

DATE: August 13, 2002

TO: Chairman and Members of the Planning and Development Committee

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

SUBJECT: **Proposed City Plan, Mississauga Plan
and Zoning By-law Amendments - Aircraft Noise Policies
PUBLIC MEETING: September 3, 2002**

ORIGIN: Planning and Building Department

BACKGROUND: On May 22, City Council considered the attached report (Exhibit 1) 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 and adopted a recommendation to hold a public meeting to consider the recommendations of the report. In addition, the recommendation included receipt of a letter dated May 10, 2002 from Steve Shaw, Vice President, Corporate Affairs and Communications, GTAA (Exhibit 2).

COMMENTS: Existing Private Schools
Planning and Development Committee, at its meeting on May 13, 2002, expressed some concerns regarding the treatment, in the proposed zoning bylaw amendment, of existing private schools which are not now permitted by the zoning by-law, but have received the approval of a minor variance.

There are three categories of private school uses which may be affected by the proposed by-law:

- 1) private schools which have not received a variance and were authorized under the existing zoning by-law, and would therefore, fall outside of the proposed by-law;
- 2) private schools which have received a minor variance which is not temporary, and would, therefore, fall outside of the proposed by-law;
- 3) private schools which have received a variance for a temporary period and, therefore, when the time limit expires the lands would be subject to the proposed by-law and would require an official plan amendment as well as a rezoning to continue the use.

In reviewing this matter with Legal Services, it was concluded that private schools in categories one and two should be treated the same; i.e. private schools which have received variances which are in effect and which are not for a temporary period should be treated in the same fashion as other uses which are currently permitted by the zoning bylaw and should, therefore, be exempt from the prohibitions.

Private schools which have received the approval for a temporary period (category three) are not intended, by the nature of their approval, to be a permanent use and it is intended that they will ultimately be phased out. Consequently, these facilities should not be subject to the same exemption as uses which conform to the zoning by-law, or which have received a minor variance which is not time limited. This means that, when the temporary variance expires, the school will require the approval of an official plan amendment and rezoning if it wishes to continue.

Principal and Accessory Use

The proposed zoning by-law amendments would prohibit in the Airport Operating Area, *as a principal and as an accessory use*, new public and private schools, day care centres, hospitals and

nursing homes, subject to certain exceptions. The proposed amendments to City Plan and Mississauga Plan contain similar prohibitions, but do not reference "principal or accessory use". Consequently, upon further review, the proposed policies in Mississauga Plan and City Plan, which would prohibit in the Airport Operating Area new public and private schools, day care centres, hospitals and nursing homes, should refer to both principal and accessory uses, to be consistent with the proposed zoning by-law.

Airport Zoning and Obstacle Limitation Surfaces

The Greater Toronto Airports Authority, in their comments on Draft Mississauga Plan, requested that Appendix "H" Airport Zoning and Obstacle Limitation Surfaces be amended to include a brief description of the Airport Zoning Regulations to accompany the map contained within the Appendix, as shown on Exhibit 3. Staff concur with this request, and also suggest that a similar amendment be made to Appendix "S" Airport Zoning and Obstacle Limitation Surfaces, of City Plan.

Schedule 2, Urban Form Concept

The proposed City Plan and Draft Mississauga Plan Policies contained in Exhibit 1 of this report make reference to the LBPIA Operating Area being included on Schedule 2, Urban Form Concept and the affected District Land Use Maps. As part of the preparation of the Draft Mississauga Plan, it was decided that the Airport Operating Area should only be shown on the affected District Land Use Maps because Schedule 2 does not contain land use designations. Schedule 2, Urban Form Concept, in Mississauga Plan, as adopted by City Council on July 10, 2002, does not include reference to the LBPIA Operating Area.

Region of Peel Official Plan

On July 11, 2002 Regional Council adopted Amendment 5 to the Regional Official Plan (Exhibit 4) to clarify policies affecting sensitive land uses within the Airport Operating Area and to provide a general framework allowing local municipalities to deal with specific land use planning matters. The decision of the Region of Peel Council is final if a notice of appeal is not

received on or before July 31, 2002, the last date for filing a notice of appeal.

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 LBPIA Operating Area may occur. The proposed amendments to City Plan and Mississauga Plan recommended in this report will resolve these issues, which will also require amendments to the Zoning By-law for implementation.

There is a need to amend both City Plan and Mississauga Plan because there will be a period when City Plan is still in effect prior to the approval of Mississauga Plan.

RECOMMENDATIONS:

1. That the following recommendations of the report titled, "Proposed City Plan, Mississauga Plan and Zoning By-law Amendments - Aircraft Noise Policies" dated August 13, 2002 from the Commissioner of Planning and Building be adopted:
 - 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 as a principal or accessory use.
- 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 public and private schools, day care facilities, hospitals, nursing homes will not be permitted as a principal or accessory use 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 as a principal or accessory use 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 as a principal or accessory use within the LBPIA Operating Area."

- vi) amending Appendix S, Airport Obstacle Limitation Surfaces at Lester B. Pearson International Airport by adding thereto Exhibit 2 to the report "Proposed City Plan, Mississauga Plan and Zoning By-law Amendments - Aircraft Noise Policies" dated August 13, 2002 from the Commissioner of Planning and Building.

- b) That 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 as shown on 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 "Exempt Area", on the following District Land Use Maps: East Credit and Meadowvale Village, 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 as a principal or accessory use.

- 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 as a principal or accessory use 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 as a principal or accessory use within the LBPIA Operating Area."

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

"Notwithstanding the forgoing, development, infilling and redevelopment for public and private schools, day care facilities, hospitals, nursing homes will not be permitted as a principal or accessory use 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."

- v) amending Appendix H, Airport Obstacle Limitation Surfaces at Lester B. Pearson International Airport by adding thereto Exhibit 3 to the report "Proposed City Plan, Mississauga Plan and Zoning By-law Amendments - Aircraft Noise Policies" dated August 13, 2002 from the Commissioner of Planning and Building.

- 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, 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, 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