

MUNICIPAL, PLANNING & DEVELOPMENT LAW

6 July 2020

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

Scarborough Community Council,
c/o City Hall,
100 Queen Street West,
Toronto, ON
M5H 2N2

Dear Members of Community Council:

**Re: Proposed Secondary Plan for Golden Mile
Statutory Public Meeting July 17, 2020, Agenda Item SC 16.3
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”).

The Bertrand Facility is located on the north side of Bertrand Avenue at Thermos Road, approximately 280 metres from the northern boundary of the Secondary Plan Area. 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.

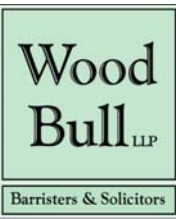
We have followed the progress of the Golden Mile Secondary Plan and have prepared this letter to provide Mondelez Canada’s comments on the proposed Secondary Plan as released on 5 June 2020.

We had previously provided comments to the City about the proposed Secondary Plan concept and an earlier iteration of the Secondary Plan policies. Copies of our earlier comment letters are attached.

Mondelez Canada appreciates the City’s efforts to accommodate and address its concerns throughout this process and in the Secondary Plan. We support the proposed language of policy 4.10 which provides that Compatibility/Mitigation Studies, as well as Noise and Air Quality Studies, will be required as part of a complete development application where sensitive land uses are proposed adjacent to lands designated for employment uses. We also support policies in Sections 2 and 5 of the Secondary Plan which are aimed at protecting and enhancing employment areas adjacent to the Secondary Plan area, including policies 2.3.4 and 5.1.

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We continue to reiterate our earlier submissions that in addition to the studies required by policy 4.10, the policy should make it clear that any necessary studies should be peer reviewed at the applicant's expense.

Thank you for your consideration of these comments. Mondelez Canada continues to welcome the opportunity to discuss its concerns and the Secondary Plan policies with City staff.

Please provide us with notice of any decision regarding this matter.

Yours very truly,

Wood Bull LLP

A handwritten signature in blue ink that reads "Kim Mullin". The signature is written in a cursive style and is positioned above a faint, light blue rectangular stamp.

Kim Mullin

KM/hh

18 February 2020

Sent via E-mail

Emily Caldwell
Project Lead, City Planning Division
Community Planning - Scarborough District
150 Borough Drive, 4th Floor,
Toronto, ON, M1P 4N7

Dear Ms. Caldwell:

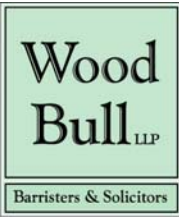
**Re: Draft Secondary Plan Policies for Golden Mile
Mondelez Canada Inc. Comments**

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 the Golden Mile Secondary Plan and have prepared this letter to provide written comments of Mondelez Canada’s position regarding the Draft Secondary Plan Policies for Golden Mile (the “Draft Policies”).

The Bertrand Facility is located on the north side of Bertrand Avenue at Thermos Road, approximately 280 metres from the northern boundary of the Secondary Plan Area. 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.

Mondelez Canada’s concerns with the Draft Policies are principally related to the compatibility of the proposed developments within the Golden Mile Secondary Plan Area and noise emitted from the operations at the Bertrand Facility. As you know, noise emissions are regulated by reference to the resulting noise level at nearby sensitive land uses. 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 Secondary Plan contain policies requiring assessment of land use compatibility and implementation of noise and air quality mitigation measures before sensitive land uses can be developed.



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We had previously provided comments to the City about the proposed Secondary Plan before the Draft Policies were available for comment. A copy of our previous comment letter is attached.

In that letter, we submitted that the Secondary Plan should incorporate the policies from the City's Official Plan Amendment 231 ("OPA 231"), which are directed at ensuring that development near Employment Areas is compatible with uses in Employment Areas. Those policies, in particular policies 2.2.4.6 and 2.2.4.7, require detailed compatibility and mitigation studies as part of a complete application for sensitive land uses adjacent to Employment Areas or within the influence area of major facilities, and require such studies to be peer reviewed at the applicant's expense.

Policy 5.7 of the Draft Policies deals with compatibility and mitigation as follows:

Development applications that propose residential uses or sensitive non-residential uses adjacent to lands designated *General Employment Areas* or *Core Employment Areas* will be required to provide the following studies to determine land use compatibility, appropriate mitigation measures, appropriate design, and minimum separation distances between proposed sensitive land uses and the employment uses located south of Eglinton Avenue East and north of Ashtonbee Road:

- a) A Compatibility/Mitigation Study; and
- b) A Noise Impact and Air Quality Study.

While this policy is a useful starting point, it is not sufficient in our view. The requirement to provide these studies should apply not only to proposed sensitive land uses adjacent to Employment Areas, but also to sensitive land uses proposed within the influence area of major facilities. In addition, the policy should clearly require the studies to be peer reviewed at the applicant's expense.

In addition, we reiterate our earlier submission that the preferred concept for the Secondary Plan has not given sufficient attention to the issue of compatibility between development within the Secondary Plan area and the Employment Area to the north. In particular, we note that the current preferred concept has residential uses in the area closest to the Bertrand Facility and the larger Employment Area, with other less sensitive uses located further west and south. A preferred concept which recognized the importance of protecting existing employment uses would plan for sensitive uses to locate further away from sources of noise and air emissions, not closer to the sources of such emissions.

Thank you for your consideration of these comments. Mondelez Canada would welcome any opportunity to discuss its concerns and the Secondary Plan policies with City staff.

Please continue to provide us with notice of any meetings of City Council, Community Council or any Committee of Council where this matter will be considered.



18 February 2020

Yours very truly,

Wood Bull LLP

A handwritten signature in blue ink that reads "Kim Mullin". The signature is written in a cursive style with a horizontal line at the end.

Kim Mullin

KM



27 September 2019

Sent via E-mail

Emily Caldwell
Project Lead, City Planning Division
Community Planning - Scarborough District
150 Borough Drive, 4th Floor,
Toronto, ON, M1P 4N7

Dear Ms. Caldwell:

**Re: Golden Mile Secondary Plan
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 the Golden Mile Secondary Plan and have prepared this letter to provide written record of Mondelez Canada’s position regarding how the Golden Mile Secondary Plan Area should be planned in a manner compatible with Mondelez Canada’s existing manufacturing facility.

The Bertrand Facility is located on the north side of Bertrand Avenue at Thermos Road, approximately 280 metres from the northern boundary of the Secondary Plan Area. 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.

Mondelez Canada’s concerns with the development of new sensitive land uses are principally related to the compatibility of the proposed developments within the Golden Mile Secondary Plan Area and noise emitted from the operations at the Bertrand Facility. As you know, noise emissions are regulated by reference to the resulting noise level at nearby sensitive land uses. 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 Secondary Plan contain policies requiring assessment of land use compatibility and implementation of noise and air quality mitigation measures before sensitive land uses can be developed.

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Our review of the Community Consultation Meeting documents indicates that the City has not given sufficient attention to the issue of compatibility between development within the Secondary Plan area and the Employment Area to the north. In particular, we note that the current preferred concept has residential uses in the area closest to the Bertrand Facility and the larger Employment Area, with other less sensitive uses located further west and south. The consultation materials also say nothing about the need to protect the existing Employment Area from incompatible development. We also have concerns that the proposed reconfiguration of Thermos Road may have an impact on the operation of the Bertrand Facility.

Provincial Policy Statement 2014

The Provincial Policy Statement (“PPS”) includes policies that places the onus of protection of Employment Areas on the planning authority, which in this case is the City.

The following policies from the PPS pertain to Employment Areas:

1.3.2.1 Planning authorities shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary *infrastructure* is provided to support current and projected needs.

1.3.2.3 Planning authorities shall protect *employment areas* in proximity to *major goods movement facilities* and *corridors* for employment uses that require those locations.

The PPS also includes the following policy regarding land use compatibility:

1.2.6.1 Major facilities and sensitive land uses should be planned to ensure they are appropriately designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of major facilities.

This Secondary Plan process has not considered the significant impacts of planned development within the Secondary Plan Area on uses outside of the Secondary Plan Area boundary. 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, as follows:

2.2.5.1 Economic development and competitiveness in the GGH will be promoted by:... d) integrating and aligning land use planning and economic development goals and strategies to retain and attract investment and employment.

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2.2.5.6 Upper- and single-tier municipalities, in consultation with lower-tier municipalities, will designate all employment areas, in official plans and protect them for appropriate employment uses over the long-term. For greater certainty, employment area designations may be incorporated into upper- and single-tier official plans by amendments at any time in advance of the next municipal comprehensive review.

As noted above, the Secondary Plan process does not appear to have considered the impact of residential development on the nearby Employment Area. In order to conform with the Growth Plan, the Secondary Plan 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:

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.



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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.
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 Secondary Plan incorporates these policies from OPA 231.

Thank you for your consideration of these comments. Mondelez Canada would welcome any opportunity to discuss its concerns and the Secondary Plan process with City staff.

Yours very truly,

Wood Bull LLP

A handwritten signature in blue ink that reads "Kim Mullin".

Kim Mullin

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