

Zoning Conformity for Official Plan Employment Areas – Supplementary Report

Date: September 1, 2021

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

At its meeting of 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 that addresses: 1) zoning permissions for art gallery, museum and performing arts studio uses in *General Employment Areas* of the Official Plan (OP); 2) whether zoning by-law amendments are required to maintain land use permissions for the Woodbine Racetrack lands at 555 Rexdale Boulevard, in conformity with the OP; and 3) whether zoning by-law amendments are required to maintain existing zoning permissions for sites owned by the Toronto District School Board (TDSB) and the Toronto Catholic District School Board (TCDSB) that are zoned industrial but not designated as either *General Employment Areas* or *Core Employment Areas* in the OP.

This Supplementary Report responds to the Committee requests, as well as written submissions made to the Committee, and revises some of the draft by-laws contained in the previously submitted final report from the Chief Planner and Executive Director, City Planning, dated June 10, 2021.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend City of Toronto Zoning By-law 569-2013 substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 1 to the Supplementary Report dated September 1, 2021 from the Chief Planner and Executive Director, City Planning, which replaces Attachment 1 in the Final Report, dated June 10,

2021, and titled Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update.

2. City Council amend North York Zoning By-law 7625, York Zoning By-law 1-83, Toronto Zoning By-law 438-86, Leaside Zoning By-law 1916, Scarborough Employment Districts Zoning By-law 24982 and the Etobicoke Zoning Code substantially in accordance with the draft Zoning By-law Amendments attached as Attachments 2, 3, 4, 5, 7 and 9 to the Supplementary Report dated September 1, 2021 from the Chief Planner and Executive Director, City Planning, which replace Attachments 2, 3, 4, 5, 7 and 9 in the Final Report, dated June 10, 2021, and titled Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update.

3. City Council amend East York Zoning By-law 6752, and the Municipal Shelter By-law substantially in accordance with the draft Zoning By-law Amendments attached as Attachments 6 and 8 to the Final Report from the Chief Planner and Executive Director, City Planning, dated June 10, 2021, and titled Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update.

4. City Council amend City of Toronto Zoning By-law 569-2013 for 60 Starview Lane substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 10 to the Final Report from the Chief Planner and Executive Director, City Planning, dated June 10, 2021, and titled Zoning Conformity for Official Plan Employment Areas - Phase 1 Final Report and Phase 2 Update.

5. City Council authorizes the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.

6. City Council resolve and declare that the decision to amend the zoning by-laws in Attachments 1-10 described in Recommendations 1 to 4 of this report conforms to the Growth Plan (2019) as amended, has regard to matters of Provincial interest listed in Section 2 of the *Planning Act*, and is consistent with the Provincial Policy Statement (2020) issued under Section 3 of the *Planning Act*.

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 the three items outlined in the Summary section above. The direction to staff can be viewed at this link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.5>

COMMENTS

Art Gallery and Museum Uses

In Zoning By-law 569-2013, art gallery is defined as a use for "the exhibition, collection or preservation of works of art for public viewing", and a museum is defined as a use for "the exhibition, collection or preservation of objects of cultural, historical or scientific interest for public viewing." Art galleries and museums are not permitted by the OP in either *Core Employment Areas* or *General Employment Areas*. To ensure conformity with the OP, staff continue to recommend that these uses be removed as permitted uses in industrial zones of all the applicable zoning by-laws in accordance with the proposed zoning by-law amendments.

Museums and art galleries attract visitors to their exhibits. They are considered to be sensitive land uses, which can have impacts that force industries alter to their operations. The OP does not permit uses that attract the general public into the interior of employment lands, because such uses have the "potential to disrupt industrial operations as a result of the introduction of users who have the potential to experience and adverse effect, due to nearby major facilities or due to emissions that may be generated by the land uses permitted" in *General Employment Areas and Core Employment Areas*. Section 24(1) of the *Planning Act* sets out that no by-laws shall be passed that do not conform with the Official Plan. As such, uses which are not permitted in the OP as a result of OPA 231 are to be removed from all in-force zoning by-laws.

There may be specific sites or areas where art galleries or museums are permitted in the OP by way of a Site and Area Specific Policy (SASP). In those instances, site-specific zoning permissions may be appropriate to reflect the policy exception, however, these are exceptions to the general as-of-right zoning permissions, and can only be considered through a site-specific process such as a conversion request as part of a Municipal Comprehensive Review (MCR) of the OP and subsequent rezoning application. The Museum of Contemporary Art (MOCA) on Sterling Road is one such example of an art gallery in an industrial zone which was approved through a site-specific planning process that included an OP amendment and rezoning application, with final approval by the Ontario Land Tribunal. More recently, the Geary Works study on Geary Avenue, in recognition of the unique cultural character of the area, recommended that the appropriateness of permitting certain additional non-residential and cultural industry uses as accessory uses be considered through the MCR.

The proposed amendments to remove art gallery and museum land use permissions does not require amendment to all of the Former General Zoning By-laws, as these land uses are consistently not permitted in industrial or employment zone categories in many of those by-laws. This proposed change affects: Employment Office (EO) category in

Zoning By-law 569-2013; all industrial zones in North York Zoning By-law 7625; and the IC District in Toronto Zoning By-law 438-86. None of the other Former General Zoning By-laws explicitly permit these uses in their industrial zones. In contrast, these uses are permitted in a range of zones across the city including, but not limited to: Commercial Residential (CR), Commercial Residential Employment (CRE) and Institutional Education (IE) Zones in Zoning By-law 569-2013; Institutional, Limited Commercial (CL), and General Commercial (CG) zones in the Etobicoke Zoning Code; and Residential 4, Residential 5, and Mixed Use Commercial Residential in the former City of Toronto Zoning By-law 438-86.

The removal of as-of-right zoning permissions for an art gallery in areas designated as *Employment Areas* does not preclude artists from being able to sell their art where it is produced. An artist studio is a separately defined land use in Zoning By-law 569-2013, which is where an artist creates art, and which is permitted in all but the employment-industrial zone (EH zone). An artist that is creating art in such a space would be able to display and sell their art as an ancillary use, without needing permission for an art gallery as defined. In addition to Zoning By-law 569-2013, an artist studio is permitted in some industrial zones in former City of Toronto Zoning By-law 438-86 (artist's or photographer's studio), the Etobicoke Zoning Code (studios for arts-related purposes) and North York Zoning By-law 7625 (artist studio). In addition, retail store permissions accommodate gallery spaces that are devoted to the sale of art.

Performing Arts Studio

Staff note that City Council adopted Item MM35.42 at its meeting of July 14, 2021, directing the City Manager, the Chief Planner and Executive Director, City Planning Division, and the General Manager, Economic Development and Culture Division, to report back to the October 27, 2021 meeting of the Executive Committee with assessment and recommendations related to the inventory and availability of rehearsal space for musicians.

Performing Arts Studio in Zoning By-law 569-2013 is defined as "premises used for the rehearsal of performing arts, such as music, dance or theatre." This definition recognizes that performing arts studio uses are separate from those which permit performances, education or instruction. Similar to artist studios, production and development of artistic performances can be supported in *Employment Areas* as a permitted use, with conditions. As such, Performing Arts Studio is proposed to a permitted land use in both *Core Employment Areas* and *General Employment Areas*, provided that this use does not include performance for an audience, education or instruction, and do not attract the general public.

Zoning By-law 569-2013 permits "performing arts studio", as defined, subject to the conditions discussed above, in all but the heaviest employment-industrial zone (EH zone). In addition to Zoning By-law 569-2013, a performing arts studio is permitted in some industrial zones in former City of Toronto Zoning By-law 438-86 (performing arts studio), the Etobicoke Zoning Code (studios for arts-related purposes) and City of York Zoning By-law 1-83 (theatrical and other staged entertainment production studio). To conform with the OP, the proposed amendments limit the permitted uses to those that do not include instruction or performance for an audience.

School Board Sites

The TCDSB and TDSB have requested site-specific exceptions for five and six sites, respectively, in each of their portfolios. These sites are zoned industrial, but are designated something other than *General Employment Areas* or *Core Employment Areas* in the OP. The proposed zoning by-law amendments in the final report would have the effect of removing permissions for schools from the industrial zoning, notwithstanding that in the case of these sites, the OP would provide for schools in accordance with the non-*Employment Areas* OP designations.

Staff have reviewed these requests and are recommending site-specific exceptions to 7 of the 11 sites. Site-specific exceptions are required to the Etobicoke Zoning Code and North York Zoning By-law 7625 in order to reflect permissions for uses such as schools and day nurseries that currently exist on these sites in conformity with the OP. These sites are: 130 Overlea Boulevard, 135 Overlea Boulevard, 3395 Weston Road, 755 Oakdale Road, 20 Starview Lane, 3672 Lakeshore Boulevard West and 45 Norfinch Drive. This approach would ensure that the existing uses on these sites do not become legally non-conforming with respect to zoning, while remaining in conformity with the OP.

Two of the sites identified by the school boards are designated *Employment Areas*. These sites are 38 Orfus Road and 2170 Kipling Avenue. On these sites, the removal of permissions for sensitive uses is proposed to bring the sites into conformity with the OP. This means that staff are recommending to remove existing zoning permissions for schools, along with other sensitive uses on these sites. For 38 Orfus Road, a conversion request to change the land use designation from *General Employment Areas* to *Mixed Use Areas* has been submitted. Should the change in designation be supported through the Municipal Comprehensive Review, zoning will be reviewed in future to reflect the change in permitted land uses in the OP.

One additional site at 65 Jutland Road and 956-962 Islington Avenue has been identified as having split designation of the lands. The site is largely designated *Mixed Use Area*, with a small portion designated *Core Employment Areas*. It is proposed that School Elementary, School Secondary, and Day Nursery be made permitted uses in I.C1 on the portion of the site that is designated *Mixed Use Area*, but not on the portion of the site that is designated *Core Employment Areas*, to bring the site into conformity with the OP. This is represented on the diagram found as Schedule H of Attachment 9 to this report.

The remaining site identified by the TDSB at 3 Tippet Road accommodates permitted uses that support the school board operations, but does not include a school or education uses. The site may be considered as part of future zoning conformity work.

Woodbine Racetrack Lands

As noted in the Final Report, where a Site and Area Specific Policy (SASP) in the OP allows for a sensitive use or a use otherwise not permitted in *Employment Areas*, and that use is currently permitted under the in-force zoning by-law, it is the intent of this

review to maintain that permission. This will be done through a site or area-specific exception in the applicable zoning by-law. It should be emphasized that this only applies where a use was already permitted under the applicable zoning by-law.

The Woodbine Racetrack lands at 555 Rexdale Boulevard is zoned IC.2 in the Etobicoke Zoning Code. While the lands are designated as *General Employment Areas* in the OP, they are also subject to SASPs 29, 296 and 531 in the OP. These SASPs allow for uses that are otherwise not permitted in *General Employment Areas*, such as race track and entertainment uses, as well as certain sensitive uses.

The site is also subject to four site-specific zoning by-law amendments from 2007, 2018 and 2021. For the purposes of the land use permissions for 555 Rexdale Boulevard, Zoning By-laws 864-2007, 1260-2018, 1261-2018 and 500-2021 should prevail and the land use permissions previously granted for the Woodbine Racetrack lands will be maintained.

For those portions of the lands that are not subject to the above mentioned zoning by-laws, sensitive uses otherwise permitted in I.C2 of the Etobicoke Zoning Code will be removed to bring the remaining lands into conformity with the Official Plan. The Woodbine Racetrack lands exception is found in Attachment 9.

Sites with Conversion Requests

The proposed zoning by-law amendments reflect the in-force OP policies as amended by OPA 231. As part of the MCR, 150 conversion requests have been received by the City to convert lands designated as *Core Employment Areas* or *General Employment Areas* to non-employment uses. There is no additional action being recommended at this time for sites with conversion requests currently under review. Should the OP designations or use permissions change as a result of the conversion request, the zoning can be addressed in the future as needed. Should the conversion request be refused, the zoning will conform with the OP.

Sites with Appeals to OPA 231

There are approximately 70 active appeals to OPA 231 covering 110 properties. Staff are not recommending any exemptions or exceptions for these sites as part of the Phase 1 review. Section 24(2) of the *Planning Act* allows Council to adopt zoning by-law amendments that conform with a Council-adopted OP amendment that is not yet in force, so long as the zoning by-law amendment would conform once that OPA is in force. In this case, the proposed zoning by-law amendments would conform to OPA 231 for these sites.

Lands zoned Employment-Industrial Outside of Employment Areas

The recommended zoning by-law amendments for the Phase 1 review do not address lands with applicable employment-industrial zoning that are not designated as *Employment Areas* in the OP. These areas typically reflect former industrial lands that have transitioned into other uses over time, or that are found in areas undergoing change. The OP recognizes that the intention for future uses is something other than *Employment Area* uses, but the zoning has not been changed to reflect that. It is anticipated that these sites will be addressed as part of future zoning conformity work.

Technical Revisions

As part of the review for this report, a small number of technical amendments that needed to be made to the amendment to the former City of Scarborough Employment Districts Zoning By-law 24982. These amendments include refinement of references to specific regulations in Zoning By-law 24982 and a change to Diagram 6 to improve readability of the amendment. The revised amendment is Attachment 7 to this report.

Conclusion

The revised recommended draft zoning by-law amendments are consistent with the Provincial Policy Statement (2020) and conform to, and do not conflict with the Growth Plan (2019). Furthermore, the recommended revisions conform to and maintain the intent of the OP.

CONTACT

Michael Mizzi, Director, Zoning and Committee of Adjustment, City Planning Division,
Tel: 416-392-0888, Email: Michael.Mizzi@toronto.ca

Kyle Knoeck, Manager, Zoning and Committee of Adjustment, City Planning Division,
Tel: 416-392-0871, Email: Kyle.Knoeck@toronto.ca

Carola Perez-Book, Senior Planner, Zoning and Committee of Adjustment, City
Planning Division, Tel: 416-392-8788, Email: Carola.Perez-Book@toronto.ca

SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Amendment to Zoning By-law 569-2013
Attachment 2: Amendment to North York Zoning By-law 7625
Attachment 3: Amendment to York Zoning By-law 1-83
Attachment 4: Amendment to Toronto Zoning By-law 438-86
Attachment 5: Amendment to Leaside Zoning By-law 1916
Attachment 7: Amendment to Scarborough Employment Districts Zoning By-law 24982
Attachment 9: Amendment to Etobicoke Zoning Code