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Reference: 35273/715

January 4, 2012

VIA E-MAIL

Chair Peter Milczyn and Members of the  
Planning and Growth Management Committee  
City of Toronto  
100 Queen St. West  
Toronto, Ontario  
M5H 2N2

Attention: Ms. Merle MacDonald

Re: 158, 164, 181 & 200 Sterling Rd. - Official Plan Amendment and Zoning Amendment Applications -  
Agenda Item PG10.6 - PGMC Meeting January 5, 2012

Dear Chair and Members of Committee:

We are counsel to Nestle Canada Inc. Our client has very significant manufacturing facilities on Sterling Road to the south of the applicant's lands. We have been actively involved in the review and consultation regarding the Castlepoint applications. Our client is opposed to the introduction of sensitive uses (i.e., residential) into this area. The bulk of the Castlepoint lands are presently designated as Employment Area and our client believes that this is an appropriate designation for those lands.

This letter is primarily in response to the letter dated December 23, 2011 which has been submitted to Committee by Mr. A. M. Heisey on behalf of Castlepoint and is on your agenda.

Mr. Heisey takes exception to the recommendation of City Planning Staff in their report to you dated November 16, 2011. He resists the deferral of his client's applications and their consideration in the context of the Municipal Comprehensive Review which is being conducted with respect to employment lands as part of the official plan review. He believes that decisions on the Castlepoint applications need not await the outcome of the Municipal Comprehensive Review and to this end he relies upon and refers you to the decisions of the Ontario Municipal Board and Divisional Court regarding Dorsay Investments Ltd. ("Dorsay") with respect to their property at 2205 Sheppard Ave East.

With due respect to Mr. Heisey, the Dorsay decision can be fully distinguished from the facts present regarding the Castlepoint lands. As Madam Justice Sachs reflects in her endorsement on the leave application to Divisional Court, and as is patently obvious from the reasons of the OMB in their decision, the relevant and guiding planning policy for the Dorsay lands is based upon their treatment on Map 2 to the Official Plan, the Urban Structure Map. The Board found that these lands were clearly contained within the Avenues policies and were not within an Employment District (see pages 18-21 of the Board decision in particular). The Avenues policies identified important corridors where re-urbanization is anticipated and

encouraged to create new housing and job opportunities. Notwithstanding the employment area designation on the Dorsay lands due to their existing employment zoning, the Board understood the City's articulated and primary planning intention to be expressed through the inclusion of these lands within the Avenues identification applied to Map 2. It is also worth noting, as found by the Board, that there were established residential communities to the north, east and adjacent to the Dorsay parcel.

In response to the City's concern expressed at the hearing that such a decision would set a dangerous precedent regarding attempts by other owners of Employment Area lands to seek conversion to a non-employment use outside of the context of a Municipal Comprehensive Review, the Board had this to say (at page 21 of the Dorsay decision): "It has always been the Board's practice that each application received by the Board *will be considered on its own merits and in the context of the relevant planning documents*. Although the Board strives for consistency, *approval of other applications is never automatically implied by a previous finding of the Board* (italics added)."

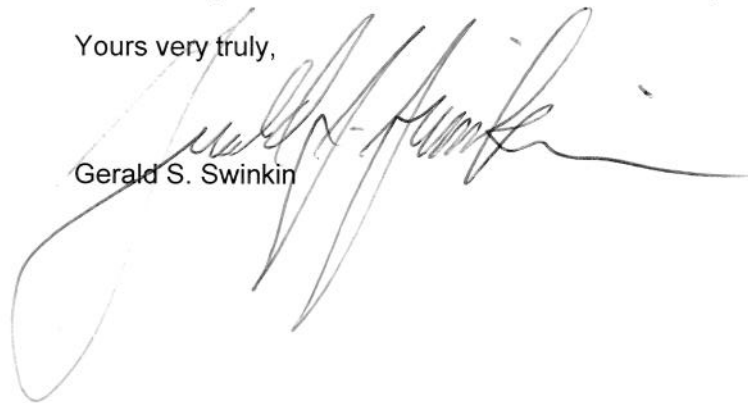
The Castlepoint lands are not shown on Map 2 as Avenues. The land use designations on the Castlepoint lands are Mixed Use Area for a small portion at the very north, Neighbourhoods for a small piece on the north side of Perth at the bend and the bulk of the holding clearly designated Employment Area. There is no countervailing or superior policy presently under the official plan which would take away from the naked fact that these are designated employment lands.

On the basis of the foregoing, the staff recommendation in the report of November 16, 2011 is well founded in terms of process and we would respectfully suggest that Mr. Heisey's position be rejected.

It is my intention to be available at Committee to speak to this matter and be available for questions.

Yours very truly,

Gerald S. Swinkin



GSS/ml

c: Councillor A. Bailao  
T. Ellwood  
C. O'Brien  
W. Dudler  
M. Perpete  
A. M. Heisey

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