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January 23, 2024

Via Email

teycc@toronto.ca

Toronto and East York Community Council
City of Toronto
100 Queen Street West
Toronto ON M5H 2N2

Attn: Cathrine Regan

Dear Chair and Members of Community Council:

**Re: TE10.11 - 40 Walmer Road - Zoning By-law Amendment Application - Decision Report – Refusal
Planning Application Number 23 217877 STE 11 OZ (the “Application”)**

We are the solicitors for 2114778 Ontario Inc., the owner of the lands known as 40 Walmer Road and the subject of the Application.

Our client disagrees with the conclusions and most of the substantive commentary of the “Decision Report – Refusal” dated January 8, 2024 (the “**Report**”). They submit that the merits of the Application are established in the drawings and reports submitted therewith and, ultimately, it ought to be approved.

However, our client does partly agree with the comment from the Community Consultation set out in the Report as the final bullet under that heading, that the 40 Walmer proposal “ought to be reviewed together with the two adjacent development applications currently under review...”. 40 Walmer Road abuts 38 Walmer Road, which is the subject of development applications which have been appealed to the Ontario Land Tribunal (the “**Tribunal**”). Since Council’s refusal of the Application can facilitate such a collective review (and a collective determination) by facilitating an appeal to the Tribunal, paradoxically in this somewhat unique circumstance, our client acknowledges that such would represent a reasonable approach to the process, notwithstanding that it maintains its position on the merits of the Application.

That said, our client does object to Recommendation # 2 in the Report respecting a mediation process for the Application. A Tribunal-led mediation is already underway under the auspices of the 38 Walmer Road appeal, in which our client is participating and in which the issues related to the adjacencies of the 38 and 40 Walmer proposals are anticipated to be central. Thus, commencing a new mediation respecting 40 Walmer Road means that there will be two separate mediation processes where all the bigger picture issues overlap taking place in two

separate forums. This is self-evidently counter-productive as well as extremely wasteful of resources.

Thus, given that a mediation which can encompass all of the topics identified as problematic in the Report has already been organized by the Tribunal, our client respectfully submits that if Council agrees with the balance of the recommendations in the Report, it at least should delete Recommendation #2 to remove the potential for a second mediation process.

Sincerely,

McCarthy Tétrault LLP

Per:



Matthew Schuman
Partner