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January 30, 2024

VIA EMAIL

Mayor Scarpitti and Members of City Council
The Corporation of the City of Markham
101 Town Centre Boulevard
Markham, ON L3R 9W3

Attention: Kimberly Kitteringham, City Clerk

Your Worship and Members of Council:

**RE: Draft City-Wide Comprehensive Zoning By-law 2024-XX
City Council Meeting – January 31, 2024
Eastside Chevrolet Buick GMC Ltd.**

We are the lawyers for Eastside Chevrolet Buick GMC Ltd. ("**Eastside**"), being the owner of the lands municipally known as 8435 Woodbine Avenue (the "**Property**") in the City of Markham (the "**City**").

We have reviewed the *Recommendation Report, City Initiated New Comprehensive Zoning By-law Project, File PR 13 128340* dated January 16, 2024 (the "**Staff Report**") that seeks Council's approval and enactment of the City's draft new comprehensive zoning by-law (the "**Draft CZBL**"). We understand that this item will be considered by City Council at its meeting on January 31, 2024.

On behalf of Eastside, we are writing to provide our preliminary concerns in respect of the Draft CZBL. As a general proposition, the Draft CZBL does not implement the Property's redevelopment potential, and in its current form it would result in suboptimal zoning permissions for the Property. We submit that the Draft CZBL should be modified to implement the development standards proposed by Eastside in its application for Zoning By-law Amendment (as further described below), which seeks to implement provincial, regional and local policies that support intensification in key growth areas, and the optimization of land use and infrastructure.

BACKGROUND

The Property

The Property is located on the east side of Woodbine Avenue and south of the intersection of Woodbine Avenue and Highway 7. The Property is approximately 2.63 acres (1.06 hectares) in

size, with a frontage of 95.43 metres along Woodbine Avenue. The Property is irregular in shape and is bisected by the Beaver Creek watercourse.

The western portion of the Property is currently improved with a 1-storey car dealership (the "**West Site**"). The eastern portion is currently improved with two surface parking lots (the "**East Site**"), which is bisected by a 7-metre wide strip of land (the "**7 Metre Strip**"). Access between the West Site and the East Site is provided by a privately owned bridge structure (the "**Bridge**") that crosses over Beaver Creek. Both the 7 Metre Strip and the Bridge are owned by a separate, unrelated entity.

The Bridge, the 7 Metre Strip and a portion of land at the south end of the West Site are all subject to easements for, *inter alia*, vehicular and pedestrian access in favour of the Property and the neighbouring lands to the east, respectively.

The Property is located within the boundary of the Montgomery BRT Station Protected Major Transit Station Area ("**PMTSA**") and the Woodbine BRT PMTSA and is within walking distance to public transit, including York Region Transit and Viva Purple Bus Rapid Transit bus stops with connections to the TTC subway system and GO Transit buses and trains.

The Applications

On February 2, 2023, Eastside submitted applications for an Official Plan Amendment and a Zoning By-law Amendment (City File No. PLAN 23 114260) to permit the redevelopment of the Subject Lands with a high-density mixed-use building (the "**Applications**"). A resubmission of the Applications was filed on September 1, 2023. As revised, the Applications seek permissions to permit the redevelopment of the West Site with two 40-storey mixed-use buildings containing approximately 852 residential units, connected by a 6-storey podium containing commercial space on the first two floors (the "**Proposed Development**").

As advised, the Proposed Development contains a total gross floor area (GFA) of approximately 65,663 square metres, comprised of 61,722 square metres of residential GFA and 3,941 square metres of commercial GFA. The Proposed Development includes a new Automotive Sales Centre, which carries forward a component of the existing uses on the West Site. The total floor space index equates to approximately 6.53 times the gross site area.

The Proposed Development includes a rooftop amenity terrace and four levels of underground parking containing approximately 408 vehicle parking spaces and 134 bicycle parking spaces. No intensification is proposed on the East Site, which is proposed to be maintained with surface parking lots containing an additional 91 at-grade vehicle parking spaces. The Proposed Development will continue to take access from Woodbine Avenue, and the Bridge will continue to provide access between the West Site and the East Site.

The Applications implement provincial, regional and local policies that seek to promote significant intensification in strategic growth areas, particularly in the form of high-density mixed-use development. The Property is a logical location to introduce high-density residential development and it will support the optimization of key infrastructure, notably the higher order transit infrastructure within walking distance of the Property.

The Applications were refused by City Council at its meeting on November 1, 2023. Eastside appealed the City's refusal of the Applications to the Ontario Land Tribunal on November 30, 2023 (OLT Case No. OLT-23-001274, the "**Appeals**"). A Case Management Conference is scheduled for March 27, 2024.

CONCERNS WITH THE DRAFT CZBL

Notwithstanding the pending Applications and Appeals thereof, the Draft CZBL proposes to zone the Property as *Commercial (COM) Zone*, *Greenway One (GWY1) Zone* and a small portion of the northeastern corner of the Property appears to be proposed to be zoned as *Greenway One * One (GWY1*1) Zone*.

The proposed *Commercial (COM) Zone*, which extends across the majority of the Property and the area proposed for redevelopment, does not permit residential apartment dwelling or mixed uses. The proposed *Commercial (COM) Zone* also proposes a maximum building height of 46 metres, or approximately 15-storeys.

To the extent of any conflict between the Draft CZBL and the proposed Zoning By-law Amendment and supporting application for Official Plan Amendment, our client objects thereto.

We note further that while Section 1.7 of the Draft CZBL contains proposed transition provisions, they are flawed to the extent that they propose to expire within 3 years of the effective date of the Draft CZBL and would have the effect of rendering certain developments legal non-conforming if they are even capable of triggering the transition permissions as drafted. We further submit that the transition provisions are under-inclusive, and should be expanded to recognize pipeline projects, including supporting applications for official plan amendment and/or zoning by-law amendment, with corresponding provisions that recognize, as permitted, any development permissions obtained in the final approved pipeline applications.

REQUEST FOR NOTICE

We hereby request that notice of any decision made by City Council and any committee of City Council in respect of the Draft CZBL be provided to the undersigned and Daniel Artenosi (dartenosi@overlandllp.ca).

Yours truly,
Overland LLP


For: Per: Justine Reyes
Associate