

March 28, 2013

Ian J. Lord
T: 416-947-5067
ilord@weirfoulds.com

VIA E-MAIL & REGULAR MAIL

File 00802.31373

Chair and Members of Council
City of Toronto
Toronto City Hall
100 Queen Street West
2nd Floor
Toronto, Ontario M5H 1N2

Attention: Ulli Watkiss

Dear Ms. Watkiss:

Re: Proposed new City of Toronto Comprehensive Zoning By-law
1. 1197-1217 Ellesmere Road, Toronto
2. 1575-1601 Ellesmere Road, Toronto

2013 MAR 28 P 3:55
CITY CLERK'S OFFICE
SECRETARIAT SECTION

We are counsel for Hurlburt Leasehold Properties, owners of the following two properties (collectively referred to as the "Sites"), in the City of Toronto (the "City"):

- (i) 1197-1217 Ellesmere Road, Toronto; and
- (ii) 1575-1601 Ellesmere Road, Toronto.

Both Sites contain small Commercial Plazas with a mixture of retail uses and personal service shops.

Our client has an ongoing interest in the City's processing of its proposed new City-Wide Comprehensive Zoning By-law ("CWZBL") and as such has sought our advice and recommendations respecting the effect of the CWZBL on each of the Sites.

We have conducted a preliminary review of the November 8, 2012 draft version of the CWZBL as well as the additional by-law changes contained in Staff Reports dated January 22, 2013 and February 26, 2013 (collectively referred to as the "current draft CWZBL"). The purpose of this correspondence is to register our client's concerns with the current draft CWZBL as it relates to the Sites.

SITE-SPECIFIC COMMENTS

1. 1197-1217 Ellesmere Road ("Ellesmere Road Site 1")

The City proposes to zone this Site as "Commercial Residential" (CR) (c0.33; r0.0) Development Standard Set 3, subject to Exception 417. Exception 417 states the following:

"The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Provisions:

- (A) The maximum **gross floor area** of all **buildings**, excluding any **basements** is 0.33 times the area of the **lot**;
- (B) The minimum **building setback** from a **lot line** that abuts a **street** is:
 - (i) the greater of 21.0 metres from the original centre line of Ellesmere Road or 3.0 metres from a **lot line** abutting Ellesmere Road; and
 - (ii) 3.0 metres from the **lot line** abutting any other **street**;
- (C) The minimum **building setback** from a **rear lot line** is 7.5 metres; and
- (D) The maximum permitted **building** height is the lesser of 4.0 **storeys** or 13.0 metres.

Prevailing By-laws and Prevailing Sections: (None Apply)"

As noted in Exception 417 above, the proposed maximum permitted building height for the Ellesmere Road Site 1 is the lesser of 4.0 storeys or 13.0 metres. However, we note that this Site is also shown to be subject to a 9 metre/2 storey height limit through the "Height Overlay Map" in the current draft CWZBL. Since it is our understanding that Exception 417 will prevail, there exists a potential height discrepancy in the current CWZBL. For this reason, we ask that the height limit in the Overlay Map be amended to be consistent with Exception 417.

Further, Exception 417 does not carry forward all the related performance standards under Bendale Community Zoning By-law No. 9350 related to parking/drive aisle and landscape strip standards. We ask that Exception 417 be amended to reflect the omissions.

2. **1575-1601 Ellesmere Road, Toronto ("Ellesmere Road Site 2")**

On review of the current draft CWZBL, we understand that the Ellesmere Road Site 2 is currently shown not to be part of the new CWZBL and will remain subject to "Former General Zoning By-law 9350 (Scarborough)". We continue to have the same general concerns with the need to protect our client's existing property rights and zoning/planning approval. As such, we will continue to monitor the manner in which the new CWZBL will delineate those parcels of land which are to continue under the former General Zoning By-laws and how they will eventually be transitioned for migration into the new CWZBL.

GENERAL CONCERNS REGARDING THE CURRENT DRAFT CWZBL

In our respectful submission, there are some significant changes to the underlying and existing zoning rights in the current draft CWZBL, which could potentially have significant adverse impacts on the Sites. These are summarized as follows:

1. **Development Standard Set 3**

In our opinion, this development standard could be better implemented through the City's current Tall Buildings Guidelines and Official Plan policies. We therefore request that these performance regulations be deleted from the CWZBL.

2. **New Zoning Standards**

Our client has concerns with the significant changes proposed to the zoning standards in the current draft CWZBL, as reflected in parking/loading, drive through provisions, gross floor area calculations, setbacks, frontage, use permissions, building heights and landscape standards. In our opinion, these new zoning standards could have significant potential adverse impacts on our client's existing property rights respecting redevelopment of the Sites.

3. **Site-Specific Zoning By-laws**

Complex site-specific zoning by-law amendments are currently recommended to be listed in the current draft CWZBL as a "Prevailing By-law" or "Prevailing Section", which will continue in force and prevail to the extent of any conflict between the site-specific zoning provisions and the new CWZBL. Until such time as we can fully confirm the existing zoning of the Sites (including the applicable referenced prevailing provisions), we take this opportunity to confirm that our client is opposed to the current recommendations and would ask that the Sites instead remain

as areas excluded from the proposed CWZBL at this time (i.e., "NOT PART OF THIS BY-LAW" category). This request is being made in order to avoid any conflict between the Sites' current zoning rights and that proposed in the CWZBL.

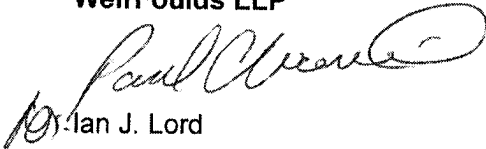
Please accept this correspondence as our client's written comments filed prior to Council enactment of the CWZBL for the purposes of registering the Sites' current zoning and reserving our client's *Planning Act* appeal rights, if necessary. We reserve the right to further supplement our concern as the CWZBL evolves, especially since we are not aware what further amendments (and to which provisions of the CWZBL) may be made by Staff and Council which could have zoning impacts on each of the Sites.

Please also accept this correspondence as our formal request that we be provided with any Staff Reports, Council and/or Committee's resolutions, and Notice of Decision by the City under s. 34(18) of the *Planning Act* with respect to the CWZBL.

Thank you for your attention to this matter. Should you have any questions or require clarification, please contact Paul Chronis, Senior Planner in our office, at (416) 947-5069.

Yours truly,

WeirFoulds LLP



Ian J. Lord

IJL/PC:cl

c: Paul Chronis, WeirFoulds LLP
John Hurlburt/Ron Hurlburt, Hurlburt Leasehold Properties

5270885.1