# M TORONTO

## STAFF REPORT ACTION REQUIRED

# City-Initiated Avenue Study for St. Clair Avenue West between Bathurst Street and Keele Street – Supplementary Report No. 2

Date:	September 29, 2009
То:	City Council
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward 11 – York South Weston Ward 17 – Davenport Ward 21 – St. Paul's
Reference Number:	File Nos. 05-189781 WET 11 TM and 06-115914 SPS 00 TM

## SUMMARY

At the June 4, 2009 meeting of the Planning and Growth Management Committee, the Chief Planner and Executive Director, City Planning, was requested to report directly to City Council on a number of issues related to the implementation strategy proposed for the City-Initiated Avenue Study for St. Clair Avenue West between Bathurst Street and Keele Street.

It is staff's opinion that the proposed implementation strategy, which includes provisions for Enhancement Zones as described below and in the May 11, 2009 Final Report, represents good planning that is based on a comprehensive analysis of the area, extensive community consultation and a thorough testing by Planning staff. This analysis also included identifying impediments to development so as to understand why little or no development has occurred in



this area despite the City experiencing one of the longest construction booms in its history. The objective of the proposed strategy is to encourage redevelopment and reinvestment in the area that supports the policies of the Official Plan for the urbanization of the *Avenues*.

This report provides further clarification on the purpose and intent of the proposed Enhancement Zones and recommends that the implementation strategy included in the May 11, 2009 Final Report and the June 2, 2009 Supplementary Report be adopted as proposed.

In addition, staff is recommending that the changes initially proposed, in the May 11, 2009 Staff Report, for the area between Old Weston Road, Spring Grove Avenue and Blackthorn Avenue be excluded from the draft Official Plan and Zoning By-law amendments until such time as staff have investigated potential odour impacts from nearby industry on residential buildings with heights greater than 16 metres. This recommendation is in response to a letter received from the solicitors for National Rubber Technologies Corp. who advise that taller residential buildings along a portion of St. Clair Avenue West may be impacted from air emissions resulting from the operation of this facility (See Attachment 3). Staff is also proposing that an outside consultant be retained to peer review for the City, the Air Quality and Odour information referenced in this letter as City planning staff does not have the necessary expertise in this area to properly assess this concern.

## RECOMMENDATIONS

#### The City Planning Division recommends that:

- 1. City Council delete Recommendation 2 of Planning and Growth Management Committee Report (PG26.2) and insert in its place the following recommendation:
  - "2. City Council amend the Official Plan substantially in accordance with the draft Official Plan Amendment attached as Attachment 2 to the Final Report dated May 11, 2009 from the Chief Planner and Executive Director, City Planning Division, with the exclusion of Map B(1) from the Draft Official Plan Amendment and that the draft Official Plan Amendment be amended accordingly".
- 2. City Council delete Recommendation 3 of Planning and Growth Management Committee Report (PG26.2) and insert in its place the following recommendation:
  - "3. City Council amend Zoning By-law 438-86 for the former City of Toronto substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 1 to the Supplementary Report No. 2 dated September 29, 2009 from the Chief Planner and Executive Director, City Planning Division".
- 3. City Council authorize the Chief Planner and Executive Director, City Planning Division to retain the necessary consultant(s) to peer review the information referenced in the letter, dated July 21, 2009, from James Harbell of Stikeman Elliott and report to the Planning and Growth Management Committee on the regulatory recommendations for the affected area, within 6 months of the adoption of this report.

4. No further notice be given in respect of the proposed by-laws.

#### **Financial Impact**

The recommendations in this report have no financial impact as the cost for the peer review can be accommodated within the 2009 City Planning Division operating budget.

#### **DECISION HISTORY**

Planning staff prepared a Final Report on the City initiated Avenue Study for St. Clair Avenue West between Bathurst Street and Keele Street for consideration at the June 4, 2009 meeting of the Planning and Growth Management Committee (PGMC). A public meeting was also held and notice was given in accordance with the *Planning Act*.

PGMC adopted the recommendations of the staff reports and requested that the Chief Planner and Executive Director, City Planning report, directly to City Council, on the feasibility of removing the density permissions on enhancement zone lands, once they have been purchased for development purposes and any structures on them demolished. PGMC also referred two motions to the Chief Planner for report directly to City Council. The first motion is intended to remove the proposed Enhancement Zones and Area A lands from those portions of St. Clair Avenue West located in Ward 17, while the second motion intended to remove them from the entire Avenue Study Area as documented in the report. The decision document can be accessed at the following link: <u>http://www.toronto.ca/legdocs/mmis/2009/pg/decisions/2009-06-04-pg26dd.htm</u>

## BACKGROUND

## **Consultant's Findings**

As described in the May 11, 2009 Final Report, the consultants retained to assist staff in conducting the St. Clair Avenue Study noted that there are many challenges to developing the properties along St. Clair Avenue West which may be preventing revitalization from occurring in the area. They cited a number of issues such as shallow lot depths, required lane widenings (as a result of inconsistent laneway patterns, widths and connectivity), and the existing zoning provisions as limiting the amount of land on a lot that can be redeveloped with a new building. The consultants also opined that it is not economically feasible for developers to build to the current maximum permitted building heights of 5 storeys, given the number of St. Clair properties that would need to be consolidated to create a viable development parcel.

The consultants also noted that the majority of the lots fronting St. Clair Avenue West are not deep enough to accommodate a mid-rise building that would even be as high as the width of the St. Clair right-of-way (30 metres or 9 storeys). As most of these properties have a lot depth of 30 metres (100 feet) or less, it was concluded that a 7 to 9 storey mid-rise building, complete with a 6 metre laneway or driveway, sufficient servicing, underground parking and other technical considerations could not be accommodated on a development site given the existing lot depths without impacting adjacent residential properties. As a recommendation in their respective reports, each consultant suggested creating larger lot depths to facilitate development

and to address impacts of development on adjacent *Neighbourhoods*. One consultant suggested minimum required lot depths of 50-metres for the north side of St. Clair and 38-metres on the south side, while the other consultant recommended a minimum required lot depth of 50-metres for both the north and south side of St. Clair Avenue West. Currently, the Mid-Rise Building Study is recommending a minimum lot depth of 46.5 metre to accommodate a 30 metre high building (9 storeys).

Staff tested the consultants' recommendations and concluded that since lot depths along St. Clair Avenue West are generally 30-metres deep (100 feet) the recommendation of a 50-metre lot depth would require, in some areas, the consolidation of multiple residential properties to the rear of the properties fronting St. Clair Avenue West (i.e. 3 and 4 properties). In staff's opinion, this is an unacceptable level of encroachment into the *Neighbourhoods*. Instead, staff propose the use of "Enhancement Zones" discussed in further detail below.

#### Intent and Purpose of Enhancement "Zones"

As noted in the May 11, 2009 Final Report, staff propose the use of "Enhancement Zones", (also referred to as "Area A" lands in the draft Official Plan Amendment). These zones would facilitate mid-rise buildings along St. Clair Avenue West that would be 7 to 9 storeys in height by mitigating the impacts of these new developments on adjacent *Neighbourhoods*. Enhancement Zones generally consist of a widened public lane where one exists and parcels of land containing a single detached home or two adjacent parcels of land containing two semi-detached dwellings.

The Enhancement Zones are intended to be used in conjunction with a mid-rise development fronting on St. Clair Avenue West and to buffer such new development from nearby residential properties. The creation of the Enhancement Zones would assist the City in creating continuous, operative and efficient 6.0 metre wide rear lanes. These Zones would also provide space and land for additional landscaping and where space permits, surface parking.

When a property in an Enhancement Zone is to be used together with a development site fronting on St. Clair Avenue West, the combined properties would be considered an "enhanced lot" and the zoning provisions would thereafter allow a larger building envelope that could accommodate a mid-rise building while providing sufficient distance and other mitigation features to protect adjacent *Neighbourhoods*. The enlarged development parcel would assist in facilitating a continuous laneway system, thereby alleviating much of the actual or perceived strain on St. Clair Avenue West due to deliveries and loading by directing such activities to the rear of the St Clair site. In addition, land to be conveyed for a lane widening could now be taken from the residential property within the Enhancement Zone instead of the St. Clair property. This would result in more land being made available within the existing St. Clair development property for the placement of a mid-rise building, while providing distance separation and landscaping as mitigation measures for nearby residential properties. Attachment 3 to this report illustrates how the proposed Enhancement Zones would be laid out.

The proposed site-specific Official Plan Amendment for St. Clair Avenue West explains that the purpose of the "Enhancement Zones" is to prevent the destabilization of lands designated *Neighbourhoods* and their character from encroachment by mixed use developments by:

- (i) securing a minimum standard of open space, distance separation and sky view between new 7 to 9 storey (24 to 30 metres) developments and nearby residential lands;
- (ii) significantly minimizing shadow impacts of development on nearby residential lands;
- (iii) providing a visible, soft-landscaped delineation between mixed use developments on St. Clair Avenue West and nearby residential lands;
- (iv) creating rear lanes where servicing, loading, and vehicle access shall be located for all new developments on St. Clair Avenue West; and
- (v) only where sufficient lands exist, providing additional temporary public or commercial parking to service the mixed use developments.

No building or structure would be permitted on lands within an Enhancement Zone if it is used in conjunction with a mid-rise development on St. Clair Avenue West. Lands within Enhancement Zones can only to be used:

- (i) to create new, or widen existing public lanes adjacent to lands with frontage along St. Clair Avenue West or create private driveways where appropriate;
- to provide a minimum 2.5 metre soft-landscaped strip between those lands designated Mixed Use Areas fronting on St. Clair Avenue West and nearby lands designated Neighbourhoods; and
- (iii) to permit commercial parking in association with those lands designated as a *Mixed Use Area* or public parking, where there are sufficient additional lands to provide for this use.

#### **Enhancement "Zone" Selection**

Within the Study Area, only a portion of the blocks abutting St. Clair Avenue West have been identified with Enhancement Zones. A detailed analysis was conducted for each block studying this area including all the residential properties to the immediate north and south of these blocks. As a result of this analysis, the Enhancement Zone classification has only been applied to select blocks or portions of blocks zoned Mixed Commercial Residential that met the criteria discussed in the May 11, 2009 Final Report. In total, approximately 46 % of the blocks within the Avenue Study Area, excluding the area between Old Weston Road, Spring Grove Avenue and Blackthorn Avenue area, have an adjacent Enhancement Zone.

## Walking Tour of Enhancement Zones

After the Planning and Growth Management Committee (PGMC) meeting on June 4, 2009, the Committee's Chair requested a tour of the St. Clair Study Area to better understand the implications of the proposed implementation strategy draft zoning by-law. On September 1, 2009, Planning and Legal staff hosted a walking tour with the Chair and a member of his staff. Staff highlighted how the City's objectives in completing the Study and the area specific characteristics of St. Clair Avenue West in both Wards 17 and 21 are complimented by the proposed implementation strategy. Staff also took the Chair to several properties proposed to be

classified as Enhancement Zones to illustrate where and why such properties were selected and to explain the challenges facing redevelopment.

## COMMENTS

The following comments are in response to the motions and requests put forward at the June 4, 2009 meeting of the Planning and Growth Management Committee (PGMC).

## Motion: Removing Enhancement Zones from the Study Area

In consultation with area residents, property and business owners, and interested individuals, it is staff's opinion that the Enhancement Zones create opportunities and options for development on St. Clair Avenue West. In devising the implementation policies for St. Clair Avenue West, Planning staff paid very close attention to the unique characteristics of the segment under study, including its immediate context. As mentioned above, St. Clair Avenue West exhibits a 30 metre wide right-of-way, with relatively shallow sites fronting onto it. Public lanes, where they exist, are substandard in width. Sidewalk widths, in some instances, have been narrowed as a result of the construction of the dedicated streetcar right-of-way, especially where streetcar platforms are located.

The Enhancement Zones address area-specific characteristics, challenges they pose to new development and mitigation measures that are necessary to prevent undue impacts on nearby residential properties. Staff do not believe the Enhancement Zones will act as a restriction to new development. Instead, it is staff's opinion that the Enhancement Zones may create development opportunities in a mid-rise form where none existed that can include appropriate mitigation measures towards the nearby adjacent *Neighbourhoods*. Without these zones, lots are not deep enough to accommodate a mid-rise building without potentially creating undesirable impacts on adjacent *Neighbourhoods*.

The proposed Enhancement Zones form part of the comprehensive implementation strategy for new development along St. Clair Avenue West, which staff believe represents good planning. As a comprehensive implementation strategy, the proposed amendments to the Official Plan and Zoning By-law contemplate new mid-rise buildings that exhibit an appropriate building height specifically for St. Clair Avenue West. It is staff's opinion that the proposed implementation strategy demonstrates a framework that will both guide and encourage new development, which has the potential to fit well within the St. Clair context. Further, the proposed Enhancement Zones provide for sufficient *Neighbourhood* protection and takes into account area-specific characteristics of St. Clair Avenue West with in the Study Area.

These characteristics include:

- (a) a 30 metre right-of-way (which theoretically equates to a 30m or 9 storey mid-rise building);
- (b) shallow lot depths (majority of properties have a lot depth of 30m or less which cannot accommodate a 7 to 9 storey mid-rise building);

- (c) substandard public lanes located adjacent to properties with frontage on St. Clair Avenue West;
- (d) substandard public sidewalks that have been narrowed in width to accommodate the St. Clair streetcar right-of-way;
- (e) a streetcar right-of-way;
- (f) neighbouring low rise residential dwellings within *Neighbourhood* areas in many cases in very close proximity to properties zoned Mixed Commercial Residential;
- (g) the loading of commercial trucks from the travelled portion of St. Clair; and,
- (h) reduced on-street parking on St. Clair Avenue West as a result of the streetcar right-of way.

Staff's intent is to encourage and guide the development of mid-rise buildings on St. Clair Avenue West based on a vision for the area that has been developed through public input. By proposing the Enhancement Zones for mid-rise developments on St. Clair Avenue West, staff are of the opinion that the proposed Official Plan and Zoning By-law Amendments can discourage hyper-intensification or contextually inappropriate sporadic development, given that mid-rise developments would become as-of-right. Without Enhancement Zones, adjacent *Neighbourhoods* are vulnerable to development proposals that may not include sufficient migration measures as proposed by the draft Official Plan and Zoning By-law amendments to prevent adverse impacts.

The use of Enhancement Zones is a new implementation tool that has not been used previously. As such, staff recommend that its effectiveness be reviewed in two years time for Council's consideration as noted in the May 11, 2009 Final Report. In addition, the proposed area-specific Official Plan amendment contains a policy which states that "no changes will be made through rezoning, minor variance or consent or other public action that are out of keeping with the vision for St. Clair Avenue West and the purpose and intent of the Enhancement Zone". Therefore, any proposed changes to the Enhancement Zones would require an Official Plan Amendment. This will allow Council to have greater control over the use and application of these areas.

## Motion: Removing Enhancement Zones from Ward 17 Properties

At the PGMC meeting, staff was asked to report directly to City Council on the idea of removing the Enhancement Zones from Ward 17 properties. It is staff's opinion that removing the Enhancement Zones does not constitute good planning.

The consultants' analysis of properties on St. Clair Avenue West indicated that the lots were generally too shallow to accommodate a mid-rise building footprint, while maintaining sufficient rear yard setbacks and angular planes to mitigate impacts. Throughout the community consultation program, the consultants presented these findings to both members of the public and City staff. Staff's further analysis confirmed the consultants' findings. Additional lot depth is required to the north and south of St. Clair Avenue West in order to achieve optimal lot depths to facilitate mid-rise development that would incorporate rear yard setbacks and meet angular plane requirements. Staff communicated this confirmation to each of the Local Advisory Committees, and at two community consultation meetings, where upwards of 400 members of the community attended. During these meetings, the community also stressed that staff develop a single

consistent approach to the reurbanization of St. Clair Avenue West that did not differentiate between ward boundaries. It is staff's opinion that members of the community in both Wards 17 and 21 have been an integral part in devising the concepts and development scenarios, which staff propose to implement through the draft Zoning By-law and Official Plan Amendments.

Between Bathurst and Keele Streets, the St. Clair property dimensions are relatively similar to one another. There are a few exceptions where larger and deeper lots exist or where a lot or series of lots has been identified for different treatment due it is location and lot characteristics. On these lots, staff propose varying height and density permissions beyond 7 and 9 storeys, given their area specific contexts. These variations are described in staff's May 11, 2009 Final Report and are reflected in the provisions of the Zoning By-law amendment. Beyond the sites that have been identified to accommodate taller building heights, the proposed height and density provisions for St. Clair Avenue West apply a consistent approach that would, in the long-term, create an *Avenue* rhythm of mid-rise buildings up to 9 storeys in height. The application of Enhancement Zones takes into consideration this desired consistency and seeks to protect nearby *Neighbourhoods* from the impacts that mid-rise developments present.

Staff do not support the removal of the Enhancement Zones from Ward 17, because it would delete an added layer of protection to nearby *Neighbourhoods*. In addition, such a distinction promotes an inconsistent form of development along the *Avenue*. It is staff's opinion that in a planning exercise, political boundaries should not be used to divide an area which exhibits a consistent and harmonious set of characteristics as discussed in this report (i.e. lot size, right-of – way width, lane confirmation, etc.)

## **Removing Density Permissions**

Both the draft area-specific Official Plan Amendment and the draft Zoning By-law Amendment contained in the May 11, 2009 Final Report contain policies and provisions that remove the density permissions from any lot within Enhancement Zone lands when it has been used in conjunction with a mid-rise development on St. Clair Avenue West.

On blocks identified in Schedule 3 of the draft Zoning By-law Amendment (Maximum Permitted Heights) with an "EZ" after the numerical height, a developer can only realize those maximum permitted building heights by assembling an "enhanced lot", as defined by the zoning by-law. The "enhanced lot" includes a property fronting onto St. Clair Avenue West and an adjacent residential property with frontage on a flanking street that has been identified as an Enhancement Zone in the proposed Zoning By-law Amendment and identified as Area "A" lands in the proposed Official Plan Amendment.

Section 13 of the proposed Zoning By-law Amendment specifically states that a lot in an Enhancement Zone shall not be used to erect any building or structure and can only be used to create or widen lanes, create soft landscaping at a minimum width of 2.5 metres and as a parking area.

Section 1(d) of the proposed Official Plan Amendment (OPA) speaks to the relationship between the Enhancement Zone or Area "A" lands and the lands that front on St. Clair Avenue West. The OPA specifically states that the Area "A" lands "shall not be severed from ownership to the lands with frontage on St. Clair Avenue West." Instead, the Area "A" lands are to become part

of the common elements, should the development take a condominium ownership form.

The originally proposed amendments to the Zoning By-law and Official Plan included sufficient provisions that ensure no buildings or structures will be erected on Enhancement Zone lands, after the existing building is demolished. The provisions set forth in the Official Plan further stipulate the ownership and maintenance responsibilities for the Enhancement Zone lands.

## **OTHER ISSUES**

### Precedent

The Enhancement Zone is proposed to deal with the unique characteristics of the area which challenge the redevelopment of properties fronting on St. Clair Avenue West. These characteristics, described previously in this report, include:

- (i) a 30 metre right-of-way;
- (j) shallow lot depths of 30m or less;
- (k) substandard public lanes;
- (l) substandard public sidewalks;
- (m)a streetcar right-of-way;
- (n) neighbouring low rise residential dwellings within *Neighbourhood* areas;
- (o) the loading of commercial trucks from the travelled portion of St. Clair; and,
- (p) reduced on-street parking on St. Clair Avenue West.

As previously explained, an in-depth block-by-block property analysis was conducted by staff in order to understand how these issues would impact development. This analysis was also used to develop a strategy for intensification that would be in keeping with the Official Plan *Neighbourhood* protection policies, while also encouraging mid-rise developments. This analysis was undertaken over three years as part of a comprehensive study of the area. The concept of the Enhancement Zones, together with where they are to be located along the Avenue segment and how they will be applied are a result of this in-depth analysis.

The Study Area of St. Clair Avenue West between Bathurst Street and Keele Street has a 30 metre right-of-way width. Of the 160 km of *Avenues* identified in the Official Plan only 19 kilometres have a 30 metre right-of-way (approximately 8% of the *Avenues*). Of these *Avenues* segments with a right-of-way width of 30 metres, St. Clair Avenue West has the largest percentage of properties with lot depths of 30 metres or less. The only other *Avenue* with similar lot characteristics is The Queensway which has a completed Avenue Study that was adopted by Council in May 2003. The Queensway Avenue Study adopted a different approach to intensification to deal with its specific characteristics.

The Enhancement Zone is a new approach to encouraging mid-rise development on an *Avenue* and does not necessarily represent a city-wide approach to encourage intensification along the Avenues. This approach was developed with careful consideration given to the policies of the

Official Plan and is a solution reflective of the lotting pattern and the characteristics of St. Clair Avenue West from both a planning and historical perspective after conducting a three-year extensive analysis of the area.

## 500 – 530 St. Clair Avenue West, between Bathurst and Raglan

In 2004, City Council approved a 22-storey mixed-use building at 500 St. Clair Avenue West, which is located at the north-west corner of Bathurst Street and St. Clair Avenue West. In April 2009, the Committee of Adjustment approved a minor variance request for an additional storey, resulting in a final building height of 23-storeys.

In July 2008, the same developer submitted an application for a 22-storey tower for the adjacent property at 524-534 St. Clair Avenue West, thereby completing the block development to Raglan Avenue. As part of the development review and negotiation for the second tower, it was staff's opinion to maintain a height transition downwards and westbound from Bathurst Street, as the *Avenue* Study recommends. The staff report for the second tower recommended approval of a 19 storey mixed use building, which incorporates a height transition downward and westbound. At is meeting of September 15, 2009 the Toronto and East York Community Council adopted the recommendations contained in staff's Final Report.

At PGMC's meeting on June 4, 2009, representatives of the developer submitted a letter outlining their concerns related to the proposed draft zoning by-law amendment, which includes their two sites. Staff recommend removing the two sites from the provisions of St. Clair By-law, given that they have gone through 2 separate review and approval processes from the *Avenue* study process. Both sites include site specific by-law amendments as part of their approvals. Attachments 1 and 2 to this report include zoning maps that will replace those maps included in May 11, 2009 and June 2, 2009 staff reports.

## National Rubber Technologies Corporation (NRT)

A letter, dated July 21, 2009, was submitted to the City Planning Division from the solicitors for National Rubber Technologies Corp. who own and operate an existing rubber recycling and manufacturing facility at 35 Cawthra Avenue, south-east of the intersection of Keele Street and St. Clair Avenue West. (See attachment 3)

The letter advises that NRT retained ORTECH Environmental ("ORTECH") to investigate the potential impacts of its air emissions on residential buildings with heights greater than 16 metres currently permitted by the Zoning By-law, along St. Clair Avenue West in the vicinity of its property. Their analysis looked at a 100 metre wide corridor on both sides of St. Clair Avenue West in the vicinity of the NRT site to determine at what location and height odours (i.e. air emissions) would be detected or where 1 odour unit ("ou") level may be exceeded. The letter explains that "an exceedence of 1 ou is considered to leave an industry vulnerable to complaints that might ultimately constrain their operations to the extent that they are forced to shut down."

Their analysis concludes that within the St. Clair Avenue Study Area from Old Weston Road extending to east of Cloverdale Road and Osler Street, odour exceedances above 1 ou would be expected at heights above 16 metres. To the east of that, such exceedences could be expected to almost Blackthorn Avenue and Spring Grove Avenue above a height of 24 metres. As the study is proposing changes to the zoning to allow for buildings heights between 24 metres and 39

metres in this area, it is their opinion that it would be inappropriate to propose increases in height within these areas.

ORTECH's analysis is based on the same inventory of emissions used in the Ontario Municipal Board hearing for 6 Lloyd Avenue, a property located within the Study Area at St. Clair Avenue West and Keele Street. This was a hearing in which the City was successful in arguing against a proposed residential development on lands located within the Study Area that are designated Employment Area and surrounded by other employment uses. During this hearing, the City retained the services of a firm specializing in the study of air emissions, to peer review a number of air quality/odour studies that had been submitted in the relation to the application. This also included studies prepared by ORTECH in relation to NRT's air emissions.

Since the City does not have the expertise to properly review these types of studies, staff are recommending that the ORTECH analysis be peer reviewed for the city by an outside consultant, preferably with familiarity with NRT's operations. This would provide an opportunity for staff to evaluate the potential odours impacts on taller residential buildings with heights exceeding 16 metres and report back to the Planning and Growth Management Committee with regulatory recommendations for this area.

Until the study and report are completed, staff are also recommending that the changes initially proposed, in the May 11, 2009 Staff Report, for the properties in the area between Old Weston Road, Spring Grove Avenue and Blackthorn Avenue be excluded from the draft Official Plan and Zoning By-law amendments.

#### CONTACTS

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## SIGNATURE

Gary Wright Chief Planner and Executive Director City Planning Division

#### **ATTACHMENTS**

Attachment 1: Revised Draft Zoning By-law Amendment Attachment 2: Enhancement Zones Attachment 3: Stikeman Elliot letter dated July 21, 2009

#### Attachment 1: Revised Draft Zoning By-law

Authority: Planning and Growth Managment Committee Item ~ [or Report No. ~, Clause No. ~] as adopted by City of Toronto Council on ~, 20~ Enacted by Council: ~, 20~

#### **CITY OF TORONTO**

Bill No. ~

#### BY-LAW No. ~-2009

#### To amend the former City of Toronto Zoning By-law No. 438-86, as amended, With respect to the lands fronting onto the north and south side of St. Clair Avenue West between1` Old Weston Road and Bathurst Street

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

- 1. Except as otherwise provided herein, the provisions of former City of Toronto By-law 438-86, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use certain buildings and structures in various areas of the City of Toronto", shall continue to apply to the lands outlined by heavy lines shown on Schedule 1, attached hereto.
- District Maps 48J-321, 48J-322, 48J-323, 49J-321, 49J-322, 49J-323, 48K-311, 48K-312 and 48K-313 contained in Appendix "A" of By-law No. 438-86, as amended, are further amended by redesignating the lands outlined by heavy lines to "MCR T3.0 C2.0 R2.5", "MCR T5.0 C2.0 R4.0", "MCR T5.5 C2.0 R4.5", "MCR T6.5 C2.0 R5.5", MCR T7.0 C2.0 R6.0", "MCR T8.0 C2.0 R7.0" and "MCR T9.0 C2.0 R8.4" as shown on Schedule 2, attached hereto;
- 3. District Map 48K-312 contained in Appendix "A" of By-law No. 438-86, as amended, is further amended by redesignating the lands outlined by heavy lines from "MCR T3.0 C1.0 R2.5" to "Gh" as shown on Schedule 2, attached hereto;
- 4. District Map 49J-321 contained in Appendix "A" of By-law No. 438-86, as amended, is further amended by redesignating the lands outlined by heavy lines from "MCR T3.0 C1.0 R2.5" to "R2 Z1.0" as shown on Schedule 2, attached hereto;
- 5. Height and Minimum Lot Frontage Maps No. 48J-321, 48J-322, 48J-323, 49J-321, 48K-311, 48K-312 and 48K-313 contained in Appendix "B" of By-law No. 438-86, as amended, are further amended to establish maximum permitted heights in metres as delineated by heavy lines shown on Schedule 3, attached hereto;

#### **PERMISSIVE EXCEPTION**

6. Section 12(1) of By-law No. 438-86, as amended is further amended by adding a new exception as follows:

Notwithstanding anything hereinbefore contained, none of the provisions of this by-law or of any *restrictive by-law* applies:

479 To prevent the use of land or the erection of a building or structure within the area zoned MCR and shown within the heavy lines on Schedule 1, in accordance with the following provisions:

#### (1) **NEW BUILDING OR STRUCTURE**

- (a) Any new building or structure erected within the lands identified in Schedule 1 shall comply with the provisions of exception 12 (1) 479.
- (b) Except as otherwise provided herein, the provisions of former City of Toronto By-law 438-86, as amended, being "A By-law to regulate the use of land and the erection, use, bulk, height, spacing of and other matters relating to buildings and structures and to prohibit certain uses of lands and the erection and use certain buildings and structures in various areas of the City of Toronto", shall continue to apply to the lands outlined by heavy lines shown on Schedule 1, attached hereto.

#### (2) EXCEPTIONS FROM ZONING BY-LAW 438-86, AS AMENDED

None of the provisions of Section 4 (2)(a)(i), 4(16) and Section 8 (3)Part II 4 shall apply to prevent the erection and use of a building or structure on a *lot*.

#### (3) **FLOOR-PLATE AREA**

On a *lot* located in a Height Transition Zone, as shown on Schedule '4", Maps A to D, no person shall erect a building or structure where the *floor-plate area* portion of the building above 16.5 metres exceeds:

- (a) 1000 square metres in a "H39.0" metre *height* district;
- (b) 743 square metres in a "H48.0" metre *height* district; and
- (c) 743 square metres in a "H68.0" metre *height* district.

#### (4) **HEIGHT**

- (a) No person shall erect a building or structure on a *lot* having a greater *height* in metres than the *height* limit specified by the numbers following the symbol "H" as shown on Schedule "3", Maps A to D, except that:
  - (i) Where the maximum *height* in metres shown on Schedule "3" is "H24.0", no person shall erect or use a building or structure that exceeds 7 *storeys;*
  - Where the maximum *height* in metres shown on Schedule 3 is "H30.0", no person shall erect or use a building or structure that exceeds 9 *storeys*;
  - Where the maximum *height* in metres shown on Schedule 3 is "H39.0", no person shall erect or use a building or structure that exceeds 12 *storeys*;
  - (iv) Where the maximum height in metres shown on Schedule 3 is "H48.0", no person shall erect or use a building or structure that exceeds 15 *storeys*; and
  - (v) Where the maximum height in metres shown on Schedule 3 is "H68.0", no person shall erect or use a building or structure that exceeds 22 *storeys*.
- (b) No person shall erect a building or structure on an *enhanced lot* having a greater *height* in metres than the *height* limit specified by the numbers following the symbol "H" as shown on Schedule "3", Maps A to D, except that:
  - Where the maximum *height* in metres shown on Schedule "3" is "H24.0(EZ)", no person shall erect or use a building or structure that exceeds 7 *storeys;*
  - Where the maximum *height* in metres shown on Schedule "3" is "H27.0(EZ)", no person shall erect or use a building or structure that exceeds 8 *storeys;*
  - (iii) Where the maximum *height* in metres shown on Schedule 3 is "H30.0(EZ)", no person shall erect or use a building or structure that exceeds 9 *storeys*;

(iv) Where the maximum *height* in metres shown on Schedule 3 is "H39.0(EZ)", no person shall erect or use a building or structure that exceeds 12 *storeys*;

For the purposes of this paragraph *enhanced lot* shall have the same meaning as defined in paragraph (14)(e).

- (c) Notwithstanding paragraph (a) and (b) above, where the frontage of the portion of the *lot* abutting St. Clair Avenue West is less than 30 metres and/or the *lot* depth or *lot* depth abutting a *flanking street* is less than 29 metres, no person shall erect a building or structure greater in *height* than 5 *storeys* or 16.5 metres, whichever is the lesser;
- (d) Notwithstanding paragraph (a) and (b) above, the maximum *height* of any buildings or structures located within a Height Transition Zone as shown on Schedule 4 shall not penetrate an angular plane, extending between a height of 22 storeys and a height of 9 storeys, projected over the length of the portion of the *lot* abutting St. Clair Avenue West, as shown on the diagram following this section.
- (e) Paragraph (a) and (b) above does not prevent the erection or use of the following:
  - a stair tower, elevator shaft, chimney stack or other heating, cooling or ventilating equipment or window washing equipment on the roof of the building of a fence, wall or structure enclosing such elements provided:
    - a. The maximum *height* of the top of such elements or enclosures:
      - i. is no higher than the sum of five metres and the *height* limit applicable to the *lot*; and
      - ii. does not penetrate the angular planes described in paragraph (7) below;
    - b. The aggregate horizontal area of such elements, including the area contained within an enclosure, measured at a point above the level of the *height* limit, does not exceed 30 percent of the area of the roof of the building; and
    - c. The width of such elements, including the width of an enclosure, located within six metres of a *lot* line that is a *street* line, does not exceed 20 percent of the width of the

main wall of the building facing the *lot* line, provided the width is to be measured parallel to the *lot* line.

- (ii) Structures identified in Section 4(2)(a)(ii), subject to the limitations contained therein.
- (f) No building or structure shall be erected which does not have:
  - (i) A minimum *height* of 3 *storeys*, for at least 50% of the total depth of a building or structure.
  - (ii) A minimum 4.5 metre first *storey* floor-to-floor *height*. For the purposes of this provision the first *storey* is deemed to be the *storey* with a floor level closet to the average elevation of the public sidewalk abutting St. Clair Avenue West.
- (g) No person shall erect or use a building or structure containing *dwelling unit(s)* or *dwelling room(s)* on a floor level below grade.

#### (5) **SETBACKS**

Setbacks shall be provided in accordance with Section 8 (3) Part II, except that:

- (a) <u>Setbacks from St. Clair Avenue West</u>
  - No person shall erect or use a building or structure on a *lot* in a MCR district having any part of the building or structure closer to the curb line of the travelled portion of St. Clair Avenue West than 4.5 metres.
- (b) <u>Rear Yard Setbacks</u>
  - No person shall erect a building or structure above on a *lot* in a MCR district unless the building or structure is setback a minimum distance of 7.5 metres from any *lot* or portion of any lot in an R or G District.
  - (ii) The setback requirement in paragraph (i) above shall not apply if the *lot* or portion of the *lot* in the R or G district abuts a *side lot line* of a *lot* in the MCR district.

For the purpose of this paragraph, the expression "*side lot line*" means a *lot* line that runs, generally, perpendicular to the *lot* line abutting a *street* (excluding any lane). In the case of a *lot* abutting two or more *streets* (excluding any lanes), a *lot* line

that runs, generally, perpendicular to the *lot* line abutting the *street* with the widest street allowance or widest vehicular roadway.

#### (c) <u>Side yards</u>

 On a *corner lot*, no person shall erect or use a building or structure on a *lot* in a MCR District having any part of the building or structure closer to a *lot* line abutting a *flanking street* other than St. Clair Avenue West than 1.5 metres.

#### (6) **BUILDING STEP-BACK**

- (a) Any building or structure greater than 5 *storeys* or 16.5 metres in *height*, whichever is the lesser, shall have:
  - (i) A minimum 1.5 metre step-back of the main external building wall facing a *lot* line abutting a *street*, other than a public lane located:
    - a. At a *height* above 16.5 metres or 5 *storeys*, whichever is the lesser, measured from the face of external wall of the storey directly below; and
    - b. An additional 1.5 metres step-back, at a *height* above 22.5 metres or 7 *storeys*, whichever is the lesser, measured from the face of main external wall of the storey directly below.
  - (ii) On a *side lot line* not abutting a street or public lane, a minimum of 50% of the area of the portion of the main external building wall located above 16.5 metres or 5 *storeys*, whichever is the lesser, shall have a minimum 1.2 metre stepback of the building wall facing the *side lot line*; and
  - (iii) Notwithstanding paragraph (a)(i) above, the main external building wall may encroach into the minimum step-back area required by paragraph (a)(i) above, up to a maximum continuous width of 5 metres or 16% of the building face abutting a *lot line*,
- (b) The provisions of paragraph (6)(a) above shall not apply to a building or structure erected on a *lot* in a Height Transition Zone, as shown on Schedule 4, Map D, provided the following standards are compiled with:
  - (i) Any building or structure greater than 5 *storeys* or 16.5 metres

in *height*, whichever is the lesser, shall have:

- a. At a *lot* line abutting a street other than a public lane, a minimum 3.0 metre step-back of the main external building wall at a *height* above 16.5 metres or 5 *storeys*, whichever is the lesser, measured from the external face of the wall of the building of the *storey* directly below; and
- b. At a *side lot line*, not abutting a street, a minimum 12.5 metre step-back of the main external building wall at a *height* above 16.5 metres or 5 *storeys*, whichever is the lesser, measured from the external face of the wall of the building of the *storey* directly below.

#### (7) ANGULAR PLANES AND BUILDING ENVELOPE

- (a) For a *lot* which abuts the north side of St. Clair Avenue West, no person shall erect a building or structure which does not comply with the following:
  - (i) all parts of the building or structure must be contained within a 45 degree angular plane projected over the *lot* from the 7.5 metre setback required in paragraph (5)(b), at an elevation of 10.5 metres above the average elevation of the ground directly above such setback, as shown on the diagram following this section;
  - (ii) Where the height of the building or structure exceeds 30 metres, measured above the average elevation of the ground abutting St. Clair Avenue West, all parts of such building or structure shall be contained within a 45 degree angular plane projected over the *lot* from the setback required by paragraph (6) (a), at an elevation of 30 metres above the average elevation of the ground abutting St. Clair Avenue West.
  - (iii) The building or structure shall not exceed the *height* specified in paragraphs (4)(a) and (4)(b).
- (b) For *lots* which abut the south side of St. Clair Avenue West, no person shall erect a building or structure which does not comply with the following:
  - (i) all parts of the building or structure must be contained within a 60 degree angular plane projected over the *lot* from the 7.5 metre setback required in paragraph (5)(b), at an elevation of 10.5 metres above the average elevation of the ground directly

above such setback, as shown on the diagram following this section; and

- (ii) where the height of the building or structure exceeds 30 metres, measured above the average elevation of the ground abutting St. Clair Avenue West, all parts of such building or structure shall be contained within a 45 degree angular plane projected over the *lot* from the setback required by paragraph (6) (a), at an elevation of 30 metres above the average elevation of the ground abutting St. Clair Avenue West.
- (iii) The building or structure shall not exceed the *height* specified in paragraphs (4)(a) and (4)(b).
- (c) The angular plan provisions of requirements (7)(a) and (b) shall not apply to prevent the erection of the following:
  - (i) any building or structure erected on a *lot* within the Height Transition Zone as shown on Schedule 4, Map D;
  - (ii) parapets, fences, balustrades, safety railings and wind mitigation structures not exceeding 1.2 metres in height above the surface upon which it is erected;
  - (iii) division fences not exceeding 2 metres above the level of the ground; or
  - (iv) ground floor level decks not exceeding 1.2 metres above the level of the ground, including fences or safety railings not exceeding 1.2 metres above the deck floor.
- (d) Where the angular plan provision is more restrictive than any other provisions of this exception, the angular plan provision shall prevail.

#### (8) **BUILD-TO-LINE**

- (a) No person shall erect a building or structure abutting St. Clair Avenue West, unless one or more of its main external walls, facing St. Clair Avenue West:
  - (i) is built to a minimum height of 3 storeys at the build-to-line and occupies a least 80% of the length of the portion of the *lot* abutting St. Clair Avenue.
  - (ii) Notwithstanding paragraph (i), where the *height* of a building or structure is greater than 3 *storeys*, the main external building

wall of the first 5 storeys or 16.5 metres, whichever is the lesser, shall be built at the build-to-line and occupy a least 80% of the length of the portion of the *lot* abutting St. Clair Avenue.

For the purposes of this section the Build-to-line shall be the setback required by paragraph (5) (a).

#### (9) LANDSCAPED OPEN SPACE

- (a) A minimum 1.5 metre *landscaped open space* to be used for *soft landscaping* shall be provided along a *lot line* abutting a R District except:
  - (i) Where a laneway abuts a *lot* in a R District, the landscaped open space shall not be required.

#### (10) WINDOWS

Windows shall be provided in accordance with Section 8, Part II, 1 (b), except that:

- (a) Where a building wall has been setback back less than 5.5 metres from a *side lot line* which does not abut a *street:* 
  - Only secondary windows shall be located on the sidewall of a residential building or mixed use building where the side lot line does not abut a public street.
- (b) No person shall erect a *residential building* or a *mixed use building* containing more than 5 *dwelling units* or *dwelling rooms* or combination thereof in which any *secondary window* of a *dwelling unit* or *dwelling room* in the building is closer than:
  - (i) 1.2 metres to a wall, or to a *lot* line that is not a *street* line or that does not abut a *public park* or UOS district.
- (c) The requirements of paragraph (b)(i) shall not apply to windows on walls which form an angle of 90 degrees or greater to each other, on a horizontal plane.

#### (11) **PARKING**

Notwithstanding Section 4(3), 4(4) and Section 8, Part IV the following uses shall be subject to the following minimum parking standards:

(a) Residential Parking Standards:

The following shall apply to *dwelling units* or *dwelling rooms* on a *lot* which has a *lot* frontage of more than 12.5 metres or a residential building or the portion of a building containing more than 12 *dwelling units:* 

Dwelling unit	Minimum Parking Space
Bachelor	0.50 per unit
1-Bedroom	0.50 per unit
2-Bedroom	0.75 per unit
3-Bedroom	0.75 per unit
Visitor	0.06 per unit
Dwelling room	1 per 6 dwelling units

(b) For each on-site *car-share parking space* provided on a *lot* up to a maximum of 2 *car-share parking spaces*, the minimum resident parking required by paragraph (a) above shall be reduced by 5 *parking spaces*.

#### (12) ACCESS

Where a *lot* abuts a flanking *street* or public laneway, all vehicle access shall be restricted to the flanking *street* or laneway.

#### (13) ENHANCEMENT ZONE

Where a *lot* in an *enhancement zone*, as shown in Schedule 4, is used as part of an *enhanced lot* the following shall apply:

- (a) No portion of the lands located within an *enhancement zone* shall be used for erecting a building or structure and shall only be used:
  - (i) to create new, or widen existing, public lanes to achieve a 6 metre public lane or private driveway;
  - (ii) to provide a minimum 2.5 metre *soft landscaped open space*; and

- (iii) as a *parking area*, *parking station* or a *commercial parking lot* as permitted subject to satisfying the requirements (i) and (ii) above.
- (b) The provisions herein described before shall continue to apply to the *enhanced lot*, expect where identified below.
- (c) The provisions of Section 4(14), and Section 8, Part IV 2 shall not apply.
- (d) The provisions of paragraph (5)(b)(i) shall not apply to a building or structure on a *enhanced lot* provided it is setback a minimum distance of 7.5 metres from the *lot* line separating the *enhancement zone* from an adjacent R District.
- (e) Notwithstanding the landscape requirements of paragraph 9(a), a minimum 2.5 metre *soft landscaped open space* shall be provided along the rear portion of an *enhanced lot* that abuts a *lot* in a R district that is not within an *enhancement zone*.
- (f) Notwithstanding the angular plane requirements of paragraph 7(a)(i) and 7(b)(i), where a *enhancement zone* exists as part of an enhanced lot:
  - (i) for an *enhanced lot* which abuts the north side of St. Clair Avenue West, all parts of the building or structure must be contained within a 45 degree angular plane projected over the *enhanced lot* from a setback of 7.5 metres as required by paragraph (13)(d), at an elevation of 10.5 metres above the average elevation of the ground directly above such setback as shown on the following diagram; and
  - (ii) for an *enhanced lot* which abuts abut the south side of St. Clair Avenue West, all parts of a building or structure must be contained within 60 degree angular plane projected over the *enhanced lot* from a setback of 7.5 metres as required by paragraph 13(b), at an elevation of 10.5 metres above the average elevation of the ground directly above such setback as shown on the following diagram.

#### (14) **DEFINITIONS**

For the purposes of this exception:

- (a) Except as otherwise provided herein, each other word or expression which is italicized herein shall have the same meaning for the purposes of this by-law as each word or expression has for the purposes of Bylaw No. 438-86, as amended, or any section thereof.
- (b) "*Car-sharing*" means the practice of multiple people sharing the use of one or more cars that are owned by a profit or non-profit car-sharing organization and to use a car-sharing vehicle, a person must meet the membership requirements of the car-sharing organization, including the payment of membership fees that may or may not be refundable. Cars are reserved in advance and fees for use are normally based on time and/or kilometres driven.
- (c) *"Car-sharing parking space"* means a *parking space* exclusively for a car used only for *car-sharing* purposes and such vehicle is accessible to non-resident *car-sharing* members at all times.
- (d) *"Enhancement Zone"* means an area above grade located to the rear of a *lot* within an MCR district, as shown on Schedule 4 that is free of any building or structure, and that is comprised of:
  - (i) an existing public lane, where one exists; and
  - (ii) a *lot* within a Residential District that is used for *soft landscaping* and, where additional lands permit, temporary surface parking.
- (e) *"Enhanced Lot"* means an area of land held by the same owner(s), exclusive of any lands held by the City and comprised of a *lot* within an MCR district together with a *lot* wholly within an *enhancement zone* where:
  - (i) the east *lot line* of the *lot* in the MCR district is no further east than the east *lot line* of the *lot* in the *enhancement zone*;
  - (ii) the west *lot line* of the *lot* in the MCR district is no further west than the west *lot line* of the *lot* in the *enhancement zone*; and
  - (iii) notwithstanding paragraph (i) and (ii) above, the length of the *front lot line* and *rear lot line* of the *lot* in the MCR district may exceed the maximum distance measured between such *lot lines* permitted by paragraphs (i) and (ii) above by no more

than an aggregate of 10%.

- (f) *"Floor-plate area"* means the total aggregate floor area of a storey, measured from the exterior face of all exterior walls of that storey.
- (g) *"Front lot line"* means the line that divides a lot from St. Clair Avenue West provided that in the case of a corner *lot* the shorter *lot* line that abuts St. Clair Avenue West is deemed to be the *front lot line* and the longer *lot* line that so abuts is termed the *"flank"* of the *lot*.
- (h) *"Lot line"* means a *front lot line, side lot line* or a *rear lot line.*
- (i) *"Secondary window"* shall mean the window of any bathroom or kitchen.





# **Angular Planes**

## St. Clair Avenue West Avenue Area from Old Weston Road to Bathurst Street

Scale 1:500 05/05/09

File # 05\_189781 & 06\_115914



# **Angular Planes**

## St. Clair Avenue West Avenue Area from Old Weston Road to Bathurst Street

Scale 1:500 05/14/09

File # 05\_189781 & 06\_115914

#### **RESTRICTIVE EXCEPTION**

- 7. Section 12(2) of By-law No. 438-86, as amended is further amended by adding a new exception as follows:
  - 344 No person shall on lands zoned MCR and located within the heavy lines on Schedule 1, Maps A to D, use land or erect to use a building or structure:
    - (a) for the purpose of a *converted house, detached house, duplex, row house, rowplex, semi-detached duplex, detached house, semi-detached triplex, triplex, automobile service and repair shop, automobile service station, car washing establishment, and motor vehicle repair shop Class A, unless such use existed on the <i>lot* and was lawful on the date of the passing of this by-law.
    - (b) Unless the following municipal services are provided to the *lot* line and the following provisions are complied with:
      - i. all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway, and
      - ii. all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

#### SITE SPECIFIC EXCEPTIONS

- 8. Section 15 of By-law No. 438-86, as amended, is further amended to indicate that sitespecific exception 12(1)479 shall apply to any address within the area labelled Enhancement Zone as shown on Schedule 4.
- 9. The following site-specific exceptions shall not apply to any address within the area delineated by heavy lines on the maps attached to Sections 12(1) 479 and 12(2) 344:
  - (a) 12(1) 61(b) 12(2) 222

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

DAVID R. MILLER, Mayor ULLI S. WATKISS, City Clerk

(Corporate Seal)

Schedule 1 - Maps A to D





Staff Report for Action – Supplementary Report No. 2 – St. Clair Avenue Study














Schedule 3 - Maps A to D









Staff Report for Action – Supplementary Report No. 2 – St. Clair Avenue Study













**Attachment 2: Enhancement Zones** 



# **Attachment 3: Stikeman Elliott Letter**

## STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

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James W. Harbell Direct: (416) 869-5690 E-mail: jharbell@stikeman.com

### DELIVERED

July 21, 2009 File No.: 121770-1003

Ms. Luisa Galli Planner City of Toronto City Planning Division Etobicoke York District 2 Civic Centre Court 3rd Floor Toronto, ON M9C 5A3

Dear Ms. Galli:

## Re: City Initiated Avenue Study for St. Clair Avenue West between Bathurst Street and Keele Street, Toronto - Study No. 05-189781 WET 11 TM and 06-115914 SPS 00 TM ("Avenue Study")

As you know, we are the solicitors for National Rubber Technologies Corp. ("NRT") who own and operate the existing rubber recycling and manufacturing facility at 35 Cawthra Avenue (the "Property"), south east of the intersection of Keele Street and St. Clair Avenue West. NRT and its predecessor companies have operated in this area since 1927.

Further to our letter to the Planning and Growth Management Committee of June 4, 2009, respecting the Avenue Study, our client retained ORTECH Environmental ("ORTECH") to investigate the potential impacts of its air emissions on residential buildings of greater height than the 16 metres currently permitted by the Zoning By-law, along St. Clair Avenue West in the vicinity of its Property. NRT's air emissions are controlled by a Certificate of Approval issued by the Ministry of Environment.

As you will recall, during the 41 day Ontario Municipal Board hearing respecting the proposed residential development at 6 Lloyd Avenue, (ultimately denied by the Board in its October 21, 2008 Decision) extensive evidence was given by NRT's (and Canada Bread's) consultants respecting potential odour impacts on the high rise residential buildings proposed. The Board noted in its decision: MONTREAL OTTAWA CALGARY VANCOUVER NEW YORK LONDON

SYDNEY

TORONTO

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#### STIKEMAN ELLIOTT

[that] "Canada Bread and NRT argued that these emissions will inevitably trigger complaints from new residents of the tall buildings proposed; these complaints will result in Provincial Orders being issued under the provisions of the *Environmental Protection Act*. Both Canada Bread and NRT indicated that they would not be able (either economically or from a practical engineering perspective) to comply with a Provincial Order by applying mitigation measures at source. This would oblige the Minister to shut down their operations, they contend, throwing "hundreds of well-paid unionized employees out of work ". This prospect was one of the main concerns of the third respondent in this case-the City of Toronto-though certainly not the only concern."

ORTECH's current analysis of the proposed increase in heights along St. Clair Avenue West is based on the same inventory of emissions used in the 6 Lloyd Avenue Hearing. As you will recall from the Lloyd Avenue hearing, an exceedence of 1 odour unit "ou" is considered to leave an industry vulnerable to complaints that might ultimately constrain their operations to the extent that they are forced to shut down. The attached aerial mapping prepared by ORTECH, indicates building heights within a 100 metre wide corridor on both sides of St. Clair Avenue West in the vicinity of NRT's Property at which the 1 ou level may be exceeded.

You will note that within the City's current Study Area from Old Weston Road extending to east of Cloverdale Road/Osler Street, exceedences of 1 ou would be expected at heights above 16 metres, ie. above the currently permitted height limit. To the east of that, such exceedences could be expected to almost Blackthorn Avenue/ Spring Grove Avenue above a height of 24 metres. Accordingly, our client's position is that it would be bad planning to propose increases in height within these areas based on the City's own peer review work related to the Lloyd Avenue issue. As a result, we anticipate the City will share this concern, based on the ORTECH study now completed. East of Blackthorn Avenue/Spring Grove Avenue, the 1 ou limit would not be exceeded until the building height reached 39 metres, which would be well above the increase in heights contemplated under the proposed Official Plan and Zoning By-law amendments within the Study Area, and accordingly our client has no issue with the increase in permitted heights proposed within this latter area.

Although the current Study Area/proposed amendments pertain to lands east of Old Weston Road, we are aware that the lands between Keele Street and Old Weston Road will be the subject of a separate Study and expect that there will be a further Avenue Study for St. Clair Avenue West extending westwards along Keele Street, so we have provided additional information concerning potential emissions impacts for lands west of Old Weston Road, to inform the future Studies planned.

ORTECH's modelling is based on confidential information and should you, other City representatives or consultants, wish to review or meet to discuss the detailed air emissions analysis, this could be arranged provided that the appropriate Confidentiality Agreements were entered into.

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### STIKEMAN ELLIOTT

Should you have any questions with respect to the matters discussed herein, kindly contact the writer or Vicky Simon at your earliest convenience.

Yours very truly/ James W. Harbell

JWH/ls

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Mr. Greg Bavington, National Rubber Technologies Corp.
Mr. Gregg Lintern, Director, Community Planning
Mr. Aaron Platt, City of Toronto, Legal Services Division
Mr. Brian Haley, City of Toronto, Legal Services Division

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