

July 10, 2024

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: PH14.1 - Employment Area Land Use Permissions - Decision Report – Approval
Proposed Official Plan Amendment 680
Woodbine Entertainment Group
555 Rexdale Boulevard**

(i) Introduction

Aird & Berlis LLP is counsel to Woodbine Entertainment Group (“**WEG**”), the owner of the lands in Schedule A, traditionally referred to as 555 Rexdale Boulevard the City of Toronto (the “**Woodbine Lands**”). The Woodbine Lands are approximately 277 hectares (659 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, as well as an integrated entertainment complex along its Rexdale Boulevard frontage which includes a casino, a performance venue, hotel and associated parking structures. Additional retail/restaurant buildings are also under construction on the Woodbine Lands north of the grandstand building.

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**”). On July 19, 2023, City Council adopted Official Plan Amendment 653 (“**OPA 653**”), which partially approved the Woodbine Conversion Request by converting a portion of the northern part of the Woodbine Lands as *Mixed Use Areas*. On September 6, 2023, City Council adopted OPA 653 as By-law 822-2023. OPA 653 is now before the Minister for approval, and Aird & Berlis LLP has submitted comments through the Environmental Registry of Ontario on behalf

of WEG to respectfully request the Minister exercise its authority and modify OPA 653 with respect to the Woodbine Lands.

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 the new Woodbine GO Station that will be constructed on the Woodbine Lands. The proposed new Woodbine GO Station, which is being partially funded by WEG, is planned to be constructed in the southeast portion of the site along the Metrolinx rail corridor. Woodbine has already advanced funds to Metrolinx for the construction of the Woodbine GO Station and is currently in advanced discussions with Metrolinx to secure the timely delivery of the new station, parking facilities and a regional bus hub on 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 and complete communities approach to planning, which WEG is actively working to facilitate for the Woodbine Lands.

Concurrent with the Woodbine Conversion Request, Woodbine has also engaged in detailed consultation with City Planning staff regarding the implementation of mixed use residential development in the northwest portion of the Woodbine Lands. This proposal implements existing residential permissions in that part of the Woodbine Lands that is subject to SASPs 29 and 296 of the City of Toronto Official Plan. On December 15, 2023, WEG submitted a Pre-Application Consultation (“**PAC**”) meeting request to the City of Toronto for a new Draft Plan of Subdivision. The purpose of Woodbine’s proposed new Draft Plan of Subdivision application is to update and revise the existing Draft Plan approval for the northwest portion of the site in order to facilitate the intended mixed use residential development. A PAC meeting was held with City Planning staff on February 6, 2024 and WEG received PAC Comments dated March 22, 2024 and an updated Planning Application Checklist dated June 17, 2024.

(ii) Comments on Proposed OPA 680

We are writing to provide comments on the City Planning Staff Report entitled “Employment Area Land Use Permissions - Decision Report - Approval”, dated June 24, 2023 (the “**Final Report**”). In the Final Report, City Planning staff have recommended the approval of the City-initiated Proposed Official Plan Amendment 680 (“**Proposed OPA 680**”), which proposes to amend Official Plan permissions to limit permitted office and retail uses to those associated with primary employment uses. The Final Report and the Proposed OPA 680 is intended to be considered by Planning and Housing Committee on July 11, 2024 as Item PH14.1.

These comments should be read in conjunction with our comments previously submitted on behalf of WEG with respect to Official Plan Amendment 668 (“**OPA 668**”), which were provided to Planning and Housing Committee (“**PHC**”) in our letter dated July 4, 2023.

WEG’s planning consultants, WND Associates, met with City Planning staff on May 31, 2024 to provide further information with respect to the site-specific planning policy and zoning context. WND Associates and City staff further discussed the background of the Woodbine Lands through SASP 29 and SASP 296, as well as WEG’s ongoing site development applications which include non-employment uses. At that meeting, WND Associates also provided City Planning staff with comments and concerns regarding the City’s *Employment Areas* policy initiatives, with respect to the status of long-standing land uses on the Woodbine Lands and insufficient policy clarification.

WEG wishes to express the following comments and concerns with respect to the Proposed OPA 680:

- WEG acknowledges it is the intention of Proposed OPA 680 to provide “a level of land use certainty” to landowners and employers; however, similar to our previous comments regarding OPA 668, staff’s recommendations related to Proposed OPA 680 do not implement the clear intention of the new *Planning Act* definition of “areas of employment” introduced by Bill 97, *Helping Homebuyers, Protecting Tenants Act, 2023* (“**Bill 97**”). By expressly excluding institutional and commercial uses, including office uses, from the new statutory definition of “areas of employment”, the intention of Bill 97 and the *Planning Act* is clear that these uses are not intended to be subject to restrictive *General Employment Areas* and *Core Employment Areas* designations. Consistent with our earlier recommendations on OPA 668, it is our submission that City staff should therefore undertake 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 SASPs, such as SASP 29 and SASP 296 which apply to all or portions of the Woodbine Lands, and which provide for a range of additional commercial and other non-residential uses, which are not permitted pursuant to the policies intended to be amended by Proposed OPA 680.
- The intended phasing of Proposed OPA 680 and OPA 668 does not provide sufficient clarity regarding the interpretation of “lawfully established” uses, and the permitted status of uses that may cease operations periodically. Proposed OPA 680 does not provide any further guidance regarding the concept of “lawfully established” uses within the context of Official Plan policy and designations. This lack of guidance results a lack of clarity regarding the intended application of the proposed policies. Proposed OPA 680, in conjunction with OPA 668, 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).
- The lack of clarity in Proposed OPA 680 has significant repercussions for WEG’s existing planning permissions on the Woodbine Lands. This includes significant concerns regarding the planning policy status of WEG’s long-standing horse racetrack and associated operations, as well as its permissions for a wide range of commercial, office and retail uses currently being developed on the Woodbine Lands. These uses contribute to realizing the Woodbine Community Plan and to the development of a world-class entertainment centre in the City of Toronto and the Rexdale community.

Furthermore, consistent with our comments regarding OPA 668, approving the Proposed OPA 680 is premature in advance of the implementation of a supporting planning policy framework through the Proposed PPS. The updated Proposed PPS was released for review on April 10,

2024 and public consultation and comment on the Environmental Registry of Ontario was open until May 12, 2024.

Conclusion

For the reasons above, it is our respectful submission that Proposed OPA 680 does not have regard for the clear statutory intention of Bill 97 and new *Planning Act* definition of “areas of employment”. Proposed OPA 680 will result in greater restriction on uses within currently designated *General Employment Areas* and *Core Employment Areas*, rather than properly determine whether existing institutional and commercial uses, including office uses, should be removed from those employment designations as intended by the legislation. Notwithstanding the attempt in Proposed OPA 680 to recognize “lawfully established” uses, the proposed policies as drafted fail to appropriately accommodate existing permissions such as those applicable to the Woodbine Lands through SASP 29 and SASP 296. As a result, we respectfully recommend that PHC direct Proposed OPA 680 back to City staff for further review and consultation with affected landowners, including WEG.

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



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