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October 10, 2012

95971

BY EMAIL

Merle MacDonald
Planning and Growth Management Committee
City of Toronto
City Hall 10th Floor West Tower
100 Queen Street West
Toronto Ontario
M5H 2N2

Dear Ms. MacDonald:

**Re: Planning and Growth Management Committee Meeting Oct 12 2012
Recommended Changes to Draft Citywide Zoning By-law
1 The Esplanade (formerly 5 & 7 The Esplanade)
Site Plan Application No 07 274204 STE 28 SA
OPA Application 08 231943 STE 28 OZ
Zoning Amendment 08 223450 STE 28 OZ
ITEM: PG18.7**

Aird & Berlis LLP acts on behalf of Ferncastle (Esplanade) Inc., the owner of the above noted lands.

We have reviewed the June 2012 version of the Draft Citywide Zoning By-law and note that the subject property is identified on Zoning Map L 639 with the annotation: “*See Former City of Toronto Zoning By-law 438-86*”. Because the property is the subject of ongoing planning approvals, it was identified as “*Not Part of This By-law*” under now repealed Zoning By-law 1156-2010. The above noted OPA and Zoning Amendment applications were approved in Principle by Council at its meeting August 27, 2010 but enactment of the planning instruments has been delayed pending satisfaction of various conditions of approval, one of which is the coming into force of Official Plan Amendment 389.

However, we have noted that the Legend to all of the Zoning Maps in the June 2012 Draft Citywide Zoning By-law fails to include the category “*Not Part of This By-law*”. This omission is not consistent with Section 1.5.7(1) of the Zoning By-law which indicates: “This By-law applies to all the lands in the City of Toronto, except for those lands identified on the Zoning By-law Map in Section 990.10 as “*Not Part of This By-law*”. This omission on the Zoning Maps will lead to future interpretation problems.

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The Draft By-law is not precise and therefore the Legend to the Zoning Maps and the Maps thereto need to be corrected to include the category "*Not Part of This By-law.*"

We are also relying upon section 1.5.6 (1) of the By-law which indicates "Nothing in this By-law repeals provisions of the Former General Zoning By-laws."

Respectfully submitted.

Yours truly,

AIRD & BERLIS LLP



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c. John O Keefe

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