

**MCDERMOTT & ASSOCIATES LIMITED**  
**LAND USE & ENVIRONMENTAL PLANNING CONSULTANTS**

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CITY OF TORONTO  
SECRETARY'S OFFICE

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November 15, 2013

**The Chair and Members  
Planning & Growth Management Committee  
City Hall  
100 Queen Street West  
10<sup>th</sup> Floor  
West Tower  
Toronto, Ontario**

**Attention: Ms. Nancy Martins,  
Administrative Secretary**

**Re: Five Year - Municipal Comprehensive Review  
Employment Areas - Land Use Policies and Designations / City of Toronto Official Plan  
3241, 3251 & 3261 Kennedy Road and 19, 23, 25 and 27 Passmore Avenue  
Milliken Employment District, former City of Scarborough  
Our File: PN 5135**

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Dear Ms. Martins:

We understand that, pursuant to Section 26(3) of the Planning Act, R.S.O. 1990, c. P13, as amended, the Planning and Growth Management Committee will convene a Special Public Meeting on November 21, 2013, to consider a proposed amendment to the Official Plan for the City of Toronto. The proposed amendment follows from the Five Year - Municipal Comprehensive Review of the land use policies and designations applicable to Employment Areas. By way of this submission, the writer hereby requests to be listed as a deputation to appear before the Committee on behalf of our Client, Al Reisman Limited, the owner of those lands generally described as forming Parts 1, 2 and 6 to 21 of Plan 66R-21332, being Part of Lot 26, Registrar's Compiled Plan 9828, in the former City of Scarborough, municipal addresses of 3241, 3251 and 3261 Kennedy Road and 19, 23, 25 and 27 Passmore Avenue.

We enclose herewith a copy of our previous submission of December 9, 2011, addressed to Mr. Gary Wright, in relation to the designation of the aforementioned property and the Five Year - Municipal Comprehensive Review of Employment Lands in the City of Toronto. At that time we outlined three scenarios in relation to the future development of the area and the designation of our Client's lands and adjacent properties. Two of the three scenarios suggested that a need existed to examine the future development and use of our Client's lands in the context of the emerging pattern of land use and development in the north-west sector of the Milliken Employment District. It was suggested that consideration should be given to the inclusion of our Client's lands within an Area Specific Policy and/or that the area be recognized as part of a Major Transit Station Node consistent with the intent of the Provincial Growth Plan.

It is understood from our review of the proposed amendment, as it is now before the Committee, that the subject lands are to be designated within the General Employment Area classification which provides for retail and service commercial uses. as opposed to providing for a comprehensive plan for the area as a whole as noted above. While our Client is supportive of the need to provide for an enhanced level of retail and service commercial uses in this area, it is suggested that the future development of the area should be considered in the context of a comprehensive approach which recognizes the wide range of both employment and non-employment uses which have been established in this area in recent years.

With the release of the draft amendment on November 4, 2013, it is proposed that the area bounded by Steeles Avenue on the north, the GO Rail Corridor on the east, the northerly boundary of the properties fronting onto the northerly limits of Passmore Avenue on the south, and, Kennedy Road on the west be designated as a *Regeneration Area* subject to Area Specific Policy 395 and the policies contained in Section 4.7 of the approved Official Plan. The introduction of Area Specific Policy 395 and the designation of the lands as a *Regeneration Area* will have a significant impact, not only upon those lands under the ownership of our Client but also upon the future disposition of the north-west quadrant to the Milliken Employment District.

In accordance with Section 4.7 of the approved Official Plan, the effect of designating the above noted lands as a *Regeneration Area* is to promote the redevelopment of the affected properties in a manner which provides for a wide array of land uses, inclusive of residential, commercial, live/work, institutional and light industrial uses, within relatively close proximity of the lands owned by our Client. Given the nature and existing use of our Client's property coupled with the presence of sensitive residential and institutional uses on adjacent lands and neighbouring properties, it is submitted that the entire area to the south of Steeles Avenue, west of the GO Rail corridor, north of McNicoll Avenue and east of Kennedy Road should form part of the *Regeneration Area* and be subject to Area Specific Policy 395.

Expansion of the area affected by Area Specific Policy 395, to include the area noted above, will promote the preparation of a well reasoned Secondary Plan which is responsive to the needs of the area as a whole. We suggest that such an approach is preferable to that of designating a narrowly defined geographic area which is bounded on the east, south and west by lands which are to be designated within the Core or General Employment Area classifications.

In conclusion and in accordance with the requirements of Sections 17(23) and 17(35) of the Planning Act, R.S.O., 1990, c. P. 13, as amended, this will also confirm our request for Notice of Adoption and Notice of any Approvals concerning the proposed Amendment to the Employment Area land use policies and designations arising out of the Five Year - Municipal Comprehensive Review of the Official Plan. Should you have any questions in relation to our request to appear before the Planning and Growth Management Committee on November 21, 2013, or the request for Notice of Adoption and any Approvals of the proposed Official Plan Amendment, please do not hesitate to contact the undersigned.

Sincerely yours,  
McDermott & Associates Limited



John McDermott, M.C.I.P., R.P.P.  
Principal Planner

copy to: Mr. Keith Lahey  
Al Reisman Limited

Mr. David White, Q.C.  
Devry Smith Frank LLP

December 9, 2011

**Corporation of the City of Toronto**  
**Toronto City Hall**  
**12<sup>th</sup> Floor**  
**100 Queen Street West**  
**Toronto, Ontario**  
**M5H 2N2**

**Attention: Mr. Gary Wright**  
**Chief Planner and Executive Director**

**Re: Five Year - Municipal Comprehensive Review of the City of Toronto Official Plan**  
**3241, 3251 & 3261 Kennedy Road and 19, 23, 25 & 27 Passmore Avenue**  
**Our File: PN 5135**

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Dear Mr. Wright:

We are writing on behalf of our Client, Al Reisman Limited, in relation to the Five Year - Municipal Comprehensive Review of the Official Plan and the designation and policies applicable to those lands located to the south-east of the intersection of Kennedy Road and Passmore Avenue, municipal addresses of 3241, 3251 and 3261 Kennedy Road and 19, 23, 25 and 27 Passmore Avenue, legally described as forming Parts 1, 2 and 6 to 21 of Plan 66R-21332 in the former City of Scarborough. The property, which encompasses approximately 4.14 hectares (i.e. 10.2 acres) is presently developed for the purposes of seven multi-unit structures having a gross floor area of approximately 17,456 square metres (i.e. 187,910 square feet).

Discussions with our Client indicate that the floor space within the structures is leased to a variety of uses and activities. On average, approximately 35 percent of the gross floor area is occupied by light manufacturing, fabricating, assembly and processing operations, 35 percent by wholesale and warehouse distribution type uses and activities, and, 30 percent by retail and service commercial uses, inclusive of restaurants, furniture and major appliance sales and service establishments and other permitted uses, such as business and/or professional offices. In this context, it should be appreciated that the occupancy characteristics are not static and that the economic viability of the site is driven, to a large degree, by the ability to respond to changing market conditions and demands.

As the pattern of land use and business activities in this area evolves over time, our Client continues to experience increasingly greater pressure to facilitate a broader range of retail and service commercial uses, particularly those which require units within a commercial - industrial complex such as the one found at this location. The ability to respond to changing market demands is, however, frustrated to some degree by the current policy framework, specifically the emphasis placed upon providing for only those retail activities which support business functions. While such a policy may have been appropriate for the lands in the past, it is no longer responsive to the market demands now being experienced at this location, a fact which is underscored by the recent introduction of sensitive land uses on the adjacent lands and the resulting performance standards imposed upon the subject lands in terms of air quality, noise and other potential fugitive emissions. For the reasons outlined herein, we respectfully submit that there is a need to re-evaluate and assess the designation and current policy framework applicable to the lands in question.

Background

The lands in question are within an *Employment Area* designation under the approved Official Plan for the City of Toronto. To assist you in the review of this submission, the subject lands are delineated in red on Appendix "A" to this submission, being a copy of Map 19, the Land Use Plan forming part of the Official Plan for the City of Toronto. As is apparent from a review of Map 19, the Reisman lands form part of the westerly boundary of a relatively large *Employment Area* which is bounded by Steeles Avenue on the north, Midland Avenue on the east, Finch Avenue to the south and Kennedy Road on the west, an area of approximately 234 hectares (i.e. 578 acres) referred to as the Milliken Employment District.

As stated in Section 4.6, the introduction to the Employment Area policies, of the approved Official Plan for the City of Toronto... "a broad and inclusive approach to employment uses in Employment Areas is needed for the City's economic future. Uses that support the prime economic function of Employment Areas, such as parks, small scale retail stores and services to meet the daily needs of business and employees, workplace daycare and restaurants, must also be readily accessible within Employment Areas. Uses that detract from the economic function of these lands will not be permitted to locate in Employment Areas". By way of reference to Section 4.6.1 of the Official Plan, it is noted that Employment Areas are generally defined as places of business and economic activity and that the permitted uses are noted to consist of offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, ancillary retail outlets, and, restaurants and small scale stores and services that serve area businesses and workers.

It follows that the use of the land holdings of Al Reisman Limited for a variety of manufacturing, processing, fabrication and warehousing and wholesale distribution uses, in concert with business and professional offices, restaurants and retail and service commercial uses, which are of a limited scale, is in conformity with the general intent of the approved Official Plan policy framework set forth in Section 4.6 of the approved Official Plan. Notwithstanding that the use of the site is in general conformity with the approved policy framework, our Client has encountered significant difficulties in providing for the necessary measure of flexibility to provide for an appropriate mix of retail and service commercial uses which are not only essential in providing for the maintenance of an economically viable site but which also contribute to the broad policy objective of retaining the economic function of the area.

The difficulties encountered by our Client follow from the strict interpretation and implementation of the Employment Area policies, specifically that the retail and service commercial uses permitted be exclusively devoted to functions which serve area businesses and workers. This issue is one which, we respectfully submit, should be addressed as part of the Five Year - Municipal Comprehensive Review of the approved Official Plan as it affects many areas throughout the City of Toronto. It is further submitted that, based upon our understanding of the manner in which the policies applicable to lands designated within an Employment Area classification have been interpreted, the Five Year - Municipal Comprehensive Review should provide for a review of both the policy framework and the need to differentiate Employment Areas having regard for such matters as the contextual setting, the economic function of the area, compatibility with adjacent land uses, and, the existing built form of the property.

In proceeding with the Five Year - Municipal Comprehensive Review of the Official Plan, we believe that it is now appropriate to review the designation and policies applicable to our Client's lands and to address the above noted concerns which stem from the strict interpretation of the existing policy framework applicable to lands designated within an Employment Area. To assist in the review and consideration of our Client's request, we have outlined three possible scenarios or alternatives in the following paragraphs for your review and consideration as part of the Five Year - Municipal Comprehensive Review of the Official Plan for the City of Toronto.

Scenario "A"

As part of the Five Year - Municipal Comprehensive Review, we respectfully suggest that it would be appropriate to refine the existing Employment Area designations in a manner which recognizes and differentiates between the manufacturing - industrial areas and those areas where retail and light manufacturing, fabrication and assembly uses, warehousing and wholesale uses exist. Such an approach would be reflective of the manner in which many of the Employment Areas located throughout the City have matured over time. It is further submitted that, had the current Provincial planning framework existed at the time of preparation of the Official Plan for the City of Toronto, a greater emphasis would have been placed upon the need to differentiate between Employment Areas which are of a strictly industrial - manufacturing nature and those areas which have morphed into a mixture of specialized retail and service commercial uses, business and professional offices, institutional uses and light industrial uses and activities.

Our work to date suggests that, as many of the Employment Areas have matured over time, a significant percentage of the manufacturing - industrial uses, which are characterized by lower performance standards in terms of noise and other nuisance vectors, heavy truck traffic and/or the outside storage of goods and materials, are located within the interior portions of the various Employment Districts. By comparison, those areas which have become a mixture of specialized retail and service commercial uses, that is uses not well suited to the Mixed Use areas, are often found to predominate in the periphery of the Employment Areas adjacent major roads, that is locations which afford a high level of public access and visibility. In the case of our Client's lands, the specialized retail and service commercial - industrial uses which exist on the site today provide the necessary spatial separation between the heavier industrial uses, located within the interior portions of the Milliken Employment District, and the residential, open space and institutional uses located on the neighbouring properties to the south and west of the site in the vicinity of Kennedy Road.

Should the City concur with our observations upon completion of the studies now in progress, we respectfully suggest that consideration be given to two Employment Area designations. One designation which is clearly oriented to manufacturing and industrial uses, that is uses which may result in nuisance impacts by virtue of their inherent nature, and a second designation which reflects the mixed use characteristics of the peripheral areas.

It is further submitted that refinement of the policy framework applicable to Employment lands is necessary to provide for an improved measure of certainty and to avoid speculation. By way of example, it is suggested that the policy framework may differentiate the size and nature of the retail and service commercial uses permitted in the peripheral Employment Areas from those permitted in Mixed Use Areas. In the case of our Client's lands, such uses may be characterized as having specialized locational requirements in terms of building design, siting, material handling or other similar characteristics which are not conducive to a location within a Mixed Use area.

Such an approach would provide for effective differentiation of the Employment Areas having regard for existing land use characteristics. In contrast, the existing policy framework, which states that the commercial uses permitted in Employment Areas be limited to those which serve businesses and their employees, results in an unnecessary measure of hardship by reason that many uses are now legal, non-conforming uses which, based upon generally accepted planning principles, should cease to exist over time.

In this context we note that many of the tenants which occupy the multi-use buildings located on our Client's lands represent retail and service commercial uses which have sought a location at this site due to specialized needs in terms of the shipping and/or receiving of goods, the nature of the business from the perspective of the handling and storage of specialized products and chemicals, the need for facilities

which allow for the cutting, assembly and or fabrication of goods and products, or, other activities which are not conducive to a location in a retail mall or mixed use area. Since such uses are typically oriented to serve the needs of both the general public and business and may not necessarily be of a limited scale, a conflict with the approved policy framework continually presents difficulties in terms of the continued use of the property for such purposes.

Through adoption of a policy framework which affords a greater degree of flexibility in terms of allowing a broader range of retail and service commercial uses in the peripheral areas of the Employment Districts, having regard for the existing built form and property ownership characteristics, the effect would be to strengthen the overall pattern of land use by clearly distinguishing between the peripheral areas and the interior portions of the Employment Areas. At the same time, the effect would be to reinforce the function of Employment Areas by avoiding speculation in terms of the introduction non-employment related functions in the peripheral areas, that is uses which are not necessarily compatible with and/or supportive of the broad policy objectives for those lands designated within an Employment Area.

#### Scenario "B"

Should the City of Toronto not concur with the approach outlined above, our Client requests that, as part of the Five Year - Municipal Comprehensive Review, the property in question be designated in the same manner as the lands to the north of Passmore Avenue, adjacent the easterly limits of Kennedy Road, south of Steeles Avenue. Reference is made to Chapter 7, entitled Site and Area Specific Policies, and more specifically Policy 133 which applies to the lands bounded by Steeles Avenue on the north, Midland Avenue on the east, Passmore Avenue on the south and Kennedy Road on the west. In this context it is noted that Area Specific Policy 133, which applies to the lands immediately to the north of our Client's property, provides for retail and service commercial uses, including stand alone retail stores.

Given the existing built form of the structures located on our Client's lands, being multi-unit buildings, the existing structures are not suited to large scale, stand alone retail uses. Accordingly, it should be appreciated that it is not the intent of our Client to provide for the introduction of large scale, stand alone retail structures and/or uses. Rather, our Client is seeking the ability to provide for retail and service commercial uses which are well suited to the existing facilities at this location and which serve the needs of both business and the adjacent residential - institutional areas and/or which have specialized needs in terms of building siting, design and/or location.

Inclusion of our Client's lands within the area affected by Area Specific Policy 133 is both reasonable and appropriate from a land use planning perspective by reason of the following factors, namely:

- i. the nature of recent development approvals granted by the City of Toronto to adjacent lands which have allowed for intensification of sensitive lands uses within this portion of the Milliken Employment District;
- ii. the nature of adjacent land uses and the changing pattern of land use which will continue to evolve with the construction of Redlea Avenue south to Finch Avenue over our Client's lands; and,
- iii. the need to provide for the maintenance of the existing land use function while, at the same time, reinforcing the economic function of this multi-use property.

It remains that the existing policy framework results in an unreasonable degree of hardship for our Client. In part, the hardship is a result of the proximity of the site to sensitive land uses introduced on adjacent

lands in recent years, and, the unfair economic advantage which is afforded those lands to the north by reason of allowing a broad range of retail and service commercial uses, that is uses which may, in fact, serve the needs of the community at large. The net effect of the existing policy framework and designations is to wedge our Client's lands between dissimilar forms of land use which exhibit differing priorities for the use of land, a problem which has become increasingly pronounced in recent years as the nature of adjacent land uses throughout the westerly limit of the Milliken Employment District continues to evolve.

In support of the request that the lands in question be included within Area Specific Policy 133, it should be appreciated that our Client's lands represent a transitional area of land use. The site serves as an effective spatial separator between the residential and institutional uses to the south and west, that is sensitive land uses as defined by the Ministry of the Environment, and the more traditional manufacturing and industrial type uses located in the central or interior portions of the Milliken Employment District, that is the lands to the east of the subject property and the GO Rail corridor.

The introduction of sensitive lands uses in recent years along the easterly frontage of Kennedy Road has effectively limited the ability of the adjacent lands to sustain the strict range of employment land uses contemplated under the current policy framework applicable to our Client's lands. Clearly, the ability to sustain manufacturing and industrial uses, that is uses which may result in nuisance vectors, has been compromised by the introduction of sensitive land uses on the adjoining properties. Inclusion of our Client's lands within the area affected by Area Specific Policy 133 will afford the appropriate measure of flexibility necessary to attract and sustain a mixture of retail and service commercial uses in association with existing and future quasi commercial - industrial tenants.

For the reasons outlined above, the generic policy framework applicable to lands designated within the Employment Area classification is not sensitive to the function of the lands in question. It is respectfully submitted that a need exists to provide for a harmonious approach to the future use of lands adjacent the easterly limit of Kennedy Road. As in the case of the lands to the north of Passmore Avenue, adjacent Kennedy Road, the land use designations and policies applicable to our Client's lands should recognize the function of the site as a spatial buffer and area of transition where a mixture of retail and service commercial uses are allowed in concert with business and professional offices and light manufacturing and warehouse type uses. In summary, therefore, inclusion of our Client's lands within Area Specific Policy 133 will assist in promoting the economic viability of the site and thus strengthen both the land use and economic functions as the pattern of land use in this area continues to evolve over time.

#### Scenario "C"

A further consideration is the proximity of our Client's lands to the Milliken GO Station which is located adjacent the easterly limits of Redlea Avenue, north of Passmore Avenue. With the extension of Redlea Avenue, initially south to Passmore Avenue and subsequently over our Client's lands and other properties to the south to McNicoll Avenue in accordance with the approved Municipal Class Environmental Assessment, a significant portion of the land holdings of Al Reisman Limited will be within 500 metres and a relatively short walking distance of the Milliken GO Rail Station. Accordingly, our Client's lands, together with adjacent lands now within Area Specific Policy 133, east and west of the Redlea Avenue corridor, will fulfill the criteria for designation as a Major Transit Station Node in accordance with Places To Grow, the Provincial Growth Plan for the Greater Golden Horseshoe.

As part of the Five Year - Municipal Comprehensive Review, it follows that consideration should also be given to the recognition of the property in question as forming part of a Major Transit Station Node. To this end it is suggested that Area Specific Policies should be incorporated within the Official Plan which promote

and strengthen the land use and economic functions of this area. Consistent with the broader policy objectives envisioned under Places To Grow, it is necessary to provide for enhanced employment densities which include an appropriate mix of office, institutional and retail and service commercial uses as opposed to the approved policy framework which is somewhat more limiting, most notably in the context of only allowing for the introduction of retail and service commercial uses which are supportive of business on our Client's lands.

In summary, it is submitted that the land holdings of Al Reisman Limited form part of an area which is representative of a Major Transit Station Node and should therefore be designated in the same manner as the lands situated immediately to the north of Passmore Avenue, east of Kennedy Road. It is further submitted that the policy framework, which would apply to both our Client's lands and the adjacent properties eligible for inclusion as part of a Major Transit Station Node, should provide for an enhanced range of employment functions. Consistent with the Provincial Growth Plan, the uses permitted should include retail and service commercial uses in concert with compatible employment and institutional uses which are supportive of the function and contextual setting of our Client's lands and the area as a whole.

#### Concluding Remarks

As you will no doubt appreciate from your review of the three scenarios outlined in the preceding sections of this submission, the alternative policy approaches are not necessarily mutually exclusive. Rather, the scenarios are intended to demonstrate options which, we believe, may be implemented and which will assist in resolving the issues faced by our Client while having regard for the broadly stated public interests.

In this context, the requested revisions to the Official Plan as it applies to our Client's lands will assist in fulfilling various public objectives which include the following, namely;

- i. maintenance of the lands as an integral part of the Milliken Employment District and recognition of the function of the site as an effective spatial separator between sensitive land uses and industrial uses and activities;
- ii. intensification of employment opportunities by providing for an enhanced measure of economic diversity within an established employment area consistent with both the existing and planned infrastructure serving the community as a whole;
- iii. an enhanced measure of flexibility in terms of the utilization of existing resources which, in turn, will promote economic growth through continued private sector investment, assist in meeting projected employment targets and, to a limited degree, a stronger economic base for the City of Toronto;
- iv. recognition of the lands as forming part of a Major Transit Station Node which is well integrated with both the existing and planned transportation network and which provides for a mix of office and retail and service commercial land uses which serve the Community as a whole;
- v. reinforcement of the economic function and character of the area in a manner which avoids further fragmentation of the lands which form part of the Milliken Employment District while providing for a meaningful interface between sensitive land uses and industrial uses and activities; and,
- vi. refinement of the land use planning framework in a manner which provides for intensification and recognition of a node of compatible, small scale retail and service commercial uses, which serve both business and consumers, consistent with the established use of the property and which



reinforces and strengthens the overall Community Structure while preserving the supply of lands available for employment land uses in the future within the Milliken Employment District.

We trust that our Client's concerns and the matters outlined herein will be given due consideration during the course of the Five Year - Municipal Comprehensive Review of the Official Plan for the City of Toronto. As previously noted, the scenarios outlined herein are not mutually exclusive. It is further understood that other options may exist to address our Client's concerns.

In closing, we would welcome any opportunity to meet with you and your Staff to discuss alternative approaches which provide for the recognition of the established use of the land holdings of AI Reisman Limited for the purposes of a mixture of both small scale retail and service commercial uses and business and professional offices together with wholesale, warehousing and light manufacturing, fabrication and assembly uses which are well suited to this area of the Community and the site in question.

Sincerely yours,  
McDermott & Associates Limited



John McDermott, M.C.I.P., R.P.P.  
Principal Planner

copy to: Councillor Peter Milczyn,  
Chair, Planning and Growth Management Committee,  
City of Toronto














Councillor Michael Del Grande  
Ward 39, Scarborough Agincourt,  
City of Toronto

Mr. Paul Bain  
Project Manager, Policy and Research, City Planning Division  
City of Toronto

Mr. Keith Lahey  
AI Reisman Management Limited

Mr. David White, Q.C.  
Solicitor

**Land Use Designations**

- 
 Open Space  
 (including the City of Toronto Parks and Recreation Department Parks and Recreation Plan)
- 
 Urban Core
- 
 Urban Residential
- 
 Medium Density Residential
- 
 Single-Family Residential
- 
 Institutional
- 
 Community Office/Commercial
- 
 Office/Professional
- 
 Office/Professional
- 
 Office/Professional
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 Office/Professional
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 Office/Professional
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 Office/Professional

Street Grid  
 Major Transit Corridor  
 Transit Station  
 Transit Stop  
 Transit Route



**SUBJECT LANDS**

