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Please refer to: **John M. Alati**
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File No. 702127

March 5, 2013

By E-mail to pgmc@toronto.ca

Frances Pritchard
Secretariat
Planning & Growth Management Committee
Toronto City Hall
100 Queen Street West
10th floor, West Tower
Toronto, ON M5H 2N2

Dear Ms. Pritchard:

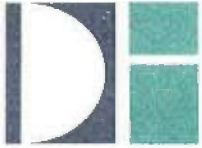
Re: Final Report on the City-wide Zoning By-law – Item PG21.1

We are counsel for the Conservatory Group of Companies ("Conservatory Group"). Conservatory Group is an umbrella organization controlling a number of related companies that own properties throughout the City of Toronto.

On October 11, 2012, and November 7, 2012, we wrote to the Planning and Growth Management Committee (the "Committee") to provide some observations and comments on the draft New City Zoning By-law (the "New By-law") for consideration at Committee meetings on October 12, 2012 and November 8, 2012 (the "October Letter" and "November Letter", respectively). A copy of the October Letter and November Letter is attached.

Subsequent to the November 8, 2012 Committee meeting, the City provided a red-line version of the New By-law comparing the November version of the New By-law (the "November Draft By-law") to the older June version (the "June Draft By-law"). My client's consultants have now reviewed the track-change version of the November Draft By-law, as well as the January 22, 2013 and February 26, 2013 staff reports, and we provide this letter as additional comments on the New By-law.

We ask that these comments be incorporated into a revised draft of the By-law prior to City Council enacting the New By-law.



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GENERAL COMMENTS

Mapping

1. In our October Letter and November Letter, we made a request for Standard Set overlay maps to assist our client's consultants in evaluating the impacts of the Standard Sets on a neighbourhood basis and to help understand the boundary of the Standard Set areas.

These maps have been provided on a City-wide basis only, which are not detailed enough to evaluate the relationship of the Standard Sets to specific properties. We suggest that these maps be provided online and in the same manner as the overlay maps for policy area, height, lot coverage and rooming house, which can be toggled electronically over individual properties, so that our client can better understand where the edges of the boundaries are, and the impacts on the Standard Sets on individual properties.

Ch. 2 and 900: Transitioning, Site-Specific Exceptions

2. The comment in our October Letter regarding the timeframe for the transitioning of applications was not addressed in the November Draft By-law. Our client is concerned that the three year timeframe set out in section 2.1.3.8 may be insufficient to transition more complex grandfathered applications.
3. In our October Letter, we suggested a clarification to the term "inconsistent" used in Chapter 900.1.10(3) and (4) since this term is subject to a variety of interpretations in the context in which it is used. No changes were made in the November Draft By-law to clarify this term.

Ch. 1 and 40: Use Permissions

4. Our client suggests that townhouses and other grade-related housing forms be permitted in the Residential Apartment and Residential Apartment Commercial zone categories. Chapter 15.10.20.40(1) and 15.20.20.40(1) restrict building forms to Apartment Buildings only. Townhouses and other grade-related forms of development should be included as a permitted use, which would conform to the permissions set out in the Official Plan Apartment Neighbourhoods designation.



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5. In our October Letter, we suggested that townhouses be permitted in all Commercial Residential policy areas in the City rather than prohibiting them in Commercial Residential zones with the Policy Area 3 or Policy Area 4 overlay (formerly Ch. 40.10.20.100(52)(B), now Ch. 40.10.20.40(D)). The November Draft By-law continues this prohibition for Policy Areas 3 and 4 and added permission for a lawfully existing detached house, semi-detached house, duplex, triplex, fourplex, or townhouse in Policy Area 3 or Policy Area 4 and expansions or additions of same where certain circumstances are met (Ch. 40.10.20.41(1)). It would be appropriate to expand these sections to permit new townhouses and similar ground-related uses in the Commercial Residential Zones, for the reasons set out above.
6. In our October Letter we noted a concern with policies in the Commercial Residential zone relating to residential uses at grade in a mixed-use building and restrictions on the orientation of residential and other uses (Chapter 40.10.40.1(1) to (5) and 40.10.40.70(4)). We suggest that the policies in Chapter 40.10.40 be further revised to provide more flexibility in residential and mixed-use designs, including permitting residential uses at grade in mixed-use buildings in certain circumstances, particularly for large sites which can accommodate alternative designs, including a residential building behind another building.
7. The November Draft By-law added section 10.5.40.50(3) restricting decks to be no higher than adjacent floors in all residential buildings except apartments. In order to comply, builders will have to lower the structural joists under the upper level deck to accommodate the deck treatment, waterproofing and similar construction issues, which will create height conflicts when considering the area below the deck. This section is unduly onerous and should be removed.

Ch. 10, 15, 40, 50: Performance Standards

8. The February 26, 2013 Staff Report sets out that clause 10.5.40.40(3)(B) will be revised to provide a deduction of gross floor area space for buildings with a void in a floor of more than 4.5 metres. Our client supports this new deduction. However, it is unclear whether this new clause is meant to replace or supplement the existing section 10.5.40.40(3)(B) concerning gross floor area deductions for parking areas. The existing gross floor area parking deductions should remain in this section since this deduction is included in former general by-laws.



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9. The November Draft By-law removed policies applicable to all zones relating to additions, enlargements or alterations to buildings or structures on non-complying lots (formerly 5.10.30.1(4)), height exemptions (formerly 5.10.40.10(2)), and non-complying building setbacks (formerly 5.10.40.70(6)). These provisions have been carried forward, in part, in the individual zone categories. It would be more appropriate to leave them in Chapter 5 (regulations applying to all zones), as was done in the June Draft By-law, so that they apply consistently to all zones.
10. Our client remains concerned that sites will be effectively down-zoned in the New By-law. The November Draft By-law did not address our client's concern with performance standards relating to height, including the proposed measurement of height to the highest point of a building. We also reiterate our suggestion in the November Letter that height standards for rooftop mechanical equipment be increased to reflect current design considerations.
11. A number of other performance standards in the New By-law were not materially revised in the latest November Draft By-law. Our client remains concerned that these policies will limit design flexibility and the accommodation of site-specific situations for the reasons described in our October Letter. Standards should, at minimum, align with existing permissions in the former general by-laws. Specifically, staff should consider revised standards such as setbacks for townhouses, an increase in building depth for apartment buildings in Residential Zones, minimum height and floor requirements in Commercial Residential Zones, build-to lines in Standard Set areas 1 and 2, and rear yard angular planes in Standard Set areas 2 and 3.
12. The below-grade setback exemptions for underground garages in Commercial Residential Employment zones set out in Chapter 50.10.40.70(6) of the June Draft By-law has been eliminated. Chapter 50.10.40.70(6) now provides that building setbacks do not apply to the parts of the building above grade. This may be an error. Nonetheless, our client suggests that the exemption in the June Draft By-law which removed setback requirements below grade be restored and extended to all other zones which permit apartment buildings, including Residential, Residential Multiple Dwelling and Residential Apartment zones.
13. Clarification is required to understand if an apartment building becomes a mixed use building as soon as any use other than a dwelling unit and associated amenity space is included in the building. If these buildings are considered mixed use, this use is not allowed in Residential Apartment and



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Residential Apartment Commercial zones even though numerous non-residential uses are allowed. Likewise, the gross floor area deductions set out in section 15.5.40.40 refer only to apartment buildings; if the intent is to permit mixed use buildings in this zone, this provision should be clarified to set out these gross floor area deductions.

Ch. 10, 15, 40, 50: Visitor Parking, Bicycle Parking, Driveways, Amenity Space

14. Our client is pleased that the November Draft By-law removed the prohibition on charging fees for visitor parking in residential buildings as suggested in our October Letter.
15. Our client remains concerned with certain bicycle parking requirements outlined in our October Letter. Chapter 230 sets out that, in certain residential, commercial residential and commercial residential employment zones, at least 50% of bicycle parking is to be located at grade or the first level underground. This requirement does not account for site-specific variation based on alternative design situations and should be reconsidered. Further, our client suggests that areas set out in the new Bicycle Zones 1 and 2 be clearly labelled through detailed mapping, rather than a written description in section 230.5.10.1(4), so that landowners can understand the boundaries between properties.
16. Our client continues to be concerned with the maximum driveway width in Ch. 15.5.100.1, the loading space provisions set out in Ch. 40.10.90.40 and 50.10.90.40, and the vehicular access rules in Commercial Residential zones which abut a lane in Ch. 40.10.100.10(1), for the reasons set out in the October Letter.
17. The November Draft By-law has a revised definition of amenity space; it is no longer ancillary to the main use, but is defined as communal and available to the occupants of a building for recreational or social activities. Further, amenity space is exempted from the gross floor area calculations in residential and mixed-use zones including the RA, RAC, CR & CRE zones. Amenity space should also be listed as a permitted use in these residential and mixed use zones.



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SITE-SPECIFIC COMMENTS

As noted in our October Letter and November Letter, we identified several specific properties that should be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps.

Four of these properties have not been indicated as 'Not Part of this By-law' in the November Draft By-law, or in the January 22, 2013 or February 26, 2013 staff reports. These properties are as follows:

1. **636 Bay Street** – As previously set out in our November Letter, this property is part of an integrated larger redevelopment proposal which includes above and below grade connections to the lands at 100 Edward Street, which has been excluded from the New By-law. Pre-application meetings have been held with City Staff and a request for a Preliminary Project Review is anticipated shortly, as is the filing of a formal site plan application. The 636 Bay Street property should be excluded from the New By-law on this basis.
2. **1255 The Queensway** – As indicated in the October Letter, a portion of this property has been excluded from the New By-law, while the balance has been included. These lands form one contiguous parcel and should be appropriately zoned at a later time after the passing of the New By-law in coordination with the balance of the site and surrounding lands.
3. **543 Richmond Street West** – For the reasons set out in our November Letter, this property should be excluded.
4. **66 & 70 Dunvegan Road** – A Preliminary Project Review was submitted to the City on February 11, 2013. This site should therefore be excluded from the New By-law since it is the subject of a development application, in addition to the reasons set out in our November Letter.

For the reasons above, we ask that these properties be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps.

We also request that the above changes be made to the policies of the November Draft By-law.



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

Yours truly,

DAVIES HOWE PARTNERS LLP

A handwritten signature in blue ink, appearing to read "John M. Alati".

For: John M. Alati

JMA:IB

Encl.

copy Client
Mr. Peter Swinton, PMG Planning



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Please refer to: **John M. Alati**
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File No. 702127

November 7, 2012

By E-mail to 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 PG19.12)

We are counsel for the Conservatory Group of Companies ("Conservatory Group"). Conservatory Group is an umbrella organization controlling a number of related companies that own properties throughout the City of Toronto.

On October 11, 2012 we wrote to the Planning and Growth Management Committee (the "Committee") to provide some observations and comments on the draft New City Zoning By-law (the "New By-law") for consideration at their October 12, 2012 meeting (the "October Letter"). A copy of the October Letter is attached. Subsequently, the City amended the New By-law and has scheduled a meeting on November 8, 2012 where the Committee will receive an information report on the New By-law.

The latest version of the New By-law is provided electronically on the City's website; however a red-line version comparing the latest version to the older version is not yet available. We are therefore not yet able to fully assess whether our client's concerns set out in the October Letter have been addressed or whether they have additional comments based on the latest version of the New By-law.

Nonetheless at this time, we ask that the Committee consider some comments we have identified to date.



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MAPPING

In our October Letter, we made a request for Standard Set overlay maps to assist our client's consultants in evaluating the impacts of the Standard Sets on a neighbourhood basis and to help understand the boundary of the Standard Set areas. We ask that the City provide these maps as soon as possible.

SITE-SPECIFIC COMMENTS

As noted in our October Letter, we identified several specific properties that should be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps. However, two of these properties have not yet been indicated as 'Not Part of this By-law' in the most recent version of the New By-law. These properties are as follows:

1. **636 Bay Street** – This property is part of an integrated larger redevelopment proposal which includes above and below grade connections to the lands at 100 Edward Street, which has been excluded from the New By-law. Pre-application meetings have been held with City Staff and a request for a PPR is anticipated shortly as is the filing of a formal site plan application prior to the proposed February 13, 2013 Statutory Public Meeting. The 636 Bay Street property should be excluded from the New By-law on this basis.
2. **1255 The Queensway** – As indicated in the October Letter, a portion of this property has been excluded from the New By-law, while the balance has been included in the New By-law. These lands form one contiguous parcel and should be appropriately zoned at a later time after the passing of the New By-law in coordination with the balance of the site and surrounding lands.

We ask that City Staff make the necessary changes to the New By-law to exclude these properties.

Additionally, two properties not mentioned in our October Letter which are owned by Conservatory Group or its subsidiaries should be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps, as follows:

3. **543 Richmond Street West** – This property is currently identified in the New By-law in the CRE zone. The CRE zone introduces more restrictive provisions than exist in the current RA zone in the in-force by-law, which



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were identified in our "General Comments" in the October Letter. The 543 Richmond Street West property was purchased by Conservatory Group for development based on an understanding of the permissions in the in-force by-law. Given our client's concerns with the CRE zone, 543 Richmond Street West should be excluded from the New By-law.

4. **66 & 70 Dunvegan Road** – This property is currently identified in the New By-law in the RD zone. Like the 543 Richmond Street West property, the New By-law introduces more restrictive provisions for 66 & 70 Dunvegan Road which limits redevelopment otherwise permitted in the in-force by-law. Specific concerns were identified in the "General Comments" in our October Letter. At this time, we request that the 66 & 70 Dunvegan Road property be excluded from the New By-law.

For the reasons above, we ask that these properties be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps.

Our client's consultants continue to review the New By-law and eagerly anticipate receipt of the red-line version to allow for a thorough review of the recent changes. We will provide further comments on the New By-law prior to the Statutory Public meeting scheduled for February 13, 2013.

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

Yours truly,

DAVIES HOWE PARTNERS LLP

John M. Alati

JMA:IB

Encl.

copy Client
Mr. Peter Swinton, PMG Planning



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File No. 702127

October 11, 2012

By E-mail to 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 PG18.7)

We are counsel for the Conservatory Group of Companies ("Conservatory Group"). Conservatory Group is an umbrella organization controlling a number of related companies that own properties throughout the City of Toronto.

We write to provide some observations and comments on the draft New City Zoning By-law (the "New By-law") for consideration by the Planning & Growth Management Committee at their October 12, 2012 meeting and for Staff's review and update of the New By-law scheduled to be recirculated in November 2012.

Although this letter identifies some comments we have identified to date, our clients' consultants continue to review the New By-law and we will add comments and more detailed concerns as they arise and after the updated New By-law is re-circulated in November 2012. We would be pleased to discuss any of our comments with City Staff.

GENERAL COMMENTS

Mapping

1. To evaluate the neighbourhoods covered by the Standard Sets in an effective manner, we suggest the City provide overlay maps identifying these areas. Although the availability of the online maps is helpful to identify where Standard Sets apply on a site-specific basis, the provision of an overlay map



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would greatly assist to understand the neighbourhood effect and boundary of the Standard Set areas.

Ch. 2 and 900: Transitioning, Site-Specific Exceptions

2. Our client is concerned with the timeframe set for the expiry of the transition clauses. The transition clauses 2.1.3.1 to 2.1.3.7 will be repealed after three years, as set out in section 2.1.3.8. Our client is concerned that this timeframe may be insufficient to transition more complex grandfathered applications.
3. Our client suggests a clarification of the term “inconsistent” used in Chapter 900.1.10(3) and (4). Currently, Chapter 900.1.10(3) provides that the regulations in Chapter 900 govern over any *inconsistent* regulations in Chapters 10 to 800. Likewise, Chapter 900.1.10(4) contemplates that none of Chapters 10 to 800 which are *inconsistent with* the regulations of a Prevailing By-law or Prevailing Section apply to prevent the erection of a building or the use of land in compliance with the Prevailing By-law or Prevailing Section. The City may wish to define the term “inconsistent”. Without a clear definition, there is no certainty on how to apply zoning standards where there are different (but not necessarily “inconsistent”) standards between Chapters 10 to 800 of the New By-law and a Prevailing By-law/Prevailing Section.

Ch. 1 and 40: Use Permissions

4. Our client suggests that townhouses and other grade-related housing forms be permitted in the Residential Apartment zone category. Chapter 1.40.15(2) limits uses in the Residential Apartment zone category to apartment buildings. Likewise, Chapter 15.10.20.40(1) permits only apartment buildings in Residential Apartment zones. Townhouses and other grade-related forms of development should be included as a permitted use, which would conform to the permissions set out in the Official Plan Apartment Neighbourhoods designation.
5. Likewise, our client suggests that townhouses be included in all Commercial Residential policy areas in the City. Currently, townhouses are not permitted in Commercial Residential zones with the Policy Area 3 or Policy Area 4 overlay (Ch. 40.10.20.100(52)(B)). This restriction unnecessarily hampers development potential in many Commercial Residential areas along arterial roads.

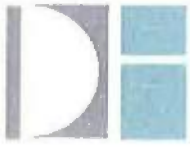


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6. Chapter 40.10.40.1(1) to (5) restricts residential uses at grade in a mixed-use building in a Commercial Residential zone. Additionally, Chapter 40.10.40.1(3) prohibits residential buildings from locating behind another building at grade. However, Chapter 40.10.40.70(6) suggests that dwelling units may be located on the first floor of a building and identifies setbacks from front lot lines. Our client suggests that these provisions be clarified and that additional flexibility be introduced to allow residential uses at grade in certain circumstances, particularly for large sites which can accommodate alternative residential designs.

Ch. 10, 15, 40, 50: Performance Standards

7. Many performance standards introduced in the low-rise zone categories are too restrictive and will limit design flexibility and the accommodation of site-specific situations. Many sites will be down-zoned. For example, section 10.5.40.10 sets out a measurement of height to the highest point of a building, rather than mid-point of the roof as set out in some former by-laws. Permitted height should be increased in all affected sites to align with the former permissions measured to mid-point. Other specific performance standards relating to height in Residential Detached zones (10.20.40.10) and Residential Semi-Detached zones (10.40.40.10) also do not reflect current permissions found in the former general by-laws. These standards should be revised to align with existing permissions in the former general by-laws.
8. In Residential Multiple (10.80.40.10), Residential Apartment (15.5.40.10), Commercial Residential (40.5.40.10), and Commercial Residential Employment (50.5.40.10 and 50.10.40.10) zones, height is also measured to the building's highest point and the comments made immediately above should be considered for these sections as well. In addition, our client suggests that the Chapters concerning increase in height for mechanical equipment—by 5 metres and up to 30% of the area of the roof (and subject to other conditions)—be further increased to accommodate current design considerations and trends towards point towers.
9. Our client is also concerned with setbacks for townhouses. A townhouse in a Residential Townhouse zone which does not front directly on a street must have a minimum side yard setback of 7.5 metres (Ch. 10.60.40.70(3)). If the townhouse had frontage on a street, a minimum setback of 0.9 metres is permitted. In a scenario where a townhouse row design provides one unit in a row which does not have street frontage, a 7.5 metre setback is required. In another example, where there are two rows of townhouses, one behind the



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first with street frontage, a 7.5 metre setback would be required for the rear row. Similarly, Chapter 10.60.40.80(1) and (2) require a minimum 5.5 metre separation distance between townhouse blocks where the townhouses have no openings and an 11 metre separation where there are openings. Our client is concerned that these policies will necessitate a townhouse row design which does not reflect logical planning principles.

10. Our client also suggests an increase in building depth for apartment buildings in Residential Zones to better reflect apartment building designs. The maximum building length for apartment buildings in residential zones, at 14 metres (Ch. 10.10.40.30), is unreasonable.
11. In a Commercial Residential Zone in a Policy Area, buildings must be a minimum height of 10.5 metres, a minimum of 3 storey, and have a minimum first floor height of 4.5 metres (Chapter 40.10.40.10(6) and (7)). These conditions create building design requirements with additional space which may not be commercially viable depending on the location and configuration of the lands. The minimum first floor height requirement in (7) is inappropriate for a building which would not contain first floor commercial uses. We are also concerned about the number of legal non-conforming properties which may be created by these sections.
12. The New By-law contains provisions in Commercial Residential zones regarding build-to lines in Standard Set areas 1 and 2 and rear yard angular planes in Standard Set areas 2 and 3 (Ch. 40.10.40.70). Our client may have concerns with these new requirements and looks forward to the receipt of Standard Set overlay maps to better evaluate the impact of these sections.
13. The below-grade setback exemptions for underground garages in Commercial Residential zones set out in Chapter 50.10.40.70 should be extended to all other zones which permit apartment buildings, including Residential, Residential Multiple Dwelling and Residential Apartment zones.
14. Our client's consultants continue to review the gross floor area exclusions set out in various zones in the City and we may comment further at a later time.

Ch. 10, 15, 40, 50: Visitor Parking, Bicycle Parking, Driveways

15. The New By-law prohibits charging fees for visitor parking spaces in residential buildings in Residential, Residential Apartment, Commercial Residential and Commercial Residential Employment zones. The prohibition



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on charging fees is not based on sound planning or environmental rationale and should be reconsidered.

16. The New By-law is unclear in whether fees may be charged for visitors parking in a mixed-use building. The By-law should permit the charging of fees for visitor parking in mixed-use building because of the nature of the use of these buildings for a variety of uses.
17. The New By-law imposes unrealistic bicycle parking requirements in Residential (10.10.95), Residential Apartment (15.5.95), Commercial Residential (40.5.95), and Commercial Residential Employment (50.5.95) zones. Chapters 10.10.95 and 15.5.95 require long-term bicycle parking at grade or at first level below and short term parking within 30 metres of a pedestrian entrance. Chapters 40.5.95 and 50.5.95 identify the same 30 metre requirement and set out a formula for occupying at grade or below-grade bicycle parking in relation to space for vehicular parking spaces. These requirements are unduly onerous and will negatively impact the logical utilization of space on the ground level and below.
18. Our client's consultants continue to review the bicycle parking rates set out in Chapter 230.5.10 and may provide further comments at a later time on the appropriateness of these rates.
19. Our client is concerned with the maximum driveway width of 6 metres in Residential Apartment zones (Ch. 15.5.100.1). This restriction does not contemplate widened driveways at drop-off areas or for truck turning movements.
20. Chapters 40.10.90.40 and 50.10.90.40 prohibit loading spaces through a main wall which faces a street in Commercial Residential and Commercial Residential Employment zones. Our client finds this provision excessively restrictive, particularly for sites which do not have lane access.
21. In Commercial Residential zones which abut a lane, vehicular access must be from the lane (Ch. 40.10.100.10(1)). This requirement may be difficult to satisfy where lane access is challenging, for example, where a site is located mid-block.



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SITE-SPECIFIC COMMENTS

Several sites owned/controlled by Conservatory Group are appropriately excluded from the New By-law and indicated as 'Not Part of this By-law'. However, a number of properties have been only partially excluded and therefore we request that these sites also be indicated as 'Not Part of this By-law' and shown as a "hole" on the zoning maps. These properties are as follows:

22. **636 Bay Street** – This property is part of a larger redevelopment parcel abutting 100 Edward Street, which has been excluded from the New By-law. The 636 Bay Street property should also be excluded.
23. **3035 Weston Road** – The majority of the site area is excluded from the New By-law, except for one section at the south end of the built site, which is zoned Employment Industrial. This area should also be excluded from the New By-law.
24. **1255 The Queensway** – The front portion of this site has been excluded from the New By-law. The rear of the site, which forms part of the same parcel, is designated Commercial Residential. This rear portion should be excluded from the New By-law to align with the balance of the site and surrounding lands.

We request that the above corrections be made to the next version of the New By-law, to be recirculated in November 2012.

Yours truly,

DAVIES HOWE PARTNERS LLP

John M. Alati

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copy Client
Mr. Peter Swinton, PMG Planning