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TORONTO, ONTARIO
M5X 1C9

December 16, 2013

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Delivered by email to clerk@toronto.ca

AMBERSTEWARTLAW.COM

Ms. Marilyn Toft
City Council
City of Toronto
12th Floor, West Tower, City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attn: His Worship the Mayor Rob Ford and Members of Council

Dear Ms. Toft:

**Re: Item PG28.2 – Official Plan Comprehensive Review regarding
 Employment Lands Policies and Conversion Requests
 Property Address: 855 Oxford Street, City of Toronto
 Owner: 855 Oxford Street Investments Ltd.**

We are counsel to 855 Oxford Street Investments Ltd. (“855 Oxford”), the owner of the property municipally described as 855 Oxford Street (“the Subject Property”), in the City of Toronto (“the City”).

The purpose of this letter is to summarize our client’s concerns with the proposed Employment Lands Official Plan Amendment No. 231 (“OPA 231”), including our client’s request for conversion of the Subject Property from employment uses to either *Neighbourhoods* or *Mixed Use Areas*. OPA 231, including associated conversion requests, is scheduled to be considered by Council at its meeting of December 16 and 17, 2013.

Our client’s planning consultants, Weston Consulting, filed a formal conversion request on behalf of 855 Oxford on July 6, 2012, a copy of which is attached. By letter to the Planning and Growth Management Committee (“PGMC”) dated May 15, 2013, Weston Consulting filed additional detailed planning rationale, also attached hereto. Finally, we attended at the Planning and Growth Management Committee meeting of November 21, 2013 to make a deputation on behalf of 855 Oxford.

Our client repeats and adopts all of the submissions made in previous correspondence and through oral deputation.

Background

The Subject Property is located southeast of the Gardiner Expressway and Islington Avenue interchange. It is part of the South Etobicoke Employment Area, and is currently designated as *Employment Areas* in the City's Official Plan.

The only access to the Subject Property is via Oxford Street; the Subject Property is located at the end of a cul de sac.

The Subject Property is approximately 4,000 m² in area. It contains a one-storey building that was used for approximately 20 years as a Collision Reporting Centre for the Ministry of Transportation ("MTO"). However, the MTO closed the Collision Reporting Centre in early 2011 due to declining use for accident reporting by members of the public. The Subject Property is currently vacant.

As shown in Figure 1 below, Oxford Street previously contained a cluster of employment uses that were adjacent to the Subject Property. However, in 2006, City Council approved an application by Dunpar Developments to convert a number of the properties to the east from employment uses to residential uses. As shown on Figure 2 below, a residential townhouse development is now located adjacent to the east and south. In fact, the Subject Property is virtually the only remaining employment site on Oxford Street.



Figure 1: 855 Oxford Street circa December 2004

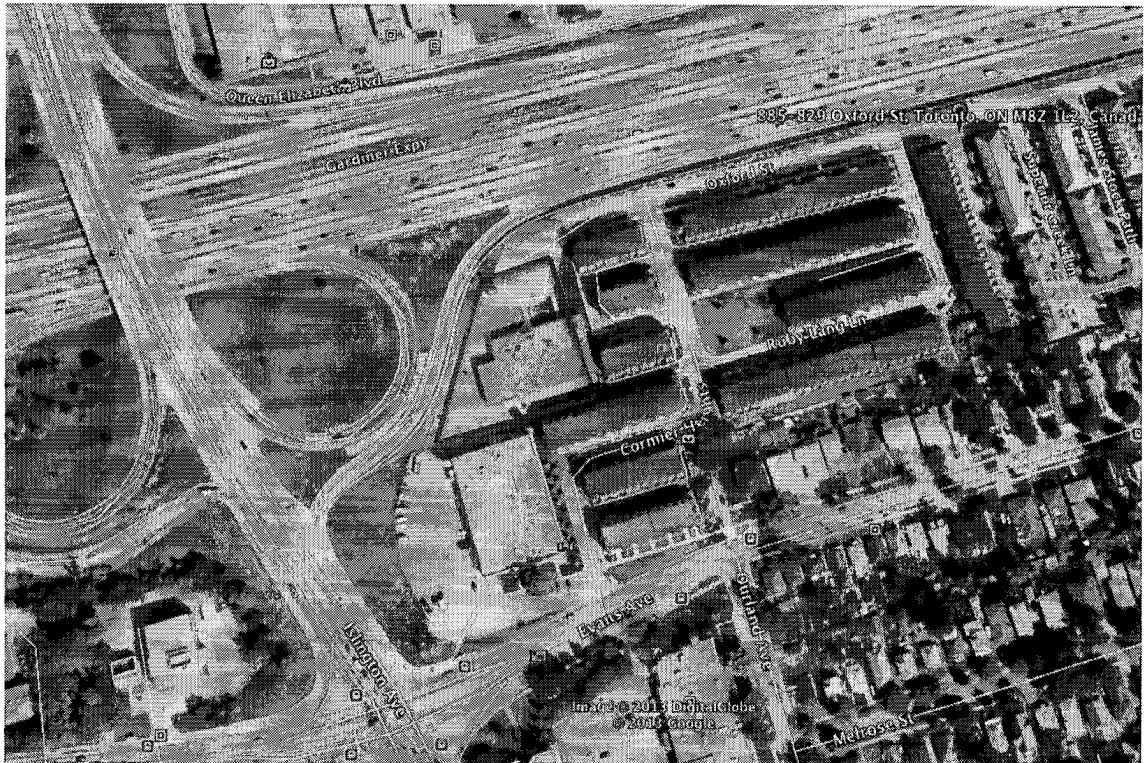


Figure 2: 855 Oxford Street today – located in a residential neighbourhood

Since the MTO closed the Collision Reporting Centre, our client has made diligent efforts to lease the Subject Property. However, these efforts have been unsuccessful. Prospective tenants have cited concerns such as:

- Location – the site’s location within a residential neighbourhood makes it difficult to find;
- Traffic and access – as noted above, the site does not have any access to a major street. All traffic to and from the site must travel through local residential streets;
- Visibility – the site has no visibility from a major road, and limited visibility from the Gardiner Expressway due to a noise wall that was constructed adjacent to the residential townhouse development.

Notwithstanding 855 Oxford’s ongoing efforts to lease the Subject Property, the site has remained vacant for almost three years.

The Conversion Request

As noted above, our client filed a formal conversion request to redesignate the Subject Property as *Neighbourhoods* or *Mixed Use Areas*. However, in the Final Assessment prepared in advance of the November 21 PGMC meeting, staff

recommended that the Subject Property be maintained as employment lands in OPA 231.

We reiterate our client's request for conversion of the Subject Property to either *Neighbourhoods* or *Mixed Use Areas*. As set out in attached correspondence, the conversion of the Subject Property is appropriate and represents good land use planning principles for many reasons, including the following:

1. Council's 2006 decision to approve the townhouse development fundamentally changed the character of Oxford Street and the surrounding area. Whereas the Subject Property was formerly located within a cluster of employment uses, it is now isolated as the sole employment property within a residential neighbourhood.
2. Staff has suggested that the conversion of the Subject Property should be refused because the introduction of a "sensitive" land use (*i.e.* residential uses) could generate land use conflicts. While this concern might have merit in some cases, it does not arise here. In this case, the sensitive land use was already introduced with the approval of the townhouse units in 2006. Conflict between the residential uses and the Subject Property already exists. The conversion of the Subject Property to residential uses would, in fact, increase its compatibility with the surrounding residential neighbourhood by alleviating existing land use conflicts.
3. As noted by staff, a brewery currently exists at the northeast corner of Islington Avenue and Evans Avenue, which abuts part of the south boundary of the Subject Property. However, residential townhouses are already located immediately adjacent to the brewery. Additional mitigation measures could also be employed to minimize or eliminate any impacts that might otherwise arise through the conversion of the Subject Property.
4. The introduction of the townhouse development in 2006 left the Subject Property stranded within a residential neighbourhood, and effectively sterilized the site for employment uses. The Subject Property is simply no longer viable as an employment site, as demonstrated by 855 Oxford's aggressive but entirely unsuccessful leasing efforts. The demonstrated and prolonged vacancy of the Subject Property is not in the public or private interest, and proves that it is not a prime employment site.

As acknowledged by staff, the Subject Property is not needed in order to meet the City's employment lands targets. However, the conversion is needed in order in order to restore the viability and usability of the Subject Property for any purpose.

Additional Concerns with OPA 231

Our client strongly believes that the designation of the Subject Property for employment uses is no longer appropriate, and does not represent good land use planning. For greater certainty, our client intends to pursue its conversion request, should it not be approved by City Council.

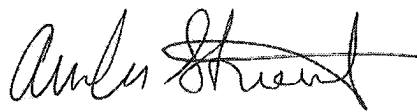
However, our client also has other concerns about the proposed policies and designations in OPA 231, and reserves the right to raise those concerns on an alternative argument basis in any appeal to the Ontario Municipal Board.

For example, 855 Oxford opposes a *Core Employment Areas* designation on the Subject Property, as proposed in OPA 231. The *Core Employment Areas* designation is more restrictive than the *General Employment Areas* designation, with more limited permitted uses. The *Core Employment Areas* designation is reserved for the interior of an employment neighbourhood, where a buffer exists between the core and adjacent non-employment neighbourhoods. The Subject Property is not a “core” site. As noted above, it is virtually isolated as an employment site and is immediately adjacent to residential uses. If the Subject Property is to remain an employment site – the merits of which is expressly denied – then the site should be subject to a much more permissive designation.

Conclusion

Thank you for considering our submissions on 855 Oxford’s conversion request and proposed OPA 231. If you have any questions or require further information, please call or email me.

Regards,



Amber Stewart

- c. Mr. Ryan Guetter, BES, MCIP, RPP
Client



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AMBERSTEWARTLAW.COM

Refer to: amber@amberstewartlaw.com

December 16, 2013

Delivered by email to clerk@toronto.ca

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City Council
City of Toronto
12th Floor, West Tower, City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attn: His Worship the Mayor Rob Ford and Members of Council

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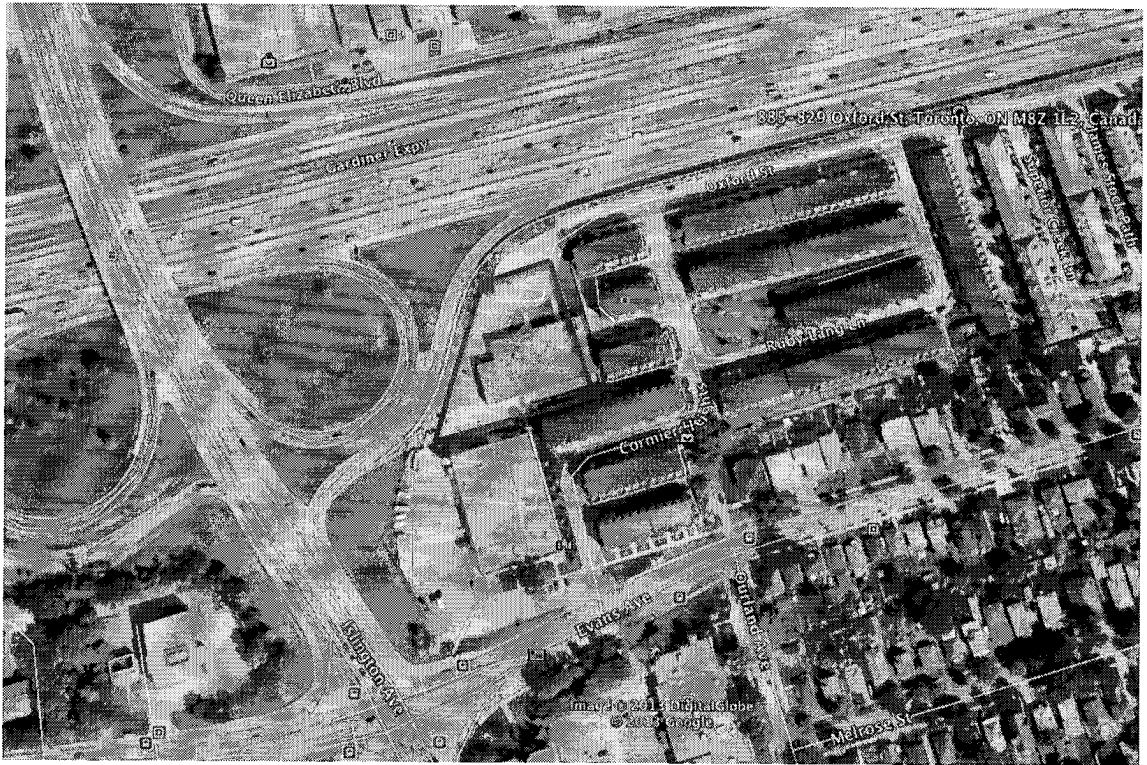


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1. Council's 2006 decision to approve the townhouse development fundamentally changed the character of Oxford Street and the surrounding area. Whereas the Subject Property was formerly located within a cluster of employment uses, it is now isolated as the sole employment property within a residential neighbourhood.
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3. As noted by staff, a brewery currently exists at the northeast corner of Islington Avenue and Evans Avenue, which abuts part of the south boundary of the Subject Property. However, residential townhouses are already located immediately adjacent to the brewery. Additional mitigation measures could also be employed to minimize or eliminate any impacts that might otherwise arise through the conversion of the Subject Property.
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However, our client also has other concerns about the proposed policies and designations in OPA 231, and reserves the right to raise those concerns on an alternative argument basis in any appeal to the Ontario Municipal Board.

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Thank you for considering our submissions on 855 Oxford’s conversion request and proposed OPA 231. If you have any questions or require further information, please call or email me.

Regards,



Amber Stewart

c. Mr. Ryan Guetter, BES, MCIP, RPP
Client



July 6, 2012
File No. 5951

City Planning, Policy & Research
Metro Hall
22nd Floor, 55 John Street
Toronto, ON M5V 3C6

ATTENTION : Kerri Voumvakis

Dear Ms. Voumvakis:

**Re: Change of Official Plan Designation
855 Oxford Street
City of Toronto**

Please accept this letter as our formal request that the property located at 855 Oxford Street be considered for redesignation in the City of Toronto Official Plan. The property is currently designated on *Map 15: Land Use Plan* of the Official Plan as "Employment Areas." We feel that a more appropriate designation of the subject property is "Neighbourhoods."

Section 1.3.2 of the Provincial Policy Statement (2005) states that:

Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

As a result of the above quoted policy and similar provisions in the *Growth Plan for the Greater Golden Horseshoe*, we are unable to apply for an Official Plan Amendment to remove the subject property from the Employment Area designation. We find that there is sufficient planning rationale to redesignate the subject property and request that it be considered for redesignation to "Neighbourhoods".

The subject property is currently vacant and has been the subject of analysis to determine its development potential. In our analysis we have found that the current Official Plan designation is not consistent with the adjacent lands uses, poses significant transportation and traffic obstacles, and presents limited development options that are economically viable.

In 2007 an Official Plan Amendment was passed by Council that removed the lands adjacent to the subject property from the Employment Areas designation. This amendment permitted the development of a residential subdivision comprised of condominium townhouses. This sensitive residential use is located immediately to the east and south property line and is not compatible with the industrial and manufacturing uses permitted on the subject property.

Since
1981

There is currently an industrial activity occurring south of the subject property that has been a source of complaint by residents of the neighbouring townhouse development. These complaints, which were submitted to the local Councilor's office, are evidence of the incompatibility of industrial and residential uses on this block. We find that the redesignation of the subject property would create a situation where uses within the block are compatible and avoids potential land use conflicts when redevelopment of the subject property occurs.

A second rationale for the redesignation of the subject property is the significant traffic impacts an employment use would have on the neighbouring residential property. Access to the subject property is only via Oxford Street, which requires all vehicles travelling to the site to pass through a residential neighbourhood. If travelling from the Gardiner Expressway the fastest route to the site is by Cormier Heights, which is a local residential street. If a use is developed that creates significant traffic, particularly of heavy vehicles, the impact on the residential development could be severe. This potential conflict and safety hazard could be mitigated by redesignating the subject property to "Neighbourhoods" in the Official Plan.

Finally, because of the limited accessibility of the site that was created by the redesignation of the adjacent lands the property's marketability and salability as an employment site is significantly diminished. When Council approved the application for the adjacent site, it created a situation that limits the subject property's use for employment or industrial activities. As a result, redesignating the subject property would be a fair and equitable solution to the issue created by Council's decision.

The current Official Plan review presents an opportunity to address a potential land use conflict that is likely to arise in the near future as the owner of the property at 855 Oxford Street explores development options for the site. The rationale outlined above indicates that this site should be considered for redesignation to "Neighbourhoods" in the Official Plan. This would continue the designation that currently abuts the property and eliminate the potential incompatibility of uses that may arise if development occurs on the site under the current Official Plan policies.

Yours truly,
Weston Consulting Group Inc.

Per:

A handwritten signature in black ink that reads "Ed Newhook". The signature is written in a cursive, flowing style.

Ed Newhook, MCIP, RPP
Senior Associate

cc S. Sanderson



**WESTON
CONSULTING**

planning + urban design

Planning and Growth Management Committee
City of Toronto
100 Queen Street West
Toronto, Ontario M5H 2N2

May 15, 2013
File 5951

Attn: Councillor Peter Milczyn, Chair

Dear Sir,

**RE: Employment Lands Conversion Request (Staff Report Dated April 23, 2013)
855 Oxford Street
City of Toronto**

Weston Consulting is the planning consultant representing 855 Oxford Street Investments Ltd, the owners of property located at 855 Oxford Street in the City of Toronto. A request was submitted to the City of Toronto on July 6, 2012 to consider the conversion of the subject lands from the "Employment Areas" designation in the City of Toronto Official Plan to a designation that would permit a wider range of uses including residential uses.

With reference to the above mentioned Staff Report, City Planning Staff's preliminary assessment of the conversion request stated that "*these lands should be retained for employment uses and be designated as Core Employment Areas.*" In response to this preliminary assessment we are pleased to provide additional information about the subject lands and local context. In our opinion, the conversion request has merit based on sound planning rationale and we request that this information be considered by City Planning Staff and the Committee.

The subject lands are located southeast of the F.G. Gardiner Expressway and Islington Avenue Interchange and are accessed from Oxford Street. The property has an area of approximately 4,000m² (43,000ft²). The subject lands contain an industrial building that was formerly used as a vehicle collision reporting centre and is currently vacant. The surrounding land use context is as follows:

North – Across Oxford Street is the F.G. Gardiner Expressway

South – An existing brewery with access to Evans Avenue

East – A residential townhouse development

West – Islington Avenue and ramps to the F.G. Gardiner Expressway

The subject lands and the brewery to the south of the lands are designated "Employment Areas" and in our opinion there are limited opportunities to intensify the employment uses on these

lands based on the stability of the existing brewery and the lack of appropriate access to subject lands for employment uses. In our opinion, a wider range of uses, including residential uses, would provide a better utilization of the subject lands.

Transportation and Access Constraints for Employment Uses

Based on our assessment of the lands, the surrounding road network and access configuration, it is recognized that access to the subject lands is constrained. The operational considerations for industrial uses and other employment uses on the subject lands would result in truck traffic, deliveries, and potentially loading operations in direct conflict with the adjoining stable residential uses. Furthermore, all traffic to the subject lands would be required to flow through residential streets, with properties that have frontage on these residential streets. By permitting a wider range of uses on the subject lands, including particularly residential uses, these potential conflicts would be significantly diminished.

The existing transportation conditions are the result of an approved employment land conversion of adjacent properties in 2006 that resulted in all vehicular access to the site having to traverse local residential streets before reaching the subject lands. Alternate access options were discussed with City of Toronto Community Planning and Transportation Planning in 2012 including the opportunity for direct access to Islington Avenue in conjunction with planned improvements to the Islington Avenue interchange; however, these options were not considered to be viable by City Staff.

Ongoing Employment Lands Review

The ongoing review of the City of Toronto Official Plan includes a focus on employment land policies, including the City's approach to employment lands conversions. In the *Consultation Summary Report* (March, 2013) of proposed economic health and employment policies it states that it is the City of Toronto's intent to maintain 98% of current employment lands in an employment designation. It was explained at public open houses that despite the intention to preserve employment lands, it may be appropriate to "*permit conversion of a few sites to resolve existing or potential land use conflict.*" An example of an appropriate instance for a conversion was given of an existing concrete plant at Wilson Avenue and Murray Road, where conversion was recommended due to conflicts with adjacent residential uses. The subject lands afford similar consideration given the proximity of adjacent residential uses to the lands and their configuration. The ability for the lands to accommodate certain industrial uses would be limited based on Provincial land use compatibility guidelines, which provides further limitations to the viability of these lands for traditional employment uses.

Size Considerations and Employment Land Viability

It is further recognized that the subject lands represent a very small portion of the overall employment land inventory in the City of Toronto and if converted to other uses would result in a negligible decrease to the City's employment land supply.

In addition, although it is recognized that lands in close proximity to highways are desirable for employment uses, smaller tracts of land with access constraints, such as the subject lands, are

not as desirable, as they cannot accommodate a critical mass of employment uses. The viability of employment areas is often characterized by good accessibility and large parcels of lands.

Compliance with Provincial Policies

The PPS states in Section 1.3.2 that:

Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.

The proposed conversion meets this requirement as the lands are a very small portion of the City's employment land inventory and will not result in a significant decrease in employment land supply in the City. There is a demonstrated need for the conversion as the current potential for land use conflict between the existing lands and adjacent residential uses has the potential to become a significant issue.

The Growth Plan provides additional considerations for the conversion of employment lands in Section 2.2.6.5. Table 1 provides a summary of these policies and explains how the requested conversion meets these requirements:

Table 1 – Compliance with Growth Plan policies for employment lands conversions

Growth Plan policies from Section 2.2.6.5	Compliance in requested conversion
a. there is a need for the conversion	The potential land use conflict between an industrial use on the subject lands and existing residential uses is sufficient to determine that there is a need to convert the subject lands and remove the potential negative impacts to existing dwellings.
b. the municipality will meet the employment forecasts allocated to the municipality pursuant to this Plan	While the City has identified a need to promote the retention of employment lands overall, the subject lands represent only a small portion of the employment lands inventory and will not significantly detract from the City's ability to meet demand for employment lands.
c. the conversion will not adversely affect the overall viability of the <i>employment area</i> , and achievement of the <i>intensification target</i> , <i>density targets</i> , and other policies of this Plan	The subject lands are located on the edge of the employment district and are separated from most nearby employment uses by arterial roads, thereby mitigating impacts of a conversion to the adjoining employment area.

Growth Plan policies from Section 2.2.6.5	Compliance in requested conversion
d. there is existing or planned infrastructure to accommodate the proposed conversion	The existing transportation infrastructure is better suited to accommodate residential land uses as there is potential conflict with the current designation. There are other services in place to accommodate residential development.
e. the lands are not required over the long term for the employment purposes for which they are designated	The City of Toronto has sufficient other employment lands to accommodate new employment development. It is also recognized that the lands have limited ability to attract certain employment uses based on surrounding residential uses.
f. cross-jurisdictional issues have been considered.	There are no identified cross-jurisdictional issues associated with the proposed conversion.

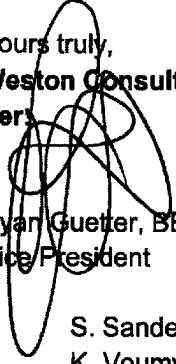
Conclusion

While it is acknowledged that the City of Toronto has determined to preserve employment lands wherever possible, the subject lands represents an unique instance where a conversion is appropriate given the potential negative impacts of employment uses on a residential neighbourhood and the limited impact the removal of the subject lands would have on the City's supply of employment lands. For the reasons outlined herein, we suggest that the conversion request represents good planning and should be implemented. The proposed conversion is consistent with the information presented by City of Toronto staff during the public consultation phase of the Official Plan review process and complies with Provincial policies for employment land conversions.

It is recognized that our letter of July 6, 2012, requested a conversion to the "Neighbourhoods" designation; however, in order to provide additional flexibility it may be appropriate to consider the lands for a "Mixed Use" designation. This would afford the greatest flexibility in the use permissions for the lands.

We would be please to meet with Toronto City Councillors and/or Staff to discuss this matter further. For additional information please contact the undersigned or Justin Adema (ext. 306).

Yours truly,
Weston Consulting
Per:



Ryan Guetter, BES, MCIP, RPP
Vice President

- c. S. Sanderson, 855 Oxford Street Investments Ltd
K. Voumvakis, City of Toronto
P. Bain, City of Toronto