

Zoning Conformity for Official Plan Employment Areas – Supplementary Report

Date: October 15, 2021

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

The Planning and Housing Committee, at its meeting of 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. This follows an adjournment at the June 28, 2021 Planning and Housing Committee meeting, where staff were requested to prepare a supplementary report to address permissions for certain cultural uses, some school sites and the Woodbine lands.

Since the June 28, 2021 meeting, numerous written submissions have been made on this item. This second Supplementary Report responds to these written submissions, and recommends revising the draft by-law amendment for former City of Toronto Zoning By-law 438-86 to address the Pinewood Studios site in the Port Lands, as detailed in this report.

The recommendations in this report replace the recommendations in the reports dated June 10, 2021 and September 1, 2021 from the Chief Planner and Executive Director, City Planning.

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 this report;
2. City Council amend Toronto Zoning By-law 438-86 substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 2 to this report;
3. City Council amend North York Zoning By-law 7625, York Zoning By-law 1-83, Leaside Zoning By-law 1916, Scarborough Employment Districts By-law 24982 and the Etobicoke Zoning Code substantially in accordance with the draft Zoning By-law Amendments attached as Attachments 3, 4, 5, 6 and 7;

4. City Council amend East York Zoning By-law 6752, and the Municipal Shelter By-law 138-2003 substantially in accordance with the draft Zoning By-law Amendments attached as Attachments 8 and 9 to this report;
5. 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 this report;
6. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.
7. City Council resolve and declare that the decision to amend the zoning by-laws in Attachments 1-10 described in Recommendations 1 to 5 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 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>

COMMENTS

The Phase 1 review is a conformity exercise implementing various policy decisions by Council and Local Planning Appeal Tribunal (now Ontario Land Tribunal) on the overall land use framework for *Employment Areas* across the city. As the various reports on this item have outlined, this is a legacy project because it is the first time there will be a large scale reconciliation of what remains of unharmonized and outdated zoning from the former municipalities with now largely approved policy framework of the Official Plan (OP). Once the zoning is brought into conformity through Phase 1, further work will be undertaken in Phase 2 which will facilitate local considerations and adjustments. Going forward, when changes are made to OP *Employment Area* policies, the administration of zoning conformity will be significantly more straightforward.

There were over 70 written submissions on this item at or before the PHC meeting on September 21, 2021. Staff have reviewed and considered all of the submissions. The main themes of the correspondence and staff comments on each are outlined below.

Legal Non-conforming Uses

Some of the submissions expressed concern regarding existing uses that would no longer be permitted. Sites with uses that are lawfully existing in *Employment Areas*, and which are being recommended to be removed as part of this report, may be considered legal non-conforming uses, in accordance with subsection 34(9) of the *Planning Act*. Legal non-conforming uses can continue to operate, and may seek permissions to alter or expand their operations through the Committee of Adjustment.

Sites with Appeals to Official Plan Amendment (OPA) 231

There are approximately 70 active appeals to OPA 231 covering over 100 properties. Some sites with an on-going appeal to OPA 231 submitted communication requesting an exemption from the proposed zoning by-law amendments until their appeal is resolved. 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 Official Plan amendment (OPA) 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, and they affirm Council-adopted policy direction for these sites.

Sites with Conversion Requests

A few submissions cited the Phase 1 amendments as premature given the ongoing Municipal Comprehensive Review (MCR). As part of the MCR, about 150 conversion requests have been received by the City to convert lands designated as *Core Employment Areas* or *General Employment Areas*. There is no additional action being recommended at this time for sites with conversion requests currently under review. The proposed zoning by-law amendments reflect the in-force OP policies as amended by OPA 231. 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 (potentially as

part of Phase 2 of the zoning conformity review). Should the conversion request be refused, the zoning will conform with the OP.

Lands Zoned Employment-Industrial Outside of *Employment Areas*

Another theme in the correspondence relates to sites that are zoned industrial, but not designated *Employment Areas* in the OP. As outlined in the first supplementary report dated September 1, 2021, the recommended zoning by-law amendments for the Phase 1 review do not provide exceptions for lands in this situation. These areas typically reflect former industrial lands that have transitioned to other uses over time, or that are found in areas undergoing change. The Official Plan recognizes that the intention for future uses is something other than *Employment Area* uses, but the zoning has not been changed to reflect that. Determining the appropriate zoning for these sites will require a more detailed review. It is anticipated that these sites will be addressed as part of Phase 2 of the Zoning Conformity for Official Plan *Employment Areas*, or through site or area-specific applications or processes.

Concerns with Current OP Policies for *Employment Areas*

Some of the submissions cited concerns or dissatisfaction with existing OP policies and their implementation; this included concerns about the types of uses that are considered in the OP to be sensitive uses and concerns about use restrictions and rigidity.

This zoning conformity review is an implementation exercise only. The *Planning Act* requires that zoning by-laws conform to the policies of the OP. The proposed amendments will amend all in-force zoning by-laws to ensure conformity with the OP, as amended by OPA 231. Any changes to the OP policies would need to conform to and be consistent with the provincial planning framework, which currently emphasizes protection for employment lands from sensitive uses to ensure their long-term viability. The ongoing MCR may result in amendments to OP policies that would subsequently need to be reflected in zoning by-laws in the future.

Fitness Centres

Fitness Centres are currently permitted in some of the applicable zoning by-laws, either under a specific term such as "fitness centre" or "fitness club", or under another permitted use such as a "recreation use". Fitness centre is a use that is not consistently permitted across all OP *Employment Areas*. It is permitted on lands designated *General Employment Areas*, but not in *Core Employment Areas*. In order to maintain the use permission and conformity with the OP policies, some properties may need to be split-zoned along the OP designation boundary, with the use being permitted on the portion that is designated *General Employment Areas* only. Split zoning a property can result in administrative and interpretation challenges.

As part of the Phase 1 recommendations, staff are recommending that fitness centre permissions be removed from the applicable zoning by-laws in order to facilitate conformity with the OPA 231 policies for all *Employment Areas*. As part of the Phase 2 review, staff will review how best to provide permissions for fitness centres on a site- or

area-specific basis for those properties in *General Employment Areas* where the use was previously permitted.

A few of the submissions received take issue with this approach to fitness centre permissions. Staff have considered potential alternatives but are not recommending any changes to the current approach. This approach, while requiring additional review in Phase 2, is the most efficient approach to ensure that the zoning will conform to the OP.

Support for the Removal of Sensitive Uses

Submissions from several established industries and manufacturers support the staff recommendations, especially as it relates to the removal of sensitive uses from industrial zones. This correspondence also recognizes that sensitive uses have the ability to impact industrial operations, and affect the viability of businesses.

Sites that are not Zoned Industrial

Approximately 13 submissions were made for sites that are not currently zoned industrial. For example, some sites are zoned residential or commercial-residential. Given that this zoning conformity review is only proposing to amend use permissions for employment-industrial zones, there is no impact to the sites that were the subject of these submissions.

Pinewood Studios

Pinewood Toronto Studios made a submission to the Planning and Housing Committee, dated September 20, 2021, seeking clarity as to how the Phase 1 zoning conformity exercise would apply to their site at 101, 225 Commissioners Street and 1-17 Basin Street in the context of the Port Lands policy framework and the Ontario Land Tribunal decisions dated March 8, 2021 and May 14, 2021 related to the Port Land Official Plan Modification (OPM). Because the Pinewood Studio site is zoned I3 and I4 in former Toronto Zoning By-law 438-86, the underlying zoning permissions would be impacted by the recommended removal of certain uses in Phase 1.

It is not the intent of the Phase 1 zoning review to impact the settlement of the land use permissions for this site that were negotiated through the Phase 1 OPM hearing proceedings. As noted in the Final Report, dated June 10, 2021, where a secondary plan or site and area-specific policy allows for a sensitive use or a use otherwise not permitted in the employment-industrial zones, and that use is permitted under the in-force zoning by-law, those permissions may be maintained through a site or area-specific exception in the zoning by-law. This only applies where a use was already permitted under the applicable zoning by-law.

A Section 12(1) permissive exception for the Pinewood site has been added to the recommended zoning by-law amendment for Toronto Zoning By-law 438-86 (see Attachment 4). This exception recognizes existing use permissions that are permitted by the OPM and zoning, which are recommended for removal from the I3 and I4 districts.

Conclusion

The recommended zoning by-law amendments ensure that the in-force zoning is updated, to reflect the Council-adopted OP policies that protect *Employment Areas*. Staff have reviewed the correspondence submitted to the Planning and Housing Committee on this item. The large majority of the issues identified will either be dealt with in Phase 2 of the zoning conformity review, or through other ongoing processes such as the resolution of appeals to OPA 231. Staff do not recommend any additional amendments or revisions at this time.

CONTACT

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SIGNATURE

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

ATTACHMENTS

Attachment 1:	Amendment to Toronto Zoning By-law 569-2013
Attachment 2:	Amendment to Toronto Zoning By-law 438-86
Attachment 3:	Amendment to North York Zoning By-law 7625
Attachment 4:	Amendment to York Zoning By-law 1-83
Attachment 5:	Amendment to Leaside Zoning By-law 1916
Attachment 6:	Amendment to Scarborough Employment Districts ZBL 24982
Attachment 7:	Amendment to Etobicoke Zoning Code
Attachment 8:	Amendment to East York Zoning By-law 6752
Attachment 9:	Amendment to Municipal Shelter By-law 138-2003
Attachment 10:	Site-specific amendment for 60 Starview Lane