

November 1, 2011

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File: 1119.0713

Dear Chair Grimes and Members of Community Council:

**Re: Request for Direction Report - Zoning Amendment Application
25 Vickers Road, 5555 and 5559 Dundas Street West
and 10 Shorncliffe Road
Agenda Item No. EY11.7**

We are the solicitors for Metro Ontario Inc., which is the owner of 5559 Dundas Street West and 25 Vickers Road (the "Property"). Our client filed Official Plan and zoning by-law amendment applications in respect of the Property in 2005 and 2006, respectively, and has for the past six years participated in a City-initiated planning process that culminated in the recommendations set out in the Dundas Street West/Highway 427 Planning Framework Study.

At its meeting in July of this year, Council enacted Official Plan Amendment No. 156 ("OPA 156"), which implemented the results of the Planning Framework Study. OPA 156 provides the basis for the development of the portion of the Property east of The East Mall for residential and mixed uses, and the portion of the Property west of The East Mall for office and employment area purposes. The Planning Staff Report that is before Council outlines the issues that need to be addressed in order to finalize a zoning by-law that will further implement the results of the Planning Framework Study and OPA 156.

Our client is generally supportive of the recommendations set out in the Report. However, while our client is pleased that progress is being made with respect to the zoning by-law for the Property, there are a number of points raised in the Report which will need to be resolved if the by-law is to be finalized without the assistance of the Ontario Municipal Board. These include the following:

- The proposed park is 0.85 hectares (2.1 acres) in area, not 0.50 hectares as stated in the report. The proposed park, which is central to the study area, has been carried

forward in numerous iterations of the area plan without comment for many months. It is in our client's view an appropriately sized park for this area. While it would be possible for the City to request a larger park, we respectfully submit that any difference between the proposed park and the required Section 42 contribution should be provided through a cash-in-lieu contribution. The park size noted in the Planning Staff Report would significantly reduce the land area available for development and have significant impacts on the agreed-upon road pattern, the proposed densities and building heights.

- The proposed Section 37 contributions require justification if they are to be accepted by our client and its neighbouring property owner, The Azuria Group. Our client has requested a calculation from City staff to support the proposed contributions, and has to date received no response to that request. The densities that are proposed for this area are the result of the City-initiated Planning Framework Study, which determined the appropriate level of development and intensification for the study area. In that context, any Section 37 contributions need to be fully justified and not simply based on arbitrary figures that may have been applied to other lands in other circumstances. We also believe that given the magnitude of the proposed Section 37 contributions, it would be appropriate for them to be staged, rather than payable in a lump sum at the outset.
- Our client does not believe that it is necessary or appropriate to apply holding provisions to the entire Property, including those portions fronting on Dundas Street West and Vickers Road. The servicing study for the area, the conclusions of which were shared with staff in mid-September, indicates that no significant servicing upgrades are required in order to facilitate the planned development of the Property.
- There are a number of other comments and refinements arising from the Report that our client and its planning consultants will raise directly with City staff. These include, without limitation, amenity space, vehicle and bicycle parking, and details of the holding provisions.

Our client and its planning consultants will continue to work with City staff in an effort to achieve a by-law that represents proper land use planning and fully implements the Planning Framework Study and OPA 156. We request that staff be directed to continue discussions with our client, and with The Azuria Group, to address the concerns set out above.

Yours truly,
MILLER THOMSON LLP

Per:



Steven J. O'Melia
SJO/dms

- c. Councillor Peter Milczyn, Ward 5 (via e-mail: councillor_milczyn@toronto.ca)
Dennis O'Neil, Metro Ontario Inc. (via e-mail: oneild@metro.ca)
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