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# AIRD & BERLIS LLP

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August 6, 2014

File No. 113374

VIA EMAIL - [pgmc@toronto.ca](mailto:pgmc@toronto.ca)

The City Clerk  
Attention: Nancy Martins  
Planning and Growth Management Committee  
City Hall, 100 Queen Street West  
10<sup>th</sup> Floor, West Tower  
Toronto, ON M5H 2N2

Dear Ms. Martins:

**Re: Dupont Street re Generation Study ("Study")  
City of Toronto File #: 14-108871 SPE 20 OZ  
Sobeys Capital Incorporated  
840-860 Dupont Street**

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We represent Sobeys Capital Incorporated, the registered owners of the properties municipally known as 840 and 860 Dupont Street, located on the northwest corner of Dupont Street and Shaw Street in the City of Toronto ("Site"). Our client and its representatives have participated in the Dupont Street Regeneration Study. This correspondence is intended to provide comments with respect to the proposed official plan amendment and zoning by-law amendment recommended by staff for consideration by planning and growth management committee at its meeting of August 7, 2014.

As noted in the staff report dated July 8, 2014, our client has submitted a complete application for development of its property. This application has been held in abeyance pending the completion of the Study.

As a preliminary comment, we wish to compliment City staff with respect to the undertaking of this Study. City of Toronto planning staff have been available on an ongoing basis for meetings and discussions and have held well-attended community consultation and working group meetings. While we do not agree with all of the recommendations, we acknowledge the efforts of staff in completing the Study in the time originally envisioned.

The following are our principal comments on the recommendations of staff:

1. The proposed official plan amendment would implement a split designation on lands throughout the corridor. This split designation would implement a “*employment areas*” designation within 30 metres of the CP rail right of way and a “*mixed use areas*” designation for the remaining lands north of Dupont Street. This split designation is unnecessary and inappropriate. It is unnecessary because any regulations to address set back from the rail right of way can be implemented in the mixed use designation. It is inappropriate as it unduly constrains the development potential of the corridor and will result in a cumbersome regulatory regime.
2. Section 8 of the proposed official plan amendment would require all new development containing residential, institutional, recreational/entertainment, hotel or office or retail uses with a high number of employees and customers to be set back a minimum of 30 metres from the property line of the Canadian Pacific North Toronto Rail corridor. Alternatives to this set back will only be permitted where topographical, geographical or other physical constraints exist. This policy is unduly restrictive and is not required in order to achieve the appropriate level of safety. Alternative measures are available and are recognized in the *Guidelines for New Development in Proximity to Railway Operations*, dated May 2013. The requirement for a 2.5 metre high and 15 metre wide earthen berm (with a noise wall on top) for new uses within the *mixed use areas* designation to the south effectively renders substantial portions of the corridor as non-usable. This approach would also compromise existing uses throughout the corridor.
3. The eight storey height maximum is unnecessary and should be deleted. Individual proposals should be assessed based on the particular characteristics of each property through an appropriate zoning by-law amendment. The eight storey maximum was arrived at by applying urban design principles to properties on the north side of Dupont Street with the 30 metre constraint referenced above. Greater heights are warranted to achieve appropriate levels of intensification and the revitalization of the street while respecting the surrounding neighbourhoods.

For the foregoing reasons we respectfully request that Proposed Official Plan Amendment 271 and the corresponding zoning by-law be appropriately amended in order to:

1. Designate the entire corridor as “*mixed use areas*”;
2. Permit alternative rail safety measures without the precondition concerning physical property constraints; and
3. Delete the eight storey height restriction.

The foregoing are our principal concerns. Additional issues can be resolved as part of the review of our client’s site specific proposal. Kindly ensure the undersigned is provided

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with notice of the decision of City Council with respect to the above-referenced matter and that this correspondence is provided to members of planning and growth management committee and members of City Council for their consideration and as part of the public record.

Yours truly,

AIRD & BERLIS LLP

  
Steven A. Zakem  
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