



Aaron I. Platt

Direct Line: 289-904-2370

Email: aplatt@LN.Law

*Aaron Platt Professional Corporation

BY EMAIL (clerk@toronto.ca)

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City of Toronto
100 Queen Street West, 10th Floor, West Tower
Toronto, ON M5H 2N2

Attn: John D. Elvidge, City Clerk

Dear Sirs and Mesdames:

**RE: PH21.1 – City of Toronto Official Plan Amendment 804
2495861 Ontario Inc. and WillowWood School
55 Scarsdale Rd. Toronto
Our File: 29596-0002**

On behalf of our clients, 2495861 Ontario Ltd. (the “**Owner**”) the registered owner of the lands known municipally as 55 Scarsdale Road, Toronto (the “**Subject Lands**”). We are also counsel to the tenant of the Subject Lands, WillowWood School (“**WillowWood**”) which has been operating a school for pupils with individual learning needs at the Subject Lands since 1997. Such use has been operating as a legal non-conforming use pursuant to the *Planning Act* at that site with the City previously issuing substantial building permit to renovate the school for an elementary school use (i.e. a gymnasium).

Our clients have reviewed the proposed draft Official Plan Amendment 804 (“**OPA 804**”) and provide their qualified support for the policy amendments contained subject to the issues identified in this letter.

Background

The Subject Lands are located within the “Duncan Mills” area identified in OPA 804. They are located more specifically in the southwest portion of *Site and Area Specific Policy 912* (“**SASP 912**”), on the east side of Scarsdale Road south of York Mills Road. The school on the Subject Lands first opened its doors to students in 1997 and has been continually operating ever since.

As noted above, over the course of that period, it has received various building permits (both of large and smaller scale) from the City of Toronto, confirming its legal non-conforming status.

While located in what was previously categorized as an employment area, Scarsdale Road is somewhat unique in that it contains a host of varied uses including private schools, commercial



schools, swim schools, places of worship. In many of those cases, the Official Plan Employment Area policies do not permit many of those uses. In many cases, this is because the uses predate the existence of the Official Plan.

With that stated, these uses have co-existed with more intensive employment uses in the broader area for decades without conflict. With respect to employment uses proximate to the Subject Lands, those uses are relatively benign as compared to larger-scale, industrial uses. In fact, when reviewing the uses surrounding WillowWood, you will find:

- The large, Toronto Korean Presbyterian Church, to the immediate north;
- The Leaside Spur Trail and Bond Park to the east;
- A multi-tenanted low-rise commercial (office) building to the south; and
- A new multi-tenanted low-rise commercial building containing office and retail uses to the west.

It is also worth noting that just one parcel further west is a long-standing, stable residential neighbourhood containing mostly (if not entirely) single family detached homes.

WillowWood has recently commenced obtaining permission to add a portable to the Subject Lands to improve the school functions.

OPA 804 provides that, within the Duncan Mills area (i.e. the Subject Lands), all uses allowed in General Employment Areas *and* Regeneration Areas would be permitted. As a result, the existing school would be permitted under the uses permitted in Regeneration Areas (it is not permitted in General Employment Areas, as only “industrial trade schools” are permitted).

Our client commends Staff for its work in undertaking what appears to be a fine-grain review of the Duncan Mills area and pre-existing uses therein, giving rise to the designations proposed for that area. However, the proposed policy changes include remaining ambiguity which should be eliminated to avoid confusion or dispute in the future.

For example, there is no policy direction when it comes to what is a legally established existing use. It would be of great assistance if the language were clarified to include the concept of legal non-conforming uses within that policy – particularly where uses have been ongoing pursuant to building permits issued by the City of Toronto (or the former City of North York).

If this clarity is not provided, one might argue that a zoning amendment would be required. In such cases, OPA 804 would require our clients to file, in addition to all the other reports and studies submitted with the application, a “Compatibility/Mitigation Study”. The long-standing use of the Subject Lands as an elementary school – without issue or complaint – should be demonstrative of compatibility.

Further, the issuance of multiple building permits by the City evidences the current use of the Subject Lands are legal.



In other words, the request of this letter is nothing more than a request to acknowledge that which the City has already approved.

In addition to the above-noted issue, OPA 804 also includes a policy whereby in the Duncan Mills area:

“a minimum of 51 per cent of the minimum required non-residential gross floor area will be comprised of:

A) Uses permitted in General Employment Areas such as lab, research and development facilities, media, and information and technology facilities;

and/or

B) Office, medical office, cultural industries, incubator and/or co-working uses;”

Firstly, the policy is not clear whether the “51% General Employment Use” requirement applies to the entirety of the Duncan Mills area or if it is to apply on a site-specific basis.

Lastly, an additional proposed policy regarding sensitive land uses is included, which provides that:

“Sensitive land uses, including new residential uses will be located, designed and buffered to mitigate impacts from, be compatible with, and not impede the continuation of and the expansion of existing employment uses, and any new employment uses within the surrounding General Employment Areas and Regeneration Areas.”

Given the pre-existence of several entirely legal sensitive land uses, OPA 804 should have specific policies within the Duncan Mills area to address how those pre-existing uses are to address that policy as it is impossible to “turn back the clock”.

The uncertainty surrounding their status, and what future mitigation measures might be required from currently unknown intensive employment land uses gives the owners significant concern and uncertainty.

Furthermore, given the already prevalent, historical and legal sensitive uses in the area, and the unbuffered stable residential neighbouring immediately west, intensive employment uses (e.g. industrial uses) are unlikely to locate in the area.

Overall, the owners of the Subject Lands support the initiative to update the Employment Use policies and redesignated the Duncan Mills area as a Regeneration Area. However, the policies applicable to the Duncan Mills area require some relatively minor modification to better reflect the context – including the multitude of legal sensitive uses – and the fact that the area is unlikely to redevelopment with any intensive (industrial) employment uses.



We hereby request to receive notifications regarding any meetings, report and/or decisions to or made by City Staff, the City Council or any Committee of Council pertaining to this matter.

Yours truly,

LOOPSTRA NIXON LLP

**Per: Aaron I. Platt
AIP**

CC: Client
Sean Galbraith