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TO:	CHAIR AND MEMBERS BUILT AND NATURAL ENVIRONMENT COMMITTEE MEETING ON SEPTEMBER 26, 2011
FROM:	J. M. FLEMING DIRECTOR, LAND USE PLANNING AND CITY PLANNER
SUBJECT:	EMERGING ISSUES REGARDING OFFICE POLICIES

RECOMMENDATION

That, on the recommendation of the Director of Land use Planning and City Planner:

- i. the following report **BE RECEIVED** for information;
- ii. Planning Staff **BE DIRECTED** to initiate a review of the provisions of the Z.-1 Zoning By-law to ensure that the Official Plan's office policies are being clearly and effectively implemented.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
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- Z-7632 – May 11, 2009 – 211-227 Fanshawe Park Road West: Application for small scale office development – proposed building is 3,067 sq.m. vs. 2,000 sq.m. definition of small scale office building
- OZ – 7894 – July 18, 2011 - Pond Mills Square: Application for large scale office space within a vacant community shopping centre

PURPOSE OF REPORT

Over the past two to three years there have been various discussions at a Staff and Council level relating to planning applications for office development that have raised questions around the clarity of the Z.-1 Zoning By-law as it implements the Official Plan's office policies. This report informs Council of these issues and allows the opportunity for Council to direct staff to clarify the relevant provisions of the By-law if Council deems this to be necessary.

BACKGROUND

1.0 Policy Approach for Planning Office Space in London – Official Plan

The City's existing Official Plan policies stem from a comprehensive office study prepared in 1994, largely in response to a Council concern with a growing trend towards the suburbanization of office space in London and the corresponding impact on the City's Downtown. The study documented all of London's office space at the time, and consulted extensively with the Downtown BIA, office developers and commercial realtors. A final report and recommendations were prepared in 1995 which led to today's current Official Plan policies.

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The policy framework that was adopted, and enshrined in the Official Plan is as follows:

- The Official Plan defines office development based on three general SCALE categories:
 - i. Large Scale – 5,000m² (53,800 sq.ft.) or more
 - ii. Medium Scale – 2,000m² to 5,000m²
 - iii. Small Scale – 2,000m² (21,500 sq.ft.) or less
- The Downtown is the primary location where **LARGE SCALE (over 5,000m²)** office development will be directed. This is a clear policy direction from the Office Study, recognizing that the office market is absolutely vital to the long term health of our Downtown.
- Recognizing that there are certain business-specific office developments that desire locations outside of Downtown (such as those uses that may desire a large office campus environment), the Office Business Park designation allows for large scale office development at strategic locations outside of the Downtown. The Office Business designation has been applied to lands located along the Veteran’s Memorial Parkway (VMP) and there is currently a large amount of vacant designated Office Business Park land at the northwest corner of Commissioners Road and the VMP.
- **MEDIUM SCALE (up to 5,000m²)** office development is permitted in a broader range of locations. In addition to the Downtown and Office Business Parks, the Office Area designation is the primary designation to allow for medium scale office developments. The policies adopted based on the Office Study intended that this scale of office development would be directed to strategic locations – at the intersection of arterial roads, where transit is highly accessible, and in nodal configurations, adjacent to activity centres such as shopping areas and regional facilities.

The Official Plan also allows for Medium Scale office uses within the Office Residential designation, whereby offices can occupy the first two floors of a residential development in a mixed-use building format. The Plan also allows for a limited amount of office development in commercial nodes. The zoning By-law has provided some definition to the policy direction of “limited amount” by regulating that office uses can occupy up to a maximum of

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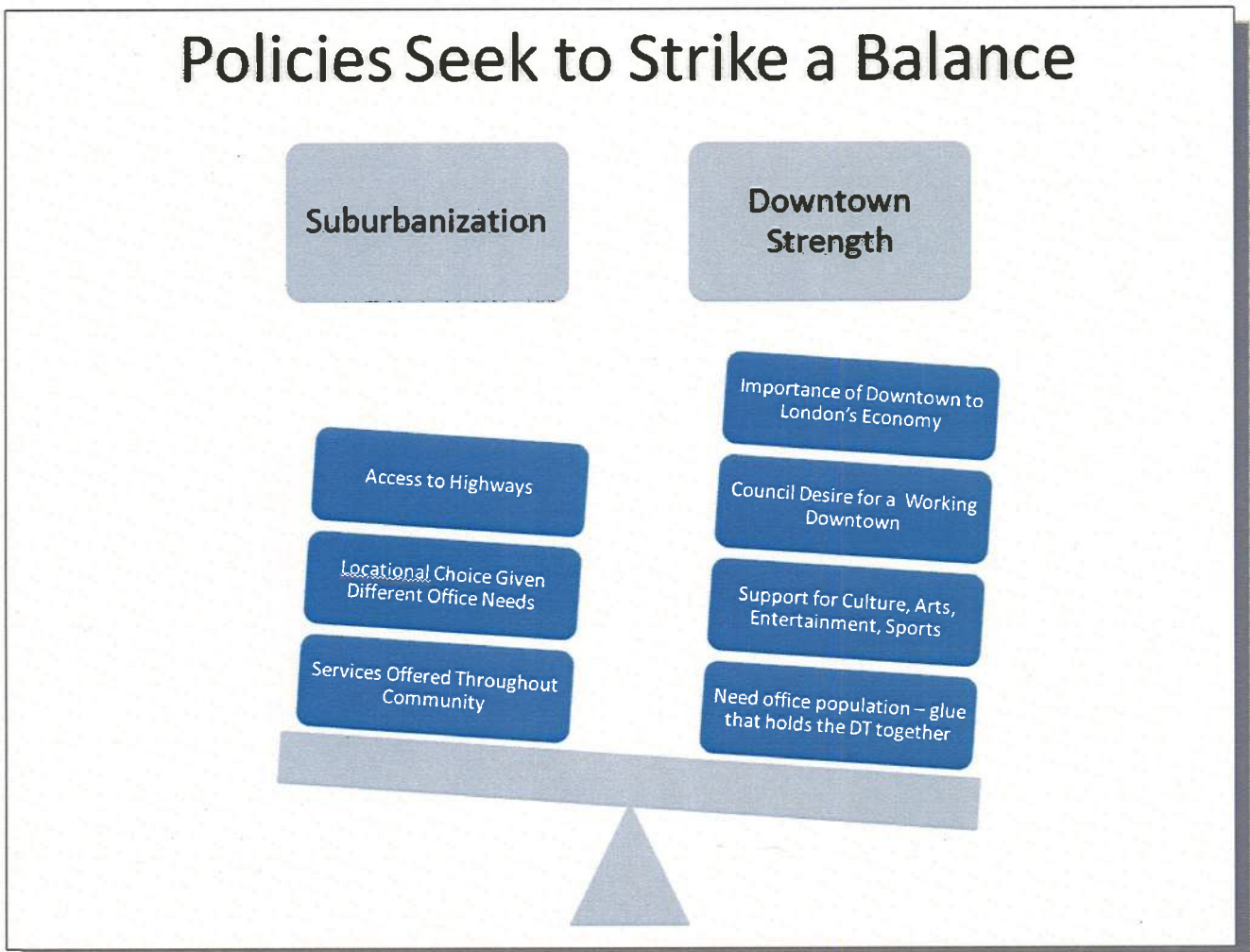
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10% or 15% (depending on the Official Plan designation) of the total gross floor area of a commercial centre. In some cases, this can represent an amount of office space that is in the medium scale range.

- **SMALL SCALE (up to 2,000m2)** office development is allowed in a broad variety of locations throughout the City – to provide smaller scale office services in neighbourhoods.
- **INDUSTRIAL USES** often include accessory office spaces that are directly ancillary to the industrial user (eg. administrative offices, research and development offices, or corporate headquarters). As long as the use is ancillary to the industrial use, the office policies do not limit the amount of office space within these locations.

2.0 The Balancing Act - Planning For Office Development in London

- The Office Study that led to the current policy framework that seeks to provide a **BALANCE** between providing a broad range of suburban locations for offices, while still supporting a strong Downtown office market



- It is important that the office policies provide for reasonable locational choice. Clearly, not all office uses desire a location in the Downtown. The policies have provided this choice in the following ways:
 - Allowing for large scale office development within the Office Business Park designation that has been applied to the VMP, near Highway 401.
 - Allowing for an unlimited amount of office development when that office space is ancillary to, and directly associated with, an industrial use.
 - Allowing for medium scale office development in a relatively broad range of locations

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- while directing these uses to the best locations from a strategic planning perspective
 - Allowing for a very broad range of potential locations for small scale office development that can provide neighbourhood level services.
- At the same time, the policies do direct the majority of large scale office space to the Downtown, to ensure that this vital land use function remains strong in London's Core.
- In this way, the policies attempt to strike a balance between suburban office opportunity and Downtown strength.
- If the balance is lost, Downtown could be negatively impacted in a significant way. Planning Staff believe that the strength of the Downtown market and the approximately 25,000 office workers that work in Downtown London is a lynchpin to the success of the Core.
- Downtown experts throughout North America agree that a strong office market is essential for Downtown health.
- An exodus of office space from the Downtown would have a ripple effect throughout the core, likely leading to the closing of many restaurants, clubs, commercial services, retail stores, and even the culture, arts and entertainment venues that focus on the broader London market.
- In turn, this would hurt the residential amenity of the Core and undermine Council's range of incentives to boost the residential population Downtown.
- The ripple effect would also impact Downtown London's role as a hub for local and regional tourists.
- Planning Staff are aware of other municipalities that have seen significant amounts of office space leave their Downtowns; these Downtowns have struggled and revitalization efforts in these municipalities in the absence of a vital Downtown office population have been ineffective.
- In summary, the office market is a vital part of Downtown London's current and future success and any policy direction that significantly weakens this market stands the chance of undermining Downtown London's economic health and viability.
- This is particularly important given Downtown London's key role in projecting the City's image to prospective (and current) labour force, business and industry.

3.0 Emergent Issues

- Since the preparation of the Office Study and the subsequent adoption of Official Plan policies and associated zoning by-law amendments, a number of issues have emerged.
- Some of these issues have the potential to undermine the policy intent of Council's Official Plan policies. They include:
 1. Confusion over the amount of office space that is permitted ancillary and accessory to an industrial use;
 2. A narrowing interpretation of "office development" that is covered by the size restrictions identified in the Official Plan; and
 3. A "push" for more suburban office development – most recently within failing suburban shopping centres.

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3.1 Office Space in Association with Industrial Development

- The report “City of London Office Study Recommendations, 1994” outlined a series of recommended Official Plan policy amendments that were intended to implement the proposed policy framework.
- One of these proposed Official Plan amendments is described in the report as follows:

“Clarify that offices, as a primary use, will be limited to a small scale in the Light Industrial designation. Larger office uses will be permitted in the Light Industrial designation if they are ancillary and incidental to primary permitted uses”.

- The report went on to say:

“It is not intended that medium or large scale offices will be permitted in the Light Industrial designation unless they are ancillary and incidental to a main permitted use. To clarify this intention, the following addition to Section 7.3.6 (Scale of Development) is recommended:

Office uses which are not ancillary and incidental to a main permitted use, as listed in Section 7.3.1 or 7.3.2 of this Plan, will be restricted to a small scale in the Light Industrial designation”.

- A regulation was added to the Z.-1 Zoning By-law which indicates that the TOTAL GROSS FLOOR AREA FOR ALL OFFICE USES is capped at 2,000 m2.
- While this zoning regulation was meant to only address office development that is not ancillary to an industrial use, it has been confused by some to limit all office space, including such things as administrative offices, research and development or corporate head offices that are clearly ancillary to the main industrial use.
- This has created some problems of uncertainty and confusion when recruiting major industrial users to London, whereby they are concerned that they will be limited in their ability to house needed office functions within their prospective industrial buildings.
- The Zoning By-law should be amended to clarify that this 2,000 m2 cap is only intended to regulate non-ancillary office space.

3.2 Interpretation of Office Space Definition

- As noted above, the Official Plan policies and Zoning amendments approved by Council in 1995 were clearly intended to define the size of office development and direct different size categories of office development in a strategic way.
- The study generally speaks to the size of office development – including those uses that are specifically identified as office uses in the Z.-1 Zoning By-law, and the ancillary uses within the office building such as pharmacies, laboratories, or even retail uses.
- The current Official Plan policies are as follows:
 - ***For the purpose of this Plan, office development of less than 2,000 square metres (21,529 sq.ft.) gross floor area will normally be considered “small scale” and office development between 2,000 square metres (21,529 sq.ft.) and 5,000 square metres (53,921 sq.ft.) gross floor area will normally be considered “medium scale”.***
- However, over time, there have been questions and challenges raised by applicants about the definition of these size limits and what kinds of office uses, and their constituent parts, should be covered by the caps on office floor space.

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- For example, a zoning interpretation was made in relation to a planning application in 2009 for a medical dental office. The application was for a zoning amendment to allow for small scale office development within Medium Density Residential designation. As per the Official Plan policies, small scale offices are permitted up to 2,000 sq.m. Based on the interpretation made at the time, the laboratory space, pharmacy and other constituent parts of the office building was not considered to be covered by the regulatory cap.
- The Planning report relating to this application states:

“The proposed Restricted Office Zone limits the size of the proposed office uses in the building to 2,000 square metres (which for the purposes of the Official Plan is considered “small scale”): However, the applicant has proposed a building of two storeys with approximately 3,100 square metres of floor space. The additional uses in the building are not considered to be office and as such are permitted above and beyond the 2,000 square metre maximum”.
- In this case, a building exceeding the 2,000m² limit of small scale office development by 55% was allowed, based on the interpretation that 1,100m² of the 3,100 m² building did not qualify as office space so was not included in the size limitation.
- Despite the fact that the Official Plan identifies that the Gross Floor Area is to be limited, the floor area maximums identified in the Z.-1 Zoning By-law have been argued to be Gross Leasable Floor Area caps, thus exempting common areas such as hallways, lobbies and meeting areas from the size regulations.
- Through the efforts of suburban shopping centre owners to fill vacant retail space, there have been similar discussions and challenges relating to the question of what types of uses are covered by the cap on office development. While some shopping centre owners seeking to fill vacant retail space argue that the definition of office space should be very narrow, some Downtown property owners argue that doing so is undermining the intent of the office policies to restrict large amounts of office space to limited strategic locations outside of the Downtown.
- What is clear is that the effectiveness of the Official Plan office policies themselves and, correspondingly the health of the Downtown office market, are at stake. If Council believes that the intentions of the Official Plan office policies are not being met through the way these policies are being implemented, it is critical that the Zoning By-law is clarified to provide a strong basis for consistent interpretation and implementation.

3.3 Pressures for the Suburbanization of Office Space

- As noted above, the 1994 Office Study was undertaken in response to a Council concern about a growing trend towards suburbanization. The resulting policies were intended to allow for, and shape, this suburbanization, while retaining the role of the Downtown as the City's primary office development location.
- Pressures for suburbanization continue in a variety of different forms, including:
 - The desire to fill vacant retail space with office space in failing suburban shopping centres. In some cases, the amount of office space being requested has been significant. A good example of this is a planning application that was recently submitted to allow for approximately 6,500 m² of office space to fill vacant retail space within the Pond Mills Square at Highbury Avenue and Commissioners Road. Municipal Council approved 5,000m² to keep office development at a medium scale. It is expected that there will continue to be many requests for the reformatting of failing retail space within suburban shopping centres throughout London.
 - Discussions relating to the potential for large scale office development at Highway 401 has recently emerged. As noted above, the Office Business Park designation allows for this type of development within an office campus environment. However,

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the amount and extent of this designation is an important consideration, understanding that the strength of the Downtown office market could be undermined if this designation is applied too extensively.

- In response to these emerging pressures for suburbanization, the Built and Natural Environment Committee (BNEC) recommended to Council that the office policies be re-examined through the Official Plan review process that will begin early in 2012. However, in July of 2011, Municipal Council turned down this BNEC recommendation, preferring to maintain the existing policy framework.

4.0 Conclusions

- In response to Council's concerns about a growing trend towards the suburbanization of office space, and its potential impact on the Downtown, the City of London Office Study was prepared in 1994 and new Official Plan policies, and associated zoning amendments, were adopted in 1995.
- The policies seek to strike a balance between retaining a vital office market in Downtown London and providing opportunities for different sizes of office development at suburban locations within a strategic policy context.
- A number of issues have recently emerged that could undermine the intent of Council's Official Plan policies. Staff believe that the zoning by-law should be amended to more effectively implement the existing Official Plan policies through the Z.-1 Zoning By-law.

PREPARED AND RECOMMENDED BY:

J. M. FLEMING, MCIP, RPP DIRECTOR, LAND USE PLANNING AND CITY PLANNER

September 19, 2011

Bibliography

- City of London Office Study – Volumes 1-3, 1994
- City of London Office Study – Recommendations, 1994
- City of London Office Study – Recommendations Report, February 131, 1995
- City of London Official Plan
- City of London Z.-1 Zoning By-law