

NY19.33.11

**North York Community Council**

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**From:** Chelsea Freeman <CFREEMAN@weirfoulds.com>  
**Sent:** Thursday, January 12, 2017 4:30 PM  
**To:** North York Community Council  
**Cc:** Barnet Kussner; Paul Chronis; ffbitaraf@gmail.com; mgoldberg@goldberggroup.ca  
**Subject:** North York Community Council (NYCC) Meeting January 17, 2017 Items NY19.36 & NY19.33  
**Attachments:** (Pinelake) ltr dated January 12, 2017 to F. Adamo re\_ Seconday Plan Review\_10028473 (1).PDF; (Pinelake) ltr dated January 12, 2017 to F. Adamo re\_ Amendment Applications\_10028490 (1).PDF

Please refer to the attached letters of today's date, from Barnet Kussner of our office in respect of the above-noted referenced NYCC agenda items.

Regards,

**CHELSEA FREEMAN** | Legal Assistant | T. 416-365-1110 ext. 2352 | CFREEMAN@weirfoulds.com

**WeirFoulds** LLP

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January 12, 2017

**VIA E-MAIL ONLY**

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

File 17638.00001

Francine Adamo  
Administrator, North York Community Council  
City of Toronto  
City Clerk's Office  
5100 Yonge Street  
Toronto, ON M2N 5V7

Dear Chair and Members of Community Council:

**Re: North York Community Council ("NYCC") Meeting of January 17, 2017**

**Item NY19.33: Sheppard Avenue Commercial Area Secondary Plan Review  
the ("Secondary Plan Review")**

As you are aware, we act as counsel for the following property owners in connection with their respective properties (collectively referred to as the "Site"):

1. 2025243 Ontario Inc.: 245 Sheppard Avenue West;
2. 1642989 Ontario Inc.: 253 and 255 Sheppard Avenue West; and
3. JFJ Development Inc.: 250, 256 & 258 Bogert Avenue.

We have reviewed the Supplementary Report dated January 6, 2017 in respect of the above matter. We continue to rely on our position as set out in our previous correspondence dated September 19, 2016 and November 11, 2016. More specifically, we continue to rely on the "Clergy" principle as it applies to our clients' development application respecting the Site, for which a complete application was filed well before the Secondary Plan came forward even in draft form.

In addition, we note that during the Community Consultation Meeting which held in respect of the Site, Mr. Matthews of the City's Planning Staff publicly acknowledged that that our clients' development application is except from the Secondary Plan Review based on the Clergy principle. We also note that Ms. Meistrich of Planning Staff had previously confirmed a similar position during the Community Consultation Meeting regarding the Secondary Plan Review which was held on September 7, 2016 (please refer to our September 19, 2016 correspondence).

On this basis, we continue to rely on the "Clergy" principle and the acknowledgements provided by the City's own Planning Staff on the basis of that principle. We are disappointed that the Supplementary Report continues to ignore this long-standing principle which is essential to the integrity of the land use planning process.

Rather than repeat our clients' other planning concerns with the Secondary Plan Review, we will note that we have reviewed the various submissions by other interested parties (please refer to the communications related to Item NY19.33) and that we concur with their summaries.

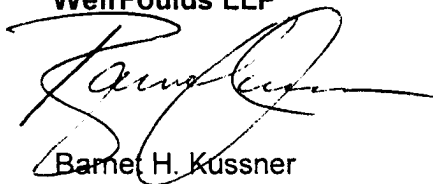
Please accept this correspondence as our clients' written submission prior to City Council making any decision on this matter for the purpose of any *Planning Act* appeal rights that our clients reserve the right to exercise. In that regard, we also rely on our previous submissions as well as the submissions by others who share a like interest.

If you have any questions, please do not hesitate to contact Paul Chronis, Senior Planner, in our office at (416)-947-5069 or [pchronis@weirfoulds.com](mailto:pchronis@weirfoulds.com).

Thank you for your consideration of these submissions.

Yours truly,

**WeirFoulds LLP**



Barret H. Kussner

BHK/PC:

cc: Michael Goldenberg  
Paul Chronis  
Client

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

File 17638.00001

January 12, 2017

**VIA E-MAIL ONLY**

Francine Adamo  
Administrator, North York Community Council  
City of Toronto  
City Clerk's Office  
5100 Yonge Street  
Toronto, ON M2N 5V7

Dear Chair and Members of Community Council:

**Re: North York Community Council ("NYCC") Meeting of January 17, 2017**

**Item NY19.36: Official Plan Amendment and Zoning By-law Amendment Applications - 245-255 Sheppard Avenue West and 250-258 Bogert Avenue**

As you are aware, we act as counsel for the following property owners in connection with their respective properties (collectively referred to as the "Site"):

1. 2025243 Ontario Inc.: 245 Sheppard Avenue West;
2. 1642989 Ontario Inc.: 253 and 255 Sheppard Avenue West; and
3. JFJ Development Inc.: 250, 256 & 258 Bogert Avenue

We are disappointed that the City's Planning Staff are recommending refusal of our clients' development application in respect of the Site. From our review of the existing inventory of development applications along Sheppard Avenue East and West, it appears to be consistent with a broad pattern of refusal by the City for any development application that involves a proposed intensification of lands within the *Mixed-Use Areas* designation if those lands also abut streets within the *Neighbourhood* designation, without any attention to site character or site attributes.

The concerns expressed by Staff and some members of the local community about the interface between intensification within *Mixed Use Areas* along major arterial roads and transportation corridors, on the one hand, and low-density residential development within existing *Neighbourhoods*, on the other, are clearly important matters that warrant thoughtful consideration and consultation when development applications such as this one come forward. Those concerns are experienced on a daily basis across North York and the broader City - there is nothing unique about Sheppard Avenue in that regard. Respectfully, however, what does appear to be unique is the Staff response to applications for sites along Sheppard Avenue and the extent to which concerns regarding the form and scale of development adjacent to *Neighbourhoods* are given precedence over other equally important policy objectives such as accommodating intensification and transit-oriented development. Respectfully, no meaningful attempt is made to balance those objectives - in stark contrast to the balanced approach which Staff routinely apply to development applications in other *Mixed Use Areas* and corridors.

To Staff's credit, there is at least a recognition on their part that the existing Commercial Secondary Plan is outdated and obsolete for the purpose of assessing development applications such as this. Despite that recognition, however, they appear to be applying a pre-determined *de facto* height and density restriction in the range of 4-6 storeys. On that basis, any development application that involves intensification at a density and scale which goes beyond that pre-determined limit, as this one does, is recommended for refusal regardless of its other positive attributes and the extent to which it facilitates achievement of important City and Provincial policy objectives.

In our respectful submission, the process and outcome that would result from acceptance of Staff's recommendation fall far short of the expectations of the *Planning Act* and the City's own Official Plan. Among other things, the City even refused to hold a pre-consultation meeting with our clients' consultants. To describe that as an extraordinary position would be an understatement. Despite that refusal, the City nonetheless required submission of detailed justification reports for purposes of a complete application. While those reports were duly prepared and filed on behalf of our clients in support of its complete application, we have difficulty understanding how the contents of those reports were considered or applied in any constructive manner.

In our respectful submission, this Application has substantial planning merit and is worthy of approval. We, our clients and their consultants are always prepared to work with City Staff to consider potential refinements if they are aimed at improving the development and how it fits within the local community, rather than derailing it altogether. While we remain committed to that approach, there does not appear to be any willingness on the City's part to do so in any

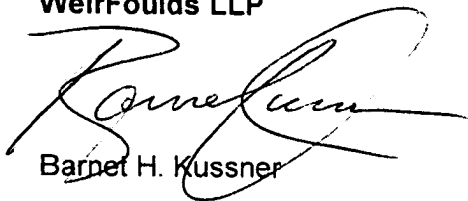
constructive manner. As such, we regretfully advise that we will be appealing this matter to the Ontario Municipal Board.

If you have any questions, please do not hesitate to contact Paul Chronis, Senior Planner, in our office at (416)-947-5069 or [pchronis@weirfoulds.com](mailto:pchronis@weirfoulds.com).

Thank you for your consideration of these submissions.

Yours truly,

**WeirFoulds LLP**



Barnet H. Kussner

BHK/PC:

cc: Michael Goldberg  
Paul Chronis  
Client