



Overland LLP
 Daniel B. Artenosi
 Tel: (416) 730-0337 x. 111
 Direct: (416) 730-0320
 Email: dartenosi@overlandllp.ca

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VIA EMAIL

Members of Planning and Growth Management Committee
 10th floor, West Tower, City Hall
 100 Queen Street West
 Toronto, ON M5H 2N2

Attention: Ms. Nancy Martins
 P&GM Committee Secretariat

Dear Sir or Madam:

**RE: Item PG11.4
 Draft Mimico-Judson Secondary Plan
 Request for Deferral**

We are the lawyers for Freed Grand Park Development Inc. ("Freed"), which is the owner of certain properties pursuant to agreement of purchase and sale within the area bounded by Buckingham Street to the west, Portland Street to the north, and the rail corridor to the south.

By letter dated March 8, 2016, we wrote to the Planning and Growth Management Committee requesting a deferral of the Committee's consideration of the proposed Mimico Judson Secondary Plan as it relates to our client's lands. At the time, the final Staff report had not been released. In addition to the reasons set out in that correspondence, we set out below further reasons that warrant a deferral of the Committee's consideration of this Item in its entirety.

Request for Deferral – Insufficient Notice and Public Process

The proposed draft Mimico-Judson Secondary Plan (the "Draft Secondary Plan") being recommended for approval by City Staff has only recently been made available to the public. The City had scheduled a public open house in respect of the Draft Secondary Plan and proposed urban design guidelines for March 29, 2016. However, this meeting was cancelled on the day of the open house due to damage caused to the City Planning Division Staff offices over the preceding weekend.

While the open house was scheduled to consider the Draft Secondary Plan and the proposed urban design guidelines, we were advised that the draft guidelines were not made available to the public until March 31, 2016 (the "Draft Guidelines"). The following observations must be noted:

1. the Draft Guidelines are stated to provide "detailed implementation guidance to ensure that development is coordinated and consistent with the Secondary Plan"; and,
2. Staff Recommendation No. 3 seeks City Council direction that Staff apply the Draft Guidelines in the review of all new development applications and public initiatives for lands located within the Secondary Plan Area.

Notwithstanding the significance being afforded to the Draft Guidelines by Staff, they were only made available to the public six (6) days prior to the date that the Committee was scheduled to consider them. We respectfully submit that the public has not been provided with a sufficient opportunity to consider the Draft Secondary Plan and the Draft Guidelines. To proceed with consideration of these documents notwithstanding the failure to provide an adequate opportunity for public review and comment would seriously undermine public fairness in the planning process.

The City's initial approach was to provide the public with an opportunity to review and provide comments to Staff on the Draft Secondary Plan and the Draft Guidelines in a public open house. The need to postpone the open house is understandable under the circumstances. However, the open house should occur prior to City Council's consideration of these documents. The open house will provide the public with both the opportunity to understand Staff's rationale for certain proposed policies and guidelines, as well as the opportunity to provide meaningful feedback of same, with the expectation that Staff will consider this feedback in finalizing the proposed framework. The Final Staff Report dated March 16, 2016 itself contemplates the possibility that revisions may be recommended to the Draft Secondary Plan and Urban Design Guidelines following the public open house by way of a Supplementary Report.

Additional layers of iteration to the public process are required for the Mimico-Judson Secondary Plan Area, particularly given the challenges that arise from the historical uses on certain properties and the remediation that will be required to facilitate revitalization. It does not appear that these considerations have been adequately addressed in the Draft Secondary Plan. In order to provide the opportunity for meaningful discussion with landowners and City Staff, we propose that this Item be deferred for at least three (3) months.

Preliminary Concerns with Draft Documents

Based on a very preliminary review of the Draft Secondary Plan and Draft Guidelines, we note a number of concerns that in our view will undermine the objective of achieving the vision of revitalization for the Mimico-Judson Secondary Plan Area.

Generally, the proposed heights and scale of development contemplated for our client's lands are significantly less than what could be achieved without negatively impacting surrounding lands, and will further undermine Provincial policy direction to optimize the use of land and existing and planned infrastructure. In this respect, we note that these lands are located within close proximity to the Mimico Go Station, which is important public infrastructure that warrants greater densities for our client's lands than those that would result under the proposed framework.

As a related point, the Draft Secondary Plan contemplates a Section 37 community benefits policy that will further undermine the ability to achieve appropriate densities. In its current form, this policy would require that all newly approved residential gross floor area will be used in calculating a Section 37 community benefits package. The proposed policy framework fails to account for important contextual matters, including, but not limited to, the historical use of these lands and the environmental remediation that will be required to redevelop for residential and commercial uses. We submit that this "one size fits all" approach to determining community benefits is inappropriate and will undermine the objective of promoting revitalization.

The Draft Secondary Plan further contemplates that the burden for mitigation required to ensure compatibility between sensitive land uses (residential) and any operating "or permitted" employment uses is placed exclusively on the residential developer. This raises a number of fundamental concerns with the proposed policy framework. Residential uses are required to achieve the revitalization contemplated for the Secondary Plan Area. For the reasons previously noted, there are already inherent challenges to achieving revitalization given historical uses of certain properties. The proposed policy would suggest that primacy be given to employment uses, which undermines the objective of revitalization and optimization, as well as fairness in the planning process. The failure to account for these issues within the proposed policy framework as a whole is further demonstrative of a failure to properly address the inherent challenges facing the revitalization of the Mimico-Judson Secondary Plan Area.

Our client supports the general requirement that redevelopment provide for a net gain in employment uses. However, the Draft Secondary Plan requires that an arbitrary minimum FSI for employment uses be achieved in all redevelopment scenarios. We submit that this policy approach fails to provide sufficient flexibility for redevelopment to respond to contextual considerations, including market conditions, which would normally be determined through the development review process.

Our client remains concerned with the proposed policy that would require a minimum of 50% of all new dwelling units to be three bedroom units. This policy appears to have been determined arbitrarily, and should be revised to provide flexibility to determine the appropriate mix of housing through the development review process where an informed decision on such matters is more appropriately made.

The Draft Secondary Plan contemplates the introduction of a new public roadway, known as the Grand Avenue Extension. In addition to concerns related to how, and the basis upon which, this road taking may be achieved, the Draft Secondary Plan would require that development shall not proceed within the portion of Block "E" that includes the Grand Avenue Extension until the alignment and detailed design of the right-of-way is acceptable to the City. We note that Block "E" is a large land area, which encompasses most of our client's lands. The land area within Block "E" is significantly greater than the area of land that could reasonably be required for the Grand Avenue Extension. Our client supports the phasing of development in a manner that will not predetermine such matters as road alignment. However, it is unclear what is intended by reference to "the portion of Block "E" that includes the Grand Avenue Extension," and our client

is concerned that this may be interpreted in a manner that is unduly restrictive. Clarification is requested in this respect.

Our client's land use planner, Bousfields Inc., will be in attendance at the Planning and Growth Management Committee meeting on April 6, 2016, and will speak to this matter further if required.

Moving forward, please provide us with notice of any decision in respect of the proposed Mimico-Judson Secondary Plan and Urban Design Guidelines by City Council and any Committees of Council.

Thank you for your consideration of this matter.

Yours truly,
Overland LLP

A handwritten signature in black ink, appearing to read 'Daniel B. Artenosi', written over a horizontal line.

Per: Daniel B. Artenosi
Partner

Encl.
c. Councillor Grimes
Jill Hogan, City Planning
Peter Freed, Freed Developments