

August 6, 2014

Our File No.: 132885

**By Email**

Chair and Members of Planning and Growth Management Committee  
10<sup>th</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Attention: Nancy Martins, Committee Administrator**

Dear Sirs/Mesdames:

**Re: Item PG35.6: Dupont Street Regeneration Area Study - Official Plan Amendment and Zoning Amendment  
275, 281 and 283 Howland Avenue and 404, 406 and 408 Dupont Street, City of Toronto: Leeken Investments and 1753934 Ontario Limited**

We are solicitors for Leeken Investments and 1753934 Ontario Limited (collectively “Leeken”), the owners of the property known municipally as 275, 281 and 283 Howland Avenue and 404, 406 and 408 Dupont Street in the City of Toronto (the “Site”). The Site is an assembly of properties generally located at the northeast corner of Howland Avenue and Dupont Street.

**Background:**

Leeken was an active participant in the Dupont Street Study process as members of the working group and was in attendance at all of the Study’s public consultation meetings. Leeken agrees with City of Toronto Planning staff’s conclusion that there is an opportunity to intensify the lands use on the north side of Dupont street between Kendal and Ossington Avenues (the “Dupont Corridor”) while maintaining and growing current levels of employment.

Leeken and its advisors have reviewed the Dupont Street Regeneration Area Study Final Report, and the proposed Official Plan Amendment (“Draft OPA 271”) and the draft Zoning By-law which are intended to implement the recommendations of the Dupont Street Regeneration Area Study (the “Dupont Street Study”). We are writing on their behalf to express concerns with certain aspects of the proposed Official Plan policies and Zoning provisions.

**Draft Official Plan Amendment 271:****Land Use Designation:**

The decision to split the Site by designating the northerly 30 metres as *Employment Areas* is extremely problematic for the ongoing evolution of the area and the Site and is undesirable in land use planning terms. Unlike a *Mixed Use Areas* designation applying to the entire Site, which would provide flexibility to develop the Site with a mix of uses (including employment uses) suitably deployed across the Site, the bright line imposition of a *General Employment Areas* designation on the northerly portion of the Site imposes an inflexible and arbitrary barrier to redevelopment and revitalization.

Further, all of the policy goals set out in the July 8, 2014 Staff Report from the Chief Planner (the “Staff Report”) could be achieved under a single *Mixed Use Areas* designation, including the maintenance of a certain level of employment uses and appropriate rail safety and mitigation.

It is preferable from a comprehensive site planning and land use perspective for the Site and the Dupont Corridor to be within one single *Mixed Use Areas* land use designation.

**Intensification:**

Section 1.2 states that the Policy area is “not intended to experience significant intensification”. This statement is in potential conflict with the Staff Report, which notes on page 5 that Staff concluded that “there was an opportunity to intensify land use on the north side of Dupont Street while maintaining or growing current levels of employment.” This policy should be clarified to note that intensification of the Dupont Corridor is anticipated and encouraged.

**Minimum and Maximum Heights:**

Section 3.2 of the Draft OPA provides that new buildings in the *Mixed Use Areas* designation will be a maximum of 8-storeys in height. While 8-storeys may be an appropriate general height estimate for the Dupont Corridor, a prescriptive maximum height limit does not provide any flexibility for the intensification of appropriate sites with taller mid-rise building that provide a transition in height in accordance with appropriate building siting, setbacks and stepbacks.

**Retail Size:**

The Staff Report recognizes that larger retail unit sizes are both appropriate for and common along the Dupont Corridor. Section 3.3 currently proposes 5,000 square metres as the maximum gross floor area of any one retail or service use.

Instead of basing the maximum store size on the existing Loblaws store which was developed a number of years ago, it would be more appropriate to choose a 6,000 square metre maximum

store size in line with the policies of Official Plan Amendment 231 if a maximum store size is even warranted.

Increase in Employment Uses:

Section 4.1 requires a net increase in non-residential gross floor area in every development. The application of this policy is arbitrary and unfair in its application to this Site. This policy should be removed or revised to focus on the actual amount of employment created and not solely on the amount of gross floor area occupied by a building at a point in time.

Alternative Rail Safety Mitigation Measures:

Section 8 of the Draft OPA provides a number of policies aimed at providing rail safety and mitigation measures to address the relationship between new development and the existing CP Rail line. Appropriate rail safety and mitigation measures are an acknowledged necessity for the Dupont Corridor. The application of prescriptive rail setbacks and excessive limits on the uses permitted within these setbacks, however, is unnecessarily restrictive and is not in accordance with accepted planning and architectural practice in the City of Toronto, nor does it accord with the purposes of the May 2013 Federation of Canadian Municipalities /Railway Associations of Canada “Guidelines for New Development in Proximity to Railway Operations” which include a desire to establish a balance between railway operational needs and the objective to facilitate residential and other intensification in existing built up areas such as the Dupont Corridor.

The requirement to only permit auxiliary buildings used for activities with low numbers of employees and visitors in the proposed 30 metres setback area found in Section 8.3 is unnecessary and has the potential to significantly impede the revitalization of the Site. Complete development including building or portions of building that are connected throughout the Site and used for an appropriate variety of uses should be permitted in keeping with rail mitigation measures that are consistent with measures that have been successful applied elsewhere in the City.

In addition, Section 8.4 only provides an opportunity for an applicant to propose alternative mitigation measures in very limited circumstances. In contrast, the application of alternative rail mitigation measures should be an option in a wide range of situations and should not be limited to sites where the “standards cannot be met due to topographical, geographical or other physical constraints”.

**Draft Zoning By-Law:**

The draft Zoning By-law should be revised to be consistent with a revised version of the Draft OPA that incorporates the above suggested modifications and commentary.

**Conclusion:**

Modifications to the Draft OPA would be appropriate to address the concerns listed above. Further corresponding changes to the draft Zoning By-law would also be appropriate.

Please also accept this letter as our request for notice of any meeting or decision made in respect of this matter.

Yours truly,

**Goodmans LLP**



Anne Benedetti  
AKB/

cc: Cynthia Lee, Leeken Investments/1753934 Ontario Limited

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