

CPRM, October 31, 2023

PL-59-23

Delegation Materials from Patrick Duffy

Proposed Official Plan Amendment and Community Planning Permit By-law

On behalf of Sofina Foods

Stikeman Elliott LLP

October 31, 2023

Stikeman Elliott

Sofina Burlington Facility

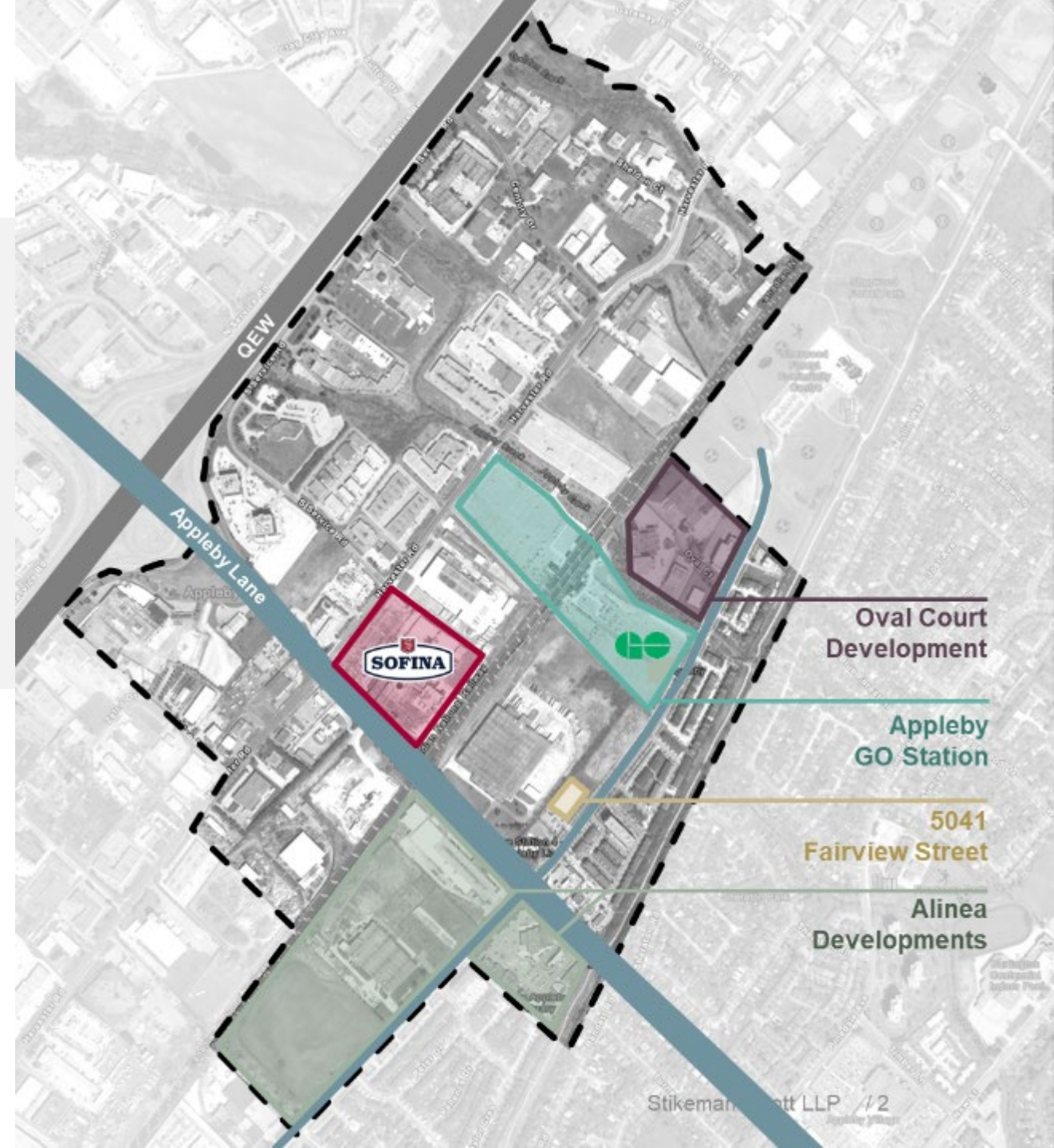
Sofina's Pork Processing Facility

- 📍 Located at 821 Appleby Line
- 🏭 In operation since 1962
- 👥 Currently employs more than 1,100 employees
- 🚇 Located within the Appleby GO MTSA
 - Three high density residential development proposals in the area

Sofina is not opposed to development in the Appleby GO MTSA **provided** it respects the existing industrial uses in the area

Sofina appeared before this Committee on the Oval Court application and is a party in the OLT appeal

- Secured mitigation measures in a settlement with the developer



Implications for Sofina Facility

- ▶ New developments introduce sensitive land uses closer than current nearest receptor for purposes of Environmental Compliance Approval (ECA)
 - May require implementation of new measures to maintain compliance

- ▶ Greater number of residents increases the risk of complaints for nuisance (noise and odour)

- ▶ Additional residents bring additional traffic into the area

- ▶ Potential for increased opposition to renewal / revisions of ECA

Protecting Industry

Provincial policy protects existing industrial operations from the intrusion of new sensitive (residential) uses

New development only permitted if it demonstrates:

- ✓ There is an identified need for the proposed use

- ✓ Alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations

- ✓ Adverse effects to the proposed sensitive land use are minimized and mitigated; *and*

- ✓ Potential impacts to industrial, manufacturing or other uses are minimized and mitigated



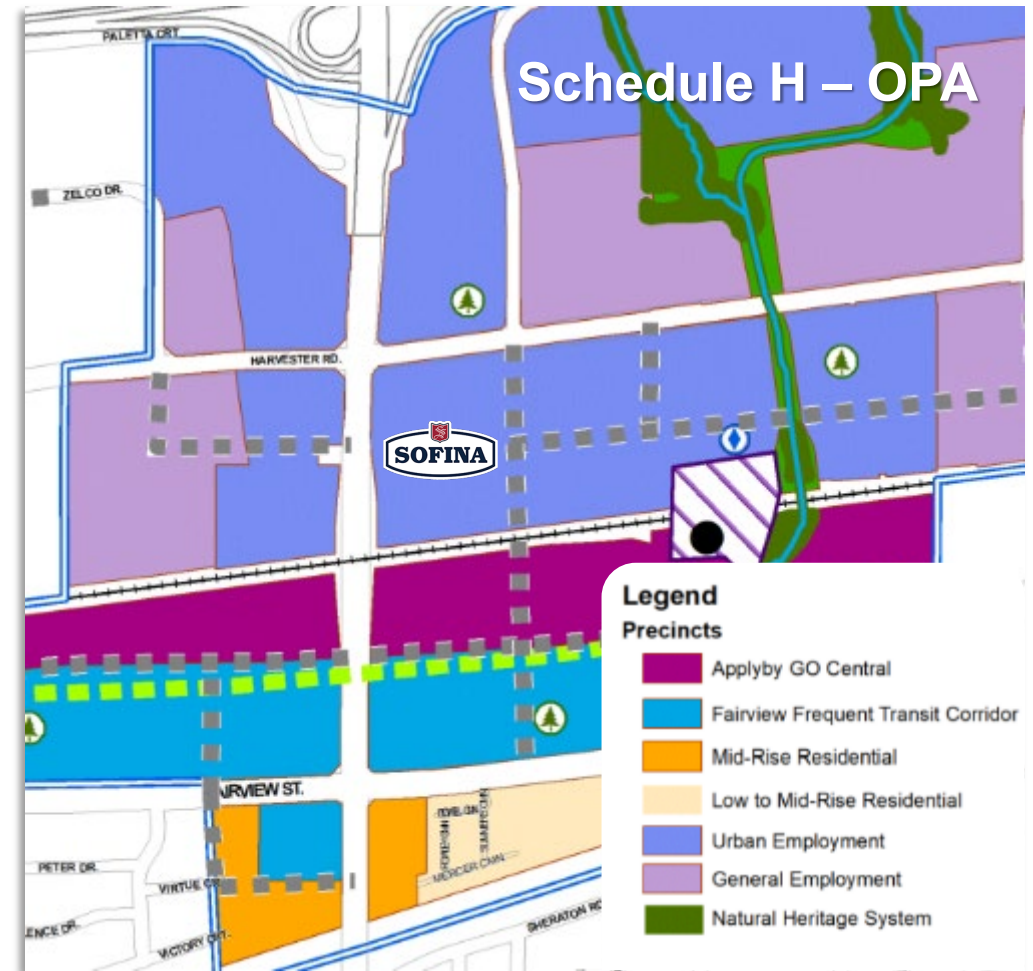
The Proposed OPA and CPP By-law

Sofina's Concerns

- 1 The policies of the proposed OPA and CPP By-law ignore the nature of Sofina's current industrial use
- 2 The policies of the CPP By-law exclude industry from the decision-making process on land use compatibility

Policies Ignore Current Industrial Use

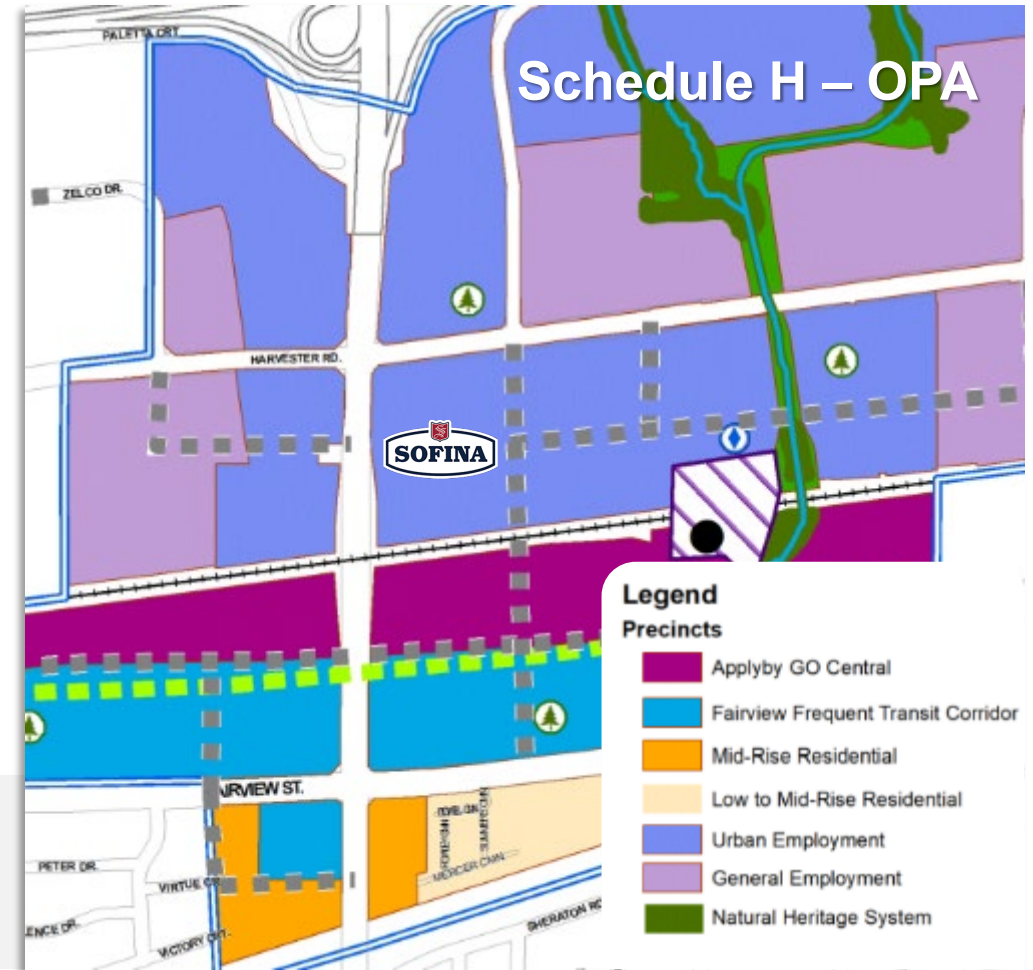
- ▶ A stated policy objective for Appleby GO MTSA in the OPA is to continue “to support existing major facilities” (section 8.1.2(4))
- ▶ Sofina property is designated Urban Employment in Schedule H of OPA
 - Vision is “... more intensive *office* and additional *employment* uses in a mid-rise built form ...” (section 8.1.2(4.3))
 - Does **not** provide for continuation of existing industry (unlike General Employment)
- ▶ CPP By-law **prohibits** “Manufacturing, processing or storage of animal matter or by-products of animal matter” in **all** Precincts (section 5.4.1)



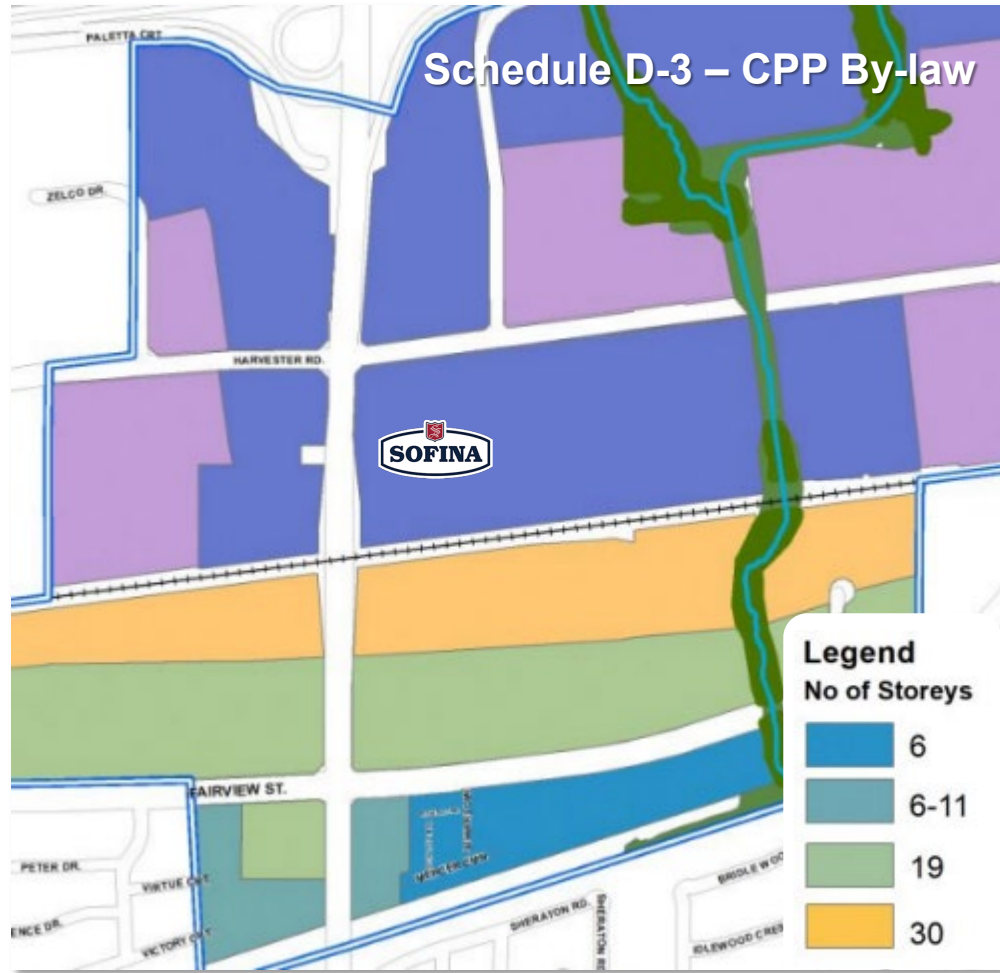
Policies Ignore Current Industrial Use

- ▶ Sofina will be rendered a legal non-conforming use
 - Under the CPP By-law future expansions will be subject to the discretion of City staff
- ▶ CPP By-law only permits expansion if City staff are of the opinion that it:
 - Is desirable for the appropriate development or use of the land, and
 - Will not result in undue adverse impacts on neighbours and the neighbourhood (section 5.2.2)

Policies ***severely limit*** the ability of Sofina to make future changes to its operations



Industry Excluded from Compatibility Assessment

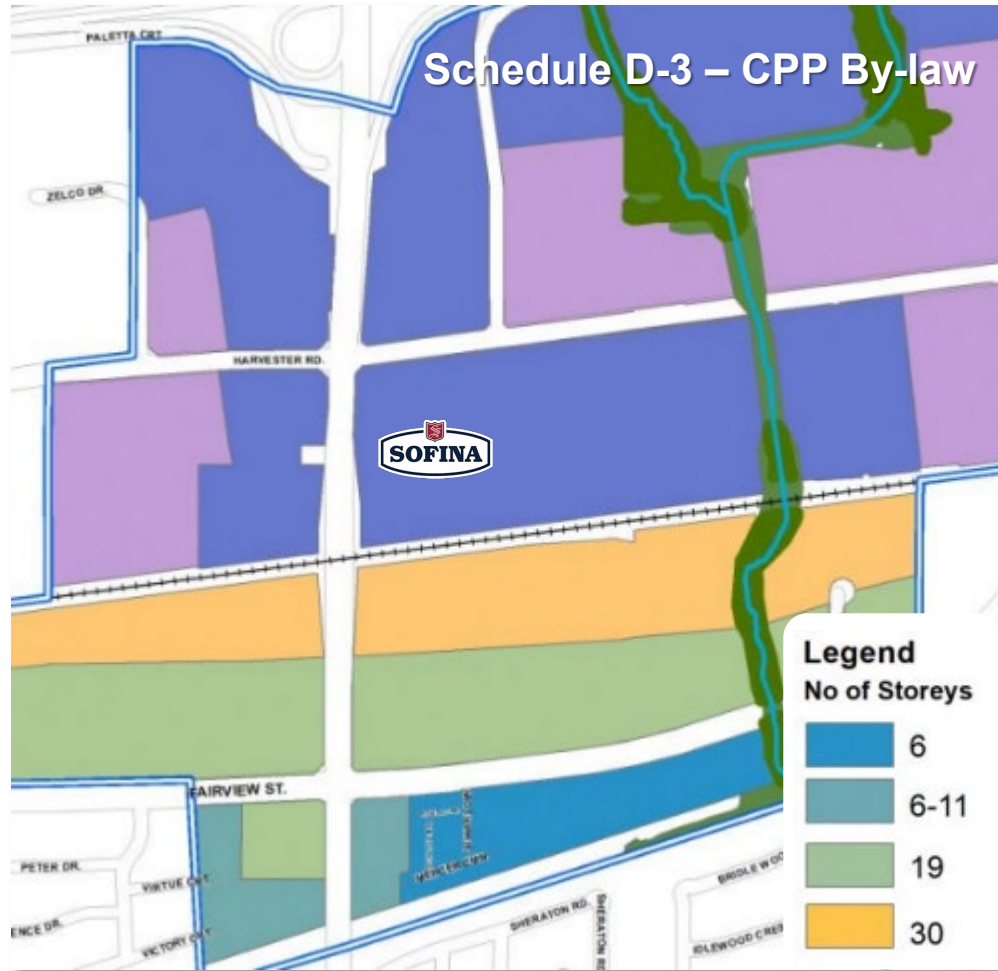


- ▶ OPA addresses compatibility between sensitive land uses and major facilities
 - Requires engagement with existing industry landowners (section 8.1.2(6))

- ▶ CPP By-law permits institutional uses and public service facilities in **any** Precinct (section 5.3.1)
 - Potential to place sensitive uses in Employment Precincts

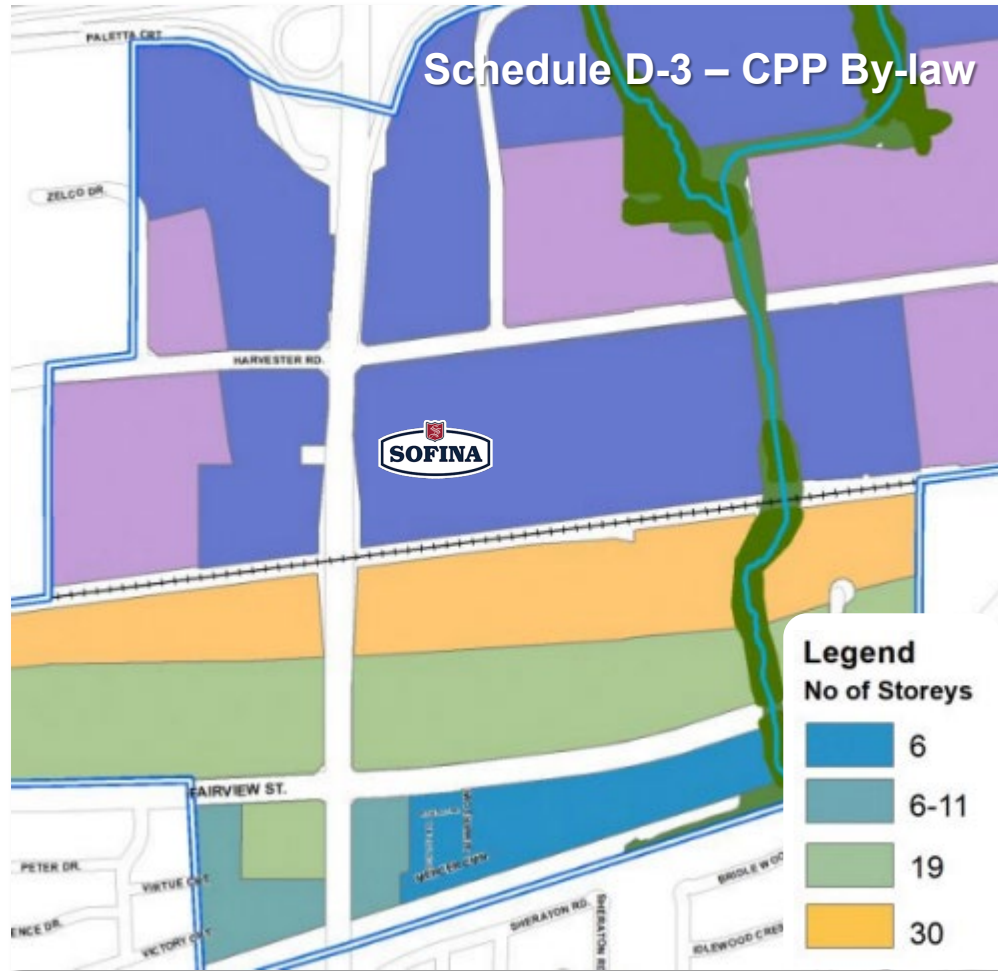
- ▶ CPP By-law requires any proposed development containing sensitive land uses – inside or outside an Employment Precinct – to prepare a compatibility assessment (section 5.24)

Industry Excluded from Compatibility Assessment



- ▶ Staff are the “Approval Authority” for Class 1 and 2 permits under the CPP By-law – this includes developments of up to 30 storeys immediately south of Sofina (Schedule D-3)
- ▶ CPP By-law provides **no role** for impacted industrial landowners in the decision-making process
 - No mandatory public meetings/notice as part of a development application
 - No need for Committee or Council review or approval for Class 1 and 2 permits; only required for Class 3
 - No right of appeal; only the applicant can appeal a permit decision to the OLT

Industry Excluded from Compatibility Assessment



- ▶ Industry will be entirely dependent on staff to review compatibility assessments and secure appropriate mitigation measures; no ability to protect its own interests
- ▶ CPP By-law would be “a new and untested tool” in Burlington (Dillon memo - May 30)
- ▶ Burlington would be the **first** municipality in Ontario to implement a CPP By-law for an MTSA
 - Only one other example of a CPP By-law in an urban area (a historic main street)

The CPP By-law is the **wrong tool** for an area with extensive employment uses and **violates** provincial policy on land use compatibility

The Proposed OPA and CPP By-law

Sofina's Concerns

Recommended Modifications

1 The policies of the proposed OPA and CPP By-law ignore the nature of Sofina's current industrial use

- ▶ Designate the Sofina property as General Employment in the proposed OPA
- ▶ Ensure the current use of the Sofina property remains a permitted use in the General Employment designation

2 The policies of the CPP By-law exclude industry from the decision-making process on land use compatibility

- ▶ Remove the Appleby GO MTSA from the CPP By-law; its inclusion is premature
- ▶ Exclude institutional and public service uses that are sensitive land uses from Employment precincts
- ▶ Formalize the right of industry to participate in decision-making on compatibility assessments
- ▶ Preserve Council oversight and industry appeal rights

**For more
information**

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