

February 20, 2018

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Our File No. 175928

**VIA EMAIL TO PGMC@TORONTO.CA**

Planning and Growth Management Committee  
10th floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Attention: Committee Clerk Nancy Martins

Dear Chair and Members of the Committee:

**Re: CONSUMERSNEXT PG27.2**

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We are the solicitors for Hydin Limited and Fontmil Investments Limited, owners of the land municipally known as 280-422 Consumers Road. Our clients land is a centrally located 9.4 acre parcel within the proposed secondary plan area as shown in the following figure.



The ConsumersNext planning initiative is intended to ensure that the Consumers Road Business Park remains an attractive location for business investment and a vibrant place to work within a well-connected mixed use community. Our clients are supportive of the goals and objectives of the planning exercise.

We write to the Committee to set out our client's concerns with proposed Secondary Plan policies. In our submission, the proposed Secondary Plan policies do not provide for appropriate development opportunities for large sites within the Business Park Interior District and for the subject site in particular.

We also submit that the proposed secondary plan policies detract from the established planned function including existing zoning permissions for our client's site. The existing planned function is to provide a wide range of employment uses including a range of retail and service commercial uses.

While the lands along Sheppard and Victoria Park are now being promoted by the City as a mixed use high density community at substantial densities, the lands within the Business Park Interior are effectively shut out from all emerging opportunities to participate in the modernization and growth of the community including new commercial opportunity.

Our primary concerns are as follows:

- The Business Park Interior District is not being allowed any further density permissions – the proposed Secondary Plan maintains the decades old status quo zoning permission of 1.5 times density but seeks to implement that restriction in the OP with a stated 25 year time horizon;
- Potential uses for our client's site are proposed to be eliminated by restrictions on commercial development; and
- Our client's site is proposed to accommodate two new streets in the absence of any new land use development incentives.

## DENSITY & BUILT FORM RESTRICTIONS

In our view it is inappropriate and unnecessary to establish density restrictions for the employment areas. Furthermore, the allocation of all new development opportunity for the mixed use areas promotes development of the lands along the exteriors of the business park, while restricting the Business Park Interior to the status quo zoning permission of 1.5 times density. Growth potential is not being equitably allocated or properly planned.

Through the implementation of the proposed 1.5 times density cap in the OP, the secondary plan has the potential to inhibit the realization of new development and business opportunities for our client's site and this would be inconsistent with the Provincial Policy Statement and the Growth Plan for the Greater Golden Horseshoe. Through the work of our clients planning and financial

advisors, it is apparent that for now and the foreseeable future, there is no viable new office development that can occur on the site based on a 1.5 FSI.

There is no justification provided for the establishment of density restrictions in the secondary plan for the employment areas. One of the key planning visions behind ConsumersNext is to promote office development. There are numerous other employment areas throughout the City that have no OP density restrictions. The implementation of restrictions on development in the employment area is inconsistent with the goals and objectives of the planning exercise.

In addition to the proposed imposition of an Official Plan density restriction on our client's land, the proposed built form policies and promoting urbanization would create further burdens on the site so as to eliminate or restrict its potential to accommodate new forms of employment uses. It seems entirely inconsistent to promote urbanization of the built form, while not providing for the necessary land use permissions to enable urbanized development of the site from its current industrial form.

#### USE RESTRICTIONS

The proposed secondary plan policies contemplate elimination of the opportunity for medium and larger scale forms of retail uses at the site. Our client's site, as well as all land within the business park, is designated by OPA 231 as General Employment which generally permits larger scale commercial development in accordance with Policy 4.6 thereof.

Similarly, the 2006 Official Plan also permitted large scale retail for the site given its location on Consumers Road. The proposed secondary plan therefore further undermines the long term redevelopment and usage of the site for a variety of non-residential uses including larger forms of retail and commercial uses. Retail and Commercial development uses is among the most appropriate and viable uses for our clients site given its size and prominent central location to provide retail and service space for the secondary plan area. Nevertheless, the secondary plan proposes to exclude the subject site from the broader commercial permissions for other lands along Consumers Road including those immediately adjacent.

In terms of deployment of commercial uses, the proposed policies [3.7.2] seek to prohibit all forms of stand-alone retail/service and other forms of "complementary" uses within the General Employment Areas outside of the Consumers Road Main Street district. This prohibition is entirely prejudicial to our client's economic interest and wholly inconsistent with current and long standing land use permissions. The proposed policy would eliminate our client's existing permission to develop free standing commercial buildings such as restaurants.

#### INFRASTRUCTURE IMPOSITION

To then further build upon the inequitable treatment for the Business Park Interior and our clients site in particular is the proposed policy direction to create smaller places by dividing up the area into smaller geographies by the introduction of new public streets. Due to the centrally important location of our client's site, the planning study and secondary plan proposes new public streets

be accommodated on both the east and west sides of our clients property. So while our client's site enjoys none of the benefits of planned growth potential for the secondary plan area and is in fact proposed to be burdened substantially through new use and built form restrictions eliminating pre-existing rights, our client's land is nevertheless earmarked to provide infrastructure to accommodate growth and new land uses for the emerging new community.

While we acknowledge that having additional street frontages could provide new development opportunities for the subject site, those development opportunities are not realizable in the face of the density and use restrictions sought to be imposed.

What has emerged, through our participation in the process including discussions with staff and attendance and the community consultations, is the fact that what is really driving the process is the constraints of existing traffic infrastructure with all of the new growth contemplated for the mixed use areas.

The Business Park Interior district was originally planned to provide for employment and commercial uses that have accessible and convenient access to transportation infrastructure and that remains the basis of its viability. Emerging growth patterns have effectively eliminated the key competitive advantage for the business park. While future transit will improve the business climate, the proposed policies continue to over regulate and strip away from our client's existing land use permissions in a manner that is inequitable with surrounding lands and without any corresponding benefits.

Our client, through its land use planning consultant, has met with staff in an attempt to address our client's concerns but those discussions have not yet proven fruitful. We would welcome the opportunity to continue to pursue discussions with staff to see if our concerns can be appropriately addressed. Accordingly, we would ask the Committee to defer approval of the staff recommendation to allow time for further dialogue.

Yours truly,

**FOGLER, RUBINOFF LLP**

*"Joel D. Farber"*

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\*Services provided through a professional corporation

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