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March 27, 2013

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Our File No. 115837

BY EMAIL

Mayor Rob Ford and Members of Council
Toronto City Hall
12th Floor East
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Marilyn Toft, Manager
Council Secretariat Support

Dear Ms. Toft:

**Re: City-wide Zoning By-law
1011 Wilson Avenue**

We are writing on behalf of Entera Utility Contractors Co. Limited., the tenant of lands municipally known as 1011 Wilson Avenue, (the "Subject Property"). The Subject Property comprises a 2.72 hectare site, located south of Wilson Avenue abutting Highway 401. The Subject Property is accessed via a private lane, forming part of the Subject Property, that extends south from Wilson Avenue along the west boundary of the Subject Property and abutting an existing R5 zone immediately to the west. The Subject Property is lawfully used by our client as a contractor's establishment with accessory outdoor storage and by the owner as a transportation terminal.

In accordance with the former City of North York Zoning By-law 7625, as amended, ("By-law 7625"), the Subject Property is currently zoned M2(54), Industrial Zone Two, subject to exception 54. The in-force M2 zoning permits a broad range of industrial type uses and, in accordance with Section 31(11) of By-law 7625, permits the accessory outdoor storage of equipment, material, product or goods in any yards, other than the front yard, subject to a number of conditions. Exception 54 to the M2 zone ("M2(54)") restricts the uses permitted within 70 metres of any lot zoned R or RM, to the uses permitted by the M1 zone, and a research laboratory and a transportation terminal.

We have had the opportunity to review the draft City-wide Zoning By-law (the "Draft By-law") being considered by Toronto City Council on April 3, 2013 and are writing at this time to state our client's opposition with respect to the Draft By-law as it applies to the Subject Property. Our client's concerns with the Draft By-law are as follows:

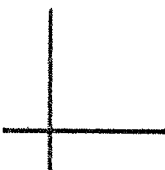
Open Storage

The Draft By-law proposes to zone the Subject Property E1.0 (x8), Employment Industrial with a maximum floor space index of 1.0, subject to exception 8. The proposed E zone provisions permit a range of industrial type uses similar to those uses permitted by the M2 zone of By-law 7625, including a contractor's establishment. However, the proposed provisions of the E zone introduce new restrictions to Open Storage. These restrictions are contained in Section 60.20.20.100(10) and are as follows:

- (A) *In an E zone, open storage must:*
 - (i) *be in combination with a permitted manufacturing use;*
 - (ii) *not be located in a yard of a lot that abuts a lot in the Residential Zone category or the residential Apartment Zone category;*
 - (iii) *not be located in the front yard of the lot;*
 - (iv) *be a minimum of 7.5 metres from any lot line;*
 - (v) *be less than 30% of the lot area;* (vi) *be less than the permitted maximum height of a building on the lot; and*
 - (vii) *be enclosed by a fence.*
- (B) *In an E zone, open storage may contain recyclable material and waste.*

The Draft By-law defines manufacturing use as "*the use of premises for fabricating, processing, assembling, packaging, producing or making goods or commodities, and it includes repair of such goods or commodities.*" The requirement that Open Storage be in combination with a permitted manufacturing use essentially removes the accessory outdoor storage permissions the Subject Property currently enjoys. Many industrial type uses permitted in the E zone, which would not be considered manufacturing uses, require outdoor storage for normal business operations. For example, our client's contractor's establishment requires Open Storage for the storage of building materials and equipment. As Open Storage for a contractor's establishment is prohibited in the E zone, our client's business would become legal non-conforming. Legal non-conforming status may hinder the necessary redevelopment of the Subject Property necessary to ensure the safe operation of our client's business.

We understand that the Draft By-law is intended to consolidate the various Zoning By-laws in force and effect in an effort to create one comprehensive Zoning By-law for the entire City of Toronto and not to introduce new zoning standards. In our submission, Section 60.20.20.100(10)(A)(i) introduces more restrictive zoning standards with respect to Open Storage. The imposition of the above-described restriction to Open Storage removes existing permissions from the Subject Property and limits the permitted industrial uses that would otherwise be able to operate in the E zone. We hereby request that Open Storage be permitted in combination with uses permitted in the E zone in order to maintain the existing standards of the in-force M2 zoning of By-law 7625. Please be advised that



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our client is not opposed to the imposition of appropriate restrictions on outdoor storage, namely restrictions ii-vii, of Section 60.20.20.100(10)(A).

Site Specific Exception E8

As stated above, the Subject Property is subject to M2(54), in accordance with By-law 7625. Exception M2(54) requires that the only uses permitted within 70 metres of any lot zoned R or RM, shall be the uses permitted by the M1 zone, and a research laboratory and a transportation terminal. The lands abutting the Subject Property to the west are zoned R5. Accordingly, exception M2(54) does apply to the Subject Property.

Exception 54 is carried forward in the Draft By-law as exception E8. Accordingly, the only uses permitted within 70 metres of a lot zoned for residential purposes are the uses permitted in an Employment Light Industrial Zone ("EL").


We are not opposed to exception E8 in principle, however a number of uses that were permitted by the M1 zone of By-law 7625 are not permitted by the EL zone of the Draft Zoning By-law. Additionally, a transportation terminal is no longer a permitted use on the Subject Property. A transportation terminal has been renamed "Shipping Terminal" by the Draft By-law and in the E zone, a Shipping Terminal must be on a lot that is at least 70 metres from a lot in the Residential Zone category. We hereby request that those uses permitted by the M1 zone of By-law 7625 and a Shipping Terminal be included in exception E8 as permitted uses on the Subject Property in its entirety.

We also request that notice of any further public meetings and notice of passage of the Draft By-law be provided to the undersigned.

Should you require any further information or clarification respecting any aspects of this letter, please do not hesitate to contact the undersigned. Thank you very much.

Yours truly,

AIRD & BERLIS LLP



Sidonia J. Loiacono

SJL/ee

cc. Joe D'Abramo
Tom Flood

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