



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **Mimico-Judson Secondary Plan (East of Royal York Road) Appeal and 39 Newcastle Street, 25 Audley Street, 23 Buckingham Street, 1, 2 and 10 Audley, 8 Newcastle Street, and 29, 31, 59 and 71 Portland Street Street Site Specific Appeals – Request for Further Direction**

Date: June 19, 2018

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**

---

The owners of various properties within the Mimico-Judson Secondary Plan area have appealed the Mimico-Judson Secondary Plan ("OPA 331") as it relates to the lands east of Royal York Road. A three week hearing is scheduled to commence on July 4, 2018.

The parties to the hearing have participated in multiple days of mediation facilitated by the Ontario Municipal Board (now transitioned to the Local Planning Appeal Tribunal).

The City Solicitor requires further directions.

#### **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council adopt the confidential recommendation(s) in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendation(s) in Confidential Attachment 1, if adopted, with the remainder of Confidential Attachment 1

Staff Report with Confidential Attachment on Mimico-Judson Secondary Plan and related site specific appeals - Request for direction

to remain confidential, and Confidential Attachments 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 to be released only at the discretion of the City Solicitor.

## **FINANCIAL IMPACT**

---

Details respecting the financial impact are contained in Confidential Attachment 1.

## **DECISION HISTORY**

---

### **Official Plan Amendment 231**

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 also approved for the lands to provide additional direction for future change.

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\(June%202022%202015\).pdf](http://www1.toronto.ca/City%20Of%20Toronto/City%20Planning/SIPA/Files/pdf/O/PL140860_Signed%20Board%20Order%20(June%202022%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>

## **Mimico Judson Secondary Plan Area**

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>

At its meeting of April 6, 2016, Planning and Growth Management (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, Planning and Growth Management (PGM) Committee considered the Mimico-Judson Secondary Plan and Urban Design Guidelines with amendments. The Committee moved to amend 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 (OPA 331) 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>

Various landowners and interested parties with an interest in the Mimico-Judson Secondary Plan on the east side of Royal York Road filed appeals to the Ontario Municipal Board, citing various issues. These appeals as well as appeals of site specific development applications are before the LPAT and the subject of private and LPAT led mediation.

## **39 Newcastle Street**

At its meeting of November 15, 2017, Planning and Growth Management (PGM) Committee adopted with amendments, a Refusal Report dated October 23, 2017 from the Chief Planner and Executive Director, City Planning (Item PG24.4) for the Official Plan and Zoning By-law Amendment Application for 39 Newcastle Street. This subject site is located within the Secondary Plan Area (on the east side of Royal York Road). City Council adopted this item on December 5, 2017 without amendments and without debate. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.4>

## **1, 2 and 10 Audley Street, 8 Newcastle Street, and 29, 31, 59 and 71 Portland Street**

At its meeting of January 11, 2017, Planning and Growth Management (PGM) Committee adopted (with amendment to Recommendation No. 2) a Refusal Report dated December 9, 2016 from the Chief Planner and Executive Director, City Planning (Item PG17.5) for the Official Plan and Zoning By-law Amendment Application for 1x, 2 and 10 Audley Street, 8 Newcastle Street, and 29, 31, 59 and 71 Portland Street. These subject sites are located within the Secondary Plan Area (on the east side of Royal York Road). The amendment to Recommendation No. 2 included removing the word "more" from the recommendation so it reads "to continue discussions with the applicant to negotiate an appropriate development proposal that is in keeping with the Mimico-Judson Secondary Plan and Urban Design Guidelines". City Council adopted this item on January 31, 2017 without amendments and without debate to the modified wording of the recommendation. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG17.5>

## **25 Audley Street**

At its meeting of July 4, 2017, Planning and Growth Management (PGM) Committee adopted (with the newly worded Recommendation 2) a Refusal Report dated May 1, 2017 from the Chief Planner and Executive Director, City Planning (Item PG21.7) for the Official Plan Amendment Application for 25 Audley Street. City Council adopted this item on July 4, 2017. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.7>

## **23 Buckingham Street**

Also, at its meeting of July 4, 2017, Planning and Growth Management (PGM) Committee adopted (with the newly worded Recommendation 2) a Refusal Report dated May 1, 2017 from the Chief Planner and Executive Director, City Planning (Item PG21.8) for the Official Plan Amendment Application for 23 Buckingham Street. City Council adopted this item on July 4, 2017. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG21.8>

All the above-referenced site-specific applications have all been appealed to the OMB and consolidated into the appeals of OPA 331 matters.

The Land Use Planning Appeals Tribunal (LPAT) hearing on this matter will commence on July 4, 2018.

## **COMMENTS**

---

The parties have participated in many days of private and Tribunal led mediation.

### **Blocks D and E**

The City has been involved in negotiations with appellants and parties to the Tribunal proceedings, including the development proponents/owners within Blocks D and E since

Staff Report with Confidential Attachment on Mimico-Judson Secondary Plan and related site specific appeals - Request for direction

July 2017 (see public attachment 1 for ownership map). OPA 331 purported to redesignate these blocks from Regeneration Areas to Mixed Use Areas with height limits in the mid-rise range and imposed, among other matters, a minimum non-residential replacement requirement, a requirement for a new public park on Block D and a new public road, including a multi-use trail on Block E.

The three owners who have appealed OPA 331 within Block D are Rietz, Vandyk and Freed. Each of these owners also has appealed its site specific Official Plan and Zoning Bylaw amendment applications. These three owners own the vast majority of the Block, with the exception of a small lot at the north-west corner. The owner of that property has not participated in the Tribunal proceedings.

Freed, an appellant to OPA 331, is the owner of the majority of Block E, with the property to the east of the Freed lands, 25 Portland Street, being owned by 1623707 Ontario Limited ("25 Portland"), and a small hold-out parcel fronting onto Portland Street being separately owned. 25 Portland is an appellant and has been involved in much of the mediation process. The owner of the small hold-out is not involved in these proceedings.

25 Portland is currently used for various employment activities including office and outdoor storage uses. 25 Portland has an interest in protecting the continued use of its lands for employment purposes, but has also expressed satisfaction with OPA 331's redesignation of its lands to Mixed Use.

Metrolinx and the LPCC are both appellants to OPA 331 and have taken part in the Block D and E negotiations. The Mimico Lakeshore Community Network and Portuguese Cheese (an industrial owner/operator within Block A1) are both parties to the proceedings and each has been involved in the mediation process.

### **Block C**

The majority of Block C is owned by CIC 39 Newcastle, with the eastern end being owned by Metrolinx. CIC 39 Newcastle is an appellant to OPA 331 and also has appealed site specific Official Plan and Zoning Bylaw Amendment applications. The City has been in negotiations with CIC 39 Newcastle since the early fall of 2017. Metrolinx, LPCC and MLCN have also taken part in some of the negotiations.

### **Block B**

Block B is owned by CIC Block B. Contiguous to Block B, to the south, is a parcel of land identified as Block A2 which OPA 331 as adopted by Council intends for Employment Areas. Across the street to the east is Block A1 which was also intended for Employment Areas designation. However, Council approved the redesignation of a significant component of Block A1 to Mixed Use at its meeting of May 22 - 24, 2018 through a partial settlement of the appeal of OPA 331.

A six week hearing was scheduled to commence on June 11, 2018. At the most recent Prehearing Conference, on May 1, 2018, on consent of the parties, the Board truncated the hearing to three weeks commencing July 4, 2018. The parties agree that this time

will be used for the purpose of hearing evidence in relation to any settlements that may be reached between the City and any of the appellants.

The City Solicitor requires further direction.

## **CONTACT**

---

Abbie Moscovich, Solicitor, Tel. No.: 416-392-6905; Fax No.: 416-397-5624  
E-mail: [abbie.moscovich@toronto.ca](mailto:abbie.moscovich@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Public Attachment 1 - Ownership map

Confidential Attachment No. 1 - Confidential Information

Confidential Attachment No. 2 - Confidential Correspondence dated June 14, 2018  
(Overland LLP)

Confidential Attachment No. 3 - Confidential Plans (on file with the City Clerk for the purpose of the June 26, 27 and 28, 2018 City Council meeting)

Confidential Attachment No. 4 - Confidential Correspondence dated June 14, 2018  
(Horosko Planning Law)

Confidential Attachment No. 5 - Confidential Plans (on file with the City Clerk for the purpose of the June 26, 27 and 28, 2018 City Council meeting)

Confidential Attachment No. 6 - Confidential Correspondence dated June 14, 2018 (Aird & Berlis)

Confidential Attachment No. 7 - Confidential Plans (on file with the City Clerk for the purpose of the June 26, 27 and 28, 2018 City Council meeting)

Confidential Attachment No. 8 - Confidential Concept Plan

Staff Report with Confidential Attachment on Mimico-Judson Secondary Plan and related site specific appeals - Request for direction

Confidential Attachment No. 9 - Confidential Minutes

Confidential Attachment No. 10 - Confidential Correspondence dated June 11, 2018  
(McMillan LLP)

Confidential Attachment No. 11 - Confidential Plans (on file with the City Clerk for the purpose of the June 26, 27 and 28, 2018 City Council meeting)

Confidential Attachment No. 12 - Confidential Correspondence dated April 16, 2018  
(Lakeshore Planning Council Corp.)

Confidential Attachment No. 13 - Confidential Correspondence dated June 15, 2018  
(Land Law TM)