

TOWNSEND AND ASSOCIATES

BARRISTERS AND SOLICITORS

PLEASE REFER TO:
Denise Baker (Ext. 224)
Email: denise.baker@ltownsend.ca
Assistant: Marie Wakefield
E-mail: marie.wakefield@ltownsend.ca

VIA E-MAIL Vanessa.Robicheau@hamilton.ca

September 30, 2013

Clerk's Office
City of Hamilton
71 Main Street West, 1st Floor
Hamilton, ON
L8P 4Y5

Dear Ms. Robicheau:

Re: Proposed Strathcona Secondary Plan, City of Hamilton

We represent A&W Food Services of Canada Inc., McDonald's Restaurants of Canada Ltd., the TDL Group Corp., Wendy's Restaurants of Canada Inc. as well as their industry association, the Ontario Restaurant Hotel and Motel Association (ORHMA), (collectively, the "clients").

We are writing to request that Planning Committee defer the consideration of the proposed Strathcona Secondary Plan at their meeting scheduled for Tuesday October 1, 2013.

We have previously written to staff (letter enclosed for your convenience) to express our concerns with respect to the proposed Strathcona Secondary Plan, and in particular with the manner in which the City proposes to treat drive-through facilities (DTFs) within the Secondary Plan Area.

As you are aware, my clients appealed the Urban Hamilton Official Plan (UHOP) on the grounds that in specific areas of Hamilton, DTFs were proposed to be prohibited. Through lengthy and detailed discussions with staff in the legal and planning departments as well as with the City's external planning consultant, an agreement was reached to settle our appeal on the basis of the insertion of language requiring an Official Plan and/or a Zoning By-law amendment on lands designated Pedestrian Predominant Streets within Mixed Use - High Density and Medium Density designations. There was no additional requirement for an Official Plan and/or a Zoning By-law amendment for any other area other than lands designated Pedestrian Predominant Streets within Mixed Use - High Density and Medium Density designations.

Additionally the UHOP settlement recognized, through a site specific policy, those existing DTFs on lands that, as a result of the settlement, would be subject to the requirement for an Official Plan and/or a Zoning By-law amendment.

To that end, we expected that the proposed Strathcona Secondary Plan, the settlement would be implemented in the same fashion as was negotiated through the UHOP process such that in

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the event any of my clients wanted to develop a DTF on lands designated Pedestrian Predominant Streets within the Mixed Use - Medium Density designation, they would be subject to the requirement for an Official Plan and/or a Zoning By-law amendment. Further, my clients expected that the Secondary Plan would recognize the existing DTF on the Pedestrian Predominant Street consistent with the terms of the UHOP settlement.

However, we were quite surprised to learn that planning staff was proposing to extend the requirement for an Official Plan and/or a Zoning By-law amendment beyond just Pedestrian Predominant Streets, to include lands that were designated Neighbourhood Node. Further, the proposed Secondary Plan does not provide a site specific recognition for any of the existing DTFs that would be subject to this requirement.

In our opinion, the requirement for an Official Plan and/or Zoning Bylaw amendment to permit a DTF within the identified Neighbourhood Node, and the failure to include any site specific recognition for the existing DTFs within this area, is beyond the terms of the recent settlement as between the City and my clients.

We respectfully request that this matter be deferred and that staff be directed to meet with my clients and their consultants for the purpose of considering the appropriate policies for inclusion in the Secondary Plan consistent with the recent UHOP settlement.

In the event that Planning Committee is not prepared to defer their consideration of the proposed Secondary Plan, we request that staff be directed to delete the requirement for an Official Plan and/or Zoning Bylaw amendment for the lands designated Neighbourhood Node and a policy be inserted to the Secondary Plan area to recognize the existing DTF currently located on the Pedestrian Predominant Street, being 443 Main Street West.

In the event that Planning Committee is inclined to approve staff's recommendation, we request that staff be directed to incorporate a site specific policy into the Secondary Plan area, similar to the policy that was inserted in the UHOP, recognizing the existing DTFs on lands designated Neighbourhood Node and Pedestrian Predominant Street, being 620 King Street West, 443 Main Street West and 50 Dundurn Street South.

The clients' planning consultant, Mr. Victor Labreche will be in attendance before Committee tomorrow to speak to this matter.

Yours truly,
TOWNSEND AND ASSOCIATES



Denise Baker

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PLEASE REFER TO:
Denise Baker (Ext. 224)
Email: denise.baker@ltownsend.ca
Assistant: Marie Wakefield
E-mail: marie.wakefield@ltownsend.ca

VIA E-MAIL (Jocelyn.strutt@hamilton.ca)

September 9, 2013

Jocelyn Strutt, MCIP, RPP
Planning and Economic Development Department
City of Hamilton, 6th Floor
71 Main Street West
Hamilton, ON
L8P 4Y5

Dear Ms. Strutt:

Re: Proposed Strathcona Secondary Plan, City of Hamilton

We represent A&W Food Services of Canada Inc., McDonald's Restaurants of Canada Ltd., the TDL Group Corp., Wendy's Restaurants of Canada Inc. as well as their industry association, the Ontario Restaurant Hotel and Motel Association (ORHMA), (collectively, the "clients").

We are providing this written submission to you on behalf of our clients in response to the email you sent to Labreche Patterson (the clients' planning consultants) on August 7, 2013 which included proposed *without prejudice* amendments to the current draft Strathcona Secondary Plan. You had noted that these revised policies were in response to Mr. Victor Labreche's letter to you dated April 2, 2013 and in your opinion the revised policies reflected the recent decision of the Ontario Municipal Board (the "Board") with respect to the settlement reached between the City of Hamilton and our clients in their appeal to the "Urban Hamilton Official Plan" (UHOP).

We have reviewed the revised policies of the Strathcona Secondary Plan that you have sent us on August 7, 2013 together with the related "Land use Plan" – Schedule P-1 and have the following comments.

The requirement for an Official Plan and/or Zoning Bylaw amendment to permit a drive thru within the identified "Neighbourhood Node" is beyond the terms of the recent settlement as between the City and our clients. As you are aware, that settlement contemplated the requirement for an Official Plan and/or Zoning Bylaw Amendment on identified "Pedestrian Predominant Streets" (PPS) only.

In the absence of any rationale as to why an Official Plan and/or Zoning Bylaw amendment would be required for this Neighbourhood Node, we object to such requirement being inserted into the UHOP. Clearly the Neighbourhood Node designation is separate and apart from the PPS designation and it has not been made clear to us why this Neighbourhood Node should be treated in the same manner as the PPS.

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Further, we note that the northeast corner of the Neighbourhood Node is partially within an identified PPS being King Street West. There is an existing Tim Horton's drive-through facility ("DTF") located at 620 King Street East fronting onto this identified PPS. As such and in keeping with the recent settlement which recognized exiting DTFs fronting on a PPS, we request a site specific policy permitting this DTF be inserted into the UHOP for this property. This would be similar to "Area Specific Policy – Area F" found on page 31 of the UHOP which applies to an existing gas bar located at 648 King Street West.

As well, there is an existing Tim Horton's DTF located at 443 Main Street West which is within "Area Specific Policy – Area B" found on page 28 & 29 of the draft plan. Area Specific Policy – Area B restricts the permitted uses to a short list of identified uses found on page 28. A Restaurant or a DTF is not identified as one of the permitted uses within Area B. As such, we request that a site specific policy be included in the UHOP to permit this existing drive thru facility, similar to "Area Specific Policy – Area F" found on page 31 of the UHOP mentioned above. IT should be noted that both the Gas Bar in "Area F" and the existing DTF located in "Area B" are located within a "Mixed Use - Medium Density" designation.

We would appreciate your consideration of the above noted comments which are provided to ensure that the proposed amendment to the UHOP to incorporate the policies of the Strathcona Secondary Plan are in keeping with the recent settlement between the City and our clients with respect to the UHOP policies pertaining to DTF's.

The undersigned and our planning consultants are available at your earliest convenience to discuss our comments noted herein.

Yours truly,
TOWNSEND AND ASSOCIATES



Denise Baker

Copy: *Mike Minkowski, City of Hamilton*
(via e-mail: mike.minkowski@hamilton.ca)

Anita Fabic, City of Hamilton
(via e-mail: anita.fabic@hamilton.ca)

Joanne Hickey-Evans, City of Hamilton
(via e-mail: joanne.hickey-evans@hamilton.ca)

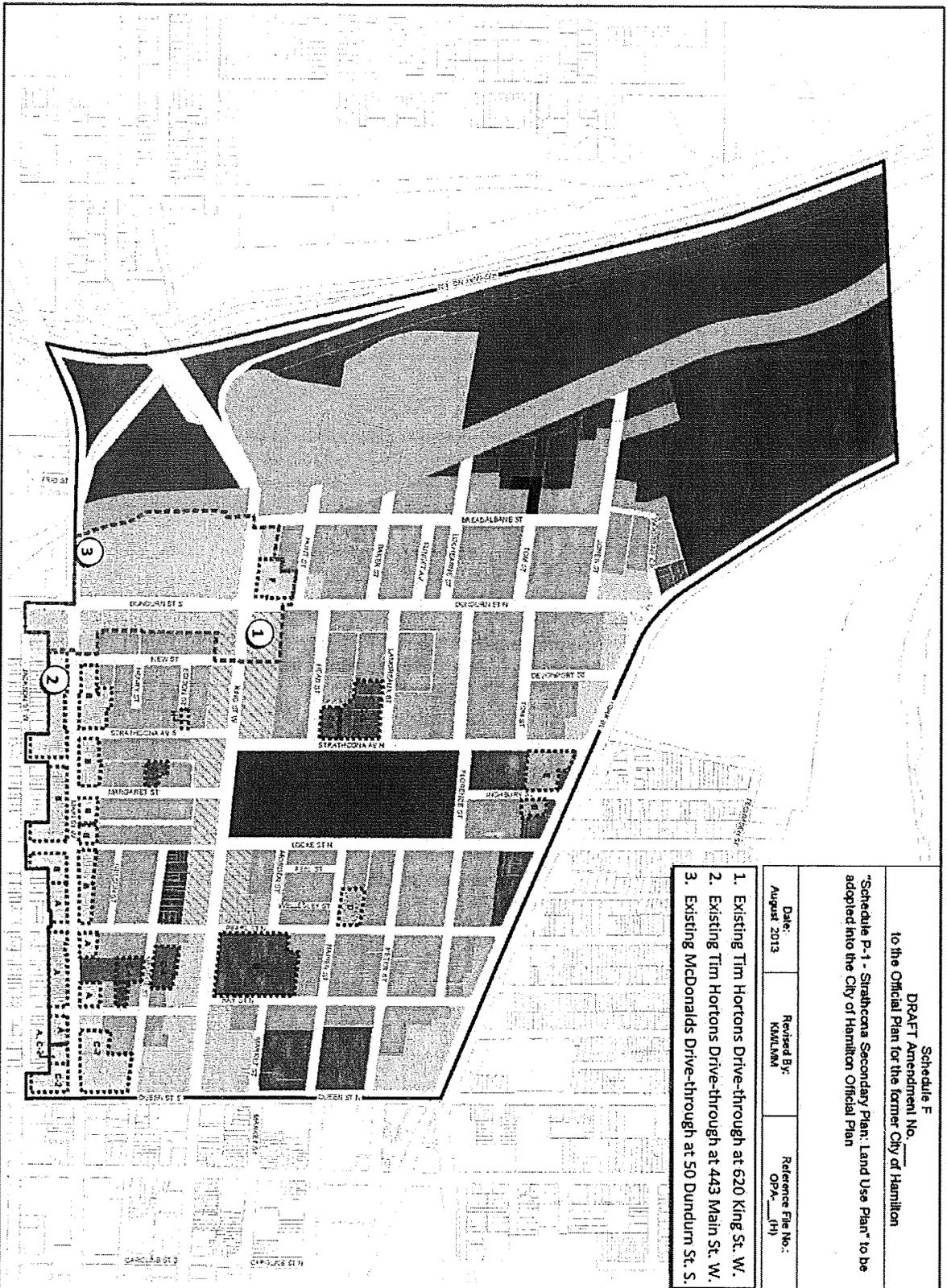
Vanessa Robicheau, City Clerk Dept., City of Hamilton
(via e-mail: venessa.robicheau@hamilton.ca)

Clients (via e-mail)

Schedule F
DRAFT Amendment No. _____
to the Official Plan for the former City of Hamilton
"Schedule P-1 - Strathcona Secondary Plan, Land Use Plan" to be
adopted into the City of Hamilton Official Plan

Date: August 2013
 Revised By: KAMILA
 Reference File No.: OPA-_____(14)

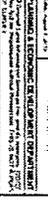
1. Existing Tim Hortons Drive-through at 620 King St. W.
2. Existing Tim Hortons Drive-through at 443 Main St. W.
3. Existing McDonalds Drive-through at 50 Dundurn St. S.



Legend

- Residential Designations**
 - Low Density Residential 3
 - Medium Density Residential 2
 - High Density Residential
- Commercial and Mixed Use Designations**
 - Land Use - Urban Density
- Parks and Open Space Designations**
 - Park
 - Neighbourhood Park
 - Community Park
 - Open Green Space
 - Natural Open Space
- Other Designations**
 - Industrial
 - Utility
- Other Features**
 - Particular Proponent
 - Area of Site Specific Policy
 - Neighbourhood Plan
- Secondary Plan Boundary**

Strathcona Secondary Plan
 Land Use Plan
 Schedule P-1



PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
 100 King Street West, 10th Floor, Hamilton, Ontario L8N 3Z5
 Tel: 905.546.1000 ext. 3300 Fax: 905.546.1000
 www.hamilton.ca