

October 7, 2022

Municipal Services Office – Central Ontario
777 Bay Street, 16th Floor
Toronto, ON M7A 2J3

Attention: Jennifer Le

Dear sirs/mesdames:

**Re: New Region of Peel Official Plan
ERO No. 019-5535
Submission on behalf of Tavora Holding Co. Ltd.**

We are counsel to Tavora Holding Co. Ltd., the owner of the lands known municipally as 1030 Dundas Street East (the “**Property**”) in the City of Mississauga (the “**City**”). Our client operates a grocery store on the Property known as Tavora Foods.

We write on behalf of our client to provide comments on the Region of Peel’s new Official Plan, adopted on April 28, 2022 (the “**New ROP**”), which is before the Ministry of Municipal Affairs and Housing for review. In particular, we write to make two requests of the Ministry in respect of the New ROP:

1. We ask that Ministry not make any modifications to Schedule E-4 of the New ROP, which appropriately removes lands along Dundas Street East generally between Cawthra Road and Dixie Road (the “**Dundas Corridor**”) from the designated Employment Area in a manner that is consistent with provincial policy, supports provincial investment in higher-order transit along the Dundas Corridor, and reflects careful study undertaken by Regional staff through the municipal comprehensive review process.
2. We ask the Ministry to modify certain non-policy text in Section 5.8 of the New ROP relating to employment uses outside of Employment Areas, to ensure that lower-tier municipalities do not misapply the New ROP in a manner that undermines provincial interests and the intent of the New ROP.

Each of these requests is outlined further below.

Background

As the Ministry is likely aware, the Dundas Corridor is planned to accommodate new higher-order transit, facilitated through significant public investments from all levels of government, including a series of new bus rapid transit stations along the Dundas Corridor, effectively at the doorstep of

our client's lands. This transformational investment in turn creates transformational opportunities for both the Dundas Corridor itself and the many small businesses that operate along it, such as our client – opportunities to facilitate new housing to address an urgent housing crisis in the Region and support a vibrant, mixed-use community focused around higher-order transit.

Provincial policy direction is clear that there is an imperative to optimize public investments in higher-order transit infrastructure, particularly through mixed use development, in order to support complete communities. Consistent with this overarching direction, lands along the Dundas Corridor are not located within a provincially significant employment zone (“PSEZ”). Some lands along the Corridor were deliberately removed from an initially proposed PSEZ, in recognition of their importance in providing the housing and other non-employment uses that are essential to supporting planned transit infrastructure on Dundas Street East.

The New ROP

The Dundas Corridor Must Remain Outside of the Designated Regional Employment Area

The New ROP appropriately recognizes the role of the Dundas Corridor in supporting the public investment in new higher-order transit along the Dundas Corridor. Following years of extensive study and public input in the context of the Region's municipal comprehensive review, Regional staff recommended and Regional Council adopted the New ROP, which removes the Dundas Corridor from the Regional Employment Area as reflected in Schedule E-4 of the New ROP. This aspect of the New ROP is critical, and is one that we urge the Ministry not to modify through its review of the New ROP.

The removal of the Dundas Corridor lands from the Regional Employment Area is based upon the findings of the Region of Peel's 2051 Land Needs Assessment, undertaken as part of the Region's municipal comprehensive review. The Land Needs Assessment recommended removing the Dundas Corridor lands from the Regional Employment Area. This conclusion reflects the determination that the lands are not required to meet the Region's employment targets and, further, that the lands are important in meeting other Regional objectives, such as supporting the higher-order transit planned for the Corridor, facilitating a transit-supportive mixed-use community, and providing a broader mix and range of housing options in the Region.

The Region's approach to the Dundas Corridor lands, as reflected in Schedule E-4 of the New ROP, is consistent with the provincial policy and appropriately reflects the critical role of the Dundas Corridor in helping to achieve provincial objectives, including supporting new housing around transit. It also ensures that existing employment uses located further south of Dundas Street East, without direct access to transit, can continue to flourish. For example, Schedule E-4 maintains an Employment Areas designation for certain lands located to the south, including lands owned or operated by Mother Parker's Tea & Coffee Inc. (“**Mother Parker's**”)

The very last day before the New ROP was adopted, Mother Parker's made a last minute attempt to upend the careful work of Regional staff as it relates to the Dundas Corridor. Specifically, Mother Parker's asked Regional Council to apply an Employment Areas designation to lands along the Dundas Corridor. It continued to agitate for this result, even after Council adopted the New ROP, by asking Regional Council to request the Ministry to make the corresponding modification to Schedule E-4 of the New ROP. Our client made written submissions to Regional Council regarding Mother Parker's request, via letter dated June 29, 2022. A copy of that correspondence is attached as Schedule A to this letter.

Regional Council rightly rejected Mother Parker's entreaties. In the event that Mother Parker's (or other industrial operators in the area) approach the Ministry seeking such a modification, we ask the Ministry to do the same.

There is no basis for a modification to the New ROP that would expand the Employment Areas designation in the area of the Dundas Corridor. As both Regional and City staff confirmed in reports to Regional Council in response to Mother Parker's delegations, existing policies already provide protection to employment uses such as Mother Parker's. Mother Parker's suggested approach would effectively sterilize a large swath of lands from residential development, squandering the opportunity to deliver tens of thousands of housing units adjacent to a planned higher-order transit corridor. It would also jeopardize the interests of many small businesses and landowners like our client that together account for a significant area of lands within the Region. Together, those businesses and landowners are important drivers of the Dundas Corridor today and the vibrant mixed-use area it is intended become.

The approach to the Dundas Corridor reflected in the New ROP, in removing lands directly adjacent to Dundas Street East from the Regional Employment Area, will help ensure the Dundas Corridor achieves provincial objectives, without jeopardizing the ability of existing employment uses to continue and thrive. We therefore urge the Ministry to uphold this aspect of the New ROP and not modify Schedule E-4 in a manner that changes the designation of the Dundas Corridor.

Section 5.8 of the New ROP Requires Modification

The City recently adopted a series of official plan amendments at the lower-tier level relating to major transit station areas (the "**City OPAs**"). These official plan amendments purport to have been based on direction in the New ROP, even though the New ROP is not yet approved.

The City OPAs are problematic in a number of respects. For the purpose of this submission, we want to highlight one particular issue that directly relates to the New ROP. Specifically, the City OPAs continue to designate large portions of the Dundas Corridor as Employment Areas in the City's Official Plan, thereby prohibiting residential uses, despite the removal of those lands from the Regional Employment Area in Schedule E-4 of the New ROP.

This approach directly conflicts with applicable policy. First, the Growth Plan for the Greater Golden Horseshoe assigns the responsibility for designating employment lands within the Region to the upper-tier municipality, not the lower-tier municipality. Second, the New ROP explicitly directs local municipalities to designate Employment Areas in accordance with Schedule E-4. This approach reflects the direction in the Growth Plan, as it is the upper-tier municipality that designates employment areas, not lower-tier municipalities. Accordingly, the City's designated Employment Areas must correspond with the mapping in Schedule E-4 of the New ROP. By failing to correspond with Schedule E-4, and instead continuing to designate portions of the Dundas Corridor as Employment Areas that are not designated Employment Areas at the Regional level, the City OPAs fail to conform with the Growth Plan and directly conflict with the New ROP.

This fundamental issue of non-conformity was raised with Regional and City staff prior to the adoption of the City OPAs. In response to the concerns raised, staff pointed to introductory, non-policy text in Section 5.8 of the New ROP to justify the City OPAs' continued designation of certain lands as Employment Areas, in conflict with Schedule E-4 of the New ROP. Specifically, staff referred to the underlined language below:

Local official plans may also support employment uses outside of *Employment Area* designations, provided they are compatible with the surrounding community and the population and employment forecasts set out in Table 3 are met. *Strategic Growth Areas* are one appropriate location beyond *Employment Area* designations in the regional and local official plans to support a mix of uses and major office development. On the periphery of *Employment Areas*, retail and commercial uses serve the workers in the *Employment Areas*, provide a buffer to sensitive land uses, and benefit from visibility and access to transit.

Staff's interpretation of the language noted above as justifying the designation of additional Employment Areas at the local level, beyond those designated at the Regional level, is flawed in many respects. First, as noted, the language quoted above is not found anywhere in the operative policies of the New ROP; rather, it is in non-policy explanatory text. Such explanatory text cannot override the operative policies of the New ROP, which require the City to designate Employment Areas in a manner that correspond with Regionally-designated Employment Areas. Second, the language does not say what City staff seem to think it does: supporting uses outside of Employment Area designations, by definition, cannot mean designating additional Employment Areas, since once those areas are designated, they would no longer be outside of an Employment Area designation.

While staff's interpretation of Section 5.8 is plainly incorrect, the City is proceeding on the basis that many of the City OPAs are not subject to appeal or scrutiny before the Ontario Land Tribunal. In these circumstances, Ministry intervention is required to ensure that the Section 5.8 of the New ROP is not misapplied in a manner that frustrates the intention of the New ROP and provincial policy. Unless a modification is made, the City could continue to effectively turn the planning framework upside down, by undermining the decision of the Region not to place the Dundas

Corridor within a designated Employment Area – and prevent the creation of thousands of new homes in the process.

To prevent such a scenario, we ask the Ministry to modify Section 5.8 of the New ROP by deleting the language that staff have relied upon, and make certain corresponding minor revisions as set out in Schedule B to this letter.

These minor modifications would clarify the intention of New ROP and help prevent misapplication of the New ROP at the local level. In our submission, such a modification is necessary to protect provincial interests given the significant public investment in higher-order transit along the Dundas Corridor and the need for housing along the Corridor, both to support transit and help address the ongoing housing crisis in the Region.

Conclusion

For the reasons outlined above, we ask the Ministry to approve Schedule E-4 of the New ROP as adopted, as it relates to the Dundas Corridor. We also ask the Ministry to make the minor modifications to Section 5.8 of the New ROP outlined in Schedule B. These steps are critical to protecting provincial interests, help bring much-needed homes to the Region and the City, optimize the public investment in higher-order transit, and make the Dundas Corridor the vibrant place it is intended to be.

Our client appreciates your consideration of these matters and would welcome the opportunity to discuss these comments with Ministry staff.

Yours truly,

Goodmans LLP



Max Laskin
Partner
ML/
Encl.

cc: Client

SCHEDULE A

WRITTEN SUBMISSIONS TO REGIONAL COUNCIL DATED JUNE 29, 2022

[See next page]

TAVORA HOLDINGS CO. LTD.
1030 Dundas Street East
Mississauga, Ontario
L4Y 2B8

RECEIVED

June 30, 2022
REGION OF PEEL
OFFICE OF THE REGIONAL CLERK

June 29, 2022

Regional Chair Nando Iannicca and Members of Peel Council
Region of Peel
10 Peel Centre Drive
Brampton, Ontario
L6T 4B9

Attention: Aretha Adams, Regional Clerk

Re: Region of Peel Regional Official Plan Adopted On April 28, 2022, and Mother Parkers Tea & Coffee Inc.'s Request For Changes To This Region of Peel Plan

We own the property at **1030 Dundas Street East, Mississauga**. We understand that On April 28, 2022, the Region of Peel adopted a Revised Regional Official Plan which does not designate our property as Employment Area on map Schedule E-4 Employment Areas. We respectfully request that Peel Regional Council confirm its previous decision allowing for higher density mixed-use housing development on our property in the future.

Just three months ago, the Prime Minister announced a joint funding commitment with the Province of Ontario that will see the City of Mississauga receive \$500 million for transit initiatives, including \$224 million for a new bus rapid transit corridor along Dundas Street. One of the intentions of the Dundas BRT is to facilitate transit-oriented communities (TOC), which is especially important in the midst of a housing crisis. Even in just the last week, the Canadian Mortgage and Housing Corporation (CMHC) recommended that Ontario needs to build as many as 1.85 million homes to restore some form of affordability in the market by 2030. Sites like ours should be part of the solution with homes near employment and transit that will reduce both local GHG and regional environmental impacts.

We understand that at the July 7, 2022 Region of Peel Council meeting the Region's land use planning staff will be submitting a report addressing Mother Parkers Tea and Coffee Inc.'s solicitor Mr. David Tang's April 27, 2022 letter requesting that Peel Regional Council support Mother Parkers Tea & Coffee Inc. in obtaining a Minister's Modification of its Revised Regional Official Plan which was adopted on April 28, 2022, to designate our property as Employment Area on map Schedule E-4 Employment Areas. In this letter, he explicitly requested that sensitive land uses such as residential uses be prohibited on our property. Further, we also understand that Mr. Peter Gross, a solicitor with Gowling WLG, on behalf of the Ahmed Group, the owners of 1000 and 1024 Dundas Street East, submitted a letter requesting Peel Regional Council to confirm its April 28, 2022 decision and to not change the Revised Regional Official Plan. Mr. Peter Gross also documented the mistakes in Mr. David Tang's letter. We support the Ahmed Group's position as documented in Peter Gross' letter.

To the extent there are concerns about the compatibility of residential and employment land uses, we would encourage Regional Council to consider the many simple solutions that have been deployed in the past. For instance, noise barriers can be effectively integrated into development planning so that any risk is mitigated. Redpath's refinery operations in Toronto is an excellent example of a major industrial operator that is able to receive ocean-faring cargo boats with residential condominium developments up to its property line thanks to effective noise-mitigation.

REFERRAL TO _____
RECOMMENDED _____
DIRECTION REQUIRED _____
RECEIPT RECOMMENDED ☒ _____

Thank you in advance for considering this submission.

Yours truly,

A handwritten signature in blue ink, appearing to be 'P. Tavora', with a stylized flourish at the end.

Mr. Paulo Tavora, President

SCHEDULE B

REQUESTED MODIFICATIONS

5.8 Employment Areas

Employment Areas are places of business and economic activity that are vital to maintain a healthy economy and accommodate future jobs and economic opportunities to meet the Region's employment forecast.

These areas accommodate a broad range of uses including manufacturing, warehousing, office, and associated retail and *ancillary* facilities across various geographies ranging from individual sites, to nodes, corridors, and entire districts. On the periphery of *Employment Areas*, retail and commercial uses serve the workers in the *Employment Areas*, provide a buffer to sensitive land uses, and benefit from visibility and access to transit. The lands will remain important for the Region to maintain a healthy and diverse economy. The *Employment Areas* designated on Schedule E-4 are also subject to other policy requirements in this Plan and in local municipal official plans, including the Region's policy framework for the natural environment and Greenlands System in Chapter 2.

For 21st century employment opportunity to thrive, new *infrastructure* such as strong transit connectivity to a qualified labour force and affordable symmetrical broadband internet is required, while changes in technology will enable employment across a wider variety of land uses and building spaces than ever before. However, employers will continue to need core essentials like affordable electricity, good roads, clean water, and a variety of appropriate spaces in order to create and expand business.

~~Local official plans may also support employment uses outside of *Employment Area* designations, provided they are compatible with the surrounding community and the population and employment forecasts set out in Table 3 are met. *Strategic Growth Areas* are one appropriate location beyond *Employment Area* designations in the regional and local official plans to support a mix of uses and major office development. On the periphery of *Employment Areas*, retail and commercial uses serve the workers in the *Employment Areas*, provide a buffer to sensitive land uses, and benefit from visibility and access to transit.~~