



**VIA EMAIL**

October 16, 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

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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 initially submitted comments on behalf of our clients on November 18, 2016; met with Planning Staff on May 12, 2017 to review our comments; and submitted additional comments on June 5, 2017. We have since reviewed the Staff Report for the Commercial and Mixed Use Zones (PED16100(c)) dated October 17, 2017, as well as the latest draft of the proposed Zoning By-law Amendment. We have also reviewed Appendices D, D-1, F, F-1, G and G-1 to Staff Report (PED16100(c)) that is to be considered at the October 17, 2017 Planning Committee meeting. While we acknowledge and appreciate that Staff has responded to some of our concerns outlined in the above-noted correspondence, we have additional comments as outlined below, and will continue to review the Commercial and Mixed Use Zones in more detail and may provide further comments as required.

1. Section 4.12.f)ii) VACUUM CLAUSE

We continue to 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 in order to prevent instances where an individual building could utilize the entire expansion allocation or undertake a major expansion. 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 (**repeat comment**).

In addition, Sections 10.3.3.i)vi), 10.4.3.d)i), 10.5.3.d)i), 10.5.3.g)vi) and 10.6.3.g)vi) should be added to Section 4.12.f)ii) to ensure that additions or alterations to existing buildings are not subject to regulations related to stacking or aisles between a building façade and the front lot line, principal entrances and minimum façade lengths; or minimum height requirements.

2. 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>. For instance, a 4,000 m<sup>2</sup> structure would have to provide 209 parking spaces, which works out to an overall ratio of 1 space per 19 m<sup>2</sup>. As 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.

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 (**repeat comment**).

3. Section 10.3 COMMUNITY COMMERCIAL (C3) ZONE

It is not apparent if a "Garden Centre" is permitted as a use within the C3 Zone. We request that a garden centre be listed as a permitted use under Section 10.3.1, or added as an accessory use, similar to provisions found in Sections 10.4.2, 10.5.2, and 10.6.2 of the draft Zoning By-law.

4. REGULATIONS - Sections 10.3.3.a), 10.5.3.a) & 10.6.3 a) – Building Setback from a Street Line (as applicable to the C3, C5 & C6 Zones)

The proposed wording should be amended as follows for portions of buildings that exceed the minimum ground floor façade requirements along front and flankage lot lines:

10.3.3.a)iv): *Sections 10.3.3.a)ii) and 10.3.3.i)vi) shall not apply for any portion of a building that exceeds the requirement of Section 10.3.3.i) ii) and iii).*  
(emphasis added)

10.5.3.a)iv): *Sections 10.5.3.a)ii) and 10.5.3.g)vi) shall not apply for any portion of a building that exceeds the requirement of Section 10.5.3.g) ii) and iii).*  
(emphasis added)

10.6.3.a)iv): *Sections 10.6.3.a)ii) and 10.6.3.g)vi) shall not apply for any portion of a building that exceeds the requirement of Section 10.6.3.g) ii) and iii).*  
(emphasis added)

5. REGULATIONS - Sections 10.3.3.i), 10.5.3.g), 10.6.3.g) – 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 10.3.3.i)v), 10.5.3.g)v) & 10.6.3.g)v) The proposed wording in the draft By-law is inconsistent within the above-referenced policies, even though the intent of the regulation is to be applied in the same fashion within the C3, C5 and C6 zones. The wording in the draft By-law should be as follows:

"v) *For commercial development existing at the time of the passing of the By-law, new buildings up to 650 square metres shall be exempt from ii) and iii) above.*

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. We received notification of the Staff Report on October 6, 2017; as you can appreciate, there has not been much time to review the proposed changes to the draft Zoning By-law Amendment 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. We would also welcome the opportunity to meet with Staff to discuss our comments further.

Please kindly ensure that we are notified of any further meetings with respect to these matters as well as Notice of the approval of the Zoning By-law.

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  
Kathy Kakish – Choice Properties Real Estate Investment Trust  
Louie Loberti – Loblaw Properties Limited  
Tim Lee – City of Hamilton Planning and Economic Development Department