

## **2 Champagne Drive and 1107 Finch Avenue West – OPA 231 Appeal to Ontario Land Tribunal – Request for Direction**

**Date:** July 5, 2021  
**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 contains advice subject to solicitor client privilege.

### **SUMMARY**

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Champagne Centre Ltd. (the "Appellants") filed an appeal to Official Plan Amendment No. 231 ("OPA 231") to the Ontario Land Tribunal ("OLT") regarding the lands designated *Employment Areas* located at 2 Champagne Drive and 1107 Finch Avenue West (the "Lands"). 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 the OPA 231 OLT hearing process.

### **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 the recommendations contained in the Confidential Attachment 1, with the remainder of Confidential Attachment 1 and Confidential Attachment 2 to remain confidential.

## FINANCIAL IMPACT

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There are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

## DECISION HISTORY

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### OPA 231

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. In July 2014, the Minister approved the majority of OPA 231 with some modifications. 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 limited modifications in July 2014. The OLT (formerly the LPAT) received a total of 178 appeals to OPA 231. The OLT 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. OLT Decisions can be accessed at this link:

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

On May 8, 2020, the OLT issued an order approving OPA 231 Employment Land Conversion and Forecasting policies as modified by City Council on June 18, 2019.

The remaining citywide policy matters before the OLT relate to retail matters and office replacement. Approximately 80 site and area specific appeals remain to be resolved. The OLT's webpage on the OPA 231 proceedings can be accessed at this link:

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

On December 10, 2019, the Planning and Housing Committee (PHC) endorsed a proposed two-phased zoning framework to bring the City's zoning by-laws into conformity with OPA 231, Employment Areas policies. Phase 1 of the review involves the removal of sensitive land uses as permitted uses in all zoning by-laws for lands designated as Employment Areas in the Official Plan. The Phase 1 report was deferred for consideration by PHC to September 21, 2021. The PHC decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.5>

### Minor Variance Application

A minor variance application was submitted for the Lands on December 23, 2020 to permanently extend the temporary permissions granted by the Committee in 2018 (10,000 square metres of combined retail/personal service and office), in addition to increasing the size of the retail, personal service and office space permissions by an

additional 5,000 square metres to a total of 15,000 square metres. The application also requested to maintain the 450 parking spaces from the permissions granted by the Committee in 2018 despite the additional request to increase combined gross floor area.

On February 11, 2021, the Committee of Adjustment approved the application (File No. A0025/21NY), permitting the following variances:

1. The maximum size of retail, personal service and office space is the lesser of an FSI of 0.5 or 5,000 square metres on a lot. Up to 15,000 square metres of combined gross floor area for retail stores, personal service shops and/or office uses are proposed; and,
2. The minimum required number of parking spaces is 769 spaces. The total parking spaces for any combination of uses provided that the GFA of retail stores, personal service shops and/or office uses on the lot does not exceed an area of 15,000 square metres shall be 450 parking spaces.

This decision was appealed to the Toronto Local Appeal Body on March 3, 2021 by the City of Toronto on the basis that the Committee's decision granted permanent permissions that could effectively result in 15,000 square metres of retail in an Employment Area, contrary to the intent of the Official Plan. The matter is to be heard on July 6, 2021.

## **COMMENTS**

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The Lands are located on the south side of Finch Avenue West, west of Dufferin Street. The site is approximately 4 hectares in area and has approximately 180 metres of frontage along Finch Avenue West. The Lands contain one large building with five entrances leading to a number of units in the interior connected by hallways.

The Lands are designated Employment Areas on Map 16 Land Use Plan of the Official Plan 2006 and are located within the interior of a larger, contiguous Employment Area generally bound by Steeles Avenue to the north, Keele Street to the west, Sheppard Avenue West to the south, and Dufferin Street to the east. This Employment Area accommodates heavy industry, including manufacturing, warehousing, and distribution centres, is in close proximity to petroleum storage, and supporting uses such as offices and retail uses along certain major streets.

The subject site is zoned Industrial-Commercial Zone (MC(H)) under the former City of North York Zoning By-law 7625 which permits a range of uses, including manufacturing, information processing, research laboratories, industrial sales and service, warehouses, public self-storage warehouses, motor vehicle dealerships, etc. Properties in close proximity to the subject site and that are subject to the City of Toronto Zoning by-law 569-2013 are zoned EH (Employment Heavy Industrial Zone).

The subject site is located within a Provincially Significant Employment Zone as identified in the Growth Plan 2019 (as amended). A number of Class 2 industries (primarily auto related businesses) are located within the 300 metre area of influence. A number of Class 3 industries are located within the area of influence of the 1 kilometre radius, specifically: three petroleum product storage facilities, a chemical distributor, a polyurethane foam manufacturer, and an organics processing facility.

This report requests direction from City Council for the ongoing OLT hearing respecting OPA 231.

## **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