



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Mimico Judson Secondary Plan and 49 Judson Street Official Plan and Zoning By-law Amendment Application Appeals - OMB Hearing - Request for further Direction

Date: March 26, 2018

To: City Council

From: City Solicitor

Wards: Ward 6 – Etobicoke-Lakeshore

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 or communications subject to solicitor-client privilege. This report contains information explicitly supplied in confidence to the City by the Province of Ontario or an agent of the Province of Ontario.

SUMMARY

At its meeting of June 7, 2016, City Council adopted the Mimico-Judson Secondary Plan (the "Secondary Plan") and Urban Design Guidelines. In doing so, Council designated certain lands on the west side of Royal York Road, south of Judson Street and north of the Metrolinx Willowbrook Maintenance Facility (the "Willowbrook Yard"), known as "Block F", as Mixed Use Areas. Block F includes 49, 53 and 55 Judson Street (the "Subject Property"). The Secondary Plan requires that the south 30 metres of Block F adjacent to the Willowbrook Yard be limited to commercial uses (non-residential uses) and that this non-residential component be built prior to any residential development.

Eleven appeals were received in relation to the Secondary Plan, four of which pertain to the policies as they relate to Block F.

This site specific applications for the Subject Property propose a mixed use development 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 applications were appealed on May 1, 2017 (the "Site Specific Appeals").

The Ontario Municipal Board (OMB) has scheduled five weeks commencing April 16, 2018 for the consolidated hearing of the appeals of the Secondary Plan as they relate to Block F only, and the Site Specific Appeals.

The City Solicitor requires further direction in advance of the April 16, 2018 hearing.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. If the confidential recommendations contained in Confidential Attachment 1 are adopted, that City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, but that the balance of Confidential Attachment 1 remain confidential and that Confidential Attachments 2, 3 and 4 remain confidential, at the discretion of the City Solicitor.

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. 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) 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>

Through this decision, Council designated Block F, including the Subject Property, as Mixed Use Areas 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 in a manner contrary to the recommendation of the Chief Planner which would have designated Block F Employment Areas.

At its meeting of December 5-8, 2017 City Council considered a report dated November 24, 2017 from the City Solicitor in relation to the site specific appeals for the Subject Property. Council directed the City Solicitor to appear at the Ontario Municipal Board hearing in support of the site specific appeals conditional upon the applicant revising its plans to show (1) a right-of-way widening along the north side of the site of 3.5 metres; (2) the Mimico-Judson Greenway; and (3) an appropriate front yard setback along Judson Street; and providing a Section 37 contribution in an amount and for purposes to be determined through negotiation with the City Solicitor and in consultation with the Ward Councillor. The decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC35.6>

COMMENTS

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 (Block F) 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 the Subject Property), 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 in Dunpar and Remicorp's appeals 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 Block F, 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). There is no current application for 29 Judson Street.

In their respective appeal letters Metrolinx and LPCC opposed the designation of Block F 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.

Dunpar appealed its site specific applications on May 1, 2017. The Board has consolidated the Site Specific Appeal with the appeals of the Secondary Plan for Block F and has set a five week hearing scheduled to commence on April 16, 2018.

For the purpose of the hearing, Legal Services retained Weston Consulting to provide expert evidence in land use planning and HGC Engineering to provide expert evidence in acoustical engineering.

Witness statements were exchanged on March 19, 2018.

Through the exchange of witness statements, Dunpar disclosed new plans which are attached hereto as Public Attachments 1 and 2. These plans show a road widening along Judson Street to provide for a 23 metre right of way (or very close to 23 metres depending on the location), inclusive of a four metre wide Greenway (multi-use trail), a 2 metre landscape area (inclusive of curb) buffering the Greenway from the traveled portion of the right of way, and further landscaping between the multi-use trail and the proposed townhouses fronting onto Judson Street.

The City Solicitor requires further instructions.

CONTACT

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SIGNATURE

City Clerk's Office
Original signed by

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Dunpar Revised Plans

Public Attachment 2 - Dunpar Revised Site Plan

Confidential Attachment 1 - Report from the City Solicitor

Confidential Attachment 2 - Confidential Communication dated March 27, 2018