



**ZELINKA PRIAMO LTD**

*A Professional Planning Practice*

**VIA EMAIL**

June 5, 2017

Ms. Ida Bedioui  
Planning Co-ordinator  
City of Hamilton  
71 Main Street W, 4<sup>th</sup> Floor  
Hamilton, ON  
L8P 4Y5

Dear Ms. Bedioui

**Re:** City of Hamilton Comprehensive By-law (PED161000(b))  
Proposed Commercial and Mixed Use (CMU) Zones  
Comments on Behalf of Choice Properties Real Estate Investment Trust and Loblaw  
Properties Limited  
Our File: CHO/HAM/16-01

---

We are the Land Use Planning Consultants for Choice Properties Real Estate Investment Trust ("CP REIT") and Loblaw Properties Limited ("Loblaws") as it relates to the above-noted process. CP REIT and Loblaws are the owners and/or tenants of the following properties that are affected by the proposed CMU zones:

- 115 Hamilton Street North (proposed to be zoned C5-582)
- 102 Highway #8 (proposed to be zoned C6)
- 1579 Main Street West (proposed to be zoned C6)
- 65 Mall Road (proposed to be zoned C4)
- 499 Mohawk Road East (proposed to be zoned C6)
- 675-695 Rymal Road & 1615 Upper Sherman Avenue (proposed to be zoned C3)
- 21 Upper Centennial Parkway (proposed to be zones C5)
- 770 Upper James Street (proposed to be zoned C6)
- 1550 Upper James Street (proposed to be zoned C5)
- 930 Upper Paradise Road (proposed to be zoned C3)
- 54 Wilson Street West (proposed to be zoned C5-567)

The above properties, except for 675-695 Rymal Road & 1615 Upper Sherman Avenue, are established, developed sites that currently contain commercial uses in the form of a food store (operated by Loblaws) and other retail and service commercial uses. It is anticipated that each of the above sites will continue to generally operate in their current form for the foreseeable future due to the nature and length of contractual obligations with existing tenants.

We submitted comments on behalf of our clients on November 18, 2016 and we met with Planning Staff on May 12, 2017 to review our comments. Subsequently, formal correspondence outlining Staff's response to our comments was provided to us on May 26, 2017. While we appreciate that Staff has responded to some of our concerns outlined in the November 18<sup>th</sup> correspondence, we have since reviewed the Staff Report to Planning Committee, as well as the draft Zoning By-law Amendment ("ZBA") and are pleased to offer the following comments on behalf of our clients:

1. Section 4.12.i) VACUUM CLAUSE should also include landscaped open space and parking supply that is existing on the effective date of the Zoning By-law as being deemed to comply with the By-law. There are significant changes proposed in the draft Zoning By-law with respect to landscaped open space and parking requirements that could create compatibility issues should future development of a property proceed in accordance with Section 4.12.ii).
2. Section 4.12.ii) VACUUM CLAUSE should also include lands zoned Mixed Use High Density (C4) Zone. The intent of this regulation is to allow existing developed sites to undertake minor expansions and/or alterations that would not comply with the new zoning regulations. In our opinion, there is no sound planning rationale as to why existing developed lands proposed to be zoned C4 (i.e. 65 Mall Road) would not be afforded this flexibility as well.
3. Section 4.12.ii) VACUUM CLAUSE – we request that the permission for addition or alteration to an existing building, to a maximum of 10% of the existing Gross Floor Area be revised to allow for the 10% expansion to be applied collectively over an entire site, regardless of how many buildings exist, rather than to individual buildings within a site, but that no individual building within a site can expand beyond a maximum of 20% of its existing floor area. This would provide flexibility for larger buildings (i.e. food stores, department stores) to have sufficient expansion opportunities (beyond 10%) without the need for a minor variance, but would also control the expansion potential for smaller buildings so that the original intent of the regulation is maintained.
4. Section 5.6c) PARKING SCHEDULES - The parking rate for retail and shopping centre uses that do not exceed 4,000 m<sup>2</sup> (1 space for each 17.0 m<sup>2</sup> between 450.0 m<sup>2</sup> and 4,000 m<sup>2</sup>) is higher than the current rate of 1 space for each 20 m<sup>2</sup>. As it would appear that the intent of the CMU zone category is to promote transit supportive developments by reducing the parking rates for small (<450 m<sup>2</sup>) and large (>4,000 m<sup>2</sup>), it would be appropriate to reduce the parking requirement for small-mid range retail uses as well (repeat comment).

Furthermore, the proposed parking rate for uses up to 4,000 m<sup>2</sup>, combined with the proposed increase in parking stall size (Section 5.2b).i), will require that additional lands be utilized for parking purposes, thus reducing intensification opportunities within a given property.

A parking rate of 1 space for each 20 m<sup>2</sup> of Gross Floor Area for uses between 450.0 m<sup>2</sup> and 4,000 m<sup>2</sup> would be more appropriate and in keeping with overall intensification goals and objectives.

5. Regulations - Sections 10.3.3.i), 10.4.3.j), 10.5.3.j) – Built form for New Development (as applicable to the C3, C5 & C6 Zones) In addition to the regulations within Section 4.12

VACUUM CLAUSE relating to minor expansions of existing developed sites, consideration should also be given to the following:

- Sub-sections ii) and iii) Individual new buildings within existing commercial plazas are unlikely to be able to meet minimum ground floor façade width requirements. Regulations should provide some flexibility for buildings that cannot practically achieve the minimum ground floor façade width percentage due to the excessive length of the front and/or flankage yard, yet still approach the required standard (repeat comment).
  - Sub-section v) Flexibility should be provided for uses (i.e. food stores) that, due to the nature of their operations (loading, shopping carts, etc.), require the majority of customer parking to be in close proximity to, and in front of, the main entrance (repeat comment).
6. We require confirmation that consideration of the proposed zoning for 675-695 Rymal Road & 1615 Upper Sherman Avenue, currently subject to completion of Site Plan Approval (SPA-14-118), will be deferred to a later date, as discussed with Staff at our meeting of May 12<sup>th</sup>.

Based on the above comments, we believe that consideration for approval of the draft ZBA is premature at this time until we have had the opportunity to further discuss the above comments with Staff. As you can appreciate, there has not been much time to review the proposed changes to the draft ZBA with our client as it relates to all of the above-noted sites and communicate their concerns to Staff in a timely fashion.

We thank you for the opportunity to provide the above comments on behalf of our client and reserve the right to provide additional comments should the need arise during this process. If we can be of any assistance, please do not hesitate to contact the undersigned.

Yours very truly

**ZELINKA PRIAMO LTD.**



Harry Froussios, BA, MCIP, RPP  
Senior Associate

cc: Peter Kulkarni – Choice Properties Real Estate Investment Trust  
Louie Loberti – Loblaw Properties Limited  
Tim Lee – City of Hamilton Planning and Economic Development Department