

May 7, 2025

By E-Mail Only to phc@toronto.ca

Nancy Martins, Administrator
Planning and Housing Committee
100 Queen Street West
Toronto ON M5H 2N2

Dear Members of Planning and Housing Committee:

**Re: Item - 2025.PH21.1
Comment Letter Respecting Proposed Official Plan Amendment No. 804
840-842 York Mills Rd. and 16-20 Lesmill Rd., Toronto**

On behalf of our client, NCAP (York Mills) Ltd., we are pleased to submit this formal comment letter regarding City-Initiated Official Plan Amendment 804 (“**OPA 804**”). Our client owns lands municipality known as 840-842 York Mills Road and 16-20 Lesmill Road (the “**Subject Site**”).

THE SUBJECT SITE & APPLICATION HISTORY

The Subject Site is located north and west of the intersection of York Mills Road and Lesmill Road. It is currently vacant, except for an existing (vacant) office building at 20 Lesmill Road.

From a planning perspective, the Subject Site is currently designated *General Employment* in the City of Toronto Official Plan. With respect to zoning, the Subject Site is not subject to the City of Toronto’s Comprehensive Zoning By-law 569-2013. The Subject Site is zoned as Industrial Commercial (MC-104) and Industrial Office Business Park Zone (MO-6) in the former City of North York Zoning By-law No. 7625, as amended. The MC-104 zone applies to 840-842 York Mills Road and 16 Lesmill Road, while the MO(6) zone applies to 20 Lesmill Road. Between the two zones lawfully permitted uses cover a broad range of commercial, industrial, institutional and other non-residential uses as set out in **Appendix A**.

Our client’s planning consultants, The Biglieri Group Ltd. (“**TBG**”), has been progressing applications that would allow redevelopment of the Subject Site with a series of non-residential buildings. The building would accommodate the full range of uses currently permitted in **Appendix A**.

The original zoning permissions for the majority of these lands were established through a site-specific zoning by-law application which was approved by the Ontario Municipal Board in 2012 (By-law 1558-2012) and the current applications have been ongoing since submission of a pre-consultation application in May of 2022. At this time, the Site Plan Application has been deemed complete and is in process (City File No. 24 226520 NNY 16 SA). Further, in discussions with City Staff it has been confirmed that the minor zoning deficiencies associated with the Site Plan Application (as indicated in the October 29, 2024 Examiner's Notice, 22 195346 ZAP 00 ZR) may progress to the Committee of Adjustment for approval as the Site Plan process nears completion.

OPA 804 SUMMARY

TBG attended the May 1, 2025 Open House respecting OPA 804 and has reviewed the draft document itself. Together with TBG, we understand that the intent of OPA 804 is to amend the City of Toronto Official Plan (the "OP") to align with the Provincial Planning Statement 2024 employment area policies and the area of employment definition and provisions of the *Planning Act*.

The proposed OPA would also amend the OP and redesignate certain *General Employment Areas* to *Regeneration Areas* as well as repeal By-laws 1107-2024 and 1108-2024 (OPAs 668 and 680). Of particular note, OPA 804 proposes the following new policy:

4.6.10. Pursuant to subsections 1 (1.1) and (1.2) of the Planning Act, uses in General Employment Areas that are excluded from the definition of "area of employment" in paragraph 2 of Subsection 1(1) of the Planning Act, are authorized to continue so long as the use has been lawfully established on the parcel of land before October 20, 2024.

COMMENTS

Our client is requesting modifications to OPA 804 as it relates to the Subject Site. Despite good intentions, we are of the opinion that the proposed section 4.6.10 is potentially ambiguous and may be interpreted as only allowing the continuation of uses that lawfully and physically existed on the ground prior to October 20, 2024.

Our client has invested significant time and resources into the planning applications for the Subject Site, which, as described above, are currently in progress. These applications rely on the flexible use permissions of the existing *General Employment* designation. To maintain a similar level of flexibility when it comes to the range of permitted uses our client requests that through OPA 804 the Subject Site be either:

1. Redesignated as *Regeneration Area* in its entirety; or,

2. Be made subject to a Site and Area Specific Policy suitable to the long-anticipated redevelopment by permitting the list of uses in Appendix A.

These changes will allow the existing zoning permissions of the MC-104 and MO(6) zones to continue to conform with the OP. It will also allow for the unimpeded implementation of our client's development proposal (subject to attaining certain minor variances, as discussed). Without the requested modifications, proposed section 4.6.10 could be interpreted in a manner that would place the Subject Site into a situation where its permitted uses are uncertain. Such a scenario would jeopardize the proposal for the Subject Site and cannot be risked.

CLOSING

Given that our client's lands are affected by OPA 804, they have an interest in OPA 804. To reiterate, OPA 804 should be modified as suggested above and additional interpretive clarity should be provided with respect to lawfully established uses, particularly with respect to whether uses currently permitted *via* a site-specific zoning by-law would be permitted to become established, if not already existent. We respectfully request confirmation from City Staff that these proposed changes will be implemented and further clarity provided prior to approval of OPA 804. Absent this, approval of OPA 804 is premature and not in the public interest as the planning outcomes of the same cannot be understood and therefore cannot be rationalized. Accordingly, OPA 804 should be deferred until we have had an opportunity to confer further with City Staff about the contents of this letter and modify OPA 804 in the appropriate manner.

Please keep us apprised and notified of any materials, meetings, and decisions with respect to OPA 804 and add the undersigned to the list of interested parties. TBG has reached out to City Staff to discuss these comments further and we look forward to collaboration with Staff on these matters.

We trust that you will find the enclosed documentation satisfactory. However, should you require any additional information or further clarification, please do not hesitate to contact the undersigned.

Yours truly,
DAVIES HOWE LLP



Alex Lusty (he/him)

copy: David Dunn, Northbridge Capital

APPENDIX A

List of Currently Permitted Uses

Adult education school, Artist studio, Banquet hall, Car rental agency, Car washing establishment, Cinema, Club, College, Commercial gallery, Commercial recreation, Commercial school, Communications and broadcasting, Community centre, Contractor's establishment, Custom workshop, Day Nursery, Financial institution, Fitness centre, Funeral establishment, Gasoline station, Golf course, Health science research laboratory, Hotel, Industrial sales and service, Information processing, Laundry, Manufacturing, Motor Vehicle Body Repair Shop, Motor Vehicle Dealership, Museum, Office uses, park, parking lot, personal service shop, pinball and video games arcade, place of worship, public library, public self storage warehouse, research laboratory, restaurant (with or without outdoor patio), retail store, secondary school, service shop, service station, showroom, theatre, transportation terminal, Warehouse (no qualifications), veterinary clinic, adult education school, artist studio, car rental agency, college, commercial gallery, commercial school, communications and broadcasting, community centre, day nursery, financial institution, fitness centre, gasoline station, health science research laboratory, hotel, industrial sales and service, laundry, manufacturing, museum, office uses, outdoor café, park, personal service shop, place of worship, public library, research, laboratory, restaurant, retail store, service shop, service station, showroom, theatre, university uses.