

# AIRD BERLIS

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November 24, 2017

Our File No. 118326

BY EMAIL

Mayor Barrow and Members of Council  
c/o Office of the Clerk  
Town of Richmond Hill  
225 East Beaver Creek Road, Ground Floor  
Richmond Hill, ON L4B 3P4

**Attention: Stephen M. A. Huycke**

Dear Mayor Barrow and Members of Council:

**Re: Council Meeting, November 27, 2017  
Yonge Street and Bernard Avenue Key Development Area Secondary Plan  
and Implementing Zoning By-law (Staff Report No. SRPRS.17.197)**

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We represent Wilbair Holdings Inc. and 10898 Yonge Street Limited Partnership ("Wilbair"), the owners of the property municipally known as 10898 Yonge Street. The Wilbair lands are located within the western quadrant of the Yonge-Bernard KDA, fronting onto Yonge Street.

On November 1, 2017, we wrote to Council (copy enclosed as Schedule A) to express our disappointment that the draft Secondary Plan and draft implementing Zoning By-law presented at that evening's Council Public Meeting did not address a number of issues previously raised by our clients with Council and Staff. Specifically, our clients have expressed concerns related to, among other things: (i) full-movements access from the Wilbair lands to and from the proposed Leyburn Extension; (ii) the proposed width of that collector road; (iii) the location and size of urban squares within the Secondary Plan; (iv) heights along the Yonge Street corridor; and (v) building form and massing.

We have now had the opportunity to review the final staff report, Secondary Plan and Implementing By-law being considered by Council at its meeting on November 27, 2017. We are once again dismayed to note that our clients' concerns remain unaddressed in the final documents.

Wilbair has been active and vocal throughout the Secondary Plan process. It has met with Town staff on a number of occasions and has written to and appeared before both the Committee of the Whole and Town Council. Wilbair was a party to the Town's Interim Control By-law hearing and reached a settlement of its appeal through which Wilbair and the Town agreed to certain design principles intended to guide future development of the Wilbair lands<sup>1</sup>. Unfortunately, and

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<sup>1</sup> A letter from the Town's solicitor outlining those principles, as filed with the Ontario Municipal Board, is included in the November 1, 2017 letter.

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despite our request previously, these principles appear not to be directly reflected in the Secondary Plan and Zoning By-law that have been presented for Council's consideration.

We write, therefore, to once again urge Council to address our client's concerns and interest prior to adoption.

As always, our client remains available to discuss these concerns, and any changes that may address them, with your Staff.

Yours truly,

AIRD & BERLIS LLP



Patricia A. Foran

PAF/DPN  
Encl.

c. Client  
Billy Tung, KLM Planning Partners Inc.

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AIRD BERLIS

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November 1, 2017

Our File No. 118326

BY EMAIL

Mayor Barrow and Members of Council  
c/o Office of the Clerk  
Town of Richmond Hill  
225 East Beaver Creek Road, Ground Floor  
Richmond Hill, ON L4B 3P4

**Attention: Stephen M. A. Huycke**

Dear Mayor Barrow and Members of Council:

**Re: Council Public Meeting, November 1, 2017  
Yonge Street and Bernard Avenue Key Development Area Draft  
Secondary Plan and Draft Implementing Zoning By-law (Staff Report No.  
SRPRS.17.167)**

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We represent Wilbair Holdings Inc. and 10898 Yonge Street Limited Partnership ("Wilbair"), the owners of the property municipally known as 10898 Yonge Street. The lands form part of the western quadrant of the Yonge-Bernard KDA, and are an important parcel available for development along the Yonge Street corridor. Our clients are also active members of Richmond Hill's business community, having operated the Richmond Hill Honda dealership on lands that they own elsewhere in the Town for a number of years.

We write with respect to above-captioned matter which is being considered at a public meeting this evening. Our client is reviewing with their consultants the draft Secondary Plan and Zoning Bylaw. As that review has not concluded, the comments made herein should be considered preliminary and may be augmented in future.

### **Background**

Our client has previously corresponded with the Town respecting the Yonge-Bernard KDA Preferred Options report which was considered by Council last summer. In addition to those communications, Wilbair met again with your Staff through the summer to discuss future development of their lands. Given its location along Yonge Street, the Wilbair lands represent an important opportunity to implement the Town's goal of encouraging mixed use development which will support the significant transit investments being made along Yonge Street.

Fundamental to the development of the Wilbair lands is the necessity to ensure that full movement vehicular access is provided for the lands. This will also ensure that traffic is directed away from the existing residential neighbourhood located to the north of Canyon Hill Avenue. As a result of discussions with Town Staff, and as part of our client's settlement of its related Interim Control Bylaw ("ICBL") appeal, Wilbair and the Town agreed upon certain design principles that are intended to guide any future development application of our client's lands. Those principles, which

are premised upon an attached conceptual development plan, are recorded in the enclosed letter ("Settlement Letter") provided on behalf of the Town to our client which was also filed with the OMB as part of the settlement of our client's ICBL appeal earlier this month.

Our client and their consultants have reviewed the draft secondary plan and related zoning bylaw against the principles outlined in the enclosed Settlement Letter. The following are issues that our client has identified with the draft secondary plan and related zoning bylaw that are before Council for consideration this evening:

### **Draft Secondary Plan**

The draft Secondary Plan does not address the planned future extension of Leyburn Avenue in a manner that ensures full movement access to Wilbair's development parcel. As noted above, this is fundamental in order to ensure that traffic from future development of our client's lands is directed to Yonge Street and not forced to infiltrate the existing neighbourhood along Canyon Hill Avenue. Given the importance of this matter to Wilbair's overall settlement with the Town, our client requests that Council specifically recognize in the Secondary Plan that full movement access is intended to support development of the Wilbair lands.

North of Canyon Hill Avenue, the existing Leyburn Avenue is a collector road. The Town's background studies (including the BA transportation study) characterize the new extension of Leyburn Avenue as a collector road with a width of 23 metres. It is therefore surprising that the planned function of the Leyburn Avenue extension is not clearly identified in the secondary plan. This is fundamental in order to ensure that affected landowners and the public understand the planning for the new road. Of even greater concern to our client is the suggestion, for the first time, in Section 12.4.4.2 of the draft Plan, that collector road widths may be as wide as 26 metres. This is well in excess of the 23 metres reflected in the Settlement Letter provided earlier this month. It is also significantly greater than the 20 metres secured by the Town through its settlement with an adjacent landowner, Dogliola, whose lands are adjacent to the Wilbair lands. Our client requests that the Secondary Plan clearly limit the Leyburn Avenue extension to a maximum of 23 metres.

Our client is also disappointed that Section 12.2.2 and Schedule 1 of the draft Secondary Plan fail to identify the intent to support building heights along Yonge Street of 15 storeys (see Section 12.2.2 Height and Schedule 1). We understand that one of the motivations in preparing a new Secondary Plan for this area is to put in place policies that ensure greater height and density for lands along Yonge Street, to support transit infrastructure being constructed. The as of right zoning for the lands west of Yonge Street today already permits 10 storey buildings. A proposed range of 10-15 storeys as proposed in the Secondary Plan arguably does not represent any significant increase in scale or density over what is already permitted today. This is particularly important as the Town is directed, by Regional and Provincial policies, to achieve a minimum density along Yonge Street in order to support transit investment in this important area. This issue is compounded by the draft Zoning Bylaw which provides for a range (rather than a minimum and maximum) height permission for our client's lands.

### **Parks**

In the Town's background reports for the KDA, a proposed scale for urban squares was outlined. That range was between 2,000 – 3,500 square metres. In the western quadrant, the component of the proposed urban square to be provided on the Wilbair lands reflected in the Settlement Letter

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is 400-420 square metres while the overall size of the urban square is approximately 2,100 square metres, which is consistent with the direction contained in the background studies. Section 12.3.2 (Parks) and Schedule 3 show a significantly larger urban square in the western quadrant, which exceeds the planned size range identified in supporting studies. Our client requests that the configuration and size of the urban square shown in the Settlement Letter and consistent with the recommendation report be reflected clearly in the Secondary Plan. This is particularly important as the ability to achieve the identified density target for this area, as well as providing for full movement access to the Wilbair lands, depends on the configuration and size of the urban square as shown in the Settlement Letter.

On a related note, Section 12.2.5.2(2) addresses shadowing of adjacent parks. Wilbair suggests that a more meaningful analysis should include the March to September (versus winter) seasons in the policy.

### **Draft Zoning By-law**

The draft Zoning By-law permits a maximum building height range of 10 to 15 storeys along Yonge Street. This is awkward in implementation as a maximum height should be an absolute, not a range. This is further confusing when taking into account the Section 37 bonusing provisions as recommended in the draft documents.

The proposed zoning bylaw also prohibits any form of building other than apartment or live-work (with retail) to front onto the proposed Leyburn extension within the KD2 Zone. There is no rationale offered for prohibiting other building forms such as stacked townhouses or townhouses to locate along this collector road, particularly as this represents a transition from higher density forms of housing which are directed to Yonge Street. This would also be consistent with the settlement entered into with Dogliola respecting the lands to the north and is also consistent with other development permitted elsewhere in the Town.

Section 5.9 proposes a restriction on maximum floor plates for towers (which are defined to be 9 storeys and higher) of 750 m<sup>2</sup>; however, this is a floorplate that is more typically associated with tall buildings, which normally exceed 15 storeys in height. Applying this restriction to buildings that are more generally considered to be mid-rise buildings will result in unnecessarily small smaller units in a built form that does not necessitate such restrictions. Instead, other provisions such as building minimum building separations, stepbacks and setback requirements already provide appropriate restrictions to inform the massing of taller buildings.

Additionally, the requirement for two separate vehicular access into any draft plan of subdivision prior to issuance of building permits appears to be highly restrictive and unnecessary [Section 5.31c)vii)] . This requirement does not consider that some draft plans of subdivisions may only require one point of access and others may simply create a development block to facilitate the creation of common element condominiums or exemption from Part Lot Control.

Our client is reviewing the proposed bicycle and vehicle parking rates, which appear to be based on the City of Toronto's standards for its Mixed Use Areas, and may provide further comments on that matter.

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**Summary**

In the circumstances, our client does not support Council proceeding to adopt the proposed Secondary Plan or pass the draft Zoning Bylaw in their present form without addressing the concerns outlined herein. Our client remains available to discuss these concerns, and any changes that may address them, with your Staff.

Yours truly,

AIRD & BERLIS LLP

  
Patricia A. Foran

PAF/jad  
Encl.

c. Client  
Billy Tung, KLM Planning Partners Inc.

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AIRD BERLIS

October 10, 2017

Barnet H. Kussner  
T: 416-947-5079  
bkussner@weirfoulds.com

**VIA E-MAIL AND HAND DELIVERED**

File 05394.00044

Ms. Patricia Foran and Mr. David Neligan  
Aird & Berlis LLP  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

Dear Counsel:

**Re: Commitment by the Town of Richmond Hill ("Town") to Wilbair Holdings Inc.  
and 10898 Yonge Street Limited Partnership (collectively "Wilbair")**

The purpose of this letter is to confirm the terms of a commitment which I am duly authorized to provide on behalf of the Town to your client, Wilbair, in relation to its pending appeal respecting By-law 100-16 (the "ICBL"). The terms of this commitment are set out in Attachment 1 to this letter.

As you are aware, Town staff and representatives of an adjoining landowner, Dogliola Developments Ltd. ("**Dogliola**"), met with your client on Monday, August 14, 2017 and again on Wednesday, August 16, 2017 with a view to resolving Wilbair's concerns with the June 13, 2017 Yonge Street and Bernard Avenue Key Development Area Recommendations Report (the "**Recommendations Report**"), including the Preferred Option endorsed by Council on July 10, 2017 (the "**Preferred Option**") as well as the related Dogliola site plan which was also endorsed by Council as the basis for settlement between the Town and Dogliola (the "**Dogliola Settlement**"). Wilbair's concerns related to:

- Ensuring that it can continue to develop its lands for high density development as permitted by the in-force zoning and as contemplated by the Official Plan today;
- The impact of releasing only the Dogliola lands from the ICBL before the completion of the secondary plan and zoning process, on the basis of the Dogliola Settlement, including its impact on the usability and developability of the Wilbair Lands for high density development;
- Addressing Wilbair's concern that the alignment and design of the proposed extension of Leyburn Avenue, as proposed to be fixed through the Dogliola Settlement, will prevent approval of the Wilbair Lands for high density development in the future, including,



without limiting the foregoing, full-movement access to and from the Wilbair Lands to the proposed extension of Leyburn Avenue as it is proposed to run along the south of the property;

- Ensuring that the proposed elements in the Preferred Option (the urban square; the linear park/mid-block connection; and the collector road), if approved in the location proposed through the Dogliola Settlement, would not prevent the Wilbair Lands from achieving, through the Secondary Plan process, policies that permit development that meets the target densities for the Wilbair Lands and would not reduce the net developable area of the lands.

As a result of these meetings, the Town and Wilbair have agreed to certain design parameters for future development on the Wilbair property (attached at Attachment 3 to this letter) that the Town agrees will protect full-movement access to and from the Wilbair Lands for future development as described herein. On the basis of these mutually agreed upon parameters, Wilbair agrees to withdraw its appeal of the ICBL and its objection to the settlement between the Town and Dogliola on a without costs basis.

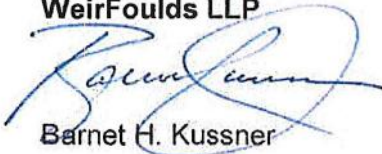
I further confirm that it is understood and agreed by the Town and Wilbair that nothing in this letter or its attachments has the intent or effect of fettering the legislative discretion of Town Council in a manner contrary to law.

In support of this settlement of Wilbair's appeal of the ICBL, this letter and its attachments may be filed with the Ontario Municipal Board at the time of the hearing.

I trust this is satisfactory. Thank you for your co-operation in resolving these issues on mutually acceptable terms.

Yours truly,

**WeirFoulds LLP**



Barnet H. Kussner

c: K. Kwan, Commissioner of Planning and Regulatory Services, Town of Richmond Hill  
I. Kagan, Solicitor for Dogliola Developments Ltd.

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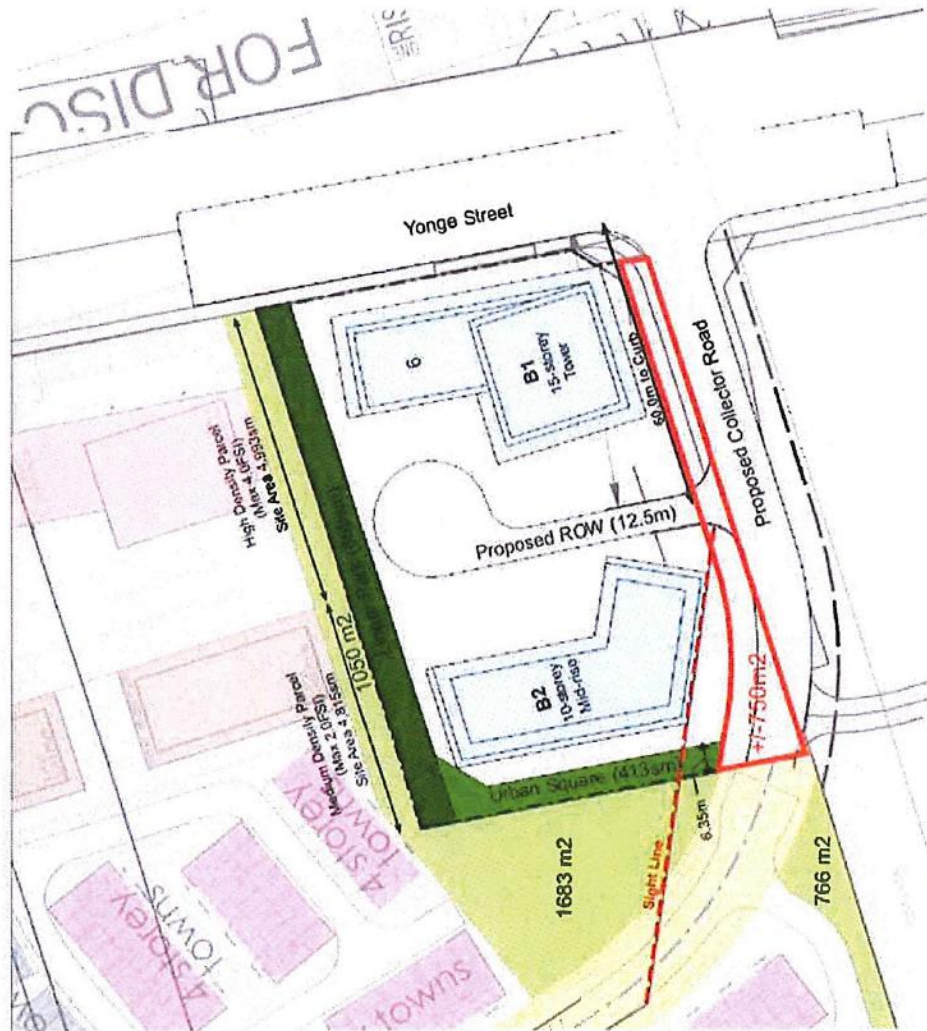
ATTACHMENT 1

**COMMITMENT BY THE TOWN OF RICHMOND HILL ("TOWN") TO WILBAIR HOLDINGS INC. AND 10898 YONGE STREET LIMITED PARTNERSHIP ("WILBAIR")**

In consideration of Wilbair's withdrawal of its appeal of the ICBL before the Ontario Municipal Board:

1. The Town acknowledges and agrees that it has received and reviewed a copy of the Conceptual Design, attached hereto at Attachment 2, including the underlying Assumptions and Design Parameters, included hereto at Attachment 3. The Conceptual Design has been provided and appended for the sole purpose of confirming the viability of the Assumptions and Design Parameters as and when a formal development application is submitted for the Wilbair Lands, and without in any way binding the Town to approve the specific densities, heights, massing, built form or urban design as depicted in the Conceptual Design pending the submission of a formal development application. The Town further acknowledges and agrees that the Assumptions and Design Parameters reflect the Town's agreement that full-movement access is achievable to and from the Wilbair Lands for future development.
2. The Town agrees to rely upon the Assumptions and Design Parameters when bringing forward the policies of the Secondary Plan and replacement zoning by-law (subject to OMB approval in the event of appeals) or when considering any formal development application brought forward in the future for the Wilbair Lands;
3. The Town agrees to approve full movement access to Leyburn Avenue for the future development of the Wilbair Lands where such access is located at least 60 meters from the westerly curb of Yonge Street;
4. While Town staff are confident that the proposed collector road ("Leyburn Avenue Extension") in the Dogliola site plan is appropriate for the site and the KDA overall, it is acknowledged that, through the ensuing functional servicing analysis in support of the Dogliola site plan, other possible configurations of the road could be considered;
5. The Town acknowledges that the recommended concept for the KDA, as endorsed by Council, illustrates land use and design directions that implement a minimum density of 2.5 FSI and a maximum density of 3.0 FSI across the entire KDA. The Recommendations Report further supports a recommended density range of 3.5 FSI to 4.0 FSI along the Yonge Street Corridor, with a range of 1.5 FSI to 2.0 FSI within the interior of the KDA; and
6. The Town acknowledges and agrees that the terms of this agreement have regard for matters of provincial interest as set out in section 2 of the Planning Act; conform with Growth Plan for the Greater Golden Horseshoe pursuant to the Places to Grow Act; are consistent with Provincial Policy Statement 2014; conform with the York Region Official Plan and Town of Richmond Hill Official Plan; and represent good planning.

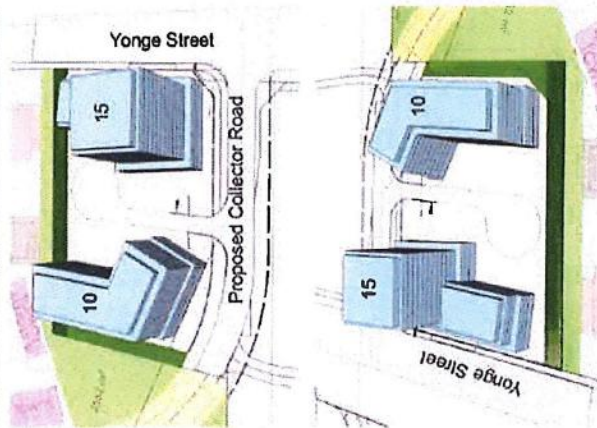
ATTACHMENT 2 – CONCEPTUAL DESIGN



# KDA 10898 YONGE

## DEVELOPMENT SCENARIO ONE

DEVELOPMENT SCENARIO ONE - 10898 YONGE	
Building 1	Building 2
15, 15.1 m	15, 15.1 m
29, 100 m	29, 100 m
170 units	170 units
413.5 m <sup>2</sup> (1.0 FSI) - 100% (1.0 FSI)	413.5 m <sup>2</sup> (1.0 FSI) - 100% (1.0 FSI)
15, 15.1 m	15, 15.1 m
29, 100 m	29, 100 m
170 units	170 units
413.5 m <sup>2</sup> (1.0 FSI) - 100% (1.0 FSI)	413.5 m <sup>2</sup> (1.0 FSI) - 100% (1.0 FSI)
15, 15.1 m	15, 15.1 m
29, 100 m	29, 100 m
170 units	170 units
413.5 m <sup>2</sup> (1.0 FSI) - 100% (1.0 FSI)	413.5 m <sup>2</sup> (1.0 FSI) - 100% (1.0 FSI)





### ATTACHMENT 3 – ASSUMPTIONS AND DESIGN PARAMETERS

#### **Full-Movements Access to Wilbair Lands from Leyburn Avenue Extension**

1. The centreline of the proposed collector road ("Leyburn Avenue Extension"), as illustrated in the Conceptual Design, will utilize the same alignment of the existing private driveway today between Wilbair and the LBS lands to the south, and the Town confirms that this is the centreline assumed for the future Leyburn Avenue Extension in the BA Report dated June 2017;
2. The curb location on Yonge Street is based on the Y2.2 "Issued for Construction" drawing, measured from the centre line of Yonge Street;
3. The driveway locations were derived using the TAC Geometric Design Guide as a reference (40m spacing for three-legged intersections) as per Section 2.3.1.7 (Jan. 2002 revised version) and 60m from Yonge Street is based on the Region of York comments on 2008 applications related to the neighbouring property to the south, relative to the Wilbair Lands. The exact location and configuration of the full-movement driveway will be determined through the detailed planning process and will give consideration to appropriate sight lines;
4. The daylight triangle at the intersection with Yonge Street is 10m x 10m;
5. The Leyburn Avenue Extension may include left and right turn lanes at Yonge Street, and is planned to be 23 m along the southern boundary of the Wilbair Lands;
6. Wilbair will dedicate required lands (approximately 750m<sup>2</sup>) for the future construction of the Leyburn Avenue Extension when a development application as contemplated herein is approved. As per Town policy, density calculations may be transferred from the right-of-way dedication to the developable portion of the Wilbair Lands;

#### **Urban Square**

7. The portion of the Urban Square on the Wilbair Lands shall be determined as part of a future development application. A range of 400 to 420 square metres is deemed reasonable for the development as conceptually shown in Attachment 2;
8. As per Town policy, density calculations may be transferred from the Urban Square to the developable portion of the Wilbair Lands;

#### **Linear Park**

9. The portion of the Linear Park on the Wilbair Lands shall be a maximum of 7.5m in width and be located across the northerly boundary of the property;
10. As per Town policy, density calculations may be transferred from the Linear Park to the developable portion of the Wilbair Lands;

11. The Town will consider a stratified Linear Park wherein the Town would be conveyed surface rights to the park while Wilbair would retain subsurface rights for parking and other structures.