

Relocation of a Concrete Batching Facility

Date: June 29, 2017
To: City Council
From: City Manager
Wards: All

SUMMARY

This report contains recommendations that support lease and/or purchase arrangements for the relocation of ML Ready Mix from 29 Judson Street to the western portion of 545 Commissioners Street used by Toronto Water for the storage of vehicles and equipment. This site is located directly adjacent to other ready-mix facilities in the immediate vicinity of the intersection of Leslie Street and Commissioners Street. Relocating ML Ready Mix to this location presents a strategic opportunity to further consolidate concrete batching operations within an existing cluster of concrete businesses in the Port Lands while providing a more appropriate location for ML Ready Mix.

In order to accommodate ML Ready Mix's relocation to 545 Commissioners Street, Toronto Water will move its heavy equipment parking and storage and aggregate depot to an alternate works yard.

The finalization of a lease of 545 Commissioners Street to ML Ready Mix will be dependent upon an agreement by Remicorp Industries Inc./ML Ready Mix to sell or lease 29 Judson Street to the City. No further progress will be made unless the City is in control of the property at 29 Judson Street. The City's obtaining a property interest in 29 Judson will ensure that no concrete batching facility will be able to operate on these lands in the future, either by Remicorp Industries Inc./ML Ready Mix or any other concrete batching operator.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council amend the Property Management Agreement dated January 4, 1995 between the City of Toronto and Toronto Port Lands Company to renew the term of the agreement for an additional five years and to include the western

portion of City lands municipally known as 545 Commissioners Street as part of the real estate portfolio that Toronto Port Lands Company has contracted to manage pursuant to the terms of the Property Management Agreement, all on terms and conditions satisfactory to the Deputy City Manager, Cluster B and in a form satisfactory to the City Solicitor.

2. City Council request that Toronto Port Lands Company, working together with City Staff, pursue negotiations with Remicorp Industries Inc., the owners of 29 Judson Street, to relocate ML Ready Mix operations from 29 Judson Street to the western portion of 545 Commissioners Street, such relocation to be conditional upon a purchase or lease to the City of Toronto of their Judson Street property and otherwise on terms satisfactory to Toronto Port Lands Company, the Deputy City Manager, Cluster B, and the Chief Corporate Officer.

3 City Council authorize the Toronto Port Lands Company to act as the City's agent for the purpose of making a minor variance application and any other Planning Act applications that may be required in order to permit a concrete batching operation on the western portion of 545 Commissioners Street.

4. City Council direct the Deputy City Manager, Cluster B to report to Government Management Committee on the financial implications for the acquisition (purchase or lease) of 29 Judson Street and the lease arrangement at 545 Commissioners Street, prior to Toronto Port Lands Company finalizing any final purchase or lease agreements for both properties.

FINANCIAL IMPACT

Adoption of the recommendations of this report are anticipated to result in a one-time cost of \$307,000 in order to accommodate ML Ready Mix batching operations on the western portion of the Toronto Water works yard at 545 Commissioners Street.

The one-time funding is required to facilitate the relocation of Toronto Water's heavy equipment parking and storage and aggregate depot from the works yard at 545 Commissioners Street to an alternate works yard.

Funding is available for this requirement within the approved 2017 Operating and Capital Budgets for Toronto Water.

Capital construction costs are available in Toronto Water's approved Capital Budget within the Yards and Facility Program capital project (Account CWW034). Relocation cost estimates also include one-time labour costs that will be accommodated through existing Toronto Water staff.

It is also anticipated that that the relocation of ML Ready Mix from 29 Judson Street to a re-purposed section of 545 Commissioners Street will result in increased lease revenue for the Toronto Port Lands Company. The full impact will be available when

negotiations regarding square foot lease rates with Remicorp Industries Inc./ML Ready Mix are completed.

Additional funding will also be required for the City to purchase and/or lease the Judson Street lands (approximately 1.4 acres) currently used for the ML Ready Mix batching operations. Staff will report back to Council with the purchase and/or lease costs prior to finalizing any purchase or lease agreements.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of April 14-16 2003, City Council requested that appropriate City and City of Toronto Economic Development Corporation formerly operating as Toronto Economic Development Corporation ("TEDCO"), now operating as Toronto Port Lands Company ("TPLC") staff undertake the necessary steps to relocate St. Mary's Cement from its present location in the Fort York Neighbourhood at Bathurst Street north of Lake Shore Boulevard to another site in the Port Lands.

<http://www.toronto.ca/legdocs/2003/agendas/council/cc030414/to4rpt/cl006.pdf>

At its meeting of July 20-22, 2004 City Council adopted a By-law to establish a Concrete Works facility in the Toronto Port Lands around the Leslie and Commissioners Street Area. City Council also made its intentions known that whenever possible that the Concrete Batching operations should be relocated into the area.

<http://www.toronto.ca/legdocs/2004/agendas/council/cc040720/ts6rpt/cl010.pdf>

At its meeting held on July 25, 26 and 7, 2006, Council adopted Clause No. 28 of Report No. 6 of the Policy and Finance Committee thereby granting authority to enter into an agreement with Toronto Redi-Mix for the City to acquire 207 New Toronto Street and for Toronto Redi-Mix to lease the City property at 200 Horner Avenue for a term of 40 years, subject to MOE approval.

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/pof6rpt/cl028.pdf>

At its meeting of March 5, 2012, City Council enacted By-Law No. 339-2012 with respect to certain lands zoned I.C2 and bounded by Horner Avenue, Judson Street, Royal York Road, Drummond Street, Dwight Avenue, Lake Shore Boulevard West and Thirtieth Street (known as the South Etobicoke Employment Lands Review Area (SEELRA)). This By-law removed the concrete batching plant use along with other uses permitted in the I.C2 Zoning Code in SEELRA area, however ML Ready Mix's business operation continue to be permitted as as-of-right at 29 Judson Street since it was established before City Council enacted the new By-law.

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

Etobicoke York Community Council at its meeting of February 26, 2013 adopted Item EY22.44, requesting a report on the feasibility of a western Concrete Campus, including potential sites, for its meeting of May 14, 2013.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY22.44>

The feasibility review concluded that there were no suitable sites available to accommodate concrete batching operations in the Etobicoke York Community Council Area. Between May 2013 and July 2014 both City Council and Etobicoke York Community Council directed staff to explore the feasibility of relocating ML Ready Mix. City Council also directed that appropriate City staff, along with staff from the Ministry of the Environment and Climate Change were requested to work with local residents to resolve various community concerns/issues with the ML Ready Mix operation at 29 Judson Street, including concerns related to public health, environmental impacts, air quality, noise and transportation.

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

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

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

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EY33.13>

<http://www.toronto.ca/legdocs/mmis/2015/ey/bgrd/backgroundfile-83061.pdf>

The Planning and Growth Management Committee considered the Port Lands Planning Initiatives - Interim Report May 2017 which was adopted with amendments. It will be considered by City Council on July 4, 2017 with recommendations to endorse in principle the draft Port Lands Official Plan modification to the Central Waterfront Secondary Plan.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.4>

COMMENTS

Concrete batching facilities have posed a number of land use challenges in the City of Toronto yet are an integral part of the construction industry, relying on a strategic network of locations within the city to support development being undertaken downtown and across the city. However, when located close to residential/sensitive uses there may be inherent land use conflicts and, as such, their location requirements need to be addressed.

As noted above in 2004 City Council directed appropriate City staff to work with the City of Toronto Economic Development Corporation formerly operating as Toronto Economic Development Corporation ("TEDCO"), now operating as Toronto Port Lands Company ("TPLC") to undertake a process to relocate St. Mary's Cement from its location on Bathurst Street north of Lake Shore Boulevard West in the Fort York Neighbourhood to 595 Commissioners Street in the Port Lands. St. Mary's Cement was the first concrete batching operation relocated into the eastern area of the Port Lands. The relocation was required in order to allow for the redevelopment of the Fort York Neighbourhood.

Separately, in 2007 the City finalized an agreement with Toronto Redi-Mix to complete a land swap and re-situate a planned concrete batching plant and salt depot from 207 New Toronto Street to a more appropriate site at 200 Horner Avenue.

545 Commissioners Street presents a strategic opportunity to further consolidate additional concrete batching operations within the eastern area of the Port Lands.

Concrete Operations in the Port Lands

In 2004 when these conflicts began to emerge in the Fort York Neighbourhood, the City via the then Economic Development Culture & Tourism Division and TEDCO took a comprehensive look at the establishment of consolidating concrete operations in the Port Lands, undertaken through a recognized Planning process with appropriate community consultation and Council input. At the conclusion of the Planning process, Toronto City Council approved a rezoning application for the aggregate works lands put forth by the Toronto Port Lands Company (TPLC), then operating as TEDCO, to allow for the consolidation and relocation of existing aggregate industry to a more appropriate location in East Harbour area of the Port Lands.

By relocating heavy industry to the eastern area of the Port Lands, TPLC has been able to secure longer-term leases in a defined area and has made prime lands available for future remediation and development.

As part of the City's consolidation strategy to relocate concrete and aggregate companies to the eastern area of the Port Lands, and as a means of retaining jobs and economic efficiencies, TPLC has recently completed a significant move of long-time tenant Essroc's main cement facility to the eastern area of the Port Lands. The decision to keep Essroc Canada in the port area, where it is close to high-rise projects using concrete for construction, achieves a number of city initiatives, such as minimizing commercial truck traffic on roads, which reduces traffic congestion and road wear and tear. The result is better overall service for the Greater Toronto Area's construction industry. Environmentally, a key benefit is the reduction of greenhouse gases as truck traffic is decreased for more efficient use. Relocating this heavy industry opened up prime property for development and maintained employment in the Port Lands.

Due to their immediate location from the downtown core and nearby transit and highway access, concrete companies in the Port Lands like Essroc, LaFarge, Metrix, and St. Mary's provide most of the ready-mix concrete that supplies downtown Toronto's development industry. This is important because it offers an opportunity to stimulate future economic development while also increasing employment in the Toronto Port Lands.

ML Ready Mix/Remicorp Industries Inc.

Enforcement Issues and Actions

ML Ready Mix operates a concrete batching facility located at 29 Judson Road (Ward 6), west of Royal York Road. ML Ready Mix operates approximately 40 Trucks with as many employees on their property, approximately 1.4 acres in size. Since 2009 there have been numerous complaints submitted to the City in regards to the activities and operations of ML Ready Mix. Among other issues these complaints have been mostly related to transportation issues, truck/operations commencing before 7:00 am, and environmental concerns (i.e. noise and air quality) emanating from the batching plant throughout the day less than 30 metres from neighbouring single family residences (Attachment 1).

These issues are regulated and enforced by the Ministry of Environment and Climate Control (MOECC) through an Environmental Compliance Approval (ECA) issued on September 19, 2013 to permit a concrete batching plant to operate at this location. This ECA contains numerous conditions where compliance is required including hours of operations, volumes of deliveries (number of trucks per hour entering and leaving the site) and implementation of noise control measures (i.e., acoustic barrier). Due to the strict requirement of the ECA, enforcement has been undertaken by the Provincial agency responsible.

As a result of having received numerous complaints from area residents about violations of the ECA conditions, the MOECC has conducted investigations and found that there have been violations. These violations led to charges being laid by the MOECC and both ML Ready Mix and Remicorp Industries Inc. (Remicorp) were found guilty of violating the Environmental Protection Act and fined a total of \$200,000.00.

Toronto Building has also investigated this property for contraventions of the Building Code Act regarding buildings being constructed without a valid building permit. As a result of this investigation, Toronto Building laid charges for six buildings being constructed without a building permit and both ML Ready Mix and Remicorp were found guilty of violating the Building Code Act and were fined a total of \$20,000.00.

In conjunction with the investigation and charges by Toronto Building, the Municipal Licensing and Standards Division also investigated this property for possible Zoning Bylaw contraventions and found that there were three violations of the City's Zoning Bylaw and laid the appropriate charges under the Planning Act. Both ML Ready Mix and Remicorp were found guilty of these violations and fined a total of \$4,500.00.

Also as part of the sentencing related to the convictions for both the Building Code Act and Planning Act charges, the courts imposed a condition that the property will be brought into compliance with both the Building Code Act and Planning Act within six months of the conclusion of the Minor Variance appeals that ML Ready Mix and Remicorp have made in regards to the Zoning Bylaw issues for 29 Judson Street or sooner if required by any future Court Order. The Ontario Municipal Board has indicated that it will not hear these appeals until such time as a final decision has been

rendered by the Courts with respect to an easement claimed by Metrolinx through 29 Judson Street.

In that regard, on May 30, 2017, the Ontario Court of Appeal found that Metrolinx has easement rights over a significant portion of 29 Judson Street and that any structures within the easement lands should be removed by Remicorp within 6 months following the decision. The Court also ruled that any other encroachments directly on the adjacent Metrolinx lands including portions of a metal plate fence and metal clad building should be removed at the same time. Remicorp still has the opportunity to seek leave to appeal to the Supreme Court of Canada and so the decision is not final.

Mimico Judson Secondary Plan

In December of 2013 City Council adopted OPA 231, which proposed to re-designate the lands near the Mimico GO Station and a portion of lands west of Royal York Road (including 29 Judson Street) to Regeneration Areas. The Decision was part of City Council's consideration of staff recommendations related to the City of Toronto's Municipal Comprehensive Review of Employment Lands. City Council adopted the Mimico Judson Secondary Plan Official Plan Amendment, as well as the Mimico Judson Urban Design Guidelines at its meeting of June 7, 8 and 9, 2016. The version of the Official Plan Amendment that was approved by Council was somewhat different than the Official Plan Amendment recommended by City Planning staff in that it contemplates residential uses on certain lands on the west side of Royal York Road, south of Judson Street (including 29 Judson Street) by designating those lands Mixed Use Areas.

In July 2016 eleven appeals were filed to the Ontario Municipal Board regarding City Council's approval of the Mimico Judson Secondary Plan including appeals taking specific issue with the mixed use designation for the Judson Street properties. The Ontario Municipal Board has scheduled 12 weeks for the hearing of this matter, beginning in April 2018. Due to the pending appeals, the Mimico Judson Secondary Plan is still not in effect.

Inter-Divisional Working Group

In an effort to help facilitate the relocation of ML Ready Mix to a more suitable area and support a positive outcome for existing residents in the Judson Street Community, in June 2014, an Inter-divisional Working Group was formed to address and coordinate ongoing regulation and enforcement efforts and to identify alternative sites that could potentially be suitable for ML Ready Mix's operations. Economic Development & Culture Staff in conjunction with Real Estate Services, City Planning and Toronto Building undertook a comprehensive site search for properties to accommodate the relocation of ML Ready Mix. While numerous potential sites were identified many were eliminated because of land use compatibility issues and none had the appropriate as of right zoning permissions to help expedite relocation efforts.

Due to ongoing community concerns, in February 2016, the Deputy City Manager Cluster B committed on behalf of the Inter-divisional Working Group to organize

quarterly meetings of a subset of the Working Group with the Executive Director or designate of the Mimico Resident's Association together with any other association to receive feedback from the local community to help inform the City's consideration of these issues and encourage open communication.

With limited sites available across the city that are zoned Employment Heavy Industrial (EH) to accommodate concrete batching facilities, the Toronto Port Lands Corporation (TPLC) was approached by the City to determine if they could accommodate ML Ready Mix within the Toronto Port Lands. 545 Commissioner's Street currently occupied by Toronto Water was identified as a potential site to explore.

Further commentary is provided below by Toronto Water, Real Estate Services/ TPLC, and City Planning which helps to describe the proposed relocation processes to help facilitate the successful relocation of ML Ready Mix from their site at 29 Judson Street to 545 Commissioners Street (see Attachments 2 & 3).

Divisional Comments

Toronto Water

Relocation of existing operation at 545 Commissioners

Toronto Water currently conducts several service operations at 545 Commissioners via the works yard and the office building, which are: vehicle and heavy equipment parking and operations; aggregate supplies depot; stores warehouse; machine shop; small engine repair shop training room; Environmental Monitoring and Protection (outfalls); Capital Works Delivery; Toronto Water Laboratory; Distribution and Collection; and staff with several service programs. The office building has a total square footage of 47,500 sq. ft. and the site occupies 196,500 sq. ft.

To facilitate re-location of ML Ready Mix, Toronto Water will vacate the western portion of the works yard, approximately 90,000 sq. ft. (approximately 2 acres). Toronto Water will re-locate its heavy equipment, parking and aggregate supplies depot to the Kipling Yard at 435 Kipling Avenue and some additional yards may be used to accommodate if necessary. Toronto Water would also be required to build a new driveway for accessing and exiting the site as the existing entry and exit points on the west side of the current works yard would be utilized by ML Ready Mix's heavy ready-mix trucks.

Toronto Water has determined that the re-location of the heavy equipment and aggregate supply depots and the construction of a new driveway are feasible. Toronto Water will absorb the costs associated with these measures within the 2017 Operating and Capital funds approved by City Council.

Toronto Water has also initiated planning for a re-location of all of the service operations it currently runs out of the 545 Commissioners Street facility. This will require additional time and expense to consolidate services, expand operations and office space at other locations and acquire one or more alternative facilities to support operations.

Real Estate Services

Property Management Agreement

In 1995 the Corporation of the City of Toronto entered into a property management agreement with TPLC authorizing TPLC to manage certain properties that the City had acquired from the Toronto Harbour Commission. That agreement was for a term of 20 years with a provision for renewal for an additional 20 years. In view of Council's recent adoption of EX25.9 (City-Wide Real Estate Transformation) at its meeting of May 24, 25 and 26, 2017, this report recommends that the western portion of the works yard at 545 Commissioners be added to this portfolio and renewal of the agreement for a 5 year term, sufficient to provide continuity for the development of this transaction without unduly fettering the authority of the board of the new Toronto Realty Agency in the future. Under this arrangement TPLC assumes all responsibility for the management of the western portion of the works yard at 545 Commissioners, including financial management, property management, marketing and development, leasing and lease administration, and environmental management. All annual operating costs and revenues will be for the account of TPLC.

TPLC has been requested to begin negotiations with Remicorp Industries Inc./ML Ready Mix to formalize a Letter of Intent for 545 Commissioners Street and simultaneously the City will pursue a purchase and/or lease agreement at a fair market rate with Remicorp Industries Inc./ML Ready Mix.

The finalization of a lease of 545 Commissioners Street to Remicorp Industries Inc./ML Ready Mix will be dependent upon an agreement by Remicorp Industries Inc./ML Ready Mix to sell or lease 29 Judson Street to the City. No further progress will be made unless the City is in control of the property at 29 Judson Street. The City, in obtaining a property interest in 29 Judson Street will ensure that no concrete batching facility will be able to operate on these lands in the future, either by Remicorp Industries Inc./ML Ready Mix or any other concrete batching operator.

City Planning

A concrete batching plant and aggregate storage, with its associated equipment, materials, material handling, product, delivery/mixer trucks, and maintenance/office building will require a change to the current zoning permission for the property at 545 Commissioners Street. The property is subject to the former City of Toronto Zoning By-law 438-86; the harmonized city-wide Zoning By-law 569-2013 does not apply. The site is zoned I3 D2, which permits a range of industrial uses in development up to 2.0 times the area of the lot. While the I3 D2 permits many manufacturing uses, a "concrete batching and mixing yard" is not permitted in an I3 zone and is instead restricted to I4 zones.

A planning process will be required to put in place the necessary land use permissions for concrete batching. This report recommends that City Council request TPLC to undertake a minor variance application and any other necessary Planning Act applications to permit a concrete batching operation at 545 Commissioners Street. In

this role, TPLC will coordinate any studies, plans or other information necessary to assess the planning proposal.

While the current zoning does not permit a concrete batching plant on the site, cement and concrete industry operations currently operate on adjacent sites. The in-force Official Plan policy framework in the Port Lands permits concrete batching and aggregate storage on the site, as would the Central Waterfront Secondary Plan (CWSP), which was adopted by City Council in 2003 but is not in force in the Port Lands due to outstanding Ontario Municipal Board appeals.

The Port Lands Planning Framework (PLPF) that is before Council on this agenda would also permit the concrete batching and aggregate storage. City Planning staff, in collaboration with Waterfront Toronto, have led the development of the PLPF since 2013. At its May 31, 2017 meeting, Planning and Growth Management Committee recommended that City Council endorse in principle the draft Official Plan modification to the CWSP. The draft Official Plan modification would explicitly permit cement plants and concrete batching plants on lands in the East Port, including the property at 545 Commissioners Street. City Council is considering the Committee's recommendation at its July 2017 meeting. In a letter dated June 27, 2017 (Attachment 4), Waterfront Toronto agreed that the relocation of ML Ready Mix to 545 Commissioners Street is appropriate given the current and planned land use context for the eastern area of the Port Lands.

Summary

The proposed relocation from 29 Judson Street to 545 Commissioners Street will provide ML Ready Mix a more appropriate site within the existing Port Lands and at the same time eliminate the existing land use conflicts that are currently felt by the Judson Street community. This move would also significantly reduce the transportation impacts in the Judson Street community, moving equipment, materials, material handling, product and delivery/mixer trucks to a more appropriate area in the city and also support the retention of jobs and availability of a key input product to ongoing city-building initiatives.

CONTACT

John Livey
Deputy City Manager, Cluster B
Phone: 416- 338-7200
John.Livey@toronto.ca

John Alderdice
Manager, Business Retention & Expansion
Economic Development & Culture
Phone: 416-392-1004
John.Alderdice@toronto.ca

Josie Scioli
Chief Corporate Officer
Phone: 416-397-4156
Josie.Scioli@toronto.ca

Lawson Oates
Director, Environment & Administration
Toronto Water
Phone: 416-392-8223
Lawson.Oates@toronto.ca

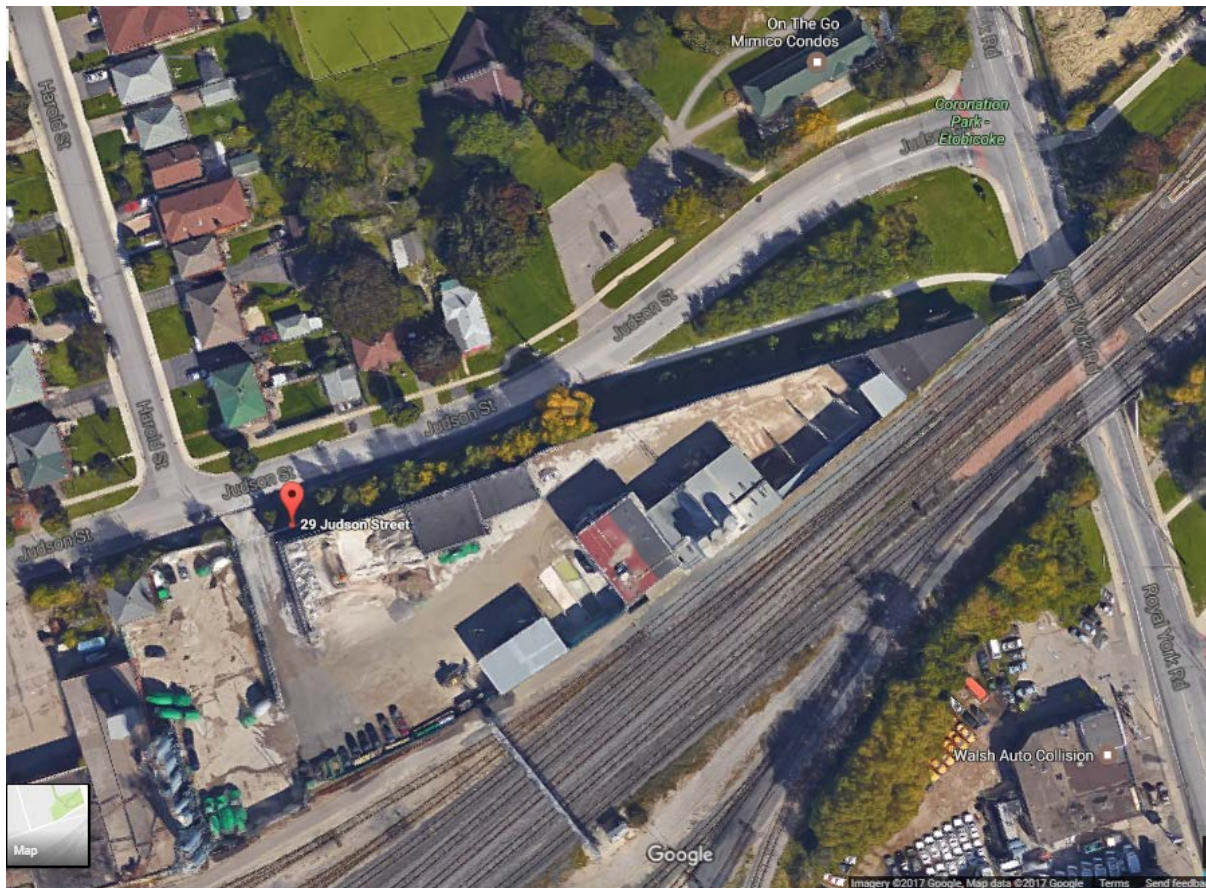
SIGNATURE

Peter Wallace
City Manager

ATTACHMENTS

1. ML Ready Mix Site 29 Judson
2. 545 Commissioners Street Site (Aerial View)
3. 545 Commissioners Street Site (Site Plan)
4. Waterfront Toronto letter, June 27, 2017

Attachment 1 ML Ready Mix Site 29 Judson



Attachment 2 545 Commissioners Street (Aerial View)



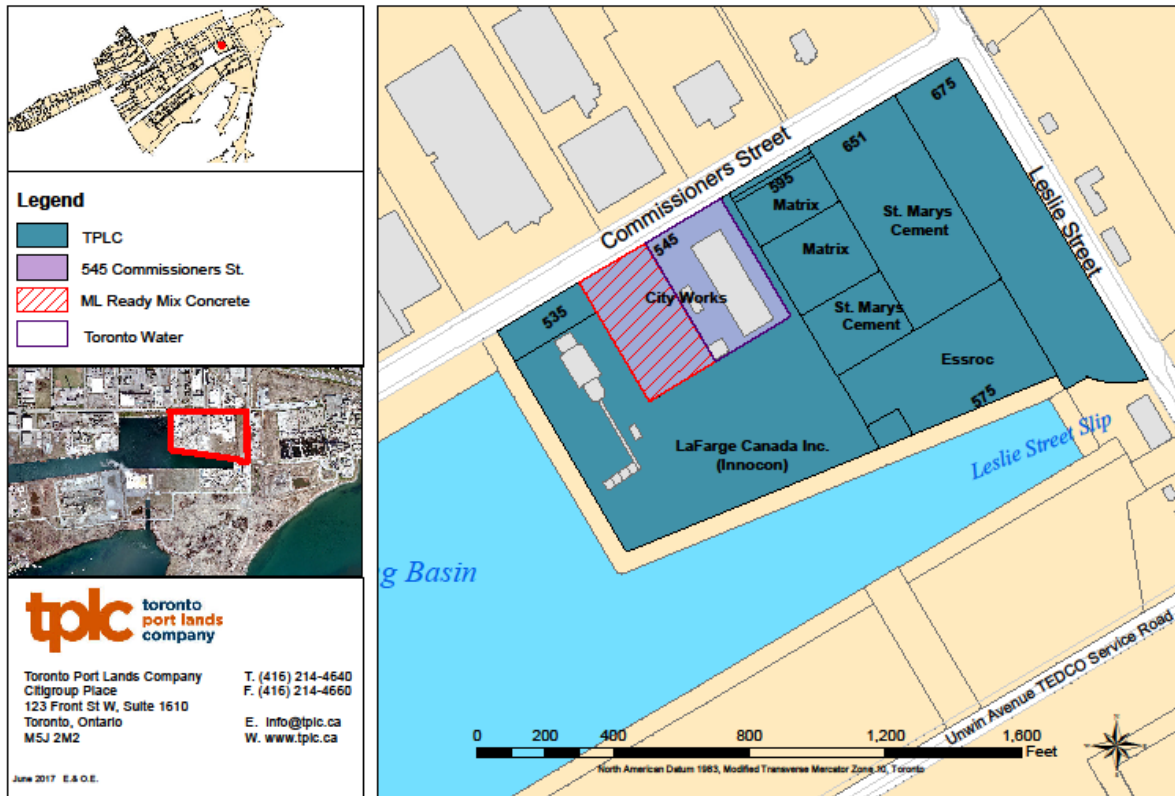
**ML Ready Mix
Concrete
Relocation**

545 Commissioners St.
June 2017

tpkc toronto
port lands
company

Attachment 3 545 Commissioners Street (Site Plan)

Port Lands Aggregate Concrete Terminal



Attachment 4
Letter from Waterfront Toronto, June 27, 2017



WATERFRONTToronto

20 Bay Street, Suite 1310
Toronto, ON
M5J 2N8

Tel: 416.214.1344
Fax: 416.214.4591
www.waterfronttoronto.ca

June 27, 2017

Waterfront Secretariat
Director, David Stonehouse
Toronto City Hall
12th fl. E., 100 Queen St. W.
Toronto, ON M5H 2N2

Dear David,

Re: Ready Mix Relocation

Waterfront Toronto understands that the City of Toronto is looking to relocate the Etobicoke ML Ready Mix Facility to the Port Lands – East Port district. This is to confirm that staff of Waterfront Toronto, at this time, agree that the relocation to 545 Commissioners Street is appropriate given the nature of similar industrial uses nearby, including concrete production facilities.

We look forward to commenting further on site design details as they become available.

Best Regards,

Meg Davis, Chief Development Office, Development
Waterfront Toronto

Cc: Kyle Knoeck, City of Toronto
Amanda Santo, Waterfront Toronto