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June 22, 2022

VIA E-MAIL

Our File No. 174276

City of Brampton
Office of the City Clerk
2 Wellington Street West
Brampton, ON L6Y 4R2

Dear Mr. Fay:

Re:	10124 and 10244 Mississauga Road (the “Argo TFP Lands”) Application by Argo TFP City of Brampton File: OZS-2021-052
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Aird & Berlis LLP is counsel to Argo TFP Brampton Limited and Argo TFP Brampton II Limited (together, “Argo TFP”). We are in receipt of a letter dated June 6, 2022 addressed to your office from Bennett Jones LLP in respect of City of Brampton File OZS-2021-0051, which file concerns Argo TFP’s *Planning Act* applications affecting lands at 10124 and 10244 Mississauga Road in Brampton. Bennett Jones LLP wrote this letter on behalf of its client, Mattamy (Credit River) Limited (“Mattamy”), which owns lands at 10201 Mississauga Road and 0 Mississauga Road.

We can confirm, as indicated in the June 6 letter, that Argo TFP and Mattamy are engaged in cost sharing discussions in respect of (a) the private road as described by Bennett Jones LLP and (b) the extension of Lagerfeld Drive. At this time, we have no public updates to share with the City in respect of these private discussions.

However, the balance of the June 6 letter asserts a need for Brampton to first process and approve a site-specific OPA in order to facilitate the review and approval of a plan of subdivision for the Argo TFP lands. We write to express our disagreement with Bennett Jones LLP on this point.

As the City is aware, the Province has definitively expressed its intention to have the Argo TFP lands developed for new residential uses. This intention is settled in O. Reg. 248/22, which provides a Minister’s Zoning Order (“MZO”) in respect of the Argo TFP lands. The Argo TFP draft plan application seeks to implement the detailed requirements outlined in the MZO.

The MZO is, by its own terms, deemed to be a by-law of the City of Brampton. Pursuant to subsection 24(4) of the *Planning Act*, an in-force by-law of a municipality is deemed to conform with the municipal official plan. We accordingly submit that a draft plan that conforms with the MZO applicable to the Argo TFP lands is deemed to conform to the Brampton Official Plan.

Further, the test for draft plan approval under subsection 51(24) of the *Planning Act* is, first and foremost, a test of “having regard for” matters of health, safety, convenience, etc. of the present and future inhabitants of the municipality. Among the matters that the municipal authority must “have regard for” is (c): “*whether the plan conforms to the official plan and adjacent official plans, if any*”. As the City is aware, the test of “have regard for” is not one that requires strict conformity

or consistency with in-force policy or mapping. Further, where the Province has expressed its planning intentions for certain lands through the passage of an MZO, the health, safety, convenience, etc. of the present and future inhabitants of the municipality is to be determined with regard to the Minister's intentions as expressed through the MZO. Otherwise, subparagraph 51(24)(c) could be interpreted and applied in a manner that would thwart the intentions of the Province, which appears to be the interpretation being proffered by Bennett Jones LLP.

We accordingly submit that in the circumstances of the Argo TFP lands, the appropriate course of action on the part of the City is to process the Argo TFP draft plan application by having regard for the contents of the MZO, as well as any official plan policies that complement and are not contrary to the MZO. While the Brampton Official Plan can be updated to reflect the land uses permitted by the MZO at a later date, such update is not a statutory prerequisite to processing and approving the Argo TFP draft plan.

Finally, we submit that Bennett Jones LLP's request that the City delay the approval of both an Argo TFP-related site-specific OPA and the Argo TFP draft plan until a cost sharing agreement is concluded is not warranted or appropriate. Council cannot abdicate its responsibility to process and approve *Planning Act* applications to await the outcome of private negotiations wherein one private party could effectively stall the will of Council. Any requirements associated with a future cost sharing agreement can and should be addressed through appropriate draft plan approval conditions if the City believes such conditions to be warranted in the circumstances of Argo TFP's approval. We would also submit that any such approval conditions would equally need to be imposed upon Mattamy in respect of their lands.

Yours truly,

AIRD & BERLIS LLP



Patrick J. Harrington
PJH/

- c. Argo TFP
- C. Chung, GSAI
- A. Parsons, Director of Development Services, City of Brampton
- C. Caruso, Centra Area Planner, City of Brampton