

Chair & Members
Planning & Growth Management Committee
City of Toronto, 100 Queen Street West
Toronto, Ontario M5H 2N2

March 5, 2013

Dear Committee Members,

**RE: Draft City of Toronto Zoning By-law – November 8, 2012 version
Toronto Industry Network (“TIN”) comments**

We are planning consultants to the Toronto Industrial Network (“TIN”). TIN is an incorporated organization that represents manufacturers and industry associations located throughout the City of Toronto. Collectively TIN employs approximately 35,000 people directly and another 100,000 indirectly through suppliers and customers. TIN has attended and deputed at prior P&GM Committee meetings, attended the Zoning Bylaw Open House and reviewed the January 22, 2013 staff report.

Throughout the process of preparing the new zoning bylaw, and since the repeal of By-law 1156-2010, TIN has been engaged in constructive discussions with planning staff. These discussions have lead to significant improvements in the draft bylaw.

Notwithstanding discussions to date with staff, issues remain with some of the performance standards and permitted uses which will apply in the Employment zone categories, which we believe will make implementation of the bylaw difficult, and adversely affect the ability of our members to carry on operations, and expand their facilities. These issues are set out in the attachment to this letter. In addition, TIN is concerned with the approach taken to permitted uses in the Employment Zones.

Summary and Request

- 1. We ask that the Committee direct staff to meet further with TIN prior to Council adoption to address the implementation issues described in the attachment to this letter**
- 2. TIN supports the recommendations concerning Places of Worship (POW) and asks the Committee to accept these recommendations.**

Comment on Places of Worship Issue

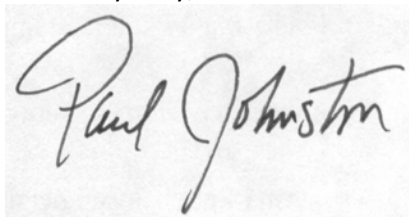
TIN previously commented on the Places of Worship (POW) issue in our letter of October 10, 2012 to the Committee. TIN continues to urge the City to restrict sensitive land uses in employment areas. Staff are recommending in their report of January 22 that POW only be permitted as of right in the EO zone and only on major streets, in order to conform to the Official Plan. Lawful existing POW in other Employment-Industrial Zone categories will be recognized. We urge the Committee to accept these recommendations.

Clarification Regarding Permitted Manufacturing Uses

The by-law defines “manufacturing use” as “...the use of premises for fabricating, processing, assembling, packaging, producing or making goods or commodities, and it includes repair of such goods or commodities.” This broad permission applies in E and EH zones. However, the by-law allows only a select range of specific (but not formally defined) manufacturing uses within EL and EO zones (including “Apparel and Textile Manufacturing”, “Food Manufacturing”, “Metal Products Manufacturing”, etc.). An accepted principal in municipal law is that if a use is listed as a permitted in one zone but not in another, then it is not permitted in the zone where it is not listed. Therefore, despite the general definition of “manufacturing uses”, by listing very specific manufacturing uses in EL and EO zones these uses are not permitted in E and EH zones.

In our view the By-law should be clarified to ensure that the broader manufacturing permission in E and EH zones includes the specific manufacturing permissions listed in EL and EO zones. Thank you for the opportunity to provide our comments.

Yours very truly,



Paul E. Johnston, MCIP RPP
Johnston Litavski

Attachment to TIN letter March 5, 2013 - Implementation Issues to be Resolved

Gross Floor Area Definition for Non-Residential Uses

The by-law defines and applies different definitions for gross floor area (“GFA”) for employment industrial uses. One definition is provided for calculating density, parking and loading requirements for most employment industrial uses, but a different definition is provided for calculating parking and loading requirements for manufacturing uses.¹ For greater clarity, we suggest a single definition for calculating GFA for all employment industrial uses be provided for all purposes.

Front, Side & Rear Yard/Lot Line Definitions

The By-law’s definition of a front lot line² creates confusion by allowing a lot to have multiple front yards and potentially no side and/or rear yards depending on the lot’s shape and the number and extent of street frontages. Further confusion arises for corner and through lots by allowing any street related lot line to be ‘designated’ as the front lot line without providing any direction regarding when, how, by who or even if such a selection should be made³. This makes it impossible to determine many important performance standards.

Open Storage

In EL and E zones, the proposed by-law would limit Open Storage to lots where it will be in combination with a permitted manufacturing use. In an EO zone, it would be permitted on lots in combination with any permitted use.⁴ This is contradictory for uses within EL and E zones as other permitted uses (i.e. - warehousing and wholesaling uses) often require open storage. Open storage should be permitted in combination with any permitted use in EL and E zones, as proposed in EO zones.

Also, the by-law appears to have categorized the storage of vehicles into three different uses, depending on the nature of that storage. Temporary parking/storage

¹ Sections 60.5.40.40(1), 60.5.80.1(1) and 60.5.90.1(1)

² Section 800.50(275)

³ Section 5.10.20.30

⁴ Sections 60.10.20.100(12), 60.20.20.100(12) and 60.40.20.100(13)

of tractor-trailers in conjunction with an Employment-Industrial use could be considered a Vehicle Depot rather than an Open Storage use.⁵ Such an activity is critical to many employment-industrial uses, but Vehicle Depots are only permitted in EH zones, and conditionally in E zones. The by-law should be clarified so that vehicle/trailer storage would be permitted through the Open Storage permission, and allowed in any Employment-Industrial zone category.

Vehicle Depots

Alternatively, if it is determined that the temporary storage of trailers in conjunction with an employment-industrial use is considered a Vehicle Depot, Vehicle Depots should be permitted in the EL, E and E zones in combination with any permitted use.

Also, the by-law would require that Vehicle Depots in an E zone be setback at least 70m from any lot in a Residential or Residential Apartment Zone category.⁶ No rationale is provided for the 70m setback. Trailer storage is common in Employment-Industrial areas, and it is not unusual for such storage to be within 70m of a residential zone. There is no similar requirement for new residential development on adjacent lands to be setback a similar distance.

Cogeneration Energy & Renewable Energy Uses

Cogeneration Energy and Renewable Energy Uses are permitted in each Employment-Industrial Zone category subject to conditions.⁷ The wording of the conditions has been inconsistently altered in each zone category, whereas before it was identical. Clarification is needed.

Furthermore, Section 5.10.75.1 seems to state that the by-law will not apply to any Renewable Energy use despite proposing several regulations thereof. Clarification is needed.

Sorting Activities within EL, E and EO Zones

The draft by-law would require all separation and sorting of recyclable materials be done within a wholly enclosed building. TIN is concerned with this requirement

⁵ Sections 60.20.20.20, 60.20.20.100(6), 60.30.20.10, 800.50(520), 800.50(625), 800.50(890)

⁶ Section 60.20.20.100(6)

⁷ Section 60.10.20.100(17), 60.20.20.100(26), 60.30.20.100(10), 60.40.20.100(24)

within EL and E zones as several members do not comply today and cannot in the future.

Front Yard Condition for Properties Abutting Highway 400 and 404

Lots within any Employment Industrial Zone category that abut either Highway 400 or 404 must treat the highway frontage as their front yard.⁸ If the City's intent is to ensure industrial uses "face" the highway, this is best done by having properties front a service road that runs adjacent to the highway. It is impractical to render existing lots legally non-conforming, and to require re-developments to "face" a frontage where they have no access.

Proposed Restrictions on Propane Transfer, Handling and Storage Facilities

The proposed by-law attempts to limit Propane Transfer, Handling and Storage Facilities within 500m of any Residential or Residential Apartment zone category.⁹ In our view, the proposed method of defining such uses and the chosen definition are both very awkward and would unintentionally capture many unrelated land uses that store and use propane in large quantities.

Public Parking Should be Permitted in all Employment Industrial Zone Categories

Public Parking is only permitted in the EO zone, but is a useful and complimentary use to all employment uses. The by-law should permit public parking in all Employment Industrial Zone categories.

Size Restrictions on Manufacturing Uses in EL & EO Zones

In EL and EO zones, the proposed by-law would restrict the interior floor area of printing establishments and Manufacturing uses to the lesser of 5,000m² or the maximum permitted floor space index ("FSI") for the lot.¹⁰ No rationale is provided for capping manufacturing GFA at anything less than the permitted the FSI. This is unnecessarily restrictive.

⁸ Section 60.5.30.1(1)

⁹ Section 60.30.20.100(9)

¹⁰ Sections 6.10.20.100(8) and 60.40.20.100(3)

Restrictions on Roof-Top Equipment and Structures in Employment Industrial Zones

The draft By-law imposes new standards regarding the height, amount and location of roof-top equipment for uses within all employment zones.¹¹ These new standards place an onerous burden on industrial uses that often require the flexibility to install rooftop equipment to reflect changing industrial needs and processes.

Parking Access & Location

The by-law proposes a variety of new requirements regarding access to parking and its location. These include restrictions on the amount and layout of parking within front and street yards, restrictions regarding driveway and drive aisle widths, and new setbacks for parking spaces from a lot line.¹² An exemption is provided for legally existing parking spaces in front and side yards but no exemption is offered for existing driveway or drive-aisle widths.

Most of these provisions do not apply to most industrial uses today and if enacted would render a large number of existing industrial properties non-conforming. Also, they tend to be land intensive and are only appropriate in the most suburban settings.

Landscaping

The proposed by-law would require a 3m strip of soft landscaping along the entire length of any lot line in an EL, E and EO Zone that abuts a street.¹³ Few existing employment industrial uses meet this requirement today and many would find it difficult to provide given their context and confined nature. There is no exemption for legally existing conditions.

Location and Access to a Loading Space

The by-law states that a loading space may not be in a front yard, side yard facing a street, or any yard abutting a lot in a Residential or Residential Apartment Zone (although loading may be provided in any yard in an EH Zone). The by-law also

¹¹ Sections 60.5.10.40(3), 60.5.10.40(4), 60.5.10.40(5) and 60.5.10.40(6)

¹² Sections 60.5.80.10, 60.5.100.1, 60.10.80.20, 60.20.80.20 & 60.40.80.20 and 200.5.1(3)

¹³ Sections 60.10.50.10, 60.20.50.10 and 60.40.50.10

prohibits access to internal loading spaces through a building's main wall on lots in an EL, E and EO zone.¹⁴ Considering the uncertainty regarding the by-law's definition of yards and lot lines, many existing employment industrial lots do not comply. Also, if loading is provided internally, there would be no harm in allowing access through the main front wall if that is what works best for the lot.

Also, within EL, E and EO zones, the proposed by-law states that (a) if a lot abuts a lane, access to loading must be from that lane; (b) if a corner lot does not abut a lane and has at least one lot line that abuts a street not identified as a "major street" by the By-law, access to the loading space must be from the non-major street, and (c) if neither condition exists, then access to the loading space can be from whatever street the lot fronts onto.¹⁵ Many existing employment industrial lots do not meet this standard today, nor can they in the future. Exemptions are provided from some of these new standards; however any future loading changes must comply.

¹⁴ Sections 60.10.90.10, 60.20.90.10, 60.30.90.10 and 60.40.90.10, 60.10.90.40(2), 60.20.90.40(2), 60.40.90.40(2)

¹⁵ Sections 60.10.90.40(1), 60.20.90.40(1), 60.30.90.40(1),