

Good morning,

We are the planning consultants for First Capital REIT, which through its subsidiaries own the lands municipally addressed as 485 Tragalfar Road and 271 – 361 Cornwall Road (Olde Oakville Market Place) and 461 – 399 Cornwall Road (Shops of Oakville).

By way of this email, we provide the attached written comments in respect of this evening's Special Council Meeting Agenda Item 5.1 Midtown Program (February 27, 2024).

Kindly confirm receipt of these comments.

Best,



Sara Gregory she/her
Senior Planner

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February 27, 2024

Via Email to TownClerk@Oakville.ca

Clerks Department
Oakville Town Hall
1225 Trafalgar Rd
Oakville, ON
L6H 0H3

**Re: Item 5.1 Midtown Program
Special Council Meeting – February 27, 2024
485 Trafalgar Road, 271-361 Cornwall Road, and 461-499 Cornwall Road, Oakville**

We are the planning consultants for First Capital REIT (“First Capital”), which through its subsidiaries FCHT Holdings (Oakville) Corporation and Shops of Oakville South Inc., owns the lands municipally addressed as 485 Trafalgar Road and 271-361 Cornwall Road (known as the “Olde Oakville Market Place”) and 461-399 Cornwall Road (known as the “Shops of Oakville South”) (both properties collectively referred to as the “Properties”).

Further to the letter submitted to Town Planning staff on February 1, 2024 by Weirfoulds LLP, we are writing to provide additional comments on the Midtown Oakville Growth Area Review and the materials shared at the February 5, 2024 Developer Stakeholder Meeting #3 and the February 15, 2024 Public Information Centre (“PIC”) #3.

We would like to thank the Town for their continued commitment and work on the Midtown Growth Area Review process that has taken place over several years. In particular, we would like to thank the Town’s team for their willingness to meet with us and First Capital for a one-on-one meeting on February 26, 2024, where we raised First Capital’s key concerns and comments respecting the implications of the Midtown Oakville Growth Area Review on the Properties, as laid out in detail below. We look forward to continuing to work together with the Town in a collaborative manner.

The Properties

Olde Oakville Market Place is located at the northeast corner of Trafalgar Road and Cornwall Road, south of the CN Railway and is approximately 5.01 ha in size with frontage on both Trafalgar Road and Cornwall Road. In 2022, Town Council approved an application for the western part of this site, adjacent to Trafalgar Road, to permit 14 and 19-storey mixed use towers with a resulting density of 3.76 FSI. This approval should be reflected in the Midtown plan.

The Shops of Oakville South is located further west, at the southwest corner of Cornwall Road and Chartwell Road, also located on the south side of the CN Railway and has an area of approximately

3.79 ha. Several commercial and retail stores are currently located on the Properties including Whole Foods Market, LCBO, Longo's, Shoppers Drug Mart, Indigo, and a number of other restaurants, banks, and personal service shops.

The Properties are both located within the Midtown Oakville Growth Area Boundary and make up most of the area of the southeast portion of the plan area. This southeast district is physically separated from the other parts of the Midtown area by the CN Railway and Trafalgar Road. It is also distinct from the other areas of the plan in that it is primarily built out with thriving commercial/retail businesses.

Preliminary Approach to Parkland and Land Use Designations in Midtown

Based on the "Proposed Parks and Open Space Network in Midtown" figure included in the materials from the February 15, 2024 PIC #3 (for Booth 6: Open Spaces), approximately 1.69 ha of public parkland is shown on Olde Oakville Market Place and approximately 0.64 ha of public parkland is shown on the Shops of Oakville South.

First Capital acknowledges that if they were to redevelop their lands, the *Planning Act* prescribes parkland dedication requirements associated with development. However, these park areas shown in the Midtown plan appear to be greater than the maximum amount of parkland dedication prescribed in the *Planning Act*, which caps the amount of parkland to be dedicated through a development application at 15% for properties greater than 5.0 ha and at 10% for properties less than 5.0 ha. Based on these requirements, a maximum of 0.75 ha would be required on the Olde Oakville Market Place (whereas 1.69 ha is currently shown) site and a maximum of 0.5 ha would be required on the Shops of Oakville South (whereas 0.64 ha is currently shown) site. Further, the amount of parkland shown in the plan for this southwest quadrant is disproportionately more than in the other quadrants of the plan, meaning that those other quadrants will have less park area within walking distance. These two commercial areas are vibrant and there are no plans in the immediate term to redevelop the lands, meaning that this future parkland on the Properties that is intended to serve future residents in other parts of the Midtown Area, would not necessarily be constructed in coordination with the rest of the area.

Materials from the February PIC (Booth 6: Open Spaces) also note that 40% of the area's target parkland of 12.8 ha will be acquired via other means beyond the *Planning Act* such as acquisitions and landowner agreements. We understand N. Barry Lyon Consults ("NBLC") has been retained by the Town to prepare a land acquisition strategy which is expected to be completed in Q3/Q4 of 2024. We are concerned that the timing to complete that strategy does not align with finalizing the Midtown plan, which is slated for Council approval in Q2 2024. We do look forward to working with the Town in the preparation of this strategy.

As an advisory note, we have identified a discrepancy between the area of existing parkland within the Midtown Oakville area shown in the Town's Parks Plan 2031 (9.8 hectares), and the area of existing parkland identified on the PIC #3 materials (3.8 hectares). Further, we note that the Parks Plan 2031 provides a parkland target of 12% of the Gross Land Area of Midtown Oakville, being

103.6 hectares. This amounts to an overall parkland target of 12.43 hectares, whereas the PIC #3 materials identify a parkland target of 12.8 hectares. We bring these discrepancies to light as it may have implications on the amount of additional parkland that may be required to achieve parkland target of 12% of the Midtown Oakville area as required by the Parks Plan 2031.

Given that a greater amount of park is shown on the First Capital lands than is permitted under the *Planning Act* and that an acquisition strategy has not yet been confirmed, if the intention is to continue to identify parkland on these properties, we request that the land use schedule for the Midtown plan be prepared to include only location symbols on the plan for parkland and not to delineate or show the outline of parkland. Further, corresponding policies should make clear that the location of the parks is conceptual, and the location and amount would be confirmed through the development process, in accordance with the *Planning Act*.

Request: We request that the park locations currently shown on the Properties be identified within the Draft Official Plan Amendment as “conceptual park locations” and denoted by a symbol rather than defined boundaries, and not be designated as *Parks*.

Permission for the Existing Commercial Uses

First Capital requires the ability to respond to tenant needs and changing market demands for these commercial areas which may result in existing buildings being altered or expanded, or the addition of new commercial uses. Given the importance of these commercial centres to the existing community, the Midtown plan should include site-specific policies for these sites that will permit them to continue as an interim use, allowing for changes to the sites before the intensification of the sites occurs.

Request: Include site-specific policies in the Draft Official Plan Amendment to permit the current uses on these commercial sites, permitting them as a use that can continue, with alterations, until such time as the intensification of these lands can occur.

Landowner Agreement and Requirement for Cost-Sharing

We understand that a draft Official Plan Amendment (“OPA”) is expected to be released in early April 2024.

The May 2023 Draft OPA presented to Town Council included a draft Policy 20.6.3 that would only permit development to proceed after a landowner’s group has been established and after each landowner has become party to the landowners’ cost sharing agreement.

First Capital is concerned about a mandatory requirement to enter into a cost-sharing agreement given their ability to proceed with development independently of other landowners in the area. The quadrant that their lands are in is physically separated from the other quadrants and would not rely on other owners to create new infrastructure and facilities. We also understand that the Town expects

most roads and services to be covered through Development Charges, thereby reducing the number of matters to be coordinated with other landowners.

Further, as mentioned above, First Capital requires the ability to respond to tenant needs and changing market demands. This may result in existing buildings being altered or expanded, without the need to enter into a cost-sharing agreement. Further, a portion of the Properties are subject to approved Official Plan Amendment No. 44 and site-specific Zoning By-law 2022-052 permitting the development of 14 and 19-storey towers and that development should be able to proceed without the need for cost sharing or entering into a landowners group.

Requests: We suggest that the draft OPA provide no requirement for cost sharing as a condition of proceeding with development. Should the Town's team determine that cost sharing is appropriate, we request that flexibility be provided in the draft OPA to provide for interim conditions (i.e., expansion of existing uses) without owners being required to enter into a landowner agreement. We also request that the Town's team explore opportunities to acknowledge existing development approvals and the ability for such development to proceed without the need to enter into a cost-sharing agreement. Lastly, we would also like to request that the Town explore opportunities to consider requirements for landowners groups on a geographic basis (possibly based on the quadrants of the plan), such that certain developers are not disproportionality saddled with costs that do not benefit them.

Building Heights and Density

As noted in the February 1, 2024 WeirFoulds LLP letter, no rationale has been provided for the proposed 2.5 FSI for Olde Oakville Marketplace or for the west portion of the Shops of Oakville South, or for the proposed 1.5 FSI for the east portion of the Shops of Oakville South. Further, it is unclear if these are minimum or maximum FSIs. In accordance with Subsection 16 (16) of the *Planning Act*, given the Midtown Growth Area is identified as a Protected Major Transit Station Area in the Halton Region Official Plan, the Town of Oakville is required to include policies in their Official Plans that identify the **minimum** densities with respect to buildings and structures in the area.

Importantly, the proposed 2.5 FSI for Olde Oakville Market Place does not align with Zoning By-law 2022-052, a site-specific Zoning By-law Amendment approved by Council in May 2022 for the site, which sets out permissions for a mixed-use development with 14 and 19-storey towers, results in an FSI of approximately 3.76. Based on this, the proposed maximum height of 25 storeys for Olde Oakville Market Place does not align with a maximum FSI of 2.5 while still allowing for the efficient use of land.

Further, as described, development and site alteration for the existing commercial use on the site would need to be permitted at a lower density until such time that the intensification would occur.

Requests: We request that existing approvals, including the approved Zoning By-law Amendment for Olde Oakville Market Place, be reflected in the draft OPA schedules. We also request that a more detailed analysis be undertaken to refine the maximum heights and densities for the Properties to

ensure they are coordinated and represent an efficient use of land. Finally, that the existing commercial use and associated density be permitted.

Commercial Needs

We are supportive of the mixed-use nature of the Midtown Oakville Growth Area as outlined in the PIC #3 materials. Notwithstanding, First Capital is concerned that certain landowners may be required to disproportionately absorb the required and necessary commercial and retail uses within the Midtown Oakville Area, depending on the ultimate phasing of development across the plan area. In particular, that earlier phases of development could justify avoiding the inclusion of meaningful commercial space by pointing to the existence of commercial uses on the First Capital Properties, impacting their ability to redevelop in the future.

Request: We request that the Town's consultant consider mandating a minimum amount of commercial space per quadrant or geographic area of the Secondary Plan, that can only be reduced subject to detailed study to the satisfaction of the Town of Oakville.

We thank you for the opportunity to provide these written comments and participate in the Midtown Oakville Growth Area Review process. Please do not hesitate to contact the undersigned should you have any questions.

Sincerely,
Bousfields Inc.



Emma West, MCIP, RPP

cc. *Neil Garbe, Commissioner, Community Development, Town of Oakville*
Gabe Charles, Director, Planning Services Department, Town of Oakville
Jeff Qiao, Assistant Program Manager, Jacobs
Joshua Butcher, FCHT Holdings (Oakville) Corporation
Joshua Butcher, Shops of Oakville South Inc.
Denise Baker, WeirFoulds LLP