

July 19, 2024

Our File No. 154611

**By E-Mail to: clerk@toronto.ca**

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

**Attention: John D. Elvidge - Clerk**

Dear Mayor Chow and Members of Council:

**Re: Toronto City Council Meeting - July 24, 2024**  
**Re: RM20.3 - Committee Reports**  
**Report of the Planning and Housing Committee from Meeting 14 on July 11, 2024**  
**PH 14.1 - Employment Area Land Use Permissions - Decision Report**  
**Proposed Official Plan Amendment 680**  
**Proposed Official Plan Amendment 668**  
**1123 Leslie Street - OTT 1123 Developments Inc.**

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We act for OTT 1123 Developments Inc. the registered owner of the property located at 1123 Leslie Street in this matter. We are writing to express our concerns with respect to the proposed Official Plan Amendments 680 and 668, and their impact on the 1123 Leslie Street property.

The two amendments are being advanced in response to the change in the *Planning Act* definition of “area of employment” that was passed in Bill 97, but which has not yet been proclaimed in effect. The effect of the Provincial change is to focus the definition on the traditional space-extensive employment uses of warehousing and manufacturing. The intention of the change is to ensure that the burdensome requirements of obtaining employment conversions, in order to be able to build residential or mixed use buildings, are not applied in an unduly wide context.

Such excessive application of the requirement for conversions has been increasingly the practice in Toronto - where many properties that have retail or office uses are inappropriately designated as employment. The result has been to significantly frustrate the ability of the marketplace to respond to the significant demand for housing - and the housing supply crisis in Toronto and Ontario grown dramatically, as a result.

The *Planning Act* definition change seeks to put an end to this excessive application of the employment area definition to uses other than manufacturing and warehousing in order to block residential development - which is why it was advanced as part of the Province’s Housing Supply Action Plan.

## **Proposed Official Plan Amendment 680 Is an Effort to Frustrate Provincial *Planning Act* Changes, and Thereby To Limit the Supply of Housing**

The proposed amendment actually responds to the Provincial change by trying to frustrate its intentions. Instead of recognizing that office uses, for example, should be designated as mixed uses designations in the Toronto context (the usual designation applied to most office buildings along major streets and in the core, for example), Official Plan Amendment 680 actually narrows the range of permitted uses, by removing permissions for offices. This is even the case for lands that have only ever had office uses on site.

It is apparent that the principal planning objective of the City is to block conversions and residential development, rather than to actually reflect the planned function of lands, and the economic activities taking place on those lands.

### **Most Appropriate Response to Change in *Planning Act* Change is to Designate Office Use Sites as What They Actually Are - Mixed Use**

Rather than maintaining the employment designation on office sites, while removing the office permission to conform with the *Planning Act* definition, the City should instead conform to the new statutory definition by designating such office sites as Mixed Use Areas - where office is a permitted use. This would be both an accurate reflection of the reality of the planned land use, and would be consistent with provincial intention for the planning of such lands.

Applied to 1123 Leslie Street, a Mixed Use Areas designation would be the most accurate way of capturing and fully permitting the existing uses on site. It would do so in a fashion that reflects the consensus view on the long term planning for what should happen on this site, and would reflect the land use patterns along Leslie Street to the south.

### **1123 Leslie Street Is an Illustration of the Inappropriate Impact of Official Plan Amendments 680 and 668 By Removing Office Use Permissions**

Our client's property at 1123 Leslie Street is an example of the unreasonable impact of the proposed Official Plan Amendment 680 in removing existing permissions for office uses.

While 1123 Leslie Street did, previously, function as a manufacturing site (Wrigley Gum factory), that has not been the case for some time. The current uses on site are office uses. To remove the office use permission and to limit the site to manufacturing and warehousing represents a backwards step, inconsistent with the current use of the site.

The recent planning evolution of the neighbourhood is in the opposite direction. Lands to the south along Leslie were converted by the City from employment to residential. As a result, this Leslie Street Corridor is primarily a residential high rise corridor, with some other uses like a car dealership and offices.

Residential uses are permitted by a Mixed Use Areas designation, as are office and retail uses. However, none of these uses will be permitted at 1123 Leslie Street under proposed Official Plan Amendment 680. Only space extensive manufacturing and warehousing will be permitted. Years of marketing the site have demonstrated that there is no interest from potential users for the site as manufacturing or warehousing.

In fact, the nearby presence of residential towers to the south means that such employment uses as manufacturing and warehousing would likely face significant constraints on their ability to operate under the Ministry of Environment Land Use Compatibility Guidelines. A narrow employment designation is not appropriate.

It is notable that a policy applicable to the abutting 1121 Leslie Street site specifically limits the ability to establish employment uses like manufacturing and warehousing because of the impact on the new residential development to the south, and the problems that such employment uses could raise under the Ministry of Environment Land Use Compatibility Guidelines.

**1123 Leslie Street Has Been Redesignated as Regeneration Area Under Official Plan Amendment 653, Site and Area Specific Policy 848 - Which Remains Unapproved - Proposed OPA 680 Significantly Complicates this Situation**

The City of Toronto has adopted Official Plan Amendment 653, which includes Site and Area Specific Policy 848. While adopted September 6, 2023, OPA has not been approved to date by the Province. Thus, until Official Plan Amendment 653 is approved, the site will be affected by the changes proposed by OPA 680 to remove existing office use permission - even if such office uses already exist. The amendment designates the site as a Regeneration Area. This designation requires a Secondary Plan study to be undertaken before new uses can be established. (To date, there has been no action in advancing such a secondary plan study, despite assurances from the City that it would happen and be completed quickly.)

In the interim, general employment remains the permitted use under Site and Area Specific Policy 848. This allows office uses as permitted uses on the site.

However, proposed OPA 680 would strip this permission. That means that - even if Official Plan Amendment 653 is approved by the Province - the proposed Official Plan Amendment 680 would have the effect of stripping office uses from being permitted on the site.

This arguably represents a bad faith exercise of its planning authority by the City. Proposed OPA 680 is effectively narrowing the rights and permissions despite representations to the landowners in discussions respecting Official Plan Amendment 653, that such office uses would continue to be permitted until the Secondary Plan process was completed.

### **668 Is Not An Adequate Solution**

The City has proposed Official Plan Amendment 668 as a means to continue existing office uses that otherwise will not be permitted after Official Plan Amendment 680 comes into force and removes permission for office uses. However, it is an entirely inadequate instrument to achieve that goal.

The proposed draft of Official Plan Amendment 668 uses a potentially very limiting wording: uses “are authorized to continue so long as the use has been lawfully established on the parcel of land before” the new *Planning Act* definition comes into force.

This wording leaves many situations potentially unaddressed. For example, if a previously established office use had ceased to operate on a site for several years, and it was now vacant, would the permission for office use be extinguished despite the saving provisions of Official Plan Amendment 668? Would it be possible to “continue” a use by a new user that was not already actively underway? What if an office use was functioning in only a portion of the building - would a different office use be able to establish in a different and vacant portion of the building after the date in the Official Plan Amendment?

The above questions raise serious concerns with the adequacy of both Official Plan Amendments 668 and 680. The more appropriate approach to allowing ongoing permission for office uses is through an application of a Mixed Use Areas designation to the lands on question. Mixed Use Areas is the proper land use designation for office use permissions in Toronto - and it would avoid the risks and uncertainties raised above.

### **City Should Not Enact Official Plan Amendments 680 and 668 in Their Current Proposed Form - A Mixed Use Areas Designation for Office Sites is the Appropriate Planning Response to the New Planning Act Provisions**

The City should not enact Official Plan Amendments 680 and 668 in their currently proposed form. The planning objective behind the amendments appears to be to prevent the Provincial *Planning Act* changes from having their intended effect of reducing the incidence of conversion requirement red tape limitations.

That is, the amendments are aimed primarily at defeating Provincial efforts to encourage the supply and delivery of new housing. As such, these Official Plans are clearly not consistent with Provincial Policies, and not in conformity with Provincial Plans. As such, they should not be adopted by the City.

In the City’s apparent zeal to prevent residential development, office use permissions are the collateral damage casualty. Office use permissions are being removed by Official Plan Amendment 680, and constrained by Official Plan Amendment 668 - when those office use permissions could otherwise be easily continued through the designation of such office sites as Mixed Use Areas. This should be the proper planning response of the City to the new *Planning Act* provisions.

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It is not a practical approach for the City to respond to the Provincial statutory change respecting the areas of employment definition by further limiting use permissions, reducing them from what is already permitted. The City of Toronto has pioneered the approach of permitting office uses in the City by way of a Mixed Uses designation. The change in the provincial definition is actually intended to follow that example of the city - by allowing office uses and residential uses together in mixed use areas. The reservation, under the new provincial definition, of employment areas for space extensive manufacturing and warehousing is to protect and provide lands for those type of uses in the face of land economics that render such uses non-viable in areas where office and residential are permitted.

Thus, a redesignation of the lands as Mixed Use Areas is the appropriate response to ensuring that office uses remain a permitted use at 1123 Leslie Street, without constraints or a risk of the loss of such use permissions.

We would be pleased to discuss this matter with planning staff to ensure a more appropriate and nuanced response to the *Planning Act* changes.

Yours sincerely,

AIRD & BERLIS LLP



Hon. Peter Van Loan P.C., K.C.  
Partner

PVL

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