

CITY CLERK'S OFFICE
SECRETARIAT SECTION

2013 MAR 27 P 4: 38

Black

Sutherland LLP

Barristers & Solicitors · Trademark Agents

Telephone: 416.361.1500

Facsimile: 416.361.1674

Nicholas T. Macos Direct: 416.840.1319

E-mail: nmacos@blacksutherland.com

March 27, 2013

BY FAX and 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 Bylaw
1011 Wilson Avenue

We are writing on behalf of Reimer World Properties Corp., the registered owner of the 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 has been lawfully used by our client and its tenants for a transportation terminal, a contractor's yard and for outdoor storage.

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. However, 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. 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, a contractor's establishment, which is permitted in the E zone, 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, the use of the Subject Property as a contractor's establishment would not be practical or probable. 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 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. 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 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 Exception 54 to the M2 zone ("M2(54)"). Exception 54 is carried forward in the Draft By-law as exception E8 under which 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"). There are 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. Also the additional uses of a research laboratory and a transportation terminal within 70 metres of a lot zoned for residential purposes have not been continued.

In the current by-law, *Transportation Terminal* means the use of land, building or structure for storing, maintaining and dispatching motor vehicles providing transportation, and may include a dispatch and management office, parking areas, and fuelling areas, but does not include a warehouse or a contractor's establishment (*By-law 33091*)

In the Draft By-law, the Transportation Terminal use has been replaced by the proposed definition of *Shipping Terminal* which means "premises used for transferring goods or commodities between vehicles or other transportation modes, and which may include ancillary facilities for maintenance, service and fuelling areas. A waste transfer station is not a Shipping Terminal."

The condition for the Shipping Terminal use proposes that "In an E zone, a Shipping Terminal must be on a lot that is at least 70 metres from a lot in the Residential Zone category or Residential Apartment Zone category which has not continued the permissive exception to the restriction. The proposed definition also has not continued the storing of motor vehicles providing transportation and a dispatch and management office. Our client hereby requests that those uses permitted by the M1 zone of By-law 7625, a research laboratory and a Transportation Terminal (now replaced with "Shipping Terminal) be included in exception E8 as permitted uses within 70 metres of a lot zoned for residential purposes and that the definition of Shipping Terminal be amended as indicated. 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,

BLACK SUTHERLAND LLP



Nicholas T. Macos

NTM:rcp

cc. Joe D'Abramo
Kelly Reimer
W. A. Redekopp