

July 4, 2023

BY EMAIL TO: phc@toronto.ca

Planning and Housing Committee
Toronto City Hall
100 Queen Street West
Toronto, ON M5H 2N2

ATTENTION: Nancy Martins, Committee Administrator, Planning And Housing Committee

Dear Members of Planning and Housing Committee

**Re: PH 5.2 – Official Plan Amendment for Bill 97 Transition
– Authorizing the Continuation of Institutional and Commercial Uses in
Employment Areas – Final Report
Official Plan Amendment No. 668 (OPA 668)**

(i) Introduction

Aird & Berlis LLP is counsel to Woodbine Entertainment Group (“**WEG**”), the owner of 555 Rexdale Boulevard in the City of Toronto (the “**Woodbine Lands**”). The Woodbine Lands are approximately 277 hectares (684 acres) in size and are generally bounded by Rexdale Boulevard to the north, Highway 27 to the east, Highway 427 to the west and the Metrolinx rail corridor to the south.

The Woodbine Lands currently contain the Woodbine Racetrack complex, and ancillary/associated uses including gaming, off-track wagering and various accessory buildings related to the racetrack operations, with extensive surface parking areas. An integrated entertainment complex is nearing completion on the Woodbine Lands along its Rexdale Boulevard frontage which includes a casino, a performance venue, two hotels and associated parking structures.

The Woodbine Lands are currently designated *General Employment Areas* and *Core Employment Areas* in the City of Toronto Official Plan, but subject to a comprehensive planning framework which provides permissions for non-employment uses, including residential and other sensitive uses, through two Site and Area Specific Policies Policy (“**SASP**”), SASP 29 and SASP 296.

An employment area conversion request for the Woodbine Lands was submitted by Davies Howe LLP and WND Associates on behalf of WEG on July 30, 2021. This request was made through the City-initiated Municipal Comprehensive Review (“**MCR**”) process, and was submitted during the City Council-approved window to receive conversion requests (the “**Woodbine Conversion Request**”). The Woodbine Conversion Request is known municipally as **Conversion Request No. 074**. WEG has initiated a master planning exercise, which contemplates the comprehensive redevelopment of the Woodbine Lands to allow for the achievement of a mixed use community, which could deliver more than 25,000 housing units and over 17,000 jobs, as well as 30 hectares of parks and open spaces. This master planning exercise has been undertaken in the context of

WEG's ongoing discussions with Metrolinx to ensure the timely delivery of a GO station, parking facilities and a regional bus hub within the Woodbine Lands. Ensuring that transit supportive densities – both residential and employment – are delivered in tandem with higher order transit is a cornerstone of the Transit Oriented Communities (“**TOC**”) approach to planning, which WEG is actively working to facilitate for the Woodbine Lands.

We are writing to provide comments on the City Planning Staff Report entitled “Official Plan Amendment for Bill 97 Transition Authorizing the Continuation of Institutional and Commercial Uses in Employment Areas – Final Report,” dated June 19 2023 (the “**Final Report**”). In the Final Report, Planning staff have recommended the approval of the City-initiated Official Plan Amendment (“**OPA**”) 668, which proposes to address changes to the definition of “areas of employment” in the *Planning Act* made by Bill 97, the *Helping Homebuyers, Protecting Tenants Act* (“**Bill 97**”). The Final Report and the proposed OPA 668 is intended to be considered by Planning and Housing Committee on July 5, 2023 as Item PH5.2.

(ii) Comments on proposed OPA 668

WEG wishes to express the following comments and concerns with respect to the proposed OPA 668:

- WEG acknowledges the intention of OPA 668 to provide clarification that lawfully existing uses that no longer meet the definition of “areas of employment” in the *Planning Act* as amended by Bill 97 currently found on lands designated *General Employment Areas* and *Core Employment Areas* are deemed to be permitted in the Official Plan. However, staff's recommendations in OPA 668 are not sufficient to implement the clear intention of the new definition of “areas of employment”, which now expressly provides that institutional and commercial uses, including office uses, are not intended to be subject to restrictive *General Employment Areas* and *Core Employment Areas* designations. Rather, what is currently required of City staff is a fulsome assessment of the appropriateness of the *General Employment Areas* and *Core Employment Areas* designations on lands which are currently planned and have existing permissions for a wide range of non-residential uses, institutional and commercial uses, and whether those sites should appropriately be redesignated given the new statutory definition of “areas of employment” and the emerging policy framework under the proposed Provincial Planning Statement (“**Proposed PPS**”).
- Insufficient clarification is provided with respect to the status of Official Plan Policies 4.6.1 and 4.6.3 which permit offices, retail and service uses in the *Core Employment Areas* and/or *General Employment Areas* designations, or the status of SASPs, such as SASP 296 which applies to the entirety of the Woodbine Lands, which provide for a range of additional commercial and other non-residential uses.
- Further clarity is also required regarding the interpretation of “lawfully established” uses, and the permitted status of uses which may cease operations periodically. Firstly, it is inappropriate to import the concept of “lawfully established” uses within the context of Official Plan policy and designations, which should provide clear guidance to landowners and the public on the appropriate use of lands within the City. Secondly, this proposed policy places an undue burden on landowners to demonstrate “lawfully established” compliance and/or legal non-conforming status. Legal non-conforming status carries a significant burden to owners in terms of limitations on future replacement and financial requirements (i.e. mortgaging).

- WEG has significant concerns regarding the planning policy status of its long-standing horse racetrack and associated operations, and the future development of a wide range of commercial, office and retail uses which are currently permitted on the Woodbine Lands through current planning policy, including SASP 296, as well as through current site-specific zoning by-laws. These uses contribute to realizing the Woodbine Community Plan and to the development of a world-class entertainment centre in the City of Toronto.

Furthermore, approving Draft OPA 668 is premature in advance of the implementation of a supporting planning policy framework through the Proposed PPS. The Proposed PPS was released for comment on April 6, 2023 and remains open for comment on the Environmental Registry of Ontario until August 4, 2023.

The proposed policy language in Draft OPA 668 as drafted does not provide sufficient and adequate clarity to the status of existing and permitted commercial and institutional uses within *Core Employment Areas* and *General Employment Areas* designations. Rather, in order to implement the clear intention of the new definition of “areas of employment”, which now expressly provides that institutional and commercial uses, including office uses, are not intended to be subject to restrictive *General Employment Areas* and *Core Employment Areas* designations, Planning and Housing Committee should defer the consideration of the proposed OPA 668 until staff undertake a comprehensive review of the *Core Employment Areas* and *General Employment Areas* policies and mapping. We request that should consideration of draft OPA 668 be deferred, that City Planning staff meet with WEG and its consultants to review the implications of the proposed policy on WEG’s operations. Finally, we request that notice of any decision made by Council regarding OPA 668 be provided to the undersigned.

Should you have any questions about the above, please do not hesitate to contact me or WEG’s planning consultant, Tyler Peck of WND Associates, at 416-968-3511 ext. 122 or tpeck@wndplan.com

Yours truly,

AIRD & BERLIS LLP



Eileen P. K. Costello
EPKC/AS/NM
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