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July 15, 2020

Delivered by Email (scc@toronto.ca)

Scarborough Community Council
City Clerk's Office
Scarborough Civic Centre
3rd floor, 150 Borough Drive
Toronto, ON M1P 4N7

Attention: Carlie Turpin, Committee Administrator

Dear Members of Community Council:

**RE: Golden Mile Secondary Plan – Final Report
Agenda Item SC 16.3
Written Submission for July 17, 2020 Statutory Public Meeting**

We are the solicitors for 10285773 Canada Corp. operating as Artlife Developments (together, “**Artlife**”). Artlife is the Owner of the property municipally known as 1861 O'Connor Drive in the City of Toronto (“**Subject Property**”) and is advancing zoning by-law amendment and site plan applications to secure permissions to develop its property.

We write to provide further submissions to those provided in our February 19, 2020 letter (the “**February letter**”) to City planning staff with respect to the Golden Mile Secondary Plan (“**GMSP**”) in advance of the upcoming statutory public meeting at Scarborough Community Council on July 17, 2020. A copy of the February letter is enclosed.

The February letter sets out the relevant background and our client's plans to develop a mid-rise mixed-use apartment building on the Subject Property and concerns relating to the configuration of O'Connor Drive and the height and density limitations of the draft GMSP policies. Our client's concerns raised regarding the GMSP policies and schedules have not been adequately addressed in the proposed modifications described in the Golden Mile Secondary Plan – Final Report (the “**Staff Report**”), which recommends that City Council adopt Official Plan Amendment No. 499 (“**OPA 499**”) substantially in accordance with Attachment No. 5 to the report dated June 25, 2020.

OPA 499 Does Not Respond to Artlife's Concerns

OPA 499 does not respond to or resolve the concerns raised in our February letter regarding the GMSP policies and schedules. Specifically, OPA 499 remains largely unchanged with respect to the following policies:

- Policies 11.8, 13.14, 13.18a) and 13.21b regarding the reconfiguration of O'Connor Drive, which will undermine the redevelopment of our client's property;
- Map 45-5, Map 45-13 and Map 13 and policies 13.12, 13.13 and 13.14, which either fail to recognize the redevelopment potential of the Subject Property, or require landowners to deliver street network improvements even where their properties are proposed to be negatively impacted by the realignment.

Artlife Continues to Advance its Development Applications

Since the February letter, Artlife has further advanced the development approval process to facilitate the development of a 9-storey mixed use building containing 252 residential units, one commercial unit on the ground floor and three levels of underground parking on the Subject Property (the "**Proposed Development**").

The Proposed Development in our view would be appropriate regardless of whether the City decided to adopt new policies for the GMSP area. The Proposed Development conforms to existing policies that encourage intensification at the O'Connor Drive and Victoria Park Avenue, including OPA 207 and the O'Connor Drive Urban Design Guidelines. On May 13, 2020, Artlife submitted an application for site plan approval to undertake the Proposed Development and this application has been deemed complete. Both the rezoning and site plan matters are currently before the Local Planning Appeal Tribunal ("**LPAT**"), as the City has not made a decision on this application within the *Planning Act* timelines.

Our client remains committed to developing the Subject Property to provide housing near future planned transit. There is high interest in the development, with approximately 1,500 registrants expressing an interest on the project's website (<https://www.artlifeonconnor.com/>) as of June 15, 2020. It is critical to Artlife that the policies and schedules to OPA 499 do not apply on its site should they serve to undermine or otherwise delay development approvals for the Subject Property from being achieved in accordance with the existing planning framework.

The City Has Not Responded to Concerns Regarding Financial and Other Impacts

Notwithstanding the expression of our client's concerns in the February letter, the City has not taken any steps to assess the financial and other consequences related to the reconfiguration of O'Connor Drive and its impact on the lands west of Victoria Park Avenue.

The Staff Report notes that a Financial Strategy and Impact Analysis will be prepared at some time in the future to address financial matters related to infrastructure planned for the area, including the proposed realignment of O'Connor Drive. The proposal to realign O'Connor Drive will be extremely costly, both in terms of financial and other impacts, including environmental impacts. Such costs should be properly accounted for, assessed, and funding confirmed before Council

adopts OPA 499. This level of review has not been undertaken by the City to date based on our review of publicly available documents, including the Golden Mile Transportation Master Plan.

At a time when the enormous financial implications for municipalities arising from the COVID-19 pandemic are making national headlines, it is not prudent to bypass consideration of the costs for the new and reconfigured streets in the GMSP area. This is particularly the case when the *Environmental Assessment Act* process has not completed and road alignments may change. Respectfully, the City should not adopt policies and schedules that have significant long-term financial implications and more immediate implications on the development potential of many properties throughout the GMSP area, including the Subject Property, until a Financial Strategy and Impact Analysis has been completed.

We look forward to the opportunity to provide comments on OPA 499 on July 17, 2020. Please continue to include the undersigned on the City's notification list concerning the proposed adoption of this instrument.

Yours very truly,

BORDEN LADNER GERVAIS LLP



Stephen F. Waqué/Isaac Tang
SFW:IT

Cc: Emily Caldwell, Senior Planner
Client

Attachment to July 15, 2020 Letter

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February 19, 2020

Delivered by Email (Emily.Caldwell@toronto.ca)

City of Toronto
Community Planning, Scarborough District
Scarborough Civic Centre
4th floor, 150 Borough Drive
Toronto, ON M1P 4N7

Attention: Emily Caldwell, (Acting) Senior Planner

Dear Ms. Caldwell:

**Re: Golden Mile Secondary Plan Study – Proposals Report
(Wards 16, 20, 21)
Response to Draft Secondary Plan Policies for Golden Mile**

We are the solicitors for 10285773 Canada Corp. operating as Artlife Developments (together, “**Artlife**”). Artlife is the Owner of the property municipally known as 1861 O’Connor Drive in the City of Toronto (“**Subject Property**”) and seeks to redevelop its property.

Background

On December 17, 2018, Artlife submitted a zoning by-law amendment application to permit the development of a ten-storey, mid-rise mixed-use apartment building on the Subject Property. Prior to this submission, Artlife had at least two meetings with City staff in 2018 to discuss the project. In response to City staff’s comments, Artlife made a resubmission on September 27, 2019, which reduced the height of the building to nine storeys and 27 metres, the height permitted by the City’s Mid-Rise Buildings Guidelines, and addressed other matters raised by staff (“**Proposed Development**”). The Proposed Development takes appropriate direction from the O’Connor Drive Avenue Study and accompanying O’Connor Drive Urban Design Guidelines adopted by Council in 2012, which are enshrined in Site and Area Specific Policy 400 (“**SASP 400**”) in the City’s Official Plan.

At the time of submission of the rezoning application, the Subject Property was not part of the Golden Mile Secondary Plan (“**GMSP**”) area. In fact, despite meeting with our client’s consultants on at least two occasions in 2017, it was not until mid-2018 that City staff mentioned the potential impacts of a road realignment or the GMSP on the Subject Property to Artlife’s

consultants. To be clear, it is Artlife's position that the GMSP is not required for the Proposed Development to advance.

We filed a letter dated January 14, 2019, requesting that Scarborough Community Council refuse to extend the boundaries of the GMSP to include the Subject Property, as the reasons for doing so were both premature and inappropriate at this time. Despite our concerns, City Council made a decision to expand the boundaries of the GMSP on April 16, 2019. Accordingly, our client is required to identify concerns with the draft GMSP that may affect its ability to redevelop the Subject Property.

Concern Related to the Reconfiguration of O'Connor Drive

Artlife has numerous concerns with the draft GMSP, the most critical being that the City assumes that there will be a reconfiguration of O'Connor Drive ("**Reconfiguration**") in various policies and maps. Such a reconfiguration will demand significant City resources and completion of a lengthy MCEA process that is still in its early stages. Further, despite the Golden Mile Transportation Master Plan, the City has not appeared to take any material steps to assess the financial and other consequences related to the reconfiguration and its impact on the lands west of Victoria Park Avenue. As noted in our January 14, 2019 letter:

- It is unclear what the cost is to the City to acquire each of the properties impacted by the Reconfiguration, including compensation to be paid to those affected by the Reconfiguration, as required under the *Expropriations Act*;
- It is unclear what source of funding is available to pay such costs, and whether the landowners and developments that would benefit from the Reconfiguration would be responsible for such costs;
- It is unclear what the timing is for the Reconfiguration, and the disruption resulting from the Reconfiguration; and
- It is unclear what long-term impacts the Reconfiguration would cause to the existing residential neighbourhoods, and whether such impact is necessary or desirable.

Our concerns with the proposed Reconfiguration are particularly relevant in the context of the draft GMSP policies. There are many policies which state that planned redevelopment of the GMSP cannot proceed until the required transportation infrastructure has been secured (e.g. Policies 11.8, 13.14, 13.17a), 13.20b)). This may not happen for many years, and there is insufficient clarity in the draft GMSP policies as to when and how the City is able to address this deficiency. This is significant uncertainty is reflected in the staff report, which notes on page 21:

Significant investment in City infrastructure and community facilities will be required to accommodate the substantial redevelopment proposed and anticipated for the Golden Mile area over the next 20+ years. It is anticipated that a preliminary infrastructure financing strategy and the Secondary Plan for Golden Mile will be reported to Council at the same time. **However, due to the long-term nature of the plan, unpredictability of development applications, timing of the subsequent MCEA processes and studies,** and current unavailability of the Province's Community Benefits Charge (through Bill

108), and impending changes to the Development Charges Act framework, **the preliminary infrastructure financing strategy may be reported to Council at a later date, and follow the Secondary Plan.**

Given this significant uncertainty, the draft GMSP policies related to the Reconfiguration should not automatically apply to the Subject Property, and certainly should not undermine the redevelopment of the Subject Property. For example, to the extent that Policy 13.20 b) suggests that the City would attempt to place a Holding (“H”) provision on the Subject Property until the Reconfiguration is secured, this would be inappropriate. Alternatively, the City should include policies in the GMSP that describe how the realignment of O’Connor Drive will occur, without affecting development that is already currently underway and/or identifying an appropriate process upon which such lands will be acquired by the City (e.g. through expropriation) at fair market value and recognizing the highest and best use of the site.

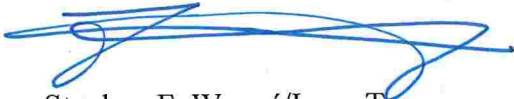
Concern Related to Height and Development Potential

As noted earlier, the Proposed Development does not require the GMSP policies to proceed. There is sufficient justification in existing planning policy documents to support the intensification of the Subject Property. That being said, as the GMSP was expanded to include the Subject Property, certain policies fail to acknowledge the existing redevelopment potential of the Subject Property or appear to impose new requirements before development can proceed. For example:

- Map 5, Development Density, does not assign any density to the lands west of Victoria Park Avenue, nor does it recognize the ability of the Subject Property to redevelop for higher densities, in accordance with SASP 400;
- Map 13, Building Types and Heights in Character Areas, does not identify any building types and heights in Character Area 8. Map 13 should identify Character Area 8 as “Mid-rise buildings (5-11 storeys)” to be consistent with Policies 3.3.8 and 7.44 b)ii) and SASP 400, which recognize that mid-rise buildings would be an appropriate built form on the Subject Property;
- Policy 7.27 does not include policies for Built Form for Character Area 8. If the lack of policy direction is due to a deferral back to SASP 400, this direction should be clearly noted;
- Other policies suggest that a Context Plan is required prior to redevelopment of a site: see Policy 4.8, 13.10, 13.11, 13.12 and 13.13. The Proposed Development is already subject to review by City staff, does not rely on the GSMP and should not be subject to these requirements.

We appreciate the opportunity to comment on the draft GMSP policies. Please continue to include the undersigned on the City’s notification list concerning the proposed adoption of the GSMP.

Yours very truly,
BORDEN LADNER GERVAIS LLP



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Cc: Client
Teresa Liu, Assistant Planner, Central Section
Councillor Denzil Minnan-Wong (Ward 16, Don Valley East)
Councillor Gary Crawford (Ward 20, Scarborough Southwest)
Councillor Michael Thompson (Ward 21, Scarborough Centre)