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May 14, 2010

Reply To: Joel D. Farber
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Our File No. 09/1603

VIA EMAIL

Peter Fay, City Clerk
City of Brampton
City Hall, 1st Floor
2 Wellington Street West
Brampton Ontario L6Y 4R2

Dear Sir:

Re: OFFICIAL PLAN REVIEW – GROWTH PLAN CONFORMITY AMENDMENT
G65 GP

This letter follows our previous submission made by letter dated November 4, 2009 and our ongoing dispute concerning the City's action in frustrating the redevelopment proposal made by our client in 2008 to demolish the vacant Bay space and build new retail and commercial space. This dispute, over a simple renovation to the shopping centre involving only about 15% of the existing gfa, has gone to extremes that can hardly be imagined on any rationale view of the facts.

The City's insufferable refusal to approve a modest redevelopment proposal to renovate a 40 year building is standing in the way of economic development, job growth and the improvement of one of Brampton's foremost commercial sites. Unfortunately, given the City's position, it would appear that there is no end in sight to the OMB and Court proceedings to resolve the matter. Of course, we are firmly of the view that our client will ultimately be successful in such proceedings and that the City will have achieved absolutely nothing.

Regrettably, no appropriate modifications have been made to the proposed amendment to deal with our client's concerns. We continue to assert that the proposed amendment constitutes poor planning in so far as it attempts to restrict the range of development opportunities available in areas planned for intensification outside of the Urban Growth Centre, including our client's site.

Existing development permissions should be protected in the proposed amendment to allow for flexibility in responding to both short and long term development opportunities. For a site such as Shoppers World, good planning dictates that planning policies remain flexible to accommodate the existing use, including expansions of the existing use while at the same time allowing for more intensification when possible. The site continues to be designated as Regional Retail in the Official Plan, yet the Mobility Hub policies conflict with the implementation of the land use designation.

Based on the foregoing principles, we have a number of concerns with specific policies including, but not limited to the following:

- (i) proposed policy 3.2.4.1.2 should not contain minimum height restrictions or directory policies (such as replacement of the word "encourage" with "shall be designed to") – single storey buildings continue to be an appropriate building form at Shoppers World and will remain so for the life of the plan, even in conjunction with potential future development of mid and high rise buildings;
- (ii) proposed policy 3.2.4.1.5 suggests that development applications will be judged based on master plans – such a policy is not acceptable given that it purports to incorporate by reference land use policy documents not subject to the notice and appeal safeguards afforded *Planning Act* instruments – our client can not accept such a policy;
- (iii) furthermore, until the secondary plan amendments are approved for the mobility hubs, there should be no minimum height or density requirements specified in the plan as such detailed planning has not been comprehensively reviewed and justified on a nodal or corridor basis;
- (iii) proposed policy 3.2.5 no longer provides for recognition of gradual intensification – not only should such language continue to be present in the plan, but the same language should also be present in the policies applicable to the Main/Steeles mobility hub given its existing development pattern;
- (iv) the Commercial policy 4.2 "Objectives" subparagraph (a) should recognize the Regional Retail centres as part of the essential components of the commercial fabric of the City;
- (v) proposed amendments to policy 4.2.9.4 should continue to recognize "office" as well as inclusion of "Major Office".

Furthermore, our client is opposed to the re-designation of any lands in the City of Brampton for retail or commercial purposes, given that such retail opportunities could and should be accommodated on currently designated sites including Shoppers World, but for Council's refusal to permit our client to develop its lands in accordance with its existing land use designation.

In addition to the foregoing comments on the proposed amendment, we have a general comment relating to the justification for implementation of minimum heights and densities on lands planned for intensification outside of the Urban Growth Centre. In our view, such policies are fundamentally flawed in that the population and employment densities proposed to be achieved outside of the Urban Growth Centre are clearly well beyond the planned Growth Plan population and employment forecasts. Many sites will simply be unable to achieve the minimum heights and densities proposed to be imposed, simply because of insufficient opportunity for population and employment growth within the life of the Plan. Accordingly, the imposition of minimum heights and densities in the absence of an appropriate growth management justification is totally and fundamentally flawed and is contrary to the requirements of the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe and *Places To Grow*.

It is extremely unfortunate that our client's concerns and modest development proposals can not be accommodated.

Yours truly,

FOGLER, RUBINOFF LLP

"Joel D. Farber"

Joel D. Farber

JDF/ay

cc. client

Harry Froussios, Zelinka Priamo

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