

THE PLANNING AGENCY INC.  
138 – 157 Adelaide St. West  
Toronto ON  
M5H 4E7



January 13, 2024

Nancy Martins  
Toronto City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2

**Re: Request to Defer Item 2025.SC19.2  
900 Middlefield Road  
Official Plan Amendment and Zoning By-law Amendment Applications  
City of Toronto File No. 19 263939 ESC 23 OZ ("Application")**

Chair Mantas, Councillor Myers (Ward 23), and Councillors of the Scarborough Community Council,

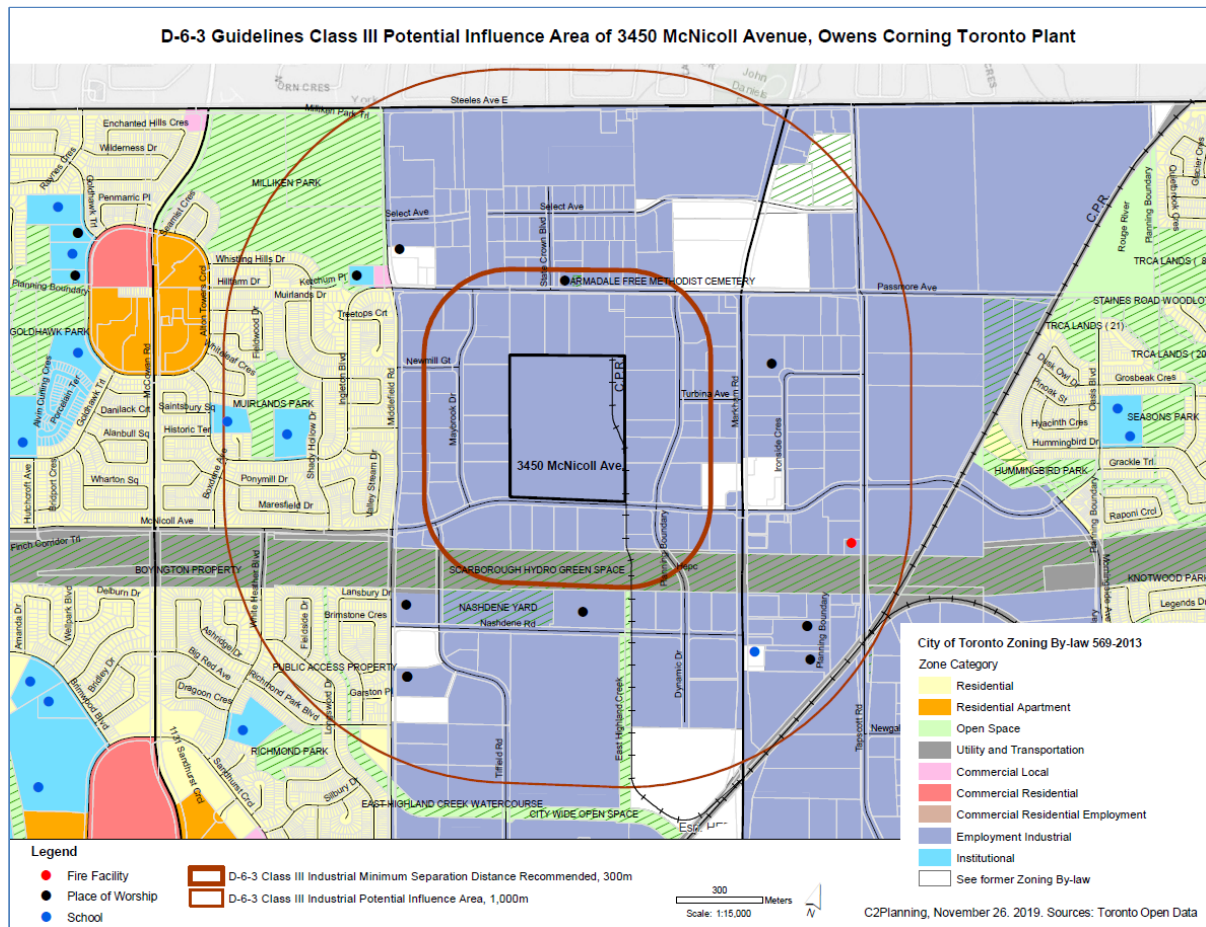
I am the land use planner retained by Owens Corning Insulating Systems Canada LP ("Owens Corning"). Owens Corning has an existing fibreglass insulation manufacturing industrial operation located at 3450 McNicoll Avenue (the "Toronto Plant"), which operation is classified as a Class III Industrial operation pursuant to Provincial D-6-1 Industrial Categorization Criteria (<https://www.ontario.ca/page/d-6-1-industrial-categorization-criteria>) and is a "major facility" as defined in the Provincial Planning Statement, 2024 ("PPS"). The Toronto Plant operates on a 24 hour a day, 7 days a week, 365 days of the year basis. This letter is further to my letter of December 2, 2020, which I was not able to locate on the City's Application Information Centre ("AIC") record for the Application.

The City of Toronto Report for Action on the Application, dated December 17, 2024, as well as pertinent materials from the AIC have been reviewed. The Application for a mixed-use development comprising commercial at-grade and 5 storeys of residential (48 dwelling units) above proposed at 900 Middlefield Road is a "sensitive land use". In addition to an outdoor rooftop amenity area, open air balconies are also proposed. The sensitive land use is being proposed approximately 510m from Owens Corning Toronto Plant's north-west lot lines.

900 Middlefield Road (the "Subject Site") is located within the influence area of Owens Corning's Class III industrial operations, per the Province's D-6-3 Separation Distances Guidelines as depicted below.

The Class III industrial operation of the Owens Corning Toronto Plant has a potential influence area of 1000m from its property/lot lines, or from the permitted building setbacks at 3450 McNicoll Avenue, as provided in the D-6-3 separations distances (<https://www.ontario.ca/page/d-6-3-separation-distances>).

The D-6-3 Guidelines also directs that for any proposal in the influence area of a Class III facility, the proponent needs to identify any "adverse effects", mitigation proposed, and an assessment made on the acceptability of the proposal.



From my review of the documents available on the City's AIC, I acknowledge that there is a cursory discussion regarding the proposed sensitive land use being situated in my client's recognized Class III facility influence area. This is contained in Section 4.1.4 of the *Rubidium Environmental Land Use Compatibility Assessment* of October 10, 2019.

The Official Plan describes in Chapter 2.2.4 that "[e]ven where new sensitive land uses are located outside of, but in close proximity to, Employment Areas, they should be designed and constructed to prevent the residents or users from being affected by noise, traffic, odours or other contaminants from nearby industry." Pages 2-26 – 2-27 of the Official Plan sets out policies with respect to land use compatibility and mitigation. Policies 2.2.4.5 to 2.2.5.10 direct that the applicant for a sensitive land use must include a *Compatibility/Mitigation Study* for any proposal which introduces, develops or intensifies a sensitive land use in the influence area of a major facility. In this case, the Applicant is proposing to introduce, develop or intensify a sensitive land use, and is in the influence area, of the Owens Corning Toronto Plant.

There are several policies provided in Sections 2.8 and 3.5 of the Provincial Planning Statement (2024) and the Official Plan that provide guidance for the protection of employment areas and the development of sensitive land uses in proximity to those employment areas. These policies flow, in part, from and are in accordance with the provincial D-series guidelines for locations where industrial and manufacturing land uses are particularly vulnerable to encroachment, and to protect the future and potential expansion of industrial operations.

Further, it is important to note that the City's Official Plan requires that an applicant's *Compatibility/Mitigation Study* be peer reviewed and it is to identify and evaluate options to achieve appropriate design and buffering. Policy 2.2.4.8 provides that the costs of any studies and mitigation measures "shall be borne by the applicant of the sensitive land use". At this point in time, it is not known

what mitigation measures, warnings or clauses are recommended or required at the receptor for the proposed sensitive land use in proximity to the Owens Corning Toronto Plant.

It is my submission that the Land Use Compatibility Assessment, dated October 2019, and the Noise Study Addendum, dated December 2021, do not, either individually or combined, satisfy the terms of reference for a Compatibility/Mitigation Study as required by the City. This is cause for concern on the part of Owens Corning from both a land use compatibility and operational certainty perspective. The extent of the evaluation in the October 2019 Land Use Compatibility Study in relation to my client's Class III facility is limited to the following statement after identifying dust and noise, but omitting odour, as potential emissions:

*"Owens Corning Insulating Systems Canada GP Inc. is a fiberglass insulation manufacturing facility located at 440 Passmore Avenue, Scarborough, which is about 756m Southeast of the proposed development. The facility has received an Environmental Compliance Approval #9909-ODGPA5, dated January 6, 2014. This approval has assessed that noise/vibration, dust and odour are no likely to cause adverse off-property impact and are permitted to perform its activities and operations at the current site. For this reason, it is not expected that this facility will adversely impact the proposed development."*

It is noted that, in relation to noise, an Environmental Compliance Approval only relates to stationary noise sources and, as such, any noise related to the transportation related operations associated with the Owens Corning operation would not be addressed by the approval. Owens Corning's Toronto Plant is a long standing major facility that plans to expand their operations, and as such any sensitive land use proposed within the influence area of the Toronto Plant should consider mitigation measures and/or warning clauses that account for the existing as well as an expanded/intensified Class III industrial use.

We understand that a peer review of the Land Use Compatibility Assessment was completed by GHD as a third-party consultant to the City. A copy of the GHD peer review referenced at page 9 of 30 of the Report for Action on the Application was requested from Community Planning after review of the Report for Action. A copy of the GHD peer review dated August 20, 2021 was provided to Owens Corning on January 10, 2025, along with a GHD peer review (also dated August 20, 2021) of the Environmental Noise Feasibility submitted by the Applicant. A preliminary review of the peer review documents indicates that GHD agrees with the cursory conclusion of the Rubidium Land Use Compatibility Assessment and that GHD recommends as a condition of the approval process that an updated assessment and/or acoustical certification letter be required.

Section 4.10.6 of the *D-6 Compatibility between Industrial Facilities Guidelines* state that *"When the new development is sensitive, the Ministry recommends that a warning of anticipated nuisance effects be included in any offers of purchase and sale. A means of notifying ensuing purchasers should be determined by the local municipality. A warning may be included in a document which can be registered on title according to the Ministry of Consumer and Commercial Relations Bulletin No. 91003, "Environmental Warnings/Restrictions" (Appendix D)."*

It is typical at this stage of an application, where sensitive land uses are being proposed in an area of influence of a Class III facility, to identify warning clauses that will be required to be secured from the applicant of the sensitive land use. This is possible at the Zoning Amendment Application phase of the development application and is a tool that has been implemented to address the concerns of Owens Corning via Minor Variance Applications in the vicinity of the proposed development.

Our review of the Detailed Revision List submitted with the 5<sup>th</sup> Submission of the Application has not identified the City requiring, provisionally or otherwise, any warning clauses related to dust, noise or odour. Warning clauses have been recommended by the City, as well as secured through the Committee of Adjustment ("COA") and Toronto Local Appeal Body ("TLAB") minor variance process for

zoning variance approvals for other developments in the area where residential dwelling units were not proposed. A few examples for places of worship include the following:

**905 Middlefield Road**

**Minor Variance A0098/20SC**

**TLAB Case File No. 21 143261 S45 23**

*Prior to the issuance of a building permit for 260 Ingleton Boulevard (the "Subject Lands") the owner shall enter into a site plan agreement with the City securing the following condition:*

*The Owner shall include the following warning clause in any future purchase and sale or lease agreement(s) in connection with the Subject Lands, which purchase and sale and lease agreement(s) shall require that any subsequent purchase and sale or lease agreement(s) include the following warning clause:*

*The Subject Lands are located within the potential influence area of a Class III Industrial Facility located at 3450 McNicoll Avenue in the City of Toronto (the "Subject Class III Industrial Facility") determined in accordance with the Ontario Ministry of Environment, Conservation and Parks D-6-3 Separation Distances guideline, updated to March 22, 2019, or any amended, successor or similar guideline, regulation or legislation. The Class III Industrial Facility generates noise and odour. There may be alterations or expansions of the Subject Class III Industrial Facility in the future.*

**260 Ingleton Boulevard**

**Minor Variance A0010/21SC**

**TLAB Case File No. 21 164059 S45 23 TLAB**

*Prior to the issuance of a building permit for 260 Ingleton Boulevard (the "Subject Lands") the owner shall enter into a site plan agreement with the City securing the following condition:*

*The Owner shall include the following warning clause in any future purchase and sale or lease agreement(s) in connection with the Subject Lands, which purchase and sale and lease agreement(s) shall require that any subsequent purchase and sale or lease agreement(s) include the following warning clause:*

*The Subject Lands are located within the potential influence area of a Class III Industrial Facility located at 3450 McNicoll Avenue in the City of Toronto (the "Subject Class III Industrial Facility") determined in accordance with the Ontario Ministry of Environment, Conservation and Parks D-6-3 Separation Distances guideline, updated to March 22, 2019, or any amended, successor or similar guideline, regulation or legislation. The Class III Industrial Facility generates noise and odour. There may be alterations or expansions of the Subject Class III Industrial Facility in the future.*

**REQUEST FOR DEFERRAL**

Further to the above-submissions, mitigation measures are required to ensure that the current and future industrial operations at the Owens Corning Toronto Plant are protected from any claims of adverse impacts and/affects from my client's operations, from or of any proponent, owner and/or occupant of 900 Middlefield Road now or in the future. The studies done to date are lacking and the provision of materials for Owens Corning's experts to review had been provide only on Friday, January 10, 2025. The City's third-party peer review agrees with the conclusions of the Applicant's Land Use Compatibility Assessment, warning clauses have not been proposed or provisionally required, and there may be adverse effects that have yet to be identified or realized. In my respectful submission, these are reasonable grounds for the Scarborough Community Council to defer the consideration of the Application.

We are requesting that Council defer consideration of the Application until such time as the GHD peer reviews have been reviewed by Owens Corning's expert(s); warning clauses are available for review and comment by Owens Corning, and the Applicant has submitted a Compatibility/Mitigation Study

that satisfies the City's requirements and identifies those mitigation measures that will be secured/implemented at the Applicant's costs, including warning clauses, secured at the Zoning By-law Amendment approval stage, to be registered on title and other related matters such as an environmental easement or an agreement under the *Industrial and Mining Lands Compensation Act*. In regard to the warning clauses, examples of appropriate clauses are set out in Appendix A.

Owens Corning is requesting a review period of three months to conduct the reviews of the recently provided materials, and to discuss the implementation of warning clauses as conditions of Zoning Amendment Approval with the Applicant and Community Planning. Should a deferral not be granted, Owens Corning will consider an appeal to the Ontario Land Tribunal to protect their interests in this matter.

Since the COA and TLAB had secured conditions for warning clauses to be included in the approval for development applications for other sensitive land uses nearby to the Owens Corning's Toronto Plant, it would be my recommendation that, at a minimum, warning clause conditions are imposed on any approval of the Zoning Amendment requested from City Council by the Applicant, as they have been done so through the above-referenced Minor Variance applications.

Please accept this submission and recognition of my client's interest in this Item, and I request to be notified of all communications, minutes and decisions regarding this application.

Thank you and should you have any questions with respect to the foregoing, please do not hesitate to contact me at the address, email or phone number as described below.

Regards,



Christian Chan MCIP, RPP  
Planner

The Planning Agency Inc.  
416-858-2254

[christian@theplanningagency.com](mailto:christian@theplanningagency.com)

CC Samuel Baron, Senior Planner, Community Planning, Development Review Division  
CC Councillor Jamaal Myers, Ward 23, Scarborough North

**Appendix A**  
**SAMPLE WARNING CLAUSES**

1. The purchaser/tenant hereby acknowledges being warned and/or notified of the following matters and/or that title to the condominium and/or the unit is, or will be, subject to the following restrictive covenants and/or restrictions:
  - (a) The purchaser/tenant is advised that his/her unit may be subject to noise, dust and odour from the Owens Corning Insulating Systems Canada LP Class III industrial facility located at 3450 McNicoll Avenue, Toronto ON (the "Industrial Facility"). The purchaser/tenant does hereby acknowledge that they he/she is aware of this matter at the time of purchasing/leasing the unit and confirms that he/she does not have, nor will they have any objection, whatsoever. The purchaser/tenant of the unit is advised that noise, dust and odour levels from the Industrial Facility may continue to be of concern, occasionally interfering with some activities of the unit occupants as the noise, dusty and odour exposure levels may exceed the criteria established by the relevant governing authorities.
2. The purchaser/tenant is advised that the development will be constructed on the 900 Middlefield Road lands and that due to the proximity of this development to the Industrial Facility sounds from these sources may at times be audible. The Industrial Facility is required to comply with sound level limits at the building facades that are protective of indoor areas and are based on the assumption that windows and exterior doors are closed and Environmental Compliance Approval #9909-ODGPA5. This unit has been supplied with a ventilation/air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the City and the Ministry of Environment, Conservation and Parks.
3. Purchasers/tenants and any other persons presently having or who may in the future acquire any interest in the property municipally known as 900 Middlefield Road, including a unit(s) or any part of the development, and their successors and assigns, are hereby notified as follows with respect to the Industrial Facility and its existing and future operations:
  - (a) Owens Corning Insulating Systems Canada LP ("Owens Corning") is the owner of certain industrial lands municipally known as 3450 McNicoll Avenue, Toronto ON (the "Industrial Lands"). The Industrial Lands incorporate a fibreglass insulation manufacturing industrial operation, which operates, on a continuous basis, for 24 hours a day, 7 days a week, 365 days a year. Activities include, without limitation, shipping and receiving from the facility by way of transport trucks and rail cars, fibreglass manufacturing operations which can generate dust and odour, on-site construction and maintenance, impulse noises, employee traffic, at all hours of the day. There may be alterations to or expansions of the industrial or other facilities on the Industrial Lands in the future;
  - (b) the present and future industrial use and operation of the Industrial Lands, may result in the discharge, emission, releasing or venting or other effect upon the Lands, including a unit(s) or any part of the development any time during the day or night of or by dust, smoke, fumes, odours and other gaseous and/or particulate matter, noise, vibration and other sounds, liquids, solids and other emissions of every nature and kind whatsoever (herein collectively called the "Operational Emissions"), any or all of which may be annoying, unpleasant, intrusive or otherwise adversely affect the use and enjoyment of the 900 Middlefield Road lands, including a unit or any part of the development notwithstanding the inclusion of features within the development, including individual units, which are intended to attenuate, lessen or otherwise minimize or

*eliminate the impact of the Operational Emissions, including noise, dust and odour, upon the use and enjoyment of the unit and the development, including any part thereof;*

- (c) Owens Corning shall not be responsible for any complaints or claims by or on behalf of any purchaser, lessee or unit occupant from time to time arising from or out of or in any way in connection with the Operational Emissions and any and all effects thereof upon the use and enjoyment of the development (including its units) located at the 900 Middlefield Road lands, including any part thereof, whether arising from the presently existing facilities and operations of Owens Corning upon the Industrial Lands or from any and all future renovations, additions, expansions and other changes to such facilities and/or future expansions, extensions, increases, enlargements and other changes to such operations which could include the acquisition of additional lands for the purpose of expanding the facilities and operations of Owens Corning on the Industrial Lands;
  - (d) Owens Corning shall not be required to change any of its facilities or operations upon the Industrial Lands as a result of or in response to any such complaints or claims; and
  - (e) warning clauses similar to the ones contained in paragraphs 1. – 7., inclusive, shall be inserted into any succeeding sales agreement, lease or sublease, and shall be binding not only on the parties hereto but also their respective successors, assigns and successors in title and shall not die with the closing of the transaction.
- 4. The purchaser/tenant is advised that, without in any way limiting the above-noted notices and warnings, notwithstanding the inclusion of certain mitigation features within this development (including the units) to lessen potential noise, air emissions, dust, odour, vibration, and visual impact from the Industrial Facility, from time to time, noise is likely to be audible, odours may be unpleasant, and dust and light emissions may be bothersome and such potential noise, air emissions, dust, odour, vibration, and visual impact may impact the enjoyment of indoor and outdoor areas of the development. Owens Corning will not be responsible for any complaints or claims arising from any of the activities at or relating to the Industrial Facility, includes its property or current and future operations thereon.
  - 5. As noted in paragraph 2. above, the purchaser/tenant is advised that in order to achieve an acceptable indoor living environment the unit has been equipped with a central air conditioning system, to allow the windows and doors to be kept closed, thereby ensuring that the indoor sounds levels meet the noise criteria of the Municipality and the Ministry of Environment, Conservation and Parks.
  - 6. The purchaser/tenant is advised that despite the inclusion of noise mitigation measures, including central air conditioning systems, within the development area and within the units, sound levels due to increasing the operations at the Industrial Facility, including road/rail traffic may, on occasions interfere with some activities of the dwelling occupants as the sound level may exceed the City's and the Ministry of Environment, Conservation and Parks.
  - 7. The purchaser/tenant hereby unconditionally acknowledges that he/she is aware of the above matters and warning clauses and the notices set out herein and confirms that he/she does not object, in any manner whatsoever, to any of these matters and warning clauses nor to any of the notices set out herein nor will he/she be entitled to raise any objections with respect to the above matters and warning clauses or notices set out herein at a future date.