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**By E-mail**  
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Toronto and East York Community Council  
2nd Floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

Attention: Community Council Members

Dear Sirs/Madams:

**Re: TE4.18 - Lower Yonge Official Plan Amendment - Request for Direction Report  
Comments on the Proposed Official Plan Amendment  
Redpath Sugar Ltd.**

We are solicitors for Redpath Sugar Ltd. ("Redpath"), the owner and operator of the sugar refinery, heavy industrial use located at 95 Queens Quay East. Redpath is located directly across Queens Quay from the Lower Yonge Precinct area and therefore will be potentially impacted by the proposed policies and the development permitted by the Lower Yonge Official Plan Amendment ("OPA"), contained in the Staff Report for Action – Request for Direction – Lower Yonge Official Plan Amendment, dated March 12, 2019,

We request that Community Council to refer the OPA back to City staff and the City Solicitor to address Redpath's concerns, a few of which are articulated below.

### **Failure to Consult with Stakeholders**

The consolidated version of the OPA, as amended by the settlements for 1-7 Yonge Street ("Pinnacle Site"); 55 to 59 Lake Shore Boulevard East, 33 to 53 Freeland Street and 2 and 15 Cooper Street ("Menkes Site"); and 10 Lower Jarvis Street and 125 Lake Shore Boulevard East ("ChoiceREIT Site") has not been provided to other interested stakeholders, including Redpath, for comment in advance of this Community Council meeting.

Redpath is a party to the Lower Yonge OPA and Central Waterfront Secondary Plan ("CWSP") LPAT hearing, and Redpath has been active in securing land use compatibility policies and protections in the CWSP and through settlement agreements with surrounding landowners, since the CWSP matter was appealed to the Ontario Municipal Board, now the Local Planning Appeal Tribunal ("LPAT"), in 2003.

It is unreasonable and unrealistic to believe that Redpath has no concerns with the OPA. Redpath is surprised, however, that City staff and the City Solicitor prefer to litigate on the OPA, then to work with Redpath in advance of taking the OPA to the LPAT, to resolve Redpath's concerns with the OPA.

## **OPA is Inconsistent with the Pinnacle SASP**

Redpath entered into a Three Party Agreement with the City and with Pinnacle with respect to the Pinnacle Site, and all parties worked cooperatively to update and amend some of policies of the OPA that were incorporated into the Site and Area Specific Policy (“SASP”) for the Pinnacle Lands and approved by the LPAT. However, the OPA was not correspondingly updated and is now inconsistent with the SASP.

The updates required to the OPA to make it consistent with the SASP, range from simple matters to substantive matters, including but not limited to:

- (i) changing all references to the Ministry of the Environment and Climate Change to the Ministry of the Environment, Conservation and Parks (“MECP”);
- (ii) using the defined term of “Redpath Sugar” consistently through the document;
- (iii) changing the definition of the term “Redpath Sugar” to include off-site operations and activities that support the industrial facility;
- (iv) removing sensitive land use permissions in policy 4.5.2 for Ground Floor Animation Zones on lands designated Regeneration Area Qualified;
- (v) ensuring that the goals/tests of required compatibility studies [in the Holding (H) Provision policies and the Compatibility Study policies] in relation to Redpath are stated in the OPA as they are in P51 of the CWSP, with the exception that the language of such goals/tests should be updated to be consistent with and implement the requirements of Land Use Compatibility Policy 1.2.6.1 of the Provincial Policy Statement, 2014 (“PPS”); and
- (vi) that the Section 37 Agreement policies be broadened to secure, as a matter of legal convenience among other things, the contribution for source-based mitigation and receptor-based mitigation for noise, odour and/or air quality, where appropriate, to ensure compliance, prevent adverse effects and minimize the potential for complaint complaints associated with industrial and port-related activities in proximity.

The above noted list is not exhaustive, but does indicate that some of Redpath’s concerns with the OPA may require “substantive” changes to the OPA.

## **Additional Concerns with the OPA**

In addition to updating the OPA policies to be consistent with the Pinnacle SASP, Redpath has additional concerns with the OPA that include, but are not limited to:

1. The PPS requires that planning authorities protect transportation corridors for the movement of goods. Policies 4.3.1 and 4.4.7 of the OPA fail to acknowledge that multi-modal complete streets in Lower Yonge Precinct are also corridors for Redpath’s truck traffic accessing the Gardiner Expressway and Lake Shore Boulevard.

There are between 200 – 300 semi-trailer truck trips (both in and out) of Redpath everyday 24/7, to move product or support operations. Since the boundary of the Lower Yonge Precinct Study Area (Map J1) includes a portion of Queens Quay East, Lower Jarvis Street, Yonge Street, Lake Shore Boulevard East and the F.G. Gardiner Expressway in proximity to Redpath, and Cooper Street and Harbour Street, it is not reasonable to treat all such routes identically in the OPA and such policies fail to protect such routes for their movement of goods function.

2. None of the Community Services and Facilities policies or central park policies of the OPA acknowledge the requirements of P51 of the CWSP for the City to “consult with both the Ministry of the Environment, Conservation and Parks and Redpath Sugar during the development approval process and during the design process for public spaces in the vicinity of the Redpath Sugar property to ensure compatibility” and when considering public realm initiatives, “regard

shall be had to all applicable provincial and municipal policies, regulations and guidelines to ensure that compatibility will be achieved and maintained with regard to noise, dust, odour, and air quality so as to ... prevent undue adverse impacts from the proposed land use/development on Redpath Sugar ...”;

3. Policies 6.2.1., 6.2.2, and 6.2.3 of the OPA, as referenced in Policy 7.1.1c), do not contain compatibility goals/criteria for Compatibility Studies as related to Redpath. Such compatibility goals/criteria must be added to 7.1.1c).
4. Policy 6.5.10(f) of the OPA requires on the ChoiceREIT Site, “Tall buildings on Block 7, as reference[d] on Map J2: ... f) [sic] will orient the two towers to maximize the view corridor from Sugar Beach” ....

If the towers are required by OPA policy to be oriented to maximize the view corridor from Sugar Beach, they may also have direct and unimpeded exposure to potential emission impacts from Redpath – particularly from Redpath’s ships that unload at the Jarvis Slip adjacent to Sugar Beach.

Until a Compatibility Study has been prepared that demonstrates that orienting the towers on the ChoiceREIT Site to maximize the view corridor from Sugar Beach will not cause undue adverse impacts on Redpath or adverse effects from Redpath on the towers, it is premature to include Policy 6.5.10(f) in the OPA; and

5. Policy 7.1.1 speaks to Compatibility Studies only required for the submission of a complete application for “redevelopment of lands within the Lower Yonge Precinct”. “Redevelopment” should be revised to “development” so that the Compatibility Study requirements of Policy 7.1.1c) of the OPA, may also be complete application requirements for Site Plan Approval, Consent, Minor Variance, Official Plan Amendment and/or Zoning By-law Amendment applications.

## Request

On behalf of Redpath, we request that with respect to the Lower Yonge Precinct Official Plan Amendment, that Community Council refer the OPA back to City staff and the City Solicitor to address Redpath’s concerns

Please provide us with notice of Council’s decision on the OPA. Should you require any additional information, please contact me to discuss.

Yours truly,

Stikeman Elliott LLP

Per:



PER: Calvin Lantz  
Partner

CL/nla

cc. Jonathan Bamberger and Phil Guglielmi, Redpath Sugar Ltd.  
Ben Sadler, ASR