



Etobicoke-Lakeshore Community Planning Group  
elcpgroup@gmail.com

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DATE: APRIL 21, 2021  
TO: PLANNING AND HOUSING COMMITTEE, City of Toronto  
FROM: PAUL CHOMIK, P.Eng.  
  
**RE: Christie's Bakery Site; 2150 Lake Shore Blvd. West, 23 Park Lawn Road  
Conversion from Employment Areas Land-use Designation**

**Public Meeting, April 22, 2021  
City of Toronto  
Planning and Housing Committee  
Request to Amend the Official Plan and Zoning By-law 569-2013**

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The pivotal issue regarding the Official Plan Amendment for this site is the legality of ignoring and defying the conclusions of the Municipal Comprehensive Review (MCR) conducted for this site and the deliberate intent to defy the statutory legislation mandated by the Government of Ontario with respect to such matters.

Through the process of a Municipal Comprehensive Review in 2013, it has been demonstrated that the conversion criteria set out in all applicable Provincial Plans and Policies have been met.

The MCR concluded that the subject lands consisting of the Christie's Bakery site would not only retain its designation of *Employment Areas*, but would also be elevated to the status of *Core Employment Areas*.

As required by the Growth Plan for the Greater Golden Horseshoe (GPGGH, Growth Plan), **employment lands can only be re-designated if a Municipal Comprehensive Review (MCR) determines that the *need* for such a re-designation is valid along with other criteria that must be satisfied.**

The Local Planning Appeal Tribunal (i.e. LPAT, the Ontario Municipal Board, as renamed) in PL140860 has concluded that:

**“[145] The Tribunal, as it relates to the matter before it in this appeal hearing, treats the following Provincial policies as paramount:**

**1. Policy 1.3.2.1 of the PPS: Planning authorities shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.**

**2. Policy 1.3.2.2 of the PPS: Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long-term and that there is a need for the conversion.”**

**“4. As a general proposition, once converted out of employment land use to another land use designation, there is no evidence that such lands are likely to be re-converted to employment land use.”**

**“7. There is no evidence to support the view that there is a need to convert employment lands to non-employment uses to meet the land supply necessary to create the dwelling units that are necessary to accommodate the City’s forecast population growth.”**

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**“5. Policy 2.2.6.5 of the GP 2006: Municipalities may permit conversion of lands within employment areas, to non-employment uses, only through a municipal comprehensive review where it has been demonstrated that:**

**a) there is a need for the conversion**

**b) the municipality will meet the employment forecasts allocated to the municipality pursuant to this Plan**

**c) the conversion will not adversely affect the overall viability of the employment area, and achievement of the intensification target, density targets, and other policies of this Plan**

**d) there is existing or planned infrastructure to accommodate the proposed conversion**

**e) the lands are not required over the long term for the employment purposes for which they are designated**

**f) cross-jurisdictional issues have been considered.”**

**“[146] The paramountcy of these policies is not meant to signify that the other policies of the Provincial planning policy documents, such as the need to create complete communities and to provide a range and mix of housing, have not been taken into account in this appeal hearing. The Tribunal, based upon the facts as it has found, essentially determines that by approving OPA 231 as proposed to be modified, will fully and fairly implement these paramount policies while not undermining or ignoring the other policies of the PPS and GP 2006.**

**[147] It is the determination of the Tribunal that OPA 231, as modified, is consistent with the PPS and conforms with GP 2006.”**

**In effect, the LPAT has confirmed the legitimacy of the Municipal Comprehensive Review and OPA 231 requirements with respect to the Christie’s Bakery site and the protection required for *Employment Areas* land designations to its full extent.**

The chronological timeline of the Municipal Comprehensive review with respect to the Christie’s Bakery site raises serious questions regarding the legitimacy of the intent to redesignate the lands from employment uses exclusively, to ultra-high density residential uses.

In 2012, a conversion request from the property owner at the time (Mondelez Canada Inc.) was submitted (November 1, 2012, revised January 7, 2013) to permit residential uses.

**From; ‘Christie’s Planning Study – Status Update and 2150 & 2194 Lake Shore Blvd. West and 23 Park Lawn Road – Official Plan Amendment Application – Preliminary Report; January 7, 2020’ notes:**

**“In December 2013, Mondelez Canada Inc. submitted an Official Plan Amendment application (File No. 13 277843 WET 06 OZ) for the subject lands... The application sought permission for residential and other uses through a redesignation from Employment areas to Regeneration Areas.” (pg. 4)**

It is noteworthy that there is no reference to (since 2013) or definition whatsoever of “*regeneration areas*” in Ontario’s Growth Plan. Because the GPGGH *represents the minimum standards* with respect to planning in Ontario, any use of *regeneration areas* in planning constitutes *non-compliance* and a *conflict* with the governing legislation. Any conflict or non-compliance is not allowed.

The Municipal Comprehensive Review was carried out for the property and based on the criteria in the GPGGH, Provincial Policy Statement and Toronto’s Official Plan Policies which concluded that “there is no need for the requested conversion”, that the lands be retained as *Employment Areas*, the lands be elevated to the designation of *Core Employment Areas*, and Area Specific Policy No. 15 be amended to reflect the conclusions of the MCR. (City of Toronto By-law No. 1714-2013)

As stated in the “*Planning Rationale Summary*” from the City of Toronto Staff report for action (pg. 318), **“There is no need to convert the employment lands at 23 Park Lawn Road and 2150 Lake Shore Boulevard West to meet the 2031 Provincial population forecast for Toronto or to address an incompatibility of *Employment Area* permissions with existing adjacent lands uses.”**

Also noted, “City Council’s planning decisions are required by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.” The determination that the land-use conversion request by the property owner *failed to satisfy the requirements necessary to permit the conversion to other non-employment uses* does, in fact, comply with the requirements of the GPGGH.

It was clearly determined through the Municipal Comprehensive Review that criteria in subsection 2.2.5.9 were not satisfied, notwithstanding that the property owner failed to properly submit a complete application for the proposed amendment as of January 9, 2014.

It is critical to note that on January 10, 2014, the City of Toronto notified the property owner of 2150 Lake Shore Blvd. West that their “Application to Amend the Official Plan to redesignate the lands from *Employment Areas* to *Regeneration Areas*” (Application No. 13 277843 WET 06 OZ) was incomplete, severely deficient and did not meet the minimum standard required for a complete application. This occurred *after the MCR determined that the request for conversion completely failed to support any land-use conversion.*

The applicant was also notified that the City of Toronto had completed a Municipal Comprehensive Review for the property as required by the GPGGH and that the property was retained as an *Employment Areas* designation and that it was designated as *Core Employment Areas*, as adopted by the City of Toronto as of December 16-18, 2013. The City of Toronto also clearly noted that a land-use conversion *can only be approved by a MCR*. **There is also no legal authority to override or ignore the conclusions of a MCR, as the GPGGH clearly establishes that only a MCR can authorize a land-use conversion.**

**“In December 2016, the LPAT brought into force the *Core Employment Areas* and *General Employment Areas* designations, except for sites under appeal and uses that remained contested. In January 2019, the LPAT brought into force the remainder of the policies for the two *Employment Areas* designations, except with regard to the retail policies and office replacement policies which remain under appeal.”** (pg. 4)

That means as of January 2019, the MCR determination for the site was approved at that time by the Land Planning Appeals Tribunal.

**“In July 2019, City Council approved a settlement with First Capital Realty which resulted in Site and Area Specific Policy 15 (SASP 15). SASP 15 redesignated the subject lands to *Regeneration Areas* and *General Employment Areas* and established the requirement for a Secondary Plan to be completed.”** (pg. 1)

This happened despite SASP 15 being approved in 2013 retaining the property for employment uses as *Core Employment Areas*.

While the City of Toronto subsequently notes that an agreement with the landowner was made in July 2019 to overrule the statutory requirements of the MCR and the in-force *Employment Areas* designations after the updated GPGGH took effect on May 16, 2019, there was no public involvement and through secret meetings that were non-transparent, a behind-closed-doors deal was hatched.

In effect, there was absolutely no “public consultation” regarding the conversion of the Christie’s bakery site from the *Employment Areas* designation, as confirmed by the MCR, to ultra-high density residential uses in defiance of the required planning policies mandated by the government of Ontario.

**It is also interesting to note that a presentation by Toronto’s Chief Planner, Gregg Lintern, on June 15, 2020 titled ‘Growth Plan (2019) Conformity and Municipal Comprehensive Review Work Plan (Item PH14.4)’ clearly illustrates the Christie’s Bakery site as being designated as *Core Employment Areas* (“Protecting Employment Areas”, pg.6).**

**“Upon submission of the new Official Plan Amendment Application (File No. 19 239170 WET 03 OZ) by First Capital Realty on October 21, 2019, ... ” (pg. 4)**

It appears that in an effort to evade the constraints of the original Official Plan Amendment Application, a new application was submitted based on the previous secret agreement made with City of Toronto staff.

**That action does not negate the requirement of the MCR to authorize any land-use designation conversion from *Employment Areas*, regardless if a secret settlement was made with the City of Toronto to attempt to evade the statutory requirements mandated by the Province of Ontario.**

**“The settlement was approved by the LPAT on August 22, 2019.” (pg. 4)**

Because that deal was subsequently approved by the Land Planning Appeals Tribunal (LPAT, formerly named as the Ontario Municipal Board), it is evident that LPAT has facilitated the illegal actions by Toronto in defiance of statutory legislation.

The City of Toronto routinely appears to show that it cannot be trusted to uphold the public interest and exercise fiduciary responsibility on behalf of taxpayers.

**Of note is the fact that the approval of plans that do not legally comply with statutory governing legislation are invalid with no legal force since illegal acts cannot be made “legal” simply by virtue of being “approved”.**

**Finally, LPAT has no statutory authority to approve any land use planning that does not comply with the governing legislation. LPAT cannot overrule the rule of law as it must operate to the same standards as Divisional Court – which only determines if actions are compliant with established laws. LPAT also has no authority to make new laws.**

The fact remains that there is no provision to appeal or to override a MCR, as the GPGGH clearly establishes *that only a MCR can authorize a land-use conversion*.

It is abundantly clear that the proposal for ultra-high density residential development on the Christie's Bakery site in southeastern Etobicoke totally fails to comply with the statutory requirements of the 'Growth Plan for the Greater Golden Horseshoe', as well as land-use redesignation provisions in the Provincial Policy Statement. That is notwithstanding that the City of Toronto's act of defying the outcome of the 'Municipal Comprehensive Review' for the property that determined it was to remain for employment purposes only is an illegal act because no statutory provision exists for ignoring or defying the determination of a MCR.

Consequently, the rush to conclude the secret settlement deal for the property appears to have been clearly intended to avoid the determination of LPAT with respect to the redesignation of *Employment Areas* land issues.

Again, this raises serious concerns regarding the underlying motives of City of Toronto public servants and their actions to defy the requirements and determination of the MCR for the Christie's Bakery site.

It appears that a formal investigation is likely required to determine if the public interest has been adversely impacted through the actions taken.

cc: The Hon. Doug Downey, Attorney General for the Province of Ontario  
The Hon. Doug Ford, Premier of Ontario  
The Hon. Steve Clark, Minister of Municipal Affairs and Housing  
The Hon. Victor Fedeli, Minister of Economic Development  
The Hon. Laurie Scott, Minister of Infrastructure  
John Lancaster, Canadian Broadcasting Corporation  
Sue-Ann Levy, The Toronto Sun

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**Following are additional excerpts from supporting documentation.**

As determined by LPAT Decision

**“Local Planning Appeal Tribunal**

**ISSUE DATE:** January 30, 2020 **CASE NO(S):** PL140860”

**“DECISION DELIVERED BY GERALD S. SWINKIN**

**THE DISPOSITION OF THE TRIBUNAL**

[144] **Based upon the evidence heard by the Tribunal, the Tribunal makes the following core findings:**

**2. The City's employment land base as presently delineated has limited vacant land and low vacancy rates.**

3. There is evidence of the renewal and updating of the building stock within the City's employment lands to signify the demand for space within the City's employment lands.

**4. As a general proposition, once converted out of employment land use to another land use designation, there is no evidence that such lands are likely to be re-converted to employment land use.**

5. The City appears to be on track to meet its population forecast targets under the GP 2006.

6. There appears to be a sufficient rate of development approvals on an annual basis and supply of land with the potential for residential development to accommodate the production of dwelling units to house the forecast population growth.

**7. There is no evidence to support the view that there is a need to convert employment lands to non-employment uses to meet the land supply necessary to create the dwelling units that are necessary to accommodate the City's forecast population growth.**

**[145] The Tribunal, as it relates to the matter before it in this appeal hearing, treats the following Provincial policies as paramount:**

**1. Policy 1.3.2.1 of the PPS: Planning authorities shall plan for, protect and preserve employment areas for current and future uses and ensure that the necessary infrastructure is provided to support current and projected needs.**

**2. Policy 1.3.2.2 of the PPS: Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long-term and that there is a need for the conversion.**

3. Policy 2.2.6.1 of the GP 2006: An adequate supply of lands providing locations for a variety of appropriate employment uses will be maintained to accommodate the growth forecasts in Schedule 3.

4. Policy 2.2.6.2.c of the GP 2006: Municipalities will promote economic development and competitiveness by planning for, protecting and preserving employment areas for current and future uses.

**5. Policy 2.2.6.5 of the GP 2006: Municipalities may permit conversion of lands within employment areas, to non-employment uses, only through a municipal comprehensive review where it has been demonstrated that:**

**a) there is a need for the conversion**

**b) the municipality will meet the employment forecasts allocated to the municipality pursuant to this Plan**

**c) the conversion will not adversely affect the overall viability of the employment area, and achievement of the intensification target, density targets, and other policies of this Plan**

**d) there is existing or planned infrastructure to accommodate the proposed conversion**

e) the lands are not required over the long term for the employment purposes for which they are designated

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[147] It is the determination of the Tribunal that OPA 231, as modified, is consistent with the PPS and conforms with GP 2006.

37 PL140860

*"Gerald S. Swinkin"*  
GERALD S. SWINKIN  
MEMBER

From: 'City of Toronto Official Plan 5-Year Review/Municipal Comprehensive Review, Economic Health and Employment Policies: Consultation Summary Report, March 2013'

### **"Conversion Requests**

**The intent to preserve an initial estimate of 98 percent of the City's employment areas for employment purposes was positively received by the majority of participants.**

Feedback collected throughout the consultation process revealed significant concerns about the pressure to convert employment lands for residential development. There was however some divergence in the feedback:

- Many participants were concerned about the negative impact conversion requests will incur on manufacturing and industrial jobs and maintaining a diverse economic base in Toronto.
- Other participants were concerned that the City continue to balance jobs and population so that Torontonians could work in Toronto and not commute long distances to work.
- In North York and Etobicoke some ratepayer associations were concerned with impacts, particularly traffic impacts, of conversion of employment areas near their community for high density large-scale residential redevelopment."

pg. 15



# “Summary of Proposed Changes to Official Plan Employment Areas Policies

## Fast Facts

There are over 110 requests and applications to convert employment lands, almost all to residential uses as of mid-January 2013. Teams from Planning and Economic Development Divisions are assessing applications according to Provincial criteria.

## Key Issues

Most residential conversion requests are in healthy employment areas. Viability of employment areas may be undermined by the introduction of sensitive residential uses, particularly for impactful industries.

Employment areas provide jobs for nearby residential neighbourhoods. Loss of Employment areas potentially affects balance of population and jobs in the City.

Is there a need to convert employment lands for residential purposes given current development approvals and the opportunities for new residential units in areas where residential growth is permitted and encouraged?

## Proposed Policy Changes/Additions

As of November 8<sup>th</sup> report, over 98 per cent of employment lands were proposed to be retained as employment areas, including preliminary assessment of first 65 conversion requests and housekeeping to show changes prior to OP Review.

Considering re-designation to regeneration areas in a few isolated small employment areas with rapid transit, vacant lands, low employment and prior residential approvals.

Area studies to provide development framework and ensure growth of employment space accompanies residential development.”

## CHAPTER 4 POLICIES

A. *Delete Section 4.6 policies and replace with the following:*

### ‘4.6 EMPLOYMENT AREAS

1. Core Employment Areas are places for business and economic activities. Employment uses permitted in Core Employment Areas are offices, research and development facilities, manufacturing, warehousing, distribution of goods, utilities, post-secondary business and trade training facilities, arts training facilities and studios, media facilities, and vertical agriculture.

2. Secondary uses, which support the primary employment uses set out in Policy 1, that are permitted in Core Employment Areas include: hotels, parks, as well as small-scale restaurants and catering facilities of a maximum size set out in the applicable Zoning By-law(s), ancillary workplace daycare, and small-scale service uses that directly serve business needs such as courier services, banks and copy shops of a maximum size as set out in the Zoning By-law(s). Small scale retail outlets that are ancillary and on the same lot may be permitted up to a maximum size set out in the applicable Zoning By-law(s).

3. Lands in Core Employment Areas may only be converted from Employment Areas to non-employment uses including, but not limited to residential and institutional residential uses, and/or a large- scale stand-alone retail store or a power centre as defined in policy 14 of this section, through a Municipal Comprehensive Review where it has been demonstrated that the conversion criteria set out in all applicable Provincial Plans and Policies have been met.

As noted in City of Toronto report; 'Planning for a Strong and Diverse Economy: Official Plan/Municipal Comprehensive Reviews - Draft Policies and Designations for Employment' (Reference Number: P:\2012\Cluster B\PLN\PG12075), on page 9, the City acknowledges that it will run out of land designated for employment between the years 2031 and 2041.

**“Employment Areas are a Finite Resource to be Conserved**

Our Employment Areas are a finite resource. Given relative land values we rarely see residentially designated lands converted to employment uses. **Our consultant's projections show that we have sufficient lands designated as Employment Areas to meet demands by 2031, but we will run out of land in our Employment Areas for the permitted business functions between 2031 and 2041.** There is a relatively low supply of vacant employment lands particularly given the potential expansion of commercial retail and institutions in Employment Areas, and that the expansion of manufacturing/warehousing uses is wholly confined to these lands. While conversion requests are addressed later in this report, it is recommended that the majority of the City's Employment Areas be maintained for the expansion of non-residential businesses, and that expansion take place in an intensified physical form.”