

Zoning Conformity for Official Plan Employment Areas – Supplementary Report

Date: November 5, 2021

To: City Council

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

The Planning and Housing Committee, at its meeting of October 18, 2021, held the statutory public meeting under the *Planning Act* for the Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update. The Committee adopted the staff recommendations for Phase 1, including zoning by-law amendments, in the October 15, 2021 report from the Chief Planner and Executive Director, City Planning.

The Planning and Housing Committee also requested City Planning and Economic Development and Culture to undertake additional outreach to members of the DUKE Heights, Emery Village and LIKE Business Improvement Areas (BIAs). This included preparing a package of materials for the BIAs that would cover the proposed changes, as well as the concerns that were expressed by BIA members and representatives at the October 18, 2021 meeting. Staff were also requested to meet with the DUKE Heights BIA, to discuss the concerns set out in their correspondence to the Planning and Housing Committee, and which processes may be appropriate to resolve the concerns.

This report responds to the direction from the October 18, 2021 Planning and Housing Committee meeting.

FINANCIAL IMPACT

There are no financial impacts arising from the recommendations contained in this report.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on June 28, 2021, the Planning and Housing Committee adjourned the statutory public meeting under the *Planning Act* for the Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update until the September 21, 2021 meeting of the Planning and Housing Committee. The Committee requested the Chief Planner and Executive Director, City Planning to provide a supplementary report to address permissions for certain cultural uses, some school sites and the Woodbine lands at 555 Rexdale Boulevard. The Committee's decision and direction to staff can be viewed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.5>

The Planning and Housing Committee, at its meeting on September 21, 2021, adjourned the statutory public meeting under the *Planning Act* for the Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update until the October 18, 2021 meeting of the Planning and Housing Committee. The Committee's decision can be viewed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH26.2>

The Planning and Housing Committee, at its meeting of October 18, 2021, held the statutory public meeting under the *Planning Act* for the Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update. The Committee endorsed the staff recommendations for Phase 1, including zoning by-law amendments, in the report from the Chief Planner and Executive Director, City Planning, and also provided additional direction to staff to meet with the DUKE Heights BIA, to discuss the concerns set out in their correspondence to the Planning and Housing Committee, and which processes may be appropriate to resolve the concerns. The Committee's decision and direction to staff can be viewed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH27.2>

COMMENTS

Public Consultation and Stakeholder Outreach

On December 10, 2019, the Planning and Housing Committee considered a report on Zoning Conformity Framework for Official Plan Employment Areas. The Committee endorsed the proposed zoning framework outlined in the staff report as the basis for review to be undertaken to achieve conformity with Official Plan Amendment (OPA) 231. Staff were directed to conduct public consultations on Phase 1 of the proposed zoning framework.

Two public consultation meetings were held on November 2 and 4, 2020 where participants could learn more about this study, ask questions and share their comments. Due to the COVID-19 pandemic, these meetings were held online and by phone-in only. One meeting was held in the evening, and the other was held during typical business hours, in order to provide a range of opportunities for participation from industry,

businesses and residents. The stakeholder list was developed in consultation with staff from the Economic Development and Culture Division, and included groups such as the Toronto Industry Network (TIN), the Building Industry and Land Development Association (BILD), various Business Improvement Areas (BIAs) including DUKE Heights and Emery Village, and business associations with interests in industrial areas. An advertisement was placed in the Toronto Sun, and information about how to participate was posted on the project study page, and on the City's social media channels. Staff also utilized social media leading up to the October 18, 2021 Planning and Housing Committee meeting, to broadly communicate the objective of the Phase 1 review with respect to the importance of protecting *Employment Areas*.

Since the initial consultation meetings in November 2020, and in response to concerns raised in deputations and correspondence to the Planning and Housing Committee at the June 28, 2021 and September 21, 2021 meetings, representatives from the DUKE Heights, Emery Village and LIKE BIAs were invited to meet with staff to discuss their concerns. Staff met with the LIKE BIA on October 5, 2021, the Emery Village BIA on October 12, 2021. At the meetings, City Planning, and Economic Development and Culture staff provided a short presentation outlining the Phase 1 study. This included details on the recommendations, information on legal non-conforming uses, and the ongoing Municipal Comprehensive Review (MCR) in relation to *Employment Areas*. Staff also answered questions raised by the BIAs at the meetings.

Outreach to BIAs

Toronto Employment Survey Data

In response to the Planning and Housing Committee's October 18, 2021 direction to undertake further outreach to the BIAs, staff reviewed available data collected through the annual Toronto Employment Survey, in order to have a complete understanding of the nature of the industries and businesses in the BIAs. This is a survey of businesses in Toronto used to monitor the City's economic health, and aid in decision and policy making.

The data includes the number of business establishments, and the number of jobs for each of the three BIAs for the years 2014 (post OPA 231), 2019 (pre-COVID) and 2020 (during COVID). Staff reviewed the data in relation to office uses, industry, sensitive uses, and retail.

Overall, the percentage of business establishments in each of the use categories was very stable across the three BIAs for the years of data with the fluctuation in any given category being only 1 to 3 percent. The percentage of jobs in each of the use categories was also stable, in the range from 1 to 2 percent, with the exception of LIKE BIA, where the number of jobs in these categories saw slightly more fluctuation over the time period than the number of establishments.

The employment data examined indicates that the three BIAs have been stable from 2014 to 2019 and 2020 with respect to both the number of businesses and the number of jobs that are in the office and industry categories. Office and industry uses are substantially more prevalent in these areas than sensitive uses. In all three BIAs, the

large majority of establishments and jobs comprise uses that are permitted, and will continue to be permitted, in the industrial zoning for these areas. This stability should be supported through the protection of *Employment Areas* to ensure that these uses remain viable into the future.

Emery Village BIA

In their meeting with City staff, representatives of the Emery Village BIA cited the following concerns with the proposed changes for zoning permissions in *Employment Areas*:

- Businesses need more flexibility, not less;
- Employees in industrial areas need amenities in proximity to their workplaces, for example recreation uses;
- The COVID pandemic has negatively impacted businesses and highlighted the need for adaptability and flexibility;
- Hotels employ lots of people, but will no longer be a permitted use;
- Businesses will re-locate to other adjacent municipalities where the uses proposed for removal are still permitted;
- Many of the existing buildings within the BIA boundaries are smaller, which do not lend themselves to traditional industrial employment uses;
- Proximity and access to Steeles Avenue West lends the location of the BIA to uses that serve the public such as recreation uses;
- The BIA has concerns about existing recycling operations within the BIA boundaries; and
- Concerns that legal non-conforming uses will restrict expansions and alterations.

Representatives of the BIA that attended this meeting were supportive of the removal of zoning permissions for place of worship uses, as they have an impact on industrial operations in the BIA.

Staff reiterated the importance of protecting *Employment Areas* and explained why certain uses such as hotels and recreation uses are not permitted in these areas. Staff also explained that the Phase 1 zoning conformity review is not the process by which the OP policies can be changed. Staff also encouraged the BIA to participate in the consultations taking place for the MCR process. A significant amount of time was also spent discussing legal non-conforming uses.

LIKE BIA

The LIKE (Lawrence Ingram Keele) BIA was formed in late 2020, and was not part of the initial consultation sessions that took place in November 2020. The focus of the meeting between staff and the BIA was on how the recommended changes would affect the BIA, and legal non-conforming uses. Staff provided general information with respect to what it would mean for a business or property that became legal non-conforming.

Information Package and Mail-out

In response to direction from the October 18, 2021 Planning and Housing Committee meeting, City Planning, in consultation with Economic Development and Culture, prepared a package of materials that were mailed out to approximately 2,200 property owners and business owners in the DUKE Heights, Emery Village and LIKE BIAs. The mail out included a 'Frequently Asked Questions' (FAQs) document which covered topics such as:

- The importance of *Employment Areas* and the policies in place to protect them;
- What sensitive uses are;
- The list of uses to be removed as permitted uses in the city-wide and North York zoning by-laws;
- Legal non-conforming uses, and what the proposed changes mean for existing businesses; and
- The process for initiating or participating in the review of OP policies, and why the zoning is changing now;

The materials also included an invitation to attend a virtual information session to learn more about the recommended changes, what they mean for businesses, and to ask questions of staff. The package was also emailed to BIA representatives to assist in distributing the information to their members.

Information Session

The BIA information session was held on November 2, 2021, during business hours. There were over 50 participants from across the three BIAs including BIA executives, business owners, and their representatives. Staff from City Planning and Economic Development and Culture attended.

A presentation was provided by staff that covered the objective of the study, the importance of *Employment Areas* and the policies in place to protect them, an overview of employment data for the three BIAs, as well as the study recommendations and frequently asked questions.

Representatives from various manufacturers and industry stated their support for the Phase 1 recommendations and the need to protect *Employment Areas* from sensitive uses. BIA representatives stated concerns with the proposed recommendations, and how the changes would impact the businesses along the peripheries of the *Employment Areas*, and whether or not staff had looked at maintaining use permissions in these "edge" areas specifically. These are considerations that may form part of the Phase 2 work, where detailed local analysis may be appropriate. Concerns were also expressed around the impacts that the COVID pandemic has had on businesses, and the need to provide flexibility with respect to land uses. One BIA also expressed concerns around uses such as waste transfer stations which, while permitted in these areas, were considered to be problematic by the BIA.

Participants raised questions regarding how specific properties would be impacted by the changes, which staff followed up on individually after the meeting. Some participants

also raised questions with respect to how someone could request a change to the OP designation for a property, why the zoning conformity review is being completed in Phases, and when Phase 2 would begin.

Meeting with the DUKE Heights BIA

City Planning and Economic Development and Culture staff met with members of the DUKE Heights BIA Board and executives on November 4, 2021. The meeting was intended to discuss the concerns that were expressed by the BIA both through the correspondence submitted to, and the deputations made at the Planning and Housing Committee on this item, and to discuss how these concerns might be resolved.

The BIA representatives stated that while they understood the importance of achieving conformity, they are concerned about the existing businesses that will be affected by the Phase 1 recommendations. There was much discussion around the timing of the review, with the BIA representatives suggesting that the recommendations for Phase 1 are premature and that the whole conformity review should be done together rather than in phases. The BIA also questioned the reliability of the studies that formed the basis for the OP policies that the zoning conformity is based on; concerns were raised that these studies are outdated, since they were done in 2012. The BIA also considers the nature of businesses on the periphery of the BIA area to be different than the industry in the middle, and asked staff to consider what the vision should be for what they refer to as "main street" areas within the BIA.

Representatives of the BIA are requesting that the decision on the Phase 1 recommendations be deferred until the Phase 2 review has concluded. They would like the Phase 2 review to include consideration of the on-going MCR review, and the Keele Finch Plus Secondary Plan. The BIA would also like the (H) Holding provision that currently applies to portions of the BIA that are subject to North York Zoning By-law 7625 which limits office and retail permissions to be removed, preferably sooner than the Phase 2 review.

Consideration of Issues

Phasing of the Zoning Review

The phasing of the zoning conformity review was set out when the work plan for the project was developed. The zoning conformity review for OP *Employment Areas* is a substantial project, both in its scope and nature, which requires that the work be divided into manageable phases. Work priorities were also considered. The longer that the zoning is not in conformity with the OP policies with respect to sensitive uses in *Employment Areas*, the more of these uses may establish themselves and impact industry. Because of this, there was some urgency to complete the aspect of conformity that deals with the removal of sensitive and non-permitted uses. This piece of the project was prioritized and became Phase 1.

It should be noted that Phase 2 will only consider permitting additional uses that are permitted by the OP, either through more specific site or area policies, or as a result of the MCR work. However, it is not anticipated that there will be significant changes to the

Employment Areas policies through the MCR work because the MCR recommendations must be consistent with Provincial policies.

Age of Official Plan Studies

The studies that formed the basis of OPA 231 were generally completed in 2012, less than ten years ago. Staff do not view the studies as out of date. These studies are intended to support planning for *Employment Areas* with a long term perspective. Staff note that the trends that have been observed since 2013 are consistent with the earlier studies, and support the current policies that protect *Employment Areas*. Additionally, Provincial policies have become stronger since 2013 with respect to protecting *Employment Areas*. This suggests that while the studies may pre-date the past few years, the policies are still very relevant.

COVID Response and Recovery

Stakeholders have raised concerns that the proposed zoning changes will impact businesses during their efforts to recover from the COVID pandemic. This is not the intent of the proposed zoning changes. Existing uses that would no longer be permitted in zoning would become legal non-conforming uses. The zoning change will allow them to continue to operate, with no requirement to shut down, relocate, or change their operations. The removal of sensitive uses as permitted uses in industrial zones will also provide more certainty and stability for industrial operations in these areas. The protection of *Employment Areas* is intended to ensure that these areas are available for the long-term employment needs of the city. The employment data that staff examined as part of the outreach to the BIAs also demonstrated that the uses which make up the majority of the establishments and jobs in these areas, are uses that will not be impacted by the Phase 1 recommendations. Furthermore, the industrial vacancy rate within the City of Toronto is 0.6% for the 3rd quarter of 2021 (CBRE Marketview, Toronto Industrial, Q3 2021), which suggests that there are many uses actively seeking to locate in these areas.

Holding Provisions in the former North York Zoning By-law

Staff agree with BIA stakeholders that it would be appropriate to review the existing (H) Holding Provision for retail and office uses as part of the Phase 2 review. This provision has been in place in the North York Zoning By-law for decades, and the Official Plan policies have since changed. The (H) may also be lifted for portions of the BIA that are within the Keele Finch Plus Secondary Plan when the implementing zoning is brought forward. Staff already have direction to undertake this work in the Keele-Finch area.

Council Correspondence

Staff have reviewed the correspondence to City Council on this item. As of November 7, 2021, approximately 50 emails had been received. Of these, over 40 were with respect to 360 Evans Avenue. The correspondence submitted with respect to this site are all opposed to the removal of permissions for bingo halls and related uses in the Former City of Etobicoke Zoning Code.

To clarify, a bingo hall is not currently a permitted use at 360 Evans Avenue. The site is zoned E in Zoning By-law 569-2013, which does not permit a bingo hall. The Etobicoke Zoning Code does not apply. Therefore, the proposed Phase 1 zoning by-law

amendments would not change the permission for bingo hall at 360 Evans Avenue, since the use is already not permitted. Should a bingo hall want to locate at 360 Evans Avenue, a rezoning or minor variance process could be pursued provided that the proposed use would conform to the Official Plan.

Conclusion

Staff are not recommending additional changes to the Recommendations for Phase 1 of the Zoning Conformity for Official Plan Employment Areas., including the zoning by-law amendments, contained in the October 15, 2021 report from the Chief Planner and Executive Director, City Planning, and endorsed by Planning and Housing Committee on October 18, 2021. While recognizing the concerns raised by representatives of the DUKE Heights, Emery Village and LIKE BIAs, the amendments are required to ensure that the City's zoning by-laws conform to the Official Plan policies for *Employment Areas* as required by the *Planning Act*. The zoning by-law amendments implement the OP *Employment Area* policies to, protect for the long-term viability of employment uses. Concerns raised during the Phase 1 consultation opportunities that were not within the scope of work for this phase, may be considered as part of the Phase 2 review.

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SIGNATURE

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