

LPAT Appeal of OPA 231 – 6 Lloyd Avenue – Request for Directions

Date: January 25, 2021

To: City Council

From: City Solicitor

Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations and contains advice subject to solicitor client privilege.

SUMMARY

Berkley Carlyle (Junction) Inc. ("Carlyle") are appellants to Official Plan Amendment No. 231 ("OPA 231") at the Local Planning Appeal Tribunal ("LPAT") regarding the lands municipally known as 6 Lloyd Avenue (the "Lands") designated *Employment Areas* in the City's Official Plan. City Council adopted OPA 231 policies for the entire city following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. The City Solicitor requires directions for the OPA 231 LPAT hearing process.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:
 - a. the recommendations contained in the Confidential Attachment 1, with the remainder of the Confidential Attachment to remain confidential, as it contains advice subject to solicitor-client privilege; and
 - b. Confidential Attachment 2.

FINANCIAL IMPACT

There are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

DECISION HISTORY

OPA 231

At its meeting on December 16, 17 and 18, 2013, City Council adopted OPA 231 with respect to the economic health policies and the policies, designations and mapping for *Employment Areas* following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. In July 2014, the Minister approved the majority of OPA 231 with limited modifications. The City's decision can be accessed at this link: <http://app.toronto.ca/tmmis/viewAgendaltmHistory.do?item=2013.PG28.2>

The LPAT received a total of 178 appeals to OPA 231, including an appeal by the previous owner of the Lands which was assumed by Carlyle and remains pending before the LPAT. As adopted by City Council and approved by the Minister, OPA 231 would redesignate the northern two-thirds (“Area A”) of the Property to *Mixed Use Areas* and the southern one-third of the property (“Area B”) to *General Employment Area*. OPA 231 also introduces Site and Area Specific Policy 447 (“SASP 447”) which includes policies intended to guide the redevelopment of the Property. Carlyle’s appeal of OPA 231 raises issues with some of these proposed policies, including a policy which seeks to limit the scale of development to a maximum building height of 16.5 metres.

The LPAT has issued several Orders partially approving OPA 231. An Order in December 2016 brought into force the *Core Employment Areas* and *General Employment Areas* designations, except for sites under appeal and regarding particular uses that remain contested. An Order in January 2019 brought into force the remainder of the policies for the two *Employment Areas* designations, except with respect to retail policies that remain subject to appeal. On May 8, 2020, the LPAT issued an Order approving the Employment Land Conversion and Forecasting policies as modified by City Council on June 18, 2019. LPAT Decisions can be accessed at this link:

<https://www.omb.gov.on.ca/ecs/CaseDetail.aspx?n=PL140860>

The remaining citywide policy matters before the LPAT relate to retail uses and office replacement. There are approximately 80 site and area specific appeals that remain to be resolved. The LPAT's webpage on the OPA 231 proceedings can be accessed at this link:

<https://www.omb.gov.on.ca/ecs/CaseDetail.aspx?n=PL140860>

COMMENTS

The lands are located in an area characterized by a mix of low rise industrial, commercial and residential uses. The site is bounded on the north by residential uses

on the north side of St. Clair Avenue West and the south by an area that currently contains a mix of residential and employment uses. The area to the south is subject to Site and Area Specific Policy 154 which permits residential and/or employment uses but requires that any employment uses be restricted to those uses compatible with residential use. Adjacent to the lands on the east is the CNR/CPR railway corridor servicing the Kitchener GO Rail line. Further east of this railway corridor is a mix of low rise industrial, commercial and residential uses. To the west directly across Mulock Avenue are semi-detached dwellings, auto body repair and a parkette. Further west on the north and south side of St. Clair Avenue West is a mix of big box retail use, other retail uses, low rise residential uses, food processing and other commercial uses.

Site-Specific OPA and ZBA Applications:

In December 2013, the previous owner of the Property (2053785 Ontario Limited), submitted an application for an official plan amendment to permit the mixed-use redevelopment of the Property with residential uses incorporated into the proposed development (the "OPA Application"). The OPA Application was filed in advance of the City's adoption of OPA 231. The OPA Application was assumed by Carlyle upon purchase of the Property on November 29, 2017.

On March 29, 2018, Carlyle appealed the OPA Application on the basis of the City's refusal or neglect to make a decision on the OPA Application within 180 days (LPAT Case PL180400) (the "OPA Appeal").

On October 21, 2019, Overland LLP submitted an application for a zoning by-law amendment to permit the mixed-use redevelopment of the Property with two buildings stepping up in height to 15 and 17 storeys respectively, with a component for affordable housing units, a separate office building, and a new public park (the "ZBA Application").

As a result of the ongoing appeal of OPA 231, the underlying zoning of the Property will not permit the approval of the ZBA Application. A preliminary report on the ZBA Application matter was considered by City Council on February 26, 2020.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH13.9>

This report requests direction from City Council regarding the outstanding appeal.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Advice
Subject to Solicitor-Client Privilege

Confidential Attachment 2 – Confidential Information