

October 3, 2022

Chair and Members
Planning and Environment Committee
City of London
pec@london.ca

Re: **Holding Provision Opinion Letter
Drygas Properties Inc.
1033 Dundas Street
London, ON**

Our File: **DRY/LON/21-01**

Zelinka Priamo Ltd., on behalf of Drygas Properties Inc., is submitting this letter in regards to the Report to Planning and Environment Committee relating to the above-noted lands known municipally as 1033 Dundas Street (hereinafter referred to as the “subject lands”).

Zelinka Priamo Ltd. has requested an amendment to the Zoning By-law to change the zoning of the subject lands to permit the construction of a mixed-use (commercial and residential) building with a maximum height of 5-storeys, 120m² of commercial space on the ground floor, and a density of 140UPH (units per hectare). The requested site-specific *Business District Commercial (BDC(_))* zone would permit a range of retail, restaurant, neighbourhood facility, office, and residential uses.

The requested special provisions are as follows:

- A reduced minimum front yard setback of 0.0m, whereas 3.0m is required;
- A maximum mixed-use density of 125UPH; and,
- A maximum height of 16.5m (5-storeys), whereas 12.0m maximum is permitted.

Additionally, City staff are recommending a holding provision to address Canadian National (CN) Rail comments and require a noise assessment for a qualified professional as part of the Site Plan Approval process.

The holding provision requirement is of concern to us and to our client. The noise assessment to address comments from CN Rail is a last-minute request that, to our understanding, had not been discussed at any point throughout the pre-consultation process nor the Site Plan Consultation process. This requirement was not brought to our attention by City staff, rather through the discovery of the staff report. As such, our client was not provided with sufficient time to address these comments.

It is important to note that the staff report states that City staff maintain that the [noise] effects will be minimal due to the intervening land uses between the subject lands and the rail line, which include commercial, residential, and light industrial uses. The report goes on to state that a noise assessment will be required as part of Site Plan Approval, in the form of a holding provision, and that warning clauses may be required within the development agreement.

Notably, an Environmental Noise Assessment was prepared by MTE Consultants Inc. in support of the proposed development and was submitted as a supporting document for this application. The noise assessment resulted in the requirement that noise warning clauses are to be registered on title for all residential apartment units in the building.

The purpose of this letter is to request that the requirement of a noise assessment to address the comments from CN Rail be deferred to the Site Plan Approval process. As staff have required that the noise assessment be completed as part of the Site Plan Approval process, it is our opinion that a holding provision is not necessary in this instance. Our concern is not with the noise assessment itself as a requirement, rather the recommended holding provision which burdens our client with additional fees (upwards of \$1,000) and the potential of extending the timeline of this application by several months. We are requesting that the noise assessment be a condition of Site Plan Approval and that the Site Plan Approval authority be granted permissions to ensure the noise assessment is completed to the satisfaction of City staff.

We trust that the enclosed information is satisfactory. Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

ZELINKA PRIAMO LTD.

Taylor Brydges
Planner