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Via E-mail & Original by First Class Mail

Mayor and Members of Council
City of Toronto
Toronto City Hall
100 Queen Street West
Toronto ON M5H 2N2

Attention: Planning and Growth Management Committee

Your Worship and Members of Council:

**Re: Official Plan / Municipal Comprehensive Review and
Reference Number P:\2013\Cluster B\PLN\PGMC\PG13084 (the "Staff Report")
Re: Proposed Draft Official Plan Amendment No. 231**

We are counsel to the Building and Land Development Association with respect to the above-captioned matter. Our client, with technical support from its consultants, has met with City staff in this matter. We have now had the opportunity to review the Staff Report and would like to provide some comments thereon.

At the outset, BILD notes that the determination of whether any particular site should be designated, or continue to be designated, for employment purposes may be a matter of some importance. However, any consideration thereof will necessarily include the analysis of the site-specific attributes of the property in question. The comments to follow herein do not address site specific matters, although they will have site-specific implications. Rather, the focus is on over-arching policy concerns.

A key topic for BILD throughout this process has been the suggestion that a policy should be enshrined for the purpose of mandating, within properties containing at least 1,000m² of non-residential gross floor area on identified lands designated Mixed Use Areas or Regeneration Areas, an increase in non-residential gross floor area in any redevelopment scenario.

BILD submits that such a proposal is not good public policy and in fact is likely to prove counter-productive. At the outset, we submit that such a policy has not been shown to be necessary by any work undertaken by the City. If such work/analysis has been undertaken, it has not been shared with BILD despite requests to do so. Background reports undertaken by City staff or commissioned by the City assume that if office is desired it should be mandated, without any analysis of how the market would address the provision of such space.

This proposed policy is clearly directed at the circumstances, and only the circumstances, where the economics don't support the provision of non-residential uses. It serves to require therefore that non-economic non-residential uses be subsidized by residential development. As a preliminary comment, we submit that this amounts to conditional zoning, for which the

necessary legal framework is not in place, and could (and should) be discarded for this reason alone.

In any event, there is much evidence that such a policy is not needed. Anecdotally, there is evidence here in Toronto of major enterprises locating in the Downtown Core to be close to a labour force and/or the vibrancy that adjacent residential uses add to an area. This dynamic has long been recognized as a fact of economic development, including here in Toronto.

Accepting the above, the counter-productive aspect of this policy proposal becomes immediately apparent. By discouraging residential development by forcing it to subsidize uneconomic non-residential uses one is discouraging a key motive force for non-residential location.

Looking at it another way, this proposed policy has a built-in element of self-contradiction: a key reason to locate non-residential uses close to transit is so that people can commute to work. Thus the whole premise relies on residential uses being located convenient to transit, exactly what is discouraged by this policy.

Another issue for BILD arises from the proposed retail policies, in particular the directions which promote relatively small retail establishments without regard for built context or the benefit to area amenity of appropriately scaled retail services.

BILD is also concerned that policy restrictions in employment area originally suggested for Power Centres are now proposed for any development with more than 6,000 square metres of retail gross floor area.

Finally, BILD is concerned that policies relating to the physical relationship between employment uses and residential uses are not balanced. Managing this relationship should not automatically and predominantly be the responsibility of only the sensitive uses part of this equation. It is commonly the case that technology is a key component of environmental responsibility and in order to invoke that management tool, even if one puts aside other public policy arguments, the party emitting the "noise, vibration, traffic, odour and other contaminants" may need to accept some responsibility.

On a preliminary basis, attached hereto as an appendix please find some specific policy suggestions articulated as proposed changes to the draft OPA 231. However, given the interrelationships between the policies, for a fully integrated policy regime it would be preferable to have a further dialogue with staff to work through the changes proposed. We therefore respectfully request that no proposed policies be adopted at this time and that staff be directed to meet with us forthwith and report back as soon as practicable.

As a general matter, please note that BILD remains concerned with the "piece-meal" nature of this "Comprehensive Review" as was articulated in the OPA 199 process.

Please provide us, on BILD's behalf, with notice of any future consideration of this matter by any Committee, Community Council, or Council.

Thank you for your attention in this regard.

Yours truly,

A handwritten signature in black ink, appearing to read "John A.R. Dawson", with a long horizontal flourish extending to the right.

John A.R. Dawson

JAD/sc
Attachment

APPENDIX

Section 2.2.4, third paragraph should be amended to read as follows:

Maintaining Employment Areas exclusively for business and economic activities provides a stable and productive operating environment for sustainable and environmentally responsible business, that also attracts new firms. New sensitive land uses within Employment Areas should only be permitted in accordance with the policies of this Plan. Where new sensitive land uses are located outside of, but in close proximity to, Employment Areas, adequate mitigation of the impacts from noise, traffic, odours or other contaminants from nearby industry should be provided for.

Policy 2.2.4.3 should be revised to read as follows:

3. A more intensive use of lands in Employment Areas for sustainable, environmentally responsible and contextually compatible business and economic activities will be encouraged to make better use of a limited supply of lands available for these activities.

Policy 2.2.4.4(a) should be revised to read as follows:

4. Employment Areas will be enhanced to ensure that they are attractive and function well, through actions such as
 - a) permitting a broad array of economic activities that encourage, where contextually compatible, existing businesses to expand or diversity into new areas of sustainable and environmentally responsible economic activity and facilitates firms with functional linkages to locate in close proximity to one another:

Policy 2.2.4.5 should be revised to read as follows:

5. New residential and other sensitive land uses outside of, but adjacent or near to, Employment Areas may require mitigation to appropriately address adverse effects from noise, vibration, traffic, odour and other contaminants upon the occupants of the new sensitive development. Where such is the case, in determining the scope of regulation to employ under the *Planning Act* Council may consider the implications of other statutory regulation of contaminants and the desirability of environmental sustainability.

Policies 2.2.4.12 (e), (h), (n), (o), (p) are revised to read as follows:

12. During Municipal Comprehensive Review, the City will assess requests to convert lands within Employment Areas, both cumulatively and individually, be considering matters such as whether:

(e) the conversion(s) will adversely affect the overall viability of the Employment Area, and maintenance of a stable operating platform for contextually compatible, environmentally responsible and sustainable business and economic activities with regard to the:

(h) potential adverse impacts on new sensitive uses may be mitigated by the offending business or economic activity, and the business implications of that mitigation:

(n) the conversion addresses Policy 2.2.4.5

(o) delete

(p) delete

Section 3.5.1, second paragraph should be revised to delete the balance of the paragraph after the words "within 500 metres of rapid transit stations."

Policy 3.5.1.6 should be revised to read as follows:

6. New office development will be promoted in Mixed Use Areas and Regeneration Areas in the Downtown and Central Waterfront and Centres, and all other Mixed use Areas, Regeneration Areas and Employment Areas within 500 metres of an existing or approved and funded subway, light rapid transit or GO station.

Policy 3.5.1.9 should be deleted.

Section 3.5.3.3 should be revised to read as follows:

3. Street related retail should generally be provided at the base of larger developments in Centres, Avenues, on streets adjacent to higher order transit, and important pedestrian streets to promote pedestrian use, where feasible and appropriate. A fine grain of entrances is generally encouraged, but it is recognized that some retailers which cannot operate with a "fine grain of entrances" due to format size or otherwise can provide an important service amenity and should be permitted.

Policy 3.5.3.5 should be amended to read:

5. In order to provide local opportunities for small businesses and maintain the safety, comfort and amenity of shopping areas, zoning regulations for ground floor commercial retail uses in new buildings in new neighbourhoods or in Mixed Use Areas along pedestrian shopping strips where most storefronts are located at the street line, may provide for the exemption from the otherwise permitted gross floor area provisions for store or commercial units of a maximum size and minimum first-storey height as set out therein based on the following considerations:

Policy 4.6.5 should be revised to read as follows:

"Large-Scale Stand Alone Retail Stores and Power Centres may be considered in General Employment Areas outside of the Downtown Central Waterfront on lots that front onto and have access to major streets as shown on Map 3, through the enactment of a zoning by-law where the following matters are addressed to the City's satisfaction:

The following definitions should be added as policies to Section 4.6 "Policies for All Employment Areas":

xx Definitions:

Large-Scale Stand Alone Retail Store means a single retail unit that has a gross floor area of at least 6,000 squares metres and is the only retail unit on the lot

Power Centre means a single lot with more than one retail unit at least one of which has a gross floor area of 6,000 square metres or greater