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clerk@toronto.caApril 3, 2013
File No: 112404.1033City of Toronto City Clerk's Office
Toronto City Hall
100 Queen Street West
10th Floor, West Tower
Toronto, ON M5H 2N2**Attention: Your Worship and Members of Council**

Dear Sirs/Mesdames:

Re: Concerns with the Proposed City of Toronto Zoning By-law
Client: Deltera Inc.
Property: 900 York Mills Road - Westin Prince Hotel
Municipality: City of Toronto (former City of North York)

We are solicitors for Deltera Inc. with respect to the property municipally known as 900 York Mills Road, City of Toronto (the "Property"). The Property is developed with the Westin Prince Hotel and several accessory and complementary uses, including restaurants, retail stores and service shops.

The purpose of this letter is to document some of our client's concerns with the proposed new city-wide Zoning By-law (the "Draft By-law") released on November 8, 2012.

The Property is zoned MO(24), Industrial-Office Business Park Zone subject to MO Exception 24, according to City of North York Zoning By-law 7625, as amended (the "Existing By-law"). The Property is zoned EO 1.5 (e1.5; o1.5)(x7), Employment Industrial Office Zone subject to Exception EO 7, by the Draft By-law.

According to Clause 60.40.20.100(23) of the Draft By-law, an ancillary retail store is only permitted on a lot in the EO zone with a permitted manufacturing use. Since most restaurants, retail stores and service shops in a hotel, may only be accessed through the hotel, such uses should also be permitted as ancillary uses to a hotel use, subject to appropriate conditions. As currently drafted, Clause 60.40.20.100(23) of the Draft By-law requires that retail stores be classified as principal uses because there is no manufacturing use on the Property.

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While an eating establishment, take-out eating establishment, personal service shop, retail service and retail store are permitted uses in the EO zone, they are permitted principal uses if they comply with the conditions set out in Clause 60.40.20.100(6), namely, that:

“In an EO zone, the interior floor area of retail services, retail stores, personal service shops, eating establishments, or take-out eating establishments on a lot may not exceed the greater of:

(A) 300 square metres; or

(B) 10% of the gross floor area of the buildings on the lot to a maximum of 500 square metres.”

Firstly, the zoning currently applicable to the Property in the Existing By-law does not limit the size of individual restaurants or the aggregate area of restaurant space provided on the Property. Existing banquet halls and restaurants on the Property do not comply with the Draft By-law restrictions for eating establishments and take-out establishments in the EO zone.

Secondly, the Existing By-law restricts the total aggregate building space collectively used for retail services, retail stores and service shops to a maximum of 10% of the total gross floor area of the building to a maximum of 500 squares, and does not restrict the size of individual personal service shops, retail services, and retail stores.

The Existing By-law does not apply a building height limit to the Property, however, Clause 60.40.40.10(1) of the Draft By-law applies a maximum building height of 30 metres to the Property. While the Draft By-law contains an exemption for existing lawful building height in Clause 60.40.40.11(1), any addition, extension or alteration of the existing building and all further development of the Property must comply with all the applicable requirements of the Draft By-law. This will negatively impact the long term intent to develop the Property more intensively.

Clause 60.40.50.10(2) of the Draft By-law requires that any lot line abutting a street must have a minimum of 3.0 metre wide strip of soft landscaping along the entire length of the lot line, exclusive of driveways and walkways, whereas regulation 34(6)(b)(ii) of the Existing By-law only requires that a minimum distance of 1.0 metre from all lot lines that abut a street be landscaped. The Draft By-law requirement contained in Clause 60.40.50.10(2) is onerous and problematic for our client.

Existing By-law regulation 6A(10)(a)(i) states that required parking may be permitted in the minimum front yard setback provided that such spaces shall be adjacent only to driveways which lead to parking areas elsewhere on the lot, and such spaces shall be at right angles to such driveway. The proposed restrictions of Clause 60.5.80.10(1) of the Draft By-law are overly restrictive in that a required

parking space is permitted in the required front yard, if: (B) the parking space is at a right angle to the driveway providing access to it from the street.

Clause 60.5.80.10(2) of the Draft By-law states that a parking space may be located: (A) in a front yard or a side yard that abuts a street, if there are not more than 5 parking spaces for the first 15.0 metres of main wall length and thereafter 2 parking spaces for each additional 15.0 metres of main wall that abuts the yard containing the parking spaces. Restrictions 6A(10)(a) and (b) of the Existing By-law only restrict parking within the required front yard setback of 9.0 metres. Where the front yard exceeds the required 9.0 metre setback, the Existing By-law permits the excess front yard to be used for parking and there are no restrictions on the number of parking spaces that may be provided in a side yard that abuts a street. The proposed parking space restrictions and location restrictions of Clause 60.5.80.10(2) of the Draft By-law are problematic given the existing and proposed development of the Property.

The Draft By-law contains no bicycle parking requirements for hotel uses but introduces bicycle parking requirements for the restaurants, retail stores, offices and service shops in a hotel (and also related shower/change facility requirements). Given the ancillary nature of restaurants, retail stores, offices and service shops in a hotel, the introduction of such bicycle parking requirements in the Draft By-law is of concern.

Generally, the proposed Draft By-law will render the existing use and development of the Property as "legal non-conforming" and will seriously limit the future development potential of the Property compared to current zoning permissions within the Existing By-law.

Since the Draft By-law process is an iterative one, we reserve the right to raise further issues with provisions of the Draft By-law that may affect the Property.

We ask to be provided with notice of all upcoming meetings of Council and Committees of Council at which the Draft By-law will be considered and we ask to be provided with notice of Council's decision with respect to the Draft By-law. If you have any questions or require further information, please contact the undersigned. Thank you for your attention to this matter.

Yours truly,


For: Calvin Lantz

CWL/mc