

49, 53 and 55 Judson Street - Official Plan and Zoning Amendment Applications - Request for Direction

Date: November 24, 2017
To: City Council
From: City Solicitor
Wards: Ward 6 – Etobicoke-Lakeshore

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

This application proposes a mixed use development at 49, 53 and 55 Judson Street, consisting of 72 4-storey townhouses and a 3-storey commercial building with 28 units at the rear of the site, accessed by private laneways. The application was appealed on May 1, 2017.

This site is located within the Mimico-Judson Secondary Plan area. It was designated *Regeneration Areas* by OPA 231 and then redesignated *Mixed Use Areas* by OPA 331 which remains under appeal.

The applicant appealed OPA 331 on July 12, 2016. The Ontario Municipal Board (OMB) has scheduled 12 weeks of hearing for this matter with the first half scheduled for April 9 - May 18, 2018, and the second half from June 11 - July 20, 2018. The next prehearing conference relating to this proceeding is scheduled for January 3, 2018.

On November 9, 2017, the OMB issued a decision allowing the consolidation of the applicant's site specific appeals with its appeal of OPA 331.

The City Solicitor requires further direction in advance of the January 3, 2018 prehearing conference.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1.
2. If the confidential recommendation contained in Confidential Attachment 1 is adopted, that City Council authorize the public release of the confidential recommendation contained in Confidential Attachment 1, but that the balance of Confidential Attachment 1 remain confidential.

FINANCIAL IMPACT

There is no financial impact arising from the Confidential Recommendations.

DECISION HISTORY

At its meeting of December 16-18, 2013, City Council adopted Official Plan Amendment 231 (OPA 231) at the conclusion of the Municipal Comprehensive Review of Employment lands as part of the City's Five Year Official Plan Review. OPA 231 brought forward amendments to the Official Plan for economic health and employment lands policies, designations and Site and Area Specific Policies. Through the adoption of OPA 231, lands within the Mimico-Judson area were redesignated from *Employment Areas* to *Regeneration Areas*. Site and Area Specific Policies 433 and 434 were approved for the lands to provide additional direction for future change; including the subject properties.

On July 9, 2014, the Minister of Municipal Affairs and Housing (MMAH), as it then was, approved OPA 231, with minor modifications. The Minister's decision was subsequently appealed to the Ontario Municipal Board. The decision history on OPA 231 and the MMAH decision can be accessed at the following 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>

On June 22, 2015, the OMB issued an order partially approving OPA 231. The partial approval brought into effect the *Regeneration Areas* designation for the Mimico-Judson area, along with the associated Site and Area Specific Policies. The OMB Order partially approving OPA 231 can be accessed at this link:

[http://www1.toronto.ca/City%20Of%20Toronto/City%20Planning/SIPA/Files/pdf/O/PL140860_Signed%20Board%20Order%20\(June%2022%202015\).pdf](http://www1.toronto.ca/City%20Of%20Toronto/City%20Planning/SIPA/Files/pdf/O/PL140860_Signed%20Board%20Order%20(June%2022%202015).pdf)

Mimico-Judson is one of seven areas redesignated to *Regeneration Areas* resulting from City Council's adoption of OPA 231. In advance of the Minister's decision on OPA 231, City Planning staff initiated six of the seven Regeneration Areas studies, including Mimico-Judson. At its meeting on August 25-28, 2014, City Council received a Regeneration Areas Studies Status Report from the Chief Planner and Executive Director, City Planning. The report summarized the work and consultation that had been completed and identified emerging issues for this study. The report also identified additional matters each Regeneration Areas study would address. This Status Report can be accessed at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.17>

At its meeting of January 20, 2016, Planning and Growth Management (PGM) Committee considered a Directions Report dated October 28, 2015 from the Chief Planner and Executive Director, City Planning (Item PG9.2). This report presented the results of the Mimico-Judson Regeneration Area Study. PGM Committee recommended that staff distribute the draft Secondary Plan to the public, to be considered at a statutory public meeting to be held by PGM Committee on April 6, 2016. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG9.2>

A Preliminary Report from the Chief Planner and Executive Director City Planning, dated February 10, 2016 was considered by Planning and Growth Management Committee on February 24, 2016. The Planning and Growth Management decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG10.8>

At its meeting of April 6, 2016, PGM Committee adjourned the public meeting for the Mimico-Judson Secondary Plan and Urban Design Guidelines until May 11, 2016 and directed the Chief Planner and Executive Director, City Planning to hold a community open house prior to that date. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG11.4>

At its meeting of May 11, 2016, PGM Committee adopted the Mimico-Judson Secondary Plan and Urban Design Guidelines with amendments to the Secondary Plan. The amendments included redesignating the lands south of Judson Street between Royal York Road and Willowbrook Road to *Mixed Use Areas* as described as Option 2 in the Urban Strategies Inc. report dated April, 2015, and referenced in the Final Report dated March 16, 2016 from the Chief Planner and Executive Director, City Planning (PG11.4). The Committee amended the staff recommendations in part and requested that the Chief Planner continue to meet with affected landowners to resolve concerns with the Secondary Plan and report directly to City Council on any proposed amendments to address the concerns.

At its meeting of June 7, 2016, City Council adopted the Mimico-Judson Secondary Plan and Urban Design Guidelines, with the amendments noted above, as outlined in a Supplementary Report from the Chief Planner and Executive Director, City Planning dated June 6, 2016. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.PG12.8> and <http://www.toronto.ca/legdocs/bylaws/2016/law0532.pdf>

In doing so, Council designated certain lands on the west side of Royal York, south of Judson Street and north of the Metrolinx Willowbrook Rail Yard as Mixed Use Areas, including 49, 53 and 55 Judson Street (the "Subject Property") on condition that the south 30 metres of the property be limited to commercial uses (non-residential uses) and that this non-residential component be built prior to any residential development. Council's decision amended the Secondary Plan as recommended by the Chief Planner which would have designated the site *Employment Areas*.

On March 9, 2017 the Committee of Adjustment approved minor variances relating parking, loading, rear and side yard setbacks in relation to employment/industrial and office uses on the subject property.

Appeals of the Secondary Plan

The City has received eleven appeals in relation to OPA 331. The Ontario Municipal Board, at the City's request, has bifurcated the hearing of the appeals such that appeals relating to the Secondary Plan area west of Royal York Road will be heard separately from the appeals that relate to the lands east of Royal York Road.

The appeals relevant to the Secondary Plan Area west of Royal York were filed by the applicant, Dunpar (the owner of 49, 53 and 55 Judson Street), Remicorp (the owner of 29 Judson Street, also known as ML Ready Mix), the Lakeshore Planning Council Corp. (LPCC) and Metrolinx. The Mimico Lakeshore Community Network (MLCN) has been added as a party.

The issues raised by Dunpar and Remicorp in their appeals as they affect the Subject Property relate to the requirement for a road widening along the south side of Judson Street, the location and extent of the multi-purpose trail (the "Greenway") along the north side of the Subject Property, and the imposition of a maximum height within the Secondary Plan (although the subject application proposes a 4-storey height, in conformance with the Secondary Plan's parameters). The joint appeals specifically take issue with the 4-storey height limit, in regard to the 29 Judson Street parcel. There is no current application for that site.

In their respective appeal letters Metrolinx, the LPCC and MLCN all opposed the designation of the lands to *Mixed Use Areas*. Metrolinx and LPCC's appeal letters further indicate that they would support the staff-recommended Secondary Plan which would have these lands designated *Employment Areas*.

Legal Services has retained Weston Consulting to provide expert evidence in land use planning at the pending hearing of the appeals of OPA 331 (west of Royal York) and the subject application. HGC Engineering has been retained to provide expert evidence in acoustical engineering.

The applicant appealed OPA 331 on July 12, 2016 and its site specific applications on May 1, 2017.

COMMENTS

Proposal

The application proposes to amend the Official Plan from *Regeneration Areas* to *Mixed Use Areas*, with a condition limiting uses within 30 metres of the south property line to non-residential uses. The application also proposes to rezone the lands from industrial to employment and residential uses. The majority of the proposed residential uses would be located more than 30 metres from the south property line.

The proposal includes both a residential and a commercial component. The residential component would consist of 72 4-storey townhouses in three blocks. Two blocks would be positioned parallel to the Judson Street property line and one would be perpendicular to the Judson Street property line. The commercial component would consist of 28 3-storey commercial units in two blocks. Both would be positioned approximately parallel to the rear property line. The proposed density is 1.31 times the area of the lot based on 16,921 m² of total gross floor area, consisting of 11,354 m² of residential gross floor area and 5,566 m² of non-residential gross floor area.

Vehicular circulation would be provided by a series of laneways and fire routes around the buildings. The proposed parking includes 72 parking spaces for residents, 24 for residential visitors and 71 for commercial occupants and visitors. All parking would be provided at-grade. The resident parking (72 spaces) would be indoor, at grade and the remaining 95 spaces would be surface parking.

Portions of the south and west property lines are proposed to be lined by new 13 metre acoustical walls. Along other portions of the site boundaries, the existing 6 metre acoustical walls would remain in place.

Site and Surrounding Area

The irregular site is 12,871 m² in size, with 179 metres frontage along Judson Street and a lot depth that varies between 51 metres and 78 metres. There are 3 existing low-rise industrial / office buildings on the site. The existing buildings include an early 20th century house and warehouse, a mid-century office building, a second office building and a number of silos. The site is relatively flat. A portion of the site is currently used as parking for the adjacent concrete batching facility to the east.

Surrounding uses include:

North: Judson Street, and single and semi-detached houses, between 1 and 2.5 storeys on the north side of the street.

South: Willowbrook Rail Yard, the Metrolinx Lakeshore West rail corridor, the Willowbrook rail maintenance and re-fuelling facility, and VIA Rail's train fuelling and maintenance facility.

East: Concrete batching plant owned by ML Ready Mix, including low-rise buildings and silos.

West: Low-rise industrial and office buildings (1 to 3 storeys), a house and portions of GO Transit's Willowbrook Facility.

Zoning

The former City of Etobicoke Zoning Code zones the lands at 49, 53 and 55 Judson Street as IC.2 (Industrial Class 2). The IC.2 zone permits a range of medium and heavy industrial uses. However, area-specific Zoning By-law 339-2012 was enacted by City Council which prohibits some of the more impactful industrial land uses, including asphalt plants, coal refineries and concrete batching plants that would otherwise be permitted by the IC.2 zone on this and other sites on the south side of Judson Street. With these prohibitions, the use permissions on this site are more in keeping with the IC.1 zone uses.

City-wide Zoning By-law 569-2013 zones this site E 1.0 (Employment). Zoning By-law 569-2013 was enacted by City Council in 2013 and is under appeal to the Ontario Municipal Board. Exception Number 54 to the E zone applies to 49 and 53 Judson Street, and to a portion of 55 Judson Street, via By-law 339-2012 and the use restrictions contained therein remain for those lands.

Site Plan Control

The proposal is subject to Site Plan approval.

On May 3, 2017 the applicant submitted a site plan application for 28 as of right employment/industrial office units located on the southerly portion of the subject property, only.

Reasons for the Application

The proposed development:

- Does not conform with the Official Plan policies for *Regeneration Areas* which state that a development framework for the area will be developed and that development should not proceed prior to approval of a Secondary Plan;

- Does not conform with the former City of Etobicoke Zoning Code which prohibits residential uses on the site; and
- Does not conform with City-wide Zoning By-law 569-2013, which prohibits residential uses on the site.

CONTACT

Abbie Moscovich, Solicitor, Tel. No. 416-392-6905 Fax No. 416-397-5624 E-mail:
Abbie.Moscovich@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Report from the City Solicitor