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Our File No. *97116*
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VIA FAX (416-392-1879) AND E-MAIL (pgmc@toronto.ca)

City Clerk
Toronto City Hall
100 Queen Street West
10th Floor, West Tower
Toronto, ON M5H 2N2

**Attention: Merle MacDonald,
Administrator, Planning and Growth Management Committee**

Dear Chair and Members:

**Re: Submissions on behalf of Morguard Corporation regarding
November 2012 City of Toronto Draft Zoning By-law Re
Public Meeting – March 7, 2013 and regarding Morguard’s
City of Toronto Properties including but not restricted to 3003
Danforth Avenue, 45 Overlea Boulevard, 77 Bloor Street West,
6464 Yonge Street, 131 Bloor Street, 5595 & 5621 Finch
Avenue East, 2041-2151 McCowan Road, 45 Generation
Boulevard, 35, 43, 47 and 49 Thorncliffe Park Drive and
85-95 Thorncliffe Park Drive**

We are the solicitors retained to act on behalf of Morguard Corporation (“**Morguard**”), owners of a number of properties located in the City of Toronto (the ‘City’), in connection with its review of the City of Toronto’s Draft Zoning By-law (the “**Draft Zoning By-law**”) which was endorsed by the City in November 2012.

We have had an opportunity to review the Draft Zoning By-law and have general and site specific concerns with respect to the various ways in which the Draft Zoning By-law would further restrict Morguard’s property rights. These concerns are as follows:

General Concerns - All Properties

1. There are several instances where new regulations would be introduced requiring compliance with standards not previously applicable. Examples of these new standards include but are not restricted to minimum building height, minimum first floor building height, setbacks to windows of another dwelling unit, minimum main wall setbacks from a front lot line or from a lot line that is not adjacent to a street or lane, minimum lot frontage, principal building standards, permitted building type standards, certain landscaping requirement and regulations applicable to energy devices.

2. Building height and gross floor area or floor space index calculation methods (including floor space exclusions) differ between the Draft Zoning By-law and the various in-effect zoning by-laws applicable to former municipalities within the amalgamated City. In some instances, calculations under the Draft Zoning By-law would effectively further restrict the development rights of the Property affected.
3. Some uses explicitly permitted on a Property by the currently in-effect applicable zoning by-law are not explicitly permitted in the equivalent zone under the Draft Zoning By-law.

It is unclear whether each of these permitted uses under the current zoning is equivalent to any of the more broadly defined permitted uses listed by the Draft Zoning By-law and whether, as such, each would continue to be permitted under the Draft Zoning By-law.

In the former City of Toronto alone, examples of such uses include the following as defined or referenced by By-law 438-86: dwelling room, hostel, hospital, residence owned and controlled by Y.M.C.A Y.W.C.A., or Jewish Community Centre, and a residence affiliated with a hospital or university to house patients, students or employees or university residence; parking area; commercial baths; bake shop; union hall; auctioneer's premises; brew-on-premises establishment; dry-cleaner's distributing station; newspaper plant; showroom; artist live/work studio; private garage; publisher; taxicab stand or station and recreation use.

Site Specific Concerns

In addition to the general concerns outlined above affecting Morguard's City of Toronto properties as a whole, we also have site specific concerns with respect to the way in which the Draft Zoning By-law would further restrict development rights for the following Properties as a result of the disparities identified:

3003 Danforth Avenue

The property is currently zoned **C – Commercial** under the former Borough of East York By-law 6752 ('**By-law 6752**'). The Draft Zoning By-law proposes to zone the Property **Commercial Residential CR 2.7 (c2.7; r1.0) SS2 (x1163)**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. Several uses permitted by By-law 6752 on an as-of-right basis would only be permitted on a conditional basis by the Draft Zoning By-law. Examples include the following uses: day nursery, custom workshop, certain retail services and eating establishments, including eat-in, take-out and drive-in eating establishments.
2. Whereas By-law 6752 is silent with respect to maximum and minimum height regulations, the Draft Zoning By-law restricts the maximum building height to 10.5m or 3 storeys and, at the same time, imposes the same measure (10.5m or 3 storeys) as a

minimum building height requirement. Clarification is required. If this is an error, it is critical to know whether the 10.5m/3 storey is a minimum requirement or maximum permission.

3. Where a side lot line is not adjacent to a street or lane, the Draft Zoning By-law would require a minimum 5.5m setback. No equivalent standard applies under By-law 6752.
4. Contrary to the Draft Zoning By-law, By-law 6752 does not regulate maximum 'main wall front lot line setbacks'. Accordingly any new development on the Property in the future would be required to comply with the Draft Zoning By-law regulation requiring that at least 75% of the main wall of the building facing the front lot line is located at or between the front lot line and a maximum of 3.0m from the front lot line.
5. No landscaping requirements currently apply under Zoning By-law 6752. However, landscaping regulations under the Draft Zoning By-law would require a minimum 3.0m wide landscaping strip between any lot line that abuts a street and those portions of a main wall, wherever any portion of a main wall of the building is set back from the front lot line 3.0m or more.
6. Parking ratios for banks and for restaurants with GFAs of 200m² or more would be more onerous under the Draft Zoning By-law.

45 Overlea Boulevard

The property is currently zoned **Commercial General – C1** under the By-law 1916 for the former Borough of East York, Leaside ('By-law 1916). The Draft Zoning By-law proposes to zone the site **Commercial Residential CR 1.5 (c0.5; r1.0) SS2 (x297)**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. Certain uses permitted on the Property by By-law 1916 on an as-of-right basis would be subject to conditions under the Draft Zoning By-law. Examples include the following uses: day nursery, custom workshop, dry cleaning distribution centre, dry cleaning shop, dressmaker's shop, tailor's shop, funeral home, eating establishment (including a tavern or public house), place of amusement and private club.
2. The currently permitted commercial or public garage use would no longer be permitted on the Property.
3. In some instances, conditions imposed on a given use under both By-law 1916 and the Draft Zoning By-law would be more onerous under the Draft Zoning By-law. For example, an automobile service station use would be subject to more onerous specific use provisions.
4. Whereas By-law 1916 does not regulate setbacks to windows of another dwelling unit, the Draft Zoning By-law would require a minimum 5.5m main wall setback from a lot

line that is not adjacent to a street or lane.

5. Contrary to By-law 1916, the new Draft Zoning By-law would introduce a main wall setback from a front lot line standard where no such standard is currently applicable under By-law 1916. The new Draft Zoning By-law would require that, at least 75% of the main wall of the building facing a front lot line must be located at or between the front lot line and a maximum of 3.0m from the front lot line;
6. Contrary to By-law 1916, where the main wall has windows or openings, the Draft Zoning By-law would introduce a minimum 5.5m side lot line setback requirement from a side lot line that is not adjacent to a street or lane.

77 Bloor Street West

Former City of Toronto By-law 438-86 zones the property **Commercial Residential CR T7.8 C4.5 R7.8**. The Draft Zoning By-law proposes to zone the site **Commercial Residential CR 7.8 (4.5; r7.8) SS1 (x2486)**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. Some uses currently permitted by By-law 438-86 on an as-of-right basis would be subject to conditions under the Draft Zoning By-law. Uses affected include the following: live/work unit; tourist or guest home; laboratory, Class A; service, rental or repair shop; nursery; undertaker's establishment; hotel, car washing establishment; custom workshop; place of worship; private academic school, public or separate elementary school, high school or secondary school; post office, duplicating shop; sales or hire garage; non-profit institution or other community or social agency.
2. Minimum parking ratios for financial institutions would be more restrictive under the new Draft Zoning By-law.
3. Whereas By-law 438-86 does not regulate landscaping in a CR Zone, the Draft Zoning By-law would apply where the building is setback 3.0m or more from the front lot line. Whether or not landscaping is required in a future development, would depend on the front lot line setbacks from Bloor West or Bay Streets.

6464 Yonge Street

The former City of North York By-law 7625 zones this site **District Shopping Centre C3(6)**. The Draft Zoning By-law proposes to zone the site **Commercial Residential CR 1.0 (c1.0; r0.0) SS3 (x249)**. According to the Draft Zoning By-law, Former City of North York By-law 29501 would PREVAIL ONLY to the extent covered by By-law 29501.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. The Prevailing By-law does not regulate any of the newly introduced regulations under the Draft Zoning By-law, including minimum building height, minimum first floor building height, minimum setbacks to windows of another dwelling unit, minimum main wall setbacks from a front lot line or from a lot line that is not adjacent to a street or lane, minimum lot frontage, principal building standards, permitted building type standards, certain new landscaping requirements and regulations applicable to energy devices. Accordingly and where applicable, these newly introduced Draft Zoning By-law regulations would apply to any alteration or future development on the property.
2. The Prevailing By-law does not regulate angular planes. Therefore, where as in this case, the Property abuts an RA zone, the angular plane regulation under the Draft Zoning By-law would apply to require that every building on the lot must not penetrate the 45 degree angular plane along the entire required rear yard setback starting at a height of 7.5m above the average elevation of the ground along the rear lot line.
3. The Prevailing By-law does not regulate maximum building height other than maximum heights for the purposes of airport hazards. Accordingly, the 11m height restriction under the Draft Zoning By-law would apply to any alteration or future development on the property.
4. Differences in calculation methods with respect to the minimum number of parking space required, make it impossible to assess whether or not the minimum parking requirement would be more or less onerous under the Draft Zoning By-law that it is under the Prevailing By-law. Whereas parking ratios under the Prevailing By-law are calculated on the basis of *gross leasable area (GLA)*, parking ratios under the Draft Zoning By-law would be calculated on the basis of *gross floor area (GFA)*. Furthermore, whereas the Prevailing By-law calculates the minimum number of parking spaces required for a GLA of 55,625m² split between multiple users on the Property, the Draft Zoning By-law calculates the minimum number of parking spaces required on the basis of floor areas devoted to individual users on the Property. Clarification is warranted.

131 Bloor Street

The property is currently zoned **Commercial Residential CR T6.0 C4.5 R6.0** subject to restrictive exceptions under Sections 12(2) 132 and 12(2)259 of By-law 438-86. The Draft Zoning By-law proposes to zone the site **Commercial Residential CR T6.0 (c4.5, r6.0) SS1 (x2489) PA1**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. Some uses explicitly permitted in the Property's CR zone by By-law 438-86 are not explicitly permitted in the CR zone under the Draft Zoning By-law.

It is unclear whether each of these uses is equivalent to any of the more broadly defined uses listed as permitted by the Draft Zoning By-law and whether, as such, they continue

to be permitted. Examples of some of these uses include the following as defined or referenced by By-law 438-86: dwelling room, hostel, hospital, residence owned and controlled by Y.M.C.A Y.W.C.A., or Jewish Community Centre, and a residence affiliated with a hospital or university to house patients, students or employees or university residence; parking area; commercial baths; bake shop; union hall; auctioneer's premises; brew-on-premises establishment; dry-cleaner's distributing station; newspaper plant; showroom; artist live/work studio; private garage; publisher; taxicab stand or station and recreation use .

2. Some uses currently permitted by By-law 438-86 on an as-of-right basis would be subject to conditions under the Draft Zoning By-law. Uses affected include but are not restricted to the following: tourist or guest home; laboratory, Class A; service, rental or repair shop; nursery; undertaker's establishment; hotel, car washing establishment; custom workshop; place of worship; private academic school, public or separate elementary school, high school or secondary school; post office, duplicating shop; sales or hire garage; non-profit institution or other community or social agency.
3. Minimum parking ratios for financial institution uses would be more restrictive under the new Draft Zoning By-law.
4. The Draft Zoning By-law reduces the maximum number of parking spaces permitted on the Property.

5595 & 5621 Finch Avenue East

The property is currently zoned **Industrial Commercial – MC** under the former City of Toronto Scarborough Employment District Zoning By-law 24982 for the Marshalling Yard District. The Draft Zoning By-law proposes to zone the site **Employment Industrial E0.8 (x177)**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. Various uses currently permitted as of right under By-law 24982, would only be permitted on a conditional basis by the Draft Zoning By-law. Such uses include vehicle service stations and garages.
2. Vehicle sales operations and vehicle repair garages would no longer be permitted under the Draft Zoning By-law.
3. The Draft Zoning By-law imposes new maximum height requirements not included in the currently in effect Scarborough By-law 24982.

2041-2071 McCowan Road, 2101 McCowan Road and 2121-2151 McCowan Road

The properties are currently split-zoned pursuant to the Current Scarborough By-law, whereby a portion of the property is zoned **Industrial – M** and the remaining portions are zoned **Industrial District Commercial – MDC** and/or **Agricultural - AG**. The Draft Zoning By-law proposes to

zone the Property in part **Employment E0.7** under the new Draft zoning By-law and in part the current **MDC and AG** zoning under Scarborough Employment District By-law 24982.

The reason given by the City for the exclusion of part of the Property from the Draft Zoning By-law is that the retail use permissions currently permitted on the excluded portions of the Property do not support the City's Official Plan Employment Land designation policies.

As noted above the Draft Zoning By-law would exclude those portions of the Property now zoned **Industrial District Commercial – MDC** and **Agricultural – AG** by the currently in effect zoning regulations.

We continue to be concerned that this situation creates unnecessary, significant and severe complications for Morguard. Accordingly, we continue to recommend that the Property as a whole be entirely removed from the Draft Zoning By-law.

45 Generation Boulevard

The property is currently zoned **Apartment Terrace Residential – MFAT** under the former City of Scarborough Rouge Community BY-law 15907 ('By-law 15907'). The Draft Zoning By-law proposes to zone the property **Residential Apartment RA (au134.0) (x361)**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. Whereas By-law 15907 permits a maximum height of 3 storeys, the Draft Zoning By-law would cap the maximum permitted height to the lesser of 3 storeys or 10m.
2. The Draft Zoning By-law would introduce a minimum 24m lot frontage requirement.
3. The Draft Zoning By-law would introduce a minimum lot area requirement.
4. The Draft Zoning By-law would introduce a minimum lot area/dwelling unit requirement.
5. The Draft Zoning By-law would reduce the maximum lot coverage permission by 3%.
6. The Draft Zoning By-law would introduce a requirement for a minimum 7.5m wide soft-landscaped strip of land along the entire length of the lot line abutting Meadowvale Road.

35, 43, 47 and 49 Thorncliffe Park Drive

The property is currently zoned **Residential R3B** under the former Borough of East York by Leaside By-law 1916 (the "**By-law 1916**"). The Draft Zoning By-law proposes to zone the site **Residential Apartment RA (f30; a930; d2.0)**.

We are concerned that the Draft Zoning By-law would further restrict development rights for this Property as a result of the following:

1. The maximum height permitted under the By-law 1916 is significantly reduced under the Draft Zoning By-law. Whereas a maximum height of 55m is currently permitted under By-law 1916, the Draft Zoning By-law would cap the maximum height at 28m.
2. A Public Hospital would no longer be permitted under the Draft Zoning By-law.
3. The Draft Zoning By-law would introduce a requirement for a minimum 25m separation between the main walls of the same building.
4. The Draft Zoning By-law would introduce minimum distances requirements for between residential buildings on the same lot
5. The Draft Zoning By-law would reduce the maximum permitted height from 55m to 28m
6. The minimum front yard building setbacks under the Draft Zoning By-law would be reduced by 1.5m from that permitted under By-law 1916.
7. The Draft Zoning By-law would require that 50% of the lot be landscaped of which 50% must be soft landscaping.

85-95 Thorncliffe Park Drive

The property is currently zoned **Special Residential High Density SR** under the Current Leaside By-law 1916 ("By-law 1916"). The Draft Zoning By-law proposes to zone the site **Residential Apartment RA (u988) (RAX128)**.

1. Under the Current Leaside By-law 1916 Special Residential Section 6.10 provides that all uses in the "R.4" zone are permitted on the property. Although the Current Leaside By-law consolidation no longer includes an R4 Section, R4 regulations, including permitted uses, were included in the 1979 consolidation. It is not clear whether the permitted uses in the 1979 consolidation are those now permitted on the Property. As By-law 1916 is a prevailing by-law, it is particularly critical that this uncertainty with respect to uses be resolved before the Draft Zoning By-law is enacted.
2. Prevailing By-law 1916 does not regulate any of the newly introduced regulations under the Draft Zoning By-law, including, permitted building type standards, minimum first floor building height, minimum building and main wall separation distances, and regulations applicable to energy devices. Accordingly and where applicable, these newly introduced Draft Zoning By-law regulations would apply to any alteration or future development on the property.

CONCLUSION

The above is intended to provide an outline of some of the reasons for Morguard's concern with the implications of the Draft Zoning By-law. The list is not exhaustive and is subject to change as new information becomes available.

Meanwhile, we understand that the City will be holding a statutory public meeting at 10am on March 6, 2013 to consider the Draft Zoning By-law and the public's concerns related thereto. We trust that Committee members will take the opportunity to consider our written submissions on behalf of Morguard.

Yours truly,


for Mary Flynn-Guglietti

IM/

c.c.: Morguard Corporation
Attention: Mr. Andrew Warman, Counsel