

Labreche Patterson & Associates Inc.

Professional Planners, Development Consultants, Project Managers

Our File: P-375-09 (G)

E-mail & Hand Delivered

June 21, 2010

Mr. Jim Baird, MCIP, RPP
Commissioner, Development Services
Town of Markham
Development Services
101 Town Centre Boulevard
Markham, Ontario
M3R 9W3

Dear Mr. Baird:

**Re: Drive-Through Facility Design Guidelines – Item #13, Development Services
Committee – June 22, 2010 (File No. SD 03 016698)**

We are providing this written response to the above subject matter and the related planning staff recommendation report to the Development Services Committee (DSC) on June 22, 2010. As you are aware, we represent the ORHMA and its member restaurant brands relative to the proposed draft guidelines noted above. These members specifically include McDonald's Restaurants of Canada, the TDL Group Corp. (operators and licensors of Tim Hortons Restaurants), A&W Food Services of Canada Inc., and Wendy's Restaurants of Canada, Inc. We have previously provided written comments on the draft guidelines on two previous occasions in letters dated November 30, 2009 and April 19, 2010 as well as had previously met with town planning staff and its consultants in this regards, M. Behar Planning & Design Inc. on March 25, 2010 regarding the latest draft of the urban design guidelines for drive through facilities.

Despite our last letter dated April 19, 2010, requesting various revisions to the final form of the design guidelines, which we believe were very reasonable and justified requests, only very minor revisions were made to the guidelines that will now be recommended to DSC on June 22, 2010. We are disappointed that our requested revisions were not provided for in the latest design guidelines, again as we provided reasonable, balanced and justified rationale for our last revisions more in keeping but still well beyond what the town requires for any commercial/plaza parking lot area. Our reference to commercial/plaza parking lots relates to our past submissions to planning staff and DSC, that the permissions for drive-through facilities should be no different than permissions for any parking lot area. Further, drive-through facilities most often locate


within or directly abutting other parking lot areas and therefore should be regulated the same as those otherwise permitted parking lot areas.

Based on the above, we need to request again that the following be discussed and considered by planning staff and DSC at its meeting on June 22, 2010.

- The final bullet point on page 7 of the guideline which states: *"The increase in non-permeable surfaces due to the large asphalted areas to accommodate both parking and stacking"* is factually incorrect and therefore should be removed. Accepted evidence at an OMB hearing related to the City of Ottawa Zoning By-law acknowledged that drive-through facilities provides for a more efficient and compact form of development resulting in less parking and related areas being required than those restaurant facilities that provide for an in-store service option only with no drive-through. Further the City of Ottawa provides for a 20% reduction in surface parking requirements when a drive-through facility is provided together with a sit down service restaurant and the City of Winnipeg provides up to a 50% reduction.
- We had requested that Guideline #5 acknowledge the option for a developer to submit a noise study to establish what the appropriate setback and noise attenuation measures should be for a drive through in proximity to residential lands. The town has the right to request a noise attention study within its powers under Section 41 of the Planning Act. This is in keeping with requirements in many other municipalities including the City of Kitchener. In addition, the City of Ottawa requires a 3m setback which is similar to the required for commercial parking lot setbacks in Ottawa adjacent residential uses. Town planning staff have provided no specific rationale or justification as to why a 30 metre setback is proposed in the guideline when, as we understand, commercial parking lots setback adjacent residential lands is anywhere between a 1.5 and 6m setback. Based on recent factual information, noise studies and related OMB case law decisions that have been previously provide to the town, a 30 metre setback is definitely excessive. As such, the approach contained within the City of Kitchener drive-through facilities guidelines (adopted by council on June 14, 2010) to require a noise study to determine required setback and attenuation measures if the facility is within 60m of a residential zoned parcel is more appropriate and fair and we request this be similarly applied within the Markham guidelines.
- We had previously requested that a statement be placed within the guideline to acknowledge the difference in the applicability of the guidelines between the drive-through facilities located in commercial areas which may abut a residential zone as opposed to a facility located within or abutting an employment/industrial zoned area. We note that this type of statement or acknowledgement is typical within most guidelines and question why it has not contained within the Markham guidelines.

Lastly, while we understand that proposed Official Plan policies and/or Zoning By-law regulations are not proposed at this time, we ask that the town keep us informed in this regard as we continue to be concerned about any further restriction/prohibitions being placed on these facilities in areas that would otherwise continue to permit parking lot areas. We would respectfully request that the final form of the design guidelines be revised to accommodate the above noted points based on the facts and rationale provided.

Yours truly,
Labreche Patterson & Associates Inc.



Victor Labreche, MCIP, RPP
Senior Principal

VL/sl

*Copies via Email: Kimberley Kitteringham, Town Clerk
Town of Markham*

*Biju Karumanchery, Senior Development Manager
Town of Markham*

*Sally Campbell, Senior Planner
Town of Markham*

*Moiz Behar
M. Behar Planning & Design Inc.*

*Peter Adams
ORHMA*

*Susan Towle
Wendy's Restaurants of Canada, Inc.*

*Maurice Luchich
TDL Group Corp.*

*Leslie Smejkal
TDL Group Corp.*

*Darren Sim
A&W Food Services of Canada Inc.*

*Scott Dutchak
McDonald's Restaurants of Canada Limited*

*Paul Hewer
McDonald's Restaurants of Canada Limited*

*Sherry MacLaughlin
McDonald's Restaurants of Canada Limited*