



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

225 Birmingham Street - Appeal of OPA 231 - Local Planning Appeal Tribunal Hearing

Date: June 14, 2018

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 is subject to solicitor-client privilege.

SUMMARY

Menkes 225 Birmingham Street Inc. are an appellant to Official Plan Amendment 231 (OPA 231) at the Local Planning Appeal Tribunal (LPAT). City Council adopted OPA 231 policies for the entire city following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. The City Solicitor requires further directions for an upcoming LPAT pre-hearing conference.

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 Confidential Attachment 1, with the remainder of 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 employment lands. The City's decision can be accessed at this link:

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

The Minister approved the majority of OPA 231 with some modifications in July 2014. The LPAT received a total of 178 appeals to OPA 231, including an appeal by the former owners of the 225 Birmingham Street, Berry Plastics Corporation, on July 29, 2014. The LPAT has issued two Orders partially approving OPA 231. The December 2016 Order brought into force the *Core Employment Areas* and *General Employment Areas* designations, except for sites under appeal and regarding particular uses that remain contested. LPAT Decisions can be accessed at this link:

<https://www.omb.gov.on.ca/ecs/CaseDetail.aspx?n=PL140860>

On June 15, 2016, Planning and Growth Management Committee considered a Preliminary Report for Zoning By-law Amendment and Draft Plan of Subdivision applications for 225 Birmingham Street, dated May 16, 2016, from the Chief Planner and Executive Director, City Planning Division. The applications sought to develop the site with 226 townhouse units. The report was adopted by Committee with amendments. Staff were directed to: schedule a community consultation meeting; give notice for the meeting to landowners and residents within 500 metres of the site; give notice for a public meeting under the *Planning Act* following the resolution of the site specific appeal of OPA 231; and, submit the Final Report to the Committee following the resolution of the site specific appeal of OPA 231. The Preliminary Report is on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2016/pg/bgrd/backgroundfile-93897.pdf>

A Site Plan Control application for the townhouse proposal was submitted in December 2016.

COMMENTS

Although under appeal, 225 Birmingham Street is designated *Core Employment Areas* in OPA 231.

The subject site is vacant. It is approximately 2.02 ha in size and its topography is relatively flat. The site has a frontage of approximately 169 m on Birmingham Street and is approximately 136 m deep on the western half and 99 m deep on the eastern half.

The site was formerly occupied by a 2-storey industrial building having a floorplate of about 7,500 square metres. The building was formerly owned and operated by Berry Plastics Corporation - manufacturers of an assortment of plastic wrap products used for packaging. The building was vacated shortly after the purchase of the property by Menkes and was subsequently demolished.

This report requests direction from City Council for an upcoming LPAT prehearing conference.

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