

North York Community Council

From: Stacey Williams <stacey.williams@rogers.com>
Sent: January 29, 2020 3:05 PM
To: North York Community Council
Cc: howard@hbrplanning.com; info@hastad.ca
Subject: Letter of Objection to proposed Rezoning for 801 York Mills road and 1855 Leslie street road (file no19 244758 NNY 16 OZ)
Attachments: Objection Letter by Hastad Property Management Services Inc..pdf; Location of Hastad Property.pdf

Attention: Francine Adomo

We are the planning consultants for Hastad Property Management Services Inc., an adjacent landowner to the above captioned lands. We have filed a letter of objection, on our client's behalf, with Derrick Wong (City Planner) who is handling the above application. Mr. Wong advised us that we should also send a copy of our letter to the North York Community Council. Accordingly, we have attached a copy of our letter and a map showing the location of our client's lands in relation to the subject lands for your consideration.

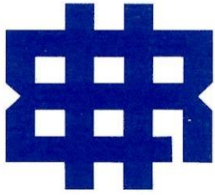
Could you please keep us informed of all matters relating to this application.

Thank you.

Stacey Williams, M.C.I.P., R.P.P

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Mr. Derrick Wong, RPP
Senior Planner, North York District
5100 Yonge Street,
North York Civic Centre, Ground Floor
Toronto, Ontario
M2N 5V7

VIA EMAIL

Dear Mr. Wong:

**RE: LETTER OF OBJECTION IN REGARDS TO
PROPOSED REZONING APPLICATION NO. 19 244758 NNY 16 OZ
FOR 801 YORK MILLS ROAD AND 1855 LESLIE STREET
FIRST CAPITAL (801 YORK MILLS) CORPORATION AND
FIRST CAPITAL HOLDINGS (ONTARIO) CORPORATION**

We are the planning consultants for Hastad Property Management Services Inc., the owner of the lands identified as 799 York Mills. Our client's lands are located on the southeast corner of Leslie Street and York Mills Road, and directly abut both of the above-captioned properties being developed (see attached).

It is our understanding, from reviewing the information posted on the Planning Department's Application Information Centre website that the applicant is proposing to rezone the subject lands to permit the development of two 21 storey towers fronting on York Mills Road and a 9 storey mid-rise building fronting on Leslie Street. A total of 636 residential units and 2015 square metres of grade related retail space are proposed, with 670 parking spaces.

There is currently a 1 storey commercial plaza on our client's lands. Its lands, like the abutting properties being proposed for development, are designated and zoned for Mixed Use Development. Ultimately, it is our client's intention to redevelop his lands for a **rental apartment building**, with ground floor retail. Accordingly, our client wants to protect his future development rights by ensuring that the development proposed on the abutting lands does not restrict or adversely affect the development potential of its lands.

Our review of the information provided in regards to the above-captioned application, causes our client concern. Accordingly, please accept this letter as our client's formal objection to the proposed rezoning application to permit the development of 801 York Mills Road and 1855 Leslie Street, for the reasons outlined in this letter below.

1) DENSITY

Toronto's Official Plan contains policies that indicate that the Centres, being North York Centre, Yonge-Eglinton Centre, Scarborough Centre and Etobicoke Centre, along with the city's rapid transit system, are to serve as focal points for jobs, housing, transit infrastructure and services. In addition, Avenues are important corridors along major streets, well served by transit. These Avenues are expected to redevelop incrementally over time. Neither of the subject properties falls within an existing "Centre" or "Avenue" designated area, nor are the subject lands located within or in close proximity to a "Centre" or "Avenue" designated area. Despite the Official Plan policies, the proposed development is requesting a significant increase in the permitted density for the subject lands.

The Official Plan Policies also indicate that *"Height and density aspects of the planned context of new development will be assessed on the basis of the Plan's policies, including Secondary Plans and site and area specific policies. Where there are no height and density limits in the Plan, height and density limits of area zoning that implement the Plan will be a benchmark for assessment of those aspects of the planned context."* While sections of By-law 569-2013 are currently under appeal, the Toronto website states the *"new City-wide Zoning By-law 569-2013 was enacted on May 9, 2013... Even though it is under appeal, the City's Chief Building Official and the Committee of Adjustment will apply the new By-law to applications filed after its enactment."* Accordingly, the provisions of By-law 569-2013 should apply to the subject lands.

According to the Planning Rationale Report that was submitted with the above-noted application, the two subject properties are currently zoned *"CR 1.0 (c1.0;r0.0) SS3, with a maximum height of 11 metres, and a maximum lot coverage of 50% by the new City-wide Zoning By-law No. 569-2013."* The Planning Rationale report indicates that the *"total permitted floor space index (FSI) is 1.0 times the area of the lot. However, the density restrictions limit the permitted uses on the property to non-residential uses only."* In other words, to accommodate a mixed use development on the property the permitted FSI needs to be increased.

The current applications are proposing a **density (FSI) of 4.62** or more than 4 times the density permitted by the Zoning By-law. In addition, the density proposed is double the density of the development located across street, which is only 1.5 to 2.47 FSI. While we acknowledge that to accommodate the higher density of development contemplated by the proposed development a greater FSI is required, we would suggest that an FSI of 2.5 to 3.0 in this location is more in keeping with the surrounding development and the nature of the location being in proximity to transit. In addition, any density increase above these suggested densities should only occur through bonusing, in accordance with the density provisions of Section 37 of the Planning Act.

Section 5.1, of the Toronto Official Plan contains policies with respect to height and/or density incentives, as permitted under Section 37 of the Planning Act. Specifically, Subsection 5.1.1 provides that: *"the City can pass a zoning by-law to grant an increase in height and/or density for a particular project that is greater than the zoning by-law would otherwise permit in return for community benefits such as: additional parkland, non-profit arts, cultural, community or child care facilities, public art, conservation of heritage building, transit improvements and purpose built rental housing."* However, based on the information provided in regards to the proposed development applications, and to the best of our knowledge, there is no evidence from the application submitted that this development meets any of the criteria of this Policy which would allow the extra density. The subject project does not propose any additional parkland beyond the required 5%, nor does it conserve a heritage building, provide much needed rental housing or transit improvements, etc..

The applicant makes an argument based on Section 5.1.1(3), which states that "... *if the applicable zoning has not been updated to implement this Plan or where a change of use is proposed, then the City will consider whether additional height and/or density beyond that permitted by the Zoning By-law for the use is warranted without recourse to Section 37 of the Planning Act.*" However, we would submit that the applicant is not proposing a change of use, only an amendment to the provisions of the current zoning category. In addition, By-law 569-2013 actually updates the former City of North York Zoning By-law 7625, and therefore any density increases should be in accordance with Policy 5.1.1 of the Official Plan (i.e., density bonusing under the provisions of Section 37 of the Planning Act).

The policies of the Toronto Official Plan also indicate that "*Not all Mixed Use Areas will experience the same scale or intensity of development. The highest buildings and greatest intensity will typically occur Downtown, particularly in the Financial District. The Centres will develop at differing scales and densities, set out in their respective Secondary Plans and zoning by-laws, reflecting the context of their surroundings and transportation infrastructure. Development along the Avenues will generally be at a much lower scale than in the Downtown and most often at a lower scale than in the Centres." Therefore, it can be inferred that the proposed development, which is to occur outside of these designated areas, should be at a lower scale than is permitted along Avenues and in Centres, but in no way should the density proposed by the development be at a substantially greater density than these designated areas, as is currently proposed by the Applicant. For example, the policies for the Sheppard East Subway Corridor Secondary Plan, which focuses mixed use development around two subway stations, only proposes densities of 1.5 FSI to 3.94 FSI with the average around **3.0 FSI**. The policies indicate that increases in density are only permitted by density transfers and through incentives under Section 37 of the Planning Act. To allow greater densities of 4.62 FSI, on the subject lands, that are not adjacent to any subway station, and for a project that does not provide any density incentives, in our opinion does not meet the intent of the Official Plan and therefore cannot be considered good planning.*

We would request that in considering any increase in density for the proposed development that the City consider the increase in density on a comprehensive basis, taking in to account all of the properties within or adjacent to the proposal, especially including intervening lands and the intersection lands, which include our client's lands. Since our client's lands are a corner property, which should be the focal point for higher density development, we would like to ensure that the density that should be afforded to this corner location is not adversely affected by the density that is ultimately assigned to the adjacent properties, thereby restricting our client's corner lands from being developed in an appropriate manner.

2) **HEIGHT**

Based on the plans submitted, the applicant is proposing to have two 21 storey towers fronting on York Mills Road and a 9 storey mid-rise building fronting on Leslie Street. Based on the Height Overlay Maps contained within By-law 569-2013, the maximum height permitted on the subject lands is currently 11.0 metres. The applicant is proposing a maximum building height of 69.5 metres for the two 21 storey buildings and a height of approximately 31.9 metres for the 9 storey building. All buildings greatly exceed the current height provisions of the Zoning By-law. It is important to note that the apartments that are located across the street only have a maximum building height of 18 storeys. The proposed two towers on York Mills would exceed this amount by 3 more storeys. We feel the additional stories above the existing established building height in the area is not warranted, particularly given the location and the low-rise community that lies to the south of this development.

Notwithstanding the established building height in the area, other factors, such as neighbouring uses, neighbouring heights and setbacks, should also determine the ultimate and appropriate height for each component of the proposed development.

Policy 3.1.2.3.e of Toronto's Official Plan indicates that new development must locate and mass new buildings so as to adequately limit "*any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas;*" Based on the shadow studies submitted with the application for the subject lands, our client's lands will be in shadows from 9:18 am to 17:18 pm (5 o'clock pm) in both March and September from the proposed building to the south (Building C-9 storey building) and then will receive shadows from the existing buildings on the other side of Leslie Street for the balance of the day. This is not in keeping with the policies of the Official Plan and will have an adverse impact on our client's lands, which will be in constant shadows throughout the day. Our client is particularly concerned over the impact of the shadows in winter, and the build-up of ice. This will cause safety concerns for its tenants and users of the property and could increase winter maintenance costs considerably.

It is important to also note that without proper setbacks, building separation, terracing and stepbacks, the impact of height on the adjacent lands, including our client's lands, is significantly increased. We would request the City, in assessing the appropriateness of the height of the buildings proposed, also critically review the impacts of that height on the adjacent lands.

3) SETBACKS

Our client would like to ensure that proper setbacks are in place. It is our understanding that Zoning By-law 569-2013, and in particular, Development Standard Set 3 (SS3), requires that buildings be setback at least 7.5 metres from the rear lot line, and that where the main wall of a building has windows or openings, the main wall must be set back at least 5.5 metres from a lot line that is not adjacent to a street or lane. The current proposal for development of the 9 storey building on Leslie Street shows a minimum setback of **only 0.7 metres** from the mutual property limit of our client's lands for the underground parking level and setbacks of 0.5 metres and 0.6 metres for the storeys above. These setbacks are insufficient considering the height of the building abutting the lot line is 7 storeys, before terracing back to the ultimate 9 storeys. In addition, the proposed zoning application requests encroachments be allowed into the almost non-existent minimum building setbacks currently being proposed, for balconies and terraces, landscape features etc.

The other buildings proposed in the development (Buildings A and B) have minimum setbacks of 2.3 and 3.0 metres from the street, not an abutting use, and a minimum setback of 12.5 metres from side and rear property lines. These types of setbacks which are more appropriate, should also apply to Building C to the south.

Minimum setbacks of 0.5 to 0.7 metres from the property line means increased vibration and noise, particularly during construction, and this will have an adverse impact on our client's existing commercial development. In addition, these inappropriate setbacks being proposed for the intended development will severely inhibit the development potential of our client's lands. With a 9 storey building so close to the property line, the development of any future mixed use building on our client's lands would necessitate our client putting greater setbacks on its lands in order to accommodate a proper building separation distance. This adversely and unjustifiably limits our client's development opportunities in favour of the Applicant. Therefore, the matter of setbacks as they apply to Building C needs to be addressed and

modified, such that a proper buffer is provided that would allow for the required distance separation between buildings when our client's lands are developed, in the near future.

Toronto's Official Plan policies indicate that an "*appropriate transition in scale can be achieved with many geometric relationships and design methods in different combinations including angular planes, stepping height limits, appropriate location and orientation of the building, the **use of setbacks** and stepbacks of building mass. The larger the difference in the scale of development, the greater the need for transition.*" Currently, there exists a 1 storey commercial plaza on our client's lands. Accordingly, there should be greater setbacks to accommodate the difference in height of the two properties.

Policy 3.1.2.3.d) indicates that the massing and location of buildings must provide for adequate light and privacy. The minimal setbacks provided for Building C would result in increased shadows on our client's lands. The proposed building's location, essentially on the lot line, would severely affect both the light and privacy on our client's lands. Once our client's lands are developed for a mixed use development, as is intended, the view both into and from our client's development would be significantly and adversely affected. This is a concern for marketing the future development. In addition, the greatly reduced setbacks appear to ignore Policy 3.1.2.3.d) as outlined above.

In summary, the matter of setbacks as they apply to Building C needs to be addressed further, such that appropriate setbacks are imposed.

4) **PARKING**

a) Retail Parking

The proposed mixed use development incorporates surface retail space along the York Mills frontage. The current application proposes 2,015 sq.m. or 21,690 sq.ft. of retail space, but only 20 parking spaces are provided to service this retail component. Depending on ultimate uses that occupy the retail space, (i.e. restaurant, bank, etc.) this may be insufficient to accommodate the patrons of the retail uses. The parking intended to service the retail component is located at the rear of Buildings A and B, and can only be accessed through a rather circuitous route. In addition, the very limited retail parking, which is to be provided at the rear of the buildings, is to be shared with the visitors to the residential apartments.

Accordingly, our client has substantial concerns that visitors to the retail uses may find it more convenient to use our client's parking lot to access the retail portion of the proposed development, rather than the convoluted access to the parking area to be provided at the rear of the buildings. This will be particularly true if visitors to the residential apartment buildings use the proposed retail parking, for themselves as visitor parking. The use of our client's lands for overflow parking from this development will have an adverse impact on the viability of its existing commercial development. We would suggest that additional retail parking be provided and that its proposed location be reviewed. In this regard, we would suggest that the Traffic Report be revised to include an assessment of the parking to be supplied based on real needs, rather than assigning an arbitrary standard.

b) Residential Parking

The Planning Rationale Report for the proposed development indicates that "*...resident and non-residential parking supply of 555 and 115 parking spaces, respectively, meets the Zoning By-law 569-2013 Policy Area 4 parking standards.*" However the subject lands are

not located in Area 4, and therefore the Area 4 parking standards should not be applied to this site. Under current parking provisions (Rest of City standard), this site is to required to provide visitor parking on the basis of 0.2 spaces per unit. The applicant is proposing visitor parking at rate of 0.15 spaces per unit, or 95 visitor parking spaces for the 636 residences proposed. This would be a total of 33 less parking spaces than the 128 parking spaces that should be required. The Area 4 standard applies to developments in close proximity to subways, LRTs, etc. While surface transit may be available in the area, it certainly does not provide the same level of service as a subway would, and therefore would not necessarily encourage the number of people, as contemplated by the Area 4 standard, to switch from their car to public transit.

Arbitrarily applying a lower parking standard designed for another area to this particular site, in order to justify providing less parking than available and/or required, is not appropriate and should not be deemed to be an adequate justification for the scale and density of the proposal. A further consideration is that while the applicant's justification for lower parking standards is based on surface transit use, and proximity to services, this would seem to primarily apply only to the residents living in the proposed apartment building and their daily commute. It likely does not apply to visitors attending the site, who, because they usually come from locations farther away and not on a regular basis, generally require parking upon their arrival to the site.

6. **STUDIES SUBMITTED**

A key objective, of the Toronto Official Plan, is that new development respects and reinforces the general physical patterns in a *Neighbourhood*. In reviewing the various reports submitted in support of the proposed mixed-use development we have found that many of the studies submitted neither acknowledge our client's lands, nor discuss the direct impacts on our client's lands. In addition, the reports fail to discuss any proposed mitigation methods for dealing with the impacts of reduced setbacks including shadowing on our client's lands from the proposed development.

The applicant's Planning Report does not take into account the fact that our client's lands are also designated for Mixed Use Development, and accordingly take into consideration the future development of our client's lands. We feel that the development of this corner of the intersection of Leslie Street and York Mills Road should be comprehensively planned.

7. **TRAFFIC**

It is anticipated that notwithstanding the availability of transit in the area, a development of this size will definitely result in an increase of traffic in the area. We note that a Traffic Study has been prepared and we understand that it will be reviewed by municipal staff, to ensure that the capacity of the transportation infrastructure is not exceeded and appropriate mitigating measures are incorporated into the proposed development to offset any adverse impacts. Our client would also like to ensure that the Traffic Study provided, and the recommendations emanating from that study, will allow for the additional future development of our client's lands, including compatibility of ingress and egress locations.

We note that we could not find where the proposed construction access for the development would be located. Given the existing traffic island that exists on York Mills, limits access to the site to right-turn-in and right-turn-out from York Mills, the additional traffic congestion caused by construction would have a negative impact on our client's tenants as their patrons try to access the site. Will the City be requiring a Construction Management and Traffic

Management Plan, and during construction will the City be monitoring and resolving any traffic issues or non-compliance?

8. **SUMMARY**

In summary, our client is objecting to the above-captioned planning application for the lands abutting their property on the following basis:

- the height and density of development being proposed is excessive;
- the setbacks provided from Building C adjacent to our client's property are not appropriate;
- the impact of the constant shadowing on its lands;
- lack of sufficient visitor and commercial parking proposed for the development;
- lack of privacy and light for future users of our client's redeveloped lands; and
- increased traffic in the area, particularly during construction, and the ability of the existing infrastructure to accommodate it without any adverse impacts on our client's lands, with respect to ingress, egress and parking spillover.

While our client is not opposed to the use of the lands for mixed use development, the layout and amount of development being proposed needs to be re-evaluated to be more in keeping with the Official Plan policies and other development in the area.

We trust that municipal staff will take our comments into account and we request the applicant provide technical responses and revisions to the Plan to address the matters outlined in this letter. We are always available to meet with City staff and/or representatives of the applicant to discuss these concerns.

Yours very truly,
HBR PLANNING CENTRE



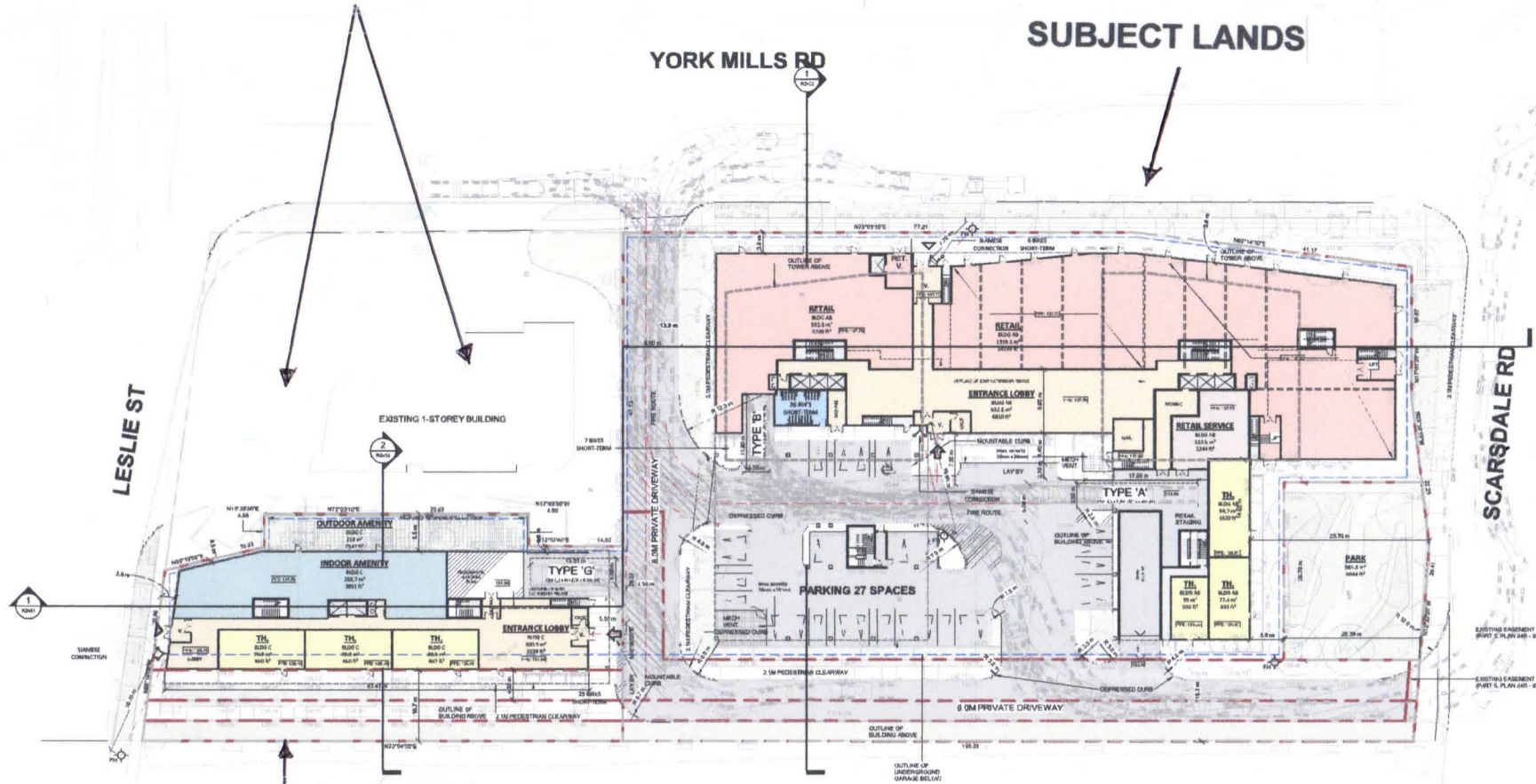
Howard Friedman, M.C.I.P., R.P.P.
Director of Planning

Cc: Councillor D. Minnan-Wong (councillor_minnan-wong@toronto.ca)
Cc: Hastad Property Management Services Inc.

Attach.

HASTAD PROPERTY MANAGEMENT SERVICES INC. PROPERTY

SUBJECT LANDS



SUBJECT LANDS

TURNER FLEISCHER

Turner Fleischer Architects Inc.
17 Leslie Road
Toronto, ON M2N 1Y4
416-462-2222
turnerfleischer.com

LEGEND

- REGULAR RESIDENTIAL ENTRANCE
- SECONDARY RESIDENTIAL ENTRANCE
- EXIT
- FIRE HYDRANT
- BARBER CONNECTION
- TRANSFORMER WITH CLEARANCES
- FIRE ROUTE SIGN
- WATER METER

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	2016-10-10
2	ISSUED FOR PERMITTING	2016-10-10

FIRST CAPITAL

PROJECT:
801 YORK MILLS ROAD & 1855 LESLIE STREET
TORONTO, ON

DRAWING:
FLOOR 01

PROJECT NO.: 42-8532Z
PROJECT DATE: 2016-10-10
DRAWN BY: J.S.
CHECKED BY: J.S.
SCALE: 1:200



DRAWING NO.: RZ151

2016-10-10 10:10 AM