

Date: March 7, 2022

To: Toronto City Council
100 Queen Street West
City Hall, 12th Floor, West Tower
Toronto, ON M5V 3C6

Attention: John Elvidge, City Clerk

Subject: PH31.1 – Development in Proximity to Rail: Amendment to the Official Plan – Final Report

Dear Sirs/Mesdames,

Northcrest Developments is responsible for managing the planning and development of the former Downsview Airport lands, on behalf of the Public Sector Pension Investment Board (the “**Northcrest Lands**”). The Northcrest Lands comprise approximately 370 acres in the centre of the City surrounded by multiple higher-order transit stations and form part of one of the most significant community-building opportunities in North America. Planning efforts to facilitate the redevelopment of the Northcrest Lands into a series of mixed-use, complete and connected communities are ongoing. These efforts are taking place both at a broad scale, in respect the Northcrest Lands and adjacent lands managed by Canada Lands Company, and at a narrower scale in respect of the first district Northcrest proposes to develop – a new employment hub anchored by a state-of-the-art film studio campus (the “**First District**”).

Large portions of the Northcrest Lands are located in close proximity to the Barrie GO line, which runs along the western edge of the Northcrest Lands. The First District in particular is immediately adjacent to the rail corridor. In light of this physical relationship and Northcrest’s ongoing work in connection with the First District on rail safety matters, Northcrest has reviewed draft Official Plan Amendment No. 536 (the “**Draft OPA**”) relating to development in proximity to rail closely. While we support the overall objective of ensuring public health is protected while supporting intensification in proximity to rail facilities, we have concerns with certain aspects of the Draft OPA as outlined below. We hope that our comments assist City Council as it considers modifications to the Draft OPA before approval.

Concerns with the Draft OPA

Uncertain “Area of Influence”

Our first concern relates to the geographic scope of the Draft OPA. As currently drafted, the policies in the Draft OPA would apply to an undefined “area of influence of rail”. The staff report prepared in connection with the Draft OPA indicates that staff’s intention is for this area of influence to be 30 metres from rail facilities, but it is important for this geographic radius to be explicitly incorporated into the Draft OPA to avoid uncertainty about when the associated policies apply.

The First District illustrates the challenges associated with the Draft OPA as currently drafted. All sensitive and high occupancy uses in the First District are proposed to be set back more than 30 metres from the rail corridor. While the clear intention as set out in the staff report is for the Draft OPA not to apply to these portions of the First District, the Draft OPA itself is unnecessarily and inappropriately vague on this point. The Draft OPA should

be revised to explicitly provide that it applies to development within 30 metres of rail facilities, by replacing the reference to “area of influence of rail” in policy 3.6.1 with “within 30 metres of rail facilities”.

Indemnity Requirements

The Draft OPA provides that landowners are to enter into an agreement with the City, whereby both the landowner and the qualified professional engineer who prepared the rail safety mitigation measures indemnify the City from damages resulting from a derailment on the rail corridor. It is not clear to us that an indemnity is the appropriate tool to protect City interests in connection with rail safety matters. More importantly however, we see a real problem with the concept of requiring an engineering firm to provide an indemnity, as we do not believe any engineering firm would be willing to provide one – with the result that it may well be impossible to satisfy the policy direction in the Draft OPA. This aspect of the Draft OPA is unworkable in its current form. At minimum, the requirement for a professional engineer to provide an indemnity should be removed.

No Differentiation between Uses

The Draft OPA as drafted does not differentiate between high occupancy or sensitive uses and other uses that are less sensitive. In our view, a tailored approach that recognizes the different circumstances and risk profile of different uses is warranted. For example, within the First District, there are a series of existing buildings that have been located within 30 metres of the adjacent rail corridor for many years. To the extent that these existing buildings continue to be used in a manner that does not involve high occupancy, residential or other sensitive uses, they should not be subject to the same rail safety requirements as a proposal to introduce new, more sensitive uses in a new building.

Conclusion

Northcrest appreciates the opportunity to provide these comments and we hope that City Council incorporates our suggested revisions into the proposed policies before adoption.

We would appreciate receiving notice of any decision of City Council in respect of this matter.

Sincerely,



Derek Goring
Executive Vice President, Development
Northcrest Developments