

**3223 Kennedy Road - Official Plan Amendment 231 -
OMB Appeal - Request for Directions**

Date: March 1, 2017

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.

SUMMARY

The Scarborough Chinese Baptist Church (SCBC), the owner of the property known as 3223 Kennedy Road, has appealed Official Plan Amendment 231 (OPA 231) to the Ontario Municipal Board (OMB). A hearing at the OMB is set to begin on April 3, 2017. The City Solicitor requires direction.

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 1 to remain confidential, as it contains advice subject to solicitor-client privilege;
 - b. Confidential Attachment 2; and
 - c. Confidential Attachment 3.

FINANCIAL IMPACT

There is no financial impact arising from the above recommendations.

DECISION HISTORY

At its meeting on December 16, 17 and 18, 2013, City Council adopted Official Plan Amendment No. 231 (OPA 231). OPA 231 was approved, with amendments, by the Minister of Municipal Affairs in July 2014. OPA 231 was subsequently appealed to the Ontario Municipal Board (OMB) by numerous parties. The decision can be accessed at this link:

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

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision confirming Council's action to retain the Lands for employment purposes only. The OMB received 178 appeals to OPA 231 including an appeal from the SCBC. The Minister's decision can be accessed at this link:

<http://www1.toronto.ca/City%20Of%20Toronto/City%20Planning/SIPA/Files/pdf/O/minist ers%20decision%20on%20opa%20231.pdf>

COMMENTS

The property at 3223 Kennedy Road, located on the east side of Kennedy Road, between Passmore and McNicoll Avenues, is developed with a 7,000 m² place of worship which was opened in September 2007.

The church building occupies the front portion of the property with surface parking extending over the east (rear) part of the site. In 2012, the City took over a 23 metre wide strip of land running in a north-south direction through the centre of the site to accommodate the Milliken Boulevard northern extension to connect with Redlea Avenue. The provision of the new road link was undertaken in accordance with Schedule 2 of the Official Plan that includes all planned but unbuilt roads in the City. This recently constructed road has divided the original site into two separate parcels; the west parcel at 3223 Kennedy Road and the east parcel now municipally known as 255 Milliken Boulevard.

The site is within the Milliken Employment Area. The existing Site and Area Specific Policy (SASP) 104 permits places of worship on the lands fronting on Kennedy Road. OPA 231 designated the front portion of the site as General Employment Area and the balance of the site as Core Employment Area. The new policies do not permit places of worship within Employment Areas. SASP 104 continues to be in-force. Consequently, the SCBC appealed the Minister of Municipal Affairs and Housing's decision on OPA 231 with respect to a number of general policies as well as policies and mapping in

Section 4.6 of the Official Plan as they relate to the subject lands. The appellant has since limited the scope of its appeal to site specific matters.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1: Confidential Recommendations
Confidential Attachment 2: Confidential Information
Confidential Attachment 3: Confidential Information