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File No. 702632-03

March 4, 2013

**By E-mail to [pgmc@toronto.ca](mailto:pgmc@toronto.ca)**

Merle MacDonald  
Committee Administrator  
Planning & Growth Management Committee  
Toronto City Hall  
100 Queen Street West  
10th floor, West Tower  
Toronto, ON M5H 2N2

Dear Ms. MacDonald:

**Re: Draft New City-wide Zoning By-law (Item PG 21.1)  
750 and 760 Birchmount Road  
750 Birchmount Property Inc.**

We are counsel to 750 Birchmount Property Inc., the owner of approximately 3.4 acres of land municipally identified as 750 and 760 Birchmount Road on the west side of Birchmount Road, south of Eglinton Avenue East, as shown in Appendix "A" to this letter (respectively, "750 Birchmount" and "760 Birchmount", and collectively the "Properties"). 750 Birchmount and 760 Birchmount are separate parcels, with one building located on each of the properties.

We write to set out our client's concerns with the draft New City-wide Zoning By-law (the "New By-law") as it affects the Properties.

The current uses on the Properties include manufacturing, auto repair, warehouse and sale of products, distribution, place of worship, ancillary office, sale of auto parts, office and showroom and storage.

The Properties are located in the Employment Areas designation of the Official Plan. The Official Plan Employment Areas policies are currently under review and, as of the time of writing, proposed draft Employment Area policies have been circulated for public comment.

Under the in-effect City of Scarborough Zoning By-law 24982 (the "Existing By-law"), both 750 Birchmount and 760 Birchmount are zoned Industrial (M) for the portion of the lots which front onto Birchmount Road and Industrial Office (MOU) for the rear portion of the lots. The New By-law proposes an Employment Office



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(EO 1.0) zone for the front portions of each property and an Employment Industrial (E 1.0) zoning for the rear portions.

The Properties should be zoned as one contiguous zone in the New By-law. Specifically, the Employment Office zone most appropriately captures the existing permissions on the Properties and should be applied to the Properties as a whole. Since each property contains one building, one zoning category should be applied to each property. The current proposal for a split-zoning could lead to difficulties in administering use and performance standards under the New By-law, particularly since there are existing buildings on the Properties. As proposed in the New By-law, some existing uses and performance standards will be non-complying.

Specifically, our client has a number of concerns with the New By-law as it affects the Properties, including the following:

1. **The New By-law does not carry forward certain existing use permissions.** A number of uses permitted in the MOU zone in the Existing By-law are not carried forward in the E and EO zones of the New By-law. For example, day nurseries are permitted in the MOU zone, but not in the E or EO zone of the New By-law. Further, although personal service shops are permitted in the EO zone, they are not permitted in the E zone. If the Properties are not zoned EO in their entirety as suggested, personal service shops should be permitted in the E zone portion of the Properties.
2. **The New By-law should permit the existing vehicle service shop use in the EO zone or on a site-specific basis.** An existing tenant, Apple Auto, is not permitted in the EO zone. This use should be carried forward. Additionally, section 150.94 of the New By-law sets out vehicle service shop requirements for vehicle access width, vehicle access separation distances, and yard setback distances which are more onerous than the Existing By-law. The additional requirements should be relaxed and the existing service shop tenant should be permitted as-of-right.
3. **Existing places of worship permissions in the Existing By-law should be carried forward.** Under the Existing By-law, places of worship are permitted on both the M and MOU portions of the Properties. In the New By-law, places of worship are permitted only in the EO zone and only where they front on a major street, such as Birchmount Road. Places of worship are not permitted in the E zone. One of the existing tenants at 760 Birchmount, the Christ Embassy Christian Centre, would be permitted on the portion proposed EO, but not on the portion proposed E. Therefore, if the Properties are not zoned EO in their entirety, the places of worship permission should be extended to the E zone portion of the Properties.



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4. **The additional restrictions on retail service, retail store, and personal service shop should be removed.** New By-law section 60.40.20.100 imposes restrictions in the EO zone for minimum interior floor area for retail service, retail store, and personal service shop, to 300 m<sup>2</sup> or 10% of the gross floor area of the buildings on the lot to a maximum of 500 square metres. Additionally, in the EO zone, retail stores are restricted to uses in combination with a manufacturing use or in combination with vehicle fuel station use. We request that these retail use restrictions be relaxed, particularly since the Official Plan Employment Areas policies are now under review and it would be premature to make changes until such time as the Official Plan review process is complete.
5. **The New By-law imposes new lot frontage requirements.** The Existing By-law contains no minimum lot frontage for the Properties, whereas the New By-law proposes a minimum lot frontage of 20 metres in the E zone and 30 metres in the EO zone. These minimums should be removed. Should our client seek a subdivision or severance in the future, it will require compliance with two new and conflicting standards on the same lot. Instead, flexibility should be given to E and EO lands to allow these sites to be developed for uses which may not need lot frontages of 20 or 30 metres.

The Properties should be subject to one zone category in the New By-law to avoid complexities and conflicts that can be associated with split-zoning.

Further, we request that the above changes be made to the New By-law to ensure that existing permissions are maintained in the New By-law. In particular, the existing vehicle service shop and place of worship should be carried forward in the New By-law, as a permitted use in the E and EO zones or as a site-specific exception.

We would also be pleased to discuss any of our comments with City Staff.

Please provide me with notice of any decision of the Planning & Growth Management Committee and City Council, and of any future public meetings and staff reports concerning the New By-law.

Yours truly,

**DAVIES HOWE PARTNERS LLP**

Mark R. Flowers  
Professional Corporation

MRF:IB

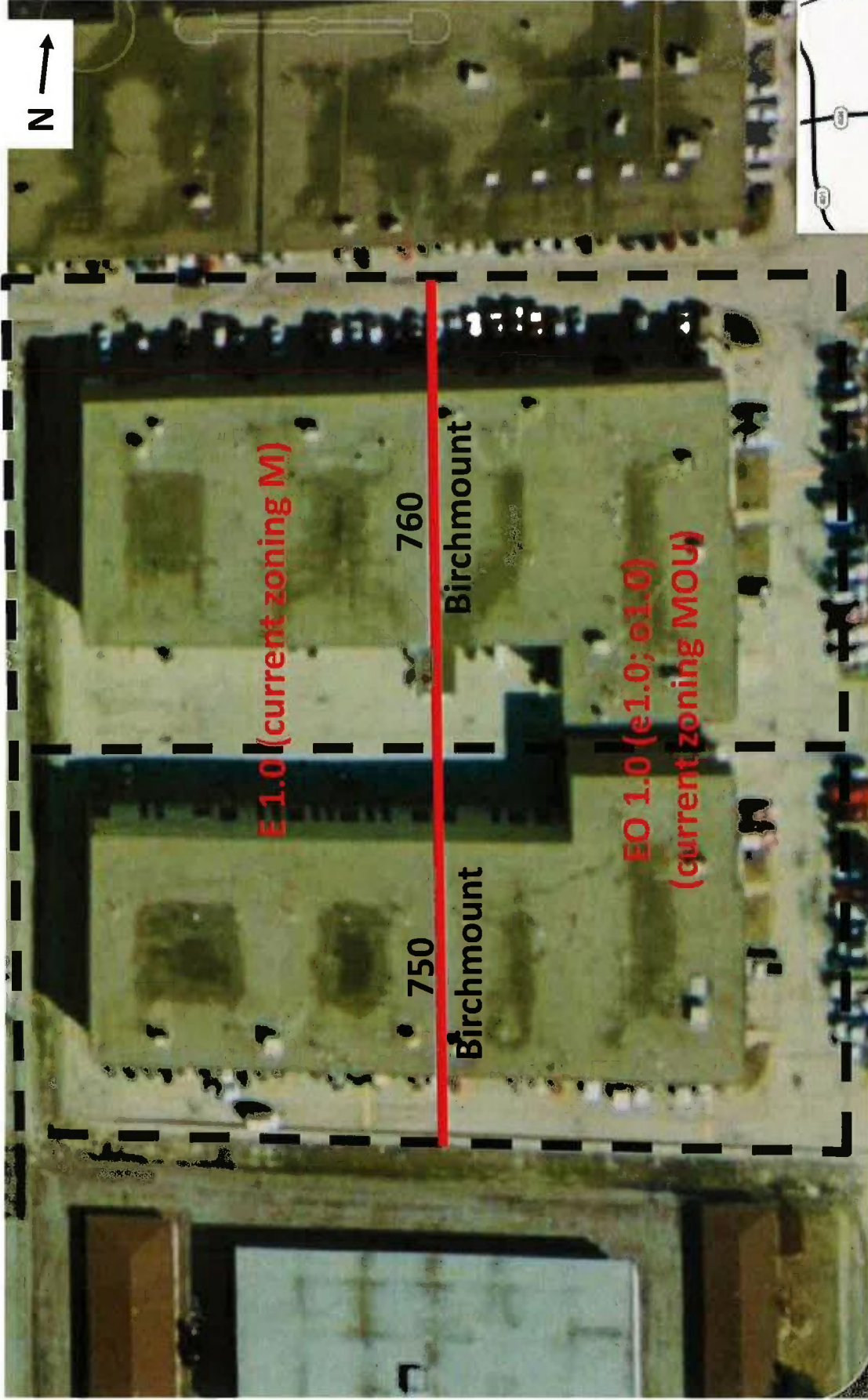
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# Appendix "A"

750-760 Birchmount Road

Location



Official Plan: Employment Area

Current Zoning: M Industrial and MOU Industrial and Office

Proposed Zoning: EO (e1.0; o1.0) – Employment Office

E 1.0 – Employment Industrial