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May 17, 2022

**VIA EMAIL**

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

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

Your Worship and Members of Council:

**RE: Richmond Hill Official Plan Amendment  
"Vision and City Structure" (OPA 18.3)  
9218 Yonge Street**

We are the lawyers for 9218 Yonge Street Inc. ("**9218 Yonge**"), the owner of the property municipally known as 9218 Yonge Street in the City of Richmond Hill (the "**Site**"). We are writing to provide comments regarding Draft Official Plan Amendment 18.3, which proposes changes to the Richmond Hill Official Plan policies related to "Vision and City Structure" ("**OPA 18.3**"). We are also writing to ensure that we are provided with notice of any decisions of City Council or committees of Council with respect to OPA 18.3.

**Background**

The Site is located at the southwest corner of Yonge Street and Carville Road. Carville Road continues as 16<sup>th</sup> Avenue east of Yonge Street. The Site is the subject of Official Plan Amendment and Zoning By-law Amendment applications submitted by 9218 Yonge in 2021 (City File Nos. D01-21010 & D02-21020) (the "**Site-Specific Applications**").

The Site-Specific Applications propose development of the Site with two towers with heights of 42 and 36 storeys, connected by a six-storey podium. The development will have approximately 796 residential units with a total gross floor area of 61,653 square metres (the "**Proposed Development**").

On April 27, 2022, 9218 Yonge appealed the Site-Specific Applications to the Ontario Land Tribunal (the "**OLT**") on the basis of the failure or neglect of the City of Richmond Hill to make a decision within the statutory time period. As of May 11, 2022, the OLT has acknowledged receipt of the appeals (OLT Case No. OLT-22-003667). No dates have yet been established in the appeal proceeding.

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

Given that the Site-Specific Applications predate the City's consideration of OPA 18.3, it is our expectation that the Site-Specific Application and the Proposed Development will continue to be considered on the basis of the Official Plan as it applied to the Site on the date of the applications (including the relief should through the Official Plan Amendment application). 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 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.

In that regard, to the extent that OPA 18.3 proposes any new policies that could be interpreted or applied to the Site that would prohibit or result in substantive changes to the Site-Specific Applications and/or the Proposed Development, 9218 Yonge objects thereto.

### **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)).

9218 Yonge 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. 9218 Yonge prefers the language from the existing Official Plan which encourages the provision of larger units suitable for households with children, rather than the proposed policy which has less flexibility.

#### ***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 to us what it would mean to “optimize” sunlight and comfort conditions in the public realm and no criteria for such evaluation are provided. The previous wording of “achieve adequate sunlight and comfort in the public realm” provides a more appropriate basis for analysis of new development.

***Structured/Surface Parking and Joint Access***

The new provision regarding structured parking “only” ... “if the site is constrained by high water table or other extenuating circumstances” in Policy 3.4.1(49) is, in our view, drafted too narrowly including the use of the phrase “extenuating circumstances”. It would be preferable to use the word “appropriate circumstances” to provide additional flexibility, in particular where the other matters addressed in Policy 3.4.1(49)(b)-(e) are taken into consideration.

Similarly, the wording of Policy 3.4.1(51) regarding “minimizing” surface parking is, in our view, overly prescriptive in particular given the other considerations that are proposed in this policy.

This policy also purports to “require” joint access between development sites. As it may not be possible for adjoining private owners to achieve mutually acceptable access arrangements, joint access should be “encouraged” but not necessarily “required”.

***Angular Planes***

Proposed revisions to Policy 3.4.1(55) seek impose generic angular plane requirements on development adjacent to low-density residential areas in Neighbourhoods. In the case of the Site-Specific Applications, the relationship between the height of the Proposed Development and the residential neighbourhood to the west is addressed by an angular plane, which has been the subject of previous consideration and is addressed in the site-specific Official Plan Amendment, as well as the proposed zoning. Any new general Official Plan policy regarding angular planes should not be applied to impose a new restriction on the appropriate angular plane to be determined through the Site-Specific Applications.

***Rear Lane/Public Street Parallel to Yonge Street***

We note the proposed amendment to Policy 3.4.1(56) regarding the potential for rear lanes/public streets parallel to Yonge Street to add the words “routing flexibility”. As part of the Site-Specific Applications, 9218 Yonge seeks to remove the requirement for a new public street along the south boundary of the Site as a result of the evolution of the Key Development Area and the introduction of a new north-south street farther to the west of the Site, creating a potential connection between Carville Road and Spruce Avenue, parallel to Yonge Street. This amended policy, therefore, should not be interpreted or applied in a way that overrides or supersedes the ongoing determination of the road network in the vicinity of the Site.

***Stratified Public Right-of-Way or Public Access Easement***

9218 Yonge supports a flexible approach to potential conveyances of rights-of-way or easements to the City by the potential use of stratified conveyances as per proposed Policy 3.5.5(3).

**Request for Notice**

Please provide us with written notice of 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**

A handwritten signature in black ink, appearing to read 'CJ Tanzola', written over the printed name.

Per: Christopher J. Tanzola  
Partner

c. Client