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May 18, 2022

**VIA EMAIL**

Mayor David West and Members of Council  
City of Richmond Hill  
225 East Beaver Creek Road  
Richmond Hill, Ontario  
L4B 3P4

**Attention: Andrew Crawford, Planner I, Policy Planning**

Your Worship and Members of Council

**RE: Draft Official Plan Amendment 18.3  
City Council Meeting on May 18, 2022  
9251 Yonge Street – Yonge Sixteen Inc.**

We are the lawyers for Yonge Sixteen Inc. (the “**Yonge Sixteen**”), being the Owner of the lands municipally known as 9251 Yonge Street (the “**Site**”). We are writing to provide our preliminary comments with respect to Draft Official Plan Amendment 18.3, proposing changes to the “Vision and City Structure” of the Richmond Hill Official Plan (“**OPA 18.3**”), and to request notice of any decisions of City Council or committees of Council with respect to OPA 18.3.

**Background**

By way of background, Yonge Sixteen submitted applications for a Zoning By-law Amendment (the “**ZBA Application**”) and Official Plan Amendment (the “**OPA Application**”) (collectively, the “**Applications**”). The Applications would permit the redevelopment of the Site with a mixed-use development comprised of 2 towers of 38 and 43 storeys, respectively, connected by a 6-storey podium. The proposal would include a combined residential and non-residential gross floor area of 66,550 square metres, which is comprised of 962 dwelling units, 1,300 square metres of at-grade commercial uses for a total of 8.77 FSI (the “**Proposed Development**”). The Proposed Development will support the optimization of land use and infrastructure, and it

directly implements, conforms to and is consistent with the policy directions set out in the Growth Plan, the Provincial Policy Statement and the York Region Official Plan.

The Applications were appealed to the OLT on June 16, 2021 based on City Council's refusal or neglect to make a decision on the Applications within the prescribed time frame, and are proceeding to a four-day hearing beginning on October 18, 2022.

### **Applicability of OPA 18.3 to the Proposed Development**

To the extent that OPA 18.3 proposes any new policies that could be interpreted or applied to the Site that would prohibit, frustrate or otherwise result in substantive changes to the Applications and/or the Proposed Development, the Owner objects thereto.

That being said, given that the Applications predate the approval of OPA 18.3, or any modified version thereof, it is our expectation that the Applications and the Proposed Development will continue to be considered by the City on the basis of the Official Plan as it applied to the Site on the date of the Applications. This is consistent with the *Clergy* principle that has generally been applied to guide the consideration of development applications – namely, that it is appropriate to consider an application on the basis of the in-force official plan policies that applied at the date of the application, and that new policies coming into effect subsequently should not be applied to impose new hurdles to development. As a general proposition, OPA 18.3 should include transitional provision to give express effect to this principle for pipeline projects.

### **Comments and Concerns Regarding OPA 18.3**

#### ***City Structure and Development Density***

Within OPA 18.3, the Site is located within a *Key Development Area* within the City Structure on proposed Schedule A1 – namely, the Yonge & 16<sup>th</sup>/Carville KDA. This is consistent with the existing Official Plan Structure.

Consistent with the existing Official Plan, Key Development Areas rank only below the Richmond Hill Centre as the location for the highest heights and densities and greatest intensification potential [see, for example, proposed Policies 3.1.3(4), 3.1.4(3), and 3.4.1(16)].

Yonge Sixteen supports maintaining this overall City Structure, including the intended place of Key Development Areas within this hierarchy, as well as the emphasis on the relationship between intensity of development and proximity and access to existing and planned transit infrastructure.

#### ***Housing***

Proposed Policy 3.1.5(6) purports to require that high density residential development provide a minimum of 5 percent of units with 3 or more bedrooms. We submit that this prescriptive criteria should be revised to be in keeping with the existing Official Plan policies, which encourage the provision of larger units suitable for households with children. This flexibility is better suited to

allow development to respond to market realities, including need for unit types, on a case by case basis.

To the extent that the proposed policies pertain to the provision of affordable housing, or otherwise omits to include modifications to existing policies dealing with this subject matter, we submit that OPA 18.3 and the Richmond Hill Official Plan should ensure that such policy directions comply with the current statutory directives for affordable housing as set out in Section 16 of the Planning Act and Ontario Regulation 232/18, as amended. Further, we submit that the proposed policies should be modified to recognize the role that new, purpose-built rental housing plays in achieving intrinsically affordable units and a diversity of housing typologies.

***Sun/Shadow***

In our submission, the proposed changes to Policy 3.4.1(41) regarding sun/shadow analysis are inappropriate. In particular, it is not clear what it would mean to “optimize” sunlight and comfort conditions in the public realm. The current Official Plan policies, which require that new development “achieve adequate sunlight and comfort in the public realm” provide an appropriate basis for analysis of new development based on a contextual assessment of the site and surrounding area.

**Request for Notice**

We appreciate your consideration of our submissions. We hereby request written notice of any further consideration of OPA 18.3 by City Council or any committees of Council, and of any decisions or recommendations made as a result. Our address for notice is provided herein.

Yours truly,  
**Overland LLP**

  
Per: Daniel B. Artenosi  
Partner