



October 27, 2025

Ministry of Municipal Affairs and Housing
Municipal Services Office - Central Ontario (Priority Projects)
12th Floor, 777 Bay Street
Toronto, ON M7A 2J3

Dear Sirs/Mesdames,

**Re: ERO Number 025-1108
Request for Minister's Zoning Order
1875 Steeles Avenue West, Toronto**

We are the planning consultants to Microbjo Properties Inc., the owner of the above-noted property (the "subject property").

In response to the above-noted ERO posting, we are writing to provide our comments on the MZO requested by the Minister of Economic Development, Job Creation and Trade (MEDJCT). Specifically, the ERO posting states that the Ministry is seeking input on whether the request should be considered and any information that may help inform the Minister's decision-making.

For the reasons set out below, it is our opinion that the request should not be "considered" as per the wording in the ERO posting; more particularly, **it should be refused**.

Background

On October 29, 2020, our client submitted applications for Zoning By-law Amendment, Draft Plan of Subdivision and Rental Housing Demolition to permit the intensification of the subject property with a new residential development.

In support of the applications, Bousfields submitted a Planning and Urban Design Rationale report dated October 2020 which, among other matters, addressed consistency with the Provincial Policy Statement and conformity with the Growth Plan for the Greater Golden Horseshoe, as well as assessing land use compatibility with the Sanofi Pasteur medical campus. In so doing, our report relied on the conclusions of an Air Quality and Compatibility Mitigation Study dated October 9, 2020, prepared by Gradient Wind Engineers Inc., and a Noise and Vibration Impact Feasibility Study dated October 9, 2020, prepared by J.E. Coulter + Associates.

The City Planning Department subsequently undertook a detailed review of the applications over almost 4 years, which ultimately resulted in a Final Report dated June 27, 2024, which **recommended approval** of a revised Zoning By-law Amendment application submitted on April 25, 2024, containing a total of 960 residential units, including 120 rental replacement housing units, 12 new affordable rental housing units and 828 new

market housing units, in 14-storey, 33-storey and 39-storey buildings, together with a new public park.

During the detailed review process, various materials were submitted to address compatibility concerns raised by Sanofi Pasteur, including a Detailed Air Quality Study dated August 22, 2023, a Stationary Noise Assessment dated August 22, 2023, a Compatibility and Mitigation Study dated August 22, 2023, prepared by Gradient Wind Engineers and Scientists, a Peer Review Response Letter by Gradient Wind Engineers and Scientists dated December 4, 2023, a supplementary letter by Bousfields Inc. dated December 7, 2023 addressing compatibility/mitigation, and peer review comments prepared for the City of Toronto by Cambium Inc. dated January 5, 2024.

Staff's Final Report included a detailed discussion of the Provincial Policy Statement, Provincial Plans and Land Use, as well as Compatibility and Mitigation, relying in part on the reports and peer review comments set out above. Notwithstanding the positive staff recommendation, City Council refused the Zoning By-law Amendment application at its meeting on July 24 and 25, 2024. Our client subsequently appealed the refusal to the Ontario Land Tribunal (OLT).

Respect for the Process

The *Planning Act* provides for the resolution of planning conflicts such as these through the process of appeals to the OLT. Ultimately, the decision of the OLT is based on detailed evidence that is brought before the Tribunal as well as the application of Provincial policies and principles of good planning, among other matters.

In contrast to the OLT appeal process, the power of the Province to make Ministerial Zoning Orders is an extraordinary power that is intended to be used only in special circumstances, where there is urgency that calls for the typical planning process to be bypassed e.g. in order to facilitate investment in the form of new industries, health care facilities, long term care homes, etc. There is no urgency in this case.

In this regard, the "Zoning Order Framework" issued by the Province indicates that the minister may consider requests submitted by parties such as ministries, municipalities, organizations, businesses or individuals. In order to facilitate the minister's consideration of a request, the Framework indicates that submission expectations include, among other matters, "rationale on why the project requires ministerial zoning relief rather than following municipal planning processes".

The Framework also indicates that, as best practice, proponents should consider whether there is a demonstrable need for urgency of zoning relief such as timelines relating to funding or grants, or an emergency public health and safety concern.

Finally, it states that "the ministry may ask for additional information or material to be provided to help make the decision, which may include certain studies or reports, such as a planning justification report, an archaeological assessment, environmental impact statement or servicing study".

The following information or materials have not been provided, notwithstanding the directions set out above:

- any demonstration of urgency;
- any rationale on why the project requires ministerial zoning relief rather than following the typical planning process; or
- any additional information or material that would support the request, such as a planning justification report or a compatibility/mitigation study.

In our opinion, the exercise of the Ministerial Zoning Order power in these circumstances would constitute a misuse of this extraordinary power. Furthermore, it is our opinion that it would be fundamentally at odds with the planning processes established by the *Planning Act* and would serve to undermine confidence in the planning process in the Province.

Transparency and Fairness

As set out above, the typical planning process provides for the resolution of planning conflicts through an appeal to the Ontario Land Tribunal. An OLT hearing provides for transparency because it is open to the public and the decision is a public document, which sets out the evidence and rationale in support of the decision. As well, an OLT hearing allows for conflicting evidence to be fully considered, tested and weighed in an open forum.

As an alternative to a contested OLT hearing, the Office of the Provincial Land and Development Facilitator (OPLDF) provides an avenue for alternative dispute resolution. Pursuant to the *Ministry of Municipal Affairs and Housing Act*, the Provincial website indicates that the OPLDF “helps the province, municipalities, developers, businesses and community groups resolve issues related to growth management, land use and infrastructure planning, and environmental protection by providing impartial facilitation services or by acting as a negotiator on behalf of the province”.

Given the considerations that apply in this circumstance, we would respectfully request that the matter be referred to the OPLDF to allow all parties the opportunity to work together to find a collaborative solution.

In contrast, the issuance of a Ministerial Zoning Order does not provide any assurance that there has been any consideration of the empirical evidence for or against the issuance of the Order. As well, there is no requirement for any explanation of the rationale for the order.

As a result, it is our opinion that the issuance of an MZO in this circumstance would not meet reasonable standards for transparency and fairness.

Lack of Empirical Evidence

In contrast to the numerous studies that have been undertaken on behalf of the applicant, as well as the City's peer review and City staff's analysis of the application, all of which have concluded that the proposal is appropriate and would be compatible with the Sanofi Pasteur operation, we are unaware of any technical studies undertaken on behalf of Sanofi Pasteur that would support a contrary conclusion.

Nor are we aware of any studies that would support an objection to the proposal. No such materials were filed as part of the almost 4-year review process of the rezoning application. In addition, no such studies were provided to City Council prior to its decision to refuse the application. We are unaware of any such studies being submitted following the refusal of the application and its appeal to the OLT.

More particularly, there have been no studies provided that would support the imposition of a 33 metre height limit on the subject property. Specifically, we are not aware of any planning justification report or compatibility/mitigation report that would provide support for any specific height limit on the subject property.

Furthermore, we are not aware of any material that would indicate whether mitigation, if found to be required, could be achieved through means other than a height limit, such as through building orientation or design. In our experience, such approaches have been successfully used in the past to achieve compatibility with other major facilities (e.g. Redpath Sugar). These approaches include zoning restrictions on the siting and orientation of buildings, the location of exterior walls and windows, and the location of rooftop outdoor amenity areas, as well as additional matters addressed through Site Plan Approval. They have been achieved through the typical planning process, including the OLT appeal process, without an MZO.

Again, this highlights our concerns as stated earlier in this letter about the lack of transparency and fairness and the importance of maintaining the integrity of the planning process.

Consistency with the Provincial Planning Statement (2024)

In our opinion, the proposed development at 1875 Steeles Avenue West is consistent with the 2024 Provincial Planning Statement (PPS). In this regard, the applicable compatibility/mitigation policies in the 2024 PPS are virtually identical to those in the 2020 Provincial Policy Statement (the "2020 PPS") and in the 2019 Growth Plan for the Greater Golden Horseshoe, as amended (the "2019 Growth Plan"), which were addressed in detail in our Planning and Urban Design Rationale Report and the City Planning staff report.

In particular, the proposed development is consistent with the policies in the 2024 PPS which promote the creation of new housing supply, particularly in "strategic growth areas", including Policies 2.2.1, 2.3.1.2, 2.3.1.3, 2.4.1.1, 2.4.1.2, 2.4.1.3 and 2.4.3.1. The proposal would result in the creation of 960 new housing units, including 120 rental replacement

housing units and 12 new affordable units. The subject property is located within a “strategic growth area”, along a Major Arterial road and a frequent transit corridor.

With respect to land use compatibility, it is our opinion that the proposed development is consistent with Policy 3.5.1, which provides that “major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures”. The numerous studies and the peer review, as described above, all conclude that there would be no adverse effects and that the long-term operational and economic viability of the Sanofi Pasteur facility will be safeguarded. No contrary evidence has been provided.

Further, it is our opinion that the proposed development is consistent with Policy 3.5.2, which directs that, “where avoidance is not possible in accordance with policy 3.5.1, planning authorities shall protect the long-term viability of existing or planned industrial, manufacturing or other major facilities that are vulnerable to encroachment by ensuring that the planning and development of proposed adjacent sensitive land uses is only permitted if potential adverse effects to the proposed sensitive land use are minimized and mitigated, and potential impacts to industrial, manufacturing or other major facilities are minimized and mitigated in accordance with provincial guidelines, standards and procedures”. As above, the numerous studies and the peer review submitted through the process all conclude that there would be no adverse effects on the proposed sensitive land use and that there would be no unacceptable impacts on the Sanofi Pasteur facility. No contrary evidence has been provided.

Finally, it is our opinion that the proposed development is consistent with Policy 2.8.1.3 of the 2024 PPS, which states that, “in addition to policy 3.5, on lands within 300 metres of employment areas, development shall avoid, or where avoidance is not possible, minimize and mitigate potential impacts on the long-term economic viability of employment uses within existing or planned employment areas, in accordance with provincial guidelines”. The Sanofi Pasteur facility is bounded by existing residential uses to the north and east, as well as the existing residential use on the subject property to the west across the Don River Valley. Within the 300 metres are other existing and proposed residential apartment developments to the west and northwest. Within this land use context, the proposed development will not result in unacceptable incremental impacts on the long-term economic viability of employment uses within existing or planned employment areas, including the Sanofi Pasteur facility.

Conclusion

For the reasons set out in this letter, it is our opinion that the MEDJCT request for a Ministerial Zoning Order to impose a 33 metre height limit on the subject property should be refused. If it were approved, it is our opinion that it would be a misuse of the extraordinary power to make MZO's, which should only be used in the case of urgency. There is no urgency here and we are unaware of any information or material that would

provide a “rationale on why the project requires ministerial zoning relief rather than following municipal planning processes”, to use the wording from the Province’s own Zoning Order Framework.

In our opinion, the decision on whether to impose an MZO should respect the process; the imposition of an MZO in this circumstance would suggest that the process cannot be trusted to operate as intended, which has the potential to further erode the public’s trust in the planning process in Ontario.

Imposing an MZO on our client’s property, and on its property alone, in the absence of any publicly available studies or empirical evidence does not meet basic standards of transparency and fairness. Specifically, we are unaware of any study that would support a 33 metre height limit.

We trust the foregoing is sufficient for your purposes; however, if you have any questions or require further clarification, please do not hesitate to contact me.

Yours truly,

Bousfields Inc.



Peter F. Smith, MCIP, RPP