

September 9, 2011

Delivered via Email: etcc@toronto.ca

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File: 1119.0713

Attention: Ms. Rosemary MacKenzie,
Administrator

Dear Chair and Members of Community Council:

**Re: 85 Vickers Road – Proposed Zoning By-law Amendment
Agenda Item No. EY9.2**

We are the solicitors for Metro Ontario Inc. ("Metro"), which is the owner of 16 acres of land located at 25 Vickers Road. Our client's lands are located to the north of the subject site at 85 Vickers Road. Metro also owns 20 acres of land at 5559 Dundas Street West, which is located east of the subject lands. On behalf of our client, we are writing to object to the proposed rezoning of 85 Vickers Road and to object to the draft zoning by-law which will be before you for consideration at your September 12, 2011 meeting.

Dundas/427 Planning Framework Study

As you are aware, the City of Toronto recently completed the Dundas/427 Planning Framework Study (the "Framework Study"), which undertook to review the future form of development in the area bounded by Highway 427 in the west, the CPR Rail line in the south, the Etobicoke Centre in the east, and the low-rise residential neighbourhood north of Dundas Street West. This study was undertaken in response to significant redevelopment applications filed by Metro and by another major area land owner, Azuria Inc. In considering the boundaries of the planning area for the Framework Study, the City included properties beyond the Metro and Azuria lands to include lands fronting on the north side of Dundas Street West, the Cloverdale Mall, and the 85 Vickers Road property. The Framework Study was prepared to ensure that appropriate uses/built form and standards would be applied to any new development within the study area. The final study, which was prepared by independent consultants selected by the City, was completed and its findings have recently been implemented by City Council through the adoption of OPA 156 (south side of Dundas Street West) and OPA 159 (north side of Dundas Street West).

The property at 85 Vickers Road was a part of the Framework Study's planning area from its commencement in 2006 through to the final reports completed this year, and the appropriate future uses for the site were considered as part of the study. The adopted Official Plan Amendment for lands located south of Dundas Street West did not remove any existing permissions or propose to change the Employment designation of 85 Vickers Road, but proposed to add policies to address future office park type development should the site redevelop. This was the same position taken by the City with respect to Metro's adjacent lands at 25 Vickers Road. Office park development at 25 and 85 Vickers Road was planned to complement the mixed use development and potential subway station on the southern portion of 5559 Dundas Street at The East Mall.

We understand from City Staff that throughout the Framework Study process, all landowners in the study area were contacted repeatedly by mail and by telephone to attempt to engage them in the study. It is our understanding that the owners of 85 Vickers Road did not respond to these approaches. They also did not at any time identify themselves if they were in attendance at any of the public meetings or working group meetings held between landowners and area residents north of Dundas Street West.

It was not until the final Statutory Public Meeting to implement Official Plan Amendment held on June 22, 2011, that the owners of 85 Vickers Road came forward to indicate that they did not want their lands to be included within the implementing OPA. Prior to this meeting, a letter dated June 17, 2011 from the solicitor for Buena Vista Acquisition Corporation was submitted, asking that 85 Vickers Road be removed from the implementing OPA and the Framework Study without any land use planning justification or explanation as to why the policies of the Dundas/427 Study Amendment should not apply to the site. Coincidental to this, the owners of 85 Vickers Road also requested that their lands be rezoned to permit a "Waste Recycling/Transfer Station" and a motion from Council directing Staff to prepare an amendment was adopted by Council at its July 12, 2011 meeting. We understand that no application was submitted to seek the rezoning of 85 Vickers Road, no supporting studies have been provided and no land use planning analysis or justification submitted for public review or for the review of the City's consultants who were carrying out the Framework Study.

Given the significant time and money expended by the City and the major area land owners in the completion of the Dundas/427 Framework Study, the exclusion of the 85 Vickers Road site from the Study OPA at the last minute with no justification or supporting material is a significant concern to our client. In particular, Metro is concerned that a waste recycling use is incompatible with the planned land uses for 25 Vickers Road and the study area as a whole and will negatively impact the ability to redevelop those lands as contemplated in the approved Official Plan. The proposed land use for 85 Vickers Road is inconsistent with the uses that the City, the landowners and residents have worked over the past six years to achieve as a vision for the Dundas/427 Planning Framework Study area.

Planning Act Process

Our client has significant concerns with the lack of a formal application made under the *Planning Act* for the 85 Vickers Road proposal and the process this proposal has apparently followed. There has been no application filed with the City, no application fees paid, no specific details as to what is proposed for the site, and no supporting studies for the proposed use provided.



A request to permit a "Waste Transfer/Recycling Station" on the 85 Vickers Road is in direct conflict to the vision for the area in the Dundas 427/Planning Framework Study. Such a significant change to the site's zoning permissions should in the normal course come about through a formal Zoning By-law Amendment application with specific proposal details and supporting studies to allow for a full and thorough analysis of the proposal to be made by City Staff and surrounding landowners. The direction from Council to have staff bring forward this amendment without an application circumvents the normal process which our client has worked through for over six years (and continues to work through) to obtain an Official Plan Amendment and Zoning By-law to permit the redevelopment of their lands.

Draft By-law

The draft By-law prepared by staff contains performance standards, including setbacks to lands zoned to permit residential development. As noted above, Metro's lands are nearing the end of a six-year process to have the property at 5559 Dundas Street West rezoned to permit Mixed Use Development, including residential uses. The southern portion of this site is within 100 metres of 85 Vickers Road. It is anticipated that a By-law permitting residential uses on the Metro lands will be placed before Community Council in October, 2011. It is premature and in our view inappropriate for Council to consider a By-law for 85 Vickers Road that would have negative impacts on residential uses at this time, given that those uses are planned for neighbouring lands. This is particularly the case where no supporting information has been provided on which to base an analysis of the proposed performance standards and setbacks within the By-law.

Recommendation to Council

Based on the foregoing concerns, we would request that Council defer consideration of the draft by-law for 85 Vickers Road until the OPA's and zoning by-laws which will result from the 427/Dundas Street West Framework Study are adopted and/or dealt with by the Ontario Municipal Board. In addition, Council should request that the applicant file appropriate supporting studies and analyses in order allow for full consideration of the impact of such a proposal on the policies and regulations to be approved for the 427/Dundas Street West Framework Study lands.

Should you have any questions, please feel free to call me at (416) 595-8500.

Yours truly,

MILLER THOMSON LLP

Per:

Steven J. O'Melia

SJO/dms

Enclosure

- c. Dennis O'Neil, Metro Ontario (via email: OneilD@metro.ca)
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