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File No. 702127

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By E-mail to pgmc@toronto.ca

Merle MacDonald
Committee Administrator
Planning & Growth Management Committee
Toronto City Hall
100 Queen Street West
10th floor, West Tower
Toronto, ON M5H 2N2

Dear Ms. MacDonald:

Re: Draft New City-wide Zoning By-law (Item PG18.7)

We are counsel for the Conservatory Group of Companies ("Conservatory Group"). Conservatory Group is an umbrella organization controlling a number of related companies that own properties throughout the City of Toronto.

We write to provide some observations and comments on the draft New City Zoning By-law (the "New By-law") for consideration by the Planning & Growth Management Committee at their October 12, 2012 meeting and for Staff's review and update of the New By-law scheduled to be recirculated in November 2012.

Although this letter identifies some comments we have identified to date, our clients' consultants continue to review the New By-law and we will add comments and more detailed concerns as they arise and after the updated New By-law is re-circulated in November 2012. We would be pleased to discuss any of our comments with City Staff.

GENERAL COMMENTS

Mapping

1. To evaluate the neighbourhoods covered by the Standard Sets in an effective manner, we suggest the City provide overlay maps identifying these areas. Although the availability of the online maps is helpful to identify where Standard Sets apply on a site-specific basis, the provision of an overlay map



would greatly assist to understand the neighbourhood effect and boundary of the Standard Set areas.

Ch. 2 and 900: Transitioning, Site-Specific Exceptions

2. Our client is concerned with the timeframe set for the expiry of the transition clauses. The transition clauses 2.1.3.1 to 2.1.3.7 will be repealed after three years, as set out in section 2.1.3.8. Our client is concerned that this timeframe may be insufficient to transition more complex grandfathered applications.
3. Our client suggests a clarification of the term “inconsistent” used in Chapter 900.1.10(3) and (4). Currently, Chapter 900.1.10(3) provides that the regulations in Chapter 900 govern over any *inconsistent* regulations in Chapters 10 to 800. Likewise, Chapter 900.1.10(4) contemplates that none of Chapters 10 to 800 which are *inconsistent with* the regulations of a Prevailing By-law or Prevailing Section apply to prevent the erection of a building or the use of land in compliance with the Prevailing By-law or Prevailing Section. The City may wish to define the term “inconsistent”. Without a clear definition, there is no certainty on how to apply zoning standards where there are different (but not necessarily “inconsistent”) standards between Chapters 10 to 800 of the New By-law and a Prevailing By-law/Prevailing Section.

Ch. 1 and 40: Use Permissions

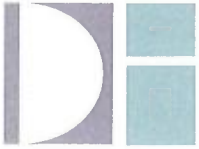
4. Our client suggests that townhouses and other grade-related housing forms be permitted in the Residential Apartment zone category. Chapter 1.40.15(2) limits uses in the Residential Apartment zone category to apartment buildings. Likewise, Chapter 15.10.20.40(1) permits only apartment buildings in Residential Apartment zones. Townhouses and other grade-related forms of development should be included as a permitted use, which would conform to the permissions set out in the Official Plan Apartment Neighbourhoods designation.
5. Likewise, our client suggests that townhouses be included in all Commercial Residential policy areas in the City. Currently, townhouses are not permitted in Commercial Residential zones with the Policy Area 3 or Policy Area 4 overlay (Ch. 40.10.20.100(52)(B)). This restriction unnecessarily hampers development potential in many Commercial Residential areas along arterial roads.



6. Chapter 40.10.40.1(1) to (5) restricts residential uses at grade in a mixed-use building in a Commercial Residential zone. Additionally, Chapter 40.10.40.1(3) prohibits residential buildings from locating behind another building at grade. However, Chapter 40.10.40.70(6) suggests that dwelling units may be located on the first floor of a building and identifies setbacks from front lot lines. Our client suggests that these provisions be clarified and that additional flexibility be introduced to allow residential uses at grade in certain circumstances, particularly for large sites which can accommodate alternative residential designs.

Ch. 10, 15, 40, 50: Performance Standards

7. Many performance standards introduced in the low-rise zone categories are too restrictive and will limit design flexibility and the accommodation of site-specific situations. Many sites will be down-zoned. For example, section 10.5.40.10 sets out a measurement of height to the highest point of a building, rather than mid-point of the roof as set out in some former by-laws. Permitted height should be increased in all affected sites to align with the former permissions measured to mid-point. Other specific performance standards relating to height in Residential Detached zones (10.20.40.10) and Residential Semi-Detached zones (10.40.40.10) also do not reflect current permissions found in the former general by-laws. These standards should be revised to align with existing permissions in the former general by-laws.
8. In Residential Multiple (10.80.40.10), Residential Apartment (15.5.40.10), Commercial Residential (40.5.40.10), and Commercial Residential Employment (50.5.40.10 and 50.10.40.10) zones, height is also measured to the building's highest point and the comments made immediately above should be considered for these sections as well. In addition, our client suggests that the Chapters concerning increase in height for mechanical equipment—by 5 metres and up to 30% of the area of the roof (and subject to other conditions)—be further increased to accommodate current design considerations and trends towards point towers.
9. Our client is also concerned with setbacks for townhouses. A townhouse in a Residential Townhouse zone which does not front directly on a street must have a minimum side yard setback of 7.5 metres (Ch. 10.60.40.70(3)). If the townhouse had frontage on a street, a minimum setback of 0.9 metres is permitted. In a scenario where a townhouse row design provides one unit in a row which does not have street frontage, a 7.5 metre setback is required. In another example, where there are two rows of townhouses, one behind the



first with street frontage, a 7.5 metre setback would be required for the rear row. Similarly, Chapter 10.60.40.80(1) and (2) require a minimum 5.5 metre separation distance between townhouse blocks where the townhouses have no openings and an 11 metre separation where there are openings. Our client is concerned that these policies will necessitate a townhouse row design which does not reflect logical planning principles.

10. Our client also suggests an increase in building depth for apartment buildings in Residential Zones to better reflect apartment building designs. The maximum building length for apartment buildings in residential zones, at 14 metres (Ch. 10.10.40.30), is unreasonable.
11. In a Commercial Residential Zone in a Policy Area, buildings must be a minimum height of 10.5 metres, a minimum of 3 storey, and have a minimum first floor height of 4.5 metres (Chapter 40.10.40.10(6) and (7)). These conditions create building design requirements with additional space which may not be commercially viable depending on the location and configuration of the lands. The minimum first floor height requirement in (7) is inappropriate for a building which would not contain first floor commercial uses. We are also concerned about the number of legal non-conforming properties which may be created by these sections.
12. The New By-law contains provisions in Commercial Residential zones regarding build-to lines in Standard Set areas 1 and 2 and rear yard angular planes in Standard Set areas 2 and 3 (Ch. 40.10.40.70). Our client may have concerns with these new requirements and looks forward to the receipt of Standard Set overlay maps to better evaluate the impact of these sections.
13. The below-grade setback exemptions for underground garages in Commercial Residential zones set out in Chapter 50.10.40.70 should be extended to all other zones which permit apartment buildings, including Residential, Residential Multiple Dwelling and Residential Apartment zones.
14. Our client's consultants continue to review the gross floor area exclusions set out in various zones in the City and we may comment further at a later time.

Ch. 10, 15, 40, 50: Visitor Parking, Bicycle Parking, Driveways

15. The New By-law prohibits charging fees for visitor parking spaces in residential buildings in Residential, Residential Apartment, Commercial Residential and Commercial Residential Employment zones. The prohibition



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on charging fees is not based on sound planning or environmental rationale and should be reconsidered.

16. The New By-law is unclear in whether fees may be charged for visitors parking in a mixed-use building. The By-law should permit the charging of fees for visitor parking in mixed-use building because of the nature of the use of these buildings for a variety of uses.
17. The New By-law imposes unrealistic bicycle parking requirements in Residential (10.10.95), Residential Apartment (15.5.95), Commercial Residential (40.5.95), and Commercial Residential Employment (50.5.95) zones. Chapters 10.10.95 and 15.5.95 require long-term bicycle parking at grade or at first level below and short term parking within 30 metres of a pedestrian entrance. Chapters 40.5.95 and 50.5.95 identify the same 30 metre requirement and set out a formula for occupying at grade or below-grade bicycle parking in relation to space for vehicular parking spaces. These requirements are unduly onerous and will negatively impact the logical utilization of space on the ground level and below.
18. Our client's consultants continue to review the bicycle parking rates set out in Chapter 230.5.10 and may provide further comments at a later time on the appropriateness of these rates.
19. Our client is concerned with the maximum driveway width of 6 metres in Residential Apartment zones (Ch. 15.5.100.1). This restriction does not contemplate widened driveways at drop-off areas or for truck turning movements.
20. Chapters 40.10.90.40 and 50.10.90.40 prohibit loading spaces through a main wall which faces a street in Commercial Residential and Commercial Residential Employment zones. Our client finds this provision excessively restrictive, particularly for sites which do not have lane access.
21. In Commercial Residential zones which abut a lane, vehicular access must be from the lane (Ch. 40.10.100.10(1)). This requirement may be difficult to satisfy where lane access is challenging, for example, where a site is located mid-block.



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SITE-SPECIFIC COMMENTS

Several sites owned/controlled by Conservatory Group are appropriately excluded from the New By-law and indicated as 'Not Part of this By-law'. However, a number of properties have been only partially excluded and therefore we request that these sites also be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps. These properties are as follows:

22. **636 Bay Street** – This property is part of a larger redevelopment parcel abutting 100 Edward Street, which has been excluded from the New By-law. The 636 Bay Street property should also be excluded.
23. **3035 Weston Road** – The majority of the site area is excluded from the New By-law, except for one section at the south end of the built site, which is zoned Employment Industrial. This area should also be excluded from the New By-law.
24. **1255 The Queensway** – The front portion of this site has been excluded from the New By-law. The rear of the site, which forms part of the same parcel, is designated Commercial Residential. This rear portion should be excluded from the New By-law to align with the balance of the site and surrounding lands.

We request that the above corrections be made to the next version of the New By-law, to be recirculated in November 2012.

Yours truly,

DAVIES HOWE PARTNERS LLP



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copy Client
Mr. Peter Swinton, PMG Planning