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### **TOWN OF RICHMOND HILL OFFICIAL PLAN AMENDMENT NO. 246 EMPLOYMENT LAND CONVERSIONS**

**The Planning and Economic Development Committee recommends the following:**

- 1. The following communications be received:**
  - (a) Kimberly L. Beckman, Davies Howe Partners, April 29, 2008, representing Major Mac 404 Realty Inc., advising Maria Gatzios wished to make a deputation on behalf of their client (the Committee noted that Ms. Gatzios was not present at the meeting);**
  - (b) Patricia A. Foran, Aird & Berlis, April 29, 2008, representing E. Manson Investments, owners of Land in the Town of Richmond Hill; and**
  - (c) Susan Rosenthal, Davies Howe Partners, April 30, 2008, representing 775377 Ontario Ltd., Upper City Corporation and Clearpoint Developments Ltd., owners of lands in the North Leslie Secondary Plan area in the Town of Richmond Hill.**
- 2. The recommendations contained in the following report dated April 4, 2008, from the Commissioner of Planning and Development Services, be adopted:**

#### **1. RECOMMENDATIONS**

It is recommended that:

- 1. The Commissioner of Planning and Development Services be authorized to give notice to approve, as modified, Amendment No. 246 to the Official Plan of the Richmond Hill Planning Area.**
- 2. Regional Planning staff be authorized to appear before the Ontario Municipal Board, in support of Richmond Hill's Official Plan Amendment 246, if required.**

#### **2. PURPOSE**

This report recommends the approval of Richmond Hill's Official Plan Amendment (OPA) 246 which protects their employment lands by preventing conversions to non-employment uses unless justified at the time of a municipal comprehensive review.

This report also informs Regional Council of the nature of landowner issues, prior to exercising its approval authority, and that such landowners may appeal the approval of OPA 246.

### **3. BACKGROUND**

#### **3.1 THE POLICY BASIS OF OPA 246**

##### **The 2005 Provincial Policy Statement advocates the protection of employment lands**

The 2005 Provincial Policy Statement (PPS) advocates the protection of employment areas. Section 1.3.1 c) of the PPS states that “*Planning authorities shall promote economic development and competitiveness by planning for, protecting and preserving employment areas for current and future uses.*” Furthermore, the PPS directs that municipalities may only convert employment areas to non-employment uses through a comprehensive review.

##### **The 2006 Growth Plan further protects employment areas**

The 2006 Growth Plan for the Greater Golden Horseshoe (Growth Plan) further confirms the policy approach for protecting employment lands. In addition to policies that protect employment lands, the Growth Plan also clarifies that major retail facilities would be considered as non-employment uses and generally not permitted in employment areas. The Growth Plan, as with the PPS, also permits municipalities to determine which employment areas are appropriate to convert to non-employment uses. This would be preceded by a formal municipal comprehensive review, to be undertaken, at a minimum, every five years.

In accordance with Section 2.2.6.5 of the Growth Plan, a Municipal Comprehensive Review must demonstrate 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.

### **The Planning Act now legislates the protection of employment areas**

The Province, through the Bill 51 amendments to the Planning Act, gives municipalities greater assistance and power to protect employment areas. Once employment area conversion policies are incorporated into an Official Plan, decisions and non-decisions on conversion applications cannot be appealed to the Ontario Municipal Board, until the municipality conducts the prescribed municipal comprehensive review.

### **York Region Council's position is to protect employment areas**

In June 2007, York Region Council, in keeping with the 2005 PPS, the 2006 Growth Plan, and the 2007 Amendments to the Planning Act, adopted a staff report (Clause 10 of Report No. 6 of the Planning and Economic Development Committee) that recommended a course of action aimed at protecting employment lands. The Region's position is:

“Conversion of lands that are designated areas of employment or “Industrial”, in local area Official Plans, are discouraged and are only permitted to convert to non-employment uses through a municipal comprehensive review, which occurs, at a minimum, every five years”.

## **4. ANALYSIS AND OPTIONS**

### **4.1 THE INTENT AND EFFECT OF OFFICIAL PLAN AMENDMENT 246**

#### **The intent of the amendment is to protect employment lands**

Richmond Hill's Official Plan Amendment No. 246 is intended to protect their industrially designated employment lands. This will be achieved by limiting the uses to those already permitted under the “Industrial” designation of the Richmond Hill Official Plan and by only permitting redesignation of employment areas to non-employment uses through a municipal comprehensive review as directed by the 2006 Growth Plan.

#### **The effect of the amendment will mean decisions and non-decisions on conversion applications cannot be appealed**

Once OPA 246 is approved and, in force, decisions and non-decisions on conversion applications cannot be appealed to the Ontario Municipal Board. This provision of the Planning Act is a clear indication of the importance now placed on the protection of employment lands.

### **Official Plan Amendment 246 adds clarity to “need” and “non-employment uses”**

One of the criteria of the municipal comprehensive review is the demonstration of need for a conversion. Richmond Hill has further defined the term “need”. OPA 246 specifies that “need” involves quantifying the demand and supply of lands involved.

OPA 246 also defines “non-employment uses” as: residential, commercial, and retail uses. Furthermore, OPA 246 also considers a conversion to include the addition of non-employment uses.

York Region Planning staff concurs with these refinements as they are consistent with, and further strengthens, the Region’s June 2007 position on the protection of employment lands. Furthermore, as discussed below, the Growth Plan encourages municipalities and decision makers to go beyond the minimum standards set out in the Growth Plan policies and targets.

### **Official Plan Amendment 246 is setting the Town of Richmond Hill’s policy context for the protection of employment lands**

As a result of recent OMB decisions, and positions taken by the development industry, that a job is a job, and as long as the number of jobs forecast for an employment area remains the same, or is increased, other non-employment uses are permitted within employment areas. These arguments and Board decisions were on site specific development proposals in the absence of specific municipal policy on the protection of employment lands.

The Richmond Hill Amendment No. 246 clarifies the employment area protection policies. The Amendment is defining the policy context for the broader spectrum of protecting employment lands. In effect, the only permitted uses on lands designated “Industrial” will be those currently permitted under the current designation. Uses not currently permitted in the “Industrial” designation are more appropriately permitted in their respective designations.

## **4.2 ISSUES RAISED AT THE LOCAL PUBLIC MEETING**

### **Some landowners believe the amendment is too restrictive**

Under the Planning Act, as amended by Bill 51, only the Minister, the applicant, and a person or public body who, before the plan was adopted, made oral submissions at a public meeting or written submissions to the council, may appeal the decision of the approval authority. There are only two parties that made a deputation and are therefore eligible to appeal OPA 246: Major Mac 404 Realty Inc. and SmartCentres.

Major Mac 404 Realty's main issue with the Amendment is that OPA 246 is too restrictive. It was their submission that the addition of non-employment uses, such as retail and residential, is appropriate as long as the number of employment jobs are maintained. Richmond Hill and Regional staff disagree with their position. The intent of the employment area protection policies of the Growth Plan is based on land use and not a simple employment numbers issue.

SmartCentre submitted that appropriate locations for regional scale retail should be identified before restricting such uses from locating in employment areas. SmartCentre does not currently have landholdings within the Town of Richmond Hill. In this context, the Richmond Hill Official Plan has "Commercial" designations for such uses. The "Regional Commercial Area" designation permits large scale retail facilities in excess of 37,000 sq.m. (400,000 sq.ft.). Until the Municipal Comprehensive Review is completed, Richmond Hill does not want to start to prematurely identify employment lands that could be converted

Two other parties, who are not eligible to appeal OPA 246 to the OMB, had similar issues with this Amendment. Of notable distinction was the claim that OPA 246 goes beyond the intent of the Growth Plan, specifically the employment land policies of the Growth Plan.

### **Municipalities can be more stringent than the growth plan**

Regional and Richmond Hill Planning and Legal staff have met with all of the above mentioned parties. Regional and local municipal staff concluded that the arguments presented do not warrant altering Richmond Hill Council's position on protecting their employment lands. Richmond Hill staff contend, with Regional staff concurrence, that municipalities can be more stringent and prescriptive than the generic language of the Growth Plan. In fact, Section 5.4.1.5 of the Growth Plan states that:

"The policies and targets of this Plan represent minimum standards. Planning authorities and decision-makers are encouraged to go beyond minimum standards established in specific policies and targets, unless doing so would conflict with any policy of this Plan, the applicable PPS, or any other provincial plan."

Regional staff are of the opinion that OPA 246 enhances the employment protection policies of the Growth Plan for the Town of Richmond Hill and does not conflict with its intent. Richmond Hill is approaching full buildout to its boundary. For Richmond Hill, currently undertaking their Official Plan review, OPA 246 represents good planning and Regional staff supports their efforts to strengthen their employment land protection policies as outlined in the Amendment. Given the planning context of a local municipality, a Municipal Comprehensive Review may differ based on specific characteristics and circumstances of the municipality.

#### **4.3 PROPOSED MODIFICATIONS TO OFFICIAL PLAN AMENDMENT 246**

##### **Richmond Hill planning staff has requested a number of minor modifications**

At the request of Richmond Hill Planning Staff, Council Attachment 1 contains the proposed minor wording modifications. The nature and intent of the policies are not affected by the wording changes, but add further clarity.

#### **5. FINANCIAL IMPLICATIONS**

##### **No financial implications**

Approving OPA 246 will have no direct financial implications affecting Regional budgets or the tax levy.

#### **6. LOCAL MUNICIPAL IMPACT**

The approval of OPA 246 will protect Richmond Hill's employment lands by restricting conversions to non-employment uses until a municipal comprehensive review is conducted at least once every five years. Richmond Hill is currently conducting their Official Plan review, which in effect, is the municipal comprehensive review that critically analyzes their growth management direction and identify their urban structure and city building objectives.

OPA 246 was adopted by Richmond Hill Council on December 5, 2007. Prior to its adoption, Richmond Hill's Planning Committee and Council received staff reports dated October 22, 2007, December 5, 2007 and December 10, 2007. The statutory Public Meeting was held on December 5, 2007.

#### **7. CONCLUSION**

The Town of Richmond Hill has adopted an Amendment to their Official Plan, OPA 246, which will protect the Town's employment lands. The policy and legislative foundation, stemming back from the 2005 Provincial Policy Statement, the 2006 Growth Plan for the Greater Golden Horseshoe, the 2007 Bill 51 amendments to the Planning Act and the 2007 York Region Council position on the protection of employment lands, have given municipalities the clear mandate and power to exclusively protect their employment lands.

OPA 246 represents good planning principles. Richmond Hill carried out the public consultation process in accordance with the requirements of the Planning Act.

The Amendment assists in preserving the planned function and urban structure of the local municipality. The Amendment is consistent with the Provincial and Regional policy direction of protecting employment lands. Richmond Hill has further strengthened the protection mechanisms by adding clarity and better defining several terms introduced by the PPS and Growth Plan: namely, “need”, “conversion” and “non-employment uses”. York Region Planning staff concurs with these refinements as they are consistent with and further strengthen the Region’s June 2007 position on the protection of employment lands.

For more information on this report, please contact Augustine Ko, Senior Planner, at Ext. 1524 or Heather Konefat, Director, Community Planning, at Ext. 1502.

The Senior Management Group has reviewed this report.

*(The attachment referred to in this clause is included with this report.)*