



STAFF REPORT ACTION REQUIRED

29 Judson Street Divisional Updates on Actions Taken and Outstanding Issues

Date:	April 24, 2014
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District Director, Municipal Licensing and Standards Director, Economic Development and Culture Director, Toronto Building
Wards:	Ward No. 6 – Etobicoke-Lakeshore
Reference Number:	

SUMMARY

This report responds to Etobicoke York Community Council's request to the General Managers of Municipal Licensing and Standards, Economic Development and Culture, City Planning and Toronto Building Divisions to report on actions taken to date and outstanding issues in addressing community concerns relating to the operations of ML Ready Mix located at 29 Judson Street.

RECOMMENDATION

The City Planning, Economic Development and Culture, Municipal Licensing and Standards and Toronto Building Divisions recommend that Etobicoke York Community Council receive this report for information.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting of March 5, 6 and 7, 2012, City Council adopted Zoning By-law 339-2012 implementing the recommendations of the South Etobicoke Employment Lands Review

conducted by the City Planning Division. By-law 339-2012 removes a number of industrial land use permissions from the employment lands in South Etobicoke that would otherwise be permitted by the IC.2 Zone including concrete batching, crude petroleum oil or coal refineries, ammunition, firearms or fireworks factories, primary processing of limestone or gypsum and asphalt plants. The decision document can be accessed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EY13.1>

At its meeting on November 19, 2013, Etobicoke York Community Council amended the traffic regulations on Judson Street, between Royal York Road and Islington Avenue (Item EY29.24). These changes included:

- rescinding the “No Heavy Vehicles, 7:00 p.m. to 7:00 a.m.” regulation on Judson Street between Royal York Road and Horner Avenue;
- approving the enactment of a “No Heavy Vehicles, 7:00 p.m. of one day to 7:00 a.m. of the next following day” regulation on Judson Street between Royal York Road and Harold Street;
- approving the enactment of a "No Heavy Vehicles, Anytime" regulation on Judson Street between Harold Street and Islington Avenue;
- approving the enactment of a “No Heavy Vehicles, 7:00 p.m. of one day to 7:00 a.m. of the next following day” regulation on Judson Street between Islington Avenue and Horner Avenue; and
- approving the enactment of a "No Left Turn, Anytime" regulation at the intersection of Judson Street and the driveway access at 29 Judson Street, approximately 180 metres west of Royal York Road, for northbound traffic.

The decision document can be accessed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY29.24>

At its meeting on November 19, 2013, Etobicoke York Community Council supported the redesignation of the lands known as the "The Mimico Triangle" and a portion of the lands on Judson Street to *Regeneration Areas* through the City's Municipal Comprehensive Review (Item EY29.46). The decision document can be accessed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY29.46>

At its meeting on December 16, 17, and 18, 2013, City Council redesignated the lands known as the "Mimico Triangle" and a portion of the lands on Judson Street to a *Regeneration Areas* designation (Item PG28.2) and directed staff to undertake a study of the affected lands which include 29 Judson Street. Planning staff held a community consultation workshop on February 26, 2014 and are in the process of hiring a consultant to assist staff in the Mimico-Judson *Regeneration Areas* study. The decision document can be accessed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

At its meeting on April 8, 2014, Etobicoke York Community Council deferred consideration of the Information Report from the Medical Officer of Health entitled:

Investigation of Impacts Related to ML Ready Mix. The decision document can be accessed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EY32.40>

DIVISIONAL COMMENTS

As directed by Etobicoke York Community Council, the following sections outline the divisional actions taken to date and any outstanding issues in addressing community concerns relating to the operations of ML Ready Mix located at 29 Judson Street.

City Planning Division

Mimico-Judson *Regeneration Areas* Study

Through the Municipal Comprehensive Review of Employment Lands, City Council redesignated the properties on the south side of Judson Street between Royal York Road, Willowbrook Road and the rail corridor as *Regeneration Areas*. This redesignation also included the lands on the east side of Royal York, from south of Portland Street to the rail corridor. The *Regeneration Areas* designation provides for a broad range of use permissions but requires a framework for new development to be in place through an implementing Secondary Plan or Site and Area Specific Policy, prior to the approval of any new development. Staff are undertaking the *Regeneration Areas* study to develop the required revitalization framework and implementation strategy. As part of this study, Planning staff hosted a community consultation workshop on February 26, 2014, which was well attended by community members, land and business owners, and interested individuals. A study webpage can be accessed at the following link:

<http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=b5c8edbc901e4410VgnVCM10000071d60f89RCRD&vgnextchannel=82e352cc66061410VgnVCM10000071d60f89RCRD>

Staff are in the process of retaining a consultant(s) to conduct the background work for the study, which will result in a revitalization framework to accommodate potential employment and residential population growth. The study is intended to identify opportunities and constraints presented by the existing development permissions, built form, community services provision and movement through the Study Area (refer to Attachment 1) to unlock the Mimico-Judson Study Area potential for an appropriate mix of compatible uses. The Request for Proposals closes April 25, 2014.

Staff are targeting the consultant work to be completed by the end of November 2014, which will include a Community Consultation Meeting in the fourth quarter of 2014. Following receipt of the completed consultant study, Planning staff will report to Planning and Growth Management Committee with an implementation strategy in the first quarter of 2015.

Committee of Adjustment Application (File No. A99/14EYK)

On February 21, 2014, the owner of the subject property submitted an application to the Committee of Adjustment for variances to the former City of Etobicoke Zoning Code and

City of Toronto Zoning By-law 569-2013 to legalize and maintain the existing six buildings constructed without building permits. A hearing to consider this application at the Committee of Adjustment is scheduled for April 24, 2014. The five requested variances to the former City of Etobicoke Zoning Code and City of Toronto Zoning By-law 569-2013 are:

1. Front yard building setbacks reduced from 3.5m required to 1.5m proposed;
2. Rear yard building setbacks reduced from 7.5m required to 0m proposed;
3. Minimum landscaping along the front lot line reduced from 3.5m required to 0m proposed;
4. Requirement for a Type A loading space reduced to no proposed loading spaces; and
5. Minimum 15 required on-site parking spaces reduced to no on-site parking spaces.

The applicant has recently revised and resubmitted plans which indicate that the parking and loading spaces can be provided on site. The applicant has also indicated their intent to withdraw the parking and loading variances at the Committee of Adjustment hearing, as well as seek a deferral of the hearing in response to a communication from Metrolinx, the abutting owner to the south. City Planning submitted a report to the Committee of Adjustment recommending the application be refused.

Economic Development and Culture

Etobicoke York Community Council at its meeting of February 26, 2013 adopted Item EY22.44, requesting a report on the feasibility of a Concrete Campus West, including potential sites, for its meeting of May 14, 2013. In response, Economic Development and Culture Division staff authored the report *Exploring the Feasibility of a West Concrete Campus* following on the identified concerns surrounding concrete batching production impacting nearby residential communities.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY24.31>

The report concluded that with the exception of the Concrete Campus in the Port Lands, there are not currently any sites in West Toronto (Etobicoke) that have both the appropriate as of right zoning and size to accommodate either multiple or single use concrete production facilities. Any potential host sites would require a comprehensive review and rezoning process which would take a number of months and for which the outcome is uncertain.

Etobicoke York Community Council provided further direction to identify and pursue potential locations for the relocation and consolidation of concrete production facilities as well as consulting with other identified local concrete batching operations to encourage them to relocate to the proposed West Concrete Campus which did not materialize.

In June 2013 Economic Development staff met with ML Ready Mix Concrete inc. (ML) and toured a number of sites of interest in South Etobicoke to explore potential relocation opportunities. A further meeting was facilitated by Economic Development staff with

ML, City Planning and the local Ward Councillor to discuss the viability and potential of the identified sites which determined a full rezoning process would be required, and could take up to a year to proceed which was not a plausible option for ML to make at the time.

In November 2013, City staff, Councillor Ford and Councillor Grimes staff completed a site tour of a property with ML in North Etobicoke to discuss the feasibility of the site. The identified site was also not zoned appropriately and a number of concerns were identified about the compatibility of a concrete batching facility. It was determined that the site was not a suitable alternative and that use issues could not be accommodated through a minor variance process. The outcome of the discussion was conveyed to ML Ready Mix and their agents.

Economic Development staff continues to undertake a comprehensive City –wide site search, and have recently met with City Planning staff, Build Toronto, and the local councillor to help identify alternative solutions and to assist and promote the relocation and consolidation of concrete production facilities to a suitable site(s).

Municipal Licensing and Standards

Since 2009 there have been numerous complaints submitted to the City in regards to the activities/operations at this property. These complaints have been mostly related to truck/operations commencing before 7:00 am or noise emanating from the batching plant throughout the day. In response to these complaints staff from the Investigation Services Unit of the Municipal Licensing and Standards Division conducted numerous investigations and have found some instances of contravention of Section 4 of Chapter 591 of the Toronto Municipal Code, the Noise By-law. These contraventions have resulted in Notices of Violations being issued to the property/business owner directing them to cease the contravention.

Along with the noise complaints there have been other complaints received by the City related to such matters as graffiti, fence height and a complaint being received from the local Councillor's office in 2009 regarding dirt and dust created from trucks entering and exiting the property. This complaint was investigated by the area Municipal Standards Officer who found the property in contravention of Chapter 629 of the Toronto Municipal Code, the Property Standards By-law by not having a paved yard where trucks are loaded or stored. As a result of this contravention an Order to Comply was issued directing the owner to pave the yard. The property owner complied in December 2009 by paving the entire yard. With respect to the graffiti complaint, a Notice of Violation was issued due to graffiti being placed on the exterior of property and the graffiti was subsequently removed. In regards to the fence height complaint, this matter was investigated and the existing fence was found to be in contravention of the Chapter 447 of the Toronto Municipal Code, the Fence By-law. However, since this fence has been incorporated as part of the required noise mitigation measures required for controlling noise being generated by the operations at this property, the provisions of the Fence By-law are not applicable and no further action can be taken related to this matter.

Municipal Licensing and Standards are also commencing legal proceedings against ML Ready-Mix for contraventions of the municipal Zoning By-law based upon the findings of Toronto Building when they reviewed a Building Permit application that was submitted for multiple existing industrial buildings on the property.

On September 19, 2013 the Ministry of Environment issued an Environmental Compliance Approval (ECA) which permits a concrete batching plant to operate at this location. This ECA contains numerous conditions that compliance with is required in order for the ECA to be valid. These conditions include hours of operations, volumes of deliveries and implementation of noise control measures by March 19, 2014. This ECA was appealed to the Environmental Review Tribunal (ERT) and at the time of the writing of this report no decision has been issued by the ERT. With respect to enforcement of the ECA and the conditions imposed, the Ministry of Environment is responsible for the enforcement of these matters. It should be noted that the issuance of the ECA along with the conditions imposed by this approval supercede certain Municipal By-laws, and in this particular case the hours of operation and noise mitigation measures as regulated by the Noise By-law and the Fence By-law.

Toronto Building

On October 22, 2013, Toronto Building received a building permit application for approval of multiple existing industrial buildings for ML Ready Mix Concrete Plant at 29 Judson Street.

Our review of the building permit application concluded that while the buildings have a legal non conforming status as to its use, all other aspects of the construction are required to comply with the provisions of the City of Etobicoke Zoning Code, the City of Toronto Zoning By-law, the Ontario Building Code and other applicable law.

On January 31, 2014, the owner and applicant were advised that the buildings as erected were not in compliance with parking, loading, landscaping and setback provisions of the zoning by-law. The parking and loading requirements of the zoning by-law have been since been satisfied, and on February 21, 2014 an application was submitted to the Committee of Adjustment for relief from the setback and landscaping provisions. The application was heard at the Committee of Adjustment on April 24, 2014 and the Committee's Decision was to refuse the application for minor variance. The application has been appealed to the Ontario Municipal Board.

To address the construction of buildings without a permit, an Order to Comply dated February 4, 2013, was issued. The Order, under the authority of the Ontario Building Act, was forwarded to Legal Services for enforcement. As a result the matter was before the court on September 23, 2013. At that time the defence requested an adjournment, which was granted. The defendant requested and was grant adjournments on the following dates as well; November 13, 2013, January 24, 2014, February 24 and April 7. Adjournment was granted on all dates on the basis that the defendant was actively involved in the

process of obtaining a permit. The matter will be before the court, once again on June 2, 2014.

Conclusion

Staff from the various City Divisions are all actively working to find solutions to address the concerns of the area residents with respect to this concrete batching operations along with taking all necessary legal actions for any identified violations of applicable Municipal and Provincial legislations and regulations.

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ATTACHMENT

Attachment 1: Mimico-Judson Regeneration Areas Study Area

