



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 459 Eastern Avenue – Appeal of OPA 231- LPAT Hearing

**Date:** December 9, 2019  
**To:** City Council  
**From:** City Solicitor  
**Wards:** All

#### REASON FOR CONFIDENTIAL INFORMATION

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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

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XYZ Storage Inc., the owner of the property municipally known as 459 Eastern Avenue (the "Site"), has appealed Official Plan Amendment No. 231 ("OPA 231") respecting the Site 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.

#### RECOMMENDATIONS

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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 Attachments 2 and 3.

## **FINANCIAL IMPACT**

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There is no financial impact arising from the above recommendations.

## **DECISION HISTORY**

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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 regarding the Site. The LPAT has issued several Orders partially approving OPA 231. A 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>

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**

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Although under appeal, the Site is designated Core Employment Areas in OPA 231 and is subject to Site and Area Specific Policy 415 ("SASP 415"), which permits "only those employment uses such as offices, parks, small scale restaurants, retail and service uses that are compatible to the nearby low scale residential dwellings fronting onto Logan Avenue".

The Site is located at the southeast corner of Booth and Eastern Avenues in the South of Eastern Employment Area, which contains a mix of employment uses as well a number of residential dwellings that existed prior to November 2002 (permitted through SASP 190).

The Site is an L-shaped parcel of approximately 0.6 hectares in area, with a 65 metre five-storey frontage on Eastern Avenue and a 150 metre four-storey frontage along Booth Avenue. The Site is developed with a self-storage warehouse facility. All types of storage uses are permitted in Core Employment Areas.

The Site is adjacent to a number of semi-detached dwellings that front onto Logan Avenue to the east, the City of Toronto Waste Enforcement and Urban Forestry buildings fronting Booth Avenue to the west, and a number of small industrial spaces to the south. The site to the north of the Site – a former bread factory – is currently being redeveloped with residential uses.

The South of Eastern Employment Area is identified as a Provincially Significant Employment Zone ("PSEZ") by the Province and is located within the Lower Don Special Policy Area ("SPA").

Lands within the Lower Don SPA are subject to the Lower Don Protocol, which includes mechanisms of how to manage flood risk for proposed developments prior to the completion of the planned flood protection infrastructure works to implement the Don Mouth Naturalization and Port Lands Flood Protection Project Environmental Assessment. Applications to amend Official Plan land use designations or policies within the Lower Don SPA require joint approval of the Ministers of Municipal Affairs and Housing and Natural Resources and Forestry.

The owner has submitted a minor variance application to convert a portion of the fifth floor of the self-storage warehouse to a standalone office use and to seek relief from the minimum parking requirements for the proposed uses.

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

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Advice  
Subject to Solicitor-Client Privilege

Confidential Attachment 2 - Confidential Information

Confidential Attachment 3 – Confidential Information