

**844 Don Mills Road and 1150 Eglinton Avenue East -
OMB Appeal of OPA 231**

Date: November 15, 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 and contains advice subject to solicitor-client privilege.

SUMMARY

In December 2013, City Council adopted Official Plan Amendment 231 (OPA 231) following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. Council at its meeting on June 7-9, 2016 accepted a without prejudice offer from Lifetime Pearl Street Inc. (LPS) to settle their site specific appeal of OPA 231 regarding their lands at 844 Don Mills Road and 1150 Eglinton Avenue East (the "Lands"). The Ontario Municipal Board ("OMB") heard the City's motion presenting the settlement on June 20, 2016 and issued an Order on December 20, 2016 to approve the proposed OPA 231 modification respecting the Lands.

The City Solicitor requires direction for a pre-hearing at the OMB scheduled for January 5, 2018.

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 recommendation 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; and
 - b. Confidential Attachment 2.

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 OPA 231 with respect to the economic health policies and the policies, designations and mapping for *Employment Areas* following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding the employment lands. The Minister approved the majority of OPA 231 in July 2014 with some modifications. Decisions by the City and the Minister can be accessed at these links:

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

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

The OMB received 178 appeals to OPA 231, including the LPS site specific appeal regarding the Lands.

In 2015 and 2016 the OMB issued two Orders to partially approve OPA 231. The OMB brought into force the *Core Employment Areas* and *General Employment Areas* designations in December 2016, except for sites under appeal and regarding particular uses that remain contested.

OPA 231 included Site and Area Specific Policy No. 394 (SASP 394) that applies to three business parks along the Don Valley Parkway corridor, including the Lands and the rest of the Don Mills business park. SASP 394 aims to support, 'amenitize' and animate the three office parks to make them more attractive for businesses and their employers and encourage office development. Amongst other matters, SASP 394 permits on these *General Employment Area* lands the development of restaurants, workplace daycares, recreation and entertainment facilities, and small and medium scale retail stores and services provided these uses are in multi-storey buildings that include offices.

City Council at its meeting on June 7-9, 2016 accepted a without prejudice offer from LPS to settle their appeal by re-designating the west part of the Lands from *General Employment Areas* to *Regeneration Areas* and retained as *General Employment Areas* the east part of the Lands along Don Mills Road between Eglinton Avenue and the rail corridor. The settlement also added SASP 511 for the Lands to guide redevelopment of the Lands from an industrial campus to a complete mixed use community with a range of uses, including over 18,000 square metres of office gross floor area in the first phase of development. Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.CC19.8>

The OMB heard the City's motion regarding the settlement on June 20, 2016 and issued an Order on December 20, 2016 to approve the proposed OPA 231 modification by re-designating the west part of the Lands from *General Employment Areas* to *Regeneration Areas* and adding a new Site and Area Specific Policy 511 to guide redevelopment of the Lands.

COMMENTS

The City Solicitor requires direction for an up-coming prehearing conference at the Ontario Municipal Board on January 5, 2018.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Advice
Subject to Solicitor-Client Privilege

Confidential Attachment 2 - Confidential Information