

OLT Appeal of OPA 231 – 87 Ethel Avenue – Request for Directions

Date: June 6, 2022

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

87 Ethel Avenue Holdings Ltd. (the "Appellant") is a party to an appeal to Official Plan Amendment 231 ("OPA 231") to the Ontario Land Tribunal ("OLT") regarding the property municipally known as 87 Ethel Avenue (the "Lands"). City Council adopted OPA 231 in 2013 following the Five-Year Official Plan and Municipal Comprehensive Reviews regarding employment lands. OPA 231 re-designates the Lands as *Core Employment Areas* and the Appellant seeks the *Mixed Use Areas* designation. The City Solicitor requires further directions.

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 the recommendations contained in the Confidential Attachment 1, with the remainder of Confidential Attachment 1 and Confidential Attachment 2 to remain confidential as it contains advice subject to solicitor-client privilege.

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. 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 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>

COMMENTS

Although under appeal, the Lands are designated *Core Employment Areas* in OPA 231, a designation that predominantly applies to lands geographically located in *Employment Area* interiors. *Employment Area* uses that attract the general public into the interiors of *Employment Areas* and possibly disrupt industrial operations are generally not permitted in *Core Employment Areas*.

The Lands are located about 240 metres south of St. Clair Avenue West at a midpoint between Runnymede Road and Keele Street. An active freight rail (shunting) yard abuts the Lands to the west, south and southeast and is designated *Core Employment Areas*. A rail corridor is located immediately south of the shunting yard. A poultry plant that involves meat slaughtering, processing and packaging is 20 metres north of the Lands and designated *Core Employment Areas*. Major retail uses are north and east of the Lands and designated *General Employment Areas*. A public park is located northwest of the Lands and designated *Parks*.

The Lands are approximately 2 hectares in area, irregularly-shaped and currently vacant. The Lands are subject to an easement that grants Canadian Pacific Railway access from Dods Avenue to their abutting shunting yard.

This report requests further direction from City Council for the outstanding OLT appeal.

CONTACT

Kelly Matsumoto, Deputy Director, Planning and Administrative Tribunal Law, Tel. 416-392-8042, kelly.matsumoto@toronto.ca

Cameron McKeich, Solicitor, Planning and Administrative Tribunal Law, Tel. 416-338-4891, cameron.mckeich@toronto.ca

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