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VIA EMAIL (phc@toronto.ca; clerks@toronto.ca)

Mayor Tory and Members of City Council
City of Toronto
100 Queen Street West
Toronto, ON M5H 4E3

Attention: John Elvidge, City Clerk

Your Worship and Members of City Council:

RE: Planning and Housing Committee Meeting on April 27, 2022
Item No. PH33.2 – Our Plan Tomorrow: Keele – St. Clair Local Area Study – Final
Recommendation Report
Draft Keele-St. Clair Local Area Secondary Plan (OPA 537)

We are the lawyers for Berkeley Carlyle (Junction) Inc. ("**Carlyle**"), being the owner of the properties municipally known as 6 Lloyd Avenue and 195, 181, 179, 177, 175, 171, 169, 167, 165, 163 and 161 Mulock Avenue (the "**Property**").

On behalf of Carlyle, we are writing to provide comments on the Final Recommendation Report that will be considered by the Planning and Housing Committee on April 27, 2022 in respect of the proposed Keele - St. Clair Local Area Secondary Plan (the "**Secondary Plan**").

Official Plan Amendment 231

On July 29, 2014, the decision of the Ministry of Municipal Affairs and Housing approving Official Plan Amendment No. 231 ("**OPA 231**") was appealed to the former Ontario Municipal Board by the previous owner of the Property (OLT Case No. PL140860). The appeal was subsequently assumed by Carlyle and was the subject of a site-specific settlement hearing on March 4, 2021.

The settlement resulted in the approval of a modified Site and Area Specific Official Plan Policy 447 ("**SASP 447**"). In general, the modifications to SASP 447 amended Map 17 of the City's Official Plan by redesignating Areas "A" and "B" of the Property from "*Employment Areas*" to "*Mixed Use Areas*" and Area "C" of the Property from "*Employment Areas*" to "*Parks*." The modifications propose that a minimum of 4,000 square metres of commercial and/or office space be provided on the Property, with the permitted building height, envelope and land uses to be determined through an implementing zoning by-law amendment.

The Property is the subject of applications for zoning by-law amendment (City File No. 19 239452 WET 05 OZ), site plan approval (City File No. 21 176811 WET 05 SA), and draft plan of condominium (City File No. 21 220130 WET 05 CD).

Official Plan Amendment 537

We have reviewed the Final Recommendation Report prepared by the City's Planning Division and the draft official plan amendment attached thereto ("OPA 537"). At a general level, our client supports the general policy direction of promoting intensification of underutilized lands in order to support the optimization of existing and planned infrastructure, notably the higher order transit infrastructure planned in the immediate area of the Property.

However, Carlyle is concerned that, as drafted, OPA 537 may operate to unduly restrict the potential scale and timing of redevelopment that is otherwise appropriate for the area. Without limiting the foregoing, Carlyle is writing to provide the following comments and concerns:

- Vision – the preamble section states that the vision for the Secondary Plan *"cannot be supported without the development of the St. Clair-Weston Station, nor will significant residential intensification proceed in advance of its arrival."* It is unclear what is intended by "significant development." However, as a general proposition, the proposed policy direction is not consistent with and does not conform with higher-order policy direction that promotes optimization of existing and planned infrastructure. We submit that the proposed Secondary Plan should be revised to promote the achievement of transit-supportive development at all times, without delay until the planned Station is developed.
- Policies 2.1, 3.1 and Map 3 – these policies and the associated public realm plan (Map 3) refer to existing and potential locations for new public parks. The current draft mapping identifies an existing park on the Property which is not the case. Rather, a park is planned for the Lands. Development of the future park will occur through the redevelopment process. The proposed mapping should be revised accordingly.
- Policy 8.3 – this policy proposes a mandatory requirement that tall buildings *"decrease in height as distance from the Station Block increases."* As drafted, this policy is overly prescriptive and fails to incorporate the level of flexibility that is necessary to promote redevelopment and intensification in the Secondary Plan Area that responds to the unique qualitative characteristics of lands proposed for redevelopment.
- Policy 8.4 and 3.6(g) – Policy 8.4 proposes a requirement that sites or blocks containing more than one tall building "maximize" access to direct sunlight and daylight on the public realm. Policy 3.6(g) proposes a requirement that development adjacent to parks and open spaces will be located and designed to "maximize" sunlight and minimize shadowing on parks. We submit that these proposed policies would establish an inappropriate standard to assess redevelopment. As a general proposition, "maximizing" would suggest a single standard for assessing development, determined on an *a priori* basis, without a contextual determination of the proposed built form, the policy objectives that it seeks to promote, and whether the resultant conditions on the public realm, including public parks, are appropriate as a balancing of public policy objectives.

- Policy 8.5 and Schedule 2 – this policy requires that tall buildings will maintain a minimum tower setback from lands designated Neighbourhoods that is generally “*equal or greater than the total height of the building.*” Particularly when read in conjunction with the height restrictions in Policy 8.12, our client is concerned that this policy direction will arbitrarily limit the ability to achieve an appropriate scale of development in proximity to planned higher order transit.
- Map 2, Urban Structure and Schedule 1 of OPA 537 – Section 1 of OPA 537 states that Map 2, Urban Structure of the City of Toronto Official Plan is amended by deleting the Employment Areas overlay in the manner shown on the attached “Schedule 1.” It would appear that the reference to Schedule 1 is a clerical error, and that the reference should be to “Schedule 2.”

As a related point, we note that lands opposite the Property, on the south side of Lloyd Avenue, are proposed to be redesignated from “*Employment Areas*” to “*Neighbourhood.*” The proposed redesignation fails to accord with the existing employment uses on the site, which have successfully coexisted with the neighbouring residential uses. That being said, to the extent that the City is prepared to consider the introduction of new residential land uses on this property, it would be appropriate to consider a “*Mixed-Use Areas*” designation that permits a transitional scale of development to the higher density developments to the north, while including the retention of employment uses as part of the redevelopment.

- Policies 8.6 and 8.7 – Policy 8.6 requires that St. Clair Avenue West will function as the primary mid-rise, mixed-use main street for the Secondary Plan Area and contains certain prescriptive requirements for the scale and configuration of new development. As an example, Policy 8.6(a) requires that development in the St. Clair Main Street corridor “*will have predominantly active, non-residential uses at grade with direct pedestrian entrances fronting onto the public sidewalk along St. Clair Avenue West.*” The proposed language should be made permissive instead of compulsory so that these policy objectives are implemented where possible. We are also unclear as to what constitutes a “deep lot” in Policy 8.7.
- Policies 8.10 and 8.12 – these policies attempt to establish a “height peak” of 45 storeys in the Station Block and a maximum height of 35 storeys in the Station South area. It is not clear why the height of development in the Station South area should be limited to 35 storeys (or less) in order to achieve the stated objective of Policy 8.10, which is to “lend prominence to the station.” We submit that these policies, particularly as it pertains to permitted heights, should provide flexibility to respond to unique conditions where a greater level of height may be achieved while maintaining good urban design.

- Policy 9.2 – this policy would allow the City to use holding by-law provisions to restrict or delay the residential occupancy of new buildings until the St. Clair-Weston Station is substantially completed. For the reasons discussed above, this policy direction is not consistent with and does not conform with higher-order policy direction in the Provincial Policy Statement and Growth Plan that supports transit-supportive development and the optimization of existing and planned infrastructure, and it is inconsistent with the intent of recent legislative changes that seek to unlock opportunities for residential intensification.
- Section 9 of OPA 537. Section 9 provides that Chapter 8, Major Transit Station Areas and Protected Major Transit Station Areas, is amended by adding Site and Area Specific Policy 630 (“**SASP 630**”) in the manner shown on the attached Schedule 4. It would appear that reference to “Schedule 4” is a clerical error, and that this should be revised to read “Schedule 5.”

On a substantive level, we note that Schedule 5 of OPA 537 includes a proposed Map 1, which proposes to designate lands surrounding the St. Clair-Weston Station as a Protected Major Transit Station Area. Map 2 proposes to introduce a minimum FSI of 2.0 for the Property. While it is noted that the proposed 2.0 FSI is stated as a minimum, this figure would appear to be significantly lower than the achievable density on the Property. We submit that the stated minimum FSI should be increased to ensure that stakeholders in the redevelopment process of the Property strive to ensure a scale of development that will support the optimization of land use and infrastructure.

We submit that the proposed Secondary Plan warrants further consideration and modifications to achieve a policy direction that is consistent with the Provincial Policy Statement, that it conforms with the Growth Plan, and that it conforms with the City of Toronto Official Plan.

In light of the foregoing, we request that the current draft of the proposed Secondary Plan be referred back to City Staff for further consultation with affected landowners and consideration of further revisions prior to being considered by City Council for adoption.

We hereby request notice of all future public meetings and decisions of City Council, including Committees of Council, concerning the proposed Secondary Plan. If you have any questions, please contact the undersigned or Michael Cara (at mcara@overlandllp.ca or 416-730-8844).

Yours truly,
Overland LLP



Per: Daniel B. Artenosi
Partner

c. Hilary Spriggs, Berkeley Carlyle (Junction) Inc.