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March 27, 2013

Delivered via E-mail pgmc@toronto.ca

Planning and Growth Management Committee
 West Tower, Toronto City Hall
 10th Floor, 100 Queen Street West
 Toronto, ON M5H 2N2

Attention: Frances Pritchard

Dear Frances:

**Re: New Draft City-Wide Zoning By-law
 1099 & 1101 Bay Street**

Dear Ms. Pritchard:

We act on behalf of Oxford Properties Group who owns and manages various properties within the City of Toronto. We have undertaken a review of the New Draft City-wide Zoning By-law as revised November 8, 2012 ("City-wide Zoning By-law") and write to provide our client's comments regarding the proposed provisions of the City-wide Zoning By-law as they apply to 1099 and 1101 Bay Street.

We have submitted a previous letter to your attention dated February 19, 2013 outlining general and site-specific concerns of a number of Oxford properties, a copy of which is attached. This letter is specific to 1099 and 1101 Bay Street and should be considered in the context of our previous letter and the general concerns set out herein apply to this site as well.

Site Specific Concerns of 1099 and 1101 Bay Street

- **Setback Requirements**

- (i) We note that the current Zoning By-law and Site-specific By-law 719-84 do not require setback requirements. However, the proposed City-wide Zoning By-law contains various setback requirements for the different Standard Sets. As the Site-Specific By-law was prepared in the context of a by-law that did not contain setback requirements and considering the implications of new setback requirements for the potential redevelopment of this property, we ask that the property not be subject to the proposed setback requirements.

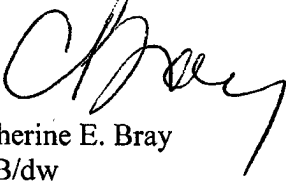
Furthermore, Oxford is currently in the process of expanding the ground floor retail in a way that will relocate the building at grade approximately 11 feet closer to Bay Street. Oxford has met with the City Planning staff about this and has gone through Preliminary Project Review. The City has not identified any substantive issues. However, this expansion may not comply with the new setback requirements. Accordingly an exemption is requested.

- Minor Variances
 - (i) The existing building has a number of approved minor variances and there is a concern that unused minor variances or those that are not used to their full extent can continue to be relied upon. We request that the language of the Minor Variance Clause explicitly state that approved minor variances that are unused can be relied on beyond the three year transition timeline.

If there are any questions about the above mention concerns please contact the undersigned.

Sincerely,

BORDEN LADNER GERVAIS LLP



Catherine E. Bray
CEB/dw
Enclosures

cc: Stephen Roy
Renee Vezina

TOR01: 5147427: v1

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February 19, 2013

Delivered via E-mail pgmc@toronto.ca

Planning and Growth Management Committee
West Tower, Toronto City Hall
10th Floor, 100 Queen Street West
Toronto, ON M5H 2N2

Attention: Frances Pritchard

Re: New Draft City-Wide Zoning By-law

Dear Ms. Pritchard:

We act on behalf of Oxford who owns and manages various properties within the City of Toronto. We have undertaken a review of the draft New Draft City-wide Zoning By-law as revised November 8, 2012 ("City-wide Zoning By-law") and write to provide our client's comments regarding the proposed provisions of the City-wide Zoning By-law as they apply to some of Oxford's properties in the City of Toronto.

The properties that are the subject of this letter include:

- 1 Adelaide Street East, 20 Victoria Street and 85 Yonge Street;
- 161 Bay Street, 10 Front Street West and 30 Yonge Street (TD Canada Trust/Brookfield Place);
- 200 Bay Street (Royal Bank Plaza);
- 1 University Avenue;
- 123 Front Street (Citigroup Place);
- 200 Wellington; and
- 225 King Street.

A. General Concerns with the Draft Zoning By-law

The following general concerns apply to all of the above sites.

A.1 Minor Variances

While the Minor Variance Clause has been improved in the November 8, 2012 version of the draft City-wide Zoning By-law, the status of approved, unused minor variances remains unclear. We request that the City explicitly state that approved minor variances that are unused or those that are not used to their full extent, can continue to be relied on in the same manner as approved minor variances that have been fully realized.

A.2 Setbacks in Commercial Residential Zones

All of the subject properties are presently zoned as Commercial Residential (CR) in both the current and the draft City-wide Zoning By-law. At present there are no set back requirements for CR zones applicable to the subject properties. However, the draft City-wide Zoning By-law imposes new setbacks ranging from 0 to 5.5 metres, which affect any new development, expansion or redevelopment.

We request that the new setback requirements of the CR zone be removed from the City-wide Zoning By-law.

A.3 Gross Floor Area

While the Gross Floor Area (GFA) definition in the draft City-wide Zoning By-law is an improvement over the definition of GFA in repealed By-law 1186-2010, concerns remain as to whether atria and similar voids count towards GFA in the draft City-wide Zoning By-law.

The term atrium is not defined in Zoning By-law 438-86 or the draft City-wide Zoning By-law. While atria and other similar voids are not expressly excluded from the GFA calculation, in practice, atrium voids were not counted in GFA calculations under By-law 438-86. The draft City-wide Zoning By-law uses the language from North York where the practice was to include atrium voids in calculating GFA. As a result there is a concern with the draft City-wide Zoning By-law regarding whether atria are included in GFA calculations.

We request that the City explicitly exclude atria and similar voids from the GFA calculation.

A.4 Retail Service and Service Shops

The New Draft Zoning By-law limits "Retail Service" and "Service Shops" to an aggregate of 400 square metres in the CR zone.

We request that this 400 square metre restriction be removed from the draft City-wide Zoning By-law.

A.5 Site Specific Concerns


- 1 Adelaide, 20 Victoria and 85 Yonge Street:

- (i) We note that the current Zoning By-law and site-specific exception do not require setback requirements, aside from window separations. However, the proposed by-law provides various setback requirements relating to the different Standard Use areas. As this property may be considered for future development, we ask that the property not be subject to the proposed setback requirements.
 - (ii) The existing buildings do not fully utilize minor variance permissions for this site. Consistent with our comment above regarding minor variances, our client requests that there be no time limit on building to the existing minor variance.
- 123 Front Street West (Citibank Place)
 - (i) The draft City-wide Zoning By-law proposes to prohibit nightclubs through Exception 1942. We object to this attenuation of permitted uses and request that the nightclub use remain as a permitted use through the removal of Exception 1942(a). We see no evident rationale justifying the prohibition of nightclubs. Throughout the CR zone nightclubs are permitted subject to restrictive provisions, such as a limit of one per building, being located on a ground floor only and not abutting a residential property. Despite these prescriptions there is by no means an outright prohibition as is the case with exception 1942(a).
 - (ii) The existing buildings do not fully utilize minor variance permissions for this site. Consistent with our comment above regarding minor variances, our client requests that there be no time limit on building to the existing minor variance.
- 200 Bay Street
 - (i) There are minor variances as to GFA that have not been fully utilized. Please ensure there is no time limit on building to the existing minor variances.
- 161 Bay Street (Brookfield Place)
 - (i) The existing buildings do not fully utilize minor variance permissions for this site. Consistent with our comment above regarding minor variances, our client requests that there be no time limit on building to the existing minor variance.
 - (ii) Our client is concerned that when further development in this block is undertaken, provisions not included in the site specific by-law (such as setbacks) will be imposed by virtue of the new standards in the City-wide Zoning By-law. The site specific by-law 44-88, affecting this property was prepared in the context of Zoning By-law 438-86, where no setbacks were specified for the CR zone. As no setbacks were specified in the site specific by-law, it is unlikely there was any intention to have setbacks for this site. Our client submits that imposition of new standards on a block already comprehensively planned and zoned is inappropriate. Given this concern, and the fact that this city block is already comprehensively zoned through a site specific by-law, our client requests that this property be excluded from the draft City-wide Zoning By-law i.e. be placed in a "hole".

If there are any questions about the above mentioned please contact the undersigned.

Sincerely,

BORDEN LADNER GERVAIS LLP


Catherine E. Bray
CEB
Enclosure

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