limits to what can be obtained is inappropriate and should be deleted.

Section 5 (Land Use)

1. Map 43-5 (Land Use Plan) of the Secondary Plan identifies that the subject lands are proposed to be split designated as “Mixed Use Areas ‘A’ – Residential” on the western portion of the subject lands, and “Mixed Use Areas ‘B’ – Office Commercial” on the western portion of the subject lands adjacent to Highway 427. There is no relationship between the boundaries of those Areas and either land holdings or even the proposed road pattern. Our proposal of an Interim Mixed Use Area “C” – Retail designation and an ultimate Mixed Use Area “A” – Residential designation in the Secondary Plan more appropriately describes the reality of the land uses in the interim period and a better use of the lands in the future.
2. The permitted retail and service commercial FSI be increased to at least maximum 0.5 for the subject lands, in order to allow more flexibility for any future expansions to the existing Home Depot operation, or any potential future retail and service commercial uses on the subject lands (i.e. pad or out-parcel development, or otherwise).

Section 6 (Development Capacity)

1. The maximum gross floor area restrictions contained in Section 6.1 (Maximum Gross Floor Areas) of the Secondary Plan does not conform with the Growth Plan for the Greater Golden Horseshoe 2019’s policies directing growth to “Major Transit Station Area (MTSA’s) as the Secondary Plan contemplates a new transit hub and protected potential subway station (Policy 9.17 and 9.21).

Based on the foregoing, we would ask that Community Council recommend that Council defer approval of the Sherway Area Secondary Plan so that Planning staff can continue to work with our client and its consultants in order to resolve the outstanding issues identified in this letter



If you have any questions please do not hesitate to contact us.

Yours truly,

MILLER THOMSON LLP

Per:



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Partner
DT/

CC: Kimberly Koenig, Home Depot
Oz Kemal, MHBC

