

AIRD & BERLIS LLP

Barristers and Solicitors

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May 3, 2011

BY EMAIL

Denis Kelly
Regional Clerk
York Region
17250 Yonge Street
Newmarket ON L3Y 6Z1

Dear Mr. Kelly:

**Re: Richmond Hill Official Plan (2010) ("RHOP")
Planning and Economic Development Committee meeting of May 4, 2011**

We act on behalf of Loblaw Properties Limited. We are in receipt of a report to be considered by York Region Planning and Economic Development Committee on May 4, 2011. We were provided with notification of this report on Friday, April 29, 2011. It is clear from this report that the Region of York has not considered the record of submissions received by the Town of Richmond Hill as part of the consideration of the above-referenced Official Plan. In our view, the Region of York, as the approval authority of the RHOP, should consider all of the submissions made to the Town of Richmond Hill as part of the public record forwarded to it by the Town of Richmond Hill pursuant to section 17(42) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Furthermore, it is our opinion that the Ontario Municipal Board does not have the jurisdiction to return the approval authority to York Region as suggested in recommendation 1 of the Planning and Economic Development Committee Report.

In our respectful submission, the Committee should receive the staff report and direct staff to consider all of the written submissions made to the Town of Richmond Hill with respect to the RHOP to ensure proper consideration of those submissions prior to making any decision concerning modifications to that document.

A copy of our submissions on behalf of Loblaw Properties Limited are attached for ease of reference.

Yours truly,

AIRD & BERLIS LLP


Steven A. Zakem
SAZ/sw

VIA EMAIL AND REGULAR MAIL

June 9, 2010

Clerk's Department
Town of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, Ontario
L4B 3P4

Attention: Donna L. McLarty, Town Clerk

Dear Ms. McLarty:

**Re: Town of Richmond Hill Proposed New Official Plan
Preliminary Comments on Behalf of Loblaw Properties Limited
Richmond Hill, Ontario**
Our File: LPG/LPL/94-01

We are the planning consultants for Loblaw Properties Limited (Loblaw) for Town of Richmond Hill draft new Official Plan. Loblaw is the owner and/or lease holder of the following lands within the City of Guelph:

- The vacant lands at 10537 Yonge Street;
- The existing No Frills store at 9325 Yonge Street;
- The existing No Frills store at 10488 Yonge Street;
- The existing No Frills store at 13071 Yonge Street;
- The existing Loblaws store at 310 High Tech Road; and
- The existing Loblaws store at 10909 Yonge Street.

On Thursday April 29, 2010 Loblaw was made aware of the draft new Official Plan. On behalf of Loblaw, we have preliminary comments as outlined below, and will continue to review the draft new Official Plan policies in more detail, and may provide further comments as required.

At this time, our preliminary comments are as follows:

- Regional Mixed Use Corridor:
 - Section 4.6.1.6: For the three (3) storeys of usable space for development, it is not clear whether the requirement would apply to expansions of existing buildings that are less than three storeys in height,
- Key Development Area:
 - Section 4.4.1.4: We have concerns as to the intention of the Policy and seek clarification as to how it would affect the ability to undertake additions and expansions to current Retail Uses;
 - Section 4.4.1.5: We have concerns as to how the requirement for providing retail at grade in a mixed use building will affect the ability to undertake additions and expansions to current Retail Uses (i.e. supermarkets); and

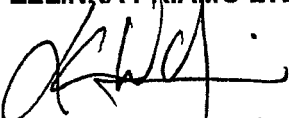
- Section 4.4.1(8): For the three (3) storeys of usable space for development, it is not clear whether the requirement would apply to expansions to existing buildings that are less than three storeys.
- Employment Area/Employment Corridor (Sections 4.8.1 and 4.8.2):
 - We request clarification as to how the Employment Area and Employment Corridor designations will affect current land use permissions at 10537 Yonge Street, which permit a Large Format Supermarket.
 - Section 4.8.2.2: We have concerns as to how the design policies, which have been written for prestige office uses will be applied to the permitted commercial retail uses for 10537 Yonge Street.
 - Section 4.8.2.8: We have concern that the minimum height requirement of three (3) storeys is not consistent with the permitted uses at 10537 Yonge Street, which permit a Large Format Supermarket, Banks and Restaurants.

We would welcome the opportunity to meet with Staff to discuss our preliminary comments and a process for implementing appropriate policies while working towards the goals of the draft new Official Plan over the long term.

Should you have any questions, or require further information, please do not hesitate to call. In addition, please kindly add the undersigned for notification of any further meetings with respect to this matter as well as notice of the adoption of the draft new Official Plan.

Yours very truly,

ZELINKA PRIAMO LTD.



Lorne Wolinsky, M.P.L.
Planner

cc. Loblaw's Properties Limited (Via Email)
Mr. Steven Zakem, Aird & Berlis (Via Email)
Mr. Paul Freeman, Manager, Policy Planning, Town of Richmond Hill (Via Email)



ZELINKA PRIAMO LTD
A Professional Planning Practice

VIA EMAIL AND REGULAR MAIL

July 5, 2010

Clerk's Department
Town of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, Ontario
L4B 3P4

Attention: Donna L. McLarty, Town Clerk

Dear Ms. McLarty:

**Re: Town of Richmond Hill Proposed New Official Plan
Preliminary Comments on Behalf of Loblaw Properties Limited
Richmond Hill, Ontario**

Our File: LPG/LPL/94-01

As you are aware, we are the planning consultants for Loblaw Properties Limited (Loblaw) with respect to the Town of Richmond Hill draft new Official Plan. Loblaw is the owner and/or lease holder of the following lands within the Town of Richmond Hill:

- The vacant lands at 10537 Yonge Street;
- The existing No Frills store at 9325 Yonge Street;
- The existing No Frills store at 10488 Yonge Street;
- The existing No Frills store at 13071 Yonge Street;
- The existing Loblaws store at 310 High Tech Road; and
- The existing Loblaws store at 10909 Yonge Street.

Zelinka Priamo met with Town Staff on June 29, 2010 regarding concerns that were outlined in our June 9, 2010 letter (see attached). We have since reviewed the July 5, 2010 Staff Report (SRPRS.10.081) and the "Proposed Changes to Draft OP" (May 6, 2010) and note our continued concerns with regard to the draft Town of Richmond Hill Official Plan Policies as follows:

Policy No. 3.4.1.39b

In response to our concerns regarding Policies 4.6.16, 4.4.1 and 4.8.2.8, which require three (3) storeys of usable space for development in Regional Mixed Used Corridors, Key Development Areas and Employment Areas, Staff have proposed additions to Policy 3.4.1.39, which would permit expansions not greater than 10% of the gross floor area of an existing building or structure. We have considered Policy 3.4.1.39b and note that the inclusion of the Policy does not sufficiently resolve our client's concern regarding their ability to undertake additions and expansions to current retail uses, and question the basis for the 10% threshold. Additional flexibility should be incorporated within the policies to recognize instances where expansion beyond 10% of the exiting gross floor

area may be warranted where the relative merits of any proposed expansion would still be in keeping with sound land use planning principles.

Retail Warehouse Permissions – 10357 Yonge Street

The lands at 10357 Yonge Street were re-designated (OPA 233) and re-zoned (By-law No. 215-05) in 2005 to permit a Retail Warehouse use, including a large format supermarket. As part of the approvals process, the applicant was required to submit a Traffic Impact Study, Environmental Site Assessment, Planning Analysis, and Floodplain Management Study. Staff and Council concluded in 2005 that "large format retail development is considered appropriate as a transition between the industrial uses in Enford and commercial uses on Yonge Street." (OPA 233)

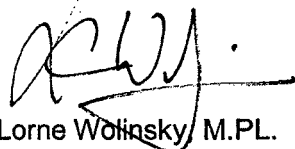
We have concerns regarding the draft Official Plan, as it does not acknowledge OPA 233 and, as a result, removes the existing Retail Warehouse Retail permissions, which is contrary to Loblaw's continued desire to locate a future large format supermarket development on the subject lands. Furthermore, we emphasize that a large format supermarket development at 10357 Yonge Street does not represent a conversion from employment lands to major retail, as major retail is currently permitted.

Our client entered into a long-term commitment with the current landowner to construct a food store on these lands, based on the approval process noted above. As such, it is unfair and unwarranted for the Town to remove permissions that were granted through a public process that was undertaken within the past 5 years, and without prior consultation with our client.

We thank you for the opportunity to provide the above comments on behalf of Loblaw Properties Limited. Should you have any questions, or require further information, please do not hesitate to contact the undersigned.

Yours very truly,

ZELINKA PRIAMO LTD.



Lorne Wolinsky M.P.L.
Planner

cc. Loblaws Properties Limited (Via Email)
Mr. Steven Zakem, Aird & Berlis (Via Email)
Mr. Paul Freeman, Manager, Policy Planning, Town of Richmond Hill (Via Email)