

Project No. 1688

May 9, 2016

City of Toronto
Planning and Growth Management Committee
c/o Nancy Martins
10th Floor, West Tower, City Hall
100 Queen Street West
Toronto, Ontario M5H 2N2

Dear Councillor Shiner and Committee Members:

**Re: *Proposed Mimico-Judson Secondary Plan*
Proposed Mimico-Judson Urban Design Guidelines
*29 Judson Street***

We are planning consultants to Dunpar Developments Inc., which has an agreement with the owners of the ML Ready Mix Concrete operation at 29 Judson Street to acquire the property and to redevelop it for mixed-use residential and employment purposes, subject to obtaining the necessary planning approvals.

On behalf of our clients, we have reviewed the March 16, 2016 staff report regarding the above-noted matter in relation the lands located at 29 Judson Street (the “subject site”). We wish to provide the following comments.

In summary, it is our opinion that staff’s proposal to redesignate the subject site from *Regeneration Areas* to *Core Employment Areas* is neither appropriate nor desirable for the reasons set out in detail below. Instead, we recommend that the site be redesignated to *Mixed Use Areas*.

In our opinion, a mix of uses on the site, including residential uses along the Judson Street frontage, would result in a number of land use planning benefits consistent with the objective of “regeneration”. In our opinion, it would create an improved interface with the residential community to the north, would be compatible with surrounding uses, including the Willowbrook rail yard, and would result in the efficient use of land and infrastructure in proximity to the Mimico GO station. The redesignation of the site to *Core Employment Areas*, as recommended by staff, would not achieve those planning benefits and, importantly, would not result in regeneration.

Specifically with respect to the subject site, the relocation of the ML Ready Mix concrete batching plant has been a long-standing City objective. In order to facilitate the relocation, a *Mixed Use Areas* designation is fundamental in order to provide the necessary incentive for redevelopment of the site.

The detailed comments below address this fundamental land use issue as well as other aspects of the proposed Secondary Plan and Urban Design Guidelines.

Land Use

From a land use planning perspective, the fundamental objective of the Mimico-Judson Secondary Plan and the Urban Design Guidelines should be to facilitate regeneration, consistent with the in-force *Regeneration Areas* designation.

In this regard, as set out in Section 4.7 of the Official Plan, *Regeneration Areas* are intended to provide for a broad mix of commercial, residential, light industrial, institutional and live/work uses in an urban form in order to revitalize areas that are largely vacant or underutilized. These areas are intended to create new jobs and homes that use existing infrastructure, restore, re-use and retain existing buildings that are economically adaptable for re-use, and achieve streetscape improvements and the extension of the open space network. The Official Plan specifically provides that, in *Regeneration Areas*, commercial, residential, live/work, institutional and light industrial uses can be mixed within the same block or even the same building.

In our opinion, the redesignation of the subject to *Mixed Use Areas* would be consistent with the intent of the *Regeneration Areas* designation as set out above and would also be supportive of the planning directions applicable to the site in the Growth Plan. The subject site is located within a 75 metre radius of the Mimico GO station and, accordingly, would be considered part of a “major transit station area” as defined by the Growth Plan. The Growth Plan includes specific policies that support a mix of uses and increased residential and employment densities to support the viability of existing and planned transit service levels in “major transit station areas”.

The March 16, 2016 staff report indicates that the recommended Mimico-Judson Secondary Plan is the outcome of the results of the Regeneration Areas Study completed for the area (which led to the Mimico-Judson Regeneration Area Study Final Report, dated May 2015). In our opinion, the recommendation of the May 2015 Final Report to redesignate the site (and the Judson Area generally) back to *Employment Areas* was based on a misunderstanding of both the land use context and the resulting policy context.

In this regard, the study considered three options for the Judson Street area: an “all-residential” option, an “all-employment” option and a “residential with employment buffer” option. The May 2015 Final Report and the March 16, 2016 staff report are based generally on the “all-employment” option, while Dunpar’s development proposal for the subject site is similar to the “residential with employment buffer” option.

It appears that the rejection of the “all-residential” option in the May 2015 Final Report was based on a fundamental misunderstanding of the nature and character of the Willowbrook coach yard and an associated misunderstanding of the applicable policies and guidelines. The statement that an “all-residential” scenario would “set a new precedent” on the basis of the rail yard and line research undertaken by the consulting team is flawed because the rail yard “precedents” studied by the consulting team (the CPR Toronto Yards and the Junction Stockyards) are not comparable to the Willowbrook Yard, which is a coach yard and not a “freight yard”.

The FCM/RAC Rail Proximity Guidelines (May 2013), which are the most recent guidelines to address this topic, are very clear that the recommended 300 metre separation distance is applicable only to “freight rail yards”. The explanatory text explains that it is the specific freight yard activities that are listed (e.g. shunting cars, idling locomotives, wheel and brake retarder squeal, clamps used to secure containers, bulk loading/unloading operations, shakers, etc.) that give rise to land use compatibility concerns. These activities are characteristic of a freight yard, and not of a coach yard such as the Willowbrook Yard.

The consulting team appear to have relied on the July 1995 MOE D-6 Guidelines, rather than the more recent and more specific FCM/RAC Guidelines. Even at that, the D-6 Guidelines did not identify rail yards as a Class III industry notwithstanding the consulting team’s opinion in that regard but, more importantly, the D-6 Guidelines did not specifically address freight rail yards, as distinct from coach yards.

Although the May 2015 Final Report acknowledges some of the functional distinctions between a freight yard and what they term a commuter yard (e.g. shunting of trains), the consulting team’s reports do not make any distinction between the type of activities that occur at the Willowbrook Yard and those that take place at the studied “precedents”. They also fail to make any reference to the May 2013 FCM/RAC Guidelines.

In this regard, the City has recently approved rezoning for a residential stacked townhouse development at 250-256 Royal York Road, to the southeast of the Willowbrook yard (By-law 1001-2014). Through that process, the City determined, in consultation with its peer review consultant, that the proposed residential uses would be compatible with the rail yard, subject to the recommended noise and vibration mitigation measures, which could similarly be incorporated as a condition of development for the subject site.

Finally, the final staff report also states that retaining lands adjacent to the yard for employment uses would result in land use separation that would protect for future expansion of Metrolinx operations. It is unclear whether the “future expansion” that is being referenced involves acquisition of the subject site by Metrolinx or whether the future expansion is anticipated to take place within the existing Metrolinx lands.

If it is the former, it is our opinion that it would be inappropriate to use the land use planning process to restrict the use of the subject site in anticipation of a potential future acquisition. If it is the latter, no evidence has been provided in support of the proposition that residential uses would need to be precluded in order to protect for such expansion.

The “all employment” option recommended by the consulting team and by City staff would not provide for a mix of uses, contrary to the direction provided by both the Growth Plan for “major transit station areas” and the Official Plan for *Regeneration Areas*.

Furthermore, the May 2015 report specifically noted that the existing concrete batching use at the easterly end of the Judson lands is significantly heavier use than the others in the Judson area and “has been the subject of noise and nuisance complaints”. The report went on to say that the concrete batching site has been purposefully addressed in an area specific by-Law (339-2012) that prohibits certain heavy industrial uses including concrete batching and that “the use remains today as a legal non-conforming”.

However, the Final Report does not turn its mind to a potential land use strategy for the subject site that would assist in encouraging the relocation of concrete batching plant. Given the conclusion of the Hemson report prepared for the City (October 2015, following the May 2015 Final Report) that “none of the standalone employment options are currently viable for new development”, it is not apparent how the proposed *Core Employment Areas* designation would assist in facilitating the relocation of the legal non-conforming use.

We note that Section 2.4 of the draft Secondary Plan would prohibit concrete batching plants throughout the Mimico-Judson Secondary Plan area.

In our opinion, the “residential with employment buffer” option is the preferred option for the site. It would result in mixed-use intensification in accordance with Provincial and City policies.

Based on preliminary redevelopment plans prepared by Dunpar, it would result in the creation of up to 190 new residential units in an apartment form and approximately 3,500 square metres of non-residential gross floor area in new commercial “townhouse” units on the southerly portion of the site, which would be estimated to generate 90-100 new jobs based on an assumed ratio of one job for each 35-40 square metres of non-residential gross floor area. This jobs estimate assumes that the commercial units will accommodate employment uses such as business offices, medical offices, studios, custom workshops and business services. It is noted that the October 2015 Hemson report found that the “residential with employment buffer” option was economically viable.

In our opinion, the proposed non-residential uses would not be considered to be “sensitive land uses” and, accordingly, would not be required to be set back from the coach yard or from the principal main line to the south. At the same time, they would be the type of non-noxious employment uses permitted by the *Mixed Use Areas* designation that are considered to be fundamentally compatible with residential uses. Accordingly, despite the generalized concern raised in the consulting team’s Final Report that the mixed-use option would result in a closer interface between employment and residential uses, potentially resulting in land use conflicts, the specific proposal would not be expected to result in land use conflicts given the type of employment uses and built form being proposed.

The “residential with employment buffer” option will also result in an improved relationship and greater compatibility with the low-rise residential neighbourhood to the north and would improve the appearance of the site and the pedestrian character of Judson Street.

Based on the foregoing analysis, it is our opinion that a *Mixed Use Areas* designation is appropriate for the subject site. The mix of uses proposed for the subject site will enable an appropriate buffer to be established between residential uses to the north and the coach yard to the south. The introduction of residential uses will make a greater contribution to the revitalization of the Mimico-Judson Area than what would likely be achieved if the site were retained exclusively for employment uses.

Built Form

The maximum building height of 4 storeys (shown on Map 35-6), in concert with Policies 6.1 and 6.3, would limit the height on the subject site to 4 storeys (16.5 metres). The proposed height appears to be based on the recommended *Core Employment Areas* designation.

Based on the requested *Mixed Use Areas* designation, and given the proximity of the subject site to the Mimico GO Station (within 75 metres, with a proposed pedestrian/cycling bridge over Royal York Road), it is our opinion that the applicable mapping and policies should allow for consideration of a tall building in the order of 15-20 storeys on the subject site. Given the shallow depth of the site and its location generally to the east of the residential neighbourhood north of Judson Street, relief would also be required from the proposed angular plane provisions in Policy 6.5.

Housing

Proposed Policy 7.1 would require a minimum of 50% of the units in new development to have three or more bedrooms. In our opinion, this proposed policy cannot be reasonably achieved across the secondary plan area, nor has sufficient rationale been provided to support the introduction of such a policy. A more flexible approach to the provision of housing choices should be incorporated in the secondary plan.

Mimico-Judson Greenway

The Mimico-Judson Greenway (shown on Maps 35-2 and 35-4), the increase in the right-of-way width to 23 metres (item 4 of the draft Official Plan Amendment) and the associated policies (especially 4.6(b)) are potentially problematic. We question whether there is any basis to take the widening to facilitate a “greenway” or whether this is more appropriately treated as parkland dedication or a Section 37 benefit. If the latter, Policy 9.14 should be amended to include the Mimico-Judson Greenway as an eligible Section 37 benefit.

Section 37

In our opinion, Policy 9.15, which would require that Section 37 be applied to all residential gross floor area, is not appropriate. Without any justification for such variance, it varies from the approach articulated in Section 5.1.1 of the City-wide Official Plan, which has specific size thresholds and anticipates the application of Section 37 to an incremental increase above a specific base density (not a zero base density).

Holding Provisions

Policy 9.17 regarding the use of Holding (H) provisions is problematic, especially in terms of the proposal to require portions of the Mimico-Judson Greenway as a condition of lifting the H. In our opinion, such an approach represents an inappropriate use of Section 36 of the Planning Act, which is intended to address prematurity issues and is not intended to be used as an alternative mechanism to secure community benefits.

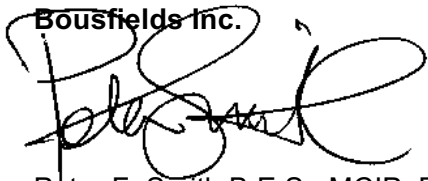
Urban Design Guidelines

The proposed Mimico-Judson Urban Design Guidelines are premised on the “all employment” land use scenario for the Judson sub-area; to that extent, it is our opinion that numerous revisions are required to the guidelines in order to reflect a mixed-use approach for the lands i.e. the “residential with employment buffer” scenario.

In particular, we note that the guidelines specify a 7.5 metre setback from Judson Street in addition to the 3.0 metre right-of-way widening that has been proposed to accommodate the Mimico-Judson Greenway. City Planning staff have advised that the 7.5 metre setback is predicated on the assumption of an employment land use on the south side of Judson Street. If, instead, a mixed-use option were adopted with residential uses fronting Judson Street, as we are recommending, the required setback could and should be significantly reduced (to 3.0 metres or less).

Thank-you for your consideration of this submission. If you have any questions and/or comments, please do not hesitate to contact me or Caitlin Allan of our office.

Yours very truly,

Bousfields Inc.


Peter F. Smith B.E.S., MCIP, RPP

PFS/kah:jobs

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