Barristers & Solicitors

WeirFoulds LLP

March 17, 2017

Barnet H. Kussner
T: 416-947-5079
bkussner@weirfoulds.com

File No. 15269.00001

VIA E-MAIL ONLY

Mayor and Members of Council
Toronto City Hall
100 Queen Street West
Toronto, ON
M5H 2N2

Attention: Ulli Watkiss, Clerk

Dear Mayor and Members of Council:

Re: Technical Amendments to Zoning By-law 569-2013 – Item PG18.5

We act as counsel for Holly Dunfield Residences Corp., owner of lands municipally referred to as 33 Holly Street, 44 Dunfield Avenue and 86-88 Soudan Avenue (the "**Site**"). On behalf of our client we are writing to provide our written submissions respecting the above Item, which we understand is being considered by Council at its meeting on March 28, 2017.

Background

By way of background, on July 26, 2013 an application was made to the City of Toronto (the "**City**") for a Zoning By-law Amendment to permit the construction of a 24-storey residential tower along Holly Street, a 32-storey residential tower along Dunfield Avenue, an additional five-storeys above each of the two existing rental apartment buildings, and a 6-storey rental apartment building at the northwest corner of Soudan Avenue and Dunfield Avenue. The owner appealed Council's non-decision within the statutory time frame, pursuant to s. 34(11) of the *Planning Act*.

Following numerous pre-hearing conferences, the parties entered into Board-assisted mediation in December 2014, and successfully resolved all concerns through amendments to the proposed development and other agreements. On February 3, 2016, City Council resolved to approve of the Settlement (copy attached). The settlement was subsequently approved by the Board on March 21, 2016, subject to finalization of remaining matters including a revised zoning by-law amendment and a Section 37 and 111 Agreement.

Attached is a copy of the Board's Decision and Interim Order issued April 18, 2016, approving the settlement and noting the agreed-upon revisions to the development proposal arising from the settlement.

Since that time, our client and its consultants have had meetings with City Staff to prepare the submission of a site plan application in respect of the project. We are also continuing to follow up with City Staff to finalize the required amendments to the Zoning By-laws (438-86 and 569-2013) as well as the required Section 37 and 111 Agreement. At this time we are awaiting a response from City Legal on both matters so that the documents required to implement the settlement can be finalized as soon as possible.

Concerns With Proposed Technical Amendments to Zoning By-law 569-2013

Given this history, our client is concerned with the technical amendments now proposed to By-law 569-2013 with respect to the accessible parking space dimensions (which were subject to a statutory public meeting held by the Planning and Growth Management Committee on February 23, 2017). The basis for concern is that the proposed amendments do not provide any transitional or grandfathering provisions for pre-existing development applications. That concern is particularly acute in this instance, given the 2016 Ontario Municipal Board approval for which a final Order is pending once the agreed upon form of the implementing Zoning By-laws have been agreed upon with the City.

In our respectful submission, if the proposed technical amendment is approved, in fairness it should be supplemented with the usual and customary transitional provisions to recognize "in-the-pipe" developments such as this one. Without such transitional provisions, the proposed amendments will result in undue hardship for such projects.

In this regard, we support the submission made by BILD dated February 22, 2017 and BA Group dated February 23, 2017, which reiterates that the amendments for Accessible Parking Spaces should be accompanied by transitional provisions or grandfathering for pre-existing development applications.

Please accept this correspondence as our written submission in respect of the proposed Zoning By-law Amendment prior to the enactment by Council. Please provide the undersigned with the notice of any future meeting of Committee or Council, including any notice of Council's decision on this matter, including as well as any notice of enactment of any subsequent Zoning By-law amendment.

Thank you for your consideration of these submissions. Should you or any members of City Staff have any questions or require clarification, please do not hesitate to contact Paul Chronis, Senior Planner in our office at 416.460.0038 or by email at pchronis@weirfoulds.com.

Yours truly,

WeirFoulds LLP



Barnet H. Kussner

BHK/PC

cc: Robyn Rabinowitz
Jack Greenberg
Sharon Haniford

Enclosure

TORONTO

Ulli S. Watkiss
City Clerk

City Clerk's Office

Secretariat
Rosalind Dyers
Toronto and East York Community Council
City Hall 2th Floor, West Tower
100 Queen Street West
Toronto, Ontario M5H 2N2

Tel: 416-392-7033
Fax: 416-397-0111
e-mail: teycc@toronto.ca
Web: www.toronto.ca

February 12, 2016

Item CC12.9 - 33 Holly Street, 44 Dunfield Avenue, 86 and 88 Soudan Avenue - Zoning Amendment Application - Request for Directions (Ward 22 – St. Paul's)

Toronto and East York Community Council Report Adopted by City Council on February 3 and 4, 2016

City Council on February 3 and 4, 2016, adopted the following:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor.

2. City Council authorize the public release of the confidential instructions to staff and Appendix A in Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor.

3. City Council direct that the balance of Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor remain confidential.

The following confidential instructions to staff in Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor were adopted by City Council and are now public:

1. City Council authorize the City Solicitor and appropriate staff to attend at the Ontario Municipal Board in support of the Settlement set out in Appendix 1 to the Confidential Attachment to the report (January 28, 2016) from the City Solicitor, stemming from the mediation December 10 and 11, 2015, and related to the Zoning By-law Amendment Application for 33 Holly Street, 44 Dunfield Avenue and 86 and 88 Soudan Avenue subject to City Council coming to a decision on the section 111 application for the site that would permit the Settlement Offer to proceed.

2. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning, together with appropriate staff, to continue discussions with the applicant respecting a final version of the proposed Settlement Offer substantially in accordance with Appendix 1 of the Confidential Attachment to the report (January 28, 2016) from the City Solicitor, and all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor and on the following basis.

3. City Council request that the Ontario Municipal Board withhold any Order approving the Zoning By-law Amendment Application until being notified by the City Solicitor that the final content and form of the Amending By-law is acceptable to the Chief Planner

and Executive Director, City Planning and the City Solicitor and that a Section 37 Agreement has been entered into by the owner and the City and satisfactorily registered on title to the site to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor. Such agreement and by-law amendment to secure the matters set out in Appendix A in Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor, including amongst other matters, the built form matters, the satisfactory conveyances to the City of a public pedestrian and bicycle easement and of lands for park purposes; above base park improvements having a value of at least $1,800,000.00 (subject to upwards indexing); and rental related matters, including securing improvements to the existing rental buildings and site without pass through of costs to tenants, tenant assistance and the rental tenure of the existing buildings, all as more particularly set out in Appendix A in Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor.

4. City Council authorize the City Solicitor to make technical and stylistic changes as may be required to the final form of the By-law for the Zoning Amendment Application.

5. City Council direct that Parts 3 and 6 of Item TE5.10 be deleted and that Item TE5.10 be revised to the extent set out in Parts 1, 2, 3 and 4 above.

Appendix A to Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor is now public and can be accessed under Background Information (City Council).

The balance of Confidential Attachment 1 to the report (January 28, 2016) from the City Solicitor remains confidential in accordance with the provisions of the City of Toronto Act, 2006, as it pertains to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board and it contains advice or communications that are subject to solicitor-client privilege.

You can view this Item and any background information in the Community Council's Report posted on the City of Toronto's Website at:

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.CC12.9

Yours truly,

City Clerk

Rosalind Dyers/mt
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Sent to: Sharon Haniford, Solicitor, Toronto Legal Services, Metro Hall, 26th Floor
Gregg Lintern, Director, Community Planning, Toronto and East York District
Giulio Cescato, City Planning Division
Barnet H. Kussner, WeirFoulds LLP