

March 5, 2013

**Delivered Via Email: [fpritch@toronto.ca](mailto:fpritch@toronto.ca)**

Chairman and Members  
Planning and Growth Management Committee  
c/o Frances Pritchard  
*Committee Administrator*  
City Clerk's Department  
City of Toronto  
City Hall, 100 Queen Street West  
10<sup>th</sup> Floor, West Tower  
Toronto ON M5H 2N2

**Steven J. O'Melia**  
LSUC Certified Specialist (Municipal Law)  
Direct Line: 519.593.3289  
Toronto Line: 416.595.8500  
[somelia@millerthomson.com](mailto:somelia@millerthomson.com)

File: 20839.0072

Dear Sirs and Mesdames:

**Re: Planning and Growth Management Committee  
Meeting No. 21 – March 6, 2013 – Agenda Item PG21.1  
Statutory Public Meeting City-wide Zoning By-law**

You will recall that we represent the Catholic Cemeteries – Archdiocese of Toronto ("Catholic Cemeteries") in respect of 4 cemetery interests located throughout the City of Toronto. Catholic Cemeteries maintains and operates 4 active cemetery interests, two of which are located on the grounds of Roman Catholic Episcopal Corporation for The Diocese of Toronto, in Canada properties ("RCEC").

We understand that your Committee will be considering the above-noted item at a Statutory Public Meeting on March 6, 2013 and we take this opportunity to submit our client's comments for your consideration.

**Mount Hope Cemetery, 305 Erskine Avenue:**

Mount Hope Cemetery is designated in the approved Official Plan as "Other Open Space Lands (Cemeteries)" and is zoned as "CEM-1" General Cemetery Zone (North York Zoning By-law 7625). The "CEM-1" Zone is subject of various performance regulations (i.e. setbacks, etc.).

On review of the November 8, 2012 and the January 22, 2013 By-law materials we understand that the City proposes to zone the subject site as "OC" Open Space – Cemetery Zone.

While the proposed "OC" zoning can, in principle, be acceptable to our client, the manner in which it and other associated Zoning proposals have been applied are not acceptable.

**St. Michael's Cemetery, 1414 Yonge Street:**

St. Michael's Cemetery is designated in the approved Official Plan as "Other Open Space Lands (Cemeteries)" and is zoned as "G" Park, subject to a Permissive Exception (Section 12(1)(313)) that provides permission for eleven named cemeteries across the former City of Toronto, including St. Michael's Cemetery. No specific performance regulations apply. St. Michael's Cemetery also has an existing Part IV heritage designation consideration in respect of the Mortuary Vault.

On review of the November 8, 2012 and the January 22, 2013 By-law materials we understand that the City proposes to zone the subject site as "OC" Open Space – Cemetery Zone.

While the proposed "OC" zoning can, in principle, be acceptable to our client, the manner in which it and other associated Zoning proposals have been applied are not acceptable.

**Queen of Clergy (Regina Cleri) / Our Lady of Victory Cemetery  
Located on the grounds of St. Augustine's Seminary  
2661 Kingston Road:**

The St. Augustine's Seminary property, including the Queen of Clergy/Our Lady of Victory Cemetery, is designated in the approved Official Plan as "Neighbourhood Area" and is zoned as "I" Institutional in the Scarborough Cliffcrest Community By-law. Within the complex of Seminary buildings and uses, the cemetery is a permitted accessory use. The St. Augustine's Seminary building is subject of a Part IV heritage designation. The heritage designation does not extend to the cemetery.

On review of the November 8, 2012 and the January 22, 2013 By-law materials we understand that the City proposes to zone the subject site as "I (x52)" Institutional Zone, further subject to a Maximum Lot Coverage overlay of 33%. Exception I (x52) has reference to a site specific provision respecting a minimum setback from Kingston Road and a minimum setback of 76 metres from the top of the bluff for any building or structure.

We understand that the Catholic Archdiocese has identified issues in respect of the zoning proposed for the St. Augustine's lands, including issues associated with the manner in which the Regina Cleri Cemetery is proposed to be zoned.

While the proposed "I" zoning can, in principle, be acceptable to our client, the manner in which it and other associated Zoning proposals have been applied are not acceptable.

**St. Joseph's Cemetery  
Located on the grounds of St. Joseph Parish  
200 Morrish Road:**

The St. Joseph Parish property, including the St. Joseph's Cemetery, is designated in the approved Official Plan as "Mixed Use Area" and is zoned as "PW" Place of Worship in the Scarborough Highland Creek Community By-law. The St. Joseph's Cemetery is a listed heritage consideration.

On review of the November 8, 2012 and the January 22, 2013 By-law materials we understand that the City proposes to zone the subject site as "IPW (x90)" Institutional Place of Worship Zone, further subject to a Maximum Lot Coverage overlay of 40%. Exception IPW (x90) has reference to a Site Specific provision prescribing that the maximum height of the





existing place of worship is the height of the existing building as it existed on the date of the enactment of the new By-law, maximum lot coverage is as it existed on the date of the enactment of the new By-law, and with setbacks at 3.0 metres from Old Kingston Road, 13.0 metres from the centreline of Morrish Rd, side yard setbacks of 1.7 metres for the south-west corner of the building and 1.55 metres for the north-west corner of the building, and with the rear setback as it existed on the date of the enactment of the new By-law.

We understand that the Catholic Archdiocese has identified issues in respect of the zoning proposed for the St. Joseph Parish lands, including issues associated with the manner in which the St. Joseph's Cemetery is proposed to be zoned.

While the proposed "IPW" zoning can, in principle, be acceptable to our client, the manner in which it and other associated Zoning proposals have been applied are not acceptable.

### **Continuing Issues**

Our client has previously identified a number of issues, which continue as outstanding issues and which include, among others:

- appropriate clarifications to Chapter 1.40.90 so that the term "Open Space – Cemetery Zone" (or whatever equivalent term is used) reflects private open space lands and, consistent with the Official Plan (Policy 4.3.7), is not necessarily open to the general public;
- that a cemetery use should be permitted as either a Principal or Conditional use, where the cemetery is located within another zone category (i.e. such as with the Queen of Clergy/Our Lady of Victory Cemetery and the St. Joseph's Cemetery);
- the proposed rendering of a cemetery as a legal non-conforming use, where the statutory intent is that those uses are to eventually cease and be removed, is not acceptable to our client;
- no stakeholder consultation and no structured planning rationale has been provided to support the proposed cemetery zoning framework;
- the definition of cemetery use, together with the range of permitted uses, should be linked to the *Cemeteries Act*, as amended from time to time, or as defined by the *Funeral, Burial and Cremation Services Act*, as amended from time to time;
- effects on existing rights and expectations for established family and internment commitments;
- consideration of the former Toronto By-law 438-86 Permissive Exception 12(1)(313) as a Chapter 900 Prevailing Section;
- clarity respecting existing heritage considerations and the manner in which the proposed zone regulations would apply (i.e. St. Joseph's Cemetery and St. Michael's Cemetery Mortuary Vault);
- clarity respecting regulations recognizing existing cemetery uses, monuments, buildings and structures, particularly as they relate to setbacks, monument setbacks, gross floor area, FSI, heights, parking, etc.;



- clarity respecting proposed maximum FSI regulation and related gross floor area definition considerations; and
- proposed minimum parking regulations in respect of related gross floor area definition considerations and in respect of dedicated parking space definitions and requirements.

In our discussions with the Mount Pleasant Group of Cemeteries (MPGC), our client continues to endorse the suggestion that city staff engage in discussions with the industry to ensure an appropriate, informed and supported zoning framework for cemeteries in the City of Toronto.

### Summary

Our client is not in a position to support the proposed zoning for its four property interests, and they request that existing permissions and protections be carried forward by way of a full and unrestricted Chapter 900 Site Specific provision.

We bring these concerns to your attention at this time, and request that you direct staff to amend the By-law in order to fully provide for the above. We also request that the Clerk to provide us with Notice of any subsequent considerations or decisions of the related Zoning By-law Review.

We trust that you will find the above of some assistance in your consideration of this matter. Should you have any questions, please contact the undersigned, or our client's planning consultant, Mr. Paul Stagl (416.784.2952).

Yours truly,

MILLER THOMSON LLP

Per:



Steven J. O'Melia

SJO/dms

- c. R. Hendrix, Catholic Cemeteries – Archdiocese of Toronto (*via email: [rhendrix@ccat.on.ca](mailto:rhendrix@ccat.on.ca)*)  
D. Finnegan, RCEC (*via email: [dhfinnegan@archtoronto.org](mailto:dhfinnegan@archtoronto.org)*)  
P. Stagl, Opus Management Inc. (*via email: [pstagl@sympatico.ca](mailto:pstagl@sympatico.ca)*)  
G. Timney, Mount Pleasant Group of Cemeteries (*via email: [gtimney@mountpleasantgroup.com](mailto:gtimney@mountpleasantgroup.com)*)  
R. Dragicevic, Walker Nott Dragicevic Associates Limited (*via email: [Bobd@wndplan.com](mailto:Bobd@wndplan.com)*)

