



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

1440 Don Mills Road - Appeal of OPA 231 - LPAT Hearing Request for Directions

Date: June 10, 2019

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

SUMMARY

The Governing Council of the University of Toronto (U of T) has appealed Official Plan Amendment No. 231 (OPA 231) regarding the property municipally known as 1440 Don Mills Road (the Lands) to 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 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 adoption of the recommendations in this report.

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 a site-specific appeal on July 29, 2014 regarding the Lands by U of T. The LPAT has issued several Orders partially approving OPA 231. An Order in December 2016 brought into force the *Core Employment Areas* and *General Employment Areas* designations, except for sites under appeal and regarding particular uses that remained contested. An Order in January 2019 brought into force the remainder of the policies for the two *Employment Areas* designations, except with respect to retail policies that remain subject to appeal. LPAT Decisions can be accessed at this link:

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

COMMENTS

Although under appeal, the Lands are designated *General Employment Areas* in OPA 231. *General Employment Areas* are generally located on the periphery of *Employment Areas* on major streets where retail, service and restaurant uses can serve workers in the *Employment Area* and would also benefit from visibility and transit access to draw the broader public. All uses permitted within *Core Employment Areas* are also permitted within *General Employment Areas*, including offices and research and development facilities.

The Lands are located on the periphery of the *Employment Area*, the Lesmill office park. The Lands are located on the west side of Don Mills Road, which is a major street shown on Map 3 of the Official Plan.

The Lands are 2.4 hectares in size and developed with a two-storey building occupied by SciCan, which produces dental and other medical products, the University of Toronto's Continuing Education Dental Centre and a number of office tenants.

U of T appealed OPA 231 on a site-specific basis in order to seek permission for branches of universities and colleges. No development applications have been submitted for the Lands.

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

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