

# MM51.15.1

Burnside & Associates

## WeirFoulds LLP

March 20, 2014

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**VIA E-MAIL**

File 12020.00002

Chair and Members of Council  
City of Toronto  
Toronto City Hall  
100 Queen Street West, 2nd Floor  
Toronto, Ontario M5H 2N2

**Attention: Ulli Watkiss, Clerk**

Dear Ms. Watkiss:

**Re: Zoning By-law Amendment and Rental Housing Demolition Applications (the "Mady Applications")  
1678-1704 Avenue Road, 375-377 Fairlawn Avenue and 412-416 Brookdale Avenue,  
City of Toronto (the "Mady Lands")**

We are counsel for Starbank Development Corporation, owner of the lands municipally known as 1648 Avenue Road and 1650-1660 Avenue Road (the "Starbank Lands"), in the City of Toronto (the "City").

By correspondence dated March 4, 2014 (copy attached), we made a further written submission to Council elaborating on our client's concerns respecting the Mady Applications – in particular, the concern regarding a lack of zoning regulations to deal with the proposed non-residential gross floor area on the Mady Lands. At that time, we indicated that our client's traffic consultant was in the process of reviewing the results of the traffic/transportation reports filed in support of the Mady Applications. We also reserved the right to make further submissions, if necessary.

Since that time, our client's traffic consultant (R.J. Burnside & Associates Limited) has undertaken a peer review of the Applicant's Transportation Impact Studies. Burnside has concluded that the potential to attract a large single tenant to occupy the ground floor non-residential gross floor area of the proposed development will have adverse impacts both on-site and off-site. For Council's information, attached is a copy of the Burnside peer review report dated March 13, 2014.

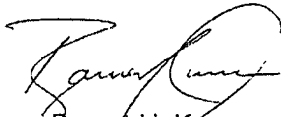
For the reasons explained during our attendance before the Community Council on January 15, 2014, as well as our written submissions including those dated January 13 and March 4, 2014, we respectfully reiterate our client's request that Council not adopt any Bill that will give effect to the proposed development until such time as further non-residential gross floor area controls are incorporated into any implementing zoning By-law.

We would hope that Council concurs that the suggested "friendly" amendment contained in our March 4, 2014 submission letter represents a substantial improvement which will help ensure that the proposed development is in keeping with the commercial main street character of this neighbourhood, and that conversely, its absence could compromise that existing and planned character.

Thank you for your ongoing attention to this matter. Should you have any questions or require further clarification, we are available to meet on short notice. In the interim, if you have any questions, please do not hesitate to contact Paul Chronis, Senior Planner in our office, at 416-460-0038.

Yours truly,

**WeirFoulds LLP**



Barnett H. Kussner

BHK:PC:d  
Encl.

c: V. Covello, City of Toronto  
P. Byrne, City of Toronto  
Allen Appleby, City of Toronto  
Dung Lam, Starbank Development Corporation  
Robert Kligerman, Kligerman Law Firm Professional Corporation  
Denise Baker, WeirFoulds LLP  
Paul Chronis, WeirFoulds LLP

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March 4, 2014

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VIA E-MAIL & REGULAR MAIL

File 12020.00002

Chair and Members of Council  
City of Toronto  
Toronto City Hall  
100 Queen Street West, 2nd Floor  
Toronto, Ontario M5H 2N2

Attention: Ulli Watkiss, Clerk

Dear Ms. Watkiss:

Re: **Zoning By-law Amendment and Rental Housing Demolition Applications (the "Mady Applications")**  
**1678-1704 Avenue Road, 375-377 Fairlawn Avenue and 412-416 Brookdale Avenue, City of Toronto (the "Mady Lands")**

We are counsel for Starbank Development Corporation ("**Starbank**"), owner of the lands municipally known as 1648 Avenue Road and 1650-1660 Avenue Road (the "**Starbank Lands**"), in the City of Toronto (the "**City**").

This is further to our recent attendance before the North York Community Council meeting on January 15, 2014 to elaborate on matters contained in our letter dated January 13, 2014.

We have re-examined the approved "Avenue Road Avenue Study: Lawrence Avenue to Wilson Avenue" dated April 2008 (the "**Study**"), as subsequently implemented by the City through Zoning By-law 107-2010. The purpose of this re-examination is to facilitate a better understanding of some of the planning principles embodied in the Study. Some of these fundamental findings include confirmation of the traditional "commercial main street character".

In particular, the Study defines this area as a "*unique retail street comprised of one and two-storey commercial buildings built to the front lot line with retail at grade*". Of particular importance are the findings of the retail study (pages 18-19) which confirm that 77% of commercial types typically have some form of retailing. Combined with the findings that the mean commercial space found by the survey to be between 500 sq. ft. to 1,000 sq. ft. (46 sq. m. to 93 sq. m.) in size, this further reinforces the small scale "mom and pop" type of retailing

occurring along this stretch of Avenue Road. Even the "larger" store size surveyed in the Study area were generally within the 5,000 sq. ft. (465 sq. m.) threshold.

The findings of the Study were, for the most part, implemented in Zoning By-law 107-2010 by requiring the commercial portion of a mixed-use building to occupy at least 60% of the floor area of the first storey of any building or structure fronting on Avenue Road to be used for non-residential purposes. While the proposed implementing zoning by-law drafted by City Staff in respect of the Mady Applications continues to reinforce this regulation, to date Staff have not adequately addressed the unit size potential that can arise from the subject development.

We note that the initial site plan, with accompanying statistics contained in the Preliminary Staff Report dated February 29, 2012, depicted a total of 2,067 sq. m. of non-residential gross floor area on the Mady Lands. The site plan specifically showed a retail unit approaching 10,000 sq. ft. (929 sq. m.) and two other retailing units near 5,000 sq. ft. (465 sq. m.) in size. In both instances, the large retail units are not consistent with the Study and approach the potential of creating a "big-box" phenomena that is out of character for this area.

Further, the Final Staff Report dated December 11, 2013 indicates that the project includes 1,878 square metres of commercial space (a number that was reduced downwards from the Preliminary Staff Report). However, despite the downwards revision, the proposed implementing zoning by-law provides for 2,192 sq. m. of non-residential gross floor area for the Mady Lands. This upwards permission does not contain a maximum unit size regulation. A review of the site plan contained in the Final Staff Report reveals that there are no unit size delineation proposed. Rather, it is quite conceivable, without any zoning controls, that the entire permitted non-residential gross floor area density, proposed to be granted, can be occupied by one larger big-box tenant. That eventuality has dramatic planning implication and could undermined the stable main street commercial character in the area.

Given the unique character of the area as confirmed by the Study, it is our client's position that the proposed implementing zoning by-law for the Mady Applications should include a unit size regulation requiring that no unit can exceed 92.9 sq. m. in non-residential gross floor area and that no more than one unit can have a maximum of 464.5 sq. m. in non-residential gross floor area. This blend provides a range of commercial unit sizes consistent with the Study findings.

Our client's traffic consultant is currently reviewing the results of the traffic/transportation reports filed in support of the Mady Applications. We reserve the right to make further submissions, if necessary.

We look forward to your concurrence with the proposed "friendly" amendment to the implementing zoning by-law for the Mady Applications.

Should you have any questions or require further clarification, we are available to meet on short notice. In the interim, if you have any questions, please do not hesitate to contact Paul Chronis, Senior Planner in our office, at 416-460-0038.

Thank you for your ongoing attention to this matter.

Yours truly,

**WeirFoulds LLP**



Barnet H. Kussner

BHK:PC:d

c: V. Covello, City of Toronto  
P. Byrne, City of Toronto  
Allen Appleby, City of Toronto  
Dung Lam, Starbank Development Corporation  
Robert Kligerman, Kligerman Law Firm Professional Corporation  
Denise Baker, WeirFoulds LLP  
Paul Chronis, WeirFoulds LLP

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**BURNSIDE**

[THE DIFFERENCE IS OUR PEOPLE]

March 13, 2014

Via: Email (pchronis@weirfoulds.com)

Mr. Paul Chronis  
WeirFoulds LLP  
66 Wellington Street West, Suite 4100  
PO Box 35 Toronto-Dominion Centre  
Toronto ON M5K 1B7

Dear Paul:

**Re: Transportation Review  
1678-1704 Avenue Road, Toronto  
File No.: 300035131.0000**

R.J. Burnside & Associates Limited (Burnside) was retained to provide a peer review of the report entitled "Proposed Mixed-Use Development, 1678 -1704 Avenue Road, Transportation Impact Study (Updated)", dated September 2012, by Dillon Consulting Limited. This peer review also includes the study addendum, dated October 7, 2013, also by Dillon Consulting Limited. The author of this peer review previously provided a previous peer review by HDR Corporation (HDR), dated November 16, 2012, on the original study, which was dated December 2011.

The subject development will occupy 1678 -1704 Avenue Road, 375-377 Fairlawn Avenue and 412-416 Brookdale Avenue in Toronto. Existing uses at these addresses include ground floor retail (some with apartments above) and three (3) separate apartment buildings. The updated proposal includes 115 residential condo units and 20,215 sq. ft. of ground floor commercial uses. Previously, 136 residential condo units and 23,147 sq. ft. were proposed. Access has not changed and will be provided via one full movement driveway on both Fairlawn Avenue and Brookdale Avenue. A 2-level underground garage is proposed with 249 spaces. Previously 233 spaces were proposed.

This review focuses on the changes to the development and the study update and addendum.

The majority of the traffic operations issues raised in the peer review by HDR have been corrected or updated satisfactorily. The conclusions appear reasonable. As noted in the HDR report, it appears that there will be excess capacity on Avenue Road for future development in the neighborhood.

There is concern however, that the proposed ground floor commercial unit will attract a big box retail tenant. Previous site plans depicted the ground floor commercial as several small units. The current site plan appears to depict one large unit.

A tenant requiring a unit of this size will more than likely require their own loading dock (possibly two). Currently, only one loading dock is proposed to serve both the residents and the ground floor commercial. The space is large enough to accommodate a grocery store. Should a potential tenant be a grocery store, they may require a tractor-trailer sized truck for deliveries. The site plan, as currently configured, would not be able to accommodate a truck of this size. This type of truck would have to conduct deliveries from the curb in front of the store or on a side street. In addition, they may also require more deliveries per day by smaller trucks, hence increased truck traffic. These large and small trucks may potentially occupy parking spaces or park illegally on abutting streets within the vicinity of the development.

Should there be multiple small units between 2,000-5,000 sq. ft.; one or more additional loading docks would still more than likely be required. Units of this size would likely require periodic deliveries be made by trucks larger than a van, thus requiring a loading dock.

Zoning By-law 7625 requires one loading space for an "apartment house with 30 dwelling units or more" plus one loading space for "commercial uses" with a floor area of 420 m<sup>2</sup> up to and including 2,350 m<sup>2</sup>. This would suggest that a minimum of two (2) loading docks are required.

Zoning By-law 569-2013 requires one "Type G" loading space for a building containing "31 to 399 dwelling units" plus two "Type B" loading spaces for a "retail store, eating establishment or personal service shop" with a floor area of 2,000 m<sup>2</sup> to 4,999 m<sup>2</sup>. In addition, "grocery stores/supermarkets" require one Type A and one Type B loading space with a floor area of 2,000 m<sup>2</sup> to 4,999 m<sup>2</sup>. Either scenario would suggest that a minimum of three (3) loading docks are required.

In addition, a large single tenant, again depending upon the use, may also generate increased traffic and patron parking demand. The on-street parking supply may not be sufficient to handle increased demand and thus an increased parking supply may be required in the proposed garage.

It is our opinion that the development, as proposed, has the potential to negatively impact the neighbourhood, based on what could possibly occupy the commercial space. These negative impacts could include increased demand for on-street parking spaces, undesirable delivery truck movements on the street and undesirable on-street delivery truck loading/unloading.

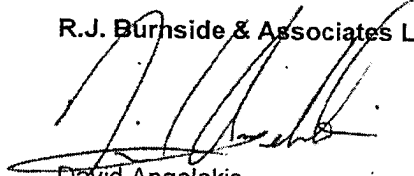
Paul Chronis  
March 13, 2014

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Should you require clarification on any of the above please contact the undersigned.

Yours truly,

**R.J. Burnside & Associates Limited**



David Angelakis  
Senior Project Manager – Transportation  
DA:cv

cc: Dung Lam, Starbank West Corporation

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