

DATE: April 23, 2002

TO: Chairman and Members of the Planning and Development Committee

FROM: Thomas S. Mokrzycki, Commissioner of Planning and Building

SUBJECT: **Proposed City Plan, Draft Mississauga Plan and Zoning By-law Amendments - Aircraft Noise Policies**
Meeting Date: May 13, 2002

ORIGIN: Planning and Building Department

BACKGROUND: On February 1, 1997 an amendment to the Provincial Policy Statement (PPS) was issued under Section 3 of the *Planning Act* which stated:

"To protect airports from incompatible development:

1. New residential development and other sensitive land uses will not be permitted in areas near airports above 30 NEF/NEP, as set out on maps (as revised from time to time) approved by Transport Canada; but
2. Redevelopment of existing residential uses and other sensitive lands or infilling of residential and other sensitive land uses may be considered above 30 NEF/NEP if it has been demonstrated that there will be no negative impacts on the long-term function of the airport."

City Plan, approved by the Ministry of Municipal Affairs and Housing on July 8, 1997, contained policies identical to the PPS. On July 6, 1998, however, the Ontario Municipal Board (OMB) approved on consent the existing policies contained in Section

4.2.3.8, Aircraft Noise, of City Plan (OMB Order No. 1650) (see Exhibit 1). These policies, which refer to the LBPIA Airport Operation Area (AOA), were developed in conjunction with the Greater Toronto Airports Authority (GTAA) and the Region. The same policies are contained in Section 5.6.6 of the Regional Official Plan (ROP).

During the processing of applications before the Committee of Adjustment, it became apparent that the Aircraft Noise Policies, although similar in City Plan and the ROP, were being interpreted differently by City and Regional staff. In view of this, on March 8, 2001 Regional Council, by Resolution 2001-202 directed Regional staff to *"work together with the GTAA and the City of Mississauga to develop a consistent interpretation, or if necessary, to develop amendments to the Regional Official Plan and the City of Mississauga Official Plan with a view to ensuring the integrity and enforceability of the Lester B. Pearson International Airport (LBPIA) Operating Area established under both plans"*.

Pursuant to the forgoing request, Planning and Building Department staff have consulted with the GTAA and the Region of Peel staff in the review of the aircraft noise policies, which has resulted in proposed amendments to City Plan, Draft Mississauga Plan, and Zoning By-law 5500.

COMMENTS:

1. Proposed City Plan Amendments

As shown on Exhibit 1, the existing Aircraft Noise policies contained in Section 4.2.3.8 - Environmental Issues - Aircraft Noise of City Plan:

- prohibit new residential development and other sensitive land uses in an area identified as Lester B. Pearson Airport Operating Area ("AOA") shown on Exhibit 2 except within certain exempt areas - Meadowvale Village and a part of East Credit;

- provide some flexibility to permit the redevelopment and infilling for residential and other sensitive land uses within the AOA provided that "it has been demonstrated that there will be no negative impacts on the long term function of the Airport "; and
- identify the requirements for noise studies to determine appropriate acoustic design criteria (eg. central air conditioning, type of glazing, insulation) for various types of uses.

The review of the policies indicated that there is ambiguity with respect to the definition of sensitive land uses, which are defined in City Plan as:

"buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples include: residences, day care centres, and educational and health facilities."

In addition, the conditions under which redevelopment and infilling for residential and other sensitive land uses within the AOA may occur are vague. Consequently, it is recommended that the policies be revised, as shown on Exhibit 1. The effect of the proposed policies is to:

- continue to prohibit new residential development, redevelopment and infilling, but defined as that which increases the number of dwelling units in the (LBPIA) "AOA", the boundaries of which will remain the same ;
- continue to permit new residential development and other specified sensitive land uses (eg. schools, day care facilities, hospitals, nursing homes.) in certain exempt areas - Meadowvale Village and a part of East Credit;

- establish that redevelopment or infilling which increases the number of dwelling units may take place for those parts of Malton, Meadowvale Village and East Credit within the AOA, provided that it is below the 35 NEF/NEP composite noise contour, and has a built-form and density similar to that of surrounding residential development;
- prohibit new development, redevelopment and infilling for schools, day care facilities, hospitals, and nursing homes within the AOA, except for those parts of Malton, Meadowvale Village and East Credit within the AOA, where they may be permitted subject to a rezoning application provided that they are below the 35 NEF/NEP composite noise contour;
- continue to identify the requirements for noise studies to determine appropriate acoustic design criteria (eg. central air conditioning, type of glazing, insulation) for various types of uses.

In Section 4.2.3.4, Environmental Compatibility, the last sentence states that sensitive land uses will not be permitted adjacent to existing major facilities such as transportation corridors, sewage treatment facilities, waste sites etc., but does not identify the airport. Consequently, this sentence should be amended by including reference to the airport.

In Section 4.8.1, Community Uses-Introduction, community uses are permitted in all land use designations. Because certain noise sensitive uses are prohibited in the AOA, the last paragraph of this Section should be amended to state that "Notwithstanding the forgoing, development, infilling and redevelopment for schools, day care facilities, hospitals, and nursing homes will not be permitted within the AOA except for those parts of Malton, Meadowvale Village and East Credit within the AOA, below the 35 NEF/NEP noise contour subject to the aircraft noise policies of this Plan".

Similarly, in Section 5.5.1, Business Employment, Permitted Uses, and Section 5.6.1, Industrial Permitted Uses, community uses are identified as a permitted use. These provisions should be amended to read "Community uses provided that schools, day care facilities, hospitals, and nursing homes will not be permitted within the AOA."

2. Proposed Draft Mississauga Plan Amendments

To be consistent with the proposed aircraft noise policies for City Plan, the policies in Sections 3.14.10.2.1, (a), (b), (c), (f),(g) and (h) should be deleted, and replaced with the revised policies as shown on Exhibit 1.

In Section 3.3.1.1(e) Business Employment Permitted Uses, community uses are identified as a permitted use. To be consistent with the proposed changes to the aircraft noise policies in City Plan, these provisions should be amended to prohibit schools, day care facilities, hospitals, and nursing homes within the LBPIA Operating Area.

In Section 3.4.1.1(c) Industrial Permitted Uses, community uses are identified as a permitted use. To be consistent with the proposed changes to the aircraft noise policies in City Plan, these provisions should also be amended to prohibit schools, day care facilities, hospitals, and nursing homes within the LBPIA Operating Area.

3. Region of Peel Official Plan

The Region of Peel is proposing to amend the aircraft noise policies of the Regional Official Plan (ROP). The Region has advised that, as the amendment to the ROP has not yet been approved, the proposed amendments to City Plan and Draft Mississauga Plan do not conform with the existing ROP and are, therefore, not exempt from the Region's approval until the amendment to the ROP is approved and in effect. A public meeting will be required with respect to the amendment to the ROP, and it is recommended that a joint public meeting be held

to consider amendments to both the Mississauga and Regional Official Plans.

4. Proposed Zoning By-law Amendments

The proposed aircraft noise policies will prohibit infilling and redevelopment for public and private schools, day care facilities, hospitals, and nursing homes within the AOA, except for those parts of Malton, Meadowvale Village and East Credit within the AOA where they may be permitted subject to a rezoning application provided that they are below the 35 NEF/NEP noise contour. Since Zoning By-law 5500 permits these uses, it is necessary that it be amended to prohibit them, except within the exempt areas shown on Exhibit 2.

It is suggested that private schools, day care facilities, hospitals, and nursing homes which legally exist within the LBPIA Operating Area (without the benefit of a variance) on the day the rezoning by-law comes into effect continue under the existing regulations without being subject to the prohibition. In other words, these existing uses should be totally exempt from the prohibition and may continue under the old zoning by-law provisions.

In the case of the sensitive land uses which legally exist on the day the rezoning by-law comes into effect due to minor variances which were granted on a temporary basis, these uses will by implication not be exempt, and when the minor variance expires, the ability to continue the land use or provide for an expansion will be subject to the prohibition.

Consequently, it is recommended that the General Provisions of By-law 5500 be amended by adding a new Section - 22Q - which incorporates a Schedule I delineating the AOA, as shown on Exhibit 2, together with provisions which prohibit within the AOA, as a principal and as an accessory use, new public and private schools, day care centres, hospitals and nursing homes except within the area identified as "Lands Exempt From LBPIA Operating Area.", and provided that:

- The prohibitions of the By-law shall not apply to a day care centre, hospital, nursing home or a public or private school which legally exists on the day the rezoning by-law comes into effect in conformity with the By-law without the necessity of having obtained a minor variance under Section 45 of the *Planning Act*, and such uses shall continue to be subject to the provisions of the By-law as they exist on the day the rezoning by-law comes into effect.

CONCLUSION:

The review of the aircraft noise policies indicated that there is ambiguity with respect to the definition of sensitive land uses, and the conditions under which the redevelopment and infilling for residential and other sensitive land uses within the AOA may occur. The amendments to City Plan and Draft Mississauga Plan recommended in this report will resolve these issues, which will also require amendments to the Zoning By-law for implementation.

RECOMMENDATIONS:

1. That a public meeting be held, in conjunction with the Region of Peel with respect amendments to the aircraft noise policies of the Region Official Plan, to consider the following recommendations of the report titled, "Proposed City Plan, Draft Mississauga Plan and Zoning By-law Amendments - Aircraft Noise Policies" dated April 23, 2002 from the Commissioner of Planning and Building:
 - a) That City Plan be amended by:
 - i) deleting Aircraft Noise Policies 4.2.3.8 (a), (b), (c), (f), (g) and (h) and replacing them with the following, and renumbering:
 - a. New residential development and redevelopment, and infilling which increases the number of dwelling units will not be permitted within the Lester B. Pearson International Airport (LBPIA) Operating Area outlined on Schedule 2, Urban

Form Long Term Concept, and the following affected District Land Use Maps: Airport Corporate, East Credit, Gateway, Malton, Meadowvale Village and Northeast.

- b.** Notwithstanding **(a)**, within the area inside the LBPIA Operating Area identified on Schedule 2, Urban Form Long Term Concept, as "Exempt Area", development applications for residential development (being official plan amendments, zoning by-law amendments, plans of subdivision, minor variance or consent applications, site plans) may be processed for approval provided that appropriate conditions relating to airport noise are included in the approval, and further provided that:
- the application was filed prior to 1997 February 01; or
 - the lands were designated Residential prior to 1997 February 01.
- c.** Notwithstanding **(a)**, redevelopment or infilling which increases the number of dwelling units within Malton, Meadowvale Village and East Credit may be permitted inside the LBPIA Operating Area provided it is below the 35 NEF/NEP composite contour and has a built form and density similar to that of surrounding residential development.
- d.** New development and redevelopment or infilling for hospitals, nursing homes, daycare facilities and public and private schools within the LBPIA Operating Area will not be permitted.

- e.** Notwithstanding **(d)**, redevelopment or infilling for hospitals, nursing homes, daycare facilities and public and private schools within Malton, Meadowvale Village and East Credit may be permitted inside the LBPIA Operating Area on an individual basis below the 35 NEF/NEP composite contour.
- f.** For residential land uses, passive use parks, public and private schools, day care facilities, libraries, places of religious assembly, theatres, auditoria, hospitals, nursing homes, affected by an NEP/NEF of 25 or greater, as shown on Appendix F: 1996 NEP/2000 NEF Composite Noise Contours, and if otherwise permitted by this Plan, a noise study will be undertaken by a qualified acoustical consultant in accordance with Provincial Government policy to the satisfaction of the City prior to development approval to determine appropriate acoustic design criteria.
- g.** For hotels, motels, retail or service commercial uses, office uses, athletic fields, playgrounds, or outdoor swimming pools affected by an NEP/NEF of 30 or greater, as shown on Appendix F: 1996 NEP/2000 NEF Composite Noise Contours, and if otherwise permitted by this Plan, a noise study will be undertaken by a qualified acoustical consultant in accordance with Provincial Government policy to the satisfaction of the City prior to development approval to determine appropriate acoustic design criteria.
- h.** For industrial, warehousing, or arena uses affected by an NEP/NEF of 35 or greater, as shown on Appendix F: 1996 NEP/2000 NEF Composite Noise Contours, and if otherwise permitted by this Plan, a noise study will be undertaken by a qualified acoustical consultant in accordance with

Provincial Government policy to the satisfaction of the City prior to development approval to determine appropriate acoustic design criteria.

i. For the purposes of this Section, redevelopment means an application for approval under the *Planning Act* for:

- 1) the creation of one or more new lots;
- 2) the creation of one or more new dwelling units;
- 3) a change in land use; or
- 4) the construction of buildings or structures.

and where the subject lands have or previously had one or more buildings erected thereon.

j. For the purposes of this Section, infilling means an application for approval under the *Planning Act* for:

- 1) the creation of one or more new lots;
- 2) the creation of one or more new dwelling units;
- 3) a change in land use; or
- 4) the construction of buildings or structures.

and where the subject lands comprise less than 2 hectares (5 acres) and the lands have no buildings erected thereon and are located in an area having existing uses of the same or similar character as the use proposed.

ii) adding to the last sentence of Section 4.2.3.4, Environmental Compatibility, the words " the airport: following the words "such as ";

iii) adding to the last paragraph of Section 4.8.1, Community Uses-Introduction:

"Notwithstanding the forgoing, development, infilling and redevelopment for schools, day care facilities, hospitals, nursing homes will not be permitted within the LBPIA Operating Area except for those parts of Malton, Meadowvale Village and East Credit within the Airport Operating Area, below the 35 NEF/NEP noise contour, subject to the aircraft noise policies of this Plan."

- iv) amending Section 5.5.1.1 (e) Business Employment, Permitted Uses, as follows:

"Community uses provided that public and private schools, day care facilities, hospitals, and nursing homes will not be permitted within the LBPIA Operating Area."

- v) amending Section 5.6.1.1 (c) Industrial, Permitted Uses, as follows:

"Community uses provided that public and private schools, day care facilities, hospitals, and nursing homes will not be permitted within the LBPIA Operating Area."

- b) That Draft Mississauga Plan be amended by:

- i) Deleting Sections 3.14.10.2.1, (a), (b), (c), (f),(g) and (h), replacing them with the following, and renumbering:

- a.** New residential development and redevelopment, and infilling which increases the number of dwelling units will not be permitted within the Lester B. Pearson International Airport (LBPIA) Operating Area outlined on Schedule 2, Urban Form Long Term Concept, and the following affected District Land Use Maps: Airport

Corporate, East Credit, Gateway, Malton, Meadowvale Village and Northeast.

- b.** Notwithstanding **(a)**, within the area inside the LBPIA Operating Area identified on Schedule 2, Urban Form Long Term Concept, as "Exempt Area", development applications for residential development (being official plan amendments, zoning by-law amendments, plans of subdivision, minor variance or consent applications, site plans) may be processed for approval provided that appropriate conditions relating to airport noise are included in the approval, and further provided that:
- the application was filed prior to 1997 February 01; or
 - the lands were designated Residential prior to 1997 February 01.
- c.** Notwithstanding **(a)**, redevelopment or infilling which increases the number of dwelling units within Malton, Meadowvale Village and East Credit may be permitted inside the LBPIA Operating Area provided it is below the 35 NEF/NEP composite contour and has a built form and density similar to that of surrounding residential development.
- d.** New development and redevelopment or infilling for hospitals, nursing homes, daycare facilities and public and private schools within the LBPIA Operating Area will not be permitted.
- e.** Notwithstanding **(d)**, redevelopment or infilling for hospitals, nursing homes, daycare facilities and public and private schools within Malton, Meadowvale Village and East Credit may be

permitted inside the LBPIA Operating Area on an individual basis below the 35 NEF/NEP composite contour.

- f.** For residential land uses, passive use parks, public and private schools, day care facilities, libraries, places of religious assembly, theatres, auditoria, hospitals, nursing homes, affected by an NEP/NEF of 25 or greater, as shown on Appendix F: 1996 NEP/2000 NEF Composite Noise Contours, and if otherwise permitted by this Plan, a noise study will be undertaken by a qualified acoustical consultant in accordance with Provincial Government policy to the satisfaction of the City prior to development approval to determine appropriate acoustic design criteria.
- g.** For hotels, motels, retail or service commercial uses, office uses, athletic fields, playgrounds, or outdoor swimming pools affected by an NEP/NEF of 30 or greater, as shown on Appendix F: 1996 NEP/2000 NEF Composite Noise Contours, and if otherwise permitted by this Plan, a noise study will be undertaken by a qualified acoustical consultant in accordance with Provincial Government policy to the satisfaction of the City prior to development approval to determine appropriate acoustic design criteria.
- h.** For industrial, warehousing, or arena uses affected by an NEP/NEF of 35 or greater, as shown on Appendix F: 1996 NEP/2000 NEF Composite Noise Contours, and if otherwise permitted by this Plan, a noise study will be undertaken by a qualified acoustical consultant in accordance with Provincial Government policy to the satisfaction of the City prior to development approval to determine appropriate acoustic design criteria.

i. For the purposes of this Section, redevelopment means an application for approval under the *Planning Act* for:

- 1) the creation of one or more new lots;
- 2) the creation of one or more new dwelling units;
- 3) a change in land use; or
- 4) the construction of buildings or structures.

and where the subject lands have or previously had one or more buildings erected thereon.

j. For the purposes of this Section, infilling means an application for approval under the *Planning Act* for:

- 1) the creation of one or more new lots;
- 2) the creation of one or more new dwelling units;
- 3) a change in land use; or
- 4) the construction of buildings or structures.

and where the subject lands comprise less than 2 hectares (5 acres) and the lands have no buildings erected thereon and are located in an area having existing uses of the same or similar character as the use proposed.

ii) amending Section 3.3.1.1 (e) Business Employment, Permitted Uses, as follows:

"Community uses provided that public and private schools, day care facilities, hospitals, and nursing homes will not be permitted within the LBPIA Operating Area."

iii) amending Section 3.4.1.1 (c) Industrial, Permitted Uses, as follows:

"Community uses provided that public and private schools, day care facilities, hospitals, and nursing homes will not be permitted within the LBPIA Operating Area."

- iv) adding to Section 3.16.2.1 , Community Uses-Policies:

"Notwithstanding the forgoing, development, infilling and redevelopment for schools, day care facilities, hospitals, nursing homes will not be permitted within the LBPIA Operating Area except for those parts of Malton, Meadowvale Village and East Credit within the Airport Operating Area, below the 35 NEF/NEP noise contour, subject to the aircraft noise policies of this Plan."

- c) That the General Provisions of By-law 5500 be amended by adding a new Section - 22Q - which incorporates a Schedule I delineating the LBPIA Operating Area, as shown on Exhibit 2 of the report titled "Proposed City Plan, Draft Mississauga Plan and Zoning By-law Amendments - Aircraft Noise Policies dated April 23, 2002 from the Commissioner of Planning and Building, together with provisions which prohibit within the LBPIA Operating Area, as a principal and as an accessory use, new public and private schools, day care centres, hospitals and nursing homes except within the area identified as "Lands Exempt From LBPIA Operating Area" provided that: the prohibitions of the By-law shall not apply to a day care centre, hospital, nursing home or a public or private school which legally exists on the day the rezoning by-law comes into effect, in conformity with the

By-law, without the necessity of having obtained a minor variance under Section 45 of the *Planning Act*, and such uses shall continue to be subject to the provisions of the By-law as they exist on the day the rezoning by-law comes into effect.

Original Signed By: _____
Thomas S. Mokrzycki
Commissioner of Planning and Building