

Clause No. 10 in Report No. 6 of the Planning and Economic Development Committee was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting on June 21, 2007.

10

PROTECTING AREAS OF EMPLOYMENT

The Planning and Economic Development Committee recommends the following:

- 1. The wording in section 4.6.1(1) of the following report be amended by adding the words “Conversion of” at the beginning of the paragraph and the words “is discouraged” following the words “Official Plans”, so that section 4.6.1(1) now reads as follows:**
 - 1) Conversion of lands that are designated areas of employment or “Industrial”, in local area Official Plans, is discouraged and are permitted to convert to non-employment uses only through a municipal comprehensive review, which occurs, at a minimum, every five years.**

- 2. The recommendations contained in the following report dated March 29, 2007, from the Commissioner of Planning and Development Services, be adopted:**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council confirm that employment areas are a critical resource in York Region, and that these areas are vital to the economic strength of the Region.
2. Regional Council direct staff to utilize this report as guidance for commenting, processing and preparing recommendations on planning applications that propose employment land conversions.
3. The Regional Clerk forward a copy of this report to the Minister of Municipal Affairs and Housing, the Minister of Public Infrastructure Renewal and to the local area municipal Councils.

2. PURPOSE

The purpose of this report is to inform the Committee and Council of Provincial policy and legislation that protects areas of employment from non-employment uses, and to outline the next steps, at a Regional level, required to implement these policies.

This report also provides interim guidance for York Regional staff in dealing with conversion type applications prior to the completion of the Region's "Growth Plan" and Bill 51 conformity exercises. Regional staff will be preparing a Regional Official Plan amendment for these conformity exercises, at which time the policy direction of the Growth Plan and Bill 51 in respect to the protection of employment areas will be incorporated into the Regional Official Plan.

3. BACKGROUND

Municipalities across the GTA have long identified the importance of maintaining a sufficient supply of employment lands. This valuable supply of employment land is constantly under competing pressures to convert to other uses that may be in greater immediate demand (eg. Residential land uses). Such conversion applications are often controversial. Any reduction of these employment lands also leads to a reduced supply and often results in higher land prices. Conversion often also promotes the destabilization of vibrant employment areas.

In response to this substantive issue, the Province of Ontario has approved and legislated a number of policies and provisions, in the form of Provincial Plans, Bills and Regulations to protect areas of employment from being converted to non-employment uses. The following are the recent Provincial policies, and legislative framework, which exclusively protects areas of employment.

3.1 2005 Provincial Policy Statement (PPS)

Section 1.3.2 of the PPS states: "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."

3.2 Growth Plan for the Golden Horseshoe

Section 2.2.6.5 of the Growth Plan states: "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 development purposes for which they are intended;

- f) Cross-jurisdictional issues have been considered.

For the purpose of this policy, major retail uses are considered non-employment uses.

Section 2.2.6.6 adds the exception, “Policy 2.2.6.5 only applies to *employment areas* that are not downtown areas or regeneration areas. For those *employment areas* that are downtown areas and regeneration areas, Policy 1.3.2 of the PPS, 2005 continues to apply.” (see section 3.1 of this report)

3.3 Bill 51 – Amendments to the Planning Act

Recent changes to the Planning Act under Bill 51, also introduced Section 22(7.3) which states that if an official plan contains policies dealing with the removal of land from *areas of employment*, then the decision of the approval authority to refuse or a “lack” of a decision cannot be appealed to the Ontario Municipal Board. (Please refer to Council Attachment #1: Compendium of Salient Definitions)

4. ANALYSIS

The Provincial Policy Statement, the Growth Plan and the recently amended Planning Act have established a policy framework that responds to the need to protect the planned function of employment areas, and to make it more difficult to use employment lands for other purposes. This policy framework will also assist municipalities at the Ontario Municipal Board in preventing the incremental conversion of site specific employment lands.

4.1 The Need for Protection

Employment lands have recently been targeted for land use change, particularly within the GTA area. There are examples in Peel Region, (around Pearson International Airport), in Durham Region, (employment lands in Ajax), and within York Region, (employment lands in Vaughan and Markham), where employment lands have been under increased pressure to convert to other uses. These conversions have generally been proposed on a site by site basis. Municipalities that oppose proposed conversions were often challenged at the Ontario Municipal Board. Tests of appropriateness and compatibility are often difficult arguments to use against conversions on a site by site basis.

Given the importance of employment areas and their history of being targeted for conversion, the Province has now enhanced protection for employment lands. Under the new policy framework, a municipality is permitted to redesignate areas of employment only through a municipally lead “municipal comprehensive review” of its official plan. This means municipalities cannot deal with privately initiated official plan amendment applications that convert employment lands to non-employment uses, until the “municipal comprehensive review” is conducted and appropriate policies are adopted by Council.

4.2 Preserving Planned Function

The enhanced level of policy protection for areas of employment now offers an improved level of certainty, as businesses can be confident that their investment and potential expansion plans are protected from the intrusion of sensitive residential land uses. This has the potential to significantly reduce sensitive land use disruptions and the indirect financial consequences can now be substantially controlled.

Planning, or land use control, in the Province of Ontario started in-part with the protection of residential uses from industrial uses. In today's planning regime, once a sensitive, non-employment land use infiltrates an area of employment, employment uses have to meet a higher rigour of compatibility tests, creating difficulty for existing businesses to expand, or new businesses to start.

The introduction of non-employment uses, like residential and major retail uses, into areas of employment, reduces available land supply and increases demand for employment lands. This increased competition has had the propensity to exert upward pressure on employment land prices. This affects the ability of traditional employment businesses to acquire lands commensurate with their ongoing/future business needs. Protecting areas of employment from non-employment uses levels the playing field for employment businesses, as they only need to compete with similar employment uses when acquiring new sites or expanding.

The new policy framework will make it more difficult for the market place to introduce non-employment uses, such as residential, into areas of employment; development of non-employment uses will be directed to their intended planned locations, which also generally offers essential supportive community facilities such as parks and schools. This facilitates orderly development, while contributing to the protection of planned functions across the local municipality. By protecting the planned function, the Region and local community goals and objectives relating to infrastructure investment and community facilities, and neighbourhood building will take effect with greater certainty.

4.3 Other Provincial Policies

It is the intent of the PPS and the Growth Plan to encourage intense mixed use developments at appropriate locations but not at the expense of employment lands. In accordance with the Provincial Policy Statement, development should: be more intense; be at public transit supportive densities; reduce live/work commuting distances, and, be more mixed-use in function by "*accommodating an appropriate range and mix of residential, employment (including industrial, commercial and institutional uses), recreational and open spaces uses*". (2005 PPS Sec. 1.1.1b)

4.4 Existing Regional Official Plan Policies

"Chapter 3 – Economic Vitality" of the Regional Official Plan deals with economic activities and recognises the importance of the manufacturing sector by promoting a full range of manufacturing in the Region. The policies acknowledge the importance of

employment lands and how they should be developed; however, there are no specific references for their protection nor do they specify how to deal with conversion of the employment lands to non-employment uses.

4.5 Meeting with Local Area Planning Staff

York Region Planning Staff have met with local area planning staff to discuss the issue of protecting employment lands. It was generally agreed that the definition of “conversion” [*“conversion of lands within employment areas to non-employment uses”*], is the introduction of non-employment land uses that necessitates an amendment to an Official Plan. There was also agreement that the Region’s recent population and employment distribution, while a critical component of a comprehensive review, needs to be supplemented through a further comprehensive local OP review or an Official Plan Amendment (i.e. Secondary Plan) process that has undergone a thorough and comprehensive review, as defined in the Growth Plan.

4.6 Next Steps

The Planning Act, Chapter P.13, Revised Statutes of Ontario 1990, as amended by Bill 51, January 1, 2007, and the Growth Plan for the Greater Golden Horseshoe have significantly changed the planning regime in the Province of Ontario. Every Official Plan document will be required to undergo a conformity review exercise. Policies will have to be brought into conformity with all Provincial Plans as well as the recently revised Planning Act.

The York Region Planning and Development Services Department has initiated the process of updating the York Region Official Plan. A future staff report will address the particular policies that will require revision and outline the public notice and consultation process required to affect the changes.

The York Region Planning and Development Services Department has in this context also initiated the “Planning for Tomorrow” exercise. This growth management analysis recently presented five reports to Regional Council on April 19, 2007. These five reports are:

1. York Region Population and Employment Forecasts
2. 2031 York Region Land Requirements
3. York Region Residential Intensification Strategy
4. York Region Residential Area Analysis – Preliminary Report
5. Phase 2 – Public Engagement and consultation

Regional Planning staff will be consulting with local area staff to confirm the assumptions and recommendations of these reports.

Local area municipal Official Plans, as well as the Regional Official Plan, will need to be updated with the Region’s revised population and employment forecasts and, specifically, to include conversion policies that deal with conversion of lands within employment areas to non-employment uses.

4.6.1 Consideration of a Regional Official Plan Amendment (ROPA)

In order to bring the Regional Official Plan into conformity with the Growth Plan and Bill 51 amendments to the Planning Act, in regard to protecting areas of employment, new policies will need to be introduced into this comprehensive ROPA. The following wording highlights the key message of a potential ROPA:

- 1) Conversion of lands that are designated areas of employment or “Industrial”, in local area Official Plans, is discouraged and are permitted to convert to non-employment uses only through a municipal comprehensive review, which occurs, at a minimum, every five years.
- 2) Municipal comprehensive reviews of Official Plans are required to be carried out at least once every five years. Applications for site specific Official Plan Amendment to add non-employment uses in an area of employment cannot be appealed to the Ontario Municipal Board for a refusal or a failure to adopt an amendment, unless it is during a municipal comprehensive review exercise.

4.6.2 Process for Dealing with Current/Proposed Site Specific Conversion Applications

In the interim, pending the ROPA dealing comprehensively with the Growth Plan and Bill 51 conformity, and specifically dealing with employment land conversions, the following guidelines, based on the tests of the Provincial Policy Statement and the Growth Plan as described in Section 3 of this report, are recommended.

Conversion applications will be deemed premature:

- If, the application is subject to the March 2005 PPS and is not preceded by a Comprehensive Review as defined by the PPS; or
- If, the application is subject to the June 2006 Growth Plan and is not preceded by a Municipal Comprehensive Review as defined by the Growth Plan.

The Region has received one locally adopted Official Plan Amendment (Vaughan OPA 653) where the original conversion application is subject to the 2005 PPS. As expressed above, such applications should be deemed premature pending a Comprehensive Review. This adopted OPA has since been appealed to the Ontario Municipal Board for a lack of a decision within 180 days.

Since January 1, 2007, the Region has received three conversion type applications: two in close proximity to the CN Macmillan Marshalling Yard in Vaughan and one in Markham’s “Green Lane industrial area”. Regional Planning staff’s preliminary comments indicated that these applications are premature pending completion of a Municipal Comprehensive Review.

4.6.3 Conversion Applications

An application is considered a “conversion” when the following two statements apply:

- The subject lands are designated “employment area” (per the definitions under the PPS, the Growth Plan and the Planning Act). Usually this corresponds to the local Official Plan designation, “Industrial”.
- The amendment proposes to add a non-employment use that is not permitted by the “Industrial” designation or proposes to redesignate the subject lands from its “Industrial” designation.

Employment land conversions can occur when:

- A municipally lead “Municipal Comprehensive Review” that satisfies the criteria set out in the Growth Plan is completed;
- The Municipal Comprehensive Review concludes that certain employment lands should more appropriately be used for other uses;
- A Municipal Comprehensive Review can occur at anytime, but must take place at least every five years and can apply to an entire Official Plan or specifically to a Secondary Plan.

4.7 Relationship to Vision 2026

The protection of areas of employment compliments many of the Goals of Vision 2026. Areas of employment will be protected from intruding non-employment uses. This will enable businesses in areas of employment to maintain and expand without the uncertainty of having to deal with sensitive land uses. As a consequence, non-employment uses, such as residential and stand alone retail uses will be directed to their intended locations. Therefore, the Goals of Vision 2026 are achieved: *growth is managed and balanced*; the new policies assist in promoting *a vibrant economy*; and provide *quality communities for a diverse population*.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications associated with this report.

There will be positive financial implications for businesses located in areas of employment. The policies to limit and better control non-employment uses will help maintain a stable supply of employment lands.

6. LOCAL MUNICIPAL IMPACT

The protection of areas of employment has been established in the 2005 Provincial Policy Statement, the Growth Plan and in the recent Bill 51 amendments to the Planning Act. Municipalities have been given the policy framework and legislative authority to better control the erosion of vibrant and/or stable areas of employment. Councils can determine which areas are worthy of protection. Once their Official Plans contain policies dealing

with the conversion of areas of employment to non-employment uses, decisions to refuse, or non-decisions, cannot be appealed to the Ontario Municipal Board.

7. CONCLUSION

The protection of areas of employment has evolved through three significant Provincial documents. The March 1, 2005 Provincial Policy Statement, the June 16, 2006 Growth Plan and the January 1, 2007 Bill 51 amendments to the Planning Act progressively strengthened land use controls by limiting the conversion of areas of employment to non-employment uses.

The PPS, applying to the entire Province, permits municipalities to convert areas of employment to non-employment uses only through a comprehensive review. The Growth Plan, applying only to municipalities in the Greater Golden Horseshoe, also limits the conversion of areas of employment to non-employment uses only through a municipal comprehensive review. The evaluation criteria between the PPS and the Growth Plan are very similar, with the Growth Plan's criteria being slightly more stringent.

Conversion of employment land to non-employment uses involves a land use change that generally triggers an amendment to an Official Plan document. A conversion can occur at any time, but it must meet the tests/criteria as set out in the PPS or the Growth Plan. Comprehensive reviews, which are one of the tests/criteria, must be carried out at a minimum once every five years and may result in an amendment applying to the entire municipal Official Plan or specifically to one geographic area (a Secondary Plan).

All applications commenced after the March 1, 2005 PPS should be deemed premature pending completion of a Comprehensive Review or in the case where the Growth Plan applies, a Municipal Comprehensive Review.

The Bill 51 amendments to the Planning Act state that if an official plan contains policies dealing with the removal of land from *areas of employment*, then the decision of the approval authority to refuse, or a lack of a decision, cannot be appealed to the Ontario Municipal Board. The Act now also states that municipalities must review their Official Plan policies every five years to confirm or amend policies, specifically dealing with areas of employment.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)