

MUNICIPAL, PLANNING & DEVELOPMENT LAW

28 January 2020

Sent via E-mail (councilmeeting@toronto.ca)

Members of City Council,
City Hall, 100 Queen Street West,
Toronto, ON M5H 2N2

Attention: Ms. Marilyn Toft

Dear Members of City Council:

**Re: 1966-2050 Eglinton Avenue East and 50 Thermos Road
City Council Item No. SC 12.5
Mondelez Canada Inc. Comments**

We are the solicitors for Mondelez Canada Inc. ("Mondelez Canada"), the owner and operator of a manufacturing facility located at 40 Bertrand Avenue in the City of Toronto (the "Bertrand Facility"). We have been closely following the progress of development applications within the Golden Mile Secondary Plan area and have prepared this letter to provide written record of Mondelez Canada's position regarding the application by Riocan Holdings Inc. for an Official Plan amendment to establish a Site and Area Specific Policy (the "Proposed SASP") for 1966-2050 Eglinton Avenue East and 50 Thermos Road (the "Site").

The Bertrand Facility is located on the north side of Bertrand Avenue at Thermos Road, approximately 660 metres from the Site. The site is designated *Employment Area* on the Urban Structure Plan and *Core Employment Area* on the Land Use Plan in the City's Official Plan and is located within a larger Employment Area.

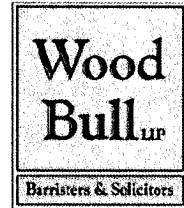
The Bertrand Facility manufactures Halls products for the Canadian market, and to export to the United States. It employs over 150 people and Mondelez Canada has invested over \$6.3 million (US) into the Bertrand Facility in recent years, helping to retain jobs in the area.

The purpose of the Proposed SASP is to "establish a vision for future redevelopment of the Site" which is contemplated to include a mix of residential uses in various building heights. The development of sensitive land uses in proximity to the Bertrand Facility has the potential to adversely affect the Bertrand Facility's ability to comply with provincial and municipal noise regulations. For that reason, it is imperative that the Proposed SASP contain policies requiring assessment of land use compatibility and implementation of noise and air quality mitigation measures before sensitive land uses can be developed.

Kim Mullin Direct: (416) 203-5633 kmullin@woodbull.ca

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The draft Proposed SASP includes among its principles ensuring compatibility between industrial and other employment activities on surrounding Employment Lands and sensitive land uses, but the specific policies proposed do not provide sufficient protection for existing industrial uses.

In particular, the Proposed SASP provides only that noise and vibration report and air quality assessments “may be required”. In our submission, such studies should be a mandatory requirement where sensitive land uses are proposed within the influence area of existing industrial uses. In addition, such studies must be required as a precondition to zoning, and not merely as part of the site plan approval process or as a condition of lifting of a holding provision. Finally, the Proposed SASP should require that the technical studies be peer reviewed at the applicant’s expense.

In our submission, the inclusion of such policies in the Proposed SASP is necessary to ensure consistency with the Provincial Policy Statement, conformity with the Growth Plan and conformity with the City’s Official Plan, as set out below.

Provincial Policy Statement 2014

The Provincial Policy Statement, 2014 (“PPS”) includes policies that places the onus of protection of Employment Areas on the planning authority, which in this case is the City. This includes policies 1.3.2.1 and 1.3.2.3 with regards to employment areas and 1.2.6.1 with regards to land use compatibility. A failure to protect existing Employment Areas and uses would be inconsistent with the PPS.

Growth Plan for the Greater Golden Horseshoe, 2019

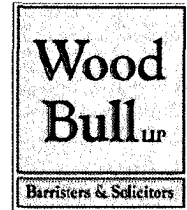
The Growth Plan also includes policies that require Employment Areas to be protected, including policies 2.2.5.1 and 2.2.5.6. In order to conform with the Growth Plan, the Proposed SASP must make protecting the existing Employment Area a priority.

Official Plan Amendment 231 - Employment Areas

The City’s Official Plan Amendment 231 (“OPA 231”), which is partially approved by the Local Planning Appeal Tribunal, strengthens the policies in the Official Plan to ensure that development near Employment Areas is compatible with uses in Employment Areas. OPA 231 states that “It is the City’s goal to conserve our *Employment Areas*, now and in the longer term, to expand existing businesses and incubate and welcome new businesses”. It goes on to state that “Even where new sensitive land uses are located outside of, but in close proximity to, *Employment Areas*, they should be designed and constructed to prevent residents or users from being affected by noise, traffic, odours or other contaminants from nearby industry”.

Policy 2.2.4.5 indicates that sensitive land uses should be appropriately planned as follows:

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2.2.4.5 Sensitive land uses, including residential uses, where permitted or proposed outside of an adjacent to or near to Employment Areas or within the influence area of major facilities, should be planned to ensure they are appropriately designed, buffered and/or separated as appropriate Employment Areas and/or major facilities as necessary to:

- a) prevent or mitigate adverse effects from noise, vibration, and emissions, including dust and odour;
- b) minimize risk to public health and safety;
- c) prevent or mitigate negative impacts and minimize the risk of complaints;
- d) ensure compliance with environmental approvals, registrations, legislation, regulations and guidelines at the time of the approval being sought for the sensitive land uses, including residential uses; and,
- e) permit *Employment Areas* to be developed for their intended purpose.

2.2.4.6 A complete application to introduce, develop or intensify sensitive land uses, including residential uses, in a location identified in Policy 5 shall include a Compatibility/Mitigation Study, which will be addressed in the applicant's Planning Rationale.

2.2.4.7 The Compatibility/Mitigation Study will:

- a) be peer reviewed by the City at the applicant's expense;
- b) identify and evaluate options to achieve appropriate design, buffering and/or separation distances between the proposed sensitive land uses, including residential uses and nearby *Employment Areas* and/or major facilities to address the matters in Policy 5; and
- c) identify facilities, including propane storage and distribution facilities, where a separation distance is required by law and/or regulation may include any portion of the applicant's property and describe the extent to which the application may affect facilities' compliance with such required separation distances.

The City's obligation to protect the existing Employment Area is clear. In order to fulfill that obligation, the City should ensure that the Proposed SASP incorporates these policies from OPA 231.

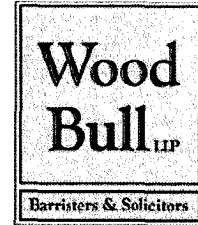
Thank you for your consideration of these comments.

Yours very truly,

Wood Bull LLP

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Kim Mullin



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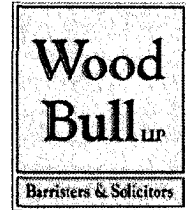
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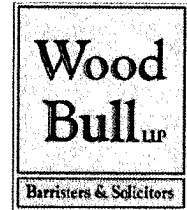
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