
TO: GENERAL COMMITTEE

SUBJECT: EMPLOYMENT LANDS CONVERSION POLICY

PREPARED BY AND KEY CONTACT: M. KALYANIWALLA, MANAGER OF POLICY PLANNING
EXT. 4314

SUBMITTED BY: S. NAYLOR, MES, M.C.I.P., R.P.P., DIRECTOR OF PLANNING *Stylo Naylor*

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG.
GENERAL MANAGER OF INFRASTRUCTURE & GROWTH MANAGEMENT *R. Forward*

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER *C. Ladd*

RECOMMENDED MOTION

1. That an Official Plan Amendment to amend policies on the use, protection and/or conversion of employment lands within the City of Barrie be approved as follows:

That a new section 3.1.2.1 (d) be added and that the remainder of the section be renumbered accordingly. The new 3.1.2.1 (d) reads as follows:

"3.1.2.1.(d) Applications to convert existing employment lands to a non-employment land use are generally discouraged with the exception of those properties identified through the municipal comprehensive review. When such applications are received by the City they shall be evaluated based on meeting a minimum of six of the following nine criteria:

- The site is located outside or on the fringe of a designated Employment Area;
- The site is isolated from surrounding designated employment lands;
- The conversion will not create incompatible land uses;
- The conversion will not negatively affect employment lands in the area;
- The conversion will be consistent/supportive of City policy planning objectives;
- The site offers limited market choice for employment lands development due to its size, configuration, physical conditions or other reasons;
- The site does not offer potential for future expansion on existing neighbouring employment lands;
- The site has been vacant for a minimum of 10 years and is a brownfield (previously used, now vacant) industrial site; and
- The site is an opportunity for intensification in an area designated for intensification."

That Section 4.4 Industrial be amended as follows:

Section 4.4.1 Goals is proposed to be amended by the addition of a new Goal which states:

- "(c) To ensure the primacy of industrial uses as the principal driver of economic prosperity in the City of Barrie."

Section 4.4.2.1 (a) is proposed to be amended by the inclusion of a new sentence at the end of the subsection which will state:

“Conversion of lands within these employment areas from Industrial to any other land use including; Commercial, Institutional and Residential shall be discouraged. Where applications for conversion are received they will be evaluated based on the criteria established in Section 3.1.2.1(b), (c), and (d).”

Section 4.4.2.1(e) of the Official Plan is proposed to be amended deleting the word “or” and replacing it with the word “and” such that the policy would read:

“Commercial uses such as retail stores which are not directly related to the function of industrial areas, and which are more appropriate in commercial zones, are discouraged.”

Section 4.4.2.1(e) is proposed to be further amended by adding a new sentence at the end of the policy such that the policy would read:

“Institutional uses which are not directly related to the function of industrial areas and which are more appropriate on Institutionally zoned lands are discouraged.”

2. That in accordance with Council Resolution 09-G-398 (as amended) should the above recommendation be approved, and no appeals to the Ontario Municipal Board are received to the Official Plan Amendment, that the moratorium on the processing of applications for the conversion of employment lands be lifted following the last day of the appeal period. In the event that one or more appeals are received, the moratorium shall be lifted following the City’s receipt of the Ontario Municipal Board Order.

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this staff report is to recommend amendments to the City’s Official Plan to address the ongoing issue of the use, protection and conversion of employment lands which are intended to be principally the industrial land use categories.
4. On September 28th, 2009, City Council adopted motion 09-G-398 regarding “Employment Lands Conversion Policy” (see Appendix “B”).
5. The effect of this motion was to instruct staff not to process any applications to redesignate and rezone any industrial lands to non-employment categories (i.e. Commercial, Residential and Institutional) until the completion of a Municipal Comprehensive Review regarding employment land conversions and any amendments to the Official Plan, if required, were approved.
6. The Municipal Comprehensive review required by PTG and Motion 09-G-398 (as amended) has now been completed and makes specific recommendations regarding lands which may be suitable for conversion as well as general policy recommendations to address the ongoing issue of conversion. Therefore staff are recommending that Council consider amending the Official Plan to address Motion 09-G-398.

ANALYSIS

7. Increasing encroachment of non-industrial uses in areas planned for traditional industrial uses has resulted in the following impacts;
 - Significant loss in prime industrial lands, in many cases with highway and rail access or exposure.

- Significant increases in the amount of non-industrial traffic and associated impacts for bona fide industrial uses.
 - Significant increase in complaints from residents in these converted areas against the existing industrial uses that typically predated the converted residential areas.
 - Reduction in the desirability of industrial lands for existing and future industrial users because of the real or perceived impacts of non-employment development on industrial type users such as increased traffic and risk of complaint.
 - Increase in impact of introduction of "sensitive land uses" on adjacent industrial lands through the imposition of minimum separation distances.
 - Gradual increase in cost of employment lands created by the perception of landowners and developers regarding the ease of purchasing inexpensive industrial lands and converting to more valuable land use designations.
 - Difficulty of redesignating lands within a built environment from non-employment lands to employment lands.
8. This situation was the basis for the establishment of the Employment Lands Conversion policies in both the Provincial Policy Statement and the Growth Plan. The Province also amended the Planning Act to remove the right to appeal a decision on conversion of employment lands once a municipality has implemented conversion policies in its Official Plan. The City of Barrie Official Plan contains conversion policies under Section 3.1.2.1 (b) and (c). The amendments recommended herein would serve to update these policies and add criteria under which future conversion requests can be evaluated.

Employment Lands Municipal Comprehensive Review

9. As part of the Growth Management Study for the annexed lands, the City retained Watson and Associates in association with Macaulay Shiomi Howson Ltd. and W. Scott Morgan & Associates Ltd. to complete a Municipal Comprehensive Review (MCR) in accordance with Provincial Growth Plan policies.
10. This Study reviewed the City's employment land supply and made recommendations on conversion of designated employment lands based on evaluation criteria outlined in the Study and on employment land need between 2010 and 2031. Eleven sites were reviewed by the study and four sites were recommended as having the potential for conversion based on meeting a minimum of six of the nine Evaluation Criteria.
11. The purpose of this report is to recommend amendments to Section 3.1.2.1 of the Official Plan which would incorporate the evaluation criteria set out in the Employment Lands Conversion Study by Watson and Associates into the City's Official Plan.
12. Staff have reviewed the policy recommendations of the Watson Report and recommend that the Official Plan be amended to incorporate the intent of these recommendations. Many of these correspond with existing policies in the Plan but can be strengthened and enhanced based on these recommendations.

Public Meeting

13. A public meeting was held on June 8th, 2015 to review and receive input on the proposed amendment to the Official Plan.
14. The City received two written submissions on this matter prior to the Public Meeting. Correspondence was received from Patrick Harrington of the law firm of Aird and Berlis on behalf of North American Park Place Corporation and from Rosemarie Humphries of the Humphries Planning Group on behalf of Osmington Inc.

15. Ms Humphries also spoke at the public meeting requesting if it was Council's intent to undertake a new comprehensive review based on the amended criteria and also requested that the City consider the Osmington Inc. properties in light of the new criteria.
16. There were also a number of questions of staff from members of Council. Councillor Brassard and Mayor Lehman requested clarification on when the majority of conversions had taken place in the City of Barrie. The majority of conversions took place in the period spanning the early 1990's to the early mid-2000's. In 2009 Council passed motion 09-G-398 directing staff to hold all applications for conversion in abeyance until the completion of the Municipal Comprehensive Review was completed. Councillor Khan also asked if staff would be addressing the comments from the correspondence received at the public meeting which this report will address in the following section.

North American Park Place Corporation

17. In his letter dated June 1st, 2015 Mr. Harrington raises several concerns on behalf of his client North American Park Place Corporation. The first of these concerns relates to what North American considers to be the "*subjective terms proposed to be included in the criteria*". As indicated above, the majority of the criteria were established in the Employment Lands Conversion Report prepared by Watson and Associates in association with MaCaulay Shiomi Howson Ltd. and W. Scott Morgan & Associate. Staff have reviewed similar reports from other municipalities and the criteria recommended by these experts is generally consistent with criteria used to evaluate applications for employment lands conversions in other jurisdictions.
18. North American specifically references traffic and transportation infrastructure criteria as one type of the objective criteria they recommend be included in the new policy. The Official Plan is intended to be applied as a comprehensive document and all development applications, whether for conversion or not, are intended to be reviewed and assessed based on all the appropriate policies of the Plan. Staff are of the opinion that it is not necessary to repeat all the relevant policies in every section of the Plan.
19. North American also expresses a concern with staff's proposed policy to "*establish the primacy of industrial lands*" and contends that the Province through its policy and the Ontario Municipal Board through its decisions have actively moved away from establishing a hierarchy between employment uses.
20. The Province through the Provincial Growth Plan has clearly indicated that Employment Areas are considered to be "Areas designated in an Official Plan for clusters of business and economic activities including but not limited to manufacturing, warehousing, offices and associated retail and ancillary facilities." The Oxford English Dictionary defines ancillary as "... In addition to something else, but not as important".
21. Furthermore the Growth Plan Policy 2.2.6.(5) related to employment land conversions explicitly states that for the purposes of this policy "major retail uses are considered non-employment uses". The conversion of lands owned by North American from General Industrial to General Commercial occurred through a lengthy Ontario Municipal Board Hearing and predated the passage of the Growth Plan. The decision of the Board in that case was favourable to this conversion, however the Growth Plan policies that came into effect following this decision are definitive in stating that major retail is not considered an employment use.
22. In the current context, the City's existing conversion policies specifically state that retail uses are considered to be non-employment uses. This policy was in fact also tested at the Ontario Municipal Board as recently as 2011. The appellant took issue with the fact that Official Plan policy 3.1.2.1 (b) states that retail uses are considered a non-employment use, so that conversions to retail in employment areas will be discouraged. The appellants also appealed

policies 4.4.2.1 (e) and (f) of the Barrie Official Plan 2009 which direct commercial uses and specifically retail stores (not directly related to industrial uses) to commercially designated and zoned lands.

23. The Board dismissed the appeals to the policies quoted above and did not allow the redesignation or rezoning of the subject lands to commercial, however did order that the site specific zoning on the subject lands be expanded to include all uses currently permitted in the General Commercial C4 zone with the exception of Shopping Centres and Residential uses.
24. Consequently staff are of the opinion that the Province, through any logical interpretation of its policy as articulated in the Growth Plan; the City, through its existing policy; and the Ontario Municipal Board through the most recent decision on this matter in Barrie, all support staff's proposed policy to "*establish the primacy of industrial lands*".

Osmington Inc.

25. Osmington in their submission have requested the City to reevaluate their lands in light of the changes to the ELCR criteria recommended by Council. In addition Ms. Humphries states that the City should also consider Osmington's site at 50 Wood Street in the proposed revaluation because, notwithstanding that the site was not considered in the original study because it was occupied, it is currently vacant.
26. Staff have met on a number of occasions with representatives of Osmington regarding the potential conversion of their properties in Barrie. Osmington's site at 110 Fairview Road was one of the 11 sites considered for conversion as part of the ELCR and was recommended against conversion.
27. Staff do not support Osmington's proposal that all 11 sites be reconsidered because of Council's changes to the criteria. In considering the scheduling of a public meeting Council amended staff's recommendation to transpose the evaluation criteria from the ELCR into the City's Official Plan by deleting the last two criteria;
 - *The conversion doesn't contravene any City policy planning objectives;*
 - *The site is surrounded by non-employment uses on at least three sides*

on the basis that both of these criteria were effectively addressed by other criteria in the list and were not necessary and replacing them with the following;

- *The site has been vacant for an extended period of time and is a brownfield (previously used, now vacant) industrial site; and*
 - *The site is an opportunity for intensification in an area designated for intensification.*
28. The ELCR was conducted in accordance with criteria laid out in the document. The study was reviewed and accepted by the City and formed part of the background for the expansion to the City's Settlement area boundary. The proposed criteria which is the subject of this report are intended to be incorporated into the Official Plan as the basis for evaluating all future applications for conversion of employment lands. Staff are proposing to modify the new criteria proposed by Council by amending the term "extended period of time" to "10 years". "Extended period of time" is a subjective term and may be difficult to implement. Industrial lands are typically longer to develop, therefore staff are recommending 10 years as an appropriate period and to provide greater clarity to this criteria. If Osmington is of the opinion that their sites have the potential to be redesignated based on the proposed criteria then they have the opportunity to make an application for the conversion which can then be assessed against the criteria as incorporated into the OP.

29. With regards to Osmington's request to have their site at 50 Wood Street re-evaluated because it is currently vacant, but was not at the time of the preparation of the ELCR. The ELCR was intended to assess the existing situation during the time of its preparation. Staff do not feel that the removal of the building is sufficient to warrant a re-evaluation by Watson. The purpose of the proposed amendments outlined in this report are to provide criteria for the evaluation of new applications. If Osmington feels the Wood Street site would be appropriate for conversion and can meet the criteria, an application should be submitted to allow the City to review and assess the proposal.
30. Osmington's request to have the entire ELCR revisited because of the minor changes being proposed to the criteria is, in staff's opinion, inappropriate and serves no purpose other than to provide a vehicle for potential appeals. If the proposal to convert these lands can satisfy the criteria then the appropriate mechanism is to submit site specific applications that can be assessed against the criteria. Staff do not support Osmington's request to undertake a revaluation of the specific sites considered by the Watson report and potentially the background information for the preparation of the Salem and Hewitt's Secondary Plans.

Innovative Planning Solutions

31. On September 21, 2015 the City received one additional letter from IPS on behalf of 1911940 Ontario Ltd. stating that they feel there may be additional criteria which may/should be utilized. Neither IPS nor their clients made any presentation at the public meeting nor have they proposed any additional criteria. The criteria being recommended is based on the Watson Report accepted by Council in 2011 with some minor revisions by Council. Staff are of the opinion that the criteria as identified in this report are appropriate.

Summary

32. Staff are recommending a proposed amendment to the City of Barrie Official Plan to implement the recommendations of the Growth Management Strategy Employment Lands Municipal Comprehensive Review.
33. Staff are also recommending that the moratorium on applications for the conversion of employment lands as directed by Council Motion 09-G-398 be lifted following the adoption and coming into force and effect of the proposed Official Plan Amendment, or following the receipt of an Ontario Municipal Board should one or more appeals be filed.
34. Staff do not agree with North American's contention that the City should not approve policies establishing the primacy of industrial lands over other land uses. The Province has clearly established that employment lands which the City has interpreted (and the Board has accepted) that industrial lands merit special consideration. Staff also do not support Osmington Inc.'s request that the ELCR be revisited based on the changes to the evaluation criteria that Council directed staff to make.

ENVIRONMENTAL MATTERS

35. There are no environmental matters specifically related to the recommendation.

ALTERNATIVES

36. There are two alternatives available for consideration by General Committee:

Alternative #1

General Committee could maintain the existing policy with respect to Employment lands (i.e. Status Quo).

This alternative is not recommended although this is certainly a reasonable option in this case.

The OP as currently written does contain policies which address employment lands conversions as well as the primacy of industrial uses within industrial areas. The current policies are sufficient to allow the evaluation of development applications in employment areas, however they could be enhanced as is being recommended in this report.

Alternative #2

General Committee could maintain the existing policy with respect to Employment lands (i.e. Status Quo) but alter the proposed recommendation by directing staff to consider the proposed policy approach of the MCR as part of the upcoming five year review of the Official Plan.

This alternative is also an equally viable alternative. Staff would still recommend that, notwithstanding that the OP would not be amended at this time, the moratorium on processing applications for employment lands conversion be lifted and that current Official Plan policies be used in conjunction with the MCR to review these applications.

FINANCIAL

37. There are no direct financial implications for the Corporation resulting from the proposed recommendation to amend the City's Official Plan to update the employment lands policies.
38. These policies will enhance Council's existing authority to protect employment lands under the provisions of the Planning Act, and will serve to ensure that new development in the employment areas does not compromise the viability of the area.

LINKAGE TO 2014-2018 STRATEGIC PLAN

39. The recommendations included in this Staff Report support the following goals identified in the 2014-2018 Strategic Plan:
 - Vibrant Business Environment
40. The proposed recommendation will establish policies intended to preserve employment land for employment purposes and allow conversions where appropriate.

Attachments: Appendix "A" – Official Plan Amendment – Employment Lands Conversion
Appendix "B" – Motion 09-G-398

APPENDIX "A"

Official Plan Amendment – Employment Lands Conversion

PART A - THE PREAMBLE

PURPOSE

The purpose of this amendment is to amend the policies of Section 3.1.2.1(d) of the Official Plan to enhance the existing employment lands conversion policies as well as amend the policies of Section 4.4 to clarify uses permitted on Industrial lands throughout the City of Barrie.

LOCATION

This amendment is a text amendment that applies to the entire City of Barrie and specifically relates to Sections 3.1.2.1(d) and Section 4.4 of the Official Plan.

BASIS

Increasing encroachment of non-industrial uses in areas planned for traditional industrial uses has resulted in the following impacts;

- significant loss in prime industrial lands, in many cases with highway and rail access or exposure.
- significant increases in the amount of non-industrial traffic and associated impacts for bona fide industrial uses.
- significant increase in complaints from residents in these converted areas against the existing industrial uses that usually predated the converted residential areas.
- reduction in the desirability of industrial lands for existing and future industrial users because of the real or perceived impacts of non-employment development on industrial type users such as increased traffic and risk of complaint.
- increase in impact of introduction of "sensitive land uses" on adjacent industrial lands through the imposition of minimum separation distances.
- gradual increase in cost of employment lands created by the perception of landowners and developers regarding the ease of purchasing inexpensive industrial lands and converting to more valuable land use designations.
- difficulty of redesignating lands within a built environment from non-employment lands to employment lands.

The Provincial Growth Plan requires the completion of a municipal comprehensive review prior to considering applications to convert employment lands to a non-employment use. The City of Barrie Official Plan was amended in 2009 to bring the Plan into conformity with the Provincial Growth Plan and policies were included requiring the completion of such a review prior to allowing the conversion of employment lands within Barrie.

As part of the Growth Management Study for the recently annexed lands, the City retained Watson and Associates in association with Macaulay Shiomi Howson Ltd. and W. Scott Morgan & Associates Ltd. to complete a Municipal Comprehensive Review (MCR) in accordance with Provincial Growth Plan policies.

This Study reviewed the City's employment land supply and made recommendations on conversion of designated employment lands based on evaluation criteria outlined in the Study and on employment land need between 2010 and 2031.

The Employment Lands Conversion Report also recommended some policy initiatives including amendments to the Official Plan. The purpose of this amendment is to incorporate some of the recommendation of this report as well as including the evaluation criteria with some minor changes into the text of the Plan.

PART B - THE AMENDMENT

DETAILS OF THE AMENDMENT

The Official Plan is hereby amended as follows;

That a new section 3.1.2.1 (d) be added and that the remainder of the section be renumbered accordingly. The new 3.1.2.1 (d) reads as follows:

"3.1.2.1.(d) Applications to convert existing employment lands to a non-employment land use are generally discouraged with the exception of those properties identified through the municipal comprehensive review. When such applications are received by the City they shall be evaluated based on meeting a minimum of six of the following nine criteria:

- The site is located outside or on the fringe of a designated Employment Area;
- The site is isolated from surrounding designated employment lands;
- The conversion will not create incompatible land uses;
- The conversion will not negatively affect employment lands in the area;
- The conversion will be consistent/supportive of City policy planning objectives;
- The site offers limited market choice for employment lands development due to its size, configuration, physical conditions or other reasons;
- The site does not offer potential for future expansion on existing neighbouring employment lands;
- The site has been vacant for a minimum of 10 years and is a brownfield (previously used, now vacant) industrial site; and
- The site is an opportunity for intensification in an area designated for intensification."

That Section 4.4 Industrial be amended as follows:

Section 4.4.1 Goals is proposed to be amended by the addition of a new Goal which states:

"(c) To ensure the primacy of industrial uses as the principal driver of economic prosperity in the City of Barrie."

Section 4.4.2.1 (a) is proposed to be amended by the inclusion of a new sentence at the end of the subsection which will state:

"Conversion of lands within these employment areas from industrial to any other land use including; commercial, institutional and residential shall be discouraged. Where applications for conversion are received they will be evaluated based on the criteria established in Section 3.1.2.1(b), (c), and (d)."

Section 4.4.2.1(e) of the Official Plan is proposed to be amended deleting the word "or" and replacing it with the word "and" such that the policy would read:

"Commercial uses such as retail stores which are not directly related to the function of industrial areas, and which are more appropriate in commercial zones, are discouraged."

Section 4.4.2.1(e) is proposed to be further amended by adding a new sentence at the end of the policy such that the policy would read:

"Institutional uses which are not directly related to the function of industrial areas and which are more appropriate on Institutionally zoned lands are discouraged."

IMPLEMENTATION

Following the approval of this amendment, the moratorium in reviewing applications for the conversion of employment lands as directed through Motion 09-G-398 dated September 28th, 2009, will be removed (see Appendix "B").

INTERPRETATION

The provision of the Official Plan, as amended from time to time, shall apply in regard to this Amendment.

APPENDIX "B"

Motion 09-G-398

**09-G-398 EMPLOYMENT LANDS CONVERSION POLICY – SITE SPECIFIC APPLICATIONS
ESSA RESIDENCES INC. (300 ESSA ROAD) AND BARRIE-VIEW FARMS LIMITED
(315 AND 356 BRYNE DRIVE)**

That any applications for the conversion (redesignation) of Industrially designated lands to non-employment uses (including a Commercial, Residential or Institutional designation) be considered premature and held in abeyance until such time as the results of the municipal comprehensive review have been considered by Council and any amendments to the City's Official Plan, if required, have been adopted by Council, with the exception of:

- a) *The application by Essa Residences Inc. for a redesignation of approximately 8.7 hectares (21.5 acres) of land known municipally as 300 Essa Road from General Industrial to Residential (approximately 10.5 acres of which is proposed as being developable);*

but including, the application from Barrie-View Farms Limited for a redesignation of approximately 3 hectares (7.3 acres) of lands known municipally as 315 and 356 Bryne Drive from General Industrial to General Commercial. (PLN040-09) (File: D14-1473, D14-1475, D01-EMP) (09-G-379) (09-DSC-016).

AMENDED BY RESOLUTIONS 09-A-445 AND 09-A-452:

AMENDMENT #1

That motion 09-G-398 of General Committee Report No. 38, Section "D" concerning Employment Lands Conversion Policy – Site Specific Applications be amended by separating the paragraph that begins with the words "but including" and reintroducing this paragraph as Section "H".

That General Committee Report No. 38, Section "H", (APPENDIX "A") concerning the Employment Lands Conversion Policy Site Specific Applications – Barrie View Farms Ltd. (315 and 356 Bryne Drive) be adopted.

AMENDMENT #2

That motion 09-G-398 of General Committee Report No. 38, Section "H" concerning Employment Lands Conversion Policy – Site Specific Barrie-View Farms Limited (315 and 356 Bryne Drive) be amended by deleting the following words:

"but including the application from Barrie-View Farms Limited for a re-designation of approximately 3 hectares (7.3 acres) of land known municipally as 315 and 356 Bryne Drive from General Industrial to General Commercial."

And adding the following paragraphs:

- "b) *The western portion of the applications by Barrie-View Farms Limited for a re-designation and rezoning of approximately 1.3 hectares (3.3 acres) of land known municipally as part of 315 and 356 Bryne Drive, from General Industrial to General Commercial and rezoning to the General Commercial (C4) zone, which is to be directed to staff for a report on the planning merits and requirements to General Committee in three weeks."*

- "2. *That the conversion (re-designation) of the remaining Industrially designated and zoned lands to non-employment uses, being approximately 4 acres in size, be considered premature and held in abeyance until such time as the results of the municipal comprehensive review have been considered by Council and any amendments to the City's Official Plan, if required, have been adopted by Council.*"