



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

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

Date: July 8, 2019

To: City Council

From: City Solicitor

Wards: Ward 3 - 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") and site specific applications as they relate to the lands east of Royal York Road. A hearing was held in April 2019 and the Local Planning Appeal Tribunal (the "LPAT") has rendered a decision allowing various appeals within Blocks D and E of the Mimico-Judson Secondary Plan area. As a result of that decision, 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 to remain confidential, and Confidential Attachments 2 and 3 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

Mimico Judson Secondary Plan Area

Mimico-Judson is one of seven areas re-designated 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>

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

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

Site Specific Applications

Various applications within the secondary plan area were filed with the City and disposed of by City Council. The report and decision for the application for 1x, 2 and 10 Audley Street, 8 Newcastle Street, and 29, 31, 59 and 71 Portland Street can be accessed at this link:

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

The report and decision for the application for 25 Audley Street can be accessed at this link:

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

The report and decision for the application for 23 Buckingham Street can be accessed at this link:

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

All the above-referenced site-specific applications were appealed to the LPAT and consolidated into the appeals of OPA 331 matters.

July 2018 Request for Further Direction Report

City Council, at its meeting of June 26, 2018, considered various offers to settle and directed the City Solicitor to continue to oppose the appeals of OPA 331 and the consolidated appeals of the site specific applications before the LPAT. This decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC43.21>

The applicants in Blocks D & E subsequently revised their applications to a development scheme shown in Public Attachment 1 to this report and sought approval of those proposals at the hearings of the appeals before the LPAT.

LPAT Hearing

All the Block D & E site-specific applications as well as the related appeals of OPA 331 have now been disposed by the LPAT and an oral decision has been issued. The LPAT has allowed the appeals conditional on a number of preconditions to the issuance of the final order of the OPA and the individual zoning by-law amendments.

The only remaining appeals of OPA 331 are the appeals as they relate to Block C of the Secondary Plan and the appeal of the City's refusal of the application at 39 Newcastle Street. The LPAT has scheduled a hearing for August 6, 2019.

COMMENTS

The Tribunal has heard and disposed of many of the appeals dealing with lands within the Mimico-Judson Secondary Plan area. 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 July 2017. OPA 331 re-designated 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 Block D and E development proponents made applications for their respective sites seeking approval of a built form different from what was envisioned by OPA 331, in the form of tall buildings. After City Council refused those applications, they were appealed to the LPAT and consolidated into their appeals of OPA 331.

After City Council refused the offers to settle in June 2018, the proponents revised their applications in July, 2018 to show, among other things, a consolidated park facilitated by a proposed land exchange, a road connection from Newcastle Street to Portland Street, as contemplated by OPA 331 and a portion of affordable housing units. However, the proposals continued to seek tall buildings on the sites within Block D & E, with the heights and setbacks as shown on Public Attachment 1.

The City attended the hearing in April 2019 in opposition to the revised proposals. The Tribunal reserved its decision and convened a telephone conference call on June 6, 2019 to issue its oral decision allowing the appeals and approving the revised proposals in principle subject to a number of pre-conditions of approval.

The Tribunal accepted the evidence of the three land use planners proffered by the applicants and was persuaded that the modifications to OPA 331 had regard to matters of provincial interest, are consistent with the PPS, 2014 and conforms to the Growth Plan and the City's Official Plan and is good planning. The Tribunal further concluded that the level of intensification and additional height is appropriate near to higher order transit in an underutilized, largely vacant area. The Tribunal found that the resulting shadow north of Portland was not significant and met the test of adequately limiting. The Tribunal found that the landowners within Blocks D & E engaged in the block

planning contemplated by OPA 331 to deliver a consolidated park enhanced by POPS, a mid-block connection in Block D, and an extension of Newcastle Street that would result in achieving a more livable complete community.

The landowners settled the issues Metrolinx raised and Metrolinx attended in support of the applications and led evidence on the settlement of the Metrolinx issues.

The City Solicitor requires further direction. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Block D & E Block Plan

Confidential Attachment No. 1 - Confidential Recommendations and Confidential Information

Confidential Attachment 2 - Confidential Information (on file with the City Clerk for the purposes of the July 16, 2019 City Council meeting)

Confidential Attachment 3 - Confidential Information (on file with the City Clerk for the purposes of the July 16, 2019 City Council meeting)