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Our File No.: 060794.00014

July 16, 2020

Sent via E-Mail (via scc@toronto.ca)

Scarborough Community Council,
c/o Scarborough Civic Centre,
150 Borough Drive
Toronto ON M1P 4N7

Dear Members of Community Council:

Re: Agenda Item SC16.3 Proposed Secondary Plan for Golden Mile (OPA No. 499)
Request for Adjournment
1960 Eglinton Avenue East
Cosmetica Investments Inc. Comments

We are counsel for Cosmetica Investments Inc. (“**Cosmetica**”) with respect to the above-noted matter. Our client is the owner and operator of a cosmetic manufacturing facility located at 1960 Eglinton Avenue East (the “**Property**”).

The purpose of this letter is twofold. The first is to formally request, on behalf of our client, that Community Council not adopt recommendations 1, 5 and 6 of the Final Report. The second is to provide the background to our client's request and to generally outline our client's concerns with OPA No. 499 as presently drafted. Our goal is to allow time to discuss the specifics of our client's concerns with City staff and the local Councillor.

BACKGROUND

We have followed the progress of the Golden Mile Secondary Plan on behalf of our client and have prepared this letter to provide Cosmetica's comments on the proposed Secondary Plan (attachment 5 to the Final Report) and the proposed Urban Design Guidelines (attachment 6 to the Final Report). We have also attached our previous comments as the issues raised in the letters remain.

Also relevant to the review of OPA No. 499, our client submitted an Official Plan Amendment application to add new policies to the City's Official Plan by adding Site Specific Policies to permit a truly mixed-use development, space, along with a new street and parkland. The development would consist of mixed-use buildings that range in height from 30 to 45 storeys and a six-storey non-

residential building to replace and expand the (double) gross floor area of the existing non-residential building, consisting of manufacturing, research and a head office (to be demolished).

We are in the process of reviewing the initial comments that we received during the spring of this year and are preparing any required revised materials. Due to the complications of meeting with City staff during the pandemic, we have not had the opportunity to "arrange" a meeting to date. It would be our recommendation that OPA No. 499 not be adopted (at least as it impacts our client's Property) before we can meet with City staff to discuss our client's proposal.

FORMAL ADJOURNMENT REQUEST

The main purpose of this letter is to formally request Community Council to direct City staff to do more consultation with interested stakeholders prior to Council adoption, with the purpose of addressing a number of inconsistencies in the proposed policies. This consultation would benefit both the City, in terms of efficiently using its resources prior to Council adoption (avoiding unnecessary adjudication before the LPAT), and stakeholders (by clarifying policy direction).

As indicated in our previous letters, Cosmetica appreciates the local Councillor's and City Planning's efforts to accommodate and address some of our client's concerns with the Secondary Plan. For example, we highlight our client's support for the creation of a site specific policy for our client's lands in order to recognize the industrial use (Policy 14.1).

Unfortunately, this "industrial recognition" in the proposed Official Plan (which we support) also shows why it is premature to move OPA No. 499 forward without further consideration and refinement. While the City recognizes our client's industrial operations and encourages its continuation through Policy 14.1, another policy (Policy 7.45 c)) requires a mid-rise building on the site which is not achievable if our client is going to expand its significant business operation. Another contradiction is shown on Map 45-16 which conceptually shows a school where the proposed business expansion is to take place. The contradictions continue through the City's proposed Urban Design Guidelines (attachment 6 to the Final Report) that directly contradict the continuation of the industrial permissions by "designing" a residential community with pedestrian and bicycle connections "right through" the industrial building (Figures 38 and 51) the City otherwise supports in its planning policies. The two documents are at cross purposes.

Another example of a matter that requires further consultation is seen through the "mixed policy direction" provided through the very detailed, prescriptive design requirements found in OPA No. 499. Policies such as 4.5 and 7.1 and Maps 45-5 and 45-11 do not provide flexibility. It is generally agreed that a Secondary Plan should provide "clear and specific policy direction at the marco level...(Page 2 of the Final Report) with the specifics addressed through implementing Zoning By-laws. OPA No. 499, as presently drafted, is too prescriptive and is not consistent with the Provincial Policy Statement (2020) and does not conform to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2019).

ISSUES/CONCERNS

Although generally supportive of the goals of OPA No. 499, our client has outstanding concerns, primarily expressed in our previous letters dated February 20, 2020 to City Planning and dated June 18, 2020 to Community Council with respect to this matter, and include the following:

- A. Density and Height restrictions: Maps 45-5 and 45-13 assign unjustifiably low maximum gross floor area and height caps on the Property. The proposed density (and height) on the Property is well below what can be accommodated on the Property. Our client's Official Plan Amendment proposes a density of 5.3 FSI. We can confirm that our client's consultants performed an exhaustive review of all of the matters that would be relevant to consider when determining what FSI would be appropriate. This includes planning, urban design, transportation, servicing, and others. The City's proposed policies are contrary to provincial policies encouraging development around major transit stations. The proposed 3.2 FSI fails to leverage this important opportunity to generate much needed housing and industry and to increase transit ridership.
- B. Density Incentives: The existing bonusing policies may adequately address the items specifically noted in Policy 4.16, but they fail to address incentives for other goals in the Official Plan. For example, the policies generally speak of complete communities, but nowhere do they provide incentives for landowners to create employment opportunities such as our clients.
- C. Design Requirements: OPA No. 499 reads like a "cook book" and not as a policy document, with specific measurements for setbacks (Policy 7.10), stepbacks (Policy 7.44(c)), tower separations and frontage requirements; and Policy 7.26 base building requirements to name a few. This is inappropriate and may force landowners into needless Official Plan Amendment requirements to address matters typically dealt with at the Zoning By-law level.
- D. Interim Uses: Policies 13.22 and 13.23 require clarification. While we know the City supports our client's proposed industrial expansion, we are not able to determine what are considered to be "interim uses" as there is no definition. As it is expected that the first phase of the comprehensive redevelopment of the Property is the industrial demolition and then reconfigured expansion, we cannot risk that this undefined term even inadvertently hinders the expansion.

Thank you for your consideration of our client's request to meet prior to the adoption of proposed OPA No. 499. Cosmetica continues to welcome the opportunity to discuss its suggestions/concerns and the Secondary Plan policies with City staff.

July 16, 2020

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Please do not hesitate to contact me directly or Robert Blunt, the land use planner at this firm assisting me with this matter (at 416.777.7490 or Bluntr@bennettjones.com), if you have any questions. As previously requested, please continue to provide us with notice of any decision regarding this matter.

Yours truly,

BENNETT JONES LLP



Andrew L. Jeanrie

Enclosures

cc: Client

ALJ:rwf



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Our File No.: 060794.00014

June 18, 2020

Via E-Mail (scc@toronto.ca)

Ms. Carlie Turpin
City of Toronto
3rd Floor, Scarborough Civic Centre
150 Borough Drive
Toronto, Ontario M1P 4N7

Dear Ms. Turpin and Community Council Members:

**Re: Status Report – Golden Mile Secondary Plan
Item SC15.1
Cosmetica Investments Inc. ("Cosmetica")**

We are the solicitors for Cosmetica Investments Inc., the owner of 1960 Eglinton Avenue East, which is a large property located at the north/east corner of Warden Avenue and Eglinton Avenue East, extending north to Ashtonbee Road (the "**Property**"). Our client is also the owner of the Cosmetica business that is located on the Property which includes a laboratory and production facility. The Property is located within the boundaries of the Golden Mile Secondary Plan ("**GMSP**") boundaries.

The purpose of this letter is threefold. The first is to provide you with the background to our client's position, the second is to outline the areas of support for the proposed Golden Mile Secondary Plan ("**Proposed OPA 499**"), and thirdly to generally identify the areas of concern that remain.

BACKGROUND

As you may be aware, our client submitted an Official Plan Amendment application (the "**Client's OPA**"), the purpose of which is to create a mixed use community on the Property. Our Client's OPA is being reviewed by City staff and is the subject of Item SC15.4, which is discussed later on the Community Council agenda.

Our Client's OPA not only builds off the City's goal in Proposed OPA 499 to bring residential units to the Property, but also seeks to approximately double the square footage of the Cosmetica facility with a new, state-of-the-art facility to be built on the northern part of the Property. The Client's OPA will provide not only for the mix of uses described above, but also for street-related commercial uses, park space, open space, and a public as well as private road system. We highlight these details as they form

the basis of our client's response to the City's request for comments on the Status Report and Proposed OPA 499.

Our client has been an active participant in the Golden Mile Planning Study process. In fact, we are pleased to note that some of our recommendations that were expressed in our letter to City Planning dated February 20, 2020 (attached) have been addressed; but unfortunately others remain. That being said, our client appreciates and supports the underlying principle of Proposed OPA 499, being to have lands abutting higher order transit lines intensified in a responsible manner.

While both our client and the City are aligned with respect to the overall goal, our client submits that it will be difficult to achieve the City's goals as contemplated by Proposed OPA 499 without reconsideration of certain policies and performance standards. Below you will find our preliminary comments respecting Proposed OPA 499 as we are just commencing a thorough analysis of the revised document. We are requesting that a meeting with City staff take place prior to the public meeting with the intention of resolving at least some of our client's concerns. If that meeting does not take place for whatever reason, we will provide a more fulsome response before the public meeting (presently scheduled for July 2020).

SPECIFIC COMMENTS

We have grouped our client's comments into those changes that have been made to address our client's concerns as expressed in our letter of February 20, 2020, and those concerns that remain. You will note a number of the comments/concerns are minor or technical, while others have significant ramifications.

a) Protecting for Industrial Uses in the Golden Mile

Our client fully supports the City's position respecting specifically permitting industrial uses on our client's Property (Policies 5, 5.1 and more particularly 14.1) as proposals, such as our client's, are essential to meeting the GMSP's vision to ensure that the Plan Area maintain its role as an important economic driver (Policy 2.1.1). We also believe the City's strategy of creating a site specific policy area for our client's Property is an effective change that has been recently made to the document.

To improve upon proposed Policy 14.1, we request that Policies 4.10 and 14.1 be amended to identify that development on neighbouring sites (that include residential and/or sensitive non-residential uses) will be required to provide specific compatibility studies that are peer reviewed at the applicants expense. The revised Policy could be drafted similar to Policy 5.7 which was part of Attachment 3 in the SC12.10 Report (being the original draft of the proposed Secondary Plan). We similarly request that Policy 5.7 be reintroduced into Proposed OPA 499.

b) Addressing the rigidity as expressed in original draft of the proposed Secondary Plan

We recognize that Proposed OPA 499 has been amended in a number of areas to address the overly rigid "shoe horned" policy structure of the original draft of the document. As expressed in our February 20, 2020 letter, the rigidity would thwart creative redevelopment that would reflect a

balancing of policy directions. We note some of those changes which we support include Policies 6.23 f) and 6.34.

c) Density and Height

It is our client's position that the density and height provisions as provided for in Policies 4.11, 4.12 and 4.13, 7.30, 7.31, 7.34, 13.3 and Map 45-5 for our client's Property are in conflict with the Growth Plan for the Greater Golden Horseshoe in terms of intensification along major transit corridors. More fitting (and justified) policy direction is provided through our Client's OPA.

Similarly, the policies do not give any credit for the type of mixed use being proposed through our Client's OPA. The employment opportunities being proposed by our client are unique and are highly desirable. If the City wishes to keep skilled employment in this community (Policies 5 and 5.1), there needs to be a credit for situations like our client is providing (not only maintaining jobs, but proposing to double the proposed GFA dedicated to skilled employment uses). One option would be offering an incentive by deducting the proposed non-residential GFA from the total GFA. This logically could be achieved by adding a new policy in the Density Incentive section (Policy 4.16) or to Policy 14.1.

d) Bill 108 and the Community Benefits Charge By-law ("CBC")

A significant concern that remains is that Proposed OPA 499 (still) does not adequately acknowledge the new regime for community benefits that is provided for in the latest set of amendments to the *Planning Act*. For example, Proposed OPA 499 attempts to make the provision of public art (Policies 6.31 and 6.32), mid-block connections (Policy 7.2) and affordable housing (Policy 9.1 and 9.2) mandatory, for which there is no statutory framework to do this in this new regime. While the new regime is not yet in force, we would suggest that a Secondary Plan being implemented now with long term application should account for the new regime to secure such benefits.

Similarly, we note that the parkland provisions appear to be silent with respect to the new *Planning Act* community benefits regime at least with respect to how desired and identified parks space will be acquired.

Our client has no particular issue with the provision of these benefits themselves as set out above (most are already a part of our client's proposal for its Property), the concern, however, is with how they are attempting to be implemented.

e) Official Plan Structure

Our client remains frustrated that the Character Area overlays applied to the Property do not appear to reflect its actual role in the neighbourhood. Currently, the City is proposing to place the northern part of the Property within a different overlay than the southern part. We understand the general logic of this strategy given that the northern part of the Property will be developed with non-residential uses; however, we do not believe that the City has provided the best designation for the northern portion of the Property. Currently, the City has classified this area as Character Area 6 – Ashtonbee Transition Area, but our client's Property abuts the new East Park and has almost no relationship with the

Ashtonbee Reservoir or The Meadoway which are the key components of Character Area 6 (see Map 45-3 and Policy 3.9). We believe that a more appropriate designation is Character Area 3: East Park Mid-rise and Tall Building Community with revised policies speaking directly to our client's employment proposal.

f) Creation of the East Park

Our client supports the goal of creating the East Park in the proposed location identified on the Proposed OPA 499 (Schedule 1 and Map 45-6). You will note that our Client's OPA proposes to assist in creating this park by proposing to dedicate or possibly transfer land for the park to the City through Section 37 CBC provisions. However, we question how the City will achieve the size of 23,865 square metres (Policy 6.19) when all of the land is presently owned privately and our client has committed the maximum amount of land it can to the creation of the Park while maintaining a viable employment facility.

g) Built Form Policies

Our client agrees with the planning theory of providing direction at the Official Plan level respecting built form standards by building type. However, many of the proposed policies are too prescriptive for an official plan that is looking to achieve larger objectives. For example, Policies 7.44 a) and b) provide for a weighing of goals while the terminology in Policies 7.44 c), d) and e) are too prescriptive. Such policies should be drafted in a manner that is more in line with similar policies in the Downtown where design objectives are set out but are not hard rules.

We have similar comments with Policy 7.45. It appears the City is directing that the part of our client's Property that fronts on East-West Street #2 will be in a mid-rise format which "undervalues" the density that can be supported in this location. As detailed in our Client's OPA, more significant intensification is justifiable and appropriate on the south side of East-West Street #2.

February 20, 2020 Letter (attached)

With respect to specific policies, our clients concerns and/or comments remain as detailed earlier and we ask that you consider the matters previously raised in our February 20, 2020 letter.

Thank you for your attention in this regard. Please do not hesitate to contact me, if you have any questions.

June 18, 2020
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Yours truly,

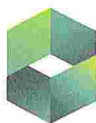
BENNETT JONES LLP

Carrie Lait

for Andrew L. Jeanrie

cc: Client
ALJ:rbw





Andrew L. Jeanrie
Partner
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Our File No.: 060794.00014

February 20, 2020

Via E-Mail – emily.caldwell@toronto.ca

City of Toronto
Scarborough Civic Centre
10th Floor, West Tower
150 Borough Drive
Toronto, Ontario M1P 4N7

Attention: Ms. Emily Caldwell, Senior Planner

Dear Ms. Caldwell:

**Re: Golden Mile Planning Study
Draft Secondary Plan Policies for Golden Mile (the "Proposed OPA")**

We are the solicitors for Cosmetica Investments Inc., the owner of 1960 Eglinton Avenue East, which is a large property located at the north/east corner of Warden and Eglinton and extending north to Ashtonbee Road (the "**Property**"). Our client is also the owner of the Cosmetica business that is located on the Property, which includes a laboratory and production facility.

As you are aware, our client has recently submitted an Official Plan Amendment application (the "**Client's OPA**"), the purpose of which is to create a mixed use community on the Property. The Client's OPA not only builds off the City's proposal to bring residential units to the Property, but also seeks to approximately double the square footage of the Cosmetica facility with a new, state-of-the-art facility to be built on the northern part of the Property. The Client's OPA will provide not only for the mix of uses described above, but also for street-related commercial uses, park space, open space, and a public as well as private road system. We highlight these details as they form the basis of our client's response to the City's request for comments on the Proposed OPA.

BACKGROUND

Our client has been an active participant in the Golden Mile Planning Study process. It appreciates that City staff are undertaking this further stakeholder consultation prior to Council adoption of the Proposed OPA. On behalf of our client we would like to take this opportunity, on a preliminary basis, to identify what our client sees as the strengths of the Proposed OPA, its concerns with the Proposed OPA, as well as suggested modifications to improve the Proposed OPA. That being said, our client appreciates and supports the underlying principle of the Proposed OPA, that being to have lands

abutting higher order transit lines intensified in a responsible manner. We believe that our Client's OPA successfully implements the goals of the Proposed OPA.

While both our client and the City are aligned with respect to the overall goal, our client submits that it will be difficult to achieve the City's goals as contemplated by the Proposed OPA without reconsideration of certain policies and performance standards. Below you will find comments that would make it much more likely to achieve the goals of Proposed OPA on our client's Property.

SPECIFIC COMMENTS

We have attempted to group our client's concerns/comments below into themes. You will note a number of the comments/concerns are minor or technical, while others have significant ramifications.

a) Bill 108 and the Community Benefits Charge By-law

A general concern is that the Proposed OPA does not adequately acknowledge the new regime for community benefits that is provided for in the latest set of amendments to the *Planning Act*. For example, the Proposed OPA attempts to make the provision of "POPS" (Policy 6.27), public art (Policies 6.31 and 6.32), mid-block connections (Map 4 and Policy 7.2) and affordable housing (Policy 9.1) mandatory, for which there is no statutory framework in this new regime to do this. While the new regime is not yet in force, we would suggest that a secondary plan being implemented now with long term application should account for the new regime to secure such benefits.

Similarly, we note that the parkland provisions in Policy 6.25 appear to be inconsistent with the new *Planning Act* community benefits regime or at least "silent" with respect to how desired and identified parks space will be acquired. Further, the wording of this policy suggests that the City can require off-site dedication, which we submit is contrary to law.

Our client has no particular issue with the provision of these benefits themselves (as set out above, most are already a part of our client's proposal for its Property), the concern is with how they are attempting to be implemented.

b) Official Plan Structure

The Character Area overlay applied to the site does not appear to reflect its actual position. Currently, the City is proposing to place the northern part of the Property within a different overlay than the southern part. We understand the general logic of this strategy given that the northern part of the Property will be developed with non-residential uses; however, we do not believe that the City has provided the best designation for the northern portion of the Property. Currently, the City has classified this area as Character Area 6 – Ashtonbee Residential Transition Area, but our client's Property abuts the new East Park and has almost no relationship with the Ashtonbee Reservoir or The Meadoway which are the key components of Character Area 6 (see Map 3 and Policy 3.3.6). We believe that a more appropriate designation is Character Area 3: East Park Mid-rise and Tall Building Community is more appropriate. In any event, whatever policy area is designated, will need to be



tweaked to appropriately consider the needs and benefits to the neighbourhood (and City) of the type of employment use that our client is proposing for the northern portion of its site.

c) Protecting for Industrial Uses in the Golden Mile

Our client fully supports the City's position respecting permitting industrial uses in the Mixed Use area designation (Policy 4.10) as proposals such as our client's proposal, are essential to meeting the plan's vision to ensure that the Plan Area maintain its roles as an important economic driver (Policy 2.1.1). To best achieve this, we request that Policy 4.11 be amended to not only identify that development on sites that include both residential and sensitive non-residential uses will be required to provide specific studies, but that residential uses on neighbouring properties are to provide compatibility studies that are peer reviewed at the applicants expense. The revised Policy could be drafted similar to Policy 5.7.

d) Creation of the East Park

Our client supports the goal of creating the East Park in the proposed location identified on the Proposed OPA. You will note that our Client's OPA proposes to assist in creating this park by proposing to dedicate or possibly transfer land for the park to the City through Section 37 CBC provisions.

e) Built Form Policies

Our client agrees with the planning theory of providing direction at the Official Plan level respecting built form standards by building type. However, many of the proposed policies are too prescriptive for an official plan that is looking to achieve larger objectives. For example, Policies 7.43 a) and b) provide for a weighing of goals while the terminology in Policies 7.43 c), d) and e) are too prescriptive. Such policies should be drafted in a manner that is more in line with similar policies in the downtown, where design objectives are set out, not hard rules.

We have similar comments with Policy 7.44. It appears the City is directing that the part of our client's Property that fronts on East-West Street #2 will be in a mid-rise format which "undervalues" the density that can be supported in this location. As detailed in our client's submission, at our client's Property frontage on the south side of East-West Street #2, more significant intensification is justifiable and appropriate.

CONCERNS/COMMENTS

With respect to specific policies, our client has concerns and/or comments with the following

- While we agree with the goal of Policy 4.3 (and Map 15) regarding providing active uses at grade and we fully anticipate this being proposed along Eglinton Avenue East, it is premature at this time to "require" those types of uses especially along Warden Avenue. It would be more appropriate to use terminology such as "encourage" or reference the new *Planning Act* provisions respecting CBC if the City desires this as a requirement. In this fast transforming world of retail blindly requiring retail frontage everywhere needs to be reconsidered.



- Policy 4.5, as it would apply to our client's entire landholdings creates confusion. For example, the City relies upon undefined phrases such as "each site" and "block". In our client's circumstance, the redevelopment of the Property will more than meet this objective but, as drafted, Policy 4.5 may not account for the details of our client's redevelopment. We suggest greater flexibility in Policy 4.5 is required so that appropriate development which achieves conformity and consistency with the 2019 Growth Plan and 2014 PPS policies occurs. An overly burdensome policy framework may prevent achieving a development that optimizes the use of existing infrastructure and maximizes potential transit users within walking distance of the future LRT stations.
- It is our client's position that the density provisions as provided for in Policies 4.12, 4.13 b) and Map 5 for our client's Property are in conflict with the Growth Plan for the Greater Golden Horseshoe (2019) in terms of intensification along major transit corridors. Similarly, the policies do not give any credit for the type of mixed use being proposed through our Client's OPA. The employment opportunities being proposed by our client are unique and are highly desirable. If the City wishes to keep skilled employment in this community (Policies 5 and 5.1), there needs to be a credit for situations like our client is providing (not only maintaining jobs, but proposing to double the proposed GFA dedicated to skilled employment uses). One option would be offering an incentive by deducting the proposed non-residential GFA from the total GFA. This logically could be achieved by adding a new policy in the Density Incentive section (Policy 4.15).
- We also suggest that Policy 4.13 a) needs to be clarified. As presently written, it seems to imply through the phrase "development proposal be approved" that an Official Plan Amendment cannot be considered by the City if capacity of any physical infrastructure is exceeded. This is illogical from the standpoint that the planning timeframe frequently exceeds the timeframe for servicing upgrades. We note that other policies in the Proposed OPA seem to imply "development proposal" in fact means the zoning stage and the possible use of holding provisions. If that is what is meant in Policy 4.13, the wording should be clarified. We note that Policy 12.2 may provide wording direction that could be used in Policy 4.13.
- The drafting of Policies 6.6 and 6.7 are confusing and need to be redrafted. For example, Policy 6.6 leaves it uncertain if the "upgraded streetscape treatments" are only required "where appropriate" which is logical. While Policy 6.7, which applies to "lesser streets", definitively states "also be required". We note that even if these policies are clarified and were explicitly identified as being subject to Section 37, in today's *Planning Act* or under the proposed new Section 37 regime the concern would be the same as there is no justification. This similarly applies to Policy 6.9 respecting the relocation of utilities and Policy 6.11 respecting trees, pedestrian zones, street furniture, etc.
- Policy 6.24 does not provide sufficient flexibility when applied to our client's Property. Given the significance of our client's goal of expanding the GFA of its employment use it is important that all of the policies necessary to achieve this objective be commentary. Policy 6.24 appears to require a trade-off between the park interface and the location and design of the supporting



loading and parking for the employment use. Policy 6.24 is too rigid to be acceptable in our client's circumstance. Also, it is impractical to have animated uses at grade facing towards the park. The more flexible drafting of Policy 7.12 with the use of "generally" would be appropriate.

- With respect to Policy 7.10 and Map 11, our client requests further clarification of when and how the setback is determined. For example, if a land dedication is made for City park or road expansion we would argue flexibility should be built into the setback requirement policy as a rigid implementation will discourage the dedication. We also believe that a set "one size fits all" setback requirement does not account for different categories of streets, location, and uses.
- Our client suggests that the policies regarding active at-grade uses could be improved. For example, Map 15 only notes "active at-grade commercial uses". Where are "active at-grade residential uses" required (see policy 12)? Perhaps Map 15 is intended to instead identify the locations of active uses? We note that Policies 7.12 and 7.13 are not consistent. The former indicates that the requirements are situation based while the latter policy simply "requires" active at-grade commercial uses in a "one size fits all" standard.
- With respect to Policy 7.25 and Map 12, our client believes they are too prescriptive. For example, our client is proposing a non-residential building on the northern part of its Property. It is not clear if these policies would apply to a non-residential building. With respect to the remainder of the Property, the policies are too rigid given that the majority of the Property boundaries are to be fronted with 3 or 4 storey podiums.
- We also submit that Policies 7.29, 7.30, 7.33 and 7.37, and Map 5 of the Proposed OPA would unduly constrain the redevelopment of the Property in conflict with the directive policies of the Growth Plan for the Greater Golden Horseshoe and the location in relation to a MTSA. Similarly, the proposed heights are overly restricted with no ability for additional height permissions absent an Official Plan Amendment. There is no rationale provided for the hard caps especially when it has been demonstrated through our client's consultants that additional height and density is in fact appropriate in this location.
- With respect to the Shadow Impact Policies (7.46), they are too prescriptive especially when you consider that the City is prioritizing intermittent shadow impacts over other Official Plan goals and Provincial policies. Considering the way shadows travel across a property, we suggest that instead of "consecutive" it would be a more reasonable aim for "cumulative impact". Also, it would be appropriate to implement policy direction that directs that "development will adequately limit net-new shadow" (which needs to be defined in order to avoid confusion in interpretation), which is more consistent with policy in the downtown.
- With respect to the "Housing" mix policies (Policies 9.1 through 9.5), we believe that a means to recognize the relationship between affordability of housing and local employment opportunities could be recognized by an addition to the two items noted in Policies 9.3 a) and b) with "credit" be given to applications that provide employment opportunities. Also, these



policies appear to be different than those set out in the Growing Up Guidelines, with no apparent justification.

- Our client is concerned about the lack of details and direction provided in Policies 10.1 through 10.11, including their relationship to Map 16. There is considerable value in identifying target areas on Map 16, but the implementation policies provide no direction on how these facilities will be acquired. This is a matter that should have been tied to a Policy section that deals with the new Bill 108 Section 37 regime.
- With respect to Policy 11.3 f) there is no indication of what is meant by ""introducing new surface transit priority measures...".
- We note that Policies 11.8 and 11.17 logically reference the development application review process and Class EA, but there are no details respecting what is meant by "other implementation mechanisms at the discretion of the City". A policy drafted as such cannot be supported.
- Our client suggests that Policies 12.3 and 13.7 could be further defined in a manner that may work to everyone's benefit.
- Map 9 as it applies to our client's Property cannot be supported. The "undefined" Multi Use Trail overlay places the feature on our client's employment lands. It should be part of the abutting East Park. There is no logical justification to have the trail not within the East Park. Also, as it is our client's intention to fully utilize the part of the Property that shows proposed pedestrian connections (Map 9), it is misleading at best, to show these areas as potential connections.
- Policy 13.1 needs to define "broader Golden Mile" for it to be evaluated.
- Policy 13.2 could be broadened by adding further "credits" such as providing additional employment space as an exclusion.
- Policy 13.3 needs to be clarified. We cannot figure out what "...development site(s) will be considered to be the size of the site(s) as they exist as of the date of adoption" means. Also, FSI should be specifically defined.
- Policy 13.5 discusses development sequencing, but no detail is provided as to how this will be achieved.
- Policy 13.20 c) needs clarification. What is an energy provision network?
- Lastly, we believe it would improve the transparency of the Proposed OPA to explicitly provide for a transitional provision to grandfather existing complete applications.



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Thank you for your attention in this regard. Please do not hesitate to contact me or Robert Blunt, the land use planner at this firm assisting me with this matter, if you have any questions. In respect of the foregoing, please provide us with notice of any further consideration of this matter by Community Council, Council or any Committee thereof.

Yours truly,

BENNETT JONES LLP



Andrew L. Jeanrie

cc: Client

ALJ:rw

