



Patrick J. Harrington
Direct: 416.865.3424
E-mail: pharrington@airdberlis.com

September 9, 2020

WITHOUT PREJUDICE

VIA E-MAIL

Our File No. 151014

Jessica Braun
Solicitor
Legal Services
Planning and Administrative Tribunal Law Section
55 John Street, 26th Floor,
Metro Hall, Toronto, ON M5V 3C6

Dear Ms. Braun,

Re:	LPAT Case No:	PL190242
	LPAT File No:	PL190242
	Municipal Number:	OPA 404
	Municipality:	City of Toronto
	Property Location:	Don Mills Crossing Secondary Plan
	Appellant:	Damis Properties Limited, Loblaw Properties Ltd.

As you are aware, our firm is counsel to Loblaw Properties Ltd. (“Loblaw”). Loblaw is an appellant in the above-noted matter.

Arising from our private discussions with City Staff, Loblaw has instructed us to make the following offer to settle its current appeal:

- 1. Policy 3.6.3.** The phrase “*and City Council approval*” will be deleted from this policy. The City Staff will confirm that while context plans will still be required pursuant to this policy, such context plans will only be subject to Council approval where the application is for an amendment to the City’s official plan and/or zoning by-law(s).
- 2. Policy 5.9.1.** The word “*required*” will be replaced with the word “*encouraged*”.
- 3. Policy 5.9.3.** The word “*required*” will be replaced with the word “*encouraged*”.
- 4. Policy 5.25.1.** City Staff will confirm that this policy does not apply to additions/renovations that do not require site plan approval.

5. **Policy 5.25.1(b).** This policy will be replaced with the following:

In order to create an appropriate rhythm and scale for building frontages containing retail and service commercial uses:

i) In Apartment Neighbourhoods, Mixed-Use Areas and General Employment Areas B, units on the ground floor will generally have a width of up to 12 metres with larger retail units encouraged to locate on the second floor.

ii) In General Employment Areas A, retail and service commercial units on the ground floor will generally have a width of 12 metres with larger retail units encouraged to locate on the second floor.

6. **Policy 5.2.5.1(c).** This policy will be revised by inserting the phrase “*through massing and building setbacks and stepbacks*” as follows:

c. development of employment uses fronting Gervais Drive and Wynford Drive will respect and reinforce the designed landscapes of the broader employment area through massing and building setbacks and stepbacks while providing direct access to main entrances from the public sidewalk with appropriate weather protection.

City Staff will also confirm that this policy does not apply to (a) building frontages internal to 825 Don Mills Road or (b) new internal streets that may be created through redevelopment of 825 Don Mills Road.

7. **Policies 8.2, 8.3 and 8.27.** City Staff will confirm that the requirements / terms of reference to be used for purposes of these policies may be scoped through the pre-application process to suit the scale/nature of what is being proposed.
8. **Policy 10.19.** The phrase “*where applicable*” will be inserted after the phrase “*Section 37 of the Planning Act.*”
9. **Map 40-9.** City Staff will confirm that 825 Don Mills Road is not a property identified on Map 40-9.

10. **New Site-Specific Policy.** The following policy will be added to OPA 404:

The Policies and Maps of this Secondary Plan shall apply to the lands known municipally as 825 Don Mills Road except as indicated in this section:

10.21 For the purposes of Policy 3.6.1, the 10,769 m² retail building that currently exists at 825 Don Mills Road on the date this section is approved shall not be counted for purposes of calculating the maximum permitted retail floor area for new major retail development at 825 Don Mills Road.

10.22 Notwithstanding Policy 3.6.3 and Policies 10.12 to 10.15 inclusive, at 825 Don Mills Road, small-scale stand-alone infill development of less than 1,000 m² of gross floor area, or additions totaling 1,000 m² of gross floor area or less, may be permitted without the need for the approval of a new Context Plan or an amendment to an existing Context Plan.

- 11. Interpretation of New Site-Specific Policy.** City Staff will confirm that pursuant to the above-noted new site-specific policy, in the event of a future application to demolish and immediately replace the existing retail floor space at 825 Don Mills Road, the existing 10,769 m² shall not be counted. As such, in this scenario, Loblaw (or its successor in title) could develop a retail use of 10,769 m² plus 5,999 m² without engaging policy 3.6.1 or triggering the need for a *municipal comprehensive review*, provided there is a continuous retail use on the site.
- 12.** Upon acceptance of this offer by City Council and receipt of a letter from the City providing the confirmations noted above, Loblaw shall:
 - a. immediately inform the LPAT that Loblaw's appeal is scoped to the above-noted policies and that the balance of Loblaw's appeal is withdrawn;
 - b. fully support the above-noted modifications to OPA 404 and not take any position that may be contrary to such support; and
 - c. provide whatever reasonable assistance the City may require to propose and justify the above-noted modifications before the LPAT, including defending these modifications against potential challenges by other parties.
- 13.** There shall be no claim for costs between the City and Loblaw associated with this appeal or the resolution of the appeal as contemplated by this offer to settle.
- 14.** The settlement of this appeal shall be without prejudice to Loblaw or a successor filing a complete *Planning Act* application(s) with the City respecting 825 Don Mills Road in the future. The settlement shall also be without prejudice to the City's ability to process and determine any such application(s) in the normal course.

We ask that this offer to settle be placed before City Council at the meeting scheduled to commence on September 30, 2020. Should you have any questions, please do not hesitate to contact the undersigned.

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Yours truly,

AIRD & BERLIS LLP

Patrick J. Harrington
PJH/np

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