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February 3, 2023

VIA ENVIRONMENTAL REGISTRY OF ONTARIO

Hon. Steve Clark, MPP, Minister
Ministry of Municipal Affairs and Housing
Municipal Services Officer – Central Ontario
777 Bay Street – 13th Floor
Toronto, ON M7A 2J3

Attention: Jennifer Le

Dear Minister Clark:

**RE: Request to Modify City of Toronto OPA 570 Prior to Ministerial Approval
ERO File No. 019-5937
Ministry Reference No. 20-OP-227259
12-20 Bentworth Avenue, City of Toronto**

We are the lawyers for Dawson Wales Global Inc., being the owner of the property municipally known as 12 to 20 Bentworth Avenue in the City of Toronto (the “**Site**”). The Site is located on the north side of Bentworth Avenue, west of Dufferin Street, and currently contains a mix of low-rise residential and commercial buildings and paved areas.

Background and Context

The Site is situated in close proximity to Yorkdale Mall and is part of the proposed Yorkdale Protected Major Transit Station Area, with access to the Yorkdale Subway Station. These lands are subject to proposed Site and Area Specific Policy 713 (“**SASP 713**”) of Official Plan Amendment 570. Attachment A identifies the location of the Site within the broader area subject to SASP 713.

The surrounding area has been in transition over the last decade, with a combination of new residential developments and commercial buildings. It should be noted that the Dufferin Street Secondary Plan (first adopted in 2015, almost a decade ago) already contemplates a Floor Space Index (FSI) of 3.5 times the area of the Site.

As adopted, SASP 713 is predicated on a minimum population and employment target of 200

residents and jobs combined per hectare for the entire Yorkdale PMTSA. This minimum growth target is in turn allocated across the PMTSA area through a minimum floor space index (FSI). As it applies to the Site and lands in the immediate area, SASP 713 proposes a minimum 2.0 FSI, which is less than the adopted 3.5 FSI permitted for the Site under the Dufferin Street Secondary Plan.

Provincial Policy Direction for Planned Minimum Densities

The use of PMTSAs is intended to identify and encourage growth in areas where investment in transit infrastructure can be efficiently leveraged in accordance with provincial interests and policies under the Provincial Policy Statement 2020 (“**PPS**”) and the Growth Plan for the Greater Golden Horseshoe 2019 (“**Growth Plan**”). With respect to the delineation of PMTSAs, policy 2.2.4.2 of the Growth Plan directs municipalities to:

... delineate the boundaries of major transit station areas in a transit-supportive manner that maximizes the size of the area and the number of potential transit users that are within walking distance of the station. [Emphasis added.]

While it is recognized that the proposed densities and FSIs contained SASP 713 are minimums, we respectfully submit that these minimums are artificially low, failing to even recognize existing FSIs permitted for the Site and surrounding lands that were developed under the guidance of earlier versions of the PPS and Growth Plan. The current PPS and Growth Plan further reinforce the need for planning approvals to achieve the optimization of land use and infrastructure through an intensification-first approach to growth management. Within this provincial policy framework, the Growth Plan directs planning authorities to go beyond minimum growth targets identified therein, where appropriate. Policy 1.2.3. of the Growth Plan states the following:

Within the framework of the provincial policy-led planning system, decision-makers are encouraged to go beyond these minimum standards to address matters of importance, unless doing so would conflict with any policy of this Plan.

The determination of minimum densities within a PMTSA demands a qualitative assessment. Defaulting to the minimums set out in the Growth Plan is not appropriate, particularly where it has already been demonstrated that a greater level of intensification can be achieved. In the present case, the in-force FSI permitted on the Site under the Dufferin Street Secondary Plan establishes *prima facie* that a greater level of intensification can, and in turn should, be required for the Site. This demonstrates that SASP 713 does not conform with the Growth Plan, as it would permit a sub-optimal use of land and it would not, in turn, support the optimization of the significant higher-order transit infrastructure in the immediate area.

As part of the OPA 570 process, City Staff issued the “City-wide 115 Proposed Major Transit

Station Area/Protected Major Transit Station Area Delineations: Final Report” dated June 2022 (the “**Staff Report**”). The following excerpt is found at page 2 of the Staff Report:

It is important to note that the density measures included in the SASPs are minimums only and do not preclude the submission, staff review, and Council approval of any new development applications that may exceed these minimums. The minimum density measures are based on existing Council-approved development frameworks, including: in effect Official Plan land use designations within the identified areas; as-of-right zoning by-law permissions, density permissions included in secondary plans; and approved developments that have not yet been built.

The proposed minimum FSI for the Site in SASP 713 should have therefore, at a minimum, reflected the in-force FSI permitted on the Site under the Dufferin Street Secondary Plan. As adopted, the proposed minimum FSI of 2.0 for the Site therefore conflicts with the intention set out above in the Staff Report.

The proposed minimum FSI of 2.0 is further inconsistent with recent development proposals in the area, which include FSIs of 5.7 and in some instances over 7.0 FSI (along Dufferin Street). As a relative measure, FSI translates differently on larger sites than it does on smaller ones, in terms of the achievable built-form and resultant population that is anticipated in a transit-rich urban context like the Yorkdale PMTSA. For example, while a lower FSI may not preclude larger sites from achieving an appropriate built-form response and number of new residential units, for smaller sites, such as those along Dufferin Street south of the Yorkdale Mall, a higher FSI is warranted in order to achieve the same outcome, and in turn support the optimization of the significant higher-order transit infrastructure in the immediate area.

Requested Modifications to SASP 713

On behalf of our client, we are writing to request that the minimum FSI for the Site be increased from 2.0 FSI to 7.0 FSI, which is reflective of a more transit-supportive scale that is appropriate on this Site. As advised, this FSI would allow for a mid-rise building of an appropriate scale at this transit-rich location with a range of amenities and commercial uses in walking distance. This scale of development would further facilitate a transition down from the tall buildings that are proposed to the east of the Site (of up to 28-storeys).

While we are making this request on a site-specific basis, we submit that the area would also benefit from a broader increase in FSI across the PMTSA in order to better promote transit supportive densities and facilitate revitalization of the area. As such, we are also proposing policy modifications to “encourage” that the minimum FSI be exceeded. The following language is proposed to be included as Policy e) of SASP 713, consistent with Policy 5.2.5(1)

of the Growth Plan, to clarify that municipalities are encouraged to go beyond the minimum growth targets:

e) Minimum Density Targets

The minimum intensification and density targets in this Site and Area Specific Policy are minimum standards and municipalities are encouraged to go beyond these minimum targets, where appropriate, except where doing so would conflict with any policy of the Growth Plan, the Provincial Policy Statement or any other provincial plan.

We submit that the proposed modifications to SASP 713 will assist in facilitating the revitalization of the Site and the optimization of infrastructure and investment in the area.

We appreciate your consideration of this matter. If you have any questions or require any further information, please contact the undersigned or Michael Cara (at mcara@overlandllp.ca or 416-730-8844).

We hereby request notice of the Ministry's decision regarding OPA 570.

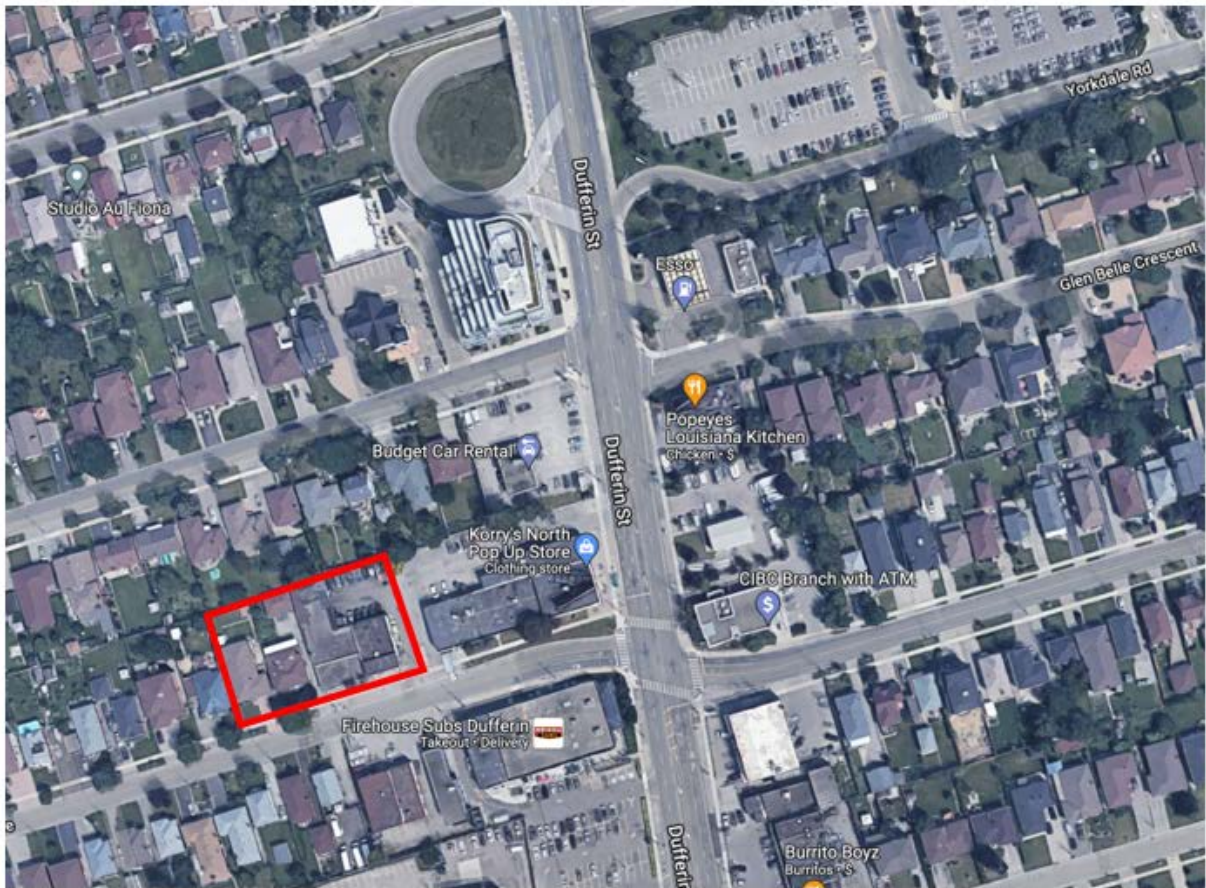
Yours truly,
Overland LLP

A handwritten signature in black ink, appearing to read 'Daniel B. Artenosi', is written over a horizontal line.

Per: Daniel B. Artenosi
Partner

Attachment A

Location of Site



Attachment B

Modification to Map 2 of SASP 713

